



September 15, 2011

Mr. Charles R. Hoppin, Chair
State Water Resources Control Board



Subject: Comments on Core Regulatory Fee Schedules for FY 11-12

Chair Hoppin:

On behalf of the San Mateo Countywide Water Pollution Prevention Program (Countywide Program), thank you for the opportunity to comment on the proposed Resolution adopting emergency regulations revising the Core Regulatory Fee Schedules for FY 11-12. The Countywide Program, which is a program of the City/County Association of Governments of San Mateo County, assists and represents the 21 municipal agencies in the county with regard to stormwater regulatory requirements. The Countywide Program has commented on proposed regulatory fee increases in the past – many of our comments are herein repeated as the serious issues associated with the State Water Board's fee adoption process remain unchanged. Our comments are as follows:

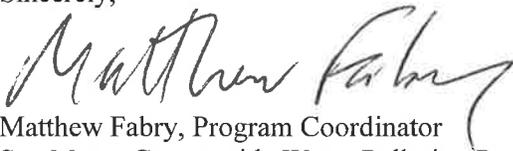
- The Countywide Program strongly supports the use of the Stormwater Fee Rebalance option in the proposed Resolution. We also strongly support the comments of the California Stormwater Quality Association (CASQA) regarding the use of the Stormwater Fee Rebalance option in the proposed Resolution. Stormwater permit holders have been overcharged regulatory fees for years, providing a significant revenue surplus that the State Water Board has used repeatedly to subsidize other core regulatory programs. Stormwater permit fee increases should be limited to make up for the past overcharges.
- The public notice process on the proposed fee increase is insufficient for jurisdictions to adequately review and provide meaningful comment. Permit holders were not notified directly of the proposed increase. The only way permittees became aware of the proposed increase was through email subscriptions to State Board programs, such as the agenda mailing or construction permitting issues. If a permittee is not subscribed to appropriate State Board email services, we do not believe they were notified of the proposed fee increase. The State Board's agenda was emailed out shortly before 5 PM on Friday, September 9, with comments on agenda items due by noon on September 15 – three and a half business days later. This type of public process for an issue that has a significant financial impact on permittees is inappropriate.
- Water Code Section 13260, which requires the State Water Board to adopt an annual schedule of fees by emergency regulations, is highly problematic and needs to be changed. The fee increases are approved at a time when municipal budgets are already set for the year. In these extremely lean times, jurisdictions do not have extra, un-appropriated funds in their budgets to pay for fee increases. Annual fee increases, when justified, need to be adopted at a time when jurisdictions can plan for the increases as part of their budget processes. The proposed increases in stormwater fees plus monitoring surcharges exceed \$67,000 for jurisdictions in San Mateo County. This comes at a time when municipal budgets are severely restricted and will simply reduce the amount of money that jurisdictions can direct to permit compliance activities.
- There is an automatic 21% surcharge added to all stormwater permit fees to fund the statewide Surface Water Ambient Monitoring Program (SWAMP). Any time the base fees are increased; it

increases the amount of the surcharge. There is no justification anywhere in the staff report that the SWAMP program requires additional funding or needs to continue to be funded at its current levels given the current economic climate and impacts fee increases will have on local agencies. The Countywide Program recommends the SWAMP program be funded at a reduced level to compensate for any permit fee increases to keep the total amount any jurisdiction pays for the coming fiscal year static.

- The fees collected for Municipal Stormwater Programs should be directed back to the Regional Water Boards who regulate the dischargers. For example, San Mateo county jurisdictions alone will be paying \$215,000 in annual fees (not including the SWAMP surcharge), which should be enough to fund a full-time staff person dedicated to oversight of San Mateo jurisdictions. In fact, we are continually told Regional Water Board staff does not have the resources to adequately oversee stormwater permittees. There must be over \$1 million in Bay Area MS4 stormwater permit fees going to the State Water Board – what benefit are the permittees receiving for the fees they are required to pay?
- The Countywide Program and local jurisdictions are severely restricted by Proposition 218 from increasing fees on local taxpayers to fund increased regulatory costs. Municipalities in the Bay Area became subject to a regional stormwater permit issued by the San Francisco Bay Water Board in October of 2009, under which compliance costs significantly increased. The Countywide Program and 21 copermittees are all dealing with projected structural deficits to simply comply with the permit requirements, let alone pay increased permit fees. Every dollar spent on increased permit fees will be one less dollar that can be spent upon permit compliance. The State should provide permittees a multi-year plan with regard to anticipated permit fees so municipalities can incorporate into their planning and budgeting processes sufficient funds to pay increased fees, keeping in mind this may require a complex and multi-year Proposition 218 process.

San Mateo County taxpayers support and fund our stormwater programs with the expectation that their taxes will be spent on reducing stormwater pollution and improving the quality of stormwater that flows to our waters. It is not at all clear from the proposal if any, let alone all of the proposed increase, will be spent on that intended purpose – achieving our stormwater quality goals.

Sincerely,



Matthew Fabry, Program Coordinator
San Mateo Countywide Water Pollution Prevention Program

Cc (via Email): TAC Representatives

Rich Napier, C/CAG Executive Director

Geoff Brosseau, BASMAA Executive Director

Bruce Wolfe, Executive Officer, SF Bay RWQCB

Thomas Mumley, Assistant Executive Officer, SF Bay RWQCB