



December 2, 2016

Honorable Board of Supervisors  
Contra Costa County  
651 Pine Street  
Martinez, CA 94553

Dear Members of the Board of Supervisors:

**Subject: Support and Suggested Modifications to Proposed Safe Drug Disposal Ordinance**

On behalf of the undersigned public water, recycled water, and wastewater agencies serving the communities of Contra Costa County, we applaud the Board of Supervisors for considering a Safe Drug Disposal Ordinance for the betterment of local residents. The proposed ordinance is an important step forward in making our communities and waterways safer. There has been a wave of support for forward-thinking safe drug disposal ordinances in counties throughout the Bay Area. These counties include: Alameda, San Francisco, San Mateo, Santa Clara, Marin, and Santa Cruz.

Medications are an important and necessary medical technology that provide benefits of longer, healthier, and more productive lives. However, without convenient disposal options, residents often store unwanted and expired drugs in their homes, where they can end up in the wrong hands, or be discarded by dumping them down drains, flushing them down toilets, or throwing them in the trash. These types of disposal ultimately impact water quality for our community. Wastewater treatment plants are designed to remove human waste and toilet paper, and are not designed to remove diluted concentrations of complex, synthetic chemicals like pharmaceuticals. As a result, many pharmaceutical compounds pass through wastewater treatment processes and into the water environment where studies suggest that pharmaceuticals can have a negative effect on aquatic life.

With California's annual prescription drug sales currently in excess of \$35 billion, and projected to increase 3-6% annually, unwanted and expired medications are a waste stream concern that will continue to grow. Offering safe and convenient drug disposal options to residents helps protect our communities and reduces the amount of pharmaceutical concentrations entering Bay Area waterways. The undersigned agencies therefore strongly support the Board of Supervisors in adopting the proposed Safe Drug Disposal Ordinance. To allow for the best

chance of program success, we urge consideration of the following four modifications to the draft presented at your November 14, 2016, Family and Human Services Subcommittee meeting.

**1. Include Over-the-Counter Medications**

Over-the-counter medications (OTCs) are the most common drugs found in the average home. As a result, OTCs are the most accessible for getting into the wrong hands, the leading cause of childhood drug poisonings (as compared to prescription drugs), and the pharmaceuticals most often detected in waterways, so it is imperative that the proposed Ordinance include over-the-counter (OTC) medications.

OTCs are included in Safe Drug Disposal ordinances adopted by the six northern California Counties that preceded Contra Costa County's proposed Ordinance. Initially, Alameda County, the first County in the nation to pass such an Ordinance, did not include OTCs in its July 24, 2012 adopted ordinance. Later, its Board of Supervisors adopted a resolution on January 26, 2016 to amend the original ordinance to include OTCs.

Contra Costa County's proposed Ordinance can easily be amended to include the collection of OTCs with the following adjustments (in underlined text) to the Definitions (§418-16.202 on page 2).

(e) "Covered Drug" means a Drug in any form, including a controlled substance, that is sold, offered for sale to, or otherwise distributed for use by, one or more consumers in the Service Area, including prescription, nonprescription, brand name, and generic. "Covered Drug" shall include controlled substances and, notwithstanding the previous sentence, shall not include : (1) vitamins or supplements; (2) herbal-based remedies and homeopathic drugs, products, or remedies; (3) cosmetics, shampoos, sunscreens, toothpaste, lip balm, antiperspirants, or other personal care products that are regulated as both cosmetics and nonprescription drugs under the federal Food, Drug, and Cosmetic Act or any successor legislation; (4) Drugs for which Producer provides a pharmaceutical product stewardship or take-back program as part of a federal Food and Drug Administration managed risk evaluation and mitigation strategy (Title 21 U.S.C. Sec. 355-1); and (5) Drugs that are biological products as defined by 21 C.F.R. 600.3(h) as it exists on the effective date of this Chapter if the Producer already provides a pharmaceutical product stewardship or take-back program.

(f) "Drug" means: (1) any article recognized in the official United States Pharmacopoeia - National Formulary, the official homeopathic pharmacopoeia of the United States or any supplement of the formulary or those pharmacopoeias as published by the U.S. Pharmacopoeia Convention and the Homeopathic Pharmacopoeia Convention of the United States; (2) any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (3) any substance, other than food, intended to affect the structure or any function of the body of humans or other animals; or (4) any substance intended for use as a component of any substance specified in (1), (2), or (3) of this definition, but not a device or a component, part or accessory of a device.

## 2. Increase Transparency of the Stewardship Organization

Contra Costa County's draft Ordinance follows a similar approach as six recently adopted county ordinances in northern California. This approach requires pharmaceutical producers to establish a Stewardship Organization to implement the requirements of the Safe Drug Disposal Ordinance. One very important lesson that has been learned by the other six counties is that, absent specific requirements about the Stewardship Organization, some pharmaceutical producers have elected to establish a Stewardship Organization that is structured as a 501(c)(6) organization under the Internal Revenue Service organizational tax identity.

Unfortunately, a 501(c)(6) organizational tax identity status allows for **no** limitation on legislative lobbying, and limited political activity **is** permitted. Conversely, a 501(c)(3) organizational tax identity status has **strict** limits on legislative lobbying and does **not** allow for political campaign activity. In order for an effective Safe Drug Disposal ordinance to be successful in Contra Costa County, and elsewhere, it is imperative that a spirit of transparency be at the center of any ordinance of this significance.

There is another important distinction for organizational tax identity statuses. A 501(c)(6) organizational tax identity status allows for private benefit to individuals or companies. Conversely, 501(c)(3) organizational tax identity status **restricts private benefits**, and **requires benefits that support the public**. Requiring Contra Costa County's Safe Drug Disposal ordinance to include a Stewardship Organization that is of a 501(c)(3) organizational tax identity status will ensure public benefit, greater transparency, and support successful implementation.

To address this item, changes to the definition of "Stewardship organization" (in §418-16.202 on page 3) is suggested by the following (in strikethrough and underlined text):

(q) "Stewardship organization" means a ~~person~~501(c)(3) organization designated by a producer to develop or implement a stewardship plan or operate a stewardship program on behalf of the producer.

## 3. Specify Disposal Method

The proposed section on Transport and disposal (§418-16.216 on page 7) lacks specificity on the actual disposal method required. As currently drafted, a producer could potentially direct the collected drugs to a landfill. Currently, incineration provides the most benign way for appropriate destruction of pharmaceuticals. The following language modification brings clarity to the disposal method (in underlined text):

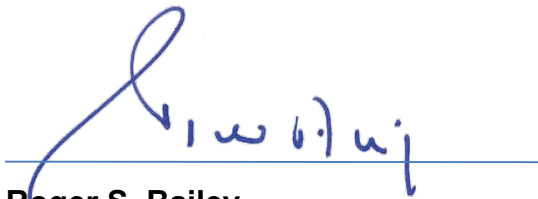
(b) All unwanted covered drugs that are collected under an approved stewardship program must be disposed of by destructive incineration only at a medical waste facility or hazardous waste facility that operates under all required permits and licenses. (Ord. 2016- § 4).

**4. Appropriate Enforcement Needed For Program Success**

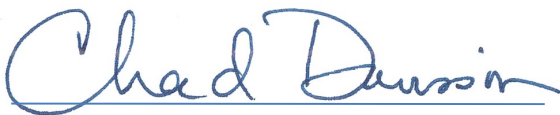
In its current form, the proposed Ordinance, includes no penalties for noncompliance (§418-16.224 on page 9). Meaningful enforcement is imperative to ensure program implementation and success. Without penalties, this Ordinance could be viewed by pharmaceutical producers as voluntary. The six adopted northern California County Safe Drug Disposal ordinances can help guide the way for County Counsel to develop such language for inclusion in Contra Costa's Ordinance. The enforcement sections of the six adopted ordinances are provided in Attachment A to this letter.

The undersigned agencies appreciate Contra Costa County's leadership on this important issue. We support the ordinance fully with the inclusion of the proposed modifications. We look forward to working with the County to ensure successful program implementation. Strong leadership requires forward-thinking policies, care for the citizenry, support for the environment, and courage to do the right thing. We commend the Board of Supervisors for supporting the betterment of all within Contra Costa County, and we are here to support you as you take this important step forward.

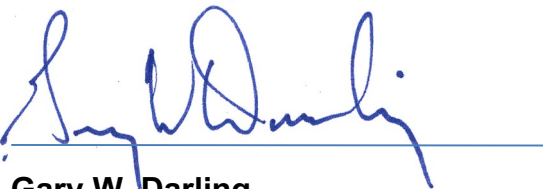
Sincerely,



**Roger S. Bailey**  
General Manager  
Central Contra Costa Sanitary District



**Chad Davisson**  
General Manager  
Ironhouse Sanitary District



**Gary W. Darling**  
General Manager  
Delta Diablo

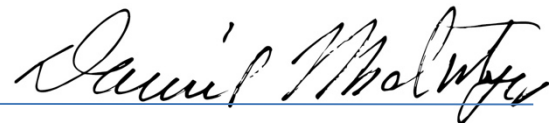
Enclosure: Attachment A



**Ryan Smith**  
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City of Richmond



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**Daniel McIntyre**  
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