

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY**

DEPT: CHIEF EXECUTIVE OFFICE
Urgent Routine

BOARD AGENDA # *B-3
AGENDA DATE January 30, 2001

CEO Concurs with Recommendation YES plst NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT: ESTABLISHMENT OF THE STANISLAUS COUNTY ENVIRONMENTAL TRUST FUND

- STAFF RECOMMENDATIONS:
1. ADOPT THE ATTACHED "STANISLAUS COUNTY ENVIRONMENTAL TRUST FUND" AND AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO SIGN THE TRUST DOCUMENT ON BEHALF OF THE COUNTY IN SUPPORT OF ITS ESTABLISHMENT AND IMPLEMENTATION.
 2. DESIGNATE THE TRUSTEES TO CARRY OUT ITS OBLIGATIONS UNDER THE TRUST.
 3. DIRECT THE COUNTY AUDITOR-CONTROLLER TO ESTABLISH AN INTEREST BEARING TRUST FUND, PURSUANT TO THE TRUST DOCUMENT, IN THE NAME OF THE STANISLAUS COUNTY ENVIRONMENTAL TRUST FUND AND TRANSFER FUNDS IN THE AMOUNT OF \$125,000.00 FROM THE COUNTY HOLDING FUND INTO THE ENVIRONMENTAL TRUST FUND.

FISCAL IMPACT: The Environmental Trust Fund will be established from \$125,000 in settlement fees as part of the Tartaric Manufacturing Corporation Permanent Injunction and Final Judgment dated December 30, 1999.

BOARD ACTION

No. 2001-62

On motion of Supervisor Simon, Seconded by Supervisor Blom, and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

Motion:

Christine Ferraro File No.

ESTABLISHMENT OF THE STANISLAUS COUNTY ENVIRONMENTAL TRUST FUND

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DISCUSSION

As part of the resolution of the Tartaric Manufacturing Corporation enforcement action, a Permanent Injunction was signed by the Honorable John Whiteside directing the creation of a program for granting and funding environmental enforcement by the Stanislaus County Environmental Task Force. The concept agreed to by the Office of the District Attorney and the defendants was to dedicate monies for enhancing environmental enforcement activities such as staff training, equipment, investigation, case preparation and sampling needs. This equitable trust is to be funded initially by a contribution of \$125,000.00 from the Tartaric Manufacturing Corporation. The text of the trust is attached.

POLICY

ISSUE:

The establishment of the Stanislaus County Environmental Trust Fund will help County departments meet many of the Board's goals – a safe, healthy community, multi-jurisdictional cooperation, and community service delivery.

STAFFING

IMPACT:

There are no staffing impacts associated with this recommendation.

STANISLAUS COUNTY ENVIRONMENTAL TRUST FUND

1. SCOPE OF TRUST

- 1.1 Pursuant to the Permanent Injunction and Final Judgment entered into by Tartaric Manufacturing Corporation (Tartaric) and the People of the State of California through the Office of the District Attorney of the County of Stanislaus, Tartaric will, as part of the Permanent Injunction and Final Judgment, contribute \$125,000.00 to the Stanislaus County Environmental Trust Fund (hereafter, the SCETF), an equitable trust fund resulting from the settlement of the case.
- 1.2 The SCETF shall be created and administered to fund the enforcement of environmental laws by the Stanislaus County Environmental Task Force for the benefit of environmental and wildlife resources in Stanislaus County. Such actions may include, but are not limited to, the following: staff training related to environmental enforcement activities, equipment, investigation, case preparation and sampling needs.

2. PURPOSE

- 2.1 The purpose of this trust is to establish the SCETF and identify the Trustees. This Trust outlines the terms under which the Trustees shall exercise their functions.
- 2.2 The Purpose of the SCETF is to receive, manage, and disburse funds in accordance with the direction of the Trustees, who will make grants consistent with the scope of the Trust as set forth in Paragraph 1 above.

3. TRUSTEES

- 3.1 The SCETF shall be managed by five Trustees. The Trustees shall be described as:
 - 3.1.1 The District Attorney of the County of Stanislaus, acting by and through his/her delegate.
 - 3.1.2 The Director of the Stanislaus County Department of Environmental Resources
 - 3.1.3 The Department of Fish and Game Lieutenant Warden for Stanislaus County.
 - 3.1.4 The County Fire Warden/Assistant Director of the Office of Emergency Services for Stanislaus County.
 - 3.1.5 A fifth public member appointed by the above-named Trustees.

STANISLAUS COUNTY ENVIRONMENTAL TRUST FUND

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- 3.1.6 The Trustees shall have the power to appoint a replacement (in accordance with Section 3.1) if the office of any of the five named Trustees becomes vacant.
- 3.1.7 The Trustees shall have the power to remove one or more Trustees if at any time it determines that the Trustees are not performing their duties in a manner consistent with the purposes of the SCETF.
- 3.1.8 The Trustees shall approve expenditure of funds from the SCETF consistent with the scope of the SCETF requirements set forth in Paragraph 1 above. All grants require approval by no less than four of the five Trustees.
- 3.1.9 The initial meeting of the first four designated Trustees described in Paragraph 3 shall take place within 60 days of the implementation of the Trust. At that meeting, the four Trustees shall determine the process for selecting the fifth Trustee. The fifth Trustee shall be selected within 60 days of the initial meeting. The Trustees then shall determine the timing of future meetings and the procedures to be followed.

4. DUTIES OF THE COUNTY

- 4.1 The County shall maintain SCETF funds in a fund separate from all other accounts maintained by the County.
- 4.2 All funds held in the separate fund shall be invested by the Stanislaus County Treasurer Tax Collector unless otherwise specified and directed by the Trustees. Principal, as well as interest and earnings accruing to the separate fund shall be reinvested and used to carry out the purpose of the Trust.
- 4.3 The County is authorized and obligated to make disbursements of the funds from the segregated fund as directed in writing by the Trustees.
- 4.4 The Trustees shall determine a representative responsible to solicit bids for implementation of projects and actions. The solicitation of bids shall comply with all applicable laws, including the public bidding and prevailing wage statutes.

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4.5 The Auditor-Controller shall submit to the Trustees an annual report, in a simple spreadsheet format, after the closing of the fiscal year, which itemizes all funds maintained, deposited, accrued and disbursed from the segregated fund.

5. NO ACTION AGAINST TRUSTEES

5.1 Nothing in this Trust shall create any right or benefit, substantive or procedural, enforceable by a party against the Trustees, their officers, employees, or agents, or any other person.

6. ADMINISTRATION

6.1 Each Trustee shall have one vote.

6.2 The expenditure of funds pursuant to this Trust may be made at the initiation of the Trustees.

6.3 The Trustees may place reasonable terms and conditions on any grant including but not limited to, reimbursement to the Trust.

6.4 The Trustees shall not approve any request for funds unless the applicant represents in writing that the environmental law enforcement budget for the agency represented by the applicant will not be reduced because of the approval of the request and that the agency is authorized to accept such funds. It is the purpose of this Trust to enhance and augment current environmental enforcement. It is not the purpose of this Trust to subsidize or supplant funds of governmental agencies and enable the budgets for such agencies to be decreased in the area of environmental law enforcement actions.

7. AMENDMENTS

7.1 This Trust may be amended only by written agreement of the Trustees.

8. EFFECTIVE DATE AND TERMINATION

8.1 The SCETF shall become effective upon the date of its acceptance by the Stanislaus County Board of Supervisors.

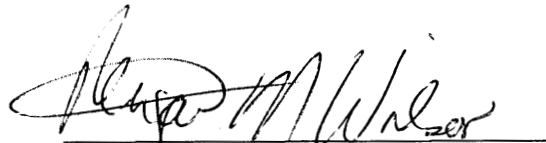
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8.2 The SCETF shall terminate when all funds subject to the Trust, including principal, interest and earnings, have been disbursed and the Trustees agree in writing to the termination.

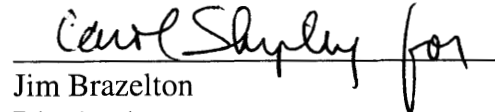
9. SIGNATURES

Dated: 1/31/01



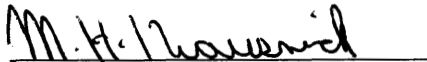
Reagan M. Wilson
Chief Executive Officer

Dated: 1/26/01

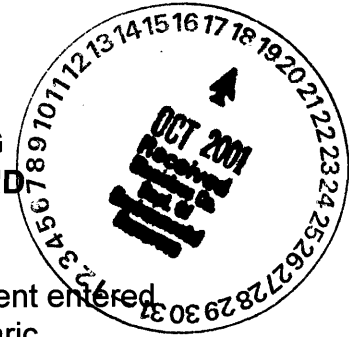


Jim Brazelton
District Attorney

Approved As To Form


County Counsel

**AMENDED AND RESTATED AGREEMENT ESTABLISHING
THE STANISLAUS COUNTY ENVIRONMENTAL TRUST FUND**



WHEREAS, pursuant to the Permanent Injunction and Final Judgment entered December 30, 1999, in The People and the State of California v. The Tartaric Manufacturing Corporation; et al., Stanislaus County Superior Court Case No. 251146 (the "Tartaric Settlement"), an initial contribution of \$125,000 was made to the Stanislaus County Environmental Trust Fund (the "Trust") to fund environmental enforcement by the Stanislaus County Environmental Taskforce; and

WHEREAS, by resolution adopted January 30, 2001, the Stanislaus County Board of Supervisors approved an agreement establishing the Trust; and

WHEREAS, the trust is managed by five Trustees, and the Trustees desire to clarify that Trust funds may be used for any purpose determined by the Trustees so long as the purpose is consistent with the any limitations placed on the use of the funds; and

WHEREAS, the Trustees desire to clarify that the Trust may receive funds from any source including, but not limited to, the Tartaric settlement;

NOW, THEREFORE, the Trustees hereby modify the Agreement as set forth herein.

1. Scope and Purpose of Trust

1.1 The Stanislaus County Environmental Trust Fund is hereby created and shall be administered to receive, manage and disburse funds for projects, activities, and equipment or supplies that benefit the natural environment and resources in Stanislaus County. Trust funds may come from any source or donor, and may be used for any purpose determined by the Trustees so long as the purpose is consistent with any limitations placed on the use of the funds in this Agreement or by the donor.

2. Trustees

2.1 The Trust shall be managed by five trustees described as follows:

- (a) The District Attorney of the County of Stanislaus, or designee;
- (b) The Director of the Stanislaus County Department of Environmental Resources, or designee;
- (c) The California Department of Fish and Game Lieutenant Warden for Stanislaus County, or designee;

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- (d) The County Fire Warden/Assistant Director of the Stanislaus County Office of Emergency Services, or designee;
- (e) A fifth public member, or in his or her absence an alternate, both of which shall be appointed by the above-named Trustees, or an alternate public member .

2.2 The Trustees shall have the power to appoint a replacement (in accordance with Section 2.1) if the office of any of the five named Trustees becomes vacant.

2.3 The Trustees shall have the power to remove one or more Trustees if at any time it determines that the Trustees are not performing their duties in a manner consistent with the purposes of the SCETF.

2.4 The Trustees shall approve expenditure of funds from the SCETF consistent with the scope of the SCETF requirements set forth in Paragraph 1 above. All grants require approval by a majority of the Trustees.

2.5 The initial meeting of the first four designated Trustees described in Paragraph 2 shall take place within 60 days of the implementation of the Trust. At that meeting, the four Trustees shall determine the process for selecting the fifth Trustee. The fifth Trustee shall be selected within 60 days of the initial meeting. The Trustees then shall determine the timing of future meetings and the procedures to be followed.

3. Duties of the County

3.1 The County shall maintain SCETF funds in a fund separate from all other accounts maintained by the County.

3.2 All funds held in the separate fund shall be invested by the Stanislaus County Treasurer Tax Collector unless otherwise specified and directed by the Trustees. Principal, as well as interest and earnings accruing to the separate fund shall be reinvested and used to carry out the purpose of the Trust.

3.3 The County is authorized and obligated to make disbursements of the funds from the segregated fund as directed in writing by the Trustees.

3.4 The Trustees shall comply with the provisions of the California Environmental Quality Act (Pub. Res. Code, § 21000 et seq.; hereafter "CEQA"). The Stanislaus County Board of Supervisors shall be the decision making body responsible for making final determinations and findings under CEQA. The Department of Environmental Resources shall ensure that environmental review of each project funded by the trust is completed in accordance with the Stanislaus County CEQA Guidelines and Procedures. If a public agency applies for a grant of trust funds, the

applying agency shall be the lead agency for purposes of compliance with CEQA, and the County shall be a responsible agency.

3.5 The Auditor-Controller shall submit to the Trustees an annual report, in a simple spreadsheet format, after the closing of the fiscal year, which itemizes all funds maintained, deposited, accrued and disbursed from the segregated fund.

4. No Action Against Trustees

4.1 Nothing in this Trust shall create any right or benefit, substantive or procedural, enforceable by a party against the Trustees, their officers, employees, or agents, or any other person.

5. Administration

5.1 Each Trustee shall have one vote.

5.2 The expenditure of funds pursuant to this Trust may be made at the initiation of the Trustees.

5.3 The Trustees may place reasonable terms and conditions on any grant including but not limited to, reimbursement to the Trust.

5.4 The Trustees shall not approve any request for funds unless the applicant represents in writing that the budget for the agency represented by the applicant will not be reduced because of the approval of the request and that the agency is authorized to accept such funds. It is the purpose of this Trust to enhance and augment current environmental enforcement. It is not the purpose of this Trust to subsidize or supplant funds of governmental agencies and enable the budgets for such agencies to be decreased in the area of environmental law enforcement actions.

6. Amendments

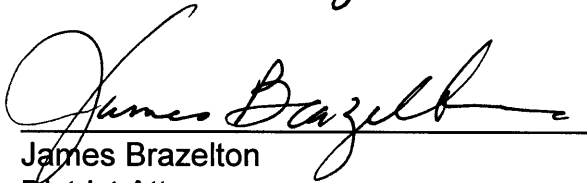
6.1 This Trust may be amended only by written agreement of the Trustees.

7. Effective Date and Termination

7.1 The SCETF shall become effective upon the date of its acceptance by the Stanislaus County Board of Supervisors.

7.2 The SCETF shall terminate when all funds subject to the Trust, including principal, interest and earnings, have been disbursed and the Trustees agree in writing to the termination.

IN WITNESS WHEREOF, the Trustees have executed this amended and restated Agreement on August 29,, 2001.



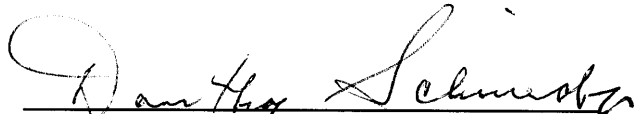
James Brazelton
District Attorney



Russ Richards
County Fire Warden



Kevin Williams, Director
Department of Environmental Resources



Dorothy Schmidt
Public Member



Phil McKay, Lieutenant Warden
California Department of Fish and Game