

San Joaquin Hills
Transportation
Corridor Agency

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Dana Point



Transportation Corridor Agencies™

Foothill/Eastern
Transportation
Corridor Agency

Chairwoman:
Rhonda Reardon
Mission Viejo

HAND DELIVERY AND EMAIL

September 15, 2014

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

Via E Mail: commentletters@waterboards.ca.gov

Re: SWRCB/OCC File A-2259; September 23 Board Meeting; Comments on Draft Order Regarding Petition of Foothill/Eastern Transportation Corridor Agency, Review of Denial of Waste Discharge Requirements, Revised Tentative Order R9-2103-0007

Dear Ms. Townsend:

The Foothill/Eastern Transportation Corridor Agency ("TCA") provides the following comments on the Draft Order relating to the above-referenced Petition filed by the TCA. We have attached (Exhibit 1) a revision to the Draft Order to reflect our comments and those of the transit/transportation community throughout the State.

1. Summary of Comments.

- a. TCA concurs in the Draft Order's conclusion that the Regional Board violated state law by failing to adopt written findings explaining the legal and factual basis supporting the Regional Board decision.
- b. TCA concurs in the Draft Order's conclusion that the decision of the three member majority of the Regional Board was not based on any water quality impacts of the Tesoro Extension.
- c. TCA agrees that it is not possible to discern from the administrative record any valid legal basis for the Regional Board's rejection of the Regional Board staff recommendation.

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365563.v9



- d. The State Board should vacate the Regional Board decision and require the Regional Board to reconsider its staff recommendation in light of the State Board's Order.
- e. TCA joins in the request of many other transportation agencies and transportation officials that the Draft Order be revised to make it clear that regional boards should limit their review of proposed WDRs to the scope of the discharge proposed by the transportation agency, as is the current practice.
- f. The Draft Order's new and unsupported interpretation of the Porter-Cologne Act will have adverse impacts on the timely delivery of dozens of transportation projects across the State, including the High Speed Rail Project and the improvements to State Route 99.
- g. It is not feasible or practical for regional boards to review all potential future phases of transportation improvements.
- h. The Porter-Cologne Act and CEQA prohibit the Regional Board from making demands for additional information regarding potential future phases of SR 241.

2. TCA Concur in the Draft Order's Determination that the San Diego Regional Board Violated State Law Because It Failed to Adopt Any Findings and Failed to Explain a Valid Basis for the Regional Board Action.

TCA agrees with the Draft Order's determination that the San Diego Regional Board (Regional Board) violated state law because it failed to adopt written findings that describe the factual and legal basis for the Regional Board decision and that are based on relevant, competent and substantial evidence in the administrative record. TCA also concurs in the Draft Order's determination that it is not possible to discern from the administrative record any valid legal basis for the rejection of the Regional Board staff recommendation to approve Waste Discharge Requirements (WDRs) for the Tesoro Extension Project.

3. TCA Concur in the Draft Order's Determination that the Decision of the Three Member Majority of the Regional Board Was Not Based on Any Water Quality Impacts of the Tesoro Extension. The Regional Board Therefore Violated State Law.

We also concur with the Draft Order's conclusion that the decision of the three members of the Regional Board who voted to reject the staff recommendation was *not* based on any evidence regarding water quality impacts of the Tesoro Extension Project.

The Draft Order states:

“[I]t is clear from the transcript that concerns regarding water quality impacts resulting directly from the Tesoro Extension did not form the basis for the San Diego Water Board’s decision. Two of the Board Members indicated that they were satisfied that the terms of the Revised Tentative Order [proposed by the Regional Board staff] adequately addressed any water quality impacts that were directly related to the Tesoro Extension. None of the remaining three Board Members expressed any concern about water quality impacts that were directly related to the Tesoro Extension.”¹

As documented in the Petition, the Regional Board majority did not cite to **any facts** at all regarding water quality issues to justify their decision. The majority did not attempt to offer any explanation for the rejection of the Regional Board staff’s findings that the Tesoro Extension Project complied with all applicable water quality standards. Moreover, the majority failed to explain why it chose to ignore the Regional Board counsel’s conclusion that CEQA imposed a mandatory obligation to assume that TCA’s CEQA documentation complied with CEQA.²

4. The State Board Should Vacate the Regional Board Decision and Order the Regional Board to Reconsider Its Decision and Adopt Valid Findings that Comply with State Law.

Given that the Regional Board violated state law because it did not adopt any written findings, the State Board should vacate the Regional Board decision and order the Regional Board to reconsider its decision and to adopt written findings describing the legal and factual basis for its decision.

Where an agency in a quasi-adjudicatory proceeding fails to adopt written findings, the appropriate remedy is to vacate the agency decision and to require the agency to reconsider the matter. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 522 [zoning variance vacated because of inadequate findings]; *Bam, Inc. v. Board of Police Com'rs* (1992) 7 Cal.App.4th 1343, 1349 [police board ordered to vacate its order revoking business permit where board made no findings].)

¹ Draft Order, p. 12.

² See Petition, pp. 11-12.

5. TCA Joins in Request of Other Transportation Agencies that the Draft Order Be Modified to Avoid Adverse Impacts on Infrastructure Throughout the State.

a. The Impact of the Draft Order on Transit/Transportation.

As has been noted by regional transportation agencies across the State and by two members of the California Transportation Commission, the Draft Order posits a new interpretation of the Porter-Cologne Act that could have an enormous adverse impact on the timely delivery of infrastructure projects throughout the state. TCA joins in the request of many other transit/transportation agencies that the Draft Order be revised to make it clear that regional boards should limit their review of proposed WDRs and water quality certifications to the scope of the discharge proposed by the transportation agency, as is the current practice under the Porter-Cologne Act.

There is no risk that future phases of a transportation or transit improvement will escape water board review. The State Board and several regional boards have adopted several general WDRs and other orders governing the water quality impacts of the construction and operation of transit/transportation improvements.³ Most major transportation projects require some federal agency permit, which triggers the requirement for regional board review and approval under section 401 of the federal Clean Water Act.⁴ And the regional boards retain discretion to require the approval of WDRs in addition to a section 401 certification and the State Board's statewide orders.

The following regional transportation agencies and transportation officials have commented that the language of the Draft Order fundamentally alters well-established permitting practices and, if adopted, would adversely impact the timely and cost-effective delivery of transit/transportation projects throughout the State:

San Francisco Bay Area Metropolitan Transportation Commission⁵
Bay Area Infrastructure Financing Authority⁶
Bay Area Toll Authority⁷
Southern California Association of Governments

³ See, e.g., SWRCB Water Quality Order No. 2004-0004-DWQ (Statewide General WDR for Dredged or Fill Discharges); Regional Water Quality Control, San Diego Region, Order No. R9-2009-0002 (Municipal Stormwater Runoff WDR); SWRCB Order No. 2012-0006-DWQ (NPDES General Permit for Storm Water Discharges Associated with Construction and Land Use Activities); SWRCB Order No. 2012-0011-DWQ, NPDES No. CA S000003 (Statewide Storm Water Permit for California Department of Transportation).

⁴ 33 U.S.C. § 1341.

⁵ Exhibit 2.

⁶ Exhibit 2.

⁷ Exhibit 2.

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Los Angeles County Metropolitan Transportation Authority
Exposition Metro Line Construction Authority⁸
Metro Gold Line Foothill Extension Construction Authority⁹
Riverside County Transportation Commission¹⁰
Orange County Transportation Authority
County of Orange¹¹
Lucy Dunn, Orange County Business Council¹²
Fran Inman, Majestic Reality Co.¹³

Similar concerns have been voiced by other public officials including Assembly Transportation Committee members Tom Daly¹⁴ and Jim Frazier.¹⁵ See also comments of South Orange County Economic Coalition.¹⁶

b. Permitting of Transit/Transportation Improvements in Phases Is Common.

As documented by the above agencies and officials and in the administrative record, it is extremely common for transportation projects to be permitted and constructed in phases.¹⁷ The Draft Order acknowledges this reality. However, it then goes on to indicate that regional boards may require transportation agencies to provide information and obtain regional board approval for discharges for all potential routes and future phases of a transit or transportation improvement that are not currently proposed to be constructed and that may not be built for many years or even decades. The Draft Order states:

“Normally, a regional water board may issue WDRs for the current project and defer issuance of WDRs for future discharges of waste until the point in time that those discharges are actually proposed, without compromising its responsibility to protect the beneficial uses of water from those future discharges. **However, there are also instances in which a regional water board may be asked**

⁸ Exhibit 3.

⁹ Exhibit 4.

¹⁰ Exhibit 5.

¹¹ Exhibit 6.

¹² Exhibit 7.

¹³ Exhibit 8.

¹⁴ Exhibit 9.

¹⁵ Exhibits 10.

¹⁶ Exhibit 13.

¹⁷ Admin. Record, Vol. 1, Doc. 5, Letter from Robert Thornton, Nossaman LLP to Regional Board (March 29, 2013)

to issue WDRs for a project that will likely lead to additional, future discharges of waste that a regional board believes should not be authorized, or to other water quality impacts that the regional water board may find difficult to prevent in the future.”¹⁸

The highlighted language proposes a dramatic shift in the way infrastructure projects are permitted and constructed in the State. As documented in the comment letters submitted by the transportation agencies, the unprecedented expansion of regional board permitting requirements would have enormous adverse impacts on transit and transportation projects throughout the State, as well as on California’s economic recovery. In addition to being contrary to the well-established practice for permitting transit/transportation projects, the Draft Order proposes an unintelligible standard for determining when and whether impacts of future phases provide a basis for denying a WDR. For a further discussion of this issue, see the comments filed by the Riverside County Transportation Commission.¹⁹

c. List of Transit/Transportation Projects Impacted by Draft Order.

The above transportation authorities and officials have documented that dozens of transportation projects across the State of California are, or have been, permitted and constructed in phases, including but not limited to the following projects:

- California High Speed Rail Project (San Francisco to San Diego)
- State Route 99 Improvements (Central Valley)
- BART Extensions to Livermore Valley (Alameda)
- BART Extensions to Santa Clara County (Alameda, Santa Clara)
- Exposition Corridor Light Rail Line (Downtown L.A. to Santa Monica)
- Metro Gold Line (Downtown L.A. to Montclair, San Bernardino)
- L.A. Metro “Subway to the Sea” – Purple Line (Los Angeles)
- Southern California Metrolink Perris Valley Extensions (Riverside)
- San Francisco Bay ferry service expansions (multiple counties)
- Santa Clara Valley light rail extensions (Santa Clara)
- Sacramento riverfront streetcar (Sacramento)
- SF Muni Third Street light rail line (San Francisco)
- Caltrain grade separation improvements
(Santa Clara, San Mateo, San Francisco)
- San Bernardino passenger rail (San Bernardino)
- Bay Area HOV/Express Lanes
Interstate 80 (Alameda, Contra Costa, Solano)

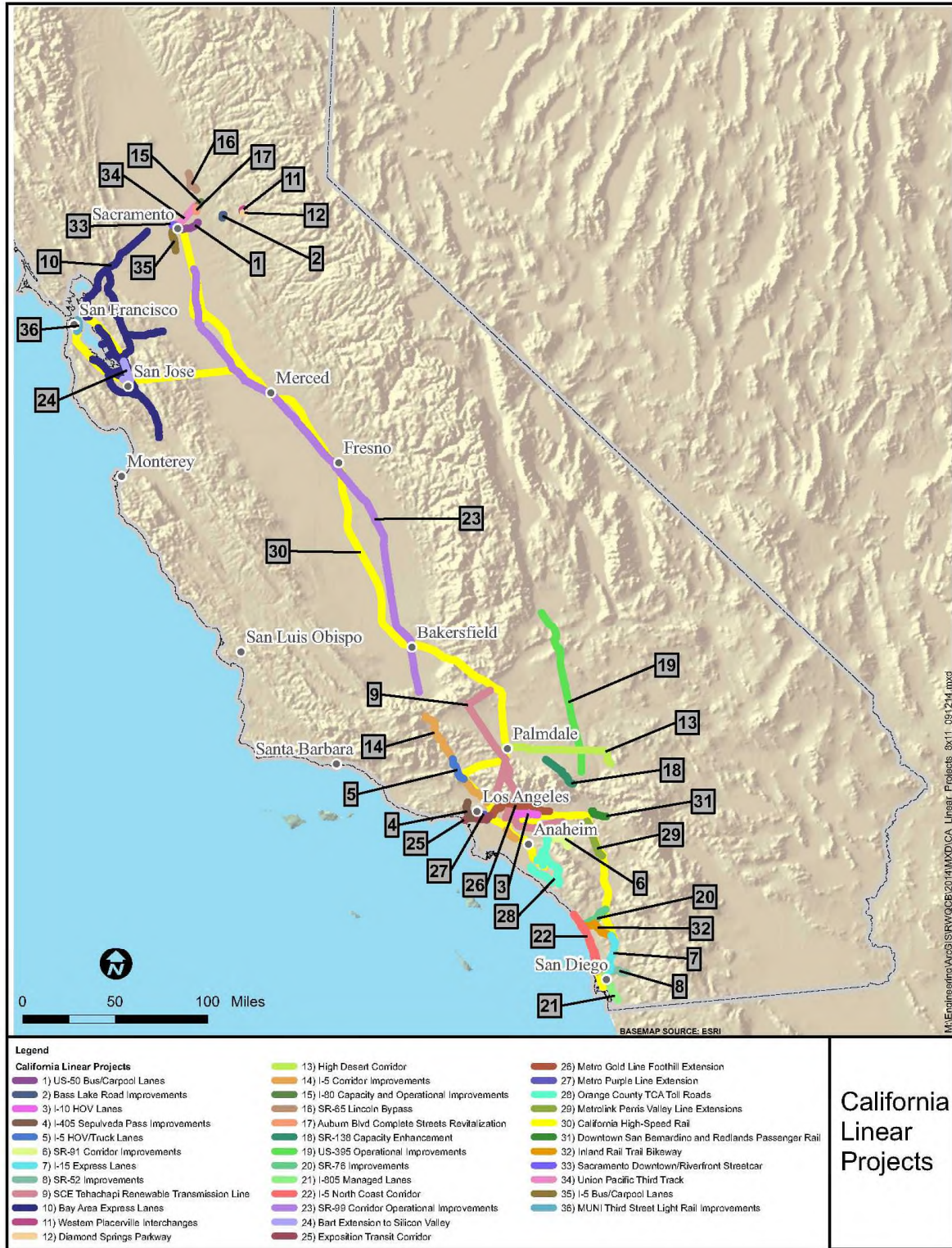
¹⁸ Draft Order, p. 9-10.

¹⁹ Exhibit 5, p. 3.

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Interstate 680 (Alameda, Contra Costa, Santa Clara)
Interstate 880/State Route 237 (Santa Clara)
State Route 84 (Alameda)
State Route 85 (Santa Clara)
State Route 92 (Alameda, San Mateo)
US 50 HOV lane improvements (El Dorado)
Interstate 10 HOV Improvements (Los Angeles)
State Route 91 Improvements (Riverside Co.)
Interstate 15 Express Lanes (San Diego)
State Route 52 (San Diego)
State Route 65 (Placer)
State Route 138 (San Bernardino)
State Route 76 (San Diego)
Interstate 805 (San Diego)
Interstate 5 HOV improvements (Sacramento)
Interstate 5 widening (Orange)
Interstate 5 North Coast Transit and Highway Corridor (San Diego)

As is evident, there are a large number of important transportation projects that could be adversely impacted by the new permitting policy expressed by the Draft Order. The graphic below illustrates just some of the transit/transportation that are being permitted and constructed in phases and that are potentially impacted by the Draft Order.



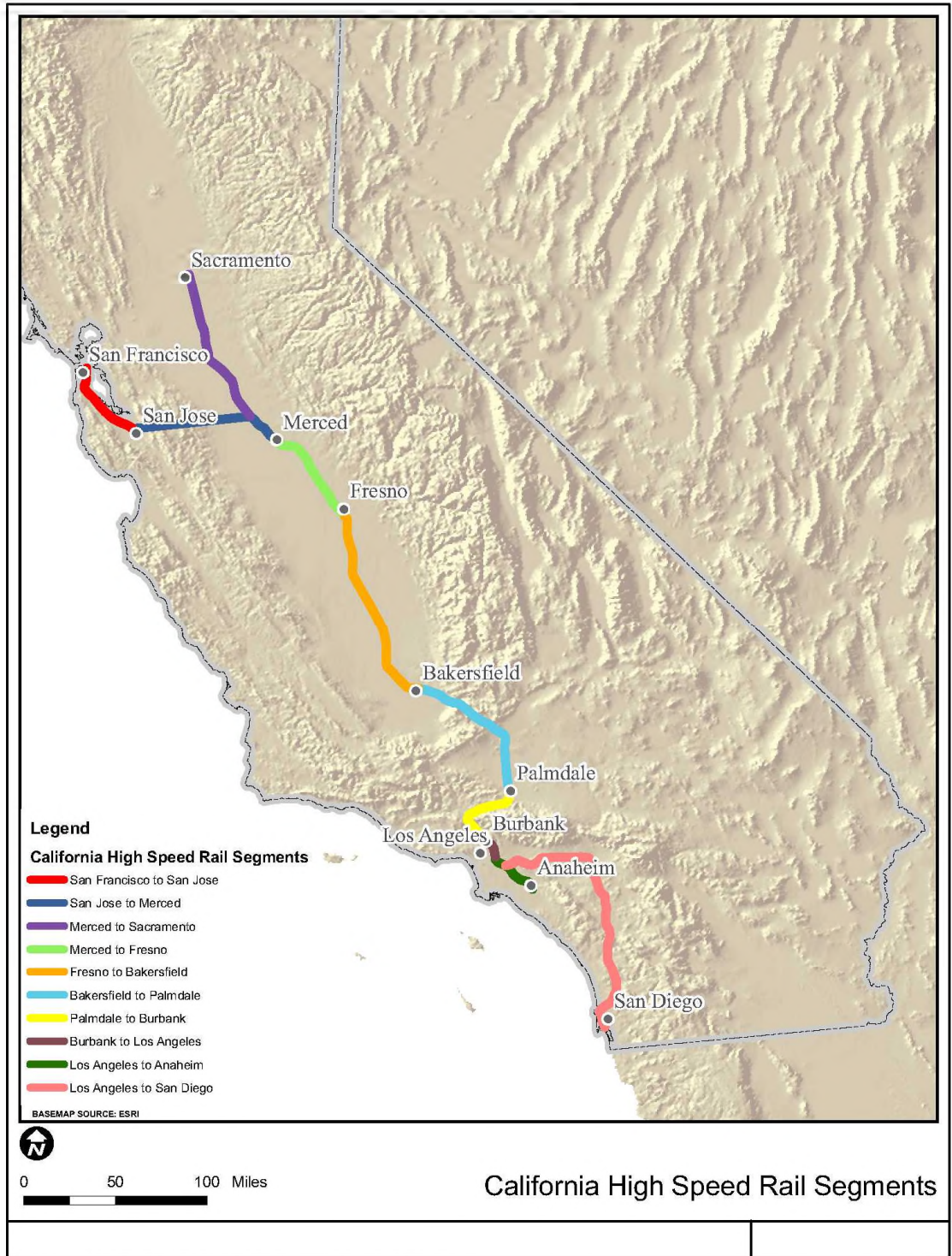
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The following discussion highlights the potential impact of the Draft Order on the High Speed Rail Project and the State Route 99 improvements. The attached table (Exhibit 11) provides more detail on the phasing of these and other transportation projects.

High Speed Rail Project

The High Speed Rail Authority is permitting and constructing the High Speed Rail project in multiple sections (starting with sections in the Central Valley) while the CEQA analysis of alternative alignments continues on the sections in the Bay Area and in Southern California.²⁰

²⁰ Exhibit 12 [“A Proposal To Tunnel Through the Angeles National Forest is Getting a Closer Look”, Los Angeles Times (Aug. 24, 2014)].



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State Route 99 Improvements.

Caltrans is permitting and building improvements to State Route 99 in dozens of phases. The map below shows the separate phases of the State Route 99 improvements.

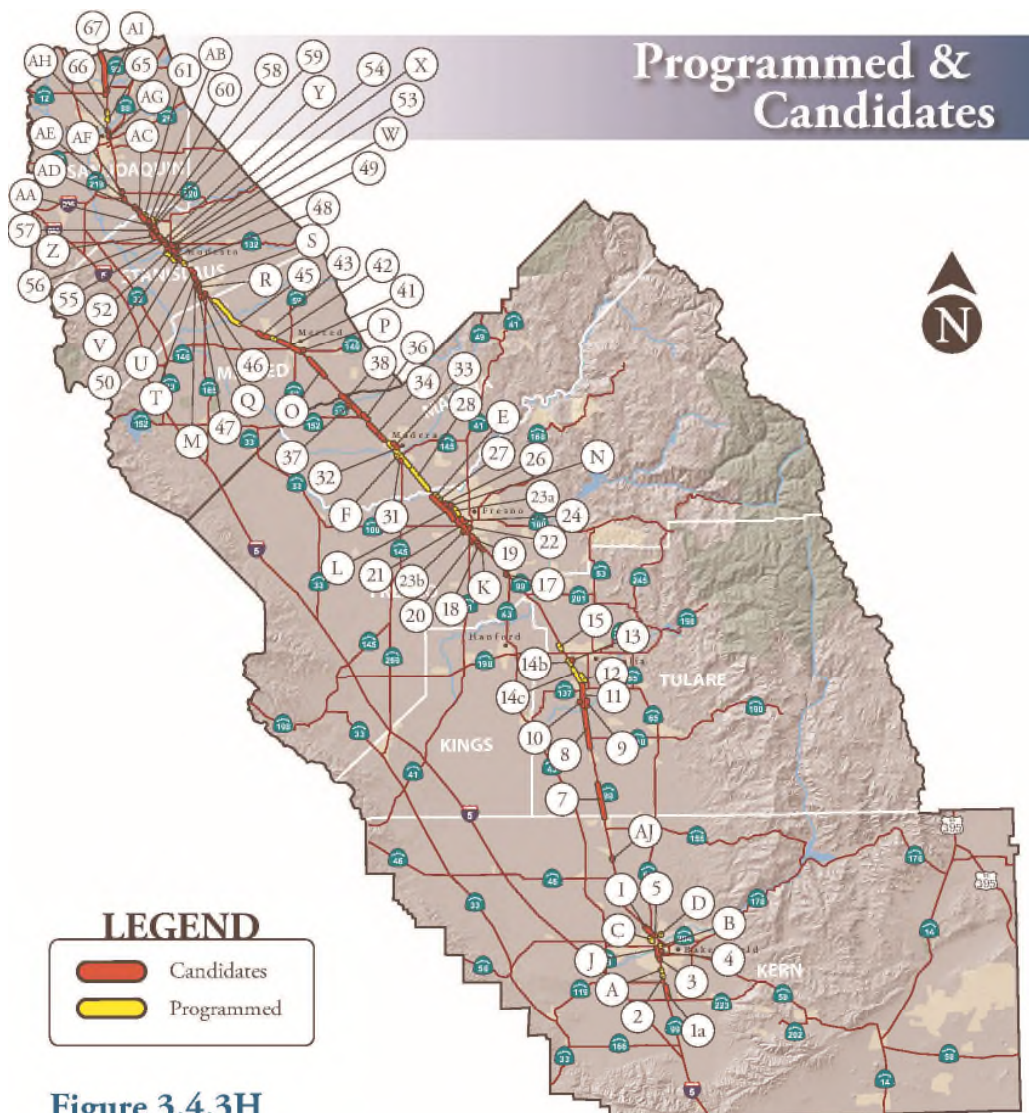


Figure 3.4.3H
Route 99 Business Plan
Programmed Capacity and
Operational Improvements Projects



The permitting, design and construction of State Route 99 improvements will extend over several decades. It is simply not feasible or practical to require Caltrans to provide information on water quality impacts of future phases or to obtain approval now for all of the many permits and approvals that will be required for future phases of the SR 99 improvements.

6. It Is Not Feasible or Practical for Regional Boards to Review All Potential Future Phases of Transportation Improvements.

The reality is that most major transportation improvements in the State are permitted and built in phases as each phase completes the CEQA process, as engineering designs are completed, and as funding becomes available. It is simply not practical to require transportation agencies to obtain regulatory permits and approvals for future phases before any phase may be built.

The environmental process for transportation projects is extremely lengthy and complex. It typically takes two decades or longer to plan, design, permit, finance, and build major new transportation improvements. As we know, some projects (e.g., East Span of the San Francisco Bay Bridge) have taken even longer to permit and build. The various phases and sections of State Route 241 in Orange County have been evaluated in no less than **six environmental impact reports** prepared over the last thirty years. And these reports were prepared *in addition* to the several EIRs prepared in association with the regularly updated Southern California Regional Transportation Plan and the Sustainable Communities Strategy required by S.B. 375.²¹

a. Metro Gold Line Authority Comments.

The Metro Gold Line Construction Authority (Metro Gold Line), the agency responsible for building the Foothill Gold Line Project between downtown Los Angeles and San Bernardino County, details the consequences of the State Board's directive: "It is unrealistic and highly disruptive, not to mention extremely costly and at odds with planning functions, to require water board approval for phases of a project that could be decades away from construction." Metro Gold Line further notes the reality that:

"The Foothill Gold Line Project could not have reached this point unless it utilized a phased approach that called for permits only on the phase under immediate consideration. When the Project began in 1999, there was funding available only for the first phase of the Project. Then six

²¹ See, Petition, pp. 4-6.

years after completion, additional funding became available and design and construction (including permitting) began anew. Once [Metro Gold Line] receives funding for the phase to Montclair, it will begin design and construction of that phase, including obtaining all required permits. All in all, total completion of the Foothill Gold Line Project will take over 20 years from Start to Finish.”²²

Metro Gold Line also commented that it could not have known enough about each phase of the Foothill Gold Line Project to obtain WDRs and water quality certifications for the entire project back when the first phase began in 1999. Indeed, “[d]etails of future phases of a Project are not known well enough to apply for a permit until planning and design are advanced to a certain point.”

b. Metropolitan Transportation Commission Comments.

The Metropolitan Transportation Commission (MTC), Bay Area Infrastructure Financing Authority (BAIFA), and the Bay Area Toll Authority (BATA) expressed their concern that the Draft Order “will have an adverse impact on the timely implementation of important regional transportation improvements in the San Francisco Bay Area.” Specifically, they note that “all major transportation projects in the State are permitted by regional water quality control boards and other permitting agencies in phases” and that “the State Board staff report acknowledges this reality.” Their letter provides that many of the improvements included in the regional transportation plan for the San Francisco Bay Area 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.”²³

MTC’s, BAIFA’s, and BATA’s letter also highlight another important point:

“The factual setting raised by the proposed Tesoro Extension to State Route 241 is very common in the transportation community. 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

²² Exhibit 4, p. 2.

²³ Exhibit 2, p. 2.

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.”²⁴

c. Exposition Corridor Authority Comments.

Similarly, the Exposition Metro Line Construction Authority (Expo), the public agency responsible for designing and building the Exposition Corridor light rail transit project (Expo Line) in Los Angeles requested that the State Board modify the Draft Order to “make it clear that regional boards should limit their review of proposed Waste Discharge Requirements (WDRs) to the scope of the transportation improvement and discharge proposed by the transportation agency.”²⁵ Expo notes that the State Board’s proposed approach of requiring transportation agencies to obtain water board review and approval of discharges associated with future phases of a transportation improvement at the time of the initial phase is contrary to the existing practice of transportation permitting agencies in Los Angeles County. Expo states:

“The Expo Line is a classic example of why it is necessary that transportation agencies retain the flexibility to permit and construct major transportation improvements in phases. The Expo Line was originally conceived over twenty years ago as a single project between downtown Los Angeles and Santa Monica. Because of funding limitations and continuing public controversy over alignment and other issues on the western end of the project (e.g. from Culver City to Santa Monica), the Los Angeles County Metropolitan Transportation Authority (Metro) decided that the project should be permitted and built in phases.”²⁶

²⁴ Exhibit 2, p. 2.

²⁵ Exhibit 3, p. 1.

²⁶ Exhibit 3, p. 2.

These issues caused Metro to approve Phase 1 in 2005, but to defer consideration of Phase 2 (from Culver City to Santa Monica) until a later date. This approach allowed Expo to spend the necessary time working to resolve Phase 2 issues.

**7. State Law Limits Regional Board Review to the Proposed “Discharge”.
CEQA Prohibits the Regional Board From Making Demands for Additional
Environmental Analysis of Future Phases.**

**a. Porter-Cologne Limits Regional Board Review to the Proposed
Discharge.**

The Draft Order’s statement that the Regional Board may require additional information from TCA regarding potential environmental impacts of potential future phases of SR 241 is contrary to state law. As explained in the comment letter submitted by the Riverside County Transportation Commission,²⁷ the Porter-Cologne Act requires that regional board review be limited to the “proposed discharge”.

“Water Code section 13263(a) authorizes a regional board to ‘prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge[.]’ Prescribed requirements must implement any relevant and adopted water quality control plans and consider, among other things, ‘other waste discharges[.]’ (*Ibid.* Porter-Cologne is interpreted consistently with the federal Water Pollution Control Act, which defines a discharge as the ‘addition’ of a pollutant to navigable waters or to waters in a contiguous zone. (33 U.S.C. § 1362, subds. (12), (16).) Discharges are ‘proposed’ when a potential permittee submits a report of waste discharge pursuant to Water Code section 13260(a). A potential permittee is required to submit a separate report of waste discharge for each disposal area. (23 Cal. Code Regs., § 2207.1) ‘Other waste discharges’ may include additions of pollutants, proposed or occurring, in disposal sites or by dischargers other than those proposed in a report of waste discharge. (See, Water Code, § 13263, subd. (a).)

When an agency, such as the [Riverside County Transportation] Commission, undertakes a specific phase of a multi-phase project, it may submit a report of waste discharge for that specific phase. The report of waste

²⁷ Exhibit 5.

discharge proposes discharges accompanying that specific phase, but does not propose discharges from future phases. Future phases may never be approved by the Commission's Board. Funding may never become available for future phases. Permits may not be granted for future phases. Such future discharges are not 'proposed discharges,' as they are not proposed in a report of waste discharge. (Water Code, § 13263, subd. (a).) They are also not 'other waste discharges,' because they are not actual additions of pollutants and may never constitute discharges. (*Ibid.*; 33 U.S.C. § 1362, subds. (12), (16).) Porter-Cologne does not permit regional boards to condition or deny waste discharge requirements based on future phases of a CEQA 'project' because the future phases do not constitute additions of pollutants and do not qualify as 'proposed discharges' or 'other waste discharges.'"²⁸

b. CEQA Prohibits the Regional Board from Demanding Additional Environmental Documentation.

The Draft Order notes that two members of the Regional Board majority referred to CEQA during their deliberations, but did not explain the purported CEQA issue.²⁹ One of these members referred to the allegations in a CEQA lawsuit filed regarding the Tesoro Extension. Allegations in a complaint, of course, are not evidence and do not provide a factual or legal basis for the Regional Board decision.³⁰

Further, CEQA makes it absolutely clear that the Regional Board cannot base its rejection of the WDR on the basis of any alleged inadequacy in the TCA's CEQA compliance. CEQA **mandates** that responsible agencies (such as the Regional Board here) "assume" that the TCA's CEQA analysis complies with CEQA. (Pub. Resources Code, § 21167.3; Cal. Code Regs., tit. 14, § 15233.) During the public hearing, the Regional Board staff agreed that CEQA mandated that the Regional Board accept the adequacy of the TCA's evaluation of the Tesoro Extension, including the adequacy of the description of the Tesoro Extension.

Despite the limitation on the authority of responsible agencies to require additional environmental analysis, here the Regional Board staff and counsel went further and evaluated the adequacy of the TCA's evaluation of potential water quality

²⁸ Exhibit 5, p. 2.

²⁹ Draft Order, p. 12.

³⁰ *Cassady v. Morgan, Lewis & Bockius LLP* (2006) 145 Cal.App.4th 220, 241, citing *San Diego Police Officers Assn. v. City of San Diego* (1994) 29 Cal.App.4th 1736, 1744 & fn. 8.

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impacts. The Regional Board staff concluded that the TCA's CEQA evaluation was adequate for the Regional Board's review:

“The San Diego Water Board, as a responsible agency under CEQA, has relied on TCA's environment[a] impact report and subsequently approved addendum as required by CEQA. The San Diego Water Board, as a responsible agency, has made findings for impact[s] to resources within its responsibility and has incorporated mitigation measures and a monitoring and reporting plan in the order. The mitigation measures for the Tesoro Extension Project will reduce impacts to resources that are within the board's purview to [a] less than significant level. San Diego Water Board counsel has reviewed the information submitted in the responses to the board CEQA question and considered the findings and conclusions of the resolution adopted by [the] TCA board of directors. Based on these and other considerations, San Diego Water Board counsel has concluded that the CEQA documentation provided by TCA is adequate for the San Diego Water Board, as a responsible agency, to rely upon in considering adoption of the revised tentative order.”³¹

After noting that impacts to waters of the State “will be mitigated at a very high ratio to establishment and restoration projects consistent with and exceeding water board standards,” Regional Board staff recommended adoption of the Revised Tentative Order.³² There is no evidence in the record to support the assertions of the Regional Board majority that the TCA was required to conduct an additional evaluation of water quality impacts of potential future phases of SR 241.

³¹ Petition, Exhibit 6, pp. 16-17.

³² *Id.*, Exhibit 6, p. 27.

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8. Conclusion.

For all of the above reasons, the TCA respectfully requests that the State Board (1) vacate the Regional Board decision regarding Revised Tentative Order No. R9-2103-0007, (2) remand Tentative Order No. R9-2103-0007 to the Regional Board to reconsider its decision in light of the State Board Order and adopt written findings that explain the legal and factual basis for any Regional Board decision, and (3) modify the Draft Order (as shown in Exhibit 1) to clarify that the Regional Board should limit its review to the water quality impacts of the Tesoro Extension.

Sincerely,

A handwritten signature in blue ink that reads "Michael Kraman". The signature is stylized and includes a large, sweeping loop at the end.

Michael Kraman
Chief Executive Officer

MK
Enclosures

List of Exhibits

- Exhibit 1** Revisions to Draft Order Proposed by Transit/Transportation Community
- Exhibit 2** 09-08-14 Letter from Metropolitan Transportation Commission to State Water Resources Control Board
- Exhibit 3** 09-03-14 Letter from Exposition Metro Line Construction Authority to State Water Resources Control Board
- Exhibit 4** 09-03-14 Letter from Metro Gold Line Foothill Extension Construction Authority to State Water Resources Control Board
- Exhibit 5** 09-11-14 Letter from Riverside County Transportation Commission to State Water Resources Control Board
- Exhibit 6** 09-12-14 Letter from County of Orange to State Water Resources Control Board
- Exhibit 7** 09-09-14 Letter from Orange County Business Council to State Water Resources Control Board
- Exhibit 8** 09-10-14 Letter from Majestic Reality Company to State Water Resources Control Board
- Exhibit 9** 09-11-14 Letter from Assemblyman Tom Daly to State Water Resources Control Board
- Exhibit 10** 09-12-14 Letter from Assemblyman Jim Frazier to State Water Resources Control Board
- Exhibit 11** Table – RWQCB Permitting: Adopted/Tentative Orders for Linear Projects
- Exhibit 12** Article, “A Proposal To Tunnel Through the Angeles National Forest is Getting a Closer Look”, Los Angeles Times (Aug. 24, 2014)
- Exhibit 13** 09-12-14 Letter from South Orange Economic Coalition to State Water Resources Control Board

EXHIBIT 1

Exhibit 1

Revisions to Draft Order Proposed by Transit/Transportation Community

Revise the last paragraph on page 9 and the first paragraph on page 10 of the Draft Order to read as follows (proposed language is underscored):

“When a regional water board issues WDRs, the regional water board is obligated to ensure that the WDRs implement relevant water quality control plans, take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241. When issuing WDRs, a regional water board is not required to utilize the full waste assimilation capacities of the receiving water. Whether or not a discharge is authorized, the discharge of waste does not create any vested rights to continue the discharge; the discharge of waste is a privilege, not a right. It follows, then, that a regional water board has the authority to decline to issue WDRs for a specific discharge. When a regional water board declines to issue WDRs proposed by the regional board staff, it ~~should~~may also choose to give the project proponent an opportunity to revise its application~~project~~ and submit a revised report of waste discharge. In addition to the issuance or denial of WDRs, the Porter-Cologne Act also authorizes a regional water board to specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted. This may be done in a water quality control plan or in WDRs, and is a more enduring mechanism for protecting water quality.

When issuing WDRs, regional water boards must protect the beneficial uses of the waters that are receiving the discharge, as well as the beneficial uses of any downstream waters that could be affected by the proposed discharge, existing discharge, or proposed material change in an existing discharge. When a regional water board is deciding whether to issue WDRs for discharges of waste associated with a project, it is appropriate for the regional water board to consider whether the at proposed discharge project will cause likely lead to additional, future discharges of waste or other related impacts to water quality that will not require review and approval by the regional board. The well-established state-wide practice is that Normally, a regional water board reviews and determines whether to may issue WDRs for the proposed discharge current project and should defer issuance of WDRs for potential future discharges of waste until the point in time that those discharges are actually proposed without compromising its responsibility to protect the beneficial uses of waters from those future discharges. WDRs create no vested right to continue a proposed or existing discharge, or to obtain approval for a new discharge in the future, and, therefore the issuance of a WDR does not limit the authority of a regional board to address the water quality impacts of future discharges. However, there are also instances in which a regional water board may be asked to issue WDRs for a project that will likely lead to additional, future discharges of waste that a regional water board believes should not be authorized, or to other water quality impacts that the regional water board may find difficult to prevent in the future.

Linear projects (e.g., road or power line construction or maintenance)

~~present such an example. Linear projects~~ may affect many different waters and, in the case of new construction, ~~are commonly~~ ~~may be~~ implemented in sequential phases. The well-established practice is that regional boards consider waste discharge applications or water quality certifications for each phase as each separate phase is proposed to be constructed by the transportation agency. When the regional board determines that proposed discharge will cause additional, future discharges of waste or other related impacts to water quality that will not require review and approval by the regional board ~~future phases of a linear project are likely to occur and may have water quality impacts~~, a regional water board may request available information on those future phases in connection with a pending report of waste discharge or application for the current phase. Another example is a development project that is adjacent to a sensitive area, such as an important wetlands area. While the project itself may not have any associated discharges of waste that directly affect the sensitive area, the new development may result in indirect water quality impacts resulting from increased public access to the sensitive area. A regional water board is not required to put on blinders when making a decision concerning the authorization of a discharge of waste that will ~~likely lead~~ cause to additional discharges of waste or other water quality impacts in the future.”

Revise the “Order” on page 14 of the Draft Order to read as follows (new language underscored, deleted language in strike-through):

“ORDER

IT IS HEREBY ORDERED that, for the reasons discussed above, the decision of the San Diego Water Board regarding Revised Tentative Order No. R9-2013-0007 is vacated and this matter is remanded to the San Diego Water Board to reconsider Revised Tentative Order No. R9-2013-0007 and to adopt written findings providing the factual and legal basis for its decision on remand consistent with this Order. ~~This Order does not require the San Diego Water Board to conduct any further hearings regarding the issuance of WDRs for the Tesoro Extension.~~”

EXHIBIT 2



**METROPOLITAN
TRANSPORTATION
COMMISSION**

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
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EMAIL info@mtc.ca.gov
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Amy Rein Worth, Chair
Cities of Contra Costa County

Dave Cortese, Vice Chair
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U.S. Department of Housing
and Urban Development

Tom Bates
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David Campos
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Bill Dodd
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Dorene M. Giacomini
U.S. Department of Transportation

Federal D. Glover
Contra Costa County

Scott Haggerty
Alameda County

Anne W. Halsted
San Francisco Bay Conservation
and Development Commission

Steve Kinsey
Marin County and Cities

Sam Liccardo
San Jose Mayor's Appointee

Mark Luce
Association of Bay Area Governments

Jake Mackenzie
Sonoma County and Cities

Joe Pirzynski
Cities of Santa Clara County

Jean Quan
Oakland Mayor's Appointee

Bijan Sartipi
California State
Transportation Agency

James P. Sperring
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

September 8, 2014

Via E Mail: commentletters@waterboards.ca.gov

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

EXHIBIT 3



Exposition Metro Line
Construction Authority

707 Wilshire Boulevard
34th Floor
Los Angeles, CA 90017

213.243.5500
BuildExpo.org

Expo

September 3, 2014

EXPO2 02068
CA 112

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Post Office Box 100
Sacramento, CA 92814

Via E Mail: commentletters@waterboard.ca.gov

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 Exposition Metro Line Construction Authority (“Expo Authority”) submits the following comments on the Draft Order in the above-referenced matter. The Expo Authority is the public agency responsible for designing and building the Expo Corridor 15-mile light rail transit line from downtown Los Angeles to Santa Monica. As is the case with most complex transportation projects, the Expo Line is being designed, permitted and built in phases. The first phase of the Expo project (from downtown L.A. to Culver City) opened in 2012. The second phase (from Culver City to Santa Monica) is under construction.

We request that the State Board modify the report accompanying the Draft Order to make it clear that regional boards should limit their review of proposed Waste Discharge Requirements (WDRs) and water quality certifications to the scope of the transportation improvement and discharge proposed by the transportation agency.

The State Water Board draft order in the above matter indicates that regional water boards may require transportation agencies to obtain water board review and approval of discharges associated with future phases of a transportation improvement at the time of the initial phase – even in circumstances where the future phase is not funded and may not be built for many years. This interpretation is contrary to the existing practice of transportation permitting agencies in Los Angeles County. If adopted, the interpretation reflected in the Draft Order will adversely impact the timely and cost-effective delivery of important transportation improvements.

Ms. Jeanine Townsend
State Water Resources Control Board
September 3, 2014
Page 2

The Expo Line is a classic example of why it is necessary that transportation agencies retain the flexibility to permit and construct major transportation improvements in phases. The Expo Line was originally conceived over twenty years ago as a single project between downtown Los Angeles and Santa Monica. Because of funding limitations and continuing public controversy over alignment and other issues on the western end of the project (e.g. from Culver City to Santa Monica), the Los Angeles County Metropolitan Transportation Authority (Metro) decided that the project should be permitted and built in phases. In 2005, Metro approved Phase 1 (from Downtown to Culver City), but deferred the consideration of Phase 2 until a later date. This decision allowed the Phase 1 light rail transit line to be completed and opened for service while the Expo Authority worked to resolve a complex array of environmental and community issues in Phase 2. The Expo Authority spent the next five years working to resolve Phase 2 issues and in February 2010 approved an alignment and project design for Phase 2. The experience on Expo Project demonstrates that it is essential that transportation agencies retain the flexibility to phase the permitting and construction of major new transportation improvements.

Sincerely,



Samantha Bricker
Chief Operating Officer

cc: Rob Thornton
Document Control

EXHIBIT 4



**Metro Gold Line Foothill Extension
Construction Authority**

406 E. Huntington Drive, Suite 202
Monrovia, CA 91016-3633

626-471-9050 ph
626-471-9049 fx

www.foothillextension.org

BLCA-3RD-1530

September 3, 2014

Board Members:

**Doug Tessitor
Chair**

Council Member,
City of Glendora
Appointee,
City of Pasadena

**Sam Pedroza
1st Vice Chair**
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City of Claremont
Appointee of SGVCOG

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City of Ontario
Appointee,
City of South
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**John Fasana
Member**
Council Member,
City of Duarte
Appointee, LACMTA

**Bill Bogaard
Member, Non-Voting**
Mayor,
City of Pasadena
Appointee, City of
Pasadena

**Carrie Bowen
Member, Non-Voting**
District 7 Director,
Caltrans
Gubernatorial
Appointee

**Daniel M. Evans
Member, Non-Voting**
City of
South Pasadena
Appointee, City of
South Pasadena

**Alan D. Wapner
Member, Non-Voting**
Council Member,
City of Ontario
Appointee, SANBAG

Executive Officer:

Habib F. Balian
Chief Executive Officer

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Post Office Box 100
Sacramento, California 92814

Via E Mail: commentletters@waterboard.ca.gov

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 Metro Gold Line Foothill Extension Construction Authority (“Construction Authority”) submits the following comments on the Draft Order in the above-referenced matter. The Construction Authority is the public agency responsible for designing and building the Foothill Gold Line Project, extending the Metro Gold Line light rail from Union Station in Los Angeles to the City of Montclair in San Bernardino County. Like nearly all long, linear transportation projects, the Foothill Gold Line is being designed, permitted and built in phases – often many years apart. The first phase of the Foothill Gold Line Project (from Union Station to Pasadena) started in 1999 and opened in 2003. The second phase (from Pasadena to Azusa) began in 2009/2010 and is under construction with expected completion toward the end of 2015. The third phase (from Azusa to Montclair) is awaiting funding and not expected to be completed for many years.

We request that the State Board modify the report accompanying the Draft Order to reinforce that regional boards should limit their review of proposed WDRs and water quality certifications to the phase of the project being proposed by the transportation agency.

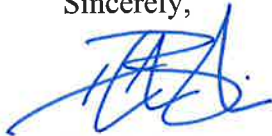
It is unrealistic and highly disruptive, not to mention extremely costly and at odds with planning functions, to require water board approval for phases of a project that could be decades away from construction. The Draft State Water Board draft order in the above matter indicates that regional water boards may require transportation agencies to obtain water board review and approval of discharges associated with future phases of a transportation improvement at the time of the initial phase – even in circumstances where the future phase is not funded and may not be built for many years. This interpretation would be nearly impossible to implement due to the realities of staged planning and would

cause material delay and expense at a time when the need for effective delivery of transportation projects is high and budgetary capacity is low.

The Foothill Gold Line Project could not have reached this point unless it utilized a phased approach that called for permits only on the phase under immediate consideration. When the Project began in 1999, there was funding available only for the first phase of the Project. Then six years after completion, additional funding became available and design and construction (including permitting) began anew. Once the Construction Authority receives funding for the phase to Montclair, it will begin design and construction of that phase, including obtaining all required permits. All in all, total completion of the Foothill Gold Line Project will take over 20 years from start to finish.

The Construction Authority could not possibly have known enough about each phase of the Project to obtain WDRs and water quality certifications for the entire Project back when it began the first phase fifteen years ago in 1999. Details of future phases of a Project are not known well enough to apply for a permit until planning and design are advanced to a certain point. Public agencies must retain the flexibility to phase the permitting and construction of large transportation projects if they are ever going to succeed in delivering them.

Sincerely,



Habib F. Balian
Chief Executive Officer

EXHIBIT 5



Riverside County Transportation Commission

September 11, 2014

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comments on Draft Order WQ 2014-xx, Petition of Foothill/Eastern Transportation Corridor Agency (SWRCB/OCC File A-2259)

Dear Ms. Townsend:

The Riverside County Transportation Commission (Commission) appreciates the opportunity to submit comments on the State Water Resources Control Board's (State Board) Draft Order, WQ 2014-xx, in the matter of the petition of Foothill/Eastern Transportation Corridor Agency (Draft Order). The Commission supports the State Board's goal of protecting the quality of water within the state. The Commission also supports the Draft Order's holding, which requires a decision regarding waste discharge requirements to be supported by evidence in the record. This letter requests the removal or correction of a subtle, but consequential, misstatement of the law contained in the Draft Order.

The misstatement appears to arise from a conflation of the regional boards' obligation under the California Environmental Quality Act (CEQA) to consider the environmental impacts of a proposed "project" with the obligation under Porter-Cologne Water Quality Control Act (Porter-Cologne) to consider the impact of a "proposed discharge." This apparent confusion expands the regional boards' authority contrary to Porter-Cologne and establishes an unintelligible standard for applying that expanded authority. For this reason, the Commission requests that the State Board amend the Draft Order by deleting the last paragraph on page 9 and the first paragraph on page 10. These paragraphs are dicta and are not necessary to support the Draft Order's holding.

CEQA Requires Consideration of a "Project"

An environmental impact report (EIR) prepared pursuant to CEQA must consider "the whole of an action" and cannot piecemeal a large project into multiple smaller projects to avoid consideration of cumulative impacts. (Pub. Res. Code, § 21065; 14 Cal. Code Regs., § 15378, subd. (a).) An EIR for a multi-phase project, such as the

Ms. Jeanine Townsend
Clerk to the Board
Page 2
September 11, 2014

linear transportation projects undertaken by the Commission and Foothill/Eastern Transportation Corridor Agency, considers the impacts from the whole of a project. A supplemental or subsequent EIR (SEIR) or other tiered document providing greater detail may be prepared for a later phase of a multi-phase project prior to approving that phase.

Porter-Cologne Authorizes Consideration of a “Proposed Discharge”

Water Code section 13263(a) authorizes a regional board to “prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge[.]” Prescribed requirements must implement any relevant and adopted water quality control plans and consider, among other things, “other waste discharges[.]” (*Ibid.*) Porter-Cologne is interpreted consistently with the federal Water Pollution Control Act, which defines a discharge as the “addition” of a pollutant to navigable waters or to waters in a contiguous zone. (33 U.S.C. § 1362, subds. (12), (16).) Discharges are “proposed” when a potential permittee submits a report of waste discharge pursuant to Water Code section 13260(a). A potential permittee is required to submit a separate report of waste discharge for each disposal area. (23 Cal. Code Regs., § 2207.) “Other waste discharges” may include additions of pollutants, proposed or occurring, in disposal sites or by dischargers other than those proposed in a report of waste discharge. (See, Water Code, § 13263, subd. (a).)

When an agency, such as the Commission, undertakes a specific phase of a multi-phase project, it may submit a report of waste discharge for that specific phase. The report of waste discharge proposes discharges accompanying that specific phase, but does not propose discharges from future phases. Future phases may never be approved by the Commission’s Board. Funding may never become available for future phases. Permits may not be granted for future phases. Such future discharges are not “proposed discharges,” as they are not proposed in a report of waste discharge. (Water Code, § 13263, subd. (a).) They are also not “other waste discharges,” because they are not actual additions of pollutants and may never constitute discharges. (*Ibid.*; 33 U.S.C. § 1362, subds. (12), (16).)

Porter-Cologne does not permit regional boards to condition or deny waste discharge requirements based on future phases of a CEQA “project” because the future phases do not constitute additions of pollutants and do not qualify as “proposed discharges” or “other waste discharges.”

Draft Order Expands Regional Board Authority Contrary to Porter-Cologne

The Draft Order expands the regional boards’ authority contrary to Water Code section 13263(a) by authorizing regional boards to prescribe or deny waste discharge requirements based on activities that do not constitute “proposed discharges” or “other waste discharges.” Specifically, the Draft Order authorizes regional boards to “request available information on those future phases in connection with a pending report of waste discharge or application for the current phase” if a future phase is “likely to occur and may have

Ms. Jeanine Townsend
Clerk to the Board
Page 3
September 11, 2014

water quality impacts[.]” (Draft Order, p. 10.) The Draft Order further authorizes regional boards to consider future phases of a project “when making a decision concerning the authorization of a discharge of waste that will likely lead to additional discharges of waste or other water quality impacts in the future.” (*Ibid.*)

Conditioning or denying waste discharge requirements for a proposed project based on future phases of a CEQA “project” that do not constitute “proposed discharges” or “other waste discharges” violates Water Code section 13262(a). This violation appears to arise from a confusion of an EIR’s consideration of all phases in a multi-phase project under CEQA with a regional board’s authority to consider discharges proposed in a report of waste discharge for one phase of a multi-phase project under Porter-Cologne. As noted above, this confusion impermissibly expands the regional boards’ authority in violation of Porter-Cologne. The last paragraph on page 9 and the first paragraph on page 10 are dicta and are not necessary to support the proposed holding of the Draft Order. For this reason, the Commission requests the deletion of these two paragraphs.

Draft Order Establishes an Unintelligible Standard

If the last paragraph on page 9 and the first paragraph on page 10 are not deleted, not only will the State Board’s Draft Order violate Porter-Cologne, but the Draft Order will establish an unintelligible standard for determining whether a future phase of a multi-phase project is a proper consideration in issuing or denying waste discharge requirements. (Gov. Code, § 11425.60; State Board Order No. WR 96-1, fn. 11 [unless stated otherwise, all State Board Orders adopted at a public meeting are precedential].) Regional boards will be expected to determine whether a future phase is “likely to occur and may have water quality impacts” even though the future phase is not the subject of a report of waste discharge, may never be approved, may never receive funding, and may never obtain relevant permits. A regional board is not in a position to determine the likelihood that a future phase will occur, and Porter-Cologne does not permit such consideration as part of the issuance or denial of waste discharge requirements.

In the event the last paragraph on page 9 and the first paragraph on page 10 are not deleted, they should be revised to clarify that regional boards may only consider future phases of a multi-phased project in the context of CEQA and not for the purpose of issuing or denying waste discharge requirements under Porter-Cologne. The Draft Order should clarify that waste discharge requirements cannot be denied or conditioned based on a future action which does not constitute a “proposed discharge” or “other waste discharge.”

Conclusion


The Draft Order’s apparent conflation of a CEQA “project” and a “proposed discharge” under Porter-Cologne expands the regional boards’ authority contrary to Porter-Cologne and establishes an unintelligible standard for applying that expanded authority. For these reasons, the Commission requests that the State Board amend the Draft Order by deleting the last paragraph on page 9 and first paragraph on page 10.

Ms. Jeanine Townsend
Clerk to the Board
Page 4
September 11, 2014

In the alternative, these paragraphs should be revised to clarify, consistent with Porter-Cologne, that waste discharge requirements cannot be denied or conditioned based on a future action, which does not constitute a "proposed discharge" or "other waste discharge."

Thank you for your consideration of these comments.

Sincerely,



Anne Mayer
Executive Director

Via email (commentletters@waterboards.ca.gov)

EXHIBIT 6



County of Orange
California

September 12, 2014

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento CA 92814

Via email: commentletters@waterboard.ca.gov

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 County of Orange is undergoing several critical infrastructure projects that are critical to the quality of life and economic growth of our community.

According to the Draft A-2259 Order as proposed: “A regional water board is not required to put on blinders when making a decision concerning the authorization of a discharge of waste that will likely lead to additional discharge of waste or other water quality impacts in the future.”

We would add that a regional water board cannot make assumptions about a future project when the actual details of that project are not before them and cannot be properly evaluated.

This proposed Draft Order puts the process for acquiring necessary permitting for public works projects throughout our county, and others, at risk. I strongly encourage that you change the wording in the Draft Order to disallow your Regional Boards from considering potential project extensions that have not been proposed or perhaps even contemplated by the applicant.

County Executive Office
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Third Floor
Santa Ana, California
2701-4062

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Web: www.ocgov.com

The Orange County Board of Supervisors (Board) supports the extension of State Route 241 to Interstate 5, which has been on the County's Master Plan of Arterial Highways for more than 35 years. Further, the Board supports issuance of a Waste Discharge Permit for the Tesoro extension as defined. This extension is needed to serve future residents of Rancho Mission Viejo as well as regional traffic now using Ortega Highway.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael B. Giancola". The signature is stylized and cursive, with a prominent initial "M" and "G".

Michael B. Giancola

County Executive Officer

EXHIBIT 7



September 9, 2014

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
Via E Mail: commentletters@waterboard.ca.gov

**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:

On September 23, 2014, the board will consider a review of the denial of the Wastewater Discharge Requirements (WDR) for a 5.5 mile segment of the Tesoro Extension Project in Orange County. The proposed order to be considered includes language that is far reaching and could significantly impact any and all infrastructure projects in California built in segments.

On page 9, the report rightfully states that a regional water board may issue WDRs for the project as it is proposed, understanding that any expansion or extension of that project would need to come back before the regional board for further review and consideration. However, at the top of page 10 the report goes further, authorizing the regional boards with broad new powers to speculate on impacts of potential future alignments or alternatives not proposed by the applicant.

Such authority could grind infrastructure projects that are “linear” in nature to a halt. For example, does the High Speed Rail project need to analyze all potential future alignments and alternatives of the project in its entirety before beginning on its initial segment? This draft order could create a legal precedent for just such a challenge. Further, as the average California infrastructure project can take over 17 years to plan, design, phase, and complete, anticipating water quality issues over decades is literally impossible.

Additionally, this proposed order could have a chilling effect on infrastructure projects, jobs, and the economy in California—at a time when recovery is just beginning and new jobs still of paramount importance. I ask that you reconsider the language in the draft order that will come before you and direct your regional

Ms. Townsend
September 9, 2014
Page 2 of 2

boards to consider only the projects that the applicants bring to your boards, not future alignments that may or may not ever come to fruition. The current process already requires future alignments be brought back to the boards on their own merits at the time they are ready to move forward. For a regional board to speculate on potential water quality impacts of an alignment that may or may not ever be proposed is inappropriate.

Thank you for considering this suggested revision to your draft order for the Tesoro Extension.

Sincerely,



Lucy Dunn
President and CEO
Orange County Business Council

LD:la

Cc: Bryan Starr, Senior Vice President Government Affairs, OCBC
Darrell Johnson, CEO, OCTA
Ryan Chamberlain, Director, District 12, Caltrans

EXHIBIT 8



September 10, 2014

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
Via E Mail: commentletters@waterboards.ca.gov

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
Object: Expanded Interpretation of Project Review

Dear Ms. Townsend:

I am writing as a senior representative of one of the nation's largest privately-held commercial property owners. We were founded in California in 1948 and with a portfolio of more than 70 million square feet, we are still proud to call Southern Californian our headquarters and home. We are active leaders in our communities and view ourselves as long-term stakeholders in our region.

On September 23, 2014 your board will consider a review of the denial of the Wastewater Discharge Requirements for a 5.5 mile segment of the Tesoro Extension project in Orange County. Our concern with the proposed order is that the language is far reaching and could significantly impact any and all infrastructure projects in California that are linear in nature and are built in segments – primarily major transportation projects.

On page nine of the above referenced order, the report states "that a regional water board may issue WDRs for the project as it is proposed, understanding that any expansion or extension of that project would need to come back before the regional board for further review and consideration." We are in agreement and believe that this is how we have collectively operated within the historical interpretation of the Porter Cologne Act. However at the top of page 10, the report goes further, authorizing the regional boards with broad new powers to speculate on impacts of potential future alignments or alternatives that not proposed by the applicant.

Such authority could grind infrastructure projects that are "linear" in nature to a halt. This definition will be further compounded as we push for multi-modal interconnections amongst all modes of transportation in the future.



MAJESTIC REALTY CO.

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One example of such proposed connectivity includes the High Speed Rail project which is ultimately intended to offer connectivity across our state. Will the first phase of the High Speed Rail project need to analyze all potential future alignments and alternatives of the project in its entirety before beginning on its initial segment? This draft order could create a legal precedent for just such a challenge.

This proposed order could have unintended consequences and provide a chilling effect on infrastructure projects, jobs and the economy in California. I ask that you reconsider the language in the draft order and direct your regional boards to continue to consider only the projects that an applicant brings forward, speculating on potential future alignments before the due process when they may or may not ever come to fruition is ill advised.

The current process already requires future alignments be brought back to the boards on their own merits at the time when they are ready to move forward. For linear transportation projects, future alternatives may take decades and must adapt to the needs and requirements at that time. For a regional board to speculate on potential water quality impacts of an alignment that may or may not ever be proposed is inappropriate.

Thank you for considering this concern to your draft order.

MAJESTIC REALTY CO.

Sincerely,

Fran Inman
Senior Vice President

EXHIBIT 9

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Assembly California Legislature



TOM DALY
ASSEMBLYMEMBER, SIXTY-NINTH DISTRICT

COMMITTEES
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PROGRAM EVALUATION

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TECHNOLOGY AND INNOVATION
REGIONAL TRANSPORTATION
SOLUTIONS

Felicia Marcus, Chair
State Water Resources Control Board
1001 I Street, 24th Floor
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 Chair Marcus:

I am contacting you regarding the proposed Draft Order concerning the Tesoro Extension Project in Orange County.

The proposed draft order gives regional boards new and expanded authority to speculate on the impacts of potential future phases of projects. The enactment of this order will likely result in a delay, and the possible denial, of beneficial infrastructure projects that provide jobs and improved quality of life for all Californians. That's why various transportation agencies from throughout California have expressed their concern.

There are currently many infrastructure projects underway in the state. Many of these projects are built in phases, especially freeway improvements. Requiring water discharge requirements (WDRs) for potential future phases is unreasonable.

Just as the applicant is not permitted to build beyond the scope of an approved project, regulatory agencies should also not be permitted to render judgments on potential future projects that have not been analyzed or proposed.

I ask that the State Water Resources Control 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 proposed project in an application and discharge proposed by an applicant.

Sincerely,

A handwritten signature in blue ink that reads "Tom Daly".

Tom Daly
State Assemblymember, 69th District

cc: Jeanine Townsend, Clerk of the Board, State Water Resources Control Board



EXHIBIT 10

COMMITTEES
CHAIR: ACCOUNTABILITY AND
ADMINISTRATIVE REVIEW
INSURANCE
TRANSPORTATION
WATER, PARKS AND WILDLIFE

Assembly California Legislature



JIM FRAZIER
ASSEMBLYMEMBER, ELEVENTH DISTRICT

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September 12, 2014

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Post Office Box 100
Sacramento, CA 95814

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:

I am writing to express my concern with the interpretation of the Porter Cologne Act in the State Board staff report on the above-referenced Petition that has the potential to negatively impact the implementation of important regional transportation improvements throughout the state.

On page nine the report rightfully states that a regional water board may issue WDRs for the project as it is proposed, understanding that any expansion or extension of that project would need to come back before the regional board for further review and consideration. However, at the top of page 10 the report goes further, authorizing the regional boards with broad new powers to speculate on impacts of potential future alignments or alternatives not proposed by the applicant.

Such authority could grind infrastructure projects that are “linear” in nature to a halt and have a chilling effect on infrastructure projects, jobs and the economy in California. I ask that you reconsider the language in the draft order that will come before you and direct your regional boards to consider only the projects that the applicants bring to your boards, not future alignments that may or may not ever come to fruition.

The current process already requires future alignments be brought back to the boards on their own merits at the time they are ready to move forward. For a regional board to speculate on potential water quality impacts of an alignment that may or may not ever be proposed is inappropriate.

Sincerely,


JIM FRAZIER
Assembly Member, 11th District



EXHIBIT 11

RWQCB PERMITTING: ADOPTED/TENTATIVE ORDERS FOR LINEAR PROJECTS

Project Location (County)	Project Name	Description	Permit Construction Phases
Transit/Light Rail/Bikeway Projects			
Bay Area	BART Extension to Silicon Valley	16-mile extension of the Bay Area Rapid Transit (BART).	Phase 1: 10-mile, two-station BART extension. Phase 2: A future phase will include a 5-mile-long subway tunnel through downtown San Jose and extend the BART system from the planned Berryessa Extension terminus for approximately 6 miles, ending at-grade in Santa Clara near the Caltrain Station.
Los Angeles	Exposition Transit Corridor	15.2 mile light rail transit project.	Phase 1: 8.6-mile extension of the Metro Rail System from downtown Los Angeles to Culver City. Phase 2: 6.6 mile extension of the rail system from Culver City to Santa Monica.
Los Angeles	Foothill Gold Line	Light project from Los Angeles to Montclair in San Bernardino County.	Phase 1: Los Angeles to Pasadena Phase 2a: Pasadena to Azusa. Phase 2b: Azusa to Montclair Phase 2c: Montclair to the Ontario Airport
Los Angeles	Westside Subway Extension (Metro Purple Line)	Extension of metro line.	Phase 1: Wilshire/Western to Wilshire/La Cienega. Phase 2: Wilshire/La Cienega to Century City. Phase 3: Century City to Westwood/VA Hospital.
Riverside	Metrolink Perris Valley Line Extensions	24-mile Metrolink extension.	Perris Valley Line: Continues rail service 24 miles from the downtown Riverside station to south Perris, with the construction of four new stations, construction and rehabilitation of railroad tracks, upgrade at-grade crossings, and improvement of existing tracks. Future extensions: Anticipated but not yet planned.
Statewide	California High-Speed Rail Project	High-speed rail project from Los Angeles to San Francisco, with San Diego and Sacramento extensions.	Permitting Phase 1: 24 miles of the HST Project along the southern end of the Merced to Fresno segment. The overall project footprint is approximately 885 acres. Additional Permitting Phases: Separate environmental documents and permits will be obtained for each segment of the project (Merced to Fresno, Fresno to Bakersfield, Palmdale to Los Angeles, etc.).
San Bernardino	Downtown San Bernardino and Redlands Passenger Rail Project	Metrolink extension.	Phase 1: 1-mile extension of the existing passenger rail service. Phase 2: 9-mile construction of passenger rail line.
San Diego	Inland Rail Trail Bikeway	21-mile bike trail.	Phase 1: 6 miles of the bikeway. Phase 2: 7 miles of bikeway. Phase 3: 8 miles of bikeway.
Sacramento/ Multiple	Sacramento Downtown/Riverfront Streetcar Project	9-mile urban streetcar network.	Phase 1: 3.- mile Streetcar network. Phase 2: Connecting South R Street and Broadway corridors.

RWQCB PERMITTING: ADOPTED/TENTATIVE ORDERS FOR LINEAR PROJECTS

Project Location (County)	Project Name	Description	Permit Construction Phases
Sacramento/ Multiple	Union Pacific Third Track	17.8-mile railroad track.	4 total segments.
Sacramento	I-5 Bus/Carpool (HOV) Lanes	Construction of bus/carpool HOV lanes in both directions on I-5.	Phase 1: 13 miles of bus/carpool lanes on I-5 in the Sacramento area. Phase 2: 6.8 miles of bus/carpool lanes.
San Francisco	MUNI Third Street Light Rail Improvements	6.9-mile light rail project.	Phase 1: 5.1 miles of light rail construction. Phase 2: 1.7 miles of light rail construction.
Highway Projects			
Bay Area (Multiple Counties)	Bay Area Express Lanes	550-mile network of Bay Area express lanes.	Phase 1: Conversion of 150 miles of HOV lanes to express lanes. Addition of 120 miles of new lanes. Phase 2: 90 miles of express lanes. Phase 3: Improvements and additions to express lanes for a total of 190 miles in Silicon Valley.
El Dorado	Bass Lake Road Improvements	Road widening and reconstruction.	Phase 1 A: US 50 to Hollow Oak Rd. Phase 1B: US 50 to Silver Springs Parkway.
El Dorado	Diamond Springs Pkwy	Construction of 4-lane divided roadway.	Phase 1A: SR 49 realignment - Pleasant Valley Road to Lime Kiln. Realign SR-49/Diamond Rd from Pleasant Valley Rd to north of Lime Kiln Rd; SR-49/Diamond Rd will be improved with two 12-ft lanes and 8-ft shoulders; includes signal modification at Pleasant Valley Rd/SR-49 intersection and potential underground utility district. Phase 1A split from Phase 1 (CIP72334/ELD15990) to advance this new roadway project. Phase 1B: New 2-lane roadway connecting Missouri Flat Road to SR 49. Phase 2: Widening/improvement to 4-lanes from Missouri Flat Road to Highway 49. Phase 3: Ultimate widening/improvements for 4-lane divided SR-49.
El Dorado	US 50 Bus/ Carpool Lanes	13 miles of HOV and bus/carpool lanes.	Phase 1 Add HOV lanes from El Dorado Hills Blvd to Bass Lake Grade. Phase 2A: Add HOV lanes from Bass Lake Road to Cameron Park Drive. Phase 2B: Add HOV lanes from Cameron Park Dr. to Ponderosa Rd. Phase 3: Add Bus/Carpool lanes from Ponderosa Rd to Greenstone Rd.
El Dorado	Western Placerville Interchanges	Improvements on and around US 50.	Phase 1A/1B: Construct westbound access ramp from Ray Lawyer Drive onto US 50 and auxiliary lane between westbound access ramp and the existing westbound off-ramp at Placerville Drive. Realign Faird Lane to accommodate new improvements, bicycle/pedestrian improvements, widened shoulders, retaining walls Phase 2: Replacement and widening of overcrossing, improved interchange, new ramps at the existing

RWQCB PERMITTING: ADOPTED/TENTATIVE ORDERS FOR LINEAR PROJECTS

Project Location (County)	Project Name	Description	Permit Construction Phases
			overcrossing, and new auxiliary lanes between interchanges.
Los Angeles	I-10 HOV Lanes	11 miles of HOV lanes.	Phase 1: I-605 to Puente Ave. Phase 2: Puente Ave. to Citrus Ave (9.2 miles of carpool lanes in each direction of I-10) Phase 3: Citrus Ave. to SR-57
Los Angeles	I-405 Sepulveda Pass	10 miles of HOV lanes and infrastructure improvements.	Project includes: Mulholland Dr. Bridge Demolition and Reconstruction; Wilshire Boulevard Ramps Reconstruction; Sunset Bridge Ramp Reconstruction; and Skirball Center Drive On-ramps and Bridge Reconstruction
Los Angeles	I-5 HOV/Truck Lanes Project	14 miles of HOV lanes; 4 miles of truck climbing lanes.	Phase 1: Truck lanes for 3.7 miles southbound and 1.4 miles northbound. Phase 2: Truck lane and HOV lanes from SR-14 to Parker Road. Phase 3: Truck lane and HOV lanes from SR-14 to Parker Road.
Los Angeles/ San Bernardino	High Desert Corridor	Construction of a new multi-modal link between State Route (SR)-14 in Los Angeles County and SR-18 in San Bernardino County.	Los Angeles County Project: 9 miles from SR-14 to 50 th Street East. East/West Connection Project: 32 miles from 50 th Street East to US-395. San Bernardino County Project: 20 miles from US-395 to SR-18.
Los Angeles/Orange	I-5 Corridor Improvements	Corridor improvements consisting of 17 projects.	I-5 North Improvements: HOV Lanes – Carpool lanes; Direct HOV Connectors; Interchange Improvements; bridge widening and bridge reconstruction; truck lane designation; Pavement Replacements; and Grade Separation. I-5 South Improvements: High-Occupancy Vehicle (HOV or carpool) Lanes; Interchange Modifications; Pedestrian Overcrossing; and Frontage Road Modification
Riverside/Orange	SR-91 Corridor Improvements	20 miles of capacity, operational, and safety enhancements.	Phase 1: 8 miles of improvements; 3 miles of direct connectors. Construction of two express lanes, one general purpose lane, and auxiliary lanes. Phase 2: Construction of general purpose lanes, express lanes, and direct connectors; conversion of HOV lane to express lane.
San Diego	I-15 Express Lanes	20 miles of express lanes.	Middle Segment: SR-56 to Centre City Parkway. South Segment: SR-163 to SR-56. North Segment: Centre City Parkway to SR-78.
San Diego	SR-52 Improvements	Construction of 2 HOV lanes and 2 managed lanes.	SR-52 East – Extension of the SR-52 freeway through Santee into East San Diego County; included SR-52/SR-67 interchange. SR-52 West – Construction of 1 additional general purpose lane in each direction and 2 reversible Managed Lanes from I-15 to SR-125. Additional Improvements – Construction of 2 HOV lanes between I-805 and I-15.

RWQCB PERMITTING: ADOPTED/TENTATIVE ORDERS FOR LINEAR PROJECTS

Project Location (County)	Project Name	Description	Permit Construction Phases
Placer	I-80 Capacity & Operational Improvements	Freeway widening and extension of carpool lanes.	<p>Phase 1: Extension of eastbound on-ramp.</p> <p>Phase 2: Eastbound and westbound carpool and auxiliary lanes.</p> <p>Phase 3: Added auxiliary lanes and carpool lanes on both eastbound and westbound sides, approximately 2.2 miles.</p>
Placer	SR-65 Lincoln Bypass	Construction of a new 4-lane and 2-lane expressway.	<p>Phase 1: A 4-lane highway expressway on a new alignment from Industrial Avenue to north of North Ingram Slough and continue north with 2 lanes to Sheridan. Also design and construct a Park and Ride facility at SR 65 Bypass and Industrial Avenue.</p> <p>Phase 2A: Adds 2 southbound lanes to extend 4-lane section of Lincoln Bypass from its Phase 1 terminus.</p> <p>Phase 2B: 2 lanes from north of West Wise Road to Sheridan, providing a full 4 lanes (2 in each direction).</p>
Sacramento	Auburn Blvd Complete Streets Revitalization Project	Construction of pedestrian and bicycle lanes; various infrastructure improvements.	<p>Phase 1: Construct wide sidewalks, bike lanes, a pedestrian/bike bridge, enhanced transit stops and shelters, pedestrian-scale street lighting, raised medians and landscaping, and consolidated multiple driveways.</p> <p>Phase 2: ADA, Ped, Bicycle, and Transit Improvements, new street light installations, hardscape, landscape, full road reconstruction.</p> <p>Phase 3: Design, ROW acquisition and construction; utility undergrounding, ADA, Pedestrian, Bicycle and Transit Improvements, traffic signal upgrades, LED street light conversion, full road reconstruction, hardscape and landscape.</p> <p>Phase 4: Design and construction; ADA, Pedestrian, Bicycle and Transit Improvements, traffic signal upgrades, LED street light conversion, full road reconstruction, hardscape and landscape.</p> <p>Phase 5: Design, ROW, and construction; utility undergrounding, ADA, Pedestrian, Bicycle and Transit Improvements, traffic signal upgrades, LED street light conversion, full road reconstruction, hardscape and landscape.</p>
San Bernardino	SR-138 Capacity Enhancement	54 miles of highway widening.	<p>Phase 1: 13 miles of highway widening.</p> <p>Phase 2: LA County to San Bernardino County.</p>
San Bernardino	US-395 Operational Improvements	90 miles of highway widening.	Multiple projects in various stages.
San Diego	SR-76 Improvements	Upgrade of SR-76 to a freeway or expressway.	<p>West Segment: I-5 to Melrose Dr.</p> <p>Middle Segment: 5.5-mile segment.</p> <p>East Segment: 5.2-mile segment.</p>
San Diego	I-805 Managed Lanes	28-mile Express Lanes facility.	<p>I-805 HOV/Carroll Canyon Road Extension Project: 10-mile HOV lane in two directions.</p> <p>I-805 North Express Lanes Project: 4-mile project in multiple phases.</p>

RWQCB PERMITTING: ADOPTED/TENTATIVE ORDERS FOR LINEAR PROJECTS

Project Location (County)	Project Name	Description	Permit Construction Phases
			<p>Stage 1: 1 carpool lane in each direction.</p> <p>Stages 2-4: Second carpool lane in the median.</p> <p>Stage 5: Direct freeway to freeway HOV connector in the median.</p>
San Diego	I-5 North Coast Corridor Program	27-mile series of highway, rail, transit, bicycle, and pedestrian projects.	<p>Highway - Phases 1-3: I-5 Widening to accommodate four new Express Lanes and HOV connectors.</p> <p>Rail: Double tracking of the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor.</p> <p>Transit: Enhanced Coastal Bus and a Bus Rapid Transit service.</p> <p>Bikeways: A new 27 mile NCC Bikeway.</p> <p>Trails: 7 miles of the Coastal Rail Trail, as well as other shorter connections to existing trail networks and transit stations.</p>
San Joaquin Valley	SR 99 Corridor Improvements	44 programmed projects and 66 candidate projects to increase capacity and improve operations.	<p>Capacity increasing projects: Freeway widening</p> <p>Major Operational Improvements</p> <p>New Interchanges</p>
Utility/Transmission Line Projects			
Los Angeles/ San Bernardino	SCE Tehachapi Renewable Transmission Line	250 miles of transmission facilities.	<p>11 Segments: Include substation expansions and construction of a 25.6 mile transmission line.</p> <p>The following permits have been issued:</p> <p>Segment 3B - Water Quality Order No. 2012-0007-DWQ; Waste Discharge Requirements WDID No. SB12009IN</p> <p>Segments 4 and 5 - Water Quality Order No. 2010-0015-DWQ, WDID No. SB10003IN Waste Discharge Requirements</p> <p>Segment 6 - Section 401 Certification File No. SB11003IN</p> <p>Segments 7 and 8 - Section 401 Certification File No. SB10002IN</p> <p>Segment 9 - Water Quality Order No. 2004-004-DWQ; File No. SB10001IN</p> <p>Segment 10 - Water Quality Order No. 2010-0015-DWQ, WDID No. SB10003IN Waste Discharge Requirements</p> <p>Segment 11 - Section 401 Certification File No. SB13003IN</p>

EXHIBIT 12



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Los Angeles Times

August 24, 2014 Sunday
Home Edition

SECTION: MAIN NEWS; Metro Desk; Part A; Pg. 27

LENGTH: 915 words

HEADLINE: Train route option draws praise;
A proposal to tunnel through the Angeles National Forest is getting a closer look.

BYLINE: Dan Weikel

BODY:

To get high-speed rail from Palmdale to Burbank, planners have focused for years on two potential routes that parallel the 14 Freeway and course through the rural and growing communities of Acton, Agua Dulce and Santa Clarita -- hostile territory for the bullet train project.

Los Angeles County Supervisor Michael D. Antonovich thinks there's a better way to go.

He is recommending to the California High-Speed Rail Authority an alternative to the south that would rely on extensive tunneling to cross the rugged Angeles National Forest.

"Such an approach," Antonovich recently told bullet train officials, "could provide a boon to the authority by eliminating conflict with Acton, Agua Dulce and Sand Canyon communities in my district while also helping the project reduce its costs and travel times."

He has made the pitch before, but this time his suggestion is getting some traction. The authority, which recently accelerated planning for the Palmdale-to-Burbank leg, has begun to seriously consider Antonovich's proposal.

During seven meetings this month in communities from Palmdale to Los Angeles, high-speed rail officials have asked members of the public to comment on the proposed corridors, including Antonovich's.

The public has a month to respond. If there is enough support for the supervisor's recommendation, the authority says his proposal could qualify for more in-depth studies, the outcome of which might eventually lead to its selection as the route for the Palmdale-Burbank leg.

"We ought to take a serious look at this," said Jeff Morales, the authority's chief executive. "I continually push our team to look at ideas and to solicit and listen to what we get from the outside. We are sensitive to community input, and we've heard the concerns of Acton, Agua Dulce and Santa Clarita. That matters."

Antonovich first approached the authority with his idea several years ago, but board members and the chief executive at the time were reluctant to work with the range of federal environmental agencies that would have to be involved in planning and approving a route through a national forest. With the arrival of Morales and board Chairman Dan Richard, the agency has been more receptive.

"We've had some discussions and talked to the supervisor," Morales said. "I'm impressed by his focus to bring improvements to that part of the county and state. He's pushed hard and we've listened."

Antonovich's proposal would run about 35 miles through the Angeles National Forest. It would go around the Hansen Dam Recreational Area, authority officials say, and include roughly 20 miles of tunnels. A specific route has not been determined.

In contrast, the other two proposals along the 14 Freeway are about 48 miles long and generally follow the highway and a San Fernando Valley railroad right-of-way used by the Metrolink commuter line. About 18 to 20 miles of tunneling and more than 20 grade separations would be necessary if either was chosen.

Both corridors would begin at the Palmdale Transportation Center and end at the Burbank Airport Station, a developing transportation hub.

Although none of the proposals have been fully vetted, Morales said there could be advantages to Antonovich's plan, including lower construction costs and shorter travel times. The trip would take an estimated 15 minutes, 7 to 10 minutes less than the highway routes.

In addition, both Morales and the supervisor said there would be substantial benefits from reducing the project's effects on communities along the 14 Freeway, where the population has grown at least 24% in the last decade.

Local leaders and community groups say the routes along the 14 would bring high-speed trains near schools, disrupt the rural setting and mar the center of Acton with a viaduct. The Santa Clara River, residential water wells and hundreds of properties would be adversely affected, they said, including the Shambala Preserve in Acton, a big cat sanctuary owned by a partnership that includes actress Tippi Hedren.

Michael Hughes, president of the Acton Town Council, said he was "very much in favor" of Antonovich's proposal, but residents and local leaders would like to see the suggested corridor moved a few more miles east to take it completely out of Acton.

In a recent letter to the rail authority, Assemblyman Scott Wilk, a Republican who represents the Santa Clarita Valley, said he supported Antonovich and urged the agency to disavow the routes along the 14 Freeway in order to "reset the discussion."

Katherine Sky Tucker, who has a ranch off the Angeles Forest Highway in east Acton, said, however, that Antonovich needs to be more specific and move his proposal out of the area.

"If Palmdale wants a station so bad, the route should all be in Palmdale so we can maintain the rural environment" in Acton, said Tucker, whose land and neighboring properties could be crossed by the project's right of way. "We are trying to save what we have here."

Other concerns could come from environmental groups should Antonovich's alternative gain ground.

"The environmental impacts would be enormous," said Kathryn Phillips, director of Sierra Club California, which generally supports the high-speed rail project. "Going through a national forest isn't going to sit well with my members."

Morales defended Antonovich's proposal. Even if a route is built through the forest, he said there would be substantial environmental benefits, such as reductions in traffic and air pollution across the region.

--

dan.weikel@latimes.com

GRAPHIC: PHOTO: COMMUNITIES ALONG the 14 Freeway fear disruptions that would be caused by running the bullet train along that corridor. Supervisor Michael Antonovich backs an alternate route through national forest. **PHOTOGRAPHER:** Illustration by California High-Speed Rail Authority **GRAPHIC: MAP:** Angeles National Forest **CREDIT:** Thomas Suh Lauder Los Angeles Times

LOAD-DATE: August 24, 2014

EXHIBIT 13



Dedicated to advancing the interests of the business community through advocacy, leadership, and representation

September 12, 2014

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Post Office Box 100
Sacramento, CA 92814
Via E Mail: commentletters@waterboards.ca.gov

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 South Orange County Economic Coalition is a membership driven organization representing business community throughout ten cities and three unincorporated areas in the South County region. Our organization's mission and focus is to support key infrastructure projects relating to energy, transportation and water. South Orange County is home to a growing population as the region is not built out. As our population grows and communities expand, our infrastructure needs to be enhanced in order to sustain this growth.

The proposed Tentative Order from the State Water Resources Control Board to the San Diego Regional Water Quality Control Board will expand the power and authority of Regional Boards to speculate on the impacts of "potential" future phases of projects. The enactment of this order will likely result in a delay and possible denial of beneficial infrastructure projects that provide jobs and improved quality of life for not only South Orange County residents and businesses but for all Californians. That's why many agencies and organizations in the transportation and water arena throughout California have voiced their concern.

Further, your Draft Order would require these agencies to provide you early on as to what may or may not occur in future phases of infrastructure projects. This simply shouldn't be allowed as it is not feasible.

There are currently many infrastructure projects underway in the South Orange County region. Many of these projects are built phases or based on need or available funding. Requiring water discharge requirements (WDRs) for potential future phases or projects is unreasonable.

Just as the applicant is not permitted to build beyond the scope of an approved project, regulatory agencies should also not be permitted to render judgments on potential future projects that have not been analyzed or even proposed.

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EconomicCoalition.com



Dedicated to advancing the interests of the business community through advocacy, leadership, and representation

We are requesting 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 proposed project in the application and discharge proposed by the applicant.

Sincerely,

A handwritten signature in blue ink that reads "Duane D. Cave".

Duane D. Cave
Chairman
South Orange County Economic Coalition