

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

STIPULATED ORDER NO. R3-2016-0045  
SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF  
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2012-0041  
IN THE MATTER OF  
SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT  
SAN LUIS OBISPO COUNTY

This Settlement Agreement and Stipulation for entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) and South San Luis Obispo County Sanitation District (Discharger) (collectively known as the Parties), pursuant to Government Code section 11415.60.

**Recitals**

1. On October 3, 2012, the Central Coast Water Board adopted Administrative Civil Liability Order No. R3-2012-0041, included in this Order as Exhibit A.
2. The Discharger petitioned the State Water Resources Control Board for review of Order No. R3-2012-0041 on November 1, 2012. On October 24, 2014, the State Water Resources Control Board declined to consider the Discharger's petition. On November 24, 2014, the Discharger filed a petition for writ of administrative mandamus and complaint for declaratory relief in San Luis Obispo County Superior Court (South San Luis Obispo County Sanitation District v. State Water Resources Control Board et al., Case No. 14CV-0596). On February 9, 2015, the action was transferred to Sacramento County Superior Court and assigned case number 34-2015-80002033.

**Settlement**

3. The Parties have engaged in confidential settlement negotiations and agree to settle the matter by presenting this Stipulated Order to the Central Coast Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60.
4. The Parties are agreeing to resolve this matter without further litigation and without an admission of liability for \$1,109,812.80, with a portion of the settlement proceeds going toward two supplemental environmental projects (SEPs) and an enhanced compliance action (ECA). The proposed SEPs and ECA are attached hereto as Exhibits B, C, and D.

**Stipulations**

The Parties stipulate to the following:

### **Administrative Civil Liability**

1. The Discharger hereby agrees to the imposition of administrative civil liability totaling **one million, one hundred nine thousand, eight hundred twelve and 80/100 dollars (\$1,109,812.80)**. Not more than 30 days after the entry of an Order of dismissal by the Sacramento County Superior Court of case number 34-2015-80002033, the Discharger shall pay by check to the State Water Resources Control Board Cleanup and Abatement Account one-half of this amount, i.e., \$554,906.40. The Discharger shall indicate on the check the number of this Stipulated Order and send it to the State Water Resources Control Board, Accounting Offices, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888, and shall send a copy of the check to Jessica Jahr, State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.

### **Supplemental Environmental Project – Central Coast Ambient Monitoring Program Groundwater Assessment and Protection (CCAMP-GAP)**

2. The Discharger agrees to fund CCAMP-GAP in the amount of \$110,981.28. The Project is described in Exhibit B. CCAMP-GAP is administratively funded by the Bay Foundation of Morro Bay, a non-profit third-party organization. The Discharger's liability for this amount is deemed resolved upon payment to the Bay Foundation of Morro Bay.

### **Supplemental Environmental Project – Groundwater Basin Model**

3. The Discharger agrees to contribute \$221,962.56 toward developing a groundwater basin model for the Northern Cities Management Area and Nipomo Mesa Management Area of the Santa Maria Groundwater Basin. The draft scope of the project and schedule are described in Exhibit C. The Discharger will submit a check for \$221,962.56 to the Bay Foundation of Morro Bay for the purposes of funding the groundwater basin model for the Northern Cities Management Area. The Discharger's liability for this amount is deemed resolved upon payment to the Bay Foundation of Morro Bay. The Bay Foundation of Morro Bay will release the funds to pay for the groundwater basin model as the project is completed and as approved by the Executive Officer. If the groundwater basin model is not completed as approved by the Executive Officer, he will, at his discretion, redirect any or all of the funds to CCAMP-GAP.

### **Enhanced Compliance Action – Grit Removal System**

4. The Discharger agrees to fund construction of a grit removal system at the Discharger's treatment facility in the amount of at least \$221,962.56. The project is described in Exhibit D. These funds are considered a suspended liability until the ECA has been fully implemented. The Discharger represents that (1) it will fund the project in the amount described in this Stipulated Order and (2) it will remain liable for the ECA suspended liability until the project is completed and accepted by the Central Coast Water Board in accordance with the terms of this

Stipulated Order. Discharger agrees that the Central Coast Water Board has the right to require an audit of the funds expended by it to implement the ECA.

5. **Central Coast Water Board Acceptance of Completed ECA.** Upon the Discharger's satisfaction of its ECA obligations under this Stipulated Order and the completion of the ECA and any audit requested by the Central Coast Water Board, Central Coast Water Board staff shall send Discharger a letter recognizing satisfactory completion of its ECA obligations. This letter shall terminate any further ECA obligations of Discharger, as they pertain to this liability, and result in the permanent waiver of the ECA suspended liability.
6. **Failure to Expend all ECA Suspended Liability Funds on the Approved ECA.** In the event that Discharger is not able to demonstrate to the reasonable satisfaction of the Central Coast Water Board that the entire ECA suspended liability has been spent to complete the components of the ECA for which Discharger is financially responsible, Discharger shall pay the difference between the ECA suspended liability and the amount Discharger can demonstrate was actually spent on the ECA as an administrative civil liability. Discharger shall pay this remainder in accordance with Stipulation, Paragraph 1 above, within 30 days of its receipt of notice of the Central Coast Water Board's determination that Discharger has failed to demonstrate that the entire ECA suspended liability has been spent to complete the ECA components.
7. **Party Contacts for Communications related to Stipulated Order:**

For the Central Coast Water Board:

Harvey Packard  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
Harvey.packard@waterboards.ca.gov  
(805) 542-4639

Jessica Jahr – Staff Counsel  
Office of Chief Counsel  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100  
Jessica.jahr@waterboards.ca.gov  
(916) 341-5168

For the Discharger:

South San Luis Obispo County Sanitation District  
c/o Gerhardt Hubner, District Administrator  
1600 Aloha Pl., Oceano, CA 93445  
Gerhardt@sslscsd.us  
(805) 202-8291

Counsel: Gil Trujillo, District Counsel  
204 E. Cook Street  
Santa Maria, CA 93454  
gat1848@comcast.net  
(805) 264-0672

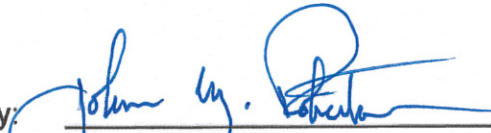
8. **Nonpayment:** In the event the Discharger fails to timely pay the full amount owed pursuant to this Agreement, the Discharger shall owe ten percent per annum pre-judgment interest on any amount due and unpaid from the date payment was due. If the Discharger fails to timely pay any part of the amount owed pursuant to this Agreement, including the aforementioned interest, by 30 days after the date payment was due, Discharger stipulates to entry of a Clerk's Judgment for the unpaid amount, pursuant to Water Code section 13328.
9. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
10. **Publicity.** Should Discharger or its agents or subcontractors publicize one or more elements of an SEP or ECA, they shall state **in a prominent manner** that the project is being partially funded as part of the settlement of an enforcement action by the Central Coast Water Board against Discharger.
11. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Coast Water Board or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Coast Water Board or its delegee for adoption, the Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Coast Water Board or its delegee. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
12. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Central Coast Water Board's adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are raised prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
13. **No Waiver of Right to Enforce:** The failure of the Central Coast Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Central Coast Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.



14. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
15. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Central Coast Water Board.
16. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323, subdivision (b), and hereby waives its right to a hearing before the Central Coast Water Board prior to the adoption of the Stipulated Order.
17. **Waiver of Right to Petition:** The Discharger hereby waives its right to petition the Central Coast Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives its rights, if any, to appeal the same to a Superior Court, federal district court, and/or any appellate court.
18. **Central Coast Water Board is Not Liable:** Neither the Central Coast Water Board members nor the Central Coast Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Discharger, its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order.
19. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
20. **No Third Party Beneficiaries.** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
21. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Coast Water Board, or its delegee, enters the Order.
22. **Counterpart Signatures:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.
23. **Dismissal of the Litigation:** Within 7 days of the Effective Date of this Stipulated Order pursuant to paragraph 18 above, the Discharger will file a request for dismissal with prejudice of Sacramento Superior Court Case No. 34-2015-80002033 as to all respondents/defendants.
24. This settlement agreement, and the attachments explicitly incorporated herein, constitutes the entire agreement between the parties.

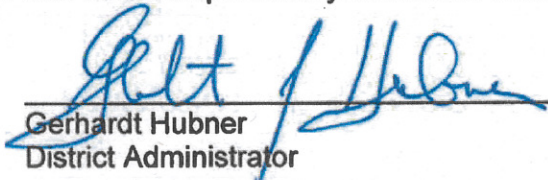
**IT IS SO STIPULATED.**

California Regional Water Quality Control Board  
Central Coast Region

By:   
\_\_\_\_\_  
John M. Robertson  
Executive Officer, Regional Water Quality Control Board, Central Coast Region

Date: October 13, 2016

South San Luis Obispo County Sanitation District

By:   
\_\_\_\_\_  
Gerhardt Hubner  
District Administrator

Date: October 11, 2016

### Order of the Central Coast Water Board

1. In adopting this Stipulated Order, the Central Coast Water Board or its delegee has considered, where applicable, each of the factors prescribed in CWC sections 13327, 13351, and 13385(e). The consideration of these factors is based upon information and comments obtained by the Central Coast Water Board's staff in investigating the allegations concerning the dischargers discussed herein or otherwise provided to the Central Coast Water Board or its delegee by the Parties and members of the public.
2. This is an action to enforce the laws and regulations administered by the Central Coast Water Board. The method of compliance with this enforcement action consists entirely of payment of an administrative penalty. As such, the Central Coast Water Board finds that issuance of this Order is not considered subject to the provisions of the California Environmental Quality Act (CEQA) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered a "project" (Pub. Resources Code, §§ 21065, 21080, subd. (a); §§ 15060, subd. (c)(2) & (c)(3), Cal. Code Regs., tit. 14, § 15378, subd. (a).) In addition, the Central Coast Water Board finds that issuance of this Order is also exempt from the provisions of CEQA in accordance with California Code of Regulations, Title 14, section 15321, subdivision (a)(2), as an enforcement action by a regulatory agency, and no exceptions would preclude the use of this exemption. To the extent that the payment of a portion of the administrative liability as a SEP would trigger CEQA review, the possible activities by the SEP administrator are not yet known. If the implementation may result in significant impacts on the environment, the appropriate lead agency will address the CEQA requirements prior to approval of any work plan.
3. The terms of the foregoing Stipulations are fully incorporated herein and made part of this Order of the Central Coast Water Board.

Pursuant to Water Code sections 13323, 13350, and 13385 and Government Code section 11415.60, **IT IS HEREBY ORDERED** by the California Regional Water Quality Control Board, Central Coast Region.

By:

  
\_\_\_\_\_  
John M. Robertson  
Executive Officer

Date:

October 13, 2016



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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**Central Coast Regional Water Quality Control Board**

October 5, 2012

Certified Mail No. 7008 3230 0000 4723 2168

Ms. Melissa Thorne, Special Counsel  
South San Luis Obispo County Sanitation District  
621 Capital Mall, 18<sup>th</sup> Floor  
Sacramento, CA 95814

Dear Ms. Thorne:

**ADOPTION OF ADMINISTRATIVE CIVIL LIABILITY ORDER NUMBER R3-2012-0041  
FOR THE SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT, SAN LUIS  
OBISPO COUNTY**

Enclosed is a signed copy of Administrative Civil Liability Order No. R3-2012-0041 adopted by the Central Coast Regional Water Quality Control Board (Central Coast Water Board) at their October 3, 2012, Board meeting.

Central Coast Water Board staff also posted a copy of the Order on our Website for other interested parties to view and print. The Order is available at the following:

**[http://www.waterboards.ca.gov/centralcoast/board\\_decisions/adopted\\_orders/](http://www.waterboards.ca.gov/centralcoast/board_decisions/adopted_orders/)**

If you have any questions or comments concerning the Order, please contact **Ryan Lodge (805) 549-3506**, or by email at **rlodge@waterboards.ca.gov**, or John Robertson at (805) 542-4630.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth A. Harris Jr.".

Kenneth A. Harris Jr.  
Interim Acting Executive Officer

Attachment: Order No. R3-2012-0041

cc: See next page.

cc (without attachment): via email only

Mr. Michael Seitz  
In-House Counsel  
Shipsey & Seitz, Inc.  
[Mike@shipseyandseitz.com](mailto:Mike@shipseyandseitz.com)

Mr. John Wallace  
Wallace Group  
[johnw@wallacegroup.us](mailto:johnw@wallacegroup.us)

Ms. Julie Macedo  
Senior Staff Counsel  
Office of Enforcement  
State Water Resources Control Board  
[Jmacedo@waterboards.ca.gov](mailto:Jmacedo@waterboards.ca.gov)

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 Aerovista Place, Suite 101  
San Luis Obispo, California 93401**

**ORDER NO. R3-2012-0041**

**ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF THE  
SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT  
SAN LUIS OBISPO COUNTY**

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), having held a public hearing on September 7, 2012, and on October 3, 2012, to receive evidence and comments on the allegations contained in Administrative Civil Liability Complaint No. R3-2012-0030, dated June 19, 2012, having considered all the evidence and public comment received, and on the Prosecution's recommendation for administrative assessment of Civil Liability in the amount of \$1,388,707.50, however finds that an assessed penalty of \$1,109,812.80 is applicable as follows:

1. The Discharger's wastewater treatment facility, located adjacent to the Oceano County Airport and the Pacific Ocean in Oceano, California is subject to Waste Discharge Requirements Order No. R3-2009-0046, NPDES Permit No. CA0048003, adopted on October 23, 2009, by the Central Coast Water Board and the State Water Resources Control Board Order (State Water Board) No. 2006-0003-DWQ, "Statewide General Waste Discharge Requirements for Sanitary Sewer Systems."
2. On December 19, 2010, the Discharger's WWTP influent pump station automatically shut down after floodwater entered an electrical conduit leading into a pump motor control system in the WWTP influent pump station. The penetrating floodwater shorted a critical motor control component (shunt switch) which then resulted in tripping a large main circuit breaker that supplied power to all four influent pumps located in the pump station.
3. The resulting loss of power to all four influent pumps caused untreated sewage to surcharge upstream into the Discharger's collection system and overflow, discharging untreated sewage from the collection system into the environment. Additionally, the Discharger documented and certified six sewer backups where untreated sewage was discharged inside six residential homes through private sewer service lateral connections. The total discharge of sewage between December 19<sup>th</sup> and 20<sup>th</sup> is estimated at 674,400 gallons (December 2010 Sewer Overflow).

4. In response to the December 2010 Sewer Overflow, the Discharger submitted a spill report to the Central Coast Water Board on January 3, 2011. On March 7-8, 2011, State Water Board staff inspected the Discharger's WWTP and collection system facilities.
5. On April 18, 2011, the Central Coast Water Board issued a Notice of Violation and a 13267 Letter requiring the Discharger to submit a technical report concerning the December 19, 2010, discharge of untreated sewage from its collection system. In response, the Discharger submitted a technical report dated May 31, 2011, detailing the nature, circumstances, extent and gravity of the unauthorized discharge of untreated sewage.
6. The Discharger is required to properly maintain, operate and manage its sanitary sewer collection system in compliance with the Regional Water Board Order No. R3-2009-0046, NPDES Permit No. CA0048003 and the Sanitary Sewer Collection System Order, and is required by the Sanitary Sewer Collection System Order to provide adequate capacity to convey base flows and peaks flows, including flows related to wet weather.
7. The discharge of untreated sewage to waters of the United States is a violation of the requirements in R3-2009-0046, section 301 of the Clean Water Act, CWC section 13376, and the Sanitary Sewer Collection System Order. Violations of these requirements are the basis for assessing administrative civil liability pursuant to Water Code section 13385.
8. The events leading to the December 19, 2010, headworks failure and sanitary sewer overflow were not upset events. An upset is defined in 40 CFR Section 122.41(n) and in the Discharger's Waste Discharge Requirements Order No. R3-2009-0046, NPDES Permit No. CA0048003, Attachment D, Standard Provision H, as an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

The December 2010 Sewer Overflow violations were not violations of technology based effluent limitations. The violations were based on the discharge of untreated sewage from the Discharger's collection system.

The Discharger failed to protect the treatment plant from inundation from a 100-year frequency flood as required by Order No. R3-2009-0046, NPDES Permit No. CA0048003. The Discharger acknowledged<sup>1</sup> that the storm event was not a 100-

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<sup>1</sup> Hearing transcript page 516.



year event. The key factor that caused the sewer overflow was the lack of protection from the storm event, a factor within the control of the Discharger.

The Discharger failed to properly maintain the emergency pump by keeping the effluent valve closed. The operator's inability to fully open the effluent valve caused sewage to backup into the collection system and eventually overflow. The District had the ability to keep the valve open at all times and had done so for years<sup>2</sup>, but changed its standard operating procedures advising staff to keep the valve closed<sup>3</sup>.

9. The December 2010 Sewer Overflow Event was not a bypass as defined in 40 CFR Section 122.41(m) and in the Discharger's Waste Discharge Requirements Order No. R3-2009-0046, NPDES Permit No. CA0048003. A bypass is an intentional diversion of waste streams from any portion of a treatment facility. The Discharger did not intentionally divert waste streams around treatment systems. The Discharger experienced a sanitary sewer overflow caused by failure of influent pumps and failure of the emergency backup system to pump influent flows.

#### **MAXIMUM CIVIL PENALTY**

10. California Water Code Section 13385 authorizes the Central Coast Water Board to administratively impose civil liability in an amount not to exceed \$10,000 for each day in which any person violates an NPDES permit. Where there is a discharge, section 13385 authorizes the Central Coast Water Board to administratively impose additional liability of ten dollars per gallon. The maximum liability in this case is \$6,754,000.

#### **PENALTY METHODOLOGY**

11. Pursuant to California Water Code Section 13385(e), the Central Coast Water Board must consider the following factors in determining the amount of liability for the violations:
  - Nature, circumstances, extent, and gravity of the violations,
  - Whether the discharge is susceptible to cleanup or abatement,
  - Degree of toxicity of the discharge,
  - Discharger's ability to pay,
  - Effect on the Discharger's ability to continue in business,
  - Voluntary cleanup efforts undertaken by the Discharger,
  - Discharger's prior history of violations,
  - Discharger's degree of culpability,
  - Economic benefit or savings, if any, resulting from the violation, and

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<sup>2</sup> See Hearing transcript page 296.

<sup>3</sup> Exhibit 99.



- Other matters that justice may require.

12. On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in Water Code section 13327 and section 13385, subdivision (e). The staff report entitled *Technical Report for Noncompliance with Central Coast RWQCB Order No. R3-2009-0046 and State Water Resources Control Board Order No. 2006-0003-DWQ, "Statewide General Waste Discharge Requirements for Sanitary Sewer Systems", Unauthorized SSO occurring on December 19-20, 2010*, dated June 2012, is included in Attachment 3 of the Staff Report and incorporated herein, and analyzes the violations under the Enforcement Policy's penalty calculation methodology. This methodology is set forth in detail below:

### **1. Step 1 – Potential for Harm for Discharge Violations**

#### **a. Factor 1: Harm or Potential for Harm to Beneficial Uses (5)**

This score evaluates direct or indirect harm or potential for harm from the violation. The estimated discharge of 674,400 gallons of untreated sewage entered the Oceano Lagoon, Meadow Creek, Arroyo Grande Creek Estuary, and the Pacific Ocean. In addition, the sewage entered at least six private residences and potentially caused human health risks. San Luis Obispo County posted signs warning the public of the sewage spill and rain advisory on all main beach entrances and on all advisory boards for nine days. The REC-1 and REC-2 beneficial uses of the beaches were restricted for more than five days. Therefore, there was a high threat to beneficial uses and a score of 5 or "major" is appropriate.

#### **b. Factor 2: Physical Chemical, Biological or Thermal Characteristics of the Discharge (4)**

Raw sewage contains microbial pathogens known to be harmful public health including, but not limited to, the following:

- **Bacteria:** campylobacter, E. coli, vibrio cholera, salmonella, S.typhi, shigella, yersinia
- **Parasites:** cryptosporidium, entamoeba, giardia
- **Viruses:** adenovirus, astrovirus, noravirus, echovirus, enterovirus, reovirus, rotavirus

Raw sewage can cause illness including abdominal cramps, vomiting, diarrhea, high fever, and dehydration. Additionally, it can cause disease such as

gastroenteritis, salmonellosis, typhoid fever, pneumonia, shigellosis, cholera, bronchitis, hepatitis, aseptic meningitis, cryptosporidium, amoebic dysentery, giardiasis, and even death.

Raw sewage can also cause environmental impacts such as a loss of recreation and can be detrimental to aquatic life support, can result in organic enrichment, and can also result in exposure to floatable inorganic objects (e.g. condoms, tampons, medical items (syringes)).

The degree of toxicity in untreated sewage poses a significant threat to human and ecological receptors. Accordingly, a score of 4 is appropriate.

c. Factor 3: Susceptibility to Cleanup and Abatement (1)

Less than 50% of the discharge was susceptible to cleanup or abatement due to the rising floodwaters and multiple discharge points which made cleanup or recovery impossible. Therefore a score of 1 is assigned.

Based on the above determinations, the **Potential for Harm final score** for the violations is [10]

$$(5) + (4) + (1) = 10$$

= *Potential for Harm*

## **2. Step 2 – Assessment for Discharge Violations**

Water Code section 13385, subdivision (c) states that civil liability may be imposed administratively by a regional board pursuant to Article 2.5 of Chapter 5 in an amount not to exceed the sum of ten thousand dollars (\$10,000) for each day in which the violation occurs and \$10 for each gallon discharged but not cleaned up that exceeds 1,000 gallons.

### **Per Gallon Assessment**

Four overflow estimates were presented at the September 7, 2012, hearing including one from the Prosecution team (1,139,825 gallons) and three from the Discharger (Discharger's 417,298 gallons, RMC 674,400 gallons, Appleton 2,250,000 – 3,000,000 gallons.) The RMC estimate<sup>4</sup> is the most credible estimate. RMC was hired by the Discharger to evaluate the Prosecution's flow estimate and to provide an overflow estimate. RMC utilized wet weather hydrographs to model the flow rates for the overflow event. The Board recognizes that the RMC estimate may include inaccuracies, including failure to account for potential floodwater influent and

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<sup>4</sup> Exhibit 32-9.

inflow, and relying on potentially inaccurate Discharger calculations<sup>5</sup> for overflows occurring after 6:00 pm on December 19, 2010. However, the RMC estimate utilized a detailed hydraulic analysis developed by engineer with over 30 years of sewer collection system experience utilizing flow data from similar wet weather events. The RMC estimate is consistent with a Discharger estimate of 661,000 gallons provided in the Discharger's Technical Report<sup>6</sup> using a similar method as RMC. The Board finds that the most accurate estimated overflow volume from the December 2010 Sewer Overflow is 674,400 gallons.

To calculate the initial liability amount on a per gallon basis, a **Per Gallon Factor** is determined from Table 1 of the Enforcement Policy (page 14) by using the **Potential for Harm score** (step 1) and the extent of **Deviation from Requirement** (minor, moderate, or major) of the violation. The Per Gallon Factor is then multiplied by the number of gallons subject to administrative civil liability multiplied by the maximum per gallon liability amount.

a. Deviation from Requirement (moderate)

Prohibition C.1 of Order No. 2006-0003-DWQ states that, "[a]ny SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited." While the Discharger demonstrated a general intent to comply with the discharge requirements, the Discharge knew of the risk of flooding and the issue of the underground utility boxes containing electrical cables. The Discharger did not implement the proposed improvement project that would have prevented the December 2010 Sewer Overflow, and thus partially compromised the above prohibition in their permit. Therefore the score of "moderate" is appropriate.

b. Per Gallon Factor (.6)

Using a Potential for Harm score of "10" and a "Moderate" Deviation from Requirement, a Per Gallon Factor of 0.6 is selected from Table 1 of the Enforcement Policy.

c. Maximum / Adjusted Maximum per gallon liability amount (\$2.00/gal)

The maximum per gallon liability amount allowed under Water Code section 13385, subdivision (c) is \$10 for each gallon discharged to waters of the United States but not cleaned up that exceeds 1,000 gallons. The Enforcement Policy recommends a maximum per gallon penalty amount of \$2.00 per gallon for high volume sewage spill and storm-water discharges.

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<sup>5</sup> Exhibit 105, page 8.

<sup>6</sup> Exhibit 6-118.

The Enforcement Policy also states, however, “[w]here reducing these maximum amounts results in an inappropriately small penalty, such as dry weather discharges or small volume discharges that impact beneficial uses, a higher amount, up to the maximum per gallon amount, may be used.”

A \$2.00 per gallon maximum for this sewage spill resulted in an appropriate penalty. Therefore, a \$2.00 adjusted per gallon liability amount is used.

Using the information above, the **Initial Liability assessed per gallon is calculated to be \$809,280.**

(Per Gallon Factor) x (Gallons subject to liability) x (Maximum per gallon liability amount)

= Initial Liability

= (.6) x (674,400) x (2.00 / gallons) = \$809,280 *Initial Liability (Per Gallon Assessment)*

Per Day Assessment

To calculate the initial liability amount on a per day basis, a **Per Day Factor** is determined from Table 2 of the Enforcement Policy (page 15) by using the **Potential for Harm score** (step 1) and the extent of **Deviation from Requirements** (minor, moderate, or major) of the violation.

a. Deviation from Requirement (10)

The deviation from requirement is (Moderate).

b. Per Day Factor (.6)

A Per Day Factor of (0.6) is selected from Table 2 of the Enforcement Policy.

Using the information above, the **Initial Liability assessed per day is calculated to be \$10,000:**

(Per Day Factor) x (Days subject to liability) x (Maximum per day liability amount)

= (.6) x (2 days) x (\$10,000 / day)

= \$12,000 *Initial Liability (Per Day Assessment)*

**3. Step 3 – Per Day Assessments for Non-Discharge Violations**

Not applicable.

#### **4. Step 4 – Adjustment Factors**

Staff considered certain Conduct Factors to calculate adjustments to the amount of the Initial Amount of the Administrative Civil Liability as follows:

a. Culpability (1.4)

The Enforcement Policy suggests an adjustment multiplier between 0.5 and 1.5 depending on whether the discharge was a result of an accident or the discharger's intentional/negligent behavior. The Discharger failed to provide adequate protection of its equipment from 100-year frequency floods as required under its Permit. The Discharger also failed to ensure implementation of proper standard operating procedures when the Discharger failed to ensure that the emergency bypass pump valve remained in the "open" position during standby mode. The Discharger failed to comply with the Sanitary Sewer Collection System Order to provide adequate sampling to determine the nature and impact of the release. The Discharger had prior knowledge of the potential risks associated with the electrical wires<sup>7</sup> and the failure to protect plant equipment from 100-year frequency flood<sup>8</sup> as required by its discharge permit. The Discharger failed to provide redundant pumping capabilities by having all four influent pumps connected to a single shunt trip. A single point of failure, the shunt trip, caused all four influent pumps to fail. The Discharger failed to provide a reliable emergency pump that could operate without repeatedly shutting down. The emergency pump had operational problems noted before the overflow event. Prior to the overflow event, treatment plant staff recommended sending the pump back to the manufacturer<sup>9</sup>. Therefore, this factor should be adjusted to a higher multiplier of 1.4 for negligent behavior.

b. Cleanup and Cooperation (1)

The Discharger responded quickly by diverting flows to the plant and secured additional pumps from other agencies and informed the public regarding the sewage spill. The Discharger also timely responded to the NOV and 13267 letter. Therefore, a multiplier of 1.0 is appropriate.

c. History of Violations (.9)

The Discharger had no history of sewage overflow violations in recent years. Therefore, a factor of .9 is appropriate.

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<sup>7</sup> Exhibit 2, Exhibit 71.

<sup>8</sup> Hearing transcript page 516.

<sup>9</sup> Hearing transcript page 286.

The initial base liability per gallon and initial base liability per day are multiplied by the above factors to determine **Revised Liability amount of \$1,019,692.80.**

Revised Per Gallon Assessment

(Initial Liability) x (Culpability) x (Cleanup and Cooperation) x (History of Violations)

= \$\$\$\$ Revised Liability Per Gallon Assessment

(809,280) x (1.4) x (1) x (.9) = \$1,019,692.80

Revised Per Day Assessment (Discharge Violations)

Discharge Violations:

(Initial Liability) x (Culpability) x (Cleanup and Cooperation) x (History of Violations)

= \$\$\$\$ Revised Liability Day Assessment

(12,000) x (1.4) x (1) x (.9) = \$15,120

**5. Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability amount is determined by adding the revised liability amounts per gallon and per day. The **Total Base Liability is \$1,034,812.80.**

(Revised Liability Per Gallon Assessment) + (Revised Liability Per Day Assessment for Discharge Violations) + (Revised Liability Per Day Assessment for Non-Discharge Violations)

\$1,019,692.80 + \$15,120 = \$1,034,812.80

**6. Step 6 – Ability to Pay and Ability to Continue in Business**

If there is sufficient financial information to assess the violator's ability to pay the Total Base Liability Amount or to assess the effect of the Total Base Liability Amount on the violator's ability to continue in business, the Total Base Liability Amount may be adjusted to address the ability to pay or to continue in business.

Sufficient evidence was presented that the Discharger could pay the proposed penalty<sup>10</sup>. The Discharger failed to demonstrate it does not have an ability to pay the recommended penalty. Accordingly, the Total Base Liability Amount was not adjusted.

### **7. Step 7 – Other Factors as Justice May Require**

If the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for “other factors as justice may require,” but only if express findings are made to justify this. In addition, the costs of investigation and enforcement are “other factors as justice may require,” and should be added to the liability amount.

Staff costs incurred by the Central Coast Regional and State Water Resources Control Board are \$75,000 and are added to the Total Base Liability Amount, bringing the liability adjusted Total Base Liability Amount to **\$1,109,812**.

$(\text{Total Base Liability}) + (\text{Staff Costs}) = \text{adjusted Total Base Liability}$

$\$1,034,812.80 + \$75,000 = \$1,109,812.80$

### **8. Step 8 – Economic Benefit**

The Economic Benefit Amount is any savings or monetary gain derived from the act or omission that constitutes the violation. The Enforcement Policy states that the adjusted Total Base Liability Amount shall be at least 10 percent higher than the Economic Benefit Amount so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations.

The primary economic benefit for the Discharger was the delay of upgrading its electrical wiring system and protecting in-ground utility boxes from potential floodwaters as planned in 2004 for a total budget cost of \$200,000. The economic benefit gained from this project delay is calculated at \$177,209 based on US EPA's BEN model to calculate economic benefits for noncompliance with regulations.

### **9. Step 9 – Maximum and Minimum Liability Amounts**

The **Minimum Liability Amount** is **\$194,930**. As mentioned in Step 8, the Enforcement Policy states that when making monetary assessments, the adjusted Total Base Liability Amount shall be at least 10 percent higher than the Economic Benefit Amount. Further, Water Code section 13385, subdivision (e) requires the

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<sup>10</sup> Exhibit 114.

Central Coast Water Board to recover any economic benefit or savings received by the violator.

The **Maximum Liability Amount** is **\$6,754,000**. The maximum administrative civil liability that may be assessed pursuant to Water Code section 13385, subdivision (c) is the sum of ten thousand dollars (\$10,000) for each day in which the violation occurs and \$10 for each gallon discharged but not cleaned up that exceeds 1,000 gallons. The maximum administrative civil liability that may be assessed pursuant to Water Code section 13268, subdivision (b)(1) is \$1,000 per day of violation.

#### **10. Step 10 – Final Liability Amount**

In accordance with the above methodology, the Central Coast Water Board finds that the **Final Liability Amount** is **\$1,109,812.80**. This Final Liability Amount is within the statutory minimum and maximum amounts.

13. This Order on Complaint is effective and final upon issuance by the Regional Board. Payment must be received by the Regional Board no later than thirty days from the date on which this Order is issued.
14. In the event that District fails to comply with the requirements of this Order, the Executive Officer or his/her delegee is authorized to refer this matter to the Office of the Attorney General for enforcement.
15. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) in accordance with the California Code of Regulations Title 14, Chapter 3, section 15321.

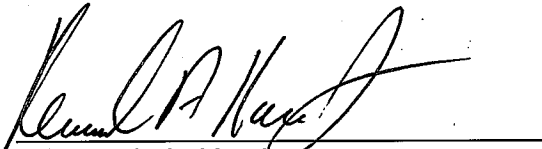
**IT IS HEREBY ORDERED**, pursuant to California Water Code section 13385 and 13268, that the South San Luis Obispo County Sanitation District is assessed administrative civil liability in the amount of \$1,109,812.80.

The Discharger shall submit a check payable to State Water Resources Control Board in the amount of **\$1,109,812.80** to *SWRCB Accounting, Attn: Enforcement, P.O. Box 100, Sacramento, California 95812-0100* by **November 5, 2012**. A copy of the check shall also be submitted to *Regional Water Quality Control Board, Attn: Harvey Packard, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401* by **November 5, 2012**. The check shall be made out to the *Clean Up and Abatement Account* and shall include the administrative liability Order No. R3-2012-0041.



Any person aggrieved by this action of the Central Coast Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of the order, except that if the thirtieth day following the date of the order falls on a Saturday, Sunday, or state holiday, the petition must be received by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the internet at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, **Kenneth A. Harris Jr., Interim Executive Officer**, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the Central Coast Water Board on October 3, 2012.



Kenneth A. Harris Jr.  
Interim Executive Officer

Attachment – Penalty Calculation Methodology Worksheet

**Instructions**

1. Select Potential Harm for Discharge Violations
2. Select Characteristics of the Discharge
3. Select Susceptibility to Cleanup or Abatement
4. Select Deviation from Standard
5. Click "Determine Harm & per Gallon/Day..."
6. Enter Values into the Yellow highlighted fields

Select Item  Major  
 Select Item  Discharged material poses significant risk  
 Select Item  < 50% of Discharge Susceptible to Cleanup or A  
 Select Item  Moderate

Discharger Name/ID:

		Violation 1		
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)	10	
	Step 2	Per Gallon Factor (Generated from Button)	0.6	
		Gallons	674,400	
		Statutory / Adjusted Max per Gallon (\$)	2.00	
		<b>Total</b>		\$ 809,280
		Per Day Factor (Generated from Button)	0.6	
Non-Discharge Violations	Step 3	Days	2	
		Statutory Max per Day	10000.00	
		<b>Total</b>		\$ 12,000
		<b>Initial Amount of the ACL</b>		\$ 821,280.00
Add'l Factors	Step 4	Culpability	1.4	\$ 1,149,792.00
		Cleanup and Cooperation	1	\$ 1,149,792.00
		History of Violations	0.9	\$ 1,034,812.80
	<b>Step 5 Total Base Liability Amount</b>		\$ 1,034,812.80	
	Step 6	Ability to Pay & to Continue in Business	1	\$ 1,034,812.80
	Step 7	Other Factors as Justice May Require	1	\$ 1,034,812.80
		Staff Costs	\$ 75,000	\$ 1,109,812.80
	Step 8	Economic Benefit	\$ 180,000	\$ 1,109,812.80
	Step 9	Minimum Liability Amount	180,000	
		Maximum Liability Amount	\$ 6,754,000	
	<b>Step 10 Final Liability Amount</b>		\$ 1,109,812.80	

**Penalty Day Range Generator**

Start Date of Violation=   
 End Date of Violation=

Maximum Days Fined (Steps 2 & 3) =  Days  
 Minimum Days Fined (Steps 2 & 3) =  Days

**Conceptual Project Proposal and Fiscal Year 2012-2013 Work  
Plan For  
Central Coast Ambient Monitoring Program (CCAMP)  
Groundwater Assessment and Protection (GAP)**

The purpose of the Central Coast Ambient Monitoring Program-Groundwater Assessment and Protection (CCAMP-GAP) program is to do the following:

1. Identify and address threats to public health due to polluted groundwater supply.
2. Measure our performance in achieving tangible results (water quality protection and restoration) in our watersheds based on changes in groundwater quality.
3. Prioritize our work to focus on the most important groundwater issues.
4. Help determine appropriate Water Board requirements, and support and defend those requirements.
5. Support the implementation of special projects that address our highest priorities and help us achieve our measurable goals.
6. Implement the Water Board's Environmental Justice goals.

The following CCAMP-GAP project proposal is broken down into the following sections:

- Conceptual Model
- Endowment
- Operating Fund
- Domestic Well Outreach and Sampling Program
- Regional Groundwater Monitoring and Assessment
- Special Projects
- Goals
- Accountability & Transparency

**Conceptual Model**

The proposed groundwater program will be part of CCAMP and will be funded through similar mechanisms. However, CCAMP-GAP will operate under a slightly different business model than CCAMP. Instead of building a regional monitoring program from the ground up, as we largely did with our surface water monitoring program, we will collaborate extensively with various stakeholders to leverage (with supplemental funding and technical support) existing groundwater monitoring programs currently being implemented by local agencies. We will also help develop monitoring programs in priority groundwater basins where these monitoring programs currently do not exist.

Water Board staff will facilitate data capture and management via the State Board's GAMA GeoTracker database, making the CCAMP-GAP data readily available to the public and other regulatory agencies. We will use the data from CCAMP-GAP to help define our highest priorities and measure our performance in achieving our measurable goal for clean groundwater. Currently, our groundwater regulatory programs deal with groundwater pollution problems on an ad hoc basis, as they are discovered by certain events, such as when a development occurs, or a property is transferred, or when wells are sampled for some other purpose, or pollution is suspected and investigated. We have no systematic, region wide approach to assess and track the quality of our groundwater basins. CCAMP-GAP will eventually provide the data to help direct and prioritize our efforts to protect groundwater in a more comprehensive and effective manner.

CCAMP-GAP will also implement or support special projects, such as providing information and free groundwater sampling to domestic well owners so they can assess their groundwater quality and take appropriate actions to protect their own health and welfare. The proposed domestic well outreach and sampling project (see discussion below) will not only provide well owners with information they can use to make informed decisions about their drinking water, but will also allow us to develop a higher resolution understanding of shallow groundwater (i.e., upper-most aquifer) impacts in rural areas that can be used to prioritize our source control efforts.

Successful startup and implementation of CCAMP-GAP is predicated on securing settlement funds to create an endowment fund and a separate initial operating fund as proposed below. Staff will provide annual updates to the Water Board documenting the accomplishments of the previous year and outlining the next one year and five year work plan goals (see Accountability and Transparency Section, below).

Our goal is to build a comprehensive and transparent program that measures the physical condition of our groundwater basins over the long term, and reaching this goal will require significant increases in funding over time. Staff will direct additional enforcement funds, as they become available, to the CCAMP-GAP endowment, as we have done with CCAMP with respect to surface water monitoring and assessment, and as we have done with the Water Board's Low Impact Development Initiative (LIDI).

**Endowment: \$800,000**

Staff proposes to set up an initial \$800,000 endowment to provide an ongoing revenue stream to implement the annual CCAMP-GAP work plan. This endowment will require additional funding over time to increase the endowment principal and expand the capacity of CCAMP-GAP. The initial \$800,000 endowment will provide about \$40,000 per year in interest based on a long-term average earnings rate of five percent (understanding that the rate of return could be much lower depending on the economy). One of our longer term goals is to build the endowment up to \$5 million (with an estimated annual earnings rate of \$250,000 per year at 5% over the long term). The revenue stream generated from the endowment will be used to replenish a CCAMP-GAP operating fund, but also may be allowed to roll over to increase the endowment principal and future interest earnings.

**Operating Fund: \$471,000**

The CCAMP-GAP operating fund will be used to develop and implement regional groundwater monitoring programs and fund groundwater-related projects (see Special Projects discussion) Water Board staff will work with stakeholders to develop the detailed scopes of work and costs associated with these projects. The Executive Officer will prioritize the selection and implementation of these projects based on achieving the maximum cost benefit associated with effectively implementing projects that are in alignment with our highest priorities, as has been the case with CCAMP since its inception.

**Domestic Well Outreach and Sampling Program**

The implementation of this program is a regional priority due to significant public health threats associated with unregulated domestic wells in rural agricultural areas as result of widespread and severe nitrate pollution. Therefore, this program is one of the first year CCAMP-GAP goals (see Goals below) and is currently under development. More detailed information regarding this program was provided as part of the Executive Officer's Report to the Board (Item No. 17) contained within the July 14, 2011 Water Board Public Meeting agenda package. Since that time we have prepared a draft domestic well outreach and sampling project grant application request for qualifications package, scope of work, draft outreach and notification flyer. We are coordinating this work with several stakeholders, including State Board GAMA program staff, the California Department of Public Health, various County Health and Public Works Departments, and several nonprofit

environmental groups. The primary goals of the domestic well outreach and sampling program are to:

1. Provide domestic well owners and the general public in the Central Coast Region with specific information regarding potential nitrate impacts to their drinking water supplies, options for dealing with the health threat, and available water quality testing opportunities.
2. Provide free nitrate sampling to domestic well owners.
3. Develop comprehensive maps that delineate the concentration of nitrate in shallow aquifers and domestic wells.
4. As funds are available, provide financial assistance for Limited Resource Farmers and Ranchers or Socially Disadvantaged Operators on an as-needed, sliding-scale basis to help them comply with the groundwater sampling requirements of the Irrigated Agriculture Order.

The long-term goal is to sample domestic wells every five to ten years, depending on available funds. We will also work with local agencies to develop ongoing domestic well sampling and notification programs in all the Region’s groundwater basins where domestic well drinking water is threatened or unsafe.

**Regional Groundwater Monitoring and Assessment**

There are a number of organizations currently implementing groundwater monitoring programs with dedicated monitoring well networks within the Region. CCAMP-GAP will leverage these existing individual programs into a coordinated regional monitoring program. We will start with a pilot project that directs groundwater data from a local agency into the GAMA GeoTracker database. As with the proposed domestic well program, additional funds will be made available as necessary from the CCAMP-GAP operating fund to implement this program.

Coordinating the groundwater data from local agencies into a regional database will significantly improve our ability to assess the data, streamline sharing of these data with the Water Board and other agencies, and allow public access to the data (while keeping well location and ownership confidential). These data would be immediately available for review and limited analyses via GeoTracker as well as for download into GIS or other modeling programs for more robust analyses. Water quality analyses for these existing programs are typically conducted by State-certified private in-house laboratories or commercial “clean water” laboratories that are not currently configured to upload raw analytical data into GeoTracker. Therefore our initial efforts will be to facilitate the electronic transfer of groundwater quality data generated via existing monitoring programs directly into GeoTracker. Once the existing monitoring programs are built into and uploading to GeoTracker, we will focus on capturing all available historical data within the system where feasible. We intend to collaborate with the entities implementing groundwater monitoring programs on a regular and ongoing basis and to provide technical and financial support to expand the existing monitoring programs and develop new ones in priority basins, where needed and given available funding. The following is an outline of the basic monitoring and assessment program development task list:

1. Water Board staff will outreach and coordinate with regional groundwater monitoring stakeholders to:
  - a. Identify and define existing programs
  - b. Advocate CCAMP-GAP
  - c. Identify shared priorities and goals
  - d. Identify and evaluate potential beneficial projects
2. Leverage existing programs where they exist with technical and financial support to facilitate:
  - a. Electronic transfer of data into GeoTracker GAMA
    - i. GAMA technical support
    - ii. Laboratory technical support (to facilitate Electronic Data Format [EDF])
    - iii. Agency/program technical support

- b. Capture/upload historical data from monitoring program
- c. Add additional monitoring wells, increase sampling frequency, add constituents, etc.
- 3. Capture, integrate & manage additional groundwater and well data from other sources (i.e. well permitting data for unregulated drinking water supply systems/wells)
- 4. Develop monitoring programs within areas where they don't currently exist
- 5. Develop or build on existing Quality Assurance Project Plans (QAPPs) and Sampling and Analysis Plans (SAPs)

Water Board staff have already begun implementing the first task. The cost associated with each of the subsequent tasks is currently uncertain and will likely be based on the characteristics of each individual local monitoring program. One of our first year goals (see CCAMP-GAP Goals below) is to determine the cost associated with these tasks and prioritize implementation based on available funding and regional benefit. This effort is currently underway.

We have had favorable preliminary discussions with several local agencies that are implementing regional groundwater monitoring programs regarding the proposed program. As of the date of this staff report we have identified and contacted the following with regard to their existing groundwater monitoring programs and our proposed program:

- Monterey County Water Resources Agency (MCWRA)
- Pajaro Valley Water Management Agency (PVWMA)
- San Benito County Water District (SBCWD)
- Santa Clara Valley Water District (SCVWD)
- Monterey Peninsula Water Management District (MPWMD)
- San Luis Obispo County – Department of Public Works
- Santa Barbara County – Water Resources Division of Public Works
- Santa Cruz County - Water Resources Program

In addition to the regional groundwater monitoring programs with dedicated well networks, we are also reaching out to the counties throughout the Region, principally the Health Departments, as the primacy agency for the drinking water programs and well permitting oversight, to begin capturing Local and State Small Water System well and domestic well water quality information. Our initial efforts are focused on piloting this program with Monterey County given they have the largest number of small water supply systems and domestic wells in our Region. We have also begun discussions with State Water Board GAMA program staff and various regional stakeholders to provide GeoTracker functionality that will directly benefit local agency programs such as drinking water and well permitting programs. In an effort to improve our chances for success, we are endeavoring to make this program as easy and as desirable as possible for participating local agency stakeholders. With this approach we hope to not only improve the functionality of our program, but also to provide benefits to the programs of the participating local agencies.

**Special Projects**

In addition to collaborating with various stakeholders to develop and implement a comprehensive and robust regional groundwater monitoring and assessment program, CCAMP-GAP will also support the implementation of special studies and projects to protect and restore groundwater quality, or otherwise support activities addressing our highest priorities as they relate to groundwater or the interrelationships between surface water and groundwater.

CCAMP-GAP funds available within the operating account beyond those earmarked for the specific programs and projects proposed within this project proposal and work plan will be available to implement various types of projects including but not limited to the following:

- Domestic Well Sampling Program (for an ongoing or repeat program at specified frequency, or to supplement/leverage local agency domestic well sampling efforts)
- Special studies (groundwater age dating, isotopic analyses, modeling, etc.)
- Well abandonment/destruction
- Development and implementation of well head protection programs
- Emergency replacement water supply
- Groundwater recharge (i.e., active recharge projects)
- Groundwater basin/aquifer assessment and ongoing trend analyses
- Salt and Nutrient Management Planning (i.e., plan development, Basin Planning, implementation, etc.)
- Seawater intrusion related projects
- Technical support for Basin Plan amendments
- Testing and implementation of technologies to reduce groundwater pollution

This is a preliminary conceptual list of potential projects. We will generate a more specific ongoing list of potential projects in concert with regional and local stakeholders. Projects will be evaluated on the basis of 1) their alignment with the Water Board's highest priorities, 2) providing regional scale groundwater data that will improve our ability to effectively evaluate and manage water quality and supply, 3) achieving tangible results in protecting and restoring water quality and/or supply, 4) leveraging existing programs with a regional benefit, and 5) leveraging of supporting funds.

### **Goals**

We have developed an initial set of one-year and five-year goals.

The first year goals are to:

1. Implement a region-wide domestic well outreach and sampling program (currently under development)
2. Identify and begin collaborating with all applicable local and regional groundwater monitoring stakeholders (currently in process)
3. Implement initial water quality data capture and transfer pilot program with an individual local agency - determine the costs associated with and enter into agreements or contracts as necessary with stakeholder(s) to begin uploading groundwater monitoring data directly into GeoTracker GAMA
4. Identify and secure additional sources of potential funding, and
5. Develop and prioritize a running list of potential groundwater-related projects with maximum benefit in achieving our measurable goals and addressing our highest water quality priorities

The initial five-year goals are to:

1. Get all of the existing regional groundwater monitoring programs reporting data directly into GeoTracker GAMA and begin upload of historical data
2. Begin integrating regional groundwater monitoring data with surface water quality (CCAMP) and land use data
3. Develop an online "report card" of regional groundwater conditions
4. Integrate regional groundwater monitoring programs with salt and nutrient management program (Recycled Water Policy, SWRCB Resolution No. 2009-0011) monitoring program(s)
5. Develop Basin Plan amendments to protect water quality and watersheds from impacts to riparian and wetland areas and groundwater recharge.
6. Begin funding projects with a maximum regional benefit in achieving our measurable goals and addressing our highest water quality priorities
7. Build the CCAMP-GW endowment up to \$5 million
8. Implement follow-up domestic well sampling (fifth or sixth year; the goal is to implement this program once every five to ten years)

**Accountability & Transparency**

As noted in previous sections of this project proposal and fiscal year work plan, Water Board staff will provide annual progress reports and future work plans during scheduled public hearings to facilitate Water Board and public participation in the ongoing development and implementation of the program. The annual progress reports and work plans will:

1. Evaluate the previous fiscal year goals and progress toward achieving the five year goals, and present the next one year and five year set of goals with an emphasis on:
  - a. identifying and discussing newly initiated projects,
  - b. providing the status of ongoing projects,
  - c. forecasting anticipated projects and expenditures for the next year and five year time horizons based on available/anticipated funds,
2. Refine the conceptual special project list and evaluation criteria, and
3. Provide an evaluation of the efficacy of the program with a discussion of successes, shortfalls and opportunities.

Water Board staff will also present the results/findings of special studies and assessment work either as part of the annual updates, as stand-alone informational items or within the Executive Officer's reports as needed to inform the Water Board and public. The five year goal of developing an online groundwater quality "report card" will also help facilitate public transparency and accountability of the effectiveness of Water Board programs focused on our regional-scale water quality problems.

S:\Vision Creation and Implementation\CLEAN GW TEAM\CCAMP GAP\040312 Staff Report\CCAMP-GAP\_FY11-12\_conceptual\_workplan\_final.docx



# Attachment D

1  
2 **Guadalupe Oil Field Settlement**  
3 **CCAMP Endowment 2008 Grant Agreement**  
4

5 **Date: July 1, 2008**  
6

7 **Trust Title: Central Coast Ambient Monitoring Program Fund**  
8

9 **Foundation: The Bay Foundation of Morro Bay**  
10

11 **Project:** This Agreement establishes a grant to augment the Central Coast Ambient  
12 Monitoring Program Endowment Fund (CCAMP Fund), to provide support for the  
13 Central Coast Ambient Monitoring Program, a water quality monitoring program  
14 originating with the Central Coast Regional Water Quality Control Board ("Water  
15 Board"). Endowment funds are to be used to defray costs associated with monitoring and  
16 assessing water quality, including but not limited to administrative costs, sampling staff  
17 costs, data collection and analysis costs, laboratory costs, and equipment and supply  
18 purchases. Activities will include rotational watershed monitoring throughout the Central  
19 Coast Region, coastal confluences monitoring at major creek mouths from Gazos Creek  
20 (San Mateo Co.) to Rincon Creek (Santa Barbara Co.), water quality assessment work,  
21 and various special projects to be undertaken from time to time.  
22

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23  
24 **Agreement:** This Agreement is entered into by and between the Water Board and the Bay  
25 Foundation of Morro Bay (hereinafter "the Foundation"),  
26

27 **The parties agree as follows:**  
28

- 29 1. **Background:** In settlement of litigation between Union Oil Company of  
30 California ("Unocal") and various agencies of the State of California regarding  
31 petroleum pollution at the Guadalupe Oil Field, Unocal, among other things,  
32 created the Guadalupe Oil Field Settlement Water Quality Projects Trust (the  
33 "Trust"). The National Fish and Wildlife Foundation is the Trustee for the Trust.  
34 Funds in the Trust are to be spent on water quality projects that directly benefit or  
35 study ground water or surface water quality and the beneficial use of ground  
36 water and surface water. Under the terms of the Trust, the Regional Water  
37 Quality Control Board, Central Coast Region (Water Board) has sole authority to  
38 select projects to be funded by the Trust. In 1999, the Water Board approved  
39 \$2,000,000 to be set aside in the Trust to serve as an endowment fund for  
40 operations of the Central Coast Ambient Monitoring Program (hereinafter  
41 "CCAMP"). In 2007, the Water Board approved that this \$2,000,000, along with  
42 an additional \$200,000 for first year expenses, be granted to the Foundation to  
43 establish the CCAMP Fund. This Agreement augments the previously approved  
44 endowment fund project by granting an additional \$4.65 million to the  
45 Foundation for the CCAMP Fund.  
46
- 47 2. **Executive Officer:** The Executive Officer is the chief executive of the Water  
48 Board and is appointed pursuant to California Water Code section 13220. The  
49 Executive Officer has been delegated and may exercise all the powers of the

1 Water Board except for those enumerated in California Water Code section  
2 13223. The Executive Officer may delegate his authority to Water Board staff in  
3 accordance with California Government Code Section 7 and California Water  
4 Code Section 7.  
5

- 6 3. **Bay Foundation President:** The President of the Foundation is responsible for  
7 coordinating the Foundation's role under this Agreement. The current President  
8 of the Bay Foundation is Joel Neel, Bay Foundation of Morro Bay, 601  
9 Embarcadero, Suite 11, Morro Bay, California, 93442. The President may  
10 delegate responsibilities for coordination to a representative of the Foundation.  
11
- 12 4. **CCAMP Program Director:** The CCAMP Program Director is appointed by  
13 the Water Board's Executive Officer and will be responsible for day-to-day  
14 operations and development of annual work plans and budgets for all CCAMP  
15 activities. The work plans will describe CCAMP monitoring activities and  
16 required disbursements from the funds described in this Agreement. The  
17 CCAMP Program Director shall provide a periodic performance evaluation of  
18 services supplied to CCAMP by the Bay Foundation. Karen Worcester currently  
19 serves as the Central Coast Ambient Monitoring Program Director.  
20
- 21 5. **Term:** The term of this Agreement shall commence on the date of execution and  
22 shall continue until January 1, 2017. The term of this Agreement may be  
23 extended by mutual consent of the parties.  
24
- 25 6. **Scope of Work:** The Foundation agrees to provide labor, material and equipment  
26 necessary to carry out work described in each Annual Work Plan to be funded  
27 under the terms of this Agreement, provided the CCAMP Endowment Account  
28 or the CCAMP Operational Account have sufficient available (distributable)  
29 funds. The Annual Work Plan is subject to external scientific peer review. It  
30 identifies monitoring activities to be conducted using multiple funding sources.  
31 The CCAMP Program Director shall ensure that allocations to monitoring  
32 activities address any geographic limitations and other requirements of any of the  
33 fund sources held in the CCAMP Fund. The Foundation shall review the Annual  
34 Work Plan and budget for the purposes of determining consistency with the terms  
35 of this Agreement but shall have no authority to revise the Annual Work Plan  
36 without the Water Board's consent.  
37
- 38 7. **Deliverables:** The Foundation shall provide to the Water Board a quarterly  
39 accounting of funds (assets, liabilities, and total balance), investments and  
40 disbursements, provide the Water Board an annual (year end) report of the assets  
41 balance, liabilities balance, net gains on investments, distributable balance, and  
42 total amount available to spend. The Foundation shall provide such goods and  
43 services as may be needed for performance under the terms of this Agreement.  
44
- 45 8. **Fund Accounts:** The amount of funds subject to this Agreement shall be  
46 \$4,650,000. The Foundation shall add this to the CCAMP Endowment Account  
47 and shall manage the account so that this amount, as well as other principle  
48 amounts from previous fund transfers, are maintained in full. The Foundation  
49 also maintains an Operational Reserve Account to meet unforeseen budgetary  
50 demands by the CCAMP program or to pay CCAMP expenses in excess of  
51 available Endowment funds. The Foundation shall disburse funds from the  
52 Operational Reserve Account upon request by the CCAMP Program Director,  
53 provided that such request is consistent with the purposes of the Endowment as

1 set forth in this Agreement. The Foundation shall seek to reimburse the  
2 Operational Reserve Account for any such disbursements within a reasonable  
3 time so as to maintain the Operational Account at a minimum of \$50,000,  
4 provided such reimbursement funding is available from Endowment Fund  
5 earnings or other sources of funding. With the written approval of the Water  
6 Board Executive Officer, the Foundation's Board of Directors may increase the  
7 amount to be held in the Operational Reserve Account using Endowment  
8 Account earnings. The funds in the Operational Reserve Account and the  
9 Endowment Account are collectively referred to as "CCAMP Funds."

10  
11 9. **Accounting and Fiduciary Duties:** The Foundation need not maintain CCAMP  
12 Funds in segregated accounts, but shall account for CCAMP Funds separately  
13 from other Foundation monies. The Foundation shall disburse CCAMP Funds  
14 under the terms and conditions set forth in this Agreement. The Foundation shall  
15 manage the Endowment Account to preserve the principal amount and with an  
16 investment strategy intended to increase the principal balance over time through  
17 prudent investments. No portion of the Endowment Account principal may be  
18 used for payment of work plan activities or other direct or indirect costs.  
19 Investment strategies employed by the Foundation may include US treasury  
20 bonds, notes, and other investment vehicles guaranteed by the full faith and credit  
21 of government and other investments considered prudent by the Foundation.  
22

23 10. **Budget:** The annual budget for the CCAMP program shall be included as part of  
24 the CCAMP Annual Work Plan submitted annually to the Foundation by the  
25 CCAMP Program Director. The Annual Budget shall specify the CCAMP Funds  
26 that the Foundation shall disburse for the year in question, which disbursement  
27 shall be subject to the limitations herein set forth. The Annual Budget, prepared  
28 by the CCAMP Program Director, shall address the appropriate uses of these  
29 funds in accordance with Paragraph 1 of this Agreement.  
30

31 11. **Additional Requirements:**

32  
33 a. The Foundation may provide services of its employees or contractors for  
34 the purposes set forth in this Agreement. The Foundation shall be solely  
35 responsible for hiring and terminating employees and contractors that will  
36 provide services under the terms of this Agreement. The Foundation's employees  
37 and contractors that provide services under the terms of this Agreement shall be  
38 subject to policies established by the Foundation.  
39

40 b. The Foundation may provide sub-contracted services and other goods  
41 and services pursuant to the purposes of this Agreement. Such goods and  
42 services shall be provided subject to procurement policies which the Foundation  
43 may establish from time to time. The Foundation shall notify the Water Board in  
44 writing of any changes to its procurement policies as they exist on the effective  
45 date of this Agreement.  
46

47 c. Funds are to be used for the purposes set forth in this Agreement and for  
48 direct costs incurred by Foundation related to administration of the funds and  
49 administrative fees. Direct costs include, but are not limited to, disbursements  
50 made by the Foundation associated with monitoring and assessment activities,  
51 including worker's compensation insurance, bookkeeping, accounting, auditing,  
52 insurance, employee benefits, and other costs which the Foundation may incur in

1 connection with fulfilling the purpose of the Endowment and its related special  
2 funds.  
3

4 d. In consideration for the obligations incurred by the Foundation in  
5 entering into this Agreement, the Foundation may collect administrative fees for  
6 management of the funds (management fees), in the amount of 7% of  
7 disbursements or \$10,000 (whichever is greater), an investment management fee  
8 based on the principal balance in the Endowment, and reimbursement of its  
9 indirect costs incurred in performing this Agreement. The investment  
10 management fee shall be the same amount as the Foundation pays to its outside  
11 investment managers for investment management of accounts with the same  
12 principal balance as the Endowment Fund, subject to the 1% limitation in  
13 subparagraph e. The 7% management fee will be disbursed on October 1<sup>st</sup> of each  
14 year based on the prior year's expenditures. The terms of agreement herein  
15 related to administrative fees shall apply to the initial funds contemplated by this  
16 Agreement and any funds added to principal during the term of this Agreement.  
17

18 e. Subparagraphs 11 c and 11 d of this Agreement notwithstanding, total  
19 annual administrative fees (including management fees, investment management  
20 fees and indirect costs) shall not exceed 1% of the principal balance of the  
21 Endowment Fund.  
22

23  
24 **12. Invoice and Payment Procedure:** The Foundation will make disbursements  
25 from time to time under the terms of this Agreement. The Foundation may make  
26 disbursements for budgeted expenses in accordance with the CCAMP Annual  
27 Work Plan and disbursements for non-budgeted expenses approved by the  
28 CCAMP Program Director. Approved non-budgeted expenses may include,  
29 without limitation, costs of additional monitoring or equipment not included in  
30 the Annual Work Plan. The Foundation will make disbursements within 30  
31 working days of receipt by the Foundation of any invoice approved by the  
32 CCAMP Program Director. Disbursements which the Foundation makes to itself  
33 shall be subject to approval of the CCAMP Program Director and all other terms  
34 of this Agreement.  
35

36 **13. Commencement of Work and Delays Beyond Control of the Foundation:**  
37

- 38 a. Upon receipt of an executed copy of this Agreement and an Annual  
39 Work Plan and Budget, the Foundation shall commence activities under  
40 this Agreement.  
41
- 42 b. Delay in completion of work or services or submission of deliverables by  
43 Foundation within the time or times specified in the Annual Work Plan  
44 which arise from causes beyond the control of the Foundation and  
45 without fault or negligence on the part of the Foundation shall entitle the  
46 the Foundation to a reasonable extension of time for performance.  
47 Causes beyond the control of the Foundation shall be deemed to include  
48 but are not limited to, unusually severe weather, acts of God, fire, floods,  
49 epidemics, quarantine restrictions, strikes, freight embargoes, and delays  
50 of suppliers or subcontractors arising from causes beyond the control and  
51 without fault or negligence of both the Foundation and such suppliers or  
52 subcontractors. The Foundation shall not be held liable for

1 circumstances that limit its performance under this Agreement which are  
2 beyond its control.  
3

4 14. **Amendments:** This Agreement may be amended only by written agreement  
5 between the Foundation and the Water Board.  
6

7 15. **Dispute Resolution:** Authority to terminate performance under Paragraph 16  
8 of this Agreement is not subject to the dispute resolution provisions of this  
9 Paragraph 15. All other issues including, but not limited to, the amount of any  
10 compensation or reimbursement which should be paid to the Foundation shall be  
11 subject to the dispute resolution process under this Paragraph 15. All claims or  
12 disputes arising out of, or relating to this Agreement, its interpretation or breach  
13 shall be made in writing. If a dispute arises related to this Agreement, the parties  
14 shall attempt to resolve it informally. If the dispute is not resolved informally  
15 within 30 days, the dispute may be elevated to the Water Board Executive  
16 Officer and the Foundation President by submitting a written memorandum to  
17 them describing the dispute. The Executive Officer and Foundation President  
18 will consult with the CCAMP Program Director and other appropriate parties and  
19 attempt to resolve the dispute. Within 15 days of receiving the memorandum  
20 describing the dispute, the Executive Officer and Foundation President shall  
21 either make a decision or determine that they cannot agree to a resolution. If the  
22 Executive Officer and the Foundation President cannot resolve the dispute, the  
23 Executive Officer or Foundation President may request the Water Board to  
24 consider the dispute at a regularly scheduled public meeting. If the Foundation  
25 disagrees with the Water Board's determination, or if the Water Board declines  
26 the request to consider the matter, then the dispute shall proceed to mediation  
27 upon the demand of either Party. Written notice of the demand for mediation  
28 shall be made within a reasonable time after completion of the dispute resolution  
29 process specified in this Agreement. The mediation shall take place in San Luis  
30 Obispo County, California, at a time and place selected by the mediator and the  
31 parties. Unless the Water Board and the Foundation agree otherwise in writing,  
32 mediation fees, if any, shall be paid by the party demanding mediation. The  
33 mediator shall be a person or persons mutually acceptable to the Water Board  
34 and the Foundation. If the parties cannot agree on a mediator, each party shall  
35 select one mediator and those two mediators shall select a third mediator.  
36 CCAMP Funds shall not be used to pay legal fees and costs incurred. The  
37 mediation provisions set forth herein do not apply to any matter which is under  
38 the jurisdiction of a bankruptcy court or that is under the jurisdiction of, or could  
39 be filed in, a small claims court.  
40  
41  
42

43 16. **Termination and Reversionary Interest:**  
44

45 a. If for any reason the Foundation is no longer willing or able to carry out  
46 the terms and conditions of this Agreement, the Foundation shall so  
47 notify the Water Board in writing. Within thirty days after providing the  
48 notice, the Foundation shall transfer all remaining CCAMP Funds or  
49 other assets to National Fish and Wildlife Foundation or any successor  
50 trustee of the Guadalupe Oil Field Settlement Water Quality Projects  
51 Trust. The Foundation may withhold its administrative expenses allowed  
52 under the terms of this Agreement and accrued to the date of termination,

1 but shall not treat the transfer of remaining funds as a disbursement for  
2 purposes of calculating administrative costs.  
3

4 b. The Water Board Executive Officer may terminate this Agreement at any  
5 time for any reason by giving thirty (30) days written notice to the  
6 Foundation. Within thirty (30) days of receiving such notice, the  
7 Foundation shall transfer all remaining CCAMP Funds or other assets to  
8 National Fish and Wildlife Foundation or any successor trustee of the  
9 Guadalupe Oil Field Settlement Water Quality Projects Trust as specified  
10 by the Water Board in the notice of termination. The Foundation may  
11 withhold its administrative expenses allowed under the terms of this  
12 Agreement and accrued to the date of termination, but shall not treat the  
13 transfer of remaining Funds as a disbursement for purposes of calculating  
14 administrative costs. The Foundation shall be entitled to an  
15 administrative fee of \$ 6,000 for executing the transfer and providing a  
16 final accounting of Funds. Upon receipt of notice of termination, and  
17 except as otherwise directed in the notice, the Foundation shall:  
18

- 19 • Stop work on the date specified in the notice;
- 20
- 21 • Place no further orders or enter into any further subcontracts for  
22 materials, services or facilities except as necessary to complete work  
23 under the Agreement up to effective date of termination;
- 24
- 25 • Terminate all orders and subcontracts;
- 26
- 27 • Promptly take all other reasonable and feasible steps to minimize any  
28 additional cost, loss, or expenditure associated with work terminated,  
29 including, but not limited to reasonable settlement of all outstanding  
30 liability and claims arising out of termination of orders and subcontracts;  
31
- 32 • Deliver or make available to the Water Board all data, drawings,  
33 specifications, reports, estimates, summaries, and such other information  
34 and material as may have been accumulated by the Foundation under this  
35 Agreement, whether completed, partially completed, or in progress.  
36

37 c. In the event of the dissolution of Water Board, the term "Water Board"  
38 shall refer to the unit of California state government that assumes the  
39 functions of the Water Board. In the event of the dissolution of the  
40 Water Board without a transfer of functions to another unit of California  
41 state government, or in the event the Water Board shall no longer be a  
42 unit of California state government or an organization described in  
43 section 170(c) of the Internal Revenue Code of 1954, as amended, the  
44 Foundation shall thereafter continue to hold the CCAMP Funds and shall  
45 distribute the income there from to such organizations as in the opinion  
46 of the Board of Directors of the Foundation most nearly serve the  
47 purposes and objectives of this Agreement.  
48

49 **17. Indemnity and Liability:**  
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51 a. In making the grant to the Foundation and monitoring performance under  
52 this Agreement, Water Board assumes no liability for injuries or loss to  
53 persons or property resulting from the Foundation's activities.

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- b. In conducting its activities relating to this Agreement, the Foundation agrees to conduct such activities in compliance with applicable federal, state, and local laws, regulations and ordinances and to obtain and maintain appropriate insurance against liability for injury to persons or property arising from its activities.
  
  - c. The Foundation shall, indemnify and hold harmless Water Board, its board members, officers, directors, agents, and employees from claims, injuries, losses, damages, liabilities, including damage or injury to persons and property and reasonable expenses including reasonable legal fees, to the extent caused by negligent acts or willful misconduct by employees or agents of the Foundation. This indemnification will survive termination of this Agreement.
  
  - d. Water Board shall indemnify and hold harmless the Foundation, its board members, officers, directors, agents, and employees in respect of any and all claims, injuries, losses, diminution in value, damages, liabilities, but only to the extent caused by negligent acts or willful misconduct by employees of the Water Board. This indemnification will survive termination of this Agreement.
  
  - d. Except as otherwise provided in this Agreement, the Foundation expressly waives any and all rights to any type of express or implied indemnity or right of contribution from the State of California and the United States, their officers, agents or employees, for any liability resulting from or growing out of, or in any way connected with or incident to this Agreement.
18. **Third Parties:** Nothing in this Agreement is intended to create in the public, any member of the public, or any public entity rights as a third party beneficiary under this Agreement.
19. **Permits, Fees and Notices:** The Foundation shall procure all permits and licenses necessary to accomplish work funded under this Agreement. The Foundation shall pay all charges and fees with CCAMP Funds, and give all notices necessary and incident to the due and lawful prosecution of the work. The Water Board may, but is not required to, elect to procure necessary permits or licenses or give notices in lieu of the Foundation.
20. **Insurance and Bonds:**
- a. The Foundation is solely responsible for maintaining insurance policies to cover insurance that may be required by law in the jurisdiction where the activities funded under the terms of this Agreement are being implemented.
  
  - b. Upon request, the Foundation shall furnish to Water Board copies of insurance certificates evidencing its present level of insurance coverage for: Worker's Compensation and other coverage the Foundation has



1 secured in fulfillment of its responsibilities under the terms of this  
2 Agreement. The certificates shall specify the dates when such insurance  
3 expires and shall provide further that the Foundation and Water Board  
4 shall be given not less than thirty (30) days notice before cancellation of  
5 or any material change in such insurance. The Foundation shall maintain  
6 such insurance coverage throughout the term of this Agreement.  
7

8 **21. Foundation Acting Independently:** The Foundation, and the employees or  
9 agents of the Foundation, in the performance of this Agreement, shall act in an  
10 independent capacity and not as officers, employees or agents of the Water  
11 Board, or the State of California.  
12

13 **22. Audits and Access to Records:**

- 14
- 15 a. The Foundation shall maintain standard financial accounts, documents  
16 and records relating to implementation of CCAMP activities funded  
17 under this Agreement. The Foundation may use any accounting system  
18 which follows the guidelines of "Generally Accepted Accounting  
19 Practices" published by the American Institute of Certified Public  
20 Accountants.  
21
- 22 b. The Water Board, and federal and state government auditors or their duly  
23 authorized representatives shall have access to any books, documents,  
24 papers, and records of the Foundation which are directly pertinent to this  
25 Agreement for the purpose of making audits, examinations, excerpts and  
26 transcriptions.  
27
- 28 c. The Foundation shall include in each of its subcontracts involving an  
29 expenditure of funds under this Agreement in excess of twenty five  
30 thousand dollars (\$25,000) a provision which requires the subcontractor  
31 to make all records directly pertinent to the subcontract available for  
32 examination and audit under the same terms as specified in subparagraph  
33 a., of this paragraph. The subcontract shall also require subcontractor to  
34 maintain all required records for three (3) years after final payment under  
35 the subcontract and all pending matters are resolved.  
36

37 **23. Rights to Data and Other Information:** The Foundation agrees that all data,  
38 plans, drawings, specifications, reports, computer programs, operating manuals,  
39 notes and other written or graphic work produced in the performance of this  
40 Agreement are subject to the rights of the Foundation and Water Board as set  
41 forth in this Paragraph 23. Both the Foundation and Water Board shall have the  
42 right to reproduce, publish, and use all such work, or any part thereof, in any  
43 manner and for any purposes whatsoever and to authorize others to do so. If any  
44 such work is copyrightable or patentable, the Foundation may copyright or patent  
45 the same, except that, as to any work which is so protected by the Foundation, the  
46 Water Board reserves a royalty-free, nonexclusive, and irrevocable license to  
47 reproduce, publish, provide to the public and use such work, or any part thereof.  
48

49 **24. Agreement Not Assignable:** Without mutual written agreement of the Water  
50 Board and the Foundation this Agreement is not assignable in whole or in part.  
51

52 **25. Review and Comments:** The Foundation agrees that Water Board has the right  
53 to review and comment on any and all activities undertaken by the Foundation in

1 connection with this Agreement, however, the Water Board shall not control or  
2 direct the mode or manner in which any employee, contractor or agent of the  
3 Foundation performs his or her duties.  
4

- 5 26. **Lobbying:** The Foundation is prohibited from using funds held in the  
6 endowment for lobbying the executive or legislative branches of the state or  
7 federal government.  
8
- 9 27. **Applicable Law and Jurisdiction:** This Agreement has been executed and  
10 delivered in the State of California and shall be subject to and interpreted by the  
11 laws of the State of California, without regard to choice of law principles. By  
12 entering into this Agreement, the Water Board and Foundation agree to submit to  
13 the jurisdiction of the courts of the State of California.  
14
- 15 28. **Entire Agreement:** This Agreement constitutes the entire understanding  
16 between the parties and supersedes all prior agreements and understandings,  
17 whether written or oral, between the parties.  
18
- 19 29. **No Waiver of Enforcement:** The failure of the Water Board, or the Foundation  
20 to enforce, or the delay by the Water Board or the Foundation in enforcing, any  
21 of the terms and conditions of this Agreement shall not be deemed a continuing  
22 waiver or a modification of this Agreement unless the waiver or modification is  
23 expressly written and signed by the Foundation and Water Board.  
24
- 25 30. **Nondiscrimination:** During the performance of this Agreement, the Foundation  
26 and its subcontractors shall not unlawfully discriminate, harass or allow  
27 harassment, against any employee or applicant for employment because of sex,  
28 race, color, ancestry, religious creed, national origin, disability (including HIV  
29 and AIDS), medical condition (cancer), age, marital status, denial of family and  
30 medical care leave and denial of pregnancy disability leave. The Foundation and  
31 its subcontractors shall comply with the provisions of the Fair Employment and  
32 Housing Act (California Government Code, Section 12900 et seq.) and the  
33 applicable regulations promulgated thereunder. (California Code of Regulations,  
34 Title 2, Section 7285.0 et seq.)  
35
- 36 31. **Current State Employees:** No officer or employee of the State of California  
37 shall engage in any employment, activity, or enterprise from which the officer or  
38 employee receives compensation or has a financial interest and which is  
39 sponsored or funded by any California state agency, unless the employment,  
40 activity or enterprise is required as a condition of regular state employment.  
41
- 42 32. **Former State Employees:** For the two-year period from the date he or she left  
43 state employment, no former California state officer or employee may enter into  
44 a contract in which he or she engaged in any of the negotiations, transactions,  
45 planning, arrangements, or any part of the decision-making process relevant to  
46 the contract while employed in any capacity by any state agency.  
47
- 48 33. **Attorneys Fees:** Except as explicitly provided in this Agreement to the contrary,  
49 each party shall bear its own attorneys fees and costs in any dispute or legal  
50 action related to this Agreement.  
51

1 **Certification of Signatories:** The people signing this Agreement certify that they are authorized  
2 by the entity they represent to sign this Agreement and to bind the entity they represent to the  
3 terms of this Agreement.  
4

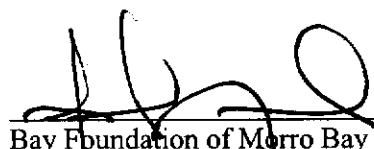
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Bay Foundation of Morro Bay  
Joel Neel, President

4/9/08 Date

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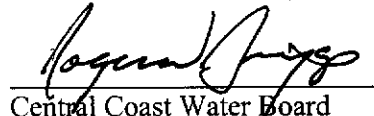
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Central Coast Water Board  
Roger Briggs, Executive Officer

4-7-08 Date

# Attachment E

1  
2 **CCAMP-GAP Fund Grant Agreement**  
3

4 **Date: December 3, 2012**  
5

6 **Title: Central Coast Ambient Monitoring Program; Groundwater**  
7 **Assessment and Protection (CCAMP-GAP) Fund**  
8

9 **Foundation: The Bay Foundation of Morro Bay**  
10

11 **Project:** This Agreement establishes a grant to supplement the Central Coast Ambient  
12 Monitoring Program (CCAMP) via additional endowment and operational accounts, to  
13 provide support for the Groundwater Assessment and Protection (GAP) component of  
14 CCAMP, a water quality monitoring and protection program originating with the Central  
15 Coast Regional Water Quality Control Board ("Water Board"). The purpose of CCAMP-  
16 GAP is to develop and implement regional groundwater monitoring programs and  
17 support the implementation of groundwater related projects with the intent of evaluating,  
18 restoring and protecting the beneficial uses of groundwater. Grant funds are to be used to  
19 defray costs associated with groundwater monitoring and groundwater related projects  
20 including, but not limited to:

- 21
- 22 a. Technical assistance to build and implement regional groundwater monitoring  
23 programs.
  - 24
  - 25 b. Technical assistance to develop a groundwater database infrastructure for  
26 CCAMP-GAP.
  - 27
  - 28 c. The implementation of special projects, including but not limited to the  
29 following:  
30
    - 31 • Domestic Well Sampling Program
    - 32 • Special studies (groundwater age dating, isotopic analyses, modeling, etc.)
    - 33 • Well abandonment/destruction
    - 34 • Development and implementation of well head protection programs
    - 35 • Emergency replacement water supply
    - 36 • Groundwater recharge
    - 37 • Groundwater basin/aquifer assessment and ongoing trend analyses
    - 38 • Salt and Nutrient Management Planning
    - 39 • Seawater intrusion related projects
    - 40 • Technical support for Basin Plan amendments
    - 41 • Testing and implementation of technologies to reduce groundwater  
42 pollution
    - 43
    - 44

45  
46 **Agreement:** This Agreement is entered into by and between the Water Board and the Bay  
47 Foundation of Morro Bay (hereinafter "the Foundation"),

1     **The parties agree as follows:**  
2

- 3           1.     **Background:** In settlement of litigation between Union Oil Company of  
4                     California (“Unocal”) and various agencies of the State of California regarding  
5                     petroleum pollution at the Guadalupe Oil Field, Unocal, among other things,  
6                     created the Guadalupe Oil Field Settlement Water Quality Projects Trust (the  
7                     “Trust”). The National Fish and Wildlife Foundation (NFWF) is the Trustee for  
8                     the Trust. Funds in the Trust are to be spent on water quality projects that  
9                     directly benefit or study ground water or surface water quality and the beneficial  
10                    use of ground water and surface water. Under the terms of the Trust, the  
11                    Regional Water Quality Control Board, Central Coast Region (Water Board) has  
12                    sole authority to select projects to be funded by the Trust. In 1999, the Water  
13                    Board approved funds to be set aside in the NFWF Trust to serve as an  
14                    endowment fund for operations of the Central Coast Ambient Monitoring  
15                    Program (hereinafter “CCAMP”). In 2007, the Water Board approved that these  
16                    funds be granted to the Foundation to establish the CCAMP Fund. The Water  
17                    Board augmented the grant of CCAMP funds in 2008 using funds from the  
18                    Guadalupe Oil Field Settlement and a Pacific Gas and Electric (PG&E)  
19                    Settlement. The PG&E Settlement Fund was established in 2003, as a settlement  
20                    between the Water Board and PG&E regarding unpermitted discharges from the  
21                    Moss Landing Power Plant. The PG&E settlement funds are currently managed  
22                    by the Community Foundation of Monterey County. The PG&E funds must be  
23                    allocated to water quality projects in the watersheds tributary to the Elkhorn  
24                    Slough and Moss Landing Harbor. On May 3, 2012 the Water Board allocated  
25                    the remaining unobligated Guadalupe Oil Field and PG&E settlement funds for  
26                    CCAMP-GAP via Resolution No. R3-2012-0024 (Attachment A). This  
27                    Agreement secures and consolidates the remaining available Guadalupe and  
28                    PG&E settlement funds for CCAMP-GAP by granting the funds to the  
29                    Foundation to establish the CCAMP-GAP Fund.  
30
- 31            2.     **Executive Officer:** The Executive Officer is the chief executive of the Water  
32                    Board and is appointed pursuant to California Water Code section 13220. The  
33                    Executive Officer has been delegated and may exercise all the powers of the  
34                    Water Board except for those enumerated in California Water Code section  
35                    13223. The Executive Officer may delegate his authority to Water Board staff in  
36                    accordance with California Government Code Section 7 and California Water  
37                    Code Section 7.  
38
- 39            3.     **Bay Foundation President:** The President of the Foundation is responsible for  
40                    coordinating the Foundation’s role under this Agreement. The current President  
41                    of the Bay Foundation is Gary Ruggerone, Bay Foundation of Morro Bay, 601  
42                    Embarcadero, Suite 11, Morro Bay, California, 93442. The President may  
43                    delegate responsibilities for coordination to a representative of the Foundation.  
44
- 45            4.     **CCAMP-GAP Program Director:** The CCAMP-GAP Program Director is  
46                    appointed by the Water Board’s Executive Officer and will be responsible for  
47                    day-to-day operations and development of annual work plans and budgets for all  
48                    CCAMP-GAP activities. The work plans will describe CCAMP-GAP activities  
49                    and required disbursements from the funds described in this Agreement. The  
50                    CCAMP-GAP Program Director shall provide a periodic performance evaluation  
51                    of services supplied to CCAMP-GAP by the Bay Foundation.  
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5. **Term:** The term of this Agreement shall commence on the date of execution and shall continue until January 1, 2025. The term of this Agreement may be extended by mutual consent of the parties.
  6. **Scope of Work:** The Foundation agrees to provide labor, material and equipment necessary to carry out work described in each Annual Work Plan to be funded under the terms of this Agreement, provided the CCAMP-GAP Endowment Account and the CCAMP-GAP Operational Account have sufficient available funds. The Annual Work Plan identifies monitoring and other activities to be conducted using multiple funding sources. The CCAMP-GAP Program Director shall ensure that allocations address any geographic limitations and other requirements of any of the fund sources held in the CCAMP-GAP Fund. The Foundation shall review the Annual Work Plan and budget for the purposes of determining consistency with the terms of this Agreement but shall have no authority to revise the Annual Work Plan without the Water Board's consent.
  7. **Deliverables:** The Foundation shall provide to the Water Board a quarterly accounting of funds (assets, liabilities, and total balance), investments and disbursements, provide the Water Board an annual (year end) report of the assets balance, liabilities balance, net gains on investments, distributable balance, and total amount available to spend. The Foundation shall provide such goods and services as may be needed for performance under the terms of this Agreement.
  8. **Fund Accounts:** The amount of initial funds subject to this agreement shall be approximately \$1,563,000. The amount of initial funds is subject to change due to market conditions and the application of administrative fees at the time the funds are transferred from the National Fish and Wildlife Foundation and the Community Foundation of Monterey County to the Foundation. The amount of initial funds will be based on the final transfer amounts from the two foundations currently managing the funds and will be documented by the Foundation via the fund transfer receipts. This agreement initiates two new CCAMP accounts, the CCAMP-GAP Endowment Account and the CCAMP-GAP Operational Account. The Foundation shall deposit \$800,000 in the CCAMP-GAP Endowment Account. Water Board staff's intent is to increase the CCAMP-GAP Endowment Account to \$5,000,000 over the next ten years. The Foundation shall deposit the remaining fund transfer balance of approximately \$763,000 in the CCAMP-GAP Operational Account. The Foundation shall disburse funds from the Operational Account upon request by the CCAMP-GAP Program Director, provided that such request is consistent with the purposes set forth in this Agreement. The Foundation shall transfer funds from the CCAMP-GAP Endowment Account to the CCAMP-GAP Operational Account upon request of the CCAMP-GAP Program Director provided that the fund transfer request does not reduce the balance of the Endowment Fund below \$800,000, unless otherwise approved by the Water Board. The funds in the Operational Account and the Endowment Account are collectively referred to as "CCAMP-GAP Funds."
  9. **Supplemental Environmental Project:** "Supplemental Environmental Project (SEP)" shall mean CCAMP-GAP or other specified Central Coast Water Board approved program or project, developed as a result of Water Board enforcement actions. The Central Coast Water Board has identified CCAMP-GAP as an appropriate SEP. As such, enforcement penalties may periodically be directed to CCAMP-GAP as allowable by the State Water Resources Control Board's Enforcement Policy and SEP Policy. Unless the associated SEP is for a



1 specifically identified CCAMP-GAP related project, the SEP funds will be  
2 administered consistent with the annual CCAMP-GAP work plans (i.e. the use of  
3 funds will not be restricted to specific project tasks and milestones, but will be  
4 managed and appropriated consistent with all other available CCAMP-GAP  
5 funds within the Endowment or Operating Accounts).  
6

7 10. **Accounting and Fiduciary Duties:** The Foundation need not maintain  
8 CCAMP-GAP Funds in segregated accounts, but shall account for CCAMP-GAP  
9 Funds separately from other Foundation monies. The Foundation shall disburse  
10 CCAMP-GAP Funds under the terms and conditions set forth in this Agreement.  
11 The Foundation shall manage the Endowment Account to preserve the principal  
12 amount and with an investment strategy intended to increase the principal  
13 balance over time through prudent investments. No portion of the Endowment  
14 Account principal may be used for payment of work plan activities or other direct  
15 or indirect costs. Investment strategies employed by the Foundation may include  
16 US treasury bonds, notes, and other investment vehicles guaranteed by the full  
17 faith and credit of government and other investments considered prudent by the  
18 Foundation.  
19

20 11. **Budget:** The annual budget for the CCAMP-GAP program shall be included as  
21 part of the CCAMP-GAP Annual Work Plan submitted annually to the  
22 Foundation by the CCAMP-GAP Program Director. The Annual Budget shall  
23 specify the CCAMP-GAP Funds that the Foundation shall disburse for the year  
24 in question, which disbursement shall be subject to the limitations herein set  
25 forth. The Annual Budget, prepared by the CCAMP-GAP Program Director,  
26 shall address the appropriate uses of these funds in accordance with Paragraph 1  
27 of this Agreement.  
28

29 12. **Additional Requirements:**  
30

31 a. The Foundation may provide services of its employees or contractors for  
32 the purposes set forth in this Agreement. The Foundation shall be solely  
33 responsible for hiring and terminating employees and contractors that  
34 will provide services under the terms of this Agreement. The  
35 Foundation's employees and contractors that provide services under the  
36 terms of this Agreement shall be subject to policies established by the  
37 Foundation.  
38

39 b. The Foundation may provide sub-contracted services and other goods  
40 and services pursuant to the purposes of this Agreement. Such goods  
41 and services shall be provided subject to procurement policies which the  
42 Foundation may establish from time to time. The Foundation shall notify  
43 the Water Board in writing of any changes to its procurement policies as  
44 they exist on the effective date of this Agreement.  
45

46 c. Funds are to be used for the purposes set forth in this Agreement and for  
47 direct costs incurred by Foundation related to administration of the funds  
48 and administrative fees. Direct costs include, but are not limited to,  
49 disbursements made by the Foundation associated with monitoring and  
50 assessment activities, including worker's compensation insurance,  
51 bookkeeping, accounting, auditing, insurance, employee benefits, and  
52 other costs which the Foundation may incur in connection with fulfilling  
53 the purpose of the Endowment and its related special funds.



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- d. In consideration for the obligations incurred by the Foundation in entering into this Agreement, the Foundation may collect administrative fees for management of the funds (management fees), in the amount of 7% of disbursements for the Operational Account or a base fee (whichever is greater), an investment management fee based on the principal balance in the Endowment, and reimbursement of its indirect costs incurred in performing this Agreement. The initial base fee shall be \$3,500 and increase to \$10,000 when the Endowment Account exceeds \$2,800,000. The investment management fee shall be the same amount as the Foundation pays to its outside investment managers for investment management of other CCAMP accounts, subject to the 1% limitation in subparagraph e. The management fees will be disbursed on October 1<sup>st</sup> of each year based on the greater of the base fee or 7% of the prior year's Operational Account disbursements. The terms of agreement herein related to administrative fees shall apply to the initial funds contemplated by this Agreement and any funds added to principal during the term of this Agreement.
- e. Subparagraphs 11 c and 11 d of this Agreement notwithstanding, total annual administrative fees (including management fees, investment management fees and indirect costs) shall not exceed 1% of the principal balance of the Endowment Fund.

13. **Invoice and Payment Procedure:** The Foundation will make disbursements from time to time under the terms of this Agreement. The Foundation may make disbursements for budgeted expenses in accordance with the CCAMP-GAP Annual Work Plan and disbursements for non-budgeted expenses approved by the CCAMP-GAP Program Director. Approved non-budgeted expenses may include, without limitation, costs of additional monitoring, equipment or special projects not included in the Annual Work Plan. The Foundation will make disbursements within 30 working days of receipt by the Foundation of any invoice approved by the CCAMP-GAP Program Director. Disbursements which the Foundation makes to itself shall be subject to approval of the CCAMP-GAP Program Director and all other terms of this Agreement.

14. **Commencement of Work and Delays Beyond Control of the Foundation:**

- a. Upon receipt of an executed copy of this Agreement and an Annual Work Plan and Budget, the Foundation shall commence activities under this Agreement.
- b. Delay in completion of work or services or submission of deliverables by Foundation within the time or times specified in the Annual Work Plan which arise from causes beyond the control of the Foundation and without fault or negligence on the part of the Foundation shall entitle the the Foundation to a reasonable extension of time for performance. Causes beyond the control of the Foundation shall be deemed to include but are not limited to, unusually severe weather, acts of God, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and delays of suppliers or subcontractors arising from causes beyond the control and without fault or negligence of both the Foundation and such suppliers or subcontractors. The Foundation shall not be held liable for

1 circumstances that limit its performance under this Agreement which are  
2 beyond its control.  
3

- 4 15. **Amendments:** This Agreement may be amended only by written agreement  
5 between the Foundation and the Water Board.  
6
- 7 16. **Dispute Resolution:** Authority to terminate performance under Paragraph 16  
8 of this Agreement is not subject to the dispute resolution provisions of this  
9 Paragraph 15. All other issues including, but not limited to, the amount of any  
10 compensation or reimbursement which should be paid to the Foundation shall be  
11 subject to the dispute resolution process under this Paragraph 15. All claims or  
12 disputes arising out of, or relating to this Agreement, its interpretation or breach  
13 shall be made in writing. If a dispute arises related to this Agreement, the parties  
14 shall attempt to resolve it informally. If the dispute is not resolved informally  
15 within 30 days, the dispute may be elevated to the Water Board Executive  
16 Officer and the Foundation President by submitting a written memorandum to  
17 them describing the dispute. The Executive Officer and Foundation President  
18 will consult with the CCAMP-GAP Program Director and other appropriate  
19 parties and attempt to resolve the dispute. Within 15 days of receiving the  
20 memorandum describing the dispute, the Executive Officer and Foundation  
21 President shall either make a decision or determine that they cannot agree to a  
22 resolution. If the Executive Officer and the Foundation President cannot resolve  
23 the dispute, the Executive Officer or Foundation President may request the Water  
24 Board to consider the dispute at a regularly scheduled public meeting. If the  
25 Foundation disagrees with the Water Board's determination, or if the Water  
26 Board declines the request to consider the matter, then the dispute shall proceed  
27 to mediation upon the demand of either Party. Written notice of the demand for  
28 mediation shall be made within a reasonable time after completion of the dispute  
29 resolution process specified in this Agreement. The mediation shall take place in  
30 San Luis Obispo County, California, at a time and place selected by the mediator  
31 and the parties. Unless the Water Board and the Foundation agree otherwise in  
32 writing, mediation fees, if any, shall be paid by the party demanding mediation.  
33 The mediator shall be a person or persons mutually acceptable to the Water  
34 Board and the Foundation. If the parties cannot agree on a mediator, each party  
35 shall select one mediator and those two mediators shall select a third mediator.  
36 CCAMP-GAP Funds shall not be used to pay legal fees and costs incurred. The  
37 mediation provisions set forth herein do not apply to any matter which is under  
38 the jurisdiction of a bankruptcy court or that is under the jurisdiction of, or could  
39 be filed in, a small claims court.  
40

41 17. **Termination and Reversionary Interest:**

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- 43 a. If for any reason the Foundation is no longer willing or able to carry out  
44 the terms and conditions of this Agreement, the Foundation shall so  
45 notify the Water Board in writing. Within thirty days after providing the  
46 notice, the Foundation shall transfer all remaining CCAMP-GAP Funds  
47 or other assets to a trustee selected by the Executive Officer. The  
48 Foundation may withhold its administrative expenses allowed under the  
49 terms of this Agreement and accrued to the date of termination, but shall  
50 not treat the transfer of remaining funds as a disbursement for purposes  
51 of calculating administrative costs.  
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1 b. The Water Board Executive Officer may terminate this Agreement at any  
2 time for any reason by giving thirty (30) days written notice to the  
3 Foundation. Within thirty (30) days of receiving such notice, the  
4 Foundation shall transfer all remaining CCAMP-GAP Funds or other  
5 assets to a trustee selected by the Executive Officer. The Foundation  
6 may withhold its administrative expenses allowed under the terms of this  
7 Agreement and accrued to the date of termination, but shall not treat the  
8 transfer of remaining Funds as a disbursement for purposes of calculating  
9 administrative costs. The Foundation shall be entitled to an  
10 administrative fee of \$6,000 for executing the transfer and providing a  
11 final accounting of Funds. Upon receipt of notice of termination, and  
12 except as otherwise directed in the notice, the Foundation shall:

- 14 • Stop work on the date specified in the notice;
- 16 • Place no further orders or enter into any further subcontracts for  
17 materials, services or facilities except as necessary to complete work  
18 under the Agreement up to effective date of termination;
- 20 • Terminate all orders and subcontracts;
- 22 • Promptly take all other reasonable and feasible steps to minimize any  
23 additional cost, loss, or expenditure associated with work terminated,  
24 including, but not limited to reasonable settlement of all outstanding  
25 liability and claims arising out of termination of orders and subcontracts;
- 26 • Deliver or make available to the Water Board all data, drawings,  
27 specifications, reports, estimates, summaries, and such other information  
28 and material as may have been accumulated by the Foundation under this  
29 Agreement, whether completed, partially completed, or in progress.

30 c. In the event of the dissolution of the Water Board, the term “Water  
31 Board” shall refer to the unit of California state government that assumes  
32 the functions of the Water Board. In the event of the dissolution of the  
33 Water Board without a transfer of functions to another unit of California  
34 state government, or in the event the Water Board shall no longer be a  
35 unit of California state government or an organization described in  
36 section 170(c) of the Internal Revenue Code of 1954, as amended, the  
37 Foundation shall thereafter continue to hold the CCAMP-GAP Funds  
38 and shall distribute the income there from to such organizations as in the  
39 opinion of the Board of Directors of the Foundation most nearly serve  
40 the purposes and objectives of this Agreement.

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44 **18. Indemnity and Liability:**

- 45 a. In making the grant to the Foundation and monitoring performance under  
46 this Agreement, Water Board assumes no liability for injuries or loss to  
47 persons or property resulting from the Foundation’s activities.
- 48 b. In conducting its activities relating to this Agreement, the Foundation  
49 agrees to conduct such activities in compliance with applicable federal,  
50 state, and local laws, regulations and ordinances and to obtain and  
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1 maintain appropriate insurance against liability for injury to persons or  
2 property arising from its activities.

- 3  
4 c. The Foundation shall, indemnify and hold harmless Water Board, its  
5 board members, officers, directors, agents, and employees from claims,  
6 injuries, losses, damages, liabilities, including damage or injury to  
7 persons and property and reasonable expenses including reasonable legal  
8 fees, to the extent caused by negligent acts or willful misconduct by  
9 employees or agents of the Foundation. This indemnification will survive  
10 termination of this Agreement.  
11  
12 d. Water Board shall indemnify and hold harmless the Foundation, its board  
13 members, officers, directors, agents, and employees in respect of any and  
14 all claims, injuries, losses, diminution in value, damages, liabilities, but  
15 only to the extent caused by negligent acts or willful misconduct by  
16 employees of the Water Board. This indemnification will survive  
17 termination of this Agreement.  
18  
19 d. Except as otherwise provided in this Agreement, the Foundation  
20 expressly waives any and all rights to any type of express or implied  
21 indemnity or right of contribution from the State of California and the  
22 United States, their officers, agents or employees, for any liability  
23 resulting from or growing out of, or in any way connected with or  
24 incident to this Agreement.  
25

26 19. **Third Parties:** Nothing in this Agreement is intended to create in the public,  
27 any member of the public, or any public entity rights as a third party beneficiary  
28 under this Agreement.  
29

30 20. **Permits, Fees and Notices:** The Foundation shall procure all permits and  
31 licenses necessary to accomplish work funded under this Agreement. The  
32 Foundation shall pay all charges and fees with CCAMP-GAP Funds, and give all  
33 notices necessary and incident to the due and lawful prosecution of the work.  
34 The Water Board may, but is not required to, elect to procure necessary permits  
35 or licenses or give notices in lieu of the Foundation.  
36

37 21. **Insurance and Bonds:**

- 38  
39 a. The Foundation is solely responsible for maintaining insurance policies  
40 to cover insurance that may be required by law in the jurisdiction where  
41 the activities funded under the terms of this Agreement are being  
42 implemented.  
43  
44 b. Upon request, the Foundation shall furnish to Water Board copies of  
45 insurance certificates evidencing its present level of insurance coverage  
46 for: Worker's Compensation and other coverage the Foundation has  
47 secured in fulfillment of its responsibilities under the terms of this  
48 Agreement. The certificates shall specify the dates when such insurance  
49 expires and shall provide further that the Foundation and Water Board  
50 shall be given not less than thirty (30) days notice before cancellation of  
51 or any material change in such insurance. The Foundation shall maintain  
52 such insurance coverage throughout the term of this Agreement.  
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22. **Foundation Acting Independently:** The Foundation, and the employees or agents of the Foundation, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of the Water Board, or the State of California.
23. **Audits and Access to Records:**
- a. The Foundation shall maintain standard financial accounts, documents and records relating to implementation of CCAMP-GAP activities funded under this Agreement. The Foundation may use any accounting system which follows the guidelines of “Generally Accepted Accounting Practices” published by the American Institute of Certified Public Accountants.
- b. The Water Board, and federal and state government auditors or their duly authorized representatives shall have access to any books, documents, papers, and records of the Foundation which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcriptions.
- c. The Foundation shall include in each of its subcontracts involving an expenditure of funds under this Agreement in excess of twenty five thousand dollars (\$25,000) a provision which requires the subcontractor to make all records directly pertinent to the subcontract available for examination and audit under the same terms as specified in subparagraph a., of this paragraph. The subcontract shall also require subcontractor to maintain all required records for three (3) years after final payment under the subcontract and all pending matters are resolved.
24. **Rights to Data and Other Information:** The Foundation agrees that all data, plans, drawings, specifications, reports, computer programs, Operational manuals, notes and other written or graphic work produced in the performance of this Agreement are subject to the rights of the Foundation and Water Board as set forth in this Paragraph 23. Both the Foundation and Water Board shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable or patentable, the Foundation may copyright or patent the same, except that, as to any work which is so protected by the Foundation, the Water Board reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, provide to the public and use such work, or any part thereof.
25. **Agreement Not Assignable:** Without mutual written agreement of the Water Board and the Foundation this Agreement is not assignable in whole or in part.
26. **Review and Comments:** The Foundation agrees that Water Board has the right to review and comment on any and all activities undertaken by the Foundation in connection with this Agreement, however, the Water Board shall not control or direct the mode or manner in which any employee, contractor or agent of the Foundation performs his or her duties.
27. **Lobbying:** The Foundation is prohibited from using funds held in the endowment for lobbying the executive or legislative branches of the state or federal government.

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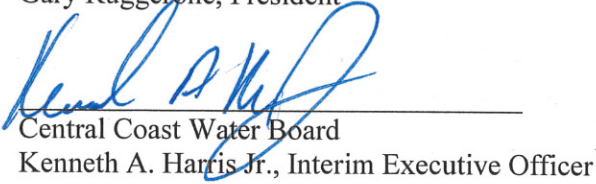
- 28. **Applicable Law and Jurisdiction:** This Agreement has been executed and delivered in the State of California and shall be subject to and interpreted by the laws of the State of California, without regard to choice of law principles. By entering into this Agreement, the Water Board and Foundation agree to submit to the jurisdiction of the courts of the State of California.
  
- 29. **Entire Agreement:** This Agreement constitutes the entire understanding between the parties and supersedes all prior agreements and understandings, whether written or oral, between the parties.
  
- 30. **No Waiver of Enforcement:** The failure of the Water Board, or the Foundation to enforce, or the delay by the Water Board or the Foundation in enforcing, any of the terms and conditions of this Agreement shall not be deemed a continuing waiver or a modification of this Agreement unless the waiver or modification is expressly written and signed by the Foundation and Water Board.
  
- 31. **Nondiscrimination:** During the performance of this Agreement, the Foundation and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. The Foundation and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder. (California Code of Regulations, Title 2, Section 7285.0 et seq.)
  
- 32. **Current State Employees:** No officer or employee of the State of California shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any California state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
  
- 33. **Former State Employees:** For the two-year period from the date he or she left state employment, no former California state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
  
- 34. **Attorneys Fees:** Except as explicitly provided in this Agreement to the contrary, each party shall bear its own attorneys fees and costs in any dispute or legal action related to this Agreement.

1 **Certification of Signatories:** The people signing this Agreement certify that they are authorized  
2 by the entity they represent to sign this Agreement and to bind the entity they represent to the  
3 terms of this Agreement.

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7 Bay Foundation of Morro Bay  
8 Gary Ruggerone, President

12/4/12  
Date

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12 Central Coast Water Board  
13 Kenneth A. Harris Jr., Interim Executive Officer

12/7/12  
Date

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

**RESOLUTION NO. R3-2012-0024**

**FUNDING FOR THE CENTRAL COAST AMBIENT MONITORING PROGRAM—  
GROUNDWATER PROTECTION PROGRAM, AND SPECIAL PROJECTS**

**Whereas, the California Regional Water Quality Control Board, Central Coast Region (hereafter "Water Board"), finds that:**

1. The Water Board has directed staff to prioritize water quality issues, and actions to address those issues, and to propose allocations of settlement funds to support those priority actions. The Board directed staff to consider "regional benefit" and "leveraging" when developing proposals for funding.
2. The Water Board established a vision and tangible goals for the Central Coast Region. The Central Coast Ambient Monitoring Program (CCAMP) is very effective at measuring the Water Board's performance in achieving the vision and measurable goals with regard to surface water quality and other physical and biological parameters for surface water. However, the Water Board requires additional tools to effectively measure its performance in achieving its vision and measurable goals associated with protecting and restoring groundwater quality.
3. Preventing and correcting water quality-related threats to human health is the Water Board's highest priority. Widespread and severe groundwater nitrate pollution, primarily due to intensive irrigated agricultural land use practices, in addition to other regional groundwater issues such as seawater intrusion and salt loading, requires the implementation of ongoing regional-scale groundwater monitoring and assessment to protect public health and sustainably manage groundwater supplies.
4. People who rely on domestic wells and small water system wells are most at-risk to health exposures from drinking water polluted with nitrate and other potentially harmful constituents given these wells are typically shallow, located in more rural areas within or adjacent to agricultural areas, and are not tested regularly to ensure the water meets public health standards.
5. The Water Board has identified riparian and wetland habitat protection and groundwater recharge area protection as high priorities, which may require the development and implementation of Basin Plan amendments and expert technical services to support the amendments.
6. The Water Board has effectively utilized funds from various sources, including the Guadalupe Oil Field Settlement and PG&E Moss Landing Settlement, since 1998, to fund priority water quality-related projects and to conduct water quality monitoring in the Central Coast (i.e., CCAMP and the Central Coast Cooperative Monitoring Program).
7. The implementation of programs and projects that address and provide ongoing action and evaluation in alignment with our highest priorities are necessary to help us achieve our



measurable goals, will hold us accountable as a performance-based organization to achieve tangible results, and will result in the greatest possible outcomes for the Central Coast Region over the long-term.

8. A total of approximately \$1,771,400 in settlement funds is currently available for Water Board allocation to fund priority projects in the Central Coast Region.

#### **Guadalupe Fund**

9. In 1998, approximately \$15.6 million from the \$43.8 million UNOCAL settlement associated with pollution at the Guadalupe Oil Field was deposited into the Guadalupe Water Quality Restoration Trust (the "NFWF Trust") held by the National Fish and Wildlife Foundation (NFWF). Use of these funds for "water quality projects" is subject to Water Board approval.
10. In total, the Water Board has approved the allocation of \$6.9 million of Guadalupe Settlement funds for CCAMP via resolution numbers 99-02, R3-2007-0042 and R3-2007-0046. The Water Board determined that the region-wide benefit criterion applied, and directed use of these endowment funds in watersheds throughout the Region with CCAMP.
11. The Water Board has allocated about \$9.4 million of the NFWF Trust funds for implementation of various other water quality related projects throughout the Region.
12. As of the October 1, 2010 to September 30, 2011 NFWF Trust reporting period, approximately \$1,544,287 were still available (unobligated) within the NFWF Trust. These funds are currently incurring fund administrative and grant coordination fees of about \$29,000 semiannually (based on existing balance of approximately \$2.5 million, of which \$950,000 is obligated).

#### **PG&E Moss Landing Fund**

13. In 2003, a \$5 million settlement agreement was reached in response to back-flushing of hot water into Elkhorn Slough by PG&E, former owner of the Moss Landing Power Plant.
14. The settlement agreement allocated \$2,850,000 and \$950,000 of this money to Non-Point Source Project and Non-Point Source Monitoring Funds, respectively, to be managed by the Community Foundation for Monterey County ("Community Foundation") with Water Board oversight of the project ranking criteria and project selection.
15. The Non-Point Source Funds were used to implement projects to reduce and monitor non-point sources of pollution, with an emphasis on sediment, nutrients, pesticides and other pollutants associated with agricultural practices, within the watersheds tributary to the Elkhorn Slough and Moss Landing Harbor, including the Salinas River, Moro Cojo Slough, and Tembladero Slough (Salinas and Bolsa Nueva Hydrologic Units).
16. The Water Board also designated \$950,000 of this money for CCAMP to conduct monitoring activities in the Monterey Bay area. High priority is given to coastal confluences monitoring, including routine sampling of creeks in the Monterey Bay area.
17. At its July 11, 2003 public meeting, the Water Board approved the project evaluation/ranking criteria for the use of the Non-Point Source Funds. The approved criteria included a provision for Executive Officer approval of project awards up to \$50,000 with Water Board review of awards greater than \$50,000. The Water Board also added a provision for periodic

assessment of the program along with a process for revision of the criteria and priorities if the Water Board determines the funding approach is ineffective or insufficient.

18. As of the January 30, 2012 trust fund projection statement, approximately \$170,103 and \$57,010 are currently available (unobligated) within the Non-Point Source Projects and Non-Point Source Monitoring Funds, respectively, for a total of \$227,113 in available funds. These funds are currently incurring fund administrative and grant coordination fees of about \$13,000 annually.

**THEREFORE, the Water Board hereby resolves that:**

1. All remaining Guadalupe settlement funds of approximately \$1,540,000, within the NFWF Trust be allocated for the development and implementation of the CCAMP Groundwater Assessment and Protection (GAP) program and implementation of two priority projects as described within the May 3, 2012 staff report, Item number 12. Specifically, \$800,000 of these funds will be used to establish an endowment to generate an annual revenue stream for ongoing CCAMP-GAP development and implementation with the remaining fund balance allocated for the initial implementation of CCAMP-GAP and the implementation of two additional priority projects, as described below. Staff shall receive Board approval for proposed projects prior to spending any of the principal of the endowment.
2. Allocate \$471,000 to two groundwater projects, where the total amount spent on each project will depend on need and staff's ability to leverage these funds with other funding sources. The Executive Officer will deposit any unused funds for these projects into the CCAMP-GAP endowment (above). These projects are as follows:
  - a. Technical assistance to local agencies to help build the groundwater database infrastructure of CCAMP-GAP. Once the groundwater database infrastructure is built, the CCAMP-GAP endowment will provide support over the long term.
  - b. A regional outreach and sampling program for domestic well owners to address the severe health threat from nitrate pollution in domestic wells. In addition, some of these funds will be available on a sliding-scale, as-needed basis for Limited Resource Farmers and Ranchers, or Socially Disadvantaged Operators, to help them comply with the groundwater sampling requirements of the Irrigated Agriculture Order.

Reserve the remaining \$500,000 (total approximate amount) from the Guadalupe settlement fund to support priority basin planning amendments. The Executive Officer may allocate these funds for technical assistance for basin planning updates, such as third party consulting expertise regarding the economic, social, and scientific analyses (triple bottom line analyses) associated with proposed Basin Plan amendments. The interest earnings from the \$500,000 will be available for CCAMP-GAP development and implementation. Staff shall receive Board approval prior to using any portion of the \$500,000 for projects other than those pertaining to the Basin Plan amendments.

3. The interest earnings from the balance of the Guadalupe settlement funds within the NFWF Trust tentatively obligated for the Wild Cherry Canyon Project will be available for CCAMP-GAP development and implementation.
4. All remaining PG&E Moss Landing settlement funds of approximately \$227,000 within the Community Foundation Non-Point Project and Monitoring Funds be allocated for the implementation of the regional domestic well outreach and sampling program and the initial implementation of CCAMP-GAP. These funds will be preferentially allocated for

implementation of the domestic well project and secondarily for CCAMP-GAP implementation. The PG&E funds will only be allocated for portions of these projects implemented within the Salinas and Bolsa Nueva Hydrologic Units.

5. The Executive Officer may also allocate CCAMP-GAP funds toward other priority projects, such as:
  - Domestic Well Sampling Program (for an ongoing or repeat program at specified frequency, or to supplement/leverage local agency domestic well sampling efforts)
  - Special studies (groundwater age dating, isotopic analyses, modeling, etc.)
  - Well abandonment/destruction
  - Development and implementation of well head protection programs
  - Emergency Replacement water supply
  - Groundwater recharge (e.g., active recharge projects)
  - Groundwater basin/aquifer assessment and ongoing trend analyses
  - Salt and Nutrient Management Planning (e.g., plan development, Basin Planning, implementation, etc.)
  - Seawater intrusion related projects
  - Technical support for Basin Plan amendments
  - Testing and implementation of technologies to reduce groundwater pollution
6. The CCAMP-GAP endowment and operational reserve accounts will be managed by a single trustee (foundation), a 501(c)(3) nonprofit organization, to be selected by the Executive Officer to facilitate the most cost effective and efficient management of the funds.
7. Prior to transferring any funds to the CCAMP-GAP endowment, the EO shall ensure that the Water Board can later redirect those funds to be expended for other purposes or projects as approved by the Water Board.
8. The Executive Officer is directed to develop and finalize the necessary agreements and contracts with NFWF, Community Foundation and additional parties, such as the Bay Foundation of Morro Bay, or other appropriately qualified foundation, to consolidate and manage these funds.

I, Roger W. Briggs, Executive Officer of the California Regional Water Quality Control Board, Central Coast Region, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on May 3, 2012.



Digitally signed by Roger W. Briggs  
DN: cn=Roger W. Briggs,  
o=RWQCB3, ou=CalEPA,  
email=rbriggs@waterboards.ca.gov  
, c=US  
Date: 2012.06.08 16:39:28 -0700'

Executive Officer

\_\_\_\_\_  
Date

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# Attachment F

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

**STAFF REPORT FOR MEETING OF May 3, 2012**  
Prepared March 27, 2012

**ITEM NUMBER: 12**

**SUBJECT: Proposed Funding for a Regional Groundwater Assessment and Protection Program and Specific Projects**

**SUMMARY**

During the mid-1990's, the Water Board directed staff to create the Central Coast Ambient Monitoring Program (CCAMP) to provide comprehensive monitoring and assessment of both surface water and groundwater on the Central Coast. The Water Board and staff realized that this program would be critical to measure our performance in achieving our mission. Over the next several years, staff built one of the most successful surface water programs in the country. Staff is now focusing on building the Groundwater Assessment and Protection (GAP) component of CCAMP (referred to as CCAMP-GAP).

Over eighty percent of the people living on the Central Coast rely on groundwater for their drinking water and other uses. A regional groundwater monitoring program is essential to identify areas of potentially unsafe drinking water supply, measure individual groundwater basin health, and determine the effectiveness of our efforts to protect groundwater. Many local agencies monitor groundwater quality to some degree, or have the potential to do so, and there is a great opportunity for the Water Board to coordinate and leverage these local efforts into a state-of-the-art groundwater protection program. We realize that our success in protecting groundwater for future generations depends on coordinating and leveraging the efforts of local agencies with our own priority actions, and this is the main purpose of CCAMP-GAP.

This staff report is a proposal to allocate \$1.271 million from the Central Coast Water Board's enforcement settlement accounts to begin building CCAMP-GAP and to support specific projects, as follows:

1. Establish a CCAMP-GAP endowment with an initial amount of \$800,000 to support the ongoing implementation of a regional groundwater assessment and protection program. Staff's goal is to increase this endowment to \$5 million over the next five years.
2. Allocate \$471,000 to two groundwater projects, where the total amount spent on each project will depend on need and staff's ability to leverage these funds with other fund sources. Any funds that are not used for these projects will roll over into the CCAMP-GAP endowment (above). These projects are as follows:
  - a. Technical assistance to local agencies to help build the groundwater database infrastructure of CCAMP-GAP. Once the groundwater database infrastructure is built, the CCAMP-GAP endowment will provide support over the long term.
  - b. A regional outreach and sampling program for domestic well owners to address the severe health threat from nitrate pollution in domestic wells. In addition, these funds will be available on a sliding-scale, as-needed basis for Limited Resource Farmers and Ranchers, or Socially Disadvantaged Operators, to help them comply with the groundwater sampling requirements of the Irrigated Agriculture Order.

Staff will leverage these funds with other fund sources, such as local agency funds, State Water Board grant funds, and State Water Board Cleanup and Abatement Account funds, to the maximum extent possible.

Staff also recommends reserving the remaining \$500,000 (approximate amount) in the Water Board's enforcement settlement accounts for priority basin planning amendments. These funds would be used, if necessary, for expert consulting services regarding the economic, social, and scientific analyses (triple bottom line analyses) of proposed Basin Plan amendments. Staff's goal is to present draft Basin Plan amendment language to the Board in 2012. Any funds that are not used for this purpose would roll over into the CCAMP-GAP endowment.

Staff recommends that the Water Board approve Resolution No. R3-2011-0024 to allocate Guadalupe and PG&E Settlement Funds for the priority projects outlined within this staff report.

## DISCUSSION

The Water Board affirmed its highest priorities at its July 14, 2011 annual "big picture" meeting (agenda Item No. 18)<sup>1</sup> as follows:

*Preventing and Correcting Impacts to Human Health*  
*Preventing and Correcting Degradation of Aquatic Habitat*  
*Preventing Degradation of Hydrologic Processes*  
*Preventing/Reversing Seawater Intrusion*  
*Preventing Further Degradation of Groundwater Basins from Salts*

With over eighty percent of the population on the Central Coast relying on groundwater for its drinking water supply and other uses, it is no surprise that three of the Water Board's top priorities listed above are focused on groundwater. The other two priorities, Aquatic Habitat and Hydrologic Processes, also involve groundwater (groundwater provides base flow for habitat, and hydrologic processes including recharge). Groundwater is critical to our communities and our economy. In July 2009, the Water Board directed staff to focus settlement funds on large-scale, long-term solutions to our priority water quality problems. The Board also directed staff to consider "regional benefit" and "leveraging" criteria when developing proposals for funding. Over the last several years we have become increasingly focused on identifying and addressing our highest water quality priorities throughout the region, and in transforming ourselves into a performance-based organization.<sup>2</sup>

The Water Board has two major enforcement settlement fund accounts that are available to help the Water Board achieve its goals. The funds are described below.

**Guadalupe Fund:** The Guadalupe Fund was established in 1998, as a settlement between the Water Board and Unocal Corporation regarding unpermitted discharges at Unocal's Guadalupe Dunes Oilfield. The original fund amount was \$15.6 million, and there is approximately \$1.544 million remaining (the actual amount fluctuates with the market). These funds may be allocated to region-wide water quality projects, and the projects proposed in this staff report are in direct alignment with the original broad fund criteria established in the settlement agreement, and the more recent Water Board direction regarding its priorities. The Board used this same fund for many projects over the last 14 years. Two of the largest projects utilize similar concepts to today's

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<sup>1</sup> [http://www.waterboards.ca.gov/centralcoast/board\\_info/agendas/2011/July/Item\\_18/index.shtml](http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2011/July/Item_18/index.shtml)

<sup>2</sup> Performance-based organizations have clear and measurable goals, objectives, and targets for improved performance, which are established, regularly evaluated and reported.

proposal. The Board established endowments for our regional monitoring program, CCAMP, and for our resource center for Low Impact Development, the LID Initiative, or LIDI. Both of these projects have been and continue to be very successful.

PG&E Fund: The PG&E Fund was established in 2003, as a settlement between the Water Board and PG&E regarding unpermitted discharges from the Moss Landing Power Plant. The original fund amount was \$5 million, and there is approximately \$227,000 remaining (the actual amount fluctuates with the market). These funds must be allocated to water quality projects in the watersheds tributary to the Elkhorn Slough and Moss Landing Harbor. Staff will ensure these funds are allocated accordingly for the projects proposed in this staff report.

The total amount remaining in the Guadalupe Fund and PG&E Fund is approximately \$1,544,000 + \$227,000 = \$1,771,000.

This staff report recommends the Water Board allocate Guadalupe and PG&E Moss Landing settlement funds as follows:

<b>Project Description</b>	<b>Project Amount</b>
CCAMP-GAP Endowment Fund	\$800,000
CCAMP-GAP Operating Fund <ul style="list-style-type: none"> <li>• Domestic Well Outreach/Sampling and Ag Order assistance</li> <li>• Regional Groundwater Monitoring</li> </ul>	\$471,400
<b>Subtotal</b>	<b>\$1,271,000</b>
Technical Support for Basin Plan Amendments <ul style="list-style-type: none"> <li>• Protection of riparian and wetland habitat and groundwater recharge</li> </ul>	\$500,000 (rolls over to CCAMP-GAP endowment if not needed)
<b>Subtotal</b>	<b>\$500,000</b>
<b>Total</b>	<b>\$1,771,000</b>

Attachment 1 is a Conceptual Project Proposal and Fiscal Year 2012-2013 Work Plan for CCAMP-GAP, and provides details on the following sections:

- Conceptual Model
- Endowment
- Operating Fund
- Domestic Well Outreach and Sampling Program
- Regional Groundwater Monitoring and Assessment
- Special Projects
- Goals
- Accountability & Transparency

#### **Alignment with Statewide Programs and Goals**

The CCAMP-GAP goal to develop a regional groundwater monitoring and assessment program is in alignment with and supports various statewide policies, mandates and programs. California's comprehensive groundwater quality monitoring program, the Groundwater Ambient Monitoring and Assessment (GAMA) Program, was created by the State Board in 2000, and was later expanded by



Assembly Bill 599 (AB 599 Liu) – the Groundwater Quality Monitoring Act of 2001. The Main goals of the GAMA program and AB 599 are:

- To improve statewide groundwater monitoring
- To increase the availability of groundwater quality information to the public

AB 599 requires the integration of existing monitoring programs and design of new program elements, as necessary, to establish a comprehensive statewide groundwater quality monitoring program with priority given to groundwater basins that supply drinking water. As proposed, CCAMP-GAP will build on the existing GAMA program consistent with AB 599 by integrating and building on regional groundwater monitoring programs to develop a comprehensive monitoring program within the Central Coast Region. In addition, the data generated from CCAMP-GAP will be publicly available on the GeoTracker GAMA website, and part of the benefit of this effort will be better public access to groundwater quality data from local water agencies. Our Regional Water Board will benefit from a better characterization of groundwater quality within the region, which will greatly assist our prioritization of water quality problems and our control/improvement efforts.

The regional monitoring component of CCAMP-GAP also supports or is otherwise consistent with the Recycled Water Policy (SWRCB Resolution No. 2009-0011) which calls for the development of local salt and nutrient management plans, including the development and implementation of regional groundwater monitoring programs. The Recycled Water Policy calls for the submittal of the proposed plans by February 3, 2014, and consideration for adoption by the Regional Water Boards within one year of the receipt of the proposed plans. A number of salt and nutrient management planning efforts are currently underway within the Region. Consequently, it would be beneficial for us to support and leverage these efforts via CCAMP-GAP in an effort to develop monitoring programs that address multiple pollutants, priorities, and objectives.

#### **Interested Party Notification List**

The Water Board has developed an electronic interested parties mailing list for the Groundwater Assessment and Protection program via the State Water Board's existing Email List Subscription Form portal (known as the Lyris subscription list). Interested parties wishing to receive future notices and updates regarding the Central Coast Water Board's Groundwater Assessment and Protection Program and regional groundwater issues should sign up at:

[http://www.waterboards.ca.gov/resources/email\\_subscriptions/reg3\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/reg3_subscribe.shtml)

Complete the form and check the box for: GAP - Groundwater Assessment and Protection

#### **RECOMMENDATION**

Staff recommends that the Water Board approve Resolution No. R3-2011-0024 to allocate Guadalupe and PG&E Settlement Funds for the priority projects outlined in this staff report.

The attached Resolution No. R3-2011-0024 accomplishes the following:

- Acknowledges the Water Board's concurrence with and approval of the development and implementation of the Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP) program and the implementation of specific high priority projects as discussed in detail within this staff report.
- Approves the allocation of all remaining Guadalupe and PG&E settlement funds for CCAMP-GAP implementation, including the domestic well outreach and sampling project and CCAMP-GAP startup, and technical support for a potential Basin Plan amendment project, as outlined in this staff report.



- Authorizes the Executive Officer to manage the remaining Guadalupe and PG&E settlement funds to effectively implement the proposed projects. This includes finalizing the necessary grant agreements and MOAs with the various foundations to effectuate the proposed projects in the most efficient and cost effective manner.

**ATTACHMENT**

1. Conceptual Project Proposal and Fiscal Year 2012-2013 Workplan for Central Coast Ambient Monitoring Program (CCAMP) – Groundwater Assessment and Protection (GAP)
2. Resolution No. R3-2011-0024

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# Santa Maria Groundwater Basin Groundwater Flow Model Scope of Work

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## Background

This scope of work was prepared for the development of a groundwater flow model and modeling analysis for the Northern Cities Management Area (NCMA) and Nipomo Mesa Management Area (NMMA) of the Santa Maria Groundwater Basin (SMGB). The purpose of groundwater flow model is to provide an improved understanding of the movement of groundwater within the basin and to provide a tool that will enable these agencies to better evaluate alternative water resource management alternatives.

Specific technical objectives for the model and groundwater basin analysis include 1) refinement of the perennial yield of the NCMA and NMMA, 2) simulation of groundwater flow paths (directions and flow rates) and the historical and current extent of seawater intrusion, 3) estimation of protective groundwater elevations necessary to maintain seaward flow, 4) evaluation of the impacts of current production-well-system operations on groundwater elevations and seawater intrusion, 5) evaluation of the impacts of optimized pumping operations to reduce or mitigate seawater intrusion, and 6) potential effectiveness of conjunctive use or recharge projects.

The modeling analysis is a critical step toward improved groundwater resources management and long-term water-supply reliability and will assist agencies to confidently plan and manage long-term water-supply operations and mitigate seawater intrusion.

## Approach

The groundwater flow modeling approach would include the following key elements:

- Hydrogeologic evaluation of the NCMA and NMMA
- Accurate accounting of water-balance elements (inflows, outflows and change in storage) and estimation of the perennial yield of the groundwater basin
- Selection of appropriate model code
- Appropriate simulation of the critical boundary conditions
- Geology-based representation of hydrostratigraphy in the three-dimensional model
- Construction of an appropriate three-dimensional groundwater flow model to simulate historical and current groundwater flow conditions and consideration of a coupled density-dependent flow model for additional evaluation seawater intrusion
- Model calibration
- Model sensitivity analyses
- Simulation of current pumping conditions and the effectiveness of different pumping scenarios and potential future groundwater recharge/conjunctive use projects to reduce or mitigate seawater intrusion.

## Scope of Work

The development of the groundwater model for the NCMA and NMMA of the SMGB will be completed in two separate phases as described below. Phase 1 will comprise documentation of available input data, improved characterization of the geology and hydrogeology, and the development of goals and objectives for the groundwater model. The results of Phase 1 will be documented in multiple technical memorandums (TM) and will be used as the basis for Phase 2. Phase 2 will comprise development of a hydrogeologic site conceptual model; selection of model domain, boundaries, and other critical input parameter values; model construction; calibration; and simulation of future management scenarios.

## Phase 1 Groundwater Basin Characterization – *Complete*

The proposed scope for the SMGB characterization includes the following elements:

- Project Management
- Data Analysis
- Data Compilation
- Data Gaps
- Groundwater Basin Characterization
- Transducer Installation
- Geologic Cross Sections
- Well Testing
- Surface Water Infiltration
- Recharge Areas
- Offshore Aquifers and Seawater Intrusion
- Goals and Objectives
- Develop Goals and Objectives
- Climate Change

The results and findings from the groundwater basin characterization projects will be summarized in multiple TMs and will be utilized as the basis for the development and calibration of the groundwater flow model.

## Phase 2 - Model Development, Calibration and Scenario Analysis

### Task 1 - Develop Conceptual Model and Model Input Data

In order to develop the groundwater flow model, a hydrogeologic conceptual model will first be prepared. The conceptual model will include documentation of geology and hydrostratigraphy, aquifer geometries and continuity, hydraulic properties including permeability and storage properties, and groundwater inflows and outflows. Groundwater inflows and outflows will be dependent upon the model area and boundary conditions, but should include recharge from precipitation and return flows, surface water infiltration and inflow from up gradient areas of the basin, and outflow sufficient to maintain the seawater/freshwater interface offshore.

The conceptual model will form the basis of the water budgets and numerical model and will identify and constrain critical hydrologic and geologic controls on the groundwater basins. Model

design will account for specific project objectives, and model features including grid construction and layering, boundary conditions, hydraulic property and recharge distribution will be properly developed.

Aquifer geometries will be characterized on the basis of the geologic cross-sections developed in Phase 1 and review of well logs and previous hydrogeologic studies. Aquifer top and bottom elevations will be characterized, and model layers developed on the basis of basin geology.

The results from the Phase 1 Well Testing TM will be utilized as the basis for defining aquifer hydraulic properties within the SMGB. The Consultant should specify the approach and methodologies for simulating aquifer hydraulic properties in the model that incorporates existing hydraulic property data and Phase 1 well testing results. A systematic approach to quantifying aquifer properties should be identified to minimize uncertainty. Appropriate distributions of permeability and storage coefficients should be assigned to each model layer.

The Consultant will evaluate inflows (recharge from precipitation, percolation of stream flow, return flows from agricultural and municipal use of water, and subsurface inflows) and outflows (groundwater pumping and subsurface outflow) and validate the estimates on the basis of observed changes in groundwater storage. Data on inflow to the groundwater basin will be obtained from the Phase 1 Surface Water Infiltration TM, the NCMA's 2007 Water Balance Study and the NCMA's Deep Percolation analysis, the NMMA's Percolation Past Root Zone analysis, the NCMA and NMMA Annual Reports, and other available resources.

Groundwater production from municipal and private wells should be documented and simulated appropriately in the model. Historical municipal pumping rates generally are available. The Consultant will develop estimates private and agricultural groundwater use on a time interval that matches previously completed irrigation requirement analysis. The Consultant will assess change in storage both as the residual of the water balance equation and through analysis of hydrographs, water table contour maps and estimated storage coefficients.

***Deliverable: Upon preparation of the conceptual model and the model input data, the Consultant shall prepare a technical memorandum which documents the results of Task 1, identifies data gaps and their anticipated effects on model performance and validity, and provides recommendations on model construction specifications and simulation of critical input parameters.***

## **Task 2 Model Construction**

The Consultant will construct and calibrate a groundwater flow model for use in predicting the effectiveness of the agreed upon management strategies. The model will be used to simulate potential changes in groundwater elevations, flow directions, and storage resulting from these management strategies.

The Consultant will define an agreed-upon model area appropriate for the accurate

representation of current and future conditions. The model should include the entire NCMA and NMMA. Boundary conditions including both specified head and specified flux will be simulated correctly to provide confidence in the model results.

The model will be based on existing data and information obtained in Phase 1. Current data sets will be used to develop baseline conditions and approximate recent steady state flow conditions. Transient flow modeling will be performed to assess impacts of dynamic pumping.

The three-dimensional model will represent groundwater flow in the aquifers, and will account for variable aquifer thicknesses and hydraulic properties, leakage and three-dimensional flow between heterogeneous aquifers.

Model layering should be dependent upon the quality and availability of geologic information, well construction details, and groundwater monitoring results including vertical variations in hydraulic head and salinity with depth. The number of layers will provide as much model accuracy in the simulation of three-dimensional flow as is practicable given the available data. Maps of aquifer layer geometries and hydrogeologic cross-sections will be provided to the participating agencies.

Model grid spacing will also be appropriately defined to accurately represent boundary conditions, recharge sources, and production wells.

Both zonal and smooth field distributions of some input parameters such as aquifer layer elevations, hydraulic properties including permeability, and recharge sources will be evaluated, and, if appropriate, both approaches used to provide accurate representations of these variables.

Sources and sinks including recharge and pumping will be quantified appropriately over the transient simulation period.

***Deliverable: Upon completion of the groundwater model, the Consultant shall prepare a TM which documents the methodologies and data utilized to construct the groundwater model. This TM shall include justification for model grid spacing and model layering.***

### **Task 3 - Model Calibration and Validation**

Transient calibration will be performed over appropriate multi-year historical periods which include above- and below-normal precipitation water years. Calibration periods and observation data used to assess calibration (groundwater elevations from key wells and flow rates from sinks) will be evaluated prior to implementing the calibration phase of work. The transient calibration period will be defined based on data availability and historical hydrologic conditions. Appropriate time steps and stress periods will be established to assess transient model calibration.

Critical input parameters may be evaluated; including horizontal and vertical permeabilities, boundary conditions, leakance/conductance terms, and recharge rates using inverse calibration methods. Sensitivities to these input parameters also will be determined and predictive simulations of future operational scenarios will account for parameter uncertainties.

***Deliverable: Upon calibration of the groundwater model, the Consultant shall prepare a TM which documents the calibration procedures and result. This TM shall identify the permeabilities, boundary conditions, leakage/conductance terms and recharge rates selected to calibrate the model.***

## **Task 4 - Simulations of Groundwater Management Alternatives**

The Consultant will simulate current production well operations at representative flow rates including drawdowns and hydraulic capture zones of the facilities. Subsequently, selected pumping and recharge alternates will be simulated singly or in combination to predict their relative effectiveness. The Consultant shall define an agreed-upon number of scenarios for simulation. The options evaluated may include:

- Estimate of perennial yield for the NCMA and NMMA
- Optimized groundwater pumping operations, including analysis of new well locations
- Groundwater recharge from potential future conjunctive use projects
- Utilization of recycled water for groundwater recharge through percolation and/or injection
- Groundwater recharge using augmented stormwater retention basins
- Utilization of recycled water to develop a seawater intrusion barrier
- Investigation of the historical, current and possible future extent of seawater intrusion

As the details of workable alternatives are developed, hydrologic impacts of each alternative will be evaluated. The predictive simulations will be evaluated to assess the potential for decreased drawdown in critical coastal areas and decelerated seawater intrusion. The predictive model will simulate groundwater travel times, flow paths and hydraulic capture zones and additional sensitivity analyses will be performed on these predictive simulations.

***Deliverable: Upon completion of the groundwater management alternatives evaluation, the Consultant shall prepare a TM which documents the results of each alternative and an evaluation of each alternatives potential benefit or impact to the groundwater basin.***

## **Task 5 - Report**

The Consultant will prepare a Report that compiles all of the previous completed TMs from Phase 1 and Phase 2 of the Groundwater Model into one comprehensive document.

### ***Administrative Draft***

The Consultant shall prepare an Admin Draft Report that compiles the TMs prepared for Phase 1 and 2 of the Groundwater Model.

***Deliverable: The Consultant shall submit an electronic copy for the Admin Draft Report to the Steering Committee for review.***

### **Public Review Draft**

Based on comments provided by the Steering Committee on the Admin Draft Report, the Consultant shall prepare a Public Review Draft Report.

***Deliverables: The Consultant shall submit ten (10) copies and an electronic copy of the Public Review Draft Report to the Steering Committee for review. The Consultant shall provide the Steering committee with a complied comments spreadsheet that lists each comment and the Consultants response to the comment.***

### **Public Review Workshop**

The Consultant shall prepare and lead a public workshop to present the Public Review Draft Report and to review the results of the groundwater management alternatives analysis.

***Deliverables: The Consultant shall prepare a PowerPoint presentation that summarizes the tasks completed in Phase 1 and 2 of the NCMA/NMMA project.***

### **Final Draft**

Based on comments received from the Steering Committee and at the Public workshop the Consultant shall prepare a Final Draft Report for the Groundwater Model.

***Deliverables: The Consultant shall submit ten (10) copies and an electronic copy of the Final Draft Report for the Groundwater Model to the Steering Committee for review. The Consultant shall provide the Steering Committee with a complied comments spreadsheet that lists each comment and the Consultants response to the comment.***

### **Task 6 – Meetings**

The Consultant shall provide regular updates to the Steering Committee and attend six (6) meetings with the Steering Committee in person or via conference call to discuss model progress.

***Deliverable: The Consultant shall prepare a draft agenda for each meeting at least two days in advance of each meeting, and meeting notes including action item assignments will be provided within one week following the meeting.***

**Estimated Cost**

**\$675,000**

**Schedule**

***Estimated Start of Phase 2:***

***November 2016***

***Estimated Completion of Phase 2:***

***November 2018***



# South SLO County Sanitation District Grit Removal System

## Scope of Work/Specifications

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### **Background**

The District is responsible for nearly nine miles of trunk main and sewer lines and receives wastewater flows from the cities of Arroyo Grande and Grover Beach and the Oceano Community Services District.

The District's Wastewater Treatment Facility (WWTF) is permitted for a dry weather flow of 5.0 million gallons per day (MGD) and operates under Waste Discharge Requirements (WDR) Order Number R3-2009-0046/NPDES Number CA0048003. The plant utilizes fixed-film reactors, or trickling filters, with clarification to perform secondary treatment. The plant's headworks includes an augur-type influent screen to protect downstream processes and equipment from large inorganic debris, but there are no provisions for removal of grit or other small inorganic debris. Historically, grit accumulation has been an issue in the influent piping between the influent pumps and splitter box and causes operation and maintenance issues with biosolids process equipment.

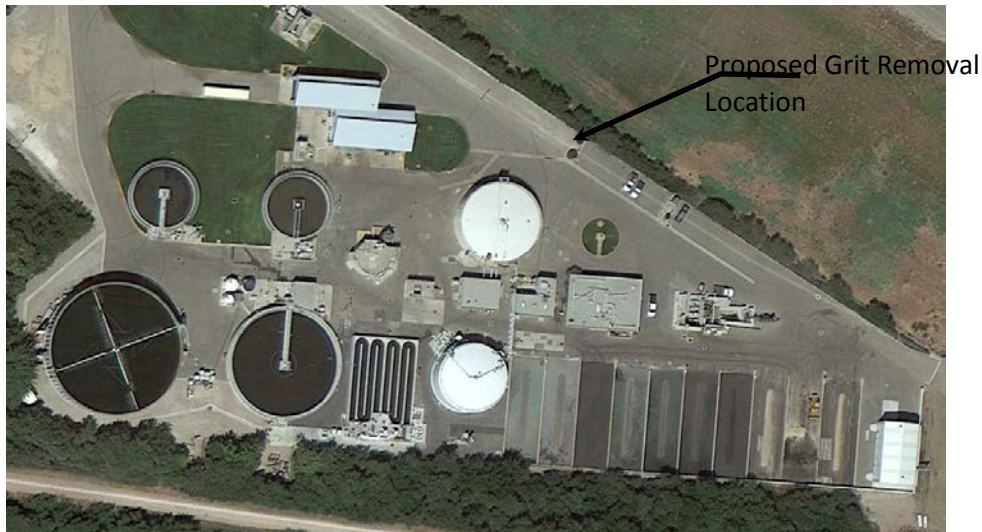
### **PROPOSED GRIT REMOVAL SYSTEM**

#### **Overview**

The District's grit removal system is being designed to optimize grit removal rates at average dry weather flows. The grit removal system will be located on the force main between the influent pumps and the splitter box. A centrifugal-type grit removal system ("Grit King" by Hydro International) with grit classifier is preferred. Valves will be installed on the new 24-inch HDPE force main to allow bypassing of the grit removal system if necessary. At night, plant staff will recirculate flows from the secondary clarifier to the headworks to maintain flows above the equipment's minimum recommend flow rates during low flow periods (primarily nighttime flows).

#### **Modifications to Existing Facilities**

The grit removal system is proposed to be constructed to the east of the existing maintenance building. This area is open and is covered with a maintained lawn. This area is located directly north of the influent pump force main and is accessible to vehicles from either the north or south sides to facility grit screenings removal by trash trucks or for maintenance operations.



**Figure 1- Grit Removal System Location**

The project will generally consist of a standalone grit removal system located on a concrete pad. The pad will be sized to accommodate both the grit removal equipment (Grit King and classifier) and a dumpster to hold grit screenings.

### **Plant Hydraulics**

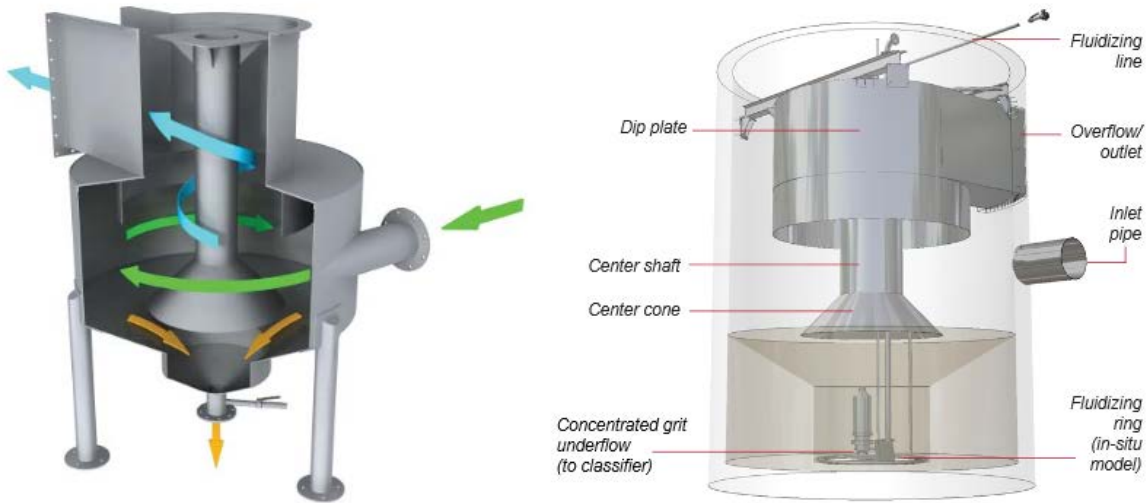
The new grit removal system equipment will have minimal head loss during both average and peak daily flows. The physical elevation of the grit removal equipment will reduce the maximum pumping rates of the existing influent pumps.

### **Grit Removal**

A centrifugal-type grit removal system (“Grit King” by Hydro International) with grit classifier is proposed. Wastewater will enter and exit the unit tangentially, creating a toroidal flow path around the unit. Grit particles will settle at the bottom of the unit while the lighter organic particles pass through. Grit is removed from the bottom chamber via gravity and is sent to a classifier for further separation and dewatering. The classifier includes a slow moving rotating screw to convey grit up an inclined trough for dewatering before being deposited into a dumpster.

### **Description of Process**

Flow to the grit removal system would be diverted from the influent force main and would enter the Grit King unit on a tangential path around the unit’s dip plate. This motion forces the incoming flow to spiral down the sidewalls resulting in the settling of solids due to gravitational forces. The grit collects at the bottom coned section of the unit while the outgoing flow spirals up around the center shaft inside of the dip plate. Finer particles are removed during this upward flow as a shear zone is created where the slower inner up flow meets the outer downward flow.



**Figure 2 - Grit King Profile**

The system will be designed to optimize grit removal at the average daily flow rate. Table 1 below presents the manufacturer’s estimated performance of the unit at the average and peak day flows.

<b>Table 1 - Grit Removal System Performance</b>		
<b>Flow Condition</b>	<b>Design Flow</b>	<b>Performance<sup>1</sup></b>
Existing Average Annual Daily Flow (AADF)	2.7 MGD	95% removal of all grit larger than 120 microns
Future Average Annual Daily Flow	4.2 MGD	95% removal of all grit larger than 200 microns
Peak Daily Flow (PDF)	5.0 MGD	95% removal of all grit larger than 200 microns
1. Assumes Grit Specific Gravity of 2.65		

Solids collected in the lower coned section of the grit tank will be periodically removed through an opening in the tank bottom by gravity to the classifier unit. A 4-inch diameter grit pipe will extend from the bottom of the Grit King to the hopper of the classifier. A solenoid operated valve will open based on an operator set time interval to allow settled grit to flow to the classifier. Water will be injected at the grit outlet opening through a small diameter fluidizing pipe when the valve opens to help carry the grit to the classifier and to prevent plugging of the outlet. A time clock will initiate when grit discharge cycles occur. The time clock will be adjustable to initiate cycles up to every 20 minutes. When the time clock initiates a cycle, the Grit Classifier will operate for an adjustable time period. Concurrently, the control panel will send a signal to open the solenoid valve located on the fluidizing line for an adjustable time period (typically 60 seconds). After the fluidizing time runs out and the solenoid valve closes, the electrically actuated plug valve shall open for an adjustable time period (typically 120 seconds). All operations can also be performed in manual mode.

The fluidizing pipe will require a connection to a potable or non-potable water source. Water usage of the fluidizer is approximately 50 gpm at 50 psig when in operation. Based on the minimum cycle time (20 minutes), the fluidizing cycles could use up to 3,600 gallons of water per day (1.3 MG per year). This water will be supplied with plant water.

The heavy, inorganic grit particles will drop into the grit classifier hopper where a screw conveyor will convey grit into a storage bin up an inclined trough to facilitate dewatering of the grit. Lighter organics, if present, flow over an internal weir to a drain that flows to the headworks.

**Grit Removal Equipment Design**

The grit removal system would be located on the influent pump force main as shown in Figure 1. This pipe is a 24-inch DR 32.5 HDPE pipe. The District has installed ductile iron tees for both inlet and outlet connections and isolating valves for bypass operations.

The grit removal system will consist of a free standing Grit King unit, approximately 12.5 feet high, with 24-inch ductile iron inlet and outlet piping. The Grit King will be fabricated out of 304 stainless steel and will be anchored to a new concrete slab. Accumulated grit in the Grit King will be conveyed to a classifier via a 4-inch stainless steel pipe. The grit classifier will further separate grit material from captured organics and will dewater the grit prior to being deposited into a dumpster. Organics and drained water would be sent to the plant headworks through the plant’s onsite drain system. A 4-inch drain line is located to the east of the maintenance building.

The following table shows the general design parameters of the grit removal system:

<b>Table 2 - Grit Removal System Design Summary</b>	
<b>Grit Separator</b>	
Number of Units	1
Unit Diameter, feet	10
Inlet Opening Diameter, inches	24"
Outlet Opening Diameter, inches	48" Channel and 24" Pipe
Max. Headloss at Peak Day Flow (5.0 MGD), inches	3.0
Underflow Flow Rate, gpm	200
Underflow Connection Size Diameter, inches	4
<b>Grit Classifier</b>	
Motor Size	1.5 HP

**Table 2 - Grit Removal System Design Summary**

Screw Diameter, inches	11
Maximum Flow Rate, gpm	318
Grit storage (by owner)	3-CY rolling dumpster with slanted lid

**Grit Removal System Electrical Requirements and Controls**

The classifier unit includes a control panel to automatically operate the valve at the Grit King drain opening and classifier. This control panel includes a variable frequency drive (VFD) to control the screw motor. A stainless steel (304) NEMA 4X panel will be provided and will include all timers, starters, switches and indicator lights to control the grit removal system. The control panel will require a 480V/15amp/3-phase service.

**Additional Grit Removal Features**

The following additional features are also anticipated as part of the grit removal system:

- Stairs and Platform - It is recommended a small platform and stairs be constructed adjacent to the upper opening of the unit for access and inspection.
- Concrete Pad - A reinforced concrete pad is recommended for anchoring of the grit removal equipment and for the grit dumpster. The slab will also include a drain for washing down the area. The drain will be connected to the plant drainage system. It is assumed that the Grit removal system will be supported by an 18-inch thick structural slab, and that the remaining grass area will be paved to the top of the existing roll curb with a 4-inch thick flatwork.
- Wash-Down – A non-potable water hose bib and 6-inch surface drain will be provided at the grit removal site for wash-down activities.

**Estimated Construction Costs**

**\$492,100**

**Schedule**

***Estimated Completion:***

***February 2017***