



January 30, 2017

Via electronic mail to commentletters@waterboards.ca.gov

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



Subject: Request for Extension of Comment Period to Proposed Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California – Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions

Dear Ms. Townsend:

The County of Orange (County) respectfully requests that the State Water Resources Control Board (State Board) extend the time period for submission of written comments to the Proposed Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California – Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (“the draft Provisions”) and Draft Staff Report, including the Draft Substitute Environmental Documentation (SED), by a minimum of 60 days, or at least until April 17, 2017. In doing so, the County echoes similar requests of other stakeholders, including the California Stormwater Quality Association, the Association of California Water Agencies, the California Water Association and the California Municipal Utilities Association. Additionally, the following cities have asked to be included as concurring entities on this request: Brea, Dana Point and Lake Forest.

On January 3, 2017, State Board staff released the draft Provisions and above-referenced related documents, providing a 45-day comment period, with written comments due by noon on February 17, 2017. The draft Provisions, Draft Staff Report and SED together consist of over 700 pages of proposals, complex analysis and technical appendices. More importantly, the draft Provisions propose the adoption of three new beneficial use definitions, five new mercury water quality objectives, and an implementation program, actions which have potentially significant and far-reaching regulatory impacts. MS4 dischargers such as the County are amongst the entities who will be potentially subject to regulation, administrative enforcement and civil litigation concerning the draft Provisions. Under the circumstances, a 45-day period is

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woefully inadequate to allow for full digestion of the information provided, let alone the formulation of incisive comment. Interested parties and stakeholders require more time to fully comprehend the draft Provisions and related documents, identify questions for State Board staff, and provide the State Board with comprehensive and informed comment.

While the State Board may be embarking on this expedited rulemaking process to adopt the Provisions by the June 30, 2017 deadline imposed on the U.S. Environmental Protection Agency ("EPA") in the Consent Decree issued in *Our Children's Earth Foundation v. U.S. Environmental Protection Agency* (Case No. 3:13-cv-2857-JSW), the County would note that the State Board is not subject to the Consent Decree, including the June 30, 2017 deadline for the EPA to propose water quality criteria for mercury to protect aquatic life and aquatic-dependent life. Thus, an expedited rule making process is not required here. Further, as noted in the request for extension submitted by the Association of California Water Agencies, the California Water Association and the California Municipal Utilities Association, the Consent Decree provides for an automatic extension of the June 30 deadline. Should the State Board wish to exercise its prerogative to promulgate mercury water quality objectives instead of EPA, efforts should be made to work with EPA to seek the court's extension of the June 30 deadline, in the compelling interest of providing for a robust and informed rule making process.

Your consideration of this request for an extension of the comment period concerning the draft Provisions is much appreciated. If you have any questions, please contact me at (714) 955-0630.

Sincerely,



Chris Crompton, Manager
Water Quality Compliance

Cc: Orange County Stormwater Permittees