

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
MARCH 1, 2011**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION AUTHORIZING FUNDING FROM THE CLEAN WATER STATE REVOLVING FUND (CWSRF) TO THE COUNTY OF SAN LUIS OBISPO LOS OSOS WASTEWATER PROJECT (PROJECT), CWSRF PROJECT NO. C-06-5230

DISCUSSION

The County is seeking financial assistance from the CWSRF Program and the State Water Resources Control Board (State Water Board) to construct a wastewater collection and treatment system in the community of Los Osos, located at the southern edge of Morro Bay in San Luis Obispo 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 Preliminary Funding Commitment (PFC) after issuance of a Project Facilities Plan Approval (FPA). On February 10, 2011, the Assistant Deputy Director of the Division of Financial Assistance (Division) issued the FPA for the County's Project. The County agreed with the FPA on February 10, 2011. Division staff found that the County'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 County's Project in Priority Class A.

Water quality data collected by the Central Coast Regional Water Quality Control Board (Central Coast Regional Water Board) revealed elevated levels of nitrate present in the Basin's upper aquifer, within the boundaries of the Project service area, that threaten drinking groundwater quality. The purpose of the Project is to restore and protect water quality in the Los Osos area, consistent with waste discharge requirements (WDR), resolutions, and enforcement orders of the Central Coast Regional Water Board. This objective is consistent with the California Coastal Commission's permit requiring the Project to address drinking water quality impairment in the Basin's upper aquifer.

The Project will offset potable water use in the Los Osos Groundwater Basin (Groundwater Basin) with California Title 22 disinfected, tertiary-treated recycled water. Recycled water will be used for urban and agricultural irrigation at sites that currently rely on potable water.

Impaired water quality has been documented in the Groundwater Basin for more than 30 years. This is the third attempt to build a project to address water quality issues in the Basin. The County started to design a wastewater collection and treatment project in the 1990's. The County's efforts stopped in 1999 when the Los Osos Community Services District (LOCSD) was established and took responsibility for wastewater collection, treatment, and disposal in the

community of Los Osos. The LOCSD began construction of a wastewater collection and treatment Project with CWSRF financing in June 2005. In October 2005, the LOCSD stopped the project and subsequently filed bankruptcy. Since the bankruptcy and passage of Assembly Bill 2701 (Blakeslee), the County has been conducting studies to determine the feasibility to construct and operate a wastewater collection and treatment system.

The proposed Project involves the construction of a wastewater collection system including pump stations with standby power facilities, a wastewater treatment plant, recycled water systems, and effluent disposal facilities. The County submitted a complete Project Report (*Los Osos Wastewater Project Preliminary Engineering Report*, May 2010) on May 19, 2010, which was used as the basis for the Project description below.

The collection system design will be based on the LOCSD 2004 design, with the exception of changes required to convey wastewater to a new treatment plant site outside the community. There will be 219,360 lineal-feet of pipe (approximately 41.5 miles), nine major pump stations, and 13 neighborhood "pocket" pump stations. Wastewater will be collected at the Mid-Town Triplex Pump Station and sent, under pressure, to the treatment facility east of the community.

The treatment facility will be located out of town on the 38-acre Giacomazzi property north of Los Osos Valley Road. The treatment plant will be designed to accommodate a daily average flow of 1.2 million gallons per day (MGD). The treatment facility is sized for a community build-out population of 19,713 persons; current population is estimated at 13,538. Tertiary-treated wastewater effluent will be filtered to be used for unrestricted reuse pursuant to California Title 22 regulations.

Effluent from the wastewater treatment facility will be reused to the maximum extent possible throughout the community for irrigation; the remaining effluent will be discharged through leachfields. Recycled water will be used for urban irrigation at schools, parks, golf courses, and the cemetery within the Project area. Agricultural irrigation turnouts will be provided to farmers adjacent to the Los Osos urban area.

The existing leachfield at Bayridge Estates will be used for disposal. Eight acres of leachfields at the Broderson site will be also available for discharge and disposal.

The County is not the water purveyor for the Project service area. Water is supplied by the LOCSD, Golden State Water Company, and S&T Mutual Water Company. Neither water purveyor is classified as an urban water supplier; each purveyor has less than 3,000 connections and delivers less than 3,000 acre-feet of water per year. Neither agency is required to submit an Urban Water Management Plan to the Department of Water Resources; Assembly Bills 1420 (Laird) and 2572 (Kehoe) do not apply.

ENVIRONMENTAL IMPACT

The County prepared an Environmental Impact Report (EIR) for the Project. The County distributed the EIR to the public and circulated it through the State Clearinghouse (SCH: No. 2007121034) for public review from November 19, 2008, through January 30, 2009. The County received 14 agency letters and 60 letters from citizens, community groups, non-government organizations, and other interested parties.

The County responded to all comments and made changes to the EIR when appropriate. The County certified the EIR, approved the Project, and adopted a Mitigation Monitoring Program and a Statement of Overriding Considerations (SOC), on September 29, 2009. The County filed a Notice of Determination (NOD) with the San Luis Obispo County Clerk on September 30, 2009, and with the Governor's Office of Planning and Research on October 5, 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 County adopted an SOC to substantiate its decision to approve the Project despite significant unavoidable impacts to 22 acres of locally important farmland from construction of the treatment plant portion of the Project. Construction of the treatment plant within the urban area of Los Osos is not feasible, and all alternative land parcels outside of the urban area are designated locally important farmland.

The County determined that the Project benefits listed below outweigh the significant unavoidable environmental impacts associated with the Project and these unavoidable adverse impacts to locally important farmland are an acceptable consequence of the Project because of the benefits it will produce.

State Water Board Staff finds that the following specific benefits of the Project outweigh the significant unavoidable adverse impacts to locally important farmland.

1. The Project will allow the community of Los Osos to comply with the Central Coast Regional Water Board's Resolution 83-13.
2. The Project will eliminate discharges from onsite septic systems to alleviate groundwater contamination.

State Water Board staff concurs that the Project will result in significant unavoidable impacts to locally important farmland. Staff also agrees with the County'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 impacts to locally important farmland.

United States Department of Agriculture (USDA) Rural Development initiated formal consultation with United States Fish and Wildlife Service (USFWS) on February 16, 2010. USFWS issued a Biological Opinion for the Project on April 14, 2010. USFWS concurred with USDA's determination that with mitigation and avoidance measures contained in the County's EIR, the Project would have no effect on southwestern willow flycatcher, least Bell's vireo, Indian Knob mountain balm, Monterey spineflower, and Morro manzanita. USFWS also concurred with USDA's determination that measures built into the Project description would fully avoid adverse effects to Morro Bay kangaroo rat and California red-legged frog, and that the Project is not likely to adversely affect these two species. USDA has, however, determined that the Project is likely to adversely affect the federally-endangered Morro shoulderband snail. USFWS concurred with this determination and proposed measures and restrictions to the Project to minimize adverse effects to Morro shoulderband snail. Subsequent to issuance of the USFWS Biological Opinion, the California Coastal Commission imposed an additional Project requirement to restore habitat at the "Midtown" site. The habitat restoration may have additional impacts on the Morro shoulderband snail. USFWS is currently revising their Biological Opinion

to include additional measures related to the “Midtown” restoration. Compliance with all terms and conditions of the final USFWS Biological Opinion will be included as a special condition in Exhibit D of the County’s CWSRF financing agreement.

On June 24, 2010, the State Water Board, USDA, County, and the California State Historic Preservation Officer executed a Memorandum of Agreement (MOA) to resolve adverse effects of the Project on cultural resources. The MOA was filed with the Advisory Council of Historic Preservation on July 8, 2010. Compliance with all stipulations of the MOA, including requirements contained in the Historic Properties Evaluation and Treatment Plan for the Los Osos Wastewater Project, San Luis Obispo County, California, March 2010 will be included as a special condition in Exhibit D of the County’s CWSRF financing agreement.

The Project site is located within the South Central Coast Air Basin (Air Basin). The Air Basin is in attainment or unclassified for all federal criteria pollutants. Therefore, an air quality conformity determination is not required.

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

FISCAL IMPACT

County Finances:

A credit review analyzed the County’s ability to enter into a financing agreement for the amount of \$86,208,416 for construction and allowance costs. The credit review provided recommendations regarding the financing agreement terms, maximum CWSRF financing amount, financial capacity, and reserve fund requirements for the financing agreement.

The Project’s service area has an estimated median household income (MHI) of \$60,553; approximately one hundred and one percent (101%) of the State of California MHI. The Project service area qualifies as a disadvantaged community (DAC) based on CWSRF Policy Section X.D.2.: the monthly wastewater rates exceed 4% of the Project service area’s MHI. The Project is eligible for DAC incentives offered by the CWSRF.

On October 26, 2010, the County introduced an ordinance establishing a mandatory sewer connection requirement and sewer service charges for the Project (Ordinance). Subsequently town-hall meetings were held and public notices were sent to the Project service area. At a public hearing on December 14, 2010 the Ordinance was adopted. Estimated monthly wastewater rates are listed below:

Construction Financing for Private Laterals	\$44.00
Rates and Charges	\$88.96
<u>Assessments</u>	<u>\$105.49</u>
Total	\$238.45

The total estimated Project cost is \$189,033,416 which includes the following:

Construction Cost	\$126,364,000
Eligible Soft Costs/Allowances	\$26,110,000
Contingencies	\$12,636,000
Loan #4014-110	\$6,288,416
Ineligible Items	
Land purchase	\$2,000,000
Construction on Private Land	\$15,635,000
Total	\$189,033,416

The Project is to be financed with a combination of grant and loan funds from USDA and CWSRF. An estimated summary of the sources of funds is listed below.

USDA Loan	\$83,129,000
USDA Grant	\$4,061,000
Subtotal USDA Share	\$87,190,000
CWSRF Refinanced Financing Agreement	\$6,288,416
CWSRF Financing Agreement	\$72,420,000
CWSRF Principal Forgiveness	\$7,500,000
Subtotal Water Board Share	\$86,208,416
Owner Financed	\$15,635,000
(Construction on Private Land)	
Total	\$189,033,416

Projected monthly costs and annual revenues per user type are summarized below. The assessment figures are based on County Assessment #1 and the service charge portion is based on the setting of monthly service charges using the Proposition 218 process.

User Type	Users	Average Monthly Assessment Fees	Annual Assessment Fees	Average Annual Assessment Revenues	Average Service Charge + Flow	Average Annual Charges + Flow	Service Charge Annual Revenue	Total Average Monthly Charges	Total Annual Gross Revenues
Residential	4,289	\$105.49	\$1,265.88	\$5,429,359.32	\$88.61	\$1,063.32	\$4,560,579.00	\$194.10	\$9,989,938
Multi Family	809	\$83.95	\$1,007.40	\$814,986.60	\$36.64	\$439.68	\$355,701.12	\$120.59	\$1,170,688
Mobile Homes	542	\$31.16	\$373.92	\$202,664.64	\$24.44	\$293.28	\$158,957.76	\$55.60	\$361,622
Non-Residential	169	\$121.65	\$1,459.80	\$246,706.20	\$61.13	\$733.56	\$123,971.64	\$182.78	\$370,678
Total	5,809			\$6,693,716.76			\$5,199,209.52		\$11,892,926

Based on the projected gross revenues and allowing for the operations and maintenance costs, estimated at \$2,370,000 per year, the net revenues available for debt service would be approximately \$9,527,927.

The County of San Luis Obispo Assessment District No. 1 shall dedicate the County Assessment #1 and net revenues of the wastewater system including, but not limited to, wastewater rates and charges, and recycled water revenues, if any, to the repayment of the financing agreement. Prepayment of the assessment on any parcel shall decrease the CWSRF financing agreement amount, as the County will apply such assessments directly to project

costs. The County also proposes to establish an assessment district to include undeveloped properties in the Project service area. Revenues from this proposed assessment shall also be dedicated to the repayment of the financing agreement.

Assuming a financing agreement for the amount of \$78,708,416 for a term of twenty years at an estimated interest rate of 2.60%, the annual debt service will be \$5,096,735. When added to the USDA debt service of \$3,737,229, the result is total maximum debt service of \$8,833,964. When total debt service is compared to net revenues the result is 1.08 times coverage. This does not meet the CWSRF requirement that net revenues be at least 1.10 times total debt service.

As a DAC with wastewater rates exceeding 4% of the Project service area's MHI, the community qualifies for extended term financing. Assuming a financing agreement for the amount of \$78,708,416 for a term of thirty years at an estimated interest rate of 2.60%, the annual debt service will be \$3,810,822. When added to the USDA debt service of \$3,737,229 the result is a total maximum debt service of \$7,548,051. When total debt service is compared to net revenues the result is 1.26 times coverage. This exceeds the CWSRF requirement that net revenues be at least 1.10 times the total maximum debt service.

It should also be noted that the County is proposing to repay approximately half of this financing with monies derived from an assessment district; these assessments will begin to be collected upon passage of a Due Diligence resolution by the County and before a financing agreement will be executed between the State Water Board and the County. CWSRF debt backed by assessment district funds will be on parity with USDA's debt backed by assessment district funds. The other half of the financing will be secured by future rates and charges to be collected upon Project completion.

The revenues and expenses for the County projections are summarized below:

Fiscal Year	2015/16 Projections @ 20 year term	2015/16 Projections @ 30 year term
Operating Revenues (Service Charges)	\$5,199,210	\$5,199,210
Special Tax & Assessment Revenue	\$6,693,717	\$6,693,717
Total Revenues	\$11,892,927	\$11,892,927
Operating Expenses	\$2,370,000	\$2,370,000
Net Available for Debt Service	\$9,522,927	\$9,522,927
USDA Loan Debt Service	\$3,737,229	\$3,737,229
Proposed CWSRF Debt Service	\$5,096,735	\$3,810,822
Total Debt Service	\$8,833,964	\$7,548,051
Debt Service Coverage	1.08	1.26

The County shall also establish a reserve fund equal to one year's debt service from available cash prior to construction completion. 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.

The independent credit review raised questions about the ability of the community to repay the financing agreement through the assessment and monthly service charges. The Division is mindful of AB 2701 (Blakeslee) in its recommendation that the State Water Board approve funding for the Project. The current septic tank discharges from Los Osos have created serious environmental and public health problems. State and Federal agencies have been working to address these issues in Los Osos for over thirty years. The Division believes the County has the resources and expertise necessary to construct the wastewater collection and treatment system to address the water quality issues in Los Osos. The transfer of the responsibility for constructing the plant to the County of San Luis Obispo is the viable solution to addressing and solving this problem.

CWSRF Finances:

(as of 01/13/2011)	SFY 2010-11	SFY 2011-12	SFY 2012-13	SFY 2013-14	SFY 2014-15
Beginning Balance:	\$405,559,109.08	\$114,434,733.56	\$133,143,214.16	\$255,029,923.26	\$466,868,135.05
Estimated Repayments	\$245,486,249.13	\$255,486,249.13	\$265,486,249.13	\$275,486,249.13	\$285,486,249.13
Debt Service on Revenue Bonds	(\$31,456,428.75)	(\$30,228,203.75)	(\$27,714,203.75)	(\$23,821,828.75)	(\$20,966,278.75)
Estimated Capitalization Grants	\$67,144,221.00	\$133,230,720.00	\$28,800,000.00	\$28,800,000.00	\$28,800,000.00
Local Match Credits	\$8,846,816.10	\$1,377,697.22	\$2,286,050.72	\$912,290.41	\$953,758.07
Est. SMIF Interest:	\$2,700,000.00	\$3,000,000.00	\$3,000,000.00	\$3,000,000.00	\$3,000,000.00
Estimated Disbursements	(\$560,922,679.00)	(\$275,185,416.00)	(\$86,653,202.00)	(\$50,161,719.00)	(\$23,209,418.00)
Subtotal	\$137,357,287.56	\$202,115,780.16	\$318,348,108.26	\$489,244,915.05	\$740,932,445.51
City of Redding, #4971-230 (01/05/2011)	(\$4,407,893.00)	(\$4,000,000.00)			
City of Redding, #4971-240 (01/05/2011)		(\$10,205,000.00)	(\$13,760,000.00)		
City of Redding, #4971-260 (01/05/2011)		(\$246,530.00)	(\$4,503,470.00)		
Sunnyslope County Water District, #5160-110 (06/23/2010, 08/23/10)	(\$5,096,669.00)	(\$7,829,260.00)			
Union Sanitary District, #5222-110 (01/05/2011)	(\$1,114,416.00)	(\$4,853,988.00)	(\$225,767.00)		
County of San Luis Obispo (Los Osos Wastewater Pr.), #5230-110 (01/13/2011)			(\$29,276,046.00)	(\$21,034,728.00)	(\$18,041,310.00)
City of Seal Beach, #5310-110 (10/07/10)	(\$75,000.00)	(\$1,300,000.00)	(\$300,000.00)		
City of Seal Beach, #5310-120 (11/15/10)	(\$75,000.00)	(\$1,300,000.00)	(\$700,000.00)		
Eastern Municipal Water District (Temecula Valley), #5312-110 (11/3)	(\$3,743,576.00)	(\$10,605,788.00)	(\$9,924,264.00)	(\$1,342,052.00)	
Inland Empire Utilities Agency, #5319-110 (12/07/2010)	(\$6,500,000.00)	(\$13,800,000.00)	(\$4,308,638.00)		
Inland Empire Utilities Agency, #5333-110 (10/25/2010)	(\$1,510,000.00)	(\$13,000,000.00)	(\$320,000.00)		
City of Lathrop, #5599-110 (01/13/2011)	(\$400,000.00)	(\$600,000.00)			
Susanville Sanitary District, #5727-110 (11/18/2010)		(\$1,232,000.00)			
	\$114,434,733.56	\$133,143,214.16	\$255,029,923.26	\$466,868,135.05	\$722,891,135.51

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 community of Los Osos to be in compliance with Central Coast Regional Water Board Resolution No. 83-13. Additionally, completion of the proposed Project will enable the County to be in compliance with the Central Coast Regional Water Board's draft WDR Order No. R3-2011-0001.

POLICY ISSUE

Should the State Water Board:

1. Approve a CWSRF financing agreement amount of \$86,208,416 for the proposed Project, with a repayment period of 30-years, and the first repayment due one year after completion of construction?
2. Condition this approval by withdrawing the CWSRF PFC if the County does not sign the agreement by June 30, 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 this PFC expiration date for good cause?
3. Condition this approval by withdrawing the CWSRF PFC if the County does not issue notice-to-proceed with construction by June 30, 2012, and in accordance with Section IX (K) of the Policy, allow Division staff the discretion to approve up to a 120-day extension of this PFC expiration date for good cause?
4. Adopt an SOC for the County's Project?
5. Require, in accordance with the Governor's signing message of AB 2701 (Blakeslee), the County to repay the outstanding \$6,288,416 owed by the LOCSD to the CWSRF?
6. Require the Project to be in compliance with the following?
 - a. USDA letter of conditions, dated September 16, 2010,
 - b. Coastal Development Permit issued on September 7, 2010 by the California Coastal Commission,
 - c. Final Biological Opinion issued by the USFWS,
 - d. Memorandum of Agreement between the State Water Board, USDA, County, and the California State Historic Preservation Officer executed July 24, 2010, and
 - e. Central Coast Regional Water Board WDR draft Order No. R3-2011-0001.
7. Condition this approval that the following items shall be submitted before the financing agreement is executed by the State Water Board?
 - a. Authorized Representative Resolution,
 - b. Tax Questionnaire,
 - c. Dedicated Source of Revenue Resolution,
 - d. Updated Schedule of System Obligations,
 - e. Certificate of Compliance with Federal Laws and Authorities,
 - f. General Plan Compliance Certificate,
 - g. Letter of litigation, adverse audit findings, or ratepayer/contractor disputes (Policy Section IX.E.4),
 - h. Bond counsel letter stating the relationship between the County Assessment District #1 and LOCSD assessment district,
 - i. Certification of AB 2572 non-applicability,
 - j. Economic analysis for the selected alternative in compliance with the Water Recycling Funding Program Guidelines,
 - k. Formal request by the Authorized Representative for CWSRF principal forgiveness and addressing livability standards commensurate with the CWSRF Intended Use Plan 2010/2011,

- l. Draft or final USDA financing agreement, and
 - m. Bond counsel opinion with respect to proposed system obligations (Policy Section IX.E.5).
8. Condition this approval that the following items shall be submitted before the final agreement is amended and construction funds are disbursed by the State Water Board?
- a. Statewide General Permit for Landscape Irrigation Uses of Municipal Recycled Water from either the State Water Board or the Central Coast Regional Water Board,
 - b. A copy of the Title 22 recycled water engineering report submitted to the Department of Public Health,
 - c. Legal opinion of compliance with Articles XIII C and XIII D of the California State Constitution (Proposition 218),
 - d. Legal opinion on access and ownership of land on which construction activities will take place,
 - e. Final Water Conservation Plan,
 - f. Final recycled water use assurances must be submitted prior to issuance of an AOA, and
 - g. The County must initiate the collection of County Assessment District No. 1 upon passage of a Due Diligence resolution by the County to allow for sufficient funds to be accumulated prior to the initial debt service due date.
9. Condition this approval, as determined by the County's credit review, with the following?
- a. The CWSRF Financing Agreement shall be secured on parity with the USDA loan for County Assessment District No. 1 revenues,
 - b. The County shall establish a Reserve Fund equal to one year's debt service prior to the construction completion date,
 - c. The County shall covenant to establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.10 times the total annual debt service,
 - d. The County may not incur future senior debt. County future debt may be parity with CWSRF debt if Policy conditions are met (Policy Section X. G1),
 - e. The Financing Agreement shall be limited to a maximum of \$86,208,416, of which an estimated \$7,500,000 is CWSRF principal forgiveness. No more than \$79,920,000 shall be disbursed to the County, the remainder of which will be amortized over the term of the financing agreement; unless new information supporting the credit review changes and a supplemental credit review is performed,
 - f. When the assessment district for undeveloped properties is formed and approved, the revenues must become an additional dedicated source of security for the proposed CWSRF financing agreement,
 - g. County Assessment District #1 property owners that wish to prepay their assessment may do so. Any prepayments received will reduce assessment backed principal borrowed from the CWSRF, and
 - h. Grants and principal forgiveness provided by the State Water Board and any future source shall reduce the total CWSRF financing agreement amount.
10. Condition this approval such that the County must obtain a final, adopted WDR from the Central Coast Regional Water Board prior to construction?

11. Condition this approval such that to the best extent possible, USDA funds will be expended before CWSRF funds are disbursed?

STAFF RECOMMENDATION

The State Water Board should:

1. Approve a CWSRF financing agreement amount of \$86,208,416 for the proposed Project, with a repayment period of 30-years, and the first repayment due one year after completion of construction;
2. Condition this approval by withdrawing the CWSRF PFC if the County does not sign the agreement by June 30, 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 this PFC expiration date for good cause;
3. Condition this approval by withdrawing the CWSRF PFC if the County does not issue notice-to-proceed with construction by June 30, 2012, and in accordance with Section IX (K) of the Policy, allow Division staff the discretion to approve up to a 120-day extension of this PFC expiration date for good cause;
4. Adopt an SOC for the County's Project;
5. Require, in accordance with the Governor's signing message of AB 2701 (Blakeslee), the County to repay the outstanding \$6,288,416 owed by the LOCSD to the CWSRF;
6. Require the Project to be in compliance with the following:
 - a. USDA letter of conditions, dated September 16, 2010,
 - b. Coastal Development Permit issued on September 7, 2010 by the California Coastal Commission,
 - c. Final Biological Opinion issued by the USFWS,
 - d. Memorandum of Agreement between the State Water Board, USDA, County, and the California State Historic Preservation Officer executed July 24, 2010, and
 - e. Central Coast Regional Water Board WDR draft Order No. R3-2011-0001;
7. Condition this approval that the following items shall be submitted before the financing agreement is executed by the State Water Board:
 - a. Authorized Representative Resolution,
 - b. Tax Questionnaire,
 - c. Dedicated Source of Revenue Resolution,
 - d. Updated Schedule of System Obligations,
 - e. Certificate of Compliance with Federal Laws and Authorities,
 - f. General Plan Compliance Certificate,
 - g. Letter of litigation, adverse audit findings, or ratepayer/contractor disputes (Policy Section IX.E.4),
 - h. Bond counsel letter stating the relationship between the County Assessment District #1 and LOCSD assessment district,
 - i. Certification of AB 2572 non-applicability,
 - j. Economic analysis for the selected alternative in compliance with the Water Recycling Funding Program Guidelines,

- k. Formal request by the Authorized Representative for CWSRF principal forgiveness and addressing livability standards commensurate with the CWSRF Intended Use Plan 2010/2011,
 - l. Draft or final USDA financing agreement, and
 - m. Bond counsel opinion with respect to proposed system obligations (Policy Section IX.E.5);
8. Condition this approval that the following items shall be submitted before the final agreement is amended and construction funds are disbursed by the State Water Board:
- a. Statewide General Permit for Landscape Irrigation Uses of Municipal Recycled Water from either the State Water Board or the Central Coast Regional Water Board,
 - b. A copy of the Title 22 recycled water engineering report submitted to the Department of Public Health,
 - c. Legal opinion of compliance with Articles XIII C and XIII D of the California State Constitution (Proposition 218),
 - d. Legal opinion on access and ownership of land on which construction activities will take place,
 - e. Final Water Conservation Plan,
 - f. Final recycled water use assurances must be submitted prior to issuance of an AOA, and
 - g. The County must initiate the collection of County Assessment District No. 1 upon passage of a Due Diligence resolution by the County to allow for sufficient funds to be accumulated prior to the initial debt service due date;
9. Condition this approval, as determined by the County's credit review, with the following:
- a. The CWSRF Financing Agreement shall be secured on parity with the USDA loan for County Assessment District No. 1 revenues,
 - b. The County shall establish a Reserve Fund equal to one year's debt service prior to the construction completion date,
 - c. The County shall covenant to establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.10 times the total annual debt service,
 - d. The County may not incur future senior debt. County future debt may be parity with CWSRF debt if Policy conditions are met (Policy Section X. G1),
 - e. The Financing Agreement shall be limited to a maximum of \$86,208,416, of which an estimated \$7,500,000 is CWSRF principal forgiveness. No more than \$79,920,000 shall be disbursed to the County, the remainder of which will be amortized over the term of the financing agreement; unless new information supporting the credit review changes and a supplemental credit review is performed,
 - f. When the assessment district for undeveloped properties is formed and approved, the revenues must become an additional dedicated source of security for the proposed CWSRF financing agreement,
 - g. County Assessment District #1 property owners that wish to prepay their assessment may do so. Any prepayments received will reduce assessment backed principal borrowed from the CWSRF, and
 - h. Grants and principal forgiveness provided by the State Water Board and any future source shall reduce the total CWSRF financing agreement amount;

10. Condition this approval such that the County must obtain a final, adopted WDR from the Central Coast Regional Water Board prior to construction; and
11. Condition this approval such that to the best extent possible, USDA funds will be expended before CWSRF funds are disbursed.

State Water Board action on this item will assist the Water Boards in reaching Goals 1,2, and 3 of the Strategic Plan Update: 2008-2012 to (1) Implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030; (2) Improve and protect groundwater quality in high-use basins by 2030; (3) Increase sustainable local water supplies available for meeting existing and future beneficial uses by 1,725,000 acre-feet per year, in excess of 2002 levels, by 2015, and ensure adequate flows for fish and wildlife habitat;

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2011-

AUTHORIZE FUNDING FROM THE CLEAN WATER STATE REVOLVING FUND (CWSRF)
TO THE COUNTY OF SAN LUIS OBISPO (COUNTY) LOS OSOS WASTEWATER PROJECT
(PROJECT), CWSRF PROJECT NO. C-06-5230

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 March 17, 2009;
2. The State Water Board, on June 15, 2010, adopted the state fiscal year 2010/2011 CWSRF Program Priority List which included the County's Project in Priority Class A;
3. The Division of Financial Assistance (Division) has approved the Facility Plan for the County's Project on February 10, 2011, and the County agreed with the approval on February 11, 2011;
4. A credit review was completed on February 3, 2011, recommending a maximum CWSRF financing amount of \$86,208,416 for the Project, of which an estimated \$7.5 million in CWSRF principal forgiveness, assuming a 30-year term at 2.6 percent interest rate;
5. The County prepared an Environmental Impact Report (EIR) for the Project, distributed it to the public, and circulated it through the State Clearinghouse No. 2007121034;
6. The County certified the EIR, adopted a Mitigation Monitoring Program and a Statement of Overriding Considerations (SOC), and approved the Project on September 29, 2009;
7. The County filed a Notice of Determination with the San Luis Obispo County Clerk on September 30, 2009, and with the Governor's Office of Planning and Research on October 5, 2009;
8. The County adopted a SOC to substantiate its decision to approve the Project despite significant unavoidable impacts to 22 acres of locally important farmland;
9. The State Water Board has determined that significant unavoidable impacts to farmland will result from construction of the treatment plant portion of the Project; and
10. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of the Project outweigh the significant unavoidable impacts to farmland:
 - a. The Project will allow the community of Los Osos to comply with the Central Coast Regional Water Quality Control Board's Resolution 83-13; and
 - b. The Project will eliminate discharges from onsite septic systems to alleviate groundwater contamination.

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THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a CWSRF financing agreement amount of \$86,208,416 for the proposed Project, with a repayment period of 30-years, and the first repayment due one year after completion of construction;
2. Conditions this approval by withdrawing this CWSRF Preliminary Funding Commitment (PFC) if the County does not sign the agreement by June 30, 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 this PFC expiration date for good cause;
3. Conditions this approval by withdrawing the CWSRF PFC if the County does not issue notice-to-proceed with construction by June 30, 2012, and in accordance with Section IX (K) of the Policy, allow Division staff the discretion to approve up to a 120-day extension of this PFC expiration date for good cause;
4. Adopts the above SOC for the County's Project;
5. Requires, in accordance with the Governor's signing message of AB 2701 (Blakeslee), the County to repay the outstanding \$6,288,416 owed by the LOCSD to the CWSRF;
6. Requires the Project to be in compliance with the following:
 - a. USDA letter of conditions, dated September 16, 2010,
 - b. Coastal Development Permit issued on September 7, 2010 by the California Coastal Commission,
 - c. Final Biological Opinion issued by the USFWS,
 - d. Memorandum of Agreement between the State Water Board, USDA, County, and the California State Historic Preservation Officer executed July 24, 2010, and
 - e. Central Coast Regional Water Board WDR draft Order No. R3-2011-0001;
7. Conditions this approval that the following items shall be submitted before the financing agreement is executed by the State Water Board:
 - a. Authorized Representative Resolution,
 - b. Tax Questionnaire,
 - c. Dedicated Source of Revenue Resolution,
 - d. Updated Schedule of System Obligations,
 - e. Certificate of Compliance with Federal Laws and Authorities,
 - f. General Plan Compliance Certificate,
 - g. Letter of litigation, adverse audit findings, or ratepayer/contractor disputes (Policy Section IX.E.4),
 - h. Bond counsel letter stating the relationship between the County Assessment District #1 and LOCSD assessment district,
 - i. Certification of AB 2572 non-applicability,
 - j. Economic analysis for the selected alternative in compliance with the Water Recycling Funding Program Guidelines,
 - k. Formal request by the Authorized Representative for CWSRF principal forgiveness and addressing livability standards commensurate with the CWSRF Intended Use Plan 2010/2011,

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11. Conditions this approval such that to the best extent possible, USDA funds will be expended before CWSRF funds are disbursed.

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 March 1, 2011.

Jeanine Townsend
Clerk to the Board