



October 6, 2014

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

Re: Comment Letter - October 21, 2014 Board Meeting - DWSRF Policy Handbook

On behalf of the Community Water Center, Clean Water Action, Leadership Counsel for Justice and Accountability, and Environmental Justice Coalition for Water we respectfully submit these comments on the Policy for Implementing the Drinking Water State Revolving Fund ("Policy Handbook"). As organizations that work with and for disadvantaged communities (DACs) that lack safe drinking water and as some of main proponents for the Drinking Water Program transition to the State Resource Water Quality Board (State Water Board), we are interested in assuring that the Policy Handbook improves access to safe drinking water and infrastructure funding for California's disadvantaged communities. As we all know, the drought has exacerbated water quality and quantity problems for countless communities and schools up and down the state – More and more families are running out of water, or are finding their drinking supply is not safe to drink any longer. The situations faced by these communities require both immediate and long-term solutions and we look forward to working collaboratively with the Drinking Water Program Staff to ensure these issues are addressed for communities and schools in a deliberate and targeted manner, reflective of the state's role in implementing the Human Right to Water.

A Strong Start and In Strong Support

We strongly support and appreciate *Section III –Human Right to Water* of the DWSRF Policy Handbook which states the State Water Board considered the provisions of Section 106.3 of the Water Code [Human Right to Water] in establishing this policy.

We strongly support *Section V –Program Management*, which streamlines the comprehensive project list, establishes health priorities and prioritizes projects that includes, or support DACs and SDAC projects and and/or DAC or SDAC consolidation projects, that will result in the consolidation of water systems.

Maximizing Opportunities and Collaboration

The Policy Handbook makes significant advances in making DWSRF funding more accessible to the most vulnerable communities. We are generally satisfied that this effort will do away with overly complicated regulations and some of the key barriers that our groups had identified as hurdles to securing available drinking water resources. As a whole we are confident this many of Staff’s recommendations will create a more flexible, targeted and sustainable funding program that is able to adjust as necessary to address the complex issues faced by public water systems and community water systems statewide. The following recommendations are partly focused on improving existing programs, primarily described in the existing 2014-2015 Intended Use Plan (IUP), of which this Policy Handbook references and also requesting amendments to the Policy Handbook. Further, we see this process of improving the Drinking Water Program as a fluid one, a few of the organizations listed above are part of the ongoing drinking water transition stakeholder process and as such, additional comments are meant as suggestions for Staff and topics for discussion here and at a later date.

Improving and Streamlining Existing DAC Programs and Funding

The Policy Handbook and related update to the IUP in the near future, should continue to improve and streamline existing programs that were established in recent years, especially those intended to address small DAC water system needs. Recommendations to improve two key DAC programs described below.

Small Water System Program Plan

Since inception, only 13% of the small public water systems identified as exceeding the maximum contaminant level (MCL) violations have been returned to compliance.

- We recommend staff increase resources to increase the rate of systems returning to compliance in the coming year.
- Further, staff should provide a status update on the progress of this program when DWSRF Policy Handbook is presented to the State Board in October.
- Meanwhile, it is highly likely that more systems are now out of compliance due to the prolonged drought. Steps should be taken to update the list of communities not meeting the water compliance standards.

This is even more important given the proposal to significantly revise the Project Priority List by limiting the time that a project can remain on the list. While this revision will allow the Program to be more aggressive in funding projects, as advocates we will lose our only current mechanism for gauging the needs of the State’s public water systems. A more robust Small Water System Program Plan can address that information gap.

Legal Entity Formation Assistance” (LEFA) Pilot Program

By our assessment LEFA is stalled primarily due to inadequate state and regional Drinking Water Program staffing and regional technical assistance. As of July 2014 of the 22 communities selected in 2013 to participate in LEFA only two have been funded and authorized to move forward with their intended work plans. Further, these funds are only available piecemeal and communities need to apply

individually for each step in their planning process. Still, there is a need for this kind of “pre-planning/legal” funding. Working with communities we have experienced that project pre-planning & planning funding sources are often very restricted. That said, a more comprehensive, coordinated and targeted effort is needed, to provide required funding for all of the pre-planning, planning and technical assistance components needed by DACs. Further, the funds should be available for all types of disadvantaged communities in unincorporated areas that do not have safe drinking water regardless of whether they are served by an existing public water system or lack a regulated water system, and regardless of whether the water system is a privately-owned or publicly-owned entity.

While we believe this type of funding is necessary to provide communities permanent infrastructure it could more appropriate now that we are adding more flexibility to the eligibility and funding requirements. We recommend streamlining this process by making legal entity formation costs and fees part of the general planning process and an eligible *Planning/Design Financing* activity. Proposed amendments below:

*(cc) “Planning/Design Financing” means financing to cover some or all of the cost of preliminary activities necessary to construct a project including, but not limited to, **legal costs**, studies, planning, preliminary engineering, and design for a project.*

AND

B. Eligible Planning/Design Costs

*1. Eligible costs include the preparation of planning/design documents, including but not limited to: a. Feasibility studies and project reports ... f. Legal costs **and fees** ...*

Water System Consolidations

Guidelines for Consolidation Projects

At the state level there is a need for a targeted and coordinated funding program with the clear goal of consolidating water systems, creating new water systems and transitioning small disadvantaged communities in unincorporated areas without safe drinking water (including those communities with and without existing public water systems) to achieve self-sustaining, affordable drinking water systems. Such an effort would need to include targeting significant amounts of existing funding sources, and will need new and additional funding sources to adequately address the needs and gaps. The creation of *Guidelines for Consolidation Projects* appears as positive and critical step in that direction. Still, there is no mention in the new policy for consolidation how on how to facilitate a consolidation between entities that are not public water systems. It also should include schools as an eligible participant. We recommend this section of the policy be clarified in order to maximize the effectiveness of this program.

Consolidation Incentive Program

The Consolidation Incentive Program outlined in the 2014-2015 IUP, utilizes the Project Priority List ranking criteria as a means of providing an incentive to encourage a PWS to agree to consolidate with one or more PWS with higher ranked projects. Very few water systems have taken advantage of this program and it appears the staffing and technical assistance may be impeding participation from potential applicants. Streamlining this process in the Policy Handbook Guidelines by rolling this program into the more comprehensive efforts outlined in the *Guidelines for Consolidation Projects* seems the most appropriate way to move forward at this time.

Recommended Improvements

Grants for Severely Disadvantaged Communities Most SDACs lack sufficient organization, representation and the rate base required to finance needed drinking water solutions. The number of issues and layer of problems are difficult to address given the limited scope and financial resources of local residents. These communities need grants, not loans. *Section VIII – Assistance for Severely Disadvantaged Communities* allows but does not require principal forgiveness to SDACs. The income limitations for SDACS (less than \$36,000 median household income) are such that the TMF requirements alone will raise water rates to unaffordable levels. Adding any level of debt repayment to that burden is simply not realistic. The language in this section should definitively state that SDAC projects will be provided with 100% principal forgiveness. With limited funding available to these communities grants are the best pathway forward to ensure small SDACs pursue and ultimately secure funding.

Implement AB 21 (Alejo)

AB 21 (Alejo) Assembly Bill 21 (Alejo) was introduced in 2013 and approved by the Governor on October 8, 2013. AB 21 authorized CDPH established the Safe Drinking Water Small Community Emergency Grant (SDWSCEG) Fund. The purpose of the SDWSCEG fund is to provide emergency grant funding to public water systems that serve small, disadvantaged and severely disadvantage communities. The Policy Handbook makes no mention of this program. We strongly support the implementation of the SDWSEG and know these resources are needed now, particularly in light of the current drought conditions impacting many communities. We urge steps be taken to advance necessary regulations so this program is operational in 2015.

Office of Sustainable Water Solutions

We recommend that as part of the transition period of the new Drinking Water Program efforts be made to strengthen collaborative regional and shared drinking water and wastewater solutions among water systems. In previous communications we have argued for the creation of the Office of Sustainable Water Solutions (OSWS) with the explicit goal of facilitating and promoting regional solutions which would include, but not be limited to, consolidation of existing districts, expansion of existing districts to serve communities unserved by public water systems and wastewater systems and extension of services. This office would create a focused and accountable unit of staff dedicated to systemically working through some of the core barriers preventing small systems from securing, safe, affordable and accessible drinking water.

Interim/ Emergency Resources

Interim solutions are needed to ensure that disadvantaged communities in unincorporated areas can have immediate access to safe drinking water while developing and implementing sustainable and affordable long-term solutions. Creating well-planned new or modified governance structures and infrastructure projects can take years, and many disadvantaged communities lack access to safe drinking water now. Interim solutions, such as providing bottled or vended or hauled water, or installing small-scale (such as point-of-use/entry) treatment systems to disadvantaged communities, ensures that residents are able to access safe and affordable drinking water while long-term solutions are being developed and implemented. Currently only a one-time allocation of \$4 million statewide has been made available to fill this need through state funding sources.

Wastewater

Often communities without safe drinking water may also lack adequate wastewater services and infrastructure. This can lead to further contamination of drinking water sources and public health impacts. Many of the same funding needs identified for disadvantaged community drinking water solutions, including preplanning and planning, technical assistance, capital costs, and O&M are needed for wastewater as well. It would be helpful for this document to at minimum contain language indicating the Board's intent to integrate some DWSRF actions with the Clean Water State Revolving Fund. In particular, it would be extremely sensible to address both water and wastewater questions in a given community, particularly one that is severely disadvantaged, at the same time.

Thank you for this opportunity to comment. If you have any questions please contact Omar Carrillo, Policy Analyst, Community Water Center at 619-829-3553.



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