

June 29, 2015

## Suggestions to the Water Resources Control Board on Prop 1 and SB445 Funding Scoping, Selection Process and Disbursement

### Executive Summary

On June 4, 2015, the California State Water Resources Control Board in conjunction with the California Environmental Protection Agency held a scoping meeting for groundwater quality funding available through Proposition 1 and SB 445. The Water Reliability team of the City of San Diego viewed the meeting webcast, and made comments, and suggestions on how to best implement these two funding programs. This document summarizes these recommendations. Referenced slide summaries have been reproduced at the end of this document for your reference.

### Proposition 1 - Water bond funding for water quality, supply, treatment, and storage projects

*Makes \$900 million available in grants and loans for prevention or clean up contamination of groundwater that serves or has served as a source of drinking water.*

#### Team Suggestions

- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping [Question 3](#)
  - Designate a fund of at least \$50,000 for technical assistance.
- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping [Question 4](#)
  - Earmark funding for different project types to promote project diversity.
  - There should be a funding limit or “maximum award amount” for each agency. The funding limit should be a maximum of \$500,000 or \$1,000,000 per project. Grant limits will allow for more grant money to be spent on a wider array of projects and types of project. A lower limit may also induce greater sweat equity and enhance efficiency and chance of success.
  - Grants shall be applied sparingly to operations and maintenance (OM), since a multi-year operation could drain available funds. A suggestion would be to cover 50% of OM costs for the first 5 years, urging the individual projects to seek additional funding on their own.
- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping [Question 6](#)
  - Project benefits and outcomes that should be considered shall be prevention of future contamination or recontamination, cleanup and recharge.
- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping [Question 7](#)
  - A triage method shall be employed to sort through project applications. Counterbalance the triage method with a risk model based on maximal utility for greatest populations.
  - Implement a sliding scale to assist communities with limited resources.
- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping [Question 9](#)

- Please articulate that “reasonable effort” includes successful and failed litigation.
- Expound the *reasonable effort* clause to include sites which have been assessed sufficiently remediated by a regulatory body (i.e. Regional Water Quality Control Board), and where final remediation steps are to be done naturally. A site should only be designated as sufficiently remediated if agencies have performed their due diligence in: remediation of groundwater sites to baseline conditions and delegation of tasks to responsible parties.
- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping Question 10
  - Place a limit on funding which may be applied to legal costs.
  - Allow for drilling of new groundwater wells.
- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping Question 11
  - To the list of contaminants, add: “... *TBA (Tert-Butyl Alcohol – a breakdown product of MTBE and persistent COC), anthropogenically induced geochemical changes in an aquifer induced due to the presence of human-made contaminants such as hydrocarbons that cause anoxic conditions along with oxidation-reduction reactions that affect the treatability of groundwater including increased total dissolved solids and metals concentrations (i.e. mobilizing naturally occurring contaminants).*”
  - Include man-made chemicals, and naturally-occurring chemicals.
  - Address chemical of concern concentrations greater than the maximum concentration limit for drinking water supply.
  - Funding should be applied to projects which seek to address grave contaminated sites first, then projects which are less contaminated second.
- Reference June 4<sup>th</sup> presentation, Prop 1 Groundwater Sustainability Scoping Question 12
  - Reports shall be completed through GeoTracker.
  - Consolidate reporting functions, to prevent redundant reports.

### **SB 445 – Groundwater site contamination cleanup subaccount program**

*Makes \$19.5 million available annually in grants for projects that remediate the harm or threat of harm to human health, safety, or the environment caused by existing or threatened surface or groundwater contamination.*

#### **Team Suggestions**

- Reference June 4<sup>th</sup> presentation, SB 445 SCAP Scoping Question 1A
  - Add *scope of work* and *technical approach* sections to the application. Proposals should be heavily weighed on thoroughness of project scope, and soundness of the project’s technical approach.
  - Add a project’s *readiness to proceed* to the application. Precedence shall be granted to projects currently underway or which are ready to begin work at, or before, execution of the funding contract.
- Reference June 4<sup>th</sup> presentation, SB 445 SCAP Scoping Question 3

- Define how Proposition 1 funding can be applied to projects co-funded by SB 445 money, and articulate the rules for using Prop 1 money for sampling and collection of water. Define what the rules and regulations for using both funding sources.
- Reference June 4<sup>th</sup> presentation, SB 445 SCAP Scoping [Question 4](#)
  - Modify requirement to articulate that once a regulating agency has made a determination that “no further action” is required by a Responsible Party, and a contaminant is allowed to remain, the agency or entity wishing to develop the contaminated groundwater resource should be allowed to apply and receive grant funding under SB 445 so that the resource can be made suitable for municipal supply.
  - Explicitly articulate that the agency applying for funding does not accept responsibility for site cleanup. A responsible party may try to argue their way out of any future responsibility if a public agency took the lead in a remediation effort. This addition shall defuse any “they touched it last” type of argument in court.
  - Please articulate how an agency shall prove a responsible party’s inability to pay, and develop a mechanism (i.e. subpoena) for agencies to obtain tax or financial records to prove a responsible party’s inability to pay, if these records shall be used as proof. Please limit any requirement to obtain financial or tax records to a minimal number of cases.

**Water Resources Control Board - Groundwater quality funding general scope**

*The following are suggestions which apply to procedural issues for both Prop 1 and SB 445 funding.*

- **Team Suggestions**
  - We support the creation of a single application for both Prop 1 and SB 445, which is then routed to the correct funding source based on above mentioned criteria.
  - We support the creation of a risk model to assign precedence to project applications.
  - Articulate a limit on how much funding can be applied towards planning, monitoring and design.
  - Articulate how funding can be utilized to fulfill CEQA project requirements.
  - We suggest the introduction of a heat map in the pre-application. Example:

		Risk Factor by Populations					
		Population Density Using Affected Drinking Water Source					
		<15,000	15,000 to 50,000	50000 to 150,000	150,000 to 250,000	>25,000	
Chemical	DCA	3	12	6	44	13	0 to 5
	DCE	6	12	39	28	26	5 to 25
	MTBE	4	14	8	34	100	25 to 50
	PCE	2	4	36	23	33	50 to 100
	TBA	9	10	22	8	79	
	TCE	8	13	20	8	2	

The above example was created using random numbers, but those numbers could represent risk due to exposure, that way all applicants can select their total risk, and present the board

with an “urgency score.” If you have a drinking water source that services a community of 175,000 and you have DCA, TBA, and TCE, you would add 44, 8 and 8 for a total score of 60. This project would take precedence over projects with lower scores, but fall back to projects with higher scores. The numerical values should represent statistical analysis of human exposure to chemicals.

## Slides from Water Board Groundwater Quality Funding Programs June 4<sup>th</sup>, 2015.

### Proposition 1 Slides

- Question 3 - How much funding should be set aside for technical assistance to disadvantaged communities? What kind of technical assistance is needed?
- Question 4 - What kind of limits should there be on grant funding amounts?
- Question 6 - What kind of project benefits should we look for or focus on?
- Question 7 - How should the timing of project completion and timeline for project benefits to be realized be considered in project selection?
- Question 9 - What would constitute a reasonable effort to identify responsible parties and recover costs by parties receiving funding?
- Question 10 - How should responsible parties' unwillingness or inability to pay for the total cost of cleanup be evaluated?
- Question 11 - When considering a potential project funded under this program should any of the contaminants listed in Proposition 1 or other contaminants not listed, be given higher priority?
- Question 12 - What areas of the Groundwater Sustainability section of Proposition 1 should be further defined or clarified in the guidelines?

### SB 445 Slides

- Question 1a - Of the considerations required in evaluating projects, should some be weighted more than others? What other information should be considered?
- Question 3 – What kind of technical assistance is needed?
- Question 4 - The responsible parties' lack of sufficient financial resources to pay for the required response actions is a grant requirement. How should the Board evaluate a responsible party's ability to pay?