



March 23, 2016

The Honorable Robert Hertzberg
Chair, Senate Governance and Finance Committee
State Capitol
Sacramento, CA 95814

Re: Senate Bill 1170 (Wieckowski)—Oppose [As Introduced]
Hearing Date: March 30, 2016 – Senate Governance and Finance Committee

Dear Senator Hertzberg:

The organizations listed below must regrettably oppose SB 1170 (Wieckowski) related to stormwater pollution prevention. We represent a broad group of public agencies and organizations that plan, approve, construct, and maintain an extensive range of essential public infrastructure. Unfortunately, as currently written, SB 1170 would add significant new costs and inefficiencies to the delivery of this infrastructure.

On projects that encompass at least one acre of land, Stormwater Pollution Prevention Plans (SWPPPs) must be developed to ascertain potential sources of stormwater pollution on construction sites and identify the control measures needed to be taken during the construction process. SWPPPs must be written, amended, and certified by qualified personnel who are knowledgeable in the principles and practice of erosion and sediment controls and possess the skills needed to assess conditions at the construction site that could impact stormwater quality. Public agencies rely on the expertise of qualified SWPPP developers, known as QSDs, to conduct this work, as agencies do not have the resources nor the regular workload required to employ such personnel throughout the year.

SWPPPs are currently created in accordance with the general contractor's construction plans. As construction progresses, SWPPPs must often be modified to accommodate the constantly changing conditions of a construction site. The general contractor is in the best position to create the construction plan and contract for the corresponding SWPPP. A general contractor-developed SWPPP can incorporate an optimal construction sequence selected by the contractor, thereby maximizing efficiency and reducing costs.

SB 1170 would turn this standing process on its head by prohibiting public agencies from contracting with the general contractor to develop a SWPPP and statutorily restricting the agencies' remaining options to an engineer or architect. A separate entity developing a SWPPP

would have to assume a sequence of work that might occur under one construction scenario but not another. Public agencies, engineers and architects simply do not have the direct control over the day-to-day construction, let alone the expertise, to perform this function.

Ultimately, the success or failure of a SWPPP lies with the general contractor carrying out the plan. If the legislature statutorily shifts the development and liability of the SWPPP to the public agency, or to a design professional or architect, it will create confusion and conflict within the public works process. SB 1170 will only further disconnect the entity responsible for the development of the SWPPP from the entity that performs the work related to the SWPPP. This is akin to asking the public agency or design professional to separately plan and contract for the security of the general contractor's equipment on the job site, the number of portable restrooms needed or any other function that is intimately connected to the performance and sequence of a construction project.

For the aforementioned reasons, we must respectfully oppose SB 1170 as currently drafted. Please do not hesitate to contact any of the signees below if you have any questions about our position.

Sincerely,

Jimmy MacDonald
Legislative Representative
California Special Districts Association

Danielle Blacet
Director of Water
California Municipal Utilities Association

Jean Hurst
Legislative Advocate
Association of California Healthcare Districts

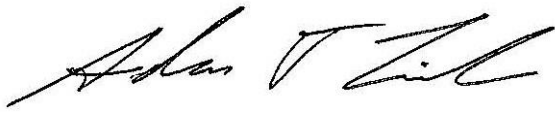
Faith Conley
Legislative Representative
California State Association of Counties

Laura Preston
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Association of California School Administrators

Ian Padilla
Legislative Advocate
Coalition for Adequate School Housing

Whitnie Wiley
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Association of California Water Agencies

Ronald Berdugo
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League of California Cities



Adam Link
Director of Governmental Affairs
California Association of Sanitation Agencies



Kathy Mannion
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Rural County Representatives of California



Sara Bachez
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California Association of School Business
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Richard Hansen
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Three Valleys Municipal Water District



Jolena Voorhis
Executive Director
Urban Counties of California