

May 8, 2017

Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple St, Suite 383
Los Angeles, CA 90012

VIA EMAIL: Sheila@bos.lacounty.gov

Re: Letter on County's Water Resiliency Efforts

Dear Supervisor Kuehl,

In March of 2013, numerous business organizations, and many more, sent a letter to the Board urging a delay in the proposed LA County "Clean Water, Clean Beaches" measure. A copy of this letter is attached.

The County is now considering a similar measure to support "Water Resiliency". We understand the specifics of any such measure have yet to be determined, and that opportunity will be provided for stakeholders to provide input.

We are writing now to state our sincere interest in being a part of your process to ascertain the need and potential funding strategy for the measure. We will look forward to a collaborative process, and one where the needs, proposed remedies, and funding requirements will be fully transparent for all to consider and comment upon.

The drought challenged our local and regional water agencies, and all of us, to take action to make our water supplies more resilient in the face of future uncertainties. We can take comfort in the fact that LA County residents and businesses did remarkably well to get through an historic drought with no major ill effects. Our conservation efforts were successful, and with the welcome rain and snow this winter season, our groundwater and above ground storage reserves are on a path of rapid recovery. Any new water supply programs undertaken by County Agencies, particularly LACDPW and LACFCD, with their extensive experience in flood control and groundwater recharge, but only limited authority and experience in water supply, need to account for the supplies in place, and the opportunity to cost effectively augment those supplies with a focus on increased recycling and continued conservation programs. Increased stormwater capture has gained attention, however recycled water is a potential source year-round and every year, and when cost is considered may be available in volumes significantly greater than stormwater. Stormwater is now and will always be subject to unpredictable weather.

Because the cities in LA County, as well as the County itself are under an onerous and unfunded regulatory mandate to collect stormwater to improve the water quality

in our waterways and at the beaches, the best opportunity to increase local groundwater supplies and enhance the natural environment in our communities would be a coordinated and collaborative effort to meet that regulatory mandate. The County, cities and special purpose agencies involved in water supply, wastewater treatment, recycling and stormwater management have infrastructure assets that should be used in a manner to minimize operational silos and maximize compliance with MS4 plans in a cost efficient manner. Accordingly, we urge that any County funding measure that may be considered assure that the revenue generated will first be allocated to compliance with the LA Regional Water Quality Control Board's MS4 Order.

There is a financial limit on how much residents and cities can afford to pay for stormwater collection. What that limit is varies from community to community, as the financial capabilities for homeowners, renters, public agencies, non-profit organizations, and businesses varies in an economy that has many disparities. The limits are real, and should be understood in the context of all the other demands that exist in our State and in our community for more money to deal with other high priority needs.

Given these limitations, and the distinct possibility that the cost for even our wealthiest communities will exceed the current capacity of residents and businesses to pay, the funding measure needs to be focused first on MS4 compliance. The worst outcome for our residents and businesses would be for the County measure to take the available capacity to pay new taxes and fees for stormwater collection, divert it for purposes other than measurable MS4 Order compliance, and to then leave a significant unpaid liability to raise additional funds to pay for MS4.

Thank you for your consideration. Please call upon us to help as you identify the challenges and opportunities to fairly and effectively deal with stormwater in our County.

Sincerely,



Mike Lewis
Construction Industry
Coalition on Water Quality



Gary Toebben
Los Angeles Area
Chamber of Commerce



Tracy Hernandez
BizFed



Jessica Lall
Central City Association



Stuart Waldman
Valley Industry &
Commerce Association



Jeff Allred
San Gabriel Valley
Economic Partnership



Moises Cisneros
Los Angeles Latino
Chamber of Commerce



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March 4, 2013

Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple St.
Los Angeles, CA 90012

RE: Many significant unresolved issues remain on proposed "Clean Water, Clean Beaches" Measure

Dear Los Angeles County Board of Supervisors:

On behalf of BizFed, the Los Angeles County Business Federation, representing over 110 business organizations with more than 250,000 businesses spanning every corner of LA County, we thank you for the additional 60 days you provided after the Jan. 15 Protest Hearing for continued work on the proposed "Clean Water, Clean Beaches" measure. While we appreciate the good-faith efforts of the Department of Public Works to address our various concerns, far too many problems remain with the draft measure. Therefore, we urge that the proposed measure not advance forward until these problems are resolved. Our concerns are highlighted below.

It's a Property Tax, Not a Fee

First and foremost, our members continue to have serious concerns about the legal basis for a property owner vote and the likelihood of a successful legal challenge as the measure is currently proposed. For the measure to qualify as a "fee" under Article 13D of the California Constitution, the funds must be designated for specific, identified projects, rather than categories of projects to benefit the general public. Since the Jan. 15 Protest Hearing, the Department has made available proposed project criteria, but a list of specific projects still does not exist. What the Department presents as such a list is actually a list of generic placeholder entities whose actual projects they anticipate would be defined after the proposed measure passes. Such an approach demonstrates that the proposed measure meets the legal definition of a special tax, which would require approval from a two-thirds majority of all voters, rather than a fee, which would require approval from a simple majority of affected property owners.

Progress on Specific Provisions

The aforementioned legal issues notwithstanding, we have made some progress working with the Department to move the proposed measure in a better direction. We appreciate their revisions that allow owners of multiple contiguous parcels to treat those lands as single larger parcels. We also note their responsiveness in capping administrative costs at 5 percent, which was among our original suggestions. We also appreciate the Department following your direction and offering various sunset options on which to vote, and we urge you to require a 25-year sunset on any measure that might move

forward. Finally, the Department has asked us to submit language to ensure public members of the Oversight Board have appropriate business backgrounds and the necessary experience to properly oversee and monitor the funds, and we are developing that language.

However, a major sticking point remains: Parcel owners who already spend massive amounts of money to reduce their property's storm water pollution – be it because of proactive business practice or existing permitting or regulatory requirements – should receive fee reductions commensurate to their mitigation. Moreover, the fee reduction should occur in a timely manner through a clear, concise formulation, and not through a complicated and time-consuming refund process.

Credit for On-Site Measures In Place

The Department has proposed a formula to allow property owners who capture and treat storm water on-site to file for a reduction of up to 80 percent of the tax assessed. This is a step in the right direction, but we continue to believe that property owners who mitigate runoff for 100 percent of the design storm should be entitled to a 100 percent reduction in the tax. Moreover, the Department appears committed to using a formula driven by an arbitrary ratio of the treated volume to the runoff volume that undercounts the amount of runoff treated, thereby making even an 80 percent fee reduction practically impossible and actually more in the range of 50 percent to 60 percent. Many of the properties in question are sizable parcels facing sizable new taxes under the proposed measure, and the remaining factored tax is still significant. On top of all of that, the three-year time limit on fee reductions unnecessarily creates the need for parcel owners to perpetually reapply.

Credit for Existing Storm Water Permits

The Regional Water Board already tightly monitors many of our members who currently hold storm water permits. The proposed measure would offer them little in the way of compliance with those permits, and the additional new tax they would pay to the County do not appear to reduce any of their risk under those existing permits. These sites are not only paying permit fees to the Regional Water Board, but they are implementing a host of Best Management Practices and sampling the effluent flowing across their facilities. Fee reductions should not be limited to just capture and treatment, but should also be provided to those that are required by permits to spend money to implement administrative and other controls, short of capture and treatment, to minimize pollutant loading to the receiving waters.

Other Issues to Address

Other substantive issues that have yet to be addressed include:

- Ensuring that rental property owners can pass through the tax to their tenants;
- Ensuring that projects implemented to address regional storm water align with the alternative compliance allowed in the County storm water permit; and
- Requiring maintenance of effort levels, so that Cities are not rewarded simply because they are currently doing less than others to comply with water quality standards.

In addition to the issues we raised prior to the Jan. 15 Protest Hearing, we have reviewed the project criteria released since that date, and we offer these concerns, which we hope can be addressed moving forward:

- The project criteria appear to give highest priority to projects that have multiple benefits over those that reduce pollution loads, but the purpose of these funds is very specific: pollution load reduction;
- The criteria need to place pollution load reduction as the highest priority and establish cost benefit thresholds for those reductions;
- Projects that can achieve pollution reduction goals for X should be given priority over those that will cost 100X and some cost effectiveness limits should be established beyond which funding will not be permitted; and
- Project popularity should not be among the criteria, and funds should not be used to achieve social benefits other than pollution reduction.

As we stated in our Jan. 11 letter, which is enclosed for your reference, and in testimony at the Jan. 15 protest hearing, we do understand that there is a funding problem that needs to be addressed so that Cities and the County can comply with the complex and rigorous Municipal Separate Storm Sewer Systems permit requirements imposed upon them by the Regional Water Board. However, many of our members feel strongly that an additional parcel tax is not the appropriate method to obtain these funds, and we urge you to explore a more equitable source of money to address a countywide problem. To that end, we suggest that you direct the Department of Public Works to start over at the beginning. With the Department working in collaboration with key stakeholders, including the business community, together we would first develop the specific list of projects needed to comply with the new Municipal Separate Storm Sewer Systems permit and cost out those projects. Only then would a financing plan be developed, using a broad range of financing sources that more fairly reflects the broad public benefit.

Again, we appreciate the ongoing willingness of the Department of Public Works to engage with us, and we remain committed to working with

them as a key partner to help get this right. However, until these many significant issues are resolved, we urge you to prevent this proposed measure from moving forward.

Sincerely,



Tracy Rafter
BizFed, Los Angeles County
Business Federation



David Fleming
Founding Chair, Los
Angeles County Business
Federation



Stuart Magruder
American Institute of
Architects, Los Angeles



James Clarke
Apartment Association of
Greater Los Angeles



Kim-Yen Huynh
Asian American Business
Women Association



James W. Litz
Beverly Hills / Greater
Los Angeles Association
of Realtors



Holly Schroeder
Building Industry
Association of Los Angeles



Michele Dennis
Building Owners and
Managers Association of
Greater Los Angeles



Beverly Kenworthy
California Apartment
Association



Eric Sauer
California Trucking
Association



Bill Ruh
Citrus Valley Association
of Realtors



Maureen Aldridge
Claremont Chamber of
Commerce



Michael Lewis
Construction Industry Air
Quality Coalition



Ken Rausch
El Monte/South El Monte
Chamber of Commerce



Mark Wilbur
Employers Group

Elizabeth Warren
FuturePorts

John Kelsall
Greater Lakewood
Chamber of Commerce

Joeann Valle
Harbor City / Harbor
Gateway Chamber of
Commerce

Jaime Garcia
Hospital Association of
Southern California

Bob Amano
Hotel Association of Los
Angeles

Lisa Bailey
Irwindale Chamber of
Commerce

Pat Anderson
La Cañada Flintridge
Chamber of Commerce

Christina V. Davis
LAX Coastal Area
Chamber of Commerce

Gary Toebben
Los Angeles Area
Chamber of Commerce

Randy Gordon
Long Beach Area Chamber
of Commerce

Tamara Gurney
Mission Valley Bank

Kevin Ivey
NAIOP Southern
California Chapter

Paul Little
Pasadena Chamber of
Commerce

Terry Murphy
Pasadena Foothills
Association of Realtors

Frank Garcia
Pomona Chamber of
Commerce

Marna Smeltzer
Redondo Beach Chamber of
Commerce & Visitors Bureau

M.C. Townsend
Regional Black Chamber
of Commerce of the San
Fernando Valley

Sandy Cajas
Regional Hispanic
Chamber of Commerce

Cynthia Kurtz

Cynthia Kurtz
San Gabriel Valley Economic
Partnership

Mitchell Crawford

Mitchell Crawford
San Gabriel Valley
Legislative Coalition of
Chambers

Sandy Bradley

Sandra Bradley
San Pedro Chamber of
Commerce

Terri K. Crain

Terri K. Crain
Santa Clarita Valley
Chamber of Commerce

David Kissinger

David Kissinger
South Bay Association of
Realtors

J. Michael Ahn

Joseph M. Ahn
South Bay Association of
Chambers of Commerce

James Link

James Link
Southland Regional
Association of Realtors

Virginia Gomez

Virginia Gomez
Southern California
Minority Business
Development Council
Inc.

Donna Duperon

Donna Duperon
Torrance Area Chamber
of Commerce

Lupe C. Valdez

Lupe Valdez
Union Pacific Railroad

Horace H. Heidt

Horace Heidt
United Chambers of
Commerce of the San
Fernando Valley

Ron Adams

Ron Adams
West Los Angeles
Chamber of Commerce

David Evans

David Evans
Western Manufactured
Housing Communities
Association

Lee Lieberg

Lee Lieberg
West San Gabriel Valley
Association of Realtors

Dan Hoffman

Dan Hoffman
Wilmington Chamber of
Commerce

Biz Fed Los Angeles County Business Federation

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Los Angeles Area Chamber of Commerce



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January 11, 2013

Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple St.
Los Angeles, CA 90012

RE: Urge Delay of LA County "Clean Water, Clean Beaches" Measure

Dear Los Angeles County Board of Supervisors:

On behalf of BizFed, the Los Angeles County Business Federation, representing over 110 business organizations with more than 200,000 businesses spanning every corner of LA County, we urge you to delay scheduling any election on the proposed "Clean Water, Clean Beaches" measure.

We understand that there is a funding problem that needs to be addressed so that Cities and the County can comply with the complex and rigorous requirements imposed upon them by the Regional Water Board. We also appreciate the LA County Department of Public Works' willingness to meet with us as we work to improve their proposed measure.

Unfortunately, the measure is nowhere near ready to move forward, and it will likely face insurmountable opposition if it moves forward in its current form at this time. BizFed's working group will oppose the measure unless an acceptable revised ordinance is made available before the measure is put to a vote. Some of the substantive issues yet to be resolved include:

- There are no fee reductions for parcel owners who already pay for on-site capture and treatment. Parcel owners who capture and treat storm water runoff must pay the fee even though they receive limited or no service in exchange for it.
- There is no specificity about the services this measure would fund (contributing to the analysis that this is in fact a tax and not a fee.)
- Projects implemented to address regional storm water should align with the alternative compliance allowed in the County storm water permit. New development and redevelopment should be given the option of on-site capture or contributing to a regional project in lieu of the fee.
- Rental property owners (especially those offering rent controlled apartments) have no ability to pass through the fee to their tenants.
- Specific projects have yet to be identified and coordination with critical partners such as water purveyors and school districts to ensure the viability of those projects.

- The fee proposed is indefinite, with no sunset clause or other accountability provision to ensure that the projects are meeting intended clean water goals.

The final, revised ordinance, including criteria for prioritizing and funding projects, and a draft implementation manual must be released to the public before the measure is put to a vote. This is critical to ensure parcel owners actually know what they are voting on.

While our enclosed draft rewrite of the proposed ordinance would address many substantive concerns, we also have grave concerns that, as it is currently written, the measure itself is not being properly put before the voters in accordance with Proposition 218. In its current form, the measure meets the legal definition of a special tax, which would require approval from a two-thirds majority of all voters, rather than a fee, which would require approval from a simple majority of affected property owners. Because the measure would raise funds that are not designated for any specific projects and is designed to benefit the general public rather than only property owners charged the fee, the measure would not pass muster as a "fee" under Article 13D of the California Constitution. As Article 13D of the California Constitution recognizes, since these funds would benefit all County residents, it is inherently unfair to raise these funds through a special tax on property owners versus a tax on all County residents. Therefore, if the County proceeds with the measure in its current form and puts it before affected property owners as a fee, we believe it will meet serious and credible legal challenges. We have shared these concerns in writing with the Department of Public Works and await their written response and analysis.

Further, we believe the process by which parcel owners were notified of the Jan. 15, 2013 protest opportunity has predetermined the outcome in favor of the measure. The timing of the notice to parcel owners (during the holidays) and the form of the notice (which looks like a mere newsletter, not an important notice requiring attention and action) makes it unlikely parcel owners will be aware of their opportunity to protest, which could raise challengeable due process issues. Additionally, the notices require parcel owners to find, complete, and cut out the protest forms, place the forms in envelopes provided by the parcel owners, and correctly address and mail those envelopes. The choice of this process versus a pre-addressed tear card makes protests far less likely. We raise these points to emphasize that, despite the scheduled protest opportunity, the Board of Supervisors is the only real barrier to this measure moving forward.

While we suggest the County continue looking for a more equitable funding mechanism to address a countywide problem, we also know that if a special tax or a fee ultimately is imposed, such an ordinance will have a serious financial impact on businesses throughout LA County. Therefore, despite our concerns, we will continue working with the Department of Public Works in good faith to rewrite the proposed ordinance and implementation manual to try to fairly and effectively comply with the Clean Water Act.

We understand that the Department of Public Works is similarly working with the environmental community to address their particular concerns about the proposed measure. We are also aware that, in this case, the environmental community and the business community have several shared concerns about the measure, and that the environmental community is also urging you to delay. When both the business community and the environmental community agree that a measure is not yet ready for presentation to voters and implementation by the County, cities, and the Watershed groups, delay would seem the only prudent course.

Again, we appreciate the Department of Public Works' ongoing willingness to meet with us, and we remain committed to working with them. But this issue is too important to risk failure by moving forward too quickly.

Sincerely,



Tracy Rafter
BizFed, Los Angeles County Business
Federation



Stuart Magruder
American Institute of Architects, Los Angeles



James Clarke
Apartment Association of Greater Los
Angeles



Kim-Yen Huynh
Asian American Business Women
Association



James W. Litz
Beverly Hills / Greater Los Angeles
Association of Realtors



Holly Schroeder
Building Industry Association of Los Angeles



Michele Dennis
Building Owners and Managers
Association of Greater Los Angeles



Bill Ruh
Citrus Valley Association of Realtors



Maureen Aldridge
Claremont Chamber of Commerce



Michael Lewis
Construction Industry Air Quality Coalition



Steven Rose
Culver City Chamber of Commerce



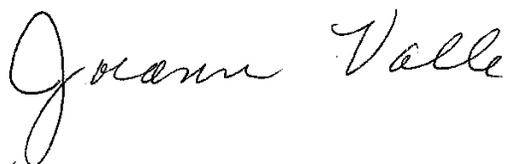
Mark Wilbur
Employers Group



Ira Bland
Glendale Association of Realtors



John Kelsall
Greater Lakewood Chamber of Commerce



Joann Valle
Harbor City / Harbor Gateway Chamber of
Commerce



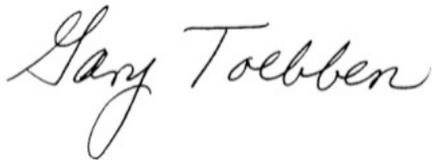
Jaime Garcia
Hospital Association of Southern California



Bob Amano
Hotel Association of Los Angeles



Lisa Bailey
Irwindale Chamber of Commerce



Gary Toebben
Los Angeles Area Chamber of Commerce



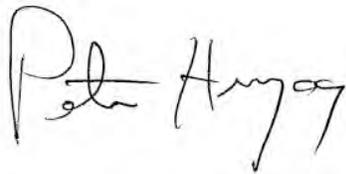
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Mission Valley Bank



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Pasadena Chamber of Commerce



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Pasadena Foothills Association of Realtors



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Regional Black Chamber of Commerce of the
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Cynthia Kurtz

Cynthia Kurtz
San Gabriel Valley Economic Partnership

Arun Tolia

Arun Tolia
San Gabriel Valley Legislative Coalition of
Chambers

Terri K. Crain

Terri K. Crain
Santa Clarita Valley Chamber of
Commerce

Virginia Gomez

Virginia Gomez
Southern California Minority Business
Development Council, Inc.

Mohammed Islam

Mohammed Islam
South Asian Business Network

David Kissinger

David Kissinger
South Bay Association of Realtors

Charles Gale

Charles Gale
Southbay Association of Chambers of
Commerce

Ron Adams

Ron Adams
West Los Angeles Chamber of Commerce

Albert Tran

Albert Tran
West San Gabriel Valley Association of
Realtors

David Evans

David Evans
Western Manufactured Housing Communities
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Dan Hoffman
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