



September 6, 2019

Richard S. Nakano, Foreperson
Civil Grand Jury
Contra Costa County
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091
ctadmin@contracosta.courts.ca.gov
Via U.S. Mail and Email

RE: Response to Contra Costa Grand Jury Report No. 1907, "Stormwater Trash Reduction"

Dear Foreperson Nakano:

In accordance with your request and Section 933.05 of the California Penal Code, the City of El Cerrito is submitting responses to Grand Jury Findings F1, F3, F6, F7, F8, and F9 and Grand Jury Recommendations R3 and R4 in the subject Grand Jury Report. The City is one of 19 members of the Contra Costa Clean Water Program (CCCWP), which was formed in 1991 by a program agreement to apply for a joint municipal NPDES permit from the San Francisco Bay and Central Valley Regional Water Quality Control Boards.

Grand Jury 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."

Response: The City of El Cerrito agrees with this finding.

"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."

Response: The City of El Cerrito agrees with this finding.

"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."

Response: The City of El Cerrito agrees with this finding.

"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."

Response: The City of El Cerrito agrees with this finding. However, as a point of clarification, Styrofoam™ is a trademarked brand for a type of plastic foam, also commonly called expanded

polystyrene (EPS) and the City of El Cerrito passed Ordinance 2013-4 in September 2013 that prohibited food providers and City facilities, Departments, franchisees, contractors, vendors and caterers (doing business with the City) from providing prepared food to customers in disposable food ware made from EPS. It should also be noted that the City passed Ordinance 2013-3 in September 2013 that prohibited the distribution of single-use plastic bags in retail establishments at the point of sale for all retail establishments except restaurants and non-profit charitable reusers.

"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."

Response: The City of El Cerrito agrees with this finding. Continued collaboration with Caltrans through joint projects, grants and other funding options are needed to address trash along specified corridors.

"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."

Response: The City of El Cerrito partially agrees with this finding. Through Bay Area Stormwater Management Agencies Association (BASMAA), the annual report form is developed for all 76 regional permittees and is approved by the San Francisco Regional Water Quality Control Board. This approved reporting from does not require a narrative summary of the accomplishments, challenges, costs, and funds for compliance. However, on annual basis as part of the rate setting for the Stormwater Utility Assessment (SUA), City staff provides the City Council a narrative summary of these items.

Grand Jury Recommendations

"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."

Response: The City of El Cerrito has previously implemented this recommendation. As described above, as part of the annual rate setting for the SUA in April of each year, City staff provides City Council a narrative summary of key highlights from our Annual Report including accomplishments and challenges and describes costs and funding required to comply with the Permit.

"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."

Response: The City of El Cerrito has previously implemented this recommendation. As described above, as part of the annual rate setting for the SUA in April of each year, City staff provides City Council a narrative summary describing costs and funding required to comply with the Permit. City staff has previously indicated that additional or alternative funding sources will

need to be identified in order to continue to meet the Permit requirements and additional requirements that are expected in the next Permit term. As the Permit requirements have increased over the years, the City Council has supported various efforts to increase funding, both countywide and statewide. Most recently, in the summer of 2017, the City Council provided a letter of support for Senate Bill (SB) 231 by Senator Bob Hertzberg, which provides local governments with greater authority to fund stormwater improvements. The California legislature did this by clarifying, and thereby expanding the definition of "sewer" under Proposition 218, allowing cities to fund stormwater projects in the same manner as other public works utilities, such as water, sanitary sewer, and solid waste. However, local governments are proceeding cautiously in implementing any related fees, as the new law has yet to be tested in the courts.

The City of El Cerrito thanks the Contra Costa County Civil Grand Jury for the opportunity to review its findings and respond to recommendations.

Sincerely,



Karen Pinkos
City Manager, City of El Cerrito

cc: El Cerrito City Council