

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
DECEMBER 5, 2011**

**ITEM 5**

**SUBJECT**

CONSIDERATION OF A RESOLUTION AUTHORIZING AMENDMENTS TO THE FINANCING AGREEMENTS FOR THE COUNTY OF SAN LUIS OBISPO (COUNTY) LOS OSOS WASTEWATER CLEAN WATER STATE REVOLVING FUND (CWSRF) PROJECT NO. 5230 (PROJECT)

**DISCUSSION**

At a meeting on March 1, 2011, the State Water Resources Control Board (State Water Board) approved [Resolution No. 2011-0009](#), authorizing financing of the Project through a Preliminary Funding Commitment (PFC) in accordance with the State Water Board's *Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities* (Policy), amended on March 17, 2009. Pursuant to the Policy, the interest rate for the Project financing was set at one half the most recent state general obligation bond rate as of the date of the PFC, which was 2.6 percent. The State Water Board also approved a repayment period of 30 years, pursuant to both the Policy and authorization from the United States Environmental Protection Agency (U.S. EPA) for extended term financing for disadvantaged communities.

In its presentation to the State Water Board at this meeting, the County requested that the State Water Board consider a lower interest rate, citing affordability concerns. For this reason, Resolved clause No. 13 was added to Resolution No. 2011-0009. This clause reads as follows:

“[The State Water Board] ...No later than December 6, 2011, will consider, at a Board meeting, reducing the interest rate established pursuant to Resolved # 1. Such a reduction in interest rates would be considered in conjunction with how long the County operates the Project. Prior to the State Water Board's consideration of an interest rate reduction, the County shall provide an updated report to the State Water Board members, updating costs estimates, user service charges, and projected on-lot costs.”

On June 30, 2011, the County entered into two CWSRF financing agreements with the State Water Board for the Project, pursuant to the PFC. In these agreements, the County agreed to repay the financing at an interest rate of 2.6 percent and agreed not to transfer its obligations under the financing agreements without receiving the consent of the State Water Board after presentation to and consideration by the State Water Board. The County and the State Water Board also acknowledged the possibility of a reduction in interest rate, subject to the conditions outlined above in Resolved No. 13.

Pursuant to these conditions, the County submitted information to staff supporting three reduced interest rate scenarios:

Scenario A

2 percent interest for 10 years followed by 2.6 percent interest rate for 20 years;

Scenario B

1 percent interest for 10 years followed by 2.6 percent interest rate for 20 years;

Scenario C

0 percent interest for 10 years followed by 2.6 percent interest rate for 20 years.

The County has indicated a willingness to operate the Los Osos wastewater facilities for ten years in exchange for a reduced interest rate. As shown by the information submitted, though, the County's ultimate goal is to transfer ownership and operation of the Project to the Los Osos Community Services District (CSD). Given the CSD's actions with regard to its previous CWSRF financing agreement, including filing for bankruptcy protection, staff recommends that the State Water Board encourage the County to meet its obligations under the financing agreements until such time as the financing agreements are repaid in full: the County should operate and maintain the Project throughout the full term of its financing agreements.

A 2 percent interest rate for a term of 30 years lowers the County's annual payment obligations to a level consistent with one of the county's demonstrated affordability thresholds.

## **POLICY ISSUE**

Should the State Water Board:

1. Approve a reduction from the existing interest rate of 2.6 percent to an interest rate of 2 percent on the financing agreements for the Project?
2. Make such a reduction non-transferable, should the County seek to transfer or assign its responsibilities or obligations under the Project financing agreements?
3. Authorize the Deputy Director of the Division of Financial Assistance to execute amendments to the financing agreements for the Project to reflect this reduced interest rate?
4. Require the Deputy Director of the Division of Financial Assistance to include special condition language in any such amendment to the financing agreements such that the interest rate shall automatically revert to 2.6 percent on the remaining principal balance should the County seek to transfer or assign its responsibilities or obligations under the financing agreements to the Los Osos Community Services District or another entity?

## **FISCAL IMPACT**

Changing the interest rate from 2.6 percent to 2 percent for Project Finance Agreements Nos. 10-845-110 and 10-846-550 will result in an estimated loss of interest earnings totaling \$9,742,505. This is an annual average reduction in interest payments of approximately \$324,750 per year over the life of the agreement.

## **REGIONAL BOARD IMPACT**

None

## **STAFF RECOMMENDATION**

The State Water Board should:

1. Approve a reduction from the existing interest rate of 2.6 percent to an interest rate of 2 percent on the financing agreements for the Project;
2. Make such a reduction non-transferable, should the County seek to transfer or assign its responsibilities or obligations under the Project financing agreements;
3. Authorize the Deputy Director of the Division of Financial Assistance to execute amendments to the financing agreements for the Project to reflect this reduced interest rate; and
4. Require the Deputy Director of the Division of Financial Assistance to include special condition language in any such amendment to the financing agreements such that the interest rate shall automatically revert to 2.6 percent on the remaining principal balance should the County seek to transfer or assign its responsibilities or obligations under the financing agreements to the Los Osos Community Services District or another entity.

State Water Board action on this item will assist the Water Boards in reaching Goals 1,2, and 3 of the Strategic Plan Update: 2008-2012 to (1) Implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030; (2) Improve and protect groundwater quality in high-use basins by 2030; (3) Increase sustainable local water supplies available for meeting existing and future beneficial uses by 1,725,000 acre-feet per year, in excess of 2002 levels, by 2015, and ensure adequate flows for fish and wildlife habitat.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2011-

AUTHORIZING AMENDMENTS TO THE FINANCING AGREEMENTS FOR THE COUNTY OF SAN LUIS OBISPO (COUNTY) LOS OSOS WASTEWATER CLEAN WATER STATE REVOLVING FUND (CWSRF) PROJECT NO. 5230 (PROJECT)

### WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the “*Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities*” (Policy) and most recently amended it on March 17, 2009;
2. The State Water Board adopted [Resolution No. 2011-0009](#) on March 1, 2011, to authorize funding from the CWSRF to the County Of San Luis Obispo (County) Los Osos Wastewater Project, CWSRF Project No. C-06-5230 (Project).
3. The terms of the funding were an interest rate of 2.6 percent and 30 year repayment period, pursuant to the Policy;
4. The County and the State Water Board accordingly executed two financing agreements for this Project on June 30, 2011;
5. In the March 1, 2011, Board meeting, the County had requested the State Water Board to consider a lower interest rate for the duration that the County operated and maintained the Project to assist in addressing affordability, as the monthly sewer charge is estimated to be more than 4 percent of the community’s median household income;
6. At that meeting, the State Water Board indicated a desire that the County continue to manage, operate and maintain the Project for as long as possible, and at least for the term of the CWSRF financing agreements;
7. To address these concerns, and other concerns related to the Project, the State Water Board included language in Resolution No. 2011-0009, stating that it would consider reducing the interest rate on the CWSRF financing for the Project in conjunction with how long the County operated the Project and that prior to any such interest rate reduction, the County was to submit a report updating cost estimates, user service charges, and projected on-lot costs;
8. Conditions reflecting the foregoing concerns and requirements were included in the CWSRF financing agreements for the Project executed by the County on June 30, 2011;
9. The County has submitted the required report;
10. The report demonstrates the County’s various affordability thresholds for the Project; and
11. A reduced interest rate of 2 percent falls within one of the County’s demonstrated affordability thresholds.

# DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a reduction from the existing interest rate of 2.6 percent to an interest rate of 2 percent on the financing agreements for the Project;
2. Makes such a reduction non-transferable, should the County seek to transfer or assign its responsibilities or obligations under the Project financing agreements;
3. Authorizes the Deputy Director of the Division of Financial Assistance to execute amendments to the financing agreements for the Project to reflect this reduced interest rate; and
4. Requires the Deputy Director of the Division of Financial Assistance to include special condition language in any such amendment to the financing agreements such that the interest rate shall automatically revert to 2.6% on the remaining principal balance should the County seek to transfer or assign its responsibilities or obligations under the financing agreements to the Los Osos Community Services District or another entity.

## 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 December 5, 2011.

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Jeanine Townsend  
Clerk to the Board