MCWRS Massachusetts Coalition for Water Resources Stewardship

September 3, 2015

Nate Keenan,
Deputy Director
Massachusetts Clean Water Trust
Three Center Plaza – Suite 430
Boston, MA 02108

Re: Comments on the Draft Affordability Calculation to Govern Distribution of Principal Forgiveness for the State Revolving Fund (SRF) Program

Dear Mr. Keenan:

On behalf of the Massachusetts Coalition for Water Resources Stewardship (MCWRS) and our member communities and companies, I am submitting the following comments on the Massachusetts Clean Water Trust's Draft Affordability Calculation to Govern Distribution of Principal Forgiveness for the State Revolving Fund (SRF) program. We understand the Trust's need to develop the affordability calculation in response to the *Water Resources Reform and Development Act of 2014*, and to establish such affordability criteria as required by September 30, 2015. We appreciate the state's interest in enhancing the affordability of projects, and offer the following specific comments.

Specific Comments

1. MCWRS is supportive of all efforts to enhance available funding and provide new funding opportunities for communities that need to implement environmental, water, wastewater and storm water projects. Considering the fiscal challenges facing the communities and public utilities in the Commonwealth, and the fiscal burden of new, continued and enhanced environmental regulations, the need for funding assistance to support environmental and utility projects and programs continues to be critical. We therefore encourage the Trust (as well as Massachusetts DEP) to work to expand the availability of principal forgiveness and zero-interest loans to support environmental initiatives in more communities. Recognizing the limited scope of the principal forgiveness funds that are expected to be available, we request that the Trust work to increase the access for more communities and public utilities to zero-interest loans under the SRF program.

2. We understand that the Trust is required by the federal guidance to include certain factors in its affordability calculation, including income, unemployment and population trends. However, we are concerned with the direct application of only the three selected factors as stated in the Draft Affordability Calculation. We address each of these factors as follows:

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a. Per Capita Income – Published per capita income (PCI) data is generally available for use in the calculation, and is a measure of the general financial capacity of a community's population. However, affordability standards for water quality projects (including the standards long used by the U.S. EPA) have historically been indexed to median household income (MHI). This MHI factor is more cognizant of the way in which water and wastewater charges, and particularly capital project cost assessments, are typically applied to system users – on a household basis. Further, reference to the use of MHI data continues as the marker for affordability considerations in related documentation by U.S. EPA (including EPA's November 24, 2014, Memorandum on Financial Capability Assessment Framework for Municipal Clean Water Act Requirements). We suggest consideration of using MHI data in the calculations – in place of or alongside PCI data.

b. Population Trends – While we understand that federal guidance requires recognition of population trends as a factor in the calculations, we question the method selected for applying this consideration in the Draft Affordability Calculation. Communities can be negatively impacted economically by changes in population (both decreases and increases) in a number of ways, and these impacts are dependent on many specific local factors. Some communities are impacted equally hard by increases in population (particularly if there is not corresponding increase in revenues) as they are by population decreases. Even in cases where water or sewer user charge revenues could generally be expected to rise due to increases in local population, there are often other local impacts from the population increase that create a greater local burden without supporting revenue.

By example, we know of one small town that experienced a very high percentage (approx. 30%) of population change from 2000 to 2010, but did not realize such an increase in local financial capacity. Under the draft calculation methodology, this population increase factor shifts this town to the middle of Tier 2, where it would be seen as one of the neediest communities in Tier 3 without the population impact.

Because of the complexity of capturing the true impact of population changes, we suggest simplifying the capture of this factor to a fixed (not data scaled) adjustment on the final calculation indicator (currently represented as APCI). This could be done by allowing a simple multiplier (say 95%, or 0.95) for communities that can identify a significant local population change impact or show a statistical deviation (increase or decrease) from the state average.

c. Employment Rate – Local unemployment is clearly a significant factor in the depiction of affordability for environmental projects. We do not question the relevance of the data, but note the significant impact of the adjustment on communities with high unemployment.

3. In further support of the above discussions, the affordability of environmental projects is not accurately captured by the limited Draft Affordability Calculation as presented. Costs for water and wastewater projects are passed on to users through a number of local financing methods – most notably water and sewer user charges, special assessments (betterments) and fees, as well as

through local property taxes. Any depiction of the affordability of a project that does not capture the current and expected future levels of such financial burdens on communities and users must be considered lacking. While the available published data on local water and sewer rates can be challenging to interpret on a level basis, the need to recognize the greater burden of high utility rates in some communities is critical. While this factor does not displace the importance of income and employment, it does significantly affect the actual ability of a property owner to be able to afford increases in his utility bills. This condition similarly applies to local tax rates, and the combined impact of tax rates and user charges (including considering assessments) cannot be understated as a major factor in measuring affordability. Put simply, an evaluation of community affordability must look at both revenue (income, population, employment) as well as costs (tax rates, user rates, cost of living, current and future capital needs, etc.). Federal and state attempts to develop a metric for affordability inevitably fail to include the cost side of the equation. These factors must be captured in the Final Affordability Calculation.

4. We question the need for the stark change in funding levels between the tiers as provided in the Draft Affordability Calculation. It is apparent that communities with combined indicator (APCI) numbers that differ by a small percent may see a major difference (up to 100%) in the amount of principal forgiveness provided because they lie on the wrong side of the 60% or 80% demarcation lines that have been selected. For example, 'Community X' has an APCI fraction of 81% and 'Community Y' (with similar local resources, and possibly lower user rates) has an APCI fraction of 79% - which results in community Y receiving twice as much principal forgiveness funding as Community X. To mitigate this factor, we suggest a more broadly scaled factor for applying share. This could be done with more tiers (maybe 10% funding level increments), or by scaling all communities with affordability needs to the neediest community in the funding list (which becomes the 1.0 share community, with all others receiving a fractional share proportioned to the neediest community).

5. We are concerned with the limitation (discussed near the bottom of page 3) on principal forgiveness for large, multi-year and multi-contract projects. This needs to be clarified, and addressed appropriately, so as not to limit the available streamlining of SRF application paperwork for communities implementing phased environmental projects.

6. In general, we suggest that the Trust maintain an easily accessible set of data upon which it will rely in making the affordability calculations. Copies of basic statistical data to be referenced should be made available on the Trust website. Otherwise, direct web links to the actual data tables to be used should be provided by the Trust (a general link to the Massachusetts DOR website is not sufficiently helpful for communities seeking to obtain or verify data in the calculation).

7. Given the short time frame for public comment on this important matter, which was no-doubt driven by federal statutory deadlines, it is recommended that the affordability criteria adopted be subject to review and reconsideration on a regular basis. An annual review would be preferred; however, review every two years may suffice. Regular reconsideration would keep this subject in the forefront of discussion and keep many eyes focused on the outcome of a particular approach. It could then identify and correct unintended consequences and unforeseen results that might drive the funding program quite opposite of the desired direction.

8. We understand that this Affordability Calculation may supplant the current use of the Environmental Justice (EJ) designation in the preparation of the Intended Use Plan (IUP) and assignment of funding under the SRF program. It may be helpful for the Trust and Massachusetts DEP to clarify that change.

9. The affordability of projects that need to be implemented by communities is affected by many factors, and the financial burden placed on many communities by the impending permit changes to the EPA regulations and permit writing practices – including new stormwater regulations under the National Pollutant Discharge Elimination System (NPDES) program that will increase that burden. As such, the availability of funds for principal forgiveness and other enhanced funding options are needed to counter the new and increased financial burden of these regulations on communities. We also ask that the state help to keep pressure on the EPA to resist the implementation of new and more restrictive standards on municipalities and public water quality agencies without providing corresponding new and enhanced funding sources.

We recognize that the Draft Affordability Calculation has been prepared in response to requirements of recent amendments to the *Federal Water Pollution Control Act*. We encourage the Trust and Massachusetts DEP to engage its best efforts to reach beyond the basic requirements of federal regulations in providing enhanced project funding to support the affordability of needed environmental projects and the burden of new and enhanced environmental regulations. We understand that such efforts to enhance the SRF funding program have been initiated in the state, and strongly reinforce the need for such funding.

We appreciate the opportunity to submit comments on the Draft Affordability Calculation to Govern Distribution of Principal Forgiveness for the SRF program. Please do not hesitate to contact me with any questions. I can be reached by e-mail at GuerinP@worcesterma.gov or by phone at 508-929-1300 x2109

Sincerely,

MASSACHUSETTS COALITION FOR WATER RESOURCES STEWARDSHIP

Philip D. Guerin
President
Director of Water, Sewer & Environmental Systems, City of Worcester

cc: MCWRS Board of Directors and Members
Commissioner Martin Suuberg, MassDEP