

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2012-0030**

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;

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;

- 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.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board