

**STATE WATER RESOURCES CONTROL BOARD
WORKSHOP SESSION – DIVISION OF FINANCIAL ASSISTANCE
JULY 17, 2007**

ITEM 10

SUBJECT

CONSIDERATION OF A RESOLUTION TO AUTHORIZE STATE REVOLVING FUND (SRF) LOAN FUNDING FOR THE CITY OF ST. HELENA (CITY); ST. HELENA-NAPA RIVER FLOOD PROTECTION AND ESTUARY RESTORATION PROJECT (PROJECT); SRF LOAN NO. C-06-6093-110

DISCUSSION

On February 24, 2006, the City submitted an application to the State Water Resources Control Board (State Water Board) requesting \$12,000,000 from the SRF Loan Program for implementation of a flood protection, storm water treatment, and estuary restoration project on the Napa River (River).

The SRF Program can provide funding for projects that implement the "*Plan for California's Nonpoint Source Pollution Control Program*" (NPSCP) or develop and implement an estuary Comprehensive Conservation and Management Plan (CCMP). The City's Project is consistent with both the NPS and CCMP requirements for the SRF Program.

The Project, encompassing a one-mile stretch of the Napa River between Adam Street and Pope Street, will enhance the hydrology of the River by returning the floodplain to a more natural state. The Project will create new natural floodplain and terrace surfaces to bring seasonal groundwater and soil moisture closer to the surface and support native riparian forest. Restoration activities will reverse the effect of historic, anthropogenic river channel incision, prohibit excessive sedimentation, and improve the riparian vegetation and aquatic habitat. In addition, the Project will protect the Vineyard Valley Mobile home Park (VVMHP) and the Hunt's Grove Apartments to provide "Living River" flood protection to over 350 vulnerable senior citizens who reside there.

The City will buy out 17 mobile home sites and remove them from the immediate river bank. This will allow for widening the River flow area, creating a more natural river system and restoring a relatively wide native riparian vegetation corridor. The new City-owned lands within the Project boundaries will be used to recreate historical floodplain terraces, side channels, and riparian habitat. The wider terraces also allow for re-routing of urban runoff that is presently discharged directly into the river. Filtration and treatment of storm water runoff will occur within detention basins, grass-lined swales, and naturalistic channels, promoting fine sediment and nutrient removal. Riparian vegetation plantings and new bioengineered bank protection will stabilize eroding riverbanks and reduce fine sediment supply. The Project will improve aquatic habitat for Special Status Species including Steelhead, Chinook Salmon, and California Freshwater Shrimp.

The Project includes:

- Restoring eight acres of floodplain by planting and terracing, to re-establish native habitat;
- Increasing the width of the River corridor from 200-300 feet to 1,000 feet to increase overbank flow resistance and restore natural processes;
- Replacing 600 linear feet of barren, hard grouted rock with an ecologically functional, bioengineered shoreline that will provide habitat for the endangered California Freshwater Shrimp and threatened salmonids;
- Increasing vegetation along the channel for cover, food, and water temperature moderation;
- Improving salmonid habitat, including cover and high flow refugia, for migrating and rearing salmonids;
- Increasing urban runoff filtration and attenuating flow to reduce pollutants discharged to the River including fine sediment and nutrients;
- Implementing adaptive management measures to optimize in-channel native vegetation and cover and maintain actual flood capacity; and,
- Removing non-native exotic species, including giant reed and himalayan blackberry.

The Project is also consistent with the CCMP of the San Francisco Estuary Project. Actions that are called for in the CCMP that are supported by the Project include:

- Providing flood protection in a manner that is consistent with geomorphic principles and protective of the aquatic and riparian habitats;
- Restoring and enhancing riparian and river habitat;
- Improving habitat for endangered, threatened, or special status species including Steelhead, California Freshwater Shrimp, Clapper Rail, and others found in the Project area;
- Reconnecting portions of the floodplain with the river; and
- Improving regional monitoring by implementing Adaptive Management.

The River has been classified as an “Impaired Water Body” and is on the 303 (d) List due to excessive sedimentation, nutrients, and bacteria. This Project will improve water quality of the River by addressing the following:

- Sediment: The geomorphic design of the Project will improve sediment transport dynamics related to coarse gravel transport and maintenance of substrate for spawning and macroinvertebrate production. In addition, the Project will reduce fine sediment sources by stabilizing banks and providing urban runoff detention and filtration.
- Nutrients: The Project will create substantial groundcover vegetation in the Project area. The increased vegetation will filter urban runoff prior to discharge into receiving waters.
- Non-Point Pollution: Discharge of non-point pollutants into the Napa River will decrease with the Project. Two sources will be treated: 1) urban runoff collected during most rainstorms in the City streets will be routed through a new system of grass lined swales, detention basins and naturalistic channels before being discharged into the river, and 2) the Project will remove urban and agricultural vineyard land bordering the River that currently acts as a source of sediment and other urban pollutants when the Napa River overflows its banks during ten-year flood events. Managing the natural flood plain will also improve the water quality discharged from the River to the Estuary.

- Stormwater rerouting and treatment: Storm drain outfalls that currently discharge directly into the Napa River will be re-routed through grass-lined swales that drain into and through Terrace B. These storm water systems will provide for settling and filtration of the storm water before it is released to the Napa River.

The City has received all the required permits for the Project, including Army Corps of Engineer 404 Permit, United States Fish and Wildlife Services and Nation Marine Fisheries Service Section 7 Consultation, California Department of Fish and Game Streambed Alteration Agreement, and San Francisco Regional Water Board Section 401 Water Quality Certification.

The Project will be implemented in two phases. Phase I will be implemented between June 2007 and December 2007, and the second phase will be implemented between October 2008 and December 2008. The City has received multiple bids for the construction of the Project. The lowest bid received for construction of the Project is \$9.17 million. The City is entitled by law to 10.6 percent of all sales tax collected in Napa County under the ½ cent Measure A, Napa County Flood Protection and Watershed Improvement Sales Tax Ordinance adopted by voters in 1998. The City's share of this revenue is expected to be \$30 million. \$18.5 million is dedicated to debt service for repayment of revenue bonds issued in 2005. The City has dedicated the remaining \$11.5 million from Measure A to repay this SRF Loan. The City will invest the Measure A funds into a special fund dedicated to repayment of the SRF loan. Conservative investment of the funds is expected to increase the amount available for repayment of the SRF Loan to about \$13 million.

Assuming a loan interest rate of approximately 2.5 percent, the City appears to have sufficient revenue to repay a loan of \$9.17 million (total principal and interest of about \$11.76 million) for the construction costs of the Project. At this time the City does not have sufficient revenue to repay a loan for the estimated \$11.17 million total cost of the Project (total principal and interest of about \$15.05 million). The City is pursuing additional funding sources to cover the additional Project costs or the repayment of additional loan funds to complete implementation of the project.

In 2004, the Living River Council (LRC) filed a CEQA lawsuit against the City. The City and LRC settled the lawsuit in 2005. In 2006, the City revised the 2005 Project design due to inadequate funding. LRC sued the City for a second time on the basis that the City violated the 2005 settlement agreement. The Superior Court Judge ruled in the City's favor, deciding that there was nothing in the settlement agreement prohibiting the City from changing the Project design. LRC has appealed the Judge's decision, and that appeal is pending. A decision on the appeal is expected in late 2007 or early 2008. LRC has threatened to seek an injunction against the City if it starts work on the Project.

POLICY ISSUE

Should the State Water Board approve an SRF Loan Commitment of \$12 million for the City's Project?

Should the State Water Board limit disbursement of SRF Loan funds to \$9.1 million until the City is able to dedicate an acceptable source of funds to repay a loan greater than \$9.1 million?

Should the State Water Board condition approval of the Loan such that the City must submit a legal opinion from a licensed attorney on whether it can continue to use Measure A proceeds to

make Loan repayments if the Project gets stopped due to litigation and the SRF Loan Agreement will not be executed until the State Water Board's legal staff have reviewed and approved the opinion?

ENVIRONMENTAL IMPACT

The City prepared Draft and Final Environmental Impact Reports (EIR) and two Addenda to the EIR for the proposed Project. The City distributed the Draft EIR to the public, and circulated it through the State Clearinghouse (SCH# 2002012078) for review from January 27, 2003, through March 3, 2003. During the review period, the City received comment letters from (1) U.S. National Marine Fisheries Service regarding impacts to Steelhead and methods of surveys to be undertaken to assess their presence, (2) California Department of Fish and Game regarding impacts to special status species, (3) California Department of Transportation regarding construction vehicle impacts on traffic flow, (4) San Francisco Regional Water Board regarding water quality in the Napa River, (5) Vineyard Valley Homeowners Association regarding the overall beneficial impacts of the proposed Project, (6) Friends of the Napa River regarding formatting and content of the EIR, and (7) Living Rivers Council regarding channel by-pass construction impacts. The City acknowledged all comments and made minor Project changes in subsequent CEQA documents as described below.

The City subsequently revised the Draft EIR and re-circulated the it from August 1, 2003 through September 15, 2003 for a shortened review period. The City Council approved the revised Project and Certified a Final EIR with a Mitigation Monitoring Plan and Statement of Overriding Considerations on January 6, 2004. The City filed a Notice of Determination with the Napa County Clerk and the Governor's Office of Planning and Research on February 27, 2004.

The City prepared an Addendum to the Revised EIR, which included a more detailed discussion of cumulative impacts and described additional changes to the Project that was prepared in November 2005. A second Addendum to the EIR was developed in June 2006 to describe the reduction and elimination of certain components and additional changes to the Project since the City determined the original plan exceeded available funding. The City filed a Notice of Determination with the Napa County Clerk and the Governor's Office of Planning and Research on July 3, 2006.

On October 23, 2006, State Water Board staff distributed the EIR and Addendum to the following federally designated agencies: U.S. Environmental Protection Agency (USEPA) Region 9, U.S. Army Corps of Engineers, Federal Emergency Management Agency (FEMA), U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), and the California Coastal Commission (CCC). The federal review period ended on December 2, 2006, and no comments were received.

The U.S. Fish and Wildlife Service and the National Marine Fisheries Service both prepared Biological Opinions, as required in Section 7 of the Endangered Species Act, for the proposed Project. The U.S. Army Corps of Engineers acted as the lead agency for the Section 7 Process. The State Water Board concurred with both Biological Opinions, and special conditions will be included in the Loan Contract to address significant impacts to federally designated species.

Construction of the Project will have an adverse impact to four prehistoric archaeological sites that are eligible for listing on the National Register of Historic Places. A Memorandum of Agreement (MOA) among the State Water Board, the U.S. Army Corp of Engineers, and the

State Historic Preservation Officer has been finalized to resolve the adverse effects to the archaeological sites. Compliance with all conditions and stipulations in the MOA will be made a special condition of the SRF Loan Contract.

State Water Board staff compared the applicant's information to published air quality standards to determine whether a Conformity Determination is required. No Conformity Determination is necessary. Therefore, staff submitted their analysis to USEPA for review and comment. No comments were received from USEPA on the staff analysis of air quality impacts.

FISCAL IMPACT

(as of 6/19/07)

	SFY 2006-07	SFY 2007-08	SFY 2008-09	SFY 2009-10	SFY 2010-11
Beginning Balance:	\$532,803,896	\$297,096,016	\$304,540,890	\$250,470,124	\$299,794,786
Estimated Repayments	\$177,332,011	\$183,188,968	\$193,188,968	\$203,188,968	\$213,188,968
Debt Service on Revenue Bonds	(\$33,439,354)	(\$33,357,579)	(\$31,893,104)	(\$31,758,441)	(\$31,456,429)
Estimated Capitalization Grants	\$44,528,521	\$89,080,042	\$0	\$0	\$0
State G.O. Bond proceeds (less state admin. match)	(\$606,678)	\$76,000,000	\$0	\$0	\$0
Local Match Credits	\$36,099,671	\$16,810,136	\$13,280,642	\$4,706,482	\$4,166,750
Est. SMIF Interest:	\$17,000,000	\$12,000,000	\$7,000,000	\$4,000,000	\$2,000,000
Estimated Disbursements	(\$474,622,051)	(\$293,017,986)	(\$206,847,272)	(\$118,312,346)	(\$55,554,334)
Subtotal	\$299,096,016	\$347,799,597	\$279,270,124	\$312,294,786	\$432,139,741
Ventura Co. Water Works Dist. 16, 4946-110		(\$4,500,000)	(\$2,900,000)		
Ventura County, 4680-110		(\$8,000,000)	(\$8,000,000)	(\$5,000,000)	
S. San Francisco, City of, 4728-120		(\$10,200,000)			
Alturas, City of, 4362-110		(\$1,458,707)			
St. Helena, City of, 6093-110		(\$9,100,000)	(\$2,900,000)		
Reserve for Small Community Wastewater Grant Projects	(\$2,000,000)	(\$10,000,000)	(\$15,000,000)	(\$7,500,000)	
Balance	\$297,096,016	\$304,540,890	\$250,470,124	\$299,794,786	\$432,139,741

REGIONAL WATER QUALITY CONTROL BOARD IMPACT

The San Francisco Regional Water Control Board (San Francisco Regional Water Board) supports the funding and implementation of this Project. The Project will further the San Francisco Regional Water Board's goals and objectives relating to their sediment Total Maximum Daily Load (TMDL) for the Napa River.

STAFF RECOMMENDATION

The State Water Board should approve an SRF Loan Commitment of \$12 million for the City's Project.

The State Water Board should limit disbursement of SRF Loan funds to \$9.1 million until the City is able to dedicate an acceptable source of funds to repay a loan greater than \$9.1 million.

The State Water Board should condition approval of the Loan such that the City must submit a legal opinion from a licensed attorney on whether it can continue to use Measure A proceeds to make SRF Loan repayments if the Project gets stopped due to litigation and the SRF Loan Agreement will not be executed until the State Water Board's legal staff have reviewed and approved the opinion.

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2007-**

APPROVAL OF A RESOLUTION TO AUTHORIZE STATE REVOLVING FUND (SRF) LOAN FUNDING FOR THE CITY OF ST. HELENA (CITY); ST. HELENA-NAPA RIVER FLOOD PROTECTION AND ESTUARY RESTORATION PROJECT (PROJECT);
SRF LOAN NO. C-06-6093-110

WHEREAS:

1. The City has requested a SRF Loan for \$12 million for the Project;
2. The Project's restoration activities will reverse the effect of historic, anthropogenic river channel incision, prohibit excessive sedimentation, improve the riparian vegetation and aquatic habitat, stabilize eroding riverbanks, and reduce fine sediment supply;
3. The Project will improve aquatic habitat for Special Status Species including Steelhead, Chinook Salmon, and California Freshwater Shrimp;
4. The Project will re-route urban runoff presently discharged directly into the Napa River (River), and will eliminate uncontrolled flows over commercial, industrial, and residential lands that cause non-point source pollution during small storm events and address dry weather runoff and first flush flows from storm events;
5. The City prepared and Certified a Final Environmental Impact Report and two Addenda for its proposed Comprehensive Flood Protection Project;
6. The City Council approved the currently designed Project with a second Addendum on June 27, 2006, and filed a Notice of Determination with the Napa County Clerk and the Governor's Office of Planning and Research on July 3, 2006;
7. State Water Resources Control Board (State Water Board) staff have reviewed and considered these environmental documents and determined that the Project will not have any significant adverse water quality impacts; and
8. The City has dedicated the remaining \$11.5 million from Measure A to repay this SRF Loan.

THEREFORE BE IT RESOLVED THAT:

The State Water Board approves a Preliminary Funding Commitment of \$12 million in SRF Loan funds for the City's Project with the following conditions:

- 1) Disbursement of SRF Loan funds is limited to \$9.1 million until the City is able to dedicate an acceptable source of funds to repay a loan greater than \$9.1 million.

- 2) The City must submit a legal opinion from a licensed attorney on whether it can continue to use Measure A proceeds to make Loan repayments if the Project gets stopped due to litigation. The SRF Loan Agreement will not be executed until the State Water Board's legal staff have reviewed and approved the opinion.

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 July 17, 2007.

Song Her
Clerk to the Board