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May 10, 2018

Felicia Marcus, Chair, and Members
State Water Resources Control Board
1001 I Street, 25th Floor
Sacramento, CA 95814

Via electronic mail: commentletters@waterboards.ca.gov

SUBJECT: Comment Letter – June 19, 2018 Board Meeting – FFY 2018 CWSRF IUP

Dear Chair Marcus and Members of the Board:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to provide comments on the draft FY 2018 Clean Water State Revolving Fund Intended Use Plan. For more than 60 years, CASA has been the leading voice for public wastewater agencies on regulatory, legislative and legal issues. Our member agencies are engaged in advancing recycled water production and beneficial reuse, generating renewable energy supplies, and producing and beneficially using biosolids and other valuable resources. Through these efforts we help create a clean and sustainable environment for Californians.

California's CWSRF is a critical source of financing for many of these projects. Several of our members have co-signed this letter in order to emphasize the importance of the program as well as to demonstrate the consensus nature of our comments.

The proposed IUP includes a number of significant changes from prior years, and we thank your staff for their efforts to assist stakeholders in understanding these changes and the rationale for them. In general, we believe the IUP represents a cautious near term approach to addressing the current capacity constraints on the CWSRF. The establishment of an annual funding target, a "fundable list," and the ability to retroactively reimburse construction costs, and providing multi-year commitments will add clarity and reduce uncertainty for project applicants. Given current constraints, we concur with the recommendation to move forward with financing Scenario C.

CWSRF staff have characterized the 2018-19 IUP as something of a transition to a new way of managing the program, and therefore some of our comments constitute recommendations for future years rather than suggested changes to the proposed IUP.

Additional Specificity and Planning are Needed for Partial Project Funding in the IUP.

Historically, loan commitments have been made for an entire project out of the current year's funds. This has definitely been beneficial to agencies by providing certainty to the funding as they move forward with their projects. While this works well for smaller projects that use only a fraction of the available funding, it poses challenges for larger projects and multi-year projects (which by their very nature tend to be larger projects). If these projects were to be funded with a single year's proceeds, one or two projects could drain the entire fund, preventing many other worthwhile projects from moving forward.

To address current capacity concerns, CWSRF staff have identified six projects they deem to be "large." They have proposed that these projects only be funded at an amount equal to 20% of the total project cost. While CASA supports the concept of partial project funding, we believe some aspects of this proposal need additional refinement.

Multi-year projects: Most, if not all, of the "large" projects will require multiple years for construction. These projects do not require that all of the funding be set aside in the first year since the expenses (and corresponding request for disbursements) will also be spread over multiple years. A single year approach to the funding target and the fundable list leaves future project applicants with no certainty or plan for funding in future years, yet they will likely have to include programmatic requirements (e.g. Davis-Bacon, buy American) within bid documents on the chance that future assistance may be available.

In addition, the current proposed limit of 20% would mean that these agencies would have to secure some other type of outside financing. Past experience has shown that, if these agencies have to go to outside funding under any circumstances and incur duplicate costs of issuance, they will drop out of the CWSRF program altogether. This is something the CWSRF staff has been fighting to overcome for a number of years; the proposed modifications should address this concern, rather than revive the old issues.

We recognize that the precise annual funding level may vary from year to year and that there is always some uncertainty whether there will be future federal capitalization grants. We also know from the PFM study that, absent significant changes in the federal capitalization grant or other factors, there will be about \$1 billion for the California CWSRF. The acceptance of these projections should mean it is not necessary to fund the entirety of a multi-year project out of the current year's proceeds and that subsequent year's expenses can be covered in future years. We understand that there is some risk that future funding may not materialize. Given the low risk that the CWSRF program will not have future capacity either through revolving or new funds, we believe that the agencies with large projects would be willing to accept multi-year CWSRF loans on the condition of funding availability.

We further recognize the importance of accelerating CWSRF repayments so that future projects have greater financing certainty. One way to do this would be to encourage agencies (especially those with large projects) to accept 20-year loans instead of the current 30-year loans through less restrictive covenants or lower rates. Retaining the same interest rate would not be as advantageous, but the CWSRF would still be less expensive than outside financing,

and could be attractive the agencies with large projects that would not otherwise be funded through the CWSRF.

Criteria: The projects identified for partial funding appear to have been selected based purely on size. While this is one relevant factor, there may be other smaller projects that would accept partial project funding as well. The determination of which projects are eligible for or will receive partial funding should involve more than simply whether a project cost is over a specified dollar amount. In addition, simply setting a threshold (e.g. any project more than \$150M) over which a project is deemed to be limited to partial funding could encourage segmentation or other strategies to avoid this limitation (e.g. is a \$500 million project spread over five years any different than calling it five \$100 million projects).

Also, it seems unfair that a project just over the "large" threshold would only receive 20% funding while a project just under the threshold would receive 100% funding. For example, if the criteria for a large project were \$150 million, a project costing \$151 million would only receive \$30 million in funding while a project cost \$149 million would be eligible for the entire \$149 million.

In the proposed IUP, each project given partial funding was assigned 20% of total project cost, but this percentage seems to have been arbitrarily set working backward from the stated capacity for this fiscal year. This approach should not be a trend or determinative of future partial funding. For future consideration of partial project funding, after considering multi-year funding as discussed above, the full range of partial funding percentages should be available depending on project needs, willingness of the borrower to accept partial funding, and other such factors. This can be included as a check box on the loan application to open discussions as to the agency's needs and whether partial funding will work.

This ties in to our broader suggestion that the Board develop a longer term "plan of funding" that acknowledges the replenishment of existing funds and the receipt of new federal appropriations and seeks to allocate those funds efficiently over time. This longer term approach would allow for more back and forth interaction and enable applicants to plan co-funding with other sources alongside meaningful and predictable CWSRF amounts. In conjunction with our suggestion that the Board provide separate planning and design financial assistance (see below), the Board could commit funds to additional clean water projects each fiscal year, without jeopardizing longer term financing for larger projects or the health of the CWSRF program.

Recommendations for Future Program Modifications

Prioritization Criteria & Pre-application

The proposed IUP includes a test run on possible project ranking criteria. We believe these criteria should be as objective as possible so as to allow an applicant to self-score and understand how their project measures up. In general, the criteria set forth on Page 20 of the IUP are objective in nature and make sense as part of the prioritization criteria. However, we recommend against including a regional board ranking of preferred projects in future year

IUPs, which would be subjective and could lead to lobbying of the boards by project proponents.

In addition, one of the criteria for this IUP is whether or not the project is subject to a compliance order. The staff often characterizes the CWSRF program as a water quality program, and we agree that where a project is needed to come into compliance with water quality mandates, it should receive a higher priority. However, this should be extended to include not only enforcement orders but also in-permit or TMDL compliance schedules where the project is needed to meet requirements.

Finally, we recommend additional criteria for evaluating applications that could help achieve multiple program goals. For example, a borrower's willingness to accept shorter financing terms should move it up the prioritization list. Cash flow is an issue for the program, and whether a project will accept a shorter financing term (e.g. 20 years) should be among the factors considered.

Clear Requirements

The Board should set a date certain for when applications must be complete in order to qualify for the FY2019-20 IUP. We understand from discussions at the workshops that this date is December 31, 2018, but this should be explicitly stated in the current IUP. In addition, determining whether an application is complete sometimes seems to be a moving target. Applicants need clarity about what is required, and when, in order to lock in compliance as soon as possible and not risk having to re-do other aspects of the process that CWSRF staff have determined have become stale.

Funding Capacity

The CWSRF's municipal advisor, PFM, determined that the CWSRF can operate at an estimated sustainable financing level of approximately \$1 billion per year. Factors that were considered in this analysis include assuming a conservative level of future capitalization, loan terms and earning levels and bond and coverage terms. While we do not dispute this assessment given current conditions, we must continue to explore options for increasing California's capacity. As we have previously noted, a 2016 study ranks California as 19th out of the 50 states in dollars of assistance per federal capitalization dollar, at or near the U.A. average ratio of \$2.64 for both the CW and DW SRFs.

One specific recommendation we offer is to follow the practice of other states such as Arizona, Indiana, Iowa, New York and Texas to originate short-term planning/design loans and long term/construction loans. California can create two priority lists—one for planning and design and one for construction. On average, California's CWSRF borrowers require 4.8 years from originating financial assistance to project completion. This average includes many recipients whose projects require several months and sometimes years to plan and design. California could increase lending capacity by providing planning and design financial assistance to recipients and redirect funds to projects ready to proceed with construction. If an SRF program

encumbers the total estimated project costs at loan origination, particularly for projects requiring time to plan and design, the encumbered funds typically sit idle.

In addition to matching funding with planning/design or construction, providing smaller planning and design loans to recipients avoids or reduces the need to encumber an estimated loan amount for a period of years, thus allowing the CWSRF staff to get more clean water projects "out the door" while still providing reliable multi-year commitments to those projects for funding in future years.

CASA is willing to work with the Board to inform the legislature about the value of contributing state match from outside sources. While innovative, California is unique in the way it funds match through surcharges on 0% loans. The advantages of either outside or borrowed match sources is the immediate 20% increase in cash capacity as well as the immediate increase in leveraging capacity from income generating loans, as compared to loan surcharge receivables.

Eliminate Redundant Reviews for Repeat Borrowers

Many of our members express frustration about re-inventing the wheel with a new installment sales contract for each subsequent project. The process would be far more efficient for both applicants and CWSRF staff if specific terms negotiated for an agency can be extended to future agreements rather than starting over with the standard agreement each time. As the State Water Board's policies change over time, the CWSRF staff can focus only on these changes instead of starting from scratch with each legal review.

In closing, we appreciate the Board's continuing efforts to improve the CWSRF program. The proposed changes to the IUP will lend some clarity and certainty to the program, and we look forward to working with the Board to increase lending capacity, streamline the process and fund additional projects essential to public health and the environment.

Sincerely,



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