

ENFORCEMENT SUMMARY REPORT
September 14, 2011

ITEM: 8

SUBJECT: Tentative Investigative Order No. R9-2011-0033, an Order Directing Citizens Development Corporation (CDC), Debtor and Debtor in Possession, to Submit Technical Reports Pertaining to Investigation of Lake San Marcos Nutrient Impairment (Order).

The Order would require CDC to submit a Workplan and an Investigation Report to the San Diego Water Board in accordance with a defined schedule. The work plan would describe CDC's action plan to study Lake water quality and biological conditions, nutrient inputs to and discharges from the Lake, and Lake operations and recreational uses. After sampling and collecting data and monitoring Lake conditions, CDC would evaluate the collected information, assess feasible alternatives to abate nutrient impairment in the Lake, and report their recommendations in the required Investigation Report to the San Diego Water Board. (Tentative Order No. R9-2011-0033) (*Chiara Clemente and Laurie Walsh*)

PURPOSE: The San Diego Water Board will consider issuing or directing the Executive Officer to issue the Tentative Order (Supporting Document No. 1) requiring CDC to submit necessary technical data on the conditions of nutrient impairment in Lake San Marcos.

PUBLIC NOTICE: The Tentative Order was noticed as follows:

- August 25, 2011: sent via email to CDC, CDC bankruptcy counsel and environmental bankruptcy counsel, and all known interested persons; and
- August 26, 2011: Included in San Diego Water Board Agenda and Notice of Meeting, posted on San Diego Water Board's web site and

made available for review at the San Diego
Water Board office.

DISCUSSION:

Lake San Marcos is an impoundment formed by damming San Marcos Creek. Lake San Marcos (Lake) is owned by CDC, as debtor in possession. CDC owns approximately 252 acres of land within the Creek watershed, which includes the Lake, the dam, the Lake San Marcos Resort & Country Club, and its auxiliary facilities. The Lake and Creek are listed as impaired water bodies and appear on the San Diego Water Board Clean Water Act Section 305(b) Surface Water Quality Assessment and Section 303(d) List of Water Quality Limited Segments 2008 Integrated Report. The Lake is listed as impaired (not meeting or expected to meet water quality objectives) because levels of ammonia as nitrogen, phosphorous, and nutrients do not meet water quality standards. The Creek is listed as impaired because the levels of phosphorous, DDE, toxicity, sediment toxicity, and selenium do not meet water quality standards.

Numerous other entities potentially responsible¹ for nutrient discharges to the Lake and Creek have entered into a voluntary agreement with the San Diego Water Board to conduct work necessary to reasonably achieve abatement of the nutrient impairment to the Creek and Lake.² In early 2010, the voluntary parties began efforts to identify the source(s) and magnitude of nutrient pollution to the Creek and the Lake. This Investigative Order, if adopted, would require CDC to investigate pollutant discharges from their private properties into the Lake and to understand in-lake processes and conditions causing impairment of Lake water quality.

¹ Other work parties currently include the members of the Participation Agreement, including the County of San Diego, City of San Marcos, City of Escondido, California Department of Transportation, San Marcos Unified School District, and Vallecitos Water District (the "Members"); and through a Cooperation Agreement with the City of Escondido and the Members (collectively, the "Voluntary Parties"). Other potentially responsible parties may be joined voluntarily or by an enforcement order in the future.

² The Members voluntary agreement with the Regional Board is contained in Addendum B to the Participation Agreement and while the City of Escondido is not a signatory to Addendum B, they have committed to work in cooperation with the Members and the Regional Board.

Following investigative work by voluntary parties and CDC, subsequent cleanup activities are expected to occur either voluntarily, or through a Cleanup and Abatement Order issued to the parties responsible for nutrient discharges. Collectively, these actions will result in the restoration and protection of water quality necessary to protect the designated beneficial uses of the Creek and the Lake.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS: Tentative Order No. R9-2011-0033 with attachments A and B.

RECOMMENDATION: The Advisory Team and the Executive Officer (Prosecution Team) may provide recommendations at the hearing.