

May 11, 2018

Mr. Mark Pestrella, Director of Public Works
Angela George-Moody, Deputy Director – Water Resources
County of Los Angeles
900 S. Fremont Avenue
Alhambra, CA 91803

Via email: mpestrella@dpw.lacounty.gov; agmoody@dpw.lacounty.gov

Dear Mr. Pestrella and Ms. George-Moody:

The City of Manhattan Beach City Council has not officially taken a position on the Safe, Clean Water parcel tax since the program is still under development, however, City staff appreciates the opportunity to comment on the draft elements of the Safe Clean Water Program (SCW Program). We also appreciate the dedication of the Los Angeles County Department of Public Works and the Flood Control District (LACDPW/FCD) in working to develop the SCW Program and appreciate the many opportunities provided for stakeholder input.

The nexus between stormwater capture and water supply affords a great opportunity, where feasible, to optimize public resources by constructing multi-benefit stormwater capital projects that not only provide stormwater quality improvements but water supply benefits as well. In addition, if community investment benefits can be realized through stormwater capital project features, they should also be considered in the project design. That said, as you are aware, municipalities in the Los Angeles region, including the City of Manhattan Beach, face enormous Clean Water Act stormwater compliance costs with no secure funding source to help them meet their regulatory obligations. Municipalities are individually obligated to meet regulatory compliance objectives in terms of effluent limitations and waste load allocations set by the Los Angeles Regional Water Quality Control Board through the Municipal Stormwater Permit and approved Enhanced/Watershed Management Programs (E/WMPs). As such, the SCW Program must ensure that its stated primary objectives of capturing stormwater and reducing stormwater and urban runoff pollution are realized so that municipalities can obtain regulatory certainty. We feel that certain elements of the SCW Program need to be further clarified and refined in order to ensure that program funding and project selection support attainment of Clean Water Act compliance objectives for each municipality and E/WMP group. In particular, modifications to the proposed governance structure, project selection process, and municipal program expenditures should be considered.

Suggestions for modifications to the Draft SCW Program elements are summarized as follows:

GOVERNANCE STRUCTURE

1. Watershed Area Steering Committees should include a municipal representative from each E/WMP group within the Watershed Area boundaries. Municipal agencies should be excluded from sector-specific membership seats and no municipality should have more than one seat/vote on the Watershed Area Steering Committees - simply guaranteeing a seat to the largest municipalities should be sufficient.
2. It is important that Watershed Area Steering Committees be seated with members that are well qualified to make important decisions on the selection of projects to receive funding. The Watershed Area Steering Committees should be allowed flexibility in the number of Community Stakeholder seats that must be filled. If qualified and interested Community Stakeholders are not available to fill all four seats on each Watershed Area Steering Committee, then it should be up to the discretion of the Watershed Area Steering

Community Stakeholder seats that must be filled. If qualified and interested Community Stakeholders are not available to fill all four seats on each Watershed Area Steering Committee, then it should be up to the discretion of the Watershed Area Steering Committee to reduce the number of Community Stakeholder seats. Watershed Area Steering Committees should not be required to seat more than one (or at most two) Community Stakeholders who don't meet the General Minimum Qualifications for all Members laid out in XII. Appendix, page 29.

3. It is not clear why an open space stakeholder is needed on the Regional Oversight Committee and on every Watershed Area Steering Committee since the primary purpose of the program according to AB 1180 is "to pay the costs and expenses of carrying out projects and programs to increase stormwater capture and reduce stormwater and urban runoff pollution in the district..." Consider eliminating the Open Space Stakeholder position or leaving the position undesignated to allow for flexibility by the Watershed Area Steering and Regional Oversight Committees in filling that seat as they determine is most appropriate.

PROJECT SELECTION PROCESS

4. Not all regional stormwater capture projects will have a clear nexus with water supply benefits, particularly those in coastal watershed areas that are located west of the West Coast Groundwater Basin Barrier Project or in areas where there is no underlying groundwater basin. Yet such regional projects may be critical to achieve the Clean Water Act compliance objectives identified by an E/WMP group. Such projects should not be penalized in the Regional Project Scoring Criteria. There should be a revised threshold score and/or mechanism built into the scoring to allow these projects to remain competitive.
5. The language of AB 1180 Section 2.8a. does not appear to suggest that Community Investment Benefits are at the same level of priority for program funding as water quality and water supply benefits: "Projects and programs funded by the revenues from the tax, fee, or charge may include projects providing multiple benefits that increase water supply, improve water quality, and, where appropriate, provide community enhancements such as the greening of schools, parks, and wetlands, and increased public access to rivers, lakes, and streams." As such, Community Investment Benefits should be assigned a lesser weight in the Regional Project Scoring Criteria than Water Supply Benefits.
6. Each municipality should be allowed flexibility to determine how best to engage its community in the determination of municipal projects to be implemented with Municipal Program funds, rather than requiring a formal municipal level "call for projects" as detailed in Section VII.A.b, page 22.

MUNICIPAL PROGRAM EXPENDITURES

7. Municipal Program funds expenditure requirements should be more flexible to meet agencies' needs rather than mandating that 70% be spent on new projects and 30% be spent on other eligible activities. Perhaps a 50/50 split would be more appropriate. Also, it should be clarified that operation and maintenance costs for "new" projects are considered to be ongoing "new" costs since municipalities' needs will change over time as projects are completed and new projects are not needed until the end of their useful life.
8. The "effective start date of the SCW Program" which is the date prior to which Municipal Program SCW Program eligible activities are considered "baseline" as opposed to "new" needs to be defined. We recommend that the effective start date for new Municipal Program SCW Program eligible expenditures should be the date of Regional Board approval of the E/WMP for that municipal program—this will ensure that municipalities that have been implementing projects and enhanced minimum control measures as described in the E/WMPs are not penalized over those which may not have moved as promptly to carry out E/WMP commitments.

IMPLEMENTATION

9. Based on the schedule provided, assuming the voters approve the Safe, Clean Water tax in November 2018, the following table shows the schedule for implementation of the program.

IMPLEMENTATION

9. Based on the schedule provided, assuming the voters approve the Safe, Clean Water tax in November 2018, we understand that funds would not become available for transfer to project proponents until Winter of 2020. However, municipalities must still proceed with capital projects that may be currently in the planning, design or even construction phases in order to meet milestones and deadlines in approved E/WMPs. We recommend setting the E/WMP approval date as the effective date for cost recovery for SCW capital projects from which date expenditures can be recovered for selected regional or eligible municipal capital project costs, including planning, design and construction costs. Again, this will ensure that municipalities and E/WMP groups that have taken significant steps to implement E/WMP commitments in terms of regional and distributed projects are not penalized.
10. Transparency and accountability are important in expending public funds, however these must be balanced with efficiency and flexibility to ensure the timely selection, development and implementation of projects without unnecessary administrative burden. The Six Step Regional Project selection and funding process is quite complex and could be further streamlined while still maintaining transparency and accountability. An annual frequency/cycle for all six steps in each and every Watershed Area may result in excessive administrative effort and delays in schedule/approvals of projects due to bottlenecks in the process. Since the call for projects will be biennial, and the Stormwater Investment Plans will be 5-year plans, could the six-step process be reduced to a biennial process as well?
11. Imposition of LA County contracting requirements on every municipality that receives the 40% local return municipal funds would create an unreasonable and untenable burden on small municipalities. A general law City such as Manhattan Beach must comply with specific bidding and construction requirements unlike the LACDPW/FCD as a Charter agency. This requirement must be eliminated from the Agreements for Transfer of SCW Program Funds.
12. Please clarify in Section VI.N that Waste Load Allocations, Effluent Limitations and Receiving Water Limitations consistent with the Regional Board's Basin Plan will be referenced in the development of Stormwater Management Targets.
13. Municipalities, project developers, and the District should only be required to retain records necessary to determine the amount expended and eligibility of projects for seven (7) years similar to tax requirements, rather than ten (10) years.

The City of Manhattan Beach appreciates the opportunity to provide comments on the draft elements of the SCW Program and believes the aforementioned modifications will help achieve the most cost-effective and equitable measure possible.

Sincerely,

Stephanie Katsouleas, P.E.
Director of Public Works

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