

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION -- DIVISION OF FINANCIAL ASSISTANCE
NOVEMBER 16, 2005

ITEM 8

SUBJECT

CONSIDERATION OF A RESOLUTION CONCERNING THE LOS OSOS COMMUNITY SERVICES DISTRICT (DISTRICT); WASTEWATER COLLECTION, TREATMENT AND DISPOSAL PROJECT (PROJECT); STATE REVOLVING FUND (SRF) LOAN PROJECT NO. C-06-4014-110

DISCUSSION

The District's proposed project has evolved from a long history of design changes and legal delays since the initial SRF loan commitment of \$47,000,000 approved by the State Water Resources Control Board (State Water Board) on February 15, 1990. The latest SRF loan recommitment of \$93,000,000 was approved by the State Water Board on January 20, 2005, with a deadline for the District to issue Notice-to-Proceed with construction of the project by September 20, 2005.

On July 16, 2005, the District issued Notices-to-Proceed to three primary contractors for construction of three phases of the project. Concurrently, the SRF loan agreement was executed and approved by the Department of General Services on August 8, 2005, after which the District requested its first disbursement request in the amount of \$6,486,144. The Division of Financial Assistance (Division) approved the initial disbursement request on August 22, 2005, and continuously monitored project construction until the District issued notices of work suspension to its three primary contractors on October 3, 2005.

The District's action to suspend work has prompted Division staff to issue a notice to withhold disbursements of SRF funds to the District in a letter dated October 18, 2005. Division staff believed that the District's action is in breach or has threatened breach of the SRF loan agreement by substantially changing the scope of the approved project, in this case, the District's relocation of the wastewater treatment plant site.

The withholding of SRF funds has prompted the District to propose a compromise to resolve the current impasse in its letter of October 31, 2005, to the Executive Director of the State Water Board. Division staff have reviewed the proposed compromise by the District and disagreed with the District's proposal as specified in the Division's letter to the District on November 1, 2005. The District, in its response letter dated November 3, 2005, contended that the Division's withholding of SRF funds caused further delays in project construction and, that the District's actions were within the scope of the SRF loan agreement. Division staff disagrees with the District's contention and recommends that the State Water Board adopts the proposed resolution to continue withholding SRF funds to the District until the Division receives official notification of resumption of work on all three construction contracts, as previously approved, for construction of a wastewater treatment plant at the Tri-W site.

Project Description

The community of Los Osos is located along the central coast of California on the southern edge of the Morro Bay estuary in San Luis Obispo County. Los Osos is predominantly a residential community with 14,606 residents. The community's drinking water system is composed of a series of groundwater wells in the Los Osos area.

The purpose of the Project is to restore and protect water quality in the Los Osos area in a manner consistent with waste discharge requirements (WDRs), resolutions, and enforcement orders of the Central Coast Regional Water Quality Control Board (Central Coast Regional Water Board). Water quality data collected by the Central Coast Regional Water Board showed elevated levels of nitrate present in the upper aquifers, within the boundaries of the District, that threaten drinking groundwater quality. To protect public health, the Central Coast Regional Water Board amended its Basin Plan and adopted Resolution No. 83-13, which included a request to the State Water Board to prioritize funding for this Project.

The District's proposed Project involves the construction of a wastewater collection system including pump stations with standby power facilities, a wastewater treatment plant, and effluent disposal facilities and harvesting wells.

The collection system is a conventional gravity sewer system, with pump stations and standby power facilities, that includes approximately 200,000 linear feet of sewer mains, predominantly eight-inch diameter pipeline. The collection system will be divided into four geographic areas based on drainage characteristics, which will maximize gravity connections and minimize pumped connections for customers. The proposed eight submersible pump stations, seven standby power facilities, and 12 pocket pump stations will be designed with communication to the Supervisory Control and Data Acquisition system from the wastewater treatment facility.

The wastewater treatment facility will be located in the center of the Los Osos community, and will be designed with consideration of the adjoining park setting in close proximity to community facilities. All wastewater treatment processes are enclosed and/or buried, with containment and control facilities for potential odor problems.

The treatment facility will be composed of the following major components:

Headworks, septage handling facility, extended aeration basins, denitrification basins, submerged membrane reactors (MBR), Ultra-violet disinfection, solids processing, odor control, operations building, standby power, and aesthetic mitigation as required by approved environmental permit conditions. Off-site reuse/recycling will be used to dispose of the community's biosolids.

The effluent disposal system will be composed of the following major components:

Constructed leach fields to dispose of the treated effluent, via pipelines, with an average hydraulic capacity of 1.4 mgd, to convey effluent flows to subsurface percolation fields. (This concept consists of using subsurface percolation fields within the District's boundary that have at least 20 feet of groundwater separation, which is in excess of the minimum allowed by the Department of Health Services.)

The District's Board adopted Resolution No. 2001-04 certifying that the final Environmental Impact Report (EIR) for the Project was prepared in compliance with the California Environmental Quality

Act, which included an analysis for the proposed project. The EIR has been reviewed and considered, and it has been determined that changes or alterations have been required in, or incorporated into the proposed project, which avoid or reduce to less than significant levels potentially significant environmental effects identified in the EIR. These changes or alterations are not within the responsibility and jurisdiction of the State Water Board and have been adopted or should be adopted by other agencies.

POLICY ISSUE

Should the State Water Board adopt the proposed resolution to continue withholding SRF funds to the District until the Division receives official notification of resumption of work on all three construction contracts, as previously approved, for construction of a wastewater treatment plant at the Tri-W site?

FISCAL IMPACT

The SRF funds are already committed to this project, such that the proposed temporary withholding of funds will not impact the SRF program. However, terminating the SRF loan agreement would increase available SRF funds for other agencies.

REGIONAL WATER BOARD IMPACT

The Central Coast Regional Water Board has prescribed WDRs for the discharge of treated wastewater from the proposed project. With the current suspension of work and the District's intent to relocate the wastewater treatment plant, the Central Coast Regional Water Board, on October 6, 2005, issued an Administrative Civil Liability complaint to the District (R3-2005-0137) in the amount of \$11,190,000. The ACL complaint is scheduled for public hearing on December 1, 2005, Central Coast Regional Water Board meeting.

STAFF RECOMMENDATION

That the State Water Board adopt the proposed resolution to continue withholding SRF funds to the District until the Division receives official notification of resumption of work on all three construction contracts, as previously approved, for construction of a wastewater treatment plant at the Tri-W site, in compliance with relevant laws and previous approvals.

The Executive Director is hereby authorized to request the assistance of the Attorney General in any necessary litigation to defend the State Water Board's interest in this SRF loan.

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2005-

APPROVAL OF RESOLUTION CONCERNING THE LOS OSOS
COMMUNITY SERVICES DISTRICT (DISTRICT)
WASTEWATER COLLECTION, TREATMENT AND DISPOSAL PROJECT (PROJECT)
STATE REVOLVING FUND (SRF) LOAN PROJECT NO. C-06-4014-110

WHEREAS:

1. The State Water Resources Control Board (State Water Board), on February 16, 1995, adopted the *Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), and amended it on January 22, 2003;
2. The State Water Board, on June 17, 2004, adopted the state fiscal year 2004/2005 SRF Loan Program Priority List which included the District's Project in Priority Class A;
3. On January 20, 2005, the State Water Board approved a preliminary loan recommitment of \$93,000,000 for construction of the District's project;
4. The District's action to suspend work and intent to relocate the wastewater treatment plant site had prompted Division of Financial Assistance (Division) staff to issue a Notice to Withhold disbursements of SRF funds to the District in a letter dated October 18, 2005; and
5. Division staff has reason to believe that the District's action is in breach or has threatened breach of the SRF loan agreement by substantially changing the scope of the approved project.

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board:

Adopts this resolution to continue withholding SRF funds to the District until the Division receives official notification of resumption of work on all three construction contracts, as previously approved, for construction of a wastewater treatment plant at the Tri-W site, in compliance with relevant laws and previous approvals.

The Executive Director is hereby authorized to request the assistance of the Attorney General in any necessary litigation to defend the State Water Board's interest in this SRF loan.

CERTIFICATION

The undersigned, Acting Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 16, 2005.

Selica Potter
Acting Clerk to the Board