

# Fee Report

# 2012 Community Clean Water Initiative

Contra Costa County Flood Control and  
Water Conservation District for the  
Contra Costa Clean Water Program

December 6, 2011



With Budget and Service Cost Analysis by:



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## INTRODUCTION AND EXECUTIVE SUMMARY

The Contra Costa County Flood Control and Water Conservation District (“District”), on behalf of the Contra Costa Clean Water Program (“Program”), has engaged a consulting team led by SCI Consulting Group (“SCI”) to study, make recommendations, and assist in the implementation of a funding approach for water quality and water pollution control improvements required by the applicable 2009 and 2010 Municipal Regional Permits, as well as subsequent permits. This Fee Report provides the analysis, justification and structure for the implementation of a new annual property related fee for water quality and pollution control programs and activities throughout Contra Costa County.

Within this Report, the proposed fee is described as the “Clean Water fee” or “Fee.” The District intends to seek property owner approval of the Clean Water fee pursuant to Article XIII D, section 6 of the California Constitution and Section 12.1 of the Contra Costa County Flood Control and Water Conservation District Act. The proposed Clean Water fee is described as the “2012 Community Clean Water Initiative.”

### I. BACKGROUND

The Contra Costa Clean Water Program is composed of twenty-one public agencies including Contra Costa County, all nineteen of its incorporated cities and towns, and the Contra Costa County Flood Control & Water Conservation District (all of the incorporated and unincorporated areas of Contra Costa County). The Program's primary purpose is to implement federal and state mandated regulations specifically targeting the reduction of pollutants in water runoff into and from municipal separate storm sewer systems. (These regulations are widely known as “NPDES” or “National Pollutant Discharge Elimination System” permit requirements. Hence, these partner agencies are individually known as “Permittees” within the context of this Report.)

On August 30, 1992, Governor Pete Wilson signed Assembly Bill No. 2768 (Campbell), which amended the Contra Costa County Flood Control and Water Conservation District Act to permit the formation of water quality and water pollution control areas, also described as stormwater utility areas, based in the incorporated boundary of a city or the unincorporated area of Contra Costa County. Stormwater utility areas including annual fees for services and programs were created for each existing community with the exception of Brentwood and Richmond. (Brentwood and Richmond rely on other revenue sources to fund their implementation of the federal and state stormwater mandates.) The Stormwater Utility Assessments (“SUA”) and calculation methodology used by the municipalities were based upon the impervious surfaces associated with a parcel's land use.

Currently, the SUAs generate approximately \$14 million annually, which is used to fund Program and individual municipal stormwater permit compliance programs and activities.

Existing dedicated financial resources are simply insufficient to pay for present and future Permit requirements. Thus, there is a critical need to increase resources for the Program's twenty-one municipalities to remain in compliance with federal and state mandated regulations and to further improve water quality and to reduce water pollution.

It is anticipated that future permits will incorporate even stricter water quality regulations. Permits are typically issued every five years through the Regional Water Quality Control Board ("RWQCB"). East Contra Costa County is regulated by the Central Valley RWQCB and West, Central and South Contra Costa County are regulated by the San Francisco Bay RWQCB. It should also be noted that non-compliance with current and future permits may result in significant fines and/or third-party lawsuits.

The current applicable Permits added substantial, additional, costly requirements in the areas listed below:

- Significant trash load reduction
- Additional monitoring to be conducted by the Program
- Additional controls and activities to address mercury (in both Permits); and PCBs, copper, PBDEs, legacy pesticides, and selenium in the San Francisco Bay Permit.

In conclusion, the Permittees must implement the clean water and pollution control services and facilities mandated by State and Federal regulations as a condition to discharge water from the storm drainage facilities into receiving water bodies. The storm drainage facilities cannot be lawfully operated except in compliance with the permits.

## **II. INTRODUCTION TO CLEAN WATER AND POLLUTION CONTROL CHALLENGE**

Each year, tons of harmful and dangerous pollutants, bacteria and trash are carried through our neighborhoods, into our local creeks, reservoirs, lakes, and the Delta and the Bay; and as water drains from streets, parking lots, and lawns, pollutants are picked up and enter the drainage system through thousands of catch basins in Contra Costa County; and from there, this polluted water flows through a massive system of pipes, open channels and creeks into the Delta and the Bay. These pollutants include trash such as cigarette butts, plastic, fast-food wrappers, and bottles; toxins such as motor oil, PCBs, antifreeze, fertilizer, and pesticides; microbes such as dangerous bacteria, viruses, sewage and pet waste; and heavy metals such as lead, mercury, arsenic, etc.

## **III. APPROACH TO FUNDING CHALLENGE**

In 2010, the Program, through the District, retained a consultant team led by SCI Consulting Group, which included True North Research, Tramutola, Larry Walker Associates and Dan Cloak Environmental Consulting to investigate additional public financing mechanisms that the

agencies could use to fulfill permit mandates. This project, currently called the “2012 Community Clean Water Initiative” was divided into three phases. In the first phase, the consultant team analyzed current and future water quality costs and operations, and ultimately quantified the financial needs for each Permittee (Tasks #1 and #2). The consultant team studied and reported on all available funding mechanisms that could prove viable for the water quality funding challenge (Task #3). Based on the results of the previous tasks, the consultant team conducted telephone and mail surveys during the first half of 2011 and confirmed Contra Costa County residents’ willingness to invest in improved water quality and water pollution abatement services (Task #4).

Next, Program staff worked closely with the consultant team to develop and communicate a number of funding strategies and cost of service scenarios to the Permittees. Through this process, one of the proposed cost of service scenarios received considerable support and closely matched the service goals of the Program as well as the Permittees. This scenario incorporated an approach that is countywide; based upon watershed groupings and associated rates; and utilized the balloted, property-related fee mechanism, as described in the Task #5 Report.

On September 21, 2011, the Management Committee of the Contra Costa County Clean Water Program voted unanimously to proceed with this “Countywide, Watershed-Based, Three-Tiered Rate, Balloted, Property Related Fee” scenario and to proceed with the second and third phase of the 2012 Community Clean Water Initiative project. The second phase of the project includes the development of this Fee Report as well as an action plan. The third phase of the project is implementation of community information regarding the initiative and property owner noticing and balloting for the proposed clean water programs and proposed Clean Water fee.

#### **IV. PROCESS FOR IMPLEMENTATION OF FEE**

The proposed balloted, property-related fee process must comply with the provisions of Article XIIIID of the California Constitution (commonly known as Proposition 218). This Article requires approval in two distinct steps, both of which must be completed successfully for the Clean Water fee to be approved. First, Section 6(a)(2) requires written notice be provided via mail of the proposed Clean Water fee to the record owner of each identified parcel upon which the Clean Water fee is proposed, the amount of the Clean Water fee proposed to be imposed upon each, the basis upon which the amount of the proposed Clean Water fee was calculated, the reason for the Clean Water fee, together with the date, time, and location of a public hearing on the proposed Clean Water fee. This public hearing for the proposed Clean Water fee is scheduled for February 7, 2012 before the Contra Costa County Board of Supervisors. The Program, through the District, is scheduled to mail these notices in mid-December of 2011.

At the public hearing, the Board will consider all protests against the proposed Clean Water fee. If written protests against the proposed Clean Water fee are presented by a majority of owners

of the identified parcels, the Clean Water fee will not be imposed. If the majority protest is not received, the Board may, at its discretion, direct the Program, through the District, to submit the Clean Water fee to a balloting of property owners subject to the proposed Clean Water fee.

Section 6(c) of the Article states that no property-related fee shall be imposed unless and until that fee is submitted and approved by a majority vote of the property owners of the property subject to the fee, which is achieved via mail balloting. If there is not a majority protest at the February 7, 2012 public hearing, the Program, through the District, shall mail ballots to all property owners for which the Clean Water fee would be imposed, at least 45 days prior to the close of balloting. The close of balloting is April 6, 2012.

## **V. JUSTIFICATION OF USE OF PROPERTY RELATED FEE MECHANISM**

Article XIID of the California Constitution specifies that a fee for a “property-related service” may be imposed as an “incident of property ownership.” A property related fee requires normal ownership and use of the real property to satisfy the “incident of property ownership” requirement. Further, the Fee may only be used for a “property-related service” which “means a public service having a direct relationship to property ownership.”

This proposed Clean Water fee is intended to satisfy other requirements of the Article including:

- “Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.
- 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.
- 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.
- 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
- 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.”

The revenues from this Clean Water fee will not exceed the costs, as detailed in Section 2 of this report. The revenue will only be used to support clean water and pollution control services and facilities as detailed in Section 1 of this report. The Clean Water fees will be individually calculated for each parcel in proportion to specific relevant attributes such as property use and relative impervious area-

Further, in the 2002 Proposition 218 case, *Howard Jarvis Taxpayers Association v. City of Salinas* (98 Cal.App.4th 1351), the Court of Appeal for the Sixth Appellate District held that a "storm water drainage fee" (including services to "monitor and control pollutants that might enter the storm water before it is discharged into natural bodies of water") was illegally imposed by the City of Salinas. The plaintiff, Howard Jarvis Taxpayers Association ("HJTA") contended that the storm drainage fee imposed by the City of Salinas was a "property-related" fee requiring approval either by the affected property owners or by the voters. The amount of the fee was calculated in proportion to the amount of impervious area on each parcel as a measure of the property's contribution to runoff into the City's stormwater drainage facilities. The Court of Appeal held that the fee was a property related service fee because it funded a public service having a direct relationship to the ownership of developed property. (See also 81 Ops. Cal. Atty. Gen. 104, 106 (1998).) The Court went on to hold that the fee did not fit within the exception for "sewer" or "water" service fees and was therefore invalid because it had not been approved by the property owners or voters.

Subsequent property related fees for clean water and pollution control services and facilities in California have not been successfully challenged in cases where they were approved pursuant to a property owner balloting procedure. Examples of agencies that have successfully implemented property related fees for stormwater management include the City of Burlingame, the City of Palo Alto, the City of Rancho Palos Verde, the City of Santa Clarita, the City of San Clemente and the Marin County Flood Control Flood Control and Water Conservation District. In *Ford Greene v. Marin County Flood Control and Water Conservation District*, the Supreme Court of California upheld the imposition of a balloted, property related fee for storm drainage.

## **VI. PARALLELS WITH TRADITIONAL USES OF PROPERTY RELATED FEES SUCH SEWER, WATER AND REFUSE COLLECTION**

Article XIID indicates that

“Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. “  
(emphasis added)



In other words, fees for sewer, water and refuse collection are clearly property related fees. Moreover, property related fees for sewer, water and refuse collection are commonly used throughout California as the primary funding source for these services. Private refuse collection companies often provide their services exclusively paid for by property related fees.

Providers of sewer, water and refuse collection services deliver their services directly to property in a variety of ways. For example, refuse collectors remove refuse directly from each property. The costs of this refuse collection is paid for by a property related fee. Many costs may be included in the collection of this refuse including the costs of operating the central refuse collection facilities, the costs associated with an outreach program that promotes recycling, the costs of safety training for staff, the costs of testing of refuse for contaminants prior to being sent to a landfill, the costs of illegal dumping mitigation and/or the costs of pursuing individual polluters to the refuse stream. All of these costs are blended together and shared equitably in the fee for this property related service. Although some of these services may not directly “touch” individual properties subjected to the fee, they are direct services. These services are actually used by, or are immediately available to property, and have a direct relationship to property.

Similarly, each property subject the proposed Clean Water fee generates polluted water runoff that would be addressed and mitigated by the clean water and pollution control services and facilities. Moreover, the clean water and pollution control services and facilities to be funded by the proposed Clean Water fee includes the direct removal of trash and other pollutants from the collection and conveyance system directly adjacent to individual properties that generate water runoff; the operations of central storm drainage facilities, community outreach promoting the elimination of pollutants for the storm drainage system as well as testing for and monitoring of potential pollutants. These services are needed for water runoff generated by each property and have a direct relationship to property.

## **VII. JUSTIFICATION THAT PROPOSED CLEAN WATER AND POLLUTION CONTROL SERVICES AND FACILITIES MAY BE FUNDED BY A PROPERTY RELATED FEE**

The proposed Clean Water fee is a property related service fee because it funds a public service having a direct relationship to the ownership of property. The Clean Water fee can fund all activities required by the permits because the lawful operation of the storm drainage facilities is conditional on implementation of all clean water permit and storm drainage facility operational mandates.

## **VIII. LIMITATIONS OF PROPOSED CLEAN WATER FEE**

The proposed Clean Water fee is a critical financial component of each of the Permittees overall funding strategy to provide required clean water and pollution control services and facilities

and comply with federal and state mandates. However, in each case, the Permittees will rely on funding from other sources in addition to the proposed Clean Water fee to satisfy these requirements.

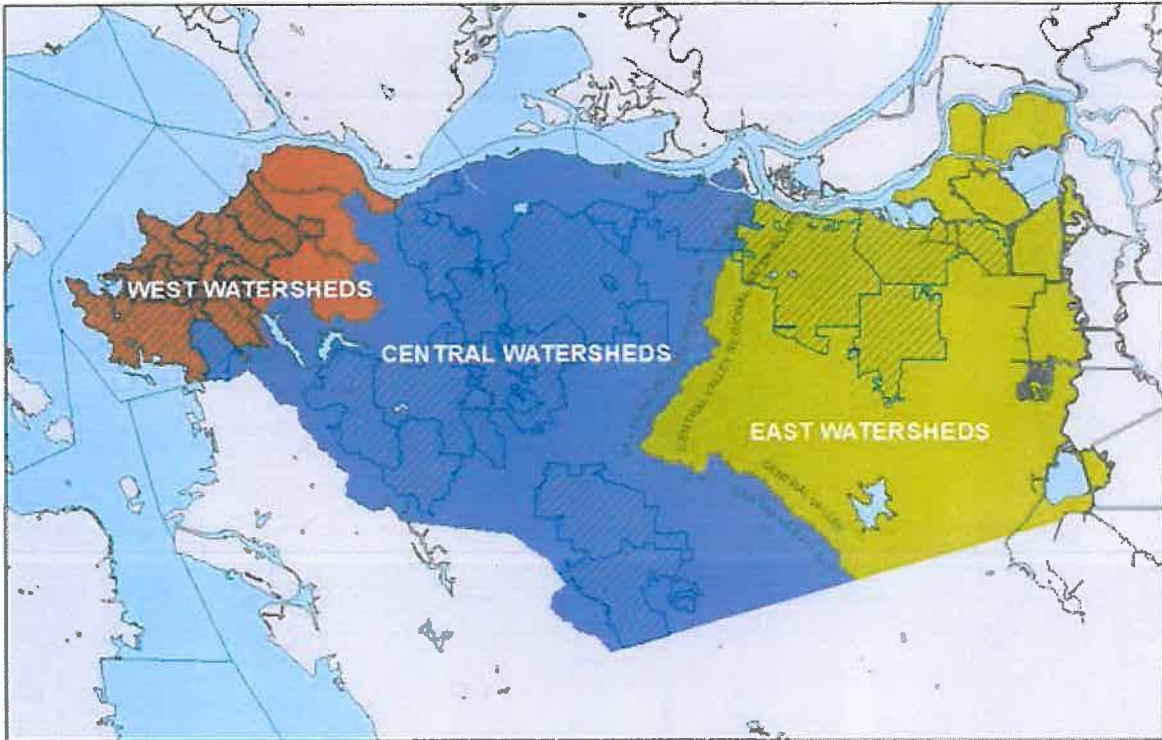
## **IX. SUMMARY OF ELEMENTS OF PROPOSED 2012 COMMUNITY CLEAN WATER INITIATIVE**

The proposed Clean Water fee is a countywide, watershed-based, three-tiered rate, balloted, property-related fee. The proposed Clean Water fee rates for properties are based upon impervious area and individually calculated for each parcel, based upon attributes such as use and size. The base rate for a typical single family home is \$19 per year in the West Watersheds, \$22 per year in the Central Watersheds (which includes El Cerrito and Pittsburg) and \$12 in the East Watersheds. The unincorporated county parcels are subject to a \$19 per year Clean Water fee (See Figure 1, below). Note that these rates are a maximum “ceiling” and that Permittees are obligated to reduce the annual Clean Water fee in future years if it exceeds the reasonable costs of services and improvements provided.

The Clean Water fee includes fiscal accountability and administrative elements, fully described later in this report, including: creation of an Independent Citizens Oversight Committee, mandatory annual audits, a cost-of-living-adjustment mechanism, and an expiration date. There are no exemptions or discounts. The revenue generated by the Clean Water fee will be completely returned to the Permittee where it was collected, less county collection fees and other minor administrative costs (commonly known as “100% return to source”). There is a specified appeals process to allow property owners to challenge the calculated Clean Water fee amount.

**Figure 1. Watershed Groups**

## WEST, CENTRAL & EAST WATERSHEDS



## 1.0 PERMIT REQUIREMENTS AND SCOPE OF SERVICES

### I. INTRODUCTION

The Contra Costa Clean Water Program is comprised of the local “Permittee” agencies of the cities of Antioch, Brentwood, Clayton, Concord, El Cerrito, Hercules, Lafayette, Martinez, Oakley Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, and Walnut Creek, the towns of Danville and Moraga, Contra Costa County, and the Contra Costa County Flood Control and Water Conservation District. The Permittees are required to submit a permit application (Report of Waste Discharge) to cover their discharge requirements under the NPDES permit to discharge stormwater runoff from storm drains and watercourses within the Contra Costa Permittees’ jurisdictions.

The West, Central and South County Permittees are currently subject to the San Francisco Bay Regional Water Quality Control Board NPDES Permit No. CAS612008, October 14, 2009. The current Permit for East County, including the cities of Antioch, Brentwood and Oakley, as well as the corresponding portions of unincorporated Contra Costa County and the Contra Costa County Flood Control District, is the September 23, 2010 Central Valley Regional Water Quality Control Board Municipal NPDES Permit R5-2010-0102.

Revenue generated from the Clean Water fee defined in this Report will fund the implementation of the mandated clean water and pollution control services and facilities described in the applicable Permits and in the next section. (This list is based upon the 2009 San Francisco Bay permit and the 2010 Central Valley permit. Reference is made to the actual Permit documents for full details on the required clean water and pollution control services and facilities. )

The clean water and pollution control services and facilities to be funded by the proposed Clean Water fee will be summarized in the documents required for the ballot proceeding (including the Notice of Public Hearing, Ballot Guide and Ballot) as:

- Protect local sources of clean drinking water from contamination and pollution
- Remove harmful and dangerous pollutants, toxic chemicals, and potentially infectious bacteria and viruses from our local creeks, reservoirs, lakes, and the Delta and the Bay
- Capture, clean and use rainwater to irrigate local parks and landscaping. This “rainwater harvesting” will also decrease the impacts of potentially polluted stormwater and urban runoff on local creeks, reservoirs, lakes, the Delta and Bay
- Prevent illegal or toxic discharges from industrial and commercial properties
- Keep trash and pollution off our shorelines and out of our local creeks, reservoirs, lakes, and the Delta and the Bay

- Provide other clean water and pollution control services and facilities required by Federal and State regulations

## II. PERMIT REQUIREMENTS

National Pollutant Discharge Elimination System Permits have traditionally been re-issued on a five year cycle, and typically become more rigorous with each issue. The San Francisco Bay Permit issued to West, South and Central Contra Costa County Permittees includes the following improvement goals:

- Consolidation of municipal stormwater permits into consistent regional permits.
- Inclusion of more specificity in the permit language and requirements including creation of required stormwater management actions; a specific level of implementation for each action or set of actions and reporting and effectiveness evaluation requirements for each action sufficient to determine compliance.
- Incorporation of the Stormwater Management Plan level of detail and specificity into the Permit. Stormwater Management Plans have always been considered integral to the municipal stormwater NPDES permits, but have not received the level of public review in the adoption process necessary relative to their importance in adequate stormwater pollutant management implementation.
- Implementation and enhancement actions to control specific listed pollutants and pollutants of concern, and to achieve Waste Load Allocations adopted under Total Maximum Daily Loads.
- Implementation of more specific and comprehensive stormwater monitoring, including monitoring for specific listed pollutants.

The 2010 Central Valley Permit issued to East Contra Costa County Permittees includes the following improvement goals:

- Facilitation of the Permittees' ongoing involvement in and collaboration with the Contra Costa Clean Water Program, including the implementation of countywide and regional activities that benefit water quality.
- Providing consistency, where possible, with the Municipal Regional Permit, Order R2-2009-0074, NPDES Permit No. CAS 612008 issued by the San Francisco Bay Water Board to Contra Costa County, the Contra Costa Flood Control and Water Conservation District, and 16 cities in Contra Costa County within the San Francisco Bay Water Board's jurisdiction.

- Incorporation of different or additional requirements, where necessary, to implement the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Fourth Edition) and other Central Valley Water Board policies, including the Sacramento-San Joaquin Methylmercury TMDL adopted in April 2010.
- Inclusion of more specificity in the permit language and requirements including creation of required stormwater management actions; a specific level of implementation for each action or set of actions and reporting and effectiveness evaluation requirements for each action sufficient to determine compliance.
- Incorporation of the Stormwater Management Plan level of detail and specificity into the Permit. Stormwater Management Plans have always been considered integral to the municipal stormwater NPDES permits, but have not received the level of public review in the adoption process necessary relative to their importance in adequate stormwater pollutant management implementation.
- Implementation and enhancement actions to control specific listed pollutants and pollutants of concern, and achieve Waste Load Allocations adopted under Total Maximum Daily Loads.
- Implementation of more specific and comprehensive stormwater monitoring, including monitoring for specific listed pollutants.

### **III. PERMIT IMPLEMENTATION**

These Permit goals were manifested into the Permit language as specific tasks, services, policies and requirements. Each of the Permittees is individually responsible for adoption and enforcement of requirements, for implementation of assigned control measures or best management practices (“BMP”s) needed to prevent or reduce pollutants in stormwater, and for providing funds for the capital, operation, and maintenance expenditures necessary to implement such control measures/BMPs within its jurisdiction. Each Permittee is also responsible for its share of the costs of the area-wide component of the countywide program to which the Permittee belongs. Enforcement actions concerning non-compliance with the Permit will be pursued against individual Permittees responsible for specific violations of the Permit.

### **IV. DISCHARGE PROHIBITIONS**

Permittees are required, within their respective jurisdictions, to effectively prohibit the discharge of non-stormwater into storm drain systems and watercourses, although certain

NPDES-permitted discharges are exempt from this prohibition. Permittees are required to prevent discharge of rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plain areas. This includes protecting local sources of clean drinking water from contamination and pollution, removing harmful and dangerous pollutants, toxic chemicals, and potentially infectious bacteria and viruses from our local creeks, reservoirs, lakes, and the Delta and the Bay.

## **V. RECEIVING WATER LIMITATIONS**

Permittees are required to prevent the discharge into surface waters the following conditions that create a condition of nuisance or to adversely affect beneficial uses of waters of the State:

(For the San Francisco Bay Permit)

- Floating, suspended, or deposited macroscopic particulate matter, or foam;
- Bottom deposits or aquatic growths;
- Alteration of temperature, turbidity, or apparent color beyond present natural background levels;
- Visible, floating, suspended, or deposited oil or other products of petroleum origin; and
- Substances present in concentrations or quantities that would cause deleterious effects on aquatic biota, wildlife, or waterfowl, or that render any of these unfit for human consumption.

(For the Central Valley Permit)

- Concentrations of dissolved oxygen to fall below 5.0 mg/l for Delta waters.
- Oils, greases, waxes, or other materials to form a visible film or coating on the water surface or on the stream bottom.
- Oils, greases, waxes, floating material or suspended material to create a nuisance or adversely affect beneficial uses.
- Aesthetically undesirable discoloration.
- Fungi, slimes, or other objectionable growths.
- The 30-day average for turbidity to increase as follows:
  - More than 1 Nephelometric Turbidity Units (NTUs) where natural turbidity is between 0 and 5 NTUs.
  - More than 20 percent where natural turbidity is between 5 and 50 NTUs.
  - More than 10 NTUs where natural turbidity is between 50 and 100 NTUs.
  - More than 10 percent where natural turbidity is greater than 100 NTUs.
- The normal ambient pH to fall below 6.5, exceed 8.5, or change by more than 0.5unit.
- Deposition of material that causes nuisance or adversely affects beneficial uses.

- Taste or odor-producing substances to impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin or to cause nuisance or adversely affect beneficial uses.
- Radionuclides to be present in concentrations that exceed maximum contaminant levels specified in the California Code of Regulations, Title 22; that harm human, plant, animal or aquatic life; or that result in the accumulation of Radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.
- Aquatic communities and populations, including vertebrate, invertebrate, and plant species, to be degraded.
- Toxic pollutants to be present in the water column, sediments, or biota concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life; or that bioaccumulate in aquatic resources at levels which are harmful to human health.
- In waters designated for contact recreation (REC-1), the fecal coliform concentration based on a minimum of not less than five samples for any 30-day period shall not exceed a geometric mean of 200/100 ml, nor shall more than ten percent of the total number of samples taken during any 30-day period exceed 400/100 ml.
- Violation of any applicable water quality standard for receiving waters adopted by the Central Valley Water Board or the State Water Board pursuant to the CWA and regulations adopted thereunder.
- Upon approval of the Delta Mercury Control Program by US EPA, the methylmercury waste load allocations for the Permittees, by Delta subregion, are:
  - Central Delta 0.75 grams/year;
  - Marsh Creek 0.30 grams/year; and
  - West Delta 3.2 grams/year.
- The final compliance date for the waste load allocations is 2030. Compliance with the methylmercury waste load allocations shall be met as soon as possible, but no later than 2030, unless the Central Valley Water Board modifies the Delta Mercury Control Program implementation schedule and Final Compliance Date.

## **VI. COMPLIANCE WITH DISCHARGE PROHIBITIONS AND RECEIVING WATER LIMITATIONS**

### **Municipal Operations**

#### ***Street and Road Maintenance***

Permittees are required to coordinate with sewer agencies to determine if disposal to the sanitary sewer is available for wastewater generated from municipal maintenance projects. Permittees are required to report on implementation of and compliance with maintenance Best Management Practices (“BMP”s) in the Annual Report.



### ***Sidewalk/Plaza Maintenance and Pavement Washing***

Permittees are required to implement and require others to implement for surface cleaning, which prohibit discharge of polluted wash water/non-stormwater to storm drains. Permittees are required to report on implementation of surface cleaning BMPs in the Annual Report.

### ***Bridge and Structure Maintenance and Graffiti Removal***

Permittees are required to implement BMPs for preventing polluted stormwater and non-stormwater discharges from bridge and structural maintenance activities and graffiti removal. Permittees are required to determine proper disposal for wastes from such activities and train employees and contractors to capture the waste and disposal of the waste properly. Permittees are required to report on bridge and structure maintenance and graffiti removal BMPs compliance in the Annual Report.

### ***Stormwater Pump Stations***

Permittees are required to develop and implement measures to operate, inspect, and maintain pump stations to eliminate non-stormwater discharges from storm drains. Permittees are required to create an inventory of all pump stations in their jurisdiction, including locations and key characteristics. Permittees are required to inspect and collect data from all pump stations at specified frequencies. Permittees are required to report in the Annual Report and maintain records of inspection, maintenance, and volume of waste removed from pump stations.

### ***Rural Public Works Construction and Maintenance***

Permittees are required to implement and require contractors to implement BMPs for erosion and sediment control during and after construction maintenance on rural roads and provide training for maintenance staff. Permittees are required to provide training for maintenance staff on rural road BMPs at specified frequencies. Permittees are required to report on the implementation and compliance with BMPs for rural public works construction and maintenance in the Annual Report. Permittees are required to implement an inspection program to maintain structural integrity and prevent water impacts.

### ***Corporation Yard BMP Implementation***

Each corporation yard is required to have a site specific Stormwater Pollution Prevention Plan (SWPPP) that includes all applicable BMPs, as appropriate, including implementation of BMPs to minimize pollutant discharges in stormwater and prohibit non-stormwater discharges from corporation yards; creation of an inspection form; routine inspection of corporation yards; pumping of all vehicle and equipment washing areas to sanitary sewers; use of dry clean-up methods at the yard and collection of any wash water if wet clean-up methods are used; disposal of wash water to sanitary or municipal treatment plant; covering and/or berming of all storage areas containing waste pollutants, and reporting of all corporation yard BMPs and implementation of the SWPPP in the Annual Report.

## **New Development and Redevelopment**

### ***New Development and Redevelopment Performance Standard Implementation***

Permittees are required to have adequate legal authority to implement all requirements of new development and redevelopment requirements and have adequate development review and permitting procedures to impose conditions of approval or other enforceable mechanisms to implement these requirements. For projects discharging directly to specific listed water bodies, the conditions of approval must require that post development runoff not exceed predevelopment levels for such pollutants that are listed. Permittees must evaluate potential water quality effects and identify appropriate mitigation measures when conducting environmental reviews, such as CEQA. Permittees must provide training adequate to implement these requirements for staff, including interdepartmental training.

Permittees must provide outreach adequate to implement these requirements including providing education materials to municipal staff, developers, contractors, construction site operators, and owners/builders, early in the planning process and as appropriate. Permittees must revise, as necessary, General Plans to integrate water quality and watershed protection with water supply, flood control, habitat protection, groundwater recharge, and other sustainable development principles and policies and to require implementation. Rain water reuse may be implemented as part of this element. Permittees are required to provide a brief summary of methods of implementation of new development and redevelopment requirements in the Annual Report.

### ***Green Streets Pilot Projects***

Permittees are required to require all projects fitting certain category descriptions to implement Low Impact Development (“LID”) source control, site design, and stormwater treatment onsite or at a joint stormwater treatment facility. Permittees are required to cumulatively complete by the end of the permit term a specified number of green street projects that incorporate LID tech. Permittees are required to conduct appropriate monitoring of green street pilot projects to document the water quality benefits achieved. Permittees are required to develop and maintain an electronic database or equivalent tabular format that contains all the relevant information.

### ***Low Impact Development (LID)***

Permittees are required to implement certain source control requirements and report on the criteria and procedures employed to determine when harvesting and reuse, infiltration, or evapotranspiration is feasible. Permittees are required to submit a report on their experience with determining infeasibility of harvesting and reuse, infiltration, or evapotranspiration at certain sites. Permittees are required to submit a proposed set of model biotreatment soil media specifications and soil infiltration testing methods to verify a long-term infiltration. Permittees are also required to submit proposed minimum specifications for green roofs.

### ***Required Site Design Measures for Small Projects and Single Family Homes***

Permittees must require all development projects that create and/or replace a specified quantity of impervious surface to implement one or more specific stormwater lot-scale BMPs.

### **Industrial and Commercial Site Controls**

Permittees are required to have legal enforcement authority to obtain effective stormwater pollutant control on industrial sites including the ability to require implementation of appropriate BMPs and correction of violations prior to next rain event or wet weather. Permittees are required to develop and implement an inspection plan that includes a list of industrial and commercial facilities requiring inspections, field inspections, and a prioritization of inspection frequency based on pollutant sources. Permittees are required to report a list of facilities in the Annual Report (updated for each year) and list of facilities scheduled for inspection during the current fiscal year in the Annual Report.

### ***Enforcement Response Plan***

Permittees are required to develop and implement an enforcement response plan that contains required enforcement actions, and timely correction of violation protocols. Permittees are required to maintain a database of all inspection activities. Permittees are required to report in each Annual Report the number of inspections, violations, summary of frequency and types of violations and inspections.

### ***Staff Training***

Permittees are required to provide training for inspectors annually and record inspector trainings in the Annual Report.

### **Illicit Discharge Detection and Elimination**

#### ***Legal Authority and Enforcement Response Plan***

Permittees are required to have the legal authority to prohibit and control illicit discharges and escalate stricter enforcement to achieve expedient compliance. Permittees are required to develop and implement an enforcement response plan that contains required enforcement actions and timely correction of violations.

#### ***Spill and Dumping Response, Complaint Response, and Frequency of Inspections***

Permittees are required to have a central contact point and phone number to respond to complaints, spills, and dumping and conduct reactive inspections to resolve illicit connections and discharges; and include in the Annual Report.

#### ***Control of Mobile Sources***

Permittees are required to develop and implement a program to control pollutants from mobile sources and include in the Annual Report.

### ***Collection System Screening***

Permittees are required to perform routine surveys for illicit discharges and illegal dumping and include in the Annual Report.

### ***Tracking and Case Follow Up***

Permittees are required to log all incidents and discharges that pose a threat to water quality in a database and report in the Annual Report.

## **Construction Site Control**

### ***Legal Authority and Enforcement Response Plan***

Permittees are required to have the legal authority to enforce construction site controls. Permittees are required to develop and implement enforcement response plan that will promote consistent, progressive and timely corrective actions on construction sites.

### ***Best Management Practices***

Permittees are required to require all construction sites have appropriate, seasonally and phase-specific, and effective BMPs.

### ***Plan Approval Process***

Before approval and issuance of local grading permits, Permittee are required to review erosion control plan or Stormwater Pollution Prevention Plan (SWPPP) to verify compliance with Permittee's grading ordinance and other local requirements.

### ***Inspections***

Permittees are required to conduct inspections to determine compliance with local ordinances (grading and stormwater) and determine the effectiveness of BMPs and require timely corrections of all actual and threatened violations of local ordinances observed. Permittees are required to remind all site developers and/or owners disturbing one acre or more of soil to prepare for the upcoming wet season by September 1st of each year. Permittees are required to conduct monthly inspections during the wet season (i.e., October - April) and record in the Annual Report.

### ***Staff Training***

Permittees are required to provide training or access to training for conducting construction stormwater inspections at least every other year. Training topics should include proper BMP selection, implementation and maintenance, permit and local requirements. Permittees are required to report on the staff training in the Annual Report.

## **Public Information and Outreach**

### ***Storm Drain Inlet Marking***

Permittees are required to mark and maintain at least 80 percent of municipally-maintained storm drain inlets with an appropriate stormwater pollution prevention message, such as “No dumping, drains to Bay” or equivalent. For newly approved, privately maintained streets, Permittees shall require inlet marking by the project developer upon construction and maintenance of markings through the development maintenance entity. Permittees are required to report on the storm drain inlet marking in the Annual Report.

### ***Advertising Campaigns***

Permittees are required to participate in or contribute to advertising campaigns on trash/litter in waterways and pesticides with the goal of significantly increasing overall awareness of stormwater runoff pollution prevention messages. Permittees are required to report on the advertising campaigns in the Annual Report.

### ***Media Relations - Use of Free Media***

Permittees are required to participate in or contribute to a media relations campaign, and maximize the use of free media/media coverage with the objective of significantly increasing the overall awareness of stormwater pollution prevention messages and associated behavioral changes. Permittees are required to conduct a minimum of six pitches (e.g., press releases, public service announcements, and/or other means) per year at the county-wide program, regional, and/or local levels. Permittees are required to report details of the media relations campaign in the Annual Report.

### ***Stormwater Point of Contact***

Permittees are required to create and maintain a point of contact, (e.g., phone number or website) to provide the public with information on watershed characteristics and stormwater pollution prevention alternatives.

### ***Public Outreach Events***

Permittees are required to participate in and/or host events such as fairs, shows, workshops, (e.g., community events, street fairs, and farmers’ markets), to reach a broad spectrum of the community with both general and specific stormwater runoff pollution prevention messages. Each Permittee is required to annually participate and/or host the number of events according to its population. Permittees are required to report details of the public outreach events campaign in the Annual Report.

### ***Watershed Stewardship Collaborative Efforts***

Permittees are required to support watershed stewardship collaborative efforts of community groups. Permittees are required to report details of the watershed stewardship collaborative efforts in the Annual Report.

### ***Citizen Involvement Events***

Permittees are required to support citizen involvement events, such as creek/shore clean-ups, adopt-an-inlet/creek/beach programs, and volunteer monitoring. Each Permittee is required to annually sponsor and/or host a specified number of citizen involvement events and report details of the citizen involvement events in the Annual Report.

### ***School-Age Children Outreach***

Permittees are required to individually or collectively implement outreach activities designed to increase awareness of stormwater and/or watershed messages in school-age children, and report details of the school-age children outreach in the Annual Report.

### ***Outreach to Municipal Officials***

Permittees are required to conduct outreach to municipal officials to significantly increase overall awareness of stormwater and/or watershed messages among regional municipal officials, and report details of the outreach to municipal officials in the Annual Report.

### **Water Quality Monitoring**

Permittees are required to implement an array of water quality monitoring compliance strategies and report on these strategies.

### **Pesticides Toxicity Control**

#### ***Adopt an Integrated Pest Management Policy (“IPM”) or Ordinance***

Permittees are required to adopt an IPM policy or ordinance that minimizes reliance on pesticides and uses IPM in municipal operations on municipal property, and submit a copy of IPM ordinance or policy in the Annual Report.

#### ***Implement IPM Policy or Ordinance***

Permittees are required to ensure implementation of IPM policy or ordinance and report on implementation by showing trends in quantities and types of pesticide used.

#### ***Train Municipal Employees***

Permittees are required to train municipal employees who apply or use pesticides in IPM practices and the Permittee's IPM policy. Permittees are required to report the percentage of municipal employees who are trained in IPM within the last three years and are required to submit training materials upon request.

### ***Require Contractors to Implement IPM***

Permittees are required to hire IPM-certified contractors or require contracts with applicators that include IPM implementation. Permittees are required to submit documentation to confirm compliance with contract specification for IPM in the Annual Report.

### ***Track and Participate in Relevant Regulatory Processes***

Permittees are required to participate in regulatory processes including United States Environmental Protection Agency pesticide evaluation and registration, DPR pesticide evaluation, assist DPR and County Agricultural Commissioners and provide comment letters.

### ***Interface with County Agricultural Commissioners***

Permittees are required to maintain regular communications with County Agricultural Commissioners and report in the Annual Report improper pesticide usage reported to county Agricultural Commissioners and follow-up actions to correct violations.

### ***Evaluate Implementation of Source Control Actions Relating to Pesticides***

Permittees are required to evaluate the effectiveness of the control measures implemented through monitoring data regarding pest management and identify improvements to existing control measures, and attain targets with an implementation time if needed; and report details of the pest management in the Annual Report.

### ***Public Outreach and Contractor Outreach***

Permittees are required to conduct outreach to consumers at point of purchase, to residents who use or contract for structural or landscape pest control, and to Pest Control Operators; and report on activities in the Annual Report.

## **Trash Load Reduction**

### ***Short-Term Trash Load Reduction***

Permittees are required to submit a short-term plan that includes an implementation schedule to reduce trash loads by 40% by July 1, 2014 by establishing a baseline trash load, establishing trash BMPs, and installing trash capture devices. Permittees are required to determine baseline trash load and tracking methodologies, submit a progress report on the process for determining the baseline trash level, and summary of approach being used, and install and maintain a mandatory minimum number of full trash capture devices.

### ***Trash Hot Spot Selection and Cleanup***

Permittees are required to clean-up selected hot spots at least once per year, select and submit trash hot spots to the RWQCB and include an initial assessment of each hot spot including clean-up, photo-documentation, and identifying the dominant types of trash removed. Permittees are required to quantify the volume of material removed from each trash hot clean-up and identify and photo-document the dominant types of trash.

### ***Long-Term Trash Load Reduction***

Permittees are required to submit a long-term trash load reduction plan, including an implementation schedule. The plan is required to include control measures, BMPs, and trash reduction ordinances to attain a 70% trash load reduction from its storm drainage systems by 2017, 100% by 2022 for the San Francisco Bay Permit, as well as 70% trash load reduction from its storm drainage system by 2018, and 100% by 2023 for the Central Valley Permit.

### ***Reporting***

In each Annual Report, Permittees are required to report on trash load reduction actions including assessments of hot spots and load reduction compared to baseline.

### **Mercury Controls (Requirements for Central Valley Permit Vary)**

Permittees are required to promote, facilitate, and/or participate in collection and recycling of mercury containing devices and equipment at the consumer level (e.g., thermometers, thermostats, switches, bulbs), and report detail in the Annual Report.

### ***Monitor Methylmercury***

Permittees are required to monitor for methylmercury.

### ***Pilot Projects to Investigate and Abate Mercury Sources to Storm Drains***

Permittees are required to identify a specified number of pilot drainages in the Bay Area with high PCBs, conduct reconnaissance in pilot drainages, test sediments in storm drains and conveyances to characterize mercury concentrations, evaluate monitoring data and determine if a mercury sediment abatement program would reduce loading significantly, and report on mercury-related aspects of work and loads abated.

### ***Conduct Pilot Projects to Evaluate and Enhance Municipal Sediment Removal and Management Practices***

In the pilot drainages, Permittees are required to evaluate ways to enhance existing municipal sediment removal /management practices such as municipal street sweeping, curb clearing parking restrictions, and inlet / catch basin cleaning,

### ***Conduct Pilot Projects to Evaluate On-Site Stormwater Treatment via Retrofit***

Permittees are required to identify a specific number of locations with opportunities to install on-site treatment systems (e.g., detention basins, bioretention units, sand filters, infiltration basins, treatment wetlands) and assess the best treatment options for those locations.

### ***Diversion of Dry Weather and First Flush Flows to Publicly Owned Treatment Works ("POTW")***

Permittees are required to assess the feasibility of diverting flows to sanitary sewers to be treated by the local POTWs. Permittees are required to work with local POTWs on a watershed, program, or regional level on the feasibility and cost sharing agreements. Permittees are



required to implement flow diversion to sanitary sewer at the pilot pump stations, and monitor and measure PCB and mercury load reductions. Permittees are required to report details in the Annual Report.

***Fate and Transport Study of Mercury in Urban Runoff***

Permittees are required to conduct or cause to be conducted studies aimed at better understanding the fate, transport and biological uptake of mercury discharged in urban runoff to the Bay and tidal areas.

***Development of a Risk Reduction Program Implemented Throughout the Region***

Permittees are required to develop and implement or participate in effective programs to reduce mercury-related risks to humans and quantify resulting risk reductions.

***Develop Allocation Sharing Scheme with Caltrans***

Permittees are required to develop equitable mercury allocation-sharing scheme in consultation with Caltrans to address their facilities in the Program area.

***Mercury and Methylmercury Control within Central Valley Permit***

Permittees subject to the Central Valley permit are required to perform tasks including mercury collection and recycling; methylmercury monitoring; development of pilot projects to evaluate and enhance municipal sediment removal; methylmercury exposure reduction public education; outreach and participation; methylmercury control studies; and reporting.

**Polychlorinated Biphenyls (PCBs) Controls (San Francisco Bay Permit only)**

***Implement Project throughout Region to Incorporate PCBs and PCB-Containing Equipment Identification into Existing Industrial Inspections***

Permittees are required to develop training materials and train municipal inspectors to identify, in the course of their existing inspections, PCBs or PCB-containing equipment. Permittees are required to incorporate such PCB identification into industrial inspection programs. Where inspectors identify during inspections PCBs or PCB-containing equipment, the Permittees are required to document incidents in inspection reports and refer to appropriate regulatory agencies (e.g., county health departments, and the Department of Toxic Substances Control)

***Conduct Pilot Projects to Evaluate Managing PCB-Containing Materials and Wastes During Building Demolition and Renovation***

Permittees are required to develop a Sampling and Analysis Plan (SAP) to evaluate PCBs at construction sites that involve demolition activities, implement SAP at a minimum of 10 sites distributed throughout combined Permittee's jurisdictions, develop/select BMPs to reduce/prevent PCB discharges during demolition/remodeling, and develop model ordinances or policies, train and deploy inspectors and pilot test BMPs at a specified number of sites.

### ***Pilot Projects to Investigate and Abate On-Land Locations with Elevated PCBs***

Permittees are required to identify a specified number of pilot drainages in Bay Area with high PCBs, and interview municipal staff and review municipal databases, other agency files, and other available information to identify potential PCB source areas and areas where PCB-contaminated sediment accumulates, including within stormwater conveyances. Permittees are required to conduct reconnaissance surveys of the drainage and information concerning past or current use of PCBs to further identify potential source areas and determine whether runoff from such locations is likely to convey soils/sediments with PCBs to municipal storm drainage systems. Permittees are required to validate existence of elevated PCB concentrations through surface soil/sediment sampling and analysis where visual inspections and/or other information suggest potential source areas within each drainage. Where data confirm elevated PCB/Hg levels, Permittees are required to identify areas for expedited abatement on the basis of loading potential including factors such as PCB concentration, mass of sediment, and mobilization potential and/or human health protection thresholds, such as California Human Health Screening; and conduct an abatement program for portions of drainages under their jurisdiction in conjunction with Water Board and other appropriate agencies. Permittees are required to report on the identified suspect drainage area, of abatement program effectiveness and estimates of loads reduced in the Annual Report.

### ***Pilot Projects to Evaluate and Enhance Municipal Sediment Removal and Management Practices***

In the pilot drainages, Permittees are required to evaluate ways to enhance existing municipal sediment removal/management practices such as municipal street sweeping, curb clearing parking restrictions, inlet / catch basin cleaning, creek and storm drains. Based upon existing information, Permittees are required to evaluate the cost-effectiveness of high-efficiency street sweepers to reduce pollutant loads and develop recommendations for follow-up studies. Beginning July 1, 2011, Permittees are required to implement pilot studies in pilot drainages of the most potentially effective measure(s) based upon the above two evaluations.

### ***Conduct Pilot Projects to Evaluate On-Site Stormwater Treatment via Retrofit***

Permittees are required to identify a specified number of locations with opportunities to install on-site treatment systems (e.g., detention basins, bioretention units, sand filters, infiltration basins, treatment wetlands) and assess the best treatment options for those locations to address PCBs. Details of these pilot projects should be reported in the Annual Report.

### ***Diversion of Dry Weather and First Flush Flows to Publicly Owned Treatment Works ("POTW")***

Permittees are required to conduct a feasibility study on diverting flows to sanitary sewers to be treated by the local POTWs. Permittees are required to select a specified number of pump stations for diversion and alternates, construct diversion facilities at these locations, including design, permitting, and capital/construction. Permittees are required to monitor diversion and measure PCBs and mercury load reductions and include details in the annual Report.

Permittees are required to develop and implement a monitoring program as required in order to quantify PCBs loads and loads reduced through source control, treatment and other management measures implemented as part of the pilot studies.

***Fate and Transport Study of PCBs in Urban Runoff***

Permittees are required to conduct or cause to be conducted studies aimed at better understanding of the fate, transport and biological uptake of PCBs discharged in urban runoff.

***Development of a Risk Reduction Program Implemented Throughout the Region***

Permittees are required to develop and implement or participate in effective programs to reduce PCB-related risks to humans and quantify the resulting risk reductions from these activities.

**Copper Controls (San Francisco Bay Permit only)**

***Manage Waste Generated from Cleaning and Treating of Copper Architectural Features, Including Copper Roofs, during Construction and Post-Construction***

Permittees are required to ensure they have local ordinance authority to prohibit discharge of wastewater to storm drains generated from the installation, cleaning, treating, and washing of copper architectural features, including copper roofs, to storm drains. Permittees are required to develop BMPs to manage waste during and post construction, require use of BMPs when issuing building permits, educate installers and operators on appropriate BMPs, enforce against non-compliance, evaluate effectiveness of these measures and propose new measures and report in the Annual Report.

***Manage Discharges from Pools, Spas, and Fountains that Contain Copper-Based Chemicals***

Permittees are required to prohibit discharges to storm drains from pools, spas, fountains that contain copper-based chemicals.

***Vehicle Brake Pads***

Permittee are required to engage in efforts to reduce the copper discharged from auto brake pads by participating in the Brake Pad Partnership.

***Industrial Sources***

Permittees are required to identify facilities likely to use copper or have sources of copper (e.g., plating facilities, metal finishers, auto dismantlers) and include them in their inspections. Permittees are required to educate industrial inspectors on industrial facilities likely to use copper or have sources of copper and proper BMPs for them. As part of the inspection, Permittees are required to ensure that proper BMPs are in place, including consideration of roof runoff that might accumulate copper deposits from ventilation systems.

### ***Studies to Reduce Copper Pollutant Impact Uncertainties***

Permittees are required to conduct or cause to be conducted technical studies to investigate possible copper sediment toxicity and studies to investigate sub-lethal effects on salmonids.

### **Polybrominated Diphenyl Ethers (PBDE), Legacy Pesticides and Selenium (San Francisco Bay Permit only)**

#### ***Control Program for PBDEs, Legacy Pesticides, and Selenium***

Permittees are required to work with other stormwater management agencies to implement a plan to identify, assess and manage controllable sources of PBDEs, legacy pesticides, and selenium found in urban runoff, if any. The PBDEs/Legacy Pesticide/Selenium Plan are required to characterize the representative distribution of PBDEs, pesticides and selenium in the urban areas of the Bay region.

### **Exempted and Conditionally Exempted Discharges**

#### ***Exempted Non-Stormwater Discharges***

In carrying out Discharge Prohibition A.1, certain unpolluted non-stormwater discharges listed in the permit are exempted from the prohibition against non-stormwater discharges.

#### ***Conditionally Exempted Non-Stormwater Discharges***

Proposed new discharges of uncontaminated groundwater at flows of specified amounts or more and all new discharges of potentially contaminated groundwater are required to be reported to the Water Board so they can be subject to NPDES permitting requirements. Proposed new discharges of uncontaminated groundwater at flows of less than specified amounts are required to be encouraged to discharge to a landscape area or bioretention unit that is large enough to accommodate the volume. Permittees that are water purveyors are required to implement applicable permit provisions (i.e., BMPs, notification requirements, and monitoring and reporting requirements) for planned and unplanned discharges from potable water distribution systems. Permittees are required to implement or require fire fighting personnel to implement specified BMPs and procedures outlined in this provision for emergency discharges (i.e., firefighting, floods, unauthorized hydrant openings, natural or man-made disasters). Permittees are required to discourage through outreach efforts individual residential car washing. Permittees are required to encourage individuals that wash their own cars to direct car wash waters to landscaped areas, use as little detergent as necessary. Permittees are required to prohibit swimming pool, hot tub, spa, and fountain water discharges containing chlorine residua, copper, algacide, filter backwash or other pollutants. Permittees are required to require that new or rebuilt swimming pools, hot tubs, spas and fountains within their jurisdictions have a connection to the sanitary sewer to facilitate draining events. Permittees are required to improve their public outreach and education efforts to ensure implementation of required BMPs for commercial, municipal, and residential facilities (i.e.,

pools, hot tubs, spas and fountains). Permittees are required to implement the Illicit Discharge plans for polluted pool, hot tub, spa or fountain discharges into the storm drain. Permittees are required to promote measures that minimize runoff and pollutant loading from excess irrigation and report implementation in the Annual Report.

### ***Annual Reports***

Permittees are required to annually submit an Annual Report to the RWQCB recording water quality management efforts, with details as stipulated above.

## **VII. EXPIRATION DATES AND FUTURE PERMITS**

The San Francisco Bay Permit expires on November 30, 2014 and the Central Valley Permit expires on September 1, 2015. Future permits will replace these permits and this Clean Water fee may be used to fund new Permit requirements. Revenue from this Clean Water fee may be used to fund services and/or improvements that facilitate efficient implementation of future permit requirements. For example, both current Permits stipulate long term trash reduction requirements that extend more than five years beyond the expiration dates of the permits.

## **VIII. POTENTIAL FINES AND THIRD PARTY LAWSUITS**

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

## **2.0 COSTS AND BUDGET**

### **I. EXISTING COSTS**

Costs of existing Permittee program activities were obtained directly from each Permittee during late 2010 and early 2011. The consultant team met with each Permittee, obtained and reviewed local budget spreadsheets, conducted structured interviews with the Permittee staff, and discussed methods of implementing local activities mandated by the Permit. This work is documented in the Task #1/Task #2 Report.

### **II. ADDITIONAL COSTS FOR FULL COMPLIANCE WITH CURRENT PERMITS**

Costs associated with compliance with the current Permits were developed, task by task, by comparing each Permittee's costs with programs where staffing levels and costs fulfilled the Permit requirements. These datum staffing levels and costs were then scaled to each Permittee according to Permittee-specific attributes such as population, number of catchbasins maintained, retail/wholesale commercial acres, and trash hot spots. This work is documented in the Task #1/Task #2 Report.

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. Therefore, the estimate incorporates minimum staffing levels that, in municipal staff's view, constitute full implementation of the Permit's intent over the longer term.

### **III. COSTS ASSOCIATED WITH FUTURE PERMITS INCLUDING LONG TERM TRASH REDUCTION**

An additional cost factor has been added to finance future capital expenditures. Special consideration is directed to the current Permit requirements of a 70% trash load reduction from its storm drainage system by 2017, and 100% by 2022 for the San Francisco Bay Permit, as well as a 70% trash load reduction from its storm drainage system by 2018, and 100% by 2023 for the Central Valley Permit. It is anticipated that these requirements, along with other future Permit requirements including other Total Maximum Daily Load ("TMDL"), will have substantial costs. These costs were not included in the Task #1/Task #2 analyses, and as a result, have been added to the budget table.

#### **IV. WATERSHEDS**

The Permittees are organized into groups of watersheds. Watershed groups provide for an efficient and uniform approach to regional challenges, and education, as well as specific projects and improvements. Both the West and Central Watersheds are subject to the San Francisco Bay Permit and the East Watersheds are subject to the Central Valley Permit. Unincorporated Contra Costa County and the Contra Costa County Flood Control District are subject to both Permits according to geographical boundary.

##### West Watersheds

- Hercules
- Pinole
- Richmond
- San Pablo
- Unincorporated West Contra Costa County Communities

##### Central Watersheds

- Clayton
- Concord
- Danville
- El Cerrito
- Lafayette
- Martinez
- Moraga
- Orinda
- Pittsburg
- Pleasant Hill
- San Ramon
- Walnut Creek
- Unincorporated Central Contra Costa County Communities

##### East Watersheds

- Antioch
- Brentwood
- Oakley
- Unincorporated East Contra Costa County Communities

#### **V. BUDGET**

Detailed Budgets have been developed for each Permittee including program and local costs and revenue data, for both current and future costs. Detailed budget are included in the Task#1/Task #2 Report. Table 1 summarizes all costs by watershed.

**Table 1. Detailed Local Costs by Watersheds Group**

Watersheds	Local Program Administration and Outreach	Municipal Operations, Illicit Discharge, Pesticide Toxicity	Industrial and Commercial Site Controls	New Development Controls	Construction Site Controls	Trash Controls - Hot Spots	Trash - Planning & Fill Trash Capture	Estimated Dedicated Capital Costs including Long Term Trash Capture	Total
Central	\$3,865,039	\$3,737,827	\$419,479	\$130,236	\$156,588	\$50,439	\$1,779,129	\$5,958,238	\$16,096,975
East	\$1,351,079	\$2,013,725	\$88,798	\$35,307	\$66,625	\$17,460	\$364,419	\$2,266,325	\$6,203,738
West	\$1,333,206	\$1,084,718	\$87,736	\$42,732	\$45,405	\$11,640	\$332,593	\$3,746,329	\$6,684,359
Unincorporated County	\$1,236,566	\$1,121,265	\$172,078	\$11,033	\$14,853	\$21,339	\$833,867	\$2,797,250	\$6,208,251

Note that a cost component entitled “Estimated Dedicated Capital Costs including Long Term Trash Capture” has been included. This cost component represents costs associated with capital and other costs for compliance with special requirements primarily driven by Trash, Mercury and PCBs and other pollutants in the San Francisco Bay Permit, and Trash and Mercury in the Central Valley Permit. This component was not within the scope of the Task #1/Task#2 analysis but is critical cost for Permittees, and hence is included in this table. Actual costs for compliance with these and other special requirements have been conservatively estimated as up to 50% of annual costs, based on analysis of these costs for similar programs.

Budget Table 2 illustrates the “Total Additional Revenue Needed” as a subtraction of the dedicated SUA fee from the sum of the total program costs and total local costs for each watershed. This amount is compared with the revenue generated from the proposed Clean Water fee. For each watershed, the Clean Water fee revenue does not exceed the costs of services, and this shortfall will be funded from other sources. (This analysis was performed on the Permittee level and is displayed here, summarized by watershed.)

**Table 2. Costs vs. Revenues by Watersheds Group**

Watersheds	Total Current					Measured Single Family			Shortfall to be Funded from Other Sources (d-g)
	Total Program Costs (a)	Total Local Costs (b)	Total Costs (a+b)	Stormwater Utility Fee Revenue (c)	Total Additional Revenue Needed (d=a+b-c)	Clean Water Fee Rate (e)	Equivalent Units (f)	Fee Revenue (g=e*f)	
Central	\$2,375,908	\$16,096,975	\$18,472,883	\$8,598,123	\$9,874,760	\$22	232,072	\$5,105,592	\$4,769,168
East	\$761,125	\$6,203,738	\$6,964,863	\$1,682,322	\$5,282,541	\$12	76,020	\$912,236	\$4,370,305
West	\$737,344	\$6,684,359	\$7,421,703	\$1,068,931	\$6,352,772	\$19	65,370	\$1,242,028	\$5,110,743
Unincorporated County	\$729,206	\$6,208,251	\$6,937,457	\$2,842,506	\$4,094,951	\$19	78,857	\$1,498,291	\$2,596,660



## **3.0 ADMINISTRATION OF CLEAN WATER FEE**

### **I. INTRODUCTION**

The intent of the Clean Water fee is to fund water quality improvements required by the applicable San Francisco Bay and Central Valley Municipal Regional Permits, and subsequent Permits, as applicable. This Clean Water fee is intended to be focused in its use to fund water quality improvements while providing flexibility to respond to potential requirements and/or strategy modifications. Accordingly, specific administrative elements are incorporated into the Clean Water fee, as listed below.

### **II. ADMINISTRATIVE ELEMENTS**

#### **Annual Fee Report**

In each subsequent year in which the Clean Water fee may be levied, an updated annual Fee Report, including a proposed budget and Clean Water fee rate, shall be prepared. The updated annual Fee Report shall serve as the basis for the continuation of the Clean Water fee and for any proposed cost-of-living adjustment. The updated annual Fee Report shall be presented to the Board each year.

#### **Fiscal Controls Including Clean Water fee Expiration**

All revenues from the proposed Clean Water fee will be spent only to fund the Services. One hundred percent of all Clean Water fee revenues collected will be used in the city, town or unincorporated area from which the revenues were collected. The Clean Water fee will expire after ten years.

#### **Cost-of-Living Adjustment Mechanism**

If approved by property owners, the Clean Water fee shall be imposed annually. The Clean Water fee may be adjusted in future years by an amount equal to the annual change in the Consumer Price Index for All Urban Consumers in the San Francisco Bay Area, not to exceed 2% (two percent) per year without a further vote or balloting process. Under no circumstances, can the cost of living adjustment be put in place without the proposed modification of the Clean Water fee being described in the annual Fee Report and placed on the agenda of this Board's regular meeting with an opportunity for public input and discussion.

#### **Mandatory Annual Audits**

An annual review shall be performed by the County Auditor to ensure accountability and proper disbursement of the proceeds in accordance with the objectives stated herein.

#### **Independent Citizens' Oversight Committee**

The District shall create an Independent Citizens' Oversight Committee ("Committee") to review the Annual Audit, the annual Fee Report and other records of how revenue generated by this Clean Water fee has been spent in order to ensure that such revenues have been spent only for the Services. The

Committee will be comprised of seven members of the public who own property subject to the Clean Water fee and will be comprised of citizens representing the broad perspective of Contra Costa County. The Committee will not have independent legal capacity. The Committee shall be deemed to be subject to the Ralph M. Brown Act (Gov. Code, § 54951 et seq.) and shall comply with all requirements of the Act. The District shall provide necessary administrative support to the Committee as shall be consistent with the Committee's purposes. To carry out its stated purposes, the Committee shall perform the following duties:

(a) Inform the Public: The Committee shall inform the public and the Board concerning the expenditure of Clean Water fee revenues.

(b) Review Expenditures: The Committee shall review expenditure reports and relevant documents produced by the District to ensure that Clean Water fee revenue was expended only for the Services; and

(c) Annual Committee Report and Presentation: The Committee shall present to the Board, in public session, at a regularly scheduled meeting, an Annual Committee Report.

#### **Allocation of Revenues**

All Clean Water fee revenues received by the District will be returned to the city, town or unincorporated County area from which they were collected.

#### **Terms of Use of Revenues**

All Clean Water fee revenues received by the District will be used to pay the costs of the Services.

#### **Appeals**

If a property owner disagrees with the calculation of his or her Clean Water fee, based on the property type, parcel area or impervious area assigned to the property, then the property owner may appeal the Clean Water fee calculation as follows:

A. The property owner must provide documentation to District staff, including, but not limited to:

- (1) The name, phone number and mailing address of the property owner.
- (2) The Assessor's Parcel Number of the property subject to the Clean Water fee review.
- (3) The reason why the property owners think the Clean Water fee should be revised.

B. District staff or its designee will contact the property owner if additional information is required.

C. After District staff or its designee has determined that sufficient documentation and information has been provided by the property owner, District staff or its designee will review the documentation and determine whether the Clean Water fee amount will be revised. Such determination will be made within four weeks from the date sufficient documentation was provided by the property owner.

D. If District staff determines that the Clean Water fee amount should be revised, District staff will revise the Clean Water fee amount.

E. If District staff determines that the Clean Water fee amount should not be revised, the property owner may appeal the determination to the District Chief Engineer. The District Chief Engineer will make his or her decision within four weeks of the appeal. Such decision will be final.

F. Any appeal under this section is limited to correction of a Clean Water fee during the current fiscal year and no more than the previous past two fiscal years.

**Special Account.** The District shall deposit into a special account(s) all Clean Water fee revenues collected by the County and shall appropriate and expend such funds only for the purposes authorized by this resolution.

**Terms of Clean Water fee Imposition.** The Clean Water fee shall be imposed for a term not to exceed 10 years from fiscal year 2012-13 through, and including fiscal year 2021-22.

## **4.0 FEE METHODOLOGY**

### **I. INTRODUCTION TO SINGLE FAMILY EQUIVALENT FEE UNITS**

Article XIID of the California Constitution requires that the proposed Clean Water fee support a “property-related service” as “a public service having a direct relationship to property ownership.” The clean water services to be funded by the proposed Clean Water fee directly relate to property ownership, and are individually calculated in proportion to specific, relevant attributes of each property. The Clean Water fee methodology is based on the proportional cost of service received by each property, in relation to a benchmark single family home, expressed on the basis of a Single Family Equivalent (“SFE”) or Fee Unit. For the purposes of this Fee Report, all properties are designated a Clean Water fee rate that is proportional to a SFE, which is each property's relative cost of service in relation to a single family home on the median sized residential parcel. The “benchmark” property is the most common parcel type in the County, which is a single family detached dwelling of the median size and impervious area representing one Single Family Equivalent (SFE).

### **II. PERVIOUS VERSUS IMPERVIOUS AREAS**

The primary attribute which correlates with the Clean Water fee is impervious area. The amount of impervious area represents two primary contributions to site water runoff: 1.) Hydrologic principles assert that the conversion of a natural, pervious surface to an impervious surface affects surface water runoff rates and volumes. Water on an impervious surface is unable to infiltrate into the natural ground and travels across the surface at a greater rate. 2.) The use of, and activities associated with, improved, typically impervious land, contributes to the generation of pollutants that are carried in water runoff.

The relative impervious area of a parcel varies depending on the land use and size of the parcel. The California Attorney General and Courts in *Howard Jarvis Taxpayers Association v. City of Salinas* and *Howard Jarvis Taxpayers Association v. City of Roseville* and have clearly established a nexus between imperviousness and property related fees for storm drainage services, programs and improvements, including clean water and pollution control services and facilities.

The methodology for the proposed Clean Water fee relies upon imperviousness factors that have been calculated for each parcel in Contra Costa County. SCI has performed extensive analysis on parcels throughout the Contra Costa County to confirm this methodology and to calculate appropriate imperviousness factors.

### **III. IMPERVIOUS AREAS ASSOCIATED WITH LAND USES AND SIZES**

Parcels of similar use and size contribute similar impacts to water quality and, as such, will receive similar water quality management services from the Clean Water fee. Two parcels of

differing size and use will have differing impacts and require differing types of services. The differing impacts, or types of service, can be correlated by the amount of impervious area on each parcel. By quantifying the impervious area of one parcel land use in proportion to other parcel land uses, a quantitative relationship can be established.

For example, parcels of a unique land use, such as duplexes, share common activities, typical impervious areas and similar parcel sizes. Conditions such as these allow the land use to be considered generally consistent on a per parcel basis. Other parcel use types, such as parking lots, share common activities and relative percent impervious area, while the parcel size can vary greatly. In these cases, the service can be provided on a per area basis. SCI performed an extensive study of impervious areas by property type for over 3,800 randomly selected parcels throughout the County. The extensive nature of this study ensures that the parcel impervious area findings are accurate for each property type.

#### **IV. EXPLANATION OF SUPPORTING IMPERVIOUS ANALYSIS**

As noted above, to establish the appropriate Clean Water fee for each parcel, an analysis of parcel imperviousness was performed to quantitatively measure the proportionality of services received. A statistical analysis was employed that randomly sampled the entire County to determine common imperviousness characteristics.

The analysis was performed using a database of the County's current parcel records that included over 368,000 parcels. Each parcel record includes information specific to it such as land use, parcel size, building size, and number of units. From the data base, a data set was created from a random selection of parcels grouped by land use. For each parcel randomly selected, the impervious area was measured, primarily based upon aerial photographic imagery. The measured impervious area was then compared to the measured total parcel area to establish the relative imperviousness. The relative imperviousness for each land use type was analyzed, to establish the relative median value and standard deviation. When establishing the land use groups, the median parcel size, median impervious area and median relative (percent) impervious was used.

The median value was utilized for distributions to address statistical outliers. In the case of relative imperviousness and parcel sizes, a skewed distribution is inherent to its characteristics. Additionally it can be expected that some errors and inaccuracies of the parcel size or land classification can occur in records and/or measurements. The analyzed data sets were relatively large, and the data was audited to reduce errors. The outliers with extreme or erroneous results, such as those with over 100% imperviousness, were eliminated.

The sample set size collected was large enough to provide a 95% certainty of a margin of error less than 5% with for residential properties and less than 10% for most other land use types. In significant residential property types, a lower margin of error was achieved because the large number of parcel type within the County. In many cases the size of the sample set exceeded

over 100 parcels for a particular land use. In all, over 3,800 parcels were evaluated to establish land use group characteristics such as median parcel size, median impervious area and median percent impervious. The following table provides the findings of the statistical analysis.

**Table 3. Statistical Analysis Results**

Land Use Description	Total Parcels in County	Samples Analyzed	Margin of Error	Median Parcel Size [sqft]	Median Impervious Area [sqft]	Median Percent Impervious [%]
Single Family Residences						
Parcels less than 5,000 sqft	40,825	386	5.0%	4,356	2,274	55%
Parcels between 5,000 sqft - 21,780 sqft	205,301	504	4.4%	9,583	4,349	45%
Parcels greater than 21,780 sqft	21,767	577	4.0%	33,106	7,912	22%
Multifamily Buildings (Duplex, Triplex, Quad, etc.)	5,353	350	5.1%	5,200	3,477	61%
Condominium Unit	50,366	221	6.6%	1,242	1,965	n/a
Improved Agriculture Land	432	96	8.8%	1,436,609	8,035	1%
Apartment Buildings	1,884	287	5.3%	11,900	9,592	78%
Parking and Storage	1,512	247	5.7%	11,326	25,672	87%
Commercial	5,833	498	4.2%	21,780	17,252	85%
Office	2,556	243	6.0%	19,602	13,595	78%
Institutional	791	91	9.7%	87,076	52,397	56%
Industrial	167	60	10.2%	1,886,366	1,313,709	55%
General Service Use (Paved Trails, Accessories, etc.)	1,407	125	8.4%	n/a	n/a	16%
Low Density Use (Golf Courses, Cemeteries, etc.)	1,104	257	5.4%	n/a	n/a	3%

The standard Clean Water fee rate is based upon the most common parcel type, which is a single family residence with a parcel size between 5,000sqft and 21,780sqft. Properties of this land use type and parcel size range have similar cost of service from the Clean Water fee because they generate similar quantities of water runoff and justify a similar allocation of costs for the proposed clean water services and improvements. This Single Family Residence is

established as the benchmark for services received, referred to as the Single Family Equivalent (SFE). All other land use types are prescribed a Clean Water fee rate that is proportional to the SFE Formulas developed to calculate the Clean Water fee Rate for each parcel land use. These formulas are expressed below, demonstrating how the Clean Water fee rate is calculated for each parcel relative to the Single Family Equivalent of 1.0 for a benchmark single family home parcel.

The Single Family Residence, Benchmark Parcel Size Range:

$$SFR = 1 \text{ SFE/Parcel}$$

$$FeeRate_{SFR} = 1 \text{ SFE/Parcel}$$

The Clean Water fee rate formulas for parcel land use groups calculated on a per parcel basis:

$$FeeRate_p = k_p * SFR$$

$$FeeRate_p = \frac{\text{med. Imp. } A_p}{\text{med. Imp. } A_{SFR}} * SFR$$

The Clean Water fee rate formulas for parcel land use groups calculated on a per acre basis:

$$FeeRate_a = k_a * SFR$$

$$FeeRate_a = \frac{1 \text{ Parcel}}{\text{med. } A_{SFR}} * \frac{\text{med. \%Imp.}_a}{\text{med. \%Imp.}_{SFR}} * SFR$$

Symbology:

*SFR = Single Family Residence*

*SFE = Single Family Equivalent*

*p = subscript for Parcel Use Type Group calculated on a per parcel basis*

*a = subscript for Parcel Use Type Group calculated on a per acre basis*

*FeeRate<sub>x</sub> = Fee Rate of Use Type Group a or p*

*k<sub>x</sub> = proportional factor for Use Type Group a or p*

*med. Imp. A<sub>x</sub> = Median Impervious Area*

*med. %Imp.<sub>x</sub> = Median Percent Impervious*

## V. SCHEDULE OF SINGLE FAMILY EQUIVALENT FEE UNITS

The following table summarizes the Clean Water fee rates assigned to the parcel land use groups using the Clean Water fee rate formulas and statistical analysis results provided in table,

below. Individual parcel Clean Water fees will be calculated based on SFEs multiplied by the watershed group rate of \$19.00 per year for West Watershed \$22.00 per year for Central Watersheds and \$12.00 per year for East Watersheds. Clean Water fees for parcels in unincorporated Contra Costa County will be calculated as SFEs multiplied by \$19.00 per year.

**Table 4. Single Family Equivalent Schedule**

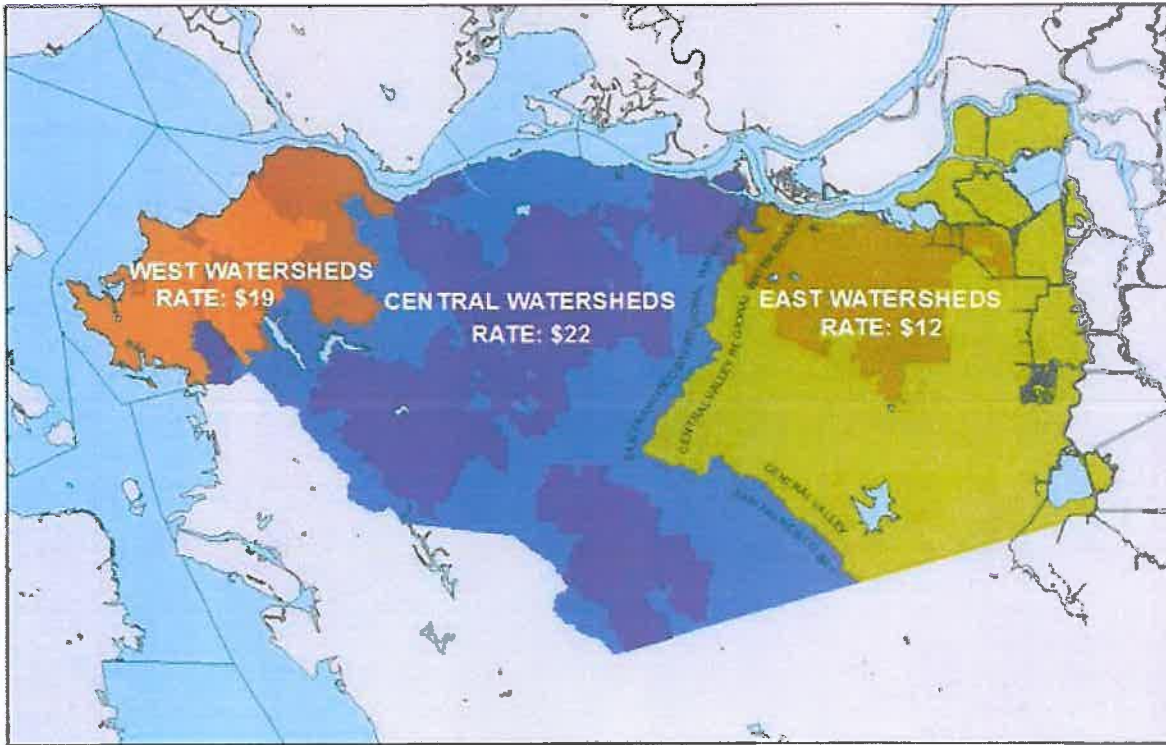
Land Use Description	SFE Fee Rate	Units
Single Family Residences		
Parcels less than 5,000 sqft	0.5	per parcel
Parcels between 5,000 sqft - 21,780 sqft	1.0	per parcel
Parcels greater than 21,780 sqft	1.8	per parcel
Multifamily Buildings (Duplex, Triplex, Quad, etc.)	0.8	per parcel
Condominium Unit	0.5	per parcel
Improved Agriculture Land	1.8	per parcel
Apartment Buildings	7.9	per acre
Parking and Storage	8.8	per acre
Commercial	8.6	per acre
Office	7.9	per acre
Institutional	5.6	per acre
Industrial	5.5	per acre
General Service Use (Paved Trails, Accessories, etc.)	1.6	per acre
Low Density Use (Golf Courses, Cemeteries, etc.)	0.3	per acre



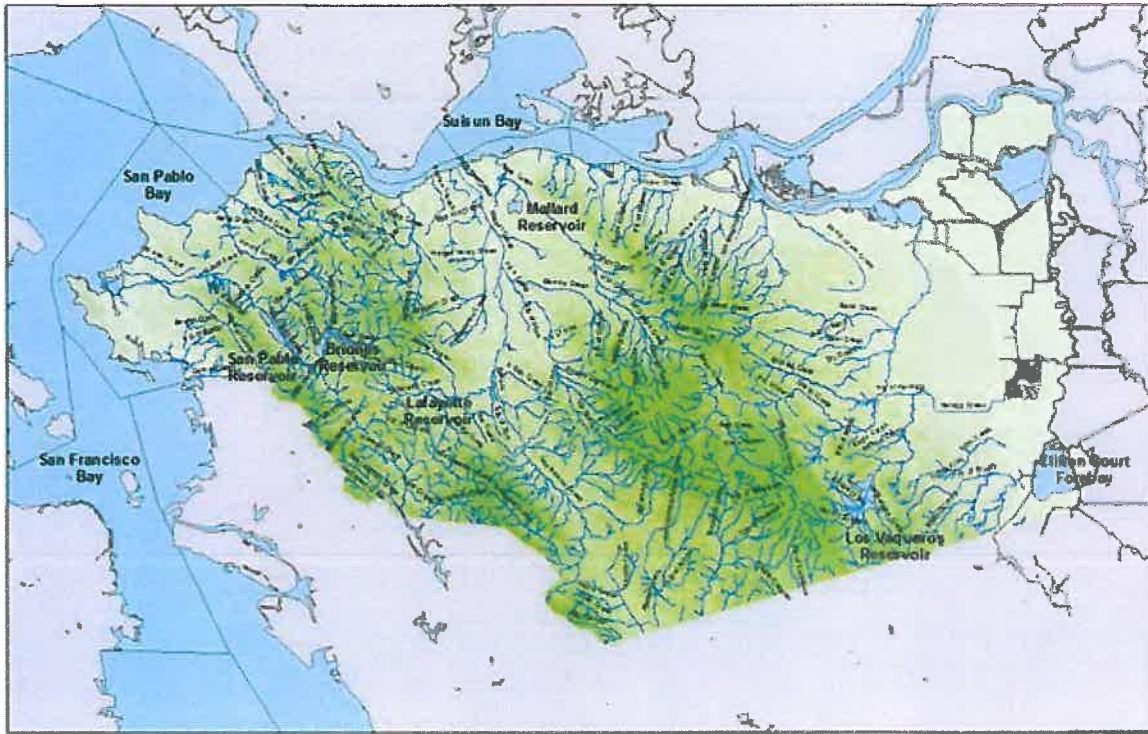
## 5.0 SUPPORTING DIAGRAMS AND ADDITIONAL DATA

### MAPS AND DIAGRAM

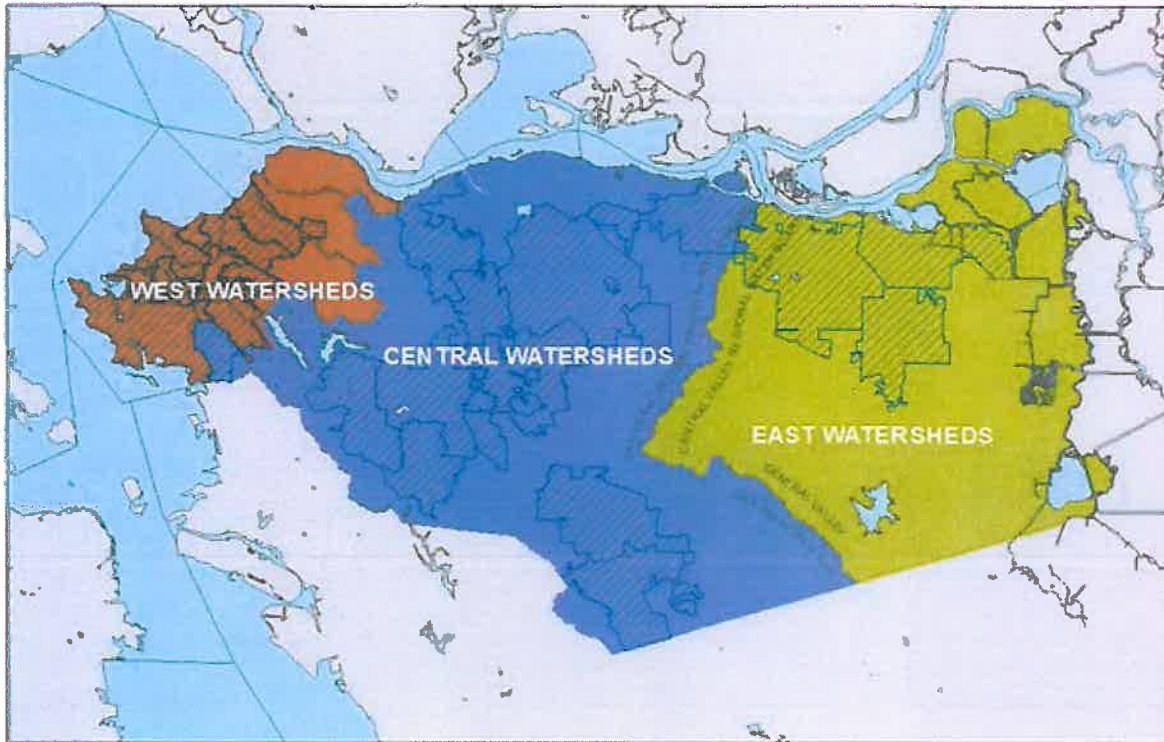
**WATERSHEDS AND RATE ZONES**



## WATER BODIES AND CREEKS



## WEST, CENTRAL & EAST WATERSHEDS



### I. DATA USED TO CALCULATE IMPERVIOUS AREA

The data collected and used for the Impervious Analysis is assembled in the Impervious Analysis Data Report by SCI Consulting Group and is incorporated herein by reference.

### II. CLEAN WATER FEE PARCEL DATA

The specific Clean Water fee data set is too large to include in a tabular form within this Fee Report and is incorporated herein by reference. An electronic version of the data has been submitted to the Clean Water Program.