

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2015-0012**

TO APPROVE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM FINANCING FOR THE HI-DESERT WATER DISTRICT (DISTRICT) WASTEWATER TREATMENT AND WATER RECLAMATION FACILITY PROJECT (PUBLICLY-OWNED TREATMENT WORKS [POTW] PROJECT), CWSRF PROJECT NO. C-06-5295-110

WHEREAS:

1. The State Water Resources Control Board's (State Water Board) Division of Financial Assistance (Division) implements the CWSRF Program pursuant to the "Policy for Implementing the Clean Water State Revolving Fund" (Policy), last amended by the State Water Board on February 17, 2015;
2. The POTW Project is listed on the CWSRF Project List;
3. The Policy authorizes the Deputy Director of the Division to execute a financing agreement for routine and non-controversial projects;
4. The POTW Project is considered non-routine because the District is requesting a reduced interest rate, and proposes to establish the assessments and wastewater service charges that will be dedicated to repayment of the proposed CWSRF financing agreement after receiving conditional funding approval;
5. This District is working to address a Colorado River Regional Water Quality Control Board prohibition on septic tank discharges. The current funding request will allow the District to construct the Phase 1 Project (Project), which includes two CWSRF projects:
 - a. Project number C-06-5295-110, the publicly-owned treatment works project (POTW Project), which will construct a sewer collection system in the central portion of the Town, a wastewater treatment facility consisting of a membrane bioreactor treatment process and ultraviolet disinfection, and water reclamation recharge ponds;
 - b. Project number C-06-7860-110, the expanded use project (Expanded Use Project), which will decommission individual septic systems on private property and install private laterals to connect customers to the new sewer system;
6. Funding approval for the Expanded Use Project will be considered at a later date;
7. The District is the lead agency under the California Environmental Quality Act (CEQA), and the United States Department of the Interior, Bureau of Reclamation (BOR) is the lead agency under the National Environmental Policy Act (NEPA). The District and the BOR jointly prepared an Initial Study and Mitigated Negative Declaration (IS/MND; State Clearinghouse No. 2009061035) and an Environmental Assessment (EA) for the Project. The District and the BOR complied with CEQA and NEPA and the CEQA Guidelines by circulating the IS/MND and EA to the public and through the State Clearinghouse for review and comments;
8. The District adopted the final IS/MND and a Mitigation Monitoring and Reporting Program (MMRP) on August 5, 2009, and approved the Project on October 7, 2009;

9. The District filed a Notice of Determination with the San Bernardino County Clerk on October 13, 2009 and the Governor's Office of Planning and Research (OPR) on October 14, 2009;
10. The BOR completed a Finding of No Significant Impact (FONSI; No. 12-SCAO-002-FONSI) for the Project on May 14, 2012;
11. The District prepared an addendum to the IS/MND (Addendum No. 1) March 2013 identifying no new significant potential adverse environmental impacts from implementation of the modified Project;
12. The District approved Addendum No. 1 on April 17, 2013 and filed an NOD with the San Bernardino County Clerk on April 19, 2013 and the OPR on April 23, 2013;
13. The District prepared a second addendum to the IS/MND (Addendum No. 2) in November 2014 identifying no new significant potential adverse environmental impacts from implementation of the modified Project;
14. The District approved the final Addendum No. 2 on December 18, 2014 and filed an NOD with the San Bernardino County Clerk on December 22, 2014 and the OPR on December 23, 2014;
15. The BOR initiated informal consultation under Section 7 of the federal Endangered Species Act (ESA) with the United States Fish and Wildlife Service (USFWS) on April 16, 2012, and determined that the Project will have no effect to the federally threatened desert tortoise (refer to the *April 16, 2012 BOR memorandum; No. SCAO-1500, ENV-700*). Although the USFWS did not respond to the BOR, the BOR determined that sufficient consultation was completed under Section 7 of the federal ESA with the USFWS. The Project will have no effect to federal special-status species;
16. The BOR initiated consultation with the State Historic Preservation Officer (SHPO) under Section 106 of the National Historic Preservation Act with the determination of "no historic properties affected" on November 15, 2011 (for the Wastewater Treatment Plant and Water Reclamation Facility) and on December 5, 2011 (for the sewer collection system). The SHPO responded to both consultations on August 13, 2012, with a concurrence of "no historic properties affected";
17. The District prepared an updated cultural resources study in March 2013, during which an historical/archaeological resources record search, historical background search, contact of Native American representatives, and field survey were conducted related to the proposed changes for Addendum No. 1. The District prepared another updated cultural resources study in January 2015, during which an historical/archaeological resources record search, historical background search, contact of Native American representatives, and field survey were conducted related to the proposed changes for Addendum No. 2. State Water Board staff has reviewed both updated cultural resources studies, and determined that the proposed changes documented in Addenda Nos. 1 and 2 are within the scope the Project reviewed by the SHPO;
18. The District's environmental documents provided an adequate disclosure of the environmental relationships of all water quality aspects of the Project. Mitigation measures or alterations incorporated into the Project will avoid or substantially reduce potentially significant environmental impacts;

19. The Project will not result in any significant adverse water quality impacts;
20. The District has not completed property acquisitions for the Project;
21. The District is a small disadvantaged community with proposed combined assessments and rates exceeding two percent of the community's median household income (MHI);
22. The State Water Board may set interest rates for CWSRF financing at or below one-half of the most recent general obligation bond rate (CWSRF standard interest rate); and
23. The current CWSRF standard interest rate is 1.6%.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Authorizes the Deputy Director of the Division of Financial Assistance to:
 - a. Enter into an agreement with the District to provide CWSRF financing for the POTW Project at an interest rate of one percent (1%) in an amount of up to \$142,349,314, and
 - b. Increase the financing agreement amount for good cause, subject to a determination that such increase is consistent with the financing limit determined by subsequent financial review.
2. Conditions the approval, as determined by the environmental review, with the following:
 - a. The District shall comply with the applicable mitigation measures of the October 7, 2009 MMRP, including but not limited to the following:
 - Mitigation measures 4.1-1 through 4.1-13 for air quality,
 - Mitigation measures 4.11-1 through 4.11-2 for cultural resources,
 - Mitigation measures 4.2-1 through 4.2-7 for hydrology and water quality, and
 - Mitigation measures 4.6-1 through 4.6-11 for natural resources – biological resources.
3. Conditions the approval, as determined by the financial review, with the following:
 - a. The Pledged Assessments, Revenues and Funds Resolution must be adopted by the District and approved by the State Water Board prior to the execution of the agreement. The District shall pledge Assessment 2014-1 and the net revenues of the District's Wastewater Fund for repayment of the proposed CWSRF financing agreement. The pledged assessments, revenues and funds shall be subject to lien and pledge as security of the obligation;
 - b. The District must adopt a Reimbursement Resolution, setting forth the maximum POTW Project amount. The Reimbursement Resolution must be received and approved by the State Water Board prior to execution of the agreement;
 - c. The District must adopt a Rate Adoption Resolution, which must be received and approved by the State Water Board prior to execution of the agreement;

- d. The District must provide a legal opinion(s) satisfactory to the State Water Board's counsel to certify valid property-owner approval of the proposed assessment district and monthly service charge/fees prior to execution of the financing agreement by the State Water Board's designee;
 - e. The District must initiate the collection of assessments to ensure sufficient funds to establish a reserve fund equal to one year's debt service prior to the construction completion date. The reserve fund shall be maintained for the full term of the financing agreement and shall be subject to lien and pledge as security for the obligation;
 - f. The District must establish and maintain assessments and monthly service charges/fees sufficient to meet the required debt service ratio of 1.10 times the total annual debt service for the term of the agreement. Prior to the first disbursement, the financial staff must receive a final adopted assessment roll;
 - g. The District may not incur future senior debt. The District's future debt may be on parity with CWSRF debt if the Policy conditions of Section IX.B.4.c are met;
 - h. If the District contracts with a private entity for operations, the District must submit a draft version of the proposed agreement with such private entity for review for consistency with the State Water Board's tax-exempt revenue bond program, and Division staff must approve such contract prior to District execution; and
 - i. Disbursement of construction funds for the POTW Project will be contingent upon the District's submittal of a legal opinion satisfactory to the State Water Board's counsel that the District has sufficient property rights in the land associated with the POTW Project.
4. Conditions this approval on the District approval and execution of the financing agreement by September 30, 2015, unless Division staff approves an extension of up to 120 days for good cause. Any extension may include additional provisions necessary to satisfy state and federal requirements.

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 Resources Control Board held on March 17, 2015.

AYE: Chair Felicia Marcus
 Vice Chair Frances Spivy-Weber
 Board Member Tam M. Doduc
 Board Member Steven Moore
 Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None



 Jeanine Townsend
 Clerk to the Board