

File No. 170893

Committee Item No. _____

Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS

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Date: _____

Board of Supervisors Meeting

Date: September 5, 2017

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Prepared by: Lisa Lew

Date: August 31, 2017

Prepared by: _____

Date: _____



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July 24, 2017

City and County of San Francisco
Clerk of the Board of Supervisors
Lisa Gibson, Environmental Review Officer
#1 Dr. Carlton B. Goodlett Place
Room #244
San Francisco, CA 94102

2017 JUN 24 PM 4:22
BOARD OF SUPERVISORS
SAN FRANCISCO
[Handwritten signature]

Dear Lisa Gibson, Clerk of the Board, and Members of the Board of Supervisors:

Subject: Appeal of the June 22, 2017, Planning Commission Decision and the June 23, 2017, SFPUC Decisions Regarding the Alameda Creek Recapture Project.

The Alameda County Water District (ACWD), in accordance with Administrative Code Section 31.16, hereby appeals the following two decisions:

1. Motion No. 19952, approved by the Planning Commission on June 22, 2017, certifying the Final Environmental Impact Report for the proposed Alameda Creek Recapture Project and adopting related findings; and
2. Resolution 17-0146, approved by the Public Utilities Commission on June 23, 2017, adopting the CEQA findings, including the Statement of Overriding Considerations, adopting the Mitigation Monitoring and Reporting Program, and approving Project No. CUW35201, Alameda Creek Recapture Project.

I. Background

ACWD has a strong interest in protecting and preserving water quality and water supply in Alameda Creek and the Alameda Creek Watershed. Since ACWD's founding, over 100 years ago, ACWD and Spring Valley Water and, later, the City and County of San Francisco, acting by and through the San Francisco Public Utilities Commission (SFPUC) have a long history of working together with a shared interest in the Alameda Creek Watershed. Because ACWD relies on Alameda Creek for approximately 40% of its water supply and operates and maintains facilities in the watershed to replenish the Niles Cone Groundwater Basin downstream of the Alameda Creek Recapture Project (Project), ACWD is uniquely familiar with, and concerned about, the Project. With a service area located downstream of the proposed Project location, ACWD uses water from the Alameda Creek watershed for drinking water supply to 351,000 people in the cities of Fremont, Newark, and Union City. ACWD is particularly concerned with potential impacts that the Project may have on ACWD's water supplies as well as ongoing



projects related to fisheries restoration in Alameda Creek. ACWD, together with the SFPUC and other watershed stakeholders, is actively involved in the ongoing steelhead restoration efforts to restore the steelhead run in the Alameda Creek Watershed. In fact, ACWD and Alameda County are making approximately \$48.5M investments in fish ladders and screened diversions downstream of the Project. Additionally, Alameda County will be making additional significant investments to improve Alameda Creek to facilitate steelhead migration.

As a customer of the SFPUC, ACWD relies on the Regional Water System for about 20 percent of ACWD's water supply. ACWD acknowledges the significant accomplishments of the SFPUC to date in the implementation of the Water Supply Improvement Program (WSIP) since ACWD is a large customer and, therefore, a beneficiary of the water supply reliability improvements that the SFPUC is achieving through implementation of the WSIP.

II. Summary of Appeal

ACWD does not take the filing of this appeal lightly. Not only does ACWD have a long relationship of working cooperatively with the SFPUC in the Alameda Creek Watershed, ACWD is a large customer of the SFPUC and ACWD relies on the Regional Water System. SFPUC and ACWD have worked cooperatively since 1997 through the Alameda Creek Fisheries Work Group to reestablish a viable fishery for the federally threatened *Oncorhynchus mykiss*, or steelhead, in the Central California Coast region. This relationship will continue in the future.

ACWD generally supports the concept of the Project – recapturing water for beneficial uses can benefit all customers who use water provided by SFPUC, including ACWD. However, as described in the numerous comments on the Draft Environmental Impact Report (EIR) as well as testimony at the Planning Commission hearing and SFPUC meeting for the Project, ACWD firmly believes that the hydrology analysis undertaken in the EIR is insufficient to accurately determine impacts, including impacts to steelhead and to ACWD's water supply on Alameda Creek.

ACWD has consistently stated since the inception of this Project that the Alameda System Daily Hydrologic Model (ASDHM), relied on extensively in the EIR's impact analyses, is insufficient to analyze the surface water groundwater interaction necessary to evaluate Project impacts. It should be noted that, while the ASDHM contains the word “daily,” the results presented in the EIR were compiled from the daily data and analyzed at a monthly time-step. Additionally, as ACWD stated in its comments on the Draft EIR, the conceptual approach taken in the Draft EIR to characterize surface water/groundwater interactions is grossly inadequate in its ability to evaluate potentially substantial adverse effects of the proposed ACRP on surface water, groundwater, and steelhead.

Likewise, since the Project was noticed, ACWD has requested to work initially with the SFPUC and then the Planning Department to develop a new, more robust, and appropriate tool to study the surface water groundwater interaction and the potential impacts of the proposed Project. ACWD proposed to collaborate in this effort and to contribute both financially and through in-kind services to the development of a new model which would benefit both agencies' activities in the watershed. ACWD's requests were largely ignored. ACWD's offer to work collaboratively

with the SFPUC for a more informed and complete understanding of the Alameda Creek Watershed remains open.

In comments on the Draft EIR, and in meetings with both the SFPUC and the Planning Department, ACWD stated that the flows analysis in the EIR should be at a daily rate or time-step, instead of the monthly analysis conducted in the EIR, to adequately analyze Project impacts. In a January 10, 2017, letter (see Exhibit D) and throughout this process ACWD has requested the daily data, which was not provided until June 7, 2017 (received on June 12, 2017), well after the close of the public comment period on January 30, 2017, and only 13 calendar days prior to the Planning Commission hearing certifying the EIR for the Project (see Exhibit E). Analysis of this data indicates the operation of the Project will result in severe impacts and potential "take" of the Central California Coast steelhead. These impacts were not included in the Final EIR.

III. Basis of Appeal

This appeal includes all of the grounds ACWD submitted to the Planning Commission and the SFPUC in its written and oral comments on the Draft EIR and Project, including the grounds listed in this letter and additional information that may be provided prior to the hearing on this matter, more specifically:

- The Final EIR includes inadequate and incomplete analysis, and it fails to adequately disclose and evaluate potentially significant impacts to the following environmental resources:
 - Biological and Fishery Resources
 - Hydrology and Water Quality
 - The Cumulative Impact analysis in the Draft EIR and Final EIR fails to disclose a considerable contribution to significant cumulative impacts to the environmental resources listed above.
- The Final EIR failed to analyze and adopt all feasible mitigation measures and alternatives to offset significant impacts to the environmental resources listed above.
- The Final EIR failed to respond adequately to comments on the Draft EIR.
- The Final EIR included an inadequate and incomplete Statement of Overriding Considerations that contains statements that are not supported by substantial evidence.
- The Final EIR failed to determine the required permits and Project approvals.
- Failure to revise modeling and analysis approaches and recirculate the Draft EIR because new information and daily modeling data were not analyzed in the Final EIR.

A. Procedural Flaws

Despite the multiple requests made by ACWD for daily modeling data, which is essential data to analyze the environmental impacts of the Project, ACWD only received the relevant requested data on June 12, 2017 – 192 days after the Draft EIR was published and well after the close of the public comment period on January 30, 2017. Withholding critical relevant data, and then providing it with less than 10 business days prior to the Planning Commission meeting is a violation of CEQA and deprives the public of a

meaningful opportunity to comment on the substantial adverse impacts, feasible mitigation, or alternatives to the Project.

Furthermore, this daily modeling data demonstrates that the Project will have significant environmental impacts to steelhead, as discussed further below.

B. Methodological Flaws Leading to Invalid Impact Determinations

Given the lack of sufficient credibility of the modeling approach, the majority of conclusions made by the Final EIR are unsupported, including conclusions of no significant impact on aquatic species or impacts as a result of reduced water supplies to downstream water rights holders.

- 1) ASDHM Niles Gauge data show significant impacts to steelhead when analyzed on a daily time-step.
 - According to the modeled daily Niles Gauge streamflow data, the Project would result in a substantial, adverse impact to Central California Coast steelhead, a federally-listed threatened distinct population segment of steelhead. Specifically, the data indicates that flows in Alameda Creek would drop below the critical 25 cubic feet per second (cfs) on a substantially greater number of days during the December to April adult emigration migration period and the January to June post-spawn adult emigration period. These thresholds were identified by the National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) as being minimum passage thresholds for adult and juvenile steelhead downstream of the Project location in the Alameda Creek Flood Control Channel and were integrated into the ASDHM analysis used to conclude CEQA impacts in the Final EIR (Table 14, Dhakal et al, 2012; cited in EIR Appendix HYD-1, page 48: Section 4, Note 1). This is a significant impact under CEQA and is neither disclosed nor mitigated in the Draft EIR or Final EIR. Instead, in both the Draft EIR and Final EIR, the impacts of the Project to steelhead are dismissed as less than significant. Consequently, no mitigation is proposed to offset this significant impact.
 - Comparing with the modeled daily streamflow at Niles gage, the Project results in a 60% increase (138 additional days) in the number of non-passable days for threatened steelhead downstream of the proposed Project location during wet year migration seasons included in the study period. Similarly, a 34% increase in non-passable days (102 additional days) downstream of the Project area during migration season in dry years also is observed. These comparisons were made between the conditions that will exist when the Calaveras Dam Replacement Project (CDRP) has been completed and in operation (with-CDRP conditions) scenario and the conditions that would exist when both the CDRP and the Alameda Creek Recapture Project are completed and are in operation (with-Project conditions) scenario. These significant impacts to steelhead were neither

disclosed nor sufficiently analyzed in either the Draft EIR or Final EIR and renders unsupported the conclusions of no impact.

- 2) The ASDHM is insufficient to analyze the surface water groundwater interaction necessary to evaluate Project impacts.
 - The SFPUC commissioned a Blue Ribbon Panel in August 2012 comprised of hydrologists and fisheries biologists, to provide an independent scientific review of the ASDHM model and concluded that "a groundwater modeling study will be necessary to evaluate the surface and groundwater interaction within the Alameda Creek watershed, including the effects of lowering of Pit F2 elevations." The CEQA analysis includes no such effort.
 - The ASDHM modeling assumes that under Project conditions, the loss rate of surface water from Alameda Creek will not change relative to current conditions, when in reality the Project will lower local groundwater levels and increase surface water loss rates, which will impact downstream stream flow rates.
 - Analyzing impacts to surface water hydrology on an aggregated monthly time-step serves to mask critical day-to-day changes in flow rates which in turn masks impacts to aquatic biology and surface water hydrology downstream of the Project.
- 3) The Conceptual Model is scientifically invalid and inadequate for the evaluation required to assess potential Project impacts.

In the Draft EIR and Final EIR, surface water and groundwater interactions are examined using an overly simplistic description (referred to as a "conceptual model") of the Alameda Creek surface water and groundwater basin. For example, the conceptual model includes a key assumption that the lower alluvium/Livermore gravels are not water-bearing. This key assumption is incorrect, which invalidates the application of the conceptual model for evaluating potential Project impacts. The EIR's reliance on such an overly simplistic model resulted in the failure to disclose significant impacts to surface water, groundwater, and fisheries.

C. The Project Constitutes an Expansion of San Francisco's Water Rights Claim for Calaveras Reservoir Requiring State Water Resources Control Board Approval

The redirection and storage of recaptured water from the Project originates from sources other than Calaveras Reservoir and the Alameda Creek Diversion Dam and is outside of the scope of SFPUC's water rights. This was not analyzed nor disclosed in the EIR. The determination in the EIR that there will be no significant impacts because the Project would not cause downstream water users to alter operations in a way that would result in significant adverse environmental impacts is insufficient because it is predicated on the incorrect premise that the water being recaptured is exclusively SFPUC's pre-1914 surface water right and that the recapture operation does not expand these rights.

IV. Other Issues

A. An Incidental Take Permit (ITP) is Required for the Project

Based on the daily Niles Gauge streamflow data, the operation of the Project would likely result in “take” (as defined in the federal Endangered Species Act) of Central California Coast steelhead. The Central California Coast steelhead is federally-listed as a threatened distinct population segment. An ITP from the NMFS would be required under Section 10(a) of the federal Endangered Species Act. This ITP requirement was not adequately addressed in the response to comments and is not portrayed in the Project description. Even if a federal nexus exists for the Project (something that SFPUC states is not the case), the Project would require a Biological Opinion from the NMFS pursuant to Section 7 of the federal Endangered Species Act. No such Biological Opinion exists for the Project.

B. This is Not an Attempted “Water Grab” by ACWD

The NMFS will require ACWD to “bypass” the vast majority of releases from Calaveras Reservoir and the Alameda Creek Diversion Dam that may reach ACWD’s service area during fish migration seasons; therefore, these releases will flow to San Francisco Bay. Since ACWD cannot take advantage of this water, this is not an attempted “water grab” by ACWD. However, as explained above, the Project may change the timing and flow rates in a way that negatively impacts ACWD’s water supply. This is difficult to assess because the appropriate level of analysis has not been performed in the EIR.

V. Evidence Supporting Appeal

The final motion and resolution certifying the EIR, adopting findings and a statement of overriding considerations, and approving the Project are attached as **Exhibits A, B, and C**. Evidence in support of the appeal is attached as **Exhibits D and E**, and is also contained in the Draft and Final EIRs and the Planning Commission and SFPUC meeting packets, incorporated here by reference. **Exhibit F** is a link to the June 22, 2017, Planning Commission hearing. **Exhibit G** is a link to the June 23, 2017, special meeting of the SFPUC.

Attached Exhibits:

Exhibit A: Final Planning Commission Motion No. 19952

Exhibit B: Public Utilities Commission Resolution 17-0146

Exhibit C: Agenda Item for Public Utilities Commission Meeting, June 23, 2017

Exhibit D: Selected letters and documents

- July 27, 2015, ACWD Comments on Notice of Preparation
- January 10, 2017, ACWD Request for extension of time and for daily flow data.
- January 30, 2017, ACWD Comments of Draft EIR for the Alameda Creek Recapture Project

July 24, 2017

- June 21, 2017, ACWD Comments on the Final EIR for the Alameda Creek Recapture Project

Exhibit E: June 7, 2017, Planning Department letter containing Hydrology Data in EIR Administrative Record for SFPUC Alameda Creek Recapture Project.

Exhibit F: Link to video of June 22, 2017, Planning Commission hearing in which testimony was given on the Project.

Exhibit G: Link to video of June 23, 2017, SFPUC special meeting in which the Project was discussed and approved.

VI. Conclusion and Request

San Francisco has the well-deserved reputation of being a progressive and environmentally-friendly city. Therefore, ACWD does not understand why Planning and SFPUC staffs have been unreceptive to numerous requests to properly analyze and evaluate the potential impacts of the Project on Alameda Creek flows and threatened Central California Coast Steelhead downstream of the Project.

Accordingly, ACWD requests the Board of Supervisors to reverse the Certification of the EIR and Project approval and remand the final EIR to the Planning Commission and require the collaborative development, with the stakeholders in the Alameda Creek Watershed, including ACWD, of a new modelling tool to effectively analyze stream flows and impacts to fishery resources and downstream water users. Development of this new tool is both reasonable and feasible.

Sincerely,

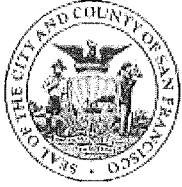


Robert Shaver
General Manager

la/tf

cc: Steve Ritchie, San Francisco Public Utilities Commission
Ellen Levin, San Francisco Public Utilities Commission
Nicole Sandkulla, Bay Area Water Supply and Conservation Agencies (BAWSCA)
Daniel Woldesenbet, Alameda County Public Works
Hank Ackerman, Alameda County Public Works
Gary Stern, National Marine Fisheries Service
Eric Larson, California Department of Fish and Wildlife
Brian Wines, San Francisco Bay Regional Water Quality Control Board
Jeff Miller, Alameda Creek Alliance
Steven Inn, ACWD
Thomas Niesar, ACWD

Attachments



SAN FRANCISCO PLANNING DEPARTMENT

BOARD OF SUPERVISORS
SAN FRANCISCO

2017 JUL 24 PM 4:22

BY _____

Planning Commission Motion No. 19952

HEARING DATE: June 22, 2017

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Case No.: 2015-004827ENV
Project Address: SFPUC - Alameda Creek Recapture Project
Project Location: Various Locations in SFPUC Alameda Watershed
Project Sponsor: San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102
Staff Contact: Chelsea Fordham – (415) 575-9071
chelsea.fordham@sfgov.org

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED ALAMEDA CREEK RECAPTURE PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2015-004827ENV, the "Alameda Creek Recapture Project" above (hereinafter "ACRP Project"), located in the Sunol Valley, an unincorporated area of Alameda County, on Alameda Watershed lands owned by the City and County of San Francisco and managed by the SFPUC, based upon the following findings:

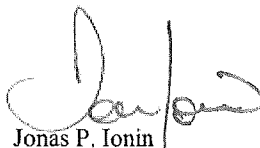
1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on June 24, 2015.
 - B. The Department held a public scoping meeting on July 9, 2015 in order to solicit public comment on the scope of the ACRP Project's environmental review.
 - C. On November 30, 2016, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

- D. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on November 30, 2016.
 - E. On November 30, 2016, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
 - F. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on November 30, 2016.
2. The Commission held a duly advertised public hearing on said DEIR on January 5, 2017 at which opportunity for public comment was given, and public comment was received on the DEIR. In response to requests by agencies and interested organizations, the Planning Department extended the required 45-day review period to 62-days, ending on January 30, 2017.
 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 62-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on June 7, 2017, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
 4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
 5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
 6. On June 22, 2017, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
 7. The Planning Commission hereby does find that the FEIR concerning File No. 2015-004827ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.
 8. The Commission further finds, in certifying the completion of said FEIR, that the Project described in the FEIR is a component of the SFPUC's adopted Water Supply Improvement Program ("WSIP") for which the Planning Commission certified a Program Environmental Impact Report on October 30,

2008 (Case No. 2005.0159E) and the SFPUC approved by Resolution No. 08-0200; as part of the WSIP, the Commission finds that the Project will contribute to a significant and unavoidable impact related to indirect growth-inducement impacts in the SFPUC service area.

9. The Commission, in certifying the completion of said FEIR, hereby does find that the ARCP project described in the EIR would result in either less than significant impacts, or less-than-significant with implementation of identified mitigation measures. No significant and unavoidable impacts were identified in the project-level environmental review of the ACRP.
10. The Planning Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of June 22, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Richards, Fong, Hillis, Melgar, and Moore
NOES: None
ABSENT: Johnson, Koppel
ADOPTED: June 22, 2017

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 17-0146

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff have developed a project description under the Water System Improvement Program (WSIP) for the improvements to the regional water supply system, otherwise known as Project No. CUW35201, Alameda Creek Recapture Project (the "Project"); and

WHEREAS, The objectives of the Project are to recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam (ACDD), respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system; maximize local watershed supplies; and maximize the use of existing SFPUC facilities and infrastructure; and

WHEREAS, On June 22, 2017, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2015-004827ENV, consisting of the Draft Environmental Impact Report (EIR) and the Comments and Responses document, and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion No. 19952; and

WHEREAS, This Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project and the EIR; and

WHEREAS, The Project and EIR files have been made available for review by the SFPUC and the public, and those files are part of the record before this Commission; and

WHEREAS, The Planning Department, Jonas P. Ionin, is the custodian of records, located in File No. 2015-004827ENV, at 1650 Mission Street, Fourth Floor, San Francisco, California; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA (CEQA Findings), and a proposed Mitigation, Monitoring and Reporting Program (MMRP), which material was made available to the public and the Commission for the Commission's review, consideration and action; and

WHEREAS, The Project is a capital improvement project approved by this Commission as part of the WSIP; and

WHEREAS, A Final Programmatic EIR (PEIR) was prepared for the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No. 17734; and

WHEREAS, Thereafter, the SFPUC approved the WSIP and adopted findings and a MMRP as required by CEQA on October 30, 2008 by Resolution No. 08-0200; and

WHEREAS, The Final EIR prepared for the Project is tiered from the WSIP PEIR, as authorized by and in accordance with CEQA; and

WHEREAS, The WSIP PEIR has been made available for review by the SFPUC and the public, and is part of the record before this Commission; and

WHEREAS, Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state regulatory agencies, including but not limited to the following: San Francisco Bay Regional Water Quality Control Board, State Water Resources Control Board Division of Drinking Water, Bay Area Air Quality Management District, California Department of Fish and Wildlife, and any other regulatory approvals as required; and

WHEREAS, For portions of the City-owned SFPUC watershed lands in the vicinity of where the Project work will occur, the SFPUC has issued easements, leases, permits, or licenses to certain parties to use watershed lands for various purposes, and in some instances other parties hold property rights or interests on lands along, over, under, adjacent to or in the vicinity of the watershed lands that may be affected by the Project; and

WHEREAS, The Project may require the SFPUC General Manager to apply for and execute various necessary permits, encroachment permits, temporary and permanent right-of-way agreements, or other approvals, and those permits shall be consistent with SFPUC existing fee or easement interests, where applicable, and will include terms and conditions including, but not limited to, maintenance, repair and relocation of improvements and possibly indemnity obligations; now, therefore, be it

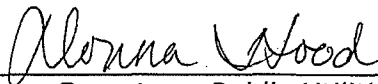
RESOLVED, This Commission has reviewed and considered the FEIR, finds that the FEIR is adequate for its use as the decision-making body for the actions taken herein, and hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached hereto as Attachment A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Attachment B and incorporated herein as part of this Resolution by this reference thereto, and authorizes a request to the Board of Supervisors to adopt the same CEQA findings, Statement of Overriding Considerations, and MMRP that are necessary in connection with the release of funding for project construction; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's watershed lands, new or amended easements, leases, permits, licenses, encroachment removal, or other project related agreements (each, a Use Instrument) with respect to uses and structures, fences, and other above-ground or subterranean improvements or interests; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to negotiate and execute revisions to Lease No. 4289 with Mission Valley Rock Company if such revisions are necessary for the construction of project structures by removing areas from the leased premises, with no other material changes to the lease terms, and to seek Board of Supervisors approval of the lease modification under Charter section 9.118; and be it

FURTHER RESOLVED, That this Commission hereby approves Project No. CUW35201, Alameda Creek Recapture Project, and authorizes staff to proceed with actions necessary to implement the Project consistent with this Resolution, including advertising for construction bids, provided, however, that staff will return to seek Commission approval for award of the construction contract.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of June 23, 2017.



Secretary, Public Utilities Commission



AGENDA ITEM
Public Utilities Commission
City and County of San Francisco



DEPARTMENT Infrastructure Division AGENDA NO. 4
 MEETING DATE June 23, 2017

Approve Project - Environmental Impact Report (EIR): Regular Calendar
Project Manager: Bryan Dessaure

Approve Project No. CUW35201, Alameda Creek Recapture Project

<p>Summary of Proposed Commission Action:</p>	<p>Approve Water Enterprise, Water System Improvement Program (WSIP) funded Project No. CUW35201, Alameda Creek Recapture Project (the “Project”); Adopt the required California Environmental Quality Act (CEQA) Findings, including a Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program (MMRP); and authorize the General Manager to implement the Project, in compliance with the Charter and applicable law, and subject to subsequent Commission action and Board of Supervisors approval, where required.</p>
<p>Background:</p>	<p>The Alameda Creek Recapture Project would recapture water that will be released from Calaveras Reservoir and/or bypassed around the Alameda Creek Diversion Dam (ACDD) when the San Francisco Public Utilities Commission (SFPUC) implements the instream flow schedules required as part of the regulatory permits for future operations of Calaveras Reservoir. Released and bypassed water will flow naturally down Alameda Creek through the Sunol Valley and will percolate into and collect in a quarry pit referred to as Pit F2 that is currently leased to Mission Valley Rock Company under Lease number 4289 for water management activities related to aggregate mining activities. The SFPUC would recapture water collected in Pit F2 by pumping it to existing SFPUC water supply facilities in the Sunol Valley for treatment and eventual distribution to its water supply customers in the Bay Area. The recaptured water would maintain the historical contribution from the Alameda Watershed to the SFPUC regional water system, in accordance with the City and County of San Francisco's (CCSF) existing pre-1914 appropriative water rights for Calaveras Reservoir and the ACDD.</p> <p>Project objectives are as follows:</p> <ul style="list-style-type: none"> Recapture the water that would have otherwise been stored in

APPROVAL: _____
 COMMISSION SECRETARY Donna Hood

	<p>Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the ACDD, respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system.</p> <ul style="list-style-type: none"> • Minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system. • Maximize local watershed supplies. • Maximize the use of existing SFPUC facilities and infrastructure. • Provide a sufficient flow to the Sunol Valley Water Treatment Plant (SVWTP) to meet its minimum operating requirements. <p>This project includes:</p> <ul style="list-style-type: none"> • Installation of four pumps on floating barges in Pit F2, each connected to a flexible discharge pipeline connecting to a new pipe manifold onshore. • Construction of a 100-foot-long pipeline connection between the new pipe manifold and the existing Sunol Pump Station Pipeline. • Construction of an electrical control building, including power and fiber optic line connections. • Construction of an access road, security fencing, and other general site improvements.
Result of Inaction:	<p>A delay in approving this project item will delay efforts to implement the project. This will restrict the SFPUC’s ability to meet WSIP objectives for water delivery reliability and water supply needs.</p>
Description of Project Action:	<p>In order to move forward with the Alameda Creek Recapture Project, this Commission must review and consider the Final Environmental Impact Report (FEIR) (consisting of the Draft Environmental Impact Report (EIR) and Responses to Comments document), anticipated to be certified by the Planning Commission on June 22, 2017, and adopt the CEQA Findings for the Project, including the Statement of Overriding Considerations, and the MMRP. The FEIR was provided to each member of this Commission. The CEQA Findings and MMRP are attached to this agenda (Attachments A and B).</p> <p>For portions of the City-owned SFPUC watershed lands in the vicinity of where the Project work will occur, the SFPUC has issued easements, leases, permits, or licenses to certain parties to use watershed lands for various purposes, and in some instances other parties hold property rights or interests on lands along, over, under, adjacent to or in the vicinity of the watershed lands that may be</p>

**Approve Project No CUW35201, Alameda Creek Recapture
Commission Meeting Date: June 23, 2017**

	<p>affected by the Project. The Resolution authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's watershed lands, new or amended easements, leases, permits, licenses, encroachment permits, or other project related agreements (each, a Use Instrument) with respect to uses, structures, fences, and other above-ground or subterranean improvements or interests. The General Manager's authority so granted will include the authority, if necessary for the Project, to enter into, amend, or exercise rights under existing or new Use Instruments with any owner or occupier of property on, along, over, under, adjacent to, or in the vicinity of the SFPUC right-of-way, including Use Instruments required to accommodate project construction activities or schedule, or to implement Project mitigation measures. Any such new or amended Use Instrument will be in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to effectuate the purposes and intent of this Commission Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney. Upon approval of the Project, SFPUC staff will proceed with plans to obtain permits and approvals from State resource agencies, and advertise for construction bids. SFPUC staff will return to this Commission at a future public meeting to request permission to award a construction contract.</p>
<p>Environmental Review:</p>	<p>The San Francisco Planning Commission will consider certifying a FEIR for Project No. CUW35201, Alameda Creek Recapture on June 22, 2017. If the Motion is adopted by the Planning Commission, then the proposed Resolution will be considered by this Commission.</p>
<p>Recommendation:</p>	<p>SFPUC staff recommends that this Commission adopt the attached resolution.</p>
<p>Attachments:</p>	<ol style="list-style-type: none"> 1. California Environmental Quality Act Findings 2. Mitigation Monitoring and Reporting Program

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. _____

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff have developed a project description under the Water System Improvement Program (WSIP) for the improvements to the regional water supply system, otherwise known as Project No. CUW35201, Alameda Creek Recapture Project (the "Project"); and

WHEREAS, The objectives of the Project are to recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam (ACDD), respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system; maximize local watershed supplies; and maximize the use of existing SFPUC facilities and infrastructure; and

WHEREAS, On June 22, 2017, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2015-004827ENV, consisting of the Draft Environmental Impact Report (EIR) and the Comments and Responses document, and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion No. _____; and

WHEREAS, This Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project and the EIR; and

WHEREAS, The Project and EIR files have been made available for review by the SFPUC and the public, and those files are part of the record before this Commission; and

WHEREAS, The Planning Department, Jonas P. Ionin, is the custodian of records, located in File No. 2015-004827ENV, at 1650 Mission Street, Fourth Floor, San Francisco, California; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA (CEQA Findings), and a proposed Mitigation, Monitoring and Reporting Program (MMRP), which material was made available to the public and the Commission for the Commission's review, consideration and action; and

WHEREAS, The Project is a capital improvement project approved by this Commission as part of the WSIP; and

WHEREAS, A Final Programmatic EIR (PEIR) was prepared for the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No. 17734; and

WHEREAS, Thereafter, the SFPUC approved the WSIP and adopted findings and a MMRP as required by CEQA on October 30, 2008 by Resolution No. 08-200; and

WHEREAS, The Final EIR prepared for the Project is tiered from the WSIP PEIR, as authorized by and in accordance with CEQA; and

WHEREAS, The WSIP PEIR has been made available for review by the SFPUC and the public, and is part of the record before this Commission; and

WHEREAS, Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state regulatory agencies, including but not limited to the following: San Francisco Bay Regional Water Quality Control Board, State Water Resources Control Board Division of Drinking Water, Bay Area Air Quality Management District, California Department of Fish and Wildlife, and any other regulatory approvals as required; and

WHEREAS, For portions of the City-owned SFPUC watershed lands in the vicinity of where the Project work will occur, the SFPUC has issued easements, leases, permits, or licenses to certain parties to use watershed lands for various purposes, and in some instances other parties hold property rights or interests on lands along, over, under, adjacent to or in the vicinity of the watershed lands that may be affected by the Project; and

WHEREAS, The Project may require the SFPUC General Manager to apply for and execute various necessary permits, encroachment permits, temporary and permanent right-of-way agreements, or other approvals, and those permits shall be consistent with SFPUC existing fee or easement interests, where applicable, and will include terms and conditions including, but not limited to, maintenance, repair and relocation of improvements and possibly indemnity obligations; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the FEIR, finds that the FEIR is adequate for its use as the decision-making body for the actions taken herein, and hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached hereto as Attachment A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Attachment B and incorporated herein as part of this Resolution by this reference thereto, and authorizes a request to the Board of Supervisors to adopt the same CEQA findings, Statement of Overriding Considerations, and MMRP that are necessary in connection with the release of funding for project construction; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's watershed lands, new or amended easements, leases, permits, licenses, encroachment removal, or other project related agreements (each, a Use Instrument) with respect to uses and structures, fences, and other above-ground or subterranean improvements or interests; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to negotiate and execute revisions to Lease No. 4289 with Mission Valley Rock Company if such revisions are necessary for the construction of project structures by removing areas from the leased premises, with no other material changes to the lease terms, and to seek Board of Supervisors approval of the lease modification under Charter section 9.118; and be it

FURTHER RESOLVED, That this Commission hereby approves Project No. CUW35201, Alameda Creek Recapture Project, and authorizes staff to proceed with actions necessary to implement the Project consistent with this Resolution, including advertising for construction bids, provided, however, that staff will return to seek Commission approval for award of the construction contract.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of June 23, 2017.

Secretary, Public Utilities Commission

Alameda Creek Recapture Project
California Environmental Quality Act Findings:
Findings of Fact, Evaluation of Mitigation Measures and
Alternatives
San Francisco Public Utilities Commission

In determining to approve the Alameda Creek Recapture Project ("ACRP" or "Project") described in Section I, Project Description, below, the San Francisco Public Utilities Commission ("SFPUC" or "Commission") makes and adopts the following findings of fact and decisions regarding mitigation measures and alternatives, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 et seq., particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA ("CEQA Guidelines"), 14 California Code of Regulations Sections 15000 et seq., particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code.

This document is organized as follows:

Section I provides a description of the Project proposed for adoption, the environmental review process for the Project Environmental Impact Report (the "Final EIR" or "EIR"), Planning Department Case No., 2015-004827ENV, State Clearinghouse No. 2015062072, the approval actions to be taken and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Section III identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures;

Section IV identifies significant impacts that cannot be avoided or reduced to less-than-significant levels and describes any applicable mitigation measures as well as the disposition of the mitigation measures; and

Section V evaluates the different Project alternatives and the economic, legal, social, technological and other considerations that support approval of the Project and the rejection of alternatives, or elements thereof, analyzed.

Section VI presents a statement of overriding considerations setting forth specific reasons in support of the Commission's actions and rejection of alternatives not incorporated into the Project.

The Mitigation Monitoring and Reporting Program ("MMRP") for the mitigation measures that have been proposed for adoption is attached with these findings as **Attachment B to Resolution No. XX-XXXX**. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. Attachment B provides a table setting forth each mitigation measure listed in the Final Environmental Impact Report for the Project ("Final EIR") that is required to reduce or avoid a significant adverse impact. Attachment B also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in Attachment B.

These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report ("Draft EIR" or "DEIR") or the Responses to Comments document in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

I. Approval of the Project

A. Project Description

By this action, the SFPUC adopts and implements the ACRP identified in the Final EIR. The Project as adopted by the Commission is described in detail in the Draft EIR at pages 3-8 through 3-32. Clarifications regarding the Project description are contained in the Responses to Comments document in Section 12.2.2. A summary of the key components of the Project follows.

The ACRP would include the construction of several improvements in and around quarry Pit F2 to pump recaptured water from the quarry pit and convey it to existing water supply infrastructure in the SFPUC Alameda Watershed. Specifically, the Project adopted by the SFPUC includes installation and/or construction of the following:

- Four 400-horsepower vertical turbine pumps on floating barges centrally located in Pit F2, approximately 400 feet from the shore, with a mooring system to secure the floating barges.
- Four 700-foot-long, 16-inch-diameter high density polyethylene (HDPE) flexible discharge pipelines extending from each vertical turbine pump to a new pipe manifold located on shore.
- A 100-foot-long, 36-inch-diameter welded steel pipeline connection between the new pipe manifold and the existing Sunol Pump Station Pipeline.
- Throttling valves and a flow meter.
- An electrical control building.
- An electrical transformer, and up to fifteen power and fiber optic line poles, and 1,800 feet of overhead power lines extending from HHWP Calaveras Electrical Substation to the new electrical control building (alternatively, if the HHWP Calaveras Electrical Substation cannot

meet the power needs of the ACRP, power would come from the PG&E Sunol Electrical Substation).

- In addition, approximately 2,800 feet of overhead fiber optic communication lines would extend from the HHWP Calaveras Electrical Substation to the new electrical control building below the overhead power lines along the new and existing power poles.

B. Project Objectives

The primary goal of the ACRP is to recapture water that the SFPUC will release from Calaveras Reservoir and bypass around the Alameda Creek Diversion Dam (ACDD) when the SFPUC implements the instream flow schedules required as part of the regulatory permits for future operations of Calaveras Reservoir. The recaptured water would maintain the historical contribution from the Alameda Watershed to the SFPUC regional water system, in accordance with the CCSF existing water rights. The project-specific objectives of the ACRP are as follows:

- Recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam, respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system.
- Minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system.
- Maximize local watershed supplies.
- Maximize the use of existing SFPUC facilities and infrastructure.
- Provide a sufficient flow to the Sunol Valley Water Treatment Plant to meet its minimum operating requirements.

In addition, the Project is part of the SFPUC's adopted Water System Improvement Program ("WSIP") adopted by this Commission on October 30, 2008 (see Section C.1). The WSIP consists of over 70 local and regional facility improvement projects that would increase the ability of the SFPUC's water supply system to withstand major seismic events and prolonged droughts and to meet estimated water-purchase requests in the service areas. The overall goals of the WSIP for the regional water system are to:

- Maintain high-quality water.
- Reduce vulnerability to earthquakes.
- Increase water delivery reliability.
- Meet customer water supply needs.
- Enhance sustainability.
- Achieve a cost-effective, fully operational system.

The Project would help meet WSIP goals by maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system, thereby increasing water delivery reliability and meeting customer supply needs.

C. Environmental Review

1. Water System Improvement Program Environmental Impact Report

On October 30, 2008, the SFPUC approved the Water System Improvement Program (also known as the “Phased WSIP”) with the objective of repairing, replacing, and seismically upgrading the system’s aging pipelines, tunnels, reservoirs, pump stations, and storage tanks (SFPUC, 2008; SFPUC Resolution No. 08-0200). The WSIP improvements span seven counties—Tuolumne, Stanislaus, San Joaquin, Alameda, Santa Clara, San Mateo, and San Francisco (see SFPUC Resolution No. 08-0200).

To address the potential environmental effects of the WSIP, the San Francisco Planning Department prepared a Program EIR (“PEIR”), which was certified by the San Francisco Planning Commission on October 30, 2008 (Motion No. 17734). At a project-level of detail, the PEIR evaluated the environmental impacts of the WSIP’s water supply strategy and, at a program level of detail, it evaluated the environmental impacts of the WSIP’s facility improvement projects. The PEIR contemplated that additional project-level environmental review would be conducted for the facility improvement projects, including the Alameda Creek Recapture Project.

2. Alameda Creek Recapture Project Environmental Impact Report

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the Environmental Planning (“EP”) staff of the San Francisco Planning Department, as lead agency, prepared a Notice of Preparation (“NOP”) and conducted a scoping meeting for the Project EIR. The San Francisco Planning Department released the NOP on June 24, 2015, held a scoping meeting on July 9, 2015 in Sunol, and accepted written comments on the NOP through July 27, 2015.

EP distributed the NOP to the State Clearinghouse, and mailed notices of the availability of the NOP to approximately 600 interested parties, including property owners and tenants within 300 feet of the proposed Project. The scoping meeting was noticed in local newspapers. Approximately 11 people attended the meeting.

The San Francisco Planning Department received four verbal comments at the scoping meeting and eleven written comment letters. The comment inventories are included in the Scoping Report in Appendix A of the EIR.

The San Francisco Planning Department then prepared the Draft EIR, which described the Project and the environmental setting, identified potential impacts, presented mitigation measures for impacts found to be significant or potentially significant, and evaluated Project alternatives. The Draft EIR analyzed the impacts associated with each of the key components of the Project, and identified mitigation measures applicable to reduce impacts found to be significant or potentially

significant for each key component. It also included an analysis of two alternatives to the Project. In assessing construction and operational impacts of the Project, the EIR considered the impacts of the Project as well as the cumulative impacts associated with the proposed Project in combination with other past, present, and future actions that could affect the same resources.

Each environmental issue presented in the Draft EIR was analyzed with respect to significance criteria that are based on EP guidance regarding the environmental effects to be considered significant. EP guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

The Draft EIR was circulated for public comment on November 30, 2016 for a 62-day comment period, which closed at 5:00pm on January 30, 2017. The San Francisco Planning Commission held a public hearing on the Draft EIR to accept written or oral comments at San Francisco City Hall on January 5, 2017. During the public review period, the Planning Department received written comments sent through the mail, fax, or email. A court reporter was present at the public hearing, transcribed the public hearing verbatim, and prepared a written transcript.

The Planning Department then prepared the Responses to Comments document, which provided written responses to each comment received on the Draft EIR. The Responses to Comments document was published on June 7, 2017 and included copies of all of the comments received on the Draft EIR and individual responses to those comments. The Responses to Comments provided additional, updated information and clarification on issues raised by commenters, as well as SFPUC and Planning Department staff-initiated text changes to address Project updates. The Planning Commission reviewed and considered the Final EIR, which includes the Draft EIR and the Responses to Comments document, and all of the supporting information. The Final EIR provided augmented and updated information presented in the Draft EIR, on the following topics: project description, baseline conditions, cultural resources, terrestrial biological and fishery resources, hydrology and water quality, alternatives, and EIR authors and consultants. This augmentation and update of information in the Draft EIR did not constitute new information or significance that altered any of the conclusions of the EIR.

In certifying the Final EIR, the Planning Commission determined that none of the factors are present that would necessitate recirculation of the Final EIR under CEQA Guidelines Section 15088.5. The Final EIR contains no information revealing (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible Project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project's proponents, or (4) that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. This Commission concurs in that determination.

The Commission finds that the Project is within the scope of the Project analyzed in the Final EIR and the Final EIR fully analyzed the Project proposed for approval. No new impacts have been identified that were not analyzed in the Final EIR.

D. Approval Actions

Under San Francisco's Administrative Code Chapter 31 procedures, the San Francisco Planning Commission certifies the Final EIR as complete and all approving bodies subject to CEQA adopt CEQA findings at the time of the approval actions. Anticipated approval actions are listed below.

1. San Francisco Public Utilities Commission

The SFPUC is taking the following actions and approvals to implement the Project:

- Adopts these CEQA findings and the attached Mitigation Monitoring and Reporting Program.
- Approves the Project, as described in these findings, and authorizes the General Manager or his designee to obtain necessary permits, consents, agreements and approvals as set forth in the Commission's Resolution No. 15-0187 approving the Project to which this Attachment A is attached.

2. San Francisco Board of Supervisors Actions

- Considers any appeal of the Planning Commission's certification of the Final EIR.
- Approves an allocation of bond monies to pay for implementation of the project.

3. Other – Federal, State, and Local Agencies

Implementation of the Project may involve consultation with or required approvals by other local, state, and federal regulatory agencies, including (but not limited to) the following:

- United States Fish and Wildlife Service (USFWS) (ESA consultation)
- California Department of Water Resources (construction access approval)
- State Water Resources Control Board Division of Drinking Water (amendment to domestic water supply permit)
- California Regional Water Quality Control Board, San Francisco Bay Region (construction general permit)
- California Department of Fish and Wildlife (CDFW) (Section 2081 incidental take permit)
- Bay Area Air Quality Management District (authority to construct permit)
- State Water Resources Control Board (NPDES permit)

To the extent that the identified mitigation measures require consultation or approval by these other agencies, this Commission urges these agencies to assist in implementing, coordinating, or approving the mitigation measures, as appropriate to the particular measure.

E. Contents and Location of Records

The record upon which all findings and determinations related to the Project are based (“Record of Proceedings”) includes the following:

- The Draft EIR and all documents referenced in or relied upon by the EIR. (The references in these findings to the EIR or Final EIR include both the Draft EIR and the Comments and Responses document.)
- The PEIR for the Phased WSIP Variant, which is incorporated by reference in the Alameda Creek Recapture Project EIR.
- All information (including written evidence and testimony) provided by City staff to the SFPUC and Planning Commission relating to the EIR, the Project, and the alternatives set forth in the EIR.
- All information (including written evidence and testimony) presented to the SFPUC and the Planning Commission by the environmental consultant and sub-consultants who prepared the EIR or that was incorporated into reports presented to the SFPUC.
- All information presented at any public hearing or workshop related to the Project and the EIR.
- The Mitigation Monitoring and Reporting Program.
- All other documents available to the SFPUC and the public, comprising the administrative record pursuant to Public Resources Code Section 21167.6(e).

The Commission has relied on all of the information listed above in reaching its decision on the Project, even if not every document was formally presented to the SFPUC. Without exception, these documents fall into one of two categories. Many documents reflect prior planning or legislative decisions that the SFPUC was aware of in approving the Project. Other documents influenced the expert advice provided to Planning Department staff or consultants, who then provided advice to the SFPUC. For these reasons, such documents form part of the underlying factual basis for the SFPUC’s decisions relating to the adoption of the Project.

The public hearing transcript, a copy of all letters regarding the Draft EIR received during the public review period, the administrative record, and background documentation for the Final EIR are available at the San Francisco Planning Department, 1650 Mission Street, San Francisco. **Jonas P. Ionin**, Commission Secretary, is the Custodian of Records for the Planning Department. Materials concerning approval of the Project and adoption of these findings are contained in SFPUC files, **SFPUC Project No. CUW35301** in the Bureau of Environmental Management, San Francisco Public Utilities Commission, 525 Golden Gate Avenue, San Francisco, California 94102. The Custodian of Records is **Bill Idzerda**. All files have been made available to the

SFPUC and the public for review in considering these findings and whether to approve the Project.

F. Findings about Significant Environmental Impacts and Mitigation Measures

The following Sections II, III, and IV set forth the SFPUC's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the SFPUC regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the SFPUC as part of the Project. To avoid duplication and redundancy, and because the SFPUC agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the analysis and conclusions in the Final EIR but instead incorporate them by reference and rely upon them as substantial evidence supporting these findings.

In making these findings, the SFPUC has considered the opinions of SFPUC staff and experts, other agencies, and members of the public. The SFPUC finds that (i) the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; (ii) the significance thresholds used in the EIR are supported by substantial evidence in the record, including the expert opinion of the EIR preparers and City staff; and (iii) the significance thresholds used in the EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the SFPUC is not bound by the significance determinations in the EIR (see Public Resources Code, Section 21082.2, subdivision (e)), the SFPUC finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the determination regarding the project impact and mitigation measures designed to address those impacts. In making these findings, the SFPUC ratifies, adopts and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the SFPUC adopts and incorporates all of the mitigation measures set forth in the Final EIR and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. The SFPUC intends to adopt each of the mitigation measures proposed in the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the Final EIR due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall

control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

In Sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding dozens of times to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the SFPUC rejecting the conclusions of the Final EIR or the mitigation measures recommended in the Final EIR for the Project.

II. Impacts Found Not To Be Significant and Thus Do Not Require Mitigation

Under CEQA, no mitigation measures are required for impacts that are less than significant (Public Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subdivision (a)(3), 15091). Based on the evidence in the whole record of this proceeding, the SFPUC finds that the implementation of the Project will result in no impacts in the following areas: project-level impacts to population and housing¹, wind and shadow, and public services. These subjects are not further discussed in these findings.

The SFPUC further finds that implementation of the Project will not result in any significant impacts in the following areas and that these impact areas therefore do not require mitigation:

Land Use

- **Impact LU-1:** Project construction would not have a substantial impact on the existing character of the vicinity. (DEIR Section 5.2.3.3, Page 5.2-4)
- **Impact LU-2:** Project operations would not conflict with any applicable land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect. (DEIR Section 5.2.3.4, Pages 5.2-5 to 5.2-6)
- **Impact LU-3:** Project operations would not impact the existing character of the vicinity. (DEIR Section 5.2.3.4, Page 5.2-6)
- **Impact C-LU:** The Project would not have a cumulative impact on land use. (DEIR Section 5.2.3.5, Pages 5.2-7 to 5.2-8)

Aesthetics

- **Impact AE-1:** Project construction would not have an adverse effect on a scenic vista, scenic resource, or the existing visual character or quality of the site and its surroundings. (DEIR Section 5.3.3.3, Pages 5.3-8 to 5.3-9)

¹ As part of the WSIP, the Project would contribute to the growth-inducing impacts considered in the WSIP PEIR. See Section IV.B of these Findings.

- **Impact AE-2:** The proposed project would not have long-term adverse effects on scenic vistas and scenic resources or degrade the visual character of the site and its surroundings. (DEIR Section 5.3.3.4, Pages 5.3-10 to 5.3-12)
- **Impact AE-3:** The Project would not result in a substantial source of light or glare. (DEIR Section 5.3.3.4, Page 5.3-13)
- **Impact C-AE:** The Project would not have a cumulative impact on aesthetics. (DEIR Section 5.3.3.5, Pages 5.3-13 to 5.3-15)

Transportation and Circulation

- **Impact TR-1:** Construction of the proposed project would not substantially conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of travel. (DEIR Section 5.6.3.3, Pages 5.6-7 to 5.6-10)
- **Impact TR-2:** Project construction activities would not result in inadequate emergency access. (DEIR Section 5.6.3.3, Page 5.6-11)
- **Impact TR-3:** Project construction activities could decrease the safety of public roadways for vehicles, bicyclists, and pedestrians. (DEIR Section 5.6.3.3, Pages 5.6-11 to 5.6-12)
- **Impact TR-4:** Project operations and maintenance activities would not substantially alter transportation conditions, increase vehicle miles travelled (VMT), and would not cause conflicts with emergency vehicle, transit, bicycle, and pedestrian travel. (DEIR Section 5.6.3.3, Page 5.6-12)
- **Impact C-TR:** The project, in combination with past, present, and probable future projects, would not substantially affect transportation and circulation. (DEIR Section 5.6.3.4, Pages 5.6-12 to 5.6-14)

Noise and Vibration

- **Impact NO-1:** Construction of the project would not result in a substantial temporary increase in ambient noise levels at the closest residential receptors, and would not expose persons to substantial noise levels in excess of standards established in the Alameda County Noise Ordinance. (DEIR Section 5.7.3.3, Pages 5.7-14 to 5.7-16)
- **Impact NO-2:** Construction activities would not result in excessive groundborne vibration. (DEIR Section 5.7.3.3, Pages 5.7-16 to 5.7-17)
- **Impact NO-3:** Project operations would not result in a substantial increase in ambient noise levels in the project vicinity or significant impacts related to the exposure of people to noise levels in excess of standards established by the Alameda County Noise Ordinance. (DEIR Section 5.7.3.4, Pages 5.7-17 to 5.7-18)
- **Impact C-NO:** The Project would not have significant cumulative noise or vibration impacts. (DEIR Section 5.7.3.5, Pages 5.7-18 to 5.7-21)

Air Quality

- **Impact AQ-2:** Project construction activities would not create objectionable odors affecting a substantial number of people. (DEIR Section 5.8.3.3, Pages 5.8-15 to 5.8-16)

Greenhouse Gas Emissions

- **Impact C-GG-1:** Project construction and operation would not generate GHG emissions that could have a significant impact on the environment, or conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. (DEIR Section 5.9.3.3, Pages 5.9-12 to 5.9-15)

Recreation

- **Impact RE-1:** The proposed project would not substantially degrade existing recreational uses during construction. (DEIR Section 5.11.3.3, Pages 5.11-4 to 5.11-5)
- **Impact C-RE:** The Project would not have a significant cumulative impact on recreation. (DEIR Section 5.11.3.4, Pages 5.11-5 to 5.11-6)

Utilities and Service Systems

- **Impact UT-1:** Project construction would not result in a substantial adverse effect related to landfill capacity. (DEIR Section 5.12.3.3, Page 5.12-7)
- **Impact UT-2:** Project construction would not result in a substantial adverse effect related to compliance with federal, state, and local statutes and regulations pertaining to solid waste. (DEIR Section 5.12.3.3, Page 5.12-8)
- **Impact C-UT:** The Project would not have a significant cumulative impact on utilities and service systems. (DEIR Section 5.12.3.4, Pages 5.12-8 to 5.12-9)

Biological Resources

- **Impact BI-4:** Project construction would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (DEIR Section 5.14.4.3, Pages 5.14-91 to 5.14-92)
- **Impact BI-5:** Project operations would not have a substantial adverse effect on special-status species. (DEIR Section 5.14.4.4, Pages 5.14-92 to 5.14-97)
- **Impact BI-7:** Project operations would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (DEIR Section 5.14.4.4, Pages 5.14-103 to 5.14-104)
- **Impact BI-9:** Construction of the proposed project would not degrade the quality of habitat in Alameda Creek or interfere with the movement of common native fish species. (DEIR Section 5.14.7.3, Pages 5.14-142 to 5.14-143)

- **Impact BI-10:** Project operations would not degrade the quality of habitat in Alameda Creek or substantially interfere with the movement of common native fish species. (DEIR Section 5.14.7.4, Pages 5.14-143 to 5.14-144)
- **Impact BI-11:** Project operations would not substantially interfere with the movement or migration of special-status fish species, including CCC steelhead DPS. (DEIR Section 5.14.7.4, Pages 5.14-144 to 5.14-148)
- **Impact BI-12:** Construction and operation of the proposed project would not conflict with local policies or ordinances protecting fisheries resources. (DEIR Section 5.14.7.4, Pages 5.14-148 to 5.14-149)
- **Impact C-BI-2:** The project, in combination with past, present, and probable future projects, would not substantially affect fisheries resources. (DEIR Section 5.14.7.5, Pages 5.14-149 to 5.14-151)

Geology and Soils

- **Impact GE-1:** The project would not be located on a geologic unit that could become unstable as a result of project construction. (DEIR Section 5.15.3.3, Pages 5.15-21 to 5.15-23)
- **Impact GE-2:** Project construction would not result in substantial soil erosion and loss of topsoil. (DEIR Section 5.15.3.3, Pages 5.15-23 to 5.15-24)
- **Impact GE-4:** The project would not be located on a geologic unit that could become unstable as a result of project operations. (DEIR Section 5.15.3.4, Page 5.15-26.)
- **Impact GE-5:** Project operations would not result in substantial soil erosion or loss of topsoil. (DEIR Section 5.15.3.4, Page 5.15-27.)
- **Impact GE-6:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to rupture of a known earthquake fault. (DEIR Section 5.15.3.4, Page 5.15-28.)
- **Impact GE-7:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to seismically-induced groundshaking. (DEIR Section 5.15.3.4, Pages 5.15-28 to 5.15-29.)
- **Impact GE-8:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to seismically-induced ground failure, including liquefaction, lateral spreading, or settlement. (DEIR Section 5.15.3.4, Page 5.15-29.)
- **Impact GE-9:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to seismically-induced landslides or other slope failures. (DEIR Section 5.15.3.4, Page 5.15-30.)

- **Impact GE-10:** The project would not create substantial risks to life or property due to expansive or corrosive soils. (DEIR Section 5.15.3.4, Page 5.15-31.)
- **Impact GE-11:** The project would not substantially change the topography or any unique geologic or physical features of the project area. (DEIR Section 5.15.3.4, Pages 5.15-31 to 5.15-32.)

Hydrology and Water Quality

- **Impact HY-1:** Project construction would not substantially degrade water quality as a result of dewatering effluent discharges, increased soil erosion and sedimentation of downstream water bodies, or an accidental release of hazardous materials. (DEIR Section 5.16.4.3, Pages 5.16-65 to 5.16-69)
- **Impact HY-2:** Operation of the ACRP would not substantially alter the movement of subsurface water or substantially affect groundwater recharge in the Sunol Valley such that it would affect the production rate of pre-existing nearby wells. (DEIR Section 5.16.4.3, Pages 5.16-69 to 5.16-71)
- **Impact HY-3:** Operation of the ACRP would not substantially alter water quality in Alameda Creek. (DEIR Section 5.16.4.3, Page 5.16-71)
- **Impact HY-4:** Operation of the ACRP would not alter flood hazards. (DEIR Section 5.16.4.3, Pages 5.16-72 to 5.16-73)
- **Impact HY-5:** Operation of the ACRP would not cause downstream water users, as a result of project-induced flow changes, to alter their operations in a way that would result in significant adverse environmental impacts. (DEIR Section 5.16.4.3, Pages 5.16-73 to 5.16-77)
- **Impact C-HY:** The project, in combination with past, present, and probable future projects, would not substantially affect hydrology and water quality. (DEIR Section 5.16.4.3, Pages 5.16-77 to 5.16-79)

Hazards and Hazardous Materials

- **Impact HZ-1:** Project construction would not result in a substantial adverse effect related to reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. (DEIR Section 5.17.3.3, Pages 5.17-12 to 5.17-14)
- **Impact HZ-2:** Project construction would not result in a substantial adverse effect related to accident conditions involving the release of hazardous construction chemicals into the environment. (DEIR Section 5.17.3.3, Pages 5.17-14 to 5.17-15)
- **Impact HZ-3:** Project construction would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. (DEIR Section 5.17.3.3, Page 5.17-15)
- **Impact HZ-4:** Project construction would not expose people or structures to a significant risk of property loss, injury, or death involving fires. (DEIR Section 5.17.3.3, Pages 5.17-15 to 5.17-16)

- **Impact HZ-5:** Project operations would not result in a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. (DEIR Section 5.17.3.4, Pages 5.17-16 to 5.17-17)
- **Impact C-HZ:** The project, in combination with past, present, and probable future projects, would not substantially affect hazards and hazardous materials. (DEIR Section 5.17.3.5, Pages 5.17-17 to 5.17-18)

Mineral and Energy Resources

- **Impact ME-1:** Project construction would not result in the temporary loss of availability of known mineral resources that would be of value to the region or residents of the state, or the temporary loss of availability of a locally important mineral resource recovery site. (DEIR Section 5.18.3.3, Page 5.18-9)
- **Impact ME-2:** Project construction would not result in substantial adverse effects related to the use of large amounts of fuel or energy, or the use of these resources in a wasteful manner. (DEIR Section 5.18.3.3, Pages 5.18-9 to 5.18-10)
- **Impact ME-3:** Project operations would not result in the permanent loss of availability of known mineral resources that would be of value to the region or residents of the state, or the permanent loss of availability of a locally important mineral resource recovery site. (DEIR Section 5.18.3.4, Page 5.18-10)

Agriculture and Forest Resources

- **Impact AG-1:** Implementation of the proposed project would not result in the conversion of Unique Farmland, as shown on the maps pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. (DEIR Section 5.19.3.3, Pages 5.19-7 to 5.19-8)
- **Impact C-AG:** The project, in combination with past, present, and probable future projects, would not substantially affect agricultural and forestry resources. (DEIR Section 5.19.3.4, Pages 5.19-8 to 5.19-10)

III. Findings of Potentially Significant or Significant Impacts That Can Be Avoided or Reduced to a Less-Than-Significant Level through Mitigation and the Disposition of the Mitigation Measures

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potentially significant impacts if such measures are feasible (unless mitigation to such levels is achieved through adoption of a project alternative). The findings in this Section III and in Section IV concern mitigation measures set forth in the EIR. These findings discuss mitigation measures as proposed in the EIR and recommended for adoption by the SFPUC, which can be implemented by the SFPUC. The mitigation measures proposed for adoption in this section and referenced following each Project impact discussed in this Section III, are the same as the mitigation measures identified in the Final EIR for the Project. The full text of each mitigation measure listed in this section is contained in the Final

EIR and in Attachment B, the MMRP. Attachment B identifies the SFPUC as the agency responsible for the implementation of all mitigation measures and establishes monitoring actions and a monitoring schedule.

This Commission recognizes that some of the mitigation measures are partially within the jurisdiction of other agencies. The agencies and measures are:

- USFWS (Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species and Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation);
- CDFW (Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation; Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl; Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species; and Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger); and
- San Francisco Planning Department (Mitigation Measure M-CUL-1: Accidental Discovery of Archaeological Resources; Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains; Mitigation Measure M-AQ 1: BAAQMD Basic Construction Measures; Mitigation Measure M-BI-6a: Baseline Riparian Habitat Mapping; Mitigation Measure M-BI-6b: Annual Riparian Habitat Monitoring and Reporting; Mitigation Measure M-BI-6c: Habitat Enhancement, Subreaches B and C1 to Achieve No Net Loss of Tree-Supporting Riparian Alliances; and Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources).

The Commission urges these remaining agencies to assist in implementing these mitigation measures and finds that these agencies can and should participate in implementing these mitigation measures.

The Commission adopts all of the mitigation measures proposed for the Project. The Commission finds that all of the mitigation measures are appropriate and feasible and that changes or alternations will be required in, or incorporated into, the Project that mitigate or avoid the significant environmental effects as identified in the Final EIR. The Commission finds that for the reasons set forth in the Final EIR and elsewhere in the record, the impacts identified in this section would be reduced to a less-than-significant level through implementation of the mitigation measures identified in this section.

Project Impacts

Cultural Resources

Impact CUL-1: Project construction could cause a substantial adverse change in the significance of an archaeological resource that qualifies as a historical or unique archaeological resource. (DEIR Section 5.5.3.3, Pages 5.5-22 to 5.5-23)

Implementation of Mitigation Measure M-CUL-1 would reduce any impacts on previously unrecorded and buried (or otherwise obscured) archaeological deposits to *less-than-significant* levels by requiring the SFPUC and its contractors to adhere to the appropriate procedures and protocols to identify and appropriately treat possible archaeological resources discovered during ACRP construction activities.

- *Mitigation Measure M-CUL-1: Accidental Discovery of Archaeological Resources.*

Impact CUL-2: Project construction could result in a substantial adverse effect related to the disturbance of human remains. (DEIR Section 5.5.3.3, Page 5.5-24)

Implementation of Mitigation Measure M-CUL-2 would reduce any impacts on buried human remains and associated or unassociated funerary objects that are accidentally discovered during project construction activities to *less-than-significant* levels by requiring the SFPUC to solicit the Most Likely Descendant's recommendations and adhere to appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition protocols.

- *Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains.*

Impact C-CUL: The project, in combination with past, present, and probable future projects, could substantially affect cultural resources. (DEIR Section 5.5.3.4, Pages 5.5-24 to 5.5-25)

See Impacts CUL-2, and CUL-2. Implementation of the listed mitigation measures would reduce the Project's contribution to cumulative impacts on archaeological resources and human remains encountered during construction to a *less-than-significant* level.

- *Mitigation Measure M-CUL-1: Accidental Discovery of Archaeological Resources.*
- *Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains.*

Air Quality

Impact AQ-1: Emissions generated during project construction activities could violate air quality standards and contribute substantially to an existing air quality violation. (DEIR Section 5.8.3.3, Pages 5.8-13 to 5.8-15)

Implementation of Mitigation Measure M-AQ-1 (BAAQMD Basic Construction Measures) would reduce any impacts from fugitive dust during ACRP construction to *less-than-significant* levels by requiring implementation of best management practices to minimize dust emissions, criteria pollutants, and precursor emissions associated with project construction.

- *Mitigation Measure M-AQ 1a: BAAQMD Basic Construction Measures.*

Impact AQ-3: Implementation of the proposed project could conflict with or obstruct implementation of the 2010 Clean Air Plan. (DEIR Section 5.8.3.3, Page 5.8-16)

The project would be consistent with applicable Clean Air Plan control measures and would not hinder implementation of the Clean Air Plan by implementing Mitigation Measure M-AQ-1 (BAAQMD Basic Construction Measures). This measure would reduce construction-related pollutant emission to a *less-than-significant* levels by requiring best management practices to minimize criteria pollutants.

- *Mitigation Measure M-AQ 1a: BAAQMD Basic Construction Measures.*

Impact C-AQ: The project, in combination with past, present, and probable future projects, could substantially affect air quality. (DEIR Section 5.8.3.4, Page 5.8-17)

See Impact AQ-1. Implementation of the listed mitigation measure would reduce the Project's contribution to cumulative impacts to a less-than-significant level.

- *Mitigation Measure M-AQ 1a: BAAQMD Basic Construction Measures.*

Terrestrial Biological & Fishery Resources

Impact BI-1: Construction of the proposed project could have a substantial adverse effect on special-status species. (DEIR Section 5.14.4.3, Pages 5.14-75 to 5.14-88)

Implementation of Mitigation Measures M-BI-1a through M-BI-1i would reduce any potential impacts on special-status species to *less-than-significant* levels by requiring general protection measures, worker training and awareness programs, preconstruction surveys, vegetation restoration plan and compensatory mitigation, and specific minimization and avoidance measures.

- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas.*
- *Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*
- *Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl.*
- *Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species.*
- *Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures.*

- *Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger.*

Impact BI-2: Construction of the proposed project could have a substantial adverse effect on riparian habitat and other sensitive habitats. (DEIR Section 5.14.4.3, Pages 5.14-88 to 5.14-89)

Implementation of Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands) and Mitigation Measures M-BI-1a, 1b, and 1e (General Protection Measures, Worker Training and Awareness Program, Vegetation Restoration Plan and Compensatory Mitigation, respectively) would reduce impacts on riparian habitat to *less-than-significant* levels by requiring fencing adjacent to riparian habitats and slope stabilization to protect water quality in receiving water bodies during construction activities, requiring general protection measures, requiring worker training regarding the resources present, and establishing protocols and performance standards for revegetation and restoration activities for impacted upland areas.

- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*
- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*

Impact BI-3: Construction of the proposed project could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means. (DEIR Section 5.14.4.3, Pages 5.14-90 to 5.14-91)

Implementation of Mitigation Measures M-BI-1a, 1b, and 1e (General Protection Measures, Worker Training and Awareness Program, Vegetation Restoration Plan and Compensatory Mitigation, respectively) and Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands) would reduce impacts on riparian habitat to *less-than-significant* levels by requiring general protection measures, requiring worker training regarding the resources present, establishing protocols and performance standards for revegetation and restoration activities for impacted upland areas, and requiring fencing adjacent to wetlands and slope stabilization to protect water quality in receiving water bodies during construction activities.

- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*

- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*

Impact BI-6: Project operations could have a substantial adverse effect on riparian habitat or other sensitive natural community, including wetland habitats. (DEIR Section 5.14.4.4, Pages 5.14-97 to 5.14-103)

Implementation of Mitigation Measure M-BI-6a through M-BI-6c would reduce impacts on tree-supporting riparian vegetation alliances to *less-than-significant* levels by requiring mapping, monitoring, and habitat enhancement as appropriate.

- *Mitigation Measure M-BI-6a: Baseline riparian habitat mapping.*
- *Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.*
- *Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.*

Impact BI-8: Construction and operations of the proposed project could conflict with local policies or ordinances protecting biological resources. (DEIR Section 5.14.4.4, Pages 5.14-104 to 5.14-106)

Implementation of Mitigation Measures M-BI-1a through M-BI-1i, M-BI-2, and M-BI-6a through M-BI-6c would reduce impacts on biological resources to *less-than-significant* levels by implementing biological resources protection measures that would minimize conflict with the East County Area Plan.

- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas.*
- *Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*
- *Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl.*
- *Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species.*
- *Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Any Special-Status Bats and Implement Avoidance and Minimization Measures.*
- *Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger.*

- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*
- *Mitigation Measure M-BI-6a: Baseline riparian habitat monitoring.*
- *Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.*
- *Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.*

Impact C-BI-1: The project, in combination with past, present, and probable future projects, could substantially affect terrestrial biological resources. (DEIR Section 5.14.4.5, Pages 5.14-106 to 5.14-113)

See Impacts BI-1, BI-2, BI-3, and BI-6. Implementation of the listed mitigation measures would reduce the Project's contribution to cumulative temporary impacts on biological resources to a less-than-significant level. In addition to mitigations previously discussed, Mitigation Measure M-C-BI would require the SFPUC to coordinate its implementation of mitigation measures with these other cumulative projects. By doing so, the SFPUC would reduce the project's contribution to any potential cumulative impacts to less than significant.

- *Mitigation Measure M-BI-1a: General Protection Measures*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program*
- *Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas*
- *Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, Red-Legged Frog, and Alameda Whipsnake*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation*
- *Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl*
- *Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species*
- *Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures*
- *Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger*
- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*
- *Mitigation Measure M-C-BI: Coordination of Measures for Monitoring and Habitat Enhancement in Subreaches A, B, and C1*
- *Mitigation Measure M-BI-6a: Baseline riparian habitat monitoring.*
- *Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.*
- *Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.*

Geology and Soils

Impact GE-3: Project construction could result in a substantial adverse effect by directly or indirectly destroying a unique paleontological resource or site or unique geologic feature. (DEIR Section 5.15.3.3, Pages 5.15-24 to 5.15-26)

Implementation of Mitigation Measure M-GE-3, Accidental Discovery of Paleontological Resources, would reduce the Project's potential construction-related impacts on paleontological resources to *less-than-significant* levels by requiring that construction work be temporarily halted or diverted in the event of a paleontological resource discovery, and adherence to appropriate protocols for assessing and salvaging any potential fossil finds.

- *Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources.*

Impact C-GE: The project, in combination with past, present, and probable future projects, could substantially affect paleontological resources. (DEIR Section 5.15.3.5, Pages 5.15-32 to 5.15-33)

See Impacts GE-3. Implementation of the listed mitigation measure would reduce the Project's contribution to cumulative impacts on paleontological resources encountered during construction to a *less-than-significant* level.

- *Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources*

Mineral and Energy Resources

Impact ME-4: Project operations could encourage activities that use large amounts of fuel or energy, or the use of these resources in a wasteful manner. (DEIR Section 5.18.3.4, Pages 5.18-10 to 5.18-12)

Implementation of Mitigation Measure M-ME-4, Incorporation of Energy Efficient Measures, would reduce the Project's potential to use of fuel and energy to *less-than-significant* levels by requiring that energy efficient equipment be used.

- *Mitigation Measure ME-4: (WSIP PEIR Measure 4.15-2, Incorporation of Energy Efficiency Measures)*

Impact C-ME: The project, in combination with past, present, and probable future projects, could substantially affect energy resources. (DEIR Section 5.18.3.5, Pages 5.18-12 to 5.18-14)

See Impact ME-4. Implementation of the listed mitigation measure would reduce the Project's contribution to cumulative impacts on energy resources to a *less-than-significant* level.

- *Mitigation Measure ME-4: (WSIP PEIR Measure 4.15-2, Incorporation of Energy Efficiency Measures)*

IV. Significant Impacts That Cannot Be Avoided or Reduced to a Less-Than-Significant Level

ACRP Impact

Based on substantial evidence in the whole record of these proceedings, the SFPUC finds that, where feasible, changes or alterations have been required or incorporated into the Alameda Creek Restoration Project to reduce the significant environmental impacts as identified in the Final EIR for the Project. All Project-specific impacts will be reduced to a **less-than-significant level** with the implementation of the mitigation measures proposed in the Final EIR and set forth in the MMRP, attached hereto as Attachment B.

The SFPUC further finds, however, that the Project is a component of the WSIP and, therefore, will contribute to the significant and unavoidable impact caused by the WSIP water supply decision. For the WSIP impact listed below, the effect remains **significant and unavoidable**. The SFPUC determines that the following significant impact on the environment, as reflected in the Final PEIR, is unavoidable, but under Public Resources Code Section 21081(a) (3) and (b), and CEQA Guidelines Sections 15091(a) (3), 15092(b) (2) (B), and 15093, the SFPUC determines that the impact is acceptable due to the overriding considerations described in Section VI below. This finding is supported by substantial evidence in the record of this proceeding.

WSIP Impact

The WSIP PEIR and this Commission's Resolution No. 08-0200 related to the WSIP water supply decision identified three significant and unavoidable impacts of the WSIP: ***Impact 5.4.1-2-Stream Flow: Effects on flow along Alameda Creek below the Alameda Creek Division Dam; Impact 5.5.5-1-Fisheries: Effects on fishery resources in Crystal Springs reservoir (Upper and Lower); and Impact 7-1-Indirect growth inducing impacts in the SFPUC service area.*** Mitigation measures that were proposed in the PEIR were adopted by this Commission for these impacts; however, the mitigation measures could not reduce all the impacts to a less than significant level, and these impacts were determined to be significant and unavoidable. This Commission has already adopted the mitigation measures proposed in the PEIR to reduce these impacts when it approved the WSIP in its Resolution No. 08-0200. This Commission also adopted a Mitigation Monitoring and Reporting Program as part of that approval. The findings regarding the three impacts and mitigation measures for these impacts set forth in Resolution No.

08-0200 are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings.

Subsequent to the certification of the PEIR, the Planning Department has conducted more detailed, site-specific review of two of the significant and unavoidable water supply impacts identified in the PEIR. In the case of *Impact 5.5.5.-1*, the Project-level fisheries analysis in the Lower Crystal Springs Dam Improvement Project Final EIR modifies the PEIR impact determination based on more detailed site-specific data and analysis and determined that impacts on fishery resources due to inundation effects would be less than significant. Project-level conclusions supersede any contrary impact conclusions in the PEIR. The SFPUC adopted CEQA Findings with respect to the approval of the Lower Crystal Springs Dam Improvement Project in Resolution No. 10-0175. The CEQA Findings in Resolution No. 10-0175 related to the impacts on fishery resources due to inundation effects are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings.

In the case of *Impact 5.4.1-2*, the project level analysis in the Calaveras Dam Replacement project Final EIR modifies the PEIR determination and concludes that the impact related to stream flow along Alameda Creek between the diversion dam and the confluence with Calaveras Creek (PEIR Impact 5.4.1-2) will be less than significant based on more detailed, site-specific modeling and data. Project-level conclusions supersede any contrary impact conclusions in the PEIR. The SFPUC adopted CEQA Findings with respect to the approval of the Calaveras Dam Improvement Project in Resolution No. 11-0015. The CEQA Findings in Resolution No. 11-0015 related to the impacts on fishery resources due to inundation effects are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings.

The remaining significant and unavoidable water supply impact listed in Resolution No. 08-0200 is as follows, relating to *Impact 7-1*:

- **PEIR Impact 7-1 Indirect growth inducing impacts in the SFPUC service area.**

The WSIP would result in potentially significant and unavoidable indirect growth-inducement impacts in the SFPUC service area. By providing water to support planned growth in the SFPUC service area, the WSIP will result in significant and unavoidable growth inducement effects that primarily relate to secondary effects such as air quality, traffic congestion and water quality. (PEIR Chapter 7). The WSIP identified mitigation measures adopted by jurisdictions that have prepared general plans and related land use plans and major projects in the SFPUC service area to reduce the identified impacts of planned growth. A summary of projects reviewed under CEQA and mitigation measures identified are included in Appendix E, Section E.6 of the PEIR.

Despite the adoption of mitigation measures, some of the identified impacts of planned growth cannot be reduced to a less-than-significant level, and the WSIP, which has a longer planning horizon and somewhat different growth projections than some general plans, would be expected to result in impacts not addressed by adopted mitigation measures as summarized in the PEIR Chapter 7. Jurisdictions have adopted statements of overriding considerations in approving plans that support growth for which mitigation measures have not been identified and the SFPUC

adopted a statement of overriding considerations in approving the WSIP through Resolution No. 08-0200. Thus, some of the growth that the WSIP would support would result in secondary impacts that would remain **significant and unavoidable**.

V. Evaluation of Project Alternatives

This section describes the Project as well as alternatives and the reasons for approving the Project and for rejecting the alternatives as infeasible. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a “No Project” alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet Project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

A. Reasons for Approval of the Project

The overall goals of the WSIP for the regional water system are to:

- Maintain high-quality water and a gravity-driven system.
- Reduce vulnerability to earthquakes – deliver basic service to the three regions in the service area within 24 hours and restore facilities to meet average-day demand within 30 days after a major earthquake.
- Increase delivery reliability – allow planned maintenance shutdown without customer service interruption and minimize risk of service interruption from unplanned outages.
- Meet customer water supply needs through 2018 – meet average annual water purchase requests during non-drought years and meet dry-year delivery needs while limiting rationing to a maximum 20 percent systemwide; diversify water supply options during non-drought and drought years and improve use of new water resources, including the use of groundwater, recycled water, conservation and transfers.
- Enhance sustainability.
- Achieve a cost-effective, fully operational system.

The Project would help meet WSIP level-of-service goals and system performance objectives. Specific objectives of the Project are to:

- Recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam, respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system.

- Minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system.
- Maximize local watershed supplies.
- Maximize the use of existing SFPUC facilities and infrastructure.
- Provide a sufficient flow to the Sunol Valley Water Treatment Plant to meet its minimum operating requirements.

The Project would help meet WSIP goals by maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system, thereby increasing water delivery reliability and meeting customer supply needs. The proposed Project is a fundamental component of the SFPUC's WSIP and is needed to fully meet WSIP goals and objectives, in particular those for delivery reliability and water supply reliability. On an average annual basis, the project is estimated to recapture 7,178 acre-feet per year of water that is equivalent to the estimated average loss of yield to the SFPUC's water system associated with the flow releases and bypasses required by state and federal resource agency permits for the Calaveras Dam Replacement Project ("CDRP").

B. Alternatives Rejected and Reasons for Rejection

The Commission rejects the alternatives set forth in the Final EIR and listed below because the Commission finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this section in addition to those described in Section VI below under CEQA Guidelines 15091(a)(3), that make such Alternatives infeasible. In making these infeasibility determinations, the Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Commission is also aware that under CEQA case law the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project, and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

Alternative A: No Project

Under the No Project Alternative, the Alameda Creek Recapture Project would not be constructed or operated. Without the ACRP, the SFPUC would not recapture the flows released from Calaveras Reservoir and bypassed at the ACDD. Instead, the instream flow releases and bypasses would continue down Alameda Creek as surface or subsurface flows, with a portion of the flow entering the existing quarry pits as explained in Chapter 5, Section 5.16, Hydrology and Water Quality, the same as described under the "with-CDRP" conditions. Under the No Project Alternative, the SFPUC's yield from Calaveras Reservoir under its pre-1914 appropriative water rights would be reduced by approximately 6.4 million gallons per day (mgd) compared to the

estimated available deliveries from the Alameda Creek watershed assumed in the Phased WSIP analysis in the WSIP PEIR.

Under the No Project Alternative, the SFPUC would continue to operate its regional system to maximize use of the local watershed supplies for domestic and other purposes. To make up for the loss of yield from the Alameda watershed, the SFPUC could be expected to search for alternative water supplies, such as participation in the Bay Area Regional Desalination Project (BARDP) and additional water transfers, if any feasible transfers are identified. The success of such efforts is uncertain.

The No Project Alternative would undermine the SFPUC's ability to exercise its water rights in the Alameda Creek watershed, and the associated loss of yield to the regional system would hinder the SFPUC's ability to reliably meet the water supply needs of its 2.6 million customers in San Francisco, San Mateo, Santa Clara, Alameda, and Tuolumne Counties.

The No Project Alternative would fail to meet all but one of the fundamental ACRP objectives. More importantly, the No Project Alternative would not meet the water supply objectives of the ACRP or the WSIP. Under the No Project Alternative, the SFPUC would continue to maintain and operate the regional water system in the Alameda watershed. Although the system would be operated differently than it would be under the proposed project, the SFPUC would presumably maximize the use of its existing facilities and infrastructure, thereby meeting the fourth project objective, even though there could be unused capacity in some of the facilities due to the reduced yield from the Alameda watershed.

The No Project Alternative would jeopardize the SFPUC's ability to meet the water supply and delivery reliability WSIP program goal and system performance objectives. The loss of 6.4 mgd yield from the Alameda Watershed would affect the SFPUC's ability to guarantee it can meet customer demand with no more than 20 percent rationing in drought periods. It would undermine the SFPUC's ability to exercise its water rights in the Alameda Creek watershed. It would fail to meet project objectives, as it would not recapture water released from Calaveras Dam and bypassed at the ACDD, maintain historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems; maximize local watershed supplies; and provide a sufficient flow rate to the Sunol Valley Water Treatment Plant (SVWTP) to meet its minimum operating requirements. While it would provide for continued use of existing SFPUC facilities and infrastructure it might not fully meet the objective of maximizing use of facilities and infrastructure – reduced yield from the Alameda watershed could result in unused capacity in some of the facilities.

Under the No Project Alternative, current conditions would continue and all construction-related impacts would be avoided. The only unmitigated impact that would occur with the Project is the Project's contribution to the WSIP impact of indirect impacts related to growth. To the extent that the 6.4 mgd of water supply from the Project contributes to growth, the Project's contribution to the indirect impacts associated with growth would not occur with the No Project Alternative. However, under the No Project Alternative, the SFPUC would be expected to pursue actions to

make up for the loss of yield from the Alameda watershed as described above. Impacts associated with pursuing the Bay Area Regional Desalination Project are discussed below under Alternative B. Environmental impacts associated with a water transfer project are unknown as no feasible transfer is identified at this time, but such action could result in environmental impacts different from the project and could affect a different watershed from the Alameda Creek watershed. If the SFPUC successfully located an alternative water source, it could contribute to the indirect impacts associated with growth as identified for the WSIP in the WSIP PEIR.

The Commission rejects the No Project Alternative as infeasible because other than partially meeting the objective of maximizing use of existing SFPUC facilities and infrastructure, it would not meet the project objectives, and it would jeopardize the SFPUC's ability to meet the adopted WSIP goals and objectives as set forth in SFPUC Resolution No. 08-0200. It would require the SFPUC to search for uncertain, alternative water supplies and if the SFPUC were successful, implementation of these supplies would be expected to result in project specific environmental impacts as well as the significant and unavoidable growth inducing impact associated with the WSIP.

Alternative B: Regional Desalination

This alternative consists of implementation of the Bay Area Regional Desalination Project (BARDP), a collaboration of five Bay Area water agencies to investigate a year-round regional water supply project using desalination and water transfers to serve the needs of over 5.6 million residents and businesses in the region.² The SFPUC, along with the Contra Costa Water District (CCWD), East Bay Municipal Utility District (EBMUD), Santa Clara Valley Water District, and Zone 7 Water Agency, have been working together on the BARDP for over a decade. These agencies have completed a number of feasibility studies, pilot testing, site-specific analyses, and reliability studies. With the studies completed to date, the agencies have determined that the BARDP is technically feasible. However, the schedule for the next steps in implementing the BARDP, including preliminary design, environmental review, and construction is still to be determined.³

Under the BARDP, other participating agencies would receive the desalinated water, but the SFPUC would not directly receive desalinated water. Instead, the SFPUC would receive an exchange of EBMUD system water through the SFPUC's existing Hayward Intertie facility for its share of desalinated water. For planning purposes, it is assumed that the SFPUC's share of the regional water supply would be 9 mgd in all year types. The final share would be subject to negotiation with the other partners.

The Regional Desalination Alternative would support the second ACRP objective of "minimiz[ing] impacts on water supply during system maintenance and in the event of drought, water supply problems, or transmission disruptions in the Hetch Hetchy system." The estimated yield of 9 mgd

² The Regional Desalination for Drought Alternative analyzed in the WSIP PEIR was based on the BARDP as envisioned at that time, which was for a drought only supply. Currently, the BARDP is envisioned as a year-round supply for the SFPUC, which is the alternative analyzed here in the ACRP EIR.

³ Bay Area Regional Desalination Project. Website accessed on April 8, 2016. <http://www.regionaldesal.com/>

from the Regional Desalination Alternative would theoretically compensate for the loss of yield of 6.4 mgd from the Alameda watershed during both non-drought and drought periods if the ACRP were not to be implemented. Although the SFPUC's Alameda watershed facilities would be operated differently than it would be under the proposed project, the SFPUC would presumably maximize the use of its existing facilities and infrastructure in the Alameda watershed as well as use of the existing Hayward Intertie; however, there could be unused capacity in some of the facilities due to the reduced yield from the Alameda watershed. Thus, this alternative would partially meet the fourth project objective to maximize the use of existing SFPUC facilities and infrastructure.

This alternative would fail all the other ACRP objectives and would: (1) not recapture the water that will be released from Calaveras Dam and bypassed at the ACDD, nor maintain the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; (2) not maximize local watershed supplies; and (3) not provide a sufficient flow rate to the SVWTP to meet its minimum operating requirements.

Detailed environmental review will be required prior to project approval to identify the project- and site-specific environmental impacts of this alternative. Nevertheless, conceptual planning studies available at the time of the WSIP PEIR, as described in PEIR Volume 4, Chapter 8, which is incorporated by reference in the Final EIR, and subsequent additional planning and development that has resulted in several additional site-specific studies, preliminary indications of the BARDP can be deduced. Given the nature and magnitude of the BARDP relative to the ACRP, it is likely that both the construction and operations of the BARDP would result in more numerous and more severe environmental impacts than those of the ACRP. The impacts would occur in the vicinity of the BARDP site in Contra Costa County rather than in the Alameda Creek watershed in Alameda County. Potential impacts from construction activities include: conflicts with land uses; degradation of scenic resources; geological and/or seismic hazards associated with facility siting; water quality impacts; short-term depletion of groundwater resources; impacts on biological resources transportation impacts; air quality emissions and potential odors; noise impacts; and impacts associated with encountering hazardous materials in soil and groundwater. Potential impacts from operations include: entrainment or impingement of special-status aquatic organisms in the intake pipeline; discharge of toxic substances from the outfall structure; impacts on wetlands, marshlands, and other sensitive habitats; substantial use of nonrenewable energy resources; generation of greenhouse gases; permanent land use conflicts; degradation of visual resources/scenic views; operational air quality emissions and odors; and permanent increases in noise and vibration.

The SFPUC rejects the Alternative B as infeasible. Alternative B would fail to meet three of the four project objectives. As noted above, it is likely that BARDP would result in more numerous and more severe environmental impacts than those of the ACRP. All Project impacts, with the exception of the WSIP-related impact to growth can be mitigated. If the BARDP resulted in replacement water supply equivalent to the ACRP, it would result in the same WSIP growth inducing impact as the ACRP. Thus, the Alternative B does not have a clear environmental benefit over the Project and fails to meet all of the project objectives. The Project would mitigate its impacts and it is unclear whether the increased impacts of Alternative B can be fully mitigated.

To the extent that Alternative B meets the project objective of minimiz[ing] impacts on water supply during system maintenance and in the event of drought, water supply problems, or transmission disruptions in the Hetch Hetchy system, it would have the same WSIP growth-inducing impact as the ACRP.

For all of these reasons, the SFPUC rejects Alternative B as infeasible.

Environmentally Superior Alternative. The proposed project presented is the environmentally superior alternative. The environmental analysis for the proposed project presented in the EIR determined that the ACRP would result in no project-level significant and unavoidable impacts, and that all identified impacts were either less than significant or could be mitigated to a less-than-significant level with implementation of identified mitigation measures. Therefore, compared to the No Project and Regional Desalination Alternatives, the proposed project is the environmentally superior alternative.

C. Alternatives Considered but not Analyzed in Detail

The Draft EIR, Section 7.5 explains the process for selecting the ACRP and the alternatives considered and evaluated in the Draft EIR. As explained in the Draft EIR, altogether 36 alternative recapture options/alternatives were evaluated, including the following:

- One option involving an inflatable dam in Alameda Creek downstream of the Sunol Valley Water Treatment Plant.
- Twelve options involving in-stream infiltration gallery at various locations along Alameda Creek.
- Six options involving shallow wells (well fields) that would pump groundwater from the shallow alluvium.
- Ten options involving near stream or in-stream horizontal drains.
- Two options involving pumping from quarry pits (one of which ultimately became the ACRP).
- One option involving deep wells in the Livermore Gravels.
- One option involving extra local sources, based on recovering water from tributaries to Alameda Creek.
- One option involving recirculation of surface water and construction of a diversion or retention facility downstream of the Sunol Valley Water Treatment Plant.
- One option involving rehabilitation of the existing Sunol Filter Gallery.
- One option involving a cooperative agreement with the Alameda County Water District.

The Draft EIR explains that all of these alternative concepts or locations were determined to either be infeasible or to result in the same or more severe environmental impacts compared to those of the ACRP. The process the SFPUC undertook to consider all of these alternatives and a detailed analysis of these alternatives considered and the reasons they have been rejected from further analysis is described in the Draft EIR, Section 7.5. The SFPUC finds each of these reasons provide sufficient independent grounds for rejecting these alternatives. The Planning Department received two comments on the Draft EIR suggesting that the Draft EIR should have analyzed additional alternatives in detail, although no commenter suggested specific alternatives that the Draft EIR should have included. The Responses to Comments document (Responses to Comments, Section 11.6) explains that in addition to a detailed analysis and comparison of two alternatives to the ACRP in the Draft EIR, the CEQA alternatives analysis also describes and discusses the alternatives listed above and the reasons they were determined not to avoid or lessen significant impacts or were otherwise infeasible. The SFPUC finds that the Draft EIR evaluated a reasonable range of alternatives, as required by CEQA that allows Project decision-makers and the public to evaluate and compare the potential impacts of the proposed project with alternatives designed to avoid or lessen the project's environmental effects. The SFPUC finds each of these reasons provide sufficient independent grounds for rejecting these alternatives.

VI. Statement of Overriding Considerations

Pursuant to CEQA Section 21081 and CEQA Guidelines Section 15093, the Commission hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below, independently and collectively outweighs the significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found in the Record of Proceedings, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Commission specifically finds that there are significant benefits of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Commission further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All mitigation measures proposed in the Final EIR for the Project are adopted as part of this approval action. Furthermore, the Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technical, legal, social, and other considerations.

As stated in Section 3.2.2 of the EIR, the SFPUC included the ACRP in the WSIP because as part of the CDRP, the SFPUC intended to implement instream flow releases to improve habitat

conditions for native rainbow trout in accordance with a 1997 Memorandum of Understanding (MOU) with CDFW (then referred to as California Department of Fish and Game (CDFG)). The WSIP referred to the ACRP as the Alameda Creek Fishery Enhancement Project (WSIP at Section 3.8). At the time of the WSIP, the SFPUC had studied release of water from Calaveras Dam to benefit native fish populations for many years following a 1990 complaint by the organization California Trout filed with the California State Water Resources Control Board. In response to that complaint, the SFPUC entered into the MOU with CDFG.

The MOU contemplated release of water from Calaveras Reservoir and recapture of these flows using an on-stream diversion (inflatable dam) in Sunol Valley (SFPUC Resolution No. 97-0200 and Board of Supervisors Resolution No. 995-97). The intent of the SFPUC in approving the MOU was to accommodate support of native fishes in its operation of the Regional Water System while maintaining the SFPUC's existing pre-1914 water rights to water in Calaveras Reservoir. Those water rights include the diversion of water to storage in Calaveras Reservoir from the ACDD. In May, 2001 the SFPUC received a letter from the U.S. Environmental Protection Agency (U.S.EPA) stating that the proposed inflatable dam might not be approved under section 404 of the Clean Water Act as the least environmentally damaging practical alternative. (Letter to Michael Carlin, SFPUC from Tim Vendlinski, U.S.EPA Region IX, re Alameda Creek Fishery Enhancement and Recapture Facility, May 8, 2001.) That same year the DSOD issued an order restricting storage in Calaveras Dam due to seismic safety concerns, which prevented progress in implementing the MOU. The SFPUC developed plans to rebuild Calaveras Dam and began exploring alternatives for implementation of the MOU. The flow releases contemplated in the 1997 MOU were ultimately superseded by the flow release and bypass requirements imposed in federal (National Marine Fisheries Service) and state (CDFG) resource agency permits for rebuilding Calaveras Dam as part of the CDRP. The recovery of the releases and bypasses that result in loss of yield to the SFPUC system are included in the operation of the ACRP.

As explained in the EIR, Section 7.5, Alternatives Considered but Eliminated From Further Analysis, the SFPUC completed several studies of alternatives for recovery the releases and bypasses, including the *2004 Alameda Creek Fishery Enhancement Needs Assessment & Alternatives Analysis*, and the *2009 Final Updated Alternatives Analysis Report for Alameda Creek Fishery Enhancement Project*. These studies explored numerous alternative options, including in-stream infiltration galleries, shallow wells, horizontal drains, pumping from quarry pits, deep wells, recovery of water from other local sources, recirculation of surface water, and rehabilitation of the existing Sunol Filter Gallery. The ACRP analyzed in the DEIR is the environmentally superior alternative of all alternatives considered.

The Project will have the following benefits:

- The Project would maintain historical annual transfers from the Alameda Watershed system to the SFPUC regional water system, consistent with its existing pre-1914 water rights, by recapturing water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the ACDD, respectively.

- The ACRP avoids any construction in the channel of Alameda Creek by instead relying on the passive accumulation of water within quarry pits in Sunol Valley. It avoids any impact to passage of threatened steelhead trout through Sunol Valley while simultaneously meeting the SFPUC's longstanding goal of preserving yield under its existing pre-1914 water rights for Calaveras Dam.
- The Project would make use of existing SFPUC infrastructure and facilities and minimize the need for construction of new facilities by assuring existing available capacity is used to its maximum feasible extent. Reliance on existing facilities and infrastructure enables the SFPUC to avoid construction of an entirely new water storage system. The SFPUC has adopted mitigation measures that will reduce all of the direct environmental impacts associated with the construction and operation of the Project to a less than significant level,
- The Project will further the WSIP's goals and objectives. As part of the approval of Resolution 08-2000, the SFPUC adopted a Statement of Overriding Considerations as to why the benefits of the WSIP outweighed the significant and unavoidable impacts associated with the WSIP. This Statement of Overriding Considerations is relevant to the significant and unavoidable impact related to growth-inducement to which this Project contributes. The findings regarding the Statement of Overriding Considerations set forth in Resolution No. 08-2000 are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings. In addition, for the particular reasons set forth below, this Project helps to implement the following benefits of the WSIP:
 - The SFPUC WSIP identifies the goal of reducing vulnerability to earthquakes. It establishes an objective of delivering basic service to three regions in the SFPUC service area – East/South Bay, Peninsula, and San Francisco within 24 hours after a major earthquake. The performance objective is to deliver 104 mgd to the East/South Bay, 44 mgd to the Peninsula, and 81 mgd to San Francisco. The Project, by delivering up to 6.4 mgd on an average annual basis of local water supply from the Alameda Watershed, would provide increased local water supply in the event of an emergency such as an earthquake. Providing water security is critical to the Bay Area's economic security, competitiveness and quality of life.
 - The SFPUC WSIP identifies the goal of increasing delivery reliability and improving the ability to maintain the SFPUC regional system by providing operational flexibility. The ACRP would provide 6.4 mgd of local water supply from the Alameda Watershed in the event of system maintenance, or water supply problems or transmissions disruptions in the Hetch Hetchy system, thereby furthering this important goal of the WSIP.
 - The WSIP identifies the goal of meeting SFPUC retail and wholesale customer water demand during drought and nondrought periods, including providing an annual average of 265 mgd of retail and wholesale customer purchases from the SFPUC watersheds. The WSIP also establishes the goal of limiting rationing in a drought to a maximum of 20 percent for the 2.46 million persons in San Francisco, San Mateo, Santa Clara, Alameda and Tuolumne counties served by the SFPUC' regional water system. The Project

would provide approximately 6.4 mgd on an average annual basis and thereby contribute toward meeting these supply water goals.

- The WSIP projects are designed to meet applicable federal and state water quality requirements. The Project will further this objective as the EIR for the Project determined that the Project would have no significant impact on water quality and would not degrade drinking water.

Having considered these benefits, including the benefits discussed in Section I above, the Commission finds that the benefits of the Project and the Project's furtherance of the WSIP goals and objectives outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Cultural and Paleontological Resources						
CP-1	Project construction could cause a substantial adverse change in the significance of an archeological resource that qualifies as a historical or unique archeological resource.	<p>Mitigation Measure M-CUL-1: Accidental Discovery of Archeological Resources.</p> <p>The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in CEQA Guidelines Section 15064.5(a) and (c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc.</p> <p>The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.</p> <p>Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.</p> <p>If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p> <p>Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning (EP) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p> <p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p>	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB 3) SFPUC CMB/SFPUC BEM (qualified archeologist) 4) SFPUC CMB/SFPUCBEM (qualified archeologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM/SF Planning ERO 3) SF Planning ERO 4) SF Planning ERO 	<ol style="list-style-type: none"> 1) Ensure that the contract documents include measures related to archeological discoveries. 2) Ensure that all personnel attend environmental training prior to and during any construction-related soil-disturbing activities, receive the ALERT sheet, and sign the training sign-in sheet. Maintain file of signature sheets for submittal to ERO. Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 3) In the event of any indication of an archeological resource encountered during any soils disturbing activity of the project, evaluate the potential discovery and advise the ERO as to the significance of the discovery. If warranted, proceed with measures that may include the following: <ol style="list-style-type: none"> a. On-site preservation of resource; b. Archeological monitoring program with prior review/approval of ERO; or c. Archeological testing program with prior review/approval of ERO. 4) In the event of any discovered archeological resource, prepare a Final Archeological Resources Report. Submit to ERO for review and approval. Submit to others as required once approved by ERO. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction/Construction 3) Construction 4) Post construction

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ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Cultural and Paleontological Resources (cont.)						
CP-1 (cont.)		Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound copy, one unbound copy and one unlocked, searchable PDF copy on CD three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.				
CP-2	Project construction could result in a substantial adverse effect related to the disturbance of human remains.	Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of Alameda County and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The archeological consultant, project sponsor, ERO, and MLD shall have up to but not beyond six days of discovery to make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines, Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing State regulations or in this mitigation measure compels the SFPUC and the ERO to accept recommendations of an MLD. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects as specified in the treatment agreement if such as agreement has been made or, otherwise, as determined by the archeological consultant and the ERO.	1) SFPUC EMB 2) SFPUC CMB (qualified archeologist), SFPUC BEM, SF Planning ERO 3) SFPUC CMB	1) SFPUC BEM 2) SFPUC BEM/SF Planning ERO 3) SFPUC BEM/SF Planning ERO	1) Ensure that contract documents include measures related to discovery of human remains. 2) If potential human remains are encountered, mobilize an archeologist to confirm existence of human remains. If human remains are confirmed, perform required coordination and notifications. 3) If human remains are encountered and confirmed, monitor to ensure that the contractor implements measures in contract documents including insuring that all potential human remains are reported as required and that contractor suspends work in the vicinity. Report noncompliance and ensure corrective action.	1) Design 2) Construction 3) Construction
C-CP	The project, in combination with past, present, and probable future projects, could substantially affect cultural resources.	Implement Mitigation Measures M-CUL-1 (Accidental Discovery of Archeological Resources) and M-CUL-2 (Accidental Discovery of Human Remains).	—	—	—	—

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Air Quality						
AQ-1	Emissions generated during project construction activities could violate air quality standards and contribute substantially to an existing air quality violation.	<p>Mitigation Measure M-AQ 1: BAAQMD Basic Construction Measures.</p> <p>To limit dust, criteria pollutants, and precursor emissions associated with project construction, the following BAAQMD-recommended Basic Construction Measures shall be included in all construction contract specifications for the proposed project:</p> <ul style="list-style-type: none"> All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. All vehicle speeds on unpaved roads shall be limited to 15 mph. All paving shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Post a publicly visible sign with the telephone number and person to contact at the SFPUC regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations. 	<ol style="list-style-type: none"> SFPUC EMB SFPUC CMB SFPUC CMB 	<ol style="list-style-type: none"> SFPUC BEM SFPUC CMB/SF Planning ERO SFPUC BEM 	<ol style="list-style-type: none"> Ensure that the contract documents include specified dust control measures and exhaust control measures, including signage requirements and construction equipment maintenance. Monitor to ensure that the contractor implements measures in contract documents, including the requirement to post signage regarding dust complaints and idling times. Report noncompliance and ensure corrective action. Designate project liaison responsible for handling complaints related to dust or vehicle idling. Develop procedures for receiving and responding to complaints. Post contact information for the liaison and the BAAQMD Compliance and Enforcement Division on publicly visible signs in the project area. Ensure questions and complaints are responded to and corrective actions taken as needed. 	<ol style="list-style-type: none"> Design Construction Construction
AQ-3	Implementation of the proposed project could conflict with or obstruct implementation of the 2010 Clean Air Plan.	Implement Mitigation Measures M-AQ-1 (BAAQMD Basic Construction Measures)	—	—	—	—
C-AQ	The project, in combination with past, present, and probable future projects, could substantially affect air quality.	Implement Mitigation Measures M-AQ-1 (BAAQMD Basic Construction Measures)	—	—	—	—

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Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
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Terrestrial Biological & Fisheries Resources						
BI-1	Construction of the proposed project could have a substantial adverse effect on special-status species.	<p>Mitigation Measure M-BI-1a: General Protection Measures.</p> <p>The SFPUC shall ensure that the following general measures are implemented by the contractor(s) during construction to minimize or avoid impacts on biological resources:</p> <ul style="list-style-type: none"> • Construction contractor(s) shall limit the construction disturbance area to that necessary for project construction and avoid outside areas by posting signage delineating the construction disturbance area with flags, stakes, or fencing. • Protective fencing shall be installed outside the driplines of all trees to be retained that are located within 50 feet of any grading, road improvements, underground utilities, or other construction activity. A biologist who is experienced in special-status species and sensitive habitat identification and the SFPUC must first approve any encroachment beyond these fenced areas. The contractor shall maintain the temporary fencing until all construction activities are completed. No construction activities, parking, or staging shall occur beyond the fenced areas. • Project-related vehicles shall observe a 15-mile-per-hour speed limit on unpaved roads in the work area, or as otherwise determined by the applicable regulatory agencies. • The contractor shall provide closed garbage containers for the disposal of all food-related trash items (e.g., wrappers, cans, bottles, food scraps). All garbage shall be collected daily from the project area and placed in a closed container, from which garbage shall be removed weekly. • Construction personnel shall not feed or otherwise attract fish or wildlife in the project area. • No pets shall be allowed in the project area. • No firearms shall be allowed in the project area. • Staging areas shall be located at least 50 feet from riparian habitat, creeks, and wetlands. • If vehicle or equipment fueling or maintenance is necessary, it shall be performed in the designated staging areas and at least 50 feet from riparian habitat, creeks, or wetlands. • In cases where excavations require dewatering, the intakes shall be screened with a maximum mesh size of 5 millimeters. 	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 	<ol style="list-style-type: none"> 1) Ensure that the contract documents includes the general protection measures. 2) Monitor to ensure that contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction/ Construction
		<p>Mitigation Measure M-BI-1b: Worker Training and Awareness Program.</p> <p>The SFPUC shall ensure that mandatory biological-resources awareness training is provided to all construction personnel as follows:</p> <ul style="list-style-type: none"> • The training shall be developed and provided by a biologist who is experienced in special-status species and sensitive habitat identification or a construction compliance manager familiar with the sensitive species that may occur in the project area. • The training shall be provided before any work, including vegetation clearing and grading, occurs within the work area boundaries. 	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM 	<ol style="list-style-type: none"> 1) Ensure the contract documents include the requirement that all construction personnel attend biological resources awareness training. 2) Prepare biological-resources awareness program. Include documentation of qualifications of the consulting biologist developing the training program (e.g., resume). 3) Prior to construction, and during construction as needed, implement training program. Monitor to ensure that all personnel attend training prior to beginning work and sign training sign-in sheet. Maintain file of sign-in sheets. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Preconstruction/Construction

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Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-1 (cont.)		<ul style="list-style-type: none"> The training shall provide education on the natural history of the special-status species potentially occurring in the project area, and discuss the required mitigation measures to avoid impacts on the special-status species and the penalties for failing to comply with biological mitigation requirements. If new construction personnel are added to the project, the contractor shall ensure that they receive training prior to starting work. The subsequent training of personnel can include a videotape of the initial training and/or the use of written materials rather than in-person training by a biologist. 				
		<p>Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas.</p> <p>To prevent California tiger salamander (CTS), California red-legged frog (CRLF), and Alameda whipsnake (AWS), western pond turtle, and American badger from moving through the project area, the SFPUC or its contractors shall install temporary wildlife exclusion fencing along the work area boundaries (including access roads, staging areas, spoils sites etc.) prior to the start of project construction activities. The SFPUC shall ensure that the temporary fencing is continuously maintained until all construction activities are completed and that construction equipment is confined to the designated work areas. The fencing shall be made of suitable material that does not allow any of the animals listed above to pass through, and the bottom shall be buried to a depth of 6 inches (or to a sufficient depth as specified by the applicable resource agencies) so that these species cannot crawl under the fence. Fencing shall be equipped with exit funnels at least every 200 feet. To provide wildlife refugia and minimize CTS and CRLF mortality during construction, plywood coverboards (approximately 3 feet by 3 feet) shall be placed adjacent to the exclusion fence at a minimum interval of least 200 feet, alternating inside and outside of the fence.</p> <p>During fence installation and immediately prior to any initial ground-disturbing or vegetation removal activities, a biologist who is experienced in special-status species and sensitive habitat identification shall be present onsite to monitor for any special-status species present in suitable habitat within the fence installation area. If a special-status species is present within the fence installation area, work shall cease in the vicinity of the animal, and the animal shall be allowed to relocate of its own volition unless relocation is permitted by state and/or federal regulatory agencies. After construction is completed, the exclusion fencing and cover boards shall be removed.</p>	1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 4) SFPUC CMB (qualified biologist)	1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM 4) SFPUC BEM	1) Ensure that contract documents include wildlife exclusionary fencing measures. 2) Obtain and review resume or other documentation of consulting biologist's qualifications. Prior to construction, monitor fence installation. Conduct monitoring and relocation as required. Document activities in monitoring logs. 3) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 4) Monitor removal of exclusion fencing and cover boards.	1) Design 2) Preconstruction/Construction 3) Construction 4) Post construction
		<p>Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake.</p> <p>Preconstruction Surveys</p> <p>Prior to initial ground-disturbing activities in the project area, a biologist who is experienced in the identification of CTS, CRLF, and AWS shall survey the project area for the presence of CTS, CRLF, and AWS, as follows:</p> <p><i>California tiger salamander and California red-legged frog.</i> Not more than two weeks prior to the onset of work activities (including equipment mobilization) and immediately</p>	1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 4) SFPUC CMB (qualified biologist)	1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM 4) SFPUC BEM	1) Ensure that contract documents include the appropriate language for protection of CTS, CRLF, and AWS. 2) Obtain and review resume or other documentation of consulting biologist's qualifications. Prior to construction, conduct surveys, monitoring, burrow excavation and relocation activities. Document activities in monitoring logs. If a burrow is present within the construction footprint and cannot be avoided or relocation is required, coordinate with USFWS and CDFW.	1) Design 2) Preconstruction/Construction 3) Construction 4) Construction

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Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-1 (cont.)		<p>prior to commencing work, a biologist who is experienced in the identification of CTS and CRLF shall survey suitable habitat in the project area for CTS and CRLF. Burrow areas identified within the project boundaries shall be temporarily fenced and avoided, where feasible. If a burrow is present within the construction footprint and cannot be avoided, the biologist shall coordinate with USFWS and CDFW to avoid impacts to CTS and CRLF to the extent feasible using the most recent CTS and CRLF clearance methodology recognized by the USFWS and CDFW.</p> <p><i>Alameda whipsnake.</i> Not more than two weeks prior to the onset of work activities (including equipment mobilization) and immediately prior to commencing work, a biologist who is experienced in the identification of AWS shall conduct a reconnaissance survey of suitable upland habitat for AWS in the project area.</p> <p>Federal or state listed species shall only be relocated upon authorization from federal (USFWS) and/or state (CDFW) regulatory agencies. Otherwise, encountered individuals shall be allowed to relocate of their own volition.</p> <p>Construction Monitoring and Protocols</p> <p>At the beginning of each workday that includes initial ground disturbance, including grading, excavation, and vegetation-removal activities, a biologist who is experienced in the identification of CTS, CRLF, and AWS (biological monitor) shall conduct onsite monitoring for the presence of CTS, CRLF, and AWS in the area where ground disturbance or vegetation removal shall occur. The following protective provisions shall apply:</p> <ul style="list-style-type: none"> • Suitable CTS, CRLF, and AWS habitat shall be surveyed immediately prior to any ground-disturbing or vegetation removal activities. • Perimeter fences shall be inspected to ensure they do not have any tears or holes, that the bottoms of the fences are still buried, and that no individuals have been trapped in the fences. • Coverboards shall be inspected once a month between June 15 and October 15, once a week from October 15 to June 15, daily during a rain event, and once following the rain event (within 48 hours of the rain event), or as otherwise approved by USFWS and/or CDFW. • Any CTS, CRLF, or AWS found along and inside the fence shall be closely monitored until they move away from the construction area or, if they don't move out of the work area of their own volition shall be relocated by the biologist with authorization from USFWS and/or CDFW. The time to wait for the animal to move of its own volition shall be determined by the biological monitor and as approved by USFWS and/or CDFW. • All open trenches or holes and areas under parked vehicles shall be checked for the presence of CTS, CRLF, and AWS. • All excavated or deep-walled holes or trenches greater than 2 feet shall be covered at the end of each workday using plywood, steel plates, or similar materials, or escape ramps shall be constructed of earth fill or wooden planks to allow animals to exit. Before such holes are filled, they shall be thoroughly inspected for trapped animals. 			<p>3) Monitor to ensure that the contractor implements measures in contract documents. If any CTS, CRLF or AWS are identified along and inside the fence and/or require relocation or observations of any harm, injury, or mortality of a special-status species occur during construction (including entrapment), coordinate with USFWS and CDFW. Designate an SFPUC representative as the point of contact in the event that a CTS, CRLF, or AWS is discovered onsite when the biological monitor is not present. Report noncompliance and ensure corrective actions.</p> <p>4) If observations are made of federal- and state-listed species, provide reports to California Natural Diversity Database (CNDDB).</p>	

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Biological Resources (cont.)						
BI-1 (cont.)		<ul style="list-style-type: none"> Project personnel shall be required to immediately report any harm, injury, or mortality of a special-status species during construction (including entrapment) to the construction foreman or biological monitor, and the construction foreman or biological monitor shall immediately notify the SFPUC. The SFPUC shall provide verbal notification to the USFWS Endangered Species Office in Sacramento, California and/or to the local CDFW warden or biologist (as applicable) and written notification as requested by the agencies. <p>The SFPUC shall designate an SFPUC representative as the point of contact in the event that a CTS, CRLF, or AWS is discovered onsite when the biological monitor is not present.</p> <p>If the biological monitor or construction personnel find any of these species within the work area, construction activities shall cease in the immediate vicinity. The animals shall be allowed to relocate of its own volition outside of the work area or, if they don't move out of the work area of their own volition shall be relocated by a biologist who is experienced in the identification of CTS and CRLF. Federal or state listed species shall not be relocated without authorization from federal (USFWS) and/or state (CDFW) regulatory agencies.</p> <p>Once all initial ground-disturbing activities are completed, the biological monitor shall perform spot checks of the project area at least once a week, and during rain events, for the duration of construction to ensure that the perimeter fence is in good order, trenches are being covered if left open overnight (or escape ramps provided), project personnel are conducting checks beneath parked vehicles prior to their movement, and all other required biological protection measures are being followed.</p> <p>All observations of federally and state-listed species shall be reported to the CNDDB.</p> <p>Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.</p> <p>To restore temporarily impacted habitat for CTS, CRLF and AWS, the SFPUC shall prepare and implement a vegetation restoration plan with detailed specifications for minimizing the introduction of invasive weeds and restoring all temporarily disturbed areas, and shall ensure that the contractor successfully implements the plan. The plan shall indicate the best time of year for seeding to occur.</p> <p>To facilitate preparation of the plan, the SFPUC shall ensure that, prior to construction, a botanist (experienced in identifying sensitive plant species in the project area) performs additional preconstruction surveys of the areas to collect more detailed vegetation composition data, including species occurrence, vegetation characterization (tree diameter size, etc.), and percent cover of plant species. Photo documentation shall be used to show pre-project conditions.</p> <ul style="list-style-type: none"> The minimum weed control and restoration measures as well as success criteria to be included in the vegetation restoration plan are described below. <p>Invasive Weed Control Measures</p> <p>Invasive weeds such as yellow star-thistle, purple star-thistle, Italian thistle, bull thistle, milk thistle, shortpod mustard, jubata or pampas grass, and stinkwort readily colonize soils that have been disturbed by grading or other mechanical disturbance. Although much of the project area has an extensive weed infestation and relatively few native species, the SFPUC shall incorporate the following measures into the construction plans and specifications to prevent the further spread of invasive weeds into nearby areas:</p>				
		<p>1) SFPUC EMB</p> <p>2) SFPUC BEM (qualified biologist)</p> <p>3) SFPUC CMB (qualified biologist)</p> <p>4) SFPUC CMB (qualified biologist)</p> <p>5) SFPUC BEM (qualified biologist)</p> <p>6) SFPUC BEM/SFPUC NRLMD (qualified biologist)</p>	<p>1) SFPUC BEM</p> <p>2) SFPUC BEM</p> <p>3) SFPUC BEM</p> <p>4) SFPUC BEM</p> <p>5) SFPUC BEM / Resource agencies</p> <p>6) SFPUC BEM/ NRLMD/Resource agencies</p>	<p>1) Ensure that contract documents include on-site restoration requirements, including invasive weed control measures.</p> <p>2) Obtain and review resume or other documentation of consulting botanist's qualifications (e.g., resume). Perform preconstruction vegetation surveys. Undertake photo documentation of pre-project conditions.</p> <p>3) Ensure that environmental training includes information on invasive weed control measures (see Mitigation Measure M-BI-1b).</p> <p>4) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action.</p> <p>5) Obtain and review resume or other documentation of restoration biologist and arborist's qualifications (e.g., resume). Develop vegetation restoration plan and submit to resource agencies, as required. Implement approved vegetation restoration plan.</p> <p>6) Implement approved vegetation restoration plan. Perform revegetation and document long-term monitoring of on-site restoration as specified in the vegetation restoration plan. Provide documentation to resource agencies as required.</p>	<p>1) Design</p> <p>2) Preconstruction</p> <p>3) Preconstruction/Construction</p> <p>4) Construction</p> <p>5) Post construction as specified in the approved vegetation restoration plan</p> <p>6) Prior to, during, or following construction, and if applicable, consistent with the Sunol Region Mitigation and Monitoring Plan</p>	

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			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-1 (cont.)		<ul style="list-style-type: none"> Construction equipment shall arrive at the project area free of soil, seed, and plant parts to reduce the likelihood of introducing new weed species. Any imported fill material, soil amendments, gravel etc., required for construction and/or restoration activities that would be placed within the upper 12 inches of the ground surface shall be free of vegetation and plant material. Certified, weed-free, imported erosion-control materials (or rice straw in upland areas) shall be used exclusively, as applicable (this measure concerns biological material and does not preclude the use of silt fences, etc.). The environmental awareness training program for construction personnel shall include an orientation regarding the importance of preventing the spread of invasive weeds. To reduce the seed bank in weed-dominated ruderal areas, the contractor shall mow, disk, apply spot-applications of herbicide to weeds, and/or remove weeds, as appropriate (i.e., before seed set and dispersal) and prior to surface clearing and site preparation. The top 3 inches of soil shall not be conserved and re-spread due to the high levels of weed seeds it contains. This soil may be disposed of offsite or in the spoils deposit area. Before tracked and heavy construction equipment leaves the project area, any accumulation of plant debris, soil, and mud shall be washed off the equipment or otherwise removed onsite, and air filters shall be blown out. The restoration plan shall specify measures to remove and/or control weeds in the project area, including not conserving and respreading the surface layer of soil which contains a high level of weed seeds. No invasive species shall be used in any restoration seeding. Implementation of these measures during construction and site restoration activities shall be verified and documented by a biological or environmental monitor. <p>Minimum Restoration Measures</p> <p>Restoration areas are areas within the project area that would be disturbed during project-related construction activities but would subsequently be restored to their preconstruction conditions, or better. Current SFPUC policy specifies that no container stock or soil-containing plant materials may be used for revegetation on Watershed lands to avoid inadvertent introduction of non-native plant pathogens like phytophthora (<i>Phytophthora species</i>). The use or exclusion of container stock for restoration actions shall abide by effective SFPUC directives at the time of planting. To restore temporarily-disturbed areas, the SFPUC shall ensure the following:</p> <ul style="list-style-type: none"> The SFPUC shall specify that topsoil is not salvaged to minimize respreading of weeds. All areas proposed for disturbance are composed of poorly-sorted alluvium containing cobbles, gravels, sand and silt and material from any depth can be used as material for final grading. Grassland, ruderal, coyote brush scrub and mixed scrub areas shall be reseeded with a native or non-invasive grass and forb seed mix. 				

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ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-1 (cont.)		<ul style="list-style-type: none"> Willow thickets within Pit F2 shall be allowed to revegetate naturally; planting willow stakes is impractical on the steep slopes of the pits. Willow thickets elsewhere, if impacted, shall be replanted using willow stakes derived from cuttings of local willow plants. For any tree to be removed, the SFPUC shall ensure that replacement trees are planted within or in the vicinity of the project area as follows: <ul style="list-style-type: none"> For each isolated locally native tree removed that is 6 inches in diameter at breast height [dbh] or 10 inches aggregate dbh for multi-trunk trees, one replacement planting shall be installed per inch of diameter of trees removed. For example, eight planting basins shall be planted with coast live oak acorns to replace one 8-inch coast live oak tree. Seeds shall be used at planting sites rather than container stock to prevent the spread of soil-borne pathogens such as phytophthora. Replacement plantings shall be of the same species as that removed, unless site conditions are unsuitable, in which case either the replacement plantings shall be located in proximity to the project area where site conditions are suitable for that species or a suitable native species shall be installed. "Suitable" species are defined as those native to the Sunol Valley and capable of growing, once established, under prevailing site conditions without additional inputs of water or other chemicals. Trees shall be replaced within the first year after the completion of construction or as soon as possible in an area where construction is completed during a favorable time of year as determined by an arborist or biologist with experience in restoration. Replacement trees shall be planted in or near the location from where trees were removed as feasible and in locations suitable for the replacement species. Selection of replacement sites and installation of replacement plantings shall be supervised by an arborist or biologist with experience in restoration. Irrigation of tree plantings during the initial establishment period shall be provided as deemed necessary by an arborist or biologist with experience in restoration. An arborist or biologist with experience in restoration shall monitor new plantings at least once a year for five years (seven years for oaks) or as otherwise determined by the applicable resource agencies. Any replacement plantings installed as remediation for failed plantings shall be planted as stipulated here for original plantings, and shall be monitored for a period of five years (seven years for oaks) following installation, or as otherwise determined by the applicable resource agencies. <p>Minimum Success Criteria</p> <p>Unless the applicable resource agencies determine different but equivalent or more stringent criteria should be applied, the success criteria for restoring temporarily disturbed areas shall be as follows:</p> <ul style="list-style-type: none"> All temporarily disturbed areas shall be restored to approximate their baseline condition. Vegetation cover shall be at least 70 percent of the baseline; that is, absolute cover of the revegetation site shall be no less than 70 percent of baseline absolute cover of native and naturalized species (i.e., excluding target invasives). Cover in the revegetation site shall contain no more than 10 percent absolute cover of target invasives or no more cover of invasives than the baseline, whichever is greater, as defined in the summary table, below. 				

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Biological Resources (cont.)												
BI-1 (cont.)		<ul style="list-style-type: none"> Vegetation within restoration areas shall be functional, fully established, and self-sustaining as evidenced by successive years of healthy vegetative growth; observed increase in vegetative cover, canopy cover, and/or plant height; successful flowering, seed set, and/or vegetative reproduction over the five-year monitoring period. Revegetation work shall start within one year of construction completion. Revegetation of grassland areas shall be monitored at least once a year for five years or as otherwise determined by the applicable resource agencies. With the exception of oak trees, which shall be monitored for up to seven years, all other replacement trees shall be monitored for five years. Restoration areas shall be monitored for target invasive plants quarterly in the first five years following replanting. If invasive plants are found during the five-year monitoring period, they shall be removed as necessary to support meeting the cover and vegetation composition success criteria. Monitoring and maintenance shall continue until the minimum success criteria specified in the Table M-BI-1E, below are met, or as otherwise determined by the applicable resource agencies. <p style="text-align: center;">TABLE M-BI-1E MINIMUM SUCCESS CRITERIA FOR VEGETATION RESTORATION</p> <table border="1"> <thead> <tr> <th>Parameter</th> <th>Field Indicator/Measurement</th> </tr> </thead> <tbody> <tr> <td>Vegetative Cover</td> <td>Grassland: 70 percent relative cover (relative cover is cover compared with baseline) of typical native and naturalized grassland species known from the Sunol Region by the end of the fifth monitoring year. Individual Native Trees: 65 percent survivorship by the fifth monitoring year.</td> </tr> <tr> <td>Invasive Species</td> <td>At the end of the fifth monitoring year, a restoration area shall have no more cover by invasives than the baseline. Invasive plant species shall be defined as any high-level species on the California Invasive Plant Council Inventory</td> </tr> </tbody> </table> <p>Compensatory Mitigation The SFPUC shall fully compensate for permanent losses of non-native grassland and ruderal habitat that provide potential low-quality upland refugia and dispersal habitat for CTS and CRLF, as well as potential low quality foraging and dispersal habitat for AWS. This area is approximately 0.43 acre. Compensatory mitigation may occur through habitat enhancements at any one of the SFPUC's Bioregional Habitat Restoration sites, such as the Goat Rock compensation site and the San Antonio Creek compensation site, or through purchase of credits at an off-site mitigation bank. Permanently impacted areas shall be mitigated at a ratio of 2:1, unless otherwise approved by USFWS and/or CDFW. Enhancements at the SFPUC's Bioregional Habitat Restoration sites shall be conducted in accordance with the SFPUC's Sunol Region Mitigation and Monitoring Plan, which specifies the success criteria and mechanisms for monitoring to ensure compensation.</p>	Parameter	Field Indicator/Measurement	Vegetative Cover	Grassland: 70 percent relative cover (relative cover is cover compared with baseline) of typical native and naturalized grassland species known from the Sunol Region by the end of the fifth monitoring year. Individual Native Trees: 65 percent survivorship by the fifth monitoring year.	Invasive Species	At the end of the fifth monitoring year, a restoration area shall have no more cover by invasives than the baseline. Invasive plant species shall be defined as any high-level species on the California Invasive Plant Council Inventory				
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Biological Resources (cont.)						
BI-1 (cont.)		<p>Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl.</p> <p>The SFPUC shall implement one of the following two measures to avoid and minimize impact on western burrowing owl:</p> <ol style="list-style-type: none"> 1. The SFPUC shall provide evidence (in the form of a burrowing owl habitat assessment, focused survey, etc.) to, and receive concurrence from, CDFW that western burrowing owl are not expected to occur within the project area and a 500-foot buffer. 2. If the potential for presence of western burrowing owl cannot be ruled out, the SFPUC shall implement preconstruction surveys for burrowing owl as follows: <ol style="list-style-type: none"> a. A biologist with experience in western burrowing owl identification (qualified biologist) shall conduct preconstruction surveys of suitable habitat within the project area, and in a 500-foot buffer of the project area (as access is allowed on adjacent private lands), to locate active breeding or wintering burrowing owl burrows less than 14 days prior to construction and/or prior to exclusion fencing installation. If no burrowing owls are detected, no additional action is necessary. b. If burrowing owls are detected during the nesting and fledging seasons (April 1 to August 15 and August 16 to October 15, respectively), the SFPUC shall establish a no-disturbance buffer around the nesting location to avoid disturbance or destruction of the nest site until after the breeding season or after the biologist determines that the young have fledged or would not be affected by planned construction activities. The extent of these buffers shall be determined by the biologist and would depend on the level of noise or construction disturbance; line of sight between the nest and the disturbance; ambient noise under existing conditions (baseline noise) and other disturbances; and consideration of other topographical or artificial barriers. c. If burrowing owls are detected during the non-breeding (winter) season (October 16 to March 31), the SFPUC shall establish a no-disturbance buffer around any active burrows. The extent of the buffer shall be determined by the biologist. If active winter burrows are found that would be directly affected by ground-disturbing activities, owls can be displaced from winter burrows according to recommendations made in the <i>Staff Report on Burrowing Owl Mitigation</i>.¹ Burrowing owls should not be excluded from burrows unless or until a Burrowing Owl Exclusion Plan is developed by the qualified biologist. 	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC BEM (qualified biologist) 3) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM/CDFW 3) SFPUC BEM/CDFW 	<ol style="list-style-type: none"> 1) Ensure that contract documents include the appropriate language for protection of western burrowing owl. 2) Provide evidence that western burrowing owl are not expected to occur within the project area and obtain concurrence with CDFW, or, if the potential for presence of western burrowing owl cannot be ruled out, conduct preconstruction surveys, mapping. Document activities in monitoring logs. Obtain and review resume or other documentation of consulting biologist's qualifications. 3) If burrowing owls are detected, monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Construction

¹ California Department of Fish and Game, 2012. Staff Report on Burrowing Owl Mitigation. March 7, 2012.

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Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
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Biological Resources (cont.)						
BI-1 (cont.)		<p>Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species.</p> <p>The SFPUC shall conduct tree and shrub removal in the project area during the nonbreeding season (generally August 16 through February 14) for migratory birds and raptors if possible. In the event that the construction schedule requires work during the breeding season, then tree and shrub removal may have to occur during the breeding season.</p> <p>If the SFPUC must conduct construction activities during the avian breeding season (February 15 to August 15), the SFPUC shall retain a wildlife biologist who is experienced in identifying birds and their habitat to conduct nesting-raptor surveys in and within 500 feet of the project area (as access is allowed on adjacent private lands). Migratory bird surveys shall be conducted within at least 250 feet of all work areas (as access is allowed on adjacent private lands). All migratory bird and active raptor nests within these areas shall be mapped. These surveys shall be conducted within two weeks prior to initiation of construction activities at any time between February 15 and August 15. If no active nests are detected during surveys, no additional mitigation is required.</p> <p>If migratory bird and/or active raptor nests are found in the project area or in the adjacent surveyed area, the SFPUC shall establish a no-disturbance buffer around the nesting location to avoid disturbance or destruction of the nest site until after the breeding season or after the biologist determines that the young have fledged (usually late June through mid-July). The extent of these buffers shall be determined by the biologist and would depend on the species' sensitivity to disturbance (which can vary among species); the level of noise or construction disturbance; line of sight between the nest and the disturbance; ambient noise under existing conditions (baseline noise) and other disturbances; and consideration of other topographical or artificial barriers. CDFW and/or USFWS shall be consulted regarding nesting bird buffers if the species is a listed species.</p>	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 4) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM <p>(Also CDFW and USFWS if potentially affected bird is a listed species)</p> <ol style="list-style-type: none"> 4) SFPUC BEM 	<ol style="list-style-type: none"> 1) Ensure that contract documents include the appropriate language for protection of special-status bird species. 2) Obtain and review resume or other documentation of consulting biologist's qualifications. Conduct preconstruction surveys, mapping, and agency coordination. Document activities in monitoring logs. 3) If migratory bird and/or active raptor nests are found in the project area or in the adjacent surveyed area, establish a no-distance buffer. 4) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Construction 4) Construction
		<p>Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures.</p> <p>A pre-construction survey for special-status bats shall be conducted by a biologist who is experienced in the identification of special-status bats (qualified biologist) in advance of any tree removal to identify potential bat habitat and identify active roost sites. Should potential roosting habitat or active bat roosts be found in trees to be disturbed under the project, the following measures shall be implemented:</p> <ul style="list-style-type: none"> • Trimming of trees shall occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15; outside of bat maternity roosting season (approximately April 15 to August 15) if a maternity roost is present and outside of months of winter torpor (approximately October 15 to February 28 or as determined by a biologist who is experienced in the identification of special-status bats), to the extent feasible. • If trimming of trees during the periods when bats are active is not feasible and bat roosts being used for maternity or hibernation purposes are found on or in the immediate vicinity of the project area where these activities are planned, a no-disturbance buffer as determined by a biologist who is experienced in the identification of special-status bats shall be established around these roost sites until they are determined to be no longer in-use as maternity or hibernation roosts or the young are volant. 	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 4) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM 4) SFPUC BEM 	<ol style="list-style-type: none"> 1) Ensure contract documents include the appropriate language for protection of special-status bats. 2) Obtain and review resume or other documentation of consulting biologist's qualifications. Conduct preconstruction surveys, mapping, and agency coordination and monitoring. Document activities in monitoring logs. 3) If potential roosting habitat or active bat roosts are identified, establish a no-disturbance buffer. 4) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Construction 4) Construction

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Biological Resources (cont.)						
BI-1 (cont.)		<p>Buffer distances may be adjusted around roosts depending on the level of surrounding ambient activity (i.e., if the project area is adjacent to a road or active quarry area) and if an obstruction, such as a large rock formation, is within line-of-sight between the nest and construction. For bat species that are State-sensitive species (i.e. any of the species of special concern with potential to occur on the project area), an SFPUC representative, supported by the qualified biologist, shall consult with CDFW regarding modifying roosts buffers, prohibiting construction within the buffer, and modifying construction around maternity and hibernation roosts.</p> <ul style="list-style-type: none"> A biologist who is experienced in the identification of special-status bats shall be present during tree trimming and disturbance to rock crevices or outcrops if bat roosts are present. Trees and rock crevices with roosts shall be disturbed only when no rain is occurring or is forecast to occur for three days and when daytime temperatures are at least 50 degrees Fahrenheit (°F). Trimming of trees containing or suspected to contain roost sites shall be done under supervision of a biologist who is experienced in the identification of special-status bats and implemented over two days. On one day, branches and limbs not containing cavities or fissures in which bats could roost shall be cut only using chainsaws. The following day, branches or limbs containing roost sites shall be trimmed, under the supervision of the biologist, also using chainsaws. Bat roosts that begin during construction shall be presumed to be unaffected, and no buffer shall be necessary. 				
		<p>Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger.</p> <p>The following measures shall be implemented to avoid and minimize impacts on American badger:</p> <ol style="list-style-type: none"> A biologist who is experienced in American badger identification (qualified biologist) shall conduct preconstruction surveys for American badger dens prior to the start of construction at potentially affected sites. The survey results shall be submitted to the SFPUC. Areas of suitable habitat for American badger in the project area include non-native grasslands. Surveys shall be conducted wherever this vegetation community exists within 100 feet of the project area boundary. Surveys shall be phased to occur within 14 days prior to disturbance. If no potential American badger dens are found during the preconstruction surveys, no further action is required. If the qualified biologist determines that any potential dens identified during the preconstruction surveys are inactive, the biologist shall excavate the dens by hand with a shovel to prevent use by badgers during construction. If active badger dens are found during the course of preconstruction surveys, the following measures shall be taken to avoid and minimize adverse effects on American badger: 	<ol style="list-style-type: none"> SFPUC EMB SFPUC CMB (qualified biologist) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> SFPUC BEM SFPUC BEM SFPUC BEM/CDFW if dens are determined to be active 	<ol style="list-style-type: none"> Ensure contract documents include the appropriate language for protection of American Badger. Obtain and review resume or other documentation of consulting biologist's qualifications. Conduct preconstruction surveys, mapping, and agency coordination and monitoring. Document activities in monitoring logs. If potential dens are identified, monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> Design Preconstruction Construction

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Biological Resources (cont.)						
BI-1 (cont.)		i. Relocation shall be prohibited during the badger pupping season (typically February 15 to June 1). ii. Construction activities shall not occur within 50 feet of active badger dens. The biologist shall contact CDFW immediately if natal badger dens are detected to determine suitable buffers. iii. If the qualified biologist determines that potential dens within the project area, and outside the breeding season, may be active, the biologist shall notify the CDFW. Badgers shall be passively relocated from active dens during the non-breeding season. Passive relocation may include incrementally blocking the den entrance with soil, sticks, and debris for three to five days to discourage use of these dens prior to project disturbance. After the qualified biologist determines that badgers have abandoned any active dens found within the project area, the dens shall be hand-excavated with a shovel to prevent re-use during construction.				
BI-2	Construction of the proposed project could have a substantial adverse effect on riparian habitat and other sensitive habitats.	<p>Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.</p> <p>The SFPUC and its contractors shall avoid impacts on riparian habitats and jurisdictional wetlands, by implementing the following measures:</p> <ul style="list-style-type: none"> A silt fence shall be installed adjacent to all riparian habitats and wetlands to be avoided within 50 feet of any proposed construction activity, and signs installed indicating the required avoidance. No equipment mobilization, grading, clearing, or storage of equipment or machinery, or similar activity, shall occur until a biologist who is experienced in the identification of riparian habitats and wetlands has inspected and approved the fencing installed around these features. This restriction applies to both onsite construction and any offsite mitigation area. The SFPUC shall ensure that the temporary fencing is continuously maintained until all construction activities are completed. No construction activities, including equipment movement, material storage, or temporary spoil stockpiling, shall be allowed within the fenced areas protecting riparian habitats and wetlands. Exposed slopes shall be stabilized immediately upon the completion of construction activities. <p>Implement Mitigation Measures M-BI-1a (General Protection Measures); M-BI-1b (Worker Training and Awareness Program); M-BI-1e (Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation);</p>	1) SFPUC EMB 2) SFPUC CMB 3) SFPUC CMB	1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM	1) Design project to avoid impacts to waters of the United States and state. Ensure appropriate language is included in contract documents for protection of riparian habitats and wetlands. 2) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 3) Stabilize exposed slopes immediately upon completion of construction.	1) Design 2) Construction 3) Construction
BI-3	Construction of the proposed project could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means.	Implement Mitigation Measures M-BI-1a, 1b, and 1e (General Protection Measures, Worker Training and Awareness Program, Vegetation Restoration Plan and Compensatory Mitigation) and Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian and Wetlands)	—	—	—	—

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Biological Resources (cont.)						
BI-6	Project operations could have a substantial adverse effect on riparian habitat or other sensitive natural community, including wetland habitats.	<p>Mitigation Measure M-BI-6a: Baseline riparian habitat mapping.</p> <p>Prior to commencing project operations, the SFPUC shall prepare a plan to submit to the Environmental Review Officer (ERO) for review and approval describing quantitative methods for measuring extent of baseline riparian habitat and subsequent changes in extent following commencement of project operations. The SFPUC shall map the extent of tree-supporting riparian alliances (i.e., sandbar and arroyo willow thickets and mixed riparian forest) along Alameda Creek Subreaches A, B, and C1, starting from the confluence with San Antonio Creek and extending downstream to about the northern end of the former Sunol Valley Golf Club (see Figure 5.14-2).</p>	1) SFPUC BEM/SFPUC NRLMD (qualified biologist)	1) SF Planning ERO	1) Develop baseline riparian habitat mapping and measurement plan in accordance with mitigation requirements, include documentation of qualifications of botanist (e.g., resume). Submit to ERO for approval. Conduct baseline mapping of tree-supporting riparian alliances in accordance with ERO-approved methodology.	1) Post-construction (prior to operations)
		<p>Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.</p> <p>Once ACRP recapture operations begin, the SFPUC shall conduct annual monitoring within Subreaches A, B, and C1, applying the same mapping protocol used to establish the baseline map (Mitigation Measure M-BI-6a), to document the extent of tree-supporting riparian alliances. A reduction in extent of tree-supporting riparian alliances from the baseline conditions, as calculated below, shall trigger implementation of habitat enhancement measures described in Mitigation Measure M-BI-6c on a 1:1 ratio based on extent.</p> <p>Changes in the extent of tree-supporting woody riparian alliances shall be calculated as the difference in extent between the baseline conditions and a multi-year rolling average based on the current year and the years preceding.</p> <p>The SFPUC shall prepare and submit to the ERO an annual report documenting the annual monitoring of riparian habitat and any associated habitat enhancement activities, with the first year report consisting of baseline monitoring and plan for habitat enhancement (see Mitigation Measure M-BI-6c).</p> <p>In the future, when quarry operations cease, implementation of this mitigation measure shall cease.</p>	1) SFPUC BEM/SFPUC NRLMD (qualified biologist)	1) SF Planning ERO	1) Conduct annual monitoring and mapping applying the same mapping protocol used to establish the baseline map. Prepare annual report documenting the monitoring of riparian habitat and any associated habitat enhancement activities. Submit annual report to ERO.	1) Post-construction
		<p>Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.</p> <p>The SFPUC shall develop a habitat enhancement plan to be reviewed and approved by the Environmental Review Officer and shall implement the plan based on the triggers described in Mitigation Measure M-BI-6b. The plan shall be consistent with the SFPUC's Sunol Valley Restoration Report (in prep.) and shall consist of a combination of plantings such as valley oaks and sycamores in the floodplain, and protecting and managing natural valley oak and sycamore recruits. Mitigation gains in woody riparian habitat shall be calculated in the same manner as losses are calculated in Mitigation Measure M-BI-6b. To the extent feasible, habitat enhancement shall be implemented in a portion of Subreaches B and C1, and in all cases, within the Sunol Valley.</p> <p>No net loss will be considered to be achieved under this mitigation measure at such time that the SFPUC establishes and maintains woody riparian habitat that fully replaces the baseline extent of woody riparian habitat in accordance with the approved habitat enhancement plan. Upon documentation that this performance standard has been satisfied, the SFPUC may request ERO approval to discontinue the monitoring and enhancement actions required under this mitigation measure.</p>	1) SFPUC BEM/SFPUC NRLMD (qualified biologist)	1) SF Planning ERO	1) Develop a habitat enhancement plan in accordance with mitigation requirements. Submit to ERO for approval. Implement the plan based on the triggers described in Mitigation Measure M-BI-6b.	1) Post-Construction

USFWS = U.S. Fish and Wildlife Service
 CDFW = California Department of Fish and Wildlife
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ERO = (SF Planning Department) Environmental Review Officer

ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-6 (cont.)		This measure shall be superseded at such time that the SFPUC implements the Sunol Valley Restoration Report that accomplishes the equivalent or greater habitat enhancement. In the future, when quarry operations cease, implementation of this mitigation measure shall cease.				
BI-8	Construction and operation of the proposed project could conflict with local policies or ordinances protecting biological resources.	Implement Mitigation Measures M-BI-1a (General Protection Measures); M-BI-1b (Worker Training and Awareness Program); M-BI-1c (Prevent Movement of Sensitive Wildlife Species through the Work Areas); M-BI-1d (Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake); M-BI-1e (Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation); M-BI-1f (Measures to Minimize Disturbance to Western Burrowing Owl); M-BI-1g (Measures to Minimize Disturbance to Special-Status Bird Species); M-BI-1h (Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures); M-BI-1i (Avoidance and Minimization Measures for American Badger); M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands); M-BI-6a (Baseline riparian habitat mapping); M-BI-6b (Annual riparian habitat monitoring and reporting); M-BI-6c (Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances)	—	—	—	—
C-BI-1	The project, in combination with past, present, and probable future projects, could substantially affect terrestrial biological resources.	<p>Implement Mitigation Measures M-BI-1a (General Protection Measures), M-BI-1b (Worker Training and Awareness Program), M-BI-1c (Prevent Movement of Sensitive Wildlife Species through the Work Areas), M-BI-1d (Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, Red-Legged Frog, and Alameda Whipsnake), M-BI-1e (Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation), Mitigation Measure M-BI-1f (Measures to Minimize Disturbance to Western Burrowing Owl), M-BI-1g (Measures to Minimize Disturbance to Special-Status Bird Species), M-BI-1h (Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures), and M-BI-1i (Avoidance and Minimization Measures for American Badger). Implement Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands).</p> <p>Mitigation Measure M-C-BI: Coordination of Measures for Monitoring and Habitat Enhancement in Subreaches A, B, and C1.</p> <p>In the event that implementation of the SMP-30 quarry expansion, SMP-30 cut-off wall, and PG&E Line 303 relocation (either individually or collectively) are determined to result in downstream impacts to riparian habitat in Subreaches A, B, and C1 of Alameda Creek (i.e., tree-supporting riparian vegetation alliances), and mitigation measures are required by those projects to mitigate significant impacts to riparian habitat in these subreaches, then the SFPUC shall coordinate or as necessary modify the habitat enhancement plan it developed to implement Mitigation Measure M-BI-6c, to ensure that habitat restoration and enhancement efforts along Alameda Creek are consistent with each other in these subreaches.</p> <p>Implement Mitigation Measure M-BI-6a (Baseline riparian habitat mapping); M-BI-6b (Annual riparian habitat monitoring and reporting); M-BI-6c (Habitat enhancement, Subreaches B and C1)</p>	<p>1) See above for previously described measures</p> <p>2) SFPUC BEM/SFPUC NRLMD (qualified biologist)</p>	<p>1) See above for previously described measures</p> <p>2) SFPUC BEM/SFPUC NRLMD</p>	<p>1) See above for previously described measures</p> <p>2) In the event that implementation of future cumulative projects require mitigation measures for riparian habitat in Subreaches A, B, and C1 of Alameda Creek, determine consistency of all required mitigation measures and modify as necessary to ensure consistency of long term habitat enhancement plan.</p>	<p>1) See above for previously described measures</p> <p>2) Post-Construction</p>

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ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Geology and Soils						
GE-3	Project construction could result in a substantial adverse effect by directly or indirectly destroying a unique paleontological resource or site or unique geologic feature.	Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources. If construction workers discover potential fossils, all earthwork associated with the mooring piers shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. The paleontologist may also propose modifications to the stop-work radius based on the nature of the find, site geology, and the activities occurring on the site. Recommendations for any necessary treatment shall be consistent with the Society of Vertebrate Paleontology (SVP) 1995 Guidelines and currently accepted scientific practices. If required, treatment for fossil remains may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation and publication of a report describing the finds. The paleontologist's recommendations shall be subject to review and approval by the ERO or designee. The SFPUC shall be responsible for ensuring that treatment is implemented and reported to the San Francisco Planning Department. If no report is required, the SFPUC shall nonetheless ensure that information on the nature, location, and depth of all finds is readily available to the scientific community through university curation or other appropriate means.	1) SFPUC EMB 2) SFPUC CMB (qualified paleontologist) 3) SFPUC CMB (qualified paleontologist)	1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM/SF Planning ERO	1) Ensure that contract documents include requirement that contractor implement measures related to paleontological resources including discoveries. 2) Obtain and review resume or other documentation of paleontologist's qualifications. Ensure that all personnel attend environmental training prior to any earthwork associated with the mooring piers to be familiarized with the potential for encountering paleontological resources. 3) In the event of a discovery, confirm suspension of work, examination of fossil by qualified paleontologist, and implementation of paleontologist's recommendations. Report as required.	1) Design 2) Pre-construction/Construction 3) Construction
C-GE	The project, in combination with past, present, and probable future projects, could substantially affect paleontological resources.	Implement Mitigation Measure M-GE-3 (Accidental Discovery of Paleontological Resources)	—	—	—	—
Minerals and Energy Resources						
ME-4	Project operations could encourage activities that use large amounts of fuel or energy, or use these resources in a wasteful manner.	Mitigation Measure M-ME-4(WSIP PEIR Measure 4.15-2): Incorporation of Energy Efficiency Measures Consistent with the Energy Action Plan II priorities for reducing energy usage, the SFPUC will ensure that energy efficient equipment is used in all WSIP projects. A repair and maintenance plan will also be prepared for each facility to minimize power use. The potential for use of renewable energy resources (such as solar power) at facility sites will be evaluated during project-specific design.	1) SFPUC EMB 2) SFPUC EMB	1) SFPUC BEM 2) SFPUC BEM	1) Evaluate the potential for use of renewable energy sources such as solar power and ensure that energy-efficient equipment is used in project design. 2) Prepare a repair and maintenance plan that minimizes power use.	1) Design 2) Prior to operation
C-ME	The project, in combination with past, present, and probable future projects, could substantially affect energy resources.	Implement Mitigation Measures M-ME-4 (Incorporation of Energy Efficiency Measures)	—	—	—	—

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July 27, 2015

Sarah B. Jones
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Jones:

Subject: Comments on the Notice of Preparation of an Environmental Impact Report for the Alameda Creek Recapture Project

Thank you for the opportunity to provide comments on the proposed Alameda Creek Recapture Project (ACRP) during the project scoping phase. The Alameda County Water District (ACWD) acknowledges the significant accomplishments of the SFPUC to date in the implementation of the Water Supply Improvement Program (WSIP) since ACWD is a customer and, therefore, a beneficiary of the water supply reliability improvements that the SFPUC is achieving through its implementation.

That said, ACWD has a strong interest in protecting and preserving water quality and water supply in Alameda Creek and the Alameda Creek Watershed. ACWD is particularly concerned with potential impacts that the ACRP may have on ACWD's water supplies as well as ongoing projects related to fisheries restoration in Alameda Creek. With a service area located downstream of the proposed project location, ACWD uses water from the Alameda Creek watershed for drinking water supply to over 344,000 people in the cities of Fremont, Newark, and Union City. ACWD relies on adequate flow in Alameda Creek for groundwater recharge and its subsequent use as a potable drinking water supply. Additionally, ACWD, together with the SFPUC and other watershed stakeholders, is actively involved in the ongoing steelhead restoration efforts to restore the steelhead run in the Alameda Creek Watershed.

ACWD's Understanding of the ACRP

The ACRP is intended to recapture flows released from Calaveras Reservoir and/or bypassed around the Alameda Creek Diversion Dam as part of the future operations plan described in the Calaveras Dam Replacement Project Biological Opinion. The ACRP will rely on the slow and steady percolation of surface water from Alameda Creek, into the Sunol Groundwater Basin, and

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into Pit-F2 from where it will be captured and pumped to surface storage or treatment. Pit-F2 will effectively act as a sump for southern Sunol Valley and the dewatering of Pit-F2 could, in theory, facilitate recapture by increasing the potential head needed to increase percolation out of Alameda Creek.

As indicated in the Notice of Preparation (NOP), the volume of water that the ACRP intends to recapture is approximately equal to the average annual water to be released or bypassed. However, while annual totals may be the same, the actual daily rate of releases or bypass flows will be quantifiably different from the recapture rate provided by the ACRP. Real-time releases and bypasses will be on the order of tens to thousands of cubic feet per second (cfs), while the real time recapture rate will likely be on the order of ones to tens of cfs. Thus, when releases or bypasses are high, a substantial amount of the actual flows will exit Sunol Valley rather than percolate into the ground. Conversely, when releases or bypasses are low, the ACRP may continue to *capture* flows from Alameda Creek that are neither releases nor bypasses. The disparity in the release and recapture rates may have impacts in a variety of areas of concern and will need to be analyzed in sufficient detail for potential impacts to be understood and ultimately mitigated if necessary.

Since much of the releases and bypass flows will exit Sunol Valley, in order to make the annual average volume of yield from the ACRP equal the volume released or bypassed, the ACRP must “make-up” additional water. Some release or bypass water will be recaptured; however, additional water originating from sources other than Calaveras Reservoir and the Diversion Dam, such as Welch Creek, may be captured, pumped, and delivered to storage or treatment as a result of the ACRP. Due to this mechanism of operations, it is difficult to define the ACRP as strictly a ‘recapture’ facility. Rather, the ACRP will act as an alternative water supply or management system to compensate for lost yield from Calaveras Dam and Alameda Creek Diversion Dam.

It is with this understanding that the following comments are provided.

ACWD Comments

The Environmental Impact Report (EIR) must adequately address issues associated with protection of Alameda Creek, and the Alameda Creek Watershed as well as address potential impacts to downstream agencies. ACWD requests the EIR include sufficient detail to address the following areas of concern:

1. Rigor of Analysis

Surface water and groundwater interactions are complex and dynamic physical processes. The Alameda System Daily Hydrologic Model (ASDHM) cited in the NOP is an empirically derived surface water model developed to analyze surface water flow rates under existing and future conditions. By design, the proposed ACRP will influence the surface water and groundwater interaction in a manner different from existing conditions. Therefore this empirical model will need to be substantially modified and may prove to be insufficient to fully analyze the impacts of

operation of the ACRP. The EIR should consider using a more robust, physically based hydrological model capable of estimating the impact on stream flows throughout the project area, in Niles Canyon, and out to the San Francisco Bay. Alternatively, as is often the case with surface water and groundwater interactions, controlled physical tests could be conducted and would likely be more conclusive.

The following information should be considered as part of the analysis:

- a) Evaluation of the groundwater seepage and surface water recharge from Alameda Creek and San Antonio Creek into Pit F2.
- b) Quantify the amount of release and bypass water that will actually percolate into the Sunol Valley Groundwater Basin (including water captured at the existing infiltration gallery) that can actually be defined as "recapture."
- c) Description of the origin of water other than the "recapture" that will be pumped out of Pit F2 at the various times of operation (*i.e.*, surface water or groundwater).

2. Hydrologic, Biological, and Water Supply Impacts

- a) The EIR should provide sufficient detail to analyze impacts associated with the differing rates of release and recapture on the following:
 - Anadromous fish passage in the Alameda Creek Flood Control Channel, Niles Canyon and Sunol Valley.
 - Aquatic and riparian habitat in Niles Canyon and Sunol Valley.
 - ACWD groundwater recharge operations and water supply.
- b) The potential impacts of the ACRP will likely vary significantly between dry, average, and wet year conditions. The EIR analysis should address these separate hydrologic year types.

3. Inconsistency with the WSIP Programmatic EIR

Previous environmental reporting described a recapture facility with capacity of up to 6,300 AF/year. The proposed ACRP capacity has been increased to 9,820 AF/year. The EIR should address this discrepancy and any additional environmental impacts from the increased capacity.

4. Water Rights

The EIR should identify the alternative water supply that is being captured as a result of the ACRP and include an analysis of the impact to both surface water and groundwater rights in the affected area.

5. Past, Present, and Future Work on Fisheries Projects

The NOP states that the EIR will evaluate potential cumulative impacts resulting from implementation of the ACRP in combination with other projects in the vicinity. This cumulative impacts analysis should include projects that are being pursued by the Alameda Creek Fisheries Workgroup including; ACWD/Alameda County Flood Control and Water Conservation District's Joint Fish Passage Projects, Alameda County Flood Control's projects in the lower Alameda Creek, SFPUC's projects in Niles Canyon, and PG&E's plans to address fish passage in Sunol Valley.

6. Permits and Approvals

- a) The NOP states that no federal permits are anticipated. ACWD encourages the SFPUC to evaluate the potential impacts to "waters of the United States" and permit requirements under the Clean Water Rule published on June 29, 2015, in the Federal Register (80 FR 37054). The final rule becomes effective on August 28, 2015, modifying the definition of waters of the United States under 40 C.F.R. 230.3.
- b) The NOP does not indicate that notification of California Department of Fish and Wildlife is required under Fish and Game Code section 1602. This determination in the environmental impact report should take into account the recent holding in the case *Siskiyou County Farm Bureau v. Department of Fish and Wildlife* C.D.O.S. 5632, No. C073735 (June 4, 2015) that notification is required even if there is no disturbance of a streambed or bank.

7. Infrastructure Concerns

Pit-F2 lies adjacent to the South Bay Aqueduct (SBA), which supplies water to the Zone 7 Water Agency, ACWD, and the Santa Clara Valley Water District. Recent studies indicate the section of the SBA located adjacent to Pit F2 is at an increased risk of failure under seismic events. Given these findings, ACWD requests that the EIR evaluate whether cycling water levels in Pit F2 will have the potential to compromise the integrity and stability of soils in this area.

8. Considerations for the Alternatives Analysis

As stated in the NOP, the California Environmental Quality Act (CEQA) requires an evaluation of alternatives to the project. ACWD, being both a downstream agency and wholesale customer of the SFPUC, believes that there is a potential to coordinate in the scoping and assessment of some project alternatives, including operational alternatives of the proposed project, and welcomes discussions with the SFPUC on ways in which our two agencies can achieve the goals of enhancing environmental conditions within the Alameda Creek watershed while minimizing impacts to water supply reliability for both of our agencies.

Sarah B. Jones
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Thank you again for the opportunity to comment during the project scoping phase. Should you have any questions about these comments or about ACWD's Alameda Creek water supply and downstream operations, please feel free to contact Steven Inn, Manager of Water Resources, at (510) 668-4441. We look forward to coordinating further with you on this project.

Sincerely,



Robert Shaver
General Manager

tn/tf

cc: Steven Inn, ACWD
Michael Carlin, SFPUC
Steve Ritchie, SFPUC



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January 10, 2017

Lisa M. Gibson
Acting Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

Subject: Request for Extension of Time - Draft Environmental Impact Report for the Alameda Creek Recapture Project

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the Draft Environmental Impact Report for the Alameda Creek Recapture Project (ACRP) located in the Sunol Valley (Draft EIR).

ACWD staff is reviewing the Draft EIR, which at over 700 pages with technical appendices is a long and complex document. While the California Environmental Quality Act (CEQA) provides for a public review period of not be less than 45 days and the notice for the Draft EIR provided a comment deadline of January 17, 2017, ACWD is requesting an extension of time, allowing for 60 days to adequately review the Draft EIR. (CEQA Guidelines § 15203; San Francisco Administrative Code § 31.14(b)(1).) The technical analysis in the Draft EIR requires a thorough review by highly specialized professionals who have knowledge of the Alameda Creek system and ACWD's operations. The release of the Draft EIR in late November has resulted in limited time for a number of key ACWD staff to adequately review the highly technical data and analysis covered in the Draft EIR due to multiple holidays occurring during the public review period.

ACWD review of the analysis in the Draft EIR has also been constrained by the incomplete release of modeling information. ACWD identified in its July 27, 2015, comment letter for the Notice of Preparation for the Draft EIR that "while annual [flow] totals may be the same, the actual daily rate of releases or bypass flows will be quantifiably different from the recapture rate provided by the ACRP," and that, "[t]he disparity in the release and recapture rates may have impacts in a variety of areas of concern and will need to be analyzed in sufficient detail for

San Francisco Planning Department
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January 10, 2017

potential impacts to be understood and ultimately mitigated if necessary.” In order to evaluate potential impacts, ACWD requests an opportunity to review the daily flow rates provided by the modeling. Upon review of this additional data, ACWD requests a meeting with San Francisco staff to further discuss potential impacts of the ACRP prior to providing comments on the Draft EIR. Therefore, ACWD further requests an extension of time to more fully review the requested data, meet with San Francisco, and comment on the Draft EIR.

Thank you again for the opportunity to comment on the Draft EIR. For further discussions about these comments or about ACWD's Alameda Creek water supply and downstream operations, please contact Steven Inn, Manager of Water Resources, at (510) 668-4441. We look forward to coordinating further with you on this project.

Sincerely,



Robert Shaver
General Manager

la/tf

By E-mail

cc: Steven Inn, ACWD
Michael Carlin, SFPUC
Steve Ritchie, SFPUC



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January 30, 2017

Lisa M. Gibson
Acting Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

Subject: Comments on the Draft EIR for the Alameda Creek Recapture Project

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the proposed Alameda Creek Recapture Project (ACRP) during the environmental review phase. The Alameda County Water District (ACWD) acknowledges and appreciates the significant accomplishments of the San Francisco Public Utilities Commission (SFPUC) to date in the implementation of the Water Supply Improvement Program (WSIP). ACWD is a customer and a beneficiary of the high quality water that SFPUC currently provides and the water supply reliability improvements that the SFPUC is achieving through the overall implementation of the WSIP.

ACWD is also appreciative of the San Francisco Planning Department (Planning Department) Staff for extending the comment period on this important project.

ACWD has a strong interest in protecting and preserving water quality and water supply in Alameda Creek and the Alameda Creek watershed. ACWD staff has carefully reviewed the DEIR and we are particularly concerned with potential impacts the ACRP may have on ACWD's water supplies, as well as ongoing projects related to fisheries restoration in Alameda Creek. With a service area located downstream of the proposed project location, ACWD uses water from the Alameda Creek watershed for drinking water supply to over 349,000 residents in the cities of Fremont, Newark, and Union City. ACWD relies on flow in Alameda Creek for groundwater recharge and its subsequent use as a potable drinking water supply. Additionally, ACWD, together with the SFPUC and other watershed stakeholders, is actively involved in the ongoing efforts to restore the federally-threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) in Alameda Creek.

The DEIR describes that the intent of the ACRP is to recapture the volume of water released from Calaveras Reservoir and/or bypassed around the Alameda Creek Diversion Dam (ACDD)

as part of the future operations plan described in the Calaveras Dam Replacement Project Biological Opinion (CDRPBO) (Page 3-7, Section 3.2.2 of the DEIR.) The ACRP will rely on the slow and steady percolation of surface water from Alameda Creek into the Sunol Groundwater Basin, and into a former quarry pit referred to as Pit F2. Water from Pit F2 will be pumped to surface storage in San Antonio Reservoir or treatment at the Sunol Valley Water Treatment Plant (SVWTP).

ACWD Comments

The DEIR must adequately address issues associated with protection of Alameda Creek, and the Alameda Creek Watershed, as well as address the project's potential impacts to downstream water users. An EIR must identify and focus on the "significant environmental effects" of the proposed project (Public Resources Code § 21100(b); CEQA Guidelines §§ 15126(a), 15126.2(a), 15143.) A significant effect on the environment is defined as a substantial or potentially substantial change in the environment. (Public Resources Code §§ 21068, 21100(d)(b); CEQA Guidelines § 15382.) ACWD requests these comments be incorporated and addressed in the final EIR for this project to ensure a sufficient level of detail in the analysis of the potential environmental impacts from the construction and operation of the ACRP.

1. Hydrologic Analysis and Use of the Alameda System Daily Hydrologic (ASDH) Model
 - a. The ASDH Model was identified to have shortcomings by the SFPUC's Blue Ribbon Panel. The DEIR uses the ASDH Model to perform the assessment of impacts to surface water flow and groundwater elevations in the vicinity of the project. This model was originally developed in 2011 as an empirically derived mass balance model of existing conditions, and in coordination with all partners from the Alameda Creek Fisheries Workgroup, to analyze the effects of the flow releases described in the CDRPBO on Alameda Creek from the location of Calaveras Dam and the ACDD out to the San Francisco Bay. The SFPUC commissioned a Blue Ribbon Panel in August 2012 to provide an independent scientific review of this model in order to validate its usage for development of a Habitat Conservation Plan (HCP) for operation of SFPUC's facilities in the Alameda Creek watershed (Review of the Alameda Creek HCP Modeling Strategy, Aug 2012.) The Blue Ribbon Panel concluded that "a groundwater modeling study will be necessary to evaluate the effects of both continued lowering of Pit F2 elevations and several designs of the seepage cutoff walls, which have been proposed to minimize flow losses." These modifications were not made to the ASDH Model and, given the independent review and recommendation of the panel, the current use of this model is insufficient to perform the environmental analysis required. ACWD recommends that the DEIR incorporate the recommendation of the Blue Ribbon Panel and re-evaluate the impacts of the ACRP on surface and groundwater flows within the Alameda Creek watershed.

- b. The with-Project Conditions scenario appears to create water, which is not possible. The scenario analysis, based on the ASDH Model and published in the DEIR, indicates a violation of conservation of mass, which in turn renders the analysis flawed and thus the conclusions of the analysis unsupported. The ASDH Model was developed to analyze the effects of the flow releases from the CDRPBO on fish populations, and a key assumption in the original ASDH Model is that there is a fixed loss rate from Alameda Creek in the Sunol Valley (between Nodes 4 and 5), and that the lost mass does not reappear anywhere else in the model. The fixed loss rate was a conservative assumption made to evaluate impacts in the CDRPBO on downstream flows needed for fish passage. However, when using the ASDH Model to evaluate multiple scenarios, as was done in this DEIR, in order to satisfy the conservation of mass requirement, this fixed lost mass of water cannot reappear in some scenarios while remaining lost in others. Unfortunately, the with-CDRP Conditions scenario indicates significant lost mass relative to the with-Project Conditions scenario, and thus violates conservation of mass. Analyzing the scenarios from a mass-balance perspective, either the with-CDRP Conditions scenario has a significant loss of water (a.k.a. an “infinite sink”), or the with-Project Conditions scenario has a significant addition of water from an unknown source (an “infinite source”). Infinite sinks and sources are significant sources of error in mass balance analyses, and two scenarios cannot be compared if one scenario has one and the other does not. The end result, and in layperson’s terms, is that the with-Project Conditions scenario *creates* water, which is not possible.

The primary evidence of violation of conservation of mass appears in Table HYD8-1 on page 122 of the HYD-1 appendix. The total mass of water exiting the ASDH Model at Node 9 is larger in the with-Project Conditions scenario (average of 97,797 AF/year) than in the with-CDRP Conditions baseline (average of 94,575 AF/year). Since the stated Project Goals and Objectives (Page 3-8 of the DEIR) include “[m]aximize the use of local watershed supplies,” it must be assumed that the other significant outflow from the system above Node 9 (i.e., exports to SFPUC’s drinking water system) are at least equivalent between the two scenarios, if not higher in the with-Project Conditions scenario. Page 3-27, Section 3.6.1.2, Operating Parameters, of the DEIR states: “It is anticipated that, in most cases, the water withdrawn from Pit F2 would be conveyed to the SVWTP and thereby reduce the volume of water conveyed from Calaveras Reservoir to SVWTP, enabling the SFPUC to conserve water in the Calaveras Reservoir and *maintain the historical annual transfers from the Alameda Watershed system to the regional water system.*” According to this statement, as well as the Project Goals and Objectives, it must be assumed that in the with-Project Conditions scenario, there is no equivalent decrease in mass outflows in another part of the system to balance out the increase in mass outflows at Node 9. Meanwhile, the mass inflow to the “SFPUC Alameda Watershed” system (i.e., rainfall-generated runoff into Calaveras reservoir and rainfall-generated flow above the ACDD) must, by reasonable assumption, be the same in all scenarios evaluated. The combination of these mass flows results in significant mass imbalances,

indicating either a significant infinite sink in the with-CDRP Conditions baseline or a significant infinite source in the with-Project Conditions scenario. The lack of consistency in assumptions between these scenarios results in a violation of conservation of mass and renders the conclusions of the analysis in the DEIR unsupported (CEQA Guidelines § 15151.)

- c. **The ASDH Model does not analyze impacts to the environment during critically dry periods.** The SFPUC's Blue Ribbon Panel also identified deficiencies in the ASDH Model by stating, "[a] limitation of the empirical modeling approach, based on such short and fragmented records, is that the resulting model cannot represent well an important feature of California hydrology, which is the occurrence of enduring droughts... Because of the potential importance of multi-year droughts on fish populations... there seems to be some value in continuing to re-visit a process-based streamflow modeling strategy..." (Review of the Alameda Creek Habitat Conservation Plan Modeling Strategy, Aug. 2012). The ASDH Model only covers the hydrologic period between Water Year 1996 and 2013, which does not incorporate periods of extreme drought, therefore the Analysis conclusions in the DEIR does not analyze impacts of operations of the ACRP to the environment during these times. ACWD recommends that the model and analysis framework in the DEIR be revised to incorporate a range of historic droughts, or at the very least through 2015 which would capture the recent, critically dry rain year 2013-2014.

The DEIR proposes an accounting methodology to dictate the amount of water the SFPUC is allowed to pump from Pit F2 for recapture based on the premise that average annual volume of water proposed for recapture is less than average inflow from bypasses and releases. Page 3-27 of the DEIR states that this might not be the case during dry years; during these years, recapture operations would account for carryover water released and bypassed and collected in Pit F2 during prior years. Given the conclusions of the Blue Ribbon Panel on limitations of the ASDH Model in dry years, and the proposed carryover accounting methodology, the current evaluation of impacts to surface water hydrology should be expanded to include historic drought periods, in order to adequately analyze the impacts of the project. For example, increased extraction of water out of Pit F2 during dry periods will draw the Sunol Valley Groundwater Basin down, and increase the loss rate of surface water flow from Alameda Creek in the location of the project. This in turn may reduce the number of days that the surface water flow in Alameda Creek in Sunol remains connected to flow in Niles Canyon, which could impact fish and other species located downstream of the CDRP when comparing 1) the With-CDRP Conditions and 2) the With-Project Conditions scenarios. For fish migration, the hydrologic analysis needs to include an evaluation on how the ACRP will change the available migration periods compared to the selected baseline conditions.

- d. **The DEIR does not provide modeling results in an appropriate time-step needed to analyze downstream impacts.** In addition to the comments above, the ASDH

Model uses a daily time-step to calculate the movement of water throughout the Alameda Creek Watershed, but the results of the modeling work are presented in terms of average annual volumes. Given the dynamic nature of surface water flows in Alameda Creek, the hydrologic analysis needs to include a discussion about day to day changes in surface flows within Alameda Creek in order to fully identify potential impacts to fisheries as well as downstream water users. To illustrate, ACWD recently published a mitigated negative declaration for a series of fish passage projects within the Alameda Creek Flood Control Channel where detailed daily evaluations of proposed flow releases are documented, published, and used to determine potential impacts (Joint Lower Alameda Fish Passage Improvements MND, 2016.) The ACRP DEIR must discuss how the ACRP may impact these future conditions, and to do so, needs to provide an additional level of detail in the hydrologic analysis.

The volume of water that ACRP intends to recapture is approximately equal to the average annual water to be released and/or bypassed. However, while annual totals may be the same, the actual daily rate of releases and/or bypass flows will be markedly different from the slow and steady recapture provided by the ACRP. Real-time releases and bypasses will be on the order of tens to thousands of cubic feet per second (cfs), while the recapture will likely be on the order of ones to tens of cfs. Thus, when releases and/or bypasses are high, a substantial amount of the actual flows will exit Sunol Valley rather than percolate into the ground. Conversely, when releases and/or bypasses are low or are not occurring, the ACRP may continue to capture flows from Alameda Creek that are neither releases nor bypasses. This time-step discrepancy can lead to environmental impacts from operations of the ACRP that are not identified or discussed in the DEIR for the project. The DEIR's hydrologic analysis should be refined to determine the environmental impacts of operations of the ACRP on a daily basis, instead of discussing the magnitude of impacts using average annual or monthly values.

- e. **The DEIR conclusion that there are no significant impacts to ACWD's downstream operations is unsupported.** The DEIR concludes that the operation of the ACRP will not have a significant impact on ACWD's downstream recharge operations by describing an average annual change in the volume of water available at the Niles gage. This is an insufficient level of detail to conclude that there are no impacts to ACWD. ACWD's recharge operations function in a real-time manner, and are highly dependent on the daily fluctuation of flow at the Niles gage. ACWD requests that the SFPUC work with ACWD to identify potential impacts from operation of the ACRP before the Planning Department adopts the EIR for this project.
- f. **The DEIR cumulative impacts do not include effects of cutoff walls.** Figure 1-1 of the DEIR displays existing cutoff walls around Pit F2, which were installed to minimize seepage of Alameda Creek surface water into the groundwater basin and

into Pit F2. The figure also displays proposed future cutoff walls around sections of Pit F6. Installation of this future cutoff wall will likely provide additional protection from surface streamflow losses to the Sunol groundwater basin. The hydrologic analysis must be refined to include the proposed cutoff wall, and any associated changes in streamflow loss rate to determine cumulative impacts and adequately model future streamflow conditions through this reach (CEQA Guidelines §§ 15065(a)(3), 15130).

- g. **The DEIR does not analyze surface water-groundwater interactions.** The use of the ASDH Model does not provide a sufficient degree of analysis to provide the Planning Department with information that enables them to adequately take account of the environmental consequences or adequately determine feasible alternative or mitigation measures (CEQA Guidelines §15151, 15126.4, 15126.6.) The DEIR's hydrologic analysis, based on the recommendations of the SFPUC's Blue Ribbon Panel, must be performed with a proper surface water to groundwater process-based model with an adequate level of detail to fully identify the impacts the operation of the ACRP will have to the surface water and groundwater hydrology within the Alameda Creek Watershed (CEQA Guidelines §15144.) ACWD recommends the development of this model to occur collaboratively with other watershed stakeholders prior to using it to determine levels of impacts from the ACRP.

To address the deficiencies of the ASDH Model and this DEIR, ACWD recommends that the SFPUC work to develop a new, more robust, and appropriate tool to study the potential impacts of the proposed ACRP and the Planning Department to not adopt this DEIR until a detailed analysis is performed. ACWD proposes to collaborate in this effort and to contribute both financially and through in-kind services to the development of a new model.

2. CEQA Piecemealing and Consistency with CDRPBO

- a. **The ACRP project is in conflict with the stated expectations from the National Marine Fisheries Service on the operation of the CDRP project.** The ACRP is a project that is dependent on the Calaveras Dam Replacement Project (CDRP) and associated flow schedule, and was previously identified in the CDRP EIR as the "Filter Gallery Project." An accurate, stable, and finite project description is an indispensable component of an informative and legally sufficient EIR (CEQA Guidelines § 15124.) A "project" is the "whole of an action" that has the potential to result in a physical change to the environment "directly or indirectly" (CEQA Guidelines § 15378(a).) An agency cannot subdivide a project into multiple components to avoid analyzing and discussing in the EIR the sum of environmental impacts resulting from the project (*Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 193.) In 2009, ACWD provided comments on the DEIR of the CDRP stating that:

“...meeting the primary objectives of the CDRP is dependent on implementation of the Filter Gallery Project, the DEIR should consider the Filter Gallery Project as part of the overall Calaveras Dam Replacement Project, and include it in the DEIR’s project description of the CDRP. Without including the Filter Gallery as part of the CDRP Project Description, the primary objective of water supply reliability may not be met, and the SFPUC would be ‘piecemealing’ the environmental analyses of these two projects...”

Because the CDRP and the ACRP (formally the Filter Gallery Project) components were not analyzed together, inconsistencies exist between the stated goals of the ACRP and the Biological Opinion issued to the SFPUC for take coverage associated with operation of the CDRP. For example, the CDRPBO (pages 49 through 52) states that bypass flows at the ACDD are intended to provide suitable migration conditions from Alameda Creek below the ACDD through Niles Canyon and out to the Bay. Furthermore, page 52 of the CDRPBO states, “CDRP minimum flows from the southern watershed when combined with flows from the northern watershed (at the confluence of Arroyo de la Laguna) through Niles Canyon are expected to provide suitable conditions for adult upstream migration and smolt downstream migration.” Since the ACRP project has been analyzed separately from the CDRP project, the fundamental concept of recapturing CDRPBO flow releases and ACDD bypasses is in conflict with the stated expectations from the National Marine Fisheries Service (NMFS) on the operation of the CDRP project. The DEIR must analyze the impacts that operation of the ACRP will have on the future flow and habitat conditions described in the CDRPBO, and fully analyze the whole of the action taken by SFPUC (CEQA Guidelines § 15378(a).) Without this analysis the separate approval of these related projects could lead to severe impacts on flow and habitat conditions in Alameda Creek (CEQA Guidelines § 15130.)

3. Source of Project Water and Potential Impacts to ACWD’s Water Rights

- a. **The SFPUC needs to seek authorization from the State Water Resources Control Board before it can proceed with the project.** The DEIR claims the source of the recapture water is SFPUC's existing pre-1914 appropriative water rights. A pre-1914 appropriative right can be maintained only by continuous beneficial use of the water. The amount of water and scope of the right is fixed by the amount that can be shown to be actually beneficially used as to both amount and season of diversion.

Under California Water Code section 1706, the point of diversion, place of use, or purpose of use of a pre-1914 appropriative surface water right can be changed if others are not injured by that change. Under the "no injury rule," a transfer of this type would not be authorized to the extent that it reduced the availability of water for downstream users, regardless of the water priority of those users. California water law protects junior water right holders who would be harmed if seniors could increase the amount of water they divert under their senior priority. Likewise, juniors could be

hurt if seniors could change their point of diversion, place of use, or purpose of use in a manner that reduces the quantity or quality of water relied upon by juniors for their diversion.

The DEIR on page 2-11 claims that SFPUC would recapture the subject water "without expanding the CCSF's existing water rights" which is presumably determined from modeling based on historical hydrological data (*see also* DEIR at p. 3-25.) However, the DEIR does not adequately describe the actual historic beneficial use of the water as to both amount and season of diversion at the time of vesting required to determine if the SFPUC's water right is expanded as a result of the recapture project. It is unclear from the DEIR how the point of diversion/re-diversion for these surface waters is changed to divert water into Pit F2. Page 3-27 of the DEIR indicates there might be "carry over released" during dry years. There is no information in the DEIR that these pre-1914 water rights include carryover storage or how they operate as to timing and volume of capture, release, and consumptive use. Further, there is no information indicating the timing and rate of diversion of these water rights at the time of vesting and how this is changed through the ACRP. Finally, additional water originating from sources other than Calvarias Reservoir and the ACDD, such as Welch Creek, may be also recaptured in Pit F2. Any new appropriation of surface water requires State Water Resources Control Board approval and a finding that the change will not injure any legal water user (including any water right holders who are junior in priority and anyone who contracts with a legal water user) and that the change will not harm fish or wildlife. The Planning Department should not adopt the DEIR until a thorough evaluation of impacts to downstream water rights holders can be performed.

- b. **The DEIR analysis is insufficient to determine impacts to other's water rights.** As described above, given the dynamic nature of surface water flows in Alameda Creek, the hydrologic analysis needs to include a discussion about day to day changes in surface flows within Alameda Creek in order to determine the source of the water pumped from Pit F2 (surface water or groundwater) and to fully identify potential impacts to fisheries and downstream water users. Any groundwater captured in Pit F2 through the project is not authorized as a change in SFPUC's pre-1914 surface water rights under California Water Code section 1706.
- c. **The Project constitutes an expansion of San Francisco's water rights claim for Calaveras Reservoir.** The DEIR states that the source water which flows into Pit F2 will be comprised of flows released from Calaveras Dam, flows bypassed around the ACDD, and flow from other tributaries downstream of those two facilities. Since the ACRP operations do not physically distinguish which of these three sources is being extracted, the proposed operations of the ACRP constitute an expansion of San Francisco's water rights claim for Calaveras Reservoir. An expansion of the SFPUC's claimed water right to Arroyo Hondo and Alameda Creek may cause an impact or injury to other legal downstream users in the Alameda Creek Watershed.

The SFPUC must work with the State Water Resources Control Board to legally acquire the necessary water rights for operation of the ACRP.

- d. **The DEIR concludes that downstream users will not have to alter operations without completing a sufficient analysis.** The DEIR determines that there will be no significant impacts because the ACRP would not cause ACWD, a downstream water user, to alter its operation in a way that would result in significant adverse environmental impacts. However, this analysis is insufficient because it is predicated on the unproven premise that the water being recaptured is exclusively SFPUC's pre-1914 surface water right and that the recapture operation does not expand these rights.

4. Sunol Valley Water Treatment Plant Source Water Quality

- a. **The source water to the Sunol Valley Water Treatment Plant and other related issues need to be fully evaluated before adopting the DEIR.**

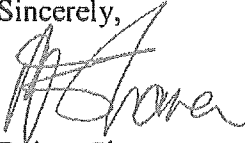
- 1.) In Figure 1-1 of the DEIR, it appears that surface water flow originating from rainfall has the ability to run directly into Pit F2. Former nurseries are located immediately adjacent to the north and south of Pit F2. The DEIR must include a comprehensive analysis and assessment at this location to ensure that surface soil is not contaminated in the vicinity of Pit F2. Contaminated surface soil could impact the water quality of surface runoff to Pit F2.
- 2.) The DEIR must provide a discussion about the impacts this new source of water may have on algae, taste and odor concerns, and the potential for cyanotoxins in Pit F2, as well as discuss current treatment processes that are in place or will be implemented to address these potential source water quality issues.
- 3.) ACWD recommends a pilot study of straight and blended treatment of water from Pit F2 before adopting the DEIR. Page 3-11 of the DEIR states that "monitoring data generally indicates that with the possible exception of total coliform levels" the water in Pit F2 meets the drinking water standards found in Title 22 of the California Code of Regulations. The word "generally" is too vague. The DEIR must contain a table with the available data, including results for metals, radionuclides, and total organic carbon (TOC). The DEIR should also compare TOC levels and turbidity between San Antonio Reservoir and water in Pit F2. The water quality in Pit F2 may be sufficient, but different enough from San Antonio Reservoir water that treatment at SVWTP is more difficult or requires additional or upgraded treatment processes. For example, straight Pit F2 water or Pit F2/San Antonio Reservoir water may be more easily treated with a different coagulant, may produce more solids, or may require additional pretreatment. ACWD recommends that the Planning Department not adopt this DEIR until a pilot study of this treatment plant source water quality change can be carried out.

- 4.) Pit F2 is in close proximity to the South Bay Aqueduct (SBA) and a PG&E Gas Pipeline. The DEIR does not account for how water quality in Pit F2 will be protected if the SBA, the PG&E pipeline, or embankment were to fail during a seismic event. Changes in source water quality can be very disruptive to treatment plant operations and end users of this water. It is unclear if the project proposes to develop a disaster recovery plan to restore water quality to acceptable levels for treatment at the SVWTP. Such a plan must be incorporated into the project.
5. **The DEIR does not consider consultation and permits with the appropriate agencies.** ACWD agrees with the January 4, 2017, comment from Alameda Creek Alliance that SFPUC should consult with NMFS regarding impacts to Steelhead and required permits for the project, with the Army Corps of Engineers regarding required Clean Water Act permits, and the California Department of Fish and Wildlife regarding coverage under California Fish and Game Code section 1602. Consultation and permits issued by these agencies will ensure that the goals of the ACRP are consistent with the environmental restoration efforts being carried out by the SFPUC, ACWD, and other watershed stakeholders.
6. **The DEIR does not analyze reasonable alternatives to the project.** A major function of the EIR is to preview and ensure that all reasonable alternatives are thoroughly assessed by the responsible official or board (*Inyo County v. City of Los Angeles*, (1977) 71 Cal.App.3d 185). "An EIR shall describe a range of reasonable alternatives to the project ... which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (CEQA Guidelines § 15126.6(a).) The DEIR evaluates only 1) the no Project Alternative and 2) the Regional Desalination Alternative. ACWD recommends the Planning Department not adopt this DEIR until a detailed alternatives analysis is performed.
7. **The DEIR does not analyze current conditions as a separate alternative to the No Action Alternative.** CEQA guidelines provide that the environmental setting as it exists when the EIR is being prepared should be treated as the baseline for gauging the changes to the environment that will be caused by the proposed action (CEQA Guidelines § 15125(a).) While comparisons to current conditions are referred to occasionally in the Draft EIR, use of baseline conditions is incomplete, including omission of comparisons in the vital categories of effects on water resources and biological resources.

Lisa M. Gibson
Page 11
January 30, 2017

Thank you again for the opportunity to comment during this review period. ACWD is appreciative of staff from the SFPUC and Planning Department for working to address these comments, and welcomes opportunities to collaborate to resolve the issues identified in this letter. If you have any questions about these comments, please contact Steven Inn, Manager of Water Resources, at (510) 668-4441.

Sincerely,



Robert Shaver
General Manager

eb/tf

cc: Steven Inn, ACWD
Steve Ritchie, SFPUC
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June 21, 2017

Jonas P. Ionin
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Dear Jonas Ionin:

Subject: Comments on the Final EIR for the Alameda Creek Recapture Project

The Alameda County Water District (ACWD) would like to thank the Planning Commission and its staff for the opportunity to provide comments on the Alameda Creek Recapture Project (ACRP or Project) Final Environmental Impact Report (FEIR), and for the extension of time that was previously granted for the submission of ACWD's comments on the Draft Environmental Impact Report (DEIR).

As a customer of the San Francisco Public Utilities Commission (SFPUC), ACWD relies on the Regional Water System for about 20 percent of our water supply. The Regional Water System supplies ACWD with a reliable supply of high quality water, which is an essential resource for ACWD to serve a population of 351,000 in Fremont, Newark, and Union City. In addition to being a customer of SFPUC, ACWD has a long history of working together with SFPUC on shared interests in the Alameda Creek Watershed. Both agencies have reputations of being progressive water agencies and good stewards of the environment in California. In fact, our agencies have worked cooperatively since 1997 through the Alameda Creek Fisheries Work Group to reestablish a viable fishery for the federally threatened *Oncorhynchus mykiss*, or steelhead, in the Central Coast region.

ACWD generally supports the concept of the Project – recapturing water for beneficial uses can benefit all customers who use water provided by SFPUC, including ACWD. However, the Project must be done in a way that does not have significant, unmitigated impacts on the environment. Because ACWD relies on Alameda Creek for approximately 40% of its water supply and operates and maintains facilities in the watershed to replenish the Niles Cone Groundwater Basin downstream of the Project, ACWD is uniquely familiar with, and concerned about, the Project.



ACWD submitted detailed written comments on the Notice of Preparation on July 27, 2015, expressing concerns about the complexity of the system and outlining specific information that would be required in order for our agency to evaluate potential impacts on downstream water supply operations and environmental flows for steelhead. The San Francisco Planning Department circulated the DEIR on November 30, 2016. Unfortunately, the DEIR did not include the relevant details ACWD needed to analyze Project impacts, and therefore ACWD submitted comments on the DEIR on January 30, 2017, setting forth concerns about the adequacy of the DEIR. Similar concerns were noted and commented on by the National Marine Fisheries Services, the Regional Water Quality Control Board, as well as several local non-governmental organizations. Having evaluated the responses to ACWD's comments, ACWD still does not believe that the FEIR includes a sufficient degree of analysis needed to determine the environmental impacts of the Project.

Therefore, ACWD requests that the Planning Commission delay taking any action on the FEIR and direct its staff to undertake an analysis that addresses these potentially significant impacts. Specifically, ACWD believes the CEQA analysis to be inadequate for the following reasons:

- 1) The studies and methodology in the FEIR are not sufficiently credible to support the FEIR impact analysis and Project approval.
 - ACWD commented on a critical mass balance discrepancy in the DEIR analysis, which shows that construction of the ACRP would, on an average annual basis, cause more water to flow out of the Project area relative to the with-Calaveras Dam Replacement Project no-ACRP scenario. This increase in total flow downstream of the Project area (specifically, as modeled at the "Niles" streamflow gage on Alameda Creek) suggests a fundamental flaw in the numerical analysis.
 - The Planning Department responded to ACWD's comment by stating "...the slight increase in water volume leaving the system at the Niles gage must be balanced by a slight decrease in the amount abstracted by the SFPUC." (RTC 11.5-34). This response states that SFPUC intends to lose approximately 3,000 AF/year of water supply by construction of the ACRP, which is the opposite of the Project's intent. This response indicates a lack of sufficient credibility in the fundamental modeling assumptions underpinning the FEIR's analysis.
 - Given the lack of sufficient credibility of the modeling approach, the majority of conclusions made by the FEIR are unsupported, including conclusions of no significant impact to downstream water rights holders and aquatic species.

- 2) The EIR was not prepared with a sufficient degree of analysis for decision makers to take account of environmental effects.
 - The analysis of the Project's impacts on stream flows and aquatic habitat and affected species is inadequate. The FEIR fails to analyze impacts on environmental flows for aquatic species of concern as well as downstream water

supply operations, despite the availability of a reasonably feasible analysis that was requested by ACWD and National Marine Fisheries Service (NMFS) which involves close inspection of changes in daily flow rates.

- The FEIR relies on a monthly averaging of total volume, which masks impacts which can only be observed when considering changes in flow rates on a daily time step.
 - An initial inspection of the daily data provided by the Planning Department to ACWD on June 10, 2017, and after the comment period closed, indicates a 60% increase (138 additional days) in the number of non-passable days for threatened steelhead downstream of the proposed project location during wet year migration seasons included in the study period. Similarly, a 34% increase in non-passable days (102 additional days) downstream of the project area during migration season in dry years is also observed.
 - These potentially significant impacts to steelhead were not properly analyzed in the FEIR and renders unsupported the conclusions of no impact.
 - Furthermore, as discussed in 1) above, ACWD has significant concerns that the studies and modelling used by SFPUC to generate this data is not sufficiently credible, and is not adequate to evaluate the impacts to downstream water users and aquatic species. The actual impacts could be even greater than those indicated by the daily modeling results that ACWD received from the Planning Department.
- The FEIR analysis makes assumptions about the relationship of flow losses, Pit F2 levels, and local groundwater conditions that are unsupported by substantial evidence. The FEIR is internally inconsistent and the response to comments failed to address this inconsistency. Appendix HYD-1 Section 6.2 acknowledges that stream losses can be influenced by changing groundwater conditions which will result from the Project. However, the modeling analysis makes no effort to reflect changing stream losses, nor are changing stream losses reflected in the FEIR's impact analysis.
- The use of the conceptual hydrogeologic model to evaluate Pit F2 water levels based on a *single test condition* (HYD-1 page 83) does not provide sufficient evidence to determine effects of changing hydrologic conditions. Sufficient evidence would require at least two test conditions to determine a trend, or more test conditions if there is more than one variable that needs to be tested. Thus, the Planning Department's dismissal of the conceptual model described on page 80 of HYD-1 is not based on sufficient evidence, and the impacts analysis of surface water conditions is inadequate and unsupported.
 - The FEIR does not support the assumption of percolation rates with sufficiently credible evidence. The analysis presented in HYD-1 Section 6.2.1 indicates approximately 4 cfs (17 AF over four days) enters Pit F2 during a four-day storm period, or approximately 25% of the 17 cfs-stated

to be lost from the stream during that period (HYD-1 page 83). However, conflicting analysis provides that “it was assumed that all of the Alameda Creek surface water that percolates into the subsurface between the Welch Creek and San Antonio Creek confluences finds its way into Pit F2.” (HYD-1 page 42). This is a substantial departure from the evidence presented in the FEIR test condition, which indicated 25% of stream flow losses percolate into Pit F2, while the stated assumption used for modeling is that a 100% of stream flow loss percolates into Pit F2. This 100% percolation rate is not supported by substantial evidence, and the resulting conclusions of no impacts are inadequate.

- Many commenters, including ACWD, expressed serious concern that the DEIR disregarded the critical and unexamined relationship between stream flow loss and pit water surface levels, and requested the Planning Department to determine the true relationship. However, the Planning Department’s response to these comments was unresponsive and simply reiterated the unsupported analysis based on insufficient evidence presented in the DEIR. See comments HY-2 (RTC page 11.5-9), HY-3 (RTC page 11.5-12), HY-6 (RTC page 11.5-27), and HY-8 (RTC page 11.5-34).

3) The Planning Department failed to provide the data needed to evaluate substantial impacts from the Project and to fully disclose scientific methodology.

Despite the multiple requests made by ACWD for daily modeling data, ACWD only received the relevant requested data on June 10, 2017 – 192 days after the Draft EIR was published and 131 days after the close of the public comment period, including extension. Withholding requested relevant data, and then providing said data with less than 10 business days prior to the Planning Commission meeting to analyze such a complex system deprives the public of a meaningful opportunity to comment on the substantial adverse Project impacts, feasible mitigation or alternatives.

- Moreover, the data provided is still incomplete since it does not include the accounting of water entering and leaving Pit F2, as modified by the Planning Department and used to complete the CEQA analysis. This lack of critical data hinders ACWD’s ability to perform an independent review of the actual analysis and to fully evaluate impacts.

4) The FEIR and response to comments fail to address impacts to downstream water users.

- The response to comments failed to address the Project's changes in the use, storage and diversion of SFPUC's water rights and potential injury to ACWD's water rights under Water Code section 1706. The authorities cited in response to comments have no application to the proposed ACRP.

Jonas P. Ionin
Page 5
June 21, 2017

- The failure to address injury to downstream water users and resulting potential changes to ACWD's operation makes the no impacts analysis in section 11.7.4 of the FEIR inadequate and unsupported.

The Alameda County Water District had hoped to work together with the Planning Department to fully study the potential impacts of this Project and offered financial and staff resources towards the analysis (see comment HY-4). Unfortunately, while the SFPUC made coordination efforts with ACWD, very little cooperative progress was made to properly analyze the effects of the Project. ACWD still welcomes an opportunity to cooperatively study the operation of the Project in a public process, via the Alameda Creek Fisheries workgroup, if so desired by the SFPUC, with full public transparency. ACWD requests that the Planning Commission delay approval of the Project until sufficient analysis is conducted to determine impacts to threatened species and water resources that exist downstream of the Project.

If you have any questions about these comments, please contact me at (510) 668-4202.

Sincerely,



Robert Shaver
General Manager

la/tf

cc: Steven Inn, ACWD
Steve Ritchie, SFPUC
Ellen Levin, SFPUC
Chelsea Fordham, SF Planning Department
Nicole Sandkulla, BAWSCA



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Notice of Electronic Transmittal

Hydrology Data in EIR Administrative Record for SFPUC Alameda Creek Recapture Project

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: June 7, 2017

RECEIVED

JUN 12 2017

TO: Robert Shaver, General Manager
Alameda County Water District

A.C.W.D.

FROM: Chelsea Fordham, Senior Environmental Planner
San Francisco Planning Department

RE: Hydrology Data - SFPUC Alameda Creek Recapture Project EIR,
Case No. 2015-004827ENV

Enclosed for distribution to the Alameda County Water District please find three CD's of the hydrology data sets contained in the administrative record from both the Draft Environmental Impact Report (DEIR) and Response to Comments (RTC) documents for the SFPUC Alameda Creek Recapture Project (Case No. 2015-004827ENV). The CD's contain the following referenced data sets in the administrative record of the EIR:

- SFPUC, 2016. Simulated Stream flows for different scenarios at 5 nodes and pond elevation for Alameda Creek Recapture Project. Excel spreadsheet provided by Amod Dhakal on July 7, 2016.
- ESA/Orion & SFPUC, 2016. Simulated Stream flows for different scenarios at 5 nodes and pond elevation for Alameda Creek Recapture Project. Updated by ESA/Orion to reflect historic quarry discharge from SMP-24 and loss of surface flow to groundwater between San Antonio Creek confluence and the confluence with Arroyo de la Laguna. Completed for Alameda Creek Recapture Project Draft EIR, November 30, 2016.
- ESA/Orion & SFPUC, 2017. Simulated Stream flows for Node 9 (Niles) for the Alameda Creek Recapture Project. Summarized to reflect potential changes to Alameda County Water District operations as a result of ACRP implementation.

Excel spreadsheet completed for Alameda Creek Recapture Project Responses to Comments document, June 7, 2017

These hydrology data sets are being provided to you in response to a letter received on January 10, 2017 from the Alameda County Water District requesting modeling information on the daily flow rates. These hydrology data sets are referenced in both the DEIR and RTC, and are available for review at the Planning Department as part of the administrative record for the SFPUC Alameda Creek Recapture Project. **The Final EIR, consisting of the RTC document, along with the Draft EIR, will be before the San Francisco Planning Commission for EIR certification on June 22, 2017.** Please note that the public comment period on the Draft EIR ended on January 30, 2017.

If you have any questions, regarding this matter, please contact Chelsea Fordham at 415-575-9071 or chelsea.fordham@sfgov.org.

Exhibit F:
Link to Video of June 22, 2017 Planning Commission Hearing

June 22, 2017 Planning Commission Meeting:

http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=20&clip_id=28183

The District's testimony starts at approximately 2:00:00 of the video.

Exhibit G:
Link to Video of June 23, 2017 San Francisco Public Utilities Commission Meeting

June 23, 2017 San Francisco Public Utilities Commission Meeting
http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=22&clip_id=28198
The District's testimony begins at approximately 13:20 of the video.

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BOARD OF SUPERVISORS
SAN FRANCISCO

From: [BOS Legislation, \(BOS\)](#)
To: robert.shaver@acwd.com; [Ritchie, Steve \(PUC\)](#); [Levin, Ellen \(PUC\)](#)
Cc: [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Kern, Chris \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Scarpulla, John \(PUC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: APPEAL RESPONSE LETTER: Appeal of CEQA Certification of Final Environmental Impact Report - Alameda Creek Recapture Project - Appeal Hearing on September 5, 2017
Date: Monday, August 28, 2017 1:50:54 PM
Attachments: [image001.png](#)

Good afternoon

Please find linked below a letter received by the Office of the Clerk of the Board from the Planning Department regarding the CEQA Certification of Final Environmental Impact Report Appeal for the Alameda Creek Recapture Project.

[Planning Response Letter - August 28, 2017](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on September 5, 2017.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170893](#)

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

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***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*



Appeal of Final Environmental Impact Report SFPUC Alameda Creek Recapture Project

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1650 Mission St.

DATE: August 28, 2017

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Lisa M. Gibson, Environmental Review Officer – (415) 575-9032
Chris Kern, Senior Environmental Planner – (415) 575-9037

RE: Board of Supervisors File No. 170893, Planning Case No. 2015-004827ENV
Appeal of the Certification of the Final Environmental Impact Report on the SFPUC Alameda Creek Recapture Project

HEARING DATE: September 5, 2017

ATTACHMENTS: Attachment A: Appeal Letter Submitted by Appellant
Attachment B: Planning Commission Motion No. 19952 (Certification of SFPUC Alameda Creek Recapture Project Final Environmental Impact Report, same as Exhibit A of Appeal Letter)
Attachment C: San Francisco Public Utilities Commission Resolution No. 17-0146 (Adopting the CEQA Findings and Approval of Alameda Creek Recapture Project, same as Exhibit B of Appeal Letter)
Attachment D: Agenda for SFPUC Commission Meeting, June 23, 2017, including CEQA Findings and MMRP (same as Exhibit C of Appeal Letter)
Attachment E: Previous Comment Letters from the Alameda County Water District to the Planning Department regarding the Alameda Creek Recapture Project (same as Exhibit D of Appeal Letter)
Attachment F: Memo from the Planning Department to the Alameda County Water District, June 7, 2017 (same as Exhibit E of Appeal Letter)
Attachment G: Transcript of June 22, 2017 Planning Commission Hearing (same as Exhibit F of Appeal Letter)
Attachment H: Transcript of June 23, 2017 SFPUC Special Meeting (same as Exhibit G of Appeal Letter)
Attachment I: Letter from National Marine Fisheries Services, July 27, 2017, in support of the appeal
Attachment J: Letter from Alameda Creek Alliance, August 2, 2017, in support of the appeal
Attachment K: Letter from Bay Area Water Supply & Conversation Agency, August 2, 2017, in support of the project and acknowledging the appeal
Attachment L: Miscellaneous letters and emails in support of the appeal, August 7 to August 18, 2017

PROJECT SPONSOR: San Francisco Public Utilities Commission (SFPUC)
APPELLANT: Alameda County Water District (ACWD)

INTRODUCTION

This memorandum and the attached documents respond to the letter of appeal submitted to the Board of Supervisors (the "Board") regarding the Planning Department's issuance of a Final Environmental Impact Report ("Final EIR") under the California Environmental Quality Act ("CEQA") for the SFPUC Alameda Creek Recapture Project ("ACRP" or "project").¹ The letter of appeal ("Appeal Letter") was filed by Robert Shaver, General Manager of the Alameda County Water District ("ACWD" or "Appellant") on July 24, 2017 (see Attachment A), requesting that the Board overturn the Planning Commission's decision of June 22, 2017 to certify the Final EIR on the ACRP (see Attachment B). On the basis of the Planning Commission's decision to certify the Final EIR, the SFPUC Commission adopted the CEQA Findings and approved the project on June 23, 2017 (see Attachment C).

Attachments to the Appeal Letter as well as public testimony presented by the Appellant are included as Attachments B through H of this memorandum. In addition, two letters in support of the Appeal Letter were received: one by the National Marine Fisheries Service ("NMFS") on July 27, 2017 and one by the Alameda Creek Alliance on August 2, 2017 (see Attachments I and J). One letter expressing support for the project and acknowledging the Appeal Letter was filed by the Bay Area Water Supply & Conservation Agency on August 2, 2017 (see Attachment K). Miscellaneous additional letters and emails were received in support of the Appeal Letter from August 7 to August 18, 2017 (see Attachment L).

The decision before the Board is whether to uphold the Planning Commission's decision to certify the Final EIR. The Planning Department has determined that based on significant new information provided by NMFS on July 27, 2017, additional environmental analysis is now required on one issue: operational impacts of the project on federally threatened Central California Coast ("CCC") steelhead as a result of project-induced effects on streamflow in Alameda Creek. The Planning Department requests that the Board reverse the certification so that the Planning Department may address this one issue but requests that the Board find the Final EIR adequate, accurate, and objective in all other respects. If the Board reverses the certification of the Final EIR due to this one issue, the Planning Department proposes to recirculate a limited portion of the Draft EIR to address this issue, consistent with CEQA Guidelines section 15088.5.

PROJECT DESCRIPTION

The San Francisco Public Utilities Commission ("SFPUC") is proposing the Alameda Creek Recapture Project ("ACRP" or "project") as part of improvements to its regional water system as one component of the SFPUC's Water System Improvement Program ("WSIP"). The ACRP is a water supply project located in the Sunol Valley

¹ San Francisco Planning Department, 2017. SFPUC Alameda Creek Recapture Project, Final Environmental Impact Report. Case No. 2015-004827ENV, State Clearinghouse No. 2015062072, Certified June 22, 2017. Available online at <http://sf-planning.org/sfpuc-negative-declarations-eirs>.

in Alameda County on lands within the SFPUC's Alameda Watershed. The project would be implemented following completion of the Calaveras Dam Replacement Project, which is currently under construction, and in conjunction with future operation of the restored Calaveras Reservoir. To comply with federal and state permit requirements for the future operations of Calaveras Dam and Reservoir, the SFPUC is required to make releases from Calaveras Dam and to bypass creek flow around the Alameda Creek Diversion Dam in accordance with instream flow schedules set forth by the NMFS in a March 5, 2011 biological opinion for the Calaveras Dam Replacement Project. The releases and bypasses are designed to improve streamflow in Alameda Creek and ensure suitable flow conditions for threatened CCC steelhead, a federally listed fish species, below Calaveras Dam and the Alameda Creek Diversion Dam. The SFPUC proposes the ACRP to "recapture" some of the water it is required to release and bypass in order to also use this water in its regional water system.

Under the project, the SFPUC would construct facilities to withdraw water from Pit F2, an existing quarry pit formerly used by quarry operators located adjacent to Alameda Creek about six miles downstream of Calaveras Reservoir. The SFPUC would convey the recovered water to existing SFPUC facilities for treatment and distribution to its water supply customers in the Bay Area. Pit F2 passively collects water originating upstream from Alameda Creek through natural subsurface percolation and seepage, so the SFPUC would not construct any facilities within the Alameda Creek stream channel or actively divert water from the creek. Under the ACRP, the amount of water the SFPUC would pump or "recapture" from Pit F2 would be limited to the portion of the bypassed and released water that the SFPUC otherwise would have stored in Calaveras Reservoir but for implementation of the instream flow schedules established for the Calaveras Dam Replacement Project (described below under Project Background). The SFPUC has estimated that the amount of water to be released and bypassed to Alameda Creek as part of the future Calaveras Reservoir operations on average will be about 14,695 acre-feet per year. Under the ACRP, the SFPUC estimates that on average, the amount of water that would be recaptured and conveyed to the regional water system would be about 7,178 acre-feet per year.²

By recapturing water out of Pit F2, the SFPUC would maintain its historical withdrawal of water from the Alameda Watershed to the SFPUC regional water system, in accordance with the City and County of San Francisco's ("CCSF") existing water rights. The SFPUC included the recaptured water project in the WSIP, and the Planning Department included the project in the environmental analysis of the WSIP Program EIR for the regional water system (described below under Project Background).

PROJECT BACKGROUND

SFPUC Water System Improvement Program

In October 2008, the SFPUC adopted the WSIP (SFPUC Resolution 08-200). The WSIP is a comprehensive program designed to improve the SFPUC's regional water system that serves drinking water to 2.6 million people in San Francisco, San Mateo, Santa Clara, Alameda, and Tuolumne Counties. The adopted WSIP will

² An acre-foot of water is the volume of water that would cover one acre of land to a depth of one foot, which is equivalent to about 325,850 gallons. The average recapture volume of 7,178 acre-feet per year is enough water to serve approximately 128,000 residents in San Francisco for one year.

improve the reliability of the regional water system with respect to water quality, seismic response, water delivery, and water supply. The WSIP consists of a water supply strategy and modifications to system operations as well as construction of a series of facility improvement projects in seven counties—Tuolumne, Stanislaus, San Joaquin, Alameda, Santa Clara, San Mateo, and San Francisco. One of the identified water supply and facility improvement projects of the WSIP is a water recapture project in the Sunol Valley region, now referred to as the ACRP.

The Planning Department prepared a Program Environmental Impact Report ("PEIR") to address the potential environmental impacts of the WSIP.³ The San Francisco Planning Commission certified the WSIP PEIR on October 30, 2008. The environmental analysis in the WSIP PEIR consisted of two main parts: (1) evaluation of the water supply and system operation impacts of the WSIP at a project-level, including the water recapture project in the Sunol Valley, and (2) evaluation of the WSIP facility improvement projects, including the proposed project, at a programmatic level, based on the information available at that time. Subsequent to certification of the WSIP PEIR in October 2008, the SFPUC approved the WSIP and adopted findings pursuant to CEQA, a Mitigation and Monitoring Reporting Program, and a statement of overriding considerations for the WSIP.⁴

Calaveras Dam Replacement Project

The Calaveras Dam Replacement Project ("CDRP") is located upstream from the ACRP in the SFPUC's Alameda Watershed, and ACRP operations are dependent on full operation of the CDRP. The CDRP is a key regional facility improvement project of the WSIP that will construct a replacement Calaveras Dam and restore the storage capacity of Calaveras Reservoir to its historical levels prior to the restrictions imposed by the Department of Water Resources, Division of Safety of Dams in 2001. The Planning Department prepared an EIR on the CDRP to address its potential environmental impacts at a project-level, and the CDRP EIR was tiered from the WSIP PEIR in accordance with CEQA Guidelines Section 15168(c), which provides for environmental review of subsequent activities under the same program. The San Francisco Planning Commission certified the CDRP EIR on January 27, 2011,⁵ and the SFPUC adopted the CEQA Findings and approved the CDRP on the same date.⁶

³ San Francisco Planning Department, 2008. *San Francisco Public Utilities Commission's Water System Improvement Program, Final Program Environmental Impact Report*, File No. 2005.0159E, State Clearinghouse No. 2005092026, Certified October 30, 2008. Available online at <http://sf-planning.org/sfpuc-negative-declarations-eirs>.

⁴ San Francisco Public Utilities Commission (SFPUC), SFPUC Resolution 08-200, Water System Improvement Program California Environmental Quality Act Findings: Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations. October 2008.

⁵ San Francisco Planning Department, 2011. *San Francisco Public Utilities Commission Calaveras Dam Replacement Project, Final Environmental Impact Report*. San Francisco Planning Department File No. 2005.0161E, State Clearinghouse No. 2005102102. Certified January 27, 2011.

⁶ San Francisco Public Utilities Commission (SFPUC), SFPUC Resolution 11-0015, Calaveras Dam Replacement Project, Project No. CUW37401, CEQA Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. January 2011.

On March 5, 2011, the National Marine Fisheries Service ("NMFS") issued a Biological Opinion on behalf of the U.S. Army Corps of Engineers, which issued a permit to the SFPUC for the construction and operation of the CDRP as required by the Clean Water Act.⁷ In the Biological Opinion, NMFS concluded that the construction and future operation of the CDRP is not likely to jeopardize the continued existence of threatened CCC steelhead based on the SFPUC's commitment to implement suitable instream flow conditions below Calaveras Dam and the Alameda Creek Diversion Dam, as specified in the Biological Opinion. Under this commitment, the SFPUC will make specified year-round releases from Calaveras Dam and will allow specified bypasses around the Alameda Creek Diversion Dam to improve streamflow in Alameda Creek.

The CDRP is currently under construction, and completion is scheduled for spring 2019. Operation of the ACRP would not commence until construction of the CDRP is completed, since recapture of flows cannot occur until after the implementation of the instream flow schedules required under the NMFS Biological Opinion.

PROCEDURAL BACKGROUND

Notice of Preparation and Scoping

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, on June 24, 2015, the Planning Department sent a Notice of Preparation ("NOP") to responsible and trustee agencies, as well as to interested entities and individuals, to begin the formal CEQA scoping process for the ACRP EIR. The purpose of the scoping process was to allow the public and governmental agencies to comment and provide input on the scope of the EIR. The NOP mailing list included approximately 730 local, state, and federal agencies; regional and local interest groups; and property owners within 300 feet of the project area. The scoping period began on June 24, 2015 and ended on July 27, 2015. The NOP and other information related to the project and public scoping process were posted on the Planning Department website and placed in the legal classified section of the San Francisco Examiner, Argus Courier (Fremont), Tri-Valley Times (Pleasanton), and Oakland Tribune. The Planning Department held a public workshop and scoping meeting on July 9, 2015 at the Sunol Glen School in Sunol, California. The Planning Department received scoping comments from eight state and local agencies, two non-governmental organizations, and four individuals. All written and oral comments received during the scoping period were summarized and addressed in the Draft EIR.

Draft EIR

The Planning Department prepared a Draft EIR on the project that tiered from the WSIP PEIR in accordance with CEQA Guidelines section 15168(c) and provided project-level analysis of the ACRP. The Draft EIR was published on November 30, 2016 and circulated to local, state, and federal agencies and to interested organizations and individuals for a 45-day public review period that was later extended by two weeks by the San Francisco Planning Commission, resulting in a 62-day public review period from November 30, 2016 through January 30, 2017. In addition, the Planning Commission held a public hearing on the Draft EIR on January 5, 2017 at City Hall, where public comments were made by one agency (Alameda County Water

⁷ National Marine Fisheries Service (NMFS), 2011. *Biological Opinion for the Calaveras Dam Replacement Project*. Santa Rosa, CA.

District) and one Planning Commissioner. During the Draft EIR public review period, the Planning Department received comments from six public agencies, two non-governmental organizations, and no private individuals. All substantive written and oral comments received on the Draft EIR were reproduced and responded to in the Responses to Comments document.

Responses to Comments

The Planning Department prepared a Responses to Comments ("RTC") document that provided written responses to written and oral comments received during the 62-day public review period. In addition, the RTC document included text changes (or text revisions) that were proposed in response to comments received or based on additional information that became available during the public review period and that represent a refinement or clarification to the text of the EIR. The RTC document did not identify any new significant environmental impacts, did not identify a substantial increase in the severity of a significant impact identified in the Draft EIR, or identify any new mitigation measures. None of the conclusions in the Draft EIR changed, and no significant new information that would require recirculation of the Draft EIR under CEQA (California Public Resources Code section 21092.1) and the CEQA Guidelines (14 California Code of Regulations section 15088.5) was identified during preparation of the RTC document.

The RTC document was published on June 7, 2017, distributed to the Planning Commission and all parties who commented on the Draft EIR, and made available to others upon request at the Planning Department offices. The RTC document together with the Draft EIR constitute the Final EIR. The Planning Commission received public testimony on the Final EIR from one agency (Alameda County Water District) during its June 22, 2017 certification hearing for the ACRP EIR.

Project Impacts

The Final EIR concluded that the ACRP would result in no significant and unavoidable environmental impacts aside from the region-wide growth-inducement impact identified in the WSIP PEIR for the overall WSIP water supply and systemwide operations. All ACRP project-level impacts would be either less than significant, or reduced to a less-than-significant level with implementation of the mitigation measures identified in the Final EIR.

EIR Certification

On June 22, 2017, the Planning Commission held a hearing to consider certification of the Final EIR, which consists of the Draft EIR and RTC document. The Planning Commission reviewed and considered the information contained in the Final EIR and found that the Final EIR reflected the independent judgment and analysis of the CCSF. The Planning Commission found that the Final EIR was adequate, accurate and objective, and that the RTC document contained no significant revisions to the Draft EIR. The Planning Commission certified the Final EIR in compliance with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

Project Approval

Consistent with CEQA Guidelines section 15090 and following certification of the ACRP Final EIR, the Final EIR was presented to the SFPUC Commission for its review and consideration prior to approving the project. On June 23, 2017, the SFPUC Commission adopted the CEQA Findings, the MMRP, and approved the ACRP.

Appeal of EIR Certification and New Information

As described above, the Appellant filed the Appeal Letter on July 24, 2017. Subsequent to receipt of the Appeal Letter, the City received a letter from NMFS in support of the appeal (Appendix I to this memorandum). In its letter, NMFS states that it “believes the document does not contain sufficient information to conclude the ACRP will not result in substantial effects on streamflow that support the migration of CCC steelhead in Alameda Creek.” The letter provides important clarification of NMFS’ questions regarding how the project would affect low flow levels in Alameda Creek; the information in the NMFS letter constitute significant new information that NMFS had not previously identified. This new information from NMFS affects the CEQA evaluation of operational impacts of the project on threatened CCC steelhead. In light of this significant new information, the Planning Department proposes to undertake further analysis of the potential operational impacts of the project on threatened CCC steelhead related to changes caused by the project on streamflow in Alameda Creek. The Planning Department proposes to recirculate a portion of the Draft EIR to address this single issue.

CEQA GUIDELINES

The EIR is an informational document intended to inform public agency decision-makers and the public of the significant environmental effects of a project proposal, identify possible ways to minimize the significant effects, and describe feasible alternatives to the project to reduce or eliminate those significant effects. Certification of the EIR does not, in this case, constitute a project approval of any kind.

The Final EIR was prepared in accordance with CEQA, as established under the Public Resources Code 21000 et seq., the CEQA Guidelines (a part of the California Code of Regulations), and local CEQA procedures under Chapter 31 of the San Francisco Administrative Code.

STANDARDS OF ADEQUACY FOR CERTIFICATION OF AN EIR

On June 22, 2017, the Planning Commission reviewed and considered the Final EIR at a duly noticed public hearing and certified the Final EIR for the proposed project in compliance with CEQA, the CEQA Guidelines, and Chapter 31, based on information available at that time (see Attachment B of this memorandum).

Under San Francisco Administrative Code section 31.16(c)(3), the grounds for appeal of an EIR shall be limited to whether the EIR complies with CEQA, including whether:

“it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.”

The standards for adequacy of an EIR are set forth in CEQA Guidelines section 15151, which provides:

“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure.”

San Francisco Administrative Code section 31.16(b)(6) provides that in reviewing a CEQA decision on appeal, the Board of Supervisors "shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions."

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES ON ASPECTS OF THE EIR SUBJECT TO CERTIFICATION

This memorandum presents only those issues raised in the Appeal Letter for which the Planning Department recommends that the Board find the Final EIR to be adequate, accurate, and objective and in compliance with CEQA. The Planning Department's responses to those issues are presented following the description of these issues. In general, these issues reiterate the same issues that were previously raised by the Appellant in its comment letters on the Draft EIR and that were previously responded to in writing in the RTC document.

Comments in the Appeal Letter regarding operational impacts on threatened CCC steelhead related to project-induced changes in streamflow are not presented below. The Planning Department intends to describe and address this issue in the limited portion of the Draft EIR that the Planning Department proposes to recirculate. The recirculated portion of the Draft EIR would also address comments concerning this same issue raised in the letters received in support of the Appeal Letter (see Attachments I, J, and L of this memorandum), including the letter from NMFS.

The Appeal Letter includes seven attachments (Exhibits A to G), and all of these exhibits are included as attachments to this memorandum. However, Exhibits A, B, C, and E to the Appeal Letter (the same as Attachments B, C, D, and F of this memorandum) do not require a response from the Planning Department because these four exhibits do not raise any concerns regarding the Final EIR but simply reproduce informational materials on the ACRP EIR, including the Planning Commission motion, SFPUC resolution, SFPUC meeting agenda, and correspondence from the Planning Department to the Alameda County Water District. One letter filed by the Bay Area Water Supply & Conservation Agency (see Attachment K of this memorandum) acknowledges the Appeal Letter, expresses support for the project, and makes no comment on the ACRP EIR; therefore, no response to this letter is necessary either. In addition, Exhibit D of the Appeal Letter (Attachment E of this memorandum) includes three letters that the Appellant previously submitted and to which the Planning Department has already fully responded in writing during the environmental review process; these letters and the Planning Department's responses are as follows: (1) letter dated July 27,

2015 regarding comments on the Notice of Preparation — these comments were all explicitly addressed in the Draft EIR as noted in Table 2-3 of the Draft EIR; and (2) letters dated January 10 and 30, 2017 regarding comments on the Draft EIR — all comments in these two letters were addressed explicitly in Chapter 11 of the RTC document. Please refer to the Draft EIR and the RTC document for the written responses to those letters.

Therefore, the issues and responses below address concerns raised in the Appeal Letter, those exhibits of the appeal letter expressing issues relevant to the adequacy of the EIR (Exhibits D, F, and G of the Appeal Letter), and one issue raised by NMFS, Alameda Creek Alliance, and in miscellaneous letters and emails in support of the Appeal Letter (Attachments I, J, and L of this memorandum). Exhibit D of the Appeal Letter includes one additional letter from the Appellant (Attachment E1 of this memorandum): letter dated June 21, 2017 regarding comment on the Final EIR — these comments were addressed orally at the June 22, 2017 Planning Commission meeting. Exhibits F and G of the Appeal Letter are video links to the Planning Commission hearing on June 22, 2017 and the SFPUC special meeting on June 23, 2017, respectively; this memorandum includes transcripts of those hearings as Attachments G and H. Comments presented by the Appellant at the June 22, 2017 Planning Commission meeting were responded to orally by Planning Department staff during that meeting, as noted in the meeting transcript in Attachment G. Nevertheless, issues contained in the Appeal Letter and these portions of its Exhibits D, F, and G are summarized and responded to in writing below, with cross-references to the Draft EIR and RTC document as appropriate for technical details.

To ensure responsiveness to the issues raised in the Appeal Letter, all relevant letters have been coded and substantive comments have been bracketed and numbered to allow for cross-referencing with the responses presented below. Substantive comments are those that relate to the adequacy of the EIR. Comments to be addressed in the recirculated Draft EIR are shaded in gray and are not addressed in this memorandum. The comments referred to in the responses below are coded as follows:

- Attachment A: ACWD Appeal Letter, 7/24/17—Comments A-1 through A-26
- Attachment E1: ACWD Letter, 6/21/17—Comments E1-1 through E1-12
- Attachment G: ACWD Hearing Transcript, 6/22/17—Comments G-1 through G-4
- Attachment H: ACWD Hearing Transcript, 6/23/17—Comments H-1 through H-4
- Attachment I: NMFS Comment Letter, 7/27/17—Comments I-1 through I-7
- Attachment J: Alameda Creek Alliance Comment Letter, 8/2/17—Comments J-1 through J-5
- Attachment L: Miscellaneous letters and emails, 8/7/17 to 8/18/17—Comments L-1 through L-28

None of the issues presented below raise any new issues that were not already addressed in the Draft EIR or RTC document or that would change any of the conclusions reached in the EIR. The responses below summarize the relevant information that was presented in the Draft EIR and RTC document and provide cross-references to where the more detailed information is contained in the Draft EIR and RTC document.

For the reasons presented in the responses, the Planning Department finds the Appellant's arguments to be without merit on the issues described below.

Issue 1: The Alameda County Water District asserts that the EIR used faulty methodology to analyze hydrologic effects, and indicates that the Alameda System Daily Hydrologic Model (ASDHM) and the conceptual groundwater model are insufficient tools to analyze the surface water groundwater interactions necessary to evaluate project impacts.

Response 1: The methodology used in the Final EIR to analyze hydrologic effects was based on established planning tools and professionally accepted practices, all of which are supported by substantial evidence. The Planning Department determined that combined use of the ASDHM and conceptual groundwater model, based on 18 years of streamflow and rainfall data and 10 years of groundwater data, respectively, accounted for surface water and groundwater interactions and was an appropriate analytical tool for the hydrologic analysis in the EIR.

This response addresses all comments related to the adequacy of the methodology for the hydrologic analysis used to support the environmental impact analysis in the EIR. This response is organized under the following subsections:

- General Adequacy of the Methodology for the Hydrology Analysis
- ASDHM and Surface and Groundwater Interactions
- EIR Groundwater Model
- Efficacy of a New Groundwater Model
- Relationship between Water Levels in Pit F2, Streamflow, and Groundwater
- Daily Time Step
- Average Annual Flows at Niles
- Conclusions.

General Adequacy of the Methodology for the Hydrology Analysis

The Appellant asserts that "the hydrology analysis undertaken in the EIR is insufficient to accurately determine impacts" (comment A-1) and that "the studies and methodology in the FEIR are not sufficiently credible to support the FEIR impact analysis and Project approval" (comments E1-1 and H-4). The Appellant further asserts that "the actual impacts could be even greater than those indicated by the daily modeling results" (comment E1-5).

The hydrologic analysis used in the Final EIR to determine project-induced changes in Alameda Creek streamflow was based on the ASDHM developed jointly by the SFPUC and ACWD as informed by a groundwater model developed specifically for the ACRP EIR. Both of these models are based on physical data collected in the project area, including 18 years of streamflow and watershed data for the ASDHM and 10 years of data on groundwater levels and surface water elevations in quarry pits for the groundwater model. The groundwater model is also based on extensive geotechnical borings, quantitative analysis of pumping tests, and inspection of geologic formations exposed in mining pits. As explained further below, the combined use of these models enabled predictions of daily streamflow changes in Alameda Creek while accounting for groundwater and surface water interactions within the Sunol Valley. The assumptions used in both models for the EIR analysis were conservative with respect to groundwater conditions, surface flow losses, and changes in Alameda Creek streamflow. The conservative nature of the assumption used means that the EIR conclusions represent a reasonable worst-case scenario (i.e., predictions aim to err on the side of

overestimating reductions in streamflow or the severity of impacts). Contrary to the Appellant's assertions, due to the conservative assumptions, there is a greater likelihood of *less* severe impacts than those presented in the EIR.

ASDHM and Surface Water and Groundwater Interactions

The ASDHM is a predictive model that simulates surface water flow in Alameda Creek.⁸ As described in Appendix HYD1 and RTC document Section 11.5.3 Response HY-2, SFPUC and ACWD worked together with a consultant between 2009 and 2012 to develop the ASDHM as part of steelhead recovery efforts with the Alameda Creek Fisheries Workgroup. In 2012, the SFPUC engaged a Science Panel of independent experts to review the ASDHM. The panel concluded that although limited hydrologic data are available for the Alameda Creek watershed, the model is unlikely to cause large errors in the estimation of surface water flows in Alameda Creek for existing and future conditions. The panel acknowledged that the informational basis for the development of the ASDHM was limited but noted, "However, it is difficult to think of an alternative prediction strategy for future streamflows in such a hydrologically disturbed, geographically complex, and data-sparse environment." The panel also noted that there was considerable uncertainty about future surface water losses to the groundwater in the Sunol Valley and recommended the development of a physical model of the surface water and subsurface water interaction. This study and recommendation preceded the assemblage and evaluation of over 10 years of groundwater monitoring data to produce the hydrogeologic conceptualization that was ultimately used in the EIR and discussed further below under *EIR Groundwater Model*.

When the Planning Department began preparation of the ACRP EIR in 2015, it knew that the ASDHM alone was insufficient to characterize existing conditions and project effects on streamflow, given the uncertainty as to how surface water losses to groundwater affected streamflow in the Sunol Valley. Accordingly, Luhdorff & Scalmanini Consulting Engineers ("LSCE") was retained to develop a groundwater model to supplement the ASDHM, which is summarized below and described in detail in EIR Section 5.16.2.2, Appendix HYD2, and Section 11.5.9 of the RTC document. Thus, the ACWD comment A-19, which states that the "CEQA analysis includes no such effort," is incorrect, as evidenced by the LSCE groundwater model. Furthermore, the LSCE groundwater model found that some of conjectures made by the independent Science Panel were also incorrect, and the surface streamflow assumptions used in the ASDHM have been found to be consistent with the conceptualization of the aquifer system in the groundwater model used in the EIR, as described below.

Comment A-19 further states that "the ASDHM modeling assumes that under project conditions the loss rate of surface water from Alameda Creek will not change relative to current conditions, when in reality the project will lower local groundwater levels and increase surface water loss rates, which will impact downstream flow rates." Comment E1-6 states "the modeling analysis makes no effort to reflect changing stream losses, nor are changing stream losses reflected in the FEIR's impact analysis." Neither of these assertions is valid for the reasons described below.

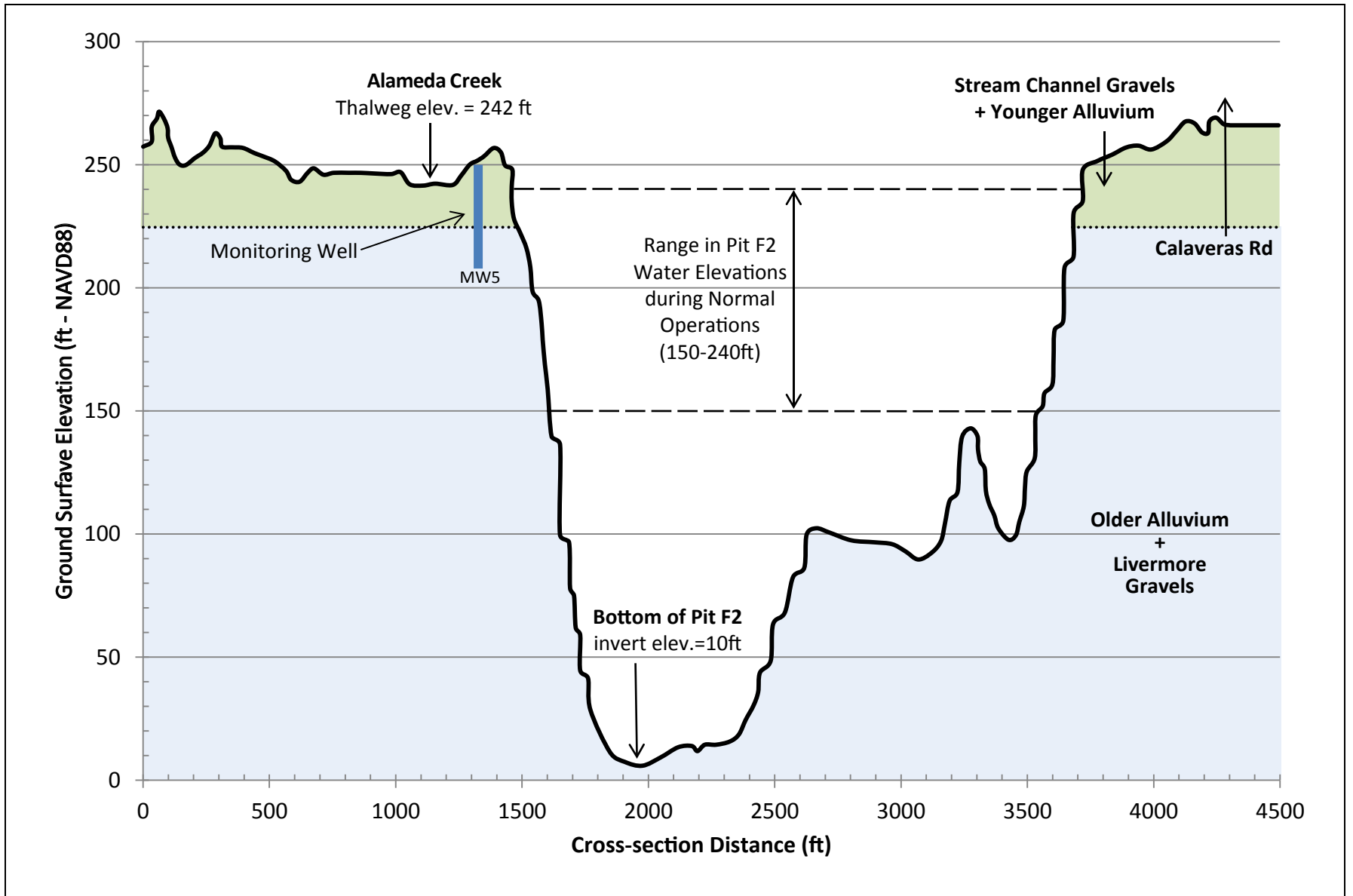
⁸ Dhakal A.S., Buckland E., and McBain S, 2012. *Overview of Methods, Models and Results to Develop Unimpaired, Impaired and Future Flow and Temperature Estimates along Lower Alameda Creek for Hydrologic Years 1996-2009*. Draft Technical Memorandum for the Alameda Creek Fisheries Workgroup. April 24, 2012.

As discussed below under *EIR Groundwater Model*, investigations have shown that surface water in Alameda Creek percolates into the subsurface in the reach between Welch Creek and the confluence of Alameda Creek with Arroyo de la Laguna. Furthermore, this subsurface flow is limited within the boundaries of shallow, thin alluvial materials deposited along the alignment of Alameda Creek. The LSCE groundwater analysis found no evidence that groundwater from other sources, such as the underlying Livermore formation or older basement complexes in surrounding areas, contribute to subsurface flow to any significant degree in the project area. The project would not change any of these physical characteristics, and the percolation of surface water to the subsurface in this stretch of Alameda Creek will continue to occur under the same circumstances as it does now when the CDRP instream flow schedules are implemented and if the ACRP is implemented.

The Appellant is incorrect in stating that the project will lower local groundwater levels and increase the rate at which surface water percolates into the subsurface because of the physical characteristics of the Sunol Valley Groundwater Basin (describe below under *EIR Groundwater Model*). In summary, local “groundwater” in the study area occurs almost entirely within the shallow alluvium, and this groundwater is more aptly referred to as underflow to Alameda Creek. The shallow alluvium is underlain by Older Alluvium and Livermore Gravel formations that do not transmit groundwater to any significant degree on the valley floor. Surface water that collects in Pit F2 and other quarry pits occurs primarily as a result of seepage from Alameda Creek through alluvial materials that transmit underflow. The underflow seeps into the quarry pits if the elevation of water in the quarry pits is lower than the lowest elevation of the shallow alluvium, which is what typically occurs. When the pit is full and the water level in the pit is higher than the elevation of the underflow, water will seep from the pit back into the shallow alluvium.

Pit F2 is about 240 feet deep. Near Pit F2, the shallow alluvium is approximately 25 feet in thickness. Underlying these alluvial materials are the impermeable Older Alluvium and Livermore Gravels formations that are high in clay content and the primary targets for aggregate mining in the Sunol Valley. Pit F2 extends 25 feet through the shallow alluvium and another 215 feet through these deeper impermeable Older Alluvium and Livermore Gravels (see **Figure 5.16-12** from the EIR, shown on the following page). Only the upper ten percent of Pit F2 is hydrologically connected to the shallow underflow from Alameda Creek, and the large majority of water collected in Pit F2 is stored below the contact with the deeper impermeable geologic materials.

Any pumping of water from Pit F2—as would occur under the project—would not lower groundwater levels or increase streamflow losses. This is understood because current and historical pumping from the quarry pits by the quarry operators does not lower groundwater or cause streamflow losses. Under current quarry operations, when the water level in Pit F2 falls below the elevation of the shallow alluvial materials, the water in the pit is not connected to the shallow groundwater system, and pumping at Pit F2 has no effect on local groundwater levels or Alameda Creek streamflow. This was verified by close examination of continuous monitoring data from quarry pits and groundwater piezometers. When the water level in Pit F2 rises above the elevation of the shallow alluvial materials, there is a hydraulic connection to the shallow underflow in Alameda Creek. As described in the EIR, this latter condition would create slightly wetter aquatic and riparian conditions along the creek alignment in the vicinity of this reach. Thus, while the pumping under the project would lower water levels in Pit F2, the pumping would not affect local groundwater levels no matter how much pumping is done. The Appellant's assertion that pumping from Pit F2 will lower local groundwater levels is not consistent with



SOURCE: Dhakal, 2015; Luhdorff & Scalmanini, 2015

NOTES: Hanson survey data extracted from a presentation given by Dhakal on February 4, 2015.

SFPUC Alameda Creek Recapture Project

Figure 5.16-12

Geologic Cross-Section for ACRP Project Vicinity

the observed hydrogeologic conditions in the Sunol Valley, including the fact that historical water levels in Pit F2 were lower than what is expected to occur with the project (see further description under *EIR Groundwater Model*, below).

The higher the water level in the shallow alluvium, the more water migrates into the pits. As described below under *EIR Groundwater Model*, groundwater levels in the shallow alluvial aquifer vary seasonally and depend on seasonal flow in Alameda Creek. The amount of seepage into the pits is different under pre-2001, existing, with-CDRP, and with-project conditions because the amount and timing of water flowing in Alameda Creek is different under each of these scenarios. These differences are reflected in the ASDHM data used in the hydrologic analysis for the EIR. Thus, ACWD's statement that "... the modeling analysis makes no effort to reflect changing stream losses, nor are changing stream losses reflected in the FEIR's impact analysis" is not accurate.

The streamflow estimates in Alameda Creek used in the EIR analysis that were derived from the ASDHM accounted for surface water and groundwater interactions in the Sunol Valley, contrary to the assertions in comments A-2, A-19, E1-6, G-1, H-1, I-7, and J-3. In addition, numerous comments received by various individuals in support of the Appeal Letter repeat this same assertion that the EIR did not adequately analyze the relationship between surface water and groundwater in the Sunol Valley; these includes comments L-1, L-3, L-5, L-7, L-9, L-11, L-15, L-17, L-19, L-22, L-24, and L-27. These surface water and groundwater relationships are analyzed extensively in the EIR based on substantial evidence and best available scientific methods in compliance with CEQA, as summarized below and described in detail in EIR Section 5.16.2.5, Appendix HYD2, and RTC document Section 11.5.9, Response HY-8.

EIR Groundwater Model

Comments A-4, A-21, and E1-6 assert that the groundwater model used in the EIR is inadequate to evaluate effects of the project on surface water and groundwater, "overly simplistic," and unsupported by substantial evidence. The Appellant is mistaken on all counts.

The EIR groundwater model developed by LSCE uses accepted methodology and embodies the definition and use of a hydrogeologic conceptualization as put forth by the California Department of Water Resources. The Department defines a hydrogeologic conceptual model as a "description of the geologic and hydrologic framework governing the occurrence of groundwater and its flow through and across the boundaries of a basin and the general groundwater conditions in a basin or subbasin."⁹ The groundwater model used in the EIR relies on a detailed characterization of the project area aquifer system based on geotechnical boring data, inspection of geologic formations exposed in mining pits, pumping test data, and direct measurements and correlations of groundwater, streamflow, and storage levels in the quarry pits. The hydrogeologic conceptualization is consistent with subsurface geologic conditions identified in data from numerous boreholes drilled in the project area, including data from an installed monitoring well network. The monitoring well network provided groundwater level data over a 10-year period which enabled direct observation of the hydraulic connections between streamflow, mining activities (such as dewatering and storage), and groundwater flow. The

⁹ Best Management Practices for the Sustainable Management of Groundwater, Hydrogeologic Conceptual Model BMP, California Department of Water Resources, December 2016.

groundwater model used in the EIR hydrologic analysis provides a hydrogeologic conceptualization of the groundwater system based on a robust hydraulic dataset of field observations made over the 10-year study period.

The project is located in the Sunol Valley Groundwater Basin in which the alluvial and other geologic materials are distinct and isolated from those in the Niles Cone Groundwater Basin where ACWD operations occur. The two basins are separated by marine sedimentary and metasedimentary rocks, and there is no interconnected groundwater between them. Groundwater in the Sunol Valley Groundwater Basin occurs within shallow alluvium, which readily transmits Alameda Creek underflow. The thickness of alluvium decreases from upstream to downstream and the alluvium pinches out near the Alameda Creek confluence with Arroyo de la Laguna. While deeper formations also occur in the basin, groundwater resources in the project setting have a Very Low priority ranking¹⁰ as assigned by the Department of Water Resources under the 2014 Sustainable Groundwater Management Act.

As indicated above, the most significant movement of groundwater in the Sunol Valley occurs as underflow to Alameda Creek through the thin alluvial deposits that overlie the valley floor. Surface water enters the Sunol Valley Groundwater Basin below Welch Creek where a portion of surface flow in Alameda Creek seeps into alluvial material (assumed to be a maximum of 17 cubic feet per second ["cfs"] in the ASDHM).¹¹ Ultimately, groundwater exits the shallow alluvium in Sunol Valley as surface water where the alluvial deposits terminate at the downstream end of the valley near the confluence of Alameda Creek and Arroyo de la Laguna.¹²

The surface streamflow assumptions used in the ASDHM are consistent with groundwater and geologic data synthesized in the EIR as a hydrogeologic conceptualization model.

As described in RTC document Section 11.5.9, the groundwater model used in concert with the ASDHM for the hydrologic analysis in the EIR reflect the following aspects of the physical system:

- Groundwater levels respond directly and immediately to surface water flow in Alameda Creek.
- Continuous water level measurements from a network of monitoring wells reflect recharge, storage, and discharge processes of the shallow aquifer system. There is no evidence of significant interactions with deeper groundwater in the Older Alluvium and Livermore gravel formations.
- Groundwater and surface water interactions are evident in groundwater and streamflow data. Below Welch Creek, streamflow splits into subsurface and surface components as surface water percolates to groundwater in the underlying shallow alluvium. Water in the saturated portion of the shallow alluvium

¹⁰ Department of Water Resources http://www.water.ca.gov/groundwater/casgem/basin_prioritization.cfm, Accessed February 2017. "Very Low priority ranking" means local agencies (in this case Zone 7) do not have to comply with new regulations requiring groundwater sustainability plans for High and Medium priority basins. The sustainability plans are to be implemented to address groundwater supply issues arising from recent droughts in major basins in the state. The Very Low priority assignment is based on small population and minor groundwater supply available.

¹¹ The ASDHM assumes that if surface flows in Alameda Creek at the Welch Creek confluence are 17 cfs or less, then all surface flows will seep into the shallow alluvium; if surface flows are greater than 17 cfs, it assumes 17 cfs seeps into the shallow alluvium and the remainder continues as surface flow in Alameda Creek.

¹² Note that while the ASDHM model did not explicitly integrate groundwater outflow from the valley, this factor is considered minor and results in slightly more conservative scenarios for the EIR impact analysis.

flows under the prevailing down-valley gradient governed by the hydraulic properties of the sand and gravel aquifer materials.

- Monitoring data from a network of wells span variable water-year types, seasonal variations in streamflow, and reflect influences of water management practices by quarry operators in the study area. The limited groundwater storage in Sunol Valley typically empties at the end of each hydrologic year irrespective of water year type since Alameda Creek is the primary source of groundwater recharge, which only occurs seasonally during wet months.
- Water level data collected from the monitoring well network precisely delineated the extent of groundwater movement in the shallow alluvium aquifer system, including the base and upper limit of groundwater storage.
- No evidence has been found that indicates other sources provide significant recharge to the aquifer system in the study area.
- The model delineates pathways for subsurface flow through the study area, including seepage into quarry pits and underflow past the quarry reaches, consistent with observations in past fishery studies.
- Water that seeps into the quarry pits generally has no outlet and is stored unless removed by pumping through operator discharges to the creek or consumptive use through processing, with some fraction lost through evaporation. If pit levels rise above the groundwater elevation in the shallow alluvium, seepage out of the pits has also been observed.

Referring to the conceptualization in the EIR, Comment A-21 asserts that groundwater and surface water interactions are based on an “overly simplistic description” and, as an example, states that the EIR incorrectly characterizes the “lower [*sic*] alluvium/Livermore gravels” as not water-bearing. However, the Appellant offers no factual basis for this assertion. As described in the EIR, the Older Alluvium and Livermore Gravels formations do not provide any significant or measurable water resource benefit in the Sunol Valley study area. The evidence for this finding includes:

- Mining pits inspected in an earlier SFPUC recapture feasibility study cited in the EIR¹³ revealed that aggregate materials extracted from the Older Alluvium and Livermore Gravels formations are embedded in clay and appeared to be impermeable. Discussions with the mining operator confirmed the low to imperceptible transmitting capacity of this formation.
- Test wells installed in the project area immediately downstream of Pit F2 were evaluated through pumping tests. A test in a well completed in the Older Alluvium and Livermore Gravels exhibited zero yield consistent with the impermeable nature observed in the mining pits.¹⁴
- Recapture options in previous feasibility studies included a wellfield and interceptor drains. These options were rejected as infeasible due to the low permeability of the Older Alluvium and Livermore Gravels.¹⁵

¹³ LSCE. 2009. Final Report, Feasibility to Recapture Reservoir Releases, Alameda Creek. Prepared for San Francisco Public Utilities Commission. April 22, 2009. Prepared by Luhdorff & Scalmanini Consulting Engineers.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

- Seepage patterns in quarry pits delineate the contact between the older formations and the overlying younger deposits by the fact that groundwater in the older formations do not seep into the pits.
- Data from a groundwater and surface water monitoring network show that groundwater storage varies in response to flow in Alameda Creek and quarry discharges, and only within the shallow and thin Younger Alluvium formation, not the deeper Older Alluvium and Livermore Gravels formations.
- Older Alluvium and Livermore Gravels formations are the targets for terminating the depth of slurry wall installations designed to prevent inflow of groundwater into active quarry pits.
- There are no active water supply wells in the study area that are completed in the Livermore Gravels (although small-diameter domestic wells are completed in this formation in the upland areas of the Sunol Groundwater Basin, east of the Calaveras Fault).

As reflected in the EIR, an extensive monitoring dataset indicates that the Older Alluvium and Livermore Gravels formations have no significant effect on interactions between surface water and groundwater in the project area other than limiting the vertical movement of groundwater. The claim otherwise by the Appellant is incorrect as is the assertion that the conceptual model is overly simplified and invalid.

The shallow Younger Alluvium, including stream channel deposits through which Alameda Creek underflow is readily transmitted, is thin, narrowly distributed and has limited storage capacity in the study area. This finding is based on geotechnical borings and continuous water level monitoring over a period of 10 years. In addition, groundwater levels reported in a water resource study in 1993 indicate flow patterns consistent with these recent measurements.¹⁶ The limited extent of this shallow aquifer means that it plays only a minor role in surface water flow through the project study area. That is, groundwater interactions with surface water are minor and do not affect to any measurable degree downstream water management in the Niles Cone Groundwater Basin. Groundwater occurrence in the Sunol Valley is primarily relevant to its effect on aquatic and riparian habitat in the immediate vicinity of Alameda Creek.

Therefore, contrary to the Appellant's assertions, the ability of the EIR groundwater model to accurately characterize surface water and groundwater interactions within the Sunol Valley is well supported by substantial evidence, as presented above, and when used together with the ASDHM, provides adequate information to inform the hydrologic analysis in the EIR.

Efficacy of a New Groundwater Model

Comments A-5 and A-26 assert that a new groundwater model is needed to study the surface water and groundwater interactions for the EIR hydrologic analysis. The Planning Department determined that advanced numerical modeling was unnecessary as a methodology for the EIR due to the hydrogeologic characteristics in the Sunol Valley and because the existing monitoring dataset provided a robust understanding of interconnected surface water and groundwater. Specifically, that aquatic and riparian conditions, especially in low flow periods, are controlled by streamflow at Welch Creek, mining discharges, and the state of storage in

¹⁶ LSCE, "Ground-Water and Aggregate Resources, Sunol Valley," prepared for San Francisco Water Department, December 1993.

pits. A numerical groundwater flow model was not selected because the existing dataset demonstrated the relevant hydraulic connections needed for impact analysis. A previous numerical modeling effort to evaluate recapture alternatives during the feasibility stages was unstable and unreliable due to the shallow unconfined nature of the shallow aquifer system in the project area. As explained previously, the existing dataset show that groundwater in the Sunol Valley occurs mainly as underflow to Alameda Creek. The model used in the EIR analyses relied on robust monitoring and a geologic conceptualization of the area based on field data, which provided a sound basis for the EIR hydrologic analysis. This finding obviated the need for a numerical model for the purposes of the EIR. The streamflow estimates in Alameda Creek used in the EIR analysis that were derived from the ASDHM implicitly accounted for surface water and groundwater interactions in the Sunol Valley. Any additional groundwater modeling studies that the Appellant recommends would necessarily rely on the same robust set of field data already used in the EIR groundwater model and would be constrained to reach the same conclusions. Therefore, pursuing a more complex modeling effort, such as suggested by the Appellant, is unwarranted for CEQA purposes and would not advance to any significant degree the groundwater model presented in the EIR.

Relationship between Water Levels in Pit F2, Streamflow, and Groundwater

Comment E1-6 insinuates that the conceptual hydrologic model to evaluate Pit F2 water levels is based on a single test condition which is insufficient evidence. This insinuation is erroneous. As described above, the EIR groundwater model was developed by examining the relationship between streamflow, water levels in all of the pits, and groundwater levels in a series of monitoring wells along the Alameda Creek alignment and throughout the entire quarry reach to the confluence with Arroyo de la Laguna. The model identifies when and under what circumstances water will seep into Pit F2 (i.e., from Alameda Creek through the stream channel gravels and Younger Alluvium) and when it will seep out of the pit. The “single test condition” is a reference to an event described in Appendix HYD-1, Section 6.2.1. This event was a strong storm that occurred in early December 2012. It was noted that during that storm, water levels in Pit F2 did not respond quickly to high flows in the adjacent Alameda Creek channel. The conclusion that water levels in Pit F2 did not respond rapidly to high flow in the creek channel was determined not just be this one event, but by examining water level records and streamflows for the period 2010 to 2013, when data for both water level and streamflow were available. The EIR presented data in detail from the December 2012 storm to illustrate this phenomenon of slow responding water levels mainly because the December 2012 storm was one of the larger storms that occurred in the period.

Comment E1-6 also states that data presented from the December 2012 storm in Section 6.2.1 are inconsistent with other statements in Appendix HYD-1. The Planning Department cannot reproduce ACWD’s calculations but in any event disagrees that the data is inconsistent with other statements. Appendix HYD-1, Section 6.2.1, indicates that 17 acre-feet of water entered Pit F2 during the December 2012 storm over a four-day period. The loss of surface water from Alameda Creek to the subsurface between the Welch Creek and San Antonio Creek confluences occurs at a maximum rate of 17 cfs, which is equivalent to 135 acre-feet over a four-day period. The Appellant suggests that the difference between the two values, 17 acre-feet and 135 acre-feet, demonstrates that the percolation rates are estimated incorrectly. This is not the case, because the Appellant is not taking into consideration the complex hydrodynamics of the creek reach from the Welch Creek confluence to the quarry pits. The interactions with numerous quarry pits upstream of Pit F2 (such as Pit F6,

Pit F4, and Pit F3 W) result in the lag of seepage to Pit F2. Pit F6 is much larger in surface area compared to Pit F2 and lies within Alameda Creek's historical channel. Because Pit F2 is the farthest most downstream quarry pit, data suggest that water entered at all upstream pits eventually ends up in Pit F2. In the days following the December 2012 storm, water levels in Pit F2 continued to rise even though streamflow abated. Thus, the lag between the time in which water percolated to the subsurface and water levels in Pit F2 rose during the December storm does not invalidate the estimated percolation rates. As indicated in the EIR, this example shows how water migrates through the shallow alluvium and how mining activities also play a role in pit storage observations. The ASDHM assumes that 100 percent of streamflow loss percolates into Pit F2, but this is a *conservative* assumption under CEQA that represents a worst-case scenario with respect to streamflow in Alameda Creek. In other words, this assumption represents the greatest possible reduction in Alameda Creek streamflow and the maximum flow of water that could seep to Pit F2. It does not support Appellant's assertion that the project will lower groundwater levels or increase streamflow losses.

Comment E1-8 states that "... the data provided is [sic] still incomplete because it does not include an accounting of water entering and leaving Pit F2." This assertion is incorrect and misleading, because the data provided to the Appellant are complete and do account for water entering and leaving Pit F2. The movement of water entering and leaving Pit F2 is accounted for in the underlying assumptions in the ASDHM. The ASDHM accounts for water entering into Pit F2 as inflow to the pit, which is up to 17 cfs. Water exiting Pit F2 is represented as quarry discharges. The mechanisms for movement of water in and out of the pit assumed in the ASDHM are corroborated by the analysis of surface water and groundwater interactions in the Sunol Valley based on a robust monitoring dataset, as described above under *EIR Groundwater Model*.

Daily Time Step

Comments A-3, A-6, A-14, A-20, and E1-3 assert that the hydrologic analysis methodology used in the EIR did not analyze data on a daily time step. The Appellant is mistaken. In fact, the EIR includes flow estimates made with the ASDHM at daily, monthly and annual time-steps; all three time-steps were used in the hydrologic analysis methodology, as described in RTC document Section 11.5.2, Response HY-1 and summarized below.

The EIR presents daily flows (including in Appendix HYD1) in the form of flow-duration curves. The flow duration curves show the percentage of days in the 18-year period of record that daily flows exceed a particular value. For example, Figure 5.16-23 in the EIR shows daily flows in Alameda Creek at Niles for the 18-year period of record for four scenarios representing past, present, future, and with-project conditions. Daily flows at various locations along the creek are shown in Appendix HYD1 in Figures HYD5-5, HYD5-6, HYD5-7, HYD6-3, HYD6-4, HYD6-5, HYD7-2 and HYD8-1. The final EIR contains three additional figures that show daily flows, Figures 11.5-1, 11.5-2 and 11.5-3. The daily data displayed in the EIR and Appendix HYD1 in the form of flow-duration curves together with monthly and annual summaries of daily data, were the basis for the hydrologic analysis used to support the impact conclusions in the EIR.

Comments A-20 and E1-3 state that "the aggregate monthly time-step serves to mask critical day-to-day changes in flow rates which in turn masks impacts to aquatic biology and surface water hydrology downstream of the Project." As noted above, the EIR contains the requested analysis based on estimated daily

flows, as well as an analysis based on monthly and annual average flows calculated from the daily flow estimates. The EIR presents the complete hydrologic analysis as needed to support the impact analysis on aquatic biology (see EIR Section 5.14.5) and on surface water hydrology (see EIR Section 5.16) as required under CEQA.

Average Annual Flows at Niles

Comment E1-1 asserts that because annual flow at Niles under the with-project scenario exceeds that under the with-CDRP scenario by an average of about 3,000 acre-feet per year “suggests a fundamental flaw in the numerical analysis.” As indicated in Response HY-7 in the Final EIR and described below, there is a reasonable explanation for the difference in flow at Niles between the with-CDRP and with-project conditions. There is no flaw in the numerical analysis.

The CDRP includes a schedule of releases from Calaveras Reservoir and bypasses of water at the Alameda Creek Diversion Dam. Under the with-CDRP scenario, the SFPUC will draw down Calaveras Reservoir in the summer and fall to meet seasonal water demands in its service area and to provide water for the releases. The reservoir will fill again in the rainy months of the following winter. The probability of spills from the reservoir in the following winter is fairly low because the reservoir has capacity to accommodate a considerable volume of water when winter runoff begins. With the ACRP in operation, the SFPUC would meet a portion of its summer and fall water demand with water pumped from Pit F2 by the ACRP. The SFPUC would not have to draw down Calaveras Reservoir as far under with-project conditions as it will under with-CDRP conditions. With less available space in the reservoir when winter rains begin, the probability of spills in normal and wet years would be greater with the project than under with-CDRP conditions. Consequently, on an annual average basis, the increase in spills would result in more water flowing down Alameda Creek downstream of the Calaveras Creek confluence under with-project conditions than it will under with-CDRP conditions. The effect of the increased spills from Calaveras Reservoir under with-project conditions is reflected in ASDHM Alameda Creek streamflow predictions from the Calaveras Creek confluence downstream to Niles, and the increased flows under the project compared to with-CDRP is most evident during wet years. During dry years, there would not be an increase in flows. At Niles, average annual flow under with-project conditions would be greater than under with-CDRP conditions, despite the fact that the quarry operators would discharge less water under with-project conditions than they will under with-CDRP conditions.

Comment E1-1 includes the following quote from Response HY-7 in the Final EIR, “...the slight increase in water volume leaving the system at the Niles gage must be balanced by a slight decrease in the amount abstracted by the SFPUC.” The Appellant comments that “This response states that the SFPUC intends to lose approximately 3,000 acre-feet per year of water supply by construction of the ACRP, which is the opposite of the project’s intent. This response indicates a lack of sufficient credibility in the fundamental modeling assumptions underpinning the FEIR’s analysis.” The Appellant is misinterpreting the data in this statement. The SFPUC has no intention of losing yield. As stated in the EIR, the SFPUC would pump water collected in Pit F2 to recapture Alameda Creek water that will be released from Calaveras Reservoir and bypassed at the Alameda Creek Diversion Dam when the CDRP is completed. The recapture operation would be conducted within the CCSF's existing water rights. The amount of water recaptured each year will be equivalent to

storage space made available in Calaveras Reservoir as a result of the releases and bypasses. This ensures that the SFPUC's regional water system yields remains the same as it would be if the instream flow requirements were not in place. Because there is enough inflow to Calaveras in wet and normal years from natural precipitation events, Calaveras Reservoir will fill and spill, and there will be no need to pump water from the pit in order to retain regional water system yield. In years when Calaveras Reservoir does not fill and spill, the make up water will come from Pit F2 to retain the regional water system yield. As described above, the difference in average annual flows under the with-project compared to the with-CDRP scenario is attributable in part to the increase in spills from Calaveras Reservoir during normal and wet years. As stated throughout this response, the fundamental methodology used for the hydrologic analysis in the EIR based on the combined use of the ASDHM and EIR groundwater model is sound and provides substantial evidence that supports the conclusions reached in the EIR.

Conclusion

The Planning Department determined that the methodology used in the EIR for analyzing hydrologic effects, including the combined use of the ASDHM as informed by the EIR groundwater model to account for surface water and groundwater interaction, is sufficient and adequate for CEQA purposes, and consistent with CEQA Guidelines section 15151 which states that, "An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible." The methodology used for the hydrologic analysis presented in the Final EIR represents the best science available and is adequate for evaluating project-related impacts for the purposes of environmental review under CEQA.

Issue 2: The Alameda County Water District asserts that the project may change flow rates in a way that negatively impacts its water supply.

Response 2: The Final EIR provides a detailed analysis of the potential for the project to cause substantial changes in the ACWD's water supply operations. The analysis determined that any effects of the project on streamflow in Alameda Creek at Niles would be too minor to cause ACWD to make substantial changes in its operations that would result in adverse environmental effects. This conclusion is corroborated by ACWD's own description of its operations.

This response addresses comments A-24, E1-8, and E1-10. The Final EIR (i.e., Impact HY-5 in the Draft EIR as augmented by Response HY-4 in the RTC document and supported by information in Section 8 of Appendix HYD1) provides a detailed analysis of the potential for the project to cause ACWD to alter its operations in a way that would result in significant environmental impacts. Based on hydrologic analysis of potential changes in daily flow, with focus on flow ranges in Alameda Creek critical to ACWD operations, the EIR determined that any effects of the proposed ACRP on ACWD operations in Alameda Creek would be too minor to cause ACWD to make substantial changes in the way it operates and uses its various sources of water compared to existing conditions. Therefore, under CEQA, the impact would be considered *less than significant*.

The Final EIR analyzed daily changes in flow that would occur under the project at Niles, upstream of the ACWD diversion point, during the ACWD's diversion period, compared to pre-2001 conditions, existing conditions, and with-CDRP conditions. Pre-2001 conditions represent the historical conditions that existed when Calaveras Reservoir and Dam were operated at their full operating capacity, prior to restrictions imposed by the California Department of Water Resources, Division of Safety of Dams. Existing conditions represent the conditions that existed in 2015 at the time of publication of the Notice of Preparation for the ACRP EIR, consistent with CEQA Guidelines section 15125. The with-CDRP conditions represent the future conditions that are predicted to exist when the Calaveras Dam Replacement Project is completed and in operation, including implementation of releases and bypasses required under the NMFS Biological Opinion. For purposes of assessing the effects of the project on ACWD's operations, the pre-2001 conditions and existing conditions provide the range of conditions that have dictated ACWD past and present operations.

The ACWD receives about 40 percent of its water supply from water diverted from lower Alameda Creek between October 1 and May 31 each year. Another 40 percent comes from the State Water Project and 20 percent comes from the SFPUC's regional water system. The Draft EIR analysis provided detailed characterizations of potential effects on ACWD daily operations on Alameda Creek during its diversion period during high and low flow periods critical to its operations using conservative assumptions. To determine environmental effects associated with ACWD's operations on Alameda Creek, the Draft EIR analyzed the effect of the project on streamflow at Niles compared to flow rates under past, present and future projected conditions taking into account information the ACWD provided on its operations. Accordingly, the Draft EIR analysis compared the frequency of flow rates of 25 cfs, 700 cfs, and 1,200 cfs among the various scenarios. The analysis demonstrated that during high flows (700 cfs or more), the project could alter ACWD operation by one or two days during ACWD's annual 243-day diversion period compared to pre-2001, existing, and with-CDRP conditions. Similarly, during the 151-day critical low flow periods (25 cfs), the ACRP could affect ACWD operations on a few days each year. Flow at Niles would exceed critical low flow thresholds for eight more days with the project than it would under the historical pre-2001 conditions. Flow at Niles would exceed critical low flow thresholds on about the same number of days with the project as it does under existing conditions. Flow at Niles would be predicted to fall below critical low flow thresholds for 14 more days with the project than it would under the future with-CDRP conditions. The net effect of the project on the number of days that flow at Niles would exceed or fall below low-flow thresholds over the 151-day critical low-flow period, compared to past, present, and predicted future conditions, would be small and would be expected to have minor effects on ACWD's operations.

This conclusion is consistent with the conclusion reached by ACWD and the Alameda County Flood Control and Water Conservation District ("ACFCD") in their Joint Lower Alameda Creek Fish Passage Improvements, Final Initial Study/CEQA Checklist and NEPA Environmental Assessment published in December 2016.¹⁷ In that document, ACWD and ACFCD concluded there was no impact from bypass of flow for fish due to ACWD's ability to recoup any lost water in one year by the ability to store water in other years using the

¹⁷ Hanson Environmental, December 2016, *Alameda County Water District and Alameda County Flood Control and Water Conservation District, Joint Lower Alameda Creek Fish Passage Improvements, Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impacts, Final*. Prepared for; Alameda County Water District and Alameda County Flood Control and Water Conservation District.

Niles Cone aquifer.¹⁸ Likewise, the ACRP Final EIR concluded that any discernible ACRP-caused changes in Alameda Creek streamflow at Niles would result in minor effects, if any, on ACWD's water supply operations within the context of its overall water supply system operations. Therefore, the Final EIR concluded that the project would not likely cause ACWD to alter its operations in a way that would result in any significant change to the physical environment. The EIR found that the impact of the project on ACWD's operations would be *less than significant*.

See Issue 1 and Response 1 regarding comments and the Planning Department's responses pertaining to the appropriateness of the methodology used in the hydrologic analysis of impacts on downstream users.

The Planning Department determined that the combined use of the ASDHM and the EIR groundwater model for the hydrologic analysis of impacts to ACWD's water supply operations is sufficient and adequate for CEQA purposes, and consistent with CEQA Guidelines section 15151 which states that, "An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible." The analysis presented in the Final EIR regarding potential impacts on ACWD's water supply operations due to changes in Alameda Creek streamflow caused by the ACRP represents the best science available and is adequate for disclosing project-related impacts for the purposes of environmental review under CEQA.

The Final EIR provides substantial evidence and a sufficient degree of analysis regarding the ACRP's potential environmental effects on downstream water users to allow decision makers to make informed decisions, thereby meeting the standards of adequacy of an EIR set forth in CEQA Guidelines section 15151.

Issue 3: The Alameda County Water District asserts that the EIR presents an inadequate and incomplete analysis of project and cumulative impacts on biological and fishery resources, hydrology and water quality.

Response 3: The EIR presents a comprehensive impact analysis of all resource topics and complies with applicable sections of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, including analysis of impacts on biological and fishery resources and hydrology and water quality and cumulative impacts.

Comment A-9 consists of one general statement with three bullet points asserting the inadequacy or incompleteness of the impact analysis, but the Appellant offers no specific evidence or examples to support

¹⁸ The ACWD ACFCD Mitigated Negative Declaration on its Joint Lower Alameda Creek Fish Passage Improvements (December 2016) states the following on page 37: "Modeling analysis indicates that the bypass flow requirements will reduce ACWD's net diversion of Alameda Creek flow in below average years. However, the analysis also found that these reductions will be fully offset in wet-years when flows on Alameda Creek far exceed ACWD's capacity and diversion needs, even after bypass flow requirements have been met, and ACWD will be able to fully recharge the Niles Cone groundwater basin. ACWD analysis finds that through a combination of reoperation of its water supply portfolio, continued use of supplemental recharge of the Niles Cone with imported supply during below-average years, and the ability to fully recharge Niles Cone during the excess conditions of wet-years, there will be no reduction in water supply availability to its customers. These modeling analyses were included in the published reliability data in ACWD's 2015-2020 Urban Water Management Plan."

this general statement. The Appeal Letter provides no supporting explanation for the claim that the cumulative impact analyses are inadequate. Chapter 5 of the EIR provides a comprehensive analysis of the project's environmental impacts, including cumulative impacts, consistent with applicable sections of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The analysis of the project and cumulative impacts complies with CEQA Guidelines sections 15126 and 15130. Specifically, Sections 5.14 and 5.16 of Chapter 5 address impacts in the areas of Biological Resources and Hydrology/Water Quality, respectively, with fourteen distinct impact evaluations of biological resources and six distinct impact evaluations of hydrology and water quality, including two cumulative impacts for biological resources (one for terrestrial biological resources and one for fishery resources) and one cumulative impact analysis for hydrology and water quality. Section 5.1.5 of the EIR describes the basis and approach to analysis for the cumulative impacts analyses, including a description of relevant projects considered in the cumulative impact analyses. Contrary to the Appellant's assertions, the EIR clearly discloses all significant environmental impacts—both project and cumulative impacts—which are all summarized in Table 1-1 of Chapter 1, Summary. The project and cumulative impact analyses in the Final EIR are complete and meet the standards for adequacy of an EIR, as set forth in CEQA Guidelines section 15151.

As noted above, the Planning Department intends to recirculate a portion of the Draft EIR that will address the Appellant's specific concerns related to operational impacts on CCC steelhead from project-induced changes in streamflow in Alameda Creek.

Issue 4: The Alameda County Water District asserts that the EIR fails to analyze and adopt all feasible mitigation measures and alternatives.

Response 4: The EIR identifies feasible mitigation measures for all impacts determined to be potentially significant and provides a robust analysis of alternatives. The Appellant provides no evidence to indicate otherwise. The EIR identifies all feasible mitigation measures and alternatives, but it does not adopt them. The consideration and adoption or rejection of mitigation measures and alternatives is done at the time of project approval. As part of the CEQA Findings, the SFPUC adopted the Mitigation Monitoring and Reporting Program (including all mitigation measures identified in the EIR) and considered the alternatives presented in the EIR.

Comment A-10 consists of one general statement asserting the EIR failed to analyze and adopt feasible mitigation measures and alternatives, however, the Appellant offers no evidence or examples describing any feasible mitigation measures or alternatives not included in the Final EIR. Chapter 5 of the EIR provides a comprehensive analysis of the project's environmental impacts and identifies feasible mitigation measures, consistent with applicable sections of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The EIR complies with CEQA Guidelines section 15126.4 and identifies feasible mitigation measures for impacts determined to be significant, all of which are summarized in Table 1-1 of Chapter 1, Summary. Consistent with CEQA Guidelines section 15126.6, Chapter 7 of the EIR presents a thorough description of the alternatives analysis process, including a detailed analysis and comparison of two alternatives to the project as well as an examination and explanation of 36 alternatives that the SFPUC had considered but rejected as infeasible.

The Appellant is mistaken that the EIR should "adopt" all feasible mitigation measures and alternatives. Rather, as specified in CEQA Guidelines sections 15126.4 and 15126.6, an EIR shall *describe* feasible mitigation measures and a range of reasonable alternatives to the project, which, as stated above, is precisely what is done in the ACRP EIR. As part of the CEQA Findings, the SFPUC as the project sponsor is responsible for adopting the Mitigation Monitoring and Reporting Program (including all mitigation measures identified in the EIR) and considering the alternatives presented in the EIR. The Appellant's assertions regarding mitigation measures are unfounded, and the mitigation measures and alternatives included in the Final EIR meet the standards for adequacy of an EIR, as set forth in CEQA Guidelines section 15151.

Issue 5: The Alameda County Water District asserts that the EIR fails to respond adequately to comments on the Draft EIR.

Response 5: The Planning Department prepared comprehensive responses to all comments it received on the Draft EIR, consistent with CEQA requirements. The Appellant provides no evidence to indicate otherwise.

Comment A-11 consists of one general statement asserting the EIR's failure to respond adequately to comments on the Draft EIR, but the Appellant offers no specific evidence or examples as to which comments were not addressed or in what way the responses were inadequate. The responses to comments document, Volume 3 of the Final EIR, contains a comprehensive listing of all comments received on the Draft EIR and written responses to all substantive comments, consistent with applicable sections of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The Final EIR complies with CEQA Guidelines section 15132 and includes the Draft EIR, copies of comments received on the Draft EIR, a list of persons, organizations, and public agencies commenting on the Draft EIR, and responses to all comments received on the Draft EIR. The responses to comments are presented in Chapter 11 of the Final EIR, and all substantive comments are organized by topic, reproduced verbatim, and followed by a detailed response that addresses every aspect of every topic. The Appellant's assertions of inadequate responses to comments are unfounded, and the responses to comments included in the Final EIR meet the standards for adequacy of an EIR, as set forth in CEQA Guidelines section 15151.

Issue 6: The Alameda County Water District claims the EIR included an inadequate and incomplete Statement of Overriding Considerations.

Response 6: The contents of an EIR does not include a Statement of Overriding Considerations, in accordance with CEQA Guidelines Sections 15120 to 15132. The Statement of Overriding Considerations was prepared by the SFPUC, the decision-making agency, as part of the CEQA Findings.

Comment A-12 consists of one general statement asserting the EIR included an inadequate and incomplete statement of overriding considerations, but the Appellant offers no specific evidence or examples as to how the statement of overriding considerations is inadequate or incomplete. The Appellant is mistaken that the

EIR should include a statement of overriding considerations. Rather than including a statement of overriding considerations as part of the EIR, CEQA requires that the decision-making agency state in writing the specific reasons to support its action based on the final EIR or other information in the record notwithstanding the unavoidable adverse environmental effects of the project. (see CEQA Guidelines section 15093). The decision-making agency prepares a statement of overriding considerations as part of the CEQA Findings to reflect the ultimate balancing of the merits of approving a project despite significant unavoidable impacts.

The SFPUC adopted CEQA Findings, including a statement of overriding considerations when it approved the ACRP after the Planning Commission certified the Draft EIR as to its completion in compliance with CEQA (see Attachment C to this memorandum). The CEQA Findings concluded that all project-specific impacts will be reduced to a less-than-significant level with implementation of mitigation measures identified in the Final EIR. However, the ACRP, as a component of the WSIP, will contribute to the significant and unavoidable growth-inducement impact caused by the WSIP water supply program that was identified in the WSIP PEIR. Therefore, the statement of overriding considerations for significant and unavoidable impacts of the ACRP relates only to the project's contribution to the overall WSIP growth-inducement impact, and the project in and of itself would have no other significant and unavoidable impacts.

After the Planning Commission completes the recirculation of a portion of the Draft EIR to further augment the analysis of operational impacts on threatened CCC steelhead from project-induced changes in streamflow in Alameda Creek, the Planning Commission will consider certification of the revised EIR. Assuming the Planning Commission certifies the revised EIR, the SFPUC will then consider updated CEQA Findings and statement of overriding considerations for the ACRP in its decision to approve, disapprove, or modify the project.

Issue 7: The Alameda County Water District asserts that the EIR fails to determine the required permits and project approvals.

Response 7: The EIR appropriately identifies a list of permits and other approvals required to implement the project, consistent with CEQA Guidelines Section 15124.

The Appellant's comment A-13 consists of one general statement asserting the EIR failed to determine the required permits and project approvals, without any supporting evidence. Contrary to this assertion, EIR Section 3.7 presents a list of required permits and approvals augmented by Response ERP-8 in the RTC document; together this information is consistent with CEQA Guidelines section 15124(d)(1)(B).

Comment A-23 asserts that the project requires an incidental take permit from NMFS for threatened CCC steelhead. The Planning Department will address whether such a permit may be required in the recirculated portion of the Draft EIR that it will prepare to further analyze operational impacts on threatened CCC steelhead from project-induced changes in streamflow in Alameda Creek. Regardless, NMFS will ultimately make the decision whether or not an incidental take permit will be required through its authority under the federal Endangered Species Act.

Issue 8: The Alameda County Water District states that the Planning Department and the SFPUC failed to coordinate adequately with the Alameda County Water District and to provide requested data in a timely manner.

Response 8: This comment is not relevant to the adequacy of the content of the EIR. The Planning Department has duly complied with all CEQA requirements for public and agency notification of the environmental review process, responded to inquiries by the ACWD, and initiated coordination efforts.

The Appellant states several times that the SFPUC and the Planning Department have not satisfactorily responded to its numerous offers to collaborate in the development of a new model for use in the hydrologic analysis in the ACRP EIR (comments A-5, A-26 and E1-11). Furthermore, the Appellant states that the Planning Department did not satisfactorily respond to its request for a copy of the modeling data used in the EIR hydrologic analysis (comments A-7, A-15 and E1-7).

Consistent with CEQA Guidelines 15083, the Planning Department conducted early public consultation, including issuing required notifications and conducting scoping for the EIR. In addition, as described in Response ERP-4 in the responses to comments document, the Planning Department participated in and facilitated specific discussions between the SFPUC and the Appellant during the preparation of the EIR, including a meeting at the Appellant's offices on October 17, 2016, prior to publication of the Draft EIR, to discuss preliminary results of the environmental impact analysis.

With respect to the Appellant's request for modeling data used in the EIR, as noted in Response ERP-4 in the responses to comments document, all data used in the EIR hydrologic analysis were described and presented in Appendices HYD1 and HYD2 of the EIR. In the Appellant's comment letter on the Draft EIR dated January 10, 2017, the Appellant requested an opportunity to review the daily flow rates provided by the modeling. On January 19 and 20, 2017, the SFPUC provided to the Appellant the complete daily data set of the ACRP modeling that the SFPUC had provided to the Planning Department for use in preparation of the Draft EIR. However, as described in the Draft EIR, Appendix HYD1, the Planning Department's consultants adjusted the outputs to this data set for the EIR hydrologic analysis to include additional data necessary to characterize streamflow downstream of the quarry operators' discharge point. The Planning Department mistakenly assumed that the SFPUC had fulfilled the Appellant's request for modeling data in January, 2017. The Appellant is correct that the Planning Department did not provide the consultants' adjusted data set used in the Draft EIR analysis to the Appellant until June 7, 2017, at which time the Planning Department also provided an additional data set used in the RTC document. As of the publication date of the Draft EIR, the Planning Department made available at its offices all data and reference materials cited in the Draft EIR for public review as part of the administrative record, and similarly, data and reference materials cited in the responses to comments document were available at the Planning Department as of the publication date of the RTC document.

Therefore, despite the inadvertent delay in providing the correct data set to the Appellant, the Planning Department's responses to request for coordination with agencies and stakeholders have been in compliance with CEQA and have not compromised the adequacy or accuracy of the EIR. In addition, please note that the Planning Department intends to recirculate a portion of the Draft EIR that will further analyze the operational impacts of the project on threatened CCC steelhead as a result of project-induced effects on streamflow in Alameda Creek.

Issue 9: The Alameda County Water District asserts that the ACRP will divert and recapture water that is outside the scope of CCSF's water rights and this will cause environmental impacts on ACWD operations.

Response 9: The Final EIR fully analyzes the impact of the project on ACWD operations as explained under Issue 2 above. CEQA does not require that an EIR address water rights issues *per se*, and this issue does not affect the adequacy or accuracy of the EIR. The EIR describes how proposed ACRP operations would include protocols to ensure that the project would be conducted within the CCSF's existing water rights.

Comments A-17, A-22, E1-9, G-4, and H-3 raise issues related to water rights, which is not a CEQA issue, and neither CEQA, the CEQA Guidelines, nor Chapter 31 of the San Francisco Administrative Code require that water rights be addressed in an EIR. The Draft EIR explains how the project would operate so as to ensure that the project operation would be conducted within the CCSF's existing pre-1914 appropriative water rights. Under the proposed accounting and operating rules for the ACRP, the SFPUC's project pumping would be constrained by (1) the volume and rate of water released and bypassed upstream as a result of the NMFS's Biological Opinion, and (2) by the volume of water that the SFPUC would otherwise have been available to store in Calaveras Reservoir under the CCSF's pre-1914 water rights *had the release and bypass conditions in the NMFS Biological Opinion not been imposed*. In other words, the SFPUC has designed the project operation so that in any given year or period, the maximum volume of water that the SFPUC can recover from Pit F2 is limited by the volume of water that the SFPUC could have stored in Calaveras Reservoir under CCSF's pre-1914 appropriative rights. The proposed operations are consistent with the historically documented occasional filling of the reservoir since the completion in 1930 of the plan of development for the reservoir and the Alameda Creek Diversion Dam and Tunnel. If Calaveras Reservoir fills and spills, the ACRP operational rules confirm that the SFPUC could not pump water from Pit F2. It cannot resume pumping water from Pit F2 unless and until sufficient withdrawal credits in Pit F2 accumulate as a result of bypasses made at the Alameda Creek Diversion Dam and/or release of flow directly from Calaveras Reservoir and taking into account available storage capacity in Calaveras Reservoir. Further, the SFPUC would only withdraw water from Pit F2 when water levels in the pit are within a designated range. Response GC-3 in the responses to comments document provides a further discussion of water rights associated with the project. Draft EIR Section 3.6.1.2 provides further information on the water elevations that would need to be present in Pit F2 for the SFPUC to withdraw water.

Issue 10: A private individual who submitted an email in support of the Appeal Letter is concerned that the project could affect the foothill yellow-legged frog and the EIR does not account for the new protected status of this species.

Response 10: The Draft EIR fully analyzed the potential impacts of the project on foothill yellow-legged frog and found all impacts to be less than significant regardless of the protected status of the species.

Comment L-12, submitted in support of the Appellant but not identified as an issue by the Appellant, questions whether the project would affect streamflow that could in turn affect habitat for the foothill yellow-legged frog. This commenter also indicates that the environmental review for this project does not account for the new protected status of this species.

The biological resources impact analysis in the Draft EIR Section 5.16 includes detailed analysis of the foothill yellow-legged frog, including site-specific field surveys to assess the quality of potential habitat for this species and to ascertain the potential for its presence in the study area. The field survey determined that this species is unlikely to occur with Alameda Creek in the ACRP survey area under existing conditions. The impact analysis determined that project construction would not affect foothill yellow-legged frog because this species is not expected to occur in or around the construction area. The impact analysis also determined that project operations would not affect this species because foothill yellow-legged frog are unlikely to occur in the project area and the project would not substantially alter the hydrologic conditions that contribute to the quality of the habitat for this species. Therefore, impacts on foothill yellow-legged frog were determined to be less than significant. The commenter is correct in noting that the foothill yellow-legged frog was listed as a candidate species under the California Endangered Species Act in June 2017, but this change in protected status of the species does not affect the impact conclusions presented in the EIR.

This issue and response are included in this memorandum for information purposes only because this issue was not raised in the Appeal Letter and this comment was received after the close of public comment period on the EIR.

CONCLUSION

The issues described above and responded to in this memorandum do not raise any new issues relative to the project's physical environmental impacts that were not previously addressed in the Draft EIR and/or in the responses to comments document or at the EIR certification hearing. As discussed above, the analysis and conclusions of the Final EIR with respect to the issues described above are supported by substantial evidence in the record. Moreover, the Appellant has not provided substantial evidence in support of its arguments as to the adequacy and accuracy of the Final EIR regarding these issues. Argument and speculation alone are not substantial evidence under CEQA.¹⁹ Even if the Appellant had provided substantial evidence that contradicts the analysis and conclusions of the Final EIR regarding these issues, the Planning Commission's adequacy determination remains valid when the EIR is based on substantial evidence in the record. The Final EIR and supporting documents provide such substantial evidence for those issues described above.

For the reasons stated above, the Planning Commission's determination that the EIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code with respect to the issues described above remains valid. The Planning Department, therefore, recommends that the Board reverse the certification of the EIR but requests that the Board find the Final EIR adequate, accurate, and objective in all respects except the one issue of the operational impacts of the project on threatened CCC

¹⁹ CEQA Guidelines section 15384 defines "substantial evidence" as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. . . . Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." CEQA guidelines further state "substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts."

steelhead as a result of project-induced effects on streamflow in Alameda Creek. The Planning Department intends to address significant new information raised by NMFS by undertaking further analysis of the potential operational impacts of the project on threatened CCC steelhead related to changes caused by the project in streamflow in Alameda Creek. The Planning Department will recirculate a portion of the Draft EIR to addresses this single issue.

Attachment A
Appeal Letter Submitted by
Appellant





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July 24, 2017

City and County of San Francisco
 Clerk of the Board of Supervisors
 Lisa Gibson, Environmental Review Officer
 #1 Dr. Carlton B. Goodlett Place
 Room #244
 San Francisco, CA 94102

Dear Lisa Gibson, Clerk of the Board, and Members of the Board of Supervisors:

Subject: Appeal of the June 22, 2017, Planning Commission Decision and the June 23, 2017, SFPUC Decisions Regarding the Alameda Creek Recapture Project.

The Alameda County Water District (ACWD), in accordance with Administrative Code Section 31.16, hereby appeals the following two decisions:

1. Motion No. 19952, approved by the Planning Commission on June 22, 2017, certifying the Final Environmental Impact Report for the proposed Alameda Creek Recapture Project and adopting related findings; and
2. Resolution 17-0146, approved by the Public Utilities Commission on June 23, 2017, adopting the CEQA findings, including the Statement of Overriding Considerations, adopting the Mitigation Monitoring and Reporting Program, and approving Project No. CUW35201, Alameda Creek Recapture Project.

I. Background

ACWD has a strong interest in protecting and preserving water quality and water supply in Alameda Creek and the Alameda Creek Watershed. Since ACWD's founding, over 100 years ago, ACWD and Spring Valley Water and, later, the City and County of San Francisco, acting by and through the San Francisco Public Utilities Commission (SFPUC) have a long history of working together with a shared interest in the Alameda Creek Watershed. Because ACWD relies on Alameda Creek for approximately 40% of its water supply and operates and maintains facilities in the watershed to replenish the Niles Cone Groundwater Basin downstream of the Alameda Creek Recapture Project (Project), ACWD is uniquely familiar with, and concerned about, the Project. With a service area located downstream of the proposed Project location, ACWD uses water from the Alameda Creek watershed for drinking water supply to 351,000 people in the cities of Fremont, Newark, and Union City. ACWD is particularly concerned with potential impacts that the Project may have on ACWD's water supplies as well as ongoing

Lisa Gibson, Environmental Review Officer
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projects related to fisheries restoration in Alameda Creek. ACWD, together with the SFPUC and other watershed stakeholders, is actively involved in the ongoing steelhead restoration efforts to restore the steelhead run in the Alameda Creek Watershed. In fact, ACWD and Alameda County are making approximately \$48.5M investments in fish ladders and screened diversions downstream of the Project. Additionally, Alameda County will be making additional significant investments to improve Alameda Creek to facilitate steelhead migration.

As a customer of the SFPUC, ACWD relies on the Regional Water System for about 20 percent of ACWD’s water supply. ACWD acknowledges the significant accomplishments of the SFPUC to date in the implementation of the Water Supply Improvement Program (WSIP) since ACWD is a large customer and, therefore, a beneficiary of the water supply reliability improvements that the SFPUC is achieving through implementation of the WSIP.

II. Summary of Appeal

ACWD does not take the filing of this appeal lightly. Not only does ACWD have a long relationship of working cooperatively with the SFPUC in the Alameda Creek Watershed, ACWD is a large customer of the SFPUC and ACWD relies on the Regional Water System. SFPUC and ACWD have worked cooperatively since 1997 through the Alameda Creek Fisheries Work Group to reestablish a viable fishery for the federally threatened *Oncorhynchus mykiss*, or steelhead, in the Central California Coast region. This relationship will continue in the future.

ACWD generally supports the concept of the Project – recapturing water for beneficial uses can benefit all customers who use water provided by SFPUC, including ACWD. However, as described in the numerous comments on the Draft Environmental Impact Report (EIR) as well as testimony at the Planning Commission hearing and SFPUC meeting for the Project, ACWD firmly believes that the hydrology analysis undertaken in the EIR is insufficient to accurately determine impacts, including impacts to steelhead and to ACWD's water supply on Alameda Creek.

A-1

ACWD has consistently stated since the inception of this Project that the Alameda System Daily Hydrologic Model (ASDHM), relied on extensively in the EIR's impact analyses, is insufficient to analyze the surface water groundwater interaction necessary to evaluate Project impacts. It should be noted that, while the ASDHM contains the word “daily,” the results presented in the EIR were compiled from the daily data and analyzed at a monthly time-step. Additionally, as ACWD stated in its comments on the Draft EIR, the conceptual approach taken in the Draft EIR to characterize surface water/groundwater interactions is grossly inadequate in its ability to evaluate potentially substantial adverse effects of the proposed ACRP on surface water, groundwater, and steelhead.

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Likewise, since the Project was noticed, ACWD has requested to work initially with the SFPUC and then the Planning Department to develop a new, more robust, and appropriate tool to study the surface water groundwater interaction and the potential impacts of the proposed Project. ACWD proposed to collaborate in this effort and to contribute both financially and through in-kind services to the development of a new model which would benefit both agencies' activities in the watershed. ACWD's requests were largely ignored. ACWD's offer to work collaboratively

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with the SFPUC for a more informed and complete understanding of the Alameda Creek Watershed remains open.

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In comments on the Draft EIR, and in meetings with both the SFPUC and the Planning Department, ACWD stated that the flows analysis in the EIR should be at a daily rate or time-step, instead of the monthly analysis conducted in the EIR, to adequately analyze Project impacts. In a January 10, 2017, letter (see Exhibit D) and throughout this process ACWD has requested the daily data, which was not provided until June 7, 2017 (received on June 12, 2017), well after the close of the public comment period on January 30, 2017, and only 13 calendar days prior to the Planning Commission hearing certifying the EIR for the Project (see Exhibit E). Analysis of this data indicates the operation of the Project will result in severe impacts and potential "take" of the Central California Coast steelhead. These impacts were not included in the Final EIR.

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III. Basis of Appeal

This appeal includes all of the grounds ACWD submitted to the Planning Commission and the SFPUC in its written and oral comments on the Draft EIR and Project, including the grounds listed in this letter and additional information that may be provided prior to the hearing on this matter, more specifically:

- The Final EIR includes inadequate and incomplete analysis, and it fails to adequately disclose and evaluate potentially significant impacts to the following environmental resources:
 - Biological and Fishery Resources
 - Hydrology and Water Quality
 - The Cumulative Impact analysis in the Draft EIR and Final EIR fails to disclose a considerable contribution to significant cumulative impacts to the environmental resources listed above.
- The Final EIR failed to analyze and adopt all feasible mitigation measures and alternatives to offset significant impacts to the environmental resources listed above.
- The Final EIR failed to respond adequately to comments on the Draft EIR.
- The Final EIR included an inadequate and incomplete Statement of Overriding Considerations that contains statements that are not supported by substantial evidence.
- The Final EIR failed to determine the required permits and Project approvals.
- Failure to revise modeling and analysis approaches and recirculate the Draft EIR because new information and daily modeling data were not analyzed in the Final EIR.

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A. Procedural Flaws

Despite the multiple requests made by ACWD for daily modeling data, which is essential data to analyze the environmental impacts of the Project, ACWD only received the relevant requested data on June 12, 2017 – 192 days after the Draft EIR was published and well after the close of the public comment period on January 30, 2017. Withholding critical relevant data, and then providing it with less than 10 business days prior to the Planning Commission meeting is a violation of CEQA and deprives the public of a

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meaningful opportunity to comment on the substantial adverse impacts, feasible mitigation, or alternatives to the Project.

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Furthermore, this daily modeling data demonstrates that the Project will have significant environmental impacts to steelhead, as discussed further below.

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B. Methodological Flaws Leading to Invalid Impact Determinations

Given the lack of sufficient credibility of the modeling approach, the majority of conclusions made by the Final EIR are unsupported, including conclusions of no significant impact on aquatic species or impacts as a result of reduced water supplies to downstream water rights holders.

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1) ASDHM Niles Gauge data show significant impacts to steelhead when analyzed on a daily time-step.

- According to the modeled daily Niles Gauge streamflow data, the Project would result in a substantial, adverse impact to Central California Coast steelhead, a federally-listed threatened distinct population segment of steelhead. Specifically, the data indicates that flows in Alameda Creek would drop below the critical 25 cubic feet per second (cfs) on a substantially greater number of days during the December to April adult emigration migration period and the January to June post-spawn adult emigration period. These thresholds were identified by the National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) as being minimum passage thresholds for adult and juvenile steelhead downstream of the Project location in the Alameda Creek Flood Control Channel and were integrated into the ASDHM analysis used to conclude CEQA impacts in the Final EIR (Table 14, Dhakal et al, 2012; cited in EIR Appendix HYD-1, page 48: Section 4, Note 1). This is a significant impact under CEQA and is neither disclosed nor mitigated in the Draft EIR or Final EIR. Instead, in both the Draft EIR and Final EIR, the impacts of the Project to steelhead are dismissed as less than significant. Consequently, no mitigation is proposed to offset this significant impact.

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- Comparing with the modeled daily streamflow at Niles gage, the Project results in a 60% increase (138 additional days) in the number of non-passable days for threatened steelhead downstream of the proposed Project location during wet year migration seasons included in the study period. Similarly, a 34% increase in non-passable days (102 additional days) downstream of the Project area during migration season in dry years also is observed. These comparisons were made between the conditions that will exist when the Calaveras Dam Replacement Project (CDRP) has been completed and in operation (with-CDRP conditions) scenario and the conditions that would exist when both the CDRP and the Alameda Creek Recapture Project are completed and are in operation (with-Project conditions) scenario. These significant impacts to steelhead were neither

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disclosed nor sufficiently analyzed in either the Draft EIR or Final EIR and renders unsupported the conclusions of no impact.

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2) The ASDHM is insufficient to analyze the surface water groundwater interaction necessary to evaluate Project impacts.

- The SFPUC commissioned a Blue Ribbon Panel in August 2012 comprised of hydrologists and fisheries biologists, to provide an independent scientific review of the ASDHM model and concluded that "a groundwater modeling study will be necessary to evaluate the surface and groundwater interaction within the Alameda Creek watershed, including the effects of lowering of Pit F2 elevations." The CEQA analysis includes no such effort.
- The ASDHM modeling assumes that under Project conditions, the loss rate of surface water from Alameda Creek will not change relative to current conditions, when in reality the Project will lower local groundwater levels and increase surface water loss rates, which will impact downstream stream flow rates.
- Analyzing impacts to surface water hydrology on an aggregated monthly time-step serves to mask critical day-to-day changes in flow rates which in turn masks impacts to aquatic biology and surface water hydrology downstream of the Project.

A-19

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3) The Conceptual Model is scientifically invalid and inadequate for the evaluation required to assess potential Project impacts.

In the Draft EIR and Final EIR, surface water and groundwater interactions are examined using an overly simplistic description (referred to as a "conceptual model") of the Alameda Creek surface water and groundwater basin. For example, the conceptual model includes a key assumption that the lower alluvium/Livermore gravels are not water-bearing. This key assumption is incorrect, which invalidates the application of the conceptual model for evaluating potential Project impacts. The EIR's reliance on such an overly simplistic model resulted in the failure to disclose significant impacts to surface water, groundwater, and fisheries.

A-21

C. The Project Constitutes an Expansion of San Francisco's Water Rights Claim for Calaveras Reservoir Requiring State Water Resources Control Board Approval

The rediversion and storage of recaptured water from the Project originates from sources other than Calaveras Reservoir and the Alameda Creek Diversion Dam and is outside of the scope of SFPUC's water rights. This was not analyzed nor disclosed in the EIR. The determination in the EIR that there will be no significant impacts because the Project would not cause downstream water users to alter operations in a way that would result in significant adverse environmental impacts is insufficient because it is predicated on the incorrect premise that the water being recaptured is exclusively SFPUC's pre-1914 surface water right and that the recapture operation does not expand these rights.

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IV. Other Issues

A. An Incidental Take Permit (ITP) is Required for the Project

Based on the daily Niles Gauge streamflow data, the operation of the Project would likely result in “take” (as defined in the federal Endangered Species Act) of Central California Coast steelhead. The Central California Coast steelhead is federally-listed as a threatened distinct population segment. An ITP from the NMFS would be required under Section 10(a) of the federal Endangered Species Act. This ITP requirement was not adequately addressed in the response to comments and is not portrayed in the Project description. Even if a federal nexus exists for the Project (something that SFPUC states is not the case), the Project would require a Biological Opinion from the NMFS pursuant to Section 7 of the federal Endangered Species Act. No such Biological Opinion exists for the Project.

A-23

B. This is Not an Attempted “Water Grab” by ACWD

The NMFS will require ACWD to “bypass” the vast majority of releases from Calaveras Reservoir and the Alameda Creek Diversion Dam that may reach ACWD’s service area during fish migration seasons; therefore, these releases will flow to San Francisco Bay. Since ACWD cannot take advantage of this water, this is not an attempted “water grab” by ACWD. However, as explained above, the Project may change the timing and flow rates in a way that negatively impacts ACWD’s water supply. This is difficult to assess because the appropriate level of analysis has not been performed in the EIR.

A-24

V. Evidence Supporting Appeal

The final motion and resolution certifying the EIR, adopting findings and a statement of overriding considerations, and approving the Project are attached as **Exhibits A, B, and C**. Evidence in support of the appeal is attached as **Exhibits D and E**, and is also contained in the Draft and Final EIRs and the Planning Commission and SFPUC meeting packets, incorporated here by reference. **Exhibit F** is a link to the June 22, 2017, Planning Commission hearing. **Exhibit G** is a link to the June 23, 2017, special meeting of the SFPUC.

Attached Exhibits:

- Exhibit A:** Final Planning Commission Motion No. 19952
- Exhibit B:** Public Utilities Commission Resolution 17-0146
- Exhibit C:** Agenda Item for Public Utilities Commission Meeting, June 23, 2017
- Exhibit D:** Selected letters and documents
 - July 27, 2015, ACWD Comments on Notice of Preparation
 - January 10, 2017, ACWD Request for extension of time and for daily flow data.
 - January 30, 2017, ACWD Comments of Draft EIR for the Alameda Creek Recapture Project

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- June 21, 2017, ACWD Comments on the Final EIR for the Alameda Creek Recapture Project
- Exhibit E:** June 7, 2017, Planning Department letter containing Hydrology Data in EIR Administrative Record for SFPUC Alameda Creek Recapture Project.
- Exhibit F:** Link to video of June 22, 2017, Planning Commission hearing in which testimony was given on the Project.
- Exhibit G:** Link to video of June 23, 2017, SFPUC special meeting in which the Project was discussed and approved.

VI. Conclusion and Request

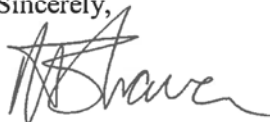
San Francisco has the well-deserved reputation of being a progressive and environmentally-friendly city. Therefore, ACWD does not understand why Planning and SFPUC staffs have been unreceptive to numerous requests to properly analyze and evaluate the potential impacts of the Project on Alameda Creek flows and threatened Central California Coast Steelhead downstream of the Project.

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Accordingly, ACWD requests the Board of Supervisors to reverse the Certification of the EIR and Project approval and remand the final EIR to the Planning Commission and require the collaborative development, with the stakeholders in the Alameda Creek Watershed, including ACWD, of a new modelling tool to effectively analyze stream flows and impacts to fishery resources and downstream water users. Development of this new tool is both reasonable and feasible.

A-26

Sincerely,



Robert Shaver
General Manager

la/tf

- cc: Steve Ritchie, San Francisco Public Utilities Commission
 Ellen Levin, San Francisco Public Utilities Commission
 Nicole Sandkulla, Bay Area Water Supply and Conservation Agencies (BAWSCA)
 Daniel Woldesenbet, Alameda County Public Works
 Hank Ackerman, Alameda County Public Works
 Gary Stern, National Marine Fisheries Service
 Eric Larson, California Department of Fish and Wildlife
 Brian Wines, San Francisco Bay Regional Water Quality Control Board
 Jeff Miller, Alameda Creek Alliance
 Steven Inn, ACWD
 Thomas Niesar, ACWD

Attachments

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**Attachment B
Planning Commission Motion
No. 19952 (Certification of
SFPUC Alameda Creek
Recapture Project Final
Environmental Impact Report,
same as Exhibit A of Appeal
Letter)**





SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 19952

HEARING DATE: June 22, 2017

Case No.: 2015-004827ENV
Project Address: SFPUC - Alameda Creek Recapture Project
Project Location: Various Locations in SFPUC Alameda Watershed
Project Sponsor: San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102
Staff Contact: Chelsea Fordham – (415) 575-9071
chelsea.fordham@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED ALAMEDA CREEK RECAPTURE PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2015-004827ENV, the "Alameda Creek Recapture Project" above (hereinafter "ACRP Project"), located in the Sunol Valley, an unincorporated area of Alameda County, on Alameda Watershed lands owned by the City and County of San Francisco and managed by the SFPUC, based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on June 24, 2015.
 - B. The Department held a public scoping meeting on July 9, 2015 in order to solicit public comment on the scope of the ACRP Project's environmental review.
 - C. On November 30, 2016, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

- D. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on November 30, 2016.
 - E. On November 30, 2016, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
 - F. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on November 30, 2016.
2. The Commission held a duly advertised public hearing on said DEIR on January 5, 2017 at which opportunity for public comment was given, and public comment was received on the DEIR. In response to requests by agencies and interested organizations, the Planning Department extended the required 45-day review period to 62-days, ending on January 30, 2017.
 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 62-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on June 7, 2017, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
 4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
 5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
 6. On June 22, 2017, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
 7. The Planning Commission hereby does find that the FEIR concerning File No. 2015-004827ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.
 8. The Commission further finds, in certifying the completion of said FEIR, that the Project described in the FEIR is a component of the SFPUC's adopted Water Supply Improvement Program ("WSIP") for which the Planning Commission certified a Program Environmental Impact Report on October 30,

2008 (Case No. 2005.0159E) and the SFPUC approved by Resolution No. 08-0200; as part of the WSIP, the Commission finds that the Project will contribute to a significant and unavoidable impact related to indirect growth-inducement impacts in the SFPUC service area.

9. The Commission, in certifying the completion of said FEIR, hereby does find that the ARCP project described in the EIR would result in either less than significant impacts, or less-than-significant with implementation of identified mitigation measures. No significant and unavoidable impacts were identified in the project-level environmental review of the ACRP.
10. The Planning Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of June 22, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Richards, Fong, Hillis, Melgar, and Moore
NOES: None
ABSENT: Johnson, Koppel
ADOPTED: June 22, 2017

Attachment C
San Francisco Public Utilities
Commission Resolution No. 17-
0146 (Adopting the CEQA
Findings and Approval of
Alameda Creek Recapture
Project, same as Exhibit B of
Appeal Letter)



PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 17-0146

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff have developed a project description under the Water System Improvement Program (WSIP) for the improvements to the regional water supply system, otherwise known as Project No. CUW35201, Alameda Creek Recapture Project (the "Project"); and

WHEREAS, The objectives of the Project are to recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam (ACDD), respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system; maximize local watershed supplies; and maximize the use of existing SFPUC facilities and infrastructure; and

WHEREAS, On June 22, 2017, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2015-004827ENV, consisting of the Draft Environmental Impact Report (EIR) and the Comments and Responses document, and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion No. 19952; and

WHEREAS, This Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project and the EIR; and

WHEREAS, The Project and EIR files have been made available for review by the SFPUC and the public, and those files are part of the record before this Commission; and

WHEREAS, The Planning Department, Jonas P. Ionin, is the custodian of records, located in File No. 2015-004827ENV, at 1650 Mission Street, Fourth Floor, San Francisco, California; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA (CEQA Findings), and a proposed Mitigation, Monitoring and Reporting Program (MMRP), which material was made available to the public and the Commission for the Commission's review, consideration and action; and

WHEREAS, The Project is a capital improvement project approved by this Commission as part of the WSIP; and

WHEREAS, A Final Programmatic EIR (PEIR) was prepared for the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No. 17734; and

WHEREAS, Thereafter, the SFPUC approved the WSIP and adopted findings and a MMRP as required by CEQA on October 30, 2008 by Resolution No. 08-0200; and

WHEREAS, The Final EIR prepared for the Project is tiered from the WSIP PEIR, as authorized by and in accordance with CEQA; and

WHEREAS, The WSIP PEIR has been made available for review by the SFPUC and the public, and is part of the record before this Commission; and

WHEREAS, Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state regulatory agencies, including but not limited to the following: San Francisco Bay Regional Water Quality Control Board, State Water Resources Control Board Division of Drinking Water, Bay Area Air Quality Management District, California Department of Fish and Wildlife, and any other regulatory approvals as required; and

WHEREAS, For portions of the City-owned SFPUC watershed lands in the vicinity of where the Project work will occur, the SFPUC has issued easements, leases, permits, or licenses to certain parties to use watershed lands for various purposes, and in some instances other parties hold property rights or interests on lands along, over, under, adjacent to or in the vicinity of the watershed lands that may be affected by the Project; and

WHEREAS, The Project may require the SFPUC General Manager to apply for and execute various necessary permits, encroachment permits, temporary and permanent right-of-way agreements, or other approvals, and those permits shall be consistent with SFPUC existing fee or easement interests, where applicable, and will include terms and conditions including, but not limited to, maintenance, repair and relocation of improvements and possibly indemnity obligations; now, therefore, be it

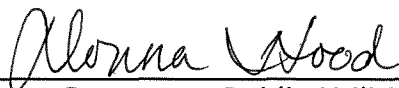
RESOLVED, This Commission has reviewed and considered the FEIR, finds that the FEIR is adequate for its use as the decision-making body for the actions taken herein, and hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached hereto as Attachment A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Attachment B and incorporated herein as part of this Resolution by this reference thereto, and authorizes a request to the Board of Supervisors to adopt the same CEQA findings, Statement of Overriding Considerations, and MMRP that are necessary in connection with the release of funding for project construction; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's watershed lands, new or amended easements, leases, permits, licenses, encroachment removal, or other project related agreements (each, a Use Instrument) with respect to uses and structures, fences, and other above-ground or subterranean improvements or interests; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to negotiate and execute revisions to Lease No. 4289 with Mission Valley Rock Company if such revisions are necessary for the construction of project structures by removing areas from the leased premises, with no other material changes to the lease terms, and to seek Board of Supervisors approval of the lease modification under Charter section 9.118; and be it

FURTHER RESOLVED, That this Commission hereby approves Project No. CUW35201, Alameda Creek Recapture Project, and authorizes staff to proceed with actions necessary to implement the Project consistent with this Resolution, including advertising for construction bids, provided, however, that staff will return to seek Commission approval for award of the construction contract.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of June 23, 2017.



Secretary, Public Utilities Commission

Attachment D
Agenda for SFPUC Commission
Meeting, June 23, 2017,
including CEQA Findings and
MMRP (Exhibit C of Appeal
Letter)





AGENDA ITEM

Public Utilities Commission

City and County of San Francisco



DEPARTMENT Infrastructure Division AGENDA NO. 4
 MEETING DATE June 23, 2017

Approve Project - Environmental Impact Report (EIR): Regular Calendar
Project Manager: Bryan Dessaure

Approve Project No. CUW35201, Alameda Creek Recapture Project

Summary of Proposed Commission Action:	<p>Approve Water Enterprise, Water System Improvement Program (WSIP) funded Project No. CUW35201, Alameda Creek Recapture Project (the “Project”); Adopt the required California Environmental Quality Act (CEQA) Findings, including a Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program (MMRP); and authorize the General Manager to implement the Project, in compliance with the Charter and applicable law, and subject to subsequent Commission action and Board of Supervisors approval, where required.</p>
Background:	<p>The Alameda Creek Recapture Project would recapture water that will be released from Calaveras Reservoir and/or bypassed around the Alameda Creek Diversion Dam (ACDD) when the San Francisco Public Utilities Commission (SFPUC) implements the instream flow schedules required as part of the regulatory permits for future operations of Calaveras Reservoir. Released and bypassed water will flow naturally down Alameda Creek through the Sunol Valley and will percolate into and collect in a quarry pit referred to as Pit F2 that is currently leased to Mission Valley Rock Company under Lease number 4289 for water management activities related to aggregate mining activities. The SFPUC would recapture water collected in Pit F2 by pumping it to existing SFPUC water supply facilities in the Sunol Valley for treatment and eventual distribution to its water supply customers in the Bay Area. The recaptured water would maintain the historical contribution from the Alameda Watershed to the SFPUC regional water system, in accordance with the City and County of San Francisco's (CCSF) existing pre-1914 appropriative water rights for Calaveras Reservoir and the ACDD.</p> <p>Project objectives are as follows:</p> <ul style="list-style-type: none"> Recapture the water that would have otherwise been stored in

APPROVAL: _____

COMMISSION
SECRETARY

Donna Hood

	<p>Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the ACDD, respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system.</p> <ul style="list-style-type: none"> • Minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system. • Maximize local watershed supplies. • Maximize the use of existing SFPUC facilities and infrastructure. • Provide a sufficient flow to the Sunol Valley Water Treatment Plant (SVWTP) to meet its minimum operating requirements. <p>This project includes:</p> <ul style="list-style-type: none"> • Installation of four pumps on floating barges in Pit F2, each connected to a flexible discharge pipeline connecting to a new pipe manifold onshore. • Construction of a 100-foot-long pipeline connection between the new pipe manifold and the existing Sunol Pump Station Pipeline. • Construction of an electrical control building, including power and fiber optic line connections. • Construction of an access road, security fencing, and other general site improvements.
<p>Result of Inaction:</p>	<p>A delay in approving this project item will delay efforts to implement the project. This will restrict the SFPUC’s ability to meet WSIP objectives for water delivery reliability and water supply needs.</p>
<p>Description of Project Action:</p>	<p>In order to move forward with the Alameda Creek Recapture Project, this Commission must review and consider the Final Environmental Impact Report (FEIR) (consisting of the Draft Environmental Impact Report (EIR) and Responses to Comments document), anticipated to be certified by the Planning Commission on June 22, 2017, and adopt the CEQA Findings for the Project, including the Statement of Overriding Considerations, and the MMRP. The FEIR was provided to each member of this Commission. The CEQA Findings and MMRP are attached to this agenda (Attachments A and B).</p> <p>For portions of the City-owned SFPUC watershed lands in the vicinity of where the Project work will occur, the SFPUC has issued easements, leases, permits, or licenses to certain parties to use watershed lands for various purposes, and in some instances other parties hold property rights or interests on lands along, over, under, adjacent to or in the vicinity of the watershed lands that may be</p>

**Approve Project No CUW35201, Alameda Creek Recapture
Commission Meeting Date: June 23, 2017**

	<p>affected by the Project. The Resolution authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's watershed lands, new or amended easements, leases, permits, licenses, encroachment permits, or other project related agreements (each, a Use Instrument) with respect to uses, structures, fences, and other above-ground or subterranean improvements or interests. The General Manager's authority so granted will include the authority, if necessary for the Project, to enter into, amend, or exercise rights under existing or new Use Instruments with any owner or occupier of property on, along, over, under, adjacent to, or in the vicinity of the SFPUC right-of-way, including Use Instruments required to accommodate project construction activities or schedule, or to implement Project mitigation measures. Any such new or amended Use Instrument will be in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to effectuate the purposes and intent of this Commission Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney. Upon approval of the Project, SFPUC staff will proceed with plans to obtain permits and approvals from State resource agencies, and advertise for construction bids. SFPUC staff will return to this Commission at a future public meeting to request permission to award a construction contract.</p>
Environmental Review:	<p>The San Francisco Planning Commission will consider certifying a FEIR for Project No. CUW35201, Alameda Creek Recapture on June 22, 2017. If the Motion is adopted by the Planning Commission, then the proposed Resolution will be considered by this Commission.</p>
Recommendation:	<p>SFPUC staff recommends that this Commission adopt the attached resolution.</p>
Attachments:	<ol style="list-style-type: none"> 1. California Environmental Quality Act Findings 2. Mitigation Monitoring and Reporting Program

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. _____

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff have developed a project description under the Water System Improvement Program (WSIP) for the improvements to the regional water supply system, otherwise known as Project No. CUW35201, Alameda Creek Recapture Project (the “Project”); and

WHEREAS, The objectives of the Project are to recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam (ACDD), respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system; maximize local watershed supplies; and maximize the use of existing SFPUC facilities and infrastructure; and

WHEREAS, On June 22, 2017, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2015-004827ENV, consisting of the Draft Environmental Impact Report (EIR) and the Comments and Responses document, and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion No. _____; and

WHEREAS, This Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project and the EIR; and

WHEREAS, The Project and EIR files have been made available for review by the SFPUC and the public, and those files are part of the record before this Commission; and

WHEREAS, The Planning Department, Jonas P. Ionin, is the custodian of records, located in File No. 2015-004827ENV, at 1650 Mission Street, Fourth Floor, San Francisco, California; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA (CEQA Findings), and a proposed Mitigation, Monitoring and Reporting Program (MMRP), which material was made available to the public and the Commission for the Commission’s review, consideration and action; and

WHEREAS, The Project is a capital improvement project approved by this Commission as part of the WSIP; and

WHEREAS, A Final Programmatic EIR (PEIR) was prepared for the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No. 17734; and

WHEREAS, Thereafter, the SFPUC approved the WSIP and adopted findings and a MMRP as required by CEQA on October 30, 2008 by Resolution No. 08-200; and

WHEREAS, The Final EIR prepared for the Project is tiered from the WSIP PEIR, as authorized by and in accordance with CEQA; and

WHEREAS, The WSIP PEIR has been made available for review by the SFPUC and the public, and is part of the record before this Commission; and

WHEREAS, Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state regulatory agencies, including but not limited to the following: San Francisco Bay Regional Water Quality Control Board, State Water Resources Control Board Division of Drinking Water, Bay Area Air Quality Management District, California Department of Fish and Wildlife, and any other regulatory approvals as required; and

WHEREAS, For portions of the City-owned SFPUC watershed lands in the vicinity of where the Project work will occur, the SFPUC has issued easements, leases, permits, or licenses to certain parties to use watershed lands for various purposes, and in some instances other parties hold property rights or interests on lands along, over, under, adjacent to or in the vicinity of the watershed lands that may be affected by the Project; and

WHEREAS, The Project may require the SFPUC General Manager to apply for and execute various necessary permits, encroachment permits, temporary and permanent right-of-way agreements, or other approvals, and those permits shall be consistent with SFPUC existing fee or easement interests, where applicable, and will include terms and conditions including, but not limited to, maintenance, repair and relocation of improvements and possibly indemnity obligations; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the FEIR, finds that the FEIR is adequate for its use as the decision-making body for the actions taken herein, and hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached hereto as Attachment A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Attachment B and incorporated herein as part of this Resolution by this reference thereto, and authorizes a request to the Board of Supervisors to adopt the same CEQA findings, Statement of Overriding Considerations, and MMRP that are necessary in connection with the release of funding for project construction; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's watershed lands, new or amended easements, leases, permits, licenses, encroachment removal, or other project related agreements (each, a Use Instrument) with respect to uses and structures, fences, and other above-ground or subterranean improvements or interests; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to negotiate and execute revisions to Lease No. 4289 with Mission Valley Rock Company if such revisions are necessary for the construction of project structures by removing areas from the leased premises, with no other material changes to the lease terms, and to seek Board of Supervisors approval of the lease modification under Charter section 9.118; and be it

FURTHER RESOLVED, That this Commission hereby approves Project No. CUW35201, Alameda Creek Recapture Project, and authorizes staff to proceed with actions necessary to implement the Project consistent with this Resolution, including advertising for construction bids, provided, however, that staff will return to seek Commission approval for award of the construction contract.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of June 23, 2017.

Secretary, Public Utilities Commission

Alameda Creek Recapture Project
California Environmental Quality Act Findings:
Findings of Fact, Evaluation of Mitigation Measures and
Alternatives
San Francisco Public Utilities Commission

In determining to approve the Alameda Creek Recapture Project ("ACRP" or "Project") described in Section I, Project Description, below, the San Francisco Public Utilities Commission ("SFPUC" or "Commission") makes and adopts the following findings of fact and decisions regarding mitigation measures and alternatives, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 et seq., particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA ("CEQA Guidelines"), 14 California Code of Regulations Sections 15000 et seq., particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code.

This document is organized as follows:

Section I provides a description of the Project proposed for adoption, the environmental review process for the Project Environmental Impact Report (the "Final EIR" or "EIR"), Planning Department Case No., 2015-004827ENV, State Clearinghouse No. 2015062072, the approval actions to be taken and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Section III identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures;

Section IV identifies significant impacts that cannot be avoided or reduced to less-than-significant levels and describes any applicable mitigation measures as well as the disposition of the mitigation measures; and

Section V evaluates the different Project alternatives and the economic, legal, social, technological and other considerations that support approval of the Project and the rejection of alternatives, or elements thereof, analyzed.

Section VI presents a statement of overriding considerations setting forth specific reasons in support of the Commission's actions and rejection of alternatives not incorporated into the Project.

The Mitigation Monitoring and Reporting Program ("MMRP") for the mitigation measures that have been proposed for adoption is attached with these findings as **Attachment B to Resolution No. XX-XXXX**. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. Attachment B provides a table setting forth each mitigation measure listed in the Final Environmental Impact Report for the Project ("Final EIR") that is required to reduce or avoid a significant adverse impact. Attachment B also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in Attachment B.

These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report ("Draft EIR" or "DEIR") or the Responses to Comments document in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

I. Approval of the Project

A. Project Description

By this action, the SFPUC adopts and implements the ACRP identified in the Final EIR. The Project as adopted by the Commission is described in detail in the Draft EIR at pages 3-8 through 3-32. Clarifications regarding the Project description are contained in the Responses to Comments document in Section 12.2.2. A summary of the key components of the Project follows.

The ACRP would include the construction of several improvements in and around quarry Pit F2 to pump recaptured water from the quarry pit and convey it to existing water supply infrastructure in the SFPUC Alameda Watershed. Specifically, the Project adopted by the SFPUC includes installation and/or construction of the following:

- Four 400-horsepower vertical turbine pumps on floating barges centrally located in Pit F2, approximately 400 feet from the shore, with a mooring system to secure the floating barges.
- Four 700-foot-long, 16-inch-diameter high density polyethylene (HDPE) flexible discharge pipelines extending from each vertical turbine pump to a new pipe manifold located on shore.
- A 100-foot-long, 36-inch-diameter welded steel pipeline connection between the new pipe manifold and the existing Sunol Pump Station Pipeline.
- Throttling valves and a flow meter.
- An electrical control building.
- An electrical transformer, and up to fifteen power and fiber optic line poles, and 1,800 feet of overhead power lines extending from HHWP Calaveras Electrical Substation to the new electrical control building (alternatively, if the HHWP Calaveras Electrical Substation cannot

meet the power needs of the ACRP, power would come from the PG&E Sunol Electrical Substation).

- In addition, approximately 2,800 feet of overhead fiber optic communication lines would extend from the HHWP Calaveras Electrical Substation to the new electrical control building below the overhead power lines along the new and existing power poles.

B. Project Objectives

The primary goal of the ACRP is to recapture water that the SFPUC will release from Calaveras Reservoir and bypass around the Alameda Creek Diversion Dam (ACDD) when the SFPUC implements the instream flow schedules required as part of the regulatory permits for future operations of Calaveras Reservoir. The recaptured water would maintain the historical contribution from the Alameda Watershed to the SFPUC regional water system, in accordance with the CCSF existing water rights. The project-specific objectives of the ACRP are as follows:

- Recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam, respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system.
- Minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system.
- Maximize local watershed supplies.
- Maximize the use of existing SFPUC facilities and infrastructure.
- Provide a sufficient flow to the Sunol Valley Water Treatment Plant to meet its minimum operating requirements.

In addition, the Project is part of the SFPUC's adopted Water System Improvement Program ("WSIP") adopted by this Commission on October 30, 2008 (see Section C.1). The WSIP consists of over 70 local and regional facility improvement projects that would increase the ability of the SFPUC's water supply system to withstand major seismic events and prolonged droughts and to meet estimated water-purchase requests in the service areas. The overall goals of the WSIP for the regional water system are to:

- Maintain high-quality water.
- Reduce vulnerability to earthquakes.
- Increase water delivery reliability.
- Meet customer water supply needs.
- Enhance sustainability.
- Achieve a cost-effective, fully operational system.

The Project would help meet WSIP goals by maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system, thereby increasing water delivery reliability and meeting customer supply needs.

C. Environmental Review

1. Water System Improvement Program Environmental Impact Report

On October 30, 2008, the SFPUC approved the Water System Improvement Program (also known as the “Phased WSIP”) with the objective of repairing, replacing, and seismically upgrading the system’s aging pipelines, tunnels, reservoirs, pump stations, and storage tanks (SFPUC, 2008; SFPUC Resolution No. 08-0200). The WSIP improvements span seven counties—Tuolumne, Stanislaus, San Joaquin, Alameda, Santa Clara, San Mateo, and San Francisco (see SFPUC Resolution No. 08-0200).

To address the potential environmental effects of the WSIP, the San Francisco Planning Department prepared a Program EIR (“PEIR”), which was certified by the San Francisco Planning Commission on October 30, 2008 (Motion No. 17734). At a project-level of detail, the PEIR evaluated the environmental impacts of the WSIP’s water supply strategy and, at a program level of detail, it evaluated the environmental impacts of the WSIP’s facility improvement projects. The PEIR contemplated that additional project-level environmental review would be conducted for the facility improvement projects, including the Alameda Creek Recapture Project.

2. Alameda Creek Recapture Project Environmental Impact Report

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the Environmental Planning (“EP”) staff of the San Francisco Planning Department, as lead agency, prepared a Notice of Preparation (“NOP”) and conducted a scoping meeting for the Project EIR. The San Francisco Planning Department released the NOP on June 24, 2015, held a scoping meeting on July 9, 2015 in Sunol, and accepted written comments on the NOP through July 27, 2015.

EP distributed the NOP to the State Clearinghouse, and mailed notices of the availability of the NOP to approximately 600 interested parties, including property owners and tenants within 300 feet of the proposed Project. The scoping meeting was noticed in local newspapers. Approximately 11 people attended the meeting.

The San Francisco Planning Department received four verbal comments at the scoping meeting and eleven written comment letters. The comment inventories are included in the Scoping Report in Appendix A of the EIR.

The San Francisco Planning Department then prepared the Draft EIR, which described the Project and the environmental setting, identified potential impacts, presented mitigation measures for impacts found to be significant or potentially significant, and evaluated Project alternatives. The Draft EIR analyzed the impacts associated with each of the key components of the Project, and identified mitigation measures applicable to reduce impacts found to be significant or potentially

significant for each key component. It also included an analysis of two alternatives to the Project. In assessing construction and operational impacts of the Project, the EIR considered the impacts of the Project as well as the cumulative impacts associated with the proposed Project in combination with other past, present, and future actions that could affect the same resources.

Each environmental issue presented in the Draft EIR was analyzed with respect to significance criteria that are based on EP guidance regarding the environmental effects to be considered significant. EP guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

The Draft EIR was circulated for public comment on November 30, 2016 for a 62-day comment period, which closed at 5:00pm on January 30, 2017. The San Francisco Planning Commission held a public hearing on the Draft EIR to accept written or oral comments at San Francisco City Hall on January 5, 2017. During the public review period, the Planning Department received written comments sent through the mail, fax, or email. A court reporter was present at the public hearing, transcribed the public hearing verbatim, and prepared a written transcript.

The Planning Department then prepared the Responses to Comments document, which provided written responses to each comment received on the Draft EIR. The Responses to Comments document was published on June 7, 2017 and included copies of all of the comments received on the Draft EIR and individual responses to those comments. The Responses to Comments provided additional, updated information and clarification on issues raised by commenters, as well as SFPUC and Planning Department staff-initiated text changes to address Project updates. The Planning Commission reviewed and considered the Final EIR, which includes the Draft EIR and the Responses to Comments document, and all of the supporting information. The Final EIR provided augmented and updated information presented in the Draft EIR, on the following topics: project description, baseline conditions, cultural resources, terrestrial biological and fishery resources, hydrology and water quality, alternatives, and EIR authors and consultants. This augmentation and update of information in the Draft EIR did not constitute new information or significance that altered any of the conclusions of the EIR.

In certifying the Final EIR, the Planning Commission determined that none of the factors are present that would necessitate recirculation of the Final EIR under CEQA Guidelines Section 15088.5. The Final EIR contains no information revealing (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible Project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project's proponents, or (4) that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. This Commission concurs in that determination.

The Commission finds that the Project is within the scope of the Project analyzed in the Final EIR and the Final EIR fully analyzed the Project proposed for approval. No new impacts have been identified that were not analyzed in the Final EIR.

D. Approval Actions

Under San Francisco's Administrative Code Chapter 31 procedures, the San Francisco Planning Commission certifies the Final EIR as complete and all approving bodies subject to CEQA adopt CEQA findings at the time of the approval actions. Anticipated approval actions are listed below.

1. San Francisco Public Utilities Commission

The SFPUC is taking the following actions and approvals to implement the Project:

- Adopts these CEQA findings and the attached Mitigation Monitoring and Reporting Program.
- Approves the Project, as described in these findings, and authorizes the General Manager or his designee to obtain necessary permits, consents, agreements and approvals as set forth in the Commission's Resolution No. 15-0187 approving the Project to which this Attachment A is attached.

2. San Francisco Board of Supervisors Actions

- Considers any appeal of the Planning Commission's certification of the Final EIR.
- Approves an allocation of bond monies to pay for implementation of the project.

3. Other – Federal, State, and Local Agencies

Implementation of the Project may involve consultation with or required approvals by other local, state, and federal regulatory agencies, including (but not limited to) the following:

- United States Fish and Wildlife Service (USFWS) (ESA consultation)
- California Department of Water Resources (construction access approval)
- State Water Resources Control Board Division of Drinking Water (amendment to domestic water supply permit)
- California Regional Water Quality Control Board, San Francisco Bay Region (construction general permit)
- California Department of Fish and Wildlife (CDFW) (Section 2081 incidental take permit)
- Bay Area Air Quality Management District (authority to construct permit)
- State Water Resources Control Board (NPDES permit)

To the extent that the identified mitigation measures require consultation or approval by these other agencies, this Commission urges these agencies to assist in implementing, coordinating, or approving the mitigation measures, as appropriate to the particular measure.

E. Contents and Location of Records

The record upon which all findings and determinations related to the Project are based (“Record of Proceedings”) includes the following:

- The Draft EIR and all documents referenced in or relied upon by the EIR. (The references in these findings to the EIR or Final EIR include both the Draft EIR and the Comments and Responses document.)
- The PEIR for the Phased WSIP Variant, which is incorporated by reference in the Alameda Creek Recapture Project EIR.
- All information (including written evidence and testimony) provided by City staff to the SFPUC and Planning Commission relating to the EIR, the Project, and the alternatives set forth in the EIR.
- All information (including written evidence and testimony) presented to the SFPUC and the Planning Commission by the environmental consultant and sub-consultants who prepared the EIR or that was incorporated into reports presented to the SFPUC.
- All information presented at any public hearing or workshop related to the Project and the EIR.
- The Mitigation Monitoring and Reporting Program.
- All other documents available to the SFPUC and the public, comprising the administrative record pursuant to Public Resources Code Section 21167.6(e).

The Commission has relied on all of the information listed above in reaching its decision on the Project, even if not every document was formally presented to the SFPUC. Without exception, these documents fall into one of two categories. Many documents reflect prior planning or legislative decisions that the SFPUC was aware of in approving the Project. Other documents influenced the expert advice provided to Planning Department staff or consultants, who then provided advice to the SFPUC. For these reasons, such documents form part of the underlying factual basis for the SFPUC’s decisions relating to the adoption of the Project.

The public hearing transcript, a copy of all letters regarding the Draft EIR received during the public review period, the administrative record, and background documentation for the Final EIR are available at the San Francisco Planning Department, 1650 Mission Street, San Francisco. **Jonas P. Ionin**, Commission Secretary, is the Custodian of Records for the Planning Department Materials concerning approval of the Project and adoption of these findings are contained in SFPUC files, **SFPUC Project No. CUW35301** in the Bureau of Environmental Management, San Francisco Public Utilities Commission, 525 Golden Gate Avenue, San Francisco, California 94102. The Custodian of Records is **Bill Idzerda**. All files have been made available to the

SFPUC and the public for review in considering these findings and whether to approve the Project.

F. Findings about Significant Environmental Impacts and Mitigation Measures

The following Sections II, III, and IV set forth the SFPUC's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the SFPUC regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the SFPUC as part of the Project. To avoid duplication and redundancy, and because the SFPUC agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the analysis and conclusions in the Final EIR but instead incorporate them by reference and rely upon them as substantial evidence supporting these findings.

In making these findings, the SFPUC has considered the opinions of SFPUC staff and experts, other agencies, and members of the public. The SFPUC finds that (i) the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; (ii) the significance thresholds used in the EIR are supported by substantial evidence in the record, including the expert opinion of the EIR preparers and City staff; and (iii) the significance thresholds used in the EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the SFPUC is not bound by the significance determinations in the EIR (see Public Resources Code, Section 21082.2, subdivision (e)), the SFPUC finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the determination regarding the project impact and mitigation measures designed to address those impacts. In making these findings, the SFPUC ratifies, adopts and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the SFPUC adopts and incorporates all of the mitigation measures set forth in the Final EIR and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. The SFPUC intends to adopt each of the mitigation measures proposed in the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the Final EIR due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall

control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

In Sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding dozens of times to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the SFPUC rejecting the conclusions of the Final EIR or the mitigation measures recommended in the Final EIR for the Project.

II. Impacts Found Not To Be Significant and Thus Do Not Require Mitigation

Under CEQA, no mitigation measures are required for impacts that are less than significant (Public Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subdivision (a)(3), 15091). Based on the evidence in the whole record of this proceeding, the SFPUC finds that the implementation of the Project will result in no impacts in the following areas: project-level impacts to population and housing¹, wind and shadow, and public services. These subjects are not further discussed in these findings.

The SFPUC further finds that implementation of the Project will not result in any significant impacts in the following areas and that these impact areas therefore do not require mitigation:

Land Use

- **Impact LU-1:** Project construction would not have a substantial impact on the existing character of the vicinity. (DEIR Section 5.2.3.3, Page 5.2-4)
- **Impact LU-2:** Project operations would not conflict with any applicable land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect. (DEIR Section 5.2.3.4, Pages 5.2-5 to 5.2-6)
- **Impact LU-3:** Project operations would not impact the existing character of the vicinity. (DEIR Section 5.2.3.4, Page 5.2-6)
- **Impact C-LU:** The Project would not have a cumulative impact on land use. (DEIR Section 5.2.3.5, Pages 5.2-7 to 5.2-8)

Aesthetics

- **Impact AE-1:** Project construction would not have an adverse effect on a scenic vista, scenic resource, or the existing visual character or quality of the site and its surroundings. (DEIR Section 5.3.3.3, Pages 5.3-8 to 5.3-9)

¹ As part of the WSIP, the Project would contribute to the growth-inducing impacts considered in the WSIP PEIR. See Section IV.B of these Findings.

- **Impact AE-2:** The proposed project would not have long-term adverse effects on scenic vistas and scenic resources or degrade the visual character of the site and its surroundings. (DEIR Section 5.3.3.4, Pages 5.3-10 to 5.3-12)
- **Impact AE-3:** The Project would not result in a substantial source of light or glare. (DEIR Section 5.3.3.4, Page 5.3-13)
- **Impact C-AE:** The Project would not have a cumulative impact on aesthetics. (DEIR Section 5.3.3.5, Pages 5.3-13 to 5.3-15)

Transportation and Circulation

- **Impact TR-1:** Construction of the proposed project would not substantially conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of travel. (DEIR Section 5.6.3.3, Pages 5.6-7 to 5.6-10)
- **Impact TR-2:** Project construction activities would not result in inadequate emergency access. (DEIR Section 5.6.3.3, Page 5.6-11)
- **Impact TR-3:** Project construction activities could decrease the safety of public roadways for vehicles, bicyclists, and pedestrians. (DEIR Section 5.6.3.3, Pages 5.6-11 to 5.6-12)
- **Impact TR-4:** Project operations and maintenance activities would not substantially alter transportation conditions, increase vehicle miles travelled (VMT), and would not cause conflicts with emergency vehicle, transit, bicycle, and pedestrian travel. (DEIR Section 5.6.3.3, Page 5.6-12)
- **Impact C-TR:** The project, in combination with past, present, and probable future projects, would not substantially affect transportation and circulation. (DEIR Section 5.6.3.4, Pages 5.6-12 to 5.6-14)

Noise and Vibration

- **Impact NO-1:** Construction of the project would not result in a substantial temporary increase in ambient noise levels at the closest residential receptors, and would not expose persons to substantial noise levels in excess of standards established in the Alameda County Noise Ordinance. (DEIR Section 5.7.3.3, Pages 5.7-14 to 5.7-16)
- **Impact NO-2:** Construction activities would not result in excessive groundborne vibration. (DEIR Section 5.7.3.3, Pages 5.7-16 to 5.7-17)
- **Impact NO-3:** Project operations would not result in a substantial increase in ambient noise levels in the project vicinity or significant impacts related to the exposure of people to noise levels in excess of standards established by the Alameda County Noise Ordinance. (DEIR Section 5.7.3.4, Pages 5.7-17 to 5.7-18)
- **Impact C-NO:** The Project would not have significant cumulative noise or vibration impacts. (DEIR Section 5.7.3.5, Pages 5.7-18 to 5.7-21)

Air Quality

- **Impact AQ-2:** Project construction activities would not create objectionable odors affecting a substantial number of people. (DEIR Section 5.8.3.3, Pages 5.8-15 to 5.8-16)

Greenhouse Gas Emissions

- **Impact C-GG-1:** Project construction and operation would not generate GHG emissions that could have a significant impact on the environment, or conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. (DEIR Section 5.9.3.3, Pages 5.9-12 to 5.9-15)

Recreation

- **Impact RE-1:** The proposed project would not substantially degrade existing recreational uses during construction. (DEIR Section 5.11.3.3, Pages 5.11-4 to 5.11-5)
- **Impact C-RE:** The Project would not have a significant cumulative impact on recreation. (DEIR Section 5.11.3.4, Pages 5.11-5 to 5.11-6)

Utilities and Service Systems

- **Impact UT-1:** Project construction would not result in a substantial adverse effect related to landfill capacity. (DEIR Section 5.12.3.3, Page 5.12-7)
- **Impact UT-2:** Project construction would not result in a substantial adverse effect related to compliance with federal, state, and local statutes and regulations pertaining to solid waste. (DEIR Section 5.12.3.3, Page 5.12-8)
- **Impact C-UT:** The Project would not have a significant cumulative impact on utilities and service systems. (DEIR Section 5.12.3.4, Pages 5.12-8 to 5.12-9)

Biological Resources

- **Impact BI-4:** Project construction would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (DEIR Section 5.14.4.3, Pages 5.14-91 to 5.14-92)
- **Impact BI-5:** Project operations would not have a substantial adverse effect on special-status species. (DEIR Section 5.14.4.4, Pages 5.14-92 to 5.14-97)
- **Impact BI-7:** Project operations would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (DEIR Section 5.14.4.4, Pages 5.14-103 to 5.14-104)
- **Impact BI-9:** Construction of the proposed project would not degrade the quality of habitat in Alameda Creek or interfere with the movement of common native fish species. (DEIR Section 5.14.7.3, Pages 5.14-142 to 5.14-143)

- **Impact BI-10:** Project operations would not degrade the quality of habitat in Alameda Creek or substantially interfere with the movement of common native fish species. (DEIR Section 5.14.7.4, Pages 5.14-143 to 5.14-144)
- **Impact BI-11:** Project operations would not substantially interfere with the movement or migration of special-status fish species, including CCC steelhead DPS. (DEIR Section 5.14.7.4, Pages 5.14-144 to 5.14-148)
- **Impact BI-12:** Construction and operation of the proposed project would not conflict with local policies or ordinances protecting fisheries resources. (DEIR Section 5.14.7.4, Pages 5.14-148 to 5.14-149)
- **Impact C-BI-2:** The project, in combination with past, present, and probable future projects, would not substantially affect fisheries resources. (DEIR Section 5.14.7.5, Pages 5.14-149 to 5.14-151)

Geology and Soils

- **Impact GE-1:** The project would not be located on a geologic unit that could become unstable as a result of project construction. (DEIR Section 5.15.3.3, Pages 5.15-21 to 5.15-23)
- **Impact GE-2:** Project construction would not result in substantial soil erosion and loss of topsoil. (DEIR Section 5.15.3.3, Pages 5.15-23 to 5.15-24)
- **Impact GE-4:** The project would not be located on a geologic unit that could become unstable as a result of project operations. (DEIR Section 5.15.3.4, Page 5.15-26.)
- **Impact GE-5:** Project operations would not result in substantial soil erosion or loss of topsoil. (DEIR Section 5.15.3.4, Page 5.15-27.)
- **Impact GE-6:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to rupture of a known earthquake fault. (DEIR Section 5.15.3.4, Page 5.15-28.)
- **Impact GE-7:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to seismically-induced groundshaking. (DEIR Section 5.15.3.4, Pages 5.15-28 to 5.15-29.)
- **Impact GE-8:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to seismically-induced ground failure, including liquefaction, lateral spreading, or settlement. (DEIR Section 5.15.3.4, Page 5.15-29.)
- **Impact GE-9:** The project would not expose people or structures to substantial adverse effects related to the risk of property loss, injury, or death due to seismically-induced landslides or other slope failures. (DEIR Section 5.15.3.4, Page 5.15-30.)

- **Impact GE-10:** The project would not create substantial risks to life or property due to expansive or corrosive soils. (DEIR Section 5.15.3.4, Page 5.15-31.)
- **Impact GE-11:** The project would not substantially change the topography or any unique geologic or physical features of the project area. (DEIR Section 5.15.3.4, Pages 5.15-31 to 5.15-32.)

Hydrology and Water Quality

- **Impact HY-1:** Project construction would not substantially degrade water quality as a result of dewatering effluent discharges, increased soil erosion and sedimentation of downstream water bodies, or an accidental release of hazardous materials. (DEIR Section 5.16.4.3, Pages 5.16-65 to 5.16-69)
- **Impact HY-2:** Operation of the ACRP would not substantially alter the movement of subsurface water or substantially affect groundwater recharge in the Sunol Valley such that it would affect the production rate of pre-existing nearby wells. (DEIR Section 5.16.4.3, Pages 5.16-69 to 5.16-71)
- **Impact HY-3:** Operation of the ACRP would not substantially alter water quality in Alameda Creek. (DEIR Section 5.16.4.3, Page 5.16-71)
- **Impact HY-4:** Operation of the ACRP would not alter flood hazards. (DEIR Section 5.16.4.3, Pages 5.16-72 to 5.16-73)
- **Impact HY-5:** Operation of the ACRP would not cause downstream water users, as a result of project-induced flow changes, to alter their operations in a way that would result in significant adverse environmental impacts. (DEIR Section 5.16.4.3, Pages 5.16-73 to 5.16-77)
- **Impact C-HY:** The project, in combination with past, present, and probable future projects, would not substantially affect hydrology and water quality. (DEIR Section 5.16.4.3, Pages 5.16-77 to 5.16-79)

Hazards and Hazardous Materials

- **Impact HZ-1:** Project construction would not result in a substantial adverse effect related to reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. (DEIR Section 5.17.3.3, Pages 5.17-12 to 5.17-14)
- **Impact HZ-2:** Project construction would not result in a substantial adverse effect related to accident conditions involving the release of hazardous construction chemicals into the environment. (DEIR Section 5.17.3.3, Pages 5.17-14 to 5.17-15)
- **Impact HZ-3:** Project construction would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. (DEIR Section 5.17.3.3, Page 5.17-15)
- **Impact HZ-4:** Project construction would not expose people or structures to a significant risk of property loss, injury, or death involving fires. (DEIR Section 5.17.3.3, Pages 5.17-15 to 5.17-16)

- **Impact HZ-5:** Project operations would not result in a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. (DEIR Section 5.17.3.4, Pages 5.17-16 to 5.17-17)
- **Impact C-HZ:** The project, in combination with past, present, and probable future projects, would not substantially affect hazards and hazardous materials. (DEIR Section 5.17.3.5, Pages 5.17-17 to 5.17-18)

Mineral and Energy Resources

- **Impact ME-1:** Project construction would not result in the temporary loss of availability of known mineral resources that would be of value to the region or residents of the state, or the temporary loss of availability of a locally important mineral resource recovery site. (DEIR Section 5.18.3.3, Page 5.18-9)
- **Impact ME-2:** Project construction would not result in substantial adverse effects related to the use of large amounts of fuel or energy, or the use of these resources in a wasteful manner. (DEIR Section 5.18.3.3, Pages 5.18-9 to 5.18-10)
- **Impact ME-3:** Project operations would not result in the permanent loss of availability of known mineral resources that would be of value to the region or residents of the state, or the permanent loss of availability of a locally important mineral resource recovery site. (DEIR Section 5.18.3.4, Page 5.18-10)

Agriculture and Forest Resources

- **Impact AG-1:** Implementation of the proposed project would not result in the conversion of Unique Farmland, as shown on the maps pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. (DEIR Section 5.19.3.3, Pages 5.19-7 to 5.19-8)
- **Impact C-AG:** The project, in combination with past, present, and probable future projects, would not substantially affect agricultural and forestry resources. (DEIR Section 5.19.3.4, Pages 5.19-8 to 5.19-10)

III. Findings of Potentially Significant or Significant Impacts That Can Be Avoided or Reduced to a Less-Than-Significant Level through Mitigation and the Disposition of the Mitigation Measures

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potentially significant impacts if such measures are feasible (unless mitigation to such levels is achieved through adoption of a project alternative). The findings in this Section III and in Section IV concern mitigation measures set forth in the EIR. These findings discuss mitigation measures as proposed in the EIR and recommended for adoption by the SFPUC, which can be implemented by the SFPUC. The mitigation measures proposed for adoption in this section and referenced following each Project impact discussed in this Section III, are the same as the mitigation measures identified in the Final EIR for the Project. The full text of each mitigation measure listed in this section is contained in the Final

EIR and in Attachment B, the MMRP. Attachment B identifies the SFPUC as the agency responsible for the implementation of all mitigation measures and establishes monitoring actions and a monitoring schedule.

This Commission recognizes that some of the mitigation measures are partially within the jurisdiction of other agencies. The agencies and measures are:

- USFWS (Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species and Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation);
- CDFW (Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation; Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl; Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species; and Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger); and
- San Francisco Planning Department (Mitigation Measure M-CUL-1: Accidental Discovery of Archaeological Resources; Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains; Mitigation Measure M-AQ 1: BAAQMD Basic Construction Measures; Mitigation Measure M-BI-6a: Baseline Riparian Habitat Mapping; Mitigation Measure M-BI-6b: Annual Riparian Habitat Monitoring and Reporting; Mitigation Measure M-BI-6c: Habitat Enhancement, Subreaches B and C1 to Achieve No Net Loss of Tree-Supporting Riparian Alliances; and Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources).

The Commission urges these remaining agencies to assist in implementing these mitigation measures and finds that these agencies can and should participate in implementing these mitigation measures.

The Commission adopts all of the mitigation measures proposed for the Project. The Commission finds that all of the mitigation measures are appropriate and feasible and that changes or alternations will be required in, or incorporated into, the Project that mitigate or avoid the significant environmental effects as identified in the Final EIR. The Commission finds that for the reasons set forth in the Final EIR and elsewhere in the record, the impacts identified in this section would be reduced to a less-than-significant level through implementation of the mitigation measures identified in this section.

Project Impacts

Cultural Resources

Impact CUL-1: Project construction could cause a substantial adverse change in the significance of an archaeological resource that qualifies as a historical or unique archaeological resource. (DEIR Section 5.5.3.3, Pages 5.5-22 to 5.5-23)

Implementation of Mitigation Measure M-CUL-1 would reduce any impacts on previously unrecorded and buried (or otherwise obscured) archaeological deposits to *less-than-significant* levels by requiring the SFPUC and its contractors to adhere to the appropriate procedures and protocols to identify and appropriately treat possible archaeological resources discovered during ACRP construction activities.

- *Mitigation Measure M-CUL-1: Accidental Discovery of Archaeological Resources.*

Impact CUL-2: Project construction could result in a substantial adverse effect related to the disturbance of human remains. (DEIR Section 5.5.3.3, Page 5.5-24)

Implementation of Mitigation Measure M-CUL-2 would reduce any impacts on buried human remains and associated or unassociated funerary objects that are accidentally discovered during project construction activities to *less-than-significant* levels by requiring the SFPUC to solicit the Most Likely Descendant's recommendations and adhere to appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition protocols.

- *Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains.*

Impact C-CUL: The project, in combination with past, present, and probable future projects, could substantially affect cultural resources. (DEIR Section 5.5.3.4, Pages 5.5-24 to 5.5-25)

See Impacts CUL-2, and CUL-2. Implementation of the listed mitigation measures would reduce the Project's contribution to cumulative impacts on archaeological resources and human remains encountered during construction to a *less-than-significant* level.

- *Mitigation Measure M-CUL-1: Accidental Discovery of Archaeological Resources.*
- *Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains.*

Air Quality

Impact AQ-1: Emissions generated during project construction activities could violate air quality standards and contribute substantially to an existing air quality violation. (DEIR Section 5.8.3.3, Pages 5.8-13 to 5.8-15)

Implementation of Mitigation Measure M-AQ-1 (BAAQMD Basic Construction Measures) would reduce any impacts from fugitive dust during ACRP construction to *less-than-significant* levels by requiring implementation of best management practices to minimize dust emissions, criteria pollutants, and precursor emissions associated with project construction.

- *Mitigation Measure M-AQ 1a: BAAQMD Basic Construction Measures.*

Impact AQ-3: Implementation of the proposed project could conflict with or obstruct implementation of the 2010 Clean Air Plan. (DEIR Section 5.8.3.3, Page 5.8-16)

The project would be consistent with applicable Clean Air Plan control measures and would not hinder implementation of the Clean Air Plan by implementing Mitigation Measure M-AQ-1 (BAAQMD Basic Construction Measures). This measure would reduce construction-related pollutant emission to a *less-than-significant* levels by requiring best management practices to minimize criteria pollutants.

- *Mitigation Measure M-AQ 1a: BAAQMD Basic Construction Measures.*

Impact C-AQ: The project, in combination with past, present, and probable future projects, could substantially affect air quality. (DEIR Section 5.8.3.4, Page 5.8-17)

See Impact AQ-1. Implementation of the listed mitigation measure would reduce the Project's contribution to cumulative impacts to a less-than-significant level.

- *Mitigation Measure M-AQ 1a: BAAQMD Basic Construction Measures.*

Terrestrial Biological & Fishery Resources

Impact BI-1: Construction of the proposed project could have a substantial adverse effect on special-status species. (DEIR Section 5.14.4.3, Pages 5.14-75 to 5.14-88)

Implementation of Mitigation Measures M-BI-1a through M-BI-1i would reduce any potential impacts on special-status species to *less-than-significant* levels by requiring general protection measures, worker training and awareness programs, preconstruction surveys, vegetation restoration plan and compensatory mitigation, and specific minimization and avoidance measures.

- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas.*
- *Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*
- *Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl.*
- *Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species.*
- *Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures.*

- *Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger.*

Impact BI-2: Construction of the proposed project could have a substantial adverse effect on riparian habitat and other sensitive habitats. (DEIR Section 5.14.4.3, Pages 5.14-88 to 5.14-89)

Implementation of Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands) and Mitigation Measures M-BI-1a, 1b, and 1e (General Protection Measures, Worker Training and Awareness Program, Vegetation Restoration Plan and Compensatory Mitigation, respectively) would reduce impacts on riparian habitat to *less-than-significant* levels by requiring fencing adjacent to riparian habitats and slope stabilization to protect water quality in receiving water bodies during construction activities, requiring general protection measures, requiring worker training regarding the resources present, and establishing protocols and performance standards for revegetation and restoration activities for impacted upland areas.

- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*
- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*

Impact BI-3: Construction of the proposed project could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means. (DEIR Section 5.14.4.3, Pages 5.14-90 to 5.14-91)

Implementation of Mitigation Measures M-BI-1a, 1b, and 1e (General Protection Measures, Worker Training and Awareness Program, Vegetation Restoration Plan and Compensatory Mitigation, respectively) and Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands) would reduce impacts on riparian habitat to *less-than-significant* levels by requiring general protection measures, requiring worker training regarding the resources present, establishing protocols and performance standards for revegetation and restoration activities for impacted upland areas, and requiring fencing adjacent to wetlands and slope stabilization to protect water quality in receiving water bodies during construction activities.

- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*

- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*

Impact BI-6: Project operations could have a substantial adverse effect on riparian habitat or other sensitive natural community, including wetland habitats. (DEIR Section 5.14.4.4, Pages 5.14-97 to 5.14-103)

Implementation of Mitigation Measure M-BI-6a through M-BI-6c would reduce impacts on tree-supporting riparian vegetation alliances to *less-than-significant* levels by requiring mapping, monitoring, and habitat enhancement as appropriate.

- *Mitigation Measure M-BI-6a: Baseline riparian habitat mapping.*
- *Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.*
- *Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.*

Impact BI-8: Construction and operations of the proposed project could conflict with local policies or ordinances protecting biological resources. (DEIR Section 5.14.4.4, Pages 5.14-104 to 5.14-106)

Implementation of Mitigation Measures M-BI-1a through M-BI-1i, M-BI-2, and M-BI-6a through M-BI-6c would reduce impacts on biological resources to *less-than-significant* levels by implementing biological resources protection measures that would minimize conflict with the East County Area Plan.

- *Mitigation Measure M-BI-1a: General Protection Measures.*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program.*
- *Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas.*
- *Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake.*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.*
- *Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl.*
- *Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species.*
- *Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Any Special-Status Bats and Implement Avoidance and Minimization Measures.*
- *Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger.*

- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*
- *Mitigation Measure M-BI-6a: Baseline riparian habitat monitoring.*
- *Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.*
- *Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.*

Impact C-BI-1: The project, in combination with past, present, and probable future projects, could substantially affect terrestrial biological resources. (DEIR Section 5.14.4.5, Pages 5.14-106 to 5.14-113)

See Impacts BI-1, BI-2, BI-3, and BI-6. Implementation of the listed mitigation measures would reduce the Project's contribution to cumulative temporary impacts on biological resources to a less-than-significant level. In addition to mitigations previously discussed, Mitigation Measure M-C-BI would require the SFPUC to coordinate its implementation of mitigation measures with these other cumulative projects. By doing so, the SFPUC would reduce the project's contribution to any potential cumulative impacts to less than significant.

- *Mitigation Measure M-BI-1a: General Protection Measures*
- *Mitigation Measure M-BI-1b: Worker Training and Awareness Program*
- *Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas*
- *Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, Red-Legged Frog, and Alameda Whipsnake*
- *Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation*
- *Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl*
- *Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species*
- *Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures*
- *Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger*
- *Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands.*
- *Mitigation Measure M-C-BI: Coordination of Measures for Monitoring and Habitat Enhancement in Subreaches A, B, and C1*
- *Mitigation Measure M-BI-6a: Baseline riparian habitat monitoring.*
- *Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.*
- *Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.*

Geology and Soils

Impact GE-3: Project construction could result in a substantial adverse effect by directly or indirectly destroying a unique paleontological resource or site or unique geologic feature. (DEIR Section 5.15.3.3, Pages 5.15-24 to 5.15-26)

Implementation of Mitigation Measure M-GE-3, Accidental Discovery of Paleontological Resources, would reduce the Project's potential construction-related impacts on paleontological resources to *less-than-significant* levels by requiring that construction work be temporarily halted or diverted in the event of a paleontological resource discovery, and adherence to appropriate protocols for assessing and salvaging any potential fossil finds.

- *Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources.*

Impact C-GE: The project, in combination with past, present, and probable future projects, could substantially affect paleontological resources. (DEIR Section 5.15.3.5, Pages 5.15-32 to 5.15-33)

See Impacts GE-3. Implementation of the listed mitigation measure would reduce the Project's contribution to cumulative impacts on paleontological resources encountered during construction to a *less-than-significant* level.

- *Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources*

Mineral and Energy Resources

Impact ME-4: Project operations could encourage activities that use large amounts of fuel or energy, or the use of these resources in a wasteful manner. (DEIR Section 5.18.3.4, Pages 5.18-10 to 5.18-12)

Implementation of Mitigation Measure M-ME-4, Incorporation of Energy Efficient Measures, would reduce the Project's potential to use of fuel and energy to *less-than-significant* levels by requiring that energy efficient equipment be used.

- *Mitigation Measure ME-4: (WSIP PEIR Measure 4.15-2, Incorporation of Energy Efficiency Measures)*

Impact C-ME: The project, in combination with past, present, and probable future projects, could substantially affect energy resources. (DEIR Section 5.18.3.5, Pages 5.18-12 to 5.18-14)

See Impact ME-4. Implementation of the listed mitigation measure would reduce the Project's contribution to cumulative impacts on energy resources to a *less-than-significant* level.

- *Mitigation Measure ME-4: (WSIP PEIR Measure 4.15-2, Incorporation of Energy Efficiency Measures)*

IV. Significant Impacts That Cannot Be Avoided or Reduced to a Less-Than-Significant Level

ACRP Impact

Based on substantial evidence in the whole record of these proceedings, the SFPUC finds that, where feasible, changes or alterations have been required or incorporated into the Alameda Creek Restoration Project to reduce the significant environmental impacts as identified in the Final EIR for the Project. All Project-specific impacts will be reduced to a **less-than-significant level** with the implementation of the mitigation measures proposed in the Final EIR and set forth in the MMRP, attached hereto as Attachment B.

The SFPUC further finds, however, that the Project is a component of the WSIP and, therefore, will contribute to the significant and unavoidable impact caused by the WSIP water supply decision. For the WSIP impact listed below, the effect remains **significant and unavoidable**. The SFPUC determines that the following significant impact on the environment, as reflected in the Final PEIR, is unavoidable, but under Public Resources Code Section 21081(a) (3) and (b), and CEQA Guidelines Sections 15091(a) (3), 15092(b) (2) (B), and 15093, the SFPUC determines that the impact is acceptable due to the overriding considerations described in Section VI below. This finding is supported by substantial evidence in the record of this proceeding.

WSIP Impact

The WSIP PEIR and this Commission's Resolution No. 08-0200 related to the WSIP water supply decision identified three significant and unavoidable impacts of the WSIP: ***Impact 5.4.1-2-Stream Flow: Effects on flow along Alameda Creek below the Alameda Creek Division Dam; Impact 5.5.5-1-Fisheries: Effects on fishery resources in Crystal Springs reservoir (Upper and Lower); and Impact 7-1-Indirect growth inducing impacts in the SFPUC service area.*** Mitigation measures that were proposed in the PEIR were adopted by this Commission for these impacts; however, the mitigation measures could not reduce all the impacts to a less than significant level, and these impacts were determined to be significant and unavoidable. This Commission has already adopted the mitigation measures proposed in the PEIR to reduce these impacts when it approved the WSIP in its Resolution No. 08-0200. This Commission also adopted a Mitigation Monitoring and Reporting Program as part of that approval. The findings regarding the three impacts and mitigation measures for these impacts set forth in Resolution No.

08-0200 are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings.

Subsequent to the certification of the PEIR, the Planning Department has conducted more detailed, site-specific review of two of the significant and unavoidable water supply impacts identified in the PEIR. In the case of **Impact 5.5.5.-1**, the Project-level fisheries analysis in the Lower Crystal Springs Dam Improvement Project Final EIR modifies the PEIR impact determination based on more detailed site-specific data and analysis and determined that impacts on fishery resources due to inundation effects would be less than significant. Project-level conclusions supersede any contrary impact conclusions in the PEIR. The SFPUC adopted CEQA Findings with respect to the approval of the Lower Crystal Springs Dam Improvement Project in Resolution No. 10-0175. The CEQA Findings in Resolution No. 10-0175 related to the impacts on fishery resources due to inundation effects are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings.

In the case of **Impact 5.4.1-2**, the project level analysis in the Calaveras Dam Replacement project Final EIR modifies the PEIR determination and concludes that the impact related to stream flow along Alameda Creek between the diversion dam and the confluence with Calaveras Creek (PEIR Impact 5.4.1-2) will be less than significant based on more detailed, site-specific modeling and data. Project-level conclusions supersede any contrary impact conclusions in the PEIR. The SFPUC adopted CEQA Findings with respect to the approval of the Calaveras Dam Improvement Project in Resolution No. 11-0015. The CEQA Findings in Resolution No. 11-0015 related to the impacts on fishery resources due to inundation effects are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings.

The remaining significant and unavoidable water supply impact listed in Resolution No. 08-0200 is as follows, relating to **Impact 7-1**:

- **PEIR Impact 7-1 Indirect growth inducing impacts in the SFPUC service area.**

The WSIP would result in potentially significant and unavoidable indirect growth-inducement impacts in the SFPUC service area. By providing water to support planned growth in the SFPUC service area, the WSIP will result in significant and unavoidable growth inducement effects that primarily relate to secondary effects such as air quality, traffic congestion and water quality. (PEIR Chapter 7). The WSIP identified mitigation measures adopted by jurisdictions that have prepared general plans and related land use plans and major projects in the SFPUC service area to reduce the identified impacts of planned growth. A summary of projects reviewed under CEQA and mitigation measures identified are included in Appendix E, Section E.6 of the PEIR.

Despite the adoption of mitigation measures, some of the identified impacts of planned growth cannot be reduced to a less-than-significant level, and the WSIP, which has a longer planning horizon and somewhat different growth projections than some general plans, would be expected to result in impacts not addressed by adopted mitigation measures as summarized in the PEIR Chapter 7. Jurisdictions have adopted statements of overriding considerations in approving plans that support growth for which mitigation measures have not been identified and the SFPUC

adopted a statement of overriding considerations in approving the WSIP through Resolution No. 08-0200. Thus, some of the growth that the WSIP would support would result in secondary impacts that would remain **significant and unavoidable**.

V. Evaluation of Project Alternatives

This section describes the Project as well as alternatives and the reasons for approving the Project and for rejecting the alternatives as infeasible. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a “No Project” alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet Project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

A. Reasons for Approval of the Project

The overall goals of the WSIP for the regional water system are to:

- Maintain high-quality water and a gravity-driven system.
- Reduce vulnerability to earthquakes – deliver basic service to the three regions in the service area within 24 hours and restore facilities to meet average-day demand within 30 days after a major earthquake.
- Increase delivery reliability – allow planned maintenance shutdown without customer service interruption and minimize risk of service interruption from unplanned outages.
- Meet customer water supply needs through 2018 – meet average annual water purchase requests during non-drought years and meet dry-year delivery needs while limiting rationing to a maximum 20 percent systemwide; diversify water supply options during non-drought and drought years and improve use of new water resources, including the use of groundwater, recycled water, conservation and transfers.
- Enhance sustainability.
- Achieve a cost-effective, fully operational system.

The Project would help meet WSIP level-of-service goals and system performance objectives. Specific objectives of the Project are to:

- Recapture the water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the Alameda Creek Diversion Dam, respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system.

- Minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems or transmission disruptions in the Hetch Hetchy system.
- Maximize local watershed supplies.
- Maximize the use of existing SFPUC facilities and infrastructure.
- Provide a sufficient flow to the Sunol Valley Water Treatment Plant to meet its minimum operating requirements.

The Project would help meet WSIP goals by maintaining the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system, thereby increasing water delivery reliability and meeting customer supply needs. The proposed Project is a fundamental component of the SFPUC's WSIP and is needed to fully meet WSIP goals and objectives, in particular those for delivery reliability and water supply reliability. On an average annual basis, the project is estimated to recapture 7,178 acre-feet per year of water that is equivalent to the estimated average loss of yield to the SFPUC's water system associated with the flow releases and bypasses required by state and federal resource agency permits for the Calaveras Dam Replacement Project ("CDRP").

B. Alternatives Rejected and Reasons for Rejection

The Commission rejects the alternatives set forth in the Final EIR and listed below because the Commission finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this section in addition to those described in Section VI below under CEQA Guidelines 15091(a)(3), that make such Alternatives infeasible. In making these infeasibility determinations, the Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Commission is also aware that under CEQA case law the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project, and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

Alternative A: No Project

Under the No Project Alternative, the Alameda Creek Recapture Project would not be constructed or operated. Without the ACRP, the SFPUC would not recapture the flows released from Calaveras Reservoir and bypassed at the ACDD. Instead, the instream flow releases and bypasses would continue down Alameda Creek as surface or subsurface flows, with a portion of the flow entering the existing quarry pits as explained in Chapter 5, Section 5.16, Hydrology and Water Quality, the same as described under the "with-CDRP" conditions. Under the No Project Alternative, the SFPUC's yield from Calaveras Reservoir under its pre-1914 appropriative water rights would be reduced by approximately 6.4 million gallons per day (mgd) compared to the

estimated available deliveries from the Alameda Creek watershed assumed in the Phased WSIP analysis in the WSIP PEIR.

Under the No Project Alternative, the SFPUC would continue to operate its regional system to maximize use of the local watershed supplies for domestic and other purposes. To make up for the loss of yield from the Alameda watershed, the SFPUC could be expected to search for alternative water supplies, such as participation in the Bay Area Regional Desalination Project (BARDP) and additional water transfers, if any feasible transfers are identified. The success of such efforts is uncertain.

The No Project Alternative would undermine the SFPUC's ability to exercise its water rights in the Alameda Creek watershed, and the associated loss of yield to the regional system would hinder the SFPUC's ability to reliably meet the water supply needs of its 2.6 million customers in San Francisco, San Mateo, Santa Clara, Alameda, and Tuolumne Counties.

The No Project Alternative would fail to meet all but one of the fundamental ACRP objectives. More importantly, the No Project Alternative would not meet the water supply objectives of the ACRP or the WSIP. Under the No Project Alternative, the SFPUC would continue to maintain and operate the regional water system in the Alameda watershed. Although the system would be operated differently than it would be under the proposed project, the SFPUC would presumably maximize the use of its existing facilities and infrastructure, thereby meeting the fourth project objective, even though there could be unused capacity in some of the facilities due to the reduced yield from the Alameda watershed.

The No Project Alternative would jeopardize the SFPUC's ability to meet the water supply and delivery reliability WSIP program goal and system performance objectives. The loss of 6.4 mgd yield from the Alameda Watershed would affect the SFPUC's ability to guarantee it can meet customer demand with no more than 20 percent rationing in drought periods. It would undermine the SFPUC's ability to exercise its water rights in the Alameda Creek watershed. It would fail to meet project objectives, as it would not recapture water released from Calaveras Dam and bypassed at the ACDD, maintain historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; minimize impacts on water supply during drought, system maintenance, and in the event of water supply problems; maximize local watershed supplies; and provide a sufficient flow rate to the Sunol Valley Water Treatment Plant (SVWTP) to meet its minimum operating requirements. While it would provide for continued use of existing SFPUC facilities and infrastructure it might not fully meet the objective of maximizing use of facilities and infrastructure – reduced yield from the Alameda watershed could result in unused capacity in some of the facilities.

Under the No Project Alternative, current conditions would continue and all construction-related impacts would be avoided. The only unmitigated impact that would occur with the Project is the Project's contribution to the WSIP impact of indirect impacts related to growth. To the extent that the 6.4 mgd of water supply from the Project contributes to growth, the Project's contribution to the indirect impacts associated with growth would not occur with the No Project Alternative. However, under the No Project Alternative, the SFPUC would be expected to pursue actions to

make up for the loss of yield from the Alameda watershed as described above. Impacts associated with pursuing the Bay Area Regional Desalination Project are discussed below under Alternative B. Environmental impacts associated with a water transfer project are unknown as no feasible transfer is identified at this time, but such action could result in environmental impacts different from the project and could affect a different watershed from the Alameda Creek watershed. If the SFPUC successfully located an alternative water source, it could contribute to the indirect impacts associated with growth as identified for the WSIP in the WSIP PEIR.

The Commission rejects the No Project Alternative as infeasible because other than partially meeting the objective of maximizing use of existing SFPUC facilities and infrastructure, it would not meet the project objectives, and it would jeopardize the SFPUC's ability to meet the adopted WSIP goals and objectives as set forth in SFPUC Resolution No. 08-0200. It would require the SFPUC to search for uncertain, alternative water supplies and if the SFPUC were successful, implementation of these supplies would be expected to result in project specific environmental impacts as well as the significant and unavoidable growth inducing impact associated with the WSIP.

Alternative B: Regional Desalination

This alternative consists of implementation of the Bay Area Regional Desalination Project (BARDP), a collaboration of five Bay Area water agencies to investigate a year-round regional water supply project using desalination and water transfers to serve the needs of over 5.6 million residents and businesses in the region.² The SFPUC, along with the Contra Costa Water District (CCWD), East Bay Municipal Utility District (EBMUD), Santa Clara Valley Water District, and Zone 7 Water Agency, have been working together on the BARDP for over a decade. These agencies have completed a number of feasibility studies, pilot testing, site-specific analyses, and reliability studies. With the studies completed to date, the agencies have determined that the BARDP is technically feasible. However, the schedule for the next steps in implementing the BARDP, including preliminary design, environmental review, and construction is still to be determined.³

Under the BARDP, other participating agencies would receive the desalinated water, but the SFPUC would not directly receive desalinated water. Instead, the SFPUC would receive an exchange of EBMUD system water through the SFPUC's existing Hayward Intertie facility for its share of desalinated water. For planning purposes, it is assumed that the SFPUC's share of the regional water supply would be 9 mgd in all year types. The final share would be subject to negotiation with the other partners.

The Regional Desalination Alternative would support the second ACRP objective of "minimiz[ing] impacts on water supply during system maintenance and in the event of drought, water supply problems, or transmission disruptions in the Hetch Hetchy system." The estimated yield of 9 mgd

² The Regional Desalination for Drought Alternative analyzed in the WSIP PEIR was based on the BARDP as envisioned at that time, which was for a drought only supply. Currently, the BARDP is envisioned as a year-round supply for the SFPUC, which is the alternative analyzed here in the ACRP EIR.

³ Bay Area Regional Desalination Project. Website accessed on April 8, 2016. <http://www.regionaldesal.com/>

from the Regional Desalination Alternative would theoretically compensate for the loss of yield of 6.4 mgd from the Alameda watershed during both non-drought and drought periods if the ACRP were not to be implemented. Although the SFPUC's Alameda watershed facilities would be operated differently than it would be under the proposed project, the SFPUC would presumably maximize the use of its existing facilities and infrastructure in the Alameda watershed as well as use of the existing Hayward Intertie; however, there could be unused capacity in some of the facilities due to the reduced yield from the Alameda watershed. Thus, this alternative would partially meet the fourth project objective to maximize the use of existing SFPUC facilities and infrastructure.

This alternative would fail all the other ACRP objectives and would: (1) not recapture the water that will be released from Calaveras Dam and bypassed at the ACDD, nor maintain the historical annual transfers from the Alameda Watershed system to the SFPUC regional water system; (2) not maximize local watershed supplies; and (3) not provide a sufficient flow rate to the SVWTP to meet its minimum operating requirements.

Detailed environmental review will be required prior to project approval to identify the project- and site-specific environmental impacts of this alternative. Nevertheless, conceptual planning studies available at the time of the WSIP PEIR, as described in PEIR Volume 4, Chapter 8, which is incorporated by reference in the Final EIR, and subsequent additional planning and development that has resulted in several additional site-specific studies, preliminary indications of the BARDP can be deduced. Given the nature and magnitude of the BARDP relative to the ACRP, it is likely that both the construction and operations of the BARDP would result in more numerous and more severe environmental impacts than those of the ACRP. The impacts would occur in the vicinity of the BARDP site in Contra Costa County rather than in the Alameda Creek watershed in Alameda County. Potential impacts from construction activities include: conflicts with land uses; degradation of scenic resources; geological and/or seismic hazards associated with facility siting; water quality impacts; short-term depletion of groundwater resources; impacts on biological resources transportation impacts; air quality emissions and potential odors; noise impacts; and impacts associated with encountering hazardous materials in soil and groundwater. Potential impacts from operations include: entrainment or impingement of special-status aquatic organisms in the intake pipeline; discharge of toxic substances from the outfall structure; impacts on wetlands, marshlands, and other sensitive habitats; substantial use of nonrenewable energy resources; generation of greenhouse gases; permanent land use conflicts; degradation of visual resources/scenic views; operational air quality emissions and odors; and permanent increases in noise and vibration.

The SFPUC rejects the Alternative B as infeasible. Alternative B would fail to meet three of the four project objectives. As noted above, it is likely that BARDP would result in more numerous and more severe environmental impacts than those of the ACRP. All Project impacts, with the exception of the WSIP-related impact to growth can be mitigated. If the BARDP resulted in replacement water supply equivalent to the ACRP, it would result in the same WSIP growth inducing impact as the ACRP. Thus, the Alternative B does not have a clear environmental benefit over the Project and fails to meet all of the project objectives. The Project would mitigate its impacts and it is unclear whether the increased impacts of Alternative B can be fully mitigated.

To the extent that Alternative B meets the project objective of minimiz[ing] impacts on water supply during system maintenance and in the event of drought, water supply problems, or transmission disruptions in the Hetch Hetchy system, it would have the same WSIP growth-inducing impact as the ACRP.

For all of these reasons, the SFPUC rejects Alternative B as infeasible.

Environmentally Superior Alternative. The proposed project presented is the environmentally superior alternative. The environmental analysis for the proposed project presented in the EIR determined that the ACRP would result in no project-level significant and unavoidable impacts, and that all identified impacts were either less than significant or could be mitigated to a less-than-significant level with implementation of identified mitigation measures. Therefore, compared to the No Project and Regional Desalination Alternatives, the proposed project is the environmentally superior alternative.

C. Alternatives Considered but not Analyzed in Detail

The Draft EIR, Section 7.5 explains the process for selecting the ACRP and the alternatives considered and evaluated in the Draft EIR. As explained in the Draft EIR, altogether 36 alternative recapture options/alternatives were evaluated, including the following:

- One option involving an inflatable dam in Alameda Creek downstream of the Sunol Valley Water Treatment Plant.
- Twelve options involving in-stream infiltration gallery at various locations along Alameda Creek.
- Six options involving shallow wells (well fields) that would pump groundwater from the shallow alluvium.
- Ten options involving near stream or in-stream horizontal drains.
- Two options involving pumping from quarry pits (one of which ultimately became the ACRP).
- One option involving deep wells in the Livermore Gravels.
- One option involving extra local sources, based on recovering water from tributaries to Alameda Creek.
- One option involving recirculation of surface water and construction of a diversion or retention facility downstream of the Sunol Valley Water Treatment Plant.
- One option involving rehabilitation of the existing Sunol Filter Gallery.
- One option involving a cooperative agreement with the Alameda County Water District.

The Draft EIR explains that all of these alternative concepts or locations were determined to either be infeasible or to result in the same or more severe environmental impacts compared to those of the ACRP. The process the SFPUC undertook to consider all of these alternatives and a detailed analysis of these alternatives considered and the reasons they have been rejected from further analysis is described in the Draft EIR, Section 7.5. The SFPUC finds each of these reasons provide sufficient independent grounds for rejecting these alternatives. The Planning Department received two comments on the Draft EIR suggesting that the Draft EIR should have analyzed additional alternatives in detail, although no commenter suggested specific alternatives that the Draft EIR should have included. The Responses to Comments document (Responses to Comments, Section 11.6) explains that in addition to a detailed analysis and comparison of two alternatives to the ACRP in the Draft EIR, the CEQA alternatives analysis also describes and discusses the alternatives listed above and the reasons they were determined not to avoid or lessen significant impacts or were otherwise infeasible. The SFPUC finds that the Draft EIR evaluated a reasonable range of alternatives, as required by CEQA that allows Project decision-makers and the public to evaluate and compare the potential impacts of the proposed project with alternatives designed to avoid or lessen the project's environmental effects. The SFPUC finds each of these reasons provide sufficient independent grounds for rejecting these alternatives.

VI. Statement of Overriding Considerations

Pursuant to CEQA Section 21081 and CEQA Guidelines Section 15093, the Commission hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below, independently and collectively outweighs the significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found in the Record of Proceedings, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Commission specifically finds that there are significant benefits of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Commission further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All mitigation measures proposed in the Final EIR for the Project are adopted as part of this approval action. Furthermore, the Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technical, legal, social, and other considerations.

As stated in Section 3.2.2 of the EIR, the SFPUC included the ACRP in the WSIP because as part of the CDRP, the SFPUC intended to implement instream flow releases to improve habitat

conditions for native rainbow trout in accordance with a 1997 Memorandum of Understand (MOU) with CDFW (then referred to as California Department of Fish and Game (CDFG)). The WSIP referred to the ACRP as the Alameda Creek Fishery Enhancement Project (WSIP at Section 3.8). At the time of the WSIP, the SFPUC had studied release of water from Calaveras Dam to benefit native fish populations for many years following a 1990 complaint by the organization California Trout filed with the California State Water Resources Control Board. In response to that complaint, the SFPUC entered into the MOU with CDFG.

The MOU contemplated release of water from Calaveras Reservoir and recapture of these flows using an on- stream diversion (inflatable dam) in Sunol Valley (SFPUC Resolution No. 97-0200 and Board of Supervisors Resolution No. 995-97). The intent of the SFPUC in approving the MOU was to accommodate support of native fishes in its operation of the Regional Water System while maintaining the SFPUC's existing pre-1914 water rights to water in Calaveras Reservoir. Those water rights include the diversion of water to storage in Calaveras Reservoir from the ACDD. In May, 2001 the SFPUC received a letter from the U.S. Environmental Protection Agency (U.S.EPA) stating that the proposed inflatable dam might not be approved under section 404 of the Clean Water Act as the least environmentally damaging practical alternative. (Letter to Michael Carlin, SFPUC from Tim Vendlinski, U.S.EPA Region IX, re Alameda Creek Fishery Enhancement and Recapture Facility, May 8, 2001.) That same year the DSOD issued an order restricting storage in Calaveras Dam due to seismic safety concerns, which prevented progress in implementing the MOU. The SFPUC developed plans to rebuild Calaveras Dam and began exploring alternatives for implementation of the MOU. The flow releases contemplated in the 1997 MOU were ultimately superseded by the flow release and bypass requirements imposed in federal (National Marine Fisheries Service) and state (CDFG) resource agency permits for rebuilding Calaveras Dam as part of the CDRP. The recovery of the releases and bypasses that result in loss of yield to the SFPUC system are included in the operation of the ACRP.

As explained in the EIR, Section 7.5, Alternatives Considered but Eliminated From Further Analysis, the SFPUC completed several studies of alternatives for recovery the releases and bypasses, including the *2004 Alameda Creek Fishery Enhancement Needs Assessment & Alternatives Analysis*, and the *2009 Final Updated Alternatives Analysis Report for Alameda Creek Fishery Enhancement Project*. These studies explored numerous alternative options, including in-stream infiltration galleries, shallow wells, horizontal drains, pumping from quarry pits, deep wells, recovery of water from other local sources, recirculation of surface water, and rehabilitation of the existing Sunol Filter Gallery. The ACRP analyzed in the DEIR is the environmentally superior alternative of all alternatives considered.

The Project will have the following benefits:

- The Project would maintain historical annual transfers from the Alameda Watershed system to the SFPUC regional water system, consistent with its existing pre-1914 water rights, by recapturing water that would have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the ACDD, respectively.

- The ACRP avoids any construction in the channel of Alameda Creek by instead relying on the passive accumulation of water within quarry pits in Sunol Valley. It avoids any impact to passage of threatened steelhead trout through Sunol Valley while simultaneously meeting the SFPUC's longstanding goal of preserving yield under its existing pre-1914 water rights for Calaveras Dam.
- The Project would make use of existing SFPUC infrastructure and facilities and minimize the need for construction of new facilities by assuring existing available capacity is used to its maximum feasible extent. Reliance on existing facilities and infrastructure enables the SFPUC to avoid construction of an entirely new water storage system. The SFPUC has adopted mitigation measures that will reduce all of the direct environmental impacts associated with the construction and operation of the Project to a less than significant level.
- The Project will further the WSIP's goals and objectives. As part of the approval of Resolution 08-2000, the SFPUC adopted a Statement of Overriding Considerations as to why the benefits of the WSIP outweighed the significant and unavoidable impacts associated with the WSIP. This Statement of Overriding Considerations is relevant to the significant and unavoidable impact related to growth-inducement to which this Project contributes. The findings regarding the Statement of Overriding Considerations set forth in Resolution No. 08-2000 are incorporated into these findings by this reference, as though fully set forth in these CEQA Findings. In addition, for the particular reasons set forth below, this Project helps to implement the following benefits of the WSIP:
 - The SFPUC WSIP identifies the goal of reducing vulnerability to earthquakes. It establishes an objective of delivering basic service to three regions in the SFPUC service area – East/South Bay, Peninsula, and San Francisco within 24 hours after a major earthquake. The performance objective is to deliver 104 mgd to the East/South Bay, 44 mgd to the Peninsula, and 81 mgd to San Francisco. The Project, by delivering up to 6.4 mgd on an average annual basis of local water supply from the Alameda Watershed, would provide increased local water supply in the event of an emergency such as an earthquake. Providing water security is critical to the Bay Area's economic security, competitiveness and quality of life.
 - The SFPUC WSIP identifies the goal of increasing delivery reliability and improving the ability to maintain the SFPUC regional system by providing operational flexibility. The ACRP would provide 6.4 mgd of local water supply from the Alameda Watershed in the event of system maintenance, or water supply problems or transmissions disruptions in the Hetch Hetchy system, thereby furthering this important goal of the WSIP.
 - The WSIP identifies the goal of meeting SFPUC retail and wholesale customer water demand during drought and nondrought periods, including providing an annual average of 265 mgd of retail and wholesale customer purchases from the SFPUC watersheds. The WSIP also establishes the goal of limiting rationing in a drought to a maximum of 20 percent for the 2.46 million persons in San Francisco, San Mateo, Santa Clara, Alameda and Tuolumne counties served by the SFPUC' regional water system. The Project

would provide approximately 6.4 mgd on an average annual basis and thereby contribute toward meeting these supply water goals.

- The WSIP projects are designed to meet applicable federal and state water quality requirements. The Project will further this objective as the EIR for the Project determined that the Project would have no significant impact on water quality and would not degrade drinking water.

Having considered these benefits, including the benefits discussed in Section I above, the Commission finds that the benefits of the Project and the Project's furtherance of the WSIP goals and objectives outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Cultural and Paleontological Resources						
CP-1	Project construction could cause a substantial adverse change in the significance of an archeological resource that qualifies as a historical or unique archeological resource.	<p>Mitigation Measure M-CUL-1: Accidental Discovery of Archeological Resources.</p> <p>The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in CEQA Guidelines Section 15064.5(a) and (c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc.</p> <p>The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.</p> <p>Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.</p> <p>If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p> <p>Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning (EP) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p> <p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p>	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB 3) SFPUC CMB/SFPUC BEM (qualified archeologist) 4) SFPUC CMB/SFPUCBEM (qualified archeologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM/SF Planning ERO 3) SF Planning ERO 4) SF Planning ERO 	<ol style="list-style-type: none"> 1) Ensure that the contract documents include measures related to archeological discoveries. 2) Ensure that all personnel attend environmental training prior to and during any construction-related soil-disturbing activities, receive the ALERT sheet, and sign the training sign-in sheet. Maintain file of signature sheets for submittal to ERO. Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 3) In the event of any indication of an archeological resource encountered during any soils disturbing activity of the project, evaluate the potential discovery and advise the ERO as to the significance of the discovery. If warranted, proceed with measures that may include the following: <ol style="list-style-type: none"> a. On-site preservation of resource; b. Archeological monitoring program with prior review/approval of ERO; or c. Archeological testing program with prior review/approval of ERO. 4) In the event of any discovered archeological resource, prepare a Final Archeological Resources Report, Submit to ERO for review and approval. Submit to others as required once approved by ERO. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction/Construction 3) Construction 4) Post construction

USFWS = U.S. Fish and Wildlife Service
 CDFW = California Department of Fish and Wildlife
 BAAQMD = Bay Area Air Quality Management District

SFPUC = San Francisco Public Utilities Commission
 SF Planning = San Francisco Planning Department
 CMB = (SFPUC) Construction Management Bureau

EMB = (SFPUC) Engineering Management Bureau
 BEM = (SFPUC) Bureau of Environmental Management

ERO = (SF Planning) Environmental Review Officer

ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Cultural and Paleontological Resources (cont.)						
CP-1 (cont.)		Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound copy, one unbound copy and one unlocked, searchable PDF copy on CD three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.				
CP-2	Project construction could result in a substantial adverse effect related to the disturbance of human remains.	Mitigation Measure M-CUL-2: Accidental Discovery of Human Remains. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of Alameda County and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The archeological consultant, project sponsor, ERO, and MLD shall have up to but not beyond six days of discovery to make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines, Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing State regulations or in this mitigation measure compels the SFPUC and the ERO to accept recommendations of an MLD. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects as specified in the treatment agreement if such as agreement has been made or, otherwise, as determined by the archeological consultant and the ERO.	1) SFPUC EMB 2) SFPUC CMB (qualified archeologist), SFPUC BEM, SF Planning ERO 3) SFPUC CMB	1) SFPUC BEM 2) SFPUC BEM/SF Planning ERO 3) SFPUC BEM/SF Planning ERO	1) Ensure that contract documents include measures related to discovery of human remains. 2) If potential human remains are encountered, mobilize an archeologist to confirm existence of human remains. If human remains are confirmed, perform required coordination and notifications. 3) If human remains are encountered and confirmed, monitor to ensure that the contractor implements measures in contract documents including insuring that all potential human remains are reported as required and that contractor suspends work in the vicinity. Report noncompliance and ensure corrective action.	1) Design 2) Construction 3) Construction
C-CP	The project, in combination with past, present, and probable future projects, could substantially affect cultural resources.	Implement Mitigation Measures M-CUL-1 (Accidental Discovery of Archeological Resources) and M-CUL-2 (Accidental Discovery of Human Remains).	—	—	—	—

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ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Air Quality						
AQ-1	Emissions generated during project construction activities could violate air quality standards and contribute substantially to an existing air quality violation.	<p>Mitigation Measure M-AQ 1: BAAQMD Basic Construction Measures.</p> <p>To limit dust, criteria pollutants, and precursor emissions associated with project construction, the following BAAQMD-recommended Basic Construction Measures shall be included in all construction contract specifications for the proposed project:</p> <ul style="list-style-type: none"> All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. All vehicle speeds on unpaved roads shall be limited to 15 mph. All paving shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Post a publicly visible sign with the telephone number and person to contact at the SFPUC regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations. 	1) SFPUC EMB 2) SFPUC CMB 3) SFPUC CMB	1) SFPUC BEM 2) SFPUC CMB/SF Planning ERO 3) SFPUC BEM	1) Ensure that the contract documents include specified dust control measures and exhaust control measures, including signage requirements and construction equipment maintenance. 2) Monitor to ensure that the contractor implements measures in contract documents, including the requirement to post signage regarding dust complaints and idling times. Report noncompliance and ensure corrective action. 3) Designate project liaison responsible for handling complaints related to dust or vehicle idling. Develop procedures for receiving and responding to complaints. Post contact information for the liaison and the BAAQMD Compliance and Enforcement Division on publicly visible signs in the project area. Ensure questions and complaints are responded to and corrective actions taken as needed.	1) Design 2) Construction 3) Construction
AQ-3	Implementation of the proposed project could conflict with or obstruct implementation of the 2010 Clean Air Plan.	Implement Mitigation Measures M-AQ-1 (BAAQMD Basic Construction Measures)	—	—	—	—
C-AQ	The project, in combination with past, present, and probable future projects, could substantially affect air quality.	Implement Mitigation Measures M-AQ-1 (BAAQMD Basic Construction Measures)	—	—	—	—

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			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
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Terrestrial Biological & Fisheries Resources						
BI-1	Construction of the proposed project could have a substantial adverse effect on special-status species.	<p>Mitigation Measure M-BI-1a: General Protection Measures.</p> <p>The SFPUC shall ensure that the following general measures are implemented by the contractor(s) during construction to minimize or avoid impacts on biological resources:</p> <ul style="list-style-type: none"> Construction contractor(s) shall limit the construction disturbance area to that necessary for project construction and avoid outside areas by posting signage delineating the construction disturbance area with flags, stakes, or fencing. Protective fencing shall be installed outside the driplines of all trees to be retained that are located within 50 feet of any grading, road improvements, underground utilities, or other construction activity. A biologist who is experienced in special-status species and sensitive habitat identification and the SFPUC must first approve any encroachment beyond these fenced areas. The contractor shall maintain the temporary fencing until all construction activities are completed. No construction activities, parking, or staging shall occur beyond the fenced areas. Project-related vehicles shall observe a 15-mile-per-hour speed limit on unpaved roads in the work area, or as otherwise determined by the applicable regulatory agencies. The contractor shall provide closed garbage containers for the disposal of all food-related trash items (e.g., wrappers, cans, bottles, food scraps). All garbage shall be collected daily from the project area and placed in a closed container, from which garbage shall be removed weekly. Construction personnel shall not feed or otherwise attract fish or wildlife in the project area. No pets shall be allowed in the project area. No firearms shall be allowed in the project area. Staging areas shall be located at least 50 feet from riparian habitat, creeks, and wetlands. If vehicle or equipment fueling or maintenance is necessary, it shall be performed in the designated staging areas and at least 50 feet from riparian habitat, creeks, or wetlands. In cases where excavations require dewatering, the intakes shall be screened with a maximum mesh size of 5 millimeters. 	1) SFPUC EMB 2) SFPUC CMB (qualified biologist)	1) SFPUC BEM 2) SFPUC BEM	1) Ensure that the contract documents includes the general protection measures. 2) Monitor to ensure that contractor implements measures in contract documents. Report noncompliance and ensure corrective action.	1) Design 2) Preconstruction/ Construction
		<p>Mitigation Measure M-BI-1b: Worker Training and Awareness Program.</p> <p>The SFPUC shall ensure that mandatory biological-resources awareness training is provided to all construction personnel as follows:</p> <ul style="list-style-type: none"> The training shall be developed and provided by a biologist who is experienced in special-status species and sensitive habitat identification or a construction compliance manager familiar with the sensitive species that may occur in the project area. The training shall be provided before any work, including vegetation clearing and grading, occurs within the work area boundaries. 	1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist)	1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM	1) Ensure the contract documents include the requirement that all construction personnel attend biological resources awareness training. 2) Prepare biological-resources awareness program. Include documentation of qualifications of the consulting biologist developing the training program (e.g., resume). 3) Prior to construction, and during construction as needed, implement training program. Monitor to ensure that all personnel attend training prior to beginning work and sign training sign-in sheet. Maintain file of sign-in sheets. Report noncompliance and ensure corrective action.	1) Design 2) Preconstruction 3) Preconstruction/Construction

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Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-1 (cont.)	<ul style="list-style-type: none"> The training shall provide education on the natural history of the special-status species potentially occurring in the project area, and discuss the required mitigation measures to avoid impacts on the special-status species and the penalties for failing to comply with biological mitigation requirements. If new construction personnel are added to the project, the contractor shall ensure that they receive training prior to starting work. The subsequent training of personnel can include a videotape of the initial training and/or the use of written materials rather than in-person training by a biologist. 					
	<p>Mitigation Measure M-BI-1c: Prevent Movement of Sensitive Wildlife Species through the Work Areas.</p> <p>To prevent California tiger salamander (CTS), California red-legged frog (CRLF), and Alameda whipsnake (AWS), western pond turtle, and American badger from moving through the project area, the SFPUC or its contractors shall install temporary wildlife exclusion fencing along the work area boundaries (including access roads, staging areas, spoils sites etc.) prior to the start of project construction activities. The SFPUC shall ensure that the temporary fencing is continuously maintained until all construction activities are completed and that construction equipment is confined to the designated work areas. The fencing shall be made of suitable material that does not allow any of the animals listed above to pass through, and the bottom shall be buried to a depth of 6 inches (or to a sufficient depth as specified by the applicable resource agencies) so that these species cannot crawl under the fence. Fencing shall be equipped with exit funnels at least every 200 feet. To provide wildlife refugia and minimize CTS and CRLF mortality during construction, plywood coverboards (approximately 3 feet by 3 feet) shall be placed adjacent to the exclusion fence at a minimum interval of least 200 feet, alternating inside and outside of the fence.</p> <p>During fence installation and immediately prior to any initial ground-disturbing or vegetation removal activities, a biologist who is experienced in special-status species and sensitive habitat identification shall be present onsite to monitor for any special-status species present in suitable habitat within the fence installation area. If a special-status species is present within the fence installation area, work shall cease in the vicinity of the animal, and the animal shall be allowed to relocate of its own volition unless relocation is permitted by state and/or federal regulatory agencies. After construction is completed, the exclusion fencing and cover boards shall be removed.</p>	<ol style="list-style-type: none"> SFPUC EMB SFPUC CMB (qualified biologist) SFPUC CMB (qualified biologist) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> SFPUC BEM SFPUC BEM SFPUC BEM SFPUC BEM 	<ol style="list-style-type: none"> Ensure that contract documents include wildlife exclusionary fencing measures. Obtain and review resume or other documentation of consulting biologist's qualifications. Prior to construction, monitor fence installation. Conduct monitoring and relocation as required. Document activities in monitoring logs. Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. Monitor removal of exclusion fencing and cover boards. 	<ol style="list-style-type: none"> Design Preconstruction/Construction Construction Post construction 	
	<p>Mitigation Measure M-BI-1d: Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake.</p> <p>Preconstruction Surveys</p> <p>Prior to initial ground-disturbing activities in the project area, a biologist who is experienced in the identification of CTS, CRLF, and AWS shall survey the project area for the presence of CTS, CRLF, and AWS, as follows:</p> <p><i>California tiger salamander and California red-legged frog.</i> Not more than two weeks prior to the onset of work activities (including equipment mobilization) and immediately</p>	<ol style="list-style-type: none"> SFPUC EMB SFPUC CMB (qualified biologist) SFPUC CMB (qualified biologist) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> SFPUC BEM SFPUC BEM SFPUC BEM SFPUC BEM 	<ol style="list-style-type: none"> Ensure that contract documents include the appropriate language for protection of CTS, CRLF, and AWS. Obtain and review resume or other documentation of consulting biologist's qualifications. Prior to construction, conduct surveys, monitoring, burrow excavation and relocation activities. Document activities in monitoring logs. If a burrow is present within the construction footprint and cannot be avoided or relocation is required, coordinate with USFWS and CDFW. 	<ol style="list-style-type: none"> Design Preconstruction/Construction Construction Construction 	

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Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-1 (cont.)		<p>prior to commencing work, a biologist who is experienced in the identification of CTS and CRLF shall survey suitable habitat in the project area for CTS and CRLF. Burrow areas identified within the project boundaries shall be temporarily fenced and avoided, where feasible. If a burrow is present within the construction footprint and cannot be avoided, the biologist shall coordinate with USFWS and CDFW to avoid impacts to CTS and CRLF to the extent feasible using the most recent CTS and CRLF clearance methodology recognized by the USFWS and CDFW.</p> <p><i>Alameda whipsnake.</i> Not more than two weeks prior to the onset of work activities (including equipment mobilization) and immediately prior to commencing work, a biologist who is experienced in the identification of AWS shall conduct a reconnaissance survey of suitable upland habitat for AWS in the project area.</p> <p>Federal or state listed species shall only be relocated upon authorization from federal (USFWS) and/or state (CDFW) regulatory agencies. Otherwise, encountered individuals shall be allowed to relocate of their own volition.</p> <p>Construction Monitoring and Protocols</p> <p>At the beginning of each workday that includes initial ground disturbance, including grading, excavation, and vegetation-removal activities, a biologist who is experienced in the identification of CTS, CRLF, and AWS (biological monitor) shall conduct onsite monitoring for the presence of CTS, CRLF, and AWS in the area where ground disturbance or vegetation removal shall occur. The following protective provisions shall apply:</p> <ul style="list-style-type: none"> • Suitable CTS, CRLF, and AWS habitat shall be surveyed immediately prior to any ground-disturbing or vegetation removal activities. • Perimeter fences shall be inspected to ensure they do not have any tears or holes, that the bottoms of the fences are still buried, and that no individuals have been trapped in the fences. • Coverboards shall be inspected once a month between June 15 and October 15, once a week from October 15 to June 15, daily during a rain event, and once following the rain event (within 48 hours of the rain event), or as otherwise approved by USFWS and/or CDFW. • Any CTS, CRLF, or AWS found along and inside the fence shall be closely monitored until they move away from the construction area or, if they don't move out of the work area of their own volition shall be relocated by the biologist with authorization from USFWS and/or CDFW. The time to wait for the animal to move of its own volition shall be determined by the biological monitor and as approved by USFWS and/or CDFW. • All open trenches or holes and areas under parked vehicles shall be checked for the presence of CTS, CRLF, and AWS. • All excavated or deep-walled holes or trenches greater than 2 feet shall be covered at the end of each workday using plywood, steel plates, or similar materials, or escape ramps shall be constructed of earth fill or wooden planks to allow animals to exit. Before such holes are filled, they shall be thoroughly inspected for trapped animals. 			<p>3) Monitor to ensure that the contractor implements measures in contract documents. If any CTS, CRLF or AWS are identified along and inside the fence and/or require relocation or observations of any harm, injury, or mortality of a special-status species occur during construction (including entrapment), coordinate with USFWS and CDFW. Designate an SFPUC representative as the point of contact in the event that a CTS, CRLF, or AWS is discovered onsite when the biological monitor is not present. Report noncompliance and ensure corrective actions.</p> <p>4) If observations are made of federal- and state-listed species, provide reports to California Natural Diversity Database (CNDDB).</p>	

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Biological Resources (cont.)						
BI-1 (cont.)	<ul style="list-style-type: none"> Project personnel shall be required to immediately report any harm, injury, or mortality of a special-status species during construction (including entrapment) to the construction foreman or biological monitor, and the construction foreman or biological monitor shall immediately notify the SFPUC. The SFPUC shall provide verbal notification to the USFWS Endangered Species Office in Sacramento, California and/or to the local CDFW warden or biologist (as applicable) and written notification as requested by the agencies. <p>The SFPUC shall designate an SFPUC representative as the point of contact in the event that a CTS, CRLF, or AWS is discovered onsite when the biological monitor is not present.</p> <p>If the biological monitor or construction personnel find any of these species within the work area, construction activities shall cease in the immediate vicinity. The animals shall be allowed to relocate of its own volition outside of the work area or, if they don't move out of the work area of their own volition shall be relocated by a biologist who is experienced in the identification of CTS and CRLF. Federal or state listed species shall not be relocated without authorization from federal (USFWS) and/or state (CDFW) regulatory agencies.</p> <p>Once all initial ground-disturbing activities are completed, the biological monitor shall perform spot checks of the project area at least once a week, and during rain events, for the duration of construction to ensure that the perimeter fence is in good order, trenches are being covered if left open overnight (or escape ramps provided), project personnel are conducting checks beneath parked vehicles prior to their movement, and all other required biological protection measures are being followed.</p> <p>All observations of federally and state-listed species shall be reported to the CNDDDB.</p>					
	<p>Mitigation Measure M-BI-1e: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation.</p> <p>To restore temporarily impacted habitat for CTS, CRLF and AWS, the SFPUC shall prepare and implement a vegetation restoration plan with detailed specifications for minimizing the introduction of invasive weeds and restoring all temporarily disturbed areas, and shall ensure that the contractor successfully implements the plan. The plan shall indicate the best time of year for seeding to occur.</p> <p>To facilitate preparation of the plan, the SFPUC shall ensure that, prior to construction, a botanist (experienced in identifying sensitive plant species in the project area) performs additional preconstruction surveys of the areas to collect more detailed vegetation composition data, including species occurrence, vegetation characterization (tree diameter size, etc.), and percent cover of plant species. Photo documentation shall be used to show pre-project conditions.</p> <ul style="list-style-type: none"> The minimum weed control and restoration measures as well as success criteria to be included in the vegetation restoration plan are described below. <p>Invasive Weed Control Measures</p> <p>Invasive weeds such as yellow star-thistle, purple star-thistle, Italian thistle, bull thistle, milk thistle, shortpod mustard, jubata or pampas grass, and stinkwort readily colonize soils that have been disturbed by grading or other mechanical disturbance. Although much of the project area has an extensive weed infestation and relatively few native species, the SFPUC shall incorporate the following measures into the construction plans and specifications to prevent the further spread of invasive weeds into nearby areas:</p>	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC BEM (qualified biologist) 3) SFPUC CMB (qualified biologist) 4) SFPUC CMB (qualified biologist) 5) SFPUC BEM (qualified biologist) 6) SFPUC BEM/SFPUC NRLMD (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM 4) SFPUC BEM 5) SFPUC BEM / Resource agencies 6) SFPUC BEM/ NRLMD/Resource agencies 	<ol style="list-style-type: none"> 1) Ensure that contract documents include on-site restoration requirements, including invasive weed control measures. 2) Obtain and review resume or other documentation of consulting botanist's qualifications (e.g., resume). Perform preconstruction vegetation surveys. Undertake photo documentation of pre-project conditions. 3) Ensure that environmental training includes information on invasive weed control measures (see Mitigation Measure M-BI-1b). 4) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 5) Obtain and review resume or other documentation of restoration biologist and arborist's qualifications (e.g., resume). Develop vegetation restoration plan and submit to resource agencies, as required. Implement approved vegetation restoration plan. 6) Implement approved vegetation restoration plan. Perform revegetation and document long-term monitoring of on-site restoration as specified in the vegetation restoration plan. Provide documentation to resource agencies as required. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Preconstruction/Construction 4) Construction 5) Post construction as specified in the approved vegetation restoration plan 6) Prior to, during, or following construction, and if applicable, consistent with the Sunol Region Mitigation and Monitoring Plan 	

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Biological Resources (cont.)						
BI-1 (cont.)		<ul style="list-style-type: none"> Construction equipment shall arrive at the project area free of soil, seed, and plant parts to reduce the likelihood of introducing new weed species. Any imported fill material, soil amendments, gravel etc., required for construction and/or restoration activities that would be placed within the upper 12 inches of the ground surface shall be free of vegetation and plant material. Certified, weed-free, imported erosion-control materials (or rice straw in upland areas) shall be used exclusively, as applicable (this measure concerns biological material and does not preclude the use of silt fences, etc.). The environmental awareness training program for construction personnel shall include an orientation regarding the importance of preventing the spread of invasive weeds. To reduce the seed bank in weed-dominated ruderal areas, the contractor shall mow, disk, apply spot-applications of herbicide to weeds, and/or remove weeds, as appropriate (i.e., before seed set and dispersal) and prior to surface clearing and site preparation. The top 3 inches of soil shall not be conserved and re-spread due to the high levels of weed seeds it contains. This soil may be disposed of offsite or in the spoils deposit area. Before tracked and heavy construction equipment leaves the project area, any accumulation of plant debris, soil, and mud shall be washed off the equipment or otherwise removed onsite, and air filters shall be blown out. The restoration plan shall specify measures to remove and/or control weeds in the project area, including not conserving and respreading the surface layer of soil which contains a high level of weed seeds. No invasive species shall be used in any restoration seeding. Implementation of these measures during construction and site restoration activities shall be verified and documented by a biological or environmental monitor. <p>Minimum Restoration Measures</p> <p>Restoration areas are areas within the project area that would be disturbed during project-related construction activities but would subsequently be restored to their preconstruction conditions, or better. Current SFPUC policy specifies that no container stock or soil-containing plant materials may be used for revegetation on Watershed lands to avoid inadvertent introduction of non-native plant pathogens like phytophthora (<i>Phytophthora species</i>). The use or exclusion of container stock for restoration actions shall abide by effective SFPUC directives at the time of planting. To restore temporarily-disturbed areas, the SFPUC shall ensure the following:</p> <ul style="list-style-type: none"> The SFPUC shall specify that topsoil is not salvaged to minimize respreading of weeds. All areas proposed for disturbance are composed of poorly-sorted alluvium containing cobbles, gravels, sand and silt and material from any depth can be used as material for final grading. Grassland, ruderal, coyote brush scrub and mixed scrub areas shall be reseeded with a native or non-invasive grass and forb seed mix. 				

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			Responsible Party	Reviewing and Approval Party		
Biological Resources (cont.)						
BI-1 (cont.)		<ul style="list-style-type: none"> Willow thickets within Pit F2 shall be allowed to revegetate naturally; planting willow stakes is impractical on the steep slopes of the pits. Willow thickets elsewhere, if impacted, shall be replanted using willow stakes derived from cuttings of local willow plants. For any tree to be removed, the SFPUC shall ensure that replacement trees are planted within or in the vicinity of the project area as follows: <ul style="list-style-type: none"> For each isolated locally native tree removed that is 6 inches in diameter at breast height [dbh] or 10 inches aggregate dbh for multi-trunk trees, one replacement planting shall be installed per inch of diameter of trees removed. For example, eight planting basins shall be planted with coast live oak acorns to replace one 8-inch coast live oak tree. Seeds shall be used at planting sites rather than container stock to prevent the spread of soil-borne pathogens such as phytophthora. Replacement plantings shall be of the same species as that removed, unless site conditions are unsuitable, in which case either the replacement plantings shall be located in proximity to the project area where site conditions are suitable for that species or a suitable native species shall be installed. "Suitable" species are defined as those native to the Sunol Valley and capable of growing, once established, under prevailing site conditions without additional inputs of water or other chemicals. Trees shall be replaced within the first year after the completion of construction or as soon as possible in an area where construction is completed during a favorable time of year as determined by an arborist or biologist with experience in restoration. Replacement trees shall be planted in or near the location from where trees were removed as feasible and in locations suitable for the replacement species. Selection of replacement sites and installation of replacement plantings shall be supervised by an arborist or biologist with experience in restoration. Irrigation of tree plantings during the initial establishment period shall be provided as deemed necessary by an arborist or biologist with experience in restoration. An arborist or biologist with experience in restoration shall monitor new plantings at least once a year for five years (seven years for oaks) or as otherwise determined by the applicable resource agencies. Any replacement plantings installed as remediation for failed plantings shall be planted as stipulated here for original plantings, and shall be monitored for a period of five years (seven years for oaks) following installation, or as otherwise determined by the applicable resource agencies. <p>Minimum Success Criteria</p> <p>Unless the applicable resource agencies determine different but equivalent or more stringent criteria should be applied, the success criteria for restoring temporarily disturbed areas shall be as follows:</p> <ul style="list-style-type: none"> All temporarily disturbed areas shall be restored to approximate their baseline condition. Vegetation cover shall be at least 70 percent of the baseline; that is, absolute cover of the revegetation site shall be no less than 70 percent of baseline absolute cover of native and naturalized species (i.e., excluding target invasives). Cover in the revegetation site shall contain no more than 10 percent absolute cover of target invasives or no more cover of invasives than the baseline, whichever is greater, as defined in the summary table, below. 				

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ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program									
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule						
			Responsible Party	Reviewing and Approval Party								
Biological Resources (cont.)												
BI-1 (cont.)		<ul style="list-style-type: none"> Vegetation within restoration areas shall be functional, fully established, and self-sustaining as evidenced by successive years of healthy vegetative growth; observed increase in vegetative cover, canopy cover, and/or plant height; successful flowering, seed set, and/or vegetative reproduction over the five-year monitoring period. Revegetation work shall start within one year of construction completion. Revegetation of grassland areas shall be monitored at least once a year for five years or as otherwise determined by the applicable resource agencies. With the exception of oak trees, which shall be monitored for up to seven years, all other replacement trees shall be monitored for five years. Restoration areas shall be monitored for target invasive plants quarterly in the first five years following replanting. If invasive plants are found during the five-year monitoring period, they shall be removed as necessary to support meeting the cover and vegetation composition success criteria. Monitoring and maintenance shall continue until the minimum success criteria specified in the Table M-BI-1E, below are met, or as otherwise determined by the applicable resource agencies. <p style="text-align: center;">TABLE M-BI-1E MINIMUM SUCCESS CRITERIA FOR VEGETATION RESTORATION</p> <table border="1"> <thead> <tr> <th>Parameter</th> <th>Field Indicator/Measurement</th> </tr> </thead> <tbody> <tr> <td>Vegetative Cover</td> <td>Grassland: 70 percent relative cover (relative cover is cover compared with baseline) of typical native and naturalized grassland species known from the Sunol Region by the end of the fifth monitoring year. Individual Native Trees: 65 percent survivorship by the fifth monitoring year.</td> </tr> <tr> <td>Invasive Species</td> <td>At the end of the fifth monitoring year, a restoration area shall have no more cover by invasives than the baseline. Invasive plant species shall be defined as any high-level species on the California Invasive Plant Council Inventory</td> </tr> </tbody> </table> <p>Compensatory Mitigation The SFPUC shall fully compensate for permanent losses of non-native grassland and ruderal habitat that provide potential low-quality upland refugia and dispersal habitat for CTS and CRLF, as well as potential low quality foraging and dispersal habitat for AWS. This area is approximately 0.43 acre. Compensatory mitigation may occur through habitat enhancements at any one of the SFPUC's Bioregional Habitat Restoration sites, such as the Goat Rock compensation site and the San Antonio Creek compensation site, or through purchase of credits at an off-site mitigation bank. Permanently impacted areas shall be mitigated at a ratio of 2:1, unless otherwise approved by USFWS and/or CDFW. Enhancements at the SFPUC's Bioregional Habitat Restoration sites shall be conducted in accordance with the SFPUC's Sunol Region Mitigation and Monitoring Plan, which specifies the success criteria and mechanisms for monitoring to ensure compensation.</p>	Parameter	Field Indicator/Measurement	Vegetative Cover	Grassland: 70 percent relative cover (relative cover is cover compared with baseline) of typical native and naturalized grassland species known from the Sunol Region by the end of the fifth monitoring year. Individual Native Trees: 65 percent survivorship by the fifth monitoring year.	Invasive Species	At the end of the fifth monitoring year, a restoration area shall have no more cover by invasives than the baseline. Invasive plant species shall be defined as any high-level species on the California Invasive Plant Council Inventory				
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Invasive Species	At the end of the fifth monitoring year, a restoration area shall have no more cover by invasives than the baseline. Invasive plant species shall be defined as any high-level species on the California Invasive Plant Council Inventory											

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Biological Resources (cont.)						
BI-1 (cont.)		<p>Mitigation Measure M-BI-1f: Measures to Minimize Disturbance to Western Burrowing Owl.</p> <p>The SFPUC shall implement one of the following two measures to avoid and minimize impact on western burrowing owl:</p> <ol style="list-style-type: none"> 1. The SFPUC shall provide evidence (in the form of a burrowing owl habitat assessment, focused survey, etc.) to, and receive concurrence from, CDFW that western burrowing owl are not expected to occur within the project area and a 500-foot buffer. 2. If the potential for presence of western burrowing owl cannot be ruled out, the SFPUC shall implement preconstruction surveys for burrowing owl as follows: <ol style="list-style-type: none"> a. A biologist with experience in western burrowing owl identification (qualified biologist) shall conduct preconstruction surveys of suitable habitat within the project area, and in a 500-foot buffer of the project area (as access is allowed on adjacent private lands), to locate active breeding or wintering burrowing owl burrows less than 14 days prior to construction and/or prior to exclusion fencing installation. If no burrowing owls are detected, no additional action is necessary. b. If burrowing owls are detected during the nesting and fledging seasons (April 1 to August 15 and August 16 to October 15, respectively), the SFPUC shall establish a no-disturbance buffer around the nesting location to avoid disturbance or destruction of the nest site until after the breeding season or after the biologist determines that the young have fledged or would not be affected by planned construction activities. The extent of these buffers shall be determined by the biologist and would depend on the level of noise or construction disturbance; line of sight between the nest and the disturbance; ambient noise under existing conditions (baseline noise) and other disturbances; and consideration of other topographical or artificial barriers. c. If burrowing owls are detected during the non-breeding (winter) season (October 16 to March 31), the SFPUC shall establish a no-disturbance buffer around any active burrows. The extent of the buffer shall be determined by the biologist. If active winter burrows are found that would be directly affected by ground-disturbing activities, owls can be displaced from winter burrows according to recommendations made in the <i>Staff Report on Burrowing Owl Mitigation</i>.¹ Burrowing owls should not be excluded from burrows unless or until a Burrowing Owl Exclusion Plan is developed by the qualified biologist. 	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC BEM (qualified biologist) 3) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM/CDFW 3) SFPUC BEM/CDFW 	<ol style="list-style-type: none"> 1) Ensure that contract documents include the appropriate language for protection of western burrowing owl. 2) Provide evidence that western burrowing owl are not expected to occur within the project area and obtain concurrence with CDFW, or, if the potential for presence of western burrowing owl cannot be ruled out, conduct preconstruction surveys, mapping. Document activities in monitoring logs. Obtain and review resume or other documentation of consulting biologist's qualifications. 3) If burrowing owls are detected, monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Construction

¹ California Department of Fish and Game, 2012. Staff Report on Burrowing Owl Mitigation. March 7, 2012.

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Biological Resources (cont.)						
BI-1 (cont.)		<p>Mitigation Measure M-BI-1g: Measures to Minimize Disturbance to Special-Status Bird Species.</p> <p>The SFPUC shall conduct tree and shrub removal in the project area during the nonbreeding season (generally August 16 through February 14) for migratory birds and raptors if possible. In the event that the construction schedule requires work during the breeding season, then tree and shrub removal may have to occur during the breeding season.</p> <p>If the SFPUC must conduct construction activities during the avian breeding season (February 15 to August 15), the SFPUC shall retain a wildlife biologist who is experienced in identifying birds and their habitat to conduct nesting-raptor surveys in and within 500 feet of the project area (as access is allowed on adjacent private lands). Migratory bird surveys shall be conducted within at least 250 feet of all work areas (as access is allowed on adjacent private lands). All migratory bird and active raptor nests within these areas shall be mapped. These surveys shall be conducted within two weeks prior to initiation of construction activities at any time between February 15 and August 15. If no active nests are detected during surveys, no additional mitigation is required.</p> <p>If migratory bird and/or active raptor nests are found in the project area or in the adjacent surveyed area, the SFPUC shall establish a no-disturbance buffer around the nesting location to avoid disturbance or destruction of the nest site until after the breeding season or after the biologist determines that the young have fledged (usually late June through mid-July). The extent of these buffers shall be determined by the biologist and would depend on the species' sensitivity to disturbance (which can vary among species); the level of noise or construction disturbance; line of sight between the nest and the disturbance; ambient noise under existing conditions (baseline noise) and other disturbances; and consideration of other topographical or artificial barriers. CDFW and/or USFWS shall be consulted regarding nesting bird buffers if the species is a listed species.</p>	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 4) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM <p>(Also CDFW and USFWS if potentially affected bird is a listed species)</p> <ol style="list-style-type: none"> 4) SFPUC BEM 	<ol style="list-style-type: none"> 1) Ensure that contract documents include the appropriate language for protection of special-status bird species. 2) Obtain and review resume or other documentation of consulting biologist's qualifications. Conduct preconstruction surveys, mapping, and agency coordination. Document activities in monitoring logs. 3) If migratory bird and/or active raptor nests are found in the project area or in the adjacent surveyed area, establish a no-distance buffer. 4) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Construction 4) Construction
		<p>Mitigation Measure M-BI-1h: Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures.</p> <p>A pre-construction survey for special-status bats shall be conducted by a biologist who is experienced in the identification of special-status bats (qualified biologist) in advance of any tree removal to identify potential bat habitat and identify active roost sites. Should potential roosting habitat or active bat roosts be found in trees to be disturbed under the project, the following measures shall be implemented:</p> <ul style="list-style-type: none"> • Trimming of trees shall occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15; outside of bat maternity roosting season (approximately April 15 to August 15) if a maternity roost is present and outside of months of winter torpor (approximately October 15 to February 28 or as determined by a biologist who is experienced in the identification of special-status bats), to the extent feasible. • If trimming of trees during the periods when bats are active is not feasible and bat roosts being used for maternity or hibernation purposes are found on or in the immediate vicinity of the project area where these activities are planned, a no-disturbance buffer as determined by a biologist who is experienced in the identification of special-status bats shall be established around these roost sites until they are determined to be no longer in-use as maternity or hibernation roosts or the young are volant. 	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 4) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM 4) SFPUC BEM 	<ol style="list-style-type: none"> 1) Ensure contract documents include the appropriate language for protection of special-status bats. 2) Obtain and review resume or other documentation of consulting biologist's qualifications. Conduct preconstruction surveys, mapping, and agency coordination and monitoring. Document activities in monitoring logs. 3) If potential roosting habitat or active bat roosts are identified, establish a no-disturbance buffer. 4) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Construction 4) Construction

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Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
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Biological Resources (cont.)						
BI-1 (cont.)		<p>Buffer distances may be adjusted around roosts depending on the level of surrounding ambient activity (i.e., if the project area is adjacent to a road or active quarry area) and if an obstruction, such as a large rock formation, is within line-of-sight between the nest and construction. For bat species that are State-sensitive species (i.e. any of the species of special concern with potential to occur on the project area), an SFPUC representative, supported by the qualified biologist, shall consult with CDFW regarding modifying roosts buffers, prohibiting construction within the buffer, and modifying construction around maternity and hibernation roosts.</p> <ul style="list-style-type: none"> • A biologist who is experienced in the identification of special-status bats shall be present during tree trimming and disturbance to rock crevices or outcrops if bat roosts are present. Trees and rock crevices with roosts shall be disturbed only when no rain is occurring or is forecast to occur for three days and when daytime temperatures are at least 50 degrees Fahrenheit (°F). • Trimming of trees containing or suspected to contain roost sites shall be done under supervision of a biologist who is experienced in the identification of special-status bats and implemented over two days. On one day, branches and limbs not containing cavities or fissures in which bats could roost shall be cut only using chainsaws. The following day, branches or limbs containing roost sites shall be trimmed, under the supervision of the biologist, also using chainsaws. • Bat roosts that begin during construction shall be presumed to be unaffected, and no buffer shall be necessary. 				
	<p>Mitigation Measure M-BI-1i: Avoidance and Minimization Measures for American Badger.</p> <p>The following measures shall be implemented to avoid and minimize impacts on American badger:</p> <ol style="list-style-type: none"> a) A biologist who is experienced in American badger identification (qualified biologist) shall conduct preconstruction surveys for American badger dens prior to the start of construction at potentially affected sites. The survey results shall be submitted to the SFPUC. b) Areas of suitable habitat for American badger in the project area include non-native grasslands. Surveys shall be conducted wherever this vegetation community exists within 100 feet of the project area boundary. Surveys shall be phased to occur within 14 days prior to disturbance. c) If no potential American badger dens are found during the preconstruction surveys, no further action is required. d) If the qualified biologist determines that any potential dens identified during the preconstruction surveys are inactive, the biologist shall excavate the dens by hand with a shovel to prevent use by badgers during construction. e) If active badger dens are found during the course of preconstruction surveys, the following measures shall be taken to avoid and minimize adverse effects on American badger: 	<ol style="list-style-type: none"> 1) SFPUC EMB 2) SFPUC CMB (qualified biologist) 3) SFPUC CMB (qualified biologist) 	<ol style="list-style-type: none"> 1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM/CDFW if dens are determined to be active 	<ol style="list-style-type: none"> 1) Ensure contract documents include the appropriate language for protection of American Badger. 2) Obtain and review resume or other documentation of consulting biologist's qualifications. Conduct preconstruction surveys, mapping, and agency coordination and monitoring. Document activities in monitoring logs. 3) If potential dens are identified, monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 	<ol style="list-style-type: none"> 1) Design 2) Preconstruction 3) Construction 	

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			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
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Biological Resources (cont.)						
BI-1 (cont.)		i. Relocation shall be prohibited during the badger pupping season (typically February 15 to June 1). ii. Construction activities shall not occur within 50 feet of active badger dens. The biologist shall contact CDFW immediately if natal badger dens are detected to determine suitable buffers. iii. If the qualified biologist determines that potential dens within the project area, and outside the breeding season, may be active, the biologist shall notify the CDFW. Badgers shall be passively relocated from active dens during the non-breeding season. Passive relocation may include incrementally blocking the den entrance with soil, sticks, and debris for three to five days to discourage use of these dens prior to project disturbance. After the qualified biologist determines that badgers have abandoned any active dens found within the project area, the dens shall be hand-excavated with a shovel to prevent re-use during construction.				
BI-2	Construction of the proposed project could have a substantial adverse effect on riparian habitat and other sensitive habitats.	Mitigation Measure M-BI-2: Avoidance and Protection Measures for Riparian Habitats and Wetlands. The SFPUC and its contractors shall avoid impacts on riparian habitats and jurisdictional wetlands, by implementing the following measures: <ul style="list-style-type: none"> A silt fence shall be installed adjacent to all riparian habitats and wetlands to be avoided within 50 feet of any proposed construction activity, and signs installed indicating the required avoidance. No equipment mobilization, grading, clearing, or storage of equipment or machinery, or similar activity, shall occur until a biologist who is experienced in the identification of riparian habitats and wetlands has inspected and approved the fencing installed around these features. This restriction applies to both onsite construction and any offsite mitigation area. The SFPUC shall ensure that the temporary fencing is continuously maintained until all construction activities are completed. No construction activities, including equipment movement, material storage, or temporary spoil stockpiling, shall be allowed within the fenced areas protecting riparian habitats and wetlands. Exposed slopes shall be stabilized immediately upon the completion of construction activities. Implement Mitigation Measures M-BI-1a (General Protection Measures); M-BI-1b (Worker Training and Awareness Program); M-BI-1e (Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation);	1) SFPUC EMB 2) SFPUC CMB 3) SFPUC CMB	1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM	1) Design project to avoid impacts to waters of the United States and state. Ensure appropriate language is included in contract documents for protection of riparian habitats and wetlands. 2) Monitor to ensure that the contractor implements measures in contract documents. Report noncompliance and ensure corrective action. 3) Stabilize exposed slopes immediately upon completion of construction.	1) Design 2) Construction 3) Construction
BI-3	Construction of the proposed project could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means.	Implement Mitigation Measures M-BI-1a, 1b, and 1e (General Protection Measures, Worker Training and Awareness Program, Vegetation Restoration Plan and Compensatory Mitigation) and Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian and Wetlands)	—	—	—	—

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Biological Resources (cont.)						
BI-6	Project operations could have a substantial adverse effect on riparian habitat or other sensitive natural community, including wetland habitats.	<p>Mitigation Measure M-BI-6a: Baseline riparian habitat mapping.</p> <p>Prior to commencing project operations, the SFPUC shall prepare a plan to submit to the Environmental Review Officer (ERO) for review and approval describing quantitative methods for measuring extent of baseline riparian habitat and subsequent changes in extent following commencement of project operations. The SFPUC shall map the extent of tree-supporting riparian alliances (i.e., sandbar and arroyo willow thickets and mixed riparian forest) along Alameda Creek Subreaches A, B, and C1, starting from the confluence with San Antonio Creek and extending downstream to about the northern end of the former Sunol Valley Golf Club (see Figure 5.14-2).</p>	1) SFPUC BEM/SFPUC NRLMD (qualified biologist)	1) SF Planning ERO	1) Develop baseline riparian habitat mapping and measurement plan in accordance with mitigation requirements, include documentation of qualifications of botanist (e.g., resume). Submit to ERO for approval. Conduct baseline mapping of tree-supporting riparian alliances in accordance with ERO-approved methodology.	1) Post-construction (prior to operations)
		<p>Mitigation Measure M-BI-6b: Annual riparian habitat monitoring and reporting.</p> <p>Once ACRP recapture operations begin, the SFPUC shall conduct annual monitoring within Subreaches A, B, and C1, applying the same mapping protocol used to establish the baseline map (Mitigation Measure M-BI-6a), to document the extent of tree-supporting riparian alliances. A reduction in extent of tree-supporting riparian alliances from the baseline conditions, as calculated below, shall trigger implementation of habitat enhancement measures described in Mitigation Measure M-BI-6c on a 1:1 ratio based on extent.</p> <p>Changes in the extent of tree-supporting woody riparian alliances shall be calculated as the difference in extent between the baseline conditions and a multi-year rolling average based on the current year and the years preceding.</p> <p>The SFPUC shall prepare and submit to the ERO an annual report documenting the annual monitoring of riparian habitat and any associated habitat enhancement activities, with the first year report consisting of baseline monitoring and plan for habitat enhancement (see Mitigation Measure M-BI-6c).</p> <p>In the future, when quarry operations cease, implementation of this mitigation measure shall cease.</p>	1) SFPUC BEM/SFPUC NRLMD (qualified biologist)	1) SF Planning ERO	1) Conduct annual monitoring and mapping applying the same mapping protocol used to establish the baseline map. Prepare annual report documenting the monitoring of riparian habitat and any associated habitat enhancement activities. Submit annual report to ERO.	1) Post-construction
		<p>Mitigation Measure M-BI-6c: Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances.</p> <p>The SFPUC shall develop a habitat enhancement plan to be reviewed and approved by the Environmental Review Officer and shall implement the plan based on the triggers described in Mitigation Measure M-BI-6b. The plan shall be consistent with the SFPUC's Sunol Valley Restoration Report (in prep.) and shall consist of a combination of plantings such as valley oaks and sycamores in the floodplain, and protecting and managing natural valley oak and sycamore recruits. Mitigation gains in woody riparian habitat shall be calculated in the same manner as losses are calculated in Mitigation Measure M-BI-6b. To the extent feasible, habitat enhancement shall be implemented in a portion of Subreaches B and C1, and in all cases, within the Sunol Valley.</p> <p>No net loss will be considered to be achieved under this mitigation measure at such time that the SFPUC establishes and maintains woody riparian habitat that fully replaces the baseline extent of woody riparian habitat in accordance with the approved habitat enhancement plan. Upon documentation that this performance standard has been satisfied, the SFPUC may request ERO approval to discontinue the monitoring and enhancement actions required under this mitigation measure.</p>	1) SFPUC BEM/SFPUC NRLMD (qualified biologist)	1) SF Planning ERO	1) Develop a habitat enhancement plan in accordance with mitigation requirements. Submit to ERO for approval. Implement the plan based on the triggers described in Mitigation Measure M-BI-6b.	1) Post-Construction

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Biological Resources (cont.)						
BI-6 (cont.)		This measure shall be superseded at such time that the SFPUC implements the Sunol Valley Restoration Report that accomplishes the equivalent or greater habitat enhancement. In the future, when quarry operations cease, implementation of this mitigation measure shall cease.				
BI-8	Construction and operation of the proposed project could conflict with local policies or ordinances protecting biological resources.	Implement Mitigation Measures M-BI-1a (General Protection Measures); M-BI-1b (Worker Training and Awareness Program); M-BI-1c (Prevent Movement of Sensitive Wildlife Species through the Work Areas); M-BI-1d (Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, California Red-Legged Frog, and Alameda Whipsnake); M-BI-1e (Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation); M-BI-1f (Measures to Minimize Disturbance to Western Burrowing Owl); M-BI-1g (Measures to Minimize Disturbance to Special-Status Bird Species); M-BI-1h (Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures); M-BI-1i (Avoidance and Minimization Measures for American Badger); M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands); M-BI-6a (Baseline riparian habitat mapping); M-BI-6b (Annual riparian habitat monitoring and reporting); M-BI-6c (Habitat enhancement, Subreaches B and C1 to achieve no net loss of tree-supporting riparian alliances)	—	—	—	—
C-BI-1	The project, in combination with past, present, and probable future projects, could substantially affect terrestrial biological resources.	<p>Implement Mitigation Measures M-BI-1a (General Protection Measures), M-BI-1b (Worker Training and Awareness Program), M-BI-1c (Prevent Movement of Sensitive Wildlife Species through the Work Areas), M-BI-1d (Preconstruction Surveys and Construction Monitoring and Protocols for California Tiger Salamander, Red-Legged Frog, and Alameda Whipsnake), M-BI-1e (Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation), Mitigation Measure M-BI-1f (Measures to Minimize Disturbance to Western Burrowing Owl), M-BI-1g (Measures to Minimize Disturbance to Special-Status Bird Species), M-BI-1h (Conduct Preconstruction Surveys for Special-Status Bats and Implement Avoidance and Minimization Measures), and M-BI-1i (Avoidance and Minimization Measures for American Badger). Implement Mitigation Measure M-BI-2 (Avoidance and Protection Measures for Riparian Habitats and Wetlands).</p> <p>Mitigation Measure M-C-BI: Coordination of Measures for Monitoring and Habitat Enhancement in Subreaches A, B, and C1.</p> <p>In the event that implementation of the SMP-30 quarry expansion, SMP-30 cut-off wall, and PG&E Line 303 relocation (either individually or collectively) are determined to result in downstream impacts to riparian habitat in Subreaches A, B, and C1 of Alameda Creek (i.e., tree-supporting riparian vegetation alliances), and mitigation measures are required by those projects to mitigate significant impacts to riparian habitat in these subreaches, then the SFPUC shall coordinate or as necessary modify the habitat enhancement plan it developed to implement Mitigation Measure M-BI-6c, to ensure that habitat restoration and enhancement efforts along Alameda Creek are consistent with each other in these subreaches.</p> <p>Implement Mitigation Measure M-BI-6a (Baseline riparian habitat mapping); M-BI-6b (Annual riparian habitat monitoring and reporting); M-BI-6c (Habitat enhancement, Subreaches B and C1)</p>	<p>1) See above for previously described measures</p> <p>2) SFPUC BEM/SFPUC NRLMD (qualified biologist)</p>	<p>1) See above for previously described measures</p> <p>2) SFPUC BEM/SFPUC NRLMD</p>	<p>1) See above for previously described measures</p> <p>2) In the event that implementation of future cumulative projects require mitigation measures for riparian habitat in Subreaches A, B, and C1 of Alameda Creek, determine consistency of all required mitigation measures and modify as necessary to ensure consistency of long term habitat enhancement plan.</p>	<p>1) See above for previously described measures</p> <p>2) Post-Construction</p>

USFWS = U.S. Fish and Wildlife Service
 CDFW = California Department of Fish and Wildlife
 BAAQMD = Bay Area Air Quality Management District

SFPUC = San Francisco Public Utilities Commission
 CMB = (SFPUC) Construction Management Bureau
 NRLMD = (SFPUC) Natural Resources and Land Management Division

EMB = (SFPUC) Engineering Management Bureau
 BEM = (SFPUC) Bureau of Environmental Management

ERO = (SF Planning Department) Environmental Review Officer

ALAMEDA CREEK RECAPTURE PROJECT (SF PLANNING DEPARTMENT CASE NO. 2015-004827ENV) – MITIGATION MONITORING AND REPORTING PROGRAM

Impact No.	Impact Summary	Mitigation Measure	Monitoring and Reporting Program			
			Implementation and Reporting		Monitoring and Reporting Actions	Implementation Schedule
			Responsible Party	Reviewing and Approval Party		
Geology and Soils						
GE-3	Project construction could result in a substantial adverse effect by directly or indirectly destroying a unique paleontological resource or site or unique geologic feature.	Mitigation Measure M-GE-3: Accidental Discovery of Paleontological Resources. If construction workers discover potential fossils, all earthwork associated with the mooring piers shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. The paleontologist may also propose modifications to the stop-work radius based on the nature of the find, site geology, and the activities occurring on the site. Recommendations for any necessary treatment shall be consistent with the Society of Vertebrate Paleontology (SVP) 1995 Guidelines and currently accepted scientific practices. If required, treatment for fossil remains may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation and publication of a report describing the finds. The paleontologist's recommendations shall be subject to review and approval by the ERO or designee. The SFPUC shall be responsible for ensuring that treatment is implemented and reported to the San Francisco Planning Department. If no report is required, the SFPUC shall nonetheless ensure that information on the nature, location, and depth of all finds is readily available to the scientific community through university curation or other appropriate means.	1) SFPUC EMB 2) SFPUC CMB (qualified paleontologist) 3) SFPUC CMB (qualified paleontologist)	1) SFPUC BEM 2) SFPUC BEM 3) SFPUC BEM/SF Planning ERO	1) Ensure that contract documents include requirement that contractor implement measures related to paleontological resources including discoveries. 2) Obtain and review resume or other documentation of paleontologist's qualifications. Ensure that all personnel attend environmental training prior to any earthwork associated with the mooring piers to be familiarized with the potential for encountering paleontological resources. 3) In the event of a discovery, confirm suspension of work, examination of fossil by qualified paleontologist, and implementation of paleontologist's recommendations. Report as required.	1) Design 2) Pre-construction/Construction 3) Construction
C-GE	The project, in combination with past, present, and probable future projects, could substantially affect paleontological resources.	Implement Mitigation Measure M-GE-3 (Accidental Discovery of Paleontological Resources)	—	—	—	—
Minerals and Energy Resources						
ME-4	Project operations could encourage activities that use large amounts of fuel or energy, or use these resources in a wasteful manner.	Mitigation Measure M-ME-4(WSIP PEIR Measure 4.15-2): Incorporation of Energy Efficiency Measures Consistent with the Energy Action Plan II priorities for reducing energy usage, the SFPUC will ensure that energy efficient equipment is used in all WSIP projects. A repair and maintenance plan will also be prepared for each facility to minimize power use. The potential for use of renewable energy resources (such as solar power) at facility sites will be evaluated during project-specific design.	1) SFPUC EMB 2) SFPUC EMB	1) SFPUC BEM 2) SFPUC BEM	1) Evaluate the potential for use of renewable energy sources such as solar power and ensure that energy-efficient equipment is used in project design. 2) Prepare a repair and maintenance plan that minimizes power use.	1) Design 2) Prior to operation
C-ME	The project, in combination with past, present, and probable future projects, could substantially affect energy resources.	Implement Mitigation Measures M-ME-4 (Incorporation of Energy Efficiency Measures)	—	—	—	—

USFWS = U.S. Fish and Wildlife Service
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EMB = (SFPUC) Engineering Management Bureau
BEM = (SFPUC) Bureau of Environmental Management

ERO = (SF Planning Department) Environmental Review Officer

Attachment E
Previous Comment Letters from
the Alameda County Water
District to the Planning
Department regarding the
Alameda Creek Recapture Project
(Exhibit D of Appeal Letter)





DIRECTORS

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June 21, 2017

Jonas P. Ionin
 Commission Secretary
 San Francisco Planning Commission
 1660 Mission Street
 San Francisco, CA 94103
 Email: Commissions.Secretary@sfgov.org

Dear Jonas Ionin:

Subject: Comments on the Final EIR for the Alameda Creek Recapture Project

The Alameda County Water District (ACWD) would like to thank the Planning Commission and its staff for the opportunity to provide comments on the Alameda Creek Recapture Project (ACRP or Project) Final Environmental Impact Report (FEIR), and for the extension of time that was previously granted for the submission of ACWD's comments on the Draft Environmental Impact Report (DEIR).

As a customer of the San Francisco Public Utilities Commission (SFPUC), ACWD relies on the Regional Water System for about 20 percent of our water supply. The Regional Water System supplies ACWD with a reliable supply of high quality water, which is an essential resource for ACWD to serve a population of 351,000 in Fremont, Newark, and Union City. In addition to being a customer of SFPUC, ACWD has a long history of working together with SFPUC on shared interests in the Alameda Creek Watershed. Both agencies have reputations of being progressive water agencies and good stewards of the environment in California. In fact, our agencies have worked cooperatively since 1997 through the Alameda Creek Fisheries Work Group to reestablish a viable fishery for the federally threatened *Oncorhynchus mykiss*, or steelhead, in the Central Coast region.

ACWD generally supports the concept of the Project – recapturing water for beneficial uses can benefit all customers who use water provided by SFPUC, including ACWD. However, the Project must be done in a way that does not have significant, unmitigated impacts on the environment. Because ACWD relies on Alameda Creek for approximately 40% of its water supply and operates and maintains facilities in the watershed to replenish the Niles Cone Groundwater Basin downstream of the Project, ACWD is uniquely familiar with, and concerned about, the Project.

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ACWD submitted detailed written comments on the Notice of Preparation on July 27, 2015, expressing concerns about the complexity of the system and outlining specific information that would be required in order for our agency to evaluate potential impacts on downstream water supply operations and environmental flows for steelhead. The San Francisco Planning Department circulated the DEIR on November 30, 2016. Unfortunately, the DEIR did not include the relevant details ACWD needed to analyze Project impacts, and therefore ACWD submitted comments on the DEIR on January 30, 2017, setting forth concerns about the adequacy of the DEIR. Similar concerns were noted and commented on by the National Marine Fisheries Services, the Regional Water Quality Control Board, as well as several local non-governmental organizations. Having evaluated the responses to ACWD's comments, ACWD still does not believe that the FEIR includes a sufficient degree of analysis needed to determine the environmental impacts of the Project.

Therefore, ACWD requests that the Planning Commission delay taking any action on the FEIR and direct its staff to undertake an analysis that addresses these potentially significant impacts. Specifically, ACWD believes the CEQA analysis to be inadequate for the following reasons:

1) The studies and methodology in the FEIR are not sufficiently credible to support the FEIR impact analysis and Project approval.

- ACWD commented on a critical mass balance discrepancy in the DEIR analysis, which shows that construction of the ACRP would, on an average annual basis, cause more water to flow out of the Project area relative to the with-Calaveras Dam Replacement Project no-ACRP scenario. This increase in total flow downstream of the Project area (specifically, as modeled at the "Niles" streamflow gage on Alameda Creek) suggests a fundamental flaw in the numerical analysis.
- The Planning Department responded to ACWD's comment by stating "...the slight increase in water volume leaving the system at the Niles gage must be balanced by a slight decrease in the amount abstracted by the SFPUC." (RTC 11.5-34). This response states that SFPUC intends to lose approximately 3,000 AF/year of water supply by construction of the ACRP, which is the opposite of the Project's intent. This response indicates a lack of sufficient credibility in the fundamental modeling assumptions underpinning the FEIR's analysis.
- Given the lack of sufficient credibility of the modeling approach, the majority of conclusions made by the FEIR are unsupported, including conclusions of no significant impact to downstream water rights holders and aquatic species.

E1-1

2) The EIR was not prepared with a sufficient degree of analysis for decision makers to take account of environmental effects.

- The analysis of the Project's impacts on stream flows and aquatic habitat and affected species is inadequate. The FEIR fails to analyze impacts on environmental flows for aquatic species of concern as well as downstream water

E1-2

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supply operations, despite the availability of a reasonably feasible analysis that was requested by ACWD and National Marine Fisheries Service (NMFS) which involves close inspection of changes in daily flow rates.

- The FEIR relies on a monthly averaging of total volume, which masks impacts which can only be observed when considering changes in flow rates on a daily time step.

- An initial inspection of the daily data provided by the Planning Department to ACWD on June 10, 2017, and after the comment period closed, indicates a 60% increase (138 additional days) in the number of non-passable days for threatened steelhead downstream of the proposed project location during wet year migration seasons included in the study period. Similarly, a 34% increase in non-passable days (102 additional days) downstream of the project area during migration season in dry years is also observed.

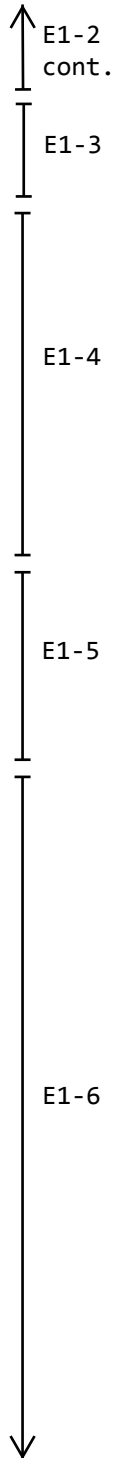
- These potentially significant impacts to steelhead were not properly analyzed in the FEIR and renders unsupported the conclusions of no impact.

- Furthermore, as discussed in 1) above, ACWD has significant concerns that the studies and modelling used by SFPUC to generate this data is not sufficiently credible, and is not adequate to evaluate the impacts to downstream water users and aquatic species. The actual impacts could be even greater than those indicated by the daily modeling results that ACWD received from the Planning Department.

- The FEIR analysis makes assumptions about the relationship of flow losses, Pit F2 levels, and local groundwater conditions that are unsupported by substantial evidence. The FEIR is internally inconsistent and the response to comments failed to address this inconsistency. Appendix HYD-1 Section 6.2 acknowledges that stream losses can be influenced by changing groundwater conditions which will result from the Project. However, the modeling analysis makes no effort to reflect changing stream losses, nor are changing stream losses reflected in the FEIR’s impact analysis.

- The use of the conceptual hydrogeologic model to evaluate Pit F2 water levels based on a *single test condition* (HYD-1 page 83) does not provide sufficient evidence to determine effects of changing hydrologic conditions. Sufficient evidence would require at least two test conditions to determine a trend, or more test conditions if there is more than one variable that needs to be tested. Thus, the Planning Department’s dismissal of the conceptual model described on page 80 of HYD-1 is not based on sufficient evidence, and the impacts analysis of surface water conditions is inadequate and unsupported.

- The FEIR does not support the assumption of percolation rates with sufficiently credible evidence. The analysis presented in HYD-1 Section 6.2.1 indicates approximately 4 cfs (17 AF over four days) enters Pit F2 during a four-day storm period, or approximately 25% of the 17 cfs stated



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to be lost from the stream during that period (HYD-1 page 83). However, conflicting analysis provides that “it was assumed that all of the Alameda Creek surface water that percolates into the subsurface between the Welch Creek and San Antonio Creek confluences finds its way into Pit F2.” (HYD-1 page 42). This is a substantial departure from the evidence presented in the FEIR test condition, which indicated 25% of stream flow losses percolate into Pit F2, while the stated assumption used for modeling is that a 100% of stream flow loss percolates into Pit F2. This 100% percolation rate is not supported by substantial evidence, and the resulting conclusions of no impacts are inadequate.

- Many commenters, including ACWD, expressed serious concern that the DEIR disregarded the critical and unexamined relationship between stream flow loss and pit water surface levels, and requested the Planning Department to determine the true relationship. However, the Planning Department’s response to these comments was unresponsive and simply reiterated the unsupported analysis based on insufficient evidence presented in the DEIR. See comments HY-2 (RTC page 11.5-9), HY-3 (RTC page 11.5-12), HY-6 (RTC page 11.5-27), and HY-8 (RTC page 11.5-34).

↑
 E1-6
 cont.

3) The Planning Department failed to provide the data needed to evaluate substantial impacts from the Project and to fully disclose scientific methodology.

Despite the multiple requests made by ACWD for daily modeling data, ACWD only received the relevant requested data on June 10, 2017 – 192 days after the Draft EIR was published and 131 days after the close of the public comment period, including extension. Withholding requested relevant data, and then providing said data with less than 10 business days prior to the Planning Commission meeting to analyze such a complex system deprives the public of a meaningful opportunity to comment on the substantial adverse Project impacts, feasible mitigation or alternatives.

E1-7

- Moreover, the data provided is still incomplete since it does not include the accounting of water entering and leaving Pit F2, as modified by the Planning Department and used to complete the CEQA analysis. This lack of critical data hinders ACWD’s ability to perform an independent review of the actual analysis and to fully evaluate impacts.

E1-8

4) The FEIR and response to comments fail to address impacts to downstream water users.

- The response to comments failed to address the Project's changes in the use, storage and diversion of SFPUC's water rights and potential injury to ACWD's water rights under Water Code section 1706. The authorities cited in response to comments have no application to the proposed ACRP.

E1-9
 E1-10

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June 21, 2017

- o The failure to address injury to downstream water users and resulting potential changes to ACWD's operation makes the no impacts analysis in section 11.7.4 of the FEIR inadequate and unsupported.

E1-11

The Alameda County Water District had hoped to work together with the Planning Department to fully study the potential impacts of this Project and offered financial and staff resources towards the analysis (see comment HY-4). Unfortunately, while the SFPUC made coordination efforts with ACWD, very little cooperative progress was made to properly analyze the effects of the Project. ACWD still welcomes an opportunity to cooperatively study the operation of the Project in a public process, via the Alameda Creek Fisheries workgroup, if so desired by the SFPUC, with full public transparency. ACWD requests that the Planning Commission delay approval of the Project until sufficient analysis is conducted to determine impacts to threatened species and water resources that exist downstream of the Project.

E1-12

If you have any questions about these comments, please contact me at (510) 668-4202.

Sincerely,



Robert Shaver
General Manager

la/tf

- cc: Steven Inn, ACWD
Steve Ritchie, SFPUC
Ellen Levin, SFPUC
Chelsea Fordham, SF Planning Department
Nicole Sandkulla, BAWSCA



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January 10, 2017

Lisa M. Gibson
Acting Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

Subject: Request for Extension of Time - Draft Environmental Impact Report for the Alameda Creek Recapture Project

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the Draft Environmental Impact Report for the Alameda Creek Recapture Project (ACRP) located in the Sunol Valley (Draft EIR).

ACWD staff is reviewing the Draft EIR, which at over 700 pages with technical appendices is a long and complex document. While the California Environmental Quality Act (CEQA) provides for a public review period of not be less than 45 days and the notice for the Draft EIR provided a comment deadline of January 17, 2017, ACWD is requesting an extension of time, allowing for 60 days to adequately review the Draft EIR. (CEQA Guidelines § 15203; San Francisco Administrative Code § 31.14(b)(1).) The technical analysis in the Draft EIR requires a thorough review by highly specialized professionals who have knowledge of the Alameda Creek system and ACWD's operations. The release of the Draft EIR in late November has resulted in limited time for a number of key ACWD staff to adequately review the highly technical data and analysis covered in the Draft EIR due to multiple holidays occurring during the public review period.

ACWD review of the analysis in the Draft EIR has also been constrained by the incomplete release of modeling information. ACWD identified in its July 27, 2015, comment letter for the Notice of Preparation for the Draft EIR that "while annual [flow] totals may be the same, the actual daily rate of releases or bypass flows will be quantifiably different from the recapture rate provided by the ACRP," and that, "[t]he disparity in the release and recapture rates may have impacts in a variety of areas of concern and will need to be analyzed in sufficient detail for

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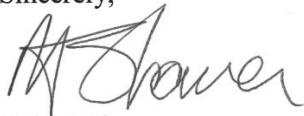


San Francisco Planning Department
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potential impacts to be understood and ultimately mitigated if necessary.” In order to evaluate potential impacts, ACWD requests an opportunity to review the daily flow rates provided by the modeling. Upon review of this additional data, ACWD requests a meeting with San Francisco staff to further discuss potential impacts of the ACRP prior to providing comments on the Draft EIR. Therefore, ACWD further requests an extension of time to more fully review the requested data, meet with San Francisco, and comment on the Draft EIR.

Thank you again for the opportunity to comment on the Draft EIR. For further discussions about these comments or about ACWD's Alameda Creek water supply and downstream operations, please contact Steven Inn, Manager of Water Resources, at (510) 668-4441. We look forward to coordinating further with you on this project.

Sincerely,



Robert Shaver
General Manager

la/tf

By E-mail

cc: Steven Inn, ACWD
Michael Carlin, SFPUC
Steve Ritchie, SFPUC



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January 30, 2017

Lisa M. Gibson
Acting Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

Subject: Comments on the Draft EIR for the Alameda Creek Recapture Project

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the proposed Alameda Creek Recapture Project (ACRP) during the environmental review phase. The Alameda County Water District (ACWD) acknowledges and appreciates the significant accomplishments of the San Francisco Public Utilities Commission (SFPUC) to date in the implementation of the Water Supply Improvement Program (WSIP). ACWD is a customer and a beneficiary of the high quality water that SFPUC currently provides and the water supply reliability improvements that the SFPUC is achieving through the overall implementation of the WSIP.

ACWD is also appreciative of the San Francisco Planning Department (Planning Department) Staff for extending the comment period on this important project.

ACWD has a strong interest in protecting and preserving water quality and water supply in Alameda Creek and the Alameda Creek watershed. ACWD staff has carefully reviewed the DEIR and we are particularly concerned with potential impacts the ACRP may have on ACWD's water supplies, as well as ongoing projects related to fisheries restoration in Alameda Creek. With a service area located downstream of the proposed project location, ACWD uses water from the Alameda Creek watershed for drinking water supply to over 349,000 residents in the cities of Fremont, Newark, and Union City. ACWD relies on flow in Alameda Creek for groundwater recharge and its subsequent use as a potable drinking water supply. Additionally, ACWD, together with the SFPUC and other watershed stakeholders, is actively involved in the ongoing efforts to restore the federally-threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) in Alameda Creek.

The DEIR describes that the intent of the ACRP is to recapture the volume of water released from Calaveras Reservoir and/or bypassed around the Alameda Creek Diversion Dam (ACDD)



as part of the future operations plan described in the Calaveras Dam Replacement Project Biological Opinion (CDRPBO) (Page 3-7, Section 3.2.2 of the DEIR.) The ACRP will rely on the slow and steady percolation of surface water from Alameda Creek into the Sunol Groundwater Basin, and into a former quarry pit referred to as Pit F2. Water from Pit F2 will be pumped to surface storage in San Antonio Reservoir or treatment at the Sunol Valley Water Treatment Plant (SVWTP).

ACWD Comments

The DEIR must adequately address issues associated with protection of Alameda Creek, and the Alameda Creek Watershed, as well as address the project's potential impacts to downstream water users. An EIR must identify and focus on the "significant environmental effects" of the proposed project (Public Resources Code § 21100(b); CEQA Guidelines §§ 15126(a), 15126.2(a), 15143.) A significant effect on the environment is defined as a substantial or potentially substantial change in the environment. (Public Resources Code §§ 21068, 21100(d)(b); CEQA Guidelines § 15382.) ACWD requests these comments be incorporated and addressed in the final EIR for this project to ensure a sufficient level of detail in the analysis of the potential environmental impacts from the construction and operation of the ACRP.

1. Hydrologic Analysis and Use of the Alameda System Daily Hydrologic (ASDH) Model
 - a. **The ASDH Model was identified to have shortcomings by the SFPUC's Blue Ribbon Panel.** The DEIR uses the ASDH Model to perform the assessment of impacts to surface water flow and groundwater elevations in the vicinity of the project. This model was originally developed in 2011 as an empirically derived mass balance model of existing conditions, and in coordination with all partners from the Alameda Creek Fisheries Workgroup, to analyze the effects of the flow releases described in the CDRPBO on Alameda Creek from the location of Calaveras Dam and the ACDD out to the San Francisco Bay. The SFPUC commissioned a Blue Ribbon Panel in August 2012 to provide an independent scientific review of this model in order to validate its usage for development of a Habitat Conservation Plan (HCP) for operation of SFPUC's facilities in the Alameda Creek watershed (Review of the Alameda Creek HCP Modeling Strategy, Aug 2012.) The Blue Ribbon Panel concluded that "a groundwater modeling study will be necessary to evaluate the effects of both continued lowering of Pit F2 elevations and several designs of the seepage cutoff walls, which have been proposed to minimize flow losses." These modifications were not made to the ASDH Model and, given the independent review and recommendation of the panel, the current use of this model is insufficient to perform the environmental analysis required. ACWD recommends that the DEIR incorporate the recommendation of the Blue Ribbon Panel and re-evaluate the impacts of the ACRP on surface and groundwater flows within the Alameda Creek watershed.

- b. **The with-Project Conditions scenario appears to create water, which is not possible.** The scenario analysis, based on the ASDH Model and published in the DEIR, indicates a violation of conservation of mass, which in turn renders the analysis flawed and thus the conclusions of the analysis unsupported. The ASDH Model was developed to analyze the effects of the flow releases from the CDRPBO on fish populations, and a key assumption in the original ASDH Model is that there is a fixed loss rate from Alameda Creek in the Sunol Valley (between Nodes 4 and 5), and that the lost mass does not reappear anywhere else in the model. The fixed loss rate was a conservative assumption made to evaluate impacts in the CDRPBO on downstream flows needed for fish passage. However, when using the ASDH Model to evaluate multiple scenarios, as was done in this DEIR, in order to satisfy the conservation of mass requirement, this fixed lost mass of water cannot reappear in some scenarios while remaining lost in others. Unfortunately, the with-CDRP Conditions scenario indicates significant lost mass relative to the with-Project Conditions scenario, and thus violates conservation of mass. Analyzing the scenarios from a mass-balance perspective, either the with-CDRP Conditions scenario has a significant loss of water (a.k.a. an “infinite sink”), or the with-Project Conditions scenario has a significant addition of water from an unknown source (an “infinite source”). Infinite sinks and sources are significant sources of error in mass balance analyses, and two scenarios cannot be compared if one scenario has one and the other does not. The end result, and in layperson’s terms, is that the with-Project Conditions scenario *creates* water, which is not possible.

The primary evidence of violation of conservation of mass appears in Table HYD8-1 on page 122 of the HYD-1 appendix. The total mass of water exiting the ASDH Model at Node 9 is larger in the with-Project Conditions scenario (average of 97,797 AF/year) than in the with-CDRP Conditions baseline (average of 94,575 AF/year). Since the stated Project Goals and Objectives (Page 3-8 of the DEIR) include “[m]aximize the use of local watershed supplies,” it must be assumed that the other significant outflow from the system above Node 9 (i.e., exports to SFPUC’s drinking water system) are at least equivalent between the two scenarios, if not higher in the with-Project Conditions scenario. Page 3-27, Section 3.6.1.2, Operating Parameters, of the DEIR states: “It is anticipated that, in most cases, the water withdrawn from Pit F2 would be conveyed to the SVWTP and thereby reduce the volume of water conveyed from Calaveras Reservoir to SVWTP, enabling the SFPUC to conserve water in the Calaveras Reservoir and *maintain the historical annual transfers from the Alameda Watershed system to the regional water system.*” According to this statement, as well as the Project Goals and Objectives, it must be assumed that in the with-Project Conditions scenario, there is no equivalent decrease in mass outflows in another part of the system to balance out the increase in mass outflows at Node 9. Meanwhile, the mass inflow to the “SFPUC Alameda Watershed” system (i.e., rainfall-generated runoff into Calaveras reservoir and rainfall-generated flow above the ACDD) must, by reasonable assumption, be the same in all scenarios evaluated. The combination of these mass flows results in significant mass imbalances,

indicating either a significant infinite sink in the with-CDRP Conditions baseline or a significant infinite source in the with-Project Conditions scenario. The lack of consistency in assumptions between these scenarios results in a violation of conservation of mass and renders the conclusions of the analysis in the DEIR unsupported (CEQA Guidelines § 15151.)

- c. **The ASDH Model does not analyze impacts to the environment during critically dry periods.** The SFPUC's Blue Ribbon Panel also identified deficiencies in the ASHD Model by stating, "[a] limitation of the empirical modeling approach, based on such short and fragmented records, is that the resulting model cannot represent well an important feature of California hydrology, which is the occurrence of enduring droughts... Because of the potential importance of multi-year droughts on fish populations... there seems to be some value in continuing to re-visit a process-based streamflow modeling strategy..." (Review of the Alameda Creek Habitat Conservation Plan Modeling Strategy, Aug. 2012). The ASDH Model only covers the hydrologic period between Water Year 1996 and 2013, which does not incorporate periods of extreme drought, therefore the Analysis conclusions in the DEIR does not analyze impacts of operations of the ACRP to the environment during these times. ACWD recommends that the model and analysis framework in the DEIR be revised to incorporate a range of historic droughts, or at the very least through 2015 which would capture the recent, critically dry rain year 2013-2014.

The DEIR proposes an accounting methodology to dictate the amount of water the SFPUC is allowed to pump from Pit F2 for recapture based on the premise that average annual volume of water proposed for recapture is less than average inflow from bypasses and releases. Page 3-27 of the DEIR states that this might not be the case during dry years; during these years, recapture operations would account for carryover water released and bypassed and collected in Pit F2 during prior years. Given the conclusions of the Blue Ribbon Panel on limitations of the ASDH Model in dry years, and the proposed carryover accounting methodology, the current evaluation of impacts to surface water hydrology should be expanded to include historic drought periods, in order to adequately analyze the impacts of the project. For example, increased extraction of water out of Pit F2 during dry periods will draw the Sunol Valley Groundwater Basin down, and increase the loss rate of surface water flow from Alameda Creek in the location of the project. This in turn may reduce the number of days that the surface water flow in Alameda Creek in Sunol remains connected to flow in Niles Canyon, which could impact fish and other species located downstream of the CDRP when comparing 1) the With-CDRP Conditions and 2) the With-Project Conditions scenarios. For fish migration, the hydrologic analysis needs to include an evaluation on how the ACRP will change the available migration periods compared to the selected baseline conditions.

- d. **The DEIR does not provide modeling results in an appropriate time-step needed to analyze downstream impacts.** In addition to the comments above, the ASDH

Model uses a daily time-step to calculate the movement of water throughout the Alameda Creek Watershed, but the results of the modeling work are presented in terms of average annual volumes. Given the dynamic nature of surface water flows in Alameda Creek, the hydrologic analysis needs to include a discussion about day to day changes in surface flows within Alameda Creek in order to fully identify potential impacts to fisheries as well as downstream water users. To illustrate, ACWD recently published a mitigated negative declaration for a series of fish passage projects within the Alameda Creek Flood Control Channel where detailed daily evaluations of proposed flow releases are documented, published, and used to determine potential impacts (Joint Lower Alameda Fish Passage Improvements MND, 2016.) The ACRP DEIR must discuss how the ACRP may impact these future conditions, and to do so, needs to provide an additional level of detail in the hydrologic analysis.

The volume of water that ACRP intends to recapture is approximately equal to the average annual water to be released and/or bypassed. However, while annual totals may be the same, the actual daily rate of releases and/or bypass flows will be markedly different from the slow and steady recapture provided by the ACRP. Real-time releases and bypasses will be on the order of tens to thousands of cubic feet per second (cfs), while the recapture will likely be on the order of ones to tens of cfs. Thus, when releases and/or bypasses are high, a substantial amount of the actual flows will exit Sunol Valley rather than percolate into the ground. Conversely, when releases and/or bypasses are low or are not occurring, the ACRP may continue to capture flows from Alameda Creek that are neither releases nor bypasses. This time-step discrepancy can lead to environmental impacts from operations of the ACRP that are not identified or discussed in the DEIR for the project. The DEIR's hydrologic analysis should be refined to determine the environmental impacts of operations of the ACRP on a daily basis, instead of discussing the magnitude of impacts using average annual or monthly values.

- e. **The DEIR conclusion that there are no significant impacts to ACWD's downstream operations is unsupported.** The DEIR concludes that the operation of the ACRP will not have a significant impact on ACWD's downstream recharge operations by describing an average annual change in the volume of water available at the Niles gage. This is an insufficient level of detail to conclude that there are no impacts to ACWD. ACWD's recharge operations function in a real-time manner, and are highly dependent on the daily fluctuation of flow at the Niles gage. ACWD requests that the SFPUC work with ACWD to identify potential impacts from operation of the ACRP before the Planning Department adopts the EIR for this project.
- f. **The DEIR cumulative impacts do not include effects of cutoff walls.** Figure 1-1 of the DEIR displays existing cutoff walls around Pit F2, which were installed to minimize seepage of Alameda Creek surface water into the groundwater basin and

into Pit F2. The figure also displays proposed future cutoff walls around sections of Pit F6. Installation of this future cutoff wall will likely provide additional protection from surface streamflow losses to the Sunol groundwater basin. The hydrologic analysis must be refined to include the proposed cutoff wall, and any associated changes in streamflow loss rate to determine cumulative impacts and adequately model future streamflow conditions through this reach (CEQA Guidelines §§ 15065(a)(3), 15130).

- g. **The DEIR does not analyze surface water-groundwater interactions.** The use of the ASDH Model does not provide a sufficient degree of analysis to provide the Planning Department with information that enables them to adequately take account of the environmental consequences or adequately determine feasible alternative or mitigation measures (CEQA Guidelines §15151, 15126.4, 15126.6.) The DEIR's hydrologic analysis, based on the recommendations of the SFPUC's Blue Ribbon Panel, must be performed with a proper surface water to groundwater process-based model with an adequate level of detail to fully identify the impacts the operation of the ACRP will have to the surface water and groundwater hydrology within the Alameda Creek Watershed (CEQA Guidelines §15144.) ACWD recommends the development of this model to occur collaboratively with other watershed stakeholders prior to using it to determine levels of impacts from the ACRP.

To address the deficiencies of the ASDH Model and this DEIR, ACWD recommends that the SFPUC work to develop a new, more robust, and appropriate tool to study the potential impacts of the proposed ACRP and the Planning Department to not adopt this DEIR until a detailed analysis is performed. ACWD proposes to collaborate in this effort and to contribute both financially and through in-kind services to the development of a new model.

2. CEQA Piecemealing and Consistency with CDRPBO

- a. **The ACRP project is in conflict with the stated expectations from the National Marine Fisheries Service on the operation of the CDRP project.** The ACRP is a project that is dependent on the Calaveras Dam Replacement Project (CDRP) and associated flow schedule, and was previously identified in the CDRP EIR as the "Filter Gallery Project." An accurate, stable, and finite project description is an indispensable component of an informative and legally sufficient EIR (CEQA Guidelines § 15124.) A "project" is the "whole of an action" that has the potential to result in a physical change to the environment "directly or indirectly" (CEQA Guidelines § 15378(a).) An agency cannot subdivide a project into multiple components to avoid analyzing and discussing in the EIR the sum of environmental impacts resulting from the project (*Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 193.) In 2009, ACWD provided comments on the DEIR of the CDRP stating that:

“...meeting the primary objectives of the CDRP is dependent on implementation of the Filter Gallery Project, the DEIR should consider the Filter Gallery Project as part of the overall Calaveras Dam Replacement Project, and include it in the DEIR’s project description of the CDRP. Without including the Filter Gallery as part of the CDRP Project Description, the primary objective of water supply reliability may not be met, and the SFPUC would be 'piecemealing' the environmental analyses of these two projects...”

Because the CDRP and the ACRP (formally the Filter Gallery Project) components were not analyzed together, inconsistencies exist between the stated goals of the ACRP and the Biological Opinion issued to the SFPUC for take coverage associated with operation of the CDRP. For example, the CDRPBO (pages 49 through 52) states that bypass flows at the ACDD are intended to provide suitable migration conditions from Alameda Creek below the ACDD through Niles Canyon and out to the Bay. Furthermore, page 52 of the CDRPBO states, “CDRP minimum flows from the southern watershed when combined with flows from the northern watershed (at the confluence of Arroyo de la Laguna) through Niles Canyon are expected to provide suitable conditions for adult upstream migration and smolt downstream migration.” Since the ACRP project has been analyzed separately from the CDRP project, the fundamental concept of recapturing CDRPBO flow releases and ACDD bypasses is in conflict with the stated expectations from the National Marine Fisheries Service (NMFS) on the operation of the CDRP project. The DEIR must analyze the impacts that operation of the ACRP will have on the future flow and habitat conditions described in the CDRPBO, and fully analyze the whole of the action taken by SFPUC (CEQA Guidelines § 15378(a).) Without this analysis the separate approval of these related projects could lead to severe impacts on flow and habitat conditions in Alameda Creek (CEQA Guidelines § 15130.)

3. Source of Project Water and Potential Impacts to ACWD’s Water Rights

- a. **The SFPUC needs to seek authorization from the State Water Resources Control Board before it can proceed with the project.** The DEIR claims the source of the recapture water is SFPUC's existing pre-1914 appropriative water rights. A pre-1914 appropriative right can be maintained only by continuous beneficial use of the water. The amount of water and scope of the right is fixed by the amount that can be shown to be actually beneficially used as to both amount and season of diversion.

Under California Water Code section 1706, the point of diversion, place of use, or purpose of use of a pre-1914 appropriative surface water right can be changed if others are not injured by that change. Under the "no injury rule," a transfer of this type would not be authorized to the extent that it reduced the availability of water for downstream users, regardless of the water priority of those users. California water law protects junior water right holders who would be harmed if seniors could increase the amount of water they divert under their senior priority. Likewise, juniors could be

hurt if seniors could change their point of diversion, place of use, or purpose of use in a manner that reduces the quantity or quality of water relied upon by juniors for their diversion.

The DEIR on page 2-11 claims that SFPUC would recapture the subject water "without expanding the CCSF's existing water rights" which is presumably determined from modeling based on historical hydrological data (*see also* DEIR at p. 3-25.) However, the DEIR does not adequately describe the actual historic beneficial use of the water as to both amount and season of diversion at the time of vesting required to determine if the SFPUC's water right is expanded as a result of the recapture project. It is unclear from the DEIR how the point of diversion/re-diversion for these surface waters is changed to divert water into Pit F2. Page 3-27 of the DEIR indicates there might be "carry over released" during dry years. There is no information in the DEIR that these pre-1914 water rights include carryover storage or how they operate as to timing and volume of capture, release, and consumptive use. Further, there is no information indicating the timing and rate of diversion of these water rights at the time of vesting and how this is changed through the ACRP. Finally, additional water originating from sources other than Calvarias Reservoir and the ACDD, such as Welch Creek, may be also recaptured in Pit F2. Any new appropriation of surface water requires State Water Resources Control Board approval and a finding that the change will not injure any legal water user (including any water right holders who are junior in priority and anyone who contracts with a legal water user) and that the change will not harm fish or wildlife. The Planning Department should not adopt the DEIR until a thorough evaluation of impacts to downstream water rights holders can be performed.

- b. **The DEIR analysis is insufficient to determine impacts to other's water rights.** As described above, given the dynamic nature of surface water flows in Alameda Creek, the hydrologic analysis needs to include a discussion about day to day changes in surface flows within Alameda Creek in order to determine the source of the water pumped from Pit F2 (surface water or groundwater) and to fully identify potential impacts to fisheries and downstream water users. Any groundwater captured in Pit F2 through the project is not authorized as a change in SFPUC's pre-1914 surface water rights under California Water Code section 1706.
- c. **The Project constitutes an expansion of San Francisco's water rights claim for Calaveras Reservoir.** The DEIR states that the source water which flows into Pit F2 will be comprised of flows released from Calaveras Dam, flows bypassed around the ACDD, and flow from other tributaries downstream of those two facilities. Since the ACRP operations do not physically distinguish which of these three sources is being extracted, the proposed operations of the ACRP constitute an expansion of San Francisco's water rights claim for Calaveras Reservoir. An expansion of the SFPUC's claimed water right to Arroyo Hondo and Alameda Creek may cause an impact or injury to other legal downstream users in the Alameda Creek Watershed.

The SFPUC must work with the State Water Resources Control Board to legally acquire the necessary water rights for operation of the ACRP.

- d. **The DEIR concludes that downstream users will not have to alter operations without completing a sufficient analysis.** The DEIR determines that there will be no significant impacts because the ACRP would not cause ACWD, a downstream water user, to alter its operation in a way that would result in significant adverse environmental impacts. However, this analysis is insufficient because it is predicated on the unproven premise that the water being recaptured is exclusively SFPUC's pre-1914 surface water right and that the recapture operation does not expand these rights.

4. Sunol Valley Water Treatment Plant Source Water Quality

- a. **The source water to the Sunol Valley Water Treatment Plant and other related issues need to be fully evaluated before adopting the DEIR.**

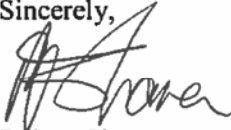
- 1.) In Figure 1-1 of the DEIR, it appears that surface water flow originating from rainfall has the ability to run directly into Pit F2. Former nurseries are located immediately adjacent to the north and south of Pit F2. The DEIR must include a comprehensive analysis and assessment at this location to ensure that surface soil is not contaminated in the vicinity of Pit F2. Contaminated surface soil could impact the water quality of surface runoff to Pit F2.
- 2.) The DEIR must provide a discussion about the impacts this new source of water may have on algae, taste and odor concerns, and the potential for cyanotoxins in Pit F2, as well as discuss current treatment processes that are in place or will be implemented to address these potential source water quality issues.
- 3.) ACWD recommends a pilot study of straight and blended treatment of water from Pit F2 before adopting the DEIR. Page 3-11 of the DEIR states that "monitoring data generally indicates that with the possible exception of total coliform levels" the water in Pit F2 meets the drinking water standards found in Title 22 of the California Code of Regulations. The word "generally" is too vague. The DEIR must contain a table with the available data, including results for metals, radionuclides, and total organic carbon (TOC). The DEIR should also compare TOC levels and turbidity between San Antonio Reservoir and water in Pit F2. The water quality in Pit F2 may be sufficient, but different enough from San Antonio Reservoir water that treatment at SVWTP is more difficult or requires additional or upgraded treatment processes. For example, straight Pit F2 water or Pit F2/San Antonio Reservoir water may be more easily treated with a different coagulant, may produce more solids, or may require additional pretreatment. ACWD recommends that the Planning Department not adopt this DEIR until a pilot study of this treatment plant source water quality change can be carried out.

- 4.) Pit F2 is in close proximity to the South Bay Aqueduct (SBA) and a PG&E Gas Pipeline. The DEIR does not account for how water quality in Pit F2 will be protected if the SBA, the PG&E pipeline, or embankment were to fail during a seismic event. Changes in source water quality can be very disruptive to treatment plant operations and end users of this water. It is unclear if the project proposes to develop a disaster recovery plan to restore water quality to acceptable levels for treatment at the SVWTP. Such a plan must be incorporated into the project.
5. **The DEIR does not consider consultation and permits with the appropriate agencies.** ACWD agrees with the January 4, 2017, comment from Alameda Creek Alliance that SFPUC should consult with NMFS regarding impacts to Steelhead and required permits for the project, with the Army Corps of Engineers regarding required Clean Water Act permits, and the California Department of Fish and Wildlife regarding coverage under California Fish and Game Code section 1602. Consultation and permits issued by these agencies will ensure that the goals of the ACRP are consistent with the environmental restoration efforts being carried out by the SFPUC, ACWD, and other watershed stakeholders.
6. **The DEIR does not analyze reasonable alternatives to the project.** A major function of the EIR is to preview and ensure that all reasonable alternatives are thoroughly assessed by the responsible official or board (*Inyo County v. City of Los Angeles*, (1977) 71 Cal.App.3d 185). “An EIR shall describe a range of reasonable alternatives to the project ... which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” (CEQA Guidelines § 15126.6(a).) The DEIR evaluates only 1) the no Project Alternative and 2) the Regional Desalination Alternative. ACWD recommends the Planning Department not adopt this DEIR until a detailed alternatives analysis is performed.
7. **The DEIR does not analyze current conditions as a separate alternative to the No Action Alternative.** CEQA guidelines provide that the environmental setting as it exists when the EIR is being prepared should be treated as the baseline for gauging the changes to the environment that will be caused by the proposed action (CEQA Guidelines § 15125(a).) While comparisons to current conditions are referred to occasionally in the Draft EIR, use of baseline conditions is incomplete, including omission of comparisons in the vital categories of effects on water resources and biological resources.

Lisa M. Gibson
Page 11
January 30, 2017

Thank you again for the opportunity to comment during this review period. ACWD is appreciative of staff from the SFPUC and Planning Department for working to address these comments, and welcomes opportunities to collaborate to resolve the issues identified in this letter. If you have any questions about these comments, please contact Steven Inn, Manager of Water Resources, at (510) 668-4441.

Sincerely,



Robert Shaver
General Manager

eb/tf

cc: Steven Inn, ACWD
Steve Ritchie, SFPUC
Ellen Levin, SFPUC
Christopher Thomas, SFPUC
Nicole Sandkulla, BAWSCA



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July 27, 2015

Sarah B. Jones
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Jones:

Subject: Comments on the Notice of Preparation of an Environmental Impact Report for the Alameda Creek Recapture Project

Thank you for the opportunity to provide comments on the proposed Alameda Creek Recapture Project (ACRP) during the project scoping phase. The Alameda County Water District (ACWD) acknowledges the significant accomplishments of the SFPUC to date in the implementation of the Water Supply Improvement Program (WSIP) since ACWD is a customer and, therefore, a beneficiary of the water supply reliability improvements that the SFPUC is achieving through its implementation.

That said, ACWD has a strong interest in protecting and preserving water quality and water supply in Alameda Creek and the Alameda Creek Watershed. ACWD is particularly concerned with potential impacts that the ACRP may have on ACWD's water supplies as well as ongoing projects related to fisheries restoration in Alameda Creek. With a service area located downstream of the proposed project location, ACWD uses water from the Alameda Creek watershed for drinking water supply to over 344,000 people in the cities of Fremont, Newark, and Union City. ACWD relies on adequate flow in Alameda Creek for groundwater recharge and its subsequent use as a potable drinking water supply. Additionally, ACWD, together with the SFPUC and other watershed stakeholders, is actively involved in the ongoing steelhead restoration efforts to restore the steelhead run in the Alameda Creek Watershed.

ACWD's Understanding of the ACRP

The ACRP is intended to recapture flows released from Calaveras Reservoir and/or bypassed around the Alameda Creek Diversion Dam as part of the future operations plan described in the Calaveras Dam Replacement Project Biological Opinion. The ACRP will rely on the slow and steady percolation of surface water from Alameda Creek, into the Sunol Groundwater Basin, and



into Pit-F2 from where it will be captured and pumped to surface storage or treatment. Pit-F2 will effectively act as a sump for southern Sunol Valley and the dewatering of Pit-F2 could, in theory, facilitate recapture by increasing the potential head needed to increase percolation out of Alameda Creek.

As indicated in the Notice of Preparation (NOP), the volume of water that the ACRP intends to recapture is approximately equal to the average annual water to be released or bypassed. However, while annual totals may be the same, the actual daily rate of releases or bypass flows will be quantifiably different from the recapture rate provided by the ACRP. Real-time releases and bypasses will be on the order of tens to thousands of cubic feet per second (cfs), while the real time recapture rate will likely be on the order of ones to tens of cfs. Thus, when releases or bypasses are high, a substantial amount of the actual flows will exit Sunol Valley rather than percolate into the ground. Conversely, when releases or bypasses are low, the ACRP may continue to *capture* flows from Alameda Creek that are neither releases nor bypasses. The disparity in the release and recapture rates may have impacts in a variety of areas of concern and will need to be analyzed in sufficient detail for potential impacts to be understood and ultimately mitigated if necessary.

Since much of the releases and bypass flows will exit Sunol Valley, in order to make the annual average volume of yield from the ACRP equal the volume released or bypassed, the ACRP must “make-up” additional water. Some release or bypass water will be recaptured; however, additional water originating from sources other than Calaveras Reservoir and the Diversion Dam, such as Welch Creek, may be captured, pumped, and delivered to storage or treatment as a result of the ACRP. Due to this mechanism of operations, it is difficult to define the ACRP as strictly a ‘recapture’ facility. Rather, the ACRP will act as an alternative water supply or management system to compensate for lost yield from Calaveras Dam and Alameda Creek Diversion Dam.

It is with this understanding that the following comments are provided.

ACWD Comments

The Environmental Impact Report (EIR) must adequately address issues associated with protection of Alameda Creek, and the Alameda Creek Watershed as well as address potential impacts to downstream agencies. ACWD requests the EIR include sufficient detail to address the following areas of concern:

1. Rigor of Analysis

Surface water and groundwater interactions are complex and dynamic physical processes. The Alameda System Daily Hydrologic Model (ASDHM) cited in the NOP is an empirically derived surface water model developed to analyze surface water flow rates under existing and future conditions. By design, the proposed ACRP will influence the surface water and groundwater interaction in a manner different from existing conditions. Therefore this empirical model will need to be substantially modified and may prove to be insufficient to fully analyze the impacts of

operation of the ACRP. The EIR should consider using a more robust, physically based hydrological model capable of estimating the impact on stream flows throughout the project area, in Niles Canyon, and out to the San Francisco Bay. Alternatively, as is often the case with surface water and groundwater interactions, controlled physical tests could be conducted and would likely be more conclusive.

The following information should be considered as part of the analysis:

- a) Evaluation of the groundwater seepage and surface water recharge from Alameda Creek and San Antonio Creek into Pit F2.
- b) Quantify the amount of release and bypass water that will actually percolate into the Sunol Valley Groundwater Basin (including water captured at the existing infiltration gallery) that can actually be defined as “recapture.”
- c) Description of the origin of water other than the “recapture” that will be pumped out of Pit F2 at the various times of operation (*i.e.*, surface water or groundwater).

2. Hydrologic, Biological, and Water Supply Impacts

- a) The EIR should provide sufficient detail to analyze impacts associated with the differing rates of release and recapture on the following:
 - Anadromous fish passage in the Alameda Creek Flood Control Channel, Niles Canyon and Sunol Valley.
 - Aquatic and riparian habitat in Niles Canyon and Sunol Valley.
 - ACWD groundwater recharge operations and water supply.
- b) The potential impacts of the ACRP will likely vary significantly between dry, average, and wet year conditions. The EIR analysis should address these separate hydrologic year types.

3. Inconsistency with the WSIP Programmatic EIR

Previous environmental reporting described a recapture facility with capacity of up to 6,300 AF/year. The proposed ACRP capacity has been increased to 9,820 AF/year. The EIR should address this discrepancy and any additional environmental impacts from the increased capacity.

4. Water Rights

The EIR should identify the alternative water supply that is being captured as a result of the ACRP and include an analysis of the impact to both surface water and groundwater rights in the affected area.

5. Past, Present, and Future Work on Fisheries Projects

The NOP states that the EIR will evaluate potential cumulative impacts resulting from implementation of the ACRP in combination with other projects in the vicinity. This cumulative impacts analysis should include projects that are being pursued by the Alameda Creek Fisheries Workgroup including; ACWD/Alameda County Flood Control and Water Conservation District's Joint Fish Passage Projects, Alameda County Flood Control's projects in the lower Alameda Creek, SFPUC's projects in Niles Canyon, and PG&E's plans to address fish passage in Sunol Valley.

6. Permits and Approvals

- a) The NOP states that no federal permits are anticipated. ACWD encourages the SFPUC to evaluate the potential impacts to "waters of the United States" and permit requirements under the Clean Water Rule published on June 29, 2015, in the Federal Register (80 FR 37054). The final rule becomes effective on August 28, 2015, modifying the definition of waters of the United States under 40 C.F.R. 230.3.
- b) The NOP does not indicate that notification of California Department of Fish and Wildlife is required under Fish and Game Code section 1602. This determination in the environmental impact report should take into account the recent holding in the case *Siskiyou County Farm Bureau v. Department of Fish and Wildlife* C.D.O.S. 5632, No. C073735 (June 4, 2015) that notification is required even if there is no disturbance of a streambed or bank.

7. Infrastructure Concerns

Pit-F2 lies adjacent to the South Bay Aqueduct (SBA), which supplies water to the Zone 7 Water Agency, ACWD, and the Santa Clara Valley Water District. Recent studies indicate the section of the SBA located adjacent to Pit F2 is at an increased risk of failure under seismic events. Given these findings, ACWD requests that the EIR evaluate whether cycling water levels in Pit F2 will have the potential to compromise the integrity and stability of soils in this area.

8. Considerations for the Alternatives Analysis

As stated in the NOP, the California Environmental Quality Act (CEQA) requires an evaluation of alternatives to the project. ACWD, being both a downstream agency and wholesale customer of the SFPUC, believes that there is a potential to coordinate in the scoping and assessment of some project alternatives, including operational alternatives of the proposed project, and welcomes discussions with the SFPUC on ways in which our two agencies can achieve the goals of enhancing environmental conditions within the Alameda Creek watershed while minimizing impacts to water supply reliability for both of our agencies.

Sarah B. Jones
Page 5
July 27, 2015

Thank you again for the opportunity to comment during the project scoping phase. Should you have any questions about these comments or about ACWD's Alameda Creek water supply and downstream operations, please feel free to contact Steven Inn, Manager of Water Resources, at (510) 668-4441. We look forward to coordinating further with you on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Shaver". The signature is fluid and cursive, written over a white background.

Robert Shaver
General Manager

tn/tf

cc: Steven Inn, ACWD
Michael Carlin, SFPUC
Steve Ritchie, SFPUC

Attachment F
Memo from the Planning
Department to the Alameda
County Water District, June 7,
2017 (Exhibit E of Appeal Letter)





**SAN FRANCISCO
PLANNING DEPARTMENT**

MEMO

Notice of Electronic Transmittal

**Hydrology Data in EIR Administrative Record for
SFPUC Alameda Creek Recapture Project**

DATE: June 7, 2017

RECEIVED

JUN 12 2017

TO: Robert Shaver, General Manager
Alameda County Water District

A.C.W.D.

FROM: Chelsea Fordham, Senior Environmental Planner
San Francisco Planning Department

RE: Hydrology Data - SFPUC Alameda Creek Recapture Project EIR,
Case No. 2015-004827ENV

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Enclosed for distribution to the Alameda County Water District please find three CD's of the hydrology data sets contained in the administrative record from both the Draft Environmental Impact Report (DEIR) and Response to Comments (RTC) documents for the SFPUC Alameda Creek Recapture Project (Case No. 2015-004827ENV). The CD's contain the following referenced data sets in the administrative record of the EIR:

- **SFPUC, 2016.** Simulated Stream flows for different scenarios at 5 nodes and pond elevation for Alameda Creek Recapture Project. Excel spreadsheet provided by Amod Dhakal on July 7, 2016.
- **ESA/Orion & SFPUC, 2016.** Simulated Stream flows for different scenarios at 5 nodes and pond elevation for Alameda Creek Recapture Project. Updated by ESA/Orion to reflect historic quarry discharge from SMP-24 and loss of surface flow to groundwater between San Antonio Creek confluence and the confluence with Arroyo de la Laguna. Completed for Alameda Creek Recapture Project Draft EIR, November 30, 2016.
- **ESA/Orion & SFPUC, 2017.** Simulated Stream flows for Node 9 (Niles) for the Alameda Creek Recapture Project. Summarized to reflect potential changes to Alameda County Water District operations as a result of ACRP implementation.

Excel spreadsheet completed for Alameda Creek Recapture Project Responses to Comments document, June 7, 2017

These hydrology data sets are being provided to you in response to a letter received on January 10, 2017 - from the Alameda County Water District requesting modeling information on the daily flow rates. These hydrology data sets are referenced in both the DEIR and RTC, and are available for review at the Planning Department as part of the administrative record for the SFPUC Alameda Creek Recapture Project. **The Final EIR, consisting of the RTC document, along with the Draft EIR, will be before the San Francisco Planning Commission for EIR certification on June 22, 2017.** Please note that the public comment period on the Draft EIR ended on January 30, 2017.

If you have any questions, regarding this matter, please contact Chelsea Fordham at 415-575-9071 or chelsea.fordham@sfgov.org.

Attachment G
Transcript of June 22, 2017
Planning Commission Hearing
(same as Exhibit F of Appeal
Letter)



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SAN FRANCISCO PLANNING COMMISSION

ALAMEDA CREEK RECAPTURE PROJECT

**PUBLIC HEARING ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT**

Thursday, June 22, 2017

San Francisco City Hall

One Dr. Carlton B. Goodlett Place

Commission Chambers, Room 400

San Francisco, California

Item No. : 12

Case No. : 2015-004827ENV

Reported from audio/video media by:

DEBORAH FUQUA, CSR #12948

1 APPEARANCES:

2 San Francisco Planning Commission:

3 President Rich Hillis

4 Vice President Dennis Richards

5 Commissioner Rodney Fong

6 Commissioner Kathrin Moore

7 Commissioner Myrna Melgar

8

9 Commission Secretary: Jonas Ionin

10 Planning Staff Director: John Rahaim

11 Planning Staff:

12 Chris Kern, Senior Environmental Planner

13 Chelsea Fordham, Senior Environmental Planner

14 Devyani Jian, Deputy ERO

15

16 San Francisco Public Utilities

17 Ellen Levin, Deputy Manager, Water Enterprise

18

STAFF COMMENT

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ROBERT SHAVER..... 13

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COMMISSION COMMENT

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KATHRIN MOORE..... 15

25

1 Thursday, June 22, 2017

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3 P R O C E E D I N G S

4 (Transcribed from audio-visual media)

5 SECRETARY IONIN: Commissioners, Item 12 for
6 Case No. 2015-004827ENV, the Alameda Creek Recapture
7 Project. This is a certification of the Final
8 Environmental Impact Report. Please note that the
9 public hearing on the Draft EIR is closed. The public
10 comment period for the Draft EIR ended on January 30th,
11 2017. Public comment will be received when the item is
12 called during the hearing.

13 CHELSEA FORDHAM: Good afternoon,
14 President Hillis and Members of the Commission. I am
15 Chelsea Fordham, Planning Department staff. I am
16 joined today by Chris Kern, Senior Environmental
17 Planner; Devyani Jian, Deputy ERO; and members of the
18 San Francisco Public Utilities Commission or SFPUC, who
19 are the project sponsors. Additionally, members of the
20 EIR consultant team are also available to answer any
21 questions you may have.

22 The item before you is certification of the
23 Final Environmental Impact Report, or EIR, for the
24 Alameda Creek Recapture Project.

25 A copy of the Draft EIR certification motion

1 is before you. The Draft EIR was published on November
2 30, 2016. The public hearing on the draft was held on
3 January 5th, 2017. The public comment period was
4 extended from 45 days to 62 days, and closed on
5 November -- or January 30th, 2017. The Responses to
6 Comments document was published and distributed on June
7 7th, 2017.

8 There will not be any project approvals
9 considered at today's hearing, and the project
10 approvals will be heard at a public hearing scheduled
11 for tomorrow, June 23rd, before the San Francisco
12 Public Utilities Commission.

13 The EIR determined that, with implementation
14 of mitigation measures identified in the Draft EIR,
15 that all project impacts would be less than significant
16 and the project's contributions to cumulative impacts
17 would not be cumulatively considerable.

18 However, because the project is part of the
19 SFPUC's Water System Improvement Program, also known as
20 WSIP, the project could contribute to the significant
21 and unavoidable program-level impact identified under
22 Item 8 of your Draft Certification Motion.

23 Due to this project's contribution to the
24 significant unavoidable impact, the SFPUC would need to
25 adopt a statement of overriding considerations pursuant

1 to CEQA, should PUC choose to adopt the project.

2 Additionally, subsequent to publication of the
3 RTC, I received one comment letter from the Alameda
4 County Water District, or ACWD, on the Final EIR.

5 The comment letter outlined concerns in regards to the
6 adequacy of the analysis contained in the EIR, the
7 impacts of the project on downstream water users and
8 fishery resources, and the impacts of the project are
9 not supported by substantial evidence.

10 Specific points raised by ACWD in regard to
11 the RTC include the following issues:

12 Mass balance issues. This question is fully
13 responded to in the RTC. The analysis is consistent
14 with the law of conservation of mass. The analysis is
15 based on the same model used by the National Marine
16 Fishery Service, or NMFS, in the NMFS's permit, and
17 therefore has been an established credible model.

18 The commenter asserts there's a fundamental
19 flaw in the numerical analysis because there's more
20 water on an annual average basis with the project
21 conditions than with the Calaveras Dam replacement
22 project conditions. This is due to the fact that, with
23 the less available space in California Re- -- in the
24 Calaveras Reservoir, when the rainwater begins, the
25 probability of spills in normal and wet years would be

1 greater with the project than with the Calaveras Dam
2 conditions. Consequently, on average, more water would
3 flow down Alameda Creek downstream of Calaveras
4 Reservoir under with-project conditions than it would
5 with Calaveras Reservoir Dam project conditions.

6 Additionally, the commenter asserts that the
7 SFPUC intends to lose approximately 3,000 acre-feet per
8 year under the project. This is not accurate. The
9 increase in annual average flow in Alameda Creek is
10 based on the changes that would occur during wet and
11 normal years. So on average, the annual value is
12 incorrect.

13 Degree of analysis in the EIR. The commenter
14 states that the EIR fails to analyze impacts of flow
15 for aquatic species of concern and on downstream users.
16 Impacts of flow on aquatic species of concern and
17 downstream users are analyzed in detail in the Draft
18 EIR and RTC.

19 The EIR analysis does rely on daily flow data.
20 It presents monthly averages to present the results to
21 make the analysis more understandable.

22 The commenter does not provide the basis or
23 assumption for certain that there is a change in flow
24 that would affect the steelhead passage. The EIR
25 provides a detailed analysis that demonstrates that the

1 hydrologic changes that would occur with the project
2 are consistent with and support the assumptions used in
3 the NMFS permit.

4 The analysis of impacts on steelhead are
5 analyzed in detail in the Draft and the RTC. Data used
6 in the EIR analysis is consistent with what was used in
7 the NMFS permit.

8 The commenter states that the assumptions
9 about the relationship of flow losses, Pit F2 levels,
10 and local groundwater conditions are unsupported. This
11 is also incorrect. As described in the Draft EIR and
12 the RTC, the surface hydrology analysis was based on
13 the same hydrology model that was used for the NMFS
14 permit with a slight modification for the EIR analysis
15 to address potential impacts on riparian habitats.

16 The groundwater-surface water interactions
17 were analyzed based on the conceptual model of
18 geohydrology which was based on a robust data set of
19 monitoring well data and field observations over a
20 ten-year period as described in the Draft EIR and RTC.
21 This was not based on a single test condition assertion
22 as was made by the commenter.

23 In regards to percolation rates, the EIR made
24 conservative assumptions and analyzed worst-case
25 conditions with respect to the downstream impact. By

1 assuming a higher percolation rate, the EIR analyzed
2 downstream impacts over worst-case flow conditions.

3 Third point, availability of data used in the
4 EIR. The commenter claims that the Planning Department
5 failed to provide data in the EIR. On the contrary, as
6 stated in the RTC, the Planning Department has provided
7 all of the data in the EIR to ACWD. The Department and
8 SFPUC has met with ACWD during the EIR preparation to
9 explain the analysis in the EIR and to answer any
10 questions they may have.

11 Fourth point, impacts to downstream users.
12 ACWD states that the EIR does not address how the
13 project could affect SFPUC's water rights. Consistent
14 with the requirements of CEQA, the EIR focuses on the
15 physical environmental effects of the project.
16 Effects on water rights are not required to be
17 considered under CEQA.

18 Nevertheless, even though this issue is
19 outside the scope of CEQA, the responses to comments
20 addresses the water rights issues raised by ACWD and,
21 as previously stated, the potential physical impacts
22 that could result from the project changes to ACWD's
23 operations or facilities are thoroughly analyzed in the
24 EIR, which concludes that these impacts would be less
25 than significant.

1 Additionally, and as an important point of
2 clarification in the letter provided by ACWD, the
3 letter states that the resource agencies, such as NMFS
4 and the regional Water Quality Control Board, made
5 comments about the adequacy of the EIR. These resource
6 agencies did provide comments on the Draft EIR.
7 However, their comments did not state that the EIR was
8 inadequate. Rather, they asked for clarification on a
9 few points and for further information to substantiate
10 the determination that the impacts to Central Coast
11 California steelhead would be less than significant.
12 This information was also provided in the RTC.

13 In summary, in all the comments on the EIR,
14 the ACWD has provided no evidence demonstrating that
15 the conclusions reached in the EIR are incorrect.
16 They've only asked for more information and more
17 analysis. The EIR, on the other hand, provides a
18 thorough and complete analysis of the potential
19 physical and environmental impacts of the project,
20 including the project's effects on downstream water
21 users. This analysis is supported by substantial
22 evidence in the record, including facts, reasonable
23 assumptions predicated on facts, and expert opinion
24 based on fact, and as such, the EIR meets the
25 evidentiary standards as required by CEQA.

1 As stated in the CEQA guidelines,
2 Section 15151, "an evaluation of the environmental
3 effects of the project need not be exhaustive, but
4 sufficiency of an EIR is to be reviewed in light of
5 what is reasonable. The courts have looked not for
6 perfection but for adequacy, completeness, and a good
7 faith effort at full disclosure."

8 The Department believes the EIR analysis is
9 based upon the best available science and meets this
10 standard. Planning Department and SFPUC staff and our
11 technical consultants are available if you have any
12 questions about the technical details in the EIR.

13 To conclude, there's no new information
14 submitted that would alter the conclusions reached in
15 the EIR, and staff recommends that the Commission
16 adopts the motion before you that certifies the
17 contents of the report are adequate, accurate, and that
18 the procedures through which the Final EIR were
19 prepared comply with the provisions of CEQA, the CEQA
20 guidelines, and Chapter 31 of the Administrative Code.

21 Additionally, before I open -- before we open
22 the item up, I would like to introduce Ellen Levin,
23 SFPUC Deputy Manager, Water Enterprise, to provide an
24 overview of the SFPUC water supply operations.

25 ELLEN LEVIN: Good afternoon, President and

1 Commissioners. I'm Ellen Levin. I'm the Deputy
2 Manager for the Water Enterprise at the San Francisco
3 Public Utilities Commission. I was before you at the
4 time of the Draft EIR and described the project, and I
5 believe that you've got all of the information in front
6 of you and probably don't need a review of the project
7 and its operation.

8 What I did want to do is just take an
9 opportunity to read into the record some -- some
10 comments that I had sent to you earlier today and you
11 have in your records.

12 We've had the opportunity to review the June
13 21st, 2017 letter from the Alameda County Water
14 District on the Final EIR for the SFPUC's Alameda Creek
15 Recapture Project.

16 By way of background, ACWD is a wholesale
17 customer of ours. The SFPUC and ACWD have a very long
18 history of operating together on Alameda Creek. The
19 SFPUC has spent a significant amount of time working
20 with ACWD to help the agency understand the Alameda
21 Creek Recapture Project and its operation.

22 Our respective hydrologists have met numerous
23 times and jointly built the model that the EIR team
24 used in their analysis with the full participation of
25 the Alameda Creek Fishery Restoration Work Group.

1 These opportunities for exchange of data and discussion
2 of both agencies' operation were intended to enable us
3 to determine and understand whether project operation
4 would adversely affect ACWD's downstream water supply
5 operations. The SFPUC designed the project to avoid
6 operation during the winter period in which ACWD's
7 season of operation under its water rights as well as
8 steelhead migration could be impacted.

9 From the SFPUC's perspective, ACWD's issues
10 are related to water rights on Alameda Creek, not
11 environmental impacts and environmental issues. ACWD
12 does not appear to oppose project construction but has
13 raised concerns about future operations being in excess
14 of the SFPUC's pre-1914 appropriative water rights to
15 store water in Calaveras Reservoir that are actually
16 senior to ACWD's post-1914 appropriate rights in all
17 respects.

18 Project operation includes detailed accounting
19 rules to ensure that the amount of water recaptured
20 will not exceed the total volume of water stored in
21 Calaveras Reservoir under the SFPUC's water rights for
22 the reservoir. If the operation of the project
23 discloses any infringement on ACWD's junior rights,
24 California Water Code 1706 provides a remedy to ACWD to
25 address this issue, which is not CEQA matter based on

1 the analysis in the project EIR.

2 As Chelsea mentioned, the SFPUC will hold a
3 separate meeting to consider project approval following
4 Planning Commission certification of the EIR.

5 And if I can answer any questions, I'm here
6 today to do so.

7 PRESIDENT HILLIS: Thank you very much. We'll
8 open this item up for public comment. I have one
9 speaker card, Robert Shaver.

10 ROBERT SHAVER: Good afternoon, Commissioners.
11 My name is Robert Shaver. I'm the General Manager of
12 the Alameda County Water District, or ACWD. ACWD
13 serves Fremont, Newark, Union City in southern Alameda
14 County. ACWD supports the concept of the project.
15 This is because, as a customer of SFPUC, ACWD relies on
16 the regional system for about 20 percent of our water
17 supply. Therefore, a reliable regional system is
18 consistent with the interests of ACWD.

19 However, because ACWD owns, operates and
20 maintains facilities in the Alameda Creek watershed
21 downstream of the project and relies on Alameda Creek
22 for about 40 percent of our overall water supply, we
23 are uniquely familiar with and concerned about some
24 aspects of the project. Regrettably, we find the CEQA
25 analysis and Final EIR to be inadequate for a number of

1 reasons, including the following three:

2 One, there is a mathematical flaw in the model
3 of the watershed and the project operations rendering
4 the results and conclusions of the report unsupported.
5 Additionally, the model does not adequately take into
6 account the interrelationship between surface water and
7 groundwater in the Sunol Valley and the associated
8 impact of project operations on downstream flows.

G-1

9 Two, ACWD previously commented that Alameda
10 Creek flows must be analyzed on a daily time step to
11 evaluate the impacts to steelhead. This comment was
12 also made by the National Marine Fisheries Service.

G-2

13 However, the CEQA analysis presented monthly
14 time step. The Planning Department finally provided
15 data on June 10th, only 12 days ago. ACWD's expedited
16 analysis of this new data suggests potentially
17 significant impacts to steelhead not identified in the
18 Final EIR, especially in dry years.

G-3

19 Three, ACWD previously commented on water
20 rights impacts due to the project's change in point of
21 diversion, storage, and release of SFPUC's water
22 rights. The response to our comments failed to address
23 the potential injury to ACWD's water rights and
24 resulting environmental impacts from changed
25 operations.

G-4

1 In summary, despite the communication between
2 ACWD and Planning and SFPUC staff, the remaining
3 inadequacies in CEQA for the project and the
4 methodology is not sufficiently credible to support the
5 impact analysis. ACWD requests the Planning Commission
6 to delay approval of the project until sufficient
7 analysis is conducted.

8 ACWD and SFPUC have a long history of working
9 together on shared interests in the Alameda Creek
10 watershed such as through the Alameda Creek Fisheries
11 Work Group to reestablish a viable fishery. ACWD is
12 making significant investments as well. ACWD still
13 welcomes an opportunity for our agency staffs to
14 cooperatively work together to adequately assess the
15 impacts of the operation of the project. Thank you
16 very much.

17 PRESIDENT HILLIS: Thank you very much.

18 Any additional public comment from the EIR?

19 (No response)

20 PRESIDENT HILLIS: Seeing none, we'll close
21 public comment.

22 Commissioners? Commissioner Moore.

23 COMMISSIONER MOORE: As I said before, these
24 highly technical questions are very challenging.
25 However, over the years, as we have been debriefed

1 again and again by work which I consider to be sound
2 and very thorough, it is my opinion -- and I quantify
3 my opinion with not being an expert in all matters
4 regarding this EIR -- that this EIR is complete;
5 however, the last questions answered are something I
6 cannot respond to. I could only ask Ms. Gibson, if
7 that is appropriate, to respond to.

8 CHRIS KERN: Chris Kern, Environmental
9 Planning Staff. Ms. Gibson is on vacation.

10 So on the points raised again in the Water
11 District's letter, Chelsea, in her presentation, did
12 address all of those -- all of the points raised. But
13 I can summarize again our responses, and then, as
14 Chelsea mentioned, if the Commission wants to get into
15 more technical detail on any of them, both the SFPUC
16 staff and our technical consultants are present today
17 to get into the technical details.

18 But -- and perhaps I'll begin my remarks with
19 a little bit more background on some of these technical
20 issues.

21 So the Planning Department's initial -- CEQA
22 initial study checklist as well as the Appendix G
23 initial study checklist don't actually include a
24 significance criteria that responds to the concerns
25 raised by Water District about how the project could

1 affect their downstream use of water, and this is
2 primarily because CEQA, as Chelsea mentioned, is
3 focused on the physical environmental effects of the
4 project on the environment and not on the social or
5 economic effects such as water rights.

6 However, in our scoping of this Draft EIR, the
7 Planning Department understood that this would be a
8 central issue that the Alameda County Water District
9 would be concerned about and that we needed to take a
10 stab at addressing it in our EIR.

11 So we crafted a significance criteria for this
12 EIR unique to this EIR so that we could address and
13 analyze the issue of how the project could affect
14 downstream users.

15 However, as appropriate under CEQA, the focus
16 of that significance criteria in our analysis was on
17 the physical environmental effects that could result on
18 the environment. So the criteria that we crafted
19 evaluated whether or not the proposed project would
20 result in substantial changes or require substantial
21 changes in the operation of the Alameda County Water
22 District such that the District would have to either
23 alter its operations or facilities in a manner that
24 could have significant physical environmental impacts.
25 In other words, would this project cause them to have

1 to so significantly change the way that they operate
2 their system or change their facilities that those
3 changes could lead to significant environmental
4 impacts. That's the question that this EIR addresses,
5 and addresses that question quite thoroughly.

6 We -- that is, Planning Department staff, our
7 consultants, and SFPUC staff, sat down on several
8 occasions with the Water District staff to review our
9 approach and our methodologies on how we would conduct
10 that analysis.

11 Now to get into some of the more specific
12 points, they've raised, you know, time and again, as
13 well in the response to comments and again in their
14 letter that our analysis was flawed because we didn't
15 adequately consider daily flows, that we had only
16 looked at monthly flows. This is incorrect.

17 The analysis in the Draft EIR and in the model
18 that we relied on does consider daily flows, and those
19 are presented in an appendix that was published with
20 the Draft EIR. But it's an extremely complex,
21 technically complex analysis looking at several
22 different scenarios.

23 So to simplify the analysis as presented in
24 the draft for the lay reader, we focused mostly on the
25 monthly flows, but we augmented that analysis in the

1 Response to Comments with the daily flow analysis just
2 to further underscore the conclusions that we reached
3 in the Draft EIR that additional work did not change
4 any of the conclusions that we reached that, again,
5 show that the changes that this project might have on
6 the downstream water users would not be substantial
7 enough to result in significant physical environmental
8 impacts.

9 I would also like to just underscore that the
10 Water District, throughout this process, has asked for
11 us to do additional analysis and provide additional
12 data. We have been an open book in terms of both our
13 approaches as well as the data we've relied on for our
14 analysis throughout the process, and we haven't been
15 trying to hide anything or stonewall the Water
16 District.

17 The District has not responded by providing
18 evidence that would demonstrate inadequacy in our
19 analysis. They just asked us to do more.

20 And Chelsea, again, you know, reviewed what
21 the legal standard review is under CEQA. It's not
22 perfection. It's not complete exhaustion. It's a good
23 faith effort at providing reasonable disclosure, and we
24 feel that we've totally met that standard.

25 COMMISSIONER MOORE: Thank you for that

1 remarkable explanation. You are the expert, and it's
2 very obvious I'm not. So thank you for doing that.

3 Having looked again at the Response to
4 Comments, I believe that this is accurate and complete,
5 and I make a motion to adopt findings relating to the
6 certification of the Final EIR, which is the motion in
7 front of us.

8 COMMISSIONER RICHARDS: Second.

9 SECRETARY IONIN: If there's nothing further,
10 Commissioners, there's a motion that has been seconded
11 to certify the Final Environmental Impact Report.

12 On that motion, Commissioner Fong?

13 COMMISSIONER FONG: Aye.

14 SECRETARY IONIN: Commissioner Koppel --
15 excuse me. Commissioner Melgar?

16 COMMISSIONER MELGAR: Aye.

17 SECRETARY IONIN: Commissioner Moore?

18 COMMISSIONER MOORE: Aye.

19 SECRETARY IONIN: Commissioner Richards?

20 COMMISSIONER RICHARDS: Aye.

21 SECRETARY IONIN: Commission President Hillis?

22 PRESIDENT HILLIS: Aye.

23 SECRETARY IONIN: So moved, Commissioners.

24 That motion passes unanimously, five to zero.

25 (End of audio-visual media transcription)

1 STATE OF CALIFORNIA)
2 COUNTY OF MARIN) ss.

3 I, DEBORAH FUQUA, a Certified Shorthand
4 Reporter of the State of California, do hereby certify
5 that the foregoing audio media was reported by me, a
6 disinterested person, and thereafter transcribed under
7 my direction into typewriting and is a true and correct
8 transcription of said proceedings, subject, however, to
9 the quality of the media submitted for transcription.

10 I further certify that I am not of counsel or
11 attorney for either or any of the parties in the
12 foregoing proceeding and caption named, nor in any way
13 interested in the outcome of the cause named in said
14 caption.

15 Dated the 18th day of July, 2017.

16
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18 DEBORAH FUQUA
19 CSR NO. 12948
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Attachment H
Transcript of June 23, 2017
SFPUC Special Meeting (same
as Exhibit G of Appeal Letter)



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SAN FRANCISCO PUBLIC UTILITIES COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
ALAMEDA CREEK RECAPTURE PROJECT

APPROVE PROJECT

-and-

ADOPT CEQA FINDINGS

Friday, June 23, 2017

San Francisco City Hall

One Dr. Carlton B. Goodlett Place

Room 408

San Francisco, California

Item No.: 4

Project no.: CUW35201

Reported from audio/video media by:

DEBORAH FUQUA, CSR #12948

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APPEARANCES:

San Francisco Public Utilities Commission:

- President Anson Moran
- Vice President Ike Kwon
- Commissioner Ann Moller
- Commissioner Francesca Vietor
- Commissioner Vince Courtney

- General Manager: Harlan Kelly
- Commission Secretary: Donna Hood

Commission Staff:

Ellen Levin, Deputy Manager, Water Enterprise

STAFF PRESENTATION

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PUBLIC COMMENT

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1 Friday, June 23, 2017

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3 P R O C E E D I N G S

4 (Transcribed from audio-visual media)

5 SECRETARY HOOD: Item 4, approve

6 Project No. CUW35201, Alameda Creek Recapture Project,
7 adopt the required California Environmental Quality Act
8 findings, including a Statement of Overriding
9 Considerations and the Mitigation, Monitoring, and
10 Reporting Program, and authorize the General Manager to
11 implement the project in compliance with the charter
12 and applicable law and subject to subsequent Commission
13 action and Board of Supervisors approval where
14 required.

15 PRESIDENT MORAN: Thank you.

16 And, Ms. Levin, you have a presentation for
17 us?

18 ELLEN LEVIN: I do, a brief one. Thank you.
19 Here we go. I'm Ellen Levin. I'm the Deputy Manager
20 for water, and I'm just going to give an overview of
21 the project.

22 So some project background. The Alameda Creek
23 Recapture Project is part of the WSIP. It's actually
24 the last project up for adoption before the Commission.
25 It was included in the WSIP that was certified in 2008.

1 And many folks don't know this, but the
2 project was initially created back in 1997 to recapture
3 in-stream flows that were released from Calaveras Dam
4 as part of the memorandum of understanding between the
5 SFPUC and the California Department of Fish and
6 Wildlife. So this is a 20-year-old project.

7 The in-stream flows were revised through the
8 permitting of the Calaveras Dam Replacement Project and
9 resulted in a revised recapture project.

10 The key objectives are to recapture a portion
11 of the future in-stream flow releases from Calaveras
12 Reservoir and the bypasses at Alameda Creek diversion
13 that dam -- that are required under the permits for the
14 Calaveras Dam Replacement Project.

15 These releases and bypasses are to support
16 habitat below our facilities, and the compliance
17 locations for those releases and bypasses are actually
18 below our facilities, above from the Recapture Project.

19 The project will enable us to maintain our
20 water supply reliability during droughts, system
21 maintenance shutdowns, and in the event of a water
22 supply or transmission disruption in the Hetch Hetchy
23 system.

24 The project is dependent upon the Calaveras
25 in-stream flow schedules that will be implemented as

1 part of the future operation of the Calaveras
2 Reservoir. The releases from the Calaveras Reservoir
3 together with the bypasses at the Alameda Creek
4 diversion dam are estimated to average a total of
5 14,700 acre-feet per year. The range is about 8200 to
6 26,000 acre-feet per year, and the estimated recapture
7 volume is about 7200 acre-feet per year with a range of
8 4900 to 9200 acre-feet per year. So we're recapturing
9 less than half of the water that we will be releasing
10 and bypassing.

11 The waters are captured through a natural
12 infiltration to an existing water storage pond that's
13 currently used by quarry operators leasing SFPUC lands
14 in the Sunol Valley.

15 So here's the project location, just orienting
16 to you the East Bay where the town of Sunol is. The
17 larger image that you're looking at is a view of the
18 current quarry operations, and mostly what you're
19 seeing in this picture are the water storage ponds that
20 are of various colors. The darkest-colored pond is
21 where the recapture would take place.

22 The project components include pumps on
23 floating barges, including a mooring system, discharge
24 pipelines, a pipeline manifold, and the new pipeline
25 connection to the existing Sunol Pump Station pipeline.

1 It also includes throttling valves and flow meter,
2 electrical control building which a rendition is shown
3 here, an electrical transformer, battery power, and
4 utilities poles.

5 In regard to the project operations, the pond
6 will be operated like a reservoir, so it will fill in
7 the winter and will begin pumping in the late spring
8 into the next fall.

9 This image depicts the operating scenario, and
10 it shows in this picture that the pond fills in the
11 wintertime, comes down starting in the springtime.
12 You'll note we never bring the pond completely down.
13 The operating level is about 90 feet. And the pumping
14 rate will have a maximum capacity of 19.4 million
15 gallons per day.

16 We -- we have an accounting system that
17 ensures that we don't expand our water right. So this
18 pumping capacity is the maximum, but we will only be
19 permitted to pump a certain amount depending on how
20 much Calaveras fills in the winter. The pumped water
21 will be sent to the existing Sunol Pump Station
22 pipeline and into the regional water system via the
23 treatment plant or the San Antonio Reservoir.

24 The EIR was certified yesterday by the
25 Planning Commission. The findings included

1 construction-related impacts with mitigation measures
2 that resulted in a less-than-significant impact
3 determination, and also, operational impacts to
4 riparian vegetation with mitigation also brought that
5 to a less-than-significant impact determination.

6 There are no significant impacts to downstream
7 water users. The downstream water user in this case is
8 the Alameda Water District. And in the CEQA analysis
9 regarding downstream water users, in this case ACWD,
10 the analysis looked at whether the project would cause
11 downstream users, as a result of project-induced flow
12 changes, to alter their operation in a way that would
13 result in significant environmental impacts.

14 So what we mean here is the downstream user
15 has to develop an alternative water supply that then
16 had environmental impacts in its development, there
17 would -- they would find a significant impact.

18 This is not the case in the CEQA analysis.
19 They found no significant impact, primarily based on
20 the fact that ACWD has significant flexibility in their
21 operations with existing facilities to make up any
22 difference in supply. And this is a finding that they
23 themselves found in their own environmental document
24 that was certified last December for their fish ladder
25 project which requires them to bypass flows for

1 steelhead migration. And they found that they had
2 enough flexibility in their operation to accommodate
3 without impact.

4 That concludes my presentation.

5 We have people here from Bureau of
6 Environmental Management Infrastructure. Josh Milstein
7 is here. And I'm happy to answer any further
8 questions.

9 PRESIDENT MORAN: Thank you.

10 Commissioners, any comments or questions
11 before we take public testimony?

12 COMMISSIONER VIETOR: I have a question. I
13 noticed this was of concern to a lot of the
14 environmental group stakeholders. And I'm wondering
15 where they are with this -- the EIR and with the
16 project as it stands.

17 ELLEN LEVIN: So I can have folks come up and
18 talk about the comments that were received. I'll just
19 summarize from my reading.

20 There were points they -- National Marine
21 Fisheries Service, Alameda Creek Alliance, State Water
22 Resources Control Board primarily had asked for
23 clarification on some of the analyses in the EIR
24 regarding fishery flows, showing daily flows, depicting
25 daily flows and what the changes were. But generally

1 speaking, we've received support.

2 This project has gone through many, many
3 iterations, and it's had a very long life. We arrived
4 at a passive project, where the water is naturally
5 infiltrating in an existing quarry pond where water
6 naturally infiltrates today. And I think the big thing
7 for them was the releases and bypasses that we
8 committed to as part of the Calaveras Dam Replacement
9 Project. And this is only recapturing a portion of
10 those. So there will be adequate water in the creek to
11 get through the steelhead migration.

12 And I think not seeing them here today or at
13 the Planning Commission hearing demonstrates that I
14 think we got there with them.

15 COMMISSIONER VIETOR: Okay. Thank you.

16 COMMISSIONER CAEN: I have a question.

17 PRESIDENT MORAN: Commissioner Caen.

18 COMMISSIONER CAEN: When the quarry is done --
19 what do you call it when it's done? When it's quarried
20 out, it becomes a reservoir, as I remember.

21 So what happens at that point with the waters?

22 ELLEN LEVIN: So this particular project is
23 sort of our first step there in converting those pits
24 that have been mined out to use for water storage.

25 Our plans for the other ponds, there's quarry

1 operations that we expect to take another 30 years or
2 so to mine all of the material out, and we have not
3 designated supplies that would be stored in those
4 ponds. That will come later.

5 COMMISSIONER CAEN: Okay.

6 PRESIDENT MORAN: Commissioners?

7 Thank you. Let's take public testimony.

8 I have one speaker card from Robert Shaver.

9 Welcome.

10 ROBERT SHAVER: Thank you. Good afternoon.
11 My name is Robert Shaver, and I'm the General Manager
12 of the Alameda County Water District. ACWD serves
13 Fremont, Newark, and Union City and southern Alameda
14 County.

15 Firstly, ACWD supports the concept of the
16 project. This is because, as a large customer of the
17 SFPUC, a reliable regional system is in ACWD's best
18 interests. However, because ACWD owns, operates, and
19 maintains facilities in Alameda Creek watershed
20 downstream of the project, we are uniquely familiar
21 with and concerned about some aspects of the project.
22 And, frankly, we at ACWD feel like we have not been
23 heard by Planning and SFPUC staffs, even though we have
24 met multiple times.

25 Since ACWD's founding over a hundred years

1 ago, ACWD and Spring Valley and later SFPUC have a long
2 history of working together on shared interests in the
3 Alameda Creek watershed. I anticipate that our
4 agencies will be working together for at least another
5 century.

6 Without reiterating all of our concerns, ACWD
7 believes that the model SFPUC used for the project is
8 inadequate and flawed. It was developed for stream
9 flows, and it does not include capabilities for
10 analyzing complex groundwater-surface water
11 interrelationships that are needed to fully assess the
12 project's impacts on flows downstream. We know this
13 because we helped develop the model.

14 ACWD also requested more robust analysis
15 multiple times. Planning finally provided three CDs on
16 June 10th, only 13 days ago. Based on our expedited
17 review of this new information, the data clearly shows
18 that the number of days that the project causes flows
19 downstream to drop below 25 cfs, especially in dry
20 years, increases significantly.

21 This is a steelhead fisheries issue because
22 multiple experts have concluded that 25 cfs is the
23 minimum flow required for steelhead to migrate into the
24 Alameda Creek system.

25 ACWD previously commented on water rights



1 impacts due to the project's change in points of
2 diversion, storage, and release of SFPUC's water
3 rights. Planning's response to our concerns failed to
4 address the potential injury to ACWD's water rights and
5 resulting environment impacts from changed operations.
6 Why seek approval of the project and begin construction
7 before this issue is addressed?

H-3
cont.

8 In summary, there remain inadequacies of the
9 CEQA analysis to properly determine the environmental
10 effects of the project, and the studies and methodology
11 in the Final EIR are not sufficiently credible to
12 support the impact analysis. ACWD recently proposed a
13 couple of approaches to perform the additional analysis
14 and even offered to share the cost.

H-4

15 Do I have 16 seconds left? Is that -- I think
16 it went too fast. Okay.

17 There will be future opportunities to work
18 together. This is a business decision for SFPUC. We
19 are a big customer. We live in the same watershed. We
20 hope you delay approval of this project.

21 PRESIDENT MORAN: Thank you very much.

22 Commissioners --

23 ROBERT SHAVER: Be happy to answer any
24 questions.

25 PRESIDENT MORAN: Thank you.

1 Commissioners, any additional questions or
2 comments? Any additional public comment on this item?

3 Seeing none, may I have a motion?

4 Oh, we need to -- we need to amend into the --
5 into the resolution the motion number from the Planning
6 Commission, and that is the third "Whereas" at the
7 bottom. It says "Motion Number," and there's a blank.
8 That should read "19952."

9 And with your permission, I would amend that
10 into the item and seek a motion for the item as
11 amended.

12 COMMISSIONER COURTNEY: I'll move the item as
13 amended.

14 PRESIDENT MORAN: Thank you.

15 COMMISSIONER KWON: I'll second it.

16 PRESIDENT MORAN: Motion seconded.

17 Any further discussion?

18 All those in favor say "aye."

19 (Unanimous aye vote)

20 PRESIDENT MORAN: Opposed?

21 (No response)

22 PRESIDENT MORAN: The item carries.

23 And as there is no additional business before
24 the Commission today, thank you for your attendance.
25 And this meeting is adjourned.

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(End of audio-video media file transcription)

1 STATE OF CALIFORNIA)
2 COUNTY OF MARIN) ss.

3 I, DEBORAH FUQUA, a Certified Shorthand
4 Reporter of the State of California, do hereby certify
5 that the foregoing audio media was reported by me, a
6 disinterested person, and thereafter transcribed under
7 my direction into typewriting and is a true and correct
8 transcription of said proceedings, subject, however, to
9 the quality of the media submitted for transcription.

10 I further certify that I am not of counsel or
11 attorney for either or any of the parties in the
12 foregoing proceeding and caption named, nor in any way
13 interested in the outcome of the cause named in said
14 caption.

15 Dated the 18th day of July, 2017.

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DEBORAH FUQUA
CSR NO. 12948

Attachment I
Letter from National Marine
Fisheries Services, July 27,
2017, in support of the appeal





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

July 27, 2017

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

Re: June 22, 2017 Planning Commission Decision Regarding the Final Environmental Impact Report for the Alameda Creek Recapture Project

Dear Clerk of the Board of Supervisors:

NOAA's National Marine Fisheries Service (NMFS) has been notified of the San Francisco Planning Commission's June 22, 2017 decision to certify the Final Environmental Impact Report (EIR) for the Alameda Creek Recapture Project (ACRP). NMFS previously submitted comments regarding the ACRP Draft EIR (Planning Department File No. 2015-004827ENV) via letter dated January 30, 2017, and we have reviewed the Responses to Comments document dated June 7, 2017.

Based on our review of the Final EIR, NMFS believes the document does not contain sufficient information to conclude the ACRP will not result in substantial effects on streamflows that support the migration of CCC steelhead in Alameda Creek. Streamflow simulation results presented in Figure 5.14-9 of the Draft EIR predict hydrologic conditions at a daily time-step, but it is unclear if this plot represents a comparison of "with project" to "without project" conditions. Table HYD6-2 of Appendix HYD1 offers some information regarding predicted changes in streamflows and this table indicates May flows will be reduced by approximately 30 percent with ACRP operations. The conclusion regarding potential impacts to steelhead migration presented in the EIR is based on an analysis of the "long-term" operation of the ACRP which doesn't fully take into account short-term impacts (i.e., dry water years) and, as a result, the analysis presented in the EIR could significantly underestimate potential impacts to steelhead and migratory habitat.

I-1
I-2
I-3
I-4
I-5

Furthermore, the EIR asserts that steelhead migration will not be impacted by the ACRP because, for both with and without project scenarios, "precipitation-generated streamflows in Alameda Creek are predicted to exceed several hundred cubic feet per second during the December through June migration period¹." This reasoning fails to consider that steelhead do not migrate only during peak flow events, but may migrate anytime within the migration period when instream flows exceed identified minimum flow levels (i.e., 25 cfs for adults, 12 cfs for juvenile/smolt in lower Alameda Creek). A more appropriate impact analysis would instead

¹ Response to Comments, page 11.4-32; and Draft EIR, page 5.14-126.



focus on changes in the amount of time flows exceed these minimum migration thresholds. In light of this comment, NMFS reviewed the daily modelling data provided to the Alameda County Water District on June 12, 2017, and found that ACRP operations will diminish migration opportunities for federally-threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*), especially outmigrating steelhead smolts, in some years. For instance, analysis of the daily streamflow data for May 2008 suggests ACRP operations could result in streamflows in lower Alameda Creek (as measured at the Niles Gage) dropping below the smolt passage threshold of 12 cfs for an additional 15 days when compared to the without ACRP condition.


↑
I-5
cont.

Based on currently available information, NMFS does not concur with the Final EIR's conclusion that ACRP operations would not substantially interfere with the movement or migration of special-status fish species, including CCC steelhead (Impact B1-11 in the DEIR and Impact B1-16 in FEIR). We recommend San Francisco Planning Commission and the San Francisco Public Utilities Commission undertake additional analysis to examine the relationship between groundwater and surface water in the Sunol Valley for the purpose of determining the project's potential impacts on a daily time-step to streamflows in Alameda Creek downstream of the project site.

I-6
I-7

If you have any questions regarding these comments, please contact Rick Rogers at rick.rogers@noaa.gov, or 707-578-8552.

Sincerely,



Gary Stern
San Francisco Bay Branch Supervisor
North-Central Coast Office

cc: Tim Ramirez, SFPUC, San Francisco CA
Thomas Niesar, ACWD, Fremont, CA
Sean Cochran, CDFW, Santa Rosa, CA
Ryan Olah, USFWS, Sacramento, CA

Attachment J
Letter from Alameda Creek
Alliance, August 2, 2017, in
support of the appeal





Alameda Creek Alliance

P.O. Box 2626 • Niles, CA • 94536
Phone: (510) 499-9185
E-mail: alamedacreek@hotmail.com
Web: www.alamedacreek.org

August 2, 2017

San Francisco Board of Supervisors
1 Dr. Carlton, B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Planning Commission Decision Regarding Alameda Creek Recapture Project

Dear San Francisco Supervisors:

The Alameda Creek Alliance has concerns about the San Francisco Public Utilities Commission's (SFPUC) Alameda Creek Recapture Project and impacts that its operations could have on recovering threatened steelhead trout within the Alameda Creek watershed. We share the concerns about the inadequacies of the recently certified Environmental Impact Report (EIR) that have been raised by the National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), and Alameda County Water District (ACWD). We support the ACWD petition to reverse the certification of the EIR for the project.

J-1

The Alameda Creek Alliance has more than 2,000 members and supporters. Since 1997 we have advocated for restoration of steelhead trout in the Alameda Creek watershed. We have worked with the SFPUC since 1999 to improve habitat conditions to support the recovery of steelhead. While we generally support the recapture project and the concept of off-stream rather than in-stream water recapture, state and federal fisheries agencies have determined that the final EIR does not contain sufficient information to support the conclusion that the project will not result in a less than significant impact on streamflows and fish migration in Alameda Creek.

The Alameda Creek Alliance submitted scoping comments on the Alameda Creek Recapture Project in 2015 and commented on the draft EIR for the project in January 2017. We have reviewed the SF Planning Commission's June 22, 2017 decision to certify the final EIR and the June 7, 2017 responses to comments on the EIR. We have also reviewed the ACWD's July 24, 2017 letter of appeal and concerns about the hydrology analysis used for the EIR; the July 24, 2017 comment letter from CDFW; and the July 27, 2017 comment letter from NMFS.

NMFS commented that the final EIR does not contain sufficient information to conclude that the project will not result in substantial effects on streamflows intended to support migration of steelhead trout, and in fact found that project operations will diminish migration opportunities for steelhead, especially outmigrating smolts, in some years. CDFW commented that the modeling analysis used for the EIR may be inadequate for the determination that the project will have "less than a significant impact" on fisheries resources of Alameda Creek.

J-2

An ACWD analysis of daily modeling data provided by the SFPUC after the close of the EIR comment period shows that project operations could result in increased numbers of days where streamflows in lower Alameda Creek fall below the threshold for fish passage, as determined by NMFS. ACWD commented that the hydrologic model relied on in the EIR's impact analyses is insufficient to analyze the surface water groundwater interaction necessary to fully evaluate project impacts. CDFW shared this concern that the modeling used in the EIR did not adequately address ground and surface water interaction in the stream reach of the proposed project, and that the EIR analyses do not adequately quantify the stream reach percolation

J-3

losses of SFPUC releases.

J-3
cont.

We are also concerned about the potential reduction in the number of days that steelhead could have access to spawning and rearing habitat upstream of the project. Data presented in the EIR shows that the current proposal for project operations will reduce the number of days where adequate streamflow is available for steelhead migration. The EIR uses monthly average changes in surface water flow to conclude that steelhead will not be harmed, whereas analysis of daily flows is needed to assess the effects of suitable streamflows for steelhead. We disagree with the EIR's conclusion that operation of the project will not significantly impact steelhead trout. There is simply not adequate information in the EIR to make a determination about streamflows and impacts to steelhead.

J-4

We request that the Board of Supervisors direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders (including the ACA, ACWD, CDFW and NMFS) to undertake additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on daily streamflows in Alameda Creek downstream of the project which could impede steelhead migration. If the SFPUC is unwilling to do this, the Board of Supervisors should uphold the ACWD appeal and reject the certification of the EIR for the project.

J-5

San Francisco has invested significant time and money in the Alameda Creek watershed to monitor and improve habitat conditions for steelhead trout. The future operations of the completed Calaveras Dam and Alameda Creek Diversion Dam will enhance steelhead spawning and rearing in stream reaches managed by the SFPUC. Both the SFPUC and ACWD are required to operate their facilities in Alameda Creek to meet specified flow requirements for steelhead. The Alameda Creek Recapture Project should support rather than undermine these efforts. We understand that this is the last Water System Improvement Project facility to be constructed, but it is important to get it right – the EIR must fully evaluate the potential impacts of the project, and San Francisco should only approve a recapture project that will meet the interests of all watershed stakeholders and adequately protect steelhead trout.

Sincerely,



Jeff Miller
Director
Alameda Creek Alliance
(510) 499-9184
jeff@alamedacreek.org

**Attachment K
Letter from Bay Area Water
Supply & Conservation
Agency, August 2, 2017, in
support of the project and
acknowledging the appeal**



BAWSCA

Bay Area Water Supply & Conservation Agency

August 2, 2017

Ms. Lisa Gibson, Director of Environmental Planning and Environmental Review Officer
Ms. Angela Calvillo, Clerk of the Board of Supervisors
City and County of San Francisco
#1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

**Re: ACWD's Appeal of the June 22, 2017, Planning Commission Decision, and the
June 23, 2017, SFPUC Decision Regarding the Alameda Creek Recapture Project**

Dear Ms. Gibson, Clerk of the Board, and Members of the Board of Supervisors:

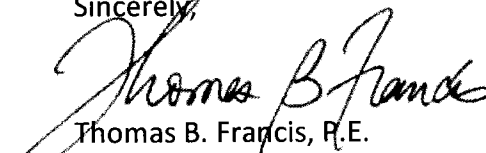
The Bay Area Water Supply and Conservation Agency (BAWSCA) has prepared this letter in regards to Alameda County Water District's (ACWD) appeal of the June 22, 2017 Planning Commission decision, and the June 23, 2017 Public Utility Commission (SFPUC) decision concerning the Alameda Creek Recapture Project (ACRP). BAWSCA represents the interests of 24 cities and water districts, an investor-owned utility, and a university, that purchase water wholesale from the San Francisco Regional Water System.

ACWD has copied BAWSCA on their letter in which they detail their requested appeal of the decisions as noted above. We are therefore aware of the concerns they have.

BAWSCA believes that the ACRP is an essential water supply project in the Water System Improvement Program. Its implementation is critical to meeting the water supply reliability needs of the 1.8 million residents served by our member agencies. We urge the parties (SFPUC and ACWD) to come together to resolve any outstanding issues that may be present, and to go about resolution of issues in a way that does not significantly impact ACRP's schedule or modify the overall scope.

If BAWSCA can play a role in helping to facilitate discussions between SFPUC and ACWD on the ACRP, please do not hesitate to contact us.

Sincerely,



Thomas B. Francis, P.E.
Water Resources Manager

cc: BAWSCA Board of Directors
Nicole Sandkulla, BAWSCA CEO / GM
Allison Schutte, Hanson Bridgett
Bob Shaver, ACWD, General Manager
Steve Ritchie, SFPUC, Assistant General Manager, Water Enterprise

Attachment L
Miscellaneous Letters
and Emails in support of
the appeal





August 18, 2017

City and County of San Francisco
Clerk of the Board of Supervisors
Lisa Gibson, Environmental Review Officer
#1 Dr. Carlton B. Goodlett Place Room #244
San Francisco, CA 94102

Re: Support for Alameda County Water District’s July 24 Request for the Board of Supervisors to Remand Final EIR of the Alameda Creek Recapture Project to the Planning Commission, Require Collaborative Analysis of Impact on Streamflows

Dear Lisa Gibson and Members of the Board of Supervisors:

I am writing in support of Alameda County Water District’s reasonable and prudent request that the Board of Supervisors reverse the certification of the EIR and approval of Case No. 2015-004827ENV, the "Alameda Creek Recapture Project" (Project), and remand the final EIR to the Planning Commission to require the collaborative development of a new modeling tool to fully analyze potential Project impacts to federally threatened Central California Coast Distinct Population segment of steelhead (*Oncorhynchus mykiss irideus*) and downstream water users.

We support ACWD’s request to develop a more robust and appropriate streamflow modeling tool to study the surface water/groundwater interaction and full suite of potential downstream impacts of the proposed Project. Operation of the Project as proposed will have the potential to significantly alter the availability and timing of sufficient flows to allow upstream passage of spawning adult and downstream passage of juvenile steelhead during critical migration windows below established thresholds (25cfs for adults, 12cfs for juveniles), causing potential “take” of steelhead in violation of the Endangered Species Act. These impacts were not sufficiently described nor analyzed in the Final EIR and should have been examined more closely.

L-1
L-2

SFPUC has been working with partners in the Alameda Creek watershed through the Alameda Creek Fisheries Work Group to improve stream conditions and passage for steelhead since 1997. California Trout recognizes the importance of Alameda Creek and its essential independent population¹ of steelhead to the recovery of the Central California Coast Distinct Population Segment, and is interested in engaging further with the Fisheries Work Group toward this goal.

We respectfully voice our support for ACWD’s request, and look forward to working with SFPUC and other Alameda Creek stakeholders to improve fish passage and water supply reliability.

Thank you for your consideration.

Sincerely,

/s/ Patrick Samuel
California Trout Bay Area Conservation Program Manager

¹ National Marine Fisheries Service, 2016. *Final Coastal Multispecies Recovery Plan*. 649-681pp. Santa Rosa, CA.

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Sunol basin
Date: Wednesday, August 09, 2017 10:10:16 AM

From: Bruce Carter [mailto:bcorthodoc@gmail.com]
Sent: Wednesday, August 09, 2017 9:32 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Sunol basin

Please reconsider the project to capture water from the Sunol basin...we do not know enough about how that might affect flow into Alameda Creek, which is a critical resource in So. Alameda county.

Thank you for putting this issue on the agenda.

┌
└ L-3

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek
Date: Wednesday, August 09, 2017 9:35:01 AM

From: VLC2461@aol.com [mailto:VLC2461@aol.com]
Sent: Tuesday, August 08, 2017 9:38 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek

Please make sure that any decisions you make with regard to Alameda Creek be beneficial to the Steelhead Trout population. Too many agencies and so many hours of cooperation have brought us to the level of protection the Steelhead Trout have as of today. Don't jeopardize the progress that has been made.

L-4

Sincerely,

Virginia Cummins
2461 Balmoral Street
Union City, CA 94587

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Please Safeguard Minimum Flows for Alameda Creek Steelhead
Date: Tuesday, August 08, 2017 9:36:06 AM

-----Original Message-----

From: Ron Goldman [<mailto:rgoldman@cs.stanford.edu>]
Sent: Monday, August 07, 2017 7:32 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Please Safeguard Minimum Flows for Alameda Creek Steelhead

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration.

L-5
L-6

San Francisco should only approve a recapture project that will adequately protect steelhead trout.

thank you,

-- Ron --

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Steelhead Trout Migration in Alameda Creek
Date: Wednesday, August 09, 2017 5:02:51 PM

From: Mary [mailto:hannonma@comcast.net]
Sent: Wednesday, August 09, 2017 4:36 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Steelhead Trout Migration in Alameda Creek

Dear Board of Supervisors:

Please direct the SFPUC and the SF Planning Commission to work with all the watershed stakeholders on additional analysis of the relationship between groundwater and surface water in the Sunol Valley to determine if the streamflow project for Alameda Creek could impede steelhead migration downstream of the project. Please approve a recapture project that will adequately protect the steelhead trout migration.

L-7
L-8

Mary Ann Hannon
309 Pearl Dr.
Livermore, CA 94550

Member Alameda Creek Alliance

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Safeguard Minimum Flows for Alameda Creek Steelhead
Date: Wednesday, August 09, 2017 12:53:53 PM

From: leslie jackson [mailto:les@well.com]
Sent: Wednesday, August 09, 2017 12:24 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Safeguard Minimum Flows for Alameda Creek Steelhead

Dear San Francisco Board of Supervisors,

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration.

San Francisco should only approve a recapture project that will adequately protect steelhead trout.

L-9
L-10

Sincerely,

*Leslie Jackson
Oakland, CA 94602*

Leslie Jackson | les@well.com
www.mudfest.net
www.rocketstoves.com

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek recapture project
Date: Thursday, August 17, 2017 10:48:40 AM

From: Sarah Kupferberg [mailto:skupferberg@gmail.com]
Sent: Thursday, August 17, 2017 10:36 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek recapture project

Dear members of the SF Board of Supervisors,

I am writing to you as a scientist who has studied the amphibians of Alameda Creek since the late 1990's. I am very concerned about the impacts of the Alameda Creek recapture project in the Sunol Valley that were not adequately addressed in the EIR which was hurriedly approved. I ask you to direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley.

L-11

This information is critical to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project. Research conducted in the Alameda Creek watershed (Adams et al. 2017) indicates that low flows accentuate the problems caused by the deadly chytrid fungus. This disease is responsible for amphibian declines both globally and locally and its prevalence in Alameda Creek is directly related to stream flow levels. The Foothill Yellow Legged, which was elevated to candidacy as a threatened species under California Endangered Species Act just last month, will be losing suitable habitat once the new release schedule of water from Calaveras Dam takes effect because the water will be too cold to be suitable for the frogs. The water will warm to suitable levels once it reaches the area where the recapture project is located. The environmental review for this project has piecemealed the analysis of impacts of the Calaveras Dam Replacement Project and has not accounted for the new protected status of the frogs in the Creek.

L-12

The Supervisors of San Francisco should only approve a recapture project that will adequately protect native amphibians and steelhead trout which have received the bulk of conservation planning attention in Alameda Creek.

L-13

Thank you considering my comments.

Regards,

Sarah Kupferberg, Ph.D.
818 Mendocino Ave
Berkeley, CA 94707

Adams, A.J., Kupferberg, S.J., Wilber, M.Q., Pessier, A.P., Greffrud, M., Bobzien, S., Vredenburg, V.T. and Briggs, C.J., 2017. Extreme drought, host density, sex, and bullfrogs influence fungal pathogen infection in a declining lotic amphibian. *Ecosphere*, 8(3).

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Please do not do any Reduction in the needed water flow in the Alameda Creek for Steelhead.
Date: Tuesday, August 08, 2017 9:37:49 AM

From: panadbs@juno.com [mailto:panadbs@juno.com]
Sent: Tuesday, August 08, 2017 8:06 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Please do not do any Reduction in the needed water flow in the Alameda Creek for Steelhead.

Hello Board of Supervisors, Please do not do any Reduction in the needed water flow in the Alameda Creek for Steelhead. The filling of Sunol Gravel pits should not be done due to the Steelhead needing the water. Dave

L-14

[How To Fix Saggy Skin \(Doctors Shocked!\)](#)

Health Report

<http://thirdpartyoffers.juno.com/TGL3132/5989d38b26868538b2e7cst03vuc>

[Redacted]

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Endangered species
Date: Monday, August 14, 2017 8:19:55 AM

-----Original Message-----

From: Jim Prola [<mailto:jimprola@yahoo.com>]
Sent: Sunday, August 13, 2017 6:10 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Endangered species

Dear SF Supervisors,

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between groundwater and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. San Francisco should only approve a recapture project that will adequately protect steelhead trout. Steelhead trout are an endangered species. Thank you in advance for your environmental understanding.

L-15
L-16

Mr/Mrs Jim and Hon Diana Prola

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Safeguard minimum flows for Alameda Creek
Date: Tuesday, August 08, 2017 11:10:35 AM

From: Judy Schriebman [mailto:judy@leapfrogproductions.com]
Sent: Tuesday, August 08, 2017 10:57 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Safeguard minimum flows for Alameda Creek

Dear SF Board of Supervisors:

As a creek advocate, I know how important it is to have adequate flows all year long to maintain a healthy riparian system, including the trees and wildlife but most importantly the fish in the stream.

I have also seen in every watershed basin—and it is recognized by hydrologists—that pumping water from the ground can lower the water table and reduce flows, both surface and subsurface, to the creeks in that watershed.

It is imperative that groundwater cannot be taken in excess of the needs of the whole watershed and creeks that rely upon it. It is therefore imperative to fully analyze ALL the water connections—creeks, wells, lakes, reservoirs, springs, etc—in order to accurately determine where the water is coming from, where it’s going, and how much is ok to take for human uses while retaining good environmental functioning.

Please direct the SFPUC and the SF Planning Commission to work with ALL watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. Tell the Supervisors that San Francisco should only approve a recapture project that will adequately protect steelhead trout.

The Alameda County Water District, which intends to build two fish ladders in lower Alameda Creek, filed an appeal of the project approval due to concerns about the unknown effects on stream flows intended to support steelhead migration. Federal and state fisheries agencies agree that project operations could diminish steelhead migration opportunities in some years, and recommended more study.

Water flows are tricky, but making false assumptions and building big projects based on them is unsound scientifically and environmentally.

Judy Schriebman
San Rafael, CA 94903

L-17
L-18

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Minimum Flows for Alameda Creek Steelhead
Date: Thursday, August 10, 2017 2:40:33 PM

From: M S [mailto:ms98stellarfp@yahoo.com]
Sent: Thursday, August 10, 2017 2:23 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Minimum Flows for Alameda Creek Steelhead

To the Board,

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration.

L-19
L-20

I believe San Francisco should only approve a recapture project that will adequately protect steelhead trout.

Thank you for your time.

Respectfully,

M. Starr

(a resident and constituent of the Alameda Creek Alliance)

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek Recapture Project
Date: Tuesday, August 08, 2017 2:50:53 PM

From: Scott Taylor [mailto:staylor@laclinica.org]
Sent: Tuesday, August 08, 2017 1:21 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek Recapture Project

To Whom It May Concern:

I am writing you regarding the Alameda Creek Recapture Project. There are some concerns regarding the project during drought years. There is concern that during drought years, the recapture project may endanger the passage of steelhead during those time. While I am not against the project per se, I would strongly recommend further study of the project and the issue of water flow during drought years. Hopefully, it will turn out that there will not be any detrimental effects to the fish during the drought years and all will be well with the project.

L-21

Thank you for your time and concern regarding this project.

Sincerely,
Scott Taylor
Alameda Creek Alliance Board Member

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Minimum Flows for Alameda Creek Steelhead Trout
Date: Monday, August 14, 2017 1:56:11 PM

From: Larry Thompson [mailto:thompson14ster@gmail.com]
Sent: Monday, August 14, 2017 1:08 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Minimum Flows for Alameda Creek Steelhead Trout

Dear SF Board of Supervisors:

The problem is that the connection between groundwater in the Sunol Basin with surface flow in Alameda Creek is unclear, and there are concerns that pumping during dry years could reduce low flows and opportunities for fish passage through Alameda Creek. I am asking you to direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on further analysis of the relationship between ground water and surface water in the Sunol Valley, thereby to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. San Francisco should only approve a recapture project that will adequately protect steelhead trout.

L-22

L-23

Thank you,
Lawrence Thompson
1069 Felicia Ct
Livermore, CA 94550

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek
Date: Tuesday, August 08, 2017 9:28:40 AM

From: Anne Veraldi [mailto:anneveraldi@hotmail.com]
Sent: Monday, August 07, 2017 6:40 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek

Dear Supervisors and SF planning Commissioners:

Please protect Alameda Creek. Please work with the watershed stakeholders on additional analysis between the ground and surface water in Sunoi Valley to determine the projects impacts on streams flows in the Alameda Creek. Only approve a recapture project that will adequately protect steelhead trout.

L-24
L-25

Thank you.

Sincerely,
Anne Veraldi

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Steel head trout in Alameda Creek
Date: Wednesday, August 09, 2017 9:36:11 AM

-----Original Message-----

From: Joan P Weber [<mailto:joanandfred@yahoo.com>]
Sent: Tuesday, August 08, 2017 9:57 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Steel head trout in Alameda Creek

Hello,

I am writing to ask you and the SF PUC and the Planning Commission to please work with all stake holders to insure that steel head trout return and migration are protected in all of Alameda Creek. There is concern the the proposed project to intermittently release cold water from Calaveras Dam and replace it with ground water in the Sunol area could have an adverse impact on steel head trout further down in Alameda Creek.

Let's not have different agencies working at cross purposes.

Thank you.

Joan Weber

L-26

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Please Help Safeguard Minimum Flows for Alameda Creek Steelhead
Date: Tuesday, August 08, 2017 9:43:24 AM

From: kristinwomack [mailto:ktbakkimack@comcast.net]
Sent: Monday, August 07, 2017 6:31 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Please Help Safeguard Minimum Flows for Alameda Creek Steelhead

Dear SF Board of Supervisors:

I am writing to you to ask you to direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley in order to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. Federal and state fisheries agencies agree that project operations could diminish steelhead migration opportunities in some years, and recommended more study.

San Francisco should only approve a recapture project that will adequately protect steelhead trout. Our threatened native species are clinging by a thread and they need extreme measures to prevent their extinction!

L-27

L-28

Sincerely, Kristin Womack

From: [BOS Legislation, \(BOS\)](#)
To: robert.shaver@acwd.com; [Ritchie, Steve \(PUC\)](#); [Levin, Ellen \(PUC\)](#)
Cc: [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Kern, Chris \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Scarpulla, John \(PUC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: SUPPLEMENTAL APPEAL LETTER: Appeal of CEQA Certification of Final Environmental Impact Report - Alameda Creek Recapture Project - Appeal Hearing on September 5, 2017
Date: Friday, August 25, 2017 1:24:35 PM
Attachments: [image001.png](#)

Greetings,

Please find linked below the letter received by the Office of the Clerk of the Board from the appellant, Robert Shaver of Alameda County Water District, concerning the CEQA Certification of Final Environmental Impact Report Appeal for the Alameda Creek Recapture Project.

[Supplemental Appeal Letter - August 25, 2017](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on September 5, 2017.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170893](#)

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*



DIRECTORS

AZIZ AKBARI
JAMES G. GUNTHER
JUDY C. HUANG
PAUL SETHY
JOHN H. WEED

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STEVE PETERSON
Operations and Maintenance
ED STEVENSON
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JONATHAN WUNDERLICH
Finance

August 25, 2017

London Breed, President
San Francisco Board of Supervisors
c/o Clerk of the Board of Supervisors
#1 Dr. Carlton B. Goodlett Place
Room #244
San Francisco, CA 94102

Dear President Breed and Board Members:

Subject: Hearing of September 5, 2017 - File No. 170893: Appeal of Certification of Final Environmental Impact Report (EIR) - Alameda Creek Recapture Project

The Alameda County Water District (ACWD) has appealed the following decisions relating to the Alameda Creek Recapture Project (Project):

1. Motion No. 19952, approved by the Planning Commission on June 22, 2017, certifying the Final EIR for the proposed Project and adopting related findings; and
2. Resolution 17-0146, approved by the Public Utilities Commission on June 23, 2017, adopting the California Environmental Quality Act (CEQA) findings, including the Statement of Overriding Considerations, adopting the Mitigation Monitoring and Reporting Program, and approving Project No. CUW35201, Alameda Creek Recapture Project.

This appeal includes all of the documents and arguments made by ACWD in its written and oral comments to the Planning Commission and the San Francisco Public Utilities Commission (SFPUC) on the Draft EIR and Project, including but not limited to the July 24, 2017, Letter of Appeal.

ACWD submits the following additional documents in support of the appeal:

Attached Exhibits

Exhibit A: Frequently Asked Questions (FAQ) Sheet

- Location of Project Map
- Alameda Creek Daily Flow Graphic – Example: Actual CEQA Data (January 2007)

Exhibit B: Timeline of ACWD's Request for Daily Flow Data



London Breed, President
San Francisco Board of Supervisors
Page 2
August 25, 2017

Exhibit C: Independent Review by Horizon Water and Environment of the SFPUC
Alameda Creek Recapture Project (ACRP) CEQA Documentation

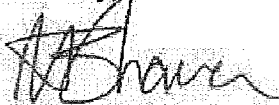
Exhibit D: Legal Basis Supporting Appeal from Hanson Bridgett LLP

Exhibit E: Letters from concerned stakeholders, including:

- National Marine Fisheries Service, dated July 27, 2017
- Alameda Creek Alliance, dated August 2, 2017
- Bay Area Water Supply & Conservation Agency, dated August 2, 2017
- California Trout, dated August 18, 2017
- Trout Unlimited, dated August 21, 2017

ACWD requests the San Francisco Board of Supervisors to: 1) reverse the certification of this EIR; 2) ask the Planning Department to revise the methodology used for the CEQA analysis; and 3) instruct SFPUC and the Planning Department to meet with ACWD, fishery experts, groundwater experts, and other stakeholders, to develop a modeling methodology using daily flow data for the Project in a transparent manner which will further promote the steelhead restoration effort. ACWD supports the Alameda Creek Recapture Project. It just needs to be done the right way.

Sincerely,



Robert Shaver
General Manager

la/ta

Attachments: Exhibits A, B, C, D, E

cc: John Rahaim, San Francisco Planning Department
Lisa Gibson, San Francisco Planning Department
Chris Kern, San Francisco Planning Department
Steve Ritchie, San Francisco Public Utilities Commission
Ellen Levin, San Francisco Public Utilities Commission
Nicole Sandkulla, Bay Area Water Supply and Conservation Agencies (BAWSCA)
Daniel Woldesenbet, Alameda County Public Works
Hank Ackerman, Alameda County Public Works
Gary Stern, National Marine Fisheries Service
Eric Larson, California Department of Fish and Wildlife
Jeff Miller, Alameda Creek Alliance
Tom Engels, Horizon Water
Patrick Miyaki, Esq. Hanson Bridgett LLP
Brett Gladstone Esq. Hanson Bridgett LLP

13711396.1

EXHIBIT A

FAQ: ACWD's Request for Appeal of the SFPUC Alameda Creek Recapture Facility Project

Who is ACWD? Alameda County Water District is a public water agency that provides drinking water to over 351,000 people in the southern portion of Alameda County, including the cities of Fremont, Newark and Union City.

Why does ACWD care about this project? ACWD owns, operates and maintains facilities in the Alameda Creek watershed downstream of the proposed SFPUC Water Recapture Facility. This proposed facility will recapture water that is released from Calaveras Reservoir and the Alameda Creek Diversion Dam. Operation of the recapture facility will alter streamflow in Alameda Creek upstream of ACWD's facilities.

ACWD has worked side by side with the SFPUC within the Alameda Creek Fisheries Workgroup to ensure that the Alameda Creek watershed can sustainably provide both environmental and water supply benefits. ACWD together with the Alameda County Department of Public Works are making approximately \$48.5 million in investments in fish ladders and screened diversions downstream of the Recapture Project. We don't want to see our shared efforts undermined by avoidable project impacts from SFPUC's Recapture Project that could diminish the same fish population we're working so hard to re-establish. *See attached Map showing the ACWD service area, project location and, adjacent features such as creeks, pumps, dams, etc.*

What are ACWD's concerns? ACWD is concerned about the reduction of water flows – both for the endangered steelhead and for ACWD's water supplies downstream of the recapture project.

From the very beginning of this process, ACWD expressed concerns about the methodology the Planning Department proposed for the evaluation of project impacts, as it is clear that the project will have a regional influence over groundwater elevations and surface flow in Alameda Creek. ACWD also advised SFPUC that the impacts to this project need to be considered by looking at flows *each day* because the survival of the steelhead in the creek will depend on how much water is in the creek each day. However, the EIR data was evaluated on a monthly basis.

ACWD has repeatedly asked SFPUC for the critical *daily* flow information since the earliest days of the project. We were disappointed that the only data provided up to very recently was data showing average monthly (and not daily) flow results. The full set of daily data was finally provided, but only after the EIR's public comment period ended, when it was too late to provide meaningful public input on the document.

The newly available data shows that when one averages water flow over a 30 day period, the average monthly flow rates appear to meet the requirements for fish passage in Alameda Creek. However, this monthly average obscures the fact that on many dryer days within the month water flow is insufficient for fish passage. It does not matter that when low flow days are combined with high water flow days, the average flow (over a 30 day period) allows for fish passage. The attached color chart [attached from ACWD power point presentation to its Board of Directors,

FAQ: ACWD's Request for Appeal of the SFPUC Alameda Creek Recapture Facility Project

the attached page entitled "Example: Actual CEQA Data-January 2007"] presents an example of the days of water flow that are too low for fish passage, and it shows that the operation of the Recapture Project will result in only 9 days per month that the fish have adequate passage.

Are ACWD's concerns shared by others? There are a number of public agencies and respected non-profits who are very concerned with the data. Attached are two examples – letters from the National Marine Fisheries Service (NMFS) and the Alameda Creek Alliance. We understand that there are others who have or will be sending their communications to the Board of Supervisors.

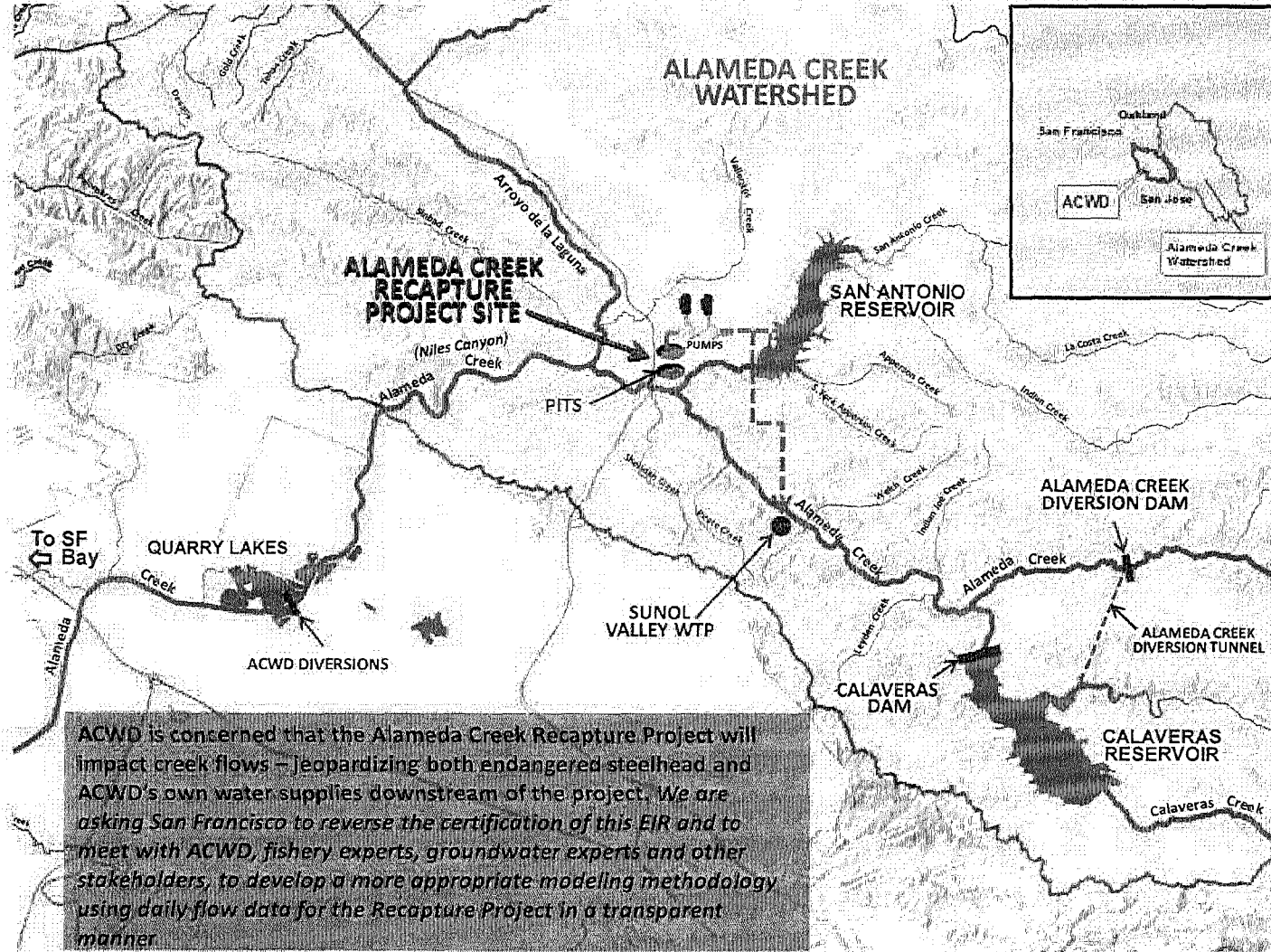
What does ACWD want? As we stated in our appeal letter, we are concerned that San Francisco would approve an environmental document based on a flawed analysis that does not address the harm it could cause to endangered fish species.

We are asking you to (1) reverse the certification of this EIR; (2) ask the Planning Department to revise the methodology used for the CEQA analysis; and (3) instruct SFPUC and the Planning Department to meet with ACWD, fishery experts, groundwater experts and other stakeholders, to develop a more appropriate modeling methodology using daily flow data for the Recapture Project in a transparent manner which will further promote the steelhead restoration effort. We support the Alameda Creek Recapture Project. It just needs to be done the right way.

Will the Requests By ACWD Lead to Additional Water into the ACWD System? NMFS has established minimum passage flows that are necessary to support the migration of steelhead within lower Alameda Creek. NMFS is requiring ACWD to "bypass" the releases from the Calaveras Reservoir and the Diversion Dam that may reach ACWD's diversion point during fish migration seasons in an effort to share in the obligations ACWD and SFPUC have to ensure adequate migration conditions in this portion of the watershed. Since the SFPUC contributions have been identified as helping to promote steelhead passage in this portion of the watershed ACWD cannot utilize this additional water to augment its local water supply.

FAQ: ACWD's Request for Appeal of the SFPUC Alameda Creek Recapture Facility Project

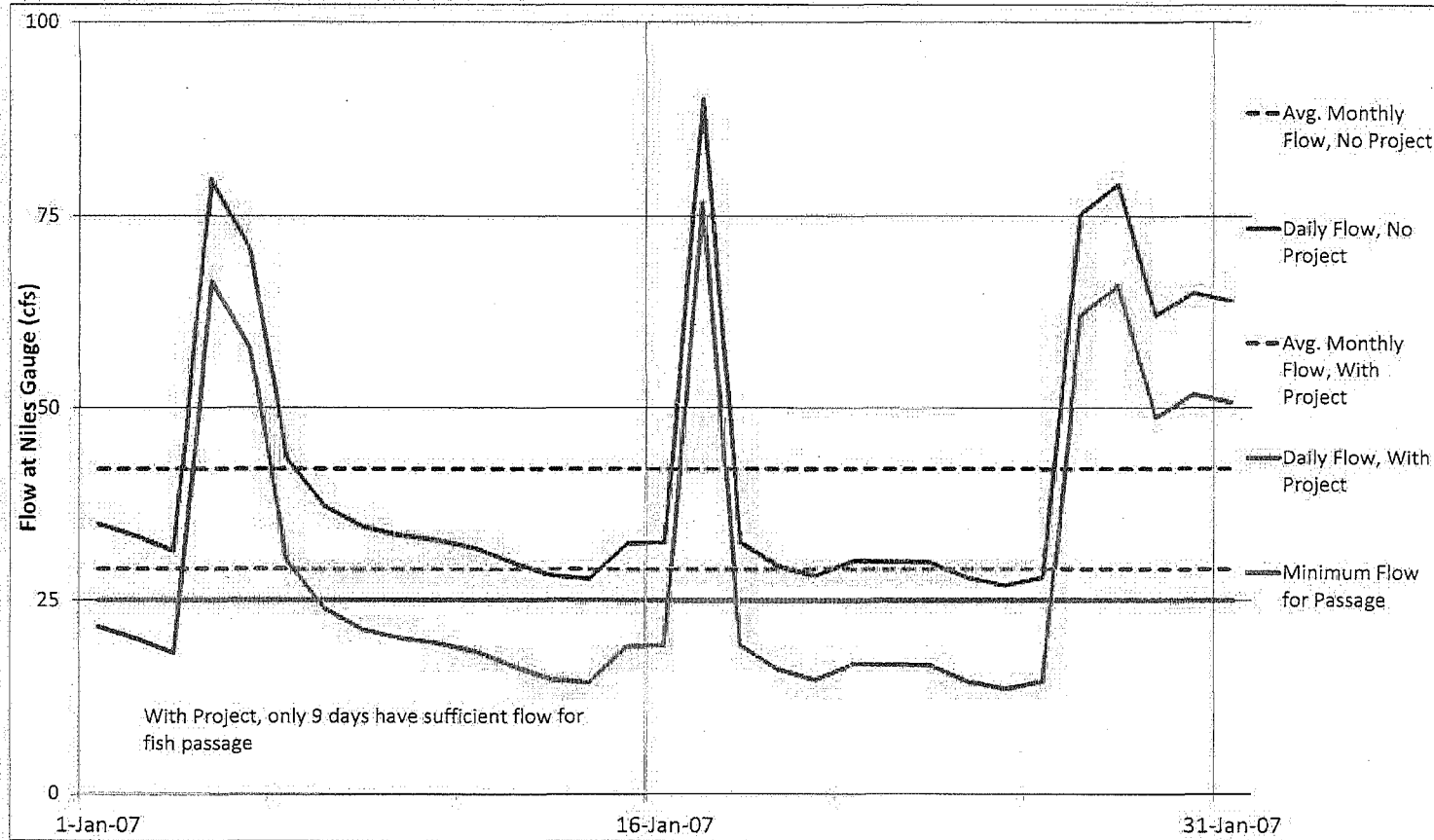
Location of Project



13704350.2

FAQ: ACWD's Request for Appeal of the SFPUC Alameda Creek Recapture Facility Project

Example: Actual CEQA Date-January 2007



- Monthly data for both "With Project" and "No Project" exceed the minimum flow requirement for fish passage (25 cfs), which might suggest that the Project does not have an impact on fish.
- However, the Daily data used to generate those monthly values indicates that while the "No Project" scenario has sufficient flow for fish passage every day of the month, "With Project" will reduce that to only 9 days of sufficient flow.

FAQ: ACWD's Request for Appeal of the SFPUC Alameda Creek Recapture Facility Project

Letters of support



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

July 27, 2017

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

Re: June 22, 2017 Planning Commission Decision Regarding the Final Environmental Impact Report for the Alameda Creek Recapture Project

Dear Clerk of the Board of Supervisors:

NOAA's National Marine Fisheries Service (NMFS) has been notified of the San Francisco Planning Commission's June 22, 2017 decision to certify the Final Environmental Impact Report (EIR) for the Alameda Creek Recapture Project (ACRP). NMFS previously submitted comments regarding the ACRP Draft EIR (Planning Department File No. 2015-004827ENV) via letter dated January 30, 2017, and we have reviewed the Responses to Comments document dated June 7, 2017.

Based on our review of the Final EIR, NMFS believes the document does not contain sufficient information to conclude the ACRP will not result in substantial effects on streamflows that support the migration of CCC steelhead in Alameda Creek. Streamflow simulation results presented in Figure 5.14-9 of the Draft EIR predict hydrologic conditions at a daily time-step, but it is unclear if this plot represents a comparison of "with project" to "without project" conditions. Table HYD6-2 of Appendix HYD1 offers some information regarding predicted changes in streamflows and this table indicates May flows will be reduced by approximately 30 percent with ACRP operations. The conclusion regarding potential impacts to steelhead migration presented in the EIR is based on an analysis of the "long-term" operation of the ACRP which doesn't fully take into account short-term impacts (*i.e.*, dry water years) and, as a result, the analysis presented in the EIR could significantly underestimate potential impacts to steelhead and migratory habitat.

Furthermore, the EIR asserts that steelhead migration will not be impacted by the ACRP because, for both with and without project scenarios, "precipitation-generated streamflows in Alameda Creek are predicted to exceed several hundred cubic feet per second during the December through June migration period¹." This reasoning fails to consider that steelhead do not migrate only during peak flow events, but may migrate anytime within the migration period when instream flows exceed identified minimum flow levels (*i.e.*, 25 cfs for adults, 12 cfs for juvenile/smolts in lower Alameda Creek). A more appropriate impact analysis would instead

¹ Response to Comments, page 11.4-32; and Draft EIR, page 5.14-126.



13704350.2

FAQ: ACWD's Request for Appeal of the SFPUC Alameda Creek Recapture Facility Project

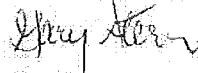
2

focus on changes in the amount of time flows exceed these minimum migration thresholds. In light of this comment, NMFS reviewed the daily modelling data provided to the Alameda County Water District on June 12, 2017, and found that ACRP operations will diminish migration opportunities for federally-threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*), especially outmigrating steelhead smolts, in some years. For instance, analysis of the daily streamflow data for May 2008 suggests ACRP operations could result in streamflows in lower Alameda Creek (as measured at the Niles Gage) dropping below the smolt passage threshold of 12 cfs for an additional 15 days when compared to the without ACRP condition.

Based on currently available information, NMFS does not concur with the Final EIR's conclusion that ACRP operations would not substantially interfere with the movement or migration of special-status fish species, including CCC steelhead (Impact B1-11 in the DEIR and Impact B1-16 in FEIR). We recommend San Francisco Planning Commission and the San Francisco Public Utilities Commission undertake additional analysis to examine the relationship between groundwater and surface water in the Sunol Valley for the purpose of determining the project's potential impacts on a daily time-step to streamflows in Alameda Creek downstream of the project site.

If you have any questions regarding these comments, please contact Rick Rogers at rick.rogers@noaa.gov, or 707-578-8552.

Sincerely,



Gary Stern
San Francisco Bay Branch Supervisor
North-Central Coast Office

cc: Tim Ramirez, SFPUC, San Francisco CA
Thomas Niesar, ACWD, Fremont, CA
Sean Cochran, CDFW, Santa Rosa, CA
Ryan Olah, USFWS, Sacramento, CA

FAQ: ACWD's Request for Appeal of the SFPUC Alameda Creek Recapture Facility Project



Alameda Creek Alliance

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August 2, 2017

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: **Planning Commission Decision Regarding Alameda Creek Recapture Project**

Dear San Francisco Supervisors:

The Alameda Creek Alliance has concerns about the San Francisco Public Utilities Commission's (SFPUC) Alameda Creek Recapture Project and impacts that its operations could have on recovering threatened steelhead trout within the Alameda Creek watershed. We share the concerns about the inadequacies of the recently certified Environmental Impact Report (EIR) that have been raised by the National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), and Alameda County Water District (ACWD). We support the ACWD petition to reverse the certification of the EIR for the project.

The Alameda Creek Alliance has more than 2,000 members and supporters. Since 1997 we have advocated for restoration of steelhead trout in the Alameda Creek watershed. We have worked with the SFPUC since 1999 to improve habitat conditions to support the recovery of steelhead. While we generally support the recapture project and the concept of off-stream rather than in-stream water recapture, state and federal fisheries agencies have determined that the final EIR does not contain sufficient information to support the conclusion that the project will not result in a less than significant impact on streamflows and fish migration in Alameda Creek.

The Alameda Creek Alliance submitted scoping comments on the Alameda Creek Recapture Project in 2015 and commented on the draft EIR for the project in January 2017. We have reviewed the SF Planning Commission's June 22, 2017 decision to certify the final EIR and the June 7, 2017 responses to comments on the EIR. We have also reviewed the ACWD's July 24, 2017 letter of appeal and concerns about the hydrology analysis used for the EIR; the July 24, 2017 comment letter from CDFW; and the July 27, 2017 comment letter from NMFS.

NMFS commented that the final EIR does not contain sufficient information to conclude that the project will not result in substantial effects on streamflows intended to support migration of steelhead trout, and in fact found that project operations will diminish migration opportunities for steelhead, especially outmigrating smolts, in some years. CDFW commented that the modeling analysis used for the EIR may be inadequate for the determination that the project will have "less than a significant impact" on fisheries resources of Alameda Creek.

An ACWD analysis of daily modeling data provided by the SFPUC after the close of the EIR comment period shows that project operations could result in increased numbers of days where streamflows in lower Alameda Creek fall below the threshold for fish passage, as determined by NMFS. ACWD commented that the hydrologic model relied on in the EIR's impact analyses is insufficient to analyze the surface water groundwater interaction necessary to fully evaluate project impacts. CDFW shared this concern that the modeling used in the EIR did not adequately address ground and surface water interaction in the stream reach of the proposed project, and that the EIR analyses do not adequately quantify the stream reach percolation

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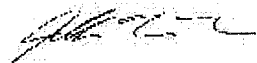
losses of SFPUC releases.

We are also concerned about the potential reduction in the number of days that steelhead could have access to spawning and rearing habitat upstream of the project. Data presented in the EIR shows that the current proposal for project operations will reduce the number of days where adequate streamflow is available for steelhead migration. The EIR uses monthly average changes in surface water flow to conclude that steelhead will not be harmed, whereas analysis of daily flows is needed to assess the effects of suitable streamflows for steelhead. We disagree with the EIR's conclusion that operation of the project will not significantly impact steelhead trout. There is simply not adequate information in the EIR to make a determination about streamflows and impacts to steelhead.

We request that the Board of Supervisors direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders (including the ACA, ACWD, CDFW and NMFS) to undertake additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on daily streamflows in Alameda Creek downstream of the project which could impede steelhead migration. If the SFPUC is unwilling to do this, the Board of Supervisors should uphold the ACWD appeal and reject the certification of the EIR for the project.

San Francisco has invested significant time and money in the Alameda Creek watershed to monitor and improve habitat conditions for steelhead trout. The future operations of the completed Calaveras Dam and Alameda Creek Diversion Dam will enhance steelhead spawning and rearing in stream reaches managed by the SFPUC. Both the SFPUC and ACWD are required to operate their facilities in Alameda Creek to meet specified flow requirements for steelhead. The Alameda Creek Recapture Project should support rather than undermine these efforts. We understand that this is the last Water System Improvement Project facility to be constructed, but it is important to get it right – the EIR must fully evaluate the potential impacts of the project, and San Francisco should only approve a recapture project that will meet the interests of all watershed stakeholders and adequately protect steelhead trout.

Sincerely,



Jeff Miller
Director
Alameda Creek Alliance
(510) 499-9184
jeff@alamedacreek.org

EXHIBIT B

Timeline of ACWD's Requests for Daily Data Supporting the EIR Analysis

- **June 24, 2015 – Notice of Preparation of Environmental Impact Report Issued**
Written comments accepted until July 27, 2015.

- **July 27, 2015 – ACWD Comment Letter on NOP of EIR**
Alameda County Water District (ACWD) first raised the issue of daily flow data in its responses to the Notice of Preparation for the Draft Environmental Impact Report (EIR), stating that “while annual [flow] totals may be the same, the actual daily rate of releases or bypass flows will be quantifiably different from the recapture rate provided by [the Alameda Creek Recapture Project],” and that, “[t]he disparity in the release recapture rates may have impacts in a variety of areas of concern and will need to be analyzed in sufficient detail for potential impacts to be understood and ultimately mitigated if necessary.”

ACWD and the San Francisco Public Utilities Commission (SFPUC) worked together with the larger Alameda Creek Fisheries Workgroup to develop the Alameda System Hydrologic Model (ASDHM). ACWD understood that SFPUC modified the original ASDHM model for purposes of modeling the Alameda Creek Recapture Project (ACRP). ACWD refers to the original ASDHM model as “Version 1.0” and the SFPUC modified version of the ASDHM as “Version 2.0.” Prior to the public release of the Draft EIR, ACWD met with various San Francisco staff, including representatives from the Planning Department and Public Utilities.

- **November 16, 2015 – Conference Call with ESA**
During this conference call with the Planning Department’s consultant, ESA, the issues identified in ACWD’s July 27, 2015, comment letter were discussed and ACWD emphasized the need for daily data, and not annual data.

- **February 29, 2016 – Conference Call with SFPUC SF Planning and ESA**
This discussion focused around existing ACWD operations and to learn about potential alternatives to the project that involve the operation of ACWD’s facilities. ACWD requested daily data from the ASDHM analysis (Version 2.0) at this time.

- **October 17, 2016 – Meeting with Planning Department and SFPUC**
ACWD learned that the Planning Department and their consultants, ESA/Orion, were further modifying “Version 2.0” of the ASDHM model for the Planning Department’s use in the CEQA analysis. This ESA/Orion-modified ASDHM model is referred to as “Version 3.0.” At this point, ACWD did have modeling results from “Version 2.0,” but did not have information on the “Version 3.0” modifications and resulting outputs. When ACWD asked for detailed “Version 3.0” modeling information, the Planning Department declined to provide the information prior to public release of the Draft EIR.

- **November 30, 2016 – Draft EIR Publicly Released**

▪ **January 10, 2017 – Request for Extension of Time on Draft EIR**

In ACWD's first comment letter to the Draft EIR and request for extension of time, ACWD restated the need for daily flow analysis, adding that, "ACWD review of the analysis of the Draft EIR has also been constrained by the incomplete release of modeling information." Furthermore, ACWD stated, "[i]n order to evaluate potential impacts, ACWD requests an opportunity to review daily flow rates provided by the modeling. Upon review of this additional data, ACWD requests a meeting with San Francisco staff to further discuss potential impacts of the ACRP prior to providing comments on the Draft EIR."

▪ **January 12, 2017 – SF Planning Department Extends Draft EIR Public Comment Period**

In addition to agreeing to extend the Draft EIR public comment period until January 30, 2017, in response to ACWD's January 10, 2017, letter, Lisa Gibson, Acting Environmental Review Officer, stated:

In regards to the request for modeling information on daily flow rates, this information can be requested from the San Francisco Public Utilities... In response to the request to meet to review the modeling information, pursuant to CEQA, public comments on the Draft EIR are be [sic] accepted during the Draft EIR public hearing, held on January 5, 2017, and in writing during the Draft EIR comment period, now extended until January 30, 2017. The Planning Department can only accept and respond to comments on the Draft EIR through this public process.

As directed by the Planning Department, ACWD reached out to SFPUC staff to seek modeling information on **January 17, 2017**.

▪ **January 19, 2017 – SFPUC Provides Data to ACWD**

To ACWD's disappointment, SFPUC staff could only provide "Version 2.0" data on **January 19, 2017**, which ACWD already had. ACWD asserted that, since the Draft EIR analysis was based on "Version 3.0," any "Version 2.0" data was not the complete basis for the evaluation of potential impacts under CEQA. ACWD was informed that SFPUC could not provide "Version 3.0" data. When ACWD requested assistance from the SFPUC to get the "Version 3.0" data used in the Draft EIR analysis, it was informed that the Planning Department would not provide the data, reiterating Ms. Gibson's comment that the Planning Department can only accept and respond to comments on the Draft EIR through a public process.

▪ **January 30, 2017 – ACWD Comment Letter on Draft EIR**

ACWD provided a second comment letter to the Planning Department regarding the Draft EIR. ACWD commented:

[T]he ASDH Model uses a daily time-step to calculate the movement of water throughout the Alameda Creek Watershed, but the results of the modeling work are presented in terms of average annual volumes ... This time-step discrepancy can lead to environmental impacts from operations of the ACRP that are not identified or discussed in the DEIR for the project ... ACWD requests that the SFPUC work with ACWD to identify potential impacts from operation of the ACRP before the Planning Department adopts the EIR for this project.

▪ **June 7, 2017 – Response to Comments Released**

The Planning Department published their Responses to Comments (RTC) document on the Draft EIR. On page 11.2.-6 of the RTC, the Planning Department states, “the SFPUC provided to the ACWD on January 19 and January 20, 2017, the complete daily data sets of the ACRP modeling, that the SFPUC provided to the Planning Department and its consultants for use in preparation of the Draft EIR.” As stated above, since this was “Version 2.0” data, it did not include any “Version 3.0” data that also was used in the EIR and, therefore, was not the complete data set used in the EIR.

Also on page 11.2.-6 of the RTC, the Planning Department states, “All data and reference materials cited in the EIR are available for review as part of the administrative record located at the Planning Department.”

▪ **June 12, 2017 – Daily Data Received**

In a separate transmittal, also dated June 7, 2017, the Planning Department sent ACWD CD’s with “Version 3.0” data, finally providing daily flow data that was critical for ACWD’s evaluation of the Draft EIR analysis. ACWD received this data transmittal on **June 12, 2017**.¹ Therefore, not all data and reference materials were available to ACWD and the public for review until around the date of the RTC publication, well after the close of the public comment period on January 30, 2017, and only ten days before the Planning Commission hearing date to certify the Final EIR on June 22, 2017.

▪ **June 21, 2017 – ACWD Comment Letter on Final EIR**

ACWD provided the following comments on the Final EIR:

The Planning Department failed to provide the data needed to evaluate substantial impacts from the Project and to fully disclose scientific methodology.

Despite the multiple requests made by ACWD for daily modeling data, ACWD only received the relevant requested data on June 12, 2017 – 194 days after the Draft EIR was published and 133 days after the close of the public comment period, including extension. Withholding requested relevant data, and then providing said data with less than 10 business days prior to the Planning Commission meeting to analyze such a complex system deprives the public of a meaningful opportunity to comment on the substantial adverse Project impacts, feasible mitigation, or alternatives.

Moreover, the data provided is still incomplete since it does not include the accounting of water entering and leaving Pit F2, as modified by the Planning Department and used to complete the CEQA analysis. This lack of critical data hinders ACWD’s ability to perform an independent review of the actual analysis and to fully evaluate impacts.

¹ The letter sent on June 21, 2017, incorrectly identified the date received as June 10, 2017. The date and related references to the date have been revised in the comments cited below and in the new exhibits attached herewith.

EXHIBIT C

Memorandum

Subject: CEQA Review – Alameda Creek Recapture Project

Date: August 23, 2017

To: Robert Shaver, General Manger
Alameda County Water District

From: Tom Engels, Ph.D., Principal

RE: Independent Review of SFPUC Alameda Creek Recapture Project (ACRP) CEQA Documentation

This memorandum is intended to provide the Alameda County Water District (ACWD) with a summary of Horizon Water and Environment's (Horizon's) independent review of CEQA documentation for the San Francisco Public Utilities Commission's (SFPUC's) proposed Alameda Creek Recapture Project (ACRP). With respect to the ACRP, the San Francisco Planning Department is the lead CEQA agency and prepared the environmental impact report (EIR).

I. SUMMARY OF FINDINGS

The findings of Horizon's independent review of the ACRP EIR are as follows:

- A. CEQA Procedural Violation #1. The CEQA lead agency failed to provide the public with key data used by the lead agency to evaluate impacts to surface water, groundwater, and fisheries, in a manner required by the CEQA Guidelines. According to the CEQA Guidelines (see §15087(c)(5)), such data must be readily available at the beginning of the public review period for the Draft EIR. In actuality, these data were not readily available to ACWD until over four months after the close of the public review period. This is a procedural violation of CEQA.
- B. CEQA Procedural Violation #2. The CEQA lead agency failed to disclose significant impacts to hydrologic resources and fisheries in the Draft EIR. These significant impacts are clearly evident in data *used by the lead agency* during preparation of the Draft EIR. Nevertheless, the lead agency did not revise and recirculate the Draft EIR for the required additional 45-day public review period. This is a procedural violation of CEQA.
- C. CEQA Methodological Flaw #1. The Alameda System Daily Hydrologic Model (ASDHM) used by the lead agency in assessing impacts of the ACRP to downstream surface water flows did not take into account surface water/groundwater interactions. Instead, the lead agency relied on a conceptual model that was over-simplistic and it obscured significant impacts to surface water, groundwater, and fisheries. These two models, as used in the Draft EIR and Final EIR of the ACRP, did not provide an analysis of potential project impacts in good faith, or provide reasoned efforts to assess impacts to the physical environment. The alternative, collaborative analytic approach suggested early on by ACWD was dismissed by the lead agency, even though this collaborative approach was both reasonable and feasible (ACWD has even proposed to contribute both financially and through in-kind services to the development of the new model).

II. APPROACH TO THE ADEQUACY REVIEW

Horizon's independent review of the ACRP EIR involved a review of the Draft EIR, Final EIR, and available information in the administrative record. During Horizon's review, the following questions were addressed:

1. Did the CEQA lead agency properly follow CEQA procedural requirements?
2. Are the methods of analysis in the ACRP EIR adequate to make valid impact conclusions?
3. What permits or authorizations relating to fisheries would be required for the ACRP?

Answers to these questions are discussed below.

III. REVIEW OF ACRP CEQA PROCEDURES

CEQA is, in part, a planning process with a prescribed set of required procedures that must be followed by the CEQA lead agency. Under CEQA, the ACRP is considered a project of "statewide, regional, or areawide significance" (see CEQA Guidelines §§15082(c)(1), 15206). As such, CEQA procedural requirements applicable to the ACRP include the following:

1. *Initiation of EIR Preparation.* Preparation of a Notice of Preparation (NOP) of an EIR and proper filing of the NOP at the Office of Planning and Research (OPR) State Clearinghouse and the office of the county clerk of the county or counties in which the project will be located (CEQA Statute §§21080.4(a), 21092.3; CEQA Guidelines §15375).
2. *Scoping.* At a minimum, the lead agency must send a NOP to each responsible agency, each federal agency involved in approving or funding the project, and each trustee agency responsible natural resources that may be affected by the project (CEQA Statute §21080.4(a); CEQA Guidelines §15082(a)). In addition, because the ACRP is a project of statewide, regional, or areawide significance, the lead agency must hold at least one public scoping meeting.
3. *Completion of Draft EIR.*
 - a. Preparation of a Notice of Completion (NOC) and proper filing of the NOC with the OPR State Clearinghouse (CEQA Statute §21161, CEQA Guidelines §§15085(a), 15372);
 - b. Preparation of a Notice of Availability (NOA) of the Draft EIR and proper posting of the NOA (CEQA Statute §21092(a); CEQA Guidelines §15087);
 - c. Public availability of Draft EIR *and all references cited in the Draft EIR* (CEQA Guidelines §15087(c)(5);
 - d. Consultation with other affected local, state, and federal agencies; and
 - e. Public review period of not less than 45 days (CEQA Guidelines §15105).
4. *Completion of Final EIR*
 - a. The lead agency must evaluate all comments received during the public review period and must respond to them in the Final EIR (CEQA Guidelines §15088(a);
 - b. The lead agency must provide a written proposed response to a public agency (e.g., ACWD) on comments made by that public agency at least 10 days prior to certifying an EIR (CEQA Guidelines §15088(b);
 - c. Responses to comments must contain a good faith, reasoned analysis; conclusory statements unsupported by factual information (e.g., daily Niles gauge data) will not suffice (CEQA Guidelines §15088(c);
5. *Recirculation of an EIR Prior to Certification*

The lead agency is required to recirculate an EIR for public review when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. The term “information” can include additional data. New information is “significant” if the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project proponents (i.e., SFPUC) have declined to implement. According to CEQA Guidelines §15088.5, “significant new information” requiring recirculation include, for example, a disclosure showing that:

- a. A new significant environmental impact would result from the project.
- b. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- c. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
- d. The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (see *Mountain Lion Coalition v. Fish and Game Commission* (1989) 214 Cal.App.3d 1043).

In light of the procedural requirements above, and upon review of available documentation in the administrative record, Horizon has identified a major flaw in the lead agency’s CEQA process. Specifically, daily Niles gauge modeling data *used by the lead CEQA agency* to evaluate the ACRP’s impacts to surface water and fisheries (i.e., steelhead) were not readily available for independent review during the public review period for the Draft EIR. Throughout the ACRP CEQA process, ACWD requested these data from the lead agency. On January 10, 2017, ACWD sent a letter request for these data, the lead agency did not provide ACWD with these data until June 7, 2017, *more than four months after the close of the Draft EIR public review period. This failure by the lead agency to provide ACWD and other interested parties including NMFS and CDFW with critically important data, data which provided the basis for one of the key impact findings, during the public review period for the Draft EIR is a violation of CEQA procedures.*

As discussed below, the lead agency’s failure to comply with CEQA procedural requirements with respect to the availability of the daily Niles gauge modeling data is serious. In fact, the daily Niles gauge modeling data invalidate the significance determinations for Central California Coast steelhead in both the Draft EIR and Final EIR. Central California Coast steelhead is listed as a threatened distinct population segment under the federal Endangered Species Act. Whereas both the Draft EIR and Final EIR for the ACRP conclude that the ACRP would have no significant impacts on steelhead, the daily modeling data clearly indicate that significant impacts *would* occur. This failure to disclose significant impacts in the Draft EIR necessitates the lead agency’s revision, public notice, consultation and recirculation of the Draft EIR (or, at least, the hydrology and fisheries sections) for another 45-day public review period (see Public Resources Code § 21092.1; CEQA Guidelines §§ 15088.5(d), 15105(a)). The lead agency chose not to do this. **The lead agency’s failure to revise and recirculate the Draft EIR to disclose significant impacts and propose mitigation to offset significant impacts to steelhead is another major procedural violation of CEQA.**

IV. REVIEW OF HYDROLOGIC METHODOLOGIES IN THE ACRP EIR

In the ACRP EIR, the assessment of potential impacts of the ACRP to hydrologic and geohydrologic resources is based on the ASDHM for surface water hydrology and on a conceptualized, qualitative hydrogeologic "model" for surface water and groundwater interactions.

The limitations of the ASDHM for understanding surface water hydrology in the Alameda Creek watershed were well known to both SFPUC (the ACRP sponsor) and the CEQA lead agency at least five years prior to issuance of the ACRP Draft EIR in November 30, 2017 (see Dunne et al. 2012). As concluded by Dunne et al. (2012), a physical, *quantitative* model of groundwater-surface water interactions is needed to adequately understand such interactions in the Alameda Creek watershed. Dunne et al (2012) calls for quantitative modeling of hydrology, hydraulics, and ecosystem function along Alameda Creek, even for relatively simple changes to surface water flows. The proposed changes to surface water flows resulting from operation of the ACRP is much more complicated than that evaluated by Dunne et al. (2012). Dunne et al.'s (2012) recommendations were aimed at proper understanding of mitigation measures for a habitat conservation plan (HCP) – a system that was much simpler than would be created by operation of the ACRP. Nevertheless, the purely conceptual model in the ACRP EIR is non-mathematical, non-quantitative, and does little more than oversimplify a complex system with a verbal, conclusory narrative. In fact, the ACRP's conceptual model (as described in Appendix HYD2 of the ACRP Draft EIR) is based more on invalid assumptions and speculation than on factual evidence representing the system it is attempting to model. As such, a compelling argument can be made that the conceptual hydrogeologic model does not represent "substantial evidence" upon which impact conclusions can be made.

To illustrate the significant inadequacy of the hydrologic analysis in the ACRP Draft EIR, the conceptualized hydrogeologic model assumes that the lower alluvium/Livermore gravels are not water-bearing. Under such an assumption, it is not surprising that the Draft EIR and Final EIR conclude that lowering water in Pit F2 to levels within the lower alluvium/Livermore gravels would not affect the surrounding groundwater level nor the surface water level in Alameda Creek. However, this assumption is incorrect. In fact, as indicated in the ACRP Draft EIR (see p. 5.16-28), the lower alluvium/Livermore gravels are *the* source of supply for *all* domestic groundwater wells in the region. Furthermore, the lower alluvium/Livermore gravels are part of the Sunol Valley groundwater basin as defined by the California Department of Water Resources (2014) and is identified in Bulletin 118. Despite all this, the conceptual hydrogeologic model used in the ACRP EIR completely dismisses the lower alluvium/Livermore gravels as irrelevant to the impact analysis for surface water, groundwater, and fisheries. Consequently, the impact conclusions in the ACRP EIR pertaining to hydrology and fisheries are invalid and do not represent a good faith effort at full disclosure.

Based on Horizon's independent analysis of these daily Niles gauge data, we have concluded that, in comparison to the baseline used for the fisheries impacts analysis in the DEIR¹, post-Calaveras Dam Replacement Project (CDRP) conditions, operation of the ACRP would result in significant impacts to

¹The DEIR uses multiple baselines in their analysis of project impacts, including "pre-2001," "existing conditions," and "with-CDRP" conditions. For fisheries resources, the Final EIR states (on page 11.4-31): "the analysis of long-term, operational impacts on fisheries resources was made assuming the baseline conditions are with implementation of CDRP releases and bypasses in effect. These baseline conditions are the conditions under which the ACRP would necessarily operate, because the ACRP is reliant on implementation of the CDRP instream flow schedules."

Central California Coast steelhead and to hydrologic resources (e.g., surface water quality, groundwater recharge, and groundwater supply) in the Alameda Creek watershed. Specifically, as compared with post-CDRP conditions, the data show that operation of the ACRP would result in a drop below the critical 25 cubic feet per second (cfs) on a substantially greater number of days during the December to April adult emigration/migration period and the January to June post-spawn adult emigration period. The 25 cfs threshold was identified by the National Marine Fisheries Service (NMFS) and the California Department of Fish and Wildlife (CDFW) as being minimum passage thresholds for adult and juvenile steelhead downstream of the ACRP in the Alameda Creek Flood Control Channel (see NMFS 2016). Additionally, this threshold was integrated into the ASDHM analysis used by the lead agency to conclude CEQA impacts in the ACRP EIR (see Appendix BIO2 of the ACRP Draft EIR).

Horizon conducted an independent analysis of SFPUC's daily Niles gauge modeling data. These data were provided to ACWD on June 12, 2017 in an Excel spreadsheet and indicate the number of days during each month that flows exceed 25 cfs from October 1995 to September 2013. Based on Horizon's review of these data, compared with post-CDRP conditions, the modeled daily streamflow at Niles gauge with the ACRP would result in a 19 percent decrease (50 days) in the average annual number of -passable days for steelhead downstream of the ACRP location during the Draft EIR study period. When the analysis focuses solely on the December to April steelhead migration period, the average number of passable days decreases by 11 percent. The impact of the ACRP to steelhead is worse during dry years. Using SFPUC's designation of a "dry" years (i.e., 2000, 2001, 2002, 2003, 2004, 2007, 2008, 2009, 2010, 2012, and 2013), the average number of passable days during the December to April period decreases by 18 percent. Using ACWD's designation of dry years (i.e., 2001, 2004, 2007, 2008, 2009, 2012, and 2013), the average number of passable days during the December to April period decreases by 22 percent. To be clear, these comparisons were made between the conditions that will exist when the CDRP has been completed and the conditions that would exist when both the CDRP and the ACRP are both operational. These significant impacts to steelhead by the ACRP, clearly evident in SFPUC's own modeling data, were neither sufficiently analyzed nor disclosed in the Draft EIR and Final EIR.

V. PERMITTING REQUIREMENTS OF ACRP

The proposed ACRP would require a variety of permits and approvals prior to construction and operation. Section 3.7 of the ACRP Draft EIR contains a list of such permits and authorizations. However, Section 3.7 does not list any consultation and/or permit from NMFS pursuant to the federal Endangered Species Act (ESA). This omission is due to the conclusion by the lead agency that neither construction nor operation of the ACRP would result in *any* significant impacts to steelhead. Because of this conclusion, not a single mitigation measure is proposed by the lead agency to offset any potentially significant impacts of the ACRP to steelhead.

The ESA (16 U.S. Code Section 1531 et seq.; 50 Code of Federal Regulations Parts 17 and 222) provides for conservation of species that are endangered or threatened throughout all or a significant portion of their range, as well as the protection of habitats on which they depend. The U.S. Fish and Wildlife Service (USFWS) and NMFS share responsibility for implementing the ESA. In general, USFWS manages land and freshwater species, whereas NMFS manages marine and anadromous species (including Central California Coast steelhead).

Section 9 of the ESA and its implementing regulations prohibit the take of any fish or wildlife species listed under the ESA as endangered or threatened, unless otherwise authorized by federal regulations. The term "take" means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

For proposed projects with a federal nexus, incidental take of a federally-listed endangered or threatened species is addressed via Section 7 of the ESA. For proposed projects with no federal nexus, incidental take is addressed by Section 10(a)(1)(B) of the ESA.

Based on Horizon's independent review of the ACRP EIR, the ACRP would result in "take" of steelhead. Assuming, *arguendo*, that the lead agency is correct and there is no federal nexus and no federal permitting required for the proposed project (an issue in dispute), Horizon concludes that the ACRP would require a Section 10(a)(1)(B) incidental take permit from NMFS prior to construction. A habitat conservation plan (HCP) must accompany an application for an incidental take permit under Section 10(a)(1)(B) of the ESA. The HCP associated with the permit would ensure that the effects of the authorized incidental take of Central California Coast steelhead are adequately minimized and mitigated.

VII. REFERENCES CITED

California Department of Water Resources (DWR). 2014. California's Groundwater. Bulletin 118. Last updated on June 30, 2014.

Dunne, T., B. Cluer, D. Manning, J.E. Merz. 2012. Review of the Alameda Creek Habitat Conservation Plan Modeling Strategy. Prepared for San Francisco Public Utilities Commission by Independent Science Review Panel Members. August 2012.

National Marine Fisheries Service (NMFS). 2016. Final Coastal Multispecies Recovery Plan. National Marine Fisheries Service, West Coast Region, Santa Rosa, California. Available at: http://www.westcoast.fisheries.noaa.gov/publications/recovery_planning/salmon_steelhead/domains/north_central_california_coast/Final%20Materials/Vol%20IV/vol_iv_ccc_steelhead_coastal_multispecies_recovery_plan.pdf.

EXHIBIT D

Legal Basis Supporting Appeal to San Francisco Board of Supervisors

The Alameda County Water District ("ACWD") has appealed the following decisions relating to the Alameda Creek Recapture Project ("ACRP" or "Project"):

1. Motion No. 19952, approved by the Planning Commission on June 22, 2017, certifying the Final Environmental Impact Report for the proposed Alameda Creek Recapture Project and adopting related findings; and
2. Resolution 17-0146, approved by the Public Utilities Commission on June 23, 2017, adopting the CEQA findings, including the Statement of Overriding Considerations, adopting the Mitigation Monitoring and Reporting Program, and approving Project No. CUW35201, Alameda Creek Recapture Project.

This appeal includes all of the grounds set forth in the July 24, 2017, Letter of Appeal and ACWD's written and verbal comments on the Draft EIR and Project submitted to the Planning Commission and the San Francisco Public Utilities Commission ("SFPUC"). This document addresses how the ACRP Environmental Impact Report ("EIR") fails to achieve the basic primary goals of the California Environmental Quality Act ("CEQA") to 1) avoid or reduce environmental damage, and 2) inform decision-makers and the public.

I. INTRODUCTION

CEQA (Pub. Res. Code, § 21000 *et seq.*) requires a governmental agency to prepare an Environmental Impact Report ("EIR") whenever it considers approval of a proposed project that may have a significant effect on the environment. (*California Sportfishing Protection Alliance v. State Water Resources Control Bd.* (2008) 160 Cal.App.4th 1625, 1642.)

The EIR has been aptly described as the heart of CEQA. Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment but also informed self-government.

(*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 355; citing *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 563-564; see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1123.) To this end, public participation is an "essential part of the CEQA process." (*Id.*; CEQA Guidelines § 15201.)¹

¹ "CEQA Guidelines" refers to the Guidelines for Implementation of the California Environmental Quality Act found at California Code of Regulations Title 14, Chapter 3, section 15000 *et seq.*

The EIR for the ACRP fails to comply with CEQA procedural and substantive requirements in its analysis of the surface water-groundwater hydrology and impacts to the federally-threatened Central California Coast (CCC) steelhead.

- Despite repeated requests by ACWD, the daily stream flow data used in the modified model for the CEQA analysis were not made available during the public review period. The failure to include this relevant information precluded informed decision making and informed public participation in violation of CEQA.
- The daily data were finally provided after the close of the public comment period depriving the public of a meaningful opportunity to evaluate the new data and the validity of the conclusions drawn from it, and to comment on substantial adverse project impacts (including the impacts to federally threatened steelhead trout), feasible mitigation or alternatives; requiring recirculation of the EIR.
- The methodology used to determine impacts to steelhead failed to properly analyze the surface water-groundwater interaction in the project area and failed to account for the impacts based on steelhead daily flow requirements.
- The analysis of the daily flow data shows impacts to steelhead trout that were not properly analyzed or disclosed in the EIR.

II. DISCUSSION

A. The Failure to Provide Requested Daily Data Used in the EIR Analysis is a Procedural Violation of CEQA Requiring Recirculation of the EIR

The model primarily relied on in the EIR for analyzing impacts to the biological and fishery resources, hydrology and water quality, and the cumulative impacts analysis is the Alameda System Daily Hydrologic Model (ASDHM) as modified two separate times during the EIR preparation. The model was modified by the SFPUC prior to the public release of the Draft EIR. Subsequently, ACWD learned that the Planning Department and its consultants ESA/Orion were further modifying the ASDHM model for the Planning Department's use in the CEQA analysis. The Response to Comments on the Draft EIR ("RTC") acknowledges that two daily flow rates data sets were used; one from SFPUC modeling and a set "with adjustments made by the EIR consultants." (RTC at p. 11.2-6.) Specifically, the EIR consultants modified the modeling data provided by SFPUC "as part of part of the hydrological analysis for the EIR," and "adjusted the ASDHM outputs downstream of San Antonio Creek to incorporate the gains from NPDES quarry discharges and losses to the subsurface between San Antonio Creek and Arroyo de la Laguna." (RTC at pp. 11.2-6 and 11.2-7.)

The Planning Department and the EIR consultants determined these refinements to the model output were necessary for the EIR to analyze the biological resources effects of the ACRP downstream of the NPDES quarry discharge point.

(Id.)

Despite the multiple requests made by ACWD for daily modeling data, which is essential data to analyze the environmental impacts of the Project, ACWD only received the relevant requested data on June 12, 2017 -- 194 days after the Draft EIR was published and well after the close of the public comment period on January 30, 2017. (See Timeline of ACWD's Requests for Daily Data Supporting the EIR Analysis ("ACWD Timeline"); Exhibit B to ACWD's August 25, 2017 cover letter attached herewith.) ACWD first raised the issue of daily flow data on July 27, 2015, in its response to the Notice of Preparation for the Draft EIR, stating that "while annual [flow] totals may be the same, the actual daily rate of releases or bypass flows will be quantifiably different from the recapture rate provided by ACRP," and that, "[t]he disparity in the release recapture rates may have impacts in a variety of areas of concern and will need to be analyzed in sufficient detail for potential impacts to be understood and ultimately mitigated if necessary." (See Ex. D to ACWD July 24, 2017 Appeal Letter.)

On January 10, 2017, ACWD restated the need for daily flow analysis, adding that, "ACWD review of the analysis of the Draft EIR has also been constrained by the incomplete release of modeling information." Furthermore, ACWD stated

[i]n order to evaluate potential impacts, ACWD requests an opportunity to review daily flow rates provided by the modeling. Upon review of this additional data, ACWD requests a meeting with San Francisco staff to further discuss potential impacts of the ACRP prior to providing comments on the Draft EIR.

(See Ex. D to ACWD July 24, 2017 Appeal Letter; RTC at pp. COM-13 and 14.) Likewise, the National Marine Fishery Service ("NMFS") indicated in comments on the Draft EIR that "additional information is needed to conclude the proposed ACRP will not significantly impact native fish in upper Alameda Creek, including threatened CCC steelhead," and recommended analysis of the day-to-day changes in surface flow. (January 30, 2017 letter to Lisa M. Gibson from Alecia Van Atta, RTC at p. COM-7.) On January 12, 2017, the Planning Department responded to ACWD stating that modeling information on daily flow rates can be requested from the SFPUC. (See Attachment A, January 12, 2017 letter from Lisa Gibson, Acting Environmental Review Officer; see also RTC at p. 11.2-6.) Regarding the request to meet and review the modeling data, ACWD was informed that "[t]he Planning Department can only accept and respond to comments on the Draft EIR through this public process." (*Id.*)

The SFPUC version of the model was shared with ACWD. (RTC at p. 11.2-6.) However, in subsequent conversations with SFPUC, ACWD was informed that SFPUC could not provide the requested data from the model modified by the Planning Department and its consultant, and could only provide the modeling data it previously provided, prior to the public release of the draft EIR. On January 30, 2017, ACWD again commented on the lack of a daily time-step in the ASDHM analysis in the Draft EIR. (See Ex. D to ACWD July 24, 2017 Appeal Letter at pp. 4-5; RTC at pp. Com-18 and COM-19.)

The Final EIR Responses to Comments states that "[a]ll data and reference material cited in the EIR are available for review as part of the administrative record located at the Planning Department." (RTC at p. 11.2-6.) While these data are currently available, they were not available for public review until after the close of the public comment period. Further the EIR hydrology appendices HYD1 and HYD2 do not provide the daily data requested by ACWD. On June 7, 2017, the same day it published the Responses to Comments, the Planning Department finally provided ACWD the ASDHM daily flow data for the version of the model as modified by

the EIR consultant that was used in the Final EIR. (See Ex. E to ACWD July 24, 2017 Appeal Letter.) ACWD received this data transmittal on June 12, 2017, well after the close of the public comment period on January 30, 2017, and only ten days before the Planning Commission hearing on June 22, 2017, in which the Final EIR was certified.

The failure to provide the requested daily data used in the EIR analysis until after the public comment period is a procedural violation of CEQA. The EIR must be recirculated to allow the public and decision makers time to evaluate the daily data now available, to comment on the methodology and use of the daily data, and to evaluate potential project impacts.

a. **The Failure to Provide The Requested Daily Data Used in the EIR Analysis Amounts to Prejudicial Error in Violation of CEQA.**

One of CEQA's basic purposes is to inform government decision-makers and the public about potential significant environmental effects of proposed projects (CEQA Guidelines § 15002(a)(1).) CEQA achieves its purpose of long-term protection of the environment by functioning as an environmental full disclosure statute, and the EIR is the method of disclosure. (*Rural Landowners Association v. City Council* (1983) 143 Cal.App.3d 1013, 1020; Pub. Res. Code § 21061.)

[O]nly through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives.

(*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454.) "This informational purpose cannot be served if the required information is not received and disseminated by the local agency until *after* it has reached a decision." (*Rural Landowners Assn. v. City Council* (1983) 143 Cal.App.3d 1013, 1020–21.) (Emphasis added.) The data relied on in the EIR must be made readily accessible for public review *at the beginning of the public review period*. (CEQA Guidelines § 158087(c)(5).) (Emphasis added.)

[T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decisionmakers, and the public, with the information about the project that is required by CEQA. The error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process.

(*Napa Citizens for Honest Government*, 91 Cal.App.4th at 355–356; citing *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.)

Here, the critical relevant daily data as modified by the Planning Department and its consultant, was never made available during the public review period. Rather, it was provided less than 10 business days prior to the Planning Commission's certification of the Final EIR, precluding informed decision making and informed public participation, and depriving decision-makers and the public information about potential significant environmental effects of the proposed Project in violation of CEQA.

b. **The EIR Must be Recirculated to Allow Review and Consultation Related to the New Daily Data and ASDHM Model Outputs Modified by the Planning Department and Its Consultant After the Public Notice and Review Period.**

When significant new information is added to an EIR after notice but prior to certification, the public agency shall give notice and consult again before certifying the EIR. (Public Res. Code § 21092.1.) New information specifically includes "new data." (CEQA Guidelines §15088(a).) Recirculation is required when additional information deprives the public of a meaningful opportunity to comment on substantial adverse project impacts, feasible mitigation or alternatives. (CEQA Guidelines §15088(a); *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1129.) Further, recirculation is required when the new information reveals a new substantial impact or a substantially increased impact on the environment. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 448; CEQA Guidelines § 15088.5(a).) A significant environmental impact includes both substantial and potentially substantial adverse changes in the environment. (*Id.* at p. 448; Public Res. Code § 21068.) The purpose of recirculation is to give the public and other agencies an opportunity to evaluate the new data and the validity of the conclusions drawn from it. (*Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91, 108.) New information that demonstrates that an EIR commented upon by the public was so fundamentally and basically inadequate or conclusory in nature that public comment was in effect meaningless triggers recirculation under section 21092.1. (*Laurel Heights Improvement Assn.* 6 Cal.4th at 1130.)

Here, as discussed above, new daily data based on the ASDHM model outputs modified by the Planning Department and its consultant was provided after the public notice and comment period. The failure to make these data available until after the public review period deprived the public of a meaningful opportunity to evaluate the new data and the validity of the conclusions drawn from it, and to comment on substantial adverse project impacts, feasible mitigation or alternatives, requiring recirculation. (CEQA Guidelines §15088(a); *Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91, 108.) Further, as discussed below, the analysis of the new data shows significant impacts to federally threatened steelhead trout not adequately analyzed in the Final EIR, thus requiring recirculation. (See *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449 [Failure to respond to comments indicating that substantial evidence that the loss of stream flows and impacts on migration on a sensitive and listed status fish species deprived the public of meaningful participation and required recirculation of an EIR].)

ACWD requests that the Board of Supervisors reverse the certification of this EIR and require its recirculation, instructing SFPUC (prior to recirculation) to consult with ACWD, fishery experts, groundwater experts, and others, to share the modified daily flow data and modeling methodology in a transparent and straightforward manner, and to discuss mitigations that will allow the Recapture Project to go forward without negatively affecting the huge investment (almost \$50 million) in improvements being made by the County of Alameda and ACWD in the fish restoration project.

B. The EIR's Analysis of Hydrologic and Fishery Resources is Inadequate and Unsupported

An EIR should be prepared with a sufficient degree of analysis to provide decision makers and the public with information which intelligently takes account of environmental consequences of a project decision. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. (CEQA Guidelines §15151.) An agency must "do the necessary work to educate itself about different methodologies that are available." (*Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1370.) An EIR must contain facts and analysis, not just an agency's bare conclusions or opinions. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568.) A clearly inadequate or unsupported study is entitled to no judicial deference. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 409.) When comments on an EIR from another agency indicate that the EIR's analysis of an impact relied on incorrect data or flawed methodology, the EIR must provide a good faith, reasoned analysis in response. Conclusory statements about impacts without supporting evidence are not sufficient. (CEQA Guidelines § 15088(c).)

Here, the methodology used to determine impacts does not analyze surface water-groundwater interactions, is insufficient and not scientifically valid. (See Independent Review by Horizon Water and Environment of the SFPUC ACRP CEQA Documentation ("Horizon Memo"), section IV at pp. 4-5; Exhibit C to ACWD's August 25, 2017 cover letter attached herewith.) The assessment of potential impacts of the Project to hydrologic and geohydrologic resources in the EIR is based on the ASDHM for surface water hydrology and on a conceptualized, qualitative hydrogeologic model for surface water and groundwater interactions. Not only are both the ASDHM and the "conceptualized model" inadequate for the impacts analysis, the conclusions of the analysis were summarized on a monthly time step that failed to adequately illustrate the day to day impacts to fishery resources. Despite multiple comments from ACWD and NMFS that the use of the ASDHM is inadequate to analyze the groundwater surface water interaction, and that daily data (not summarized on a monthly time-step) is required to effectively determine impacts, no changes were made to the methodology or data provided.² NMFS remains concerned about the methodology and believes the Final EIR "does not contain sufficient information to conclude the ACRP will not result in substantial effects on streamflows that support the migration of CCC steelhead in Alameda Creek." (See Attachment B, July 27, 2017 letter from Gary Stern, NMFS San Francisco Bay Branch Supervisor.) Likewise, California Trout supports "ACWD's request to develop a more robust and appropriate streamflow modeling tool to study the surface water/groundwater interaction and full suite of potential downstream impacts of the proposed Project." (See Attachment C, August 18, 2017 letter from Patrick Samuel, California Trout Bay Area Conservation Program Manager.)

² Since the Project was noticed, ACWD has requested to work initially with the SFPUC and then the Planning Department to develop a new, more robust, and appropriate tool to study the surface water groundwater interaction and the potential impacts of the proposed Project. Development of this analytic tool is both reasonable and feasible. ACWD proposed to collaborate in this effort and to contribute both financially and through in-kind services to the development of a new model which would benefit both agencies' activities in the watershed. ACWD's requests were largely ignored.

The ASDHM is insufficient to analyze the surface water-groundwater interaction necessary to evaluate Project impacts. The deficiencies in the ASDHM were well known to the SFPUC prior to its use in the EIR analysis. The SFPUC commissioned a Blue Ribbon Panel in August 2012 comprised of hydrologists and fisheries biologists to provide an independent scientific review of the ASDHM model and concluded that "a groundwater modeling study will be necessary to evaluate the surface and groundwater interaction within the Alameda Creek watershed, including the effects of lowering of Pit F2 elevations."³ The ACRP CEQA analysis includes no such effort. Moreover, the data provided is incomplete since it does not include the accounting of water entering and leaving Pit F2, as modified by the Planning Department and used to complete the CEQA analysis. A physical, quantitative model of groundwater-surface water interactions is needed to adequately understand such interactions in the Alameda Creek watershed. (See Horizon.Memo at p.4.)

Further, in the Draft EIR and Final EIR, surface water and groundwater interactions are examined using an overly simplistic description (referred to as a "conceptual model") of the Alameda Creek surface water and groundwater basin. The purely conceptual model in the ACRP EIR is non-mathematical, non-quantitative, and does little more than oversimplify a complex system with a verbal, conclusory narrative. For example, the conceptual model includes a key assumption that the lower alluvium/Livermore gravels are not water-bearing; whereas, as in reality they are the source of all domestic groundwater in the region. (Draft EIR at p. 5.16-28.) Furthermore, the lower alluvium/Livermore gravels are part of the Sunol Valley groundwater basin as defined by the California Department of Water Resources (2014) and is identified in Bulletin 118. The unsupported dismissal of the lower alluvium/Livermore gravels as irrelevant to the impact analysis for surface water, groundwater, and fisheries resources renders the impact conclusions in the ACRP EIR pertaining to hydrology and fisheries invalid. (Horizon Memo at p. 4.)

As discussed above, in comments on the Draft EIR, and in meetings with both the SFPUC and the Planning Department, ACWD repeatedly stated that the flows analysis in the EIR should be at a daily rate or time-step, instead of the monthly analysis conducted in the EIR, and using a model that considers the surface water-groundwater interaction to adequately analyze Project impacts. (See ACWD Timeline.) Likewise, NMFS commented the analysis in the Draft EIR was inadequate and recommended that given the dynamic nature of surface flows in Alameda Creek that information regarding day-to-day changes in surface flow is required to determine impacts to steelhead migration and rearing. (RTC at pp. COM-7 and 8.) Importantly, NMFS continues to believe that additional analysis of the relationship between surface water and groundwater in a daily time-step is required to adequately analyze potential impacts. (See Attachment B, July 27, 2017 letter from Gary Stern, NMFS San Francisco Bay Branch Supervisor.)⁴ Analyzing impacts to surface water hydrology from ACRP on an aggregated monthly time-step serves to mask

³ Dunne, T., B. Cluer, D. Manning, J.E. Merz. 2012. Review of the Alameda Creek Habitat Conservation Plan Modeling Strategy. Prepared for San Francisco Public Utilities Commission by Independent Science Review Panel Members. August 2012.

⁴ Further, NMFS has commented that the Final EIR fails to account for steelhead migration patterns and agrees that a "more appropriate impact analysis would instead focus on changes in the amount of time flows exceed these minimum migration thresholds" of 25 cfs for adults and 12 cfs juvenile/smolts in Lower Alameda Creek. (See Attachment B, July 27, 2017 letter from Gary Stern, NMFS San Francisco Bay Branch Supervisor.)

critical day-to-day changes in flow rates which in turn masks impacts to aquatic biology and surface water hydrology downstream of the Project.

This is not a case where experts disagree on the appropriate methodology for the impacts analyses. (See *State Water Resources Control Bd. Cases*, 136 Cal. App. 4th 674, 795. [The lead agency is free to reject criticism from an expert or a regulatory agency on a given issue as long as its reason for doing so are supported by substantial evidence].) Rather, the substantial evidence presented in the daily data, when finally provided after the close of the public comment period, actually shows impacts to steelhead that were not properly analyzed in the EIR. In a short period of time since the daily data was made available on June 12, 2017, both ACWD and NMFS have independently evaluated the data and determined there are impacts to steelhead from the operation of ACRP (discussed below). It was clearly reasonably feasible to evaluate the daily data and the Planning Department should have conducted this level of analysis. (See *Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1370 [the lead agency must "do the necessary work to educate itself about different methodologies that are available."].) Further, both SFPUC and the Planning Department knew the ASDHM is flawed and incapable of conducting the required analysis and did not "do the necessary work to educate itself about different methodologies that are available." The EIR fails to provide a good faith, reasoned analysis in its response to comments clearly indicating that the analysis of impacts to steelhead relied on incorrect data and flawed methodology.

Therefore, ACWD requests that the Board of Supervisors reverse the certification of this EIR and require its recirculation, instructing SFPUC to meet with ACWD, fishery experts, groundwater experts, and others, and to develop a methodology to adequately evaluate Project impacts, including an analysis of daily flow impacts and surface water-groundwater interaction.

C. The Daily Flow Data Shows Significant Impacts to Steelhead that were not Adequately Analyzed in the EIR.

The Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) is federally listed as threatened. (See 14 CCR § 15380(c)(2).) ACWD, together with the SFPUC and other watershed stakeholders, is actively involved in the ongoing steelhead restoration efforts to restore the steelhead run in the Alameda Creek Watershed. ACWD and Alameda County are making approximately \$48.5 million dollar investments in fish ladders and screened diversions downstream of the Project. Additionally, Alameda County will be making additional significant investments to improve Alameda Creek to facilitate steelhead migration. The operation of the ACRP will put in jeopardy the efforts to restore steelhead to Alameda Creek. Analysis of the daily flow data received after the close of the public review period indicates the operation of the ACRP will result in severe impacts to steelhead that were not properly analyzed or mitigated for in the Final EIR in violation of CEQA.

The overriding and primary goal of CEQA is to provide long-term protection to the environment. (Pub. Res. Code §§ 21001-21002; *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112.) Specifically, Public Resources Code section 21001(c) provides the policy in California to

[p]revent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for

future generations representations of all plant and animal communities and examples of the major periods of California history.

An EIR should not just generate paper, but should act as "an environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.) "The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.) Under CEQA a "potential substantial impact on endangered, rare or threatened species is per se significant." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449; citing CEQA Guidelines § 15065(a)(1)). Mandatory findings of significance are required for projects that 1) substantially reduce the habitat of a fish species, 2) cause a fish population to drop below self-sustaining levels, or 3) substantially reduce the number or restrict the range of threatened species. (CEQA Guidelines § 15065(a)(1).)

In addressing Project impacts to steelhead, the EIR concludes that the analysis of long-term operation of the project would not result in substantial changes to flow and habitat conditions for migrating steelhead, with limited effects on habitat functions for steelhead, and project operations would have a less-than-significant impact on steelhead. (RTC at p. 11.4-32.) As a result, the Planning Department determined that no additional information is needed to support this determination. (RTC at p. 11.4-31.) The EIR asserts that the no impact determination was based on an analysis of daily flow estimates derived from the ASDHM daily output to predict hydraulic conditions at a daily time-step that migrating steelhead would be anticipated to experience. (Draft EIR § 5.14.5.3; RTC at p. 11.4-32.) However, while the ASDHM contains the word "daily," the results presented in the EIR were compiled from the daily data and analyzed at a monthly time-step. As discussed above, the EIR's analysis of hydrologic and fishery resources is inadequate and unsupported.

When ACWD finally received the daily flow data it had long been requesting, it retained a third party consultant, Horizon Water and Environment (Horizon), to review the data and the impacts analysis in the EIR. Horizon's independent analysis of the daily Niles gauge modeling data indicates that significant impacts would occur as a result of the operation of ACRP. (See Horizon Memo at p 5.) Likewise, NMFS independently reviewed the daily modeling data provided to ACWD on June 12, 2017, and found that "ACRP operations will diminish migration opportunities for federally-threatened [] steelhead, especially outmigrating steelhead smolts in some years." (See Attachment B, July 27, 2017 letter from Gary Stern, NMFS San Francisco Bay Branch Supervisor.)

The daily data shows that the operation of the ACRP would result in a drop in flows below the critical 25 cubic feet per second ("cfs") on a substantially greater number of days during the December to April adult emigration/migration period and the January to June post-spawn adult emigration period for steelhead. These thresholds were identified by NMFS and the California Department of Fish and Wildlife ("CDFW") as being minimum passage thresholds for adult and juvenile steelhead downstream of the Project location in the Alameda Creek Flood Control Channel, and were integrated into the ASDHM analysis used in the CEQA impacts analysis in

the Final EIR (Table 14, Dhakal et al, 2012; cited in EIR Appendix HYD-1, page 48: Section 4, Note 1.)⁵

[C]ompared with post-CDRP conditions, the modeled daily streamflow at Niles gauge with the ACRP would result in a 19 percent decrease (50 days) in the average annual number of passable days for steelhead downstream of the ACRP location during the Draft EIR study period. When the analysis focuses solely on the December to April steelhead migration period, the average number of passable days decreases by 11 percent. The impact of the ACRP to steelhead is worse during dry years. Using SFPUC's designation of a "dry" years (i.e., 2000, 2001, 2002, 2003, 2004, 2007, 2008, 2009, 2010, 2012, and 2013), the average number of passable days during the December to April period decreases by 18 percent. Using ACWD's designation of dry years (i.e., 2001, 2004, 2007, 2008, 2009, 2012, and 2013), the average number of passable days during the December to April period decreases by 22 percent.

(Horizon Memo at p. 5.) Further, NMFS independent analysis of the daily streamflow data for May 2008 indicates that "ACRP operations could result in streamflows in the lower Alameda Creek dropping below the smolt passage threshold of 12 cfs for an additional 15 days when compared to the without ACRP condition." (See Attachment B, July 27, 2017 letter from Gary Stern, NMFS San Francisco Bay Branch Supervisor.) These are significant impacts not analyzed in the Final EIR.

The EIR also incorrectly states that the flows resulting from the Project would continue to provide suitable conditions for adult upstream migration and smolt downstream migration consistent with the NMFS Biological Opinion for the Calaveras Dam Replacement Project. (RTC at p. 11.4-30; DEIR section 1.2.2 at p. 1-5.) This is incorrect, and the daily flow data indicates that the Biological Opinion's required migration flows would be negatively impacted. Specifically, pages 48-52 of the Biological Opinion indicate that bypass flows are intended to provide suitable migration conditions from Alameda Creek below the Alameda Creek Diversion Dam and out to the bay.⁶ The daily data indicates that the operation of ACRP will conflict with this requirement. Tellingly, NMFS does not agree with the Final EIR's conclusion that ACRP operations would not substantially interfere with the movement or migration of steelhead. (See Attachment B, July 27, 2017 letter from Gary Stern, NMFS San Francisco Bay Branch Supervisor.)⁷

⁵ National Marine Fisheries Service (NMFS). 2016. Final Coastal Multispecies Recovery Plan. National Marine Fisheries Service, West Coast Region, Santa Rosa, California. Available at: http://www.westcoast.fisheries.noaa.gov/publications/recovery_planning/salmon_steelhead/domains/north_central_california_coast/Final%20Materials/Vol%20IV/vol_iv_ccc_steelhead_coastal_multispecies_recovery_plan.pdf.

⁶ National Marine Fisheries Biological Opinion, Calaveras Dam Replacement Project, March 5, 2011, with respect to Effects to Steelhead Migration in Niles Canyon and Lower Alameda Creek (Flow through Niles Canyon and Lower Alameda Creek to San Francisco Bay), pages 48-52.

⁷ Based on the daily Niles Gauge streamflow data, the operation of the Project would likely result in "take" (as defined in the federal Endangered Species Act) of Central California Coast steelhead. An incidental take permit (ITP) from the National Marine Fisheries Service would be required under Section 10(a) of the federal Endangered Species Act. (Horizon Memo at pp. 5-6.)

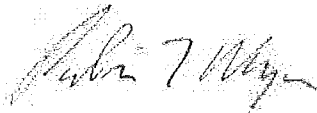
The ACRP EIR's analysis fails entirely to address potential impacts to threatened steelhead in violation of CEQA. The analysis of significant environmental impacts is inadequate and incomplete, the EIR fails to function as a full disclosure environmental document and the findings are not supported by substantial evidence. These significant impacts to steelhead were neither disclosed nor sufficiently analyzed in either the Draft EIR or Final EIR and renders unsupported the conclusions of no impact. Under CEQA, the Planning Department had an obligation to make the findings under Guidelines section 15065(a)(1) related to 1) reduction in steelhead habitat, 2) potential population drop below self-sustaining levels, and 3) reducing the number of or restricting the range of steelhead. The EIR failed to analyze the effects in depth, make detailed findings on the feasibility of alternatives or mitigation measures to substantially lessen or avoid the significant effects, make feasible changes in the project to substantially lessen or avoid the significant effects, and adopt a statement of overriding considerations related to biological and fishery resources in violation of CEQA.

The analysis of this data indicates a significant impact under CEQA that is neither disclosed nor mitigated and invalidates the significance determinations for Central California Coast steelhead in both the Draft EIR and Final EIR. ACWD joins in NMFS request that SFPUC and the Planning Department revise the analysis of the environmental effects of the Project, to effectively account for surface water-groundwater interaction and to fully address impacts to steelhead based on daily flows in Alameda Creek.

III. CONCLUSION

ACWD request that the San Francisco Board of Supervisors grant ACWD's appeal and to (1) reverse the certification of this EIR; (2) ask the Planning Department to revise the methodology used for the CEQA analysis; and (3) instruct SFPUC and the Planning Department to meet with ACWD, fishery experts, groundwater experts and other stakeholders, to develop a more appropriate modeling methodology using daily flow data for the Recapture Project in a transparent manner which will further promote the steelhead restoration effort.

Hanson Bridgett LLP



Patrick T. Miyaki
General Counsel, Alameda County Water District

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SAN FRANCISCO PLANNING DEPARTMENT

January 12, 2017

Robert Shaver, General Manager
Alameda County Water District
43885 South Grimmer Boulevard
Fremont, CA, 94537

Re: Response to Request to Extend the Draft EIR Comment Period (SFPUC - Case No. 2015-004827ENV)

Dear Mr. Shaver,

The purpose of this letter is to respond to a recent letter received on January 10, 2017 from the Alameda County Water District regarding a request to extend the public comment period for the Draft EIR beyond the January 17, 2017 close of public comment period date. The letter also requests modeling information on the daily flow rates, and to have a meeting with Planning Department staff.

The Planning Department's Acting Environmental Review Officer has agreed to extend the Draft EIR public comment period to 5:00 p.m. on January 30, 2017, for a 61-day public review period.

In regards to the request for modeling information on the daily flow rates, this information can be requested from the San Francisco Public Utilities by contacting Ellen Levin, Deputy Assistant General Manager, Water Enterprise at elevin@sfwater.org. In response to the request to meet to review the modeling information, pursuant to CEQA, public comments on the Draft EIR are accepted during the Draft EIR public hearing, held on January 5, 2017, and in writing during the Draft EIR comment period, now extended until January 30, 2017. The Planning Department can only accept and respond to comments on the Draft EIR through this public process.

If you have any questions, regarding this matter, please do not hesitate to contact me at 415-575-9032 or Chelsea Fordham 415-575-9071.

Sincerely,

for 
Lisa Gibson, Acting Environmental Review Officer

CC: Elaine Warren, Deputy, City Attorney
Chris Kern, San Francisco Planning Department
Irina Torrey, San Francisco Public Utilities Commission
Tim Ramirez, San Francisco Public Utilities Commission

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B



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

July 27, 2017

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

Re: June 22, 2017 Planning Commission Decision Regarding the Final Environmental Impact Report for the Alameda Creek Recapture Project

Dear Clerk of the Board of Supervisors:

NOAA's National Marine Fisheries Service (NMFS) has been notified of the San Francisco Planning Commission's June 22, 2017 decision to certify the Final Environmental Impact Report (EIR) for the Alameda Creek Recapture Project (ACRP). NMFS previously submitted comments regarding the ACRP Draft EIR (Planning Department File No. 2015-004827ENV) via letter dated January 30, 2017, and we have reviewed the Responses to Comments document dated June 7, 2017.

Based on our review of the Final EIR, NMFS believes the document does not contain sufficient information to conclude the ACRP will not result in substantial effects on streamflows that support the migration of CCC steelhead in Alameda Creek. Streamflow simulation results presented in Figure 5.14-9 of the Draft EIR predict hydrologic conditions at a daily time-step, but it is unclear if this plot represents a comparison of "with project" to "without project" conditions. Table HYD6-2 of Appendix HYD1 offers some information regarding predicted changes in streamflows and this table indicates May flows will be reduced by approximately 30 percent with ACRP operations. The conclusion regarding potential impacts to steelhead migration presented in the EIR is based on an analysis of the "long-term" operation of the ACRP which doesn't fully take into account short-term impacts (*i.e.*, dry water years) and, as a result, the analysis presented in the EIR could significantly underestimate potential impacts to steelhead and migratory habitat.

Furthermore, the EIR asserts that steelhead migration will not be impacted by the ACRP because, for both with and without project scenarios, "precipitation-generated streamflows in Alameda Creek are predicted to exceed several hundred cubic feet per second during the December through June migration period¹." This reasoning fails to consider that steelhead do not migrate only during peak flow events, but may migrate anytime within the migration period when instream flows exceed identified minimum flow levels (*i.e.*, 25 cfs for adults, 12 cfs for juvenile/smolts in lower Alameda Creek). A more appropriate impact analysis would instead

¹ Response to Comments, page 11.4-32; and Draft EIR, page 5.14-126.

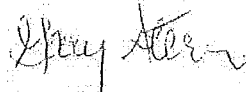


focus on changes in the amount of time flows exceed these minimum migration thresholds. In light of this comment, NMFS reviewed the daily modelling data provided to the Alameda County Water District on June 12, 2017, and found that ACRP operations will diminish migration opportunities for federally-threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*), especially outmigrating steelhead smolts, in some years. For instance, analysis of the daily streamflow data for May 2008 suggests ACRP operations could result in streamflows in lower Alameda Creek (as measured at the Niles Gage) dropping below the smolt passage threshold of 12 cfs for an additional 15 days when compared to the without ACRP condition.

Based on currently available information, NMFS does not concur with the Final EIR's conclusion that ACRP operations would not substantially interfere with the movement or migration of special-status fish species, including CCC steelhead (Impact B1-11 in the DEIR and Impact B1-16 in FEIR). We recommend San Francisco Planning Commission and the San Francisco Public Utilities Commission undertake additional analysis to examine the relationship between groundwater and surface water in the Sunol Valley for the purpose of determining the project's potential impacts on a daily time-step to streamflows in Alameda Creek downstream of the project site.

If you have any questions regarding these comments, please contact Rick Rogers at rick.rogers@noaa.gov, or 707-578-8552.

Sincerely,



Gary Stern
San Francisco Bay Branch Supervisor
North-Central Coast Office

cc: Tim Ramirez, SFPUC, San Francisco CA
Thomas Niesar, ACWD, Fremont, CA
Sean Cochran, CDFW, Santa Rosa, CA
Ryan Olah, USFWS, Sacramento, CA

C

CALIFORNIA TROUT



August 18, 2017

City and County of San Francisco
Clerk of the Board of Supervisors
Lisa Gibson, Environmental Review Officer
#1 Dr. Carlton B. Goodlett Place Room #244
San Francisco, CA 94102

Re: Support for Alameda County Water District's July 24 Request for the Board of Supervisors to Remand Final EIR of the Alameda Creek Recapture Project to the Planning Commission, Require Collaborative Analysis of Impact on Streamflows

Dear Lisa Gibson and Members of the Board of Supervisors:

I am writing in support of Alameda County Water District's reasonable and prudent request that the Board of Supervisors reverse the certification of the EIR and approval of Case No. 2015-004827ENV, the "Alameda Creek Recapture Project" (Project), and remand the final EIR to the Planning Commission to require the collaborative development of a new modeling tool to fully analyze potential Project impacts to federally threatened Central California Coast Distinct Population segment of steelhead (*Oncorhynchus mykiss irideus*) and downstream water users.

We support ACWD's request to develop a more robust and appropriate streamflow modeling tool to study the surface water/groundwater interaction and full suite of potential downstream impacts of the proposed Project. Operation of the Project as proposed will have the potential to significantly alter the availability and timing of sufficient flows to allow upstream passage of spawning adult and downstream passage of juvenile steelhead during critical migration windows below established thresholds (25cfs for adults, 12cfs for juveniles), causing potential "take" of steelhead in violation of the Endangered Species Act. These impacts were not sufficiently described nor analyzed in the Final EIR and should have been examined more closely.

SFPUC has been working with partners in the Alameda Creek watershed through the Alameda Creek Fisheries Work Group to improve stream conditions and passage for steelhead since 1997. California Trout recognizes the importance of Alameda Creek and its essential independent population¹ of steelhead to the recovery of the Central California Coast Distinct Population Segment, and is interested in engaging further with the Fisheries Work Group toward this goal.

We respectfully voice our support for ACWD's request, and look forward to working with SFPUC and other Alameda Creek stakeholders to improve fish passage and water supply reliability.

Thank you for your consideration.

Sincerely,

/s/ Patrick Samuel
California Trout Bay Area Conservation Program Manager

¹ National Marine Fisheries Service, 2016. *Final Coastal Multispecies Recovery Plan*, 649-681pp. Santa Rosa, CA.

EXHIBIT E



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

July 27, 2017

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

Re: June 22, 2017 Planning Commission Decision Regarding the Final Environmental Impact Report for the Alameda Creek Recapture Project

Dear Clerk of the Board of Supervisors:

NOAA's National Marine Fisheries Service (NMFS) has been notified of the San Francisco Planning Commission's June 22, 2017 decision to certify the Final Environmental Impact Report (EIR) for the Alameda Creek Recapture Project (ACRP). NMFS previously submitted comments regarding the ACRP Draft EIR (Planning Department File No. 2015-004827ENV) via letter dated January 30, 2017, and we have reviewed the Responses to Comments document dated June 7, 2017.

Based on our review of the Final EIR, NMFS believes the document does not contain sufficient information to conclude the ACRP will not result in substantial effects on streamflows that support the migration of CCC steelhead in Alameda Creek. Streamflow simulation results presented in Figure 5.14-9 of the Draft EIR predict hydrologic conditions at a daily time-step, but it is unclear if this plot represents a comparison of "with project" to "without project" conditions. Table HYD6-2 of Appendix HYD1 offers some information regarding predicted changes in streamflows and this table indicates May flows will be reduced by approximately 30 percent with ACRP operations. The conclusion regarding potential impacts to steelhead migration presented in the EIR is based on an analysis of the "long-term" operation of the ACRP which doesn't fully take into account short-term impacts (*i.e.*, dry water years) and, as a result, the analysis presented in the EIR could significantly underestimate potential impacts to steelhead and migratory habitat.

Furthermore, the EIR asserts that steelhead migration will not be impacted by the ACRP because, for both with and without project scenarios, "precipitation-generated streamflows in Alameda Creek are predicted to exceed several hundred cubic feet per second during the December through June migration period¹." This reasoning fails to consider that steelhead do not migrate only during peak flow events, but may migrate anytime within the migration period when instream flows exceed identified minimum flow levels (*i.e.*, 25 cfs for adults, 12 cfs for juvenile/smolt in lower Alameda Creek). A more appropriate impact analysis would instead

¹ Response to Comments, page 11.4-32; and Draft EIR, page 5.14-126.

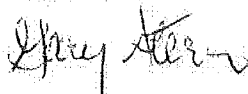


focus on changes in the amount of time flows exceed these minimum migration thresholds. In light of this comment, NMFS reviewed the daily modelling data provided to the Alameda County Water District on June 12, 2017, and found that ACRP operations will diminish migration opportunities for federally-threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*), especially outmigrating steelhead smolts, in some years. For instance, analysis of the daily streamflow data for May 2008 suggests ACRP operations could result in streamflows in lower Alameda Creek (as measured at the Niles Gage) dropping below the smolt passage threshold of 12 cfs for an additional 15 days when compared to the without ACRP condition.

Based on currently available information, NMFS does not concur with the Final EIR's conclusion that ACRP operations would not substantially interfere with the movement or migration of special-status fish species, including CCC steelhead (Impact B1-11 in the DEIR and Impact B1-16 in FEIR). We recommend San Francisco Planning Commission and the San Francisco Public Utilities Commission undertake additional analysis to examine the relationship between groundwater and surface water in the Sunol Valley for the purpose of determining the project's potential impacts on a daily time-step to streamflows in Alameda Creek downstream of the project site.

If you have any questions regarding these comments, please contact Rick Rogers at rick.rogers@noaa.gov, or 707-578-8552.

Sincerely,



Gary Stern
San Francisco Bay Branch Supervisor
North-Central Coast Office

cc: Tim Ramirez, SFPUC, San Francisco CA
Thomas Niesar, ACWD, Fremont, CA
Sean Cochran, CDFW, Santa Rosa, CA
Ryan Olah, USFWS, Sacramento, CA



Alameda Creek Alliance

P.O. Box 2626 • Niles, CA • 94536
Phone: (510) 499-9185
E-mail: alamedacreek@hotmail.com
Web: www.alamedacreek.org

August 2, 2017

San Francisco Board of Supervisors
1 Dr. Carlton, B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Planning Commission Decision Regarding Alameda Creek Recapture Project

Dear San Francisco Supervisors:

The Alameda Creek Alliance has concerns about the San Francisco Public Utilities Commission's (SFPUC) Alameda Creek Recapture Project and impacts that its operations could have on recovering threatened steelhead trout within the Alameda Creek watershed. We share the concerns about the inadequacies of the recently certified Environmental Impact Report (EIR) that have been raised by the National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), and Alameda County Water District (ACWD). We support the ACWD petition to reverse the certification of the EIR for the project.

The Alameda Creek Alliance has more than 2,000 members and supporters. Since 1997 we have advocated for restoration of steelhead trout in the Alameda Creek watershed. We have worked with the SFPUC since 1999 to improve habitat conditions to support the recovery of steelhead. While we generally support the recapture project and the concept of off-stream rather than in-stream water recapture, state and federal fisheries agencies have determined that the final EIR does not contain sufficient information to support the conclusion that the project will not result in a less than significant impact on streamflows and fish migration in Alameda Creek.

The Alameda Creek Alliance submitted scoping comments on the Alameda Creek Recapture Project in 2015 and commented on the draft EIR for the project in January 2017. We have reviewed the SF Planning Commission's June 22, 2017 decision to certify the final EIR and the June 7, 2017 responses to comments on the EIR. We have also reviewed the ACWD's July 24, 2017 letter of appeal and concerns about the hydrology analysis used for the EIR; the July 24, 2017 comment letter from CDFW; and the July 27, 2017 comment letter from NMFS.

NMFS commented that the final EIR does not contain sufficient information to conclude that the project will not result in substantial effects on streamflows intended to support migration of steelhead trout, and in fact found that project operations will diminish migration opportunities for steelhead, especially outmigrating smolts, in some years. CDFW commented that the modeling analysis used for the EIR may be inadequate for the determination that the project will have "less than a significant impact" on fisheries resources of Alameda Creek.

An ACWD analysis of daily modeling data provided by the SFPUC after the close of the EIR comment period shows that project operations could result in increased numbers of days where streamflows in lower Alameda Creek fall below the threshold for fish passage, as determined by NMFS. ACWD commented that the hydrologic model relied on in the EIR's impact analyses is insufficient to analyze the surface water groundwater interaction necessary to fully evaluate project impacts. CDFW shared this concern that the modeling used in the EIR did not adequately address ground and surface water interaction in the stream reach of the proposed project, and that the EIR analyses do not adequately quantify the stream reach percolation

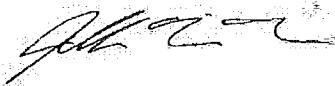
losses of SFPUC releases.

We are also concerned about the potential reduction in the number of days that steelhead could have access to spawning and rearing habitat upstream of the project. Data presented in the EIR shows that the current proposal for project operations will reduce the number of days where adequate streamflow is available for steelhead migration. The EIR uses monthly average changes in surface water flow to conclude that steelhead will not be harmed, whereas analysis of daily flows is needed to assess the effects of suitable streamflows for steelhead. We disagree with the EIR's conclusion that operation of the project will not significantly impact steelhead trout. There is simply not adequate information in the EIR to make a determination about streamflows and impacts to steelhead.

We request that the Board of Supervisors direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders (including the ACA, ACWD, CDFW and NMFS) to undertake additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on daily streamflows in Alameda Creek downstream of the project which could impede steelhead migration. If the SFPUC is unwilling to do this, the Board of Supervisors should uphold the ACWD appeal and reject the certification of the EIR for the project.

San Francisco has invested significant time and money in the Alameda Creek watershed to monitor and improve habitat conditions for steelhead trout. The future operations of the completed Calaveras Dam and Alameda Creek Diversion Dam will enhance steelhead spawning and rearing in stream reaches managed by the SFPUC. Both the SFPUC and ACWD are required to operate their facilities in Alameda Creek to meet specified flow requirements for steelhead. The Alameda Creek Recapture Project should support rather than undermine these efforts. We understand that this is the last Water System Improvement Project facility to be constructed, but it is important to get it right – the EIR must fully evaluate the potential impacts of the project, and San Francisco should only approve a recapture project that will meet the interests of all watershed stakeholders and adequately protect steelhead trout.

Sincerely,



Jeff Miller
Director
Alameda Creek Alliance
(510) 499-9184
jeff@alamedacreek.org



August 2, 2017

Ms. Lisa Gibson, Director of Environmental Planning and Environmental Review Officer
Ms. Angela Calvillo, Clerk of the Board of Supervisors
City and County of San Francisco
#1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

**Re: ACWD's Appeal of the June 22, 2017, Planning Commission Decision, and the
June 23, 2017, SFPUC Decision Regarding the Alameda Creek Recapture Project**

Dear Ms. Gibson, Clerk of the Board, and Members of the Board of Supervisors:

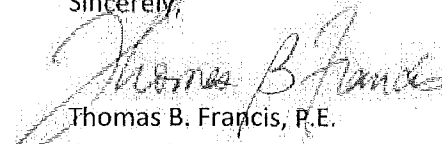
The Bay Area Water Supply and Conservation Agency (BAWSCA) has prepared this letter in regards to Alameda County Water District's (ACWD) appeal of the June 22, 2017 Planning Commission decision, and the June 23, 2017 Public Utility Commission (SFPUC) decision concerning the Alameda Creek Recapture Project (ACRP). BAWSCA represents the interests of 24 cities and water districts, an investor-owned utility, and a university, that purchase water wholesale from the San Francisco Regional Water System.

ACWD has copied BAWSCA on their letter in which they detail their requested appeal of the decisions as noted above. We are therefore aware of the concerns they have.

BAWSCA believes that the ACRP is an essential water supply project in the Water System Improvement Program. Its implementation is critical to meeting the water supply reliability needs of the 1.8 million residents served by our member agencies. We urge the parties (SFPUC and ACWD) to come together to resolve any outstanding issues that may be present, and to go about resolution of issues in a way that does not significantly impact ACRP's schedule or modify the overall scope.

If BAWSCA can play a role in helping to facilitate discussions between SFPUC and ACWD on the ACRP, please do not hesitate to contact us.

Sincerely,



Thomas B. Francis, P.E.
Water Resources Manager

cc: BAWSCA Board of Directors
Nicole Sandkulla, BAWSCA CEO / GM
Allison Schutte, Hanson Bridgett
Bob Shaver, ACWD, General Manager
Steve Ritchie, SFPUC, Assistant General Manager, Water Enterprise

CALIFORNIA TROUT



FISH · WATER · PEOPLE

August 18, 2017

City and County of San Francisco
Clerk of the Board of Supervisors
Lisa Gibson, Environmental Review Officer
#1 Dr. Carlton B. Goodlett Place Room #244
San Francisco, CA 94102

Re: Support for Alameda County Water District's July 24 Request for the Board of Supervisors to Remand Final EIR of the Alameda Creek Recapture Project to the Planning Commission, Require Collaborative Analysis of Impact on Streamflows

Dear Lisa Gibson and Members of the Board of Supervisors:

I am writing in support of Alameda County Water District's reasonable and prudent request that the Board of Supervisors reverse the certification of the EIR and approval of Case No. 2015-004827ENV, the "Alameda Creek Recapture Project" (Project), and remand the final EIR to the Planning Commission to require the collaborative development of a new modeling tool to fully analyze potential Project impacts to federally threatened Central California Coast Distinct Population segment of steelhead (*Oncorhynchus mykiss irideus*) and downstream water users.

We support ACWD's request to develop a more robust and appropriate streamflow modeling tool to study the surface water/groundwater interaction and full suite of potential downstream impacts of the proposed Project. Operation of the Project as proposed will have the potential to significantly alter the availability and timing of sufficient flows to allow upstream passage of spawning adult and downstream passage of juvenile steelhead during critical migration windows below established thresholds (25cfs for adults, 12cfs for juveniles), causing potential "take" of steelhead in violation of the Endangered Species Act. These impacts were not sufficiently described nor analyzed in the Final EIR and should have been examined more closely.

SFPUC has been working with partners in the Alameda Creek watershed through the Alameda Creek Fisheries Work Group to improve stream conditions and passage for steelhead since 1997. California Trout recognizes the importance of Alameda Creek and its essential independent population¹ of steelhead to the recovery of the Central California Coast Distinct Population Segment, and is interested in engaging further with the Fisheries Work Group toward this goal.

We respectfully voice our support for ACWD's request, and look forward to working with SFPUC and other Alameda Creek stakeholders to improve fish passage and water supply reliability.

Thank you for your consideration.

Sincerely,

/s/ Patrick Samuel
California Trout Bay Area Conservation Program Manager

¹ National Marine Fisheries Service, 2016. *Final Coastal Multispecies Recovery Plan*. 649-681pp. Santa Rosa, CA.



August 21, 2017

San Francisco Board of Supervisors
1 Dr. Carlton, B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Planning Commission Decision Regarding Alameda Creek Recapture Project

Dear SF Board of Supervisors:

Trout Unlimited (TU) has serious concerns about the San Francisco Public Utilities Commission's (SFPUC's) Alameda Creek Recapture Project, and the impacts that its operations will have on recovering federally threatened Central California Coast Steelhead populations within the Alameda Creek Watershed. TU has 800 members in the East bay, and has recently been working with the SFPUC in an effort to improve habitat conditions to support the recovery of steelhead.

TU and our supporting members are specifically concerned about the drastic reduction in the number of days that steelhead will have access to habitat upstream of the project location. Data presented in the EIR for this project clearly shows that the current proposal for operating the project will dramatically reduce the number of days available for access, and biologists have warned that this reduction will severely impact the recovery of this federally protected species. The SFPUC has not addressed these warnings, and tried to mask the impacts that the operation of the ACRP will have by using monthly average changes in surface water flow as proof that steelhead will not be harmed.

Using a monthly average is dangerously misleading since the true impacts to the environment happen during changes in day to day operations. TU has reviewed publicly available data for this project and strongly disagrees with the conclusion that operation of the project will not significantly impact federally protected steelhead trout.



The citizens of the City and County of San Francisco have invested significant time and money in the Alameda Creek watershed to enhance spawning and rearing habitat on properties owned by the SFPUC, and the SFPUC may be significantly undermining that effort by approving this project as it is currently proposed.

TU requests that the Board of Supervisors take this opportunity to prevent this dangerous course of action and direct the SFPUC and the SF Planning Commission to re-develop a recapture project involving all the stakeholders involved in the Alameda Creek steelhead recovery effort. When this direction is given, TU and its 800 members will continue to work diligently with the SFPUC in order to sustainably build upon the two decades of existing steelhead recovery efforts in the Alameda Creek Watershed. We are committed to working cooperatively to identify solutions for a recapture project that will meet the interests of all watershed stakeholders and protect the Central Coast Steelhead

Thank you for this opportunity to comment on the DEIR, please do not hesitate to contact me if you have any questions regarding the above comments.

Sincerely,

Peter Mangarella

President

John Muir East Bay Chapter of Trout Unlimited

510 289 8163 (m)

info@JohnMuirTU.org





DRAFT ENVIRONMENTAL IMPACT REPORT

SFPUC Alameda Creek Recapture Project Volume 1

PLANNING DEPARTMENT
CASE NO. 2015-004827ENV
STATE CLEARINGHOUSE NO. 2015062072

Click on the following link to view document:

<https://sfgov.legistar.com/View.ashx?>

[M=F&ID=5384807&GUID=C0643E36-6F9B-4425-9629-044FCC0A9E98](https://sfgov.legistar.com/View.ashx?M=F&ID=5384807&GUID=C0643E36-6F9B-4425-9629-044FCC0A9E98)



SAN FRANCISCO
PLANNING
DEPARTMENT

Screencheck Administrative Draft	Draft EIR Publication Date:	November 30, 2016
	Draft EIR Public Hearing Date:	January 5, 2017
	Draft EIR Public Comment Period:	November 30, 2016 through January 17, 2017

Written comments should be sent to:

Lisa Gibson, Acting Environmental Review Officer | 1650 Mission Street, Suite 400 |
San Francisco, CA 94103 or Lisa.Gibson@sfgov.org

2355



DRAFT ENVIRONMENTAL IMPACT REPORT

SFPUC Alameda Creek Recapture Project Volume 2

PLANNING DEPARTMENT
CASE NO. 2015-004827ENV
STATE CLEARINGHOUSE NO. 2015062072

Click on the following link to view document:
[https://sfgov.legistar.com/View.ashx?
M=F&ID=5384816&GUID=3966F77A-57D4-4D51-BF7F-702398381077](https://sfgov.legistar.com/View.ashx?M=F&ID=5384816&GUID=3966F77A-57D4-4D51-BF7F-702398381077)



SAN FRANCISCO
PLANNING
DEPARTMENT

Screencheck Administrative Draft	Draft EIR Publication Date:	November 30, 2016
	Draft EIR Public Hearing Date:	January 5, 2017
	Draft EIR Public Comment Period:	November 30, 2016 through January 17, 2017

Written comments should be sent to:
Lisa Gibson, Acting Environmental Review Officer | 1650 Mission Street, Suite 400 |
San Francisco, CA 94103 or Lisa.Gibson@sfgov.org



**RESPONSES TO COMMENTS ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT**

**SFPUC Alameda Creek
Recapture Project
Volume 3**

PLANNING DEPARTMENT
CASE NO. 2015-004827ENV
STATE CLEARINGHOUSE NO. 2015062072
JUNE 7, 2017

Click on the following link to view document:
<https://sfgov.legistar.com/View.ashx?M=F&ID=5384803&GUID=817213D9-B1BD-4493-9122-08ED2CCBD57E>

Draft EIR Publication Date:	November 30, 2016
Draft EIR Public Hearing Date:	January 5, 2017
Draft EIR Public Comment Period:	November 30, 2016 through January 30, 2017
Responses to Comments Publication Date:	June 7, 2017
Final EIR Certification Hearing Date:	June 22, 2017



SAN FRANCISCO
PLANNING
DEPARTMENT

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors: Jalipa, Brent \(BOS\); Lew, Lisa \(BOS\)](#)
Subject: FW: Appeal of Certification of the FEIR for SFPUC Alameda Creek Recapture Project
Date: Thursday, August 31, 2017 12:39:08 PM
Attachments: [Signed Ltr to CBS FEIR SFPUC Ala Creek Recapture Project 8-17.pdf](#)

From: Contreras, Maria [mailto:maria@acpwa.org]
Sent: Thursday, August 31, 2017 10:33 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Ackerman, Hank <hank@acpwa.org>
Subject: Appeal of Certification of the FEIR for SFPUC Alameda Creek Recapture Project

Attention: Clerk of the Board:

Please see attached (hard copy to follow).

Sincerely,

Maria B. Contreras
RIGHT OF WAY SERVICES SECTION | Direct: 510.670.5590 | maria@acpwa.org
ALAMEDA COUNTY PUBLIC WORKS AGENCY
399 Elmhurst Street, Hayward, CA 94544

On behalf of:

Hank Ackerman
Flood Program Manager
Alameda County Flood Control and
Water Conservation District
399 Elmhurst Street
Hayward, CA 94544
hank@acpwa.org



Daniel Woldesenbet, Ph.D., P.E., General Manager

399 Elmhurst Street • Hayward, CA 94544 • (510) 670-5480 • www.aqpwa.org

August 31, 2017

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

SUBJECT: SEPTEMBER 5, 2017 HEARING ON APPEAL OF CERTIFICATION OF THE FEIR FOR THE SFPUC ALAMEDA CREEK RECAPTURE PROJECT

Dear Members of the San Francisco Board of Supervisors:

The purpose of this letter is to express our support for the appeal of the certification by the San Francisco Planning Department of the Final EIR for the SFPUC's Alameda Creek Recapture Project. We are in agreement with the concerns of the National Marine Fisheries Service (NMFS), the California Department of Fish and Wildlife, the Alameda County Water District (ACWD), the Zone 7 Water Agency and the Alameda Creek Alliance that the FEIR is based on a flawed analysis of the impacts of the project on threatened Central California Coast Steelhead.

The Alameda County Flood Control and Water Conservation District (District) is responsible for protecting the communities of Union City, Newark, and Fremont from flooding and owns and operates the Alameda Creek Flood Control Channel from Mission Boulevard to San Francisco Bay. The District has been working with the ACWD for over a decade on improving fish passage within the channel to allow Steelhead to migrate to upstream spawning grounds. The District and ACWD are building a fish ladder to allow the Steelhead to pass over a flood control structure commonly known as the BART weir and ACWD's Rubber Dam No. 1. That fish ladder and other fish passage improvements to be constructed by ACWD between the fish ladder and Mission Boulevard total over \$48 million. In addition, the District has plans to reconfigure the channel from San Francisco Bay to the fish ladder in order to remove fish passage barriers and create a more sustainable low-flow fish passage channel within the channel. The cost to the District for this 9 mile long project is estimated at approximately \$53 million.

With a planned investment of nearly \$70 million for channel improvements to provide for Steelhead migration to upstream spawning grounds, the District is very concerned that the Recapture Project EIR did not adequately address the project's impacts on groundwater elevations and surface flows in Alameda Creek. Any reductions in flows below the minimum approved by the NMFS will have negative impacts on Steelhead migration in lower Alameda Creek.

With all due respect, the District requests that your Board reverse the certification of the EIR for the Alameda Creek Recapture Project, and that you direct SFPUC and Planning Department staff to work with the NMFS, CDFW, ACWD, the District and the Zone 7 Water Agency to develop a modeling methodology that uses daily flow data in a fully transparent manner.

It is our hope that by working collaboratively with all the agencies suggested, a recapture project can be developed that will meet the needs or requirements of all the stakeholders while promoting the recovery of the threatened Steelhead.

Sincerely,



Hank Ackerman, P.E.
Flood Control Program Manager

HA:mbc

C: Robert Shaver, General Manager, ACWD
Steve Ritchie, San Francisco PUC
Gary Stern, NMFS
Eric Larson, CDFW
Daniel Woldesenbet, Director, ACPWA
Jill Duerig, General Manager, Zone 7



BOARD OF SUPERVISORS

RICHARD VALLE
Vice President
Supervisor, District 2

August 30, 2017

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

Dear San Francisco Board of Supervisors,

I am writing to you on behalf of the concerned citizens and organizations in my district about the recent approval by the San Francisco Planning Department of the Alameda Creek Recapture Project (ACRP) Environmental Impact Report (EIR). The Alameda County Flood Control and Water Conservation District (District) has been monitoring the status of the San Francisco Public Utilities Commissions ACRP during the environmental review phase and has identified potential concerns with the EIR's conclusions. The District provided substantial comments to the San Francisco Planning Department on the Draft EIR on January 30, 2017.

The District is responsible for protecting the communities of Union City, Newark, and Fremont from flooding and owns and operates the Alameda Creek Flood Control Channel from Mission Boulevard to San Francisco Bay. The District has invested a substantial amount of time and money on this channel in an effort to provide flood protection in a more environmentally sensitive manner. Through coordination with the Alameda Creek Fisheries Workgroup, the District has initiated numerous projects within the Alameda Creek Watershed to enhance fish migration to promote the recovery of threatened Central California Coast Steelhead.

Review of the environmental documentation for the project indicates that the currently proposed ACRP may undermine the District's efforts to enhance the migration opportunities for this federally protected species. Specifically, the District is concerned that the operation of the ACRP will negatively impact downstream flows and substantially interfere with the movement or migration of Central California Coast Steelhead by significantly limiting migration opportunities to enter and navigate through the Alameda Creek Flood Control Channel downstream of the proposed ACRP site.

As an elected official representing the citizens of Alameda County, my office is requesting that the San Francisco Board of Supervisors reverse the approval of the Final EIR and direct the San Francisco Planning Department and Public Utilities staff to work collaboratively with the agencies and special districts operating in the Alameda Creek Watershed to analyze and develop a recapture project that can meet the needs of all stakeholders while promoting the recovery of endangered steelhead.

Sincerely,

Richard Valle
Supervisor, Second District

1221 OAK STREET • SUITE 536 • OAKLAND, CALIFORNIA 94612 • 510 272-6692 • FAX 510 271-5115
24301 SOUTHLAND DRIVE • SUITE 101 • HAYWARD, CALIFORNIA 94545 • 510 259-1097 • FAX 510 259-0860

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: File #: 170893 Hearing - Appeal of Final EIR certification for Alameda Creek Recapture Project
Date: Friday, August 18, 2017 3:46:25 PM
Attachments: [OutlookEmoji-1489090978126_PastedImage9a2492e2-95cd-4a5d-8308-c47a1fdb697b.png](#)
[CalTrout Alameda Creek support letter.docx](#)

From: Patrick Samuel [mailto:psamuel@caltrout.org]
Sent: Friday, August 18, 2017 2:30 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Evan Buckland <Evan.Buckland@acwd.com>
Subject: File #: 170893 Hearing - Appeal of Final EIR certification for Alameda Creek Recapture Project

To the Clerk of the San Francisco Board of Supervisors:

Please find attached a letter from California Trout supporting the Alameda County Water District's request that the Board of Supervisors reverse their decision to certify the Final Environmental Impact Report for the San Francisco Public Utilities Commission's proposed Alameda Creek Recapture Project, identified in Planning Case No. 2015-004827ENV, certified by the Planning Commission through Motion No. 19952 dated June 22, 2017.

Please include this letter on the hearing appeal webpage. A hard copy has been mailed to your address for distribution to the individual Board of Supervisors members for consideration at the hearing scheduled for 9/5/2017.

Thank you for your consideration and the opportunity to comment on this matter.

Sincerely,
Patrick Samuel

Patrick Samuel, M.A.
Bay Area Program Manager



office: 415-392-8887 x104
cell: 916-502-6874

Read about CalTrout's work in





August 18, 2017

City and County of San Francisco
Clerk of the Board of Supervisors
Lisa Gibson, Environmental Review Officer
#1 Dr. Carlton B. Goodlett Place Room #244
San Francisco, CA 94102

Re: Support for Alameda County Water District's July 24 Request for the Board of Supervisors to Remand Final EIR of the Alameda Creek Recapture Project to the Planning Commission, Require Collaborative Analysis of Impact on Streamflows

Dear Lisa Gibson and Members of the Board of Supervisors:

I am writing in support of Alameda County Water District's reasonable and prudent request that the Board of Supervisors reverse the certification of the EIR and approval of Case No. 2015-004827ENV, the "Alameda Creek Recapture Project" (Project), and remand the final EIR to the Planning Commission to require the collaborative development of a new modeling tool to fully analyze potential Project impacts to federally threatened Central California Coast Distinct Population segment of steelhead (*Oncorhynchus mykiss irideus*) and downstream water users.

We support ACWD's request to develop a more robust and appropriate streamflow modeling tool to study the surface water/groundwater interaction and full suite of potential downstream impacts of the proposed Project. Operation of the Project as proposed will have the potential to significantly alter the availability and timing of sufficient flows to allow upstream passage of spawning adult and downstream passage of juvenile steelhead during critical migration windows below established thresholds (25cfs for adults, 12cfs for juveniles), causing potential "take" of steelhead in violation of the Endangered Species Act. These impacts were not sufficiently described nor analyzed in the Final EIR and should have been examined more closely.

SFPUC has been working with partners in the Alameda Creek watershed through the Alameda Creek Fisheries Work Group to improve stream conditions and passage for steelhead since 1997. California Trout recognizes the importance of Alameda Creek and its essential independent population¹ of steelhead to the recovery of the Central California Coast Distinct Population Segment, and is interested in engaging further with the Fisheries Work Group toward this goal.

We respectfully voice our support for ACWD's request, and look forward to working with SFPUC and other Alameda Creek stakeholders to improve fish passage and water supply reliability.

Thank you for your consideration.

Sincerely,

/s/ Patrick Samuel
California Trout Bay Area Conservation Program Manager

¹ National Marine Fisheries Service, 2016. *Final Coastal Multispecies Recovery Plan*. 649-681pp. Santa Rosa, CA.

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek recapture project
Date: Thursday, August 17, 2017 10:48:40 AM

From: Sarah Kupferberg [mailto:skupferberg@gmail.com]
Sent: Thursday, August 17, 2017 10:36 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek recapture project

Dear members of the SF Board of Supervisors,

I am writing to you as a scientist who has studied the amphibians of Alameda Creek since the late 1990's. I am very concerned about the impacts of the Alameda Creek recapture project in the Sunol Valley that were not adequately addressed in the EIR which was hurriedly approved. I ask you to direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley.

This information is critical to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project. Research conducted in the Alameda Creek watershed (Adams et al. 2017) indicates that low flows accentuate the problems caused by the deadly chytrid fungus. This disease is responsible for amphibian declines both globally and locally and its prevalence in Alameda Creek is directly related to stream flow levels. The Foothill Yellow Legged, which was elevated to candidacy as a threatened species under California Endangered Species Act just last month, will be losing suitable habitat once the new release schedule of water from Calaveras Dam takes effect because the water will be too cold to be suitable for the frogs. The water will warm to suitable levels once it reaches the area where the recapture project is located. The environmental review for this project has piecemealed the analysis of impacts of the Calaveras Dam Replacement Project and has not accounted for the new protected status of the frogs in the Creek.

The Supervisors of San Francisco should only approve a recapture project that will adequately protect native amphibians and steelhead trout which have received the bulk of conservation planning attention in Alameda Creek.

Thank you considering my comments.

Regards,

Sarah Kupferberg, Ph.D.
818 Mendocino Ave
Berkeley, CA 94707

Adams, A.J., Kupferberg, S.J., Wilber, M.Q., Pessier, A.P., Greffrud, M., Bobzien, S., Vredenburg, V.T. and Briggs, C.J., 2017. Extreme drought, host density, sex, and bullfrogs influence fungal pathogen infection in a declining lotic amphibian. *Ecosphere*, 8(3).

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Minimum Flows for Alameda Creek Steelhead Trout
Date: Monday, August 14, 2017 1:56:11 PM

From: Larry Thompson [mailto:thompson14ster@gmail.com]
Sent: Monday, August 14, 2017 1:08 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Minimum Flows for Alameda Creek Steelhead Trout

Dear SF Board of Supervisors:

The problem is that the connection between groundwater in the Sunol Basin with surface flow in Alameda Creek is unclear, and there are concerns that pumping during dry years could reduce low flows and opportunities for fish passage through Alameda Creek. I am asking you to direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on further analysis of the relationship between ground water and surface water in the Sunol Valley, thereby to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. San Francisco should only approve a recapture project that will adequately protect steelhead trout.

Thank you,
Lawrence Thompson
1069 Felicia Ct
Livermore, CA 94550

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Endangered species
Date: Monday, August 14, 2017 8:19:55 AM

-----Original Message-----

From: Jim Prola [<mailto:jimprola@yahoo.com>]
Sent: Sunday, August 13, 2017 6:10 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Endangered species

Dear SF Supervisors,

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between groundwater and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. San Francisco should only approve a recapture project that will adequately protect steelhead trout. Steelhead trout are an endangered species. Thank you in advance for your environmental understanding.

Mr/Mrs Jim and Hon Diana Prola

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Minimum Flows for Alameda Creek Steelhead
Date: Thursday, August 10, 2017 2:40:33 PM

From: M S [mailto:ms98stellarfp@yahoo.com]
Sent: Thursday, August 10, 2017 2:23 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Minimum Flows for Alameda Creek Steelhead

To the Board,

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration.

I believe San Francisco should only approve a recapture project that will adequately protect steelhead trout.

Thank you for your time.

Respectfully,

M. Starr

(a resident and constituent of the Alameda Creek Alliance)

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Steelhead Trout Migration in Alameda Creek
Date: Wednesday, August 09, 2017 5:02:51 PM

From: Mary [mailto:hannonma@comcast.net]
Sent: Wednesday, August 09, 2017 4:36 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Steelhead Trout Migration in Alameda Creek

Dear Board of Supervisors:

Please direct the SFPUC and the SF Planning Commission to work with all the watershed stakeholders on additional analysis of the relationship between groundwater and surface water in the Sunol Valley to determine if the streamflow project for Alameda Creek could impede steelhead migration downstream of the project. Please approve a recapture project that will adequately protect the steelhead trout migration.

Mary Ann Hannon
309 Pearl Dr.
Livermore, CA 94550

Member Alameda Creek Alliance

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Safeguard Minimum Flows for Alameda Creek Steelhead
Date: Wednesday, August 09, 2017 12:53:53 PM

From: leslie jackson [mailto:les@well.com]
Sent: Wednesday, August 09, 2017 12:24 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Safeguard Minimum Flows for Alameda Creek Steelhead

Dear San Francisco Board of Supervisors,

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration.

San Francisco should only approve a recapture project that will adequately protect steelhead trout.

Sincerely,

*Leslie Jackson
Oakland, CA 94602*

Leslie Jackson | les@well.com
www.mudfest.net
www.rocketstoves.com

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Sunol basin
Date: Wednesday, August 09, 2017 10:10:16 AM

From: Bruce Carter [mailto:bcorthodoc@gmail.com]
Sent: Wednesday, August 09, 2017 9:32 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Sunol basin

Please reconsider the project to capture water from the Sunol basin...we do not know enough about how that might affect flow into Alameda Creek, which is a critical resource in So. Alameda county.

Thank you for putting this issue on the agenda.

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Steel head trout in Alameda Creek
Date: Wednesday, August 09, 2017 9:36:11 AM

-----Original Message-----

From: Joan P Weber [<mailto:joanandfred@yahoo.com>]
Sent: Tuesday, August 08, 2017 9:57 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Steel head trout in Alameda Creek

Hello,

I am writing to ask you and the SF PUC and the Planning Commission to please work with all stake holders to insure that steel head trout return and migration are protected in all of Alameda Creek. There is concern the the proposed project to intermittently release cold water from Calaveras Dam and replace it with ground water in the Sunol area could have an adverse impact on steel head trout further down in Alameda Creek.

Let's not have different agencies working at cross purposes.

Thank you.

Joan Weber

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek
Date: Wednesday, August 09, 2017 9:35:01 AM

From: VLC2461@aol.com [mailto:VLC2461@aol.com]
Sent: Tuesday, August 08, 2017 9:38 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek

Please make sure that any decisions you make with regard to Alameda Creek be beneficial to the Steelhead Trout population. Too many agencies and so many hours of cooperation have brought us to the level of protection the Steelhead Trout have as of today. Don't jeopardize the progress that has been made.

Sincerely,

Virginia Cummins
2461 Balmoral Street
Union City, CA 94587

From: [Kern, Chris \(CPC\)](#)
To: [Lew, Lisa \(BOS\)](#)
Cc: [Joyce Hsiao](#); [Torrey, Irina \(PUC\)](#); [Ramirez, Tim \(PUC\)](#); [Antonia Sivyer](#); [Warren, Elaine \(CAT\)](#)
Subject: RE: ACA comments on SFPUC Alameda Creek Recapture Project
Date: Tuesday, August 08, 2017 3:00:40 PM
Attachments: [BAWSCA ltr re ACRP EIR appeal.pdf](#)
[image001.png](#)

Hi Lisa,
Please add the attached letter to the record for this appeal.
Thanks

Chris Kern
Senior Environmental Planner

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-9037 **Fax:** 415-558-6409
Email: chris.kern@sfgov.org
Web: www.sfplanning.org

From: Lew, Lisa (BOS)
Sent: Thursday, August 03, 2017 10:25 AM
To: Kern, Chris (CPC)
Cc: BOS Legislation, (BOS)
Subject: FW: ACA comments on SFPUC Alameda Creek Recapture Project

Hi Chris,

Confirming we will include the attached letter as an official record for the Alameda Creek Recapture Project appeal.

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

From: Kern, Chris (CPC)
Sent: Thursday, August 03, 2017 9:54 AM

To: Lew, Lisa (BOS) <lisa.lew@sfgov.org>

Subject: FW: ACA comments on SFPUC Alameda Creek Recapture Project

Hi Lisa,

Per the voicemail message I left for you this morning, please add the attached letter to the record for the Alameda Creek Recapture Project EIR appeal.

Thanks,

Chris Kern
Senior Environmental Planner

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103

Direct: 415-575-9037 **Fax:** 415-558-6409

Email: chris.kern@sfgov.org

Web: www.sfplanning.org

From: Secretary, Commissions (CPC)

Sent: Wednesday, August 02, 2017 10:31 AM

To: Gerber, Patricia (CPC)

Cc: Kern, Chris (CPC)

Subject: FW: ACA comments on SFPUC Alameda Creek Recapture Project

Office of Commission Affairs

Planning Department|City & County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103

Direct: 415-558-6309|Fax: 415-558-6409

commissions.secretary@sfgov.org

www.sfplanning.org

From: Alameda Creek [<mailto:alamedacreekalliance@gmail.com>]

Sent: Wednesday, August 02, 2017 9:58 AM

To: Secretary, Commissions (CPC); richhillissf@yahoo.com; Richards, Dennis (CPC);

planning@rodnevfong.com; Johnson, Christine (CPC); Koppel, Joel (CPC); Melgar, Myrna (CPC); Moore, Kathrin (CPC)

Subject: ACA comments on SFPUC Alameda Creek Recapture Project

SF Planning Commissioners:

Attached please find comments of the Alameda Creek Alliance on the SFPUC's Alameda Creek Recapture Project.

--

Jeff Miller

Director

Alameda Creek Alliance

(510) 499-9185

www.alamedacreek.org

BAWSCA

Bay Area Water Supply & Conservation Agency

August 2, 2017

Ms. Lisa Gibson, Director of Environmental Planning and Environmental Review Officer
Ms. Angela Calvillo, Clerk of the Board of Supervisors
City and County of San Francisco
#1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

**Re: ACWD's Appeal of the June 22, 2017, Planning Commission Decision, and the
June 23, 2017, SFPUC Decision Regarding the Alameda Creek Recapture Project**

Dear Ms. Gibson, Clerk of the Board, and Members of the Board of Supervisors:

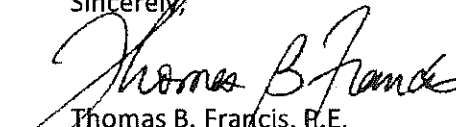
The Bay Area Water Supply and Conservation Agency (BAWSCA) has prepared this letter in regards to Alameda County Water District's (ACWD) appeal of the June 22, 2017 Planning Commission decision, and the June 23, 2017 Public Utility Commission (SFPUC) decision concerning the Alameda Creek Recapture Project (ACRP). BAWSCA represents the interests of 24 cities and water districts, an investor-owned utility, and a university, that purchase water wholesale from the San Francisco Regional Water System.

ACWD has copied BAWSCA on their letter in which they detail their requested appeal of the decisions as noted above. We are therefore aware of the concerns they have.

BAWSCA believes that the ACRP is an essential water supply project in the Water System Improvement Program. Its implementation is critical to meeting the water supply reliability needs of the 1.8 million residents served by our member agencies. We urge the parties (SFPUC and ACWD) to come together to resolve any outstanding issues that may be present, and to go about resolution of issues in a way that does not significantly impact ACRP's schedule or modify the overall scope.

If BAWSCA can play a role in helping to facilitate discussions between SFPUC and ACWD on the ACRP, please do not hesitate to contact us.

Sincerely,



Thomas B. Francis, P.E.
Water Resources Manager

cc: BAWSCA Board of Directors
Nicole Sandkulla, BAWSCA CEO / GM
Allison Schutte, Hanson Bridgett
Bob Shaver, ACWD, General Manager
Steve Ritchie, SFPUC, Assistant General Manager, Water Enterprise

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek Recapture Project
Date: Tuesday, August 08, 2017 2:50:53 PM

From: Scott Taylor [mailto:staylor@laclinica.org]
Sent: Tuesday, August 08, 2017 1:21 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek Recapture Project

To Whom It May Concern:

I am writing you regarding the Alameda Creek Recapture Project. There are some concerns regarding the project during drought years. There is concern that during drought years, the recapture project may endanger the passage of steelhead during those time. While I am not against the project per se, I would strongly recommend further study of the project and the issue of water flow during drought years. Hopefully, it will turn out that there will not be any detrimental effects to the fish during the drought years and all will be well with the project.
Thank you for your time and concern regarding this project.

Sincerely,
Scott Taylor
Alameda Creek Alliance Board Member

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Lew, Lisa \(BOS\)](#); [Jalipa, Brent \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Safeguard minimum flows for Alameda Creek
Date: Tuesday, August 08, 2017 11:10:35 AM

From: Judy Schriebman [mailto:judy@leapfrogproductions.com]
Sent: Tuesday, August 08, 2017 10:57 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Safeguard minimum flows for Alameda Creek

Dear SF Board of Supervisors:

As a creek advocate, I know how important it is to have adequate flows all year long to maintain a healthy riparian system, including the trees and wildlife but most importantly the fish in the stream.

I have also seen in every watershed basin—and it is recognized by hydrologists—that pumping water from the ground can lower the water table and reduce flows, both surface and subsurface, to the creeks in that watershed.

It is imperative that groundwater cannot be taken in excess of the needs of the whole watershed and creeks that rely upon it. It is therefore imperative to fully analyze ALL the water connections—creeks, wells, lakes, reservoirs, springs, etc—in order to accurately determine where the water is coming from, where it's going, and how much is ok to take for human uses while retaining good environmental functioning.

Please direct the SFPUC and the SF Planning Commission to work with ALL watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. Tell the Supervisors that San Francisco should only approve a recapture project that will adequately protect steelhead trout.

The Alameda County Water District, which intends to build two fish ladders in lower Alameda Creek, filed an appeal of the project approval due to concerns about the unknown effects on stream flows intended to support steelhead migration. Federal and state fisheries agencies agree that project operations could diminish steelhead migration opportunities in some years, and recommended more study.

Water flows are tricky, but making false assumptions and building big projects based on them is unsound scientifically and environmentally.

Judy Schriebman
San Rafael, CA 94903

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Please Help Safeguard Minimum Flows for Alameda Creek Steelhead
Date: Tuesday, August 08, 2017 9:43:24 AM

From: kristinwomack [mailto:ktbakkimack@comcast.net]
Sent: Monday, August 07, 2017 6:31 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Please Help Safeguard Minimum Flows for Alameda Creek Steelhead

Dear SF Board of Supervisors:

I am writing to you to ask you to direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley in order to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration. Federal and state fisheries agencies agree that project operations could diminish steelhead migration opportunities in some years, and recommended more study.

San Francisco should only approve a recapture project that will adequately protect steelhead trout. Our threatened native species are clinging by a thread and they need extreme measures to prevent their extinction!

Sincerely, Kristin Womack

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Please do not do any Reduction in the needed water flow in the Alameda Creek for Steelhead.
Date: Tuesday, August 08, 2017 9:37:49 AM

From: panadbs@juno.com [mailto:panadbs@juno.com]
Sent: Tuesday, August 08, 2017 8:06 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Please do not do any Reduction in the needed water flow in the Alameda Creek for Steelhead.

Hello Board of Supervisors, Please do not do any Reduction in the needed water flow in the Alameda Creek for Steelhead. The filling of Sunol Gravel pits should not be done due to the Steelhead needing the water. Dave

[How To Fix Saggy Skin \(Doctors Shocked!\)](#)

Health Report

<http://thirdpartyoffers.juno.com/TGL3132/5989d38b26868538b2e7cst03vuc>



From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Please Safeguard Minimum Flows for Alameda Creek Steelhead
Date: Tuesday, August 08, 2017 9:36:06 AM

-----Original Message-----

From: Ron Goldman [<mailto:rgoldman@cs.stanford.edu>]
Sent: Monday, August 07, 2017 7:32 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Please Safeguard Minimum Flows for Alameda Creek Steelhead

Please direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders on additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on stream flows in Alameda Creek downstream of the project which could impede steelhead migration.

San Francisco should only approve a recapture project that will adequately protect steelhead trout.

thank you,

-- Ron --

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [Jalipa, Brent \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Alameda Creek
Date: Tuesday, August 08, 2017 9:28:40 AM

From: Anne Veraldi [mailto:anneveraldi@hotmail.com]
Sent: Monday, August 07, 2017 6:40 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Alameda Creek

Dear Supervisors and SF planning Commissioners:

Please protect Alameda Creek. Please work with the watershed stakeholders on additional analysis between the ground and surface water in Sunoi Valley to determine the projects impacts on streams flows in the Alameda Creek. Only approve a recapture project that will adequately protect steelhead trout.

Thank you.

Sincerely,
Anne Veraldi



Alameda Creek Alliance

P.O. Box 2626 • Niles, CA • 94536
Phone: (510) 499-9185
E-mail: alamedacreek@hotmail.com
Web: www.alamedacreek.org

August 2, 2017

San Francisco Board of Supervisors
1 Dr. Carlton, B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Planning Commission Decision Regarding Alameda Creek Recapture Project

Dear San Francisco Supervisors:

The Alameda Creek Alliance has concerns about the San Francisco Public Utilities Commission's (SFPUC) Alameda Creek Recapture Project and impacts that its operations could have on recovering threatened steelhead trout within the Alameda Creek watershed. We share the concerns about the inadequacies of the recently certified Environmental Impact Report (EIR) that have been raised by the National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), and Alameda County Water District (ACWD). We support the ACWD petition to reverse the certification of the EIR for the project.

The Alameda Creek Alliance has more than 2,000 members and supporters. Since 1997 we have advocated for restoration of steelhead trout in the Alameda Creek watershed. We have worked with the SFPUC since 1999 to improve habitat conditions to support the recovery of steelhead. While we generally support the recapture project and the concept of off-stream rather than in-stream water recapture, state and federal fisheries agencies have determined that the final EIR does not contain sufficient information to support the conclusion that the project will not result in a less than significant impact on streamflows and fish migration in Alameda Creek.

The Alameda Creek Alliance submitted scoping comments on the Alameda Creek Recapture Project in 2015 and commented on the draft EIR for the project in January 2017. We have reviewed the SF Planning Commission's June 22, 2017 decision to certify the final EIR and the June 7, 2017 responses to comments on the EIR. We have also reviewed the ACWD's July 24, 2017 letter of appeal and concerns about the hydrology analysis used for the EIR; the July 24, 2017 comment letter from CDFW; and the July 27, 2017 comment letter from NMFS.

NMFS commented that the final EIR does not contain sufficient information to conclude that the project will not result in substantial effects on streamflows intended to support migration of steelhead trout, and in fact found that project operations will diminish migration opportunities for steelhead, especially outmigrating smolts, in some years. CDFW commented that the modeling analysis used for the EIR may be inadequate for the determination that the project will have "less than a significant impact" on fisheries resources of Alameda Creek.

An ACWD analysis of daily modeling data provided by the SFPUC after the close of the EIR comment period shows that project operations could result in increased numbers of days where streamflows in lower Alameda Creek fall below the threshold for fish passage, as determined by NMFS. ACWD commented that the hydrologic model relied on in the EIR's impact analyses is insufficient to analyze the surface water groundwater interaction necessary to fully evaluate project impacts. CDFW shared this concern that the modeling used in the EIR did not adequately address ground and surface water interaction in the stream reach of the proposed project, and that the EIR analyses do not adequately quantify the stream reach percolation

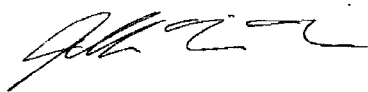
losses of SFPUC releases.

We are also concerned about the potential reduction in the number of days that steelhead could have access to spawning and rearing habitat upstream of the project. Data presented in the EIR shows that the current proposal for project operations will reduce the number of days where adequate streamflow is available for steelhead migration. The EIR uses monthly average changes in surface water flow to conclude that steelhead will not be harmed, whereas analysis of daily flows is needed to assess the effects of suitable streamflows for steelhead. We disagree with the EIR's conclusion that operation of the project will not significantly impact steelhead trout. There is simply not adequate information in the EIR to make a determination about streamflows and impacts to steelhead.

We request that the Board of Supervisors direct the SFPUC and the SF Planning Commission to work with all watershed stakeholders (including the ACA, ACWD, CDFW and NMFS) to undertake additional analysis of the relationship between ground water and surface water in the Sunol Valley, to determine whether the project has impacts on daily streamflows in Alameda Creek downstream of the project which could impede steelhead migration. If the SFPUC is unwilling to do this, the Board of Supervisors should uphold the ACWD appeal and reject the certification of the EIR for the project.

San Francisco has invested significant time and money in the Alameda Creek watershed to monitor and improve habitat conditions for steelhead trout. The future operations of the completed Calaveras Dam and Alameda Creek Diversion Dam will enhance steelhead spawning and rearing in stream reaches managed by the SFPUC. Both the SFPUC and ACWD are required to operate their facilities in Alameda Creek to meet specified flow requirements for steelhead. The Alameda Creek Recapture Project should support rather than undermine these efforts. We understand that this is the last Water System Improvement Project facility to be constructed, but it is important to get it right – the EIR must fully evaluate the potential impacts of the project, and San Francisco should only approve a recapture project that will meet the interests of all watershed stakeholders and adequately protect steelhead trout.

Sincerely,



Jeff Miller
Director
Alameda Creek Alliance
(510) 499-9184
jeff@alamedacreek.org



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 JUL 31 PM 3:23

BY

BOS-1
Leg Clerk
c-pages

July 27, 2017

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

Re: June 22, 2017 Planning Commission Decision Regarding the Final Environmental Impact Report for the Alameda Creek Recapture Project

Dear Clerk of the Board of Supervisors:

NOAA's National Marine Fisheries Service (NMFS) has been notified of the San Francisco Planning Commission's June 22, 2017 decision to certify the Final Environmental Impact Report (EIR) for the Alameda Creek Recapture Project (ACRP). NMFS previously submitted comments regarding the ACRP Draft EIR (Planning Department File No. 2015-004827ENV) via letter dated January 30, 2017, and we have reviewed the Responses to Comments document dated June 7, 2017.

Based on our review of the Final EIR, NMFS believes the document does not contain sufficient information to conclude the ACRP will not result in substantial effects on streamflows that support the migration of CCC steelhead in Alameda Creek. Streamflow simulation results presented in Figure 5.14-9 of the Draft EIR predict hydrologic conditions at a daily time-step, but it is unclear if this plot represents a comparison of "with project" to "without project" conditions. Table HYD6-2 of Appendix HYD1 offers some information regarding predicted changes in streamflows and this table indicates May flows will be reduced by approximately 30 percent with ACRP operations. The conclusion regarding potential impacts to steelhead migration presented in the EIR is based on an analysis of the "long-term" operation of the ACRP which doesn't fully take into account short-term impacts (*i.e.*, dry water years) and, as a result, the analysis presented in the EIR could significantly underestimate potential impacts to steelhead and migratory habitat.

Furthermore, the EIR asserts that steelhead migration will not be impacted by the ACRP because, for both with and without project scenarios, "precipitation-generated streamflows in Alameda Creek are predicted to exceed several hundred cubic feet per second during the December through June migration period¹." This reasoning fails to consider that steelhead do not migrate only during peak flow events, but may migrate anytime within the migration period when instream flows exceed identified minimum flow levels (*i.e.*, 25 cfs for adults, 12 cfs for juvenile/smolts in lower Alameda Creek). A more appropriate impact analysis would instead

¹ Response to Comments, page 11.4-32; and Draft EIR, page 5.14-126.



focus on changes in the amount of time flows exceed these minimum migration thresholds. In light of this comment, NMFS reviewed the daily modelling data provided to the Alameda County Water District on June 12, 2017, and found that ACRP operations will diminish migration opportunities for federally-threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*), especially outmigrating steelhead smolts, in some years. For instance, analysis of the daily streamflow data for May 2008 suggests ACRP operations could result in streamflows in lower Alameda Creek (as measured at the Niles Gage) dropping below the smolt passage threshold of 12 cfs for an additional 15 days when compared to the without ACRP condition.

Based on currently available information, NMFS does not concur with the Final EIR's conclusion that ACRP operations would not substantially interfere with the movement or migration of special-status fish species, including CCC steelhead (Impact B1-11 in the DEIR and Impact B1-16 in FEIR). We recommend San Francisco Planning Commission and the San Francisco Public Utilities Commission undertake additional analysis to examine the relationship between groundwater and surface water in the Sunol Valley for the purpose of determining the project's potential impacts on a daily time-step to streamflows in Alameda Creek downstream of the project site.

If you have any questions regarding these comments, please contact Rick Rogers at rick.rogers@noaa.gov, or 707-578-8552.

Sincerely,



Gary Stern
San Francisco Bay Branch Supervisor
North-Central Coast Office

cc: Tim Ramirez, SFPUC, San Francisco CA
Thomas Niesar, ACWD, Fremont, CA
Sean Cochran, CDFW, Santa Rosa, CA
Ryan Olah, USFWS, Sacramento, CA

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Tuesday, September 5, 2017

Time: 3:00 p.m.

Location: Legislative Chamber, City Hall, Room 250
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA

Subject: **File No. 170893.** Hearing of persons interested in or objecting to the certification of a Final Environmental Impact Report for the San Francisco Public Utilities Commission's proposed Alameda Creek Recapture Project, identified in Planning Case No. 2015-004827ENV, certified by the Planning Commission through Motion No. 19952 dated June 22, 2017. (Appellants: Robert Shaver of Alameda County Water District) (Filed July 24, 2017)

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, September 1, 2017.


p Angela Calvillo
Clerk of the Board

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

PROOF OF MAILING

Legislative File No. 170893

Description of Items: Public Hearing Notices - Hearing - Appeal of Final Environmental Impact Report Certification - Alameda Creek Recapture Project - 13 Notices Mailed


I, Lisa Lew, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: August 22, 2017

Time: 12:11 p.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

From: [Docs, SF \(LIB\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: RE: HEARING NOTICE: Certification of a Final Environmental Impact Report Appeal - Proposed Alameda Creek Recapture Project - Appeal Hearing on September 5, 2017
Date: Tuesday, August 22, 2017 2:26:32 PM
Attachments: [image001.png](#)

Hi Lisa,

I have posted the notice.

Thank you,

Michael Sherrod-Flores
Library Technical Assistant I
San Francisco Public Library
Government Information Center

From: BOS Legislation, (BOS)
Sent: Tuesday, August 22, 2017 2:11 PM
To: Docs, SF (LIB) <sfdocs@sfpl.org>
Cc: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: FW: HEARING NOTICE: Certification of a Final Environmental Impact Report Appeal - Proposed Alameda Creek Recapture Project - Appeal Hearing on September 5, 2017

Greetings,

Please kindly post the below linked hearing notice for public viewing.

Thank you.

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information*

from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: BOS Legislation, (BOS)

Sent: Tuesday, August 22, 2017 1:56 PM

To: robert.shaver@acwd.com; Ritchie, Steve (PUC) <sritchie@sfgwater.org>; Levin, Ellen (PUC) <elevin@sfgwater.org>

Cc: Givner, Jon (CAT) <jon.givner@sfgov.org>; Stacy, Kate (CAT) <kate.stacy@sfgov.org>; Byrne, Marlena (CAT) <marlena.byrne@sfgov.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lynch, Laura (CPC) <laura.lynch@sfgov.org>; Rodgers, AnMarie (CPC) <anmarie.rodgers@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Kern, Chris (CPC) <chris.kern@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Scarpulla, John (PUC) <jscarpulla@sfgwater.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Subject: HEARING NOTICE: Certification of a Final Environmental Impact Report Appeal - Proposed Alameda Creek Recapture Project - Appeal Hearing on September 5, 2017

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 5, 2017, at 3:00 p.m.**, to hear an appeal regarding the certification of a final environmental impact report for the proposed Alameda Creek Recapture Project.

Please find the following link to the hearing notice for the matter:

[Notice of Public Hearing Notice - September 5, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170893](#)

Thank you,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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From: [BOS Legislation. \(BOS\)](#)
To: robert.shaver@acwd.com; [Ritchie, Steve \(PUC\)](#); [Levin, Ellen \(PUC\)](#)
Cc: [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Kern, Chris \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Scarpulla, John \(PUC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation. \(BOS\)](#)
Subject: HEARING NOTICE: Certification of a Final Environmental Impact Report Appeal - Proposed Alameda Creek Recapture Project - Appeal Hearing on September 5, 2017
Date: Tuesday, August 22, 2017 1:56:22 PM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 5, 2017, at 3:00 p.m.**, to hear an appeal regarding the certification of a final environmental impact report for the proposed Alameda Creek Recapture Project.

Please find the following link to the hearing notice for the matter:

[Notice of Public Hearing Notice - September 5, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170893](#)

Thank you,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

August 2, 2017

File Nos. 170893-170896
Planning Case No. 2015-004827ENV

Received from the Board of Supervisors Clerk's Office one check, in the amount of Five Hundred Seventy Eight Dollars (\$578) representing the filing fee paid by Robert Shaver of Alameda County Water District via Hanson Bridgett LLP, for the appeal of the California Environmental Quality Act (CEQA) Certification of Final Environmental Impact Report for the proposed Alameda Creek Recapture Project.

Planning Department
By:

Tony
Print Name

[Signature] 8/3/17
Signature and Date

From: [BOS Legislation, \(BOS\)](#)
To: robert.shaver@acwd.com; [Ritchie, Steve \(PUC\)](#); [Levin, Ellen \(PUC\)](#)
Cc: [Scarpulla, John \(PUC\)](#); [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Kern, Chris \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: Appeal of CEQA Certification of Final Environmental Impact Report - Proposed Alameda Creek Recapture Project - Appeal Hearing on September 5, 2017
Date: Monday, July 31, 2017 4:44:52 PM
Attachments: [image001.png](#)

Good afternoon,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 5, 2017, at 3:00 p.m.** Please find linked below a letter of appeal filed for the proposed Alameda Creek Recapture Project, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Appeal Letter - July 24, 2017](#)

[Planning Department Memo - July 26, 2017](#)

[Clerk of the Board Letter - July 28, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170893](#)

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: July 26, 2017
 TO: Angela Calvillo, Clerk of the Board of Supervisors
 FROM: Lisa Gibson, Environmental Review Officer *LJ*
 RE: Appeal Timeliness and Standing Determination – SFPUC
 Alameda Creek Recapture Project, Planning Department Case
 No. 2015-004827ENV

1650 Mission St.
 Suite 400
 San Francisco,
 CA 94103-2479

Reception:
 415.558.6378

Fax:
 415.558.6409

Planning
 Information:
 415.558.6377

An appeal of the certification of the Final Environmental Impact Report (Final EIR) for the Alameda Creek Recapture Project, Planning Department Case No. 2015-004827ENV, was filed with the Office of the Clerk of the Board of Supervisors on July 24, 2017 by Rob Shaver, on behalf of the Alameda County Water District (Appellant).

Date of FEIR Certification	30 Days after FEIR Certification	Appeal Deadline (Must Be Day Clerk of Board's Office Is Open)	Date of Appeal Filing	Timely?
June 22, 2017	Saturday, July 22, 2017	Monday, July 24, 2017	July 24, 2017	Yes

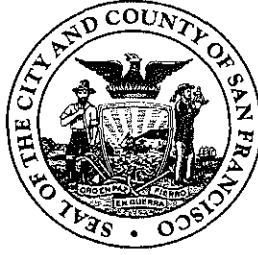
Timeline: On November 30, 2016, the Planning Department published the Draft Environmental Impact Report (Draft EIR) for the Alameda Creek Recapture Project with a public review and comment period from November 30, 2016 through January 30, 2017. On January 5, 2017, the Planning Commission held a duly advertised public hearing on the Draft EIR. The responses to comments document was issued on June 7, 2017. On June 22, 2017, the Planning Commission held a duly noticed hearing to consider certification of the Final EIR. The Planning Commission certified the Final EIR on June 22, 2017.

Appeal Deadline: Section 31.16(a) and (c) of the San Francisco Administrative Code states that any person or entity that has submitted comments to the Planning Commission or the Environmental Review Officer on a Draft EIR, either in writing during the public review period, or orally or in writing at a public hearing on the Draft EIR, may appeal the Planning Commission's certification of the Final EIR up to 30 days after the certification of the Final EIR. The 30th day after the certification of the Final EIR was Saturday, July 22, 2017. The next date the Office of the Clerk of the Board was open was Monday, January 24, 2017 (appeal deadline).

Appeal Filing and Timeliness: The Appellant filed the appeal of the Final EIR on July 24, 2017, prior to the appeal deadline and therefore the appeal is considered timely.

Appellant Standing: The Appellant submitted written comments on the Draft EIR and submitted comments at the public hearing on the Draft EIR. The Appellant therefore has standing to appeal the certification of the Final EIR.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

July 28, 2017

Mr. Robert Shaver
Alameda County Water District
43885 South Grimmer Boulevard
Fremont, CA 94538

**Subject: File No. 170893 - Appeal of California Environmental Quality Act (CEQA)
Certification of Final Environmental Impact Report - Alameda Creek
Recapture Project**

Dear Mr. Shaver:

The Office of the Clerk of the Board is in receipt of a memorandum dated July 26, 2017, from the Planning Department regarding their determination on the timeliness of your filing of appeal of the California Environmental Quality Act certification of the Final Environmental Impact Report for the proposed Alameda Creek Recapture Project.

The Planning Department has determined that the appeal was filed in a timely manner.

The appeal filing period closed on Monday, July 24, 2017. Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, September 5, 2017, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by noon:

20 days prior to the hearing: names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and

11 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing.

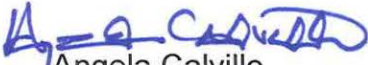
For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and two copies of the documentation for distribution.

Continues on next page

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

Very truly yours,


Angela Calvillo
Clerk of the Board

c: Steve Ritchie, San Francisco Public Utilities Commission
Ellen Levin, San Francisco Public Utilities Commission
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
John Rahaim, Planning Director
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Chris Kern, Environmental Impact Report Supervisor, Planning Department
Laura Lynch, Environmental Planning, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
AnMarie Rodgers, Senior Policy Advisor, Planning Department
Jonas Ionin, Planning Commission Secretary, Planning Department

Introduction Form

By a Member of the Board of Supervisors or 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 [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached 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 the Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Final Environmental Impact Report Certification - Alameda Creek Recapture Project

The text is listed:

Hearing of persons interested in or objecting to the certification of a Final Environmental Impact Report for the San Francisco Public Utilities Commission's proposed Alameda Creek Recapture Project, identified in Planning Case No. 2015-004827ENV, certified by the Planning Commission through Motion No. 19952 dated June 22, 2017. (Appellants: Robert Shaver of Alameda County Water District) (Filed July 24, 2017)

Signature of Sponsoring Supervisor: *Alia Bernal*

For Clerk's Use Only