

**State of California
Little Hoover Commission**

**Hearing on State Permitting
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Written Testimony Prepared for

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I. Introduction

We thank the Little Hoover Commission (hereinafter “Commission”) for holding this hearing on state permitting and inviting the Santa Clara Valley Water District (hereinafter “District”) to appear and testify. Before proceeding to our responses to the Commission’s formal inquiries for this hearing on state permitting, we first as a preliminary matter want to establish and recognize how our interactions with state permitting agencies have largely helped to improve our projects, as well as drive the state of the art regarding climate resiliency. To be certain, our testimony below is not premised by an intention to shirk our stewardship of the environment, nor avoid compliance with promulgated standards. Rather, it discusses issues arising from when four vital and necessary projects, two of which included sea-level rise considerations as part of their design-criteria, were impeded and delayed by disputable exercises of authority during and after adjudication of our permit applications.

II. Formal Responses to Commission Inquiries

A. Overview of the District and our Role within the Bay Area’s Metropolitan Landscape

The District was formed in 1929 as the Santa Clara Valley Water Conservation District, and it merged fifty years ago with the Santa Clara Valley Flood Control District. In 2001, the District Act was updated by SB 449 to certify that within Santa Clara County we provided comprehensive water management for all beneficial uses and protection from flooding and that our purposes included the enhancement, protection, and restoration of natural resources, streams, and riparian corridors.

Today, the District manages an integrated water resources system on behalf of Santa Clara County’s 1.8 million residents. The District provides flood protection, the supply of clean, safe water, and environmental stewardship of waterways throughout Santa Clara County. To perform these services, the District oversees two hundred and seventy-five miles of creeks, streams, and rivers and administers ten dams and surface water reservoirs, three water treatment plants, an advanced recycled water purification center, and nearly four hundred acres of groundwater recharge ponds. We also provide wholesale water to nine local water retailers comprised of both municipalities and investor-owned water utilities.

In the Bay Area, there are over three hundred organizations whose work pertains to water.¹ The District partners with local and state agencies on several projects along the San Francisco Bay shoreline to improve flood resilience, habitat, and various ecosystem functions. The District is partners in multiple regional committees, associations, and coalitions related to water supply, flood protection, and environmental protection, including:

- Advanced Quantitative Precipitation Information Project – The District is a partnering agency with Sonoma County Water Agency, San Francisco Public Utilities Commission, Bay Area Flood Protection Agencies Association, California Department of Water Resources, and National Oceanic and Atmospheric Administration. The main purpose of the project is to install five X-band weather radars in the Bay Area to improve rainfall forecast ability to reduce flood risks.

¹ <http://bairwmp.org/organizations>

- Association of Bay Area Governments (hereinafter “ABAG”) – The District is a member of ABAG, a unique and dynamic Bay Area association that came together in 1961 in response to state legislation that would have supplanted local control over all bridges, ports, and transit operations in the Bay Area. ABAG works to strengthen cooperation and collaboration among local Bay Area governments to provide innovative and cost effective solutions to common problems that they face involving land use planning, housing, transportation, environmental climate change, earthquakes and disaster resilience, and economic equity.
- Association of California Water Agencies – The District is an active member in the Association of California Water Agencies (hereinafter “ACWA”), whose members collectively are responsible for 90% of the water delivered to cities, farms and businesses in California. The District’s staff members in the Office of Government Relations & Communications actively engage in ACWA’s various meetings, including Region 5 meetings, the State Legislative Committee, and their Federal committee. District staff members from across several other water utility and watersheds units also are engaged in substantive ACWA-convened conferences, summits, and legislative and regulatory workgroups.
- Bay Area Clean Water Agencies – The District is an associate member of the Bay Area Clean Water Agencies, an organization of wastewater treatment and recycled water agencies. Our participation is consistent with our policies to expand recycled water use for water supply reliability, especially in light of increased droughts associated with climate change.
- Bay Area Flood Protection Agencies Association – The District also participates in the Bay Area Flood Protection Agencies Association, which regularly meets to discuss and collaborate on common flood protection challenges and issues, including sea level rise.
- Bay Area Integrated Regional Water Management Committee – The District was instrumental in forming the Bay Area Integrated Regional Water Management Coordinating Committee, which developed the Bay Area Integrated Regional Water Management Plan (hereinafter “IRWM Plan”). The IRWM Plan describes the Bay Area’s water and water-related resources, objectives related to those resources, projects and programs to achieve the objectives, and considerations for climate change mitigation and adaptation on a regional scale.
- Bay Area Regional Reliability Program – The District is one of eight partners working on the Bay Area Regional Reliability Program (hereinafter “BARR”). Currently, BARR is developing a Drought Contingency Plan that will identify regional mitigation and response actions for addressing droughts and other water shortages. BARR also is coordinating its planning efforts with ABAG.
- Bay Area Water Agencies Coalition – The District is one of ten water supply agencies that participate in the Bay Area Water Agencies Coalition, which regularly meets to discuss and collaborate on common water supply challenges and issues, including droughts and climate change.

- Coastal Hazards Adaptation Resiliency Group – The District participates in this regional group that is comprised of federal and state agencies and local cities, counties, and water districts in the Bay Area. The purpose of this group is to coordinate solutions related to coastal hazards along the San Francisco Bay. The District participates in the Steering Committee and Technical Advisory Committee.
- Joint Venture Silicon Valley's Sea Level Rise Planning Assumptions & Activities Working Group – The District participates in this regional group that is comprised of Joint Venture Silicon Valley, United States Fish and Wildlife Services (hereinafter “USFWS”), California Coastal Conservancy, County of Santa Clara, City of Milpitas, City of Mountain View, City of Palo Alto, City of Sunnyvale, and the District. The purpose of this group is to coordinate activities and improve knowledge about sea level rise.
- San Francisco Bay Resiliency by Design – The District is a managing partner with San Francisco Estuary Institute, City of San Francisco, Metropolitan Transportation Commission, San Francisco Bay Conservation and Development Commission, and ABAG to develop a background technical description of the Bay Area with respect to climate change and sea level rise that can be used to support resilient and sustainable design.

The District also coordinates activities related to its State Water Project deliveries with other contractors who rely on the South Bay Aqueduct, specifically Zone 7 Water Agency and Alameda County Water District. The District coordinates activities related to its Central Valley Project (hereinafter “CVP”) deliveries with San Benito County Water District, another contractor in the San Felipe Division of the project. The District is also considering whether to partner with Contra Costa Water District, another CVP contractor, on expanding Los Vaqueros Reservoir.

B. Impact of State Permitting Requirements and Processes on District Operations

State permitting processes are complex endeavors. Amongst the many reasons, this is attributable to the numerous permits which must be obtained from multiple authorities with jurisdiction at the project site in different branches of government, as well as from different levels of government.

For the District’s projects, we frequently submit permit applications to regional authorities² (San Francisco Bay Regional Water Quality Control Board (hereinafter “SF Regional Board”); Central Coast Regional Water Quality Control Board; San Francisco Bay Conservation and Development Commission) and state authorities (California Department of Water Resources; California Department of Fish & Wildlife (hereinafter “DFW”)), as well as to federal authorities on projects on which they have jurisdiction at the site or for which we has partnered with the U.S. Army Corps of Engineers (hereinafter “USACE.”)

² The State Water Resources Control Board was created by the State Legislature in 1967 under the Porter-Cologne Act and has jurisdiction throughout California to protect water quality by setting statewide policy and supporting nine regional boards. The regional boundaries are based on watersheds, and the water quality requirements are based on the unique differences in climate, topography, geology and hydrology for each watershed. The nine Regional Water Quality Control Boards are semi-autonomous and comprised of seven part-time board members appointed by the Governor and confirmed by the senate. Each regional board makes water quality decisions for its region, including setting standards, issuing permits, determining compliance standards, and taking appropriate enforcement actions. The State Water Resources Control Board reviews petitions that contest Regional board actions. See: http://www.waterboards.ca.gov/publications_forms/publications/factsheets/docs/boardoverview.pdf

With regards to our applications, interactions, and conversations with state permitting agencies, we are frequently engaged in communications with them, both formally and informally. For a better sense of the flow and nature of communications, please see the consultation histories included for the Permanente and San Francisquito Creek projects in Appendices C, D.

The District traditionally structured its projects in three phases: planning, design, and construction. Permitting applications can now take up to three years between design and construction, as exhibited below in our case studies in Part E, and as observed in the Consultation Histories in the Appendices. Beyond the reasons we discuss elsewhere, this period of time is also attributable to the variance in information requested from permitting authorities on their respective applications and their varying acceptable standards and thresholds. Accordingly, we now plot a “permitting phase” for our projects, because of the lengthy, technical, and comprehensive process involved for obtaining permits, and thus we consider it a five-phase process: planning, design, environmental review, permitting, and construction.

The permitting phase is inextricably linked to the environmental review phase. The California Environmental Quality Act³ (hereinafter “CEQA”) requires substantial environmental documentation to ensure a project’s adherence with CEQA. So towards the end of the project planning or during the design phase, environmental documentation under CEQA must be produced by applicants, typically a Mitigated Negative Declaration (hereinafter “MND”) or an Environmental Impact Report (hereinafter “EIR”), which will be relied upon to support their applications for permits. For a rudimentary primer on how CEQA steers the processes for a development permit, the Governor’s Office of Planning and Research has published an overview of the environmental review and permit approval process.⁴

In compliance with CEQA, proposed projects undergo thorough environmental review, prior to lead agency approval. State regulatory agencies are tasked with providing comments to the lead agency through the environmental review process in order to offer guidance and direction on suitable project alternatives and mitigation measures, during both scoping and public review periods for environmental documents.

As discussed below in the Permanente Creek case study in section E, our experience was that a permitting authority did not timely engage, thus resulting in project delays when the District eventually received their feedback and reason for not approving our permit application. This challenge for our projects is compounded by the fact that the USACE, a frequent partner for the District and with agencies across California, does not start its permitting processes until a stable and final project description is confirmed.

Another challenge for applicants when applying for permits is the unpredictability within the permitting process itself, due partially to the lack of formal, technical guidance and procedures. While there are provisions and materials for applying for a permit, and even supplemental information provided on permitting authorities’ websites too, we believe the application instructions do not go far enough in explaining what are the standards being used when a reviewer assesses an application, and what the anticipated timeline will be for completion.

³ California Public Resources Code § 21000–21177.

⁴ <http://resources.ca.gov/ceqa/guidelines/intro.html>

As one example of the lack of guidance, a clear definition of impact thresholds would be beneficial for understanding what constitutes a “substantial” change to a waterway. Likewise, if the guidance materials were appended with firm, quantifiable mitigation requirements, the project development process would be improved from the outset of planning. Another important concern is the need for a clear explanation of how different permitting authorities define mitigation feasibility, because nearly anything can be argued feasible if enough money is spent.

To be sure, environmental stewardship is central to the District’s mission. We are not averse to lengthy, complex, and detailed applications for permits. We understand their utility and appreciate their function. But we protest when there are insufficient directions, guidelines, and procedures for our submissions resulting in unpredictable and inconsistent follow-up requests for additional information to complete our application, thereby protracting the permitting phase of our projects and delaying them from proceeding to construction.

C. Endowments and Alternative Financial Assurance Mechanisms.

Public agencies that conduct or approve projects with significant environmental impacts are required to obtain permits from various government authorities. As a condition of receiving the permits, the public agency is required to mitigate for the environmental impacts. Permitting authorities determine the compensatory mitigation for a specific project, including the financial assurances for the completion of the mitigation project and the financing mechanisms for long-term management of the mitigation property, in certain cases.

The mitigation may take the form of setting aside other resource conservation lands. When lands are set aside in mitigation, the law requires that the mitigation lands be protected in perpetuity, and state permitting agencies have been insistent that endowments are the only acceptable mean to ensure the long-term sustainability of a compensatory mitigation site, despite state code allowing alternative financial assurances to secure projects.⁵

An endowment provides a means of ensuring that funding will be available to provide for the long-term management of the mitigation lands in perpetuity. If an entity fails to meet its mitigation obligations, the land and the cost of maintaining it revert back to the state or another local government entity.⁶ Typically though, the interest on the principle for the endowment funds the annual management costs.

The jurisdictional authority to whom we’ve applied for a permit determines the compensatory mitigation for a specific project, including the financial assurances for the completion of the mitigation project, as well as financing mechanisms for the long-term management of the mitigation property. By requiring endowments of public agencies, large sums of public funds are locked into an endowment, which otherwise could be used for other essential capital projects and their maintenance.

Further, requiring public agencies to fund endowments significantly reduces the funds available to public infrastructure agencies for critical projects. Yet, state permitting agencies have been insistent that endowments are the only acceptable avenue to ensure the long-

⁵ See California Government Code § 65967(b), indicating this flexibility in the methods of funding.

⁶ California Government Code § 65967(e).

term management of a compensatory mitigation site, despite state code allowing endowments and alternative financial assurance mechanisms.⁷

Permitting authorities justify their insistence on endowments by the fact that public agencies have not always been the best steward of the environment when an endowment was not required, and also that when an endowment was required, it is public agencies' whose mitigations sites most commonly fall into violation. Thus they argue that the upkeep and maintenance of compensatory mitigation sites cannot be guaranteed except through the interest of an endowment.

While plausible, their latter argument is not supported, in that the violations by public agencies are concentrated between two state agencies, and most of the remaining violations are minor in nature and would not have been prevented with an endowment, e.g. insufficient reporting, late filings, etc. Moreover, public agencies are enduring institutions with constitutionally prescribed tax revenues, so for those agencies with a sufficient credit rating, they at least should be exempted from endowments and allowed to use other financial mechanisms for which California law provides.⁸

One solution for this issue is legislation clarifying that an endowment or other financial mechanism is not required if a governmental entity or special district provides evidence to the local or state authority that it (1) possesses an investment-grade credit rating (by a nationally recognized statistical rating organization, or other equivalent evidence of financial stability), and (2) enters into a contractual agreement, containing certain elements, with the agency enforcing the mitigation requirements.

Opposition to allowing alternatives to endowments is led by land managers, who have a vested financial interest in endowments, given it's the source of their principal revenue stream. To be certain, we are not arguing for private development to be relieved from the requirement of endowments, nor the same for public agencies or special districts that are not financially sound and cannot be entrusted to fulfill their mitigation responsibilities. Rather, because of the numerous reasons we have discussed, we think it is reasonable for public agencies and special districts to use other financial assurance mechanisms for compensatory mitigation sites.

Given the likelihood and opportunity for more infrastructure projects over the next few years, granting public agencies and special districts this flexibility will ensure that both: (1) more public funds are available to pursue long-needed infrastructure projects, and (2) California applicants partnering with or applying to the USACE will not be competitively disadvantaged against projects from other states without the same local standards and requirements. So concluding, we request for your report to recommend allowing qualified public agencies to use other financial mechanisms to maintain compensatory mitigation sites.

⁷ See California Government Code §§ 65966 - 67.

⁸ Id. at § 65967(b).

D. Staffing Resources at Permitting Agencies

Permitting authorities appear to lack adequate staffing to process applications in a timely and predictable manner. Given the volume of applications that permitting authorities receive, many have responded by allowing applicants to contract and pay to fund a full-time employee on the authority's staff, to work primarily, if not exclusively, on the applicant's submissions, with applicants prioritizing the projects needing review by the staff member.

As part of the District's strategy to expedite permitting processes in order to commence its projects, the District currently pays for one full-time staff member at DFW, and one at the SF Regional Board who review our applications. Funding for the SF Regional Board staff is routed through ABAG.⁹

With regard to DFW, our last staff member worked on the District's projects for several years and routinely met 30-day timelines to respond to our applications. However, she recently has taken on a new role and her previous position has not been filled, meaning potentially there is less staff available to review our applications.

Regionally, despite funding an SF Regional Board staff member, there still are seemingly low staffing levels at the SF Regional Board. They reported they could not simultaneously review both our Lower Berryessa and Upper Berryessa Creek applications, discussed below in section II.E.2, and instead informed the District that the earlier we resolved the Upper Berryessa Creek permit, the sooner they would accelerate review of our Lower Berryessa Creek application.

Interestingly, this arrangement for a SF Regional Board staff member funded through ABAG has not been replicated by some of the other regional boards in the state. These other regional boards maintain that allowing an applicant to pay for a staff member creates, at a minimum, a perceived conflict of interest. This proposition however is counter to the practices of other major agencies that rely on this manner of staffing, like DFW and the USFWS allowing.¹⁰

Thus we request the Commission's report to recommend funding for additional staff at the regional water quality control boards, as well as recommend they allow for public agency applicants to fund a regulatory staff member, with the appropriate measures to prevent conflicts of interest. This is especially important with the foreseeable wave of local infrastructure projects that are pledged with forthcoming federal legislation, and the subsequent permit applications.

E. Project Redesign Case Studies

As mentioned in Part B above, CEQA requires substantial environmental documentation. The basic purposes of CEQA are to inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities, identify the ways that environmental damage can be avoided or significantly reduced, and prevent significant,

⁹ ABAG formed in the 1960s to strengthen cooperation and collaboration among local Bay Area governments to provide innovative and cost effective solutions to common problems that they face involving land use planning, housing, transportation, environmental climate change, earthquakes and disaster resilience, and economic equity.

¹⁰ Federally, the District currently pays for one full-time staff member at the U.S. Fish & Wildlife Service.

avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures.

Substantive regulatory agency comments that satisfy the requirements of CEQA ensure proper project development in the prescribed open and transparent public forum. However, permitting authorities have demonstrated a practice of effectively proposing redesign of projects by raising environmental issues towards the end of the permitting phase, which should have been provided to the lead agency during the environmental review phase.

In some instances, the SF Regional Board has attempted to require, as a condition of issuing the 401 water quality certification, that we mitigate for impacts not associated with a proposed project. We are concerned with the use of regulatory authority to request improvements as compensatory mitigation, that exceed the baseline and existing conditions at a project site. Consistent with law, compensatory mitigation must be “roughly proportional” to the impacts of a project,¹¹ and mitigation measures are not required for effects not found to be significant.¹²

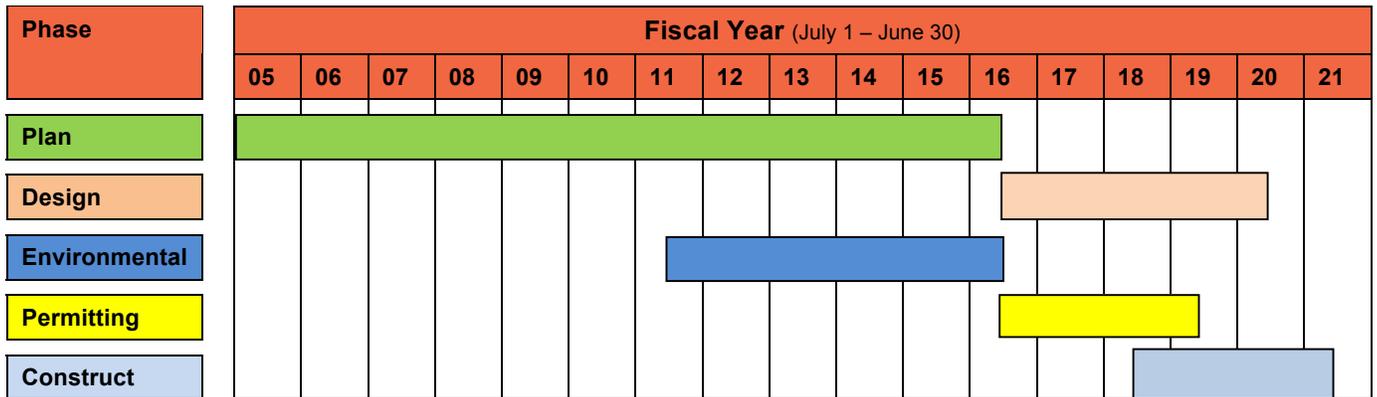
Even with the best of intentions, having to redesign a project after the completion of planning and lead agency project approval is inconsistent with the tenets of the open public process established by CEQA. More, it does not support the collaborative effort of planning projects amongst: internal and external stakeholders, members of the community affected by the project, interested members of the public, and local, state, and federal agency staff. Operationally, redesign forces state and federal agencies to either wait to begin their own respective permitting processes or inefficiently review an application and then have to redo their previous work. Most importantly, redesign is likely to require additional environmental documentation in compliance with CEQA, which is expensive, takes additional time to perform, and can be reasonably anticipated to produce further project delays and cost overruns.

Below are case studies about four different projects featuring the various permitting challenges discussed and resulted in additional work pertaining to redesign.

¹¹ See CEQA Guidelines § 15126.4[a][4][B].

¹² See CEQA Guidelines § 15126.4[a][3].

1. The South San Francisco Bay Shoreline Study¹³



Project Overview

Our testimony for the Commission’s October 2016 climate change hearing discussed this project within the context of an example of a special district’s work to combat climate change. Since that time, it has warranted inclusion in our testimony pertaining to permitting issues.

The South San Francisco Bay Shoreline Study (hereinafter “Shoreline Study”) is an integrated, multi-purpose project that will safeguard hundreds of homes, businesses, and vital infrastructure from the risk of tidal flooding by providing tidal flood risk management, ecosystem restoration and opportunities for recreational and public access along the Santa Clara County’s bay shoreline.

The Shoreline Study is funded by a partnership between the USACE, the California State Coastal Conservancy, and the District. The Study is congressionally authorized for the USACE to identify and recommend flood protection and ecosystem restoration projects in the South San Francisco Bay for Federal funding. The Shoreline Study additionally takes into account providing protection from sea level rise for the next 50 years (2017-2067).

The Shoreline Study is proceeding in phases. The first phase focuses on the section of the Santa Clara County shoreline that was among the greatest risk to tidal flooding now and in the future due to sea level rise: the north San Jose shoreline area between Alviso Slough and Coyote Creek, which includes the Alviso community, the San Jose-Santa Clara Regional Wastewater Facility, several high tech businesses, and the new Silicon Valley Advanced Water Purification Center. This area is known within the Shoreline Study as Economic Impact Area 11, or EIA 11, this section of the shoreline includes homes, commercial, and industrial facilities generally located below sea level and protected by former salt pond berms. In EIA 11, the project proposes to construct four miles of engineered levees, restore 2,900 acres of tidal marsh habitat to provide integrated tidal and fluvial flood protection for a population of 5,500. When completed, the levees will be certified by the Federal Emergency Management Agency (hereinafter “FEMA”) and will protect the region from up to 2.5 feet of sea level rise for the next 50 years. Construction of the EIA 11 project is estimated to cost \$174 million.

¹³ See Appendix A for an Aerial Map of businesses on page 17. See also: <http://www.southbayshoreline.org/images/Flood%20Risk%20and%20Sea%20Level%20Rise.jpg>

The EIA 11 project will tie into existing FEMA accredited fluvial levees along Alviso Slough to the west and Coyote Creek Bypass Channel to the east thus providing integrated fluvial and tidal flood risk management to the EIA 11 area. Additionally, once the EIA 11 project is constructed, further breaching could occur of the former salt pond berms to aid in returning them to coastal habitat as proposed by the California State Coastal Conservancy's South Bay Salt Pond Restoration Project.

In December 2014, the EIA 11 draft Feasibility Integrated Document and Environmental Impact Statement/Report was released to the public, followed by a public comment period and a public meeting. The final report was released in September 2015, shortly followed by a successful USACE Civil Works Review Board in October. In December 2015, the USACE Chief of Engineers recommended that Congress authorize the Shoreline Study to proceed with pre-engineering and design. The project was included in the Water Infrastructure Improvements for the Nation Act (WIIN) that passed in December 2016.

Permitting Issues

With the passage of WIIN, the EIA 11 project is now eligible for federal construction funding. Construction of the EIA 11 project is anticipated to occur over three years, beginning early 2018 to late 2020. To maintain this project schedule, final permits will be required by February 2018. The project team has begun engaging with the SF Regional Board, and after the teams' first meeting, the SF Regional Board requested for USACE to consider shifting the last reach of the levee alignment that was authorized in the December 2015 Chief's Report. The SF Regional Board wants full exploration of this alignment shift before they will permit the project, which impends to cause design and construction delays. If the project team is unable to reach an agreement on the alignment of the last reach in a timely manner, the project delays could further threaten, continued receipt of Federal funding for the entire project.

Shifting the alignment is a concern because it would include a portion of the San Jose-Santa Clara Regional Wastewater Facility's (hereinafter "Facility") inactive legacy lagoons and active sludge lagoons. For the active lagoons, the Facility has stated these lagoons will not be available any earlier than 2027, a date that is well after when EIA 11 construction is scheduled to be completed, and which assumes there will be no delays in the Facility's transitioning out of these lagoons.

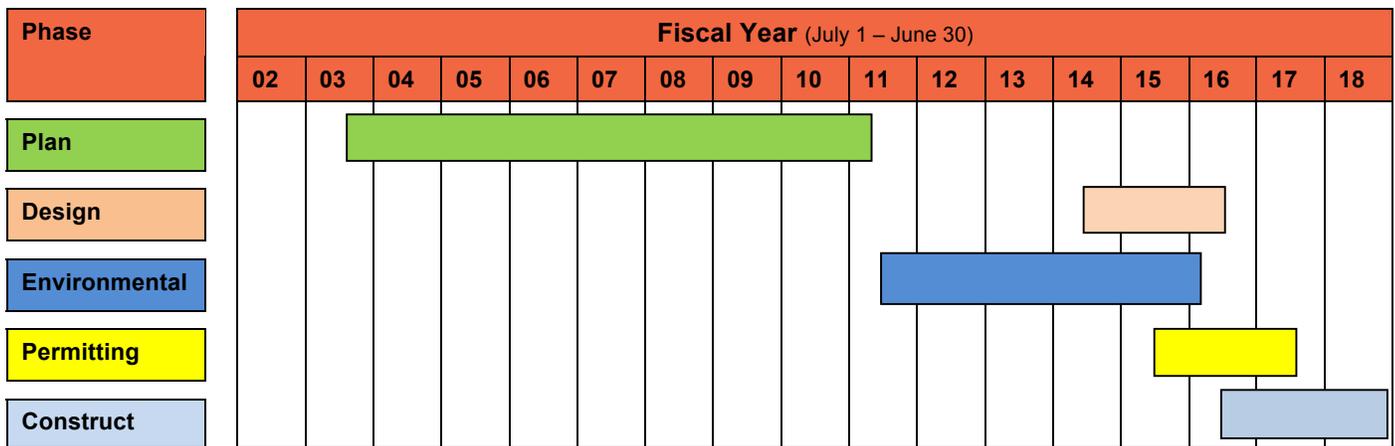
Additionally if the shift in alignment results in new impacts or increases the severity of existing impacts, under CEQA the District will have to prepare a supplemental EIR and re-release it for public review. If this additional process is required, it will add time to the project schedule and permitting process, which will impact the construction start date. Moreover, the shift in alignment would deviate from the Congressionally authorized project, meaning USACE would have to determine if a re-evaluation process would be required, which if it were, could require an act of U.S. Congress to approve the change.

As for the inactive legacy lagoons, the SF Regional Board likely will regulate activities in these lagoons due to the presence of jurisdictional wetlands. The EIA 11 project's concern is that the SF Regional Board will require mitigating for impacts to these inactive legacy lagoons, in spite of the fact that the project includes an ecosystem restoration component to restore 2,900 acres of tidal marsh habitat. The addition of the inactive lagoons also is a concern because they contain materials that may require special handling in the form of

removal or capping. Both the mitigation of existing legacy lagoon material and jurisdictional wetlands in these lagoons may increase the project costs, which should not be borne by the EIA 11 project since these lagoons fall under the ownership of the Facility. As such, addressing any identified impacts to these lagoons is the responsibility of the Facility and identifying a way forward to address these cost would ensue in lengthy discussions.

The USACE has a “no net loss” policy for projects that include habitat restoration. Despite one of the project’s goals of restoring 2,900 acres of open water to historic coastal wetlands and tidal marsh, the SF Regional Board is challenging that there is a loss and the project will require mitigation. The SF Regional Board asserts that mitigation is required because of conversion of Waters of the United States (existing pond waters) to wetlands, regardless of this being a beneficial project. The mitigation requirements would increase if the EIA 11 project adjusts its authorized alignment to encompass the inactive legacy lagoons. Regardless of whether any Facility lagoons are included or not, the SF Regional Board is stating mitigation is required, so the USACE and SF Regional Board are now beginning discussions and negotiations. Should the alignment or requirement of mitigation not be resolved by July of 2017, with final permits by February 2018, these issues will threaten the design and construction schedule, as well as a continued funding stream.

2. Upper Berryessa Creek Flood Risk Management Project¹⁴



Project Overview

The District’s Berryessa Creek Flood Protection Project, when completed, will protect 2,447 parcels in the city of Milpitas from the threat of a 100-year flood event. The project includes two parts, the Upper Berryessa Creek portion, and the Lower Berryessa Creek portion. Work on the Upper Berryessa portion of the project will protect 624 parcels.

The Upper Berryessa Creek Flood Risk Management Project is a USACE project on which the District is the local sponsor. This project supports a wider \$2.1 billion project for construction of a Bay Area Rail Transit (hereinafter “BART”) station, of which \$900 million is federally funded. The USACE is the lead in constructing the Flood Risk Management Project, which requires issuance of a 401 water quality certification from the SF Regional Board certifying that the project will meet all applicable state water quality standards,

¹⁴ See Appendix B for an Aerial Map on page 18.

thereby allowing construction to proceed. The District will be responsible for performing maintenance activities on the site, after the completion of construction, if it is required. These potential maintenance activities will require submission and approval of an application to the SF Regional Board for a Waste Discharge Requirement Permit (hereinafter "WDR").

The Upper Berryessa project is scheduled for completion in December 2017 in order to provide flood protection from the 100-year event for the previously referenced BART extension. Due to the priority and urgency of the project, we agreed to a two-phased approach to the project, whereby a 401 certification is issued to USACE to commence and complete construction, and then after the completion of construction, a WDR would be issued to the District for maintenance activities, if required.

Accordingly, this past summer, the SF Regional Board approved the USACE permit application for the Upper Berryessa project and granted the USACE a 401 water quality certification with no mitigation requirements beyond the elements already identified within the project. This 401 water quality certification certifies that all construction impacts have been mitigated to acceptable levels, thereby allowing construction to proceed without additional mitigation.

Permitting Issues

This past fall, in-channel construction work commenced and was continued on the project site until the rainy season began. Construction is scheduled to resume next month in March, however, the SF Regional Board is now proposing to rescind the 401 water quality certification issued to USACE, and replace it with a combined 401 certification and WDR to both USACE and the District. This combined 401 certification and WDR also would require an additional 20 acres of mitigation be performed to account for construction impacts, despite them not being required in the original permit the SF Regional Board issued. Furthermore, the District would be listed as a joint permittee on the combined permit, in spite of the fact that the District has not applied for a 401 certification, nor a WDR, the District previously objected to being listed as a permittee on a proposed 401 certification, and the District does not estimate that issuance of a WDR is warranted at this time.

Amongst the District's concerns on this project is the retroactive decision making. The SF Regional Board's environmental issues could have been communicated during the federal environmental impact study comment period, the EIR comment period, or at any time before our Board certified the EIR. By the time our Board certifies the EIR, the scope of the federally authorized project has been finalized, as has the associated federal funding, and thus significant deviations from the scope of the project require a new congressional authorization, potentially impacting the project's viability.

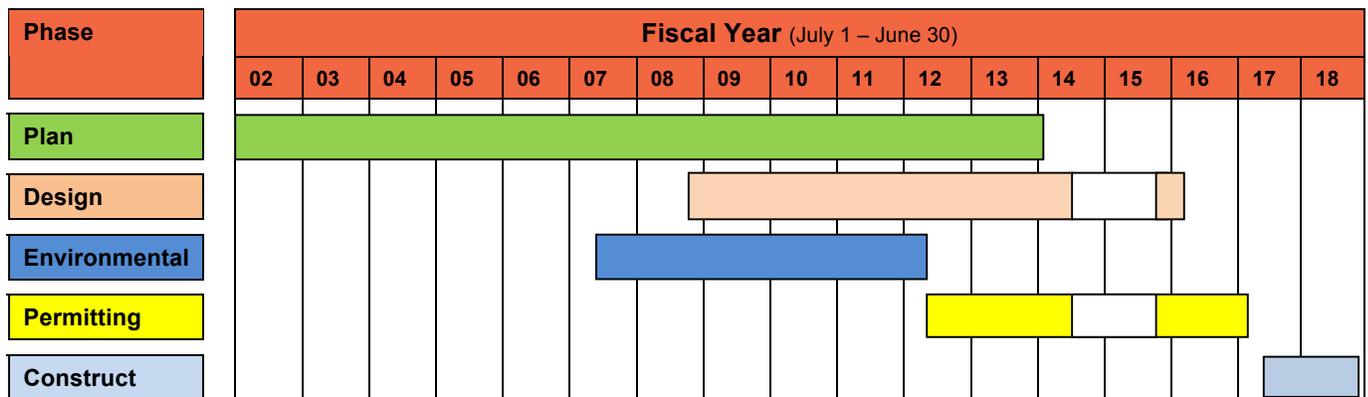
The SF Regional Board explained their action positing that by utilizing a two-phased approach to permitting, the USACE and District had agreed to the prospect of additional compensatory mitigation. In fact, it is their contention that we were the one who has deviated from the arrangement of the parties on this project. However, it should be evident by the plain actions which have transpired that a party who agreed to the two-phased approach would not agree to how this approach has been borne out. That is, while we had agreed to the two-phase approach of the SF Regional Board issuing a 401 certification and then later on, a WDR if necessary, it was understood that phase one would pertain to

issuing a permit to USACE for all construction related activities, and in phase two, a WDR would be issued to the District, if necessary, for maintenance activities. The two-phased approach corresponds to the division of responsibilities between the USACE and the District for construction and maintenance, respectively. But these phases are not represented by what the SF Regional Board has proposed by issuing the USACE its certification, proposing to rescind it and then reissue it with District as a Phase 1 permittee, and newly requiring 20 acres of compensatory mitigation for construction impacts.

We are currently awaiting follow up from the SF Regional Board’s staff, as directed by their Board Members at the board meeting where these issues were raised and contested.

Finally, despite the District providing funding for the regulatory activity, this project also is impacted by staffing levels at the SF Regional Board, as they reported they could not simultaneously review our Lower Berryessa Creek application and our Upper Berryessa Creek application, informing the District that the earlier we resolved the Upper Berryessa permit, the sooner they could accelerate the review of the Lower Berryessa application.

3. Permanente Creek Flood Protection Project¹⁵



Project Overview

Our Permanente Creek Flood Protection project would provide improvements along 10.6 miles of Permanente and Hale Creeks. Project improvements would be constructed in several places along Permanente Creek, and work includes constructing floodwalls, widening channels, and building off-stream flood detention facilities at Rancho San Antonio County Park in and adjacent to the City of Cupertino and at McKelvey Park in the City of Mountain View.

Permanente Creek has a history of flooding, having experienced major flooding in 1862, 1911, 1940, 1950, 1952, 1955, 1958, 1963, 1968, 1983, 1995, and 1998. Flooding can result in millions of dollars in damage to homes, businesses and schools. In addition, disruption to businesses and transportation networks can result in significant loss of productivity and revenue. Each winter, thousands of households, schools and businesses in Mountain View and Los Altos are susceptible to flooding from Permanente Creek during a major storm.

¹⁵ See Appendix C for an Aerial Map on page 19 and Consultation History on page 20.

The project is funded by the countywide parcel tax passed by voters in November 2000 titled the Clean, Safe Creeks and Natural Flood Protection Plan. In November 2012, 74% of Santa Clara County voters enacted a successor plan titled Safe, Clean Water and Natural Flood Protection Program, known as Measure B.¹⁶ The plans make it possible to protect homes, schools and businesses from flooding, while improving the health of creek and bay ecosystems and creating trails and parks for recreational enjoyment. For the Permanente project, the programs provide \$68.7 million for design and construction.

The Project would accomplish the following objectives: (1) provide flood protection to 1,664 parcels, (2) reduce erosion and sedimentation, (3) reduce maintenance costs, and improve safety and stability of the failing channel on Permanente Creek from San Francisco Bay to Foothill Expressway, (4) Provide environmental restoration and enhancement benefits, (5) Provide recreation enhancements, and (6) Provide natural flood protection by taking a multiple-objective approach.

Permitting Issues

On our Permanente Creek project, we engaged with the SF Regional Board in project development in the following years: 2004 (conceptual alternatives development), 2006 (early consultation), 2007 (Notice of Preparation (hereinafter "NOP")), 2009 (draft EIR), 2010 (informal consultation), 2011 (subsequent EIR NOP and further consultation), 2012 (draft subsequent EIR), and 2013 (further consultation).

In September 2013, our permit application was prepared, consistent with the approved project environmental documents, and submitted to the SF Regional Board. On January 2014, the SF Regional Board took issue with the proposed in-kind replacement of existing concrete channels. The SF Regional Board should be considering impacts to beneficial uses; however, the channels were covered in concrete, so the proposed work would not cause a new impact. Yet, the District had to evaluate a new project design requirement over the next year, which ultimately was not adopted.

In March 2015, an agreement on the project description was reached, the permit application was revised, and resubmitted one month later in April 2015. However, as part of this agreement, the SF Regional Board required the District to additionally implement the Hale Creek Enhancement Pilot Project, to acquire the Section 401 water quality certification.

Additionally, since resource agencies cannot start permitting processes until a stable and final project description is confirmed, these regional delays resulted in over 18 months of inactivity at the USACE in reviewing our application for a Clean Water Act Section 404 permit (hereinafter "404 permit"), to until after the SF Regional Board's issues were resolved. The drafts of State agency permits were finally received in December 2015, eight months after we had received our 401 certification from the SF Regional Board. However, due to also waiting for USFWS's biological opinion, we could not complete our federal permitting and begin construction until December 2016.

This project highlights when state permitting delays can setback processing of projects federal permit applications. It also displays the delays from when a regional permitting authority exercises its authority late in the permitting phase and compels an applicant to

¹⁶ <http://www.smartvoter.org/2012/11/06/ca/scl/meas/B/>

evaluate new design requirements and implement a previously unplanned restoration project, after years of close coordination when such a request could have been made.

4. San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project¹⁷

Phase	Fiscal Year (July 1 – June 30)										
	07	08	09	10	11	12	13	14	15	16	17
Plan											
Design											
Environmental											
Permitting											
Construct											

Project Overview

The San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project is sponsored by the San Francisquito Creek Joint Powers Authority (JPA), which the District is a member agency. The project is proceeding in two phases, for which the above table is for the portion between San Francisco Bay and Highway 101.¹⁸

The first phase would complete construction of setback levees and floodwalls from San Francisco Bay to Highway 101, to provide 100-year flood protection and ecosystem benefits with local and state funding. This project would improve channel capacity for creek flows that are intensified by the influence of bay tides, including protection against projected sea level rise. Further, it also would reduce local fluvial flood risks in the Project area during storm events, provide the capacity needed for future upstream improvements, increase and improve ecological habitat, and provide for improved recreational opportunities.

The estimated project construction cost for the first phase reach is about \$42 million. The current funding available for the project construction is approximately \$50 million, with \$37.5 million from the District, another \$8 million from California Department of Water Resources, and the remainder contributed in smaller amounts from several partners and sources, including San Mateo County, East Palo Alto, Menlo Park, and a Prop 84 Grant.

The estimated construction cost for the second phase is about \$92 million. The JPA, in partnership with the USACE, is preparing a feasibility study report for this phase. The work upstream of Highway 101 would remedy channel constrictions and modify bridges at several intersections, and includes upstream detention, under-ground bypass channels, and floodwalls.

Permitting Issues

¹⁷ See Appendix D for an Aerial Map on page 24 and Consultation History on page 25.

¹⁸ The second phase is for the reach upstream of Highway 101.

We mentioned in the previous section on the Permanente Creek project that in 2011, we raised District concerns to the SF Regional Board about their timing for engaging on projects. Like that project, the San Francisquito JPA here also did not receive meaningful input for the project reach between San Francisco Bay and Highway 101.

In March 2013, the JPA submitted its application for a 401 certification permit to the SF Regional Board, but it was deemed incomplete and required a year's worth of meetings for the JPA to prepare and resubmit its application in February 2014, which the SF Regional Board denied without prejudice. This denial resulted in having to redesign the project. Less than a month after the denial, we received notice from the USACE they were deferring review of the Section 404 permit application until the issues were resolved at the regional level.

Over another 14 months, after the JPA worked on these issues through more meetings with numerous parties, redesigning the project, and compiling the requested pieces of information, the SF Regional Board issued a conditional 401 Certification in April 2015. Within the following 10 months after receiving the Conditional 401 certification, the other various permitting authorities all issued their permits, and the project was allowed to proceed to construction.

Therefore, in consideration of this project and the other case studies, permitting authorities, as a standard practice, should be required to establish review schedules and provide applicants notice of expected dates for completion of application reviews. Thus, we request the Commission's report to include recommendations for the provision of further standards and guidance to facilitate timely and consistent environmental review of projects, both regionally and statewide.

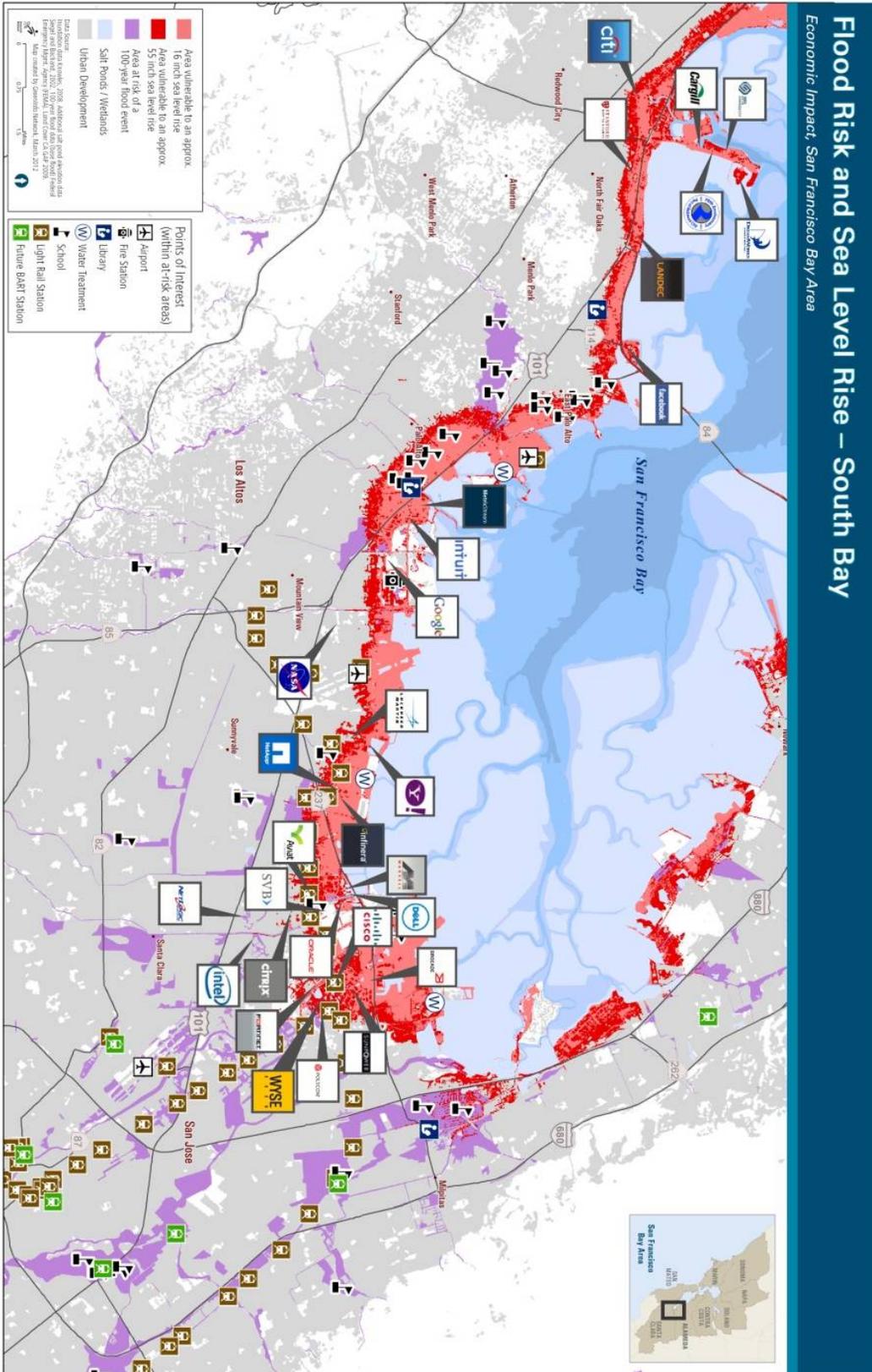
III. Conclusion

We thank the Commission for organizing and holding this hearing to explore how permitting issues affect public infrastructure projects. As evident in the project timelines above, planning and implementing projects take several years, and as evidenced by the consultation histories below, we frequently engage with staff at permitting authorities for their guidance throughout.

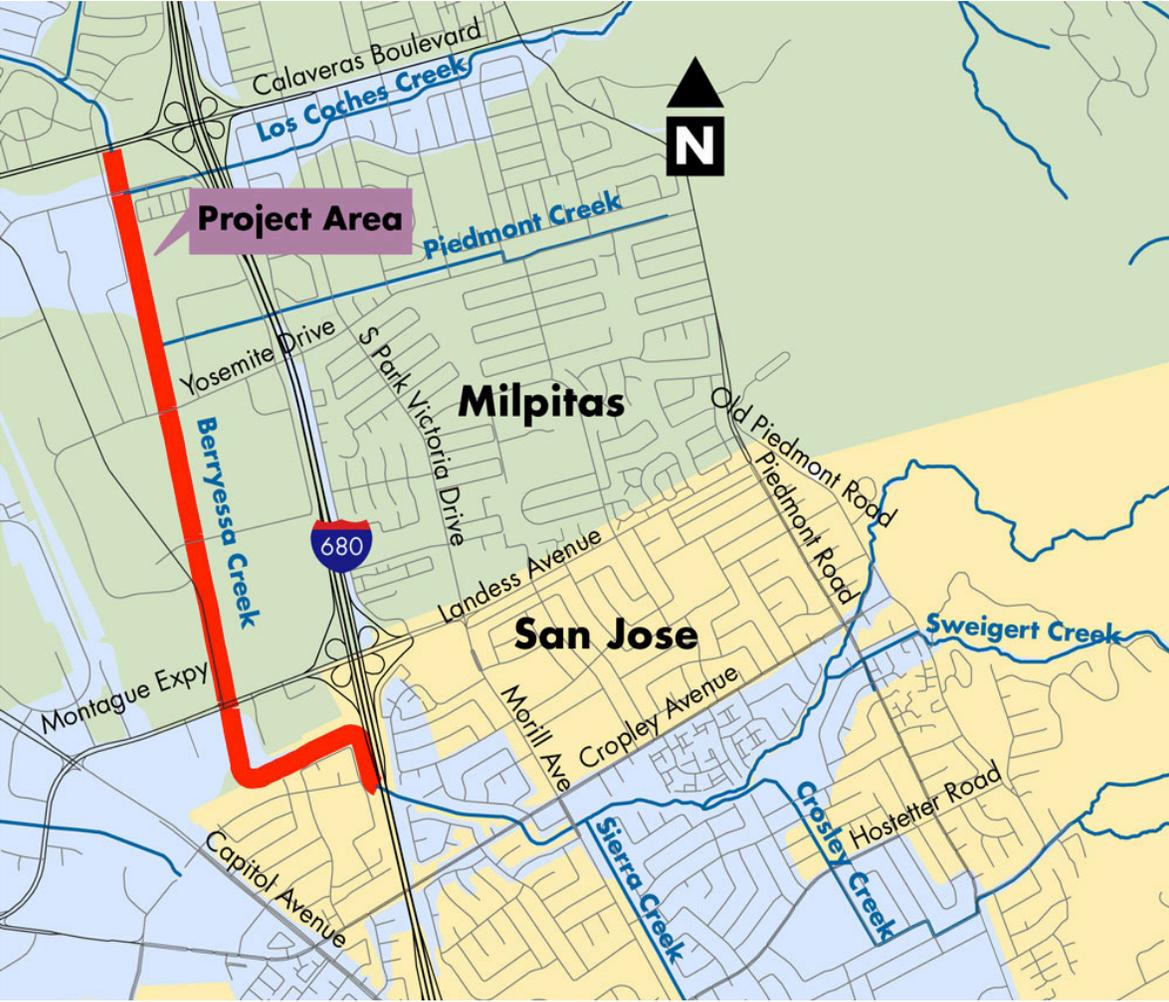
In summary, we request the Commission's final report to make the following recommendations:

1. For permitting agencies to provide finer detailed written procedures and standards for permit applications, as well as establish review timelines, to reduce the current unpredictability.
2. For public agencies that meet specific qualifications to be allowed to use financial assurance mechanisms other than endowments for long-term compensatory mitigation sites.
3. For greater funding to permitting agencies to increase their staffing levels and eliminate the application backlog.
4. For permitting agencies to engage in environmental review processes in a timely manner, to minimize the risk of project redesigns towards the end of a project's permitting phase.

Appendix A: South San Francisco Bay Shoreline Study



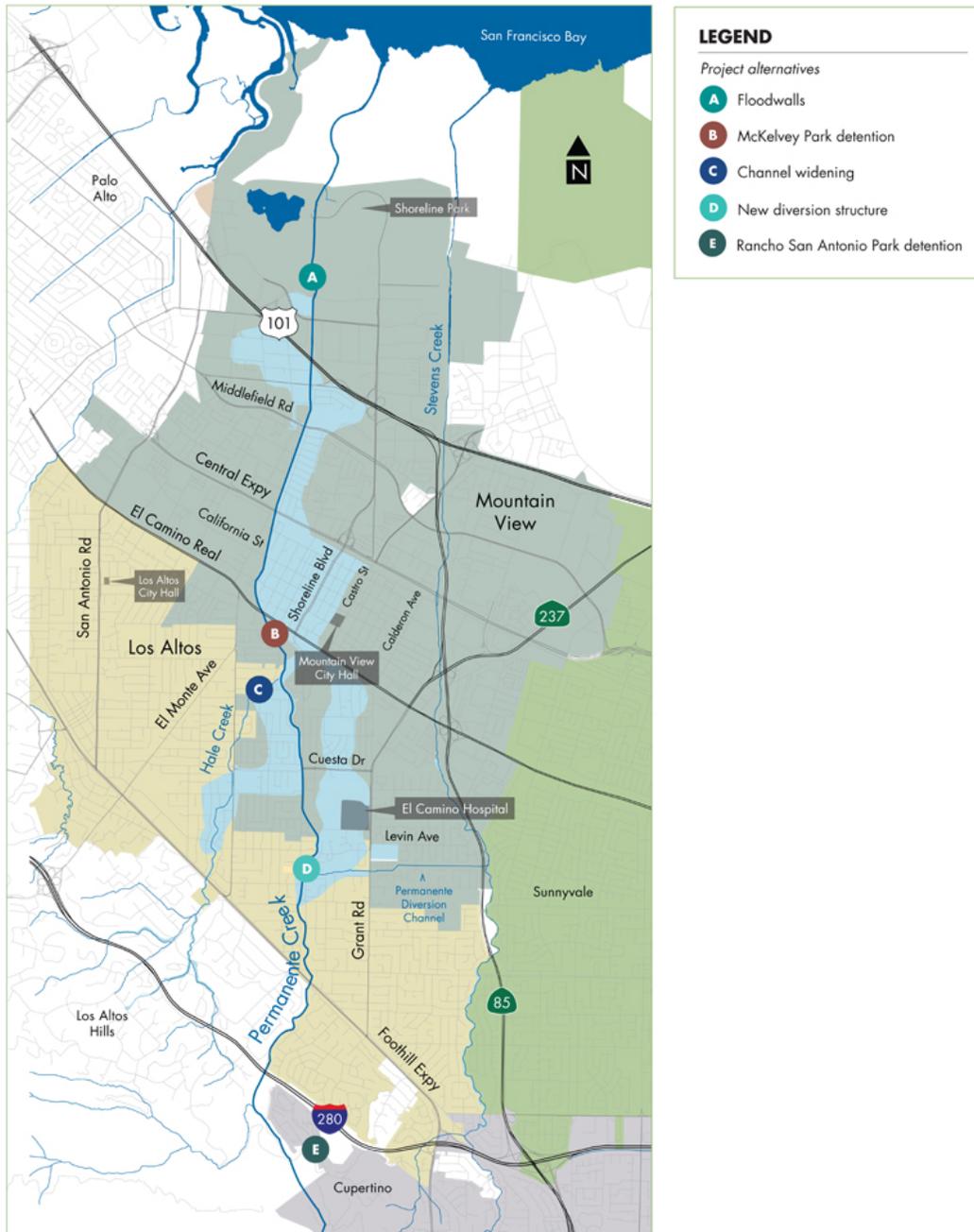
Appendix B: Upper Berryessa Creek Flood Risk Management Project



Appendix C: Permanente Creek Flood Protection Project

Permanente Creek flood protection project

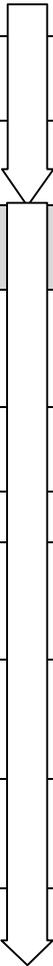
The Permanente Creek Flood Protection Project extends 10.6 miles through the cities of Mountain View and Los Altos.



Permanente Creek Project Consultation History

(Federal actions shown in grey-shaded rows)

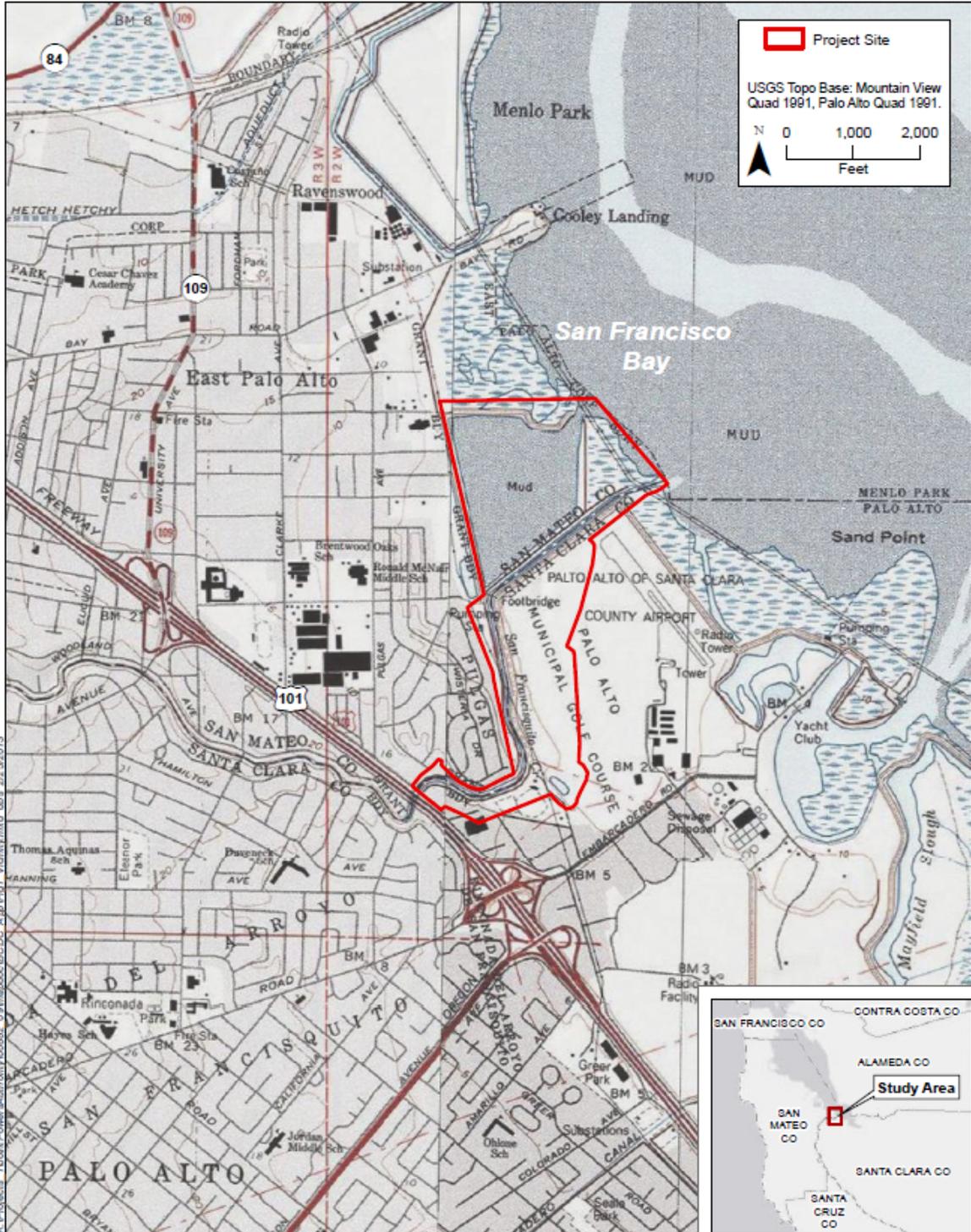
Date	Consultation	
Aug 26, 2004	Meeting with CDFW, Regional Water Board, and Corps to review conceptual elements and obtain agency input.	
Jan 2005	Site visit with CDFW, Regional Water Board, and EPA to inspect conceptual element locations.	
Jul 19, 2006	Early consultation meeting with CDFW, Regional Water Board, EPA, USFWS, and Corps.	
May 21, 2007	Regional Water Board submitted comments on the NOP for the Project EIR.	
Oct 26, 2009	Site visit to provide project overview.	
Nov 12, 2009	Comments on the Project's Draft Environmental Impact Report – District responded via formal letter dated June 2, 2010.	
Mar 30, 2010	Conference call with CDFW and Regional Water Board to discuss wetland and riparian impact mitigation, fish entrapment concerns, and CEQA and permitting requirements.	
Apr 1, 2010	Regional Water Board provided guidance on SWPPP applicability to project.	
Jul 27, 2010	Regional Water Board provided guidance on permitting project as a whole consistent with Corps approach.	
May 26, 2011	District provided status update on project at Regional Water Board request.	
Jun 30, 2011	District released the NOP for the Subsequent EIR.	
Jul 6, 2011	Site visit with CDFW and Regional Water Board staff.	
Jul 7, 2011	District response to CDFW and Regional Water Board request for information about flood walls downstream of US-101.	
Jul 11, 2011	Regional Water Board submitted comments on the Notice of Preparation for the Project's Subsequent Environmental Impact Report – It is the District's practice to respond to comments on the NOP within the body of EIR. The Draft EIR was released in July 2012.	
Sep 29, 2011	District staff called Ms. Beth to discuss legal requirements for comments on EIRs and the role CEQA documents serve in the permitting process.	
Oct 13, 2011	District requested informal consultation with CDFW and Regional Water Board on Permanente Restoration Project.	
Apr 19, 2012	Regional Water Board provided guidance on the use of artificial turf – The District accepted Regional Water Board's guidance without comment; the Project was changed accordingly to use natural grass instead of proposed artificial turf.	
Aug 6, 2012	Regional Water Board submitted comments on the Project's Draft Subsequent EIR.	

Date	Consultation	
Oct 22, 2012	Conference call with Regional Water Board staff.	
Nov 7, 2012	District formally responded to Regional Water Board comments on the Draft Subsequent EIR.	
Jan 15, 2013	Regional Water Board provided guidance on definition of riparian – District acknowledged Regional Water Board’s guidance.	
Jan 24, 2013	Regional Water Board provided guidance on mitigation, impact analysis, and alternatives analysis – District agendized project discussion including Regional Water Board concerns for the next available US Army Corps Interagency Meeting.	
Apr 10, 2013	U.S. Army Corps Interagency Meeting – District prepared, and meeting attendees approved, meeting notes.	
Sep 23, 2013	JARPA package submitted to agencies.	
Oct 23, 2013	CDFW submits incomplete notification letter.	
Dec 9, 2013	U.S. Army Corps deems application complete.	
Dec 22, 2013	Technical assistance meeting with U.S. Army Corps and NMFS.	
Jan 6, 2014	Letter from Mr. Wolfe regarding Regional Water Board concerns. Regional Water Board claims project is not Least Environmentally Damaging Practicable Alternative (LEDPA).	
Jan 8, 2014	Meeting with Mr. Wolfe and Ms. Whyte to discuss project planning project and SF Regional Board concerns.	
Jan 28, 2014	District letter to Regional Water Board responding to concerns raised during 1/6/14 letter and 1/8/14 meeting.	
Jan 29, 2014	NMFS informal concurrence of no effect to Permanente, Hale, and Stevens Creek fisheries.	
Feb 5, 2014	District presentation of full alternative development process, Regional Water Board presented a new concept for replacement of concrete channels in Permanente and Hale Creeks.	
Mar 3, 2014	District met with Regional Water Board in Santa Rosa to view and discuss in-situ example of Regional Water Board alternative concept.	
Mar 11, 2014	Regional Water Board project site visit with District staff.	
Apr 9, 2014	District met with Regional Water Board to discuss remaining environmental concerns and opportunities. Regional Water Board alternative evaluated further.	
Apr 14, 2014	District contacted Shin-Roei Lee to discuss Regional Water Board preferred permitting approach. District willing to consider independent pilot study of Hale Creek to explore feasibility of earthen-bottom channel.	
Apr 17, 2014	District contacted Shin-Roei Lee, Maggie Beth, and Dyan Whyte to discuss Regional Water Board permitting concerns. Key point was separation of Hale Creek improvements from Permanente Creek project while earthen-	

Date	Consultation	
	bottom channel feasibility researched.	
May 2, 2014	Email communication from Shin-Roei Lee to Melanie Richardson rejecting revised certification approach and revisiting Regional Water Board alternative feasibility, LEDPA, and mitigation requirements.	
Jun 6, 2014	Letter from Norma Camacho to Bruce Wolfe responding to 5/2/14 email and adequacy of alternatives analysis, restoration feasibility, and legal mitigation requirements.	
Jul 2, 2014	Letter from Bruce Wolfe to Melanie Richardson specifying LEDPA and mitigation requirements.	
Aug 19, 2014	District submits revised Section 404(b)(1) Alternatives Evaluation report including analysis of Regional Water Board alternative.	
Sep 18, 2014	Regional Water Board letter notifying District application is deemed incomplete. Regional Water Board maintains position that project is not LEDPA.	
Oct 27, 2014	District submits response to CDFW comments on notification.	
Oct 31, 2014	Coordination meeting with Regional Water Board staff in Stanford. Permanente project discussed.	
Dec 16, 2014	Letter from Norma Camacho to Bruce Wolfe responding to alternatives analysis comments raised in 9/18/14 letter.	
Dec 18, 2014	CDFW incomplete notification requesting additional information about tree removal along concrete channels.	
Jan 15, 2015	Coordination meeting with Regional Water Board staff in Oakland. Permanente project discussed.	
Feb 18, 2015	Email communication from Keith Lichten reasserting that Regional Water Board cannot certify the project as LEDPA and revisiting soft-bottom, vegetated channel in Hale Creek.	
Mar 3, 2015	Meeting with Ms. Whyte, Mr. Lichten, Ms. Riley, and Ms. Glendening to discuss possibility of earthen-bottom channel pilot.	
Mar 11, 2015	Regional Water Board and District concurrence reached on project description.	
Apr 7, 2015	Permit applications resubmitted with revised project description.	
Apr 14, 2015	Regional Water Board submits administrative draft certification for District review.	
May 13, 2015	CDFW deems application complete.	
Aug 31, 2015	Revised JARPA submitted to Corps, RWQCB, CDFW.	
Aug 31, 2015	Revised BA submitted to Corps.	
Sep 22, 2015	Corps sends letter to USFWS to initiate formal consultation.	
Oct 14, 2015	CDFW provides Draft Streambed Alteration Agreement.	

Date	Consultation	
Oct 27, 2015	USFWS submits request for additional information on BA.	
Nov 6, 2015	RWQCB posts public notice for Section 401 Clean Water Certification starting 21 day public review period.	
Dec 8, 2015	RWQCB issues certification.	
May 19, 2016	USFWS issues biological opinion.	
May 24, 2016	District submits comments on Water Quality Certification and Streambed Alteration Agreement to reflect changes required by biological opinion.	
Jun 7, 2016	Corps issues Nationwide Permits 14, 33, and 43.	
Jun 22, 2016	RWQCB indicates they will be preparing an amendment to the Water Quality Certification.	
Jul 1, 2016	RWQCB claims low impact development features required for embankment.	
Aug 1, 2016	RWQCB issues draft amended Water Quality Certification.	
Aug 10, 2016	CDFW issues final Streambed Alteration Agreement.	
Oct 26, 2016	District responds with comment on draft amended Water Quality Certification.	
Oct 27, 2016	District submits revised Mitigation and Monitoring Plan for review and approval by RWQCB and CDFW.	
Nov 4, 2016	RWQCB comments on Dewatering Plan, Post-Construction Stormwater Management Plan, Operations and Maintenance Manual, and embankment design details.	
Nov 7, 2016	District responds to RWQCB comments on Dewatering Plan, Post-Construction Stormwater Management Plan, Operations and Maintenance Manual, and embankment design details.	
Dec 7, 2016	RWQCB comments on Mitigation and Monitoring Plan.	

Appendix D: San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project



San Francisquito Creek Project Consultation History

(Federal actions shown in grey-shaded rows)

Date	Consultation	
Mar 2013	Submittal of applications to CDFW, SFRWQCB, BCDC, USACE, USFWS	
Mar 27, 2013	Project overview / discussion with agencies (USFWS, CDFW, SFRWQCB)	
Mar 29, 2013	SFRWQCB deems application incomplete	
Apr 10, 2013	CDFW deems application incomplete	
Aug 1, 2013	Additional information provided to CDFW	
Aug 28, 2013	CDFW deems application is still incomplete	
Sep 4, 2013	E-mail from Margarete Beth deeming application complete and requesting additional information	
Oct 9, 2013	Letter from Shin-Roei Lee to JPA clarifying status of application	
Oct 28, 2013	Email from Bill Springer to Margarete Beth updating Water Diversion Plan	
Nov 7, 2013	Meeting between JPA and SFRWQCB regarding planning process and other Regional Board issues	
Feb 11, 2014	Meeting with JPA, City of Palo Alto, SCVWD and SFRWQCB regarding project alternatives and hydrology	
Feb 12, 2014	Revised 404 application sent to USACE	
Feb 13, 2014	Revised application sent to CDFW	
Feb 26, 2014	Revised application sent to BCDC	
Feb 27, 2014	Denial without prejudice from SFRWQCB	
Mar 6, 2014	E-mail from Ian Liffmann to Len Materman explaining delay in 404 application processing as SFRWQCB issues are resolved	
Mar 13, 2014	JPA comments of Regional Board denial to all agencies	
Mar 19, 2014	Meeting between JPA and SFRWQCB discussing process to complete application and receive certification	
Apr 1, 2014	Formal Request for Reconsideration of Regional Board denial	
May 7, 2014	Letter from Len Materman to Bruce Wolfe following up on 3/19/14 meeting and providing technical information requested	
May 20, 2014	Questions from SFRWQCB to JPA for 5/21/14 meeting	
May 21, 2014	Meeting at SFRWQCB discussing project hydrology and impacts to Faber Tract (SFRWQCB, USACE, USFWS, BCDC, JPA, Palo Alto, SCVWD, Don Edwards Refuge)	

Date	Consultation	
May 29, 2014	E-mail to SFRWQCB (and other agencies) providing additional technical information and following up on 5/21/14 meeting	
Jun 12, 2014	Meeting between JPA and SFRWQCB staff discussing project hydrology	
Jul 1, 2014	Meeting at SFRWQCB discussing project hydrology and path forward for approval (SFRWQCB, USACE, USFWS, CDFW, BCDC, NMFS, JPA, SCVWD, Senator Hill's office, Assemblyman Gordon's office)	
Jul 16, 2014	Management level conference discussing remaining issues needed for certification (SFRWQCB, JPA, SCVWD, Palo Alto, East Palo Alto, Senator Hill's office, Assemblyman Gordon's office)	
Jul 24, 2014	Letter from Bruce Wolfe to Len Materman outlining information needed for complete application	
Jul 31, 2014	Re-submittal of application to SFRWQCB	
Aug 13, 2014	Discussion of application at SFRWQCB Board meeting	
Aug 29, 2014	SFRWQCB deems July 2014 application incomplete	
Sep 29, 2014	CDFW deems February 2014 application incomplete	
Oct 2, 2014	Re-submittal of application to USACE including amended BO	
Oct 9, 2014	Teleconference between JPA, Don Edwards Refuge, and USFWS regarding mitigation for RR and SMHM	
Oct 10, 2014	JPA response to incomplete letter and additional information	
Oct 15, 2014	On-site meeting discussing fisheries issues (JPA, SCVWD, NMFS, USACE, CDFW)	
Oct 17, 2014	Revised MMP, O&M manual, and Water Diversion Plan provided to agencies	
Oct 22, 2014	On-site meeting discussing Faber Tract, wetland impacts, and Ridgway Rail (JPA, SCVWD, USFWS, Don Edwards Refuge, SFRWQCB, USACE, CDFW)	
Oct 24, 2014	E-mail from Margarete Beth to Kevin Murray requesting additional information	
Oct 31, 2014	SFRWQCB Special Board meeting discussion project at Stanford University	
Nov 3, 2014	Letter from NMFS to USACE requesting additional information to complete Section 7 consultation	
Nov 7, 2014	Letter from JPA to Bruce Wolfe summarizing 10/31/14 meeting and requesting specific actions of SFRWQCB	
Dec 2, 2015	Letter from USFWS to USACE requesting additional information to complete Section 7 consultation	
Dec 18, 2014	Public Notice published by USACE	
Jan 15, 2015	Re-submittal of application to CDFW	

Date	Consultation	
Jan 16, 2015	Letter from SFRWQCB to USACE commenting on Public Notice	
Feb 2, 2015	SFRWQCB provides Draft Certification to JPA	
Feb 12, 2015	Meeting at SFRWQCB with JPA and SCVWD to discuss issues with Draft Certification	
Mar 2, 2015	404(b)(1) alternatives analysis sent to USACE	
Mar 20, 2015	JPA response and proposed changes to Draft Certification	
Apr 7, 2015	SFRWQCB issues Conditional 401 Certification	
May 7, 2015	JPA requests changes in Conditional 401 Certification	
June 2, 2015	SFRWQCB provides response to JPA request	
Nov 3, 2015	Revised application submitted to BCDC	
Dec 3, 2015	Additional information requested by BCDC	
Dec 15, 2015	Meeting with BCDC staff of information request	
Dec 28, 2015	CDFW provides draft SAA	
Dec 30, 2015	NMFS provides Biological Opinion	
Jan 8, 2016	Revised application submitted to BCDC	
Jan 15, 2016	JPA provides comments on draft SAA to CDFW	
Jan 15, 2016	USFWS provides Biological Opinion	
Feb 2, 2016	Revised 404(b)(1) alternatives analysis sent to USACE	
Feb 9, 2016	CDFW provides final SAA	
Feb 12, 2016	BCDC issues Staff Recommendation for the project	
Feb 18, 2016	BCDC approves and issues Major Permit	
Feb 23, 2016	USACE issues 401 permit	