
San Francisco Bay Regional Water Quality Control Board

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June 5, 2015

Ms. Amanda Cruz
Corps, S.F. District, Planning Branch
U.S. Army Corps of Engineers
1455 Market Street, 17th Floor
San Francisco, CA, 94103-1398
Email: Amanda.B.Cruz@usace.army.mil

Subject: Review of 60% Plan Phase for the Upper Berryessa Creek Flood Management Project, Santa Clara County

Dear Ms. Cruz:

This letter documents for the public record the San Francisco Bay Regional Water Quality Control Board (Water Board) staff's comments on the proposed 60% design of the Upper Berryessa Creek Flood Risk Management Project, Santa Clara County, California (Project). These comments are provided to advise the Corps of Engineers (Corps) of State requirements, so they may be incorporated into the Project planning and design processes prior to the submittal of a request for the Water Board to approve the design.

In addition to having reviewed the draft 60% design plans, dated May 15, 2015 (received on May 22, 2015), Water Board staff also performed two site inspections on April 15 and May 19, 2015, with Corps and Santa Clara Valley Water District (District) staffs. We have also reviewed the Corps' December 2014 Wetland Delineation Report and the June 2012 Alternatives Analysis.

We are concerned that the Project, as proposed, does not appear to constitute the Least Environmentally Damaging Practicable Alternative (LEDPA) as required by our Board's Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan requires that impacts to wetlands and other waters be avoided and minimized to the maximum extent practicable, and that the U.S. EPA 404(b)(1) Guidelines (Guidelines) be utilized in determining the LEDPA. The Water Board's certification review for the Project will require the Corps to demonstrate, consistent with the Guidelines, that the Project as designed constitutes the LEDPA. We have the following initial comments on the proposed project:

- 1) **Project design should be revised to better support beneficial uses.** The proposed design is an expanded trapezoidal channel with 2:1 slopes on both banks, and relies on

cellular bank protection technology for bank stabilization from the 10-year flood elevation to the top of bank. Utilizing cellular bank protection technology would significantly limit the types of vegetation that could establish and thrive, thereby reducing the functions and value of the Creek's habitat and other beneficial uses. One alternative to the cellular bank protection technology that should be evaluated is the creation of vegetated benches. In many areas, the Creek channel appears to have ample space to set back at least one bank to provide for more natural channel features such as vegetated terraces and benches. This would enhance and restore Creek beneficial uses. The project design should identify reaches where such a design, or design elements, are feasible, including, as necessary, acquisition or placement of easements on adjacent property, construction of flood walls or berms, and other work. Additionally, please identify other opportunities to reduce constraints on channel design, such as identifying opportunities to obtain creek access for maintenance from adjacent properties via an easement, rather than accommodating it within the existing right of way. This may allow additional flexibility to develop a project design that maximizes Creek beneficial uses and constitutes the LEDPA.

- 2) **Project proposal must include compensatory mitigation for impacts.** The current Project design does not include a mitigation and monitoring plan designed to provide compensatory creek and wetland mitigation for the Project's impacts to wetlands and other waters of the State. As designed, the Project would result in both temporary and permanent impacts requiring completion of appropriate mitigation consistent with the Basin Plan and the State's "No Net Loss" Policy.
- 3) **Proposed culvert designs should be reviewed.** The Project design proposes replacing the foundations of two existing bridges with prefabricated concrete box culverts. Based on the site inspections, the Project areas at these two locations appear to have sufficient space available to accommodate free-span bridges, which would minimize fill and impacts in the channel. Accordingly, the practicability of replacing the existing bridge structures with free spanning structures must be evaluated. Another alternative design that should be evaluated that would also result in less fill than the current proposal is utilizing earthen-bottom culverts. Similarly, as an alternative to the prefabricated box culverts proposed to be installed at the confluences with Piedmont Creek and Los Coches Creek, utilizing earthen-bottom culverts rather than concrete chambers would result in less impacts and fill, and therefore, should be evaluated.
- 4) **Construction Stormwater Permit coverage required.** The Corps must obtain coverage under and comply with the statewide NPDES General Permit for Discharges of Stormwater Associated with Construction Activity (Order No. DWQ-2009-0009, as amended by Order Nos. 2010-0014-DWQ and 2012-006-DWQ) (Construction Stormwater Permit).

We understand the Santa Clara Valley Water District (District) is the local partner and will conduct a California Environmental Quality Act (CEQA) environmental impact assessment for the Project. We welcome the opportunity to provide additional comments on the Project as part of the CEQA process. Upon receipt of a Report of Waste Discharge or water quality certification application, we will be able to provide more detailed comments on the compatibility of the proposed Project design with State and Regional Water Board Policies.

If you have any questions about our comments, please contact Susan Glendening at sglending@waterboard.ca.gov or (510) 622-2462.

Sincerely,

Keith H. Lichten, P.E.
Division Chief
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