

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2014-0061**

TO AUTHORIZE THE DEPUTY DIRECTOR OF THE DIVISION OF FINANCIAL ASSISTANCE (DIVISION) TO PROVIDE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM FINANCING FOR THE WOODLAND-DAVIS CLEAN WATER AGENCY (AGENCY) FOR THE DAVIS WOODLAND WATER SUPPLY/WATER QUALITY IMPROVEMENT PROJECT (PROJECT), CWSRF PROJECT NO. C-06-7873-110

WHEREAS:

1. The CWSRF program is a state financial assistance program, partially capitalized by federal dollars, and subject to state and federal conditions on eligibility and implementation;
2. The State Water Resources Control Board (State Water Board) is the state agency that administers this program; the Division implements the program pursuant to the "*Policy for Implementing the Clean Water State Revolving Fund*" (Policy), last amended by the State Water Board on May 7, 2013;
3. The Project is listed on the Project List;
4. The Agency had submitted a complete application by December 18, 2013, but could not be approved for CWSRF financing due to an unforeseen potential exclusion in the Infrastructure Financing Act;
5. On August 30, 2014, the Legislature passed and on September 27, 2014, the Governor signed AB 1478, which took effect immediately and included a modification of the Infrastructure Financing Act to clarify CWSRF eligibility for the Project;
6. The Policy authorizes the Deputy Director of the Division to execute a financing agreement for a routine and non-controversial project after the Division has reviewed and approved project application documents, including making a determination that a project is eligible for assistance;
7. The Project is considered non-routine because the Agency is requesting that eligibility of construction costs be established as March 1, 2014, the date Project construction began, rather than the effective date of AB 1478;
8. The Agency is the lead agency under the California Environmental Quality Act (CEQA);
9. The Agency has complied with CEQA and CEQA Guidelines by preparing an Environmental Impact Report (EIR) and six Addenda for the Project;
10. The City of Davis (Davis) was initially the lead agency when preparing the 2007 EIR. In 2009, the Agency adopted the EIR and became lead agency for all subsequent six Addenda, while Davis, City of Woodland (Woodland) and University of California, Davis (UC Davis) became responsible agencies;

11. Adequate public participation was provided through the CEQA process. The EIR was distributed to the public and circulated through the State Clearinghouse (SCH) from April 9, 2007 through June 25, 2007 for review;
12. Davis, as former lead agency certified the EIR, adopted a Mitigation Monitoring and Reporting Plan (MMRP) and a Statement of Overriding Consideration, and approved the Project on October 16, 2007;
13. The State Water Board finds that the Project will result in significant unavoidable adverse land use and agriculture, noise, public services and utilities, aesthetics, growth inducing, and cumulative impacts. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the State Water Board. The Agency has adopted a statement of overriding considerations with respect to these effects, finding that the impacts are an acceptable consequence of the Project because of the benefits it will provide, and no feasible mitigation measures or alternatives have been identified to reduce the Project's significant unavoidable impacts and that the following economic, social, technological, and environmental benefits of the Project outweigh the significant unavoidable adverse impacts:
 - a. The Project will increase the reliability of Davis, Woodland, and UC Davis' (Project Partners) water supplies by diversifying the number of water sources used. This will provide the Project Partners better protection from unpredictable hydrological conditions such as drought;
 - b. The Project will improve the quality of drinking water served to customers within the Project area, and enable the Project Partners to comply with current water quality regulations and better position the Partners to meet future water quality regulations;
 - c. Because the quality of water delivered to the Project Partners' customers will be improved, the Project will result in a reduction in the number of water softeners. This will have beneficial impacts on water quality by reducing the salt load in treated effluent discharges from the cities' wastewater treatment plants;
 - d. The Project will improve the quality of treated wastewater effluent discharged by the Project Partners by substituting treated surface water from the Sacramento River for a substantial portion of existing groundwater supplies. Because the treated surface water is substantially lower in salinity than the existing groundwater supplies, this will provide the Project Partners with a sensible and cost-effective strategy for reducing the salt loads in their treated wastewater effluent;
 - e. The Project will protect groundwater resources within Yolo County by greatly reducing the Project Partners' groundwater pumping;
 - f. The Project will protect the quality of Yolo County's groundwater resources by reducing the risk that future pumping from the deep aquifer would cause that aquifer to become contaminated with lower-quality water from the intermediate aquifer;
 - g. The Project will reduce fish mortality in the Sacramento River by replacing the water transferors' unscreened diversion with the Project Partners' state-of-the-art screened diversion;

- h. The Project will reduce the Project Partners' greenhouse gas emissions by greatly reducing the amount of groundwater they pump. This will facilitate the Project Partners' compliance with AB 32;
 - i. The Project will ensure that the cities have adequate water supplies available to permit the development needed for them to meet their share of existing and future Regional Housing Needs Allocations;
 - j. The Project will ensure that UC Davis has adequate water supplies available to permit it to accept its share of the University of California's system wide growth. This will help the University of California fulfill its constitutionally mandated mission to provide higher educational opportunities for the top tier of California's graduating high-school classes;
 - k. The Project will ensure that UC Davis has adequate water supplies available to permit it to fulfill its important functions for agricultural research. This will help the University of California fulfill its mission to provide the primary state-funded institution for public research;
 - l. The Project will boost the local economy by providing temporary employment for construction workers; and
 - m. The Project will boost the local economy by providing permanent employment for Water Treatment Plant employees.
14. Davis filed a Notice of Determination (NOD) with the Yolo County Clerk on November 7, 2007, and the Office of Planning and Research on November 15, 2007, for the EIR;
15. The State Water Board finds that the Project will result in significant unavoidable air quality impacts. The State Water Board finds that the impacts are an acceptable consequence of the Project because of the benefits it will provide, and no feasible mitigation measures or alternatives have been identified to reduce the Project's significant unavoidable impacts and that the following economic, social, technological, and environmental benefits of the Project outweigh the significant unavoidable adverse impacts:
- a. The Project will increase the reliability of Davis' and Woodland's water supplies by diversifying the number of water sources used. This will provide the cities better protection from unpredictable hydrological conditions such as drought;
 - b. The Project will improve the quality of drinking water served to customers within the Project area, and enable the cities to comply with current water quality regulations and better position the cities to meet future water quality regulations;
 - c. Because the quality of water delivered to the cities' customers will be improved, the Project will result in a reduction in the number of water softeners. This will have beneficial impacts on water quality by reducing the salt load in treated effluent discharges from the cities' wastewater treatment plants;

- d. The Project will improve the quality of treated wastewater effluent discharged by the cities by substituting treated surface water from the Sacramento River for a substantial portion of existing groundwater supplies. Because the treated surface water is substantially lower in salinity than the existing groundwater supplies, this will provide the cities with a strategy for reducing the salt loads in their treated wastewater effluent;
 - e. The Project will protect groundwater resources within Yolo County by reducing groundwater pumping;
 - f. The Project will protect the quality of Yolo County's groundwater resources by reducing the risk that future pumping from the deep aquifer would cause that aquifer to become contaminated with lower-quality water from the intermediate aquifer;
 - g. The Project will reduce the greenhouse gas emissions by reducing groundwater pumping.
16. The Agency prepared Addendum No. 5 to update the Project's air quality emissions modeling prepared for the 2007 EIR, and to demonstrate compliance with the General Conformity Rule of the Clean Air Act. Addendum No. 5 was distributed to the public and circulated through SCH for review from September 18, 2013 to October 3, 2013;
17. The Agency filed an NOD for Addendum No. 5 with both the Yolo County Clerk and OPR on October 16, 2013;
18. The Agency prepared Addendum No. 6 to update the Project's solids handling and flood modeling assessments. Addendum No. 6 was distributed to the public and circulated through the SCH for review from December 31, 2013 to January 29, 2014;
19. The Agency filed an NOD for Addendum No. 6 with the Yolo County Clerk on January 23, 2014 and OPR on January 14, 2014;
20. The United States Army Corps of Engineers (USACE) acted as the lead federal agency consulting with the United States Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS) and the State Historic Preservation Officer (SHPO);
21. On August 7, 2013, the USFWS issued a Biological Opinion (BO) with the determination that the Project, as proposed, is not likely to jeopardize the continued existence of the Valley Elderberry Longhorn Beetle (VELB), Giant Garter Snake (GGS), or Delta Smelt. The Project occurs outside of designated critical habitat for VELB and delta smelt and as such no destruction or adverse modification of critical habitat will occur. No critical habitat has been designated for GGS, so none will be adversely modified or destroyed;
22. On October 22, 2013, the NMFS issued a BO determining that the Project will adversely affect the Essential Fish Habitat (EFH) of Pacific Salmon protected under the Magnuson-Stevens Fishery Conservation and Management Act. NMFS determined that these effects will be temporary and discountable due to the fact that sedimentation from the construction will dissipate quickly downstream of the Project. The implementation of conservation measures, along with the substantial amount of flow in the Sacramento River along those sections where the diversion changes and new fish screen will be placed, will cause sediment to dissipate to the point of being discountable. NMFS recommends the utilization of conservation measures outlined in the BO to reduce or to prevent short term negative

effects during project construction. The Sacramento River provides all four major components of freshwater EFH for salmon; long term effects of this Project are expected to protect Pacific Salmon from the effects of entrainment in pumping stations as a result of placement of two positive barrier fish screens;

23. On May 2, 2014, the Sacramento Central Valley Regional Water Quality Control Board issued a Clean Water Act (CWA) Section 401 Water Quality Certification to the Agency. On April 21, 2014, USACE issued a CWA Section 404 Permit to the Agency. Conditions will be added to the Agency's financing agreement to implement the conditions identified therein;
24. On November 20, 2012, the USACE sent a "Request for Concurrence on Section 106 Compliance" with a finding of "No Historical Properties Affected" to the SHPO. After 30 days, USACE ended consultation when no concurrence letter was issued by the SHPO. The State Water Board Cultural Resources Officer confirmed that the Agency has provided sufficient documentation to support a determination that "No Historic Properties will be Affected" for the Project, pursuant to 36 CFR Part 800 regulations implementing Section 106 concurring with the USACE's finding of "No Historical Properties Affected";
25. The United States Department of the Interior, Bureau of Reclamation was the lead for National Environmental Policy Act (NEPA) and completed a Finding of No Significant Impact for the Project on November 19, 2013;
26. The Project is within the 100-year flood plain. However, all building structures will be constructed above the estimated 100-year flood level. The Agency prepared a base model on May 9, 2013, and submitted the model to the Federal Emergency Management Agency (FEMA) as part of a Letter of Map Revision application. FEMA has made the changes effective through the Physical Map Revision process. The Agency is in the process of updating the Project information submitted to FEMA consistent with the preliminary design for the RWTF. State Water Board staff will continue to coordinate with the Agency to ensure that no changes are made to the Project scope that will impact the State Water Board determination. Once the Agency's consultation is completed with FEMA, the Agency shall provide final copies of documentation received from FEMA to the State Water Board to ensure that no further action is required;
27. The Agency's environmental documents provided an adequate disclosure of the environmental relationships of all water quality aspects of the Project. Mitigation measures have been incorporated to the Project design features or implementation to reduce any potentially significant environmental impacts. The Project will not result in any significant adverse water quality impacts;
28. The Agency has not completed property acquisitions for the Project.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Authorizes the Deputy Director of the Division to execute a CWSRF financing agreement with the Agency for a maximum of \$95,461,000, at an interest rate not to exceed one-half the general obligation bond rate most recently obtained by the State Treasurer's Office, and approves otherwise eligible construction costs incurred on or after March 1, 2014;

2. Conditions this authorization on the Agency's compliance with the following environmental conditions:
 - a. The Agency shall comply with the applicable October 19, 2007 MMRP, Mitigation Measures.
 - b. Per the October 22, 2013 NMFS Biological Opinion, the Agency shall implement the conditions and requirements identified therein.
 - c. Per the August 7, 2013 USFWS Biological Opinion, the Agency shall implement the conditions and requirements identified therein.
 - d. Per the April 21, 2014 United States Army Corps of Engineer (USACE) Clean Water Act (CWA) Section 404 Permit, the Agency shall implement the conditions and requirements identified therein.
 - e. Per the May 2, 2014 Sacramento Central Valley Regional Water Quality Control Board (Sacramento Central Valley Regional Water Board) CWA Section 401 Certification, the Agency shall implement the conditions and requirements identified therein.
 - f. The Agency shall coordinate with the Division of Financial Assistance staff to ensure that no changes are made to the Project scope that will impact the State Water Board's determination. Once the Recipient's consultation is completed with FEMA, the Agency shall provide final copies of documentation received from FEMA to the State Water Board to ensure that no further action is required.
3. Conditions this authorization on the Agency's compliance with the following credit conditions:
 - a. The Agency shall pledge the net revenues of the Agency Fund and the Agency Fund for repayment of the proposed CWSRF financing agreement. This pledged revenue fund (source) shall be subject to lien and pledge as security for the Obligation;
 - b. The proposed financing agreement shall be issued on parity with the 2014 Safe Drinking Water State Revolving Fund loan;
 - c. The Agency shall establish member charges (allocations) sufficient to generate net revenues equal to at least 1.10 times the total annual debt service;
 - d. The Agency may not incur future senior debt. The Agency's future debt may be on parity with CWSRF debt if the Policy conditions of Section IX.B.4.c.iii, or its replacement, are met;


The Agency shall establish a restricted reserve, held in the Agency Fund, equal to one year's debt service prior to the construction completion date of the project. The restricted reserve fund shall be maintained for the full term of the finance agreement and shall be subject to lien and pledge as security for the Obligation; and

- e. The financing agreement shall be limited to a maximum of \$95,461,000, unless information supporting the credit review changes and a supplemental credit review is performed.
4. Conditions this authorization on the Agency's compliance with the following other condition:
- a. No construction funds will be disbursed until the Agency provides an opinion satisfactory to the State Water Board's counsel that the Recipient has sufficient property rights in the land where the Project is located for the purposes contemplated in this Agreement throughout the term of this Agreement and specifying the end date, if any, of the property rights.

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 October 21, 2014.

- AYE: Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo
- NAY: None
- ABSENT: Chair Felicia Marcus
- ABSTAIN: None



Jeanine Townsend
Clerk to the Board