

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF FINANCIAL ASSISTANCE
FEBRUARY 1, 2011**

ITEM 5

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PRELIMINARY FUNDING COMMITMENT (PFC) FOR THE SUSANVILLE SANITARY DISTRICT (DISTRICT), FILTRATION AND ULTRAVIOLET DISINFECTION PROJECT (PROJECT), CWSRF PROJECT NO. C-06-5727-110

DISCUSSION

In accordance with the State Water Resources Control Board's (State Water Board) *Policy for Implementing the Clean Water State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), amended on March 17, 2009, projects on the adopted priority list need State Water Board approval to receive CWSRF funding. The State Water Board may approve a CWSRF PFC after issuance of a project Facility Plan Approval (FPA). On December 21, 2010, the Division of Financial Assistance (Division) issued the FPA for the District's Project. The District agreed to the FPA on December 27, 2010. The Project is listed on the State Fiscal Year (SFY) 2010/2011 CWSRF Project Priority List in Priority Class A. The Project is also included in the CWSRF Program *Intended Use Plan* (IUP) for SFY 2010/2011.

In accordance with Section IX(K) of the Policy, a PFC may be approved by the Deputy Director of the Division if the Project is routine and non-controversial. There are two non-routine items associated with the Project, and the Project's PFC must be presented to the State Water Board for consideration. First, there is ongoing litigation against the District for an approximate one (1) million gallon sewage spill from the District's collection system, which occurred in December 2008. Second, the District requests that the Policy's Water Conservation Requirement be waived. More information on the litigation and Water Conservation Requirement is provided in the Project Information section.

PROJECT INFORMATION

The District is seeking CWSRF funding to construct an upgrade to the Susanville Wastewater Treatment Plant (WWTP). The District's WWTP provides secondary level treatment for wastewater collected from the City of Susanville (City). The District's WWTP is located along the southeastern boundary of the City in Lassen County. The WWTP is designed to treat and dispose of an annual average flow (AAF) of 1.5 million gallons per day (MGD), with a peak hour flow (PHF) of 3.3 MGD of municipal wastewater. Currently AAF is 1.12 MGD, with a PHF of 3.0 MGD. Treated effluent is discharged to an unlined irrigation channel. The discharge is regulated by Waste Discharge Requirements (WDR) Order No. R6T-2008-0022 (National Pollutant Discharge Elimination System [NPDES] Permit No. CA0102695), issued by the Lahontan Regional Water Quality Control Board (Lahontan Regional Water Board), South Lake Tahoe Office.

The Project consists of constructing a tertiary treatment system at the WWTP's current capacity. Construction includes: (1) an automatic backwashing filter, an ultraviolet (UV) disinfection system, and associated buildings; and (2) decommissioning the existing chlorination system.

The Project objectives are to: (1) meet the conditions of the WDR/NPDES permit; (2) enhance removal of total suspended solids from secondary effluent; (3) eliminate onsite storage and delivery of hazardous chemicals; and (4) upgrade the WWTP to tertiary treatment for potential future recycled water use.

LITIGATION & ADVERSE FINDINGS

On December 1 and/or 2, 2008, an approximate one (1) million gallon sewage spill occurred from the District's wastewater collection system. The overflow occurred at one of the District's above-ground trunk lines when a traffic cone became entrapped in the sewer line, causing sewage to overflow through a manhole located on the Fitzgerald Property. Sewage overflowed onto Assessor's Parcel Numbers (APN) 101-270-25, -44, -45, -46, and -47, and near the confluence of Barry Creek and Barry Reservoir, which were dry at that time. The District made efforts to cleanup the spill. Of the approximate one (1) million gallons spilled, the District recovered approximately 230,000 gallons. The remaining 770,000 gallons were unrecoverable and seeped into the soils of Barry Creek and Barry Reservoir.

In response to the sewage spill, on March 2, 2009, the Lahontan Regional Water Board issued a Notice of Violation (NOV) of [State Water Board Order No. 2006-0003-DWQ](#), Statewide General Waste Discharge Requirements for Sanitary Sewer Systems. Correspondence with Lahontan Regional Water Board staff indicates that the District complied with the NOV requirements.

As a result of the spill, the affected land owners filed a claim against the District on December 2, 2009, in the Lassen County Superior Court (Case No. 49665). The complaint for damages states claims potentially exceeding \$500,000.

In October 2010, the District collected soil samples of the affected properties to evaluate if there is residual soil contamination from the sewage spill. The soil sampling results will be provided to State Water Board staff when available.

The District's legal counsel provided an opinion that the ongoing litigation and any judgment against the District will not jeopardize the District's net revenues, or its ability to repay the CWSRF financing agreement.

WATER CONSERVATION REQUIREMENT

Per Section IX(C) of the Policy, an applicant that is not a water purveyor must: 1) certify that 75 percent (75%) of the water connections in its service area are covered by adopted water conservation programs approved by the Division; or 2) demonstrate that the water purveyor has signed the California Urban Water Conservation Council (CUWCC) *Memorandum of Understanding Regarding Urban Water Conservation in California* (MOU) covering at least 75 percent (75%) of the water connections within the applicant's service area.

A water purveyor may also submit an Urban Water Management Plan (UWMP) instead of a Water Conservation Program to meet the Water Conservation Requirement.

The City is the water purveyor for the District's service area. The City serves over 4,200 connections, and is responsible for implementing a Water Conservation Program. The City's 2005 UWMP was not approved by the California Department of Water Resources (DWR) and

does not address eight (8) of the 14 Demand Management Measures related to water conservation. The City is currently drafting their 2010 UWMP; however, the City will not finalize the 2010 UWMP until the new *Guidebook to Assist Water Suppliers in the Preparation of a 2010 Urban Water Management Plan* (2010 UWMP Guidebook, required per SBx7-7 [Statute 2009, Chapter 4]) is released by DWR in early 2011. Ultimately, the City's 2010 UWMP must be submitted to DWR by July 1, 2011 (California Water Code §10608.20).

The District requests that the Policy's Water Conservation Requirement be waived, as the City's 2010 UWMP will not be finalized until mid-2011, thus delaying implementation of the District's water quality improvement project, and eliminating the District's potential to receive principal forgiveness for the Project.

ENVIRONMENTAL IMPACT

The District adopted a Notice of Exemption (NOE) for the Project on May 1, 2010, and filed the NOE (State Clearinghouse No. 2010078061) with the Lassen County Clerk on July 1, 2010, and the Governor's Office of Planning and Research on July 9, 2010. A Class 1 categorical exemption from the California Environmental Quality Act (CEQA) was applied to the Project for work within an existing facility that involves no expansion of use (CEQA Guidelines, Section 15301). State Water Board staff reviewed and considered the environmental documents, concurred that the Project qualified for a Class 1 categorical exemption from CEQA requirements, and determined that the Project will not result in any significant adverse water quality impacts.

State Water Board staff evaluated the potential Project impacts and determined that a Tier II review was appropriate. State Water Board staff determined that the Project will have no effect on federal special-status species.

The State Water Board's Cultural Resources Officer (CRO) reviewed the documents submitted by the District for the Project. The CRO determined that the District provided sufficient documentation to support a Section 106 determination of "no historic properties affected" for the Project and that a Tier II review was appropriate. There are no special conditions.

The Project is located in the Northeast Plateau Air Basin (Basin). The Basin is comprised of three air districts, including the Lassen County Air Pollution Control District that regulates air quality within the Project area and is federally designated as in attainment or unclassified for all federal criteria pollutants. Thus, a conformity determination is not required for this Project.

State Water Board staff will file an NOE with the State Clearinghouse following funding approval.

FISCAL IMPACT

Applicant's Finances:

A credit review analyzed the District's ability to enter into a CWSRF financing agreement for the amount of \$2.464 million for construction and allowances. The credit review provided recommendations regarding the financial agreement terms, maximum CWSRF financing amount, financial capacity, and reserve fund requirements for the financing agreement.

The most recent sewer rate increase occurred on December 13, 2004, with a rate payer protest percentage of 0.086%. Current service charges for residential customers are \$19.50 per month (0.52% of 2009 MHI). Additional rate increases are not planned at this time. The District will be required to provide documentation of a successful Proposition 218-compliant wastewater rate setting process prior to the disbursement of any funds for construction (i.e., prior to execution of the amended financing agreement).

After allowing for the operations and maintenance (O&M) costs, estimated at \$1,102,906 for fiscal year (FY) 2009/10, the net revenues available for debt service are approximately \$564,508. The District has one (1) existing debt with the CWSRF Program; Loan No.C-06-4753-110 has a balance of \$4,138,870, as of April 1, 2010, and an annual debt service of \$243,463. The existing loan is secured by the District's net revenues.

Security and Source of Financing Repayment:

The District dedicated net revenues to the repayment of the proposed financing agreement on July 13, 2010, in Resolution No. 10.07.

The District requests \$2.464 million for their Project. As outlined in the Principal Forgiveness Analysis Section, the District qualifies for principal forgiveness for up to fifty percent (50%) of the Project costs (i.e., \$1.232 million), not to exceed \$3 million. Allowing for fifty percent (50%) principal forgiveness, the amount to be repaid totals \$1.232 million. Assuming a term of twenty (20) years at an interest rate of 2.70 percent (estimated one-half the general obligation [GO] bond rate), the \$1.232 million would have an annual debt service of \$80,530. When added to the existing debt service of \$243,463, the result is \$323,993. When the total debt service is compared to the net revenues, the result is 1.74 times coverage. This exceeds the CWSRF requirement that net revenues be at least 1.10 times the total debt service. The senior debt coverage requirement is not applicable.

The revenues and expenses for the District's last five (5) FYs are summarized below:

Fiscal Year	2005/06	2006/07	2007/08	2008/09	2009/10
Sewer Charges	\$1,245,588	\$1,314,191	\$1,310,856	\$1,333,387	\$1,341,477
Other Operating Revenues	\$23,330	\$19,380	\$34,070	\$12,733	\$26,431
Non-Operating Revenues	\$309,513	\$394,280	\$460,064	\$506,192	\$299,506
Total Operating Revenues	\$1,578,431	\$1,727,851	\$1,804,909	\$1,852,312	\$1,667,414
Total Expenses	\$1,078,071	\$1,047,261	\$1,022,526	\$964,330	\$1,102,906
Net Available for Debt Service	\$500,360	\$680,590	\$782,464	\$887,982	\$564,508
Existing Debt Service #4753-110	\$0	\$0	\$243,463	\$243,463	\$243,463
Proposed Debt Service	\$0	\$0	\$0	\$0	\$80,530
Total Debt Service	\$0	\$0	\$243,463	\$243,463	\$323,993
Debt Service Coverage	0.00	0.00	3.21	3.50	1.74

The credit review shows that the District has significant payment capacity well beyond the \$2.464 million requested as supported by the current rates. After further review State Water Board staff, in reference to Section X(F) of the Policy, determined a maximum credit limit of \$3.6 million, which is 150% of the total requested amount. This exceeds the minimum debt to income coverage ratios required by the Policy.

The effects of a \$3.6 million financing agreement (assuming an interest rate of 2.70 percent [estimated one-half the GO bond rate] and a financing term of 20 years) and the results are provided in the table below:

Total Annual Gross Revenues 2009/10 Financial Statement	Annual Operations and Maintenance	Annual Net Revenue Available for Debt Service	Existing Debt Service	Proposed Annual Debt Service #5727-110 (\$3.6 million)	Total Annual Debt Service	Debt Service Coverage
\$1,667,414	\$1,102,906	\$564,508	\$243,463	\$235,315	\$478,778	1.18

It is recommended that the CWSRF Program approve a maximum financing agreement in the amount of \$3.6 million (assuming an interest rate of 2.70 percent [estimated one-half the GO bond rate] and a financing term of 20 years).

Principal Forgiveness Analysis:

As outlined in the CWSRF IUP for SFY 2010/2011, adopted by the State Water Board on August 3, 2010, \$72,747,939 in principal forgiveness is available to two (2) categories of disadvantaged communities: 1) Small, Disadvantaged Communities with Substantial Water Quality Investment; and 2) Other Disadvantaged Communities.

The District qualifies for principal forgiveness under Category 2. The District's estimated 2009 population is comprised of approximately 14,469 residents. The District's estimated 2009 median household income (MHI) is \$44,812 (approximately 75 percent [75%] of the Statewide MHI).

As a small (population less than 20,000 persons) disadvantaged (MHI less than 80 percent of Statewide MHI) community, the District may receive 50 percent (50%) principal forgiveness for eligible Project costs up to \$3 million in principal forgiveness. With an estimated eligible cost of \$2.464 million, the Project qualifies for \$1.232 million in principal forgiveness.

In a letter dated October 25, 2010, the District submitted an evaluation regarding how the Project addresses the "Livability Principles" established by the United States (US) Department of Housing and Urban Development, US Department of Transportation, and US Environmental Protection Agency.

The final principal forgiveness amount may be modified based on the Approval of Award determination, and the final financing agreement will be updated accordingly.

Fiscal Impact on CWSRF Program:

As of 12/07/2010	SFY 2010-11	SFY 2011-12	SFY 2012-13	SFY 2013-14	SFY 2014-15
Beginning Balance:	\$405,559,109	\$85,665,130	\$117,273,933	\$283,548,305	\$516,463,335
Estimated Repayments	\$245,560,388	\$255,560,388	\$265,560,388	\$275,560,388	\$285,560,388
Debt Service on Revenue Bonds	(\$31,456,429)	(\$30,228,204)	(\$27,714,204)	(\$23,821,829)	(\$20,966,279)
Estimated Capitalization Grants	\$67,144,221	\$133,230,720	\$28,800,000	\$28,800,000	\$28,800,000
Local Match Credits	\$9,257,814	\$1,217,420	\$2,290,046	\$916,685	\$958,353
Est. SMIF Interest:	\$2,700,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000
Estimated Disbursements	(\$556,980,029)	(\$270,488,801)	(\$86,502,582)	(\$50,198,163)	(\$23,236,984)
Subtotal	\$141,785,075	\$177,956,653	\$302,707,581	\$517,805,387	\$790,578,813
Proposed Projects Estimated Disbursement					
North Coast County Water District, #4998-110, 120 (10/26/2010)	(\$5,646,000)	(\$969,000)			
Sunnyslope County Water District, #5160-110 (06/23/2010, 08/23/10)	(\$5,096,669)	(\$7,829,260)			
Russian River County Sanitation District, #5201-110 (10/25/2010)	(\$2,100,000)				
City of Seal Beach, #5310-110 (10/07/10)	(\$75,000)	(\$1,300,000)	(\$300,000)		
City of Seal Beach, #5310-120 (11/15/10)	(\$75,000)	(\$1,300,000)	(\$700,000)		
City of Seal Beach, #5310-130 (11/15/10)	(\$50,000)	(\$3,700,000)	(\$2,500,000)		
Eastern Municipal Water District (Temecula Valley), #5312-110 (11/30/10)	(\$3,743,576)	(\$10,605,788)	(\$9,924,264)	(\$1,342,052)	
Inland Empire Utilities Agency, #5319-110 (12/07/2010)	(\$6,500,000)	(\$13,800,000)	(\$4,308,638)		
Inland Empire Utilities Agency, #5333-110 (10/25/2010)	(\$1,510,000)	(\$13,000,000)	(\$320,000)		
Yurok Tribe, #5348-110 (05/19/2010)	(\$18,750,000)				
Castro Valley Sanitary District, #5351-110 (11/17/2010)	(\$6,293,400)				
Sonoma Valley County Sanitation District, #5501-110 (04/27/2010, 08/02/2010)	(\$4,100,000)				
Delta Diablo Sanitation District, #5571-110 (09/20/2010)	(\$797,300)	(\$4,916,672)	(\$1,106,374)		
Susanville Sanitary District, #5727-110 (12/07/2010)		(\$1,232,000)			
Sonoma Valley County Sanitation District, #7020-110 (06/16/2010)	(\$1,070,000)	(\$2,030,000)			
Earlimart Public Utility District, #7190-110 (08/25/2010)	(\$313,000)				
Ending Balance on 12/07/2010:	\$85,665,130	\$117,273,933	\$283,548,305	\$516,463,335	\$790,578,813
Notes:					
<ul style="list-style-type: none"> • The State Water Board approved the sale of up to \$300 million in Revenue Bonds in September 2005 for the CWSRF Program to cover any shortfall of funds. • Estimated repayments include repayments from existing and future financing. • Estimated disbursements include disbursements remaining on executed financing and planned disbursements on projects with preliminary funding commitments. • Local match credits are the anticipated funds that will be contributed for local match financing included in "Estimated Disbursements." • Excludes 2010 Principal Forgiveness funds. 					

Fiscal Impact on CWSRF Program Principal Forgiveness:

As of 12/07/2010	Principal Forgiveness		
	Category 1	Category 2	Total
Beginning Balance	\$43,648,763	\$29,099,176	\$72,747,939
City of Williams, #4049-110 (committed 12/01/09)	(\$6,000,000)		
Russian River County Sanitation District, #5201-110	(\$2,100,000)		
Victor Valley Wastewater Rec Authority, #5376-110 (committed 10/11/10)		(\$3,000,000)	
Susanville Sanitary District, #5727-110 (12/07/2010)		(\$1,232,000)	
City of Redding, #5835-110 (committed 08/26/10)		(\$1,233,052)	
Earlimart Public Utility District, #7190-110		(\$313,000)	
City of Redding, #7456-110 (committed 07/21/10)		(\$1,682,280)	
Subtotal	(\$8,100,000)	(\$7,460,332)	(\$15,560,332)
Ending Balance	\$35,548,763	\$21,638,844	\$57,187,607

REGIONAL WATER BOARD IMPACT

The District's WWTP operates under WDR Order No. R6T-2008-0022 (NPDES Permit No. CA0102695), issued by the Lahontan Regional Water Board, South Lake Tahoe office. The proposed Project will allow the District to comply with the WDR/NPDES permit.

POLICY ISSUE

Should the State Water Board:

1. Approve a CWSRF PFC of \$2.464 million for the District's Project with a 20-year repayment period at an interest rate of one-half the GO bond rate obtained by the State Treasurers Office as of the date of the PFC, with up to \$1.232 million in principal forgiveness? The first repayment shall be due one year after completion of construction. Per Section X(F) of the Policy, if at any time the requested financing amount exceeds the PFC amount by more than 50 percent (50%) or the credit limit, whichever is less, the Project must receive re-approval of the PFC.
2. Direct Division staff to allocate \$2.464 million consistent with the construction schedule and availability of funds?
3. Condition this approval by withdrawing the CWSRF PFC if the District does not sign the CWSRF financing agreement by March 30, 2011? In accordance with Section IX(K)(3) of the Policy, the Deputy Director of the Division or designee may approve up to a 120-day extension for good cause.
4. Condition this approval to require the District to provide immediate notification to the State Water Board Project Manager if the ongoing litigation will jeopardize the District's ability to repay the CWSRF financing, and provide the State Water Board Project Manager with a copy of any settlement agreement or court ruling within 15 days of such event?
5. Waive the CWSRF Policy's Water Conservation Requirement for the District's Project?

6. Condition this approval to withhold construction disbursements (i.e., the amended financing agreement shall not be executed) until the Division receives adequate documentation regarding the District's completion of a successful Proposition 218-compliant process to set wastewater rates at no lower than those existing?
7. Condition this approval such that if during the Proposition 218 process, the District receives more than five percent (5%) opposition to the wastewater rate increase, the District will be required to implement a public education program for two (2) years following the adoption of the new wastewater rate schedule?
8. Condition the financing agreement, as determined by the District's credit review, with the following items:
 - a. The District shall establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.10 times the total debt service;
 - b. A reserve fund, equal to one-year's debt service, must be established by the District prior to the completion of construction date; and
 - c. The financing agreement shall be limited to a maximum of \$3.6 million in financing (assuming an interest rate of 2.70 percent [estimated one-half the GO bond rate] and a financing term of 20 years), unless information supporting the credit review changes, and a supplemental credit review is performed?
9. Condition this approval such that the District must meet the deadlines established in the CWSRF Program's IUP to be eligible for principal forgiveness?

STAFF RECOMMENDATION

The State Water Board should:

1. Approve a CWSRF PFC of \$2.464 million for the District's Project with a 20-year repayment period at an interest rate of one-half the GO bond rate obtained by the State Treasurers Office as of the date of the PFC, with up to \$1.232 million in principal forgiveness. The first repayment shall be due one year after completion of construction. Per Section X(F) of the Policy, if at any time the requested financing amount exceeds the PFC amount by more than 50 percent (50%) or the credit limit, whichever is less, the Project must receive re-approval of the PFC;
2. Direct Division staff to allocate \$2.464 million consistent with the construction schedule and availability of funds;
3. Condition this approval by withdrawing the CWSRF PFC if the District does not sign the CWSRF financing agreement by March 30, 2011. In accordance with Section IX(K)(3) of the Policy, the Deputy Director of the Division or designee may approve up to a 120-day extension for good cause;

4. Condition this approval to require the District to provide immediate notification to the State Water Board Project Manager if the ongoing litigation will jeopardize the District's ability to repay the CWSRF financing, and shall provide the State Water Board Project Manager with a copy of any settlement agreement or court ruling within 15 days of such event;
5. Waive the CWSRF Policy's Water Conservation Requirement for the District's Project;
6. Condition this approval to withhold construction disbursements (i.e., the amended financing agreement shall not be executed) until the Division receives adequate documentation regarding the District's completion of a successful Proposition 218-compliant process to set wastewater rates at no lower than those existing;
7. Condition this approval such that if during the Proposition 218 process, the District receives more than five percent (5%) opposition to the wastewater rate increase, the District will be required to implement a public education program for two (2) years following the adoption of the new wastewater rate schedule;
8. Condition the financing agreement, as determined by the District's credit review, with the following items:
 - a. The District shall establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.10 times the total debt service;
 - b. A reserve fund, equal to one-year's debt service, must be established by the District prior to the completion of construction date; and
 - c. The financing agreement shall be limited to a maximum of \$3.6 million in financing (assuming an interest rate of 2.70 percent [estimated one-half the GO bond rate] and a financing term of 20 years), unless information supporting the credit review changes, and a supplemental credit review is performed; and
9. Condition this approval such that the District must meet the deadlines established in the CWSRF Program's IUP to receive principal forgiveness.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. In particular, approval of this item will assist in fulfilling Objective 1.3 to take appropriate enforcement actions and innovative approaches as needed to protect and restore all surface waters.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2011-

ADOPTION OF A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PRELIMINARY FUNDING COMMITMENT (PFC) FOR THE SUSANVILLE SANITARY DISTRICT (DISTRICT), FILTRATION AND ULTRAVIOLET DISINFECTION PROJECT (PROJECT), CWSRF PROJECT NO. C-06-5727-110

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the “*Policy for Implementing the Clean Water State Revolving Fund for Construction of Wastewater Treatment Facilities*,” (Policy) and amended it on March 17, 2009;
2. The State Water Board, on June 15, 2010, adopted the State Fiscal Year (SFY) 2010/2011 CWSRF Program Priority List, which includes the District’s Project in Priority Class A;
3. The State Water Board, on August 3, 2010, adopted the CWSRF *Intended Use Plan* (IUP) for SFY 2010/2011, including \$72,747,939 in principal forgiveness available to disadvantaged communities in California;
4. The Division of Financial Assistance (Division) issued the Facility Plan Approval (FPA) for the District’s Project on December 21, 2010, and the District accepted the FPA on December 27, 2010;
5. The District serves a small (less than 20,000 persons), disadvantaged (median household income [MHI] less than 80 percent of the Statewide MHI) community, and is eligible for up to 50 percent (50%) of the Project costs, up to a maximum of \$3.0 million in principal forgiveness as the District’s wastewater rates are less than 1.5 percent of the community’s MHI;
6. There is ongoing litigation against the District for an approximate one (1) million gallon sewage spill from the District’s collection system, which occurred in December 2008, and the District’s legal counsel provided an opinion that the anticipated litigation will not jeopardize the District’s net revenues, or the District’s ability to repay the CWSRF financing agreement;
7. The District requests a waiver of the CWSRF Policy’s Water Conservation Requirement because the District is not the water purveyor for their service area and is unable to meet the CWSRF’s Policy’s Water Conservation Requirement;
8. The District adopted a Notice of Exemption (NOE) (State Clearinghouse No. 2010078061) on May 1, 2010, for the Project; and filed the NOE with the Lassen County Clerk on July 1, 2010, and the Governor’s Office of Planning and Research on July 9, 2010;
9. The the State Water Board staff reviewed and considered the information contained in the NOE and applicable documents, and determined that the Project will not result in any significant adverse water quality impacts; and
10. A credit review was completed on November 16, 2010, recommending a maximum CWSRF financing agreement amount of \$3.6 million for the Project, assuming a 20-year term at an interest rate of 2.70 percent (estimated one-half the general obligation [GO] bond rate).

DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a CWSRF PFC of \$2.464 million for the District's Project with a 20-year repayment period at an interest rate of one-half the GO bond rate obtained by the State Treasurers Office as of the date of the PFC, with up to \$1.232 million in principal forgiveness. The first repayment shall be due one year after completion of construction. Per Section X(F) of the Policy, if at any time the requested financing amount exceeds the PFC amount by more than fifty percent (50%) or the credit limit, whichever is less, the Project must receive re-approval of the PFC;
2. Directs Division staff to allocate \$2.464 million consistent with the construction schedule and availability of funds;
3. Conditions this approval by withdrawing the CWSRF PFC if the District does not sign the CWSRF financing agreement by March 30, 2011. In accordance with Section IX(K)(3) of the Policy, the Deputy Director of the Division or designee may approve up to a 120-day extension for good cause;
4. Conditions this approval to require the District to provide immediate notification to the State Water Board Project Manager if the ongoing litigation will jeopardize the District's ability to repay the CWSRF financing, and shall provide the State Water Board Project Manager with a copy of any settlement agreement or court ruling within 15 days of such event;
5. Waives the CWSRF Policy's Water Conservation Requirement for the District's Project;
6. Conditions this approval to withhold construction disbursements (i.e., the amended financing agreement shall not be executed) until the Division receives adequate documentation regarding the District's completion of a successful Proposition 218-compliant process to set wastewater rates at no lower than those existing;
7. Conditions this approval such that if during the Proposition 218 process, the District receives more than five percent (5%) opposition to the wastewater rate increase, the District will be required to implement a public education program for two (2) years following the adoption of the new wastewater rate schedule;
8. Conditions the financing agreement, as determined by the District's credit review, with the following items:
 - a. The District shall establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.10 times the total debt service;
 - b. A reserve fund, equal to one-year's debt service, must be established by the District prior to the completion of construction date; and
 - c. The financing agreement shall be limited to a maximum of \$3.6 million in financing (assuming an interest rate of 2.70 percent [estimated one-half the GO bond rate] and a financing term of 20 years), unless information supporting the credit review changes, and a supplemental credit review is performed; and

D R A F T

9. Conditions this approval such that the District must meet the deadlines established in the CWSRF Program's IUP to be eligible for principal forgiveness.

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 1, 2011.

Jeanine Townsend
Clerk to the Board