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Achieving Results



VIA ELECTRONIC MAIL

June 16, 2016

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov



Re: Comment Letter – June 21, 2016 Board Meeting – 2016 CWSRF IUP

Dear Ms. Townsend:

On behalf of the California Water Association ("CWA"), I am writing to respectfully offer comments on the Draft Federal Fiscal Year ("FFY") 2016 Clean Water State Revolving Fund ("CWSRF") Intended Use Plan ("IUP") for State Fiscal Year ("SFY") 2016-17 and the revised final guidelines for the implementation of the Prop 1 Small Community Grant Fund Program ("Prop 1 SCGF Program"), issued by the State Water Resources Control Board ("State Water Board") on May 17, 2016, for public review and comment.

CWA represents 108 drinking water utilities and 12 sewer utilities subject to regulation by the California Public Utilities Commission ("CPUC"). Its members provide safe, reliable, and high-quality water to approximately 6 million Californians –15% of the state's population – including a significant number living in disadvantaged communities or eligible for low-income rate assistance ("LIRA") programs.

As public utilities defined as such under Section 216 of the Public Utilities Code, and public water suppliers defined as such under Section 116275 (h) of the Health and Safety Code, CWA's members look forward to applying for grants and loans under the CWSRF-Prop 1 Program. CWA has met with the staff of the Division of Financial Assistance several times over the past year and appreciates the input and response by staff to its suggestions and input.

I. Federal and State Guidelines on CWSRF Eligibility

On June 10, 2014, President Obama signed into law the Water Resources Reform and Development Act of 2014 (WRRDA). Among its provisions were amendments to Titles I, II, V, and VI of the Federal Water Pollution Control Act (FWPCA). Interpretive guidance was issued on September 18, 2014 for those provisions affecting the Clean Water State Revolving Fund (CWSRF) program.

Jack Hawks, Executive Director
California Water Association
601 Van Ness Avenue, Suite 2047
San Francisco, CA 94102-6316
415.561.9650
415.561.9652 fax
415.305.4393 cell
jhawks@calwaterassn.com
www.calwaterassn.com

Melissa Dixon, Administrative Director
California Water Association
700 R Street, Suite 200
Sacramento, CA 95811
916.231.2147
916.231.2141 fax
mdixon@calwaterassn.com

CWA President
Greg Milleman
California Water Service Group
661.476.0574
gmilleman@calwater.com

CWA Vice Presidents
Lawrence Morales
East Pasadena Water Company

Keith Switzer
Golden State Water Company

Evan Jacobs
California American Company

CWA General Secretary and Treasurer
Chris Alario
Liberty Utilities
P.O. Box 7002
Downey, CA 90241-7002
562.923.0711
chris.alario@libertyutilities.com

CWA Billing Address
California Water Association
700 R Street, Suite 200
Sacramento, CA 95811

CWA Mailing and Shipping Address
California Water Association
601 Van Ness Avenue, Suite 2047
Mail Code: #E3-608
San Francisco, CA 94102-3200

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The significance for the CWSRF-Prop 1 Program is that eligibility was expanded in the following sections of the Clean Water Act, pursuant to the WRRDA amendments:

- Section 603 (c) 4: "Publicly and privately owned decentralized wastewater treatment projects are eligible"
- Section 603 (c) 5: "Publicly and privately owned, permitted and unpermitted projects that manage, reduce, treat, or recapture stormwater or subsurface drainage water are eligible"
- Section 603 (c) 6: "Assistance for water conservation, efficiency, or reuse may be provided to municipalities, intermunicipal, or State agencies. Only the specified public entities are eligible for assistance; however, project activities may take place at publicly or privately owned properties, provided the project reduces demand for publicly owned treatment works (POTW) capacity."
- Section 603 (c) 7: "Projects that develop or implement a watershed pilot project related to at least one of the six areas identified in section 122 are eligible: watershed management of wet weather discharges, stormwater best management practices, watershed partnerships, integrated water resource planning, municipality-wide stormwater management planning, or increased resilience of treatment works. Assistance recipients may be public or private entities."
- Section 603 (c) 8: "Projects to reduce the energy consumption needs for POTWs are eligible. Only the specified public entities are eligible for assistance; however, project activities may take place at public or private properties, provided the project reduces the energy consumption needs for a POTW."
- Section 603 (c) 9: "Projects involving the reuse or recycling of wastewater, stormwater, or subsurface drainage water are eligible. This includes, as part of a reuse project, the purchase and installation of treatment equipment sufficient to meet reuse standards. Other eligible projects include, but are not limited to, distribution systems to support effluent reuse, including piping the effluent on the property of a private consumer, recharge transmission lines, injection wells, and equipment to reuse effluent (e.g., gray water, condensate, and wastewater effluent reuse systems). Eligible recipients may be public or private entities."

Likewise, a number of states have begun updating their IUPs to reflect the federal guidelines on eligibility for investor-owned water and wastewater utilities regulated by state public utility commissions. One example is the state of New York, which included the updated eligibility guidelines in its *Final Intended Use Plan* for its CWSRF Program for FFY 2016 (October 1, 2015 – September 30, 2016.¹ In Section 2.0, "Activities to be Supported," the New York IUP adopted language comparable to the federal guidelines for projects and entities eligible for CWSRF financing.

¹ See <http://www.efc.ny.gov/Default.aspx?tabid=112>; pages 6-8

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II. Applicability to California's CWSRF-Prop 1 Intended Use Plan

On page 8 of the California CWSRF-Prop 1 IUP, reference is made to the U.S. Environmental Protection Agency's Interpretive Guidance regarding the WRRDA amendments. Specifically, the IUP states: "The State Water Board will continue to implement the CWSRF Program consistent with applicable state and federal statutes, regulations and policies ... The Executive Director, or his designee, may update this IUP to reflect the current capacity of the CWSRF to provide financing to applicants.

III. Request to Include CPUC-Regulated Water Utilities in IUP

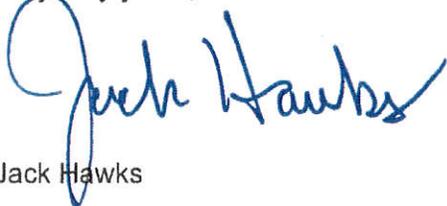
It is this update to the IUP that the California Water Association is requesting on behalf of its members. Because CPUC-regulated water utilities are already eligible for all projects that receive Prop 1 financial assistance, it is critical that the IUP now clarifies that regulated water utilities are also eligible for the identified projects under the CWSRF Program.

Specifically, CWA requests that the State Water Board add a Section "D" to the Introduction of the IUP that spells out the regulated water and wastewater utility CWSRF eligibility, pursuant to the WRRDA amendments.

IV. Conclusion

CWA appreciates the opportunity to provide these comments and information to the State Water Board. Please do not hesitate to contact me with any questions you may have at (415) 561-9650.

Very truly yours,



Jack Hawks

cc: Members of the State Water Resources Control Board
Commissioner Catherine J.K. Sandoval, California Public Utilities Commission
Tom Howard, Executive Director
Jonathan Bishop, Chief Deputy Director
Darrin Polhemus, Deputy Director, Division of Financial Assistance
Rami Kahlon, Director, Division of Water & Audits, California Public Utilities Commission

