

MINUTES

**California Pollution Control Financing Authority
915 Capitol Mall, Room 587
Sacramento, California
May 27, 2009**

1. CALL TO ORDER & ROLL CALL

Bettina Redway, Chairperson, called the California Pollution Control Financing Authority (Authority) meeting to order at 10:42 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 April 22, 2009 meeting minutes. There were none.

Ms. Redway asked if there was a motion.

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 maintaining information and files for Authority's various programs has always been a challenge. Because of Internal Revenue Service rules, regulatory agreements, and accepted accounting practices, some files have to be maintained through several generations of staff – 50 years or longer.

As the Authority takes on new programs such as the California Recycle Underutilized Sites Remediation Program (CALReUSE) and the Air Resources Board (ARB) On Road Program, processes and procedures have become increasingly complex.

As a result, staff is embarking on an effort to update and improve internal policies, procedures and file maintenance activities. Several staff members including Kamika McGill, Deana Carrillo, Pattie Tanous, Aaron Todd, Jason Bradley and Kristina McElfresh are attending a three day training session on information mapping, policy and procedure development.

Mr. Paparian reported the ARB On Road Program, which assists diesel truck owners in obtaining loans to meet new air quality requirements, officially launched last week. The

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Authority now has nine financial institutions participating in the program. Staff is working on a legislative change to allow vehicle manufacturer financing entities to participate in the California Capital Access Program (CalCAP) program.

Mr. Paparian said that bond funding is now available from the CALReUSE Remediation Program for the brownfield cleanup projects. Staff is finalizing the regulatory, grant and loan agreements to secure project participants signatures to make funds available in the next few weeks.

Staff continues to see interest and activity in the Bond Program continues to grow. Companies have delayed moving forward with bond deals due to the economic downturn, but several companies are poised to move forward over the summer.

Mr. Paparian said that he has had to recuse himself from all involvement in the Curtis Park Village Project (Agenda Item 4.C.2.) because the project boundaries are close to his residence. He further explained there is a provision in the conflict of interest rules that states if one lives close to a project, it is assumed to be a conflict of interest.

Mr. Sheehy asked what is the total amount of the Authority's volume cap carry forward and if there are any inducements in the pipeline.

Mr. Paparian responded that the carryover is about \$750,000,000 and overall inducements total \$200,000,000 to \$300,000,000; there is at least that much in active interest coming forward for new inducements in the next few months.

Mr. Sheehy encouraged staff to review the Bond Program's fees because the Authority has \$750,000,000 of carry forward. He stated the Authority wants to ensure the use of its entire volume cap. Mr. Sheehy suggested that staff research if reducing fees for large entities would offer more incentive for them to participate in the Bond Program.

Mr. Paparian responded that staff will review its current fee structure and report back to the Board in June.

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

4. BUSINESS ITEMS

A. CALIFORNIA CAPITAL ACCESS PROGRAM (CalCAP)

1) Request to Approval to Transfer \$1,300,000 from the Authority's Small Business Assistance Fund (SBAF) to Provide Continued CalCAP Funding for Small Business in California

Staff requested the Authority approve a resolution authorizing the transfer of \$1,300,000 from its Small Business Assistance Fund (SBAF) to the program account for CalCAP Program Account. The transfer is necessary to continue the CalCAP Program at the anticipated demand levels.

Since the inception of the program, the Authority has approved the transfer of a total of \$37,000,000 from SBAF to the CalCAP program.

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CalCAP's account balance at Bank of New York Mellon Trust Company, N.A. (BNYM) as of April 30, 2009 was \$1,232,773.73. Since May 2008, the average monthly depletion rate of this account is \$196,629.76. However, regulation updates enacted in 2008 and recent CalCAP statute updates effective January 1, 2009, coupled with the downturn in the economy has resulted in CalCAP reducing its overall monthly expenditures for loan loss reserve contributions. From January 1, 2009 through April 30, 2009, the Authority contributed a total of \$511,557.43 to participating financial institutions loss reserve accounts. This is an average depletion rate of \$127,889.36 per month.

Considering the current average monthly depletion rate, staff projects the BNYM account will be exhausted by January 2010. Staff seeks to replenish the CalCAP account by \$1,300,000 and expects that this will carry the program through the end of Fiscal Year 2009/2010. Presented by Dona Yee.

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

Mr. Sheehy asked for clarification of the average monthly depletion rate experienced since May 2008.

Aaron Todd, Manager of the CalCAP Program, explained the rate is based on loan volume submitted by the lenders.

Mr. Sheehy asked what CalCAP's default rate is.

Mr. Todd responded that the initial default rate when he inherited the program was about 3%. He stated last year the claims doubled in comparison to previous years. Lenders are trying to work with the borrowers having difficulty whose problem loans have not matured enough to file a claim. It is expected that claims will be high again this year, and that it is not anything unusual that any lender would experience.

Ms. Redway asked if there were any further comments from the 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.

2) **Adoption of Permanent Regulations and Approval to Proceed with Permanent Rulemaking Process**

On January 28, 2009 staff received Board approval to amend and file emergency regulations with the Office of Administrative Law (OAL) to expand CalCAP and clarify items of interest. Staff requested approval of permanent regulations and for staff to complete the permanent rulemaking process. Changes consist of:

- 1) Revisions to the definitions of "Fees" and "Financial Institutions";
- 2) Addition of a *preferred lender status* for Participating Financial Institutions that choose to participate in Independent Contributor Programs; and

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3) Provision for Independent Contributors to reimburse the Authority for costs associated with administering Independent Contributor Programs.

The primary driver of these changes is the Authority's recent engagement by the ARB to provide assistance to small business truckers that have been impacted by their 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.

As the popularity and success of the CalCAP program grows the number of Participating Financial Institutions enrolled in the program increases. The proposed changes are designed to: (1) expand CalCAP for programs funded by Independent Contributors; (2) streamline regulation language and make it consistent with statutory changes that are currently being considered that will expand programs funded by Independent Contributors; and (3) clarify several items. The proposed amendments to the existing regulations are the result of conducting the emergency and permanent rulemaking processes with lenders, Independent Contributors and include staff recommendations.

Upon Authority approval, a permanent rulemaking file will be submitted to the OAL, and OAL has 30 business days to review the regulations for compliance with the Administrative Procedure Act and the Authority's statute. Once OAL approves the regulations, they are filed with the Secretary of State and become effective as permanent regulations 30 days later.

Staff recommended adoption of a resolution to amend the Authority's regulations for the CalCAP Program and authorize staff to proceed with the permanent rulemaking process and other actions related to the CalCAP regulation revisions. Presented by Aaron Todd.

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

Mr. Sheehy asked what process staff used to ensure the affected stakeholders had a chance to review the proposed regulations.

Mr. Todd responded that initially the regulations were posted to the state's register after which staff emailed all information (notice of intent to update the regulations, a red-lined version of the regulations, and the initial statement of reason) to all CalCAP contacts as well as Authority's list serve. Hard copies were mailed as well. The regulation changes were discussed in a lender roundtable where staff primarily discussed the ARB On Road Program. An email was sent advising all stakeholders that written comments were to be submitted to our office by May 25, 2009. A public hearing was also held in which no one attended.

Mr. Sheehy praised the thoroughness of staff in soliciting comments and responses from the program's stakeholders.

Ms. Redway asked if there were 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.

B. CONSIDERATION AND APPROVAL OF AWARDS UNDER THE CALReUSE REMEDIATION PROGRAM (PROP 1C)

Deana Carrillo, Manager of the CALReUSE Remediation Program, gave a brief overview of the recent activity within the program.

Ms. Carrillo said the program was funded with \$60 million from Proposition 1C, of which \$55 million has been made available for projects. In November 2008 CALReUSE awarded approximately \$53.8 million to 32 projects, which left approximately \$1.2 million to award to additional projects.

She said there are four CALReUSE agenda items on the today's agenda. Three of these projects are requesting funding and one is requesting an administrative change. Of the three projects requesting funds: two are new projects that submitted applications in December and have been on hold during the recent Pooled Money Investment Board and bond sale crisis; one is a previously approved project that has expanded its project and is requesting additional funds.

She noted that staff would be recommending approval of the requested grant amounts for all three projects; however, due to the finite source of funds only two projects would be fully funded. The third project will be partially funded. Staff recommends that the Board empower the executive director to shift any unused or returned funds from previous awards to this project if the funds become available.

With these awards CALReUSE will have exhausted the \$55 million available for funding remediation projects. Staff does not anticipate accepting any applications or requests for funds from the initial \$60 million allocation.

- 1) **S.V.D.P. Management, Inc., dba Father Joe's Villages** requested approval of a grant in an amount not to exceed \$582,500 to finance the remediation of a brownfield to develop the 15th and Commercial Project in San Diego, California. The applicant anticipates the project will create 140 affordable and rent-free rental housing units, 64 Affordable units and 75 rent-free units of transitional housing for homeless populations. The cleanup and construction will create 332 jobs of which 17 will be permanent. The project scored 103.6 out of a possible 105 points. Staff recommended awarding the full grant amount of \$582,500 to this project. Presented by Diana Michaelson.

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

Mr. Kleinberg suggested that the Board hear all three items before casting its vote.

With approval from legal council, it was agreed that testimony of all three projects could be heard before granting approval.

- 2) **Miramar Village Partners, LP and/or its Affiliates** requested approval of a grant in an amount not to exceed \$2,075,673 to finance the remediation of a brownfield to develop a 114-unit family housing apartment complex. The applicant anticipates the Infill Development Project will create 113 affordable rental housing units (and one manager's unit) at or less than

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60% of the Area Median Income. A total of 285 jobs will be created as a result of cleanup and construction. The project earned 90 out of a possible 105 points. Due to the amount of allocation currently remaining, only partial funding is possible at this time. Staff recommended approval of the full \$2,075,673 grant, with an initial funding of \$150,415 the Authority's Executive Director will be able to transfer the remaining portion of the award to the Project as Program funds become available. Presented by Diana Michaelson.

Mr. Sheehy asked if the resolution before him reflects the changes discussed in the staff briefing.

Mr. Paparian answered affirmatively. He continued to state that the Proposition 1C funds made available as a result of the recent bond sale do not cover the full \$55 million. The CALReUSE Program expects to receive up to \$37 million. The project proponents understand that in order to move forward and receive all funding for their projects, Proposition 1C funds will have to be made available and there is uncertainty as to when that will happen.

Mr. Sheehy asked whether the most recent bond sale would take care of the CALReUSE awards made prior to December 17, 2008.

Ms. Redway commented that both the Department of Housing and Community Development (HCD) and the Authority both made awards before December and there were not enough bonds sold to meet all of the award needs. The Public Finance Division (PFD) of the State Treasurers Office asked agencies to provide a project timeline for cash needs. The bond funds available will hopefully get both agencies' awards through January or February 2010. The Authority is expected to receive up to \$37 million which should provide for any awards that will actually come through the door asking for cash within the next six to seven months. She is hopeful that PFD will go back to the bond market in the fall and provide additional Proposition 1C funding so next spring there will be additional funds available for both HCD and the Authority.

Mr. Sheehy asked about the criteria used to allocate the \$37 million

Mr. Paparian responded that some projects take two to three years to complete and the Authority is reimbursing for costs incurred. The Authority should be able to fund the costs incurred through January 2010. Again, staff is making it clear that full funding will not be available until the next round of bonds are sold and the funds are made available by Department of Finance.

C. AMENDMENTS TO INFILL GRANT AWARDS UNDER THE CALReUSE REMEDIATION PROGRAM (PROP 1C)

- 1) **Sacramento Housing and Redevelopment Agency** requested approval to amend its Infill Grant awarded November 19, 2008 for \$218,150 to include an additional \$412,850 for a total amount of \$631,000. The increase will fund remediation of two additional parcels of the Brownfield Infill Project and create additional housing in an expanded Infill Development Project.

The applicant determined that for the project to remain viable, it will need to move forward as a larger one-phase project. The project will create 81 affordable housing units. The applicant represents that a total of 161 jobs will be created as a result of this project. Three of those are permanent. The score of the project is 104.3 out of 105 possible points.

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Staff recommended approval of the amended resolution for Sacramento Housing and Redevelopment Agency for an additional amount of \$412,850, for a total grant award not to exceed \$631,000. Presented by Samantha Russell.

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

Ms. Redway asked if there was a motion to move Items 4.B.1, 4.B.2 and 4.C.1.

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

- 2) **Calvine and Elk Grove-Florin, LLC (“CEGF”) and/or its Affiliates** requested approval to amend the specific legal entity that received an Infill Grant of \$4,018,066 awarded for the Curtis Park Village project from Petrovich Development Company, LLC to Calvine and Elk Grove-Florin, LLC.

Staff recommended approval of the Resolution transferring the previous award from Petrovich Development Company, LLC to Calvine and Elk-Grove Florin, LLC. Presented by Diana Michaelson.

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.

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 11:15 a.m.

Respectfully submitted,

Michael Paparian
Executive Director