



THE CITY OF SAN DIEGO

October 2, 2015

Sent via Electronic Mail: SGWP@water.ca.gov

California Department of Water Resources
Division of Integrated Regional Water Management
Financial Assistance Branch
Attn: Sustainable Groundwater Planning Grant Program
Post Office Box 942836
Sacramento, CA 94236-0001

To Whom It May Concern:

The City of San Diego Public Utilities Department (San Diego) is pleased to respond to the Department of Water Resources' request for feedback on the draft guidelines for the Sustainable Groundwater Planning Grant Program (SGWP). Proposition 1 of 2014 provided \$100,000,000 in funding for the SGWP in order to advance sustainable management of groundwater throughout the state of California. San Diego has thoroughly reviewed the draft guidelines and would like to offer the following comments for your consideration.

Add 'degradation' to list of Program Preferences and Statewide Priorities

In order to ensure that SGWP funding is directed to a range of local initiatives to address drinking water supplies through groundwater cleanup efforts, San Diego requests that the guidelines clearly state that remediation of groundwater degradation is an eligible project type under the program, as well as one accorded prioritization as funding decisions are made.

Both *contamination* and *degradation* connote critical groundwater cleanup and restoration efforts taken by local agencies to protect and preserve drinking water supplies, yet they are discrete terms in the groundwater context with distinct meanings. Contamination issues would likely have a responsible party(ies) that would be identified as having the lead in cleaning up efforts. Degradation, however, occurs where there may be a groundwater basin that after years of misuse and mismanagement is degraded in both its yield and water quality but for which there is no singular event or series of events pointing to contamination.

Often in basins wherein contamination does not exist, significant degradation of that basin's water quality does. San Diego's efforts to address basin degradation in many areas comes within the practical understanding of the types of efforts that the state legislature through Proposition 1



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intended to support, but neither the guidelines, nor the statute itself¹ contain official definitions for either term. In order to provide clarity to SGWP applicants, and to meet the aims of the initiative, San Diego requests that the guidelines be amended to include these definitions, so that expenses associated with the development and implementation of plans for targeted, aggressive remediation efforts are clearly eligible for reimbursement through SGWP grants.

Clarify the Eminent Domain Funding Use Preclusion

Under ‘Eligible Project Types’ the guidelines cite the text of Proposition 1 as barring the use of bond funds for purposes of land acquisitions through eminent domain². However, groundwater cleanup plans and strategies may in some areas involve the acquisition of land through processes other than eminent domain. Under the current language of both the draft guidelines and statute, it is not clear whether these planning efforts or their implementation would be eligible projects under Proposition 1. We would request clarification as to whether applicants’ land acquisition efforts that do not involve eminent domain are eligible for funding through the SGWP.

Allow SGMA Compliance as an Alternative to the Existing Requirement of GWMP Compliance

The draft guidelines include ‘GWMP Compliance’ within the Eligibility Criteria. However, many agencies feature groundwater basins that may not have required the execution of a Groundwater Management Plan (GWMP) under the Groundwater Management Act, but are currently undergoing efforts to comply with the mandatory provisions of the state’s landmark Sustainable Groundwater Management Act (SGMA) of 2014, or are in compliance with CASGEM.

The draft guidelines indicate that eligible entities must self-certify that they have either (1) prepared and implemented a GWMP, (2) participate or consent to be subject to a GWMP or other plan that meets the requirements of the GWMP statute³, or (3) included in their Proposal the development of a GWMP that will be completed within one year of the grant application submittal date. The draft guidelines further cite Water Code § 10750.1(a) in barring funding eligibility for those entities who don’t have GWMP plans, but this statute only states that the prior type of plans—GWMPs—will no longer be available after January 1, 2015, the implementation date of SGMA and its new groundwater planning requirements. Moreover, the Proposition 1 statute governing the SGWP program⁴ does not include any funding preclusion regarding groundwater planning.

The language of Proposition 1 was finalized prior to the state’s adoption of the SGMA statute, and it appears there may be some inconsistency in the law between the two. San Diego is moving

¹ Water Code § 79702

² Water Code § 79711.(g)

³ Water Code § 10753.7

⁴ See Water Code §79770 through 79775, inclusive

forward on complying with the requirements of SGMA for those basins within our service territory, and would request clarification through these guidelines as to how these current groundwater planning efforts are acknowledged in the SGWP process and not be used to preclude San Diego from qualifying for SGWP funding.

Expand Priority Consideration to Proposals Involving Agencies Forming or Participating in the Formation of Groundwater Sustainability Agencies

In addition to the earlier discussion of incorporating SGMA’s requirements into the Proposition 1 process, San Diego requests that the priority consideration given to the Statewide Priorities listed on page 6 of the draft guidelines be expanded to include agencies that are “forming or participating in formation of Groundwater Sustainability Agencies”⁵ (GSAs) pursuant to SGMA’s requirements (the current language names only counties).

Under the SGWP, eligible grant applicants include “public agencies”⁶, and it would seem consistent with the goals of the program that any eligible entities’ efforts to comply with the GSA requirements of the SGMA legislation be taken into consideration as SGWP funds are awarded.

Consider Regional Affordability When Assessing the ‘Financial Hardship’ Criterion of Economically Distressed Area (EDA) Definitions

San Diego supports Proposition 1’s effort to assist needy communities in their development of groundwater resources by directing funding exclusively to these recipients. However, proper implementation of this initiative suggests that the state should look beyond a threshold consideration of median household income (MHI) below a certain level, and incorporate a more broad consideration of the ‘buying power’ of those dollars within different communities in the state.

We anticipate that certain San Diego groundwater basins underlying distinct communities will qualify as Disadvantaged Communities (DACs) or Economically Distressed Areas (EDAs) under the guidelines’ current definitions of these terms. However, these definitions do not specifically call for consideration of the distinct difficulty suffered by individuals residing in these communities within regions like San Diego, where the cost of living is often much higher than in other DAC and EDA areas throughout the state. Median Household Income is computed statewide, and does not take into account the share of that income that is spent on water and wastewater service, a factor that more fully illustrates the affordability of water in a given area.

⁵ DWR draft guidelines for the Proposition 1 Sustainable Groundwater Planning Grant Program Draft Guidelines, http://www.water.ca.gov/irwm/grants/sgwp/sgwp_docs/SGWP2015GuidelinesDraftPRAug_21_15.pdf

⁶ Ibid.

As contained in Proposition 1, the statutory definition of Economically Distressed Area requires that at least one of three listed criteria be met, the first of which is 'financial hardship.'⁷ Affordability problems would seem to present precisely the type of financial hardships the Legislature and voters intended to be considered when identifying EDAs. Unfortunately the SGWP draft guidelines do not contain express language calling for the comprehensive consideration of affordability, an omission that could preclude many needy communities in densely populated urban areas like San Diego from receiving EDA funding or cost share relief. This could lead to the very real possibility that many who struggle with access to clean, affordable drinking water would be denied the assistance of the EDA provisions in Proposition 1.

We would suggest that DWR accord the affordability of MHI within a certain region weighted consideration when it allocates competitive grants and cost-sharing waivers or reductions for DACs and EDAs under the SGWP program.

Conclusion

The City of San Diego has a long history of success in meeting the drinking water needs of its rapidly growing and diverse population. We are thankful for the opportunity to comment on the draft Sustainable Groundwater Planning Grant Program guidelines and look forward to continuing to work with the Department on the implementation of Proposition 1. If you have any questions in the meantime, please feel free to contact me at (858) 292-6424 or Carolyn Ginno at (858) 654-4286.

Sincerely,



Cathleen C. Pieroni
Program Manager, External Water Policy

⁷ Water Code §79702.(k)