



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

MICHAEL RIDDELL – Chair, City of Riverbank
CASEY WICHERT – Secretary, City of Brentwood

TERRIE MITCHELL – Vice Chair, Sacramento Regional CSD
TONY PIRONDINI – Treasurer, City of Vacaville

March 17, 2014

Via Electronic Mail

Robert L. Heureux
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
Robert.LHeureux@waterboards.ca.gov

SUBJECT: Consideration of Adoption of a Resolution to Allow the Rose Foundation to Administer SEP Funding to Projects Benefitting Disadvantaged Communities

Dear Mr. Heureux:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments on the Central Valley Regional Water Quality Control Board's (Regional Board) draft Resolution to Allow the Rose Foundation to Administer SEP Funding to Projects Benefitting Disadvantaged Communities (Rose Foundation Resolution). CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law. In this spirit, we provide the following comments regarding the Rose Foundation Resolution.

In general, CVCWA does not oppose a Regional Board resolution that recognizes the Rose Foundation as one potential option for SEP funding that would benefit disadvantaged communities. However, to ensure that the Rose Foundation is just one

option and not a mandatory entity for those seeking to implement a SEP for disadvantaged communities, CVCWA would encourage the inclusion of additional language, or an additional finding, which clearly indicates that entities subject to administrative civil liabilities may propose other SEPs that would benefit disadvantaged communities, and that such entities are not limited to those SEPs on the list associated with the Rose Foundation. It is important to CVCWA and its members that they have the discretion to work with local entities and organizations in their community with respect to similar types of SEPs and not be limited to going through the Rose Foundation.

Further, CVCWA is concerned with Finding 21 of the Rose Foundation Resolution. This finding indicates that any administrative costs assessed by the Rose Foundation would not be part of the SEP itself. This finding appears to be somewhat inconsistent with the State Water Resources Control Board's Supplemental Environmental Project Policy, which states that as a general rule "oversight" funding should not be considered part of the SEP. The term "administrative costs" and "oversight costs" are not necessarily equal. Based on our review of the Rose Foundation proposal, it is not clear that their fees would be considered "oversight costs." Thus, all or part of any administrative fees assessed by the Rose Foundation should be eligible for consideration as part of the SEP itself.

Moreover, according to Rose Foundation documents on its website, the Rose Foundation assesses an administrative cost of 10% for any grant or stipulated funds received when the amount is \$500,000 or less. The administrative percentage decreases as the amount of funds received increases. Accordingly, a \$500,000 SEP to the Rose Foundation will cost the entity an additional \$50,000 for administration of the SEP. Such an assessment does not appear commensurate with "oversight" for the SEPs in question. We recommend that the Regional Board cap the Rose Foundation's oversight cost to no more than 5% of the amount allocated to the pre-approved SEP, and allow any other administrative costs to be included as part of the SEP amount.

With respect to the proposed list of SEP projects, CVCWA is concerned with the advocacy nature of one of the projects in particular. Specifically, the Central California Environmental Justice Network project appears to be aimed at gathering information to "aid in investigation and enforcement." Based on this proposal, CVCWA is concerned that SEP funds would be inappropriately used to encourage enforcement actions by the Regional Board against dischargers rather than being used to provide safe drinking water to disadvantaged communities. While the Regional Board maintains its discretion to bring enforcement actions, and individual citizens and advocacy groups retain the right to advocate for such actions, CVCWA believes that it would be inappropriate for a Regional Board approved SEP to be aimed at future enforcement activities. Moreover, CVCWA believes that Finding 14 and/or Finding 15 should be revised to state that such SEPs funded through the Rose Foundation need to be focused on assisting disadvantaged communities in obtaining safe drinking water and not be used in a manner that would

Robert L. Heureux

Re: CVCWA Comments on Consideration of Adoption of a Resolution to Allow the Rose Foundation to Administer SEP Funding to Projects Benefitting Disadvantaged Communities

March 17, 2014

Page 3 of 3

advocate legal actions through tort claims or under the Clean Water Act, Resource Conservation Recovery Act, and other similar environmental statutes.

Again, thank you for the opportunity to comment. Please contact me at (530) 268-1338 or eoofficer@cvcwa.org for any questions with respect to our comments.

Sincerely,



Debbie Webster,
Executive Officer

DW:mb