

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Susan Glendening)
MEETING DATE: August 8, 2018

ITEM: 5C

SUBJECT: **Santa Clara Valley Water District, Lower Guadalupe River Flood Control Project, Santa Clara County –**
Rescission of Waste Discharge Requirements and Water Quality Certification

CHRONOLOGY: **September 2002** - Waste Discharge Requirements and Water Quality Certification adopted.

DISCUSSION: This Revised Tentative Order (Appendix A) would rescind Order No. R2-2002-0089 (Order), which is no longer needed. The Board adopted the Order to issue waste discharge requirements and water quality certification to the Santa Clara Valley Water District (District) for construction of the Lower Guadalupe River Flood Control Project (Project). The Project was constructed to modify the Guadalupe River to contain up to the 100-year flow event within the river's banks in the reach from Interstate 880 downstream to Alviso Slough (6.5 miles). Project activities included sediment removal, road and levee construction, weir construction, and levee maintenance. The Order also covered completion of the mitigation for the Project's impacts to jurisdictional wetlands and other waters of the State and the U.S. Successful mitigation resulted in revegetation of 6.51 acres of riparian habitat and construction of 35.54 acres of intertidal wetland habitat at the Island Ponds Restoration Project in Fremont. With the Project and its mitigation completed, the Order is no longer needed. A tentative order was circulated for a 30-day public comment period; no written comments were received. In addition to making minor formatting and editorial changes, staff made a change to Finding 3 by moving one sentence and deleting another to clarify the amount of wetlands constructed for mitigation. We expect this item to remain uncontested.

**RECOMMEN-
DATION:** Adoption of the Revised Tentative Order

**CIWQS Place
Number:** 238771

APPENDIX A: Revised Tentative Order

Appendix A
Revised Tentative Order

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

REVISED TENTATIVE ORDER No. R2-2018-XXXX

RESCISSION OF ORDER No. R2-2002-0089

**WASTE DISCHARGE REQUIREMENTS and WATER QUALITY CERTIFICATION for:
SANTA CLARA VALLEY WATER DISTRICT
LOWER GUADALUPE RIVER FLOOD PROTECTION PROJECT
CITIES OF SAN JOSE AND SANTA CLARA, SANTA CLARA COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Water Board), finds that:

- 1. Purpose of Order:** The purpose of this Order is to rescind Waste Discharge Requirements and Water Quality Certification Order No. R2-2002-0089, adopted September 18, 2002, for the Santa Clara Valley Water District (the Discharger) for the facility known as the Lower Guadalupe River Flood Control Project (Project), which extends from Alviso Slough upstream for 6.5 miles to Interstate 880 (the Discharge Site), in Santa Clara County.
- 2. Background:** The Water Board adopted Order No. R2-2002-0089 to prescribe discharge requirements under the Porter-Cologne Water Quality Control Act and water quality certification under section 401 of the federal Clean Water Act for the Project. The purpose of the Project was to undertake activities to provide 100-year flood protection along the Discharge Site, for which the Discharger has rights-of-way and is authorized to provide flood control as a California special district (Chapter 1405 of the Statutes of 1951, as amended). The discharge requirements were in active use from September 18, 2002, until December 16, 2016.

The Discharge Site had been impacted by ten noteworthy floods since 1940. The Project modified previous flood control measures implemented in 1983 and 1995 on the lower Guadalupe River. The modifications in the Discharge Site restored the flood conveyance capacity of the existing channel and provided additional capacity to convey flood flows of approximately 18,350 cubic feet per second (cfs) during a design flood event. Prior to construction of the Project, the discharge capacity varied by reach from 14,000 to 17,000 cfs.

- 3. Project Impacts and Mitigation:** The Project activities resulted in the permanent loss of 0.48 acre of nontidal freshwater wetlands, 2.48 acres of tidal freshwater wetlands, 0.51 acre of other waters of the State and U.S., and 2.16 acres of riparian habitat. Permanent impacts were from road and levee construction throughout the Project area and from weir construction and levee maintenance activities in the baylands along Alviso Slough. Project activities resulted in temporary impacts to 27.33 acres of wetlands and other waters of the State and the U.S. Temporary impacts were from sediment removal and vegetation management activities throughout the Project area and from weir construction and levee maintenance activities in the baylands along Alviso Slough. To compensate for the permanent impacts and temporary impacts, the Order required the Discharger to revegetate a minimum of 6.48 acres of riparian area within the Project area, with appropriate native riparian species, and construct a minimum of 35.54 acres of wetlands at its tidal wetland mitigation site (formerly Cargill Salt Pond A4) located along South San Francisco Bay.

The Discharger successfully established 6.51 acres of riparian mitigation for the Project and discontinued the associated monitoring and reporting in 2014 with concurrence by State and federal agencies, including the Water Board, as documented in the *Water Year 2014 Mitigation and Monitoring Report*. Wetland mitigation for the Project was transferred from the Cargill Salt Pond A4 site to the South Bay Salt Ponds Restoration Project's ponds 19-21, known as the Island Ponds Restoration Project, with concurrence by the agencies. On December 16, 2016, the Water Board issued a letter to the Discharger recognizing that the Island Ponds Restoration Project was successful in meeting the Project's 35.54-acre tidal marsh compensatory mitigation requirement and that associated monitoring and reporting could be discontinued.

4. **Basis for Rescission:** The flood conveyance capacity of the existing channel of the lower Guadalupe River has been restored, and mitigation for impacts has been successfully completed. Accordingly, Order No. R2-2002-0089 is no longer applicable and no longer needed.
5. **CEQA:** This action rescinds an order of the Water Board. Rescission of this Order is not a project as defined in the California Environmental Quality Act (CEQA). There is no possibility that the activity in question may have a significant effect on the environment. (Cal. Code Regs., tit. 14 §§ 15378 and 15061, subd. (b)(3).)
6. **Notification:** The Water Board has notified the Discharger and interested agencies and persons of its intent to rescind the waste discharge requirements and water quality certification and has provided them with an opportunity to submit their written comments.
7. **Public Hearing:** The Water Board, at a public meeting, heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED that Order No. R2-2002-0089 is rescinded except for purposes of enforcement.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on August 8, 2018.

Bruce H. Wolfe
Executive Officer