

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
AUGUST 7, 2012**

ITEM 3

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO APPROVE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PLANNING FINANCING FOR PLANADA COMMUNITY SERVICES DISTRICT (DISTRICT) FOR THE WASTEWATER TREATMENT PLANT EXPANSION PROJECT (PROJECT), CWSRF PROJECT NO. C-06-7649-110

DISCUSSION

The District owns and operates a wastewater collection, treatment, and disposal system providing service to the community of Planada. The community is located approximately 10 miles east of the City of Merced in Merced County, and qualifies as small and disadvantaged. The District is under the jurisdiction of the Central Valley Regional Water Quality Control Board (Regional Water Board), Fresno office.

Per Waste Discharge Requirements Order No. RS-2011-0042 (National Pollutant Discharge Elimination System [NPDES] Permit No. CA0078950), the District is permitted to discharge up to 0.53 million gallons per day (MGD) to Miles Creek, a tributary to the San Joaquin River. In June 2011, the Regional Water Board issued Time Schedule Order (TSO) No. R5-2011-0043. The TSO includes interim effluent limitations for various constituents, and requires the District to achieve full compliance with final effluent limitations by November 2013. This agenda item recommends committing \$380,000 in CWSRF Program principal forgiveness to the District for planning. The funds would be utilized in preparing planning documents for the Project, including preliminary engineering and environmental documentation.

In accordance with Section VIII.D of the State Water Resources Control Board's (State Water Board's) *Policy for Implementing the Clean Water State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), amended on March 17, 2009, planning financing agreements may be approved by the Deputy Director of the Division of Financial Assistance (Division) if the Project is routine and non-controversial. The Project is considered non-routine due to pending litigation related to the District's California Environmental Quality Act (CEQA) documentation; therefore, approval of the financing must be presented to the State Water Board for consideration. Two parties, the San Joaquin Raptor Rescue Center and Protect Our Water, have jointly filed a petition asserting that the District's Final Environmental Impact Report does not adequately analyze or mitigate Project impacts. Although this litigation is pending, staff recommends approving the proposed planning financing agreement to assist the District in completing necessary planning work, including CEQA-related documentation.

POLICY ISSUE

Should the State Water Board approve the Resolution to:

1. Approve \$380,000 in CWSRF planning financing for the District's Project?
2. Direct Division staff to allocate \$380,000 in CWSRF principal forgiveness/grants, consistent with the planning schedule and availability of funds?
3. Condition this approval to prohibit the District from requesting CWSRF reimbursement for legal costs associated with the District's pending CEQA litigation?
4. Condition this approval to require the District to provide immediate notification to the Division project manager if the ongoing litigation will jeopardize the District's ability to complete the planning work, and to provide the Division project manager with a copy of any settlement agreements or court rulings within 15 days of such event?

ENVIRONMENTAL IMPACT

The scope of work outlined in the District's Plan of Study is exempt from CEQA, as those activities involve planning and feasibility studies (CEQA Guidelines, Section 15262), and/or data collection, research, experimental management and resource evaluation activities (CEQA Guidelines, Section 15306).

FISCAL IMPACT

The District's estimated 2011 median household income (MHI) is \$31,361, approximately 54 percent of the State of California's 2011 MHI. The District's estimated 2011 population is 4,076 persons. The community's wastewater rates are \$52 per month, which equates to 1.89 percent of the community's MHI. As outlined in the CWSRF Intended Use Plan for Federal Fiscal Year 2012, adopted by the State Water Board on March 20, 2012, principal forgiveness/grants are available to two categories of communities: 1) Small, Disadvantaged Communities with Substantial Water Quality Investment; and 2) Other Communities. The District is a small, severely disadvantaged community qualifying under Category 1, and therefore may receive 100 percent principal forgiveness/grants for planning costs, not to exceed \$500,000 in CWSRF principal forgiveness/grants.

REGIONAL BOARD IMPACT

Yes. The proposed funding commitment will assist the District in meeting the requirements of TSO No. R5-2011-0043.

STAFF RECOMMENDATION

The State Water Board should adopt the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

APPROVE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PLANNING FINANCING FOR PLANADA COMMUNITY SERVICES DISTRICT (DISTRICT) FOR THE WASTEWATER TREATMENT PLANT EXPANSION PROJECT (PROJECT), CWSRF PROJECT NO. C-06-7649-110

WHEREAS:

1. The State Water Resources Control Board (State Water Board), on March 17, 2009, adopted the amended "*Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities*" (Policy);
2. The Project is listed on the Statewide Project Priority List;
3. The Division of Financial Assistance (Division) issued a Plan of Study (POS) Approval to commit planning funds to the District's Project;
4. As outlined in the CWSRF Intended Use Plan for Federal Fiscal Year 2012, adopted by the State Water Board on March 20, 2012, principal forgiveness/grants are available to two categories of communities: 1) Small, Disadvantaged Communities with Substantial Water Quality Investment; and 2) Other Communities;
5. As a small (less than 20,000 persons), severely disadvantaged community (median household income [MHI] less than 60 percent of the statewide MHI) with wastewater user rates more than 1.5 percent of the community's MHI, the District may receive 100 percent principal forgiveness/grants for planning costs, not to exceed \$500,000 in principal forgiveness/grants;
6. The scope of work outlined in the District's POS is exempt from California Environmental Quality Act (CEQA) documentation, as those activities involve planning and feasibility studies (CEQA Guidelines, Section 15262), and/or data collection, research, experimental management and resource evaluation activities (CEQA Guidelines, Section 15306);
7. As described in Section VIII.D of the State Water Board's Policy, planning financing agreements may be approved by the Deputy Director of the Division if the Project is routine and non-controversial; and
8. The Project is considered non-routine due to pending litigation related to the District's CEQA documentation.

DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves \$380,000 in CWSRF planning financing for the District's Project.
2. Directs Division staff to allocate \$380,000 in CWSRF principal forgiveness/grants, consistent with the planning schedule and availability of funds.
3. Conditions this approval to prohibit the District from requesting CWSRF reimbursement for legal costs associated with the District's pending CEQA litigation.
4. Conditions this approval to require the District to provide immediate notification to the Division project manager if the ongoing litigation will jeopardize the District's ability to complete the planning work, and to provide the Division project manager with a copy of any settlement agreements or court rulings within 15 days of such event.

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 Resources Control Board held on August 7, 2012.

Jeanine Townsend
Clerk to the Board