



CONTRA COSTA  
CLEAN WATER  
PROGRAM

MANAGEMENT COMMITTEE MEETING AGENDA

Wednesday, October 19, 2022

**CLOSED SESSION 1:00 – 2:00**

**1:00 PM to 4:30 PM**

Join Zoom meeting:

<https://us06web.zoom.us/j/87930698822?pwd=b2lRT2ptV1VRcXFYR3dOU2xCUDBuZz09>

Meeting ID: 879 3069 8822 Passcode: 982003 Dial: 1 669 900 6833 US (San Jose)

One tap mobile: +16699006833,,87930698822#,,,,\*982003# US (San Jose)

If you require an accommodation to participate in this meeting, please contact Michael Burger at 925-313-2360 or at [michael.burger@pw.cccounty.us](mailto:michael.burger@pw.cccounty.us), or by fax at 925-313-2301. Providing at least 72 hours notice (three business days) prior to the meeting will help to ensure availability.

**VOTING MEMBERS** (authorized members on file)

City of Antioch	Phil Hoffmeister
City of Brentwood	Meghan Oliveira / Allen Baquilar/ Jigar Shah
City of Clayton	Reina Schwartz/Larry Theis/Jason Chen
City of Concord	Bruce Davis ( <b>Vice-Chair</b> )/ Kevin Marstall
Contra Costa County	Michele Mancuso/ Tim Jensen/ Allison Knapp
CCC Flood Control & Water Conservation District	Tim Jensen/ Michele Mancuso/ Allison Knapp
Town of Danville	Bob Russell/ Steve Jones/ Mark Rusch
City of El Cerrito	Stephen Prée/ Will Provost/ Yvetteh Ortiz/ Christina Leard
City of Hercules	Mike Roberts/Jeff Brown/Jose Pacheco/Nai Saelee/F. Kennedy
City of Lafayette	Matt Luttrupp/ Tim Clark
City of Martinez	Khalil Yowakim/ Frank Kennedy
Town of Moraga	Frank Kennedy/ Shawn Knapp
City of Oakley	Billilee Saengcalern/ Frank Kennedy/ Andrew Kennedy
City of Orinda	Scott Christie/ Kevin McCourt/ Frank Kennedy
City of Pinole	Misha Kaur
City of Pittsburg	Jolan Longway/ Richard Abono
City of Pleasant Hill	Philip Ho/Ananthan Kanagasundaram/Frank Kennedy ( <b>Chair</b> )
City of Richmond	Mary Phelps
City of San Pablo	Amanda Booth/ Karineh Samkian/ Sarah Kolarik/ Jill Mercurio
City of San Ramon	Kerry Parker/ Robin Bartlett/ Maria Fierner
City of Walnut Creek	Lucile Paquette/ Neil Mock/ Steve Waymire

**PROGRAM STAFF AND CONSULTANTS**

Courtney Riddle, Program Manager	Andrea Bullock, Administrative Analyst
Karin Graves, Sr. Watershed Planning Specialist	Alina Constantinescu, Consultant
Yvana Hrovat, Consultant	Mitch Avalon, Consultant
Liz Yin, Consultant	Michael Burger, Clerk
Lisa Austin, Consultant	Lisa Welsh, Consultant
Erin Lennon, Watershed Planner	Hilary Pierce, Consultant

**Contra Costa Clean Water Program  
MANAGEMENT COMMITTEE MEETING AGENDA  
Wednesday, October 19, 2022**

**AGENDA**

**Convene the Meeting, Confirm Designated Representatives, and Adjourn to Closed Session** **1:00**

**CLOSED SESSION:**

Public Employment, Government Code Section 54957. Discussion pertaining to procedures regarding long-term leave (A. Knapp)

**Reconvene the Meeting in Open Session/Introductions/Announcements/Changes to the Agenda:** **2:00**

**Public Comments:** Any member of the public may address the Management Committee on a subject within their jurisdiction and not listed on the agenda. Remarks should not exceed three (3) minutes.

**Regional Water Quality Control Board Staff Comments/Reports:** **2:02**

**Consent Calendar:** **2:05**

All matters listed under the CONSENT CALENDAR are considered routine and can be acted on by one motion. There will be no separate discussion of these items unless requested by a member of the Management Committee or a member of the public prior to the time the Management Committee votes on the motion to adopt.

**A. APPROVE** Management Committee meeting summary (Chair)

- 1) September 21, 2022 Management Committee Meeting Summary

**B. ACCEPT** the following subcommittee meeting summaries into the Management Committee record: (Chair)

- 1) Administrative Committee
  - September 6, 2022
- 2) Monitoring Committee
  - August 8, 2022
- 3) Municipal Operations Committee
  - August 16, 2022
- 4) Development Committee
  - August 24, 2022

**Presentations:** **2:10**

- A. Annual report on CASQA accomplishments: FY 21/22 (Karen Cowan, Executive Director)
- B. Final Methylmercury Control Measure Plan (L. Welsh/L. Austin)
  - a. See staff report for background information
- C. Stormwater Funding Options Report Outline (M. Avalon)
  - a. See staff report for background information

D. Report on candidates running for CASQA Board of Directors (A. Bullock)

**Actions:**

**3:20**

- A. APPROVE the Final Methylmercury Control Measure Plan and transmittal letter, and AUTHORIZE the Acting Program Manager to sign the transmittal letter and transmit the plan to the Regional Water Quality Control Boards, Region 2 and Region 5. (roll-call vote)
- B. VOTE on the Contra Costa Clean Water Program selection for CASQA Board of Directors election.

**Reports:**

**3:25**

- A. Clean Watersheds Needs Survey by EPA (M. Avalon)

**Updates:**

**3:45**

- A. Personnel Update (K. Graves)
- B. AGOL Work Group (E. Yin)
  - a. Opportunity to review RFQ scope of work
- C. BAMSC Steering Committee meeting (K. Graves)
  - a. MRP 3.0 Regional Projects (see attached)
  - b. Regional Projects Work Groups updates
- D. Upload Annual Reports onto Groupsite (K. Graves)
- E. Complete Green Infrastructure projects table (E. Lennon)

**Information:**

**4:00**

- A. Zoom meeting changes (K. Graves)
- B. CASQA article on unfunded mandates (M. Avalon)
- C. Santa Clara Valley Program Review: request for information (see attached) (K. Graves)

**Old/New Business:**

**4:10**

- A. Should December 21 Management Committee meeting date change? (M. Avalon)

**Adjournment:** Approximately 4:15 p.m.

**Attachments**

*Consent Items*

1. *Management Committee Meeting Summary September 21, 2022*
2. *Administrative Committee Meeting Summary September 6, 2022*
3. *Monitoring Committee Meeting Summary August 8, 2022*
4. *Municipal Operations Committee Meeting Summary August 16, 2022*
5. *Development Committee Meeting Summary August 24, 2022*

*Presentation Items*

6. *Staff report on Final Methylmercury Control Measure Plan*

7. *Final Methylmercury Control Measure Plan (will be distributed under separate cover)*
8. *Final Methylmercury Control Measure Plan transmittal letter*
9. *Chart on conditionally approved budget items*
10. *Staff report on Stormwater Funding Options Report*
11. *Draft Stormwater Funding Options Report*

*Updates*

12. *MRP 3.0 FY 22/23 Regional Projects (BAMSC)*

*Information*

13. *CASQA Newsflash*
14. *Santa Clara Valley Program Review 2016*

<b>UPCOMING CCCWP MEETINGS</b>	
All meetings <b>will not</b> be held at 255 Glacier Drive, Martinez, CA 94553, but will be held virtually	
<b>November 1, 2022</b> 1 <sup>st</sup> Tuesday	Administrative and PIP Committee Meeting <b>9:30 a.m. – 12:00 noon</b>
<b>November 14, 2022</b> 2 <sup>nd</sup> Monday	Monitoring Committee Meeting, <b>10am – 12 noon</b>
<b>November 15, 2022</b> 3 <sup>rd</sup> Tuesday	Municipal Operations Committee Meeting, <b>10am-12 noon</b>
<b>October 26, 2022</b> 4 <sup>th</sup> Wednesday	Development Committee Meeting, <b>1:30 p.m.-3:30 p.m.</b>
<b>November 16, 2022</b> 3 <sup>rd</sup> Wednesday	Management Committee Meeting, <b>1:30 p.m.-3:30 p.m.</b>
<b>BAMSC (BASMAA) SUBCOMMITTEE/ MRP 3.0 MEETINGS</b>	
Times for the BAMSC (BASMAA) Subcommittee meetings are subject to change.	
<b>July 1, 2022</b>	Effective date of MRP 3.0
<b>1<sup>st</sup> Thursday</b>	Development Committee, 1:30 – 4:00 p.m. (even months)
<b>1<sup>st</sup> Wednesday</b>	Monitoring/POCs Committee, 9:30 a.m. – 3:00 p.m. (odd months)
<b>4<sup>th</sup> Wednesday</b>	Public Information/Participation Committee, 1:30 – 4:00 p.m. (1 <sup>st</sup> month each quarter)
<b>4<sup>th</sup> Tuesday</b>	Trash Subcommittee, 9:30 a.m.-12 noon (even month)



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MANAGEMENT COMMITTEE MEETING MINUTES

09-21-2022

**Attendance:**

<b>MUNICIPALITY</b>	<b>ATTENDED</b>	<b>ABSENT</b>
City of Antioch	Phil Hoffmeister	
City of Brentwood	Meghan Oliveira, Brant Wilson	
City of Clayton	Reina Schwartz	
City of Concord	Bruce Davis	
Town of Danville	Bob Russell	
City of El Cerrito	Christina Leard	
City of Hercules	Jose Pacheco	
City of Lafayette	Matt Luttrupp, Tim Clark	
City of Martinez	Frank Kennedy	
Town of Moraga	Mark Summers	
City of Oakley	Frank Kennedy	
City of Orinda	Frank Kennedy	
City of Pinole	Misha Kaur	
City of Pittsburg	Jolan Longway	
City of Pleasant Hill	Frank Kennedy (Chair)	
City of Richmond	Mary Phelps	
City of San Pablo	Amanda Booth	
City of San Ramon	Kerry Parker	
City of Walnut Creek	Lucile Paquette	
Contra Costa County	Tim Jensen	
CCC Flood Control and Water Conservation District	Tim Jensen	

**Program Staff:** Erin Lennon, Andrea Bullock, Michael Burger

**Program Consultants:** Yvana Hrovat, Liz Yin, Hilary Pierce, Lisa Welsh

**Members of the Public/Others/Guests:** Allison Knapp (Contra Costa County)

**Introductions/Announcements/Changes to Agenda:** Due to the Covid-19 pandemic, the meeting was conducted by video-conference call.

**Public Comments:** No members of the public called in.

**Regional Water Quality Control Board Staff Comments/Reports:** Regional Board staff did not call in.



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1. **Roll call was taken and the meeting was convened by the Chair at 1:30 p.m.**
2. **Announcements:** There were no announcements. Liz Yin informed the Committee that Karin Graves and Mitch Avalon would not be present, so the agenda would be modified to postpone Presentation Item D, Report Items B and C, and Information Items A and C.
3. **Consent Calendar:** Amanda (San Pablo) motioned to approve the August 17 Management Committee minutes and accept the subcommittee minutes, Pinole seconded. The Chair called for a vote. There were no objections or abstentions and the motion carried.
4. **Presentations:**
  - a. **Report on HM Options and Next Steps (K. Graves/Y. Hrovat):** Yvana Hrovat began by displaying a slide deck. At the August Development Committee meeting, the results of the analysis of the 4 prospective Hydromodification Requirement options by Haley & Aldrich, Tony Dubin, and Dan Cloak was presented. Of the four options, the option to adopt the Bay Area Hydromodification Model (BAHM) was determined to be the most favorable choice.

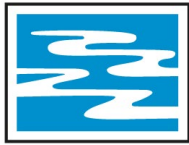
The four options that had been identified were an update to the 2017 HMP Technical Report, use of the BAHM to calculate updated sizing factors, using the BAHM to demonstrate HM Compliance, and a two-step process to update the current IMP Sizing Calculator with new sizing factors then verify the results with the BAHM.

Tony Dubin assisted in running two case studies through the BAHM and the Sizing Calculator. Seven criteria were developed, with assistance from the Clean Water Program, to examine and compare the options. The criteria were:

- Relative footprints of stormwater facilities
- Flexibility for examining different kinds of developments
- Level of effort and technical expertise required
- Consistency with the 7<sup>th</sup> edition of the Program's C.3 guidebook
- Regional consistency with other Bay Area organizations
- Likelihood of acceptance by the Regional Board
- Cost to the Program to implement

Each criterion was rated on a scale of 1 (worst) to 3 (best). The results were as follows:

- Option 1 received a final score of 11
- Option 2 received a final score of 13
- Option 3 received a final score of 15
- Option 4 received a final score of 14.



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Yvana Hrovat noted that the memo and PowerPoint presentation could be shared with the Committee. Bruce Davis (Concord) asked how the IMP calculator would be affected for non-HM projects. Yvana Hrovat noted that it would still be available for use for non-HM projects. Work to make updates to the calculator was still planned and had already been budgeted. Amanda Booth (San Pablo) asked if projects currently under construction or review would be subject to the new HM compliance requirements and how should Permittees inform developers of the change. Yvana Hrovat noted that this was unclear. Erin Lennon noted that the Program was currently discussing the timeline for these requirements. Yvana Hrovat further noted that current projects would not be considered out of compliance until the Annual Report for 22/23, but it would depend on the date of approval of a project. The Chair noted that a workflow should be created now rather than waiting for the Regional Board to make a decision. It was further noted that BAHM was still not available and a determination on when it would become available needed to be made. The committee discussed the logistics and costs of updating BAHM for use in Contra Costa County. Projects ought to be able to use the existing requirements until BAHM was available.

Lucile Paquette (Walnut Creek) asked the Chair if a timeline to identify the implementation dates needed to be created if the use of BAHM was approved today. The Chair suggested that a process first needs to be developed to determine what would be needed before dates could be set in stone. Yvana Hrovat agreed and informed the Committee that, once the approval was received, a scope of work with a suggested timeline would be developed as part of the process.

- b. Final Annual Mercury Monitoring Plan (L. Welsh):** Lisa Welsh displayed the Staff Report. This was an East County monitoring requirement. This year, the report was due October 1 but would be required in March in future years. For this year, there were clear requirements in the permit about what this plan should address. The monitoring plan this year will focus on Marsh Creek, with three key locations monitored. Two locations near the wastewater treatment plant (one upstream and one downstream) and one upgradient from the tidal influence. The plan was to have two dry weather and two wet weather samples collected for mercury and methylmercury.

The plan was developed by KEI and distributed to East County Permittees in addition to the Monitoring Committee. It had been discussed by the Monitoring Committee in September and no comments had been received. The report was finalized and an Action Item on today's agenda would approve the plan and authorize its transmittal.

This plan was a C.19 requirement and would be distributed to the Regional Board Region 2 and 5 via email. The Regional Board informed the Program that it would also need to be attached to Permittee Annual Reports. There was also a transmittal letter that required approval today. Lisa Welsh noted that there was one change that would add a clause to the letter that the report was being submitted for EO approval.



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Reina Schwartz (Clayton) asked for clarification on whether non-East County Permittees would need to submit the plan separately. Lisa Welsh clarified that the Program would submit the plan via email on behalf of all Permittees, but each Permittee would also need to submit the report themselves.

- c. **Emerging FY 22/23 Budget Issues (M. Avalon/K. Graves):** The budget for the current year has been uncertain due to this being the first year of a new permit. When the budget was approved in March, it had several conditionally approved items that would need subsequent approval when a clear scope of work was available. The line item for Technical Services was expected to exceed the approved budget due to work on the BAHM evaluation and additional work (presentations, meeting attendance, etc) that had been requested by Permittees.

The total increase to the budget was \$49k. Staff recommended that funds be moved from a different line item (Peak Flow Calculator). A line item of \$52k had been budgeted for the Peak Flow Calculator that would not be needed as the work would not be completed this year. Approval of the scope and reallocation of budget to the technical services line item was requested today.

The Chair asked if the funding would be used to budget for participation in the updates to BAHM. Yvana Hrovat noted that these funds would be going toward the Technical Services line item and would not be applied to the BAHM participation costs, and it was confirmed that there was funding in the budget for Contra Costa County specific updates to BAHM.

Lucile Paquette (Walnut Creek) asked if the funding increase was for Haley & Aldrich specifically or for more general technical consultant services. Yvana Hrovat confirmed this and described additional work that had been taken on at the request of the Program and Permittees. The involvement of Haley & Aldrich in future meetings was discussed. There were action items on the agenda to approve these items. Lucile Paquette (Walnut Creek) reminded the Committee that these costs were likely in a similar range to historical budgets.

- d. **Stormwater Funding Options Report Outline (M. Avalon):** This topic was postponed.
- e. **BMP Report on homeless discharges, scope and budget (E. Yin):** In MRP 3.0, there was a new C.17 provision that contains several reporting requirements. This scope of work only contains the BMP report and workplan. This was part of the regional workgroup that will be formed through the BAMSC. There was a conditionally approved line item for this report. The Scope of Work details the regional in-kind contributions and the time needed to complete the report. The workgroup will detail the outlines for the report. It also entails a significant amount of county-based work that will be compiled





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for the workgroup. The overall project budget was \$35k. The originally conditionally approved budget was \$50k.

**5. Actions:**

**a. APPROVE the final scope and budget for the following conditionally approved budget items:**

- **Peak Flow Calculator funds moved to Development Committee General Technical Services**
- **Homeless BMP Report**

Reina Schwartz (Clayton) motioned to approve, Bob Russell (Danville) seconded. The Chair called for a vote. There were no objections or abstentions. The final scopes and budgets were approved.

**b. APPROVE changing from the current hydrology model to the Bay Area Hydrology Model:**

Bruce Davis (Concord) motioned to approve, Kerry Parker (San Ramon) seconded. The chair called for a vote. There were no objections or abstentions. The use of the BAHM was approved.

**c. APPROVE the Final Annual Mercury Monitoring Plan and transmittal letter, and AUTHORIZE the Acting Program Manager to sign the transmittal letter and transmit the plan to the Regional Water Quality Control Boards, Region 2 and Region 5:** Phil Hoffmeister (Antioch) motioned to approve, Amanda Booth (San Pablo) seconded. The Chair called for a roll call vote. There were no objections or abstentions, and a vote of Aye was recorded for all Permittees. The Final Annual Mercury Monitoring Plan and Transmittal Letter were approved, and the Acting Program Manager was Authorized to transmit the letter the Regional Water Quality Control Boards, Region 2 and Region 5.

**6. Reports:**

- a. AGOL Work Group (E. Yin):** The Program is currently moving into an RFQ process to develop a RFQ for new consultant contracts.
- b. Clean Watersheds Needs Survey by EPA (M. Avalon):** This topic was postponed.
- c. Cost Reporting Work Group participants needed for regional project (K. Graves):** This topic was postponed.

**7. Updates:**

- a. Personnel Update (K. Graves):** Allison Knapp noted that the closed session to discuss Personnel had to be postponed from this month to next month. It was further noted



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that it had been suggested to her that an annual review for the Acting Program Manager be undertaken during a closed session. Another request was to have a second closed session with Permittees on the performance of staff and consultants. There was concern that there might not be time to schedule these two meetings for this year. The Committee discussed scheduling the meetings and considered it for November. A poll for dates would be distributed.

**b. BAMSC Steering Committee meeting (K. Graves):**  
- **MRP 3.0 Regional Projects**

The final draft of the anticipated Regional Profile spreadsheet was included in the agenda packet. The vote for approval would happen at tomorrow's BAMSC meeting.

**c. Annual Report (E. Yin):** Liz reminded the Committee that the Annual Report was due on Friday, September 31.

**8. Information:**

- a. Zoom meeting changes (K. Graves):** This topic was postponed.
- b. CASQA quarterly meeting registration request (A. Bullock):** This topic was not discussed.
- c. CASQA Newsletter article regarding unfunded mandates (M. Avalon):** This topic was postponed.
- d. Internal and External Handouts for MRP 3.0 C.3 Updates (E. Lennon):** This topic was not discussed.
- e. C.3.j Green Infrastructure Forum September 28, 2022 (E. Lennon):** This topic was not discussed.

**9. Old/New Business:** Lucile Paquette (Walnut Creek) asked if any Permittees were interested in using Green Halo to report PCBs in demo projects and suggested that a group effort to create additional Green Halo reporting tools could be undertaken.

**10. Adjournment:** The Chair adjourned the meeting at 2:28 p.m.



**ADMINISTRATIVE COMMITTEE SUMMARY**

**Meeting Minutes**

**Tuesday, September 6, 2022**

**10:30 – 12:00**

<b>VOTING MEMBERS</b>	<b>ATTENDED</b>	<b>ABSENT</b>
Contra Costa County	Michele Mancuso	
CCC Flood Control and Water Conservation District	Tim Jensen	
City of Lafayette	Matt Luttrupp	
City of Martinez	Frank Kennedy	
City of Pittsburg	Jolan Longway	
City of Pleasant Hill	Frank Kennedy (Chair)	
City of Richmond	Mary Phelps	
<b>NON-VOTING MEMBERS</b>		
City of Danville	Bob Russell	
City of Walnut Creek	Lucile Paquette	

**Program Staff:** Karin Graves, Erin Lennon, Andrea Bullock, Michael Burger

**Consultants:** Mitch Avalon, Yvana Hrovat

**Guests:** Allison Knapp (Contra Costa County), Amanda Booth (San Pablo), Mitra Abkenari (Concord)

- 1. Convene meeting and roll call (Chair):** The Chair convened the meeting at 10:30 a.m.
- 2. Announcements or Changes to the Agenda (Committee):** There were no announcements or changes to the Agenda.
- 3. Approval of August 2, 2022 Meeting Minutes (Chair):** Mitch Avalon indicated that several comments were received on the minutes and changes were made. Frank Kennedy (Martinez) motioned to approve the minutes with changes noted, Matt Luttrupp (Lafayette) seconded. The Chair called for a vote. There were no objections or abstentions. The motion passed unanimously and the August 2, 2022 meeting minutes were approved with changes noted.
- 4. Resolving RWQCB Concerns with the 2017 HM Maps Submittal (K. Graves/ E. Lennon):** Karin Graves noted the Program had submitted updated HM maps to the Regional Water Board in fall 2017. There had been an issue with three areas and several areas were marked as TBD. The Water Board reviewed the maps and provided comments in 2020. In MRP 3.0, there were now requirements to finalize the maps by September 2023. Program Staff had been working on the maps and reaching out to Permittees for additional information. The Program has also reached out to the Water Board for information and to schedule a meeting.

Staff was planning on meeting with the Regional Board in two days and Permittees were invited to participate in that meeting. The meeting was anticipated to be short.

There were three areas on the maps marked as hardened channels and the Regional Board had concerns regarding that designation. They thought these areas shouldn't be marked as hardened. Tim Jensen (Flood Control) noted that the questions that were brought up by the Regional Board likely stemmed from comments by the Flood Control District regarding the nature of the channels, due in part to the MS4 draining into Flood Control District facilities. The interpretation of hardened channels was not as clear when these comments were made as they were now. The argument could be made that the channels are hardened because they have riprap lining or were non-erosive channels. It is believed that the Regional Board was not accepting this interpretation for Region 2 (and possibly Region 5). Tim Jensen (Flood Control) went on to mention that some of the areas indicated by the Regional Board were not Flood Control District facilities so more information or research was needed to clarify the maps. This could have budget impacts depending on the amount of information and research that was required. The meeting Thursday was to make sure that the Program and the Regional Board were on the same page. Permittees in the areas indicated as having problems were encouraged to attend the meeting.

Mary Phelps (Richmond) asked what time the meeting was. Erin Lennon informed the Committee that the meeting was at 4:00 p.m. and would be hosted through Microsoft Teams. Mary Phelps (Richmond) asked how Permittees would know what areas needed more information. Erin Lennon indicated that the maps show highlighted portions where the areas in question were located.

Lucile Paquette (Walnut Creek) suggested that this topic should be paired with the other HM projects that are under development. If the Program decides to use BAHM, many of these issues would have to be addressed anyway. She further indicated that the maps were inaccurate in some cases and requested that Haley & Aldrich review this. She suggested that this be returned to Development Committee to work on in conjunction with the BAHM model decision. She also suggested that the meeting with the Regional Board be cancelled or postponed until a better idea of the underlying issues could be addressed.

Karin Graves noted that most of the original Regional Water Board comments were in relation to the sizing factor report and not HM issues. The Committee discussed the purpose of the meeting with the Regional Board. The Chair asked if the Regional Board asked for the meeting or if this was a first step in a longer process. Erin Lennon noted that she had requested the meeting. Amanda Booth (San Pablo) asked if there had been discussion between Program Staff and the Regional Board on this topic. Karin Graves explained that the Program had discussed this as two meetings with the Regional Water Board, but these meetings were mostly in regards to the sizing factor. The Chair suggested that the meeting be confined to specific topics. Mitch Avalon clarified that the Program should consult with other county-wide Programs with approved maps for further guidance. Lucile Paquette (Walnut Creek) noted that Dan Cloak had talked with some of the other county-wide programs. Karin Graves reminded the Committee of the budget ramifications for a larger overhaul of the maps. Yvana Hrovat noted that Haley & Aldrich could consider this information during their review of the current HM projects.

The Committee came to the conclusion that the meeting with the Regional Board should be cancelled pending more information from Permittees and other countywide programs. Karin Graves asked if this should go to the Management Committee or should it be presented to the Development Committee instead. It was determined that this would be presented to the Development Committee with other interested parties invited to the meeting. After discussing this at the Development Committee, next steps will be decided, including whether or when to meet with the Regional Water Board, what would be discussed, and who would attend.

- 5. Emerging FY 22/23 Budget Issues (M. Avalon/K. Graves):** Staff had gone through the budget and identified some issues with the budget. There were 16 conditionally approved budget items. While looking at these items, there were several areas where cost increases were beginning to arise. Staff consultants have gone through and created an accurate scope of work and budget for some of the conditionally approved budget items.

The Program had found that actual costs will exceed the budget in one area in particular, C.3. Karin Graves noted that all items over \$3k, and not already accounted for in a line item in the budget, were pulled aside and a cost estimate developed for each one, giving staff an idea of how much costs might over-run. There had been a line item for \$50k in general technical services but much of that had been used already.

Unexpected cost increases arose in the following areas: the updated C.3 memo and external handout (\$9,700), new permit requirements and the cost to scope conditionally approved line items (\$9k), C.3j forum (\$11k), reduced bioretention sizing issue (\$4k), additional meetings (\$10.5k), and LID Monitoring Plan coordination (\$5k). The total increased budget was \$49.2k. These costs do not include regularly scheduled/expected meetings.

More funding would be needed for this. There was a chance that if some of the conditionally approved items end up with a reduced cost that the savings could be moved to the general technical support fund to offset these cost increases. Lucile Paquette (Walnut Creek) asked about the process of scoping the projects. Karin Graves noted that the scopes for some of the line items were clearer as work had already begun on them. Lucile Paquette (Walnut Creek) asked if there was a tracking spreadsheet for proposed projects with costs and funding sources or a way to track BAMSC projects could be created. Karin Graves noted that there was a spreadsheet under development by BAMSC Steering Committee that will be created on a year-to-year basis. The Committee discussed the process of funding region-wide projects through the WQIF grant.

Lucile Paquette (Walnut Creek) asked if the budgeted amounts for C.3 were comparable to the historic costs for C.3. Karin Graves and Mitch Avalon noted that there were a larger number of and more varied types of projects now, so a comparison was difficult. Karin Graves further noted that there were higher costs associated with a consulting firm rather than an individual consultant. It was anticipated that this would be presented to the Management Committee in September once a clearer picture of needs was developed.



- 6. Stormwater Funding Options Report Outline (M. Avalon):** At the July Management Committee meeting, an overview of all the potential funding options had been discussed. The Committee requested a formal options report. An options report was paid for in 2012 and the new report relies heavily on the 2012 report.

Mitch Avalon described the different parts of the report and gave a brief overview of the process. Two phases were anticipated: the report on all options and a decision on the selected option. The report would include the options for funding that seemed most appropriate and feasible. It would also include information on the Program's methodology for deciding which options to present. Additionally, areas where more information would be required would be identified.

The content of the second phase would largely depend on the findings in the first phase. Further analysis of identified options would occur, utilizing specialized analysis to determine the information required to pursue the presented options. Cost estimates would be discussed at this time. This would then be presented to the Management Committee for Permittee feedback and approval.

A list of potential options was displayed and Mitch Avalon requested Permittees propose other options that were not on the list.

Lucile Paquette (Walnut Creek) asked if this topic had been discussed by the City County Engineers or Public Managers Association. Mitch Avalon confirmed that they would be engaged once the options were identified. The hope was that the first phase of the report would narrow down the field of possible funding sources. Phase 2 would require the involvement of the PMA and CCE to provide information on the chosen options. Tim Jensen (Flood Control) noted that CSAC has a standing item on their agenda regarding stormwater funding, but there was no movement toward state-wide legislation for a constitutional amendment. Amanda Booth (San Pablo) asked what the timeline for the report to be provided was. Mitch Avalon noted that there was not enough time before the September Management Committee meeting, so the October Administrative Committee meeting was anticipated. Mary Phelps (Richmond) asked if there had been any successful implementations of a fee under SB 231. Mitch Avalon noted that there haven't been any attempts yet.

- 7. Approve September 12, 2022 Special Management Committee Agenda and Approve September 21, 2022 Management Committee Agenda (Committee):** Mitch Avalon began by explaining the objective of the special meeting was to accommodate approvals of the Annual Report information. The Presentation items included the WQIF grant application, submittal letter, and letter of support. These items were time sensitive. The Program portion of the Annual Report would also be presented alongside the three reports attached to it: the POC load reduction report, the fish risk reduction report, and the PCBs in Building Materials report. In addition to these, the final Pyrethroid Baseline Monitoring Report would also be presented.

Mitch Avalon noted that there would be an action item for each of the reports as well as for both the Program level and the region-wide WQIF grants. All reports were discussed in previous meetings where draft reports had been made available.



Michele Mancuso (Contra Costa County) motioned to approve the special meeting agenda, Mary Phelps (Richmond) seconded. The Chair called for a vote. There were no objections or abstentions. The agenda for the Special Management Committee Meeting was approved.

The Management Committee agenda for Sep. 21 was displayed. There would be a closed session starting at 1:00 p.m and ending at 2:00 p.m. with the normal meeting starting afterward. Mitch Avalon described each presentation, action item, report, update, and information item. Lucile Paquette (Walnut Creek) asked if the HM Map issues discussed earlier would be included in the action item on approval of the conditional budget for HM Modeling and Calculator. It was not included and would most likely be a separate action item in the future.

Jolan Longway (Pittsburg) motioned to approve the agenda, Mary Phelps (Richmond) seconded. The Chair called for a vote. There were no objections or abstentions. The motioned passed unanimously and the agenda for the September 21, 2022 Management Committee meeting was approved.

8. **Old/New Business (Committee):** Mitch Avalon informed the committee that waiting rooms had been implemented for all Program Zoom meetings.
9. **Adjournment:** The Chair adjourned the meeting at 12:03 p.m.

**Monitoring Committee  
Meeting Minutes  
August 8, 2022**

<b>VOTING MEMBERS</b>		
<b>MUNICIPALITY</b>	<b>ATTENDED</b>	<b>ABSENT</b>
CCC Flood Control District	Beth Baldwin (Chair) Michelle Giolli	
City of Walnut Creek	Lucile Paquette (Vice-Chair)	
City of Pittsburg	Joe Camaddo	
City of Antioch	Phil Hoffmeister	
City of Pinole	Misha Kaur	
City of Richmond	Terri Mason	
<b>Non-Voting Members</b>		
City of San Pablo	Amanda Booth	
<b>Program Staff and Consultants</b>		
Augmented Staff	Lisa Austin, Grace Yao	
Program Staff	Karin Graves, Erin Lennon	
Program Consultant	Christian Kocher	

1. **Introductory Remarks, Announcements, and Changes to the Agenda.** There were no announcements or changes to the agenda.
2. **July 2022 Meeting Summary.** City of Pittsburg (J. Camaddo) requested that Jolan Longway be removed from the absent column, as she is not a required attendee, and moved to approve the July 2022 meeting summary with that edit. City of Walnut Creek (L. Paquette) seconded. There were no objections or abstentions.
3. **CCCWP Annual Report Attachments.** Lisa A. presented The POCs Load Reduction draft report and the PCBs in Building Demo Summary draft memo that will be included in the CCCWP FY 2021/22 Annual Report. Christian K. presented the draft Fish Risk Reduction Report. Lisa requested comments by EOD Monday. The reports will be sent to Management Committee for another round of review before finalizing. Questions and comments were discussed as follows:
  - POCs Load Reduction Report
    - Are we still using interim accounting? Yes, as this is the last year under MRP 2.0. Next year will be the first report under MRP 3.0, which requires reporting on control measure implementation, but not load reductions.
    - Update the external link to the CW4CB webpage.
    - Clarify the language of 'current permit' / 'this permit' to mean MRP 2.0.
    - Lisa clarified a question related to accounting for PCBs reductions in inlet-based full trash capture devices through sediment removal (i.e., enhanced O&M).



- The group discussed whether there is a tool in AGOL for calculating load reductions by full trash capture devices. Although there is no tool currently, Geosyntec will suggest this to the AGOL workgroup.
- PCBs in Building Demo Summary
  - There was discussion regarding applicable structures in Pittsburg. Joe was ok with proceeding with 61 applicable structures.
  - Beth requested that we add the number of structures with at least one sample > 50 as a new column to Table 1.
  - Lisa adjusted name of the data summary table attachment for clarity.
- Fish Risk Reduction Program Report
  - Section 1.1 should be edited to reflect that MRP 2.0 covers East County permittees since 2019.
  - Lucile commented that the laminated brochures work well.

**4. C.19 East County Requirements and Update.** Christian K. presented the draft Pyrethroid Baseline Report. MRP 3.0 requires a baseline monitoring report by September 19, 2022, that summarizes the pyrethroid and toxicity monitoring results from 2012 through 2019, assesses the compliance of the discharge with the conditional prohibition triggers in the Basin Plan, summarizes toxicity of water and sediment samples to the test organism *Hyalella azteca*, and summarizes any other pyrethroid monitoring data collected by the East County Permittees during the above period. No other data were collected by the Permittees.

Christian K. also described the annual mercury monitoring plan due on October 1<sup>st</sup> under Provision C.19. A draft plan will be provided for review before the next Monitoring Committee meeting.

**5. Trash Monitoring Outfall Selection.** The group discussed updates on outfall selection for trash outfall monitoring. Pittsburg and Walnut Creek are okay with proceeding with the PIT-3 and Civic Park as monitoring locations. The group discussed whether East County should be included. P. Hoffmeister (City of Antioch) said that he was fine with the suggested outfalls as the City of Pittsburg is East County adjacent. Geosyntec will follow-up with Pleasant Hill on potential outfalls and will add viable options to the table.

**6. WQIF Grant Opportunity.** Karin G. presented an overview of the proposed regional WQIF grant application to support receiving water trash monitoring (*Supporting Improved Trash Management and Information Sharing in Bay Area Watersheds*). Comments included:

- Permittees were not in support of developing full trash capture operation and maintenance guidance.
- Asset Management systems are in place in many municipalities, so we don't need a document that tells permittees how to do asset management. A framework that

guides permittees on submitting an asset management plan in compliance with the MRP and promotes consistency would be useful.

- Beware of tasks that create boundaries or mandates for Permittees to do tasks in a specific way.
- Tracking municipal staff time can be very difficult and time consuming for grant accounting. Be careful of what we want to count for match.
- Point of sale source control ordinances are not True Source Control. Suggested a new task related to true source control.
- A model program plan and guidance for addressing contributions from private properties is unnecessary.
- Who will maintain the public outreach portal?
- A regional outreach campaign is a higher priority for CCCWP than a website portal. This action would have more direct impact on the DACs. The objective is to change behavior and encourage individual trash responsibility.
- Question as to whether the proposed tasks would happen without the grant.

**7. CCCWP Monitoring Assessment Webpage.** Due to time constraints, this item was not discussed but will be presented at a future meeting.

**8. New/Old Business.** There were no new/old business items discussed.

#### **9. Next Steps / Action Items**

- Comments on the Draft Program Annual Report Attachments and the Pyrethroid Baseline Monitoring Report are due August 9, one day after the August 8 Monitoring Committee Meeting.
- Comments on Revised Draft Annual Report Attachments and the Pyrethroid Baseline Monitoring Report due August 24, one week after August 17 Management Committee Meeting.

**10. Adjournment.** The meeting was adjourned at 12:00 pm.

**Next Scheduled Monitoring Committee Meeting:** Monday, September 12, 2022, 10:00 AM-11:00 AM, Zoom meeting. There will be a Special Management Meeting from 11:00 AM –Noon to approve the annual report submittal.



**Municipal Operations Committee (MOC)  
 Meeting Minutes  
 August 16, 2022**

MUNICIPALITY	ATTENDED [via Web/Phone]
<b>VOTING</b>	
City of Antioch	
City of Brentwood	<i>Melissa Barcelona</i>
City of Concord	<i>Jesse Crawford</i>
Contra Costa County	<i>Michelle Giolli (Chair), Beth Baldwin</i>
City of El Cerrito	<i>Stephen Prée</i>
City of Hercules	<i>Jeff Brown</i>
City of Martinez	
City of Orinda	
City of Pittsburg	<i>Jolan Longway (Vice Chair)</i>
City of Richmond	<i>Terri Mason</i>
City of San Pablo	<i>Amanda Booth</i>
City of Walnut Creek	<i>Lucile Paquette</i>
<b>NON-VOTING</b>	
Town of Danville	<i>Bob Russell</i>
<b>PROGRAM STAFF and CONSULTANTS</b>	
Staff Augmentation	<i>Elizabeth Yin</i>
Staff Augmentation	<i>Mitch Avalon</i>
Program Staff	<i>Karin Graves</i>
Program Staff	<i>Erin Lennon</i>
<b>GUESTS</b>	
Contra Costa County Public Works IT	<i>Chris Halford</i>

- 1. Introductions/Announcements:** Michelle Giolli (Chair, County) welcomed the group to the Zoom call and asked for announcements:
  - Stephen Prée (El Cerrito) asked if any MOC members have example Standard Operating Procedures (SOPs) for illicit discharge, beyond ERP and phone tree. MOC members noted that the state Office of Emergency Services (OES) can contact and coordinate with the appropriate agencies for different types and severities of illicit discharges. Central San is also a useful resource. Permittees were encouraged to send any example SOPs that can be used as a reference to Stephen.
- 2. Approval of Minutes:** Jolan Longway (Pittsburg) moved to approve the July 19, 2022 Meeting Summary. Michelle Giolli (County) seconded. The Committee voted to approve.

3. **BAMSC Subcommittee Update:** Erin Lennon (CCCWP) shared highlights from a BAMSC Trash Subcommittee meeting that took place on July 26, 2022. Ken Johansson of Caltrans had presented an overview of the “Clean California” program, including local grant awardees’ projects and the results/status of Caltrans efforts in meeting litter reduction targets. For more information, visit [cleancalifornia.dot.ca.gov](http://cleancalifornia.dot.ca.gov) (Bay Area projects are in Caltrans District 4). The subcommittee also discussed the impracticability report, which has an MRP due date of March 31, 2023, and a workgroup composed of Permittees and Stormwater Program staff is being formed to address this requirement. WB inspections of C.3 facilities had begun, and the WB had already inspected about 10 facilities at the time of the BAMSC meeting. Members of the subcommittee disagreed on the appropriate amount of prior notice that WB staff should give municipalities before inspecting facilities. In the MOC meeting, Terri Mason (Richmond) noted that the WB had given Richmond two days prior notice, with a request that someone accompany them for their inspections, and that the WB had issued corrective actions. Terri would be willing to present a case study (e.g., which facilities were inspected, what issues the WB found, and corrective actions) to the MOC once the issues have been resolved.
4. **WQIF Trash Grant Proposal:** Karin Graves (CCCWP) reviewed the status of CCCWP’s involvement in the San Francisco Bay Water Quality Improvement Fund (WQIF) trash grant application proposals. Karin presented two draft tables outlining potential proposal scopes for the MOC to consider: one for a collaborative, regional approach, and the other for a Contra Costa-specific approach.

The table with potential regional WQIF grant proposal scope outline was compiled based on feedback from CCCWP committees, as well as from collaborative meetings with managers of San Mateo, Alameda, Solano, and Santa Clara countywide clean water programs.

- The main goal of the regional proposal would be to have the grant pay for Receiving Water Monitoring, and the rest of the scope would involve additionally beneficial tasks.
- The latest iteration of the regional WQIF trash grant proposal includes five task areas: (1) Stormwater treatment controls; (2) Stormwater source controls (including outreach); (3) Trash monitoring methods; (4) Information dissemination; and (5) Project administration/management.
- The MOC expressed concern that the regional grant proposal as currently drafted might create a greater workload and financial burden for Contra Costa permittees, and that the proposal might benefit private consultants more than public permittees. The MOC requested that the table include information relevant to the permittee decision-making process, such as a cost estimate of each of the subtasks, whether an item helps meet MRP requirements, and if so then which MRP requirement. Karin noted the MOC’s concerns and preferences and will send out a draft scope incorporating MOC feedback by the end of the week. As a reminder, applications are due September 20, 2022.

The table with potential Contra Costa-specific WQIF grant proposal scope outline was compiled based on feedback from CCCWP Monitoring, Municipal Operations, Development, and Management Committees.

- The main goal of the county-specific grant would be to cover C.12.c, C.3.j. numeric targets, and Regional Alternative Compliance (RAC). The proposal would need to focus on projects in Disadvantaged Communities (DACs).
- Liz Yin (CCCWP) noted that there are two pots: one that requires a match (minimum of \$1 million) and one that does not.
- Amanda Booth noted that if focusing on DACs, then match not required, somewhere from \$200,000 through \$1 million.

- Karin noted relevant Program budget items for FY 22-23:
  - Approximately \$20,000 already approved for grant application funding
  - Two \$50,000 RAC line items which are conditionally approved, which could help to set up administrative aspects of RAC at countywide level.
  - \$200,000 line item already approved for the planning and design of a C.12.c/C.3.j/RAC project.
- MOC members expressed favor for the Contra Costa specific grant proposal concepts, noting that the items outlined would directly serve Permittees for both long and short term.

These WQIF grant scope concepts will be presented at the Management Committee (MC) tomorrow. The refined WQIF grant scope concepts will be brought to a special meeting taking place at the beginning of the Development Committee meeting next week (August 24), and the MC will attend for that portion. And then the grant scope approach incorporating CCCWP committees' suggestions and preferences will be finalized next week.

## 5. Program Update:

- Annual Report Status
  - Liz reminded attendees of FY 2021/22 Annual Report deadlines. Each permittee should review their SMARTS registration and, if necessary, complete SMARTS registration for the Legally Responsible Person, Duly Authorized Representative, and Data Entry Person as needed. The Program will provide a template submittal letter for annual reports by August 26<sup>th</sup>.
- AGOL Workgroup
  - Liz Yin (Staff Augmentation) solicited Permittee involvement in an AGOL Workgroup, which aims to identify and assess additional AGOL/business needs.
  - In May, the Management Committee approved more AGOL workgroup meetings.
  - Permittees shall let Liz know if interested in joining the AGOL Workgroup.
- MRP 3.0 Municipal Operations Workplans
  - Erin reminded the MOC that a 5-year Workplan spreadsheet created by regional collaborative efforts is available on Groupsite. This spreadsheet includes key compliance dates, subprovision implementation dates, annual reporting due dates, and other reporting dates for every provision in MRP 3.0. The spreadsheet also lists the parties responsible for leading subprovision tasks (i.e., Program or Permittee). Permittees shall let Program Staff know if they did are not receiving notifications from Groupsite, or if they are unable to view this workplan.
  - The Program is in the process of creating an internal, Gantt-chart style Contra Costa Municipal Operations specific workplan that further breaks down the tasks involved in meeting each subprovision requirement and deadline relevant to the MOC (C.2, 4, 5, 9, 10, 13, 17). This workplan is anticipated to be complete next month.
- C.4 Inspection Inventories sent out
  - Permittees should have received C.4 commercial and industrial business inspection lists from Erin, forwarded from Central Sanitary. Tim Potter is out on medical leave, and so this may impact the ability to set up meeting with municipalities. Some MOC members expressed that meetings are more of a formality and not necessary. Erin encouraged permittees to reach out if they would prefer to have a meeting.
- FY 2022/23 Meeting Ideas

- MOC members offered and were encouraged to contact Erin with any additional suggestions for presentations or interesting topics for upcoming meetings.
- In the past, a Gantt chart style Contra Costa specific workplan has informed fiscal year MOC meeting planning. Erin will provide this in September.
- Next month, examine the definition of “Outdoor waste handling areas. A discussion of terminology used in MRP 3.0 vs in business inspection plans may be helpful.
- Discussion of other terminology that Permittees may want further clarification on.
- Impracticability Report
- Trash Work Group or a regular standing item in MOC meetings dedicated to trash.
- MOC members request that pdfs, powerpoints, tables, and other items presented in meetings are in minutes if not included in agenda packets.
- Clean Water Program Website
  - Erin was trained on Program website update protocol.
  - Feedback on website content may be directed to Erin on an ongoing basis.

**6. Trash Generation Rates based on OVTAs:** Beth Baldwin (County) shared Unincorporated Contra Costa County staff experiences in demonstrating reduced trash generation rates.

- The County created maps with a more detailed gradation of trash generation levels compared to the conventional low/moderate/high OVTA maps.
- In some Trash Management Areas (TMAs), this approach which also included dividing the weighted acres by total acres resulted in a mapping method that shows baseline to current conditions in comparable ways.
- The County hired Debris Tech, a contractor with crews focused solely on on-land trash cleanups, to pick up trash in certain Trash Management Areas (TMAs).
- The on-land trash cleanups in some of the areas has been shown to be effective as demonstrated by the revised mapping method. In other areas, the effectiveness does not appear to show any improvement.
- MOC members wondered if on-land trash cleanups could be an effective method for meeting the MRP’s 90% trash reduction compliance due date.
  - i. Beth noted that the County would likely meet the 90% reduction through a combination of controls – approximately 30% with existing Full Trash Capture (FTC) devices, 30% from OVTAs, and more FTC devices to be installed soon.
- The MOC expressed interest in the benefits of a contractor devoted specifically to trash-cleanups.
  - i. Stephen Prée (El Cerrito) noted that a landscaping company currently cleans trash from landscaped medians for El Cerrito.
  - ii. Amanda Booth (San Pablo) noted that a nonprofit assists with on-land trash pickups, but there are constraints such as school hours and availability of crews.
  - iii. Jeff Brown (Hercules); Jesse Crawford (Concord), and Amanda Booth (San Pablo) asked Beth to provide the MOC with the following:
    1. Example RFP or RFQ for a trash-pickup contractor
    2. Contact info of the contractor that the County uses
    3. Cost estimate, and information on how the County pays for the contractor (e.g. through SUA, as part of trash fees, etc.)

**7. Adjournment:** Chair Michelle Giolli adjourned at 12:20PM.



**Meeting Summary**  
Development Committee

August 24, 2022

1:30 – 4:00pm

<b>Voting Members</b>	
<b>Municipality</b>	<b>Attending</b>
City of Antioch	Phil Hoffmeister (Chair)
City of Brentwood	Aman Grewal
City of Clayton	Larry Theis
City of Concord	Mitra Abkenari, Bruce Davis, Kevin Marstall
Contra Costa County	John Steere, Tim Jensen
Town of Danville	Bob Russell
City of Lafayette	Tim Clark (Vice Chair)
City of Oakley	Frank Kennedy
City of Pittsburg	Jolan Longway
City of Pleasant Hill	Frank Kennedy
City of San Ramon	Rod Wui
City of Walnut Creek	Joel Camacho, Lucile Paquette
<b>Program Staff/Consultants</b>	
<b>Affiliation</b>	<b>Name</b>
Program Staff	Karin Graves
Program Staff	Erin Lennon
Consultant	Mitch Avalon
Consultant	Yvana Hrovat

<b>Guests</b>	
<b>Affiliation</b>	<b>Name</b>
City of San Pablo	Amanda Booth
City of El Cerrito	Christina Leard
City of Brentwood	Jigar Shah
City of Richmond	Joe Leach
City of Hercules	John Brown
City of Pinole	Misha Kaur
City of Hercules	Nai Saelee
Consultant, Lotus Water	Rachel Kraai
Consultant, Lotus Water	Nancy Gardiner
Consultant, Geosyntec	Lisa Austin
Consultant, Dan Cloak Consulting	Dan Cloak

### **Introductions, Announcements, and Changes to Agenda**

The meeting was held via Zoom. There was a reminder announcement that the first part of this meeting was a special meeting including both the Management Committee and Development Committee. There were no changes to the agenda.

### **Potential Alternative Compliance WQIF Grant Application**

The Management Committee and other guests attended this special portion of the meeting. Karin Graves (CCCWP), Amanda Booth (San Pablo), and Lisa Austin (Geosyntec) gave an overview of the status of both Regional and Contra Costa specific approaches for the EPA San Francisco Bay Water Quality Improvement Fund (WQIF) grant applications.

The main goals of the WQIF grant application are: (1) Reduce the impact on CCCWP budget; (2) Advance C.12.c. permit requirements; (3) Advance C.3.j. permit requirements (Contra Costa must implement 57.32 acres countywide of green infrastructure projects not defined as Regulated Projects); and (4) Advance Regional Alternative Compliance System.

There are two pools of these grant funds this year, with separate RFAs and scoring criteria.

- “Regular” SFBWQIF grant opportunity summary: \$24 million available for projects between \$1 million and \$3 million, with a 50% match. 20% of the application scoring is evaluated on either partnerships *or* underserved communities criteria.
- Bipartisan Infrastructure Law (BIL) SFBWQIF grant opportunity summary: \$5 million is available for projects between \$200,000 and \$1 million, no match. Eligible projects include GSI, contamination studies in disadvantaged communities, and fish outreach.



20% of scoring is environmental justice and underserved communities criteria.

### **Approve Previous Meeting Summaries**

A correction to the previous minutes was noted: Tim Clark should be affiliated with the City of Lafayette. On a motion by John Steere (County), seconded by Frank Kennedy (Oakley and Pleasant Hill), the summary of the July 27, 2022, meeting was accepted with corrections.

### **Update on July Development Committee Meeting Items**

- BAMSC C.3 Work Groups (WGs) – Erin Lennon (CCCWP) notes that some C.3 WGs have begun to plan meetings. Permittees are encouraged to attend relevant WGs, as they are an opportunity to communicate with the Water Board and to collaborate with other interested parties.
- C.3 Update Handout and Memo – The Development Committee requested the creation of these items during the issuance of MRP3.0. They were developed to summarize major C.3 changes in MRP3.0, including feedback from Permittees participating in Development and Management Committee meetings over the past month. Erin requests any photos from Permittees for the cover page of the external handout. The final versions will be distributed to the Development Committee.
- Scope of Work for Stormwater C.3 Guidebook Updates – Feedback from the Development Committee on the Scope of Work for the Stormwater C.3 Guidebook Updates has been received and incorporated.
- Scope of Work for GI Design Guidance and Standard Specifications – Rachel Kraii (Consultant) presented a summary of a draft Scope of Work creating Contra-Costa specific design specifications. Rachel gave an overview of the potential approach options, subtasks, budgets, and estimated completion dates described in further detail in a memo, which will be distributed after the meeting for Permittee review.

### **Update on May 2020 Revisions to Stormwater C.3 Guidebook**

Karin Graves (CCCWP) summarized Program communications with the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) regarding the May 2020 reduced sizing criteria update to the Stormwater C.3 Guidebook, 7<sup>th</sup> Edition. The update incorporated two BASMAA documents that were submitted to the SFBRWQCB in June 2019 and were conditionally approved by the SFRWQBD in June 2019. The Regional Board recently clarified that the documents had been approved under the assumption that reduced sizing was only applicable to “non-Regulated Project” green streets projects, including those included in Permittees’ GI Plans and voluntary green streets projects.

SFBRWQCB staff are concerned that the May 2020 Guidebook update appears to allow the reduced sizing for projects other than non-Regulated Project green street projects, in violation of the Municipal Regional Permit. CCCWP Staff closely reviewed the May 2020 update and concluded that it could be interpreted to apply to regulated projects, which would be in violation of the SFRWQCB’s June 2019 approval letter.

CCCWP staff are working with SFBRWQCB to resolve any potential issues that may have resulted from the May 2020 update being circulated. The Regional Board also asked CCCWP for a list of any regulated projects that have been approved or built with reduced sizing criteria. In the interest of collaboration has requested Permittee assistance with action items described in Karin's email, sent 8/18/22.

Permittees have been asked to not approve any regulated projects with reduced sizing criteria, unless it is a road reconstruction following the requirements outlined in MRP 3.0 Provision C.3.b.ii (5)(c). Permittees have also been asked to fill in a table of regulated projects that may have been informed by the May 2020 update; by Friday 8/26/22. Permittees are welcome to direct any questions to Karin.

### **CCCWP Website C.3 section**

Erin (CCCWP) has removed the May 2020 update from the CCCWP website. Permittees are asked to review the website and send feedback to her: [cccleanwater.org/development-infrastructure/development](https://cccleanwater.org/development-infrastructure/development)

### **HM Options Report**

Yvana Hrovat (Program Consultant) presented a summary of the Hydromodification Management Options Report Memo, to be distributed to the Development Committee. Four options were considered: (1) Use a direct simulation (looked at in 2017, submitted twice with Regional Board); (2) Use BAHM to calculate updated sizing factors based on a generic unit impervious area to revise sizing factors into an updated IMP sizing calculator; (3) Use BAHM to demonstrate HM compliance; (4) Two-step process to update IMP sizing calculator with new sizing factors, and then verify with BAHM. These options were analyzed based on several criteria, including relative footprints, flexibility, level of effort, countywide consistency, regional consistency, likelihood of acceptance by the Water Board, and cost to the Program and consultants to prepare for implementation.

By a majority vote 8-4, the Development Committee is recommending to the Management Committee to move forward with Option 3, based on the information presented today. The presentation and memo will be distributed to the Development Committee via groupsite.

### **C.3.j. Retrofits Forum Planning**

Based on feedback from Permittees, the audience and format of the C.3.j. Retrofit forum was adjusted. The forum will proceed in taking place in the latter half of next month's Development Committee meeting. The purpose of the forum is to inventory progress towards meeting MRP3.0 retrofit acreage requirements, and to discuss possible strategies in meeting these requirements. Phil Hoffmeister (Antioch) and Amanda Booth (San Pablo) can present items of interest and lead discussions based on information presented at the beginning of the forum. The Management Committee and any Permittees that are not voting members of the Development Committee will be invited.

## **Open Discussion of C.3 and C.6 Implementation Issues**

There were questions regarding unregulated road projects that don't meet C.3 criteria, lime treating certain properties, and compromising on projects that are determined to be too close to the road or too close to buildings.

## **Next Meeting Date**

Wednesday, September 28<sup>th</sup>, 2022 (1:30-4:30 PM),

(MC and municipalities invited to attend latter portion, 2:30-4:30 PM, for C3j Retrofit forum)

## **Action Items**

Permittees to read and respond to Karin's email, "Updated Guidance on Reduced Sizing in Green Infrastructure Projects" by Friday, 8/26.

Erin to upload presentations to Groupsite and to outline any review deadlines.

Erin to send C.3.j. Retrofit forum table and agenda to Development Committee.

Permittees to complete the C.3.j. Retrofit forum table as best as possible and send to Erin prior to the next Development Committee meeting.

## **Adjournment**

Phil adjourned the meeting at 3:57 PM.



**Date:** October 19, 2022

**To:** Management Committee

**From:** Lisa Welsh, Lisa Austin (Geosyntec), Augmented Staff

**Subject:** Approve the East Contra Costa Methylmercury Control Measure Plan and Reasonable Assurance Analysis, due on November 1 to Regional Water Boards 2 and 5

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**Recommendation:**

Approve the East Contra Costa Methylmercury Control Measure Plan and Reasonable Assurance Analysis for submittal to Regional Water Boards 2 and 5.

Authorize the Acting Program Manager to sign and certify the associated transmittal letter.

**Background:**

On May 11, 2022, the San Francisco Bay Regional Water Quality Control Board issued MRP Order R2-2022-0018 (MRP 3). With the issuance of MRP 3, East Contra Costa County Permittees continue monitoring under the jurisdiction of the SF Bay Regional Water Quality Control Board (Region 2), while also incorporating requirements from the Central Valley Regional Water Quality Control Board (Region 5) TMDLs and Control Programs such as those outlined in Resolution R5-2017-0057 and MRP Provision C.19.

This staff report documents the following items required by Provision C.19.d.ii.(1) for East Contra Costa County Permittees to submit a Methylmercury Control Measure Plan and Reasonable Assurance Analysis (RAA) by November 1, 2022. The following MRP reporting requirements are addressed in the report:

*The Plan shall include a corresponding RAA for total mercury and methylmercury demonstrating that sufficient control measures will be implemented during this Permit term to attain the methylmercury Delta Mercury Control Plan (DMCP) wasteload allocations by January 1, 2030, or any revised final compliance date adopted by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) as part of the DMCP review. The Control Measure Plan, including RAA, shall comply with the following:*

- *The Plan shall identify all technically and economically feasible mercury and methylmercury municipal separate storm sewer system (MS4) control measures to be implemented (including green stormwater infrastructure (GSI) projects).*

- *The Plan shall include a schedule according to which these technically and economically feasible control measures will be fully implemented.*
- *The Plan shall provide an evaluation and quantification of mercury and methylmercury load reductions of such measures as well as an evaluation of costs, control measure efficiency, and significant environmental impacts resulting from their implementation.*
- *The RAA for total mercury must be evaluated using the California Toxics Rule for mercury (0.05 µg/L).*
- *The RAA for methylmercury must be evaluated using the methylmercury load allocations specific to each Delta subarea within Contra Costa County subject to the DMCP (i.e., the Central Delta, Marsh Creek, and West Delta subareas).*
- *The RAA shall demonstrate quantitatively that the plan will result in mercury and methylmercury load reductions sufficient to attain the methylmercury wasteload allocations by January 1, 2030, (or any revised final compliance date adopted by the Central Valley Water Board as part of the DMCP review) and address the following questions:*
  1. *What are the annual mercury and methylmercury loads from the MS4 discharge to the Central Delta, Marsh Creek, and West Delta subareas?*
  2. *Do the mercury and methylmercury load to each subarea meet the assigned methylmercury wasteload allocations?*
  3. *What is the achievable mercury and methylmercury load reduction in discharges from the MS4 by implementation of reasonable, foreseeable control measures?*
  4. *What controllable MS4 water quality factors affect methylmercury production and transport in the MS4 discharge and in the receiving waters draining to the Delta?*
  5. *Are there MS4 design features that increase or decrease mercury methylation?*
  6. *Are there reasonable and foreseeable management actions to reduce methylmercury concentrations within the MS4 boundary?*

**Reasonable Assurance Analysis Findings:**

The East County RAA results demonstrate that with reasonable, foreseeable control measures, mercury concentrations are below the California Toxics Rule for mercury in all subareas (Central Delta, West Delta, and Marsh Creek). Based on the assumptions and outcomes of the RAA, the West and Central Delta methylmercury TMDL wasteload allocations can be met with reasonable, foreseeable control measures. However, it is

infeasible to meet the Marsh Creek wasteload allocation through GSI implementation this century.

Although the Marsh Creek wasteload allocation is infeasible, the predicted methylmercury loads for all three subareas combined for 2030 and 2040 is less than the combined methylmercury wasteload allocation.

### **Mercury Control Measures:**

CCCWP Permittees recommend a programmatic approach for reducing mercury loads from urban stormwater discharges, whereby compliance is assessed based on implementing and documenting a regionally agreed-on program of control measures, which include:

- Green stormwater infrastructure (GSI),
- Full trash capture devices, and
- Enhanced operation and maintenance, such as enhanced inlet cleaning.

An assessment of the level of effort or change of assumptions that would result in compliance by 2030 by control measure is as follows:

- Permittees will implement their Green Stormwater Infrastructure plans. This will encumber municipal time and attention at current levels, or potentially increased levels, depending on the level of development and redevelopment activity. Permittees will continue tracking GSI implementation in an ArcGIS online (AGOL) database (or a suitable replacement system). The Program will continue to gather data to assess mercury loads reduced. The rate of implementing this control measure is constrained by the rate of private development, private redevelopment, and municipal capital project development.
- Permittees will continue tracking full trash capture devices in AGOL. The Program will continue to gather AGOL data to assess mercury loads reduced. The opportunities to accelerate this or expand the benefit are limited, as there are a finite number of full trash capture opportunities available to Permittees.
- Permittees began enhanced O&M measures in the MRP 2.0 permit term. Permittees will continue to perform enhanced O&M at current levels and will consider expanding enhanced O&M to control sediment and prevent methylating conditions in the MS4.

### **Schedule for Implementation**

The East Contra Costa County Permittees will continue to implement the control measures in perpetuity. The source control measure Mercury Load Avoidance and Reduction, which began during MRP 1.0, is assumed to continue indefinitely.

### **Evaluation of Costs**

The estimate of public agency costs for implementing planned GSI control measures ranges from \$10,000,000 to \$55,000,000 within East Contra Costa County. The estimated cost to treat all remaining very high and high trash generation areas with inlet-based devices by 2030 is approximately \$1,000,000. The estimated cost for implementing source control programs is negligible in comparison to the estimated costs for implementing GSI measures. An analysis of cost-effectiveness demonstrates that source control measures are much more cost-efficient than treatment control measures at reducing loads of mercury in urban runoff.

### **Uncertainty Analysis**

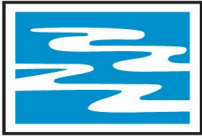
The estimate of achieving the methylmercury TMDL wasteload allocation in the Marsh Creek subarea is based on several assumptions that introduce planning uncertainties. The RAA result is reasonably certain (i.e., not likely to change as a result of changed assumptions). Examples of planning uncertainties leading to uncertainty in the RAA results include:

- Climate change, long-term meteorological patterns, and large seismic events could each significantly affect watershed transport of polluted sediments.
- Large-scale economic or socio-economic and political shifts, which may be either planned (e.g., the Federal Bipartisan Infrastructure Law grants that create GSI funding opportunities) or unplanned, (e.g., the 2020 COVID-19 pandemic), can affect the rate of GSI implementation.

### **Attachments:**

- Methylmercury Control Measure Plan and Reasonable Assurance Analysis (to be uploaded and shared on Groupsite by October 14, 2022).
- Transmittal Letter to Regional Water Board 2 and 5.

**Fiscal Impact:** None.



CONTRA COSTA  
CLEAN WATER  
PROGRAM

November 1, 2022

Eileen White, Executive Officer  
California Regional Water Quality Control Board, San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Patrick Pulupa, Esq., Executive Officer  
California Regional Water Quality Control Board, Central Valley Region  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670-6114

**SUBJECT: Submittal of the East Contra Costa Methylmercury Control Measure Plan and Reasonable Assurance Analysis in accordance with MRP 3.0 Provision C.19.d.ii.(1)**

Dear Ms. White and Mr. Pulupa,

Please find attached, the East Contra Costa Methylmercury Control Measure Plan and Reasonable Assurance Analysis (RAA) submitted on behalf of all Contra Costa Permittees per the Municipal Regional Permit (MRP) for urban stormwater issued by the San Francisco Bay Regional Water Quality Control Board MRP Order No. R2-2022-0018 (MRP 3). The Contra Costa Clean Water Program (CCCWP) is submitting this report concurrently to the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) and the Central Valley Regional Water Quality Control Board (CVRWQCB). With the issuance of MRP 3, East Contra Costa County Permittees continue monitoring under the jurisdiction of the SFBRWQCB, while also incorporating requirements from CVRWQCB TMDLs and Control Programs such as those outlined in Resolution R5-2017-0057 and Provision C.19 of MRP 3.

With approval and direction from duly authorized representatives of each Permittee, I am authorized to submit and certify under penalty of law that this document and all attachments were prepared under my direction of supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Regards,

Karin Graves  
Acting Program Manager  
Contra Costa Clean Water Program

cc: Joseph Martinez, SFBRWQCB  
Elizabeth Lee, CVRWQCB  
East Contra Costa County Permittees



## FY 22/23 Conditionally Approved Budget Items

Budget Item Description	Budget Estimate	Final Budget	Increase (Decrease)	Review Committee	Lead Staff	Start Date	Mgmt Com Approval	Comments
Staff augmentation (WRC)	\$109,200	\$109,200	\$0	Administrative	Karin	05-Jul-22	17-Aug-22	Approved with Adjusted Budget
On call staff augmentation	\$100,000	\$138,000	\$38,000	Administrative	Karin	05-Jul-22	17-Aug-22	Approved with Adjusted Budget
MRP 3.0 Appeal (RWG)	\$35,000			Administrative	Karin			Pay for unfunded mandate claim?
Alternative Compliance Admin Set up	\$55,000			Development	Erin		16-Nov-22	
GIS/AGOL Maintenance, Minor Upgrades	\$50,000			MOC	Erin			AGOL Work Group
C.2 Training Workshop	\$3,100			MOC	Erin			
Hydromod Management Modeling	\$100,000			Development	Erin	24-Aug-22	16-Nov-22	
Hydromod Management Calculator	\$41,000			Development	Erin		16-Nov-22	
Green Infrastructure Design Guidelines	\$40,000			Development	Erin	27-Jul-22		
Peak Flow Control Calculator	\$52,000	\$52,000	\$0	Development	Erin	21-Sep-22	21-Sep-22	Moved to Dev Gen Tech Services
Update Stormwater C.3 Guidebook	\$36,000	\$36,000	\$0	Development	Erin	27-Jul-22	17-Aug-22	
Alternative Compliance Pilot Projects	\$50,000			Development	Erin		16-Nov-22	
Annual C.3 Training Workshop	\$12,000			Development	Erin			
Homeless Mapping	\$20,000			MOC	Erin			
Homeless BMP Report	\$50,000	\$35,000	(\$15,000)	MOC	Erin	21-Sep-22	21-Sep-22	
Homeless Implementation Plan	\$50,000			MOC	Erin			
Sub Total	\$803,300	\$370,200						
Approved with Adjusted Budget			\$38,000					
Total Increase/Decrease								



**Date:** October 19, 2022

**To:** Management Committee

**From:** Mitch Avalon, Consultant

**Subject:** Draft Stormwater Funding Options Report, Phase 1

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**Recommendation:**

Accept report from staff on the draft Phase 1 Stormwater Funding Options Report and provide staff with any comments or direction.

**Background:**

MRP 3.0 was adopted by the Regional Water Board on May 11, 2022 and will result in an increase in compliance costs over MRP 2.0. The FY 22/23 budget, adjusted on August 17, 2022, is \$989,217 more than the adjusted FY 20/21 budget, and \$783,350 more than the adjusted FY 21/22 budget, the last two budgets of MRP 2.0. Looking further back, the FY 22/23 budget is \$1,469,189 more than the FY 14/15 budget, the last budget of MRP 1.0. Additional funding is needed, and since it takes several years to implement any kind of a funding strategy, now is the time to decide how to address the escalating cost of permit compliance.

At the July 20, 2022 Management Committee meeting, the Committee received an overview of the various options available for increasing stormwater revenue for the Program and permittees. After some discussion, the Committee directed staff to prepare a Stormwater Funding Options Report that would rely heavily on the report completed in 2012 as part of the 2012 stormwater funding initiative. The report will be completed in two phases, the first phase will analyze all the options and identify those that are viable for further evaluation. The second phase will expand the analysis of the viable options, describe the process to implement the options and potential challenges, and recommend a pathway forward. Many of the options that will be reviewed in this report could apply to both the Program and to permittees individually. The first phase will cover both permittee and Program options, however, the second phase will focus solely on viable options for the Program.

Attached is a rough draft of the Phase 1 report for an initial review. The report is not complete, as it still needs to have legal review and research done on a few items, but certainly provides the Committee with the scope and breadth of this

effort. Staff would appreciate any comments or direction on the draft report. Does the scope and breadth of the draft report meet expectations? Would the information provided in the attachments be helpful? Is there other information that could be provided that would be useful? Does the structure/format set out information that is easy to follow, for example providing analysis of an option with a conclusion that includes a recommendation?

**Fiscal Impact:**

None at this time, but there may be an increase or decrease in the budget depending on the final decision of whether to move forward with a funding option or not.

**Attachments:**

Draft Phase 1 Stormwater Funding Options Report

G:\NPDES\Mgmt Committee/Agendas\FY 22-23\2022-10\MC\_Mtg\_10-19-2022\_Staff Report SW Funding Options Report

# Draft Stormwater Funding Options Report

## Phase 1: The Narrowing

October 12, 2022

**Draft Report: Certain sections have not been completed and the report has not had legal review or verification of certain statements made herein!!**

### 1. Introduction

The Contra Costa Clean Water Program (Program) was established when the first stormwater permit was issued in 1991 to the cities, towns, unincorporated County, and Contra Costa County Flood Control and Water Conservation District in Contra Costa County (permittees) by the Regional Water Quality Control Board. East County permittees are in the Central Valley Regional Water Quality Control Board, although through an agreement between the two regional boards East County permit requirements are issued and administered by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board). Individually written stormwater permits issued to the four large counties in the Bay Area eventually evolved into a standard permit with uniform requirements, the municipal regional permit. The first Municipal Regional Permit, referred to as MRP 1.0, was issued in 2009 and dramatically increased permittee costs to meet permit requirements and reduce pollutant loading in stormwater. This was after the Regional Water Board amended the stormwater permit (Provision C.3) in 2003, requiring development projects to treat stormwater to remove pollutants and increase infiltration. Permittees began to look for ways to raise funds to pay for these increased costs. The Program eventually hired a consultant team that prepared a report analyzing all options available to increase revenue. This effort culminated in a ballot measure for a property related fee in 2012. The election of property owners was held, the ballots were tabulated, and the results were about 40% in favor of and about 60% in opposition to the fee. Permittees who had not increased their Stormwater Utility Assessment (SUA) rate to the maximum did so. MRP 2.0, adopted in 2015, increased compliance costs yet again.

MRP 3.0 was adopted by the Regional Water Board on May 11, 2022 and will result in another increase in compliance costs. The FY 22/23 Program budget, adjusted on August 17, 2022, is \$989,217 more than the adjusted FY 20/21 budget, and \$783,350 more than the adjusted FY 21/22 budget, the last two budgets of MRP 2.0. Looking further back, the FY 22/23 budget is \$1,469,189 more than the FY 14/15 budget, the last budget of MRP 1.0. Since it takes several years to implement any kind of a funding strategy, now is the time to decide how to address the escalating cost of permit compliance. **Attachment 1** is a chart showing the annual Program budgets, going back to the adoption of MRP 1.0 in 2009.

At the July 20, 2022 Management Committee meeting, the Committee received an overview of the various options available for increasing stormwater revenue for the Program and permittees. After some discussion, the Committee directed staff to prepare a Stormwater Funding Options Report that would:

- Review the 2012 report, update the options, and incorporate lessons learned

- Identify the pros and cons for each option
- Reduce the options to a short list of potential, viable options
- Identify information needed to make a decision and choose an option
- Separate permittee options from Program options
- Explore the viable options and recommend a pathway forward

The Program paid for a report in 2012 that analyzed the various options available to increase revenue and this report will rely heavily on that work. The report will be completed in two phases, the first phase will analyze all the options and identify those that are viable for further evaluation. The second phase will expand the analysis of the viable options, describe the process to implement the options and potential challenges, and recommend a pathway forward. Many of the options that will be reviewed in this report could apply to both the Program and to permittees individually. The first phase will cover both permittee and Program options, however, the second phase will focus solely on viable options for the Program.

## **2. Background**

The Contra Costa County Flood Control and Water Conservation District (Flood Control District) is the fiscal agent and contracting authority for the Program. After the first stormwater permit was issued, all the cities, towns, and county, except for Richmond and Brentwood, requested the Flood Control District adopt stormwater assessments for each parcel in their jurisdiction. These assessments generated about \$14.1 million in FY 09/10 (MRP 1.0) and about \$15.9 million in FY 21/22. Richmond and Brentwood pay their share of the Program costs separately, which in FY 21/22 was together about \$535,000. If Richmond and Brentwood had stormwater utility assessments similar to the other cities, towns, and county, they would together generate about \$2.8 million.

Quite some time ago, the Management Committee established a budget threshold of \$3.5 million to insure a consistent "return to source" of SUA funds. When the Flood Control District calculates the disbursements of SUA funds, they only hold back \$3.5 million to fund the Program even if the approved Program budget exceeds that amount. The Program budget up to the \$3.5 million threshold is funded from SUA, while the budget amount over the \$3.5 million threshold is taken from the Program's reserve fund. The FY 22/23 budget, adjusted on August 17, 2022, is approximately \$1 million over the budget threshold. The reserve fund has two components. One component is a \$1.2 million fund to address cash flow fluctuations, and past policy has remained steadfast in not using it for any other purpose. This portion of the reserve fund is referred to as the "SUA Operating Fund". The other component is a true reserve that can be used to fund that portion of the Program budget exceeding the \$3.5 million threshold and is currently approximately \$4.2 million.

How much time do we have before the reserve fund runs out? The answer to that question depends on the current reserve balance, end of year additions to the reserve fund, and future Program budgets. Each October the Program performs an end of year analysis of the prior year's budget. The Program budget is zeroed out at the end of each fiscal year, as there are no funds carried over from year to year. By policy, any unspent funds from the prior year's budget rolls into the reserve fund. Unspent funds derive from projects that were budgeted but were not completed during the prior fiscal year, savings from joining projects or economies of repetition, and other cost saving measures realized throughout the year. In November staff will be able to

provide an accurate reserve balance for the current fiscal year. Attachment 2 is a chart that shows the reserve fund balance over the past several years.

The FY 22/23 budget was approved with 16 conditionally approved budget items that totaled \$803,300. These were items we knew had to be done, but there was insufficient information at the time to determine an accurate budget. Each of these conditionally approved items will be the subject of consideration and approval at a future Management Committee meeting where staff will present a more detailed scope and budget. As of August, three of these items have been approved by the Committee, leaving 13 items left to approve, some of which may include an increased budget. Staff has also prepared an approximate five-year budget for the entire MRP 3.0 permit term, which can be used to estimate future fiscal year budgets. From a staffing perspective, it is assumed the Program Manager position will be filled next fiscal year, FY 23/24, and the other vacant planner position(s) filled one year later in FY 24/25, with corresponding levels of staff augmentation to cover the positions until they are filled. The number of vacant positions in FY 24/25 depends on who is selected to fill the Program Manager position. The estimated five-year budget uses the same format that is used each year for the Program budget. Line items have been added for work products or activities that are not part of the current fiscal year but will occur in later fiscal years. (discuss five-year budget). Based on the current fiscal year budget and the estimated five-year budget, it appears the amount over the budget threshold will be approximately \$1 million this fiscal year and \$XXXXXXX each of the next four years. Attachment 3 is the estimated five-year budget for MRP 3.0.

Assuming the Management Committee wishes to retain the SUA Operating Fund intact, and a draw on the reserve fund shown in the five-year budget, then the reserve fund will last about XXXXXXXX years.

It is instructive to take a step back and look at some of the drivers for increased cost since 2009, the beginning of MRP 1.0. It seems the Regional Water Board takes a new tact and or strategy with each permit in trying to reduce pollutant loading. Noted below are some of the cost drivers from the municipal regional permits.

- **Green Infrastructure.** Green infrastructure is another, yet more bolder, step in a multi-decade effort to rebuild the built environment so that eventually every drop of stormwater flowing over an impervious surface is captured and treated (converting gray infrastructure to green infrastructure). This requires a change in the way that permittees plan, develop, build, and maintain their public roads, drainage, infrastructure, buildings, and facilities. Policy documents and business practices must be modified to accommodate stormwater treatment and infiltration. MRP 3.0 provision C.3.j requires installation of at least 57.32 acres of green infrastructure throughout the county and provision C.12.c requires treatment of 664 acres to reduce PCB loads, some of which will be done through green infrastructure. These green infrastructure requirements will be very expensive to meet, yet not meeting them will result in noncompliance.
- **Private Property.** The new stormwater permit forces permittees into a stronger role of enforcement by requiring management changes on private property. MRP 3.0 provision C.10.a.ii.(b) requires permittees to ensure that storm drain pipes on private property in trash generating areas that drain to the MS4 are equipped with full trash capture devices.
- **Full Trash Capture.** Installing full trash capture devices (e.g. screens in drainage inlets) is strongly encouraged as the solution for meeting trash reduction goals. Other elements

of a holistic approach to meeting trash reduction goals are not encouraged and are being phased out, such as conducting creek cleanups, or drastically reduced, such as adopting product bans (e.g. Styrofoam food ware ban), as prescribed in MRP 3.0 provision C 10, particularly C.10.b.v and C.10.f.

- **Numeric Limits.** In the past, success of pollutant removal was measured by establishing and monitoring best management practices. Current waste load reduction requirements is a specific target number that compliance is measured against. If the waste load reduction target number is not met, then it is easier for third-parties to prevail in a lawsuit as compliance was clearly not met. This adds another concern and cost to management decisions. MRP 3.0 provision C.12.c.i requires Contra Costa permittees, collectively, to reduce PCB loads by 121 gm/yr by the end of the permit term.
- **New Requirements.** MRP 2.0 included a new requirement to divert stormwater to a wastewater treatment plant. MRP 3.0 includes several new requirements, more new requirements than past permits. These new requirements include receiving water limitations monitoring, firefighting discharges, homeless discharges, asset management, cost reporting, and a host of minor changes. All of these are new programs that will require significant investment to meet permit requirements.

### 3. 2012 Funding Initiative

Permittees have orchestrated two funding measures to pay for stormwater services and projects. The first was on August 30, 1992 when Assembly Bill 2768 was approved, amending the Flood Control Act to allow the formation of stormwater utility areas. This led to the Flood Control District adopting stormwater utility assessments for each permittee jurisdiction with an assessment range determined by each jurisdiction (with the exception of Brentwood and Richmond). Later, in 2012, the Clean Water Program conducted the Community Clean Water Initiative, a ballot measure to property owners that would add an additional stormwater utility assessment. It took about 1.5 years to implement the project and cost about \$1.5 million, including costs for a branding program that spanned several years prior to the ballot measure. The heart of the process to establish a property related fee included a notice of public hearing mailed to all property owners on December 14, 2011, a public hearing for comments before the County Board of Supervisors on February 7, 2012, and a mailing of ballots to property owners on February 22, 2012 with a 45 day time period to return them.

The Program hired a consultant team, led by SCI Consulting Group, that included True North Research, Tramutola, Larry Walker Associates, and Dan Cloak Environmental Consulting. This team developed the work products to implement the Community Clean Water Initiative (Initiative). The project was developed through the following four phases, with Phase 1 broken down into five tasks:

- **Phase 1, Task 1: Background analysis and research.** Collect and analyze background and reference information for the Program, including expenditures, and sources of funding, as well as past and current MRP and NPDES requirements.
- **Phase 1, Task 2: Future program cost analysis.** Review and analyze projected future annual costs and sources of funding for each permittee.

- **Phase 1, Task 3: Potential funding source analysis.** Analyze and evaluate various funding mechanism alternatives.
- **Phase 1, Task 4: Opinion research and survey.** Evaluate voters' interest in supporting a local revenue measure and provide guidance on how to structure the measure.
- **Phase 1, Task 5: Stormwater funding needs and options report.** Recommend a strategy to address the additional funding required to implement the MRP.
- **Phase 2: Fee report and revenue enhancement action plan.** Develop the analysis, justification, and structure to implement an annual property related fee.
- **Phase 3: Implementation and educational outreach.** Develop outreach materials, mailers and website to inform the public, and conduct the balloting process.
- **Phase 4: Balloting results and final perspectives.** Report on the balloting process and provide perspectives on the results.

To complete Task 1, two members of the consulting team visited each permittee to gather information on their stormwater expenditures, resources available, and business practices. The task report includes detailed information on each permittee's total stormwater costs and revenue, providing valuable data when considering the final options in Phase 2 of this report. For Task 2, they took the estimates of those permittees who had developed the most comprehensive costs for each provision and used those to develop a predictive cost model for the entire permit. Based on the information gathered and the future cost modeling, the team was able to determine the revenue and costs for all permittees and the Program. The total revenue in FY 13/14 (last year of MRP 1.0) was about \$18 million, while the total costs were about \$37 million, resulting in a shortfall of about \$19 million.

Task 3 reviewed stormwater funding efforts in California since 2002, the entity that sponsored the funding measure, the annual rate, the type of funding mechanism used (e.g. tax, property related fee), and whether it was successful or not. A chart summarizing the funding needs of each permittee was also included. The bulk of the task revolved around identifying and analyzing 16 options for providing additional funding. Those same options are analyzed and updated later in this report.

Task 4 was a survey that showed "the vast majority of voters and property owners in the county consider protecting water quality, the Bay and the Delta to be among the most important issues facing their community." The consultant concluded that "if packaged appropriately and combined with a broad-based and effective public education effort, a measure to fund clean, safe water has a good chance of passage." The results of the mail survey indicated that a property-related fee had a good chance of success if the rate was kept affordable (\$22 or less), with a 52% level of support overall - 2% above the simple majority required for passage. The consultant stressed the need for building and sustaining support for the funding measure through an effective, well-organized campaign that focused on the need for the measure as well as the many benefits that it would bring.

The remainder of the consultant report outlined two fundamental approaches, a parcel tax requiring two thirds passage and a property related fee requiring a majority passage. Based on surveys conducted, the property related fee was selected as the results were 52% in support (tested using a \$22 per parcel fee), just over that needed to be successful. The consultant team recommended moving forward with the ballot measure providing the project included fee rates that the majority of voters accepted as affordable, a broad-based and effective public education



effort, a description of the benefits and projects that would derive from the fee, and an explanation of the need for the fee.

The Initiative, tailored to reflect regional differences, divided the County into three primary watersheds; west, central, and east watersheds. The base rate for a typical single-family home was \$19 per year in the west watersheds, \$22 per year in the central watersheds, and \$12 per year in the east watersheds. El Cerrito and Pittsburg were included in the central watersheds and all unincorporated County parcels had a base rate of \$19 per year. 100,768 ballots were returned and counted, resulting in 40.6% of the votes in favor of and 59.4% of the votes in opposition to the fee. There were many lessons learned from conducting the Initiative. The final report placed most of the blame on losing the election to opposition of the local newspaper throughout the process. Other notable lessons learned was the need for a champion to advocate for the fee to counter opposition during the election process, developing a clear and succinct message and staying with it, explaining why funding was needed and what projects the funding would be spent on, and explicit and energetic support by all permittee jurisdictions. The final four-phase report from the Initiative, with the exception of Phase 3, is included as **Attachment 4**.

Would a new initiative be successful? At the time of the 2012 report, there were six successful property related fee ballot measures and two successful parcel tax measures to fund stormwater services over the prior 10 years. Today, the list includes 28 balloted property related fee measures since 2002, with 16 passing (three were a reauthorization/renewal) and 12 not passing. Of the 16 that passed, all were cities or special districts. Of the 12 that did not pass, one was a county (Contra Costa County) and 11 were cities or special districts. During the same time period, six parcel tax measures were processed and all were successful; one for a county (Los Angeles County), one for a special district (Santa Clara Valley Water District), and four for cities. Several of the successful communities had very large and supportive renter populations. One salient observation is that Contra Costa County is the only county to attempt a balloted property related fee measure, and only one other county was successful in getting a parcel tax measure passed. Perhaps counties are too big a political unit to have a successful property related fee measure. It was the size and diversity within Contra Costa that resulted in dividing it into three sections with three different base fees. If there is any thought of pursuing another balloted property related fee measure or parcel tax measure, the first order of business would be conducting a detailed and comprehensive survey.

In June 2022, property owner Dessins LLC sued the City of Sacramento, alleging the City violated state tax law by casting votes for all 2,007 of its properties, influencing the measure, which passed by 1,949 votes. Dessins also alleges that the City violated Proposition 218 by casting a ballot for each property it owns while not allowing private property owners to do the same. At an April City Council meeting in which the City announced the result of the vote, City staff told the council that the City followed all required steps of Proposition 218, including sending one ballot for each parcel of land. Proposition 218 allows government entities to vote on ballot measures for properties they own, however it was envisioned this would be for ballot measures proposed by other government entities rather than their own ballot measure. It is unclear whether this lawsuit has any merit, but if it does it has the potential of creating some changes to the way Proposition 218 elections are conducted.

#### **4. Options Analysis**

This section will review and analyze possible options available, determine if they are best implemented individually by permittees or collectively by the Program, and identify those that should not be considered further and those that should be further evaluated in Phase 2. The analysis includes providing pros and cons to those options that seem to have the most promise. The following options are listed in no particular order.

**Special Tax.** Special taxes are voted on by registered voters and require a two thirds majority for approval. Special taxes include parcel based taxes (the most popular), taxes linked with a general obligation bond, user taxes, transient occupancy taxes, sales taxes, and vehicle license fees. The analysis of special taxes are grouped together and described directly below.

**Parcel Based Tax.** This is a special tax added to property tax assessments and their rates can be based on property use, size, and zoning. This is the only type of tax measure proposed for funding stormwater services in California over the last 20 years.

### Pros

- **Legally Defensible.** These taxes are very reliable, rarely challenged, and when challenged the challenges are rarely successful.
- **Easy Administration.** Once approved, a property tax does not require an annual analysis (e.g. AB 1600), fee report, assessment roll coordination, etc.
- **Well Understood.** Parcel taxes have been around a long time and property owners and registered voters understand their concept, reach/limitations, and process.

### Cons

- **Super Majority.** The necessary two thirds threshold for success is very difficult to achieve, and if success hinges on a few percentage points it wouldn't take much of a campaign by the opposition to defeat the measure. The survey in 2012 indicated support up to 70% only if the election was a high turnout, the voters were very familiar with the measure, and the tax rate was at \$14 per parcel.
- **Election Timing.** Tax elections are normally held along with the general election in November or the primary election in March or June, which can cause scheduling problems. However, an all-mail election can also be conducted at any time during the year. There are some downsides to this, as one of the lessons learned from the 2012 election was confusion when the elections office was not involved. (Verify when elections can be held)

In conclusion, of all the tax options, a parcel tax is probably the most feasible and well understood tax to fund stormwater services. However, it is not recommended because of the difficulty in achieving a two-thirds supermajority.

**General Obligation Bonds.** A funding measure that ties the sale of bonds to construct capital improvements with a tax to pay debt service can be successful if the proposed projects are very popular. The City of Los Angeles was successful in passing "Measure O" in 2004 for water quality related capital improvements, so it has been done. In the past, most of the work associated with stormwater permits has been less about projects and more about programs and monitoring. MRP 3.0 does include a significant amount of project work primarily around green infrastructure, either as a designated minimum acreage or as a vehicle to reduce pollutant loading, such as PCBs. Though not legally required, from a practical and political perspective a bond measure should be big and have the ability to reach everyone or benefit everyone. For example, a measure where

the Program partnered with park districts and land trusts throughout the county and came up with projects that improved water quality and created protected open space or passive recreational space, might be at a scale that would be successful. The bond measure would build the projects and the park districts/land trusts would take over the projects for maintenance. Since the bonds have an underlying tax to pay debt service, the pros and cons are similar to a parcel based tax.

In conclusion, a general obligation bond and supporting tax would likely only be feasible if it could be scaled up in partnership with other agencies. This option has to achieve a two thirds supermajority to pass and has the added complexity of partnering with other agencies, but if polling showed there was sufficient interest, then this option should be considered.

**User Tax.** A user tax would be a charge for the "use" of stormwater or stormwater services. For example, a user tax that has been discussed in the past would be a user fee charged to all tourists traveling into the Tahoe Basin at designated entry points, such as Highway 50 into South Lake Tahoe. A more pertinent example is the storm drainage fee adopted by the City of Salinas in 1999 to pay for drainage and stormwater services. The Howard Jarvis Taxpayers Association sued the City claiming the fee was a property related fee and should be subject to a vote. In court, the City described their storm drainage fee as a "user fee" charged to properties using the city's storm drain system. However, the appellate court did not agree, instead finding the drainage fee was a property related fee not a user fee. An inspection fee is an example of a user fee charged to individual properties that has been successful, as there is a clear nexus between the fee and the service provided to the property owner. This type of fee would best be implemented at the permittee level as it would be very difficult to scale up to the county level.

In conclusion, this option is not recommended for Phase 2 as it would be difficult to establish a nexus for the use of stormwater or stormwater services that could be administered at the county level and even more difficult to explain to the electorate and gain a two-thirds vote. However, this option could be utilized at the permittee level if additional fees with a direct connection between the service and the fee can be identified.

**Transient Occupancy Tax.** This is a special tax charged when a "transient" is occupying a room in a hotel, inn, or other lodging for 30 days or less. There is no legal requirement to make a nexus between a transient occupancy tax and stormwater services, as long as the voters approve the tax. However, this option is not recommended as it would be difficult to gain political support for a transient occupancy tax to pay for citywide stormwater services and virtually impossible for countywide stormwater services.

**Sales Tax.** This is a special tax on certain goods and services at the point-of-purchase and based on a percentage of the sale amount. In November, 2020, voters passed Measure X, a countywide .05% sales tax for 20 years that would "..... keep Contra Costa's regional hospital open and staffed; fund community health centers, emergency response; support crucial safety-net services; invest in early childhood services; protect vulnerable populations; and for other essential county services". The measure raised the County sales tax rate to 8.75% and passed by a margin of 58.45% (323,322) for and 41.55% (229,793) against. Some cities and towns have passed additional sales tax increases that are specific to their jurisdictions. In 1988 voters passed Measure H, with a 71.6% passage rate, "to finance improvements in emergency medical and trauma care system including expanded countywide paramedic coverage; improved medical communications and medical dispatcher training; and medical equipment and supplies and training for firefighter first responders, including training and equipment for fire services electing

to undertake a specialized program of advanced cardiac care (defibrillation).” This was not a sales tax, however, but a benefit assessment administered through the formation of County Service Area EM-1. Assessment rates were based upon "benefit units" depending on how many residences were on a property and the demand for services. Measure H was passed and the assessments completed prior to the passage of Proposition 218.

In conclusion, the pros and cons for a sales tax would be similar to those of a parcel based tax. This option might be possible in specific jurisdictions with water quality issues that are widely supported, but would be difficult to establish as a countywide sales tax. There has been widespread support for a healthcare related tax/assessment in the past, but it is unknown if the same broad support exists today for stormwater services. One possible scenario would be a countywide sales tax partnered with general obligation bonds, where a portion of the sales tax paid the debt service of the bonds and the balance of sales tax paid for stormwater programs (bonds can only fund projects). More research would have to be done to determine if a sales tax could be split to fund projects and programs, and an extensive survey would have to be conducted to understand the types of projects that resonates with the public and how much support could be expected. Finally, there are limits to how much sales tax can be imposed, so each city, town, and the County would have to be analyzed to determine how much capacity they have for raising their sales tax.

**Vehicle License Fee.** In the late 1990s and early 2000's, there were efforts to add a surcharge to vehicle registration fees to pay for stormwater pollution cleanup. The nexus argument was that cars created pollution that was picked up by stormwater, such as lubricants and fluids leaking from vehicles and dust from brake pads. These legislative attempts were, locally, spearheaded by the Bay Area Open Space Council. In 2003, Assembly Bill 1546 authorized the San Mateo City-County Association of Governments to assess up to \$4 in motor vehicle fees for congestion management activities and stormwater pollution reduction programs until 2009. Similar legislation to add a surcharge to vehicle registration fees was attempted (unsuccessfully) in Alameda, Contra Costa, Marin, Napa, Sacramento, and Santa Clara Counties. Tax-payer associations pushed back on this approach, believing an increase in vehicle license fees should be through voter approval not through legislation. In 2010 the legislature passed a law allowing countywide transportation planning agencies to sponsor a measure to add no more than a \$10 surcharge to vehicle license registration fees, some of which could pay for pollution prevention projects and programs (Government Code 65089.20). That same year, voters in San Mateo County passed a local funding measure (Measure M) to increase and continue their vehicle registration fee surcharge.

In conclusion, this option is not recommended, as it would require a two-thirds majority vote to pass and partnership with the Contra Costa Transportation Authority that passed its own sales tax measure (Measure J) in 2004 - a continuation of its 1988 Measure C.

**Property Related Fee.** This option, compliant with Proposition 218, is voted on by property owners within a specified service area and requires a simple majority to approve. This was the option chosen in 2012, the failed Community Clean Water Initiative. There are two steps to the process. The first step is a public notice, mailed to each property owner, of the proposed funding measure and date of a public hearing at least 45 days after the date of the notice. If a majority of property owners protest the fee at the public hearing, then the proposed fee cannot move forward. If there is no majority protest, then ballots can be sent to all property owners.

The second step is sending out the ballots at least 45 days after the public hearing. The mailed ballot must contain the amount of the proposed fee to be imposed on the property, the basis for calculating the fee, reason for the fee, and a place on the ballot to indicate support or opposition of the proposed fee. The amount of the fee for each parcel is determined in the fee report. The Fee Report, sometimes referred to as the Engineers Report, establishes the methodology to calculate fees on each parcel. Normally the amount of impervious surface on the parcel is the foundation for calculating the fees. Parcels are grouped by land use and size, or some other attribute, and an average impervious surface is assigned to each group to facilitate fee calculation. So, parcels of similar size and use will have the same fee amount.

### Pros

- **Popular Option.** Since 2002, there have been 34 proposed measures to fund stormwater services and projects, 28 of which were balloted property related fees (with a 57% success rate) and six of which were special taxes (with a 100% success rate). So, property related fees are definitely the most popular method to fund stormwater services, although the success rate is lower than a special tax.
- **Politically Viable.** The process is fair, the threshold for approval is a simple majority, and the voters are those directly affected by the fee, which makes this option politically appealing.

### Cons

- **Not Well Understood.** Ballots are mailed directly to property owners, which is an unfamiliar process for many people.
- **Greater Scrutiny.** Property related fees, though totally legal, are not as well established or widely used as a tax. Therefore a lot more attention is focused on these types of funding measures as opposed to a tax.

It might be worthwhile to review the specific requirements for adopting a fee. California Constitution Article XIIIID Section 6(b) describes "Requirements for Existing, New or Increased Fees and Charges" and states that a fee or charge cannot be extended, imposed, or increased by any agency unless it meets five specific requirements. These requirements are discussed below:

- **Total Service Cost Limitation.** "Revenues derived from the fee or charge shall not exceed the funds required to provide the property-related service." Annual fees are usually estimated based upon revenue requirement estimates, but no more than a maximum fee amount determined by surveys.
- **Use Limitation.** "Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed." This additional requirement relates to the terms for adoption of the fee and restrictions that would be put in place to ensure that fees generated for the stormwater program would not be used for purposes outside the program. The 2012 Initiative proposed an oversight committee to ensure transparency and that restricted revenue was spent only on applicable services.
- **Proportional Cost Limitation.** "The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel." Fees are calculated using an average cost to provide services to parcels based on size and land use designation. These formulas are based on a study of impervious surface quantities that exist on typical parcels in various land use designations.

- **Future Services Prohibition.** “No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4 ((section on assessment procedures))”.
- **General Government Service Prohibition.** “No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance, or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.” The impacts on stormwater from impervious surfaces is directly related to property development by property owners, not to the general public at large.

There were several "lessons learned" from the property related fee proposal in 2012. After the Community Clean Water Initiative failed, the Program identified lessons learned and noted them in a document dated April 24, 2012 and updated on November 14, 2013 (see [Attachment 5](#)). If the Program decides to conduct another property related fee funding initiative, these lessons learned should be analyzed and addressed in detail. For this Phase 1 analysis three key lessons will be mentioned. First, Contra Costa County has been the only county to attempt a property related fee measure to fund stormwater services in the last 20 years. Of the 28 funding measures proposed, 27 were by cities or special districts and one was by Contra Costa County. We tried to compensate for the regional differences in the County by having three separate fees, but it wasn't enough to win the election. The theoretical advantage of a countywide election is that those areas of the county that have greater support will carry those areas of the county with less support. In 2012, only one city (a small West County city) exceeded 50% support level in the election, while 8 jurisdictions had a support level between 40% and 50%, and 11 jurisdictions had a support level between 30% and 40%. If this option is chosen, the Program would have to think long and hard how to offset the disadvantages of conducting an election over such a large area.

The second issue was our failure to educate the public with our outreach campaign. Of course, as public employees we could not (and still cannot!) advocate for the funding measure, but others could and we had no champion picking up support for the project and advocating for it down the stretch. We need to spend much more time on the outreach and advocacy part of the process. There are natural allies to this type of project, such as local creek-groups, open space councils, and other environmental groups that need to be brought in early to actively advocate for the fee. We also had a failure of support and advocacy at the local political level, with some cities actually voting against the fee when ballots for city-owned property came before their Council.

The third issue was heavy opposition by the local print media. The most widely read newspaper in the county was highly critical of the funding initiative, publishing 11 major opinion columns and 10 letters to the editor against the proposal, and none in favor or objectively neutral. The newspaper had a consistent message in their opposition, which we had no response to. We did not have a consistent message, did not communicate a list of projects the funds would pay for, and did not do a good job of explaining the need for the fee. If the Program decides to attempt

another property related fee, the position of the newspaper and other media needs to be determined in advance.

In conclusion, a property related fee is still one of the most viable options to fund stormwater services. It is recommended that this option be further considered, understanding that there are serious challenges that need to be analyzed and addressed.

**Benefit Assessments.** Proposition 218 was approved by California voters in 1996 and laid out the requirements for adopting assessments and fees. In 2002 the appellate court decided on a case involving the imposition of storm drainage fees by the City of Salinas. The Howard Jarvis Taxpayers Association sued the City, claiming they should have put the storm drain fees out to a vote. The appellate court sided with the Taxpayers Association finding that the City had imposed a "property related fee" which required voter approval. Though the court ruling did not mention benefit assessments, it was clear that funding storm drainage or stormwater services in this case was a property related fee. Benefit assessments, established with a benefit assessment district, must show that each parcel in the district receives a special benefit over and above the benefits conferred on the public at large. Benefit assessments are often used to pay for operations and maintenance of improvements built by development projects, where the parcels within the developments are voted into the benefit assessment district by the developer. This does not generate much revenue, but is politically easy to do as the vote occurs prior to selling the homes. It is politically much more difficult to establish a benefit assessment district over existing parcels where each property owner must vote their property into the district. Benefit assessment districts are similar to community facilities districts, but community facilities districts are favored more, having slightly more flexibility in application and slightly easier administration.

In conclusion, this option is not recommended for consideration in Phase 2. Although feasible to implement at the permittee level, it seems that community facilities districts are a more popular and common finding tool.

**Senate Bill 231.** SB 231, approved by the governor in October of 2017, clarifies the definition of "sewer" to explicitly include stormwater and storm drainage systems. This is very important, as the provisions in Proposition 218 require a vote of all property owners to adopt a property-related fee, *except* fees for water, sewer, or refuse collection services. SB 231 supports establishment of a dedicated fee for stormwater management services through the long-established majority protest process currently used for water, wastewater, and solid waste rates. This process relies on a 45-day noticed public hearing before the governing board to decide whether to adopt a fee or not, but does not require an election of all property owners within the service area.

Although there is a connection between the definition of sewer in SB 231 and the exemption provision in Proposition 218, it is not a direct connection. SB 231 did **not** change the provisions of Proposition 218, which are embedded in the California Constitution, instead it modified the legislative "omnibus" guidance for implementing property related fees. In the Salinas decision, the Appellate Court held that "stormwater" is not sewer, and is not exempt from the Proposition 218 voting requirements. However, in a few court cases where the use of stormwater was shown to have a direct benefit to water or sewer service, the courts have found that stormwater is exempt from the voting requirements.

No city or county to date has established a stormwater fee utilizing SB 231. It is fairly common knowledge that whichever city or county does establish such a fee that the Howard Jarvis

Taxpayers Association will file a lawsuit claiming they violated Proposition 218. To adopt a defensible stormwater fee, the city or county must be as closely aligned to the exemptions in Proposition 218 and past court decisions as possible. For example, a city or county that has its own water and/or sewer services and can effectively demonstrate their stormwater program is a benefit to or is burdened by their existing water and/or sewer system. It's difficult to imagine such a defensible argument for a fee in Contra Costa County. Contra Costa imports much of its water from the Delta so it's difficult to make a nexus argument for a water exemption, and sewer services are generally provided by independent special districts. The argument that storm drainage systems reduce sewer inflow and infiltration is difficult to make without owning and operating the sewer system.

Aside from the implementation issues, below are the likely key steps involved in adopting a stormwater fee under the authority of SB 231. Many of these steps are the same regardless of the fee process used.

1. Initiate your stormwater fee program, including demonstrated need, relationship with water, sewer, or solid waste service, and estimated costs
2. Ensure political and community support for a non-balloted stormwater fee
3. Prepare a Stormwater Rate Study establishing and justifying the program, program costs, nexus to water or sewer service, and assessment spread
4. Send out notices to all property owners of a public hearing before the governing board
5. Conduct the public hearing and adopt the fee (assuming there is no majority protest)
6. Establish a fee collection system
7. Collect the fees and implement the program
8. Prepare response to a lawsuit if one is filed
9. Defend the fee throughout a 2 to 5 year judiciary process

In conclusion, a stormwater fee utilizing SB 231 seems more suited to funding drainage infrastructure services rather than water quality services, although funding for any portion of a stormwater program would be useful. However, this option is not recommended because there isn't a strong nexus argument between the Proposition 218 exemption and stormwater services in Contra Costa County. In addition, the opposition would mount a very effective campaign to characterize this as an attempt to bypass the electorate, which voted the fee down in 2012.

**Decentralize Costs.** The objective of this option is to recognize and adhere to the exemptions for voting requirements specified in Proposition 218. In 2012 the Program conducted a property related fee ballot measure voted on by property owners and lost. In 2022 the Program may decide to forgo the election process and instead focus on establishing fees through majority protest. In that case, the fees must be compliant with Proposition 218 and fall under one of the three exemptions: water, sewer, or refuse collection.

This option would analyze the cost centers within a permittee stormwater program and identify which services could be funded through a fee adopted with one of the three exemptions, or transferred to another department/entity that has a rate structure that could be increased to cover the newly transferred services. For example, services such as removing trash from catch basins, replacing catch basin filters, and other trash/litter reduction activities could possibly be transferred to a refuse collection provider. Of course, there would need to be an agreement between the stormwater agency and the refuse collection provider to transfer the services and



ensure support for increasing the rate needed to cover the increased cost. This would be difficult to do on a countywide basis. Unless they provide their own trash collection services, each jurisdiction generally has a franchise agreement with a refuse collection provider that would need to be amended to add new services. This can be politically unpopular. In addition, there are regional groupings of jurisdictions that have formed authorities to manage refuse collection services within their area, each with its own management structure and objectives. It would be a very complex undertaking to develop a countywide approach to realigning a stormwater service, such as catch basin cleaning, to refuse collection providers.

In conclusion, this option seems more suited to individual permittee implementation, as the organizational structure of permittee stormwater programs varies by jurisdiction, franchise agreements are controlled by each jurisdiction, service requirements unique to each jurisdiction can be addressed at the permittee level, and each permittee can resolve any pushback by the refuse collection provider to do activities they deem to be incompatible with their business capabilities. It is not recommended to advance this option for further consideration in Phase 2.

**Litter/Trash District.** A different approach to the Decentralize Costs option described above, but meeting the same objective, is to develop an independent district countywide that would assume trash/litter related services. This district would have the authority to establish a fee, collect a fee, and provide the services. Of course, establishing the fee would have to comply with the requirements stipulated in Proposition 218 and Proposition 26. The process to form such a district would need to be thoroughly researched and reviewed with legal counsel, but likely require legislation. Another option is to utilize an existing district and expand their authority, also likely requiring legislation. (Is it possible the county could assume the role of this district and provide the services through a county service area????). There are two types of special districts, independent districts that have their own elected Board of Directors, and dependent districts that utilize the county's Board of Supervisors as their governing board. There will be political resistance either way, with opponents claiming this is another example of big government creating even bigger government and inefficiently spending money on additional staff, office space, etc.

Aside from the challenges and difficulties of forming such a district, another challenge is establishing the nexus between property ownership and the service provided to calculate the fee. Street sweeping is fairly straightforward, as a charge can be calculated for each property that fronts on a street being swept. The cost of litter pickup at random locations would be more difficult to attach to each property. Unfortunately, perhaps the easiest service fee to calculate, street sweeping, is considered a general government service and would not fall under the exemption of refuse collection. An ambitious project that forms a countywide district to provide inlet cleaning and litter pickup services would likely attract legal opposition from taxpayer associations that protect the sanctity of Proposition 218.

In conclusion, while it may be technically possible to form a district and establish a fee to fund trash reduction services, there will be significant political hurdles to forming such a district and there will likely be legal challenges. It is not recommended to advance this option for further evaluation in Phase 2.

**Litter/Trash Property Related Fee.** A refinement of the Litter/Trash District option described above is to fund all trash reduction services through a property related fee. This would be similar to the 2012 Initiative, except the fee would be focused solely on litter and trash reduction services

so the fee could be adopted without a ballot. The fee would be adopted through the standard majority protest process under the "refuse collection" exemption in Proposition 218. The program to develop the fee report, the assessments, noticing, public hearings, and outreach would all be similar to the 2012 Initiative, however the process would stop just prior to the mailing of ballots to property owners. After the public hearing, assuming no majority protest, the Board of Supervisors could adopt the fee. That is assuming the Board of Supervisors would be agreeable to this project.

### **Pros**

- **Easier Process.** A majority protest process is easier to administer and has fewer steps than a property related fee with a balloting process.
- **Politically Defensible.** Litter is everywhere and affects everyone. Litter impacts the environment, degrading habitat, killing wildlife, etc., which also affects everyone.

### **Cons**

- **Equity.** There may be arguments that some communities have less trash than others and should be charged a lower fee or have no trash and should not be charged at all. A solid study would have to be done to show the link between trash and all citizens in the county.

In conclusion, this option should be evaluated further in Phase 2 to answer two key questions – is this option legally defensible, and would it be politically acceptable. On August 11, 2022 the California Supreme Court filed an opinion, *Zolly vs City of Oakland*, that the City did not show their franchise fees for garbage service were exempt from the process required when imposing a tax, as outlined in Propositions 218 and 26. The City had included a franchise fee in their garbage service contracts that was higher than other franchise fees charged around the Bay Area. The City was sued by a group of property owners claiming the franchise fee exceeded the reasonable value of the franchise and the portion of the franchise fee that exceeded the reasonable value was therefore a tax. The case was remanded back to the Alameda County Superior Court, so additional clarity may be forthcoming. This will have to be examined in more detail in Phase 2 to see if it would impact the viability of this option.

**Regulatory Fee.** Permittees, in their capacity to govern and provide services, can establish certain fees that are not taxes, assessments, nor property related fees. These fees are adopted through the police powers they have as a local government entity. These are typically specific fees for specific identified mitigations to a specific subset of the community. For example, a fee on commercial and industrial polluters to offset cleanup costs or on liquor stores or fast-food restaurants to defray the cost of cleaning up litter. The concept for this option would be extending such a fee to all residential parcels to pay the cost of cleaning up pollution from their properties. This would require a thorough legal review to ensure its legality, recognizing it would be difficult to make the nexus between the cost of pollution cleanup and individual parcels. Pollutant generation based on land use would likely be the starting point for analysis, however there would have to be consideration for exemptions or reductions for a variety of reasons, such as owning an electric car which has less polluting oils, having no car at all, or having converted all external impervious surfaces to permeable paving.

Proposition 26, approved in 2010, tightly defined the definition of taxes but did allow seven exemptions, one of which allows charges "imposed for the reasonable regulatory costs to a local

government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof." Since the "local government" referred to in the exemption are permittees, this could be implemented at the permittee level but difficult to do at the countywide level.

The City of Encinitas added a Clean Water Regulatory Fee to their monthly garbage bill in 2004 to pay for the compliance costs of their stormwater permit. A lawsuit was filed and settled out of court. Encinitas agreed to conduct a ballot measure, which subsequently failed, forcing the City to reimburse the fees that had been collected.

In conclusion, due to the difficulty in meeting the exemption for implementation at the Program level, this option is not recommended for further evaluation. However, each permittee should review their stormwater services needs and determine if anything can be charged out with this type of fee.

**Impact Fee.** This option involves adopting and charging a one-time fee, usually at the time of development application or construction, to mitigate the impact of the development project. Many permittees have fees for parks, schools, transportation, water, sewer, and other infrastructure or institutions that are impacted by the development. Development projects are designed to offset their stormwater impacts by infiltrating stormwater and treating runoff before it drains off from the site. However, no matter how careful the design, there is often a net impact on stormwater quality that is not mitigated. An impact fee could therefore be justified to mitigate the project's impact. This type of fee could only be adopted at the individual permittee level. This would require each permittee to analyze and evaluate their impact fee schedule to determine if they could justify an increase in their stormwater fee to ensure full mitigation of development impacts.

In conclusion, as this option could only be implemented at the permittee level, it is not recommended for further evaluation in Phase 2.

**Community Facilities District.** These districts are also called Mello-Roos Districts because the legislation that enables the formation of these districts is the Mello-Roos Community Facilities Act adopted in 1982. Many permittees are currently utilizing community facilities districts to fund the maintenance of such things as lighting, landscaping, and park maintenance. The district charges a special tax on properties that have voted into the district to pay for services and projects on the district's work program. This option works well on a permittee level and is compatible with current business practices in the permittee's jurisdiction. If this option were applied countywide, then a community facilities district would be adopted by the County Board of Supervisors, probably through the Flood Control District, an entity that has countywide jurisdiction and a mission that includes stormwater. Research would need to be done to determine if a dependent special district, such as the Flood Control District, could adopt a community facilities district. Development projects would vote into the community facilities district, as part of the development process, before the development is sold. Permittees would have to condition development approval upon joining the community facilities district and coordinate with the County to ensure their development is voted in. This option would not generate a lot of funding revenue, but the revenue would grow over time as more and more development votes into the community facilities district (CFD). The special tax created by a CFD is collected on the property tax bill but is not restricted to the 1% and 2% property tax limitations established by Proposition 13 as it is not based on the property's assessed value.

There is a multi-step process that is required to form a viable Community Facilities District:

- **Initiation of CFD.** A property owner or local government agency identifies the need for a CFD and begins the process to form one.
- **Local Goals and Policies.** Local goals and policies must be developed and adopted by the agency proposing this special tax district. These are the rules that must be followed by participants in the prospective CFD.
- **Rate and Apportionment.** The Rate and Method of Apportionment outlines how a tax will be levied or charged, on which property, under what conditions, for how long, and at what rate.
- **Resolution of Intention.** If there are no objections to the proposed rules and policies, then a CFD can be formally proposed by the local government agency adopting a resolution of intention.
- **Public Hearing.** A public hearing is held and if there are no objections by the majority of participants, then the CFD formation process continues.
- **Resolution of Formation.** This step is a resolution to incur debt if applicable.
- **Election.** An election is held amongst the residents or property owners. To establish a CFD, a two-thirds affirmative vote of property owners is required if there are no more than 12 registered voters living within the proposed district service area. However, if more than 12 registered voters are living within the district service area, then a two-thirds vote of registered voters is required.
- **Issue Debt.** If bonding is desired for capital improvements, then the last step in the formation process is to issue any necessary debt such as land-secured municipal bonds or bank loans.

Once the formation process is complete, a special tax is imposed on all property within the Community Facilities District. This special tax is not part of the property tax, but is collected on the property tax bill. Some of the advantages and disadvantages of this option include the following:

#### **Pros**

- **Versatile.** A CFD can fund a variety of services and finance virtually any infrastructure improvements that a local agency manages using special taxes.
- **Flexible Financing.** The Rate and Method of Apportionment, which determines the breadth and scope of taxes used in financing the CFD, is not subject to the strict principles of benefit assessment engineering. If bonds are desired, CFD taxes are often a favored approach because they are commonly bonded. The financial markets are familiar with this revenue stream and are willing to lend against it.

#### **Cons**

- **Administrative Burden.** A CFD can be complex to administer over time. The annual tax needs to be calculated and billed annually, parcels need to be tracked, payment delinquencies need to be monitored, specialized reports need to be created, and bond administration and reporting are needed (if bonds are involved). The use of specialized consultants may be needed to manage the CFD.
- **Higher Taxes.** The CFD special tax is an additional tax for the properties involved, which can be politically undesirable if the resultant taxes are substantially higher than adjacent communities or neighborhoods.

- **Failure to Pay Penalties.** If a bond is issued, it is considered a lien against the properties in the CFD and failure to pay the tax may result in foreclosure. CFDs are notably subject to accelerated foreclosure laws.
- **Coordination.** The vote into the CFD would occur at the permittee level where the development is located, but overall CFD administration would be at the county level, so coordination would be very important.

In conclusion, this option is easy to implement on a permittee level but needs to be researched to determine if it could be advantageously applied at the countywide level. A countywide CFD is being considered with the Alternative Compliance System, so the research needed for that project could be expanded to include the needs for funding stormwater services and programs. The potential revenue from this option is relatively small but would grow over time. (Compare number of parcels today with the number of parcels 20 years ago to demonstrate the amount of revenue potential in 20 years)

**Unfunded Mandate Claim.** An unfunded state mandate is a requirement imposed by a state law or regulatory action that requires local agencies to implement a new program or higher level of service, and without accompanying revenue to cover the cost of compliance. When the Regional Water Board issues a stormwater permit with requirements that amount to an unfunded mandate, permittees may file a claim with the Commission on State Mandates. The claim is for an unfunded state mandate, to pay the costs incurred from a new state program requirement or higher level of service, that also must exceed federal requirements. The claim must be filed within one year of the effective date of the new requirement or one year from the date new costs are incurred. To be safe, a claim relative to MRP 3.0 should be filed by July 1, 2023. The contents of the claim must include everything required by state statute, but in general must identify and describe the requirements specific to the mandate and a detailed description of the activities and costs incurred by the mandate. When the claim is filed, Commission staff will determine if the claim is complete or not and return incomplete submittals.

There are two important tests in the government code (Section 17556) that the Commission will analyze to determine if the claim is disqualified as an unfunded state mandate.

- **Meets Federal Requirement.** First, the State "statute or executive order (i.e. permit requirement) imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation."
- **Local Capacity To Pay.** Second, the "local agency . . . has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

Senate Bill 231, enacted in October 2017, theoretically allows local agencies to adopt stormwater fees without voter approval. The Water Boards claim this statute allows permittees to sufficiently fund their stormwater programs, so stormwater permits are therefore not an unfunded state mandate. The Court of Appeals is currently hearing a case on this issue with a stormwater permit issued to San Diego County (cite court case). The outcome of this court case could dictate whether a stormwater permit requirement could qualify as an unfunded state mandate.

A typical lengthy and transparent government process begins with the claim submittal to the Commission on State Mandates. When the submittal is complete, Commission staff issue a notice of completion and send the claim out for comments. Claimants have an opportunity to rebut any comments sent to the Commission. Commission staff then prepare a draft proposed decision

which is sent out for comment. The proposed decision is then finalized, and a hearing scheduled before the Commission. If the claim is approved by the Commission, then draft proposed parameters and guidelines are prepared to determine the reimbursement amount and distributed for comment. A second hearing is scheduled before the Commission to adopt the decision, parameters, and guidelines. Within 90 days of the Commission's decision, the State Controller will issue claiming instructions, which permittees would then use to file a claim for reimbursement. Initial reimbursement claims to the State Controller must be filed within 120 days of the issuance of the claiming instructions. The State Legislature must then appropriate funding to pay the claims. The Commission, twice each year, reports on the initial claims filed, the number of mandates found to be unfunded, and a statewide cost estimate for eligible costs for each mandate and reimbursement.

It's quite a lengthy and expensive process to be included on the list for appropriation. In terms of the success rate in receiving funds, the following should be considered:

- There are 13 stormwater permit claims filed with the Commission waiting to be heard, and on August 17, 2022, Commission staff released a draft decision on the claim regarding the Santa Ana Regional Water Board permit refuting each and every claim by the claimant
- There were test claims filed for MRP 1.0 and MRP 2.0 that are still waiting for a decision as to whether any or part of their permit can be reimbursable
- For claims that are successful, the State legislature still needs to adopt an appropriation to fund permit work (a "subvention" of funds), which they may approve/amend/deny, or eliminate or reduce the mandate

If the Commission approves the claim, but the Legislature fails to approve funding for an unfunded state mandate, then there is a separate process for local agencies to have the mandate removed or declared unenforceable.

In conclusion, it will cost money to prepare and file a claim with the Commission and the odds are high that it will be denied. It is recommended to file a claim only collectively through a regional collaborative, rather than individually as the Contra Costa Clean Water Program.

**Time Schedule Order.** A Time Schedule Order (TSO) has been used in the past to amend compliance schedules where permittees could not meet the permit requirements associated with final TMDL deadlines for water quality effluent limits. Typically, permittees would discuss a TSO with Regional Water Board staff before filing a request, and if agreeable the Regional Water Board would issue a TSO allowing permittees to comply on a schedule outside of the permit. For example, a TSO for stormwater discharges in the Ballona Creek watershed was granted to give permittees more time to meet the permit requirements. This approach doesn't add funding, but stretching a given amount of funding over time can result in the same positive impact on permittee budgets. It should be noted that a TSO protects permittees from Regional Water Board enforcement actions, but it does not necessarily immunize permittees from citizen suits under the Clean Water Act.

In conclusion, a time schedule order might be a good strategy where there are many permittees that cannot meet a required timeline, for example the 90% or 100% trash load reduction schedule. In that case, it would be more advantageous to request a time schedule order through a regional effort.

**Basin Plan Amendment.** The Regional Water Board amends their Basin Plan to meet statutory amendment requirements or make changes to reflect new information or understanding of regulatory drivers, time schedules, and pollutant loading. For example, it has been shown in the Reasonable Assurance Analysis that the required PCB load reduction in the Bay will not be achieved by the TMDL schedule in the Basin Plan. At some point, the Basin Plan will need to be amended to reflect a more realistic schedule based on new information and understanding. The Los Angeles Regional Board, for example, recently adopted a number of basin plan amendments for impending final TMDL deadlines that are impossible to meet, which have been approved by the State Board. Basin Plan amendments can reflect other agreed to changes that may be advantageous to permittees, such as trash load reduction schedules. One advantage of a Basin Plan amendment over a Time Schedule Order, is that a Basin Plan amendment protects permittees from third-party litigation. Under this option, permittees would work with the Regional Water Board to include desired permit changes along with a planned basin plan amendment. Alternatively, if agreeable to the Regional Water Board, a basin plan amendment could be done for the sole purpose of changing permit requirements if that is more efficient than changing all the permits in the Bay Area. For example, something foundational in the basin plan that affects all stormwater permits, similar to a TMDL load reduction schedule.

In conclusion, this option could be considered in tandem with the Time Schedule Order option, and should be implemented through regional collaboration. This option is dependent on the timing of basin plan amendments by the Regional Order Board.

**Legislative Approach.** There have been five attempts (the first in 2003) to amend the State Constitution to allow an agency to adopt stormwater funding without voter approval. The last attempt began in 2014 and was abandoned two years later. From a statewide perspective, there are four driving forces that have brought wider attention to the lack of funding for certain stormwater-related essential services.

- **Aging Infrastructure.** Many flood control and stormwater drainage facilities are reaching the end of their service life yet there is no funding available for capital replacement, let alone sufficient funding for routine maintenance.
- **Stormwater Permits.** Every five years the Regional Water Quality Control Boards issue permits to counties and cities requiring them to reduce pollutant loading in stormwater flowing through their jurisdiction. These requirements are becoming excessively expensive with no dedicated source of revenue.
- **Flood Prone Areas.** Every County has communities with substandard or no stormwater drainage improvements resulting in property inundation during moderate storms. Though the problems are well-known, there is no funding available to install the necessary drainage improvements.
- **Drought.** California has experienced drought conditions over the past several years, which has focused attention on the need for alternative sources of water supply. Stormwater is recognized as a potential alternative source, but there is inadequate funding to develop the necessary infrastructure.

In 2014 the County Engineers Association of California approved a Funding Strategy, developed a Work Plan to implement the Strategy, formed a committee to oversee the project, and hired a consultant to do the work. The objective was to amend Proposition 218 to add stormwater as an exemption along with the existing exemptions of water, wastewater, and refuse collection. A coalition of diverse statewide organizations was formed, attorneys from four of the organizations began drafting ballot language, and in an effort to increase support, lifeline and conservation

rates were included. Proposition 218 is embedded in Article 13 of the Constitution and is considered by many to be unassailable. To circumvent that hurdle, the attorneys proposed an elegant solution by modifying Article 10 instead. In early 2016, the Attorney General issued the official title and summary of the ballot measure. The coalition polled support for a ballot measure with that title and found there was insufficient support to win an election. At that point, the coalition abandoned the ballot measure.

There were lots of lessons learned from this effort, which are noted in a final project report to the County Engineers Association of California (see [Attachment 6](#)). One of the most strategic breakthroughs was focusing on changes to Article 10 instead of Article 13, which would be very helpful in an outreach campaign. Of course, timing is everything and polling should be done on an occasional basis to determine when the driving forces have impacted public opinion enough to launch another ballot measure.

In conclusion, the four driving forces that launched the ballot measure effort in 2014 still exist today and are arguably even more relevant. It is a long and arduous process to win approval through the legislature for a ballot measure, and then it must go before the voters for final approval. However, it is an effort that requires a coalition of many statewide interests, so it is easy to participate through a statewide organization without expending a lot of time and effort.

**Grants.** Every so often voters pass a bond measure that provides funding for a variety of state grants that supplement grants provided by the state legislature through various state departments, such as the Department of Water Resources. In addition, there are federally funded grant programs, such as the Water Quality Improvement Fund the Program recently applied for, foundation grants, and other local grant programs. The Program is currently tracking 30 different grants, so there is no shortage of funding opportunities. Though there are many grant opportunities to apply for, funding is generally directed to meet specific objectives or outcomes, which can sometimes be difficult to achieve and still meet stormwater program objectives. Applying for grant funding is a highly competitive process and generally requires matching funds. If funding is awarded, the process to approve a contract, administer the funds, and meet the reporting requirements can be bureaucratic and time-consuming. Grants are generally focused on capital improvements with little or no funding available for operations and maintenance or program level activities. However, MRP 3.0 includes requirements that are focused on project level improvements, which makes grants more viable as a funding source.

In conclusion, grants as a source of funding are more viable under the current stormwater permit. If the Program chooses to focus on grants there should be consideration to either hire a dedicated grant writer, partner/contract with a nonprofit or other organization (potentially the Alternative Compliance System) to write grant applications, or hire a grant writer consultant.

**State Revolving Fund.** The state Clean Water Revolving Fund provides loans to applicants for a variety of projects. Funding for the program comes from a combination of state and federal EPA funds, but administration is through the state. Interest rates on the loans vary from market rate to 0% depending on state priorities for providing incentives to various types of projects or project location (e.g. disadvantaged communities). The loan term may extend out to 30 years. Interest payments from the loans go back into the revolving fund, which provides funding for more loans.

In the past, funding has gone primarily to wastewater related projects. In an effort to increase funding for stormwater projects related to NPDES permits, EPA is currently conducting a survey



(Clean Watersheds Needs Survey) to determine the national financing need to meet local stormwater permit project requirements. Given this new interest from EPA, obtaining funding through the Revolving Fund may be more successful going forward. Like most loan programs, the applicant must show they have a dedicated revenue stream to make interest payments, giving the Program an advantage with its annual SUA funding.

In conclusion, this option is similar to grant funding in that there are generally more applications than funds available. If the Program decides to pursue grant funding and develops the resources to apply for grants, then this should be included as a potential funding source. And like most grants, these loans only cover capital costs, not maintenance.

**Regional Approach.** When the Regional Water Board instituted the regional permit in 2009, with MRP 1.0, the major stormwater programs around the Bay Area all had the same requirements. For certain permit provisions it is less expensive to meet a requirement through a regional effort than through individual local efforts. With MRP 3.0, the Bay Area Municipal Stormwater Collaborative (BAMSC) approved working on five projects that would meet requirements for all BAMSC permittees. There may be other permit requirements that would be more efficient and cost-effective to do through a regional effort, or through a sub-regional effort with another county, for example a joint effort with Alameda County.

In conclusion, the MRP 3.0 requirements should be analyzed thoroughly for further opportunities for regional or sub-regional collaboration. The Program's "MRP 3.0 Five-Year Work Plan" can be used to review and analyze all of the requirements.

**California's Water Supply Strategy.** In August 2022, Governor Newsom released the "California's Water Supply Strategy, Adapting to a Hotter, Drier Future". The report outlines a variety of actions to increase water supply, some of which provide opportunities for funding stormwater projects. While the focus is on water supply reliability and sustainability, stormwater capture plays a role through such projects as increased infiltration to raise groundwater levels, diversion to wastewater treatment plants for subsequent use as reclaimed water, and rainwater harvesting for local community irrigation needs. (Information on the application process)

In conclusion, the Water Supply Strategy should be reviewed in depth to identify opportunities for funding stormwater projects and services applicable to the Program. If opportunities are identified, then the application process should be added to the resource needs for grant writing discussed in the "Grants" section above.

## **5. Summary and Recommendations**

This report analyzes 23 different options for developing additional revenue to fund stormwater services, programs, and projects at either the permittee level or the Program level. The next several sections of the report summarize those options that are not viable for either Permittee or Program implementation, those that would best be implemented at the permittee level, those that would best be implemented at a regional level and those that are recommended for further evaluation in Phase 2, as they are viable options for the Program. The criteria for determining whether an option is viable or not is somewhat subjective, but the reasoning is explained in the analysis of each option. None of the options are hurdle free, but some hurdles are higher than others. An option with a two-thirds vote requirement has a very high hurdle, making that option

non-viable. One option, community facilities district, is shown in two sections, as it could be viable implemented at the permittee level or the Program level.

**Non-Viable Options.** The following options are considered nonviable options at this time. It is always good to review this list of options from time to time, as some currently non-viable options may become viable when the statutory, political, and/or regulatory context changes.

- **Parcel Based Tax:** Requires two-thirds voter approval.
- **General Obligation Bonds:** Requires two-thirds voter approval. However, could be viable if an appropriate partner is identified.
- **Transient Occupancy Tax:** Difficult to show nexus with stormwater services.
- **Vehicle License Fee:** Not an appropriate vehicle for funding stormwater services.
- **Senate Bill 231:** Guaranteed lawsuit by the Howard Jarvis Taxpayers Association.
- **Litter/Trash District:** Too many structural, political, and institutional hurdles to overcome.

**Viable Options for Permittee Implementation.** These are options that are not recommended for Phase 2, but could be implemented at the permittee level.

- **User Tax:** Each permittee would need to identify service areas where there is a direct connection with individual property owners so a user type fee could be implemented.
- **Sales Tax:** Each permittee would need to determine if there is support in their community for a sales tax to fund stormwater services. Requires a two-thirds voter approval.
- **Benefit Assessments:** Permittees we need to decide what improvements, or maintenance, would be funded and whether the district would cover the entire jurisdiction or subsets of the jurisdiction and whether it would be for development projects only or also include existing homes.
- **Decentralize Costs.** Each permittee would analyze their stormwater services needs, the infrastructure they control, and their capacity to charge a fee and determine if any fees could be adopted under the Proposition 218 exemption of either water, sewer, or refuse collection.
- **Regulatory Fee.** Each permittee would review their stormwater services needs to determine if anything can be charged out with this type of fee.
- **Impact Fee:** Each permittee would analyze their development impact fee schedule to see if any additional fees or fee increases could be justified for development projects.
- **Community Facilities District:** If a countywide CFD is not formed then each permittee would review the feasibility of adopting a CFD for their jurisdiction.

**Viable Options for Regional Implementation.** These are options that are not recommended for Phase 2, but could be implemented at the regional level.

- **Unfunded Mandate Claim:** Since all permittees in the Bay Area would benefit, it makes sense to share the cost of preparing and filing a claim with the State Commission on Mandates. The region, through the Bay Area Municipal Stormwater Coalition, would decide what aspects of the stormwater permit are appropriate for filing a claim, if any.
- **Time Schedule Order:** The region, through the Bay Area Municipal Stormwater Coalition, would decide what aspects of the stormwater permit are appropriate for filing a TSO with the Regional Water Board. A collective request for a TSO would be a stronger

request than an individual request, however each countywide program would be free to explore their own TSO if BAMSC decides not to pursue one.

- **Basin Plan Amendment:** This approach would be similar to the Time Scheduled Order, but would take advantage of a planned basin plan amendment by the Regional Water Board to include other permit modifications desired by permittees
- **Legislative Approach.** The Program would need to discuss with CASQA how to become more involved in supporting and influencing a legislative approach to place a ballot measure before the voters that would support stormwater and modify Proposition 218.

**Options Recommended for Phase 2.** The following are the options recommended for further evaluation in Phase 2 of this report. Phase 2 will further analyze these options and describe the process to make the final decision on which option to choose, if any.

- **Property Related Fee**
- **Litter/Trash Property Related Fee**
- **Community Facilities District**
- **Grants**
- **State Revolving Fund**
- **Regional Approach**
- **California's Water Supply Strategy**

Though there are seven options for further evaluation in Phase 2, which seems like a lot, three of the options (grants, States Revolving Fund, California Water Supply Strategy) are very similar, as they are opportunities for one time injection of funds, and would be evaluated together. The Regional Approach option would not develop additional ongoing revenue, but would result in savings through regional efficiencies. That leaves three options for increasing revenue: a property related fee similar to the 2012 Initiative, a litter/trash property related fee, and a community facilities district.

**Policy Questions.** The following are policy level questions that the Management Committee should consider as part of the Phase 2 evaluation process. Additional policy questions will likely emerge as the project moves into Phase 2.

- If a large enough group of permittees are implementing an option at the local level, would it make sense for implementation templates to be developed at the Program level?

## 6. Next Steps

- Review and consider Phase 1 of Stormwater Funding Options Report and conclusions, and provide any direction and comments to staff
- Describe and discuss the process, at the Program and permittee level, to approve the recommendations in this Phase 1 report
- Identify additional information needed, if any, prior to deciding on next steps
- Describe and discuss project objectives
  - Provide funding to as many permittees as possible to ensure equity?
- Discuss the need for and timing of polling and/or surveys
- Approve the Phase 1 Stormwater Funding Options Report
- Direct staff to prepare Phase 2 of the report

G/NPDES/Funding Initiatives/2022 Stormwater Funding Options Report

Proposed BAMSC FY 22-23 Regional Project Profiles, Budgets and Schedules  
 BAMSC Internal Steering Committee, September 22, 2022

MRP 3.0 Provision	Project	MRP Due Date	BAMSC Oversight Group	Draft Project Costs					Totals
				ACCWP	CCCWP	SMCWPPP	SCVURPPP	SSA	
C.8.d	Regional LID Monitoring QAPP	1-May-23	MPC	\$ 6,184	\$ 4,330	\$ 2,788	\$ 6,698		\$ 20,000
C.10.g.ix	Trash Full Capture Impracticability Report	31-Mar-23	New Project Specific WG	\$ 17,214	\$ 12,051	\$ 7,759	\$ 18,642	\$ 2,834	\$ 58,500
C.12.g.iii(3)	PCBs in Demolition Protocol & Guidance Update	30-Sep-23	MPC	\$ 10,290	\$ 7,210	\$ 4,655	\$ 11,165	\$ 1,680	\$ 35,000
C.17.a.ii (1)	BMP Report/Unsheltered Homeless	30-Sep-23	New Project Specific WG	\$ 14,700	\$ 10,300	\$ 6,650	\$ 15,950	\$ 2,400	\$ 50,000
C.20.c.i	Cost Reporting Framework and Methodology	30-Jun-23	New Project Specific WG	\$ 18,228	\$ 12,772	\$ 8,246	\$ 19,778	\$ 2,976	\$ 62,000
C.22	Annual Report Format	1-Mar-23	Steering	\$ 4,410	\$ 3,090	\$ 1,995	\$ 4,785	\$ 720	\$ 15,000
	<b>Totals</b>			<b>\$ 71,026</b>	<b>\$ 49,753</b>	<b>\$ 32,093</b>	<b>\$ 77,018</b>	<b>\$ 10,610</b>	<b>\$ 240,500</b>
Proportion Cost Share				29.5%	20.7%	13.3%	32.0%	4.4%	
Pop-based Target				29.4%	20.6%	13.3%	31.9%	4.8%	

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Name: Regional LID Monitoring QAPP**

**Description/Scope/Tasks:**

MRP 3.0 Provision C.8.d requires permittees to submit an LID Monitoring Plan by May 1, 2023. These plans must include study-specific Quality Assurance Project Plans (QAPPs), which, at a minimum, are comparable to the SWAMP QAPrP. The objective of this project is to develop a regional QAPP that can be modified by each program for inclusion in the program's LID Monitoring Plan. Implementation of this project will provide two deliverables: (1) a SWAMP comparable QAPP for BAMSC, and (2) a programmatic eQAPP delivered directly to the CEDEN data node at Moss Landing Marine Lab (MLML) associated with transition to CEDEN 2.0 in early / mid 2023. Each item is briefly discussed below.

The narrative QAPP will be based in large part on the QAPP for the Clean Watersheds for a Clean Bay project. Modifications will include update of project-specific information that describes project participants, goals, efforts, data management, etc. Description of sampling methodology and general data quality and how it relates to BAMSC sampling will remain largely unchanged. Description of specific analytical measurement quality objectives (MQOs) is currently envisioned to be removed from the document and replaced with a reference to the eQAPP; this is, however, subject to change as CEDEN 2.0 protocols firm up over the next six months.

The eQAPP will be developed in cooperation with collaborating laboratories and MLML data quality staff. The eQAPP is a new product that will likely roll out in early 2023, so requirements, protocols, and deliverables are highly uncertain at this time. Specific efforts will likely include compilation of all laboratory methods associated with LID monitoring and delivery of method-specific data on MQOs employed for each along with associated numerical control limits. At this point it is unknown whether there will be minimum Water Board requirements overlain on top of the laboratory MQOs, as was the case with prior requirements for SWAMP comparability. The eQAPP delivery process is similar in nature to that associated with data delivery through GeoTracker portal but will present information in a single eQAPP covering all project analytical methods rather than requiring submittal of batch-specific data with delivery of each electronic data deliverable.

Delivery of the narrative QAPP is expected to take the longer duration, given the typical backlog of QAPPs requiring review by Water Board staff. After a brief kick-off to define project structure and roles, AMS will provide a draft QAPP for BAMSC review within 30 days of kickoff meeting. AMS will then revise the draft to address comments and deliver a revised draft to Water Board staff for review. AMS will then prepare a final version to address all comments received.

Concurrently, AMS will work with project laboratories to develop the eQAPP as the CEDEN 2.0 template becomes available (likely by end of 2022 calendar year). AMS maintains an on-call contract with MLML, which we can use to facilitate initial development of the eQAPP and update as laboratory methods / capabilities change.

**FY: 2022-23**

**MRP Provision Reference: C.8.d**

**Oversight Subcommittee/Workgroup: MPC**

**One-time  multi-FY**

**MRP Compliance date(s): May 1, 2023**

**Profile last updated on: 9/20/2022**

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Total Project Budget: \$20,000**  
(see below for details)

**Date Project and Funding Contributions  
Approved by Steering Committee:**

**Funding Contributions and Types by BAMS Collaborative Program:**

<b>Program</b>	<b>In-kind Contribution Amount (\$)</b>	<b>Lead In-kind Staff or Consultant</b>
ACCWP	\$6,184	AMS
CCCWP	\$4,330	AMS
SMCWPPP	\$2,788	AMS
SCCVURPPP	\$6,698	AMS
<b>Total</b>	<b>\$20,000</b>	

**Project Schedule:**

<b>Task</b>	<b>Deliverable(s):</b>	<b>Due/Completed</b>	<b>Budget</b>
Regional QAPP	Draft QAPP	December 2022	
	Program review	February 2023	
	TAG review	March 2023	
	Final QAPP eQAPP	April 2023	
<b>Total</b>			<b>\$20,000</b>

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Name: Trash Impracticability Report**

**Description/Scope/Tasks:**

MRP 3.0 provides the opportunity for Permittees to collectively submit a programmatic report that describes conditions under which it is impracticable to control trash via full trash capture devices. The report must be approved by the Water Board Executive Officer and conclusions included in the report can be used by Permittees when developing updated Long-term Trash Reduction Plans. As described in provision C.10.e, the impracticability report shall include, but not be limited to, the following:

- A description of the engineering constraints that prevent the installation of full trash capture devices;
- A process for evaluating and determining impracticability of full trash capture devices; and
- Alternative controls or a combination of controls that may be implemented to reduce trash loads to meet the requirements and deadlines in Provision C.10.a (Trash Reduction Requirements). Examples of alternative controls include, but are not limited to, requiring businesses or property owners to pick up litter, successful implementation of excess trash receptacles and collection services, increased code enforcement or parking enforcement/ticketing/towing, additional trash pick-ups, street sweeping, assessment and execution of cooperative implementation opportunities with Caltrans or neighboring Permittees, curb inlet screens, and long term measures such as pump station or storm drain retrofits, implementation of green stormwater infrastructure that controls trash, or changes to the catchment to allow effective implementation of full trash capture measures.

To guide this project, a Trash Impracticability Work Group will be formed that includes Program and/or Permittee staff. The Lead In-kind Staff/Consultant for the project will coordinate the Work Group meetings (budget assumes 3 meetings) and develop a draft report outline that further defines the project. The draft outline will be reviewed by the Work Group and other interested Permittees/Programs. Comments provided will be incorporated into the final draft outline for the report.

The lead in-kind staff/consultant will then develop a brief survey and distribute to MRP Permittees, engineering consultants, and vendors to identify the engineering constraints that prevent the installation or proper functioning of full capture devices. Following the completion of the survey, the lead in-kind staff/consultant will conduct follow-up communications with survey respondents and other engineers knowledgeable about trash full capture engineering feasibility, and document conditions under which full capture device installation is impracticable. Through the knowledge gained through this process, the lead in-kind staff/consultant will also develop a draft process flow-chart for Permittees to use when evaluating and determining whether a full capture system is impracticable to install and/or operate. Both large (high-flow capacity) and small (inlet -based) devices will be included in the engineering constraint survey and the process flow chart.

In parallel to the full capture engineering constraints evaluation, the lead staff/consultant will also document information on other types of trash controls or combinations of controls that may achieve a trash load reduction equivalent to full capture devices. Documentation will be constrained to existing information on the effectiveness of other types of trash control measures to achieve MRP milestones.

Lastly the in-kind staff/consultant will develop one draft and one final draft Trash Impracticability Report for review and comment by all MRP Permittee and Program staff. Each Countywide Program will be responsible for distributing the draft report to its member agencies and compiling the comments received and obtaining approval of final draft products according to the schedule below. One final Trash Impracticability Report will be developed as the final deliverable for the project and provided for submittal to Water Board staff by March 31, 2023.

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

FY: 2022/23

One-time X multi-FY \_\_\_\_\_

MRP Provision Reference: C.10.e

MRP Compliance date(s):

Submittal by March 31, 2023, for the approval of the Executive Officer

Oversight Subcommittee/Workgroup:  
Trash Impracticability Work Group (New)

Profile last updated on: 9/8/22

Total Project Budget:  
(see below for details)

Date Project and Funding Contributions  
Approved by Steering Committee: TBD

**Funding Contributions and Types by BAMS Collaborative Program:**

Program	In-kind Contribution Amount (\$)	Lead In-kind Staff or Consultant
ACCWP	\$17,214	EOA
CCCWP	\$12,051	LWA
SMCWPPP	\$7,759	EOA
SCVURPPP	\$18,642	EOA
SSA	\$2,834	SSA Manager
<b>Total</b>	<b>\$58,500</b>	

**Project Schedule:**

Task	Deliverable(s):	Due/Completed
1. Draft Report Outline and Survey	Draft outline and survey questions	Sept 30, 2022
2. Work Group Meeting #1	Meeting Summary	Week of Oct 3, 2022
3. Release Survey	Final Survey	Oct 17, 2022
4. Close Survey	Survey Results	Nov 1, 2022
5. Follow up Communications with Engineers	Documentation of additional information on engineering constraints	Nov 18, 2022
6. Identify Potential Alternative Equivalent Control Measures	Documentation of control(s) that have demonstrated full capture equivalency	Nov 18, 2022
7. Final Draft Report Outline	Final Draft Outline (annotated)	Nov 28, 2022
8. Work Group Meeting #2	Meeting Summary	Week of Dec 5, 2022
9. Draft Impracticability Report	Draft Report	Jan 23, 2023
10. Work Group Meeting #3	Meeting Summary	Week of Feb 20, 2023
11. Draft Final Impracticability Report	Response to Comments Draft Final Report	March 6, 2023
12. Final Impracticability Report	Final Report	March 20, 2023



**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Name: Managing PCBs during Building Demolition – Guidance Update**

**Description/Scope/Tasks:**

MRP 3.0 Provision C.12.g. requires that before issuing a demolition permit, Permittees continue to implement the program developed during MRP 2.0 for managing PCB-containing materials during building demolition. Applicable Structures are defined as buildings built or remodeled from January 1, 1950 through December 31, 1980, with the following exemptions: single-family residential buildings, wood-framed buildings, and buildings undergoing partial demolition. MRP 3.0 additionally requires new enhancements to the program, including as of July 1, 2023, for demolition of Applicable Structures containing building materials with PCBs concentrations  $\geq 50$  ppm, requiring Permittees to:

- Require demolition contractors to provide notification to the Permittees, the Water Board, and U.S. EPA at least one week before any demolition is to occur.
- Ensure construction sites are inspected during demolition and enhance their construction site control program to minimize migration of PCBs into the MS4. Enhancements may include inspecting demolition sites monthly during demolition activities in the dry season (May – September) and requiring the demolition contractors to sweep the project sites and the streets around the property with street sweepers that will effectively remove sediment and dust. Beginning with the 2023 rainy season, inspect demolition sites pursuant to MRP 3.0 Provision C.6 to ensure that effective construction pollutant controls are used to prevent discharge into the MS4.
- Verify that PCBs in demolished buildings are properly managed to minimize transport to the MS4 by obtaining official documentation that the building materials with PCBs concentrations  $\geq 50$  ppm in demolished Applicable Structures were disposed appropriately according to state/federal regulations.

MRP 3.0 Provision C.12.g. reporting requirements specify that in their 2023 Annual Report, Permittees discuss enhancements to their construction site control program to minimize migration of PCBs from demolition activities into the MS4. Beginning with their 2023 Annual Report, Permittees are required to provide:

- The number of Applicable Structures that applied for a demolition permit during the reporting year.
- A running list of the Applicable Structures that applied for a demolition permit since July 1, 2019, the number of samples each structure collected, and the concentration of PCBs in each sample.
- For each applicable structure, with PCBs concentrations  $\geq 50$  ppm: the project address, the demolition date, and a brief description of the PCBs-containing materials.

In addition, beginning with their 2024 Annual Report, MRP 3.0 requires that Permittees provide the following: whether the site was inspected during demolition, and for those cases where notification and advance approval from the U.S. EPA is not required and were approved for demolition after June 30, 2023, the hazardous waste manifest prepared for transportation of the material to a disposal facility.

## Bay Area Municipal Stormwater Collaborative Project of Regional Benefit Profile

The lead in-kind staff for this project will coordinate the following tasks:

1. To guide the project, form a Management of PCBs during Demolition Work Group that includes Program and Permittee staff. Industry and regulatory agency (e.g., Regional Water Board, EPA) staff may be included in selected discussions and/or asked to review selected deliverables as deemed appropriate by the workgroup. The project budget assumes the Work Group will meet twice.
2. Update the existing BASMAA Model Applicant Package to accommodate the new tracking and reporting requirements. A draft updated Model Applicant Package will be reviewed by the Work Group and other interested Program/Permittee staff. Each Countywide Program will be responsible for distributing the draft document to its member agencies and compiling the comments received according to the schedule below. Comments received will be incorporated into the final Model Applicant Package as appropriate.
3. Develop a proposed set of [recommended](#) inspection program enhancements for consideration by Program/Permittee staff. The [recommended](#) inspection program enhancements will consider the suggestions provided in MRP 3.0 and will build on the current C.6 inspection program. If [the recommended](#) enhancements include ~~requirements-parts that apply to~~ applicants, such as enhanced street sweeping, that information will be incorporated into the Model Applicant Package. Each Countywide Program will be responsible for distributing the draft document to its member agencies and compiling the comments received according to the schedule below. The final Model Applicant Package will be revised as appropriate based on the comments received. [Please note that the deliverables from this project will be a guidance document and if needed an updated model applicant package. Each permittee will ultimately have the flexibility to apply this guidance as it sees fit during its efforts to comply with Provision C.12.g.](#)

**FY: 2022/23**

**One-time**  **multi-FY**

**MRP Provision Reference:** C.12.g.

**MRP Compliance date(s):**

Implement program enhancements by July 1, 2023 and report on beginning September 30, 2023/4.

**Oversight Subcommittee/Workgroup:**  
MPC

**Profile last updated on:** 8/30/2022

**Total Project Budget: \$35,000**  
(see below for details)

**Date Project and Funding Contributions  
Approved by Steering Committee:** TBD

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Funding Contributions and Types by BAMS Collaborative Program:**

<b>Program</b>	<b>In-kind Contribution Amount (\$)</b>	<b>Lead In-kind Staff or Consultant</b>
<b>ACCWP</b>	\$10,290	LWA
<b>CCCWP</b>	\$7,210	LWA
<b>SMCWPPP</b>	\$4,655	EOA
<b>SCVURPPP</b>	\$11,165	EOA
<b>SSA</b>	\$1,680	FSSD
<b>Total</b>	<b>\$35,000</b>	

**Project Schedule:**

<b>Task</b>	<b>Deliverable(s)</b>	<b>Due/Completed</b>
1. Convene project Work Group	List of Work Group members	October 2022
2. Work Group Meeting #1	Meeting summary	October 2022
3. Develop Updated Model Applicant Package and Inspection Program Enhancements	<ul style="list-style-type: none"> <li>• Draft Model Applicant Package</li> <li>• Proposed Inspection Program Enhancements</li> </ul>	January 2023
4. Work Group Meeting #2 (discuss draft Model Applicant Package)	Meeting summary	February 2023
5. Finalize Updated Model Applicant Package and Inspection Program Enhancements	<ul style="list-style-type: none"> <li>• Final Model Applicant Package</li> <li>• Final Inspection Program Enhancements</li> </ul>	March 2023

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Name: Unsheltered Homeless BMP Report**

**Description/Scope/Tasks:**

To encourage ongoing regional, countywide and municipal coordination efforts, MRP Provision C.17.a.i.(2) requires Permittees to collectively develop a best management practice report that identifies effective practices to address non-stormwater discharges associated with homelessness into MS4s that impact water quality and specific milestones for reducing such discharges within a given timeframe. This report is due with the September 2023 Annual Report.

A BAMSC Unsheltered Populations Work Group (WG) will be formed and will conduct the following proposed approach. The BAMSC WG will develop an outline for the BMP Report. Each Countywide Program will be responsible for collecting information from the Permittees to complete a Countywide BMP Report. The Countywide reports will be compiled and the BAMSC WG will develop an Executive Summary based on the information collected in the Countywide reports. The BAMSC WG will finalize a regional BMP Report that includes the Executive Summary and the Countywide BMP Reports attached.

MRP Provision C.17.a.i.(2) requires the BMP report to:

- Describe practices that may be implemented by Permittees, including those currently being implemented, to address discharges associated with homelessness that are impacting water quality;
- Identify regional and/or countywide efforts and implementation actions to address discharges associated with homelessness (including how those efforts and actions have been affected by unsheltered homeless population growth). Include recommendations for engaging in these efforts and incorporating discharge-reduction strategies that also help meet the unsheltered population’s clean water needs;
- Identify actions taken during the COVID-19 pandemic to reduce the spread of the virus in homeless populations, such as temporarily housing homeless people in hotels, that may have reduced discharges associated with homelessness. Permittees shall consider the practicability of such actions for longer-term implementation;
- This task’s broader goals are to recognize non-stormwater pollutant sources associated with unsheltered homeless populations, reasons for discharges, and means by which they occur, and develop useful information that can be used toward prioritizing individual Permittee and collaborative best management practices for reducing or managing such discharges, while ensuring the protection of public health. Examples of collaborative implementation programs could include collaborative efforts between Permittees, Caltrans, sanitary sewer agencies, railroads, non-governmental organizations (NGOs), social service agencies and organizations, and other agencies

**FY:** 22/23

**One-time** X **multi-FY** \_\_\_\_\_

**MRP Provision Reference:** C.17.a.i.(2)

**MRP Compliance date(s):** September 30, 2023

**Oversight Subcommittee/Workgroup:**  
BAMSC Unsheltered Populations Workgroup

**Profile last updated on:** 9/19/2022

**Total Project Budget:**  
(see below for details)

**Date Project and Funding Contributions  
Approved by Steering Committee:**

## Bay Area Municipal Stormwater Collaborative Project of Regional Benefit Profile

### Funding Contributions and Types by BAMS Collaborative Program:

Program	In-kind Contribution Amount (\$)	Lead In-kind Staff or Consultant
ACCWP	\$14,700	EOA
CCCWP	\$10,300	LWA (Liz Yin)
SMCWPPP	\$6,650	EOA
SCVURPPP	\$15,950	EOA
Solano Alliance	\$2,400	FSSD (Emily Corwin)
<b>Total</b>	<b>\$50,000</b>	

### Project Schedule:

Task	Deliverable(s):	Due/Completed
Convene project Work Group	List of Work Group members	September 2022
Work Group Meeting #1	Meeting summary	Early October 2022
<b>Complete Draft BMP Report Outline and distribute to Countywide Programs for review</b>	Draft BMP Report Outline	October 28, 2022
Receive comments on Draft Outline	[Countywide Programs provide compiled comments to WG]	November 11, 2022
Work Group Meeting #2	Meeting summary	November 22, 2022
<b>Provide Final BMP Report Outline to Countywide Programs for use in developing Countywide BMP Reports</b>	Final BMP Report Outline	November 30, 2022
Work Group Meeting #3	Meeting summary	April 3, 2023
Receive Countywide BMP Reports	[Countywide Programs provide Draft BMP Reports]	May 12, 2023
Work Group meeting #4	Meeting summary	June 2, 2023
<b>Provide comments and questions to Countywide Programs on Countywide BMP Reports</b>	Comments and questions provided to Countywide Programs	June 16, 2023
Receive Countywide Final BMP Reports	[Countywide Programs provide Final BMP Reports]	July 7, 2023
<b>Complete Draft Executive Summary and distribute to Countywide Programs for review</b>	Draft Executive Summary	July 28, 2023
Receive comments on Draft Executive Summary	[Countywide Programs provide compiled comments to WG]	August 24, 2023

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

<b>Task</b>	<b>Deliverable(s):</b>	<b>Due/Completed</b>
Work Group Meeting #5	Meeting summary	August 31, 2023
<b>Provide Final Regional BMP Report (Executive summary and countywide BMP reports compiled)</b>	Final Regional BMP Report	September 15, 2023

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Name: Cost Reporting Framework and Methodology**

**Description/Scope/Tasks:**

MRP 3.0 Provision C.20 requires each Permittee to annually prepare and submit a fiscal analysis of the capital and operation and maintenance costs incurred to implement MRP requirements, beginning with the 2025 Annual Report (i.e., for FY 2-24-25). As a first step, Permittees are encouraged to collaboratively develop a cost reporting framework and methodology to perform the fiscal analysis “for purposes of efficiency, cost-savings, and regionwide consistency and comparability”. This project would accomplish the task of jointly developing the cost reporting framework and methodology as a project of regional benefit, with input from BAMS Collaborative member agencies. The framework will be informed by State Water Board efforts currently underway to develop a cost reporting framework. The products would then be used by individual Permittees to prepare their fiscal analyses. The products may be customized at the countywide or local level as needed, as long as consistency with the overall framework and assumptions is maintained. The cost reporting framework and methodology must be submitted to the Water Board by June 30, 2023.

A BAMSC Cost Reporting Work Group (WG) will be formed and approximately 4-5 meetings will be held at appropriate milestones (see Project Schedule). The BAMSC WG will develop: 1) a proposed approach to the framework (in Excel format); 2) a draft framework with worksheets for each MRP provision; 3) a draft methodology that explains how to complete the framework worksheets and assumptions; 4) a revised draft framework and methodology; 5) a final draft framework and methodology for Countywide Program and BAMSC approval; and 6) a final framework and methodology for transmittal to the Water Board. Each Countywide Program will be responsible for distributing the draft and revised draft products to its member agencies and compiling the comments received and obtaining approval of final draft products according to the schedule below.

**FY:** 22-23

**One-time**  **multi-FY** \_\_\_\_\_

**MRP Provision Reference:** C.20.b and C.20.c.i

**MRP Compliance Date(s):** June 30, 2023

**Oversight Subcommittee/Workgroup:**  
Cost Reporting Work Group (new)

**Profile last updated on:** 9/20/22

**Total Project Budget: \$62,000**  
(see below for details)

**Date Project and Funding Contributions  
Approved by Steering Committee:**

**Funding Contributions and Types by BAMS Collaborative Program:**

Program	In-kind Contribution Amount (\$)	Lead In-kind Staff or Consultant
ACCWP	\$18,228	EOA
CCCWP	\$12,772	LWA
SMCWPPP	\$8,246	EOA
SCVURPPP	\$19,778	EOA
SSA	\$2,976	Emily Corwin (FSSD)
<b>Total</b>	<b>\$62,000</b>	

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Schedule:**

<b>Task</b>	<b>Deliverable(s):</b>	<b>Due/Completed</b>
First Work Group Meeting		Late Sept/early Oct, 2022
Complete first draft Framework for Work Group review	First Draft Cost Reporting Framework	One week prior to 2 <sup>nd</sup> Work Group meeting
Second Work Group Meeting	Work Group comments	Late Oct/early Nov 2022
<b>Complete Draft Framework and Methodology and Distribute to Countywide Programs for Review</b>	Draft Cost Reporting Framework and Methodology; presentation to BAMSC Steering Committee	<b>December 7, 2022*</b>
Receive Comments on Draft Framework and Methodology	[Countywide Programs provide compiled comments to WG]	January 26, 2023
Third Work Group Meeting		Early February 2023
<b>Complete Revised Draft Framework and Methodology and Distribute to Countywide Programs for Review</b>	Revised Draft Cost Reporting Framework and Methodology	<b>March 15, 2023</b>
Receive Comments on Revised Draft Framework and Methodology	[Countywide Programs provide compiled comments to WG]	April 27, 2023
Fourth Work Group Meeting		Early May 2023
Update BAMSC Steering Committee on Final Draft Framework and Methodology	Presentation to BAMSC Steering Committee	May 25, 2023*
<b>Provide Final Draft Framework and Methodology to Countywide Programs for Approval</b>	Final Draft Cost Reporting Framework and Methodology	<b>June 1, 2023</b>
Approve Final Draft Framework and Methodology at BAMSC Steering Committee and Submit to WB	N/A	June 22, 2023
Submit Final Framework and Methodology to Water Board	Final Cost Reporting Framework and Methodology	By June 30, 2023

Notes:

\* = Opportunity for Water Board staff information/comment.

Bolded dates = opportunity for permittee comment.



**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Name: Annual Report Format**

**Description/Scope/Tasks:**

The individual Permittee Annual Report forms will be developed to meet the requirements of the Municipal Regional Stormwater NPDES Permit (Order No. R2-2022-0018) (MRP 3) through in-kind contributions. The work will be conducted by LWA on behalf of ACCWP and CCCWP, EOA on behalf of SCVURPPP and SMCWPPP, and Emily Corwin on behalf of SSA.

The tabular format that has been in use for the past several years will be updated for consistency with the new MRP requirements. LWA, EOA, and SSA will revise the Annual Report Forms to include updated and/or new sections. Project deliverables are: a Draft; Revised Draft; Final Draft; and Final Annual Report forms. The Draft will be sent to the BAMSC subcommittees and the countywide programs' subcommittees for comment. The Revised Draft will be sent to the BAMSC subcommittees and the countywide programs' subcommittees and management committees for comment. The Final Draft will be sent to the countywide programs' management committees for approval, then presented to the BAMSC Steering committee for approval.

On an annual basis, the forms will be reviewed and updated to incorporate items required to be reported on that fiscal year. The budget proposed is for the initial FY 2022-2023 update.

**FY: 2022-2023 initial update and annually thereafter**

**One-time \_\_\_\_\_ multi-FY x**

**MRP Provision Reference: C.22**

**MRP Compliance date(s): Initial submittal March 1, 2023 and annually thereafter**

**Oversight Subcommittee/Workgroup: Steering**

**Profile last updated on: August 25, 2022**

**Total Project Budget: \$15,000**  
(see below for details)

**Date Project and Funding Contributions Approved by Steering Committee:**

**Funding Contributions and Types by BAMS Collaborative Program:**

Program	In-Kind Contribution Amount (\$)	Lead In-kind Staff or Consultant
ACCWP	\$4,410	LWA
CCCWP	\$3,090	LWA
SMCWPPP	\$1,995	EOA
SCVURPPP	\$4,785	EOA
SSA	\$720	SSA/Emily Corwin
<b>Total</b>	<b>\$15,000</b>	

**Bay Area Municipal Stormwater Collaborative  
Project of Regional Benefit Profile**

**Project Schedule/Task Overview:**

<b>Task</b>	<b>Deliverable(s):</b>	<b>Due/Completed</b>	<b>Responsible</b>
<b>Develop Draft Annual Report Forms</b>	<b>Draft</b> MRP 3 Annual Report Forms	October 27, 2022	LWA/EOA/SSA
<b>Provide Comments on Draft</b>	Comments	December 8, 2022	BAMSC and Program Subcommittees
<b>Develop Revised Draft Annual Report Forms</b>	<b>Revised Draft</b> MRP 3 Annual Report Forms	January 9, 2023	LWA/EOA/SSA
<b>Provide Comments on Revised Draft</b>	Comments	January 26, 2023	BAMSC and Program Subcommittees
<b>Develop Final Draft Annual Report Forms for Approval</b>	<b>Final Draft</b> MRP 3 Annual Report Forms	February 2, 2023	LWA/EOA/SSA
<b>Permittee/Countywide Program Approvals</b>	<b>Approval of Final Draft</b> MRP 3 Annual Report Forms	No later than February 22, 2023	Countywide Management Committees
<b>BAMSC Approval</b>	<b>Approval of Final Draft</b> MRP 3 Annual Report Forms	February 23, 2023	BAMSC Steering Committee
<b>Final Annual Report Forms and Transmittal Letter for BAMSC Chair</b>	<b>Final</b> MRP 3 Annual Report Forms and Transmittal Letter	<b>February 27, 2023</b>	LWA/EOA/SSA
<b>Submittal Deadline</b>		March 1, 2023	BAMSC Chair



**SANTA CLARA VALLEY  
URBAN RUNOFF  
POLLUTION PREVENTION PROGRAM**

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**REVIEW OF  
MEMORANDUM OF AGREEMENT  
VOLUME I. REPORT**

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**HF&H CONSULTANTS, LLC**

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*July 29, 2016*





Santa Clara Valley  
Urban Runoff  
Pollution Prevention Program



# REVIEW OF MEMORANDUM OF AGREEMENT VOLUME I. REPORT

*July 29, 2016*



**HILTON FARNKOPF & HOBSON, LLC**  
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July 29, 2016

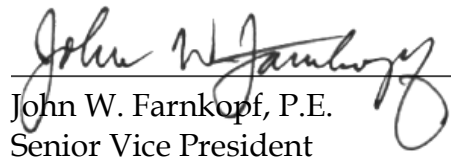
Mr. Adam Olivieri, Dr.PH., P.E.  
Santa Clara Valley Urban Runoff Pollution Prevention Program  
1410 Jackson Street  
Oakland, CA 94612

Subject: **Review of Memorandum of Agreement**

HF&H Consultants, LLC, is pleased to submit this report to the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). The report updates the November 23, 2005 MOA review produced by HF&H. Because 10 years have passed since the last MOA review, SCVURPPP requested updated information that will allow SCVURPPP's Management Committee to determine whether changes to the existing MOA are desirable. The present review is based on the practices of the four Bay Area countywide stormwater Programs (i.e., those for Santa Clara, San Mateo, Contra Costa, and Alameda Counties).

Very truly yours,

HILTON FARNKOPF & HOBSON, LLC

  
John W. Farnkopf, P.E.  
Senior Vice President

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**APPENDIX (submitted separately)**

SCVURPPP - SCVURPPP Memo to Management Committee: Background Information for MC MOA Review, dated 1/13/2016; Program Costs (1991-2016)

ACCWP - Agreement Providing for the Implementation of the Alameda Countywide Clean Water Program; FY 2015/16 Program Budget

CCCWP - Contra Costa Clean Water Program Agreement (2010-2025); Final Adopted FY 2015/16 Group Program Budget

SMCWPPP - Joint Powers Agreement - Continuing Establishment of the City/County Association of Governments; FY 2015/16 Budget



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## ACRONYMS

- ACCWP - Alameda Countywide Clean Water Program
- ACFCWCD - Alameda County Flood Control and Water Conservation District
- C/CAG - City/County Association of Governments (San Mateo)
- CCCWP - Contra Costa Clean Water Program
- MHI - Median Household Income
- MOA - Memorandum of Agreement, which in some cases may be a Memoranda of Understanding
- NPDES - National Pollution Discharge Elimination System
- SCVURPPP - Santa Clara Valley Urban Runoff Pollution Prevention Program
- SMCWPPP - San Mateo County Water Pollution Prevention Program

## **ACKNOWLEDGEMENTS**

This report was prepared by the following HF&H Project Staff:

John Farnkopf, P.E., Senior Vice President  
Geoffrey Michalczyk, Associate

HF&H gratefully acknowledges the assistance of the following agency staff:

Tom Dalziel, Contra Costa Clean Water Program  
Matt Fabry, San Mateo Clean Water Pollution Prevention Program  
Jim Scanlin, Alameda Countywide Clean Water Program

## **REVIEW OF MEMORANDUM OF AGREEMENT**

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Executive Summary  
Cost Allocations  
Term of Memorandum of Agreement  
Scope of Program  
Cost of Program



## EXECUTIVE SUMMARY

### PURPOSE AND SCOPE

In 2005, HF&H conducted an MOA review for SCVURPPP that included the four Bay Area Programs and two southern California Programs. SCVURPPP has now requested HF&H to update the review including only the four Bay Area Programs, which are now regulated by a single regional permit.

The purpose of this project is to provide technical assistance to the Management Committee of the Santa Clara Valley Urban Runoff Pollution Prevention Program. The scope of services calls for collecting data to compare the four Bay Area Programs across four areas:

1. The formulas used for allocating the Program costs among the Co-Permittees.
2. The terms of the Memorandum of Agreement that binds the Co-Permittees.
3. The scopes of the Programs.
4. The costs of the Programs.

The evaluation of these topics is described in this report; a separate appendix contains copies of key documents such as Program MOAs and budgets.

### GENERAL CHARACTERISTICS

**Figure 1** summarizes the general characteristics of the Programs. All Programs include at least one county agency in addition to cities, which comprise the majority of members. SCVURPPP has the fewest number of member agencies of the four Programs. Since 2005, the composition of the Co-Permittees has remained the same except for SMCWPPP, which added two cities and dropped the *ex officio* transit agencies members.

Budget comparisons are difficult because of differences in the breadths of the Programs and how much of the budgets are funded by the Programs and by the Co-permittees. The annual budgets in **Figure 1** have increased an average of 55% since 2005 except for the ACCWP Program, which declined 4%. This reduction for ACCWP compared to the increases for the other three Programs suggests that the breadth of the ACCWP Program has decreased.

**Figure 1. Characteristics of Surveyed Programs**

Santa Clara Valley Urban Runoff Pollution Prevention Program	Alameda Countywide Clean Water Program	Contra Costa Clean Water Program	San Mateo County Water Pollution Prevention Program
<b>Permittees [a]</b>			
15 total: 13 cities, County, SCVWD	17 total: 14 cities, County, ACFCWCD, Zone 7	20 total: 19 cities, County	22 total: 20 cities, County, Flood Control District
<b>Annual Budget - FY 2015-16 [b]</b>			
\$4,447,309	\$2,233,000	\$3,412,703	\$2,948,099
<b>Population [c]</b>			
1,835,542	1,627,865	1,123,429	766,041
<b>Surface Area (Square Miles)</b>			
971	664	720	427
<b>Persons Per Gross Surface Area (Square Miles)</b>			
1,890	2,452	1,560	1,794

[a] Source: Program Agreements

[b] Program Budgets & Discussions with Managers

[c] California Dept of Finance

## SUMMARY OF FINDINGS

Our findings for each of the four areas are as follows:

**Cost Allocation Formulae.** ACCWP increased its allocations by direct assignment to certain members. SCVURPPP and CCCWP did not change their formulae. SMCWPPP has no allocation formula.

**Term of Memorandum of Agreement.** ACCWP and CCCWP extended their terms by 15 years to June 30, 2027 and June 30, 2025, respectively. SMCWPPP appears to have an open-ended term. SCVURPPP's term expires one year after the NPDES permit term.

**Scope of the Program.** The Program scopes and budget development have not changed significantly. There have been some changes in the Management Committees and Program Manager reviews. Sub-committees and ad hoc committees have been added.

**Cost of the Program.** Based on various benchmark comparisons, the SCVURPPP Program is in line with other Bay Area Program budgets.

## COST ALLOCATIONS

### TYPES OF COST ALLOCATIONS

Cost allocations can be generally categorized into four types:

- **Proportionate allocations** – Costs that are related to each member in proportion to some measure of size could be allocated proportionately. Common examples related to stormwater allocations are population, which is related to pollutant production, and surface area, which is related to the quantity of stormwater.
- **Assigned allocations** – Members can receive minimum, maximum, or other allocations that are deemed reasonable. Such assignments typically have very little, if any, formulaic or quantitative basis and may be entirely judgmental. These assignments are intended to balance qualitative factors that are not reflected in other types of allocations.
- **Direct allocations** – Specific costs that correspond to the needs of individual members are only allocated to those members and not pooled for allocation among all members. An example would be a study concerned with a specific member or subset of members would be allocated to only that member or subset of members.
- **Equal allocations** – Costs that benefit all members equally (regardless of measures of size such as population or surface area) could be allocated in equal amounts. An example would be legal expenses, of which  $1/n$ th share would be allocated to each member of a group of  $n$  members.

Each of these types of allocations is present in one or more of the Programs as summarized in **Figure 2**. **Figure 2** shows what portion of the total costs are allocated by each type of allocation.

### COMPARISON OF COST ALLOCATIONS

The cost allocation formulae are summarized in **Figure 2** and summarized as follows:

- SCVURPPP – Allocates 40% based on the average of population and surface area; 30% is allocated to SCVWD and 30% to San José.<sup>1</sup>

---

<sup>1</sup> Please see Nov 23, 2005 HF&H MOA report and appendices for discussion and findings regarding the SCVURPPP cost-allocation.

- ACCWP – Shifted the amount allocated based on the average of population and surface area from 98% to 78%, with 22% now assigned to the Co-Permittees.
- CCCWP – Continues to allocate all costs based on population.
- SMCWPPP – Has no cost allocation formula.<sup>2</sup> Instead, SMCWPPP receives a portion of its funding from its members in the form of NPDES fees, which are billed on the tax rolls. The remainder of its funding comes from vehicle license fees.

**Figure 2. Types of Allocation Formulae**

Allocation Type	SCVURPPP	ACCWP	CCCWP	SMCWPPP
Proportionate:				
Population	-	-	100%	
Surface Area	-	-	-	-
Average of Both Pop & Area	40% [a]	78%	-	-
Other	-			
Assigned	60% [b]	22%	-	-
Direct	-	-	-	-
Equal	-	-	-	-
Other	-	-	-	100% [c]
	100%	100%	100%	100%
<p>[a] SCVURPPP's allocation is based on runoff factors that approximate the average of population and surface area.                  [b] 30% assigned to SCVWD and 30% to San Jose                  [c] No Allocation formula - funds come from various taxes and fees</p>				

**Figure 3** provides additional detail on the adjustments, excluded land, and update frequency. **Figure 3** also shows the highest three allocations, which gives a quick means of comparing the overall results of each Program’s allocations and adjustments.

<sup>2</sup> The 2005 report indicated that SMCWPPP allocated all costs based on population.



**Figure 3. Cost Allocation Formula Details**

Santa Clara Valley Urban Runoff Pollution Prevention Program	Alameda Countywide Clean Water Program	Contra Costa Clean Water Program	San Mateo County Water Pollution Prevention Program
<b>Cost Allocation Formula</b>			
SCVWD share based on weighted parameters (general benefits, potential noncompliance groundwater protection, informational benefits). San Jose and SCVWD shares set roughly equal. Remaining Co-permittees' share formula (see previous MOA review report)	Average of population and area.	Population for all Co-permittees.	None. Costs are not allocated to Co-permittees. Revenue comes from Co-permittees from taxes in proportion to area and from vehicle license fees.
<b>Cost Allocations</b>			
Total Program costs allocated among Co-permittees based on allocation formula.	General Program costs allocated among Co-permittees based on formula. Individual Program costs are directly charged to individual members.	Total Program costs allocated among Co-permittees based on allocation formula.	Not applicable.
<b>Adjustments</b>			
Not applicable.	Dublin, Livermore, and Pleasanton shares are reduced by Zone 7's 1% share; Fremont, Hayward, Newark, Oakland, San Leandro, and Union City shares are reduced by ACFCWCD's 1% share.	County population is based on unincorporated area.	Not applicable.
<b>Excluded Land</b>			
Not applicable.	Open water and Bay wetlands; nonurbanized County land.	Not applicable.	Not applicable.
<b>Assigned Allocations</b>			
~30% to SCVWD and ~30% to San José.	Minimum 1.3% allocation across all 17 co-permittees (applies to Zone 7 and ACFCWCD), remaining allocated based on average of population and area	None. All allocations are based on formula.	Not applicable.
<b>Highest Allocations or Funding Sources [a]</b>			
30.02% - SCVWD 30.01% - San José 7.25% - Sunnyvale	18.51% - Oakland 14.03% - Fremont 10.76% - County	16.06% - County 11.75% - Concord 9.86% - Richmond	12.15% - San Mateo 10.50% - County 10.26% - Daly City
<b>Update Frequency</b>			
Specified by bylaws (1 FY after the re-issuance of the NPDES permit)	Set for term of the MOA	Annual	Not applicable.

[a] Allocations found in Appendix; SCVURPPP page 16; ACCWP pg 41; CCCWP pg 59; percentages for SMCWPPP represent shares of funding from taxes, breakdown found in Appendix pg 83.

# TERMS OF MEMORANDUM OF AGREEMENT

## COMPARISON OF MOA TERMS

Figure 4 summarizes the terms of the MOAs.

**Figure 4. MOA Terms**

Santa Clara Valley Urban Runoff Pollution Prevention Program	Alameda Countywide Clean Water Program	Contra Costa Clean Water Program	San Mateo County Water Pollution Prevention Program
<b>Agreement Effective Date</b>			
10-Mar-06	1-Jun-12	1-Jul-10	1-Jul-11
<b>Agreement Duration</b>			
Ending June 30, 2017	Ending June 30, 2027	15 years, ending June 30, 2025	None specified.
<b>Agreement Renewal</b>			
One year after NPDES termination date	None specified.	As directed by Management Committee	Requires County and at least eleven members representing 50% of population.

## SCOPE OF PROGRAMS

### COMPARISON OF SCOPES

All of the Programs are single-purpose, independent organizations devoted to stormwater pollution prevention and related objectives with the exception of San Mateo's Program, which is part of other Programs managed by the City/County Association of Governments. As a result, the management of San Mateo's Program is part of a larger administrative organization.

**Figure 5** summarizes the Program scopes and management procedures that are specified in their current MOAs. **Figure 6** notes the significant changes in the Program scopes since 2005:

- The Management Committee for SMCWPPP changed from the City Managers, County Manager, and various Chairpersons to Public Works Directors.
- CCCWP now has annual Program Manager reviews.
- ACCWP, CCWP, and SMCWPPP added committees.
- SCVURPPP reduced its committees by two but still has the most total committees.

Voting policies are a part of Program management and are summarized in **Figure 7**. Most of the Program members' votes are weighted using their allocation shares. A majority, and in some cases a supermajority, is required for passage. Some changes occurred:

- ACCWP and CCCWP converted from weighted to unweighted votes per member.
- ACCWP converted from requiring a supermajority vote for passage to a majority vote.

**Figure 5. Program Scopes**

Santa Clara Valley Urban Runoff Pollution Prevention Program	Alameda Countywide Clean Water Program	Contra Costa Clean Water Program	San Mateo County Water Pollution Prevention Program
<b>Program Scope</b>			
<p>Main Categories: Operational, Projects, Collaborative.                      Subcategories: Program, Permit and Technical Management, Legal Services, Fiscal Agent, Monitoring, C3/HMP, PIP/WE&amp;O, Collaborative fees (RMP, CEP, CASQA) and Permit Fees (historical, since 2007-2008 FY paid by co-permittees ).</p>	<p>Planning and Regulatory Compliance, C.3 &amp; Hydromodification Management, Watershed Assessment, Monitoring and Special Studies, Public Information and Participation, Municipal Maintenance Activities, New Development and Construction Controls, Illicit Discharge Controls, and Industrial/Commercial Discharge Controls.</p>	<p>Administrative/personnel, Technical Support Service, Permit Compliance Fees/Contributions, Group Activities, General Services &amp; Supplies.</p>	<p>Ratify permit application; prepare management plans; identify alternative revenue programs; enter into contracts with members to implement management plans and revenue programs; perform activities prescribed in management plan; coordinate with members. (C/CAG also handles transit, traffic, airport, solid and hazardous waste programs.)</p>
<b>Budget Development, Tracking and Review</b>			
<p>MC Annual Work plan and Budget Development and Approval; quarterly budget reports include twice yearly budget reconciliations; annual budget review and compilation report.</p>	<p>The Management Committee shall review and adopt an annual budget.</p>	<p>Unspecified</p>	<p>Board adopts annual budget for City/County Association of Governments (C/CAG) showing expenses, funding sources, and service levels.</p>
<b>Management Committee Members</b>			
<p>One representative from each Co-permittee.</p>	<p>One primary representative from each Co-permittee and alternates are allowed.</p>	<p>One voting representative and one alternate from each Co-permittee.</p>	<p>The county's Stormwater Committee is effectively the Management Committee for the program. The Stormwater Committee is made up of the Public Works Directors for the respective members.</p>
<b>Annual Program Manager Review</b>			
<p>Annual Program Manager "Self-Audit Report" submitted to MC for review and approval (draft submitted at end of third quarter and final submitted as part of Annual Program Report to State</p>	<p>None specified.</p>	<p>Annually</p>	<p>None specified.</p>
<b>Other Committees</b>			
<p>9 Ad Hoc Technical Groups: Budget, Monitoring, C3PO, PIP/ WEO (WGs - Scripts Review, Pesticide Users, Mercury, Schools Outreach, Alviso Watershed Watch), Trash, Municipal, Industrial, Water Utility and Construction.</p>	<p>6 Subcommittees: Watershed Assessment and Monitoring, Public Information and Participation, Municipal Maintenance, New Development and Construction Site Controls, Illicit and Industrial/Commercial Discharge control, and Trash Subcommittee</p>	<p>5 Subcommittees: Administrative, Development, Public Information/Participation, Municipal Operations, and Monitoring. 3 Ad Hoc Committees: Commercial &amp; Industrial, GIS, and POC.</p>	<p>2 Committees: Technical Advisory Committee, Green Infrastructure Committee. 6 Subcommittee New Development Subcommittee, Public Information/Participation Subcommittee, Municipal Maintenance Subcommittee, Trash Subcommittee, Commercial/Industrial/Illicit Discharge Control Subcommittee, Watershed Assessment and Monitoring Subcommittee</p>

**Figure 6. Significant Scope Changes Since 2005**

Santa Clara Valley Urban Runoff Pollution Prevention Program	Alameda Countywide Clean Water Program	Contra Costa Clean Water Program	San Mateo County Water Pollution Prevention Program
<b>Program Scope</b>			
No Changes	No Changes	No Changes	No Changes
<b>Budget Development, Tracking and Review</b>			
No Changes	No Changes	No Changes	No Changes
<b>Management Committee Members</b>			
No Changes	Alternates Allowed	No Changes	Significant Changes
<b>Annual Program Manager Review</b>			
No Changes	No Changes	From none specified to annual review	No Changes
<b>Other Committees</b>			
From 11 Ad Hoc Technical Groups to 9	Added Trash Subcommittee	From 5 Subcommittees to 5 Subcommittees and 3 Ad Hoc Committees	Added 6 Subcommittees

**Figure 7. Voting**

Santa Clara Valley Urban Runoff Pollution Prevention Program	Alameda Countywide Clean Water Program	Contra Costa Clean Water Program	San Mateo County Water Pollution Prevention Program
<b>Voting Representation</b>			
Each Co-permittee has one weighted vote based on allocated shares.	Each party to the agreement is assigned one proportional vote in proportion to the cost allocation formula	Each Co-permittee has one vote	Each member has one vote.
<b>Voting</b>			
At least 8 affirmative votes that represent at least 50% of allocated shares.	Majority vote for decisions requiring a vote; Majority vote & majority proportional vote for approval of annual budgets and any expenditures	Majority plus one for all Management Committee decisions	Majority vote. Special votes require majority of members representing of population.
<b>Quorum</b>			
9 voting reps, including 1 rep from the City of San Jose and 1 rep from SCVWD.	Majority of Voting Parties	Majority plus one of Co-permittees.	Majority of voting members.

## COST OF PROGRAM

### COMPARISON OF COSTS

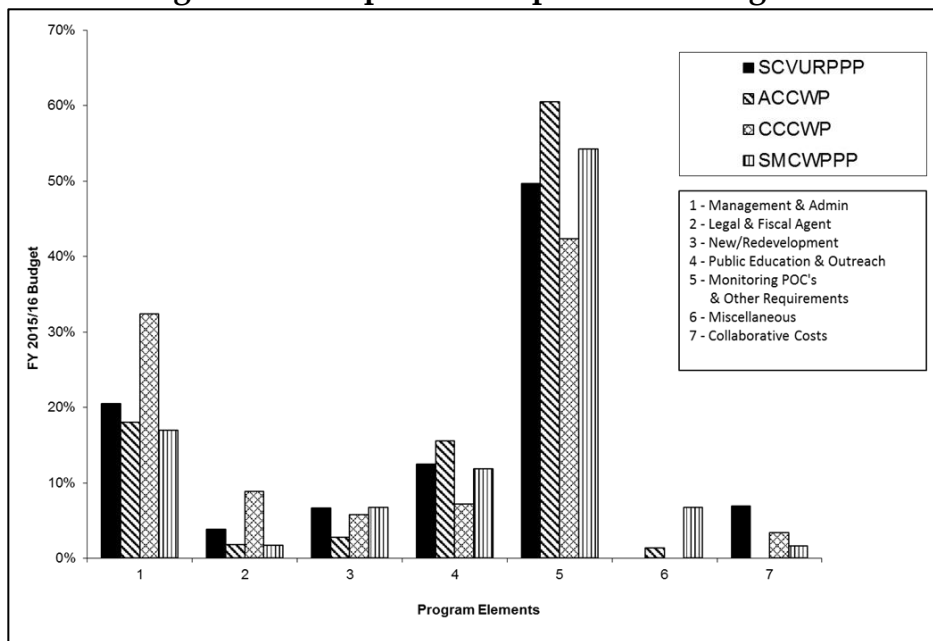
Cost comparisons are difficult because of the lack of uniformity in budget formats and cost accounting. The costs are tabulated by category in **Figure 8A** graphically in **Figure 8B**. The categories correspond to those that are used by SCVURPPP. Every attempt was made to map the other Programs' costs into these categories. This mapping process is imperfect because of the differences in budget line items used by each Program. The budget details for each of the Programs are shown in an appendix to this report.

**Figure 8A. Tabular Comparison of Budgets**

Program Elements	SCVURPPP		ACCWP		CCCWP		SMCWPPP	
	FY 2015/16 Budget	Percent of Total	FY 2015/16 Budget	Percent of Total	FY 2015/16 Budget	Percent of Total	FY 2015/16 Budget	Percent of Total
A Management & Admin	\$913,044	20.5%	\$403,000	18.0%	\$1,105,636	32.4%	\$500,000	17.0%
B Legal & Fiscal Agent	\$170,000	3.8%	\$40,000	1.8%	\$301,964	8.8%	\$50,000	1.7%
C New/Redevelopment	\$296,000	6.7%	\$62,000	2.8%	\$198,000	5.8%	\$200,000	6.8%
D Public Ed/Outreach	\$552,715	12.4%	\$347,000	15.5%	\$246,318	7.2%	\$350,000	11.9%
E Monitoring POC's & Other Requirements	\$2,206,690	49.6%	\$1,351,000	60.5%	\$1,445,445	42.4%	\$1,600,000	54.3%
G Miscellaneous	\$0	0.0%	\$30,000	1.3%	\$0	0.0%	\$200,000	6.8%
H Collaborative costs	\$308,861	6.9%	\$0	0.0%	\$115,340	3.4%	\$48,099	1.6%
<b>Budget Total</b>	<b>\$4,447,309</b>	<b>100%</b>	<b>\$2,233,000</b>	<b>100%</b>	<b>\$3,412,703</b>	<b>100%</b>	<b>\$2,948,099</b>	<b>100%</b>
2005 Program Costs	\$3,117,871		\$2,317,000		\$2,463,727		\$1,394,259	
10-year change	43%		-4%		39%		111%	

The ACCWP Program scope does not appear to have changed significantly. However, since 2005, the cost of the ACCWP Program has dropped 4% while the other Program's costs have increased an average of 55% (roughly 5% per year). This suggests a difference in the breadth of the ACCWP Program compared with the other three. Part of this difference may be attributable to the reliance each Program places on Co-Permittees for separate fund. For example, ACCWP relies on the City of Oakland to fund certain POC investigations.

**Figure 8B. Graphical Comparison of Budgets**



**BENCHMARK COMPARISONS**

**Figure 9** compares the total budgets for each of the four Bay Area Programs in terms of four benchmarks: cost per capita, cost per household, cost per gross square mile, and on the basis of median household income. Programs were ranked 1 through 4 from lowest to highest benchmark. For the first three benchmarks, normalized budgets were derived using SCVURPPP’s population. The normalized budgets represent what the budget would be for each of the Programs if they had the same population as SCVURPPP. In the case of the income benchmark, the benchmark was derived by dividing the cost per household by median household income for each county. The ranking was based on the resulting percentage; no normalized budget was calculated.

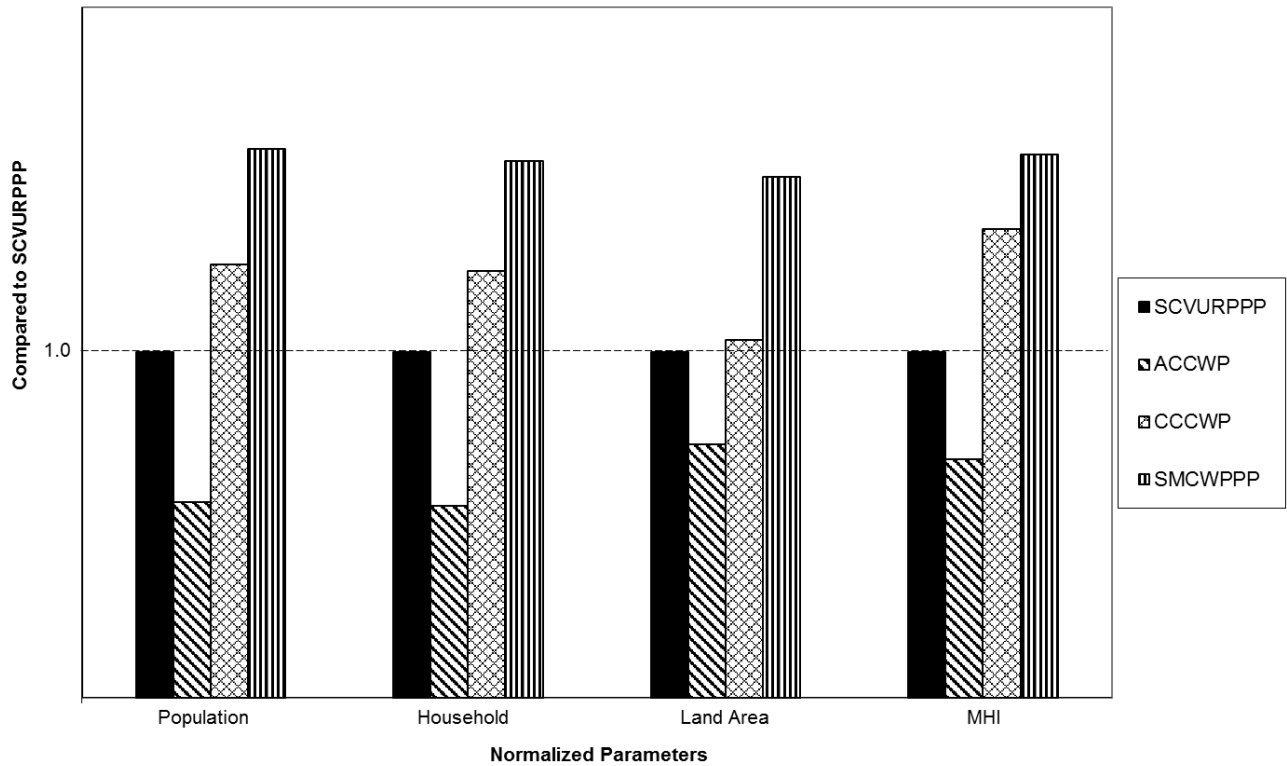
Figure 9. Benchmarks

	SCVURPPP	ACCWP	CCCWP	SMCWPPP
<b>Ranking: 1 = lowest benchmark 4 = highest benchmark</b>				
Most Recent Budget	\$4,447,309	\$2,233,000	\$3,412,703	\$2,948,099
<u>Population Benchmark [a]</u>				
Population (2016)	1,835,542	1,627,865	1,123,429	766,041
<b>Dollars per Capita</b>	<b>\$2.42</b>	<b>\$1.37</b>	<b>\$3.04</b>	<b>\$3.85</b>
Rank	2	1	3	4
Indexed to SCVURPPP	100%	57%	125%	159%
Budget Normalized to SCVURPPP	\$4,447,309	\$2,517,878	\$5,575,929	\$7,064,061
<u>Household Benchmark [b]</u>				
Households (2010)	604,204	545,138	375,364	257,837
<b>Dollars per Household</b>	<b>\$7.36</b>	<b>\$4.10</b>	<b>\$9.09</b>	<b>\$11.43</b>
Rank	2	1	3	4
Indexed to SCVURPPP	100%	56%	124%	155%
Budget Normalized to SCVURPPP	\$4,447,309	\$2,474,947	\$5,493,251	\$6,908,447
<u>Surface Area Benchmark [b]</u>				
Total Area, sq. mis. (2010)	971	664	720	427
<b>Dollars per Square Mile</b>	<b>\$4,580</b>	<b>\$3,363</b>	<b>\$4,740</b>	<b>\$6,904</b>
Rank	2	1	3	4
Indexed to SCVURPPP	100%	73%	103%	151%
Budget Normalized to SCVURPPP	\$4,447,309	\$3,265,426	\$4,602,409	\$6,703,991
<u>Income Benchmark [b]</u>				
Median Household Income (2009)	\$85,569	\$68,863	\$77,838	\$84,426
Dollars per Household	\$7.36	\$4.10	\$9.09	\$11.43
<b>Percent of MHI</b>	<b>0.0086%</b>	<b>0.0059%</b>	<b>0.0117%</b>	<b>0.0135%</b>
Rank	2	1	3	4
Indexed to SCVURPPP	100%	69%	136%	157%
<u>Averages</u>				
Rank	2.0	1.0	3.0	4.0
Index	100%	64%	122%	156%
Source: Population, households, area, and income from www.census.gov				
[a] California Dept of Finance				
[b] 2010 US Census				

The rankings are somewhat simplistic because they do not account for relative differences. To account for the relative differences, each of the four benchmarks was also indexed to SCVURPPP. **Figure 10** shows how the indices for each benchmark compare against the SCVURPPP.



**Figure 10. Benchmark Indices**



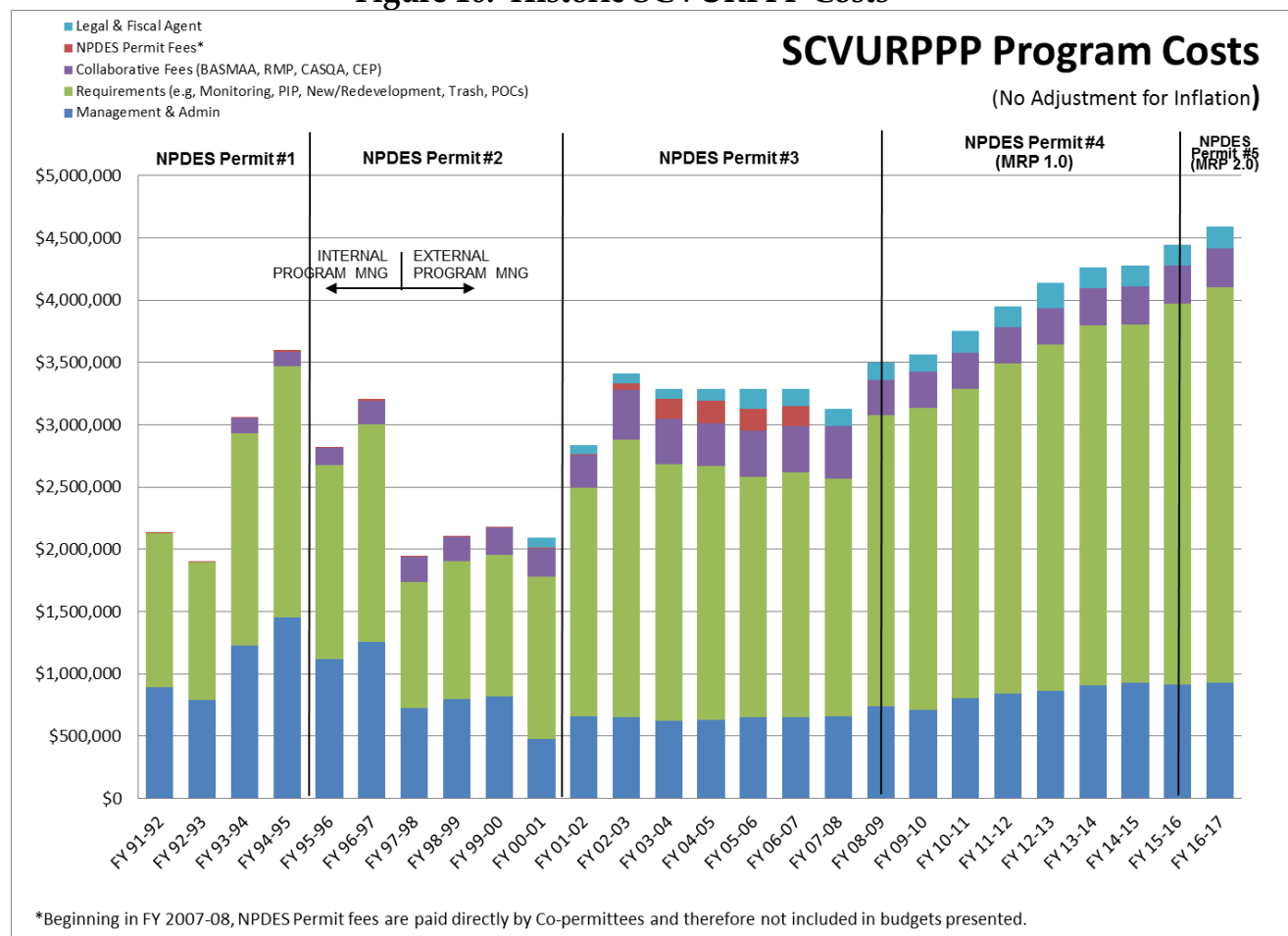
The benchmarks are derived from budgets, which vary from Program to Program based on their breadth and how much is funded by the Co-Permittees. As previously described, the ACCWP Program’s budget declined since 2005 while the other Programs increased roughly 5% per year. Because the breadth of the ACCWP Program may be smaller than the other Programs, it received a “1” ranking. If the ACCWP Program is excluded from the comparison, the SCVURPPP Program would receive the lowest ranking among the three remaining Programs.

**HISTORICAL TRENDS**

SCVURPPP maintains historical Program cost data by budget category. **Figures 10, 11,** and **12** are excerpted from SCVURPPP reports. In addition to show the historical costs, the graphs show the permit terms.

**Figure 10** shows cost trends by category. After a fairly stable period during NPDES Permit No. 3, costs increases in the Requirements category started climbing during NPDES Permit No. 4. The other cost categories remained fairly stable.

**Figure 10. Historic SCVURPPP Costs**



Source: SCVURPPP Budget

Figure 11 shows the costs in Figure 10 adjusted for inflation so that the costs are in 2016 dollars. The costs in FY 2002-03 are comparable to the costs in FY 2015-16; during the intervening period, the costs are lower. The fluctuation in the Requirements cost category accounts for the dip in costs between NPDES Permit No. 3 and NPDES Permit No. 4.

Figure 11. Historic SCVURPPP Costs Adjusted For Inflation

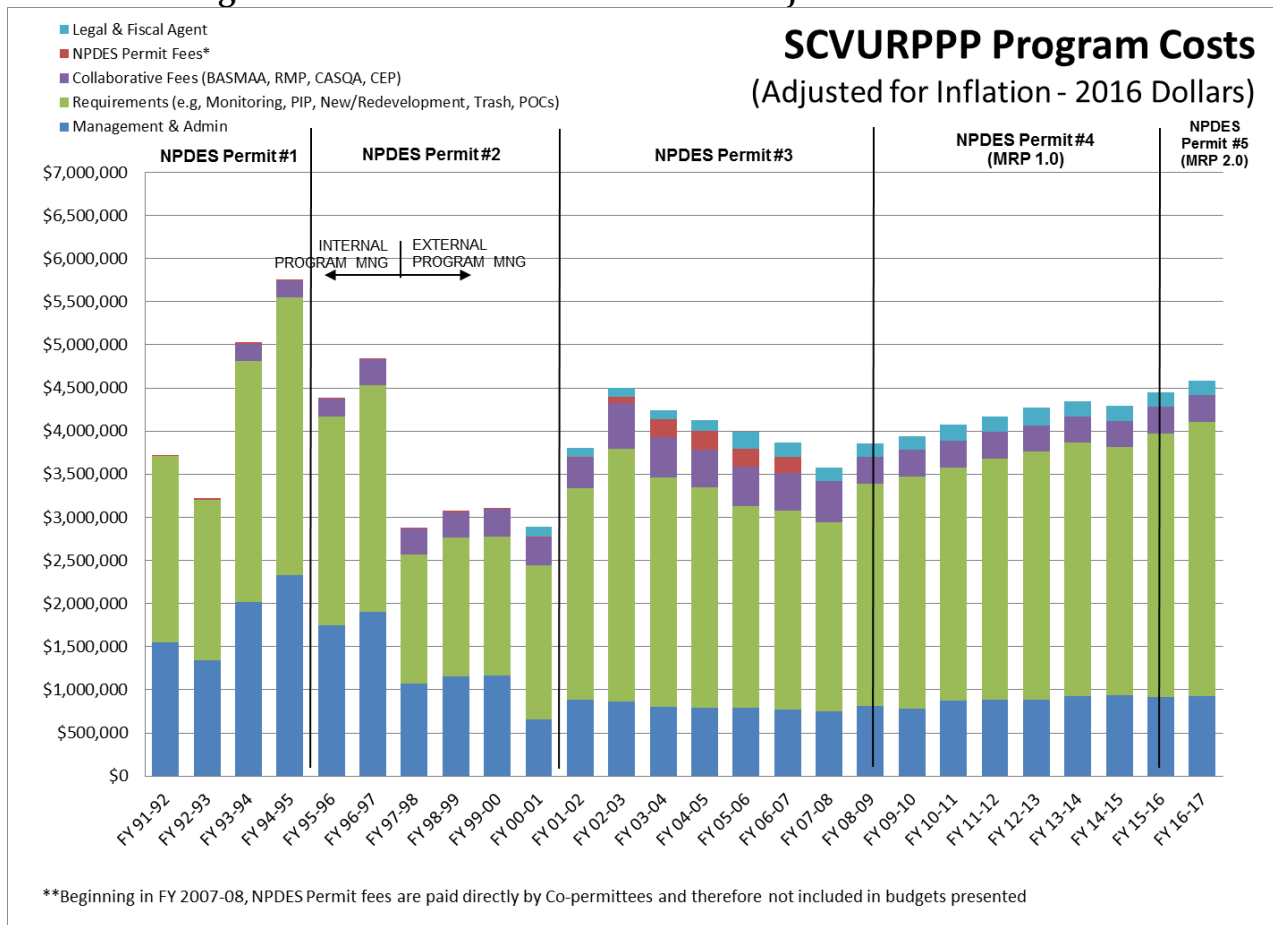
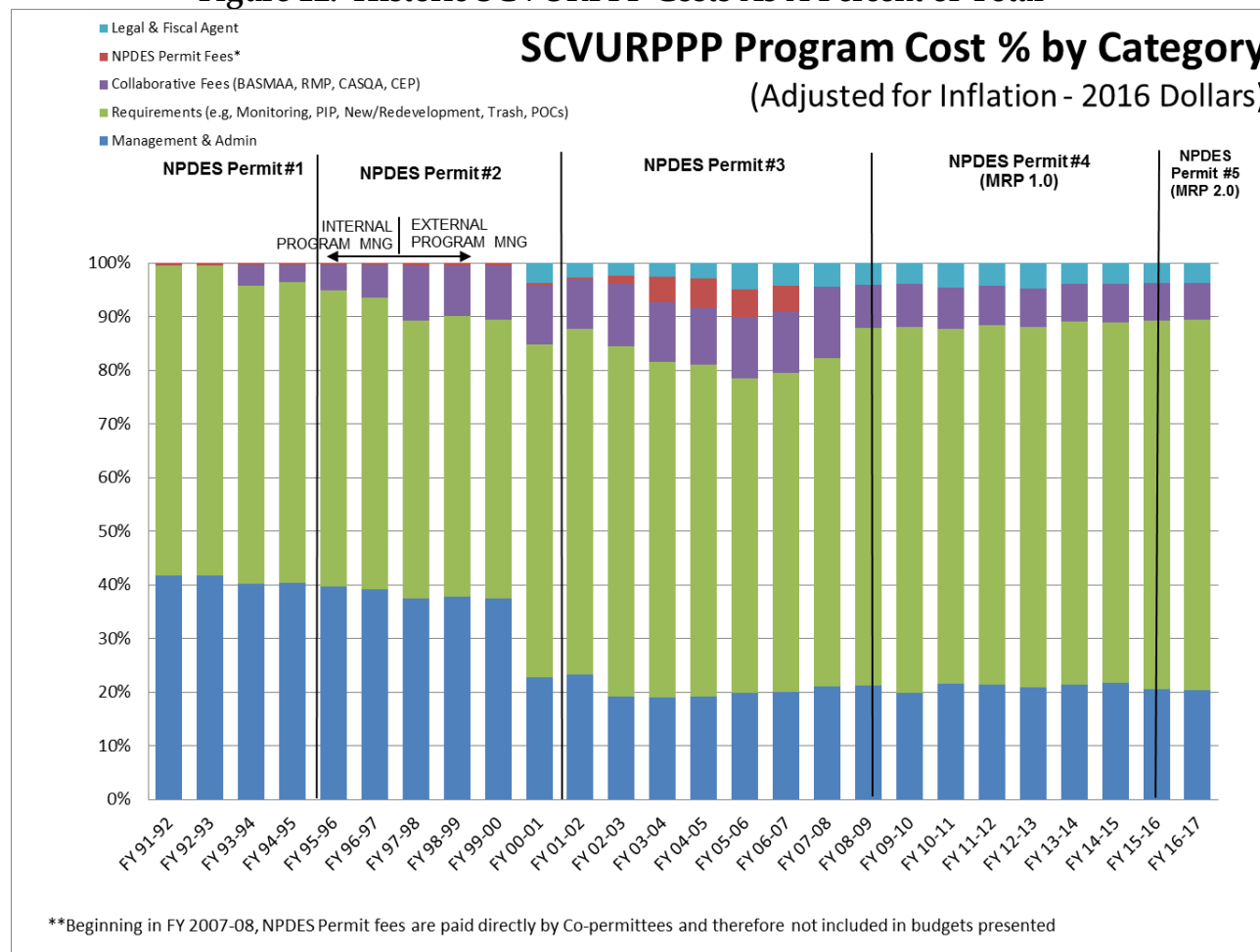


Figure 12 shows trends in how much each cost is of the total costs. While costs started trending upward with the fourth NPDES permit, the cost categories stayed relatively constant as a percentage of the whole.

Figure 12. Historic SCVURPPP Costs As A Percent of Total



Source: SCVURPPP Budget