

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: November 19, 2008
Request for Initial Resolution Approval

Prepared by: *Michael Smith/Patricia Tanous*

Applicant: Hilmar Cheese Company, Inc.	Amount Requested: \$25,000,000
Project	Application No.: 00814
Location: Hilmar (Merced County)	Initial Resolution No.: 08-08

Summary. Hilmar Cheese Company, Inc. and/or its Affiliates (the “Company” or “Hilmar”) requests approval of Initial Resolution No. 08-08 for an amount not to exceed \$25,000,000 to finance the cost of acquisition, construction and installation of equipment used to improve and increase capacity to the Company’s wastewater treatment operations. The Project is an expansion and enhancement to an existing preliminary, secondary and tertiary wastewater treatment plant including facilities related to the ultimate disposal of the treated effluent.

Borrower. The Company was incorporated in California in April 1984. The Company produces cheese and whey products from its facility in Hilmar, CA. More than one million pounds of cheese is produced a day, and in order to produce this amount of cheese, the Company processes more than two-million gallons of milk each day received from more than 270 dairies and 160,000 cows. More cheese is produced from this facility than any other manufacturer in the world.

The Company ownership is as follows:

Richard and Sharon Clauss	Lloyd Nyman
William and Carolyn Ahlem	Phil and Nadine Fanelli
Charles and DruAnn Ahlem	Donald and Elsa Sherman
James and Carol Ahlem	Ralph and Dianne Ahlem
Vernon and Mary Wickstrom	Bob (deceased) and Dulcie Dias
Delton and Kathy Nyman	

Legal Questionnaire. The Staff has reviewed the Company’s responses to the questions contained in the Legal Status portion of the Application. No information was disclosed that raises questions concerning the financial viability or legal integrity of this applicant. On January 26, 2005, the California Regional Water Quality Control Board (CRWQCB), Central Valley Region, issued an Administrative Civil Liability Complaint to the Company. The complaint alleged that Hilmar violated its discharge permit by discharging wastewater containing salt, the amount of which exceeded permitted levels. On March 26, 2006 a Settlement Agreement was reached between the CRWQCB and the Company. Staff contacted the CRWQCB and has confirmed that the Company has complied with the Settlement Agreement.

Prior Actions and Financings. There are no prior actions or financings for this applicant.

Project Description. The Project includes the construction and installation of diffused air filtration systems, reverse osmosis evaporator, water distribution piping, chemical treatment

tanks, pumps and pipes, computer control systems, metering pumps, screens and deep well injection systems. The Project is an expansion and enhancement to an existing preliminary, secondary and tertiary wastewater treatment plant including facilities related to the ultimate disposal of the treated effluent. The treatment process will render the water suitable to supplement surrounding crop production reducing the amount of water consumption of local farmers. Solids removed from the water treatment process will be composted on site and disposed of by the Company.

In addition to the above and the improved operating efficiencies of the cheese and whey processing plant, the treatment plant enhancements are expected to eliminate the current need to haul approximately 20 truckloads a day of a salt water solution to a Bay area processor. Approximately 60% of the water used at the facility is recycled water. The fully integrated four stage treatment system is a “State of the Art” water reclamation project and represents the single largest investment made in California by any other food processor.

The anticipated Project and issuance costs are listed below:

Site Preparation and Improvements.....	\$ 3,500,000
New Equipment	14,187,500
Engineering/Architecture.....	2,000,000
Tanks	4,500,000
Bond Issuance.....	812,500
Total:.....	<u>\$25,000,000</u>

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.

Anticipated Timeline. Construction and renovation began in April 2008 with a scheduled completion date of January 2010. Equipment purchases also began April 2008 and are anticipated to be completed by January 2010. The Company understands tax law limits the costs previously incurred that may be reimbursed with bond proceeds.

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

Water Quality. The treatment process will render the water suitable to supplement surrounding crop production reducing the consumption of water local farmers would otherwise require.

Recycling of Commodities. Solids removed from the water treatment will be composted on site and disposed of by the Company.

Climate Change. The Company is a member of the California Climate Action Registry and has been recognized in the Registry as a leader in working to reduce greenhouse gas emissions.

Permits. The Company will provide the Authority with copies of all required discretionary permits prior to requesting approval for Final Resolution.

CDLAC Allocation. The Company anticipates applying to the Authority for CDLAC allocation in the first quarter of 2009. In light of the fact that the project involves a technology not previously approved for funding CPCFA staff will complete a new technology policy review. The review will be presented to the Authority prior to any request for approval of a final resolution on the project.

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 that is rated at least “A-” by Standard and Poor’s Rating Agency or equivalent. The target date for financing is March 2009.

Financing Team.

Underwriter: W.R. Taylor & Company, LLC

Bond Counsel: Kutak Rock

Issuer’s Counsel: Office of the Attorney General

Staff Recommendation. Staff recommends approval of Initial Resolution No. 08-08 for Hilmar Cheese Company, Inc. and/or its Affiliates for an amount not to exceed \$25,000,000.

Note: An Initial Resolution approval is not a commitment that the Board will approve a Final Resolution and bond financing of the proposed Project.

Initial Resolution No. 08-08
Application No. 814

**RESOLUTION OF OFFICIAL INTENT TO ISSUE BONDS TO
FINANCE WASTEWATER TREATMENT FACILITIES AND
RELATED EQUIPMENT FOR HILMAR CHEESE COMPANY,
INC. AND/OR ITS AFFILIATES**

November 19, 2008

WHEREAS, the California Pollution Control Financing Authority (“Authority”), a public instrumentality, is authorized and empowered by the provisions of the California Pollution Control Financing Authority Act (“Act”) to issue bonds for the purpose of defraying the cost of facilities for the disposal of solid and liquid waste products, including resource recovery and energy conversion facilities; and

WHEREAS, Hilmar Cheese Company, Inc., a California corporation (the “Applicant”) has requested that the Authority assist in financing wastewater treatment facilities and related equipment to be owned and operated by the Company and/or its Affiliates (as hereinafter defined (the “Company”), which is expected to be comprised of the acquisition, construction and installation of wastewater treatment facilities and related equipment (“Facilities”), and has presented an estimate of the maximum cost of such Facilities as shown in Exhibit “A” attached hereto; and

WHEREAS, the Authority desires to encourage the Company to provide the Facilities which will serve the public of the State of California; and

WHEREAS, the Authority deems it necessary and advisable to further the purposes of the Act that the Facilities be acquired at the earliest practicable date, but the Company requires satisfactory assurances from the Authority that the proceeds of the sale of bonds of the Authority will be made available to finance the Facilities; and

WHEREAS, the Company expects to incur or pay from its own funds certain expenditures in connection with the Facilities prior to the issuance of indebtedness for the purpose of financing costs associated with the Facilities on a long-term basis; and

WHEREAS, subject to meeting all the conditions set forth in this resolution the Authority reasonably expects that debt obligations in an amount not expected to exceed \$25,000,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Company for its prior expenditures for the Facilities; and

WHEREAS, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the Authority to declare its reasonable official intent to reimburse prior expenditures for the Facilities with proceeds of a subsequent borrowing;

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

Section 1. The Authority finds and determines that the foregoing recitals are true and correct. For purposes of this Resolution, an “Affiliate” of the Applicant means any person or entity which controls, is controlled by, or is under common control with, the Applicant, 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. An Affiliate shall also be a “participating party” as defined in the Act.

Section 2. The Authority declares its official intent to issue, at one time or from time to time, an aggregate of up to \$25,000,000 principal amount of bonds of the Authority for the Facilities; including for the purpose of reimbursing to the Company costs incurred for the Facilities prior to the issuance of the bonds.

Section 3. The bonds will be payable solely from the revenues to be received by the Authority pursuant to a loan agreement or other agreements to be entered into between the Authority and the Company in connection with the Facilities. Each bond shall contain a statement to the following effect:

“Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof or any local agency thereof is pledged to the payment of the principal of, premium, if any, or any interest on this bond.”

Section 4. The bonds shall be issued subject to the conditions that (i) the Authority and the Company shall have first agreed to mutually acceptable terms for the bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the loan of the bond proceeds to finance the Facilities; (ii) all requisite governmental approvals shall have first been obtained; (iii) a Final Resolution shall have been received from the Authority; and (iv) an allocation shall have been received from the California Debt Limit Allocation Committee for any portion of the bonds the interest on which is excluded from gross income for federal income tax purposes..

Section 5. The Executive Director of the Authority is hereby directed to indicate the willingness of the Authority to proceed with and effect such financing in order to assist the Company by defraying the cost of the Facilities, and to advise the Company that, subject to due compliance with all requirements of the law and the obtaining of all necessary consents and approvals and meeting all other requirements of the Authority.

Section 6. It is intended that this Resolution shall constitute “some other similar official action” towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and “official intent” within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 7. This Resolution shall take effect immediately upon its passage and remain in full force and effect thereafter; provided that, this Resolution shall cease to be effective on November 19, 2011 unless prior thereto the Authority specifically adopts a further resolution extending the effective date of this Initial Resolution, which it will do only after receiving a specific request for such action from the Company. The Authority will consider such an extension upon receiving a specific request for such action from the Company, accompanied by any additional information requested by the Authority to supplement the Company's application, and an explanation of the status of the Facilities.

EXHIBIT A

NUMBER: 00814
LOCATION: 9001 North Lander Avenue, Hilmar, CA 95324
TYPE: Wastewater Treatment Facilities
AMOUNT: Up to \$25,000,000