

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
FEBRUARY 3, 2009**

**ITEM 8**

**SUBJECT**

CONSIDERATION OF A RESOLUTION DIRECTING CHANGES IN THE ADMINISTRATION OF THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO IMPROVE PROGRAM EFFICIENCY AND TRANSPARENCY

**DISCUSSION**

The CAA was established by Water Code §§ 13440-13443 and is administered through the State Water Resources Control Board's (State Water Board) Division of Financial Assistance (Division). The CAA provides funding for the clean up and abatement of wastes or unexpected conditions of pollution during emergencies and when there are no identified viable responsible parties available to undertake the work. Revenue is generally from court judgments and administrative civil liabilities assessed by the State Water Board and the Regional Water Quality Control Boards (Regional Water Boards). The State and Regional Water Boards and public agencies with authority to clean up or abate a waste are eligible to receive CAA funding. The CAA is an accessible tool for the Regional Water Boards to use when addressing local or regional problems, and for the State Water Board to use for problems of a statewide scope.

The Regional Water Boards issue civil liability penalties against private and public waste dischargers who violate water quality laws or permit conditions, or do not comply with enforcement and penalty orders. These Administrative Civil Liabilities (ACLs) and court ordered fines are deposited into the CAA. The availability of funds has varied dramatically over the years. In the early 2000's the availability of funds was generally low, limiting the State Water Board's ability to approve project requests. During this time, projects were denied and later returned to requestors because no funds were available. Requests are generally approved when they meet the legal criteria and money is available. The amount of revenue for the CAA has increased recently as a result of Mandatory Minimum Penalty legislation and enhanced enforcement efforts.

In 2006-07 and 2007-08, 23 projects were approved totaling 11 million dollars.

**2006-07 Projects**

<b>Project</b>	<b>Region</b>	<b>Approved Amount</b>
B Street Storm Drain Investigation	1	\$2,500
E. Coli o157:H7 Monitoring in the Central Coast	3	\$95,000
Monterey County Salinas Water Supply Wells	3	\$510,000
French Bar Bluffs Emergency Erosion Protection	5	\$100,000
River Highlands CSD Emergency Sewage Treatment Facility	5	\$1,100,000
Leviathan Mine Site Maintenance	6	\$1,605,000
Leviathan Mine Spring Pond Treatment	6	\$500,000
Salton Sea Emergency Removal of Deceased Fish	7	\$15,000
Chino Basin Dairies Wastewater Discharge	8	\$258,000
	<b>Total</b>	<b>\$4,185,500</b>

**2007-08 Projects**

<b>Project</b>	<b>Region</b>	<b>Approved Amount</b>
Education and the Environment Initiative (EEI)	CIWMB	\$250,000
Lake Davis Pike Eradication Project and Emergency Alternative Drinking Water Supply	DFG	\$100,000
Irrigated Lands Monitoring & Reporting	DWQ	\$50,000
Delta Smelt Refuge	DWR	\$600,000
Environmental Circuit Prosecutor Program	OSI	\$200,000
Blue-Green Algae Assessment of Toxicity in Water Supply	DWQ	\$70,000
Cosco Busan Oil Spill Emergency Cleanup	2	\$100,000
Malibu Fire Relief Emergency Sediment Control	4	\$100,000
Water Quality Pilot Enforcement Project	4	\$400,000
San Gabriel Basin Bozung Site Groundwater Cleanup	4	\$1,420,000
Lake Tahoe Angora Fire Emergency Cleanup & Monitoring	6	\$380,000
Tahoe Meadows Subdivision Contaminated Drinking Water Investigation	6	\$50,000
San Sevaine Oil Spill Emergency Cleanup	8	\$100,000
City of Rialto Groundwater Study of Pechlorate Contamination	8	\$3,000,000
<b>Total</b>		<b>\$6,820,000</b>

The program is administered in accordance with statute, State Water Board Policy and delegations and procedures described in the Board's Administrative Procedures Manual (APM). The APM procedures are outdated and not readily available to outside agencies. In addition, outside parties are unable to easily obtain information on CAA balances, approved uses, and procedures. Furthermore, there is a general lack of understanding on how use of the CAA is determined. There is a need to clarify the criteria and approval process for CAA funds so it is fully available to address eligible Regional Water Boards needs. There is also a need to specify how the CAA approval process will work in concert with the update to the enforcement policy.

In response, the Division proposes to take the following actions to update, improve, and make transparent, the administration of the CAA program:

1. Review and update the APM by June 1, 2009, to reflect current policy and procedures. Solicit Regional Water Boards input on areas of inconsistency and lack of clarity.
2. Meet with and train Regional Water Boards staff and local agency staff periodically as appropriate on authorized CAA uses and administrative procedures.
3. Conduct an annual status review for each active project to ensure projects are not languishing and are progressing consistent with approvals.
4. Provide Regional Water Boards training throughout the year. Update board members and management on program changes and answer any questions they may have.
5. Provide the State Water Board's Executive Director and Regional Water Board Executive Officers quarterly project and CAA balance status reports.
6. Provide to the State Water Board an annual report each March, which will list and summarize all CAA projects that have been committed during the past fiscal year and provide a status of other regional action projects.

7. Coordinate with the Office of Public Affairs to issue news releases on project approvals with broad interest.
8. Post procedures and reports on the program Intranet website.

**POLICY ISSUE**

Should the State Water Board direct the Division to take the above listed actions?

**FISCAL IMPACT**

The proposed activity can be completed with existing resources.

**REGIONAL WATER BOARD IMPACT**

Yes, all Regional Water Quality Control Boards.

**STAFF RECOMMENDATION**

The State Water Board should direct the Division to take the above listed actions.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012 to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures. In particular, approval of this item will assist in fulfilling Objective 6.1 to target consistency improvements in process and policy for Water Board enforcement activities to promote compliance.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009-

### TO DIRECT CHANGES IN THE ADMINISTRATION OF THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO IMPROVE PROGRAM EFFICIENCY AND TRANSPARENCY

#### WHEREAS:

1. The CAA was established by Water Code §§ 13440-13443 and is administered through the State Water Resources Control Board's (State Water Board) Division of Financial Assistance (Division). The CAA provides funding for the clean up and abatement of wastes or unexpected conditions of pollution during emergencies and when there are no identified viable responsible parties available to undertake the work;
2. Revenue is generally from court judgments and administrative civil liabilities assessed by the State Water Board and the Regional Water Quality Control Boards (Regional Water Boards). The State and Regional Water Boards and public agencies with authority to clean up or abate a waste are eligible to receive CAA funding. The CAA is an accessible tool for the Regional Water Boards to use when addressing local or regional problems, and for the State Water Board to use for problems of a statewide scope;
3. The Regional Water Boards issue civil liability penalties against private and public waste dischargers who violate water quality laws or permit conditions, or do not comply with enforcement and penalty orders. These Administrative Civil Liabilities (ACLs) and court ordered fines are deposited in the CAA. The amount of revenue for the CAA has increased recently as a result of Mandatory Minimum Penalty legislation and enhanced enforcement efforts;
4. In 2006-07 and 2007, there were 23 projects totaling \$10.9 million dollars for these two fiscal years. The approved projects include emergency response, site cleanups and statewide projects;
5. The program is administered in accordance with statute, State Water Board Policy and delegations and procedures described in the Board's Administrative Procedures Manual (APM). The APM procedures are outdated and not readily available to outside agencies. Also, outside parties are unable to easily obtain information on CAA balances, approved uses, and procedures; and
6. There is a general lack of understanding on how use of the CAA is determined and how the account will work in concert with the Enforcement Policy Update.

In response, The Division proposes to take the following actions to update, improve, and make transparent, the administration of the CAA program:

1. Review and update the APM by April 30, 2009, to reflect current policy and procedures. Solicit Regional Water Boards input on areas of inconsistency and lack of clarity;
2. Meet with and train Regional Water Boards and local agency staff periodically as appropriate on authorized CAA uses and administrative procedures;

# **D R A F T**

3. Conduct an annual status review for each active project to ensure projects are not languishing and are progressing consistent with approvals;
4. Provide Regional Water Boards training throughout the year. Update board members and management on program changes and answer any questions they may have;
5. Provide the State Water Board's Executive Director and Regional Water Board Executive Officers quarterly project and CAA balance status reports;
6. Provide to the State Water Board an annual report each March, which will list and summarize all CAA projects that have been committed during the past fiscal year and provide a status of other Regional action projects.
7. Coordinate with the Office of Public Affairs to issue news releases on project approvals with broad interest; and
8. Post procedures and reports on the program Internet website.

THEREFORE BE IT RESOLVED THAT:

The State Water Board approves the above listed actions in the administration of the CAA to improve program efficiency and transparency.

## **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 February 3, 2009.

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Jeanine Townsend  
Clerk to the Board