

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE

RESOLUTION NO. R9-2015-0020

**IN SUPPORT OF FUNDING PROJECTS THAT FURTHER THE PRACTICAL VISION
PRIORITIES WITH CONSIDERATION TO ENVIRONMENTAL JUSTICE AND
DISADVANTAGED COMMUNITIES AND THE RECOVERY OF STREAMS, WETLANDS
AND RIPARIAN SYSTEMS**

WHEREAS:

1. The San Diego Regional Water Quality Control Board (San Diego Water Board) adopted Resolution No. R9-2013-0153, A Resolution in Support of the San Diego Water Board Practical Vision,¹ titled "*Healthy Waters, Healthy People*" (dated 13 November 2013). The Practical Vision identified five areas of focus to achieve meaningful water quality outcomes. Of interest to this Resolution are:
 - a. Chapter 3: Recovery of Stream, Wetlands, and Riparian Systems: to achieve measurable improvements in the extent and health (i.e. integrity) of stream, wetlands, and riparian systems;
 - b. Chapter 4: Proactive Public Outreach and Communication: to increase environmental justice community access to the San Diego Water Board, its staff, programs, and decision-making, and maintain a proactive outreach and communication program that provides all constituents with user-friendly access.
2. Collectively, the State and the Regional Water Boards have the ability and authority to administer certain funds. The San Diego Water Board can use funds generated by the assessment of civil liability penalties to help implement various goals of the Practical Vision in two ways. The San Diego Water Board can approve discharger-proposed projects known as Supplemental Environmental Projects (SEPs) as a condition of a liability assessment, or it can request or support requests for project funds from the State's Cleanup and Abatement Account (CAA) independent of an individual penalty assessment. SEP and CAA projects are mechanisms to fund qualifying work that is deemed a priority to the San Diego Water Board.
3. The State Water Resource Control Board (State Water Board) adopted a Water Quality Enforcement Policy² (dated 17 November 2009) and a Statewide Policy on Supplemental Environmental Projects³ (SEP Policy) (dated 3 February 2009) that together regulate the use of SEPs statewide.

¹ http://www.waterboards.ca.gov/sandiego/water_issues/Practical_Vision/

² http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

³ http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/rs2009_0013_sep_finalpolicy.pdf

4. Pursuant to the SEP Policy, a discharger may satisfy part of the monetary assessment imposed in an administrative civil liability (ACL) order by completing or funding the completion of one or more SEPs. SEPs are projects that enhance the beneficial uses of the waters of the State, that provide a benefit to the public at large, and that, at the time they are included in the resolution of an ACL action, are not otherwise required of the discharger. SEP qualifying criteria are further defined in the SEP Policy.
5. The CAA was created in Water Code (WC) Sections 13440-13443 to fund emergency cleanup or abatement of a condition of pollution where there are no viable responsible parties available to undertake the work. Eligible applicants, including public agencies authorized to clean up a waste or abate the effects of a waste on waters of the state and non-profit organizations serving a disadvantaged community as defined in WC Section 79505.5 with the authority to clean up or abate the effects of a waste, may request funding to support qualifying projects. The CAA's current funding preferences⁴ of interest to this Resolution include:
 - a. Projects that address disadvantaged communities' environmental justice infrastructure needs, and
 - b. Projects that promote habitat restoration through non-profit organizations that collaborate with the regional water boards and encourage public outreach and education.
6. California Government Code section 65040.12 defines Environmental Justice (EJ) as *"the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies."* As part of CalEPA, the San Diego Water Board is charged by statute with incorporating the principles of EJ into all activities that substantially affect human health and/or the environment. In making funding decisions, the San Diego Water Board should recognize fair treatment in consideration of EJ issues.
7. CalEPA and the Office of Environmental Health Hazard Assessment have developed a science-based tool for evaluating which localities in the state are subject to multiple pollution sources and are most vulnerable to pollution's adverse effects. These areas, referred to as Disadvantaged Communities (DACs), are communities where environmental injustice issues are prevalent. In the San Diego Region DACs include, but are not limited to, communities along the U.S./Mexico Border (e.g. Imperial Beach) and South San Diego Bay (e.g. Barrio Logan and National City).
8. Many DACs lack the resources and in-house expertise necessary to apply for financial assistance to help make water quality improvement projects more feasible, and they often do not have the technical expertise to determine the best project alternative or to appropriately plan and manage long-term operations and maintenance needs. As a result, water quality improvement projects in DACs tend to be underrepresented among the projects awarded financial assistance.

⁴ As set forth in the State Water Board's Administrative Procedures Manual, Administrative Services, Section 4.4

9. Many DACs in the San Diego Region would benefit from SEPs, yet it can be difficult for dischargers that do not have day-to-day relationships with these communities to create SEPs that are responsive to a DAC's needs. Establishing a third party SEP solicitation, management, and reporting process may assist DACs in achieving community goals to improve water quality.
10. Healthy stream, wetlands, and riparian systems in the San Diego Region are essential to a number of important beneficial uses and other functions. The Practical Vision is about the health – or integrity – of these systems and especially about their physical, hydrological, and biological integrity. “Recovery” involves both protecting what has remained relatively untouched and restoring the extent and functionality of all kinds and parts of damaged and lost stream, wetlands, and riparian systems, including floodplains. Support through CAA and SEP funding is a way for the San Diego Water Board to incentivize and assist projects that are focused on the recovery of wetlands, streams, and riparian systems.
11. Identifying opportunities to work with the State Water Board, other regional water boards, and other federal, state and local agencies, private foundations, non-governmental organizations and educational institutions to address long standing EJ and wetlands recovery issues statewide are ways that the San Diego Water Board can promote awareness and funding of high priority projects.

THEREFORE, BE IT RESOLVED THAT:

1. The San Diego Water Board supports prioritizing funding projects that address Environmental Justice, DACs, and the recovery of stream, wetland, and riparian systems with the use of SEPs and CAA funding requests.
2. The San Diego Water Board recommends allocating 10 percent of annual CAA funds to projects that address EJ issues and/or recovery of stream, wetland, and riparian systems.
3. The San Diego Water Board challenges the Executive Officer with identifying a minimum of three projects annually that improve EJ issues and/or the recovery of stream, wetland, and riparian systems for SEP funding.
4. The Executive Officer is directed to work with potential public or private organizations or agencies to develop procedures and partnerships to implement this Resolution and to report to the San Diego Water Board periodically the status of the CAA requests and SEPs; including those particular to EJ issues and/or the recovery of stream, wetland, and riparian systems.

I, David W. Gibson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, San Diego Region, on _____, 2015.

David W. Gibson
Executive Officer