



October 19, 2018

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

Sent via email to commentletters@waterboards.ca.gov

Re: Proposed Amendment to the Policy for Implementing the Clean Water State Revolving Fund (CWSRF)

Dear Ms. Townsend,

On behalf of the above-listed organizations, we would like to offer the following comments on the proposed amendments to the Policy for Implementing the Clean Water State Revolving Fund (CWSRF). Our organizations work on behalf of disadvantaged communities in California, and therefore focus our comments on policies that affect those communities. There is room to improve state and federal efforts to protect groundwater quality and public health by further supporting septic-to-sewer projects in disadvantaged communities through the CWSRF program.

As an initial matter, we expressly join in the comments submitted by Resource Legacy Fund, which encourages improved incorporation of Resolution 2017-0012, entitled Comprehensive Response to Climate Change. The CWSRF policy must ensure that projects, to the extent possible, advance the pressing interests of climate adaptation and resiliency, while protecting sources of drinking water and public health in disadvantaged communities.

I. Purpose and Objective

We appreciate the reference to the Water Code 106.3, the Human Right to Water. This reference should be augmented by reference to the State Board's Resolution #2016-0010 "ADOPTING THE HUMAN RIGHT TO WATER AS A CORE VALUE AND DIRECTING ITS IMPLEMENTATION IN WATER BOARD PROGRAMS AND ACTIVITIES." We recommend that this policy specifically reference to relevant resolved clauses:

6. Directs the State Water Board's Office of Sustainable Water Solutions to provide, when feasible and as resources allow, technical and compliance assistance to disadvantaged communities to develop the capacity of the recipient

community to evaluate solution(s) and select a sustainable approach that supports the human right to water.

7. Directs State Water Board staff, when submitting a recommendation to the board pertinent to the human right to water, to describe how the right was considered, and encourages Regional Water Board staff to do the same when making pertinent recommendations to their boards.

11. Directs State Water Board staff to incentivize regional approaches, where appropriate, by implementing financial assistance programs to address communities unserved or underserved by public water systems and wastewater treatment systems.

While we understand the restrictions of the federal framework of the CWSRF, we believe that additional actions can be taken to promote the Human Right to Water through this program.

II. Program Management

B. Fundable List.

We support the addition of item B.1.c. to the fundable list, which specifies that projects benefitting disadvantaged communities are fundable at any time.

C. Interest Rate and other charges.

We repeat our statement at the public meeting in Rancho Cordova that the Small Community Grant interest charge needs to be made a permanent charge. The fact that bond funds are available is not a reason to eliminate the charge. First, it is inappropriate to incur additional costs to taxpayers when alternative funding sources exist; second, bonds are unpredictable and may not be available when needed by communities. Bond dollars are certainly needed, since the revenue from the charge is inadequate to meet all needs; but having a steady funding stream assures that bond dollars can last longer and that communities will have access to funding if and when bond funds are not available.

III. REFINANCING

We are supportive of the provisions allowing for refinancing of existing obligations in small DACs and SDACs. To clarify what we believe is the present intent of the CWRSF policy, we ask that the definition of "Refinancing" be amended to expressly include Non-Repayable Financing.

IV. WATER RECYCLING AND SMALL DAC/SDAC PROJECTS

A. We agree that it is appropriate to include a waiver from federal CWSRF pass-through requirements for project not directly funded through the CWSRF.

V. APPLICATION REQUIREMENTS

With respect to application requirements, we note that many disadvantaged communities lack the technical capacity to complete complex and time-consuming grant applications. Many smaller rural disadvantaged communities are served only by a county government or special district with limited resources to devote to drafting grant applications. To the extent that application requirements become a barrier to funding vital wastewater projects, we suggest that the Deputy Director be expressly granted the authority to waive or streamline those requirements for small SDACs and DACs. Specifically, in Sections VIII and IX, we request that the following additional language:

To the extent consistent with state and federal authority and the purpose and objective of the CWSRF Program, the Deputy Director may waive or streamline project application requirements for small SDAC and small DAC projects.

VI. PLANNING/DESIGN FINANCING

It would be helpful for this section to clarify that DAC/SDAC planning/design projects are also available for principal forgiveness.

B. Eligible planning/design costs.

DAC/SDAC project planning often requires additional costs not listed. We suggest adding technical assistance costs, legal costs generally (not just for land acquisition) and costs related to preparation of Proposition 218 proceedings.

VII. CONSTRUCTION/IMPLEMENTATIONPROJECT DISBURSEMENTS

We are happy to see that, consistent with the 2018-2019 Intended Use Plan, the draft CWSRF policy has removed the cost of private laterals from the ineligible cost list in Section IX. However, for sake of additional clarity, we ask that the cost of private laterals be added to the list of eligible project costs. This clarity is necessary given that, in our experience, the cost of private laterals is a primary barrier to the completion of wastewater projects in disadvantaged communities.

Another significant barrier for septic conversion projects in disadvantaged communities is the cost of ongoing operations and maintenance, especially in the time period immediately after the capital project is complete. To the extent permitted byfunding restrictions, we ask that

operations and maintenance costs in small DACs and small SDACs be eligible for funding. At a minimum, we believe that the following language should be added:

Eligible expenses may include initial operation and maintenance costs for systems serving small DACs and small SDACs.

We further recommend that this section include a provision for advance payment of project costs for DAC/SDAC projects. Cash flow is a major challenge for these communities and can limit the ability to complete a project in a timely, cost-effective manner.

We also recommend a change to the following to acknowledge that DAC/SDAC applicants simply do not have the cash on hand to pay vendors while awaiting repayment:

3. The recipient must ensure that adequate local funding is available to pay its consultants, contractors, and vendors in case the disbursement is not processed before payment to the consultant, contractor, or vendor is due. The Office of Sustainable Water Solutions will work with DAC/SDAC recipients to provide bridge financing and/or accelerated repayment in order to improve their ability to pay vendors in a timely fashion.

Thank you for the opportunity to comment on this document. We look forward to working with you to continue to improve the program.

Sincerely



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