

State Water Resources Control Board

March 30, 2016

Tomás Torres
Director, Water Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD), SAFE DRINKING WATER STATE REVOLVING FUND (DWSRF), NOTICE OF NON-COMPLIANCE & CORRECTIVE ACTION PLAN (CAP) CONCLUSION

Dear Mr. Torres:

On April 19, 2013, the United States Environmental Protection Agency-Region 9 (USEPA) issued a Notice of Non-Compliance (Notice) to the California Department of Public Health (CDPH), the department with then primacy over California's Drinking Water Program, including the Drinking Water State Revolving Fund (DWSRF) program, that the DWSRF was not in compliance with 40 Code of Federal Regulations (CFR) §35.3550(l), 40 CFR §35.3550(c), and 40 CFR §35.3560(d). The California DWSRF, currently administered by the State Water Board, is now in full compliance with these regulations, and we request that the CAP approved by USEPA on July 23, 2013, be closed.

The State of California has demonstrated that it has come into compliance with 40 CFR §35.3550(l), 40 CFR §35.3550(c), and 40 CFR §35.3560(d), which require DWSRF programs to:

- commit and expend funds in an expeditious and timely manner
- maintain the technical capability to operate the SDWSRF program, and
- provide and follow a cash draw schedule

California has met all CAP requirements to date (see attachment A). All targets, with exception to one, were met on or ahead of schedule. The exception was met with only a slight delay. Moreover, California has fully addressed the issues and actions stated in the Notice and CAP, including the following:

- 1) **Adequate Staffing** – To establish and demonstrate adequate financial resources to operate the DWSRF in a sound financial manner, California enhanced the staffing of the DWSRF program with regard to fiscal and accounting expertise and integrated the financial expertise with the overall programmatic management of the DWSRF.
- 2) **Cash Flow Modeling** – To establish and demonstrate adequate financial resources to operate the DWSRF in a sound financial manager, California developed a cash-flow model that accurately represented the DWSRF program's financial position. Through the use of this cash-flow model, California is able to produce realistic annual cash draw/disbursement schedules, segmented by quarter. These schedules are represented in each Intended Use Plan presented to USEPA annually.

California has been recognized as a leader, nationally, in this area and has provided training to other States in a collaborative effort with USEPA.

- 3) **Project Selection and Funding Prioritization** – To timely and efficiently commit and expend DWSRF funds, California improved the California DWSRF project selection and funding prioritization process. Specifically, California adopted funding prioritization rules and processes that ensured an applicant's "readiness to proceed" with project activities under an executed funding agreement (binding commitment) was considered with the DWSRF program's existing public health prioritization scheme.
- 4) **Reduction of California's DWSRF Federal Unliquidated Obligation (ULO) Balance** – A primary requirement of the CAP was to get the California DWSRF's federal ULO balance below \$160 million, and to increase California's DWSRF set-aside spending rate. California has achieved these requirements ahead of schedule. California has reduced its federal ULO from \$455 million in October 2012 to less than \$137 million today.

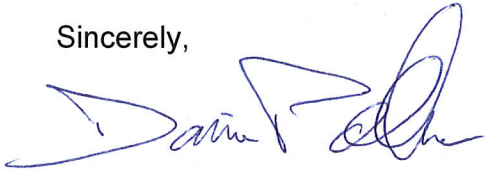
California has dramatically reduced its federal ULO and enhanced its financial management practices and is now in a position to consistently meet USEPA's 2014 ULO strategy.¹ The State Water Board has achieved the strategy's objectives of liquidating past year's grant funds and liquidating loan funds within two years from the date of grant award. Please refer to attachments B, C and D, which illustrate the historical DWSRF commitment, federal ULO and local assistance disbursement trends of California's DWSRF program, respectively.

¹ USEPA Memorandum from Peter Grevatt, Director, Office of Ground Water and Drinking Water dated April 14, 2014, *Drinking Water State Revolving Fund (DWSRF) Unliquidated Obligations (ULO) Reduction Strategy*

Based on the actions taken and accomplished by the CDPH and the State Water Board, the DWSRF has clearly been restored to compliance with the federal DWSRF regulation and has satisfied the directives of the Notice and CAP. I, hereby, respectfully ask for your concurrence to close the CAP.

If you have any questions or concerns with regard to this request, please contact Lance Reese at (916) 449-5625 or via email at Lance.Reese@waterboards.ca.gov.

Sincerely,



Darrin Polhemus, Division Chief
Division of Financial Assistance

Enclosure(s)

cc: Doug Eberhardt
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DWSRF CORRECTIVE ACTION PLAN (CAP) STATUS REPORT

Number	USEPA Notice of Non-Compliance Requirements	Deadline	DWSRF Corrective Action Plan Commitments	Component Status
1	The CAP must include the CDPH's certification that it is utilizing a cash flow model that accurately represents their financial position (including but not limited to complete and accurate loans and amortization schedules).	60 days from the receipt of Notice of Non Compliance	The undersigned certifies that the California Department of Public Health ("CDPH") is utilizing a cash flow model that, as certified on June 24, 2013, accurately represents CDPH's financial position, including, but not limited to, complete and accurate loans and amortization schedules. CDPH is using the model developed in conjunction with EPA during the summer of 2012. As of April 2013, the model was operational and in use in CDPH.	Completed
2	The CAP must contain a strategy and milestones to ensure NIMS data is complete and accurately represents the CA SDWSRF.	60 days from the receipt of Notice of Non Compliance	CDPH's strategy and milestones to update USEPA's National Infrastructure Management System ("NIMS") data to ensure that it is complete and accurately represents the California Safe Drinking Water State Revolving Fund (the "CA SDWSRF") is detailed in the table below that was provided on June 24, 2013.	Completed
3	The CDPH and the EPA will meet monthly to discuss progress on the CAP components. Prior to each meeting CDPH will provide in writing an update on CAP components.	July 2013 - June 2016	CDPH will meet with USEPA at a minimum on a monthly basis, beginning in July of 2013 and until June of 2016, to discuss progress on these Corrective Action Plan (the "CAP") components. CDPH will provide to USEPA prior to each meeting a written update on the CAP components.	Ongoing
4	Submit to the EPA a list of all executed funding agreements made in SFY13 (7/1/12-6/30/13) to verify \$240M in commitments (the CDPH target to reach 95% pace). Any shortfall of the \$240M to be added to SFY14 available capacity total.	June 30, 2013	CDPH submitted to the USEPA on June 27, 2013 a list of all executed funding agreements made in SFY 12-13 (7/1/12-6/30/13) totaling approximately \$265 million for SFY 12-13, thereby exceeding the minimum commitment amount.	Completed
5	Identify \$356M, or more if necessary, worth of viable and shovel ready projects on the 2014 fundable list. (~260M, available capacity +\$80M*, FY13 Cap Grant + \$16M* State Match). o \$260M plus any SFY13 shortfall to be committed by 30 June 2014. o \$96M * in 2013 funds to be committed by 30 Sept 2014 (Date subject to change if grant award held up).	June 30, 2013	CDPH submitted the 2014 CA SDWSRF Fundable List on June 27, 2013. The 2014 CA SDWSRF Fundable List consisted of a combination of planning and construction projects totaling approximately \$356 million that CDPH currently believes will be "ready to proceed" to a CA SDWSRF funding agreement by September 30, 2014.** **As notified by USEPA in an email dated, June 7, 2013, the actual 2013 FFY allocation is \$78.77 million with a \$15.75 million required State match. Approximately \$60.94 million of this allocation plus the State match will be dedicated to loans for SDWSRF projects. The remaining balance will be dedicated to set-aside activities.	Completed
6	Submit to the EPA a quarterly schedule of estimated federal cash draws for federal fiscal year 2014.	June 30, 2013	CDPH submitted to USEPA on June 27, 2013 a quarterly schedule of estimated federal cash draws for FFY 2014. The quarterly schedule of federal draws was based upon the estimated project disbursements derived from the assumptions in the cash-flow model.	Completed
7	Submit to the EPA a staffing plan including job descriptions and timeline to address at a minimum the following three deficiencies the EPA has identified : (1) Financial analysis: expertise is needed with respect to financial modeling, forecasting, and cash flow management to support the SRF program to create an understanding of the long term implications of funding decisions and determining funding capacity; (2) SRF program management: expertise is needed for managing the SRF in a manner so as to integrate program, accounting and financial activities; and (3) Management position in Drinking Water Technical Programs Branch.	July 30, 2013	CDPH will submit to EPA a staffing plan by July 30, 2013, including job descriptions and timeline, to address, at a minimum, the three deficiencies USEPA has identified in this CAP item #7.	Completed

Attachment - A

8	Submit a plan or Statement of Work to assess the project priority system focusing on ways to streamline and expedite project selection, including readiness to proceed and bypass procedures. Assessment to be complete in 18 months.	August 30, 2013	CDPH will submit to USEPA by August 30, 2013, a work plan with timelines for the analysis of CDPH's funding processes to identify areas which can be streamlined with the goal to reduce the current average time needed to fund projects. Assessment will be completed in 18 months, by February 28, 2015, which is deliverable item #17 in this CAP. CDPH will conduct a comprehensive assessment involving internal and external review with the goal to improve the loan process, funds disbursement, and overall program efficiency. CDPH will enlist assistance from a contractor to perform an external assessment to identify any management enhancements or initiatives necessary and changes to funding mechanism.	Completed
9	Using cash flow model determine appropriate commitment level for SFY15. (Appropriate means commit all available funds Federal I capitalization grants, state match, loan principal repayments and all interest earnings).	May 31, 2014	Using the cash flow model, CDPH will determine and submit by May 31, 2014 the appropriate commitment level for SFY 14-15, where appropriate means the commitment of all available funds from federal capitalization grants, state match, loan principal repayments and all interest earnings.	Completed
10	At a minimum commit 100% of the \$260M (more if SFY 13 shortfall) in SFY 14 available capacity.	June 30, 2014	CDPH will, at a minimum, commit 100% of the \$260 million in SFY 13-14 available capacity by June 30, 2014. CDPH committed approximately \$265 million during SFY 12-13, which is approximately \$25 million more than the minimum \$240 million commitment amount required for SFY 12-13, per item #4 of this CAP. Consequently, CDPH does not have any commitment shortfall for SFY 12-13 that will need to be added to the \$260 million commitment amount required in SFY 13-14, per this CAP item #10.	Completed
11	Identify viable and shovel ready projects on the 2015 fundable list to meet commitment level for the year.	June 30, 2014	CDPH will submit to USEPA by June 30, 2014 a CA SDWSRF fundable list that identifies viable and shovel ready projects to meet the commitment level for SFY 14-15 (the "2014 CA SDWSRF Fundable List). The 2014 CA SDWSRF Fundable List will consist of a combination of planning and construction projects that CDPH believes, at that time, will be "ready to proceed" to a CA SDWSRF funding agreement during SFY 14-15.	Completed
12	Submit to the EPA a quarterly schedule of estimated federal cash draws for federal fiscal year 2015.	June 30, 2014	CDPH will submit to USEPA by June 30, 2014 a quarterly schedule of estimated federal cash draws for FFY 2015. The quarterly schedule of federal draws will be based upon the estimated project disbursements derived from the cash-flow model.	Completed
13	Achieve a cumulative loan disbursement rate of 70% (i.e., percent of cumulative funds disbursed to cumulative assistance agreements as calculated in NIMS).	June 30, 2014	CDPH can meet this disbursement rate target by June 30, 2014. However, to meet this disbursement rate, CDPH would need to reduce its annual commitment amount, which is contrary to the intent of the SDWSRF program. Based upon the cash-flow model as well as CDPH's intent to maximize the commitment and disbursement potential of the SDWSRF fund, CDPH believes that its resulting cumulative loan disbursement rate for SFY 13-14 will be approximately 64%. CDPH recognizes that the intent of the cumulative loan disbursement metric is to ensure that disbursements are occurring within a timely manner relative to the commitment of funds and that the funding potential is being maximized. In order to preserve the intent of the metric, CDPH commits to disbursing \$321 million in cumulative funds during the period beginning with July 1, 2012 and ending June 30, 2014. CDPH believes that this metric will demonstrate CDPH's progress to maximize cumulative loan fund disbursement.	Completed
14	Achieve a cumulative set-aside spending rate of 70% (i.e., cumulative set-aside expenses as a % of cumulative net amount awarded for set-asides as calculated in NIMS).	June 30, 2014	CDPH will achieve a cumulative set-aside spending rate of 70% by June 30, 2014 where such rate is the percent of cumulative set-aside expenses to the cumulative net amount awarded for set-asides, as calculated in NIMS.	Completed

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15	Commit 100% of FFY13 federal cap grant (\$80M)* and 100% of the required state match (\$16M) * September 30, 2014 Loan Commitments	Sept. 30, 2014	CDPH will commit 100% of FFY13 federal capitalization grant as well 100% of the required state match associated with the FFY13 federal capitalization grant by September 30, 2014. **As notified by USEPA in an email dated, June 7, 2013, the actual 2013 FFY allocation is \$78.77 million with a \$15.75 million required State match. Approximately \$60.94 million of this allocation plus the State match will be dedicated to loans for SDWSRF projects. The remaining balance will be dedicated to set-aside activities.	Completed
16	Submit to the EPA a list of all executed funding agreements made against SFY14 available capacity and FFY13 cap grant and state match.	Sept. 30, 2014	CDPH will submit to USEPA by September 30, 2014 a list of all executed funding agreements made against the SFY13-14 available capacity as well as the 2013 federal capitalization grant and associated state match.	Completed
17	Submit to the EPA completed assessment of the CDPH project priority process.	Feb 28, 2015	CDPH will submit to USEPA the completed assessment of the CDPH project priority process focusing on ways to streamline and expedite project selection, including readiness to proceed and bypass procedures, by February 28, 2015. The assessment will be based on a work plan submitted to an approved by USEPA with the statement of work described in item #8 of this CAP. CDPH will review with USEPA all findings and recommendations resulting from the assessment before implementing such assessment recommendations.	Completed
18	Using cash flow model determine appropriate commitment level for SFY16. (Appropriate means commit all available funds Federal capitalization grants, state match, loan principal repayments and all interest earnings).	May 31, 2015	Using the cash flow model, CDPH will determine and submit by May 31, 2015 the appropriate commitment level for SFY 15-16, where appropriate means the commitment of all available funds from federal capitalization grants, state match, loan principal repayments and all interest earnings.	Completed
19	Identify viable and shovel ready projects on the 2016 fundable list to meet appropriate commitment level for the year.	June 30, 2015	CDPH will submit to USEPA by June 30, 2015 a CA SDWSRF fundable list that identifies viable and shovel ready projects to meet the appropriate commitment level for SFY 15-16 (the "2016 CA SDWSRF Fundable List). The 2016 CA SDWSRF Fundable List will consist of a combination of planning and construction projects that CDPH believes, at that time, will be "ready to proceed" to a CA SDWSRF funding agreement during SFY 15-16.	Completed
20	Submit to the EPA a list of all executed funding agreements made in the prior fiscal year (7/1/14-6/30/15) to verify targeted amount of commitments for SFY15 were made.	June 30, 2015	CDPH will submit to USEPA by June 30, 2015 a list of all executed funding agreements made in SFY 14-15 to verify the targeted commitment amount for SFY 14-15 was achieved.	Completed
21	Submit to the EPA a quarterly schedule of estimated federal cash draws for federal fiscal year 2016.	June 30, 2015	CDPH will submit to USEPA by June 30, 2015 a quarterly schedule of estimated federal cash draws for FFY 2016. The quarterly schedule of federal draws will be based upon the estimated project disbursements derived from the assumptions in the cash-flow model.	Completed
22	Achieve a cumulative loan disbursement rate of 75% (i.e., percent of cumulative funds disbursed to cumulative assistance agreements as calculated in NIMS).	June 30, 2015	CDPH can meet this disbursement rate target by June 30, 2015. However, to meet this disbursement rate, CDPH would need to reduce its annual commitment amount, which is contrary to the intent of the SRF program. Based upon the cash-flow model as well as CDPH's intent to maximize the commitment and disbursement potential of the SDWSRF fund, CDPH believes that its resulting cumulative loan disbursement rate for SFY 14-15 will be approximately 69%. CDPH recognizes that the intent of the cumulative loan disbursement metric is to ensure that disbursements are occurring within a timely manner relative to the commitment of funds and that the funding potential is being maximized. In order to preserve the intent of the metric, CDPH commits to disbursing \$621 million in cumulative funds during the period beginning with July 1, 2012 and ending June 30, 2015. CDPH believes that this metric will demonstrate CDPH's progress to maximize cumulative loan fund disbursement.	Completed

Attachment - A

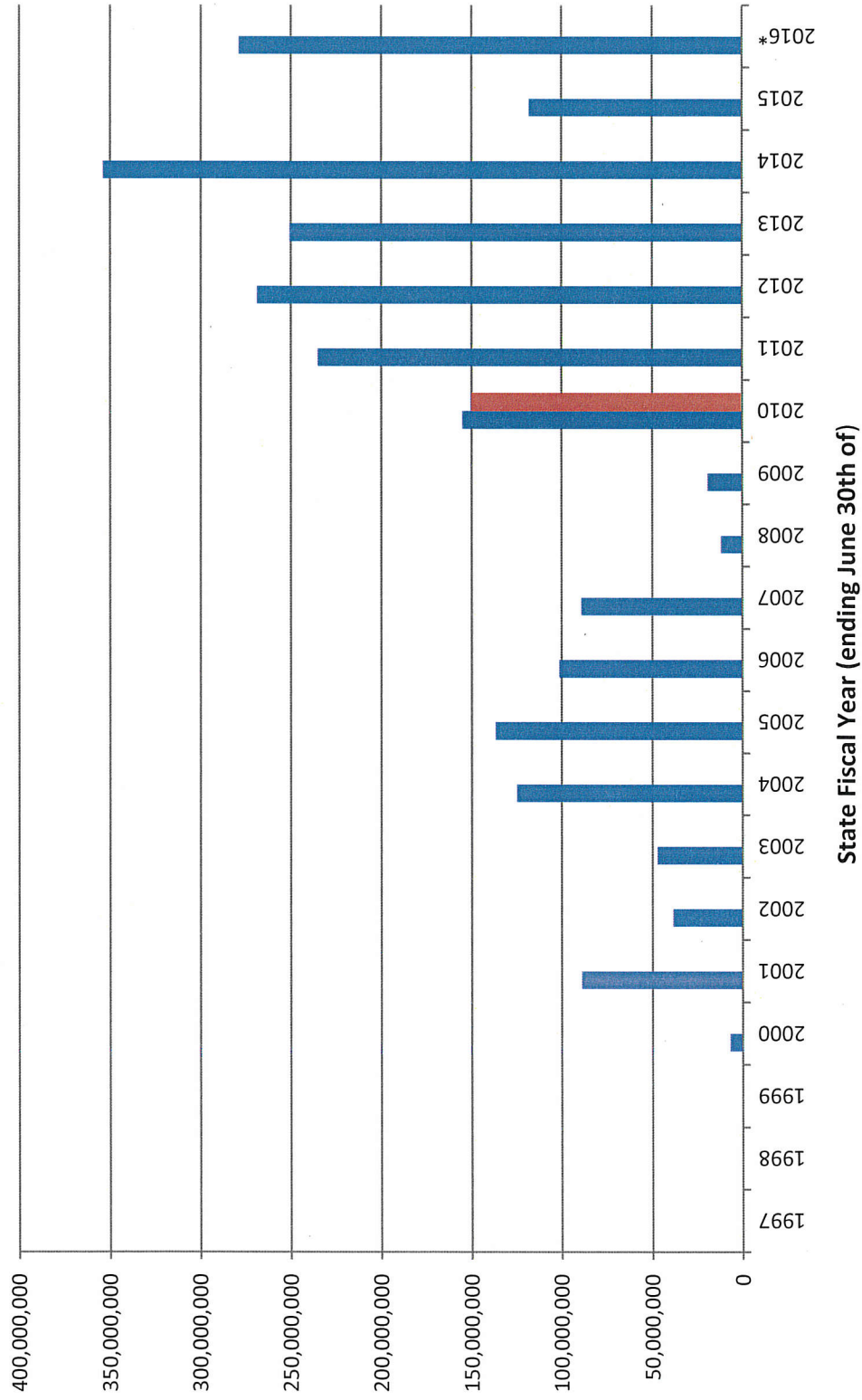
23	Achieve a cumulative set-aside spending rate of 80% (i.e., cumulative set-aside expenses as a % of cumulative net amount awarded for set-asides as calculated in NIMS).	June 30, 2015	CDPH will achieve a cumulative set-aside spending rate of 80% by June 30, 2015, where such rate is the percent of cumulative set-aside expenses to the cumulative net amount awarded for set-asides, as calculated in NIMS.	Completed
24	Using cash flow model determine appropriate commitment level for SFY17. (Appropriate means commit all available funds Federal capitalization grants, state match, loan principal repayments and all interest earnings).	May 30, 2016	Using the cash flow model, CDPH will determine and submit by May 30, 2016 the appropriate commitment level for SFY 16-17, where appropriate means the commitment of all available funds from federal capitalization grants, state match, loan principal repayments and all interest earnings.	Scheduled to be completed as a component of the 2016 Intended Use Plan
25	Identify viable and shovel ready projects on the 2017 fundable list to meet appropriate commitment level for the year.	June 30, 2016	CDPH will submit to USEPA by June 30, 2016 a CA SDWSRF fundable list that identifies viable and shovel ready projects to meet the appropriate commitment level for SFY 16-17 (the "2017 CA SDWSRF Fundable List"). The 2017 CA SDWSRF Fundable List will consist of a combination of planning and construction projects that CDPH believes, at that time, will be "ready to proceed" to a CA SDWSRF funding agreement during SFY 16-17.	Scheduled to be completed as a component of the 2016 Intended Use Plan
26	Submit to the EPA a list of all executed funding agreements made in the prior fiscal year (7/1/15-6/30/16) to verify targeted amount of commitments for SFY16 were made.	June 30, 2016	CDPH will submit to USEPA by June 30, 2016 a list of all executed funding agreements made in SFY 15-16 to verify the targeted commitment amount for SFY 15-16 was achieved.	Commitment target achieved in December 2015. List of commitments will be included in the 2015/16 Annual Report
27	Achieve a cumulative loan disbursement rate of 80% or within 5% of the national average, whichever is greater (i.e., percent of cumulative funds disbursed to cumulative assistance agreements as calculated in NIMS).	June 30, 2016	CDPH can meet this disbursement rate target by June 30, 2016. However, to meet this disbursement rate, CDPH would need to reduce its annual commitment amount, which is contrary to the intent of the SRF program. Based upon the cash-flow model as well as CDPH's intent to maximize the commitment and disbursement potential of the SDWSRF fund, CDPH believes that its resulting cumulative loan disbursement rate for SFY 15-16 will be approximately 77%. CDPH recognizes that the intent of the cumulative loan disbursement metric is to ensure that disbursements are occurring within a timely manner relative to the commitment of funds and that the funding potential is being maximized. In order to preserve the intent of the metric, CDPH commits to disbursing \$878 million in cumulative funds during the period beginning with July 1, 2012 and ending June 30, 2016. CDPH believes that this metric will demonstrate CDPH's progress to maximize cumulative loan fund disbursement.	Projected to be achieved by end of second quarter SFY 2016/17 due to construction delays with certain projects resulting in a lag of related disbursement requests. Please see Attachment D reflecting cumulative and projected disbursements based on actuals and current cash-flow model forecasting
28	Achieve a cumulative set-aside spending rate within 5% of the national average (i.e., cumulative set-aside expenses as a % of cumulative net amount awarded for set-asides as calculated in NIMS).	June 30, 2016	CDPH will achieve a cumulative set-aside spending rate that is within 5% of the national average by June 30, 2016, where such rate is the percent of cumulative set-aside expenses to the cumulative net amount awarded for set-asides, as calculated in NIMS.	Projected to be achieved by end of SFY 2015/16
29	Balance of available federal funds not to exceed \$160M (includes both loans and set asides).	June 30, 2016	CDPH will establish a balance of available federal funds that does not exceed \$160 million by June 30, 2016. Such federal fund balance will be comprised of both federal project loan and federal set-aside balances.	Completed December 2015

Note: All items deadlines June 30, 2014 or prior were completed by CDPH. All items post June 30, 2014 are the responsibility of the State Water Board.

Attachment B

California DWSRF Annual Binding Commitment**

■ Base CA DWSRF
■ CA ARRA

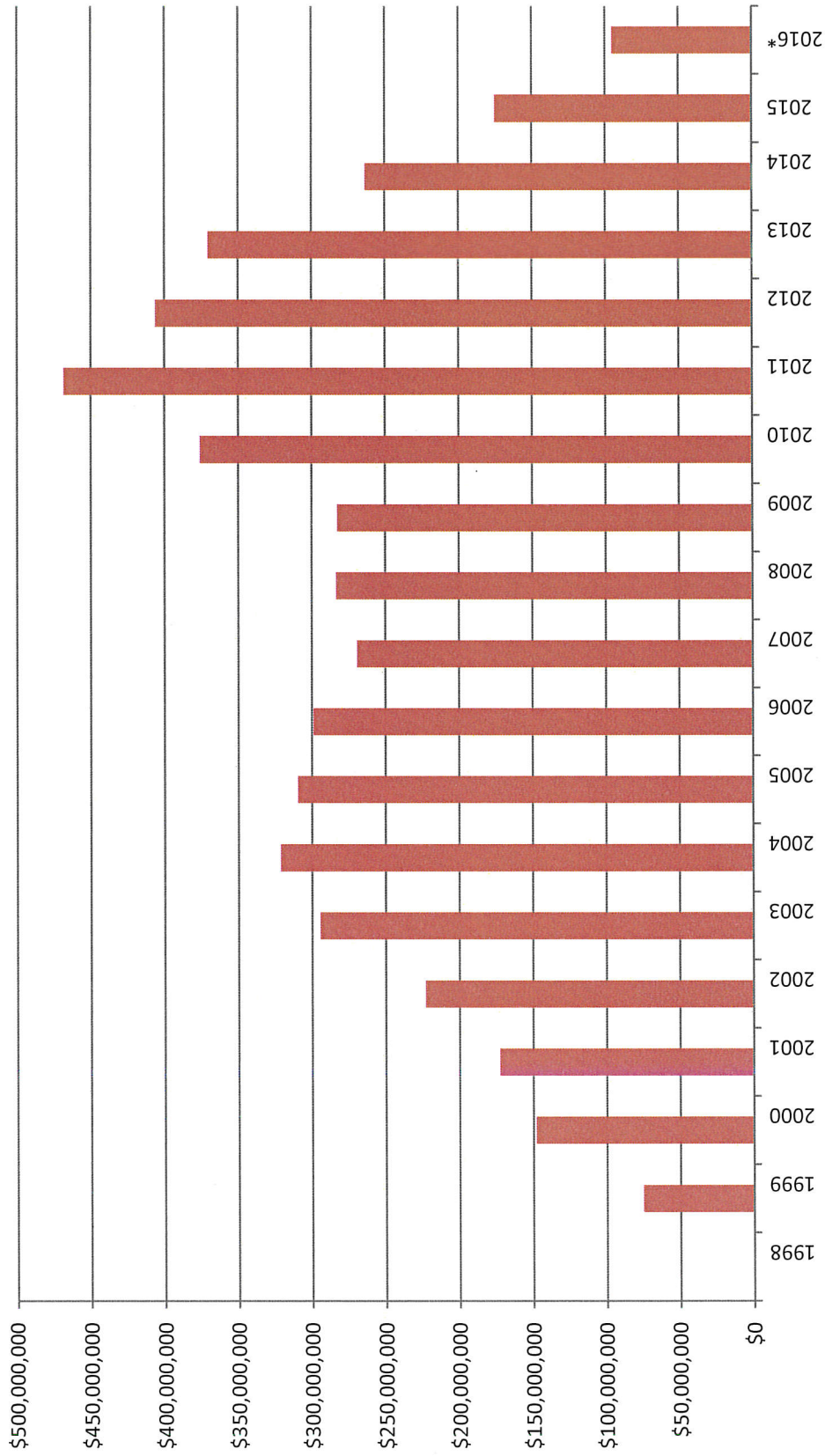


* Binding commitment amount as of 2/12/2016

** Represents new binding commitments-Does not include adjustments to prior year binding commitment amounts as a result of amendments or de-obligations

Attachment C
California DWSRF Federal ULO
 (as of 2/12/16)

■ Federal ULO (Loans + Set-Asides)



State Fiscal Year (ending June 30th of)

*Projected federal ULO based upon cash flow modeling (as of 2/12/2016)

Attachment D Global Local Assistance Disbursements vs. Available Revenue

