



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

SFCJPA.ORG

March 27, 2015

Mr. Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Mr. Wolfe:

On March 26th, the San Francisquito Creek Joint Powers Authority (SFCJPA) Board, which consists of elected leaders from the cities of East Palo Alto, Menlo Park, and Palo Alto, the Santa Clara Valley Water District, and San Mateo County, voted unanimously to send you a letter stating our concerns with the delays and new demands made by you in connection with the 401 Water Quality Certification for our S.F. Bay-Highway 101 project.

As you know, it has been more than two years since the SFCJPA applied to the Regional Water Quality Control Board for the certification of the Authority's flood control project that is critically needed to protect life and property along the creek. During that time, SFCJPA staff and consultants, and the staff of the local cities and countywide agencies, have held numerous meetings with you and your staff to advance the permit process. Our April 1, 2014 appeal of your denial without prejudice early last year was put in abeyance in good faith reliance on your stated desire to work with us to complete the permit. Unfortunately, over the subsequent four months the Regional Water Board raised new issues and requested substantial additional information, which led to a revised SFCJPA application in July. Last August, at the conclusion of a four-hour Regional Water Board hearing on this project, the Regional Water Board asked you to complete the Certification administratively, rather than through Board action, in order to expedite its completion.

Then, during a Regional Water Board meeting on October 31, 2014, you reported that the revised SFCJPA Water Quality Certification application was complete. On November 5, 2014, in a summary of the meeting to your Board you wrote "I committed to issuing water quality certification for the project once the U.S. Army Corps of Engineers issues its public notice for the project," which the Corps of Engineers did on December 18, 2014.

Six weeks later, on February 2, 2015, your staff provided the SFCJPA a draft of the Certification, which included a costly new requirement not mentioned during the previous two years. Since receiving that draft Certification, staff and legal counsel from the SFCJPA and Santa Clara Valley Water District have worked with your staff to resolve the remaining issues standing in the way of certification, and we hope that we are close to a resolution. But, we've been under that impression before, only to be disappointed by new hurdles like the ones we've seen in the 14 weeks since the Corps of Engineers issued its notice.

The most recent flood to hit East Palo Alto two years ago occurred during a below-average rainfall year. At that time, as during previous floods, water overtopped and seeped through the uncertified levee flooding streets and homes before entering the Bay. This threat to public safety and water quality cannot be addressed until your Water Quality Certification is issued.

In order to move our Certification forward, we once again invite you to discuss this project and our permit application at our next Regular Board meeting, which is on April 23, 2015 at 4:00 p.m. in the Menlo Park City Council Chambers. Please confirm your attendance with SFCJPA Executive Director Len Materman by e-mail at len@sfcjpa.org. We will also be inviting Senator Jerry Hill and Assemblymember Rich Gordon to our Board meeting to discuss the project. We look forward to this conversation and to the completion of your 401 Water Quality Certification for this project.

Sincerely,

Kirsten Keith
Chair, Board of Directors

cc: Senator Jerry Hill
Assemblymember Rich Gordon
SFCJPA Board members