



(6/21/16) Board Meeting--Item 3
Drink Water Revolving Fund (DWSRF)
Deadline: 6/16/16 by 12:00 noon

CENTER ON
RACE, POVERTY
& THE ENVIRONMENT



June 16, 2016

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Comments Submitted Electronically

Re: Comment Letter on 2016- 2017 Safe Drinking Water State Revolving Fund program (DWSRF) draft Intended Use Plan (IUP)

Dear Ms. Townsend and State Water Board Members,

On behalf of the Community Water Center, Clean Water Action, Leadership Counsel for Justice and Accountability, and the Center on Race, Poverty & the Environment, we respectfully submit these comments on the 2016 - 2017 Drinking Water State Revolving Fund program (DWSRF) draft Intended Use Plan (IUP).

Our joint comments call for the adoption and implementation of the principles and practices of integrated water management and drinking water resources to benefit public health and the environment, and improve the quality of life for all Californians. In order to accomplish this, we believe the Drinking Water State Revolving Fund Intended Use Plan (SRF IUP) and Proposition 1 (Prop 1) guidelines must 1) implement the Human Right to Water within each funding program by identifying how assistance will target Californians that lack access to safe and affordable water for basic drinking and sanitation needs, and 2) promote integrated water management by defining and supporting the concept of multiple benefit projects.

Emergency drought legislation and the Fiscal Year 2015/16 State Budget appropriated nearly all the remaining drinking water resource from Prop 1 and stipulated that this funding be spent within three years. The State Water Resources Control Board (SWRCB or Board) can comply with this mandate, along with the Human Right to Water by investing in the approximately 400 public water systems that the Board has identified (but not yet publicly listed) as lacking safe drinking water to return those systems to compliance or secure long-term solutions through consolidation or other regional projects. The SWRCB must also identify all communities in the state of California that lack safe, clean, affordable and reliable

drinking water and develop a comprehensive publicly available database that will inform future policies and investments. The next few years present an indispensable opportunity to invest up to a half a billion dollars in public drinking water resources through Prop 1 and DWSRF. We strongly support the recommendations in the draft DWSRF IUP that further the Human Right to Water, and we suggest the following amendments and additions to strengthen the Plan.

COMMENTS ON INTRODUCTION

Human Right to Water

The Human Right to Water requires all relevant state agencies, including the SWRCB, to consider the Human Right to Water when “revising, adopting, or establishing policies, regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the uses of water” in the DWSRF IUP. We commend the SWRCB’s recent efforts to adopt the Human Right to Water as a core value and direct its implementation through all of the Board’s programs and policies.

Extended Term 30-Year Financing

We strongly support the extended term financing for eligible PWSs from the DWSRF and/or Prop 1 Drinking Water funds, especially for disadvantaged communities. We recommend the SWRCB clarify that DACs, even those that are not SCWS, are eligible for this extended term financing. We also encourage the SWRCB to further address financing challenges of DACs by granting DACs (even those which are not SCWSs) 0% interest rate on loans if it can be demonstrated that loan financing would make water rates unaffordable (over 1.5% of MHI). We recommend that the SWRCB take into consideration the extent to which loan servicing will drive the per-connection average water rate above that 1.5% MHI threshold for systems serving DACs in developing financing packages. Additionally, we would like to confirm that extended term financing and 0% interest rates are available for consolidations and regional projects that are primarily designed to provide DACs with safe and affordable drinking water.

Proposition 1 Technical Assistance

We appreciate the SWRCB’s acknowledgement that California’s small communities continue to have unmet drinking water needs, despite the state’s funding and technical assistance efforts made to date. We strongly support the additional Prop 1 technical assistance funding for stormwater and groundwater quality and the prioritization of small, disadvantaged communities that lack access to safe, reliable, and affordable drinking water for technical assistance.

DWSRF Local Match Program

We support the new feature to provide zero percent financing to eligible applicants that contribute a local match to a DWSRF-funded project. We believe this is an appropriate incentive for communities to commit additional resources. However, the draft IUP does not distinguish between local match funding provided by DFA or the community itself. We recommend the SWRCB clarify whether financing eligibility differences or additional benefits exist depending on the actual source of the local match.

Increased Access to Principal Forgiveness/Grant Funding for SWSs and Consolidations

We strongly support increased access to principal forgiveness/grant funding for SWSs serving disadvantaged communities; however, we are concerned that current guidelines will exclude DACs which are not considered SWSs or SCWSs but are still too small and economically disadvantaged to sustain loan payments. As discussed earlier, we urge the SWRCB to provide a break in financing to DACs that are not necessarily SWSs or SCWSs, but may still face ratepayer affordability challenges after being granted a loan. While useful indicators, definitions of "Disadvantaged" and "Small Community" threaten to leave out communities in dire need of grants and principal forgiveness; in determining financing packages, the SWRCB should consider the average water rate per connection as a percent of the community's MHI, instead of adhering strictly to DAC and Small Community metrics. Arvin, for example, has struggled with severe drinking water contamination for at least a decade and requires very costly projects to return to compliance with drinking water standards, but is just barely above the SCWS threshold. Cities and communities like Arvin, if not eligible for principal forgiveness/grant funding, should at least be eligible for 0% financing.

We would like to confirm, as above, that principal forgiveness and grant funding is available for consolidations of DACs and SDACs even if the consolidating, and applicant, agency is not a DAC, SDAC or Small Water System.

COMMENTS ON DWSRF GOALS

A. Short Term Goals

3. Continue and further develop the collaboration between DDW and DFA to identify public health issues and evaluate solutions for SWSs, including consolidation where feasible.

We strongly support this goal. To further this objective, we suggest that improved collaboration between DDW and DFA occurs for other vulnerable or disadvantaged systems, including schools, private well communities, state small water systems, and systems in disadvantaged communities which serve more than 200 connections. Communities not served by public water systems should be included in these efforts.

4. Continue marketing and outreach efforts to PWSs, including Spanish translation services, newsletters, and social media to advertise the new application process and the availability of technical assistance to assist small, disadvantaged communities.

We strongly support translation services in providing technical assistance to DACs and encourage the SWRCB to hire technical staff that speak Spanish and can interact directly with impacted communities.

7. Prioritize all available DWSRF funding for PWSs serving fewer than 10,000 people to the maximum extent practicable and in consideration of all other federal and state authorities governing the prioritization of DWSRF funding.

We commend the SWRCB for including this goal in the 2016-17 IUP and strongly support this goal. Small system funding must be used to get projects on the path toward permanent solutions. This goal must also include those communities not served by public water systems. The IUP should confirm that this goal includes consolidations of DACs with fewer than 10,000 people, regardless of the size of the

consolidating and applicant agency. Similarly, this goal should extend to regional projects that serve more than 10,000 residents.

9. Facilitate drought relief through expedited funding efforts to help ensure that eligible PWSs experiencing drought-related drinking water emergencies or facing imminent threats of drought related drinking water emergencies will achieve permanent solutions.

The drought has disproportionately impacted small community drinking water systems and communities. While some emergency drought funding was committed through emergency legislative actions and in the 2015/16 and 2016/17 State Budgets, these funds are limited and insufficient in meeting all the needs of drought impacted communities, especially those that have experienced complete domestic water loss and elevated levels of drinking water contamination due to diminished water supplies. We believe communities receiving emergency resources should be prioritized for long-term funding. These communities are prime candidates for the SWRCB's new authority to mandate consolidations of water systems. Also, we encourage continued efforts to coordinate and collaborate with other state water resource agencies (DWR and the Office of Emergency Services (OES)), which are also providing drought resources. Interagency collaboration to address the needs of private well communities continues to be a struggle for the state, and the growing problem of domestic well failures makes this collaboration even more critical.

11. Continue to provide DWSRF funding to PWSs when possible for the installation of new water meters in order to promote the DWSRF Green Project Reserve.

Inefficient water delivery systems, leaking plumbing and outdated appliances in small, disadvantaged communities throughout the state, taxes our water supply, creates unnecessary energy use, and contributes to unaffordable drinking water rates. The need for water metering and efficiency investments is most needed in DACs located in overdrafted groundwater basins that are most at-risk of experiencing insufficient water supply or complete water loss.

Meters for qualified DACs, especially those that have experienced severe drops in their water supply should be prioritized. For those that are interested and able to install meters, there must be grant funding and technical assistance to support meter installations. Still, while we believe water conservation measures should be explored as a means to secure sustainable water supplies in rural areas we caution on the overreliance of meters to accomplish this in DACs. While meters might be good for some communities, others are already struggling with limited water supplies and others have already implemented conservation measures.

The Board should consider expanding its use the Green Project Reserve to provide water conservation assistance to communities that lack access to a water conservation program. For many of these communities, the cost of safe drinking water will mean a dramatic increase in water rates; however, small water systems lack the capacity to administer water conservation programs and therefore receive little or no funding to improve their water use efficiency. We urge the Water Board to provide funding to detect and repair leaks; install high-efficiency toilets, provide low-flow showerheads, and faucet aerators; install drip irrigation systems; and install graywater or rainwater capture systems.

In many cases, water use can be cut significantly and water access and affordability improved by these basic actions that are accepted norms for larger systems, but are out of reach for small systems.

13. Reduce instances of noncompliance with drinking water standards and requirements by providing technical assistance to SWSs that have significant SDWA violations.

An effective, targeted and responsive technical assistance program is key to advancing the needs of non-compliant SWSs. The Office of Sustainable Water Solutions serves to enhance the technical, managerial, and/or financial capacity of SWSs and enable them to access available resources at the SWRCB. We encourage OSWS staff to clarify the Office's priorities, timelines, and performance measures to ensure these limited resources are reaching the most vulnerable communities and accomplishing the end goal of long-term safe and affordable drinking water and wastewater services.

We are equal parts pleased to see that the Office of Sustainable Water Solutions has developed a framework for a strategy to address drinking water and wastewater system capacity in DACs and dismayed that we were not aware of this process until our review of this IUP. We will engage with the Office of Sustainable Water Solutions and others within the State Water Board to provide feedback on the strategy framework. In short, this IUP and the identified strategy document fail to include programs and activities that will effectively identify DACs in need of targeted support, ensure technical assistance for those communities, and target investments and programs to address wastewater deficiencies in those communities. Notably, the draft strategy focuses on improving capacity of wastewater systems, but does not include strategies, such as consolidation, with respect to communities reliant on septic systems or cesspools.

Prop 1 funding should prioritize issues in the most vulnerable communities and systems serving the most vulnerable populations, including schools, daycares, elder care centers, and health care centers.

B. Long Term Goals

4. Improve Management of Drinking Water Spatial Data: Maximize the use of the State Water Board's GIS to identify the drinking water infrastructure needs of PWSs, report on funded projects, and identify opportunities for consolidation.

We strongly agree with the SWRCB's recommendation to use the DWSRF set-aside funds, and Prop 1 drinking water funds to help communities achieve an affordable water rate. Still, in order to do this, much more information on community needs and data on the number of communities, including schools that lack the Human Right to Water in California is necessary. Further, we recommend the SWRCB work towards developing a permanent source of funding that is broadly available to address the needs of communities that are unable to afford their water rate.

First, we believe that in order to effectively target resources, the State Board must have a clear picture of the degree and extent of drinking water challenges throughout California. There is no comprehensive data regarding access to safe, clean, affordable drinking water in California. Further, an analysis of the obstacles facing PWSs, state smalls, and domestic wells is needed. As such, we believe that achieving the short and long term goals for the program are predicated on developing and improving evaluation and

tracking systems of Californians still unable to enjoy the Human Right to Water. These analyses and tracking methods must include schools, day care centers and communities not served by PWSs. This information should be maintained, updated, and publicly available. Such data should include:

- The location of PWSs, state smalls, and communities on individual wells;
- Communities without adequate wastewater service, including those communities reliant on onsite treatment systems that are not appropriate given local circumstances or that are known to be failing;
- PWSs whose drinking water does not meet water quality standards;
- State small water systems and domestic wells whose drinking water does not meet water quality standards;
 - Until such time that comprehensive data on state smalls and domestic wells exists, the SWRCB should supplement its current information with data developed through CalEPA's CalEnviroScreen to identify areas with contaminated groundwater and populations in those areas that are not currently served by PWSs.
- Drinking water and wastewater service rates and the affordability thereof;
- Small DACs that lack TMF capacity to sustainably address drinking water contamination or otherwise provide reliable and affordable water to customers;
- Systems with a single well and are at a greater vulnerability for contamination or water depletion;
- Areas where opportunities for regional planning exist, based on indicators such as geographic proximity to communities facing similar obstacles to accessing safe and affordable drinking water and proximity to systems that could consolidate the struggling systems.
- The location of schools and daycare centers without safe drinking water

An estimated 25 percent of schools in California lack adequate drinking water facilities for students at meal times every day, despite state and federal laws that require it. As dramatic as these statistics are given the importance of clean drinking water for children, these numbers are likely an underestimate. Neither the state nor local jurisdictions maintain a record of school water system providers, therefore agencies or local stakeholders do not have access to sufficient information to assess the magnitude of the problem and ensure that children have safe drinking water at school. We recommend that the SWRCB begin to accurately track schools that lack safe drinking water and allocate resources through Prop 1 and the DWSRF to deliver safe drinking water to students including through installation of fountains or water bottle filling stations to deliver reliable water to students.

5. Provide Affordable Financing Alternatives

We strongly support this goal and the expansion of eligibility of projects to include water meters. As discussed earlier, the need for water metering and efficiency investments is most needed in DACs located in overdrafted groundwater basins that are most at-risk of experiencing insufficient water supply or complete water loss.

6. Acknowledge and Address Household Affordability Constraints

We strongly support this goal, and recommend that long-term infrastructure O&M costs be adequately addressed when evaluating affordability.

8. *Ensure TMF Capacity of PWSs: Continue to provide financial and technical assistance to PWSs under California's drinking water capacity development strategy.*

We support the efforts being made by the SWRCB's Office of Sustainable Water Solutions to ensure TMF Capacity of PWSs, particularly small and/or disadvantaged communities. As discussed earlier, we encourage OSWS staff to clarify the Office's priorities, timelines, and performance measures to ensure these limited resources are reaching the most vulnerable communities and accomplishing the end goal of long-term safe and affordable drinking water and wastewater services.

COMMENTS ON IV. CRITERIA AND METHOD FOR DISTRIBUTION OF FUNDS

A. Distribution of Funds

The IUP identifies Proposition 1 funding as providing the required state match for the federal capitalization grant. However Proposition 1 establishes clear priorities for this funding. "Priority shall be given to projects that serve disadvantaged communities and severely disadvantaged communities, and to projects that address public health hazards." The IUP merely states that this funding will be used to provide zero interest loans. Consistent with mandates attached to Proposition 1, this funding must target disadvantaged communities in addition to 20-30% of the capitalization grant earmarked for disadvantaged community subsidies.

Additionally, we find no commitment in the document for how Proposition 1 funding will be allocated.

B. Comprehensive List

We appreciate that the Project Priority List (PPL) created by the Department of Public Health was outdated, unwieldy and inaccurate and that, accordingly the SWRCB wishes to initiate a fresh list. Unfortunately, creating a new list – as well as removing non-responsive water systems from the list – also obfuscates the actual number of systems that require assistance and the length of time that they've been waiting. The PPL, while a flawed tool, has been the only public place in which to find information about at-risk systems. The Small Water System list is a potential replacement, but is by definition limited by system size, and in addition has not been publicly updated since it was originally posted in late 2012. This deficiency reinforces the importance of creating a comprehensive, dynamic list of Californians that lack the Human Right to Water.

We also recommend that systems that have received a planning grant but have not yet applied for a construction grant, be included either in this list or a list of "Current Planning Projects." These systems applied for assistance to address a problem and without a completed project, the problem has not yet been solved. Yet once that planning grant has been approved, the systems disappear from the Comprehensive List into some kind of private limbo. This is especially problematic for DACs since most DAC projects are planning projects. The State Board and stakeholders should be able to track the trajectory and ultimate success (or lack thereof) of planning grants to determine if they lead to construction projects. It is also important to track how long project completion takes, from planning initiation through completion. We think our recommended list of current Planning Projects should include the funding date of the projects and their estimated timelines for completion.

We also find this list difficult to read and navigate and would appreciate it being provided in an Excel or other sortable format so we could better sort the data to our needs.

C. Priority System

We agree with the top ranking of immediate risk, DAC and consolidation projects. We encourage staff to also prioritize multiple benefit projects in order to maximize limited resources. An example of a successful multi-benefit drinking water project would be one that funds a treatment facility or related infrastructure for a community that lacks safe drinking water and simultaneously funds water meters so that communities improve their water conservation measures, and provides funding to ensure that communities can implement basic conservation measures.

2. Other Factors - Prioritization of DACs, SDACs, and Consolidation

We strongly support this prioritization. We would like to the IUP to confirm that more favorable financing packages - specifically grant, principal forgiveness and 0 percent / extended term financing - is available for consolidations of small DACs and SDACs, regardless of the size of the consolidating and applicant agency. Our experience has demonstrated that costs associated with loan servicing is an often insurmountable barrier in potential consolidations. We also recommend that the SWRCB condition funding for agencies seeking support from the Board on completing or at least initiating a consolidation project if such a project is feasible.

E. Disadvantaged and Severely Disadvantaged Community Additional Subsidy Funding

We support the provision of additional subsidy through the federal Capitalization Grant for PWSs serving disadvantaged communities; however, we urge the SWRCB to expand this provision to small water systems that are not necessarily “ready to proceed” to a financing agreement.

Previously the State’s drinking water program heavily favored funding projects that were ready to proceed, which is one of the reasons why so many small DAC projects were bypassed for state resources, time after time. Small system funding must be used to get projects on the path toward permanent solutions.

F. Small Water System Funding

We commend the SWRCB for prioritizing all DWSRF funding for eligible SWSs, but would like to emphasize the disproportionate challenges SWSs face in becoming “ready to proceed” to a funding agreement.

We are excited about the progress being made through the DDW Small Water System Plan. However, we strongly urge the SWRCB to add to its public database to include the approximately 200 more small water systems that have been identified (although not yet publicly listed) as systems which have chronically lacked safe drinking water. Further, we encourage staff to update and clarify the program’s goals, strategies, timelines, and accomplishments. Finally, it is imperative that the SWRCB conduct research to identify all communities in the state of California the lack safe, clean, affordable and reliable drinking water and develop a comprehensive publicly available database.

I. Fundable List

We appreciate the inclusion of the 2016-2017 Fundable List, along with the breakdown of what is going to disadvantaged and severely disadvantaged communities. As we noted earlier, it would be helpful to receive this list in a sortable format so stakeholders and the public can more easily find information that we consider a priority. We also would appreciate the inclusion of the final Fundable Lists from prior years so we can better understand whether the funding level committed to DACs at the beginning of the fiscal year represents the final funding total.

J. Project Removals

We continue to be uncomfortable with the policy to remove projects from the list due to non-response for a single year. We believe a longer period of time must be granted to allow systems to determine their next steps. Additionally, we ask that the IUP include a list of systems and projects that were removed from the prior year's list, and identify what is being done to address the problem for which those systems were originally placed on the list. Similarly, the IUP should identify projects on the Comprehensive and Fundable Lists that were bypassed in the prior year and what is being done to address the reason for that bypass.

COMMENTS ON V. DWSRF AND PROP 1 FINANCIAL MANAGEMENT

3. DWSRF State Program Management-PWSS 1:1 State Match

We appreciate the inclusion of the breakdowns of the program set asides. We support the SWRCB Drinking Water Program's new fee structure, which will allow the State Water Board to set fees which better represent the costs of the program and thus allow the Board to more efficiently serve all water systems, while also reducing fees for most of California's small and disadvantaged systems.

Thank you for providing us with an opportunity to comment on this plan.

Sincerely,

Laurel Firestone, Co-Executive Director, Community Water Center

Phoebe Seaton, Co-Director, Leadership Counsel for Justice and Accountability

Jennifer Clary, Water Programs Manager, Clean Water Action

Gustavo Aguirre, Director of Organizing, Center on Race, Poverty, & the Environment