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State Water Resources Control Board

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*Commission on
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Heather Halsey, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Subject: Response to December 2, 2016 and December 23, 2016 Requests for Additional Evidence and Briefing on Provisions C.2.b, C.2.c, C.2.e, C.2.f

Dear Ms. Halsey:

The California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board) respectfully submits its response to the Commission on State Mandates' (Commission's) December 2, 2016 Request for Additional Evidence and Briefing ("December 2 Request") and December 23, 2016 Notice of Postponement Approval and Extension Request Partial Approval ("December 23 Notice").

The December 2 Request asked the Regional Water Board to provide additional evidence and briefing supporting its assertion that Provision C.2 of Order No. 2009-0074, covering Municipal Operations, did not constitute an unfunded state mandate because analogous provisions were included in earlier permits.

Specifically, the Commission requested three categories of evidence: (1) evidence that Santa Clara permittees besides San Jose, the only permittee that argued that C.2 imposed a state mandate, were, like San Jose, bound by area-wide and permittee-specific Urban Runoff Management Plans and Work Plans incorporated by reference into Order No. R2-2001-024, the Santa Clara County stormwater permit that preceded Order No. 2009-0074; (2) evidence that

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the non-Santa Clara County permittees, that is, permittees from Alameda, San Mateo, and Contra Costa Counties, as well as the Fairfield-Suisun and Vallejo Permittees, were also bound by Stormwater Management Plans, Annual Reports and/or Work Plans containing provisions equivalent to C.2; and (3) evidence of C.2-related tasks and requirements included in all these municipalities' Management Plans, Annual Work Plans and Annual Reports.

The December 23 Notice refined these requests, noting that "it has never been argued before in a mandate claim that a city's Urban Runoff Management Plan and subsequent annual Work Plans constitute prior state law (though such plans are generally required of municipal dischargers statewide) and the claimant has rebutted this assertion, arguing that it had discretion to change the activities in the plan, prior to the adoption of the 2009 permit." (Dec. 23 Notice, at p. 3.) The Commission further asserted that pursuant to a trial court ruling in *San Francisco Baykeeper v. Regional Water Quality Control Board, San Francisco Bay Region* (*Baykeeper* decision), the provisions in the discharge permits by which water quality plans¹ or amendments are deemed approved or disapproved by the action or inaction of the Regional Board's Executive Officer are void." (Dec. 23 Notice, at p. 4.) Accordingly, the Commission specified that "[s]ince the Regional Board is arguing that the City's Urban Runoff Management

¹ The Regional Water Board assumes that the Commission is referring to stormwater or urban runoff management plans, which were incorporated into the municipal stormwater permits and governed municipalities' stormwater pollution control efforts. A "water quality control plan," as described in Water Code section 13240, is a different document altogether: such a plan, better known as a Basin Plan, is developed and updated by each Regional Water Board as a master planning document and repository of water quality criteria. The San Francisco Bay Region's Basin Plan designates beneficial uses for waters within the San Francisco Bay region, lists discharge prohibitions and water quality objectives, and describes the water quality attainment strategies for impaired waters. While permit terms implementing or derived from the San Francisco Bay Region's Basin Plan, promulgated in 1975, do reflect prior federal and state law (See December 20, 2016 Response to Request for Additional Briefing Regarding Impact of *Department of Finance v. Commission on State Mandates*, at pp. 3, 8, 10), this brief discusses the status of stormwater management plans, which were specific to individual permittees or permittee groups, as opposed to the Region as a whole. Stormwater management plans, like all waste discharge requirements and NPDES permits issued by the Regional Water Boards, do not have to be approved by State Board. (See Wat. Code § 13263; see also Wat. Code § 13320 [describing process to petition Regional Water Board permits and orders].)

Plan and subsequent annual Work Plans constitute prior state law, and since, as discussed above, this Test Claim applies to all co-permittee municipalities, the Regional Water Board bears the burden of producing such evidence for all covered municipalities.” (Dec. 23 Notice, at p. 4.)

This brief describes the structure of the pre-2009 permits, including the function of the stormwater management plans, annual reports, and annual work plans, and confirms that they all contained enforceable permit terms. The Permittees’ own permit submittals and the enforcement history of the pre-2009 permits support the conclusion that updated performance standards were binding and not optional for permittees. The brief also explains the approval mechanisms in each permit and refutes the Commission’s suggestion that all Executive Officer approvals of submittals required by the permit were “void,” or that the *Baykeeper* decision had a precedential effect on permits that were not subject to its ruling. Finally, in the table attached as Attachment 1, the Regional Water Board describes the C.2-related requirements in the Stormwater Management Plans, Annual Work Plans and Annual Reports for all permittees, demonstrating that, prior to 2009, permittees were bound by equivalent provisions to those in the 2009 permit.

I. Overview of the Structure of the Pre-2009 Permits

Prior to 2009, the Regional Water Board issued separate permits for the Santa Clara Urban Runoff Pollution Prevention Program (Order No. R2-2001-024) (Santa Clara Permit) (Doc. 15),² the San Mateo Countywide Stormwater Pollution Prevention Program (Order No. R2-1999-059) (San Mateo Permit) (Doc. No. 5),³ the Alameda Countywide Clean Water Program

² The Santa Clara Permit covered: Santa Clara Valley Water District, the County of Santa Clara, and the Cities of Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale.

³ The San Mateo Permit covered: City/County Association of Governments of San Mateo County, San Mateo County, the Towns of Atherton and Woodside, and the Cities of Belmont, Brisbane, Burlingame, Colma, Daly City, (footnote continued on next page)

(Order No. R2-2003-0021) (Alameda Permit) (Doc. No. 1),⁴ the Contra Costa Clean Water Program (Order No. R2-1999-058) (Contra Costa Permit) (Doc. No. 3),⁵ and the Fairfield-Suisun Urban Runoff Management Program (Order No. R2-2003-0034) (Fairfield-Suisun Permit) (Doc. No. 9) permittees.⁶ The United States Environmental Protection Agency (U.S. EPA) administered a permit specific to the Vallejo Sanitation and Flood Control District, which covered the City of Vallejo and parts of unincorporated Solano County.⁷ (Permit No. CAS612006 [Doc. No. 18]; see also Vallejo Sanitation and Flood Control District Storm Water Management Plan [Doc. No. 168], Bates No. 033019.)

Each of these six permits incorporated by reference a stormwater management plan. In the Santa Clara permit, this management plan was called the "1997 Urban Runoff Management Plan." In addition to the area-wide runoff management plan, each Santa Clara permittee had its own, individualized management plan, with provisions tailored to local conditions (Order. No. R2-2001-0024 [Doc. 15] Bates No. 014176-014177.). These permittee-specific management plans were considered to be components of the management plan as a whole. (See *id.*, at Bates No. 014176.) In the San Mateo Permit, the area-wide plan was called the "Stormwater Management Plan April June 1998-June 2003" (AR Bates No. 009834); in the Alameda County permit, "The Stormwater Quality Management Plan, July 2001 – June 2008;" (AR, Bates No.

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East Palo Alto, Foster City, Half Moon Bay, Hillsborough, Menlo Park, Millbrae, Pacifica, Portola Valley, San Mateo, and South San Francisco.

⁴ The Alameda Permit covered: unincorporated Alameda County, Alameda County Flood Control and Water Conservation District, Zone 7 of the Alameda County Flood Control and Water Conservation District, and the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City.

⁵ The Contra Costa Permit covered: Contra Costa County, Contra Costa County Flood Control and Water Conservation District, and the Cities of Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Orinda, Pinole, Pittsburg, San Ramon, and Walnut Creek.

⁶ The Fairfield-Suisun Permit covered the Fairfield-Suisun Sewer District and the Cities of Fairfield and Suisun City.

⁷ The City of Vallejo was not officially named as a permittee until the 2009 MRP, but the EPA permit governed the same stormwater discharges for the same area as the 2009 permit.

08687) and the Contra Costa permit, the "The Stormwater Management Plan 1999-2004" (Doc. 143, Bates No. 029566); in Fairfield-Suisun, the "Fairfield-Suisun Urban Runoff Management Program FY 1999-2000 to FY 2004-2005 Storm Water Management Plan," (Doc. 146, Bates No. 030023); and in Vallejo, the "Vallejo Sanitation and Flood Control District Storm Water Management Plan."⁸ (Doc. 168, Bates No. 033019).

A. Purpose of Management Plans

The purpose of the management plans was, as described in the Alameda and Santa Clara Permits, "to reduce the discharge of pollutants in stormwater to the maximum extent practicable, and in a manner designed to achieve compliance with water quality standards and objectives, and effectively prohibit non-stormwater discharges into municipal storm drain systems and watercourses within the Permittees' jurisdictions."⁹ (Order Nos. R2-2003-0021 [Doc. 1] at Bates No. 013741; R2-2001-0024 [Doc. 15] at Bates No. 014176-014177.) In furtherance of this purpose, each management plan "describe[d] a framework for management of stormwater discharges during the term of the permit," including "goals and objectives, legal authorities, management structure, and funding, the annual reporting and program evaluations process, approach to watersheds and monitoring and Performance Standards."¹⁰

⁸ Neither Regional Water Board nor U.S. EPA records contain the original storm water management plan, dated August 13, 1998, incorporated into Vallejo's 1999 permit (Doc. 18, Bates No. 014280-014281.) Vallejo Sanitation and Flood Control District was able to provide us with a version of the plan updated in November 1999 (Doc. No. 168, Bates No. 033023.)

⁹ Note that requirement to effectively prohibit non-stormwater discharges is distinct from the requirement to control pollutants to the maximum extent practicable and is not subject to the MEP standard. Clean Water Act section 402(p)(3)(B)(ii), (iii); see also *Dept. of Finance v. Comm. on State Mandates* (2016) 1 Cal. 5th 749, 757, 767-768, which confined its holding to a discussion of MEP only.)

¹⁰ See identical language in Order Nos. R2-1999-0059 [San Mateo][Doc. 5], at Bates No. 013893]; and R2-1999-058 [Contra Costa][Doc. 3], at Bates No. 013828]; see also equivalent language in Order No. R2-2001-024 [Santa Clara][Doc. 15], at Bates No. 014177 ["The 1997 Management Plan describes the Program's goals and objectives, and the annual reporting and program evaluation process. Performance Standards, which represent the baseline level of effort required of each of the Dischargers, are contained in Appendix A of the 1997 Management Plan."]; R2-2003-0021 [Alameda County][Doc. 1], at Bates No. 013741 ["The Management Plan describes the Program's

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In that same vein, Santa Clara's permittee-specific management plans contained "local strategies for urban runoff control, including tailored Performance Standards, workplans to implement Performance Standards, and Best Management Practices and Standard Operating Procedures that detail how control measures will be carried out day-to-day." (Doc. 15, at Bates No. 014177.)

B. Continuous Improvement Concept

Neither the area-wide nor the permittee-specific management plans were static, but were intended to be refined over the course of the permit term through a "continuous improvement process." (Santa Clara [Doc. 15] at Bates No. 014188; San Mateo [Doc. 10], at 014060; Contra Costa [Doc. 3], at p. 013835; see also Alameda [Doc. 1], at Bates No. 013742; Fairfield-Suisun [Doc. 8], at p. 013981.) "Continuous improvement" was described in the Santa Clara permit as a process of "seeking new opportunities for improving Program effectiveness" in which individual permittees, and the stormwater program as a whole, would document, review, evaluate, and revise program elements to reflect lessons learned and technological improvements over time. (Santa Clara Permit [Doc. 15], Bates No. 014177-014788; see also Alameda [Doc. 1], Bates No. 013742; Fairfield-Suisun [Doc. 8], Bates No. 013982.)

In both the Regional Board-issued permits and U.S. EPA's permit for Vallejo, continuous improvement of BMPs, Performance Standards, and other control measures was the permits'

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goals and objectives and the annual reporting and program evaluation process. Performance Standards, which represent the baseline level of effort required of each of the Permittees, are contained in Section 5 of the Management Plan."]; R2-2003-0034 [Fairfield-Suisun][Doc. 8], at Bates No. 013980 ["The Management Plan describes the Program's goals and objectives and the annual evaluation process. Performance goals, which represent the baseline level of effort required of each of the Permittees, are contained in the Management Plan."]

mechanism for “achiev[ing] reduction of pollutants in stormwater to the maximum extent practicable,” the federal standard:

“The Dischargers shall implement the Management Plan and shall, through its continuous improvement process, subsequently demonstrate its effectiveness and provide for necessary and appropriate revisions, modifications, and improvements to reduce pollutants in stormwater discharges to the maximum extent practicable....”

(Alameda [Doc. 1], Bates No. 013755; see also Santa Clara [Doc. 15], Bates No. 014187-014188; Contra Costa [Doc. 3], Bates No. 013835; San Mateo [Doc. 10], Bates No. 014060)

By incorporating “a process of successive annual planning, the District will continue to improve th[e] SWMP,” which was “designed to implement and evaluate control measures to reduce storm water pollution to the maximum extent practicable and to effectively prohibit non-storm water discharges to the District’s storm drain system.”

(Vallejo 1999 SWMP [Doc. No. 168], Bates No. 033019-033020.)

Accordingly, the Stormwater Management Plan governing the municipalities at the end of the permit term was intended to be more rigorous and effective than the Stormwater Management Plan adopted with the original permit. (See Santa Clara [Doc. 15], Bates No. Alameda [Doc. 1], Bates No. 013756; Fairfield-Suisun [Doc. 8], Bates No. 013995 [describing process for producing new Stormwater Management Plan within 3 years of permit adoption]; San Mateo [Doc. 13], Bates No. 014113, 014116; Contra Costa [Doc. 5], Bates No. 013895, 013898.) The permit requirements changed over time with the submission of: (1) Annual Work Plans, which identified tasks to be completed and Performance Standards to be developed or revised during the upcoming fiscal year; (2) Annual Reports, which compiled revisions, updates, and tasks completed, and evaluated their effectiveness; (3) updated Stormwater Management Plans, which consolidated all revisions in a single document; and (4) permit amendments, adopted by the Regional Water Board following a hearing. (See, e.g., Alameda [Doc. 1], Bates Nos. 013756, 013769-013771; see also Santa Clara [Doc. 15], at Bates No. 014178; Contra

Costa [Doc. 5], Bates No. 013898; San Mateo [Doc.13], Bates No. 014116.) As described in the following sections, all of these documents were intended to, and did, become enforceable terms of the permit.

II. The Original Management Plans Constituted Prior State and Federal Law.

All of the permits explicitly incorporated the management plans as permit terms and made them enforceable under the permit. (See nearly identical language in Order Nos. R2-2003-0021 [Alameda], at Bates No. 013741, and [R2-2003-0034 [Fairfield-Suisun], at Bates No. 013981 ["The Management Plan, including the Performance Standards, is incorporated in the Permit by reference and enforceable as such, and is considered an enforceable component of this Order."]; Order No. R2-1999-0058 [Contra Costa], at p. 3 ["The Plan and modifications to the Plan that are approved in accordance with Provision C.11 and C.12 of this Order, and the Annual Format to be submitted in accordance with the Plan and Provision C.5 are an integral and enforceable component of this Order."]; Fact Sheet for Order No. R2-1999-0059 [San Mateo] [Doc. 10], at Bates No. 014069 ["These provisions require the implementation of the Dischargers' Plan and Performance Standards and essentially incorporate the Plan, including the Performance Standards, into the permit, thus making its implementation enforceable."]; Santa Clara [Doc. 15], at Bates No. 014186-014187 [compliance achieved by "timely implementation of control measures and other actions to reduce pollutants in the discharge in accordance with the Management Plan and other requirements of this permit, including any modifications."].)

This was consistent with the U.S. EPA approach to implementing and enforcing Vallejo's permit, which also treated the terms of the Storm Water Management Program as mandatory and enforceable. (See Permit No. CAS612006 [Doc. 18], at Bates No. 14275 ["All storm water

pollution control measures identified in the SWMP shall be implemented, including existing and proposed measures, and any modifications to the SWMP made during the term of this permit...”].)

The Santa Clara Permittee-specific management plans were likewise an integral component of the area-wide Management Plan as a whole. (Santa Clara Permit [Doc. 15], at Bates No. 014176 [“the Program’s 1997 Urban Runoff Management Plan, the Dischargers’ updated Urban Runoff Management Plans... and the Program’s and Dischargers’ Annual Reports for FY 1999/00 and Workplans for FY 2000/01... will hereinafter collectively be known as the Management Plan”].) They incorporated Performance Standards (tailored, if necessary), and detailed day-to-day implementation of BMPs, Standard Operating Procedures, and other control measures. (See *id.*, Bates No. 014177)

III. Updates to Management Plans Also Constituted Prior State and Federal Law.

Modifications to the management plans, implemented through Regional Board Orders, Annual Reports, Annual Work Plans, and Updated Stormwater Management Plans in accordance with the “continuous improvement process” described in Section I.B, *supra*, were also enforceable permit terms. At the time of the adoption of the 2009 stormwater permit, the operative Stormwater Management Plans for the Santa Clara, Alameda and Fairfield-Suisun permittees were: the 2004 Santa Clara Permittee-Specific Management Plans (2004 San Jose Plan, Bates No. 009010; 2004 SCVURRP Plan, Bates No. 012180 and 012279; and Remaining Santa Clara Permittees, Docs. 32-45); the 2001-2008 Alameda Stormwater Quality Management Plan (Bates No. 027951); and the 2007 Fairfield-Suisun Management Plan (Doc. 148). (See also Milpitas Work Plans [Docs. 66, 80, 94, 108, and 122], which treated the annual workplans as updated URMPs.) The operative Stormwater Management Plan for San Mateo

was the 2004-2010 Stormwater Management Plan (Bates No. 010000 et seq.; see also San Mateo [Doc. 10], Bates No. 014065) and the plan for Contra Costa appears to have been its original 1999-2004 plan (Doc. 143), as neither Regional Water Board nor Contra Costa records contain an updated version. Additional updates to the Plans were implemented through Annual Reports and Annual Work Plans.¹¹ All Plans were amended by the adoption, at Regional Board hearings, of multiple orders, in particular orders requiring performance standards for new development and significant redevelopment and hydromodification requirements.¹²

A. Provisions of Updated Management Plans Became Effective During the Permit Term.

The updated Management Plans went into effect before Order No. R2-2009-0074 was adopted, and did not, as San Jose suggests, prescribe purely future actions. (San Jose Rebuttal, p. 5 [Sept. 16, 2011].) In fact, the updates in these plans were not actually new, but were instead “a compilation” of prior updates adopted in Annual Reports, Work Plans, and Regional Board orders, and thus were already incorporated into the Permit’s terms and binding on Permittees. (See Santa Clara Permit [Doc. 15], Bates No. 014188; Fairfield-Suisun [Doc. 8], Bates No. 013995; Alameda [Doc. 1], Bates No. 013756; see also, e.g., 2004 San Jose Urban Runoff Management Plan, Bates No. 009015 [plan was “compilation of all revisions to the URMP... and is Chapter 11 of the Program-wide URMP”]; 2004 West Valley Communities Urban Runoff Management Programs [Doc. 32], Bates No. 018902 [“The attached URMPs supersede

¹¹ See, e.g., 2009-2010 Mountain View Work Plan [Doc. 124], Bates No. 027641 (identifying source of tasks to be completed as originating in the URMP, the FY 08-09 Work Plan, and the FY 07-08 Annual Report.)

¹² **New and Significant Redevelopment Orders:** Doc. 4 [Contra Costa]; Doc. 11 [San Mateo]; Doc. 16 [Santa Clara]; **Hydromodification Orders:** Doc. 2 [Alameda], Doc. 7 [Contra Costa]; Doc. 9 [Fairfield-Suisun]; Doc. 12 [San Mateo]; Order No. R2-2005-0035 [Santa Clara]. The Contra Costa and San Mateo permits were also amended to rescind Executive Officer-approved updates and reinstate them following a Regional Water Board hearing. (Docs. 5 and 6 [Contra Costa]; Docs. 13 and 14 [San Mateo].)

the previous West Valley Communities URMPs, submitted to the Regional Board in October 2000.”]; 2004 Cupertino Urban Runoff Management Plan [Doc. 33], Bates No. 019306 [incorporating FY2003-2004 Annual Work Plan]; cf. 2004-2010 San Mateo Stormwater Management Plan, Bates No. 010007 [“The current Plan has evolved out of the experience developing and implementing two previous stormwater management plans that covered the preceding ten-year period.”)]

The effective dates of the updated stormwater management plans – as many as five years prior to adoption of the 2009 MRP – show they were immediately applicable to Permittees. (See, e.g., 2004-2010 San Mateo Stormwater Management Plan, Bates No. 010007 [updated plan “describes what STOPP will be doing during the approximately six-year period from April 2004 through June 2010 to prevent and control stormwater pollution in San Mateo County”]; Alameda July 2001 – June 2008 Stormwater Quality Management Plan, Bates No. 008693 [“The Plan for FY 2001/02 through 2007/08 is the Program’s third stormwater quality management plan and will serve as the basis of the Program’s third stormwater discharge permit....”]; Los Gatos Urban Runoff Management Plan [Doc. 36], Bates No. 020075 [listing effective date as September 1, 2004]; San Jose 2004 Urban Runoff Management Plan, Bates No. 009054 [tasks to implement the rural roads performance standard, an update of the original 1996 plan, were “ongoing” as of 2003 or implemented “annually,” starting in 2004.]¹³

B. Permittees Could Not Unilaterally Change Plan Provisions.

¹³ See also 2004 Los Altos Hills URMP (Doc. 35), Bates No. 019963 (listing all changes to performance standards and noting that URMP updates were completed as of September, 2004); 2004 Mountain View URMP (Doc. 39), Bates No. 021769 (same); 2004 Palo Alto URMP (Doc. 40), Bates No. 022192 (“The Plan has been revised to document the City’s *current* storm water pollution prevention activities and associated performance standards.”)(emphasis added); 2004 City of Santa Clara URMP [Doc. 41], Bates No. 022629 (“[The URMP] is a working document that has evolved from 1997 to present. The Performance Standards contained within provide the guidance for our yearly Work Plans and measure the effectiveness of our Program in our Annual Report.”)

The Permittees' ability to propose updates to their management plans did not mean that the Permittees could have "abandoned the practices set forth in [the Management Plan]" and unilaterally "adopted different ones in a subsequent Management Plan if appropriate alternatives were found." (San Jose Test claim – Reply [Sept. 16, 2011], at p. 5.). To the contrary, proposed permit terms were required to be acceptable to the Executive Officer or Regional Board and could not simply be substituted at a Permittee's discretion. (See Santa Clara [Doc. 15], Bates No. 014188; Alameda [Doc. 1], Bates No. 013755-013756, Fairfield-Suisun [Doc. 8], Bates No. 013994; San Mateo [Doc. 14], Bates No. 014116; Contra Costa [Doc. 3], Bates No. 013898.)

In addition, Regional Water Board's permits provided the "meaningful review" required under *Environmental Defense Center*. (See *Env't'l Def. Ctr. Inc. v. U.S. EPA* (9th Cir. 2003) 344 F.3d 832, 856 [regulated parties could design aspects of their own Phase II stormwater management programs, provided the programs were "subject to meaningful review by an appropriate regulating entity"]; 40 C.F.R. § 122.28(d).) New or revised Performance Standards were required to be developed with public input, to be economically and technically feasible, and to be susceptible of performance evaluation and verification to ensure that they achieved pollutant reduction or prevention to the maximum extent practicable. (Santa Clara [Doc. 15], Bates No. 014188; Alameda [Doc. 1], Bates No. 013755-013756, Fairfield-Suisun [Doc. 8], Bates No. 013994.) Once adopted, program elements were subject to "an annual performance review and evaluation" by Regional Board staff to determine "overall Program effectiveness, implementation of Performance Standards, and continuous improvement opportunities." As a result of such reviews, staff evaluated the program's "consistency in meeting maximum extent practicable measures." (See Finding 9 of the Santa Clara Permit [Doc. 15], Bates No. 014178;

Finding 17 of the Alameda Permit [Doc. 1], Bates No. 013742; Finding 17 of the Fairfield-Suisun Permit [Doc. 8], Bates No. 013981-013982.)

Similarly, the Regional Board required that “the Annual Report information shall be adequate to describe each Permittee’s compliance status with respect to the provisions of this Order, and the required actions under the Management Plan and the Annual Workplans.” (Alameda, [Doc. 1], Bates No. 13770; Fairfield-Suisun [Doc. 8], Bates No. 014010; see also Santa Clara [Doc. 15], Bates No. 014190 [“Each Discharger shall evaluate the effectiveness of the activities completed during the reporting period,” including by evaluating “conformance with established Performance Standards, quantitative monitoring... measurements or estimates or pollutant load reductions, detailed accounting of Program accomplishments, funds expended, or staff hours utilized.”) Permittees that did not prepare Annual Reports that satisfied these requirements would be in violation of their permits, as the 2004 audit of the City of Richmond illustrates. (Doc. 269, Bates No. 049099.)

As this process demonstrates, permit requirements were not as easily changed as San Jose suggests: while permittees were able to propose modifications to the permit or to performance standards, the modifications had to meet the MEP standard, and be susceptible of performance evaluation once implemented.

C. The Enforcement History of the Permits Illustrates that Permittees Were Required to Comply with the Updated Plans.

The enforcement history of the permits demonstrates that the terms of the updated Management Plans, Annual Reports, and Work Plans were binding on permittees. Thus, the Regional Water Board’s formal enforcement action against Milpitas (Doc. 272) for violations identified in a joint EPA/Regional Water Board audit (Doc. 157), and Alameda for violations

identified in its Annual Reports and Stormwater Management Plan (Docs. 141, 145, and 153), show that implementation and revision of Performance Standards was required. The joint U.S. EPA/Regional Water Board audits of the Permittees' stormwater programs, which discussed potential permit violations and program deficiencies, provide additional evidence that Permittees' stormwater control efforts were mandatory. (See Docs. 157, 267-271.) The Permittees' responses to this enforcement activity, moreover, indicate that they did not dispute the enforceability of the permit terms, whether derived from Annual Reports, Annual Work Plans, or the Stormwater Management Plans.

1. The Milpitas Notice of Violation

The purpose of a Notice of Violation (NOV), to inform a discharger that it has violated a permit or other requirement and to specify actions to correct the violation, is itself a strong indication that the violated requirement is enforceable. Here, the Regional Water Board issued an NOV to Milpitas in October 2005 after an audit revealed that the City's construction site inspections were inadequate. (2005 Santa Clara Audit [Doc. 157], Bates No. 030916; Milpitas NOV [Doc. 272], Bates No. 049158.) The NOV informed the City that it was in violation of its stormwater permit and had "failed to implement Section 9F of the [2004] URMP,"¹⁴ which contained Construction Inspection Performance Standards. The Regional Water Board directed the City to take "appropriate action to remedy this situation immediately," by completing identified tasks. (Doc. 272, Bates No. 049159.) The Regional Water Board also required a response within 30 days. (Doc. 272, Bates No. 049159.) Accordingly, both the issuance *per se*

¹⁴ Section 9F of Milpitas' 2004 Urban Runoff Management Plan refers to New Development and Construction and Construction Inspection Standards. (Doc. 37, Bates No. 020745.) Milpitas' earlier Urban Runoff Management Plan, from March 2000, did not contain New Development and Construction or Construction Inspection Performance Standards, but indicated they would be finalized in June 2000. (Doc. 24, Bates No. 016130.)

of the NOV, as well as its clear language, demonstrate that the Performance Standard was enforceable. Milpitas' response, moreover, indicates the City agreed: the City "remain[ed] committed to meeting NPDES permit requirements," had "taken th[e] Notice very seriously," and had outlined "the necessary steps the City is implementing to reinforce and insure compliance with the Milpitas Construction Performance Standards." (Doc. 273, 049212-049213.)

Given the lack of dispute that the Performance Standards in Milpitas' updated stormwater management plan were binding permit requirements, there is no basis for suggesting that Performance Standards were not, in fact, enforceable. Furthermore, without evidence that the other permittees' stormwater management plans functioned differently than Milpitas's, the NOV also supports the conclusion that *all* Permittees' updated Stormwater Management Plans and the standards they contained were enforceable permit requirements.

Milpitas' correction of the violation demonstrates that its Annual Work Plan was also a source of binding requirements: Milpitas documented its compliance with the tasks required by the NOV in its 2006-2007 Work Plan. (2005 Audit Response [Doc. 273], Bates No. 049214; 2006-2007 Milpitas Work Plan [Doc. 80], Bates No. 026054, 026055, 026078 [showing that Milpitas had updated its Urban Runoff Management Plan to include the revised construction inspection procedures; revised the Municipal Code to bolster its enforcement authority, developed an Enforcement Response Plan, and implemented annual training of inspectors on the new standards and Response Plan].) The Work Plan contained the complete, updated 9F Performance Standards (Doc. 80, Bates No. 026093) and the "Construction Inspection Enforcement Response Plan" (Doc. 80, Bates No. 026105), which were incorporated into the Management Plan and used to implement the City's construction inspection program thereafter. (See 2007-2008 Milpitas Work Plan [Doc. 94], Bates No. 02655 [describing revisions

implemented to comply with the NOV]; See also Milpitas FY 06-07 Annual Report [Doc. 209], Bates No. 038903, 038904 [describing completion of training on Enforcement Response Plan in 2006, and describing subsequent annual trainings as an ongoing requirement].) The interchangeability of standards included in the Work Plan versus the updated Stormwater Management Plan is underscored by the City's description of its 2006-2007 Work Plan, like all its Work Plans,¹⁵ as an updated URMP. (Doc. 80, Bates No. 026054; see also Doc. 15, Bates No. 014192 [describing process for adoption permit updates in annual work plans].).

Accordingly, irrespective of the origin of an updated Performance standard – that is, whether it is included as part of a comprehensive Stormwater Management Plan or as part of a Work Plan or Annual Report – compliance with the Performance Standard is still required.

2. Administrative Civil Liability Complaints Against Alameda County

Further support for the enforceability of Work Plan, Annual Report, and Stormwater Management Plan provisions comes from the two Administrative Civil Liability Complaints that the Regional Water Board issued to Alameda County. (Doc. 145, Bates No. 030005; Doc. 151, Bates No. 030804.) In the first of these, the Regional Water Board relied on the County's 2005-2006 and 2008-2009 Annual Reports to allege that Alameda County had failed to implement site design measures or develop performance standards to minimize stormwater pollution from new and redevelopment projects in violation of its permit and the Clean Water Act. (See Doc. 145, Bates No. 030006, 030008 [settled pursuant to Order No. R2-2012-0007-A, (Doc. 153), Bates No. 030827].) In the second, the Regional Board alleged the County had not properly maintained "an effective combination of erosion and sediment controls" in violation of its permit

¹⁵ See Docs. 37, 66, 94, 108, and 122.

and the New Development and Construction Site Controls Performance Standards contained in its 2001-2008 Stormwater Quality Management Plan. (See Order No. R2-2011-0039 [Doc. 151], Bates Nos. 030798, 030806.) After settlement of these complaints, the County was assessed a total of \$88,020 in administrative civil liability. (Doc. 151, Bates No. 030799; Doc. 153, Bates No. 030827.) Without admitting liability for specific violations in either case, the County nonetheless stipulated that “continuing violations of the type alleged...may subject it to further enforcement,” an implicit acknowledgement that the Performance Standards were enforceable, and that implementation was required. (See Doc. 151, Bates No. 030799-030800; Doc. 153, Bates No. 030837-030828.)

3. U.S. EPA and Regional Water Board Audits

Jointly administered U.S. EPA and Regional Water Board audits¹⁶ of the permittees' programs further support the conclusion that the Management Plans, Annual Reports, and Work Plans contained binding permit requirements, and constituted prior state and federal law. The audits reviewed Permittees' Annual Reports, the area-wide Stormwater Management Plans, the permittee-specific urban runoff management plans, Performance Standards, as well as the original permit¹⁷ to determine permittees' compliance with their stormwater permits and “to evaluate the current implementation status of the permittees' performance standards with respect to EPA's storm water regulations.” (2004 Contra Costa Audit [Doc. 269], Bates No.

¹⁶ Performed by U.S. EPA's consultant, Tetra Tech, Inc. Tetra Tech completed six audits of various elements of selected Permittees' stormwater programs: Alameda County in 2002 (Doc. 267), San Mateo County in 2002 (Doc. 270), Contra Costa County in 2003 and 2004 (Docs. 268 and 269), and Santa Clara County in 2003 and 2005 (Docs. 271 and 157).

¹⁷ See 2005 Santa Clara Audit (Doc. 157), Bates No. 030911; 2003 Santa Clara Audit (Doc. 271), Bates No. 049142; 2002 Alameda Audit (Doc. 267), Bates No. 049035; 2003 Contra Costa Audit (Doc. 268), Bates No. 049054; 2004 Contra Costa Audit (Doc. 269), Bates No. 049081; 2002 San Mateo Audit (Doc. 270), Bates No. 049117.

49081.)¹⁸ Although the audits were “not a formal finding of violation,” (e.g., Doc. 157, Bates No. 030913) they could nonetheless trigger subsequent enforcement action. (See Milpitas NOV [Doc. 271], Bates No. 049158.) This potential for enforcement, as well as Permittees’ prompt correction of deficiencies and potential violations of performance standards and permit provisions, demonstrates that compliance with the standards and provisions was required. Given the numerous potential violations identified in Permittees’ programs,¹⁹ we will focus here on why deficiencies and potential violations of municipal maintenance requirements indicate that those requirements were binding on the Permittees.

a. Potential Violations and Deficiencies Show that Permittees Were Already Required to Comply with Municipal Maintenance Performance Standards.

Numerous potential violations and program deficiencies across the programs illustrate Permittees’ longstanding obligation to comply with detailed municipal maintenance performance standards. For instance, the City of Richmond’s failure to complete a SWPPP for its Corp Yards, implement Performance Measures to control pollution at the corporation yard, or prevent

¹⁸ Compare to nearly identical language in the 2005 Santa Clara Audit (Doc. 157), Bates No. 030911; 2003 Contra Costa Audit (Doc. 268), Bates No. 49054; 2002 San Mateo Audit (Doc. 270), Bates No. 049117; 2003 Santa Clara Audit (Doc. 271), Bates No. 049142.

¹⁹ **City of Richmond (2004):** Annual Reports did not adequately evaluate and assess BMPs (Doc. 269, Bates No. 049099), had insufficient enforcement authority under its municipal code (Doc. 269, Bates No. 040103); was not following its Illicit Discharge Control Plan (Doc. 269, Bates No. 049105); staff not aware of updated new development requirements (Doc. 269, Bates No. 049106); that the City not conducting outreach with the development community and did not inspect stormwater controls at construction sites (Doc. 268, Bates Nos. 049106-049107); inadequate public participation and outreach (Doc. 269, Bates No. 049110); **City of Milpitas (2005):** inadequate construction stormwater inspection (Doc. 157, Bates No. 030916); **Contra Costa County (2002):** inadequate Illicit Discharge Control Activities Plan (Doc. 268, Bates No. 049063); failure to obtain NPDES stormwater coverage for construction of County-owned animal control facility (Doc. 268, Bates No. 049064); **City of Hercules (2003):** no commercial and industrial business inspection plan (Doc. 268, Bates No. 049065); inadequate field screening/prioritization of areas at risk of illicit discharge; failure to develop Illicit Discharge Control Activities Plan (Doc. 268, Bates No. 049066); **City of Pittsburg (2003):** inadequate commercial and industrial inspection program (Doc. 268, Bates No. 049068); inadequate screening criteria for illicit discharge locations (Doc. 268, Bates No. 049070); failure to identify illegal dumping hotspots (Doc. 268, Bates No. 049071); **City of Pittsburg (2004):** failure to inspect industrial facilities (Doc. 269, Bates NO. 049095); **City of Walnut Creek (2003):** failure to inspect outfalls for dry weather discharges (Doc. 268, Bates No. 049075); **County of Santa Clara (2004):** failure to identify or inspect industrial facilities (Doc. 271, Bates No. 049148).

discharge of wash water to the storm drain, as required by the Stormwater Management Plan, were potential permit violations. (2004 Contra Costa Audit [Doc. 269], Bates Nos. 049078, 049109.) Similarly, Santa Clara County's implementation of the municipal maintenance standards was deficient because it had not adequately trained municipal maintenance staff on implementation of BMPs (2004 Santa Clara Audit [Doc. 271], Bates No. 049139, 049151-049152). Both Foster City's and San Jose's corporation yards were identified as having inadequate BMPs, including uncovered storage and fueling areas in Foster City, and outdoor washing in San Jose, in violation of the prohibition on non-storm water discharges. (2002 San Mateo Audit [Doc. 270], Bates No. 049129; 2004 Santa Clara Audit [Doc. 271], Bates No. 049157.) Foster City, Pacifica, Redwood City, and the City of San Mateo were also identified as not having any written BMPs or guidance for municipal maintenance activities (2002 San Mateo Audit [Doc. 270], Bates No. 049129-049130; 049132; 049134, 049135-049136.) The City of Santa Clara was required to update its performance standard to provide for regular inspections of municipally owned facilities (2005 Santa Clara Audit [Doc. 157], Bates No. 030924.) Accordingly, contrary to San Jose's assertion, municipal maintenance activities were not discretionary.

b. Permittee Responses to Audits Also Demonstrate Enforceability of Requirements.

Permittees' response to these audits was generally to address potential violations and deficiencies promptly, demonstrating that they acknowledged the applicability of the underlying permit requirements. (See, e.g., 2005 Santa Clara Audit, Doc. 157, Bates No. 030929-030930 [commending Santa Clara County for implementing adequate BMPs at the County Parks corporation yard, and for developing and adhering to Standard Operating Procedures for municipal maintenance and Rural Public Works maintenance, in response to the 2003 audit

findings]; 2002 San Mateo Audit [Doc. 270], Bates No. 049129 [commending Foster City on its “substantial improvement” in its catch basin cleaning and street sweeping programs in response to prior audit showing it was not meeting performance standards]; see also 2004-2005 Richmond Annual Report [Doc. 306], Bates No. 056461-056463; Santa Clara 2005 Audit Response [Doc. 273], Bates No. 049186 [“Of the seven noted deficiencies, four deficiencies are adequately resolved in existing URMPPP performance standards and subsequent implementation. One deficiency was resolved prior to your letter dated October 3, 2005. The remaining two deficiencies are being addressed and their proposed remedy timelines are provided.”) Even where permittees disagreed that their programs had fallen short of Performance Standards, they did not challenge the underlying applicability or enforceability of the Standards, but instead explained how their programs complied. (See Doc. 273, Bates No. 049207, 049209.)

D. Permittees Considered the Updated Management Plans to Be Binding Permit

Terms.

Even a cursory look at the Annual Reports and Work Plans indicates that the Permittees implemented the provisions of the updated Management Plans and treated them as binding. (See, e.g., *Annual Reports*: San Jose FY 2007-2008 Annual Report [Doc. 229], Bates No. 041715 [“The report summarizes activities performed during FY 2007-2008 in accordance with the City of San Jose’s Urban Runoff Management Plan (URMP) submitted to the Regional Board in September 2004, and the performance standards contained therein”]; Cupertino FY 2006-2007 Annual Report [Doc. 205], Bates No. 038411 [“The report summarizes activities performed during FY 2006-2007 in accordance with the City of Cupertino’s Urban Runoff Management Plan (URMP) submitted to the Regional Board on September 1, 1997 and updated

in October 2000 and September 2004, and the performance standards contained therein.”]; City of Sunnyvale FY 2008-2009 Annual Report [Doc. 235] Bates No. 042863 [certifying under penalty of law “that the City of Sunnyvale has implemented all elements of [specified] performance standards... according to the policies and procedures described in the City of Sunnyvale’s Urban Runoff Management Plan dated September 1, 2004.”]; *Work Plans*: Monte Sereno FY 09-10 Work Plan Doc. No. 123, Bates No. 027606 [indicating the regulatory source of outlined tasks was “URMP 2004”]; City of Santa Clara FY 2007-2008 Work Plan [Doc. 98], Bates No. 026729 [same].)

In fact, by FY 2007/2008 and FY 2009/2010, implementation of the provisions of the updated stormwater management plans had become routine. For instance, San Jose’s 2008/2009 Annual Report stated, “Efforts to reduce contaminated discharges from City facilities must be similar to those required of private businesses. While many elements for permit compliance are in place, the City requires a systematic approach to City facilities at the level of effort required in the URMP.” (Doc. 245, Bates No. 044512.) Santa Clara indicated that maintenance crews were implementing the following 2004 Management Plan provisions: following BMPs and Standard Operating Procedures on public works projects, sweeping streets, and performing staff training in accordance with the 2004 URMP, describing these activities as “routine and ongoing.” (See Doc. 98, Bates No. 026746-026747.) Saratoga indicated that it would sweep streets, clean storm drains, and review its Storm Water Management Pollution Protection Plan in accordance with the updated stormwater Management Plan. (See Doc. 99, Bates No. 026778-026779.)

IV. The *Baykeeper* Decision Does Not Undermine the Conclusion that Updated Management Plans Were Permit Terms, Nor Did It Invalidate all Executive Officer Approvals.

The trial court decision in *San Francisco Baykeeper v. San Francisco Bay Regional Water Quality Control Board* (*Baykeeper* decision) found that Executive Officer approvals of revisions to performance standards and control measures in the San Mateo and Contra Costa permits amounted to an improper delegation of Board authority under Water Code section 13223. (See Statement of Decision [Doc. 156], Bates No. 030904-030905.) Accordingly, the decision changed the way that major modifications to the San Mateo and Contra Costa permits were approved, requiring approval only after a public hearing before the Regional Water Board. (See Doc. 5, Bates No. 013893; Doc. 6, Bates No. 013954; Doc. 13, Bates No. 014111; Doc 14, Bates No. 014133.) The *Baykeeper* decision did not, however, affect the approval mechanisms in the Santa Clara, Fairfield-Suisun, or Alameda permits, nor did the *Baykeeper* decision require that *all* annual reports, work plans, or updated stormwater management plans for any permittees, be presented in their entirety to the Regional Water Board for adoption following a hearing. Accordingly, the Commission incorrectly suggests that Executive Officer approvals of permit requirements are “void,” and that, as a result of the 2003 trial court decision in *Baykeeper* decision, updated area-wide and permittee-specific management plans were required to be adopted at a hearing by the full Regional Board. (See Dec. 23 Notice, at p. 4.)

Below, the Regional Water Board explains the effect of the *Baykeeper* on the approval mechanisms in the San Mateo and Contra Costa permits, and clarifies that the approval mechanisms for updates in the Santa Clara, Alameda and Fairfield-Suisun permits were not affected by this decision.

A. Approval of Updates in the San Mateo and Contra Costa Permits

As a result of the trial court's finding that adoption of particular updates to San Mateo and Contra Costa performance standards had been improperly delegated to the Executive Officer, the San Mateo and Contra Costa permits were revised to place responsibility for approving substantive "updates, improvements, or revisions" to the stormwater management plan with the Regional Board. (San Mateo Order No. R2-2004-0060 [Doc. 13], Bates No. 014113; Contra Costa Order No. R2-2004-0059 [Doc. 5], Bates No. 013895.) All Executive Officer approvals invalidated in the two permits as a result of this change were later reinstated by Board action. (See Contra Costa Order No. R2-2004-0061 [Doc. 6], Bates No. 013954; San Mateo Order No. R2-2004-0062 [Doc. 14], Bates No. 014133.)

1. *San Mateo's Entire Updated Management Plan Was Not Required to Be Adopted by the Regional Water Board.*

The *Baykeeper* decision did not void the provisions of San Mateo's 2004-2010 Stormwater Management Plan,²⁰ nor did it require that the Plan, in its entirety, be approved after a Board hearing. The "majority of tasks and performance standards [were] continued from the previous plan," (Bates No. 010011) and had already been adopted as permit terms with the 1999 permit (See Doc. 10, at Bates No. 014069; see also Statement of Decision, Doc. 156, Bates No. 030902). Some revisions merely corrected deficiencies in implementation of *existing* standards that had been identified in the 2002 audit.²¹ (Bates No. 010017.) Re-approval of these terms at another hearing was not required under *Baykeeper*, which only required substantive modifications to be presented to the Board. The updated provisions and standards,

²⁰ Bates No. 10000, et seq.

²¹ Doc. 270, Bates No. 049114.

meanwhile, *had* been presented to the Board at public hearings in accordance with *Baykeeper*: some updates incorporated a February 2003 permit amendment²² (Bates No. 010011-010012), and thus reflected board-approved, as opposed to Executive Officer-approved, changes. Other updates originally approved by the Executive Officer, including the rural public works performance standard and BMPs for conditionally exempt discharges, such as sidewalk and building washing, were as stated above, later reinstated by board action after a hearing. (Doc. 14, Bates No. 014134, 014139, 014163).²³ Accordingly, the terms of the 2004-2010 Stormwater Management Plan had all been approved by the full Regional Water Board at various times, and were therefore incorporated into the permit at the time the 2009 permit was issued. Accordingly, evidence that the entire Plan was approved at a Regional Board hearing is not required to show that the Plan was valid.

2. Contra Costa's Permit Updates Were Likewise Board-Approved.

Updates to Contra Costa's Stormwater Management Plan²⁴ were also made through successive board orders incorporating changes to particular parts of the Plan. Order No. R2-2004-0061, for instance, reinstated Executive Officer-approved performance standards for illicit discharge control activities, as well as construction controls. (Doc. 6, Bates No. 013955). Order No. R2-2003-0022 approved changes to the standards for new and significant redevelopment projects (Doc. 4, Bates No. 013847.) Order No. R2-2006-0050 incorporated changes to

²² Order No. R2-2003-0023 (Doc. 11.)

²³ Cf. Doc. 14, Bates Nos. 014134 (describing revisions to Management plan to be reinstated); 014136 et seq. (Pollutant Prevention and Control Measures Plan, which included control measures for PCBs, mercury, pesticides, a performance standard for rural public works, and dioxins; a lagoon management performance standard, BMPs for Conditionally Exempt Discharges, including sidewalk washing and other activities) with 2004-2010 Plan, Bates No. 0100011 (noting inclusion of "previously agreed-to performance standards for all lagoon management activities... [and] for rural public works maintenance activities that are applicable to San Mateo County," as well as inclusion of Pollution Prevention and Control Measures Plan as Appendix F.)

²⁴ Unlike the other Permittees, Contra Costa does not appear to have submitted an updated Stormwater Management Plan. Accordingly, board orders that amended the Plan provide evidence of updated terms.

hydromodification requirements. The permittees' Annual Reports reflect the status of the implementation of these changes. For instance, Contra Costa County's 2003/2004 Annual Report stated:

"The primary focus this fiscal year has been the development and implementation of the Program's February 19, 2003 Permit amendment dealing with new development and significant redevelopment (Provision C.3),²⁵ the resolution of the *San Francisco Baykeeper v. Regional Water Quality Control Board, et al.* lawsuit, the approval of the Mercury Total Maximum Daily Load (TMDL) Basin Plan Amendment recently adopted by the San Francisco Bay Water Board;²⁶ and the improvements to the Illicit discharge Control Activities.²⁷ Other activities during the 2003/2004 fiscal year included areas where improvements were identified by the United States Environmental Protection Agency's audit of our Program by Tetra Tech in May 2003 under the auspices of the San Francisco Bay Water Board."²⁸

Accordingly, though the Annual Reports were not approved at public hearings, they accurately reflected Plan modifications approved through Regional Water Board orders or resolutions, or clarify proper implementation of existing permit terms. It is not improper for the Executive Officer to approve such reports because determining compliance with NPDES permit requirements does not run afoul of Water Code section 13223. (See *Cal. Assn. of Sanitation Agencies v. State Water Resources Control Bd.* (2012) 208 Cal.App.4th 1438, 1468 [citing *Russian River Watershed Protection Com. v. City of Santa Rosa* (1998) 142 F.3d 1136, 1139, 1143.]

B. Santa Clara, Alameda, and Fairfield-Suisun Permit Update Mechanism

Baykeeper only challenged the San Mateo and Contra Costa permits (Statement of Decision [Doc. 156], Bates No. 030900-030901), so the trial court decision, which was not

²⁵ Order No. R2-2003-0022 (Doc. 4).

²⁶ Regional Board Resolution No. R2-2004-0082 (subsequently remanded by State Board in 2005, and reissued with additional requirements in Resolution No. R2-2006-0052.)

²⁷ Reinstated per Order No. R2-2004-0061 (Doc. 6.)

²⁸ Doc. 294, Bates No. 051927-015928.

precedential, did not affect the Santa Clara, Alameda, or Fairfield-Suisun permits. (See Cal. Rules of Court, rule 8.115 [unpublished decisions must not be cited or relied upon by a court or a party in any other action].) In those three permits, Annual Reports, Work Plans, Updated Stormwater Management Plans, and Performance Standards were not required to be presented to the Regional Water Board at a hearing; instead, they were deemed incorporated into the permit unless disapproved by the Executive Officer within a specified time frame, according to provisions for approval that were substantially identical in all three permits.²⁹ Major revisions were still required to be brought before the Board,³⁰ and several such major revisions did update the three permits.³¹

This approval mechanism is consistent with the State Water Board's interpretation of Executive Officer authority under Water Code section 13223. (State Water Resources Control Board Order No. 2003-0005-DWQ [*WDRs for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems*].) The language of the Alameda, Santa Clara, and Fairfield-Suisun permits closely tracks that of the State Water Board order:

²⁹ See **Findings related to continuous improvement** (Finding 8 of the Santa Clara permit [Doc. 15], Bates No. 014178; Finding 15 of the Alameda Permit [Doc. 1], Bates No. 013742, and Finding 15 of the Fairfield-Suisun Permit [Doc. 8], Bates No. 013981); **Provisions for updates of Performance Standards** (Provision C.2.b of the Fairfield-Suisun Permit [Doc. 8], Bates No. 013994-013995, the Alameda Permit [Doc. 1], Bates No. 013756 and the Santa Clara Permit [Doc. 15], Bates No. 014188); **Provisions for updated Management Plans** (Provision C.2.b. of the Santa Clara Permit [Doc. 15], Bates No. 014188; Fairfield-Suisun [Doc. 8], Bates No. 013995; Alameda [Doc. 1], Bates No. 013756); **Provisions for approval of Annual Reports** (Provision C.6.a of the Santa Clara Permit [Doc. 15], Bates No. 014190; Provision C.7.a of the Alameda Permit [Doc. 1], Bates No. 013769-013770, C.6.a of the Fairfield-Suisun permit [Doc. 8], Bates No. 014010); **Provisions for approval of Work Plans** (Provision C.6.b Santa Clara [Doc. 15] Bates No. 014192, and C.7.b of the Alameda permit [Doc. 1], at Bates No. 013771); **Provisions for Public Comment** (Finding No. 27 of the Santa Clara Permit [Doc. 15], Bates No. 014185; Finding No. 63 of the Alameda Permit [Doc. 1], Bates No. 013754; Finding No. 62 of the Fairfield-Suisun Permit [Doc. No. 8], Bates No. 013992).

³⁰ Provision C.11 of the Santa Clara Permit [Doc. 15], Bates No. 014200-014201; C.12 of the Alameda Permit [Doc. 1], Bates No. 013779; C.11 of the Fairfield-Suisun Permit [Doc. 8], Bates No. 014020.

³¹ Several "major revisions" of the permits were put forth by way of Regional Board Order. (See Order Nos. R2-2001-0119 [Doc. 16], Bates No. 014224 [listing four public meetings held prior to adoption of revised standards for new development and redevelopment areas]; R2-2007-0025 and R2-2007-0026 [Doc. 9] [amending Alameda and Fairfield-Suisun permits to include hydromodification requirements].)

[The Storm Water Management Plan] shall be revised to incorporate any new or modified BMPs or measurable goals developed through the Permittee's annual reporting process. The Permittee shall incorporate changes required by or acceptable to the RWQCB Executive Officer into applicable annual revisions to SWMP and adhere to its implementation.

(Order No. 2003-0005-DWQ, p. 8.)

The Dischargers shall incorporate newly developed or updated Performance Standards, acceptable to the Executive Officer, into applicable annual revisions to the Management Plan and adhere to implementation of the new/revised Performance Standards.

(Alameda [Doc. 1], Bates No. 013756; Santa Clara [Doc. 15], Bates No. 014188; Fairfield-Suisun [Doc. 8], Bates No. 013995.)

In contrast to the *Baykeeper* decision, State Water Board orders are precedential and binding on the Regional Water Boards.³² The Commission is required to defer to the Water Boards' interpretation of section 13223 and the enforceability and validity of their own permit provisions. (See *Dept. of Finance v. Comm. on State Mandates* (2016) 1 Cal. 5th 749, 768-769.) Accordingly, the Executive Officer approval of Work Plans,

The Commission may not now second-guess the adequacy or legality of the approval mechanism. The time for disputing the Executive Officer approval mechanism or the validity of a particular approval has long since passed. (See Water Code §§ 13320 [persons aggrieved by a regional board's action or failure to act must petition the State Water Resources Control Board within 30 days of such action or failure to act]; 13330 [upon denial of review by the State Board,

³² See State Water Board Adopted Orders web page: http://www.swrcb.ca.gov/board_decisions/adopted_orders/water_quality/wqo03.shtml ("All orders adopted by the [State Water] Board are considered precedential with the exception of those which specifically state the contrary"); Gov. Code § 11425.60, subd. (b) ("An agency may designate as a precedent decision a decision... that contains a significant legal or policy determination of a general application that is likely to recur. Designation of a decision... as a precedent decision is not rulemaking.... An agency's designation of a decision or part of a decision... as a precedent decision is not subject to judicial review.").

aggrieved party has 30 days to file a petition for writ of mandate in superior court].) Exhaustion of administrative remedies through a petition pursuant to Water Code section 13330 is a jurisdictional prerequisite to any challenge to the permits' terms. (*Schutte & Koerting, Inc. v. Regional Water Quality Control Bd., San Diego Region* (2007) 158 Cal.App.4th 1373, 1385-1387.)

The Commission, moreover, would not be the proper forum to determine whether a particular permit revision violated the Regional Water Board's delegation authority or federal NPDES regulations. As stated above, challenges to regional water board actions are not subject to review absent a timely challenge under Water Code sections 13320 and 13330. (Water Code § 13330, subd. (c).) Accordingly, it is untimely for the Test Claimants to suggest, fifteen years after the permits were adopted, that particular permit provisions or program updates are presumptively invalid, under the logic of the *Baykeeper* decision or otherwise. (See Dec. 23 Notice, at p. 4.)

As outlined above, the Alameda, Santa Clara, and Fairfield-Suisun permits allowed for updates to their permits by both Executive Officer approval and adoption following a hearing. Given this flexibility, evidence that any updates other than the specific major revisions listed above were adopted by the Board at a hearing is not necessary to show that the updates were binding, enforceable prior permit terms. Instead, evidence that work plans and annual reports were not disapproved of by the Executive Officer, and were therefore incorporated into the permit within a specified period of time after submission, is sufficient to conclude that the updates they contained were incorporated into the permit. (See Provisions C.6 of the Santa Clara Permit, [Doc. 15], Bates No. 014190-014193; C.6 of the Fairfield-Suisun Permit [Doc. 8], Bates No. 014010; and C.7 of the Alameda Permit [Doc. 1], Bates No. 013769-013771.) Our

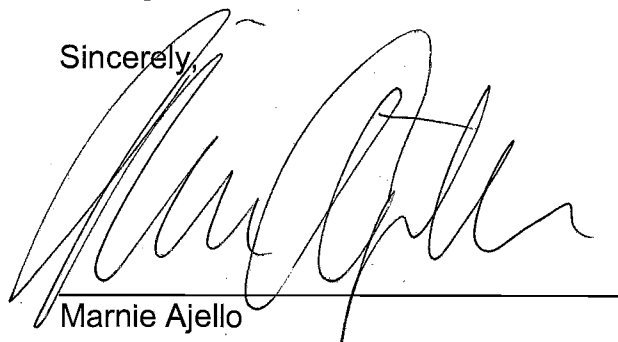
records do not indicate that the Executive Officer rejected any of the Permittees' Work Plans, Annual Reports, or Updated Management Plans. Accordingly, we conclude that they all became part of the respective permits.

E. The Provisions of C.2 Applied to Permittees Prior to Order No. 2009-0074.

Prior to the adoption of the Order No. R2-2009-0074, each of the permittees had adopted either individual or area-wide stormwater management plans to implement prior permit requirements. These plans demonstrate that each and every permittee was already bound by performance standards requiring implementation of the exact BMPs, or types of BMPs, required in MRP Provision C.2. The chart attached as Attachment 1 provides specific citations to plans, prior permits, performance standards and BMPs demonstrating that, for each permittee, the provisions of C.2 were not new requirements and did not impose a higher level of service. (See Cal. Gov. Code § 17556.) To the contrary, C.2 repackaged existing federal and state requirements contained in individual plans, and updates across six permits, and compiled them in one set of provisions in a single permit that applied to all permittees.

Thank you for your consideration of this briefing.

Sincerely,



Marnie Ajello

Attachments:

- Attachment 1 – C.2 Table
- Attachment 2 – Documents 1 – 170
- Attachment 3 – Documents 171 – 266
- Attachment 4 – Documents 267 – 339
- Attachment 5 – Document Index

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Please note: Bates Numbering continues from our August 30, 2016 "Filing of Administrative Record Test Claims 10-TC-01 (San Mateo), 10-TC-02 (Alameda), 10-TC-03 (Santa Clara), and 10-TC-05 (San Jose)". Documents with Bates Number less than 013737 will be found in "Filing of Administrative Record Test Claims 10-TC-01 (San Mateo), 10-TC-02 (Alameda), 10-TC-03 (Santa Clara), and 10-TC-05 (San Jose)".

File Name	Document Description	Begin Bates No.
Permits		
1	Order No.R2-2003-0021, Alameda Countywide NPDES Municipal Stormwater Permit	013737
2	Order No. R2-2007-0025, Amendment Revising Alameda Countywide NPDES Municipal Stormwater Permit, Order No. R2-2003-0021	013815
3	Order No. R2-1999-0058, Contra Costa Countywide NPDES Municipal Stormwater Permit	013827
4	Order No. R2-2003-0022, Amendment Revising Contra Costa Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-0058	013847
5	Order No. R2-2004-0059, Amendment Revising Contra Costa Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-0058	013889
6	Order No. R2-2004-0061, Amendment Revising the Contra Costa Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-0058	013950
7	Order No. R2-2006-0050, Amendment Revising the Contra Costa Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-0058	013959
8	Order No. R2-2003-0034, Fairfield-Suisun Areawide NPDES Municipal Stormwater Permit	013976
9	Order No. R2-2007-0026, Amendment Revising Fairfield-Suisun Areawide NPDES Municipal Stormwater Permit, Order No. R2-2003-0034	014040
10	Order No. R2-1999-059, San Mateo Countywide NPDES Municipal Stormwater Permit	014052
11	Order No. R2-2003-0023, Amendment Revising San Mateo Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-059	014072
12	Order No. R2-2007-0027, Amendment Revising San Mateo Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-059	014099
13	Order No. R2-2004-0060, Amendment Revising San Mateo Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-059	014110
14	Order No. R2-2004-0062, Amendment Revising San Mateo Countywide NPDES Municipal Stormwater Permit, Order No. R2-1999-059	014132
15	Order No. R2-2001-024, Santa Clara Countywide NPDES Municipal Stormwater Permit	014175
16	Order No. R2-2001-0119, Amendment Revising Santa Clara Countywide NPDES Municipal Stormwater Permit, Order No. R2-2001-024	014216
17	Order No. R2-2005-0035, Amendment Revising Santa Clara Countywide NPDES Municipal Stormwater Permit, Order No. R2-2001-024	014258
18	Vallejo Sanitation and Flood Control District, Permit No CAS612006, April 27, 1999	014273
Santa Clara Permittees' 1997 Urban Runoff Management Plans		
19	Santa Clara Valley Urban Runoff Pollution Prevention Program	014296
20	City of Campbell	014652
21	City of Cupertino	015214
22	City of Los Altos	015429
23	Town of Los Altos Hills	015511
20	Town of Los Gatos	014652
24	City of Milpitas	016127
20	City of Monte Sereno	014652

File Name	Document Description	Begin Bates No.
25	City of Mountain View	016630
26	City of Palo Alto	017083
27	City of San Jose	017483
28	City of Santa Clara	017823
20	City of Saratoga	014652
29	City of Sunnyvale	018013
30	Santa Clara County	018540
31	Santa Clara Valley Water District	018745
Santa Clara Permittees' 2004 Urban Runoff Management Plans		
	Santa Clara Valley Urban Runoff Pollution Prevention Program, Chapters 1-4, September 1, 2004	012180
	Santa Clara Valley Urban Runoff Pollution Prevention Program, Appendix A, September 1, 2004	012279
32	City of Campbell	018902
33	City of Cupertino	019286
34	City of Los Altos	019777
35	Town of Los Altos Hills	019961
36	Town of Los Gatos	020073
37	City of Milpitas	020433
38	City of Monte Sereno	021397
39	City of Mountain View	021767
40	City of Palo Alto	022192
	City of San Jose	009010
41	City of Santa Clara	022629
42	City of Saratoga	022964
43	City of Sunnyvale	023354
44	Santa Clara County	024312
45	Santa Clara Valley Water District	024704
Santa Clara Permittees' 2004-2005 Draft Workplans		
	Santa Clara Valley Urban Runoff Pollution Prevention Program	010884
46	City of Campbell	024942
47	City of Cupertino	024967
48	City of Los Altos	025011
49	Town of Los Altos Hills	025042
50	Town of Los Gatos	025054
51	City of Milpitas	025079
52	City of Monte Sereno	025128
53	City of Mountain View	025150
54	City of Palo Alto	025178
55	City of San Jose	025201
56	City of Santa Clara	025278
57	City of Saratoga	025313
58	City of Sunnyvale	025338
59	Santa Clara County	025397
60	Santa Clara Valley Water District	025445
Santa Clara Permittees' 2005-2006 Draft Workplans		

File Name	Document Description	Begin Bates No.
	Santa Clara Valley Urban Runoff Pollution Prevention Program	011236
61	City of Campbell	025466
62	City of Cupertino	025490
63	City of Los Altos	025524
64	Town of Los Altos Hills	025555
65	Town of Los Gatos	025567
66	City of Milpitas	025591
67	City of Monte Sereno	025661
68	City of Mountain View	025683
69	City of Palo Alto	025711
	City of San Jose	009448
70	City of Santa Clara	025733
71	City of Saratoga	025775
72	City of Sunnyvale	025798
73	Santa Clara County	025857
74	Santa Clara Valley Water District	025906
Santa Clara Permittees' 2006-2007 Draft Workplans		
	Santa Clara Valley Urban Runoff Pollution Prevention Program	011532
75	City of Campbell	025926
76	City of Cupertino	025949
77	City of Los Altos	025987
78	Town of Los Altos Hills	026019
79	Town of Los Gatos	026030
80	City of Milpitas	026054
81	City of Monte Sereno	026165
82	City of Mountain View	026185
83	City of Palo Alto	026213
	City of San Jose	009517
84	City of Santa Clara	026239
85	City of Saratoga	026284
86	City of Sunnyvale	026307
87	Santa Clara County	026367
88	Santa Clara Valley Water District	026410
Santa Clara Permittees' 2007-2008 Draft Workplans		
	Santa Clara Valley Urban Runoff Pollution Prevention Program	011677
89	City of Campbell	026431
90	City of Cupertino	026456
91	City of Los Altos	026489
92	Town of Los Altos Hills	026515
93	Town of Los Gatos	026527
94	City of Milpitas	026554
95	City of Monte Sereno	026649
96	City of Mountain View	026671
97	City of Palo Alto	026701
	City of San Jose	009593
98	City of Santa Clara	026727
99	City of Saratoga	026773
100	City of Sunnyvale	026799

File Name	Document Description	Begin Bates No.
101	Santa Clara County	026859
102	Santa Clara Valley Water District	026911
Santa Clara Permittees' 2008-2009 Draft Workplans		
	Santa Clara Valley Urban Runoff Pollution Prevention Program	011807
103	City of Campbell	026931
104	City of Cupertino	026959
105	City of Los Altos	026993
106	Town of Los Altos Hills	027019
107	Town of Los Gatos	027031
108	City of Milpitas	027060
109	City of Monte Sereno	027102
110	City of Mountain View	027126
111	City of Palo Alto	027158
	City of San Jose	009659
112	City of Santa Clara	027184
113	City of Saratoga	027234
114	City of Sunnyvale	027262
115	Santa Clara County	027321
116	Santa Clara Valley Water District	027370
Santa Clara Permittees' 2009-20010 Draft Workplans		
	Santa Clara Valley Urban Runoff Pollution Prevention Program	011888
117	City of Campbell	027431
118	City of Cupertino	027471
119	City of Los Altos	027499
120	Town of Los Altos Hills	027525
121	Town of Los Gatos	027537
122	City of Milpitas	027578
123	City of Monte Sereno	027601
124	City of Mountain View	027638
125	City of Palo Alto	027670
	City of San Jose	009725
126	City of Santa Clara	027696
127	City of Saratoga	027744
128	City of Sunnyvale	027784
129	Santa Clara County	027847
130	Santa Clara Valley Water District	027896
Other Documents		
131	ACCWP, Stormwater Management Plan, July 1996-June 2001	027951
	ACCWP, Stormwater Quality Management Plan, July 2001-June 2008, February 10, 2003	008687
132	ACCWP, 2003-2004 Annual Report	028181
133	ACCWP, 2004-2005 Annual Report	028599
134	ACCWP, 2007-2008 Annual Report	029216
135	Alameda Countywide Clean Water Program Rural Public Works Maintenance and Support Activities, February 18, 2004	029473
136	Application for Reissuance of Fairfield-Suisun Urban Runoff Management Program NPDES Stormwater Permit, October 17, 2007	029490
137	Application for Reissuance of San Mateo Countywide Stormwater Pollution Prevention Program NPDES Stormwater Permit, January 23, 2004	029497
138	Application for Reissuance of Santa Clara Valley Urban Runoff Pollution Prevention Program NPDES Stormwater Permit, February 24, 2005	029503

File Name	Document Description	Begin Bates No.
139	City of San Leandro, Request for Quotation, February 23, 2006	029508
140	BASMAA, Pollution From Surface Cleaning, 1996, 2003	029522
141	Black & Veatch, 2004-2005 Stormwater Utility Survey	029528
142	Black & Veatch, 2014 Stormwater Utility Survey	029542
143	CCCWP, Stormwater Management Plan, 1999-2004	029566
144	California Stormwater Quality Association (CASQA - formerly California Stormwater Quality Task Force), Stormwater Best Management Practice Handbook, Municipal, January 2003	029705
145	Complaint No. R2-2010-0055, Administrative Civil Liability in the Matter of Failure to Comply with NPDES Municipal Stormwater Permit Requirements, Order No. R2-2003-0021, County of Alameda	030005
146	Fairfield-Suisun Urban Runoff Management Program, FY 1999-2000 to FY 2004-2005 Stormwater Management Plan, October 1999	030023
147	Fairfield-Suisun Urban Runoff Management Program, FY 2003-2004 Modifications to Stormwater Management Plan, April 15, 2004	030254
148	Fairfield-Suisun Urban Runoff Management Program, 2007 Stormwater Management Plan, April 16, 2007	030329
149	City of Half Moon Bay, 2003-2004 Annual Report	030734
150	City of Menlo Park, 2003-2004 Annual Report	030764
151	Order R2-2011-0039, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability for Alameda County (Fairview Avenue Pathway Project)	030798
152	Order R2-2011-0084, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability for Alameda County (Castro Valley Library Project)	030811
153	Order R2-2012-0007-A, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability for Alameda County for Complaint No. R2-2010-0055	030826
154	City of Pacifica, 2003-2004 Annual Report	030836
155	City of Portola Valley, 2003-2004 Annual Report	030867
156	San Francisco Baykeeper vs. California State Water Resources Control Board, November 14, 2003	030899
	San Mateo Countywide Water Pollution Prevention Program (SMCWPP formerly STOPPP) Stormwater Management Plan, July 1998-June 2003	009834
	San Mateo Countywide Water Pollution Prevention Program (SMCWPP formerly STOPPP) Stormwater Management Plan, April 2004-June 2010	009994
157	Tetra Tech's Program Evaluation Report for Santa Clara Valley Urban Runoff Pollution Prevention Program: City of Milpitas, City of Palo Alto, and City of Santa Clara Follow-up Evaluation for the County of Santa Clara - September 2005	030908
158	US EPA, MS4 Permit Improvement Guide, April 2010	030931
159	Woodside, 2003-2004 Annual Report	031050
160	Guidelines for Protecting Aquatic Habitat and Salmon Fisheries for County Road Maintenance, December 2004	031093
161	California Storm Water Best Management Practice Handbooks Industrial/Commercial, California Stormwater Quality Task Force (SWQTF) March 1993	031588
162	California Storm Water Best Management Practice Handbooks Municipal, SWQTF, March 1993	031897
163	BASMAA, Flood Control Facility Maintenance Best Management Practices, June 2000	032196
164	California Regional Water Quality Control Board San Francisco Bay Region Erosion and Sediment Control Field Manual, August 2002	032443
165	California Regional Water Quality Control Board San Francisco Bay Region Erosion and Sediment Control Field Manual	032582

File Name	Document Description	Begin Bates No.
166	San Mateo County, Endangered Species and Watershed Protection Program, Maintenance Standards, February 2001	032694
167	San Mateo County, Watershed Protection Program, Maintenance Standards, April 2004	032828
168	Vallejo Sanitation and Flood Control District, Storm Water Management Plan, 1999	033019
169	BASMAA Start at the Source, 1999	033090
170	Santa Clara Valley Urban Runoff Pollution Prevention Program, Public Agency Activities, Performance Standard and Supporting Documents for Rural Public Works Maintenance and Support Activities, December 19, 2002	033265
171	Santa Clara Valley Urban Runoff Pollution Prevention Program, 2004-2005 Annual Report	033293
172	City of Campbell, 2004-2005 Annual Report	033491
173	City of Cupertino, 2004-2005 Annual Report	033681
174	City of Los Altos, 2004-2005 Annual Report	033813
175	Town of Los Altos Hills, 2004-2005 Annual Report	033900
176	Town of Los Gatos, 2004-2005 Annual Report	033923
177	City of Milpitas, 2004-2005 Annual Report	034117
178	City of Monte Sereno, 2004-2005 Annual Report	034211
179	City of Mountain View, 2004-2005 Annual Report	034379
180	City of Palo Alto, 2004-2005 Annual Report	034448
181	City of San Jose, 2004-2005 Annual Report	034510
182	City of Santa Clara, 2004-2005 Annual Report	034682
183	City of Saratoga, 2004-2005 Annual Report	034823
184	City of Sunnyvale, 2004-2005 Annual Report	035015
185	Santa Clara County, 2004-2005 Annual Report	035290
186	Santa Clara Valley Water District, 2004-2005 Annual Report	035446
187	Santa Clara Valley Urban Runoff Pollution Prevention Program, 2005-2006 Annual Report	035470
188	City of Campbell, 2005-2006 Annual Report	035663
189	City of Cupertino, 2005-2006 Annual Report	035881
190	City of Los Altos, 2005-2006 Annual Report	036009
191	Town of Los Altos Hills, 2005-2006 Annual Report	036107
192	Town of Los Gatos, 2005-2006 Annual Report	036134
193	City of Milpitas, 2005-2006 Annual Report	036361
194	City of Monte Sereno, 2005-2006 Annual Report	036467
195	City of Mountain View, 2005-2006 Annual Report	036653
196	City of Palo Alto, 2005-2006 Annual Report	036745
197	City of San Jose, 2005-2006 Annual Report	036815
198	City of Santa Clara, 2005-2006 Annual Report	037003
199	City of Saratoga, 2005-2006 Annual Report	037139
200	City of Sunnyvale, 2005-2006 Annual Report	037343
201	Santa Clara County, 2005-2006 Annual Report	037732
202	Santa Clara Valley Water District, 2005-2006 Annual Report	037916
203	Santa Clara Valley Urban Runoff Pollution Prevention Program, 2006-2007 Annual Report	038029
204	City of Campbell, 2006-2007 Annual Report	038222
205	City of Cupertino, 2006-2007 Annual Report	038410

File Name	Document Description	Begin Bates No.
206	City of Los Altos, 2006-2007 Annual Report	038529
207	Town of Los Altos Hills, 2006-2007 Annual Report	038629
208	Town of Los Gatos, 2006-2007 Annual Report	038648
209	City of Milpitas, 2006-2007 Annual Report	038836
210	City of Monte Sereno, 2006-2007 Annual Report	038936
211	City of Mountain View, 2006-2007 Annual Report	039106
212	City of Palo Alto, 2006-2007 Annual Report	039196
213	City of San Jose, 2006-2007 Annual Report	039271
214	City of Santa Clara, 2006-2007 Annual Report	039464
215	City of Saratoga, 2006-2007 Annual Report	039599
216	City of Sunnyvale, 2006-2007 Annual Report	039789
217	Santa Clara County, 2006-2007 Annual Report	040105
218	Santa Clara Valley Water District, 2006-2007 Annual Report	040288
219	Santa Clara Valley Urban Runoff Pollution Prevention Program, 2007-2008 Annual Report	040409
220	City of Campbell, 2007-2008 Annual Report	040644
221	City of Cupertino, 2007-2008 Annual Report	040846
222	City of Los Altos, 2007-2008 Annual Report	040978
223	Town of Los Altos Hills, 2007-2008 Annual Report	041072
224	Town of Los Gatos, 2007-2008 Annual Report	041094
225	City of Milpitas, 2007-2008 Annual Report	041294
226	City of Monte Sereno, 2007-2008 Annual Report	041388
227	City of Mountain View, 2007-2008 Annual Report	041554
228	City of Palo Alto, 2007-2008 Annual Report	041648
229	City of San Jose, 2007-2008 Annual Report	041715
230	City of Santa Clara, 2007-2008 Annual Report	041892
231	City of Saratoga, 2007-2008 Annual Report	042039
232	City of Sunnyvale, 2007-2008 Annual Report	042222
233	Santa Clara County, 2007-2008 Annual Report	042404
234	Santa Clara Valley Water District, 2007-2008 Annual Report	042623
235	Santa Clara Valley Urban Runoff Pollution Prevention Program, 2008-2009 Annual Report	042856
236	City of Campbell, 2008-2009 Annual Report	043041
237	City of Cupertino, 2008-2009 Annual Report	043322
238	City of Los Altos, 2008-2009 Annual Report	043488
239	Town of Los Altos Hills, 2008-2009 Annual Report	043584
240	Town of Los Gatos, 2008-2009 Annual Report	043603
241	City of Milpitas, 2008-2009 Annual Report	043851
242	City of Monte Sereno, 2008-2009 Annual Report	043946
243	City of Mountain View, 2008-2009 Annual Report	044161
244	City of Palo Alto, 2008-2009 Annual Report	044257
245	City of San Jose, 2008-2009 Annual Report	044331
246	City of Santa Clara, 2008-2009 Annual Report	044556
247	City of Saratoga, 2008-2009 Annual Report	044699
248	City of Sunnyvale, 2008-2009 Annual Report	044942
249	Santa Clara County, 2008-2009 Annual Report	045127

File Name	Document Description	Begin Bates No.
250	Santa Clara Valley Water District, 2008-2009 Annual Report	045343
251	Santa Clara Valley Urban Runoff Pollution Prevention Program, 2009-2010 Annual Report	045452
252	City of Campbell, 2009-2010 Annual Report	046093
253	City of Cupertino, 2009-2010 Annual Report	046313
254	City of Los Altos, 2009-2010 Annual Report	046533
255	Town of Los Altos Hills, 2009-2010 Annual Report	046589
256	Town of Los Gatos, 2009-2010 Annual Report	046640
257	City of Milpitas, 2009-2010 Annual Report	046852
258	City of Monte Sereno, 2009-2010 Annual Report	047000
259	City of Mountain View, 2009-2010 Annual Report	047202
260	City of Palo Alto, 2009-2010 Annual Report	047416
261	City of San Jose, 2009-2010 Annual Report	047635
262	City of Santa Clara, 2009-2010 Annual Report	048256
263	City of Saratoga, 2009-2010 Annual Report	048424
264	City of Sunnyvale, 2009-2010 Annual Report	048624
265	Santa Clara County, 2009-2010 Annual Report	048807
266	Santa Clara Valley Water District, 2009-2010 Annual Report	048951
267	Tetra Tech's Program Evaluation Report for Alameda Countywide Clean Water Program: City of Dublin, City of Fremont, City of Hayward, City of Livermore, and City of Oakland - November 2001	049032
268	Tetra Tech's Program Evaluation Report for Contra Costa Clean Water Program: Contra Costa Clean Water Program, City of Concord, City of Hercules, City of Pittsburg, City of Walnut Creek, and County of Contra Costa - May 2003	049051
269	Tetra Tech's Program Evaluation Report for Contra Costa Clean Water Program: Contra Costa Clean Water Program, City of Concord, City of Pinole, City of Pittsburg, City of Richmond, and City of San Pablo - September 2004	049077
270	Tetra Tech's Program Evaluation Report for San Mateo County Stormwater Pollution Prevention Program: San Mateo County Stormwater Pollution Prevention Program, City of Foster City, City of Pacifica, City of Redwood City, City of San Mateo, City of South San Francisco, and County of San Mateo - August 2002	049114
271	Tetra Tech's Program Evaluation Report for Santa Clara Valley Urban Runoff Pollution Prevention Program: City of San Jose and County of Santa Clara - December 2003	049139
272	City of Milpitas Notice of Violation	049158
273	Response to Tetra Tech's Program Evaluation Report for Santa Clara Valley Urban Runoff Pollution Prevention Program: City of Milpitas, City of Palo Alto, and City of Santa Clara Follow-up Evaluation for the County of Santa Clara - September 2005	049183
274	Alameda Countywide Clean Water Program Unpaved Road BMP Guide, December 2000	049218
275	Contra Costa Clean Water Program Pollutant Load Removal From Street Sweeping Best Management Practices, Development of Typical Concentration Values for Pollutants of Concern in Contra Costa County, CA, May 10, 2007	049281
276	Alameda Countywide Clean Water Program 1999-2000 Annual Report	049315
277	Dublin 1999-2000 Annual Report	049432
278	Fremont 1999-2000 Annual Report	049530
279	Hayward 1999-2000 Annual Report	049603

File Name	Document Description	Begin Bates No.
280	Livermore 1999-2000 Annual Report	049668
281	Oakland 1999-2000 Annual Report	049731
282	Alameda Countywide Clean Water Program 2002-2002 Annual Report	049882
283	Dublin January-June 2002 Annual Report	050282
284	Fremont 2002-2002 Annual Report	050402
285	Hayward 2002-2002 Annual Report	050558
286	Livermore 2002-2002 Annual Report	050693
287	Oakland 2002-2002 Annual Report	050802
288	Alameda Countywide Clean Water Program 2002-2003 Annual Report	050989
289	Dublin 2002-2003 Annual Report	051298
290	Fremont 2002-2003 Annual Report	051340
291	Hayward 2002-2003 Annual Report	051515
292	Livermore 2002-2003 Annual Report	051694
293	Oakland 2002-2003 Annual Report	051785
294	Contra Costa Clean Water Program 2003-2004 Annual Report	051927
295	Concord 2003-2004 Annual Report	052820
296	Contra Costa County 2003-2004 Annual Report	053187
297	Hercules 2003-2004 Annual Report	053280
298	Pittsburg 2003-2004 Annual Report	053352
299	Walnut Creek 2003-2004 Annual Report	053443
300	Contra Costa Clean Water Program 2004-2005 Annual Report	053534
301	Concord 2004-2005 Annual Report	054116
302	Contra Costa County 2004-2005 Annual Report	055646
303	Hercules 2004-2005 Annual Report	055843
304	Pinole 2004-2005 Annual Report	056109
305	Pittsburg 2004-2005 Annual Report	056178
306	Richmond 2004-2005 Annual Report	056420
307	San Pablo 2004-2005 Annual Report	056506
308	Walnut Creek 2004-2005 Annual Report	056740
309	Contra Costa Clean Water Program 2005-2006 Annual Report	057094
310	Concord 2005-2006 Annual Report	057914
311	Pinole 2005-2006 Annual Report	058665
312	Pittsburg 2005-2006 Annual Report	058761
313	Richmond 2005-2006 Annual Report	059036
314	San Pablo 2005-2006 Annual Report	059161
315	San Mateo County Permittees 2000-2001 Annual Report	059343
316	San Mateo Countywide Stormwater Pollution Prevention Program 2002-2003 Annual Report	062497
317	Foster City 2002-2003 Annual Report	062783
318	Pacifica 2002-2003 Annual Report	063005
319	Redwood City 2002-2003 Annual Report	063091
320	San Mateo 2002-2003 Annual Report	063261
321	San Mateo County 2002-2003 Annual Report	063435
322	South San Francisco 2002-2003 Annual Report	063851
323	San Mateo Countywide Stormwater Pollution Prevention Program 2003-2004 Annual Report	063927

File Name	Document Description	Begin Bates No.
324	Foster City 2003-2004 Annual Report	064236
325	Redwood City 2002-2003 Annual Report	064310
326	San Mateo 2002-2003 Annual Report	064608
327	San Mateo County 2002-2003 Annual Report	064741
328	South San Francisco 2002-2003 Annual Report	065055
329	San Jose 2002-2003 Annual Report	065143
330	Santa Clara County 2002-2003 Annual Report	065264
331	Santa Clara Valley Urban Runoff Pollution Prevention Program 2003-2004 Annual Report	065448
332	Milpitas 2003-2004 Annual Report	065660
333	Palo Alto 2003-2004 Annual Report	065758
334	San Jose 2003-2004 Annual Report	065856
335	Santa Clara 2003-2004 Annual Report	066005
336	Santa Clara County 2003-2004 Annual Report	066108
337	Stormwater Quality Task Force, California Storm Water Municipal Best Management Practice Handbooks, March 1993	066300
338	California Stormwater Quality Association (CASQA - formerly California Stormwater Quality Task Force), New Development and Redevelopment, January 2003	066575
339	BASMAA Blueprint for a Clean Bay, Best Management Practices to Prevent Stormwater Pollution from Construction-Related Activities, 2004	066953

ATTACHMENT 1

This table describes permit terms including Plans, Performance Standards, best management practices (BMPs) and/or standard operating procedures implemented by each permittee prior to the adoption of the 2009 Municipal Regional Stormwater Permit (RMP) that are as or more rigorous than the disputed provisions of the MRP section C.2. The table is divided into sections for each disputed provision. Each section first discusses BMPs and Performance Standards applicable to all permittees, followed by Alameda County Permittees (unincorporated Alameda County, Alameda County Flood Control and Water Conservation District, Zone 7 of the Alameda County Flood Control and Water Conservation District, and the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City), which have joined together as Alameda Countywide Clean Water Program (ACCWP); Contra Costa County Permittees (Contra Costa County, Contra Costa County Flood Control and Water Conservation District, and the Cities of Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Orinda, Pinole, Pittsburg, San Ramon, and Walnut Creek), which have joined together as Contra Costa Clean Water Program (CCCWP); San Mateo County Permittees (City/County Association of Governments of San Mateo County, San Mateo County, the Towns of Atherton and Woodside, and the Cities of Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Half Moon Bay, Hillsborough, Menlo Park, Millbrae, Pacifica, Portola Valley, San Mateo, and South San Francisco), which have joined together as San Mateo Countywide Stormwater Pollution Prevention Program (SMCSTOPP); Santa Clara County Permittees (Santa Clara Valley Water District, the County of Santa Clara, and the Cities of Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale), which have joined together as Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP); Solano County Permittees (Fairfield-Suisun Sewer District and the Cities of Fairfield and Suisun City); and Vallejo Permittees (City of Vallejo and Vallejo Sanitation and Flood Control District). Additionally, following the Santa Clara County section, each of the Santa Clara County permittees are evaluated individually because the County submitted an umbrella plan and each permittee also had an individual plan.

C.2.b. Sidewalk/Plaza Maintenance and Pavement Washing

C.2.b. Sidewalk/Plaza Maintenance and Pavement Washing

i. Task Description – The Permittees shall implement, and require to be implemented, BMPs for pavement washing, mobile cleaning, pressure wash operations in such locations as parking lots and garages, trash areas, gas station fueling areas, and sidewalk and plaza cleaning, which prohibit the discharge of polluted wash water and non-stormwater to storm drains. The Permittees shall implement the BMPs included in BASMAA’s Mobile Surface Cleaner Program. The Permittees shall coordinate with sanitary sewer agencies to determine if disposal to the sanitary sewer is available for the wastewater generated from these activities provided that appropriate approvals and pretreatment standards are met.

ii. Reporting – The Permittees shall report on implementation of and compliance with these BMPs in their Annual Report.

All Permittees

The Regional Water Board modified the Corporation Yard Provision in response to a comment letter from the Contra Costa Clean Water Program that recommended: “Add Reference to CASQA BMP Handbooks. Add to the end of the last sentence of [the provision] to read as “and/or the California Stormwater Quality Association’s California BMP Handbook for Municipal Activities.” Rationale for change: The California BMP Handbooks are a well recognized and readily available resource, and **reflect the current state of water quality best management practices.**” (Bates 3346 [emphasis added].) In addition to Contra Costa’s suggestion, the following entities reference the CASQA BMP Handbooks in their Urban Runoff Management Plans (URMPs):

Alameda County (Bates 027991)

Fairfield-Suisun (Bates 030596, 030597, 030601, 030603, 030625, 030642, 030650, 030655, 030684-030688.)

San Mateo County (Bates 003878, 004016, 004045, 004027, 003915.)

Santa Clara County Permittees

Campbell (Bates 019044, 019098, 019099, 019120, 019159.)

Cupertino (Bates 019596.)

Los Altos (Bates 019804, 019825, 019838, 019842, 019859, 019875, 019883, 019894, 019902.)

Los Altos Hills (Bates 015582, 019983, 019990, 020059, 020060.)

Los Gatos (Bates 020194-020199.)

Milpitas (Bates 020634.)
Monte Sereno (Bates 021521-021529, 021597, 021624.)
Mountain View (Bates 017017, 021937, 022072.)
Palo Alto (Bates 017211, 017307, 017362, 022231, 022312, 022334.)
San Jose (Bates 017633.)
Santa Clara County (Bates 022778, 022784, 024389, 024396, 024412.)
Water District (Bates 018865, 024788, 024795.)
Saratoga (Bates 023136-023144, 023173.)
Sunnyvale (Bates 024073, 024080, 024090, 024102, 024220.)
West Valley (Bates 014955, 015197.)

With respect to the steam cleaning of sidewalks and plazas, the 1993 CASQA Stormwater Municipal Best Practices Handbook (CASQA Municipal BMP Handbook) states: 1. Collect all water and pump to sanitary sewer; 2. Follow this 3-step process: a. Clean oil leaks with rags or adsorbents b. Sweep (Use dry absorbent as needed) c. Use no soap, discharge to storm drain.” (Bates 032014, CASQA Municipal BMP Handbook p. 4-49.) For mobile vehicle washing, the Handbook states, “1. Collect washwater and discharge to sanitary sewer.” (*Id.* at Bates 032016, CASQA Municipal Handbook p. 4-51. See also Bates 29837 *et seq.* [2003 CASQA Municipal BMP Handbook, Plaza and Sidewalk Cleaning].)

CASQA’s Industrial BMP Handbook advises users to “Eliminate non-storm water discharges to the storm water collection system,” including wash waters. (Bates 031638, Industrial Handbook p. 4-2.) Table 4.1 identifies disposal methods for high pressure water, including “1. Prevent entry into storm drain and remove offsite 2. Wash onto dirt area, spade in 3. Collect (e.g. mop up) and discharge to sanitary sewer.” The same Table describes proper disposal for water from “Steam cleaning of sidewalks, plazas.” “1. Collect all water and pump to sanitary sewer. 2. Follow this 3-step process: a. Clean oil leaks with rags or adsorbents b. Sweep (Use dry absorbent as needed) c. Use no soap, discharge to storm drain.” (Bates 031643, Industrial Handbook p. 4-7. See also Bates 031645, p. 4-9 [Carpet cleaning solutions & other mobile washing services: “Dispose to sanitary sewer”].)

The Response to Comments summarized comments from numerous permittees, including San Mateo County Permittees, Mountain View, Palo Alto, San Jose, Santa Clara Permittees, and Moraga, who recommended: Modify the TO to allow the discharge of washwaters to storm drains as described in the Bay Area Stormwater Management Agencies Association’s (BASMAA’s) BMPs for Mobile Surface Cleaner Program. Mountain View recommends a revision to this requirement stating that BASMAA’s Mobile Surface Cleaner Program BMPs must be implemented during sidewalk and pavement washing operations. Furthermore, the City recommends revisions to clarify that the BMP for some types of cleaning operations may require collection of the wash water and disposal to the sewer, while wash water from other washing operations may discharge to the storm drain if BMPs are installed.” (Bates 3346.)

Contra Costa, Daly City and Burlingame recommended the following edits to the Tentative Order, which the Regional Water Board accepted: Allow Wash Water Discharge in Specific circumstances. Section C.2.d.i - Replace “~~which prohibit the discharge of wash water to storm drains.~~”

Permittees shall implement the BMPs included in....” with “consistent with”. Rationale for change: This provision, as written, would prohibit all wash water from mobile cleaning, pressure wash operations, and sidewalk and plaza cleaning from entering the stormwater system; however, BASMAA’s Mobile Surface Cleaning Program allows wash water discharges to the storm drain in certain limited situations...”

The BASMAA brochure *Pollution from Surface Cleaning* (1996) describes BMPs for sidewalk and plaza cleaning, including: avoid using soaps, providing dry cleaning methods, collecting wash water, directing water to landscaping, and instructions on working with hazardous materials. (Bates 29522-27.)

Alameda County

Alameda	The prior Order Required Permittees to submit workplans and updates for “implementation of the Management plan” by March 1. “The Workplans and Updates shall be deemed to be final and incorporated into the Management Plan and this Order as of June 1 unless previously determined to be unacceptable by the E.O. (Order No. 2003-0021, at p. 35.) Alameda’s Stormwater Quality Management Plan dated 2001-2008 identified “performance standards” which are “what each member agency must do to implement the Plan and comply with the NPDES permit. In addition, the Plan’s Pollutant Reduction Plans for specific impairing pollutants also describe what the member agencies need to do to implement the Plan.” (Bates 8743.)	
Albany		
Berkeley		
County of Alameda		
Dublin		
Emeryville		
Fremont		
Hayward		
Livermore		
Newark		
Oakland	The Stormwater Quality Management Plan July 2001- June 2008 was incorporated by reference and “considered an enforceable component of” Order No. R2-2003-0021 (Order No. R2-2003-0021, at p. 5.) That Order and Plan covered the following municipalities: Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City. The Stormwater Quality Management Plan applied to all these municipalities and required each to “utilize, as appropriate, the Street Cleaning BMPs to maximize pollutant removal during sweeping activities” (Bates 8751.)	
Piedmont		
Pleasanton		
San Leandro		
Union City		
Flood County District		
Zone 7		
		Like the MRP, the Plan requires each agency to have a Storm Water Pollution Prevention Plan, requires regular inspections to ensure that there are no illegal discharges to the storm drain system and that pollutant discharges are minimized during storms. (Cf. Order No. R2-2009-0074, C.2.f.ii(2) with Stormwater Quality Management Plan, at p. 5-13 (Bates 8755).
	The Plan also required discharge of wash water either to the sanitary sewer or recycling (not to the storm drain). (Bates 8755.) The Plan requires the use of BMPs for protecting storm drain inlets, and prohibits washing excess material into storm drains. (Bates 8757)	

	<p>“The Alameda Countywide Clean Water Program has long implemented the portion of the [Standard Urban Stormwater Mitigation Plan] SUSMPs requiring the use of BMPs.” (Alameda Stormwater Quality Management Plan 2001-2008 (Bates 8687, 8695.)</p> <p>Alameda’s Stormwater Quality Management Plan dated 2001-2008 identified as a priority task: “Characterize Sources and Evaluate BMP Effectiveness for Pollutants of Concern.” (Bates 8712.) The Plan identified evaluation of structural treatment controls as necessary for an evaluation of overall BMP effectiveness. (<i>Ibid.</i>) “The evaluation of this task may include ... 2) identifying ways to improve the effectiveness and application of BMPs.” (<i>Ibid.</i>)</p> <p>Alameda’s Countywide Program established business outreach as a task and listed the BASMAA Clean Business Program for Mobile Cleaners as information that would be shared. (Bates 28067.) The Program also contributed to the development of the BASMAA <i>Pollution from Surface Cleaning</i> brochure. (Bates 29527. See discussion regarding BASMAA under All Permittees. See also 28206 [as of 2003-04, Alameda permittees were already supplying this information to mobile cleaners]; 28320 [already compiled of list of businesses to contact with this information]; 28490 [list of businesses] and 28491-95 [BMPs for mobile cleaners].)</p> <p>The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.</p>						
Contra Costa County							
<table border="1"> <tr><td>Clayton</td></tr> <tr><td>Concord</td></tr> <tr><td>County of Contra Costa</td></tr> <tr><td>Danville</td></tr> <tr><td>El Cerrito</td></tr> <tr><td>Hercules</td></tr> </table>	Clayton	Concord	County of Contra Costa	Danville	El Cerrito	Hercules	<p>The Response to Comments summarized comments from numerous permittees, including Brisbane, San Mateo County Permittees, Mountain View, Palo Alto, San Jose, Santa Clara Permittees and Moraga, who recommended: “Modify the TO to allow the discharge of washwaters to storm drains as described in BASMAA’s BMPs for Mobile Surface Cleaner Program. Mountain View recommends a revision to this requirement stating that BASMAA's Mobile Surface Cleaner Program BMPs must be implemented during sidewalk and pavement washing operations. Furthermore, the City recommends revisions to clarify that the BMP for some types of cleaning operations may require collection of the wash water and disposal to the sewer, while wash water from other washing operations may discharge to the storm drain if BMPs are installed.” (Bates 3346.)</p>
Clayton							
Concord							
County of Contra Costa							
Danville							
El Cerrito							
Hercules							

Lafayette	<p>Contra Costa, Daly City and Burlingame recommended the following edits to the Tentative Order, which the Regional Water Board accepted: Allow Wash Water Discharge in Specific circumstances. Section C.2.d.i - Replace “which prohibit the discharge of wash water to storm drains. Permittees shall implement the BMPs included in....” with “<u>consistent with</u>”. Rationale for change: This provision, as written, would prohibit all wash water from mobile cleaning, pressure wash operations, and sidewalk and plaza cleaning from entering the stormwater system; however, BASMAA’s Mobile Surface Cleaning Program allows wash water discharges to the storm drain in certain limited situations...” BASMAA’s <i>Pollution from Surface Cleaning</i> BMPs are discussed above under All Permittees.</p>
Martinez	
Moraga	
Orinda	
Pinole	
Pittsburg	
Pleasant Hill	
Richmond	
San Pablo	
San Ramon	
Walnut Creek	<p>Contra Costa’s permit preceding the MRP was R2-1999-058 and regulated Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, Walnut Creek. “Plan and modifications or revisions to the Plan... are an integral and enforceable component of this Order.” (Order No. R2-1999-058, at p. 3.) “The dischargers shall begin implementing forthwith the Plan and shall subsequently demonstrate its effectiveness and provide for necessary and appropriate revisions, modifications, and improvements to reduce pollutants in stormwater discharges to the maximum extent practicable and as required by Provisions C.1 through C.14 of this Order.” (<i>Id.</i> at p. 9.) The Plan incorporated Performance Standards developed by the Dischargers. Performance Standards “represent the level of effort required of each Discharger in the Plan and have been included in the Plan as best management practices (BMPs).” (<i>Id.</i> at p. 3.) BMPs are intended to define the level of implementation necessary to demonstrate the reduction of pollutants in stormwater to the maximum extent practicable. (<i>Id.</i> at p. 9.) If a new Performance Standard, or suite of BMPs, is proposed in an Annual Report, it becomes a binding and enforceable part of the Order as of July 1 following submission of the Annual Report. (<i>Id.</i> at p. 10.)</p> <p>The Contra Costa Permittees developed the 1999-2004 Stormwater Management Plan (Bates 29566 <i>et seq.</i>), which established the following BMPs for surface cleaning:</p> <p style="padding-left: 40px;">MUNI-54: No agency will discharge debris, cleaning compound waste, paint waste, or wash water containing cleaning compounds to the storm drain.</p> <p style="padding-left: 40px;">MUNI-55: Each agency will direct runoff from all types of sand blasting and high pressure water (no cleaning agents) washing activities into a landscaped or dirt area. If a landscaped area is not available, each agency will filter runoff through an appropriate filtering device (e.9., coarse sand bags or filter fabric to keep sand. particles, and debris out of storm drain).</p> <p>(Bates 29648. (See Bates 29647 [Storm Water Management Plan]; Bates 52855, 053029, 054174, 054700, 055516, 058096, 058113, 058379 [Concord]; Bates 055679 [Contra Costa County]; and Bates 058821 [Pittsburg].)</p>
Flood County District	
	<p>The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public</p>

Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion of these Handbooks under All Permittees.

San Mateo County

Atherton	<p>San Mateo’s permit preceding the MRP was Order R2-1999-059, which covered the Cities of Atherton, Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Half Moon Bay, Hillsborough, Menlo Park, Millbrae, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, Woodside. Together, these permittees developed STOPPP’s Stormwater Management Plan (attached to Order R2-1999-059). The STOPPP Plan required “Dischargers [to] comply with Discharge Prohibition A.2 and Receiving water Limitations B.1. and B.2 through the timely implementation of control measures and other actions to reduce pollutants in the discharge in accordance with the Stormwater Management plan and other requirements of this permit, including any modifications.” (Order No. R2-1999-0059, at p. 7.) It also required immediate implementation of the Stormwater Management Plan. (<i>Id.</i>, at p. 8.) The STOPPP Plan required “Dischargers [to] comply with Discharge Prohibition A.2 and Receiving water Limitations B.1. and B.2 through the timely implementation of control measures and other actions to reduce pollutants in the discharge in accordance with the Stormwater Management plan and other requirements of this permit, including any modifications.” (Order R2-1999-0059, at p. 7.) It also required immediate implementation of the Stormwater Management Plan. (<i>Id.</i>, at p. 8.) In Order No. 2004-0062, the Regional Water Board formally adopted some changes to the STOPPP Plan that had previously been approved by the Executive Officer, including Performance Standards for Conditionally exempt discharges. Those Performance Standards in the STOPPP Plan include:</p> <p><u>Sidewalks and Plazas</u> - all soapy washwater used to clean sidewalks and plazas must be discharged to the sanitary sewer system or landscaping. Debris must be collected and disposed of prior to washing. This BMP does not apply to an area where there has been an oil or hazardous chemical spill. If surface cleaning is conducted without the use of soap and no oil or hazardous material/waste is present, all washwater may go to the storm drain. If the sidewalk or plaza contains light oil, dry clean oil spots with absorbents such as kitty litter, vermiculite, sand, or absorbent mats prior to cleaning. Collect and dispose of the debris.</p> <p><u>Drive-throughs, Driveways, Parking Garages, Service Stations</u>- If these areas contain excess oil deposits, the procedure for cleaning, with or without soap, is as follows: (1) seal the storm drains; (2) collect and dispose of</p>
Belmont	
Brisbane	
Burlingame	
Colma	
County of San Mateo	
Daly City	
East Palo Alto	
Foster City	
Half Moon Bay	
Hillsborough	
Menlo Park	
Millbrae	
Pacifica	
Portola Valley	
Redwood City	
San Bruno	
San Carlos	
San Mateo	
South San Francisco	

Woodside	debris; (3) dry clean oil spots with absorbents; (4) pump wash water to a sanitary sewer system after obtaining permission from the sanitary sewer's owner.
Flood County District	<p><u>Building Exterior Walls</u>- If soap is used, water must be discharged to the sanitary sewer system after obtaining permission from the sewer's owner. When washing glass or steel buildings without the use of soap, washwater should be directed to unpaved surface/landscaped areas. If you are not using soap to clean a building that has been painted after 1978, washwater may be directed to unpaved landscaping. If you are cleaning buildings painted with lead based paints or mercury-additive paints, all storm drains must be sealed and washwater must be pumped to a collection tank. The wastewater and sludge may have to be disposed of as hazardous waste.</p> <p><u>Implementation Procedures:</u> All STOPPP municipalities will follow the BMPs for surface cleaning that they conduct. STOPPP will support workshops/seminars for workers in surface cleaning industry to ensure that they have a clear understanding of the requirements. STOPPP will request that employers train/inform new employees about BMPs. STOPPP will distribute educational flyers prepared by BASMAA or others that update workers on any changes in the BMPs or laws. (Bates 10131.)</p> <p>The BASMAA information available at the time which “STOPPP will distribute” is discussed above under All Permittees. The 2000/01 FY Annual Report states that San Mateo Permittees provided training sessions to municipal employees for approving surface cleaners, a training led by BASMAA staff member Billi Romain who provided information on surface cleaning BMPs. (Bates 59382-83. See above discussion regarding BASMAA under All Permittees.)</p> <p>San Mateo produced the Countywide Stormwater Pollution Prevention Program (rev. June 1999). (Bates 9834 <i>et seq.</i>) San Mateo County indicated that it was providing reports concerning stormwater controls and BMPs by 1999. (Bates 9907-9916 [regulatory compliance with NPDES reports].) The 2004 Stormwater Management Plan (Bates 9994 <i>et seq.</i>) note that implementation of BMPs are necessary for outdoor wash areas, specifically identifying “discharges of soapy water” as potential problems. (Bates 10100 [discharges of soapy water]; 10103 [outdoor wash areas should implement CASQA Industrial BMP Handbook]; 10079 [never wash down excess material from patching and resurfacing]; 10079 [“wash down of streets only permitted if runoff is controlled or contained”]. See also Bates 10131 and 10390.) San Mateo permittees all trained employees regarding these Performance Standards. (Bates 10079.)</p> <p>The 2004 Stormwater Management Plan notes that inspectors should ensure that dischargers are implementing BMPs from the CASQA Industrial BMP Handbook. (Bates 10103.) The 2003 CASQA Municipal BMP Handbook was</p>

funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Santa Clara County

SCVURPPP

As summarized in the Response to Comments document, the Santa Clara permittees recommended the following: “Modify the TO to allow the discharge of washwaters to storm drains as described in BASMAA’s BMPs for Mobile Surface Cleaner Program. Mountain View recommends a revision to this requirement stating that BASMAA's Mobile Surface Cleaner Program BMPs must be implemented during sidewalk and pavement washing operations. Furthermore, the City recommends revisions to clarify that the BMP for some types of cleaning operations may require collection of the wash water and disposal to the sewer, while wash water from other washing operations may discharge to the storm drain if BMPs are installed.” (Bates 3346.)

1997 SCVURPPP Urban Runoff Management Plan indicates that the Performance Standards identified therein are the threshold standards necessary to demonstrate compliance with the permit: “The reissued permit also requires that the Program ‘adopt and incorporate Performance Standards developed by the Dischargers. Performance Standards are defined as the level of implementation necessary to demonstrate the control of pollutants in storm water to the maximum extent practicable.’” (Bates 14299.) “Performance Standards describe a specific result, or level of effort, that constitutes the ‘maximum extent practicable’ based on current technical knowledge, available resources and local conditions.” (Bates 14335.) Model Performance Standards “define the result, or level of effort, for each major pollution-prevention task.” (Bates 14344.) “In a June 24, 1997 letter, Regional Board staff stated: “We accept the submitted model performance standards as *baseline* performance standards.” (Bates 14384)

The model Performance Standard for Public Streets, Roads and Highways, and its supporting documents, cover operation and maintenance activities for Sidewalk/Plaza Maintenance. (SCVURPPP 1997 URMP, Bates 14365.)

Public Facilities. As described in the Program's model Performance Standard for Public Streets, Roads and Highways Operation and Maintenance, each Co-permittee will implement BMPs for maintenance of sidewalks, plazas, bridges and structures, in addition to streets, roads and highways. The Co-permittees will also require their contractors, and encourage other public agencies, to implement the same BMPs. (SCVURPPP 1997 URMP, Bates 14367-68.)

The Santa Clara Valley Urban Runoff Management Plan (September 1, 2004) provides Model Performance Standards for its co-permittees. These are far more detailed than the provisions of C.2.b. These include provisions

for sidewalk/plaza maintenance. (See Bates 12243-44, 12246, 012417, 012420, 012430, and 012437-012438.)

III. SIDEWALK/PLAZA MAINTENANCE

A. Cleaning

1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning.
2. Clean up spills as specified in Section VII.
3. If water must be used to clean sidewalks or plazas, implement the BMPs in the Bay Area Stormwater Management Agencies Association's *Pollution From Surface Cleaning*, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges.

B. Concrete Installation and Repair

Refer to Section II. B. [Bates 12434, Concrete Installation and Repair]

C. Surface Removal and Repair

1. Schedule surface removal and repair activities for dry weather if possible.
2. Take measures to protect nearby storm drain inlets prior to breaking up asphalt or concrete (e.g., place hay bales or sand bags around inlets). Clean afterwards by sweeping up as much material as possible.
3. After breaking up old pavement, remove and recycle as much as possible to avoid contact with rainfall and storm water runoff.
4. During saw-cutting operations, block or berm around nearby storm drain inlets using sand bags or an equivalent barrier, or absorbent materials such as pads, pillows and socks to contain slurry if necessary. If slurry enters the storm drain system, remove material immediately.
5. Remove saw-cut slurry (e.g., with a shovel or vacuum, or sweep up when dry) as soon as possible.
6. Stockpile materials away from streets, gutter areas, storm drain inlets or creeks.
7. Prevent excess material washed from placement of exposed aggregate concrete or similar treatments from entering streets or storm drain inlets. Designate an area for clean up and proper disposal of excess materials.
8. Clean up all spills and leaks using "dry" methods (absorbent materials and/or rags). Properly dispose of absorbent materials and rags. If spills occur on dirt areas, dig up and remove contaminated soil promptly and properly. After the job is complete, remove temporary stockpiles (asphalt materials, sand, etc.) and other materials as soon as possible.
10. If it rains unexpectedly, take appropriate action to prevent pollution of storm water runoff (e.g., divert runoff around work areas).

D. Landscape Maintenance

Refer to Section V Median and Road Embankment Maintenance for BMPs related to landscape maintenance: erosion controls, irrigation practices, vegetation controls, and use of pesticides and fertilizers.

(Bates 12437-38)

	<p style="text-align: center;">Street Cleaning and Flushing</p> <ol style="list-style-type: none"> 1. Evaluate the need for wet cleaning or flushing of streets on a case-by-case basis and where possible, substitute dry methods. 2. Where absolutely necessary to use water to clean streets, collect the resulting washwater and dispose of it in the sanitary sewer <ol style="list-style-type: none"> 1. Collect the washwater using methods such as: <ol style="list-style-type: none"> a) Plug catch basin outlets or cover storm drains before flushing, and pump out all collected washwater, or b) Allow washwater to flow into the storm drain system and collect it downstream at a storm drain clean out or manhole. <p>(Bates 12432-33.)</p> <p>The 2004-05 SCVURPPP Work Plan demonstrates that the Permittees were providing training (as part of BASMAA surface cleaning certification) to mobile surface cleaners. (Bates 11072, 11075-76, 11078, 11079. See also pp. 12247-48.) “BASMAA has also sponsored or conducted other projects, including an effort to certify the training of mobile cleaners in pollution-prevention techniques.” (SCVURPPP 1997 URMP, Bates 14324.) See discussion regarding BASMAA under All Permittees.</p> <p>The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) See discussion under All Permittees.</p>
County of Santa Clara	<p>The updated Santa Clara Valley URMP (2004) (Bates 24312, <i>et seq.</i>) provide the following instructions for surface cleaning:</p> <p>SIDEWALK/PLAZA MAINTENANCE</p> <p>Cleaning</p> <ol style="list-style-type: none"> 1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning. 2. Clean up spills as specified in Section VII. 3. If water must be used to clean sidewalks or plazas, implement the BMPS in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges (see Appendix A). (Bates 024620-024621. See also 024634 [“This item is not applicable. The County does not engage in washing of sidewalks and plazas”].) See BASMAA discussion under All Permittees.
Cupertino	<p>As of 1997, the City of Cupertino did not perform plaza maintenance, so surface cleaning performance standards did not apply. (Bates 15351-52.) As of 1997, the City of Cupertino had annual stormwater BMPs training for City staff.</p>

	<p>(Bates 15359.) The 2004 Cupertino URMP (Bates 19286, <i>et seq.</i>) affirms that this requirement does not apply. (Bates 019452 [Applicability Summary Table], 019456-019457 [citation to Performance Standards and statement that the City does not wash sidewalks nor own plazas], and 019471 [“ A. Sidewalk cleaning The City does not do routine sidewalk cleaning. There are no City-owned plazas. The only sidewalks that City staff clean are adjacent to the backside of an apartment complex near the City's Service Center. These sidewalks are swept and no water is used”].)</p>
Los Altos	<p>Los Altos adopted “BMPs and control measures that are used as a standard of compliance in the implementation of the performance standards” including the Mobile Cleaner BMPs (CETA) and <i>Pollution from Surface Cleaning</i> BMPs (BASMAA). (Bates 15452.) See discussion regarding BASMAA under All Permittees. Los Altos 1997 URMP states that the City will implement BMPs as developed for City buildings, parks, plazas, etc. (Bates 15429, 15440.) As of 1997, Los Altos committed to “continue to complete regular training of City staff.” (Bates 15440.) The Los Altos 2004 URMP begins at Bates 19777. The Performance Standards for sidewalk cleaning begin at Bates 19848 and similarly adopt dry methods of cleaning, specific spill cleanup methodology and requires implementation of “the BMPs in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges.”</p>
Los Altos Hills	<p>The Town of Los Altos Hills “does not have sidewalks, plazas or other facilities that require pavement washing” (Bates 15553), but had adopted the SCVURPPP Performance Standards for sidewalks and plazas in 1996. (Bates 15571 [Sidewalk/Plaza maintenance].) The Town of Los Altos Hills holds a minimum of annual trainings for municipal staff. (Bates 15520. See also Bates 15621 [municipal employee training critical to maximize pollution prevention].) In 1997, the Town of Los Altos Hills adopted the CASQA Municipal BMPs Handbook as Model BMPs to be used for compliance in the implementation of the Performance Standard. (Bates 15564.) The 2004 Town of Los Altos URMP begins at Bates 19961. Performance Standards for sidewalk cleaning are as follows:</p> <p style="padding-left: 40px;">A. Paved Sidewalks and Parking Lots</p> <p style="padding-left: 80px;">1) Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Washwater containing any cleaning agent or degreaser shall be collected and discharged to the sanitary sewer and shall not be discharged to a storm drain. The applicant shall contact the local permitting authority and/or sanitary district with jurisdiction for specific connection and discharge requirements.</p> <p>(Bates 019989. See also 020059-020060 [references to surface cleaning BMPs]; 020064 [cross-reference table demonstrating the sidewalk requirement carried over from the 1995 permit]; and 020068 [same].)</p>

Milpitas	<p>In its 2000, URMP Milpitas indicated its intent to implement the Model Performance Standards developed in the SCVURPPP URMP. (Bates 16335.) Milpitas adopted all BMPs for Sidewalk/Plaza Maintenance (Bates 16337. See also Bates 16346-47.) Milpitas had “routine training sessions” and formal training on the SWPPP had been completed as of at least 2000. (Bates 16150.) Annual employee training was required on the appropriate use of BMPs. (Bates 16335. See also Bates 16352.)</p> <p>The 2004 City of Milpitas URMP indicated that the Performance Standards for sidewalk cleaning applied to the City of Milpitas. (Bates 20833-34.) The Performance Standards specify:</p> <ol style="list-style-type: none"> 1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning. 2. Clean up spills as specified in Part VII. 3. If water must be used to clean sidewalks or plazas, implement the BMPs in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges. <p>(Bates 20844-45.)</p>
Mountain View	<p>Mountain View’s 1997 URMP emphasized that Performance Standards identified “the level of implementation for activities and was based on current and proposed practices that the City is/or will be implementing to minimize water quality impacts, and practices that are accepted by the State and Regional Board as being effective in controlling these impacts.” (Bates 17060.) The Performance Standards cover the same restrictions as the MRP. (Bates 17071-74.) The 1997 Mountain View URMP includes Performance Standards that are even more rigorous than the MRP requirements. (Bates 17002 <i>et seq.</i>) These provisions include Performance Standards for Sidewalk/Plaza Maintenance (Bates 17004, 17005, 17023-24) and include BASMAA’s <i>Pollution from Surface Cleaning</i> (Bates 17031-36; see also Bates 17071) as a BMP. See discussion regarding BASMAA under All Permittees. Mountain View’s 1997 URMP emphasized the need for training and noted the importance of ensuring that contractors utilized BMPS. (Bates 17004.)</p> <p>The 2004 City of Mountain View URMP begins at Bates 21767. No revisions were made to this Performance Standard. (Bates 21925.) The URMP goes on to state that many of the services pertaining to street and road maintenance (including sidewalk cleaning) are contracted out and the City considered it “important” to ensure that contractors use BMPs. (Bates 21928. See also Bates 21927-31 and specifically 21929 [indicating that sidewalk and plaza cleaning were performed by both the City and contractors].) The Performance Standards require:</p> <p style="text-align: center;">SIDEWALK/PL AZA MAINTENANCE</p>

	<p>A. Cleaning</p> <ol style="list-style-type: none"> 1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning. 2. Clean up spills as specified in Section VII. 3. If water must be used to clean sidewalks or plazas, implement the BMPs in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges (see Appendix A). <p>(Bates 21943-44. See also Bates 021953-021958 [<i>Pollution From Surface Cleaning</i>] and 22155 [identifying BASMAA's <i>Pollution From Surface Cleaning</i> as the BMPs to be used to comply with the Performance Standard].) "The City will provide training on an annual basis to its municipal staff in the use of appropriate BMPs." (Bates 21933.)</p>
Palo Alto	<p>The 1997 URMP for Palo Alto states, "The City of Palo Alto's urban runoff pollution prevention program conforms to the requirements of the [SCVRUPPP] model Performance Standards for each of these activities." (Bates 17098.) The 1997 Palo Alto URMP describes sidewalk/plaza maintenance Performance Standards that are the same (or more proscriptive) than the MRP. (Bates 17352.) City of Palo Alto conducts annual training for its employees. (Bates 17104, 17346.)</p> <p>The 2004 City of Palo Alto URMP begins at Bates 22192. The revised Performance Standards require the City and contractors to implement BMPs including:</p> <p style="text-align: center;">III. SIDEWALK/PLAZA MAINTENANCE</p> <p>A. Cleaning</p> <ol style="list-style-type: none"> 1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning. 2. Clean up spills as specified in Section VII. 3. If water must be used to clean sidewalks or plazas, implement the BMPs in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges (see Appendix A). <p>(Bates 22401-02 and 022417.)</p>
San Jose	<p>The Response to Comments summarized San Jose's requests concerning this Provision: "The City requests the language for Provisions C.2.c.ii(1), C.2.d.i, and C.2.e.i.1 be consistent with the BASMAA Mobile Surface Cleaner Program that is referenced in the TO, and that the goal of implementing BMPs during maintenance as the "prevention of pollutant discharges" versus the prohibition of all wash waters to storm drains, which is sometimes impractical." (Bates 3345.) The Regional Water Board revised Provision C.2.b. in response to this comment. (<i>Ibid.</i>)</p>

San Jose's 1997 URMP listed a number of BMP publications "used by the City of San Jose to meet the goals of the Performance Standards set out in this URMP." (Bates 17589.) This list includes:

- California Storm Water Best Management Practice Handbooks: Municipal
- California Storm Water Best Management Practice Handbooks: Industrial/Commercial
- Manual of Standards for Erosion & Sediment Control Measures
- Mobile Cleaners Best Management Practices
- Preventing Pollution from Surface Cleaning

See also Bates 17655-65 (detailed reference for Performance Standards for public streets and roads maintenance, sidewalk/plaza cleaning, bridge/structural repairs, graffiti removal and erosion control). San Jose had annual training of City staff on storm water pollution since at least 2000. (Bates 17753, 17769.)

The City of San Jose Urban Runoff Plan (Sept. 2004) and yearly updates (Bates 9519 et seq.) includes a report from San Jose that it had already implemented provisions concerning plaza maintenance and cleaning by June 30, 2006. (See Bates 9549.) San Jose cited the need to "implement Best Management Practices (BMPs) for street, road and highway operation and maintenance (O&M) activities to reduce pollutants in stormwater and eliminate illicit discharges to the maximum extent practicable." The table on that page demonstrates that San Jose already had standard operating procedures in place for sidewalk and plaza maintenance (cleaning, concrete installation and replacement, surface removal and repair) as well as bridge and structure maintenance (painting and paint removal, repair work and graffiti removal). San Jose had already developed BMPs for restaurants and food handling facilities (spill clean-up and pavement cleaning), washing cars and other vehicles, and mobile cleaner BMPs as of the September 2004 report. (Bates and 9084-9086. See also Bates 9160 [identifying mobile washers, building cleaning and carpet cleaning as industrial facility categories regulated by the City of San Jose.] The City's Watershed Enforcement Response Plan (Nov. 2003) (Bates 9101 et seq.) documented that San Jose's ordinances already addressed these same areas. (See, e.g., Bates 9108. See also Bates 9123 [defining "non-storm water discharge" as "Any discharge to a municipal storm drain system that is not composed entirely of storm water"].)

San Jose Standard Operating Procedures for Pavement Maintenance (Revised 8/2/04) (Bates 9276 et seq.) "Every effort should be made to minimize the amount of sediment and debris entering the storm drain system." (Bates 9276.) Detailed control measures are provided on Bates 9277. Standard Operating Procedures concerning sidewalk/plaza maintenance and bridge and structure maintenance were in place by 2005-06. (Bates 9688.) The 2004 Work Plan also demonstrates that San Jose already routinely reviewed procedures as part of an "annual effectiveness evaluation" and conducted an evaluation of BMPs and SOPs annually. (Bates 9551.) San Jose documented that it was already reporting back to the Regional Water Board on all requirements before the MRP was adopted: "The current permit [Order 01-024, adopted February 21, 2001] stresses documentation of effort and effectiveness evaluation. To comply with this requirement, each set of Performance Standards has related

	<p>milestones, a five-year workplan with targeted completion dates, and identification of responsible City Department(s). This structure allows the City to document actions ... This feedback loop is completed through the Annual Reporting process that details milestone accomplishments during the reporting period.” (Bates 9015.) In its 2004 URMP, San Jose identified a list of BMPs that it used to meet the permit requirements and goals of the Performance Standards. (Bates 9081 <i>et seq.</i>) San Jose listed the BASMAA <i>Pollution from Surface Cleaning</i> as one such BMP. (Bates 9087.) See discussion regarding BASMAA under All Permittees.</p>
<p>Santa Clara</p>	<p>“The City [of Santa Clara] has adopted the Performance Standards as developed by the SCVIJRPPP. Generally, all the provisions for the individual Performance Standards are applicable.” (Bates 17843 [1997 URMP].) The 1997 City of Santa Clara URMP contained sidewalk/plaza cleaning provisions. (Bates 17973-74. See also Bates 17985 [Standard Operating Procedures].) The City of Santa Clara had daily, monthly and annual training for City staff. (Bates 17983.)</p> <p>The 2004 URMP similarly demonstrates that the City of Santa Clara continued to implement the Plaza and Sidewalk Cleaning BMPs well before the MRP was adopted. (Bates 22629, <i>et seq.</i> See, in particular, 22826-27 [“existing O&M activities” included sidewalk/plaza maintenance]):</p> <p style="padding-left: 40px;">III. SIDEWALK/PLAZA MAINTENANCE</p> <p style="padding-left: 40px;">A. Cleaning</p> <p style="padding-left: 80px;">1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning.</p> <p style="padding-left: 80px;">2. Clean up spills as specified in Section VII.</p> <p style="padding-left: 80px;">3. If water must be used to clean sidewalks or plazas, implement the BMPs in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges (see Appendix A). (Bates 22842-43 and 022854 [“The City crews use dry sweeping methods for cleaning plazas whenever possible. When steam cleaning and/or pressure washing is required, runoff BMPs are used for the wash water containment.”].)</p>
<p>Sunnyvale</p>	<p>The City of Sunnyvale’s 2004 URMP (Bates 23354 <i>et seq.</i>) demonstrates compliance with the sidewalk/plaza cleaning requirements prior to adoption of the MRP. (Bates 023369 [City responsible for maintaining sidewalks and plazas].)</p> <p style="padding-left: 40px;">III. SIDEWALK/PLAZA MAINTENANCE</p> <p style="padding-left: 40px;">A. Cleaning</p> <p style="padding-left: 80px;">Staff: Boulevard Landscape field crews</p> <p style="padding-left: 80px;">Equipment: leaf -vacuums, brooms, water trucks when applicable</p> <p style="padding-left: 80px;">Methodology:</p>

	<p>1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning. Clean Murphy Street area twice weekly; clean all other areas bi-weekly or as needed.</p> <p>2. Clean up spills as specified in Section VII.</p> <p>3. If water must be used to clean sidewalks or plazas, implement the BMPs in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges.</p> <p>(Bates 23937. See also 023949 [BMPs].) Sunnyvale provided annual training for its employees to keep them aware of urban runoff issues. (Bates 23368.)</p>
Water District	<p>The Santa Clara Valley Water District's 2004 URMP (Bates 24706 <i>et seq.</i>) established BMPs as stringent as the MRP for sidewalk and plaza cleaning:</p> <p>OPERATIONAL BMPS</p> <p>A. Paved Sidewalks and Parking Lots</p> <p>1) Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Washwater containing any cleaning agent or degreaser shall be collected and discharged to the sanitary sewer and shall not be discharged to a storm drain. The applicant shall contact the local permitting authority and/or sanitary district with jurisdiction for specific connection and discharge requirements.</p> <p>(Bates 24794.)</p>
West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga)	<p>In 1996, the West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga) worked together to develop a Community Specific URMP. (Bates 14652 <i>et seq.</i> [revised 2000].) All West Valley Communities had implemented the Model Performance Standards for sidewalk/surface cleaning since February 1996. (Bates 14921. See also 14922 ["All surface cleaning conducted by municipal crew follow Mobile Cleaning BMPs." Los Gatos and Saratoga contracted surface cleaning service. "Both agencies have included requirements for mobile cleaning BMPs in the scope of work..."]. See also Bates 14922 and 14929 [detailing where BMPs applied].) As of 2002, the West Valley Communities had provided mobile cleaners booklets to operators and owners. (Bates 14819, 14865-67.) As of 2002, the West Valley Communities had provided instructions on surface cleaning (sidewalks, plazas, building exteriors, parking areas and drive-throughs (including graffiti removal) to operators and owners. (Bates 14819, 14837-39.)</p>

	<p>The 2004 URMP similarly demonstrates compliance with even more detailed requirements. (Bates 19016, 19021, and 19031 [Campbell]; Bates 20122-23, 20127-28 and 20138 [Los Gatos]; Bates 21459, 21464-65, and 21472 [Monte Sereno]; and Bates 23066-67, 23072-73, and 23083 [Saratoga]. The 2004 URMP also refers to the BASMAA <i>Pollution from Surface Cleaning</i> for BMPs. (Bates 19015.)</p>
<p>Solano County</p>	
Fairfield	<p>The Fairfield-Suisun URMP dated October 1999 established BMPs for surface mobile cleaners:</p>
Suisun	<p>III.2.4 Outreach to Mobile Washers. In conjunction with BASMAA's education efforts, the FSURMP is continuing outreach to mobile washing companies by supporting BASMAA's mobile surface cleaners outreach program. In addition, the FSURMP created an educational booklet, "<i>Storm Water Pollution Prevention Practices for Mobile Cleaning Activities</i>" that provides guidance and BMPs to mobile washers who perform fleet washing, auto detailing, carpet cleaning, or food-related cleaning activities. The booklet also provides information for mobile washers that clean building exteriors, sidewalks, drive-through lanes, plazas and parking areas. In 1999, mobile washers from the Fairfield-Suisun area attended a luncheon workshop to discuss the booklet, obtain buy-in on program goals, and open a dialogue on the workability of the BMPs.</p> <p>(Bates 30076-77.) The BMPs specify: SIDEWALK/PLAZA MAINTENANCE A. Cleaning 1. Use dry methods (e.g., sweeping or vacuuming) whenever practical to clean sidewalks and plazas rather than hosing, pressure washing, or steam cleaning. 2. Clean up spills as specified in Section VII. 3. If water must be used to clean sidewalks or plazas, implement the BMPs in the Bay Area Stormwater Management Agencies Association's <i>Pollution From Surface Cleaning</i>, to reduce soap, oil and other pollutants in stormwater to the maximum extent practicable and eliminate illicit discharges.</p> <p>(Bates 30117. See also Bates 30431 [2007 URMP].) BMP training for staff was in place for all program components. (Bates 30061.)</p>

Vallejo Permittees

Vallejo	EPA issued Permit No. CAS612006, May 30, 1999, which governed the areas of the City of Vallejo and surrounding unincorporated areas in Solano County. (Bates 014273 <i>et seq.</i>) Pursuant to that permit, Vallejo Sanitation and Flood Control District adopted a 1999 Storm Water Control Plan (Bates 14275-76. See Bates 33019 <i>et seq.</i>) Vallejo’s 1999 Storm Water Management Plan established the following BMPs for surface cleaning:
Vallejo Sanitation and Flood Control District	<p style="margin-left: 40px;">3. Cleaning, Maintenance, and Processing Control – Areas used for washing, steam cleaning, maintenance, repair or processing shall have impermeable surfaces and containment berms, roof covers, recycled water wash facilities, or discharge to the sanitary sewer (must meet discharge limitations).</p> <p>(Bates 33052.)</p> <p>The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.</p>

C.2.c. Bridge and Structure Maintenance

C.2.c. Bridge and Structure Maintenance and Graffiti Removal

i. Task Description

(1) The Permittees shall implement appropriate BMPs to prevent polluted stormwater and non-stormwater discharges from bridges and structural maintenance activities directly over water or into storm drains.

ii. Implementation Levels

(1) The Permittees shall prevent all debris, including structural materials and coating debris, such as paint chips, or other debris and pollutants generated in bridge and structure maintenance or graffiti removal from entering storm drains or water courses.

(3) The Permittees shall determine the proper disposal method for wastes generated from these activities. The Permittees shall train their employees and/or specify in contracts about these proper capture and disposal methods for the wastes generated.

iii. Reporting – The Permittees shall report on implementation of and compliance with these BMPs in their Annual Report.

All Permittees

Contra Costa Clean Water Program stated that “The California BMP Handbooks are a well recognized and readily available resource, and **reflect the current state of water quality best management practices.**” (Bates 3346, Contra Costa Clean Water Program comment letter [emphasis added].) Numerous permittees cite the CASQA Municipal BMP Handbook as an appropriate set of BMPs which should be used to meet Performance Standards.

Alameda County (Bates 027991)

Fairfield-Suisun (Bates 030596, 030597, 030601, 030603, 030625, 030642, 030650, 030655, 030684-030688.)

San Mateo County (Bates 003878, 004016, 004045, 004027, 003915.)

Santa Clara County Permittees

Campbell (Bates 019044, 019098, 019099, 019120, 019159.)

Cupertino (Bates 019596.)

Los Altos (Bates 019804, 019825, 019838, 019842, 019859, 019875, 019883, 019894, 019902.)

Los Altos Hills (Bates 015582, 019983, 019990, 020059, 020060.)

Los Gatos (Bates 020194-020199.)

C.2.c. Bridge and Structure Maintenance

Milpitas (Bates 020634.)
Monte Sereno (Bates 021521-021529, 021597, 021624.)
Mountain View (Bates 017017, 021937, 022072.)
Palo Alto (Bates 017211, 017307, 017362, 022231, 022312, 022334.)
San Jose (Bates 017633.)
Santa Clara County (Bates 022778, 022784, 024389, 024396, 024412.)
Water District (Bates 018865, 024788, 024795.)
Saratoga (Bates 023136-023144, 023173.)
Sunnyvale (Bates 024073, 024080, 024090, 024102, 024220.)
West Valley (Bates 014955, 015197.)

The 1993 Handbook emphasizes the importance of implementing BMPs for road and bridge maintenance and maintenance of structural controls. (Bates 31947.) It discusses BMPs for Roadway/Bridge Maintenance. (Bates 32045, p. 4-75.) For maintenance, employees and subcontractors must “ensure that measure to reduce the storm water impacts of roadway/bridge maintenance are being followed.” (*Ibid.*) The approach is to “Prevent or reduce the discharge of pollutants to storm water from roadway and bridge maintenance by paving as little area as possible, designing bridges to collect and convey storm water, using measures to prevent runoff and runoff, properly disposing of maintenance wastes, and training employees and subcontractors.” (*Ibid.*) This section describes in detail the source of pollutants particularly associated with bridges and the potential for discharge of high concentrations of pollutants in untreated storm water into receiving waters. (*Id.* at Bates 32046; Municipal Handbook p. 4-76.) The Handbook goes on to specify in great detail the steps that “will help reduce the storm water impacts of bridge maintenance.” (*Id.* at Bates 32047, Municipal Handbook p. 4-77.)

The 2003 CASQA Municipal BMP Handbook (Bates 29705 *et seq.*) provides even more rigorous detail than the MRP and is virtually identical to numerous permittees’ Performance Standards, as discussed in the individual permittees’ sections below:

Bridge and Structure Maintenance

Paint and Paint Removal

- Transport paint and materials to and from job sites in containers with secure lids and tied down to the transport vehicle.
- Do not transfer or load paint near storm drain inlets or watercourses.
- Test and inspect spray equipment prior to starting to paint. Tighten all hoses and connections and do not overfill paint container.
- Plug nearby storm drain inlets prior to starting painting where there is a significant risk of a spill reaching stormdrains.

ATTACHMENT 1 In Support of Response to Request for Additional Evidence and Briefing on Provisions C.2.b, C.2.c, C.2.e, C.2.f

C.2.c. Bridge and Structure Maintenance

Remove plugs when job is completed.

- If sand blasting is used to remove paint, cover nearby storm drain inlets prior to starting work.
- Perform work on a maintenance traveler or platform, or use suspended netting or tarps to capture paint, rust, paint removing agents, or other materials, to prevent discharge of materials to surface waters if the bridge crosses a watercourse. If sanding, use a sander with a vacuum filter bag.
- Capture all clean-up water, and dispose of properly.
- Recycle paint when possible (e.g. paint may be used for graffiti removal activities). Dispose of unused paint at an appropriate household hazardous waste facility.

(Bates 29831.)

The BASMAA brochure *Pollution from Surface Cleaning* (1996) describes BMPs for graffiti removal from painted surfaces: block the storm drain or contain runoff and “collect wash water in a tank and pump to the sewer, or dispose as hazardous waste, as appropriate. (Bates 29522-27, at 29526.) If graffiti is removed using a wet sand-blast, the directions include blocking the storm drain or containing runoff, directing all runoff of a landscaped or unpaved area or following the instructions above for painted surfaces. (Bates 29526.) The brochure also describes BMPs for cleaning building surfaces without loose paint (Bates 29526 [dry cleanup or high pressure with no soap, screen wash water, if needed, to catch debris, then discharge to landscaping or to a gutter, street or storm drain] and unpainted building surfaces (*ibid.* [block storm drain or contain runoff, use soap or acid wash or other chemicals, check the pH before discharging to landscaping or collect wash water in a tank and pump to the sewer after confirming the local wastewater authority’s requirements for discharge].)

The following Permittees cite to BASMAA 1995 *Blueprint for a Clean Bay – Best Management Practices to Prevent Stormwater Pollution from Construction-Related Activities* (Bates 66953 *et seq.*) as model BMPs used to meet Performance Standards: Alameda County Permittees (Bates 8759, 28129, 28703); Contra Costa Permittees (Bates 29592, 29610, 29611); SCVURPPP Permittees (Bates 9803, 9805, 10672, 10927, 11550, 11695, 11923, 12239, 12429, 14484, 15197, 20060, 24205, 24211, 24218, 24974, 25000, 25004, 25410, 25413, 25496, 25500, 25507, . See also 66964 [“BASMAA adapted this booklet from one originally developed and generously shared by the Santa Clara Valley Nonpoint Source Pollution Control Program”]); Campbell (Bates 19015, 19027, 19063, 19065, 19066, 19068, 19070, 19072, 19095, 19161); City of Santa Clara (Bates 17964, 22833); Cupertino (Bates 15298, 15300, 15303, 15345, 15359, 15375, 19322, 19328, 19451, 19467, 19522, 19524, 19525, 19528, 19529, 19531, 19572, 19657, 19660,) 25956, 25961); City of Los Altos (Bates 15487, 15493, 15494, 15495, 15502, 15508, 19838, 19859, 19896, 19902); Los Gatos (Bates 20122, 20212, 20214, 20215, 20217, 20219, 20221, 20312); Milpitas (Bates 16266, 16309, 16435, 16447, 16551, 16555, 20633, 20985, 21003); Monte Sereno (Bates 21455, 21458, 21470, 21471, 21484, 21498, 21499, 21541, 21544, 21546,

ATTACHMENT 1 In Support of Response to Request for Additional Evidence and Briefing on Provisions C.2.b, C.2.c, C.2.e, C.2.f

C.2.c. Bridge and Structure Maintenance

21548, 21550, 21657, 21659); Mountain View (Bates 17017, 21937, 22039); Palo Alto (Bates 17238, 17240, 17326, 17328, 22393); Saratoga (Bates 23079, 23082, 23113, 23156, 23158, 23159, 23161, 23163, 23238,, 23240); West Valley Communities (Bates 15564, 19163, 19261, 20314, 20410, 21744, 23066); Town of Los Altos Hills (Bates 15590, 15600, 15605); San Jose (Bates 9082, 9108, 9246, 9547, 9619, 9685, 9751, 17591, 17601, 17700, 17712); Santa Clara County (18632, 18638, 18685, 18690, 24336, 24338, 24532, 24608, 25807, 25873); Santa Clara Valley Water District (Bates 27373, 27900); Sunnyvale (Bates 18389, 18394, 18400, 18406, 18458, 18462, 18471, 18529, 18532, 18537, 23818, 23830, 23968, 23980, 24073, 24084, 24090, 24169, 24171, 24178, 24182, 24188, 24191); and San Mateo Permittees (Bates 31074); Solano (Fairfield-Suisun Permittees) (Bates 30135, 30591).

Blueprint for a Clean Bay identifies the following BMPs:

- Identify all storm drains, drainage swales and creeks located near the construction site and make sure all subcontractors are aware of their locations to prevent pollutants from entering them. (Bates 66956, p. 3.)
- Avoid contaminating clean runoff from areas adjacent to your site by using berms and/or temporary or permanent drainage ditches to divert water flow around the site. Reduce stormwater runoff velocities by constructing temporary check dams and/or berms where appropriate. (*Ibid.*)
- Protect all storm drain inlets using filter fabric cloth or other best management practices to prevent sediments from entering the storm drainage system during construction activities. (*Ibid.*)
- Keep pollutants off exposed surfaces. Place trash cans around the site to reduce litter. Dispose of non-hazardous construction wastes in covered dumpsters or recycling receptacles. (Bates 66957.)
- Practice source reduction — reduce waste by ordering only the amount you need to finish the job. (*Ibid.*)
- Recycle leftover materials whenever possible. Materials such as concrete, asphalt, scrap metal, solvents, degreasers, cleared vegetation, paper, rock, and vehicle maintenance materials such as used oil, antifreeze, batteries, and tires are recyclable (check with the local planning or building department for more information). (*Ibid.*)
- Dispose of all wastes properly. Materials that cannot be reused or recycled must be taken to an appropriate landfill or may require disposal as hazardous waste. (*Ibid.*)
- Never throw debris into channels, creeks or into wetland areas. Never store or leave debris in the street or near a creek where it may contact runoff. (*Ibid.*)
- Train your employees and inform subcontractors about the stormwater requirements and their own responsibilities. (*Ibid.*)

The *Blueprint for a Clean Bay* also recommends the CASQA Construction BMP Handbook as a guide to designing stormwater quality controls. (Bates 66955, p. 2.) For erosion and sediment control BMPs, the *Blueprint for a Clean Bay* summarizes and incorporates by reference the Erosion and Sediment Control Field Manual and CASQA Construction BMP Handbook. (Bates 66957.)

C.2.c. Bridge and Structure Maintenance

See also Bates 32443-32581 [Erosion Manual].)

The 1993 CASQA Construction BMPs provide extensive BMPs for construction sites, with a focus on erosion and sedimentation processes and controls. (Bates 66300-66574; specifically Bates 66313-17.) Similarly, the 2003 CASQA Construction BMPs (2003) provide updated and more specific BMPs to address source control and water quality protection measures. (Bates 66575-952.)

Alameda County

Alameda	<p>The Stormwater Quality Management Plan July 2001- June 2008 was incorporated by reference and “considered an enforceable component of” Order No. R2-2003-0021 (Order No. R2-2003-0021, at p. 5.) That Order and Plan covered the following municipalities: Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City.</p> <p>The Alameda Stormwater Quality Management Plan dated 2001-2008 (Bates 8687 <i>et seq.</i>) is a detailed precursor to the MRP. Member agencies were required to abide by Performance Standards pertaining to Municipal Maintenance – Litter Control, Road Repair and Graffiti Removal. (Bates 8757 <i>et seq.</i>) The Road Repair requirements are substantively identical to the MRP’s requirements for bridge and structural maintenance activities:</p> <p style="text-align: center;">Each agency will utilize, as appropriate, the Road Repair BMPs for protective storm drain inlets prior to breaking up asphalt or concrete. The agencies will clean afterwards by sweeping up as much material as possible.</p> <p style="text-align: center;">***</p> <p>Patching and Resurfacing</p> <ol style="list-style-type: none"> 1. Each agency will utilize, as appropriate, the Road Repair BMPs for protecting storm drain inlets prior to patching and resurfacing activities. 2. Agencies will not stockpile materials in streets, gutter areas or near storm drain inlets or creeks unless these areas are protected. 3. Agencies will never wash excess material from exposed aggregate concrete or similar treatments
Albany	
Berkeley	
County of Alameda	
Dublin	
Emeryville	
Fremont	
Hayward	
Livermore	
Newark	
Oakland	
Piedmont	
Pleasanton	
San Leandro	
Union City	
Flood County District	
Zone 7	

C.2.c. Bridge and Structure Maintenance

into a street or storm drain inlet. Each agency will designate an unpaved area for clean up and proper disposal of excess materials.

(*Ibid.* See Bates 8717-18, 8757-58.) Alameda’s Stormwater Quality Management Plan dated 2001-2008 identified as a priority task: “Characterize Sources and Evaluate BMP Effectiveness for Pollutants of Concern.” (Bates 8712.) The Plan identified evaluation of structural treatment controls as necessary for an evaluation of overall BMP effectiveness. (*Ibid.*) “The evaluation of this task may include ... 2) identifying ways to improve the effectiveness and application of BMPs.” (*Ibid.*)

The Plan notes annual training for employees. (*Id.* at p. 8717.) Agencies were required to provide training “at least annually” to clean water staff, new employees, agency managers and elected officials. (Bates 8745.)

The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Contra Costa County

- Clayton
- Concord
- County of Contra Costa
- Danville
- El Cerrito
- Hercules
- Lafayette

In 1999, the Contra Costa Clean Water Program developed a Stormwater Management Plan (1999-2004) (Bates 29566 *et seq.*) with Municipal Maintenance Performance Standards are described at Bates 29631-33 and 29635. These detailed requirements are more specific and rigorous than the requirements in Provision C.2.c:

ASPHALT/COCNRETE REMOVAL

MUNI-69: Each agency will take measures to protect storm drain Inlets prior to breaking up asphalt or concrete (e.g., cover inlets). The agencies will clean afterwards by sweeping all related materials.

C.2.c. Bridge and Structure Maintenance

<p>Martinez</p> <p>Moraga</p> <p>Orinda</p> <p>Pinole</p> <p>Pittsburg</p> <p>Pleasant Hill</p> <p>Richmond</p> <p>San Pablo</p> <p>San Ramon</p> <p>Walnut Creek</p> <p>Flood County District</p>	<p>MUNI-70: After breaking up old pavement, each agency will remove and dispose properly.</p> <p>MUNI-71: During saw-cutting operations, each agency will block or berm around storm drain inlets using sand bags or an equivalent filler device, or absorbent materials such as pads, pillows and socks to contain slurry. If slurry enters the storm drain system, the agency will have the material removed to the maximum extent practicable.</p> <p>MUNI-72: Each agency will remove saw-cut slurry (e.g. with a shovel or vacuum) before leaving at the end of the day.</p> <p>PATCHING AND RESURFACING</p> <p>MUNI-73: Agencies will not stockpile materials in streets, gutter areas or near storm drain inlets or creeks unless these areas are protected.</p> <p>MUNI-74: Each agency will protect storm drain openings before applying seal coat, slurry seal, etc. Agencies will prevent to the maximum extent practicable material from entering storm drain inlets and sweep them if needed.</p> <p>MUNI-75: Agencies will not wash excess material from exposed aggregate concrete or similar treatments into an unprotected street or storm drain inlet. Each agency will designate an unpaved area for sweeping up and proper disposal of excess materials.</p> <p>MUNI-76: Agencies will only use as much water as necessary for dust control to avoid runoff.</p> <p>MUNI-77: Each agency will sweep up as much material as possible and dispose of properly. Agencies will only wash down streets if runoff is controlled or contained.</p> <p>MUNI-78: Each agency will catch drips from parked paving equipment with pans or absorbent material placed under the machines or berm the area around them to the maximum extent practicable.</p> <p>MUNI-79: Each agency will clean up all spills and leaks from other equipment and work site areas using "dry" methods (absorbent materials and/or rags). The agency will properly dispose of absorbent materials and rags. If spills occur on dirt areas, the agency will dig up and remove contaminated soil properly in a timely basis.</p> <p>MUNI-80: Each agency will remove stockpiles (asphalt materials, sand, etc.) prior to the completion of the job.</p> <p>MUNI-81: If it rains unexpectedly, each agency will take appropriate action to prevent pollution of stormwater runoff (e.g. divert runoff around work areas).</p>
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C.2.c. Bridge and Structure Maintenance

The chart ranging from Bates 29649-53 indicates that Contra Costa permittees were already implementing these Performance Standards. Employees were trained in these maintenance activities. (Bates 29650.)

The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

San Mateo County

Atherton	<p>San Mateo produced the Countywide Stormwater Pollution Prevention Program (rev. June 1999). (Bates 9834 <i>et seq.</i>) San Mateo County indicated that it was providing reports concerning stormwater controls and BMPs by 1999. (Bates 9907-9916 [regulatory compliance with NPDES reports].)</p> <p>The Program also gives specific Performance Standards for municipal maintenance, including asphalt/concrete removal and patching and resurfacing, all activities contemplated in bridge and structure maintenance. (Bates 9927-28.)</p> <p>The February 20, 2001, Maintenance Standards for San Mateo Public Works (Bates 32695 <i>et seq.</i>) "contains standards, Best Management Practices (BMPs) and Conservation Outcomes for Road and Parks Maintenance Division activities...." (Bates 32698.) The Maintenance Standards contain detailed bank stabilization measures which were to be applied when repairing damaged roadway features and applying erosion controls. (Bates 32709-10 [Bank Stabilization].) It also details erosion and sedimentation processes and controls. (Bates 32719-20.)</p> <p>The operative stormwater management plan in place prior to adoption of Order No. R2-2009-0074, was the April 2004-June 2010 Stormwater Management Plan. (Bates 10000) Appendix B included</p>
Belmont	
Brisbane	
Burlingame	
Colma	
County of San Mateo	
Daly City	
East Palo Alto	
Foster City	
Half Moon Bay	
Hillsborough	
Menlo Park	
Millbrae	
Pacifica	
Portola Valley	

C.2.c. Bridge and Structure Maintenance

<p>Redwood City</p> <p>San Bruno</p> <p>San Carlos</p> <p>San Mateo</p> <p>South San Francisco</p> <p>Woodside</p> <p>Flood County District</p>	<p>Performance Standards for municipal maintenance and road maintenance. (Bates 10079 <i>et seq.</i>) These Performance Standards are substantively the same as the requirements under Provision C.2.c. For example:</p> <ul style="list-style-type: none"> • B-2 – block or berm around storm drain inlets during saw-cutting operations to prevent slurry from entering storm drain. • B-3, “contain and clean up waste materials from signing and striping. • B-2 “wash down of streets only permitted if runoff is controlled or contained.” <p>(Bates 10079-80.) The 2004 Maintenance Standards (Bates 32828 <i>et seq.</i>) provide additional detail specific to paved roads (Bates 32858-60), unpaved roads (Bates 32861-62) and bridges (Bates 32869-70). The Performance Standard specific to bridges include the following detailed requirements:</p> <ul style="list-style-type: none"> • Routine bridge maintenance work within the flowing channel of any water body shall be performed between June 15 and October 15 only. • Materials used in the maintenance or repair of bridges, such as paint, solvents and mortar, shall be prevented from spilling into any storm drain facility or water body. Overspray of paint onto vegetation or into flowing water shall be avoided. Any material which accidentally falls into a storm drain or water body shall be promptly removed in the least destructive manner possible. Where removal is not possible because the material is borne away by flowing water, the spill shall be immediately reported to the Road Maintenance Manager for further action. • Deck drains and scuppers over streams shall be blocked off prior to pressure washing, sandblasting or scraping of bridge structures. • Where dewatering is needed to gain access to the portion of the bridge to be maintained, approved dewatering methods must be employed.... <p>(Bates 32869-70.)</p> <p>The 2004 Maintenance describes training requirements substantially more rigorous than C.2.c.:</p> <p style="padding-left: 40px;">All personnel responsible for the design, construction, maintenance and/or inspection of public and private facilities shall attend:</p>
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C.2.c. Bridge and Structure Maintenance

1. Introductory training on BMPs, environmental permitting requirements, and reporting protocols.
2. Annual refresher training (2 hour minimum) on BMPs, environmental permitting requirements, and reporting protocols.
3. Interim training via appropriate media (staff meetings, policy directives, etc.) for updated BMPs, environmental permitting requirements, and reporting protocols.

Personnel responsible for the direct supervision of design, construction, maintenance and/or inspection staff shall attend a minimum of 8 hours of combined technical training in the areas of large woody debris and vegetation management, streambank stabilization, erosion and sediment control and environmental permitting annually in addition to the requirements listed above.

(Bates 32999.)

The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Santa Clara County

C.2.c. Bridge and Structure Maintenance

SCVURPPP

1997 SCVURPPP Urban Runoff Management Plan indicates that the Performance Standards identified therein are the threshold standards necessary to demonstrate compliance with the permit: “The reissued permit also requires that the Program ‘adopt and incorporate Performance Standards developed by the Dischargers. Performance Standards are defined as the level of implementation necessary to demonstrate the control of pollutants in storm water to the maximum extent practicable.’” (Bates 14299.) “Performance Standards describe a specific result, or level of effort, that constitutes the ‘maximum extent practicable’ based on current technical knowledge, available resources and local conditions.” (Bates 14335.) Model Performance Standards “define the result, or level of effort, for each major pollution-prevention task.” (Bates 14344.) “In a June 24, 1997 letter, Regional Board staff stated: “We accept the submitted model performance standards as *baseline* performance standards.” (Bates 14384)

The model Performance Standard for Public Streets, Roads and Highways, and its supporting documents, cover the following operation and maintenance activities:

- Bridge and Structure Maintenance (painting and paint removal; graffiti removal)
- Median and Road Embankment Maintenance (erosion controls)

(SCVURPPP 1997 URMP, Bates 14365.)

Public Facilities. As described in the Program's model Performance Standard for Public Streets, Roads and Highways Operation and Maintenance, each Co-permittee will implement BMPs for maintenance of sidewalks, plazas, bridges and structures, in addition to streets, roads and highways. The Copermittees will also require their contractors, and encourage other public agencies, to implement the same BMPs.

(SCVURPPP 1997 URMP, Bates 14367-68.)

The 2004 SCVURPPP Performance Standards incorporate requirements that are far more detailed than Provision C.2.c. (Bates 12413 *et seq.* [Performance Standards and Supporting Documents for Public Streets, Roads, and Highways Operation & Maintenance].) The types of activities required of each permittee date back to the mid 1990s:

C.2.c. Bridge and Structure Maintenance

Public agency activities related to the maintenance of storm drain systems are covered by the Program's Storm Drain System Operation and Maintenance Performance Standard dated March 1, 1996. Activities related to the planning and construction of municipal public works projects, including street, road, and highway improvements, are addressed in the Program's Planning Procedures Performance Standards

(Bates 12416.) The Performance Standards recognize the serious potential for contamination resulting from run-off related to the following activities:

- Street/Road/Highway Repair and Maintenance - Asphalt/concrete removal; concrete installation and replacement; patching, resurfacing, and surface sealing; signing and striping; traffic detector loop installation and repair; and equipment cleaning, maintenance, and storage;
- Sidewalk/Plaza Maintenance - Cleaning; concrete installation and replacement; surface removal and repair; and landscape maintenance;
- Bridge and Structure Maintenance - Painting and paint removal; repair work; and graffiti removal;
- Median and Road Embankment Maintenance - Erosion controls; slide and embankment repair; irrigation practices; and vegetation controls (manual and mechanical removal, pesticide usage and pest management, and fertilizer usage).

(Bates 12417.) Results of a 1996 survey demonstrated that most agencies (or a contractor) were already conducted each of these activities in 1996. (Bates 12419.) The 2004 Performance Standards make clear that *all* agencies should have been conducting these activities in 2004. (Bates 12422, 12425.) The model BMPs permittees were to use as guidance included the BASMAA 1996 *Pollution from Surface Cleaning*, BASMAA 1995 *Blueprint for a Clean Bay – Best Management Practices to Prevent Stormwater Pollution from Construction-Related Activities*, and 1993 *California Storm Water Best Management Practice Handbook (Municipal)*. A discussion of these BMPs is above under All Permittees.

Performance Standards describe a specific result, or level of effort, that constitutes the “maximum extent practicable” based on current technical knowledge, available resources and local conditions. **First developed in 1996**, the Program adopted model Performance Standards for ... Public Streets,

C.2.c. Bridge and Structure Maintenance

Roads and Highways Operation and Maintenance

(Bates 12212 [emphasis added].) The 2004 Performance Standards included the following detailed measures. Due to length, this is only a partial list of applicable measures that apply to bridge and structure maintenance:

A. Asphalt/Concrete Removal

1. Schedule asphalt and concrete removal activities for dry weather.
2. Take measures to protect any nearby storm drain inlets and adjacent watercourses, prior to breaking up asphalt or concrete (e.g., place sand bags around inlets or work areas).
3. After breaking up old pavement, sweep up materials thoroughly to avoid contact with rainfall and storm water runoff. Recycle as much material as possible, and properly dispose of nonrecyclable materials,
4. During saw-cutting and grinding operations, use as little water as possible. Block or place berms around nearby storm drain inlets, in drainage channel (if no inlet is nearby), or around work area (when bordering watercourse) using sand bags or an equivalent appropriate barrier, or absorbent materials such as pads, pillows and socks to contain slurry. If slurry enters the storm drain system, remove material immediately.
5. Remove saw-cut slurry (e.g., with a shovel or vacuum, or sweep up when dry) as soon as possible.

B. Concrete Installation and Repair

1. Avoid mixing excess amounts of fresh concrete or cement mortar on-site.
2. Store dry and wet materials under cover, protected from rainfall and runoff.
3. Wash out concrete transit mixers only in designated wash-out areas where the water will flow into drums or settling ponds or onto dirt or stockpiles of aggregate base or sand. Pump water from settling ponds to the sanitary sewer, where allowed. Whenever possible, recycle washout by pumping back into mixers for reuse. Never dispose of washout into the street, storm drains, drainage ditches, or creeks.
4. Whenever possible, return left-over materials in the mixer barrel to the yard for recycling. Dispose of small amounts of excess concrete, grout, and mortar in the trash.

C. Patching, Resurfacing, and Surface Sealing

1. Schedule patching, resurfacing and surface sealing for dry weather.
2. Stockpile materials away from streets, gutter areas, storm drain inlets or watercourses. During wet

C.2.c. Bridge and Structure Maintenance

	<p>weather, cover stockpiles with plastic tarps or berm around them if necessary to prevent transport of materials in runoff.</p> <ol style="list-style-type: none"> 3. Pre-heat, transfer or load hot bituminous material away from drainage systems or watercourses. 4. Cover and seal nearby storm drain inlets and manholes before applying seal coat, slurry seal, etc. Leave covers in place until job is complete and until all water from emulsified oilmanholes and drains for proper disposal. 5. Prevent excess material from exposed aggregate concrete or similar treatments from entering streets or storm drain inlets. Designate an area for clean up and proper disposal of excess materials. 6. Use only as much water as necessary for dust control, to avoid runoff. 7. Sweep up as much material as possible and dispose of properly. Only wash down streets if runoff is controlled or contained. 8. Catch drips from paving equipment that is not in use with pans or absorbent material placed under the machines. Dispose of collected material and absorbents properly. 9. Make sure all shut-off valves on the equipment are working properly. 10. Follow spill control and clean-up measures listed in Section VII for any spills. 11. After the job is complete, remove stockpiles (asphalt materials, sand, etc.) as soon as possible. 12. If it rains unexpectedly, take appropriate action to prevent pollution of storm water runoff (e.g., divert runoff around work areas). <p>(Bates 12434-36. See additional sections of the 2004 Performance Standards, including Erosion Controls and Slide and Embankment Repair (Bates 12441) and Rural Public Works Maintenance and Support Activities (Bates 12483-12503.)</p> <p>The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592.) See discussion under All Permittees.</p>
County of Santa Clara	The 1997 Santa Clara Valley URMP (updated 2004) (Bates 24312 <i>et seq.</i>) described its compliance with the SCVURPP bridge maintenance Performance Standards. (Bates 24621-23 and 24634-36.)

C.2.c. Bridge and Structure Maintenance

	<p>The County indicated that annual training would occur beginning in 2004. (Bates 24332.)</p>
Cupertino	<p>City of Cupertino 1997 URMP describes how it complied with the SCVURPPP URMP. (Bates 15214 <i>et seq.</i>) City of Cupertino’s 1997 URMP adopted Model BMPs for bridge and structure maintenance (painting and paint removal, repair work and graffiti removal). (Bates 15345-46. See also Bates 15353-54 and 15364.) As of 1997, the City of Cupertino had annual stormwater BMPs training for City staff. (Bates 15359.)</p> <p>The 2004 URMP for the City of Cupertino indicated the applicability of and compliance with the Performance Standards for bridge structure maintenance. (Bates 19452, 19458-59, 19471-72, and 19503-04.)</p>
Los Altos	<p>Los Altos adopted “BMPs and control measures that are used as a standard of compliance in the implementation of the performance standards” including the Mobile Cleaner BMPs (CETA) and <i>Pollution from Surface Cleaning</i> BMPs (BASMAA). (Bates 15452.) See discussion regarding BASMAA under All Permittees. Los Altos 1997 URMP states that the City will implement BMPs as developed for City buildings, parks, plazas, etc. (Bates 15429, 15440.) As of 1997, Los Altos committed to “continue to complete regular training of City staff.” (Bates 15440.)</p> <p>The 2004 URMP for Los Altos indicated the applicability of and compliance with the Performance Standards for bridge structure maintenance. (Bates 019849-019850.) Los Altos documented that it “Provide[d] staff training for street and road operation and maintenance personnel at least once a year with emphasis on controlling storm water pollution through best management practices.” (Bates 19852.)</p>
Los Altos Hills	<p>The Town of Los Altos Hills adopted the 1996 SCVURPPP Performance Standards for bridge and structure maintenance, including graffiti removal. (Bates 15573-74.) The Town of Los Altos Hills holds a minimum of annual trainings for municipal staff. (Bates 15520. See also Bates 15621 [municipal employee training critical to maximize pollution prevention].)</p> <p>In 1997, the Town of Los Altos Hills adopted the <i>California Storm Water Best Management Practice Handbook (Municipal)</i> as Model BMPs to be used for compliance in the implementation of the</p>

C.2.c. Bridge and Structure Maintenance

	<p>Performance Standard. (Bates 15564.)</p> <p>The 2004 URMP for the Town of Los Altos Hills indicated incorporation of Performance Standards for bridge structure maintenance. (Bates 20059-60 [reference to SCVURPPP Performance Standards for bridge and structure maintenance].)</p>
Milpitas	<p>In its 2000 URMP Milpitas indicated its intent to implement the Model Performance Standards developed in the SCVURPPP URMP. (Bates 16335.) Milpitas adopted all BMPs for Bridge/Structural Maintenance. (Bates 16337. See also Bates 16347-49.) Milpitas had “routine training sessions” and formal training on the SWPPP had been completed as of at least 2000. (Bates 16150.) Annual employee training was required on the appropriate use of BMPs. (Bates 16335. See also Bates 16352.)</p> <p>The 2004 Milpitas URMP (Bates 20433 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structure maintenance. (Bates 20833-34 and 20846-47.) Staff and contractor training were conducted annually. (Bates 20850.)</p>
Mountain View	<p>Mountain View’s 1997 URMP emphasized that Performance Standards identified “the level of implementation for activities and was based on current and proposed practices that the City is/or will be implementing to minimize water quality impacts, and practices that are accepted by the State and Regional Board as being effective in controlling these impacts.” (Bates 17060.) The Performance Standards cover the same restrictions as the MRP. (Bates 17071-74.) The 1997 Mountain View URMP includes Performance Standards that are even more rigorous than the MRP requirements. (Bates 17002 <i>et seq.</i>) These provisions include Performance Standards for Bridge and Structure Maintenance. (Bates 17004, 17005, 17024-25.) Mountain View’s 1997 URMP emphasized the need for training and noted the importance of ensuring that contractors utilized BMPs. (Bates 17004.)</p> <p>The 2004 Mountain View URMP (Bates 21767 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structural maintenance. (Bates 21927-31, 021938, and 021944-021945.) The City indicated that it would train maintenance employees regarding storm water pollution BMPs. (Bates 21774.) The footnote at Bates 21773 states that items with an “AR” indicate ongoing activities. Employee training has an “AR” next to it. (Bates 21774.)</p>

C.2.c. Bridge and Structure Maintenance

Palo Alto	<p>The 1997 URMP for Palo Alto states, “The City of Palo Alto's urban runoff pollution prevention program conforms to the requirements of the [SCVRUPPP] model Performance Standards for each of these activities.” (Bates 17098.) The 1997 Palo Alto URMP describes Bridge and Structure Maintenance Performance Standards that are the same (or more proscriptive) than the MRP. (Bates 17352-54.) City of Palo Alto conducts annual training for its employees. (Bates 17104, 17346.)</p> <p>The 2004 Palo Alto URMP (Bates 22192 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structural maintenance. (Bates 22201, 22393-94, 22403-04, 22417-20.) The City continues to conduct annual and bimonthly trainings. (Bates 22411.)</p>
San Jose	<p>San Jose’s 1997 URMP listed a number of BMP publications “used by the City of San Jose to meet the goals of the Performance Standards set out in this URMP.” (Bates 17589.) This list includes:</p> <ul style="list-style-type: none"> • California Storm Water Best Management Practice Handbooks: Municipal • California Storm Water Best Management Practice Handbooks: Industrial/Commercial • Manual of Standards for Erosion & Sediment Control Measures • Mobile Cleaners Best Management Practices • Preventing Pollution from Surface Cleaning <p>See also Bates 17655-65 (detailed reference for Performance Standards for public streets and roads maintenance, sidewalk/plaza cleaning, bridge/structural repairs, graffiti removal and erosion control). San Jose had annual training of City staff on storm water pollution since at least 2000. (Bates 17753, 17769.)</p> <p>The City of San Jose Urban Runoff Management Plan (Sept. 2004) (Bates 9010 <i>et seq.</i>) indicates that “The City will ensure municipal capital improvement projects include stormwater quality control measures during and after construction, appropriate for each project, and that contractors comply with stormwater quality control requirements during construction activities and maintenance activities” (Bates 9472.) The document indicates that San Jose already had developed a technical guidance document for use by municipal staff and had already developed and implemented a process to ensure that municipal capital improvement projects install structural stormwater quality control measures as necessary. (<i>Ibid.</i>)</p>

C.2.c. Bridge and Structure Maintenance

	<p>Standard Operating Procedures concerning sidewalk/plaza maintenance and bridge and structure maintenance were in place by 2005-06. (Bates 9688.) San Jose Standard Operating Procedures for Pavement Maintenance (Revised 8/2/04) (Bates 9276 et seq.) “Every effort should be made to minimize the amount of sediment and debris entering the storm drain system.” (Bates 9276.) Detailed control measures are provided on Bates 9277. The City of San Jose recognized that its own municipal projects must “include stormwater quality control measures during and after construction” and that San Jose had an obligation to ensure that “contractors comply with stormwater quality control requirements during construction activities and maintenance activities.” (Bates 9680-81. See also Bates 9688 <i>et seq.</i>) The Public Streets and Roads (PSR) program consisted of BMPs the City must use in operations such as street repair, resurfacing, saw-cutting, etc. (Bates 9687 <i>et seq.</i>)</p> <p>San Jose documented that it was already reporting back to the Regional Water Board on all requirements before the MRP was adopted: “The current permit [Order 01-024, adopted February 21, 2001] stresses documentation of effort and effectiveness evaluation. To comply with this requirement, each set of Performance Standards has related milestones, a five-year workplan with targeted completion dates, and identification of responsible City Department(s). This structure allows the City to document actions ... This feedback loop is completed through the Annual Reporting process that details milestone accomplishments during the reporting period.” (Bates 9015.)</p> <p>Additional examples of San Jose’s implementation of these BMPs and Performance Standards are in the May 11, 2011 Response, Bates Pages 2501, 2876, 2949, 3021, 3022, 3026, 3094, 3096, 3100, 3161, 3163, 3167, 3228, 3230, and 3234.</p> <p>San Jose stated that it continues to provide training to staff on activities that could impact stormwater quality and good housekeeping BMPs. (Bates 9030-31.)</p>
Santa Clara	<p>“The City [of Santa Clara] has adopted the Performance Standards as developed by the SCVIJRPPP. Generally, all the provisions for the individual Performance Standards are applicable.” (Bates 17843.) The City of Santa Clara URMP contained bridge/structural maintenance provisions. (Bates 17975-76. See also Bates 17985 [Standard Operating Procedures].) The City of Santa Clara had daily, monthly and annual training for City staff. (Bates 17983.)</p>

C.2.c. Bridge and Structure Maintenance

	<p>The 2004 Santa Clara URMP (Bates 22629 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structural maintenance. (Bates 22823-28, 22844-45, 22854.) The City continues to conduct trainings:</p> <p style="padding-left: 40px;">The municipal agency shall provide training at least annually to its planning, building, and public works staffs on planning procedures, policies, design guidelines, and BMPs for storm water pollution prevention. (C.3.a.vi.). (Bates 22754.)</p>
Sunnyvale	<p>The 2004 Sunnyvale URMP (Bates 23354 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structural maintenance. (Bates 23369 [does not own or maintain any painted bridge, large roadway structures or roadway drainage outfalls] and 23941-42 [Performance Standards for paved bridge decks].)</p> <p>Sunnyvale provided annual training for its employees to keep them aware of urban runoff issues. (Bates 23368.)</p>
Water District	<p>This provision is not applicable to the Santa Clara Valley Water District. “The District is unique among the 15 co-permittees in that it has no resident population, business, or industry; it maintains no public roads or public storm drain systems; and it does not have zoning or land use authorities within its jurisdiction.” (Bates 24714.)</p>
West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga)	<p>In 1996, the West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga) worked together to develop a Community Specific URMP. (Bates 14652 <i>et seq.</i> [revised 2000].) Best Housekeeping Practices attached to this document recommend bi-annual training regarding BMPs. (Bates 14833.) The same Practices provide BMPs for paint removal and concrete repair that are far more detailed than Provision C.2:</p> <p style="padding-left: 40px;">Paint Removal 1. If pressure washing to prepare surface for painting, seal storm drain with filter to separate out paint chips. Paint Clean-up 2. Always clean paint brushes and equipment in the sink. Never dispose of paint or</p>

C.2.c. Bridge and Structure Maintenance

rinse water in a landscape area, gutter or storm drain.

Paint Disposal 3. Never dispose of liquid paint in the trash or down a drain....

(Bates 14834.)

Concrete

1. Store concrete, grout and mortar under cover and away from drainage areas. These materials must never reach a storm drain.
2. Wash out concrete equipment/trucks off-site or designate an area on-site for washing where water will flow onto dirt or into a temporary pit in a dirt area. Let the water seep into the soil and dispose of hardened concrete with trash.
3. Divert water from washing exposed aggregate concrete to a dirt area where it will not run into a gutter, street, or storm drain. If a suitable dirt area is not available, filter the wash water through hay bales before discharging to a storm drain.

Sawcut Slurry Cleanup

1. Always completely cover or barricade a storm drain inlets when saw cutting. Use filter fabric, hay bales, sand bags, or fine gravel to keep slurry out of the storm drain system.
2. Shovel or vacuum saw cut slurry and pick up all waste as soon as you are finished in one location or at the end of each work day (whichever is sooner).
3. If saw cut slurry enters a catch basin, clean it up immediately.

(Bates 14835.)

The 2004 URMP for the West Valley Communities (Bates 18902 *et seq.*) similarly demonstrates these communities were already implementing the MRP requirements regarding Bridge and Structure Maintenance. (Bates 19016 [BMPs apply for cleaning, concrete installation and replacement, surface removal and repair, painting and paint removal, repair work, graffiti removal and erosion controls], 19022-23, and 19031-32 [Campbell]; Bates 20122-23, 20129-30 and 20138-39 [Los Gatos]; Bates 21459, 21465-66, and 21472 [Monte Sereno]; and Bates 23066-67, 23073-74, and 023084 [Saratoga].) Following is an example from Campbell demonstrating the thorough nature of the Bridge and Structure Maintenance BMPs for these communities:

C.2.c. Bridge and Structure Maintenance

IV. BRIDGE AND STRUCTURE MAINTENANCE BMPs

A. Painting and Paint Removal

1. Transport paint and materials to and from job sites in containers with secure lids and tied down to the transport vehicle.
2. Do not transfer or load paint near storm drain inlets or watercourses.
3. Test and inspect spray equipment prior to starting to paint. Tighten all hoses and connections and do not overfill paint container.
4. Where there is significant risk of a spill reaching storm drains, plug nearby storm drain inlets prior to starting painting and remove plugs when job is completed.
5. Clean up spills immediately, using methods outlined in Section 3-VIL
6. Capture all clean-up water, and dispose of properly.
7. If sand blasting is used to remove paint, cover nearby storm drain inlets prior to starting work. Use plywood, canvas, nylon netting, or similar material to contain abrasive and foreign materials and dust within work areas. Meter sand to use the least amount to do the job. Sweep and vacuum up sand and blast materials and recycle or dispose of materials properly.
8. If the bridge crosses a watercourse, perform work on a maintenance traveler or platform, or use suspended netting or traps to capture paint, rust, paint removing agents, or other materials, to prevent discharge of materials to surface waters. Dredging (with proper permits) may be necessary to recover solid materials that do fall into the watercourse.

B. Repair Work

1. Prevent concrete, steel, wood, metal parts, tools, or other work materials from entering storm drains or watercourses.
2. Thoroughly clean up the job site when the repair work is completed.
3. Refer to Section 3-H, Street/Road/Highway Repair and Maintenance, for BMPs regarding maintenance and repair of a paved bridge deck.

The 2004 URMP cites to the California Storm Water Quality Association, 2003. California Storm Water Best

Management Practice Handbook (Municipal) for BMPs. (Bates 19015.)

Each community had annual training for maintenance issues. (Bates 18924.)

C.2.c. Bridge and Structure Maintenance

Solano County

Fairfield	<p>The Fairfield-Suisun SWMP, 1999-2000 to 2004-2005 (Bates 30023 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structural maintenance, including graffiti removal and erosion control:</p>
Suisun	<p>IV. BRIDGE AND STRUCTURE MAINTENANCE</p> <p>A. Painting and Paint Removal</p> <ol style="list-style-type: none"> 1. Transport paint and materials to and from job sites in containers with secure lids and tied down to the transport vehicle. 2. Do not transfer or load paint near storm drain inlets or watercourses. 3. Test and inspect spray equipment prior to starting to paint. Tighten all hoses and connections and do not overfill paint container. 4. Where there is significant risk of a spill reaching storm drains, plug nearby storm drain inlets prior to starting painting and remove plugs when job is completed. 5. Clean up spills immediately, using methods outlined in Section VII. 6. Capture all clean-up water, and dispose of properly. 7. If sand blasting is used to remove paint, cover nearby storm drain inlets prior to starting work. Use plywood, canvas, nylon netting, or similar material to contain abrasive and foreign materials and dust within work areas. Meter sand to use the least amount to do the job. Sweep and vacuum up sand and blast materials and recycle or dispose of materials properly. 8. If the bridge crosses a watercourse, perform work on a maintenance traveler or platform, or use suspended netting or traps to capture paint, rust, paint removing agents, or other materials, to prevent discharge of materials to surface waters. 9. Dredging (with proper permits) may be necessary to recover solid materials that do fall into the watercourse. <p>B. Repair Work</p> <ol style="list-style-type: none"> 1. Prevent concrete, steel, wood, metal pieces, tools, or other work materials from entering storm drains or watercourses. 2. Thoroughly clean up the job site when the repair work is completed.

C.2.c. Bridge and Structure Maintenance

3. Refer to BMPs regarding maintenance and repair of paved bridge decks. (Bates 030118-20. See also Bates 30433-35 [2007 SWMP].) The City has quarterly meetings to assist in implementing the storm water program. (Bates 30108.) BMP training for staff was in place for all program components. (Bates 30061.)

Vallejo Permittees

Vallejo
Vallejo Sanitation and
Flood Control District

EPA issued Permit No. CAS612006, May 30, 1999, which governed the areas of the City of Vallejo and surrounding unincorporated areas in Solano County. (Bates 014273 *et seq.*) Pursuant to that permit, Vallejo Sanitation and Flood Control District adopted a 1999 Storm Water Control Plan (Bates 14275-76. See Bates 33019 *et seq.*) Vallejo noted that all public agency projects were subject to BMPs. (Bates 33053.) Vallejo's 1999 Storm Water Management Plan, Vallejo required all construction projects to implement BMPs to prevent the discharge of pollutants to the Vallejo storm drain system. Projects shall implement an appropriate selection of the construction BMPs presented in the California Storm Water Construction Activity BMP Handbook (or equivalent BMPs). The minimum requirements are as follows:

- Access points and access routes at the construction site shall be limited as much as possible. Access points and access routes shall be stabilized with appropriate BMPs to prevent erosion.
- Areas that have been denuded due to construction shall be stabilized prior to the wet season (October 15th through May 15th). Suitable stabilization practices include, but not limited to temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, protection of trees, plastic covering, and application of ground base on areas to be paved.
- All areas that need to be protected shall be marked to prevent accidental disturbances or impairment.
- Areas that shall be mark include, but are not limited to easements, setbacks, sensitive or critical areas and their buffers, trees, and drainage courses. Areas that will be cleared as a result of construction activities shall be appropriately delineated.
- Temporary storm water conveyance channels and outlets shall be stabilized to prevent erosion.
- Appropriate settling and filtration shall be utilized to remove sediment from water leaving the site.
- Proper construction materials and construction waste storage, handling and disposal practices shall be followed to prevent the discharge of pollutants to the storm drain system. Proper vehicle

C.2.c. Bridge and Structure Maintenance

and equipment cleaning, fueling, and maintenance practices shall be followed (includes secondary containment of stored fuel, lubricants, etc.).

- Construction site operators shall control and prevent the discharge of all potential pollutants, including, but not limited to, pesticides, petroleum products, nutrients, solid wastes, and construction chemicals that are stored or used on-site during construction.
- Construction site operators shall prepare a contingency plan in the event of unexpected rain or BMP failure including, but not limited to an immediate response plan, storing extra or alternative BMP materials on-site (stakes, hay bales, filters cloth, etc.), and procedures for notifying the District.

(Bates 33049.)

Vallejo revised its Storm Water Management Plan in 1999, noting that the “BMP requirements were designed to protect water quality resources by preventing and controlling erosion and sedimentation, promoting source control of potential pollutants, and controlling or treating storm water runoff.” (Bates 33051.)

Vallejo identified “existing practices and procedures that can reduce the amounts of pollutants contributed by construction activities,” including erosion control plans, prevention of illicit discharges to the storm system with BMP's, soil stabilization and fill practices as part of all major construction activities, and implementation of BMPs. (Bates 33042.)

Vallejo focused on implementing erosion and sedimentation control and “integration of storm water quality protection” into all construction. (Bates 33043.) Vallejo’s Storm Water Management Plan provides three pages of detailed site planning practices designed to protect water quality and prevent erosion:

All proposed projects shall implement an appropriate selection of the construction BMPs presented in the California Storm Water Construction Activity BMP Handbook (or equivalent BMPs). BMPs selected for construction sites must promote the following conditions:

- a. Prevention and control of erosion and sedimentation (e.g., stabilization of denuded areas)

C.2.c. Bridge and Structure Maintenance

- b. Preservation of natural drainage systems, wetlands and other water quality resources
- c. Source control of construction site materials, chemicals, and wastes
- d. Control and treatment of runoff from graded or disturbed area
- e. Streambank erosion control
- f. Limited construction access routes
- g. Protection of adjacent properties
- h. Proper operation and maintenance of BMPs

All construction BMPs shall conform to the minimum requirements for construction BMPs developed pursuant to this section (see Appendix 4A).

(Bates 33042-44. See also Bates 33049 [Appendix 4A].)

Public Agency Controls – All public agency projects are subject to the source control BMPs described above. Larger public agency projects are also subject to BMPs in Tiers 2 and 3 as applicable. Public agency projects and applicable Tier 1 BMPs include, but are not limited to the following:

Roads and Highways – Shall implement appropriate landscape controls, minimize use of chemical stabilizers and growth inhibitors, implement a street sweeping and debris removal program, maintain retaining walls and pavement, and properly operate and maintain runoff facilities.

Utilities - Shall implement appropriate landscape controls, minimize use of chemical stabilizers and growth inhibitors, and implement erosion and runoff control BMPs.

(Bates 33053.)

Vallejo inspectors received training on BMP usage “on the job and by attending conferences and other

C.2.c. Bridge and Structure Maintenance

classes.” (Bates 33039.) Vallejo public agency personnel will be notified of and encouraged to attend continuing education regarding construction and erosion control. (Bates 33045.)

The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

C.2.c. Graffiti Removal

C.2.c. Bridge and Structure Maintenance and Graffiti Removal

i. Task Description

(1) The Permittees shall implement appropriate BMPs to prevent polluted stormwater and non-stormwater discharges from bridges and structural maintenance activities directly over water or into storm drains.

(2) The Permittees shall implement BMPs for graffiti removal that prevent non-stormwater and wash water discharges into storm drains.

ii. Implementation Levels

(1) The Permittees shall prevent all debris, including structural materials and coating debris, such as paint chips, or other debris and pollutants generated in bridge and structure maintenance or graffiti removal from entering storm drains or water courses.

(2) The Permittees shall protect nearby storm drain inlets before removing graffiti from walls, signs, sidewalks or other structures. The Permittees shall prevent any discharge of debris, cleaning compound waste, paint waste or wash water due to graffiti removal from entering storm drains or watercourses.

(3) The Permittees shall determine the proper disposal method for wastes generated from these activities. The Permittees shall train their employees and/or specify in contracts about these proper capture and disposal methods for the wastes generated.

iii. Reporting – The Permittees shall report on implementation of and compliance with these BMPs in their Annual Report.

All Permittees

Contra Costa Clean Water Program stated that “The California BMP Handbooks are a well recognized and readily available resource, and **reflect the current state of water quality best management practices.**” (Bates 3346, Contra Costa Clean Water Program

C.2.c. Graffiti Removal

comment letter [emphasis added].) Numerous permittees cite the CASQA Municipal BMP Handbook as an appropriate set of BMPs which should be used to meet Performance Standards.

Alameda County (Bates 027991)

Fairfield-Suisun (Bates 030596, 030597, 030601, 030603, 030625, 030642, 030650, 030655, 030684-030688.)

San Mateo County (Bates 003878, 004016, 004045, 004027, 003915.)

Santa Clara County Permittees

Campbell (Bates 019044, 019098, 019099, 019120, 019159.)

Cupertino (Bates 019596.)

Los Altos (Bates 019804, 019825, 019838, 019842, 019859, 019875, 019883, 019894, 019902.)

Los Altos Hills (Bates 015582, 019983, 019990, 020059, 020060.)

Los Gatos (Bates 020194-020199.)

Milpitas (Bates 020634.)

Monte Sereno (Bates 021521-021529, 021597, 021624.)

Mountain View (Bates 017017, 021937, 022072.)

Palo Alto (Bates 017211, 017307, 017362, 022231, 022312, 022334.)

San Jose (Bates 017633.)

Santa Clara County (Bates 022778, 022784, 024389, 024396, 024412.)

Water District (Bates 018865, 024788, 024795.)

Saratoga (Bates 023136-023144, 023173.)

Sunnyvale (Bates 024073, 024080, 024090, 024102, 024220.)

West Valley (Bates 014955, 015197.)

The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592.) The 1993 CASQA Municipal BMP Handbook provides BMPs for cleaning with high pressure water, as may be used for graffiti removal

C.2.c. Graffiti Removal

1. Prevent entry into storm drain and remove offsite.
2. Wash onto dirt area, spade in.
3. Collect (e.g. mop up) and discharge to sanitary sewer (subject to publicly owned treatment works approval)

(Bates 31640.) The Handbook further refines these BMPs where hazardous materials are involved:

1. Use dry cleaning methods
2. Contain and dispose washwater as hazardous waste.

(*Ibid.*) Additional measures for steam cleaning emphasize collecting all water and pump to sanitary sewer and using no soap if the discharge is to the storm drain. (Bates 31643.)

The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

The 2003 CASQA Municipal BMP Handbook (Bates 29705 *et seq.*) documents appropriate BMPs for graffiti removal. (See generally Bates 29827-841.)

Graffiti Removal

- Schedule graffiti removal activities for dry weather.
- Protect nearby storm drain inlets prior to removing graffiti from walls, signs, sidewalks, or other structures needing graffiti abatement. Clean up afterwards by sweeping or vacuuming thoroughly, and/or by using absorbent and properly disposing of the absorbent.
- When graffiti is removed by painting owner, implement the procedures under Painting and Paint Removal above.
- Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If such an area is not available, filter runoff through an appropriate filtering device (e.g. filter fabric) to keep sand, particles, and debris out of storm drains.
- If graffiti abatement method generates wash water containing a cleaning compounds (such as high pressure washing with a cleaning compound), plug nearby storm drains and vacuum/pump wash water to the sanitary sewer.

C.2.c. Graffiti Removal

- Consider using a waterless and non-toxic chemical cleaning method for graffiti removal (e.g. gels or spray compounds). (Bates 029831.) Note that there is some overlap between the Graffiti Removal and Bridge and Structural Maintenance, *supra*.

The BASMAA brochure *Pollution from Surface Cleaning* (1996) describes BMPs for graffiti removal from painted surfaces: block the storm drain or contain runoff and “collect wash water in a tank and pump to the sewer, or dispose as hazardous waste, as appropriate. (Bates 29522-27, at 29526.) If graffiti is removed using a wet sand-blast, the directions include blocking the storm drain or containing runoff, directing all runoff of a landscaped or unpaved area or following the instructions above for painted surfaces. (Bates 29526.) The brochure also describes BMPs for cleaning building surfaces without loose paint (Bates 29526 [dry cleanup or high pressure with no soap, screen wash water, if needed, to catch debris, then discharge to landscaping or to a gutter, street or storm drain] and unpainted building surfaces (*ibid*. [block storm drain or contain runoff, use soap or acid wash or other chemicals, check the pH before discharging to landscaping or collect wash water in a tank and pump to the sewer after confirming the local wastewater authority’s requirements for discharge].)

Alameda County

Alameda	<p>The Alameda Countywide Clean Water Program Stormwater Quality Management Plan July 2001- June 2008 was incorporated by reference and “considered an enforceable component of” Order No. R2-2003-0021 (Order No. R2-2003-0021, at p. 5.) That Order and Plan covered the following municipalities: Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City. The Alameda Stormwater Quality Management Plan dated 2001-2008 is a detailed precursor to the MRP. Member agencies were required to abide by Performance Standards pertaining to Municipal Maintenance – Litter Control, Road Repair and Graffiti Removal. (Bates 8757 <i>et seq.</i>) The Plan incorporates by reference the graffiti removal BMPs in the Municipal Maintenance BMP Manual. (Bates 8758. See above, All Permittees.)</p>
Albany	
Berkeley	
County of Alameda	
Dublin	
Emeryville	
Fremont	
Hayward	
Livermore	
Newark	
Oakland	
Piedmont	
Pleasanton	

C.2.c. Graffiti Removal	
San Leandro	
Union City	
Flood County District	
Zone 7	
Contra Costa County	
Clayton	<p>Contra Costa Clean Water Program’s SWMP 1999-2004 (Bates 29566 <i>et seq.</i>) describes Graffiti Removal BMPs in far greater detail than the MRP:</p> <ul style="list-style-type: none"> • MUNI-53: Each agency will take reasonable and practicable measures to protect (such as tarps in work areas, sand bags, booms or barriers around stormwater inlets) the storm drain inlets prior to removing graffiti from walls, signs, sidewalks, or other surfaces needing graffiti abatement. The agencies will sweep up afterwards by sweeping or vacuuming thoroughly, and/or by using oil absorbent and properly disposing of the absorbent. • MUNI-54: No agency will discharge debris, cleaning compound waste, paint waste, or wash water containing cleaning compounds to the storm drain. • MUNI-55: Each agency will direct runoff from all types of sand blasting and high pressure water (no cleaning agents) washing activities into a landscaped or dirt area. If a landscaped area is not available, each agency will filter runoff through an appropriate filtering device (e.g., coarse sand bags or filter fabric to keep sand, particles, and debris out of storm drain). • MUNI-56: Each agency will avoid conducting graffiti abatement activities during a rainstorm. If it rains during graffiti abatement activities unexpectedly, each agency will take appropriate action to minimize the impact on the quality of stormwater (e.g., divert runoff around work areas). • MUNI-57: Each agency will train employees and volunteers conducting graffiti abatement in using these performance standards. Each agency will incorporate these performance standards into agency contract specifications. Each agency will provide volunteers and contractors conducting graffiti abatement with education material describing the graffiti abatement performance standards. • MUNI-S8: It is recommended each agency assign one supervisor/management-level person the
Concord	
County of Contra Costa	
Danville	
El Cerrito	
Hercules	
Lafayette	
Martinez	
Moraga	
Orinda	
Pinole	
Pittsburg	
Pleasant Hill	
Richmond	
San Pablo	
San Ramon	
Walnut Creek	
Flood County District	

C.2.c. Graffiti Removal

- responsibility for ensuring these performance standards are implemented.
- MUNI-S9: Each agency will clean equipment used for graffiti abatement activities in accordance with the performance standards.
 - MUNI-60: Each agency will dispose of cleaning compounds in accordance with the corporation yard's Stormwater Pollution Prevention Plan (SWPPP).
 - MUNI-61: Each agency should consider using a waterless chemical cleaning method for graffiti removal (e.g., gels or trigger spray compounds).
 - MUNI-62: Each agency choosing a graffiti abatement method that generates a wash water containing a cleaning compound (such as high pressure washing with a cleaning compound) will protect storm drains and dispose of materials properly.
- (Bates 029648-029649.)

San Mateo County

Atherton	<p>San Mateo produced the Countywide Stormwater Pollution Prevention Program (rev. June 1999). (Bates 9834 <i>et seq.</i>) San Mateo County indicated that it was providing reports concerning stormwater controls and BMPs by 1999. (Bates 9907-9916 [regulatory compliance with NPDES reports].) The 2004 Maintenance Standards (Bates 32828 <i>et seq.</i>) provide additional detail specific to paved roads (Bates 32858-60), unpaved roads (Bates 32861-62) and bridges (Bates 32869-70). The Performance Standard specific to painting or paint removal include the following detailed requirements:</p> <ul style="list-style-type: none"> • Materials used in the maintenance or repair of bridges, such as paint, solvents and mortar, shall be prevented from spilling into any storm drain facility or water body. Overspray of paint onto vegetation or into flowing water shall be avoided. Any material which accidentally falls into a storm drain or water body shall be promptly removed in the least destructive manner possible. Where removal is not possible because the material is borne away by flowing water, the spill shall be immediately reported to the Road Maintenance Manager for further action. • Deck drains and scuppers over streams shall be blocked off prior to pressure washing,
Belmont	
Brisbane	
Burlingame	
Colma	
County of San Mateo	
Daly City	
East Palo Alto	
Foster City	
Half Moon Bay	
Hillsborough	
Menlo Park	
Millbrae	

C.2.c. Graffiti Removal	
Pacifica Portola Valley Redwood City San Bruno San Carlos San Mateo South San Francisco Woodside Flood County District	<p>sandblasting or scraping of bridge structures.</p> <p>(Bates 32869-70.)</p> <p>The 2004 Maintenance describes training requirements substantially more rigorous than C.2.c.:</p> <p>All personnel responsible for the design, construction, maintenance and/or inspection of public and private facilities shall attend:</p> <ol style="list-style-type: none"> 1. Introductory training on BMPs, environmental permitting requirements, and reporting protocols. 2. Annual refresher training (2 hour minimum) on BMPs, environmental permitting requirements, and reporting protocols. 3. Interim training via appropriate media (staff meetings, policy directives, etc.) for updated BMPs, environmental permitting requirements, and reporting protocols. <p>Personnel responsible for the direct supervision of design, construction, maintenance and/or inspection staff shall attend a minimum of 8 hours of combined technical training in the areas of large woody debris and vegetation management, streambank stabilization, erosion and sediment control and environmental permitting annually in addition to the requirements listed above.</p> <p>(Bates 32999.)</p>
Santa Clara County	
SCVURPPP	<p>1997 SCVURPPP Urban Runoff Management Plan indicates that the Performance Standards identified therein are the threshold standards necessary to demonstrate compliance with the permit: “The reissued permit also requires that the Program ‘adopt and incorporate Performance Standards developed by the Dischargers. Performance Standards are defined as the level of implementation necessary to demonstrate the control of pollutants in storm water to the maximum extent practicable.’” (Bates 14299.)</p> <p>“Performance Standards describe a specific result, or level of effort, that constitutes the ‘maximum extent</p>

C.2.c. Graffiti Removal

practicable’ based on current technical knowledge, available resources and local conditions.” (Bates 14335.) Model Performance Standards “define the result, or level of effort, for each major pollution-prevention task.” (Bates 14344.) “In a June 24, 1997 letter, Regional Board staff stated: “We accept the submitted model performance standards as *baseline* performance standards.” (Bates 14384)

The model Performance Standard for Public Streets, Roads and Highways, and its supporting documents, cover the following operation and maintenance activities:

- Bridge and Structure Maintenance (painting and paint removal; graffiti removal)

(SCVURPPP 1997 URMP, Bates 14365.)

SCVURPPP refers to the Municipal Handbook as a reference for the model BMPs. (Bates 12429. See All Permittees discussion, *supra*.)

The Response to Comments summarizes Santa Clara’s recommendation, which the Regional Water Board accepted in refining the Order: “Bridge and Structure Maintenance and Graffiti Removal Issue: The method of disposal of the residuals generated from this process activity is not identified. Disposal of cleaning solutions should be prohibited from discharge to sanitary sewer. In addition, solids and potential metals from paint pigments should not be discharged to sanitary sewer. Recommendation: Identify that the residuals generated from this process activity that need to be properly disposed. County staff is unaware of any BMPs for graffiti removal. How should pollutants be prevented from re-entering storm or watercourses?” (Bates 3347-48.)

The comment reflected the fact that SCVURPPP’s Graffiti Removal Performance Standards (from 2004) were far more detailed than Provision C.2.c:

Graffiti Removal

- a) When graffiti is removed by painting over, implement the BMPs in Section IV.1., Painting and Paint Removal, above.
- b) Protect nearby storm drain inlets (using tarps in work areas, sand bags, and/or booms or barriers around inlets) prior to removing graffiti from walls, signs, sidewalks, or other structures needing

C.2.c. Graffiti Removal

	<p>graffiti abatement. Clean up afterwards by sweeping or vacuuming thoroughly, and/or by using absorbent and properly disposing of the absorbent.</p> <p>c) Prevent any discharge of debris, cleaning compound waste, paint waste, or washwater containing cleaning compounds to storm drains or watercourses.</p> <p>d) Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If a landscaped area is not available, filter runoff through an appropriate filtering device (e.g., filter fabric) to keep sand, particles, and debris out of storm drains.</p> <p>e) If a graffiti abatement method generates washwater containing a cleaning compound (such as high pressure washing with a cleaning compound), plug nearby storm drains and vacuum/pump washwater to the sanitary sewer.</p> <p>f) Consider using a waterless chemical cleaning method for graffiti removal (e.g., gels or spray compounds).</p> <p>g) Avoid graffiti abatement activities during a rain storm. If rains occur during graffiti abatement activities unexpectedly, take appropriate action to minimize the impact on storm water quality (e.g., divert runoff around work areas).</p> <p>(Bates 12440. See also Bates 12243-44.)</p> <p>SCVURPPP copermittees were also reporting on performance standards prior to the MRP: “The principal purpose of the Program’s Annual Reports is to facilitate and document the Program’s activities and process of evaluation and continuous improvement (see following Section 3G). Accordingly, the reports focus on the Co-permittees’ progress in developing their local programs and in implementing the individual Co-permittees’ URMPs. The reports document routine implementation of control measures, but in brief, summary form.” (Bates 12214. See also Bates 12417-20 [chart showing permittees conducted graffiti removal activities] and 12247 [“Public Agency Activities are Documented in Annual Reports. The Copermittees’ annual reports will document their implementation of each specific item in the Performance Standards”].)</p>
County of Santa Clara	The 1997 Santa Clara Valley URMP (updated 2004) (Bates 24312 <i>et seq.</i>) described its compliance with the SCVURPP graffiti removal Performance Standards. (Bates 24622-23 and 24634-36.)

C.2.c. Graffiti Removal	
	The County indicated that annual training would occur beginning in 2004. (Bates 24332.)
Cupertino	<p>City of Cupertino 1997 URMP describes how it complied with the SCVURPPP URMP. (Bates 15214 <i>et seq.</i>) City of Cupertino’s 1997 URMP adopted Model BMPs for bridge and structure maintenance (painting and paint removal, repair work and graffiti removal). (Bates 15345-46. See also Bates 15353-54 and 15364.) As of 1997, the City of Cupertino had annual stormwater BMPs training for City staff. (Bates 15359.)</p> <p>The 2004 URMP for Cupertino references the 2003 CASQA Municipal BMP Handbook (discussed above under All Permittees). (Bates 19451.) The 2004 URMP indicated the applicability of and compliance with the Performance Standards for graffiti removal. (Bates 19452, 19458-59, 19472, and 19503-04.)</p>
Los Altos	<p>The City of Los Altos updated its URMP in 2000. (Bates 15429.) Detailed graffiti removal measures are included. (Bates 15475-76.)</p> <p>The 2004 URMP for Los Altos indicated the applicability of and compliance with the Performance Standards for graffiti removal. (Bates 19849-50.) Los Altos documented that it “Provide[d] staff training for street and road operation and maintenance personnel at least once a year with emphasis on controlling storm water pollution through best management practices.” (Bates 19852.)</p>
Los Altos Hills	<p>The Town of Los Altos Hills updated its URMP in 2000. (Bates 15511 <i>et seq.</i>) That Plan indicated that O&M Performance Standards already existed for graffiti. (Bates 15556.) The Town of Los Altos Hills adopted the 1996 SCVURPPP Performance Standards for bridge and structure maintenance, including graffiti removal. (Bates 15573-74.) The Town of Los Altos Hills identified the 1993 CASQA Municipal BMP Handbook as “guidance for compliance in the implementation of the Performance Standard.” (Bates 15564.) See discussion regarding All Permittees concerning the Handbook’s directives concerning graffiti removal. The Town of Los Altos Hills holds a minimum of annual trainings for municipal staff. (Bates 15520. See also Bates 15621 [municipal employee training critical to maximize pollution prevention].)</p>

C.2.c. Graffiti Removal

Milpitas	<p>In its 2000 URMP Milpitas indicated its intent to implement the Model Performance Standards developed in the SCVURPPP URMP. (Bates 16335.) Milpitas adopted all BMPs for Bridge/Structural Maintenance, including graffiti removal. (Bates 16337. See also Bates 16347-49.) Milpitas had “routine training sessions” and formal training on the SWPPP had been completed as of at least 2000. (Bates 16150.) Annual employee training was required on the appropriate use of BMPs. (Bates 16335. See also Bates 16352.)</p> <p>The 2004 URMP for Milpitas (Bates 20433 <i>et seq.</i>) indicated the applicability of and compliance with the Performance Standards for graffiti removal. (Bates 20833-34 and 20846-47.)</p>
Mountain View	<p>Mountain View’s 1997 URMP emphasized that Performance Standards identified “the level of implementation for activities and was based on current and proposed practices that the City is/or will be implementing to minimize water quality impacts, and practices that are accepted by the State and Regional Board as being effective in controlling these impacts.” (Bates 17060.) The Performance Standards cover the same restrictions as the MRP. (Bates 17071-74.) These provisions include Performance Standards for Bridge and Structure Maintenance, including graffiti removal. (Bates 17004, 17005, 17024-25.) Mountain View’s 1997 URMP emphasized the need for training and noted the importance of ensuring that contractors utilized BMPS. (Bates 17004.)</p> <p>The City of Mountain View 2004 URMP (Bates 21767 <i>et seq.</i>) indicated the applicability of and compliance with the performance standards for graffiti removal. (Bates 21928-31, 21938, 21944-45, and 21958.) The 2004 URMP references the 1993 CASQA Municipal Handbook. See All Permittees discussion concerning the Handbook’s graffiti BMPs, <i>supra</i>.</p>
Palo Alto	<p>The 1997 URMP for Palo Alto states, “The City of Palo Alto's urban runoff pollution prevention program conforms to the requirements of the [SCVRUPPP] model Performance Standards for each of these activities.” (Bates 17098.) The 1997 Palo Alto URMP describes Bridge and Structure Maintenance Performance Standards (including graffiti removal) that are the same (or more proscriptive) than the MRP. (Bates 17352-54.) City of Palo Alto conducts annual training for its employees. (Bates 17104, 17346.)</p>

C.2.c. Graffiti Removal

	<p>The City of Palo Alto 2004 URMP (Bates 22192 <i>et seq.</i>) indicated the applicability of and compliance with the Performance Standards for graffiti removal (Bates 22393-94, 22404, and 22419-20.) The 2004 URMP references the 1993 CASQA Municipal Handbook. (Bates 22393.) See All Permittees discussion concerning the Handbook’s graffiti BMPs, <i>supra</i>.</p>
<p>San Jose</p>	<p>San Jose documented that it was already reporting back to the Regional Water Board on all requirements before the MRP was adopted: “The current permit [Order 01-024, adopted February 21, 2001] stresses documentation of effort and effectiveness evaluation. To comply with this requirement, each set of Performance Standards has related milestones, a five-year workplan with targeted completion dates, and identification of responsible City Department(s). This structure allows the City to document actions ... This feedback loop is completed through the Annual Reporting process that details milestone accomplishments during the reporting period.” (Bates 9015.)</p> <p>San Jose’s 1997 URMP (Bates 17483 <i>et seq.</i>) listed a number of BMP publications “used by the City of San Jose to meet the goals of the Performance Standards set out in this URMP.” (Bates 17589.) This list includes:</p> <ul style="list-style-type: none"> • California Storm Water Best Management Practice Handbooks: Municipal • California Storm Water Best Management Practice Handbooks: Industrial/Commercial • Manual of Standards for Erosion & Sediment Control Measures • Mobile Cleaners Best Management Practices • Preventing Pollution from Surface Cleaning <p>(See above section All Permittees. See also Bates 17655-65 [detailed reference for Performance Standards for public streets and roads maintenance, sidewalk/plaza cleaning, bridge/structural repairs, graffiti removal and erosion control] .)</p> <p>The San Jose 1997 URMP indicated the applicability of and compliance with the Performance Standards for graffiti removal. (Bates 17662-63. See generally May 11, 2011 Response, Bates Pages 3022, 3026, 3096, 3100, 3163, 3167, 3230, and 3234.) San Jose annually trained City staff regarding storm water pollution since at least 2000. (Bates 17753, 17769.)</p>

C.2.c. Graffiti Removal

<p>Santa Clara</p>	<p>“The City [of Santa Clara] has adopted the Performance Standards as developed by the SCVIJRPPP. Generally, all the provisions for the individual Performance Standards are applicable.” (Bates 17843.) The City of Santa Clara URMP contained bridge/structural maintenance provisions, including graffiti removal. (Bates 17976. See also Bates 17985 [Standard Operating Procedures].) The City of Santa Clara had daily, monthly and annual training for City staff. (Bates 17983.)</p> <p>The 2004 Santa Clara URMP (Bates 22629 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structural maintenance. (Bates 22823-28, 22844-45, 22854.) The City continues to conduct trainings:</p> <p style="padding-left: 40px;">The municipal agency shall provide training at least annually to its planning, building, and public works staffs on planning procedures, policies, design guidelines, and BMPs for storm water pollution prevention. (C.3.a.vi.).</p> <p>(Bates 22754.)</p>
<p>Sunnyvale</p>	<p>The Sunnyvale 2004 URMP contains detailed graffiti removal procedures:</p> <p>BRIDGE AND STRUCTURE MAINTENANCE</p> <p>B. Activity: Graffiti Removal</p> <p>Staff: Field crew's Equipment: Truck, sprayer</p> <p>Methodology:</p> <ol style="list-style-type: none"> 1. Protect nearby storm drain inlets prior to removing graffiti from walls, signs, sidewalks, or other structures needing graffiti abatement. Clean up afterwards by sweeping or vacuuming thoroughly, and/or by using absorbent and properly disposing of the absorbent. 2. Prevent any discharge of debris, cleaning compound waste, paint waste, or washwater containing cleaning compounds to storm drains or watercourses. 3. Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If a landscaped area is not available, filter runoff through an appropriate filtering device (e.g., filter fabric) to keep sand, particles, and debris out of storm drains. 4. If a graffiti abatement method generates washwater containing a cleaning compound (such as high pressure washing with a cleaning compound), plug nearby storm drains and vacuum/pump washwater to the sanitary sewer.

C.2.c. Graffiti Removal

	<p>5. Consider using a waterless chemical cleaning method for graffiti removal (e.g., gels or spray compounds).</p> <p>6. Avoid graffiti abatement activities during a rainstorm. If rains occur during graffiti abatement activities unexpectedly, take appropriate action to minimize the impact on storm water quality (e.g., divert runoff around work areas).</p> <p>7. When graffiti is removed by painting over, implement the following BMPs:</p> <ul style="list-style-type: none"> a. Keep all liquid paint products and wastes away from the gutter, street, and storm drains. b. Never clean brushes or rinse paint containers into a street, gutter, storm drain, French drain, or stream. c. For water-based paints, paint out brushes to the extent possible, and rinse into a drain that goes to the sanitary sewer. For oil-based paints, paint out brushes to the extent possible and clean with thinner or solvent in a proper container. Filter and reuse thinners and solvents. Dispose of excess liquids and residue as hazardous waste. <p>(Bates 23942.) Sunnyvale provided annual training for its employees to keep them aware of urban runoff issues. (Bates 23368.)</p>
Water District	<p>This provision is not applicable to the Santa Clara Valley Water District. “The District is unique among the 15 co-permittees in that it has no resident population, business, or industry; it maintains no public roads or public storm drain systems; and it does not have zoning or land use authorities within its jurisdiction.” (Bates 24714.)</p>
West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga)	<p>In 1996, the West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga) worked together to develop a Community Specific URMP. (Bates 14652 <i>et seq.</i> [revised 2000].) All West Valley Communities had implemented the Model Performance Standards for sidewalk/surface cleaning since February 1996. (Bates 14921. See also 14922 [“All surface cleaning conducted by municipal crew follow Mobile Cleaning BMPs.” Los Gatos and Saratoga contracted surface cleaning service. “Both agencies have included requirements for mobile cleaning BMPs in the scope of work...”]. See also Bates 14922 and 14929 [detailing where BMPs applied].) As of 2002, the West Valley Communities had provided mobile cleaners booklets to operators and owners. (Bates 14819, 14865-67.) As of 2002, the West Valley Communities had provided instructions on surface cleaning (sidewalks, plazas, building</p>

C.2.c. Graffiti Removal

exteriors, parking areas and drive-throughs (including graffiti removal) to operators and owners. (Bates 14819, 14837-39.)

The 2004 URMP provides more detail concerning graffiti removal than the MRP:

Graffiti Removal

1. When graffiti is removed by painting over, implement the BMPs in Section 3-IV.A, Painting and Paint Removal, above.
2. Protect nearby storm drain inlets (using tarps in work areas, sand bags, and/or booms or barriers around inlets) prior to removing graffiti from walls, signs, sidewalks, or other structures needing graffiti abatement. . Clean up afterwards by sweeping or vacuuming thoroughly, and/or by using absorbent and properly disposing of the absorbent.
3. Prevent any discharge of debris, cleaning compound waste, paint waste, or washwater containing cleaning compounds to storm drains or watercourses.
4. Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If a landscaped area is not available, filter runoff through an appropriate filtering device (e.g., filter fabric) to keep sand, particles, and debris out of storm drains. If a graffiti abatement method generates washwater containing a cleaning compound (such as high pressure washing with a cleaning compound), plug nearby storm drains and vacuum/pump washwater to the sanitary sewer.
6. Consider using a waterless chemical cleaning method for graffiti removal (e.g., gels or spray compounds).
7. Avoid graffiti abatement activities during a rain storm. If rains occur during graffiti abatement activities unexpectedly, take appropriate action to minimize the impact on stormwater quality (e.g., divert runoff around work areas).

C.2.c. Graffiti Removal	
	(See, e.g., Bates 19022-23 [Campbell].) Each community indicated applicability of and compliance with these Performance Standards. (Bates 19016, 19022-23, 19031-32 [Campbell]; Bates 20122-23, and 20129-30 [Los Gatos]; Bates 21459, 21465-66, and 21472 [Monte Sereno]; and Bates 23066-67, 23074, and 23084 [Saratoga].)
Solano County	
Fairfield	<p>The Fairfield-Suisun SWMP, 1999-2000 to 2004-2005 (Bates 30023 <i>et seq.</i>) indicated applicability of and compliance with Performance Standards for bridge and structural maintenance, including graffiti removal:</p> <p style="margin-left: 20px;">C. Graffiti Removal</p> <ol style="list-style-type: none"> 1. When graffiti is removed by painting over, implement the BMPs in Section IV.A., Painting and Paint Removal. 2. Protect nearby storm drain inlets (using tarps in work areas, sand bags, and/or booms or barriers around inlets) prior to removing graffiti from walls, signs, sidewalks, or other structures needing graffiti abatement. Clean up afterwards by sweeping or vacuuming thoroughly, and/or by using absorbent and properly disposing of the absorbent. 3. Prevent any discharge of debris, cleaning compound waste, paint waste, or washwater containing cleaning compounds to storm drains or watercourses. 4. Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If a landscaped area is not available, filter runoff through an appropriate filtering device (e.g., filter fabric) to keep sand, particles, and debris out of storm drains. 5. If a graffiti abatement method generates washwater containing a cleaning compound (such as high pressure washing with a cleaning compound), plug nearby storm drains and vacuum/pump washwater to the sanitary sewer. 6. Consider using a waterless chemical cleaning method for graffiti removal (e.g., gels or spray compounds). 7. Avoid graffiti abatement activities during a rain storm. If rains occur during graffiti abatement activities unexpectedly, take appropriate action to minimize the impact on storm water quality (e.g., divert runoff around work areas).
Suisun	

C.2.c. Graffiti Removal	
	(Bates 030119-20. See also Bates Bates 30434-35 [2007 SWMP].) The City has quarterly meetings to assist in implementing the storm water program. (Bates 30108.) BMP training for staff was in place for all program components. (Bates 30061.)
Vallejo Permittees	
Vallejo	EPA issued Permit No. CAS612006, May 30, 1999, which governed the areas of the City of Vallejo and surrounding unincorporated areas in Solano County. (Bates 014273 <i>et seq.</i>) Pursuant to that permit, Vallejo Sanitation and Flood Control District adopted a 1999 Storm Water Control Plan (Bates 14275-76. See Bates 33019 <i>et seq.</i>) Vallejo’s 1999 Storm Water Control Plan established the following BMPs for surface cleaning, which overlaps substantively with the process for graffiti removal:
Vallejo Sanitation and Flood Control District	<p style="margin-left: 40px;">3. Cleaning, Maintenance, and Processing Control – Areas used for washing, steam cleaning, maintenance, repair or processing shall have impermeable surfaces and containment berms, roof covers, recycled water wash facilities, or discharge to the sanitary sewer (must meet discharge limitations).</p> <p>(Bates 33052.) In addition, the Vallejo Storm Water Control Plan developed control measures in conjunction with the CASQA Municipal BMP Handbook. (Bates 33042 and 33053 [“All other applicable source control BMPs described in the California Storm Water Industrial Activity BMP handbook shall be implemented”] and 33055 [adopting additional BMPs from the Municipal BMP Handbook].) See discussion under All Permittees regarding the graffiti provisions in the CASQA Municipal BMP Handbook.</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

C.2.e. Rural Public Works Construction and Maintenance

i. Task Description – Rural Road and Public Works Construction and Maintenance - For the purpose of this provision, rural means any watershed or portion thereof that is developed with large lot home-sites, such as one acre or larger, or with primarily agricultural, grazing or open space uses. The Permittees shall implement and require contractors to implement BMPs for erosion and sediment control during and after construction for maintenance activities on rural roads, particularly in or adjacent to stream channels or wetlands. The Permittees shall notify the Water Board, the California Department of Fish and Game and the U.S. Army Corps of Engineers, where applicable, and obtain appropriate agency permits for rural public works activities before work in or near creeks and wetlands.

ii. Implementation Level

(1) The Permittees shall develop, where they do not already exist, and implement BMPs for erosion and sediment control measures during construction and maintenance activities on rural roads, including developing and implementing appropriate training and technical assistance resources for rural public works activities, by April 1, 2010.

(2) The Permittees shall develop and implement appropriate BMPs for the following activities, which minimize impacts on streams and wetlands in the course of rural road and public works maintenance and construction activities:

(a) Road design, construction, maintenance, and repairs in rural areas that prevent and control road-related erosion and sediment transport;

(b) Identification and prioritization of rural road maintenance on the basis of soil erosion potential, slope steepness, and stream habitat resources;

(c) Construction of roads and culverts that do not impact creek functions. New or replaced culverts shall not create a migratory fish passage barrier, where migratory fish are present, or lead to stream instability;

(d) Development and implementation of an inspection program to maintain rural roads' structural integrity and prevent impacts on water quality;

(e) Maintenance of rural roads adjacent to streams and riparian habitat to reduce erosion, replace damaging shotgun culverts and excessive erosion;

(f) Re-grading of unpaved rural roads to slope outward where consistent with road engineering safety standards, and installation of water bars as appropriate; and

(g) Replacement of existing culverts or design of new culverts or bridge crossings shall use measures to reduce erosion, provide fish passage and maintain natural stream geomorphology in a stable manner.

(3) The Permittees shall develop or incorporate existing training and guidance on permitting requirements for rural public works activities so as to stress the importance of proper planning and construction to avoid water quality impacts.

C.2.e. Rural Road and Public Works Construction and Maintenance

(4) The Permittees shall provide training incorporating these BMPs to rural public works maintenance staff at least twice within this Permit term.

iii. Reporting – The Permittees shall report on the implementation of and compliance with BMPs for the rural public works construction and maintenance activities in their Annual Report, including reporting on increased maintenance in priority areas.

All Permittees

As a preliminary matter, the requirement to contact the Regional Water Board, California Department of Fish & Wildlife or the U.S. Army Corps of Engineers when working in or near a wetlands or creeks is a requirement of federal and State law, not a new requirement developed in the MRP. (See, Clean Water Act sections 401 and 404 [dredge and fill permit requirements] and Cal. Fish & Game Code § 1602 [requirement to obtain a streambed alteration permit].)

Contra Costa Clean Water Program stated that “The California BMP Handbooks are a well recognized and readily available resource, and **reflect the current state of water quality best management practices.**” (Bates 3346, Contra Costa Clean Water Program comment letter [emphasis added].) Numerous permittees cite the CASQA Municipal BMP Handbook as an appropriate set of BMPs which should be used to meet Performance Standards:

Alameda County (Bates 027991)

Fairfield-Suisun (Bates 030596, 030597, 030601, 030603, 030625, 030642, 030650, 030655, 030684-030688.)

San Mateo County (Bates 003878, 004016, 004045, 004027, 003915.)

Santa Clara County Permittees

Campbell (Bates 019044, 019098, 019099, 019120, 019159.)

Cupertino (Bates 019596.)

Los Altos (Bates 019804, 019825, 019838, 019842, 019859, 019875, 019883, 019894, 019902.)

Los Altos Hills (Bates 015582, 019983, 019990, 020059, 020060.)

Los Gatos (Bates 020194-020199.)

Milpitas (Bates 020634.)

C.2.e. Rural Road and Public Works Construction and Maintenance

Monte Sereno (Bates 021521-021529, 021597, 021624.)
Mountain View (Bates 017017, 021937, 022072.)
Palo Alto (Bates 017211, 017307, 017362, 022231, 022312, 022334.)
San Jose (Bates 017633.)
Santa Clara County (Bates 022778, 022784, 024389, 024396, 024412.)
Water District (Bates 018865, 024788, 024795.)
Saratoga (Bates 023136-023144, 023173.)
Sunnyvale (Bates 024073, 024080, 024090, 024102, 024220.)
West Valley (Bates 014955, 015197.)

Contra Costa Clean Water Program further noted that “Provisions C.2.h.ii and C.2.h.iii require development and submittal of BMPs for construction and post construction on rural roads. The California Stormwater Quality Association’s (CASQA’s) BMP Handbooks (i.e., Construction Handbook and Municipal Handbook) **already identify specify stormwater quality BMPs for road maintenance and construction activities.**” (Bates 3352 [emphasis added], summary of Contra Costa Clean Water Program comment. See also Bates 7390 [same].)

The 1993 CASQA Municipal BMP Handbook identifies road maintenance as an area where BMPs are necessary to remove pollutants from runoff. (Bates 31947.) The Handbook states, “Prevent or reduce the discharge of pollutants to storm water from roadway and bridge maintenance by paving as little area as possible, designing bridges to collect and convey storm water, using measures to prevent runoff and runoff, properly disposing of maintenance wastes, and training employees and subcontractors.” (Bates 32045, Municipal Handbook p. 4-75.) The Handbook provides an entire additional page of detailed information on how to reduce impacts to stormwater (specific paving measures and general measures). (*Id.* at Bates 32046.) The 2003 CASQA Municipal BMP Handbook’s section on Road and Street Maintenance is similarly detailed. (Bates 29827 *et seq.*)

The 1993 CASQA Construction BMPs provide extensive BMPs for construction sites, with a focus on erosion and sedimentation processes and controls. (Bates 66300-66574; specifically Bates 66313-17.) Similarly, the 2003 CASQA Construction BMPs (2003) provide updated and more specific BMPs to address source control and water quality protection measures. (Bates 66575-952.)

Erosion control measures were utilized by the permittees well in advance of adoption of the MRP, as demonstrated by the *Guidelines for Protecting Aquatic Habitat and Salmon Fisheries for County Road Maintenance* (Dec. 2004) (Roads Manual)

ATTACHMENT 1 In Support of Response to Request for Additional Evidence and Briefing on Provisions C.2.b, C.2.c, C.2.e, C.2.f

C.2.e. Rural Road and Public Works Construction and Maintenance

(Bates 31093 *et seq.*), which notes that it derives its guidelines from “Regional Water Quality Control Boards’ erosion control manuals” and built on the San Mateo County Maintenance Standards (Bates 32694 *et seq.*[Feb. 2001]). (Bates 31094 [Roads Manual Acknowledgements].) The Roads Manual was “designed for Public Works ... to implement when working on County road related projects and facilities.” (Bates 31100; Roads Manual p. 1-3.) “These procedures are intended to contribute to each county’s efforts to meet regulations under [the Phase II NPDES permits which provides for] discharges of storm water from ... (b) certain industrial activities including ... vehicle maintenance (such as County Road Maintenance Yards); and municipal facilities, including roads.” (Bates Bates 31101; Roads Manual p. 1-4.) “NPDES Phase II compliance includes implementation of best management practices, such as those published in these guidelines....” (*Ibid.* See also Bates 31104, p. 2-3 [same].) The Roads Manual noted that, “**many of our counties are already implementing many of the best management practices outlined in the manual already....**” (Bates 31098-31099.)

Chapter 5 of the Roads Manual describes road maintenance and includes numerous pages and recommended BMPs regarding maintaining unpaved road surfaces. (Bates 31172-31177; Roads Manual pp. 5-27 – 5-33.) This Chapter goes into extensive detail regarding development and implementation of BMPs for erosion and sediment control measures during construction and maintenance activities on rural roads (Bates 31153-31156, 31172-31180, Roads Manual pp. 5-8 – 5-11, 5-27 – 5-35); road design, construction, maintenance, and repairs in rural areas that prevent and control road-related erosion and sediment transport (*ibid.*); identification and prioritization of rural road maintenance on the basis of soil erosion potential, slope steepness, and stream habitat resources (Bates 31159-31166, Roads Manual pp. 5-14 – 5-21 [“This approach is complemented by a series of principles that can be used to identify, prescribe, prioritize and implement road upgrading techniques”]); construction of roads and culverts in a manner that does not impact creek functions or create barriers to fish passage (*ibid.* See also Bates 31148, 31157, 31158, 31160-66, 31172-76, Roads Manual pp. 5-3, 5-12, 5-13, 5-15 – 5-21, 5-27 – 5-31); development of an inspection program to maintain rural roads’ structural integrity and prevent impacts on water quality (Bates 31161 and 31172, Roads Manual p. 5-16 [developing an inventory] and 5-27 [inspect roads twice annually]); maintenance of rural roads and culverts adjacent to streams and riparian habitat without causing excessive erosion (see generally Bates 31148, 31172, 31178, Roads Manual Ch. 5.1 [County Road Treatment and Design Principles], 5.3 [Unpaved Road Surfaces] and 5.4 [Shoulder Maintenance]); re-grading of unpaved rural roads and installation of water bars as appropriate (Bates 31173-74, Roads Manual pp. 5-28 – 5-29 [surface grading and drainage]; see also Bates 031299 *et seq.*, Roads Manual pp. A-5, *et seq.* [Road Surface BMPs]); replacement of existing culverts or bridge crossings without causing erosion or impairing fish passage (Bates 31152 and 31157, Roads Manual pp. 5-7 and 5-12 [culverts and stream crossings]; Bates 31160-61, pp. 5-15 – 5-16 [design components of culverts and stream crossings]; Bates 031163-031165, pp. 5-18 – 5-20 [addressing design issues]; Bates 31174, p. 5-29 [same]); developing training

C.2.e. Rural Road and Public Works Construction and Maintenance

and guidance for rural public works activities (Bates 31162, Roads Manual pp. 5-17); and recommended training concerning BMPs on rural activities (Bates 31098-100, 31253, Roads Manual pp. 1-1, 1-2, 8-3). The Roads Manual also lists BMPs for “Working in and Around Stream Channels, which also discusses culverts and stream crossings (Chapter 6.2), and protection of fish passage during these activities. (Bates 31198 *et seq.* [Roads Manual Ch. 6]. See also Bates 31231 *et seq.*, Chapter 7, Erosion Control and Sediment Management [similarly emphasizing protection of water quality and salmonid habitat].)

Excerpts from the San Mateo County Maintenance Standards are included below in the San Mateo section. As described above, the Roads Manual also references the Regional Water Quality Control Board Erosion and Sediment Control Field Manual (Bates 32443-32581.) This document provides BMPs to protect water quality using erosion control practices, sediment control practices, and general site and materials management. This manual goes far beyond the MRP requirements in providing detailed BMPs.

The BASMAA Flood Control Maintenance BMP Manual (2000) (Bates 32196 *et seq.*) also describes numerous BMPs that are appropriate for work on rural roads or near streams, including BMPs for natural resource protection and restoration (Bates 32251 *et seq.*), sediment control (Bates 32260 *et seq.*) and vegetation and debris management (Bates 32316 *et seq.*)

The following Permittees cite to BASMAA 1995 *Blueprint for a Clean Bay – Best Management Practices to Prevent Stormwater Pollution from Construction-Related Activities* (Bates 66953 *et seq.*) as model BMPs used to meet Performance Standards: Alameda County Permittees (Bates 8759, 28129, 28703); Contra Costa Permittees (Bates 29592, 29610, 29611); SCVURPPP Permittees (Bates 9803, 9805, 10672, 10927, 11550, 11695, 11923, 12239, 12429, 14484, 15197, 20060, 24205, 24211, 24218, 24974, 25000, 25004, 25410, 25413, 25496, 25500, 25507, . See also 66964 [“BASMAA adapted this booklet from one originally developed and generously shared by the Santa Clara Valley Nonpoint Source Pollution Control Program”]); Campbell (Bates 19015, 19027, 19063, 19065, 19066, 19068, 19070, 19072, 19095, 19161); City of Santa Clara (Bates 17964, 22833); Cupertino (Bates 15298, 15300, 15303, 15345, 15359, 15375, 19322, 19328, 19451, 19467, 19522, 19524, 19525, 19528, 19529, 19531, 19572, 19657, 19660,) 25956, 25961); City of Los Altos (Bates 15487, 15493, 15494, 15495, 15502, 15508, 19838, 19859, 19896, 19902); Los Gatos (Bates 20122, 20212, 20214, 20215, 20217, 20219, 20221, 20312); Milpitas (Bates 16266, 16309, 16435, 16447, 16551, 16555, 20633, 20985, 21003); Monte Sereno (Bates 21455, 21458, 21470, 21471, 21484, 21498, 21499, 21541, 21544, 21546, 21548, 21550, 21657, 21659); Mountain View (Bates 17017, 21937, 22039); Palo Alto (Bates 17238, 17240, 17326, 17328, 22393); Saratoga (Bates 23079, 23082, 23113, 23156, 23158, 23159, 23161, 23163, 23238,, 23240); West Valley Communities (Bates 15564, 19163, 19261, 20314, 20410, 21744, 23066); Town of Los Altos Hills (Bates 15590, 15600, 15605); San Jose (Bates 9082, 9108, 9246, 9547, 9619, 9685, 9751, 17591, 17601, 17700, 17712); Santa Clara County (18632, 18638, 18685, 18690, 24336, 24338, 24532, 24608, 25807, 25873); Santa Clara Valley Water District (Bates

C.2.e. Rural Road and Public Works Construction and Maintenance

27373, 27900); Sunnyvale (Bates 18389, 18394, 18400, 18406, 18458, 18462, 18471, 18529, 18532, 18537, 23818, 23830, 23968, 23980, 24073, 24084, 24090, 24169, 24171, 24178, 24182, 24188, 24191); and San Mateo Permittees (Bates 31074); Solano (Fairfield-Suisun Permittees) (Bates 30135, 30591).

Blueprint for a Clean Bay (Bates 66953 *et seq.*) which provides extensive BMPs for construction including:

- Identify all storm drains, drainage swales and creeks located near the construction site and make sure all subcontractors are aware of their locations to prevent pollutants from entering them. (Bates 66956, p. 3.)
- Avoid contaminating clean runoff from areas adjacent to your site by using berms and/or temporary or permanent drainage ditches to divert water flow around the site. Reduce stormwater runoff velocities by constructing temporary check dams and/or berms where appropriate. (*Ibid.*)
- Protect all storm drain inlets using filter fabric cloth or other best management practices to prevent sediments from entering the storm drainage system during construction activities. (*Ibid.*)
- Keep pollutants off exposed surfaces. Place trash cans around the site to reduce litter. Dispose of non-hazardous construction wastes in covered dumpsters or recycling receptacles. (Bates 66957.)
- Practice source reduction — reduce waste by ordering only the amount you need to finish the job. (*Ibid.*)
- Recycle leftover materials whenever possible. Materials such as concrete, asphalt, scrap metal, solvents, degreasers, cleared vegetation, paper, rock, and vehicle maintenance materials such as used oil, antifreeze, batteries, and tires are recyclable (check with the local planning or building department for more information). (*Ibid.*)
- Dispose of all wastes properly. Materials that cannot be reused or recycled must be taken to an appropriate landfill or may require disposal as hazardous waste. (*Ibid.*)
- Never throw debris into channels, creeks or into wetland areas. Never store or leave debris in the street or near a creek where it may contact runoff. (*Ibid.*)
- Train your employees and inform subcontractors about the stormwater requirements and their own responsibilities. (*Ibid.*)

Blueprint for a Clean Bay also includes numerous BMPs for erosion control, including:

- Plan the development to fit the topography, soils, drainage pattern and natural vegetation of the site.
- Delineate clearing limits, easements, setbacks, sensitive or critical areas, trees, drainage courses, and buffer zones to prevent excessive or unnecessary disturbances and exposure.

C.2.e. Rural Road and Public Works Construction and Maintenance

- Phase grading operations to reduce disturbed areas and time of exposure.
- Avoid excavation and grading during wet weather.
- Limit on-site construction routes and stabilize construction entrance(s) and exit(s).
- Remove existing vegetation only when absolutely necessary.
- Construct diversion dikes and drainage swales to channel runoff around the site.
- Use berms and drainage ditches to divert runoff around exposed areas. Place diversion ditches across the top of cut slopes.
- Plant vegetation on exposed slopes. Where replanting is not feasible, use erosion control blankets (e.g., jute or straw matting, glass fiber or excelsior matting, mulch netting).
- Consider slope terracing with cross drains to increase soil stability.
- Cover stockpiled soil and landscaping materials with secured plastic sheeting and divert runoff around them.
- As a back-up measure, protect drainage courses, creeks, or catch basins with fiber rolls, silt fences, sand/gravel bags and/or temporary drainage swales.
- Once grading is completed, stabilize the disturbed areas using permanent vegetation as soon as possible.
- Use temporary erosion controls until vegetation is established.
- Conduct routine inspections of erosion control measures especially before and immediately after rainstorms, and repair if necessary.

(Bates 66957-58, pp. 4-5.) For sediment controls, *Blueprint for a Clean Bay* establishes the following BMPs:

- Use terracing, rip rap, sand/gravel bags, rocks, fiber rolls, and/or temporary vegetation on slopes to reduce runoff velocity and trap sediments.
- Do not use asphalt rubble or other demolition debris for this purpose.
- Use check dams in temporary drains and swales to reduce runoff velocity and promote sedimentation.
- Protect storm drain inlets from sediment-laden runoff. Storm drain inlet protection devices include sand/gravel bag barriers, filter fabric fences, block and gravel filters, catch basin filter inserts, excavated drop inlet sediment traps, or a combination of these.
- Collect and detain sediment-laden runoff in sediment traps (an excavated or bermed area or constructed device) to allow sediments to settle out prior to discharge.
- Use sediment controls and filtration to remove sediments from dewatering discharges.
- Prevent construction vehicle tires from tracking soil onto adjacent streets by constructing a temporary stone pad with a

ATTACHMENT 1 In Support of Response to Request for Additional Evidence and Briefing on Provisions C.2.b, C.2.c, C.2.e, C.2.f

C.2.e. Rural Road and Public Works Construction and Maintenance

filter fabric underliner near the site exit where dirt and mud can be removed.

- When cleaning sediments from streets, driveways and paved areas on construction sites, use dry sweeping methods where possible. If water must be used to flush pavement, collect runoff to settle out sediments and protect storm drain inlets.

(Bates 66958, p. 5.) Roadwork and Pavement Construction BMPs are equally detailed:

- Apply concrete, asphalt, and seal coat during dry weather to prevent contaminants from contacting stormwater runoff.
- Cover storm drain inlets and manholes when paving or applying seal coat, slurry seal, fog seal, etc.
- Always park paving machines over drip pans or absorbent materials, since they tend to drip continuously.
- When making saw-cuts in pavement, use as little water as possible. Cover each catch basin completely with filter fabric during the sawing operation and contain the slurry by placing sand/gravel bags around the catch basin. After the liquid drains or evaporates, shovel or vacuum the slurry residue from the pavement or gutter and remove from site.
- Wash down exposed aggregate concrete only when the wash water can: (1) flow onto a dirt area; (2) drain onto a bermed surface from which it can be pumped and disposed of properly; or (3) be vacuumed from a catchment created by blocking a storm drain inlet. If necessary, divert runoff with temporary berms. Make sure runoff does not reach gutters or storm drains.
- Allow aggregate rinse to settle, and pump the water to the sanitary sewer if allowed by your local wastewater authority.
- Never wash sweepings from exposed aggregate concrete into a street or storm drain. Collect and return to aggregate base stockpile, or dispose with trash.
- Recycle broken concrete and asphalt (check with the local planning or building department for more information).

(Bates 66962, p. 9.)

Blueprint for a Clean Bay notes that the Erosion Field Manual, the CASQA Construction BMP Handbook “provide specific details and design criteria for erosion and sediment control plans.” (Bates 66958, p. 5.)

Alameda County

Alameda	“These requirements are not new to existing MS4 programs with rural infrastructures. Under the existing permit, Permittees of Alameda and Santa Clara Counties with rural roads have developed BMPs for
Albany	

C.2.e. Rural Road and Public Works Construction and Maintenance

Berkeley	<p>maintenance activities.” (Bates 3350-51, Response to Comments.)</p> <p>Order R2-2003-0021 required development of a Rural Public Works Maintenance and Support Performance Standard covering “road construction, maintenance, and repairs in rural areas to prevent and control road-related erosion.” (Bates 13749 and 13769.) Specifically, Order R2-2003-0021 contained the following requirements for rural roads:</p> <p style="padding-left: 40px;">6. Performance Standard for Rural Public Works Maintenance and Support For the purpose of this provision, rural means any watershed or portion thereof that remains undeveloped or with primarily agricultural, grazing or open space uses, and drains to unchannelized streams. The Program shall develop, within one year after the adoption of this Order, Performance Standards, appropriate training and technical assistance requirements, and annual reporting requirements for the following rural public works maintenance and support activities: a) management and/or removal of large woody debris and live vegetation from stream channels; b) streambank stabilization projects; and, c) road construction, maintenance, and repairs in rural areas to prevent and control road-related erosion. In addition, Permittees shall develop: d) education and guidance on permitting requirements for rural public works activities so as to stress the importance of proper planning and construction.</p> <p>Alameda Countywide Clean Water Program produced the Rural Public Works Maintenance and Support Activities Performance Standards and associated BMPs on February 18, 2004, as required by Order R2-2003-0021. (Bates 29473-89.) That document describes Performance Standards and BMPs far more rigorous than the MRP requirements. (<i>Ibid.</i>)</p> <p>The Stormwater Quality Management Plan July 2001-June 2008 was incorporated by reference and “considered an enforceable component of” Order No. R2-2003-0021 (Order No. R2-2003-0021, at p. 5.) That Order and Plan covered the following municipalities: Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City. Alameda’s Stormwater Quality Management Plan dated 2001-2008 (Bates 8687 <i>et seq.</i>) identified Performance Standards for its member agencies “for all construction activity including clearing,</p>
County of Alameda	
Dublin	
Emeryville	
Fremont	
Hayward	
Livermore	
Newark	
Oakland	
Piedmont	
Pleasanton	
San Leandro	
Union City	
Flood County District	
Zone 7	

C.2.e. Rural Road and Public Works Construction and Maintenance

grading and excavation activities that result in the cumulative disturbance of 10,000 or greater square feet of land that would discharge stormwater to the municipally-owned storm drain system.” (Bates 8759.) The Plan requires use of BMPs for protecting storm drain inlets (Bates 8757), and prohibits washing excess material into storm drains. Meanwhile construction requirements, which apply to public works projects, too, require “permanent erosion and stormwater controls, controls during construction, and operation and maintenance of structural controls in conditions of approval for both public and private projects.” (Bates 8759.)

Like the MRP, Alameda’s 2001-2008 Plan required member agencies to “include site planning and design techniques to prevent and minimize impacts to water quality,” including:

- Minimize land disturbance.
- Maintain (and/or restore, if possible) riparian areas and wetlands as project amenities, establishing vegetation buffer zones to reduce runoff into waterways.

(Bates 8760.)

Alameda agencies were also required to “evaluate the effects of development on stormwater runoff and wetlands.” (Bates 8760.)

Alameda’s 2001-2008 Plan also required erosion control minimum BMPs as part of its Performance Standards, requiring for each grading permit “an effective erosion and sediment control plan or similar administrative document that contains erosion and sediment control provisions.” (Bates 8761.)

Alameda’s Stormwater Quality Management Plan dated 2001-2008 identified as a priority task: “Characterize Sources and Evaluate BMP Effectiveness for Pollutants of Concern.” (Bates 8712.) The Plan identified evaluation of structural treatment controls as necessary for an evaluation of overall BMP effectiveness. (*Ibid.*) “The evaluation of this task may include ... 2) identifying ways to improve the effectiveness and application of BMPs.” (*Ibid.*)

Alameda’s Stormwater Quality Management Plan required “Internal Agency Communication and Training” that parallels the training requirements in Provision C.2, broadly requiring that “Each agency is

C.2.e. Rural Road and Public Works Construction and Maintenance

responsible for identifying, developing, and communicating information about the Program so that its clean water staff, new employees involved with the Program, agency managers, and elected officials are well informed about their role in implementing the Program and the Program’s requirements and progress.” (Bates 8745.) The training was required annually, even more frequently than the twice-per-permit-term requirement above. (*Ibid.*)

Alameda Countywide Clean Water Program also developed an Unpaved Road BMP Guide (December 2000) (Bates 49218-80.) “The manual was developed with the specific geological, hydrological, and management regimes present in Alameda County in mind.” (Bates 49223.) This 60-page document rivals the Erosion Control Manual in level of detailed BMPs that the Alameda agencies were expected to employ in working on unpaved (rural) roads. “The BMPs covered in this manual aim to reduce the amount of sediment lost from the surfaces of unpaved roads and unpaved road stream crossings.” (Bates 49223.)

The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Contra Costa County

Clayton	Contra Costa Clean Water Program further noted that “Provisions C.2.h.ii and C.2.h.iii require development and submittal of BMPs for construction and post construction on rural roads. The California Stormwater Quality Association’s (CASQA’s) BMP Handbooks (i.e., Construction Handbook and Municipal Handbook) already identify specify stormwater quality BMPs for road maintenance and construction activities. ” (Bates 3352 [emphasis added], summary of Contra Costa Clean Water Program comment. See also Bates 7390 [same].) In addition to the detailed BMPs described below, Contra Costa cites to the CASQA BMP Handbooks and Erosion and Sediment Control Field Manual as sources of
Concord	
County of Contra Costa	
Danville	
El Cerrito	
Hercules	

C.2.e. Rural Road and Public Works Construction and Maintenance

Lafayette	<p>appropriate BMPs. (Bates 29611.) As described in the All Permittees section above, these BMPs are more rigorous than the MRP’s requirements. The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592.) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.)</p>
Martinez	
Moraga	
Orinda	
Pinole	
Pittsburg	
Pleasant Hill	
Richmond	
San Pablo	
San Ramon	
Walnut Creek	<ul style="list-style-type: none"> • Optimizing pollutant removal during municipal maintenance activities • Minimize pollutant discharges from municipal maintenance activities • Tracking and measuring the effectiveness of the Municipal Maintenance Performance Standards
Flood County District	<p>(Bates 52020-21.) The Contra Costa Clean Water Program Stormwater Management Plan (1999-2004) (Bates 29566 <i>et seq.</i>) establishes “performance standards to be implemented comprehensively and consistently among all co-permittees.” (Bates 29575.) The section of the document concerning Municipal Maintenance describes Performance Standards for Road Repair and Maintenance that are more detailed than the MRP’s requirements. As of 1999, Contra Costa Permittees complied with the following Performance Standards:</p> <p>MUNI-63 Each agency will schedule excavation and road maintenance activities for dry weather, if feasible.</p> <p>MUNI-64 Each agency will perform major equipment repairs and the corporation yard, when practical.</p> <p>MUNI-65 When refueling or maintaining vehicles and equipment on-site, each agency will use a location away from storm drain inlets and creeks</p> <p>MUNI-67 Each agency will provide proper containment of diesel fuel use to lubricate or clean equipment or parts.</p> <p>MUNI-68 Each agency will train employees in using these general practices for road repair and maintenance activities.</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

MUNI-69: Each agency will take measures to protect storm drain inlets prior to breaking up asphalt or concrete (e.g., cover inlets). The agencies will clean afterwards by sweeping all related materials.

MUNI-70: After breaking up old pavement, each agency will remove and dispose properly

MUNI-73: Agencies will not stockpile materials in streets, gutter areas or near storm drain inlets or creeks unless these areas are protected.

MUNI-74: Each agency will protect storm drain openings before applying seal coat, slurry seal, etc. Agencies will prevent to the maximum extent practicable material from entering storm drain inlets and sweep them if needed.

MUNI-76: Agencies will use only as much water as necessary for dust control to avoid runoff.

MUNI-77: Each agencies will sweep up as much material as possible and dispose of properly. Agencies will only wash down streets if runoff is controlled or contained.

MUNI-78: Each agency will catch drips from parked paving equipment with pans or absorbent material places under the machines or berm the area around them to the maximum extent practicable.

MUNI-79: Each agency will clean up all spills and leaks from other equipment and work site areas using “dry” methods” (absorbent materials and/or rags). The agency will properly dispose of absorbent materials and rags. If spills occur on dirt areas, the agency will dig up and remove contaminated soil properly in a timely basis.

MUNI-80: Each agency will remove stockpiles (asphalt materials, sand, etc.) prior to the completion of the job.

MUNI-81: If it rains unexpectedly, each agency will take appropriate action to prevent pollution of stormwater runoff (e.g. divert runoff around work areas).

(Bates 29649-29653. See also Bates 52756 [indicating all Contra Costa Permittees were implementing these BMPs if applicable in 2003].) Contra Costa Permittees also implemented the following BMPs specific to Erosion and Sediment Control:

- NDCC-12: Maintain an erosion control program that includes requirements for minimum BMPs, sufficient enforcement authority, training and tools for inspectors, and information for developers and contractors. (Bates 52768.)
- NDC3-a.ii. Provide and/or reference available education materials (e.g. “Start at the Source”,

C.2.e. Rural Road and Public Works Construction and Maintenance

California BMP Handbooks (2003) Edition), and Provision C.3 requirements and guidance to municipal staff ... early in the planning process and as appropriate. (Bates 52770.)

- NDCC-24 Educate construction site inspectors on the proper implementation and maintenance of erosion and sediment controls and materials/waste management BMPs. (Bates 52770.)

The Contra Costa Permittees also had BMPs to control the quality of stormwater to protect habitat and species:

NDCC-2 Incorporate policies and implementation measures into the General Plan, when amended, to help preserve and enhance water quality and protect sensitive areas. (Bates 52823)

The Contra Costa Clean Water Program 2004-05 Annual Report (Bates 53534 *et seq.*) describes ongoing activities already occurring years before the MRP adoption. (Bates 51958-59 [all municipalities conduct road maintenance and repair]; 51959 [development of guidance materials for municipal maintenance activities; training workshops for municipal maintenance employees and contractors about effective pollution prevention control measures and practices]; 52020 [activities undertaken in FY 2003/04 to reduce and/or eliminate potential pollutant discharges resulting from municipal maintenance activities including road construction and repair work].)

Contra Costa also adopted a Model Grading Ordinance, which “requires erosion and sediment control plans be prepared in accordance with the Association of Bay Area Governments’ 1995 Manual of Standards for Erosion and Sediment Control Measures and the California Storm Water Best Management Practice Handbook for Construction Activity.” (Bates 29592-93.) See above discussion under All Permittees regarding the CASQA Construction BMPs Handbook and Erosion Manual.

Prior to adoption of the MRP, Contra Costa permittees were already involved in monitoring and special studies “to identify specific problems or concerns caused by stormwater runoff in order to better identify sources of specific pollutants and optimize BMPs for their control.” (Bates 29692.) The Permittees identified all roads and streams within their jurisdiction in 2004 as part of a *Pollutants of Concern Source Assessment Report*. (Bates 52464, 52557 [GIS layers for roads, streams and water bodies].)

C.2.e. Rural Road and Public Works Construction and Maintenance

As of 2003/04, Contra Costa Permittees were participating with the Regional Monitoring Program (RMP), with the goal that the RMP “will provide information on how contaminant concentrations in the Estuary are responding to pollution prevention and reduction measures....” (Bates 52325.) The objectives of the RMP included “To describe general sources and loadings of contamination to the Estuary.” (Bates 52326.) Their work included assessment of pollutants of concern including sediment. (Bates 52374.)

Contra Costa Permittees also participated in the Clean Estuary Partnership (CEP) and helped fund a technical report entitled, *Feasibility Assessment: Options and Expected Benefits from Urban Stormwater Implementation Actions* and a second report, *Analysis of Pollutants in Sediment Cores Near Storm Water Inputs* (Bates 52327-28.) CEP’s focus is on the “evaluation of BMP effectiveness.” (Bates 52374.)

The Contra Costa Permittees established the Contra Costa Monitoring and Assessment Plan (CCMAP) to conduct monitoring and assess the watershed. (Bates 52329 *et seq.*) That program has three general elements: 1) watershed assessment activities; 2) monitoring for specific pollutants of concern; and 3) BMP monitoring and special studies. (Bates 52353.) CCMAP’s activities include an analysis of suspended sediment concentrations. (Bates 52375.)

The Contra Costa Permittees also conducted a Pollutants of Concern Source Assessment and Creeks Inventory which characterized representative drainage areas and stormwater discharges. (Bates 52337 *et seq.*) The Program “created individual watershed maps, detailing creek locations, watershed and sub-watershed boundaries, culverts greater than 36 inches, and jurisdictional boundaries for all areas of Contra Costa County.” (Bates 52339.)

The Contra Costa permittees had BMPs requiring proof of necessary approvals from the U.S. Army Corps or Regional Water Board for erosion and sediment control plans. (Bates 52825.)

The Regional Water Board revised the MRP consistent with Contra Costa Clean Water Program’s recommended revisions concerning re-grading. (Bates 3352-53 and 7388.)

C.2.e. Rural Road and Public Works Construction and Maintenance

San Mateo County

Atherton	The San Mateo Permittees commented on the MRP and requested an edit to allow BMPs “such as” those identified the California Stormwater Quality Association’s Handbook. The Regional Water Board agreed and accepted that change to give Permittees the requested flexibility. (Bates 7370.) See CASQA BMP Handbook discussion under All Permittees.
Belmont	
Brisbane	
Burlingame	Order R2-2004-0062 formally adopts and attaches to the Order the San Mateo Countywide Stormwater Pollution Prevention Program’s Pollution Prevention and Control Measures Plan (rev. 2004). (Bates 014132) That Plan contains the following discussion regarding sediment, the primary pollutant of concern associated with rural roads, and notes that only certain municipalities had to address Rural Road Maintenance – Half Moon Bay, Menlo Park, Pacifica, Portola Valley and Woodside: Sediment water quality problems in San Mateo County have primarily been addressed by STOPPP’s municipalities with creeks that have been designated impaired by sediment. In accordance with the reissued NPDES permit, San Mateo County and the Cities/Towns of Half Moon Bay, Menlo Park, Pacifica, Portola Valley, and Woodside have developed performance standards for rural public works maintenance activities. San Mateo County has incorporated these standards into a manual with maintenance standards intended to meet both NPDES requirements and the Endangered Species Act Section (d) Rule for steelhead and salmon. The manual includes BMPs for roads and park maintenance activities expected to take place during the winter, including stream bank stabilization and road-related erosion control. (<i>Ibid.</i> See also Bates 10095.) The Factsheet, section 8, Provision C.9, addressed “rural public works” and required dischargers to “develop and implement performance standards for rural public works maintenance activities. (<i>Ibid.</i>) The operative stormwater management plan in place prior to adoption of Order No. R2-2009-0074, was the April 2004-June 2010 Stormwater Management Plan. (Bates 10000 <i>et seq.</i>) Rural Public Works Maintenance Activities has an entire section and notes that all municipalities in San Mateo County were
Colma	
County of San Mateo	
Daly City	
East Palo Alto	
Foster City	
Half Moon Bay	
Hillsborough	
Menlo Park	
Millbrae	
Pacifica	
Portola Valley	
Redwood City	
San Bruno	
San Carlos	
San Mateo	
South San Francisco	
Woodside	
Flood County	

C.2.e. Rural Road and Public Works Construction and Maintenance

District	<p>required to “<i>continue</i> to implement the practices described in its detailed maintenance manual titled <i>Endangered Species and Watershed Protection Program, Volume 1 Maintenance Standards</i> that includes standards and best management practices” for rural public works. (Bates 10095 [emphasis added]. See also Bates 10022 [In 2000, San Mateo County developed and submitted to the Regional Water Board “detailed maintenance standards for rural public works maintenance activities related to creek bank stabilization, large woody debris removal, vegetation management and erosion and sediment control for projects performed near watercourses”].)</p> <p>“The February 2001 version of this manual contains standards, Best Management Practices (BMPS) and Conservation Outcomes for Roads and Parks Maintenance Division activities [and include] road-related erosion control.” These activities “are the primary operational aspects of the NPDES permit program requirement.” (Bates 32698, p. 1.0.)</p> <p>The 2001 Maintenance Standards provide far greater detail and specification than the requirements of Provision C.2.e. (See Bates 32709-10, pp. 8.1-8.2 [bank stabilization]; Bates 32711-12, pp. 8.3-8.4 [slide debris]; Bates 32713-14, pp. 8.5-8.6 [berms]; Bates 32719-22, pp. 9.1-9.4 [erosion and sedimentation processes and controls]; Bates 32722, p. 9.4 [BMPs used to diminish erosive forces]; Bates 32725, p. 9.7 [BMPs used to diminish sedimentation], Bates 32730-96, pp. 10.0-10.68 [construction specifications for specific BMPs].)</p> <p>The 2004 Maintenance Standards, which expand on the 2001 version, provide far greater detail and specification than the requirements of Provision C.2.e. (See Bates 32845-47, pp. 12-14 [bank stabilization]; Bates 32848-49, pp. 15-16 [slide debris]; Bates 32850-51, pp. 17-18 [berms]; Bates 32854-55, pp. 21-22 [road closures to prevent erosion]; Bates 32858-60, pp. 25-27 [paved road repairs]; Bates 32861-62, pp. 28-29 [unpaved road repairs]; Bates 32863-64, pp. 30-31 [trail maintenance to prevent sedimentation]; Bates 32867-68, pp. 34-35 [maintenance of shoulders and turnouts to minimize sedimentation]; Bates 32879-81, pp. 46-48 [roadside ditches and swales to minimize sedimentation]; Bates 32886-87, pp. 53-54 [erosion control]; Bates 32888-89, pp. 55-56 [slope stabilization]; Bates 32897-98, pp. 64-65 [erosion control grasses]; Bates 32909-12, pp. 76-79 [general stormwater pollution prevention for maintenance activities]; Bates 32913-14, pp. 80-81 [erosion and sedimentation processes and controls]; Bates 32916, p. 82 [BMPs to diminish erosive forces]; Bates 32919, p. 85 [soil conservation]; and Bates</p>
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C.2.e. Rural Road and Public Works Construction and Maintenance

32924-88, pp. 90-155 [construction specifications for specific BMPs].)

The April 2004-June 2010 Stormwater Management Plan notes that “Improvements to the performance standards will be based on implementation experience, the measured effectiveness of controls, and guidance developed by the BASMAA and other groups as available.” (Bates 10023.) STOPPP provides funding to BASMAA as well as other regional efforts to monitor water quality and solve impairment problems. (Bates 10052.) See discussion on BASMAA under All Permittees.

The 2004 Management Plan also devotes an entire section to Watershed Assessment and Monitoring. (Bates 10048 *et seq.*) Activities include participating in monitoring plans, evaluations of imperviousness and channel modifications in San Mateo watersheds, prioritizing projects, characterizing stream structure and function. (*Ibid.* See also Bates 10236-37 [Work Plan for Watershed Assessment and Monitoring].)

Appendix B of the 2004 Management Plan included Performance Standards for municipal maintenance and road maintenance. (Bates 10078 *et seq.*) “Specific municipalities were designated by the NPDES permit adopted in July 1999 to develop and implement performance standard for ... Rural Public Works Maintenance.” (Bates 10078.) “San Mateo County, Half Moon Bay, Menlo Park, Pacifica, Portola Valley, and Woodside are responsible for implementing Rural Public Works Maintenance Activities performance standards.” (*Ibid.*)

Numerous BMPs in the 2004 Management Plan identify measures that prevent discharges to storm drains. Examples include:

- Block or berm around storm drain inlets during saw-cutting operations to prevent slurry from entering storm drain (Bates 10079);
- “wash down of streets only permitted if runoff is controlled or contained” (Bates 10079)
- “contain and clean up waste materials from signing and striping (Bates 10080);

As discussed above, a smaller subset of municipalities was required to submit rural public works Performance Standards in their 2003/2004 Annual Reports. (Bates 10095.) These may be found at:

- Half Moon Bay (Bates 30734 *et seq.*, particularly 30738 [Rural Public Works Maintenance

C.2.e. Rural Road and Public Works Construction and Maintenance

- Activities Performance Standards] and 30742 [erosion and sediment control measures].)
- Menlo Park (Bates 30764-70, particularly 30768 [Rural Public Works Maintenance Activities Performance Standards]. See also 30771 [The City does not perform [the repairs in rural area] maintenance standard, as there are no rural roads in the City”].)
 - Pacifica (Bates 30836-46, particularly 30840 [Rural Public Works Maintenance Activities Performance Standards].)
 - Portola Valley (Bates 30867-79, particularly 30872 [“The Town has been using this jointly developed existing Rural Public Works Performance Standard”] and 30877 [erosion control measures].)
 - Woodside (Bates 031052-61, particularly 31055 [Rural Public Works Maintenance Activities Performance Standards] and 31060 [erosion control measures].)

San Mateo produced the Countywide Stormwater Pollution Prevention Program (rev. June 1999). (Bates 9834 *et seq.*) San Mateo County indicated that it was providing reports concerning stormwater controls and BMPs by 1999. (Bates 9907-9916 [regulatory compliance with NPDES reports].)

The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Santa Clara County

SCVURPPP

As described in the Response to Comments, “**These requirements are not new to existing MS4 programs with rural infrastructures.** Under the existing permit, Permittees of Alameda and Santa Clara Counties with rural roads have developed BMPs for maintenance activities.” (Bates 3350-51 [emphasis added].)

The 2001 Permit (Order No. 01-024) (Bates 014175 *et seq.*) required SCVURPPP Permittees to develop a rural public works program:

C.2.e. Rural Road and Public Works Construction and Maintenance

The Program shall develop by June 30, 2002, Performance Standards, annual training and technical assistance needs, and annual reporting requirements for the following rural public works maintenance and support activities: a) management and/or removal of large woody debris and live vegetation from stream channels; b) streambank stabilization projects; c) road construction, maintenance, and repairs in rural areas to prevent and control road-related erosion; and d) environmental permitting for rural public works activities.

(Bates 14190.) The 1997 SCVURPPP Urban Runoff Management Plan indicates that the Performance Standards identified therein are the threshold standards necessary to demonstrate compliance with the permit: “The reissued permit also requires that the Program ‘adopt and incorporate Performance Standards developed by the Dischargers. Performance Standards are defined as the level of implementation necessary to demonstrate the control of pollutants in storm water to the maximum extent practicable.’” (Bates 14299.) “Performance Standards describe a specific result, or level of effort, that constitutes the ‘maximum extent practicable’ based on current technical knowledge, available resources and local conditions.” (Bates 14335.) Model Performance Standards “define the result, or level of effort, for each major pollution-prevention task.” (Bates 14344.) “In a June 24, 1997 letter, Regional Board staff stated: “We accept the submitted model performance standards as *baseline* performance standards.” (Bates 14384)

The model Performance Standard for Public Streets, Roads and Highways, and its supporting documents, cover the following operation and maintenance activities:

- Street/Road/Highway Operation and Maintenance (asphalt/concrete removal; patching, resurfacing and surface sealing; signing and striping, concrete work, equipment cleaning, maintenance and storage)
- Median and Road Embankment Maintenance (erosion controls, slide and embankment repair; irrigation practices and vegetation controls)

(SCVURPPP 1997 URMP, Bates 14365.)

C.2.e. Rural Road and Public Works Construction and Maintenance

The model Performance Standard includes provisions for Co-permittee:

- Preparation of a Work Plan describing implementation of street/road/highway operation and maintenance BMPs
- Ensuring that contractors also implement the municipality's BMPs as appropriate
- Training staff on the use of BMPs, as needed
- Informing other parties involved in similar activities that they are expected to implement BMPs, as well as eliminate illicit discharges
- Review and evaluation of BMP effectiveness
- The Program has prepared an extensive set of model BMPs for Co-permittees to use in implementing their Performance Standards.

(SCVURPPP 1997 URMP, Bates 14366.) SCVURPPP adopted the following Performance Standards, recognizing that they would be applicable to roads in rural areas (Bates 14463):

1. Each municipal agency will implement best management practices (BMPs) for the street, road, and highway operation and maintenance (O&M) activities that it is responsible for conducting, in order to reduce pollutants in storm water to the maximum extent practicable and eliminate illicit discharges. Specific BMPs for each type of O&M activity will be those listed in the agency's Work Plan BMPs and Control Measures (Section 3).
2. Each municipal agency will develop and implement a process for ensuring that any contractor that it employs to conduct street, road, and highway O&M activities uses the appropriate BMPs adopted by the agency.
3. Each municipal agency will provide training on an annual basis to its municipal staff in the use of appropriate BMPs. The agency will also provide a mechanism for obtaining feedback from its municipal staff on the implementation and effectiveness of the BMPs.
4. Each municipal agency will inform other parties conducting street, road, and highway O&M activities within the municipal agency's jurisdiction that they are expected to implement BMPs to

C.2.e. Rural Road and Public Works Construction and Maintenance

reduce pollutants in storm water to the maximum extent practicable and eliminate illicit discharges.

5. As part of the annual reporting process, each co-permittee will review and evaluate the effectiveness of its BMPs in achieving the goals of reducing pollutants in storm water to the maximum extent practicable and eliminating illicit discharges. The review and evaluation will include input from municipal maintenance staff that implement the BMPs.

(Bates 14471.) SCVURPPP clarified that this Performance Standard “defines the level of implementation that municipal agencies in the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program) must attain to demonstrate that their local PSRH O&M activities reduce pollutants in storm water to the maximum extent practicable. This Performance Standard will be used as the basis for measuring the effectiveness of each municipal agency's street, road, and/or highway O&M activities.” (Bates 14463.)

Public Facilities. As described in the Program's model Performance Standard for Public Streets, Roads and Highways Operation and Maintenance, each Co-permittee will implement BMPs for maintenance of sidewalks, plazas, bridges and structures, in addition to streets, roads and highways. The Copermitees will also require their contractors, and encourage other public agencies, to implement the same BMPs.

(SCVURPPP 1997 URMP, Bates 14367-68.)

Since 2001, the Management Committee has developed and finalized the following new Performance Standards ... Rural Public Works Maintenance and Support (December 2002). Accepted by the Regional Board on February 18, 2003. (Bates 12212-13. See also Bates 11897 [describing rural public works maintenance and support activities adopted in December 2002].) The 2004 SCVURPPP Urban Runoff Management Plan (Bates 12180 *et seq.*) describes how the Santa Clara co-permittees had already developed Performance Standards for rural public works activities:

The goal of the Rural Public Works Maintenance and Support Performance Standard is to minimize the water quality impacts resulting from public works maintenance and support activities in rural areas. This performance standard helps Copermitees whose jurisdictions include rural areas to ensure that required control measures are implemented while performing maintenance activities adjacent to

C.2.e. Rural Road and Public Works Construction and Maintenance

streams to prevent the degradation of stream functions. The Performance Standard was approved by the Management Committee on December 20, 2002 and accepted by the Regional Board on February 18, 2003.

(Bates 12246.) The SCVURPPP 2004 Performance Standards for Rural Public Works Maintenance and Support Activities describe BMPs in far greater detail than the MRP. (Bates 12495-12503.) Detailed BMPs are included for:

- Management and/or Removal of Large Woody Debris and Live Vegetation
- Streambank Stabilization Projects
- Road Construction, Maintenance, and Repairs in Rural Areas to Prevent and Control Road-Related Erosion (which includes General Road Construction/Maintenance Practices; Asphalt/Concrete Removal; Concrete Installation and Repair; Patching, Resurfacing, and Surface Sealing; Traffic Detector Loop Installation and Repair; Road Embankment and Median Maintenance; Erosion Prevention and Sediment Controls; Vegetation Controls; and Maintenance Activities Unique to Unpaved Rural Roads)
- Environmental Permitting for Rural Public Works Activities
- Road Planning and Design BMPs

(Bates 12479-12503 [2002 Performance Standard and Supporting Documents for Rural Public Works Maintenance and Support Activities].)

SCVURPPP copermittees were also reporting on Performance Standards prior to the MRP: “The principal purpose of the Program’s Annual Reports is to facilitate and document the Program’s activities and process of evaluation and continuous improvement (see following Section 3G). Accordingly, the reports focus on the Co-permittees’ progress in developing their local programs and in implementing the individual Co-permittees’ URMPs. The reports document routine implementation of control measures, but in brief, summary form.” (Bates 12214. See also Bates 12247 [“Public Agency Activities are Documented in Annual Reports. The Copermittees’ annual reports will document their implementation of each specific item in the Performance Standards”].)

C.2.e. Rural Road and Public Works Construction and Maintenance

	<p>The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) See discussion under All Permittees.</p> <p>SCVURPPP cited to the Erosion Control Field Handbook and noted the importance of efforts, coordinated through BASMAA, to develop training and resources at a regional level. (Bates 14381.) The Erosion Control Handbook and other BASMAA guidance are discussed above under All Permittees.</p> <p>In response to a listing of impairments caused by sediment, the SCVURPPP has participated in projects to assess factors causing excessive sedimentation that is impacting aquatic species. “On August 30, 2002, the Program developed a work plan entitled Work Plan for Conducting Watershed Analysis and Management Practice Assessment in Other Creeks Potentially Impaired by Sediment from Anthropogenic Activities (Watershed Analysis Work Plan). The Work Plan describes the phased approach that SCVURPPP intends to follow in addressing the permit condition.” (Bates 12277-78.)</p>
County of Santa Clara	<p>The 1997 SCVURPPP URMP indicated that Performance Standards for streets and roads maintenance were already in place Santa Clara County (Bates 14641.) The 1997 County of Santa Clara URMP (Bates 24314 <i>et seq.</i>) similarly indicates that Performance Standards were in place and new model Performance Standards for rural roads would be in place by 2002 with Standard Operating Procedures in place by 2004. (Bates 24317.) The 2002 revisions to the URMP included the promised additions:</p> <p style="padding-left: 40px;">The goal of the Rural Public Works Performance Standard is to minimize the water quality impacts resulting from public works maintenance and support activities in rural areas. This performance standard is intended to aid Co-permittees in ensuring that required control measures are implemented while performing maintenance activities adjacent to streams to prevent the degradation of stream functions.</p> <p>(Bates 24444.) Detailed provisions follow that meet the requirements of the MRP. (Bates 24444-62.)</p>
Cupertino	<p>Performance Standards for streets and roads maintenance have been met in Cupertino since FY 96/97. (Bates 14641. See also Bates 15251 <i>et seq.</i> [Cupertino 1997 URMP Performance Standards].) The City of Cupertino 1997 URMP describes how it complied with the SCVURPPP URMP. (Bates 15214 <i>et seq.</i>) Street repair and maintenance are contract services and “all contract specifications include language</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

	<p>addressing best management practices.” (Bates 15222. See also Bates 15335-37 [road maintenance BMPs].) The detailed Performance Standards discuss road maintenance and address erosion. (Bates 15349-15350. See also 15354-56 and 15365-66 [median and road embankment maintenance, including Performance Standards used to avoid erosion during repairs].) As of 1997, the City of Cupertino had annual stormwater BMPs training for City staff. (Bates 15359.)</p> <p>The 2004 URMP for Cupertino (Bates 19286 <i>et seq.</i>) noted the updated Performance Standards for rural roads. (Bates 19292 [Performance Standards incorporated into O&M in 2004]. See also 19296 [City owns and maintains rural roads]; 019301 [less than two miles considered “rural;” Performance Standards for rural roads combined with Performance Standards for Public Streets, Roads and Highways Operation and Maintenance]; 19310 [staff training conducted]; 19444-019449 [Performance Standards for Public Streets and Rural Public Works Operation and Maintenance Program]; 19461-019464 [Additional BMPs for Rural Public Works Maintenance Activities]; 19472-73 [Median and Road Embankment Maintenance]; and 19475-77 [Additional SOPs for Rural Public Works Maintenance Activities].</p>
Los Altos	<p>Performance Standards for streets and roads maintenance have been met in Los Altos since September 1997. (Bates 14620. See also Bates 15439-40 [“The City will continue to complete applicable roadway operations and maintenance activities as prescribed by the model Streets, Roads and Highways Performance Standards”]; 15442 [the City adopted model Performance Standards for Public Streets, Roads & Highway Operation & Maintenance]; and 15470-76 [Performance Standards]; 15479-80 [standard operating procedures for public streets, roads, and highways operation and maintenance].) As of 1997, Los Altos committed to “continue to complete regular training of City staff.” (Bates 15440.)</p> <p>The Los Altos 2004 URMP (Bates 19777 <i>et seq.</i>) confirms that Performance Standards were met and BMPs implemented for rural roads. (Bates 19790 [noting, however, that the “Rural Public Works Performance Standard was not adopted as all the requirements, if any, are included in the Public Streets, Roads and Highways Operation and Maintenance Performance Standard”]; 19791 [“The city has very little, if any areas that would technically be really considered rural. Therefore Los Altos decided not to adopt the model performance standard for Rural Public Works Operation and Maintenance, but instead incorporated all requirements into this performance standard”]; and 19834 <i>et seq.</i> [Performance Standards for Public Streets, Roads and Highways Operation and Maintenance].</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

Los Altos Hills	<p>In 1997, the Town of Los Altos Hills adopted CASQA Municipal BMP Handbook as model BMPs to be used for compliance in the implementation of the Performance Standard. (Bates 15564.) Los Altos Hills implements activities designed to meet the criteria for corresponding activities in the SCVURPPP Public Streets, Roads and Highways Operation and Maintenance Performance Standard. (Bates 15552 See also Bates 15568-69.) The Model Performance Standard was adopted in November 1996. (<i>Id.</i> See also Bates 15555-56, 15560 and 15571-72.) The Town’s limited pavement work is conducted according to SCVURPPP recommended BMPs for all public work projects and the Town also includes requirements for such BMP implementation in its standard specifications for projects which are completed by contractors.” (<i>Id.</i> at 15553. See also 15575 [erosion control].) Los Altos Hills also incorporated the ABAG Erosion & Sediment Control Measures (1995) into its Performance Standards. (Bates 16087 <i>et seq.</i>) The Town of Los Altos Hills holds a minimum of annual trainings for municipal staff. (Bates 15520. See also Bates 15621 [municipal employee training critical to maximize pollution prevention].)</p> <p>The 2004 Los Altos Hills URMP (Bates 19961 <i>et seq.</i>) confirms that Performance Standards were met and BMPs implemented for rural roads. (Bates 019965 [Town incorporates the Performance Standards and performs implementation].)</p>
Milpitas	<p>Performance Standards for Milpitas streets and roads maintenance were met and written procedures would be completed in January 1998. (Bates 14622. See also 16335 [“It is the intent to implement the Model Performance Standards” developed in the SCVURPPP URMP].) The Milpitas 2000 URMP verifies that the program SOP had been updated. (Bates 16145.) The 2000 URMP identifies Performance Standards and BMPs that are substantively identical (if not more restrictive/proscriptive) than the MRP. (Bates 16334-16362. See also Bates 16344-46 and 16347.) Milpitas had “routine training sessions” and formal training on the SWPPP had been completed as of at least 2000. (Bates 16150.) Annual employee training was required on the appropriate use of BMPs. (Bates 16335. See also Bates 16352.)</p> <p>In its 2000 URMP, Milpitas indicated its intent to implement the Model Performance Standards developed in the SCVURPPP URMP. (Bates 16335.) Milpitas adopted all BMPs for Street/Road/Highway Repair and Maintenance. (Bates 16337. <i>See id.</i> [erosion control].)</p> <p>The 2004 Milpitas URMP (Bates 20433 <i>et seq.</i>) confirms that Performance Standards were met and BMPs</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

	<p>implemented for rural roads. (Bates 20434-020435 [map created to identify rural roads within the City limits; staff will incorporate the Performance Standards, Legal Authority and Implementation Plan into the Work Plan]; 20447 [City-specific information added to Performance Standard in 2002]; 20451-53 [additional rural roads materials to be developed by 2005]; 20829 <i>et seq.</i> [Performance Standards for public streets and highways]; 20859-66 [Performance Standards for rural roads]; and 20867-78 [BMPs for rural roads].)</p>
<p>Mountain View</p>	<p>Mountain View (Bates 14624 [indicating that Performance Standards for streets and roads maintenance were met earlier than 1990]. See also 16718.) “[C]ontrolling discharges from the operation and maintenance of the City's water utilities and roadways and controlling storm water quality impacts from development and construction, have since been incorporated into existing City programs.” (1997 Mountain View URMP, Bates 16702.) Mountain View’s 1997 URMP emphasized that Performance Standards identified “the level of implementation for activities and was based on current and proposed practices that the City is/or will be implementing to minimize water quality impacts, and practices that are accepted by the State and Regional Board as being effective in controlling these impacts.” (Bates 17060.) The Performance Standards cover the same restrictions as the MRP. (Bates 17071-74.) The 1997 Mountain View URMP includes Performance Standards that are even more rigorous than the MRP requirements. (Bates 17002 <i>et seq.</i>) These provisions include Performance Standards for Street/Road/Highway Repair and Maintenance and erosion control measures attendant with maintenance. (Bates 17004-05, 17011-17; 17020-22, 17025-26, 17027-29.) Mountain View’s 1997 URMP emphasized the need for training and noted the importance of ensuring that contractors utilized BMPS. (Bates 17004.)</p> <p>The 2004 Mountain View URMP (21767 <i>et seq.</i>) confirms that Performance Standards were met and BMPs implemented for rural roads. (Bates 021774 [Rural Public Works Maintenance and Support Performance Standard completed in 2002 and incorporated into URMP]; 21925 <i>et seq.</i> [Performance Standards for Public Streets, Roads and Highways Operation and Maintenance]; 21945 [Median and Road Embankment Maintenance]; 21965-84 [Rural Road Works Maintenance Performance Standard].)</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

Palo Alto	<p>The 1997 URMP for Palo Alto states, “The City of Palo Alto's urban runoff pollution prevention program conforms to the requirements of the [SCVRUPPP] model Performance Standards for each of these activities.” (Bates 17098.) City of Palo Alto (Bates 14626 [indicating that Performance Standards for streets and roads maintenance have been met since 1/1/97].) The 1997 Palo Alto URMP describes performance standards for public streets, roads and highways that contain the same (and even more proscriptive) requirements than the MRP. (Bates 17323-52. See also Bates 17354-55 [erosion control measures].) City of Palo Alto conducts annual training for its employees. (Bates 17104, 17346.)</p> <p>The 2004 Palo Alto URMP (22192 <i>et seq.</i>) confirms that Performance Standards were met and BMPs implemented for rural roads. (Bates 22194 [City-specific information added to the Performance Standard, which was incorporated into the URMP in 2002]; 22201 [Palo Alto’s Performance Standards conform to the Model Performance Standards]; 22372-94 [Rural Public Works Maintenance Activities Performance Standards].)</p>
San Jose	<p>City of San Jose (Bates 14628 [indicating that Performance Standards for streets and roads maintenance have been met since 1991]. See also Bates 17548 [“For the past five years, the City has been implementing [public streets and roads] BMPs as part of the on-going permit compliance efforts. These milestones and their associated workplans are designed to provide a measurable and systematic approach to full compliance with the letter and intent of the permit”] and 17549 [demonstrating that all required elements were in place by 1998]. See also Bates 17655-65 [detailed reference for Performance Standards for public streets and roads maintenance, sidewalk/plaza cleaning, bridge/structural repairs, graffiti removal and erosion control].) The Performance Standards include annual training and informing other parties conducting street maintenance in the City’s jurisdiction of the BMPs. (Bates 17549.)</p> <p>San Jose’s 1997 URMP listed a number of BMP publications “used by the City of San Jose to meet the goals of the Performance Standards set out in this URMP.” (Bates 17589.) This list includes:</p> <ul style="list-style-type: none"> • California Storm Water Best Management Practice Handbooks: Municipal • California Storm Water Best Management Practice Handbooks: Industrial/Commercial • Manual of Standards for Erosion & Sediment Control Measures

C.2.e. Rural Road and Public Works Construction and Maintenance

(See discussion under All Permittees. See also Bates 17655-65 [detailed reference for Performance Standards for public streets and roads maintenance, sidewalk/plaza cleaning, bridge/structural repairs, graffiti removal and erosion control].) San Jose had annual training of City staff on storm water pollution since at least 2000. (Bates 17753, 17769.)

The City of San Jose Urban Runoff Management Plan (Sept. 2004) devotes an entire section to Public Streets, Roads, & Highways, stating that this “program element is implemented pursuant to permit provision C.2.” (Bates 9478 *et seq.*) The City notes that it had already developed standard operating procedures (SOPs) and BMPs for rural public works activities. (Bates 9480 [“Done FY 03-04”].) The complete 2004 URMP is attached to the Regional Water Board’s May 11, 2011 Response, beginning at Bates 2481. Relevant portions discussing rural roads Performance Standards and BMPs are at the May 11, 2011 Response Bates 2494 [2004 URMP updated to address Rural Public Works]; 2501 [December 2002 new Performance Standard added for Rural Public Works; list of rural public works facilities compiled, including roads and trails passable by maintenance vehicle]; 2523 [Rural Public Works Performance Standard goal]; 2524 [identified applicable City-owned properties; developed standard operating procedures and BMPs; distributed and reviewed standard operating procedures annually; incorporated standard operating procedures and BMPs into annual training]; 2725 *et seq.* [Public Streets and Roads Standard Operating Procedures]; 2753-55 [Standard Operating Procedures for Environmental Permitting for Rural Public Works Activities]; 2764-65 [Standard Operating Procedure and BMP Effectiveness Reviews, including unpaved roads and trails/embankment maintenance and environmental permitting for rural public works activities]; 2770-73 [Standard Operating Procedures for Unpaved Roads and Trails/Embankment Maintenance and Repair]; 2878-80 [Standard Operating Procedures for Spill Control in the Field]; 2915, 2986, 3062, 3130, 3197 and 3264 [erosion and sediment control training schedules in various annual reports]; 2950-52 [Public Streets, Roads & Highways Work Plan and BMPs]; 3022-3024 [Public Streets, Roads & Highways Work Plan]; and 3098, 3165, 3232 [update on implementation of control measure strategies for rural public works maintenance and support activities in various annual reports].)

The San Jose 2004 URMP (Bates 9011 *et seq.*) included Standard Operating Procedures for Rural Public Works Activities in January 2004. (Bates 9283, *et seq.* See also Bates 9300-303 [Standard Operating Procedures for Unpaved Trails /Embankment Maintenance and Repair]; 9690, 2008-09 Work Plan [SOPs

C.2.e. Rural Road and Public Works Construction and Maintenance

and BMPs developed in 2003-04].) The procedure notes that “Rural Public Works activities have the potential to generate various pollutants such as mud, construction/repair debris, wood chips, pruning debris and leaves, etc. ... To minimize possible harm to our waterways, when performing [Rural Public Works] activities, every effort should be made to minimize the amount of sediment and debris entering the storm drain system or waterways.” (Bates 9283.) Control measures follow that address “culvert replacements, slide repairs, bank stabilization, etc.” (Bates 9284.) Additional Standard Operating Procedures are included for “Unpaved Roads and Trails/Embankment Maintenance and Repair.” (Baes 9300 et seq.) These procedures include detailed inspection, erosion prevention and sediment controls, vegetation controls, and include additional “maintenance activities unique to unpaved rural roads.” (Bates 9302.)

The City commits to “*continue*” training to cover the SOPs and BMPs for Department of Transportation activities, including resurfacing, sealing and patching, saw-cutting, concrete installation, etc. (Bates 9478.) The City notes that it will “*continue*” staff training related to stormwater pollutant reduction during operations and maintenance activities in the City’s regional and neighborhood parks and other “rural areas.” (Bates 9479.)

The September 2004 Plan states that the City will implement a process to ensure that contractors hired to construct public works projects have adequate erosion control plans and use appropriate BMPs. (Bates 9477. See also Bates 9479 [ensure that contractors, CalTrans and other entities responsible for street, road, and highway O&M activities will abide by the same requirements].)

The September 2004 Plan notes that the City has already performed or will perform the following activities:

- Draft procedure for annual effectiveness reporting, including sub-procedures for gathering feedback from affected supervisors and for modifications to BMPs and SOPs as necessary. Done FY 01-02. (Bates 9480.)
- Identify City-owned properties that are applicable (under the RPW Performance Standard). Ongoing. (*Ibid.*)
- Re-evaluate the feasibility of using GIS information to identify additional applicable properties, if any. 6/30/06. (*Ibid.*)

C.2.e. Rural Road and Public Works Construction and Maintenance

- Develop or adapt Standard Operating Procedures (SOPs) and Best Management Practices (BMPs) for rural public works activities. Done FY 03-04. (*Ibid.*)
- Provide annual training on appropriate SOPs/BMPs to City staff that perform rural public works operations and maintenance activities. Incorporate SOPs/BMPs evaluation into annual training. Annually. (*Ibid.*)
- Through contract specifications, require contractors hired by the City to use appropriate SOPs/BMPs when performing rural public works construction or maintenance. 6/30/05. (*Ibid.*)
- Annually conduct an evaluation of the effectiveness of the rural public works program, report the results in the Urban Runoff Annual Report. Identify items for continuous improvement. Annually. (*Ibid.*)
- Provide training prior to the rainy season. Annually, Q4. (*Id.* at 9483.)

The City of San Jose recognized that its own municipal projects must “include stormwater quality control measures during and after construction” and that San Jose had an obligation to ensure that “contractors comply with stormwater quality control requirements during construction activities and maintenance activities.” (Bates 9680-81. See also Bates 9688 *et seq.*) The Public Streets and Roads (PSR) program consisted of BMPs the City must use in operations such as street repair, resurfacing, saw-cutting, etc. (Bates 9687 *et seq.*) San Jose Standard Operating Procedures for Pavement Maintenance (Revised 8/2/04) (Bates 9276 *et seq.*) “Every effort should be made to minimize the amount of sediment and debris entering the storm drain system.” (Bates 9276.) Detailed control measures are provided on Bates 9277 and 9280-9281 detail saw-cut BMPs.

San Jose documented that it was already reporting back to the Regional Water Board on all requirements before the MRP was adopted: “The current permit [Order 01-024, adopted February 21, 2001] stresses documentation of effort and effectiveness evaluation. To comply with this requirement, each set of Performance Standards has related milestones, a five-year workplan with targeted completion dates, and identification of responsible City Department(s). This structure allows the City to document actions ... This feedback loop is completed through the Annual Reporting process that details milestone accomplishments during the reporting period.” (Bates 9015.)

C.2.e. Rural Road and Public Works Construction and Maintenance

Santa Clara	<p>“The City [of Santa Clara] has adopted the Performance Standards as developed by the SCVIJRPPP. Generally, all the provisions for the individual Performance Standards are applicable.” (Bates 17843.) City of Santa Clara (Bates 14630 [indicating that Performance Standards for streets and roads maintenance have been met since 12/96].) “The City has adopted the Performance Standard [for public streets, roads and highways] as developed with minor clarifications for some Best Management Practices listed. The clarifications are noted in the supporting documents included with the Performance Standard.” (Bates 17844.) The City’s Performance Standards for operation and maintenance of streets, roads and highways requires many of the same activities, in even more detail, as the MRP. (Bates 17956 <i>et seq.</i> See in particular, Bates 17970-17971. See also 17977 [erosion control] and 17985 [Standard Operating Procedures].) The City of Santa Clara had daily, monthly and annual training for City staff. (Bates 17983.)</p> <p>The 2004 Santa Clara URMP (22629 <i>et seq.</i>) confirms that Performance Standards were met and BMPs implemented for rural roads. (Bates 22633 [City-specific information added to Performance Standards for Rural Public Works Maintenance in 2002]; 22879-900 [Performance Standards for Rural Public Works].)</p>
Sunnyvale	<p>The City of Sunnyvale had Performance Standards for streets and roads in place prior to 1990. (Bates 14632.) Sunnyvale provided annual training for its employees to keep them aware of urban runoff issues. (Bates 23368.)</p> <p>Very limited areas of the City could be considered "rural" since the City is over 98% built out. The only areas that meet the definition of "rural road" are found in the northern portion of the City adjacent to Baylands Park and along the San Francisco Bay Trail. The Santa Clara Valley Water District owns and maintains the watercourses within the City (Sunnyvale East, Sunnyvale West, and El Camino Channels, Calabazas Creek and Stevens Creek). Only some of the performance standards and BMPs for public works activities near stream channels apply to public works activities that could occur near stream channels. These have been identified in the Rural Public Works Performance Standards found in Section 3b of the URMP.</p> <p>(Bates 23369.) The 2004 Sunnyvale URMP (23354 <i>et seq.</i>) confirms that Performance Standards were met and BMPs implemented for rural roads. (Bates 23358 [New Performance Standards for Rural Public Works approved in 2000]. See also 23687 <i>et seq.</i> [2004-05 Work Plan, including Rural Public Works</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

	Operation and Maintenance, beginning at Bates 23696].)
Water District	<p>Santa Clara Valley Water District implemented Performance Standards for streets and roads maintenance met since November 1996. (Bates 14643.) Note, however, that the District also states that it “maintains no public roads.” (Bates 24714.)</p> <p>The 2004 Santa Clara Valley Water District URMP (Bates 24704 <i>et seq.</i>) indicated that Performance Standards and BMPs were implemented for Rural Public Works. (Bates 24717. See also Bates 24720 [Model Performance Standard adopted in 2002; Annual Work Plans specify formalization further development of Standard Operating Procedures, BMPs and a training program] and Bates 024734-55 [Rural Public Works Performance Standards].)</p>
West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga)	<p>In 1996, the West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga) worked together to develop a Community Specific URMP. (Bates 14652 <i>et seq.</i> [revised 2000].) At that time, Performance Standards for streets and roads maintenance were already in place. (Bates 14634 [City of Campbell]; 14636 [Town of Los Gatos]; 14637 [City of Monte Sereno]; and 14639 [City of Saratoga].)</p> <p>In the 2004 URMP, each community indicated applicability (or inapplicability) of and compliance with these Performance Standards. (Bates 18903, 18913 [Campbell has no roads or public works in the Rural Public Works Category]; Bates 20117, 20155-69 [Los Gatos]; Bates 21406, 21453, and 21481-93 [Monte Sereno]; Bates 22975, 22990, 23060, 23088, and 23096-122 [Saratoga].)</p>
Solano County	
Fairfield	<p>The October 1999 Fairfield-Suisun Storm Water Management Plan (Bates 30023 <i>et seq.</i>) had BMP training for staff was in place for all program components. (Bates 30061.) Program components included municipal government maintenance activities, which include many road maintenance, median and road embankment maintenance and erosion/sediment control Performance Standards reflected in the MRP. (Bates 30098 <i>et seq.</i> [Municipal Government Maintenance Activities], including Bates 30120 [Median and</p>

C.2.e. Rural Road and Public Works Construction and Maintenance

Suisun	<p>Road Embankment Maintenance, including erosion controls].)</p> <p>The 2007 Fairfield-Suisun 2007 Stormwater Management Plan (Bates 30331 <i>et seq.</i>) confirms that Performance Standards were met and BMPs implemented for rural roads. (See generally Bates 30411 <i>et seq.</i> [Municipal Government Maintenance Activities] and specifically Bates 30419 [Rural Public Works Performance Goals]; 30422 [Reporting]; 30423 [Rural Public Works Maintenance Performance Goals and BMPs approved in 2004-05 and incorporated into the URMP]; 30435-36 [Median and Road Embankment Maintenance, including erosion control].) Specific measures include:</p> <ol style="list-style-type: none"> 1. Construction and Maintenance <ol style="list-style-type: none"> a. Schedule construction and maintenance activities for dry weather. Minimize the exposed area and the duration of exposure. Stabilize disturbed areas as quickly as possible. b. Protect downslope drainage courses, streams, and storm drains with wattles, sand bags, earth dikes, or temporary drainage swales to divert or trap and filter runoff. c. Stockpile materials away from streets, gutter areas, storm drain inlets or watercourses. During wet weather, minimize transport of materials in runoff by covering stockpiles and excavated soil with secured tarps or plastic sheeting and by using berms, straw wattles or other devices. d. Use only as much water as necessary for dust control, to avoid runoff. e. When designing roads for construction, consider incorporating ditches, berms, dikes and swales in order to intercept runoff from surfaces and convey it to stabilized watercourses, drainage pipes, or channels. f. During construction, inspect and maintain all BMPs daily to ensure that they are working properly and to ensure that problems are corrected as soon as they develop. g. Road drainage systems and stream crossings should be maintained by annual and storm period inspections to prevent small problems from growing into large failures. h. Consider replacement of stream crossing structure, when ongoing maintenance does not mitigate any associated problems. i. Follow Municipal Maintenance Road Repair Maintenance Performance Standards, as appropriate, for equipment clean up and storage, and asphalt and concrete removal.
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C.2.e. Rural Road and Public Works Construction and Maintenance

2. Embankment and Median Maintenance

a. Erosion Prevention and Sediment Controls

- i. Maintain vegetative cover on medians and road embankments to prevent soil erosion, trap pollutants and slow the rate of stormwater runoff. Plant and/or retain native vegetation as much as possible. Adjust mowing heights to allow for substantial stubble. Leave clippings in place or apply mulch as additional cover.
- ii. Use measures that break the slopes to reduce the problems associated with concentrated flow volumes and runoff velocities.
- iii. Avoid moving large quantities of earth, except where regrading is necessary to repair or reconfigure an embankment. Disking may be used to manage vegetation on slopes less than 20o/o. It shall be performed parallel to the contour to prevent rills and gullies from forming during rain events. Disking shall not be performed in areas that support endangered species such as ground burrowing owls, harvest mice, beetles, etc.
- iv. Inspect drainage facilities, including cross drains, on a regular basis to ensure that sufficient drainage is provided during storm periods, so that runoff diverted onto slopes does not cause erosion. Remediate any observed erosion problems as soon as possible.
- v. Ensure that erosion prevention and sediment control is provided for storm drain outfalls.

(Bates 30441-42 [Road Construction, Maintenance and Repairs in Rural Areas to Prevent and Control Road-Related Erosion]. See also Bates 30442-43 [vegetation controls].) Additional measures specific to maintenance activities unique to unpaved rural roads are covered in detail (Bates 30443) as are the requirements for environmental permits from the California Department of Fish and Wildlife, U.S. Army Corps of Engineers, Regional Water Board and Bay Conservation and Development Commission (Bates 30443-44). The Plan also provides a detailed section on Rural Road Planning and Design, which includes instructions on placement of roads, designing road drainage and grading. (Bates 30445.)

C.2.e. Rural Road and Public Works Construction and Maintenance

Vallejo Permittees

Vallejo	<p>EPA issued Permit No. CAS612006, May 30, 1999, which governed the areas of the City of Vallejo and surrounding unincorporated areas in Solano County. (Bates 014273 <i>et seq.</i>) Pursuant to that permit, Vallejo Sanitation and Flood Control District adopted a 1999 Storm Water Control Plan (Bates 14275-76. See Bates 33019 <i>et seq.</i>) Public Agency Activities described in the Plan indicate “the intent of these activities to maximize removal of pollutants and minimize discharges of pollutants to storm drains and watercourses.” (Bates 33021.) Ongoing monitoring efforts at the time were designed to characterize watersheds, including land use characteristics. (Bates 33022.) Under existing conditions at the time of the Plan, erosion control plans were required at all construction projects and grading was regulated. (Bates 33042.) The Vallejo Permittees had Watershed Protection Policies in place which required consideration of erosion and sedimentation; water quality resources (maintaining riparian and aquatic biota); and protection of the natural drainage systems and water bodies. (Bates 33043.) An entire section was devoted to site planning practices:</p> <p style="padding-left: 40px;">4.4.2 Site Planning Practices All proposed projects shall use the following (or equivalent) site planning practices:</p> <ol style="list-style-type: none"> a. Protect areas with water quality benefits b. Protect areas susceptible to erosion and sediment loss c. Limit the amount of impervious surface proposed (particularly directly connected impervious areas) through clustering and site lot design d. Limit land disturbance activities and the area to be impacted by these activities; any land disturbance should result in a naturally appearing slope or landform e. Limit the disturbance of natural topography, drainage system, and vegetation <p>(Bates 33043.) Construction and post-construction BMPs offered similar protections as did a section devoted to Erosion and Storm Water Control Strategies. (Bates 33043-44.) Erosion and Storm Water Control Strategies included:</p> <p style="padding-left: 40px;">All proposed projects must provide information on the control strategies that will be employed to</p>
Vallejo Sanitation and Flood Control District	

C.2.e. Rural Road and Public Works Construction and Maintenance

prevent erosion and prevent stormwater pollution. The proposed control strategies shall include the following items:

- a. A map which shows existing and proposed removal of vegetation, existing and final contours, other proposed land disturbance (e.g. clearing), areas of potential water quality impact (e.g. land disturbance near a creek), proposed and required setbacks and easements, and proposed pre- and post-construction BMPs.
- b. A schedule for construction, operation and maintenance of BMPs (including proposed inspection, record keeping and reporting frequency).
- c. Calculations and procedures used in designing storm water quality BMPs.
- d. Proposed projects where clearing, grading, and excavation results in a land disturbance greater than one acre must provide the following additional information:
 - i. A description of responsibility and funding for permanent BMPs.
 - ii. Descriptions, specifications, design assumptions, and calculations for construction and postconstruction BMPs.
 - iii. A contingency plan to be followed in case of heavy rain or possible failure of BMPs, including permanent post-construction controls.

(Bates 33044.) The Vallejo Permittees committed to Management Practices that included conducting “an inventory of water quality resources to determine areas where potential water quality impacts may occur by identifying areas susceptible to erosion and sediment loss, water quality resources, and natural features necessary to the preservation of water quality.” (Bates 33045.) Detailed BMPs follow, including a requirement to follow the CASQA Construction BMP Handbook. (Bates 33049-55.) See discussion under All Permittees. The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees. Finally, the Vallejo Plan includes a requirement for development of a Stormwater Pollution Prevention Plan for construction activities that takes into account site topography, drainage, applicable BMPs, and evaluation of erosion control, among other requirements. (Bates 33063-72.)

C.f. Corporation Yard BMP Implementation

C.2.f. Corporation Yard BMP Implementation

i. Task Description – Corporation Yard Maintenance

- (1) The Permittees shall prepare, implement, and maintain a site specific Stormwater Pollution Prevention Plan (SWPPP) for corporation yards, including municipal vehicle maintenance, heavy equipment and maintenance vehicle parking areas, and material storage facilities to comply with water quality standards. Each SWPPP shall incorporate all applicable BMPs that are described in the California Stormwater Quality Association's Handbook for Municipal Operations and the Caltrans Storm Water Quality Handbook Maintenance Staff Guide, May 2003, and its addenda, as appropriate.
- (2) The requirements in this provision shall apply only to facilities that are not already covered under the State Board's Industrial Stormwater NPDES General Permit.
- (3) The site specific SWPPPs for corporation yards shall be completed by July 1, 2010.

ii. Implementation Level

- (1) Implement BMPs to minimize pollutant discharges in stormwater and prohibit non-stormwater discharges, such as wash waters and street sweeper, vector, and other related equipment cleaning wash water. Pollution control actions shall include, but not be limited to, good housekeeping practices, material and waste storage control, and vehicle leak and spill control.
- (2) Routinely inspect corporation yards to ensure that no non-stormwater discharges are entering the storm drain system and, during storms, pollutant discharges are prevented to the maximum extent practicable. At a minimum, an inspection shall occur before the start of the rainy season.
- (3) Plumb all vehicle and equipment wash areas to the sanitary sewer after coordination with the local sanitary sewer agency and equip with a pretreatment device (if necessary) in accordance with the requirements of the local sanitary sewer agency.
- (4) Use dry cleanup methods when cleaning debris and spills from corporation yards. If wet cleaning methods must be used (e.g., pressure washing), the Permittee shall ensure that wash water is collected and disposed in the sanitary sewer after coordination with the local sanitary sewer agency and in accordance with the requirements of the local sanitary sewer agency. Any private companies hired by the Permittee to perform cleaning activities on Permittee-owned property shall follow the same requirements. In areas where sanitary sewer connection is not available, the Permittees shall collect and haul the wash water to a municipal wastewater treatment plant, or implement appropriate BMPs and dispose of the wastewater to land in a manner that does not adversely impact surface water or groundwater.
- (5) Outdoor storage areas containing waste pollutants shall be covered and/or bermed to prevent discharges of polluted stormwater runoff or run-on to storm drain inlets.

C.f. Corporation Yard BMP Implementation

iii. Reporting – The Permittees shall report on implementation of SWPPPs, the results of inspections, and any follow-up actions in their Annual Report.

All Permittees

Contra Costa Clean Water Program stated that “The California BMP Handbooks are a well recognized and readily available resource, and **reflect the current state of water quality best management practices.**” (Bates 3346, Contra Costa Clean Water Program comment letter [emphasis added].) Numerous permittees cite the CASQA Municipal BMP Handbook as an appropriate set of BMPs which should be used to meet Performance Standards:

Alameda County (Bates 027991)

Fairfield-Suisun (Bates 030596, 030597, 030601, 030603, 030625, 030642, 030650, 030655, 030684-030688.)

San Mateo County (Bates 003878, 004016, 004045, 004027, 003915.)

Santa Clara County Permittees

Campbell (Bates 019044, 019098, 019099, 019120, 019159.)

Cupertino (Bates 019596.)

Los Altos (Bates 019804, 019825, 019838, 019842, 019859, 019875, 019883, 019894, 019902.)

Los Altos Hills (Bates 015582, 019983, 019990, 020059, 020060.)

Los Gatos (Bates 020194-020199.)

Milpitas (Bates 020634.)

Monte Sereno (Bates 021521-021529, 021597, 021624.)

Mountain View (Bates 017017, 021937, 022072.)

Palo Alto (Bates 017211, 017307, 017362, 022231, 022312, 022334.)

San Jose (Bates 017633.)

Santa Clara County (Bates 022778, 022784, 024389, 024396, 024412.)

Water District (Bates 018865, 024788, 024795.)

Saratoga (Bates 023136-023144, 023173.)

C.f. Corporation Yard BMP Implementation

Sunnyvale (Bates 024073, 024080, 024090, 024102, 024220.)
West Valley (Bates 014955, 015197.)

These Handbooks are also known as the CASQA Municipal, Industrial and Construction BMP Handbooks.

The 2003 CASQA Municipal BMPs Handbook (Bates 29705 *et seq.*) has the following relevant sections:

- Spill control and cleanup (Bates 29753 *et seq.*)
- Vehicle and Equipment Fueling (Bates 29759 *et seq.*)
- Vehicle and Equipment Cleaning (Bates 29765 *et seq.*)
- Vehicle and Equipment Repair (Bates 29769 *et seq.*)
- Outdoor Equipment Maintenance (Bates 29787 *et seq.*)
- Outdoor Storage of Raw Materials (Bates 29791 *et seq.*)
- Waste Handling and Disposal (Bates 29797 *et seq.*)
- Parking/Storage Area Maintenance (Bates 29809 *et seq.*)
- Road Maintenance (Bates 29827 *et seq.*)

The CASQA Municipal BMP Handbook states that, “Municipal-owned facilities (e.g. the municipal corporation yard) should be early targets to ensure that the municipality has its ‘own house in order.’ Early initiatives which reduce loadings from significant pollutant sources demonstrate that the municipality has an equitable program (i.e. a ‘level playing field for everyone’). (Bates 31930, Municipal Handbook p. 2-6.) With respect to municipal facilities, the Handbook provides three pages of descriptions of potential sources of contamination from vehicle leaks and spills and lists requirements to prevent or reduce environmental impacts. (*Id.* at Bates 32001-03, Municipal Handbook p. 4-38 – 4-40.) Table 4.1 lists numerous discharge/activities reflected in the Corporation Yard Provision of the MRP. (Bates 32011-17, Municipal Handbook pp. 4-46 – 4-52.)

CASQA’s Industrial BMP Handbook devotes two entire pages are devoted to vehicle and equipment washing and steam cleaning and include such recommendations as off-site commercial washing; using designated covered, bermed wash areas; discharging wash water to sanitary sewer (after communicating with the local sewer authority); educate employees on pollution prevention measures; and filtering and recycling wash water. (Bates 31648, Industrial Handbook p. 4-13.) The Industrial Manual cites the City of Palo Alto as an example of an effective program and lists BMPs for Automotive-Related Industries and Industrial Stormwater Pollution Control developed by the Santa Clara Valley Nonpoint Source Pollution Control Program (1992). (*Id.* at

C.f. Corporation Yard BMP Implementation

Bates 31649, Industrial Handbook p. 4-14.) Additional details are provided in four pages describing how to avoid the discharge of pollutants from vehicle and equipment maintenance by use of good housekeeping practices, controlling waste storage, inspections for leaks, training employees, dry cleaning methods, and controlling wash waters, to name a few. (Bates 31650-53, Industrial Handbook p. 4-15 - 4-18.) The Handbook separately addresses waste storage in four additional pages. (Bates 31665-69, Industrial Handbook p. 4-29 - 4-33.)

BMPs for corporation yards were adopted and utilized well in advance of the MRP, as illustrated by the *Guidelines for Protecting Aquatic Habitat and Salmon Fisheries for County Road Maintenance* (Dec. 2004) (Bates 31093) (Roads Manual), which notes that it derives its guidelines from “Regional Water Quality Control Boards’ erosion control manuals” (Bates 032582 *et seq.* [Original Version] and 032443 *et seq.* [2002 Version]) and built on the San Mateo County Maintenance Standards (Feb. 2001) (Bates 032694 *et seq.*). (See Bates 31094 [Roads Manual Acknowledgements].) The Roads Manual was “designed for Public Works ... to implement when working on County road related projects and facilities.” (Bates 31100, Roads Manual p. 1-3.) “These procedures are intended to contribute to each county’s efforts to meet regulations under [the Phase II NPDES permits which provides for] discharges of storm water from ... (b) certain industrial activities including ... vehicle maintenance (such as County Road Maintenance Yards); and municipal facilities, including roads.” (Bates 31101, Roads Manual p. 1-4.) “NPDES Phase II compliance includes implementation of best management practices, such as those published in these guidelines....” (*Ibid.* See also Bates 31104 [same].) The Roads Manual noted that, “**many of our counties are already implementing many of the best management practices outlined in the manual already....**” (Bates 31099, Roads Manual p. 1-2.) Chapter 9 of the Roads Manual describes BMPs for maintenance facilities, including many of the same BMPs included in the MRP for vehicle and equipment maintenance (Chapter 9.2, Bates 31257 *et seq.*); waste handling, storage and disposal (Chapter 9.4, Bates 031259 *et seq.*); storage of hazardous materials (Chapter 9.5, Bates 31260, *et seq.*); and spill prevention and control (Chapter 9.6 Bates 031261 *et seq.*).

Annual reporting requirements were required by all of the permits prior to the adoption of the MRP: Santa Clara Urban Runoff Pollution Prevention Program (Order No. R2-2001-024) (Doc. 15), the San Mateo Countywide Stormwater Pollution Prevention Program (Order No. R2-1999-059) (Doc. No. 5), the Alameda Countywide Clean Water Program (Order No. R2-2003-0021) (Doc. No. 1), the Contra Costa Clean Water Program (Order No. R2-1999-058) (Doc. No. 3), the Fairfield-Suisun Urban Runoff Management Program (Order No. R2-2003-0034) (Doc. No. 9) and Vallejo Sanitation and Flood Control District (Permit No. CAS612006) (Doc. No. 18).

C.f. Corporation Yard BMP Implementation

Alameda County

Alameda	<p>The Stormwater Quality Management Plan July 2001- June 2008 was incorporated by reference and “considered an enforceable component of” Order No. R2-2003-0021 (Order No. R2-2003-0021, at p. 5.) That Order and Plan covered the following municipalities: Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City. The Plan identified “municipal maintenance activities” as a key area where pollutants must be controlled. (Bates 8717 <i>et seq.</i>) “One of the accomplishments of the Program has been to reach a consensus among the member agencies on how to implement the diverse activities involved in municipal maintenance so as to minimize the stormwater pollution. This resulted in the development of performance standards for street cleaning; storm drainage and watercourse maintenance; litter control; road repair and maintenance; and corporation yard operations.” (Bates 8717.) The self-created, self-imposed Performance Standards include training and reporting. (<i>Ibid.</i>)</p> <p>The 2001-2008 Plan decrees that, “Each agency will implement the municipal maintenance performance standards presented in Section IV. (Bates 8717.) Alameda County’s Stormwater Quality Management Plan dated 2001-2008 identified “Performance Standards for Municipal Maintenance – Corporation Yards and Auxiliary Storage Areas:”</p> <ol style="list-style-type: none"> 2. Each agency will assign one person the primary responsibility for ensuring that BMPs are implemented. This person will also be responsible for ensuring that all persons using the facility are aware of BMPs. 4. Each agency will conduct facility surveys annually - possibly in conjunction with hazardous materials management and/ or spill prevention inspections 5. Each agency will have a Storm Water Pollution Prevention Plan (SWPPP) for each corporation yard. 6. Each agency will inspect the yard routinely to ensure that there are no illegal discharges to the storm drain system and that during storms, pollutant discharges are controlled to the maximum extent
Albany	
Berkeley	
County of Alameda	
Dublin	
Emeryville	
Fremont	
Hayward	
Livermore	
Newark	
Oakland	
Piedmont	
Pleasanton	
San Leandro	
Union City	
Flood County District Zone 7	

C.f. Corporation Yard BMP Implementation

practicable.

7. Each agency will sweep the corporation yard. The agency will dispose of material removed from streets and storm drainage facilities often to eliminate exposure to rainwater and runoff to the storm drain system.

(Bates 8755.) The Performance Standards for washing vehicles/equipment are virtually identical to the MRP:

1. Each agency will clean all vehicles/equipment on designated wash pad areas or off-site if needed so washwater drains to the sanitary sewer or is recycled.
2. Each agency will ensure that wash pad area and sump are large enough so that all washwater drains to the sanitary sewer or recycling system. The agency will re-grade area if necessary or install dikes to convey washwater.

(*Ibid.*) Like the MRP, the Plan requires each agency to have a Storm Water Pollution Prevention Plan, requires regular inspections to ensure that there are no illegal discharges to the storm drain system and that pollutant discharges are minimized during storms. (Bates Number 8755). Similarly, the Plan also required discharge of wash water either to the sanitary sewer or recycling (not to the storm drain). (*Ibid.*) The Plan also required spill cleanup with dry cleaning methods or adherence to BMPs, as well as storage of chemicals in a covered containment area and other wastes in a contained or covered area (8755-6). The 2001-2008 Plan contains similar stringent requirements for refuse holding areas, refueling areas, chemical usage and storage and fleet maintenance/vehicle parking. These all go beyond the requirements of the MRP. (*Ibid.*)

Alameda's Stormwater Quality Management Plan dated 2001-2008 identified as a priority task: "Characterize Sources and Evaluate BMP Effectiveness for Pollutants of Concern." (Bates 8712.) The Plan identified evaluation of structural treatment controls as necessary for an evaluation of overall BMP effectiveness. (*Ibid.*) "The evaluation of this task may include ... 2) identifying ways to improve the effectiveness and application of BMPs." (*Ibid.*)

C.f. Corporation Yard BMP Implementation

The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Contra Costa County

Clayton	<p>The Regional Water Board modified the Corporation Yard Provision in response to a comment letter from the Contra Costa Clean Water Program that recommended: “Add Reference to CASQA BMP Handbooks. Add to the end of the last sentence of [the provision] to read as “<u>and/or the California Stormwater Quality Association’s California BMP Handbook for Municipal Activities.</u>” Rationale for change: The California BMP Handbooks are a well recognized and readily available resource, and reflect the current state of water quality best management practices.” (Bates 3346 [emphasis added].)</p> <p>Contra Costa County clarified its understanding of the application of this provision and then indicated that the Corporation Yard Provision was acceptable: “At the start of this section ‘The requirements in this provision shall apply only to facilities that are not already covered under the State Board’s Statewide Industrial Stormwater NPDES General Permit.’ This language implies that the County’s three Corporation Yards (in Martinez, Richmond and Brentwood) do not have to comply with the requirements of this section, since they are already covered under the General Industrial NPDES Permit (due to their Motor Freight and Transportation Warehousing NAIC code). If the above-noted inference is correct, than this provision is acceptable.” (Bates 3353.) The Regional Water Board responded that Contra Costa County’s understanding was correct. (<i>Ibid.</i>)</p> <p>The Contra Costa Clean Water Program SWMP (1999-2004) (Bates 29566 <i>et seq.</i>) provide extensive, detailed Performance Standards for municipal operations (corporation yards), including</p>
Concord	
County of Contra Costa	
Danville	
El Cerrito	
Hercules	
Lafayette	
Martinez	
Moraga	
Orinda	
Pinole	
Pittsburg	
Pleasant Hill	
Richmond	
San Pablo	
San Ramon	
Walnut Creek	

C.f. Corporation Yard BMP Implementation

Flood County
District

- Catching drips from parked equipment
- Cleaning up spills and leaks using dry methods
- Flushing paint sprayer lines
- Disposing of recycled waste materials at appropriate facilities
- Clean sprayers and patch equipment at the end of the day
- Cover sprayers, patch and paving equipment at the end of the day to protect from rainfall or contacting pollutants
- Assign a person responsibility for BMPs
- Prepare spill containment kits
- Incorporate stormwater BMPs into existing plans
- Conduct annual facility inspections
- Prepare a SWPPP for each maintenance facility
- Develop and post BMPs for other agencies that use the corporation yard
- Distribute educational materials
- Clean vehicles and equipment on designated wash pads
- Monitor wash pads
- Wash vehicles
- Ensure wash water drains to sanitary sewer or is recycled
- Re-grade wash area if necessary or install dikes
- Develop and implement plan for storage of hazardous materials
- Employee training and spills management
- Store spill containment kits near fueling areas
- Train employees in fueling and sweeping procedures
- Cover concrete or asphalt in fueling area with a sealant
- Install signs reminding not to “top off” tanks
- Discourage mobile fueling
- Investigate and implement covered fueling areas if possible
- Design new fueling areas to prevent runoff of stormwater and run-off of spills

ATTACHMENT 1 In Support of Response to Request for Additional Evidence and Briefing on Provisions C.2.b, C.2.c, C.2.e, C.2.f

C.f. Corporation Yard BMP Implementation

- Specifications for chemical and paint containment area
- Chemical and paint must have tight lids
- Review hazardous materials plans annually
- Ensure incompatible materials are not stored together
- Minimize use of chemicals
- Dispose of excess chemicals appropriately
- Develop plan to ensure hazardous materials do not enter storm drain system
- Rinse water from latex paints must go to sanitary sewer
- Dispose or recycle used auto fluids appropriately
- Dispose or recycle chemicals/solvents appropriately
- Inspect equipment for leaks regularly
- Use drip pans under leaky vehicles and repair vehicles
- Use covered shop area to drain and replace motor oil and other fluids; ensure no connection to storm drain or sanitary sewer
- Dry sweep the area periodically
- Inspect yard routinely
- Control pollutant discharges during storms to the maximum extent practicable
- Sweep the paved portion of the corporation yard

(Bates 29652-59. See also Bates 29649 [Municipal Performance Standard noting that SWPPPs were in place].)

The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

C.f. Corporation Yard BMP Implementation

San Mateo County

Atherton	<p>The operative stormwater management plan in place prior to adoption of Order No. R2-2009-0074, was the April 2004-June 2010 Stormwater Management Plan. (Bates 10000 <i>et seq.</i>) That Plan discusses significant changes to prior plans, including:</p> <p style="padding-left: 40px;">The most significant changes to the performance standards include the following.</p> <p style="padding-left: 40px;"><u>Municipal Maintenance</u></p> <p style="padding-left: 40px;">Added a new performance standard that each of the municipalities that have a corporation yard will develop and implement a Stormwater Pollution Prevention Plan that describes how the performance standards for corporation yards will be addressed locally.</p> <p>(Bates 10017. See also Bates 10008 and 10011.) The Plan requires:</p> <p style="padding-left: 40px;">Each of the municipalities will implement the existing performance standards for municipal maintenance specified in Appendix B, as part of its compliance with its stormwater NPDES permit. The Municipal Maintenance Subcommittee will also review municipal maintenance activities, identify those without adequate stormwater pollution controls, and then develop new performance standards or BMPs to eliminate the inadequacies as needed.</p> <p>(Bates 10023. See also 10024-25, 10031, 10076 and 10078.) Appendix B specifies Performance Standards for Corporation Yards, including development, implementation and subsequent bi-annual evaluation of a Stormwater Pollution Prevention Plan (SWPPP) for corporation yards. (Bates 10017 and 10091.) The Performance standards describe restrictions on vehicle and equipment washing, refuse storage areas, fuel dispensing areas, chemical usage, parking areas and material storage facilities. (Bates 10091-10094. See also Bates 9932-36 [1999 Program].) The SWPPP includes directions to convey wash water to sanitary sewer or recycle (not storm drain); store materials away from storm drains on impermeable materials; cover materials during storm events; drain washwater to sanitary sewer or filter, or allow to evaporate; use dry cleanup methods for spills; cover fueling areas; cover paint/chemical storage areas; prevent vehicle fluids from entering drain by maintaining in a place that does not drain to storm system; practice good</p>
Belmont	
Brisbane	
Burlingame	
Colma	
County of San Mateo	
Daly City	
East Palo Alto	
Foster City	
Half Moon Bay	
Hillsborough	
Menlo Park	
Millbrae	
Pacifica	
Portola Valley	
Redwood City	
San Bruno	
San Carlos	
San Mateo	
South San Francisco	
Woodside	
Flood County District	

C.f. Corporation Yard BMP Implementation

housekeeping (inspections); generally keep corporation yards tidy; dry sweep monthly; and stockpile materials away from streets, gutters, storm drain inlets or water channels. (Bates 10091-10094. See also Bates 9932-36 [1999 Program].) The Performance Standards specify inspections and worker training as well. (Bates 10093-94. See also 9932 [1999 Program].)

San Mateo produced the Countywide Stormwater Pollution Prevention Program (rev. June 1999). (Bates 9834 *et seq.*) San Mateo County indicated that it was providing reports concerning stormwater controls and BMPs by 1999. (Bates 9907-9916 [regulatory compliance with NPDES reports].)

The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Santa Clara County

SCVURPPP

SCVURPPP requested clarifications to the MRP to allow wash waters to flow to vegetated areas or other areas that do not impact water quality where sanitary sewers were not available. The Regional Water Board accepted those proposed amendments. (Bates 7391.)

In 1997, the Santa Clara Valley Urban Runoff Management Plan confirmed that SWPPPs were in place or being developed for permittees:

Each Co-permittee that operates a municipal corporation yard has prepared, or is preparing, a Storm Water Pollution Prevention Plan (SWPPP) for that facility. The Co-permittees will continue to implement the SWPPPs and update them with additional control measures to improve effectiveness.

(SCVURPPP 1997 URMP, Bates 14367-68.) The SCVURPPP 2004 Urban Runoff Management Plan (Bates 12180 *et seq.*) stated that “Each Co-permittee that operates a municipal corporation yard has prepared a Storm Water Pollution Prevention Plan (SWPPP) for that facility. The co-permittees will continue to implement the SWPPPs and update them with additional control measures to improve

C.f. Corporation Yard BMP Implementation

	<p>effectiveness.” (Bates 12246.)</p> <p>The 1993 CASQA Municipal and Industrial/Commercial BMP Handbook was funded by Alameda County Public Works Agency, Contra Costa County Flood Control, and Santa Clara Valley Water District (the fiscal agents for the respective countywide programs). (Bates 031592.) See discussion under All Permittees.</p>
County of Santa Clara	<p>The 1997 SCVURPPP demonstrated that Santa Clara County had Corporation Yard (roads maintenance yards) SWPPPs already in place. (Bates 14641.) The Santa Clara County 1997 URMP (Bates 18540 <i>et seq.</i>) similarly states that the SWPPP was complete in 1997. (Bates 18572.) The Santa Clara County 2004 URMP (Bates 24312 <i>et seq.</i>) further demonstrates compliance pre-dating the MRP. (Bates 24471 [SWPPP in place], 24516 [training conducted at bi-monthly tailgate meetings], 24609-24610 [staff training], 24617, 24620, and 24627 [modifications to the Performance Standards reflecting Santa Clara County’s SWPPP].) Santa Clara County cites to the CASQA Municipal BMP Handbook as a basis for Model BMPs. (Bates 24451.) See discussion under All Permittees</p>
Cupertino	<p>Cupertino’s Corporation Yard SWPPPs have been in place since 1995. (Bates 14618 [1997 SCVURPPP]. See also Cupertino 1997 URMP at Bates 15273, 15223 [Cupertino followed BMPs for the Corporation Yard in 1997], 15397-98 [Corporation Yard O&M activities], 15368 [City spill management], 15334 [BMPs for Vehicle/Equipment Maintenance], 15397-400 [detailed explanation of City’s maintenance and storage operations and compliance with BMPs].) As of 1997, the City of Cupertino produced annual reports and evaluations of the City’s Urban Runoff Program. (Bates 15221.) The 2004 Cupertino URMP further documents that the City implemented BMPs above and beyond the MRP requirements. (Bates 019310-019311 and 019474-75 [spill control and SWPP reference].)</p>
Los Altos	<p>The Los Altos 1997 URMP (Bates 15429 <i>et seq.</i>) demonstrates that Los Altos’ Corporation Yard SWPPPs have been in place since FY 95/96. (Bates 14620. See also Bates 15440 [BMPS already implemented] and 15443.) The Performance Standards are as rigorous as the MRP. (Bates 15473 [Equipment Cleaning, Maintenance and Storage]. See generally Bates 15470-76 [see numerous BMPs referencing spill control and equipment maintenance].) As of 1997, Los Altos was performing an evaluation of the urban runoff</p>

C.f. Corporation Yard BMP Implementation

	<p>program on an annual basis and during preparation of the Annual Report. (Bates 15436.)</p> <p>The 2004 Los Altos URMP (Bates 19777 <i>et seq.</i>) affirms the City was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. Los Altos references the CASQA Industrial BMP Handbook as the basis for its Performance Standards. (Bates 19825. See also Bates 19838 [“City policy to follow the California Stormwater Quality Association Stormwater Best Management Practice Handbook”] and 19842 [describing specific BMPs adopted from the CASQA Municipal BMP Handbook].) Los Altos continued to comply with annual reporting requirements. (Bates 19794.)</p>
Los Altos Hills	<p>By 1997, Los Altos Hills had adopted Performance Standards for equipment cleaning, maintenance and storage, including Performance Standards pertaining to corporation yards. (Bates 15570.) The Town prepared and implemented a SWPPP for the corporation yard in that timeframe. (Bates 15582-83, 15591, 15594-96, 15602-11.) The Town of Los Altos Hills holds a minimum of annual trainings for municipal staff. (Bates 15520. See also Bates 15621 [municipal employee training critical to maximize pollution prevention].) In 1997, the Town of Los Altos Hills adopted the 1993 CASQA Municipal BMPs Handbook as model BMPs to be used for compliance in the implementation of the Performance Standard. (Bates 15564.)</p> <p>The 2004 Los Altos Hills URMP (Bates 19961 <i>et seq.</i>) affirms the Town was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (Bates 20001 <i>et seq.</i> [control measures applied to both private and municipal works]; 19984-19989 [Source Control Measures included parking lots, refused areas, outdoor process activities/equipment, outdoor equipment/materials storage, vehicle/equipment cleaning/repair/maintenance, fuel dispensing areas, and miscellaneous drain or wash water]; and 19989 [Operational BMPs for vehicle/equipment repair and maintenance and fueling areas].) Los Altos Hills references the CASQA BMP Handbook as the basis for its Performance Standards. (Bates 20059-60. See also 20060 [referencing Town of Los Altos Hills Corporation Yard Hazardous Materials Business Plan and SWPPP].) The Town continued to comply with annual reporting requirements. (Bates 19967.)</p>

C.f. Corporation Yard BMP Implementation

Milpitas	<p>Milpitas adopted Corporation Yard SWPPPs on July 20, 1996. (Bates 14622.) The 2000 Milpitas URMP (Bates 16127 <i>et seq.</i>) included provisions governing corporation yards. (Bates 16129 [confirming an update to the Corp Yard to conform to input received from the FY 98/99 annual report review]; 16346 [equipment cleaning and maintenance] and 16351-52 [spill control]. See also Bates 16452-80 [Corp Yard SWPPP]; 16542-46 [Corp Yard 1998-99 update].) Milpitas had annual reporting in place prior to the MRP. (Bates 16485 [Annual Reporting Form].)</p> <p>The 2004 Milpitas URMP (Bates 20433 <i>et seq.</i>) affirms Milpitas was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (Bates 20441-42 [outline of Corporation Yard Performance Standard]; 20472 [reference to 2002-03 Annual Report for list of completed activities]; 021011-021065 [Corp Yard SWPPP].) Milpitas continued to comply with annual reporting requirements. (Bates 21014.)</p>
Mountain View	<p>As of 1997, the Mountain View Corporation Yard SWPPPs were completed. (Bates 14624. See also 16710 [SWPPP prepared in 1995], 16717 and 17062 [same].) Mountain View’s 1997 URMP (Bates 16630 <i>et seq.</i>) emphasized that Performance Standards identified “the level of implementation for activities and was based on current and proposed practices that the City is/or will be implementing to minimize water quality impacts, and practices that are accepted by the State and Regional Board as being effective in controlling these impacts.” (Bates 17060.) The Performance Standards cover the same issues as the MRP. (Bates 17071-74.) The 1997 Mountain View URMP includes Performance Standards that are even more rigorous than the MRP requirements. (Bates 17002 <i>et seq.</i>) These provisions include Performance Standards for Bridge and Structure Maintenance, including graffiti removal. (Bates 17004, 17005, 17024-25.) Mountain View performed annual reporting. (Bates 16643 and 17081-82.)</p> <p>The City of Mountain 2004 URMP (Bates 21767 <i>et seq.</i>) affirms that Mountain View was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (Bates 022146-022147, 22155-57 [BMPs for equipment and vehicle maintenance, vehicle and equipment washing, debris and solid waste] and 022158.) Mountain View continued to comply with annual reporting requirements. (Bates 22148.)</p>

C.f. Corporation Yard BMP Implementation

Palo Alto	<p>The 1997 URMP for Palo Alto states, “The City of Palo Alto's urban runoff pollution prevention program conforms to the requirements of the [SCVRUPPP] model Performance Standards for each of these activities.” (Bates 17098.) Corporation Yard SWPPPs were in place since August 14, 1995. (Bates 14624. See also Performance Standards for Spill Control at Bates 17357-38.)</p> <p>The 2004 Palo Alto URMP (Bates 22193 <i>et seq.</i>) affirms that Palo Alto was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (Bates 22321 <i>et seq.</i> [Storm Drain Pollution Prevention Guidelines, including street and utility maintenance, vehicle and other wastes]; 22393 [Performance Standard]; 22400 [equipment cleaning, maintenance and storage Performance Standard]; 22410 [spill control Performance Standard] 22411 [standard operating procedures for implementing municipal BMPs]; 22417 [equipment cleaning, maintenance and storage BMPs]; 22423-24 [spill control BMPs].) Palo Alto incorporated the CASQA Municipal BMP Handbook BMPs in its Performance Standard. (Bates 22393.) Palo Alto continued to comply with annual reporting. (Bates 22425-26.)</p>
San Jose	<p>San Jose’s 1997 URMP (Bates 17483 <i>et seq.</i>) listed a number of BMP publications “used by the City of San Jose to meet the goals of the Performance Standards set out in this URMP.” (Bates 17589.) This list includes:</p> <ul style="list-style-type: none"> • California Storm Water Best Management Practice Handbooks: Municipal • California Storm Water Best Management Practice Handbooks: Industrial/Commercial <p>(<i>Ibid.</i> See also Bates 17517-18 [key program elements]; 17799 [Corporation yard applicable Performance Standard]; Bates 17488 [disposal priorities for municipal activities].) The 1997 URMP indicates that San Jose used annual reporting to detail milestone accomplishments during the reporting period.]</p> <p>The San Jose Urban Runoff Management Plan (Sept. 2004) (Bates 9519 <i>et seq.</i>) notes that “Municipal facilities are required to comply with stormwater regulations. <i>Efforts to reduce contaminated discharges from City facilities must be similar to those required of private businesses.</i> While many elements for permit compliance are in place, the City requires a systematic approach to City facilities compliance at the level of effort required in the URMP.” (Bates 9504 [emphasis added]. See also Bates 9577.) The Plan</p>

C.f. Corporation Yard BMP Implementation

	<p>devotes an entire section to Municipal Compliance and notes that corporation yard assessments and inspections were already being conducted annually, SWPPP training at City corporation yards was already being conducted annually, a citywide meeting would be held annually to discuss hazardous material, safety and stormwater issues for City corporation yards (up to two times per year). (Bates 9577.) San Jose’s Standard Operating Procedures for the Department of Transportation provides additional documentation that the MRP was not a new requirement above and beyond standard practices at the City of San Jose in 2004. (See Leak Prevention Standard Operating Procedures, Bates 9263 <i>et seq.</i> See also Bates 9317, Vehicle and Equipment Cleaning and Maintenance in the Field [“Runoff pollution control guidance for vehicle and equipment cleaning in the corporation yards is included in the Storm Water Pollution Prevention Plans for each of the City’s corporation yards”]; Bates 9577 [all SWPPPs for the City of San Jose’s corporation yards were updated by 2007] See also Bates 9714-15 [spelling out specific program elements applicable to city facilities to ensure compliance with stormwater requirements].)</p> <p>San Jose documented that it was already reporting back to the Regional Water Board on all requirements before the MRP was adopted: “The current permit [Order 01-024, adopted February 21, 2001] stresses documentation of effort and effectiveness evaluation. To comply with this requirement, each set of Performance Standards has related milestones, a five-year workplan with targeted completion dates, and identification of responsible City Department(s). This structure allows the City to document actions ... This feedback loop is completed through the Annual Reporting process that details milestone accomplishments during the reporting period.” (Bates 9015.)</p>
Santa Clara	<p>The 1997 SCVURPPP URMP indicated that City of Santa Clara already had Corporation Yard SWPPPs in place. (Bates 14630. See also Bates 17898.) The 1997 Santa Clara Urban Runoff Pollution Prevent Program (Bates 17823 <i>et seq.</i>) demonstrates implementation of activities that would meet or exceed the MRP requirements. “The City [of Santa Clara] has adopted the Performance Standards as developed by the SCVURPPP. Generally, all the provisions for the individual Performance Standards are applicable.” (Bates 17843.) The City of Santa Clara URMP describes activities that replicate the MRP requirements. (Bates 17972 [equipment cleaning and storage].) The City of Santa Clara had daily, monthly and annual training for City staff. (Bates 17983.) As of 1997, the City maintained “a monthly activity reporting system” for “reviewing and evaluating the effectiveness of the BMPs....” (Bates 17962.)</p>

C.f. Corporation Yard BMP Implementation

	<p>The Santa Clara 2004 updated Urban Runoff Pollution Prevention Program (Bates 22629 <i>et seq.</i>) affirms that Santa Clara was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (Bates 22665 [City adopted the Performance Standards as developed with minor clarifications for public streets, roads and highways]; 22825-22846 and specifically 22841 [Performance Standard for Equipment Cleaning, Maintenance and Storage]; 22851 [Spill Control Performance Standard]; and 22830 [previously incorporated all applicable Performance Standards and BMPs as Standard Operating Procedures].) Santa Clara cited the CASQA Industrial BMP Handbook and the CASQA Municipal BMP Handbook as the basis for BMPs. (Bates 22709 and 22833.) Santa Clara continued to comply with annual reporting. (Bates 22425-26, 22724.)</p>
Sunnyvale	<p>The 1997 SCVURPPP URMP indicated that City of Sunnyvale already had Corporation Yard SWPPPs in place since 1994. (Bates 14632. See also Bates 23367 [the City’s 1997 URMP included strategies for mitigating water quality impacts for the corp yard] and 23705 [SWPPP prepared for the corporation yard in 1994].) The 2000 Sunnyvale URMP (Bates 18013 <i>et seq.</i>) demonstrates implementation of activities that would meet or exceed the MRP requirements. (See generally Bates 18275-18300. In particular, see 18291 [Standard Operating Procedures for equipment cleaning, maintenance and storage] and 18299 [Standard Operating Procedures for Spill Control]. See also 18301-302 [BMPs for routine maintenance]; 18313 [BMPs for Equipment Cleaning, Maintenance and Storage]; and 18326 [BMPs for Spill Control].) The City also maintained annual reporting. (18302)</p> <p>The Sunnyvale 2004 URMP (Bates 23354 <i>et seq.</i>) affirms that Sunnyvale was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (See also 2004-05 Work Plan, Bates 23705 [Corporation Yards Operation and Maintenance].) Sunnyvale continued to comply with annual reporting. (Bates 25346.)</p>
Water District	<p>The 1997 SCVURPPP URMP indicated that Santa Clara Valley Water District already had Corporation Yard SWPPPs in place. (Bates 14643. See also Bates 18747 and 18755.) The 1997 Santa Clara Valley Water District URMP (Bates 18745 <i>et seq.</i>) demonstrates implementation of activities that would meet or exceed the MRP requirements. (Bates 18752 [“the District implements control measures for operation of its corporation yards]; 18755; 18893 [BMPs for vehicle fueling and servicing operations]; and 18895 [BMPs for storage and handling of chemicals].) The 1997 BMPs also cite to the 1993 CASQA BMP</p>

C.f. Corporation Yard BMP Implementation

	<p>Handbook. (Bates 18891.) Annual reporting was already occurring. (Bates 18747.)</p> <p>The District’s 2004 URMP (Bates 24704 <i>et seq.</i>) affirms that the District was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (Bates 24719 [corporation yards]; 24790-91 [Performance Standards for vehicle/equipment cleaning, vehicle/equipment maintenance and repair, and fuel dispensing areas]; and 24793-94 [Performance Standards for outdoor process activities/equipment, outdoor equipment/materials storage].) The 2004 URMP references the CASQA Municipal BMP Handbook as a basis for BMPs. (Bates 24743.) The District continued to comply with annual reporting. (Bates 24718.)</p>
<p>West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga)</p>	<p>In 1996, the West Valley Communities (Campbell, Los Gatos, Monte Sereno and Saratoga) worked together to develop a Community Specific URMP. (Bates 14652 <i>et seq.</i> [revised 2000].)</p> <ul style="list-style-type: none"> • City of Campbell (Bates 14634 [indicating that Corporation Yard SWPPPs were already in place]. See also Bates 14955, 14961, and 14963.) • Town of Los Gatos (Bates 14636 [indicating that Corporation Yard SWPPPs were already in place]. See also Bates 14955, 14961, and 14964 and 20145.) • City of Monte Sereno (Bates 14637 [indicating that the city does not operate a corporation yard]. See also Bates 14955.) • City of Saratoga (Bates 14639 [indicating that the city does not operate a corporation yard]. See also Bates 14955, 14961, and 14965.) <p>Certification that each of the West Valley Communities were implementing SWPPPs (for those communities with corporation yards) as of 1997 are at Bates 14961 and following. Each of the West Valley Communities participated in Annual Reporting. (See, e.g., 35663 <i>et seq.</i> [City of Campbell 2005-06 Annual Report]; 36134 <i>et seq.</i> [Los Gatos 2005-06 Annual Report]; 36467 <i>et seq.</i> [Monte Sereno 2005-06 Annual Report]; and 37139 <i>et seq.</i> [Saratoga 2005-06 Annual Report].)</p> <p>The 2004 West Valley Communities URMP (Bates 18902 <i>et seq.</i>) verified the following:</p> <ul style="list-style-type: none"> • Campbell continued to implement the SWPPP and BMPs for the corporation yard. (Bates 18925

C.f. Corporation Yard BMP Implementation

and 19038. See also 19020 [Performance Standard for Equipment Cleaning, Maintenance and Storage]; 19025 [Spill Control BMPs]; 19031 [Equipment Cleaning, Maintenance and Storage BMPs] and 19034 [Spill Control BMPs].)

- The Town of Los Gatos 2004 URMP (Bates 20073 *et seq.*) indicated a SWPPP was in place and implementation of BMPs was ongoing. (Bates 20127 [Performance Standard for Equipment Cleaning, Maintenance and Storage]; 20132 [Spill Control BMPs]; 20138 [Standard Operating Procedures for Equipment Cleaning, Maintenance and Storage]; 20141 [Standard Operating Procedures for Spill Control].)
- The Monte Sereno 2004 URMP (Bates 21397 *et seq.*) confirmed that Monte Sereno had no City maintenance staff (Bates 21455), performed no equipment cleaning, maintenance or repair (Bates 21459) and had no corporation yard, equipment and did not use or store chemicals (Bates 21468.)
- The Saratoga 2004 URMP (Bates 22964 *et seq.*) confirmed that Saratoga had a SWPPP in place and was implementing BMPs for the corporation yard. (Bates 22983; 23071 [Performance Standard for Equipment Cleaning, Maintenance and Storage]; 23077 [Performance Standard for Spill Control]; 23083 [Equipment Cleaning, Maintenance and Storage BMPs]; and 23086-87 [BMPs for Spill Control].)

The CASQA Municipal BMP Handbook was a basis for BMPs to be used “for compliance in implementing the performance standard.” (See, e.g., Bates 19015 [City of Campbell]; 20122 [Town of Los Gatos]; 21458 [Monte Sereno]; 23066 [Saratoga].) The West Valley Communities continued to perform annual reporting. (Bates 19006 and 19013 [Campbell annual inspection and report]; 20120 [Los Gatos annual reporting]; 21456 [Monte Sereno annual reporting]; and 23063 [Saratoga annual reporting].)

Solano County

Fairfield

Fairfield-Suisun adopted a URMP in October 1999 (Bates 30023 *et seq.*) As of 1999, Fairfield-Suisun had already implemented BMPs for corporation yards, including fueling activities, equipment cleaning, hazardous and nonhazardous waste storage management, equipment maintenance, yard housekeeping and

C.f. Corporation Yard BMP Implementation

Suisun	<p>spill management. (Bates 30038, 30058-59; 30101-103; 30116-17 [Equipment Cleaning, Maintenance and Storage BMPs]; 30123 [Spill Control BMPs].) BMP training for staff was in place for all program components. (Bates 30061.) Annual reporting was already occurring. (Bates 301047.)</p> <p>The Fairfield-Suisun 2007 Stormwater Management Plan (Bates 30734 <i>et seq.</i>) affirms that Fairfield-Suisun was already in compliance with Performance Standards and implementing BMPs exceeding the requirements of the MRP. (See Bates 30344-45 [Municipal Government Maintenance Activities]; 30411-12 [same]; 30414-15 [evaluation of corporation yards' compliance with BMPs]; 30418-19 [Corporation Yard Performance Standards]; 30421 [task to maintain corporation yards]; 30431 [Equipment Cleaning, Maintenance and Storage BMPs]; 30432 [same]; and 30438 [Spill Control BMPs]. See also model storm water pollution control measures list at Bates 30614 [outdoor process activities/equipment] 30615 outdoor equipment/materials storage and vehicle/equipment cleaning]; 30615-16 [vehicle/equipment repair and maintenance]; 30616 [fuel dispensing areas]; and 30617 [miscellaneous drain or wash water].) Fairfield-Suisun continued to comply with annual reporting. (Bates 30422.)</p>
Vallejo Permittees	
Vallejo	<p>EPA issued Permit No. CAS612006, May 30, 1999, which governed the areas of the City of Vallejo and surrounding unincorporated areas in Solano County. (Bates 014273 <i>et seq.</i>) Pursuant to that permit, Vallejo Sanitation and Flood Control District adopted a 1999 Storm Water Control Plan (Bates 14275-76. See Bates 33019 <i>et seq.</i>) BMPs that address public agency storm water concerns include requirements for installing vehicle and equipment wash pads, maintenance of spill prevention plans, proper storage of toxic materials, and good housekeeping practices. (Bates 33021.)</p>
Vallejo Sanitation and Flood Control District	<p>In Vallejo's 1999 Storm Water Management Plan, Vallejo devotes a section of the document to Industrial/Commercial Sources, and lists public agency activities in the priority ranking. (Bates 33037.) Requirements for these entities include "installing washpads to direct wastewater flows to the sanitary sewer system, providing secondary containment of stored materials, implementation of spill control programs, implementation of programs to maintain good housekeeping practices, and requirements to clean private catch basins prior to the rainy season." (Bates 33037.) Control measures include:</p>

C.f. Corporation Yard BMP Implementation

3.5.1 Pollution Prevention/Source Minimization Measures

... Several requirements designed to control the discharge of pollutants have been developed by the District, the major requirements include the following:

- Businesses are required to provide secondary containment where hazardous materials and wastes are stored
- Spill prevention/containment programs are required for businesses that store hazardous materials
- Businesses and property owners are required to clean their catch basins periodically
- Businesses are required to implement and maintain good housekeeping programs

(Bates 33038.)

Under section 3.5.2 Structural Measures, Vallejo notes the requirement to implement structural controls for “[w]ashing facilities that direct wastewater to the sanitary sewer system are prerequisites for businesses that wash vehicles or equipment.”

(Bates 33038.)

Vallejo also cites applicable documents containing BMPs, including ““Guidelines for Vehicle Service Facilities,” a series of brochures developed to address pollution concerns at automotive service facilities.”

Vallejo’s 1999 Storm Water Management Plan established the following BMPs:

4. Outdoor Storage Controls – Oil, fuels, solvents, coolants, and other chemicals stored outdoors must be in containers and protected from drainage by secondary containment structures such as berms and roof covers. Bulk materials stored outdoors shall also be protected from drainage with berms and covers. Process equipment stored outdoors shall be inspected for proper operation and leaks, stored on impermeable surfaces and covered. Storage area must implement a regular program of sweeping and litter control and a spill prevention/cleanup plan shall be in place. Vallejo noted that

C.f. Corporation Yard BMP Implementation

all public agency projects were subject to BMPs. (Bates 33053.)

Vallejo also adopted the BMPs described in the California Storm Water [CASQA] Industrial Activity BMP Handbook. (Bates 33052.) The 2003 CASQA Municipal BMP Handbook was funded by Alameda County, Contra Costa County, San Mateo County, and Vallejo Sanitation and Flood Control District (the fiscal agents for the respective countywide programs). (Bates 29709-10.) See discussion under All Permittees.

Vallejo inspectors received training on BMP usage “on the job and by attending conferences and other classes.” (Bates 33039.) Vallejo public agency personnel will be notified of and encouraged to attend continuing education regarding construction and erosion control. (Bates 33045.)