

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
OFFICE OF ENFORCEMENT, AND DIVISION OF WATER QUALITY
AUGUST 3, 2010**

ITEM 10

SUBJECT

SECOND ANNUAL UPDATE ON STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD) EFFORTS TO PROMOTE STRATEGIES TO ASSIST SMALL AND/OR DISADVANTAGED COMMUNITIES WITH WASTEWATER NEEDS

DISCUSSION

Small and/or disadvantaged communities face specific challenges related to their drinking water and wastewater systems. Failing septic systems and old or undersized wastewater treatment plants (WWTP) that cannot meet current water quality standards can cause significant health and safety problems, endanger surface water uses, and threaten groundwater supplies.

Due to their small rate base, small (i.e., population less than 20,000 persons) and/or disadvantaged (i.e., Median Household Income [MHI] less than 80 percent [80%] of statewide MHI) communities 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 small and/or disadvantaged communities face generally result from a lack of adequate local monetary resources combined with insufficient access to technical expertise. Small and/or disadvantaged communities often lack the funds necessary to retain qualified operators. If a community wastewater system violates water quality requirements, the community often lacks the capital to repair the problem, and is unable to pay fines associated with non-compliance. Even if communities secure financial assistance to improve their wastewater 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.

The State Water Board is committed to addressing the human health and water pollution problems associated with small and/or disadvantaged communities, 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 (collectively referred to as Water Boards), developed a [*Small Community Wastewater Strategy*](#) (Strategy), which provides an overview of the problems faced by small and/or disadvantaged communities 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 assisting small and/or disadvantaged communities with wastewater needs. The State Water Board directed staff to report annually on progress made pursuant to Resolution No. 2008-0048.

The first annual update was presented as an informational item at the July 7, 2009, State Water Board meeting. The update included a summary of actions taken to support small and/or disadvantaged community wastewater needs during State Fiscal Year (SFY) 2008-2009, and discussion of potential financial, regulatory, and technical strategies to assist these communities in the future.

UPDATE ON SMALL AND/OR DISADVANTAGED COMMUNITY WASTEWATER ACTIONS DURING SFY 2009-2010

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

1. State Water Board staff 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.
2. Staff updated the Wastewater User Charge Survey, which collects information from public agencies regarding their monthly wastewater charges and sewer connection fees. Many agencies use the annual *Wastewater User Charge Survey Report* as a reference tool. The scope of the SFY 2008-2009 survey was expanded to collect additional information that may be useful in assessing wastewater needs and affordability. For example: population and MHI of the service area; existing flows, capacity, and expected growth; existing treatment components or processes; operators on staff; sources of revenue; annual budget for O&M, debt service, and capital expenditures; and upcoming capital expansion or replacement costs. The expanded SFY 2008-2009 survey forms were mailed April 27, 2009. A draft report is expected by the end of SFY 2009-2010.
3. Staff is implementing the following improvements to the Clean Water State Revolving Fund (CWSRF) Program in an effort to make the CWSRF Program more appealing and affordable to small and/or disadvantaged communities:
 - a. Following procedures to process and disburse payments within 30 days of a complete payment request submittal;
 - b. Offering planning financing agreements at zero percent (0%) interest during a draw period of up to 3 years, with the option to either repay over 5 years at half the general obligation (GO) bond rate, or to refinance the planning financing as part of a CWSRF construction financing agreement;
 - c. Allowing for refinancing of existing local wastewater debts when necessary to make CWSRF financing for a new wastewater project affordable;
 - d. Granting Extended Term Financing (ETF) and/or reduced interest rates (less than half the GO bond rate, but not less than zero percent [0%]) for eligible small disadvantaged communities with wastewater rates of at least 1.5 percent (1.5%) of the community's MHI. The following eight communities received ETF during SFY 2009-2010: City of Colfax, City of Colusa, City of Crescent City, Ventura County Service Area 34 - El Rio, Linda County Water District, City of Placerville, City of Live Oak, and City of Williams. Per State Water Board [Resolution No. 2009-0086](#), the City of Williams also received a zero percent (0%) interest rate to make their project more affordable.

4. State Water Board [Resolution No. 2009-0027](#) reserved 25 percent (25%) of the CWSRF Program's American Recovery and Reinvestment Act of 2009 (ARRA) funds as principal forgiveness for disadvantaged community wastewater projects, with priority given to small disadvantaged communities. Subsequent [Resolution No. 2009-0051](#) increased that reserve for disadvantaged community wastewater projects to 32.5 percent (32.5%). As a result, the State Water Board awarded \$87.6 million in ARRA principal forgiveness to the 25 disadvantaged community wastewater projects listed in [Exhibit A](#).
5. On December 28, 2009, the State Water Board executed a contract with the Rural Community Assistance Corporation (RCAC) to provide wastewater-related training to small and/or disadvantaged communities statewide. The goal of this contract is to improve compliance and achieve more stable and sustainable community governance, with improved asset management, fiscal planning, and accountability, combined with enhanced public awareness of wastewater issues. Free classroom and web-based training courses are available on a variety of topics, including: Board Governance; Wastewater Regulations; Infiltration and Inflow; Sewer System Management Plans; Budgeting and Financial Management; Capital Improvement Planning and Asset Management; O&M for Small Wastewater Utilities; and Rate Setting, Proposition 218, and Community Outreach.
6. State Water Board staff continues to look at new and alternative funding sources to assist small and/or disadvantaged communities with their wastewater needs. Assembly Bill (AB) 2356 (Statutes 2008, Chapter 609, Arambula) created the CWSRF Small Community Grant Fund (Grant Fund), and allows the State Water Board to assess an annual charge for deposit into the Grant Fund (in lieu of interest that would otherwise be charged in association with a CWSRF financing agreement). AB 2356 authorizes the State Water Board to deposit up to \$50 million into the Grant Fund by 2014. Staff is amending CWSRF financing agreements to incorporate the provision to collect the annual charge, and anticipates that approximately \$30 million will be deposited into the Grant Fund by December 2014. It is anticipated that these funds will be administered in accordance with the Small Community Wastewater Grant (SCWG) Program. More information regarding updates to the SCWG Program is provided below.
7. On November 17, 2009, the State Water Board adopted the revised *Water Quality Enforcement Policy* (Enforcement Policy), which took effect on May 20, 2010. In recognition of the unique compliance challenges faced by small and/or disadvantaged communities, the Enforcement Policy states "informal enforcement or compliance assistance will be the first steps taken to return a facility serving a small community to compliance, unless the Water Board finds that extenuating circumstances apply." The Enforcement Policy describes compliance activities as including, but not limited to, educating the discharger regarding applicable regulations and permit requirements, working with the discharger to eliminate causes of violations, and assisting the discharger in identifying available resources to implement compliance measures.
8. State Water Board staff has prepared approximately 70 percent (70%) of the curriculum for the education component of the small system operator grade proposed in the first annual Strategy update. The curriculum, which is prepared in English and Spanish, focuses on regulatory requirements and typical operational issues involved in running conventional activated sludge and pond wastewater treatment systems.

9. State Water Board staff continues to identify, evaluate, and promote means of recruiting and retaining qualified operators for small wastewater systems.
10. State Water Board staff is working to improve the permitting of small WWTP. The State Water Board is hiring staff to fill a new unit in the Division of Water Quality (DWQ), which will focus on reducing the backlog of unprocessed applications for waste discharge requirements (WDR). By the end of the SFY 2009-2010, two of the five positions in the new WDR unit were filled. Part of this work includes preparing general WDR to more efficiently permit small WWTP as described in the following Regulatory and Technical Assistance Strategies section.

PROPOSED SMALL AND/OR DISADVANTAGED COMMUNITY WASTEWATER ACTIONS

The following is a summary of potential financial, regulatory, and technical strategies to assist small and/or disadvantaged communities with wastewater needs.

Financial Assistance Strategies

Primary financial objectives for future efforts to assist small and/or disadvantaged communities include:

1. Updating the SCWG Program Guidelines (Guidelines) and solicit new projects. Staff anticipates bringing the updated Guidelines to the State Water Board for consideration in 2011. Key items under consideration for incorporation in the updated Guidelines include: adjusting the application and funding approval process to mirror the CWSRF Program, to the extent possible; requiring the evaluation of regional wastewater alternatives, including a cost-effectiveness evaluation; setting a maximum amount of grant funding per household that cannot be exceeded without sufficient justification; and incorporating a more comprehensive project prioritization process. The prioritization process may use the following criteria to rank projects: water quality importance; community demographics (e.g., population, MHI, percentage of permanent residents, unemployment rates, etc.); and wastewater rates; along with incentives for capital improvement planning and regionalization.

The project prioritization process will likely be used as a basis to update the SCWG Program Competitive Project List (CPL). Staff developed a statewide list of potentially eligible small disadvantaged communities in need of wastewater assistance. The Regional Water Boards and various environmental justice and small community assistance organizations reviewed the list, and staff will continue to update the list as potentially eligible small disadvantaged community wastewater projects are identified. After the Guidelines are updated, applications will be sent to all identified communities and the general public to solicit eligible projects. The applications will provide the State Water Board with information about community demographics and eligibility for the SCWG Program; specific public health and/or water quality problem(s); the needs and status of the proposed wastewater project(s); and the estimated project costs. Staff anticipates submitting the updated CPL to the State Water Board for consideration by the Summer/Fall 2011.

2. Working to contract with existing nonprofits to provide onsite wastewater-related technical assistance to small and/or disadvantaged communities statewide. This contract will work in tandem with the existing training contract with similar goals.

Technical assistance efforts will be tailored to the needs of individual communities, focusing on the following general areas of concern: preparation of financial assistance applications; design and operational solutions; community outreach, awareness, and education; fiscal management and accountability; capital improvement planning and asset management; rate setting and the Proposition 218 process.

3. Developing a process, through the CWSRF Program or other means, to encourage larger entities to help support the needs of small and/or disadvantaged communities. The State Water Board could offer larger entities financial incentives, such as lower interest rates, in exchange for efforts to assist small and/or disadvantaged communities. Assistance could include, for example: preparation of applications; legal, financial, or technical advice or analysis; operator or managerial training or service; etc.

Regulatory and Technical Assistance Strategies

Primary regulatory or technical assistance objectives for future efforts to assist small and/or disadvantaged communities include:

1. Developing and providing local clinics for small wastewater system operators and managers on understanding the requirements contained in their WDR, how to prevent and correct the most common violations found by Water Boards staff during inspections and monitoring report reviews, and where to go if additional resources are needed to achieve compliance.
2. As mentioned in the above update on actions during SFY 2009-2010, the State Water Board is forming a new unit within the DWQ to focus on assisting the Regional Water Boards in reducing the backlog of unprocessed WDR applications. Part of this work involves standardizing the format and content of WDR, thus ensuring that the language is fully enforceable and up to date with current statutes, plans, and policies. Preparation of general WDR is under consideration to allow more efficient permitting of the many backlogged applications. General WDR would be applicable to existing facilities and could be used to replace outdated existing WDR for small WWTPs. Another task under consideration is the standardization of the content of the Report of Waste Discharge (applications for WDR), thus streamlining the permitting process for small communities.

SMALL AND/OR DISADVANTAGED COMMUNITY WASTEWATER UPDATE MEETING

State Water Board staff hosted a meeting with various environmental justice and small community assistance organizations on July 1, 2010, providing a summary of efforts to date, and discussing plans for the future. In addition, State Water Board staff solicited feedback from the organizations on the effectiveness of State Water Board efforts to date and other strategies that should be considered. The staff presentation for this informational item will include a report on new issues or ideas discussed at the meeting.

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, such as establishment of a statewide water data institute water bodies by 2030 (Goal 5).