

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
JANUARY 18, 2007**

ITEM 6

SUBJECT

CONSIDERATION OF A RESOLUTION AUTHORIZING THE SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD (SANTA ANA WATER BOARD) REQUEST FOR FUNDING FROM THE WATER QUALITY CONTROL FUND CLEANUP AND ABATEMENT ACCOUNT (CAA) TO IMPLEMENT A PROJECT RELATED TO THE CHINO BASIN DAIRIES WASTEWATER DISCHARGE COMPLIANCE IN THE AMOUNT OF \$258,000 PURSUANT TO A FEDERAL COURT ORDER

DISCUSSION

On March 30, 2006, the U.S. District Court entered an order to designate the Santa Ana Water Board as a recipient of \$258,000 to be paid by the defendants in a proceeding by Defend the Bay and Natural Resources Defense Council against Ben Vander Laan Dairy. Pursuant to the court's order, the funds are to be used to implement the Project as described by the Santa Ana Water Board in Assistant Executive Officer Kurt Berchtold's declaration submitted as part of the proceeding. The March 30, 2006 order specifically designated this Project as the "Supplemental Environmental Project" to be carried out with the funds paid by the defendants. As discussed below, the Project generally will address the water quality issues in the Chino Basin that relate to the enforcement of waste discharge requirements for dairies. The court order directs that the Santa Ana Water Board "must utilize the funds that it receives to implement the Project as described in the Recipient's [Santa Ana Water Board, through Kurt Berchtold] Declaration and pursuant to the terms of this Order." (March 30, 2006, Court Order.)

The Chino Basin contains the highest concentration of dairies found anywhere in the United States. The extremely large animal population generates considerable volumes of liquid and solid waste, which contain high levels of bacteria, ammonia, nitrates, phosphorus, and other salts. If not managed properly and in accordance with law, the salts, nitrates, and other pollutants in the waste degrade the quality of local surface and ground waters.

The Santa Ana Water Board has a long-established unit of professional staff devoted to the Chino Basin dairies. The unit undertakes activities including drafting appropriate waste discharge requirements and assuring compliance with those requirements.

The Santa Ana Water Board is in need of the additional funds to augment its dairy unit to increase oversight of and the likelihood of compliance by the dairies. These funds would be used to support additional field inspections of dairies to confirm compliance with their waste discharge requirements. The additional resources will augment the Santa Ana Water Board's current enforcement procedures in that it would allow for a more complete identification of noncompliance and timely elimination of actual or threatened violations. This will benefit the Santa Ana Water Board, the Chino Basin, and the environment by reducing the threat of

discharges of wastewater from dairies, thereby helping to prevent waste and abate the effects of waste.

POLICY ISSUE

Should the State Water Board approve funding of \$258,000 from the CAA to support the Santa Ana Water Board in implementing the court-ordered Project regarding the Chino Basin Dairies Wastewater Discharge Compliance?

FISCAL IMPACT

The Federal Court Order dated March 30, 2006, required Ben Vander Laan Dairy, defendant, to pay the sum of \$258,000 to the Santa Ana Water Board. The funds were deposited into the CAA specifically for the purpose of allowing the Santa Ana Water Board to use the funds to implement the Project as specified in the court order.

REGIONAL BOARD IMPACT

Yes, Santa Ana Water Board.

STAFF RECOMMENDATION

That the State Water Board approve funding of \$258,000 from the CAA to support the Santa Ana Water Board in implementing the Project related to the Chino Basin Dairies Wastewater Discharge Compliance as specified in the March 30, 2006 court order.

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2007 -**

AUTHORIZING THE SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD (SANTA ANA WATER BOARD) FUNDING FROM THE WATER QUALITY CONTROL FUND CLEANUP AND ABATEMENT ACCOUNT (CAA) TO IMPLEMENT A PROJECT RELATED TO THE CHINO BASIN DAIRIES WASTEWATER DISCHARGE COMPLIANCE IN THE AMOUNT OF \$258,000 PURSUANT TO A FEDERAL COURT ORDER

WHEREAS:

1. On March 30, 2006, the U.S. District Court entered an order designating the Santa Ana Water Board as the recipient of \$258,000 to be paid by the defendants in a proceeding by Defend the Bay and Natural Resources Defense Council against Ben Vander Laan Dairy, and directing that the Santa Ana Water Board use the funds to implement the designated Project.
2. The sum of \$258,000 has been paid by the defendants and deposited in the State Water Pollution Control Cleanup and Abatement Account.
3. The Santa Ana Water Board described the Project in Assistant Executive Officer Kurt Berchtold's declaration submitted as part of the court proceeding and the March 30, 2006 court order designated this Project as the "Supplemental Environmental Project" to be funded by \$258,000 to be paid by the defendants in the court action.
4. The Project will address the water quality issues in the Chino Basin that relate to the enforcement of waste discharge requirements for dairies.
5. The Chino Basin contains the highest concentration of dairies found anywhere in the United States. If not managed properly and in accordance with law, the wastes generated by this extremely large animal population can degrade the quality of local surface and ground waters.
6. The Santa Ana Water Board is in need of additional funds to augment its dairy unit to increase regulatory oversight of and the likelihood of compliance by dairies in the Chino Basin.
7. The additional resources will augment the Santa Ana Water Board's current enforcement procedures in that it would allow for a more complete identification of noncompliance and timely elimination of actual or threatened violations, thereby preventing and abating the effects of waste.
8. The court order directs that the Santa Ana Water Board "must utilize the funds that it receives to implement the Project as described in the Recipient's [Santa Ana Water Board, through Kurt Berchtold] Declaration and pursuant to the terms of this Order." (March 30, 2006, Court Order.)

THEREFORE BE IT RESOLVED THAT:

The State Water Board approves funding of \$258,000 from the CAA to support the Santa Ana Water Board's implementation of a Project related to the Chino Basin Dairies Wastewater Discharge Compliance as directed by court order.

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 Resources Control Board held on January 18, 2007.

Song Her
Clerk to the Board