

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

RESPONSE TO COMMENTS

The Water Board received written comments from two parties on the draft Tentative Order to issue Waste Discharge Requirements (WDRs) (Tentative Order) to the Santa Clara Valley Water District (Valley Water) for the Coyote Creek Flood Protection Project.

Comments on the Tentative Order were made by:

1. Valley Water
2. Katja Irving

To request copies of the comment letters, please contact Timothy Chen at (510) 622-5058 or timothy.chen@waterboards.ca.gov.

Valley Water

Valley Water Comment 1:

Valley Water requests the Board's reconsideration of its finding in Provision C.4 that the Project's imported soil must meet the screening criteria outlined in the May 2000 *Draft Staff Report, Beneficial Reuse of Dredged Materials: Sediment Screening and Testing Guidelines* (herein, "2000 Guidelines") or the closely-associated *Master Quality Assurance Project Plan for the Don Edwards San Francisco Bay National Wildlife Refuge*. Valley Water also requests that the Board consider the Quality Assurance Project Plan (QAPP) for the Project attached to its comment letter. The QAPP includes the screening levels that Valley Water previously submitted to the Board in January 2026, that take into account the specific soil placement activities, their location, and the environments immediately affected. Additionally, Valley Water recommends that Provision C.4 be revised to allow for flexibility and continued collaboration with the Board to establish a more suitable screening framework for the Project's imported soil by inserting the following language into Tentative Order Provision C.4: "...as well as any additional site-specific criteria that the [Water Board] considers acceptable for use in determining the suitability of the Project's imported soil."

Response to Valley Water Comment 1:

Thank you for submitting the proposed language modification and alternative screening criteria for consideration. We do not agree that providing the requested additional flexibility for imported fill on this project is appropriate and have not made the requested change.

In January 2026, Water Board staff considered the alternative screening criteria proposed by Valley Water. At that time, we determined that the proposed criteria were not protective of fish and wildlife species. Rather, the submitted QAPP proposes to use Environmental Screening Levels (ESLs) for construction worker and commercial land use exposure scenarios. Those exposure scenarios consider adverse effects to humans through ingestion, inhalation, or dermal contact. While likely appropriate for construction-stage impacts to workers, those ESLs are higher than ecological risk screening levels for fish and wildlife receptors, and thus not appropriately protective of fish and wildlife populations.

A QAPP for fill material placed in the bed and banks of Coyote Creek, as well as upland areas adjacent to the creek where there is a potential to discharge to waters of the State, should consider chemical concentrations that are protective of fish and wildlife populations likely to occur in and adjacent to the creek, which would protect the creek's associated beneficial uses. In this case, the areas where fill will be placed are below the top of bank and are expected to be saturated during periods of high flow, storm events, or localized flooding. As a result, exposure pathways for contaminants in placed fill pose a potential risk for harm to aquatic receptors. This is consistent with how the Water Board is evaluating upland fill material for beneficial reuse in the San Francisco Bay region.

We recognize the work Valley Water has done in preparing the comment letter and QAPP for the Project, and the Project's expedited construction schedule. Given the need for additional QAPP revision, there is a significant potential that the revision work could either delay the Board's consideration of the Project's Tentative Order, or that revisions completed subsequent to adoption would not be completed in time to meet the Project's construction schedule.

This response is specific to this Project, and we look forward to continued work with Valley Water to develop a QAPP with consistent, appropriately protective screening criteria for use on future Valley Water projects. The Water Board has discretion to consider other criteria for future projects, as appropriate.

Katja Irvin

Katja Irvin Comment 1:

Ms. Irvin submitted a comment via email requesting clarification on the Project's road and trail design elements:

On page 3 of the tentative order, there appears to be a contradiction. The last sentence under Finding 13 says "Construct new and redevelop maintenance access trails and roads along the Creek." However, the last sentence under Finding 15 says "Access to the creek corridor will be from existing roads and

trails." I assume there will be new trails and roads constructed along the creek. In this case the sentence under Finding 15 should be deleted. In any case, this contradiction needs to be corrected. I do not have access to documents showing where the new trails and roads will be constructed. I am also not sure what the difference is between a "road" and a "trail." Hopefully these new roads (trails) are very limited. I am concerned about both the construction and the long-term water quality impacts of new trails and roads on the very steep creek banks that predominate in the project area.

Response to Katja Irvin Comment 1:

Thank you for the comment and for your concern regarding the potential water quality impacts of new or replaced impervious surfaces, resulting from this project. The wording is accurate because Finding 13 describes project elements that will be constructed, and Finding 15 describes how equipment will access Project areas to construct those elements.

As summarized in Finding 13, the Project will both repair existing maintenance roads and trails, and will install new aggregate base (AB) maintenance roads and trails. These new maintenance roads and trails will be constructed entirely above top of bank.

Regarding the commenter's concern about potential water quality impacts from runoff from new roads and trails, the Tentative Order would require Valley Water to address those impacts by requiring Valley Water to construct, operate, and maintain clean water controls in compliance with Municipal Regional Stormwater Permit (MRP) Provision C.3. Runoff from these areas will be directed to appropriately sized vegetated areas and other treatment methods meeting the requirements of Provision C.3. The Tentative Order would require Valley Water to submit final designs as part of the post-construction stormwater management plan for review and Executive Officer acceptance, in addition to as-builts of completed stormwater controls once project construction is completed.