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## State Water Resources Control Board

# RESPONSE TO PUBLIC COMMENTS FOR THE DRAFT STRATEGY TO OPTIMIZE RESOURCE MANAGEMENT OF STORM WATER

On August 19, 2015, the State Water Resources Control Board (State Water Board) held a public workshop to allow stakeholders the opportunity to orally present their concerns regarding the Draft Proposal to Develop a Storm Water Program Workplan and Implementation Strategy (Draft Proposal) to the State Water Board.

Staff developed the draft Strategy to Optimize Resource Management of Storm Water (Storm Water Strategy) in response to the comments received during the public workshop. On November 2, 2015, the State Water Board issued the draft Storm Water Strategy for a 14 day public review and comment period which ended at noon, November 16, 2015.

The goal of this document is to provide State Water Board responses to significant comments received regarding the draft Storm Water Strategy.

### **RESPONSE TO COMMENTS**

The State Water Board received 15 public comment letters regarding the draft Storm Water Strategy. Letters were received from the following: California Coastkeeper Alliance, Department of Defense, California Stormwater Quality Association, City of Lompoc, Sierra Club Los Padres Chapter, General Public (Debra Barringer), General Public (Joyce Dillard), California Council on Environmental and Economic Balance, United States Environmental Protection Agency, Sacramento Regional County Sanitation District, County of Los Angeles Department of Public Works, Association of California Water Agencies, County of Sacramento Department of Water Resources, Mosquito and Vector Control Association of California, and Construction Industry Coalition on Water Quality.

Staff reviewed and considered all comments received and revised the Storm Water Strategy where appropriate. Non-substantive comments or comments that fell outside the scope of the Storm Water Strategy are generally not acknowledged in this response to comments. All edits are captured in a tracked-changes version of the Storm Water Strategy. Significant comment categories include:

1. Project Priority and Implementation Phases
2. Project Additions
3. Project Removals
4. Specific Recommendations for Proposed Projects
5. Suggested Pilot Projects
6. Alternative Compliance Pathways and Reasonable Assurance Analyses
7. Senate Bill 985 Implementation
8. Implementation Committee

The following is a brief summary of significant comments received, identification of the commenters, and the State Water Board's response to each comment summary.

## **1. Project Priority and Implementation Phases**

### Summary:

The commenters below requested to move specific projects to higher or lower priorities in the Storm Water Strategy, based on the ranking of project importance included in Appendix A. Specifically, they requested moving Projects 2a, 3b, 5c, and 6b to a higher priority, and moving Projects 3a, 3d, and 3e to a lower priority. Additionally, some commenters recommended moving specific projects into earlier or later implementation phases.

*Commenters: California Coastkeeper Alliance, Department of Defense, California Stormwater Quality Association, City of Lompoc*

### State Water Board Response:

The project priority rankings (scored from “low” to “very high”) in Appendix A were developed during the formation of the original Storm Water Strategic Initiative and incorporated into the Draft Proposal; the process involved extensive stakeholder outreach and involvement. The projects were scored and then prioritized based on eight criteria that examined the efficiency, feasibility, and external support for each project. For more information about the project ranking process, please refer to Draft Proposal Section 5.2 in Appendix C. At this time, the project priorities in Appendix A will be maintained according to the careful analysis performed for the Draft Proposal.

The State Water Board appreciates the feedback on project timing and implementation. Staff revised the schedule where appropriate. (For example, Project 6c, Evaluate and Implement Trash Control was moved from Phase III to Phase II, as suggested.) A higher priority ranking in Appendix A does not necessarily correspond to earlier implementation of projects; the project schedule in the Storm Water Strategy is the result of a thorough process that considered each project’s relative priority, external support, and resource requirements. Accordingly, projects in Phase I are expected to move forward expeditiously. Staff acknowledges that other projects may benefit from earlier implementation dates, but the projects are spaced out among the three phases taking staff time and resources into consideration. Finally, the Storm Water Strategy is intended to be a living document that guides the State and Regional Water Board’s programs related to storm water resource management, and is subject to updates and modifications, including project re-prioritization and reassessment of the strategies applied.

## **2. Project Additions**

### Summary:

The commenter below recommended the Storm Water Strategy include an immediate action (Phase I) project that identifies the highest priority storm water program issues to ensure appropriate elements are addressed by the strategy. Based on the results of this evaluation, the appropriate strategies could then be applied to guide subsequent project selection and implementation.

*Commenter: California Stormwater Quality Association*

State Water Board Response:

Staff developed the Draft Proposal through an extensive stakeholder outreach process that resulted in four guiding principles as the foundation of the Draft Proposal. The Storm Water Strategy transitioned the four guiding principles into the goals that direct the objectives and projects in the strategy. As the Storm Water Strategy moves forward, the highest priority issues will continue to evolve; therefore, the highest priority issues may change after projects are implemented. Internal Water Board Program Roundtables exist to ensure efficient, consistent, and effective implementation of program requirements. The Storm Water Program Roundtable provides the platform for State and Regional Water Board program managers to discuss program challenges, program improvements, and identify program priorities. Priorities identified may change due to factors such as resources or management direction.

Staff revised the Storm Water Strategy (Section 5. Implementation Resources) to commit to capturing and updating program priorities identified by the Storm Water Program Roundtable in the Storm Water Strategy Document. Staff also revised Section 7. Plan Updates and Revisions to indicate that previous phases of implementation may influence the scope, priority, and identification of future projects.

### **3. Project Removal**

Summary:

The commenter below suggested the removal of Project 5c, Establish Sector-Specific Technology-Based Numeric Effluent Limitations (NELs) for Industrial and Construction Storm Water Permits, based on the concern that there is insufficient storm water data collected to establish a Technology-Based NEL, and that the required analysis challenges are unwarranted and unnecessary.

*Commenters: Construction Industry Coalition on Water Quality*

State Water Board Response:

Project 5c, Establish Sector-Specific Technology-Based NELs for Industrial and Construction Storm Water Permits was identified as a priority project during the development of the Draft Proposal. The State Water Board agrees that insufficient storm water data and analysis challenges to establish Technology-Based NELs are valid issues. However, the objectives of Project 5c include using the continued collection of storm water pollutant discharge data for specific sectors, determining the control and treatment options to evaluate, and estimating pollutant loads and pollutant load reductions under appropriate scenarios; therefore, the project will address the concern of insufficient storm water data. The Storm Water Strategy will continue to include project 5c as part of Phase III Implementation; however, the strategy is a living document and is subject to updates and modifications, including project re-prioritization and reassessment.

### **4. Specific Recommendations for Proposed Projects**

Summary:

While the commenters below were generally supportive of the proposed projects described in the Storm Water Strategy, they recommended additional detailed actions for some specific

projects. For example, the California Coastkeeper Alliance included seven specific actions to be captured as part of Project 1a, Promote Storm Water Capture and Use.

*Commenters: California Coastkeeper Alliance, City of Lompoc, Department of Defense, Sacramento Regional County Sanitation District, United States Environmental Protection Agency*

State Water Board Response:

The State Water Board disagrees with the recommendations provided by the commenters. The project descriptions in Appendix A are at a programmatic level to allow for flexibility prior to implementation. Thus, it would not be appropriate at this time to include the recommended detailed actions. The Storm Water Strategy is intended to be a living document that will be updated at various stages of its implementation. Prior to initiation of each project, State Water Board staff will consider all recommended actions provided during the comment period in addition to any new information provided through the interactive Storm Water Strategy Website. Updates to the project and any detailed project descriptions will be incorporated as appropriate.

## **5. Suggested Pilot Projects**

Summary:

The commenters below requested that specific projects be identified in the Storm Water Strategy as pilot projects, in support of one or more goals of the strategy.

*Commenters: General Public (Debra Barringer), California Council on Environmental and Economic Balance, Sierra Club Los Padres Chapter, United States Environmental Protection Agency, Sacramento Regional County Sanitation District*

State Water Board Response:

The Storm Water Strategy was revised to include a brief summary of each suggested pilot project identified by interested parties and Water Boards staff, presented in Appendix B. The list of pilot projects included in Appendix B is not final or exhaustive; the list will be amended as needed, including adding new projects and/or removing projects that do not come to fruition.

## **6. Alternative Compliance Pathways and Reasonable Assurance Analyses**

Summary:

The commenters below supported the value of guidance for alternative compliance pathways in storm water permits (Project 3a), as well as guidance for completing reasonable assurance analyses (Project 3b), provided both result in water quality improvements. Reasonable assurance analyses should be robust, ensuring high confidence that results will be both supported by and compared with monitoring data.

One commenter also stressed the importance of independent peer review of the technical tools and/or models proposed and any technical guidance produced, as well as a desire to maintain objectivity and neutrality within the project partners and team. Because permit conditions are already in effect, the commenters want the Regional Water Boards to be discouraged from incorporating alternative compliance pathways and reasonable assurance analyses into permits until the guidance is complete.

*Commenters: California Coastkeeper Alliance, United States Environmental Protection Agency*

State Water Board Response:

The State Water Board agrees that Project 3a, Develop Guidance for Alternative Compliance Approaches for Municipal Storm Water Permit Receiving Water Limitations and Project 3b, Develop Watershed-Based Compliance and Management Guidelines and Tools are important. State Water Board staff intends to develop key principles to guide the development of alternative compliance pathways as well as reasonable assurance analyses. To ensure neutrality and objectivity, the State Water Board has contracted with the California State University Sacramento, Office of Water Programs, and will partner with United States Environmental Protection Agency to support the development of technical guidance.

The State Water Board and Regional Water Boards (Water Boards) continue to work on many plans and policies that could affect a Regional Water Board's existing or future permits; therefore, it is not practical to request regions delay permit actions for the completion of Projects 3a or 3b. As projects are implemented, staff will work with each Regional Water Board to ensure that lessons learned are disseminated and incorporated into storm water programs as appropriate.

## **7. Senate Bill 985 Implementation**

The comments regarding Project 4a, Senate Bill 985 draft Guidelines for Storm Water Resource Plans (Guidelines) refer to specific sections of the Guidelines that were not presented in the draft Storm Water Strategy document. After receiving similar comments during the separate public review period of the draft Guidelines, the State Water Board prepared responses and revised the Guidelines accordingly. Therefore, the State Water Board responses in this section also reflect the Board's responses to the similar comments regarding the draft Guidelines.

Summary:

The commenter below requested that the Guidelines provide mechanisms to ensure Storm Water Resource Plans (Plans) identify, plan, and implement future storm water projects identified by all stakeholders, i.e., they should be "living" storm water management plans that evolve as California's storm water program improves. Furthermore, the Guidelines should reference other resource management tools to develop metrics to assess multi-benefit storm water projects, and Plans should include a role for non-governmental organizations (NGOs).

*Commenter: California Coastkeeper Alliance*

State Water Board Response:

The State Water Board agrees that Plans should be dynamic and allow for adaptive management. Accordingly, the Guidelines were revised to include a section titled Adaptive Management that emphasizes the importance of long-term adaptive management and incorporation of new information and local/regional decisions.

The State Water Board also agrees with the recommendations to revise the metrics and benefits in the Guidelines. Accordingly, additional metrics were added for the following:

- Pollutant load reductions for Water Quality benefits ((milligram/liter (mg/L), microgram/day ( $\mu\text{g/day}$ ), and most probable number/milliliter (mpn/mL));

- Cost per unit in Water Supply benefits;
- Additional types of flood management benefits (acres or linear feet); and
- Environmental measurements from the California Rapid Assessment Method (CRAM) for Wetlands (landscape and buffer, hydrology, biotic structure, and physical structure).

Notwithstanding the revisions to the benefits and metrics, the Guidelines will continue to allow use of other metrics and methodologies for integrated evaluation and analysis of multiple benefits, as appropriate.

Finally, the State Water Board concurs that Storm Water Resource Plans should include a role for NGOs, in both Plan development and Plan implementation. While the Guidelines were revised to clarify the role of NGOs, any revisions to guidelines for funding purposes (such as the Division of Financial Assistance's Proposition 1 Funding Guidelines) is out of the scope of both the Storm Water Strategy and the Guidelines.

## **8. Implementation Committee**

### Summary:

The commenters below supported and volunteered to participate in the Storm Water Strategy Implementation Committee. One commenter recommended creating stakeholder categories, or sectors, which would allow the public to participate via sector representative.

*Commenters: California Coastkeeper Alliance, County of Los Angeles Department of Public Works, Association of California Water Agencies, Sacramento Regional County Sanitation District, Mosquito and Vector Control Association of California, United States Environmental Protection Agency*

### State Water Board Response:

The State Water Board agrees with the above recommendation, and sector and organizational specific representatives will be decided by the attendees at a future kickoff meeting. Staff anticipates the following sectors and/or organizations to be represented on the Implementation Committee:

- Environmental advocacy groups
- Phase I and phase II municipal storm water permittees
- Industrial and construction storm water permittees
- Water suppliers
- Public owned treatment works (wastewater)
- Public health agencies/organizations
- Businesses with storm water interests
- Other appropriate sectors

The Implementation Committee will serve in an advisory capacity for the benefit of Water Boards staff and management. Section 5. Implementation Resources was revised in response to these comments.