

—DRAFT 4/12/21—

April 12, 2021

The Honorable Rebecca Bauer-Kahan  
Assembly Member 16<sup>th</sup> District  
State Capitol  
Sacramento, CA 95814

**Subject: AB 377 (Rivas) — Oppose**

Dear Ms. Bauer-Kahan:

Contra Costa County respectfully requests that you oppose AB 377 (Rivas). This bill would add impossible requirements and deadlines to our already challenging County NPDES (National Pollutant Discharge Elimination System) Municipal Regional Permit. It would circumvent the local regulatory authority of the Regional Water Boards and instead legislate the rewriting of existing permitting policies, without regard to local conditions, existing agreements, timeframes, or other priorities of the State.

All aspects of AB 377 are permitting discussions that have, and should be, part of the public process that establishes each permit. This approach, therefore, not only circumvents the regulatory authority of the State Water Resources Control Board and the nine Regional Water Quality Control Boards, but it also makes moot the knowledge and expertise of their staff.

Stormwater regulation is extraordinarily complex. Each agency's permit is often the result of many years of detailed discussions that include all parties (State and/or Regional Water Boards, Permittees, environmental community, and the public). While this letter could go into detail on each individual aspect of AB 377, the larger and more important point is that those discussions are simply regulatory discussions, not legislative discussions. Therefore, no amendments can be offered that would resolve this fundamental flaw of AB 377.

We share the goal to improve and protect our water quality; however, AB 377 does not offer any concrete actions that will help to achieve this. Rather, it proposes to simply reduce the amount of time for implementation and to increase penalties and enforcement. This approach presumes that the tools needed to achieve the desired outcome are available and simply more motivation is needed. This presumption is false. Neither less time nor more enforcement will result in actions that will improve water quality.

There are very real and actionable solutions that must be implemented to protect and improve water quality: (1) provide dedicated funding to stormwater programs, (2) increase supplemental funding (e.g., grants), (3) maximize stormwater capture, (4) minimize pollution through true source control, and (5) maximize effectiveness of best management practices. Funding is needed to implement all of these solutions — at the local level, statewide level, and federal level. Unlike all other water resources, stormwater remains unfunded. In contrast, the federal government

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and California have invested billions of dollars into building and maintaining the infrastructure necessary to support drinking water and wastewater systems. Yet no such investment has been made in stormwater quality.

In addition, the vast majority of stormwater programs in California lack a dedicated funding source, largely due to Proposition 218 that established significant barriers to new property taxes. Even those stormwater programs that have some level of dedicated funding cannot implement their programs based on that funding alone. Therefore, all stormwater programs rely to a significant extent on their agency's General Fund. In the best of times, municipalities still face significant challenges in meeting all the needs of their community, thus stormwater programs must compete for the limited funding with police, fire, libraries, social services, etc.

Simply asking municipalities to do more, in less time, under threat of financial penalties, is neither realistic nor effective. Instead, significant State and federal funding must be provided to implement the infrastructure and programs that will achieve our common goal to improve water quality.

Thank you for considering the concerns of the stormwater community. We respectfully request the California Legislature continue its work with us to implement water quality actions. If you have any questions, or would like to discuss the needs of stormwater in Contra Costa County, please contact me at (925) 252-4500 or at [supervisor\\_burgis@bos.cccounty.us](mailto:supervisor_burgis@bos.cccounty.us).

Sincerely,

Diane Burgis, Chair  
Contra Costa County Board of Supervisors

DB:TJ

cc: Brian M. Balbas, Public Works  
Allison Knapp, Public Works  
Tim Jensen, Public Works  
Ryan Hernandez, Department of Conservation and Development