San Gabriel Valley Council of Governments

AGENDA AND NOTICE
OF THE JOINT MEETING OF THE WATER POLICY COMMITTEE & WATER TECHNICAL ADVISORY COMMITTEE (TAC)
Tuesday, May 8, 2018, 10:00 AM
Upper San Gabriel Valley Municipal Water District – 602 E. Huntington Dr., Monrovia, CA

Water Policy Committee
Chair: Diana Mahmud
City of South Pasadena

Vice-Chair: Judy Nelson
City of Glendora

Members
Claremont
Diamond Bar
Glendora
Monrovia
Rosemead
Sierra Madre
South Pasadena
West Covina

Water TAC

Chair: David Dolphin
City of Alhambra
Vice Chair:
Upper San Gabriel Valley Municipal Water District

Members
Alhambra
Arcadia
Bradbury
Covina
Monrovia
Pomona
Sierra Madre
South Pasadena
LA County DPW
San Gabriel Valley MWD

Upper San Gabriel Valley MWD

Ex-Officio Members
LA County Sanitation Districts
SG Basin Watermaster

Thank you for participating in today's meeting. The Water Committee encourages public participation and invites you to share your views on agenda items.

MEETINGS: ***Regular Meetings of the Water Committee are held on the third Wednesday of each month at 10:00 AM at the Upper San Gabriel Valley Municipal Water District Offices 602 E. Huntington Drive, Suite B Monrovia, CA 91016.*** The agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, www.sgvcog.org. Copies are available via email upon request (sgv@sgvcog.org). Documents distributed to a majority of the Committee after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

CITIZEN PARTICIPATION: Your participation is welcomed and invited at all Water Committee and Water TAC meetings. Time is reserved at each regular meeting for those who wish to address the Committee. SGVCOG requests that persons addressing the Committee refrain from making personal, slanderous, profane or disruptive remarks.

TO ADDRESS THE COMMITTEE: At a regular meeting, the public may comment on any matter within the jurisdiction of the Committee during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The Water Committee and Water TAC may not discuss or vote on items not on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the Water Committee and the Water TAC. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the WRWG Committee can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Committee member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Committee.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.

Preliminary Business

1. Call to Order
2. Roll Call
3. Public Comment *(If necessary, the Chair may place reasonable time limits on all comments)*

CONSENT CALENDAR *(It is anticipated that the Water Committee/TAC may act on the following matters)*

4. Water Committee/TAC Meeting Minutes – 4/10/2018 Page 1
Recommended Action: Approve.

PRESENTATION

ACTION ITEMS *(It is anticipated that the Water Committee/TAC may act on the following matters)*

DISCUSSION ITEMS *(It is anticipated that the Water Committee/TAC may act on the following matters)*

INFORMATION ITEMS

5. Safe, Clean Water update
Recommended Action: for Information

6. Legislative Updates:
- SB 1133 Page 5
- SB 1422 Page 19
- H.R. 465/2355
- H.R. 5127 Page 27
- AB 2538: April 24th testimony, Environmental Safety and Toxic Materials Committee

Recommended Action: for information

7. Regulatory Updates:
Recommended Action: for information.

8. E/WMP Updates
- RH/SGR
- East SGV
- ULAR

Recommended Action: for information.

9. Water Boards Update
- Update on status of 303(d) list
- May 10: MS4 Workshop

Recommended Action: for information.

10. Water Supply Update
Recommended Action: for information.

EXECUTIVE DIRECTOR'S COMMENTS

Water Policy Committee and Water TAC elections will be held in June

CHAIR'S REPORT

ANNOUNCEMENTS

ADJOURN

SGVCOG Joint Water Policy Committee/TAC Unapproved Minutes

Date: April 10, 2018
Time: 10:00 AM
Location: Upper San Gabriel Valley Municipal Water District
602 E. Huntington Drive, Monrovia, CA

PRELIMINARY BUSINESS

1. Call to Order: The meeting was called to order at 10:05 A.M.

2. Roll Call

Water Policy Committee Members Present
N. Lyons, Diamond Bar
J. Nelson, Glendora
G. Crudgington, Monrovia
M. Clark, Rosemead
J. Capoccia, Sierra Madre

Water Policy Committee Members Absent
Claremont
South Pasadena
West Covina

Water TAC Members Present
D. Dolphin, Alhambra
B. Lathrop, K. Kearney, Bradbury
A. Tachiki, Monrovia
J. Carlson, Sierra Madre
M. Lambos, A. Lasso, G. LACDPW
E. Reyes, SGVMWD

Water TAC Members Absent
Arcadia
Covina
South Pasadena

Ex Officio Members Present
S. Green, LACSD
R. Serna, Watermaster

Ex Officio Members Absent

Guests
J. Carver, M. Cansino, Pomona
B. Ruiz, J. Caprile, J. Smith, LAC Parks
D. Correy, V. Murphy, Sen Portantino
R. Tahir, TECs

SGVCOG Staff
E. Wolf

3. Public Comment. None

CONSENT CALENDAR

4. Water Committee/TAC Meeting Minutes – 2/21/2018
There was a motion to approve the minutes. (M/S: N. Lyons/G. Crudgington). [MOTION PASSED]

AYES:	Diamond Bar, Glendora, Monrovia, Rosemead, Alhambra, Bradbury, LACDPW, USGVMWD
NOES:	
ABSTAIN:	Sierra Madre
ABSENT:	Arcadia, Covina, Claremont, South Pasadena, West Covina

Water Committee/TAC Meeting Minutes – 3/21/2018. M. Clark asked that Item #5, Support for Rio Hondo/San Gabriel River E/WMP Modifications, of the March meeting minutes, be revised to include her concern regarding the E/WMP's potential liability for soil contamination caused by the pick-a-part.

There was a motion to approve the minutes as amended. (M/S: J. Cappocia/M. Clark). [MOTION PASSED]

AYES:	Rosemead, Sierra Madre
NOES:	
ABSTAIN:	Diamond Bar, Monrovia, Glendora,
ABSENT:	Arcadia, Covina, Claremont, South Pasadena, West Covina

PRESENTATION

ACTION ITEMS

5. Support for Rio Hondo/San Gabriel River E/WMP Modifications

G. Crudgington gave an overview of the proposed changes to the RH/SGV E/WMP. She related that the changes result in costs going from $1.4 billion down to $106.8 million, a reduction of 92%. She also stated that the E/WMP changes result in the miles of required green streets going from 435 miles to 6 miles. M. Clark raised concerns that green streets are not proven to remove pollution. She was also concerned that the E/WMP may be held liable for soil contamination caused by the pick-a-part. She also noted that even with the reduction in cost, the rE/WMP results in a higher cost per acre foot for infiltrated water than other sources of water such as groundwater or imported water. Finally, Clark advised that the E/WMP wait to see how the results of the State Audit, ongoing challenges to the legality of the MS4 permit, and the results of the unfunded mandates cases, impact the MS4 permit process in the future. J. Cappocia acknowledged that the changes to the plan resulted in reduced costs, but stated his belief that the COG should not support this, or any other EWMP changes, because that could be interpreted as the COG supporting the EWMP process itself. The acting chair, J. Nelson, pulled the item from the agenda.

6. SB 623 (Monning)

There was a motion to recommend that the Governing Board oppose unless amended to remove the fee on public water systems. (M/S: J. Cappocia/M. Clark). [MOTION PASSED]

AYES:	Diamond Bar, Glendora, Monrovia, Rosemead, Sierra Madre
NOES:	
ABSTAIN:	
ABSENT:	Claremont, South Pasadena, West Covina

7. SB 1133 (Portantino)

At the request of Sen Portantino's staff, this item was pulled from the agenda, due to the bill currently undergoing major amendments.

8. AB 2538 (Rubio)

There was a motion to recommend that the Governing Board support AB 2538. (M/S: J. Cappocia/M. Clark).

[MOTION PASSED]

AYES:	Diamond Bar, Glendora, Monrovia, Rosemead, Sierra Madre

NOES:	
ABSTAIN:	
ABSENT:	Claremont, South Pasadena, West Covina

DISCUSSION ITEMS

INFORMATION ITEMS

9. Legislative Updates: H.R. 465/2355

S. Green notified the committee that the bill is still in committee and that there has been no change.

10. Regulatory Updates

There were no updates.

11. E/WMP Updates

- RH/SGR. J. Carlson stated that there was nothing further to report beyond what G. Crudgington previously briefed.
- East SGV. J. Carver reported that the EWMP is currently conducting CIMP monitoring.
- ULAR. D. Dolphin stated that the group is still working on completing the MOA with the SGVCOG.

12. Water Boards Update

- J. Nelson reported the news that Deborah Smith has been named as the LA Regional Water Board Executive Director.
- Update on status of 303(d) list. There was no update.

13. Water Supply Update

R. Serna reported that imported water replacement rates from MWD are going up and that the Main San Gabriel Basin's Resource Development Assessment fee will remain as previously set; there are no plans to seek an increase in those rates.

14. Litigation Update

- Gardena and Duarte cases

  R. Tahir reported on the cases. The cities raised the following procedural and substantive issues.
  - Procedural
    - The original EWMP rollout did not follow proper procedure in that cities were not given the required amount of time for review.
    - Regional Board staff greatly miscalculated the estimated cost per household of the EWMP programs, thereby basing the financial aspect of the programs on faulty information.
    - The Regional Board did not do a cost benefit analysis as required.
    - The Regional Board deferred to staff and didn't themselves follow due process when making decisions.
  - Substantive
    - EWMPs are unfunded state mandates.
    - There is no proof that the EWMP structure will result in meeting water quality standards and numeric TMDLs.
    - MS4 permittees are only required to reduce pollutants to the "maximum extent practicable," not to a specified numeric target.

15. Stormwater Outreach Updates

- Washington, D.C. Meeting Recap

  E. Wolf and N. Lyons reviewed the meeting SGVCOG officers had with the Conference of Mayors.

EXECUTIVE DIRECTOR'S COMMENTS

CHAIR'S REPORT

ANNOUNCEMENTS

ADJOURN

The meeting was adjourned at 11:24 a.m.

AMENDED IN SENATE APRIL 24, 2018

AMENDED IN SENATE MARCH 19, 2018

SENATE BILL No. 1133

Introduced by Senator Portantino

February 13, 2018

An act to add Section 13249 to the Water Code, relating to water quality, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1133, as amended, Portantino. California regional water quality control board: water quality control plans: ~~funding: Los Angeles region.~~ *funding.*

Existing law, the Porter-Cologne Water Quality Control Act, requires each California regional water quality control board to adopt water quality control plans and to establish water quality objectives in those plans, considering certain factors, to ensure the reasonable protection of beneficial uses and the prevention of nuisance.

This bill would authorize a regional board to accept and spend donations of moneys from a permittee for the purpose of updating a water quality control plan, thereby making an appropriation. ~~The bill would authorize the California regional water quality control board, Los Angeles region, to accept and spend certain funds from the Los Angeles County Flood Control District to prepare a major revision to the water quality control plan for the Los Angeles region, as prescribed.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) Consistent with Section 13000 of the Water Code, the quality of waters of the state should be regulated to attain the highest water quality which is reasonable considering the uses of the water and the values involved.

(b) The water quality control plans adopted by the State Water Resources Control Board and the California regional water quality control boards pursuant to Section 13240 of the Water Code need to be based on the best available science and consider the recommendations of the federal Environmental Protection Agency, as well as the recommendations of affected state and local agencies.

(c) Section 13241 of the Water Code lists several important factors that water boards are to consider when establishing water quality objectives that will ensure the reasonable protection of beneficial uses and the prevention of nuisance, and the section also recognizes that the quality of water may be changed to some degree without unreasonably affecting beneficial uses.

(d) At the request of the United States Congress, the National Research Council examined the basis of the total maximum daily load (TMDL) program and explained its findings in a 2001 report titled Assessing the TMDL Approach to Water Quality Management.

(e) A finding of the council's report was that scientific uncertainty cannot be avoided in water quality programs, and water quality regulations should recognize this inherent uncertainty by means of flexible adjustable implementation programs.

(f) The report recommended that states define appropriate beneficial use designations, and before TMDL development, refine these designations, and use and consider attainability analyses for all water bodies.

(g) The council also recommended that plans implementing TMDLs be adaptive, with TMDL goals to be periodically assessed and scientific data used to revise the plan, if necessary.

(h) Permittees and others funded an Environmental Defense Sciences report from February 2002, titled A Review of the Los Angeles Basin Plan Administrative Record, that provided a detailed analysis of the administrative record as had been provided to date of the water quality control plan for the Los Angeles region and

~~identified four priority areas for water quality control plan reform, as follows:~~

~~(1) Incorporation of the Water Code Sections 13241 and 13242 requirements of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).~~

~~(2) Development and implementation of water quality objectives.~~

~~(3) Correction and revision of beneficial use designations.~~

~~(4) Revision of the tributary rule.~~

~~(i) The water quality control plan for the Los Angeles region was first developed in 1975 and the last major revision was in 1994.~~

~~(j) The water quality control plan for the Los Angeles region does not thoroughly distinguish between traditional point sources and stormwater discharges in the development and application of water quality standards.~~

~~(k) California regional water quality control boards have not completed major revisions of water quality control plans because of staff and financial resource shortages, although they have made revisions through the triennial review process.~~

~~(*l*) California needs to find a way to finance comprehensive water quality control plan revisions by all California regional water quality control boards.~~

~~(m) The County of Los Angeles is proposing a stormwater quality funding measure that could provide a source of funding for the California regional water quality control board, Los Angeles region, to conduct a major revision to its water quality control plan to improve the technical and scientific basis of the plan.~~

~~(n) Allowing the California regional water quality control board, Los Angeles region, to accept funds from a stormwater quality funding measure would provide funding for a pilot project on how to fund and structure necessary major revisions to water quality control plans to incorporate new criteria recommended by the federal Environmental Protection Agency and bring the plans up to date with current science and technology.~~

~~SEC. 2.~~

SECTION 1. Section 13249 is added to the Water Code, to read:

13249. ~~(a)~~ A regional board may accept and spend donations of moneys from a permittee for the purpose of updating a water

quality control ~~plan.~~ *plan as consistent with the designated use of the funds.*

~~(b) If the proposed Safe, Clean Water Program is approved by the voters of the County of Los Angeles, the California regional water quality control board, Los Angeles region, may accept funds from the Los Angeles County Flood Control District to prepare a major revision to the water quality control plan for the Los Angeles region to strengthen the scientific and technical basis for the plan as a pilot project for the state. These funds shall be used by the regional board only for staff and consultants and direct costs to prepare a major revision to the water quality control plan that does all of the following:~~

~~(1) Develops a watershed chapter structured to be consistent with Sections 13241 and 13242 while integrating a fiscal capability assessment process to implement subdivision (d) of Section 13241.~~

~~(2) Recognizes that concrete-lined flood control channels are different from natural streams.~~

~~(3) Incorporates a compliance floor above which permittees are not expected to comply with water quality objectives.~~

~~(4) Incorporates applicable federal Environmental Protection Agency recommended revised water quality criteria.~~

~~(5) Incorporates stormwater-specific water quality objectives consistent with the episodic and highly variable nature of stormwater and urban runoff.~~

~~(6) Revises the beneficial use chapter to delete potential uses and replace them with probable future beneficial uses consistent with subdivision (a) of Section 13241.~~

~~(7) Modifies the strategic planning and implementation chapter to include a section addressing stormwater and urban runoff, as well as a source control strategy and implementation program.~~

~~(8) Develops a thoroughly revised water quality control plan treating stormwater as a resource and includes a scientific advisory panel and a stakeholder advisory committee.~~

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Wieckowski, Chair
2017 - 2018 Regular

Bill No:	SB 1133		
Author:	Portantino		
Version:	3/19/2018	**Hearing Date:**	4/18/2018
Urgency:	No	**Fiscal:**	Yes
Consultant:	Rachel Machi Wagoner		

SUBJECT: California regional water quality control board: water quality control plans: funding: Los Angeles region

ANALYSIS:

Existing federal law under the Clean Water Act (CWA):

1) Establishes the structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.

2) Makes it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained.

3) Provides that the National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. (Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters.)

4) Authorizes states to implement and enforce the NPDES permit program as long as the state's provisions are as stringent as the federal requirements.

    a) In California, the State Water Resources Control Board (SWRCB) is the delegate agency responsible for the NPDES permit program.

Existing state law, under the Porter-Cologne Water Quality Control Act (Porter-Cologne):

1) Establishes the SWRCB and regional water quality control boards (regional boards) to **preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource**

allocation and efficient use, for the benefit of present and future generations.

2) Requires SWRCB formulate and adopt state policy for water quality control and each regional board formulate and adopt water quality control plans (aka basin plans) for all areas within the region that ensure the reasonable protection of beneficial uses and the prevention of nuisance as specified.

This bill:

1) Makes various finds pertaining to the Los Angeles Water Board's Basin Plan, as specified.

2) Authorizes a regional board to accept and spend donations of moneys from a permittee for the purpose of updating a water quality control plan, thereby making an appropriation.

3) Authorizes the California regional water quality control board, Los Angeles region, to accept and spend certain funds from the Los Angeles County Flood Control District to prepare a major revision to the water quality control plan for the Los Angeles region, as prescribed.

Background

1) *Basin Plans.* A basin plan is designed to preserve and enhance water quality and protect the beneficial uses of all regional waters. Specifically, a basin plan
   a) Designates beneficial uses for surface and ground waters,
   b) Sets narrative and numerical objectives that must be attained or maintained to protect the designated beneficial uses and conform to the state's antidegradation policy, and
   c) Describes implementation programs to protect all waters in the Region.
   d) In addition, the Basin Plan incorporates (by reference) all applicable SWRCB and regional board plans and policies and other pertinent water quality policies and regulations. Those of other agencies are referenced in appropriate sections throughout the basin plan.

   The basin plan serves as a resource to the regional board and others who use water and/or discharge wastewater in the region and provides valuable information to the public about local water quality issues.

   Basin plans are reviewed and updated as necessary. Following adoption by a regional board, a basin plan and subsequent amendments are subject to

approval by the State Board, the State Office of Administrative Law (OAL), and the United States Environmental Protection Agency (USEPA).

2) *Municipal Stormwater.* Municipal stormwater systems discharge both waste and pollutants. State law controls waste discharges impacting water. Federal law regulates discharges of pollutant[s]. Both state and later-enacted federal law require a permit to operate such systems. Because of the incredible impact of stormwater on water quality, permits and specific requirements for stormwater are incorporated in regional boards' basin plan.

   California's Porter-Cologne, enacted in 1969, established SWRCB, along with nine regional water quality control boards, and gave those agencies primary responsibility for the coordination and control of water quality. SWRCB establishes statewide policy. The regional boards formulate and adopt water quality control plans and issue permits governing the discharge of waste.

   Porter-Cologne requires any person discharging, or proposing to discharge, waste that could affect the quality of state waters to file a report with the appropriate regional board. The regional board then prescribes requirements as to the nature of the discharge, implementing any applicable water quality control plans (basin plans). The operators must follow all requirements set by the regional board.

   CWA was enacted in 1972, and also established a permitting system. CWA is a comprehensive water quality statute designed to restore and maintain the chemical, physical, and biological integrity of the nation's waters. CWA prohibits pollutant discharges unless they comply with: (1) a permit; (2) established effluent limitations or standards; or (3) established national standards of performance.

   CWA allows any state to adopt and enforce its own water quality standards and limitations, so long as those standards and limitations are not less stringent than those in effect under CWA.

   CWA created NPDES, authorizing US EPA to issue a permit for any pollutant discharge that will satisfy all requirements established by CWA or the US EPA Administrator. The federal system notwithstanding, a state may administer its own permitting system if authorized by the US EPA. If the US EPA concludes a state has adequate authority to administer its proposed program, it must grant approval and suspend its own issuance of permits.

For a state to acquire permitting authority, the governor must give US EPA a description of the program proposed to be established and the attorney general must affirm that the laws of the state provide adequate authority to carry out the described program.

US EPA may withdraw approval of a state's program and also retains some supervisory authority: States must inform US EPA of all permit applications received and of any action related to the consideration of a submitted application. California was the first state authorized to issue its own pollutant discharge permits. Shortly after the CWA's enactment, the Legislature amended Porter-Cologne, to authorize state issuance of permits, specifying that state and regional boards issue waste discharge requirements ensuring compliance with all applicable provisions of CWA *together with any more stringent effluent standards or limitations* necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance. To align the state and federal permitting systems, the legislation provided that the term "waste discharge requirements" under the Act was equivalent to the term "permits" under the CWA. Accordingly, California's permitting system now regulates discharges under both state and federal law.

In 1987, Congress amended the CWA to clarify that a permit is required for any discharge from a municipal storm sewer system serving a population of 100,000 or more. Under those amendments, a permit may be issued either on a system- or jurisdiction-wide basis, must effectively prohibit non-stormwater discharges into the storm sewers, and must require controls to reduce the discharge of pollutants *to the maximum extent practicable*. The phrase "maximum extent practicable" is not further defined.

US EPA regulations specify the information to be included in a permit application. Among other things, an applicant must set out a proposed management program that includes management practices, control techniques, and system, design, and engineering methods to reduce the discharge of pollutants to the maximum extent practicable. The permit-issuing agency has discretion to determine which practices, whether or not proposed by the applicant, will be imposed as conditions.

3) *Why Is Stormwater Pollution A Problem?* Stormwater pollution is a major environmental and public health issue. It leads to unsanitary living environments, unhealthy surface waters, such as lakes, creeks and rivers, unhealthy ocean and beach conditions, and street and neighborhood flooding during the rainy season. It's created when trash, cigarette butts, animal waste, pesticides, motor oil and other contaminants left on the ground are washed or

thrown directly into storm drains. This toxic soup mixes with millions of gallons of rainwater and flows untreated into local creeks, rivers and the ocean - polluting our waterways, as well as degrading neighborhoods and other natural resources.

As an example, according to a factsheet posted by SWRCB in 2009:

With nearly 10 million people living in Los Angeles County, each resident's contribution to stormwater pollution adds up quickly to create a serious public health situation. In a 1997 study conducted by Pelegrin Research Group, an estimate of the number of times per month that Los Angeles County residents engage in polluting activities was established, known as pollution volumetrics. According to an updated 2001 study, it is conservatively estimated that each month in LA County, residents contribute to stormwater pollution by:

Dropping cigarette butts on the ground nearly 915,000 times

Dropping litter on the ground or out a car window more than 830,000 times

Allowing paper or trash to blow into the street more than 800,000 times

Throwing something in the gutter or down a storm drain nearly 280,000 times

Emptying a car ashtray into the street more than 40,000 times

Hosing leaves or dirt off a driveway or sidewalk into the street nearly 420,000 times

Washing off paint brushes under an outdoor faucet more than 130,000 times

Spraying the garden or lawn with pesticide more than 210,000 times

Walking a dog without picking up the droppings more than 82,000 times

Also, in Los Angeles County, approximately 100 million gallons of contaminated water and debris drain through the storm drain system each dry day. That would fill the Rose Bowl 1.2 times. (On rainy days the daily flow can increase to 10 billion gallons per day).

4) *Natural Resource Degradation*. Stormwater pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods. The impacts of stormwater pollution include:

a) *Health Impacts.* Stormwater pollution increases serious health risks to people swimming or fishing in the Santa Monica or San Pedro Bay, especially within 400 yards of storm drain outlets.

A study conducted by the Santa Monica Bay Restoration Project found that stormwater pollution in the ocean leads to increased risk of viral infections, earaches, sinus problems, fever, flu and skin rashes and viral diseases such as hepatitis for those swimming in the ocean close to storm drain outfalls, especially following a rainstorm when litter and contaminants are flushed into the storm drain system. The Governor's Clean Beaches Initiative (CBI), funded by portions of four voter-approved bond measures, has already begun the cleanup effort statewide through construction of diversion and treatment facilities. The Erase the Waste campaign provides an educational link to the CBI, focused on Los Angeles County, and helps residents become part of the solution.

The Los Angeles County Department of Health Services recognizes the increased health danger associated with stormwater pollution and has a standing rain advisory that "recommends that beach users avoid contact with ocean water, especially near flowing storm drains, creeks and rivers for a period of 3 days after rainfall ends."

Heal the Bay's 2002-2003 Annual Beach Report Card on the health of Los Angeles County's beaches gave 56% of monitored beaches a failing grade during wet weather, meaning the conditions were hazardous to human health and would have adverse health effects to swimmers who enter the water.

When bacteria levels exceed the State Standards, a warning sign is posted and swimmers are encouraged not to enter the water. Stormwater contaminants are one of the main causes of increased bacteria levels at our local beaches. During 2002, there were 269 warnings posted on Los Angeles County beaches for a total of 1,181 days where the ocean was too polluted for human use.

Research conducted by regional agencies, respected environmental nonprofit organizations and academic institutions have identified stormwater pollution and urban runoff as the leading sources of pollutants to Los Angeles County's inland rivers, creeks, the ocean and beaches along the area's coastline. The widespread critical issue has reached a level that has prompted local, state and federal policymakers and regulatory agencies to enact and enforce more stringent stormwater permit regulations, financial penalties and other compliance measures.

b) *Economic Impact.* Beach attendance has dropped by 56% since 1983. The recreation and tourism industry is one of the top employers in the nation, and is a particularly valuable part of the Los Angeles coastal economy. Each year, Americans take more than 1.8 billion trips to water destinations, largely for recreation, spending money and creating jobs in the process. Activities related to the county's $2 billion annual tourism industry depend largely on the access and enjoyment of clean waters. If the perception of our beaches deteriorates, it poses broader implications for the region's financial growth.

Comments

1) *Purpose of Bill.* According to the author, "this bill is critical because regional boards have not adequately considered the cost of implementing pollution control requirements. By authorizing the Los Angeles Regional Water Control Board to receive funds from permittees the costs of such requirements will be far more easily attainable. A thorough modernization of the basin plan could provide a more realistic plan that adequately considered costs associated with stormwater quality."

2) *Fundamental inaccuracies.* The findings in this bill refer to the partial and incomplete assertions of several reports, two of which are 16 years old and outdate to assert what is needed to update the Los Angeles Basin Plan. As such, taken out of context and out-of-date, these assertions are opinions and are inaccurate.

   For example, it is fundamentally incorrect that the Los Angeles Region Basin Plan is outdated. The bill states that the last major revision of the plan was in 1994. This is simply inaccurate. There have been several comprehensive updates of the various chapters of the basin plan. .

The triennial review process is the federally established process for reviewing and modifying if appropriate water quality standards, including beneficial use designations and implementation provisions.

In recent years, the Los Angeles Water Board conducted triennial reviews of the Basin Plan in 2001-2004, 2005-2007, 2008-2010, 2011-2013 and 2014-2016. We are in the process of conducting our 2017-2019 triennial review.

Chapter 4, pertaining to stormwater (which is the focus of this bill) was updated in 2016.

An amendment is needed to strike all of the findings in this bill.

3) *Outdated, Illegal and Inappropriate Revisions to Basin Plans*. The underlying assertion in this bill seems to be that the basin plans, and specifically the Los Angeles Regional Water Quality Control Board's basin plan, can be updated in ways that will result in less stringent requirements, particularly for stormwater discharges. The implication of the bill seems to be that the basin plans are outdated and, thus, are resulting in unnecessary and costly requirements on stormwater dischargers. The bill *prescribes* a scope of revisions to the basin plans that are not legally viable, or have already been considered and, in a number of cases, already made by the water boards or are not consistent with the purpose and mandate of a basin plan.

4) For example :

- Requires a fiscal capability assessment process be incorporated into the basin plan. A basin plan is meant to evaluate and measures to manage the impacts to health and the environment and beneficial uses of water from discharges. It would be inconsistent and inappropriate to say that that evaluation and management is only to be done in the context of the fiscal capabilities of a discharger.

- Distinguishes between engineered channels and natural streams. Some permittees contend that water quality standards should not apply to engineered channels; however, most of these are waters of the State and waters of the U.S. Therefore, they must be protected as required by the federal Clean Water Act and Porter-Cologne Water Quality Control Act.

- Incorporates a compliance floor above which permittees are not expected to comply with water quality objectives. Again as the basin plan is the plan for

the region to protect the beneficial uses of water such considerations are inappropriate.

- Illegally suggests that the regional boards, in their basin plans, should develop and apply water quality standards differently for "traditional point sources" and stormwater. This has been raised numerous times before the Los Angeles Water Board and the State Water Board. Water quality standards set forth in Basin Plans apply to waterbodies (surface and ground water); they must be set at the levels necessary to protect beneficial uses and maintain high quality water per state and federal antidegradation requirements and do not apply separately to different sources of pollution.

- Incorporates stormwater-specific water quality objectives. Again it is not consistent with and is not appropriate to develop water quality objectives specific to a discharge (objectives are to the beneficial use of the water).

Amendments are needed to strike all of the content pertaining to revisions to the basin plan.

5) The bill authorizes the Los Angeles Regional Water Quality Control Board to accept and spend certain funds from the Los Angeles County Flood Control District to prepare a major revision to the water quality control plan for the Los Angeles region, *as prescribed*." utilizing funds from the Los Angeles County Flood Control District as proposed would be inappropriate as these funds are intended for multi-benefit projects that will not only address stormwater quality, but will also address local water resiliency by augmenting local water supply and improve community health and cohesion by greening our cities and improving recreational opportunities.

An amendment is needed to clarify that these funds must be used for the purposes in which they are mandated.

SOURCE: The Los Angeles County Business Federation

SUPPORT:

The League of Cities, Los Angeles County Division

OPPOSITION:

None received

- END --

AMENDED IN SENATE APRIL 26, 2018

AMENDED IN SENATE APRIL 2, 2018

SENATE BILL No. 1422

Introduced by Senator Portantino

February 16, 2018

An act to add Section 116376 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1422, as amended, Portantino. California Safe Drinking Water Act: microplastics.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adopting implementing regulations, and conducting studies and investigations to assess the quality of water in private domestic water supplies. Under the act, the implementing regulations are required to include, but are not limited to including, monitoring of contaminants and requirements for notifying the public of the quality of the water delivered to customers.

This bill would require the state board to adopt ~~regulations requiring~~ *requirements for the* annual testing ~~for,~~ and reporting ~~of,~~ *of* the amount of microplastics in drinking water, including public disclosure of those results.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 116376 is added to the Health and Safety Code, to read:

116376. *(a) (1)* The state board shall adopt ~~regulations requiring~~ *requirements for the* annual testing for, and reporting of, the amount of microplastics in drinking water, including public disclosure of those results.

(2) Before adopting the requirements described in paragraph (1), the state board shall adopt a standard methodology to be used in the testing of drinking water for microplastics.

(b) The state board may implement subdivision (a) through the adoption of a policy handbook that is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Wieckowski, Chair
2017 - 2018 Regular

Bill No: SB 1422
Author: Portantino
Version: 4/2/2018 **Hearing Date:** 4/18/2018
Urgency: No **Fiscal:** Yes
Consultant: Genevieve Wong

SUBJECT: California Safe Drinking Water Act: microplastics

ANALYSIS:

Existing law:

1) Under the California Safe Drinking Water Act (act), requires the State Water Resources Control Board (SWRCB) to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies (HSC §116350).

    a) Requires the implementing regulations to include, among others, monitoring of contaminants and requirements for notifying the public of the quality of the water delivered to customers (HSC §116350).

2) Authorizes SWRCB to conduct studies and investigations as it deems necessary to assess the quality of private domestic water wells (HSC §116350).

3) Requires SWRCB to issue permits to public water systems and ensure that all public water systems are operating in compliance with the act and regulations adopted under the act (HSC §§116325, 116525).

    a) Defines "public water system" as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year (HSC §116275).

4) Prohibits the sale of a plastic product labeled as "compostable," "home compostable," or "marine degradable" unless the product meets a certain

standard, specification, or certification (PRC §42357).

5) Prohibits the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or in any way implies that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment (PRC §42357).

This Bill: requires SWRCB to adopt regulations requiring annual testing for, and reporting of, the amount of microplastics in drinking water, including public disclosure of those results.

Background

1) *Plastics: Use, Environmental Presence and Impact.* Since the beginning of commercial production of plastics 80 years ago, plastic has become a common component of daily living. The annual global plastic production has risen from 1.9 million tons in the 1950s to 317 million tons in 2012. In addition, some of the properties that make plastics a versatile material also make them convenient to discard.

   Although plastic represents a relatively small fraction of the overall waste stream in California, plastic waste is the predominate form of marine debris. Plastics are estimated to compose 60-80% of all marine debris and 90% of all floating debris. By 2050 plastics in the ocean will outweigh fish per pound if society keeps producing and failing to properly manage plastics at predicted rates, according to a January 2016 report by the World Economic Forum, *The New Plastics Economy: Rethinking the Future of Plastics.* According to the California Coastal Commission, the primary source of marine debris is urban runoff. Due to the interplay of ocean currents, marine debris preferentially accumulates in certain areas throughout the ocean. The North Pacific Central Gyre is the ultimate destination for much of the marine debris originating from the California coast and, on March 22, 2018, Scientific Reports published a study, *Evidence that the Great Pacific Garbage Patch is Rapidly Accumulating Plastic,* that found approximately 46% of the material in the North Pacific Central Gyre by weight was comprised of abandoned fish nets. Microplastics accounted for 94% of the estimated 1.8 trillion pieces of plastic floating in the area. The study also found that the plastic pollution in the North Pacific Central Gyre is increasing exponentially and at a faster rate than surrounding waters.

   All plastic in the ocean will eventually become microplastic as large pieces of plastic break down into smaller and smaller particles due to excessive UV radiation exposure and subsequent photo-degradation. These plastic pieces are

confused with small fish, plankton, or krill and are ingested by other aquatic organisms. Worldwide, over 600 marine animal species have been negatively affected by ingesting plastic. In 2017, scientists at the ARC Centre of Excellence for Coral Reef Studies at James Cook University found that corals are also ingesting small plastic particles, which remain in their stomach cavities and impede their ability to consume and digest food.

2) *Fish with a side of plastic*. Microplastics consumed by marine organisms make their way into animals' tissues and are beginning to show up in the fish that humans eat. In a recent study by UC Davis and Hasunuddin University of Indonesia, researchers sampled fish from markets in Makassar, Indonesia, Half Moon Bay, California, and Princeton, New Jersey. One-quarter of the fish sampled in all locations contained plastic.

3) *Mircoplastics in tap water*. Plastic is also prevalent in tap water. Researchers at the State University of New York and the University of Minnesota tested 159 drinking water samples from cities and towns across five continents. Eighty-three percent of those samples worldwide contained microplastics. In the United States, 94% of the samples contained microplastics, including a sample collected from the United States Environmental Protection Agency headquarters. People, therefore, are ingesting the microplastics when they drink and eat foods prepared by using tap water.

Comments

1) *Purpose of Bill.* According to the author:

"It is crucial that the public be made aware of the extent of microplastics present in drinking water because of the potential dangers they pose to human health and the environment. Greater knowledge of the contaminants in drinking water can lead to increased efforts at recycling, decreased use of plastics, decreased pollution, and an overall healthier public and planet.

"Under the California Safe Drinking Water Act, the State Water Resources Control Board adopts implementing regulations and conducts studies to determine the quality of water. This bill would add microplastics to the list of contaminants monitored, given the high levels present and their potential effects on public health."

2) *Drinking water sources.* There are two main sources from which California residents receive their drinking water. Over 95% of the 38 million California residents get their drinking water from a public water system or municipal

source. These sources are regulated by the Division of Drinking Water within the SWRCB. Up to 2 million California residents, however, are served either by private domestic wells or by water systems serving less than 15 service connections. These sources of drinking water are not regulated by the Division of Drinking Water.

3) *Methodology for testing*. While SB 1422 requires SWRCB to adopt regulations for annual testing and reporting of microplastics in drinking water, it is equally important to ensure that the testing procedures reflect a methodology that is consistent with, and furthers, the author's intent and provides SWRCB and the public with accurate and consistent information. As discussed above, Californians receive their drinking water from different sources. With different sources of drinking water, environmental variations are likely. A standard methodology to be used by those testing drinking water is needed and should be developed by SWRCB to ensure those environmental variations during testing are minimized to the greatest extent possible.

   Additionally, it is not clear who exactly would be the most appropriately situated party to test drinking water, whether it be SWRCB, operators of public water systems, or a different entity. It is assumed that this is something that will be determined by SWRCB as it develops the testing process.

   An amendment is needed to require that SWRCB, prior to adopting requirements for the testing of microplastics in drinking water, adopts a standard methodology to be used by those testing the drinking water. Further, in the interest of minimizing state costs that are associated with adopting regulations through the formal rulemaking process, an amendment is needed to authorize the SWRCB to adopt the methodology, testing requirements, and public disclosure requirements, through the adoption of a policy handbook that is not subject to the requirements of the Administrative Procedures Act.

Related/Prior Legislation

AB 2379 (Bloom, 2017) would require that clothing made from fabric that is composed of more than 50% synthetic material bear a conspicuous label that is visible to the consumer at the point of sale, as specified, including a statement that the garment sheds plastic microfibers when washed. AB 2379 passed out of the Assembly Natural Resources Committee with a vote of 6 to 4 and has been re-referred to the Assembly Committee on Environmental Safety and Toxic Substances.

SB 1263 (Portantino, 2017) would require the Ocean Protection Council to adopt and implement a Statewide Microplastics Strategy to address microplastic materials that pose an emerging concern for ocean health. AB 1263 is currently in this committee.

AB 888 (Bloom, 2017) prohibits a person from selling or offering for promotional purposes a personal care product containing plastic microbeads that are used to exfoliate or cleanse in a rinse-off product. AB 888 was enacted as Chapter 594 of Statutes of 2015.

SOURCE: author.

SUPPORT:

Azul
Californians Against Waste
Heal the Bay
Plastic Pollution Coalition
Seventh Generation Advisors
Sierra Club California
Stop Waste
Surfrider Foundation
The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education (COARE)
UPSTREAM Policy
WILDCOAST
Wishtoyo Chumash Foundation

OPPOSITION:

None received

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115TH CONGRESS
2D SESSION

H. R. 5127

To establish a grant program for the funding of water recycling and reuse projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2018

Mrs. NAPOLITANO (for herself, Ms. BARRAGÁN, Mr. DESAULNIER, Mr. GRIJALVA, Mr. HUFFMAN, Ms. NORTON, Mr. LOWENTHAL, Ms. ESHOO, Mr. CARBAJAL, and Ms. BROWNLEY of California) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To establish a grant program for the funding of water recycling and reuse projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Recycling Investment and Improvement Act".

SEC. 2. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING AND REUSE PROJECTS.

(a) COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING AND REUSE PROJECTS.—Section 1602(f) of the Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102–575; 43 U.S.C. 390h et. seq.) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) PRIORITY.—When funding projects under paragraph (1), the Secretary shall give funding priority to projects that meet one or more of the following criteria:

"(A) Projects that are likely to provide a more reliable water supply for States and local governments.

"(B) Projects that are likely to increase the water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies.

"(C) Projects that are regional in nature.

"(D) Projects with multiple stakeholders.

"(E) Projects that provide multiple benefits, including water supply reliability, eco-sys-

tem benefits, groundwater management and enhancements, and water quality improvements.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1602(g) of the Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102–575; 43 U.S.C. 390h et. seq.) is amended—

(1) by striking "$50,000,000" and inserting "$500,000,000"; and

(2) by striking "if enacted appropriations legislation designates funding to them by name,".

(c) DURATION.—Section 4013 of the WIIN Act (43 U.S.C. 390b(2)) is amended—

(1) in paragraph (1), by striking "and";

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) section 4009(c).".

(d) REPEAL OF LIMITATIONS ON FUNDING.—

(1) RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT.—Section 1631 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13) is amended by striking subsection (d).

(2) CLEAN WATER ACT.—Section 220 of the Federal Water Pollution Control Act (33 U.S.C. 1300) is amended to read as follows:

"SEC. 220. PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.

"(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act and all of the provisions of this section shall be carried out in accordance with the provisions of section 101(g).

"(b) IN GENERAL.—The Administrator may establish a program to make grants to State, interstate, and intrastate water resource development agencies (including water management districts and water supply authorities), local government agencies, private utilities, and nonprofit entities for alternative water source projects to meet critical water supply needs.

"(c) ELIGIBLE ENTITY.—The Administrator may make grants under this section to an entity only if the entity has authority under State law to develop or provide water for municipal, industrial, and agricultural uses in an area of the State that is experiencing critical water supply needs.

"(d) SELECTION OF PROJECTS.—

"(1) LIMITATION.—A project that has received funds for construction under the reclamation and

reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) shall not be eligible for grant assistance under this section.

"(2) GEOGRAPHICAL DISTRIBUTION.—Alternative water source projects selected by the Administrator under this section shall reflect a variety of geographical and environmental conditions.

"(e) USES OF GRANTS.—Amounts from grants received under this section may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Such amounts may not be used for planning, feasibility studies, operation, maintenance, replacement, repair, or rehabilitation.

"(f) COST SHARING.—The Federal share of the eligible costs of an alternative water source project carried out using assistance made available under this section shall not exceed 50 percent.

"(g) REPORTS.—On or before September 30, 2023, the Administrator shall transmit to Congress a report on the results of the program established under this section, including progress made toward meeting the critical water supply needs of the participants in the program.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) ALTERNATIVE WATER SOURCE PROJECT.—The term 'alternative water source project' means a project designed to provide municipal, industrial, and agricultural water supplies in an environmentally sustainable manner by conserving, managing, reclaiming, or reusing water, wastewater, or stormwater, or by treating wastewater or stormwater. Such term does not include water treatment or distribution facilities.

"(2) CRITICAL WATER SUPPLY NEEDS.—The term 'critical water supply needs' means existing or reasonably anticipated future water supply needs that cannot be met by existing water supplies, as identified in a comprehensive statewide or regional water supply plan or assessment projected over a planning period of at least 20 years.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $375,000,000 beginning in fiscal year 2019. Such sums shall remain available until expended.".

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