

Attachment A

Specific Comments from Contra Costa County Flood Control District by Provision

C.3 – NEW DEVELOPMENT AND REDEVELOPMENT

The current Tentative Order does not provide for alternative means to comply with the water quality and flow control requirements and hydromodification requirements of the MRP. The Regional Board should allow jurisdictions the flexibility to implement regional mitigation of C.3 impacts for projects that cannot acceptably meet on site Low Impact Development (LID) criteria. In particular, some roadway projects and redevelopment projects in urban and dense suburban areas will not accommodate retrofit with LID facilities. The Regional Board must at least plan for this eventuality by allowing consideration of a regional mitigation approach to be used on a case by case basis.

C.5 -ILLICIT DISCHARGE DETECTION AND ELIMINATION

The major comment we have is of the often frustrating involvement of the Contra Costa County Flood Control and Water Conservation District (Flood Control District) and the Unincorporated County Watershed Program (CWP) in responding to illicit discharges originating in city jurisdictions adjacent to our flood control channels. CWP is managed as a section in the Public Works Department's Flood Control Division and therefore often handles multijurisdictional issues on behalf of the Flood Control District.

The MRP presents some particular challenges in enforcement of point source discharges of trash, illegal dumping and other illicit discharges from city jurisdictions, where our County Ordinances don't apply, into the Flood Control District channels and downstream waterways in unincorporated areas. As written, the Flood Control District may be held responsible for illicit discharges it has limited means to effectively control—mostly in the form of structural controls like exclusion fencing. This section of the permit should make some concession for Flood Control Agencies in recognition of their limited ability to enforce and correct/eliminate illicit discharges.

C.5.e: COLLECTION SYSTEM SCREENING

Field screenings for illicit discharges/illegal dumping are routinely carried out by our Public Works Maintenance crews as part of the maintenance services provided for the Flood Control District. Although much of the Flood Control District's property is located in cities, the CWP has historically reported illicit discharges on Flood Control District property as part of the Annual Report for the unincorporated County. For ease of administration, the CWP requests the Water Board's consent to continue to combine reporting of illicit discharges for both the unincorporated County and the Flood Control District.

C.5.f: TRACKING AND CASE FOLLOW-UP

As noted above, the Flood Control District screens for illicit discharges onto its property, but has no authority to abate an illicit discharge from a source outside its property. The Flood Control District can report the number and location of illicit discharges on its property, but cannot be reasonably expected to provide follow up information on incidents reported to cities. The MRP should limit the Flood Control District's responsibility for follow up reporting to illicit discharges originating on its property.

In general, the Public Works Department, on behalf of the Flood Control District, responds to complaints within three days. However, removal of illegally dumped debris may not occur within the required 10 day response time due to the volume, geographic separation of dumping locations and limited staff available to the Flood Control District. Often locations are inaccessible to safely recover large debris such as mattresses and couches without the use of costly boom truck equipment. In the case of homeless encampments, the Flood Control District must often coordinate clean ups with cities that own fee title to the lands under road bridges that attract encampment development and with law enforcement and social service providers to address the needs of evicted people. We understand that a 10-day abatement is a reasonable time to address active liquid discharges to the MS4 or a waterway. However, we request the Regional Board allow 30 days for abatement of the increased number of solid waste illegal dumps we are experiencing within our jurisdictions.

C.7 -PUBLIC INFORMATION AND OUTREACH

C.7.e.ii: It is not appropriate to require the Flood Control District to provide public outreach events (6) and community involvement events. As recognized by the MRP, the Flood Control District is not a population-based entity, so it has no population to outreach to. The Flood Control District also does not host any land uses that generate the trash that affects our waterways; it is a recipient of trash from other municipalities.

The requirements for six public outreach events and two community involvement events will prove onerous as the Flood Control District has neither the staff nor the funding to support these activities.

C.10 -TRASH REDUCTION

C.10.a.iii: The Flood Control District is a non-population based entity. With the exception of homeless encampments on Flood Control District property, it does not host residential, commercial or other land uses the generate trash that effects waterways. In general, the Flood Control District is a recipient of trash from outside its property, not a source of trash. There are no trash generating activities on Flood

Control property that can be mitigated with full capture devices on outfall structures to its channels. The Flood Control District should not be responsible for implementing full capture devices on outfall structures.

The Flood Control District can capture some trash through the installation of trash booms in certain locations. However, the trash collected by such an installation will principally come from sources outside the Flood Control District's property. For this reason, the Flood Control District's responsibility should be limited to installing trash booms cooperatively with benefited cities and the unincorporated County. The Flood Control District's costs to install, operate, and maintain trash booms should be shared with upstream jurisdictions in proportion to the trash loading generated within the various jurisdictions.

Likewise, trash hotspots should be established in conjunction with upstream jurisdictions and the financial responsibility for establishment and monitoring of Hotspots on Flood Control District property should be shared with upstream jurisdictions in proportion to their trash loading.

Due to the obvious potential for hotspots to provide a measure of effectiveness of regional trash management initiatives it would be best to locate hotspots at the downstream end of Flood Control District channels. These downstream locations are also best suited for the placement of trash booms. Therefore, it would seem best to locate hotspots and trash booms in close proximity. The Regional Board should encourage all jurisdictions to cooperate financially in the establishment of hotspots and placement of trash booms on Flood Control District property by allowing all jurisdictions in the tributary watershed to count a collaboratively funded hotspot and boom as fulfillment of all or a portion of their individual jurisdictions' trash management requirements.

C.10.a.ii & C.10.d.i:

It would be efficient to partner with neighboring municipalities and the Flood Control District to address trash hot spots, since water bodies do not necessarily follow jurisdictional boundaries. Often sources of trash in our waterways come from other agencies' jurisdictions, and it would make sense to form partnerships in these instances. The proposed permit does not but should make allowance for this sort of partnership.

The short time line for the Trash Hot Spot Selection report due February 1, 2010, will be difficult for the Flood Control District to comply with. The Flood Control District proposes a report date of July 1, 2010. This will better allow the Flood Control District to coordinate the establishment and cooperative funding of Hot Spots with the upstream jurisdictions.

C.10.a.iv:

It is unlikely that the Flood Control District can achieve the established Trash Action Level in any hotspot area without the successful mitigation by upstream jurisdictions contributing trash to runoff. It is unreasonable to subject the Flood Control District to a cleanup standard that is dependent on the actions of municipal entities over which it exercises no control. The Flood Control District should be required to cooperate with upstream jurisdictions by identifying and monitoring Hot Spots on Flood Control District property to assess the effectiveness of trash capture by upstream jurisdictions but only when proportionate cost sharing is provided by all benefitted entities.

C.10.a.v: Cost sharing among the Flood Control District, cities and the unincorporated County should be encouraged for the installation, operation and maintenance of trash boom facilities.

PHASE 1 – IDENTIFY TRASH HOT SPOTS, PERFORM TRASH ASSESSMENTS and CLEAN UP TO TRASH ACTION LEVEL (TAL)

Several concerns this section raises are the short timeline, beginning this Fall 2009 for conducting trash assessments of the 5 hot spots for unincorporated County and 9 for the Flood Control District many of which will fall within cities. It would be beneficial if our two County entities (as well as neighboring cities) could select some of their sites concurrently in order to save costs. We have already received some input for our preliminary proposed hotspots from our Public Works Maintenance Flood Control of the following areas in the County for 'hotspot' consideration. Please note many of these locations flow within city jurisdiction where the Flood Control District's/County ordinance don't apply and our 'hands are tied' at source control other than notifying surrounding cities of the problem, which we have and continuing to push them for attaining compliance:

- Pine Creek and Galindo Creek Lined Channels running through Concord and Walnut Creek - This section of channel has been identified as one of the worst in the County. Not only do we have debris from storm drains, but we have a bigger problem with debris and trash being tossed over the fences into the channel from the numerous apartments and commercial establishments that line the channel. Public Works Flood Control Crews routinely find bags of trash, shopping carts, diapers, mattresses, computers, auto parts, tires, bikes, furniture, paint cans, alcohol containers, household appliances and yard debris. This debris washes downstream and ends up in Walnut Creek channel.
- Wildcat Creek running through Richmond/North Richmond - Starting @ the BNSF tracks, past the fish ladder downstream to 1st Street. This area is a magnet for large debris including auto parts, carpet, shopping carts, entire garbage cans

dumped into the creek and household appliances. Most are either dumped over back fences or dumped off of the bridges.

Of the County's 14 hotspots, two trash assessments will need to be conducted in the Fall and Spring of each Permit Year. We are fortunate to have the expertise of Michelle Luebke in Dept. of Conservation Development who has been conducting a trash assessment protocol study to compare the SWAMP and Urban RTA methods over the past year. She will be an excellent resource to instruct staff in conducting this activity, however, with 22 annual hotspots to collect trash along 100 yards of waterway each (or 200 yards or shoreline) – counting each piece, documenting its tally, type, condition, photographing locations and other survey parameters within all of our hotspots may prove to be an expensive endeavor that may require assistance from PW Maintenance Flood Control crews or other recruits/volunteers/contracted laborers to assist the current limited field staff of the Watershed Program and Flood Control District.

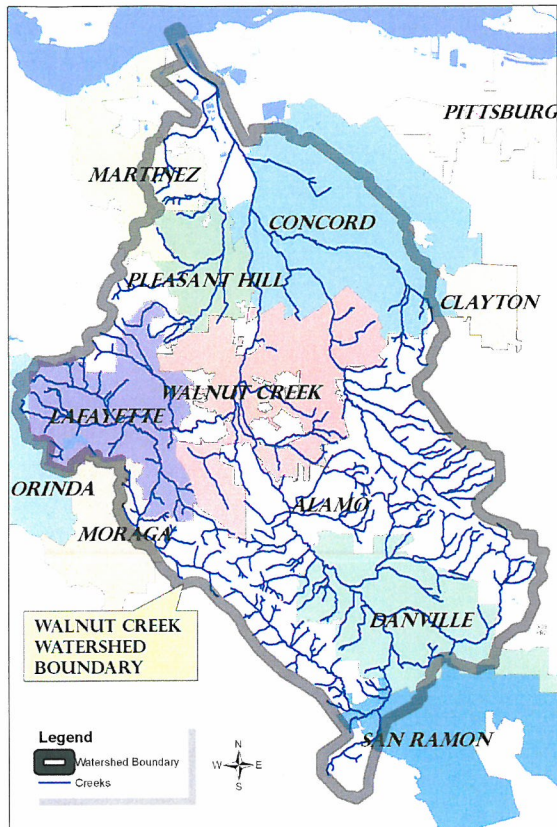
We are proposing the Water board consider combining the trash requirements for the Flood Control District who as a non-population entity has a trash assessment requirement of 6 hotspots with those required by the unincorporated County of 5 hotspots. And we are requesting consideration of reducing the number of trash hotspots to be performed between the Flood Control District and the unincorporated County from 11 sites down to 8 since much of our jurisdiction overlaps.

We are proposing a full baseline trash assessment be performed in Year 1 and an end point full assessment be performed in Year 5 which characterizes waste types which will be useful for public outreach purposes and source control. However, if the goal is to reach our Urban Optimal Trash Action Level of <100 pieces of trash per 100 feet, we are recommending in Years 2-4 trash assessments be limited to counting only.

Attention to the selection of the hotspot location will be important for accessibility/safety reasons for conducting the surveys and the fact that ultimately we will need to show a reduction in trash reaching the hotspots from upstream discharges.

The Water Board has addressed our criticism of a zero trash goal with its Trash Action Level (TAL) of <100 pieces of trash per 100 feet concession which they term 'Urban Optimal'. But even this reduced standard may be impossible to achieve and maintain especially in areas like our flood control channel of Pine Creek that drain lower economic neighborhoods with higher incidence of littering as well as major flood control channels such as Walnut and Grayson Creeks with high incidence of homeless encampments that historically have resulted in unbelievably high volumes of debris along and in our creeks. Setting a strict TAL on Flood Control District regional channels could result in the need to spend a lot of resources in futile attempts to clean up 100% (zero trash) one relatively small stretch of creek.

The Walnut Creek Watershed Drains Ten Jurisdictions



The exhibit above demonstrates the complexity of jurisdictional boundaries within (and likely trash sources contributing to trash in) the Walnut Creek watershed. It would likely not be possible to identify a trash hot spot location within Walnut Creek that does not receive trash from sources in multiple jurisdictions. A more regional, collaborative approach for (at least for the "pilot scale deployment" of) trash capture devices would facilitate Permittees in addressing some more severe trash hot spots that could not effectively be tackled by a single Permittee due to sources from multiple Permittees' jurisdictions.

C.15 -EXEMPTED AND CONDITIONALLY EXEMPTED DISCHARGES

C.15.b.iii:

Although discharges of potable water should be subject to regulation, it is inappropriate for the Flood Control District to be required to monitor and regulate this type of discharge. It is not clear whether the Flood Control District has the legal authority to require compliance from water districts or fire protection districts; furthermore, there is no appropriate source of revenue to offset the Flood Control District's expenses related to oversight of these discharges. If the Water Board sees the necessity for regulation of these discharges, it would be more appropriate for these types of discharges to be regulated by either the Regional Water Quality Control Board (through issuance of NPDES Permits to individual fire districts and water providers), or through the State Water Resources Control Board issuing General Permits that regulate activities by fire districts and water providers on a statewide level. The Flood Control District would appreciate the opportunity to cooperate with the Water Board, the water districts and the fire districts in coordination of potable water discharges, but cannot reasonably be required to oversee the discharges.