

June 23, 2023

Submitted via email: commentletters@waterboards.ca.gov

Courtney Tyler, Clerk to the Board
State Water Resources Control Board (SWRCB)
1001 I Street, 24th Floor
Sacramento, CA 95814

SUBJECT: COMMENT LETTER— July 18, 2023 Board Meeting—CWSRF IUP

Dear Ms. Tyler:

On behalf of the California Association of Sanitation Agencies (CASA) and WaterReuse California (WRCA), we are writing to respectfully request deferral of the adoption hearing for California's 2023-24 Clean Water State Revolving Fund (CWSRF) Intended Use Plan (IUP) from July 19 to September so that additional funding scenarios can be developed by staff and provided to the public showing a full range of options for State Water Resources Control Board members' consideration and approval, to lay the foundation for future enhancements to California's CWSRF. CASA represents more than 130 public agencies and municipalities that engage in wastewater collection, treatment, recycling, and resource recovery. WRCA represents 220 public agencies, consulting firms, and companies committed to expanding the use of recycled water in California. Together, our member agencies are engaged in advancing recycled water production and beneficial reuse, committed to developing renewable energy supplies, and actively maximizing water reuse.

We submit this request after learning, only this week, of the recommended retroactive reduction of previously approved rollover projects on the current Fundable List by tens of millions, and in one case more than one hundred million, dollars. It seems these modifications to already approved projects on the Fundable List were designed to help put new projects onto the Fundable List in the 2023-24 IUP; however, this was not explicitly stated or adequately communicated to stakeholders or the public.

Specifically, the recommended reductions in rollover projects will translate into a \$228 million decrease in Board-approved funding for previously approved projects that invested considerable time and expenses to meet CWSRF programmatic requirements and are relying upon the Board's prior approval. At the same time, this year only \$191 million in new funding has been recommended in the draft IUP for 7 new projects, conditioned on the prior awardees' reductions in loan amounts. In practical effect, this amounts to a net *negative* allocation of funding for this year, which to our knowledge is unprecedented for California's program and unheard of for any other CWSRF across the U.S.

This recommendation has been made despite the fact that the Fiscal Year 2022-23 IUP specifically stated that the \$50 million limit imposed that year would *not* apply to rollover projects, such that those rollover awardees had continued working last year towards executable agreements for the originally awarded and Board-approved amounts. Thus, this is a significant and consequential decision for past awardees, new applicants, and the Clean Water SRF program itself.

We are very concerned with the absence of forthright communication to impacted parties on this matter, to the Stakeholder Advisory Group, and the notable absence of any reference to this change in the IUP's Executive Summary, as well as the lack of transparency during the public workshop about the retroactive funding reductions to rollover projects on the fundable list. We are also very concerned with the precedent this recommendation sets for future awardees.

Both of our organizations fully supported the creation of the Fundable List in 2018 as it was a way for agencies to increase predictability and understand whether the significant staffing and resource investments necessary to apply for funding would result in receiving a CWSRF loan. During adoption of the FY 2022/23 IUP, we understood that the recommendation for capping *future* projects at \$50M might be necessary to manage cash flow for the program in the near term. However, by retroactively cutting Board approved Fundable List projects, the Board would be creating an untenable precedent that substantially erodes the certainty and predictability of the entire program. This is especially true given that rollover projects on the Fundable List are now commonplace. In fact, only 50% of projects reach an executable agreement in 12 months, and 80% in 21 months, per the 2022 Environmental Finance Center's report on the CWSRF. Agencies that have worked for years to see their projects

approved on the Fundable List and identified other funding sources and project implementation approaches in full reliance on those funded amounts, now face the prospect of seeing their project rolled over and reduced in future fiscal years.

Underlying many of these concerns is the fundamental shift the Board made last year with the definition of “annual sustainable lending capacity,” a re-definition that was undertaken without consulting CWSRF stakeholders, yet is having major policy implications. (See Comment #1 in the attached letter). Previously, this figure was calculated based on the total costs for new qualifying projects that could be added in a given year to the Fundable List, but last year, this was revised to mean the entire amount to which executable agreements in that year could total up – regardless of construction schedules over periods of years.

This year’s CWSRF IUP now also declares that the 24 rollover projects going into this year constitute “additional commitments” as to what California’s CWSRF can sustain annually being added to the fundable list. [*The State Water Board finds that establishing a Cut-Off Score of 14 and adding seven new projects for SFY 2023-24 is appropriate. Together, these 31 loan projects represent \$626 million in additional commitments*” (p. 33).] Based on prior discussions and commitments, we certainly do not share this view. The “re-definition” of sustainable lending capacity to include both new projects which are placed on the list in the current fiscal year AND prior projects which were counted in a previous year for which executable agreements are expected to be reached this year presents public agencies across California with the prospect of far less than \$600 million annually being available in low interest rate loans for critical water infrastructure projects for the foreseeable future. This comes at a time when we are facing increasing regulatory demand for projects responsive to regulatory pressures and requirements. If the low interest rate loans that are the hallmark of the California CWSRF are not available, the additional expense and costs to agencies will result in increased costs to ratepayers.

As such, further public discussion about the fund condition and funding scenarios for this year is critical and necessary to settle upon a mutually agreeable plan going forward. We appreciate your recognition of the significance of this matter to our members and willingness to work with us identify a viable path forward to achieve DFA’s objectives for the CWSRF over the next few years while simultaneously fulfilling our members’ expectations of this critical funding source. We are hopeful and optimistic through further discussions that we may reach an understanding and agreement to attain your objectives for the fund and ensure our members’ projects have the assurance of funding as expected from the CWSRF. In summary, we request the following Board actions:

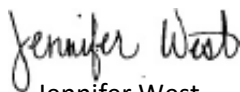
- (1) Delay the current July 19, 2023 proposed adoption date for the 2023 IUP;
- (2) Revise the 2023-24 IUP to create other funding scenarios that will provide all previously approved funding to the rollover projects and also approve the new 2023-24 Fundable List projects at their current proposed levels;
- (3) Review all funding options under these scenarios with the Board and stakeholders with full transparency.

We look forward to working with the SWRCB to improve and enhance the 2023-234 IUP for this year, and future IUPs in years beyond. We value our partnership with the SWRCB and share the goal of ensuring the CWSRF is predictable, robust, effective, and ambitious in funding essential infrastructure for years to come. If you have questions about our requests, please contact us at alink@casaweb.org and jwest@watereuse.org.

Sincerely,



Adam Link
CASA Executive Director



Jennifer West
WRCA Managing Director

Attached: [9/23/22 WRCA & CASA Comment Letter on 2022-23 CWSRF IUP](#)

cc: Members, SWRCB
Joe Karkoski (Joe.Karkoski@waterboards.ca.gov)
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