

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2009-0068**

ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS (SOC), AND APPROVAL
OF A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PRELIMINARY
FUNDING COMMITMENT (PFC) FOR THE FRESNO METROPOLITAN FLOOD CONTROL
DISTRICT (DISTRICT), FRESNO STORMWATER COLLECTION, TREATMENT AND
SURFACE WATER RECYCLING PROJECT (PROJECT)
CWSRF PROJECT NO. C-06-6350-110

WHEREAS:

1. The American Recovery and Reinvestment Act of 2009 (ARRA) was enacted by Congress and signed into law on February 17, 2009, providing approximately \$280 million to the CWSRF Program for local assistance that must be committed quickly to eligible projects;
2. State Water Resources Control Board (State Water Board) [Resolution No. 2009-0027](#), provides guidance to staff on how to implement ARRA for the CWSRF;
3. State Water Board [Resolution 2009-0051](#), allocates funds to new Expanded Use Projects by prioritizing urban stormwater projects serving Disadvantaged Communities;
4. Issuance of a PFC does not guarantee a financing agreement will be executed;
5. On November 14, 2007, the Board of Directors of the District certified the Environmental Impact Report (EIR), approved the Project, and adopted a Mitigation and Monitoring Plan and a SOC for the Project;
6. The District filed a Notice of Determination with the Fresno County Clerk on November 19, 2007, and with the Governor's Office of Planning and Research on July 29, 2009;
7. The Project impacts that will remain significant and unavoidable will be: (1) construction and operation of the proposed Project could exceed the San Joaquin Valley Air Pollution Control District (SJVAPCD) annual threshold of significance for NOx; and (2) construction of the proposed Project, in combination with other simultaneous construction, would add to the cumulative levels of ozone precursors in the San Joaquin Valley Air Basin, which could also conflict with the SJVAPCD Ozone Attainment Demonstration Project;
8. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of the Project outweigh the unavoidable adverse environmental impacts:
 - a. Coordinated implementation of an urban drainage and flood control system that will provide greater protection of public health and safety, and reduce economic impacts associated with regional flooding;
 - b. Long-term planning;
 - c. Coordinated planning, construction, operation and maintenance efforts;
 - d. Increase in groundwater recharge contributed to stormwater runoff and imported surface water deliveries; and
9. State Water Board staff reviewed and considered the EIR and applicable environmental documents and determined that the Project will not result in any significant adverse water quality impacts.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the above SOC for the District's Project;
2. Approves a CWSRF PFC of \$3,892,600 for the District's Project using ARRA principal forgiveness funds;
3. Conditions this approval such that the District shall certify that it meets all requirements of the ARRA including, but not limited to, the following:
 - a. Section 1512 – Reporting Requirements;
 - b. Section 1605 – American Iron, Steel, and Manufactured Goods; and
 - c. Section 1606 – Federal Prevailing Wage;
4. Conditions this approval such that failure to comply with the ARRA will automatically terminate any provisions of the PFC that are authorized solely by the ARRA, including, but not limited to, provisions related to principal forgiveness;
5. Conditions this approval such that, after execution of the CWSRF financing agreement, the District will be required to submit a quarterly status report to Division of Financial Assistance (Division) staff throughout the implementation of the Project;
6. Conditions this approval to require the District to submit as part of the quarterly status reports to the Division staff how the District has implemented mitigation measures to reduce the impacts of NOx emissions and cumulative levels of ozone precursors;
7. Conditions this approval such that, the District agrees that the implementation of the Project will be in compliance with the National Pollutant Discharge Elimination System (NPDES) Permit issued by the Central Valley Regional Water Quality Control Board;
8. Conditions this approval such that, after the execution of the CWSRF financing agreement, the District will be required to annually submit a Report to the Division staff until one year past the Project completion, on the monitoring and performance of the Project consistent with guidelines in the Project Assessment and Evaluation Plan; and
9. Conditions this approval such that, the District will ensure provisions for operation and maintenance of the installed facilities for a period of 20 years following completion of construction.

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 September 15, 2009.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc

NAY: None

ABSENT: Board Member Arthur G. Baggett, Jr.

ABSTAIN: None



Jeanine Townsend
Clerk to the Board