

**MINUTES**

**California Pollution Control Financing Authority  
915 Capitol Mall, Room 587  
Sacramento, California  
January 28, 2009**

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

Bettina Redway, Chairperson, called the California Pollution Control Financing Authority (CPCFA or Authority) meeting to order at 10:55 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 December 17, 2008 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 staff member Theresa Ermac is taking advantage of a promotional opportunity. Ms. Ermac will be an Executive Assistant at the California Health Facilities Financing Authority. She is efficient, effective, cheerful and will be missed. Staff is very happy that she is able to promote and glad that she is going to be close.

Ms. Redway also thanked Theresa Ermac.

Mr. Paparian informed the Board that the Authority has entered into two interagency agreements that are both under the \$300,000 threshold requiring Board action. One agreement is with the California State Treasurer's Office for rent and building security for \$121,468. This is a decrease from \$123,911 that was paid in 2008. Although, there was inflation from 2008, the decrease is due to a recalculation of the space allotted to California Industrial Development Financing Advisory Commission (CIDFAC) and CPCFA. CIDFAC costs have increased to a level more consistent with the amount of space they actually use.

Mr. Paparian reported that the Authority continues to provide bridge loans to help the startup of the California Alternative Energy and Advanced Transportation Financing Authority

## Agenda Item 2.

(CAEATFA). CAEATFA is working on bond deals involving the California Department of Transportation Clean Renewable Energy Bonds, possible private activity bonds, sales tax exemptions and other issues. Staff expects funds to be repaid after the deals are finalized. Staff recently amended the interagency agreement with CAEATFA to allow it to draw up to another \$100,000, for a total of \$299,500. That amount should cover CAEATFA's costs into the summer of 2009. If CAEATFA needs further bridge loans, a Board action would be required as it would take the interagency agreement over the \$300,000 mark.

Staff received the final numbers on carryforward allocation from the California Debt Limit Allocation Committee; CPCFA's carryforward allocation is just over \$788,318,000. CPCFA has three years to use this carryforward allocation. Based on recent experience and the pipeline, staff foresees no problem using the allocation within the three year time frame. Staff needs to declare to the Internal Revenue Service by mid-February the category or categories of exempt facilities CPCFA will finance with the allocation. The allocation will be used primarily for waste and recycling. Staff is also aware of some sewage treatment projects that may need allocation.

Mr. Paparian also reported that, as the Board knows, the California Recycle Underutilized Sites (CALReUSE) Program has been funded from Proposition 1C and has allocated a large portion of those funds. Because of ongoing State budget problems, all bond funded projects have been suspended. Even though the projects are ready to break ground and begin cleanup, staff had to inform all grant and loan recipients that they will not receive funds until further notice; staff also had to inform the Strategic Partners to stop work. There are additional projects ready to come forward, including two that had expected to come to the CPCFA February meeting. Staff told the applicants to hold off until the Authority can proceed with funding. Staff is hoping these problems will be resolved eventually and that the state stimulus package may include more funds for the CALReUSE program. Staff is aware of \$152,000,000 in "shovel ready" brownfields projects, including the \$54,000,000 the Board already approved. Staff is exploring whether any funds in the federal stimulus package could be used for brownfields cleanup in California. Staff has been working with the Department of Toxic Substances Control to provide information on brownfields cleanup needs to the appropriate federal representatives.

Mr. Paparian reported that the Board will hear about the California Capital Access (CalCAP) program regulation changes—many of which are intended to facilitate the new program with the California Air Resources Board (ARB). Staff is continuing to work with ARB on an interagency agreement having to do with assisting on-road diesel truck owners in meeting new air quality requirements. Staff is developing the details of the program in conjunction with ARB staff and expects to roll it out this spring.

Mr. Paparian finished his report by saying that agenda item 4.C.1. Philip Verwey Farms had been withdrawn; so there would be only three agenda items.

Mr. Sheehy asked why agenda item 4.C.1. was withdrawn.

Mr. Paparian responded that the item was withdrawn at the request of the applicant. Staff normally leaves the items on the agenda unless the applicant chooses to withdraw them. The applicant made the determination to withdraw its project from this meeting.

## Agenda Item 2.

Mr. Sheehy asked if the applicant indicated why the application was being withdrawn.

Mr. Paparian responded that the applicant was aware of the opposition to the project; but he could not speak on the applicant's behalf as to exactly why they withdrew.

Mr. Sheehy asked if it is common for applicants for exempt facility financing through CPCFA to drop their application as soon as they are aware of opposition. Does the Board only hear items that have no documented opposition?

Ms. Redway responded that she does not believe that is the case. She believes that applicants who come before the Board talk to various Board members. If applicants do not think that things are going to go in their direction or if they think they should go back, regroup and submit their application in a slightly different format, that is their choice.

Mr. Sheehy asked if Ms. Redway thinks that Philip Verwey Farms may in fact reapply at a later date once they have retooled their proposal.

Ms. Redway thought that it was a possibility, but she could not speak for the applicant.

Mr. Sheehy explained that the reason he was inquiring was because he read, with great interest, agenda item 4.C.1. Mr. Sheehy stated he believes the benefits of the item, both economic and environmental, seem pretty significant; the project benefits people that actually consume dairy products like milk, yogurt, ice cream and butter; the project offers significant air quality improvements, deals with the solid waste and the odors that it produces; it avoids contamination of ground water; it reduces the amount of electricity consumed in the production of milk; and it recycles the manure into products that can be used in organic farming. Mr. Sheehy hoped that CPCFA would be open to these types of projects. He said he wanted to go on the record saying that he thought the State of California needs to use all the tools available to help stimulate the economy. He further stated that the Authority has a lot of volume cap available this year and the demand surveys have been uncertain as to how much is going to be used. This project would generate jobs and produce food for the State of California. Mr. Sheehy commented that he would like to see milk produced in the state and not shipped into California from out of state, so he would hope that the Board is not sending a signal to the dairy and agricultural industry in the state that CPCFA is not open for business—especially since all of the exempt facility volume cap so far has been given to CPCFA. Mr. Sheehy wanted to express these concerns and hoped that this particular operation would have the opportunity to come back with the retooled application.

Ms. Redway responded that the project was not in front of the Board so she would not comment on the specifics of the project. She knew that the Philip Verwey Project did not have the fertilizer piece or the anaerobic digester piece in its proposal. Some of the benefits of the project were being talked about, but they were not actually part of the applicant's business plan at this point. Further, CPCFA has helped finance three anaerobic digesters.

Mr. Paparian clarified that CPCFA is in the process of working on the financing of projects for several anaerobic digesters.

Ms. Redway stated that CPCFA is certainly working with dairies in California. It would be a longer policy discussion about the financing of a manure lagoon system as a standalone project. She also pointed out that she knew that there were lengthy discussions before Ms. Redway became a Board member for CPCFA. The Controller's Office representative was part of those discussions and there was lengthy policy analysis at the time. The dairy industry is well aware of the policy discussions. Ms. Redway was not sure if there was much change on that specific policy issue.

Mr. Sheehy thanked Ms. Redway and he added that he was sure that most of the people opposing the project consumed dairy products. He was aware that there has been opposition to dairy farm projects in the past, in particular in the past administrations, but in 2008 CPCFA approved a deal for an oil company and he saw the demand survey for 2009. He saw almost \$100,000,000 of volume cap targeted for the oil industry. Mr. Sheehy said he did not want to send a signal that CPCFA is open for the oil industry and not open to the dairy industry.

#### **4. BUSINESS ITEMS**

##### **A. APPROVAL OF DELEGATION OF AUTHORITY TO THE EXECUTIVE DIRECTOR FOR THE BOND PROGRAM**

Staff requested Board approval of a resolution authorizing delegation authority to the Executive Director and Deputy Executive Director of CPCFA for certain routine matters with respect to the Authority's bond program.

AB 1479, chaptered August 4, 2008, allowed that, "The Authority may, by resolution, delegate to one or more of its members, its Executive Director, or any other official or employee of the Authority any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the Authority." Presented by Michael Paparian

Ms. Redway asked if there were any questions or comments from the Board.

Mr. Sheehy said that he has seen almost identical resolutions from several other authorities. He also thanked Mr. Paparian for including the sunset clause for one year so the Board can revisit it, if necessary.

Ms. Redway added that quarterly reporting was also included in the resolution.

Mr. Sheehy continued that he would be prepared to move approval of the item.

Ms. Redway stated that the discussion about the legislation and the delegation started three years ago and was partly triggered by a Department of Finance representative and its legal counsel because they were concerned about the minutia coming before the Board. Ms. Redway congratulated everyone for three years of hard work on getting this done and to the resolution stage.

Ms. Redway asked if there were any further comments or questions. 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.

**B. CONSIDERATION AND APPROVAL OF AMENDMENTS TO REGULATIONS FOR THE CALIFORNIA CAPITAL ACCESS (CalCAP) PROGRAM**

Staff requested approval to amend and file emergency regulations to expand CalCAP and clarify items of interest. To accomplish this expansion requires modification of the regulations:

- 1) To revise the definitions of “Fees” and “Financial Institutions”;
- 2) To add a preferred lender status for Participating Financial Institutions that choose to participate in Independent Contributor programs; and
- 3) To provide for Independent Contributors to reimburse CPCFA for costs associated with administering Independent Contributor programs.

The primary driver of these changes is CPCFA’s recent engagement by the ARB to provide assistance to small business truckers that have been impacted by recently enacted On-Road and Off-Road Diesel Emission Regulations. The proposed CalCAP regulation changes are intended to expand the CalCAP Independent Contributor program and provide greater flexibility for ARB.

Upon approval, staff will proceed concurrently with the emergency and permanent rulemaking process. Presented by Aaron Todd.

Mr. Sheehy thanked Mr. Todd for his presentation and recalled that when Mr. Todd was doing his briefing, Mr. Sheehy asked him to contact some Participating Financial Institutions to make sure that they had a chance to review the language and provide any input. Mr. Sheehy asked if Mr. Todd could share with the Board what he found out.

Mr. Todd responded that he had the opportunity to contact seven of the ten active financial institutions, either via phone or through e-mail. The only feedback received was regarding the clarification of the \$1.5 million maximum loan amount; specifically to make sure that all parties involved were clear that any loan enrolled with CalCAP has a maximum amount of \$1.5 million. One of the reasons why the permanent regulation package was going to be submitted to the Office of Administrative Law a month later is to allow for any concerns to be addressed. If changes are necessary, staff can come back to the Board in February to address those changes. Other than that, everyone was happy and it seems like a win win for the Financial Institutions. All the other items expand their program and give CalCAP a little more flexibility.

Ms. Redway asked if there were any further 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.

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

1) Philip Verwey Farms, #817 (SB\*), \$15,500,000—**WITHDRAWN**

**D. REQUEST APPROVAL TO CONTRACT FOR LEGAL COUNSEL SERVICES**

On September 24, 2008 the Authority approved staff to move forward with a Request for Qualifications (RFQ) for legal counsel services. The current contracts for legal counsel services expire on February 28, 2009. Staff received responses from seven firms and is authorized to award contracts to up to five firms. Staff requested the Authority's approval of a resolution to execute contracts to provide a variety of legal services with the following firms:

- Law Offices of Alexis S. M. Chiu
- Law Offices of Leslie M. Lava
- Stradling, Yocca, Carlson, & Rauth
- Orrick, Herrington & Sutcliffe LLP
- Quateman LLP

Legal services will include serving as Issuer's Counsel to the Authority on bond financings to the extent that those services are unavailable through the Attorney General's Office. Presented by Dona Yee.

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

Mr. Paparian said that there were at least two of the attorneys present.

Mr. Robert Feyer with Orrick, Herrington, and Suttcliffe thanked staff and the Board, and was looking forward to working with staff and Board for the next period of time.

Ms. Leslie Lava with the Law offices of Leslie M. Lava responded that she was thrilled to have worked with CPCFA for so long and she also thanked the Board.

Ms. Redway thanked Mr. Feyer and Ms. Lava for introducing themselves and asked if there was a motion.

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

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