

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF FINANCIAL ASSISTANCE
FEBRUARY 7, 2012**

ITEM 5

SUBJECT

CONSIDERATION OF A RESOLUTION DIRECTING THE STATE WATER RESOURCES CONTROL BOARD'S (STATE WATER BOARD'S) EXECUTIVE DIRECTOR TO APPLY TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (U.S. EPA) TO OFFER EXTENDED TERM FINANCING FOR REGIONALIZATION PROJECTS AS PART OF THE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM

DISCUSSION

Regional wastewater facilities tend to be more effective for several reasons. They allow multiple communities to share the cost and management of wastewater services thereby lowering the per capita cost of wastewater treatment. The larger customer base provides a relatively larger budget so that regional facilities can obtain greater technical expertise. The larger customer base also tends to result in smaller rate increases, making it easier for regional facilities to upgrade their treatment systems. Regionalization of wastewater facilities should reduce Regional Water Boards' oversight costs because fewer permits will be required, and regional facilities tend to have higher discharge permit compliance rates.

Given the benefits of regional wastewater facilities, staff recommends that the State Water Board seek approval from U.S. EPA to offer extended term financing (ETF) from the CWSRF Program as a tool to promote the regionalization of existing wastewater systems. [Attachment B](#) provides a recommended definition for "regionalization."

The CWSRF Program is a joint federal/state funded program designed to help California meet the goals of the Clean Water Act and the Water Code. The CWSRF Program provides below-market rate financing for water quality protection and improvement projects using a variety of funds.

Financing through the CWSRF Program is generally limited to 20 years under federal and state law, but U.S. EPA may approve a state's ETF program under certain circumstances. In 2008, U.S. EPA approved the State Water Board's request (pursuant to [Resolution No. 2008-0052](#)) to implement an ETF program. The approval allowed the State Water Board to offer ETF to small, disadvantaged communities.

For U.S. EPA approval, ETF cannot exceed the lesser of the following: (1) the life of the underlying asset, (2) 30 years, or (3) the time necessary to overcome the threshold at which the project becomes affordable for the community.

In addition, the long-term revolving nature of the CWSRF must be protected in one of two ways: (1) offering ETF must not decrease the projected revolving level of the fund by 10 percent or more compared to the revolving level the CWSRF would attain if ETF were not offered, using a 60-year project period, or (2) the state's CWSRF Program must maintain its historical average annual assistance, or baseline, levels.

The state must evaluate its ETF program each year in the CWSRF Annual Report to ensure that it is protecting the Program's long-term ability to finance projects.

Since the inception of ETF, the CWSRF Program has awarded 13 ETF Agreements, for a total of \$279 million. During Fiscal Year 2010/2011, \$104 million in ETF was awarded.

U.S. EPA Headquarters has provided its Regional Administrators with eight criteria to evaluate a state's application for ETF. These eight criteria are discussed in detail in [Attachment A](#). The key criteria to obtain approval of ETF by U.S. EPA Regions are these: (1) ETF must be targeted to disadvantaged communities, (2) the financial effect on the CWSRF Program must be limited, and (3) the financing cannot exceed 30 years, the useful life of the Project assets, or the length of time needed to make the Project affordable for the community, whichever is less. Since the CWSRF Program proposes to offer ETF to regionalization projects in addition to small, disadvantaged communities, condition (1) above cannot be met. Therefore, U.S. EPA Region IX does not have the authority to approve this proposal; instead it must be submitted to U.S. EPA Headquarters. Regardless of U.S. EPA's decision on this proposal, the CWSRF Program will continue offering ETF to small, disadvantaged communities.

If U.S. EPA approves this request to offer ETF for regionalization projects, staff will review each regionalization project to determine the useful life of the assets and threshold at which the Project financing is affordable for the applicant. This analysis will be used to determine the maximum term of the ETF.

Proposed amendments to the CWSRF *Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy) necessary to implement ETF are included in Attachment B. The Resolution directs that these amendments will become effective upon U.S. EPA's approval of California's ETF application.

FISCAL IMPACT

The long-term revolving nature of the CWSRF Program must be protected in one of two ways according to U.S. EPA: (1) ETF must not reduce over a 60-year period the projected level of funding by more than 10 percent from the level the CWSRF would expect to offer without ETF, or (2) the CWSRF Program must maintain its historical average annual assistance, or baseline, levels.

On behalf of the State Water Board, an independent financial advisor completed an analysis of the effect of ETF on the CWSRF's long-term financing capacity. The analysis determined that the CWSRF Program can maintain or exceed its average historic assistance level if it provides ETF, for small, disadvantaged communities and expected regionalization projects.

While the initial capital cost for a regionalization project may be higher than a simple upgrade to an existing facility might be, future costs associated with system upgrades will be spread over a larger population and should ultimately reduce the per capita cost of wastewater treatment.

REGIONAL WATER QUALITY BOARD IMPACT

Regionalization should reduce the Regional Water Board's oversight costs because fewer permits will be required and better permit compliance can be expected.

POLICY ISSUE

1. Should the State Water Board direct the Executive Director, or designee, to apply to the U.S. EPA to offer ETF to regionalization projects as part of the CWSRF Program?
2. Should the State Water Board adopt the changes to the CWSRF Policy, as outlined in Attachment B, contingent upon U.S. EPA's approval of ETF?

STAFF RECOMMENDATIONS

State Water Board staff recommends that the State Water Board adopt the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching: Goal 1. Implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. Goal 2. Improve and protect groundwater quality in high-use basins by 2030. Goal 4. Comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change throughout California's water planning processes.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

DIRECTING THE STATE WATER RESOURCES CONTROL BOARD'S (STATE WATER BOARD'S) EXECUTIVE DIRECTOR TO APPLY TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (U.S. EPA) TO OFFER EXTENDED TERM FINANCING FOR REGIONALIZATION PROJECTS AS PART OF THE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM

WHEREAS:

1. The CWSRF Program is a joint federal/state funded program, providing low-interest financing for projects intended to improve the quality of the state's waters;
2. While CWSRF financing terms are generally capped at 20 years under state and federal law, U.S. EPA may authorize a state to offer Extended Term Financing (ETF), with financing terms capped at 30 years;
3. In 2008, U.S. EPA approved the State Water Board's ETF program for small, disadvantaged communities;
4. The State Water Board most recently amended its *Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), which Policy guides the CWSRF Program, in March 2009;
5. The State Water Board recognizes the importance of promoting regionalization for existing facilities;
6. ETF for regionalization projects may increase and accelerate the financing and completion of regionalization;
7. Completion of additional regionalization that otherwise would not be affordable, will have a direct benefit to water quality;
8. The eight approval criteria outlined by U.S. EPA for ETF will be addressed, as outlined in [Attachment A](#), in the application to U.S. EPA; and
9. Staff has determined that the CWSRF can maintain or exceed its average historic assistance level if it provides ETF to small, disadvantaged communities and expected regionalization projects.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board directs the Executive Director, or designee, to apply to U.S. EPA to offer ETF for regionalization projects as part of the CWSRF Program;
2. The State Water Board approves the amendments to the Policy, identified in [Attachment B](#), contingent upon approval of this application by U.S. EPA; and

D R A F T

3. The State Water Board directs staff, in the CWSRF Annual Report, to evaluate the effect of ETF on the revolving level of the CWSRF.

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 February 7, 2012.

Jeanine Townsend
Clerk to the Board