



January 25, 2018

The Honorable Sheila Kuehl
Chair, Los Angeles County Board of Supervisors
821 Kenneth Hahn Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012
VIA Email: sheila@bos.lacounty.gov

**Re: City Comments on the development of the Safe, Clean Water Program
Expenditure Program**

Dear Supervisor Kuehl:

The Los Angeles County Division of the League of California Cities® (Division) appreciates the Board of Supervisors leadership on the development of the Safe, Clean Water Program and the extended efforts to engage cities in the stakeholder process to draft a parcel tax for stormwater compliance programs, drought preparedness, water quality, and water sustainability.

There is no question that a funding measure is needed to assist the County and cities in meeting their currently unfunded obligations under their respective 2012 municipal separate storm sewer permits (MS4) which contain the most stringent water quality requirements in the country. The Los Angeles County Department of Public Works has estimated that the total capital costs to comply with the permits exceeds \$20 billion. A primary reason for the substantial permit cost is because compliance is centered on stormwater capture, which could significantly augment local water supplies but is costly to construct.

Over the last five years, the Division has prioritized securing funding solutions to help cities meet these MS4 permit obligations, including:

- Forming an Elected Officials Stormwater Steering Committee to lead funding and policy efforts for cities;
- Publishing the 2014 report, *Stormwater Funding Options, Providing Sustainable Water Quality in Los Angeles County*¹;
- Advocating for the local return allocations in METRO's Measure M to be utilized for Green Streets programs;
- Sponsoring four legislative proposals to address funding, source control, economic feasibility, best practices and leveraging existing infrastructure resources²;
- Supporting AB 1180 (Holden), as amended June 26, 2017, to provide the LAFCD authority to levy a tax for stormwater programs and codify the distribution of funding to provide 10% for LAFCD administration and research, 40% directly to cities, and 50% for watershed-based projects and programs.

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¹ www.lacities.org/stormwater

² SB 485 (Hernandez, Chaptered 2016), SB 541 (Allen, Chaptered 2017), SB 589 (Hernandez, 2-year bill), AB 1180 (Holden, amended).

Given our generally unfunded permit liability and existing investments in securing funding, cities in Los Angeles County have a vested interest in the successful passage of a countywide funding measure. We strongly believe that the following elements are critical components in the development of an effective Safe, Clean Water Program Expenditure Plan:

- 1. All funds should be dedicated to MS4 permit compliance with priority on TMDLs, WMPs, and EWMPs.** Unfunded obligations exceed \$20 billion in Los Angeles County and the cost of non-compliance (penalties and third-party lawsuits) to cities and the county can be extremely costly. Taxpayer funds should be used to meet state and federal requirements.
- 2. Cities should control disposition of their allocated funds.** AB 1180 provides clear authority regarding the purposes for which Safe, Clean Water Program (Program) funds are being collected and can be used. City council members are in the best position to determine use of the funds allocated to their cities in accordance with Program purposes as outlined in AB 1180, as they are accountable to their constituents, understand local geography and capacity, and bear the ultimate responsibility to minimize their city's liability for compliance with the MS4 permit. Regular audits will ensure Program funds are appropriately used.
- 3. Clear definition of Regional Projects.** The 50% allocation for the implementation, operation, maintenance, and administration of watershed-based projects and programs must provide clear definitions for what constitutes a regional project and should prioritize cost-effective projects that maximize water clean-up, re-use and capture. Often this will be accomplished through use of existing infrastructure to convey stormwater to appropriate locations for infiltration. The minimum requirements for projects should sustainability measures like water reuse. The distribution of regional allocations should be sensitive the unique and diverse constitution of each WMP and EWMP.
- 4. Provide credit or "opt-in/out" mechanisms to cities with existing voter-approved stormwater fees.** Taxpayers in communities that have already initiated local revenue sources for stormwater clean-up to meet their MS4 obligations should have an option not to participate in the Safe, Clean Water Program, conditioned upon their agreement that they won't benefit from Program revenues, or should be allowed to partially participate as appropriate to credit existing fees.
- 5. Strict transparency, accountability, and governance.** Allocations in each funding category should be based on sound financial calculations and reflect real costs; funds in excess of these calculations, particularly related to the 10% for LACFCD implementation and administration should be dedicated back to stormwater projects and programs. A governance structure to provide strong oversight must have adequate city representation.
- 6. Basin Plan Update.** The plan hasn't been updated since 1994; it is outdated, and was never intended to address stormwater, especially through numeric limits and TMDLs. As a result, compliance will cost billions of dollars more than it should. It is not fair to ask taxpayers to fund a plan that fails to address modern water quality issues, including incorporating new data and science. We concur with BizFed's recommendation that \$25-\$30 million dollars should be allocated from the 10% reserved for LAFCD administration to allow the Regional Water Quality Control Board to update the plan.

Based on previous County efforts on this issue, we know that voters expect strict accountability, equitable distribution, and visible returns on their investment, particularly when they have already been generous in their very recent approval of local revenue measures to fund homelessness solutions, parks, and transportation. We believe these elements listed above support these expectations.

Again, we appreciate the Board's efforts to engage stakeholders, including city officials, in the development of the Safe, Clean Water Expenditure Plan. We look forward to providing further input to the Board and other stakeholders to craft a measure that is equitable, cost-effective, funds MS4 compliance and augments local water supplies.

Sincerely,

A handwritten signature in black ink that reads "Miguel Canales". The signature is written in a cursive, slightly slanted style.

Miguel Canales
President
Los Angeles County Division, League of California Cities®

CC: Los Angeles County Board of Supervisors
Katy Young, Office of Supervisor Sheila Keuhl
Russ Bryden, Los Angeles County Department of Public Works
Leslie Friedman-Johnson, CNRG