



California Regional Water Quality Control Board

Lahontan Region



Terry Tamminen
Secretary for
Environmental
Protection

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Arnold Schwarzenegger
Governor

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To: Interested Parties

SOLICITATION OF PROPOSALS FOR SUPPLEMENTAL ENVIRONMENTAL PROJECTS

The California Regional Water Quality Control Board, Lahontan Region, (Regional Board) is soliciting projects that may be funded from a \$1 million settlement with Molycorp, Inc. Under the settlement, Molycorp will conduct the solicitation and submit all applications to the Regional Board. I encourage all persons and entities, both public and private, to submit proposals for a Supplemental Environmental Project (SEP) as set out in the Request for Proposal by Molycorp (see Attachment, *Request for Proposals*). SEPs are generally projects that are designed to provide some benefit or study of groundwater or surface water quality or quantity, and the beneficial uses of waters of the State.

General SEP criteria, and suggested format for the proposals are described in the enclosed forms. The list of candidate SEPs will be made available on the Regional Board Internet Webpage address: <http://www.swrcb.ca.gov/rwqcb6/>. **All proposals must be received no later than 5:00 pm on Friday October 29, 2004.** If you would like to receive a paper copy of the list please contact Cheryl A. Tubbs, consultant for Molycorp, at (909) 890-1818 or Mike Plaziak, Regional Board staff, at (760) 241-7404.

Molycorp may make recommendations to the Regional Board regarding acceptance of specific SEP proposals. The Regional Board will make the final selection of the SEP or SEPs to fund during a public meeting scheduled for early 2005. The Regional Board may select one or more of the SEP proposals for funding from the \$1 million SEP fund established by Molycorp.

For questions regarding the SEP solicitation of proposals, please contact Mike Plaziak in our Victorville branch office at (760) 241-7404.

Sincerely,

/S/
HAROLD J. SINGER
EXECUTIVE OFFICER

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From Section IX.C of the State Water Resources Control Board Water Quality Enforcement Policy:

“C. General SEP Qualification Criteria

All SEPs approved by RWQCB must satisfy the following general criteria:

- (a) A SEP shall only consist of measures that go above and beyond the obligation of the discharger. For example, sewage pump stations should have appropriate reliability features to minimize the occurrence of sewage spills in that particular collection system. The installation of these reliability features following a pump station spill would not qualify as an SEP.
- (b) The SEP should directly benefit or study groundwater or surface water quality or quantity, and the beneficial uses of waters of the State. Examples include but are not limited to:
 - (i) monitoring programs;
 - (ii) studies or investigations (e.g., pollutant impact characterization, pollutant source identification, etc.);
 - (iii) water or soil treatment;
 - (iv) habitat restoration or enhancement;
 - (v) pollution prevention or reduction;
 - (vi) wetland, stream, or other waterbody protection, restoration or creation;
 - (vii) conservation easements;
 - (viii) stream augmentation;
 - (ix) reclamation;
 - (x) public awareness projects (e.g., industry specific, public-awareness activity, or community environmental education projects such as watershed curriculum, brochures, television public service announcements, etc.);
 - (xi) watershed assessment (e.g., citizen monitoring, coordination and facilitation);
 - (xii) watershed management facilitation services; and
 - (xiii) non-point source program implementation.
- (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.
- (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).”

D. Additional SEP Qualification Criteria

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.
- (b) The SEP should, when appropriate, document that the project complies with the California Environmental Quality Act.
- (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.
- (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.
- (e) Institutional stability and capacity - The RWQCB shall consider the ability of the discharger or third party contractor to accomplish the work and provide the products and reports expected. This criterion is especially important when a Board receives money as the result of a settlement and must then select and fund projects proposed from many sources.
- (f) Projects that involve environmental protection, restoration, enhancement or creation of waterbodies should include requirements for monitoring to track the long-term success of the project.

E. Nexus Criteria

An SEP must have a nexus (connection or link) between the violation(s) and the SEP. Nexus is the relationship between the violation and the proposed project. This relationship exists only if the project remediates or reduces the probable overall environmental or public health impacts or risks to which the violation at issue contributes, or if the project is designed to reduce the likelihood that similar violations will occur in the future. An SEP must meet one or more of the following criteria. SEP approval is more likely for projects meeting more criteria.

Geographic Nexus - The proposed project should have a geographic link or nexus with the area where the water quality problem or violation occurred. For example, a spill to a river might require a plan to improve habitat or fish populations in the river in the general area of the spill. Work in a tributary watershed might be appropriate depending on the circumstances, however, work in a far different part of the region or state would likely not meet the geographic nexus criteria.

Spill Type or Violation - The proposed project should be related to the specific spill type or violation. For example, an SEP for a sewage spill ACL could include holding spill prevention workshops for other dischargers in the general area (both a geographic and violation type nexus). The workshops should go beyond what is necessary just to address mandatory work, equipment, and improvements required to correct the nature of the violation.

Beneficial use protection - Where specific beneficial uses were affected by the violation, it is appropriate to design SEPs that address protection and improvement of those uses. Where fish populations and habitats are affected, efforts to improve habitats and populations would be ideal, especially in the same watershed. Water quality monitoring, including flows, channel morphology, and habitat characteristics would be appropriate projects. In this case, the nexus is between the type of violation and the specific beneficial uses impacted. It is also important to keep endangered species issues in focus and to consult with the Department of Fish and Game, the National Marine Fisheries Service, and US Fish and Wildlife Service about impacts of violations on these species and possible SEPs.”



PROJECT PROPOSAL

Project Title _____

Name of responsible entity or individual: _____

Estimated cost (total cost) and timing for project:

Planning: cost \$ _____ start: _____ complete: _____

Design: cost \$ _____ start: _____ complete: _____

Construction: cost \$ _____ start: _____ complete: _____

Other funding available for project? yes ___no___ If yes, amount: _____

Status of CEQA compliance: _____

Contact information:

Name _____

Address _____

Phone _____ e-mail _____

Brief description of the project _____

(a) Include a statement that the proposed project is not mitigation to offset the impacts of a project(s).

(b) Explain how the SEP will directly or indirectly benefit or study groundwater or surface water quality or quantity.

(c) Explain how this proposal meets some or all of the criteria described in Attachment A

Water Body, beneficial use and/or pollutant addressed by this project

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