

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING - DIVISION OF FINANCIAL ASSISTANCE
MARCH 18, 2008**

ITEM 5

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING A STATE REVOLVING FUND (SRF) FINANCING AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE SRF FINANCING PROGRAM AND THE INTEGRATED REGIONAL WATER MANAGEMENT (IRWM) PROGRAM FOR THE CITY OF SOLEDAD (CITY) WASTEWATER TREATMENT PLANT (WWTP) EXPANSION PROJECT (PROJECT); SRF PROJECT NO. C-06-4743-110 AND IRWM AGREEMENT NO. 07-506-550-0

DISCUSSION

In accordance with the State Water Resources Control Board's (State Water Board) Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities (Policy), adopted on February 16, 1995, and amended on July 17, 2007, projects on the adopted Project Priority List (SRF Priority List) need State Water Board approval to receive SRF funding. The State Water Board may approve a preliminary SRF funding commitment after issuance of a Project Facilities Plan Approval (FPA). On January 18, 2008, the Assistant Deputy Director of the Division of Financial Assistance (Division) issued the FPA for the City's Project. The City agreed to the FPA on January 28, 2008. Division staff has found that the City's Project is (1) consistent with the policies, regulations, and agreements that the State Water Board has adopted governing the internal management of the SRF program, and (2) on the SRF Priority List adopted by the State Water Board. The State Water Board, on September 4, 2007, adopted the State Fiscal Year 2007/2008 SRF Program Project Priority List, which included the City's Project.

The City is seeking SRF financing from the State Water Board to construct an expansion to the City's WWTP.

The City owns and operates the WWTP located one mile southwest of the City. The City is located in Monterey County, and is within the jurisdiction of the Central Coast Regional Water Quality Control Board (Central Coast Regional Water Board). The City's WWTP treats wastewater from Soledad State Prison, the City of Soledad, and a few industrial sources. The City's WWTP currently includes headworks, three lined aeration ponds, three partially lined secondary ponds, and eight rapid infiltration basins. The WWTP effluent is discharged to rapid infiltration basins.

The objectives of this Project are to upgrade the WWTP to comply with new Waste Discharge Requirement (WDR), Order No. R3-2005-00 074, issued by the Central Coast Regional Water Board, and to accommodate for new growth in the City and at the Soledad State Prison. The City's current WWTP reached full capacity in September 2004. To comply with the new WDR, the City must upgrade the WWTP from a secondary to a tertiary treatment facility. The City plans to expand the WWTP from a 3.0 million gallon per day (MGD) pond system to a 5.5 MGD biological tertiary treatment system to meet the new WDR by January 2010. The new WWTP will include new headworks, two four-stage bionutrient removal basins, secondary clarifiers, and sludge drying facilities. Tertiary treatment will be accomplished by new filtration and UV disinfection systems. The new plant will continue to discharge to the existing rapid infiltration basins.

The City's Project is also part of the larger Salinas Valley IRWM Implementation Project that was awarded \$12.5 million by the State Water Board as part of the IRWM Grant Program. In addition to the City's Project, the Salinas Valley IRWM Implementation Project will provide funds to assist in financing the construction of Salinas River Diversion Facility, Nacimiento Dam Spillway Modifications, new inland drinking water production wells, and booster pump system in the Ord Community, located in Marina. These projects will improve the water use efficiency and reliability by decreasing reliance on coastal wells and preventing further salt-water intrusion into the region's groundwater.

The City prepared a Final Program Environmental Impact Report (EIR) that includes the proposed Project. The EIR addresses the City of Soledad 2004 General Plan and the Wastewater Treatment and Disposal Master Plan. The City distributed the EIR to the public, and circulated it through the State Clearinghouse (SCH# 2005032122) for review from June 24, 2005, through August 8, 2005. During the review period, the City received six comment letters from the following groups:

- 1) Soledad Unified School District regarding City growth issues;
- 2) Land Watch of Monterey County regarding growth inducing impacts, potential impacts to prime farmland, flow impacts to the Salinas River, and impacts to traffic;
- 3) The California Department of Transportation, District 5 regarding the Regional Transportation Plan, air quality attainment issues, transit services, traffic congestion impacts, regional development fees, bike lanes, and highway thresholds of significance;
- 4) Transportation Agency of Monterey County regarding bicycle and pedestrian transportation issues;
- 5) Monterey Bay Unified Air Pollution Control District regarding population forecasting in the EIR; and
- 6) State of California Department of Conservation regarding potential impacts to prime farmland and Williamson Act lands.

The City provided answers to all comments and incorporated changes in the Mitigation Monitoring Program (MMP). The City Council certified the Final EIR and adopted a Statement of Overriding Considerations and the MMP on September 21, 2005. The City filed a Notice of Determination (NOD) with the Governor's Office of Planning and Research (OPR) on September 26, 2005, and with the Monterey County Clerk on September 28, 2005. The City later developed a long-term Wastewater Management Plan, which provides for upgrading, expanding, operating and maintaining the City's wastewater infrastructure consistent with the Master Plan and intended to implement the Master Plan and the mitigation measures of the Final EIR (pp. V.1-30 – V.1-31). An NOD for the Management Plan was filed with the County Clerk on May 24, 2006 and with OPR on June 2, 2006.

The City adopted a Statement of Overriding Considerations to substantiate its decision to approve the General Plan and Master Plan, which includes the Project as well as a recycled water pipeline from the City's WWTP to the prison and a recycled water scalping plant, despite significant unavoidable impacts related to public services (water supply), energy and the demand for electricity, cumulative traffic impacts on regional highways, cumulative air quality, biological resources, permanent loss of prime agricultural land, and visual resources resulting from the implementation of the General Plan and Master Plan. Because the EIR evaluated a much larger project, State Water Board staff evaluated the EIR specifically for the Project and its ancillary projects and determined that the only significant unavoidable adverse impact resulting from the Project is the loss of approximately 1.6 acres of prime farmland at the site of the new scalping plant (to be covered under SRF No. C-06-4743-130). The entire master site covers approximately 2.4 acres to include future expansion. This expansion, however, is not proposed for SRF funding at this time.

State Water Board staff finds that the following specific economic, social, technological, and environmental benefits of the Project outweigh the unavoidable adverse environmental impacts from the loss of farmland:

- a. The scalping plant will provide treatment for wastewater to meet California Code of Regulations Title 22 tertiary standards such that treated water can be reused by the City in place of potable water;
- b. Water use efficiency and reliability will be improved by the Project by decreasing the City's reliance on coastal wells;
- c. The Project will help prevent further salt-water intrusion into the Salinas Valley region's groundwater;
- d. The Project will upgrade the WWTP to comply with the Central Coast Regional Water Board's WDR; and
- e. The scalping plant and the upgraded WWTP will help meet the demands of growth since the current WWTP has reached full capacity in September 2004.

State Water Board staff has reviewed and considered the EIR, MMP, and applicable environmental documents and has determined that the Project will not result in any significant adverse water quality impacts.

On June 8, 2007 State Water Board staff distributed the draft EIR to the following federally designated agencies: U.S. Fish and Wildlife Service (USFWS), U.S. Environmental Protection Agency - Region 9 (USEPA), U.S. Army Corps of Engineers, Federal Emergency Management Agency, U.S. Department of Agriculture- Natural Resources Conservation Service, and California Coastal Commission. The federal review period ended on July 29, 2007 and no comments were received.

A second letter with additional information was sent to USFWS on November 20, 2007 since no concurrence was received for compliance with Section 7 of the Endangered Species Act. USFWS evaluated the Soledad Project and provided a "not likely to adversely affect" finding to the State Water Board on February 1, 2008 based on the City implementing conservation measures to minimize potential adverse Project effects on California tiger salamanders and California red-legged frogs from the work being done at the Soledad WWTP. State Water Board staff has determined that federal consultation has been sufficient for the Project covered under SRF No. C-06-4743-110 and will include the conservation measures as special conditions of the SRF Contract.

On September 10, 2007, State Water Board Cultural Resources Officer (CRO) sent a request to the State Historic Preservation Officer (SHPO) for concurrence on compliance with Section 106 of the National Historic Preservation Act and on a finding of "no historic properties affected." In response to SHPO's request for additional information, the CRO submitted to SHPO the City's archeological monitoring plan on December 20, 2007. Concurrence was granted by SHPO on January 7, 2008. Compliance with the archeological monitoring plan will be included as a special condition of the SRF Contract.

In addition, State Water Board staff compared the applicant's information to published air quality standards to determine whether a conformity determination is required. No conformity determination is necessary. Therefore, staff submitted its analysis to USEPA for review and comment. No comments were received from USEPA.

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

Based on the Project Report, the construction cost of the Project is \$51.3 million. The IRWM grant of \$4.5 million reduces the construction cost to \$46.8 million. The total eligible Project cost, including engineering allowances, is estimated to be \$54.3 million. The City requests \$54.3 million in SRF financing with a 20-year repayment period with the first SRF repayment due from the City one year after completion of construction.

The City Council adopted Resolution No. 4044, which dedicates wastewater user fees to the repayment of the SRF funding. The operation, maintenance, and debt service expenses for the first full year of operation are estimated at \$4.6 million. User fees will be increased to cover actual expenses. The City will follow the Proposition 218 process to increase wastewater user fees in March 2008. The City has the authority to increase wastewater user fees, with ratepayer's approval, to cover all expenses associated with the WWTP. The City must raise wastewater user fees before a SRF Agreement will be executed.

The City has provided the Division with a schedule containing Project milestones. These dates are included in the Division's Facilities Plan Approval letter. In accordance with Section IX (J) of the SRF Policy, the resolution includes the following sunset date for the preliminary funding commitment: January 15, 2009, for signing the SRF Agreement. The Division requests the authority to approve up to a 90-day extension for good cause.

POLICY ISSUE

Should the State Water Board:

1. Approve a SRF Preliminary Funding Commitment for the proposed Project, including a 20-year repayment period, with the first repayment due one year after completion of construction, for \$54.3 million?
2. Adopt a Statement of Overriding Considerations regarding the SRF Program's and IRWM Program's Soledad Wastewater Treatment Plant Expansion Project?
3. Condition this approval by withdrawing the SRF Preliminary Funding Commitment if the City does not sign the SRF Agreement by January 15, 2009, in accordance with Section IX (J) of the Policy? Should the Division staff have the discretion to approve up to a 90-day extension for good cause? and
4. Condition the execution of the funding agreements for this Project on the successful approval of a Proposition 218 assessment sufficient to support repayment of the SRF financing and adequately operate and maintain the constructed facilities?

FISCAL IMPACT

(as of 1/3/08)

	SFY 2007-08	SFY 2008-09	SFY 2009-10	SFY 2010-11	SFY 2011-12
Beginning Balance:	\$409,493,441	\$136,040,344	\$34,557,892	\$100,302,481	\$257,471,907
Estimated Repayments	\$186,631,079	\$195,936,203	\$205,936,203	\$215,936,203	\$225,936,203
Debt Service on Revenue Bonds	(\$33,357,579)	(\$31,893,104)	(\$31,758,441)	(\$31,456,429)	(\$30,228,204)
Estimated Capitalization Grants	\$89,080,042	\$60,000,000	\$0	\$0	\$0
State G.O. Bond proceeds (less state admin. match)	\$76,000,000	\$0	\$0	\$0	\$0
Local Match Credits	\$18,197,085	\$10,032,372	\$1,073,280	\$0	\$0
Est. SMIF Interest:	\$21,588,476	\$17,000,000	\$12,000,000	\$8,000,000	\$2,000,000
Estimated Disbursements	(\$617,667,463)	(\$277,834,732)	(\$76,403,421)	(\$29,110,349)	(\$8,208,304)
Subtotal	\$149,965,081	\$109,281,084	\$145,405,513	\$263,671,907	\$446,971,602
Withdraw Ventura County September 5, 2007 Commitment, 4680-110	\$8,000,000	\$8,000,000	\$5,000,000		
Ventura County, 4680-110, 120, 130, 140	(\$8,600,000)	(\$5,300,000)	(\$7,200,000)	(\$6,200,000)	
Union Sanitary District, 5085-110	(\$1,458,000)	(\$4,055,000)	(\$3,387,000)		
Los Angeles County Sanitation District, 4001-560,4001-630	(\$8,000,000)	(\$36,000,000)	(\$9,800,000)		
Lake Arrowhead, 4352-110	(\$1,829,100)	(\$4,389,798)			
Napa Sanitation District, 5114-110, 120	(\$2,037,637)	(\$3,262,363)			
City of Soledad, 4743-110		(\$29,716,031)	(\$29,716,032)		
Balance	\$136,040,344	\$34,557,892	\$100,302,481	\$257,471,907	\$446,971,602

Notes:

- Estimated Repayments include repayments from existing and future SRF financings.
- Estimated disbursements include disbursements remaining on executed loans (and other financings) and planned disbursements on projects with preliminary financings commitments. Local Match credits are the anticipated funds that will be contributed for local match financings included in "Estimated Disbursements".

REGIONAL WATER BOARD IMPACT

This Project will help the City meet conditions of the WDR.

STAFF RECOMMENDATION

The State Water Board should:

1. Approve a SRF Preliminary Funding Commitment for the proposed Project, including a 20-year repayment period, with the first repayment due one year after completion of construction, for \$54.3 million;
2. Adopt a Statement of Overriding Considerations regarding the SRF Program's and IRWM Program's Soledad Wastewater Treatment Plant Expansion Project; and
3. Condition this approval by withdrawing the SRF Preliminary Funding Commitment if the City does not sign the SRF Agreement by January 15, 2009, in accordance with Section IX (J) of the Policy. The Division staff should have the discretion to approve up to a 90-day extension for good cause.

Condition the execution of the funding agreements for this Project on the successful approval of a Proposition 218 assessment sufficient to support repayment of the SRF

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

APPROVING A STATE REVOLVING FUND (SRF) FINANCING AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE SRF PROGRAM AND THE INTEGRATED REGIONAL WATER MANAGEMENT (IRWM) PROGRAM FOR THE CITY OF SOLEDAD (CITY) WASTEWATER TREATMENT PLANT (WWTP) EXPANSION PROJECT (PROJECT); SRF PROJECT NO. C-06-4743-110 AND IRWM AGREEMENT NO. 07-506-550-0

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 July 17, 2007;
2. The State Water Board, in September 2007, adopted the State Fiscal Year 2007/2008 SRF Program Priority List which included the City's Project in Priority Class B;
3. The Division of Financial Assistance (Division) approved the Facility Plan for the City's Project on January 18, 2008. The City agreed to the FPA on January 28, 2008;
4. The City prepared a Final Program Environmental Impact Report (EIR) that includes the proposed Project. The EIR addresses the City of Soledad 2004 General Plan and the Wastewater Treatment and Disposal Master Plan Project (State Clearinghouse No. 2005032122). The City also developed a long-term Wastewater Management Plan consistent with the Master Plan;
5. The City Council certified the Final EIR and adopted a Statement of Overriding Considerations and a Mitigation Monitoring Program on September 21, 2005;
6. The City filed a Notice of Determination (NOD) for the Final EIR with the Governor's Office of Planning and Research (OPR) on September 26, 2005 and with the Monterey County Clerk on September 28, 2005. A separate NOD for the Management Plan was filed with the County Clerk on May 24, 2006 and with OPR on June 2, 2006;
7. The City adopted a Statement of Overriding Considerations to substantiate its decision to approve the General Plan and Master Plan, which includes the Project, despite significant unavoidable impacts related to public services (water supply), energy and the demand for electricity, cumulative traffic impacts on regional highways, cumulative air quality, biological resources, permanent loss of prime agricultural land, and visual resources resulting from the implementation of the General Plan and Master Plan;
8. The State Water Board staff has determined that the only significant unavoidable adverse impact resulting from the City's Project is the loss of approximately 1.6 acres of prime farmland at the site of the new scalping plant;

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9. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of the Project outweigh the unavoidable adverse environmental impacts from the loss of farmland:
 - a. The scalping plant will provide treatment for wastewater to meet California Code of Regulations Title 22 tertiary standards such that treated water can be reused by the City in place of potable water;
 - b. Water use efficiency and reliability will be improved by the Project by decreasing the City's reliance on coastal wells;
 - c. The Project will help prevent further salt-water intrusion into the Salinas Valley region's groundwater;
 - d. The Project will upgrade the WWTP to comply with the Central Coast Regional Water Quality Control Board's Waste Discharge Requirements;
 - e. The scalping plant and the upgraded WWTP will help meet the demands of growth since the current WWTP has reached full capacity in September 2004;
10. State Water Board staff has reviewed and considered the EIR and applicable environmental documents and has determined that the Project will not result in any significant adverse water quality impacts; and
11. The following Special Conditions are applicable to the Project:
 - a. U.S. Fish and Wildlife Service (USFWS) identified conservation measures to minimize potential adverse Project effects on California tiger salamanders and California red-legged frogs. The City will have to comply with these conservation measures. The terms and conditions from USFWS will be included as special conditions in exhibit D of the City's SRF Contract and can also be found in the USFWS February 1, 2008 letter.
 - b. Compliance with the archeological monitoring plan will be included as a special condition in exhibit D of the City's SRF Contract.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a SRF Preliminary Funding Commitment for the proposed Project, including a 20-year repayment period, with the first repayment due one year after completion of construction, for \$54.3 million;
2. Adopts a Statement of Overriding Considerations regarding the SRF Program's and IRWM Program's Soledad Wastewater Treatment Plant Expansion Project;

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3. Conditions this approval by withdrawing the SRF Preliminary Funding Commitment if the City does not sign the SRF Agreement by January 15, 2009, in accordance with Section IX (J) of the Policy. The Division staff has the discretion to approve up to a 90-day extension for good cause; and
4. Conditions the execution of the funding agreements for this Project on the successful approval of a Proposition 218 assessment sufficient to support repayment of the SRF financing and adequately operate and maintain the constructed facilities.

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 18, 2008.

Jeanine Townsend
Clerk to the Board