

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
JANUARY 20, 2009**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING PROJECTS, AND AUTHORIZING ISSUANCE OF GRANTS FOR THE PROPOSITION 84 AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE (ASBS) GRANT PROGRAM

DISCUSSION

In November 2006, voters approved *The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006* (Proposition 84) (Pub. Resources Code, § 75001 et seq.) authorizing the issuance of bonds to fund a variety of water quality improvement projects. Proposition 84 includes \$32,025,000 for projects to assist local public agencies to comply with the discharge prohibition into ASBS contained in the California Ocean Plan. The 2007/2008 Budget Act appropriated \$19,890,000 of Proposition 84 funds for ASBS projects. The remaining appropriations are anticipated in future fiscal years.

Proposition 84 requires that these funds be utilized in accordance with the Proposition 40 Clean Beaches Program. (Pub. Resources Code, § 30915 et seq.) The Proposition 40 Clean Beaches Program requires the State Water Board to consult with the State Coastal Conservancy in awarding projects. It also requires the Clean Beaches Task Force (CBTF) to review and recommend projects for funding. The State Water Board, in [Resolution No. 2007-0062](#), appointed additional members with expertise in ASBS (hereafter referred to as the ASBS Task Force) to the CBTF from local agencies, environmental advocacy groups, academia, government, and scientific research organizations.

Projects for the ASBS Grant Program were solicited using the procedures and criteria established by the State Water Resources Control Board (State Water Board) in the ASBS Grant Program Guidelines (Guidelines) adopted on April 1, 2008, in [Resolution No. 2008-0019](#). On April 2, 2008, a solicitation notice for the ASBS Grant Program was released to initiate the solicitation process for ASBS projects.

The Guidelines include a provision restricting eligibility to those with completed applications for exceptions to the waste discharge prohibition, or who had requested conditional approval of an incomplete application by December 31, 2007. The provision was included as an incentive to encourage responsible parties for ASBS discharges to comply with the exception application requirements. In November 2007, all parties known to State Water Board staff to be responsible for ASBS discharges, with incomplete applications, were notified of their status and the proposal to link grant eligibility with completion of the exception application. All of the known responsible parties¹ at that time responded by the deadline and were deemed eligible to apply for grant funds.

¹ Following adoption of the Guidelines, Division of Water Quality (DWQ) staff determined that Monterey County was responsible for a small number of discharges. In May 2008, Monterey County was notified to submit an exception application. While Monterey County has not submitted an application, it is cooperating with DWQ staff and participating in a study in support of the ASBS California Environmental Quality Act documentation.

Proposals from all California coastal areas with ASBS were considered for this funding program. The Guidelines require that the funds be allocated such that at least 40 percent of funds are available for eligible projects in Southern California (Counties of San Diego, Orange, Los Angeles, and Ventura), and at least 40 percent for eligible projects in the remaining Northern and Central Coast Counties with ASBS. The Guidelines allow the remaining 20 percent of funds to be awarded to the most competitive remaining projects without regard to location.

The Guidelines' provision to restrict eligibility to those that had applied for an exception inadvertently excluded one of the applicants, in addition to Monterey County, with recommended projects from eligibility. Therefore, the resolution amends the Guidelines to clarify that the parties responsible for discharges into ASBS, not applicants, must have submitted the exception application, or requested conditional approval by December 31, 2007. [Exhibit 1](#) shows the amendments to the Guidelines.

The ASBS Grant Program solicitation consisted of a two-step process. In the first step, applicants submitted brief Concept Proposals (CPs) using the State Water Board's on-line Financial Assistance Application Submittal Tool. The ASBS Task Force reviewed the CPs and applicants with the highest-ranking CPs were invited to submit a Full Proposal by September 10, 2008.

Staff from the State Water Board and Regional Water Quality Control Boards (Regional Water Boards), and ASBS Task Force members, reviewed and ranked proposals in accordance with criteria established in the Guidelines. The technical reviewers convened and developed the Recommended Funding List, which is presented as [Exhibit 2](#). The reviewers also provided technical comments to improve the proposals.

The Guidelines also allow that three percent of available funding (\$1,050,000) be set-aside for coordinated effectiveness monitoring of the projects if recommended by the ASBS Task Force. The ASBS Task Force recommended that one or more projects to implement coordinated effectiveness monitoring should be authorized. A subgroup of the ASBS Natural Water Quality Committee, established under State Water Board [Resolution No. 2004-0052](#), and the ASBS Task Force will convene to help direct the effectiveness monitoring efforts to ensure they are consistent with existing Regional Monitoring efforts and methods for ASBS.

The projects in Exhibit 2 are listed in order of their funding preference and projects above the funding line are recommended for funding at this time. The projects recommended for funding represent the most competitive proposals that address the criteria adopted in the Guidelines. These include projects which restore and protect the water quality and the environment of coastal waters, estuaries, bays, and near shore waters which discharge into ASBS, and provide adequate information for Grant Agreement preparation. Some projects did not address the highest threat discharges to the specific ASBS, but did address other program priorities² identified as eligible projects in the Guidelines. In some cases, prior to grant execution, it may be appropriate to modify projects to address higher threat discharges, or ensure applicants or responsible agencies, provide a plan and schedule to address high threat discharges. The Division of Financial Assistance (Division) will consult with the ASBS Task Force prior to approving changes to projects.

² Program priorities outlined in the Guidelines include: (1) addressing high threat discharges into ASBS, (2) providing water quality improvement, (3) protecting the beneficial uses of ASBS, (4) addressing 303(d) listed constituents of concern in ASBS, and (5) helping meet the Water Quality Objectives defined in the California Ocean Plan.

Non-responsiveness to executing Grant Agreements has been an issue with a handful of past grant recipients. In several cases, non-responsiveness has resulted in grant funds being left unused for a substantial and unwarranted amount of time and has caused the termination of Grant Agreements. For this reason, the Guidelines state that lack of responsiveness prior to finalizing and executing a Grant Agreement may result in withdrawal of the grant award.

If grant awards are withdrawn, at the discretion of the Deputy Director of the Division, the funds will be either: (1) made available to the other eligible project presented on the Recommended Funding List, which is below the funding line, (2) made available to existing projects above the funding line to augment their grant award up to the \$2.5 million grant cap to address additional high threat discharges or other program priorities, or (3) used to augment coordinated effectiveness monitoring efforts.

POLICY ISSUE

Should the State Water Board:

1. Amend the Guidelines as shown in Exhibit 1?
2. Approve the funding for projects on the Recommended Funding List (Exhibit 2) above the funding line for the ASBS Grant Program?
3. Authorize the Deputy Director of the Division to issue grants and amendments to implement the projects, including one or more grants to implement coordinated effectiveness monitoring for the suite of projects recommended for funding?
4. Authorize the Deputy Director of the Division to withdraw Grant Agreements if applicants are non-responsive?
5. Authorize the Deputy Director of the Division to issue a grant to the project below the funding line, should additional funds become available from withdrawn or terminated projects?
6. Authorize the Deputy Director of the Division to augment the budget of existing projects, ranked in order, to allow projects to address additional high threat discharges or other program priorities, should additional funds become available from withdrawn or terminated projects?
7. Authorize the Deputy Director of the Division to use unspent funds from this program to augment effectiveness monitoring efforts for the suite of projects recommended for funding, in the event that funds become available from withdrawn or terminated projects?

FISCAL IMPACT

Local assistance funds authorized from Proposition 84 are sufficient to fund the recommended projects. Staff resources to manage the projects are available from the five percent administration authorized by the bond.

REGIONAL BOARD IMPACT

Yes, coastal Regions. The Division will manage the projects; coastal regions have Proposition 84 resources to assist the Division with technical aspects of the projects.

STAFF RECOMMENDATION

The State Water Board should:

1. Amend the Guidelines as shown in Exhibit 1;
2. Approve the funding for projects on the Recommended Funding List (Exhibit 2) above the funding line for the ASBS Grant Program;
3. Authorize the Deputy Director of the Division to issue grants and amendments to implement the projects, including one or more grants to implement coordinated effectiveness monitoring for the suite of projects recommended for funding;
4. Authorize the Deputy Director of the Division to withdraw Grant Agreements if applicants are non-responsive;
5. Authorize the Deputy Director of the Division to issue a grant to the project below the funding line, should additional funds become available from withdrawn or terminated projects;
6. Authorize the Deputy Director of the Division to augment the budget of existing projects, ranked in order, to allow projects to address additional high threat discharges or other program priorities, should additional funds become available from withdrawn or terminated projects; and
7. Authorize the Deputy Director of the Division to use unspent funds from this program to augment effectiveness monitoring efforts for the suite of projects recommended for funding, in the event that funds become available from withdrawn or terminated projects.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006 listed water bodies by 2030. Approval of this item will: (1) address Total Maximum Daily Loads (TMDL's) and (2) manage urban runoff to reduce pollutant loadings, to reduce beach postings and closures and improve water quality of the affected ASBS.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009-

APPROVING PROJECTS, AND AUTHORIZING ISSUANCE OF GRANTS FOR THE PROPOSITION 84 AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE (ASBS) GRANT PROGRAM

WHEREAS:

1. The State Water Resources Control Board (State Water Board) is authorized to administer approximately \$32,025,000 in Proposition 84 grant funds to assist local public agencies to comply with the discharge prohibition into ASBS contained in the California Ocean Plan;
2. The Proposition 84 ASBS Grant Program used the procedures and criteria established by the State Water Board in the ASBS Grant Program Guidelines (Guidelines) to solicit applications, evaluate proposals, and award grants;
3. The Guidelines inadvertently excluded certain applicants from grant eligibility;
4. The Guidelines allow, and the ASBS Task Force recommended that three percent of available funding (\$1,050,000) be set-aside for coordinated effectiveness monitoring of the projects recommended for funding; and
5. The Guidelines allow withdrawal of the grant awards to non-responsive applicants, and issuance of grant awards to other competitive proposals that are below the funding line.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Amends the Guidelines as shown in [Exhibit 1](#);
2. Approves the funding for projects on the Recommended Funding List ([Exhibit 2](#)) above the funding line for the ASBS Grant Program;
3. Authorize the Deputy Director of the Division of Financial Assistance (Division) to issue grants and amendments to implement the projects, including one or more grants to implement coordinated effectiveness monitoring for the suite of projects recommended for funding;
4. Authorizes the Deputy Director of the Division to withdraw grant awards if applicants are non-responsive;
5. Authorizes the Deputy Director of the Division to issue a grant to the project below the funding line, should additional funds become available from withdrawn or terminated projects;

D R A F T

6. Authorizes the Deputy Director of the Division to augment the budget of existing projects, ranked in order, to allow projects to address additional high threat discharges or other program priorities, should additional funds become available from withdrawn or terminated projects; and
7. Authorizes the Deputy Director of the Division to use unspent funds from this program to augment effectiveness monitoring efforts for the suite of projects recommended for funding, in the event that funds become available from withdrawn or terminated projects.

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 January 20, 2009.

Jeanine Townsend
Clerk to the Board