

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
JUNE 19, 2012**

ITEM 4

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PRELIMINARY FUNDING COMMITMENT (PFC) FOR DONNER SUMMIT PUBLIC UTILITY DISTRICT'S (DISTRICT'S) WASTEWATER FACILITIES UPGRADE AND EXPANSION PROJECT (PROJECT), CWSRF PROJECT NO. C-06-7670-210

DISCUSSION

In accordance with the State Water Resources Control Board's (State Water Board) *Policy for Implementing the Clean Water State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), amended on March 17, 2009, projects on the adopted priority list need State Water Board approval to receive CWSRF funding. The State Water Board may approve a CWSRF PFC after issuance of a project Facility Plan Approval (FPA). The Division of Financial Assistance (Division) issued the FPA for the District's Project, and the District agreed with the content and conditions of the FPA. The Project is listed on the CWSRF Program's Project Priority List in Priority Class A. The Project is also included in the CWSRF Program's current Intended Use Plan (IUP).

In accordance with Section IX.K of the Policy, a PFC may be approved by the Deputy Director of the Division if the Project is routine and non-controversial. The District is a second home community; therefore, the District's request for extended term financing (ETF) and refinance of existing wastewater debts is considered non-routine, and the PFC must be presented to the State Water Board for consideration.

PROJECT INFORMATION

The District serves Soda Springs and Norden, within Nevada and Placer Counties. The Project will be on two separate parcels. The wastewater treatment plant (WWTP) upgrades and expansion will occur on National Forest System Lands within the existing WWTP area, permitted under a special-use permit by the United States Forest Service, Tahoe National Forest. The effluent irrigation disposal expansion will occur to the west of the Soda Springs Ski Area, on a parcel owned by Boreal Ridge Corporation.

The District owns and operates the WWTP and the associated disposal facilities that serve users within their service boundary and in the adjacent Sierra Lakes County Water District (SLCWD). The existing WWTP includes flow equalization, influent screening, integrated fixed film activated sludge biological treatment, filtration, and disinfection with chlorine gas. During dry weather periods, the effluent is used to irrigate the Soda Springs Ski Area, which is desirable not only as a means of disposal, but also to grow grasses for erosion protection on the ski slopes. During wet weather, the WWTP effluent is discharged to the South Yuba River (a 303-d listed water body).

The Project objective is compliance with Cease and Desist Order (CDO) No. R5-2009-0035, which requires the District to complete WWTP upgrades by April 2014. The Project will upgrade the treatment process to address the effluent standards for ammonia, nitrates, metals, and disinfection byproducts, per Regional Water Board Waste Discharge Requirements (WDR) Order No. R5-2009-0034 (NPDES No. CA0081621).

The Project includes the following:

- Addition of new 700,000 gallon equalization storage tank and ancillary facilities
- New headworks, with screening
- Reconfiguration of existing WWTP to provide anoxic and aerobic basins for the new membrane bioreactor process
- New Membrane Equipment Building, including the following:
 - Membrane system for the membrane bioreactor (MBR) process including membrane basins, return activated sludge (RAS) pumps, permeate pumps, air scour blowers, and other ancillary facilities
 - Boilers, heat exchangers, and pumps for wastewater heating
 - Blowers for the aeration basins
 - Ultraviolet (UV) disinfection system
 - Effluent pumping system
 - Electrical room
- New mixing and aeration system in Equalization Storage Tank 1 and in the Aerobic Digester/Sludge Storage
- Additional facilities for sludge storage, thickening, and drying
- New Chemical/Electrical Building with storage/feed equipment for external carbon source, switchboard, standby generators, and motor control center
- Modifications to the existing Equipment Building and Advanced Treatment Building to provide for space necessary for installation of new facilities, and for office/shop space

The proposed Project also includes expansion of the effluent irrigation disposal area, and installation of a new irrigation runoff recovery ditch.

ENVIRONMENTAL REVIEW

State Water Board staff conducted a Tier II environmental review, reviewed the environmental documents, and determined that the Project will not result in any significant adverse water quality impacts.

The District prepared and adopted an Initial Study and Mitigated Negative Declaration (State Clearinghouse No. 2011042043) and a Mitigation Monitoring and Reporting Program, and approved the Project on May 31, 2011. The District filed a Notice of Determination (NOD) with the Governor's Office of Planning and Research (OPR) on June 10, 2011, and with the Nevada County Clerk on June 13, 2011.

State Water Board staff will file a NOD with the OPR following funding approval.

FISCAL IMPACT

Project Funding Summary

Excluding refinancing, the total Project cost is approximately \$22,043,038, of which \$12,183,601 would be financed through the CWSRF, \$9,698,937 by the SLCWD, and \$160,500 with local District funds. SLCWD contracts with the District for treatment and is responsible for a share of the total Project costs. SLCWD's total share of Project costs is \$9,698,937, which will be financed through the United States Department of Agriculture (USDA).

The District is requesting a total of \$16,073,401 in CWSRF financing, which includes \$12,183,601 to cover the District's share of Project costs, plus \$3,889,800 to refinance the District's existing wastewater debts.

Fiscal Impact on Applicant's Finances

The Division analyzed the District's ability to enter into a financing agreement for the amount of \$16,073,401 for construction, allowance costs and refinancing outstanding wastewater debt.

There are three improvement areas within the boundaries of the District. On September 9, 2011, Improvement Areas No. 1 and No. 3 of Community Facilities District (CFD) No. 1 voted to establish future cost increases as a special tax in the amount of \$593.00 per year (\$49.42 per month). The special tax amounts are in addition to the current monthly sewer rates of \$110.32, which are scheduled to increase to \$117.58 by fiscal year 2015/16. Improvement area No. 2 rejected the special tax and will instead pay increased monthly sewer rates which are currently \$127.03 and scheduled to increase to \$167.02 by fiscal year 2015/16. The increases in sewer rates were adopted by the District on December 6, 2011, with an effective date of January 1, 2012. Special taxes were recorded with Nevada County on November 18, 2011, and Placer County on December 7, 2011. Improvement Areas No. 1 and No. 3 will have a total monthly cost of \$167.00, which includes the monthly sewer charge and monthly special tax amount. Improvement Area No. 2 will have a total monthly sewer charge of \$167.02.

The first debt service payment on the project is estimated to be no earlier than fiscal year 2014/15. After allowing for operation and maintenance (O&M) costs projected as \$1,003,088 for fiscal year 2011/12, the sewer and wastewater treatment net revenues are projected to be \$688,922. As summarized on the following page, the District currently has three outstanding debts secured by sewer and wastewater treatment revenues, with total outstanding balances estimated at \$3,889,800. The District is requesting to refinance these debts.

Lender	Term	Rate	Original Amount	Current Balance	Payment Amount	Maturity Date
Bank of the West/Municipal Service Group Loan No. 1	20	5.62%	\$1,200,785	\$1,064,400	\$105,141	9/23/25
Bank of the West/Municipal Service Group Loan No. 2	20	5.62%	\$1,588,897	\$1,347,400	\$133,288	2/15/26
CWSRF Planning Loan No. 7670-110	5	2.70%	\$1,478,000	\$1,478,000	\$259,358	6/9/18
Outstanding Debt to be Refinanced			\$4,267,682	\$3,889,800	\$497,787*	
* Current debt service is less because repayments on the District's CWSRF Planning Loan have not begun.						

ETF and Refinancing

The District has an estimated population of 1,890 persons. Per available data, the estimated 2011 Median Household Income (MHI) for the District's service area is \$43,198 (74 percent of the Statewide MHI). Accordingly, the District would qualify as a small and disadvantaged community. However, only approximately 25 percent of the residents in the District's service area are permanent. Therefore, the District is classified as a second home community (i.e., less than 50 percent of residences occupied by permanent residents). The CWSRF Program IUP, adopted March 20, 2012, specifies that second home communities are not eligible for principal forgiveness. However, the CWSRF Policy does not address second home communities with regard to reduced interest rates, ETF, or refinance of existing debt.

Consistent with the United States Environmental Protection Agency's approval of ETF, Section X.D of the CWSRF Policy offers reduced interest rates and ETF to small (less than 20,000 persons) disadvantaged (MHI less than 80 percent of Statewide MHI) communities, if wastewater rates are at least 1.5 percent of the community's MHI. In addition, if approved by the State Water Board, a small community with MHI greater than 80 percent of Statewide may receive ETF if wastewater rates are at least 4 percent of the community's MHI. Section VI.A of the CWSRF Policy also allows refinancing of existing CWSRF-eligible wastewater debt (for small disadvantaged communities or for small communities with rates at least 4 percent of the community's MHI) when necessary to make a new CWSRF project affordable.

The District's wastewater rates are currently \$167.00 per month (4.46 percent of the permanent residents' MHI); therefore, based on available MHI data, the District is a small disadvantaged community with rates greater than 1.5 percent of MHI and would arguably qualify for refinance, ETF, and reduced interest rates. Consistent with Board direction not to direct principal forgiveness to second home communities, staff is not recommending principal forgiveness or a reduced interest rate. Staff recommends that, similar to principal forgiveness, the significant subsidy provided by a reduced interest rate should be reserved for non-second home communities.

Staff is recommending that the Board approve ETF and refinance of existing debts, based on the District's high wastewater rates (4.46 percent of the permanent residents' MHI). The District is proceeding with necessary improvements to ensure that the terms of the CDO are met in a timely fashion. Although this is a second home community, the permanent residents are disadvantaged and struggling with wastewater affordability. An extended term, with refinance of existing wastewater debts, will make the Project more affordable for the community.

Because the District's existing special use permit for access to the WWTP site expires on December 31, 2041, the financing term will end in 2041. The estimated repayment term is 27 years, based on completion of construction in December 2014.

For the effluent irrigation disposal site, the District has a lease agreement with Boreal Ridge Corporation. Because the current lease agreement expires on February 15, 2031, no construction costs associated with the effluent irrigation disposal site will be eligible for funding until the lease agreement associated with that site is extended until at least December 31, 2041. If the extended lease agreement and required legal certification regarding access to the effluent irrigation disposal site cannot be provided with the District's Approval of Award request package, then the effluent irrigation disposal work will be eliminated from the Project.

Security and Source of Financing Repayment

The District shall dedicate net sewer/wastewater treatment revenues and revenues from Improvement Areas No. 1 and No. 3 to the repayment of the proposed CWSRF financing agreement.

A financing agreement for the amount of \$16,073,401 (which includes refinancing the two outstanding Bank of the West debts and the CWSRF Planning Loan) for a term of 27 years with an estimated interest rate of 2.20 percent will have a debt service payment of \$795,859. When compared to fiscal year 2011/12 net revenues of \$1,138,968 the resulting debt service coverage is 1.43. This meets both the CWSRF policy requirements and existing debt covenants that net revenues be at least 1.10 times total debt service.

Comparative Revenues and Expense Analysis

In the District's existing financial statements, revenues and expenses associated with the water and sewer/wastewater treatment systems are currently tracked together in one consolidated fund. A condition of the proposed CWSRF financing agreement will be to setup a discrete sewer/wastewater treatment fund by July 1, 2012. The District revenues and expenses for the prior three years are based on the existing financials (i.e., consolidated fund for water and sewer/wastewater treatment). The estimate revenues and expenses shown for 2011/12 are based only on those associated with the sewer/wastewater treatment system.

Fiscal Year	2008/09	2009/10	2010/11	2011/12 Budget ¹
Water Fees	\$336,377	\$391,259	\$359,874	\$0
Sewer Charges (Includes SLCWD charges)	\$1,410,345	\$1,444,679	\$1,487,575	\$1,692,010
Special Tax Improvement Areas No. 1 and No. 3 ²	\$0	\$0	\$0	\$315,032
Property Taxes	\$128,708	\$140,993	\$145,055	\$134,501
Interest Revenue	\$3,458	\$1,375	\$513	\$513
Other Revenue	\$44,540	\$19,060	\$31,211	\$0
Total Revenues	\$1,923,428	\$1,997,366	\$2,024,228	\$2,142,056
Operating Expenses	\$1,554,631	\$1,545,727	\$1,655,770	\$1,003,088
Net Revenues Available for Debt Service	\$368,797	\$451,639	\$368,458	\$1,138,968
Existing Debt Service ³	\$324,358	\$321,067	\$318,811	\$0
Proposed Debt Service ⁴	\$0	\$0	\$0	\$795,859
Total Debt Service	\$324,358	\$321,067	\$318,811	\$795,859
Debt Service Coverage	1.14	1.41	1.16	1.43

¹ Previous financial statements tracked water and sewer/wastewater revenues and expenses in one consolidated fund. The District will be required to create a discrete sewer/wastewater treatment fund by July 1, 2012. To demonstrate the projected debt coverage for the proposed CWSRF financing agreement, the 2011/12 Budget is based upon the estimated revenues and expenses for the sewer/wastewater treatment system only

² Special tax collection effective January 2012. Projected annual special tax revenues included in 2011/12 Budget to demonstrate projected debt coverage.

³ No existing debt service is included in 2011/12 Budget, assumes refinance of existing debt.

⁴ First payment is estimated to be due in fiscal year 2014/15.

The District shall fund a reserve fund equal to one year's debt service from available cash. A reserve fund in the amount of one year's debt service is maintained so that in the event of non-payment, there are funds available to make the payment.

Fiscal Impact on the CWSRF Program

As of 5/9/2012:	SFY 2011-12	SFY 2012-13	SFY 2013-14	SFY 2014-15	SFY 2015-16
Beginning Balance:	432,604,699	281,087,542	(9,619,519)	(52,932,188)	92,529,433
Estimated Repayments	\$220,678,296	\$230,678,296	\$240,678,296	\$250,678,296	\$260,678,296
Debt Service on Revenue Bonds	(\$30,228,204)	(\$27,714,204)	(\$23,821,829)	(\$20,966,279)	(\$19,356,506)
Federal Capitalization Grants	\$68,764,114	\$97,036,800	\$28,800,000	\$28,800,000	\$28,800,000
Local Match Credits	\$2,341,364	\$3,706,042	\$910,884	\$952,288	\$1,076,500
Est. SMIF Interest:	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
Estimated Disbursements	(\$412,072,727)	(\$555,899,924)	(\$274,630,670)	(\$113,956,818)	(\$36,424,772)
Subtotal	\$283,587,542	\$30,394,553	(\$36,182,837)	\$94,075,299	\$328,802,952
Pending PFCs	Estimated Disbursements				
Mission Springs Water District, #4250-310		(\$5,159,683)			
City of San Clemente, #4516-110		(\$7,422,003)	(\$4,948,002)		
City of Vista, #5700-110		(\$7,500,000)			
City of Vista, #6110-110		(\$973,000)			
Santa Clarita Valley Sanitation District, #7045-110	(\$2,500,000)	(\$2,250,000)			
Earlimart Public Utility District, #7206-110		(\$486,200)			
Valley Center MWD, #7454-110		(\$437,268)	(\$1,083,204)	(\$180,528)	
Valley Center MWD, #7454-120		(\$4,003,166)	(\$4,095,996)	(\$1,365,338)	
Valley Center MWD, #7454-130		(\$435,000)	(\$1,896,500)		
Donner Summit Public Utilities District, #7670-210		(\$11,347,752)	(\$4,725,649)		
Ending Balance	\$281,087,542	(\$9,619,519)	(\$52,932,188)	\$92,529,433	\$328,802,952
Notes:					
<ul style="list-style-type: none"> • The State Water Board approved the sale of up to \$300 million in Revenue Bonds in September 2005 for the CWSRF Program to cover any shortfall of funds. • Estimated repayments include repayments from existing and future financing. • Estimated disbursements include disbursements remaining on executed financing and planned disbursements on projects with preliminary funding commitments. • Local match credits are the anticipated funds that will be contributed for local match financing included in "Estimated Disbursements." • Excludes 2010, 2011, and 2012 Principal Forgiveness funds 					

POLICY ISSUE

Should the State Water Board:

1. Approve a CWSRF PFC of \$16,073,401 for the District's Project with an extended term of 27 years for repayment, with the first repayment due one year after completion of construction, at an interest rate of one-half the general obligation bond rate obtained by the State Treasurer's Office as of the date of the PFC, under the following conditions?
 - This PFC shall expire if the District does not sign the CWSRF financing agreement by December 28, 2012. In accordance with Section IX.K.3 of the Policy, the Deputy Director of the Division (or designee) may approve up to a 120-day extension for good cause;
 - By July 1, 2012, the District shall establish a new fund to track revenues and expenses associated with the sewer/wastewater treatment system. The new fund shall be reflected in future financial statements, beginning no later than fiscal year 2012/13;

- Before the Division will execute the financing agreement, the District shall provide:
 - i. A legal opinion certifying that the District's sewer/wastewater rates were adopted in compliance with the substantive and procedural requirements of Proposition 218;
 - ii. A resolution dedicating net revenues of the new sewer/wastewater treatment fund and the special tax revenues from Improvement Areas No. 1 and 3 to the repayment of the proposed CWSRF financing agreement; and
 - iii. Bank of the West waiver of their first right of refusal on future District financings;
 - No construction costs associated with the effluent irrigation disposal site will be eligible for funding until the lease agreement covering that site is extended until at least December 31, 2041. A certification from counsel is required. If the required certification cannot be provided along with the District's Approval of Award request package, then the effluent irrigation disposal work will be eliminated from the Project;
 - The District must provide proof of financing for SLCWD's portion of the Project before the Division will amend the financing agreement to incorporate bid costs or disburse funds for construction;
 - The District shall establish a restricted reserve fund equal to one year's debt service prior to completion of construction. The restricted reserve fund must be maintained for the term of the financing agreement;
 - The District may not incur future senior debt; future debt may be on parity with CWSRF debt if policy conditions are met (Policy Section X, G-1); and
 - The District shall covenant to establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.10 times the total annual debt service.
2. Direct Division staff to allocate \$16,073,401 consistent with the construction schedule and availability of funds?

REGIONAL BOARD IMPACT

The District's Project is necessary to comply with WDR Order No. R5-2009-0034 (NPDES Permit No. CA0081621) and CDO No. R5-2009-0035, issued by the Regional Water Board.

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-

ADOPTION OF A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM PRELIMINARY FUNDING COMMITMENT (PFC) FOR DONNER SUMMIT PUBLIC UTILITY DISTRICT'S (DISTRICT'S) WASTEWATER FACILITIES UPGRADE AND EXPANSION PROJECT (PROJECT), CWSRF PROJECT NO. C-06-7670-210

WHEREAS:

1. The State Water Resources Control Board (State Water Board), on March 17, 2009, amended the *Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities* (Policy);
2. The Project is listed on the CWSRF Program Priority List;
3. The Division of Financial Assistance (Division) issued a Facility Plan Approval (FPA) for the District's Project and the District agreed with the content and conditions of the FPA;
4. Water Code Section 5103, Statement of Diversion and Use, applies to the District;
5. The District has requested \$16,073,401 in CWSRF financing, which includes \$12,183,601 to cover the District's share of total Project costs, plus \$3,889,800 to refinance the District's existing wastewater debts. Sierra Lakes County Water District (SLCWD) contracts with the District for wastewater treatment. SLCWD's share of the total Projects costs (\$9,698,937) will be financed by the United States Department of Agriculture (USDA);
6. The District is a small (less than 20,000 persons) second home community (less than 50 percent of residences are occupied by permanent residents). Based on the available MHI data, the permanent residents in the District's service area are disadvantaged (MHI less than 80 percent of the statewide MHI);
7. An extended financing term, with refinancing of existing wastewater debts, will allow the District to proceed with necessary water quality improvements and comply with the terms of Cease and Desist Order No. R5-2009-0035;
8. The District is the lead agency under the California Environmental Quality Act (CEQA) and prepared an Initial Study and Mitigated Negative Declaration (IS/MND; State Clearinghouse No. 2011042043);
9. Adequate public participation was provided through the CEQA review process;
10. The District adopted the IS/MND and a Mitigation Monitoring and Reporting Program and approved the Project on May 31, 2011;
11. The District filed a Notice of Determination with the Governor's Office of Planning and Research on June 10, 2011, and with the Nevada County Clerk on June 13, 2011;

DRAFT

12. The IS/MND provided an adequate disclosure of the relationships of all water quality aspects of the Project. The Project will not result in any significant adverse water quality impacts;
13. The District will obtain the Clean Water Act Section 404 permit and comply with all terms and conditions;
14. The District's lease agreement authorizing spray irrigation may expire in 2031; and
15. The District's existing special use permit for access to the WWTP site expires on December 31, 2041.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a CWSRF PFC of \$16,073,401 for the District's Project with an extended term of 27 years for repayment, with the first repayment due one year after completion of construction, at an interest rate of one-half the general obligation bond rate obtained by the State Treasurer's Office as of the date of the PFC, under the following conditions:
 - This PFC shall expire if the District does not sign the CWSRF financing agreement by December 28, 2012. In accordance with Section IX.K.3 of the Policy, the Deputy Director of the Division (or designee) may approve up to a 120-day extension for good cause;
 - By July 1, 2012, the District shall establish a new fund to track revenues and expenses associated with the sewer/wastewater treatment system. The new fund shall be reflected in future financial statements, beginning no later than fiscal year 2012/13;
 - Before the Division will execute the financing agreement, the District shall provide:
 - i. A legal opinion certifying that the District's sewer/wastewater rates were adopted in compliance with the substantive and procedural requirements of Proposition 218;
 - ii. A resolution dedicating net revenues of the new sewer/wastewater treatment fund and the special tax revenues from Improvement Areas No. 1 and 3 to the repayment of the proposed CWSRF financing agreement; and
 - iii. Bank of the West waiver of their first right of refusal on future District financings;
 - No construction costs associated with the effluent irrigation disposal site will be eligible for funding until the lease agreement covering that site is extended until at least December 31, 2041. A certification from counsel is required. If the required certification cannot be provided along with the District's Approval of Award request package, then the effluent irrigation disposal work will be eliminated from the Project;

D R A F T

- The District must provide proof of financing for SLCWD's portion of the Project before the Division will amend the financing agreement to incorporate bid costs or disburse funds for construction;
 - The District shall establish a restricted reserve fund equal to one year's debt service prior to completion of construction. The restricted reserve fund must be maintained for the term of the financing agreement;
 - The District may not incur future senior debt; future debt may be on parity with CWSRF debt if policy conditions are met (Policy Section X, G-1); and
 - The District shall covenant to establish rates and charges in amounts sufficient to generate net revenues equal to at least 1.10 times the total annual debt service.
2. Directs Division staff to allocate \$16,073,401 consistent with the construction schedule and availability of funds.

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 June 19, 2012.

Jeanine Townsend
Clerk to the Board