

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY**  
**BOND FINANCING PROGRAM**  
**Meeting Date: August 26, 2009**  
*Request for Final Resolution and*  
*Assistance from the Small Business Assistance Fund*

Prepared by: *Samantha Russell*

<b>Applicant:</b> Musco Olive Products, Inc. and/or its Affiliates	<b>Amount Requested:</b> \$3,200,000
<b>Project</b>	<b>Application No.:</b> 00820(SB)
<b>Location:</b> Tracy (San Joaquin County)	<b>Final Resolution No.:</b> 00490
	<b>Prior Actions:</b> IR 09-04 Approved 04/22/09

**Summary.** Musco Olive Products, Inc. and/or its Affiliates (“Musco” or “Company”) requests approval of a Final Resolution for an amount not to exceed \$3,200,000 in tax-exempt Industrial Development Bonds (IDB) allocation and a Small Business Assistance Fund (SBAF) Resolution for an amount not to exceed \$181,200 to finance a renewable energy wastewater and pollution control system. The Company anticipates that the project will provide pollution control and environmental benefits.

**Borrower.** The Company incorporated in California on August 5, 1959. The Company provides olive processing and canning services in San Joaquin County.

The principal stockholders of the Company are as follows:

Nicholas Musco	67.5%
Felix Musco	<u>32.5%</u>
<b>Total:</b>	<b><u>100.0%</u></b>

**Legal Questionnaire.** Staff has reviewed the Company’s responses to the questions contained in the Legal Status portion of the Application. On October 26, 2007, the California Regional Water Quality Control Board (CRWQCB) issued an Administrative Civil Liability Complaint to the Company for violations of waste discharge requirements. Components of the project will enable the Company to comply with the settlement agreement which will terminate no later than March 31, 2010. Per Senior Engineering Geologist, Steve Rosenbaum the CRWQCB is currently working with Musco on permit revisions and the Company is currently acting in good faith to resolve all issues. No information was disclosed that raises questions concerning the financial viability or legal integrity of this applicant.

**TEFRA.** The TEFRA hearing was held on May 21, 2009. There were no comments received in support of or in opposition to this Project.

**SBAF Assistance.** The Company is a small business eligible for assistance from the SBAF in an amount not to exceed \$181,200.

**Prior Actions and Financings.** None.

**Project Description.** The Company plans to implement a Renewable Energy Wastewater and Pollution Control System (RENEWS) that is designed to reduce water and air pollution, reduce salt load discharged in waste water, and replace electrical and thermal energy from fossil fuels with renewable sources.

RENEWS is designed to use thermal energy from combustion of biomass to concentrate waste water. The heat will be provided to RENEWS by the combustion of olive pits, a waste stream currently hauled off-site by truck. Steam from the distillation process is used to power traditional steam engines, which in turn drives two electrical generators. The generators will provide electrical power sufficient to meet approximately 75% of the facility's requirements. The steam is then condensed to create a stream of low Total Dissolved Solids (TDS) water and the heat released by the steam is captured to provide process heat.

RENEWS will generate two output steams. The first will be the steam from the steam engine which will be routed through a heat exchanger to condense the steam back to water which will then be discharged to the reservoir. The second output steam will be boiler blow-down. The blow-down will be routed to a precipitation vessel to capture additional heat and precipitate out mineral waste. The crystalline material is expected to be removed by truck to an appropriate landfill site.

The Project will demonstrate a proprietary technology to use renewable biomass to purify process waste water used in a food processing facility.

The Project will require the construction of a 5,000 square foot pre-engineered metal building immediately adjacent to the existing wastewater treatment equipment. Additionally, a concrete slab and metal building will be added to the existing food processing facility. New equipment includes fluidized bed biomass-fueled burner, boilers, condensing system, steam engine, electrical generators and associated support equipment.

The anticipated Project and issuance costs to be financed with bond proceeds are listed below:

Site Preparation and Building Construction	\$ 300,000
Equipment	2,336,000
Permits and Development Fees	50,00
System Controls	250,000
Bond Issuance Expenses	<u>64,000</u>
<b>Total:</b>	<b><u>\$3,200,000</u></b>

*Note: The Project costs reported in the Borrower's application and shown here in staff's report are estimated costs. At the time this financing closes, the estimated Project costs will be finalized and stated in the Tax Certificate. Variations from the costs shown in the application and in this report may occur prior to the closing due to increased costs of certain components of the Project from original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation or for other reasons. However, the Borrower confirms, through submission of a signed application and will confirm through covenants and representations in various bond documents, that all assets purchased with bond proceeds will qualify for tax exempt financing, that they will be used to complete the Project as described, and that the average life tests required by federal law and described in the Tax Certificate will continue to be met. Tax-exempt financing may be only one source out of multiple sources of financing for a given project.*

**Technology.** The California Pollution Control Financing Authority has previously approved projects utilizing technologies that are similar to the one proposed by the Company.

**Anticipated Timeline.** The Company completed construction of a 1/6 scale pilot unit during 2008 and anticipates construction and equipment purchases for the full scale facility will start August 1, 2009 with completion expected by January 31, 2010.

**Local Government.** A letter of Support was received from Leroy Ornellas, Chairman of the San Joaquin County Board of Supervisors (Attachment A).

**Pollution Control and/or Environmental Benefits.** The Company represents the Project will generate the pollution control and environmental benefits described below.

**Air Quality.** Conversion of waste biomass on-site will eliminate 120-300 diesel truck miles per day.

**Water Quality.** The salinity of land-applied wastewater will be reduced by 30%. Also water reuse will be maximized within existing food processing plant.

**Energy Efficiency.** Approximately 75-80% of electrical and 30-50% of process heat demands for the entire facility will be met by renewable energy (biomass).

**Recycling of Commodities.** Greenwaste, in the form of olive pits, will be burned as the energy supply for the project.

**Climate Change.** Carbon credits will be generated from this project primarily through reduction in greenhouse gas emissions from the semi-trucks and elimination of present biomass disposal methods. Additional credits may be generated by partial replacement of PG&E's energy portfolio fuel component with renewably generated electrical power and reduction in natural gas purchases.

**Permitting and Environmental Approvals.** The Project is located on a parcel zoned for agricultural uses such as farming and processing, which allows for industrial development of no greater than 75,325 sq. ft. before a new land use permit is required. The Project is approximately 5,000 sq. ft.

**Volume Cap Allocation.** The Company is applying for Allocation through California Industrial Development Financing Advisory Committee (CIDFAC).

**Financing Details.** The Company anticipates issuance of negotiated tax-exempt, weekly reset, variable rate bonds with a term not to exceed 20 years for the qualifying portion of the project. The Company plans to secure the bonds with an irrevocable, direct pay Letter of Credit from Bank of the West that is rated at least "A-" by Fitch Rating Agency or equivalent. The target date for financing is September 29, 2009.

**Financing Team.**

**Underwriter:** W.R. Taylor & Company, LLC

**Bond Counsel:** Orrick, Herrington, & Sutcliffe, LLP

**Issuer's Counsel:** The Office of Attorney General

**Staff Recommendation.** Staff recommends approval of Final Resolution No. 00490 for an amount not to exceed \$3,200,000, in tax-exempt Industrial Development Bonds and a SBAF Resolution in an amount not to exceed \$181,200 for Musco Olive Products, Inc. and/or its Affiliates.

**FINAL BOND RESOLUTION OF THE  
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY  
RELATING TO FINANCING OF ENVIRONMENTAL FACILITIES  
FOR MUSCO OLIVE PRODUCTS, INC., AND/OR ITS AFFILIATES**

August 26, 2009

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has received the application of Musco Olive Products, Inc., a California corporation (the “Borrower”), for financial assistance to finance the design, permitting, site preparation, construction, improvement, renovation, rehabilitation and/or equipping of an approximately 5,000 square foot facility for the onsite combustion of waste biomass, desalination of wastewater and generation of electricity at an olive oil production plant, all as more particularly described in the Term Sheet attached hereto as Exhibit A and incorporated herein (the “Term Sheet”) (collectively, the “Project”); and

WHEREAS, the Borrower has requested the Authority to issue its revenue bonds from time to time in an amount not to exceed \$3,200,000 to assist in the financing of the Project; and

WHEREAS, the proceeds of such revenue bonds will be loaned to the Borrower under a loan agreement with the Authority; and

WHEREAS, the Borrower has provided documentation to the Authority demonstrating that the Project has complied with Division 13 (commencing with Section 21000) of the Public Resources Code, or is not a project under that division; and

WHEREAS, final approval of the terms of such revenue bonds and certain documents relating to such revenue bonds is now sought; and

WHEREAS, in order to enhance the marketability of the bonds, the Borrower has arranged for a financial institution, as named in the Term Sheet, to secure the bonds through the issuance of its direct-pay irrevocable letter of credit, thereby guaranteeing their repayment;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The Project constitutes a “project” and the Borrower is a “participating party” within the meaning of the California Pollution Control Financing Authority Act (the “Act”).

Section 2. Pursuant to the Act, revenue obligations of the Authority, designated as the “California Pollution Control Financing Authority Variable Rate Demand Revenue Bonds

(Musco Family Olive Company Project), Series 2009A” (the “Bonds”) in an aggregate principal amount not to exceed \$3,200,000, are hereby authorized to be issued. The Bonds may be issued at one time, or from time to time, in one or more series separately or differently identified, and may be issued in a tax-exempt or taxable mode, all in accordance with the Indenture (as hereinafter defined) as finally executed. The proceeds of the Bonds shall be used to finance and/or refinance the Project and to pay costs of issuance of the Bonds.

Section 3. The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the Bonds, at one time or from time to time before December 31, 2009, by negotiated sale, at such price, at such interest rate or rates and in such mode (taxable or tax-exempt) as he may determine.

Section 4. The proposed form of Loan Agreement relating to the Bonds (the “Loan Agreement”), between the Authority and the Borrower, as filed with the Authority prior to this meeting, is hereby approved in substantially such form, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate to reflect the form of credit enhancement for the Bonds) as the signatory executing the same may require or approve, and with particular information inserted therein in substantial conformance with the Term Sheet, such approval to be conclusively evidenced by execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Loan Agreement, the obligations of the Borrower may, under some circumstances, be carried out or assumed by a successor or assignee entity, or by an Affiliate of the Borrower. For purposes of this Resolution, an “Affiliate” of the Borrower means any person or entity which meets the definition of “Participating Party” in the Act and controls, is controlled by, or is under common control with, the Borrower, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

Section 5. The proposed form of Indenture relating to the Bonds (the “Indenture”), between the Authority and a trustee named in the Term Sheet (the “Trustee”), as filed with the Authority prior to this meeting, is hereby approved in substantially such form, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate to reflect the form of credit enhancement for the Bonds) as the signatory executing the same may require or approve, and with particular information inserted therein in substantial conformance with the Term Sheet, such approval to be conclusively evidenced by the execution and delivery thereof. The dates, maturity dates, interest rate or rates, interest payment dates, denominations, forms, registration privileges, place or places of payment, terms of redemption and other terms of the Bonds shall be as provided in the Indenture, as finally executed.

Section 6. The proposed form of Bond Purchase Contract (the “Purchase Contract”) among the underwriter or underwriters named in the Term Sheet (the “Underwriters”), the Treasurer and the Authority and approved by the Borrower, as filed with the Authority prior to this meeting, is hereby approved in substantially such form, with such insertions, deletions or changes therein as the signatory executing the same, may require or approve, and with particular information inserted therein in substantial conformance with the Term Sheet, such approval to be conclusively evidenced by the execution and delivery thereof.

## Agenda Item 4.B.1.

Section 7. The proposed form of a preliminary official statement relating to the Bonds as filed with the Authority prior to this meeting is hereby approved in substantially such form, with such changes and insertions therein as the Executive Director may require or approve. The Underwriters are hereby authorized to distribute the preliminary official statement to persons who may be interested in the purchase of the Bonds. The Authority hereby approves a final official statement for the Bonds authorized herein, in substantially the form of said preliminary official statement, with such insertions and changes therein as the signatory executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The Underwriters are hereby directed to deliver a copy of said final official statement (as finally executed, the “Official Statement”) to all actual purchasers of the Bonds.

Section 8. The Bonds shall be executed by the manual or facsimile signature of the Chairman or any Deputy to the Chairman and the seal of the Authority shall be affixed thereon (or a facsimile reproduced thereon) in the form set forth in and otherwise in accordance with the Indenture. The Bonds, when so executed, shall be delivered to the Trustee under the Indenture for authentication by the Trustee. The Trustee is hereby requested and directed to authenticate the Bonds by executing the Trustee’s certificate of authentication appearing thereon. The Trustee is hereby requested and directed to deliver the Bonds, when duly executed and authenticated, to The Depository Trust Company, New York, New York, on behalf of the Underwriters in accordance with written instructions executed on behalf of the Authority, which instructions are hereby approved. Such instructions shall provide for the delivery of the Bonds to The Depository Trust Company, on behalf of the Underwriters thereof, upon payment of the purchase price thereof.

Section 9. The Authority hereby dedicates and confirms its allocation to the Bonds issued in a tax-exempt mode (the “Tax-Exempt Bonds”) of a portion of its private activity bond limit, as previously received, or to be received from the California Industrial Development Financing Advisory Commission, in an amount up to the applicable principal amount of Tax-Exempt Bonds issued and delivered to finance certain costs of the Project, so as to satisfy the requirements of Section 146(e) of the Internal Revenue Code of 1986, with respect to the Tax-Exempt Bonds.

Section 10. As requested by the Borrower, the Authority hereby waives the requirement for an in-furtherance certificate pursuant to Section 44533(a) of the Act.

Section 11. Each officer of the Authority, acting alone, is hereby authorized and directed to do any and all ministerial acts to effectuate the purposes of this Resolution, the Indenture, the Loan Agreement, the Purchase Contract and the Official Statement. The Authority hereby approves any and all documents and certificates to be delivered in furtherance of the foregoing purposes, including without limitation, a tax certificate.

Section 12. Except as set forth in Section 8, documents approved in this Resolution may be executed and delivered in accordance with the resolution of the Authority entitled “Resolution of the California Pollution Control Financing Authority Delegating Certain Powers Related to Bond Financings to the Executive Director and Deputy Executive Director” adopted on January 28, 2009, the provisions of which are incorporated herein by reference. The Chairman or any Deputy to the Chairman are also hereby authorized to execute and deliver any such document.

**Agenda Item 4.B.1.**

Section 13. This resolution shall take effect immediately upon its passage. The adoption by the Authority of this final resolution for the Borrower shall not be referred to in any application before any government agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to construct or operate the Project.

**EXHIBIT A**

**TERM SHEET**

<b>Name of Issue:</b>	California Pollution Control Financing Authority Variable Rate Demand Revenue Bonds (Musco Family Olive Company Project), Series 2009A (the “Bonds”)
<b>Maximum Amount of Issue:</b>	\$3,200,000 (tax-exempt)
<b>Issuer:</b>	California Pollution Control Financing Authority (the “Authority”), Sacramento, CA
<b>Borrower:</b>	Musco Olive Products, Inc.
<b>Affiliates (to initially own or operate elements of the Project)</b>	N/A
<b>Trustee:</b>	The Bank of New York Mellon Trust Company, N.A.
<b>Senior Underwriter or Placement Agent:</b>	W.R. Taylor & Company, LLC
<b>Bond Counsel:</b>	Orrick, Herrington & Sutcliffe LLP, San Francisco, CA
<b>Remarketing Agent:</b>	W.R. Taylor & Company, LLC
<b>Project:</b>	See Exhibit B
<b>Maximum Bond Term:</b>	Not to exceed 30 years
<b>Type of Sale:</b>	Negotiated sale

**Agenda Item 4.B.1.**

<b>Description of Minimum Denominations:</b>	\$100,000 or any integral multiple of \$5,000 in excess thereof while in variable rate mode
<b>Financing Structure:</b>	Variable rate demand bonds; convertible to fixed rate pursuant to the Indenture
<b>Maximum Interest Rate:</b>	12%
<b>Letter of Credit:</b>	Bank of the West
<b>Other Credit Enhancement:</b>	Not applicable
<b>Anticipated Bond Rating:</b>	Minimum "A-"
<b>Type of Financing:</b>	Industrial development revenue bonds
<b>Prepared by:</b>	Jason Grubbs (334) 395-6000

**EXHIBIT B**

The proceeds of the Bonds will finance or refinance the design, permitting, site preparation, construction, improvement, renovation, rehabilitation and/or equipping of an approximately 5,000 square foot facility for the onsite combustion of waste biomass, desalination of wastewater and generation of electricity at an olive oil production plant located at 17950 and 17956 Via Nicolo, Tracy, California.

**RESOLUTION OF THE CALIFORNIA  
POLLUTION CONTROL FINANCING AUTHORITY  
RELATING TO ASSISTANCE FROM THE SMALL  
BUSINESS ASSISTANCE FUND FOR  
MUSCO FAMILY OLIVE PRODUCTS, INC. AND/OR ITS AFFILIATES**

August 26, 2009

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has approved the application of Musco Family Olive Products Inc. (the “Borrower”), for financial assistance to finance the design, permitting, site preparation, construction, improvement, renovation, rehabilitation and/or equipping of an approximately 5,000 square foot facility for the onsite combustion of waste biomass, desalination of wastewater and generation of electricity at an olive oil production plant, all as more particularly described in Application No. 00820 (SB) of the Borrower (the “Project”) and has adopted its Resolution No. 00490 (the “Final Resolution”) authorizing the issuance of revenue bonds to provide such financial assistance; and

WHEREAS, the Authority has established the Small Business Assistance Fund (the “Fund”) to assist small businesses to obtain pollution control financing through the issuance of tax-exempt revenue bonds (the “Bonds”); and

WHEREAS, the Authority has received and accepted an application from the Borrower for assistance from the Fund; and

WHEREAS, the Borrower has demonstrated a financial capability to make loan payments to the satisfaction of Bank of the West, as the issuer of a direct pay irrevocable letter of credit securing the Bonds, as named in the Final Resolution; and

WHEREAS, authorization of assistance from the Fund is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The Borrower (as defined in the Final Resolution) is a “Small Business” as classified pursuant to Title 13 Code of Federal Regulations, Part 121, Subpart A (1-1-94 edition) or it has 500 employees or less, and is otherwise eligible for assistance from the Fund.

Section 2. The Project constitutes a “project” within the meaning of the California Pollution Control Financing Authority Act.

Section 3. The Authority hereby authorizes and approves up to \$181,200 of assistance from the Fund to the Borrower to be used for payment of initial Letter of Credit fees and certain

**Agenda Item 4.B.1.**

costs of issuance of the Bonds. The actual amount of assistance shall be determined by the Executive Director of the Authority based upon the final terms of the sale of the Bonds.

Section 4. The Executive Director of the Authority are each hereby authorized and directed, acting alone, to do any and all ministerial acts and to execute and deliver a contract for financial assistance with the Borrower in conformance with the terms of this resolution, which he or she may deem necessary or advisable in order to provide the assistance from the Fund and otherwise to effect the purposes of this resolution.

Section 5. This resolution shall take effect immediately upon adoption hereof. The adoption by the Authority of this resolution for the Borrower shall not be referred to in any application before any government agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to construct or operate the Project.

Attachment A



**Board of Supervisors**  
222 East Weber Ave  
Courthouse, Room 701  
Stockton, California 95202

**LEROY ORNELLAS**  
CHAIRMAN  
BOARD OF SUPERVISORS  
Representing the Fifth District

Telephone: (209) 468-3113  
Fax: (209) 468-3694

**Scott Tyrrell**  
Legislative Assistant

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June 23, 2009

Mr. Michael Paparian  
Executive Director  
California Pollution Control Financing Authority  
915 Capitol Mall, Room 457  
Sacramento, CA 95814

Dear Mr. Paparian,

I am writing to express my full support of the Musco Family Olive Company's application to secure an allocation of tax-exempt bond funds for their RENEWS Project.

RENEWS is designed to use thermal energy from combustion of biomass to concentrate waste water. This technology has been used at Red Rocks Ranch as part of a United States Department of the Interior Bureau of Reclamation's Integrated On-Farm Drainage Management (IFDM) study to treat irrigation drainage water using natural gas for power.

At Musco, this technology will enable them to utilize by-product to create enough electrical power to meet approximately 75% of the facility's demand and help meet California air emission standards.

The Musco Family Olive Company has a long and storied history and since the early 1980's its canning facility and headquarters has sat on a 350-acre site in Tracy, California. This facility is now the most state of the art olive cannery in the world. Over 500 growers, 400 employees, and countless vendors and business partners are part of the Musco family tree.

Musco Olive is a significant agri-business and we are proud and fortunate to have it in San Joaquin County. I ask that CPCFA give their application full consideration.

Sincerely,

A handwritten signature in black ink that reads "Leroy Ornellas".

Leroy Ornellas  
Supervisor, Fifth District

DTG: 17409/02ST