

**MINUTES**

**California Pollution Control Financing Authority  
915 Capitol Mall, Room 587  
Sacramento, California  
February 25, 2009**

**1. CALL TO ORDER & ROLL CALL**

Bettina Redway, Chairperson, called the California Pollution Control Financing Authority (CPCFA or Authority) meeting to order at 10:48 am.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer  
Les Kleinberg for John Chiang, State Controller  
Tom Sheehy for Michael C. Genest, Director, Department of Finance

Staff Present: Michael Paparian, Executive Director

Quorum: The Chairperson declared a quorum

**2. MINUTES**

Ms. Redway asked if there were any questions or comments concerning the January 28, 2009 meeting minutes. There were none.

Mr. Sheehy moved approval of the minutes; upon a second, the minutes were unanimously approved.

**3. EXECUTIVE DIRECTOR'S REPORT (INFORMATION ITEM)**

Mr. Paparian reported that a staff member will be taking some time off soon for a very positive reason. Deanna Hamelin is expecting a new child. Ms. Hamelin has been assisting the California Industrial Development Financing Advisory Commission (CIDFAC) in reviewing projects, preparing staff reports and doing the things necessary to keep CIDFAC running. Ms. Hamelin provides a contagious upbeat spirit and helps her colleagues at CPCFA feel enthusiastic about their jobs. Staff wishes her the best with her new baby and is also looking forward to her return in the summer.

Mr. Paparian stated that staff has been determining how the federal stimulus legislation may affect the CPCFA's programs. Staff has found that there will be several impacts. The most obvious relates to the Alternative Minimum Tax (AMT) issue. Unlike normal government bonds, tax-exempt private activity bonds have had an issue associated with the AMT. The interest on the bonds CPCFA issues is tax exempt with one exception; if the buyer of the bond, including a buyer of a mutual fund containing CPCFA bonds, becomes subject to the federal AMT. The income from CPCFA bonds would become taxable. As a result, private activity bonds have commanded a premium of somewhere between .1% and .6%. The

## Agenda Item 2.

federal stimulus bill exempts private activity bonds issued in 2009 and 2010 from the AMT. Further, the stimulus bill allows CPCFA bonds issued since January 2004 to be refunded so that the refinanced bonds also avoid the AMT. Staff is expecting to see several refundings, particularly the larger bonds issued since 2004. These refundings do not affect CPCFA's volume cap since they were already issued.

Mr. Sheehy asked what implications will refunding the bonds have on CPCFA? Can CPCFA generate additional fees by refunding the bonds?

Mr. Paparian responded that staff will have an agenda item for the March meeting to address the policy for handling fees and refundings. Staff may seek an application fee and recovery of CPCFA's costs of issuance fees.

Mr. Paparian further reported that other provisions of the federal stimulus package that might affect CPCFA are the loosening of the restrictions on the amount of Industrial Development Bonds (IDB). Staff has several projects that are proceeding and is uncertain at this point whether the projects would qualify for waste and recycling bonds or an IDB.

Mr. Sheehy asked if projects are classified as waste and recycling, whether they would fall under CPCFA's exempt facility authority.

Mr. Paparian responded affirmatively.

Mr. Sheehy asked if CPCFA would be given additional volume cap.

Mr. Paparian responded that CPCFA carry forward allocation would cover waste and recycling projects, but IDB allocation would be needed if an IDB is issued.

Mr. Sheehy asked if that would be an additional volume cap to the State of California on top of what CPCFA already has.

Mr. Paparian stated there is no additional volume cap. One provision in the federal stimulus package allows IDBs to be issued for up to \$30,000,000 instead of the current \$10,000,000. This allows more types of facilities to receive IDBs, but it does not change the allocation to California.

Ms. Redway explained that the federal government has changed the rules for what types of projects are eligible to apply for IDBs.

Mr. Paparian continued to report that other energy provisions related to Clean Renewable Energy Bonds (CREBs) and Qualified Energy Conservation Bonds (QECBs) will affect CPCFA's sister authority—the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA). CAEATFA staff will be reporting regarding that matter at CAEATFA's next meeting.

## Agenda Item 2.

Additionally, the federal stimulus bill provides for Recovery Zone Bonds will allow local governments to assist government and non-governmental projects. The economic activity may indirectly benefit CPCFA, but CPCFA will not be able to be actively involved in the new bond category. There are provisions that make it easier for banks to hold CPCFA's bonds. The provisions will have some marginal impact on CPCFA. There are also some provisions related to business investments and equipment that may make it more advantageous for a business to take advantage of immediate tax benefits in lieu of longer term cheaper financing with tax exempt bonds.

Staff also believes there will be some money available for brownfield cleanup that could have a beneficial impact on the California Recycle Underutilized Sites (CALReUSE) program. Staff is still investigating this and waiting to see how the money will get divided amongst the states.

In the California Capital Access Program (CalCAP) program, two of the participating banks failed in the month of January. CalCAP staff has been monitoring the financial health of participating banks. It is challenging because the Federal Deposit Insurance Corporation (FDIC) does not want to let out much information about the health of banks; so staff monitors the health of the participating banks through various services that are available. Staff moved Alliance Bank's loan loss reserve account to the trustee bank a few days before Alliance was taken over by California Bank and Trust. Alliance Bank had approximately \$400,000 in its loan loss reserve account. California Bank and Trust has chosen not to participate in CalCAP.

Mr. Sheehy asked if the Authority would experience a loss of the funds if the transfer of funds to the trustee bank was not done.

Mr. Paparian responded that staff does not believe so. To date funds have not been lost out of loan loss reserve accounts even though the insurance is only up to \$250,000. However, when a bank gets taken over, there is often a lot of confusion about what the various accounts are and accounts can get frozen for a time.

Mr. Paparian further stated that in a case like this, where the new bank is choosing not to participate in CalCAP, CPCFA will hold the loan loss reserve account until the existing loans associated with the account are either paid off or claims are made against that account. When all the loans are paid off, CPCFA will take back its proportionate share of the remaining balance with the remainder going back to the bank.

The second bank that failed was the County Bank of Merced. This bank was taken over by WestAmerica Bank. County Bank of Merced had over \$34,000 in a loan loss reserve account, but all the loans associated with that account have been paid off. Staff will calculate and obtain CPCFA's proportionate share of funds back from that account.

Also, in regards to the CalCAP program, staff is continuing to work with the Air Resources Board (ARB) on the new on-road diesel program. Staff is working out the details of an

interagency agreement for \$41,000,000 and expects to have it before the Board for approval next month.

And finally, for all of CPCFA's programs, staff is preparing annual reports and plans to submit them to the legislature by March 31, 2009.

Ms. Redway asked if there were any further questions from the Board or public. There were none.

**4. BUSINESS ITEMS**

**A. REQUEST TO APPROVE INITIAL RESOLUTIONS REFLECTING OFFICIAL INTENT TO ISSUE REVENUE BONDS**

Staff introduced Ken Frisbie with BioFuels Energy, LLC

- 1) BioFuels Energy, LLC and/or its Affiliates requested approval of an Initial Resolution for an amount not to exceed \$15,200,000 to finance the acquisition of facilities for the collection and treatment of biomethane gas generated at a wastewater facility and the distribution of treated, commercially usable gas. Presented by Doreen Smith.

Staff and the company representative, Ken Frisbie, responded to the Board Members' questions concerning use of carbon credits and renewable energy credits for the project. Mr. Frisbie also indicated that the company plans other similar projects in various locations throughout the state. The Board members expressed approval of these types of projects.

Ms. Redway asked if there any further comments from the Board or public. There were none.

Ms. Redway asked if there was a motion.

Mr. Sheehy moved approval of the item; upon a second, the item was unanimously approved.

- 2) Waste Resources, Inc. and/or its Affiliates requested approval of an Initial Resolution for an amount not to exceed \$50,930,000 to finance land acquisition, construction and equipment for a Material Recovery Facility (MRF) expansion and Transfer Station. The company provides refuse collection and disposal services in Gardena. The company anticipates that the project will provide waste diversion and environmental benefits. Presented by Doreen Smith.

Ms. Redway asked if there were questions or comments.

Staff and the underwriter, Tony Cone, responded to the Board Members' questions concerning the process of a MRF. Mr. Cone explained how a pyrolysis unit works

and issues associated with it. Mr. Paparian informed the Board that the technology will be reviewed before staff actually seeks approval of the financing of this project.

Ms. Redway asked if there were any questions from the Board or public. There were none.

Ms. Redway asked if there was a motion.

Mr. Kleinberg moved approval of the item; upon a second, the item was unanimously approved.

**B. REQUEST TO APPROVE RESOLUTIONS AUTHORIZING ALLOCATIONS FOR STRATEGIC PARTNERS OF THE CALIFORNIA RECYCLE UNDERUTILIZED SITES (CALReUSE) ASSESSMENT PROGRAM**

Staff requested the Authority’s approval of a resolution to allocate funds to the Strategic Partners for the CALReUSE Assessment Program in the amounts listed below for the purpose of funding loans under the program.

<b>Table 1</b>		
<b>Strategic Partner</b>	<b>Allocation Amount Requested by the Strategic Partner</b>	<b>6-Month Allocation Amount Recommended to the Authority* <u>Not To Exceed</u></b>
CCLR (statewide)	\$4,000,000	\$1,326,407
Emeryville Redevelopment Agency	\$300,000	\$300,000
City of Oakland	\$1,000,000	\$400,000
City of Berkeley	\$293,750	\$125,000
San Diego Redevelopment Agency	\$864,844	\$400,000
<b>Total</b>	<b>\$6,458,594</b>	<b>\$2,551,407</b>
* <b>Note:</b> Recommended allocations were determined through an analysis of available Program funds as of 01/31/09, and may be modified subsequent to any additional loan activity by the Strategic Partners during the month of February.		

In providing the recommended allocation, staff considered the following three criteria:

1. Availability of program funds. In 2008, the program’s original set-aside of \$10,000,000 for seed funding was decreased to \$5,000,000 million for the Program. This decrease in funding was necessary to address the Authority’s overall budget issue.
2. Strategic Partner contract viability. Allocations should be reasonable to ensure each Strategic Partner can actively administer the program within its service area and ensure that contracts remain viable under the program.
3. Need for funds. Recommended allocation is also prioritized based on the “need” for funds, which is shown through a Strategic Partner’s anticipated pipeline over the next year.

## **Agenda Item 2.**

Strategic Partners are operating under contracts that were executed in March 2007, and will be extended for an additional year until February 28, 2010. Strategic Partners' allocations of funds are also set to expire on February 28, 2009 except for the San Diego Redevelopment Agency which expired on February 1, 2009. Staff is recommending that the allocation be for a 6-month period; this will enable the Authority to shift funds to Strategic Partners that may have more demand for funds after the initial period.

As of January 30, 2009, of the \$5,000,000 of funds for the program, \$1,938,916 (39%) is currently encumbered in 16 existing loans; \$509,676.96 (10%) have been forgiven over the life of the program; and \$2,551,407 (51%) is available for the current allocation for Strategic Partners to administer the program over the next year. To date, \$3,629,404 has been distributed through 34 loans, of which \$1,022,498 have paid back in full with interest and is being revolved and reused. Presented by Deana Carrillo.

Staff responded to the Board Members' questions regarding the City of Emeryville and the City of Bakersfield. Mr. Kleinberg noticed that Emeryville does not show a decrease of its request of \$300,000 as all other Strategic Partners experienced a decrease in the amount requested. Ms. Carrillo explained that Emeryville only had one project on its pipeline and staff wanted to keep the project viable. Ms. Carrillo also explained that because of staffing issues that the City of Bakersfield elected to let its contract expire. Projects in the area will still be able to utilize Statewide Strategic Partners.

Ms. Redway asked if there were any questions from the Board or public. There were none.

Ms. Redway asked if there was a motion.

Mr. Kleinberg moved approval of the item; upon a second, the item was unanimously approved.

### **5. PUBLIC COMMENT**

Ms. Redway asked if there were any comments from the public. There were none.

### **6. ADJOURNMENT**

There being no further business, public comments, or concerns, the meeting adjourned at 11:24 a.m.

Respectfully submitted,

Michael Paparian  
Executive Director