

Comment Letter–Storm Water Resource Plan and Proposition 1 Funding Guidelines
due 10.13.2015 Noon

Proposition 1 language reads:

Chapter 7. Regional Water Security, Climate, and Drought Preparedness

79743. Subject to the determination of regional priorities in the regional water management group, eligible projects may include, but are not limited to, projects that promote any of the following:

- (f) Stormwater resource management, including, but not limited to, the following:*
- (1) Projects to reduce, manage, treat, or capture rainwater or stormwater.*
 - (2) Projects that provide multiple benefits such as water quality, water supply, flood control, or open space.*
 - (3) Decision support tools that evaluate the benefits and costs of multibenefit stormwater projects*
 - (4) Projects to implement a stormwater resource plan developed in accordance with Part 2.3 (commencing with Section 10560) of Division 6.*

And

79747

- (a) Of the funds authorized by Section 79740, two hundred million dollars (\$200,000,000) shall be available for grants for multibenefit stormwater management projects.*
- (b) Eligible projects may include, but shall not be limited to, green infrastructure, rainwater and stormwater capture projects, and stormwater treatment facilities.*
- (c) Development of plans for stormwater projects shall address the entire watershed and incorporate the perspectives of communities adjacent to the affected waterways, especially disadvantaged communities.*

SB 985 states

SB 985 alters the execution of Water Code Sections 10560-10564, PART 2.3.
STORMWATER RESOURCE PLANNING:

***DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF
STATE WATER RESOURCES [10000 - 12999]
PART 2. APPROPRIATION OF WATER BY DEPARTMENT OF WATER
RESOURCES
PART 2.3. STORMWATER RESOURCE PLANNING***

SEC. 3. Section 10562 of the Water Code is amended to read:

10562. (a) One or more public agencies **may** develop a stormwater resource plan pursuant to this part.

COMMENTS:

STORMWATER RESOURCE PLAN is voluntarily as read.

STORMWATER RESOURCE MANAGEMENT is the term used in Proposition 1-not a specific plan. The inclusion of a PLAN generates the need for budget allocations to cover consultant costs. There are no budget allocations by local agencies that we are aware.

SB 985-Stormwater Resource Planning Act (approved September 25, 2014) changed the meaning of SB 790-The Watershed, Clean Beaches, and Water Quality Act (approved October 11, 2009) designed around Integrated Regional Water Management Plans and Proposition 84.

Draft Storm Water Resource Plan Guidelines state:

*Water Code section 10563(c)(1) **requires** a public agency to develop a Storm Water Resource Plan (Plan) **as a condition of receiving funds from any bond approved by voters after January 2014.***

COMMENTS:

The STORMWATER RESOURCE PLAN should be considered a State Mandate under SB 985. It only appears to be voluntary, but is not because it is specifically tied to bond funding.

Proposition 1 was deceptive to the VOTERS as the perimeters of the funding was not disclosed to the VOTERS.

Not disclosed to the VOTERS was this mandate of yet another PLAN. STORMWATER RESOURCE MANAGEMENT currently occurs without a STORMWATER RESOURCE PLAN.

SB 985 states

*10561. The Legislature hereby finds and declares all of the following:
(b) Improved management of stormwater and dry weather runoff, including capture, treatment, and reuse by using the natural functions of soils and plants, can improve water quality, reduce localized flooding, and increase water supplies for beneficial uses and the environment.*

(e) When properly designed and managed, the capture and use of stormwater and dry weather runoff can contribute significantly to local water supplies through onsite storage and use, or letting it infiltrate into the ground to recharge

groundwater, either onsite or at regional facilities, thereby increasing available supplies of drinking water.

(f) New developments and redevelopments should be designed to be consistent with low-impact development principles to improve the retention, use, and infiltration of stormwater and dry weather runoff onsite or at regional facilities.

(g) Stormwater and dry weather runoff can be managed to achieve environmental and societal benefits such as wetland creation and restoration, riverside habitats, instream flows, and an increase in park and recreation lands, and urban green space.

(h) Stormwater and dry weather runoff management through multiobjective projects can achieve additional benefits, including augmenting recreation opportunities for communities, increased tree canopy, reduced urban heat island effect, and improved air quality.

(i) Proper planning and implementation is vital to ensure that the water supply and other benefits potentially available through better management of stormwater and dry weather runoff do not come at the expense of diminished water quality.

(j) The capture and use of stormwater and dry weather runoff is not only one of the most cost-effective sources of new water supplies, it is a supply that can often be provided using significantly less energy than other sources of new water supplies.

COMMENTS:

SB 985 refers to IMPROVED MANAGEMENT. That management includes an environmental approach, not a built approach:

including capture, treatment, and reuse by using the natural functions of soils and plants

The following reference omits any legal jurisdictions, necessary to the management:

the capture and use of stormwater and dry weather runoff can contribute significantly to local water supplies through onsite storage and use, or letting it infiltrate into the ground to recharge groundwater

Those legal jurisdictions may be the form of a property right, adjudication, or assignment. The condition of the groundwater is not addressed. That condition may be fouled by industry, geology such as petroleum or earthquake faults. Saltwater intrusion is not addressed.

The conclusion is false and is a case-by-case basis:

thereby increasing available supplies of drinking water.

Water may be imported from other regions, such as with Los Angeles Department of Water and Power and the Metropolitan Water District for supply because groundwater is not sufficient or is contaminated.

CEQA California Environmental Quality Act is not addressed in:

New developments and redevelopments should be designed to be consistent with low-impact development principles to improve the retention, use, and infiltration

This is an assumption without any Soils and Geology Report or Geotechnical Report.

Costs are not addressed properly:

The capture and use of stormwater and dry weather runoff is not only one of the most cost-effective sources of new water supplies

There is no Economic Analysis, regionally, watershed, local or statewide that can substantiate this statement. Los Angeles MS4 permit, through its various EWMPs Enhanced Watershed Management Plans and WMPs Watershed Management Plans will cost billions and billions, with no funding source identified. Modeling seems to be designed by consultants and not tested on a economic scale.

Stormwater Capture Credit aka Cap and Trade has been suggested for the LAMS4 permit. Water becomes a commodity and not a property right.

Draft Storm Water Resource Plan Guidelines state:

More recent approaches to storm water management seek to replicate natural hydrology and watershed processes by managing storm water and dry weather runoff onsite or within the watershed where rainfall occurs.

COMMENTS:

In urbanized settings, pollutants and other contaminants may render collection a Public Safety Hazard with Public Health at risk. The aspect of Public Health has been omitted. Hydrology has not been used yet, in the plans we have reviewed. County Public Health Agency seems to be the Lead Agency, yet there are only unapproved guidelines and no public participation or outreach.

Sediment Management has not been studied to assure collection of rainfall would be a beneficial use especially in highly-urbanized areas and major cities.

Draft Storm Water Resource Plan Guidelines state

These approaches yield multiple water quality benefits by reducing the volume of runoff – and the pollutants it contains – delivered to receiving waters.

COMMENTS:

Receiving Waters have not been identified including jurisdictions. This blanket statement does not take into effect any downstream uses from the Receiving Waters.

Draft Storm Water Resource Plan Guidelines state

Augmentation of drinking water supplies through rainwater harvesting and/or recharge;

COMMENTS:

Rainwater harvesting, by California Building Codes and Plumbing Codes, is collected from rooftops. There are no California Building or Plumbing Codes for Stormwater Capture. Recharge is not an issue in this statement.

Draft Storm Water Resource Plan Guidelines state

The nature and water quality impacts of storm water discharges vary from region to region; therefore, municipalities may identify ways to tailor their watershed storm water management measures to best address their watershed conditions while complying with regulatory requirements to control storm water discharges.

COMMENTS:

This is a set-up statement to include the MS4 permitting as part of these Guidelines. Permitting is based on SOURCE POINT discharges. Regulatory requirements are based on Outfall Monitoring and Iterative Processes, not watershed conditions.

US Senate Committee on the Environment and Public Works issued an August 17, 2011 questioning any USEPA approach outside Source Point Permitting.

USEPA Region 9 issued a letter August 14, 2013 on questioning the LA MS4 permit.

Draft Storm Water Resource Plan Guidelines state

*The State Water Board's objective for the adoption of these Guidelines is to provide baseline requirements for watershed-based (or sub-watershed-based) storm water resource plans to be used for funding of storm water and dry weather runoff capture projects funded partially or entirely with State funds. **It is***

not intended that the guidance provided in these Guidelines be applied to individual projects.

COMMENTS:

No baseline or sufficient data exist for actual Water Quality in spite of Resolution 68-16. Without the data, any baseline is based on some form of Modeling, not necessarily analyzed for accuracy and open to interpretation.

Citizens have no assurance that fraud is committed.

Draft Storm Water Resource Plan Guidelines state

85th Percentile 24-hour Storm Event - The 85th percentile rainfall event is the event whose precipitation total is greater than or equal to 85 percent of all 24-hour storms on an annual basis. The 85th percentile 24-hour storm measure is based on local precipitation data within the watershed and differs geographically.

COMMENTS:

This Model may not be relevant to all watersheds in the State of California. It is not clear how many Models exist.

In Los Angeles, consultants are hired on-call and the bidding process has been suppressed. There is no competition and no oversight in relationship to cost-benefit analysis.

SB 985 (based on AB 1750) states

(a) *“Developed or developing lands” means lands that have one or more of the characteristics described in subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (b) of Section 56375.3 of the Government Code*

And

(b) *“Rain barrel system” is a type of rainwater capture system that does not use electricity or a water pump and is not connected to or reliant on a potable water system.*

And

(d) *“Rainwater capture system” means a facility designed to capture, retain, and store rainwater flowing off a building rooftop for subsequent onsite use.*

COMMENTS:

Draft Storm Water Resource Plan Guidelines omit the definitions.

Draft Storm Water Resource Plan Guidelines state:

Dry Weather Runoff—surface runoff flow produced by non-storm water resulting from irrigation and other residential, commercial, and industrial activities.

While_SB 985 states:

(a) “Dry weather runoff” means surface waterflow and waterflow in storm drains, flood control channels, or other means of runoff conveyance produced by nonstormwater resulting from irrigation, residential, commercial, and industrial activities.

COMMENTS:

There should be a consistent definition.

Draft Storm Water Resource Plan Guidelines state:

Low Impact Development (LID) – a storm water management strategy aimed at maintaining or restoring the natural hydrologic functions of a site or project to achieve natural resource protection objectives and fulfill environmental regulatory requirements; LID employs a variety of natural and constructed features that reduce the rate of runoff, filter pollutants out of runoff, facilitate the infiltration of water into the ground and replenishment of local natural surface water systems, and/or allow for on-site storage of water for a beneficial use.

COMMENTS:

In urban areas, there is no application to NATURAL HYDROLOGIC FUNCTIONS. LID requires Soils and Geology Reports, Hydrology Reports and Geotechnical Reports.

Draft Storm Water Resource Plan Guidelines state:

Storm Water—temporary surface water runoff and drainage generated by immediately preceding storms.

While_SB 985 states:

(b) “Stormwater” means temporary surface water runoff and drainage generated by immediately preceding storms. This definition shall be interpreted consistent with the definition of “stormwater” in Section 122.26 of Title 40 of the Code of Federal Regulations.

COMMENTS:

There should be a consistent definition. 40 CFR § 122.26 refers to NPDES Storm water discharges, which are SOURCE POINT and regulated.

Draft Storm Water Resource Plan Guidelines state:

*A Plan meeting the provisions of the Water Code need not be referred to as a "Storm Water Resource Plan." **Existing planning documents and local ordinances may be utilized as a functionally equivalent Plan, including but not limited to: watershed management plans¹, integrated resource plans, urban water management plans, or similar plans that include storm water and dry weather runoff capture and use as a component of their goals and objectives.***

1 This also encompasses Watershed Management Programs and Enhanced Watershed Management Programs as set forth in the LA County and City of Long Beach MS4 Permits (Order Nos. R4-21012-0175 and R4-2014-0024).

And

The Los Angeles Regional Water Board is among the first of the Regional Water Boards to incorporate a watershed storm water management approach that provides strong incentives for storm water and dry weather runoff capture across the watershed in its Los Angeles County MS4 permit. (Order R4-2012-0175, NPDES Permit No. CAS004001).

COMMENTS:

This direct reference is an indication that this legislation was designed around the LAMS4 permit. This permit is being challenged by:

- Cities of Duarte and Huntington Park-LA Superior Court Case No.BS 156303
- City of Gardena-LA Superior Court Case No.BS 156342
- Natural Resources Defense Council-LA Superior Court Case No.BS 156962

There was minimal public participation by the municipalities in the formation of EWMPs or WMPs. Most Citizens are not informed by their local governments of the opportunity to participate in the process. Local and State Waterboards are appointed commissions. Citizens have no elected representation or due process.

Citizens cannot weigh in on ECONOMIC IMPACTS, UNFUNDED BUDGETARY APPROPRIATIONS or CONTRACT SELECTION.

The LAMS4 permit has unfunded projections for the EWMPs and WMPs in the billions of dollars, unrealistic to the Infrastructure necessary and Public Services needed to serve its Citizens.

Draft Storm Water Resource Plan Guidelines state:

*The Stormwater Management Planning Act implemented through **Water Code section 10563** substantively focuses on diverting runoff from existing storm drains, channels, or conveyance structures to sites (particularly publicly owned sites) that can clean, store, infiltrate and/or use the runoff. As with the development and adoption of recent Regional Water Board storm water permits (such as in Los Angeles and San Francisco Bay Area regions), the need for analysis during the watershed management planning stage is necessary to demonstrate a reasonable assurance that proposed storm water management plan elements will successfully achieve required water quality outcomes when implemented. Stakeholders, the Water Boards, and USEPA staff are working collaboratively to conduct appropriate assurance analyses, and compile findings, conclusions, and recommendations in publicly available guidance manuals.*

COMMENTS:

Again, the Proposition 1 deception did not disclose the change in requirements of the bond. Instead of assurance, we have costs not covered by the bond

Draft Storm Water Resource Plan Guidelines state:

*In general, the boundary of each watershed area identified in a Storm Water Resource Plan **should not be based on political boundaries, county lines, property boundaries, vegetation-type edges, highways, fences, federal reserves, or any other non-watershed boundary.** However, as necessary, political boundaries may be used to describe smaller watersheds, flat areas that encompass multiple small watersheds, or watersheds without distinct boundaries within the identified storm water management area. The applicable watersheds and sub-watersheds should not be split or divided*

COMMENTS:

This approach may sound acceptable, but those political boundaries determine funding capabilities including debt issuance. Storm Water Resource Plan is meaningless without approval by the appropriate elected officials and the identification of sources of funds and the related appropriations.

We question if you have identified WATER SUPPLIERS or PROPERTY OWNERS. Watersheds are complex and do not necessarily have a centralized jurisdictions.

We question if this application can be used in areas with forests or agricultural areas.

Draft Storm Water Resource Plan Guidelines state:

B. ORGANIZATION, COORDINATION, AND COLLABORATION

State, regional, and local government agencies, public and private utilities, and nongovernmental organizations should collaborate to address local, regional, and watershed-wide obstacles by working together to maximize environmental outcomes that result from joint government/organizational efforts.

COMMENTS:

This aspect exists in the IRWMP process, yet the meetings in the Greater LA County region are not under the Brown Act or considered as public meetings.

Non-governmental organizations are eligible for funding, yet do not have to go out to bid on contracts. Watershed needs may not necessarily be the focus of water suppliers if there supply is from a watershed in another area. LADWP and Metropolitan Water District have more interests in their watersheds of supply.

IRWMP process is missing the identification of sources of water supply and the related involvement of those watersheds in the process.

All watersheds that supply a region should be involved in any water planning.

Draft Storm Water Resource Plan Guidelines summary of Tables 3 and 4:

| BENEFIT | |
|--|--|
| Water Quality | |
| METRIC(S) | |
| Pollutant Load Reduction | |
| pounds (lbs)/day kilograms (kg)/day lbs/day | |
| Volume | |
| million gallons per day (mgd) | |
| acre-feet per year (afy) | |
| EXAMPLES | |
| Increased filtration and/or treatment of runoff | |
| Contribution to compliance with applicable permit and/or TMDL requirements | |
| Nonpoint source pollution control | |
| Reestablished natural water drainage and treatment | |
| Conjunctive use | |
| MAIN BENEFIT | |
| Conjunctive use | |
| Water quality protection and improvement | |
| Increased filtration and/or treatment of runoff | |
| Water supply reliability | |

Groundwater management
Runoff capture and reuse
Augmentation or replacement of water supply
Decreased flood risk by reducing runoff rate and/or volume

ADDITIONAL BENEFIT

Nonpoint source pollution control
Contribution to compliance with applicable permit and/or TMDL requirements
Reestablished natural water drainage and treatment
Reduced dependence on imported water
Water conservation
Reduced sanitary sewer overflows

BENEFIT
Water Supply

METRIC(S)

Volume

million gallons per day (mgd)
acre-feet per year (afy)

EXAMPLES

Water supply reliability
Groundwater management
Runoff capture and reuse
Augmentation or replacement of water supply
Reduced dependence on imported water
Water conservation

MAIN BENEFIT

Conjunctive use
Water quality protection and improvement
Increased filtration and/or treatment of runoff
Water supply reliability
Groundwater management
Runoff capture and reuse
Augmentation or replacement of water supply
Decreased flood risk by reducing runoff rate and/or volume

ADDITIONAL BENEFIT

Nonpoint source pollution control
Contribution to compliance with applicable permit and/or TMDL requirements
Reestablished natural water drainage and treatment
Reduced dependence on imported water
Water conservation
Reduced sanitary sewer overflows

BENEFIT
Flood Management

METRIC(S)

Rate and/or Volume

cubic feet per second (cfs)
acre-feet (af) and/or cubic feet

EXAMPLES

Decreased flood risk by reducing runoff rate and/or volume
Reduced sanitary sewer overflows

MAIN BENEFIT

Conjunctive use
Water quality protection and improvement
Increased filtration and/or treatment of runoff
Water supply reliability
Groundwater management
Runoff capture and reuse
Augmentation or replacement of water supply
Decreased flood risk by reducing runoff rate and/or volume

ADDITIONAL BENEFIT

Nonpoint source pollution control
Contribution to compliance with applicable permit and/or TMDL requirements
Reestablished natural water drainage and treatment
Reduced dependence on imported water
Water conservation
Reduced sanitary sewer overflows

BENEFIT
Environmental

METRIC(S)

Size and/or Rate

acres
cubic feet per second (cfs)
carbon sequestration

EXAMPLES

Environmental and habitat protection and improvement
Wetland enhancement and/or creation
Stream/riparian enhancement and/or instream flow augmentation
Increased urban green space
Reduced energy use, greenhouse gas emissions, or provides a carbon sink

Reestablishment of the natural hydrograph
Water temperature improvements

MAIN BENEFIT

Environmental and habitat protection and improvement
Wetland enhancement and/or creation
Stream enhancement and/or instream flow augmentation
Increased urban green space

ADDITIONAL BENEFIT

Reduced energy use, greenhouse gas emissions, or provides a carbon sink
Reestablishment of the natural hydrograph
Water temperature improvements
Community involvement
Enhance and/or create recreational and public use areas

BENEFIT
Community

METRIC(S)

Size and/or Economics

size of population served
acres
cost savings

EXAMPLES

Increased urban green space
Enhanced and/or created recreational and public use areas
Reduced energy use
Community involvement

MAIN BENEFIT

Community participation and other community benefits

ADDITIONAL BENEFIT

Conjunctive use
Reduced energy use

COMMENTS:

The Metrics and Analysis have no basis in reality. Municipalities cannot focus their resources on this detailed requirements. Municipalities are not necessarily water suppliers and may not have the expertise. Tribal governments and rural communities may have even less expertise available.

This is designed for CONSULTANTS and not civil service employees. State and Federal agencies, specialized in these areas, would be a more intelligent choice to execute these demands.

Draft Storm Water Resource Plan Guidelines state:

*Appendix A
Mandatory Guidelines*

COMMENTS:

The Public was fooled. The arguments for PROPOSITION 1 included:

- YES ON PROPOSITION 1 ENSURES A RELIABLE WATER SUPPLY FOR FARMS AND BUSINESSES DURING SEVERE DROUGHT—PROTECTING BOTH THE ECONOMY AND THE ENVIRONMENT
- YES ON 1 SUPPORTS A COMPREHENSIVE STATE WATER PLAN
- YES ON 1 IS FISCALLY RESPONSIBLE
- YES ON 1 GROWS CALIFORNIA'S ECONOMY
- YES ON 1 SAFEGUARDS OUR EXISTING WATER SUPPLIES
- YES ON 1 STORES WATER WHEN WE HAVE IT
- YES ON 1 PROTECTS THE ENVIRONMENT
- PROPOSITION 1 CONTAINS STRICT ACCOUNTABILITY REQUIREMENTS INCLUDING ANNUAL AUDITS, OVERSIGHT AND PUBLIC DISCLOSURE TO ENSURE THE MONEY IS PROPERLY SPENT.

The Guidelines, whether Mandatory or Recommended, present no assurances of the above.

California Water Plan appears to be ignored.

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Attachments:
Proposition 1 Text
Proposition 1-Arguments-Rebuttals

US Senate Committee Letter 8.17.2011
USEPA Region 9 Letter 8.14.2013
SB 985 Language Analysis

Proposition 1

This law proposed by Assembly Bill 1471 of the 2013–2014 Regular Session (Chapter 188, Statutes of 2014) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the Public Resources Code and the Water Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

Proposed Law

SECTION 1. Section 5096.968 is added to the Public Resources Code, to read:

5096.968. *Notwithstanding any other law, one hundred million dollars (\$100,000,000) of the unissued bonds authorized for the purposes of this chapter are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700) of the Water Code. The funds available for reallocation shall be made on a pro-rata basis from each bond allocation of this chapter.*

SEC. 2. Section 75089 is added to the Public Resources Code, to read:

75089. *Notwithstanding any other law, one hundred five million dollars (\$105,000,000) of the unissued bonds authorized for the purposes of this division are reallocated for the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700) of the Water Code. The funds available for reallocation shall be made on a pro-rata basis from each bond allocation of this division.*

SEC. 3. Section 13467 is added to the Water Code, to read:

13467. *Notwithstanding any other law, thirteen million five hundred thousand dollars (\$13,500,000) of the unissued bonds authorized for the purposes of subdivision (a) of Section 13459 are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700).*

SEC. 4. Section 78691.5 is added to the Water Code, to read:

78691.5. *Notwithstanding any other law, nine million nine hundred thousand dollars (\$9,900,000) of the unissued bonds authorized for the purposes of Sections 78550 to 78551, inclusive, three million two hundred thousand dollars (\$3,200,000) of the unissued bonds authorized for the purposes of Section 78671, three million five hundred thousand dollars (\$3,500,000) of the unissued bonds authorized for the purposes of paragraph (3) of subdivision (a) of Section 78680, and eight million one hundred thousand dollars (\$8,100,000) of the unissued bonds authorized for the purposes of Section 78681.2, and eight hundred thousand dollars (\$800,000) of the unissued bonds authorized for the purposes of Section 78530.5 are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700).*

SEC. 5. Section 79222 is added to the Water Code, to read:

79222. *Notwithstanding any other law, thirty-four million dollars (\$34,000,000) of the unissued bonds authorized for the purposes of Section 79157, and fifty-two million dollars (\$52,000,000) of the unissued bonds authorized for the purposes of Section 79195 are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700).*

SEC. 6. Section 79591 is added to the Water Code, to read:

79591. *Notwithstanding any other law, ninety-five million dollars (\$95,000,000) of the unissued bonds authorized for the purposes of this division are reallocated for the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700). The funds available for reallocation shall be made on a pro-rata basis from each bond allocation of this division.*

SEC. 8. Division 26.7 (commencing with Section 79700) is added to the Water Code, to read:

DIVISION 26.7. WATER QUALITY, SUPPLY, AND INFRASTRUCTURE IMPROVEMENT ACT OF 2014

CHAPTER 1. SHORT TITLE

79700. *This division shall be known, and may be cited, as the Water Quality, Supply, and Infrastructure Improvement Act of 2014.*

CHAPTER 2. FINDINGS

79701. *The people of California find and declare all of the following:*

(a) *Safeguarding California’s supply of clean and safe water for homes, businesses, and farms is an essential responsibility of government, and critical to protecting the quality of life for all Californians.*

(b) *Every Californian should have access to clean, safe, and reliable drinking water.*

(c) *California has been experiencing more frequent and severe droughts and is currently enduring the worst drought in 200 years. These droughts are magnifying the shortcomings of our current water infrastructure.*

(d) *California’s water infrastructure continues to age and deteriorate. More than 50 years ago, Californians approved the construction of the State Water Project. In recent decades, however, that infrastructure has proven inadequate to meet California’s growing needs.*

(e) *This measure provides funding to implement the three objectives of the California Water Action Plan which are more reliable water supplies, the restoration of important species and habitat, and a more resilient and sustainably managed water infrastructure.*

(f) *Developing and guarding our water resources is critical for California to maintain vibrant communities, globally competitive agriculture, and healthy ecosystems.*

(g) *Encouraging water conservation and recycling are commonsense methods to make more efficient use of existing water supplies.*

(h) Sustainable water management in California depends upon reducing and reversing overdraft and water quality impairment of groundwater basins. Investments to expand groundwater storage and reduce and reverse overdraft and water quality impairment of groundwater basins provide extraordinary public benefit and are in the public interest.

(i) Protecting lakes, rivers, and streams, cleaning up polluted groundwater supplies, and preserving water sources that supply the entire state are crucial to providing a reliable supply of water and protecting the state's natural resources.

(j) The Water Quality, Supply, and Infrastructure Improvement Act of 2014 provides a comprehensive and fiscally responsible approach for addressing the varied challenges facing California's water resources.

CHAPTER 3. DEFINITIONS

79702. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this division, as follows:

(a) "Acquisition" means obtaining a fee interest or any other interest in real property, including, easements, leases, water, water rights, or interest in water obtained for the purposes of instream flows and development rights.

(b) "CALFED Bay-Delta Program" means the program described in the Record of Decision dated August 28, 2000.

(c) "Commission" means the California Water Commission.

(d) "Committee" means the Water Quality, Supply, and Infrastructure Improvement Finance Committee created by Section 79787.

(e) "Delta" means the Sacramento-San Joaquin Delta, as defined in Section 85058.

(f) "Delta conveyance facilities" means facilities that convey water directly from the Sacramento River to the State Water Project or the federal Central Valley Project pumping facilities in the south Delta.

(g) "Delta counties" means the Counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo.

(h) "Delta plan" has the meaning set forth in Section 85059.

(i) "Director" means the Director of Water Resources.

(j) "Disadvantaged community" has the meaning set forth in subdivision (a) of Section 79505.5, as it may be amended.

(k) "Economically distressed area" means a municipality with a population of 20,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the segment of the population is 20,000 persons or less, with an annual median household income that is less than 85 percent of the statewide median household income, and with one or more of the following conditions as determined by the department:

(1) Financial hardship.

(2) Unemployment rate at least 2 percent higher than the statewide average.

(3) Low population density.

(l) "Fund" means the Water Quality, Supply, and Infrastructure Improvement Fund of 2014 created by Section 79715.

(m) "Instream flows" means a specific streamflow, measured in cubic feet per second, at a particular location for a defined time, and typically follows seasonal variations.

(n) "Integrated regional water management plan" has the meaning set forth in Part 2.2 (commencing with Section 10530) of Division 6, as that part may be amended.

(o) "Long-term" means for a period of not less than 20 years.

(p) "Nonprofit organization" means an organization qualified to do business in California and qualified under Section 501(c)(3) of Title 26 of the United States Code.

(q) "Proposition 1E" means the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code).

(r) "Proposition 84" means the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).

(s) "Public agency" means a state agency or department, special district, joint powers authority, city, county, city and county, or other political subdivision of the state.

(t) "Rainwater" has the meaning set forth in subdivision (c) of Section 10573.

(u) "Secretary" means the Secretary of the Natural Resources Agency.

(v) "Severely disadvantaged community" has the meaning set forth in subdivision (a) of Section 116760.20 of the Health and Safety Code.

(w) "Small community water system" means a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

(x) "State board" means the State Water Resources Control Board.

(y) "State General Obligation Bond Law" means the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code).

(z) "State small water system" has the meaning set forth in subdivision (n) of Section 116275 of the Health and Safety Code.

(aa) "Stormwater" has the meaning set forth in subdivision (e) of Section 10573.

(ab) "Water right" means a legal entitlement authorizing water to be diverted from a specified source and put to a beneficial, nonwasteful use.

CHAPTER 4. GENERAL PROVISIONS

79703. An amount that equals not more than 5 percent of the funds allocated for a grant program pursuant to this division may be used to pay the administrative costs of that program.

79704. Unless otherwise specified, up to 10 percent of funds allocated for each program funded by this division may be expended for planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized under that program. This section shall not otherwise restrict funds ordinarily used by an agency for "preliminary plans," "working drawings," and "construction" as defined in the annual Budget Act for a capital outlay project or grant project. Water quality monitoring data shall be collected and reported to the state board in a manner that is compatible and consistent with surface water monitoring data systems or groundwater monitoring data systems administered by the state

board. Watershed monitoring data shall be collected and reported to the Department of Conservation in a manner that is compatible and consistent with the statewide watershed program administered by the Department of Conservation.

79705. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development or implementation of programs or projects authorized or funded under this division other than Chapter 8 (commencing with Section 79750).

79706. (a) Prior to disbursing grants or loans pursuant to this division, each state agency that receives an appropriation from the funding made available by this division to administer a competitive grant or loan program under this division shall develop and adopt project solicitation and evaluation guidelines. The guidelines shall include monitoring and reporting requirements and may include a limitation on the dollar amount of grants or loans to be awarded. If the state agency has previously developed and adopted project solicitation and evaluation guidelines that comply with the requirements of this subdivision, it may use those guidelines.

(b) Prior to disbursing grants or loans, the state agency shall conduct three public meetings to consider public comments prior to finalizing the guidelines. The state agency shall publish the draft solicitation and evaluation guidelines on its Internet Web site at least 30 days before the public meetings. One meeting shall be conducted at a location in northern California, one meeting shall be conducted at a location in the central valley of California, and one meeting shall be conducted at a location in southern California. Upon adoption, the state agency shall transmit copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature.

79707. It is the intent of the people that:

(a) The investment of public funds pursuant to this division will result in public benefits that address the most critical statewide needs and priorities for public funding.

(b) In the appropriation and expenditure of funding authorized by this division, priority will be given to projects that leverage private, federal, or local funding or produce the greatest public benefit.

(c) A funded project advances the purposes of the chapter from which the project received funding.

(d) In making decisions regarding water resources, state and local water agencies will use the best available science to inform those decisions.

(e) Special consideration will be given to projects that employ new or innovative technology or practices, including decision support tools that support the integration of multiple jurisdictions, including, but not limited to, water supply, flood control, land use, and sanitation.

(f) Evaluation of projects considered for funding pursuant to this division will include review by professionals in the fields relevant to the proposed project.

(g) To the extent practicable, a project supported by funds made available by this division will include signage informing the public that the project received funds from the Water Quality, Supply, and Infrastructure Improvement Act of 2014.

(h) Projects funded with proceeds from this division will be consistent with Division 7 (commencing with Section 13000) of this code and Section 13100 of the Government Code.

(i) Projects funded with proceeds from this division will promote state planning priorities consistent with the provisions of Section 65041.1 of the Government Code and sustainable communities strategies consistent with the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, to the extent feasible.

(j) California's working agricultural and forested landscapes will be preserved wherever possible. To the extent feasible, watershed objectives included in this division should be achieved through use of conservation easements and voluntary landowner participation, including, but not limited to, the use of easements pursuant to Division 10.2 (commencing with Section 10200) and Division 10.4 (commencing with Section 10330) of the Public Resources Code and voluntary habitat credit exchange mechanisms.

79708. (a) The Department of Finance shall provide for an independent audit of expenditures pursuant to this division. The secretary shall publish a list of all program and project expenditures pursuant to this division not less than annually, in written form, and shall post an electronic form of the list on the Natural Resources Agency's Internet Web site.

(b) If an audit, required by statute, of any entity that receives funding authorized by this division is conducted pursuant to state law and reveals any impropriety, the California State Auditor or the Controller may conduct a full audit of any or all of the activities of that entity.

(c) The state agency issuing any grant or loan with funding authorized by this division shall require adequate reporting of the expenditures of the funding from the grant or loan.

(d) Prior to soliciting projects pursuant to this division, state agencies shall submit guidelines to the secretary. The secretary shall verify that the guidelines are consistent with applicable statutes and for all the purposes enumerated in this division. The secretary shall post an electronic form of the guidelines submitted by state agencies and the subsequent verifications on the Natural Resources Agency's Internet Web site.

79709. (a) Funds expended pursuant to this division for the acquisition of a permanent dedication of water shall be in accordance with Section 1707 where the state board specifies that the water is in addition to water that is required for regulatory requirements as provided in subdivision (c) of Section 1707. The expenditure of funds provided by this division may include the initiation of the dedication as a short term or temporary urgency change, that is approved in accordance with Section 1707 and either Chapter 6.6 (commencing with Section 1435) of, or Chapter 10.5 (commencing with Section 1725) of, Part 2 of Division 2, during the period required to prepare any environmental documentation and for approval of permanent dedication.

(b) Funds expended pursuant to this division for the acquisition of long-term transfers of water shall be transfers in accordance with Sections 1735, 1736, and 1737 if the state board, after providing notice and opportunity for a hearing, approves such a petition. Funds expended pursuant to this division shall prioritize permanent transfers. Long-term

transfers shall be for a period of not less than 20 years, except for any water transfers for the benefit of subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

(c) Funds expended pursuant to this division for any acquisition of water shall only be done pursuant to this section and shall only be used for projects that will provide fisheries or ecosystem benefits or improvements that are greater than required applicable environmental mitigation measures or compliance obligations in effect at the time the funds from this division are made available for the project and funds shall not be credited to any measures or obligations, except for any water transfers for the benefit of subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

79710. (a) Funds provided by this division shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities. Those costs shall be the responsibility of the water agencies that benefit from the design, construction, operation, mitigation, or maintenance of those facilities.

(b) To the extent feasible, in implementing subdivision (k) of Section 79731, the Sacramento-San Joaquin Delta Conservancy shall seek to achieve wildlife conservation objectives through projects on public lands or voluntary projects on private lands. Funds available to the Sacramento-San Joaquin Delta Conservancy pursuant to subdivision (k) of Section 79731 may be used, in consultation with the Department of Fish and Wildlife, for payments to landowners for the creation of measurable habitat improvements or other improvements to the condition of endangered or threatened species. The Sacramento-San Joaquin Delta Conservancy may develop and implement a competitive program for habitat enhancements that maximizes voluntary landowner participation in projects that provide measurable and long-lasting habitat or species improvements in the Delta. These funds shall not be used to subsidize or decrease the mitigation obligations of any party.

(c) In implementing subdivision (k) of Section 79731, the Sacramento-San Joaquin Delta Conservancy shall coordinate and consult with the city or county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired and with the Delta Protection Commission. Acquisitions by the Sacramento-San Joaquin Delta Conservancy pursuant to subdivision (k) of Section 79731 shall be from willing sellers only.

79711. (a) This division does not diminish, impair, or otherwise affect in any manner whatsoever any area of origin, watershed of origin, county of origin, or any other water rights protections, including, but not limited to, rights to water appropriated prior to December 19, 1914, provided under the law. This division does not limit or affect the application of Article 1.7 (commencing with Section 1215) of Chapter 1 of Part 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and Sections 12200 to 12220, inclusive.

(b) For the purposes of this division, an area that utilizes water that has been diverted and conveyed from the Sacramento River hydrologic region, for use outside the Sacramento River

hydrologic region or the Delta, shall not be deemed to be immediately adjacent thereto or capable of being conveniently supplied with water therefrom by virtue or on account of the diversion and conveyance of that water through facilities that may be constructed for that purpose after January 1, 2014.

(c) Nothing in this division supersedes, limits, or otherwise modifies the applicability of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2, including petitions related to any new conveyance constructed or operated in accordance with Chapter 2 (commencing with Section 85320) of Part 4 of Division 35.

(d) Unless otherwise expressly provided, nothing in this division supersedes, reduces, or otherwise affects existing legal protections, both procedural and substantive, relating to the state board's regulation of diversion and use of water, including, but not limited to, water right priorities, the protection provided to municipal interests by Sections 106 and 106.5, and changes in water rights. Nothing in this division expands or otherwise alters the state board's existing authority to regulate the diversion and use of water or the courts' existing concurrent jurisdiction over California water rights.

(e) Nothing in this division shall be construed to affect the California Wild and Scenic Rivers Act (Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code) or the federal Wild and Scenic Rivers Act (16 U.S.C. Sec. 1271 et seq.) and funds authorized pursuant to this division shall not be available for any project that could have an adverse effect on the values upon which a wild and scenic river or any other river is afforded protections pursuant to the California Wild and Scenic Rivers Act or the federal Wild and Scenic Rivers Act.

(f) Nothing in this division supersedes, limits, or otherwise modifies the Sacramento-San Joaquin Delta Reform Act of 2009 (Division 35 (commencing with Section 85000)) or any other applicable law, including, but not limited to, Division 22.3 (commencing with Section 32300) of the Public Resources Code.

(g) Funds provided by this division shall not be used to acquire land via eminent domain.

(h) Notwithstanding any other law, any agency acquiring land pursuant to this division may use the Natural Heritage Preservation Tax Credit Act of 2000 (Division 28 (commencing with Section 37000) of the Public Resources Code).

79712. (a) Eligible applicants under this division are public agencies, nonprofit organizations, public utilities, federally recognized Indian tribes, state Indian tribes listed on the Native American Heritage Commission's California Tribal Consultation List, and mutual water companies.

(b) (1) To be eligible for funding under this division, a project proposed by a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors.

(2) To be eligible for funding under this division, an urban water supplier shall adopt and submit an urban water management plan in accordance with the Urban Water Management Planning Act (Part 2.6 (commencing with Section 10610) of Division 6).

1 (3) To be eligible for funding under this division, an agricultural water supplier shall adopt and submit an agricultural water management plan in accordance with the Agricultural Water Management Planning Act (Part 2.8 (commencing with Section 10800) of Division 6).

(4) In accordance with Section 10608.56, an agricultural water supplier or an urban water supplier is ineligible for funding under this division unless it complies with the requirements of Part 2.55 (commencing with Section 10608) of Division 6.

79713. The Legislature may enact legislation necessary to implement programs funded by this division, except as otherwise provided in Section 79760.

79714. (a) Unless otherwise specified, any state agency that has the statutory authority to implement one or more of the purposes specified in this bond may be eligible for appropriations from the funding made available by this division.

(b) Funding made available by this division shall not be appropriated by the Legislature to a specific project.

(c) Projects funded pursuant to this division may use the services of the California Conservation Corps or certified community conservation corps, as defined in Section 14507.5 of the Public Resources Code.

79715. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the Water Quality, Supply, and Infrastructure Improvement Fund of 2014, which is hereby created in the State Treasury.

79716. Each state agency that receives an appropriation of funding made available by this division shall be responsible for establishing metrics of success and reporting the status of projects and all uses of the funding on the state's bond accountability Internet Web site, as provided by statute.

CHAPTER 5. CLEAN, SAFE AND RELIABLE DRINKING WATER

79720. The sum of five hundred twenty million dollars (\$520,000,000) shall be available, upon appropriation by the Legislature from the fund, for expenditures, grants, and loans for projects that improve water quality or help provide clean, safe, and reliable drinking water to all Californians.

79721. The projects eligible for funding pursuant to this chapter shall help improve water quality for a beneficial use. The purposes of this chapter are to:

(a) Reduce contaminants in drinking water supplies regardless of the source of the water or the contamination.

(b) Assess and prioritize the risk of contamination to drinking water supplies.

(c) Address the critical and immediate needs of disadvantaged, rural, or small communities that suffer from contaminated drinking water supplies, including, but not limited to, projects that address a public health emergency.

(d) Leverage other private, federal, state, and local drinking water quality and wastewater treatment funds.

(e) Reduce contaminants in discharges to, and improve the quality of, waters of the state.

(f) Prevent further contamination of drinking water supplies.

(g) Provide disadvantaged communities with public drinking water infrastructure that provides clean, safe, and reliable drinking water supplies that the community can sustain over the long term.

(h) Ensure access to clean, safe, reliable, and affordable drinking water for California's communities.

(i) Meet primary and secondary safe drinking water standards or remove contaminants identified by the state or federal government for development of a primary or secondary drinking water standard.

79722. The contaminants that may be addressed with funding pursuant to this chapter may include, but shall not be limited to, nitrates, perchlorate, MTBE (methyl tertiary butyl ether), arsenic, selenium, hexavalent chromium, mercury, PCE (perchloroethylene), TCE (trichloroethylene), DCE (dichloroethene), DCA (dichloroethane), 1,2,3-TCP (trichloropropane), carbon tetrachloride, 1,4-dioxane, 1,4-dioxacyclohexane, nitrosodimethylamine, bromide, iron, manganese, and uranium.

79723. Of the funds authorized by Section 79720, two hundred sixty million dollars (\$260,000,000) shall be available for deposit in the State Water Pollution Control Revolving Fund Small Community Grant Fund created pursuant to Section 13477.6 for grants for wastewater treatment projects. Priority shall be given to projects that serve disadvantaged communities and severely disadvantaged communities, and to projects that address public health hazards. Projects may include, but not be limited to, projects that identify, plan, design, and implement regional mechanisms to consolidate wastewater systems or provide affordable treatment technologies.

79724. (a) (1) Of the funds authorized by Section 79720, two hundred sixty million dollars (\$260,000,000) shall be available for grants and loans for public water system infrastructure improvements and related actions to meet safe drinking water standards, ensure affordable drinking water, or both. Priority shall be given to projects that provide treatment for contamination or access to an alternate drinking water source or sources for small community water systems or state small water systems in disadvantaged communities whose drinking water source is impaired by chemical and nitrate contaminants and other health hazards identified by the state board. Eligible recipients serve disadvantaged communities and are public water systems or public agencies. The state board may make grants for the purpose of financing feasibility studies and to meet the eligibility requirements for a construction grant. Eligible expenses may include initial operation and maintenance costs for systems serving disadvantaged communities. Priority shall be given to projects that provide shared solutions for multiple communities, at least one of which is a disadvantaged community that lacks safe, affordable drinking water and is served by a small community water system, state small water system, or a private well. Construction grants shall be limited to five million dollars (\$5,000,000) per project, except that the state board may set a limit of not more than twenty million dollars (\$20,000,000) for projects that provide regional benefits or are shared among multiple entities, at least one of which shall be a small disadvantaged community. Not more than 25 percent of a grant may be awarded in advance of actual expenditures.

(2) For the purposes of this subdivision, "initial operation and maintenance costs" means those initial, eligible, and

reimbursable costs under a construction funding agreement that are incurred up to, and including, initial startup testing of the constructed project in order to deem the project complete. Initial operation and maintenance costs are eligible to receive funding pursuant to this section for a period not to exceed two years.

(b) The administering entity may expend up to twenty-five million dollars (\$25,000,000) of the funds allocated in subdivision (a) for technical assistance to eligible communities.

(c) The state board shall deposit up to two million five hundred thousand dollars (\$2,500,000) of the funds available pursuant to this section into the Drinking Water Capital Reserve Fund, which is hereby created in the State Treasury. Moneys in the Drinking Water Capital Reserve Fund shall be available, upon appropriation by the Legislature, and shall be administered by the state board for the purpose of serving as matching funds for disadvantaged communities. The state board shall develop criteria to implement this subdivision.

79725. (a) For the purposes of awarding funding under this chapter, a local cost share of not less than 50 percent of the total costs of the project shall be required. The cost-sharing requirement may be waived or reduced for projects that directly benefit a disadvantaged community or an economically distressed area.

(b) At least 10 percent of the funds available pursuant to this chapter shall be allocated for projects serving severely disadvantaged communities.

(c) Up to 15 percent of the funds available pursuant to this chapter may be allocated for technical assistance to disadvantaged communities. The agency administering this funding shall operate a multidisciplinary technical assistance program for small and disadvantaged communities.

(d) Funding for planning activities, including technical assistance, to benefit disadvantaged communities may exceed 15 percent of the funds allocated, subject to the determination of the need for additional planning funding by the state agency administering the funding.

CHAPTER 6. PROTECTING RIVERS, LAKES, STREAMS, COASTAL WATERS, AND WATERSHEDS

79730. The sum of one billion four hundred ninety-five million dollars (\$1,495,000,000) shall be available, upon appropriation by the Legislature from the fund, in accordance with this chapter, for competitive grants for multibenefit ecosystem and watershed protection and restoration projects in accordance with statewide priorities.

79731. Of the funds authorized by Section 79730, the sum of three hundred twenty-seven million five hundred thousand dollars (\$327,500,000) shall be allocated for multibenefit water quality, water supply, and watershed protection and restoration projects for the watersheds of the state in accordance with the following schedule:

(a) Baldwin Hills Conservancy, ten million dollars (\$10,000,000).

(b) California Tahoe Conservancy, fifteen million dollars (\$15,000,000).

(c) Coachella Valley Mountains Conservancy, ten million dollars (\$10,000,000).

(d) Ocean Protection Council, thirty million dollars (\$30,000,000).

(e) San Diego River Conservancy, seventeen million dollars (\$17,000,000).

(f) San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, thirty million dollars (\$30,000,000).

(g) San Joaquin River Conservancy, ten million dollars (\$10,000,000).

(h) Santa Monica Mountains Conservancy, thirty million dollars (\$30,000,000).

(i) Sierra Nevada Conservancy, twenty-five million dollars (\$25,000,000).

(j) State Coastal Conservancy, one hundred million five hundred thousand dollars (\$100,500,000). Eligible watersheds for the funds allocated pursuant to this subdivision include, but are not limited to, those that are in the San Francisco Bay Conservancy region, the Santa Ana River watershed, the Tijuana River watershed, the Otay River watershed, Catalina Island, and the central coast region.

(k) Sacramento-San Joaquin Delta Conservancy, fifty million dollars (\$50,000,000).

79732. (a) In protecting and restoring California rivers, lakes, streams, and watersheds, the purposes of this chapter are to:

(1) Protect and increase the economic benefits arising from healthy watersheds, fishery resources, and instream flow.

(2) Implement watershed adaptation projects in order to reduce the impacts of climate change on California's communities and ecosystems.

(3) Restore river parkways throughout the state, including, but not limited to, projects pursuant to the California River Parkways Act of 2004 (Chapter 3.8 (commencing with Section 5750) of Division 5 of the Public Resources Code), in the Urban Streams Restoration Program established pursuant to Section 7048, and urban river greenways.

(4) Protect and restore aquatic, wetland, and migratory bird ecosystems, including fish and wildlife corridors and the acquisition of water rights for instream flow.

(5) Fulfill the obligations of the State of California in complying with the terms of multiparty settlement agreements related to water resources.

(6) Remove barriers to fish passage.

(7) Collaborate with federal agencies in the protection of fish native to California and wetlands in the central valley of California.

(8) Implement fuel treatment projects to reduce wildfire risks, protect watersheds tributary to water storage facilities, and promote watershed health.

(9) Protect and restore rural and urban watershed health to improve watershed storage capacity, forest health, protection of life and property, stormwater resource management, and greenhouse gas reduction.

(10) Protect and restore coastal watersheds, including, but not limited to, bays, marine estuaries, and nearshore ecosystems.

(11) Reduce pollution or contamination of rivers, lakes, streams, or coastal waters, prevent and remediate mercury contamination from legacy mines, and protect or restore natural system functions that contribute to water supply, water quality, or flood management.

1 (12) Assist in the recovery of endangered, threatened, or migratory species by improving watershed health, instream flows, fish passage, coastal or inland wetland restoration, or other means, such as natural community conservation plan and habitat conservation plan implementation.

(13) Assist in water-related agricultural sustainability projects.

(b) Funds provided by this chapter shall only be used for projects that will provide fisheries or ecosystem benefits or improvements that are greater than required applicable environmental mitigation measures or compliance obligations.

79733. Of the funds made available by Section 79730, the sum of two hundred million dollars (\$200,000,000) shall be administered by the Wildlife Conservation Board for projects that result in enhanced stream flows.

79734. For restoration and ecosystem protection projects under this chapter, the services of the California Conservation Corps or a local conservation corps certified by the California Conservation Corps shall be used whenever feasible.

79735. (a) Of the funds authorized by Section 79730, one hundred million dollars (\$100,000,000) shall be available, upon appropriation by the Legislature, for projects to protect and enhance an urban creek, as defined in subdivision (e) of Section 7048, and its tributaries, pursuant to Division 22.8 (commencing with Section 32600) of, and Division 23 (commencing with Section 33000) of, the Public Resources Code and Section 79508.

(b) (1) Of the funds authorized by Section 79730, twenty million dollars (\$20,000,000) shall be made available to the secretary for a competitive program to fund multibenefit watershed and urban rivers enhancement projects in urban watersheds that increase regional and local water self-sufficiency and that meet at least two of the following objectives:

(A) Promote groundwater recharge and water reuse.

(B) Reduce energy consumption.

(C) Use soils, plants, and natural processes to treat runoff.

(D) Create or restore native habitat.

(E) Increase regional and local resiliency and adaptability to climate change.

(2) The program under this subdivision shall be implemented by state conservancies, the Wildlife Conservation Board, the state board, or other entities whose jurisdiction includes urban watersheds, as designated by the secretary. Projects funded under the program shall be a part of a plan developed jointly by the conservancies, the Wildlife Conservation Board, the state board, or other designated entities in consultation with the secretary.

(c) At least 25 percent of the funds available pursuant to this section shall be allocated for projects that benefit disadvantaged communities.

(d) Up to 10 percent of the funds available pursuant to this section may be allocated for project planning.

79736. Of the funds authorized by Section 79730, four hundred seventy-five million dollars (\$475,000,000) shall be available to the Natural Resources Agency to support projects that fulfill the obligations of the State of California in complying with the terms of any of the following:

(a) Subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

(b) Interstate compacts set forth in Section 66801 of the Government Code pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.

(c) Intrastate or multiparty water quantification settlement agreement provisions, including ecosystem restoration projects, as set forth in Chapters 611, 612, 613, and 614 of the Statutes of 2003.

(d) The settlement agreement referenced in Section 2080.2 of the Fish and Game Code.

(e) Any intrastate or multiparty settlement agreement related to water acted upon or before December 31, 2013. Priority shall be given to projects that meet one or more of the following criteria:

(1) The project is of statewide significance.

(2) The project restores natural aquatic or riparian functions, or wetlands habitat for birds and aquatic species.

(3) The project protects or promotes the restoration of endangered or threatened species.

(4) The project enhances the reliability of water supplies on a regional or interregional basis.

(5) The project provides significant regional or statewide economic benefits.

79737. (a) Of the funds authorized by Section 79730, two hundred eighty-five million dollars (\$285,000,000) shall be available to the Department of Fish and Wildlife for watershed restoration projects statewide in accordance with this chapter.

(b) For the purposes of this section, watershed restoration includes activities to fund coastal wetland habitat, improve forest health, restore mountain meadows, modernize stream crossings, culverts, and bridges, reconnect historical flood plains, install or improve fish screens, provide fish passages, restore river channels, restore or enhance riparian, aquatic, and terrestrial habitat, improve ecological functions, acquire from willing sellers conservation easements for riparian buffer strips, improve local watershed management, and remove sediment or trash.

(c) For any funds available pursuant to this section that are used to provide grants under the Fisheries Restoration Grant Program, a priority shall be given to coastal waters.

(d) In allocating funds for projects pursuant to this section, the Department of Fish and Wildlife shall only make funds available for water quality, river, and watershed protection and restoration projects of statewide importance outside of the Delta.

(e) Funds provided by this section shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities.

(f) Funds provided by this section shall only be used for projects that will provide fisheries or ecosystem benefits or improvements that are greater than required applicable environmental mitigation measures or compliance obligations, except for any water transfers for the benefit of subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

79738. (a) Of the funds authorized by Section 79730, eighty-seven million five hundred thousand dollars (\$87,500,000) shall be available to the Department of Fish and Wildlife for water quality, ecosystem restoration, and fish

protection facilities that benefit the Delta, including, but not limited to, the following:

(1) Projects to improve water quality or that contribute to the improvement of water quality in the Delta, including projects in Delta counties that provide multiple public benefits and improve drinking and agricultural water quality or water supplies.

(2) Habitat restoration, conservation, and enhancement projects to improve the condition of special status, at risk, endangered, or threatened species in the Delta and the Delta counties, including projects to eradicate invasive species, and projects that support the beneficial reuse of dredged material for habitat restoration and levee improvements.

(3) Scientific studies and assessments that support the Delta Science Program, as described in Section 85280, or projects under this section.

(b) In implementing this section, the department shall coordinate and consult with the Delta city or Delta county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired.

(c) Acquisitions pursuant to this section shall be from willing sellers only.

(d) In implementing this section state agencies shall prioritize wildlife conservation objectives through projects on public lands or voluntary projects on private lands, to the extent feasible.

(e) Funds available pursuant to this section shall not be used to acquire land via eminent domain.

(f) Funds available pursuant to this section shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities.

CHAPTER 7. REGIONAL WATER SECURITY, CLIMATE, AND DROUGHT PREPAREDNESS

79740. The sum of eight hundred ten million dollars (\$810,000,000) shall be available, upon appropriation by the Legislature from the fund, for expenditures on, and competitive grants and loans to, projects that are included in and implemented in an adopted integrated regional water management plan consistent with Part 2.2 (commencing with Section 10530) of Division 6 and respond to climate change and contribute to regional water security as provided in this chapter.

79741. In order to improve regional water self-reliance security and adapt to the effects on water supply arising out of climate change, the purposes of this chapter are to:

(a) Help water infrastructure systems adapt to climate change, including, but not limited to, sea level rise.

(b) Provide incentives for water agencies throughout each watershed to collaborate in managing the region's water resources and setting regional priorities for water infrastructure.

(c) Improve regional water self-reliance consistent with Section 85021.

79742. (a) In selecting among proposed projects in a watershed, the scope of the adopted integrated regional water management plan may be considered by the administering state agency, with priority going to projects in plans that cover a greater portion of the watershed. If a plan covers substantially all of the watershed, the plan's project priorities shall be given deference if the project and plan otherwise meet the requirements

of this division and the Integrated Regional Water Management Planning Act (Part 2.2 (commencing with Section 10530) of Division 6).

(b) A local agency that does not prepare, adopt, and submit its groundwater plan in accordance with groundwater planning requirements established under Division 6 (commencing with Section 10000) is ineligible to apply for funds made available pursuant to this chapter until the plan is prepared and submitted in accordance with the requirements of that part. The groundwater management plan requirement shall not apply to a water replenishment district formed pursuant to Division 18 (commencing with Section 60000) or to a local agency that serves or has authority to manage an adjudicated groundwater basin.

(c) For the purposes of awarding funding under this chapter, a cost share from nonstate sources of not less than 50 percent of the total costs of the project shall be required. The cost-sharing requirement may be waived or reduced for projects that directly benefit a disadvantaged community or an economically distressed area.

(d) Not less than 10 percent of the funds authorized by this chapter shall be allocated to projects that directly benefit disadvantaged communities.

(e) For the purposes of awarding funding under this chapter, the applicant shall demonstrate that the integrated regional water management plan the applicant's project implements contributes to addressing the risks in the region to water supply and water infrastructure arising from climate change.

(f) Projects that achieve multiple benefits shall receive special consideration.

79743. Subject to the determination of regional priorities in the regional water management group, eligible projects may include, but are not limited to, projects that promote any of the following:

(a) Water reuse and recycling for nonpotable reuse and direct and indirect potable reuse.

(b) Water-use efficiency and water conservation.

(c) Local and regional surface and underground water storage, including groundwater aquifer cleanup or recharge projects.

(d) Regional water conveyance facilities that improve integration of separate water systems.

(e) Watershed protection, restoration, and management projects, including projects that reduce the risk of wildfire or improve water supply reliability.

(f) Stormwater resource management, including, but not limited to, the following:

(1) Projects to reduce, manage, treat, or capture rainwater or stormwater.

(2) Projects that provide multiple benefits such as water quality, water supply, flood control, or open space.

(3) Decision support tools that evaluate the benefits and costs of multibenefit stormwater projects.

(4) Projects to implement a stormwater resource plan developed in accordance with Part 2.3 (commencing with Section 10560) of Division 6.

(g) Conjunctive use of surface and groundwater storage facilities.

(h) Water desalination projects.

(i) Decision support tools to model regional water management strategies to account for climate change and other changes in regional demand and supply projections.

(j) Improvement of water quality, including drinking water treatment and distribution, groundwater and aquifer remediation, matching water quality to water use, wastewater treatment, water pollution prevention, and management of urban and agricultural runoff.

79744. (a) Of the funds authorized by Section 79740, five hundred ten million dollars (\$510,000,000) shall be allocated to the hydrologic regions as identified in the California Water Plan in accordance with this section. For the South Coast hydrologic region, the department shall establish three funding areas that reflect the watersheds of San Diego County and southern Orange County (designated as the San Diego subregion), the Santa Ana River watershed (designated as the Santa Ana subregion), and the Los Angeles and Ventura County watersheds (designated as the Los Angeles subregion), and shall allocate funds to those areas in accordance with this subdivision. The North and South Lahontan hydrologic regions shall be treated as one area for the purpose of allocating funds. For purposes of this subdivision, the Sacramento River hydrologic region does not include the Delta. For purposes of this subdivision, the Mountain Counties Overlay is not eligible for funds from the Sacramento River hydrologic region or the San Joaquin River hydrologic region. Multiple integrated regional water management plans may be recognized in each of the areas allocated funding.

(b) Funds made available by this chapter shall be allocated as follows:

(1) Twenty-six million five hundred thousand dollars (\$26,500,000) for the North Coast hydrologic region.

(2) Sixty-five million dollars (\$65,000,000) for the San Francisco Bay hydrologic region.

(3) Forty-three million dollars (\$43,000,000) for the Central Coast hydrologic region.

(4) Ninety-eight million dollars (\$98,000,000) for the Los Angeles subregion.

(5) Sixty-three million dollars (\$63,000,000) for the Santa Ana subregion.

(6) Fifty-two million five hundred thousand dollars (\$52,500,000) for the San Diego subregion.

(7) Thirty-seven million dollars (\$37,000,000) for the Sacramento River hydrologic region.

(8) Thirty-one million dollars (\$31,000,000) for the San Joaquin River hydrologic region.

(9) Thirty-four million dollars (\$34,000,000) for the Tulare/Kern hydrologic region.

(10) Twenty-four million five hundred thousand dollars (\$24,500,000) for the North/South Lahontan hydrologic region.

(11) Twenty-two million five hundred thousand dollars (\$22,500,000) for the Colorado River Basin hydrologic region.

(12) Thirteen million dollars (\$13,000,000) for the Mountain Counties Overlay.

79745. The Department of Water Resources shall expend, either directly or for noncompetitive grants, no less than

10 percent of the funds from the regional allocations specified in Section 79744 for the purposes of ensuring involvement of disadvantaged communities, economically distressed areas, or underrepresented communities within regions.

79746. (a) Of the funds authorized by Section 79740, the sum of one hundred million dollars (\$100,000,000) may be used for direct expenditures, and for grants and loans, for the following water conservation and water-use efficiency plans, projects, and programs:

(1) Urban water conservation plans, projects, and programs, including regional projects and programs, implemented to achieve urban water use targets developed pursuant to Section 10608.20. Priority for funding shall be given to programs that do any of the following:

(A) Assist water suppliers and regions to implement conservation programs and measures that are not locally cost effective.

(B) Support water supplier and regional efforts to implement programs targeted to enhance water-use efficiency for commercial, industrial, and institutional water users.

(C) Assist water suppliers and regions with programs and measures targeted toward realizing the conservation benefits of implementation of the provisions of the state landscape model ordinance.

(2) Agricultural water management plans or agricultural water use efficiency projects and programs developed pursuant to Part 2.8 (commencing with Section 10800) of Division 6.

(b) Section 1011 applies to all conservation measures that an agricultural water supplier or an urban water supplier implements with funding under this chapter. This subdivision does not limit the application of Section 1011 to any other measures or projects implemented by a water supplier. Notwithstanding Section 79748, the projects funded pursuant to this section are not required to be in an adopted integrated regional water management plan or to comply with that program.

79747. (a) Of the funds authorized by Section 79740, two hundred million dollars (\$200,000,000) shall be available for grants for multibenefit stormwater management projects.

(b) Eligible projects may include, but shall not be limited to, green infrastructure, rainwater and stormwater capture projects, and stormwater treatment facilities.

(c) Development of plans for stormwater projects shall address the entire watershed and incorporate the perspectives of communities adjacent to the affected waterways, especially disadvantaged communities.

79748. In order to receive funding authorized by this chapter to address groundwater quality or supply in an aquifer, the applicant shall demonstrate that a public agency has authority to manage the water resources in that aquifer. A groundwater management plan adopted and submitted in accordance with groundwater management planning requirements established under Division 6 (commencing with Section 10000) shall be deemed sufficient to satisfy the requirements of this section.

CHAPTER 8. STATEWIDE WATER SYSTEM OPERATIONAL
IMPROVEMENT AND DROUGHT PREPAREDNESS

79750. (a) Notwithstanding Section 162, the commission may make the determinations, findings, and recommendations required of it by this chapter independent of the views of the director. All final actions by the commission in implementing this chapter shall be taken by a majority of the members of the commission at a public meeting noticed and held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(b) Notwithstanding Section 13340 of the Government Code, the sum of two billion seven hundred million dollars (\$2,700,000,000) is hereby continuously appropriated from the fund, without regard to fiscal years, to the commission for public benefits associated with water storage projects that improve the operation of the state water system, are cost effective, and provide a net improvement in ecosystem and water quality conditions, in accordance with this chapter. Funds authorized for, or made available to, the commission pursuant to this chapter shall be available and expended only for the purposes provided in this chapter, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose.

(c) Projects shall be selected by the commission through a competitive public process that ranks potential projects based on the expected return for public investment as measured by the magnitude of the public benefits provided, pursuant to criteria established under this chapter.

(d) Any project constructed with funds provided by this chapter shall be subject to Section 11590.

79751. Projects for which the public benefits are eligible for funding under this chapter consist of only the following:

(a) Surface storage projects identified in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, except for projects prohibited by Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code.

(b) Groundwater storage projects and groundwater contamination prevention or remediation projects that provide water storage benefits.

(c) Conjunctive use and reservoir reoperation projects.

(d) Local and regional surface storage projects that improve the operation of water systems in the state and provide public benefits.

79752. A project shall not be funded pursuant to this chapter unless it provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta.

79753. (a) Funds allocated pursuant to this chapter may be expended solely for the following public benefits associated with water storage projects:

(1) Ecosystem improvements, including changing the timing of water diversions, improvement in flow conditions, temperature, or other benefits that contribute to restoration of aquatic ecosystems and native fish and wildlife, including those ecosystems and fish and wildlife in the Delta.

(2) Water quality improvements in the Delta, or in other river systems, that provide significant public trust resources, or that clean up and restore groundwater resources.

(3) Flood control benefits, including, but not limited to, increases in flood reservation space in existing reservoirs by exchange for existing or increased water storage capacity in response to the effects of changing hydrology and decreasing snow pack on California's water and flood management system.

(4) Emergency response, including, but not limited to, securing emergency water supplies and flows for dilution and salinity repulsion following a natural disaster or act of terrorism.

(5) Recreational purposes, including, but not limited to, those recreational pursuits generally associated with the outdoors.

(b) Funds shall not be expended pursuant to this chapter for the costs of environmental mitigation measures or compliance obligations except for those associated with providing the public benefits as described in this section.

79754. In consultation with the Department of Fish and Wildlife, the state board, and the Department of Water Resources, the commission shall develop and adopt, by regulation, methods for quantification and management of public benefits described in Section 79753 by December 15, 2016. The regulations shall include the priorities and relative environmental value of ecosystem benefits as provided by the Department of Fish and Wildlife and the priorities and relative environmental value of water quality benefits as provided by the state board.

79755. (a) Except as provided in subdivision (c), no funds allocated pursuant to this chapter may be allocated for a project before December 15, 2016, and until the commission approves the project based on the commission's determination that all of the following have occurred:

(1) The commission has adopted the regulations specified in Section 79754 and specifically quantified and made public the cost of the public benefits associated with the project.

(2) The project applicant has entered into a contract with each party that will derive benefits, other than public benefits, as defined in Section 79753, from the project that ensures the party will pay its share of the total costs of the project. The benefits available to a party shall be consistent with that party's share of total project costs.

(3) The project applicant has entered into a contract with each public agency identified in Section 79754 that administers the public benefits, after that agency makes a finding that the public benefits of the project for which that agency is responsible meet all the requirements of this chapter, to ensure that the public contribution of funds pursuant to this chapter achieves the public benefits identified for the project.

(4) The commission has held a public hearing for the purposes of providing an opportunity for the public to review and comment on the information required to be prepared pursuant to this subdivision.

(5) All of the following additional conditions are met:

(A) Feasibility studies have been completed.

(B) The commission has found and determined that the project is feasible, is consistent with all applicable laws and regulations, and will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta.

1 (C) All environmental documentation associated with the project has been completed, and all other federal, state, and local approvals, certifications, and agreements required to be completed have been obtained.

(b) The commission shall submit to the Legislature its findings for each of the criteria identified in subdivision (a) for a project funded pursuant to this chapter.

(c) Notwithstanding subdivision (a), funds may be made available under this chapter for the completion of environmental documentation and permitting of a project.

79756. (a) The public benefit cost share of a project funded pursuant to this chapter, other than a project described in subdivision (c) of Section 79751, shall not exceed 50 percent of the total costs of any project funded under this chapter.

(b) No project may be funded unless it provides ecosystem improvements as described in paragraph (1) of subdivision (a) of Section 79753 that are at least 50 percent of total public benefits of the project funded under this chapter.

79757. (a) A project is not eligible for funding under this chapter unless, by January 1, 2022, all of the following conditions are met:

(1) All feasibility studies are complete and draft environmental documentation is available for public review.

(2) The commission makes a finding that the project is feasible, and will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta.

(3) The director receives commitments for not less than 75 percent of the nonpublic benefit cost share of the project.

(b) If compliance with subdivision (a) is delayed by litigation or failure to promulgate regulations, the date in subdivision (a) shall be extended by the commission for a time period that is equal to the time period of the delay, and funding under this chapter that has been dedicated to the project shall be encumbered until the time at which the litigation is completed or the regulations have been promulgated.

79758. Surface storage projects funded pursuant to this chapter and described in subdivision (a) of Section 79751 may be made a unit of the Central Valley Project as provided in Section 11290 and may be financed, acquired, constructed, operated, and maintained pursuant to Part 3 (commencing with Section 11100) of Division 6.

79759. (a) The funds allocated for the design, acquisition, and construction of surface storage projects identified in the CALFED Bay-Delta Record of Decision, dated August 28, 2000, pursuant to this chapter may be provided for those purposes to local joint powers authorities formed by irrigation districts and other local water districts and local governments within the applicable hydrologic region to design, acquire, and construct those projects.

(b) The joint powers authorities described in subdivision (a) may include in their membership governmental partners that are not located within their respective hydrologic regions in financing the surface storage projects, including, as appropriate, cost share participation or equity participation. Notwithstanding Section 6525 of the Government Code, the joint powers agencies described in subdivision (a) shall not include in their membership any for-profit corporation or any mutual water company whose

shareholders and members include a for-profit corporation or any other private entity. The department shall be an ex officio member of each joint powers authority subject to this section, but the department shall not control the governance, management, or operation of the surface water storage projects.

(c) A joint powers authority subject to this section shall own, govern, manage, and operate a surface water storage project, subject to the requirement that the ownership, governance, management, and operation of the surface water storage project shall advance the purposes set forth in this chapter.

79760. (a) In approving the Water Quality, Supply, and Infrastructure Improvement Act of 2014, the people were informed and hereby declare that the provisions of this chapter are necessary, integral, and essential to meeting the single object or work of the Water Quality, Supply, and Infrastructure Improvement Act of 2014. As such, any amendment of the provisions of this chapter by the Legislature without voter approval would frustrate the scheme and design that induced voter approval of this act. The people therefore find and declare that any amendment of the provisions of this chapter by the Legislature shall require an affirmative vote of two-thirds of the membership in each house of the Legislature and voter approval.

(b) This section shall not govern or be used as authority for determining whether the amendment of any other provision of this act not contained in this chapter would constitute a substantial change in the scheme and design of this act requiring voter approval.

CHAPTER 9. WATER RECYCLING

79765. The sum of seven hundred twenty-five million dollars (\$725,000,000) shall be available, upon appropriation by the Legislature from the fund, for grants or loans for water recycling and advanced treatment technology projects, including all of the following:

(a) Water recycling projects, including, but not limited to, treatment, storage, conveyance, and distribution facilities for potable and nonpotable recycling projects.

(b) Contaminant and salt removal projects, including, but not limited to, groundwater and seawater desalination and associated treatment, storage, conveyance, and distribution facilities.

(c) Dedicated distribution infrastructure to serve residential, commercial, agricultural, and industrial end-user retrofit projects to allow use of recycled water.

(d) Pilot projects for new potable reuse and other salt and contaminant removal technology.

(e) Multibenefit recycled water projects that improve water quality.

(f) Technical assistance and grant writing assistance for disadvantaged communities.

79766. At least a 50-percent local cost share shall be required for projects funded pursuant to this chapter. That cost share may be suspended or reduced for disadvantaged communities and economically distressed areas.

79767. Projects funded pursuant to this chapter shall be selected on a competitive basis, considering all of the following criteria:

(a) Water supply reliability improvement.

(b) Water quality and ecosystem benefits related to decreased reliance on diversions from the Delta or instream flows.

(c) Public health benefits from improved drinking water quality or supply.

(d) Cost-effectiveness.

(e) Energy efficiency and greenhouse gas emission impacts.

(f) Reasonable geographic allocation to eligible projects throughout the state, including both northern and southern California and coastal and inland regions.

79768. For purposes of this chapter, competitive programs shall be implemented consistent with water recycling programs administered pursuant to Sections 79140 and 79141 or consistent with desalination programs administered pursuant to Sections 79545 and 79547.2.

CHAPTER 10. GROUNDWATER SUSTAINABILITY

79770. Prevention and cleanup of groundwater contamination are critical components of successful groundwater management. Groundwater quality becomes especially important as water providers do the following:

(a) Evaluate investments in groundwater recharge with surface water, stormwater, recycled water, and other conjunctive use projects that augment local groundwater supplies to improve regional water self-reliance.

(b) Adapt to changing hydrologic conditions brought on by climate change.

(c) Consider developing groundwater basins to provide much needed local storage options to accommodate hydrologic and regulatory variability in the state's water delivery system.

(d) Evaluate investments in groundwater recovery projects.

79771. (a) The sum of nine hundred million dollars (\$900,000,000) shall be available, upon appropriation by the Legislature from the fund, for expenditures on, and competitive grants, and loans for, projects to prevent or clean up the contamination of groundwater that serves or has served as a source of drinking water. Funds appropriated pursuant to this section shall be available to the state board for projects necessary to protect public health by preventing or reducing the contamination of groundwater that serves or has served as a major source of drinking water for a community.

(b) Projects shall be prioritized based upon the following criteria:

(1) The threat posed by groundwater contamination to the affected community's overall drinking water supplies, including an urgent need for treatment of alternative supplies or increased water imports if groundwater is not available due to contamination.

(2) The potential for groundwater contamination to spread and impair drinking water supply and water storage for nearby population areas.

(3) The potential of the project, if fully implemented, to enhance local water supply reliability.

(4) The potential of the project to maximize opportunities to recharge vulnerable, high-use groundwater basins and optimize groundwater supplies.

(5) The project addresses contamination at a site for which the courts or the appropriate regulatory authority has not yet identified responsible parties, or where the identified responsible parties are unwilling or unable to pay for the total cost of

cleanup, including water supply reliability improvement for critical urban water supplies in designated superfund areas with groundwater contamination listed on the National Priorities List established pursuant to Section 105(a)(8)(B) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9605(a)(8)(B)).

(c) Funding authorized by this chapter shall not be used to pay any share of the costs of remediation recovered from parties responsible for the contamination of a groundwater storage aquifer, but may be used to pay costs that cannot be recovered from responsible parties. Parties that receive funding for remediating groundwater storage aquifers shall exercise reasonable efforts to recover the costs of groundwater cleanup from the parties responsible for the contamination. Funds recovered from responsible parties may only be used to fund treatment and remediation activities.

79772. Of the funds authorized by Section 79771, eighty million dollars (\$80,000,000) shall be available for grants for treatment and remediation activities that prevent or reduce the contamination of groundwater that serves as a source of drinking water.

79773. The contaminants that may be addressed with funding pursuant to this chapter may include, but shall not be limited to, nitrates, perchlorate, MTBE (methyl tertiary butyl ether), arsenic, selenium, hexavalent chromium, mercury, PCE (perchloroethylene), TCE (trichloroethylene), DCE (dichloroethene), DCA (dichloroethane), 1,2,3-TCP (trichloropropane), carbon tetrachloride, 1,4-dioxane, 1,4-dioxacyclohexane, nitrosodimethylamine, bromide, iron, manganese, and uranium.

79774. (a) A project that receives funding pursuant to this chapter shall be selected by a competitive grant or loan process with added consideration for those projects that leverage private, federal, or local funding.

(b) For the purposes of awarding funding under this chapter, a local cost share of not less than 50 percent of the total costs of the project shall be required. The cost-sharing requirement may be waived or reduced for projects that directly benefit a disadvantaged community or an economically distressed area.

(c) An agency administering grants or loans for the purposes of this chapter shall assess the capacity of a community to pay for the operation and maintenance of the facility to be funded.

(d) At least 10 percent of the funds available pursuant to this chapter shall be allocated for projects serving severely disadvantaged communities.

(e) Funding authorized by this chapter shall include funding for technical assistance to disadvantaged communities. The agency administering this funding shall operate a multidisciplinary technical assistance program for small and disadvantaged communities.

79775. Of the funds authorized by Section 79771, one hundred million dollars (\$100,000,000) shall be made available for competitive grants for projects that develop and implement groundwater plans and projects in accordance with groundwater planning requirements established under Division 6 (commencing with Section 10000).

CHAPTER 11. FLOOD MANAGEMENT

1 79780. The sum of three hundred ninety-five million dollars (\$395,000,000) shall be available, upon appropriation by the Legislature from the fund, to the Department of Water Resources and the Central Valley Flood Protection Board for the purpose of statewide flood management projects and activities. Funds shall be allocated to multibenefit projects that achieve public safety and include fish and wildlife habitat enhancement. The Department of Water Resources shall make its best effort to coordinate this funding with proceeds from Propositions 84 and 1E.

79781. Of the funds authorized by Section 79780, two hundred ninety-five million dollars (\$295,000,000) shall be available to reduce the risk of levee failure and flood in the Delta for any of the following:

(a) Local assistance under the Delta levee maintenance subventions program pursuant to Part 9 (commencing with Section 12980) of Division 6, as that part may be amended.

(b) Special flood protection projects pursuant to Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6, as that chapter may be amended.

(c) Levee improvement projects that increase the resiliency of levees within the Delta to withstand earthquake, flooding, or sea level rise.

(d) Emergency response and repair projects.

CHAPTER 12. FISCAL PROVISIONS

79785. (a) Bonds in the total amount of seven billion one hundred twenty million dollars (\$7,120,000,000), and any additional bonds authorized, issued, and appropriated in accordance with this division pursuant to other provisions of law, or so much thereof as is necessary, not including the amount of any refunding bonds issued in accordance with Section 79797 may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this division and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.

79786. The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, as that law may be amended, apply to the bonds and to this division, except subdivisions (a) and (b) of Section 16727 of the Government Code to the extent that those subdivisions conflict with any other provision of this division.

79787. (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of

Part 3 of Division 4 of Title 2 of the Government Code) of the bonds authorized by this division, the Water Quality, Supply, and Infrastructure Improvement Finance Committee is hereby created. For purposes of this division, the Water Quality, Supply, and Infrastructure Improvement Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law.

(b) The committee consists of the Director of Finance, the Treasurer, and the Controller. Notwithstanding any other provision of law, any member may designate a representative to act as that member in his or her place for all purposes, as though the member were personally present.

(c) The Treasurer shall serve as chairperson of the committee.

(d) A majority of the committee may act for the committee.

79788. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized by this division in order to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

79789. For purposes of the State General Obligation Bond Law, "board," as defined in Section 16722 of the Government Code, means the secretary.

79790. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

79791. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this division, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum that is necessary to carry out the provisions of Section 79794, appropriated without regard to fiscal years.

79792. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purpose of carrying out this division less any amount withdrawn pursuant to Section 79794. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this division. The board shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated in accordance with this division.

79793. Notwithstanding any other provision of this division, or of the State General Obligation Bond Law, if the Treasurer sells bonds that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions or is

otherwise entitled to any federal tax advantage, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

79794. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this division less any amount borrowed pursuant to Section 79792. Any amounts withdrawn shall be deposited in the fund. Any moneys made available under this section shall be returned to the General Fund, with interest at the rate earned by the moneys in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this division.

79795. All moneys deposited in the fund that are derived from premium and accrued interest on bonds sold pursuant to this division shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for

bond interest, except that amounts derived from premium may be reserved and used to pay the cost of bond issuance prior to any transfer to the General Fund.

79796. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds, including premium, if any. To the extent the cost of bond issuance is not paid from premiums received from the sale of bonds, these costs shall be shared proportionately by each program funded through this division by the applicable bond sale.

79797. The bonds issued and sold pursuant to this division may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds under this division shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this division or any previously issued refunding bonds.

79798. The proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, and the disbursement of these proceeds is not subject to the limitations imposed by that article.

★ Argument in Favor of Proposition 1 ★

YES ON PROPOSITION 1 ENSURES A RELIABLE WATER SUPPLY FOR FARMS AND BUSINESSES DURING SEVERE DROUGHT—PROTECTING BOTH THE ECONOMY AND THE ENVIRONMENT

California is in a severe, multi-year drought and has an aging water infrastructure. That is why Republicans and Democrats and leaders from all over California came together in nearly unanimous fashion to place this fiscally responsible measure on the ballot.

YES ON 1 SUPPORTS A COMPREHENSIVE STATE WATER PLAN

• Provides safe drinking water for all communities • Expands water storage capacity • Ensures that our farms and businesses get the water they need during dry years • Manages and prepares for droughts • Invests in water conservation, recycling and improved local water supplies • Increases flood protection • Funds groundwater cleanup • Cleans up polluted rivers and streams • Restores the environment for fish and wildlife

YES ON 1 IS FISCALLY RESPONSIBLE

Proposition 1 will not raise taxes. It is a no-frills investment in critical projects that doesn't break the bank—it even reallocates money from unused bonds to make better use of the money.

YES ON 1 GROWS CALIFORNIA'S ECONOMY

California's economy depends on a reliable water supply. Proposition 1 secures our water future, keeps our family farms and businesses productive, and puts Californians to work building the new facilities we need to store, deliver, and treat water.

YES ON 1 SAFEGUARDS OUR EXISTING WATER SUPPLIES

Proposition 1 will clean up our contaminated groundwater which serves as a critical buffer against drought by providing additional water in years when there is not enough rainfall or snow.

Proposition 1 expands water recycling and efficiency improvements making the best use of our existing supplies.

Proposition 1 provides funding for clean drinking water in communities where water is contaminated.

YES ON 1 STORES WATER WHEN WE HAVE IT

Proposition 1 invests in new water storage increasing the amount of water that can be stored during wet years for the dry years that will continue to challenge California.

YES ON 1 PROTECTS THE ENVIRONMENT

Proposition 1 protects California's rivers, lakes, and streams from pollution and contamination and provides for the restoration of our fish and wildlife resources.

PROPOSITION 1 CONTAINS STRICT ACCOUNTABILITY REQUIREMENTS INCLUDING ANNUAL AUDITS, OVERSIGHT AND PUBLIC DISCLOSURE TO ENSURE THE MONEY IS PROPERLY SPENT.

YES ON 1—Supported by REPUBLICANS, DEMOCRATS, FARMERS, LOCAL WATER SUPPLIERS, CONSERVATION GROUPS, BUSINESS, AND COMMUNITY LEADERS INCLUDING:

- United States Senator Dianne Feinstein • United States Senator Barbara Boxer • Audubon California • California Chamber of Commerce • Delta Counties Coalition • Los Angeles Area Chamber of Commerce • Ducks Unlimited • American Rivers • Silicon Valley Leadership Group • Friant Water Authority • San Diego Water Authority • Metropolitan Water District of Southern California • Natural Resources Defense Council • Northern California Water Association • State Building and Construction Trades Council of California • Association of California Water Agencies • Fresno Irrigation District • Western Growers

Edmund G. Brown Jr., Governor

Paul Wenger, President
California Farm Bureau Federation

Mike Sweeney, California Director
The Nature Conservancy

★ Rebuttal to Argument in Favor of Proposition 1 ★

Please vote NO on Proposition 1

Instead of focusing on making California's water use more efficient, fixing our aging and leaking water system and cleaning up our groundwater, Proposition 1 instead focuses on building more dams, at a cost of 2.7 billion dollars plus interest. These dams will only increase California's water supply by 1% and won't be usable for decades.

We need more water NOW, not in the distant future. The way to make this happen is to do the quickest and least expensive thing—make better use of our existing water supply and create immediate long-term jobs.

Proposition 1 is unfair to taxpayers. If those who benefit and use the water won't pay for dams, why should taxpayers be stuck with paying the debt for these dams?

Proposition 1 does little for drought relief, fails to promote regional water self-sufficiency, or reduce dependency on the already water deprived Delta ecosystem.

Expensive new dams will increase pressure to divert new water from the Trinity, Klamath and Sacramento rivers at a time of

prolonged drought and reduced flows. These rivers are critical habitat for endangered salmon that are important to all of California and the entire west coast.

Proposition 1 is:

- Bad for the environment, our rivers and our salmon;
- Does not produce new needed water NOW when we need it in the middle of a prolonged drought;
- Unfair to tax payers; and
- A bad deal for California.

Join us in voting NO on Proposition 1

Assemblymember Wesley Chesbro, Chair
Natural Resources Committee

Adam Scow, California Director
Food & Water Watch

Zeke Grader, Executive Director
Pacific Coast Federation of Fishermen's Associations

★ **Argument Against Proposition 1** ★

While there are many good things in Proposition 1: water conservation, efficiency reuse and recycling as well as restoration of our watersheds, the serious flaws outweigh the benefits to the people of California.

The water bond passed by the Legislature and signed by the Governor has many attractive elements, but at the end of the day, this bond measure is bad news for the people of California.

Proposition 1 wrongly focuses on building more dams. More than a third of the \$7.5 billion total is earmarked for surface storage, which almost certainly will mean new dams—increasing pressure to over-pump and divert more water from Northern California rivers including the Trinity, the Klamath, and Sacramento rivers. This places them at great risk at a time when a severe and prolonged drought has significantly reduced existing snow packs.

Furthermore, the \$2.7 billion for speculative new dams will not produce new water. All the most productive and cost-effective dam sites in California have already been developed. Proposition 1's new dam projects increase California's total water supply by as little as 1%, while costing nearly \$9 billion to build. These dams would not even be usable for decades.

In a major historic departure for water storage projects, the costs of these new dams and reservoirs will be paid from the state General Fund, and California taxpayers will share the burden of paying off bonds that will drain \$500 million a year from the General Fund.

It's an issue of fairness. The 1960 bond act that financed the State Water Project directed that beneficiaries pay those costs through their water rates. If private water users won't fund

these projects on their own, taxpayers should not be required to underwrite their construction, and then purchase the water later at higher prices. Private water users who are the beneficiaries, not taxpayers, should pay for the cost of these projects.

As the drought deepens, the impact to Californians and fisheries along the California Coast will increase. Our northern rivers are some of the last remaining refuge for endangered salmon species that are on the brink of extinction. Additionally, our rivers provide important spawning habitat for fish that are important to the entire state, up and down the West Coast. This water bond short-changes both the North Coast and California.

Under Proposition 1, water storage money would not be available for Central and North Coast regions. It restricts storage spending to benefit a limited geography in the state, mainly the San Joaquin and Sacramento valleys and Southern California.

Proposition 1 is the wrong investment: it does little for drought relief in the near-term, doesn't adequately promote needed regional water self-sufficiency, or reduce dependency on an already water-deprived Delta ecosystem. As evidenced by shrinking reservoirs and collapsing aquifers, no amount of water storage will produce more rain and snow.

Please join us in voting no on Proposition 1.

- Assemblymember Wesley Chesbro**, Chair
Natural Resources Committee
- Conner Everts**, Executive Director
Southern California Watershed Alliance
- Barbara Barrigan-Parilla**, Executive Director
Restore the Delta

★ **Rebuttal to Argument Against Proposition 1** ★

VOTE YES ON PROPOSITION 1

The opponents distort the facts and completely ignore the devastating drought that makes this Water Bond absolutely necessary.

For decades, politicians argued about water while things got worse. But now, a real solution is at hand: Proposition 1—which is supported by Republicans, Democrats, businesses, farmers, environmentalists, labor, and newspapers from every part of the state. It received overwhelming support from both parties, including a unanimous vote in the Senate. This has never happened before.

Our population has more than doubled since the California Water Project was launched, and we are facing one of the worst droughts in our history. No one doubts that California's water system is broken. It must be fixed!

Levees are failing, communities can't get safe drinking water, rivers are drying up, and the farmers are hurting.

Proposition 1 is fiscally prudent. It doesn't raise taxes or fund pork projects. It pays for public benefits such as water quality, flood control, and natural habitat.

Proposition 1 invests in the right things based on a balanced plan crafted by scientists, not politicians.

Water storage is key and we haven't added any new storage in 30 years. Proposition 1 carefully invests only in the most cost-effective storage projects.

Newspapers throughout the state support PROPOSITION 1: It "successfully balances investments in water infrastructure and treatment that benefit all parts of the state . . ."—*San Francisco Chronicle*.

"A bond proposal that will truly help solve the problems."
—*Modesto Bee*.

Yes on PROPOSITION 1!

Edmund G. Brown Jr., Governor

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
RUTH VAN MARK, MINORITY STAFF DIRECTOR

August 17, 2011

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

We are writing to express our concerns over EPA's forthcoming stormwater regulations, specifically **post construction limits from newly developed** and redeveloped sites (developed sites), which the agency intends to propose September 2011. Currently the Clean Water Act (CWA) section 402 permit programs apply only to discharges from active construction sites. We believe that EPA's plan to regulate developed sites and **post-construction stormwater discharges exceeds the Agency's statutory authority.** We ask that you provide a clear, detailed explanation and the sources of EPA's authority to promulgate these regulations.

To assist you in addressing our specific concerns we ask that you provide a response to **the following questions** and cite any statutory text, case law or legislative history that you believe supports your interpretation of the CWA. We further request that you provide these responses at least two weeks in advance of proposing any regulations for stormwater discharges from developed sites:

Study and Report to Congress; Timing of Regulations

1. **CWA sections 402(p)(5) and (6) (42 U.S.C. § 1342(p)(5)-(6))** direct EPA first to conduct a study and then report to Congress before developing new stormwater permit regulations. We believe this is a condition that must be satisfied prior to EPA initiating regulatory development. Contrary to the CWA, we understand EPA is well down the path of developing a new stormwater program to regulate precipitation that may runoff from developed sites. We have heard that EPA plans to provide this study and report to Congress sometime in August. When can Congress expect the stormwater report from EPA?

SIMILAR TO
WQBELS
AT THE
OUTFALL

2. It is critical that Congress receive this report before EPA issues any proposed rules in this area. The correct sequence should be a report to Congress first. Then Congress should give EPA direction based on that report, before the agency issues a proposed rule for public comment. Otherwise, EPA is already far down the path of deciding whether it will enact final regulations – without sufficient opportunities for congressional oversight.
 - a. Will EPA give Congress enough time to review any stormwater report before new regulations are proposed?
 - b. How much time does EPA plan to give Congress to review the report before such a rule is proposed by the agency?
3. According to EPA's website the agency plans to issue proposed rules for developed sites in September 2011, and final rules by November 2012.¹
 - a. What is the basis for these dates?
 - b. To give Congress enough time to review the forthcoming EPA study – and then give feedback to EPA – will the agency agree to change this schedule and give more time for congressional review, before a proposed rule is published by the agency?

Landowner Questionnaires from 2010

1. In laying the foundation for any developed sites regulations, last year EPA gathered information from the real estate industry. In 2010, EPA sent over 3000 information collection requests to obtain information from landowners on stormwater management practices, their operations and maintenance, and their expense.
 - a. What did EPA learn from these surveys?
 - b. Was the information from them useful? Please explain.
 - c. Were the time and resources spent by EPA to gather this information worth the effort?
 - d. Is the information being used as the basis for any proposed rules we will see from EPA regarding developed sites? Why or why not?
 - e. Will EPA make the information gathered from the landowner questionnaires available to Congress and the public and be placed in the docket?

Authority and Basis for New Post-Construction Regulations

1. As stated above, EPA's regulations under the current CWA stormwater program are limited to requiring permits at active construction sites. EPA is currently developing new requirements that would require permits to control stormwater discharges after construction has ceased. These could result in new post-construction stormwater permits at already built-out sites.

← EQUIVALENT
TO DEVELOPMENT
PLANNING
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¹ <http://cfpub.epa.gov/npdes/stormwater/rulemaking.cfm>

- a. Does EPA think it already has the authority from Congress, to develop new regulations to control stormwater runoff after the construction process ends?
 - b. Does EPA need authorization from Congress to enact new post-construction stormwater regulations?
 - c. In CWA section 402(p)(2)(B) (33 U.S.C. § 1342(p)(2)(B)), Congress gave EPA authority to develop permit requirements for stormwater discharges “associated with industrial activity.” What “industrial activity” will provide the basis for EPA to develop regulations for stormwater discharges from developed properties?
2. In the context of a small business impact review panel conducted last year, EPA told participants that new regulatory post-construction requirements could mean that already-built properties might need to make changes to the site to have the “hydrology of the land before construction” and mimic a “forest, prairie, meadow.”
- a. How would EPA propose that land with homes and buildings already on it have the characteristics of a forest, prairie, or meadow?
 - b. What kind of economic impact would such a requirement have on property owners?
 - c. How would EPA determine the appropriate “hydrology of the land before construction” in areas where development has been going on for centuries and in areas that were previously swamps like Washington, D.C. or New Orleans, LA?
3. As explained above, current permit requirements for stormwater apply to the operators at active construction sites. For new regulations of discharges following construction, regulations could be imposed to control stormwater based simply on land ownership.
- a. Might new stormwater regulations for developed sites require owners and managers of already-built properties – for example, homeowners, homeowner associations, business owners, and store owners – to get permits to manage rain run-off?
 - b. Has EPA done any analysis of the costs to landowners of such a program?
4. Court decisions make clear that EPA only has the authority to regulate the “actual” discharges of pollutants from point sources, and not “potential” discharges. Yet, in the developed sites context EPA seems to be considering regulatory requirements for discharge “surrogates” – like the amount of stormwater flows, or the extent of paved and impervious surfaces in a parking lot. In short, EPA might consider regulations that are not based on actual pollutant discharges, but as “stand-ins” for potential discharges.

- a. What authority, in the CWA or elsewhere, would EPA have as the basis to regulate “surrogates” of pollutants – as opposed to the actual “discharges” of pollutants themselves?

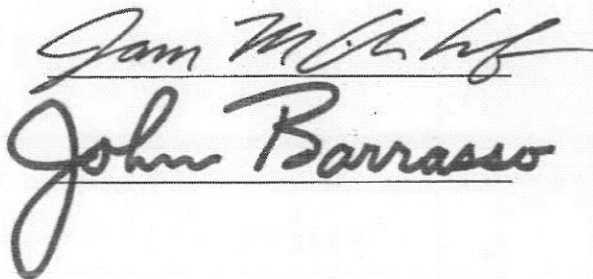
Property Retrofits

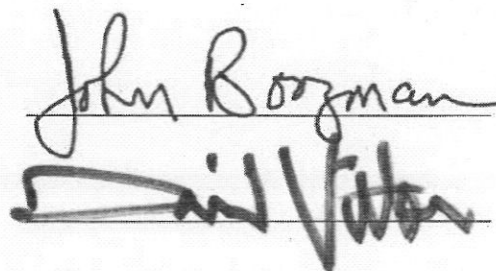
1. EPA has indicated that these new regulations could require that developed sites be “retrofitted” to control stormwater.
 - a. How would retrofit regulations work?
 - b. Would EPA directly require land and building owners to install “green vegetated roofs”?
 - c. Would parking lots need to be torn out and replaced with more porous surfaces?
2. If EPA does not impose stormwater retrofit requirements directly on land and building owners, it is at least considering imposing those requirements indirectly – through a program where counties and municipalities might be required to enact new regulations for retrofit requirements on landowners.
 - a. Is EPA indeed considering a “back door” regulatory approach for stormwater retrofits on landowners?
 - b. On what basis can EPA compel municipalities to impose retrofit requirements on landowners?
 - c. Is EPA considering a situation where it might withhold funding to municipalities unless they develop stormwater retrofit requirements on landowners?

EPA’s current haste in developing these regulations is unwarranted. Until Congress has received the completed report, it is truly concerning that the agency continues spending limited resources pursuing regulatory development.

Thank you for your prompt attention to this matter.

Sincerely,


John Barrasso


John Bozeman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

AUG 14 2013

Emel G. Wadhvani
Senior Staff Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: SWRCB/OCC File A-2236(a) Through (kk)

Dear Mr. Wadhvani:

This letter is in response to the State Board's notice dated July 8, 2013 requesting comments concerning a compliance alternative for receiving water limitations (RWLs) in the final MS4 permit for Los Angeles County (NPDES permit No. CAS004001), issued on November 8, 2012 by the Los Angeles Regional Board. On November 20, 2012, the State Board held a workshop to consider options for revising the Board's WQ Order 99-05 which established statewide policy for RWLs language to be included in all MS4 permits. Your July 2013 notice requested comment on whether the compliance option in the 2012 LA County MS4 permit would be an appropriate alternative to WQ Order 99-05.

First, in a November 13, 2012 letter, EPA provided comments in response to the State Board's October 10, 2012 issue paper discussing alternatives to WQ Order 99-05. In our November 13, 2012 comments, we noted that we support alternatives which include more detail on how to implement the "iterative process" for improving stormwater controls. We also noted that we are concerned that removing the requirement to achieve water quality standards as described in Alternatives 4 and 5 would be significantly less protective and enforceable, and would not adequately ensure that appropriate actions are required to address the numerous California waters impaired by urban runoff.

In consideration of the adopted Los Angeles County MS4 permit, it is important to point out that the State Board's July 8, 2013 notice is incorrect in stating that under the LA County MS4 permit, "dischargers that are in compliance with the requirements and milestones of an approved watershed management program/enhanced watershed management program are also generally deemed to be in compliance with the Permit's receiving water limitations." (Emphasis added) In fact, the LA County MS4 permit provides that dischargers are deemed in compliance with RWLs when they provide notification to the Regional Board that they intend to prepare a watershed management program/enhanced watershed management program (WMP/EWMP), and upon completing other steps in the development of a WMP/EWMP. Dischargers may be deemed in compliance with RWLs for several years prior to approval of a WMP/EWMP.

During the development of its Regional MS4 permit, the San Diego Regional Water Quality Control Board drafted a similar option for consideration which would deem dischargers

in compliance with RWLs if a planning program was implemented. This "Option 2" was considered at the San Diego Regional Board's May 8, 2013 hearing. In contrast to the LA MS4 permit, the San Diego Regional Board's Option 2 would have applied only after the relevant planning documents were approved. Ultimately the San Diego Regional Board chose not to adopt Option 2, and maintained RWL language consistent with WQ Order 99-05. However, if implementation of a planning program is to be considered to replace RWL language, it is our strong preference that such alternative compliance be tied to plan approval as was drafted in the San Diego Regional Board's Option 2, rather than the approach adopted in the LA MS4 permit.

We appreciate the opportunity to provide our views on this matter. If you have any questions, please contact Eugene Bromley of the NPDES Permits Office at (415) 972-3510.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Diamond", written over a horizontal line.

Jane Diamond, Director
Water Division

cc: State Board Petitioner List

SB-985 Stormwater Resource Planning. (2013-2014)
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AMEND

WATER CODE Sections 10561, 10562, 10563, and 10573

ADD

WATER CODE Sections 10561.5 and 10565

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES [10000 - 12999]
PART 2. APPROPRIATION OF WATER BY DEPARTMENT OF WATER RESOURCES
PART 2.3. STORMWATER RESOURCE PLANNING

SECTION 1. Section 10561 of the Water Code is amended to read:

10561. The Legislature hereby finds and declares all of the following:

~~(a) In many parts of the state stormwater is a source of surface water and groundwater contributing to a loss of usable water supplies, and the pollution and impairment of rivers, lakes, streams, and coastal waters.~~

(a) In many parts of the state stormwater and dry weather runoff are underutilized sources of surface water and groundwater supplies. Instead of being viewed a resource, they are often seen as a problem that must be moved to the ocean as quickly as possible or as a source of contamination, contributing to a loss of usable water supplies and the pollution and impairment of rivers, lakes, streams, and coastal waters.

(b) Improved management of stormwater and dry weather runoff, including capture, treatment, and reuse by using the natural functions of soils and plants, can improve water quality, reduce localized flooding, and increase water supplies for beneficial uses and the environment.

(c) Most of California's current stormwater drainage systems are designed to capture and convey water away from people and property rather than capturing that water for beneficial uses.

(d) Historical patterns of precipitation are predicted to change and an increasing amount of California's water is predicted to fall not as snow in the mountains, but as rain in other areas of the state. This will likely have a profound and transforming effect on California's hydrologic cycle and much of that water will no longer be captured by California's reservoirs, many of which are located to capture snow melt.

~~(e) Stormwater, properly managed, can contribute significantly to local water supplies through onsite storage and reuse, or letting it percolate into the ground to recharge groundwater, thereby increasing available supplies of drinking water.~~

(e) When properly designed and managed, the capture and use of stormwater and dry weather runoff can contribute significantly to local water supplies through onsite storage and use, or letting it infiltrate into the ground to recharge groundwater, either onsite or at regional facilities, thereby increasing available supplies of drinking water.

~~(f) New developments and redevelopments should be designed to be consistent with low impact development principles to improve the retention, reuse, and percolation of stormwater onsite.~~

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(f) New developments and redevelopments should be designed to be consistent with low-impact development principles to improve the retention, use, and infiltration of stormwater and dry weather runoff onsite or at regional facilities.

~~(g) Stormwater can be managed to achieve environmental and societal benefits such as wetland creation, riverside habitats, instream flows, and an increase in urban green space.~~

(g) Stormwater and dry weather runoff can be managed to achieve environmental and societal benefits such as wetland creation and restoration, riverside habitats, instream flows, and an increase in park and recreation lands, and urban green space.

(h) Stormwater and dry weather runoff management through multiobjective projects can achieve additional benefits, including augmenting recreation opportunities for communities, increased tree canopy, reduced urban heat island effect, and improved air quality.

(i) Proper planning and implementation is vital to ensure that the water supply and other benefits potentially available through better management of stormwater and dry weather runoff do not come at the expense of diminished water quality.

(j) The capture and use of stormwater and dry weather runoff is not only one of the most cost-effective sources of new water supplies, it is a supply that can often be provided using significantly less energy than other sources of new water supplies.

SEC. 2. Section 10561.5 is added to the Water Code, to read:

10561.5. Solely for the purposes of this part, and unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Dry weather runoff" means surface waterflow and waterflow in storm drains, flood control channels, or other means of runoff conveyance produced by nonstormwater resulting from irrigation, residential, commercial, and industrial activities.

(b) "Stormwater" means temporary surface water runoff and drainage generated by immediately preceding storms. This definition shall be interpreted consistent with the definition of "stormwater" in Section 122.26 of Title 40 of the Code of Federal Regulations.

AMEND

WATER CODE Sections 10561, 10562, 10563, and 10573

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES [10000 - 12999]
PART 2. APPROPRIATION OF WATER BY DEPARTMENT OF WATER RESOURCES
PART 2.3. STORMWATER RESOURCE PLANNING

SEC. 3. Section 10562 of the Water Code is amended to read:
10562

~~(a) A city, county, or special district, either individually or jointly, may develop a stormwater resource plan pursuant to this part.~~

(a) One or more public agencies may develop a stormwater resource plan pursuant to this part.

~~(b) Stormwater resource plans shall:~~

(b) A stormwater resource plan shall:

(1) Be developed on a watershed basis.

~~(2) Provide for multiple benefit project design to maximize water supply, water quality, and environmental and other community benefits~~

(2) Identify and prioritize stormwater and dry weather runoff capture projects for implementation in a quantitative manner, using a metrics-based and integrated evaluation and analysis of multiple benefits to maximize water supply, water quality, flood management, environmental, and other community benefits within the watershed.

~~(3) Provide for community participation in plan development and implementation.~~

(3) Provide for multiple benefit project design to maximize water supply, water quality, and environmental and other community benefits.

~~(4) Be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits~~

(4) Provide for community participation in plan development and implementation.

~~(5) Be consistent with all applicable waste discharge permits.~~

(5) Be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits.

~~(6) Be consistent with any applicable integrated regional water management plan.~~

SB-985 Stormwater Resource Planning. (2013-2014)
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(6) Be consistent with all applicable waste discharge permits.

(7) Upon development, be submitted to any applicable integrated regional water management group. Upon receipt, the integrated regional water management group shall incorporate the stormwater resource plan into its integrated regional water management plan.

(8) Prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects.

~~(c) The proposed or adopted plan shall meet the standards outlined in this section. The plan need not be referred to as a “stormwater resource plan.” Existing planning documents may be utilized as a functionally equivalent plan, including, but not limited to, watershed management plans, integrated resource plans, urban water management plans, or similar plans. If a planning document does not meet the standards of this section, a collection of local and regional plans may constitute a functional equivalent.~~

(c) The proposed or adopted plan shall meet the standards outlined in this section. The plan need not be referred to as a “stormwater resource plan.” Existing planning documents may be utilized as a functionally equivalent plan, including, but not limited to, watershed management plans, integrated resource plans, urban water management plans, or similar plans. If a planning document does not meet the standards of this section, a collection of local and regional plans may constitute a functional equivalent, if the plans collectively meet all of the requirements of this part.

~~(d) Stormwater resource plans shall identify all of the following:~~

(d) An entity developing a stormwater resource plan shall identify in the plan all of the following:

~~(1) Opportunities to augment local water supply through groundwater recharge or storage for beneficial reuse of stormwater.~~

(1) Opportunities to augment local water supply through groundwater recharge or storage for beneficial use of stormwater and dry weather runoff.

~~(2) Opportunities for source control for both pollution and stormwater runoff volume, onsite and local infiltration, and reuse of stormwater.~~

(2) Opportunities for source control for both pollution and stormwater and dry weather runoff volume, onsite and local infiltration, and use of stormwater and dry weather runoff.

(3) Projects to reestablish natural water drainage treatment and infiltration systems, or mimic natural system functions to the maximum extent feasible.

~~(4) Opportunities to develop or enhance habitat and open space through stormwater management, including wetlands, riverside habitats, parkways, and parks.~~

(4) Opportunities to develop, restore, or enhance habitat and open space through stormwater and dry weather runoff management, including wetlands, riverside habitats, parkways, and parks.

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~~(5) Design criteria and best management practices to prevent stormwater pollution and increase effective stormwater management for new and upgraded infrastructure and residential, commercial, industrial, and public development. These design criteria and best management practices shall accomplish all of the following:~~

~~(A) Reduce effective impermeability within a watershed by creating permeable surfaces and directing stormwater and dry weather runoff to permeable surfaces, retention basins, cisterns, and other storage for beneficial use.~~

~~(B) Increase water storage for beneficial use through a variety of onsite storage techniques.~~

~~(C) Increase groundwater supplies through infiltration, where appropriate and feasible.~~

~~(D) Support low impact development for new and upgraded infrastructure and development using low impact techniques.~~

(5) Opportunities to use existing publicly owned lands and easements, including, but not limited to, parks, public open space, community gardens, farm and agricultural preserves, schoolsites, and government office buildings and complexes, to capture, clean, store, and use stormwater and dry weather runoff either onsite or offsite.

~~(6) Activities that generate or contribute to the pollution of stormwater, or that impair the effective beneficial use of stormwater.~~

(6) Design criteria and best management practices to prevent stormwater and dry weather runoff pollution and increase effective stormwater and dry weather runoff management for new and upgraded infrastructure and residential, commercial, industrial, and public development. These design criteria and best management practices shall accomplish all of the following:

(A) Reduce effective impermeability within a watershed by creating permeable surfaces and directing stormwater and dry weather runoff to permeable surfaces, retention basins, cisterns, and other storage for beneficial use.

(B) Increase water storage for beneficial use through a variety of onsite storage techniques.

(C) Increase groundwater supplies through infiltration, where appropriate and feasible.

(D) Support low-impact development for new and upgraded infrastructure and development using low-impact techniques.

~~(7) Projects and programs to ensure the effective implementation of the stormwater resource plan pursuant to this part and achieve multiple benefits.~~

(7) Activities that generate or contribute to the pollution of stormwater or dry weather runoff, or that impair the effective beneficial use of stormwater or dry weather runoff.

~~(8) Ordinances or other mechanisms necessary to ensure the effective implementation of the stormwater resource plan pursuant to this part.~~

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(8) Projects and programs to ensure the effective implementation of the stormwater resource plan pursuant to this part and achieve multiple benefits. These projects and programs shall include the development of appropriate decision support tools and the data necessary to use the decision support tools.

(9) Ordinances or other mechanisms necessary to ensure the effective implementation of the stormwater resource plan pursuant to this part.

(e) A stormwater resource plan shall use measurable factors to identify, quantify, and prioritize potential stormwater and dry weather runoff capture projects.

SB-985 Stormwater Resource Planning. (2013-2014)
Chapter 555

AMEND

WATER CODE Sections 10561, 10562, 10563, and 10573

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES [10000 - 12999]
PART 2. APPROPRIATION OF WATER BY DEPARTMENT OF WATER RESOURCES
PART 2.3. STORMWATER RESOURCE PLANNING

SEC. 4. Section 10563 of the Water Code is amended to read:

10563. (a) This part does not interfere with or prevent the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) This part does not affect requirements imposed under any other law.

(c)

(1) The development of a stormwater resource plan and compliance with this part in accordance with Section 10565 shall be required to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by the voters after January 1, 2014.

(2) This subdivision does not apply to either of the following:

(A) Funds provided for the purpose of developing a stormwater resource plan.

(B) A grant for a disadvantaged community, as defined in Section 79505.5, with a population of 20,000 or less, and that is not a copermitee for a municipal separate stormwater system national pollutant discharge elimination system (NPDES) permit issued to a municipality with a population greater than 20,000.

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ADD
WATER CODE Sections 10561.5 and 10565

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES [10000 - 12999]
PART 2. APPROPRIATION OF WATER BY DEPARTMENT OF WATER RESOURCES
PART 2.3. STORMWATER RESOURCE PLANNING

SEC. 5. Section 10565 is added to the Water Code, to read:

10565. By July 1, 2016, the board shall establish guidance for this part that shall include, but is not limited to, the following:

- (a) Identifying types of local agencies and nongovernmental organizations that need to be consulted in developing a stormwater resource plan.
- (b) Defining appropriate quantitative methods for identifying and prioritizing opportunities for stormwater and dry weather runoff capture projects.
- (c) Defining the appropriate geographic scale of watersheds for stormwater resource planning.
- (d) Other guidance the board deems appropriate to achieve the objectives of this part.

SB-985 Stormwater Resource Planning. (2013-2014)
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AMEND

WATER CODE Sections 10561, 10562, 10563, and 10573

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES [10000 - 12999]
PART 2. APPROPRIATION OF WATER BY DEPARTMENT OF WATER RESOURCES
PART 2.4. Rainwater Capture Act of 2012 [10570 - 10574]

SEC. 6. Section 10573 of the Water Code is amended to read:

10573. Solely for the purposes of this part, and unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Developed or developing lands" means lands that have one or more of the characteristics described in subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (b) of Section 56375.3 of the Government Code.

(b) "Rain barrel system" is a type of rainwater capture system that does not use electricity or a water pump and is not connected to or reliant on a potable water system.

(c) "Rainwater" means precipitation on any public or private parcel that has not entered an offsite storm drain system or channel, a flood control channel, or any other stream channel, and has not previously been put to beneficial use.

(d) "Rainwater capture system" means a facility designed to capture, retain, and store rainwater flowing off a building rooftop for subsequent onsite use.

~~(e) "Stormwater" means temporary surface water runoff and drainage generated by immediately preceding storms. This definition shall be interpreted consistent with the definition of "stormwater" in Section 122.26 of Title 40 of the Code of Federal Regulations.~~

(e) "Stormwater" has the same meaning as defined in Section 10561.5.