

APPROVED

APR 07 2010

REPORT OF GENERAL MANAGER

NO. 10-074

DATE April 7, 2010

BOARD OF RECREATION and PARK COMMISSIONERS

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: MACHADO LAKE - MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENT OF RECREATION AND PARKS, THE DEPARTMENT OF PUBLIC WORKS, BUREAU OF SANITATION, AND THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD REGARDING IMPLEMENTATION OF LOAD ALLOCATIONS FOR THE TOTAL MAXIMUM DAILY LOAD FOR EUTROPHIC, ALGAE, AMMONIA, AND ODORS (NUTRIENT)

R. Adams \_\_\_\_\_ J. Kolb \_\_\_\_\_
H. Fujita \_\_\_\_\_ F. Mok \_\_\_\_\_
S. Huntley \_\_\_\_\_ K. Regan \_\_\_\_\_
V. Israel \_\_\_\_\_ \*M. Shull \_\_\_\_\_

[Signature]
General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS:

That the Board:

- 1. Approve the proposed Memorandum of Agreement (MOA) between the Department of Recreation and Parks, the Department of Public Works, Bureau of Sanitation (BOS), and the Los Angeles Regional Water Quality Control Board, substantially in the form on file in the Board Office, to achieve compliance with the Machado Lake Eutrophic, Algae, Ammonia, and Odors Total Maximum Daily Load (Nutrient TMDL) through the attainment of the interim and final load allocations and numeric targets, subject to the approval of the City Attorney as to form;
2. Direct the Board Secretary to transmit the MOA to the City Attorney for review and approval as to form; and,
3. Authorize the Board President and Secretary to execute the MOA upon receipt of the necessary approval.

## REPORT OF GENERAL MANAGER

PG. 2

NO. 10-074

### SUMMARY:

Machado Lake was placed on the Clean Water Act 303(d) list of impaired waterbodies in 1998, 2002, and 2006, for the following nutrient-related impairments: algae, ammonia, eutrophic (nutrient loading and enrichment caused primarily by phosphorous and nitrogen) and odor. Nutrient loading at the lake occurs from both point (external) and non-point (internal) sources. Point sources consist primarily of stormwater runoff and urban flows that are collected by a network of stormwater conveyance systems within the Dominguez Watershed (covers approximately 22 square miles) and discharged to Machado Lake. The Wilmington Drain accounts for more than 80% of the stormwater discharges to the lake. Non-point sources consist primarily of overland flows from the surrounding parkland, waterfowl and fish excrements, suspension of the lake bottom sediment by wind and rainstorms, and nutrient fluxes from the bottom sediment triggered by chemical reactions under anaerobic conditions (in the absence of oxygen) during the summer months.

The Los Angeles Regional Water Quality Control Board (RWQCB) addressed these lake water quality impairments by drafting the Machado Lake Nutrient Total Maximum Daily Load (Nutrient TMDL). On May 1, 2008, the RWQCB adopted an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to incorporate the Machado Lake Nutrient TMDL. This document is entitled "Attachment A to Resolution No. R08-006" and will be referred to as "Attachment A" in this Board Report. This amendment was subsequently approved by the State Water Resources Control Board on December 2, 2008, the Office of Administrative Law on February 19, 2009, and the United States Environmental Protection Agency on March 11, 2009 (this is the date the Nutrient TMDL became effective).

The Machado Lake Nutrient TMDL contains numeric targets for total phosphorous, total nitrogen, ammonia, dissolved oxygen, and chlorophyll-a (relates to algal biomass). In addition, it contains interim and final waste load allocation requirements assigned to point source discharges to the lake for total nitrogen and total phosphorus, and interim and final load allocation requirements assigned to non-point source discharges to the lake for total nitrogen and total phosphorus. The numeric targets and load allocations are shown in Table 7-29.1 of Attachment A. They were established based on extensive review of the scientific literature, historical water quality data, and water quality sampling and modeling efforts by the RWQCB. Compliance with the numeric targets, waste load allocations and load allocations must be accomplished to attain and protect the beneficial uses of Machado Lake.

The Nutrient TMDL identifies the City of Los Angeles (represented by the Bureau of Sanitation) as one of the responsible jurisdictions for implementing the waste load allocations, and specifically the Department of Recreation and Parks (RAP) as the responsible jurisdiction for implementing the load allocations. The associated tasks for attaining the waste load and load allocations, the responsible jurisdictions for each task, and the compliance deadlines are

## REPORT OF GENERAL MANAGER

PG. 3                      NO. 10-074

illustrated in Table 7-29.2 of Attachment A. RAP's compliance responsibilities are to be accomplished in phased deadlines, with the interim load allocation set for March 11, 2009 (1<sup>st</sup> interim) and March 11, 2014 (2<sup>nd</sup> interim), and the final load allocation set for September 11, 2018 (the numeric targets must also be met by this date).

The Nutrient TMDL provides two options to implement the load allocations: 1) RAP and the RWQCB enter into a Memorandum of Agreement (MOA); or 2) the RWQCB issues a Cleanup and Abatement Order pursuant to Water Code Section 13304 or other appropriate regulatory mechanisms. The MOA is the preferred option, for it emphasizes a cooperative partnership between the City and the RWQCB in evaluating and modifying, as needed, the provisions and elements of the MOA to achieve the interim and final load allocations in a phased compliance approach. If the MOA is not executed, the RWQCB will issue a Cleanup and Abatement Order that will require immediate attainment of the TMDL compliance requirements. Under the MOA, the key compliance requirement for RAP would be the preparation of a Lake Water Quality Management Plan (LWQMP) for approval by the RWQCB. With regards to this requirement, the Nutrient TMDL allows for responsible jurisdictions assigned interim and final waste load allocations to achieve compliance through the coordinated development and implementation of a LWQMP with RAP. The Bureau of Sanitation (BOS) has decided to take this joint approach and, therefore, must execute the MOA as well.

A MOA has been worked out between the City and the RWQCB and, in accordance with the Nutrient TMDL, must be executed by March 11, 2010. This will be accomplished through the independent actions of the RWQCB, RAP and BOS. The Board of Public Works and the RWQCB executed the MOA on March 10 and 11, 2010, respectively. Although RAP's action will come after the deadline, the RWQCB has no intention of taking any regulatory action with the understanding that RAP will execute the MOA at the meeting of its Board of Recreation and Park Commissioners scheduled for April 7, 2010.

The LWQMP must be submitted to the RWQCB by September 11, 2010. It will identify various in-lake rehabilitation strategies, such as hydraulic dredging and the installation of aeration systems; stormwater best management practices (BMPs); and other physical and biological improvements that will be undertaken as part of an integrated approach to reduce and manage internal nutrient loading to the lake, and the schedule for implementation. These and other strategies that are targeted to achieve compliance with the Nutrient TMDL will be implemented through the following two Proposition O projects: the Machado Lake Ecosystem Rehabilitation Project and the Wilmington Drain Multiuse Project. As part of the LWQMP, a Monitoring and Reporting Program (MRP) and a Quality Assurance Project Plan must also be prepared. The MRP is required to be implemented sixty days after it is approved by the RWQCB and it would measure the progress of pollutant load reductions and improvements in lake water quality and inform the RWQCB of the City's attainment status with the load allocations through annual monitoring reports.

## REPORT OF GENERAL MANAGER

PG. 4

NO. 10-074

The MOA will be regularly evaluated in a cooperative fashion between the City and the RWQCB based on the results of the annual monitoring reports and modified only by formal agreement of the parties. The Nutrient TMDL requires that the RWQCB formally reconsider the numeric targets, the load and waste load allocations, and other requirements of the TMDL on September 11, 2016, based on monitoring results, the findings of special studies or other relevant information. The MOA allows the parties to terminate the MOA for cause, as well as without cause, and Section VII describes the process that must be followed. The Basin Plan requires that the implementation of the MOA must result in the attainment of the interim and final load allocations, and if it does not, requires that the RWQCB terminate the MOA and issue a Cleanup and Abatement Order.

Staff has determined that execution of the MOA and preparation of a Lake Water Quality Management Plan (LWQMP) does not constitute a “project” under the California Environmental Quality Act (CEQA) because it involves administrative actions required to coordinate compliance with State-mandated water quality regulatory requirements. These actions will have no physical impacts on the environment; therefore, no CEQA documentation is required. CEQA compliance for the eventual implementation of the LWQMP will be accomplished through the preparation of an environmental impact report (EIR) for the Machado Lake Ecosystem Rehabilitation Project and the Wilmington Drain Multiuse Project (Proposition O projects).

### FISCAL IMPACT STATEMENT:

There will be no impact to the Department’s General Fund associated with approval of the MOA. Proposition O funds will cover the costs of preparing and implementing the LWQMP, and the costs associated with the Monitoring and Reporting Program will be borne by the Bureau of Sanitation.

This report was prepared by David Attaway, Environmental Supervisor, of the Planning and Construction Division’s Environmental Management Section.