

File No. 171000

Committee Item No. _____

Board Item No. 43

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____

Date: _____

Board of Supervisors Meeting

Date: September 19, 2017

Cmte Board

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OTHER

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Prepared by: Brent Jalipa

Date: September 7, 2017

Prepared by: _____

Date: _____

1 [Adopting Findings Reversing the Final Environmental Impact Report Certification - Alameda
2 Creek Recapture Project]

3 **Motion adopting findings reversing the Planning Commission's certification of the**
4 **Final Environmental Impact Report for the San Francisco Public Utilities Commission's**
5 **proposed Alameda Creek Recapture Project.**

6
7 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) approved the
8 Alameda Creek Recapture Project (the Project) by Resolution No 17-0146 on June 23, 2017;
9 and

10 WHEREAS, The proposed Project would recapture water that would be released from
11 Calaveras Reservoir and/or bypassed around the Alameda Creek Diversion Dam (ACDD)
12 when the SFPUC implements the instream flow schedules required as part of the regulatory
13 permits for future operations of Calaveras Reservoir; and

14 WHEREAS, Released and bypassed water would flow naturally down Alameda Creek
15 through the Sunol Valley and would percolate into and collect in a quarry pit referred to as Pit
16 F2, which is currently leased to Mission Valley Rock Company for water management
17 activities related to aggregate mining activities; and

18 WHEREAS, The SFPUC would recapture water collected in Pit F2 by pumping it to
19 existing SFPUC water supply facilities in the Sunol Valley for treatment and eventual
20 distribution to its water supply customers in the Bay Area; and

21 WHEREAS, The Planning Department determined that an Environmental Impact
22 Report (hereinafter "EIR") was required for the proposed Project and provided public notice of
23 that determination by publication in a newspaper of general circulation on June 24, 2015; and

24 WHEREAS, The Planning Department published a Draft EIR for the proposed Project
25 on November 30, 2016, and circulated to local, state, and federal agencies and to interested

1 organizations and individuals for a 45-day public review period that was later extended for two
2 weeks by the Planning Department, resulting in a 62-day public review period that ended on
3 January 30, 2017; and

4 WHEREAS, The Planning Commission held a public hearing on the Draft EIR on
5 January 5, 2017; and

6 WHEREAS, The Planning Department prepared a Responses to Comments document
7 (RTC), responding to all comments received orally at the public hearings and in writing, and
8 published the RTC on June 7, 2017; and

9 WHEREAS, On June 22, 2017, the Planning Commission, by Motion No. 19952,
10 certified a Final Environmental Impact Report (Final EIR) for the proposed Project under the
11 California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.,
12 the CEQA Guidelines, 14 California Code of Regulations, Section 15000 et seq., and San
13 Francisco Administrative Code Chapter 31, finding that the Final EIR reflects the independent
14 judgment and analysis of the City and County of San Francisco, that it is adequate, accurate
15 and objective, and contains no significant revisions to the Draft EIR; and

16 WHEREAS, By letter to the Clerk of the Board, received by the Clerk's Office on July
17 24, 2017, Robert Shaver, General Manager, on behalf of the Alameda County Water District,
18 appealed the Final EIR certification ("Appellant"); and

19 WHEREAS, The Planning Department's Environmental Review Officer, by
20 memorandum to the Clerk of the Board dated July 26, 2017, determined that the appeal had
21 been timely filed; and

22 WHEREAS, On September 5, 2017, this Board held a duly noticed public hearing to
23 consider the appeal of the Final EIR certification filed by Appellant and, following the public
24 hearing, conditionally reversed the Final EIR certification, subject to the adoption of these

5

1 written findings in support of such determination, and requested additional information and
2 analysis be provided; and

3 WHEREAS, In reviewing the appeal of the Final EIR certification, this Board reviewed
4 and considered the determination, the appeal letters, the responses to the appeal documents
5 that the Planning Department prepared, the other written records before the Board of
6 Supervisors and all of the public testimony made in support of and opposed to the Final EIR
7 appeal; and

8 WHEREAS, In addition to the appeal letter, the National Marine Fisheries Service
9 ("NMFS") and the Alameda Creek Alliance each submitted a letter in support of the appeal, on
10 July 27, 2017 and August 2, 2017, respectively; and

11 WHEREAS, In its letter, NMFS stated that it "believes the document does not contain
12 sufficient information to conclude the [Project] will not result in substantial effects on
13 streamflow that support the migration of C[entral] C[alifornia] C[oast] steelhead [fish] in
14 Alameda Creek;" and

15 WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors
16 conditionally reversed the Final EIR certification, subject to the adoption of written findings of
17 the Board in support of such determination, based on the written record before the Board of
18 Supervisors as well as all of the testimony at the public hearing in support of and opposed to
19 the appeal; and

20 WHEREAS, The written record and oral testimony in support of and opposed to the
21 appeal and deliberation of the oral and written testimony at the public hearing before the
22 Board of Supervisors by all parties and the public in support of and opposed to the appeal of
23 the Final EIR certification is in the Clerk of the Board of Supervisors File No. 170893 and is
24 incorporated in this motion as though set forth in its entirety;

1 WHEREAS, The Board finds that the letter from NMFS's raised important questions
2 regarding how the project would affect low flow levels in Alameda Creek, and information in
3 the NMFS letter constitutes significant new information that NMFS had not previously
4 identified that affects the CEQA evaluation of operational impacts of the project on threatened
5 steelhead fish; and

6 WHEREAS, In light of this new information, the Planning Department proposed to
7 undertake further analysis of the potential operational impacts of the project on threatened
8 steelhead fish related to changes caused by the project on streamflow in Alameda Creek, and
9 proposed to recirculate a portion of the Draft EIR to address this single issue; and

10 WHEREAS, This Board considered these issues, heard testimony, and shared
11 concerns that further information and analysis was required regarding whether the proposed
12 project would result in operational impacts on steelhead in the lower watershed as a result of
13 project-induced effects on streamflow in Alameda Creek; now therefore be it

14 MOVED, That this Board of Supervisors directs the Planning Department to provide
15 additional information and analysis regarding whether the proposed project would result
16 operational impacts on steelhead fish in the lower watershed as a result of project-induced
17 effects on streamflow in Alameda Creek; and be it

18 FURTHER MOVED, In conducting any such additional environmental analysis the
19 Planning Department shall enlist an independent third party review of the groundwater/surface
20 water model to determine if the current model adequately and accurately analyzes the
21 fisheries issues as required by CEQA; and be it

22 FURTHER MOVED, As to all other issues, the Board finds the Final EIR adequate,
23 accurate, and objective, and no further analysis is required.

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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Adopting Findings Reversing the Final Environmental Impact Report Certification - Alameda Creek Recapture Project

The text is listed below or attached:

Motion adopting findings reversing the Planning Commission's certification of the Final Environmental Impact Report for the San Francisco Public Utilities Commission's proposed Alameda Creek Recapture Project.

Signature of Sponsoring Supervisor: *Alisa Gomez*

For Clerk's Use Only: