



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: August 6, 2019

Subject: RESPONSE TO CIVIL GRAND JURY REPORT NO. 1907, ENTITLED "STORMWATER TRASH REDUCTION: ARE WE DOING ALL THAT WE CAN?"

RECOMMENDATION(S):

1. ADOPT report as the Board of Supervisors' response to Civil Grand Jury Report No. 1907, entitled "Stormwater Trash Reduction: Are We Doing All That We Can?", and DIRECT the Clerk of the Board to transmit the Board's response to the Superior Court no later than August 21, 2019, as recommended by the County Administrator and Public Works Director.
2. REFER the Finance Committee identification of additional revenue sources to fully fund stormwater pollution reduction permit compliance by June 30, 2020.

FISCAL IMPACT:

No impact to the General Fund, and minimal impact to the Public Works Department's budget. The County's stormwater trash reduction program is funded primarily with Stormwater Utility Assessments. The work necessary to meet most of the Report's findings and recommendations is already budgeted and included in the Department's program costs. The only additional item is a summary report, to be prepared each year and submitted to the Board outlining annual accomplishments, costs, challenges, and needs. This information is all readily available, so preparation of a summary report is a relatively minimal cost. There

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **08/06/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 6, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Julie DiMaggio Enea
(925) 335-1077

By: Stephanie Mello, Deputy

may be additional unknown costs to identify and/or develop additional revenue sources as directed by the

FISCAL IMPACT: (CONT'D)

Board in the future. For example, the cost to develop a property-related fee and take it to election would be over \$1 million, which the Stormwater Utility Assessment cannot afford.

BACKGROUND:

The 2018/19 Civil Grand Jury filed the above-referenced report, attached, on May 23, 2019, which was reviewed by the Board of Supervisors and subsequently referred to the County Administrator and the Public Works Director, who prepared the attached response that clearly specifies:

- A. Whether the finding or recommendation is accepted or will be implemented;
- B. If a recommendation is accepted, a statement as to who will be responsible for implementation and a definite target date;
- C. A delineation of the constraints if a recommendation is accepted but cannot be implemented within a six-month period; and
- D. The reason for not accepting or adopting a finding or recommendation.

The report, Grand Jury Report No. 1907, “Stormwater Trash Reduction” (Report), was addressed to the County Board of Supervisors and each of the City/Town Councils in the county. The subject of the Report is trash in the local creeks and waterways of the county that drain into, and thereby pollute, the Delta and San Francisco Bay. The State Regional Water Quality Control Board issues the County and cities/towns a permit to reduce pollutant levels in stormwater flowing through the county. Trash is considered a pollutant and the permit includes detailed requirements for reducing trash in the county’s waterways. The Report looked at the performance of the County and the cities/towns in meeting the trash reduction requirements, and how permit compliance information was communicated to citizens and elected officials. The Report concluded with nine findings and four recommendations, along with a table indicating which findings and recommendations apply to each jurisdiction.

Below are the proposed responses to the findings and recommendations applicable to the County’s unincorporated communities. The California Penal Code specifies that the Board of Supervisors must forward its response to the Superior Court no later than August 21, 2019 (90 days from receipt).

FINDINGS

F1. The 2015 Municipal Regional Stormwater Permit requires most of the cities, towns, and the County to take action to reduce trash discharges by 80%, from 2009 baseline levels, by July 1, 2019.

F1 Response. The respondent agrees with the finding. The County anticipates meeting the 80% trash reduction target by July 1, 2019 due to past compliance measures plus new full trash capture devices installed this year.

F2. Antioch, Brentwood, Oakley, and the eastern portion of the County were added to the Permit in February, 2019 and have a requirement to reduce trash discharges by 70%, from their 2016 baseline trash levels, by December 31, 2019.

F2 Response. The respondent agrees with the finding. The County does not treat unincorporated East County separately from the rest of the county. East County will therefore meet the 80% trash reduction target by July 2019, as discussed above, exceeding the 70% requirement.

F3. Using the formula prescribed in the Permit, Brentwood, Clayton, Concord, Danville, El Cerrito, Lafayette, Martinez, Moraga, Orinda, Pittsburg, Richmond, San Pablo, San Ramon, and Walnut Creek report that they have already reached their July 1, 2019 trash reduction goals.

F3. No response required.

F4. In June, 2018, Hercules and Pinole were issued Cease and Desist Orders by the Water Board requiring them to improve their performance in meeting their trash reduction goals.

F4. No response required.

F5. The County estimates that it will need an additional \$1.2 million per year to meet all the Permit requirements.

F5 Response. The respondent agrees with the finding. The County will need an additional \$1.2 million each year for the last two years of the Permit (MRP 2.0) to meet all permit requirements (not just trash) within the timeline specified in the current Permit. The County estimated the total cost to comply with the Permit for each of the last two years is \$5 million. The County has identified about \$3.2 million each year in Stormwater Utility Assessment funds and about \$600,000 in Road Funds and Flood Control Funds, leaving a shortfall of \$1.2 million. The County will likely need additional funding to comply with additional requirements when the next Municipal Regional Permit is issued in late 2020 (MRP 3.0).

F6. Both the CCCWP and LAFCO report that unfunded federal and state mandated stormwater permit compliance programs are a challenge for cities, towns, and the County.

F6 Response. The respondent agrees with the finding. The Contra Costa County Board of Supervisors accepted a report from the Transportation, Water, and Infrastructure Committee on November 6, 2018, the last of several reports outlining the costs associated with current Permit compliance, the needed funding, the

funding shortfall, and funding challenges.

F7. Concord, El Cerrito, Hercules, Lafayette, Martinez, Pinole, Pittsburg, Richmond, San Pablo, and Walnut Creek have established ordinances banning Styrofoam food packaging in their communities.

F7. No response required.

F8. Caltrans reports that highways and ramps along portions of Highways 4 and 24, Interstates 80, 580, and 680 in Antioch, El Cerrito, Richmond, and in the unincorporated areas of the County are high trash generation areas.

F8 Response. The respondent agrees with the finding. The County is working with Caltrans on locating potential joint trash reduction projects that will reduce trash in and around freeway ramps in unincorporated communities.

F9. No narrative summary of the accomplishments, challenges, costs, and funds needed to fully comply with the Permit is provided in the required annual reports prepared by CCCWP, the County, and each city and town.

F9 Response. The respondent agrees with the finding. The structure of the Annual Report required by the Regional Water Board as part of the current Permit does not lend itself to providing a narrative summary and does not require a breakdown of costs, challenges, and funds needed for compliance. However, the County Board of Supervisors, on November 6, 2018, received a full report from the Transportation, Water, and Infrastructure Committee on the challenges, cost, and funding needed to comply with the Permit.

RECOMMENDATIONS

R1. The City Councils of Hercules and Pinole should each consider directing their city manager to implement trash controls to bring them into compliance with the 80% trash reduction goal by December 31, 2019.

R1. No response required.

R2. The City/Town Councils of Antioch, Brentwood, Clayton, Danville, Moraga, Oakley, Orinda, Pleasant Hill, and San Ramon should consider limiting the use of Styrofoam containers in their communities by June 30, 2020.

R2. No response required.

R3. The Board of Supervisors and all City/Town Councils should consider directing staff to provide a concise summary of their Annual Reports, citing their

accomplishments, challenges, costs, and funds needed to fully comply with the Permit, by December 31, 2019.

R3 Response. The recommendation has not yet been implemented, but will be implemented in the future. The County Board of Supervisors, on November 6, 2018, received a full report from the Transportation, Water, and Infrastructure Committee on the challenges, cost, and funding needed to comply with the current Permit. Staff will develop a summary report to the County Board of Supervisors by December 2019 for the FY 2018/19 Annual Report.

R4. The Board of Supervisors and all City/Town Councils should consider identifying additional revenue sources to fully fund Permit requirements in order to comply with the Permit and avoid potential liability, by June 30, 2020.

R4 Response. The recommendation has not yet been implemented, but will be implemented in the future. The County Board of Supervisors will consider identifying additional revenue sources to fully fund Permit compliance and will refer this item to its Finance Committee to work with staff and develop recommendations by June 30, 2020.

ATTACHMENTS

Civil Grand Jury Report No. 1907, entitled "Stormwater Trash Reduction: Are We Doing All That We Can?"