

## **Attachment A**

Specific Comments from Contra Costa County Flood Control District by Provision

### **C.3 – NEW DEVELOPMENT AND REDEVELOPMENT**

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

### **C.5 -ILLICIT DISCHARGE DETECTION AND ELIMINATION**

The primary concern of the Contra Costa County Flood Control and Water Conservation District (Flood Control District) is the lack of authority in responding to illicit discharges originating within city jurisdictions adjacent to our flood control channels. The MRP presents challenges in enforcement of point source discharges of trash, illegal dumping and other illicit discharges whose sources are located in cities' jurisdictions (where County Ordinances do not apply), that enter Flood Control District channels and downstream waterways in unincorporated areas. As written, the Flood Control District may be held responsible for illicit discharges it has limited means to effectively control, primarily in the form of structural controls like exclusion fencing. This section of the permit should make some concession for Flood Control agencies in recognition of their limited ability to enforce and correct/eliminate illicit discharges.

**C.5.f:** As noted above, the Flood Control District has no authority to abate an illicit discharge from a source outside its property. The Flood Control District can report the number and location of illicit discharges on its property, but cannot be reasonably expected to provide follow up information on incidents reported to cities. The MRP should limit the Flood Control District's responsibility to addressing illicit discharges originating on its property.

In general, the Public Works Department, on behalf of the Flood Control District, responds to complaints within three days. However, removal of illegally dumped debris may not occur within the required 10 day response time due to the volume, geographic separation of dumping locations and limited staff available to the Flood Control District. Locations of dumped materials often do not allow for safe recover of large debris, such as mattresses and couches, without the use of costly boom truck equipment. In the case of homeless encampments, the Flood Control District must often coordinate

cleanup efforts with the cities that own fee title to the lands underneath road bridges that attract homeless encampments; these efforts also require the involvement of law enforcement and social service providers to address the needs of evicted people. Although the requirement to conduct abatement of liquid discharges within 10 days, it is requested that 30 days be allowed for abatement of discharges that pose a low immediate risk to water quality.

## **C.7 -PUBLIC INFORMATION AND OUTREACH**

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

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

## **C.10 -TRASH REDUCTION**

**C.10.a.iii:** The Flood Control District is a non-population based entity. With the exception of homeless encampments on Flood Control District property, it does not host residential, commercial or other land uses that generate trash that effects waterways. In general, the Flood Control District is a recipient of trash from outside its property, not a source of trash. There are no trash-generating activities on Flood Control property that can be mitigated with full capture devices on outfall structures to its channels. Therefore, the Flood Control District should not be responsible for implementing full capture devices on outfall structures or establishing trash booms.

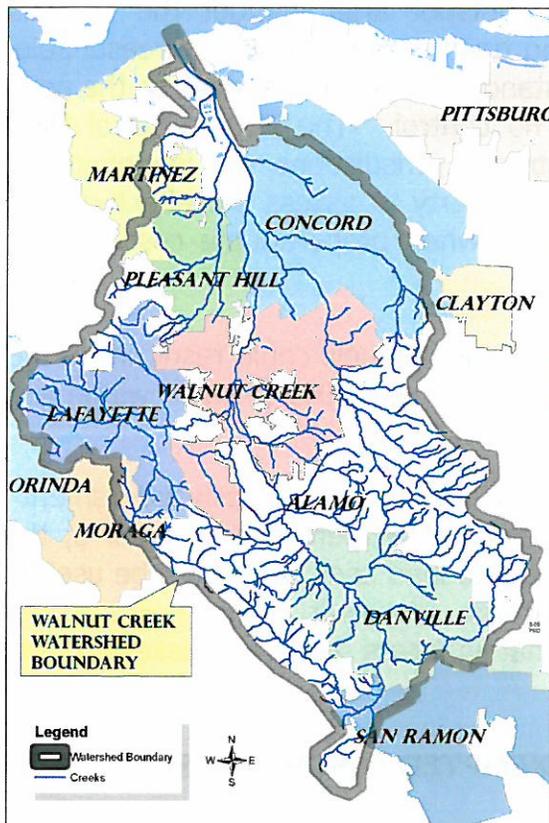
The Flood Control District can facilitate capturing some trash through the installation of trash booms in certain locations. However, the trash collected by such an installation will principally come from sources outside the Flood Control District's property. For this reason, the Flood Control District's responsibility should be limited to cooperating with benefited cities and the unincorporated County in the installation of trash booms.

Trash Hot Spots (hot spots) should be established in conjunction with upstream jurisdictions and the financial responsibility for establishment and monitoring of hot spots on Flood Control District property should be shared with upstream jurisdictions in proportion to their trash loading.

While it is not reasonable for the Flood Control District to be required to install trash capture devices, it is recognized that Flood Control District property includes ideal

locations for trash capture. However, the requirement of the Flood Control District should be limited to cooperating with the trash-contributing jurisdiction in establishment, operation and maintenance of trash capture devices within Flood Control District property (at the other jurisdictions' expense).

The Walnut Creek Watershed  
Drains Ten Jurisdictions



The exhibit to the left illustrates the complications posed by jurisdictional boundaries within the Walnut Creek watershed. This supports the positions that the Flood Control District, as a recipient of trash (as opposed to a generator of trash) from numerous municipalities, cannot be expected to be responsible for this trash originating outside its jurisdiction. Furthermore, the reality of numerous jurisdictions contributing trash to a creek (Flood Control District property) bolsters the argument that it would be more appropriate for a collaborative approach to be employed in addressing trash.

Due to the obvious potential for hot spots to provide a measure of effectiveness of regional trash management initiatives, it would be best to locate hot spots at the downstream end of Flood Control District channels. These downstream locations are also best suited for the placement of trash booms, so it would be most effective to locate hot spots and trash booms in close proximity. These downstream locations also are most likely to be receiving trash originating within a larger number of jurisdictions. Therefore, the MRP should encourage all jurisdictions to cooperate financially in the establishment of hot spots and placement of trash booms on Flood Control District property by allowing all jurisdictions in the tributary watershed to count a collaboratively funded hotspot and boom as fulfillment of all or a portion of their individual jurisdictions' trash management requirements.

**C.10.a.ii & C.10.d.i:** The short time line for the Trash Hot Spot Selection report due February 1, 2010, will be difficult to meet, and may not yield selection of highest

priority Hot Spots based on best available information. The Flood Control District proposes a report date of July 1, 2010. This will better allow the Flood Control District to conduct monitoring for this purpose through a full rainy season, and will allow time to coordinate the establishment and cooperative funding of Hot Spots with the upstream jurisdictions.

**C.10.a.iv:** It is unlikely that it is possible for the Flood Control District to achieve the established Trash Action Level (TAL) in any hotspot area without the successful mitigation by upstream jurisdictions contributing trash to runoff. It is unreasonable to subject the Flood Control District to a cleanup standard that is dependent on the actions of municipal entities over which it exercises no control. The Flood Control District should be required to cooperate with upstream jurisdictions by identifying and monitoring Hot Spots on Flood Control District property to assess the effectiveness of trash capture by upstream jurisdictions, but only when proportionate cost sharing is provided by all benefitted entities.

Setting a strict TAL on Flood Control District regional channels could result in the need to spend a lot of resources in futile attempts to clean up 100% of trash within a few relatively short stretches of creek.

**C.10.b:** The Flood Control District proposes that a full baseline trash assessment be performed in Year 1, and an end point full assessment be performed in Year 5; these would characterize waste types and correlate them to land uses, which will be useful for targeting public outreach and source control efforts. However, if the goal is to reach our Urban Optimal TAL, it is recommended that in Years 2-4 trash assessments be limited to counting only.

## **C.15 - EXEMPTED AND CONDITIONALLY EXEMPTED DISCHARGES**

**C.15.b.iii:** Although discharges of potable water should be subject to regulation, it is inappropriate for the Flood Control District to be required to monitor and regulate this type of discharge. It is not clear whether the Flood Control District has the legal authority to require compliance from water districts or fire protection districts; furthermore, there is no appropriate source of revenue to offset the Flood Control District's expenses related to oversight of these discharges. If the Water Board sees the necessity for regulation of these discharges, it would be more appropriate for these types of discharges to be regulated by either the Regional Water Quality Control Board (through issuance of NPDES Permits to individual fire districts and water providers), or through the State Water Resources Control Board issuing General Permits that regulate activities by fire districts and water providers on a statewide level. The Flood Control District would appreciate the opportunity to cooperate with the Water Board, the water districts and the fire districts in coordination of potable water discharges, but cannot reasonably be required to oversee the discharges.