

The Board of Supervisors

County Administration Building
651 Pine Street, Room 106
Martinez, California 94553-1293

John Gioia, 1st District
Gayle B. Uilkema, 2nd District
Mary N. Piepho, 3rd District
Susan A. Bonilla, 4th District
Federal D. Glover, 5th District

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 regards 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 re-worked and re-submitted the MRP as of 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. The County embraces overall principles of environmental sustainability. However, achieving water quality goals in 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 in the most cost effective and environmentally sensitive manner possible. The County must be able to protect and improve the natural environment in a sustainable fashion that does not jeopardize our other responsibilities and goals, and does not conflict with other regulations that we and our local municipalities have to contend with. We would like to continue to work

with the Regional Board to meet water quality goals in addition to our other responsibilities in the most cost-effective manner possible.

We estimate the additional direct cost to implement the MRP in our 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 \$90 million from our budget and is still facing an additional deficit of \$35 million. Facing 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 social services is extremely difficult.

Given our limited ability to generate funding, the high cost of implementing this MRP may result in an even more drastic reduction of services to our citizens. The additional costs associated with this MRP include direct costs and indirect costs. Indirect costs are related to two major issues with this MRP. First, it seems parts of this MRP were written without a clear understanding of how County governments function and what are our roles, responsibilities, and limitations. Second, this issue is further complicated and compounded by this MRP having a "one size fits all" approach.

An example of this is the elimination of the alternative compliance provision for road projects and eliminating the "grandfathering" provisions. Below is an example of how these seemingly "innocuous" changes have negative ramifications for one of our road projects, the **Vasco Road Safety Improvement Project**.

The Vasco Road Safety Improvement Project is a relatively simple and typical road widening project in a rural unincorporated part of our County. 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 is designed to install median barriers and road widening to make this section of the road safer for the motoring public. Since Vasco Road is located in a hilly area with unstable slopes and limited right of way, the potential impacts on water quality (additional impervious surface area) cannot be treated where the impervious surface is being created. So this project is being designed with the current permit provision which allows for alternative treatment. An equal or greater amount of existing impervious surface area run-off is being treated as close to the project as possible, but in an area that does not have the same limitations (steep/unstable slopes and limited right of way). Under the provisions of this new proposed MRP, alternative compliance is no longer an option for road projects, and the "grandfathering" provision has been removed. As a result, the regulatory permits (including Fish and Game, Fish and Wildlife, and Army Corps of Engineers), and the design which are both approximately 80% complete will likely have to be modified significantly, resulting in greater increases in cost and delays in construction for this safety improvement project. This project already has an extremely

expedited timeline as it is funded with \$10 million of Federal Stimulus Funds. If there is no allowance for alternative compliance, or transition/"grandfather" for projects currently in design, then the County will lose the Stimulus Funding.

We are not saying that projects should not be done in an environmentally sensitive manner as possible, however, regulation should be written with sensitivity and understanding of its effects on local government projects. This project also highlights how "one size" does not fit all. These same issues would not be present in a more urban project. It would be better to provide us with standards that must be met and allow us to decide the best, most cost-effective way to meet those standards.

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 safety, health and other programs, and without flexibility public money will be wasted on implementation of ineffective regulations. We are sure this is not what the RWQCB intends. 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 and cities of Contra Costa are deeply concerned about the MRP as it is currently written. We are encouraged, however, that this MRP will be administered on a regional basis. This will allow 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.

Mr. Muller
March 24, 2009
Page 4 of 4

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,

Supervisor Susan Bonilla, Chair
Board of Supervisors

RL:jj:lz

G:\fldct\NPDES\PERMIT\MRP Letter BOS to SFRWQCB\County ltr to Mr. Muller.doc

Attachments:

Specific Comments by Provision (Attachment A – County)
Cost Implications (Attachment B)
Bar Graph of Cost Implications (Attachment C)

c: Dale Bowyer, Regional Water Quality Control Board
David Twa, County Administrator
Jason Crapo, Building Inspection Deputy Director
Catherine O. Kutsuris, Department of Conservation and Development Director
Silvana Marchesi, County Counsel
Lon Wixson, District Attorney
Michael Lango, General Services Director
Dr. William Walker, Health Services Director
Sherman Quinlan, Health Services, Environmental Health Director
Vince Guise, Agriculture Department Commissioner/Director
Julie Bueren, Public Works Director
Mitch Avalon, Deputy Public Works Director
Pattie McNamee, Deputy Public Works Director
Steve Kowalewski, Deputy Public Works Director
Brian Balbas, Deputy Public Works Director
Mike Carlson, Transportation Engineering
Greg Connaughton, Flood Control
Kevin Emigh, Construction
Keith Freitas, Airport
Mike Hollingsworth, Design
Gary Huisinigh, Engineering Services
Karen Laws, Real Property
Joe Yee, Maintenance
Don Freitas, Clean Water Program
Tom Dalziel, Clean Water Program
Rich Lierly, County Watershed Program
Charmaine Bernard, County Watershed Program
David Swartz, County Watershed Program
Michele Wara, Administration