

RESOLUTION NO. 6-2002

A RESOLUTION PROVIDING FOR DEFENSE OF A CRIMINAL ACTION OR PROCEEDING BROUGHT AGAINST AN EMPLOYEE OR DIRECTOR CHARGED WITH A VIOLATION OF CERTAIN ENVIRONMENTAL LAWS

RESOLVED, by the Board of Directors of the Sewer Authority Mid-Coastside, San Mateo County, California, as follows:

WHEREAS, the Federal Water Pollution Control Act, popularly known as "Clean Water Act" (the "Act," being 33 U.S.C.A., 1251 et seq.) has criminal provisions that make it a felony to knowingly violate a term or condition of an NPDES permit. Each offense is punishable by up to three years in jail, a fine of between \$5,000 and \$50,000 per day of violation, or both (Sec. 1319(c)(2));

WHEREAS, the Act also has provisions that provide for criminal penalties for any person who "negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage, or other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under Sec. 1342 of the Act by the Administrator or a State"; Sec. 1319(c)(2)(B) provides greater penalties for knowing violations;

WHEREAS, any employee or elected official of an agency operating a publicly owned treatment works could, while in the normal performance of his or her duties, accidentally or unknowingly violate provisions of the Act and/or other State or federal regulations (herein, the "Environmental Laws");

WHEREAS, such a violation, or an allegation thereof, could result in a criminal action or proceeding being brought against the employee or elected official pursuant to the Environmental Laws;

WHEREAS, the economic consequences of such legal action could be devastating to the employee or elected official, and the costs of defense could quickly exceed his or her personal resources; and

WHEREAS, this Authority is authorized, pursuant to California Government Code Sec. 995.8, to provide for the defense of a criminal action or proceeding brought against one of its employees, or its elected officials ("Directors"), and it is in the best interests of this Authority to support and protect its employees and Directors performing their jobs while acting in good faith in the apparent interests of the Authority.

NOW, THEREFORE, IT IS FOUND, DETERMINED, and ORDERED, as follows:

1. This Authority will provide for the defense of a criminal action or proceeding brought against an employee or Director charged with a violation of Environmental Laws provided that the following conditions are met:

(A) The criminal action or proceeding is brought on account of an act or omission in the scope of his or her employment as an employee or Director of this Authority.

(B) The Authority determines that such defense would be in the best interests of the Authority and that the employee or Director acted, or failed to act, in good faith, without actual malice, and in the apparent interests of the Authority.

2. This resolution shall become effective upon its adoption.

* * * * *

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution duly passed and adopted by the Board of Directors of the Sewer Authority Mid-Coastside at a regular Board meeting thereof held on the 28th day of MAY, 2002, by the following vote:

AYES, and in favor thereof,	Directors	Coleman, Ferreira, McGraw, Woren, Boyd and Ptacek.
NOES:	Directors	None.
ABSENT:	Directors	None.
ABSTAINING:	Directors	None.



Chairperson
Sewer Authority Mid-Coastside

COUNTERSIGNED:

By: 
Secretary
Sewer Authority Mid-Coastside