

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

ITEM 11

SUBJECT

CONSIDERATION OF A RESOLUTION TO WITHHOLD CLEAN WATER STATE REVOLVING FUND (CWSRF) AND SMALL COMMUNITY WASTEWATER GRANT (SCWG) FUNDING FOR THE CITY OF COLFAX (CITY) WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT (PROJECT); CWSRF PROJECT NO. C-06-4470-110 AND SCWG PROGRAM PROJECT NO. SCG-921

DISCUSSION

The City currently has CWSRF financing and a SCWG, approved by the State Water Resources Control Board (State Water Board) on June 5, 2007, in [Resolution No. 2007-0033](#), to construct upgrades to the Colfax Wastewater Treatment Plant (Plant) located in Placer County, about 49 miles northeast of Sacramento. The City is in violation of the Central Valley Regional Water Quality Control Board's (Central Valley Regional Water Board's) Waste Discharge Requirements (WDR) Order No. 5-01-180, and National Pollution Discharge Elimination System (NPDES) Permit No. CA0079529. The City's Project is necessary to comply with the WDR/NPDES Permit and Cease and Desist Order (CDO) No. 5-01-181, issued on June 14, 2001.

The City issued a Notice-to-Proceed with construction of the Project on September 4, 2007. The City has received multiple disbursements from the SCWG and CWSRF Programs. Section 204(b)(1) of the Clean Water Act (CWA) requires recipients of CWSRF financing to develop user charge systems and to have the legal, institutional, managerial, and financial capability to construct, operate, and maintain the treatment works. According to the *Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), as amended in July 2007, the recipient is required to prepare a revenue program, adopt a sewer use ordinance, and establish an acceptable dedicated source of revenue to repay the CWSRF financing. The City submitted a draft revenue program on November 15, 2005, which identified user charges, including potential impact fees and monthly user fees, as the anticipated revenue sources for the Project. State Water Board staff approved the draft revenue program on January 5, 2006.

Pursuant to Proposition 218, the City conducted an assessment hearing in July 2008 to approve sewer rate increases. The attempt to increase the user rates was unsuccessful resulting in a 51.7% property owner protest. Therefore, the City has no valid revenue program in place to repay the CWSRF Program funds. Division of Financial Assistance (Division) staff attended the City's council meeting on August 26, 2008, and notified the City that the State Water Board would suspend all further SCWG Program and CWSRF Program disbursements until the City can demonstrate a means to repay the CWSRF Program financing. The City was directed to request the reinstatement of their disbursements from the State Water Board at one of their future meetings, once the City can demonstrate the ability to repay the CWSRF Program financing.

POLICY ISSUE

Should the State Water Board withhold SCWG and CWSRF disbursements until the City can establish a dedicated source of revenue, sufficient to repay CWSRF Program financing?

FISCAL IMPACT

As outlined in the table below, the City has entered into agreements with the State Water Board to receive SCWG and CWSRF funding in return for constructing improvements to the Plant.

Funding Program	Agreement Amount	Disbursements To Date	Funding Amount Remaining
SCWG	\$1,738,007	\$1,138,742	\$599,265
CWSRF	\$7,485,865	\$5,289,390	\$2,196,475

If the City's CWSRF funds are not repaid in a timely manner, the available CWSRF Program funds will be reduced, and the CWSRF Program will not be able to offer those funds to other communities.

REGIONAL WATER BOARD IMPACT

None.

STAFF RECOMMENDATION

The State Water Board should direct Division staff to withhold SCWG and CWSRF disbursements until the City can establish a dedicated source of revenue, sufficient to repay CWSRF Program financing.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

WITHHOLD CLEAN WATER STATE REVOLVING FUND (CWSRF) AND SMALL COMMUNITY WASTEWATER GRANT (SCWG) FUNDING FOR THE CITY OF COLFAX (CITY) WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT (PROJECT); CWSRF PROJECT NO. C-06-4470-110 AND SCWG PROGRAM PROJECT NO. SCG-921

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) as amended on July 17, 2007, and the *Small Community Wastewater Grant Program Guidelines* as amended on May 22, 2007;
2. The Policy requires the City to prepare a revenue program, adopt a sewer use ordinance, and establish an acceptable dedicated source of revenue to repay the CWSRF financing;
3. State Water Board staff approved the draft revenue program on January 5, 2006, which identified user charges including potential impact fees and monthly user fees as the anticipated sources of revenue for the Project;
4. The State Water Board approved a Preliminary Funding Commitment for SCWG and CWSRF funding for the City's Project on June 5, 2007, in [Resolution No. 2007-0033](#); and,
5. The City is unable to repay the CWSRF financing because of an unsuccessful Proposition 218 assessment hearing, to increase sewer service charges, in July 2008.

THEREFORE BE IT RESOLVED THAT:

The State Water Board directs Division of Financial Assistance staff to withhold SCWG and CWSRF disbursements until the City can establish a dedicated source of revenue, sufficient to repay CWSRF Program financing.

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.

Jeanine Townsend
Clerk to the Board