

12/06/2019 FRI 16:10 FAX

0001/001

CITY OF  
**ANTIOCH**  
CALIFORNIA

**CALL OF SPECIAL MEETING**

Antioch City Council  
Special Meeting

Pursuant to Government Code section 54956, I hereby call a Special Meeting of the Antioch City Council. Said meeting shall be held on the following date, time and place:


DATE: Tuesday, December 10, 2019

TIME: 5:15 P.M. Special Meeting

PLACE: Antioch Community Center  
4703 Lone Tree Way  
Antioch, CA 94531

The only items of business to be considered at such special meeting shall be set forth on the Special Meeting Agenda.

Dated: December 6, 2019



SEAN WRIGHT, Mayor  
City of Antioch



## **ANNOTATED AGENDA**

### **Antioch City Council SPECIAL MEETING**

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Date: **Tuesday, December 10, 2019**

Time: 5:15 P.M. – Special Meeting

Place: **ANTIOCH COMMUNITY CENTER**  
4703 Lone Tree Way  
Antioch, CA 94531

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**5:16 P.M. ROLL CALL** for Council Members –*Council Members Wilson, Thorpe, Ogorchock and Mayor Wright (Council Member Motts arrived at 5:18 p.m.)*

#### **PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS** – *None*

#### **COUNCIL REGULAR AGENDA**

1. ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE WRITTEN RESPONSE TO GRAND JURY REPORT NO. 1907 "STORMWATER REDUCTION – ARE WE DOING ALL THAT WE CAN?"

***Reso No. 2019/184 adopted, 5/0***

Recommended Action: It is recommended that the City Council adopt a resolution authorizing the City Manager to sign the written response to Grand Jury Report No. 1907 "Stormwater Reduction – Are We Doing All That We Can?".

**MOTION TO ADJOURN** – *The Mayor will make a motion to adjourn the meeting. A second of the motion is required, and then a majority vote is required to adjourn the meeting.*

***Motioned to adjourn meeting at 5:24 p.m., 5/0***


In accordance with the Americans with Disabilities Act and California law, it is the policy of the City of Antioch to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact the ADA Coordinator at the number or address below at least 72 hours prior to the meeting or when you desire to receive services. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. The City's ADA Coordinator can be reached @ Phone: (925) 779-6950, and e-mail: [publicworks@ci.antioch.ca.us](mailto:publicworks@ci.antioch.ca.us).

CITY OF  
**ANTIOCH**  
CALIFORNIA

**STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Special Meeting of December 10, 2019

**TO:** Honorable Mayor and Members of the City Council

**SUBMITTED BY:** Ron Bernal, City Manager 

**SUBJECT:** Adopt a Resolution Authorizing the City Manager to Sign the Written Response to Grand Jury Report No. 1907 "Stormwater Reduction - Are We Doing All That We Can?"

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**RECOMMENDED ACTION**

It is recommended that the City Council adopt a resolution authorizing the City Manager to sign the written response to Grand Jury Report No. 1907 "Stormwater Reduction - Are We Doing All That We Can?", which is attached as Exhibit 1 to Attachment B.

**FISCAL IMPACT**

There is no fiscal impact associated with this action.

**DISCUSSION**

The California Constitution establishes grand juries in each county. The California Penal Code includes provisions on the formation of grand juries and their powers and duties. With respect to public agencies, grand juries are authorized to "investigate and report on the operations, accounts, and records of the officers, departments, functions, and the method or systems of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit." (Cal. Penal Code section 925a) Within 90 days after the grand jury submits a report regarding the operations of any public agency, the "governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body . . ." (Cal. Penal Code section 933(c)). The response to this report will be delivered outside of the 90-day window. As a result, staff has been in regular contact with the administrative representative for the Grand Jury to make them aware of our anticipated timing for delivery.

Antioch (as well as other public agencies in the County) received the attached Grand Jury Report No. 1907 "Stormwater Reduction - Are We Doing All That We Can?" (Attachment A). The federal Clean Water Act, as amended by the Water Quality Act of 1987, requires permits for stormwater discharges from municipal systems to prevent stormwater from washing harmful pollutants into waterways. Under the Clean Water Act, these discharges are considered to be significant contributors of pollutants to

waters of the United States. Discharges from stormwater systems operated by the County and each of its 19 cities and towns are also subject to the requirements of the Clean Water Act.

The Clean Water Act is enforced locally by the San Francisco Regional Water Quality Control Board ("**Water Board**") through a Municipal Regional Stormwater Permit ("**Permit**"), issued in 2015. In February 2019, the cities of Antioch, Brentwood, and Oakley and the eastern portion of Contra Costa County were formally added to the Permit.

Under the Permit, cities, towns, and counties are required to prohibit the discharge of materials other than stormwater into storm drain systems and watercourses. Each city, town, and county are individually responsible for complying with the Permit requirements to meet their pollution reduction goals. The Permit allows cities, towns, and counties to collaborate in designing, developing, and implementing new solutions to reduce stormwater pollution.

The Permit includes stormwater management regulations for the following: trash reduction, new real estate development and redevelopment, illicit discharge, and public information and outreach. The Permit also regulates stormwater from industrial and commercial sites, construction sites, pesticides, mercury, PCB's, and copper.

Cities, towns, and the County get credit toward their percent trash reduction by reducing the amount of trash discharged from their storm sewer systems. They accomplish this primarily by installing and maintaining trash capture devices which separate trash from entering a stormwater system and waterways. They can also take steps to control trash at its source by limiting businesses from providing plastic straws, plastic bags, and/or Styrofoam cups, bowls, plates, takeout containers, and serving trays. For these source control programs, there is a maximum of 10% credit available under the Permit.

This report examines how the County, its cities, and towns are performing with regard to the Permit's trash reduction goals. The investigation revealed that most of the cities and towns in the County are on target to achieve the 80% trash reduction goal.

The attached draft response (Exhibit 1 to Attachment B) is presented for the City Council's consideration to authorize the City Manager to sign the written response the Grand Jury report.

#### **ATTACHMENTS**

- A. Resolution  
Exhibit 1 - Letter
- B. Grand Jury Report

RESOLUTION NO. 2019/\*\*\*

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH  
AUTHORIZING THE CITY MANAGER TO SIGN THE WRITTEN RESPONSE  
TO GRAND JURY REPORT NO. 1907 "STORMWATER REDUCTION -  
ARE WE DOING ALL THAT WE CAN?"**

**WHEREAS**, the City received Grand Jury Report No. 1907 "Stormwater Reduction - Are We Doing All That We Can?" dated June 4, 2019;

**WHEREAS**, a written response to the Grand Jury Report is required under California Penal Code; and

**WHEREAS**, a written response to the Grand Jury Report has been drafted and reviewed by the City Council.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Antioch hereby authorizes the City Manager to sign the written response to Grand Jury Report No. 1907 "Stormwater Reduction - Are We Doing All That We Can?" which is attached to this Resolution as "Exhibit 1".

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a Special Meeting thereof, held on the 10<sup>th</sup> day of December 2019, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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**ARNE SIMONSEN, CMC  
CITY CLERK OF THE CITY OF ANTIOCH**



December 11, 2019

Via US Mail and Email: [ctadmin@contracosta.courts.ca.gov](mailto:ctadmin@contracosta.courts.ca.gov)

Mr. Richard Nakano, Foreperson  
 Contra Costa County Civil Grand Jury  
 725 Court Street  
 P.O. Box 431  
 Martinez, CA 94553

**Regarding: Response to Grand Jury Findings and Recommendations Concerning Report 1907  
 "Stormwater Reduction - Are We Doing All That We Can?"**

Dear Mr. Nakano:

In response to your request and pursuant to Section 933.05 of the California Penal Code, the City of Antioch ("**Antioch**" or "**City**") is submitting responses to **Findings 2, 6, 8, and 9** and **Recommendations 2, 3 and 4** in Grand Jury Report 1907.

**I. RESPONSES TO GRAND JURY FINDINGS 2, 6, 8, AND 9**

**Finding 2**

*"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 21, 2019."*

**Response: The City of Antioch agrees with this finding.**

**Finding 6**

*"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."*

**Response: The City of Antioch agrees with this finding.**

**Finding 8**

*"Caltrans reports that highways and ramps along portions of Highways 4 and 24,*



#### **Finding 8**

"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."

#### **Response: The City of Antioch partially disagrees with this finding.**

The Grand Jury Report references a table taken from the Caltrans, Trash Load Reduction Workplan for the San Francisco Bay Region, 2016, which indicated the locations of highway ramps with high trash levels; however, none of the ramps listed are within the City of Antioch. The Grand Jury Report also referenced a letter dated November 7, 2018, that was apparently co-signed by Antioch, urging the Water Board to take enforcement action against CalTrans; however, a copy of that letter could not be located and verified. While we understand and agree that trash can accumulate on highways and on/off ramps owned and operated by CalTrans, not all the facts of this finding apply to Antioch. The City is, however, pursuing a partnership with CalTrans to install trash capture devices in order to meet both agencies' reduction requirements.

#### **Finding 9**

*"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."*

#### **Response: The City of Antioch partially disagrees with this finding.**

While Antioch agrees there is no narrative summary provided in the annual reports, there is also no provisional requirement to do so. More importantly, the annual report form is developed in collaboration with all 76 regional municipal stormwater permittees through the Bay Area Stormwater Management Agencies Association (BASMAA) and ultimately approved by the Water Board. Modifying the report format would require a majority consensus of all involved. The City of Antioch already presents a narrative summary covering those items during (1) the annual fiscal year budget period and (2) when establishing the Stormwater Utility Assessment (SUA), which is the mechanism for securing stormwater funding in Contra Costa County.

## **II. RESPONSES TO GRAND JURY RECOMMENDATIONS 2, 3, AND 4**

### **Recommendation 2**

*"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."*

**Response. The recommendation requires further analysis.**

The City of Antioch will need to fully analyze and evaluate the impacts of implementing this type of ordinance. As presented in the Grand Jury Report, trash comes in many different forms and from many different sources. Focusing on one specific source ban is not a feasible solution to achieve mandatory trash reduction requirements, or even potential credits, especially when its replacement could be discarded in the same manner. Like the Statewide plastic bag ban, single-use container bans, regardless of the material used, should be considered and addressed regionally or statewide. A standardized State ban would be far more effective than having ordinances implemented piecemeal, which could vary greatly from city to city.

Because of limited staffing, resources, and a short timeline, the City cannot commit to a deadline of June 30, 2020, as recommended. Additionally, the current Municipal Regional storm water permit (MRP) expires in December 2020 and language for a new MRP is currently being negotiated, with a tentative implementation date of Spring 2021. Therefore, implementing and providing feedback on effectiveness for one specific trash source control measure in order to potentially receive trash reduction credits prior to the current MRP ending, is not feasible. It is also unclear if those same trash source control credits specifically for this source control measure will be carried into the new permit. The City has been participating in the new permit negotiations and will begin evaluating available trash credits when they are ratified in the new MRP, which could include Styrofoam.

### **Recommendation 3**

*"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."*

**Response. This recommendation will not be implemented because it is not warranted or it is not reasonable.**

The annual report format is prepared collaboratively by a BASMAA workgroup and reviewed and approved by Regional Water Board staff. Therefore, this recommendation not only affects the cities within Contra Costa and the County, but all 76 municipalities under the storm water permit. Changes to that format would require consensus of many parties. In addition, the City of Antioch already includes a narrative summary in its Annual Fiscal Year Budget which presents accomplishments, challenges, costs and possible future funding needs for storm water. This information is also presented to Council in the annual establishment of the City's Stormwater Utility Assessment, which is the mechanism in which storm water funding is secured.



**Recommendation 4**

*"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."*

**Response. The recommendation has been implemented.**

As an effort to increase funding to meet increasingly stringent storm water regulations, a countywide ballot measure was conducted in 2012. The measure was sponsored and funded by the Contra Costa Clean Water Program, which the City of Antioch is a member; however, it failed by a 60% "No" response. The City of Antioch continues to pursue other funding opportunities through state and federal grants, loans, and other mechanisms. Antioch has and continues to work with other cities and agencies, like BASMAA and CASQA, both regionally and statewide to encourage and propose legislation on storm water funding options.

Thank you for the opportunity to respond to the Civil Grand Jury's recent Report No 1907.

Sincerely,

Ron Bernal  
City Manager

## Grand Jury

Contra  
Costa  
County

725 Court Street  
P.O. Box 431  
Martinez, CA 94553-0091

June 4, 2019

City of Antioch  
P.O. Box 5007  
Antioch, CA 94531-5007

Dear City of Antioch:

Attached is a copy of Grand Jury Report No. 1907, "Stormwa  
2019 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933 et seq., we are submitting this report to you as the officer, agency or department responsible for responding to the report. As the responding person or person responding on behalf of an entity, you shall report one of the following actions in respect to each finding:

- (1) You agree with the finding.
- (2) You disagree with the finding.
- (3) You partially disagree with the finding.

(Pen. Code, § 933.05(a).) In the cases of both (2) and (3) above, you shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons thereof.

In addition, Section 933.05(b) requires you to reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.



**Response Required**

Contra  
Costa  
County



**Anne Granlund**

Foreperson of the Civil Grand Jury  
2019 - 2020

(925) 330-4852

agran@contracosta.courts.ca.gov

P.O. Box 431

Martinez, CA 94553-0091

www.cc-courts.org/grandjury

After reviewing your response to ensure that it includes the above-noted mandated items, please send (1) a hard copy of the response to the Grand Jury at P.O. Box 431, Martinez, CA 94553; and (2) a copy in Word by e-mail to [ctadmin@contracosta.courts.ca.gov](mailto:ctadmin@contracosta.courts.ca.gov). Your response must be submitted to the Grand Jury, in the form described by the above-quoted Government Code, no later than **September 6, 2019**.

Finally, please note that this report is being provided to you at least two working days before it is released publicly. Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release.

Please immediately confirm receipt of this letter and the attached report by responding via e-mail to [ctadmin@contracosta.courts.ca.gov](mailto:ctadmin@contracosta.courts.ca.gov).

Sincerely,

Richard S Nakano, Foreperson  
2018-2019 Contra Costa County Civil Grand Jury

cc: Ron Bernal, City Manager

**A REPORT BY  
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY  
725 Court Street  
Martinez, California 94553**

**Report 1907**

# **Stormwater Trash Reduction**

**Are We Doing All That We Can?**

APPROVED BY THE GRAND JURY

Date MAY 22, 2019



RICHARD S. NAKANO  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date MAY 23 2019



ANITA SANTOS  
JUDGE OF THE SUPERIOR COURT

Contact: Richard S. Nakano  
Foreperson  
925-522-6941

Contra Costa County Grand Jury Report 1907

**Stormwater Trash Reduction**

Are We Doing All That We Can?

**TO: Contra Costa County Board of Supervisors;  
City/Town Councils of: Antioch, Brentwood, Clayton, Concord,  
Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga,  
Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond,  
San Pablo, San Ramon, Walnut Creek**

**SUMMARY**

What is being done about the discarded paper, plastics, and other unwanted junk that ends up along our local streets, freeways, and public areas? This trash is polluting our local creeks, rivers, the San Francisco Bay, and the ocean itself. Is anything being done to fix this regional problem that has global implications? What more can we do as citizens, cities, and Contra Costa County (the County) to help keep our waterways clean?

The federal Clean Water Act, as amended by the Water Quality Act of 1987, requires permits for stormwater discharges from municipal systems to prevent stormwater from washing harmful pollutants into waterways. Under the Clean Water Act, these discharges are considered to be significant contributors of pollutants to waters of the United States. Discharges from stormwater systems operated by the County and each of its 19 cities and towns are also subject to the requirements of the Clean Water Act.

The Clean Water Act is enforced locally by the San Francisco Regional Water Quality Control Board (Water Board) through a Municipal Regional Stormwater Permit (Permit), issued in 2015. This Permit requires Contra Costa County and its cities and towns, along with other cities and the counties of Alameda, San Mateo, and Santa Clara, to reduce trash discharged from their storm sewers. Under the Permit, cities, towns, and counties are required to reduce their trash discharged by storm sewers by 80% from 2009 base levels by July 1, 2019. Cities and counties are required to prepare detailed

annual reports that document their trash abatement performance.

Cities, towns, and the County get credit toward their percent trash reduction by reducing the amount of trash discharged from their storm sewer systems. They accomplish this primarily by installing and maintaining trash capture devices which separate trash from entering a stormwater system and waterways. They can also take steps to control trash at its source by limiting businesses from providing plastic straws, plastic bags, and/or Styrofoam cups, bowls, plates, takeout containers, and serving trays. For these source control programs, there is a maximum of 10% credit available under the Permit.

The California Department of Transportation (Caltrans) also owns, operates, and maintains significant storm sewer systems within the County. Under a separate permit, Caltrans is also required to implement control measures in all of its high-trash-generating areas. These include freeways and ramps in high density residential, commercial, and industrial areas. The Water Board recently issued an enforcement order against Caltrans to increase its trash cleanup efforts on Bay Area highways, or face heavy fines.

This report examines how the County, its cities, and towns are performing with regard to the Permit's trash reduction goals. Our investigation revealed that most of the cities and towns in the County are on target to achieve the 80% trash reduction goal.

The cities of Hercules and Pinole are underperforming toward achieving this 80% goal. The Grand Jury recommends that the cities of Hercules and Pinole consider taking steps to improve performance to comply with required trash reduction goals by installing trash capture devices and instituting source control programs.

The Grand Jury also recommends that cities, towns, and the County consider publishing annual reports in summary form, citing accomplishments and challenges, including the costs and funds needed to comply with the Permit requirements. One solution is to prevent the generation of pollution at its source. This includes limiting the use of Styrofoam cups, bowls, plates, and takeout containers.

Cities, towns, and the County should consider identifying additional revenue sources to fully fund Permit requirements in order to comply with the Permit and avoid potential liability.

## **METHODOLOGY**

In the course of its investigation, the Grand Jury:

- Examined how the County and its cities and towns are performing with regard to their trash reduction mandates
- Explored how Permit compliance information is communicated to the citizens and elected officials in Contra Costa County

- Interviewed staff from: Contra Costa Clean Water Program, Contra Costa County Public Works, and selected cities
- Interviewed representatives from an environmental Non-governmental Organization, and the Water Board
- Reviewed stormwater permits, reports, and documents
- Reviewed information available on the Contra Costa Clean Water Program website ([www.cccleanwater.org](http://www.cccleanwater.org))
- Reviewed media reports

## **BACKGROUND**

### **Federal and State Stormwater Regulations**

The 1972 Federal Water Pollution Control Act (the Clean Water Act) regulates water quality standards for all public and private wastewater discharges into waterways. These water quality standards are set using National Pollutant Discharge Elimination System (NPDES) permits which regulate waste discharges into waters of the United States. In 1987, the Clean Water Act was amended and expanded to include stormwater discharges from municipal-owned/operated storm drains. In 1990, NPDES stormwater permit application requirements for municipal stormwater discharges were established by the U.S. Environmental Protection Agency.

In California, the federal NPDES permit program is administered and enforced by the State Water Resources Control Board through nine Regional Water Quality Control Boards. These water boards issue permits to prevent stormwater from washing harmful pollutants into waterways. Permits are updated and reissued approximately every five years. The first county-wide stormwater permits were issued in the early 1990s.

### **Contra Costa Clean Water Program**

In 1991, in response to the expanded Federal and State stormwater regulations, the County, its cities, and towns established the Contra Costa Clean Water Program (CCCWP). Its purpose is to provide a uniform approach to address Water Board permit requirements and implement activities jointly carried out by the cities, towns, and the County.

The CCCWP comprises Contra Costa County, 19 cities and towns, and the Contra Costa County Flood Control and Water Conservation District. These are:

- Contra Costa County Flood Control and Water Conservation District
- Clayton
- Hercules
- Orinda
- Pleasant Hill
- San Ramon
- Town of Moraga
- Oakley
- Concord
- Lafayette
- Pinole
- Richmond
- Walnut Creek
- Antioch
- Contra Costa County unincorporated areas
- El Cerrito
- Martinez
- Pittsburg
- San Pablo
- Town of Danville
- Brentwood

## Current Stormwater Permit

According to the Water Board, stormwater is a significant source of certain pollutants that cause or contribute to water quality pollution in the region. To address this problem the Water Board issued county-wide municipal stormwater permits in the early 1990s.

In 2015, the Water Board re-issued these county-wide municipal stormwater permits as one Municipal Regional Stormwater NPDES Permit (Permit) to regulate stormwater discharges from municipalities and local agencies in Alameda, central and western Contra Costa, San Mateo, and Santa Clara counties, and the cities of Fairfield, Suisun City, and Vallejo. In February, 2019, the cities of Antioch, Brentwood, and Oakley and the eastern portion of Contra Costa County were formally added to the Permit.

Under the Permit, cities, towns, and counties are required to prohibit the discharge of materials other than stormwater into storm drain systems and watercourses. Each city, town, and county is individually responsible for complying with the Permit requirements to meet their pollution reduction goals. The Permit allows cities, towns, and counties to collaborate in designing, developing, and implementing new solutions to reduce stormwater pollution.

The Permit includes stormwater management regulations for the following: trash reduction, new real estate development and redevelopment, illicit discharge, and public information and outreach. The Permit also regulates stormwater from industrial and commercial sites, construction sites, pesticides, mercury, PCB's, and copper.

According to the Water Board, the sources of trash include discharges from the storm drain system, windblown trash, and other discharges such as direct dumping and homeless encampments. This trash washes into San Francisco Bay and the ocean, where it becomes part of a global problem. It is unsightly, can cause storm drain blockage, decreases property values, and impacts recreational use and wildlife habitat in waterways. Trash such as plastic bags may harm wildlife through entanglement or ingestion. Trash may also contain hazardous materials such as heavy metals, toxic chemicals, oil and grease products, and other pollutants that are unhealthy and harmful to people and the environment.

Failure to comply with the discharge requirements constitutes a violation of the



California Water Code and the Clean Water Act. If there is a violation, the Water Board may impose fines and other civil liabilities. The Water Board may also refer violators to the State Attorney General who can seek civil monetary penalties and injunctive relief, or take other appropriate enforcement actions.

## **Preventing Trash at its Source**

A key element in any trash reduction program is to stop pollution before it harms the environment. Programs that prevent trash at its source (commonly referred to as "source control") include banning businesses from providing plastic bags, plastic straws, and Styrofoam cups, bowls, plates, and takeout containers.

Plastic bags are not biodegradable and take hundreds of years to decompose. This results in plastics littering the environment, degrading creeks and waterways, and adversely effecting wildlife. When bags decompose, toxins are released into the soil and water, harming land and marine wildlife. Plastic straws are hazardous to the environment because they settle in the landfills, clog storm drains, and collect in the ocean. Styrofoam is a plastic commonly found in packing and food packaging. It is rarely reused, is an abundant form of litter hazardous to land and marine life and can take 500 years to decompose.

On November 8, 2016, California voters approved Proposition 67 which bans the use of carry-out plastic bags that once were given at grocery stores and food marts. They now offer customers the option to purchase either recycled paper or reusable plastic bags. As an example, the City of San Jose implemented a successful source control program. Its 2011 plastic bag ban resulted in a litter reduction of approximately 89% in the storm drain system, 60% in the creeks and rivers, and 59% in city streets and neighborhoods. A state law (AB1884) limiting full-service restaurants in the state from handing out single-use plastic straws became effective on January 1, 2019.

## **DISCUSSION**

This report focuses on the trash reduction requirement of the Permit. The report examines how the County, cities, and towns are performing regarding reducing trash in creeks and waterways. It also explores how information can be better communicated to citizens in the County.

### **Trash Reduction Requirements**

Cities, towns, and the County are required to implement trash control actions in accordance with procedures and the schedule outlined in the Permit.

The trash reduction schedule in the Permit requires that each city, town, and the County reduce trash from their 2009 baseline levels, using requirements and accounting

procedures contained in the Permit. The trash reduction goals and schedule are as follows:

- 70% by July 1, 2017
- 80% by July 1, 2019
- 100% by July 1, 2022

The cities of Antioch, Oakley, Brentwood, and the eastern unincorporated areas of the County were added to the Permit in February, 2019. They have a modified goal to reduce trash by 70% from their 2016 baseline trash levels by December 31, 2019.

Cities, towns, and the County receive credit toward their trash reduction goal by reducing the amount of trash discharged from their storm sewer systems. They accomplish this by installing and maintaining trash capture devices which prevent trash from entering stormwater systems and waterways. The percent reduction in trash is calculated by applying a formula that compares current levels with 2009 baseline amounts.

Cities, towns, and the County can take additional steps to control trash at its source by limiting businesses from providing Styrofoam cups, bowls, plates, takeout containers, and serving trays. For these source control programs there is a maximum of 10% credit toward the trash reduction goal available in the Permit.

As explained below, some cities and towns have already instituted source control programs, which they expect will reduce the amount of trash released into the environment. Most have also implemented trash management actions, such as increased street sweeping; land, creek and shoreline cleanups; and homeless encampment cleanups.

Table 1 illustrates:

- The percent reduction in trash, from 2009 baseline levels, that each city, town, and the County unincorporated areas achieved in Fiscal Year (FY) 2017-18
- The number of trash capture devices installed
- Cities that have implemented a source control program

**Table 1**  
**FY 2017-18 Trash Reduction Achieved**

<b>City/Town/County</b>	<b>FY 2017-18 Total % Trash Reduction</b>	<b>Full Trash Capture Devices Installed</b>	<b>Source Control Programs</b>
<b>Antioch</b>	NA	1	NA
<b>Brentwood</b>	83.3 %	91	No
<b>Clayton</b>	99.5%	195	No
<b>Concord</b>	83.0%	451	No
<b>Danville</b>	100.0%	74	Yes
<b>El Cerrito</b>	84.5%	122	Yes
<b>Hercules</b>	69.0%	41	Yes
<b>Lafayette</b>	91.7%	38	No
<b>Martinez</b>	91.2%	118	Yes
<b>Moraga</b>	82.0%	121	No
<b>Oakley</b>	67.0%	68	No
<b>Orinda</b>	85.6%	5	No
<b>Pinole</b>	31.0%	113	Yes
<b>Pittsburg</b>	83.4%	127	Yes
<b>Pleasant Hill</b>	78.0%	123	Yes
<b>Richmond</b>	83.4%	170	Yes
<b>San Pablo</b>	87.7%	128	Yes
<b>San Ramon</b>	100.0%	81	No
<b>Walnut Creek</b>	95.9%	202	Yes
<b>County unincorporated areas</b>	75.0%	286	pending

Source: CCCWP Website <https://www.cccleanwater.org/resources/reports>

NA: data not available

Note: Antioch, Oakley, Brentwood and the eastern unincorporated areas of the County are required to achieve a trash reduction goal of 70% by December 31, 2019. All others are required to achieve a trash reduction goal of 80% by July 1, 2019.

Brentwood, Clayton, Concord, Danville, El Cerrito, Lafayette, Martinez, Moraga, Orinda, Pittsburg, Richmond, San Pablo, San Ramon, and Walnut Creek indicate that they have already reached their July 1, 2019 trash reduction goal of 80% from 2009 levels.

The cities of Hercules, Oakley, and Pinole report achieving less than 70% trash reduction in their latest annual reports. In June, 2018, Hercules and Pinole were issued Cease and Desist Orders by the Water Board requiring them to improve their

performance in meeting the required trash reduction goals. The Orders set deadlines for implementing trash controls that will bring the cities into compliance with the 80% trash load reduction relative to 2009 baseline conditions, by July 1, 2019.

## **Source Control Programs**

One way for the County, cities, and towns to help achieve their trash reduction goals is to focus on source control programs. These programs can reduce the amount of litter that enters the stormwater system.

Danville, Pittsburg, Pleasant Hill, Richmond, San Pablo, and Walnut Creek implemented ordinances banning single-use plastic bags prior to the ban becoming law in California.

Ten cities also have established ordinances banning Styrofoam food packaging. They are: Concord, El Cerrito, Hercules, Lafayette, Martinez, Pinole, Pittsburg, Richmond, San Pablo, and Walnut Creek. The County is proposing an ordinance to ban Styrofoam container use by companies selling food and beverages, private care facilities, and County establishments in the unincorporated areas.

Brentwood, Clayton, Concord, Lafayette, Moraga, Oakley, Orinda, and San Ramon have not reported source control programs as part of their trash reduction goals.

## **Trash Reduction along Caltrans Freeways and Ramps**

Caltrans owns, operates, and maintains freeways and ramps within the County. In a separate permit issued by the State Water Resources Control Board in 2012, and amended in 2014 and 2015, Caltrans is required to implement control measures in all high trash generating areas. These areas include freeways and ramps in high density residential, commercial, and industrial areas in Contra Costa County.

Caltrans is a state agency outside the Grand Jury's jurisdiction. However, it acknowledges that its freeways and ramps are collectors of trash and debris. Caltrans developed a work plan in 2016 to "ensure maximum environmental benefit while also achieving mobility and safety benefits to the traveling public." (Caltrans, Trash Load Reduction Workplan for the San Francisco Bay Region, 2016). In the County, the Workplan indicated that high trash level stretches include portions of Highways 4 and 24, and Interstate 80.

Table 2 shows the ramps with high trash levels:

**Table 2**  
**Highway Ramps with High Trash Levels**

Highway	Ramps
<b>HWY4</b>	Loveridge Rd, Railroad Ave., Morello Ave., McEwen Ave., and Willow Ave.
<b>I-80</b>	Cutting Blvd, Potrero Ave., Carlson Blvd, Central Ave., Appian Way, Richmond Parkway, San Pablo Dam Road, San Pablo Ave., MacDonald Ave., and Buchanan St.
<b>I-580</b>	Regatta Blvd., Bayview Ave., and Central Ave.
<b>I-680</b>	Willow Pass Road

On November 7, 2018, a letter urging the Water Board to take enforcement action against Caltrans was signed by two Contra Costa County Supervisors, elected officials from the cities of Antioch, El Cerrito, and Richmond, and over 60 elected officials from Alameda, San Mateo, and Santa Clara counties. The letter urged the Water Board to order Caltrans to:

- Install trash capture devices in “very high” and “high” trash generation areas wherever feasible;
- Increase frequency of trash removal; and
- Collaborate with municipalities and local agencies to implement these solutions.

According to the Water Board, Caltrans has identified portions of its highways and ramps “that generate significant amounts of trash but has not identified an acceptable schedule for timely implementation of trash controls to meet [p]ermit” requirements. (Water Board, Cease and Desist Order No. R2-2019-0007). In February, 2019, the Water Board ordered Caltrans to install devices to capture roadway debris or otherwise clean up all 8,820 acres of land under its jurisdiction in the Bay Area identified as “significant trash generating areas” by 2026. Failure to comply with the directive could result in fines of up to \$25,000 a day.

### **Trash from Homeless Encampments**

Waste from homeless encampments close to creeks present an environmental hazard. The Contra Costa County Coordinated Outreach and Engagement Team (CORE) collects and removes over 6,000 pounds of trash each month at homeless sites. CORE regularly visits homeless encampments to identify needs of the homeless. CORE encourages the homeless to clean up after themselves by providing trash bags.

## Permit Compliance Costs

Stormwater permit compliance activities in most Contra Costa County cities, towns, and the County are funded by a Stormwater Utility Assessment (SUA) authorized in 1993. Rates range from \$25 to \$45 a year for single-family homes. In FY 2017-18 the revenues collected countywide totaled \$15.1 million. These funds are used to support the Permit compliance activities undertaken by each of the cities, towns, the County, and CCCWP.

The cities of Richmond and Brentwood do not have a stormwater utility assessment. Their stormwater pollution prevention activities are funded from other revenue sources, and the cities' general funds.

The authority to raise taxes or assessment fees to pay for governmental services, including stormwater related activities, is limited by voter initiatives such as Proposition 13 and Proposition 218. Stormwater assessment rates have maximum limits, established by each city, town, and the County in 1993. They all reached their maximum rates by FY 2009-10. Since then, cities, towns, and the County have been supplementing their SUA revenues with funding from other sources, including their general funds.

The County is responsible for complying with the Permit provisions only in the unincorporated areas. The County estimates its compliance costs to be \$5 million per year. Of that amount, \$2.2 million per year is budgeted for trash reduction related activities.

The County receives about \$3.8 million per year in SUA revenue, road, and flood control funding. The County estimates that it will need an additional \$1.2 million per year to meet all the Permit requirements.

Revenue shortfalls may prevent the County from meeting its stormwater trash reduction goals. Failure to comply with the Permit would leave the County liable for substantial fines from the Water Board. In order to achieve a trash reduction goal of 100%, the County may need to consider seeking additional sources of funding.

Both the CCCWP and the Contra Costa Local Agency Formation Commission (LAFCO) report that unfunded federal and state mandated stormwater permit compliance programs are a challenge for cities, towns, and the County. In its 2019 Municipal Service Review, LAFCO reports, "[s]tormwater control requirements mandated by regional and state agencies are increasing the cost of treating stormwater without providing compensating new revenue sources." To address this funding shortfall, the Grand Jury recommends that cities, towns, and the County consider undertaking efforts to identify additional funding sources to fully fund Permit requirements in order to comply with the Permit and avoid potential liability.

## **Public Awareness**

The required Annual Reports provide a detailed breakdown of performance toward complying with all the Permit provisions by the CCCWP, each city, town, and the County. The CCCWP 2017-18 Annual Report documenting permit compliance activities it conducted during the year totals 564 pages. Each city, town, and the County also prepared a similar report documenting its permit compliance performance. These reports each range in length from 58 to 177 pages. They are filled with forms and tables supplied by the Water Board, which document accomplishments for the year. No narrative summary is provided identifying accomplishments, challenges, costs, and funds needed to fully comply with the Permit. The Grand Jury recommends that to enable the public to understand these issues, CCCWP, each city, town, and the County should consider providing a narrative summary of their efforts to achieve Permit requirements.

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

- 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.
- 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.

## **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.
- 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.
- 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.
- 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.



## REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Board of Supervisors	F1, F2, F5, F6, F8, and F9	R3 and R4
City of Antioch	F2, F6, F8, and F9	R2, R3, and R4
City of Brentwood	F2, F3, F6, and F9	R2, R3, and R4
City of Clayton	F1, F3, F6, and F9	R2, R3, and R4
City of Concord	F1, F3, F6, F7, and F9	R3 and R4
Town of Danville	F1, F3, F6, and F9	R2, R3, and R4
City of El Cerrito	F1, F3, F6, F7, F8, and F9	R3 and R4
City of Hercules	F1, F4, F6, F7, and F9	R1, R3, and R4
City of Lafayette	F1, F3, F6, F7, and F9	R3 and R4
City of Martinez	F1, F3, F6, F7, and F9	R3 and R4
Town of Moraga	F1, F3, F6, and F9	R2, R3, and R4
City of Oakley	F2, F6, and F9	R2, R3, and R4
City of Orinda	F1, F3, F6, and F9	R2, R3, and R4
City of Pinole	F1, F4, F6, F7, and F9	R1, R3, and R4
City of Pittsburg	F1, F3, F6, F7, and F9	R3 and R4
City of Pleasant Hill	F1, F6, and F9	R2, R3, and R4
City of Richmond	F1, F3, F6, F7, F8, and F9	R3 and R4
City of San Pablo	F1, F3, F6, F7, and F9	R3 and R4
City of San Ramon	F1, F3, F6, and F9	R2, R3, and R4
City of Walnut Creek	F1, F3, F6, F7, and F9	R3 and R4

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to [ctadmin@contracosta.courts.ca.gov](mailto:ctadmin@contracosta.courts.ca.gov) and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson  
 725 Court Street  
 P.O. Box 431  
 Martinez, CA 94553-0091