

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

SUPPLEMENTAL STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 7-8, 2008
Prepared on January 31, 2008

ITEM NUMBER: 9

SUBJECT: Proposed Allocation of Guadalupe Settlement Funds for the Central Coast Low Impact Development Center, the Central Coast Ambient Monitoring Program, Coastal Property Acquisition, and Proper Abandonment of Water Board Monitoring Wells

This supplemental sheet responds to questions from the Water Board, and transmits several comment letters and staff's responses.

Board Member questions:

1. Of the 19 projects funded so far, how many are in a very close geographic nexus to the Guadalupe oil spill?

Staff Response: Of the nineteen projects funded so far, the following are in close proximity to the Guadalupe oil field:

1. City of Guadalupe – Wastewater Treatment Plant (\$1.3 Million)
2. City of Guadalupe – Wetlands Restoration (\$288,857)
3. California Coastal Conservancy – Santa Maria River and Estuary Enhancement (\$436,149)
4. TSC – Monarch Lane, near Nipomo, Cleanup (\$237,000)
5. Central Coast Remedial Resource, Inc. – Nipomo Water Quality Protection (\$52,620)
6. The Nature Conservancy – Land/Easement Purchase (\$2 Million Encumbered/\$900,000 remaining and proposed for Paradise Beach)
7. The Dunes Center – Nipomo Dunes Complex Management (\$500,000 endowment encumbered/\$0 Expended¹)
8. Komex – Oil Field Assessment (\$587,146)

Sub Total: \$5.4 million

Projects that include the lower Santa Maria watershed area:

1. Central Coast Wine Growers Association Foundation– Central Coast Watershed Coordinator with significant work in Santa Maria Valley (\$658,103 Encumbered/\$592,292 Expended)

¹ This amount has not been contractually obligated, but it is not available for other purposes without Board action.

2. Central Coast Water Quality Preservation, Inc. – Central Coast Cooperative Monitoring Program (\$622,321 Encumbered/\$560.494 Expended)
3. Regional Water Quality Control Board – Central Coast Ambient Monitoring Program (\$2,200,000)
4. UC Cooperative Extension, SLO County – Central Coast Farm Water Quality Courses (\$79,784.00 Encumbered/ \$36,446.04 Expended)
5. Sustainable Conservation – Central Coast Water Quality Permit Coordination (\$466,000)
6. San Jose State Univ. – Sand Crab Study (\$288,788)
7. 98-289-01 Aerial Photo Archive (\$21,545)
8. Students – (\$6984 remains)

Sub Total: \$4.41 million

Others projects:

Kennedy Jenks Consultants – Salinas LID Design (\$119,257). While this project is outside the Santa Maria Watershed, part of the purpose was to advance regionwide LID, which is important and high priority in the Santa Maria Watershed.

If the Board approves staff's recommendation, the totals will be as shown below at the end of this report in the response to comments.

2. Please expand on the LID Center proposal. Specifically, what staffing resources would immediately be available for this center? Who would handle municipality requests for information/demonstration projects, etc.? A review of how staff would spend the first hundred thousand dollars would be very helpful.

Staff Response: Initially, the Executive Officer, Assistant Executive Officer, and other staff will continue discussions with municipalities, developers, consultants, and conservation organizations to identify development projects where LID services are needed and welcome (no settlement funds are used for this activity). Staff is already working with municipalities on an ongoing basis regarding the municipalities' Storm Water Management Programs and LID principles and hydromodification controls, so initially it is reasonable for us to also define candidate LID projects and retain outside expertise. We described this as Phase I in the staff report. If staff identifies such projects, and we are reasonably convinced that the services provided will result in significant implementation of LID design principles and hydromodification controls, we will use the \$100,000 allocation to retain the services of outside LID experts. These experts will be retained on an as needed basis, similar to what we have done on other complex projects, such as power plant permitting and major cleanup cases. If the Board approves our proposal, we will be able to hire experts from anywhere in California or the U.S, including universities, consultants, and nonprofit organizations such as the LID Center in Maryland. We may also be able to retain the services of municipal staff from cities that have successfully implemented advanced LID principles. For example, the City of Seattle was awarded a grant so that its LID experts could assist other municipalities in the U.S. in their efforts to implement LID. No settlement funds will be used for Water Board staff costs; the settlement funds will be used to retain outside expertise.

However, there is no guarantee that we will be able to identify candidate projects where we are reasonably convinced that LID principles will ultimately be implemented. Many staff from agencies, municipalities, nonprofit organizations and others stated their support for this proposal, but this support does not ensure success (as defined by building large-scale projects that fully implement LID design principles). Therefore, we minimize the risk to the Board's investment by allocating a limited amount to obtaining services initially, and the larger amount (\$2 million) is set up as an endowment. If the demand for LID services is not significant, the Water Board can redirect the \$2 million principle to other types of projects.

This proposal to allocate funds toward providing LID services is aligned with the Water Board's requirements for more comprehensive storm water management plans and staff's current work to define fundamental hydromodification design parameters that municipalities must implement to protect water quality, beneficial uses, and the physical and biological integrity of watersheds. As the Water Board's requirements become more comprehensive, we expect demand for these services to increase. For example, at our July 2007 Board meeting, the mayor, city manager, and city attorney for the City of Salinas expressed their intent to incorporate LID principles in future development projects. However, the city engineer then commented that many LID design principles are not feasible because they conflict with standard civil engineering principles. This is precisely the situation we encounter on a routine basis, and is the reason why we need to provide LID expertise to municipalities. Many municipalities have had to overcome these types of apparent engineering obstacles.

3. Is it likely that the center would be housed at a university, and if so, I assume the staff is probably thinking of Cal Poly San Luis Obispo? That would be a convenient location, but is there adequate expertise in this issue? How did UC Davis put together the relevant expertise?

Staff Response: The decision about where to locate the LID Center does not need to be made until we go into Phase II, as described in the staff report. Proceeding to Phase II is dependent on the success and demand from Phase I. Cal Poly San Luis Obispo is one option; however, we will consider other universities and nonprofit organizations. The level of existing expertise, commitment, financial stability, overhead costs, and flexibility in applying the services are key considerations. Cal Poly has a sustainability program which is multi disciplinary and encompasses LID practices. We do not yet know how Cal Poly San Luis Obispo compares to other possible organizations. We expect to start providing LID services from various organizations, and use that initial process to determine and evaluate candidate organizations for the LID Center. There are many possibilities, including establishing a local branch of an existing organization, such as the UC Davis Center for Water and Land Use.

The UC Davis Center for Water and Land use staff are Jeff Loux, Ph.D, and Timothy Lawrence, Ph.D., and their background information, along with other basic information about the Center, are included here as Attachment 1. Dr. Loux and Dr. Lawrence have expressed their support for this proposal and offered assistance to staff. Staff forwarded the question about "how UC Davis put together the relevant expertise" to Dr. Loux and Dr. Lawrence, and we will forward that information to the Board as soon as we receive it.

More information on the UC Davis Center for Water and Land Use is available at:
http://extension.ucdavis.edu/unit/center_for_water_and_land_use/

4. Regarding CCAMP, what is the desirability/possibility of expanding sampling to some emergent pollutants, like pharmaceuticals, hormones and endocrine disruptors?

Staff Response: It is possible to add emergent pollutants of concern to CCAMP sampling; however, this work would be relatively costly and at this time we recommend that we continue working with permitted dischargers to increase their sampling efforts for this category of pollutants. The Central Coast Long-Term Environmental Assessment Network (CCLEAN), which is a coordinated sampling effort among the major permitted discharges to Monterey Bay, is proposing to add a test for endocrine disruption (probably using fish) at the four treatment plant discharges. This is a good start and will provide basic information we can follow up on with other dischargers if necessary. We could eventually add this type of monitoring to CCAMP if it is a significant issue that is not being addressed through point source monitoring, and based on available funding.

Comments and Water Board Staff Responses

The Water Board received several comment letters, included here in chronological order as Attachment 2.

The Water Board received comment letters from San Luis Obispo County Supervisor Khatchik Achadjian, Larry Vierheilig of Nipomo Native Garden, David Chipping of the California Native Plants Society, and Phil Henry of the South County Advisory Council. These letters support funding for the Dunes Collaborative projects because they meet the funding criteria, would benefit the dunes area, and would provide water quality improvements.

Staff Response: We appreciate the Dunes Collaborative work and their project proposals. Our proposals for allocating the Water Quality fund are based on the Board's direction, our focus on addressing the highest water quality priorities on an effective scale, the need to affect the sources of water quality and habitat degradation, and accountability for achieving large-scale tangible results. We have learned through years of grant funding that we can spend tens of millions of dollars on local projects that result in no appreciable effect on the causes of water quality and habitat degradation. We appreciate the need that local organizations have for funding, and we encourage these organizations to consider the bigger picture, and the sources and scale of degradation, and work with larger watershed level efforts to effect change.

Since the July Board meeting, we have met several times with the Dunes Collaborative and with the Dana Adobe representatives, including Supervisor Achadjian, and with the Land Conservancy, as well as with The Nature Conservancy regarding proposed projects and we have discussed aligning our efforts as much as possible. Similarly we have discussed common goals and potential projects with the Coastal Conservancy and the Ocean Protection Council. We have encouraged the Santa Maria Valley centric groups to coordinate with the counties on the current and unprecedented opportunity afforded by the large amount of grant money available (e.g., Propositions 50 and 84 Integrated Regional Water Management grants) for projects such as these groups are proposing (see attachment 1 of item No. 9). These agencies should work with these other grantees to modify their projects to increase effectiveness on a watershed scale.

The South County Advisory Council further commented that the time for public process was too short. However, we initially agendaized this proposal in June of last year for the July Board meeting. In that staff report, we described our proposal for funding and indicated we would

bring the item with more details back to the Board in February 2008. In the meantime, we not only provided adequate time for input, we went to the stakeholders and met with them as described above, over a multi month period. Even though we had already indicated we were providing proposals to our Board consistent with the Board's established priorities (the Board directed us to take this approach rather than the previous broad and unfocused "Request for Proposals" approach), we said we would include any proposals received by December 2007 in our February staff report and would provide our recommendations. We also provided guidance on how to maximize project proposal effectiveness. Our current proposal includes two additional proposed projects (Paradise Beach and Avila Ranch) and a possible third project (Agriculture Watershed Coalition, Watershed Coordinator position), based on submittals we reviewed.

We have had an eight-month "window of time" since July 2007, which the South County Advisory Council now says was inadequate. The Council asks the Board to start over with the old Request for Proposal process that the Board decided five years ago to not pursue for the "second round" of funding from this settlement. The Council says its most important point is that the Board by itself should not have "...the power to both access/negotiate fines and to distribute collected monies." The settlement negotiations included multiple enforcement agencies, led by the Attorney General's office. Stakeholders and the public had the opportunity to comment on the proposed settlement. The court approved settlement clearly establishes that the Department of Fish and Game and the Coastal Conservancy have primary authority for allocation of the bulk of the \$43 million settlement, and the Regional Water Board is responsible for allocation in the Central Coast Region of the \$15 million water quality fund. The Advisory Council urges funding of projects in the impacted area. However, Unocal (now Chevron Texaco) remains responsible for remediation and restoration of direct impacts. Also, the \$9 million Coastal Conservancy/DFG Restoration fund has been used primarily in the geographic area.

Although the Water Board need only consider geographic nexus but has a primary criterion of Water Quality within the Central Coast Region, the approved projects can be summarized as follows:

Close proximity:	Eight projects \$5.4M
Broader Regional application but includes Santa Maria Valley watershed:	Eight projects \$4.4M
Outside the Co. but w/ potential to help Santa Maria Valley watershed:	One project \$0.1M

With approval of the recommended projects the list will be changed to this:

Close proximity:	Nine projects \$6.3M
Different watershed but same County:	One project \$0.95M
Broader Regional application but includes Santa Maria Valley watershed:	Ten projects \$11.1M
Outside the County but with potential to help Santa Maria Valley watershed:	<u>One project \$0.1M</u>
	Total = \$18.45M

The total amount (\$18.45 million) is greater than the original \$15 million due to interest earned. If the Board approves staff's recommended proposals, the allocation percentage, relative to \$18.45 million, will be as follows:

- 34% would be in the watershed or in close proximity
 - 5% would be in a different watershed but the same county
 - 60% would be broader in geographic scope but would include the Santa Maria watershed
 - 0.5% would be outside the County but with potential to help Santa Maria Valley watershed
- (Total is slightly less than 100% due to rounding)

The only required criterion is the Water Quality factor—The Water Board must allocate the funds to water quality type projects in the Central Coast Region. The Consent Judgment states that \$15 million is “to be dedicated for water quality projects within the Central Coast Region to be selected by the Water Board at public meetings” (page 4, paragraph 4.3, emphasis added). The Consent Judgment further states (Exhibit B, page 1, paragraph 4):

For the purpose of this Trust the term “water quality projects” means projects that directly benefit or study groundwater or surface water quality and the beneficial use of groundwater or surface water. Types of projects that would fall within this definition include, but are not limited to: water quality/water pollution monitoring programs (including long term regional monitoring), studies or investigations; treatment of polluted soils, groundwater or surface water; restoration of and augmentation of aquatic and riparian and watershed habitat; water pollution prevention; wetlands protection... (emphasis added)

The Memorandum of Agreement also lists criteria the Water Board will consider when allocating funds (see discussion beginning on page 12 of the staff report for item No. 9). The Memorandum of Agreement also states (page 4, section B):

“It is possible that the RWCCB may approve a project that benefits water quality but does not strictly adhere to the above criteria.”

The Consent Judgment also states (Exhibit B, page 5):

“After the first round of project selection, the RWQCB may review and modify these criteria from time to time.”

The first round of funding was done in 1998/99. The Water Board clearly has authority to define the criteria it considers when allocating funds, and has the authority to allocate funds to water quality projects within its Central Coast jurisdiction.

Staff's proposal has significant geographic nexus and regional benefit and is for the purpose of water quality improvement. This proposal is also consistent with the publicly reviewed and court approved settlement agreement's primary purpose of using these funds for improving water quality in the Central Coast Region's watersheds.

The Water Board also received a letter from The Ocean Conservancy, providing "our strongest support for funding a ...CCAMP endowment of at least \$4.65M," as well as a letter from The Watershed Institute, Division of Science & Environmental Policy, California State University Monterey Bay, also with strong support for funding CCAMP. Paul Michel, Superintendent of the Monterey Bay National Marine Sanctuary also sent a letter with strong support for CCAMP. Mark Stephenson, Director of the Marine Pollution Studies Lab at Moss Landing Marine Laboratories also sent a letter of support for CCAMP.

We also received letters of support for the CCAMP and LID proposals from Steve Shimek of Monterey CoastKeeper, and Gordon Hensley of San Luis Obispo Coastkeeper.

Santa Barbara Channelkeeper is a local non-profit organization dedicated to protecting and restoring the Santa Barbara Channel and its watersheds. Channelkeeper comments on both the LID Center and CCAMP funding proposals, saying: "We write in support of the proposed allocation of funds to establish and support a Central Coast LID Center and to significantly supplement the CCAMP endowment. With regard to the proposed LID Center, Channelkeeper is very eager to see the Central Coast take a leadership role in promoting LID and in providing practical services needed to usher in LID from a marginally accepted and understood concept into widespread application on the ground throughout the Central Coast region. While we understand and support the initial focus on the high-growth areas of Guadalupe, Santa Maria, Orcutt and Nipomo, we also urge the Board to prioritize providing these LID services to largely built out areas such (as) southern Santa Barbara County, as there are also many stormwater pollution challenges as well as opportunities to incorporate LID into redevelopment and retrofit projects in this area."

Rey Monge and Robert Hill, Co-Chairs of the Dunes Collaborative, sent a letter reiterating support for the group of Dunes Collaborative projects previously submitted. They also asked that the entire package of Dunes Collaborative proposals be sent to the Board for the Board's review. Staff usually summarizes materials for the Board due to the large volume of materials associated with any given agenda. However, the Dunes Collaborative proposals are included with this supplemental sheet as requested. From a broader perspective, beyond the Dunes Collaborative proposals, there are literally thousands of similar projects that could be considered for funding, and they are not included in the discussion. If the Water Board conducted a broad "request for proposals," there would be proposals from throughout Santa Barbara and San Luis Obispo counties and the Central Coast Region. The Water Board directed staff to stop being driven by requests for funding, and instead direct funding to the Water Board's highest priorities.

Kevin Merrill, President of the Southern San Luis Obispo County and Santa Barbara County Agriculture Watershed Coalition sent a letter requesting continued funding for their Watershed Coordinator position, along with supporting information. Water Board staff included this project in its recommendation to the Board (see page 26 of the staff report for item No. 9). The Water Board previously funded the Watershed Coordinator position, and we agree with Mr. Merrill's letter saying that the position is an important part of the Board's irrigated agriculture regulatory program (as the Water Board intended when it funded the position in 2003). Staff is proposing that the Board allocate any remaining Guadalupe settlement funds, or funds that are returned to the account due to non performance, to this project pending review of Mr. Merrill's proposal. Staff also encouraged Mr. Merrill to apply for funding from the many grant opportunities that exist (Attachment 1 to the staff report for item No. 9). Staff is reviewing Mr. Merrill's proposal now.

CONCLUSION

When we stated our vision process three years ago, we said we had two choices: We can preside over the demise of our resources, or we can protect our resources for future generations. The major causes of water quality and habitat degradation in the Santa Maria watershed are land use practices associated with urbanization and irrigated agriculture. Land use practices determine the condition of our watersheds, including the coastal areas, and are the Water Board's highest priorities throughout the Region. The Water Board can effectively change these land use activities through more comprehensive requirements, enforcement where necessary, performance monitoring, and by providing services that are directly aligned with its regulatory requirements. Staff's proposals are based on this approach.

Agencies need to follow the lead of funding organizations like the Packard Foundation and critically review their grant making processes for effectiveness in addressing the sources of problems. The Packard Foundation directed its environmental grant making organization, The Resources Legacy Fund Foundation, to not react to requests for funding, and instead proactively direct funds to address the large-scale causes of degradation over the long term. The Water Board directed its staff to do the same. Our priority should not be a popular distribution of funds, but should be to improve land use practices and verify such improvements with performance monitoring.

In response to all of these comments, staff maintains its recommended proposal for allocating funding to the Water Board's highest priorities.

ATTACHMENTS

1. Background Information on the UC Davis Center for Water and Land Management
2. Comment Letters as listed and discussed above

S:\Seniors\Shared\Grants Management\Guad WQ Fund\02-08-08 final Board meeting docs\02-08-08 LID CCAMP staff report supplemental final.doc