



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Financial Assistance

1001 I Street • Sacramento, California 95814 • (916) 341-5700
Mailing Address: P.O. Box 944212 • Sacramento, California 94244-2120
Fax (916) 341-5707 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

NOTICE OF OPPORTUNITY TO COMMENT

CONSIDERATION OF AN ITEM TO CLARIFY IMPLEMENTATION OF AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) SUBSIDY FUNDS FOR CLEAN WATER STATE REVOLVING FUND (CWSRF) PROJECTS

NOTICE IS HEREBY GIVEN THAT the State Water Resources Control Board (State Water Board) is considering an item to clarify the process and criteria for prioritizing CWSRF projects for ARRA subsidy funding at the June 16, 2009 Board Meeting. Attached is a copy of the proposed Board Item for your review and comment.

Written comments should be submitted as early as possible, but **must be received by noon on Wednesday, June 10, 2009**. Please indicate in the subject line: "**Comment Letter – ARRA Subsidy**". Please note comments received after the deadline will not be considered. Written comments should be directed to:

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 "I" Street, 24th Floor
Sacramento, CA 95814
FAX: (916) 341-5620
email: commentletters@waterboards.ca.gov.

Oral comments may be directed to the State Water Board at its June 16, 2009, Board Meeting.

PARKING AND ACCESSIBILITY

All visitors are required to sign in and receive a badge prior to attending any meeting in the Cal/EPA building. The Visitor and Environmental Services Center is located just inside and to the left of the Cal/EPA Building's public entrance. Valid picture identification may be required due to the security level. Please allow up to 15 minutes for this process. Public parking is available in the City of Sacramento Garage on I Street between 10th and 11th Streets. Metered parking spaces are available on area streets. The Cal/EPA building is accessible by bus and light rail lines operated by Sacramento Regional Transit. The Cal/EPA building Hearing Rooms are accessible to persons with disabilities.

CONTACT PERSON

Any questions regarding this issue should be directed to Mr. Ahmad Kashkoli at (916) 341-5855 or by email at akashkoli@waterboards.ca.gov. Individuals who require special accommodations are requested to contact Ms. Catherine Foreman at (916) 341-5881 or cforeman@waterboards.ca.gov prior to the meeting date. TTY users may contact the California Relay Service at (800) 735-2929 or voice line at (800) 735-2922.

Date

May 29, 2009

Jeanine Townsend
Clerk to the Board

California Environmental Protection Agency



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STATE WATER RESOURCES CONTROL BOARD BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE JUNE 16, 2009

ITEM

SUBJECT

CONSIDERATION OF A RESOLUTION TO CLARIFY IMPLEMENTATION OF FEDERAL ECONOMIC RECOVERY LEGISLATION FOR THE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM

DISCUSSION

On March 17, 2009, the State Water Resources Control Board (State Water Board) adopted Resolution 2009-0027 to provide direction to staff to implement the American Recovery and Reinvestment Act of 2009 (ARRA) for the CWSRF Program. ARRA requires that the CWSRF Program use at least 50 percent of the funds to provide principal forgiveness, negative interest rates, or grants (Subsidy Funds). [Resolution No. 2009-0027](#) allocated 25 percent (\$70 million) as Subsidy Funds to projects that lost previously committed state grant funding (Restart Projects), and 25 percent (\$70 million) as Subsidy Funds to Disadvantaged Community (DAC) Wastewater projects. Starting May 17, 2009, Subsidy Funds not allocated to Restart Projects would be available for new Expanded Use Projects (i.e., nonpoint source, estuary, and stormwater projects eligible for CWSRF funding). Resolution No. 2009-0027 also authorized up to 15 percent [\$42 million (the Additional 15 Percent)] to be allocated to the DAC or Restart Project categories as Subsidy Funds at the discretion of the Executive Director in consultation with the State Water Board Chair and Vice Chair.

The Division of Financial Assistance (Division) expects to execute agreements for all of the \$70 million of Subsidy Funds to DAC Wastewater projects by the September 1, 2009, date specified in Resolution 2009-0027.

When the bond-funded Restart Projects were suspended, the State Water Board had over 200 projects with outstanding grant balances of approximately \$185 million that were frozen. Following the March 17, 2009, State Water Board meeting, Division staff worked closely with the U.S. Environmental Protection Agency (U.S. EPA) and the Restart Project applicants to determine which projects would proceed with ARRA funds. Many projects did not have sufficient implementation tasks remaining to be eligible for ARRA. Others could not enter into a principal forgiveness financing agreement, and others did not want to accept the additional ARRA conditions. On April 22, 2009, the Governor announced that bond-funded projects that had been suspended could restart. As a result of this announcement, some applicants chose to resume the projects with bond funds. The Division estimates that the Restart Projects will use about \$67 million of the ARRA Subsidy Funds leaving approximately \$3 million for new Expanded Use CWSRF projects.

Resolution No. 2009-0027 also provides that when the state resumes bond sales, the State Water Board will revisit the allocation of grants under the various bond programs to take account of subsidies provided for stopped grant projects, with the intent of promptly allocating new grants funds. Although the state has resumed bond sales, there is currently insufficient information about the timing of new appropriations, and the affected bond programs to revisit grant allocations.

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Issue 1: Whether to use the Additional 15 Percent for new Expanded Use or DAC Wastewater Projects

The Division has received an overwhelming number of applications requesting both loan and Subsidy Funds. As of May 1, 2009, the Division had received the following requests:

- Expanded Use Projects – over \$150 million
- DAC Wastewater - over \$250 million
- Wastewater/Water Recycling - over \$1.5 billion

Given the high demand for funds in all three categories of projects, Division staff considered the following options for ways to allocate the potential Additional 15 Percent ARRA funds.

OPTION 1A: Equally split Additional 15 Percent as Subsidy Funds to new Expanded Use and DAC Wastewater Projects

In this scenario, \$21 million would be allocated as Subsidy Funds to new Expanded Use Projects, in addition to any unused Subsidy Funds from the Restart Projects. Disadvantaged Community Wastewater Projects would receive an additional \$21 million in Subsidy Funds for a total of \$91 million in Subsidy Funds.

OPTION 1B: Allocate Additional 15 Percent as Subsidy Funds to new Expanded Use CWSRF Projects

In this scenario, \$42 million would be allocated to new Expanded Use Projects in addition to any unused Subsidy Funds from the Restart Projects. DAC Wastewater Projects would receive a total of \$70 million Subsidy Funds.

OPTION 1C: Allocate Additional 15 Percent ARRA as Subsidy Funds to DAC Wastewater Projects

In this scenario, DAC Wastewater Projects would receive a total of \$112 million in Subsidy Funds, and new Expanded Use Projects would receive an estimated \$3 million.

Division staff recommends Option 1A to equally split the Additional 15 Percent Subsidy Funds between new Expanded Use and DAC Wastewater Projects.

Issue 2: Process and Criteria for Allocating ARRA Funds to new Expanded Use Projects

Depending on which option the State Water Board authorizes for Issue 1, new Expanded Use Projects would be allocated between approximately \$3 million and \$45 million. In order to determine which projects would receive funding, staff developed options for prioritizing or ranking new Expanded Use applications. In developing the options, staff categorized the submitted applications based on the type of project and based on construction dates. Staff excluded wastewater projects, water recycling projects and projects to repair or install sewer laterals from consideration as Expanded Use projects. Staff considered the amount of grant funding the State Water Board has provided to the various project types since 2000, and other potential criteria including unemployment rates and whether the project serves a DAC.

Staff also considered whether the project had funds that had been awarded to it from either a State Water Board or other agency grant program.

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Urban stormwater projects have not received as much grant funding through the State Water Board Nonpoint Source (NPS) solicitations as other categories of NPS. This is in part due to ineligibility of urban stormwater projects for some of the funding programs. Table 1 provides information on the types of projects submitted for Expanded Use CWSRF funds, and the grant funding the State Water Board has provided to these project types through its NPS solicitations since 2000.

Project Type	CWSRF Expanded Use Applications	State Water Board NPS Grant Funds since 2000
Urban Stormwater	\$88,852,034	\$42,070,145
Forestry	\$23,810,901	\$30,705,040
Agriculture and Other NPS	\$73,273,672	\$ 118,969,850
TOTAL	\$185,236,607	\$191,745,035

To determine which projects would receive funding, staff proposes to rank the projects based on the option approved by the State Water Board. The top ranked projects on the list would be allowed to compete for the funds. The list will include more projects than there are funds available. The list will contain projects totaling at least 125 percent of the available funds. Projects will be awarded funds as applications are completed until funds are exhausted or until August 31, 2009. Completed application means that all environmental compliance documents are submitted and accepted by the Division, all permits are in place, an acceptable scope of work and authorizing resolution has been received by the Division, and all other application documents have been submitted and accepted by the Division.

OPTION 2A: Funding priority for projects with earliest construction start date

Projects would be ranked based on their construction start date, regardless of project type, or applicant.

OPTION 2B: Funding priority for urban stormwater projects with earliest construction date

Funding would be reserved for urban stormwater projects. Urban stormwater projects include traditional structural solutions such as installation of screens and diversions, as well as low impact development to install curbside rain gardens, vegetated swales, and other green solutions to control and treat stormwater. The projects typically address multiple contaminants.

OPTION 2C: Funding priority for urban stormwater projects serving Disadvantaged Communities with earliest construction dates

Funding would be reserved for eligible urban projects, but projects serving DACs would be given preference in the ranking.

OPTION 2D: Funding priority for projects serving communities with high unemployment rates and earliest construction dates

Projects would be ranked by the highest county unemployment rate, using data for the month of May 2009, regardless of project type.

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Division staff recommends prioritizing funding for urban projects (Option 2C) serving DACs. This approach will help balance out the substantial amount of State Water Board funding already awarded to forestry projects, as well as provide Subsidy Funds to applicants that historically have had difficulty accessing CWSRF funds. Coincidentally, the urban stormwater project applications received also are among those most ready to proceed to construction, and are located in counties with unemployment rates ranging from 9 percent to 20 percent. In addition, the urban stormwater projects provide multiple water quality benefits by reducing sediment, trash and other pollutants, restoring natural hydrology, and reducing the cost of traditional pipe and pump solutions by treating water onsite.

In addition, Division staff recommends that individual new Expanded Use Projects receive a maximum of \$5 million in Subsidy Funds per project, consistent with the Restart Projects. To encourage regional solutions, staff recommends that regional watershed-based projects serving DACs receive a maximum of \$10 million in Subsidy Funds. If the applicant cannot qualify for low-interest long-term financing or provide match for the remaining amount of the project, the project could be scaled back to the Subsidy Funds amount. If a project scope is reduced, the project should focus on the greatest pollutant removal.

POLICY ISSUE

Should the State Water Board:

1. Allocate 15 percent (\$42 million) of ARRA funds as Subsidy Funds divided equally between the DAC Wastewater and new Expanded Use Projects?
2. Allocate funds to new Expanded Use Projects by prioritizing urban stormwater projects serving DACs?
3. Direct staff to develop a Competitive Project list with new Expanded Use urban projects totaling at least 125 percent of the available funding? Projects would be ranked based on earliest construction date.
4. Limit Subsidy Funds for new individual Expanded Use Projects to \$5 million per project?
5. Limit Subsidy Funds for regional projects serving DACs to \$10 million?
6. Authorize the Deputy Director of the Division to award funds to new Expanded Use Projects in the order complete applications are received?
7. Authorize the Deputy Director of the Division to execute individual CWSRF financing agreements for new Expanded Use Projects as projects submit complete applications until funding is exhausted?

FISCAL IMPACT

The available CWSRF cash over the next four years, including ARRA funds, is approximately \$685 million according to current cash flow projections as seen in the table below. Providing \$182 million in Subsidy Funds will leave approximately \$503 million for low-interest financing over the next four years.

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CWSRF Project Four Year Cash Flow Projection

(as of 04/20/2009)	SFY 2008-09	SFY 2009-10	SFY 2010-11	SFY 2011-12
Beginning Balance:	\$307,959,193	\$385,868,752	\$393,719,873	\$485,821,596
Estimated Repayments	\$201,878,740	\$217,993,377	\$227,993,377	\$237,993,377
Debt Service on Revenue Bonds	(\$31,893,104)	(\$31,758,441)	(\$31,456,429)	(\$30,228,204)
Estimated Capitalization Grants (less admin)	\$46,965,399	\$46,720,999	\$37,000,000	\$32,000,000
Economic Stimulus Grant (less admin)	\$269,074,368			
State G.O. Bond proceeds (less state admin. match)	\$13,414,123	\$0	\$0	\$0
Local Match Credits	\$23,588,076	\$6,011,998	\$5,083,435	\$5,083,435
Est. SMIF Interest:	\$10,674,552	\$10,000,000	\$10,000,000	\$8,000,000
Estimated Disbursements	(\$455,792,596)	(\$241,116,812)	(\$156,518,661)	(\$52,860,956)
Subtotal	\$385,868,752	\$393,719,873	\$485,821,596	\$685,809,249

The economic recovery legislation provides up to four percent of the federal grant for state administrative costs. This will be sufficient to fund the necessary positions to implement the economic recovery legislation.

REGIONAL BOARD IMPACT

Expenditure of the ARRA funds will support implementation of Regional Water Quality Control Board's basin plans and enforcement efforts.

STAFF RECOMMENDATION

The State Water Board should:

1. Allocate 15 percent (\$42 million) of ARRA funds as Subsidy Funds divided equally between the DAC Wastewater and new Expanded Use Projects;
2. Allocate funds to new Expanded Use Projects by prioritizing urban stormwater projects serving DACs;
3. Direct staff to develop a Competitive Project list with new Expanded Use urban stormwater projects totaling at least 125 percent of the available funding. Projects would be ranked based on earliest construction date;
4. Limit Subsidy Funds for new individual Expanded Use Projects to \$5 million per project;
5. Limit Subsidy Funds for regional projects serving DACs to \$10 million;

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6. Authorize the Deputy Director of the Division to award funds to new Expanded Use Projects in the order complete applications are received; and
7. Authorize the Deputy Director of the Division to execute individual CWSRF financing agreements for new Expanded Use Projects as projects submit complete applications until funding is exhausted.

State Water Board action on this item will assist the Water Boards in reaching Goal 2, 4, 5 of the Strategic Plan Update: 2008-2012 to improve and protect groundwater quality in high-use basins by 2030; comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning processes; improve transparency and accountability by ensuring that Water Board goals and actions are clear and accessible, by demonstrating and explaining results achieved with respect to the goals and resources available, by enhancing and improving accessibility of data and information, and by encouraging the creation of organizations or cooperative agreements that advance this goal, such as establishment of a statewide water data institute.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009 -

TO CLARIFY IMPLEMENTATION OF FEDERAL ECONOMIC RECOVERY LEGISLATION FOR THE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM

WHEREAS:

1. On March 17, 2009, the State Water Resources Control Board (State Water Board) adopted [Resolution No. 2009-0027](#) to provide direction to staff to implement the American Recovery and Reinvestment Act of 2009 (ARRA) for the CWSRF Program;
2. The Division of Financial Assistance (Division) has received an overwhelming number of applications requesting funds for wastewater treatment and water recycling projects, Disadvantaged Community wastewater projects, and the Expanded Use CWSRF Program;
3. Additional guidance is needed to proceed quickly with allocating the remaining ARRA funds in a transparent manner; and
4. Division staff considered numerous factors in developing options and criteria for how to allocate the remaining funds, including difficulty accessing the CWSRF Program, balance in providing funding for all types of projects, providing funds to applicants that have not previously received substantial funding through the State Water Board, and consideration of county unemployment rates.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Allocates 15 percent (\$42 million) of ARRA funds as Subsidy Funds divided equally between the DAC Wastewater and new Expanded Use projects;
2. Allocates funds to new Expanded Use Projects by prioritizing urban stormwater projects serving DACs;
3. Directs staff to develop a Competitive Project list with new Expanded Use urban stormwater projects totaling at least 125 percent of the available funding. Projects would be ranked based on earliest construction date;
4. Limits Subsidy Funds for new individual Expanded Use Projects to \$5 million per project;
5. Limits Subsidy Funds for regional projects serving DACs to \$10 million;
6. Authorizes the Deputy Director of the Division to award funds to new Expanded Use Projects in the order complete applications are received; and

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7. Authorizes the Deputy Director of the Division to execute individual CWSRF financing agreements for new Expanded Use Projects as projects submit complete applications until funding is exhausted.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on June 16, 2009.

Jeanine Townsend
Clerk to the Board