CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: STORMWATER PERMIT ANNUAL REPORT 2020-2021

DATE: September 7, 2021

Approved  Date 09/10/21

RECOMMENDATION

Adopt a resolution authorizing certification and submittal of the FY 2020-2021 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2021, in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act.

OUTCOME

Approval of this recommendation will result in submittal of the FY 2020-2021 Annual Report to the Regional Water Quality Control Board (Water Board) as required by the Stormwater Permit.

EXECUTIVE SUMMARY

The Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Stormwater Permit) requires the City to submit a Stormwater Management Annual Report (Annual Report) by September 30 of each year certifying implementation of and compliance with the Stormwater Permit requirements that adhere to the Federal Clean Water Act. The Annual Report fulfills the requirement for reporting on activities undertaken from July 1, 2020, through June 30, 2021.

The Clean Water Act and the Stormwater Permit specifies actions necessary to reduce the discharge of pollutants in stormwater into the waterways and municipal storm sewer system to protect and enhance water quality in local creeks and the Bay. The current 5-year Stormwater Permit became effective January 1, 2016 and has been administratively extended by the Water Board until the next Stormwater Permit is issued. It includes a wide range of requirements related to green stormwater infrastructure, trash reduction, and polychlorinated biphenyls (PCBs) control measures in addition to others. Staff from Environmental Services (ESD); Public Works (PW); Planning, Building and Code Enforcement (PBCE); Transportation (DOT); Parks, Recreation and Neighborhood Services (PRNS); Housing, and the City Attorney's Office

departments collaborated to compile this report summarizing compliance efforts citywide. This memorandum highlights the City's activities supporting compliance with the Stormwater Permit during the reporting period and highlights activities planned for FY 2020-2021.

BACKGROUND

Stormwater enters the City's storm sewer system which is separate from the sanitary sewer system. Stormwater travels through approximately 32,000 inlets, then is conveyed through approximately 1,130 miles of storm sewer mains, and eventually discharges largely without treatment, through 1,500 outfalls, to approximately 136 miles of local creeks and streams and ultimately to the San Francisco Bay. Discharged water is comprised of rainfall, irrigation water, and other water used outdoors along with pollutants that are collected and transported as it flows across rooftops, sidewalks, driveways, streets, and landscaping.

The Federal Clean Water Act requires the City to operate its municipal separate storm sewer system under a NPDES permit for the discharge of stormwater to surface waters. The Stormwater Permit specifies actions within a 5-year permit term necessary to reduce the discharge of pollutants in stormwater to the maximum extent practicable and essentially prohibits non-stormwater discharges into the municipal storm sewer system in order to protect local creeks and the Bay. The Stormwater Permit requires reduction of pollutants to storm drains resulting from routine municipal operations; appropriate site design and treatment measures to manage stormwater runoff quality and quantity from new and redevelopment project sites; inspection of construction sites and industrial and commercial facilities that could potentially contribute to stormwater pollution; prohibition, detection, control, and elimination of illicit discharges; implementation of control methods for pollutants of concern such as PCBs, pesticides, mercury, and trash; and monitoring to track water quality status and trends.

The Stormwater Permit requires the City to submit an Annual Report by September 30 of each year, documenting performance of required actions and certifying Stormwater Permit compliance. The Annual Report follows a standardized reporting template approved by Water Board staff. This standardized reporting template used by all 76 agencies throughout the Bay Area regulated by the permit provides the Water Board with consistent information about permittee compliance. The referenced Annual Report fulfills the requirement for reporting on activities undertaken from July 1, 2020, through June 30, 2021.

Actions to prevent pollution from entering the City's storm sewer system involve various City operations, as well as the daily activities of San José residents and businesses. Collaborative Citywide effort is critical to prevent stormwater pollution and protect water quality and includes partnership with these City departments: ESD; PW; PBCE; DOT; PRNS; Housing, and the City Attorney's Office. ESD provides Permit oversight and coordinates implementation across the various City departments.

ANALYSIS

Stormwater Permit Implementation Highlights for FY 2020-2021

City departments implementing the Permit requirements worked diligently to meet the challenge of conducting compliance activities. Accomplishments during FY 2020-2021 demonstrate the collective efforts of City departments to improve the condition of local creeks and waterways and reduce pollutant loads to San Francisco Bay.

Highlights of key Stormwater Permit implementation activities for FY 2020-2021 and the upcoming year are summarized below:

New Development and Redevelopment and Green Stormwater Infrastructure
The Permit mandates that new development and redevelopment projects meeting certain criteria include appropriate source control, site design, and treatment measures to manage stormwater runoff pollutants and prevent increases in runoff flows from project sites (i.e. "Regulated Project"). Compliance is achieved primarily through the development review, planning, and permitting processes by ensuring water quality protection is integrated into new and redevelopment projects.

The Permit further requires regular inspections to ensure proper installation, operation, and maintenance of treatment systems. During FY 2020-2021, ESD and PW coordinated on updates to GIS-linked digital Green Stormwater Infrastructure (GSI) inspection forms. To aid in the implementation of inspections and operation and maintenance practices the City created a GSI Maintenance Field Guide. In FY 2020-2021, ESD presented the GSI Maintenance Field Guide at a countywide workshop. Staff plans to conduct in-person training for City maintenance staff in FY 2021-2022 taking into consideration the challenges of the COVID-19 pandemic.

During FY 2020-2021, PW staff reached out to several stakeholder organizations and agencies, such as the Open Space Authority, Valley Water, and Save the Bay to discuss potential GSI regional project and green street project locations. PW also presented on the GSI Plan, near- and long-term implementation plan and funding challenges at a Parks and Recreation Commission meeting on April 7, 2021, and provided a GSI project status report to the Transportation and Environment Committee on the GSI Plan and Measure T funding on May 3, 2021[1].

Trash Load Reduction
The goal of this Permit provision is to reduce and eliminate trash passing through the municipal separate storm sewer system (MS4[2]) to protect uses of waterways to which the system discharges. This provision includes mandatory trash load reduction goals and compliance targets of 70% trash load reduction by 2017, 80% trash load reduction by 2019, and a goal of 100%

[1] City of San José - File #: CC 21-110
[2] The Municipal Separate Storm Sewer System is shortened to "MS4", "municipal" then four words starting with the letter "s". The City's National Pollutant Discharge Elimination System (NPDES) existing permit is referred to as the MRP2.0, and the upcoming permit is referred to as the MRP3.0.

trash load reduction from the MS4 by 2022. The City's trash load reduction as of July 1, 2021 is 100.2%.

The City achieved the current reduction through a combination of full trash capture systems; source control actions; a Direct Discharge Trash Control Program (DDTCP); additional creek and shoreline cleanups conducted by non-profit groups; and on-land trash control efforts verified by visual assessments. Each of these program efforts, and the associated trash load reductions are described below.

Full Trash Capture Device Installation
The City installed in previous fiscal years a combination of large and small full trash capture devices to prevent trash from polluting waterways and continued to maintain the devices in FY 2020-2021. Since 2011, the City installed a total of 27 large full capture Hydrodynamic Separator (HDS) systems which are underground devices in the MS4 that intercept trash. The City currently has 108 Connector Pipe Screens (CPS) which are small full trash capture devices in storm drain inlets that retain trash and debris in the catch basin. Collectively, these HDS and CPS systems treat 12,940 acres of trash generating areas in the City. The City claims a 49.6% trash load reduction credit for full trash capture systems.

Direct Discharge Trash Control Program
In August 2016, the City received approval of the DDTCP from the Water Board and authorization to receive up to a 15% trash load reduction offset for encampment cleanups. ESD, Housing, PRNS and SJPD continue to partner on implementing a DDTCP with the objective to remove trash from significant stretches of Coyote Creek, Guadalupe River, and Los Gatos Creek impacted by homeless encampments. DDTCP efforts include outreach to homeless individuals, cleanup of encampment trash and debris, removal of residual trash from creeks, and patrol of focus areas. In FY 2020-2021, the DDTCP efforts removed 349 tons of trash from creeks. The City is claiming the maximum allowable 15% trash load reduction offset based on the volume of trash removed in FY 2020-2021.

Additional Creek and Shoreline Cleanups
City partners including Downtown Streets Team (DST), Keep Coyote Creek Beautiful (KCCB), South Bay Clean Creeks Coalition (SBCCC) continued cleanups along Coyote Creek, Los Gatos Creek, and the Guadalupe River. DST crews removed 35 tons of trash from San José waterways. More than 1,755 volunteers participated in 59 creek cleanups led by KCCB and SBCCC and removed 156 tons of trash. Collectively, these partners removed 191 tons of trash from San José's creeks in FY 2020-2021. The City claimed a 10% trash load reduction offset for Additional Creek and Shoreline Cleanups and plans to continue this effort in FY 2021-2022.

Jurisdictional Source Controls
The City continues to implement and assess the Single-Use Carryout Bag Ban ordinance that became effective January 1, 2012 and the EPS Foam Food Container Ordinance that became effective for all food service establishments January 1, 2015. In FY 2020-2021, staff responded to two complaints of non-compliance. To reduce the transmission of the COVID-19 virus, the

Governor issued Executive Order N-54-20 suspending enforcement of the State's single use bag ban and the Santa Clara County Health Department issued an Order prohibiting customers from bringing their own reusable bags from home. To be consistent with these orders, the City suspended its enforcement of the Single-Use Carryout Bag Ban during May and June 2020. The City is claiming the maximum 10% trash load reduction credit for its jurisdiction-wide source control programs.

On-land Visual Trash Assessments
The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) conducts on-land visual trash assessments to evaluate changes in the level of trash that could be transported into the storm sewer system. In FY 2020-2021, assessments showed a 15.6% trash load reduction. The results may reflect the impact of City trash control measures such as street sweeping, the Removing and Preventing Illegal Dumping Team, public litter cans, the Anti-Litter Program, BeautifySJ, and public outreach.

Polychlorinated Biphenyls (PCBs) Controls
The Water Board has assigned a particularly high priority to PCBs in the Permit since urban stormwater is thought to be the primary pathway of new PCBs loads to the San Francisco Bay. Bay-wide, stormwater Permittees are required to reduce PCBs loads within the Permit term by implementing a variety of control measures including screening for PCBs before demolishing a building. As of July 1, 2019, project applicants must complete PCBs screening forms prior to City approval of building demolitions. Information about the program is available at www.sanjoseca.gov/ManagingPCBs. The City must provide documentation to the Water Board of the number of applicable structures that applied for a demolition permit during the reporting year, and a running list of the applicable structures that had materials with high PCBs concentration via the SCVURPPP Annual Report.

The draft *FY 2020-2021 Stormwater Permit Annual Report* is available on the City website at www.sanjoseca.gov/stormwaterannualreports[3]

Upcoming Stormwater Permit Reissuance

In February 2021, Water Board staff released an administrative draft of the next Stormwater Permit (MRP 3.0) and San José staff and other co-permittees provided comments on proposed changes. Water Board staff is proposing several changes with potentially substantial impact to the City. One of the most concerning modifications under consideration is the proposal to phase out trash reduction offsets (i.e. DDTCP, and additional creek and shoreline cleanups) which means the City will need to determine new ways to address the 100% trash load reduction requirement. Water Board staff have also proposed other permit changes that will be challenging to meet including setting a mandatory GSI implementation target, requiring additional programs to address PCBs loads, and a new provision focused on appropriate management actions and data tracking related to water quality impacts associated with recreational vehicles and homeless

[3] All documents referenced as web links are also available for review in the City Clerk's Office or the Environmental Services Department. To find a report at the website, select the Council date and item number.

encampments. City staff and other co-permittees are engaged in discussions with Water Board staff and expressed concerns and detailed potential impacts that could occur as a result of these changes. Water Board staff has indicated the Tentative Order will be open to public comment by Fall 2021 and adopted by their board by Winter 2021. The next Stormwater Permit will then become effective July 1, 2022.

CONCLUSION

The Permit requires the City to submit an Annual Report by September 30 of each year, documenting performance of actions supporting Permit compliance. Multiple City departments implemented compliance activities summarized in the Annual Report. Highlights for FY 2020-2021 include stakeholder outreach related to the GSI Plan, exceeding trash load reduction requirements, and implementing activities to address PCBs in demolition materials. Staff, along with other co-permittees, will continue to meet with Water Board staff regarding the next Permit. Once adopted, the new requirements in the next Permit may require some additional budget requests to support these unfunded mandates.

EVALUATION AND FOLLOW-UP

Staff will provide an update on the status of Stormwater Permit development to the Transportation and Environment Committee in November 2021.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

POLICY ALTERNATIVES

Alternative #1: Do not approve the FY 2020-2021 Stormwater Permit Annual Report to the Regional Water Quality Control Board.
Pros: None known. The report is primarily a report on past activities.
Cons: To not submit or delay in the submittal beyond September 30 would put the City at risk of being in violation of the Permit.
Reason for not recommending: This Annual Report submittal will fulfill a Permit-mandated obligation and maintain City compliance with its Permit. This Annual Report represents the best and most complete summation of City activities related to stormwater for FY 2020-2021.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the September 21, 2021 City Council Meeting.

COORDINATION

The Annual Report was developed by the Environmental Services Department in collaboration with the departments of Planning, Building and Code Enforcement; Public Works; Transportation; Housing; Parks, Recreation and Neighborhood Services; and the City Attorney's Office. The Annual Report was reviewed by each of these departments to ensure that the data and information presented in the report accurately and properly reflects their respective operations.

COMMISSION RECOMMENDATION/INPUT

There is no commission recommendation or input associated with this action.

COST SUMMARY/IMPLICATIONS

There are no direct costs associated with submittal of the Annual Report, as the report summarizes activities that were already funded and have already occurred. Ongoing programs related to the Permit are funded primarily through the Storm Sewer Operating Fund (Fund 446). Certain programs discussed in this memorandum that cannot be funded by Fund 446 are funded from the General Fund.

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City Action.

/s/
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Rajani Nair, Deputy Director, Environmental Services, at (408) 799-7462.

Attachment: Draft City of San José Stormwater Management Annual Report 2020-2021