

California Council for Environmental and Economic Balance

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October 12, 2015



Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Delivered via email to commentletters@waterboards.ca.gov

Subject: Comment Letter – Storm Water Resource Plan and Proposition 1 Funding Guidelines

Dear Ms. Townsend and Members of the Board,

The California Council on Environmental and Economic Balance (CCEEB), together with CCEEB's Water Quality Task Force (WQTF), is pleased to provide comments on the State Water Board's *Draft Storm Water Resource Plan Guidelines (Plan Guidelines)* and *Draft Proposition 1 Storm Water Grant Program Funding Guidelines (Funding Guidelines)*.

CCEEB is a coalition of business, labor, and public leaders that advances strategies for a sound economy and a healthy environment. In 2012, CCEEB convened a Water Quality Task Force (WQTF) that is comprised of businesses and municipal and regional governmental entities with considerable direct experience administering water quality programs. In 2013, CCEEB issued the report *A Clear Path to Cleaner Water*, which focused on developing and advancing proposals to support the State's ambitious goals for the waters and environment of California—that is, to improve water quality, increase recycled water use, augment storm water capture, develop local water supplies, and reduce energy use and greenhouse gas emissions. This report found that furthering these goals will require planning for sustainability and a focus on collaborative, creative solutions, and will require agencies to focus resources efficiently so they can have the greatest impact.

The CCEEB/WQTF are pleased that the State Water Board has quickly established draft guidance for the submittal of Storm Water Resource Plans, as required by Senate Bill 985 for entities seeking public funding for storm water management projects, and the draft criteria and process by which the Proposition 1 storm water funding will be awarded. The approximately \$200 million that will be granted for the planning and implementation of storm water projects constitute a valuable but limited resource for agencies seeking to implement high priority projects identified in their Storm Water Resource Plans. The Plan Guidelines and the Funding Guidelines should thus be designed to focus resources on storm water management projects that will have the greatest impact and best address California's challenging water supply issues. Our comments on these Guidelines are provided below and respectfully suggest modifications to the Guidelines that we believe will enhance the successful application and funding of the most effective storm water projects.

1. **The CCEEB/WQTF encourage the State Water Board to prioritize the funding of storm water management projects that are designed to increase water supply, including the capture and reuse of storm water for various purposes like augmentation of recycled water or drinking water supplies, and to require quantification of the project benefits.**

The criteria for evaluating whether an implementation proposal receives funding include assessing both the number and the significance of the benefits that the project creates (i.e., its “multiple benefits”). The CCEEB/WQTF agrees with the State Water Board that projects with more and larger benefits should score higher and thus have a higher likelihood of receiving funding.

As California remains in a period of historic drought and faces unprecedented challenges in maintaining water supply to its almost 40 million residents, generating local water supplies and storage opportunities will be essential for meeting the State’s water needs. CCEEB thus believes that highest priority should be placed on funding projects that will capture storm water flows and put those flows to beneficial use (e.g., augmenting drinking water reservoirs, or offsetting potable supplies through a variety of means, including supplementing recycled water supplies dedicated for irrigation).

Although improving water quality should remain an important consideration in the multi-benefits criteria the State Water Board will utilize to allocate funding, projects that maximize the beneficial use of storm water should be prioritized over projects that focus solely on storm water treatment. For example, a project that is designed to capture storm water flow to augment storage in a drinking water aquifer should be funded preferentially over a project that implements best management practices (BMPs) that improves water quality and returns the flow to the municipal separate storm sewer system (MS4), resulting in no net increase in local storage or regional water supply. The State Water Board should also provide funding for large-scale, regional projects that could combine the resources of multiple agencies to realize greater benefits than smaller projects implemented by individual agencies.

The CCEEB/WQTF also acknowledge the scarcity of resources and note that the \$ 200 million to be provided for storm water projects is akin to the proverbial “drop in a bucket” relative to the amount of funds that will be needed to implement storm water programs statewide. For this reason, the CCEEB/WQTF recommends that the State Water Board develop quantitative criteria for comparing the benefits of projects and for identifying projects that offer the greatest benefit relative to the project cost¹. For example, projects that will put storm water to beneficial use should identify, over a defined time period (e.g., perhaps 20 years), the quantity of water to be captured, the cost of the project, and the unit cost of water put to beneficial use. The beneficial use of the captured storm water should be specified (e.g., augment drinking water aquifers, augment recycled water supplies), as should the source of water that would be displaced (e.g., specify the mix of water sources, including surface water, groundwater, imported water, and

¹ The CCEEB/WQTF does not envision that an exhaustive cost-benefit analysis would be required or is needed. Rather, plans should include enough information to allow basic calculations to be made to quantify the benefit that would be achieved by a proposed project relative to the cost of that project over a defined timeframe.

recycled water). Requiring this type of information to be provided will allow projects to be compared to one another using defined and consistent metrics.

Consistent with these comments, the CCEEB/WQTF recommend the following changes:

- The CCEEB/WQTF recommends three specific changes to the Storm Water Resource Plan Guidelines. First, the CCEEB/WQTF recommends that Table 3 (Benefit Metrics) of the Guidelines be clarified to specify that the “water quality” and “water supply” metrics should be evaluated over a defined timeframe common to all projects, and that the unit cost be identified for each project (e.g., project cost divided by total number of acre-feet captured, to yield \$/AF estimates for a specified time period; or project cost divided by pollutant load reduced, to yield \$/pound of load reduction for a specified time period). The CCEEB/WQTF also recommends that “water supply” be placed above “water quality” in Table 3. Second, the CCEEB/WQTF recommends that the use of captured storm water be specified in the “water supply” benefit category (e.g., recharge drinking water aquifers; will supplement recycled water supplies; will be used directly as irrigation; will infiltrate but will not be available for later water supply). Third, for the “water supply” benefit category, the Storm Water Resource Plan should specify the current source of water to the project area (e.g., as a long-term average, the water supply to the area is composed of 40% imported water and 60% local groundwater), so that the source of the water to be replaced by captured storm water can be identified.
- The CCEEB/WQTF recommends that the Multiple Benefits scoring criteria provided in Appendix C-2 of the Funding Guidelines (Item 9) be modified to allow projects to be ranked against each other in terms of benefit-to-cost, with higher priority assigned to projects with higher benefit-to-cost metrics, and to allow prioritization of projects that provide a defined water supply benefit.
- The CCEEB/WQTF has previously commented (see letter of July 24, 2015) that the State Water Board should consider the use of a “water funds” concept to encourage collaboration and to focus on implementation measures and projects that are larger, and that provide far greater value, than the implementation measures that could be undertaken by individual entities. This recommendation recognizes the fact that it may not be possible for all storm water projects to realize a water supply benefit on the local scale or within an individual watershed (e.g., where local conditions preclude infiltration, or where local recharge will not augment drinking water supplies). The CCEEB/WQTF encourage the State Water Board to craft criteria that could be used to provide funding to larger-scale, regional projects that could pool resources from multiple agencies. For example, language could be added to the Storm Water Resource Plan Guidelines at p. 23 in Section c to clarify that projects may occur outside the boundaries of a local watershed, as follows (strikeouts and underlines added): “The Plan should include an analysis of how the projects and programs ~~in the watershed~~ will collectively result in the proposed water supply augmentation and flood management objectives. The State Water Board recognizes that some projects may be regional in nature, may incorporate multiple watersheds, and/or may involve the participation of parties outside of the watershed. The analysis for water supply and ...” Similarly, at the top of p. 22, the CCEEB/WQTF suggest adding language to the Section entitled “Groundwater Recharge and Infiltration”

as follows: “The State Water Board recognizes that it may not be possible to pursue groundwater recharge and/or infiltration at all locations because of constraints that may include (but are not limited to) inappropriate soil types, underlying contamination, or lack of a water supply benefit. In these cases, Storm Water Resource Plans should identify and encourage participation in larger, regional-scale recharge and infiltration projects.”

- Finally, the CCEEB/WQTF requests that the State Water Board consider funding a pilot project using Proposition 1 or other available funds to identify how the “water funds” concept could work and how it would fit within the broader statewide regulatory program for storm water.

2. CCEEB and the WQTF request that the State Board consider modifying the eligibility requirement regarding water rights in Table I of Appendix C-2. CCEEB suggests modifying the statement in order to read: “At this time, is the applicant aware of any conditions or circumstances under which the implementation of the proposed project will significantly harm or impair the water use of other entities?”

Section A of Appendix C-1 currently requires applicants to answer two questions related to water rights [“Is the proposed project consistent with the applicant’s water rights? Will the proposed project negatively impact the water rights of other water users?”]. However, Table I of Appendix C-2 indicates that if these conditions are not met, the criterion receives a “no” response during State Water Board review and the project becomes ineligible to receive funding. CCEEB notes that there are many complex legal issues related to determining rights to storm water, and case law is not settled on these issues. Second, although it appears that the preferred answer to the second of the two questions would be “no,” the guidelines indicate that a negative response would disqualify a proposal.

For these reasons, CCEEB respectfully requests that these questions either be eliminated, or be reworded as follows: “To the best of the applicant’s knowledge, is the proposed project consistent with the applicant’s water rights, and consistent with the water rights of other water users?”

3. CCEEB and the WQTF propose that the State Water Board adjust the list describing eligible projects in the Funding Guidelines at p. 4.

CCEEB and the WQTF are concerned that the term “storm water treatment train facilities”² could promote the addition of treatment units or processes that may not be necessary to meet water quality criteria or project goals, and that could lead to inefficiencies and less effective use of Proposition 1 funds. In many cases, effective storm water capture and treatment may be achieved with single units or processes. In addition, and as described in item 1 above, CCEEB believes that the highest priority should be placed on capture and reuse.

² The CCEEB/WQTF notes that in the definition of “Storm Water Treatment Train Facility” in Appendix D on p. 42 of the Grant Program Guidelines, the abbreviation “i.e.” should be replaced with “e.g.,” as we believe that the parenthetical references are intended to be examples, not limitations. If the Storm Water Treatment Train concept is retained, the CCEEB/WQTF suggests that “i.e.” be replaced with “e.g.” in this definition.

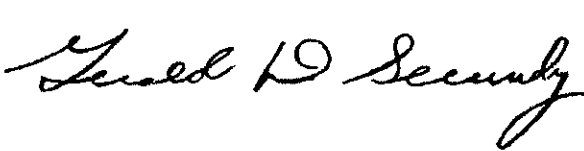
For these reasons, CCEEB requests that the list of eligible projects found on p. 4 of the Draft Proposition 1 Grant Program Guidelines be re-ordered and revised to be consistent with the language found at the top of p. 15 of the Draft Storm Water Resource Plan Guidelines, as follows (new language shown in underline):

- “Rainwater, storm water and dry weather runoff capture and reuse,
- Green Infrastructure (~~i.e.~~, e.g., Low Impact Development (LID), green streets), and
- Projects intended to assist in implementing Water Quality Control Plans and applicable water quality control policies.”

CCEEB and the WQTF appreciate the opportunity to comment on the State Water Board’s Draft Storm Water Resource Plan and Proposition 1 Funding Guidelines. We commend the State Water Board for recognizing storm water as a resource and seeking to optimize the funding and implementation of storm water projects that seek to generate measurable environmental benefits.

CCEEB and the WQTF look forward to continuing to work with the State Water Board members and staff. If you have questions, please contact Jerry Secundy at (415) 512-7890 ext. 116, or Susan Paulsen at (626) 463-7075.

Sincerely,



Gerald D. Secundy
President and CEO



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cc: State Water Board Members
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