



STAFF REPORT

TO: CLAYTON CITY COUNCIL

FROM: Dennis Bozanich

DATE: April 7, 2026

SUBJECT: Establishing 2026/2027 Equivalent Runoff Unit (ERU) Assessment Rate for Federal and State Mandated National Pollutant Discharge Elimination System (NPDES) Program (Storm Water Pollution Prevention System)

RECOMMENDATION

Staff recommends that the City Council adopt the Stormwater Utility Assessment Resolution No. 05-2026 (Attachment 1), establishing the Rate per Equivalent Runoff Unit (ERU) for FY 2026/2027, and requesting the Contra Costa Flood Control and Water Conservation District to adopt an Annual Parcel Assessment for Drainage and Maintenance and the National Pollutant Discharge Elimination System (NPDES), maintaining the current maximum ERU Rate at \$29.00 per single-family parcel.

BACKGROUND

The 1987 Reauthorization of the Federal Clean Water Act, as well as similar State legislation, required local agencies to obtain a NPDES Permit for discharging the contents of municipal storm drainage water conveyance systems. As implemented and enforced by the State through the Regional Water Quality Control Board (San Francisco Bay Area Region), this permitting effort is intended to improve water quality in the Delta and San Francisco Bay Estuary System, protect endangered species, and safeguard public waters and waterways for continued economic, recreation and health purposes. Stormwater runoff pollution has been identified as a significant impact on water quality and wildlife in the Bay Area by the State and Federal Governments. During wet weather, large amounts of pollutants, such as oil and grease from automobiles, heavy metals from vehicle exhaust and brake pads, such as copper and lead, pesticides, herbicides and fertilizers from lawns and gardens, soil erosion, and biological material enter the storm drain system and ultimately empty, untreated, into creeks, waterways, the Delta and the Bay

The City participates and obtains its joint NPDES permit from the SF Regional Water Quality Control Board via the Contra Costa Clean Water Program whose participants include the cities within the County, the County and the Flood Control District. The City of Clayton has participated since its inception in September 1993. The SF Regional Water Quality Control Board issued the Municipal Regional Permit 3.0 (MRP 3.0), which began July 1, 2022, and extends to June 30, 2027. MRP 3.0 covers many counties and cities in the Bay Area. The MRP 3.0 permit allows the City and other jurisdictions to utilize the storm water drainage system for the discharges into creeks that ultimately drain into the Bay. This joint participation

allows for the program management and permit process costs to be kept to a minimum through economies of scale and local and regional collaboration, at a fraction of the cost of doing it alone. The program provides for a regional approach to stormwater pollution control, regional monitoring, public education and outreach, technical support and training, special studies and NPDES permit administration requirements.

The cost of meeting the obligations of the increased requirements contained in the MRP 3.0 have been and are expected to continue to exceed City revenues received from the ERU. Although it is difficult to fully identify all future additional costs at this point, current compliance costs are projected to outpace revenues in FY 2026/2027. Requirements contained in our current permit MRP 3.0 include more elimination of litter going into storm drains; more monitoring and reporting on our storm drain inlets trash capture devices (which capture litter before going to the creek), and “green infrastructure” which sets forth standards for cities to redirect their existing storm drainage water into landscape areas.

AUGMENTED FUNDING DENIED:

When the program was originally established in 1993, the rate cap for the current parcel fee in Clayton was set by the City Council at \$29/ERU. Because other members of the Clean Water Program also have the same issues (costs exceeding available revenue available from the ERU rate) a cost/revenue analysis was undertaken by the Contra Costa Clean Water Program to evaluate possible additional funding mechanisms for the added requirements of the MRP. The Clean Water Program attempted three times to pursue legislation to add stormwater to the definitions of other utilities such as sewer and water and was not successful in receiving needed legislative support, and there is no support by the governor and his staff. It was after these statewide attempts proved fruitless, our straining local funding and the continuing increased requirements by state regulating agencies that led to the 2012 Prop 218 property owner vote for a new parcel fee. The second proposed revenue measure did not pass. Local assessments for stormwater quality protection have been maxed out since 2000—while compliance costs continue to increase. Additional state legislation is being pursued to establish a process to allow for future local voter consideration of new stormwater revenues. However, in order to continue to receive the City’s existing current ERU rate of \$29 per single family parcel (the same amount levied since FY1999/2000) it must be levied annually. Failure to levy this fee would result in the City supplanting this revenue source (approx. \$130,631) from another funding source such as the General Fund, Rainy Day Fund 110, and/or a local city specific revenue measure.

ANALYSIS

As required by the Clean Water Program, this year City staff currently participate on the Clean Water Program's Administration Committee and Management Committee. City staff typically attend and participate in 2-3 meetings per month.

There are no new funds to address the mandated studies and documentation that cities must file as part of their Annual Report to the State. They include mandatory maintenance items such as clearing of trash along specific areas of creeks and drainage inlets; the quantification of the materials collected; enforcement action (issuance of citations) to individuals for pollution runoff; creeks and waterways testing, mapping, monitoring and of all creeks and all outfalls to creeks. The reporting format requires cities to use computer data base for mapping, reporting and monitoring information and transmitting it electronically to the SF Regional Water Board where they will post to a public accessible web site.

Overall, the City's total Stormwater related costs are comprised of two components, one consisting of the pro rata share of Clean Water group costs based upon population. The other is the management and maintenance activities undertaken by the City and its contracts with others for required activity implementation and monitoring and reporting. All program staff and permittees (cities and county) have been and continue to make strong efforts to control costs at the program level. However, the continuing increase in expenses to adhere to the requirements in the MRP 3.0 permit has outpaced the assessment funds which have remained flat for over 25 years.

ASSESSMENT AND PROGRAM BUDGET:

The Group's Clean Water Program Budget will remain the same as last fiscal year at \$4 million in FY 2025/26. For the last few years and through 2023 increased costs were addressed by Program reserve carry over or encumbrances of this year's funds to help reduce or smooth out increases; thus minimizing the impact (reduction) in return to source funds. Beginning last year and in future years there will be no further reserve available to reduce the expense borne by each member when the overall program budget increases. The anticipated budget in 2026/2027 is currently expected to remain at \$4 million.

For FY 2025/2026 the City of Clayton's pro rata share (based on countywide population) of the Contra Costa Clean Water Program cost was 0.93% (\$37,268) of the total annual program budget of \$4.0 million. Future program cost increases and lack of carryover/reserve funding in the future years will continue to result in less return to source funds to undertake the added local city permit requirements.

It is currently estimated that for FY 2025/26 the gross revenues from Clayton's stormwater utility assessment will total approximately \$130,631. The City's SUA Fund (#216) include the following expenditures: \$37,268 is allocated to the Clean Water Program administration and group expenses; \$3,800 to the County Auditor for costs related to assessment collection; \$8,000 to the Sanitary District for commercial inspection, monitoring and municipal requested call out inspections; \$3,000 to the District for fiscal and assessment area management, \$3,000 for program reserve, and \$15,000 for our annual state discharge permit fee. Thus, the remaining return to source funds available to the City, for all other activities in FY 2025/26 is approximately \$60,563.

The majority of the remaining return to source funds (\$60,653) are directly spent on staff/city engineer labor costs of participating in the Clean Water Program and performing maintenance activities required by the program, such as storm drain inspection and cleaning, creek clearing; responding to spill calls; the remaining is divided between equipment and materials; monitoring and inspection; and management and reporting. In FY 2025/2026 budget adoption it was anticipated that the ending fund balance would be near

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Since the City will not exceed the current rate cap and not increasing the levy rate, voter approval requirement of the Prop. 218 process does not apply. A single family detached dwelling is typically one ERU; homes on lots 20,000 sq. ft. or larger are allocated 1.7 ERU's; homes (e.g., townhomes and duets) are 0.7 ERU. This formula is the same throughout all Contra Costa communities and all cities.

CEQA

None.

FISCAL IMPACT

Annual authorization by the City Council of the ERU assessment fee is needed for the County Flood Control District to levy this fee each year on the property tax roll for parcels within the City of Clayton boundaries. Denying the assessment will result in the loss of approximately \$130,631 of stormwater funding that is used to perform the MRP 3.0 requirements, and the City would need to allocate separate funding to meet its obligations to avoid violations of the Nationwide Pollution Discharge Elimination System; including paying its share toward the Countywide Clean Water program.

ATTACHMENTS

[Reso No 05-2026 SUA ERU.pdf](#)