

CASITAS MUNICIPAL WATER DISTRICT

RESOLUTION NO. 08-08

RESOLUTION OF THE BOARD OF DIRECTORS OF CASITAS MUNICIPAL WATER DISTRICT LIMITING ACCESS TO LAKE CASITAS IN ORDER TO CONTROL INVASIVE SPECIES

Whereas, the Casitas Municipal Water District (CMWD) is a municipal water district organized under the laws of the State of California; and

Whereas, the primary function and responsibility of the Casitas Municipal Water District (CMWD) is to provide water to residential, commercial, industrial and agricultural users; and

Whereas, the ability of CMWD to fulfill this primary function and responsibility is threatened because of the real potential of the introduction of certain invasive animal species that are not native to the United States, California or Lake Casitas; and

Whereas, CMWD's responsibility requires that it take action to avoid the introduction of two invasive species of Mussels (Quagga and Zebra); and

Whereas, Quagga Mussels are currently found in California in the Colorado River aqueduct and river system, several municipal reservoirs that are supplied with Colorado River water, and in other lakes and reservoirs in California; and

Whereas, Zebra Mussels are currently found in California in San Justo Reservoir; and

Whereas, present scientific and technical data have demonstrated that the most common means of transportation of these Mussel species from one water body, lake or reservoir to another is by the species being attached to, or included with, boat trailers, hulls, anchors, vegetation caught on vehicles and outboard motors, and by the species being carried in water found in wet wells, built-in or removable bait tanks, associated plumbing, engine cooling systems, pumps and bilges; and

Whereas, the Quagga and Zebra Mussels may attach themselves to almost all surfaces causing extreme maintenance problems for the dam, including intake structures, pipes, pumps, and other conveyances, etc., and can result in drastic impacts to lake water quality and the aquatic environment; and

Whereas, actions by the East Bay Municipal Utilities District, the Lake Cachuma Operations and Maintenance Board, and the California State Assembly in considering AB1683 have identified the urgency of actions to be taken in order to avoid Quagga and Zebra Mussel infestations; and

Whereas, scientific and technical evidence has shown that once a water body is infested with Quagga or Zebra Mussels, there are few possibilities for eradicating said species, and attempts to eradicate these species are both problematic and expensive; and

Whereas, the California Environmental Quality Act (CEQA) defines a project as "an activity which may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment" (*California Public Resources Code Section 21065*); and

Whereas, even if it is determined that the proposed action constitutes a "project," then the "project" would be statutorily exempt as an emergency action defined in *California Public Resources Code Section 21060.3* and *CEQA Regulations Section 15263(c)*, which defines emergency projects as "specific actions necessary to prevent or mitigate an emergency"; and

Whereas, even if the proposed action is determined to be a "project," the proposed action would be categorically exempt from CEQA under *CEQA Guidelines Section 15307* as a Class 7 Categorical Exemption which "consists of actions taken by regulatory agencies as authorized by State law or local ordinance to assure the maintenance, restoration or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment," and Class 8 Categorical Exemption, *CEQA Guidelines Section 15308*, which reads "consistent actions taken by regulatory agencies, as authorized by State or local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment"; and

Whereas, the Board, based upon its research, consultation and communication with other Federal, State and local agencies, is aware of the unprecedented, critical and imminent emergency facing the District due to the proximity of infested and affected waters in Central and Southern California by the uncontrolled invasion of Quagga and Zebra Mussels, and those infected and unquarantined water bodies are within a few hours driving distance to Lake Casitas; and

Whereas, the Board of Directors must take actions to protect Lake Casitas from being infested by Quagga and Zebra Mussels in order to protect the water supplies to its residential, commercial, industrial and agricultural users as an infestation of Quagga and Zebra Mussels would be detrimental to water quality and aquatic environment, and increase water treatment and maintenance costs on CMWD customers; and

Whereas, the Board of Directors and the staff have co-operated, consulted with and sought guidance from the Department of Fish and Game to implement measures to avoid infestation of these invasive species, and in consultation with the Department of Fish and Game have already implemented certain preventive measures; and

Whereas, the Board of Directors has held public meetings, received testimony and documents at said public meetings regarding this issue, and the Board of Directors and staff have consulted with local, state and federal agencies and representatives regarding the Quagga/Zebra mussel.

Now, Therefore, Be It Resolved that the Casitas Municipal Water District Board of Directors finds, determines and resolves as follows:

1. That there is an immediate threat of invasion of known Mussel species and, in order to protect the water quality of Lake Casitas, the water distribution system, the fishery, and CMWD's customers from escalating equipment maintenance and replacement costs, the following is ordered based upon the provisions included in an existing *Ordinance of Casitas Municipal Water District Establishing Rules and Regulations for the Public Use of the Lake Casitas Recreation Area* which is excerpted for reference herein as follows:

"5.2.2.1 The Board may establish and have the Department enforce criteria, and/or rules and regulations, that will cause the Department to exclude and/or deny access to the Park by vessels, boats and watercraft that have been launched into waters known to be contaminated with invasive aquatic species (including but not limited to quagga and zebra mussels, hydrilla) or if the Department determines by its inspection that an invasive aquatic species is present or may be present on and/or in the vessel and/or the vessel's trailer. **The Department reserves the right to deny public access to the Park based on any potential of Lake contamination by the vessel** (Emphasis added in bold)."

2. The Board finds and determines that there exists an unprecedented, critical and imminent emergency facing the District due to the proximity of infested and affected water bodies in Central and Southern California by the uncontrolled invasion of Quagga and Zebra Mussels. The Board further finds and determines that those infected and unquarantined water bodies are within a few hours driving distance to Lake Casitas.
3. That the Board of Directors finds and declares that recreational activities at Lake Casitas, including boating, do not take precedence over the protection of the water resource; and
4. That the Board of Directors hereby directs the General Manager and the Department responsible for the Lake Casitas Recreation Area to deny access to said Recreation Area for any vessel, boat or watercraft, including kayaks, canoes, float tubes (collectively referred to as vessels), for a temporary period of one year, beginning March 4, 2008 and ending March 3, 2009, or until such time as the Board determines that protective measures are in place to prevent the possible introduction of the Quagga and Zebra mussels into Lake Casitas.
5. Vessels that are stored or moored in the Lake Casitas Recreation Area on March 4, 2008, can continue to be stored, moored, and launched at Lake Casitas as long as the vessel remains within the Lake Casitas Recreation Area. Any vessel that is currently in the designated Lake Casitas Recreation Area storage area or moored at docks in the Santa Ana arm of Lake Casitas, or placed in storage made available in the future at the Lake Casitas Recreation Area, and then is removed for any purpose, may only re-enter the Lake Casitas Recreation Area by maintaining current status for storage or mooring, including remaining current on all storage or mooring fees, passing the clean and dry inspection at the Lake Casitas Recreation Area, and submitting to a 10-day quarantine storage at the Lake Casitas Recreation Area before being allowed to launch into Lake Casitas.

6. That the Board of Directors finds that the proposed resolution does not constitute a project as defined in *California Public Resources Code Section 21065*, and should it be determined that the resolution does constitute a project, the "project" is statutorily exempt as an emergency action as defined in *California Public Resources Code Section 21060.3* and *CEQA Regulations Section 15263(c)*, and would furthermore be categorically exempt from CEQA under *CEQA Guidelines Section 15307* as a Class 7 Categorical Exemption and/or Class 8 Categorical Exemption.
7. That the General Manager and the staff of CMWD and the Department continue to gather information concerning these invasive species, and explore additional methods and methodologies to prevent the introduction of these invasive species into Lake Casitas and the CMWD water delivery system.
8. That the Board of Directors direct the General Manager and staff of CMWD to continue to coordinate the CMWD's efforts with such other Federal, State and local regulatory agencies, and other private individuals and organizations in order to prevent the introduction of these invasive species into Lake Casitas and the CMWD's water delivery system. The Board further directs the General Manager and staff to continue to consult and co-ordinate with the Department of Fish and Game to explore the implementation of additional measures to avoid the infestation of these invasive species.
9. Each and all of the findings and determinations contained herein are based on the substantial evidence, both oral and written, contained in the entire files and records of CMWD relating to this matter, which includes, but is not limited to: (a) all technical reports and other documentation; (b) the taped transcripts of the presentations to the CMWD Board regarding the matter, and all documents submitted therewith; (c) all reports, all completed correspondence, and all data and documents located in the CMWD's official files; and (d) all documents referenced in or relied upon in any of the above-listed records. These findings and determinations constitute the independent findings and determinations of the CMWD Board in all respects and are fully completely supported by the substantial evidence in the record as a whole. The Administrative Record shall be maintained in the CMWD's official files in the CMWD's offices.
10. That any finding made by the CMWD Board of Directors shall be deemed made, regardless of where it appears in this document. All of the language included in this document constitutes findings by the CMWD Board of Directors, whether or not any particular sentence or clause includes a statement to that effect. The CMWD Board of Directors intends that these findings be considered as an integrated whole and, whether or not any part of these findings fails to cross-reference or incorporate by reference any other part of these findings, that any finding required or committed to be made by the CMWD Board of Directors with respect to any particular subject matter of the proposed action shall be deemed to be made if it appears in any portion of these findings.
11. This resolution is the CMWD Board's final decision, will become effective immediately upon adoption, and will remain effective until superseded by a subsequent resolution or March 3, 2009.

PASSED AND ADOPTED this 4th day of March, 2008.

President, Casitas Municipal
Water District

ATTEST:

Secretary, Casitas Municipal Water District