



CLEAN WATER ACTION

February 8, 2007

Tracie L. Billington, P.E.
Department of Water Resources
Division of Planning & Local Assistance
P.O. Box 942836
Sacramento CA 94236-0001

State Water Resources Control Board
Division of Financial Planning
1001 I St., 16th Floor
Sacramento, CA 95814

Re: Proposed Disbursement of Proposition 50 IRWMP funding to Phase II applicants

Dear Ms. Billington and Ms. Farahnak:

On behalf of Clean Water Action, I would like to express our opposition to the proposal by the Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB) to disburse the bulk of the remaining Proposition 50 Integrated Regional Water Management (IRWM) implementation grants to the remaining Phase II applicants.

In our analysis, we find that this proposal:

- Violates Water Code Sections 79560 and 79562.5 (b), which require a competitive grant process and the establishment of standards for IRWM plans;
- Ignores the governor's mandate to expend bond funds "efficiently, effectively, and in the best interests of the people of the State of California";
- Denies environmental justice and disadvantaged communities access to funding from this program;
- Perpetuates the current flawed guideline and evaluation process;
- Eliminates the opportunity to incentivize better planning and healthy stakeholder involvement;
- Fails to consider a better alternative for achieving the goal of "funding good projects quickly", namely by improving the speed and efficiency with which contracting agreements are made and funds are disbursed.



CLEAN WATER ACTION

Clean Water Fund believes that two plans (Plumas, Tahoe) that gain funding through this proposal should have qualified for funding in the initial round, given appropriately applied criteria. At the same time, the Sacramento Valley plan is being actively opposed by a large number of regional stakeholders, and we strongly oppose the idea of giving them funding.

Water Code violation

Section 79560 of the California Water Code, which governs the expenditure of IRWM funding, specifically states that this is a competitive grant program. Additionally, Section 79562.5 (b) of the Water Code requires the Department to establish standards for these plans.

With this proposal to reward *every* application that met the Phase II funding deadline, DWR and SWRCB will eliminate both the competitive nature of the program and the minimum standard requirement. This is not in conformance with state law.

Clean Water Action urges the DWR and SWRCB to comply with existing law and withdraw this proposal in favor of a second round of competitive grants.

The proposal violates the Governor's mandate

On January 24, 2007, Governor Schwarzenegger issued Executive Order #S-02-07, requiring state agencies responsible for spending bond funding to "be accountable for ensuring that these bond proceeds are spent efficiently, effectively and in the best interests of the people of the State of California." The order specifically applies to both already authorized as well as future bonds.

This proposal will fund programs that DWR and SWRCB have found to be flawed, at the same time eliminating the possibility of funding for several potentially stronger proposals that are known to be in preparation. The argument that the pending programs can be funded from Proposition 84 proceeds is equally applicable to the flawed programs in this proposal.

Clean Water Action asks that this proposal be set aside in favor of a second round of competitive grants in order to encourage more and better proposals to apply for funding, resulting in a more productive expenditure of taxpayer funds.



CLEAN WATER ACTION

The proposal denies environmental justice and disadvantaged communities access to funding

Assembly Bill 1747 (2003) which implemented the IRWM program, includes a specific mandate that technical assistance be provided to disadvantaged communities (Water Code Section 79506.7). And the program's own guidelines list the addressing of environmental justice concerns as a priority for this program. Unfortunately, according to DWR's own public admission, almost none of the plans submitted to date addressed either of these directives. This is an all too common occurrence; communities lacking in resources simply require more time to take advantage of funding opportunities. Meanwhile, the complexity of this effort (and the lack of technical assistance from the state) created even higher barriers to participation. Typically, small and disadvantaged community participation increases in the later years of a grant program. By dispensing all funding in one fell swoop, DWR and SWRCB will eliminate all possibility of meaningful participation by environmental justice and disadvantaged communities in this program. The cost of ignoring your own mandate is high – to the communities that can least afford to lose the funding.

The Plumas County plan did an exceptional job of incorporating environmental justice communities and concerns; for that reason, we would support fully funding their proposal.

Clean Water Action urges the department and board to develop (with stakeholder input) minimum standards for identifying and including disadvantaged and environmental justice communities and concerns into IRWM plans prior to the disbursement of any additional funding.

The proposal perpetuates the current flawed guideline and evaluation process

Our December 8th letter detailed our concerns with the evaluation of the Phase II implementation grants. The most glaring concerns, those that particularly impact the proper expenditure of grant funds, are the devaluing of stakeholder involvement (including environmental justice and disadvantaged communities) and the failure to require specific and measurable governance and monitoring mechanisms.

This proposal compounds these problems by eliminating a much-needed review and overhaul of the guidelines and ranking criteria. At this early stage in the IRWM program, continual evaluation is critical. By eliminating an opportunity to review and



CLEAN WATER ACTION

refine the program, the department is impacting the quality of current and future planning efforts.

Clean Water Action urges the department and the board to analyze the current IRWM plans and use that information, along with input received, to develop minimum IRWM plan standards. Additionally, we ask that the evaluation criteria be revised to address the shortcomings already identified so that future planning efforts can be judged more equitably.

The proposal eliminates the opportunity to fund better proposals

We have heard from several entities that chose not to submit implementation proposals before their IRWM plans were complete. Some of these plans are taking longer than those already submitted because of the commitment to broad stakeholder engagement. Additionally, plans that did submit Phase II proposals but were not funded now have the opportunity to improve their efforts. The elimination of a second round of competitive grants reduces the impetus to upgrade existing plans or to improve those still in development.

Clean Water Action asks that the Department take advantage of another funding cycle to encourage better planning, in order to improve the long-term viability of IRWM efforts.

The proposal fails to consider a better alternative for achieving the goal of "funding good projects quickly"

We agree that good projects should be funded quickly, particularly given the recent escalation in construction costs. However, a common theme among every entity we've spoken with who's funded by the DWR is concern over delays in finalizing grant agreements and in obtaining timely reimbursements. At minimum, the current funding process creates annoyance and expense (for agencies that have the cash flow to proceed without immediate receipt of grants); at the far end, these delays can lead to higher construction costs, lost wages, financial insolvency and a failure to complete projects on schedule and on budget. By addressing the internal bureaucratic morass that continues to delay approved projects and restricts access to funding by small agencies, watershed groups, and disadvantaged communities, DWR can make up a good deal of the time "lost" to a second round of funding.

Clean Water Action urges the Department to expand its IRWM review process to include an analysis of how it can expedite contracting and funding for approved projects.



CLEAN WATER ACTION

Clean Water Action appreciates the opportunity to help shape this important program, and looks forward to working with all parties to improve the plans and make them more accessible.

Sincerely,

Jennifer Clary
Water Policy Analyst