

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
DECEMBER 15, 2015**

ITEM 3

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT THE PROPOSITION 1 STORM WATER GRANT PROGRAM (SWGP) GUIDELINES (GUIDELINES)

DISCUSSION

The *Water Quality, Supply, and Infrastructure Improvement Act of 2014* (Proposition 1), was approved by California voters on November 4, 2014. Proposition 1 provided \$200 million to the State Water Resources Control Board (State Water Board) for matching grants to public agencies, nonprofit organizations, public utilities, state and federally recognized Indian tribes, and mutual water companies for multi-benefit storm water management projects (California Water Code § 79747). The State Water Board has approximately \$186 million available to administer grants for planning and implementation projects, after bond and program administration costs. State Water Board staff have developed Guidelines for State Water Board consideration to establish the process and criteria that the Division of Financial Assistance (Division) will use to solicit applications, evaluate and rank proposals, and recommend projects for funding. These Proposition 1 SWGP Guidelines (Attachment 1) include the information and documentation that applicants will be required to submit when applying for grant funding.

The Guidelines also allow approximately \$25 million of the remaining applicable funds from Propositions 13, 40, 50, and 84 to be administered through the Proposition 1 SWGP solicitation and selection process to fund storm water or dry weather runoff management projects that address discharges to an Area of Special Biological Significance (ASBS) or coastal water. The Proposition 1 SWGP Guidelines would supersede any previously issued ASBS or Clean Beaches Grant Program guidelines for purposes of this project solicitation.

Division staff worked with the Division of Water Quality to coordinate the development of the Storm Water Resource Plan Guidelines (required by Senate Bill 985) and the Proposition 1 SWGP Guidelines. The Proposition 1 SWGP Guidelines implement the requirements of the Senate Bill 985 and are consistent with the Storm Water Resource Plan Guidelines. The Proposition 1 SWGP Guidelines are also consistent with the vision and mission of the Strategy to Optimize Resource Management of Storm Water by supporting objectives and projects to establish financially sustainable storm water programs by making funding available for storm water projects.

Staff from both the Division and Division of Water Quality engaged stakeholders in the development of the Proposition 1 SWGP Guidelines through several venues between March and October 2015. Division staff conducted three public workshops (September 29, September 30, and October 1, 2015) in Fresno, Fountain Valley, and Oakland, respectively, and one State Water Board Workshop in Sacramento (October 7, 2015). Throughout the stakeholder engagement process, Division staff solicited input on the Proposition 1 SWGP Guidelines in areas such as: eligible projects, required match amounts, minimum and maximum grant amounts, funding set-asides, project preferences, grant solicitation process, and scoring criteria.

The Draft Proposition 1 SWGP Guidelines, as well as the Storm Water Resource Plan Guidelines, were posted for public review and comment for 45 days from August 28, 2015 through October 13, 2015. Interested parties were notified of the availability of the draft Guidelines via the State Water Board's LYRIS e-mail lists.

Major issues raised and how the issues are addressed in the Final Draft Guidelines for State Water Board consideration include:

1. Priorities for funding - comments included: a) focus on storm water capture with demonstrated water supply benefit; b) focus on storm water capture that "re-purposes" storm water for a variety of benefits; and c) do not have a specific focus or priority.

Final Draft Guidelines: Prioritize funding storm water capture projects that "re-purpose" storm water for a variety of potential benefits, including (but not limited to) water supply, flood control, habitat enhancement/restoration, and creating green space. This approach is consistent with Senate Bill 985 and the California Water Action Plan, which focus on capturing storm water and "re-purposing" it (i.e., putting the storm water to another beneficial use).

2. Funding solicitation timeline – comments included: a) the timeline is too short given the need to prepare a Storm Water Resource Plan and b) the timeline will work, since Storm Water Resource Plans are complete in many areas in need of funding and projects have been identified.

Final Draft Guidelines: The timeline and process maximizes the amount of funds provided in the near term by awarding in 2016 up to the \$100 million appropriated in the fiscal year 2015/2016 budget: providing up to \$20 million for planning and up to \$80 million for implementation projects. If there are not sufficient well-qualified projects to use all \$80 million of Round 1 implementation funds, then those funds would rollover to the next solicitation (proposed for 2018). Staff modified the Guidelines to allow additional time for Storm Water Resource Plan preparation by extending the proposed timeline for awarding implementation grants to the summer/fall of 2016 and allowing up to 90 days after grant award to submit a compliant Storm Water Resource Plan.

3. Projects to be included in a SB 985 compliant Storm Water Resource Plan – comments included: a) only storm water or dry weather runoff capture projects should be required to be in a Storm Water Resource Plan and b) all storm water management projects funded by Proposition 1 should be identified in a Storm Water Resource Plan.

Final Draft Guidelines: Emphasize broader, storm water capture and storm water management planning by requiring all projects receiving Proposition 1 funding to be included in a Storm Water Resource Plan (or equivalent). The approach supports a policy of ensuring specific projects are clearly part of an overall strategic approach versus stand-alone efforts. The Guidelines provide up to 90 days after grant award for the final Storm Water Resource Plan to be submitted.

The Guidelines establish a competitive proposal solicitation process. Applicants will submit their proposal through the State Water Board's on-line Financial Assistance Application Submittal Tool. Technical staff will review the submitted proposals and rank the projects based on the scoring criteria in the Guidelines. Project proponents also have an opportunity to submit an optional pre-application in order to have an initial review of their project conducted by Division staff. Qualifying proponents that submit a pre-application may also be referred for additional Technical Assistance support. Division staff, with input from the Division of Water Quality and Regional Water Quality Control Boards (Regional Water Boards), will develop a Recommended Funding List. The Deputy Director of the Division will make the final decision on which projects to award funding and the grant amounts.

POLICY ISSUES

Should the State Water Board:

1. Adopt the Proposition 1 SWGP Guidelines and authorize the Deputy Director of the Division to make non-substantive change to the Guidelines?
2. Authorize the Deputy Director of the Division or designee to award grants and execute grant agreements and amendments for routine, non-controversial projects consistent with the Proposition 1 SWGP Guidelines?
3. Authorize the Deputy Director of the Division to utilize funds from projects which are withdrawn or completed under budget to fund additional projects, or augment the scope and budget of projects previously awarded, consistent with the Proposition 1 SWGP Guidelines?
4. For qualifying projects submitted in response to any Proposition 1 SWGP solicitation, authorize the Deputy Director of the Division to award grants and execute grant agreements and amendments for such projects from Propositions 13, 40, 50, and 84 with funds available to address storm water or dry weather runoff discharge to an ASBS or coastal waters?
5. Authorize the Deputy Director of the Division to withdraw a grant award if the applicant is non-responsive or the Division has exhausted reasonable efforts to resolve issues that prevent the execution of a grant agreement?

FISCAL IMPACT

Proposition 1 provided \$200 million to the State Water Board for matching grants to public agencies, nonprofit organizations, public utilities, state and federally recognized Indian tribes, and mutual water companies for multi-benefit storm water management projects. Approximately \$25 million is also available from unused or re-appropriated Proposition 13, Proposition 40, Proposition 50 and Proposition 84 funds for storm water and dry weather runoff projects that prevent or reduce discharges to an ASBS or other coastal waters.

REGIONAL BOARD IMPACT

Storm water projects in all regions are eligible and all Regional Water Boards will be asked to provide staff to assist with the technical review of project proposals.

STAFF RECOMMENDATION

That the State Water Board approves the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 3 of the Strategic Plan Update: 2008-2012: Goal 1- implement strategies to fully support the beneficial uses for all 2006 listed water bodies by 2030 and Goal 3 - increase sustainable local water supplies available for meeting existing and future beneficial uses by 1,725,000 acre-feet per year, in excess of 2002 levels, by 2015, and ensure adequate water flows for fish and wildlife habitat.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2015-

ADOPT THE PROPOSITION 1 STORM WATER GRANT PROGRAM (SWGP) GUIDELINES

WHEREAS:

1. The Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) authorizes \$200 million to the State Water Resources Control Board (State Water Board) to provide matching grants to public agencies, nonprofit organizations, public utilities, state and federally recognized Indian tribes, and mutual water companies for multi-benefit storm water management projects (California Water Code § 79747);
2. Proposition 1 requires the development and adoption of project solicitation and evaluation guidelines (Proposition 1 Storm Water Grant Program (SWGP) Guidelines) prior to disbursing grants for any competitive grant program (California Water Code § 79706(a));
3. State Water Board staff held three public meetings in Fresno (September 29, 2015), Fountain Valley (September 30, 2015), and Oakland (October 1, 2015), and the State Water Board (October 7, 2015) held a public workshop in Sacramento, to consider public comments. Staff also considered written comments received by October 13, 2015, prior to finalizing the guidelines, in accordance with Proposition 1 (California Water Code § 79706(b));
4. Certain projects eligible for funding under Proposition 1 must be identified in a compliant Storm Water Resource Plan in order to receive funds, consistent with California Water Code § 10561, et seq. and the Storm Water Resource Plan Guidelines adopted by the State Water Board and the Proposition 1 SWGP Guidelines identify these projects;
5. The Proposition 1 SWGP Guidelines have been developed in accordance with the requirements of Proposition 1 (California Water Code § 79700, et seq.) and inform applicants of available funds and eligible project types, establish the SWGP criteria, and provide the review and selection process for awarding SWGP funds;
6. The Proposition 1 SWGP Guidelines are consistent with and support the State Water Board's Strategy to Optimize Resource Management of Storm Water and the Storm Water Resource Plan Guidelines;
7. The Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000 (Proposition 13) authorized \$90 million to the State Water Board to award grants to municipalities, local public agencies, educational institutions, or nonprofit organizations under the Coastal Nonpoint Control Program (California Water Code § 79148.6), including projects designed to implement storm water and runoff pollution reduction and prevention programs for the restoration and protection of coastal water quality (California Water Code § 79148.8 (b)(4));

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8. Assembly Bill 2534 (Chapter 727, Statutes of 2002), the Watershed, Clean Beaches, and Water Quality Act appropriated \$46 million from the *California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002* (Proposition 40) to award grants to public agencies and nonprofit organizations for projects that protect and restore California's coastal waters, including projects designed to implement storm water and runoff pollution reduction and prevention programs for the restoration and protection of coastal water quality (Public Resources Code § 30916(a)(3));
9. The *Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002* (Proposition 50) authorized \$100 million to award grants municipalities, local public agencies, educational institutions, or nonprofit organizations to fund projects that protect and restore California's coastal waters, including projects designed to implement storm water and runoff pollution reduction and prevention programs for the restoration and protection of coastal water quality (California Water Code § 79148.8 (b)(4));
10. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) authorized \$90 million (Public Resources Code § 75060(a)) for the purpose of matching grants to public agencies and nonprofit organizations for protecting beaches and coastal waters from pollution and toxic contamination pursuant to the Clean Beaches Program, including projects designed to implement storm water and runoff pollution reduction and prevention programs for the restoration and protection of coastal water quality (Public Resources Code § 30916(a)(3)); and
11. Approximately \$25 million of unused or re-appropriated funds from Propositions 13, 40, 50, and 84 are available for storm water or dry weather runoff projects to prevent or reduce discharges to an Area of Special Biological Significance (ASBS) or coastal waters and the Proposition 1 SWGP Guidelines would be used to solicit projects and would supersede any previously issued ASBS Grant Program or Clean Beaches Grant Program guidelines for the purposes of this project solicitation.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the [Proposition 1 SWGP Guidelines](#) and authorizes the Deputy Director of the Division of Financial Assistance (Division) to make non-substantive changes to the Guidelines.
2. Authorizes the Deputy Director of the Division or designee to award grants and execute grant agreements and amendments for routine, non-controversial projects consistent with the Proposition 1 SWGP Guidelines.
3. Authorizes the Deputy Director of the Division to utilize funds from projects which are withdrawn or completed under budget to fund additional projects, or augment the scope of work and budget of projects previously awarded, consistent with the Proposition 1 SWGP Guidelines.

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4. For qualifying projects submitted in response to any Proposition 1 SWGP solicitation, authorizes the Deputy Director of the Division to award grants and execute grant agreements and amendments for such projects from Propositions 13, 40, 50, and 84 with funds available to address storm water or dry weather runoff discharge to an ASBS or coastal waters.
5. Authorizes the Deputy Director of the Division to withdraw a grant award if the applicant is non-responsive or the Division has exhausted reasonable efforts to resolve issues that prevent the execution of a grant agreement.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 15, 2015.

Jeanine Townsend
Clerk to the Board