

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

TENTATIVE RESOLUTION NO. R9-2010-0079

**A RESOLUTION REQUESTING THE STATE WATER RESOURCES
CONTROL BOARD TO APPROVE FUNDING FROM THE STATE WATER
POLLUTION CLEANUP AND ABATEMENT ACCOUNT**

**FOR THE LAKE SAN MARCOS NUTRIENT DIAGNOSTIC AND CLEANUP
PLANNING STUDY**

WHEREAS, the California Regional Water Quality Control Board, San Diego Region (hereinafter, San Diego Water Board), finds that:

1. Lake San Marcos ("the Lake") is listed under the 2006 Clean Water Act (CWA) section 303(d) as an impaired water body due to impairments caused by ammonia as nitrogen, nutrients and phosphorous. The Lake is an impoundment of the San Marcos Creek (the "Creek") upstream of a concrete arched dam (the "Dam"). The Creek is listed under the 2006 CWA section 303(d) as an impaired water body for phosphorous, including that portion of the Creek upstream of the Dam. The 2006 CWA section 303(d) listings for the Lake and the Creek include a schedule for the development of TMDLs to address the impairments by 2019.
2. The Lake experiences large external nutrient loading from the watershed evident by seasonal algal blooms. Water quality data collected to date confirms the presence of cyanobacteria toxins. The Lake also experiences occasional fish kills. Residents living near the Lake report repeat occurrence of large algae blooms and prolonged nuisance odor conditions caused by the release of hydrosulfide from decomposing bacteria that surface during turn over of Lake waters (e.g. thermal mixing) in late fall each year.
3. In April 2009, San Diego Water Board Executive Officer encouraged likely stakeholders to proceed with a voluntary investigation and cleanup as a model, in lieu of a San Diego Water Board directed Investigative Order and/or other enforcement action.
4. Within the last year, the City of San Marcos (the "Applicant") and the other parties spent approximately \$250,000 collecting water quality data, studying the existing condition of the Lake and Creek, and developing preliminary investigation reports. The Applicant and some of the other parties spent nearly \$400,000 in money or in-kind administrative and third party professional services on development of a consensual framework for cleanup and abatement of the Lake nutrient impairments that would voluntarily accomplish the same work as an otherwise directed cleanup effort.

5. After a year of gathering data, investigating possible nutrients sources, and developing a preliminary draft site conceptual model to better understand sources and causes of nutrient impairment to the Lake, the Applicant, with the support of other parties¹, is requesting State Water Pollution Clean Up and Abatement Account (CAA) funds to conduct a detailed diagnostic investigation and development of a cleanup planning document (feasibility study and plans for a remedial action plan).
6. The Applicant's goal is to cleanup and abate the nutrient impairment in the Lake. In furtherance of this goal, the Applicant worked closely with stakeholders to develop a technically sound scope of work² (including detailed activities, budget, and schedule) that will further assess, investigate, and plan for remediation of the nutrient impairment in the Lake.
7. It is anticipated that further detailed assessment, investigation, and cleanup planning work will require \$989,466 to meet the outlined scope of work objectives. The San Diego Water Board Executive Officer has submitted a request to the State Water Resources Control Board on behalf of the Applicant and the other parties to secure \$989,466 in funding from the CAA to complete the tasks outlined in the Applicant's Scope of Work.
8. Water Code Section 13442 provides that the State Water Board may order moneys to be paid from the CAA to public agencies to assist the agencies in cleaning up waste or abating its effects on waters of the state.

NOW, THEREFORE, BE IT RESOLVED THAT, the San Diego Water Board affirms and concurs with the Executive Officer's request that the State Water Board approve an allocation of \$989,466 from the CAA to the City of San Marcos to fund the activities outlined in the Scope of Work.

I, David Gibson , Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, San Diego Region, on July 14, 2010.

David Gibson
Executive Officer

¹ Other parties currently include: County of San Diego, City of Escondido, California Department of Transportation, San Marcos Unified School District, Vallecitos Water District, Citizen's Development Corporation/La Jolla Development Group, Lake San Marcos Remediation Group, Lake San Marcos Task Force, Lake San Marcos Community Association, Batiquitos Lagoon Foundation, San Diego Coastkeeper, and Coastal Environmental Rights Foundation.

² The Scope of Work is contained in a document titled, "Lake San Marcos Watershed, SWRCB Cleanup and Abatement Fund Application, Nutrient Workplan, May 26, 2010" submitted as Exhibit A of the Applicant's request package (dated May 26, 2010).