

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
OCTOBER 8, 2013**

**ITEM 5**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION TO ADD THE SAN LUIS OBISPO COUNTY (COUNTY) LOS OSOS WASTEWATER PROJECT (PROJECT) TO THE WATER RECYCLING FUNDING PROGRAM'S (WRFP) CONSTRUCTION GRANT COMPETITIVE PROJECT LIST AND TO AUTHORIZE THE WRFP TO PROVIDE A PRELIMINARY FUNDING COMMITMENT (PFC) FROM THE CONSTRUCTION GRANT PROGRAM; WRFP PROJECT NO. 3314-030

**DISCUSSION**

The County is seeking financial assistance in the form of a construction grant from the State Water Resources Control Board (State Water Board) WRFP for construction of the recycled water system portion of the Project. The WRFP Construction Grant is limited to \$4 million, but not to exceed 25% of eligible construction costs.

The Division of Financial Assistance received the County's application for a WRFP construction grant on May 14, 2012. In accordance with the WRFP Guidelines (amended July 15, 2008), projects must be in a fundable category on the WRFP Competitive Project List (CPL), adopted on January 20, 2005 ([Resolution No. 2005-0002](#)). The County's Project is not listed on the current WRFP CPL. Division staff determined that the Project meets the WRFP funding requirements and will benefit the state's water supply. Division staff recommends the State Water Board add the County's Project to the WRFP CPL.

The County's Project also has financing agreements from the United States Department of Agriculture (USDA) for \$87,190,000 secured by assessments and two from the State Water Board's Clean Water State Revolving Fund (CWSRF) for \$43,871,000 secured by assessments (Project No. C-06-5230-110) and \$42,337,416 secured by rates and charges (Project No. C-06-5230-120).

The process to establish the terms of the CWSRF financing agreements began on March 1, 2011, when the State Water Board approved [Resolution No. 2011-0009](#), authorizing financing of the Project through the CWSRF Program in accordance with the State Water Board's *Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities* (Policy), amended on March 17, 2009. Subsequently, the County entered into two CWSRF financing agreements with the State Water Board for the Project. CWSRF Policy establishes the interest rate for the Project financing at one half the most recent state general obligation bond rate as of the date of the PFC, which was 2.6 percent. The State Water Board also approved a repayment period of 30 years, pursuant to both the Policy and authorization from the United States Environmental Protection Agency (U.S. EPA) for extended term financing for disadvantaged communities

However, during its presentation to the State Water Board at the March 1, 2011 meeting, the County requested that the State Water Board consider a lower interest rate, citing affordability concerns. For this reason, resolved clause No. 13 was added to Resolution No. 2011-0009. This clause reads as follows:

“[The State Water Board] ...No later than December 6, 2011, will consider, at a Board meeting, reducing the interest rate established pursuant to Resolved # 1. Such a reduction in interest rates would be considered in conjunction with how long the County operates the Project. Prior to the State Water Board’s consideration of an interest rate reduction, the County shall provide an updated report to the State Water Board members, updating costs estimates, user service charges, and projected on-lot costs.”

On December 6, 2011, pursuant to resolved clause No. 13 of Resolution No. 2011-0009, the County approached the State Water Board, presented a project update with additional information, and requested the Board’s consideration of further reducing the interest rate. The State Water Board passed Resolution 2011-0059, authorizing the Division of Financial assistance to lower the interest rate for both agreements, from 2.6 percent to 2.0 percent so long as the County operates the Project for the duration of the CWSRF financing agreements. These are the current terms of the CWSRF financing agreements.

The County is requesting a \$4,000,000 grant from the WRFP Construction Grant Program to construct tertiary treatment facilities, storage ponds, and a recycled water distribution system as part of the Project. The Sanitary Sewer Collection portion of the Project is currently under construction. The recycled water system will provide 227 acre-feet of recycled water for landscape and agricultural irrigation purposes. The balance of the effluent from the proposed treatment plant will be disposed of at subsurface leach fields.

Division staff recommends the State Water Board add the County’s Project to the WRFP CPL and approve a WRFP construction grant PFC for \$4 million.

## **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 where 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 a 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.

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 existing CWSRF financing agreements.

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 a CEQA Notice of Determination with the State Clearinghouse following funding approval.

**FISCAL IMPACT**

**County Finances:**

A credit review analyzed the County's ability to enter into an agreement for the amount of \$4,000,000 for a construction grant. The credit review provided recommendations regarding the financial capacity of the applicant to operate and maintain the Project, per the requirements of the WRFPP Guidelines.

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.

Upon completion of construction on the wastewater treatment plant, the projections of revenues and expenses for the County are summarized below:

<b>Fiscal Year</b>	<b>2015/16 Projections</b>
Operating Revenues (Service Charges)	\$5,199,210
Special Tax & Assessment Revenue	\$6,693,717
Total Revenues	\$11,892,927
Operating Expenses	\$2,370,000
Net Available for Debt Service	\$9,522,927
USDA Loan Debt Service	\$3,737,229
Proposed CWSRF Debt Service	\$3,810,822
Total Debt Service	\$7,548,051
Debt Service Coverage	1.26

**Water Recycling Funding Program Finances:**

A total of approximately \$113 Million was initially made available in the 1996 and 2000 Bond Law Water Recycling Sub-accounts for water recycling funding. Of this amount, 41 percent (\$46.3 Million) was originally designated for planning grants and construction loans with 60 percent of this amount (\$27.8 million) specified for Southern California.

Loan repayments from water recycling construction projects are deposited into the Water Recycling Sub-accounts and provide funds for new construction grants, loans, planning and research projects. Construction grant funds are appropriated each year during the state budget process. Funding for construction loans, planning and research grants are continuously appropriated. This construction grant will be funded from the Southern Counties allocation. The available balance for construction loans and planning grants may be found in the following fiscal impact table:

<b>Proposition 13, 2000 Bond Law</b>				
<b>Construction Grant</b>				
	<b>Appropriation balance</b>	<b>Southern Counties (60%)</b>	<b>Other Counties (40%)</b>	<b>Total Appropriation</b>
<b>Beginning Balance: As of 6/6/2013</b>	\$7,922,000	\$4,753,200	\$3,168,800	\$7,922,000
<b>Proposed Commitments</b>				
San Luis Obispo - Los Osos #3314-030		(\$831,200)	(\$3,168,800)	(\$4,000,000)
<b>Balances after New Commitments</b>		<b>\$3,922,000</b>	<b>0</b>	<b>\$3,922,000</b>

\*\* Includes six counties as follows: Los Angeles, Ventura, San Diego, San Bernardino, Orange and Riverside.

\*\*\*All counties not listed above are listed under "other counties"

**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. Add the Project to the WRFP CPL?
2. Approve a \$4,000,000 WRFP construction grant for the proposed Project?
3. In accordance with Section III.F of the WRFP Guidelines, condition this approval by withdrawing the WRFP PFC if the County does not sign the grant agreement by April 8, 2014? But, allow Division staff to have the discretion to approve up to a 90-day extension for good cause?

## STAFF RECOMMENDATION

The State Water Board should:

1. Add the Project to the WRFP CPL;
2. Approve a \$4,000,000 WRFP construction grant for the proposed Project; and
3. In accordance with Section III.F of the WRFP Guidelines, condition this approval by withdrawing the WRFP PFC if the County does not sign the grant agreement by April 8, 2014. But, allow Division staff to have the discretion to approve up to a 90-day extension for good cause.

State Water Board action on this item will assist the Water Boards in reaching Goal 3 of the Strategic Plan Update: 2008-2012 to 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. In particular, approval of this item will assist in fulfilling Objective/Action 3.2 to increase the acceptance and promote the use of recycled water and the reuse of stormwater as locally available, sustainable water supplies consistent with the Climate Change Draft Scoping Plan developed pursuant to the California Global Warming Solutions Act of 2006 (AB 32) and other relevant State and regional efforts.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-

TO ADD THE SAN LUIS OBISPO COUNTY (COUNTY) LOS OSOS WASTEWATER PROJECT (PROJECT) TO THE WATER RECYCLING FUNDING PROGRAM'S (WRFP) CONSTRUCTION GRANT COMPETITIVE PROJECT LIST AND TO AUTHORIZE THE WRFP TO PROVIDE A PRELIMINARY FUNDING COMMITMENT (PFC) FROM THE CONSTRUCTION GRANT PROGRAM; WRFP PROJECT NO. 3314-030

### WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the "*Water Recycling Funding Program Guidelines*" (Guidelines) and amended it on July 15, 2008;
2. The Project is a Category I project according to the Guidelines, but is not included on the WRFP Competitive Projects List (CPL), adopted January 20, 2005;
3. An independent credit review was completed on May 28, 2010;
4. 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;
5. 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;
6. 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;
7. The County adopted an SOC to substantiate its decision to approve the Project despite significant unavoidable impacts to 22 acres of locally important farmland;
8. 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
9. 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.
10. The County is not a signatory to the California Urban Water Conservation Council's Memorandum of Understanding (MOU) regarding Urban Water Conservation in California;
11. The County does not meet the definition of an Urban Water Supplier as defined in Section 10617 of the Water Code, therefore Water Code Sections 10631.5 and 529.5 do not apply; and
12. Water Code section 5103, Statement of Diversion and Use of Water, does apply to the County. The County's compliance with Water Code section 5103 will be a material condition of the grant agreement.

# DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adds the Project to the WRFP CPL;
2. Approves a \$4,000,000 WRFP PFC for the proposed Project; and
3. In accordance with Section III.F of the WRFP Guidelines, conditions this approval by withdrawing the WRFP PFC if the County does not sign the grant agreement by April 8, 2014. Division staff has the discretion to approve up to a 90-day extension for good cause.

## 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 October 8, 2013.

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Jeanine Townsend  
Clerk to the Board