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6	SAN FRANCISCO BAYKEEPER
7	STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
8	STATE WATER RESOURCES CONTROL DOARD
9	In the Matter of the Petition of San Francisco SAN FRANCISCO BAYKEEPER'S
10	Baykeeper for Review of Action by the California Regional Water Quality Control Board, San Francisco Bay Region, in Adopting Order No. R2- 2015-0049, Municipal Regional Stormwater RESPONSE TO PETITIONS FOR REVIEW OF SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD ACTION ADOPTING ORDER NO. R2-2015-0049, SWRCB/OCC
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12	NPDES Permit - Municipalities and FloodFILE A-2455(a thru m)Management Agencies in Alameda County, Contra
13	Costa County, San Mateo County, Santa Clara
14	County, and the Cities of Fairfield, Suisun City, and Vallejo and the Vallejo Sanitation and Flood
15	Control District in Solano County, NPDES Permit No. CAS612008.
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17	In accordance with the State Water Resource Control Board's letters dated March 15, 2016 and
18	April 11, 2016 in SWRCB/OCC FILE A-2455(a thru m), San Francisco Baykeeper ("Baykeeper")
19	hereby submits the following response to one issue in the Petitions and Responses filed by the Alameda
20	County Permittees to review to the final decision of the California Regional Water Quality Control
21	Board, San Francisco Bay Region ("Regional Water Board") approving the Municipal Regional
22	Stormwater NPDES Permit, Order No. R2-2015-0049, NPDES Permit No. CAS612008 (the "2015
23	Permit" or "Permit").
24	Baykeeper agrees with and supports the arguments made by Alameda County Permittees in
25	Section II.B of their Statement of Points and Authorities, entitled: "Visual Assessment Requirements of
26	Trash Load Reduction Outcomes are Unreasonable, Inappropriate, and Legally Defective." In
27	

particular, Baykeeper agrees that "[t]here is a lack of documentation in the record that demonstrates that
the visual assessment protocol contained in the Trash Load Reduction Control Provision C.10 is an
accurate and reliable method for determining compliance with the permit's trash load reduction
requirements. *See* Provision C.10.b.ii.b." (Alameda County Permittees, Statement of Points and
Authorities, at p. 13.)

Given these arguments, there is no basis for the assertions made by Alameda County Permittees in their May 12, 2016 Written Response to Petitions for Review ("Alameda Response") that the 2015 Permit's trash provisions fully comply with State Board Order No. WQ 2015-0075. (Alameda Response at 7-12.) Specifically, the visual assessment protocol in Provision C.10 – which is not an accurate or reliable method for determining compliance - does not provide the ambitious, rigorous, transparent, or accountable alternative compliance pathway required by the principles set forth in State Board Order No. WQ 2015-0075. Yet simply complying with this visual assessment protocol and other schedules in Section C.10 excuses Permittees from compliance with the Receiving Water Limitations and Discharge Prohibitions related to trash. (2015 Permit, Section C.1.) Consequently, these "safe harbor" provisions must be removed from the 2015 Permit.

Respectfully submitted,

George Tongen

George Torgun Attorney for Petitioner San Francisco Baykeeper