

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

**STAFF REPORT FOR MEETING OF March 23, 2007
Prepared February 21, 2007**

ITEM NUMBER: 13

SUBJECT: Central Coast Ambient Monitoring Program Endowment Fund

SUMMARY

Over the past seven years the Central Coast Regional Water Quality Control Board (Water Board) has provided various nonprofit organizations with funds from settlements, usually associated with mitigation requirements for illegal discharges or other impacts to water quality. These funds have been used to conduct water quality implementation and monitoring activities throughout the Region. The Water Board has on more than one occasion provided settlement funds to the Central Coast Ambient Monitoring Program (CCAMP) to support ongoing water quality monitoring activities in the Region. We are proposing to consolidate two sources of CCAMP funds with a single nonprofit organization. We believe this will result in better overall support of CCAMP monitoring activities.

BACKGROUND

In 1997, the Central Coast Regional Water Quality Control Board's Executive Officer, Roger Briggs, determined that regional monitoring was a critical missing need for our Region, and assigned staff to begin developing a water quality monitoring program. A staff position was cobbled together from various funding sources, and Karen Worcester was assigned the task of developing the program. At that time there was no dedicated funding available whatsoever for ambient monitoring. We began sampling in 1998 by partnering with local agencies, using existing laboratory contracts and various program resources. Early on in the development of the CCAMP program, the Bay Foundation ("Bay

Foundation"), a non-profit organization that among other things has served as the financial support organization for the Morro Bay National Estuary Program, began providing support services to CCAMP, including free server space and website design assistance. CCAMP grew through various funding sources, including grants, settlement funds, and finally through funds from the State Board's new Surface Water Ambient Monitoring Program in 2000. However, since its inception, CCAMP has been successful in part because of its many partnerships with private foundations, local agencies, and volunteer organizations.

DISCUSSION

We are proposing that CCAMP evolve further by consolidating some of its administrative functions. Two settlement funds that support CCAMP are currently held by two different non-profit organizations. We are proposing to bring these two funds together in one location with the Bay Foundation, and that the Bay Foundation expand its long-time partnership role to include management of staffing and laboratory contracts, and management of some of CCAMP's funding.

Why the Bay Foundation?

The Bay Foundation's mission is directly related to support of water quality in the Central Coast Region: *"Provide leadership in restoring, enhancing, and protecting the marine resources and watersheds of Morro Bay, Estero Bay, and the Central Coast of California."* Though it has primarily operated in the Morro Bay area, it has also supported projects outside the watershed. The

Foundation is notable at a state-wide level for active participation in the Public Advisory Group to the State Water Resources Control Board on issues associated with 303(d) policy and statewide water quality monitoring. As already mentioned, the Bay Foundation has provided a number of support services to CCAMP over the years, particularly associated with server support, website design, and software development.

The Bay Foundation manages the funds for the Morro Bay National Estuary Program and has an excellent track record of investing and leveraging those funds. In 1996, a Consent Decree directed funds to the Foundation for implementation of the MBNEP's Comprehensive Conservation and Management Plan, as part of a settlement which involved the U.S. Department of Justice, the California State Attorney General's Office, the Water Board and the Pacific Gas and Electric Company. In its role serving the MBNEP, the Foundation has leveraged this \$3.66 million fund into \$21.35 million of land acquisition and restoration projects for the Estuary and its watershed. It manages funding from many other sources, including federal and state grants. As part of these grant activities, it has successfully undergone rigorous procedural and financial federal audits each year. The Bay Foundation has routinely charged minimal or no administrative fees for MBNEP-related projects.

Karen Worcester, manager of the CCAMP program, has been a long-time Bay Foundation Board member. To ensure that all decisions associated with the CCAMP fund are made in an unbiased way, Ms. Worcester has abstained from any Bay Foundation board decisions associated with the CCAMP fund, and will step down from the Foundation Board at its March 7th meeting. Dave Paradies, who does software development and website design for the Central Coast Water Board through grants from NFWF, SWAMP and other sources, is also a Foundation Board member.

CCAMP Funds

Guadalupe UNOCAL Settlement -- In 1998, approximately \$15.6 million from the UNOCAL settlement associated with pollution at the Guadalupe Oil Field was deposited into a settlement trust held by the National Fish and Wildlife Foundation (NFWF). NFWF charged an initial fee of \$313,079 to establish the account, and an annual fee of approximately \$37,000 to administer it, serving in a fiduciary capacity only. Fees were renegotiated to 1.5% of the principal in 2004.

Initially, projects were selected through a general Request for Proposals. The settlement required the Board to consider several nexus criteria in selecting projects. One of the nine competitively-funded initial projects established a \$2 million endowment for CCAMP. Resolution 99-02 (Attachment 1) established the nine initial projects, including the CCAMP Fund. Rather than grant the money to a separate organization to manage aspects of CCAMP, NFWF maintained the funds and paid invoices upon approval by Water Board staff. Staff have established the amount of NFWF expenditures for each year since 2000, to support contract sampling staff, data management support, laboratory analytical costs, and purchase of monitoring equipment.

CCAMP endowment expenditures since 1999 total approximately \$380,000 (through June 2006). This represents annual expenditures of around \$60,000. The CCAMP NFWF fund is not managed separately from other Guadalupe settlement funds. The NFWF fund has recently earned between 4% and 5%, with administrative fees at 1.5% of the principal. At 4.5% earnings, the CCAMP fund would earn \$90,000 per year, with \$30,000 in total fees. A different investment strategy and lower administrative costs could make more earnings available to fund CCAMP without drawing on the principal the Board has allocated to this project.

Attachment 2 is a proposed resolution amending Resolution 99-02 to change the project proponent to the Bay Foundation, and to make other changes to allow NFWF to

transfer the full amount of the grant in a lump sum, rather than paying invoices as they accrue. In addition, the proposed resolution increases the amount of the grant by \$200,000 to provide operation funds as discussed below.

PG&E Moss Landing Settlement - This \$5 million settlement in 2003 was in response to back-flushing of hot water into Elkhorn Slough by PG&E, former owner of the Moss Landing Power Plant. The funds are held by the Community Foundation for Monterey County ("Community Foundation"). \$950,000 of this money was designated for CCAMP to conduct monitoring activities in the Monterey Bay area. The Community Foundation charges 1.25% of the principal or \$5,000 per year, whichever is greater, to manage the Fund. Approximately \$675,000 of that initial allotment will remain following completion of the 2006-07 Salinas watershed sampling effort.

The 2003 Memorandum of Agreement between the Community Foundation and the Water Board (Attachment 3) specifically allows for transfer of CCAMP funds to another non-profit organization for the purpose of consolidating CCAMP funds with a single foundation. The draft resolution in Attachment 2 authorizes the Community Foundation to transfer remaining funds designated for CCAMP to the Bay Foundation.

Water Board staff will finalize a Memorandum of Agreement or Trust Agreement between the Water Board and the Bay Foundation providing for the transfer of remaining CCAMP funds from the Community Foundation to the Bay Foundation and including appropriate provisions regarding management of the funds.

Proposed Bay Foundation Agreement - Water Board staff have drafted terms of a transfer the CCAMP fund to the Bay Foundation with input from Bay Foundation directors. At this point, Water Board staff and counsel have not determined what legal mechanism for the transfers, so proposed agreements are not available. The draft terms are provided as Attachment 4 to this staff report. The Foundation proposes an annual administrative

fee of \$10,000 or 7% of disbursements, whichever is greater. We are currently negotiating a cap on administrative costs of 1% of principal. The Foundation intends to use income associated with administrative fees as a component of a long-term financial strategy for continuing water quality and watershed management activities on the Central Coast. We view this as an additional benefit of working with this organization.

We request that the Board authorize transferring \$2,200,000 from the NFWF Guadalupe fund to the Bay Foundation to establish the CCAMP Endowment Fund with the Bay Foundation. We are requesting the additional \$200,000 in order for the Bay Foundation to set up an "Operational Reserve" account. The purpose of this account is to provide operating funds for at least the first year of CCAMP Fund management by the Bay Foundation, to allow for CCAMP activities to continue uninterrupted while the Endowment account builds up interest earnings. This fund would continue to function as a reserve account for unforeseen expenditures.

The CCAMP Program Director (currently Karen Worcester) will provide a SWAMP-approved annual work plan and budget to the Bay Foundation each year that will outline proposed expenditures from the Fund. The Program Director already prepares this document for approval each year through the SWAMP program. The work plan also undergoes a SWAMP-required peer review process. The work plan will control Bay Foundation expenditures from the Fund each year.

BENEFITS OF THE PROPOSED STRUCTURE

We are proposing increased participation by other stakeholders in CCAMP. This will have many benefits. For many years the MBNEP maintained a similar structure, where a Water Board employee provided staff support to the Estuary Program. This type of structure can provide efficiencies in contracting, grant acquisition, staffing, management of funds, and other forms of leveraging. CCAMP has

always operated in partnership with nonprofit organizations, so we are not proposing a significant shift in program structure.

Specific benefits of the proposed funding structure include the following:

- Endowment funds are currently managed together with remaining Guadalupe settlement funds by NFWF. A lower cost consolidated investment strategy that is tailored as an endowment may increase the funding available for CCAMP.
- NFWF currently hires CCAMP sampling contractors to conduct field activities. The Monterey Community Foundation has provided funds to NFWF for contractor support, but has not provided that type of support to CCAMP directly. Contractors are not covered by workers' compensation and receive no health benefits. The Bay Foundation will hire staff under its existing personnel policy to support CCAMP activities, providing them with better employment conditions, including benefits and workers' compensation.
- CCAMP program management will be simplified by pulling multiple sources of funds together under a single management entity.
- The Bay Foundation's increased participation in CCAMP may increase opportunities to leverage existing funds

through matching grants or other local, state, or federal funding sources.

RECOMMENDATION

Staff requests that the Board:

- Approve Resolution R3-2007-0042, amending Resolution 99-02, increasing the Guadalupe grant for CCAMP, and authorizing the Community Foundation for Monterey County to transfer remaining funds designated for CCAMP from the Community Foundation to the Bay Foundation
- Authorize the Executive Officer to finalize the grant agreement with the Bay Foundation and NFWF, and an MOA with the Community Foundation for Monterey County to effectuate the grants

ATTACHMENTS

1. Guadalupe Resolution No. 99-02
2. CCAMP Resolution No. R3-2007-0042
3. 2003 Memorandum of Agreement with Community Foundation for Monterey County
4. Draft terms of Bay Foundation agreement