

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
MAY 6, 2008**

ITEM 7

SUBJECT

CONSIDERATION OF A RESOLUTION TO APPROVE \$400,000 IN CLEANUP AND ABATEMENT ACCOUNT FUNDS (CAA) FOR A WATER QUALITY ENFORCEMENT PILOT PROJECT (PILOT PROJECT) FOR THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD (LOS ANGELES REGIONAL WATER BOARD)

DISCUSSION

The Los Angeles Regional Water Board requests \$400,000 from the CAA to develop a pilot enforcement program in conjunction with the California Attorney General's Office (AGO).

The Pilot Project's objective is to enhance the water quality enforcement capabilities of the Los Angeles Regional Water Board by improving coordination between the AGO and the Los Angeles Regional Water Board and by enhancing expertise within the AGO on water quality enforcement action. The Pilot Project will include the development of a streamlined case-referral process to the AGO for complex water quality enforcement cases that carry out the purposes of Water Code (WC) §§ 13442 and 13443. Enforcement success will be evaluated.

A portion of the CAA funds will be used to assign one or more Deputy Attorney Generals (DAG) to be responsible to bring enforcement actions referred by the Los Angeles Regional Water Board. The assignments will be made so the assigned DAGs either have or will develop legal expertise on matters related to water quality enforcement issues. Water quality enforcement actions by the AGO, which are referred by the Los Angeles Regional Water Board, are anticipated to include costs of the AGO's investigation, attorneys fees, filing fees, court costs, payment to expert witnesses, technical consultants, purchase of equipment, laboratory analyses, personnel costs, travel costs, and other costs necessary to pursue water quality enforcement actions. These water quality enforcement actions will assist in the cleanup and abatement of waste and will assist in remedying significant unforeseen water pollution problems that pose an actual or potential public health threat.

The requested allocation is consistent with the purposes of WC §13442. WC §13442 provides that the State Water Resources Control Board (State Water Board) may order moneys to be paid from the CAA to a public agency with authority to cleanup or abate the effects of a waste in order "to assist in cleaning up the waste or abating its effects on waters of the State." WC §13443 authorizes the expenditure of funds to "remedy a significant unforeseen water pollution problem, posing an actual or potential public health threat."

POLICY ISSUES

Should the State Water Board approve \$400,000 from the CAA for the Water Quality Pilot Enforcement Project?

FISCAL IMPACT

Approving \$400,000 for this Pilot Project will leave approximately an uncommitted balance of \$6,081,513 in the CAA.

REGIONAL BOARD IMPACT

Yes, the Los Angeles Regional Water Board.

STAFF RECOMMENDATION

Staff recommends adoption of this resolution, which requires the Los Angeles Regional Water Board to establish performance measures for the Pilot Project and to report results to the State Water Board's Executive Director on an annual basis.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

APPROVES \$400,000 IN CLEANUP AND ABATEMENT ACCOUNT FUNDS (CAA) FOR A WATER QUALITY ENFORCEMENT PILOT PROJECT (PILOT PROJECT) FOR THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD (LOS ANGELES REGIONAL WATER BOARD)

WHEREAS:

1. The Los Angeles Regional Water Board requests \$400,000 for the development of a Water Quality Enforcement Pilot Project with the California Attorney General's Office (AGO);
2. The purpose of the Pilot Project will include the development of a streamlined case-referral process to the AGO for complex water quality enforcement actions that carry out the purposes of Water Code (WC) §§ 13442 and 13443, and the assignment of one or more Deputy Attorney Generals to be responsible for initiating these enforcement actions referred by the Los Angeles Regional Water Board, thereby developing additional expertise within the AGO on water quality enforcement issues. In addition, the Project will monitor enforcement successes with the AGO so the potential for a permanent protocol may be evaluated;
3. The Pilot Project will include the development of a streamlined case-referral process to the AGO for complex water quality enforcement cases and the assignment of one or more Deputy Attorney Generals to be responsible for initiating enforcement actions referred by the Los Angeles Regional Water Board, thereby developing additional expertise within the AGO on water quality enforcement issues;
4. Water Code (WC) §13442 provides that the State Water Board may order moneys to be paid from the CAA to a public agency with authority to cleanup or abate the effects of a waste in order "to assist in cleaning up the waste or abating its effects on waters of the state." WC §13443 authorizes the expenditure of funds to "remedy a significant unforeseen water pollution problem, posing an actual or potential public health threat;" and
5. The requested allocation is consistent with the purposes of WC §13442 and §13443 because water quality enforcement actions will assist in the cleanup and abatement of waste and will assist in remedying significant unforeseen water pollution problems that pose an actual or potential public health threat.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Resources Control Board (State Water Board) approves \$400,000 from the CAA to the Los Angeles Regional Water Board for the Pilot Project. The State Water Board authorizes the Executive Director to negotiate, execute, and amend contracts for this purpose.

D R A F T

2. The funds will be available until June 30, 2011. Any unexpended funds as of June 30, 2011 shall revert to the CAA, unless the Executive Director authorizes an extension.
3. The Los Angeles Regional Water Board shall establish performance measures for the Pilot Project and report results to the State Water Board's Executive Director on an annual basis, beginning July 1, 2009.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on May 6, 2008.

Jeanine Townsend
Clerk to the Board