



METROPOLITAN
TRANSPORTATION
COMMISSION

(9/23/14) Board Meeting
A-2259
Deadline: 9/15/14 by 12:00 noon
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September 8, 2014

Via E Mail: commentletters@waterboards.ca.gov

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Cities of Contra Costa County

Dave Cortese, Vice Chair
Santa Clara County

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Cities of San Mateo County

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U.S. Department of Housing
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Cities of Alameda County

David Campos
City and County of San Francisco

Bill Dodd
Napa County and Cities

Dorene M. Giacomini
U.S. Department of Transportation

Federal D. Glover
Contra Costa County

Scott Haggerty
Alameda County

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San Francisco Bay Conservation
and Development Commission

Steve Kinsey
Marin County and Cities

Sam Liccardo
San Jose Mayor's Appointee

Mark Lucie
Association of Bay Area Governments

Jake Mackenzie
Sonoma County and Cities

Joe Pirzynski
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Bijan Sartipi
California State
Transportation Agency

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Solano County and Cities

Adrienne J. Tissier
San Mateo County

Scott Wiener
San Francisco Mayor's Appointee

Steve Heminger
Executive Director

Alix Bockelman
Deputy Executive Director, Policy

Andrew B. Fremier
Deputy Executive Director, Operations

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Post Office Box 100
Sacramento, CA 95812 - 0100

Re: Comments on A-2259; - September 23, 2014 Board Meeting. Petition of
Foothill/Eastern Transportation Corridor Agency -- Waste Discharge
Requirements Tentative Order No. R-9-2013-0007 – Tesoro Extension Project –
State Route 241

Dear Ms. Townsend:

The Metropolitan Transportation Commission (MTC), Bay Area Infrastructure
Financing Authority (BAIFA) and the Bay Area Toll Authority (BATA) are concerned
that the interpretation of the Porter Cologne Act in the State Board staff report on the
above-referenced Petition will have an adverse impact on the timely implementation of
important regional transportation improvements in the San Francisco Bay Area.

MTC is the transportation planning, coordinating and financing agency for the
nine-county San Francisco Bay Area. It is responsible for updating the Regional
Transportation Plan, a comprehensive blueprint for the development of mass transit,
highway, freight, bicycle and pedestrian facilities. The most recent version of the
Regional Transportation Plan – known as the Bay Area Plan -- is an integrated
transportation and land-use strategy through 2040 that marks the nine-county region's
first long-range plan to meet the requirements of California legislation (Senate Bill
375), which calls on California's 18 metropolitan areas to develop a Sustainable
Communities Strategy to accommodate future population growth and reduce
greenhouse gas emissions from cars and light trucks. Successful implementation of
the Bay Area Plan depends on the ability of the region's transportation agencies to
deliver the transportation improvements identified in the Plan in a timely and cost-
effective manner.

Almost all major transportation projects in the State are permitted by regional water quality control boards and other permitting agencies in phases. The State Board staff report acknowledges this reality, but then goes on to indicate that regional boards may require transportation agencies to obtain regional board approval for discharges for potential future phases of a transportation improvement that are not currently proposed to be constructed, and that may not be built for many years. We request that the State Board modify the Staff Report to make it clear that regional boards should limit their review of proposed WDRs and water quality certifications to the scope of the transportation improvement and discharge proposed by the transportation agency at the time of a particular application.

The regional transportation plan for San Francisco Bay Area identifies a large number of transportation improvements that will be implemented over the next two decades. Many of these improvements will be constructed in phases as funding becomes available, as the CEQA process is completed for each phase and as regulatory approvals are obtained. It is simply not feasible or practical to obtain regional board approvals or other permits for the entire length of each improvement identified in a multi-decade transportation plan at the time that BAIFA, BATA and/or MTC propose to construct an initial phase of a larger improvement described in the regional transportation plan.

The factual setting raised by the proposed Tesoro Extension to State Route 241 is very common in the transportation community. For example, MTC's Regional Transportation Plan includes major transportation improvements in the I-80, I-680, I-880/SR237, I-880, SR-84, SR-85 and SR-92 corridors that will be permitted and constructed in phases over the next several decades. This is an extremely complex project that extends 270 miles and crosses many state waters. The State Board Staff Report suggests that the regional water board will have unlimited discretion to require transportation agencies to obtain a WDR or water quality certification for future portions of the above improvements that will not be designed and built for decades. Transit improvements are also commonly permitted and constructed in phases. For example, the BART extensions to Santa Clara County are being permitted and constructed in phases. Expansions of the ferry system are also being permitted and constructed in phases as funding becomes available.

The well-established procedure in all of the state's metropolitan areas is to apply for regional water board discharge approvals at the time that the CEQA process for the particular improvement is complete, when preliminary engineering is complete and funding is available to construct the improvement. The following are examples of projects in Bay Area where this approach was followed by the regional board.

- BART extensions to the Livermore Valley
- BART extensions to Santa Clara County
- Expansions of the ferry system
- Expansion of the HOV/Express Lane system
- Caltrain grade separation projects and track improvements
- San Francisco MUNI Third Street light rail improvements
- Santa Clara VTA light rail extensions

Capital Corridor rail improvements
Hercules California Intermodal Station improvements
Treasure Island transit capital improvements
Sonoma Marin Rail Corridor improvements
San Francisco Transbay - Caltrain Transit Center

We respectfully request that the State Board revise the proposed order to recognize that regional boards should limit the scope of their review of water quality impacts of proposed transportation improvement proposed to be constructed by the transportation agency.

Sincerely,



Adrienne D. Weil
General Counsel

cc: Steve Heminger
Alix Bockelman