



# California Regional Water Quality Control Board San Diego Region



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**Item No. 9 Doc. No. 17**

**TO:** Michael McCann, P.E., Assistant Executive Officer

**FROM:** Christopher Means, Environmental Scientist *CM*  
Bruce Posthumus, P.E., Senior Water Resource Control Engineer *BWP*

**DATE:** July 7, 2008

**SUBJECT:** Review of \$500,000 Buena Vista Lagoon Restoration – Engineering Studies and Analyses Supplemental Environmental Project

We have reviewed the proposed Supplemental Environmental Project (SEP) and it is our opinion that it meets all of the SEP nexus criteria. I believe that the California Department of Fish and Game (DFG) and the U.S. Fish and Wildlife Service (FWS) are capable of administering the SEP with almost no Regional Board oversight, other than Regional Board staff's continued participation on the Buena Vista Lagoon Restoration Technical Advisory Committee.

The proposed SEP is consistent with the criteria outlined in the California State Water Resources Control Board's (State Board's) Enforcement Policy, specifically the following:

**(a) A SEP shall only consist of measures that go above and beyond the obligation of the discharger.**

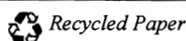
The proposed \$500,000 SEP goes above and beyond anything the Cities of Carlsbad and Vista are required to do. They are not required to fund studies. When completed this SEP will provide a framework for the most environmentally beneficial configuration for the restored lagoon.

**(b) The SEP should directly benefit or study groundwater or surface water quality or quantity, and the beneficial uses of waters of the State.**

Implementation of the proposed SEP will provide the following benefits to surface water quality and beneficial uses of the lagoon in accordance with the following criteria set forth in section b:

- (i) monitoring programs;
- (ii) studies or investigations (e.g., pollutant impact characterization, pollutant source identification, etc.);
- (iv) habitat restoration or enhancement;

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- (v) pollution prevention or reduction;
- (vi) wetland, stream, or other waterbody protection, restoration or creation;

**(c) The SEP shall not directly benefit the SWRCB or RWQCB functions or staff. For example, SEPs shall not be gifts of computers, equipment, etc. to the SWRCB or RWQCB.**

The criteria are met by this SEP.

**(d) The SEP shall not be an action, process or product that is otherwise required of the discharger by any rule or regulation of any entity (e.g., local government, California Coastal Commission, United States Environmental Protection Agency, United States Army Corps of Engineers, etc.) or proposed as mitigation to offset the impacts of a discharger's project(s).**

The criteria are met by this SEP; see section (a) discussion.

**The following additional criteria should be evaluated by the SWRCB and RWQCB during final approval of SEPs proposed by the discharger:**

**(a) The SEP should, when appropriate, include documented support by other resource agencies, public groups and affected persons.**

The State Coastal Conservancy, DFG, FWS, and the Regional Board have all documented support of past phases of this project and have provided funds to support it. Regional Board staff has participated and continue to participate on the Buena Vista Lagoon Restoration Technical Advisory Committee.

Additionally, Caltrans/SANDAG has documented support for providing funds for the actual implementation of the restoration project that will be implemented, after a CEQA Document is prepared. The funding will be part of the Mitigation for the Interstate 5 North Corridor expansion project.

**(b) The SEP should, when appropriate, document that the project complies with the California Environmental Quality Act.**

The proposed SEP provides crucial studies that will serve as the foundation of a scientifically defensible Final CEQA Document (EIR).

**(c) Regionwide use/benefit - Some projects may benefit the specific watershed yet still provide added value regionwide or even statewide. For example, development of a spill prevention course could benefit not just the local**

watershed but the whole region or state if properly packaged and utilized. Likewise, a monitoring program for a particular water body could also provide information that staff could use in assessing other discharges, spills, 401 certifications or flood control activities in a river. Projects, which provide the SWRCB or RWQCB with added value, are encouraged.

The SEP could aid other lagoon restoration projects in the region/state with practical and scientific knowledge gained from these studies.

**(d) Combined funding - Some projects use seed money to create a much greater or leveraged impact. Often other agencies will contribute staff time, laboratory services, boat use, or other services as part of a monitoring project. While the applicant may propose to spend hard money on equipment or materials, they may be donating expertise and labor to accomplish a much larger project. Matching funds, in kind services and leveraged projects are encouraged.**

Multiple Agencies have provided funding in the past for the project, the State Coastal Conservancy in 2006 awarded the project \$500,000, and the Regional Board has given \$50,000 to the initial phase of the project.

So in conclusion we fully support the funding of this SEP as part of the proposed settlement of the ACL.