

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
FEBRUARY 19, 2013**

**ITEM 3**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION TO APPROVE A STREAMLINED PROCESS FOR ADMINISTERING RESIDUAL BOND FUNDS TO SMALL DISADVANTAGED COMMUNITY WASTEWATER PROJECTS

**DISCUSSION**

On December 18, 2008, the Department of Finance issued Budget Letter 08-33, which froze funding for all bond funded projects. The bond freeze affected several projects funded by the State Water Resources Control Board's (State Water Board) Small Community Wastewater Grant (SCWG) Program. On February 17, 2009, the federal American Recovery and Reinvestment Act of 2009 (ARRA) was enacted; it allowed California's Clean Water State Revolving Fund (CWSRF) Program to offer principal forgiveness opportunities to eligible recipients. State Water Board [Resolution No. 2009-0027](#) directed approximately \$68 million in ARRA principal forgiveness funds to wastewater projects serving disadvantaged communities. The Division of Financial Assistance (Division) used ARRA principal forgiveness funds for several SCWG construction projects that had been on hold because of the bond freeze. The bond funds previously committed to those projects were disencumbered, and are now Residual Bond Funds that can be used to fund new projects. The State Water Board also has additional Residual Bond Funds from previously awarded projects that either completed work under budget, or ultimately declined their funding awards.

The Division proposes a streamlined process to efficiently administer the Residual Bond Funds.

Currently, there are approximately \$10.9 million in Residual Bond Funds available to commit to small<sup>1</sup> disadvantaged<sup>2</sup> community wastewater projects, of which approximately \$3.4 million must be committed by June 30, 2013. It is anticipated that at least \$2.2 million in additional Residual Bond Funds may become available for these types of projects in the future. The available Residual Bond Funds come from a variety of different sources:

- **Proposition 50 (2002)** – Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002. (California Water Code Section 79540);
- **Proposition 40 (2002)** – The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (California Public Resources Code Section 30925);
- **Proposition 13 (2000)** – Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (California Water Code Section 79122(b));
- **Proposition 204 (1996)** – Safe, Clean, Reliable Water Supply Act (California Water Code Section 78613(b));
- **Proposition 82 (1988)** – Water Conservation Bond Law (California Water Code Section 14056);
- **Proposition 25 (1984)** – Bonds for Water Projects (California Water Code Section 13999.9); and
- **Proposition 2 (1978)** – Bonds for Water Conservation (California Water Code Section 13962(b)).

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

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

The State Water Board adopted [Resolution No. 2004-0038](#) on June 17, 2004, approving the *Small Community Wastewater Grant Program Guidelines* (Guidelines). [Resolution No. 2007-0026](#) was adopted on May 22, 2007, approving minor amendments to the Guidelines.

On September 4, 2007, State Water Board [Resolution No. 2007-0052](#) adopted the SCWG Program Statewide Competitive Projects List. Projects were placed into one of three priority classes, as outlined below, and staff was directed to fund projects in Classes A or B, in readiness-to-proceed order.

<b>Class</b>	<b>Description</b>
<b>A – Public Health Problems</b>	<p>Treatment plant or new collection system projects required to alleviate existing or potential public health hazards where:</p> <p><b>1. For Unsewered Areas:</b></p> <p>a. County Board of Supervisors or County Health Officer has issued a declaration that there is a potential or existing public health hazard in the small community involved; and</p> <p>b. A resolution is adopted by the authorized governing body requiring hook-up of existing residences and businesses to the public wastewater system when it is available, prohibiting the construction and use of new septic tanks in the existing or potential health hazard area, and providing final authority to the Regional Board for approving any exemptions; and</p> <p>c. Regional Board adopts a resolution approving the local health hazard declaration and moratorium.</p> <p>d. A Regional Board prohibition is acceptable in lieu of b and c above.</p> <p><b>2. For Sewered Areas:</b></p> <p>a. County Board of Supervisors or County Health Officer has issued a declaration that there is a potential or an existing public health hazard due to discharge from the wastewater treatment plant or from overflows in the collection system; and</p> <p>b. Regional Board has adopted a Cease and Desist Order containing a prohibition on new connections to the treatment works until the necessary corrections are made.</p>
<b>B – Pollution Problems</b>	<p>Projects required to alleviate potential or existing water pollution problems where:</p> <p>1. Regional Board or the Regional Board Executive Officer has determined that there is a potential or existing water pollution problem and has issued a time schedule to meet the objectives of the Basin Plan; or</p> <p>2. County Board of Supervisors, City Council, County Health Officer, or local governing agency has issued a declaration that there is a potential or an existing pollution problem in the small community involved and has adopted a time schedule for compliance, and the Regional Board or Regional Board Executive Officer has accepted the local declaration.</p>
<b>C – Other</b>	Projects not included in the above classes.

The Division proposes to retain this priority classification. However, the Guidelines also contain procedures that are out-of-date, inconsistent with current Division practice, and would be difficult to utilize in their current form. For example, the Guidelines require a Final Plans and Specifications Approval in addition to an Approval to Award. The CWSRF Program has streamlined these two processes into a single Approval of Award. Also, the revenue program process outlined in the Guidelines has been replaced with a more thorough credit review process. Other similar improvements to the CWSRF Program have been implemented since 2007. In most cases, available Residual Bond Funds will be supplemented with CWSRF financing; therefore, it is in the interest of applicants and the Division to administer the Residual Bond Funds in a manner consistent with the CWSRF Program.

It would also not be prudent to utilize the 2007 Competitive Projects List in administering the Residual Bond Funds, as newer projects would be excluded from the process. Given the limited amount of residual funds available, the effort required to comprehensively amend the Guidelines and solicit new projects for an updated Competitive Projects List would be an administratively wasteful use of staff time and resources. Such an effort would divert staff from their ongoing workload of administering CWSRF funding for small disadvantaged community wastewater projects. Furthermore, these bond funding sources do not have any administrative funds remaining.

In order to streamline the process of awarding and administering the Residual Bond Funds, while still maintaining a statewide competitive process, the Division recommends that the State Water Board approve a process described below that is designed to award the Residual Bond Funds more efficiently by awarding them in conjunction with CWSRF Program funds. Rather than utilizing a separate SCWG application and approval process to administer the Residual Bond Funds, the Division recommends directing the Residual Bond Funds to eligible small disadvantaged community wastewater projects already applying for funds through the CWSRF Program, and utilizing the CWSRF funding approval and administration process to administer the Residual Bond Funds.

The Division proposes to fund ready-to-proceed projects that are consistent with the project types previously funded through the SCWG Program. In allocating the Residual Bond Funds, the Division would select projects that also meet the specific requirements associated with the given bond funding source(s). For example, for projects funded with Proposition 13, Proposition 204, Proposition 82, and/or Proposition 25, total state and federal grants may not exceed 97.5% of total project cost. In addition, projects must meet applicable population limitations, as follows: Propositions 40 and 50: 20,000 persons or fewer; Proposition 13: 10,000 persons or fewer; Propositions 204 and 25: 5,000 persons or fewer; Proposition 82: 3,500 persons or fewer.

The Division proposes to allocate the Residual Bond Funds in a manner that is consistent with the eligibility requirements and funding amounts outlined for CWSRF Small Community Grant (SCG) funds in the [CWSRF Intended Use Plan](#), which is typically updated annually. The Residual Bond Funds would supplement available Category 1<sup>3</sup> principal forgiveness and SCG funds.

## **POLICY ISSUE**

Should the State Water Board approve the proposed streamlined process for administering Residual Bond Funds to small disadvantaged community wastewater projects?

## **FISCAL IMPACT**

State Water Board staff will follow any directives from the Department of Finance and State Controller's Office as it relates to availability of funding for local assistance appropriations. Any new commitment to allocate Residual Bond Funds will be in accordance with the most current budget requirements. Eligible projects will continue to compete for available Residual Bond Funds until all the funds are committed.

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<sup>3</sup> Small, disadvantaged community with wastewater rates at least 1.5 percent of the community MHI.

## **REGIONAL BOARD IMPACT**

Expenditure of Residual Bond Funds will support implementation of Regional Water Quality Control Board basin plans, and help achieve compliance with enforcement efforts.

## **STAFF RECOMMENDATION**

The State Water Board should adopt the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 2 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) and improve and protect groundwater quality in high-use basins by 2030 (Goal 2).

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-

### APPROVAL OF A STREAMLINED PROCESS FOR ADMINISTERING RESIDUAL BOND FUNDS TO SMALL DISADVANTAGED COMMUNITY WASTEWATER PROJECTS

#### WHEREAS:

1. Previously committed bond funds have been disencumbered from several small disadvantaged community wastewater projects (Residual Bond Funds). Some of these Residual Bond Funds are currently available to commit to other small disadvantaged community wastewater projects, and some Residual Bond Funds are expected to become available in the future;
2. Awarding the Residual Bond Funds to eligible small disadvantaged community wastewater projects already applying for funds through the Clean Water State Revolving Fund (CWSRF) Program would streamline the process of administering the Residual Bond Funds, while still maintaining a statewide competitive process;
3. The Residual Bond Funds come from a variety of different sources:
  - Proposition 50 (2002) – Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (California Water Code Section 79540);
  - Proposition 40 (2002) – The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (California Public Resources Code Section 30925);
  - Proposition 13 (2000) – Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (California Water Code Section 79122(b));
  - Proposition 204 (1996) – Safe, Clean, Reliable Water Supply Act (California Water Code Section 78613(b));
  - Proposition 82 (1988) – Water Conservation Bond Law (California Water Code Section 14056);
  - Proposition 25 (1984) – Bonds for Water Projects (California Water Code Section 13999.9); and
  - Proposition 2 (1978) – Bonds for Water Conservation (California Water Code Section 13962(b)).
4. The Residual Bond Fund sources do not have any administrative funds remaining;
5. The *Small Community Wastewater Grant (SCWG) Program Guidelines* (Guidelines) and SCWG Statewide Competitive Projects List (CPL) were last updated in 2007. The procedures in the Guidelines are out-of-date and require a comprehensive overhaul that would divert staff from their ongoing workload of administering CWSRF funding for small disadvantaged community wastewater projects. Also, it would not be prudent to utilize the 2007 CPL in administering the Residual Bond Funds, as newer projects would be excluded from the process;

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6. The CWSRF funding approval and administration process, and the priority classification from the Guidelines, should be used to administer the Residual Bond Funds; and
7. The Residual Bond Funds should be allocated in a manner that is consistent with the eligibility requirements and funding amounts outlined for CWSRF Small Community Grant (SCG) funds in the CWSRF Intended Use Plan (IUP).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Directs Residual Bond Funds from the following sources to eligible small disadvantaged community wastewater projects applying for funds through the CWSRF Program:
  - Proposition 50 (2002) – Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (California Water Code Section 79540);
  - Proposition 40 (2002) – The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (California Public Resources Code Section 30925);
  - Proposition 13 (2000) – Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (California Water Code Section 79122(b));
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  - Proposition 82 (1988) – Water Conservation Bond Law (California Water Code Section 14056);
  - Proposition 25 (1984) – Bonds for Water Projects (California Water Code Section 13999.9); and
  - Proposition 2 (1978) – Bonds for Water Conservation (California Water Code Section 13962(b)).
2. Waives the Guidelines except Section IV.B (as summarized in the following chart) for all projects funded after the date of this resolution. The Guidelines will remain in effect for projects funded prior to the date of this resolution.

# D R A F T

Class	Description
<b>A – Public Health Problems</b>	<p>Treatment plant or new collection system projects required to alleviate existing or potential public health hazards where:</p> <p><b>1. For Unsewered Areas:</b></p> <p>a. County Board of Supervisors or County Health Officer has issued a declaration that there is a potential or existing public health hazard in the small community involved; and</p> <p>b. A resolution is adopted by the authorized governing body requiring hook-up of existing residences and businesses to the public wastewater system when it is available, prohibiting the construction and use of new septic tanks in the existing or potential health hazard area, and providing final authority to the Regional Board for approving any exemptions; and</p> <p>c. Regional Board adopts a resolution approving the local health hazard declaration and moratorium.</p> <p>d. A Regional Board prohibition is acceptable in lieu of b and c above.</p> <p><b>2. For Sewered Areas:</b></p> <p>a. County Board of Supervisors or County Health Officer has issued a declaration that there is a potential or an existing public health hazard due to discharge from the wastewater treatment plant or from overflows in the collection system; and</p> <p>b. Regional Board has adopted a Cease and Desist Order containing a prohibition on new connections to the treatment works until the necessary corrections are made.</p>
<b>B – Pollution Problems</b>	<p>Projects required to alleviate potential or existing water pollution problems where:</p> <p>1. Regional Board or the Regional Board Executive Officer has determined that there is a potential or existing water pollution problem and has issued a time schedule to meet the objectives of the Basin Plan; or</p> <p>2. County Board of Supervisors, City Council, County Health Officer, or local governing agency has issued a declaration that there is a potential or an existing pollution problem in the small community involved and has adopted a time schedule for compliance, and the Regional Board or Regional Board Executive Officer has accepted the local declaration.</p>
<b>C – Other</b>	Projects not included in the above classes.

3. Directs staff to use the Residual Bond Funds for ready-to-proceed projects that are consistent with the project types previously funded through the SCWG Program, that also meet the specific requirements associated with the given bond funding source(s);
4. Directs staff to utilize the CWSRF funding approval and administration process (including the *Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities* and the *CWSRF Intended Use Plan*, as each may be amended or updated from time to time) to administer the Residual Bond Funds;
5. Delegates to the Deputy Director of the Division the authority to certify that a project qualifying for either Class A or B above, the project types previously funded under the SCWG Program, is eligible for funding, consistent with Board priorities, and entitled to funding priority;

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6. Rescinds the \$2 million dollar cap on funding per eligible small community, as specified in State Water Board [Resolution No. 2007-0052](#), and directs Division staff to allocate the Residual Bond Funds in a manner that is consistent with the eligibility requirements and funding amounts outlined for CWSRF SCG funds in the *CWSRF Intended Use Plan*, as may be amended or updated from time to time (typically at least annually); and
7. Authorizes the Deputy Director of the Division to award Residual Bond Funds, issue grants and amendments to implement projects, and expend Residual Bond Funds according to the criteria outlined above and in accordance with any directive(s) from the Department of Finance and/or State Controller's Office as relate to the availability of funding for local assistance appropriations, until all Residual Bond Funds are exhausted.

## CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on February 19, 2013.

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Jeanine Townsend  
Clerk to the Board