

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 76-89

AUTHORIZING EXECUTION OF CONTRACT FOR LOAN TO CELESTE COUNTY
WATER DISTRICT FROM STATE WATER QUALITY CONTROL FUND

WHEREAS:

1. The State Board on May 15, 1975, by Resolution No. 75-51, authorized a loan of up to \$12,000 to the Celeste County Water District for the purpose of construction of facilities necessary to prevent water pollution.
2. All conditions for entry into a contract to loan \$12,000 to said District have been fulfilled, other than approval of said loan by the Director of Finance as required by Water Code Section 13411.
3. No moratorium on repayment of principal and interest is requested.
4. A proposed contract with said District is attached hereto, which contract is appropriate in terms and is conditional upon approval by the Director of Finance.

THEREFORE BE IT RESOLVED:

That the Board's Executive Officer be authorized to execute the contract attached hereto on behalf of the Board for a five-year loan from the State Water Quality Control Fund to the Celeste County Water District in an amount not to exceed \$12,000 for the purpose of construction of the project specified therein, and to forward said contract to the Director of Finance for his approval.

CERTIFICATION

The undersigned, Executive Officer of the State Water Resources Control 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

JUL 15 1976

Bill B. Dendy
Bill B. Dendy
Executive Officer

CONTRACT NUMBER WQCRF 6-004-50
BETWEEN
STATE WATER RESOURCES CONTROL BOARD
AND
CELESTE COUNTY WATER DISTRICT
FOR
A LOAN TO CONSTRUCT FACILITIES
NECESSARY TO PREVENT WATER POLLUTION

THIS CONTRACT, entered into this day of
1976, by and between the State of California, hereinafter
referred to as the "Board", and Celeste County Water District,
hereinafter referred to as the "District", a public agency of the
State of California;

WHEREAS:

1. The Board on July 15, 1976, by Resolution No. 76-89 approved a loan to the District in an amount up to \$12,000; and
2. The District has held an election on whether or not the District should enter into a loan contract for borrowing up to \$20,000 from the Board, and more than 50 percent of the votes at the election were cast in favor of the loan.

NOW, THEREFORE, The Board agrees to make a loan to the District in a total amount not to exceed Twelve Thousand Dollars (\$12,000) upon the following terms and conditions:

1. Definitions. Where used in this contract, the following terms shall have the following meanings:

- (a) "Project" shall mean that project proposed by the District involving construction of a collection system, lift station, and interceptor to convey wastewater to the City of Merced, as essentially described in that project report entitled "Celeste County Water Sewerage System, A Clean Water Project, dated March 1, 1975", which

project report is filed with the Board and incorporated herein; and which project, also eligible for consideration for federal and state grants, designated as Project No. C-06-0998, or as it may be amended.

(b) "Loan funds" means any and all funds disbursed to the District pursuant to this contract, including any and all interest earned upon funds disbursed to the District.

(c) "Year" means calendar year.

(d) "State grant contract" means the written agreement, and any amendments thereto, between the Board and the District in which the terms, provisions and conditions governing a grant to the District for construction of the project are stated.

(e) "Federal grant contract" means the written agreement, and any amendments thereto, between the Environmental Protection Agency and the District by which federal grant funds are committed for construction of the project.

(f) "Eligible costs" means reasonable costs necessarily incurred by the District for construction of the project. Eligible costs specifically do not include the following:

(1) the cost of any work which is not described in the Final Plans and Specifications referred to in Paragraph 1(a) of this contract or permitted by any modifications or changes in the project approved by the State Board in conformity with Paragraph 10 of its grant contract with the District

for Project No. C-06-0998;

(2) any fee or portion of a fee which is not directly related to construction of the project;

(3) damages of any nature, claimed or awarded, arising out of or related to the project, whether such claims or awards are determined by judicial action, arbitration, negotiation, or otherwise;

(4) costs of acquisition of any real property or any interest therein not directly related to construction of the project;

(5) costs attributable to normal operation of the business of the District such as salaries and expenses of District such as salaries and expenses of District officials and other District personnel acting within the scope of their normal duties;

(6) litigation costs or fees of any nature; or

(7) interest charges.

(g) "Completion of construction" means any of the following:

(1) actual completion of construction of the project;

(2) acceptance of the project by the District, accompanied by cessation of labor thereon;

(3) after commencement of work, a cessation of labor thereon for a continuous period of 60 days or more other than cessation as a result of weather conditions or acts of God and labor disputes, governmental orders or other circumstances beyond the control of the District, or a cessation of labor thereon

for a continuous period of 30 days or more if the District files for record a notice of cessation;

- (4) written acceptance of the project by the District; or
- (5) termination of the state grant contract or the federal grant contract for failure of the District to fulfill or to comply with the terms, conditions, or provisions of the state grant contract or federal grant contract.

2. Effective Date of Contract. This contract shall become effective as of the date first above written upon due execution of this contract by the parties hereto and approval of this contract by the Director of Finance.

3. Maximum Amount to be Loaned. Funds disbursed to the District shall not exceed the sum of Twelve Thousand Dollars (\$12,000).

4. Use of Loan Funds. Loan funds shall be used solely for payment of the District's share of eligible costs of the project. The District shall, for at least five years after completion of construction, maintain complete and adequate records sufficient to verify that loan funds were used solely for payment of eligible projects costs by the District.

5. Disbursement. After approval of this contract by the Director of Finance, the Board will disburse to the District a lump sum as requested by the District, up to the sum of Twelve Thousand Dollars (\$12,000), which disbursement is to be used solely for the purpose of paying the District's share of the cost of the project.

6. Special Account Requirements. All loan funds and any interest thereon shall be deposited into a special account

entitled "State Water Quality Construction Loan Account" which will be established by the District and which will be maintained separate and distinct from all other accounts of the District, including any account related to grant funds provided under the state grant contract or the federal grant contract. To the extent reasonably practicable, such account shall be an interest bearing account. The District shall keep complete and accurate records of all deposits into such account or credits accruing thereto and of all expenditures made from the account and the purpose thereof. Such records shall be open to inspection by the Board or its agents at all reasonable times.

7. Construction of Project. The District agrees to make every good faith effort to insure that the project is constructed in a timely and expeditious manner and in strict accordance with applicable state and federal laws, rules, regulations, terms, and conditions, and the provisions of state and federal grant contracts.

8. Refusal of Further Disbursements. The Board may refuse to make, or may withhold, disbursements of funds to the District for any of the following reasons: (a) failure of the District to fulfill any of the terms, conditions, or provisions of this contract; or (b) failure of the District to fulfill any of the terms, conditions, or provisions of grant contract No. C-06-0998 applicable to construction of the project as defined herein. The Board will advise the District, in writing, of any determination to refuse, or to withhold, further disbursement of funds and the reasons therefore.

9. Notification of Completion of Construction. The District will immediately notify the Board, in writing, of the completion of construction, other than completion due to termination of the state grant contract.

10. Report of Funds and Remittance. Within 30 days after completion of construction, the District shall transmit to the Board a written statement setting forth the date of receipt of all funds disbursed by the Board pursuant to this contract, the date of deposit of all such funds into the special account required by Paragraph 6 above, and the date and amount of any interest accruing to such account. Such statement shall set forth the date of receipt and the amount of each state and federal grant payment received by the District for construction of the project and the total thereof, together with the estimated total cost of the project to the District upon payment of all eligible costs under this contract. The statement shall further specify the amount of any unexpended funds remaining in the special account or shall state that all loan funds have been expended for the District's share of eligible costs of the project pursuant to this contract, together with a statement that all loan funds expended and/or to be expended on the project have been and will be expended for eligible costs pursuant to this contract. In the event that there remain any unexpended funds in the special account, and these funds are not required for payment of the District's share of eligible costs of the project pursuant to this contract, such funds shall be immediately remitted to the Board. In any

event, should total loan funds (including interest earned) exceed the sum of Twelve Thousand Dollars (\$12,000), all loan funds in excess of Twelve Thousand Dollars (\$12,000) shall be immediately remitted to the Board.

11. Principal Amount and Determination Thereof. Upon receipt of the reports and remittance, if any, provided for in Paragraph 10, the Board will calculate the principal amount of loan funds due from the District. Such principal amount shall be the total loan funds (including interest earned) disbursed to the District pursuant to this contract and expended or to be expended for the District's share of eligible costs of the project, less all remittances received from the District pursuant to this contract. The Board will advise the District in writing of the principal amount determined, which principal amount shall, however, be subject to adjustment pursuant to Paragraph 12.

12. Audit Adjustments. In the event that any audit of the project by the State Controller's office (or their successor designated agency for such audit purposes) in conformity with generally accepted auditing standards shall disclose that the principal amount determined in accordance with Paragraph 11 should have been a lesser amount, the District shall immediately pay to the Board an amount equal to the difference between the audited principal amount and the principal amount determined pursuant to Paragraph 11.

13. Repayment by District. The District shall pay to the Board, on or prior to the dates due, appropriate installments or principal, and appropriate installments of interest

pursuant to Paragraph 14, until all principal and interest due to the Board has been paid in full. Installments of principal and interest (total loan service) shall be computed in accordance with the Loan Repayment Schedule attached hereto and incorporated herein. The first total loan service payment shall be due and payable on June 15, 1977, and additional loan service payments shall be due on June 15 of each succeeding year thereafter until all principal and interest due to the Board has been paid in full. A fully completed Loan Repayment Schedule will be prepared by the Board and will be furnished to the District at the time of advice to the District of the principal amount determined in accordance with Paragraph 11. In the event of modification of the principal amount pursuant to Paragraph 12, a revised Loan Repayment Schedule will be prepared by the Board and furnished to the District.

14. Interest Rate. Interest shall be computed and payable on an annual rate equal to the average, as determined by the Board, of the net interest costs to the State on the sales of general obligation bonds of the State that occurred during the five calendar years immediately preceding the calendar year in which this contract is executed, provided that, when the applicable average of the net interest costs to the State is not a multiple of one-tenth of one percent, the interest rate shall be at the multiple of one-tenth of one percent next above the applicable average of the net interest costs.

15. Excess Receipts. In the event that state and federal grant funds provided to the District for construction of the project, together with payments from loan funds, and all

other state and federal contributions toward the cost of construction of this project, shall exceed the eligible project costs incurred by the District in construction of the project, the District shall, upon receipt of any such excess funds, remit the same to the Board to apply against any principal amount and interest then due to the Board. Upon any such remittance by the District, the Board shall prepare and furnish to the District a revised Loan Repayment Schedule.

16. Taxes and Assessments.

(a) The District as a whole is obligated to make the payments required by this contract to the Board, notwithstanding any individual default by its constituents or others in the payment to the District of taxes, assessments, tolls, or other charges levied by the District, and the District will provide for the punctual payment to the Board of all amounts which become due under this contract.

(b) The District shall, whenever, necessary, levy or cause to be levied upon all property in the District not exempt from taxation, a tax or assessment sufficient to provide for all payments under this contract then due or to become due within the then current fiscal year, and all officers of the District charged with the collection of the taxes or assessments levied by the District shall enforce and collect all taxes or assessments levied or assessed for the purpose of providing such payments.

(c) In the event of failure, neglect, or refusal of any officer of the District to levy or cause to be

levied any tax or assessment necessary to provide payment by the District under this contract, to enforce or to collect the tax or assessment, or to pay over to the Board any money collected on the tax or assessment necessary to satisfy any amount due under this contract, the Board may take such action in a court of competent jurisdiction as it deems necessary to compel the performance of all duties relating to the levying and collection of the taxes or assessments and the payment of the money collected therefrom to the Board. Action taken pursuant hereto shall not deprive the Board of, or limit the application of, any other remedy provided by law or by this contract.

(d) Subparagraphs (b) and (c) of this paragraph shall not be construed to prohibit the District from providing for any payment under this contract from any other sources permitted by law.

(e) The District shall not be relieved of its obligation to repay the loan and any interest thereon because of any order of a Regional Water Quality Control Board or its successor.

17. Whole of Loan Due Upon District's Default or Breach at Board's Option. In the event there is any default in the payment of either the principal amount or the interest due under this contract, or any breach by the District of any of the terms, covenants, or conditions of this contract, the whole of the amount then due to the Board, shall, at the option of the Board, become immediately due and payable.

18. Hold Harmless Agreement. The District agrees to indemnify, defend and save harmless the State of California and the Board, and the officers, agents and employees of each, against and from any and all claims, demands, damages, losses, costs, expenses, or liability accruing or resulting to any and all contractors, subcontractors, employees and any other person, firm, or corporation furnishing or supplying services, materials or supplies in connection with the construction of the project, and from any and all claims, demands, damages, losses, cost, expenses or liability occurring or resulting to any person, firm or corporation, as a result of or incident to, either in whole or in part, whether directly or indirectly, the construction of the project.

19. Inspection of Books and Records. The Board, or its authorized agents, shall have the right to inspect and make copies of any and all books, records, reports or accounts of the District, or under the possession or control of the District, related to this contract or construction of the project.

20. Assignment of Contract. This contract and all of the provisions hereof shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this contract or any part thereof or interest therein shall be valid unless and until approved in writing by the Board and any such assignment or transfer shall be made subject to such reasonable terms and conditions as the Board may impose.

21. Waivers. Any waiver at any time of rights or duties under this contract shall not be deemed to be a waiver of any subsequent right or duty under the contract.

22. Specified Remedies Not Exclusive. The use by the Board of any remedy specified in this contract for its enforcement is not exclusive and shall not deprive the Board of the right to seek any other appropriate legal or equitable remedy.

23. Failure to Maintain or Provide Records. In the event that the District shall fail to keep, maintain, or provide the records required by this agreement, or to establish the separate account required herein, and in the event that such failure requires unusual audit expenses on the part of the Board, or any state agency acting on behalf of the Board, the District will pay to the Board that amount reasonably necessary to reimburse the State for the cost of extraordinary audit services required by reason of such default of the District.

24. Form of Remittance. All payments or remittance due to the Board pursuant to this contract shall be made payable to the State Treasurer and shall be transmitted to the Board.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the respective dates shown below.

CELESTE COUNTY WATER DISTRICT

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

By _____

By _____

Dated _____

Dated _____

APPROVED:

Director of Finance

CELESTE COUNTY WATER DISTRICT
 EXAMPLE LOAN REPAYMENT SCHEDULE^{1/}

ATTACHMENT TO CONTRACT 76-

YEAR	8/1/76 Est. Disburse. Date ^{2/}	PRINCIPAL OUTSTANDING	REDEMPTION OF PRINCIPAL	INTEREST PAYMENT	ANNUAL PAYMENT	TOTAL LOAN VALUE
		12000.00		<u>3/</u>		<u>2/ 4/</u>
6/15/77		12000.00	2158.72	636.00	2794.72	2794.72
6/15/78		9841.28	2273.13	521.59	2794.72	5589.44
6/15/79		7568.15	2393.61	401.11	2794.72	8384.16
6/15/80		5174.54	2520.47	274.25	2794.72	11178.88
6/15/81		2654.07	2654.07	140.65	2794.72	13973.60
			12000.00	1973.60	13973.60	

1/ This schedule is to be finalized at such time as the amount of the loan principal has been determined in accordance with paragraphs 11, 12 or 15 of the contract.

2/ Principal as defined in contract.

3/ 5.3% for loan executed in 1976 on principal outstanding.

4/ The amount of interest accruing during the moratorium shall increase in principal in the year first payment is due.

5/ Amortization factor assuming 5.3% interest for 10 periods factor is defined as equal to where i = interest rate and N = number of periods

$$1 - \frac{i}{(1 + i)^N}$$

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 75-51

APPROVING A STATE WATER QUALITY CONTROL FUND LOAN
TO CELESTE COUNTY WATER DISTRICT

WHEREAS:

1. Celeste County Water District has applied for a loan from the State Water Quality Control Fund to construct facilities necessary to prevent water pollution in accordance with the provisions of Chapter 6, Division 7, of the Water Code.
2. The Board has determined that (a) the facilities proposed by the applicant are necessary to the health or welfare of the inhabitants of the State, (b) that the proposed facilities meet the needs of the applicant, (c) that funds of the applicant are not available for financing such facilities and that the sale of revenue or general obligation bonds through private financial institutions is impossible or would impose an unreasonable burden on the applicant, (d) that such facilities are necessary to prevent water pollution, and (e) that the sum of \$40,000 is not otherwise available to Celeste County Water District to construct the proposed facilities.

THEREFORE BE IT RESOLVED:

1. That this Board waive its regulations on time limits for processing loans from the State Water Quality Control Fund.
2. That subject to (a) review and approval of the construction plans and specifications for the project, (b) a successful election held in the Celeste County Water District regarding entering into a loan contract, (c) consultation with the State Department of Health, (d) compliance with applicable laws and regulations, (e) certification of the project for federal and state grants as provided in Chapters 8 and 13, Division 7, of the Water Code, (f) approval by the Director of Finance, and (g) if necessary, approval by the Clean Water Finance Committee of transfer of monies from the State Clean Water Fund to augment the State Water Quality Control Fund, a loan from the State Water Quality Control Fund in an estimated sum of \$40,000 be made to Celeste County Water District in accordance with its application and the provisions of Chapter 6, Division 7, of the Water Code, provided the district presents proposed plans for repayment which are feasible and executes an agreement satisfactory in form to the Board under which it agrees to repay the amount of its loan, with interest, within 25 years following a 10-year moratorium on principal and interest payments.

3. That this Board authorize the Executive Officer, or any person delegated by the Executive Officer, to adjust the approved loan amount to reflect current estimated costs with the loan amount to be set when the Board considers the loan contract.

CERTIFICATION

The undersigned, Executive Officer of the State Water Resources Control 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 May 15, 1975.

Bill B. Dendy

Bill B. Dendy
Executive Officer