

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE/  
OFFICE OF OPERATOR CERTIFICATION/DIVISION OF WATER QUALITY/  
OFFICE OF RESOURCE PLANNING AND PERFORMANCE  
OCTOBER 22, 2013**

**ITEM 4**

**SUBJECT**

FIFTH ANNUAL UPDATE ON EFFORTS TO ASSIST SMALL AND/OR DISADVANTAGED COMMUNITIES IN MEETING THEIR WASTEWATER NEEDS

**DISCUSSION**

Small <sup>1</sup> and/or disadvantaged <sup>2</sup> communities (SDACs) face specific challenges related to their drinking water and wastewater systems.

Due to their small rate base, SDACs often cannot provide the economies of scale necessary to build and maintain adequate wastewater systems. Small, and especially small and rural communities, generally face higher per capita operations and maintenance (O&M) costs and capital costs which result in higher, sometimes prohibitive, sewer rates.

The challenges SDACs face generally result from a lack of adequate local monetary resources combined with insufficient access to technical expertise. SDACs are often unable to retain qualified operators. If their wastewater treatment plants (WWTPs) violate water quality requirements, they often lack the capital to repair the problem, and are unable to pay the fines or penalties associated with non-compliance. Even if these communities secure financial assistance to improve their system, often there is insufficient in-house technical expertise to determine the best project alternative, or to appropriately plan for long-term O&M needs.

Failing septic systems and old, obsolete, or undersized WWTPs that cannot meet current water quality standards can cause significant health and safety problems, endanger surface water uses, and threaten groundwater supplies.

The State Water Resources Control Board (State Water Board) is committed to addressing the human health and water pollution problems SDACs face, especially in cases where these problems present an environmental injustice. In 2008, State Water Board staff, in coordination with Regional Water Quality Control Boards (Regional Water Boards) staff, developed a [Small Community Wastewater Strategy](#) (Strategy), which provides an overview of the problems faced by SDACs and proposed solutions to address those problems.

The Strategy is referenced in State Water Board [Resolution No. 2008-0048](#), adopted July 1, 2008, which promotes strategies to assist SDACs with wastewater needs, and directs staff to report annually on progress. The following update is separated into two parts: Section A provides a summary of progress and actions taken during State Fiscal Year (SFY) 2012/13; and Section B is a summary of actions under consideration for future implementation by State Water Board staff

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<sup>1</sup> Small = Population less than 20,000 persons

<sup>2</sup> Disadvantaged = Median Household Income (MHI) less than 80 percent of statewide MHI

## A. SDAC WASTEWATER ACTIONS DURING SFY 2012/13

The following is a summary of progress with respect to actions outlined in Resolution No. 2008-0048, the Strategy, and previous annual updates:

1. State Water Board staff in the Division of Financial Assistance (DFA) continues to work with staff from the California Department of Public Health (CDPH), Department of Water Resources (DWR), United States Department of Agriculture (USDA), United States Environmental Protection Agency (U.S. EPA), and related agencies to identify opportunities to leverage resources. This coordination is facilitated by the State Water Board's participation in the [California Financing Coordinating Committee](#) (CFCC) funding fairs. To accommodate a shift in the annual CFCC funding fair schedule, only one fair occurred during SFY 12/13 (during April 2013 in West Sacramento). Moving forward, the funding fairs will be held during the fall, rather than the spring. Five funding fairs occurred in August, September, and October of 2013.
2. Over recent years, the State Water Board has implemented the following improvements to the Clean Water State Revolving Fund (CWSRF) Program in an effort to make it more responsive and affordable to SDACs:
  - a. Following procedures to process and disburse payments within 30 days of a complete payment request submittal;
  - b. Allowing for refinancing of existing local wastewater debts, if CWSRF eligible, and when necessary to make CWSRF financing for a new wastewater project affordable;
  - c. Providing Extended Term Financing (ETF)<sup>3</sup> and/or reduced interest rates for eligible small, disadvantaged communities;
  - d. Offering planning financing agreements at zero percent interest during a draw period of up to three years, with the option to refinance the planning financing as part of a CWSRF construction financing agreement; and
  - e. Providing principal forgiveness and grant funds to eligible communities. Per the [2013 CWSRF Intended Use Plan](#) (IUP), adopted November 6, 2012, the State Water Board reserved principal forgiveness authority from the Federal Fiscal Year (FFY) 2013 CWSRF appropriation for two categories of disadvantaged communities: Category 1) small, disadvantaged communities with substantial water quality investment<sup>4</sup>; and Category 2) other communities<sup>5</sup>. In addition, all available Small Community Grant (SCG)<sup>6</sup> funds and residual bond funds<sup>7</sup> are directed toward

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<sup>3</sup> Extended financing term exceeding the typical 20 years, but not longer than 30 years.

<sup>4</sup> Category 1 = Small, disadvantaged community with wastewater rates at least 1.5 percent of the community MHI, or small community with wastewater rates at least 4 percent of the community MHI.

<sup>5</sup> Category 2 = Disadvantaged communities not qualifying under Category 1; project serving a disadvantaged area of a larger community; or project implementing a nationally designated estuary plan.

<sup>6</sup> [Section 13477.6 of the California Water Code](#) created the CWSRF SCG Fund, and allows the State Water Board to assess a charge (in lieu of interest that would otherwise be charged) on existing CWSRF financing agreements, for deposit into the SCG Fund. The revenues are utilized to provide grants for small disadvantaged community wastewater projects. [Assembly Bill 30 \(Perea\)](#), enrolled September 12, 2013, eliminates the existing 2014 sunset date and the \$50 million cap on collection of the SCG charge.

<sup>7</sup> For various reasons, previously committed bond funds were disencumbered from several small disadvantaged community wastewater projects. The State Water Board, on February 19, 2013, approved [Resolution No. 2013-0004](#), directing staff to utilize the CWSRF funding approval and administration process to administer these residual bond funds to projects that are consistent with the project types previously funded through the Small Community Wastewater Grant (SCWG) Program.

Category 1. The 2013 CWSRF IUP also allows eligible Category 1 planning financing applicants to receive 100 percent of eligible planning costs as principal forgiveness/grants, not to exceed \$500,000.<sup>8</sup> State Water Board staff continues to work with eligible communities to commit available funds. [Exhibit A](#) lists principal forgiveness/grant commitments made during SFY 2012/13.

3. On May 7, 2013, the State Water Board adopted an amendment to the [Policy for Implementing the CWSRF](#) (CWSRF Policy), which is effective October 1, 2013. This Policy amendment included various new changes to streamline and improve the CWSRF process, including the following specific items that may benefit SDACs:
  - a. Allows for construction contingencies as an eligible cost;
  - b. Introduces a design financing option;
  - c. Allows for a longer ten-year term, for repayment of planning or design financing;
  - d. Simplifies the process to add projects to the Project List; and
  - e. Streamlines the approval process by eliminating the Facilities Plan Approval/Preliminary Funding Commitment.

The CWSRF application and instructions were also updated and released as part of the recent Policy amendment. To make it easier for applicants to navigate the requirements, the new application is organized into four separate packages: 1) general, 2) technical, 3) environmental, and 4) financial. Standardized templates, checklists, and self-certifications have been incorporated to streamline the process. In addition, a new shorter application package, specifically for planning/design financing is now available.

4. On November 17, 2011, the State Water Board executed a contract with California Rural Water Association (CRWA) to provide wastewater-related technical assistance to small disadvantaged communities statewide through November 16, 2013. Technical assistance efforts are tailored to the needs of each individual community, with an emphasis on the following general areas:
  - a. Compliance audits and troubleshooting to address permit violations and make operations more efficient;
  - b. Reviewing project reports and/or proposed project alternatives to assist in identifying low-cost, sustainable approaches;
  - c. Assistance with planning and budgets, including development of capital improvement plans or equivalent;
  - d. Assistance with community outreach, awareness, and education, especially with regard to rate setting and Proposition 218 compliance; and
  - e. Preparation of financial assistance applications.

State Water Board staff in DFA solicited input from the nine Regional Water Boards and the State Water Board's Office of Enforcement to develop a list of communities that may benefit from technical assistance. DFA staff has also been directly contacted by several communities in need of technical assistance. A list of the communities that have been referred to CRWA and information about the status of technical assistance efforts is in [Exhibit B](#). New communities will continue to be added as they are identified.

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<sup>8</sup> If a community does not have wastewater rates in place (i.e., septic-to-sewer project) but would otherwise qualify for Category 1, that community can qualify for principal forgiveness/grants for planning.

In order to continue providing wastewater-related technical assistance after the existing contract expires, the State Water Board plans to release a Request for Proposals during fall of 2013.

5. State Water Board staff continues to identify, evaluate, and promote means of recruiting and retaining qualified operators for small wastewater systems. This past year, the State Water Board revised the [Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Regulations](#) (chapter 26 of division 3 of title 23 of the California Code of Regulations), and the regulations became effective on April 1, 2013. Specific improvements that may benefit SDACs include:
  - a. Provisional Operators: The owner of a Class I wastewater treatment plant may request written approval from the Office of Operator Certification (OOC) to use a provisional operator. The owner must demonstrate that they have had difficulty hiring a certified operator, despite due diligence. The owner would also need to provide a written plan outlining the provisional operator duties and responsibilities, a description of training the provisional operator will receive, plus a copy of a written agreement with a certified operator that will be available to assist the provisional operator. In an effort to improve operator retention, the provisional operator would be tied to a given community at least until full certification is received.
  - b. Exemptions for Class I WWTPs: An owner of a Class I WWTP may apply to the OOC for an exemption from operator certification requirements if the WWTP could not, due to operator error, violate water quality objectives. An application for an exemption must include an evaluation of the operations of the WWTP, signed and stamped by a registered engineer. Exemptions may be approved if the engineer's evaluation demonstrates that operator error could not cause the WWTP to violate water quality objectives.
6. State Water Board staff has historically conducted a [Wastewater User Charge Survey](#). This annual effort was put on hold during the past several years due to staff shortages (with the last report published for SFY 2007/08), but this effort was reinitiated during SFY 2012/13. In early 2013, staff mailed information regarding how to complete the survey to 759 wastewater agencies, and 440 questionnaires were completed. For the first time, the survey was conducted electronically (if electronic submittal created a hardship, agencies were also permitted to respond via the mail). The final *SFY 2012/13 Wastewater User Charge Survey Report* was released to the public on August 12, 2013. It provides a tool agencies can use for information about wastewater user charges and connection fees across the state. For example, the report includes a historical trend of statewide average monthly user charges, and a summary of reported user charges grouped by population served, as well as other useful data and reference information.
7. The State Water Board continues to consider permitting and planning approaches that will result in cost savings for dischargers. One specific example is related to the [Recycled Water Policy](#), which the State Water Board amended on January 22, 2013. The Recycled Water Policy previously required monitoring of priority pollutants twice per year for landscape irrigation projects. The amendment reduced the frequency of monitoring for priority pollutants to once per year for larger recycled water production facilities, and to once every five years for systems producing less than one million gallons per day (gpd). Other opportunities to reduce the cost of compliance are being considered as part of the State Water Board's ongoing [Resource Alignment Project](#), which is discussed further in the next section.

## B. POTENTIAL SDAC WASTEWATER ACTIONS

The following is a summary of specific financial assistance and regulatory strategies the State Water Board plans to implement to assist SDACs. These items were discussed during an August 29, 2013, meeting with various environmental justice, technical assistance, and industry organizations that work with SDACs. Feedback and comments from that meeting were considered in preparing this informational item.

### 1. *Enhance CWSRF Program Marketing and Outreach*

CWSRF Program marketing and outreach is an ongoing process, particularly due to the sometimes high staff turnover at the community level, but also due to periodic changes and improvements to the CWSRF process. By June 2014, State Water Board staff plans to develop of a written plan to guide CWSRF Program marketing and outreach efforts. The goals of the CWSRF marketing process include: ensuring that community leaders are aware of the savings and benefits the CWSRF Program can provide, including publicizing successes to legislators, community leaders, and citizens, as well as addressing common misconceptions about the CWSRF Program; sharing new developments with existing borrowers; and also learning from the public about potential ways the CWSRF Program could be improved. Examples of the types of marketing actions that may be included in that plan include the following:

- a. Development of revamped marketing materials including pamphlets, Frequently Asked Questions, case studies or testimonials, and other handouts, which will be made available to the public on the CWSRF website.
- b. Make training videos available on the CWSRF website. These videos will provide general information about the program, eligibility, and funding availability, as well as more detailed instructions regarding how to complete the application, etc.
- c. Develop an enhanced schedule of participation in various workshops, conferences, trade shows, and association meetings across the state.
- d. Conduct regular workshops at the Regional Water Quality Control Board offices to educate staff and interested parties from the public about the CWSRF Program.
- e. Coordinating outreach to more specific localities (i.e., County, etc.) that have expressed an interest in hosting a CWSRF event in their area, with all nearby communities invited to participate.

### 2. *Financial Incentives to Encourage Larger Entity Support*

State Water Board staff is working to develop incentives to encourage larger entities to help support the varied needs of SDACs.<sup>9</sup> State Water Board staff has identified several potential approaches<sup>10</sup>, as outlined below:

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<sup>9</sup> Larger entities could potentially offer assistance in various forms, such as: a peer-to-peer approach, manning a help desk, preparing written/web guidance materials on specific topics, operator or managerial training or service, assisting with preparation of planning documents or financial assistance application materials, or evaluation/implementation of regional solutions including both managerial or physical consolidation. Financial incentives do already exist for physical consolidation or regionalization projects, such as ETF and higher caps on the amount of principal forgiveness/grant funds available to eligible communities. But additional financial incentives such as reduced interest rates on the larger entity's other projects could also be considered in exchange for assistance to SDACs.

<sup>10</sup> However, some hurdles have been encountered with regard to finding ways to protect the larger entities from potential liability, determining the best methods for tracking progress and outcomes, and for ensuring no conflicts with Proposition 218.

- a. *Statewide program managed by existing wastewater advocacy/training association:* The association would develop a roster of participating larger entities, and would be responsible for tracking the number of service hours that each larger entity provides. The hours would in turn equate to a specific amount of “subsidy” provided to the larger entities, provided through either ETF or reduced interest rate.
- b. *Pilot assistance program with one or more CWSRF financing agreements:* The State Water Board could conduct a pilot assistance program by adding a defined scope of assistance (for a specified SDAC) to the CWSRF financing agreement for a larger entity construction project. The “subsidy” provided to the larger entity through either ETF or reduced interest rate would be determined based on the value of the scope of assistance the larger entity provides to the SDAC.
- c. *Targeted forums on specific topics of interest:* The larger entities could participate in forum(s) for guidance and lessons learned on specific topics (i.e., septic-to-sewer projects, with presentation by staff from larger entities). These could be filmed and posted on the web. Participation would likely have to be on a “Pro Bono” basis.

The first option would require a significant upfront investment of time and resources to implement; therefore, in the short term, staff is planning to pursue the pilot assistance program described in Option b. DFA staff is currently working with one larger CWSRF borrower that has expressed interest in sponsoring a small disadvantaged community. Staff plans to work with them to develop a proposal for State Water Board consideration during SFY 2013/14. If the pilot is successful, a similar approach could be applied to additional new CWSRF financing agreements.

Regarding Option c, in September 2013, the State Water Board co-sponsored a [Nitrate Treatment Technology Workshop](#) with CDPH. It was a two-day technical workshop, focused on current and evolving treatment technologies for nitrate removal. The workshop was geared towards informing the public about technologies that have the potential to treat nitrates in groundwater to meet drinking water standards. Staff will evaluate feedback on this workshop, and may consider using a similar model to address topics of interest with regard to wastewater.

### 3. *General Order for Small WWTPs*

State Water Board staff is working to streamline the permitting of small domestic wastewater systems that discharge to land. A general waste discharge requirements order (General Order) that will allow Regional Water Boards to efficiently permit small wastewater systems that discharge to land is being drafted for State Water Board adoption. Such systems have common characteristics such as flow rates, waste constituent concentrations, treatment methods, and disposal methods. The discharges are subject to similar treatment and disposal requirements and, therefore, are appropriately regulated under the proposed General Order.

[Water Quality Order \(WQO\)-97-10](#) is a State Water Board general order that addresses small domestic wastewater systems discharging up to 20,000 gpd. However, individual residential systems were excluded from coverage by WQO-97-10. The proposed General Order will address domestic wastewater treatment systems, including individual residential systems, and will allow a flow rate up to 100,000 gpd. This correlates to a community of approximately 500 single family homes. The General Order will include a model monitoring and reporting program that will be modified by the Regional Water Boards to suit site-specific conditions.

In June 2012, the State Water Board adopted a [Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems](#) (OWTS Policy) for the regulation of onsite systems with subsurface disposal. The Policy establishes a statewide, risk-based, tiered approach for the regulation and management of OWTS installations, repairs, and replacements. Local agencies are allowed to manage systems discharging less than 3,500 gpd without a Local Agency Management Plan (LAMP), and to manage systems discharging less than 10,000 gpd with a LAMP. Although the OWTS Policy allows for management of small systems at the local level, the Regional Water Boards anticipate a potential increase in workload as a result of the OWTS Policy. The proposed small domestic General Order will help the Regional Water Boards manage the additional workload.

4. *Evaluating Opportunities for Reducing the Cost of Compliance*

The [Third Annual Update on Efforts to Assist SDACs with their Wastewater Needs](#) (Third Annual Update) outlined various potential regulatory strategies that could help reduce SDAC compliance costs and/or allow them additional time to achieve compliance. The State Water Board is sensitive to these concerns and strives to help all dischargers achieve compliance as cost effectively as possible. On October 18, 2011, the State Water Board adopted [Resolution No. 2011-0052](#), directing staff to prepare a report assessing and aligning Water Board priorities, resources, and performance targets ([Resource Alignment Report](#)). Then in August 2012, the Board directed staff to commence work on a second phase of the [Resource Alignment Project](#).

[Phase 2 is described in a staff workplan](#) and is focused on assessing opportunities for reducing the costs of compliance for dischargers subject to Water Board oversight in the National Pollutant Discharge Elimination System (NPDES), stormwater, irrigated lands, and Waste Discharge Requirements (WDR) programs. The goal is to identify and implement opportunities to reduce the costs of compliance in these programs where feasible and to maximize the utility/benefit arising from discharger compliance actions, including benefits to the regulated community and to the environment at large. The Phase 2 workplan lays out a set of tasks to be carried out jointly by both State and Regional Water Board staff, and cooperating stakeholders. A stakeholder kick-off meeting was held in October 2012, at which time four stakeholder groups were formed. The stakeholder groups have provided periodic updates on their cost of compliance proposals to the State Water Board. On June 18, 2013 the NPDES wastewater stakeholders presented to the State Water Board a set of specific recommendations for reducing cost of compliance. State Water Board brought a resolution, for State Water Board consideration on September 24, 2013, that describes how the Water Boards will proceed with implementation of the NPDES wastewater stakeholder recommendations. Staff will continue to work with all of the stakeholder groups and non-governmental organizations to further develop and refine additional recommendations.

State Water Board staff will provide an update on the efforts of the Resource Alignment Project, and in particular any specific information or recommendations that will assist SDACs, during the next (sixth) annual update on the State Water Board's efforts to assist SDACs with their wastewater needs.

**POLICY ISSUE**

None at this time; informational item.

**FISCAL IMPACT**

None at this time; informational item.

**REGIONAL BOARD IMPACT**

None at this time; informational item.

**STAFF RECOMMENDATION**

None at this time; informational item.

State Water Board action on this item will assist the Water Boards in reaching Goals 1, 2, and 5 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030 (Goal 1), improve and protect groundwater quality in high-use basins by 2030 (Goal 2), and improve transparency and accountability by ensuring that Water Boards 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 (Goal 5).