

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
DECEMBER 14, 2010**

**ITEM 4**

**SUBJECT**

CONSIDERATION OF A RESOLUTION ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS (SOC) AND A CLEAN WATER STATE REVOLVING FUND (CWSRF) PRELIMINARY FUNDING COMMITMENT (PFC) FOR THE SUNNYSLOPE COUNTY WATER DISTRICT (DISTRICT), RIDGEMARK WASTEWATER TREATMENT AND RECYCLED WATER IMPROVEMENTS PROJECT (PROJECT), CWSRF PROJECT NO. C-06-5160-110

**DISCUSSION**

The District is seeking financial assistance from the CWSRF Program and the State Water Resources Control Board (State Water Board) to upgrade the District's wastewater treatment facilities, near the City of Hollister in San Benito County.

In accordance with the State Water Board *Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities* (Policy), amended on March 17, 2009, projects on the adopted Project Priority List need State Water Board approval to receive CWSRF funding. The State Water Board may approve a CWSRF PFC after issuance of a Project Facilities Plan Approval (FPA). On November 9, 2010, the Assistant Deputy Director of the Division of Financial Assistance (Division) issued the FPA for the District's Project. The District agreed with the FPA on November 9, 2010. Division staff found that the District's Project is (1) consistent with the policies, regulations, and agreements the State Water Board has adopted governing the internal management of the CWSRF Program, and (2) the State Water Board, on June 15, 2010, adopted the State Fiscal Year 2010/2011 CWSRF Program Priority List, which included the District's Project in Priority Class C.

The District operates two wastewater treatment facilities called Ridgemark (RM) I and RM II to serve the Ridgemark Estates, Oak Creek, and Quail Hollow subdivisions near the City of Hollister. Both facilities consist of partial-mix facultative treatment and percolation ponds in series. The RM I facility was constructed in 1974, and consists of two treatment ponds and four percolation ponds. The RM II facility was constructed in 1988, and consists of two treatment ponds and two percolation ponds.

The Project objectives are to meet the conditions of the Central Coast Regional Water Quality Control Board (Central Coast Regional Water Board) Waste Discharge Requirements (WDR) Order No. R3-2004-0065 and provide adequate capacity to serve planned growth through 2025. The treatment process will be upgraded to address the new effluent standards for ammonia, nitrates, total suspended solids (TSS), biochemical oxygen demand (BOD<sub>5</sub>), and pH. The proposed Project consists of Phases 1.a and 1.b of a larger project. Plans for future phases of the larger project include improvements for treatment and distribution of recycled water.

The Project will consolidate and upgrade the RM I and RM II facilities. The new wastewater treatment facilities include headworks, sequencing batch reactor, and solids handling facilities at the RM I site. Effluent from the sequencing batch reactor will be pumped to the existing percolation ponds at the RM I site for disposal. Waste activated sludge from the sequencing

batch reactor will be pumped to a biosolids storage basin on a daily basis. The biosolids will be continually aerated in the storage basin then pumped to adjacent covered solids drying beds for dewatering during dry weather periods. Dried solids will be hauled to a landfill for disposal. A new operations building will also be built on the RM I site for system control, operation, and maintenance needs. An emergency diesel generator will be installed outside the operations building. In addition, a pump station and a conveyance pipeline will be built at the RM II to convey raw wastewater from the RM II facility to RM I facility. The existing RM 1 and RM II treatment ponds will be decommissioned.

The District's legal counsel represented that the District has sufficient property rights to control the land associated with the Project, for the life of the Project.

## **ENVIRONMENTAL IMPACT**

The District prepared an Environmental Impact Report (EIR) for a larger project. The Project is Phase 1.a and Phase 1.b of that larger project. The EIR (State Clearinghouse No. 2008071031) was distributed to the public and circulated through the State Clearinghouse for public review from March 5, 2009, through April 20, 2009. The District received comment letters from two state agencies, four local and regional agencies, one organization, and one individual, plus several verbal public comments during the April 9, 2009, and April 23, 2009, District Board Meetings.

The District responded in writing to all comments and made the appropriate changes to the EIR. The District certified the EIR and adopted the Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations (SOC) and approved the Project on July 16, 2009. The District filed a Notice of Determination (NOD) with the San Benito County Clerk on July 16, 2009, and with the Governor's Office of Planning and Research on July 20, 2009. State Water Board staff reviewed and considered the EIR and the associated environmental documents, and determined that the Project will not result in any significant adverse water quality impacts.

The District adopted an SOC to substantiate its decision to approve the Project despite significant unavoidable environmental effects due to secondary growth inducement. The Project will remove an impediment to construction of new housing in the area. The new housing will result in secondary growth impacts, which may include impacts to agricultural resources, water quality (associated with increased urban runoff), biological resources, geologic hazards, traffic congestion, and air quality. The District determined that the Project benefits listed below outweigh the significant unavoidable environmental effects associated with the Project, and these unavoidable adverse secondary growth effects are an acceptable consequence of the Project because of the benefits it will produce.

State Water Board staff finds that the following specific public benefits of the Project outweigh the significant unavoidable adverse secondary growth effects:

- a. The Project will allow the District to comply with the Central Coast Regional Water Board's WDR for the Ridgemark Facility, thereby improving long-term groundwater quality; and
- b. The Project will upgrade the wastewater facilities with adequate capacity to serve the projected and planned growth through 2025.

State Water Board staff concurs that the Project will result in significant unavoidable impacts due to secondary growth effects. Staff also agrees with the District's determination that there are no feasible mitigation measures to reduce the Project's significant unavoidable impacts. State Water Board staff determined that the specific economic, social, technological, and environmental benefits of the Project outweigh the significant unavoidable secondary growth inducing effects.

In a December 14, 2009, letter, the United States Fish and Wildlife Service determined that the Project is not likely to adversely affect the federally threatened California tiger salamander (*Ambystoma californiense*) and California red-legged frog (*Rana draytonii*). The minimization and avoidance measures for California tiger salamander and California red-legged frog will be included as special conditions in Exhibit D of the District's CWSRF financing agreement.

State Water Board staff evaluated the potential Project impacts and determined that a Tier II review was appropriate. State Water Board staff determined that no further investigation or federal consultation for this Project is required because there has been sufficient biological investigation and federal consultation, and the Project is not expected to adversely impact federally listed species with the implemented minimization and avoidance measures.

The State Water Board's Cultural Resources Officer (CRO) reviewed the documents submitted by the District for the Project. The CRO determined that the District provided sufficient documentation to support a Section 106 determination of "no historic properties affected" for the Project and that a Tier II review was appropriate. There are no special cultural resources conditions.

The Project site is within the North Coast Central Air Basin (Basin), which is under the jurisdiction of the Monterey Bay Unified Air Pollution Control District. The Basin is in attainment or unclassified for all federal criteria pollutants. Therefore, no air quality conformity determination is necessary.

State Water Board staff will file an NOD with the State Clearinghouse following funding approval.

## **FISCAL IMPACT**

### **District Finances:**

A credit review analyzed the District's ability to enter a CWSRF financing agreement for the amount of \$11.4 million. The credit review provided recommendations regarding the financial agreement terms, maximum CWSRF financing amount, financial capacity and reserve fund requirements for the financing agreement.

The District's estimated 2009 median household income (MHI) is \$94,313, approximately 157 percent (157%) of the State of California MHI. Therefore, the District does not qualify as a disadvantaged community.

The District represents that it complied with Proposition 218 regarding the most recent sewer rate increases on March 8, 2007. On December 29, 2006, the District mailed notices of the public hearing for the proposed rate change. The District received about one percent protest. The District adopted Ordinance No. 64 to establish the sewer service charges on March 8, 2007, effective December 21, 2007. Per Ordinance 64, residents are charged a flat monthly rate plus consumption charge based on metered winter water use. Ordinance 64 imposed annual rate increases through December 21, 2010. The current monthly rate is

\$61.14 per month plus \$3.62 per hundred cubic feet (HCF) of winter water use (average monthly rate of \$83.37). The last annual increase, effective December 21, 2010, will increase the residential rate to \$67.25 per month plus \$3.98 per HCF (average monthly rate of \$100.88).

After allowing for the operations and maintenance costs, projected at \$536,730 for fiscal year 2010/11, the sewer net revenue would be approximately \$925,302. The District has one outstanding debt, the 2002 Water/Wastewater Revenue Bonds. The majority of that debt is associated with the water utility. The wastewater utility is responsible for only five percent of the debt, equal to an annual debt service of \$16,682. The proposed CWSRF financing agreement may be issued on parity to the revenue bonds, provided that the maximum annual debt service can be covered at least 1.20 times by the net revenue.

In Resolution No. 505, the District dedicated sewer net revenue for repayment of the proposed CWSRF financing agreement.

A CWSRF financing agreement for the amount of \$11.4 million for a term of twenty years at an estimated interest rate of 2.70 percent will have an annual debt service of \$745,164. When added to the existing debt service of \$16,682 the result is total debt service of \$761,846. Comparing sewer net revenue to the total debt service results in a coverage ratio of 1.21 times. This exceeds both the CWSRF requirement that net revenues be at least 1.10 times the total debt service, and the 2002 Water/Wastewater Revenue Bonds covenant that net revenues be at least 1.20 times the total debt service. The District has no senior debt.

The revenues and expenses for the past four fiscal years and the projected revenues and expenses for the next two fiscal years are summarized below:

Fiscal Year	2005/06	2006/07	2007/08	2008/09	2009/10 Projected	2010/11 Projected
Operating Revenues	\$419,382	\$543,057	\$1,011,046	\$1,197,387	\$1,309,619	\$1,440,566
Interest & Non-Operating Revenues	\$7,578	\$8,932	\$14,294	\$21,466	\$21,466	\$21,466
Total Revenues	\$426,960	\$551,989	\$1,025,340	\$1,218,853	\$1,331,085	\$1,462,032
Operating Expenses	\$671,548	\$462,675	\$478,143	\$506,862	\$522,068	\$536,730
Net Available for Debt Service	-\$244,588	\$89,314	\$547,197	\$711,991	\$809,017	\$925,302
Existing Debt Service	\$16,633	\$16,627	\$16,682	\$16,682	\$16,682	\$16,682
Proposed Debt Service	\$0	\$0	\$0	\$0	\$0	\$745,164
Total Debt Service	\$16,633	\$16,627	\$16,682	\$16,682	\$16,682	\$761,846
Debt Service Coverage	0.00	5.37	32.80	42.68	48.50	1.21

Total revenues show an average increase of approximately five percent per year over the past five fiscal years, with total expenses increasing an average of three percent during the same time period.

The District's authorized representative reported no current litigation or threatened litigation, ratepayer or taxpayer disputes, or adverse findings by outside auditors, which in any way may detrimentally affect the District's ability to agree to or repay the CWSRF financing.

The District shall establish a reserve fund equal to one year's debt service from available cash prior to complete of construction. A reserve fund in the amount of one year's debt service is maintained so that in the event of non-payment, there are funds available to make the payment.

It is recommended that the CWSRF Program approve a financing agreement for the maximum amount of \$11.4 million. The credit review dated July 26, 2010 is valid through July 26, 2011. PFC issued after that date will be subject to additional financial review.

The District will submit an Approval of Award (AOA) package after Project bid opening. The final financing amount may be modified based on the AOA determination, and the financing agreement will be updated accordingly.

### CWSRF Finances:

As of 10/25/2010:	SFY 2010-11	SFY 2011-12	SFY 2012-13	SFY 2013-14	SFY 2014-15
Beginning Balance:	\$405,559,109	\$51,854,885	\$142,001,189	\$321,075,170	\$542,181,449
Estimated Repayments	\$232,328,707	\$242,328,707	\$252,328,707	\$262,328,707	\$272,328,707
Debt Service on Revenue Bonds	(\$31,456,429)	(\$30,228,204)	(\$27,714,204)	(\$23,821,829)	(\$20,966,279)
Estimated Capitalization Grants	\$67,144,221	\$133,230,720	\$28,800,000	\$28,800,000	\$28,800,000
Local Match Credits	\$9,255,993	\$941,240	\$2,290,046	\$916,685	\$958,353
Est. SMIF Interest:	\$2,700,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000
Estimated Disbursements	(\$573,483,990)	(\$206,499,551)	(\$77,904,194)	(\$50,117,284)	(\$5,750,000)
<b>Subtotal</b>	<b>\$112,047,611</b>	<b>\$194,627,798</b>	<b>\$322,801,544</b>	<b>\$542,181,449</b>	<b>\$820,552,229</b>
<b>Proposed Projects Estimated Disbursements</b>					
Goleta Sanitary District, #5092-110 (08/02/2010)	(\$3,000,000)	(\$22,000,000)			
Sunnyslope County Water District, #5160-110 (06/23/2010, 08/23/10)	(\$5,096,669)	(\$7,829,260)			
Russian River County Sanitation District, #5201-110 (10/25/2010)	(\$2,100,000)				
Union Sanitary District, #5221-110 (10/25/2010)	(\$552,516)	(\$1,550,677)			
LA County Sanitation District No.1, #5240-110 (09/09/2010)	(\$1,500,000)				
City of Seal Beach, #5310-110 (10/07/10)	(\$75,000)	(\$1,300,000)	(\$300,000)		
Inland Empire Utilities Agency, #5333-110 (10/25/2010)	(\$1,510,000)	(\$13,000,000)	(\$320,000)		
Yurok Tribe, #5348-110 (05/19/2010)	(\$18,750,000)				
Victor Valley Wastewater Rec Authority, #5376-110 (02/23/2010, 09/08/2010)	(\$21,328,241)				
Sonoma Valley County Sanitation District, #5501-110 (04/27/2010, 08/02/2010)	(\$4,100,000)				
Delta Diablo Sanitation District #5571-110 (9/20/2010)	(\$797,300)	(\$4,916,672)	(\$1,106,374)		
Sonoma Valley County Sanitation District, #7020-110 (06/16/2010)	(\$1,070,000)	(\$2,030,000)			
Earlimart Public Utility District, #7190-110 (08/25/2010)	(\$313,000)				
<b>Ending Balance on June 30</b>	<b>\$51,854,885</b>	<b>\$142,001,189</b>	<b>\$321,075,170</b>	<b>\$542,181,449</b>	<b>\$820,552,229</b>

**Notes:**

- The State Water Board approved the sale of up to \$300 million in Revenue Bonds in September 2005 for the CWSRF Program to cover any shortfall of funds.
- Estimated repayments include repayments from existing and future financing.
- Estimated disbursements include disbursements remaining on executed financing and planned disbursements on projects with preliminary funding commitments.
- Local match credits are the anticipated funds that will be contributed for local match financing included in "Estimated Disbursements."
- Estimated Capitalization Grants excludes funds reserved for Principal Forgiveness.

## **REGIONAL WATER BOARD IMPACT**

Completion of the proposed Project will enable the District to maintain compliance with Central Coast Regional Water Board WDR Order No. R3-2004-0065, issued December 3, 2004.

## **POLICY ISSUE**

Should the State Water Board:

1. Approve a CWSRF financing agreement amount of \$11.4 million for the proposed Project, with a repayment period of 20-years, and the first repayment due one year after completion of construction?
2. Adopt an SOC for the District's Project?
3. Condition this approval by withdrawing the CWSRF PFC if the District does not sign the agreement by March 31, 2011, and, in accordance with Section IX (K) of the Policy, allow Division staff the discretion to approve up to a 120-day extension of the PFC expiration date(s) for good cause?
4. Condition this approval, as determined by the District's credit review, with the following?
  - a. The financing agreement shall be secured on parity with the District's outstanding 2002 Water/Wastewater Revenue Bonds,
  - b. The District shall establish a Reserve Fund equal to one year's debt service from available cash prior to the construction completion date,
  - c. The District shall covenant to establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.20 times the total annual debt service,
  - d. The District may not incur future senior debt,
  - e. The District may incur parity debt only if it meets Section X.G of the CWSRF Policy, and
  - f. The financing agreement shall be limited to an amount of \$11.4 million with a 20-year term, unless the information supporting the credit review changes and a supplemental credit review is performed.

## STAFF RECOMMENDATION

The State Water Board should:

1. Approve a CWSRF financing agreement amount of \$11.4 million for the proposed Project, with a repayment period of 20-years, and the first repayment due one year after completion of construction;
2. Adopt an SOC for the District's Project;
3. Condition this approval by withdrawing the CWSRF PFC if the District does not sign a financing agreement by March 31, 2011. In accordance with Section IX (K) of the Policy, Division staff should have the discretion to approve up to a 120-day extension of the PFC expiration date(s) for good cause; and
4. Condition this approval, as determined by the District's credit review, with the following:
  - a. The financing agreement shall be secured on parity with the District's outstanding 2002 Water/Wastewater Revenue Bonds,
  - b. The District shall establish a Reserve Fund equal to one year's debt service from available cash prior to the construction completion date,
  - c. The District shall covenant to establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.20 times the total annual debt service,
  - d. The District may not incur future senior debt,
  - e. The District may incur parity debt only if it meets Section X.G of the CWSRF Policy, and
  - f. The financing agreement shall be limited to an amount of \$11.4 million with a 20-year term, unless the information supporting the credit review changes and a supplemental credit review is performed.

State Water Board action on this item will assist the Water Boards in reaching Goal 2 of the Strategic Plan Update: 2008-2012 to improve and protect groundwater quality in high-use basins by 2030.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2010-

ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS (SOC) AND A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PRELIMINARY FUNDING COMMITMENT (PFC) FOR THE SUNNYSLOPE COUNTY WATER DISTRICT (DISTRICT), RIDGEMARK WASTEWATER TREATMENT AND RECYCLED WATER IMPROVEMENTS PROJECT (PROJECT), CWSRF PROJECT NO. C-06-5160-110

### WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the “*Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities*” (Policy) and amended it on March 17, 2009;
2. The State Water Board, on June 15, 2010, adopted the State Fiscal Year 2010/2011 CWSRF Program Project Priority List, which included the District’s Project in Priority Class C;
3. The Division of Financial Assistance (Division) approved the Facility Plan for the District’s Project on November 9, 2010, and the District agreed with the Facility Plan Approval on November 9, 2010;
4. An independent credit review was completed on July 26, 2010, recommending a maximum CWSRF financing amount of \$11.4 million for the Project, assuming a 20-year term at a 2.70 percent interest rate;
5. The District has adopted Resolution No. 505 dedicating sewer net revenue for repayment of the CWSRF financing agreement;
6. The District prepared an Environmental Impact Report (EIR) that includes the Project, distributed it to the public, and circulated through the State Clearinghouse (SCH No. 2008071031);
7. The District certified the EIR and adopted a Statement of Overriding Considerations (SOC) and a Mitigation Monitoring and Reporting Program and approved the Project on July 16, 2009;
8. The District filed a Notice of Determination with the San Benito County Clerk on July 16, 2009, and with the Governor’s Office of Planning and Research on July 20, 2009;
9. The State Water Board finds that significant unavoidable adverse effects resulting from the Project due to growth may occur;
10. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of the Project outweigh the significant unavoidable adverse environmental impacts from secondary growth:
  - a. The Project will allow the District to comply with the Central Coast Regional Water Quality Control Board Waste Discharge Requirements for the Ridgemark Facility, thereby improving long-term groundwater quality, and
  - b. The Project will upgrade the wastewater facilities with adequate capacity to serve the projected and planned growth through 2025;

# DRAFT

11. Special conditions will be incorporated into Exhibit D of the District's CWSRF financing agreement to ensure compliance with the Migratory Bird Treaty Act and the federal Endangered Species Act; and
12. The State Water Board finds that the Project will not result in any significant adverse water quality impacts.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a CWSRF financing agreement amount of \$11.4 million for the proposed Project, including a 20-year repayment period, with the first repayment due one year after completion of construction;
2. Adopts an SOC for the CWSRF Program for the District's Project;
3. Conditions this approval by withdrawing the CWSRF PFC if the District does not sign the agreement by March 31, 2010. In accordance with Section IX (K) of the Policy, Division staff have the discretion to approve up to a 120-day extension of the PFC expiration date(s) for good cause; and
4. Conditions this approval, as determined by the District's credit review, with the following:
  - a. The financing agreement shall be secured on parity with the District's outstanding 2002 Water/Wastewater Revenue Bonds,
  - b. The District shall establish a Reserve Fund equal to one year's debt service from available cash prior to the construction completion date,
  - c. The District shall covenant to establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.20 times the total annual debt service,
  - d. The District may not incur future senior debt,
  - e. The District may incur parity debt only if it meets Section X.G of the CWSRF Policy, and
  - f. The financing agreement shall be limited to an amount of \$11.4 million with a 20-year term, unless the information supporting the credit review changes and a supplemental credit review is performed.

## CERTIFICATION

The undersigned, 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 Board held on December 14, 2010.

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Jeanine Townsend  
Clerk to the Board