



CONTRA COSTA
CLEAN WATER
PROGRAM

MANAGEMENT COMMITTEE MEETING AGENDA

Wednesday, June 21, 2023

1:30 PM to 4:00 PM

Join Zoom meeting:

<https://us06web.zoom.us/j/87930698822?pwd=b2lRT2ptV1VRcXFYR3d0U2xCUDBuZz09>

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 Duanne Hernaez by phone at 925-313-2360, by fax at 925-313-2301, or by email at Duanne.Hernaez@pw.cccounty.us.

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/ Brant Wilson/ Jigar Shah
City of Clayton	Larry Theis/ Jason Chen/ Ron Bernal
City of Concord	Bruce Davis (Vice-Chair)/ Carlton Thompson
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	Shawn Knapp/ Mark Summers/ Bret Swain
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	Ryan Cook/Ananthan Kanagasundaram/Frank Kennedy (Chair)
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

Rinta Perkins, Interim Program Manager	Erin Lennon, Watershed Planner
Andrea Bullock, Administrative Analyst	Lisa Welsh, Consultant
Duanne Hernaez, Clerical	Mitch Avalon, Consultant
Erin Lennon, Watershed Planner	Nicole Wilson, Consultant
Liz Yin, Consultant	Lisa Austin, Consultant

**Contra Costa Clean Water Program
MANAGEMENT COMMITTEE MEETING AGENDA
Wednesday, June 21, 2023**

AGENDA

Convene the Meeting /Introductions/Announcements/Changes to the Agenda: **1:30**

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: **1:32**

Consent Calendar: **1:35**

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) May 17, 2023 Management Committee Meeting Summary

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

- 1) Administrative Committee
 - May 2, 2023
- 2) PIP Committee
 - May 2, 2023
- 3) Monitoring Committee
 - May 8, 2023
- 4) Municipal Operations Committee
 - April 18, 2023
- 5) Development Committee
 - April 26, 2023

Presentations: **1:40**

- A. Status of Alternative Compliance System Project (A. Booth)
- B. Annual Report Update (E. Yin) 1:50
 - a. See staff report for background information
- C. Draft Stormwater Funding Options Report Phase 2 (M. Avalon) 2:00
 - a. See staff report on background information
- D. C.17 Unsheltered Homeless Mapping Conditional Budget Approval (E. Yin) 2:30
 - a. See staff report for background information
- E. Update on the Final Draft Cost Reporting Framework and Methodology (N. Wilson) 2:40
 - a. See staff report for background information
- F. Draft Regional Unsheltered Homeless BMP Report (E. Yin) 2:50
 - a. See staff report for background information

G. Annual Review/Update of Website Pages and Waste Disposal Information (Program Staff) 3:00

Actions: 3:15

- A. APPROVE the Homeless Mapping Budget
- B. APPROVE the Final Draft Cost Reporting Framework and Methodology

Updates: 3:30

- A. Draft Trash Monitoring Plan (L. Austin)
 - a. See staff report for background information
- B. BAMSC Steering Committee meeting (R. Perkins)
 - a. Status of regional projects and working groups

Information: 3:45

- A. AGOL entry request: Mercury and PCBs Control Measures Update Report (L. Austin)
- B. Request permittees submit documentation of # of PCBs in Building Demo applicable structures (L. Austin)
- C. CASQA quarterly meeting (A. Bullock)
- D. Brochure Update (N. Wilson)

Old/New Business: 3:55

Adjournment: Approximately 4:00 p.m.

Next Management Committee Meeting: Wednesday, July 19, 2023, 1:30 PM

Attachments

Consent Items

1. *Management Committee Meeting Summary May 17, 2023*
2. *Administrative Committee Meeting Summary May 2, 2023*
3. *PIP Committee Meeting Summary May 2, 2023*
4. *Monitoring Committee Meeting Summary May 8, 2023*
5. *Municipal Operations Committee Summary April 18, 2023*
6. *Development Committee Meeting Summary April 26, 2023*

Presentation and Action Items

7. *Staff Report, instructions, and schedule for the Municipal Annual Report FY 22/23*
8. *Staff Report and Second Draft Stormwater Funding Options Report Phase 2*
9. *Staff Report and Scope of Work for the C.17 Homeless Mapping Budget*
10. *Staff Report and Final Cost Reporting Framework and Guidance Manual*
11. *Staff Report and Draft Regional Unsheltered Homeless BMP Report*
12. *Staff Report and Draft Trash Monitoring Plan*

UPCOMING DOCUMENTS FOR MANAGEMENT COMMITTEE REVIEW
-- JULY 2023 --

ACTION	AGENDA TOPIC/DOCUMENT	REVIEW BY:	SUBMITTAL DATE
REVIEW	Annual Report Documents: Municipal Annual Report forms, Permittee Timeline, AGOL Data Entry Timeline.	Ongoing	September 30
REVIEW	Final Stormwater Funding Options Report Phase 2	July 19	N/A
REVIEW	Draft Regional Unsheltered Homeless BMP Report	July 14	September 30
REVIEW	Draft Trash Monitoring Plan	July 19	July 31
APPROVE	Conditional Approval of C.17 Homeless Mapping Budget	June 21	September 30
APPROVE	Final Draft Cost Reporting Framework and Methodology	June 21	June 30

UPCOMING CCCWP MEETINGS

All meetings **will not** be held at 255 Glacier Drive, Martinez, CA 94553, but will be held virtually

June 28, 2023 4th Wednesday	Development Committee Meeting, 1:30 p.m. – 3:30 p.m.
July 5, 2023 1st Wednesday	Administrative and PIP Committee Meeting 9 a.m. – 12:00 noon
July 10, 2023 2nd Monday	Monitoring Committee Meeting, 10 a.m. – 12 noon
July 19, 2023 3rd Wednesday	Management Committee Meeting, 1:30 p.m. – 3:30 p.m.

BAMSC (BASMAA) SUBCOMMITTEE/ MRP 3.0 MEETINGS

Times for the BAMSC (BASMAA) Subcommittee meetings are subject to change.

July 1, 2022	Effective date of MRP 3.0
1st Thursday	Development Committee, 1:30 – 4:00 p.m. (even months)
1st Wednesday	Monitoring/POCs Committee, 9:30 a.m. – 3:00 p.m. (odd months)
4th Wednesday	Public Information/Participation Committee, 1:30 – 4:00 p.m. (1 st month each quarter)
4th Tuesday	Trash Subcommittee, 9:30 a.m.-12 noon (even month)



MANAGEMENT COMMITTEE MEETING SUMMARY

5-17-2023

Attendance:

MUNICIPALITY	ATTENDED	ABSENT
City of Antioch	Phil Hoffmeister	
City of Brentwood	Brant Wilson	
City of Clayton	Larry Theis	
City of Concord	Bruce Davis (Vice Chair)	
Town of Danville	Bob Russell	
City of El Cerrito	Christina Leard	
City of Hercules	Jose Pacheco	
City of Lafayette	Tim Clark	
City of Martinez	Khalil Yowakim, Frank Kennedy	
Town of Moraga	Edrienne Aguilar	
City of Oakley	Billilee Saengchalern, Frank Kennedy	
City of Orinda	Kevin McCourt, Frank Kennedy	
City of Pinole	Misha Dhillon	
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	Michele Mancuso	
CCC Flood Control and Water Conservation District	Michele Mancuso, Allison Knapp	
Program Staff		
Program Manager	Karin Graves	
Admin. Svcs Assistant III	Andrea Bullock	
Watershed Mgmt Planning Spec.	Erin Lennon	
Clerk	Duanne Hernaez	
Program Consultants:		
Larry Walker Associates (LWA)	Liz Yin	
Larry Walker Associates (LWA)	Nicole Wilson	
Haley & Aldrich	Yvana Hrovat	
Members of the Public/Others/Guests:		
Town of Moraga	Edrienne Aguilar	
Larry Walker Associates (LWA)	Sandy Mathews	



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

Andrea Bullock (CCCWP) made an announcement on behalf of CCC Flood Control. She explained that there had been updates to the SUA rates setting process. Andrea asked members to turn in their budgets to show how much is being paid into their city's stormwater program as soon as possible.

Andrea announced that the solicitation for the GIS is complete, and the company selected through the RFQ process is Arini Geographics Inc. The program is in the process of getting the contract completed and executed with the goal of having 4 months of overlap with Psomas to ensure adequate time for the transition.

Karin Graves (CCCWP) announced that her last day with the CCCWP will be on May 31st. Karin thanked the program staff and permittee representatives for the opportunity and experiences. Committee members expressed their gratitude for the services that Karin has provided.

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

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

Roll call was taken and the meeting was convened by the Chair at 1:36

Consent Calendar:

1. APPROVE Management Committee meeting summary (Chair)

Amanda Booth (San Pablo) motioned to Approve the Management Committee meeting minutes as submitted, with no changes; Bob Russell (Danville) seconded. The Chair called for a vote. There were no objections. The motion passed with no abstentions, and the Management Committee meeting minutes were approved.

2. ACCEPT the following subcommittee meeting summaries into the Management Committee record (Chair)

- Administrative Committee
 - March 7, 2023
- PIP Committee
 - March 7, 2023
- Monitoring Committee
 - January 9, 2023
 - February 13, 2023
 - March 13, 2023



CONTRA COSTA CLEAN WATER PROGRAM

- Municipal Operations Committee
 - February 21, 2023
- Development Committee
 - February 22, 2023

Presentations

3. Annual Report Changes from Previous Year (E. Yin)

Elizabeth Yin (LWA) shared a presentation on changes made to the Municipal Annual Report forms for FY 22/23. The forms are due September 30, 2023 via SMARTs. Forms were approved by the BAMSC Steering Committee at the end of April. The final forms were distributed to program managers on May 1st. Elizabeth briefly covered the major changes that were made to the annual report forms, which mainly consisted of revisions made in accordance with the MRP 3.0 guidelines. The forms and guidance will be posted to Groupsite on June 14th. Permittees were asked to review these changes in preparation for discussion at the July 21st Management Committee meeting.

Amanda Booth (San Pablo) asked if the performance standards in the C.3 section are something to be completed at the countywide level or individually. She also asked about C.5.e guideline changes regarding how mobile cleaners' inspections are being coordinated. Program staff will look to answer these questions at the next Management Committee meeting.

Bruce Davis (Concord) mentioned that Central Sanitation performs inspections in multiple cities and asked if anyone knows how they inspect mobile businesses. According to Erin Lennon (CCCWP), Central Sanitation District inspects on a response basis. It was also mentioned that Central Sanitation is working on getting all their SIC codes made available in their database to be used by other agencies.

4. SUA Disbursement FY 22/23 – Budget Reallocation (A. Bullock/K. Graves)

Andrea Bullock (CCCWP) gave background on the SUA Return to Source Funds Reallocation. She explained that an error was made when distributing funds for FY 21-22:

- In FY 21-22, the budget was \$3.7 million, which is ~\$205k over the \$3.5 million dollar cap. There was a misinterpretation about how to distribute those funds and return unspent money back to reserves.
 - In FY 21-22, less than \$3.5 million was spent.
- Per the FY 21/22 Budget Policy Assumptions, unspent funds under \$3.5 million should have been put into reserves.
- Per the FY 21/22 Budget Policy Assumptions, unspent funds under the \$3.7 million (i.e., the additional \$205k) should have been returned to permittees.

The Management Committee was asked for guidance on how to return unspent funds to permittees. It was explained that there is the choice of keeping unspent funds in the reserves.



CONTRA COSTA CLEAN WATER PROGRAM

Amanda pointed out that she would like to add her city's funds to the reserve since the reserves are nearly depleted. Lucile Paquette (Walnut Creek) mentioned to staff that she would like this issue to be documented for future reference.

Committee members unanimously agreed to leave the funds in reserves.

5. Final PCBs Demolition Applicant Package / Inspection Enhancement Recommendations (S. Mathews)

Sandy Mathews (LWA) shared a summary of the PCBs in the Building Materials program.

Required revisions to the program were highlighted:

- Notifications – demolition contractors provide notification to the municipality, regional water board, and USEPA at least one week before demolition occurs.
- Documentation- demolition contractors submit documentation of proper disposal of PCBs-containing materials to USEPA or the municipality.
- Enhancements – municipalities enhance their C.6 Construction Site Stormwater Program at sites subject to the PCBs management requirements – it was pointed out that there are less than a dozen buildings that have received enhancements in Contra Costa County.
 - C.12.g.ii (3) Rainy Season Inspections – Municipalities must inspect applicable demolition sites beginning with the 2023 rainy season.
 - C.12.g.ii (4) Enhancements – Municipalities must enhance their C.6 construction site control program for applicable demolition sites beginning July 1, 2023.

It was pointed out that the flow chart has been expanded, and its format changed to make it easier to read.

6. Management Committee Chair and Vice-Chair, Administrative Committee, and Sub-Committee Membership Rosters, Master Chart (K. Graves)

Karin shared with committee members that, in accordance with the CCCWP Program Agreement, it is the time of the year to approve the Administrative committee and sub-committee assignments as well as to elect the Chair and Vice Chair for the Management Committee for FY 23/24 term. A table was shared which showed the Administrative Committee Assignments schedule.

Misha Dhillon (Pinole) asked committee members for their recommendations for new staff. Lucile mentioned that there is the option to sit in meetings as a non-voting member to become more familiar before joining. Karin mentioned that new staff can request information on each committee by becoming a member through Groupsite.

Actions



**CONTRA COSTA
CLEAN WATER
PROGRAM**

7. APPROVE the SUA Disbursement FY 22/23 Budget Reallocation

Amanda Booth (San Pablo) motioned to Approve, and Bruce Davis (Concord) Seconded. There were no abstentions or objections, and the SUA Disbursement FY22/23 Budget Reallocation was approved.

8. APPROVE the Final PCBs Demolition Applicant Package/Inspection Enhancement Recommendations

Kerry Parker (San Ramon) motioned to Approve, and Misha Dhillon (Pinole) Seconded. There were no abstentions or objections, and the ratification of the Final PCBs Demolition Applicant Package/Inspection Enhancement Recommendations were approved.

9. APPROVE the Management Committee Chair and Vice-Chair, Committee Membership Rosters, and Master Chart

Michele Mancuso (Contra Costa County) motioned to Approve, and Amanda Booth (San Pablo) Seconded. There were no abstentions or objections, and Moraga's assignment to be the Chairperson of Management Committee and Administrative Committee was approved.

Lucile Paquette (Walnut Creek) volunteered to serve as Vice Chair for the Management Committee.

Mary Phelps (Richmond) motioned to Approve, and Kevin McCourt (Orinda) Seconded. There were no abstentions or objections, and Walnut Creek's voluntary assignment to the Vice Chair of Management Committee was approved.

Amanda Booth (San Pablo) motioned to Approve, and Phil Hoffmeister (Antioch) Seconded. There were no abstentions or objections, and the Subcommittee Membership Roster, with Richmond's submission coming in later, was approved.

Reports

9. Quarterly Status Report on Grant Opportunities (E. Yin)

Elizabeth gave background on how the grant tracker operates. The updated grant tracker now includes a column, which shows when the Tentative Next Round Date is open. This can be used to filter out opportunities that have been closed. The "News" column will now display updated cells in yellow. Elizabeth explained how grants are recommended to the program or permittees. This complex assessment is simplified in the tracker, and the recommendation criteria was explained:

- Clean Water Program
 - Grants that fund:
 - Watershed Scale Planning
 - Program Development
 - Education



CONTRA COSTA CLEAN WATER PROGRAM

- Permittees
 - Grants that fund:
 - Infrastructure
 - Construction

The column will also show if a grant is recommended to both the program and permittees.

Current and on-going grant opportunities were pointed out. There are currently 15 open grant opportunities and 3 opportunities that are set to be open for applications by the end of May and the beginning of June and July. Instructions for applying for these grant opportunities are included in the tracker.

The Bipartisan Infrastructure Bill was covered and Important dates concerning this bill was shared:

- June 29th – Applications must be received by EPA via Grants.gov by 8:59 pm PST.
- August 28th – Selected applicants notified.
- September 15th – Final application packages submitted to EPA, September 2023 Awards made.

The Clean California Local Grant Program (ongoing opportunity) was highlighted:

- The application deadline has been extended to May 31st at 5:00 pm PST.
- The goals of the grant were shared:
 - Reduce the amount of waste and debris within the public right of way.
 - Enhance, rehabilitate, restore, or install measures to improve public spaces.
 - Enhance public health, cultural connection, and community placemaking by improving public spaces.
 - Advance equity for underserved communities.

The Coastal Conservancy Grant was highlighted, which offers an umbrella of ongoing opportunities for funding climate change adaptation and resilience grants. An overview that shows the process of applying for this grant was shared.

Updates

10. Personnel Update (K. Graves)

Karin shared that the Sr. Watershed planning specialist position is still in the process of being filled, but the Program Manager position will now take priority, and the details concerning this will be discussed at the Closed Session Management Committee meeting.

11. BAMSC Steering Committee meeting (K. Graves)

Karin shared a couple of items that were approved at the last meeting:

- The revised MRP 3.0 annual report forms were approved.



CONTRA COSTA
CLEAN WATER
PROGRAM

- The LID Monitoring QAPP was approved and will be submitted to the RWB along with the LID Monitoring Plan

The topic of having a “response to comments document” for regional projects was discussed, and it was decided that for the next upcoming project, a protocol for submitting and responding to comments will be tested.

Information

12. AGOL entry request: Mercury and PCBs Control Measures Update Report (L. Austin)

Lisa Austin (Geosyntec) requested permittees to enter C.3 projects in AGOL by the end of June so that they can download the data and work on the annual report in early July. She asked permittees to reach out if they have any questions/issues.

13. SUA Disbursements #2 For Approval (A. Bullock)

Andrea reminded permittees that she is processing the second disbursement, and they will be sent out by the end of June.

14. SF Regional Water Quality Control Board Contact Information (K. Graves)

Contact information has been included in the Agenda Packet for whoever might find it useful.

15. C.3 and C.17 Mapping Requirements (E. Yin)

Elizabeth shared with the committee that in MRP 3.0, there are now requirements for C.3 to have a public mapping interface for C.3.j, which is currently being worked on. The mapping requirement for C.17 is being worked on as well. A budget approval item concerning these requirements will be presented at the June Management Committee Meeting.

Old/New Business:

No Old/New Business was shared.

Adjournment: The Chair adjourned to a closed session at approximately 3:02



ADMINISTRATIVE COMMITTEE MEETING

SUMMARY

Tuesday, May 2, 2023

10:30 am – 12:00 pm

Zoom Meeting

VOTING MEMBERS	ATTENDED	ABSENT
Contra Costa County	Michele Mancuso	
CCC Flood Control and Water Conservation District	Tim Jensen	
City of Lafayette	Matt Lutthrop	
	Tim Clark	
City of Martinez	Frank Kennedy	
City of Pittsburg	Jolan Longway (Vice Chair)	
City of Pleasant Hill	Frank Kennedy (Chair)	
City of Richmond	Mary Phelps	
NON-VOTING MEMBERS		
City of Walnut Creek	Lucile Paquette	
City of Danville	Bob Russell	
PROGRAM STAFF		
Program Manager		Karin Graves
Administrative Analyst	Andrea Bullock	
Clerical	Duanne Hernaez	
PROGRAM CONSULTANTS		
Larry Walker Associates	Elizabeth Yin	
Larry Walker Associates	Nicole Wilson	

1. Convene Meeting and Roll Call (Chair)

The Chair convened the meeting at 10:37am

2. Announcements or Changes to the Agenda (all)

There were no changes to the agenda.

Tim Jensen (CCC Flood Control) announced that CCC Flood Control had overlooked a step when processing the Stormwater Utility Assessment. Consequently, each city and unincorporated county will need to send in their overall proposed stormwater budget. A letter will be sent out via email to collect this necessary information.

At the beginning of the meeting, Lucile Paquette (Walnut Creek) proposed that the Admin Committee/ the Clean Water Program Staff revisit the development of a calendar-type tool used to track various deliverables and deadlines associated with the Permit requirements.



ADMINISTRATIVE COMMITTEE MEETING

SUMMARY

Tuesday, May 2, 2023

10:30 am – 12:00 pm

Zoom Meeting

This topic was revisited toward the end of the committee meeting, where several permittees supported the development of an improved calendar tracking system. It was acknowledged that this topic will be further reviewed and discussed in future meetings.

3. Approval of April 11, 2023 Meeting Minutes (Chair)

Corrections to the spelling of names and duplicate attendees were pointed out in the January 3, 2023, meeting minutes. Mary Phelps (Richmond) motioned to approve the Administrative Committee meeting minutes as submitted, with corrections, and accept subcommittee minutes. Tim Jensen (CCC Flood Control) seconded. The Chair called for a vote. There were no objections or abstentions. The motion passed with no abstentions, and the items were approved.

4. SUA Disbursement FY 22/23 – Budget Reallocation (A. Bullock)

Andrea Bullock (CCCWP) gave background on the SUA Return to Source Funds Reallocation. She explained that an error was made when distributing funds for FY 21-22:

- In FY 21-22 the budget was \$3.7 million which is ~\$205k over the \$3.5 million dollar cap. There was a misinterpretation about how to distribute those funds and return unspent money back to reserves.
 - In FY 21-22, less than \$3.5 million was spent.
- Per the FY 21/22 Budget Policy Assumptions, unspent funds under \$3.5 million should have been put into reserves.
- Per the FY 21/22 Budget Policy Assumptions, unspent funds under the \$3.7 million (i.e., the additional \$205k) should have been returned to permittees.

Andrea brought this information to the Administrative Committee seeking approval to bring up this issue at Management Committee for review and direct the Program to return those monies to permittees. As a result, the reserves will be reduced by ~\$205k. It was noted that the funds can be kept in the reserves if the permittees choose to.

It was recommended by the Administration Committee that this issue be presented at the next Management Committee meeting.

5. Draft May 17, 2023 Management Committee Agenda (E. Yin)

Liz Yin (LWA) shared the upcoming Management Committee agenda for approval by the Administrative Committee.

There were no changes or corrections to the May 17, 2023, Management Committee Agenda. Michele Mancuso (CCC) motioned to approve the Management Committee Agenda as submitted,



ADMINISTRATIVE COMMITTEE MEETING

SUMMARY

Tuesday, May 2, 2023

10:30 am – 12:00 pm

Zoom Meeting

with no corrections. Mary Phelps (Richmond) seconded. There were no objections or abstentions, and the Management Committee Agenda was approved.

6. Old/New Business (Committee)

None

7. Adjournment

The Meeting adjourned at 11:10 am



PUBLIC INFORMATION/PARTICIPATION COMMITTEE
MEETING SUMMARY
Tuesday, May 2, 2023, 9:00 am – 10:30 am
Zoom Meeting

PIP Committee Voting Members	Attended	Absent
City of Antioch	Julie Haas-Wajdowicz (Vice Chair)	
CCC Flood Control District		Michelle Giolli
City of San Ramon	Kerry Parker (Chair)	
Admin Committee Members acting as PIP Voting Members	Attended	Absent
Contra Costa County	Michelle Mancuso	
CCC Flood Control and Water Conservation District	Michelle Mancuso	
City of Lafayette	Tim Clark	
	Matt Luthropp	
City of Martinez	Frank Kennedy	
City of Pleasant Hill	Frank Kennedy	
City of Pittsburg	Jolan Longway	
	April Chamberlain	
City of Richmond	Mary Phelps	
Non-Voting Members		
Town of Danville	Bob Russell	
City of Walnut Creek	Lucile Paquette	
Program Staff		
Program Manager		Karin Graves
Administrative Assistant	Andrea Bullock	
Watershed Mgmt. Planning Spec.	Erin Lennon	
Clerical	Duanne Hernaez	
Consultants		
Stephen Groner Associates (SGA)	Stephan Groner, Michelle Dissel, Katie Galla	
Larry Walker Associates	Nicole Wilson, Liz Yin, Karen Ashby	
Guests		
Mr. Funnelhead Director	Matt Bolender	

1) Convene Meeting and Roll Call (Chair)

The Chair Convened the meeting at 9:03 am.

2) Introductions, Announcements, and Changes to Agenda (Chair)

There were no announcements or changes to the agenda.



**PUBLIC INFORMATION/PARTICIPATION COMMITTEE
MEETING SUMMARY**

**Tuesday, May 2, 2023, 9:00 am – 10:30 am
Zoom Meeting**

3) Consent Items Approval (Chair)

- April 4, 2023 PIP Meeting Minutes.
- May 2023 Facebook and Instagram Posts

There were no corrections or revisions to the April 4, 2023, meeting minutes and April 2023 Social Media Posts. Julie Haas-Wajdowicz (Antioch) motioned to approve the PIP Committee meeting minutes as submitted, with no changes, and accept subcommittee minutes. Frank Kennedy (Pleasant Hill) seconded. The Chair called for a vote. There were no objections or abstentions. The motion passed with no abstentions, and the items were approved.

4) Mr. Funnelhead Youth Outreach Update (Matt Bolender)

Matt Bolender shared a video of the annual awards ceremony for the Mr. Funnelhead Program which gave an overview of the program, highlighted the winners for this year's contest, and summarized key metrics (i.e., amount of outreach material provided, number of schools visited, etc.) of the outreach program. It was noted that this was the first year of going back to the schools and holding presentations since the Covid-19 pandemic. Committee members shared their appreciation towards the program efforts and commented that the annual review at PIP Committee is very informational.

5) Brochure Updates (SGA, Nicole)

Nicole Wilson (LWA) shared the most recent version of the restaurant brochure which is nearing completion. Nicole asked the committee for feedback so the brochure can be finalized. Changes to the brochure made in response to comments were shared, these included a new color scheme and simplified language. Committee members discussed adjusting small details in the brochure to provide more clarification to the reader. The mobile cleaner BMP brochure was shared as well, and it was noted that it would receive the same suggested changes as the restaurant brochure.

It was announced that the Auto Body Shop and Pool Cleaning brochures will be the next one to be worked on. Both brochures were shared briefly with the committee and Michelle Dissel (SGA) opened up the discussion for initial feedback. Michelle let the committee know that the brochures will be uploaded to Groupsite and available to receive comments after the PIP meeting.

Nicole announced that there is a new shared document format available for committee members to review and provide feedback on the draft brochures. This shared document will allow members to see others feedback which should reduce duplicate and/or conflicting comments.



**PUBLIC INFORMATION/PARTICIPATION COMMITTEE
MEETING SUMMARY
Tuesday, May 2, 2023, 9:00 am – 10:30 am
Zoom Meeting**

6) Social Media Campaign Updates (SGA)

The preliminary results for the Earth Day Social Media Campaign were shared:

- Facebook reach increased 47%
- Instagram account reach increased by 3k.
- Instagram interactions had a 12.9% increase in followers – the average is usually around 3.8%

The winner of the earth day contest was announced.

Michelle shared the new layout for the quarterly newsletter. Committee members shared some positive feedback on the new brochure layout and the format was approved.

7) Cost Reporting Update (Nicole/Karen Ashby)

A timeline was shared which showed important dates for the Cost Reporting Update

Upcoming dates:

- June 1st – Final draft cost reporting framework and methodology
- June 6th – CCCWP to APPROVE at PIP committee.
- June 21st CCCWP to APPROVE at MC Committee
- June 22nd Approve final draft framework and methodology.
- June 30th submit final draft framework and methodology to the Regional Water Board.

It was highlighted that that the response to the comment letter is anticipated to be shared within the next week. The response will address concerns on how comments were responded to. It was noted that over 150 comments were submitted, which may explain the delay in the release of the response to the comment letter. Nicole let the committee know that once the response to comment letter is available, it will be shared with the group.

Comments that have been addressed were highlighted:

- Adding guidance to the framework and guidance manual
- Adding hyperlinks through the excel workbook.
- Costs rounded to the nearest thousand
- Source of Funding tab made more general



**PUBLIC INFORMATION/PARTICIPATION COMMITTEE
MEETING SUMMARY**

Tuesday, May 2, 2023, 9:00 am – 10:30 am

Zoom Meeting

- Flexibility in terms of how certain costs are reported.

Nicole placed emphasis on referencing the guidance manual as it may be able to answer recurring questions and concerns as permittees work through the framework spreadsheet. It was pointed out that only tab 2 and 3 of the cost reporting framework will be submitted in annual reports.

It was asked if training will be provided, and it was noted that a request for training was requested to the work group and if desired, countywide workshops on cost reporting could be provided in the future.

8) Adjournment (Chair)

The meeting adjourned at 10:31 am

**Monitoring Committee
Meeting Minutes
May 11, 2022**

VOTING MEMBERS		
MUNICIPALITY	ATTENDED	ABSENT
City of Pittsburg	Joe Camaddo (Chair)	Jolan Longway
CCC Flood Control District	Beth Baldwin (Vice-Chair) Michelle Giolli	
City of Antioch		Phil Hoffmeister
City of Pinole	Misha Kaur	
City of Richmond	Terri Mason	
City of Walnut Creek	Lucile Paquette	
Non-Voting Members		
City of San Pablo	Amanda Booth	
Program Staff and Consultants		
Augmented Staff	Lisa Welsh / Lisa Austin	
Program Staff	Karin Graves	
Program Consultant	Mitch Avalon	
Brian Laurenson	LWA	

- **Introductory Remarks, Announcements, and Changes to the Agenda.** Joe Camaddo opened the meeting with a quorum. Lucile noted that there are a lot of requirements/deadlines in C.11/C.12 (d to g) and if asked if the committee could look at the meeting topics spreadsheet and see when it makes sense to discuss.
- **April 2022 Meeting Summary.** City of Walnut Creek (L. Paquette) moved to approve the April 2022 meeting summary with a minor revision to the C.12.c section noting that, “it would be helpful to” rather than “should” include all Applicable Structures including those without PCBs >50 ppm. CCC Flood Control District (B. Baldwin) seconded and City of Pittsburg (J. Camaddo) abstained.
- **East County Update.** Brian Laurenson (LWA) provided an update on the Delta RMP and other Region 5 monitoring/TMDL topics (see Attachment 1a for slide deck):
 - There have been substantial staffing changes at the RWB (see slide 2).
 - Delta RMP became a non-profit in July 2021 and the board of directors is comprised of all permittees (i.e., no RWB staff). A resolution was adopted by the RWB that is very permit-like but not an official amendment to the permit.
 - In general, RWB and Staff have been slow to respond. Permittees submitted their RAAs, which require EO approval, three years ago. RWB Staff have not yet issued comments. Monitoring plans will commence after comments are received.
 - Lauren Smitherman is the main contact for the methylmercury TMDL. Phase 1 is ongoing and includes R5’s review of the TMDL. Phase 2 is the implementation phase

and starts in October 2022. It seems like there are not going to be many changes to the program and that the current waste load allocations will remain. RWB has indicated that the time and place to provide feedback will be during the CEQA process. Brian L. will check in on the RWB schedule and timeline. (Update from Brian on 5/10 – R5 is still drafting the methylmercury BPA Staff Report which will go out for review in mid to late summer. They expect a hearing in 2024 and submission to the State Board in 2025.)

- Region 2 MRP 3.0 Provision C.19 is probably sufficient to also meet Region 5 pyrethroid requirements. Pyrethroid TMDL is supposed to be attained by 2039. It will likely be done through replacement.
 - Recent 303(d) listings in Contra Costa County include Sand Creek for dissolved oxygen and Dry Creek for toxicity.
- **MRP 3.0 Hearing Updates.** Lisa A. reviewed the agenda for the MRP 3.0 hearing on May 11. The meeting will start at 9 am, with a few internal agenda items. Then, RWB Staff will provide a 30-min presentation followed by the permittee’s coordinated presentation (also 30 mins), and then the 3-min public comment presentations. Lisa A. reviewed the preliminary list of presenters and topics for the public comments.
 - Reid Bogart and Chris Sommers will share the coordinated 30-min presentation. Lisa A. reviewed the talking points and the slides with the redline. Redline will be shown on the slides so that it is on the record.
 - The committee discussed how for C.11/12 there are options other than GSI implementation for treatment of PCBs. GSI implementation is costly and does not provide significant load reduction compared to other measures, such as abatement. Following through on referral and abatement for source properties will help to meet the requirement for the number of acres to be investigated. The specific accounting for load reductions will be worked out during the first year(s) of the permit.
 - The committee agreed that Lisa A. will do a 3-min presentation on behalf of the Contra Costa permittees on C.11/12. Significant time and resources are needed to engage with property owners, obtain site access, and coordinate treatment. Need collaboration with RWB Staff to support efforts on permitted sites. Lisa A. will draft a few slides and share them with the committee by EOD for comments and revisions. Lisa A. will also present the correction that should be made in Table H-1 for the population of Unincorporated County. (Update: see Attachment 1b for 3-min presentation.)
 - **May 4th BAMSC MPC Meeting Summary.** Lisa W. reviewed the SPLWG special study proposals to be discussed at the SPLWG meeting on May 23 and 25 (see Attachment 1c). Four of the five proposals support modeling, either directly or indirectly through the collection of monitoring data for model calibration. Modeling is for POCs (PCBs and mercury) and CECs (PFAS). SFEI has developed a model for estimating PCBs and Hg (not to replace the RAAs) and wants to move forward with incorporating source control measures.

They are looking to gather GSI information from the programs and may use Contra Costa County as a case study. A subset of the proposals will be funded. The permittees are providing \$100k/year under MRP 3.0 for CECs and want assurance that those dollars will go toward meeting permit requirements. Lisa W. will reach out to Melissa Foley to present at Mon Com and give an RMP update. Lisa W. and Lisa A. will send any comments on the SPLWG proposals to Lisa Sabin the week of May 16.

- **Monsanto Cost Estimate.** Lisa W. reviewed the approach to develop an estimated cost for the permittees to achieve the PCBs TMDL by 2050. To develop the estimate, Geosyntec considered the cost to the permittees for seven source control measures for reducing PCBs and mercury. The most significant cost to the permittees is GSI implementation and was estimated based on the number and type of projects listed in the permittees' GI Plans. After considering GSI, the remaining costs to each permittee were apportioned by population and old industrial area.

The cost for the permittees to achieve the PCBs TMDL by 2050 is an estimate based on available information. The committee discussed how:

- the GSI plans have less significance under MRP 3.0;
- the replacement of HDS units is probably not considered in Geosyntec's life-cycle cost;
- GSI implementation has other benefits than just treating PCBs (e.g., treats multiple pollutants);
- GSI is one of the most costly PCBs control measures;
- Implementation of some control measures depends on having existing infrastructure (e.g., storm drains and inlets);
- Another way to consider the Monsanto payout is what can be accomplished with the funds provided and Geosyntec estimated the cost/g of PCBs reduced.

May meeting topics – Trash Monitoring Catchment Delineation and Outfall Selection Update and CCCWP Brochures – were moved to June Mon Com.

- **Next Steps / Action Items**

- Review Meeting Topics and add a line for discussion(s) for other C.11/C.12. requirements.
- Brian L. to review the RWB schedule for the methylmercury TMDL.
- Lisa A. to draft slide deck for a 3-min comment on C.11/C.12. Mon Com will review and provide feedback EOD so Lisa A. can send the slides to Keith.
- Lisa W. to ask Melissa Foley (SFEI) to present at Mon Com to provide an RMP update/summary.
- Lisa A. and Lisa W. to send comments on the SPLWG special studies to Lisa S. before the SPLWG meeting on May 23 and 25.

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

Next Scheduled Monitoring Committee Meeting: Monday, June 13, 2022, 10:00 AM- 12:00 noon, Zoom meeting.

G:\NPDES\05_Monitoring Committee\03_Minutes&Attend\FY 21-22\Approved Minutes\2022-05\01_2022_May_9_MonCom_Minutes_Approved.docx

Region 5 Report

May 9, 2022

TMDL Status

Regional Board News

Delta RMP

Brian Laursen
LWA

Central Valley Board

Retired/Left

New/Promoted

Jim Marshall, NPDES
Chief 2022-07-01

Danny McClure -
pesticide TMDL

TMDL Chief
(3 years)

TBD, likely internal

Jessi Rader

Meredith Howard,
formerly SCCWRP
(HAB Research)

- Lauren Smitherman - MeHg TMDL
- Some talk of MS4 General Permit Renewal, but 2019 RAAs still not reviewed

DRMP Changes

- SFEI/ASC (and Bay RMP structure) replaced by consultant + non-profit
- July 2021 formation of non-profit BoD (permittees only), Steering Committee, and subject-TACs
- Resolution adopted by Regional Board
- No update to Charter or other foundational documents
- 2022-23 Work Plan mostly planning

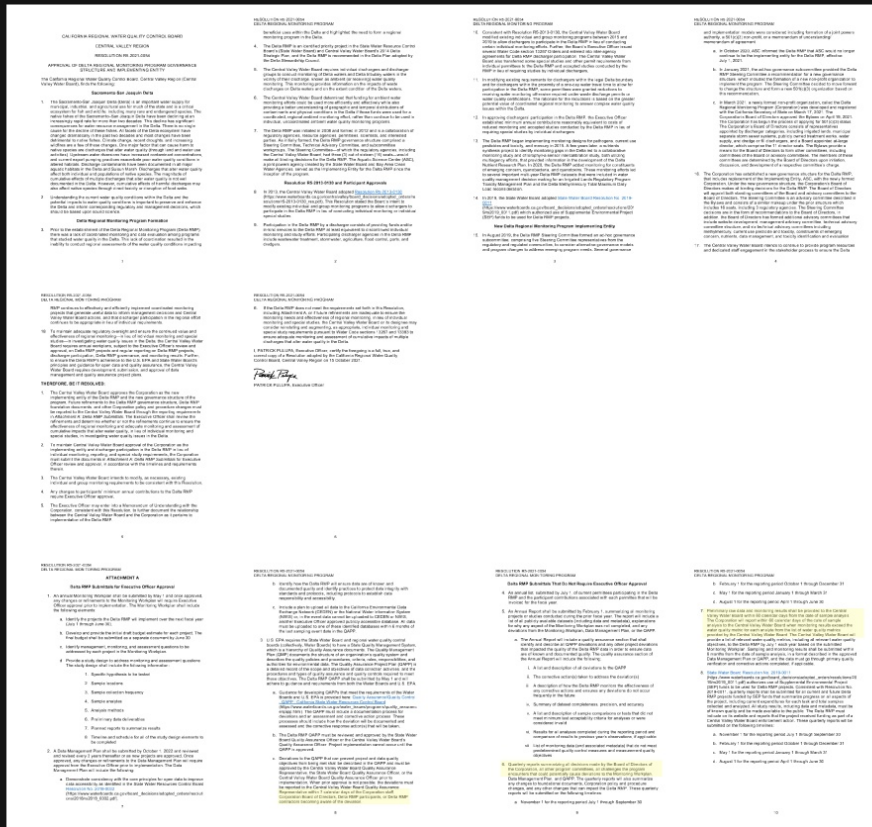
Resolution R5-2021-0054



2022-23 Work Plan



Resolution R5-2021-0054



DRMP Changes

- SFEI/ASC (and Bay RMP structure) replaced by consultant + non-profit
- July 2021 formation of non-profit BoD (permittees only), Steering Committee, and subject-TACs
- Resolution adopted by Regional Board
- No update to Charter or other foundational documents
- 2022-23 Work Plan mostly planning

Resolution R5-2021-0054

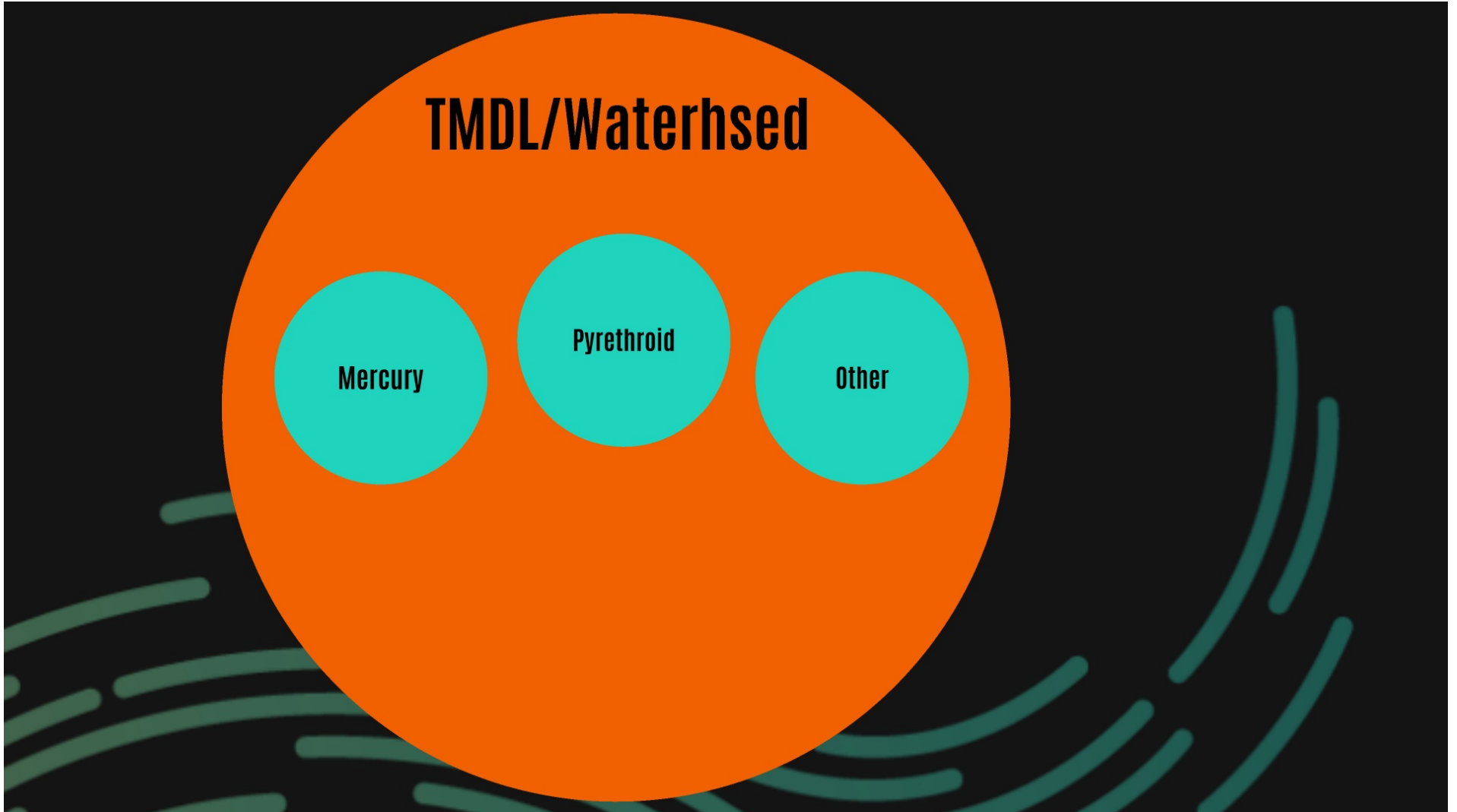


2022-23 Work Plan



2022-23 Work Plan

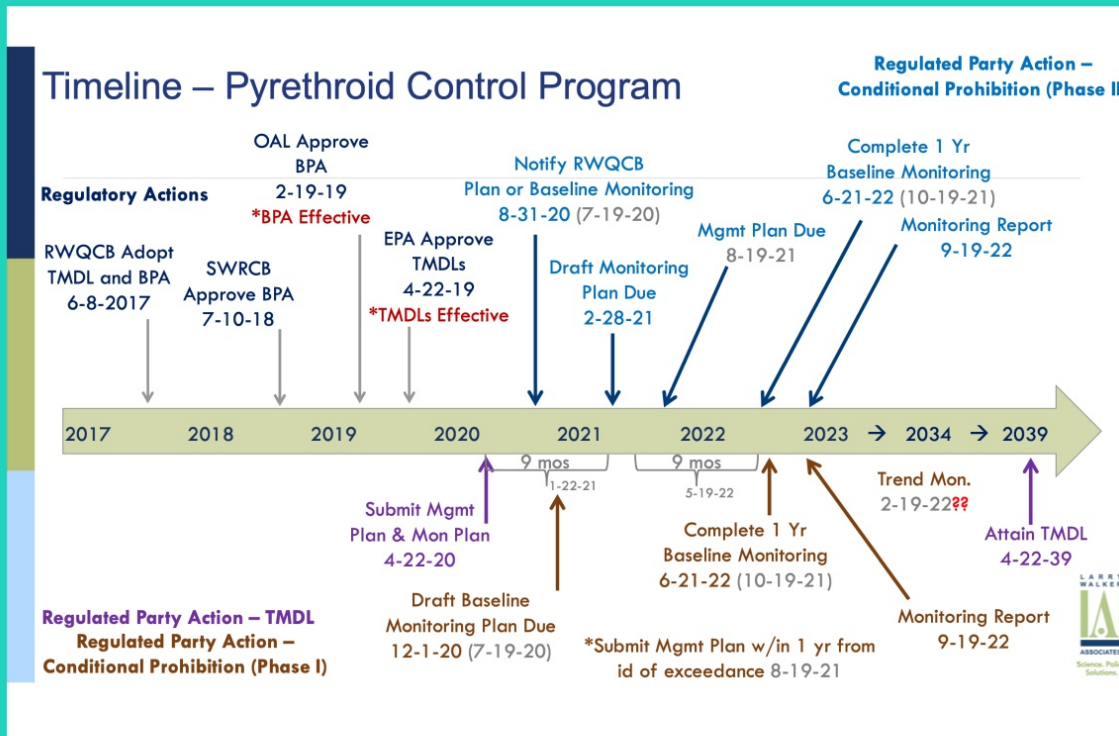
MONITORING SECTOR	PLANNING	MONITORING	DATA SYNTHESIS / REPORTING
Current Use Pesticides		Water Year 22/23 Monitoring	
Constituents of Emerging Concern Pilot Study	Year 3 Study Design Details / QAPP		Year 2 Data Report
Nutrients / HABs	Long Term Planning (2022)	USGS Cyanotoxin Monitoring	Nutrient Symposium Report Out 21/22 Data Report from USGS
Mercury	Long Term Planning (2023)	August (fall) Monitoring	Data Report



Mercury/Methylmercury

- Delta Independent Science Panel reviews continue to note that MS4 and POTW loads are negligible.
- Phase 2 starts October 2022 pending any changes that are not expected (i.e, WLAs stay!).
- Regional Board has been reserved about stakeholder involvement except in public commenting
- Compliance by 2030, but unclear what will be allowed for compliance determination

Pyrethroid



- Phase 1 and 2 baseline monitoring programs and management plans
- Trend monitoring and possible collaborations
- Jessie Rader taking over from Danny McClure

Other Watershed

- Harmful algal blooms and nutrients
- Bioassessment and engineered channels
- CV-SALTS
- 303(d) listings - bioassessment, stormwater features
 - Sand Creek - DO, Dry Creek - Toxicity

Water Board Hearing
May 11, 2022

MRP 3.0 Revised Tentative Order

***Provision C.12.c. PCB Control Measure
Implementation In Old Industrial Areas***

Lisa Austin, P.E.
Senior Principal, Geosyntec Consultants
Contra Costa Clean Water Program

C.12 PCB Control Measure Implementation

- Contra Costa Permittees made significant progress during MRP 2.0 to address old industrial areas
 - Mapped / verified old industrial areas in GIS
 - 14,139 acres in parcels & ROW
 - Investigation / monitoring found:
 - 3,516 acres to have low PCBs
 - 11 acres determined to be moderate
 - 84 acres private source properties referred to RWB or abated
-

C.12 PCB Control Measure Implementation

- **Old Industrial treatment area goal in the Revised Tentative Order will take time**
 - 664 acres (121 grams/year) for Contra Costa County
 - Considerable time and resources are needed to investigate, engage with property owners, obtain access to the site, explain why the property must be remediated or controlled with treatment
 - If sampling shows elevated levels of PCBs on the property, it will be difficult to convince property owners to remediate soils that are below the State's cleanup standards for PCBs
 - Permittees need RWB staff support for these efforts on permitted sites
-

We request that the Water Board...

- **Revise provision C.11/12.c** to incorporate a reasonable level of effort for MRP 3.0 based on the process needed to engage private property owners
 - Set the Contra Costa County C.12.c target for the implementation of control measures to 5% of Old Industrial Area (560 acres or 101 grams/year)
 - **Direct Regional Board staff to set and commit to reasonable response times to follow through on programs to reduce PCBs loads based on work products submitted by Permittees during MRP 2.0 & MRP 3.0**
 - Investor-Owned Electrical Utilities (PG&E spills in all land use areas)
 - Source property referrals
-

We request that the Water Board...

- Revise Table H-1 in Appendix H

Municipal Regional Stormwater Permit
Order No. R2-2022-XXXX

NPDES Permit No. CAS612008
Attachment H

Contra Costa	Unincorporated Contra Costa County	174,257 398,633	405.00
Contra Costa	Danville	44,510	2.67
Contra Costa	El Cerrito	25,508	1.53
Contra Costa	Hercules	26,276	1.58
Contra Costa	Lafayette	26,638	1.60

SPLWG 2022 Proposal Summaries from May 11, 2022 SPLWG Agenda Package

#	Project Title	Cost	Project Description
1	Discrete Monitoring to Support Modeling (Updated 5-11-2022)	\$150k (\$10k for 2023 + \$80k carryover and \$140k in 2024)	Loads monitoring (discrete sampling during multiple storms per year) has historically been conducted from 2002 to 2014 (except 2011). More recently, reconnaissance-style monitoring (single storm composites) has been conducted between 2015 to 2021. Reconnaissance monitoring cannot be used to support modeling but is important for identifying high-priority watersheds for management. This is the first of a two-year effort to collect four samples over the hydrograph at two sites during six storms each (i.e., 3 storms per year per site). Support modeling of loads and trends for TMDL reevaluation planned for 2028. Potential monitoring location in Walnut Creek.
2	CECs in Stormwater: PFAS	\$180k	Pilot portions of the stormwater CECs monitoring strategy and develop a study design for estimating the annual load of PFAS entering the Bay. Stormwater PFAS monitoring is secondary to developing an approach for stormwater PFAS monitoring that will start in WY2024. Includes limited design study to pilot PFAS remote sampling.
3	Remote samplers in tidal areas pilot	\$85k	A pilot study to develop and field test a remote sampler coupled with a salinity probe. Remote sampler will be anchored in a tidally-influenced area that also receives stormwater runoff from old industrial areas. The salinity probe will be used to control the sampling so that samples contain mostly freshwater. Samples would be analyzed for PCBs, Hg, and SSC. Effort is to pilot test at up to four sites.
4	Modeling to support watershed loads and trends (PCB/Hg pilot)	\$130k	This project would fund the second of two phases of contaminant modeling. Phase 1 of the POCs modeling (currently ongoing), includes developing a model framework to quantify stormwater flow, sediment, and baseline loads of PCBs and Hg. Phase 2 (this proposal) includes developing a model framework for evaluating control measure benefits and developing a web-based data-sharing platform. Includes three stakeholder meetings.
5	CECs stormwater load modeling	\$100k	Develop screening-level estimates of stormwater CECs loads for one or more individual PFAS (e.g., PFOS or PFOA). Pilot a load estimation approach for modeling other prioritized stormwater CECs. Identify data gaps and needs to inform proposed CECs monitoring studies. Could be funded through a WQIF grant.
	Total	\$505k	Assumes \$10k from Project #1.



**MUNICIPAL OPERATIONS COMMITTEE (MOC) MEETING
SUMMARY**

Tuesday, April 18, 2023

10:00 am – 12:00 pm

Zoom Meeting

VOTING MEMBERS	ATTENDED	ABSENT
Contra Costa County	Michelle Giolli (Chair), Beth Baldwin	
City of Antioch	Jeff Cook	
City of Brentwood	Melissa Barcelona	
City of Concord		Jesse Crawford, William Gallagher
City of El Cerrito	Stephen Prée	
City of Hercules		Jeff Brown
City of Martinez	Andrew J. (A.J.) Kennedy	
City of Orinda	A.J. Kennedy	
City of Pittsburg	April Chamberlain	Jolan Longway (Vice Chair),
City of Richmond	Bradley Harms	
City of San Pablo	Amanda Booth	
City of Walnut Creek		Lucile Paquette, Neil Mock
NON-VOTING MEMBERS	ATTENDED	ABSENT
Town of Danville	Bob Russell	
PROGRAM STAFF		
Program Manager	Karin Graves	
Watershed Planner	Erin Lennon	
PROGRAM CONSULTANTS		
MEMBERS OF THE PUBLIC/OTHERS/GUESTS		



**MUNICIPAL OPERATIONS COMMITTEE (MOC) MEETING
SUMMARY**

Tuesday, April 18, 2023

10:00 am – 12:00 pm

Zoom Meeting

1. Convene Meeting (Chair)

The Chair convened the meeting at 10:00 am. Municipal Operations Committee (MOC) members introduced themselves to Bradley Harms (City of Richmond), who recently joined MOC.

Announcements or Changes to the Agenda (all)

The following announcements were made:

- Erin Lennon (Watershed Planner) shared links to an updated agenda packet and an updated Scope of Work for the C.17 Mapping task (posted to Groupsite on 4/17/23 and 4/18/23).
- Erin solicited MOC members' preferences and thoughts regarding interfacing with private vendors. It was noted that any presentations might be able to be incorporated into future in-person workshop setups. It was noted that vendor presentations should serve a purpose for MRP compliance, should not be redundant, and should be vetted in advance (e.g., a list of potential vendors for Permittee review).

2. Approval of March 22, 2023 Meeting Summary (Chair)

There were no corrections or revisions to the March 22, 2023, meeting summary. Amanda Booth (San Pablo) motioned to approve the Municipal Operations Committee meeting summary as submitted, with no changes, and accept subcommittee meeting summary. Melissa Barcelona (Brentwood) seconded. There were no objections or abstentions. The motion passed with no abstentions, and the items were approved.

3. Program Update (Erin Lennon)

Erin presented a summary status of previous meeting items and discussed other Program updates:

- Outreach brochures: The Public Information and Participation (PIP) Committee has been reviewing outreach brochures on Best Management Practices (BMPs) to reduce stormwater pollution from restaurants and other sources.
- Pest Control Operator (PCO) letter: The final draft of the PCO letter incorporated comments and suggestions received from the MOC.
- C.4/C.5 Workshop: Workshop logistics have been finalized, based on survey feedback.
 - May 3, 2023, 9am-12pm, via Zoom
 - Registration is required, and attendees may opt to register individually or as a group
- Action Items:
 - Program staff to mail the finalized PCO letter to Permittee PCO contacts.
 - MOC to review the BMPs brochures linked in the Events/Due Dates table by 4/19/23

4. Action – C.17 Mapping Budget, Scope of Work (Committee)

Program staff shared the C.17 Mapping Requirement Draft Scope of Work, incorporating items discussed at the previous MOC meeting. MOC members had remaining concerns, which Program Staff



**MUNICIPAL OPERATIONS COMMITTEE (MOC) MEETING
SUMMARY**

Tuesday, April 18, 2023

10:00 am – 12:00 pm

Zoom Meeting

will seek clarification on, including the following: potential legality/privacy concerns; the logistics of the inclusion of a storm drain inlet layer, including whether Psomas already has such a layer and whether any additional updates to that layer need to be made; and whether the budget captures the time needed for direct coordination between Psomas and Permittees to work on the storm drain data. No motion to approve the draft scope of work and budget was made at this meeting. The MOC will revisit this action item at the May 16, 2023 MOC meeting.

- Action Items:
 - Program Staff to clarify concerns by the next MOC meeting and to ask for an adjustment to the Scope of Work as needed.
 - MOC to revisit this action item for approval at the May 16, 2023 MOC meeting.

5. Website Review

The MOC reviewed the CCCWP webpages relevant to the MOC and discussed desired improvements for compliance with MRP 3.0 requirements.

- Action Items:
 - MOC to send any additional edits/comments on these webpages to Erin by 5/14/23.
 - Erin to incorporate reviews.

6. Open Discussion -- Trash

The Committee discussed the Direct Discharge Control Plans that had been submitted, and the comments received from the Water Board. Amanda Booth (San Pablo) offered to share RFQ language related to addressing comments received, with those interested.

7. Action Items/Next Steps

Upcoming events, deadlines and due dates were included at the end of the agenda packet. It was noted that there is a discount code for those who wish to attend the Statewide Illegal Dumping Conference hosted by Alameda County. MOC members with photos or case studies that may be worth sharing from Contra Costa, were encouraged to reach out to Erin regarding the C.4/C.5 workshop.

8. Adjournment

The Meeting adjourned at 11:45am.



**DEVELOPMENT COMMITTEE MEETING
SUMMARY**

Wednesday, April 26, 2023

1:30 pm – 4:00 pm

Zoom Meeting

VOTING MEMBERS	ATTENDED	ABSENT
Contra Costa County	John Steere, Michele Mancuso	
City of Antioch	Phil Hoffmeister (Chair)	
City of Brentwood	Aman Grewal	
City of Clayton	Larry Theis	
City of Concord	Mitra Abkenari	
Town of Danville	Bob Russell	
City of Lafayette	Tim Clark (Vice Chair)	
Town of Moraga		Bret Swain, Shawn Knapp
City of Oakley	Brianne Visaya, Frank Kennedy	
City of Pittsburg		Jolan Longway
City of Pleasant Hill	Ryan Cook, Frank Kennedy	
City of San Ramon	Roderick Wui	
City of Walnut Creek	Joel Camacho	
PROGRAM STAFF		
Program Manager	Karin Graves	
Watershed Planner	Erin Lennon	
MEMBERS OF THE PUBLIC/OTHERS/GUESTS		
Haley & Aldrich, Inc., Technical Consultant	Yvana Hrovat, Nancy Gardiner	
Lotus Water, Technical Consultant	Rachel Kraai	



DEVELOPMENT COMMITTEE MEETING

SUMMARY

Wednesday, April 26, 2023

1:30 pm – 4:00 pm

Zoom Meeting

1. Convene Meeting and Roll Call (Chair)

The Chair convened the meeting at 1:30 pm.

2. Announcements or Changes to the Agenda (all)

It was announced that John Steere (County) had recently been recognized as a “Hidden Hero of the Bay” by the Greenbelt Alliance, in the category of Nature-Based Climate Solutions. The organization focuses on data- and policy-based climate adaptation solutions in the San Francisco Bay Area, and they have also created videos highlighting solutions and resiliency efforts (greenbelt.org). It was noted that the last portion of this Development Committee meeting required registering for the separate Zoom meeting, which will be the GI Design Workshop Series, Workshop #1. There were no changes to the agenda.

3. Approval of March 22, 2023 Meeting Summary (Chair)

There were no corrections or revisions to the March 22, 2023, meeting summary. John Steere (County) motioned to approve the Development Committee meeting summary as submitted, with no changes. Bob Russell (Danville) seconded. There were no objections or abstentions. The motion passed with no abstentions, and the items were approved.

4. Program Update (Erin Lennon /Karin Graves / Yvana Hrovat)

Erin Lennon (Watershed Management Planning Specialist) presented a summary status of previous meeting items and discussed other Program updates:

- *C.3 Workshop Training* – The Management Committee approved the C.3 Workshop Training as recommended by the Development Committee, and so Haley and Aldrich and Lotus Water may move forward with assisting in putting the workshop together. The logistics of the workshop have been informed by previous workshops, recent Development Committee meetings, and the results of the C.3 Workshop preferences survey sent out to potential participants.
 - Date/time and format: May 31st, 9am-12pm, via Zoom. Participants may register as individuals or as a group, if they would like to meet in person.
 - Panelists: Volunteer panelists are still needed. It was noted that it may be beneficial to have a wider range of examples and perspectives, by having panelist volunteers from smaller cities and those who have not presented at previous workshops.
 - Topics: There were six topics that were most preferred for this year’s workshop, with volunteers to speak on the first two listed.
 - Experience with reviewing SWCP submittals, issues encountered – Frank Kennedy
 - C.3 and Developments with public right of way improvements – Phil Hoffmeister
 - Application of O&M lessons learned to C.3 facility design
 - Verification and inspection of GI facilities
 - Key requirements for construction drawings
 - Coordinating the design team to implement LID



DEVELOPMENT COMMITTEE MEETING

SUMMARY

Wednesday, April 26, 2023

1:30 pm – 4:00 pm

Zoom Meeting

- *C.3 Administrative Draft Amendments, CCCWP Comment Letter* – There was a Special Management Committee meeting yesterday, April 25th, to review the CCCWP draft comment letter on the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) draft amendment language to C.3. Karin Graves (Program Manager) sent the comment letter to SFBRWQCB earlier today, April 26, 2023.
- *Items for review by the Development Committee:*
 - C.6 Enhanced (PCBs) inspection documents – reviews were received, compiled, and sent to Jon Konnan of EOA, Inc. and Sandy Mathews of LWA, who are compiling comments from throughout the region.
 - C.3 guidebook webpage organization – no reviews received.
 - C.3 guidebook related documents – no reviews received.
- BAHM updates are in progress. A draft manual is anticipated to be available by the end of May. This coincides with the timing of the IMP calculator update. Since the IMP calculator update involves removing the HM calculator, it would be ideal for BAHM to be available at that time.
- *Action Items:*
 - Development Committee members to consider volunteering to be a panelist, or to reach out to others who might be willing to be volunteer panelists, for the C.3 Workshop.
 - Program staff and technical consultants to discuss C.3 Workshop logistics further:
 - Plan to find additional panelists and speakers.
 - Rachel Kraai (Lotus Water) to reach out to Michael Adamow of Lotus Water, who worked for SFPUC for 10 years, to see if they could be a tentative panelist for the O&M lessons learned topic.
 - Calendar Save the Dates/Invitations to be sent out soon.

5. Hydromodification Management (HM) Applicability Map (Rachel Kraai)

Rachel Kraai (Technical Consultant, Lotus Water) presented on the background, status, and next steps for the update of Contra Costa's 2017 HM Applicability Map for submittal with 2023 Annual Reports.

- Recent history: In 2017 (MRP 2.0), this map and its methodology were submitted for SFBRWQCB Executive Officer (EO) approval. In 2020, the EO rejected this submittal. CCCWP received letters from SFBRWQCB staff in 2020 and 2021 describing the issues that needed to be addressed, including concerns for the designations of certain map areas, the definition of "hardened channel", and areas marked as "TBD". In September 2023 (MRP 3.0), an updated Contra Costa HM Applicability Map must be submitted, acceptable to the EO.
- Status: Rachel outlined the steps that Lotus Water has taken to-date to update this map per SFBRWQCB comments as well as per Contra Costa Permittee feedback (meetings from the current reporting year). Delays due to information availability and access. Tim Jensen of County Flood Control has helped designate TBD areas. There are a few areas that still require additional information gathering.
- Working Revised Schedule:
 - 5/10/23 – Update draft map, including reaching out to specific Permittees as needed



**DEVELOPMENT COMMITTEE MEETING
SUMMARY**

Wednesday, April 26, 2023

1:30 pm – 4:00 pm

Zoom Meeting

- 5/19/23 – Development Committee Review of draft webmaps
- 6/22/23 – Full Permittee review and comment on draft map and TM
- 7/26/23 – Development Committee Review and Approval of Final Map and TM
- 8/16/23 – Management Committee Review & Approval of Final Map and TM
- 9/30/23 – Updated HM Applicability map due, acceptable to EO
- It was asked whether tidal influence has changed since the 2017 map.
- Action Items:
 - Rachel to ask Elai about the tidal data layer.

6. Next Steps/Action Items/Next Meeting Date

Upcoming deadlines and due dates were included at the end of the agenda packet.

7. Adjournment of main meeting

The main portion of the meeting adjourned at 2:25 pm.

8. Green Infrastructure (GI) Design Workshop Series: Workshop #1

This portion of the meeting took place with a separate Zoom meeting link, with Development Committee members as well as other municipal staff who registered. See the presentation slides for the GI Design Workshop Series: Workshop #1 (attached).

9. Adjournment of meeting

The meeting adjourned at 4:00pm.

Attachment:

GI Design Workshop Series: Workshop #1 Presentation Slides, April 26, 2023, 2:30pm-4:00pm



Date: June 21, 2023

To: Management Committee

From: Elizabeth Yin, Consultant

Subject: FY 22/23 Annual Report: Timeline and Forms

Recommendation:

Review the timeline for the development of the Program Annual Report and the Municipal Annual Report. Accept the CCCWP specific Municipal Annual Report Forms and timeline for data entry requests for group activities.

Background:

FY 22/23 MRP 3.0 Annual Reports, including Program Annual Report and individual Municipal Annual Reports, are due September 30th, 2023. Program Staff have been working to prepare several documents that will help facilitate the production of both the Program Annual Report, as well as provide Permittees with timely information to finalize their Municipal Annual Reports. The Program is also distributing the FY 22/23 Annual Report forms that have been approved by the Regional Board and customized for CCCWP Permittees.

In addition, the Program has developed an annual report timeline for Permittees that identifies critical deadlines for both Permittees and Program Staff to coordinate their efforts. This year, Program Staff have also provided more detail regarding the timelines for Permittee data entry requirements.

Instructions, forms, and timelines are available on Groupsite, and instructions and timelines are attached to this staff report. Given their size, Municipal Annual Report are found in Groupsite File Cabinet/3 - Annual Report Docs/FY 22 23/Forms and Instructions/CCCWP Forms.

Schedule:

The Annual Report timeline for Permittees can be found attached to this staff report and on Groupsite.

Fiscal Impact:

None at this time.

Attachments:

- Permittee Annual Report Timeline [\[Groupsite Link\]](#)
- Permittee Data Entry Timeline [\[Groupsite Link\]](#)
- Municipal Annual Report Forms [\[Groupsite Link\]](#)

G:\NPDES\01_Management Committee\02_Agendas\FY 22-23\Agenda Packets\2023-06-21\MC_Mtg_06-21-2023_(7.1)_Staff Report Annual Report Timeline and Forms.docx

Fiscal Year 2022/23

PERMITTEE ANNUAL REPORT TIMELINE

June 14, 2023 (Wednesday)	Program staff posts the FY 2022/23 Municipal Annual Report Packets onto the Program's Groupsite.
June 21, 2023 (Wednesday)	Program staff make FY 2022/23 Annual Report presentation to the Management Committee – Review timeline, forms, and instructions, and answer questions.
June 30, 2023 (Wednesday)	C.10.a.i. – 90% Trash Load Reduction Compliance Benchmark For Permittees unable to attain the 90% trash load reduction compliance benchmark, submit: <ul style="list-style-type: none"> - Notice of Noncompliance - Updated Trash Load Reduction Plan
June 30, 2023 (Wednesday)	Deadline to enter items into ArcGIS for C.3 and C.10 Trash Applications, C.3.j SWRP Project Viewer Items, and Applicable Structure Tracking Spreadsheet for PCBs in Building Demo. <i>See Data Entry Timeline for more information.</i>
July 31-August 15, 2023	Each permittee reviews and completes SMARTS registration for the Legally Responsible Person (LRP), Duly Authorized Representative (DAR), and Data Entry Person (DEP) as needed. (See instructions and guidance.)
August 25, 2023 (Friday)	Program provides permittees with a template submittal letter for their annual reports.
August 30, 2023 (Wednesday)	Deadline to enter items into ArcGIS for C.17. <i>See Data Entry Timeline for more information.</i>
September 7, 2023 (Thursday)	Program staff distributes Final Draft Group Program Annual Report and Regional Supplemental Annual Report(s) for Management Committee review.
September 14, 2023* (Date is suggested and will be confirmed through Management Committee)	Each Duly Authorized Municipal Representative approves the Final Draft Group Program Annual Report and Regional Supplemental Annual Report(s) and directs the Program Manager to sign and certify the submittals on their behalf.
September 15, 2023 (Friday)	Program staff distributes approved Final Program Annual Report and Regional Supplemental Annual Report(s) via Groupsite for permittees to download.

<p>September 30, 2023 (Saturday)</p>	<p>No later than September 30, each permittee uploads and their LRP certifies their annual report in SMARTS. The following PDF documents must be uploaded to SMARTS as part of the annual report:</p> <ol style="list-style-type: none">1) Permittee Annual Report2) Program Annual Report (Volume 1)3) Attachments to the Program Annual Report (Volume 3)
<p>October 30, 2023</p>	<p>Submit Final Municipal Annual Report as a single PDF to Elizabeth.Yin@pw.cccounty.us or upload to Groupsite.</p>

AGOL and Annual Report Data Request for Permittees FY 22-23 Annual Report					
Provision	Subcommittee Lead	Staff Contact	Data Request Description	Where to enter data	Deadline
C.3.j	Development	Erin Lennon	Update SWRP Project Viewer with completed C.3.j. Projects. Revise Edit SWRP Projects and Edit SWRP Opportunities with Smart Editor to update Status.	AGOL SWRP Project Viewer	July 7
C.10	Muni Ops	Lisa Welsh	Update Visual Trash Assessment information, Full Trash Capture Projects, and drainage areas	AGOL C.10 Trash Load Reduction Module	June 30
C.11/12	Monitoring		Update on completed stormwater and FTC projects	AGOL (C.3 and C.10 apps)	June 30
C.12	Monitoring	Lisa Welsh	Applicable Structure Building Info and PCBs results for those that applied for a demo permit	SharePoint Link	June 30
C.17	Muni Ops	Liz Yin	Review C.17 Mapping Module and Customize Jurisdictional Map	AGOL C.17 Mapping Application - <i>in development</i>	August 30



Date: June 21, 2023

To: Management Committee

From: Mitch Avalon, Consultant

Subject: Draft Stormwater Funding Options Report, Phase 2

Recommendation:

Accept report from staff on the Draft Phase 2 Stormwater Funding Options Report, review the report, and provide staff with any comments or direction.

Background:

Scope and Process. At the July 20, 2022 Management Committee meeting, the Committee directed staff to prepare a Stormwater Funding Options Report. The report consists of two phases. The first phase analyzed 26 funding options and identified those that were viable for further evaluation and implementation by the Program. The second phase expands the analysis of the viable options, describes the process to implement the options and potential challenges, and recommends a pathway forward. Many of the options that were reviewed in Phase 1 could apply to both the Program and to permittees individually, however, Phase 2 focuses solely on viable options to implement at the Program level.

Phase 1 recommended eight options for further evaluation in Phase 2. However, only three of those options provide additional ongoing revenue, and two of those top three options are based on a property related fee, the same option that was selected for the last funding measure conducted in 2012. Phase 2 estimates the cost to implement a property related fee, how the process could be modified to avoid the pitfalls of 2012, and when would be the best time to conduct a funding measure. The other top contender is utilizing a Community Facilities District as a funding option. The analysis for this option is closely aligned with the current work to develop the Regional Alternative Compliance System. Phase 2 also analyzes a "do nothing" option where the Program and permittees would need to adjust their budgets to make do with existing revenue.

From a process perspective, the report has had several reviews prior to release to the Management Committee. The Program's attorney has provided a legal analysis and review of the report, Program staff has reviewed the report, and two separate engineering firms have provided a peer-review of the report. When

the Administrative Committee discussed the Phase 1 report there were questions about the impact of a potential Monsanto lawsuit settlement, what were the revenue estimates for each viable option, how would a proposed fee amount be justified, and how do we address or discuss existing SUA funding. All these questions are addressed in the Phase 2 report.

Overview. The report begins with a financial analysis of the cost to implement the municipal regional permit and the revenue available to do so. The analysis is based on data developed for the 2012 funding initiative, which is now outdated. The report recommends an updated financial analysis once the MRP 3.0 Provision 20 cost reporting data is available. The top three funding options that provide ongoing revenue are described in detail, followed by a discussion of the five options that provide one-time revenue. The two property related fee options are familiar territory, as they are similar to the 2012 funding initiative. There is a detailed analysis of what went wrong with the 2012 funding initiative (lessons learned) and what can be done to provide the best chance of success. Using the same process for the 2012 funding initiative, and making some assumptions on cost, a similar funding initiative today would cost about \$2.6 million. If a new funding initiative was conducted five years from now it would be closer to \$3.0 million in cost.

The report recommends preparing an Implementation Plan to be used as a roadmap over the next several years to develop a funding measure. The Implementation Plan would have four sections, financial, administrative, outreach, and legal, that would provide all the information necessary for the Management Committee to develop a funding measure in a stepwise fashion over the next several years.

Issues. There are several issues the Management Committee must consider when moving forward with any funding measure. Perhaps the most critical issue is the use of SUA funds. The Program's attorney notes that stormwater utility assessments are restricted funds as outlined in the legislation authorizing the Flood Control District to establish the assessments, along with the Engineer's Report adopting the assessments for each jurisdiction. Funds can only be used for activities associated with managing a stormwater program complying with a NPDES permit, and stormwater system maintenance. It's very likely SUA funds cannot be used to pay for a good part of the cost to develop a funding measure. The report recommends a detailed legal analysis of the steps required to develop a funding initiative to determine what can and cannot be paid for with SUA funds. The report also identifies ways to provide alternative funding.

Pathway Forward. The report recommends the Management Committee take a short-term and long-term approach to providing additional funding. The report provides recommended actions for the Management Committee to implement a

short-term strategy as well as recommended actions to implement a long-term strategy. The report recognizes that making a decision on whether or not to pursue a funding measure requires approval from a host of individuals at different levels within permittee organizations and provides recommendations on how that could be done. There will be a lot of engagement with permittee's upper management and elected officials, with presentations before the City-County Engineers, PMA, Mayors Conference, and City/Town Councils and the Board of Supervisors. It will be critical to understand the questions, concerns, and any reluctance upper management and elected officials may have, and develop an effective response.

The report concludes with next steps, recommending the Management Committee approve the report, implement the short-term actions including developing a Community Facilities District in coordination with the Regional Alternative Compliance System project, and waiting for the cost reporting data before making a decision on which funding option to choose.

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:

Phase 2 Stormwater Funding Options Report

DRAFT Stormwater Funding Options Report

Phase 2: The Pathway Forward

June 21, 2023

1. Report Overview

1.1 Overview. This report, building off the recommendations of Phase 1, begins by summarizing the financial difficulties that permittees find themselves in and how any potential Monsanto settlement funds will not resolve all their financial problems. The three funding options that provide ongoing revenue are described in detail, followed by a discussion of the five options that provide sources of one-time revenue, and finally a look at a "do nothing" option. Each section includes an analysis of implementation costs and projected revenue and provides recommendations. The report then looks at several policy type issues related to implementing the funding options, the most significant being the restricted use of stormwater utility assessments (SUA) to fund development of a ballot measure. The report then distills all the analysis to develop a short-term approach and a long-term approach with concluding recommendations for each approach. Finally, the report concludes with a list of next steps for the Management Committee to take. Concluding recommendations and next steps are in the form of action items for the Management Committee to consider. Key next steps are to approve the report, implement some short-term actions, and wait until the required cost reporting data is available.

1.2 Introduction. At its July 20, 2022, meeting, the Contra Costa Clean Water Program (CCCWP) Management Committee directed staff to prepare a Stormwater Funding Options Report. The report was developed in two phases. The first phase analyzed all possible options to fund a stormwater program and then identified those viable for further evaluation. This report represents the second phase, which expands the analysis of those viable options, describes the process to implement the options and potential challenges, and recommends a pathway forward. The first phase covered viable options for both permittees and the CCCWP; however, this second phase focuses solely on viable options that would be implemented through the CCCWP. The information provided in Phase 1 and Phase 2 of this report provides the Management Committee with the information needed to decide on a pathway to fund the CCCWP's stormwater projects and services.

Phase 1 recommended further evaluation of eight funding options; three of which would provide ongoing revenue (property-related fee, litter/trash property-related fee, and community facilities district), and five of which would provide one-time funding (grants, state revolving fund loans, regional approach, California's water supply strategy, and alternative compliance). Phase 2 focuses primarily on the top three options that provide ongoing revenue, following the Management Committee's direction for the report. However, since implementing one of the three ongoing revenue options will likely take several years, the report also explores a short-term approach using one-time revenue options. Additionally, the report considers the implications of selecting none of the options, a "do nothing" option.

A separate "roadmap" report is being developed through another project, sharing similarities with but distinct from this report. As of the writing of this report, CCCWP staff applied for and received

a USEPA Water Quality Improvement Fund (WQIF) grant that will fund development of the Contra Costa County Regional Alternative Compliance (RAC) System. The WQIF grant work will build on work completed by three permittees utilizing a previous WQIF grant. The RAC project team is considering a countywide Community Facilities District (CFD) to provide ongoing maintenance and operations funding for green infrastructure projects funded by the RAC System. Developing this funding mechanism could dovetail with the CFD option discussed in this report. One of the next steps in developing the RAC System will be analyzing various funding options and preparing a RAC Roadmap for funding RAC System projects. While similarities exist between the RAC Roadmap and this report, particularly regarding one-time funding options, the RAC Roadmap will focus on identifying funding options for project-level implementation. In contrast, this report evaluates funding options for CCCWP-level implementation to support ongoing services.

2. Financial Implications

2.1 Funding Shortfall. What is the magnitude of the "funding problem"? In 2012, as part of the 2012 Community Clean Water Initiative (2012 Initiative), two members of the project consulting team visited each permittee to gather information on their stormwater expenditures, available resources, and operational practices. The consulting team utilized the most comprehensive cost information from select permittees for implementing key Municipal Regional Permit (MRP) requirements to create a predictive cost model for the entire 5-year permit (MRP 1.0). Based on the information gathered and the future cost modeling, the consulting team projected the revenue versus costs for each permittee and the CCCWP during MRP 1.0 (see Attachment 4, Task 1 and 2, Table 4-1, page 8 of Phase 1 report). In FY 10/11 (the first full year of MRP 1.0), the total annual revenue from stormwater utility assessments was about \$17 million, including estimated contributions from Brentwood and Richmond. Concurrently, the total annual expenditures for all permittees were about \$29 million, comprising \$18.6 million in existing costs, \$3.6 million in street sweeping costs, \$4.1 million in modeled MRP 1.0 additional costs, and \$2.7 million in CCCWP costs. Comparing the total revenue of \$17 million to the total expenditures of \$29 million results in a funding gap of about \$12 million. Table 1 displays the revenue and expenditure information for each permittee.

Table 1: Permittee Revenue and Expenditures FY 10/11

Permittee	SUA Revenue FY 10/11	Existing Costs FY 10/11 (no S.S.)	Street Sweeping Costs FY 10/11	Modeled Costs FY 10/11	CCCWP Costs FY 10/11	Total Costs FY 10/11
Antioch	\$ 1,162,817	\$ 1,257,000	\$ -	\$ 670,710	\$ 247,066	\$ 2,174,776
Brentwood	\$ 822,025	\$ 638,000	\$ 507,900	\$ 563,495	\$ 105,809	\$ 1,815,204
Clayton	\$ 129,939	\$ 98,000	\$ -	\$ 121,702	\$ 30,426	\$ 250,128
Concord	\$ 2,097,694	\$ 2,352,000	\$ 533,483	\$ -	\$ 358,716	\$ 3,244,199
Danville	\$ 573,213	\$ 295,000	\$ 141,000	\$ 747,978	\$ 122,826	\$ 1,306,804
El Cerrito	\$ 407,099	\$ 206,000	\$ 145,000	\$ 181,507	\$ 66,998	\$ 599,505
Hercules	\$ 325,412	\$ 372,000	\$ 5,000	\$ 103,455	\$ 64,566	\$ 545,021
Lafayette	\$ 463,596	\$ 399,000	\$ 65,405	\$ 50,830	\$ 70,028	\$ 585,263
Martinez	\$ 622,053	\$ 410,000	\$ 114,115	\$ 141,317	\$ 112,186	\$ 777,618
Moraga	\$ 293,665	\$ 226,000	\$ 5,000	\$ 107,967	\$ 46,813	\$ 385,780
Oakley	\$ 496,015	\$ 308,000	\$ 70,000	\$ 385,526	\$ 84,761	\$ 848,287
Orinda	\$ 383,280	\$ 324,000	\$ 24,438	\$ -	\$ 50,547	\$ 398,985
Pinole	\$ 321,957	\$ 274,000	\$ -	\$ 222,576	\$ 47,077	\$ 543,653
Pittsburg	\$ 843,622	\$ 1,040,000	\$ 200,000	\$ 20,104	\$ 157,447	\$ 1,417,551
Pleasant Hill	\$ 502,362	\$ 318,000	\$ 81,600	\$ 254,644	\$ 102,649	\$ 756,893
Richmond	\$ 1,654,166	\$ 2,369,000	\$ 1,086,592	\$ -	\$ 236,678	\$ 3,692,270
San Pablo	\$ 422,670	\$ 373,000	\$ 72,500	\$ 7,233	\$ 72,480	\$ 525,213
San Ramon	\$ 1,165,347	\$ 931,000	\$ 246,735	\$ 81,089	\$ 170,833	\$ 1,429,657
Walnut Creek	\$ 1,280,085	\$ 1,143,000	\$ 184,344	\$ 473,225	\$ 162,680	\$ 1,963,249
Uninc. County	\$ 2,836,135	\$ 5,283,000	\$ 150,000	\$ -	\$ 420,355	\$ 5,853,355
Total	\$ 16,803,151	\$ 18,616,000	\$ 3,633,112	\$ 4,133,358	\$ 2,730,941	\$ 29,113,411

Notes: 1. Information in Table 1, except for revenue, taken from the 2012 Initiative report, Task 1 and Task 2. Contributions from Brentwood and Richmond estimated based on population.

2. "Existing Costs" do not include street sweeping.

This funding gap calculation factored in street sweeping costs, which was a permit requirement in earlier stormwater permits but not included in MRP 1.0. Although it was no longer a requirement, the consultant team incorporated street sweeping expenses since the data was readily available, and many permittees were using stormwater fees to fund their street sweeping program. The 2012 Initiative's analysis was based on MRP 1.0 requirements and did not include estimated future compliance costs of MRP 2.0 or MRP 3.0, as those permit requirements were unknown then. The following analysis uses the FY 10/11 annual cost of \$25 million (excluding street sweeping costs).

Without comprehensive cost data from permittees, it is challenging to determine the increased costs over the past decade since the 2012 Initiative. Using the CCCWP budget as a surrogate for estimating percentage increases over time, Table 2 demonstrates that the average annual budget increase from MRP 1.0 was about 31% for MRP 2.0 and 76% for MRP 3.0. However, approved CCCWP budget amounts do not always correspond with the final costs, as unspent budgets often return to reserves at the end of the fiscal year.

Table 2: CCCWP Budget Totals 2009-2023

Fiscal Year	Permit	Total Net Group Program Budget	Average budget	Percent increase from MRP 1.0
2006-2007		\$2,968,638		
2007-2008		\$2,952,972		
2008-2009		\$3,990,615		
2009-2010		\$4,098,140		
2010-2011	MRP 1.0	\$2,250,079		
2011-2012	MRP 1.0	\$2,497,856		
2012-2013	MRP 1.0	\$2,528,966		
2013-2014	MRP 1.0	\$2,449,793		
2014-2015	MRP 1.0	\$2,503,621		
2015-2016	MRP 1.0	\$2,579,372	\$2,468,281	0.00%
2016-2017	MRP 2.0	\$2,625,516		
2017-2018	MRP 2.0	\$3,053,432		
2018-2019	MRP 2.0	\$3,085,545		
2019-2020	MRP 2.0	\$3,499,213		
2020-2021	MRP 2.0	\$3,497,338		
2021-2022	MRP 2.0	\$3,705,837	\$3,244,480.16	31%
2022-2023	MRP 3.0	\$4,489,187		
2023-2024	MRP 3.0	\$4,203,121	\$4,346,154	76%
Total		\$42,863,897		

It should be noted that the average budget for MRP 3.0 is calculated using only two years, FY 22/23 and FY 23/24. If the total annual costs for all permittees of \$25 million for the first year of MRP 1.0 are increased by these percentages, then the total annual costs would be about \$33 million (31%) for MRP 2.0 and about \$45 million (76%) for MRP 3.0. Meanwhile, total stormwater utility assessment (SUA) revenue for FY 21/22, the last year with complete numbers, is about \$19 million (including estimated equivalent SUA revenue from Brentwood and Richmond). The \$12 million shortfall during MRP 1.0 then grows to \$14 million for MRP 2.0 and \$26 million for MRP 3.0. The trend is an increase in total costs from one MRP to the next, with essentially no increase in total dedicated revenue (through the SUA) and revenue that will not keep up with inflation. It should be noted that using the rate of growth of the CCCWP budget as a surrogate to estimate the rate of growth of permittee budgets admittedly results in a rough projection. Still, all permittees report an increase in compliance costs with MRP 2.0 and 3.0. Beginning in 2025, implementing MRP 3.0 Provision C.20 will produce more detailed and valid compliance cost estimates. In the first year of implementing MRP 3.0 there is a projected shortfall of \$26 million, which may seem somewhat excessive. It is therefore recommended to reassess the projected shortfall following implementation of Provision C.20 cost tracking and reporting.

Table 3 shows the projected cost increases for each permittee when transitioning from MRP 1.0 to 2.0 and 3.0, using FY 10/11 as the base year for MRP 1.0 costs and revenue. It also includes a projected shortfall based on MRP 3.0 cost projections. Permittees should review these estimates to assess their accuracy. It is important to note that these figures represent approximate estimates and will be refined once Provision C.20 data becomes available, allowing the Management Committee to make a better-informed high-level planning decision.

Table 3: Permittee Revenue and Expenditures FY 10/11

Permittee	SUA Revenue FY 10/11	Total Costs FY 10/11	Estimated MRP 2.0 Costs (31%)	Estimated MRP 3.0 Costs (76%)	Estimated Shortfall MRP 3.0
Antioch	\$ 1,162,817	\$ 2,174,776.00	\$ 2,848,956.56	\$ 3,827,605.76	\$ 2,664,788.35
Brentwood	\$ 822,025	\$ 1,307,304.00	\$ 1,712,568.24	\$ 2,300,855.04	\$ 1,478,830.04
Clayton	\$ 129,939	\$ 250,128.00	\$ 327,667.68	\$ 440,225.28	\$ 310,286.27
Concord	\$ 2,097,694	\$ 2,710,716.00	\$ 3,551,037.96	\$ 4,770,860.16	\$ 2,673,166.34
Danville	\$ 573,213	\$ 1,165,804.00	\$ 1,527,203.24	\$ 2,051,815.04	\$ 1,478,601.74
El Cerrito	\$ 407,099	\$ 454,505.00	\$ 595,401.55	\$ 799,928.80	\$ 392,830.21
Hercules	\$ 325,412	\$ 540,021.00	\$ 707,427.51	\$ 950,436.96	\$ 625,025.21
Lafayette	\$ 463,596	\$ 519,858.00	\$ 681,013.98	\$ 914,950.08	\$ 451,354.24
Martinez	\$ 622,053	\$ 663,503.00	\$ 869,188.93	\$ 1,167,765.28	\$ 545,712.60
Moraga	\$ 293,665	\$ 380,780.00	\$ 498,821.80	\$ 670,172.80	\$ 376,507.67
Oakley	\$ 496,015	\$ 778,287.00	\$ 1,019,555.97	\$ 1,369,785.12	\$ 873,770.40
Orinda	\$ 383,280	\$ 374,547.00	\$ 490,656.57	\$ 659,202.72	\$ 275,923.18
Pinole	\$ 321,957	\$ 543,653.00	\$ 712,185.43	\$ 956,829.28	\$ 634,872.27
Pittsburg	\$ 843,622	\$ 1,217,551.00	\$ 1,594,991.81	\$ 2,142,889.76	\$ 1,299,267.90
Pleasant Hill	\$ 502,362	\$ 675,293.00	\$ 884,633.83	\$ 1,188,515.68	\$ 686,153.38
Richmond	\$ 1,654,166	\$ 2,605,678.00	\$ 3,413,438.18	\$ 4,585,993.28	\$ 2,931,827.28
San Pablo	\$ 422,670	\$ 452,713.00	\$ 593,054.03	\$ 796,774.88	\$ 374,104.43
San Ramon	\$ 1,165,347	\$ 1,182,922.00	\$ 1,549,627.82	\$ 2,081,942.72	\$ 916,596.21
Walnut Creek	\$ 1,280,085	\$ 1,778,905.00	\$ 2,330,365.55	\$ 3,130,872.80	\$ 1,850,787.94
Uninc. County	\$ 2,836,135	\$ 5,703,355.00	\$ 7,471,395.05	\$ 10,037,904.80	\$ 7,201,769.49
Total	\$ 16,803,151	\$ 25,480,299.00	\$ 33,379,191.69	\$ 44,845,326.24	\$ 28,042,175.15

Notes: 1. The total population of Contra Costa County in 2010 was 1,073,055 people. This included Brentwood at 52,492 and Richmond at 105,630 (158,122 together), and 914,933 for everyone else. Dividing total SUA revenue of \$14,326,960 by the population of the 18 permittees receiving SUA funds (914,933), results in an average of \$15.66 per person, allowing an estimation of SUA equivalency for Brentwood and Richmond.

2. Total FY 10/11 costs includes existing expenditures, additional modeled costs for MRP 1.0, and CCCWP costs, but does not include street sweeping costs.

2.2 Monsanto Settlement Funds. In 2016, the City of Long Beach filed a lawsuit against Monsanto for damages created by PCBs. In July 2020 several similar lawsuits around the nation were combined into a class action complaint, which led to a settlement agreement that would pay class members specified costs associated with the impacts attributed to PCBs. Contra Costa County permittees, except Clayton and Danville, were named as class members. The settlement agreement distributed a total of \$550 million to all class members nationwide, based on their varying funding needs and size.

On March 14, 2022, the court granted preliminary approval of the settlement agreement, with a specified deadline for class members to decide whether to accept the terms or opt out. If a class member planned to file a separate claim against Monsanto, then they would have to opt out. Agreeing to the terms of the settlement agreement would prevent the class member from filing future lawsuits against Monsanto, except under very limited situations. Prior to the deadline, CCCWP staff and permittee attorneys explored options of suing Monsanto separately, discussing this collaboratively through the Bay Area Municipal Stormwater Collaborative (BAMSC) Steering Committee and with private attorneys willing to estimate potential settlements. In the end, all

named class members in the county, except Antioch and El Cerrito, decided to opt out of the settlement agreement. All permittees (including Clayton and Danville) that did not opt out of the settlement are currently pursuing a separate claim against Monsanto. The separate complaint, filed in Superior Court on December 21, 2022 (and accepted by the Superior Court on February 1, 2023), requests that the court order Monsanto to either cleanup the damages caused by PCBs or to pay permittees the cost of cleanup.

The complaint does not include a specific demand for damages; however, the reasonable assurance analysis (Contra Costa PCBs and Mercury Total Maximum Daily Load (TMDL) Control Measure Plan and Reasonable Assurance Analysis Report, 2020) conducted by CCCWP during MRP 2.0 estimated total PCBs load reduction costs to meet TMDL requirements at about \$1 billion across the Bay Area. In the best-case scenario, if Monsanto agrees to pay all the PCBs load reduction costs, then PCBs costs associated with MRP Provision 12 would be paid for with settlement funds. Costs associated with MRP Provision 11 for mercury controls would also be covered since reducing PCBs loads reduces mercury loads. The total cost for implementing the requirements of MRP Provisions 11 and 12 in the adopted FY 22/23 budget is \$460,914, representing 10.3% of the total budget for the current fiscal year. The final budget for FY 23/24 has a total cost for Provisions 11 and 12 of \$396,500, or 9.4% of the total estimated budget for the fiscal year. This includes \$161,500 of CCCWP budget funds and \$235,000 of the RAC System WQIF funds. The CCCWP delayed spending an estimated \$200,000 annually to fund the treatment of PCBs contaminated areas using Green Stormwater Infrastructure (GSI) until FY 24/25. If the CCCWP moves forward with funding a regional project to treat PCBs, it could cost an estimated \$127,000 per acre treated (design and construction). While some of the funding to treat PCBs could come from grants, CCCWP staff and permittees understand that the current level of investment in PCBs load reduction will not meet TMDL requirements.

Assuming a total PCBs cost equaling 10% of the total CCCWP budget, then having settlement funds from Monsanto would reduce the CCCWP budget funded by permittees by 10% for the costs associated with PCBs. The SUA funding gap (over the \$3.5 million threshold) for the current fiscal year is approximately \$700,000. A 10% reduction in the budget would reduce the SUA funding gap by about half, but a drawdown from the reserves would be required to pay for the other half.

If the claim against Monsanto is settled and the funds are received, those settlement funds would certainly extend the time left before the reserve funds are depleted. However, these funds would only pay about 10% of the current budget, and the remaining 90% would still exceed the \$3.5 million threshold. Any settlement funds would help the shortfall but would not resolve the need for additional funding. The next section provides additional detail about the CCCWP's options for additional funding.

3. Property-related fee

3.1 Description. As described in Phase 1 and reiterated here for reference, a property-related fee must comply with Proposition 218, be voted on by property owners within a specified service area, and require a simple majority to approve. Alternatively, the fee could be approved by two-thirds of the registered voters residing in the specified service area. However, as a two-thirds vote is difficult to achieve, the focus has always been on a majority of property owners rather than a super majority of the electorate. The property owner option was chosen in 2012 to establish a fee to fund stormwater services, the failed 2012 Initiative. It is assumed that the

property-related fee amount would be more than enough to cover the CCCWP budget shortfall, with a balance of revenue distributed back to permittees similar to the SUA. A two-dollar per residential parcel (equivalent runoff unit [ERU]) would generate enough to cover the current CCCWP budget shortfall.

3.2 Popular Approach. As shown in Table 4, since 2002 there have been 34 proposed measures to fund stormwater services and projects in California, 28 balloted property-related fees (with a 57% success rate) and six special taxes (with a 100% success rate). Table 4, provided by SCI Consulting Group, is an updated version of the chart included in their report for the 2012 Initiative. This demonstrates that property-related fees are a popular method to fund stormwater services, although the success rate is lower than a special tax. In addition, 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 fee more politically appealing.

Table 4: List of Post-Proposition 218 Stormwater Funding Efforts in California

Municipality	Status	Rate	Year	Mechanism
San Clemente	Successful	\$ 60	2002	Balloted Property Related Fee
Carmel	Unsuccessful	\$ 38	2003	Balloted Property Related Fee
Palo Alto	Unsuccessful	\$ 57	2003	Balloted Property Related Fee
Los Angeles	Successful	\$ 28	2004	Special Tax - G. O. Bond
Palo Alto	Successful	\$ 120	2005	Balloted Property Related Fee
Rancho Palos Verde	Successful , then recalled and reduced	\$ 200	2005, 2007	Balloted Property Related Fee
Encinitas	Unsuccessful	\$ 60	2006	Balloted Property Related Fee
Ross Valley	Successful, Court of Appeals Overturned, Supreme Court Decertified	\$ 125	2006	Balloted Property Related Fee
Santa Monica	Successful	\$ 87	2006	Special Tax
San Clemente	Successfully renewed	\$ 60	2007	Balloted Property Related Fee
Solana Beach	Non-Balloted, Threatened by lawsuit, Balloted, Successful	\$ 22	2007	Non-Balloted & Balloted Property Related Fee
Woodland	Unsuccessful	\$ 60	2007	Balloted Property Related Fee
Del Mar	Successful	\$ 163	2008	Balloted Property Related Fee
Hawthorne	Unsuccessful	\$ 30	2008	Balloted Property Related Fee
Santa Cruz	Successful	\$ 28	2008	Special Tax
Burlingame	Successful	\$ 150	2009	Balloted Property Related Fee
Santa Clarita	Successful	\$ 21	2009	Balloted Property Related Fee
Stockton	Unsuccessful	\$ 35	2009	Balloted Property Related Fee
Contra Costa	Unsuccessful	\$ 22	2012	Balloted Property Related Fee
SC Valley Water Dist	Successful	\$ 56	2012	Special Tax
Berkeley	Successful	varies	2012	Measure M - GO Bond
San Clemente	Successfully renewed	\$ 75	2013	Balloted Property Related Fee
Vallejo San & Flood	Successful	\$ 23	2015	Balloted Property Related Fee
Culver City	Successful	\$ 99	2016	Special Tax
Palo Alto	Successfully renewed	\$ 164	2017	Balloted Property Related Fee Reauthorization of 2005 Fee
Moraga	Unsuccessful	\$ 120	2018	Balloted Property Related Fee
Berkeley	Successful	\$ 43	2018	Balloted Property Related Fee
Los Angeles County	Successful	\$ 83	2018	Special Tax
Los Altos	Unsuccessful	\$ 88	2019	Balloted Property Related Fee
Cupertino	Successful	\$ 44	2019	Balloted Property Related Fee
Alameda	Successful	\$ 78	2019	Balloted Property Related Fee
Davis	Successful	\$ 157	2021	Balloted Property Related Fee
San Bruno	Unsuccessful	\$ 154	2021	Balloted Property Related Fee
Sacramento	Successful	\$ 207	2022	Balloted Property Related Fee
Vallejo San & Flood	Unsuccessful	\$ 54	2022	Balloted Property Related Fee

Note: The information on this table is from SCI Consulting Group, updated October 2022. "Rate" is the annual cost.

3.3 Proposition 218 Process. Proposition 218 was approved by California voters in 1996, and its requirements are embedded in Chapter 13 of the State Constitution. The proposition provided

detailed requirements for establishing any tax, assessment, or fee. For example, all property owners must vote to adopt a property-related fee, except fees for water, sewer, or refuse collection. In the case of a property-related fee, property owners who vote are owners of each and every parcel in the county, including privately-owned residential, commercial, and industrial parcels as well as public parcels owned by cities, towns, the county, schools, etc. There are two steps to establishing a property-related fee. The first step is a notice, mailed to each property owner upon which the fee is proposed to be imposed, of the proposed funding measure and the date of a public hearing set at least 45 days after the date of the mailing 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, among other information, the amount of the proposed fee to be imposed on the property and a place on the ballot to indicate support for or opposition to 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 the fee on each parcel. Normally the amount of impervious surface on the parcel is the foundation for calculating the fee. 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, typically, parcels of similar size and use will have the same fee amount.

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 that voters would approve.
- **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 requirement is met by adopting 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 verify 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 and are typically based on parcel 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))". The Fee Report describes the fee supported services.

- **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 are directly related to property development by property owners, not to the public at large.

During the development of the 2012 Initiative, these requirements specified in Proposition 218 were reviewed to determine the viability and legality of using a property-related fee to fund stormwater services. That review determined that a property-related fee was appropriate, and it is assumed that conclusion remains valid.

3.4 Lessons Learned. There were several lessons learned from the property-related fee proposal in 2012. After the 2012 Initiative failed, the CCCWP identified lessons learned, noted them in a document dated April 24, 2012, and updated them on November 14, 2013 (see Attachment 5). The lessons learned were compiled after interviewing Flood Control District and CCCWP staff involved in the funding initiative. There are 20 lessons learned statements in Attachment 5. To provide a more effective analysis, the lessons learned statements are aggregated and addressed by theme rather than discussing them individually. The problems and shortcomings of the 2012 Initiative, described in these lessons learned, must be addressed if any future ballot measure has a chance of success. The following is an analysis of the themes identified by these lessons learned and steps that can be taken to minimize or eliminate them.

3.4.1 Planning the Approach. In deciding the right approach to develop a ballot measure with a properly related fee, more due diligence would have been helpful in 2012, along with a more critical analysis of the survey results. Four lessons learned statements were included in this theme (see statements 2, 3, 4, and 5 in Attachment 5).

- a. Due Diligence.** During the project planning phase, staff should take time to call or meet with other agencies that have recently undergone a property-related fee process to understand their issues and challenges. The CCCWP learned many lessons through the 2012 Initiative, but those lessons are now ten years old and likely will be 15 years old when, and if, another property-related fee is attempted. Things change with time, so discussing recent fee processes with one or two agencies would be prudent.
- b. Flood Control District Act.** A property-related fee is explicitly provided for in Proposition 218. Nonetheless, there were threatened challenges to the legitimacy of using a property-related fee in 2012. Though none of those challenges were pursued because the 2012 Initiative failed, it was felt that strengthening language in the Flood Control District Act would defuse future challenges. This should be

discussed with an attorney specializing in this area of the law and County Counsel before pursuing any statutory changes, especially since the District has the authority to adopt a fee and legislative changes to the Act would require a significant effort.

- c. Success Safety Factor.** Does a survey showing 54% overall support provide enough confidence, enough of a safety factor, to go forward with an election? The survey results in 2012 showed a thin margin of success with several caveats and left no safety factor for anything that might go wrong. The outcome, of course, was an opposition vote of 60%. More effort must be spent on the surveys to

Table 5: Mailed Ballot Survey Results 2011

Permittee	Support for Funding Measure	Return Rate
East County		
Antioch	39	17
Brentwood	41	20
Oakley	35	16
Pittsburg	48	16
Unincorporated East	44	16
Central County		
Clayton	52	26
Concord	58	26
Danville	55	22
Lafayette	63	23
Martinez	46	21
Moraga	58	27
Orinda	63	26
Pleasant Hill	61	25
San Ramon	49	22
Walnut Creek	59	26
Unincorporated Central	55	21
Unincorporated South	55	23
West County		
El Cerrito	60	24
Hercules	42	16
Pinole	48	22
Richmond	45	17
San Pablo	43	13
Unincorporated West	58	23

determine the likelihood of success. In 2012 surveys were mailed to property owners in each permittee jurisdiction, with the unincorporated county divided into four units. Table 5 shows the varied level of support throughout the county for the 2012 Initiative. West county permittees and the west unincorporated county unit varied in support from 43% to 60%, central county permittees and the central and south unincorporated county units from 46% to 63%, and in five east county

permittees and the east unincorporated county unit from 35% to 48%. Admittedly, there can be no certainty of the outcome. Still, all factors that may lower the support level should be considered, and a realistic assessment of success be determined.

- d. Countywide Model.** Was a countywide approach a viable model? There have been 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 through its Flood Control District) 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 through its Flood Control District), one for a special district (Santa Clara Valley Water District), and four for cities. See Table 4 from SCI Consulting Group for a breakdown of all the attempted ballot measures to fund stormwater services. One salient observation is that Contra Costa County is the only county to attempt a balloted property-related fee measure to fund stormwater services in the last 20 years, and only one other county, Los Angeles County (Measure W), was successful in getting a parcel tax measure passed.

Are counties too large a political unit to have a successful property-related fee measure? The size and diversity within Contra Costa resulted in dividing the County into three sections with three different base fees in 2012. Certainly, a countywide fee is more cost-effective, easier on the cities and towns (especially the smaller ones), and 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. Eight jurisdictions had a support level between 40% and 50%, and 11 jurisdictions had a support level between 30% and 40%. The fundamental difference between the failed 2012 Initiative and the successful Los Angeles County Measure W is that Measure W was a parcel tax voted on by registered voters and the 2012 Initiative was a property-related fee voted on by property owners. Any future ballot measure proposal should complete a detailed and comprehensive survey to determine if a countywide fee is viable or appropriate. Los Angeles County should also be contacted to determine the factors that went into their successful parcel tax. As of the writing of this report several counties are investigating a property-related fee, but none have yet attempted a ballot measure. These counties should be consulted if a future ballot measure is attempted in Contra Costa.

3.4.2 Election Process. Confusion and misinformation were circulating about the election process, providing fodder for the opposition. There were several lessons learned statements around this issue (see statements 1, 7, 8, 9, and 20 in Attachment 5).

- a. Elections Office.** Not submitting ballots to the Elections Office became a problem in 2012. Either the balloting needs to go through the County Elections Office, or more outreach messaging is needed to better inform property owners about the balloting process. The 2012 Initiative followed Proposition 218 procedures for a

property-related fee, however many property owners were not familiar with this process and there was confusion and questions of process legitimacy. Opponents of the ballot measure questioned the legitimacy of the process primarily because it did not go through the Elections Office. This created confusion, concern, and doubt among property owners. Property owners were surprised that an election process could be conducted independently of the County Elections Office. Explaining the ballot process in detail before the election would be critical to the success of future ballot measures.

- b. Internal Expert.** At least one staff person needs to develop a good understanding and knowledge of the overall election processes, both those managed by the Elections Office and those run through the alternative property fee processes and managed by a team of consultants. That staff person should be included in the consultant interview panel to discern each consultant's experience running this type of election. Most elections are conducted at the municipal level, but an election at the county level has some added complexity. Some of the problems encountered in the 2012 election process could have been avoided if a more knowledgeable staff had been involved when planning the election with the consultant team.
- c. The Ballot.** Ballots had to be signed by the property owner per law, which created a problem for some people. CCCWP staff received phone calls from property owners questioning why their ballot had to be signed and why this ballot was different from other elections. It would have been helpful to have better informational material explaining the ballot requirements in advance of the election and comparing this process with other similar processes with signature requirements that people may be more familiar with (e.g., mail-in ballot). There was also no pro/con argument in the ballot packet, which was not required by Proposition 218. However, interested parties from both sides of the issue could present pro-con arguments. In the case of the 2012 Initiative, it was decided not to provide a pro/con argument in the ballot material, partly because there was no advocate or champion to write the pro argument and the person or entity writing the opposing argument would have to be identified and coordinated with. There was no well-known process conducted by the Election's Office to provide for the coordinated development of pro/con arguments. Opponents of the 2012 Initiative pointed out the lack of a pro/con argument as another example of why the election was not legitimate.
- d. Fee Amount.** There was some reported confusion by people needing help determining their fee amount from the ballot package. This might have been a problem more for commercial parcels than residential parcels, as commercial property involved a calculation rather than pulling a number off a table. The ballot language must be crystal clear on calculating the property fee, including a detailed description of the calculation methodology.

3.4.3 Legitimate Process. Opponents of the 2012 Initiative pointed to several aspects of the process they disputed, claiming the ballot measure was not legitimate. Two lessons learned statements mentioned this (see statements 13 and 19 in Attachment 5).

- a. Legality.** Many questions were asked about the legality of the election process. From an administrative and legal perspective, one way to address the confusion and challenges to the ballot process would be an analysis by an attorney regarding the Flood Control District's authority to levy the fee that could be provided as part of the outreach materials. This would, hopefully, boost the legitimacy of the process in the minds of the property owners.
- b. Property-Related Fee.** It was not clear to the public why a property-related fee rather than an assessment or a tax was proposed. There are good arguments for why a property-related fee is the best choice, which should be explained clearly to the property owners. The rationale for choosing a property-related fee should be clearly explained to the property owners before the election.

3.4.4 Building Support. Having an effective, comprehensive, and strategic outreach effort is essential to building support for a ballot measure. Several lessons learned statements describe key elements of a successful outreach approach (see statements 6, 10, 11, 12, 15, 16, 17, and 18 in Attachment 5).

- a. Outreach Campaign.** The public relations campaign for the 2012 Initiative started late (it should have started long before the notice of a public hearing) and was never able to catch up. The outreach campaign was hampered by project leadership changes at the county and the consultant team. The 2012 Initiative campaign should have more effectively tapped into the CCCWP's connections with creek groups earlier and considered holding public debates or a voter's forum. Hindsight is 20/20, of course, but additional effort was needed to be focused on the ballot materials and the differences between this ballot and other types of elections. If another fee initiative is pursued in the future, more time and resources will be needed for 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 must be brought in early to actively advocate for environmental needs and benefits that will be derived from the fee. Another improvement for a future fee initiative would be increased informational meetings, aside from the required public hearings. Getting the word out on a countywide scale would require conducting meetings in several locations around the County. As a caution, public funds cannot be used to support, advocate, or otherwise campaign for passage of the fee at the ballot. Still, public funds may be used to educate and inform voters about the proposed fee on a limited basis. So it is helpful to find allies, such as nonprofit organizations, to help advocate for the environmental and financial benefits of the fee. Los Angeles County benefited from support from environmental organizations when Measure W passed in 2018.
- b. Advocate and Champion.** The 2012 Initiative had no champion. The project team needs to engage creek groups and cities/towns early in the election process to be champions of the ballot measure, articulate the benefits of the ballot

measure, and advocate for its passage (with the caveat that cities/towns/County may not use public funds for advocacy). CCCWP staff cannot advocate for a ballot measure; they can only provide information. In 2012 creek groups would have been a natural ally but were not engaged in a meaningful way. Likewise, City elected officials would also have been natural allies but also were not engaged.

- c. Talking Points.** The 2012 Initiative had no succinct talking points that resonated with the property owners who would vote on the ballot measure. Three simple, key talking points, explaining the need for the fee, what the fee would be used for, and why it's important, need to be developed for everyone's use and they need to be repeated over and over. Anyone who attends a public meeting, fields a phone call, or talks to a reporter, whether that person is an elected official, staff, creek group, or another supporter, would have these talking points to use. This provides a unified and cohesive approach to communicating the need for the ballot measure.
- d. Regional Water Board.** There was some sentiment in 2012 that the Regional Water Board was unreasonable and that the MRP should be made more reasonable and less expensive. Instead of the CCCWP charging a fee, the thinking went, the CCCWP should be pushing the Regional Water Board to change the permit and reduce compliance costs. To offset this thinking, the CCCWP should engage the Regional Water Board and bring them in to discuss creek and stormwater protection and the regulations like the MRP that protect public and creek health in public forums. It would be beneficial for the voting property owners to hear the root cause of the fee from the agency that issues the MRP. With the adoption of MRP 1.0, 2.0, and 3.0, it is evident that the MRP requirements will continue to evolve and increase to achieve water quality objectives.
- e. Project List.** There needed to be more clarity in 2012 as to what the fee would be spent on. CCCWP staff talked about "improvements" that would be done and that the fee was to pay for costs associated with the MRP. Most property owners think an "improvement" means a tangible project that provides some real benefit. Transportation agencies successfully pass ballot measures because they promise tangible projects that provide tangible benefits. Some of the projects mentioned in the 2012 Initiative were converting existing drainage inlets into full trash capture devices, work that did not change the outside appearance of the inlet, improve drainage performance, or extend infrastructure service life. The 2012 Initiative would have primarily paid for stormwater services and program costs rather than building projects, with about two-thirds of the proposed budget for services and about one-third for projects. People tend to support services and programs less than projects because services and programs are viewed as more government without a tangible benefit. In 2012, specific projects were not identified or presented to the voters prior to the ballot. When property owners received the ballot and ballot material, there was no project-specific information. For example, the ballot guide for the 2012 Initiative in South County indicated "local clean water projects in Alamo, Blackhawk, Danville, Diablo, and San Ramon." The ballot guide went on to state, "If this measure is approved, services and projects in your area will benefit the following local creeks and water bodies: Alamo Creek, Bollinger

Canyon Creek, Coyote Creek, Green Valley Creek, Norris Creek, Oak Creek, San Ramon Creek, Sycamore Creek, Tassajara Creek." MRP 3.0 includes requirements for many physical projects that would match well with a property-related fee and provide property owners with a tangible benefit. A good strategy might be using existing SUA funds to pay for stormwater services and a future proposed fee to pay for stormwater project development and implementation. Any future ballot measure must develop and communicate a list of projects that resonate with the public for which the fee will pay.

- f. Existing SUA.** There was no full disclosure during the election in 2012 of the existing SUA and how it related to the proposed fee; however, the local newspaper brought up the issue. There should be full disclosure of the total dedicated revenue available (through the SUA) for funding MRP compliance, the total budget necessary to pay for all compliance costs, the derived shortfall, and how the shortfall is funded. This fiscal message, which can get fairly complex, must be accurately distilled and simplified for easy consumption by the layperson.
- g. Permittee Support.** Not all cities supported the 2012 election. A ballot was sent to every property owner in the County, including properties owned by permittees. When permittee staff brought the item to their council for approval to vote "yes" on the ballots, several city councils declined and voted "no" due to negative public comments and pressure. Early in the planning process for the 2012 Initiative, CCCWP staff met with and discussed the ballot measure with the management staff at each permittee jurisdiction to gauge support for the proposal. At the time, all permittees supported the proposed ballot measure. Any future ballot measure should include a public process at each City/Town Council and County Board of Supervisors to discuss, consider, and approve a resolution of support for the ballot measure during the planning process.
- h. Cost Data.** Better ways are needed to track the costs of MRP activities so the need for funding can be explained and supported. The report for the 2012 funding initiative included a detailed analysis of estimated permittee costs. However, many permittees at the time did not have comprehensive costs readily available, as costs were spread out through various departments, and the 2012 report remains the best estimate. It is unlikely that a future property-related fee would be proposed before permittees are required to complete their cost reporting work required by MRP 3.0 Provision C.20. If the cost reporting data is gathered to provide a comprehensive view of compliance costs, then this issue will be resolved.

3.4.5 Media. The local media fanned the flames of opposition during the 2012 Initiative, and this was a key lesson learned (see statement 14 in Attachment 5).

- a. Print Media.** The most widely read newspaper in the County mounted a vigorous opposition to the 2012 Initiative, publishing 11 major opinion columns and ten letters to the editor against the proposal, and none in favor or objectively neutral. The newspaper had a consistent message in its opposition. This was the most critical and damaging element of the 2012 Initiative process that was not

addressed. The newspaper interviewed CCCWP staff several times and was never dissuaded from their strong opposition to the ballot measure. The media must be approached in advance to determine their position on any future ballot measure. If there is opposition, there needs to be a thorough understanding of that opposition and the development of an approach to turn that opposition into support or to provide a consistent counterpoint through other trusted sources. If that cannot be achieved, then the margin of support shown in surveys must be enough to overcome that opposition.

In conclusion, the issues outlined in the lessons learned above, taken together, defeated the 2012 Initiative. However, there is potential for a new ballot measure to be successful if problems identified in these lessons learned are addressed.

3.5 Implementation Costs: Ballot Measure. The best way to determine the cost for a proposed property-related fee would be to request bids from consultants to plan, develop, and execute a ballot measure. Aside from that, the clearest data point we have is from the 2012

Task	Description	Total Cost
1	Program Background Analysis and Reserch	\$ 39,668
2	Future Program Cost Analysis	\$ 114,982
3	Potential Funding Resources	\$ 20,568
4	Opinion Research and Survey	\$ 95,422
5	Stormwater Funding Needs And Options Report	\$ 57,360
6	Engineers (Fee) Report	\$ 47,330
7	Revenue Enhancement Plan	\$ 28,220
8	Implementation and Educational Outreach	\$ 1,038,580
	SubTotal	\$ 1,442,130
	Project Management	\$121,100
	Total	\$ 1,563,230

Initiative. As Table 6 shows, the Initiative cost about \$1.5 million (in 2012), with \$1,442,130 in consultant costs and \$121,100 in CCCWP project management costs, and does not include costs for a branding program that spanned several years prior to the ballot measure. The SCI Consulting Group led a project consultant team that included True North Research, Tramutola, Larry

Walker Associates, and Dan Cloak Environmental Consulting. This team developed the work products to implement the 2012 Initiative. Today's question is whether a new project to implement a property-related fee needs the same work products as those produced in 2012. The following is a breakdown of the tasks and work products developed for the 2012 Initiative and how the need might change with a new ballot measure.

- Background analysis and research.** The first task for the 2012 Initiative was to collect and analyze revenue and expenditure information for the CCCWP and permittees. Two members of the consultant team visited each permittee to gather information on their stormwater expenditures, resources available, and business practices. A new initiative would still require collecting data but with the cost reporting information required by Provision C.20, this effort should be minimal. The 2012 cost for this task was about \$40,000, but for a new ballot measure this work could probably be completed for about \$10,000.
- Future CCCWP cost analysis.** This task reviewed and analyzed projected future annual costs and sources of funding for each permittee. A predictive model was developed to estimate future permit compliance costs. A new initiative would need to complete this

task as well, as this is the basis for determining the need for the property-related fee. The 2012 cost for this task was about \$115,000 and the work effort for a new ballot measure would be a similar cost.

- **Potential funding source analysis.** This task analyzed and evaluated various mechanisms to fund stormwater services. This work would not be needed, as it has been completed with the development of Phase 1 of this Stormwater Funding Options Report. The 2012 cost for this task was about \$20,500, which would not be needed for a new ballot measure.
- **Opinion research and survey.** This task evaluated voters' interest in supporting a local revenue measure and provided guidance on how to structure the measure. Given the information needed to address some of the lessons learned, the need for surveys to launch a new ballot measure will exceed the effort in 2012. One of the biggest issues is tailoring a ballot measure that covers the entire County. It is hard to gauge accurately the support for a ballot measure with so many pockets of diverse communities throughout the County. For example, the 2012 Initiative sent 24,765 surveys to property owners throughout the county, reaching 2.3% of the population (1,056,064 people in 2011). By contrast, Cupertino, planning a ballot measure in 2019, sent out 12,000 surveys reaching 15.7% of the population (76,362 people in 2021). Smaller jurisdictions can inherently provide an enhanced level of detail and confidence. The 2012 cost for this task was about \$95,000, but additional and more extensive surveys would need to be conducted with a future ballot measure to address some of the lessons learned. Increasing this budget by about 50% to \$150,000 would seem appropriate.
- **Stormwater funding needs and options report.** This task analyzed both a parcel tax (requiring two-thirds passage) and a property-related fee (requiring a majority passage if the voters are property owners) and recommended using a property-related fee. This work is covered by Phase 2 of this Stormwater Funding Options Report. The 2012 cost for this task was about \$57,000, which would not be needed for a future measure covered by this Phase 2 report.
- **Fee report.** This task developed the analysis, justification, and structure to implement an annual property-related fee. This work would be needed with any new ballot measure. The 2012 cost for this task was about \$47,000 and the work effort for a new ballot measure would be a similar cost.
- **Revenue enhancement plan.** This task developed the process and steps involved in conducting the election. This work would be needed with any new ballot measure. The 2012 cost for this task was about \$28,000 and the work effort for a new ballot measure would be similar.
- **Implementation and educational outreach.** This task developed outreach materials, mailers, and a webpage to inform the public about the election and the balloting process, prepared the ballots, mailed the ballots to property owners, and tabulated the returned votes. A new proposed ballot measure would also need this work, but likely with enhancements to address some lessons learned. The 2012 cost for this task was about \$1,038,500, but additional and more extensive outreach would need to be performed with

a future ballot measure to address some of the lessons learned. Increasing the outreach budget by 50% would seem appropriate. The costs for outreach and conducting the ballot were lumped together, but assuming the outreach budget was 75% of the total then the estimated increase would be about \$390,000.

- **Balloting results and final perspectives.** This final task reported on the balloting process and provided perspectives on the results. A final report such as this would also be needed with a new ballot measure. The 2012 cost for this task was included in the implementation and educational outreach task.

An estimated cost can be determined by looking at each individual task from the 2012 Initiative and comparing them to what would be needed for a new initiative. The costs for the 2012 Initiative are 12 years old, so they should be escalated by approximately 36% based on cost-of-living adjustments. Table 7 shows the increase in the consumer price index since 2012 in the

Year	Annual Average Percentage Change	Cumulative Change From 2012
2022	5.60%	1.36
2021	3.40%	1.29
2020	1.70%	1.25
2019	3.20%	1.23
2018	4.00%	1.19
2017	3.20%	1.14
2016	3.10%	1.11
2015	2.60%	1.07
2014	2.80%	1.05
2013	2.30%	1.02
2012	2.70%	1.00

Bay Area. The cost-of-living adjustment would increase the consultant costs from \$1,442,130 to \$1,961,300 and the project management costs from \$121,100 to \$164,700 for a total project cost of \$2,125,000. There will be savings where some of the 2012 Initiative tasks are unnecessary, but there will also be some extra costs from new items described in

the lessons learned. For example, modifying the Flood Control District Act and creating a legal white paper on a property-related fee would require additional legal expertise and effort. Likewise, coordinating with the Regional Water Board to respond to public questions regarding the MRP, developing a project list, and educating a staff person to be knowledgeable on the election process will all take additional time and cost. The problems noted in the lessons learned could be addressed under the same tasks performed in the 2012 Initiative, providing the task descriptions are modified, particularly the Implementation and Educational Outreach task where most issues would be addressed. Based upon the added or deleted costs noted in the list of tasks above, the total overall budget for a fee initiative would increase by about \$340,000. Adding that to the cost of the 2012 Initiative, then adding in project management costs and increasing it all by 36%, results in today's total fee initiative project estimate of \$2,590,000. If it takes five years before the project starts, then costs could be increased by another 15%, pushing the estimate to about \$2,970,000. It should be noted and reiterated that the best way to estimate these costs is to advertise a Request for Proposal to do the work. However, costs are estimated here based on the 2012 Initiative costs to provide the Management Committee with information to consider and compare various funding options. Table 8 shows the cost for each task for a new funding measure using the tasks from the 2012 Initiative, adjusting the costs based on the above analysis, and adding a 36% increase.

Table 8: Costs for a New Funding Initiative

Task	Description	2012 Cost	Adjusted Cost	Today's Cost
1	Program Background Analysis and Reserch	\$ 39,668	\$ 10,000	\$ 13,600
2	Future Program Cost Analysis	\$ 114,982	\$ 114,982	\$ 156,375
3	Potential Funding Resources	\$ 20,568	\$ -	\$ -
4	Opinion Research and Survey	\$ 95,422	\$ 150,000	\$ 204,000
5	Stormwater Funding Needs And Options Report	\$ 57,360	\$ -	\$ -
6	Engineers (Fee) Report	\$ 47,330	\$ 47,330	\$ 64,369
7	Revenue Enhancement Plan	\$ 28,220	\$ 28,220	\$ 38,379
8	Implementation and Educational Outreach	\$ 1,038,580	\$ 1,430,000	\$ 1,944,800
	SubTotal	\$ 1,442,130		\$ 2,421,523
	Project Management	\$121,100		\$ 164,696
	Total	\$ 1,563,230		\$ 2,586,219

3.6 Projected Revenue. Projected revenue from each permittee is determined by the number of parcels within their jurisdiction, the land-use designation of the parcels and their equivalent runoff units, and the amount of the fee approved by a ballot measure. This can be calculated, assuming

Table 9: Property Related Fee Revenue Projection (FY 22/23 Data)

Jurisdiction	Fee Rate	Parcel Count	Total ERU	SUA Fees	Unit Rate	Unit Fee
City of Antioch	\$25.00	31,948	49,922	\$1,248,044	\$1.00	\$49,922
City of Brentwood	N/A					
City of Clayton	\$29.00	4,091	4,403	\$127,691	\$1.00	\$4,403
City of Concord	\$35.00	36,792	60,171	\$2,105,993	\$1.00	\$60,171
Town of Danville	\$30.00	15,632	19,053	\$571,583	\$1.00	\$19,053
City of El Cerrito	\$38.00	8,469	10,895	\$414,004	\$1.00	\$10,895
City of Hercules	\$35.00	8,416	9,170	\$320,943	\$1.00	\$9,170
City of Lafayette	\$35.00	8,495	13,500	\$472,499	\$1.00	\$13,500
City of Martinez	\$30.00	12,689	23,524	\$705,727	\$1.00	\$23,524
Town of Moraga	\$35.00	5,638	8,372	\$293,026	\$1.00	\$8,372
City of Oakley	\$30.00	12,480	16,812	\$504,346	\$1.00	\$16,812
City of Orinda	\$35.00	7,032	11,072	\$387,524	\$1.00	\$11,072
City of Pinole	\$35.00	6,288	9,260	\$324,107	\$1.00	\$9,260
City of Pittsburg	\$30.00	18,484	42,009	\$1,260,260	\$1.00	\$42,009
City of Pleasant Hill	\$30.00	11,361	16,714	\$501,418	\$1.00	\$16,714
City of Richmond	N/A					
City of San Pablo	\$45.00	6,538	9,621	\$432,966	\$1.00	\$9,621
City of San Ramon	\$35.00	24,841	35,330	\$1,236,547	\$1.00	\$35,330
City of Walnut Creek	\$35.00	24,304	37,290	\$1,305,162	\$1.00	\$37,290
Unincorporated County	\$30.00	54,268	122,063	\$3,661,896	\$1.00	\$122,063
Totals		297,766	499,181	\$15,873,736		\$499,181

the SUA impervious surface methodology is used to determine the new fee amount and assuming the parcels paying the new fee are the same parcels paying the SUA fee. Table 9 shows the amount of revenue (the "Unit Fee" amount) that would be generated for each permittee based on the permittee's current SUA fee rate and the total equivalent runoff units (ERU) for the parcels charged a SUA fee. The "SUA Fees" are calculated by multiplying the "Fee Rate" by the "Total ERU", and the "Unit Fees" are calculated by dividing the "SUA Fees" by the "Fee Rate". The projected revenue for a new fee can then be calculated for any proposed fee rate by simply multiplying the proposed fee rate by the unit fee. For example, a fee rate of \$12 per ERU for a

single-family residential parcel would generate (12) x (unit fee) in revenue. For the unincorporated county, a proposed fee of \$12 would generate \$1,464,756 (12 x \$122,063). Countywide (excluding Brentwood and Richmond), a \$1.00 fee rate generates about \$500,000 in revenue, so a \$12 fee rate would generate about \$6 million. Brentwood and Richmond are not included in Table 9, as they do not receive SUA revenue. To calculate their expected revenue, each of the two municipalities would have to determine the total ERU of all parcels within their jurisdiction.

3.7 Recent Ballot Measures. While each ballot measure is unique, reviewing the particulars of some recent ones may be instructive. Since the 2012 Initiative, 12 balloted property-related stormwater fee efforts have been successful except for four. The following is a short discussion of the seven ballot measures since and including 2019. Information was gathered for this section through an internet search of city websites, project staff reports, and newspaper articles. Some of these ballot measures focus more on storm drainage projects and maintenance than MRP-related services.

- **City of Los Altos (unsuccessful, 2019):** The Council had been discussing having a dedicated funding source for stormwater projects for years, leading to the adoption of a stormwater master plan in April 2016. In June 2019, at the conclusion of a funding measure, City consultants and City staff counted the ballots from property owners who voted 56% "no" and 44% "yes" to increase stormwater fees for storm drainage maintenance and improvements. The fees ranged between \$72 and \$117.59 annually for a single-family home or condo owner. The City could have increased the fee to 3% annually to correspond with inflation. There was some concern among property owners that "the people who did the sales pitch" for the fee, referring to the consultant team who branded the project the Clean Water and Sustainable Storm Drainage Initiative, had been involved in counting the ballots.
- **City of Cupertino (successful, 2019):** In July 2019, the City received a majority of "yes" votes on ballots returned by property owners for a stormwater fee to fund clean water and storm drainage improvements and services. To offset inflation, the fee may be increased by not more than 3% per year. However, the amount of the fee can never exceed the cost of the services provided, as verified by the findings of a citizen oversight committee after conducting an annual audit of the City's finances. The new fee for an average-sized residential parcel is \$44.42 per year in addition to the annual \$12 storm drainage fee established in 1992. The combined total of the 1992 fee and the new fee for an average-sized residential parcel is \$56.42 per year (or \$4.70 per month).
- **City of Alameda (successful, 2019):** The City's stormwater system consists of 11 pump stations, 26 pumps, 126 miles of storm drains, two lagoon systems, 278 outfalls, 2,879 catch basins, and 1,967 manholes. The drainage and related pumps were old; some pump stations were built in the 1940s and needed replacing. Homeowners had paid \$56 per year for storm drain maintenance for 15 years before the ballot measure. A rate study showed the storm drain fee should be increased by \$78, for a total of \$134 per year. The fee increase was passed in 2019 and can be adjusted annually for inflation, not to exceed 3%. The fee has no sunset date. Success in Alameda was likely assisted by every homeowner residing at the same elevation and needing a functioning storm drain system to protect their property.

- **City of Davis (successful, 2021):** The City proposed a property-related fee in 2020 through a transparent process with extensive outreach that included review of a detailed rate study prepared by an independent expert at hearings before their independent citizen Utilities Commission and at noticed public forums. The City held four virtual community meetings to provide additional opportunities for the public to receive information and provide input regarding the stormwater protection system. Each meeting covered the same material, followed by a question-and-answer session. In June 2021, the ballots were counted, resulting in 61% voting "yes" and 39% voting "no".
- **City of San Bruno (unsuccessful, 2021):** The City Council adopted a Storm Drain Master Plan in 2014, which analyzed the storm system to determine current and future problem areas. With much of the City's stormwater system dating back to the early 1900s, a more recent infrastructure study showed that the fees paid by property owners could not effectively manage the system. These fees had not increased in nearly 30 years. The current Storm Drainage fee of \$46 for single-family residential land use was proposed to be increased to \$154 annually, or about \$9.00 monthly. The City sent four mailers to property owners explaining the proposed fee and the required public hearings. Residents voiced their concern with the proposal, suggesting that any increase was too much and that the City should look elsewhere to fund needed improvements. Voting on the funding measure resulted in a 64.4% "no" vote.
- **City of Sacramento (successful, 2022):** A ballot measure was proposed by the Sacramento Department of Utilities, as the City had not changed the fee it charged residents to use sewer and stormwater services since 1996. Under the new schedule, an average single-family homeowner would pay \$70 more per year in storm drain fees (about \$6 more per month), from about \$135 to \$205 per year, based on the amount of impervious surfaces. Approximately 52 percent of property owners approved the measure, which was voted on through a special mail-in ballot election. The Utilities Rate Advisory Commission would oversee planning for the funds and review how they are spent. Property owner Dessins LLC sued the City in June 2022, alleging that the City violated state tax law by casting over 2,000 ballots supporting the ballot measure. The City voted "yes" on each of its 2,007 properties, influencing the measure's outcome, which passed by 1,949 votes.
- **Vallejo Flood and Wastewater District (unsuccessful, 2022).** A stormwater fee was established in 1997, covering all parcels in the service area. In 2015 the District successfully passed a property-related fee, sending ballots out to all property owners that increased commercial rates by \$23 but did not change residential rates. In April 2022 the District attempted a \$54 increase in the property-related fee on all parcels, including residential parcels, but was unsuccessful with 68% voting "no" and 32% voting "yes". Timing may have been a factor in having so many "no" votes, as the economy was weakening and inflation was rising.

If the Management Committee decides to pursue a funding measure at some future date, the project team could interview staff with the above jurisdictions to get more detailed information on the success or failure of their fee. For example, did the surveys support the proposed fee amounts? Why do they think the fee was successful/unsuccessful? Did the fee have active opposition, particularly from the media? Did the fee have active advocacy and a champion to

rally voter support? Was there any confusion in the election process when it was not conducted through the County Elections Office?

3.8 Assumptions. To develop recommendations for the CCCWP related to a future property-related fee, certain assumptions must be made to reduce the number of variables to be considered.

- **Countywide.** It is assumed that any property-related fee ballot measure would be conducted on a countywide basis. That was the direction and approach for the 2012 Initiative and is the assumed approach for any future ballot measure. A countywide ballot measure placed on the ballot by the Flood Control District is the most cost-effective, saves the repetitive costs for 20 ballot measures done by permittees individually, and is mutually supportive by ensuring all permittees receive additional funding. It is also assumed that the County Board of Supervisors would support this countywide effort and approve a countywide property-related fee.

3.9 Grand Jury Report. After the 2012 Initiative failed, the Contra Costa County Grand Jury chose to investigate and report on the underlying problems with funding stormwater permit compliance in the County. The report from the 2012/13 Grand Jury, Report No. 1305 dated May 21, 2013, entitled "Getting to Clean Water in Contra Costa County – Where's the Plan and Where's the Money?" describes the methodology of their investigation and overview of the information they gathered, and their findings and recommendations. The Grand Jury found no agreement between permittees, the Regional Water Board, and environmental groups on permit requirements regarding what should be achieved, how they should be achieved, when they should be achieved, and what happens when they are not achieved. The Grand Jury also found that some permittee management felt the 2012 Initiative was poorly conducted and that accurate information was not communicated to the public. There was no alternative plan to the failed initiative. If the Management Committee chooses to pursue another property-related fee funding measure, then Grand Jury Report No. 1305 should be reviewed in detail, and a plan developed to address the issues and problems identified in the report. The Grand Jury report is included in Attachment 7.

3.10 Recommendation: Implementation Plan. Many of the issues and problems identified in the above analysis from the 2012 Initiative, and those inherent in the process, could be managed to facilitate a potentially different outcome. If the CCCWP chooses to move forward with a new property-related fee ballot measure, then the CCCWP should develop an Implementation Plan that can be used as a roadmap over the next several years to develop the ballot measure in a progressive, stepwise fashion. The first step in developing the Implementation Plan would be agreement on a purpose statement, project objectives, desired outcomes and expectations. A good objective, for example, might be directing all property-related fee revenue to develop and build projects in conjunction with existing SUA funding for stormwater services. The second step would be conducting a survey to determine the level of support for a ballot measure at the present time, under what future conditions voters would support a fee (e.g., lower inflation), and if a countywide approach is still feasible, to inform development of the Implementation Plan. In addition, the Implementation Plan should have the following sections.

- **3.10.1 Financial Plan.** Develop a plan to provide the financing and justification for a property-related fee ballot measure that includes the following key elements.

- **Budget.** Set aside \$200,000 per year in the CCCWP budget to build up a separate reserve fund account for financing the project.
- **Cost Data.** Work collectively to generate the cost reporting data needed to explain the total compliance costs for MRP 3.0, the total dedicated SUA funds available for a ballot initiative, the resulting shortfall, and how each permittee funds the shortfall.
- **Outreach.** Develop the financial messaging and visual aids from the cost reporting data and begin discussing this issue with upper management and the governing bodies in each permittee organization.

3.10.2 Administrative Plan. Develop a plan that will provide a strategy for resolving identified issues with the 2012 Initiative that includes the following key elements.

- **Countywide Issues.** Determine how to communicate the various aspects of a ballot measure to a large County area with many pockets of diverse viewpoints. Determine if breaking the County into three sections is still the best way to address the balance between the amount of support for a ballot measure and the fee amount people are willing to pay. Identify any other counties that have gone through a ballot measure process and discuss with them what went well and what did not.
- **Election Ballot Issues.** Determine the requirements and cost to process an election through the County Elections Office and decide if that is the best course to take. Develop a process to prepare pro/con arguments for the ballot. Develop information pieces that clearly describe the differences between a voter ballot election and a property-related fee election and explain how to calculate the fee amount.
- **Media.** Determine local media's position on a proposed ballot measure, the degree of interest they would have in the topic, and how much energy they would likely spend expounding their position.
- **Timing.** Develop an overall master schedule for all elements of the Implementation Plan, so it is clear what steps can be done concurrently, what steps must be done sequentially, and the optimal time gap between steps.

3.10.3 Outreach Plan. Develop a plan that will identify what outreach materials are needed, who the target audience(s) is(are), and how the outreach program will change from the beginning stages of the project to the end of the project.

- **Project Champion.** Identify those individuals or organizations with a shared interest in the project and are willing to speak out in favor of and support the project throughout the process.
- **Advocacy.** Identify willing partner communication outlets, such as city/town/County newsletters, Board/council community updates, utility bill inserts, etc., and commit to utilizing those outlets for continuous updates supporting the ballot measure.
- **Messaging.** Develop a concise and coherent message for the project and prepare talking points for project team members who interact with anyone interested in the project (property owners, media, elected officials, etc.). Develop a list of opportunities

to communicate the project's benefits to property owners, such as community meetings, open forums, tables at local events, social media, television, and any other relevant digital messaging, etc.

- **Supporters/Partners.** Identify all individuals and entities that would support the project or be willing to participate as a partner. Conversely, identify all individuals, entities, and organizations that would oppose the project, note their arguments and the basis of those arguments, and plan ways to neutralize the opposing points of view.
- **Materials.** Develop handouts, brochures, and flyers that address the outreach-related issues in the lessons learned, such as describing why a property-related fee is proposed.

3.10.4 Legal Plan. Develop a plan to identify where a legal analysis would be beneficial and/or mandatory.

- **Partner Resolutions.** Develop a sample resolution of support for the fee and distribute it to permittees for adoption by city/town councils and the Board of Supervisors.
- **Legal Backup.** Develop a white paper for the media and other detail-oriented parties, and brochures for the public describing the balloting process, Proposition 218 requirements, and why the proposed ballot measure is valid. Also review if there is a need to modify the Flood Control District Act.
- **General Support.** Review outreach materials and communications to ensure they bolster the legitimacy and legality of the project process. Review the use of revenue, especially restricted revenue (e.g., SUA funds), to ensure it is used appropriately.

The Implementation Plan should include everything needed by the CCCWP to plan and execute all the steps required to have a ballot measure in place by a planned date in the future.

4. Litter/Trash Property-Related Fee

4.1 Description. This funding option is similar to the all-inclusive property-related fee option above; however, while that property-related fee option provides funding for all stormwater services and programs, a litter/trash property related fee would only cover a subset of costs, for services related to litter and trash. The process to establish this fee would be the same as the property-related fee option described above, unless the alternative process for adopting a litter/trash property-related fee described below is feasible and utilized. One advantage of this option is its reduced scope, focusing solely on litter and trash. This allows more detailed surveys on a limited topic, a better-tailored outreach program, and partnering with organizations heavily involved in trash reduction, such as Save the Bay. Litter and trash in the landscape are highly visible, making it easier to demonstrate the need for funding. The fee adoption process is the same as a property-related fee, and the challenges are also the same. The lessons learned from the 2012 Initiative would have to be addressed with this funding option, similar to the all-inclusive property-related fee option. If feasible, this option could be expanded to include cleaning out catch basins. It is assumed that the fee amount would be more than enough to cover any CCCWP

budget shortfall related to litter and trash, with a balance of revenue distributed back to permittees similar to the SUA. Since this fee would be for a specific subset of stormwater services, it must be accounted for separately.

4.2 Possible Alternative Process. Recent court rulings may permit certain limited services related to this option to move forward without an election. In October 2022, the Court of Appeals reached a decision regarding a stormwater permit issued to San Diego County (Department of Finance et al. v. Commission on State Mandates (San Diego County), 3rd District Court of Appeal Case No. C092139). The court's decision was certified for publication. On March 1, 2023, the California Supreme Court denied the Water Boards and Department of Finance petition for review and de-publication, making the ruling a valid law. The case involved the County and other permittees filing a test claim with the Commission on State Mandates, arguing that some provisions in their 2007 stormwater permit constituted new programs or an increased level of service and therefore, should be reimbursed by the state. The Commission agreed that several requirements were new programs and should be reimbursed, prompting the State to file a lawsuit.

The stormwater permit required the County to, in part, "sweep streets at certain times, depending on the amount of debris they generate, and report the number of curb miles swept and tons of material collected" and to "inspect, maintain, and clean catch basins, storm drain inlets, and other stormwater conveyances at specified times and report on those activities". In its test claim to the Commission, the County combined the street sweeping requirement and the catch basin cleaning requirement into one item. As part of their decision, the court of appeal held that street sweeping qualified as refuse collection, falling under the exemption to voter approval requirements specified in Proposition 218 and therefore subject to the majority protest process. Under this "no vote" scenario, the County Board of Supervisors would hold a noticed public hearing, and the fee can only be adopted if less than 50% of the parcels in the fee area protest the fee. If over 50% protest the fee, then the fee cannot be adopted.

Exempt from voting requirements or not, a street sweeping fee must meet the substantive tests outlined in Proposition 218. The fee cannot be used for any purpose other than street sweeping, the amount of the fee must be proportional to the cost of street sweeping attributable to the parcel charged, the street sweeping directly benefits the charged parcel, and the street sweeping paid for by the property is not a general government service enjoyed by the public at large. The court held that the County had the authority to adopt a street sweeping fee without a vote but did not consider whether the County could realistically meet the tests specified in Proposition 218. The court expressly declined to address whether the permittees, as a matter of law and fact, could promulgate a fee that satisfies the substantive requirements of Proposition 218, including structuring the fee to avoid becoming a fee for general governmental services. The court also did not consider the issue of cleaning catch basins in their decision.

The Department of Finance case points to the need for a diligent review of legal requirements should this alternative process, adopting a fee exclusively for street sweeping services without a vote, be chosen. If it was desired to add catch basin cleaning to the proposed fee, the legal review would need to examine this also. In addition, the fee would have to be structured to address the substantive requirements outlined in Proposition 218. A proportional nexus could be shown for a street sweeping fee, for example, based on the amount of frontage a parcel has along a street being swept. If a legal analysis indicates that picking up litter before it gets to the street is also exempt from voting requirements, then a study would need to be done to show the link between picking up trash in the landscape and all property owners in the county or property owners on a neighborhood-by-neighborhood basis. There may be some difficulties here, as trash

is not evenly dispersed throughout the County. If a permittee was already conducting street sweeping services in a portion of their jurisdiction, they would have to terminate that service to meet the "general government service" test (see the property-related fee section above). This would likely be politically unpopular. If the County chose to pursue such a street sweeping fee without voter approval, it would be the first of its kind in the State and would almost certainly be challenged by taxpayer advocacy groups. It is helpful that a published court decision, which the Supreme Court declined to overturn or de-publish, supports this approach. While the alternative approach may be feasible and may be restricted to street sweeping, the analysis in the rest of this section is for a property-related fee voted on by property owners with no restrictions on the litter/trash services it would pay for.

4.3 Implementation Costs: Ballot Measure. The same process used to develop a cost estimate for the property-related fee can be used here to develop a cost estimate for this option. For the rest of the analysis for this option, it is assumed that the chosen process is a mailed ballot measure to all property owners. The following is a breakdown of the tasks and work products developed for the 2012 Initiative and how the need might change with a new ballot measure for a litter/trash property-related fee (see Attachment 11).

- **Background analysis and research.** The first task for the 2012 Initiative was to collect and analyze revenue and expenditure information for the CCCWP and permittees. A new initiative would still require gathering data, but with the cost reporting information required by provision C.20, this effort should be minimal. The 2012 cost for this task was about \$40,000, but for a new litter/trash fee ballot measure this work could probably be completed for about \$10,000.
- **Future CCCWP cost analysis.** This task reviewed and analyzed projected future annual costs and sources of funding for each permittee. A new initiative would need to complete this task as well, as this is the basis for determining the need for the property-related fee, but the cost would be less due to the reduced scope. The 2012 cost for this task was about \$115,000 but the work effort for a new ballot measure would be less, maybe 50% less or about \$60,000, due to the reduced scope of services analyzed.
- **Potential funding source analysis.** This task analyzed and evaluated various mechanisms to fund stormwater services. This work would not be needed, as it has been completed with the development of Phase 1 of this Stormwater Funding Options Report. The 2012 cost for this task was about \$20,500, which would be a savings for a new ballot measure.
- **Opinion research and survey.** This task evaluated voters' interest in supporting a local revenue measure and provided guidance on how to structure it. Surveys will still be important and will be needed with a new ballot measure, but with a reduced scope, the necessary work will be somewhat less. The 2012 cost for this task was about \$95,000. Additional and more extensive surveys would need to be conducted with a future ballot measure to address some lessons learned. With a reduced scope, it would seem logical that the cost of surveys would also be reduced. However, the cost to send out a survey for a project with ten items is about the same as a project with five items, so the survey budget would still have to be increased. Increasing this budget by about 50% to \$150,000 would seem appropriate.

- **Stormwater funding needs and options report.** This task analyzed both a parcel tax (requiring a two-thirds passage) and a property-related fee (requiring a majority passage) and recommended using a property-related fee. This work is covered by Phase 2 of this Stormwater Funding Options Report. The 2012 cost for this task was about \$57,000, which would not be needed for a future measure.
- **Fee report.** This task developed the analysis, justification, and structure to implement an annual property-related fee. This work would be needed with any new ballot measure. The 2012 cost for this task was about \$47,000 and the work effort for a new ballot measure would be a similar cost.
- **Revenue enhancement plan.** This task developed the process and steps involved in conducting the election. This work would be needed with any new ballot measure. The 2012 cost for this task was about \$28,000 and the work effort for a new ballot measure would be a similar cost.
- **Implementation and educational outreach.** For the 2012 Initiative, this task developed outreach materials, mailers, and a webpage to inform the public about the election, and managed the balloting process. A new proposed ballot measure would also need this work, but likely with enhancements to address some lessons learned. The reduced scope for the ballot measure will make this work easier and more effective. The 2012 cost for this task was about \$1,038,500, but additional and more extensive outreach would need to be performed with a future ballot measure to address some of the lessons learned. However, with a reduced scope, the outreach can be laser-focused and more cost-effective, so the budget shouldn't be increased as much as the all-inclusive property-related fee. Increasing the outreach budget by 25% would seem appropriate. The costs for outreach and conducting the ballot were lumped together, but assuming the outreach budget was 75% of the total, the estimated increase would be about \$200,000.
- **Balloting results and final perspectives.** This final task reported on the balloting process and provided perspectives on the results. A final report such as this would also be needed with a new ballot measure. The 2012 cost for this task was included in the implementation and educational outreach task.

An estimated cost for a new ballot measure can be determined by looking at each individual task from the 2012 Initiative and comparing them to what would be needed for a new initiative. The costs for the 2012 Initiative are 12 years old, so they should be escalated by approximately 36% (see Table 7) based on cost-of-living adjustments. That would increase the consultant costs from \$1,442,130 to \$1,961,300, and the project management costs from \$121,100 to \$164,700 for a total project cost of \$2,125,000. There will be savings where some of the 2012 Initiative tasks are unnecessary, but there will also be extra costs from new items described in the lessons learned. The problems noted in the lessons learned could be addressed under the same tasks performed in the 2012 Initiative, providing the task descriptions are modified, particularly the Implementation and Educational Outreach task where most issues would be addressed. Based upon the added or deleted costs noted in the list of tasks above, the total overall budget would increase by about \$90,000. Adding that to the cost of the 2012 Initiative, then adding in project management costs and increasing it all by 36%, results in today's total project estimate of \$2,300,000. If it takes five years before the project starts, then costs could be increased by

another 15%, pushing the estimate to about \$2,650,000. It should be noted that the best way to estimate these costs is to advertise a Request for Proposal to do the work. However, costs are estimated here based on the 2012 Initiative costs to provide the Management Committee with information to consider and compare various funding options.

4.4 Projected Revenue. Similar to the all-inclusive property-related fee option above, projected revenue for each permittee is determined by the number of parcels within their jurisdiction, the land-use designation of the parcels and their equivalent runoff units, and the amount of the fee approved by a ballot measure. This can be calculated, assuming the Stormwater Utility Assessment impervious surface methodology is used to determine the new fee amount and assuming the parcels paying the new fee are the same parcels paying the SUA fee. Attachment 13 shows the unit fee for each permittee, based on the permittee's SUA fee rate and the total equivalent runoff units (ERU) for the parcels charged a SUA fee. The projected revenue can then be calculated for any proposed fee rate by multiplying the proposed fee rate by the unit fee. For example, a fee rate of \$12 per ERU for a single-family residential parcel would generate $(12) \times (\text{unit fee})$ in revenue. Countywide, a \$1.00 fee rate generates about \$500,000 in revenue, so a \$12 fee rate would generate about \$6 million. Brentwood and Richmond are not included in Attachment 13, as they do not receive SUA revenue. To calculate their expected revenue, the two municipalities would have to determine the total ERU of all parcels within their jurisdiction.

4.5 Assumptions. To develop recommendations for the CCCWP related to a future property-related fee, certain assumptions are made to reduce the number of variables to be considered.

- **Countywide.** It is assumed that any property-related fee ballot measure would be conducted countywide. That was the direction and approach in 2012 and is the assumed approach for any future ballot measure. Although the CCCWP has very little budget associated with street sweeping or litter pickup, it would still be advantageous to do a countywide ballot measure for the same reasons as the all-inclusive property-related fee, by ensuring revenue for all permittees, areas with strong support can carry areas with weaker support, etc. It is also assumed that the County Board of Supervisors would support this countywide effort and approve a countywide property-related fee.
- **Balloted Fee Measure.** For the analysis provided, it is assumed that this option will be implemented with a property-related fee voted on with ballots sent to all property owners in the County. If an alternative process is decided upon, the analysis provided in this report would need to be adjusted for the issues associated with that alternative process.

4.6 Recommendation: Implementation Plan. To move forward with a new property-related fee ballot measure for litter and trash, the CCCWP should first decide whether to go through a vote of property owners to fund all litter/trash-related services or approve a street sweeping fee (and possibly other services) without a vote. If there is a serious consideration to adopting a fee without a vote, then the legal analysis in the "Legal Plan" section below should be done before making a decision. Once a decision has been made on the approach to take (with or without a vote), the CCCWP should develop an Implementation Plan that can be used as a roadmap over the following several years to develop the ballot measure in a progressive, stepwise fashion. The first step in developing the Implementation Plan would be agreement on a purpose statement, project objectives, desired outcomes, and expectations. The second step would be surveying to determine the level of support for a ballot measure at the present time, under what future conditions would support an increase (e.g., lower inflation), and if a countywide approach is feasible to inform development of the Implementation Plan. The Implementation Plan and the

sections within the plan would be the same as the all-inclusive property-related fee option described above and are duplicated here but in a condensed format. Please refer to the all-inclusive property-related fee section above for more detailed descriptions of the Implementation Plan sections.

4.6.1 Financial Plan. Develop a plan to provide the financing and justification for a property-related fee ballot measure that includes the following key elements.

- **Budget.** Set aside \$200,000 per year in the CCCWP budget to build up a separate reserve fund account for financing the project.
- **Cost Data.** Work collectively to generate the cost reporting data needed to explain the total compliance costs for MRP 3.0, the total dedicated SUA funds available, the resulting shortfall, and how each permittee funds the shortfall. Total costs and dedicated revenue are needed to show there are no extra funds to pay for litter/trash pickup.
- **Outreach.** Develop the financial messaging and visual aids from the cost reporting data and begin discussing this issue with upper management and the governing bodies in each permittee organization.

4.6.2 Administrative Plan. Develop a plan that will provide a strategy for resolving identified issues with the 2012 Initiative that includes the following key elements.

- **Countywide Issues.** Determine how to communicate the ballot measure to a large County area with many pockets of diverse viewpoints and varying levels of trash generation. Determine if breaking the County into three sections is still the best way to address the balance between the amount of support for a ballot measure and the fee amount people are willing to pay. Because litter/trash is not evenly distributed around the County, some other division of the County may be needed. Identify any other counties that have gone through a ballot measure process and discuss with them what went well and what did not.
- **Election Ballot Issues.** Determine the requirements and cost to process an election through the County Elections Office and decide if that is the best course to take. Develop a process to prepare pro/con arguments for the ballot. Develop information pieces that clearly describe the differences between a voter ballot election and a property-related fee election.
- **Media.** Determine local media's position on a proposed ballot measure, their interest in the topic, and how much energy they would likely spend expounding their position.
- **Timing.** Develop an overall master schedule for all elements of the Implementation Plan so it is clear what steps can be done concurrently, what steps must be done sequentially, and the optimal time gap between steps.

4.6.3 Outreach Plan. Develop a plan that will identify what outreach materials are needed, who the target audience(s) is(are), and how the outreach program will change from the beginning stages of the project to the end of the project.

- **Project Champion.** Identify those individuals or organizations with a shared interest in the project and are willing to speak out in favor of and support the project throughout the process. Save the Bay may be willing to take this on, for example.
- **Advocacy.** Identify willing partner communication outlets, such as city/town/County newsletters, Board/council community updates, utility bill inserts, etc., and commit to utilizing those outlets for continuous updates supporting the ballot measure.
- **Messaging.** Develop a concise and coherent message for the project and prepare talking points for project team members who interact with anyone interested in the project (property owners, media, elected officials, etc.). Develop a list of opportunities to communicate the benefits of the project to property owners, such as community meetings, open forums, tables at local events, social media, television, and any other relevant digital messaging, etc.
- **Supporters/Partners.** Identify all individuals and entities that would support the project or be willing to participate as a partner. Conversely, identify all individuals, entities, and organizations that would oppose the project, note their arguments and the basis of those arguments, and plan ways to neutralize the opposing points of view.
- **Materials.** Develop handouts, brochures, and flyers that address the outreach related issues in the lessons learned, such as describing why a property-related fee is proposed.

4.6.4 Legal Plan. Develop a plan to identify where a legal analysis would be beneficial and/or mandatory.

- **Fee by Exemption or Ballot.** One of the first items of work is to analyze the legality of a litter/trash fee meeting the substantive requirements of Proposition 218, both under a "no vote" (lack of majority protest) scenario with limited services and a "vote" scenario with more robust services. Given the current court case, it appears the fee under a "no vote" scenario may only be able to fund street sweeping services. If it is desired to add litter/trash pickup (outside of street sweeping) and/or drainage inlet cleaning to a "no vote" scenario fee, then this also needs to be analyzed to determine if it is legally viable.
- **Partner Resolutions.** Develop a sample resolution of commitment to the project and distribute it to permittees for adoption by city/town councils and the Board of Supervisors.
- **Legal Backup.** Develop a white paper for the media and other detail-oriented parties, and brochures for the public describing the balloting process, Proposition 218 requirements, and why the proposed ballot measure is valid. Also, review if there is a need to modify the Flood Control District Act.
- **General Support.** Review outreach materials and communications to ensure they bolster the legitimacy and legality of the project process.

The Implementation Plan should include everything needed by the CCCWP to plan and execute all the steps required to have a ballot measure in place by a planned date in the future.

5. Community Facilities District

5.1 Description. 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 been included in the district to pay for services and projects on the district's work program. It is assumed that the countywide CFD would be established in partnership with the RAC System, which has been developed and for which coordination for a pilot exchange is underway. In this option, the CFD work program would include both local stormwater services and projects and RAC System project operation and maintenance. Properties would be added to the district through the development process, where properties are voted into the district by developers before the properties are sold. The future annual special tax amount that subsequent property owners would pay into the community facilities district depends on whether their development mitigation is for just local requirements or both local requirements and RAC System requirements. All development projects would pay local stormwater costs, but only a subset would likely utilize the RAC System and pay regional costs. As this option would be applied countywide, the CFD would be adopted by the County Board of Supervisors through the Flood Control District, an entity with countywide jurisdiction and a mission that includes stormwater. It is assumed that property owners would vote on the countywide CFD for development projects rather than registered voters in whole neighborhoods. Under this assumed scenario, "countywide" means a CFD that applies to all development projects throughout the county. All parcels in the county would be within the district's boundary, but the only parcels that would pay a fee are those that were voted into the district, usually as a condition of development.

5.2 Formation Process. A multi-step process, described in Phase 1 and repeated here for easy reference, is required to form a viable Community Facilities District. There are some process differences between a CFD set up for development projects and voted on by property owners, as opposed to a CFD set up for whole communities and voted on by registered voters in those communities:

- **Initiation of CFD.** A property owner or local government agency identifies the need for a CFD and begins the process of forming one. In this case, initiation would proceed in conjunction with developing the RAC System. The services must be above and beyond any current services provided to the property owners in the district or district sub-zone service area.
- **Local Goals and Policies.** The agency proposing this special tax district must develop and adopt local goals and policies. The local government agency must follow these policies in the prospective CFD and meet both the RAC System needs and local permittee stormwater needs.
- **Rate and Apportionment.** The Rate and Method of Apportionment (RMA) outlines how a tax will be levied or charged, on which property, under what conditions, for how long, and at what rate. The RMA would need to accommodate both the RAC System and local stormwater requirements.

- **Resolution of Intention.** Following the adoption of goals and policies, the local government agency can formally propose a CFD by adopting a resolution of intention. Before the Board of Supervisors approves a resolution of intention, each permittee's council would need to submit a resolution of support, assuming a countywide approach is agreed to. The resolution of intention would be through the Flood Control District, and though consent by city/town councils is not legally required, it would be prudent to do so.
- **Public Hearing.** A public hearing is held, and the CFD formation process continues if there is no majority protest. A majority protest will exist if 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be included in the district, or the owners of one-half or more of the area of land in such territory and not exempt from the special tax file written protests. A majority protest would only apply if the district proposed to, for example, annex an existing neighborhood into the district. A majority protest would not apply to a developer representing his/her project, voting into the district to satisfy a condition of development.
- **Resolution of Formation.** This step includes a resolution to incur debt if applicable.
- **Election.** An election is held amongst the registered voters or property owners to approve the special tax in a CFD. A two-thirds affirmative vote of registered voters within the territory of the proposed district is required if at least 12 persons have been registered to vote within the territory for each of the 90 days preceding the close of the protest hearing, with each voter having one vote. Otherwise, the vote shall be by the landowners in the proposed district, with each owner having one vote for each acre or portion of an acre of land owned in the proposed district that is not exempt from the special tax.
- **Ordinance.** If the CFD has been formed and the special tax has been authorized, the special tax can be levied by an ordinance adopted by the legislative body (Board of Supervisors).
- **Issue Debt.** If bonding is desired for capital improvements, 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 that voted to be included in the district in accordance with the rate and method of apportionment. Properties that did not vote to be in the district, such as already developed or undeveloped property, would be within the district's boundary but would not be a "member" of the district and would not be charged the special tax.

5.3 Administrative Procedures. It is assumed that the Flood Control District would be the administrator of the CFD and the County Board of Supervisors, as the governing board of the Flood Control District, would process and approve the CFD formation. It may be that the CCCWP, rather than the Flood Control District, actually performs the administrative duties but the Flood Control District has the legal standing and countywide jurisdiction to form the CFD. Although the Flood Control District has jurisdiction throughout the county, it has no land use authority over any parcel. Land-use authority rests with permittees, and each permittee would have to require

their developers, as a condition of development, to vote themselves into the countywide CFD before the development is sold.

The RMA prepared during the CFD formation would have multiple rates depending on the services and mitigation required by the development. One would be a baseline rate for stormwater services required for the standard development with no on-site stormwater treatment facilities. The RMA would allow permittees to add to this baseline rate additional stormwater services required for maintaining or monitoring on-site stormwater treatment facilities built by the development. Assuming the CFD is formed in partnership with the RAC System, then the RMA would include a separate analysis and a rate or rates for maintaining System off-site stormwater mitigation projects. Other rates could be included in the RMA to cover other required services. This results in a development project contributing one, two, three, or more different rates to the countywide CFD, depending on the complexity of the rate schedule. A development project could be a small single-family home minor subdivision, a large commercial shopping center, or an industrial manufacturing plant. A simple development with no on-site stormwater treatment facilities and no off-site mitigation would contribute to the baseline rate of the CFD. A more complex development with an on-site stormwater treatment facility but no off-site mitigation would contribute to the baseline rate, plus an added rate for maintaining the on-site treatment facility. A complex development with both on-site stormwater treatment and off-site mitigation would contribute three rates to the countywide CFD. Even though a development's CFD fee may be made up of several different rates, the money will only go to two beneficiaries: the RAC System for the operation and maintenance of regional facilities and the permittee for local maintenance, monitoring, or other regulatory compliance. It will be critically important for the permittee to coordinate with the Flood Control District while drafting conditions of approval for a development that requires annexation into the CFD.

The RMA will need to be supported by an engineer's report to determine the applicable special tax for the various levels of participation by a developer. Since this will be applied countywide, a more rigorous analysis will be needed than that required of a single development project. The RAC System envisions the special tax covering the operation and maintenance of the regional projects, plus administrative costs needed to manage the overall program and the ability to establish an operating reserve fund. Although the regional projects built by the RAC System would be located throughout the county and of varying sizes and complexity, it would be desirable to have a uniform tax rate for administrative ease while recognizing that the basis for determining the special tax must be reasonable. Even with a uniform tax rate, the fiscal administrator (assumed to be the Flood Control District) will be managing a complex array of revenue coming in, with some going to various entities maintaining regional RAC System facilities and some going to various permittees to fund local stormwater services as mitigation for development projects in their jurisdiction.

It may be possible to set up the CFD so that the fees calculated in each transaction go to the two beneficiaries directly, the regional maintenance portion to the RAC System and the local maintenance portion to the permittee the development is located in. This decentralized approach would designate each permittee a sub-zone of the CFD so funds go to the right jurisdiction. This approach may make the administrator's task easier by reducing the tracking and transferring of funds. Still, it may make subsequent reporting more difficult by gathering information from all the beneficiaries (the RAC System and 20 permittees). Since the CFD fees are paid through property taxes, the capabilities of the Tax Collector would also need to be considered. Another issue that needs to be reviewed in the planning process is how a countywide CFD for local

permittee stormwater services would work when that permittee already has a CFD for the same or similar purpose. For example, for over ten years, the County has required developers to vote into a CFD to ensure stormwater facilities are properly maintained and to pay for County inspection and reporting costs. Once the countywide CFD is defined, it will have to be compared to the existing CFDs to determine how they would all work together, or work separately, to meet permittee needs. It should be noted that it is not the purpose of this report to detail a CFD structure but rather to review it as a possible funding option. From what is known at the writing of this report, a CFD is likely a feasible mechanism to fund RAC System operation and maintenance. Adding a service rate for local maintenance should also be feasible.

5.3.1 Legal Considerations. A few legal questions will need to be considered and addressed.

- **Flood Control District.** Research is needed to verify if the Flood Control District, a dependent special district, could adopt a CFD. CFDs are also called Mello-Roos Districts because the legislation that enables their formation is the Mello-Roos Community Facilities Act adopted in 1982. The Mello-Roos Act applies to all “local agencies”, defined to include all districts and special districts, that have the power to install or contribute revenue to public improvements, so utilizing the Flood Control District as the agent/administrator for the CFD should be a feasible approach (Government Code Sections 53316 and 53317(h)).
- **Multiple CFDs.** There will be situations where a development will be required to join multiple distinct CFDs, for example a city CFD to fund city park maintenance activities and a countywide CFD to pay for stormwater services attributable to the city development and a RAC System project. There is no prohibition for a property to be within more than one CFD; however, there could be a problem with lien priority in the case of a default. In the event of nonpayment and the placement of liens on the property, the question of whether the liens for the CFDs are co-equal or first in time would have to be determined. This issue should be reviewed during the planning stages of the countywide CFD.
- **Formation Process.** The formation process could be complicated due to the need to meet the requirements of both the RAC System and local permittee stormwater requirements. This process must be reviewed from a legal perspective to ensure every step is appropriate and all needs are legally met.

5.4 Implementation Costs. There are two scenarios under which a community facilities district would be formed to help fund stormwater services for permittees. The first is forming a CFD solely for funding local permittee stormwater services, and the second is the formation of a CFD for both the RAC System and local permittee stormwater services. There are generally three component costs to forming a CFD: a rate study, a special tax consultant, and an attorney. The project team developing the RAC System has developed an approximate cost estimate of \$170,000 to form a CFD. This includes \$20,000 estimated for the rate and method of apportionment study, \$50,000 for the special tax consultant, and \$100,000 for legal review and analysis. If the CCCWP were to request the RAC System project team to include a rate structure in the CFD to pay for local permittee stormwater services, a combination CFD, then the cost would be somewhat more. Since this would require a separate rate structure, a separate rate study would be needed at a cost of about \$20,000. The work of both the special tax consultant and

the legal review would be substantially less because the work to form the RAC System would cover that needed by the permittee CFD. Assuming the additional work required of the special tax consultant and the attorney would cost \$15,000 each, then the added cost of a combination CFD would be \$50,000, or \$220,000 in total. In summary, a stand-alone CFD would cost the CCCWP about \$170,000 to form, while a combination CFD would cost the CCCWP about \$50,000.

5.5 Projected Revenue. Forming a CFD would not generate much initial funding revenue, but the revenue would grow over time as more and more development projects vote into the CFD. Phase 1 of this report estimated that a countywide CFD, with a \$100 per year special tax, would generate about \$4.8 million per year (countywide) after 20 years of building up the number of parcels in the district. This revenue would not be divided equally amongst all permittees. Permittees with a lot of development and development potential, such as some large cities, would get more revenue than permittees with little development and little development potential, such as some small cities. It should be noted that the CFD special tax is collected on the property tax bill but is not part of the property tax. So, the CFD tax 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.

5.6 Assumptions. To develop recommendations for the CCCWP related to a community facilities district, certain assumptions are made to reduce the number of variables to be considered.

Countywide. It is assumed that a CFD would be formed on a countywide basis and not on a permittee-by-permittee basis. It is also assumed that the County Board of Supervisors would support this countywide effort and approve a countywide community facilities district. Lastly, it is assumed that property owners would vote on the countywide CFD for development projects rather than registered voters in whole communities.

Partnership. For the analysis provided, it is assumed that the CFD would be formed and administered in partnership with the RAC System.

5.7 Alternative Compliance System Partnership. One of the items that must be completed by the project team developing the RAC System is an ongoing funding source for operations and maintenance of mitigation projects built by the RAC System. The project team explored several potential mechanisms for funding operations and maintenance and determined a countywide CFD would be the best option. Regulated projects, as defined by the MRP, could utilize the RAC System to comply with MRP-required stormwater treatment improvements. The RAC System would provide an MRP compliance pathway for the regulated project's owner (i.e., a developer or a permittee) through an upfront compliance purchase. In addition, the current owner of the regulated project, or future owners in the case of a developer, would pay for RAC System off-site mitigation project operation and maintenance on an ongoing basis through the countywide CFD. There are details that must be worked out, such as ensuring the payment of operation and maintenance costs when the regulated project owner is a permittee that does not pay property taxes (CFD taxes are collected on property tax bills). That is one example of many issues that must be addressed before a countywide community facilities district is formed for the RAC System. Developing the RAC System and determining the feasibility of a CFD as one of its components is a very complex undertaking. For the purposes of this Phase 2 report, it is assumed that these complexities will be worked out and a countywide CFD will be feasible.

A Summary Report for the project developing the RAC System was completed at the end of 2022 and described the need for a CFD, how it would be administered, and what issues needed to be

addressed before it could be formed. The next step in the RAC System project is to develop an operational document, required agreements, and financial transactional processes to be used for a selected pilot exchange. These items and other critical issues, such as identifying the RAC System administrator (assumed to be the Contra Costa Clean Water Program), should be completed by the end of the current fiscal year (June 30, 2023), which will provide a clearer picture of the feasibility of a countywide CFD.

5.8 Recommendation. The grant-funded project to develop the beginning stages of a RAC System is just about complete, and the project proponents were successful in recently receiving a second grant to fund the next stage of the project. With funding in place to complete the RAC System, it makes sense for the CCCWP to remain actively involved in the project and state unequivocally that it wants the CFD to fund permittee stormwater services required of those developments voting into the CFD, in addition to the operation and maintenance needs of the RAC System. This is an opportunity to have a funding measure developed almost wholly with grant funds, and the CCCWP should take full advantage of it. The CCCWP should be willing and ready (i.e., a line item in the budget) to add funding if needed to keep the project moving along and to pay for any costs not covered by the project and attributable to the "add-on" requested by the CCCWP.

6. One-Time Revenue Options

6.1 Description. Phase 1 of this report recommended eight options for further analysis in Phase 2. This Phase 2 report analyzed the three options above that provide ongoing revenue: an all-inclusive property-related fee, a litter/trash property-related fee, and a community facilities district. The remaining five options provide one-time revenue only and are less dependable and more volatile funding sources than ongoing revenue options. They make financial planning to fund ongoing programs difficult and require a substantial reserve fund to be effective. However, a one-time infusion of funding is very helpful nonetheless. For example, two years ago San Pablo, Richmond, Walnut Creek, and the County successfully acquired a federal WQIF grant for \$680,000, the Regional Compliance for a Sustainable Bay Project. The grant funded the first phase of the RAC System project, which will benefit all permittees. The CCCWP recently received a \$1 million WQIF grant (Clean Watersheds For All Project) to continue funding the RAC System project. The CCCWP is also participating in a regional trash monitoring project through BAMSC that will provide \$3,366,000 in WQIF grant funds to fund receiving water trash monitoring required by MRP 3.0. The required match of \$3,366,000 will be met with the trash outfall monitoring activities of BAMSC members. This report examines the five one-time revenue options: grants, state revolving fund loans, regional approach, California's water supply strategy, and alternative compliance.

6.2 Funding Options. The following is a discussion on each of the five one-time revenue options.

6.2.1 Grants. There are many grant opportunities (the CCCWP is currently tracking about 30 grants). If the CCCWP aggressively pursues grants it may be successful at receiving grant funds. Competition can be high but a well-supported grant writer/administrator in the CCCWP increases the likelihood of maintaining an ongoing stream of grant funding. The CCCWP can approach grants in two different ways, one opportunistic and the other deliberate. The CCCWP has practiced the opportunistic approach in the past, applying for a grant that seems like a good fit and the word on the street is encouraging. The CCCWP typically hires a

consultant to write the grant application, which generally costs around \$30,000 and also requires dedicated program or permittee effort, and once awarded allocates to staff grant administration tasks. This strains staff resources and requires using grant funds to hire consultants for project management. A more deliberate approach would be providing the resources to create a part-time or full-time staff position to focus on grants. Timing may be an issue, as this may be difficult until the CCCWP is fully staffed.

Relying on grants is often considered a short-term approach to funding services, however with a strong commitment to providing staff resources, grants could become more of a long-term funding approach, although still much less dependable than a source of ongoing revenue. The problem with grants is that it takes money to make money, and a grant may require putting resources towards grant-related activities which are not the most pressing activities for the CCCWP. Before applying for a grant, staff need to seek approval from the Management Committee with an analysis showing the estimated cost to prepare the application, the amount of matching funds required, the funding to be supplied by the granting agency, the estimated cost to administer the grant, the cost of any maintenance or monitoring required over the next 20 years, and the benefit derived from receiving grant funds and the specific permit requirements that the grant funds help to satisfy.

6.2.2 State Revolving Fund Loans. In the past, the State Revolving Loan Fund (SRLF) primarily provided loans to wastewater-related projects. A review of SRLF funding from 1988-2020 found that nationwide, less than 2% of SRLF funding was awarded to stormwater projects. One reason for this is the loan requirements, where applicants must show they have a dedicated revenue stream to repay the loan. This is much easier for a wastewater district with a customer base paying a service fee. It is also easier to show the pollutant load reduction from improvements to a wastewater treatment plant than to show the pollutant load reduction associated with green infrastructure. USEPA, which provides funding to the SRLF, has recently pushed for allocating more funding to stormwater projects and California's 2022-2023 Intended Use Plan includes up to \$20 million of principal forgiveness for planning and constructing stormwater projects that also contribute to water supply resiliency, so the timing may be good to begin applying for these loans. The State Water Board Department of Financial Assistance is planning to amend the stormwater grant guidelines to generalize them and fund stormwater projects regardless of funding source. The SRLF program should be researched thoroughly to determine where the opportunities are for the CCCWP to apply for funding. For example, SRLF projects in disadvantaged communities may be able to receive forgivable loans. If the CCCWP decides to pursue applying for grants aggressively, SRLF grants could easily be included in this effort. Similar to the grant application process, staff should seek approval from the Management Committee with a cost-benefit analysis that includes debt service costs before filing an application.

6.2.3 Regional Collaboration. This option is less of a funding opportunity and more of a business practice. As a member of the Bay Area Municipal Stormwater Collaborative (BAMSC), Contra Costa has and continues collaborating on joint regional projects with other countywide stormwater programs. Recent examples include collaborating on writing required permit reports, outreach, grant applications, and joint training. The Management Committee can decide, as the policy decision maker, to pursue a regional or subregional approach to permit compliance wherever it makes sense. The Management Committee has already directed staff to do this, however perhaps not as strongly as making it a business practice. Staff have

reviewed the MRP 3.0 requirements from the current framework and identified several permit requirements that can be performed cooperatively with BAMSC. Elevating this approach to a business practice gives staff direction to view implementation into the future from this lens continually.

6.2.4 California's Water Supply Strategy. This report and strategy, released in August 2022, outline various actions to increase the water supply. While the focus is on water supply, the strategy recognizes that stormwater capture is an important part of California's water portfolio and calls for support of "...local stormwater capture projects in cities and towns with the goal to increase annual supply capacity by at least 250,000 acre-feet by 2030 and 500,000 acre-feet by 2040." This is a difficult prospect in Contra Costa where much of its water supply is imported from outside the county. As a result, these types of projects may best be done in partnership with a water district, as that would seem a better prospect for success. The water districts around the County should be contacted to see if there is an opportunity for a joint project. Some years ago, water supply agencies in Southern California adopted a plan to be less dependent on Delta water, expanding groundwater and reservoir storage. Perhaps local water districts are contemplating similar projects that would benefit from collaboration with a stormwater program. The Strategy was released from the Governor's Office, so it's likely that implementation guidelines and actions would be through executive action. For example, project funding priorities from the strategy could be incorporated into existing funding mechanisms, such as the SRLF. Alternatively, they may come through legislative bond measures seeking to implement the Strategy. The ongoing implementation of the Water Supply Strategy and potential funding for this strategy should be followed to identify potential funding opportunities. However, any potential partnering should be identified as soon as possible.

6.2.5 Regional Alternative Compliance System. The RAC System has been designed to benefit permittees, the regulated community, the region, and the Regional Water Board. It has long been recognized that small, dispersed mitigation improvements provide limited benefit to the environment at a very high cost, while aggregating small patches of mitigation into a regional site can provide significant environmental benefit at a reduced unit cost for the benefits provided. The RAC System will provide funding for these regional project opportunities and make the mitigation process more efficient, certain, and less time-consuming. This results in a benefit to developers by keeping projects on schedule and a benefit to regulators by increasing meaningful environmental outcomes. It also provides a pathway for public agencies to mitigate off-site for difficult projects like road improvements and public projects in urban centers. The RAC System will streamline permit compliance for many projects, resulting in cost savings for proponents. The CCCWP should work closely with the project team to ensure the RAC System is developed to achieve its full potential and commit to that partnership by including a budget item for collaboration until it is fully developed.

The analysis provided for the above funding options is fairly complete; however, additional background information can be found for each option in the Phase 1 report.

6.3 Implementation Costs. The cost to implement these options is minimal, and some can be implemented jointly. For example, if the CCCWP decides to pursue grants aggressively, it can pursue SRFL and California Water Supply Strategy funding at the same time. The cost of a portion of a staff position to pursue grants would ultimately be paid by the grant funds, other than staff costs used to meet local match requirements. If consultants are used rather than staff, the cost

would generally be more, but still covered by grant funds. One advantage of using consultants is more reliable and consistent coverage. If the staff person that works on grants leaves the position, consultants have backup team members to provide coverage, but the CCCWP doesn't have that flexibility, and the position becomes vacant. It can take six months to one year to fill the CCCWP position, creating operational issues in the grant program.

6.4 Projected Revenue. It is almost impossible to estimate the amount of revenue that these one-time sources could generate for the CCCWP. However, if the CCCWP successfully receives a \$1 million grant every other year, the CCCWP budget may see an annual increase of about \$150,000 for a specific project. This assumes that the \$1 million grant requires a 50% match, reducing the "unencumbered" revenue to \$500,000, and costs \$30,000 for the application and \$160,000 to administer the grant for two years, reducing the revenue to \$310,000, for a budget increase of about \$150,000 per year. If some of the activities needed to administer the grant are considered "in lieu" as part of the match requirement, or the match is met with budget expenditures that would have been spent without the grant anyway, then the revenue to the budget would increase by that amount. Grant administration costs also vary, depending on the grant and the project. The Proposition 1 grant in 2016 for the Stormwater Resources Plan cost about \$160,000 to administer over two years (\$80,000 per year), although about half qualified as a match for that project. The WQIF grant funding for the RAC System project is estimated to cost about \$100,000 to administer over four years (\$25,000 per year), as federal EPA grants tend to require less and have more streamlined reporting than state-awarded grants. The more conservative cost of \$80,000 per year is used for the analysis in this report. Lastly, the cost to administer a grant differs from the cost to track grants in general, as an opportunity for funding, for which the CCCWP budgets \$10,000 annually.

6.5 Recommendation. The Management Committee should proactively review the benefits and costs of pursuing one-time revenue sources. The Management Committee should ask staff to develop a plan to show how they would provide the resources needed for this effort, both under the current staffing levels and under a fully staffed scenario. Likewise, the Management Committee should decide whether to adopt a business practice that constantly looks for opportunities for joint permit compliance activities with other partners. Finally, the Management Committee should participate closely in developing the Regional Alternative Compliance System and help whenever assistance is needed.

7. The "Do Nothing" or "Reduce Services" Option

7.1 Description. Under this option, the Management Committee would decide not to pursue any of the funding options presented in this report, other than perhaps one or more of the one-time revenue options. The "do nothing" option could deplete the reserve funds in approximately 5 to 7 years, depending on the CCCWP budget needs. This section of the report will describe the impact that would have on permittees and the CCCWP and what options are available to soften the financial impact of such a decision.

7.2 Financial Implications. Many years ago, the Management Committee established a budget threshold, or budget cap, to provide a consistent "return to source" of SUA funds back to permittees. The budget threshold was set at \$2.2 million in FY 09/10 (MRP 1.0) and has increased over the years until FY 19/20, when it was last increased to \$3.5 million. The budget threshold policy dictates that the amount of the CCCWP budget over \$3.5 million must be paid for from the reserve fund.

The "do nothing" option means reducing services and budgets below \$3.5 million or drawing down on the reserve fund. In FY 09/10, the beginning of MRP 1.0, the reserve fund balance was about \$3.4 million. In FY 15/16, at the beginning of MRP 2.0, the reserve fund balance was at \$3.1 million, and in FY 21/22, on the eve of MRP 3.0, the reserve fund balance was about \$5.5 million. This is shown in Table 10 below. What caused this recent dramatic increase in the reserve fund when the fund vacillated above and below \$3 million from FY 09/10 through FY 19/20? Prior to FY 20/21, the average reserve fund balance was about \$3,033,500. FY 20/21 was about \$1 million more, and FY 21/22 was almost \$2.5 million more than the average over the prior decade. There are several reasons for this unusually large return to reserves at the end of the fiscal year. In FY 21/22, there were unspent funds in virtually every budget category, including about \$300,000 in staff augmentation, \$125,000 of advance work, \$270,000 in Development Committee projects, and \$70,000 in monitoring activities. Budgeting will become more accurate once MRP 3.0 work programs are defined, and CCCWP staffing is stabilized. However, what is occurring with the CCCWP budget and the reserve fund may not accurately reflect the growing impact of MRP requirements on permittee budgets, which is another reason why the Provision C.20 cost reporting data is so important.

Table 10: Reserve Balance FY 2009/10 to Present

Fiscal Year	Budget Cap	Adopted/Adjusted Budget	Actual Budget Expenditures	End of Fiscal Year Reserve Transfer (in or out)	Reserve Balance
2009/10	2.2M	3,232,314	2,194,389	125,815	3,412,853
2010/11	2.2M	4,270,394	2,304,005	(98,030)	3,314,824
2011/12	2.5M	3,748,358	3,420,294	(740,082)	2,574,741
2012/13	2.5M	2,835,892	2,325,208	201,660	2,776,402
2013/14	2.5M	2,838,985	2,354,554	95,240	2,871,641
2014/15	2.5M	3,019,998	2,094,491	409,130	3,280,771
2015/16	2.5M	3,480,957	2,783,234	(203,862)	3,076,909
2016/17	2.5M	3,649,621	2,479,256	146,261	3,223,170
2017/18	3M	4,070,432	2,949,575	(235,941)	2,987,229
2018/19	3M	4,314,013	3,305,670	(220,125)	2,767,104
2019/20	3.5M	3,499,213	3,183,222	492,287	3,083,095
2020/21	3.5M	3,499,970	2,350,697	1,154,849	4,237,944
2021/22	3.5M	3,705,837	2,461,680	1,244,156	5,482,100
2022/23	3.5M	4,489,187	<i>pending</i>	<i>pending</i>	<i>pending</i>

If the Management Committee does not select a funding option or decides not to engage in any funding measure, then what impact would that decision have on permittee budgets? The current fiscal year CCCWP budget, FY 22/23, is approximately \$1 million over the \$3.5 million threshold, and the approved budget for FY 23/24 is approximately \$700,000 over the \$3.5 million threshold. Perhaps the easiest way to understand the impact of the "do nothing" scenario on the permittee's share of the CCCWP budget is to analyze a hypothetical \$1 million overrun. Table 11 shows that the impact for each permittee would be a 29% increase in their contribution to the CCCWP budget, with the actual increase shown in the "\$1 Million Allocation" column. This scenario assumes all reserve funds have been depleted. With a reserve fund and a \$3.5 million threshold policy, SUA disbursements take out each permittee's share of the approved CCCWP budget up to \$3.5 million. Without a reserve fund, however, the \$3.5 million threshold would have no meaning, and the SUA disbursement would take out each permittee's share of the entire approved budget. Using

the FY 22/23 approximate \$4.5 million budget as an example, and assuming the reserve fund had been depleted, then the SUA disbursement to each permittee would have been reduced by the amount shown in Table 11 from the "\$1 Million Allocation" column.

Table 11: Permittee Budget Impact for \$1 Million Overrun (FY 22/23)					
Jurisdiction	January 1, 2022	Prorata % of	SUA Budget	\$1 Million	Percent Increase in
	Population	Program	Allocation	Allocation	Base Allocation
	1,153,854		\$ 3,500,000	1,000,000	
ANTIOCH	112,848	9.78%	\$ 342,303	97,801	29%
BRENTWOOD	66,097	5.73%	\$ 200,493	57,284	29%
CLAYTON	11,268	0.98%	\$ 34,179	9,766	29%
CONCORD	129,273	11.20%	\$ 392,125	112,036	29%
DANVILLE	43,906	3.81%	\$ 133,181	38,052	29%
EL CERRITO	24,846	2.15%	\$ 75,366	21,533	29%
HERCULES	25,864	2.24%	\$ 78,454	22,415	29%
LAFAYETTE	25,358	2.20%	\$ 76,919	21,977	29%
MARTINEZ	36,827	3.19%	\$ 111,708	31,917	29%
MORAGA	16,820	1.46%	\$ 51,020	14,577	29%
OAKLEY	42,895	3.72%	\$ 130,114	37,175	29%
ORINDA	19,078	1.65%	\$ 57,870	16,534	29%
PINOLE	19,369	1.68%	\$ 58,752	16,786	29%
PITTSBURG	74,498	6.46%	\$ 225,976	64,564	29%
PLEASANT HILL	34,133	2.96%	\$ 103,536	29,582	29%
RICHMOND	110,130	9.54%	\$ 334,059	95,445	29%
SAN PABLO	31,041	2.69%	\$ 94,157	26,902	29%
SAN RAMON	83,863	7.27%	\$ 254,383	72,681	29%
WALNUT CREEK	71,317	6.18%	\$ 216,327	61,808	29%
UNINCORP. COUNTY	174,423	15.12%	\$ 529,080	151,166	29%
Totals	1,153,854	100.00%	\$ 3,500,000	1,000,000	

7.3 Helpful Strategies. Several things can be done to lengthen the time that reserve funds are available and/or soften the transition to reserve fund depletion.

- Increase Threshold.** If the \$3.5 million threshold remains unchanged, budgets will likely continue to exceed the threshold amount and the reserve funds could be depleted, resulting in a potential budget crisis. If the CCCWP does not plan for that possibility, this budget crisis could happen as soon as five years. A budget crisis could be alleviated somewhat by increasing the threshold, resulting in the reserve funds lasting longer. For example, increasing the threshold by \$500,000 (\$4 million threshold) results in an increased contribution to the CCCWP budget by permittees of about 15%. If the budget overrun each year is a consistent \$1 million, then this doubles the time the reserve fund is available. Alternately the threshold could be increased slowly over three to five years at \$250,000 per year, which would significantly increase the time the reserves are available.
- Reduce Costs Through Reduced Services.** One way to increase the longevity of reserve funds is to reduce CCCWP costs, either by reducing staffing costs or reducing services. Unless services are reduced, reducing employee staff costs only increases consultant costs, which are typically higher than employee staff costs. Several years ago, the Management Committee requested that staff prepare a staffing plan (dated April 2018) to maintain stable staffing levels, provide for succession planning, and improve staff retention. Prior to that, CCCWP staff worked on a service reduction plan to identify work to be done by additional consultants and/or by co-permittee staff, or work that simply

wouldn't be done. This plan was never implemented, as there was some concern that reduced service by CCCWP staff would increase permittees' workload. There is a loss of cost efficiencies when group-related work done by one CCCWP staff person is done by a staff person at each of the 20 permittees. However, there are other cost efficiencies the Management Committee could consider, such as reduced assistance to permittees in certain situations, a reduction in the number of meetings, staff reports, and other administrative duties, etc.

- **Level of Compliance.** Another way to increase reserve fund longevity is to reduce compliance levels, thereby reducing compliance costs. This type of analysis would look at the business practices involved in meeting permit compliance and how they could be changed to the absolute minimum effort possible. For example, reducing the number of committees and committee meetings attended by CCCWP staff, sharing staff reports and other documents common to the BAMSC stormwater programs, and streamlining processes to reduce reporting work. This type of review has been done in the past, including in this fiscal year. Staff reviewed the FY 23/24 budget looking for any line items not explicitly required by the permit. The end result was that a handful of line items were identified, but the FY 23/24 budget was ultimately only reduced by \$240,000, \$200,000 of which was moved to the FY 24/25 budget. Perhaps a more comprehensive analysis of current requirements the CCCWP must comply with and CCCWP's current business practices would result in additional cost reductions.

7.4 Implementation Costs. The cost to implement this option is negligible unless the Management Committee undertakes one or more of the reviews or analyses noted above. Even then, the implementation costs would be minimal.

7.5 Projected Revenue. There is no revenue generation with the "do nothing" option. By choosing this option, the Management Committee must also accept that the reserve fund will be depleted sooner than choosing any other option. The amount of time before the reserve fund is depleted can be lengthened with some cost-saving measures, but it will be depleted nonetheless. It should be noted that since this option produces no revenue, permittees must accept the risk of not having the resources to meet permit requirements and falling into noncompliance. This could lead to enforcement action, fines, and third-party lawsuits, further increasing costs.

7.6 Recommendation. There is not much to recommend with this option, other than take steps to lengthen the time as much as possible before the reserve fund is depleted and reduce the financial shock of a budget crisis. The three helpful strategies described above provide options to do that. Perhaps the most straightforward strategy is for the Management Committee to discuss and increase the threshold amount over the next several budget cycles.

8. Other Considerations

8.1 Policy/Administrative Issues. Some policy and administrative issues were raised during the development of Phase 1 of this report that are explored in this section, in addition to some other issues identified in Phase 2.

8.1.1 Co-permittees. All permittees are "co-permittees" under a single stormwater permit (the MRP). Each permittee must be thoughtful of the needs of all other permittees, especially the smaller jurisdictions. If permittees with more resources strike out on their own and seek

additional revenue, that begins to establish a hierarchy of "haves" and "have-nots". If one or more permittees cannot meet permit requirements due to financial shortcomings, that makes it harder for all permittees and CCCWP staff to collectively manage a cohesive stormwater program. The Management Committee must consider the needs of all permittees, individually and collectively, when deciding on a funding option.

8.1.2 CCCWP Assistance. As a result of this report, a subgroup of permittees may decide to implement one or more funding options independently. If a large enough group of permittees are implementing an option at the local level, it might make sense for implementation templates to be developed at the CCCWP level. The Management Committee should consider this if some options are implemented locally.

8.1.3 2024 Ballot Measure. The California Business Roundtable has qualified a statewide ballot measure on the November 2024 ballot that would add further procedural hurdles and limitations on local tax and fee authority. The "Taxpayer Protection and Government Accountability Act" measure would amend the Constitution to state that "every levy, charge, or exaction of any kind imposed by state law is either a tax or an exempt charge" and define local levies in the same manner. The amendment would require a law proposing or increasing a tax to include the duration of the imposition of the tax, an estimate of the annual revenue from the tax, a statement regarding the use of the revenue, whether for specific or general purposes, and the ballot title and summary for the tax measure question. The measure would increase the vote requirement for special local taxes proposed by local government or citizens to a two-thirds vote of the local electorate. This proposed constitutional amendment does not appear to change the process for a property-related fee; however, a detailed legal analysis would need to be performed if this ballot measure passes to see if any changes would be warranted to any future proposed property-related fee ballot measure.

8.1.4 Use of SUA Funds. Two fundamental questions must be addressed with any potential funding measure for the CCCWP. First, what funds can be used to pay for the development of a funding measure, and second, does the fiscal agent for the CCCWP have the authority to implement and adopt a funding measure? For the 2012 Initiative, it was decided that SUA funds, which are restricted funds, could be used to pay for the development of the ballot measure. It was also confirmed that the Flood Control District had the authority to implement and adopt the ballot measure. The Flood Control District Act (Act) was expressly modified in 1992 to allow for the formation of stormwater utility areas and the collection of stormwater utility assessments. The CCCWP attorney was asked to reply to these same two questions as part of this report.

With regards to adopting a ballot measure, the attorney confirmed that the Flood Control District still has the authority to implement such a measure. However, the legal analysis for using SUA funds resulted in a different answer. As restricted funds, stormwater utility assessments can only be used for the purposes for which they were originally established. According to the Act, stormwater utility assessments can be used "for the purpose of paying for the costs of activities undertaken, or to be undertaken, in connection with the national pollutant discharge elimination system (NPDES) program." The annual engineer's report adopting the stormwater utility assessments states that "stormwater utility assessment revenues can only be spent on the NPDES program activities and storm drain system maintenance." Stormwater utility assessments, therefore, could not be used to fund a ballot measure unless the work was associated with the NPDES program. In addition, the state

constitution defines an assessment as “any levy or charge upon real property by an agency for a special benefit conferred upon the real property.” The CCCWP attorney believes that activities performed to develop a ballot measure are general governmental services that do not benefit specific property. For example, educational outreach about a funding measure does not benefit real property. However, real property benefits from the various CCCWP activities that meet permit requirements, such as pollution reduction and trash capture. Permit compliance efforts ultimately improve water quality, benefiting all properties, whereas developing a funding measure, in and of itself, does not.

The CCCWP engages in various activities necessary for managing a stormwater program and complying with permit requirements, some of which could potentially support the development of a funding measure. For example, “background analysis and research” and “future CCCWP cost analysis” were among the nine elements previously assessed in developing a funding measure. These two elements require collecting and analyzing revenue and expenditure information and reviewing and analyzing projected future annual costs and sources of funding for the CCCWP and permittees. Some of this work is required under Provision C.20, but all of it appears prudent for effectively managing a stormwater program.

If the Management Committee decides to move forward with a funding measure, then a detailed legal analysis at that time would need to be conducted to determine what activities can and cannot be funded with stormwater utility assessments. It may be likely that some activities, paid for with SUA funds and conducted as part of the normal CCCWP operations, could contribute to developing a funding measure. In the worst-case scenario, the legal analysis may not allow using any SUA funds, and the funding measure would need to be entirely financed through other means.

How would that work? In the worst-case scenario, perhaps even staff work associated with exploring a funding measure cannot be charged to SUA funds. This could be remedied by permittees collectively transferring a reasonable amount, say \$100,000, in unrestricted funds to the CCCWP for deposit in a separate account. For a total \$100,000 deposit, each permittee can determine the amount they would be responsible for transferring by referring to Table 11 under the “\$1 Million Allocation” column. The Program Agreement would need to be reviewed to determine if it includes provisions for collecting and depositing a transfer of unrestricted funds from each permittee. The CCCWP could establish a project account to deposit the restricted funds for a future funding measure project. If the Program Agreement does not provide for collecting the funds and establishing this type of project development funding account, then a separate agreement would need to be developed or the Program Agreement amended. An initial \$100,000 deposit would allow CCCWP staff to further examine the legal restrictions of using SUA funds. In each subsequent year the Management Committee would decide how much of a deposit would be needed that year as part of the budget process.

8.1.5 CCCWP Structure. The CCCWP is currently governed through a program agreement that provides no authority for contracting, hiring, entering into an agreement (e.g., a grants contract with the state), or making financial payments. Depending on the funding option chosen, the Management Committee may want to consider the benefits of an updated program agreement or a different organizational structure to implement the chosen option and what it would take to make that change. The CCCWP Program Agreement expires in 2025. While the agreement can be extended, this is an opportunity to review and update it to facilitate any desired procedural, operational, or relational changes. For example, changes

may be needed to accommodate the CCCWP role in the RAC System or allow collecting and managing permittee unrestricted funds.

9. Pathway Forward

9.1 Description. There are three approaches to increasing funding for stormwater services and projects: 1) funding at the CCCWP level, 2) funding at the permittee level, and 3) funding at the project or program level through a partnership with a group of permittees or a group of permittees and the CCCWP. Phase 2 of this report has focused solely on implementing options at the CCCWP level. However, the options could be implemented at the permittee or project level, particularly the one-time funding sources such as grants. This section lays out a pathway forward for the Management Committee to consider. It starts with a short-term approach, moves into a long-term approach, and contemplates the decision processes relevant to each.

9.2 Short-term approach. The following are items that the Management Committee could implement over the short term, in FY 22/23 or FY 23/24.

- **One-Time Funding.** Regardless of whether the Management Committee moves forward with one or none of the ongoing revenue funding options, the Committee could pursue the one-time funding options. There are several benefits to this approach. First, if the Management Committee pursues an ongoing revenue option, it is easier to sell the effort when the CCCWP is pursuing one-time funding options, such as grants. It shows the CCCWP is not sitting on its hands waiting for an approved ballot measure but is taking the initiative to get all the funding it can. Second, it's good political optics for elected officials to advertise the grants received by the CCCWP, again to show the CCCWP is a hard-charging operation and would only ask for additional funding if really needed. And third, these one-time funding options bring revenue into the CCCWP to complete work that would either be funded from CCCWP funds or otherwise not be done. As part of this effort, all options in Phase 1 should be reviewed to expand the possible opportunities available for one-time funding options, such as the Water Infrastructure Finance and Innovation Act loans.
- **Business Review.** Another activity the Management Committee could pursue, regardless of choosing a funding option or not, is a review of all CCCWP business practices to determine if there are cost efficiencies the Management Committee could consider, such as reduced assistance to permittees in certain situations, a reduction in the number of meetings, staff reports, and other administrative duties.
- **Legislation.** The CCCWP should stay informed about the latest legislation and legislative proposals that could impact CCCWP operations or potential funding opportunities. For example, there have been several past attempts to modify the provision in Proposition 218 that exempts water, wastewater, and refuse collection from voter requirements to also include stormwater as an exemption. Some statewide organizations permittees have access to, such as the League of California Cities, the California State Association of Counties, and the California Stormwater Quality Association (CASQA) track legislation. From the CCCWP's perspective, getting legislative information and upcoming grant

opportunities from CASQA is probably the easiest. The Management Committee could direct staff to participate in relevant CASQA funding and legislative committees.

- **Funding Efforts.** Outreach to various organizations and associations to gain and/or maintain awareness of nascent or established efforts to develop new funding sources and report these efforts to the Management Committee. If appropriate and there is a potential benefit, the Management Committee should consider whether to monitor the effort, engage in the process, or participate as a partner. As an example, the California Ocean Protection Council (OPC) and the National Oceanic and Atmospheric Administration's Marine Debris Program have jointly developed the California Ocean Litter Strategy. The Strategy has six goals, one of which (Goal 3) has an action item to "Create a mechanism for local governments to fund stormwater trash programs through public or private sources."
- **Budget Threshold.** The \$3.5 million budget threshold is an artificial cap on SUA funds allocated to the CCCWP budget. Starting with the next budget adoption cycle for FY 24/25, the Management Committee could consider the budget threshold each year to determine if the threshold level should be maintained, increased, or eliminated.

9.3 Long-term approach. The Management Committee could implement the following items over the longer term, beginning in FY 23/24 and throughout the next four to five years.

- **Community Facilities District.** Similar to the short-term approach, the Management Committee should collaborate closely with the project team developing the RAC System to ensure it can charge users of the System an additional fee to fund local stormwater services through its' maintenance program. Providing it is feasible, there doesn't seem to be any downside to expanding the RAC System community facilities district to benefit multiple parties.
- **Property-related fee.** The Management Committee should then decide whether or not to pursue an all-inclusive property-related fee to fund stormwater services, or a litter/trash property-related fee to fund a subset of stormwater services. If the Committee pursues one of these funding options, it should budget funds to conduct surveys and develop the Implementation Plan. The surveys will indicate the feasibility of a countywide property-related fee, what would need to be included to make it feasible, and if not feasible now when it would be feasible, and the relative feasibility between a litter/trash property-related fee and an all-inclusive property-related fee. In 2012 surveys were included in an all-encompassing contract for a funding measure. This time, it's recommended to conduct surveys initially, before contracting for any other work, to determine if some of the lessons learned can be overcome, the likelihood of success, and if it is even advisable to pursue such a measure. If the Management Committee decides to move forward with a property-related fee, the first order of business is to conduct a detailed legal analysis of what type of funds can be used to develop the funding measure and to what extent SUA funds can be used. It is assumed for this report that the Management Committee would manage a funding measure project whether SUA funds can be used or not.

9.4 Decision Process. The Management Committee has requested information on viable funding options to determine how best to fund stormwater services. Who should make that decision and how should it be made? The key decision is whether or not to pursue a long-term

funding measure that provides ongoing revenue. Choosing only to follow the short-term approach, means there has been a decision not to pursue a long-term funding measure. Who makes that decision depends on how decisions are made within each permittee organization. For example, for those organizations with a strong manager the decision may be made with that person. However, for those organizations with a strong mayor or council the decision may go to the governing body. Ultimately an agreement to pursue a long-term funding measure will require a resolution of intention from each City/Town Council and the Board of Supervisors, so governing bodies will need to be informed at some point. Communication up and down the managerial hierarchy in each permittee organization will be key to a successful decision. The following organizations will need to be briefed and provided information to ensure that decision-makers can make an informed decision.

- Management Committee
- City County Engineering Advisory Committee (CCEAC)
- Public Managers Association (PMA) and its MRP 3.0 Subcommittee
- Mayors Conference
- City/Town Councils and the Board of Supervisors

A communication plan must be developed to lay out when these organizations should be briefed, and information and presentations prepared and tailored to each organization. Strategically, three issues should be considered before pursuing a long-term funding option. First is to ensure that the County Board of Supervisors would support taking the lead on a funding measure similar to the effort in 2012. The second is to determine how to pay for the funding measure project and what funds can be used. The third is a question of timing and whether it would be advantageous to wait until Provision C.20 cost data is in place in 2026, or even until the reserves begin to decrease, before deliberating on a long-term funding measure. Elected officials and city/town managers have heard the cry of imminent fiscal crisis due to the escalating costs of stormwater permit compliance since the first MRP was released in 2009 (MRP 1.0). It would be easier to explain the fiscal impacts of MRP compliance when the cost data is available.

9.5 Concluding Recommendations. The following are recommended actions for the Management Committee as a pathway forward, from having a report filled with analysis to the cusp of preparing an Implementation Plan for a funding measure. There are too many variables beyond that point in the process to provide further recommendations. The quality of the analysis in this report is contingent on the quality of information available. For example, the estimated cost to implement a property-related fee is based on the cost to implement the 2012 Initiative. Although the estimates provided may not be accurate, they should be adequate to make the planning-level decision the Management Committee faces.

9.6 Short-term recommendations for Fiscal Year 23/24

- Direct staff to develop a multi-tier plan for Management Committee review to pursue one-time funding, ranging from a tier with a mild degree of commitment to this approach (past/current practice) to a tier with a high degree of commitment (funding a part-time or full-time grant writer/administrator position), under both a current staffing scenario and a fully staffed scenario.
- Consider directing CCCWP staff to prepare a staff report with ideas and recommendations to reduce costs by reducing levels of service and/or reducing levels of compliance. This

report could include a plan to communicate the results to the City/County engineers and the City/Town managers for consideration by the Management Committee.

- Direct staff to provide recommendations on how to be aware of and be able to influence legislative proposals, regulatory policies, efforts to develop new funding sources, and project funding opportunities (e.g., CASQA, Ocean Protection Council).
- Provide direction to staff to include consideration of the \$3.5 million threshold with each annual CCCWP budget deliberation, starting with FY 24/25, and decide whether to maintain, increase, or eliminate it.
- Provide direction to staff to prepare a status of implementing a funding measure with each annual budget and hold a policy discussion to decide the process steps to budget for during that planned fiscal year, including a legal analysis of what activities can be paid for with SUA funds.
- Provide direction to staff to determine the process necessary to establish a project account and receive deposits from permittees of unrestricted funds for the development of a funding measure.
- Direct staff to review the RAC Roadmap when it is completed and submit a report on how the roadmap might play a part in the short-term funding approach.
- Direct staff to bring the Program Agreement to the Management Committee for review with recommended modifications to facilitate procedural, operational, or relational changes due to internal or external driving forces.
- Direct staff to work with the Administrative Committee to plan for and conduct a workshop with Management Committee members to provide a detailed overview of the pathway forward and process to develop additional funding for stormwater services.

9.7 Long-term recommendations for Fiscal Year 24/25 and beyond

- Provide direction to staff to collaborate fully with the RAC System project, request that its Community Facilities District can also provide funding for local stormwater services to the greatest extent possible, estimate any costs associated with this request that's not paid by the project, and set aside that amount in the budget.
- Direct staff to prepare a communication plan to discuss the funding options with the permittee's vertical management and other interested organizations (e.g., CCEAC, PMA, Mayors Conference) including to whom presentations would be given, when they would be given, and what would be presented.
- Direct the Administrative Committee to work with staff to draft a scope of work for a survey that will determine the level of support for an all-inclusive property-related fee and a litter/trash property-related fee, gather information to overcome some of the lessons learned (e.g., is a countywide fee service area feasible), and determine what future conditions would increase support (e.g., improved economy, increased property values);

and direct staff to contract with a survey consultant to conduct a survey pursuant to the scope of work.

- Direct staff to work with the County Public Works Department to determine the level of support the Board of Supervisors would have for a ballot measure similar to that conducted in 2012.
- Provide direction to staff to wait until the C.20 cost data is available before launching a funding measure. (Note: Cost reporting data is to be prepared and reported in the Annual Report for FY 24/25, submitted in September 2025, and it's not likely a proposed future funding measure would launch before that time due to all the preliminary work that must be completed: communication plan, surveys, Implementation Plan, etc.)
- Direct the Administrative Committee to work with staff to draft a scope of work for the Implementation Plan to develop a funding measure; and direct staff to contract with a consultant to develop the Implementation Plan pursuant to the scope of work.
- If the Litter/Trash Property-related fee option is chosen, then direct the Administrative Committee to work with staff to draft the scope of work for a study to show the connection between litter/trash in the landscape and property ownership; and direct staff to contract with a consultant to conduct the study pursuant to the scope of work.
- If the Litter/Trash Property-related fee option is chosen, then direct the Administrative Committee to work with staff to draft the scope of work for a legal and procedural analysis to develop a framework for a fee that would meet the requirements of Proposition 218; and direct staff to contract with an attorney to conduct the analysis pursuant to the scope of work.

10. Next Steps

The purpose of this report is to provide the Management Committee with enough information to make a planning-level decision about which funding option, if any, to move forward with to pay for increasing permit compliance costs. There is no rush to make this decision. First, it makes sense to wait until the cost data required by Provision C.20 is available to substantiate the premise that a funding measure is needed, especially in discussions with city/town managers or councils. Second, it would not be prudent to begin a campaign for a funding measure during a time of high inflation. Assuming it will take people about two years to forget about the pain of inflation after the economy has improved and assuming the economy will not begin improving for another two years, then the time to begin a new funding measure campaign would be 4 to 5 years away. With this in mind, the following are recommended next steps for the Management Committee to consider and act on now.

- **Approve the Report.** Approve this report but do not choose a funding option. Choosing or not choosing a funding option requires Provision C.20 cost data for decision-making bodies (e.g., councils) to be fully informed.
- **Implement Some Short-Term Actions.** Review the short-term action items from the "Concluding Recommendations" section above and implement those that are feasible and

desirable. Work with staff to determine when staff resources would be available to implement the items or consider a phased implementation.

- **Community Facilities District.** Implement the community facilities district action item described in the long-term recommendations section above. Although this is a long-term item, this option must be pursued now to meet the RAC System development timeline.
- **Wait.** Hold off deciding on a funding option and seeking support from city/town engineers, managers, and elected officials until cost report data is available. The cost report data will be submitted with the 2025 Annual Report, so it should be available by November 2025.
- **Other Information.** Determine if any additional information is needed before deciding which option to choose. Over the next fiscal year, as the Management Committee discusses how and when and if to move forward with a funding measure, there may be additional information that would prove helpful in making near-term and or long-term decisions.

11. List of Attachments

The following is a list of the attachments included in this report for both Phase 1 and Phase 2:

- Attachment 1: Chart of annual CCCWP budgets
- Attachment 2: Chart of CCCWP reserve funds
- Attachment 3: Estimated MRP 3.0 Five-Year Budget
- Attachment 4: Community Clean Water Initiative report by SCI Consulting Group et al
- Attachment 5: Lessons Learned from the 2012 Initiative
- Attachment 6: Project report to the County Engineers Association of California
- Attachment 7: Grand Jury Report No. 1305

**A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

Report 1305

**GETTING TO CLEAN WATER IN
CONTRA COSTA COUNTY**

What's the Plan and Where's the Money?

APPROVED BY THE GRAND JURY:

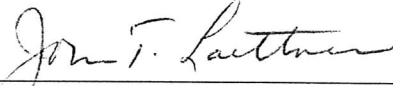
Date: 5/21/2013



MARTHA WHITTAKER
GRAND JURY FOREPERSON-PRO TEM

ACCEPTED FOR FILING:

Date: 5/29/13



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1305

GETTING TO CLEAN WATER IN CONTRA COSTA COUNTY

What's the Plan and Where's the Money?

TO: Cities and Towns of Contra Costa County; Contra Costa County Board of Supervisors; Contra Costa Flood and Water Conservation District (collectively "Permittees"), and the Contra Costa Clean Water Program

SUMMARY

The Contra Costa Clean Water Program (CCCWP) is characterized by an inability among the stakeholder organizations to reach agreement regarding exactly what they are trying to accomplish, in what manner, in what period of time, and the consequences of failing to do so. Stakeholders include CCCWP management and Permittees, empowered regulatory bodies, and interested activist community groups. They have different opinions and perspectives of what is important, what should or should not be prioritized, what is urgent, what quantifiable indicators should be used to gauge progress and compliance and what is the real exposure for non-compliance. The result is a stream of public communication and comment that is, at best, contradictory and, at worst, misleading. As a starting point, there needs to be constructive dialogue between each of the Permittees and the appropriate regulatory authorities.

The failure of Proposition 218, the 2012 Community Clean Water Initiative, to receive voter approval was a serious setback for the program. The ballot initiative was intended to, at least partially and for a short period of time, address the imbalance between the current and projected future costs for planned clean water activities that far exceeded available funds. Now the Permittees must determine alternative funding sources.

It is projected that by 2015, with no changes in the current permit requirements, a funding gap of several million dollars will exist. This shortfall could significantly grow if new permit requirements are incrementally more onerous than current requirements, as expected. This funding gap, if not resolved, may result in an inability to conduct critical activities needed to meet permit standards. It may also place some Permittees in a condition of non-compliance, with consequent exposure to fines, other monetary damages and enforcement actions.

As the challenge of finding additional funding is addressed, it is an appropriate time for the Permittees to make an effort to better define and understand their paths forward and develop more detailed plans, timelines, and desired outcomes. These re-evaluations should, at least,

include:

- a) negotiation of more realistic, better-defined compliance terms that take into account differences in participant characteristics;
- b) implementation of more efficient and effective operating practices of the Contra Costa Clean Water Program; and,
- c) identification of ways to make the impacted communities more aware of the importance of the program and the challenges ahead.

METHODOLOGY

In evaluating the stormwater pollution control activities as instituted in Contra Costa County by the Permittees, the following tasks were performed:

- Interviews with selected city managers and selected county officials
- Interviews with CCCWP staff, selected Permittee representatives to the CCCWP (collectively “program personnel”) and regulatory personnel
- Interview with a representative from an environmental Non-Governmental Organization (NGO)
- Review of the stormwater permits applicable in Contra Costa County
- Review of individual Permittee stormwater program budgets
- Review of CCCWP publications and operating data
- Review of Permittee Annual Reports for the most recent year
- Attendance at CCCWP Management Committee Meetings and review of minutes for those meetings and others not attended
- Review of Environmental Protection Agency (EPA) and California State Water Board literature with regard to stormwater programs and requirements
- Review of information prepared (and in some cases sent to voters) as part of the 2012 Community Clean Water Initiative, including a number of different outside consultant reports
- Review of public media articles involving the local storm water program and recent ballot initiative
- Review of informational websites including California Stormwater Quality Association (casqa.org), Bay Area Stormwater Management Agencies Association (basmaa.org) and Contra Costa Clean Water Program (cccleanwater.org)

BACKGROUND

The Federal Clean Water Act (as amended from time to time) established the National Pollutant Discharge Elimination System (NPDES) Permit Program to control water pollution. The program regulates point sources that discharge pollutants into the waterways of the United States. The Permit Program is administered by the individual states - in California, by the State Water Board and a series of Regional Water Quality Control Boards (RWQCB). The various water boards are responsible for issuing NPDES permits governing discharges into specific watersheds and determining and enforcing compliance with the individual permit requirements.

One requirement of amendments to the Clean Water Act in 1987 was that many municipalities were obligated to obtain NPDES permits for discharges of urban runoff from their storm sewer systems into local watersheds. Accordingly, the 19 incorporated cities/towns of Contra Costa County, along with the Contra Costa County Flood Control District and the unincorporated areas of Contra Costa County (collectively the "Permittees"), were required to obtain these NPDES permits. The Permittees are covered by one of two applicable permits as shown in the following table:

San Francisco Permit (Discharge into San Francisco Bay)		Central Valley Permit (Discharge into Delta)
Clayton	Pittsburg	Antioch
Concord	Pleasant Hill	Brentwood
El Cerrito	Richmond	Oakley
Hercules	San Pablo	
Lafayette	San Ramon	
Martinez	Walnut Creek	
Orinda	Moraga	
Pinole	Danville	

The Contra Costa Flood Control and Water Conservation District and Contra Costa County are parties to both permits. For purposes of the discussion in this report, no distinction is made between the two permits.

These parties to the two permits -- the Permittees -- are individually responsible for complying with the requirements of their respective permits. The activities typically include street sweeping, storm drain maintenance and cleaning, litter control, creek cleanup programs, construction site and business inspection and control, and public outreach.

In Contra Costa County, in 1991 the Permittees formed the Contra Costa Clean Water Program (CCCWP) to coordinate certain centralized services or group activities such as training and monitoring programs, and public outreach. The CCCWP also serves as the point organization for the Permittees' interface with the Regional Water Quality Control Boards and is expected to continue to do so in the upcoming permit renegotiations. CCCWP is run by a "management committee" comprised of representatives of each of the Permittees. Each of the Permittees and the CCCWP file an Annual Report detailing their compliance with the permit. Reviews of these reports indicate that, for the most recent period, no instances of non-compliance were reported.

However, in December, 2012, Contra Costa County received a "Notice of Violation" with regard to its stormwater program identifying 9 different violations and 30 required actions. Moreover, in January, 2013, several of the Permittees received "Notices of Deficiency" related to a review by the Water Board of certain sections of the 2012 Annual Reports. County personnel interviewed acknowledged that, the most recent Annual Report notwithstanding, the County is not in compliance under the permits. Additionally, a number of the cities interviewed suggested that they were either on the verge of non-compliance, if not already noncompliant.

Generally, the cities and county fund their storm water permit activities via a Stormwater Utility Assessment (SUA) levied on property owners (exceptions are Brentwood and Richmond which use alternative sources including general fund revenues). CCCWP is funded by the participating cities out of the assessment revenue collected.

According to a report to the CCCWP from SCI Consulting Group, since the implementation of the SUA, "inflation and ever-expanding permit mandates have progressively increased the cost of NPDES permit implementation and drainage system maintenance. All municipalities now charge the maximum authorized by the SUA."

From a budgetary perspective, over the past two fiscal years the majority of cities are spending more than they collect in assessment revenue. Municipalities are absorbing shortfalls using non-storm water funds, general fund resources or prior years' reserves. Several city managers indicate that, to the extent general fund monies are required for this purpose; there will be an impact on their city's ability to provide other services.

The regulatory authorities are aware of and sympathetic to the fiscal challenges faced by cities with respect to the program, but have a somewhat different view as to why the cities face the challenges they do. The regulatory personnel indicate that when the SUA structure was enacted, many of the cities immediately shifted the funding of certain program-eligible activities (such as street sweeping and other elements of public works) out of their general funds to be funded out of the new stormwater assessments. While this may have been beneficial to the cities in the short term, in the long run it removed funds which should have been available for the long-term growth and development of the stormwater program, which all understood would necessarily grow increasingly more complex and rigorous over time.

Some city managers and program personnel indicate that, while still in compliance, they are not necessarily doing everything they need to do to ensure continued future compliance due to funding limitations. In a report by SCI Consulting Group commissioned by the CCCWP, consultants stated "Because of current fiscal difficulties, most municipalities are deferring some required maintenance on infrastructure. Some permit-mandated activities, such as staff training, routine surveillance and inspections and outreach are also being minimized. While these budget balancing reductions will not necessarily compromise permit compliance in the short term, in the long term, they could erode local program effectiveness."

The current permits have introduced additional requirements including expanded storm water monitoring and increased trash control. It is expected that the renegotiated permits will have additional significant implementation requirements. For example, cities now have a requirement that 40% of all trash be removed from the storm water discharge by mid-2014. This rises to 70% by 2017 and 100% by 2022. The State Water Board has rejected the short-term plan submitted by CCCWP for meeting these requirements.

The exact timing of negotiations and program requirements of the new permits are not fully known at this time. Discussion with program personnel and observation of select CCCWP management committee meetings indicate that there is some disagreement as to what Permittees view as reasonable requirements. However, the Permittees also believe that, individually, they have very limited ability to influence the permit process.

The regulators believe that they must balance the requirements of the legal mandates (including Federal Clean Water Act requirements and California state requirements), the desires of outside advocacy groups (primarily environmental groups such as San Francisco Baykeeper, Natural Resource Defense Council, etc.) and the Permittees. Regulators feel the permits are sufficiently flexible to account for size differentials and, to the extent possible, take into account individual circumstances.

The overall structure of the Clean Water Program, with the resulting multiple layers of bureaucracy between the regulatory authorities and the individual Permittees may be a key contributing factor to the dramatically different perspectives of what needs to be done, how it should be done, and what happens if it is not done. Discussions with representatives of many stakeholder organizations revealed a lack of alignment on these issues. In particular, while regulators indicate that the underlying rules are flexible and enforcement activity is subjective, Permittees indicate they are forced to “interpret” the message and this makes formulation of their stormwater program plans and activities difficult. This is especially true during a time of scarcity of financial resources, and a need to make hard choices between competing demands for those resources.

To address the current and expected future fiscal shortfalls, the municipalities and CCCWP sponsored a county-wide Proposition 218 compliant ballot initiative to increase funding by approximately \$8.7 million per year. According to program personnel, this additional funding level was based on “what the public would accept”; however, consultants to CCCWP estimated future costs to be well in excess of those requested via the ballot measure. The ballot measure failed. In its Annual Report the CCCWP described the results as follows:

“The defeat of the 2012 Community Clean Water Initiative represents a setback for Permittees’ clean water programs in Contra Costa County. Permittees have exhausted their reserves. Many are now relying on other municipal revenues, such as their general funds, to implement MRP (Municipal Regional Permit) compliance. At the same time, reductions in general fund revenues due to significant losses in property and sales tax revenues has resulted in reductions in staffing, salaries and benefits, and community services and programs. Local elected officials are faced with agonizing and unpopular public policy decisions on how to use and allocate their limited resources and revenues to continue to provide critical services (e.g. public safety, road maintenance, public facilities operation and maintenance, natural resource protection).”

Some city managers have referred to the current storm water situation as an “unfunded mandate”. They indicate that specific solutions to the potential funding problems have not been determined. At least one city, El Cerrito, has held some limited public discussion on the issue and has begun to explore potential funding options including a city-specific bond measure. In its 2012 Annual Report, the CCCWP indicates that it does not believe any additional county-wide funding measures would be successful at this time.

Interviews with some city managers and program personnel indicate that, given the fiscal issues

they face, the level of deferred program activities, and both currently known and expected more rigorous future program requirements, the majority of cities in the county will be in non-compliance with the NPDES permits over the next 2-5 years. The impact of non-compliance is not clear at this point. There is a wide range of potential outcomes. In a report prepared as part of the ballot initiative effort, consultants to the CCCWP indicate the following:

“Non-compliance with Permit Requirements exposes the Permittees to fines from the RWQCB as well as to potential third-party lawsuits. All Permittees must demonstrate full compliance or be subject to regulatory actions including:

- Administrative Civil Liability - \$10,000 per day of violation and/or \$10.00 per gallon of discharge
- Cease and Desist Orders for either public or private development projects
- Third-Party lawsuits alleging non-compliance and recommending regulatory actions be taken against the entity until violations have been corrected or negative impacts eliminated.”

One regulatory agency made it clear that, while these statements might reflect the “letter of the law”, they in no way reflect the “spirit of the law” or any intention on the part of that regulatory agency to implement fines of any kind in the near term on Permittees making reasonable efforts to achieve compliance. An interview conducted with a member of a prominent environmental group echoed this position that they do not intend to put undue financial burden or bring third-party lawsuits against Permittees as long as they can demonstrate that concerted and continuous efforts are being made to fulfill the mandates of the permit. The environmentalist clearly stated that while they have in the past and will continue to rigorously monitor various Permittee compliance activities in the future, their approach remains realistic and mindful of the financial and personnel constraints of those Permittees.

Some city managers and program personnel acknowledge the potential for significant monetary fines or other regulatory actions. It is possible that the Regional Water Quality Control Boards will recognize the severity of the fiscal situation and enter into a consent-decree type arrangement which, while not changing the discharge requirements, will allow more time to reach those levels as long as continuous progress can be demonstrated by each Permittee and will not impose onerous fines or penalties.

Observation of discussions at the CCCWP Management Committee meetings and a review of their meeting minutes reflect that they have not developed substantive solutions to the fiscal issues facing the group. The CCCWP Annual Report describes actions which they are currently taking to ameliorate the situation as, “specific actions identified include, but are not limited to:

- Review and analyze alternative CCCWP organizational structures, staffing and consultant support levels, and tasks;
- Review other potential sources of revenue (e.g. increased fees) to fund mandated compliance activities;
- Engage local elected officials, municipal managers, businesses, citizens and other stakeholders in development of effective water quality attainment strategies;

- Identify prioritized actions to reduce the discharge of trash and other pollutants of concern to local creeks, the Delta and bay; and,
- Seek flexibility requirements to allow individual Permittees to focus their limited resources to address local water quality priority problems.”

It is not clear from interviews with program personnel or city managers that these actions have resulted in any significant or concrete changes which go to solve the current set of problems or at least partially ameliorate the current set of problems facing the Permittees.

Attendance at CCCWP Management Committee meetings, as well as a review of the group’s minutes and discussions with city managers and program personnel indicate that there are concerns with how the organization is operating and whether it is really in a position to provide or contribute significantly to resolving the current fiscal situation. City managers in particular believe that the 2012 ballot initiative was mishandled in the way it was conducted, and the public was not educated as to its necessity. Some individual city participants question whether they might be better off trying to resolve their issues independently rather than as a combined group. Discussions with program personnel and a review of the history of local watershed permitting, as contained in the current NPDES permits, show that the regulatory authorities have fostered the creation of larger groups of participants in Contra Costa County that share standard agreements. Doing so removes the necessity of negotiating a series of unique agreements with individual municipalities. This is also true outside of Contra Costa County.

The San Francisco Bay permit expires in 2014 and the Central Valley Permit expires in 2015. Both will require renegotiation of new pollution standards and required activities. It is not clear how successfully the CCCWP (including its various committees) has undertaken the efforts to actively communicate issues and problems in order to influence the structure and requirements of the next permits, including dialogue to understand the possibility and ramifications of potential non-compliance and the regulatory bodies’ likely responses.

While some Permittees have made excellent efforts to educate their constituents as to the nature and magnitude of the problems they face, most have not. Interviews with program personnel indicate that little or no discussion with citizens of either the current or the expected longer-term fiscal issues faced by the stormwater programs have occurred.

FINDINGS

1. In the most recent Annual Reports, Permittees reported compliance with their permits; however, Contra Costa County recently received a “Notice of Violation” with regard to its stormwater program.
2. Many Permittees are currently spending more than the total amounts collected from fees/taxes/assessments etc., designated for stormwater management purposes; any funding shortfalls are covered via supplements from the general fund.
3. Despite the current levels of money being spent on the stormwater control initiatives, many Permittees do not think they are doing as much as necessary to position themselves to meet future compliance requirements.

4. The requirements for compliance are expected to become increasingly demanding and the process of negotiating the terms and conditions of the next permit are unclear.
5. Permittees disagree on what reasonable/practical program requirements should entail.
6. All Permittees are forecasting that the lack of funds needed to undertake the critical activities to reach compliance levels will result in the majority of them being non-compliant in 2-5 years.
7. The CCCWP seems to be doing a reasonable job in terms of its role for centralized activities such as public education, outreach, training and monitoring.
8. As an intermediary between the Permittees and the regulatory bodies, the CCCWP appears to be failing because there is a significant difference between the expectations and views of the regulators and the Permittees. There are dramatically different perspectives of what needs to be done, how it should be done and what happens if it is not done.
9. It is unclear what the impact of non-compliance status will be for a Permittee.
10. The potential future risk associated with funding deficits and non-compliance is not being accurately communicated to citizens by the Permittees.
11. Following failure of the 2012 Community Clean Water Initiative, cities do not appear to have formulated realistic alternative plans.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The permit negotiation process be clarified with roles, negotiating strategies, and negotiation objectives defined.
2. The CCCWP immediately begin to implement more direct communications between the individual Permittees and the regulatory authorities to eliminate the confusion that currently exists between the two parties as to program requirements, solutions for meeting long-term permit compliance and development of mutually agreed-upon plans for the path forward.
3. Permittees immediately quantify a range of future expenditure requirements associated with a range of negotiation outcomes and develop funding plans.
4. Permittees consider identifying funds to disclose to the public “the issues” surrounding the lack of funding to fulfill their NPDES permit requirements, including a discussion of potential, but realistic, impacts of non-compliance.
5. The CCCWP consider immediately beginning to re-align its activities and operating costs with; (a) probable outcomes from the negotiation of the next permit’s compliance requirements; (b) projected available funding; and (c) constituent needs.

6. Before any Permittee makes any effort to approach its citizens with another request for additional funding, all stakeholders reach consensus on a plan for the path forward that includes articulations of reasonable objectives, ways to measure those objectives and reasonable timelines for accomplishment of those objectives.

REQUIRED RESPONSES

	Findings	Recommendations
City of Antioch	1 - 11	1 - 6
City of Brentwood	1 - 11	1 - 6
City of Clayton	1 - 11	1 - 6
City of Concord	1 - 11	1 - 6
Town of Danville	1 - 11	1 - 6
City of El Cerrito	1 - 11	1 - 6
City of Hercules	1 - 11	1 - 6
City of Lafayette	1 - 11	1 - 6
City of Martinez	1 - 11	1 - 6
Town of Moraga	1 - 11	1 - 6
City of Oakley	1 - 11	1 - 6
City of Orinda	1 - 11	1 - 6
City of Pinole	1 - 11	1 - 6
City of Pittsburg	1 - 11	1 - 6
City of Pleasant Hill	1 - 11	1 - 6
City of Richmond	1 - 11	1 - 6
City of San Pablo	1 - 11	1 - 6
City of San Ramon	1 - 11	1 - 6
City of Walnut Creek	1 - 11	1 - 6
Contra Costa County Board of Supervisors	1 - 11	1 - 6
Contra Costa Flood and Water Conservation District	1 - 11	1 - 6
Contra Costa Clean Water Program	1 - 11	1 - 6



CONTRA COSTA
CLEAN WATER
PROGRAM

Date: June 21, 2023

To: Management Committee

From: Elizabeth Yin, Consultant

Subject: Scope of work for Provision C.17.a.ii(1) Mapping

Recommendation:

Accept the scope of work proposed to develop a mapping module to produce countywide and jurisdictional maps of the approximate locations of unsheltered homeless populations, a requirement of Provision C.17.a.ii(1).

Approve the proposed budget for completing the scope of work.

Background:

MRP 3.0 was adopted by the Regional Water Board on May 11, 2022 with an effective date of July 1, 2022. MRP 3.0 introduced a new provision, C.17 Discharges associated with unsheltered homeless populations, that sets new requirements and deadlines for Permittee implementation. Under Provision C.17, several reporting items were introduced, including the development of a countywide or jurisdictional map for submittal with the 2023 Annual Report.

In the May 18, 2022 Management Committee meeting, the Committee conditionally approved several budget items along with a process for Program Staff to follow when seeking final approval of a conditionally approved budget item. In light of that process, staff have prepared a scope of work that details the scope, cost, and schedule of work associated with developing the mapping module required by Provision C.17. See MRP 3.0 language below for reference:

MRP 3.0 Provision C.17.a.ii.(1)

C.17-2, page 218 of the pdf

i. Implementation Level

(1) Each Permittee shall submit a map identifying, within its jurisdiction, the approximate location(s) of unsheltered homeless populations, including homeless encampments and other areas where other unsheltered homeless people live. The map shall identify those location(s) in relation to storm drain inlets and existing streams, rivers, flood control channels, and other surface water bodies within the Permittee's jurisdiction. The map shall be updated once during the Permit term, in 2025. Where Permittees

are working collaboratively to address discharges associated with homelessness, they may collaborate to submit a joint map that covers their respective jurisdictions.

A scope of work, attached, has been developed and has been recommended for approval by the Municipal Operations Committee on May 11, 2023. The Scope of work provides the Committee with more detail on the process for completing this permit requirement, including assumptions for completing the work, coordination with County departments and vendors, as well as the cost and schedule for completing the BMP Report.

Fiscal Impact:

The Management Committee approved a conditional line item for \$20,000 in the FY 22/23 budget for C.17 Unsheltered Homeless Populations Mapping. Based on previous discussions with permittees, the tasks and schedule for this work have been determined and are outlined in the attached Scope of Work. The estimated budget and schedule are summarized in the table below (Table 1). Staff recommend that LWA and Psomas proceed with the tasks as outlined in the Scope of Work.

Table 1: Estimated Budget and Schedule

Task	Psomas Budget	LWA Budget	Estimated Completion Date
Development of C.17 Mapping Component	\$16,000		August 2023
Coordination between Psomas and Municipal Operations Committee		\$4,000	August 2023
Total	\$16,000	\$4,000	
Sum Total	\$20,000		

Attachment:

C.17.a.ii.(1) Mapping Requirement - DRAFT Scope of Work (Revised May 9, 2023)

C.17.a.ii(1) Mapping Requirement

DRAFT Scope of Work (Revised May 9, 2023)

Background

The San Francisco Bay Regional Water Quality Control Board (RWQCB) adopted the Final Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (also known as the MRP), for the third reissuance of the MRP, or MRP 3.0, on May 11, 2022 (Order No. R2-2022-0018), with an effective date of July 1, 2022. MRP 3.0 introduced a new provision, C.17 Discharges associated with unsheltered homeless populations, that sets new requirements and deadlines for Permittee implementation. Under Provision C.17, several reporting items were introduced, including the development of a map, a report of best management practices (BMP), and the inclusion of an implementation evaluation into the 2023 Annual Report. This scope of work covers the development of the mapping requirement.

The map is required for submittal to the RWQCB with the September 2023 Annual Report. **Table 1** shows the estimated budget and **Table 2** shows the schedule for the work products per this scope of work.

SCOPE OF WORK:

MRP Provision C.17.a.ii.(1) requires the mapping element to:

- Submit a map identifying, within its jurisdiction, the approximate location(s) of unsheltered homeless populations, including homeless encampments and other areas where other unsheltered homeless people live.
- The map shall identify those location(s) in relation to storm drain inlets and existing streams, rivers, flood control channels, and other surface water bodies within the Permittee's jurisdiction.
- The map shall be updated once during the Permit term, in 2025.
- Where Permittees are working collaboratively to address discharges associated with homelessness, they may collaborate to submit a joint map that covers their respective jurisdictions.

To support the development of the mapping requirement, Contra Costa Clean Water Program (CCCWP) plans to work with Contra Costa County and Psomas to gather data and develop an AGOL module that will be able to produce a map meeting the requirements of Provision C.17.a.ii.(1). Contra Costa County has provided support and coordination with the Health, Housing, and Homeless Services (H3) division that has facilitated the acquisition of information regarding the approximate location(s) of unsheltered homeless populations. Using this information, CCCWP will work with the current GIS contractor, Psomas, to develop a module in AGOL that will allow Permittees to produce a local jurisdictional map for submittal with their September 30, 2023 Annual Report.

Overall, the scope of work is anticipated to require the following steps:

- CCCWP coordination with Permittees and Psomas to identify the appropriate level of detail and extent of the information submitted in accordance with the Permit Provision.

- Psomas development of a draft test AGOL module that will include the level of detail identified in C.17.a.ii.(1), using information provided by Contra Costa County, as well as existing storm drain inlet and surface water information within its existing databases.
- Psomas development of a map, exported from the AGOL module described above, that will represent an individual Permittee’s jurisdiction and related information pertaining to the requirements and details identified in C.17.a.ii.(1).
- CCCWP coordination with Permittees to test and refine the AGOL module and it’s mapping outputs.
- Psomas development of a final module, deployed to all Permittees, incorporating the comments and features specified during the testing phase.

FINAL DELIVERABLES:

- *Draft C17 Module and Report for Review*
- *Final C17 Module and Report for Review*

Assumptions:

- *This scope of work assumes that Permittees will be submitting individual maps for their jurisdictions, in lieu of an overall countywide map, with their September 30, 2023 Annual Reports.*
- *Point-in-time Count Data will be provided by Contra Costa County H3.*
- *Permittees may request for Psomas to convert data into a format compatible with ArcGIS Online.*

Budget & Schedule

Table 1. Estimated Budget for the Development of the Mapping Element of Provision C.17.a.ii.(1)

Item	Budget
Development of C.17 Mapping Element and Program Support	\$20,000

Table 2. Project Schedule for Development of the Regional and Countywide BMP Report

Task	Deliverable	Responsible Party	Due/Completed
Obtain 2023 PIT data from CCC H3 representatives	GIS Shapefile of PIT data	CCC	Completed, Public release expected July 2023
Conditionally Approve Budget to complete mapping requirement	Conditional Approval of Budget	MOC / MC	June 21, 2023 (MC Meeting)
Develop Draft AGOL module with 2023 PIT data, and other required data	Initial AGOL module, Countywide scale draft map output	Psomas	Mid-July 2023, expected

Test and Review Draft Module and provide comments	Comments on module	AGOL Workgroup / MOC	Mid-July 2023, expected
Load Data from H3		Psomas	Mid-July 2023, expected
Revise AGOL module based on comments	Revised AGOL module and Countywide scale report	Psomas	July 28, 2023
Test and Review AGOL module		MOC	August 18, 2023
Final AGOL Module		Psomas	August 25, 2023
Develop and Submit maps to RWCB		CCCWP Permittees	September 30, 2023



Date: June 21, 2023

To: Management Committee

From: Nicole Wilson, Consultant

Subject: Regional Workgroup Cost Reporting Framework Update

Recommendation:

Discuss the final draft of the Bay Area Municipal Stormwater Collaborative (BAMSC) Cost Reporting Framework and Guidance Manual. Review the final documents and provide a recommendation for APPROVAL at the June 21st Management Committee meeting.

Background:

MRP 3.0 Provision C.20 requires that each Permittee annually prepare and submit a fiscal analysis of the capital and operation and maintenance costs incurred to implement the MRP requirements, beginning with the 2025 Annual Report (i.e., for FY 24-25).

The BAMSC Cost Reporting Workgroup was formed to develop a regional approach to cost reporting. The first draft of the framework and guidance manual was sent to Countywide programs for review on January 10, 2023, with comments due on February 8, 2023. The next draft of the framework and guidance manual was released for comments on March 31st, with comments due April 28th, 2023. The final draft of the framework and guidance manual was distributed June 1, 2023 for Countywide program and Permittee review.

For the CCCWP, discussions about reviewing the Cost Reporting documents took place primarily in PIP Committee with one high-level presentation presented at the April Management Committee meeting. CCCWP submitted comments during both rounds of review and several comments that the Clean Water Program provided have been incorporated into the final documents. The final Cost Reporting documents were discussed at the June PIP Committee meeting and a "Recommendation for Management Committee Approval" was voted on and approved.

The BAMSC Work Group provided the following message in their transmittal email to the Countywide programs:

We are pleased to transmit to you the final draft Cost Reporting Framework Tool (spreadsheet) and Bay Area Cost Reporting Guidance Manual for distribution to your member agencies. Some of the key changes you will see in the documents include:

- We have created a cover sheet template that is recommended for inclusion with the cost analysis in the Annual Report (see Section 4.3 and Appendix A). It includes suggested disclaimer language along with a discussion of other general limitations to the cost tracking and reporting process. Permittees can edit the language in the cover sheet as appropriate and as needed for their reports.
- We have included two program areas for reporting under "Other Related Municipal Activities" - Street Sweeping and Other Sediment/Trash Removal - to allow Permittees to account for costs of programs that are not specifically required by the MRP but provide significant water quality benefits (see Section 3.2).
- We've provided a lot more detail in the Guidance Manual on provision-specific cost reporting, including how to report capital and O&M expenditures under C.2, C.3, and C.10.
- We've included percentages for countywide program contributions for all programs. CCCWP and SMCWPPP percentages will be allowed to be updated each fiscal year if needed, while the other programs are fixed percentages.

The Cost Reporting Framework and Guidance Manual are due to the Water Board by June 30, 2023. We need your help with the next steps:

1. If you have any minor comments that need to be addressed on the final draft products, please send them to me by Monday, June 12, at the latest. I will circulate any final changes prior to June 15.
2. Please proceed to get approval of the final draft products by your countywide programs prior to June 22.
3. We will have approval of the Cost Reporting products on the BAMCS Steering Committee agenda for the June 22 meeting.

We appreciate all the comments on the first draft and revised draft products, and we worked hard to address as many as possible in the final draft products. Responses to comments have been prepared and are available in this share drive folder: [Responses to Comments on Cost Reporting Products](#). There is an Excel table with responses to comments on both the first draft and revised draft products, several Word files with comments on

the Guidance Manual, and a tracked changes version of the final draft Guidance Manual.

Final Framework and Guidance Manual documents are available at the following Groupsite link: [Final Cost Reporting Framework and Guidance Manual](#)

Pending approval by all Countywide agencies, the Final Framework and Methodology are scheduled to be approved at the June 22nd, 2023 BAMSC Steering Committee before being submitted to the Regional Board no later than June 30th, 2023.

Please note that the products may be customized at the countywide or local level as needed, as long as they remain consistent with the overall framework and assumptions.

CCCWP has been responsible for distributing the draft and revised draft products to member agencies and compiled comments to obtain necessary approval of the final draft products according to the schedule below (**Table 1**).

Table 1. BAMSC Cost Reporting Workgroup Schedule

Task	Deliverable(s):	Due/Completed
First Draft Framework and Methodology Distributed to Countywide Programs for Review	Draft Cost Reporting Framework and Methodology; Presentation to BAMSC Steering Committee	January 10, 2023
CCCWP Permittees discussed at 1/18 Management Committee and 2/7 PIP Committee meetings; Hilary P. compiled comments for submittal to BAMSC Workgroup.		
Comments Due	[Countywide programs to provide compiled comments to the Workgroup]	February 8, 2023
Workgroup Meeting		Early February 2023
Revised Draft Framework and Methodology Distributed to Countywide Programs for Review	Revised Draft Cost Reporting Framework and Methodology	March 15, 2023
CCCWP Permittees discussed at 4/4 PIP Committee and 4/19 Management Committee meetings; Nicole W. to compiled comments for submittal to BAMSC Workgroup		
Comments Due	[Countywide programs to provide compiled comments to the Workgroup]	April 27, 2023
Workgroup Meeting		Early May 2023

Update BAMSC Steering Committee on Final Draft Framework and Methodology	Presentation to BAMSC Steering Committee	May 25, 2023
Provide Final Draft Framework and Methodology to Countywide Programs for Approval	Final Draft Cost Reporting Framework and Methodology	June 1, 2023
CCCWP approved at 6/6 PIP Committee and recommend approval at the 6/21 Management Committee meetings		
Approve Final Draft Framework and Methodology at BAMSC Steering Committee		June 22, 2023
Submit Final Framework and Methodology to Water Board	Final Cost Reporting Framework and Methodology	By June 30, 2023

Bolded items are relevant to CCCWP Permittees

Fiscal Impact:

None at this time.

Attachments:

None (See Groupsites links included above)

\\PW-DATA\grpdata\NPDES\01_Management Committee\02_Agendas\FY 22-23\Agendas\2023-06-021\X) Staff Report on Revised Draft Cost Reporting Framework_2023-06-021.docx



Date: June 21, 2023

To: Management Committee

From: Elizabeth Yin, Consultant

Subject: Review of Draft Regional Provision C.17 BMP Report

Recommendation:

Review the Draft Regional BMP Report developed by the BAMSC Unsheltered Homeless Populations Working Group and provide staff with comment or feedback.

Background:

MRP 3.0 introduced a new provision, C.17 Discharges associated with unsheltered homeless populations, that sets new requirements and deadlines for Permittee implementation. Under Provision C.17, several reporting items were introduced, including the development of a map, a report of best management practices (BMP), and the inclusion of an implementation evaluation into the 2023 Annual Report.

To support the development of the BMP Report, CCCWP has been participating in a Bay Area Municipal Stormwater Collaborative (BAMSC) Work Group with the focus of developing a Regional best management practices (BMP) Report that details the BMPs implemented to reduce the water quality impacts of unsheltered homeless populations. To date, the Work Group has established guidance on collecting information, prepared outlines for the Regional BMP Report and the Countywide BMP Report, and produced an initial draft of the Regional BMP Report.

[Once available, draft Regional BMP Report documents can be found in the following Groupsite folder: Draft BMP Report](#)

Schedule:

The BAMSC Regional Workgroup has requested feedback from Countywide Programs by [date here]. Following comment, the Countywide leads will finalize the Regional BMP Report with input from the Working Group. A final draft Regional

BMP Report is expected to require approval from Management Committee at the August Management Committee meeting.

Fiscal Impact:

None at this time.

Attachments:

- Draft C.17 BMP Report
- Draft C.17 BMP Report Fact Sheets

G:\NPDES\01_Management Committee\02_Agendas\FY 22-23\Agenda Packets\2023-06-21\MC_Mtg_06-21-2023_(12)_Staff Report C17 BMP Report Scope of Work.docx



Date: June 21, 2023

To: Management Committee

From: Lisa Austin and Lisa Welsh (Geosyntec), CCCWP Consultant for Monitoring Committee

Subject: Update on the BAMSC Trash Monitoring Plan and Quality Assurance Project Plan (QAPP)

Recommendation

Accept update on the BAMSC Trash Monitoring Plan and Quality Assurance Project Plan (QAPP).

Background

With the adoption of MRP 3.0 in WY 2022, the Regional Water Board also added significant trash monitoring requirements. Provision C.8.e directs Permittees to conduct trash monitoring at MS4 outfalls and in receiving waters, and prescribes specific monitoring location criteria, methods, and frequencies that must be achieved to address the management questions and monitoring questions listed below. Provision C.8.e.v requires Permittees to collectively submit a Trash Monitoring Plan to the Regional Water Board (RWB) for Executive Officer approval by July 31, 2023. The Trash Monitoring Plan should be designed to address the following management and monitoring questions as specified in the permit:

Management Questions:

1. Have the Permittees' trash management actions effectively prevented trash in their jurisdictions from discharging to receiving waters?
2. Are discharges of trash from areas within the Trash Management Areas controlled to a low trash generation level causing and/or contributing to adverse trash impacts in receiving water?

Monitoring Questions:

1. What is the trash condition and approximate level of trash (volume, type, and size) within and discharging into receiving waters in areas that receive MS4 runoff controlled to a low trash generation via the installation of full trash capture devices, or the implementation of other trash management actions equivalent to full trash capture systems?
2. Does the level of trash in the receiving water correlate strongly with the conditions of the tributary drainage area of the MS4?

To comply with this provision, CCCWP joined with other Bay Area Municipal Stormwater Coalition (BAMSC) Programs to form the BAMSC Trash Monitoring Workgroup. The workgroup meets bi-monthly to coordinate on site selection, equipment, permitting, the Trash Technical Advisory Group (TAG), and the development of the Trash Monitoring Plan and associated Quality Assurance Project Plan (QAPP).

Outfall Monitoring

Beginning Oct. 1, 2023, a minimum of two outfalls in Contra Costa County must be monitored during a minimum of three wet weather events per year. Monitoring must be conducted with netting (or equivalent) devices attached to the end of the outfall pipe or other equivalent location that allows for the capture of trash discharging through the MS4. Targeted outfalls must drain areas that are controlled to the low trash generation level and must be representative with respect to the types of trash controls present across the region. Provision C.8.e.ii also requires direct measurement of flow at the monitoring station (to calculate loading) and collection of data on the type of material collected.

Receiving Water Monitoring

The MRP also requires Permittees to implement a pilot program to directly sample sections of receiving waters that receive runoff primarily from MS4 outfalls that drain tributary areas controlled to the low trash generation level. In Contra Costa County, a minimum of one receiving water location must be monitored during a minimum of three wet weather events per year beginning Oct. 1, 2024. Coordination on trash receiving water monitoring will begin in Summer 2023, with the support of a regional Water Quality Improvement Fund (WQIF) grant. A total of \$3.35 million in funding was awarded to support the *Watching Our Watersheds – Improving Trash Monitoring Methods and Pollution Prevention Strategies* program through regional partnerships in the Bay Area. An addendum to the Trash Monitoring Plan and QAPP will be added in FY23/24 to address trash receiving water monitoring.

Trash Technical Advisory Group (TAG)

The BAMSC Trash Monitoring Workgroup recruited technical experts and RWB Staff to serve as Trash TAG members, as required by Provision C.8.e.iv. The Trash TAG is required

to meet biannually prior to the submission of the Trash Monitoring Plan and annually thereafter. This Spring, the Trash TAG was asked to review and provide input on site selection, monitoring methods, permitting, analysis methods, results, and conclusions. The TAG members include:

- Tony Hale, PhD – Director of the Environmental Informatics Program, San Francisco Estuary Institute (SFEI).
- Shelly Moore – Executive Director, Moore Institute for Plastic Pollution Research.
- Tom Mumley, PhD – Assistant Executive Officer, San Francisco Bay Regional Water Board.
- Dawn Petschauer – Stormwater Program Administrator, City of Pasadena.
- Ted Von Bitner, PhD – Assistant Vice President, WSP USA.

The first Trash TAG meeting was held on March 15, 2023; the second Trash TAG meeting was held on May 22, 2023. The draft Trash Monitoring Plan and QAPP were submitted to the TAG on May 15, 2023. The BASMC Trash Monitoring Workgroup is revising the draft Trash Monitoring Plan and QAPP in response to TAG comments.

Stakeholder Outreach

The Trash Monitoring Plan must describe opportunities provided for input and participation by interested parties and scientific experts other than those participating in the TAG. The BASMC Trash Monitoring Workgroup distributed the draft Trash Monitoring Plan and QAPP via email to interested stakeholders, such as EPA Region 9, Save the Bay, and Caltrans. Comments were requested by June 9, 2023. These comments will be considered in the revised draft monitoring plan and QAPP.

Proposed Trash Outfall Monitoring Sites

Identification of potential outfalls for trash monitoring included desktop analysis and field verification. Desktop analysis incorporated available storm drain information (i.e., pipes, inlets, outfalls), GIS data, satellite imagery, and Google Street View. There are hundreds of outfalls countywide. CCCWP identified priority trash management areas (TMAs) based on proximate location to a creek and area controlled to low trash generation levels. CCCWP then manually reviewed potential outfall monitoring locations using basic safety and logistical criteria. CCCWP assessed over seventy potential outfall locations throughout Contra Costa County in desktop and/or field reconnaissance. From the seventy locations considered, CCCWP has identified two priority locations that are safe and likely feasible to monitor. The site locations include an outfall to Walnut Creek in Civic Park in the City of Walnut Creek, and an outfall to Grayson Creek north of Center Ave in Unincorporated County (Pacheco). The characteristics of the potential monitoring locations are summarized in Table 1 below.

Table 1. Proposed Trash Outfall Monitoring Site Summary

Site ID	Location	Treatment Area (ac)	Treatment Type	Outfall
CC-WC	Drainage to Walnut Creek, east of Civic Park Parking lot	1.0	Basket	15-inch RCP
CC-PCH	Drainage to Grayson Creek, north of Center Ave, Pacheco	3.9	Basket/CPS	18-inch CMP

CCCWP is working with the respective Permittees and other agencies to assess feasibility, gain approval, and obtain the necessary permits to conduct monitoring throughout the permit term.

Schedule:

The anticipated schedule for review and approval of the BAMSC Trash Monitoring Plan and QAPP includes the following:

- May 22 – Draft Trash Monitoring Plan and QAPP shared with CCCWP Monitoring Committee for review (Completed)
- June 2/9 - Permittees comments due on draft Trash Monitoring Plan and QAPP. (Completed).
- July 12 – the revised BAMSC Trash Monitoring Plan and QAPP will be shared for Management Committee review.
- July 19 – Management Committee meeting to approve the BAMSC Trash Monitoring Plan and QAPP.
- July 31 – submission of the BAMSC Trash Monitoring Plan and QAPP to RWB for Executive Officer approval.

Fiscal Impact:

None.

Attachments:

None.