

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2010-035**

ADOPTING A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM  
PRELIMINARY FUNDING COMMITMENT (PFC) FOR THE YOLO COUNTY FLOOD  
CONTROL AND WATER CONSERVATION DISTRICT (DISTRICT), CAPAY DIVERSION DAM  
APRON RETROFIT PROJECT (PROJECT), CWSRF PROJECT NO. C-06-6601-110

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the "*Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities*" (Policy) on March 17, 2009;
2. The State Water Board, on June 15, 2010, adopted the State Fiscal Year (SFY) 2010/2011 CWSRF Program Project Priority List, which included the District's Project in Priority Class D;
3. The Division of Financial Assistance (Division) approved the Facility Plan for the District's Project on June 8, 2010, and the District accepted the Facility Plan Approval on June 9, 2010;
4. An independent credit review completed on March 11, 2010 recommended a maximum financing amount of \$4.4 million, assuming a 20-year term at a 2.70 percent (2.70%) interest rate;
5. The District prepared an Initial Study and Mitigated Negative Declaration (IS/MND), distributed it to the public, and circulated it through the State Clearinghouse (State Clearinghouse No. 2009052047);
6. The District adopted the IS/MND and a Mitigation Monitoring and Reporting Program (MMRP), and approved the Project on July 7, 2009;
7. The District filed a Notice of Determination (NOD) with the Yolo County Clerk on July 8, 2009 and the Governor's Office of Planning and Research (OPR) on July 9, 2009, for the IS/MND. The District adopted an addendum to the IS/MND and a revised MMRP on March 6, 2010, and filed an NOD with OPR on April 8, 2010, and the Yolo County Clerk on April 9, 2010;
8. The State Water Board finds that the Project will not have any significant adverse water quality impacts; and
9. Conservation measures to avoid impacts to wetlands and special status species will be included as special conditions under Exhibit D of the CWSRF financing agreement.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts a CWSRF PFC of \$4,220,712 for the District's Project, with a repayment period of 20 years, and the first repayment due one year after completion of construction;

2. Conditions the financing agreement, as determined by the District's credit review, with the following items:
  - a. The District shall establish a Reserve Fund equal to \$2 million from available cash prior to the completion of construction date;
  - b. The financing agreement shall be limited to a maximum amount of \$4.4 million, unless new information supporting the credit review changes and a supplemental credit review is performed;
3. Conditions this approval by withdrawing the CWSRF PFC if the District does not sign the CWSRF financing agreement by December 31, 2010, in accordance with Section IX(K) of the Policy. Authorizes the Deputy Director of the Division or designee to have the discretion to approve up to a 120-day extension of the PFC for good cause;
4. Conditions the financing agreement to require the District to implement the measures identified in the March 23, 2010, U.S. Fish and Wildlife Service Biological Opinion to minimize potential adverse Project effects on valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) and federally-listed giant garter snake (*Thamnophis gigas*). These measures will be included as special conditions in Exhibit D of the District's CWSRF financing agreement; and
5. Conditions this approval by requiring, prior to execution of the CWSRF financing agreement, an opinion from District counsel certifying that the District has sufficient property rights in the land used for all portions of the Project, describing each right and each portion, to enable the District to access, construct, operate, maintain, and allow for outside inspections of the Project throughout the useful life of the Project and/or the CWSRF financing term, whichever period is longer.

**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 August 3, 2010.

AYE: Chairman Charles R. Hoppin  
 Vice Chair Frances Spivy-Weber  
 Board Member Arthur G. Baggett, Jr.  
 Board Member Tam M. Doduc  
 Board Member Walter G. Pettit

NAY: None

ABSENT: None

ABSTAIN: None

  
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 Jeanine Townsend  
 Clerk to the Board