

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2009-0057**

ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTION OF THE AIR QUALITY CONFORMITY DETERMINATION, AND EXECUTION OF THE CLEAN WATER STATE REVOLVING FUND (CWSRF) PRELIMINARY FUNDING COMMITMENT (PFC) FOR THE LOS ANGELES COUNTY SANITATION DISTRICT NO. 20 (DISTRICT), PALMDALE WATER RECLAMATION PLANT (PWRP) STAGE V (PROJECT) – CWSRF PROJECT NOS. C-06-4746-110; C-06-4746-120; C-06-4746-130; C-06-4746-140

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the “*Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities*” (Policy) and amended it on March 17, 2009;
2. The State Water Board, on September 2, 2008, adopted the State Fiscal Year 2008/2009 CWSRF Program Priority List which included the District’s Project in Priority Class C;
3. The Assistant Deputy Director of the Division of Financial Assistance (Division) approved the Facility Plan for the District’s Project on August 29, 2008. The District agreed to the Facility Plan Approval on September 23, 2008;
4. The District prepared an Environmental Impact Report (EIR) for the proposed Project, distributed it to the public, and circulated it through the State Clearinghouse (SCH No. 2004091123);
5. The District certified the EIR, approved the Project, and adopted a Mitigation Monitoring and Reporting Plan and a Statement of Overriding Considerations on October 26, 2005;
6. The District filed a Notice of Determination with the Los Angeles County Clerk on October 27, 2005, and with the Governor’s Office of Planning and Research on November 4, 2005;
7. The District adopted a Statement of Overriding Considerations (SOC) to substantiate its decision to approve the Facilities Plan and EIR, which include the Project, despite significant unavoidable impacts related to air quality, secondary growth, cumulative air quality, and cumulative biological resources resulting from the implementation of the Facilities Plan and EIR.
8. The State Water Board finds that significant unavoidable adverse impacts related to air quality, secondary growth, cumulative air quality, and cumulative biological resources will result from the implementation of the Project;

9. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of the Project outweigh the unavoidable adverse environmental impacts to air quality and secondary growth, and cumulative effects to air quality and biological resources:
 - a. The upgrades to the PWRP will meet California Code of Regulations Title 22 tertiary drinking water standards thereby expanding reuse opportunities for the local community as opportunities arise;
 - b. The funded Project is in conjunction with other project components identified in the EIR and will enable the District to provide wastewater and effluent management capacity adequate to meet the demand through 2025 in a cost effective and environmentally sound manner;
 - c. The funded Project will upgrade the PWRP to comply with the Lahontan Regional Water Quality Control Board's Cleanup and Abatement Order and Cease and Desist Order;
 - d. Providing wastewater treatment to the expanding population reduces potential impacts of growth to public service infrastructure;
9. The State Water Board reviewed and considered the information contained in the EIR and applicable environmental documents and determined that the funded Project will not result in any significant adverse water quality impacts;
10. State Water Board staff developed an Air Quality Conformity Determination in order for the District's Project to comply with the federal Clean Air Act;
11. The following Special Conditions apply to the Project:
 - a. The USFWS identified conservation measures to minimize potential Project effects on desert tortoises. The District will have to comply with these conservation measures. The USFWS' terms and conditions will be included in Exhibit D of the District's CWSRF financing agreement and also can be found in the USFWS July 25, 2008, letter;
 - b. Compliance with the State Historic Preservation Officer's (SHPO) condition to protect archaeological sites will be included as a special condition in Exhibit D of the District's CWSRF financing agreement and can be found in the SHPO May 1, 2008 letter; and
12. An independent credit review was completed on February 5, 2009, recommending a credit limit of \$70 million for this Project.

THEREFORE BE IT RESOLVED THAT:

Conditioned on the following:

1. The District's delivery of a letter from counsel regarding ownership and access to the Project properties, including permits or easements;
2. The resolution of issues regarding the District's existing debt;
3. The District's delivery of a revised letter from bond counsel citing conditions or prohibitions in existing debt affecting the District entering into the CWSRF obligation;

The State Water Board:

1. Approves a \$70 million CWSRF PFC for the proposed Project, including a 20-year repayment period, with the first repayment due one year after completion of construction;
2. Adopts the above SOC for the CWSRF Program for the District's Project;
3. Adopts the Air Quality Conformity Determination for the Project to comply with the federal Clean Air Act;
4. Conditions this approval by rescinding this PFC if the District does not sign a CWSRF financing agreement by September 7, 2009, in accordance with Section IX (J) of the Policy;
5. Gives the Deputy Director of the Division the discretion to approve up to a 90-day extension for good cause;
6. Conditions the financing agreement, as determined by the credit review, with the following items:
 - a. The financing agreement shall be secured on parity with the outstanding:
2005 Series A District 20 Subordinate Revenue Bonds
2007 Series A District 20 Subordinate Revenue Bonds
 - b. The District shall establish a Reserve Fund equal to one year's debt service prior to construction completion date; and
 - c. The financing agreement shall be limited to a maximum of \$70 million unless information supporting the credit review changes and a supplemental credit review is performed.

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 July 7, 2009.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Arthur G. Baggett, Jr.
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board