

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
SEPTEMBER 2, 2008**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION TO ALLOCATE AN ADDITIONAL \$500,000 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO THE DIVISION OF WATER QUALITY (DWQ) TO COMPLETE THE DEVELOPMENT OF SEDIMENT QUALITY OBJECTIVES (SQOs) FOR TOXIC POLLUTANTS IDENTIFIED IN TOXIC HOT SPOTS IN THE BAY PROTECTION AND TOXIC CLEANUP PROGRAM (BPTCP)

DISCUSSION

DWQ requests funding of \$500,000 to complete the development of SQOs for toxic pollutants identified as toxic hot spots or pollutants of concern as part of the BPTCP. This request will supplement a previous CAA allocation of \$5,065,000 for this Project.

In 2001, the Sacramento County Superior Court ordered the State Water Resources Control Board (State Water Board) to adopt the SQOs pursuant to California Water Code (CWC) §13393. This law requires the State Water Board to adopt SQOs for toxic pollutants that have been identified in toxic hot spots in the State's bays and estuaries as part of BPTCP or that have been identified as pollutants of concern.

DWQ followed a phased approach for the development of SQOs. The current phase (Phase II) focused on the development of SQOs for the estuarine habitats, including the Sacramento-San Joaquin Delta. Unlike the Phase I efforts, Phase II required data collection. Additional funding of \$500,000 for this phase of the Project is requested due to the expansion of analytical parameters to ensure that the most relevant and complete pollutant data is collected. The additional funding will also support the cost of re-sampling in the Delta in spring and summer, which will provide accurate data in more current conditions.

The law requires that the SQOs be scientifically based, provide adequate protection for the most sensitive aquatic organisms, and reasonably protect beneficial uses. Due to the complex interaction between contaminants, sediments, water, and the various processes that control bioavailability, organism sensitivity and bioaccumulation, the development of SQOs is very time consuming and costly. The Board approved \$5,065,000 for this work to date. The additional funding of \$500,000 is required to complete the process pursuant to CWC §13393.

The requested allocation is consistent with the purposes of CWC §13442. CWC §13442 provides that the State Water Board may order moneys to be paid from CAA to a public agency with authority to cleanup or abate the effects of a waste in order to "to assist in cleaning up the waste or abating its effects on waters of the state."

POLICY ISSUE

Should the State Water Board:

1. Approve the allocation of an additional \$500,000, from CAA to DWQ in support of the Phase II development of SQOs for bays and estuaries;
2. Authorize the Deputy Director or Assistant Deputy Director of the Division of Financial Assistance to negotiate, execute, and amend contracts for the development of SQOs?

FISCAL IMPACT

The CAA has an uncommitted balance of \$3,949,523 as of June 30, 2008. The SQOs Development Program is requesting \$500,000 over two years. Therefore, it is recommended that the State Water Board approve a funding commitment based upon the following schedule:

\$450,000 for FY 2008-09

\$50,000 for FY 2009-10

REGIONAL WATER BOARD IMPACT

Yes. North Coast, San Francisco Bay, Central Coast, Los Angeles, Central Valley, Santa Ana, and San Diego Regional Water Quality Control Boards.

STAFF RECOMMENDATION

The State Water Board should approve the additional \$500,000, from CAA to DWQ in support of the Phase II development of SQOs for bays and estuaries.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

ALLOCATE ADDITIONAL FUNDS IN THE AMOUNT OF \$500,000 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO THE DIVISION OF WATER QUALITY (DWQ) TO COMPLETE THE DEVELOPMENT OF SEDIMENT QUALITY OBJECTIVES (SQOs) FOR TOXIC POLLUTANTS IDENTIFIED IN TOXIC HOT SPOTS IN THE BAY PROTECTION AND TOXIC CLEANUP PROGRAM (BPTCP)

WHEREAS:

1. DWQ requests \$500,000 to complete the development of SQOs for toxic pollutants identified as toxic hot spots or pollutants of concern as part of the BPTCP. This request will supplement a previous CAA allocation of \$5,065,000 for this Project;
2. The funds will be used to develop SQOs for estuarine habitats, including the Sacramento-San Joaquin Delta and to ensure that the most relevant and complete pollutant data is collected by the expansion of the analytical parameters of the Project;
3. In 2001, the Sacramento County Superior Court ordered the State Water Resources Control Board (State Water Board) to adopt SQOs pursuant to the California Water Code (CWC) §13393. This law requires the State Water Board to adopt SQOs for toxic pollutants that have been identified in toxic hot spots in the State's bays and estuaries as part of the BPTCP or that have been identified as pollutants of concern;

The DWQ has followed a phased approach for the development of SQOs. The current phase (Phase II) has focused on the development of SQOs for the estuarine habitats, including the Sacramento-San Joaquin Delta. Unlike the Phase I efforts, Phase II has required data collection. Additional funding of \$500,000 for this phase of the Project is being requested due to the expansion of analytical parameters to ensure that the most relevant and complete pollutant data is collected. The additional funding will also support the cost of re-sampling in the Delta in spring and summer, which will provide accurate data in more current conditions;

4. CWC §13393 requires that the SQOs be scientifically based, provide adequate protection for the most sensitive aquatic organisms, and reasonably protect beneficial uses. Due to the complex interaction between contaminants, sediments, water, and the various processes that control bioavailability, organism sensitivity and bioaccumulation, the development of SQOs is very time consuming and costly. The State Water Board has approved \$5,065,000 for this work to date. The additional funding of \$500,000 is required to complete the process pursuant to the CWC §13393; and
5. The requested allocation is consistent with the purposes of CWC §13442. CWC §13442 provides that the State Water Board may order moneys to be paid from CAA to a public agency with authority to cleanup or abate the effects of a waste in order to "to assist in cleaning up the waste or abating its effects on waters of the state."

DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the allocation of additional funds of \$500,000 from CAA to DWQ in support of the Phase II development of SQOs for bays and estuaries;
2. Authorizes the Deputy Director or Assistant Deputy Director of the Division of Financial Assistance (Division) to negotiate, execute, and amend contracts for the development of SQOs;
3. Commitment of this money is based on the following schedule:

\$450,000 for FY 2008-09
\$50,000 for FY 2009-10
4. The funds will be available until June 30, 2010. Any unexpended funds, as of June 30, 2010, shall revert to CAA, unless the Deputy Director or Assistant Deputy Director of the Division authorizes an extension.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on September 2, 2008.

Jeanine Townsend
Clerk to the Board