

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
MAY 18, 2016**

ITEM 8

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT THE PROPOSITION 1
GROUNDWATER GRANT PROGRAM 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 authorizes \$800 million to the State Water Resources Control Board (State Water Board) to provide competitive grants and loans to public agencies, nonprofit organizations, public utilities, state and federally recognized Indian tribes, and mutual water companies for projects that prevent or clean up the contamination of groundwater that serves or has served as a source of drinking water (California Water Code § 79771). The State Water Board has approximately \$744 million available for qualifying planning and implementation projects, after accounting for bond and program administration costs. State Water Board staff developed the 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 project proposals, and award funding for projects.

Division Staff engaged stakeholders in the development of the Guidelines through several venues between June 2015 and March 2016, including public meetings, meetings with interested parties, presentations to professional organizations, and addressing comments and questions submitted via our Groundwater Quality Funding phone line and email account.

Division staff conducted five public workshops to present the Draft Guidelines (March 14, March 15, March 16, March 21, and March 25) in Redlands, Burbank, Fresno, San Luis Obispo, and Rancho Cordova, respectively. Throughout the stakeholder engagement process, Division staff solicited input on the Guidelines in areas such as: Proposition 1 priorities, State Water Board eligibility requirements, project preferences, eligible and ineligible project types, required match amounts, eligible expenses for match and reimbursement, disadvantage community and overall funding set-asides, minimum and maximum grant amounts, grant solicitation process, and project scoring/evaluation criteria.

The Draft Proposition 1 Groundwater Grant Program Guidelines were posted for public review and comment from February 12, 2016 through April 1, 2016. Interested parties were notified of the availability of the Draft Guidelines via the State Water Board's LYRIS e-mail lists.

Major issues raised in public comments and how the issues have been addressed in the Final Draft Guidelines for State Water Board consideration include:

1. **Prevention Projects:** Comments included: a) Include a funding set-aside of \$40 million (or 3 to 5 percent of total grant funds available) and a separate solicitation for projects that prevent contamination; and b) Draft Guidelines give too much emphasis to projects that would provide clean-up of groundwater and not enough to prevention.

Final Draft Guidelines: Staff does not recommend a funding set aside for prevention projects. Prevention projects that have a strong and clear nexus to preventing contamination of drinking water wells/aquifers will compete effectively with cleanup projects. The Final Draft Guidelines were revised to clarify that prevention projects and cleanup projects will be considered “equally”. Prevention of contamination is focused on projects that prevent existing plumes from impacting drinking water wells – e.g., seawater intrusion prevention; recharge projects that prevent a plume from reaching a well. “Prevention” does not include projects that reduce the amount of waste discharged to groundwater (e.g., a wastewater treatment plant that discharges to land or surface water), but do not reduce or prevent contamination of groundwater.

2. **Consistency with Sustainable Groundwater Management Act (SGMA):** SGMA compliance should not be a requirement to obtain funding since plans have not been adopted.

Final Draft Guidelines: The Guidelines contain a discussion of SGMA and its applicability to funding projects. Clarifying language was added to ensure the Guidelines do not imply that lack of a Groundwater Sustainability Plan, prior to the requirement to have one, would prevent funding of a project.

3. **Funding for Drinking Water Treatment Projects/Disadvantaged Communities(DACs):** Clarify how the Groundwater Grant Program and Drinking Water State Revolving Fund (DWSRF) program work together to optimize Proposition 1 funding for DACs and Economically Distressed Areas (EDAs).

Final Draft Guidelines: The discussion in the draft Guidelines confused various stakeholders, who felt we were not going to provide Proposition 1 Groundwater funds for drinking water treatment projects. The Guidelines were revised to clarify how applications will be evaluated for funding for drinking water treatment projects that benefit DACs or EDAs and the grant amounts available. The Guidelines provide up to \$5 million in grants for construction of drinking water treatment projects benefiting any size DACs/EDAs in addition to any funds the applicant could receive through the Drinking Water Proposition 1 grant funds and the DWSRF. The DWSRF Intended Use Plan process and eligibility criteria will be used to evaluate how much, if any, Proposition 1 Groundwater Funds a qualifying DAC or EDA project should receive.

4. **Grant Limit/Funding Match Requirements:** Establish a Grant Cap of \$15 million to assure funding is distributed throughout the State.

Final Draft Guidelines: Staff did not change the guidelines to establish a cap for implementation projects. Some plumes are large and projects will be expensive and benefit large numbers of people.

5. **Grant Limit/Funding Match Requirements:** Costs recovered from responsible parties should be considered as private funding that can be used for local match and allow funding from responsible parties or private entities to replace local match in case costs are recovered after executing an agreement.

Final Draft Guidelines: Staff agrees that costs recovered from responsible parties that are applied to eligible match expenses can be used to replace other match dollars. However, grant dollars cannot be used to pay for any share of the costs of remediation recovered from responsible parties. The Guidelines were revised to clarify that costs recovered from responsible parties can be applied to eligible match expenses.

6. **DACs Incentives:** Increase incentives for funding projects benefiting disadvantaged communities.

Final Draft Guidelines: The Guidelines set aside 20% of the funds for projects benefiting DACs and EDAs (\$160 million). The scoring has been changed to provide more weight to projects benefiting DACs and EDAs. The Guidelines also specifically provide up to \$5 million for DAC/EDA drinking water treatment projects, in addition to any funding that a DAC/EDA would qualify for under the Drinking Water Proposition 1 grant funds and the DWSRF. A match reduction is also available for cleanup projects that benefit disadvantaged communities, even if the Applicant is not a disadvantaged community.

7. **Human Right to Water Policy**

Final Draft Guidelines: The Guidelines include a preference for projects that support the State's policy on the Human Right to Water. Ten million dollars (\$10 million) has been set aside to provide technical assistance to disadvantaged communities that are addressing contaminated groundwater problems. Additional Proposition 1 Groundwater Grant funds are available for drinking water treatment projects that benefit disadvantaged communities, which should help make access to clean drinking water more affordable. Through its technical assistance providers and the Office of Sustainable Water Solutions, staff will conduct additional outreach to make disadvantaged communities aware of the available Proposition 1 Groundwater Grant funds.

POLICY ISSUES

Should the State Water Board:

1. Adopt the Proposition 1 Groundwater Grant Program Guidelines and authorize the Deputy Director of the Division to make non-substantive changes 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 Groundwater Grant Program 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 of work and budget of projects previously awarded, consistent with the Proposition 1 Groundwater Grant Program Guidelines?

4. 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?
5. Authorize the Deputy Director of the Division to terminate a grant agreement where there is a violation of a material provision of the agreement by the recipient?

FISCAL IMPACT

Proposition 1 provided \$800 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 projects that prevent or clean up the contamination of groundwater that serves or has served as a source of drinking water. Proposition 1 provides up to five percent of the funds allocated (\$40 million) to be used to administer the program.

REGIONAL BOARD IMPACT

Groundwater projects in all regions are eligible. Regional Water Boards and the Division of Drinking Water will be asked to provide staff to assist with the technical review and evaluation of project proposals, in addition to technical input during project implementation.

STAFF RECOMMENDATION

Staff recommends that the State Water Board approves the proposed Resolution.

<p>State Water Board action on this item will assist the Water Boards in reaching Goals 2 and 3 of the Strategic Plan Update: 2008-2012: Goal 2 – Improve and protect groundwater quality in high-use basins 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 flows for fish and wildlife habitat.</p>
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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2016-

ADOPTION OF THE PROPOSITION 1 GROUNDWATER GRANT PROGRAM GUIDELINES (GUIDELINES)

WHEREAS:

1. The Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) authorizes \$800 million to the State Water Resources Control Board (State Water Board) to provide competitive grants and loans to public agencies, nonprofit organizations, public utilities, state and federally recognized Indian tribes, and mutual water companies for projects that prevent or clean up the contamination of groundwater that serves or has served as a source of drinking water (California Water Code § 79771);
2. Proposition 1 requires the development and adoption of project solicitation and evaluation guidelines prior to disbursing grants for any competitive grant program (California Water Code § 79706(a));
3. On February 12, 2016, State Water Board staff posted the draft Guidelines on the State Water Board's web site for public review and comment. State Water Board staff held five public workshops in Redlands (March 14, 2016), Burbank (March 15, 2016), Fresno (March 16, 2016), San Luis Obispo (March 21, 2016) and Rancho Cordova (March 25, 2016) to consider public comments. Staff also considered written comments received by April 1, 2016, prior to finalizing the Guidelines, in accordance with Proposition 1 (California Water Code § 79706(b));
4. The State Water Board has considered all public comments and testimony received on the draft Guidelines and made appropriate revisions;
5. The State Water Board currently has a loan program (the Drinking Water State Revolving Fund) that is available for projects that treat contaminated drinking water, and, therefore, has not established a separate loan program through these Guidelines at this time;
6. The 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 evaluation criteria, and provide the solicitation, review, and selection process for awarding Groundwater Grant Program funds; and
7. The Guidelines are consistent with and support the Governor's California Water Action Plan.

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THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the [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 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 to utilize available funds to augment the scope of work and budget of projects previously awarded, consistent with the Guidelines;
4. 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; and
5. Authorizes the Deputy Director of the Division to terminate a grant agreement where there is a violation of a material provision of the agreement by the recipient.

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 May 18, 2016.

Jeanine Townsend
Clerk to the Board