Attachment A

Specific Comments from Watershed Program on behalf of Unincorporated Contra Costa County, by Provision

C.2 - MUNICIPAL OPERATIONS

~~C.2.a~~ (eliminated street sweeping requirements): Though it has been removed as a requirement in the Revised Tentative Order (RTO), it appears that the MRP anticipates that Permittees will continue to conduct this activity. Street sweeping is referenced as a trash removal Best Management Practice (BMP) in C.10; also, a pilot program to evaluate the effectiveness of street sweeping for removing mercury and PCBs is discussed in C.11 and C.12. Contra Costa County ("the County") appreciates that the RWQCB has removed the prescriptive street sweeping requirement in an effort to address co-Permittees' concerns about the high cost of meeting the previous iteration of the MRP's many requirements. However, the County is concerned that removing street sweeping as an explicit requirement may make it more difficult for the County to justify maintaining current levels of street sweeping service, possibly resulting in backsliding on the water quality advances made over the past several years. This will be especially likely if cuts must be made in the current street sweeping schedule in order to pay for other provisions of the MRP, some of which may be less effective at improving water quality than street sweeping.

Finding 16 For the MRP notes that specific extraneous pollutants found in urban run-off, including heavy metals, dioxin and PBDEs, can be deposited on paved and other impervious surfaces. The County feels that street sweeping is one of the most effective ways to prevent these pollutants from entering the storm drain system.

C.2.a.ii.(1): The RTO does not provide what should be done if disposal to the sanitary sewer system is not available, and does not acknowledge that many areas of the County lack sanitary sewer service. The sanitary districts have generally expressed an opposition to accepting stormwater.

C.2.d: There are a number of issues associated with requiring the County to install, operate, and maintain a full trash capture device at the North Richmond Pump Station. The North Richmond Pump Station is operated by the West County Wastewater District, which has expressed its own concerns regarding that the proposed dissolved oxygen (DO) monitoring requirements.

If DO levels are low and require diversion to the sewer system, the wastewater treatment plant may not accept the water without some sort of pretreatment. It may not be possible for Permittees to comply with this requirement of the MRP, as it is not clear that sanitary districts will be willing to accept this runoff. Sanitary districts often have policies that do not allow them to accept stormwater unless it is contaminated but

has been subject to pretreatment. In dry years there is the need to sample prior to accepting new discharges due to concerns with Biological Oxygen Demand and volume of solids; the DO-impacted water being directed to the sanitary district may impede microorganisms' ability to survive and consume the pollutants that constitute treatment.

Another substantial concern regarding the new DO monitoring requirement is the requirement to collect instantaneous grab sample data, which varies considerably throughout any given day. It is also not clear what the data is going to tell us, and what the objectives of the sampling are.

C.3 - NEW DEVELOPMENT AND REDEVELOPMENT

Although the County generally embraces the amended C.3 requirements in the draft Tentative Order MRP, modifications to several provisions within C.3 are absolutely crucial.

C.3.a: The timetable for this section (immediate implementation required) is unrealistic. Modifications to the County Ordinance Code (and potentially other documents) will be necessary to ensure legal authority to implement the modifications made to other sections of Provision C.3. The County recommends changing the implementation date (C.3.a.ii) to July 1, 2010.

C.3.b.ii.(1)(c and d), C.3.b.ii.(3)(a and b): It is not feasible for some redevelopment projects to comply with the "50% rule," which requires projects redeveloping more than 50% of the existing impervious surface to treat 100% of stormwater runoff (including runoff from existing impervious surface that are not affected by the project). Some redevelopment projects would be effectively prevented by this language, which would render treatment of runoff from existing impervious surfaces to be cost prohibitive (due to topography and other limiting factors). Language should be added to allow projects to exclude the requirement for runoff from existing impervious surfaces (that are not redeveloped as part of the project) from treatment, for those portions of the project where infeasibility of runoff treatment is demonstrated. This would not result in redevelopment projects that exacerbate impacts to water quality; to the contrary, excluding such areas would facilitate projects that will result in a net improvement of water quality. The current language might prevent projects from being completed that would otherwise have provided water quality benefits by treating stormwater runoff from the redeveloped portions of the project where treatment is feasible.

C.3.b.i, C.3.c.ii: It is unacceptable to change the benchmark for "grandfathering" compliance under the current NPDES permit from the "deemed complete" designation (as written in the current permit) to "received final, major, staff-level discretionary approval." Changing this distinction would negatively affect projects that have yet to

receive "final, major, staff-level discretionary approval," creating an undue burden on project proponents required to modify their plans late in the development process. This language is inconsistent with the California Environmental Quality Act, the Permit Streamlining Act, the Subdivision Map Act, and Planning and Zoning Law; these laws/regulations make use of the date that a project is "deemed complete" as the determinant for whether the project is "grandfathered" under existing regulations (as well as other purposes). The "deemed complete" benchmark should be retained.

C.3.b.ii.(4): To require treatment (and flow control) of runoff from sidewalks, bicycle lanes and trails to an increased degree is to effectively discourage these amenities from being included in projects by rendering it more expensive for Permittees to include these amenities in road projects; therefore it seems inconsistent with goals of the NPDES permit to require treatment of runoff from these types of impervious surface.

More than 1/3 of planned County transportation projects (during the permit term of the MRP) would not be required to install stormwater management facilities to comply with C.3 under the current NPDES Permit, but due to sidewalks and/or bicycle lanes, would be required to treat stormwater runoff under the MRP. In light of the considerable added expense associated with implementing and maintaining stormwater treatment, these projects' feasibility must be reevaluated, and it is likely that the new requirements will directly result in elimination of pedestrian and/or bicycle facilities from projects.

Encouraging alternative modes of transportation (bicycle and pedestrian) reduces the need for paving elsewhere, and eliminates introduction of pollutants associated with automobiles. Excluding sidewalks, bicycle lanes and trails from the requirements of C.3 would encourage Permittees to include these facilities in projects.

Furthermore, the ("immediate") implementation date causes significant hardship for projects for which the County is already in final stages of planning. There are a number of these projects that are not required to provide treatment (or flow control) under the current NPDES Permit, but that will be required to do so under the MRP. These projects are generally fully designed, have completed environmental review, and have completed any necessary right-of-way acquisitions. It is absolutely unacceptable to require such projects (that have already passed any of these milestones) to go back through the design process (to incorporate stormwater management facilities), back through the environmental review process (as necessary to address related environmental impacts), and back through the process of acquiring right-of-way (necessary to site stormwater management facilities). This provision should exempt projects for which funding has been committed and construction is scheduled to begin by July 1, 2012 (as provided in C.3.b.ii.(1)).

C.3.c.i.(1): Since not all of the listed Source Controls will be appropriate for all projects, it should be noted that they should be required "as appropriate." Since it is

not certain that sanitary sewer districts will be willing to accept the noted types of discharges, and dispersal to landscaping may also be infeasible in some cases, this provision should allow for alternative appropriate source controls

C.3.c.i.(2): It is not clear how this provision is to be implemented. No guidance is provided to determine how much runoff is effectively managed by the treatment methods noted in C.3.c.i.(2)(a through d), and there is therefore a lack of clarity as to how much remaining stormwater runoff must be treated per C.3.d; it is equally unclear how these required treatment methods are to be considered in conjunction with the Hydrograph Management requirements of C.3.g. It should also be noted that some of these requirements may conflict with other agencies' requirements (such as fire protection districts and the Americans with Disabilities Act). Although the treatment measures required by C.3.c.i.(2)(a through d) are generally beneficial to a project, it is not evident that they would provide any benefit in addition to properly-designed treatment controls sized in accordance with C.3.d (and Hydrograph Management controls, as required by C.3.g). Therefore, it is recommended that these requirements be changed to recommendations. As a less-preferred alternative, this section could be augmented with a defensible rubric for determining how "remaining storm water runoff" is to be calculated.

C.3.c.i.(5)(b), C.3.c.i.(6)(b): This provision indicates that there is a preference for Equivalent Offsite Treatment over vault-based treatment. It is not clear whether this provision is intended to allow projects that do not otherwise qualify for Alternative Compliance (per C.3.e) to employ Equivalent Offsite Treatment as a preferred option to vault-based treatment. Clarification is requested.

C.3.c.i.(6): If use of vault-based treatment for more than 50% of a project's C.3.d specified runoff requires approval of the Water Board Executive Officer, the Executive Officer should be required to respond within a given time frame (perhaps 60 days, as provided in C.10.a.ii).

C.3.d.iv.(2)(a): It is recommended that the requirement to include in stormwater infiltration systems a "suitable soil" layer be removed. Infiltration systems are only allowed in areas with appropriate natural soil types to accommodate infiltration. Importing additional soil adds expense with no discernible benefit, and the soil layer only serves to add a potential failure point. If, for some reason, this requirement is retained, the stated "maximum infiltration rate of 5 inches/hour" should be changed to a "minimum infiltration rate of 5 inches/hour."

C.3.e: It is absolutely unacceptable for road projects to be excluded from the allowance to utilize alternative compliance strategies. It is necessary for road projects to be allowed to make use of Offsite Equivalent Treatment, Equivalent Funds, and Regional Projects (and perhaps other forms of alternative compliance). There are a

number of situations in which a road project would be virtually impossible to complete per C.3.b and C.3.d, such as the examples provided below:

- Where the road is cut into a hillside, with a steep upslope on one side of the right-of-way, and a steep downslope on the other side.
- Where the road is located in a fully-developed area, it may not be possible to design stormwater facilities without condemning private property and demolishing buildings; this is cost prohibitive, and it may be difficult or impossible to establish that the road constitutes an "infill project," per C.3.e.(2).
- Where the road project is located in an area with no storm drain infrastructure; it would be problematic to concentrate stormwater in such a facility with no safe location to discharge the facility's outflow.

It should also be noted that it is generally exceedingly difficult (and presumably not possible in some instances) to isolate runoff from newly created impervious surface to direct to stormwater management facilities, this creates the requirement to design extremely inefficient systems (such as when runoff flows in multiple directions from a high point); being allowed the flexibility to employ Alternative Compliance would enable the County to design more effective stormwater management facilities that are substantially less expensive to construct and maintain.

It is requested that road projects be added to project types qualifying for alternative compliance pursuant to C.3.e.i.(2).

C.3.e.i.(1)(footnote 6): For some projects, it may be extremely difficult to implement one of the listed site design treatment controls, and other options for treatment may be available that would provide equivalent treatment of stormwater runoff. For example, a green rood would be more effective than any of the listed options. The list of site design treatment controls should be augmented with an additional bullet point, followed by, "other site design measures that provide stormwater runoff treatment equivalent to or greater than at least one of the listed site design treatment controls."

C.3.e.i.(3)(b): The referenced Government Code Section (65589.5(h)(3)) states, "housing for very low, low-, or moderate income households" means that at least 20% of the total units shall be sold or rented to lower income households, or 100% of the units shall be sold or rented to moderate-income households." The County recommends that this low income housing definition coincide with the California Redevelopment Law requirement of 15%, as stated under California Government Code Section 33413(b)(2)(i), which is consistent with the County's 15% Inclusionary Housing Ordinance requirement (Section 822-4.402(a) of the County Ordinance Code). The current language provides something of a disincentive to provide affordable housing in accordance with County regulations. Modifying the percentage to meet existing

California Redevelopment Law (and the County's current Inclusionary Housing requirement) may provide an incentive for developers to build affordable units. If this modification is not made on a County-wide basis, the allowance for Alternative Compliance should at least be modified such that 15% affordable housing is required within Redevelopment Areas (as defined by Health and Safety Code Sections 33310-33312 and 33320-33325); this allowance should also be extended for affordable housing projects financed with Redevelopment funds (per Government Code Section 33334.2(g)).

C.3.e.i.(1)(d): Due to the high-density nature and the reduced amount of vegetative space associated with Transit Oriented Developments (TODs), even the less restrictive stormwater requirements imposed by the new permit will hinder the planning and construction of these developments. Additionally, in relation to the State's planning policy on traffic congestion management, Government Code Section 65088(g) states, "the Legislature intends to do everything within its power to remove regulatory barriers around the development of infill housing, transit-oriented development, and mixed-use commercial development in order to reduce regional traffic congestion and provide more housing choices for all Californians." Consistent with this policy, it is requested that TODs be entirely exempted from installing site design treatment controls for purposes of compliance with C.3. In the event that the requirement to install site design treatment controls is required for TODs, the following comments are provided.

Setting service level minima for bus hubs or bus transit stations is problematic; schedules are subject to change during projects' approval processes, and are not governed by the Permittees. It is recommended that the hours of bus service per day and the route frequency be removed (or substantially reduced).

C.3.e.i.(1)(d)(i): It is not appropriate for the MS4 NPDES permit to define residential parking standards for municipalities. Residential portions of qualifying TODs are more likely than not to have underground parking, so these restrictions would not serve to reduce impervious surface created by the project. The parking standards should be removed.

C.3.e.i.(1)(d)(ii): The minimum FAR (Floor Area Ratio) of 3 would exclude many projects that can legitimately be categorized as TODs; this would constitute a disincentive that would make it likely that fewer of these projects would be developed. A minimum FAR of 1 is recommended.

Land uses allowed within individual spaces in a TOD are likely to not be well-defined during the permitting process; they are also subject to change after the development is completed. Therefore, it would be more appropriate to establish overall parking restrictions addressing entire TOD projects (erring on the side of less stringent parking restrictions). This section should add language indicating that the parking ratios should

be required for the designed occupancy. It will not be feasible to require that changes of lessees of retail spaces be required to maintain the same use as previous tenants (i.e. restaurant-occupied spaces be required to only be used as restaurants). It is inappropriate to correlate parking requirements to land use within this section.

C.3.g: The reference to pre-sized and pre-designed Integrated Management Practices should specify that the designs are "per the guidance in the most current iteration of the Contra Costa Clean Water Program's *Stormwater C.3 Guidebook*." It should also be noted that swales and bioretention areas, which function identically, have been grouped together as "Bioretention Facilities" in the most recent edition; the reference to "Swale" should be updated accordingly.

C.3.h.ii, C.3.h.iv: No implementation dates are provided for the requirements to implement a database (or other tabular tracking format) and to conduct reporting relative to ongoing operation and maintenance of permanent stormwater management facilities. The County is in the process of designing a database to serve this purpose; an implementation date of July 1, 2011 is recommended for C.3.h.ii. An implementation date of July 1, 2012 is recommended for C.3.h.iv.

C.3.i: For some projects, it will be exceedingly difficult (and expensive) to implement one or more of the designated site design measures. For example, it may not be feasible to implement any of the listed site design measures for an urban project that is built to the property lines, does not have any vegetated areas, and does not involve driveways, walkways, parking lots, or bicycle lanes. Other site design measures that would provide equivalent treatment of stormwater runoff should be allowed. The list of site design measures should be augmented with an additional bullet point, followed by, "other site design measures that provide stormwater runoff treatment equivalent to (or greater than) at least one of the listed site design treatment controls."

C.4 - INDUSTRIAL AND COMMERCIAL SITE CONTROLS

C.4.b: It is inappropriate for the SWRCB to collect a fee of $1008 for permittees covered under the General Industrial Permit, but intends to delegate responsibility for inspection to the MS4 Permittees without reimbursement. If Permittees are delegated responsibility for enforcing State General Permits, sufficient revenue from these permits should be transferred to the MS4 Permittees to defray the MS4 Permittees' costs.

Implementing the MRP's requirement to undertake corrective actions within 10 days of a violation will require increased collaboration between departments that are responsible for different aspects of enforcements; it will also require modifications to procedures for documentation, tracking, and reporting. It would not be possible to implement these changes prior to the effective date of the MRP. An implementation date of July 1, 2010 is recommended.

C.4.c: This section appears to mistakenly carry-over language from Section C.6. "Effective compliance from all *public and private construction site operations*" should most likely read, "Effective compliance from all *industrial and commercial facilities*."

C.5 - ILLICIT DISCHARGE DETECTION AND ELIMINATION

The MRP does not address inter-jurisdictional challenges in enforcement of source discharges of trash, illegal dumping and other illicit discharges. It is not appropriate for one Permittee to be held responsible for illicit discharges originating within another jurisdiction. Provision C.5 should be modified such that a jurisdiction is not penalized for illicit discharges originating within another jurisdiction.

C.5.d: Due to the cross-jurisdictional nature of discharges of pollutants from mobile sources, the County recommends that this section be revised to allow this requirement to be conducted collectively via the Contra Costa Clean Water Program, which includes sanitary district staff in its Industrial and Commercial Workgroup. At least one sanitary district has already established a program to permit mobile washers that provides a framework for permit application and review, and subsequent inspections. This enables recommendations that other businesses utilize these environmentally responsible mobile washer companies.

It is recommended that this section be incorporated into C.4.b.ii, with mobile food vendors, pressure washers, carpet cleaners, etc. listed as specific priority facilities in the Inspection Plan.

C.5.e: Since the Flood Control District is housed within the County's Public Works Department, it is requested that the Water Board allow for (unincorporated) Contra Costa County and the Flood Control District to jointly track and report illicit discharges; this would eliminated the necessity to separately track activities that are undertaken by the two entities for the same purpose. .

C.5.f: Some locations are not accessible for safe recovery of large debris, such as mattress and couches, and crews often must deploy costly boom trucks with operators. Although the County agrees that a 10-day abatement window is a reasonable time to abate active liquid discharges (although all efforts will be made to abate discharges more quickly, as appropriate), this may not be appropriate for all incidents of solid waste dumping. The County is requesting that the timeline for abatement of certain appropriate discharges be increased to 30 days. It is recommended that 30 days be allowed for abatement of discharges that are "neither prone to mobilization nor pose an imminent threat to water quality."

C.6 - CONSTRUCTION SITE CONTROL

Generally, it will not be especially problematic for the County to bring its practices into line with the C.6 requirements. A number of implementation and reporting deadlines, however, are not realistic, especially when considered in conjunction with the MRP's numerous other implementation and reporting dates.

C.6.a: Establishment of legal authorities may not be feasible prior to the 2010 Annual Report, since some of the implementation activities (i.e. development of the ERP) are dependent on sections of C.6 that have later implementation/reporting dates. This requirement should be changed to the 2011 Annual Report.

C.6.b: It would make better sense for the implementation of the ERP (Enforcement Response Plan) to be required prior to the onset of the rainy season; it should be changed to October 1, 2010.

C.6.c.ii/C.6.d.ii/C.6.eii: No implementation dates are established for these sections. Since changes to the County's current construction site erosions/sediment/pollution prevention program (potentially including amendments to the County Ordinance Code) will be required, the recommended implementation date is October 1, 2010.

C.6.e.ii.(4): Due to the implementation dates for various sections of C.6 compliance with the modifications to C.6 should be required beginning with the 2011 Annual Report. Reporting regarding progress made toward compliance with C.6 should be included in the 2010 Annual Report.

C.8 - WATER OUALITY MONITORING

The MRP allows monitoring requirements to be undertaken by the Regional Monitoring Program. In the interest of the higher data value associated with consistent sampling and data analysis procedures, and the cost saving associated with economies of scale, the Water Board should consider *requiring* that these efforts be undertaken regionally. In the interest of facilitating this approach, which, in addition to requiring intensive efforts to establish an adequate framework, will require numerous legal agreements and budgetary negotiations between Permittees. In light of these facts, an implementation date of July, 2011 is recommended.

While some water quality monitoring and reporting requirements are reasonable, others are not. For instance, the requirement for constant data-logging at hourly intervals for six continuous months is inefficient, and will yield an enormous amount of data of dubious value. The Water Board should consider the level of data collection frequency that will yield a reasonable cost-benefit ratio.

Even if undertaken regionally, the numerous categories of monitoring required by the MRP are cumulatively burdensome, and should be prioritized; some requirements should be postponed to the MS4 permit following this iteration of the MRP, pending results of monitoring required under the MRP. This is especially appropriate for monitoring for nutrients, algae and pathogens, for which the Surface Water Ambient Monitoring Program (SWAMP) methods and protocols are still under development by the State Water Board.

C.10 - TRASH REDUCTION

The County concurs with the Water Board that trash is unsightly and contributes to water pollution. The MRP's requirement to plan for zero trash impacts within 15 years by 2024, though admirable, is unrealistic. The costs associated with the requirements of this section must be considered relative to the entirety of the County's responsibilities to its population and environment (as well as the economic law of diminishing returns) and should be revised accordingly. Ultimately, the solution involves human behavior modifications (and incentives) that will require time to develop, and for which the County will be one of numerous proponents of this behavioral change.

The County supports trash reduction, both in waterways and throughout the County. However, there are a number of specific provisions that merit revision or more wholesale reconsideration, as noted below.

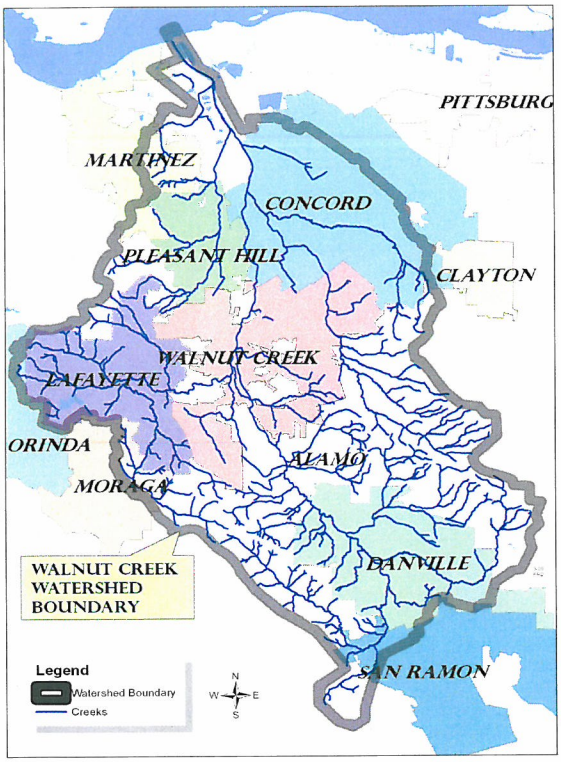
C.10.a.ii & C.10.d.i: The short time line for the Trash Hot Spot Selection report due February 1, 2010, is unlikely to yield the best results. Contra Costa County proposes a report date of July 1, 2010, which would allow monitoring for a full rainy season to identify the most impacted trash hot spots, and correlate the hot spots with sources of trash.

C.10.a.iv: There are serious concerns regarding the feasibility of meeting TAL (Trash Action Level) cleanup levels within the time frame provided. Section C.10 ignores the on-the ground realities of pathways through which trash is conveyed from its sources to water bodies. It is likely that a hot spot in one jurisdiction is (primarily) the recipient of trash originating within another municipality. It may not be possible for a jurisdiction to address a trash source (or conveyance) located within another jurisdiction. Also, most storm drains and creeks cross jurisdictional borders, conveying trash from one jurisdiction into another. Furthermore, within the County's jurisdiction is land that, although it is within the Permittees' boundaries, is not within Permittees' actual jurisdiction (such as CalTrans right-of-ways). Provision C.10 should be modified such that a jurisdiction is not held responsible for trash originating within another jurisdiction; this would also provide an opportunity to foster increased cooperation between Permittees.

The County proposes that a full baseline trash assessment (which characterize waste types) be required in Year 1 (which will be useful for public outreach and source control purposes), and that an end point full assessment be performed in Year 5. The County recommends that trash assessments during permit years 2 through 4 be limited to counting only.

Setting a strict TAL may result in Permittees dedicating a sufficient resources to clean up the hot spots (only) to meet the TAL, focusing on relatively small stretches of creek at the expense of cleaning up more extensive waterway reaches to attain possibly less of an improvement but over a larger area.

The Walnut Creek Watershed
Drains Ten Jurisdictions



The exhibit to the left demonstrates the complexity of jurisdictional boundaries within (and likely trash sources contributing to trash in) the Walnut Creek watershed. It would likely not be possible to identify a trash hot spot location within Walnut Creek that does not receive trash from sources in multiple jurisdictions. A more regional, collaborative approach for (at least for the "pilot scale deployment" of) trash capture devices would facilitate Permittees in addressing some more severe trash hot spots that could not effectively be tackled by a single Permittee due to sources from multiple Permittees' jurisdictions.

C.10.a.v: Credit should be given for any full trash capture devices that have already been installed, regardless of when they were installed. The reference to January 1, 2003 should be removed from the last paragraph of Section C.10.a.v.

C.10.a.v/C.10.b.i: The definition of "full trash capture device" provides for devices that trap particles retained by a 5mm mesh screen. The 5mm particle retention requirement seems to be an arbitrary and especially fine gradation that will not necessarily produce the highest degree of water quality benefit per dollar spent. This

fine of a gradation also seems likely to cause storm drain systems to clog and fail, leading to flooding. Unless there is specific scientific research supporting the 5mm specification, and an appropriate corresponding cost-benefit ratio, the County requests that this specification be reviewed and adjusted appropriately (or deferred until appropriate studies can be conducted to determine the appropriate specification).

C.10.c/C.10.d: It is not realistic for any municipality to develop a plan to entirely eliminate trash impacts on beneficial uses within their jurisdictions. There will always be some level of trash (dumping/litter), and there will be a corresponding degree of trash-related impacts. Development of a collective plan for an achievable degree of trash reduction (as opposed to zero trash impact), however, is acceptable.

The installation of full trash capture devices per Section C.10 is referred to as a "pilot scale deployment." It should be noted that the devices are to be installed by July 1, 2013, which is nearly the end of the NPDES Permit's term. This will only allow for a year or two before the release of the next iteration of the NPDES Permit. The County urges the Water Board to continue to consider the installation of full trash capture devices to be a "pilot scale deployment" for some time into the term of the next NPDES Permit (at least) so that Permittees have an adequate period of time to observe the devices' function, gain experience maintaining the devices, and develop the expertise necessary to make any subsequent "full scale deployment" efficient and successful.

One final issue the County may be forced to address in this current section as written is the legal authority to access creeks and retrofit drainage that may be candidates for trash hot spot designation and installation of full capture devices but are on private property.

C.11 - MERCURY CONTROLS

The County is requesting consideration for the "bigger picture" of mercury contamination, which will yield better results in addressing this issue. The Delta is the sink for legacy mercury and it is inappropriate for the MRP to address only those relatively small sources that are under Permittees control, while ignoring historic activities, naturally mercury-enriched soils atmospheric deposition, and geothermal springs.

C.11.d: As noted in comments regarding C.2, the requirement to evaluate the effectiveness of municipal BMPs (including street sweeping and catch basin cleaning) indicates that the Water Board expects Permittees to continue to undertake some level of these activities, which are no longer required by C.2.

It should be noted that sanitary sewer districts may be unwilling to allow Permittees to discharge street cleaning wash water without some form of pretreatment and

acquisition of permits (which appears to be expected by the MRP).

C.11.b: Methylmercury sources should not be regulated until methylmercury controls have been developed. Permittees should not be required to undertake development of methylmercury controls.

C.11.g: It is not appropriate to require a control plan for the San Francisco Bay Areas until a control plan is in place for the upstream water bodies.

C.12 - POLYCLORNIATED BIPHENOLS (PCBs)

C.12.a.ii: It is unreasonable to refer locations of PCBs or PCB-related equipment to state agencies. Any Pacific Gas & Electric corporation yard or substation has transformers that may contain PCBs. There is little to be gained from making such reports when these locations that may have reasonable presence of PCB containing equipment can be located by industry type or hazardous waste manifests already being routinely sent to DTSC for tracking purposes.

The County recommends Sections C.11 and C.12 be combined into one since they mimic each other in shared requirements, in order to be consistent with the joint handling of PBDEs, legacy pollutants and selenium in C.14. It is also recommended that 4 projects instead of 5 being required (one for each of the major counties) and that the Fate and Transport Project in particular is more appropriate if undertaken by the RMP.

C.13 - COPPER CONTROLS

C.13.d: Since inspectors have no feasible way of identifying and controlling elevated copper discharges without sampling, which cannot reasonably be conducted for every project, and is surely not the intent of the Water Board. While the County can ensure that adequate BMPs to prevent copper discharge are in place, it will not be possible to ensure that discharges do not occur. The language of this provision should be modified accordingly.

C.13.e: Any studies to investigate copper sediment toxicity will be irrelevant due to the "mothball fleet" of retired vessels in the Carquinez Strait. According to a study conducted in 2007, more than 21 tons of lead, zinc, and copper have fallen into the Bay from peeling paint from these ships. Until these ships have been removed, no technical study on copper sediment toxicity will be of any value.

C.14 - POLYBROMINATED DIPHENLY ETHERS (PBDE), LEGACY PESTICIDES AND SELENIUM

While compliance with many sections of the MRP will be expensive, they will yield water quality results. It appears, however, that money would be better spent on current challenges that will have an impact on our environment today and tomorrow rather than on legacy pesticides.

C.15 - EXEMPTED AND CONDITIONALLY EXEMPTED DISCHARGES

There are wholesale problems with Section C.15 of the MRP; the primary problems with this section involve the requirement to develop authorities where this may not be possible (and would more appropriately be retained by the Water Board), and requirements that are needlessly burdensome (to Permittees and property owners) and that involve levels of effort wildly inconsistent with corresponding water quality benefits.

C.15.b.i/C.15.b.ii: It is not acceptable or reasonable for the County to oversee all discharges from all foundation drains, crawl space pumps, footing drains and air conditioner condensate. Furthermore, it is inappropriate to require property owners to conduct expensive monitoring of such discharges. It should also be noted that sanitary sewer agencies may not be willing to accept these sources to discharge into their systems. Also, the County may not have the legal authority to regulate these types of discharges (especially for existing facilities), and does not maintain inventories of these types of mechanisms. Given the number of these existing in the County, the potential lack of legal authority, and the amount of time required to regulate this type of discharge, it would be an extremely inefficient means of improving/protecting water quality. These sections of C.15 should be significantly modified, such that the source control requirements clearly only apply to new/replaced devices, and ongoing monitoring should only be required for devices that discharge in excess of 10,000 gallons per day. These types of discharges should otherwise be listed in C.15.a.i as exempt discharges. The County would be more appropriately engaged in public information and outreach regarding appropriate BMPs to minimize any water quality impacts associated with this sort of discharge.

C.15.b.iii: This section should be removed in its entirety. Discharges of potable water should be subject to regulation; however, it is not appropriate or realistic for the jurisdictions to be required to oversee these types of discharges. Relationships vary between jurisdictions and water districts and fire districts. The County may not have the legal authority to require compliance from the water districts or the fire districts. The County would be happy to cooperate with water districts and fire districts in coordination of discharges of potable water into the County storm drain system. However, it would be more appropriate for these discharges to be regulated directly either by the Regional Water Quality Control Board through issuance of NPDES Permits

to individual fire districts and water providers (which could also be done on a regional level), or through the State Water Resources Control Board issuing General Permits covering activities by fire districts and water providers statewide.

C.15.b.iv: It is not reasonable for the County to monitor all discharges from swimming pools, spas, hot tubs and fountains located on private property. The County does not maintain an inventory of these features, and may not have the legal authority to regulate these discharges (especially for existing facilities). It should be noted that much of the language of this section presumes that sanitary sewer agencies will be willing to accept discharges from these sources; this will likely not be correct in some or all cases. The sanitary sewer agencies may prove unwilling to even accept filter backwash discharges, and are even more likely to object to accepting discharges associated with pool draining events. Provision C.15.b.iv(c) appears to prohibit pools from being constructed in areas that are not developed with sanitary sewer systems, which accounts for much of the unincorporated portion of Contra Costa County. It should be noted that the County would be more appropriately engaged in responding to discharges that are not conducted correctly and providing information regarding appropriate BMPs to prevent water quality impacts. The County has provided, and intends to continue to provide public information and outreach regarding appropriate operation of pools, spas, hot tubs and fountains; however, the level of oversight over individual pools on private property, as required by this provision, may not be possible.