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November 16, 2016

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
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Sacramento, CA 95812-0100
Email: commentletters@waterboards.ca.gov

VIA EMAIL & US MAIL

12/6/16 Board Meeting-Item 3
Comments to A-2455
Deadline: 12/5/15 12:00 noon



RE: COMMENTS TO A-2455 – DECEMBER 6 BOARD ITEM [OWN MOTION ORDER]

Dear Ms. Townsend:

We request that you provide this comment letter to the State Board members for their consideration of the draft Own Motion Order noticed for December 6, 2016.

The County of Alameda, Petition A-2455(k), supports the State Water Board reviewing this matter on its own motion to encourage full consideration of the merits and to avoid unnecessary or premature litigation. We object, however, to an open-ended delay.

The County has been implementing the San Francisco Bay Regional Board Order for almost a year at substantial cost, including those provisions challenged in our petition. We seek a timely, thorough, and thoughtful review of the important issues raised in the various petitions for review of this MS4 permit.

Under its draft Order, the Board would delay consideration of the County's petition until after it completes review of Watershed Management Programs under a separate MS4 permit issued by the Los Angeles Regional Water Quality Control Board.

It is not appropriate to queue the proceedings. Instead, the two matters should proceed at the same time, as do most matters before the Board.

Efficiency is not served by sequential consideration. The issues raised in our Petition differ from those raised in the Petition for Review in the Los Angeles MS4 permit matter. It appears that the only issue common to the two proceedings before the Board is the "deemed in compliance" receiving water and prohibition related issue raised by the San Francisco Baykeeper petition.

The County of Alameda would support the adoption of an alternative Own Motion Order providing for completion of review within a reasonable and defined extension period. For example, the County of Alameda would agree to stipulate to a 60-day extension of time. A concrete time extension is more consistent with the State Board's regulatory framework. (See Cal. Code Regs., tit. 23, § 2050.5, subd. (b) ["The state board shall review and act on the

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petition within 270 days [...] These time limits may be extended for a period *not to exceed 60 days* with written agreement from the petitioner.”] (emphasis added).¹

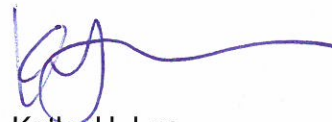
The Regional Board MRP 2 was adopted almost one year ago. The issues presented in our petition should be considered, discussed, and timely resolved on the merits.

Thank you for your consideration.

Respectfully submitted,

DONNA R. ZIEGLER
County Counsel

By



Kathy H. Lee
Deputy County Counsel
County of Alameda

.cc A-2455 (a-m) Distribution List (email only)

¹ We have also requested in a separate letter that our Petition be placed in abeyance status to prevent having to evaluate an alternative legal course of action in case an Own Motion Order is not timely adopted and/or to provide the State Board with a reasonable amount of time to review the matter in a more appropriately framed Own Motion Order.