

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING -- DIVISION OF FINANCIAL ASSISTANCE
FEBRUARY 5, 2008**

ITEM 5

SUBJECT

CONSIDERATION OF A RESOLUTION ON EXTENSION OF THE PRELIMINARY STATE REVOLVING FUND (SRF) LOAN AND SMALL COMMUNITIES WASTEWATER (SCW) GRANT COMMITMENT EXPIRATION DATES FOR THE NEVADA COUNTY SANITATION DISTRICT NO. 1 (DISTRICT), CASCADE SHORES WASTEWATER TREATMENT PLANT PROJECT (PROJECT)

DISCUSSION

The Division of Financial Assistance (Division) approved SRF loan and SCW grant funding commitments for the District's Project on September 8, 2006. The SCW grant commitment has an expiration date of March 8, 2008, (must issue Notice to Proceed (NTP) with construction within 18 months of the commitment) based on Section V of the SCW Grant Guidelines. The September 8, 2006, SRF loan commitment has an expiration date of April 6, 2007.

The District received bids on two separate occasions for its original Project: September 7, 2006, and February 22, 2007. Both bids resulted in a cost to the ratepayers of approximately \$4500 per year. The proposed rate increases were put to vote pursuant to Proposition 218, and the community rejected the increased assessments on both occasions. Because the 218 vote failed, the District rejected the bids from both rounds of bidding.

Since March 2007, the District has pursued an alternative procurement procedure allowed by Public Contract Code (PCC) Section 20783. Section 20783 allows the District, after rejecting bids for a project, to declare by four-fifths vote that the work can be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market. The District adopted Resolution No. SD07-13 on April 24, 2007, approving the use of the Section 20783 process.

The District received an unsolicited proposal from Water System Integrators (WSI) that it believes offers an affordable solution to its wastewater treatment needs. The District has negotiated with an experienced contractor to construct the required improvements. The District believes this proposal can reduce the overall construction cost of its Project from approximately \$5 million to approximately \$2.5 million to \$3 million.

Due to this Projects unique difficulties, in June 2007, the State Water Board adopted [Resolution 2007-0032](#) waiving the requirements for competitive bidding and minority business and women owned business requirements in the SRF Policy and SCW Guidelines for the District. [Resolution 2007-0032](#) also extended the expiration date for the SRF loan to February 8, 2008. [Resolution 2007-0032](#) included a condition that the District's voters must approve any Proposition 218 assessment necessary to support repayment of the SRF loan and provide adequate funds to operate and maintain the new facility before execution of the SRF and SCW agreements.

The District, in consultation with Division staff, determined that an additional Proposition 218 property assessment was necessary to provide sufficient funds for loan repayment and operation and maintenance of the facility. The District's property owners have been notified of the pending 218 assessment vote and their opportunity to protest at a public meeting scheduled for February 5, 2008. If the assessment passes, the District is expected to approve the necessary rate increase and direct its staff to proceed with the Project.

District staff has indicated that it should take about two to four weeks to obtain the necessary insurance and bonds to issue Notice to Proceed with construction of the Project. The District will be unable to meet the expiration date for the SRF loan commitment, and may not be able to meet the expiration date for the SCW grant commitment. Extending the expiration dates for the SRF loan and the SCW grant commitments to April 8, 2008, should give the District sufficient time to issue Notice to Proceed with construction of the Project.

POLICY ISSUE

Should the State Water Board extend the SRF loan and SCW grant funding commitments to April 8, 2008?

FISCAL IMPACT

The Division, pursuant to State Water Board [Resolution 2007-0004](#), on September 8, 2006, approved a Preliminary SRF Loan Commitment of \$3,100,000, and a SCWG Combination Grant Commitment of \$1,941,943, for the District's Project. No additional funds will be approved by this item.

REGIONAL WATER BOARD IMPACT

The Central Valley Regional Water Board has prescribed WDRs and a National Pollutant Discharge Elimination System (NPDES) Permit for the District to annually discharge tertiary treated wastewater to Gas Canyon Creek. The Regional Water Board has also issued Cease and Desist Order (CDO) No. R5-2006-0035, to ensure the District's compliance with the Permit. Completion of the proposed Project will ensure compliance with the discharge requirements and the CDO.

STAFF RECOMMENDATION

The State Water Board should extend the Preliminary SRF loan and SCW grant funding commitments to April 8, 2008.

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2008-**

EXTENSION OF THE PRELIMINARY STATE REVOLVING FUND (SRF) LOAN AND
SMALL COMMUNITIES WASTEWATER (SCW) GRANT COMMITMENT EXPIRATION
DATES FOR THE NEVADA COUNTY SANITATION DISTRICT NO. 1 (DISTRICT),
CASCADE SHORES WASTEWATER TREATMENT PLANT PROJECT (PROJECT)

WHEREAS:

1. The Division of Financial Assistance (Division), on September 8, 2006, approved a SRF Loan Commitment of \$3,100,000, and a SCW Combination Grant Commitment of \$1,941,943, for the District's Project;
2. The SRF loan commitment expiration date in the September 8, 2006, commitment is February 8, 2008, and the SCW grant commitment expiration date is March 8, 2008;
3. The District conducted two rounds of bidding for its original Project;
4. The District's property owners rejected the assessments necessary for construction of the Project using these bids, and the District's Board of Directors rejected all bids from both rounds of bidding due to the high cost of the bids;
5. The District adopted Resolution No. SD07-13 on April 24, 2007, by four-fifths vote stating its belief that it can construct the Project using the alternative procedures of California Public Contracts Code (PCC) Section 20783 more economically than it can using traditional bidding;
6. The State Water Board on June 5, 2007, waived certain requirements of the SRF Policy and the SCW Grant Program Guidelines so that the District could procure services under PCC Section 20783, and
7. The District will be unable to meet the current expiration date for the SRF loan commitment and may be unable to meet the expiration date for the SCW grant commitment.

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THEREFORE BE IT RESOLVED THAT:

The State Water Board:

Extends the SRF loan commitment and SCW grant commitment to April 8, 2008; the District must issue Notice to Proceed with construction of the Project no later than April 8, 2008, or the loan and grant commitments will expire.

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 February 5, 2008.

Jeanine Townsend
Clerk to the Board