



SAN FRANCISQUITO CREEK  
JOINT POWERS AUTHORITY  
[SFCJPA.ORG](http://SFCJPA.ORG)

March 31, 2014

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

Dear Mr. Wolfe:

We appreciate the willingness of Shin-Roei Lee and you to meet on March 19 with staff leadership from the cities of Palo Alto and East Palo Alto and the Santa Clara Valley Water District (SCVWD), as well as myself. We believe that the meeting helped to build a common understanding of the SFCJPA's proposed S.F. Bay-Highway 101 project and the Regional Water Quality Control Board's (Regional Water Board) 401 Certification process. Thank you for reviewing the text below to verify that we are in agreement on the key points and next steps from our March 19 discussion.

- On March 19, you expressed that your primary concern with the project relates to the impact of San Francisquito Creek flows on the habitat and species within the Faber Tract marsh located just north of the creek. This clarification was very helpful in light of a new design modification we are considering to fill the low point in the levee separating the creek and marsh. As I noted in the meeting using a graph of levee heights and water surface elevations, our hydraulic modeling shows that this modification would decrease the overall volume, frequency, and velocity of water entering the tidal-dominated marsh as compared to the current condition. Our design consultant is preparing a technical memorandum of this finding, which we will send to your staff this week.
- We appreciated the opportunity to clarify for you that the fluvial flow used in the hydraulic model of the reach affecting the Faber Tract will be a maximum of 7,400 cubic feet per second (cfs). This is based on the fact that the upstream constriction at Middlefield Road Bridge will not allow more than 6,700 cfs and there is an additional maximum of 700 cfs contributed from the watershed between the Middlefield Road Bridge and the levee separating the creek from Faber Tract. I understood that the conclusions reached by your staff were based on an assumed maximum flow of 9,400 cfs at that levee as a result of the new Caltrans Highway 101 bridge replacement project. We agreed that further explanation of tidal conditions and of the U.S. Army Corps of Engineers hydraulic model of upstream constrictions is necessary to be clear on the appropriate design flow for this project.
- You indicated that Regional Water Board staff has questions regarding the designed level of protection that the project would afford to East Palo Alto properties now threatened by floodwaters. There should be no question that the protection of life and property is fundamental to the purpose and design of this project. We remain confident that the proposed project design has met and continues to meet our flood protection objectives, which include removing properties from the fluvial floodplain and accommodating Sea Level Rise. As I indicated, our technical team, including consultants, SFCJPA project manager and SCVWD staff, will meet with your staff to review the model and project design, including the modification mentioned above. We agreed that this discussion should be expeditious and conclusive, and thus this week I will suggest to Shin-Roei a few times in April that our team is available to meet to resolve all Regional Water Board questions related to the project's design and hydraulic performance.
- We discussed the urgent, recurring flood threat downstream of Highway 101, and the necessity of completing this project prior to commencing projects upstream of Highway 101 that are not yet designed or certified under CEQA. The City of East Palo Alto emphasized that project delays continue to place low-income minority residents directly in harm's way. We agreed that the permitting of this urgent downstream project should not be slowed by a need to submit application materials relative to specific requirements covered by other Regional Water Board permits such as the Municipal Regional Permit. We further discussed our shared interest in utilizing a detention facility in the upper watershed. Given that such a project is currently not funded and cannot be built for many years, if at all, we agreed that our analysis of the Least Environmentally Damaging Practicable Alternative (LEDPA) should only include the proposed project and two alternatives between the Bay and Highway 101 that you requested.

- The two project alternatives requested by the Regional Water Board include:
  - 1) Downstream of the project area, widen the channel slightly by continuing the new levee in the Palo Alto Golf Course to the location where the golf course meets the northern end of the Palo Alto Airport. This alternative also lowers the levee between the creek and Faber Tract to allow fluvial flows into the triangular area of that Tract near the Bay. On March 19, you stated your belief that the U.S. Fish & Wildlife Service (USFWS), which manages the Faber Tract, supports lowering this portion of the levee and that you would confirm this as soon as possible. With twelve days having passed since our meeting, we assume USFWS support has been confirmed and we will proceed with our analysis of this new alternative. Finally, you stated this alternative would not impact the airport.
  - 2) In addition to building certified flood control structures in place on the existing channel, construct a bypass channel to divert some of the flow from San Francisquito Creek to a floodwater detention basin at the existing ball fields and at the potential sports fields near the downstream end of the proposed flood wall. Floodwaters would then exit the detention basin into a new channel that would continue along the southern boundary of the golf course along Embarcadero Road, cut through the airport property, and discharge to the tidal marsh south of the airport runway.

We agreed that our analysis of these alternatives, which we intend to present to the Regional Water Board within the next 30 days, will not be nearly as detailed as our analysis of the preferred project and that it should consider and describe the factors that led us to find that the proposed project is the LEDPA.

- Neither the SFCJPA proposed project, nor the two alternatives to our project listed above that the Regional Water Board requested we analyze, would include a bypass channel through the middle of the City of Palo Alto's golf course. This new information will be included in documents that the City is preparing in response to a February 28, 2014 letter from the Regional Water Board regarding a golf course reconfiguration project.
- In addition to analyzing the two additional project alternatives described above, we agreed to summarize in table format all of the alternatives considered for the area downstream of Highway 101. By summarizing the benefits and impacts of each alternative, this table will provide further justification that the proposed project is the LEDPA.
- You informed us that your "denial without prejudice" of our 401 Certification application, communicated by letter on February 27, 2014, is a decision subject to appeal. For the purpose of preserving all rights of the SFCJPA and the communities we serve, we will seek both reconsideration of this denial by the Regional Water Board and also its review by the State Water Board. Please note that we will ask that this request be held in abeyance pending what we hope will be a speedy resolution of the above issues and the certification of our current application. We intend to work diligently to make this certification happen at the earliest possible time.

We appreciate your contributions to the above paragraphs, which characterize our conversation, the content and planned outcomes of an upcoming meeting among Regional Water Board senior and technical staff and our project team, and any and all new deliverables that must accompany our continued application for water quality certification.

On behalf of my colleagues at the meeting, who are copied below and contributed to this summary, thank you again for your commitment to completing the permit process on this critical and timely project for our communities.

Sincerely,



Len Materman  
Executive Director

cc: Magda Gonzalez, City Manager, East Palo Alto  
Jim Keene, City Manager, Palo Alto  
Norma Camacho, Chief Operating Officer, Watersheds, Santa Clara Valley Water District  
John Doughty, Community Development Director, East Palo Alto  
Melanie Richardson, Deputy Operating Officer, Santa Clara Valley Water District  
Molly Stump, City Attorney, Palo Alto