



March 4, 2008

Attn: Dave Todd  
Department of Water Resources  
Office of Water Use Efficiency and Transfers  
901 P Street, Third Floor  
Sacramento, California 95814

Re: NRDC Comments on Draft AB 1420 Eligibility Requirements

Dear Mr. Todd:

On behalf of the Natural Resources Defense Council (NRDC) and our 1.2 million members and activists, of whom 250,000 are Californians, I would like to offer comments on the Department of Water Resources' (the Department) draft AB 1420 Eligibility Requirements.

As you know, NRDC was a co-sponsor of AB 1420 (Laird), along with the Metropolitan Water District of Southern California. We strongly support the Department's efforts to implement this law in a timely fashion. The law specifies that:

Beginning January 1, 2009, the terms and conditions of, and eligibility for, a water management grant or loan made to an urban water supplier and awarded or administered by the department, state board, or California Bay-Delta Authority or its successor agency shall be conditioned on the implementation of the water demand management measures described in section 10631, as determined by the department pursuant to subdivision (b).

Because the contracts that will be awarded for these remaining Proposition 50 water use efficiency funds will be executed after January 1, 2009, it is appropriate that the Department apply this provision of the law. At the same time, we recognize that the department has had limited time to develop these eligibility requirements, and that water suppliers have had limited time to improve their implementation records. Therefore, the eligibility requirements should clearly lay out a process that will allow adequate opportunity for water suppliers to come into compliance. In addition, the Department needs to clarify that the eligibility requirements are likely to evolve in the future as the department has additional opportunity to incorporate information from other sources, as directed by AB 1420,

The eligibility requirements should clarify that while water suppliers will be required to submit documentation regarding their demand management measure compliance as part of their conceptual grant proposal, due on April 29<sup>th</sup>, no agency shall be disqualified for being out of compliance at that time. The law requires agencies to be in compliance at the time the

contract is executed, which is likely to be almost a year after conceptual proposals are submitted, according to the anticipated schedule laid out on page 17 of the draft proposal solicitation package (PSP). The Department should notify those agencies that are selected to submit full proposals of their status regarding AB 1420 compliance. According to that anticipated schedule, agencies that are not in compliance will have up to 9 months to develop a plan to come into compliance, which is identified in the law as an acceptable means to qualify for grant funds. This process will allow agencies adequate time to develop a compliance plan, while meeting the requirements and intent of the law to accelerate implementation of demand management measures.

We are disappointed that draft eligibility requirements do not go beyond the current implementation schedule and coverage requirements for best management practices (BMPs) contained in the CUWCC Memorandum of Understanding Regarding Urban Water Conservation in California (MOU). However, we recognize that the Department has had little time to develop a more ambitious program. Given the governor's recent directive to reduce per capita water use by 20%, as well as the provisions of AB 1420 that lay out a path for developing a more ambitious program, we urge the Department to signal its intention to proceed in that direction. The law directs the Department to convene an independent panel to review and make recommendations to the Department and to the legislature on new demand management measures and approaches. It further directs the Department to identify exemplary elements of individual urban water management plans that achieve water savings significantly above the levels established by the department to meet the demand management measures. The Department should clarify in these AB 1420 requirements that this information is likely to lead to revisions in these eligibility requirements that will apply to future water management grants.

Overall, we are encouraged by the Department's efforts to implement AB 1420 in a timely fashion. We recognize that holding water agencies accountable for implementation of the demand management measures is a new and potentially unpopular step. Given the conditions in the Delta, and the likely impacts of global warming on California's water supplies, there is now generally widespread agreement about the need to accelerate water efficiency efforts. Implementation of AB 1420 is an important step in this direction. We appreciate the opportunity to offer these comments and look forward to continuing to work with the Department to advance water efficiency in California.

Sincerely,



Ronnie Cohen  
Senior Policy Analyst

Cc: Assm John Laird