

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
SEPTEMBER 2, 2008**

ITEM 4

SUBJECT

CONSIDERATION OF A RESOLUTION FOR THE ADOPTION OF THE STATE REVOLVING FUND (SRF) PROJECT PRIORITY LIST (PRIORITY LIST) AND ESTABLISHMENT OF THE SERVICE RATE FOR STATE FISCAL YEAR (SFY) 2008/2009

DISCUSSION

The SRF is a joint Federal and State program that provides financial assistance to local governments and non-governmental organizations (NGOs) in California, for construction of wastewater treatment and recycling facilities, implementation of non-point source and storm drainage pollution correction measures, development, and implementation of estuary enhancement and management programs. Since its inception in 1989, the SRF program provided more than \$4.1 billion in financial assistance to local governments and NGOs in California.

Project Priority List:

In accordance with the Clean Water Act and Federal regulations, the staff of the Division of Financial Assistance (Division) updated and published the SFY 2008/09 SRF Priority List as part of this item. A project must appear on the Priority List to be eligible to compete for financial assistance.

The Priority List is based on a five-year planning period: each project on the Priority List identifies the year the agency expects financial assistance will be needed. The first year of the five-year planning period is known as the fundable year, and it is reserved for those projects that have received a Preliminary Funding Commitment (PFC). All projects not on the fundable portion of the Priority List, the remaining four years, compete on a first-come, first-serve basis for PFCs until all available funds are committed.

The amount of funds available at any time for new PFCs is based on the SRF's projected cash flow. The cash flow model includes anticipated Federal funding, State funds that can be used to fulfill the required State match, repayments from existing financing agreements, projected disbursements for existing funding commitments, the sale of revenue bonds, and a minimum SRF balance of \$25 million. (Federal appropriations and project disbursements are uncertain; the amount available for funding commitments might be higher or lower than estimated).

Establishment of the Service Rate:

On October 13, 2007, Governor Schwarzenegger signed Assembly Bill 1742 (AB 1742) into law. AB 1742 amends the Water Code to allow the State Water Resources Control Board (State Water Board) to assess an annual service charge on SRF loans. The loan service charge provides a reliable source of funds to administer the SRF Program. Furthermore, service charge funds can only be used for SRF Program administration costs.

The service rate cannot exceed 1.0 percent of the outstanding loan balance. Once the service charge is applied to a loan, it remains unchanged for the duration of the loan. The interest on any loan that is charged the service rate will be reduced by the service rate. The resulting interest, plus loan service rate, is equal to the original loan interest rate. Therefore, the loan recipient's annual repayment will stay the same.

Since the loan service revenue is a percentage of the outstanding principal of each loan, each loan agreement assessed a service charge will produce a declining amount of revenue each successive year. Each fiscal year, the State Water Board shall set the loan service charge for the coming year based on the anticipated budget and the anticipated loan agreements for the coming year. The loan service rate will then be applied each year to additional loans to maintain the revenue stream equal to the budget established by the Governor and the Legislature for the SRF Program.

This Resolution establishes the loan service rate that will be applied to loans for the SFY 2008-09. Establishing the loan service rate will allow the SRF Program to assess service charges on existing and new loans that can be used for program administration costs.

Public Notice:

The SFY 2008/09 SRF Priority List, contained in [Exhibit A](#), reflects recommendations submitted by all nine Regional Water Quality Control Boards (Regional Water Boards) and State Water Board staff. Staff notified subscribers of the State Water Board's electronic mailing list of the opportunity to add, delete, or modify projects on the proposed Priority List. The Priority List was posted for review on the State Water Board website on April 25, 2008. Division staff made additions, deletions, and modifications to the Priority List in Exhibit A to address additions, deletions, and modifications submitted by the public and interested parties by the end of the review period.

Interested parties were given a second opportunity to address policy comments to the State Water Board. Four specific issues were identified in the second notice advising the public and interested parties of the opportunity for public comment:

1. Adoption of the SFY 2008/09 Priority List – Division staff solicited input from all nine Regional Water Boards and State Water Board staff. The Division also provided interested parties with the opportunity to add, delete, or modify projects on the Draft Priority List.

Staff has incorporated all information received on the Draft Priority List and recommends that the State Water Board adopt the SFY 2008/09 Priority List.

2. SRF Funds – The State Water Board is currently implementing the SRF Program and estimates that there will be about \$308 million available for new SRF loans and other forms of funding assistance in the SFY 2008/2009. Additional funds will be available in future years based on the cash flow projection.

The Division recommends that the State Water Board make the funds in the SRF account available to projects in Priority Classes A through D listed on the Priority List and all Needs Categories.

3. Loan Service Rate - Assembly Bill 1742 authorizes the State Water Board to assess an annual service charge on SRF loans of one percent (1%) of the outstanding loan balance, to be used for SRF program administration costs. Once the service charge is applied to a loan, it remains unchanged for the duration of the loan. The interest on any loan that is

charged the service rate will be reduced by the service rate. The resulting interest plus loan service rate is equal to the original loan interest rate. Therefore, the loan recipient's annual repayment will stay the same.

The Division recommends that the service charge for SFY 2008/2009 be set at 1 percent of the outstanding balance. The service charge will be applied to only those loans necessary to generate the administration costs budgeted for the SRF Program. Service charge revenue will only be spent on program administration.

4. Funding Cap – The current funding cap is set at \$50 million per recipient per year, and the Deputy Director of the Division is authorized to disburse funds in excess of the funding limit, so long as it does not unduly limit other applicants' ability to receive funds.

In some cases, it can be beneficial to both the State Water Board and the recipient to accelerate disbursements in excess of the annual funding cap. The funding cap is established to ensure that SRF funds are available to as many applicants as possible by limiting the amount that one agency can receive per year. However, due to the SRF Program's dynamic cash flow, there are at times, more funds than originally planned.

The Division recommends that the State Water Board continue to authorize the Deputy Director of the Division the discretion to provide an applicant funding in excess of the annual cap of \$50 million per recipient per year, so long as it does not unduly limit other applicants' ability to receive funding commitments during that State Fiscal Year.

POLICY ISSUES

Should the State Water Board:

1. Adopt the SFY 2008/09 SRF Priority List?
2. Approve the placement of projects in Priority Classes A through D and all Needs Categories on the fundable portion of the SFY 2008/09 SRF Priority List?
3. Set the loan service rate for SFY 2008/2009 to one percent (1%) of the outstanding loan balance as necessary to meet State Water Board administrative costs?
4. Continue to limit funding per recipient per year to \$50 million, and give the Deputy Director of the Division the authority to disburse funds in excess of the funding limit, so long as it does not unduly limit other applicants' ability to receive funds?

FISCAL IMPACT

The development and adoption of the Priority List is a requirement of the Federal Clean Water Act and associated regulations. The staff required to administer financial assistance for projects on the fundable portion of the Priority List is funded by a four percent administrative set-aside from each Federal Capitalization Grant and service charges applied to loans.

Staffing levels approved for the Division for SFY 2008/09 will be sufficient to review and process projects from the fundable portion of the Priority List that are expected to submit documents for review.

There will be no fiscal impact to existing or future loan recipients due to the loan service charge. Loan recipients will have the same loan repayments regardless of the loan service charge.

There will be no change in SRF Program administration costs due to adoption of this Resolution.

REGIONAL WATER BOARD IMPACT

Yes - All Regional Water Boards.

STAFF RECOMMENDATION

The State Water Board should:

1. Adopt the SFY 2008/09 SRF Priority List;
2. Approve the placement of projects in Priority Classes A through D and all Needs Categories on the fundable portion of the SFY 2008/09 SRF Priority List;
3. Set the loan service rate for SFY 2008/2009 to one percent (1%) of the outstanding loan balance as necessary to meet State Water Board administrative costs; and
4. Continue to limit funding per recipient per year to \$50 million, and give the Deputy Director of the Division the authority to disburse funds in excess of the funding limit, as long as it does not unduly limit other applicants' ability to receive funds.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

ADOPTION OF THE STATE REVOLVING FUND (SRF) PROJECT PRIORITY LIST (PRIORITY LIST) AND ESTABLISHMENT OF THE SERVICE RATE FOR STATE FISCAL YEAR (SFY) 2008/2009

WHEREAS:

1. The Division of Financial Assistance (Division) has developed the SFY 2008/09 Priority List ([Exhibit A](#)) based on input from the Regional Water Quality Control Boards, staff of the State Water Resources Control Board (State Water Board), and the public, consistent with the Federal Clean Water Act;
2. The State Water Board has sufficient funds to process new financial assistance applications for the SRF program;
3. The Federal Appropriations Bill for Federal Fiscal Year (FFY) 2008 did not place any limitations on which Federal Clean Water Act Needs Categories can receive funding;
4. Up to four percent of the FFY 2008 Federal Capitalization Grant is available for State administration;
5. Section 13477.5, Subdivision (c) of the Water Code states that the State Water Board “may assess an annual charge for loan services with regard to the loan, not to exceed 1.0 percent of the loan balance”; and
6. In accordance with Section 13477.5, Subdivision (e), at least once each fiscal year the State Water Board shall adjust the loan service rate to conform to the budget level set for the SRF Program.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the SFY 2008/09 SRF Priority List;
2. Approves the placement of projects in Priority Classes A through D and all Needs Categories on the fundable portion of the SFY 2008/09 SRF Priority List;
3. Sets the loan service rate for SFY 2008/2009 to one percent (1%) of the outstanding loan balance as necessary to meet State Water Board administrative costs; and

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4. Continues to limit funding per recipient per year to \$50 million, and gives the Deputy Director of the Division the authority to disburse funds in excess of the funding limit, as long as it does not unduly limit other applicants' ability to receive funds.

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 September 2, 2008.

Jeanine Townsend
Clerk to the Board