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STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO: 95-11

REQUEST FROM THE SANTA ANA WATERSHED PROJECT AUTHORITY
TO DISBURSE ALL STATE REVOLVING FUND LOAN FUNDS
WITHOUT AN APPROVED REVENUE PROGRAM
FOR THE SANTA ANA RIVER INTERCEPTOR PROJECT
SRF PROJECT NOS. 4118-11, -12, -13, -14, AND -15

WHEREAS:

1. The State Revolving Fund (SRF) loan program is subject to certain federal requirements, particularly the user charge and revenue program requirements contained in Section 204(b)(1) of the federal Clean Water Act and federal regulations contained in 40 CFR 35.2140 et seq.;
2. The SRF loan contracts between the State Water Resources Control Board (SWRCB) and the Santa Ana Watershed Project Authority (SAWPA) require SAWPA to comply with the requirements of Section 204(b)(1) of the federal Clean Water Act and applicable federal and state rules, regulations, and guidelines;
3. Federal regulations contained in 40 CFR 35.2140(g) require that all municipalities discharging wastewater to the SRF funded project must adopt acceptable revenue programs;
4. The SWRCB on August 18, 1988, adopted the *Policy for Implementing the State Revolving Fund for the Construction of Wastewater Treatment Facilities* (SRF Policy), and amended it on September 20, 1990; January 21, 1993; September 23, 1993; and October 20, 1994;
5. The SRF Policy, Section VII(C)(3) directs staff to disburse no more than 90 percent of the SRF loan funds until a final revenue program is approved by the Division of Clean Water Programs (Division);
6. Section 2-1(A) and (B) of the Revenue Program Guidelines included in the SRF Policy provide that separate revenue programs should be submitted by each participating agency in a regional system;
7. The City of Corona is a participating agency in the Santa Ana River Interceptor (SARI) Project;
8. The City of Corona has not adopted or submitted an acceptable revenue program to the Division;
9. Section 2-1(C) of the Revenue Program Guidelines included in the SRF Policy provides that all interagency agreements must be submitted to the Division for review;

10. The interagency agreement between SAWPA and Corona was not submitted to the Division for review;
11. The existing City of Corona flows in the SARI line are in violation of requirements of previous Clean Water Grants to SAWPA for earlier segments of the SARI project; and
12. The existing City of Corona flows are receiving treatment in the Orange County Sanitation Districts' treatment facilities which were also Clean Water Grant funded.
13. SAWPA's situation is unique and entitled to special consideration in that:
 - a. SAWPA has made extensive good faith efforts to compel the City of Corona to comply with state and federal requirements, including the filing of litigation against the City of Corona.
 - b. SAWPA is proceeding to build certain wastewater treatment facilities with local funds.
 - c. These locally funded facilities will be completed within three years.
 - d. SAWPA has assured the SWRCB that the purpose of those facilities is to remove the City of Corona flows from the SARI line.
 - e. SAWPA has further assured the SWRCB that it will either compel the City of Corona to adopt an approved revenue program or cease providing service to the City from the SARI line and any other previously grant funded or loan funded facility within three years.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Resources Control Board will not make any SRF loan payments to SAWPA beyond the 90 percent payout point until SAWPA has signed an amendment to its SRF loan contracts agreeing that: (a) SAWPA will not allow the City of Corona to discharge to the SARI line after February 16, 1998; (b) if the City of Corona is still discharging to the SARI line after February 16, 1998, SAWPA will immediately repay to the SWRCB all SRF loan funds advanced to it beyond the 90 percent payout point plus interest based on the rate the amount advanced would have earned if that amount were in the Pooled Money Investment Fund for the period from when it was advanced until it was repaid; and (c) repayment of the loan funds advanced will not waive any other penalties which the SWRCB may impose for noncompliance with revenue program requirements.

2. On or before June 16, 1995 SAWPA shall report back to the SWRCB concerning the status of its litigation seeking to achieve compliance by the City of Corona.
3. This resolution is an exercise of the SWRCB's enforcement discretion based upon the unique circumstances of this case. It does not authorize or condone any failure to comply with revenue program requirements, and does not set any precedent with regard to application of the SWRCB's direction to staff that no more than 90 percent of SRF loan funds be disbursed until a final revenue program has been approved by the Division.

CERTIFICATION

The undersigned, Administrative Assistant 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 16, 1995.


Maureen Marché
Administrative Assistant to the Board