



City of Alameda • California

7/17/07 BdMtg

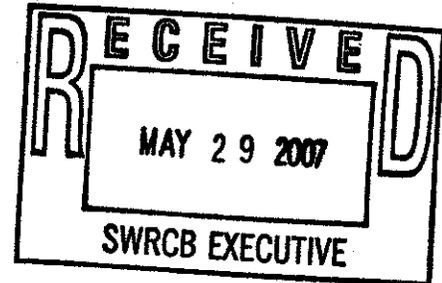
SRF Policy

Deadline: 5/30/07 Noon

May 29, 2007

Ms Song Her, Clerk of the Board  
State Water Resources Control Board  
1001 "I" Street, 24<sup>th</sup> Floor  
Sacramento, Ca 95814

Subject: Comment Letter- SRF Policy  
SFR Loan, C-06-4007-610



Honorable Board Members:

In April 2004, the City of Alameda received our fourth State Revolving Fund (SFR) loan, C-06-4007-610 to replace 8,400 lineal feet of sewer mains and 7,800 lineal feet of lower lateral pipes. This project allowed the City to attain the objectives of the Federal Clean Water Act, one of the goals of the SRF loan program, by reducing infiltration and inflow into the wastewater purveyor's (EBMUD) system. The City would like to thank the State Water Resources Control Board for approving our project and we look forward to future partnerships with the Board.

As the implementing agency for the subject loan, the City developed a certification program, upon completion of construction and at the time of initiation of operations, and worked diligently on corrective actions to reach Project Certification. We actively provided information to Board staff regarding our efforts to meet the loan requirements; however, the new Board staff managing the project did not consistently respond. Our ongoing communications included informing Board staff of scheduled changes, project progress, and difficulties encountered with meeting the surcharge requirement. It wasn't until September 12, 2006, six days after the Board considered staff's recommendation to waive a \$967,649 penalty (60% of the loan amount) against the City that we were even notified that Board staff had concerns with our progress on the project. Attached please find copies of the City of Alameda's letters to Board staff, dated October 18, 2006 and February 28, 2007, that list a chronology of events. We are also pleased to report, that a final Certification Report was submitted to the Board on May 9, 2007.

Since the City of Alameda acted in good faith throughout the process; was working diligently to meet all loan requirements; provided on-going information to the Board staff, informing them of the difficulties with the project and actively working to obtain the necessary certification; developed and implemented a Corrective Action Plan; and recently completed and submitted a final Certification Report, we consider the proposed penalty to be unfair and unjustified. We respectfully request that the Board reconsider the proposed penalty.

Public Works Department  
950 West Mall Square, Room 110  
Alameda, California 94501-7575  
510.749.5840 • Fax 510.749.5867 • TDD 510.522.7538

In addition to the City of Alameda, there are five other agencies with proposed penalties as a result of similar policy violations. The penalties will drastically affect the six agencies' General Funds, which would not be meeting the intent of the loan program. Consequently, the SWRCB staff is recommending three options to ensure that the Performance and Corrective Actions Reports are submitted in a timely manner. The City of Alameda concurs with the SWRCB staff in recommending a combination of the first three options listed below:

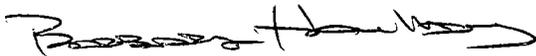
OPTION 1: Retain a portion of the loan balance until the appropriate report is submitted;

OPTION 2: Stop processing any pending or future applications for new loans or grants, and withheld payments on any existing loans and grants that the agency may have with the State Water Board, until the Certification requirements are met; and

OPTION 3: Implement an administrative procedure to bring recipients into compliance up to and including possible termination of the loan agreement.

In conclusion, the City of Alameda respectfully requests a full waiver of the proposed penalty based on the existing SRF Policy Section XVIII, B. The City further supports Board staff's recommendation to amend the policy and implement a combination of the first three options. Penalizing local agencies that depend on low interest loans and grants for implementing the Clean Water Acts requirements is contrary to the goal of the SRF. Imposing the proposed penalty will impact the City of Alameda's ability to apply its capital resources towards improving old and dilapidated infrastructures and thus create potential health and safety problems in the future. Thank you for your consideration of our request.

Sincerely,



Barbara Hawkins  
City Engineer

Attachments



## City of Alameda • California

October 18, 2006

David Kim, Senior Engineer  
State Water Resources Control Board  
Division of Financial Assistance  
P.O. Box 944212  
Sacramento, CA 94244-2120

Re: City of Alameda Infiltration and Inflow Phase 8, Sanitary Sewer Replacement Project, No. P.W. 04-01-12, SRF Loan No. C-06-4007-610, Request to Waive the Proposed Penalty

Dear Mr. Kim:

The City was informed on September 12, 2006 of the State Water Resources Control Board's (SWRCB) intent to consider imposing a penalty in the amount of \$967,649 on the State Revolving Fund (SRF) loan that the City of Alameda used to rehabilitate the sewer collection system in 2002/2003. The proposed penalty was the result of the City of Alameda and five other agencies failure to submit the Project Performance Report and Project Certification on time. While the City of Alameda appreciates the SWRCB's help in approving the loan for the corrective work and the effort of staff to request a waiver of the penalties, the City of Alameda believes the enforcement of a penalty needs further consideration. The SRF program is a partnership between the SWRCB and the local agencies where funding is made available to maintain state wastewater facilities. The administrative role is managed by the SWRCB while implementation is the responsibility of the local agency.

Unfortunately, the SWRCB staff did not notify the City of Alameda of their scheduled meeting on September 6, 2006, so the City could not present an explanation of the sequence of events that led to the development of the corrective plan. The following is synopsis of important tasks and events relative to the project implementation:

- In July 2001, the City of Alameda submitted a Facilities Planning Application to the SWRCB for the construction of Infiltration and Inflow Sanitary Sewer Replacement, Phase 8 Project. In May 2002, the City received an e-mail from the SWRCB staff giving approval to proceed with the construction of the project. The final loan agreement was not sent to the City of Alameda until April 2004.
- The project was not inspected during or after construction by SWRCB staff as they had for the previous SRF loan funded projects in the City of Alameda. The City of Alameda staff was in ongoing communication with the SWRCB staff informing them of schedule changes and project progress.

Public Works Department  
950 West Mall Square, Room 110  
Alameda, California 94501-7575  
510.749.5840 • Fax 510.749.5867 • TDD 510.522.7538

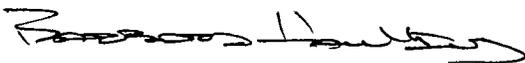
- The project was completed in May 2003 and the City of Alameda submitted the Initiation of Operation request to the SWRCB in May 2003. However, the SWRCB staff never acknowledged receipt of the Initiation of Operation request or acceptance of the proposed date. Since the proposed date for the Initiation of Operation was never accepted, the due date for the Compliance Report was never set.
- In October 2003, the City requested approval of the monitoring plan from which the Compliance Report would be based, but the SWRCB staff never responded. The City continued to communicate with the SWRCB staff informing them of the difficulty in determining the cause of the surcharge outside the subject subbasins. This process took more than the allotted 15 months. Until the City had identified a potential corrective action the City could not provide the information required in the corrective action report. It was not until an adjacent subdivision in a downstream subbasin had sewer backups that the City was able to redirect the analysis and find the problem.
- In April 2006, the City was notified by SWRCB that they were waiting for the City to submit a Compliance Report. The City submitted a Corrective Action Report in June 2006. It is anticipated that the City will complete all follow-up monitoring and analysis so that a Compliance Report can be submitted to the SWRCB by May 2007.

The City believes the penalty is unwarranted because the City met the implementation conditions of the agreement. Unlike previous SRF loan projects, where SWRCB staff actively provided administrative direction and acknowledgment of the City's submittals, the last SRF loan processing was less stringent. The City continued to communicate with the SWRCB staff regarding the project progress and administrative concerns. Yet the SWRCB staff did not direct the City of Alameda to provide any additional documentation. The City therefore is requesting a waiver of the penalty.

If you have any questions or need additional information regarding this request, please call Wali Waziri at (510) 749-5853.

Sincerely,

Matthew T. Naclerio  
Public Works Director



Barbara Hawkins  
City Engineer

BH:gc



## City of Alameda • California

February 28, 2007

James Maughan, Assistant Deputy Director  
State Water Resources Control Board  
Division of Financial Assistance  
1001 I Street  
Sacramento, CA 95814

Re: City of Alameda Infiltration and Inflow Phase 8, Sanitary Sewer Replacement Project, No. P.W. 04-01-12, SRF Loan No. C-06-4007-610, Request to Update the City on the Status of Waiver of the Proposed Penalty

Dear Mr. Maughan:

This is a follow up to the City of Alameda letter dated October 18, 2006 addressed to David Kim, Senior Engineer at the State Water Resources Control Board (SWRCB), requesting to waive the proposed penalty on the Loan No. C-06-4007-610 that the City of Alameda obtained for the Infiltration and Inflow Phase 8, Sanitary Sewer Replacement Project.

The City was informed on September 12, 2006 of the State Water Resources Control Board's (SWRCB) intent to consider imposing a penalty in the amount of \$967,649 on the State Revolving Fund (SRF) loan that the City of Alameda used to rehabilitate the sewer collection system in 2002/2003. The proposed penalty was the result of the City of Alameda and five other agencies failure to submit the Project Performance Report and Project Certification on time. While the City of Alameda appreciates the SWRCB's help in approving the loan for the corrective work and the effort of staff to request a waiver of the penalties, the City of Alameda believes the enforcement of a penalty needs further consideration. The SRF program is a partnership between the SWRCB and the local agencies where funding is made available to maintain state wastewater facilities. The administrative role is managed by the SWRCB while implementation is the responsibility of the local agency.

Unfortunately, the SWRCB staff did not notify the City of Alameda of their scheduled meeting on September 6, 2006, so the City could not present an explanation of the sequence of events that led to the development of the corrective plan. The following is synopsis of important tasks and events relative to the project implementation:

If you have any questions or need additional information regarding this request, please call Wali Waziri at (510) 749-5853.

Sincerely,

Matthew T. Naclerio  
Public Works Director



Barbara Hawkins  
City Engineer

BH:jn

G:\PUBWORKS\CIP\IIPHASE8\CONSTRUC\DOCS\SWRC(2-28-07).DOC