



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

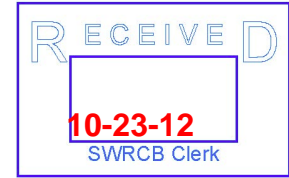
FIGHTING FOR JUSTICE, CHANGING LIVE



COMMUNITY
WATER CENTER
EL CENTRO COMUNITARIO
POR EL AGUA



CLEAN WATER



CALIFORNIA

October 24, 2012

State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Sent via Electronic Mail

Re: Comments to Draft California CWSRF Intended Use Plan, FFY 2013

Dear Board Members:

Thank you for the opportunity to comment on the proposed Draft California CWSRF Intended Use Plan, FFY 2013.

California Rural Legal Assistance, Inc. is a statewide organization, representing low income individuals, families, and communities throughout rural California. Specifically, our Community Equity Initiative seeks to address and eliminate infrastructure and service disparities and deficiencies in disadvantaged, low income communities and, accordingly, address and eliminate barriers to necessary funding and financing for basic infrastructure and services. Hundreds of thousands of Californians, disproportionately those in small, disadvantaged communities in rural areas, live without adequate - or any - wastewater collection, wastewater treatment or storm water drainage infrastructure, threatening the health of their families and communities.

Small Community Wastewater Strategy

We appreciate that the Draft IUP identifies the State Water Board adopted *Small Community Wastewater Strategy* as a state water quality guidance factor. We suggest that the IUP specifically address how and through what mechanism it will alleviate the challenges identified in the *SC Strategy* specifically for small disadvantaged communities beyond the Principal Forgiveness and Small Community Grant budget allotment and financing methods currently identified in the IUP.

Resources – Organization, Program Resources, and Skills

The draft IUP identifies only one unit of staff out of 19.4 of PYs for Water Resources Control Engineers to manage project applications from small, disadvantaged communities. We suggest that the IUP augment the amount of PYs dedicated to targeted outreach, supporting and developing the design of both planning and construction applications, and support in navigating the process specifically for small disadvantaged communities. Small disadvantaged communities typically lack the expertise and/or funds to adequately engage and submit applications to meet dire wastewater and storm water needs.

The IUP identifies 1.4 million dollars to be budgeted for contracted services that include outside contractors for technical assistance to small disadvantaged communities. We suggest that the IUP identify and increase the total amount budgeted for technical assistance for these communities. It has been our experience in the San Joaquin Valley and East Coachella Valley that many communities would continue to rely on dilapidated septic systems that contaminate groundwater and pose serious public health risks to communities if it were not for organizations like Self-Help Enterprises and Pueblo Unido Community Development Corporation that support and collaborate with communities to secure much needed wastewater infrastructure funding. We suggest that the total budgeted amount for such services be increased to expand this service in the San Joaquin Valley but also in other areas such as the Eastern Coachella Valley and Central Coast.

Overall Funding Approach

The IUP states that the CWSRF Policy establishes funding priorities based on public health and water quality factors as well as “on an as-ready basis.” The preference for funding projects “on as ready basis” negatively impacts the ability of small, disadvantaged communities from accessing necessary funds due to the lack of technical assistance and financial resources available get projects to a "ready to proceed" stage in disadvantaged communities and perpetuates decades of lack of investment in such communities, exacerbating existing wastewater management deficiencies. Furthermore it undermines several of the stated goals of the CWSRF program including the goal to reduce or eliminate the disproportionate impacts of pollution on low-income and minority populations.

While we understand the rationale that there is a greater water quality benefit from funding an eligible project that is ready to proceed than there is holding cash for higher priority project that is not ready to proceed, we strongly suggest that the State Water Board amplify its efforts in targeted outreach, augment budget amounts for technical assistance providers, increase the number of PYs dedicated to processing applications, and allocate a greater percentage of principal forgiveness funds all to meet the needs of small disadvantaged communities and provide them with the opportunity to be “ready to proceed.” As previously mentioned, small disadvantaged communities are increasingly at risk due to inadequate septic systems and would greatly benefit from additional dedicated resources. Supporting communities in the early planning stages for funding would allow them to be ready to proceed and would also support the SWRCB meet the high priority water quality needs throughout California.

Prioritization of Disadvantaged Communities

Most Beneficial Projects should include investment in DACs

Despite the clear and critical need for technical assistance, pre-construction and construction funding to improve water quality and public health in small and disadvantaged communities, the IUP's stated outcome and measurement under the heading "Fund the Most Beneficial Projects" does not include investment in disadvantaged communities as among the most beneficial projects as a short or long term goal. We suggest the addition of a bullet 5; "Promote short and long term investment through the SRF in disadvantaged communities impacted by or at risk of pollution and water contamination." We also suggest the development of performance measures that adequately assess success and to ensure consistency with the *Small Community Wastewater Strategy*.

Well Known and Respected Products

As stated in this section of the IUP, it is a long term goal to provide good service with a special emphasis on disadvantaged communities. However, in its current form, the draft IUP does not provide information on how the CWSRF Program intends to provide good service with special emphasis. We suggest the IUP include a section in which good service with special emphasis on disadvantaged communities is defined and strategies to do so are identified. As it stands, it is unclear what baseline will be used to meet or how the program will meet its own performance measure of funding 25% of projects in disadvantaged communities.

We suggest the following strategies to ensure that at least 25% of projects, if not more, assist disadvantaged communities (a) specifically target small and disadvantaged communities through outreach and other mechanisms to submit applications; (b) increasing the percentage of loan financing as extended term financing; (c) relaxing local match requirements of funding of projects in disadvantaged communities; (d) effectively target the grant and principal forgiveness (PF) to those communities most in need of grant funding and PF (see below); (e) Include preferences for projects that assist disadvantaged communities even if the applicant is not a disadvantaged community (for examples, cities, special districts, and counties that extend wastewater and stormwater service to disadvantaged communities); (f) Relax the limitation on how much funding an agency can receive per year if an agency is targeting its CWSRF funds to assist disadvantaged communities; (g) increase the amount of PYs dedicated to assisting and processing applications for small disadvantaged communities.

Marketing and Outreach

In order to attract high value projects that support the policies and goals of the State Water Board the CWSRF program should develop marketing and outreach strategies that are accessible and relevant to small disadvantaged communities. As currently drafted, the IUP does not specifically state what strategies the CWSRF Programs will use to attract high value projects from disadvantaged communities. Many wastewater services providers are volunteers from these very communities without strong backgrounds in waste water service provision and without expertise to navigate large capital infrastructure financing programs. Targeting strong outreach strategies to these communities would most definitely increase the number of applications submitted by disadvantaged communities. Such strategies would also allow the CWSRF to meet and exceed their goal to fund at least 25% of projects in disadvantaged communities.

Targeting Principal Forgiveness and Small Community Grant assistance

Principal Forgiveness (PF) and grant funds are critical to ensuring that needed projects are accessible and affordable in small, disadvantaged and severely disadvantaged communities, including "Polanco parks" and other mobile home parks. As such, those funds could better target communities that simply cannot address wastewater needs without 100% PF and grant

funds. One way to move in this direction would be to increase the share of total available PF allotted to projects in Category 1 of Table 4 from 60 percent to 75 percent.

Many small severely disadvantaged communities are currently unsewered. We recommend targeting more affordable funding to these communities which are often in rural areas. Towards that end, we support Draft IUP Table 5, Category 1, Exceptions: (v) which states,

“For projects that connect previously unsewered areas or join communities to create or broaden a regional wastewater or storm water works, consistent with the CWSRF Policy’s sustainability provisions, if the community that will be served by the project does not have wastewater rates and charges in place, but would otherwise qualify for “Category 1a,” that community may receive 100 percent of eligible planning costs, not to exceed \$500,000 in PF/Grants, for planning activities. “

In addition, these communities need assistance to obtain affordable construction funding due to; the distance to existing sewer systems; difficulty in developing new WWTP sites (when consolidations are not an option); additional costs of abandoning existing septic systems and connecting homes to new community sewer systems; and the payment of capacity fees in order to connect to existing systems.

Additional Considerations to Assist Disadvantaged Communities

Governor’s Drinking Water Stakeholder Group

As you may be aware, California Rural Legal Assistance, Inc, Clean Water Action, and Community Water Center participated in the Governor’s Drinking Water Stakeholder Group with other state agencies, including the SWRCB, to identify specific, creative, viable solutions focused in two critical areas; covering the costs of operations and maintenance for small systems, while maintaining affordable water rates; and state agency actions to make funding programs, regulations, and implementation more flexible and proactive in supporting creative solutions. The Stakeholder Group identified a number of short and long term recommended actions to address drinking water needs in disadvantaged unincorporated communities. As some of these recommendations can help meet the water quality goals of the SWRCB, we recommend that the SCWRCB consider implementing the following recommended actions in the administration of the CWSRF Program:

1. Identify water supply needs and potential opportunities for promoting and incentivizing sustainable local water quality solutions for disadvantaged communities in unincorporated areas;
2. Support and fund project planning to foster local, sustainable solutions (including, but not limited to, shared solutions, inter-community planning facilitation, engineering, legal, financial or managerial analysis, environmental documentation, and other project development activities);
3. Improve accessibility of funding pathways for shared services/facilities projects in communities with highest public health priority as identified by regulatory agencies;
4. Promote and incentivize more robust investigation of shared solutions as part of feasibility or planning studies; and,
5. Create an interagency team (or “one stop shop”) of existing staff to provide technical assistance, professional services, and general guidance to small communities trying to navigate funding and application requirements.

Assessing Income of Small Communities

As you may be aware, there are a number of small communities for which accurate income data is not available and/or American Community Survey data is significantly inaccurate. As we understand, existing guidelines for assessing a community's income require that for a community of 3300 connections or less each household must be contacted. This requirement becomes a significant barrier for communities attempting to obtain 100% grant financing packages. We suggest the SWRCB develop and offer a more flexible, reasonable, and coordinated effort to assess, track, and report community income assessments. We also recommend that increased funding is made available for small disadvantaged communities and technical assistance providers to conduct these assessments. Increased flexibility allows small communities to adequately assess household income and be eligible for 100% grant and principal forgiveness grant financing for capital costs to avoid prohibitive wastewater rates for capital improvements

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The Clean Water State Revolving Fund is increasingly the only funding available for low income communities to address their critical wastewater and storm water drainage needs. By targeting more resources, especially technical assistance, extended term financing, principal forgiveness and grants, and funding for preconstruction activities, the CWSRF can make significant strides in creating healthier and more sustainable communities throughout California.

Sincerely,



Veronica Garibay
California Rural Legal Assistance, Inc.



Jennifer Clary
Clean Water Action



Laurel Firestone
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