



GAIL FARBER, Director

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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January 15, 2013

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

PUBLIC HEARING PROPOSED CLEAN WATER, CLEAN BEACHES FEE (ALL SUPERVISORIAL DISTRICTS)

SUBJECT

Conduct a public hearing upon the proposed Clean Water, Clean Beaches Fee and consider all protests against the proposed fee; and if no majority written protest exists, instruct the Chief Engineer of the Los Angeles County Flood Control District or her designee to return to the Board with recommendations regarding an election on the proposed fee.

IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:

DURING THE PUBLIC HEARING:

Consider all protests against and objections to the proposed Clean Water, Clean Beaches Fee made by owners of parcels upon which the fee is proposed for imposition.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

1. If the Chief Engineer of the Los Angeles County Flood Control District or her designee is able to tabulate all written protests by the conclusion of the Public Hearing, then
 - a. If no majority written protest exists against the proposed Clean Water, Clean Beaches Fee, instruct the Chief Engineer of the Los Angeles County Flood Control District or her designee to return to the Board with a recommendation as to the type of election to conduct for the approval of the

Clean Water, Clean Beaches Fee in accordance with Proposition 218, Article XIID, Section 6(c) of the California Constitution; or

b. If a majority written protest against the proposed Clean Water, Clean Beaches Fee exists, then refer the matter back to the Department of Public Works.

2. If the Chief Engineer of the Los Angeles County Flood Control District or her designee is unable to tabulate all written protests by the conclusion of the Public Hearing, then instruct the Chief Engineer of the Los Angeles County Flood Control District or her designee to return to the Board with a final tabulation of written protests and, if no majority protest exists, with a recommendation as to the type of election to conduct on the Clean Water, Clean Beaches Fee in accordance with Proposition 218, Article XIID, Section 6(c) of the California Constitution.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On July 3, 2012, the Board authorized the Chief Engineer of the Los Angeles County Flood Control District or her designee (Chief Engineer) to take the necessary steps to cause a protest hearing to be set and the required mailed notice for the Board's consideration of a property-related Clean Water, Clean Beaches Fee (Fee). The purpose of the recommended actions is, after the Public Hearing that has been set in accordance with this authorization, to consider all protests against and objections to the proposed Fee. The Chief Engineer will tabulate all written protests against the proposed Fee and, if the Chief Engineer is able to tabulate all written protests, by the close of the Public Hearing, including those received on the day of the Public Hearing up to the close of the Public Hearing, then the Chief Engineer will report the results of the tabulation.

It is recommended that if a majority of property owners who would be subject to the proposed Fee do not submit written protests before the close of the Public Hearing, then the Chief Engineer will be instructed to return to the Board with a recommendation regarding the type of election for the Board to conduct on the proposed Fee in accordance with Proposition 218, Article XIID, Section 6(c) of the California Constitution. If a majority written protest against the proposed Fee exists, then it is recommended that the matter be referred back to the Department of Public Works. If the Chief Engineer is unable to tabulate all written protests by the close of the Public Hearing, then it is recommended that the Chief Engineer be instructed to return to the Board with a final tabulation of written protests and, if no majority written protest exists, with a recommendation regarding the type of election for the Board to conduct on the proposed Fee in accordance with Article XIID, Section 6(c) of the California Constitution.

BACKGROUND

The Los Angeles County Flood Control District (LACFCD) was established by the State of California legislature in 1915 for the purposes of controlling and conserving flood waters and providing flood protection. The Federal Water Pollution Control Amendments of 1972, referred to as the Clean Water Act, introduced a permit system known as the National Pollutant Discharge Elimination System (NPDES) for regulating point sources of pollution. In 1987, the Clean Water Act was amended to require stormwater dischargers to obtain NPDES permits as well.

In 2001, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), established the first Total Maximum Daily Load (TMDL) regulation in the County of Los Angeles. A TMDL targets a particular pollutant and identifies the limits to which that pollutant must be controlled. Since then, over 30 TMDLs have been developed within the County. According to the Regional

Board, the LACFCD, together with other agencies, municipalities, and industries in the County spent an estimated \$340 million in Fiscal Year 2010-11 in their efforts to comply with TMDLs. Staff of the Regional Board has estimated that the one-time and recurring costs for the LACFCD, the County unincorporated areas, and all the affected cities to comply with existing TMDLs and other water-quality regulations to be in the billions of dollars.

In 2008, the LACFCD began pursuing the establishment of a regional, sustained funding source that would provide for the construction and maintenance of infrastructure designed to remove pollutants from storm runoff and improve water quality within the boundaries of the LACFCD. On September 30, 2010, the Governor approved Assembly Bill (AB) 2554 (Brownley), sponsored by the Board, which amended the Los Angeles County Flood Control Act, authorizing the LACFCD to impose a fee or charge to pay the costs of carrying out projects and providing services to improve water quality and reduce stormwater and urban runoff pollution in the LACFCD. Pursuant to AB 2554, the LACFCD's authority to impose the Fee is subject to applicable provisions of Proposition 218, including the requirement for a noticed protest hearing and an election.

AB 2554 provides the foundation for the proposed water-quality fee and requires the adoption of an implementation Ordinance. On July 3, 2012, the Board was provided a draft implementation Ordinance and Program Elements setting forth criteria for the implementation of a proposed water-quality fee. If the Fee is approved in accordance with Proposition 218, County Counsel will prepare an Ordinance for the Board's consideration, and the Chief Engineer will prepare for the Board's consideration a Program Implementation Manual to establish specific policies, guidelines, procedures, standards, or requirements necessary to implement the Fee that is consistent with the Program Elements, as directed by the Board on July 3, 2012.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provisions of Fiscal Sustainability through proactive and prudent fiscal policies and stewardship (Goal 2). This action fulfills this goal by establishing a local funding source, which can be used directly or potentially leveraged to secure grant funds, thereby augmenting Integrated Services Delivery (Goal 3) to our communities by enhancing the County's ability to carry out water-quality improvement projects.

FISCAL IMPACT/FINANCING

Public Hearing

On July 3, 2012, the Board approved an Agreement between the LACFCD and K&H Printers-Lithographics in the amount of \$1.65 million to initiate an election process, consistent with Proposition 218 requirements. The Agreement provided for the cost of mailing Public Notices to conduct a Protest Hearing and was funded out of the Fiscal Year 2012-13 Flood Control District Budget.

Clean Water, Clean Beaches Fee

Agencies and municipalities within the LACFCD spent an estimated \$352 million in Fiscal Year 2011-12 to fund water-quality projects and maintenance activities. Of this amount, the LACFCD and the County unincorporated areas spent over \$104 million. Projected costs are expected to increase as water-quality regulations become more stringent.

If approved by the property owners, the total projected fee revenues would be approximately \$295 million per year. AB 2554 requires that 10 percent would be distributed to the LACFCD (approximately \$29.5 million per year) for implementation and administration of water-quality programs, and for costs incurred in connection with the levy and collection of the fee and distribution of the funds. Forty percent would be allocated to municipalities within the LACFCD, including the unincorporated area of the County, in proportion to the fees collected in each municipality, to implement water-quality programs and projects. Fifty percent would be allocated to nine watershed authority groups (WAGs), made up of municipalities within each of the nine identified watersheds within the LACFCD, in the same proportion as the fees collected within each watershed, to implement collaborative water-quality projects and programs within those watersheds.

Enclosure A provides the breakdown of revenue by WAG and identifies the cities and unincorporated areas within each of the watersheds; and provides the distribution of municipality revenues by the city.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

BASIS OF THE PROPOSED FEE

Proposition 218, Article XIID, Section 6 of the California Constitution, requires, among other things, that revenues derived from the Fee not exceed the funds required to provide the property-related service and that the amount of fee imposed upon any parcel not exceed the proportional cost of the service attributable to the parcel. This means that the Fee associated with each parcel must represent the parcel's proportionate share of the costs of the projects and services paid for with the Fee to improve water quality and reduce stormwater and urban runoff pollution in the LACFCD.

On November 29, 2012, the Chief Engineer filed an Engineer's Report with the Executive Officer of the Board, which describes the methodology for calculating the Fee and the estimated fee revenue, which is consistent with these requirements of Proposition 218. As described in the Engineer's Report, calculation of the Fee for each parcel is based on the amount of runoff proportionally attributable to the parcel, as determined by the parcel's impervious area. The Engineer's Report establishes a calculation methodology that determines the impervious area of a parcel based upon parcel size and land use. A copy of the Engineer's Report is also available on the County of Los Angeles Department of Public Works website at www.LACountyCleanWater.org.

PUBLIC HEARING

Proposition 218, Article XIID, Section 6 of the California Constitution, requires a two-step process for imposing a property-related fee: a Public Hearing in which property owners have the right to protest and then if there is no majority protest, an election.

Article XIID, Section 6(a), requires that, for the Public Hearing, notices must be mailed to the owners of all properties that will be subject to the proposed fee at least 45 days before the hearing. These notices must include the amount of the proposed fee to be imposed upon such property, the basis for the calculation of the proposed fee, the reason for the fee, together with the date, time, and location of the Public Hearing. At the Public Hearing, the agency proposing to impose the Fee is required to consider all protests against the proposed fee, and may not impose the fee if written protests against the fee are presented by a majority of owners of properties that would be subject to the fee.

In accordance with these requirements, the Chief Engineer mailed notices of the Public Hearing to owners of properties that will be subject to the proposed Fee on November 30, 2012, which was at least 45 days before the date of the Public Hearing. The notice advised each property owner of the amount of the annual fee proposed for such property based upon the methodology and calculations set forth in the Engineer's Report, along with other information required by Proposition 218. The Notice also informed property owners that if they wanted to protest against the proposed Fee, they could either send in a protest or present it in person at the Hearing, and the Notice contained a form that property owners could use for their protest.

ELECTION

In addition to the requirement of a Public Hearing and no majority protest, Article XIID, Section 6(c) provides that except for fees or charges for sewer, water, and refuse collection services, no property-related fee may be imposed or increased unless and until the fee or charges is submitted and approved by either (1) a majority vote of the property owners of the property subject to the fee or charge or, (2) at the option of the agency, by a two-thirds vote of the electorate residing the affected area. The exception from this election requirement for fees or charges for sewer, water, and refuse collection services has been held not to apply to a fee to pay for reducing pollution in stormwater runoff.

ENVIRONMENTAL DOCUMENTATION

In accordance with Section 15378(b)(4) of the California Environmental Quality Act Guidelines, the recommended actions do not constitute a project and, therefore, are not subject to the requirements of the California Environmental Quality Act. These actions do not involve any commitment to any specific project, which may result in potentially significant impacts on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impacts on current services.

If the proposed fee is approved, the LACFCD Water Quality Improvement Program will require realignment of LACFCD and County resources and possible additional staff, all of which would be funded from the projected new revenue to the LACFCD from the water-quality fee.

The Honorable Board of Supervisors

1/15/2013

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CONCLUSION

Please return six adopted copies of this letter to the Department of Public Works, Watershed Management Division.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gail Farber".

GAIL FARBER

Director

GF:GH:sw

Enclosures

c: Auditor-Controller
Chief Executive Office (Rita Robinson)
County Counsel
Executive Office
All Department Heads

Enclosure A

WAG	ALLOTMENT
Ballona Creek	\$ 14,630,000
Dominguez Channel	\$ 16,960,000
Lower Los Angeles River	\$ 18,630,000
Upper Los Angeles River	\$ 34,020,000
Rio Hondo River	\$ 10,430,000
Lower San Gabriel River	\$ 16,290,000
Upper San Gabriel River	\$ 19,500,000
Santa Clara River	\$ 7,850,000
Santa Monica Bay	\$ 8,720,000

Revenue Allocation to Municipalities

JURISDICTION	ALLOTMENT	JURISDICTION	ALLOTMENT	JURISDICTION	ALLOTMENT
Uninc. County	\$ 14,434,000	Glendora	\$ 836,000	Pasadena	\$ 1,829,000
Agoura Hills	\$ 368,000	Hawaiian Gardens	\$ 123,000	Pico Rivera	\$ 1,020,000
Alhambra	\$ 869,000	Hawthorne	\$ 804,000	Pomona	\$ 2,124,000
Arcadia	\$ 843,000	Hermosa Beach	\$ 148,000	Rancho Palos Verdes	\$ 594,000
Artesia	\$ 188,000	Hidden Hills	\$ 30,000	Redondo Beach	\$ 740,000
Azuza	\$ 736,000	Huntington Park	\$ 439,000	Rolling Hills	\$ 42,000
Baldwin Park	\$ 702,000	Industry	\$ 2,086,000	Rolling Hills Estates	\$ 194,000
Bell	\$ 309,000	Inglewood	\$ 996,000	Rosemead	\$ 614,000
Bell Gardens	\$ 375,000	Irwindale	\$ 631,000	San Dimas	\$ 769,000
Bellflower	\$ 771,000	La Canada Flintridge	\$ 344,000	San Fernando	\$ 281,000
Beverly Hills	\$ 387,000	La Habra Heights	\$ 136,000	San Gabriel	\$ 412,000
Bradbury	\$ 20,000	La Mirada	\$ 842,000	San Marino	\$ 189,000
Burbank	\$ 1,431,000	La Puente	\$ 359,000	Santa Clarita	\$ 3,125,000
Calabasas	\$ 402,000	La Verne	\$ 587,000	Santa Fe Springs	\$ 1,568,000
Carson	\$ 2,288,000	Lakewood	\$ 950,000	Santa Monica	\$ 950,000
Cerritos	\$ 1,036,000	Lawndale	\$ 219,000	Sierra Madre	\$ 156,000
Claremont	\$ 657,000	Lomita	\$ 234,000	Signal Hill	\$ 273,000
Commerce	\$ 1,255,000	Long Beach	\$ 5,132,000	South El Monte	\$ 466,000
Compton	\$ 1,318,000	Los Angeles	\$ 36,762,000	South Gate	\$ 934,000
Covina	\$ 771,000	Lynwood	\$ 552,000	South Pasadena	\$ 283,000
Cudahy	\$ 199,000	Malibu	\$ 428,000	Temple City	\$ 378,000
Culver City	\$ 589,000	Manhattan Beach	\$ 408,000	Torrance	\$ 2,255,000
Diamond Bar	\$ 774,000	Maywood	\$ 155,000	Vernon	\$ 1,006,000
Downey	\$ 1,366,000	Monrovia	\$ 611,000	Walnut	\$ 367,000
Duarte	\$ 295,000	Montebello	\$ 882,000	West Covina	\$ 1,195,000
El Monte	\$ 1,270,000	Monterey Park	\$ 784,000	West Hollywood	\$ 288,000
El Segundo	\$ 618,000	Norwalk	\$ 1,011,000	Westlake Village	\$ 262,000
Gardena	\$ 798,000	Palos Verdes Estates	\$ 246,000	Whittier	\$ 1,206,000
Glendale	\$ 2,051,000	Paramount	\$ 676,000		