The Board of Supervisors

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Contra
Costa
County

David Twa
Clerk of the Board
and
County Administrator
(925) 335-1900

March 24, 2009

John Muller, Chair
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612

Re: Municipal Regional Permit (MRP) Tentative Order Comments

Dear Mr. Muller:

The purpose of this letter is to highlight significant issues with the current version of the draft Municipal Regional Permit Tentative Order (MRP) released by the San Francisco Bay Regional Water Quality Control Board (RWQCB) on February 11, 2009. This letter provides comments and concerns that the Contra Costa County Board of Supervisors has with regard to this MRP, and how it may adversely impact the citizens, businesses and government of Contra Costa County.

During last year's RWQCB hearing, this Board provided a letter to the RWQCB highlighting our concerns. In addition, several elected officials from the County and Contra Costa cities spoke at the hearing. As a result of the written and oral testimony, the RWQCB has revised the MRP which was issued on February 11, 2009. Although this revised MRP is better and more workable, there are still significant issues and areas of concern that need to be addressed.

The County continues to support the RWQCB's overarching goal to improve water quality and principles of environmental sustainability. However, the MRP must be reviewed in the context of meeting the County's total responsibilities, such as smart growth, affordable housing, and protecting the health and safety of our citizens. We have limited resources and we need to be able to meet the permit requirements in a way that does not jeopardize our other responsibilities and goals.

We estimate the additional direct cost to implement the MRP in Contra Costa's unincorporated communities to be $34.5 million over the next five years. Unfortunately, the budget issues faced by the County and the State are worse this year than they were last year. For Fiscal Year 08/09, the County cut approximately $90 million from our budget and is still facing an additional estimated deficit of $49 million over the next fiscal year[1]. The increased costs associated with this MRP in an economic environment where we are forced to lay off many long time employees and drastically cut services will be extremely difficult.

An example of a particularly problematic requirement for Contra Costa County is the elimination of the alternative compliance provision for road projects and eliminating the "grandfathering" provisions. This will have negative ramifications for our Vasco Road Safety Improvement Project.

Vasco Road is a heavily used rural road and in the past years (1996-2006) has seen 330 collisions resulting in 128 injured motorists and 6 fatalities. The project includes widening and installation of median barriers to improve the safety for the motoring public. We have limited right of way and mitigating on site for the additional pavement will be difficult. The project design is currently 80% complete and complies with the current permit provisions, which allows for alternative treatment offsite. An equal or greater amount of existing impervious surface area run-off is being treated as close to the widening project as possible, but in areas on Vasco Road where it is feasible. Under the provisions of this new proposed MRP, alternative compliance would not be an option for road projects, and the grandfathering provision has been removed. As a result, the regulatory permits for the project and the design would have to be modified significantly, resulting in increased cost as well as potential delays in project delivery. The Vasco Road Safety Project has $10 million in funding from the Federal stimulus bill, the American Recovery and Reinvestment Act of 2009 (ARRA), which imposes very tight timelines for project delivery. Any delays due to redesign could jeopardize these funds. A transition period for projects currently in design should be considered.

We believe that our public works projects should be done in as environmentally

[1] Deficit information from March 12, 2009, memo from County Administrator to the Board.

sensitive manner as possible. However, regulations should be written with sensitivity and understanding of its effects on local government projects. It would be better to provide standards, instead of prescribing methodology, and allow jurisdictions to determine the best and most cost-effective way to meet those standards.

The proposed MRP will also have negative impacts on the Contra Costa County Flood Control and Water Conservation District (Flood Control District). The Flood Control District is a Special District, providing programs and facilities to reduce the risks of flooding. Although the Flood Control District has jurisdiction throughout Contra Costa County, its facilities are confined to a very small geographic area (within its right of way) that contains no permanent residential population. Funding for the maintenance of Flood Control District facilities is generated by property taxes on properties within the individual watersheds served by Flood Control District facilities. The tax revenue in our watersheds is inadequate to fund our basic mission of flood protection. Funding the additional requirements in the proposed MRP will further reduce the Flood Control District's ability to carry out its present public safety responsibilities.

Now more than ever the Regional Board should not be promulgating such costly regulation without providing offsetting funds and flexibility. Without additional funding, local government will be forced to reduce other important programs. We request the Regional Board lead the effort to develop the funding sources necessary to implement the MRP, work collaboratively with us on an implementation schedule as funding is developed and provide local municipalities with goals that need to be met and leave the details of the method of meeting those goals to the local municipality.

We want to work together with the Regional Board to meet water quality goals with the most cost-effective expenditure of public funds. Give us the water quality goals and allow us to work with you to develop the most effective implementation measures to the extent our resources will allow.

The County of Contra Costa is deeply concerned about how the MRP can be implemented as it is currently written. We are encouraged, however, that this MRP will be administered on a regional basis, allowing for an economy of scale in tackling some of the issues. By applying the same regulations to all the Phase I communities in the San Francisco Bay Area, it is hoped that we may address some of these issues on a regional basis with regional solutions, regulations and legislation.

Contra Costa County is supportive of the water quality improvement goals of the RWQCB and the MRP and looks forward to working with the RWQCB to refine the MRP to meet its water quality goals in a manner that facilitates permit implementation. Contra Costa County will continue to protect and enhance our natural environment,

while sustaining the health and well being of our communities, to the extent our resources allow.

Thank you for the opportunity to comment on the MRP. Please see Attachment A (specific comments of the MRP), B (cost implications of the MRP) and C (bar graph of MRP cost implications) for more detailed comments.

Sincerely,

Susan A Bonilla

Supervisor Susan Bonilla, Chair
Board of Supervisors

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Attachments:
Specific Comments by Provision (Attachment A)
Cost Implications (Attachment B)
Bar Graph of Cost Implications (Attachment C)

c: Supervisor John Gioia, District 1
Supervisor Gayle B. Uilkema, District 2
Supervisor Mary Piepho, District 3
Supervisor Federal Glover, District 5
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Mitch Avalon, Deputy Public Works Director
Greg Connaughton, Flood Control
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Rich Lierly, County Watershed Program