



# City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861  
Phone (310) 456-2489 · Fax (310) 456-3356 · [www.malibucity.org](http://www.malibucity.org)

March 14, 2018

*Sent via email to:* [sheila@bos.lacounty.gov](mailto:sheila@bos.lacounty.gov)

The Honorable Sheila Kuehl, Chair  
Los Angeles County Board of Supervisors  
821 Kenneth Hahn Hall of Administration  
500 W. Temple Street  
Los Angeles, CA 90012

RE: Comments on the Development of the Safe, Clean Water Program Expenditure Program

Dear Supervisor Kuehl:

The City of Malibu appreciates the Board of Supervisors' leadership in the development of the Safe, Clean Water Program and the extended efforts to engage cities in the stakeholder process to draft a parcel tax for stormwater compliance programs, drought preparedness, water quality, and water sustainability.

There is no question that a funding source is needed to assist the County and cities in meeting their currently unfunded obligations under their respective 2012 municipal separate storm sewer permits (MS4), which contain the most stringent water quality requirements in the country. The Los Angeles County Department of Public Works has estimated that the total countywide capital costs to comply with the permits exceeds \$20 billion. For the City of Malibu, the 20-year life cycle costs to comply with the infrastructure improvement requirements of its MS4 permit is estimated at \$20,100,000. These improvements consist of Distributed Green Street Best Management Practices (BMPs), such as bioswales, biofiltration, and bioretention, typically constructed in the public right-of-way, designed to treat stormwater before it enters the storm drain system. The following specific Distributed Green Streets structural BMP projects are identified in the North Santa Monica Bay Enhanced Watershed Management Program (EWMP) for the City of Malibu to construct, operate and maintain:

- Ramirez Canyon (E1-07) structural BMPs
- Latigo Canyon (S1-09) structural BMPs
- Corral Canyon (E1-11) structural BMPs
- Marie Canyon (S1-12) structural BMPs
- Winter Canyon (E1-12) structural BMPs
- Sweetwater Canyon (S1-13) structural BMPs
- Las Flores Canyon (W1-14) structural BMPs

Given its generally unfunded permit liability, the City of Malibu has a vested interest in securing new funding sources for stormwater. We believe that the following elements are critical components in the development of an effective Safe, Clean Water Program Expenditure Plan:

- 1. All funds should be dedicated to MS4 permit compliance with priority on TMDLs, WMPs, and EWMPs.** Unfunded obligations exceed \$20 billion in Los Angeles County and the cost of non-compliance (penalties and third-party lawsuits) to cities and the county can be extremely costly. Taxpayer funds should be used to meet state and federal requirements.
- 2. Cities should control disposition of their allocated funds.** AB 1180 provides clear authority regarding the purposes for which Safe, Clean Water Program (Program) funds are being collected and can be used. City Councilmembers are in the best position to determine use of the funds allocated to their cities in accordance with Program purposes outlined in AB 1180, as the Councilmembers are accountable to their constituents, understand local geography and capacity, and bear the ultimate responsibility to minimize their city's liability for compliance with the MS4 permit. Regular audits will ensure Program funds are appropriately used.
- 3. Clear definition of Regional Projects.** The 50% allocation for the implementation, operation, maintenance, and administration of watershed-based projects and programs must provide clear definitions for what constitutes a regional project and should prioritize cost-effective projects that maximize water clean-up, reuse and capture. Often this will be accomplished through use of existing infrastructure to convey stormwater to appropriate locations for infiltration. The minimum requirements for projects should consider sustainability measures like water reuse. The distribution of regional allocations should be sensitive to the unique and diverse constitution of each WMP and EWMP.
- 4. Provide credit or “opt-in/out” mechanisms to cities with existing voter-approved stormwater fees.** Taxpayers in communities that have already initiated local revenue sources for stormwater clean-up to meet their MS4 obligations should have an option not to participate in the Safe, Clean Water Program, conditioned upon their agreement that they will not benefit from Program revenues, or should be allowed to partially participate as appropriate to credit existing fees.
- 5. Strict transparency, accountability and governance. Allocations in each funding category** should be based on sound financial calculations and reflect real costs. Funds in excess of these calculations, particularly related to the 10% for LACFCD implementation and administration should be dedicated back to stormwater projects and programs. A governance structure to provide strong oversight must have adequate city representation.
- 6. Basin Plan Update.** The plan has not been updated since 1994. It is outdated and was never intended to address stormwater, especially through numeric limits and TMDLs. As a result, compliance will cost billions of dollars more than it should. It is not fair to ask taxpayers to fund a plan that fails to address modern water quality issues, including incorporating new data and science. We concur with BizFed's recommendation that \$25-30 million dollars should be allocated from the 10% reserved for LAFCD administration to allow the Regional Water Quality Control Board to update the plan.

Based on previous County efforts on this issue, we know that voters expect strict accountability, equitable distribution, and visible returns on their investment, particularly when they have already been generous in their very recent approval of local revenue measures to fund homelessness solutions, parks and transportation. We believe the elements listed above support these expectations.

Again, the City of Malibu thanks the Board of Supervisors for its efforts to engage stakeholders, including city officials, in the development of the Safe, Clean Water Expenditure Plan. We look forward to providing further input to the Board and other stakeholders to craft a measure that is equitable, cost-effective, funds MS4 compliance and augments local water supplies.

Sincerely,



Reva Feldman  
City Manager

cc: Mayor Mullen and Honorable Members of the Malibu City Council  
Katy Young, Office of Supervisor Sheila Kuehl, [kyoung@bos.lacounty.gov](mailto:kyoung@bos.lacounty.gov)  
Russ Bryden, Los Angeles County Department of Public Works, [rbdryden@dpw.lacounty.gov](mailto:rbdryden@dpw.lacounty.gov)  
Leslie Friedman-Johnson, CNRG, [leslie@CNRGCalifornia.com](mailto:leslie@CNRGCalifornia.com)  
Kristine Guerrero, League of California Cities, LA County Division, [kguerrero@cacities.org](mailto:kguerrero@cacities.org)