

Farrah Hussein
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION 1) AUTHORIZING CITY STAFF TO APPLY FOR A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES) FROM THE STATE WATER BOARD TO APPLY ALGAECIDES IN LAKE MERRITT TO CONTROL HARMFUL ALGAL BLOOMS, 2) AUTHORIZING A LIMITED EXEMPTION TO THE INTEGRATED PEST MANAGEMENT POLICY TO APPLY ALGAECIDES IN LAKE MERRITT ACCORDING TO NPDES PERMIT CONDITIONS, AND 3) TO MAKE APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

WHEREAS, in 1997 City Council approved the implementation of a comprehensive Integrated Pest Management (IPM) policy and passed Resolution No. 73968 C.M.S. that prohibited the use of pesticides on City property except as specifically exempted; and

WHEREAS, in August 2022, a red tide harmful algal bloom (HAB), caused by the *Heterosigma akashiwo* species, covered Lake Merritt, the San Francisco Bay, and areas along California's coast; and

WHEREAS, the algal bloom precipitated an extreme depletion of Lake Merritt dissolved oxygen levels which contributed to a massive fish kill in the Lake; and

WHEREAS, addressing excessive algae growth and low dissolved oxygen concentrations in Lake Merritt is needed to protect aquatic life, prevent fish kills, remove Lake Merritt from the federal impaired waterbody list for dissolved oxygen, and comply with other state and federal water quality regulations; and

WHEREAS, the City Council finds that: (1) the use of a hydrogen-peroxide-based algaecide is necessary to protect aquatic life in Lake Merritt during verified harmful algal blooms; (2) manual or mechanical removal is infeasible for red tide species; (3) the proposed algaecide has minimal environmental impact when applied per NPDES permit and label instructions; and (4) this action is consistent with the goals of the City's Integrated Pest Management Policy; and

WHEREAS, the manual removal of harmful algae associated with red tides, is not possible; and

WHEREAS, the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304(d), as the activity involves minor alterations to water resources on publicly owned land and is designed to enhance aquatic habitat; now, therefore, be it

RESOLVED: That the Oakland City Council hereby grants a limited exemption to the Integrated Pest Management policy to use permitted algaecides in Lake Merritt to control harmful algal blooms; and be it

FURTHER RESOLVED: That the City Council finds that: (1) The use of hydrogen-peroxide-based algaecides is necessary to protect aquatic life during verified harmful algal blooms in Lake Merritt; (2) Manual, mechanical, or biological alternatives have proven ineffective or infeasible for controlling harmful red tide algae species such as *Heterosigma akashiwo*; (3) The proposed algaecide degrades rapidly into water and oxygen and has minimal environmental impact when applied according to label instructions and NPDES permit conditions; (4) The exemption is narrowly tailored and consistent with the intent of the Integrated Pest Management Policy as adopted by the City Council in Resolution No. 73968 C.M.S.; and (5) This exemption is in the public interest to protect the ecological health of Lake Merritt, avoid future fish kills, and comply with state and federal water quality requirements; and be it

FURTHER RESOLVED: That the City Council finds that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304(d), as the activity involves minor alterations to water resources on publicly owned land and is designed to enhance aquatic habitat ; and be it

FURTHER RESOLVED: That the City Council directs the City’s Environmental Review Officer to file a Notice of Exemption; and be it

FURTHER RESOLVED: That the Office of the City Attorney has approved this resolution as to form and legality, and a copy will be on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California