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November 28, 2016

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 "I" Street, 24nd floor (95814)
PO Box 100
Sacramento, CA 95812-0100



Email: commentletters@waterboards.ca.gov; Ryan.Mallory-Jones@waterboards.ca.gov

SWRCB/OCC File A-2455 (a thru m)
Comments to A-2455 (a thru m) – December 6 Board Item (Own Motion Order)

Dear Ms. Townsend:

This is in response to the State Water Resources Control Board (“State Board”) November 4, 2016 notification in the above matter which invited written comments by noon on December 5, 2016. The State Board proposed Own Motion Order is to be considered by the Board on December 6, 2016. We request that you provide this comment letter to the State Board members for their consideration in this proposed Board action.

This Board action relates to San Francisco Bay Regional Water Quality Control Board’s (“Regional Board”) November 18/19, 2015 issuance of the Municipal Regional Stormwater Permit for the San Francisco Bay Area, Order No. R2-2015-0049 (the “MRP Order”). This written response is submitted on behalf of the Alameda Countywide Clean Water Program (the “Program”), an interested person in this matter.¹ The Program has authorized me to file these comments.

¹ The Alameda Countywide Clean Water Program is composed of 17 cities and county entities in Alameda County including the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City, Alameda County (for the unincorporated area), Alameda County Flood Control and Water Conservation District and Zone 7 of the Alameda County Flood Control and Water Conservation District (collectively, “Program Permittees”). These entities each have jurisdiction over and/or maintenance responsibility for their respective municipal separate storm drain systems and/or watercourses in Alameda County.

On May 12, 2016 we filed comments on the issues raised in the Petitions for Review of our Program Permittees, the Cities of Alameda, Union City Albany, Newark, Hayward, Dublin, Berkeley, San Leandro and Oakland as well as the County of Alameda. The Program fully supports the contentions of our member Program Permittees raised in their Petitions.

Alameda Countywide Clean Water Program Background

The Program works with our local government Program Permittees member agencies in Alameda County, so as to facilitate permittee compliance with the Federal Clean Water Act and the MRP Order issued by the Regional Board. Compliance is facilitated by the Program in ways such as assisting in reporting in the Annual Reports, coordination of and technical guidance for Program subcommittee activities on various permit implementation issues, submission of certain monitoring information on behalf of the Program Permittees, and guidance to Program Permittees on issues relating to pesticide toxicity control, trash load reduction, and the control programs for mercury, PCBs, and other pollutants of concern.

In addition to conducting these functions with our member agencies, the Program educates the public on how to keep businesses and homes from contributing to storm water pollution as well as coordinates its activities with other stormwater quality related efforts that involve wastewater treatment plants, hazardous waste disposal, and water recycling. We foster a culture of stewardship of our local creeks, wetlands and the Bay as Alameda County homes and businesses are connected to these waterways through the network of stormdrains found in every neighborhood. We also have considerable interactions with other MRP Order programs in the San Francisco Bay area.

Comments on the proposed Own Motion Order

The Program consequently understands the needs of our Program Permittees, is closely involved in our member agency implementation of the MRP Order, and has frequent interactions with Regional Board staff and the public relating to water quality matters. With this understanding, it is clear to the Program that it is essential to MRP permittees to receive prompt and meaningful responses from state agencies, such as the State Board, that exercise regulatory control over our activities. Resolution of the issues addressed in the petitions for review that are on file in this matter is one of those regulatory responses that is essential for our local agencies to effectively and wholeheartedly implement the provisions of the MRP Order.

Permittees are entitled to the State Board's regulatory "final say" on the issues raised in the MRP Order petitions both from the perspective of assuring effective permit implementation as well as fairness to the local agencies regulated by the MRP Order. These petitions were filed and have been in the hands of the State Board for about eleven months. Surely this is sufficient time for staff and Board members to review and act on the issues. Our member agency Program Permittees, other permittees, and the public deserve a response and prompt resolution of the petitions.

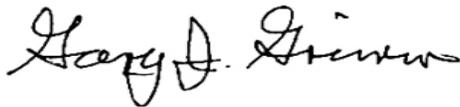
We support the Own Motion comments of our Program Permittees that have been filed in this matter. We feel that it is very important for the State Board to adopt an Own Motion Order

extending the regulatory review time, but strongly urge the Board to conduct the review as soon as reasonably possible and to include specific language in the proposed Order that would specify a specific time frame for final action. The proposed Order does not do this. In addition, to avoid further frustration by our Program Permittees due to Board further postponing review of the MRP Order issues until the Los Angeles matter is resolved as is suggested in your draft order, we strongly urge you not to await resolution of the issues in the Los Angeles matter, but to review the MRP Order simultaneously with the Los Angeles matter. We're sure that the State Board has the capability to act in this manner.

We will not repeat the excellent comments that our Program Permittees have filed, but urge you to take prompt and effective action to adopt a more meaningful Own Motion Order, not just an open-ended Order as is proposed.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink that reads "Gary J. Grimm". The signature is written in a cursive style with a large, stylized initial "G".

Gary J. Grimm

cc A-2455 distribution list