

MINUTES

**California Pollution Control Financing Authority
915 Capitol Mall, Room 587
Sacramento, California
November 18, 2009**

1. CALL TO ORDER & ROLL CALL

Bettina Redway, Chairperson, called the California Pollution Control Financing Authority (CPCFA or Authority) meeting to order at 10:30 am.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer
Ruth Holton-Hodson 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 October 28, 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 over the past few years CPCFA has developed an ability to prepare reviews of new technologies that have not previously been funded by the authority. On occasion, the California Debt Limit Allocation Committee (CDLAC) has called on CPCFA to prepare a similar review for them when they are reviewing new technologies from other issuers. CDLAC did so a couple of years ago with an ethanol proposal. More recently, Samantha Russell of CPCFA prepared a review for CDLAC on desalination.

Mr. Paparian reported that SB 832 was signed by Governor Schwarzenegger in early November. As a result of changes authorized in the bill, staff has already enrolled one new lender in the California Capital Access Program (CalCAP) California Air Resources Board (ARB) diesel truck program and is expecting to enroll new loans in the coming days. Several truck manufacturer and truck lending companies have informed CalCAP staff that they will enroll in the program within the next few weeks.

On the federal level, the Internal Revenue Service (IRS) has proposed new regulations for Bonds for waste and recycling facilities. The new rules will make it easier for recycling entities to qualify for tax exempt bonds and should clarify and make easier financings for some biomass and other energy related projects. The new rules will be quite beneficial to California given our strong recycling, climate change and renewable energy mandates. CPCFA is the largest issuer of bonds in these categories in the country. As a result it is hoped CPCFA will have strong standing with the IRS. Staff is preparing comments on the regulations to submit to the IRS to encourage strengthening recycling biomass renewable energy facilities' ability to obtain tax exempt financing. These comments will be submitted by the IRS' deadline in early December.

Mr. Paparian reported CPCFA is expecting a flurry of activity in the next few weeks and expects to close about \$200 million in financings between now and the end of the year, bringing the total for the year for new and refunding financings to about \$300 million.

4. BUSINESS ITEMS

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

Presented by: Kamika McGill, Analyst

Staff requested approval to amend and file emergency regulations to clarify processes and improve CalCAP. Staff proposed modification of the regulations to update the definition of a "Qualified Loan"; put a time limit on Pre-Qualifications; eliminate the requirement for the Notifications of Change form; limit loans enrollment to ten years; conform the CalCAP Regulations to its statute, and limit reimbursements on claims. Upon approval staff will proceed concurrently with the emergency and permanent rulemaking process.

Staff began the process by compiling data on specific claims that raised issues and concerns. Staff identified areas of the claims process needing possible modification. Staff developed a survey for CalCAP lenders based on those specific areas and then distributed that survey to CalCAP's list of over 50 lenders. The goal of the survey was to solicit feedback on each lender's experiences with the claims process. Those experiences would help staff develop the draft of the proposed regulations. Staff held a lender roundtable conference call to provide an open forum for staff to present the proposed changes, discuss the survey, and solicit feedback from the stakeholders. In addition, the lenders were told they could submit written comments on the proposed regulations. No comments were received.

Staff sought direction from the Board on possible additional prohibitions for Qualified Loans. Examples recommended by staff included: aircraft, spas, bars, and adult entertainment. If the Board determined additional prohibitions, staff intended to pursue these in the permanent regulation process.

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

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Ms. Holton-Hodson asked how many comments and recommendations were received from the lender community, and how many were incorporated.

Ms. McGill responded that no comments had been received.

Mr. Paparian added that CalCAP staff held a stakeholder call with fourteen participating lenders. The lenders did ask for clarification on what was meant by a few of the changes; however, there were no objections.

Mr. Sheehy stated he understands the issue of excluding spas, some offer massage services, and massage parlors do not qualify. He also is aware that many hair salons offer spa services such as manicures and pedicures. He asked where the line is drawn between defining spas and hair salons.

Ms. McGill responded that when a loan is received and the name of the business has “salon” or “spa” in it, staff will visit the applicant’s website and look at the menu of services they provide. Staff can then make a determination based on the services offered.

The Board did not have any further suggestions for the list of excluded businesses.

Ms. McGill continued with her report. The next change staff proposed was to conform the regulations to statute, which allows the Executive Director to sweep 100% of the interest earned on the loss reserve accounts. This will bring revenue into CalCAP.

Next staff proposed a limit for the reimbursement on claims. Currently, CalCAP reimburses its lenders the principle, outstanding balance, accrued interest and any out-of-pocket expenses. Reimbursements would be limited to the enrolled loan amount.

Finally, staff proposed eliminating a requirement for lenders to submit a Notification of Change form when certain conditions apply to a loan; the purpose is to reduce unnecessary paperwork.

Ms. Redway pointed out that the new regulations would also limit the term of a loan to ten years.

Mr. Paparian added that the time of prequalification for a loan would be limited to six months.

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

Ms. Redway asked if there was a motion.

Ms. Holton-Hodson moved approval of the item; upon a second, the item was unanimously approved.

B. REQUEST TO APPROVE AMENDMENT TO THE INTERAGENCY AGREEMENT WITH THE CALIFORNIA AIR RESOURCES BOARD (ARB) REGARDING THE CALCAP INDEPENDENT CONTRIBUTOR PROGRAM

Presented by Nancee Trombley, Analyst

CalCAP assists small businesses in obtaining financing. The California Air Resources Board (ARB) participates in CalCAP as an Independent Contributor. Through an Interagency Agreement with CPCFA, ARB allocates up to \$1,000,000 toward the Independent Contributor program to assist off-road diesel equipment operators in complying with new air quality regulations. The proposed addendum to the Agreement would expand the program to all of California and extend the term of the Agreement through February 28, 2016.

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

Mr. Sheehy asked for a refresher of why the program was to be expanded for six more years.

Ms. Redway explained that ARB extended its compliance deadlines. CalCAP is responding to ARB's changes.

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

Ms. Redway asked if there was a motion.

Ms. Holton-Hodson 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) Pleasanton Garbage Service, Inc.

Presented by Samantha Russell, Analyst

Staff introduced Mark Holmstedt of Westhoff, Cone & Holmstedt.

Staff requested approval of an Initial Resolution for an amount not to exceed \$2,555,000 to finance the acquisition and installation of new equipment and the purchasing of new Compressed Natural Gas (CNG) vehicles. The company provides refuse and disposal services in Pleasanton, CA. The company anticipates that the project will provide waste diversion, air quality, and water quality benefits.

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

Mr. Sheehy asked if all funding was going for vehicles.

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Mr. Holmstedt responded no, approximately half of the money is going for the upgrade of a sort line to increase diversion, the other half is for vehicles.

Mr. Sheehy asked if the maturity of the bonds will be matched to the estimated life of the vehicles.

Mr. Holmstedt responded yes, that is required by federal tax law.

Ms. Redway asked if there were any further comments from the Board, the company or the 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) **Crown Disposal Co., Inc.**

Presented by Samantha Russell, Analyst

Staff introduced Tony Cone of Westhoff, Cone & Holmstedt.

Staff requested approval of an Initial Resolution for an amount not to exceed \$48,970,000 to finance:

- construction at the company's Sun Valley Materials Recovery Facility and Lamont locations;
- purchase or renovation of equipment at various locations;
- purchase of vehicles and trailers for various locations; and
- construction of a facility to recycle waste mixed film plastic at its Lamont location.

The company anticipates that the project will provide waste diversion, improve air quality, and increase the recycling of commodities.

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

Ms. Holton-Hodson asked how much energy the biomass energy facility produces.

Mr. Cone responded he does not know precisely but would assume a few mega watts each. He stated he would get the information and forward it to staff.

Ms. Holton-Hodson asked if the energy produced supports the working of the plant or if the energy goes beyond that.

Mr. Cone answered that the energy is sold. The plants have existed for about 25 years, and the company is making improvements to them.

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

Ms. Redway asked if there was a motion.

Ms. Holton-Hodson moved approval of the item; upon a second, the item was unanimously approved.

D. REQUEST TO APPROVE AMENDMENT AND RESTATEMENT OF INITIAL RESOLUTION REFLECTING OFFICIAL INTENT TO ISSUE REVENUE BONDS

1) Recycling Industries, Inc.

Presented by Doreen Smith, Analyst

Staff introduced Tony Cone of Westhoff, Cone & Holmstedt.

Staff requested approval of a restatement and amendment to Initial Resolution Number 04-17 for an amount not to exceed \$5,780,000 to finance land and building acquisition, building rehabilitation and equipment purchases. The company provides material collection and processing services and anticipates that the project will provide waste diversion, air quality, water quality and recycling benefits.

The Initial Resolution was approved on December 14, 2004 for a similar project at a different location and for an amount not to exceed \$4,525,000. That resolution expired on December 14, 2007. The company requested an amendment to and restatement of the Initial Resolution for a new project location, and to increase the amount of the Initial Resolution. To the extent consistent with federal tax law, this Amended and Restated Resolution will relate back to December 14, 2004 and will replace the Initial Resolution.

Ms. Redway asked if there were any further comments from the Board, the company or the 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. CLOSED SESSION

- 1) Litigation (Government Code section 11126(e)(1)). Conference with Legal Counsel. The Authority may decide whether to initiate litigation as authorized by Government Code section 11126(e)(2)(C). The closed session began at 10:52 am. and ended at 11:44 am.

7. RECONVENE OPEN MEETING

8. ADJOURNMENT

There being no further business, public comments, or concerns, the meeting adjourned at 11:45 a.m.

Respectfully submitted,

Michael Paparian
Executive Director