

Proposition 50, Chapter 8, Draft Final IRWM Program Guidelines
Summary of Public Comments Received between October 25, 2004 and
November 04, 2004 Board Workshop. Staff response included.

Ocean Conservancy Comments and Staff Response

1. **Comment:** The Board should develop distinct criteria for the Integrated Coastal Watershed Management (ICWM) Program that are consistent with the objectives of the program established under AB 866. By requiring integration with State Coastal Conservancy and Coastal Beaches Initiative (CBI) projects, AB 866 implicitly calls for the evaluation of Integrated Coastal Water Management (ICWM) Plans under similar criteria.
Response: This interpretation is not consistent with the law [Section 79563.5(b) of Chapter 8]. As stated in Section II.H of the Guidelines, if there are projects in the same watershed funded by the State Coastal Conservancy, or the SWRCB's Clean Beaches Initiative or Proposition 40 Integrated Watershed Management Program, the ICWM Plan applicant must describe proposed integration with those projects. This requirement does not direct use of similar criteria for evaluation of the proposals for these various programs. No changes are recommended.
2. **Comment:** Many of the criteria established for planning grants by the draft guidelines deal with issues that are not relevant to Coastal Watershed Management Plans.
Response: Evaluation criteria for planning grant is outlined in Table B-1 of Appendix B. Majority of the criteria listed for planning grants are fairly generic and applicable to any integrated regional planning proposal. Furthermore, Subsection 79563.5(d) of Chapter 8 states that, "The board may only expend funds for the purposes of this section to the extent the board determines that the expenditures are consistent with the requirements of this chapter". Therefore, staff believes that it is appropriate to require that ICWM Plans to at least include consideration of the same elements listed for the IRWM plans.

The one criterion that may be the subject of concern for this comment is the "Integration of Water Management Strategies". This may be applicable in some regions and if not then it is important that the applicant of ICWM plan provide details on why it is not applicable. Also, as noted in Table B-1 as part of this criterion, ICWM plans will be evaluated for consistency with the Critical Coastal Areas Program Watershed Action Plan Outline and that should help those proposals favorably score on this criterion.

Staff also believes that the consolidated evaluation criteria for both IRWM and ICWM plans is beneficial to the applicants. It allows them to compete both for the \$2 Million ICWM planning grant set-aside and the IRWM planning grant, as well as making them eligible to apply for implementation grants provided by this chapter. The \$2 Million set-aside should also address any concern that ICWM plans may not be as competitive as the IRWM plans. No changes are recommended.

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3. **Comment:** Many important issues upon which prioritization of projects is appropriate are not addressed at all in the criteria for planning grants. Most fundamentally, the criteria fail to address whether the proposed plan would improve water quality in an ASBS.

Response: Staff believes that the existing wording targeting funds to ASBS areas is sufficient. Section II.H. of the Guidelines state that for the ICWM planning proposals the applicant must provide documentation demonstrating that “the proposed planning area must be located in a coastal watershed that influences water quality in an area of special biological significance.....” Furthermore, the evaluation criteria (Table B-1) requires consideration of ICWM plan’s consistency with the Critical Coastal Areas Program “Watershed Action Plan Outline.” No changes are recommended.

4. **Comment:** The criteria do not address whether the proposed plan identifies and implements appropriate nonpoint source management measures pursuant to the State’s Nonpoint Source Management Program, as would be appropriate to address water quality impacts to ASBS.

Response: Staff believes the existing wording in the planning grant section of the Guidelines (Appendix B) produce the requested outcome.

Appendix B, Section B.1.G. states, “For Integrated Coastal Watershed Management Plans, describe how the proposed Plan’s components are consistent with the Critical Coastal Areas Program “Watershed Action Plan Outline.”

B.1.H states, “For NPS pollution control activities, describe how the Plan will identify the appropriate management measures and management practices of the State’s NPS Plan that will be employed through implementation of the Plan, identify who will be responsible for such implementation, and include a schedule for implementation.” No changes are recommended.

5. **Comment:** The Guidelines should require the inclusion of the Statewide Critical Coastal Areas Committee as a Technical Reviewer for all ICWM Plan grant applications.

Response: Staff, in consultation with California Coastal Commission and State Coastal Conservancy, is proposing inclusion of the following statement in Section II.G “Staff from the State Coastal Conservancy, California Department of Fish and Game, and California Coastal Commission will be asked to participate as technical reviewers of Integrated Coastal Watershed Management Planning Grant proposals. These agencies are members of the Critical Coastal Areas Committee which has made important contributions in the areas of coastal Non-point Source pollution control and water quality issues.”

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Nature Conservancy Comments and Staff Response

1. **Comment:** They request inclusion of Natural Community Conservation Plans and Habitat Conservation Plans in statewide priorities.
Response: While important documents for integration into IRWM plans, staff does not recommend adding these to the list of statewide priorities. The intent of Chapter 8 IRWM Grant Program is to encourage regional strategies for management of water resources and to provide funding for projects that protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water. Statewide priorities are identified based on this objective. The plans listed by the commenter do not fit the group. Appendix A contains a list of regional planning documents including Habitat Conservation Plans that may be used to develop or complete an IRWM Plan or serve as functionally equivalent plan. The Guidelines allow inclusion of other plans not listed. For example, a Natural Community Conservation Plan, if applicable, may be included as a regional planning document to develop or complete an IRWM plan or a functionally equivalent document. No changes are recommended.
2. **Comment:** They request the \$500,000 maximum grant award be increased to a \$1 million for the IRWM Planning grant.
Response: Approximately \$12 million dollars are available for the planning grants in the first funding cycle. A \$500,000 maximum grant award is appropriate since it will allow for wider distribution of funds. IRWM Planning grants are to encourage planning efforts and are not intended to pay for the entire cost of planning. No changes are recommended.
3. **Comment:** They request that grants should be provided for (a) land purchased prior to the effective date of grant agreement with the State, and (b) land purchase in excess of the acreage to meet project objectives described in the detailed project plans.
Response: Staff believes it is inappropriate to authorize the expenditure of grant funds for land acquisition that is not necessary for implementation of the funded proposal. There are other funds available from Proposition 50 for land acquisition. Land purchased prior to the effective date may be included as part of the grant recipient's funding match, similar to other 'prior expenditures' provided that the purchase occurred after November 5, 2002. No changes are recommended.
4. **Comment:** They request regional groups should not be required to be applicants and would prefer the applicant and the contracting entity are one and the same.
Response: Staff believes the existing language, encouraging one-applicant approach while not requiring it, meets the need of this commenter. Consistent with the IRWM Program guidelines, in the event it is necessary to develop individual grant agreements for components of a proposal, each proponent must

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provide an explanation of which projects should receive separate grant agreements. Such individual grant agreements will be structured to ensure that the integrated nature of the proposal is maintained and that the individual projects proceed in a balanced manner. No changes are recommended.

Southern California Water Company Comments and Staff Response

Comment: They request that the eligibility requirements be changed to include as eligible grant recipients water utilities that are regulated by the California Public Utilities Commission.

Response: While Chapter 7 of Proposition 50 bond language provided the flexibility to allow Private water agencies regulated by PUC to qualify for Proposition 50 Construction Grants, Chapter 8 does not. Chapter 8 gives the SWRCB authority to grant \$250 million upon appropriation by the Legislature, for a variety of water management projects (Clean Water Code Sections 79560.1, 79561, and 79563). This chapter defines the universe of eligible grant recipients by reference to Section 30947 of the Public Resources Code. All SWRCB Chapter 8 funds will be expended for the purpose of the Integrated Management Program established by Section 30947 of the Public Resources Code and therefore must comply with the purposes of that Section. That Section limits the universe of grant recipients to public agencies and non-profit organizations. However, private utilities may be integral to a successful regional planning effort, projects proposed by regulated private utilities may be included as part of an IRWM Plan, and such projects may be included as part of a regional proposal that receives grant funding. Upon consulting legal counsel, staff proposes to add the following statement in Section III.A of the Guidelines: “other entities may be part of the Regional Water Management Group responsible for applying for a grant and may perform work funded by the grant.”

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Los Angeles County Department of Public Works Comments and Staff response

1. **Comment:** The current wording “conform to the requirements of an adjudication” for projects within an adjudicated basin for groundwater management plan compliance should be restated as “they are within an adjudicated groundwater basin”.
Response: Staff proposes modification to the Guidelines to clarify groundwater management plan discussion. However, “conform to” is the standard included in the California Water Code and therefore staff does not recommend a change to this wording.
2. **Comment:** They request that the public review period after release of each draft project solicitation packages (PSPs) should be no less than 15 working days and that the public workshop to address public questions on each draft PSP should take place no less than seven working days prior to the end of the public review period. Further discussion with the commenter indicated a public review period of 15 calendar days would be acceptable, but requested that the public workshop should be held no less than 7 calendar days prior to the end of the public review period.
Response: DWR staff have discussed this comment with the commenter. The comment period of 15 calendar days is acceptable to the applicant and staff is proposing modification to the Guidelines to clarify that it is 15 calendar days and not working days. Staff also proposes modifying the Guidelines in response to this comment to state that the workshop will be held at least seven calendar days prior to the end of comment period.
3. **Comment:** Appendix A IRWM Plan Standards - This section indicates that a collection of local and regional plans may constitute a functional equivalent of an IRWM Plan; provided that the applicant details in the application how the various plans function together to form the basis of an IRWM Plan that meets these standards. We were informed that these individual plans would need to be referenced in an umbrella plan to be adopted by all the agencies involved in the proposal or referenced in a Memorandum of Understanding (MOU) between these agencies. As currently written, this does not appear necessary. This section should clarify whether or not an umbrella plan or MOU is required. This issue should also be addressed in Section II Introduction and Overview (A. Usage of Terms).
Response: Existing wording of the guidelines allow the use of a collection of local and regional plans to be utilized as a functionally equivalent for an IRWM Plan, provided that the applicant details how the plans function together. An “umbrella plan” and associated MOU may strengthen an applicant’s presentation that the collection of plans are functionally equivalent and may make the applicant more competitive. No changes to the Guidelines are recommended.

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**Pajaro River Watershed Integrated Regional Water Management Partnership
Comments and Staff Response**

Comment: They request that the state, in evaluating implementation Grant Proposals, recognize the new innovative projects that have been created through their collaborative integrated regional planning proposal.

Response: Comment noted. Commenter is not requesting any changes to the Guidelines and is asking for recognition of new innovative projects when projects are reviewed and evaluated.

East Bay Municipal District Comments and Staff Response

1. **Comment:** The cost reimbursement date, currently written as the effective date of grant agreement, differs from dates proposed by the State Water Resources Control Board (SWRCB) in implementing recycling under Chapter 7 and by the Department of Health Services in implementing Chapters 3, 4 and 6 of Proposition 50. The date proposed for Chapter 8 seems overly restrictive and could cause applicants to delay projects while waiting for a grant agreement to be executed. Alternative dates that should be considered are the Letter of Commitment date as proposed by DHS for Chapters 3, 4, and 6, or the method proposed by SWRCB for Chapter 7 that uses a table of major tasks to identify reimbursable costs.

Response: The retroactive funding provision in the SWRCB's Water Recycling Guidelines was established in the 2004/05 Budget Act. IRWM Guidelines allow costs incurred after November 5, 2002, and prior to the effective date of a grant agreement to be considered as a cost match at the discretion of the funding agency. The minimum cost match for planning grants is 25% and for implementation grants is 10% of total cost. Therefore, eligible costs incurred during the time period applicant is waiting for a grant agreement may be included as a cost match credit. No changes are recommended.

2. **Comment:** As currently written, "Costs incurred after November 5, 2002, and prior to the effective date of a grant agreement are not eligible for reimbursement. However, these costs may be considered, at the Granting Agency's discretion as a part of the applicant's funding match". The costs incurred after November 5, 2002 should definitely count toward cost matching, provided the costs are eligible and can be documented.

Response: We agree that costs incurred after November 5, 2002 will definitely be considered toward cost match. The discretion will be applied in determining relevance and eligibility. It is important for the DWR and the SWRCB staff to maintain discretion in evaluating the relevancy of prior expenditures to the grant funded proposal. No changes are recommended.

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San Francisco Regional Water Quality Control Board (Region 2) Comments and Staff Response

1. **Comment:** The IRWM should include explicit criteria for the coastal watershed planning grants separate from the overall criteria for IRWM planning.
Response: The draft Guidelines that were the subject of the Water Board's Workshop contained criteria for the ICWM Planning Grants. Division of Financial Assistance staff have worked closely with the Division of Water Quality staff, Regional Board Grant Coordinators, and Coastal Commission through out the process of drafting the Guidelines to ensure that all applicable criteria for the ICWM plans are included in the criteria. Staff believes that existing language in the Guidelines includes all the applicable criteria for ICWM plans. Please refer to responses to Ocean Conservancy comments for further details. No change is recommended.
2. **Comment:** The Coastal watershed planning proposals should be ranked separately from the IRWM planning Proposals.
Response: The existing language in the Guidelines providing a \$2 Million set-aside for ICWM plans resolves this concern. Section II.H of the Guidelines state that of the \$12 Million available for IRWM planning grants, \$2 million has been allocated for ICWM plans, thus only proposals that meet the ICWM planning grant eligibility requirements will compete for the \$ 2 Million funding. Please refer to the responses to Ocean Conservancy comments for further details. No change is recommended.
3. **Comment:** As proposed, coastal watershed planning proposals are limited to waters tributary to a SWQPA/ASABS; this should be expanded to include impaired water bodies on the 303(d) list. Since only one coastal watershed plan is mandated by AB 866, this criterion could be expanded.
Response: The law (Section 79563.5) does not give the agencies the authority to use the ICWM plan funding for coastal watersheds that affect water quality in an impaired water body that is not an ASBS. Guidelines propose a \$2 Million dollar set-aside for ICWM plans. However, the coastal areas that do not qualify for ICWM planning funds can compete for the \$10 Million IRWM planning dollars. No changes are recommended.
4. **Comment:** The existing CCA committee should be included as a review body for the coastal watershed planning proposals.
Response: Staff, in consultation with California Coastal Commission and State Coastal Conservancy, is proposing inclusion of the following statement in Section II.G 'Staff from the State Coastal Conservancy, California Department of Fish and Game, and California Coastal Commission will be asked to participate as technical reviewers of Integrated Coastal Watershed Management Planning Grant proposals. These agencies are members of the Critical Coastal Areas Committee which has made important contributions in the areas of coastal Non-point Source pollution control and water quality issues.'

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5. **Comment:** Minimum local match requirement should be decreased from the required 50% for IRWM plans to 10-25% for rural coastal areas.

Response: This comment references the language from the previous versions of the Guidelines. Existing language in the Guidelines, as presented at the workshop, state the cost match requirement for all planning grants has been reduced to 25% (not 50%). No changes are recommended.

Response to California Coastal Commission Oral Comments

California Coastal Commission staff presented oral comments at the November 4, 2004 Board workshop. No written comments were submitted. Comments from California Coastal Commission presented at the Workshop were similar to the comments received from Ocean Conservancy and response to the comments provided to the Ocean Conservancy would address their comments.