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**San Francisco Bay Regional Water Quality Control Board**

October 9, 2013  
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*Sent via electronic mail: No hardcopy to follow*

San Francisquito Creek Joint Powers Authority  
615 B Menlo Avenue  
Menlo Park, CA 94025

Attn: Kevin Murray  
Email: [Kmurry@sfcjpa.org](mailto:Kmurry@sfcjpa.org)

**Subject:** San Francisquito Creek Project – Regional Water Board Permit Status

Dear Mr. Murray:

I am writing in an effort to clarify Regional Water Board permit status related to the San Francisquito Creek Flood Control Project (Project). We became aware the permitting status in the September 26, 2013 Executive Director's report (Report) to the San Francisco Creek Joint Powers Authority (SFJPA) Board is different from our perception. The Report states: "At present time, the regulatory agencies have informed us that all necessary application and support materials have been submitted and are in good order." It is correct we deemed the application complete; however, we would like to clarify we won't be able to permit the Project as is. Given the additional information we requested and time to resolve our concerns, we don't think it is realistic to come to an agreement in 30 days and have the Project permitted "soon thereafter" as suggested in the Report. Given the nature, complexity, and the level of interest of the Project, we plan to bring the Project to our Board for permit consideration and adoption. The public comment period for a tentative permit is 30 days with the overall process typically taking approximately 4 to 6 months.

As you may be aware, the Regional Water Board informed the SFJPA in an email dated September 4, 2013 that the Project as presently proposed may not comply with State and Regional Water Board Policies and that additional application materials must be submitted before the Regional Water Board can issue CWA Section 401 water quality certification and/or waste discharge requirements. The SFJPA has not demonstrated that the Project as proposed constitutes the Least Environmentally Damaging Practical Alternative as required by the Regional Water Board's Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan).

On September 18, 2013, SFJPA's consultants met with the regulatory agencies to discuss potential alternatives to the Project design. Representatives from the Santa Clara Valley Water District, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife,

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National Marine Fisheries Service, Bay Conservation and Development Committee, and the Regional Water Board were present at the meeting. The meeting's discussion focused on modifying the Project design to further avoid and minimize impacts to waters of the State, sensitive habitats, and listed species. As an outcome of the meeting, the SFJPA will be expanding the Project design alternatives, including re-evaluating certain designs rejected in the past. A follow up meeting will be scheduled to discuss the agencies' assessment of the additional alternatives. We look forward to reviewing the additional hydraulic modeling results the SFJPA is currently developing.

The Regional Water Board shares the goals of the Project, which include flood control, habitat improvement/restoration, and recreational improvement. The Project goals should also include water quality improvements as the Regional Water Board is also concerned that the current proposal would allow discharges of largely untreated (polluted) urban runoff into sensitive marsh habitat. We would like to see alternatives be explored for opportunities upstream of the Project site for incorporating Low Impact Development strategies designed to detain and treat storm water. We would also like to see other alternatives that maximize floodplain creation to attenuate flood flows and pollutants within the golf course and the airport properties.

In summary, the Regional Water Board will continue to coordinate with the SFJPA and other regulatory agencies. We believe this Project will benefit from having a stakeholder process that involves not only regulatory agencies but also local stakeholders such as the Palo Alto Golf Course, Palo Alto Airport, Community for Green Foothills, and Beyond Searsville Dam. We plan to post the complete application submitted by the SFJPA for a 21-day public comment period.

Moving forward, we would like to have a mutual understanding of what can be achieved or expected, and the time frame. We look forward to receiving additional information and working with the SFJPA, other regulatory agencies and the stakeholders.

If you have any questions related to this permit status update, please contact Maggie Beth at 510-622-2338 or [mabeth@waterboards.ca.gov](mailto:mabeth@waterboards.ca.gov).

Sincerely,

Shin-Roei Lee  
Chief, Watershed Division

cc:

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