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August 13, 2019

Via US Mail and Email: 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

**SUBJECT: CONTRA COSTA CLEAN WATER PROGRAM'S RESPONSE TO
GRAND JURY REPORT NO. 1907, "STORMWATER TRASH REDUCTION –
ARE WE DOING ALL THAT WE CAN?"**

Dear Mr. Nakano:

In accordance with your request and Section 933.05 of the California Penal Code, the City of Brentwood ("City" or "Brentwood") is submitting responses to Findings 2, 3, 8, and 9 and Recommendations 2 - 4 in the subject Grand Jury Report ("Report").

BACKGROUND

The Contra Costa Clean Water Program ("CCCWP") consists of Contra Costa County, its 19 incorporated cities/towns, and the Contra Costa Flood Control and Water Conservation District ("District"), hereinafter referred to collectively as "Permittees."

In November 1990, the United States Environmental Protection Agency ("USEPA") published final stormwater rules implementing the 1987 federal Clean Water Act ("CWA") amendments, which established a framework for regulating municipal stormwater discharges under the National Pollutant Discharge Elimination System ("NPDES") permit program. The rules prohibit the discharge of pollutants in stormwater unless the discharge is in compliance with an NPDES permit. In response, the Permittees jointly established the CCCWP in 1991 through a Program Agreement and applied for, and were subsequently issued, joint municipal NPDES permits issued by the San Francisco Bay and Central Valley Regional Water Quality Control Boards ("Water Boards"). The municipal NPDES permits are reissued approximately every five years.

The permits mandate Permittees to implement stormwater pollution prevention and control programs designed to reduce or eliminate the discharge of pollutants into and from municipal separate storm sewer system ("MS4s"). Permittees conduct many of these mandated activities collectively (referred to as "Group Activities"). Costs for Group Activities are shared among the Permittees in accordance with a cost payment agreement between the District and each individual Permittee.

The District provides staffing to the CCCWP and serves as the fiduciary agent and legal entity of the CCCWP. The roles and responsibilities of the CCCWP and Permittees are outlined in the Program Agreement, which was last updated and adopted by all Permittees in 2010. In accordance with the Program Agreement, each City/Town/County/District manager designates one representative to participate on a Management Committee, which is the CCCWP's decision-making body.

The following responses are provided by the City.

City of Brentwood's Responses to Grand Jury Findings 2, 3, 6, and 9

Grand Jury 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: Agree.

Grand Jury Finding #3

"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: Partially disagree. The City of Brentwood agrees that it has reached its July 1, 2019 trash reduction goals. While the City of Brentwood believes that the other mentioned jurisdictions have achieved their trash reduction goals, it has no direct knowledge of that and therefore cannot agree to that portion of the finding.

Grand Jury 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: Partially disagree. The City of Brentwood agrees that unfunded federal and state mandated stormwater permit compliance programs are generally a challenge for Brentwood. While the City of Brentwood believes that these programs are a challenge for other cities, towns, and the County, it has no direct knowledge of that and therefore cannot agree to that portion of the finding. In addition, the City cannot confirm that both CCCWP and LAFCO report as such.

Grand Jury 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: Partially disagree. The City of Brentwood agrees that no narrative summary of the accomplishments, challenges, costs and funds needed to fully comply with the Permit is provided in the required annual report prepared by Brentwood. Brentwood has no direct knowledge of the contents or revisions to annual reports prepared by other municipalities and therefore cannot agree to that portion of the finding.

City of Brentwood's Responses to Grand Jury Recommendations 2-4

Grand Jury Recommendation #2:

"The City/Town Councils of 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 will not be implemented because the City believes that regional or statewide efforts that focus on the larger issue of water pollution are needed to effectively address these types of challenges. The City concurs with the Report that water pollution from myriad of sources and types of trash is a significant problem. The City agrees with the intent of the Recommendation to help reduce trash polluting our waterways, but not the manner in which it is proposed. A ban that only focuses on Styrofoam containers would likely result in utilization of substitute types of containers. The City concurs with the State Water Resources Control Board Final Staff Report on *Amendment to the Water Quality Control Plan for the Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California* that "Mere substitution would not result in reduced trash generation if such product substitution would be discarded in the same manner as the banned item." (See https://www.waterboards.ca.gov/water_issues/programs/trash_control/docs/01_final_sed.pdf Section 5.2.5.).

Grand Jury 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. The City of Brentwood is in compliance with its current NPDES Permit requirements and already provides the Annual Reports on the City's website (see link: <https://www.brentwoodca.gov/gov/pw/development/npdes/default.asp>). In addition, CCCWP provides additional information on County-wide Permit compliance efforts (see link <https://www.cccleanwater.org/>). Since the City is already in compliance with the Permit and this information is already publicly provided, the City believes that providing a summary of the Annual Reports is redundant and unwarranted.

Grand Jury 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: This recommendation has been implemented. The City concurs with the Report that Brentwood already funds stormwater pollution prevention activities from the general fund and other revenue sources. In addition, Brentwood is in compliance with its current NPDES Permit requirements.

Mr. Richard Nakano
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The City thanks the Contra Costa County Civil Grand Jury for the opportunity to respond to its concerns. Please feel free to contact Miki Tsubota, Director of Public Works/City Engineer, at (925) 516-5420 should you need additional information.

Sincerely,



Gustavo ("Gus") Vina, City Manager
City of Brentwood

cc: Honorable Mayor and City Council of the City of Brentwood
Damien Brower, City Attorney

