



May 22, 2017
Felicia Marcus
Chair, State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Sent Via electronic mail

Re: Comment Letter – June 20, 2017 Board Meeting – FFY 2017 CWSRF IUP

Dear Chair Marcus and board members,

On behalf of the above-listed organizations, we would like to offer the following comments on the draft Intended Use Plan for the Clean Water State Revolving Fund and Proposition 1, Chapter 5 (section 79723). Our organizations work on behalf of disadvantaged communities in California, and therefore focus these comments on the collection and disbursement of funds in Small Community Wastewater Grant program, which has been significantly augmented by funding from Proposition 1, as well as other investments that include Principal Forgiveness and the Small Community Grant Fund.

By section, we have the following specific questions or comments:

I.B. Connections to Other Plans, Goals, and Programs of the State Water Board and the California Environmental Protection Agency (CalEPA)

We appreciate the reference to the Water Code 106.3, the Human Right to Water. This reference should be augmented by reference to the State Board’s Resolution #2010-0010 “ADOPTING THE HUMAN RIGHT TO WATER AS A CORE VALUE AND DIRECTING ITS IMPLEMENTATION IN WATER BOARD PROGRAMS AND ACTIVITIES.” In particular, the resolution directs staff to take specific actions to implement the Human Right to Water. Of special importance for inclusion in this document are directives to State Board staff to “work with relevant stakeholders and develop performance measures for the evaluation of the board’s progress towards the realization of the human right to water, evaluate that progress, and explore ways to make that information more readily available to the public.”

II. WATER QUALITY FINANCING NEEDS

B. Project List

The Board’s Small Community Wastewater Strategy requires staff to “Develop a list of the small and/or disadvantaged communities in need of assistance, quantify their needs, identify immediate priorities, and determine how best to address them with available resources.” Unfortunately, that list, once publicly available on the Small Community Wastewater Grant Program website, is no longer

available and the Project List linked to this section provides no information on whether or which communities the communities on the list qualify for principal forgiveness or Proposition 1 wastewater grant funds.

C.3. Climate Change

After years of addressing drought, we saw this year that flood is a critical component of climate change, and climate resilience must address vulnerability to flood impacts. Communities reliant on inadequate septic systems or other onsite disposal systems are most vulnerable to increased contamination and pollution from flood and high water years. The IUP should include among its climate resilience goals a goal of protecting disadvantaged communities from increased contamination risks associated with high precipitation levels.

II.C. STATE WATER BOARD GUIDANCE

1. Small and/or Disadvantaged Communities (DACs)

We find this IUP and the identified strategy documents to be inadequate. The document references documents a decade old, with updates adopted on a patchwork basis. The Small Community Wastewater strategy was a valuable document, but its goals and strategies are outdated. The Office of Sustainable Water Solutions should be able to provide valuable information on projects in the pipeline, allowing staff to better program resources for future years. Yet the Office is mentioned only in passing (see footnote 26) and is not referred to at all in terms of developing or implementing strategies to assist small communities. We urge the Board to direct staff to develop a new Small Community Wastewater Strategy that integrates the capacity and resources of the CWSRF, the Office of Sustainable Water Solutions, and Proposition 1.

C. Financial Outlook

2. CWSRF Principal Forgiveness

We take exception to the assumption by staff that the availability of funding from Proposition 1 negates the need to use principal forgiveness for small community projects. At a minimum, staff should work with the Office of Sustainable Water Solutions to identify eligible conservation, and stormwater projects that benefit disadvantaged communities. More importantly, as noted above, staff should develop a long-term funding strategy that identifies small community needs and matches those needs with available funding sources.

3. Proposition 1 a. Small Community Grant Fund

While we appreciate that the Small Community Grant fee in-lieu of interest will be reinstated this, we reiterate our concern that funding decisions are being made with no publicly available information about the level of need.

V. Outcomes, Goals, Activities, and Measures

We appreciate the inclusion of this section in the plan, as well as a specific citation to “Invest in DACs disproportionately affected by pollution and water contamination.” We also appreciate targeted funding to DACs included as a goal.

Unfortunately, the Plan fails to identify activities linked to this goal. May we suggest the following:
Activities:

1. Complete a statewide analysis of communities without adequate wastewater service.
2. Complete a multi-year (2-4 year) projection of anticipated DAC wastewater needs.
3. Work with regional boards and / or county agencies to identify and contact communities with failing septic systems or otherwise inadequate wastewater treatment and disposal facilities;
4. Work with regional boards and / or county agencies to identify opportunities to address the needs of a DAC through consolidation;
5. Prioritize funding for DACs and SDACs facing a potential health threat due to inadequate wastewater treatment and disposal;
6. Prioritize funding for consolidations of DACs and SDACs reliant on failing septic systems or otherwise inadequate wastewater treatment and disposal facilities;
7. Incentivize consolidations by applying applicable grant and principal forgiveness standards to the community that is being consolidated, not the city or district that will be taking on a new system (e.g. if a city of 100,000 consolidates a SDAC with 2,000 connections, the project should be eligible for 100% grant funding);
8. Incentivize consolidations by conditioning funding on an applicant's initiation of a consolidation project, if a consolidation project is feasible. For example, if a city seeks funding to expand capacity of its wastewater system, the Water Board should condition funding the city's agreement to extend its wastewater service to nearby communities without adequate wastewater service;
9. Incentivize consolidations by allowing planning grants of greater than \$500,000 for projects that include more than one community.

In addition to targeted funding amounts for Disadvantaged Communities

1. Provide technical assistances to 50 communities;
2. Provide planning grants to 40 communities;
3. Move at least 20 projects from planning to construction.
4. Fund at least 5 consolidation projects that increase the sustainability of DACs

VII. Tables and Eligibility

Table 2 provides a great snapshot of CWSRF activities and provides an abundance of information. To expand the utility of the table, we would appreciate a footnote defining each Project Class, a specification of which projects are planning projects and which are construction, and explanation of whether the identified projects benefits severely disadvantaged communities, disadvantaged communities, or communities impacted by high wastewater rates. We would also appreciate an additional table in this section that identifies projects dropped due to non-responsiveness or resolution in the past year.

Table 4a and 4b indicate the Board's continuation of a policy with which we strongly disagree; requiring DACs to take a partial loan to complete their project. We appreciate the exceptions identified in the footnotes, but feel that requiring a percentage loan for a project regardless of ability to pay is inequitable. In every case, these communities are agreeing to pay higher rates to maintain their upgraded system. In addition, the Board should, as a matter of sound policy, ensure that that the projects are cost effective. The logic behind requiring a community to pay disproportionately higher rates is unsound.

Additionally, as noted above limits on planning grants should be applied to communities, not projects in order to facilitate efficient regional planning and investment. If a project seeks to extend wastewater service to two or more communities, the applicant should not be limited to \$500,000. The limit should instead be applied on a per community, not per project basis.

Thank you for providing us with an opportunity to comment in this plan. We look forward to working with you to make good projects happen.

Sincerely,

Jennifer Clary, Clean Water Fund

Phoebe Seaton, Leadership Counsel for Justice and Accountability

Deborah Ores, Community Water Center