

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
OCTOBER 16, 2012**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO ALLOCATE \$2,000,000 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH) TO PROVIDE INTERIM REPLACEMENT DRINKING WATER TO SEVERELY DISADVANTAGED COMMUNITIES

DISCUSSION

Chapter 670, Statutes of 2008 (AB 2222, Caballero) requires the State Water Resources Control Board (State Water Board) to submit a report to the Legislature that identifies:

- 1) Communities that rely on contaminated groundwater as a primary source of drinking water.
- 2) Principal contaminants, other constituents of concern, and contamination levels in that groundwater.
- 3) Potential solutions and funding sources to clean up or treat groundwater or to provide alternative water supplies to ensure the provision of safe drinking water.

The State Water Resources Control Board submitted a Draft Report titled *Communities that Rely on Contaminated Groundwater* to the Legislature in February 2012 (<http://www.waterboards.ca.gov/gama/ab2222/index.shtml>). The Draft Report identified 682 communities, serving more than 21 million people that rely on groundwater contaminated by one or more principal contaminants. Of the 680 communities that rely on contaminated groundwater, approximately 265 have received a violation of a primary drinking water Maximum Contaminant Level (MCL) during the timeframe the Draft Report was prepared. The California Department of Public Health (CDPH) has determined that 168 small water systems (as defined by CDPH) serving less than 1,000 service connections rely on groundwater that consistently exceeds a primary safe drinking water standard (MCL). This estimate does not include private domestic well users or the smallest water systems that are not regulated by the State, since no comprehensive database exists for these systems.

Public funding for alternative water supplies to consumers is limited. The only emergency funding available is from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006 in Public Resources Code section 75021. Historically, this funding source has been used to address sudden unanticipated events that disrupt water supply, including fires, earthquakes, and landslides. CDPH is currently in the process of modifying its funding criteria for section 75021 to authorize the expenditure of up to \$2 million for interim drinking water supplies to water systems serving severely disadvantaged communities that violate a primary drinking water standard. In October 2012, CDPH will release proposed revisions to its criteria to implement section 75021.

Assembly Bill (AB) 685 (Eng), State Water Policy, also known as California's "Human Right to Water" bill, was signed by the Governor on September 27, 2012. This law establishes a policy that all residents of the State have a right to clean, affordable, and accessible water for human consumption. This law also directs relevant state agencies to implement the policy.

The State Water Board recognizes the need to provide safe drinking water to assist severely disadvantaged communities on an interim basis until a long-term solution can be achieved to address the contaminated water supply. To solve a small portion of this funding need, staff recommends allocating \$2,000,000 from the Cleanup and Abatement Account (CAA) to CDPH to make funding available to those public water supply systems (including non-transient systems, e.g., schools) whose existing water supply is affected by a waste. These would be public water systems that serve severely disadvantaged communities and that are unable to provide an adequate supply of safe drinking water to their service area(s).

A "public water system" is defined pursuant to Health and Safety Code section 116275 subdivision (h) as a system for the provision of water for human consumption that has 15 or more service connections or regularly serves at least 25 individuals daily for at least 60 days out of the year. A "severely disadvantaged community" is defined pursuant to Health and Safety Code section 116760.20 as a community with a median household income of less than 60 percent of the statewide average. Severely disadvantaged communities generally lack the technical or financial capacity to deliver drinking water that meets primary safe drinking water standards for which maximum contaminant levels have been established pursuant to Health and Safety Code, Division 104, Part 12, Chapter 4.

The purpose of the funding would be to provide safe replacement drinking water through an interim drinking water supply (preferably through interim water treatment or other methods than bottled water). Funding would be limited to \$50,000 per public water system. For bottled water, the maximum eligible amount of funding per project for an interim water supply would not exceed \$30/service connection for a period up to three (3) years or until the completion of a project to resolve the drinking water standard exceedance(s), whichever comes first, unless the applicant otherwise justifies the cost. This funding would be available only to those public water systems that are addressing their long-term need by having a project ranked on CDPH's priority list pursuant to Health and Safety Code section 116760.70.

The funding requests would be made by an eligible entity, as defined by CDPH. Funding would be disbursed by CDPH according to Public Resources Code section 75021 and Emergency Grant Draft Criteria as revised by CDPH.

The requested allocation to set aside funding from the CAA is consistent with the purposes of Water Code section 13442. Section 13442 provides that the State Water Board may order monies to be paid from the CAA to a public agency and certain not-for-profit organizations and tribal governments that serve disadvantaged communities and have the authority to clean up or abate the effects of a waste in order "to assist it in cleaning up the waste or abating its effects on the waters of the state."

POLICY ISSUE

1. Should the State Water Board allocate \$2,000,000 from the CAA to CDPH to provide interim replacement drinking water to severely disadvantaged communities?
2. Should the State Water Board direct Division of Financial Assistance staff to work with CDPH to prepare an Interagency Agreement that specifies the work to be completed with these funds?
3. Should the State Water Board increase or decrease the funding at the State Water Board's discretion if emergency circumstances require use of any uncommitted and unexpended CAA funds?
4. Should the State Water Board make funds available until January 31, 2015? Should the State Water Board revert any unexpended funds to the CAA as of July 30, 2015, unless the Deputy Director or Assistant Deputy Director of the Division of Financial Assistance authorizes an extension?

FISCAL IMPACT

Sufficient funds are available in the account for this project. The uncommitted CAA balance is estimated to be no less than \$7.9 million.

REGIONAL BOARD IMPACT

No

STAFF RECOMMENDATION

The State Water Board should approve the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching Goal 4 of the Strategic Plan Update: 2008-2012, to 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.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

TO ALLOCATE \$2,000,000 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) TO THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH) TO PROVIDE INTERIM REPLACEMENT DRINKING WATER TO SEVERELY DISADVANTAGED COMMUNITIES

WHEREAS:

1. The California Department of Public Health (CDPH) estimates that, as of September 2012, there are approximately 168 small water systems, as defined by CDPH, that rely on contaminated groundwater as their source of drinking water where the groundwater consistently exceeds a primary safe drinking water standard, potentially requiring replacement drinking water;
2. There is a need to provide safe drinking water to assist severely disadvantaged communities on an interim basis. The CAA funds would be intended for those public water systems (including non-transient systems, e.g., schools) whose existing water supply is affected by a waste and that are addressing their long-term need by having a project ranked on CDPH's priority list pursuant to Health and Safety Code section 116760.70. These would be public water systems that serve severely disadvantaged communities and that are unable to provide an adequate supply of safe drinking water to their service area(s);
3. A "public water system" is defined by Health and Safety Code section 116275 subdivision (h) as a system for the provision of water for human consumption that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year;
4. A "severely disadvantaged community" is defined by Health and Safety Code section 116760.20 as a community with a median household income of less than 60 percent of the statewide average; and
5. The requested allocation is consistent with the purposes of Water Code section 13442. Section 13442 provides that the State Water Board may order monies to be paid from the CAA to a public agency and certain not-for-profit organizations and tribal governments with authority to clean up or abate the effects of a waste "to assist it in cleaning up the waste or abating its effects on the waters of the state."

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Allocates \$2,000,000 from the CAA to CDPH to provide interim replacement drinking water to severely disadvantaged communities;
2. Directs Division of Financial Assistance staff to work with CDPH to prepare an Interagency Agreement that specifies the work to be completed with these funds;

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3. May increase or decrease the funding at the State Water Board's discretion if emergency circumstances require use of any uncommitted and unexpended CAA funds; and
4. Makes funds available until January 31, 2015. Reverts any unexpended funds to the CAA as of July 30, 2015, shall revert to CAA, unless the Deputy Director or Assistant Deputy Director of the Division of Financial Assistance authorizes an extension.

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 October 16, 2012.

Jeanine Townsend
Clerk to the Board