

Summary of Public Comments and Staff Responses
Clean Water State Revolving Fund
FFY 2014 Intended Use Plan
August 12, 2013 to September 16, 2013

Joseph Cylwik, P.E.
Engineering Division
City of Big Bear Lake
8/13/2013

I respectfully request that the Board consider changes to eligibility requirements for Small Community Wastewater Grants. The City of Big Bear Lake is a Severely Disadvantaged Community (DAC) because our median income is less than 60% of the State median income. We are rural bedroom community with no heavy industrial, high-tech, professional, or big box employment which limits employment opportunities and revenue generation. The majority of employment opportunities are related to food service, vacation rentals, summer lake activities, and winter sports activities.

Just a few years ago our small economically disadvantaged community was eligible to compete for grants (requiring matching funds) and principal forgiveness (no matching funds). We successfully completed two (2) sanitation projects with the help of the CWSRF in 2010. The eligibility requirements were subsequently changed and we were no longer eligible for grants or principal forgiveness. In particular, grants and principal forgiveness were no longer available to the community if its sewer rate was less than 1.5% of the median income or if the community occupancy is not greater than 50% using 2010 Census data.

Our city sewer rate is 1% of the median income. If we raise the sewer rate to 1.5% or 2.0% of the median income it will severely impact the segment of the population that is the least able to afford it. It does not make sense that we should raise rates to qualify for a grant when the median income is below 60% of the State median income level. Please consider allowing economically disadvantaged communities with sewer rates less than 1.5% to complete for grants but require 50% local funding participation. Local funding participation will allow the community leaders to fund needed sewer projects from General Funds or Hotel Taxes or other business sources without putting extra burden on the low income families by raising sewer rates.

Grant applications use 2010 Census data to establish community occupancy. Unfortunately, the Census data is only a snap shot and does not properly characterize our community occupancy. Also, the Census data did not capture our large winter migrant worker community. Census data claims we have a population of 5,019 with 10,680 sewer connections (assuming 2.4 occupants per residences = 19.6% occupancy). However, based on utilities usage (solid waste, wastewater, water, etc.) and vacancy rates we can extrapolate that we have an average daily population of approximately 15,000 or 58.5% occupancy. Please consider allowing economically disadvantaged communities the option of using verifiable community utility usage data as an alternative to US Census data for determining community occupancy.

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Due to the dissolution of the Redevelopment Agency, escalating NPDES and TMDL requirements, rural remoteness, and limited employment opportunities, our community is challenged to find funding for \$8.4M+ wastewater projects which include:

- Sewer collection generator replacement project (existing emergency back-up generators violate AQMD standards)
- Phase 1 Sewer collection network I&I repairs to protect groundwater supplies
- Phase 2 Sewer collection network smoke testing
- Rehabilitation of Sewer Lift Station #3
- Design 2.5 miles of new sewer force main
- Construction of 2.5 miles of new sewer force main
- Update sewer and stormwater drainage mapping

Thank you for your serious consideration.

Our community looks forward to once again being eligible to compete for Small Community Wastewater Grants.

Staff Response:

The City was fortunate to receive principal forgiveness in 2009 as a result of the American Recovery and Reinvestment Act (ARRA). The total principal forgiveness available through ARRA was approximately \$161 million. Since 2009 the principal forgiveness available from US EPA has become much more limited. The 2013 capitalization grant, for example, includes only \$6.7 million in principal forgiveness. As a result of the declining level of principal forgiveness, the State Water Board has narrowed the eligibility for principal forgiveness/grants in an effort to ensure that the majority of these very limited funds go to communities with the most significant affordability issues.

The draft 2014 IUP identifies two categories of projects eligible for CWSRF principal forgiveness/grants: Category 1, which is focused on small, disadvantaged communities, and Category 2, which is more broadly defined.

To qualify for Category 1, a small, disadvantaged community must have rates exceeding 1.5 percent of the community's median household income (MHI). This is a common criterion for grant eligibility used by water and wastewater funding agencies. For example, California Department of Public Health and the United States Department of Agriculture – Rural Development both use 1.5 percent of MHI in their affordability calculations.

It is staff's understanding that the City's rates are approximately 1.0 percent of the City's MHI. Therefore, based on the eligibility criteria outlined in the draft

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2014 IUP, the City does not qualify for Category 1, but would qualify under Category 2 subject to the availability of funds.

As the comment mentions, the draft IUP also includes an occupancy condition, first introduced in 2012, that prevents second home communities from receiving CWSRF principal forgiveness/grants (see Table 4, Note No. 2). This limitation applies to both Category 1 and Category 2 funds. The IUP does not specify a method for determining if a community is a second home community. Typically this is done using Census data since it is generally sufficient and readily available. If the City can provide an alternative analysis, though, using reliable data, the CWSRF Program staff can take that data into consideration. If the City provides an analysis showing that it meets the occupancy requirement in the IUP, the City could potentially qualify for principal forgiveness under Category 2, subject to the availability of funds.

Terri Pencociv
Branch Chief, Office of Community Planning
LD-IGR Statewide Program
Division of Transportation Planning
California Department of Transportation
9/11/2013

Project no. 7887-110, Wastewater Treatment Plant Solar Feasibility Study, City of Live Oak, in Table 2 is listed as being in Region 3. Live Oak is located in Region 5.

Staff Response:

Staff corrected the entry in Table 2 to reflect that the City of Live Oak is located in Region 5.

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**Jennifer Clary
Water Policy Analyst
Clean Water Action**

**Omar Carrillo
Policy Analyst
Community Water Center**

**Phoebe Seaton
Co-director
Leadership Council for Justice and
Accountability
9/16/2013**

**Amparo Cid
Project Director
California Rural Legal Assistance
Foundation**

B.1 Resources

As we stated in our comments on last year's Intended Use Plan, we remain concerned at the small number of staff allocated to processing applications from small, disadvantaged communities – just 1 PY Water Resources Control Engineer out of 18 total PYs assigned to the program. In response to the same comment about last year's IUP, staff stated: "The Division of Financial Assistance maintains a technical assistance contract and has dedicated a unit of staff to assist small, disadvantaged communities. It also has flexibility to increase the resources to assist disadvantaged communities consistent with the program's other water quality priorities." While we appreciate this statement, we request that more specific information about the level of staff dedicated to technical assistance for small, disadvantaged communities be included in either or both of the IUP or the annual Small Community Wastewater Strategy report.

Staff Response:

One unit of staff is dedicated to processing applications from small, disadvantaged communities. The size of the unit may vary from time to time, but currently consists of approximately 5 PYs out of the 18.4 PYs (Water Resources Control Engineers) allocated to managing project applications.

B.2. Administrative Funding

It appears that staff proposes using the 4% administrative allowance from the federal capitalization grant for local assistance financing, but the document does not indicate where or how that funding will be spent in the funding year. As such, our organizations request information as to where and how that funding will be spent in the funding year.

Staff Response:

Federal regulations allow the CWSRF to use up to 4 percent of the federal capitalization for administration of the program. If the state chooses not to use the allowance for administration, those funds may be used for local assistance. The administration allowance cannot be used to provide principal forgiveness. Therefore, the administrative allowance will be used to provide local assistance

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in the form of loans for eligible projects including, but not necessarily limited to, those identified in Table 3.

B.3. Small Community Grant Fund

Our organizations wish to express our strong support for this fund and our appreciation to staff for its aggressive pursuit of eligible projects. The mix of planning and construction grants allows the fund to be fully utilized in current and future years. Our support is predicated on the continued availability of full principle forgiveness for projects serving disadvantaged communities using a blend of federal capitalization grants and available funding from the Small Community Grant Fund.

Staff Response:

Staff acknowledges and appreciates the comment.

Appendix B, Table 2 Project Financing Forecast for FFY2014

This very helpful table provides a list of projects slated for Principle Forgiveness that adds up to over \$51 million. This total dollar value represents the most optimistic estimate for the FFY 2014 federal capitalization grant; the actual grant, according to this plan, will almost certainly be smaller, so not every project eligible for principle forgiveness on this list can be funded. Therefore, it would be helpful to understand how limited principle forgiveness funds will be allocated.

In order for us to provide meaningful comments, we request more information about how project funding – specifically principle forgiveness funding - will be prioritized. At the moment, we are concerned that under a lower federal grant scenario, projects benefitting the most vulnerable communities will not be funded. Neither the IUP narrative nor this Table identify how funding shortages will be handled. If fewer projects can be funded, will a project like the Parklawn sewer project – which serves a severely disadvantaged community – be bypassed because it is listed on page three of the four-page project list? Or will projects be required to fund a portion of the project through a loan? Or will funding be allocated on a first-come, first-serve basis, regardless of priority? We strongly recommend that the IUP identify priority projects for principle forgiveness based upon categories 1a and 1b established in the SCG fund.

Staff Response:

It is probable that there will be insufficient principal forgiveness to fulfill the needs of all of the projects identified for principal forgiveness in Table 2. Where a project is listed on Table 2 does not necessarily indicate whether or not it will be funded or the order in which it will be funded. Eligible projects with a complete application will be financed as noted in Section III.C of the IUP. Section III.C is consistent with the State Water Board's direction regarding prioritization in the CWSRF Policy. The Policy directs staff to review and finance complete

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applications consistent with the Project List's classification and sustainability points systems. If the State Water Board has insufficient funds for all projects with complete applications, then it will first fund projects based on the projects' classifications, giving priority within the class to the small, disadvantaged community with the lowest median household income, and then fund the project that most effectively addresses sustainability and global climate change. It is important to keep in mind that the majority of the available principal forgiveness/grant funding is allocated to Category 1; 60 percent of the available principal forgiveness and all of the available grant funds are designated for Category 1. This category is specifically designed for small, disadvantaged communities, and only those applicants that qualify for Category 1 will be competing for those funds.

Table 3.B. – SCG Fund Balances

Please clarify the high unused balance in this Fund. It is unclear why estimated disbursements are less than the amount collected in the FFY 14 period, and why the SCG Fund maintains a balance that is four times the annual amount collected.

Staff Response:

Although Table 3.B shows a large running balance in the SCG fund, almost all available SCG funds are committed to projects at present. As of the end of SFY 2012/13, the uncommitted balance in the SCG fund was approximately \$1 million. The table does not account for existing commitments that will not be disbursed until 2015 or later, or account for new commitments. As new commitments are made, disbursement projections for those new projects will be added, thereby increasing the disbursement projections and reducing the projected fund balance.

Sustainable Solutions

The State Board has effectively facilitated some regional wastewater solutions - such as the service extension project in Parklawn. Such regional solutions are an integral component of creating sustainable and affordable wastewater solutions for small communities and we anticipate working closely with staff to ensure that funding supports regional projects such as consolidation and extension of services.

Staff Response:

State Water Board staff is open to and supportive of regional solutions wherever feasible, including both consolidation and extension of services to unsewered areas.

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Joyce Dillard
September 16, 2013

We question this language:

The State Water Board also provides principal forgiveness for projects in California's three nationally designated estuaries. The non-profit organizations sponsoring these projects often do not have a revenue stream to support repayment of a loan, and have limited funds for their local contribution.

You do not identify the estuaries or the non-profit corporations. We question if all estuaries are managed by non-profit corporations. One, in California, is managed by a State legislated commission.

A foundation has extraordinary influence over this commission, but without the contractual agreements and oversight. You need to take into consideration all aspects in California.

Staff Response:

California has three nationally designated estuaries: (1) San Francisco Bay, (2) Morro Bay, and (3) Santa Monica Bay. Further information can be found at <http://water.epa.gov/type/oceb/nep/index.cfm#tabs-2>. The three organizations sponsoring projects in California's estuaries do not have regulatory powers. They bring citizens, local governments, non-profit organizations, and landowners together through collaboration and partnership to protect and restore the estuaries. They operate with limited budgets and revenue. Therefore, staff recommended that the local contribution ratio for estuary project sponsors be lower.

You have no language for a test to substantial forgiveness.

Staff Response:

There was insufficient information for staff to evaluate this comment.

You also state:

Reduced Interest Rates

If the total amount of CWSRF financing to be repaid by a non-point source or estuary management project is less than \$10 million and the project has at least one sustainability point (see Section IV.A.3 of the CWSRF Policy), the Division may approve a reduced interest rate (not less than zero

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percent) if the applicant is unable to afford all or a portion of the interest payments.

and

Types of Assistance and Financing Terms

The State Water Board will provide funding for all eligible categories of projects using loans, installment sale agreements, and purchase of debt for the construction of treatment works or implementation of non-point source or estuary projects. The State Water Board will also provide optional separate planning and design financing during FFY 2014 to applicants that can legally accept such financing. Principal forgiveness, if available, will be provided to those applicants that meet the conditions specified in Table 4 and Section III.C above.

We ask that you take precautionary measures to protect the Public from fraud and abuse.

Staff Response:

State Water Board staff use a series of measures to protect against fraud, waste, and abuse of the CWSRF financing program both before and after awarding financing. Each applicant must submit extensive technical, financial, legal, and environmental documentation to demonstrate that it is eligible, and that it has the technical, financial, managerial, and legal ability to complete the project for which it has requested financing. Requests for disbursement of funds must be substantiated by invoices and regular progress reports. State Water Board staff also conducts on-site inspections during and after completion of construction.

**Michael McBride, President
Bighorn-Desert View Water Agency
September 4, 2013**

**Mickey Luckman, President
Joshua Basin Water District
September 5, 2013**

The commenters expressed support for the Hi-Desert Water District Wastewater Treatment and Water Reclamation project (Project no. 5295-110), and believe the District has a solid financing plan. Both commenters expressed appreciation to the State Water Board and Regional Water Board staffs for their collaborative efforts to protect public health and to help the local economy. The commenters noted that the project is shovel-ready, and that it meets all of the objectives needed to protect

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groundwater. The agencies support the project as an “A” priority in the Clean Water State Revolving Fund Intended Use Plan.

Staff Response:

Staff acknowledges and appreciates the comments.

Kimberly Cox, President
Mojave Water Agency
9/11/2013

The commenter expressed support for the Hi-Desert Water District Wastewater Treatment and Water Reclamation project (Project no. 5295-110). The project will help Yucca Valley eliminate all septic systems by 2016, thereby ensuring a safer, reliable local water supply for disadvantaged communities. The commenter noted that the project is shovel-ready, and that it meets all of the objectives needed to protect groundwater. Mojave Water Agency supports the project as an “A” priority in the Clean Water State Revolving Fund Intended Use Plan.

Staff Response:

Staff acknowledges and appreciates the comments.

Jean Fuller, Senator
18th District
September 13, 2013

Brian Nestande, Assembly Member
42nd District
September 13, 2013

The commenters urged the State Water Board to expeditiously approve the 2014 IUP for submission to US EPA. They expressed support for the Hi-Desert Water District Wastewater Treatment and Water Reclamation project (Project no. 5295-110). The project will help Yucca Valley eliminate septic discharges, and help remediate nitrate contaminated groundwater. The project will help ensure drinkable groundwater for the area, and help the local economy. The commenters noted that the project is shovel-ready.

Staff Response:

Staff acknowledges and appreciates the comments.
