

**Laurie Walsh - Tentative Order No. R9-2011-0033, Citizens Development Corporation;
opposition to request for postponement**

From: Catherine Hagan (George)
To: Jessica Newman
Date: 8/29/2011 1:06 PM
Subject: Tentative Order No. R9-2011-0033, Citizens Development Corporation; opposition to request for postponement
CC: Elizabeth A. Cason

Dear Ms. Newman:

On behalf of Mr. Gibson and the staff who will propose that the San Diego Water Board adopt Tentative Order No. R9-2011-0033 on September 14, 2011, please accept this opposition to the request by Citizens Development Corporation (CDC) to postpone consideration of the Tentative Order. It is critical that the San Diego Water Board have the opportunity to consider this Tentative Order at the upcoming board meeting. This Tentative Order is significant both as a stand-alone matter due to CDC's ownership and control of the Lake, but also in the larger context of the ongoing efforts by other parties on a voluntary basis to undertake investigation and cleanup of Lake San Marcos and San Marcos Creek in the San Marcos Creek Watershed. The timing of the board's consideration is critical due to timelines in CDC's pending Chapter 11 bankruptcy proceeding, particularly the upcoming hearing on the disclosure statement and plan of reorganization, in which CDC disclaims or severely minimized any liability for Lake impairments. Moreover, due to the many vacancies on the San Diego Water Board, it is not a certainty that the board will be able to convene to hear this matter in October. CDC has been aware for some months and since at least June 28, 2011, when the San Diego Water Board filed a proof of claim and supporting statement with the Bankruptcy Court, of Mr. Gibson's intent to bring a Tentative Order against CDC to the board for consideration. While Water Code section 13267 orders may be issued by an Executive Officer or delegatee without a hearing, in this case, CDC and other interested entities have 12 days in which to respond in writing to the Tentative Order and will also have an opportunity to be heard at the board meeting. These procedures satisfy all legal and due process requirements. For these reasons, we request that you deny CDC's request for postponement.

Sincerely,

Catherine George Hagan
Senior Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
chagan@waterboards.ca.gov

9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
Telephone: 858.467.2958
Facsimile: 858.571.6972