

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
SEPTEMBER 16, 2008**

**ITEM 8**

**SUBJECT**

CONSIDERATION OF A RESOLUTION FOR THE EXECUTION OF THE STATE REVOLVING FUND (SRF) AND WATER RECYCLING FUNDING PROGRAM (WRFP) STANDARD AGREEMENTS FOR THE LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT (DISTRICT), RECYCLED WATER PHASE I PROJECT (PROJECT) – SRF PROJECT NO. C-06-4352-110; WRFP PROJECT NO. 3608-030

**DISCUSSION**

The District submitted a Financial Assistance Application to the Division of Financial Assistance (Division) SRF and WRFP Programs, for the construction of tertiary treatment facilities at the Grass Valley Wastewater Treatment Plant (GVWWTP) and installation of pipelines to deliver recycled water within the District's service area. The proposed Project has two goals: 1) meet discharge and order requirements issued by the Lahontan Regional Water Quality Board (Lahontan Regional Water Board) and State Water Resources Control Board (State Water Board) (see Regional Board Impact) and, 2) limit the use of imported State water and local water supplies.

The Division approved WRFP grant and SRF financing commitments for the District's Project on February 22, 2008, and April 7, 2008, respectively. The District started construction of the Project on April 28, 2008. The proposed Project application has gone through the majority of the approval process, but was put on hold prior to preparing the contracts due to an issue with land ownership.

The land the GVWWTP occupies is owned by the United States Department of Agriculture (USDA) Forest Service. The District currently has a Special Use Permit from the USDA Forest Service, but the permit will expire on December 12, 2012. The Project scope includes work at the GVWWTP. Both the WRFP and SRF programs require that the applicant demonstrate that it has legal access to the property associated with the project for the life of a project prior to executing the contracts. At this point the District has not met this requirement and execution of the SRF and WRFP contracts would increase Division exposure for financial risk.

Division staff consulted with its credit review consultant, California Municipal Statistics, Inc. (Calmuni). Calmuni recommended that the property rights issue be addressed before executing the contracts. Calmuni suggested the possibility of collateralizing the loan with other assets of the District, but the District does not have additional assets that can be pledged.

The District has concluded that a surety bond would be too expensive.

Another option the District may choose is an extension of the permit; however, an extension prior to its expiration is not feasible. The USDA Forest Service will not renew land use permits prior to the expiration date. They must conduct a National Environmental Policy Act (NEPA) analysis prior to the issuance of a new permit, and the USDA Forest Service does not have the resources to renew the permit early.

The District is confident the permit will be extended in 2012. The USDA Forest Service provided a letter stating that they “see no obstacles that will interfere with renewing the permit for an additional 20-year permit.” The GVWWTP has operated on the property since 1985, and the USDA Forest Service renewed the District’s permit in 1993. In addition, the GVWWTP is the only such plant in the region. If the GVWWTP ceased operations, there is no facility to treat wastewater for the region, including USDA Forest Service property and facilities.

## **POLICY ISSUE**

Should the State Water Board:

Direct Staff to execute the SRF and WRFPP agreements without a current extension to the District’s land use permit.

## **FISCAL IMPACT**

The Division, pursuant to State Water Board Resolution 2007-0004, on February 22, 2008, approved a preliminary WRFPP grant commitment of \$2.51 million, and on April 7, 2008, approved a preliminary SRF financing commitment of \$6.22 million, for the District’s Project. No additional funds will be approved by this item.

## **REGIONAL WATER BOARD IMPACT**

The Lahontan Regional Water Board prescribed Waste Discharge Requirements and a National Pollutant Discharge Elimination System (NPDES) Permit for the District to annually discharge excess flows to the Grass Valley Creek during emergency wet-weather events. The Lahontan Regional Water Board also issued Cease and Desist Order (CDO) No. R6V-2002-0008, to ensure the District’s compliance with the Permit. Additionally, the District accepted the State Water Resources Control Board, Division of Water Rights Order [WR 2006-001](#) that limits the District’s withdrawal of surface water from Lake Arrowhead to 1,566 acre feet per calendar year beginning in 2008. Completion of the proposed Project will ensure compliance with the discharge requirements and the CDO, as well as reduce the Districts’ need for imported water.

## **STAFF RECOMMENDATION**

The State Water Board should:

Direct staff to execute the SRF and WRFPP agreements without a current extension to the District’s land use permit.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

EXECUTION OF THE STATE REVOLVING FUND (SRF) AND WATER RECYCLING FUNDING PROGRAM (WRFP) STANDARD AGREEMENTS FOR THE LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT (DISTRICT), RECYCLED WATER PHASE I PROJECT (PROJECT) – SRF PROJECT NO. C-06-4352-110; WRFP PROJECT NO. 3608-030

### WHEREAS:

1. The Division of Financial Assistance (Division), on February 22, 2008, approved a WRFP Grant Commitment of \$2.51 million, and on April 7, 2008, approved an SRF Loan Commitment of \$6.22 million, for the District's Project;
2. On April 9, 2008, the Division issued the Approval to Award the construction contract for the Project. Notice to Proceed was issued to the contractor on April 28, 2008;
3. The District's current land use permit with the United States Department of Agriculture Forest Service (USDA Forest Service) will expire on December 12, 2012, and will not be extended prior to the permit expiration date;
4. An extension to the land use permit is not a requirement of the SRF or WRFP policies, but is common practice for construction projects funded through the Division's funding programs. There is inherent risk in constructing the Project on such a site because any future claim by a party asserting any interest in real property upon which the Project is located could affect the value or usefulness of the Project. The Division requested that the District seek an extension of the current permit or provide an equivalent form of insurance (i.e. surety bond);
5. The District has provided a letter from the USDA Forest Service, stating that the USDA Forest Service foresees no obstacles to renewing the permit beyond the term of the SRF and WRFP financing agreements;
6. The Grass Valley Wastewater Treatment Plant has been in operation on USDA Forest Service land since 1985 and the land use permit was previously renewed in 1993;
7. The District concluded that extending the current permit or providing a surety bond are not viable options for the District; and,
8. The proposed Project will help the District comply with Lahontan Regional Water Board Cease and Desist Order (CDO) No. R6V-2002-0008 and State Water Resources Control Board, Division of Water Rights Order WR 2006-001.

# **D R A F T**

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

Direct staff to execute the SRF and WRFP agreements without a current extension to the District's land use permit.

## **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 16, 2008.

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Jeanine Townsend  
Clerk to the Board