



memorandum

date August 7, 2023

to Hugh Davis, Marin County Flood Control and Water Conservation District

cc Rachel Reid and Tammy Taylor, Marin County Community Development Agency

from Karen Lancelle, ESA

subject San Anselmo Flood Risk Reduction Project Mitigation Planting Addendum – Response to Public Comments

The Marin County Flood Control and Water Conservation District (“District”) in May 2023 published the San Anselmo Flood Risk Reduction Project (“SAFRR project”) Mitigation Planting Addendum (“Addendum”), an addendum to the SAFRR project environmental impact report (FEIR). The FEIR was certified in September 2018. As stated in the Addendum Chapter 1, Introduction and Summary, to comply with FEIR Mitigation Measures 4.5-7a and 4.5-7b, and as a condition of the San Francisco Bay Regional Water Quality Control Board (regional board) permit and the California Department of Fish and Wildlife (CDFW) streambed alteration agreement, the SAFRR project is required to implement compensatory mitigation for impacts on waters of the state at the flood diversion and storage (FDS) basin.¹

Since approval of the SAFRR project, the District identified a location for the mitigation planting that is required by the FEIR, the regional board, and CDFW to compensate for riparian vegetation removal impacts of the FDS basin. The location of the proposed mitigation planting site was not within areas previously evaluated in the FEIR. The mitigation planting is the “proposed action” that was subject of the Addendum.

Although not required by the California Environmental Quality Act (CEQA), the District made the Addendum available on its website for public review and received comments on the Addendum for 30 days, ending on July 10, 2023. A total of six commenters provided comments on the Addendum, listed in **Table 1**. This memorandum provides responses to the comments received on the Addendum. **Attachment A** includes the full text of the comments received on the Addendum.

¹ San Francisco Bay Regional Water Quality Control Board, Clean Water Act Section 401 Water Quality Certification and Order for San Anselmo Flood Risk Reduction Project, Marin County, Condition 15. February 7, 2022; California Department of Fish and Wildlife, Final Lake or Streambed Alteration Agreement, Notification No. 1600-2020-0146-R3, San Anselmo Flood Risk Reduction Project, October 1, 2021.

TABLE 1
COMMENTERS ON MITIGATION PLANTING ADDENDUM

Commenter	Date
John Crane	July 10, 2023
Roseann Dal Bello	July 10, 2023
Ford Greene	July 10, 2023
Garril Page	July 10, 2023
Ann Politzer	July 10, 2023
Doug Ryan	June 17, 2023

Comments received on the Addendum discussed the scope of the Addendum, FEIR Mitigation Measure 4.9-4 (Provide Flood Protection to Substantially Affected Areas), and potential impacts associated with the downtown San Anselmo project component of the SAFRR project (also referred to as Building Bridge 2 or BB2). Commenters also remarked on the FEIR statement of overriding considerations and the mitigation planting plans. Responses to comments received on these topics are provided below.

The comments provided do not require changes to the analysis or the conclusions of the Addendum, and no revisions to the Addendum have been made in response to the comments or any other information in the record. Consistent with the findings of the Addendum, pursuant to State CEQA Guidelines Section 15162 through 15164, an Addendum to the 2018 SAFRR FEIR is warranted for CEQA compliance and either a subsequent or supplemental EIR are not required.

Scope of the Mitigation Planting Addendum

Commenters Politzer, Crane, Greene, Page, and Ryan discuss the SAFRR project activities that were proposed in the FEIR at 634-636 San Anselmo Avenue in downtown San Anselmo, and note that the Addendum does not discuss impacts of the downtown San Anselmo activities or mitigation requirements associated with the downtown San Anselmo activities.

The location of the proposed mitigation planting site is not within areas previously evaluated in the FEIR, and is within a separate watershed from the SAFRR project components discussed in the FEIR. The mitigation planting is the “proposed action” that was subject of the Addendum. The Addendum solely focused on the mitigation planting in San Geronimo to meet compensatory mitigation requirements of the regional board permit and the CDFW streambed alteration agreement, and downtown San Anselmo components are not included in the Addendum because they were already considered as part of the FEIR and the Addendum does not support further discretionary action related to downtown San Anselmo.

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

The SAFRR FEIR identifies many mitigation measures to reduce or avoid impacts of the SAFRR project. Appendix A of the Addendum included the adopted SAFRR FEIR mitigation measures for reference. Mitigation for impacts on sensitive natural communities, which is the purpose of the proposed action evaluated in the Addendum, is required by Mitigation Measures 4.5-7a (Vegetation Protection for Sensitive Natural Communities)

and 4.5-7b (Habitat Restoration and Monitoring Plan). The mitigation referenced by Commenter Politzer is specified in FEIR Mitigation Measure 4.9-4 (Provide Flood Protection to Substantially Affected Areas), provided below.

Mitigation Measure 4.9-4: Provide Flood Protection to Substantially Affected Areas

For areas upstream and downstream of the Winship Bridge (between Barber Avenue and the Sir Francis Drake Bridge): ~~If the Winship Bridge Replacement Project is not completed prior to construction of the Project, the~~ Flood Control District shall develop, ~~fund,~~ and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event. The flood barriers shall be designed based on hydraulic modeling demonstrating that the flood barriers would protect existing habitable structures on any properties upstream of the Sir Francis Drake Bridge from new inundation during the 25-year event, or to any higher degree of protection required for that particular type of measure by applicable building codes. Flood barriers include but are not limited to the following measures:

- Elevation of structures above the 100-year flood elevations
- Basement removal and construction of an addition to contain utilities removed from the basement
- Wet flood proofing of structures, in which, with use of water resistant materials, floodwaters are allowed to enter a structure during a flood event
- Dry flood proofing of structures
- Berms or flood walls

For areas immediately upstream of the Nursery Basin site: The Flood Control District shall develop, ~~fund,~~ and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event.

For both of those locations: The flood barriers would ensure that existing habitable structures would not be inundated by the 25-year event. Upon confirmation of permission by the property owners, the Flood Control District shall implement this measure, including implementing any measures identified in permits required from the California Department of Fish and Wildlife, Regional Water Quality Control Board, or other regulatory agencies. However, the potentially adversely affected parcels are privately owned, and the Flood Control District ~~cannot necessarily~~ is not proposing to require the installation or implementation of flood barriers because without the consent of the property owner(s), who may specifically request that such measures not be implemented. In that case, this Mitigation Measure ~~shall~~ would not be implemented, and the affected parcels may experience an increased level of flood inundation in a 25-year event or larger.

The degree of flood protection provided to an individual property will vary depending on the specifics of the flood barrier selected. For most of the flood barriers, the Flood Control District shall provide protection from the 25-year event. However, pursuant to Marin County building code and associated permitting requirements, any increase in structure elevation must be to an elevation sufficient to raise the finished first floor above the elevation of the 100-year flood event. Therefore, property owners who accept that form of flood barrier would receive assistance to implement 100-year protection.

Funding and Implementation Responsibility (Both Locations): For flood walls or berms at the top-of-bank of San Anselmo Creek or Fairfax Creek on privately owned parcels and with the property owners' permission, the Flood Control District shall fund, design, build, and maintain all aspects of those

measures, including their possible future removal if implementation of other flood risk reduction projects renders these flood walls or berms unnecessary as determined by the Flood Control District. For a flood barrier that involves improvements or modifications to privately owned habitable structures covered by Mitigation Measure 4.9-4 (structure elevation, wet proofing, dry proofing, basement removal and construction of an addition to house water heaters, furnaces, and similar home appliances, etc.), the Flood Control District shall fully fund the design and provide funding to the property owner for implementation –that is proportional to the increased flood depth with the project. The funding would be provided to the property owner to implement these modifications or improvements. The property owner would be responsible for construction, implementation, and future maintenance of the structure and any associated flood mitigation measures or improvements.

Commenters Politzer, Crane, Greene, and Ryan argue that the Addendum modifies Mitigation Measure 4.9-4. However, Mitigation Measure 4.9-4 as shown in the Addendum and above reflects the modifications made in 2018 in response to public comments on the SAFRR project FEIR and adopted in 2018 (refer to **Attachment B**). Appendix A of the Addendum reproduced the adopted measures, including the strikethrough and underline revisions made to Mitigation Measure 4.9-4 in response to comments received on the draft EIR. The Addendum proposes no revisions to Mitigation Measure 4.9-4; the Addendum instead reproduces Mitigation Measure 4.9-4 as adopted in 2018 (as also shown above).

Potential Impacts of Downtown San Anselmo Component

Commenters Crane, Greene, Page, and Ryan discuss potential impacts of the SAFRR project that were identified in the FEIR (generally focused on flooding impacts) and argue that the changes to the design of the downtown San Anselmo component would have additional impacts beyond those identified in the FEIR. Bello states that the impacts of the SAFRR project downtown San Anselmo component should be re-evaluated.

The downtown San Anselmo components are not included in the Addendum because they were already considered as part of the FEIR and the Addendum does not support further discretionary action related to downtown San Anselmo.

Commenter Dal Bello states that they have not read the FEIR and would like to know if the issues noted by the commenter were directly identified in the FEIR and whether mitigation was prepared for each. The SAFRR FEIR is available for review at <https://marinfooddistrict.org/san-anselmo-flood-risk-reduction-project-documents/>.

FEIR Statement of Overriding Considerations

Commenter Crane states that there is no statement of overriding considerations filed for the SAFRR project, and highlights that the California Department of Fish and Wildlife, which is not the lead agency under CEQA, did not adopt a statement of overriding considerations for the project. The District as lead agency appropriately adopted a statement of overriding considerations for the SAFRR project on September 18, 2018, which was included in the record of the project approval (refer to Attachment B). The process for a responsible agency, such as CDFW for the SAFRR project, is identified in CEQA Guidelines Section 15096. As stated in CEQA Guidelines Section 15096(a), “General. A Responsible Agency complies with CEQA by considering the EIR or Negative Declaration prepared by the Lead Agency and by reaching its own conclusions on whether and how to approve the project involved.” CDFW’s findings under CEQA did not consider effects outside the scope of CDFW jurisdiction.

Mitigation Planting Plans

Commenter Dal Bello states that the Addendum should include planting plans for the proposed mitigation work, that the plans should be reviewed by the public, that the maintenance period of the new planting should be a minimum of one year, and the ratio of removed trees to mitigated trees should be a minimum of 5:1.

The Addendum includes planting plans (shown in Figure 3 of the Addendum), as recommended by Commenter Dal Bello. The District will plant approximately 1,700 native plants and trees. The maintenance period of the mitigation planting is at a minimum five years, which is longer than the 1 year of maintenance recommended by commenter Dal Bello. The ratio of removed to mitigated trees varies depending on the size of the tree removed and ranges from 1:1 (for non-native trees) to 10:1 (for oak trees with greater than 15-inch diameter at breast height) as specified in the permits for the project issued by the California Department of Fish and Wildlife and the Regional Water Quality Control Board.

Attachment A

Public Comments on the Mitigation Planting Addendum

From: [John Crane](#)
To: [EnvPlanning](#); [Christa Johnson - Town Manager](#); Karla.nemeth@water.ca.gov; [Steve Burdo](#); [Bishop, Michael](#); [Nakagaki, Michael](#); [Serena Cheung](#); [Brian](#); [BOS](#); towncouncil@townofsananselmo.org; towncouncil@townofross.org
Subject: COMMENTS: Public Draft of SAN ANSELMO FLOOD RISK REDUCTION PROJECT MITIGATION PLANTING Addendum
Date: Monday, July 10, 2023 11:42:22 AM
Attachments: [Notice of Determination small.png](#)
[19 Homes-Removed.png](#)
[REV - COMPARISON CHART.png](#)
[Flood Advisory 9-062623.pdf](#)
[ROSS TOWN COUNCIL-030923-Reporter"s Transcript.pdf](#)
[FINAL CRANE COMMENTS 7.10.23.pdf](#)

Ms. REID

PLEASE USE THE ATTACHED [FINAL CRANE COMMENTS 7.10.23.pdf](#) SO THE EXHIBITS AND CITATIONS REMAIN INTACT. PLEASE CONFIRM RECEIPT OF THIS EMAIL. THANK YOU.

John Crane
johncranefilms@gmail.com

July 10, 2023

Via Electronic Mail

Ms. Rachel Reid
Environmental Planning Manager
Marin County Community Development Agency 3501 Civic Center Drive, Room 308
San Rafael, CA 94903
Envplanning@marincounty.org

**Re: Public Draft of SAN ANSELMO FLOOD RISK REDUCTION PROJECT
MITIGATION PLANTING Addendum**

Dear Ms. Reid:

This letter provides my comments on the Public Draft of the SAN ANSELMO FLOOD RISK REDUCTION PROJECT MITIGATION PLANTING Addendum to the 2018 San Anselmo Flood Risk Reduction Project Final Environmental Impact Report (SCH # 2017042041) (“Draft SAFRR EIR Addendum”) prepared by the Marin County Flood Control and Water Conservation District (“District”). I own and reside at 86 Sir Francis Drake Boulevard, Ross, CA 94957. As described in further detail below, my home will be directly impacted by the San Anselmo Risk Reduction Project (“Project”) and as such I have a significant interest in ensuring that the District has fulfilled their respective legal obligations under the National Environmental Policy Act (“NEPA”)^[1] and the California Environmental Quality Act (“CEQA”)^[2]. Unfortunately, the Draft SAFRR EIR Addendum is legally deficient in numerous ways, not least of which are: an inadequate Summary of Proposed Action; inadequate analysis of the significant impacts on property owners due to a lack of surveying and inadequate hydrological modeling that has not been made public; inadequate and confusing information on funding for mitigation measures and the potential environmental impacts introduced by property owners refusing mitigation measures; and failure to address

John Crane
johncranefilms@gmail.com

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The Project should not proceed until the issues raised in this letter are addressed and the Draft SAFRR EIR Addendum is revised and recirculated for further public review and comment. Otherwise, the District will have failed in fulfilling their fundamental obligation to inform the public and decision makers of the potential environmental consequences caused by the Project.

[1]43 U.S.C. §§ 4321 et seq. NEPA is implemented pursuant to regulations promulgated by the Council on Environmental Quality (“CEQ”), codified at 40 C.F.R. § 1500 et seq. (“CEQ Regulations”).

[2] Cal. Pub. Res. Code § 21000–21189; CEQA is implemented pursuant to California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000– 15387 (“CEQA Guidelines”).

[3](Pub. Res. Code § 21166; Guidelines § 15162(a).)

BACKGROUND

My home is located on Sir Francis Drake Blvd. on the Creek immediately adjacent to Winship Avenue Bridge, a.k.a. Winship Bridge. I lived in my home during the 2005 Flood Event, which resulted in fast-flowing water coming down the creek. Importantly, during this event, my home did not flood. I have significant concerns that the Project proposes to increase water surfaces level at my home and those of my neighbors. This concern is exacerbated by the fact that the Project has identified these impacts in the original San Anselmo Flood Risk Reduction Project EIR (“SAFRR EIR”), but has failed to propose or provide any mitigation measures for my home as described in the SAFRR EIR. After more than 5 years of listening to the District assuring the Town Council of San Anselmo and the Town Council of Ross that it would follow FEMA regulations - notably the “no-rise” rule or the regulatory requirements of 44 CFR §65.12, and provide appropriate mitigation measures per FEMA guidelines, I have grave concerns about the District’s ability to deliver ability to implement and fund said mitigation measures. The Draft SAFRR EIR Addendum adds to my concerns, and further undermines the credibility and trust of the District’s true intentions.

I feel compelled to share detailed background information because it is critical to understanding how the San Anselmo Flood Risk Reduction Project ended up in a state of chaos and confusion. I will primarily focus on the last three meetings where the District made presentations that were filled with confusing and contradictory statements, mis-information and inconsistencies. As a result, the Project has morphed into a nightmare. It does not appear to offer flood remediation, and proposed actions under consideration by the District will quite possibly make matters worse such as raising water surface levels on properties upstream of Winship Bridge.

There have been three recent meetings that have raised significant concerns about the Project, and District’s ability to manage the Project successfully:

- **March 9, 2023 Ross Town Council Meeting**
- **March 28, 2023 San Anselmo Council Meeting**
- **June 26, 2023 Flood Zone 9 Advisory Board Meeting**

Below are some key moments from the District’s ever-changing plans.

BACKGROUND – a. RECENT PROJECT CHANGES

It is important to understand that the District is now trying to implement a project that looks nothing like what has been discussed over the past several years, and now includes elements that have not been fully disclosed to the public. The Grant money is set to run out in 2024, and as a result the District is urgently pushing construction at the expense of following the original plan in the SAFRR EIR. This puts pressure on the Draft SAFRR EIR Addendum to fill in the gaps - which it has failed to do.

Scope of
the
Mitigation
Planting
Addendum

The baffle was never anticipated in the SAFRR EIR, and the environmental impacts for the combination of removing Building Bridge #2 (“BB#2”) and implementing the baffle have not been disclosed and/or studied and therefore the extent of environmental harm has not been made public. In addition, until recently it has always been presented that the District would use CLOMR, but they are now proposing LOMR which runs the risk of jeopardizing the good standing with the National Flood Insurance Program for the Towns of Ross and San Anselmo. This is a major shift. At public meetings, the District’s Berenice Davidson, Assistant Director, made several statements suggesting she doesn’t need to get approval from FEMA, while suggesting she won’t put NFIP in jeopardy. However, actions speak louder than words – and it is clear that she intends to use LOMR because apparently, it's easier to ask forgiveness than to get permission. However, for months she has promised to obtain FEMA’s approval in advance. This is a notable and dramatic shift in strategy.

Here are two direct quotes from Davidson that underscore this shift (please see attached transcripts):

March 9, 2023 Ross Town Council Meeting

Berenice Davidson So, my next step is to have a conversation with FEMA and finalize the conditional letter of map revision. And I get to discuss with them, parcel by parcel, the mitigations that I would propose. And we are going to mitigate; the mitigation measures are identified in the EIR. And the mitigation measures are also in our floodplain ordinances.

June 26, 2023 Zone 9 Flood Advisory Board

Berenice Davidson: We don't need any approval from FEMA at this point. The recommended strategy is that we go to FEMA and require a little map revision after we remove Building Bridge 2.

For good measure Davidson added that she would “jeopardize our good standing with the National Flood Insurance Program with FEMA.” However, that good standing is now at risk per the decision to pursue LOMR instead of CLOMR.

March 9, 2023 Ross Town Council Meeting

Berenice Davidson: There is no way that I would ever do anything that would jeopardize our good standing with the National Flood Insurance Program with FEMA. That is not going to happen.

BACKGROUND – b. NO MITIGATION FOR HOMES THAT WILL SEE NEW INUNDATION

The district is proposing to remove mitigation for the homes between Winship Bridge and Sir Francis Drake Bridge that will see new inundation of up to approximately 4 inches per **Figure 4.9-7** in the SAFRR EIR. Poor planning and funding issues have led the District to circumvent FEMA guidelines which they deny; however, the record is clear - the District was promising the Towns that they would follow FEMA guidelines until the Flood Zone 9 Advisory Board meeting on June 26, 2023. Portions of the relevant transcripts are provided below.

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

BACKGROUND – c. THE “IRONY AND ILLOGIC OF THE FEMA ‘NO-RISE’ RULE

Supervisor Rice has a well-documented history of trying to bypass the regulatory requirements of 44 CFR §65.12, and as noted above is an outspoken critic of the “irony and illogic of the FEMA ‘no-rise’ rule.” This has resulted in attempts to bypass FEMA regulations, despite public assurances to the contrary.

In 2018, the SAFRR EIR identified 20 properties that would need mitigation. The District then attempted to reduce mitigation to 3 properties in 2020, and then at the Flood Zone 9 Advisory Board meeting in June 2023, it was revealed that over 50 properties need mitigation. That is almost 3x the number of properties identified in the original EIR. It is noteworthy that the District currently lacks the funding to provide mitigation for 20 homes, let alone more than 50.

Potential Impacts of Downtown San Anselmo Component

If properties downstream of Sir Francis Drake Bridge – intentionally left out of the project – see a rise as many property owners in that area fear, the total amount of impacted properties could well be in excess of 100 or more.

BACKGROUND – d. DAVIDSON “WE ARE GOING TO MITIGATE”

At the March 9, 2022, Town of Ross Town Council meeting, the District’s Berenice Davidson, Assistant Director, made the following statements assuring the Town Council that 1) mitigation would be provided, 2) FEMA regulations would be followed and 3) she would protect “good standing” with the National Flood Insurance Program:

Berenice Davidson: So, my next step is to have a conversation with FEMA and finalize the conditional letter of map revision. And I get to discuss with them, parcel by parcel, the mitigations that I would propose. And we are going to mitigate; the mitigation measures are identified in the EIR. And the mitigation measures are also in our floodplain ordinances. The County has a floodplain ordinance, so does the Town of Ross, Town of San Anselmo, and all jurisdictions that are participants in the National Flood Insurance program. There is no way that I would ever do anything that would jeopardize our good standing with the National Flood Insurance Program with FEMA. That is not going to happen.

However, at a subsequent public meeting Davidson's made contradictory statements creating significant confusion. At the June 26, 2023 Zone 9 Flood Advisory Board, Davidson announced that a meeting arranged by Rice and Director Rosemarie Gaglione with Jared Huffman's office had taken place. The meeting was held with FEMA representatives including FEMA legal counsel and the District flood managers. Notably, flood managers for the affected towns of San Anselmo and Ross were not included in this meeting with FEMA.

BACKGROUND – e. DAVIDSON “WE ARE PAST THE NO-RISE REQUIREMENT”

At the Zone 9 Flood Advisory Board, Davidson made the following incredulous statements regarding the removal of Building Bridge #2 “we are past the no-rise requirement” and FEMA are “antiquated regulations”:

Berenice Davidson: FEMA does have a requirement that no project, no new development that happens in floodways, you cannot allow anything if it causes a rise. FEMA has very antiquated regulations.

The EIR concludes that the removal of this bridge does cause a rise, and we are required to mitigate. But we are past the no-rise requirement. We are very open; we will cause a rise. And we will mitigate because, if we don't mitigate, then we get in trouble with FEMA, and that is the least thing we want to do.

Alarming, minutes later Davidson next said she didn't need FEMA's approval:

Berenice Davidson: We don't need any approval from FEMA at this point. The recommended strategy is that we go to FEMA and require a little map revision after we remove Building Bridge 2. And we're going to do two things. We're going to share the district's model because the model better represents the floodplains of this valley.

BACKGROUND – f. DAVIDSON “THE CHANGES FROM THE CERTIFIED EIR IS THAT WINSHIP WILL REMAIN”

After the Huffman/Rice arranged meeting took place, Davidson revealed, for the first time, at the June 26th Advisory Board meeting that Winship Bridge will remain:

Berenice Davidson: And the changes from the certified EIR is that Winship is to remain.

The EIR ran the model with Winship removed, with Building Bridge 2 removed, and some of the bridges upstream removed. So, we have to change it because

we're only doing Bridge 2 next year. And therefore, we have to identify which properties are the ones impacted. The impacts are the same. They're either going to cover a rise and where -- it's the same. We identify that in the EIR. We simply need to know which ones we need to work with. And that's what we're doing.

There are significant problems with this *late-in-the-game* revelation. Davidson told the Town Councils of both San Anselmo and Ross in her March presentations that Winship Bridge had to be replaced. It appears the District had a sudden dramatic change of direction after the Huffman/Rice arranged meeting behind closed doors.

BACKGROUND – g. DAVIDSON “I CANNOT GIFT PUBLIC MONEY

In an apparent reference for funding for mitigation measures, Davidson strangely added that she cannot not “gift public funds”:

Berenice Davidson: What I'm dealing with is that I cannot gift public funds. Can we arrive at some sort of agreement? I think so. But I'm not willing to engage at this point until I -- until I have the specifics. But that is a conversation that's going to have to occur given each of those scenarios.

Characterizing funding for FEMA mandated mitigation measures as a “gift” is a warning shot that cannot be taken lightly by impacted property owners. Davidson’s confusing remarks and contradictions underscore her willingness to flip flop as it suits her.

BACKGROUND – h. DAVIDSON WRONG ABOUT STATEMENT OF OVERRIDING CONSIDERATION

Significantly adding to the confusion is Davidson’s apparent misunderstanding of Statement of Overriding Consideration. She told the Flood Zone 9 Advisory Board that:

Berenice Davidson: So, all I can refer to is in our certified EIR did -- they did a statement of overriding considerations.

FEIR
Statement of
Overriding
Considerations

Apparently, Davidson does not know that there is no Statement of Overriding Consideration filed for the Project 2017042041 according to the CQEA Notice of Determination. **SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code section 21108 State Clearinghouse Number: 2017042041 Dated 10.1.21 – “A statement of overriding considerations was not adopted by CDFW for this project.”** Please see below.

Cal. Code Regs. tit. 14 § 15093 which requires: **(c)** *If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.*

Cal. Code Regs. Tit. 14, § 15093

The Statement of Overriding Consideration is only mentioned once in the SAFRR EIR on page 2-14 and states:

The Flood Control District’s Board of Supervisors will need to consider whether to adopt a statement of overriding considerations...

The “need to consider” does not mean it was adopted. It appears Davidson is wrong and has misinformed the Flood Zone 9 Advisory Board, Public officials, and the public. If Davidson has Statement of Overriding Consideration it must be made public immediately.

FEIR
Statement of
Overriding
Considerations

Notice of Determination

Doughnut Envelope ID: 26482921-795E-4838-8315-60E7106B173

Notice of Determination

To:
Office of Planning and Research
For U.S. Mail:
P.O. Box 2044
Sacramento, CA 95812-3044

Street Address:
1400 Tenth Street
Sacramento, CA 95814

From:
Department of Fish and Wildlife
Bay Delta Region
2525 Cordelia Road, Suite 100
Fairfield, CA 94534
Contact: Amanda Caloggero
Phone: (707) 428-2075



Lead Agency:
Main County Flood Control and Water
Conservation District
3501 Civic Center Drive
San Rafael, CA 94903
Contact: Liz Lewis
Phone: (415) 475-7226

- 4. A mitigation reporting or monitoring plan was / was not adopted by CDFW for this project.
- 5. A statement of overriding considerations was / was not adopted by CDFW for this project.
- 6. Findings were / were not made by CDFW pursuant to California Code of Regulations section 15091.

Project Description: The California Department of Fish and Wildlife (CDFW) has executed Lake and Streambed Alteration Agreement number 1600-2020-0146-R3, pursuant to section 1802 of the Fish and Game Code to the project Applicant, Main County Flood Control and Water Conservation District.

The project is limited to flood risk reduction activities at both locations. At Fairfax Creek, the project will install a passive flood diversion basin. At San Anselmo Creek, the project will remove a building that spans San Anselmo Creek and restore the channel to that area.

This is to advise that CDFW, acting as a Responsible Agency, approved the above described project on October 1, 2021 and has made the following determinations regarding the project pursuant to California Code of Regulations section 15096, subdivision (i):

- 1. The project will / will not have a significant effect on the environment. This determination is limited to effects within CDFW's permitting jurisdiction as a Responsible Agency.
- 2. CDFW considered the environmental impact report prepared by the Lead Agency for this project pursuant to California Code of Regulations section 15096, subdivision (i).
- 3. Mitigation measures were / were not made a condition of CDFW's approval of the project.
- 4. A mitigation reporting or monitoring plan was / was not adopted by CDFW for this project.
- 5. A statement of overriding considerations was / was not adopted by CDFW for this project.
- 6. Findings were / were not made by CDFW pursuant to California Code of Regulations section 15091.

The final environmental impact report prepared for the project is available to the general public at the office location listed above for the Lead Agency. CDFW's record of project approval as Responsible Agency is available at CDFW's regional office.

Signature: John Coombes Date: 10/1/2021
Craig J. Weigman, Environmental Program Manager

Date Received for filing at OPR: _____

BACKGROUND – i. THROWING OUT CLOMR FOR LOMR

Town of Ross Public Work Director, Richard Simonitch, told the Flood Zone 9 Advisory Board the plan Davidson unveiled means the District is bypassing the “conditional” CLOMR process and moving directly to the LOMR (letter of map revision) process. Simonitch informed the Advisory Board that by constructing the entire project, and then asking FEMA if it is in compliance, may be allowed under the CFR, but they are taking a big risk. Because it is possible

that FEMA and the Federal Insurance Administrator will not find it acceptable, leaving San Anselmo and Ross suddenly out of compliance with the NFIP until the District fixes it.

This is at odds with what Davidson told Town of Ross Town Council meeting as previously stated:

Berenice Davidson: There is no way that I would ever do anything that would jeopardize our good standing with the National Flood Insurance Program with FEMA. That is not going to happen.

As a result, with all these misstatements, confusion, and intentional semantic evasions, Davidson is making it impossible for the public and decision makers to have an accurate understanding of the Project. To me and numerous other members of the community, it feels as if the District has pulled a bait and switch, promising a flood control project that would address the significant flooding problems that have plagued the Ross Valley community for decades, only to deliver a project that looks nothing like what has been discussed over the past several years.

COMMENTS

1. Inadequate Summary of Proposed Action

1.2 Summary of Proposed Action does not address the relevant actions that have been modified and/or proposed to advance the project as currently envisioned.

For instance, at the March 28, 2023 San Anselmo Town Council meeting the Next Steps for Building Bridge #2 (“BB2”) included:

- District & FEMA - Review District Model and Mitigation Approach
- District - Prepare and Submit Conditional Letter of Map Revision (CLOMR)
- FEMA - Review of Model (after this Construction can proceed)
- FEMA - Floodplain Remapping Public Outreach (independent of BB2 Project)

Scope of the Mitigation Planting Addendum

However, the District is now proposing to construct the Project with LOMR instead CLOMR, eliminating FEMA guidance and approval, as noted above just months before. Davidson informed the Flood Zone 9 Advisory Board ON June 26, 2023. This shift is not discussed in the Summary of Proposed Action, yet it is far more relevant to environmental concerns of the creek bed. The potential effects caused by working in the creek bed include: erosion and increased velocities, scour, riparian and wildlife and harm to the roots surrounding nearby redwood trees. Eliminating FEMA role is not explained in the Draft SAFRR EIR Addendum.

A significant problem with the Draft SAFRR EIR Addendum is that it was written in May 2023, after Davidson’s presentation to the Flood Zone 9 Advisory Board was June 26, 2023. These significant and sudden changes to the proposed project and reasons for them have not been discussed, and the supporting studies for hydrology, water surface elevations and volumes of water, have not been presented – if they exist. We don’t know what combination of upstream

bridges are in the current plan, and therefore, it is impossible to evaluate these impacts caused by this latest shift in direction. The District has thrown the baby out with the bath water. And there is no explanation or discussion in the Draft SAFRR EIR Addendum as to why.

Scope of
the
Mitigation
Planting
Addendum

The title of Draft SAFRR EIR Addendum: SAN ANSELMO FLOOD RISK REDUCTION PROJECT MITIGATION PLANTING is intentionally deceptive as is the highly misleading document description posted on the CEQAnet website.

It appears as follows:

Summary

SCH Number 2017042041
Lead Agency Marin County
Document Title San Anselmo Flood Risk Reduction (SAFRR) Project
Document Type ADM - Addendum
Received 6/8/2023

Document Description

At a site near Woodacre on San Geronimo Creek, the Marin County Flood Control and Water Conservation District proposes compensatory mitigation planting, which is required to offset impacts caused by implementation of the project. The project, as approved in 2018, involves taking various flood risk reduction actions in unincorporated Marin County just west of Fairfax and San Anselmo to increase creek capacity, remove obstructions, and attenuate flows within portions of the San Anselmo Creek and Fairfax Creek sub-watersheds in Ross Valley, located in central-eastern Marin County.

Contact Information

Name Hugh Davis
Agency Name Marin County Flood Control and Water Conservation District
Job Title Civil Engineer
Contact Type Lead/Public Agency

<https://ceqanet.opr.ca.gov/2017042041/6>

Even a highly informed individual who has followed the project since certification in 2018 would be misled by this Description posted on June 8, 2023 by Hugh Davis. Davis describes the project as: *Project site is near Woodacre on San Geronimo Creek*. Leaving “San Anselmo” out of the San Anselmo Flood Risk Reduction is indicative of Draft SAFRR EIR Addendum lack of forthrightness, and relevancy.

Scope of
the
Mitigation
Planting
Addendum

The aforementioned description for the project will come as shock for those aware of all the District’s previous descriptions of SAFRR that has described the three distinct components for the project for more than 5 years:

The SAFRR Project consists of three distinct components: (1) the Sunnyside Nursery Flood Diversion and Storage Basin at 3000 Sir Francis Drake Blvd; (2) the removal of the building at 634-636 San Anselmo Avenue in San Anselmo (BB2), a structure that partially obstructs the flow of San Anselmo Creek and related creek restoration; and (3) flood mitigation measures on three downstream private properties that may see a rise in water surface due to the removal of the building in San Anselmo.

2. The District has failed in fulfilling their fundamental obligation to inform the public and decision makers of the potential environmental harmful consequences caused by the Project.

Frustrating the public right to know has become a hallmark of the District’s communications, and it has gone on since the certification of the SAFRR EIR in 2018. The contempt and malfeasance the District has shown for the public, it supposedly serves, is well documented in hundreds of letters requesting additional information and access to key documents from impacted property owners.

In October 2022, the District launched its new website. It promised: “*The new website strives to provide, and continually improve, access to the wide range of programs, projects, meeting topics/materials, flood zone details and watershed-related information for the people of Marin County.*” However, links to documents are routinely broken and users are told the page or document couldn’t be found, and as a result it adds to user’s frustration and blocks their ability to stay informed by denying access to critical information. It is a failure.

Supervisor Katie Rice’s determination to override the “irony and illogic of the FEMA ‘no-rise’ rule” has long been evident and her arrogance for the public process has led to a lack of transparency and legitimacy. Rice made her disdain for FEMA exceedingly clear at the July 19, 2022 Marin County Board of Supervisor meeting. In her remarks, Rice announced that she would seek Representative (D-CA 2nd District) Jared Huffman’s help in circumventing FEMA regulations. This led to a closed-door meeting that kept the public and Public Works Directors Sean Condry and Richard Simonitch out. They are both FEMA Floodplain Administrators.

Rice is frustrated by the lack of progress for SAFRR, but fails to accept that the District did not adhere to FEMA guidelines in the beginning and now lacks the funding to provide mitigation measures promised to impacted property owners. This complication was *entirely avoidable* had the District incorporated FEMA guidelines into the original SAFRR ER and *followed them*.

The District has failed in fulfilling their fundamental obligation to inform the public and decision makers by making endless contradictory statements riddled with factual misstatements. The Draft SAFRR EIR Addendum does not factually present information in a clear and understandable manner. The recent public presentations to the Town Council of Ross on March 9, 2023, the Town Council of San Anselmo on March 28, 2023, and the Flood Zone 9 Advisory Board meeting on June 26, 2023 have been filled with contradictory and confusing statements.

Scope of the Mitigation Planting Addendum

3. Specific Comment on TABLE A-1 MITIGATION, MONITORING, AND REPORTING PROGRAM in the SAFRR EIR

In A-10 Appendix A, Mitigation Measure 4.9-4: Provide Flood Protection to Substantially Affected Areas, the striking out of “fund” and “If the Winship Bridge Replacement Project is not completed prior to construction of the Project.” (~~fund and If the Winship Bridge Replacement Project is not completed prior to construction of the Project.~~) continues to be at odds with public assurances and statements. The Draft SAFRR EIR Addendum fails to discuss what will be funded and what will not. If Winship Bridge is not removed, who will fund the mitigation as required by FEMA? It is vital that funding issues be clarified.

The Draft SAFRR EIR Addendum has inadequate and confusing information on funding for mitigation measures and the potential environmental impacts introduced by property owners refusing mitigation measures. If homeowners don’t agree to allow mitigation measures on their properties due to a lack of funding or otherwise, it is entirely possible that if flooding occurs on their properties there will be negative environmental consequences by dramatically increasing the risk of contaminants from toxic household substances potentially entering the creek. That environmental effect needs to be disclosed and discussed.

1. 4.9-4 states: *However, the potentially adversely affected parcels are privately owned, and the Flood Control District cannot necessarily is not proposing to require the installation or implementation of flood barriers because without the consent of the property owner(s), who may specifically request that such measures not be implemented. However, the potentially adversely affected parcels are privately owned, and the Flood Control District cannot necessarily is not proposing to require the installation or implementation of flood barriers because without the consent of the property owner(s), who may specifically request that such measures not be implemented.*
2. However, under Funding and Implementation Responsibility (Both Locations): *...the Flood Control District shall fully fund the design and provide funding to the property owner for implementation...*

More discussion is needed as the funding issue is critical, and the District has long maintained they intend to fund mitigation. On July 19, 2022 Liz Lewis, Water Resources Manager, Marin County Public Works addressed both issues at the Board of Superiors meeting. She said “additional funds will be required,” and the “linchpin all along, is getting a landowner to agree to a specific flood mitigation.”

Liz Lewis: It definitely appears that additional funds will be required especially in those cases where homes are required to be elevated, individuals may have to move out for several months at a time...So that would that be contingent upon the funding to actually do the mitigation, and then, more importantly, the landowner agreeing to the mitigation that's being offered. That's kind of been the linchpin all along, is getting a landowner to agree to a specific flood mitigation.

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

At the January 24, 2023 Board of Supervisors meeting, Director Rosemarie Gaglione told the Board of Supervisors “*This project is funded...for all the mitigation work that is required*”:

Director Rosemarie Gaglione, DPW: This project is funded. We do have a grant from the Department of Water Resources to do the work of removal. Of installing the baffles if that is necessary, and then for all the mitigation work that is required.

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

There is inadequate and conflicting information provided in the Draft SAFRR EIR Addendum for the basis of funding decisions and how the District intends to protect property owners from negative impacts caused by the project, and therefore it is impossible to evaluate the mitigation measures. Numerous property owners fear the District is making these changes because they lack the funding, but won’t admit it. They fear their properties will be harmed as a result, due to a lack of mitigation.

Furthermore, the Draft SAFRR EIR Addendum ignores the fact the replacement of Winship Bridge is not going to happen. Complicating this issue is that Davidson says the proposed project now provides mitigation for properties for homes upstream of Winship Bridge; however, there is no provision for mitigation for properties downstream of Winship Bridge. When or what happens when Winship Bridge is eventually replaced by the Town of Ross is unknown. Who will fund mitigation for the properties most impacted by SAFRR - which are located between Winship Bridge and Sir Francis Drake Bridge? This critical piece of missing information must be included, and is currently unknown. If those homes flood from 4” of increased inundation as stated in the SAFRR EIR, the creek environment will undeniably suffer. The public and decision makers lack the necessary information to understand the mitigation process, and its effects on the environment.

Potential Impacts of Downtown San Anselmo Component

4. Inadequate analysis of the significant impacts on property owner due to a lack of surveying and inadequate hydrological modeling that has not been made public

In Mitigation Measure 4.9-4: Provide Flood Protection to Substantially Affected Areas the District insists “The flood barriers shall be designed based on hydraulic modeling demonstrating that the flood barriers would protect existing habitable structures on any properties upstream of the Sir Francis Drake Bridge from new inundation during the 25-year event...”

Potential Impacts of Downtown San Anselmo Component

No information regarding recent revisions to hydrological models have been made public. Davidson told the Ross Town council that the District “*has better models*”– but adds they are still using the modeling from the 2018 EIR. But she has also said that, at various times, they have re-run the models. With all the changes in parameters, why have those models not been shared with the public? How can the public evaluate the environmental impacts without updated information?

Berenice Davidson: We have better science; we have better models; and we have a lot more variables that

we can throw in models now. So, the District used a much better model to do all of these studies.

So, we utilized our model, and we did our EIR utilizing that model. The EIR was certified in 2018.

The current model has not been shared with the public, and it is not in the Draft SAFRR EIR Addendum. It is not even referenced. There is a lack of surveying information because the District has not surveyed the majority of the 50 plus properties. This adds unnecessary uncertainty into the project regarding mitigation measures and subsequent impacts on the environment. Without information concerning surveying and hydrological modeling, it is impossible to evaluate these concerns.

Potential Impacts of Downtown San Anselmo Component

5. Mitigation Measure 4.9-4 Does Not Include FEMA REGULATIONS

FEMA is not mentioned in the Appendix A, Mitigation Measure 4.9-4: Provide Flood Protection to Substantially Affected Areas in the Draft SAFRR EIR Addendum. The potential consequences of not following FEMA regulations are enormous, and should be plainly set forth in Appendix A, Mitigation Measure 4.9-4, so the public understands FEMA’s role in the Project’s mitigation. The District has not stated in the Draft SAFRR EIR Addendum whether the FEMA regulations – notably the “no-rise” rule or the regulatory requirements of 44 CFR §65.12 – will be adhered to as stated in public meetings. There is no mention of FEMA regulations, no mention of “no-rise” and no mention of 44 CFR §65.12. The proposed plan to bypass FEMA’s safeguards vis LOMR is a concern, and this decision should have been contained in the Draft SAFRR EIR Addendum. Therefore, as a result of these omissions, Mitigation Measure 4.9-4 is inadequate and flawed.

Scope of the Mitigation Planting Addendum

On top of that Davidson has confused the mitigation issue by introducing measures that are seemingly at odds with 44 CFR §65.12 from First Finished Floor (FFF) to No Mitigation for homes shown to be underwater in the PowerPoint presented by Davidson to the Town Councils.

Flood Control District

San Anselmo Flood Risk Reduction Project Update

MARIN COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT

TOWN OF SAN ANSELMO PRESENTATION
MARCH 28, 2023

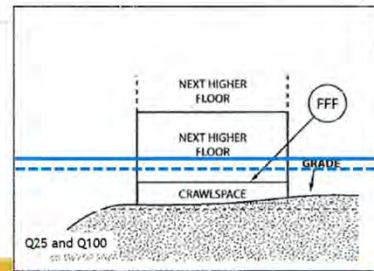


Rosemarie Gaglione, PE
Public Works Director
District Engineer

Berenice Davidson, PE
Public Works Assistant Director
Floodplain Administrator

Mitigation: No Mitigation

After Project WSE
Before Project WSE



FEMA

REGULATORY REQUIREMENTS OF 44 CFR §65.12: If the proposed project results in BFE increases between the pre-project (existing) conditions and the proposed conditions, and they are more than 0.00 foot as a result of encroachment within a regulatory floodway, or more than 1.0 foot in a Zone AE area that has no regulatory floodway, please submit: (a) certification that no structures are affected by the increased BFE; (b) documentation of individual legal notices sent to all affected property owners, explaining the impact of the proposed action on their property; and (c) an evaluation of alternatives that would not result in a BFE increase.

To comply with the NFIP and building codes, a building must have its lowest floor elevated to or above the specified elevation, usually the BFE or higher. The only way to know for sure if your home is elevated high enough to comply with the requirements is to have a licensed surveyor prepare an Elevation Certificate. Does the District plan to do this? This is an important consideration, especially when it appears that the District is unwilling or unable to comply with FEMA regulations.

6. Failure to address substantial changes proposed in the project which will require a new evaluation of environmental impacts.

There are several substantial changes to the SAFRR project that will cause new significant effects and increase the severity of previously identified significant effects.

- Winship Bridge will remain in place and will not be replaced
- The number affected properties requiring mitigation has dramatically increased from 20 to more than 50
- Removal of Building Bridge #2 will increase flooding for homes upstream of Winship Bridge – unless a baffle is implanted, in which case there is no flood remediation
- The baffle if introduced, was never considered in the 2018 SAFRR EIR
- The District is proposing LOMR instead of CLOMR
- The District mistakenly claims they have a Statement of Overriding Consideration – they do not
- 5 properties of the most impacted properties originally identified for mitigation due to increased inundation in the EIR will no longer receive mitigation. 86 Sir Francis Drake Boulevard, 84 Sir Francis Drake Boulevard, 82 Sir Francis Drake Boulevard, 78 Sir

Potential
Impacts of
Downtown
San
Anselmo
Component

Francis Drake Boulevard, 84 Sir Francis Drake Boulevard. Also removed are 20 Winship Ave. and 42 Winship Ave. See Exhibit A.

Potential
Impacts of
Downtown
San
Anselmo
Component

These are substantial changes to the project which require the Draft SAFRR EIR Addendum, and in all likelihood the original SAFRR EIR, must be revised and recirculated the public and decision makers can understand the actual environmental effects from the project per (Pub. Res. Code § 21166; Guidelines § 15162(a).) as noted below.

A supplemental or subsequent EIR (SEIR) may be required if another discretionary approval is being considered and: (a) there are substantial changes to the project; (b) there are substantial changes in the project's circumstances; or (c) new information that could not have been known at the time the EIR was certified becomes available and such changes or new information require major revisions to the previous EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects. (Pub. Res. Code § 21166; Guidelines § 15162(a).)

CONCLUSION

With so many substantial changes and deficiencies the Draft SAFRR EIR Addendum, and in all likelihood the original SAFRR EIR, must be revised and recirculated so the public and decision makers can understand the actual environmental effects from the project.

Respectfully,

John Crane
86 Sir Francis Drake Boulevard
Ross, CA 94957

Mailing Address:
86 Sir Francis Drake Boulevard
San Anselmo, CA 94960

Exhibit A**Released August 28, 2018****ADMIN DRAFT****PROPERTIES POTENTIALLY IMPACTED BY FLOODING IN THE 100-YEAR EVENT**

Zoning	Address	Town	Parcel / Primary Structure in FEMA SFHZ?
Single-Family Residential	100 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	98 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	96 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	94 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	92 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	90 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	86 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	84 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	82 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	78 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	74 Sir Francis Drake Blvd.	Ross	Yes / Yes
Single-Family Residential	54 Sir Francis Drake Blvd.	San Anselmo	Yes / Yes
Single-Family Residential	40 Sir Francis Drake Blvd.	San Anselmo	Yes / Yes
Single-Family Residential	36 Sir Francis Drake Blvd.	San Anselmo	Yes / No
Single-Family Residential	34 Sir Francis Drake Blvd.	San Anselmo	Yes / Yes
Multiple-Family Residential	32 Sir Francis Drake Blvd.	San Anselmo	Yes / No
Single-Family Residential (unimproved)	30 Sir Francis Drake Blvd.	San Anselmo	Yes / Yes
Single-Family Residential	28 Sir Francis Drake Blvd.	San Anselmo	Yes / Yes
Single-Family Residential	16 Deer Creek Court	Fairfax	No / No

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BEFORE THE TOWN COUNCIL
TOWN OF ROSS, CALIFORNIA
THURSDAY, MARCH 9, 2023

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TOWN COUNCIL MEETING
Transcription of Video Media Recording
(from 40:25 to 52:41)

STENOGRAPHICALLY REPORTED
BY: DEBORAH FUQUA, CSR #12948
CERTIFIED STENOGRAPHIC REPORTER

1 March 9, 2023

40:25

2 ----o0o----

3 TRACY CLAY: So with this, I'm going to turn
4 it over to Berenice for -- to discuss this slide.

5 MS. DAVIDSON: Yes, thank you.

6 Berenice Davidson, Assistant Director of
7 Public Works. Before I go into the next steps, I would
8 like to take a couple of minutes to go over the FEMA
9 processes that are out there that we, as local
10 floodplain administrators, need to abide by.

11 So FEMA, as you know, gave all of us different
12 jurisdictions flood insurance rate maps. And that's
13 the ones we use to regulate any type of construction
14 what comes into our jurisdictions. And FEMA used a
15 model to produce those maps, and that model is what we
16 call a one-dimensional model. And what that means is
17 that models that flows in the channel going in one
18 direction; water flows downhill, and that's pretty much
19 the limit of the model.

20 We have better science; we have better models;
21 and we have a lot more variables that we can throw in
22 models now. So the District used a much better model
23 to do all of these studies. And so I'm going to call
24 that our model versus FEMA model.

25 So we hired a consultant, and they run a new

1 model, our model, and the benefits of that model is
2 that it not only uses the directional flow in channel,
3 it has capacity to mimic the flow of water that
4 overtops the channel. We were able to put in the model
5 all of our storm drain infrastructure outside of the
6 channels. So what -- we call that a two-dimensional
7 model because water in the model is able to exit the
8 channel, enter our storm drain system, and eventually
9 flows downstream. So why -- this, in our opinion, is a
10 much better model. And because it -- we can throw in
11 our existing storm drain infrastructure.

12 And how do I know it's a better model?
13 Because we have high water marks in the ground when we
14 experienced the '05-'06 storm. That storm was
15 considered a 100-year storm. So these models are run
16 to mimic the 100-year event. So this model gave us
17 information that is more representative of what happens
18 in this valley. It's more representative of our
19 flooding situation where -- when we have
20 [unintelligible] models.

21 So we utilized our model, and we did our EIR
22 utilizing that model. The EIR was certified in 2018.

23 So every jurisdiction, FEMA requires that they
24 have a floodplain administrator. In the County of
25 Marin and the Flood District, I am the designated

1 floodplain administrator, and I believe in the Town of
2 Ross, Richard Simonitch is your floodplain
3 administrator. And one of the obligations that we have
4 as floodplain administrators is that we are required to
5 share data with FEMA when we have better data than
6 theirs. And in this case, we have a model that -- it's
7 more representative of the list of floods in this
8 valley.

9 So we haven't yet shared that model with FEMA.
10 So the process that exists for us to share that model
11 with FEMA, it's called a letter of map revision. I can
12 simply -- I can go to FEMA -- I can go to FEMA now and
13 say, "I have a better model. Let's process a letter of
14 map revision." FEMA hires their engineers to review
15 all of the technical aspects of the model.

16 We haven't done that because, in addition to
17 just the existing conditions that we model in this
18 situation, we have projects that we are implementing in
19 Ross Valley. So the other process that FEMA has is a
20 conditional letter of map revision. And what that is,
21 I get to go to FEMA, and I get to say, "We have a
22 better model, and on top of that, I'm proposing some
23 projects that are going to further reduce the flood
24 risk in this valley. So before you revise the maps,
25 FEMA, allow me to finish my projects. Okay?"

1 So two situations happen when I'm doing
2 projects. I get to tell FEMA, "I'm going to do my
3 projects, and I am not going to raise in any way the
4 base flood elevation anywhere or downstream of these
5 projects." In this case, we cannot make that case
6 because we already know and you saw on the table from
7 the EIR that will 20 parcels experienced a rise in base
8 flood elevations.

9 And I'm going to correct something that Tracy
10 said. It's a rise in base flood elevation in 20
11 parcels. It doesn't necessarily mean that that base
12 flood elevation touches the structure. Okay? The
13 models pickup parcels. Even if a sliver of your parcel
14 is touched by the new base flood elevation, it spits it
15 out as an impact to mitigate.

16 So because I can't go to FEMA and say, "I'm
17 going to certify MRIs," I'm going to go to FEMA, and
18 I'm going to say, "I'm going to do these projects, and
19 it benefits 480 parcels. However, I need to have
20 mitigations for these 20 parcels."

21 So my next step is to have a conversation with
22 FEMA and finalize the conditional letter of map
23 revision. And I get to discuss with them, parcel by
24 parcel, the mitigations that I would propose. And we
25 are going to mitigate; the mitigation measures are

1 identified in the EIR. And the mitigation measures are
2 also in our floodplain ordinances. The County has a
3 floodplain ordinance, so does the Town of Ross, Town of
4 San Anselmo, and all jurisdictions that are
5 participants in the National Flood Insurance program.
6 There is no way that I would ever do anything that
7 would jeopardize our good standing with the National
8 Flood Insurance Program with FEMA. That is not going
9 to happen.

10 So going back to this slide, the next steps
11 for me is -- this next steps that the District is
12 recommending is to engage FEMA because ultimately --
13 their engineers are going to have to agree with our
14 model, and they're going to have to agree that we used
15 the best engineering practices available. They're
16 going to have to check that we used the topography that
17 exists in the valley, and they're going to check that I
18 mapped our storm drain systems the way they exist on
19 the ground. And they're going to review the mitigation
20 measures that the District will be proposing. And
21 that's the next step.

22 We will most likely have to revise our
23 existing permits with our -- the agencies because,
24 since the model was run in 2018 to certify our EIR,
25 there have been some revisions to the scope of work,

1 mainly with the removal of building Bridge 2 and the
2 work that we're going to be doing on the embankments on
3 the side.

4 We are in conversations with the Town of San
5 Anselmo on how to accommodate their future plaza area.
6 And they are asking to work with them and seeing how we
7 can incorporate those changes and capture the same
8 process with FEMA and incorporate all of the scope of
9 work at once, which is preferable by everyone.

10 And the next step after this conversation with
11 FEMA is to meet with every single property owner.

12 Can you share the next slide, Tracy.

13 The conversations that we will be having --

14 Yes, that's it.

15 -- with each of the 20 property -- properties
16 that experienced a rise in the base flood elevation,
17 we're going to have something similar than what you
18 have on the screen. And it's going to be their home.
19 It's going to be the elevation of the first floor,
20 basically the bottom of the door where you step into
21 your house. It's going to have the base flood
22 elevation before I remove the bridge. And it's going
23 to have the base flood elevation -- did I say "before"?
24 Anyways, before and after I remove the bridge.

25 Based on how that changes, it's going to

1 dictate the type of mitigation that we would be
2 proposing.

3 So I just wanted to briefly go over that
4 process. Obviously, in the next -- the final step is
5 to actually implement the mitigations and then go and
6 remove the bridge. Okay?

7 I want to emphasize what Tracy mentioned, that
8 we do have a baffle design. And the only -- the reason
9 we have a baffle design is because one of our grants
10 was due to expire at the end of 2022. And we also
11 became aware of structural integrity compromises in
12 that structure, and we have a sense of urgency to
13 remove it.

14 And so, in order for us to buy more time and
15 do appropriate mitigations, the baffle would have to be
16 installed before we remove the bridge because that
17 causes no rise. And since then, we got an extension to
18 the grant to the end of 2024. And therefore, we
19 believe that we can take the down the bridge after
20 doing mitigations without having to spend funds
21 installing the baffle because that brings no reduction
22 in flood risk. It simply mimics the existing flows
23 that are there now.

24 So with that, I'll open it to questions.

25 (End of audio media transcription at 52:41)

1 STATE OF CALIFORNIA)
) ss.
 2 COUNTY OF MARIN)

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 proceedings and caption named, nor in any way
 13 interested in the outcome of the cause named in said
 14 caption.

15 Dated the 26th day of March, 2023.

16 

17 DEBORAH FUQUA

18 CSR NO. 12948

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MARIN FLOOD DISTRICT
FLOOD ZONE 9 ADVISORY BOARD MEETING
JUNE 26, 2023

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Partial Transcription
From Digital Audio Media

REPORTED BY: DEBORAH FUQUA, CSR #12948
CERTIFIED STENOGRAPHIC REPORTER

1 Monday, June 26, 2023 Time Marker 00:36:50

2 ---o0o---

3 P R O C E E D I N G S

4 TRACY CLAY: So with that, I'm going to hand
5 it over to Berenice Davidson, the Assistant Director of
6 Public Works, to go over some of our work we've been
7 doing with FEMA and the rest of the FEMA presentation.

8 UNIDENTIFIED SPEAKER: Tracy, can I ask just a
9 couple questions? On the -- so you sent out the
10 letters today to -- I'm assuming it's the 20 or 22
11 properties that may be affected?

12 TRACY CLAY: Actually, it's more than that.

13 UNIDENTIFIED SPEAKER: It's only about 50 --
14 50 properties.

15 UNIDENTIFIED SPEAKER: 50 properties.

16 UNIDENTIFIED SPEAKER: Yeah. Including all
17 the downtown businesses.

18 UNIDENTIFIED SPEAKER: Okay. And these are
19 properties that will require surveying. And you also
20 just gave notice that -- that, you know, they're I
21 guess somehow linked to the Environmental Impact
22 Report, and they may or may not get mitigations based
23 on the modeling test, correct?

24 BERENICE DAVIDSON: Let me -- maybe can I
25 answer the question. These structures have been

1 identified to experience a rise in the base flood
2 elevation. And in order for us to determine the
3 mitigations that we are going to be proposing, we have
4 to survey the first floor elevation. It is crucial to
5 identifying what type of mitigations we are going to be
6 offering to the property owners.

7 There may be some structures that experience a
8 rise in the base flood elevation, and the base flood
9 elevation will still remain in the crawl space area.
10 It may not affect any of those structural items -- or
11 of their mechanical/electrical or be nowhere near the
12 first floor elevation. And I will cover the textbook
13 mitigation measures in that other slide, just to
14 review.

15 TRACY CLAY: Can I add one thing to that? We
16 identified 50 properties that have a rise in water
17 surface elevation. We wouldn't know until we survey
18 the actual homes.

19 UNIDENTIFIED SPEAKER: That would be what my
20 question is.

21 TRACY CLAY: Yeah.

22 UNIDENTIFIED SPEAKER: Because we got into
23 that back in March, when you guys were here. We talked
24 about parcels, property, or structures.

25 TRACY CLAY: Yeah.

1 UNIDENTIFIED SPEAKER: You were just saying
2 "structures," Berenice.

3 BERENICE DAVIDSON: Yes.

4 UNIDENTIFIED SPEAKER: But were you meaning
5 properties? Or are we def- -- or are we talking about
6 existing structures?

7 BERENICE DAVIDSON: The model spat out a
8 parcel being impacted, again, based on a square inch in
9 the corner of the parcel. If the model says it's
10 impacted, it experiences a rise. It is not until we
11 look at the entire parcel, where is the house in
12 relation to the property lines, where are the
13 elevations of the first floor of the structure, and
14 where is the baseline before and after.

15 So I cannot -- and I will not commit to saying
16 the number of structures. I can only refer to them as
17 parcels right now.

18 UNIDENTIFIED SPEAKER: Right. That's what I
19 wanted to clarify because a few minutes ago you were
20 saying structures, and I wanted to clarify for the
21 record.

22 BERENICE DAVIDSON: Yes. I don't -- I don't
23 want people to think that we have to elevate 50
24 structures. That is not what we're saying. Okay.

25 UNIDENTIFIED SPEAKER: I just wanted a

1 clarification.

2 UNIDENTIFIED SPEAKER: So did you note -- I'm
3 sorry. Go ahead.

4 UNIDENTIFIED SPEAKER: I was just wondering if
5 FEMA provided you with the criteria that you're
6 evaluating each structure by.

7 BERENICE DAVIDSON: Absolutely. And I will
8 cover that. Actually, that's the next slide.

9 UNIDENTIFIED SPEAKER: Okay.

10 BERENICE DAVIDSON: Yeah, so I just want to
11 report that, since we last met, we had an opportunity
12 to meet with FEMA representatives, not just from FEMA
13 Region 9, which is the local region, but also FEMA
14 representatives from Headquarters Mapping. These are
15 staff that are in charge of doing any map changes in
16 any jurisdiction. And in attendance was also FEMA
17 counsel.

18 This meeting was arranged by Supervisor Katie
19 Rice and Director Gaglione, and worked with Jared
20 Huffman's office. So the meeting happened, and I
21 described in detail the history of this project, how we
22 have -- our EIR was certified, and how we do recognize
23 that we are causing a rise. That's been a point of
24 misunderstanding.

25 FEMA does have a requirement that no project,

1 no new development that happens in floodways, you
2 cannot allow anything if it causes a rise. FEMA has
3 very antiquated regulations. They were written in the
4 '70s. This structure was built a hundred years ago or
5 close to. This is regarded as an obstruction to the
6 natural flow of the creek. This is an encroachment.
7 We are not building anything new. We're removing an
8 encroachment.

9 Jurisdictions have the authority and
10 responsibility to remove the obstructions that are
11 causing floods. This bridge was identified as such,
12 and therefore, we have identified as being removed.
13 The EIR concludes that the removal of this bridge does
14 cause a rise, and we are required to mitigate. But we
15 are past the no-rise requirement. We are very open; we
16 will cause a rise. And we will mitigate because, if we
17 don't mitigate, then we get in trouble with FEMA, and
18 that is the least thing we want to do.

19 These mitigation measures that we are going to
20 be proposing, depending on the impacts, are in strict
21 adherence to FEMA requirements; they are in strict
22 adherence to our local floodplain ordinances, not just
23 from the unincorporated areas of Marin but the Town of
24 San Anselmo and the Town of Ross. And we will do
25 everything in accordance to those requirements.

1 We discussed this with FEMA representatives.
2 And what they -- they told us is that, as local
3 jurisdictions, we know best than the national
4 representatives what is best for our community. It is
5 my understanding and in collaboration with the Town of
6 Ross and the Town of San Anselmo floodplain
7 administrators that we're openly still recommending the
8 removal of Building Bridge 2.

9 The Town of San Anselmo and the Town of Ross
10 floodplain administrators were not in the meeting with
11 me when we had this discussion. And therefore, I am
12 requiring the FEMA Region IX civil engineer to have
13 another meeting with me so that they can be present and
14 they can hear what I heard because it is very important
15 that all floodplain administrators agree with our
16 determination, agree with our next step and so that
17 they can check what we're doing and they can also agree
18 what I've already concluded, that we are not going to
19 break any FEMA requirement.

20 We don't need any approval from FEMA at this
21 point. The recommended strategy is that we go to FEMA
22 and require a little map revision after we remove
23 Building Bridge 2. And we're going to do two things.
24 We're going to share the district's model because the
25 model better represents the floodplains of this valley.

1 Our model shows its water elevations, and it matches
2 what we experienced with the hundred year floods of
3 '05, '06. The effective map that we have now do not
4 truly represent this. So that -- that's the next step.

5 And can you go to the next slide. I think I
6 talked about everything on all the slides.

7 So I just want you to have a visual of the
8 information that we need in order to do the proper
9 mitigations on each structure. The model -- we already
10 know what the existing base flood elevation is. When,
11 as Tracy described, Stetson did a recent run of the
12 model. And the changes from the certified EIR is that
13 Winship is to remain.

14 The EIR ran the model with Winship removed,
15 with Building Bridge 2 removed, and some of the bridges
16 upstream removed. So we have to change it because
17 we're only doing Bridge 2 next year. And therefore, we
18 have to identify which properties are the ones
19 impacted. The impacts are the same. They're either
20 going to cover a rise and where -- it's the same. We
21 identify that in the EIR. We simply need to know which
22 ones we need to work with. And that's what we're
23 doing.

24 And you can see every single house is
25 different. Some of them, the first floor are more at

1 ground level. Others are a bit above the ground level.
2 Some have crawl spaces, and they have different
3 foundations. So we really need to go in there and see
4 what each of them is. This is just a simple visual so
5 you can see.

6 The next slide, I presented this at the
7 meetings, council meetings with Town of Ross and
8 San Anselmo. These are textbook scenarios so that you
9 can see where the first floor is. The dashed line is
10 the existing base flood elevation, and then the changes
11 after a project, in this case, our bridge. When we
12 remove it, if the base flood elevation is below -- as
13 shown in this picture -- below the first floor and then
14 it rises to above the first floor, the requirement in
15 mitigation on the district is to raise this structure
16 to a foot above the new base flood elevation. So we
17 would have to elevate the home in this scenario.

18 The next slide shows another situation. The
19 existing base flood is a little higher but still below
20 the first floor. After project, it's above the first
21 floor. We will have to elevate the house. And those
22 are, again, mitigation measures required by FEMA for
23 our ordinances and their summarizing the certified EIR
24 from 2018.

25 Next one, you can see the base flood elevation

1 still remains below the first floor. In this case, the
2 mitigation depends on what the property owners have
3 below the first floor. We need to know if they have
4 electrical or mechanical equipment, and we need to have
5 final and mitigate that.

6 And the same thing, you can see on the next
7 slide, this is something that does not impact the
8 structure, does not impact the house. It does impact
9 the parcel. The base flood elevation does touch the
10 parcel, the terrain, but the structure is not even
11 touched. So in this case, there's no mitigation that's
12 required. We don't have to do anything to that house.

13 The next slide, this is a controversial
14 scenario. And in this case, you have a structure where
15 the base flood elevation is already above the first
16 floor. The strictest interpretation of FEMA definition
17 is that this house is already at risk. It has a risk
18 already. And the fact that I remove the bridge does
19 not create a new risk. It does -- it perhaps has
20 implications on how much insurance, flood insurance
21 they'll be paying. But my project does not create a
22 new risk. This structure is already at risk in the
23 strict interpretation of FEMA.

24 UNIDENTIFIED SPEAKER: Can I just ask you a
25 quick question about that?

1 BERENICE DAVIDSON: Yes.

2 UNIDENTIFIED SPEAKER: Because you explained
3 that when you were at our council.

4 BERENICE DAVIDSON: Yes.

5 UNIDENTIFIED SPEAKER: And I thought it was
6 very clear and understandable. But then a scenario
7 popped in my mind that I wanted to ask you. What if
8 the people in this scenario have -- you know, were
9 aware that they're in -- that they're above the flood
10 -- the base flood elevation, their first floor is below
11 it essentially.

12 BERENICE DAVIDSON: Yes.

13 UNIDENTIFIED SPEAKER: And they had, I guess
14 in designing that house or whatever, put mechanical
15 stuff, you know, on the first floor but like risen
16 above that. Since it's impacting -- if the rise would
17 impact that mechanical stuff, would that still
18 basically mean, no, you started under there, you're
19 still under there, so there's no cause for mitigation?

20 BERENICE DAVIDSON: Well --

21 UNIDENTIFIED SPEAKER: And I realize that's a
22 really specific scenario, but --

23 BERENICE DAVIDSON: I guess what I'm going to
24 offer is that I imagine the conversation with property
25 owners with these circumstances is going to be a

1 back-and-forth. What I'm dealing with is that I cannot
2 gift public funds. Can we arrive at some sort of
3 agreement? I think so. But I'm not willing to engage
4 at this point until I -- until I have the specifics.
5 But that is a conversation that's going to have to
6 occur given each of those scenarios.

7 UNIDENTIFIED SPEAKER: Thank you.

8 UNIDENTIFIED SPEAKER: Berenice, doesn't that
9 kind of fall under the same textbook scenario of the
10 flood still remaining under the floor? Like if,
11 there's mechanical equipment in the crawl space, I
12 think what you're saying it's what equipment is
13 impacted in the first floor? And the then bottom line
14 is that none of that triggers raising the foundation,
15 which is the big-ticket item, so I don't think that
16 that's relevant financially.

17 I had a quick question though. You know, when
18 -- let's just fast forward a little bit and say, well,
19 I live downstream from Building Bridge 2. And you
20 know, I have -- something in my FEMA map indicates
21 that, before this work, the water would have been in my
22 crawl space. And after this work, the water will be on
23 my first floor. You know, we've done the surveying,
24 and that's the outcome. So let's just say that's an
25 established fact. What are the options for the

1 homeowner and the City? I mean, does the offer of
2 raising the elevation, is that something where there's
3 an option to turn down that offer? Or what happens to
4 the choice in that matter for the homeowner and for
5 the, you know, for the government as well?

6 BERENICE DAVIDSON: So all I can refer to is
7 in our certified EIR did -- they did a statement of
8 overriding considerations. And their definition of
9 that is that, if you offer a reasonable mitigation and
10 it's not accepted, we -- the district does not have any
11 authority or requirement to go into private property
12 and do any work. We simply cannot. It is not legal.
13 We are not going to do it.

14 And that is the definition of the statement of
15 overriding consideration because we still recommend
16 moving forward the project. And those conversations
17 are going to be had with the property owners and with
18 the district and perhaps our counsel present so that
19 those conversations can be had.

20 UNIDENTIFIED SPEAKER: Is there a liability
21 then to the County or to the, you know, Town of Ross or
22 anybody? If you make that offer and you say it's an
23 overriding consideration and it's a reasonable
24 mitigation and the person turns it down, what does that
25 do to my ability?

1 BERENICE DAVIDSON: Well, I want to defer
2 those questions to counsel. I'm not an attorney. But
3 I suspect we are going to have disagreement when we
4 have these conversations with property owners. And
5 those will have to take its course. I'm not going to
6 speculate what the legal implications will be or the
7 liability. But I'm sure we will have those
8 conversations with the proper expertise in the room.

9 UNIDENTIFIED SPEAKER: Okay. Appreciate it.

10 UNIDENTIFIED SPEAKER: If I can just follow up
11 on that. So I think what you're getting to is, if they
12 turn it down and the county -- do you think the
13 county's just going to plow ahead without an agreement
14 and just finish the project under some kind of
15 exemption? Or do you need, as Mr. Greene has
16 suggested, are you required to have an agreement from
17 every single property owner that's on that list?

18 BERENICE DAVIDSON: According to the certified
19 EIR, we do not have to have agreement from a hundred
20 percent of the property owners to move forward with the
21 project.

22 UNIDENTIFIED SPEAKER: Do you need agreements
23 from a hundred percent of those who have mitigation
24 requirements?

25 BERENICE DAVIDSON: No. That is the

1 definition of the statement of overriding
2 considerations.

3 UNIDENTIFIED SPEAKER: Okay.

4 (End of audio transcription at
5 Time Marker 00:55:00)

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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 7th day of July, 2023.

16 

17 DEBORAH FUQUA

18 CSR NO. 12948

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25

From: dalbello@sonic.net
To: [EnvPlanning](#)
Subject: Comments on Addendum for San Anselmo Flood Risk Reduction Project Mitigation Planting
Date: Monday, July 10, 2023 3:30:22 PM
Attachments: [image001.png](#)
[Creek Park Jeff cross sections RHAA 5_29_23.pdf](#)

You don't often get email from dalbello@sonic.net. [Learn why this is important](#)

Hi Ms. Rachel Reid,

Please find my comments on the Addendum for San Anselmo Flood Risk Reduction Project Mitigation Planting. My comments are based on my 43 years as a Registered Landscape Architect and 24 years as a licensed landscape contractor.

As a Landscape constructor, I was the job captain for many revegetation projects along the Sacramento River for the Army Corps of Engineers.

In section 2.4 , Proposed Action Description the document states:

The mitigation planting areas would be planted adjacent to the riparian zone and would include a variety of riparian species such as valley oak (*Quercus lobata*), coast live oak (*Quercus agrifolia*),

Quercus lobata is not a riparian plant. The California Native Plant Society describes the habitat for the *Quercus lobata* as "Valley bottoms; summit valley; gentle to somewhat steep, lower to upper slopes and ridgetops. Not riparian zones.

Addendum for revegetation should include:

1. Addendum should provide planting plans for the proposed mitigation work.
2. Plans should then be reviewed by the public to ensure that the plants being specified for the Mitigation Planting are planted in the correct habitat zone.
3. Maintenance period of the new planting should be a minimum on one year.
4. For revegetation purposes, the ratio of removed trees to mitigated trees should be a minimum 5 to 1.

Mitigation Planting Plans

The environmental impacts of the San Anselmo SAFFR downtown project site should be reevaluated.

3.3.4 Biological impact

1. The demolition of the Building Bridge 2 will result in the disruption of the existing redwoods which are protected by the Town of San Anselmo’s tree protection ordinance.
2. The existing redwood trees are heritage trees.
3. The removal of the existing concrete footings of the platform will damage the existing fibrous root system of these heritage trees.
4. The removal of the existing metal tank under the platform will damage the fibrous root system of these heritage trees. The regrading to lay back the slope adjacent to the existing redwoods will damage the fibrous root system of heritage trees.
5. The excavation and compaction that is required to regrade the slope adjacent to the existing redwood trees will damage the fibrous root system of heritage trees.
6. Potential high winds and rain saturated slopes that are typical during the winter months will destabilize these heritage trees and make toppling of the redwood tree a distinct possibility.
7. Attached is a sketch based on the landscape drawings for the Reimagined Creek Park and visual inspection of the existing conditions.

Potential Impacts of Downtown San Anselmo Component

I have not read the EIR for the San Anselmo Flood Risk Reduction Project. I would like to know if these issues were directly identified in the document and if a mitigation plan was prepared for each issue.

4.3 Air Quality

1. The construction vehicle access to Building Bridge 2 is very limited.
2. Ten-wheel construction trucks off-loading demolition debris during the demolition operation of Building Bridge 2 will have an impact on the air quality in the downtown area of San Anselmo.

4.8 Hazards and Hazardous materials

1. Has the soil adjacent to and below the BB2 platform been evaluated for hazardous waste material?
2. A metal tank is visible under the platform.
3. The site was a former gas station.
4. Has a hazardous material abatement plan been prepared by the County.

4.15 Transportation and Circulation

1. A consistent backlog of ten-wheeled truck vehicles will be required for the demolition of Building Bridge 2.
2. The demolition process is estimated occur over a 6-month period.
3. Access to BB2 will be from San Anselmo Avenue.
4. Project will need to occur in the dry months.
5. This will affect all the cultural events that occur in the San Anselmo downtown.
6. There is a public safety concern with the limited access to the project site and the volume of construction vehicles and equipment that will be required to demolish the platform.
7. Limited traffic circulation in the downtown San Anselmo will also cause economic harm to businesses.

Potential
Impacts of
Downtown
San
Anselmo
Component

Thank you for your effort to include the public comment in this process. Please let me know that this email has been received and my comments have been recorded.

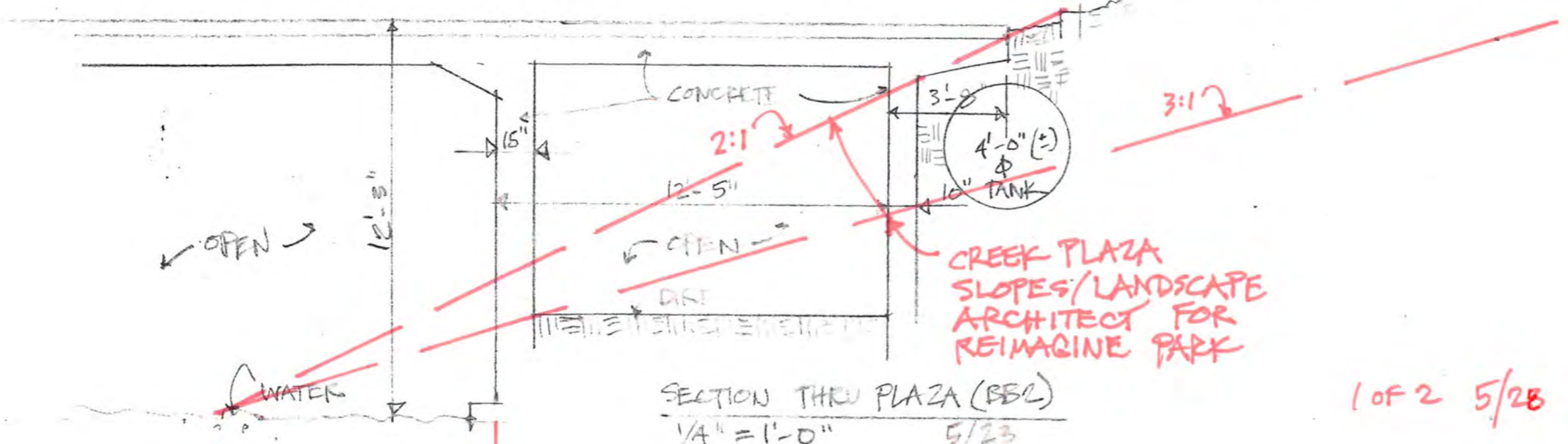
Sincerely

Roseann Dal Bello

Roseann Dal Bello ASLA
Registered Landscape Architect # 2216
17 Brookside Drive
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415-297-4364 Mobile



Existing Plaza



CREEK PLAZA
SLOPES/LANDSCAPE
ARCHITECT FOR
REIMAGINE PARK

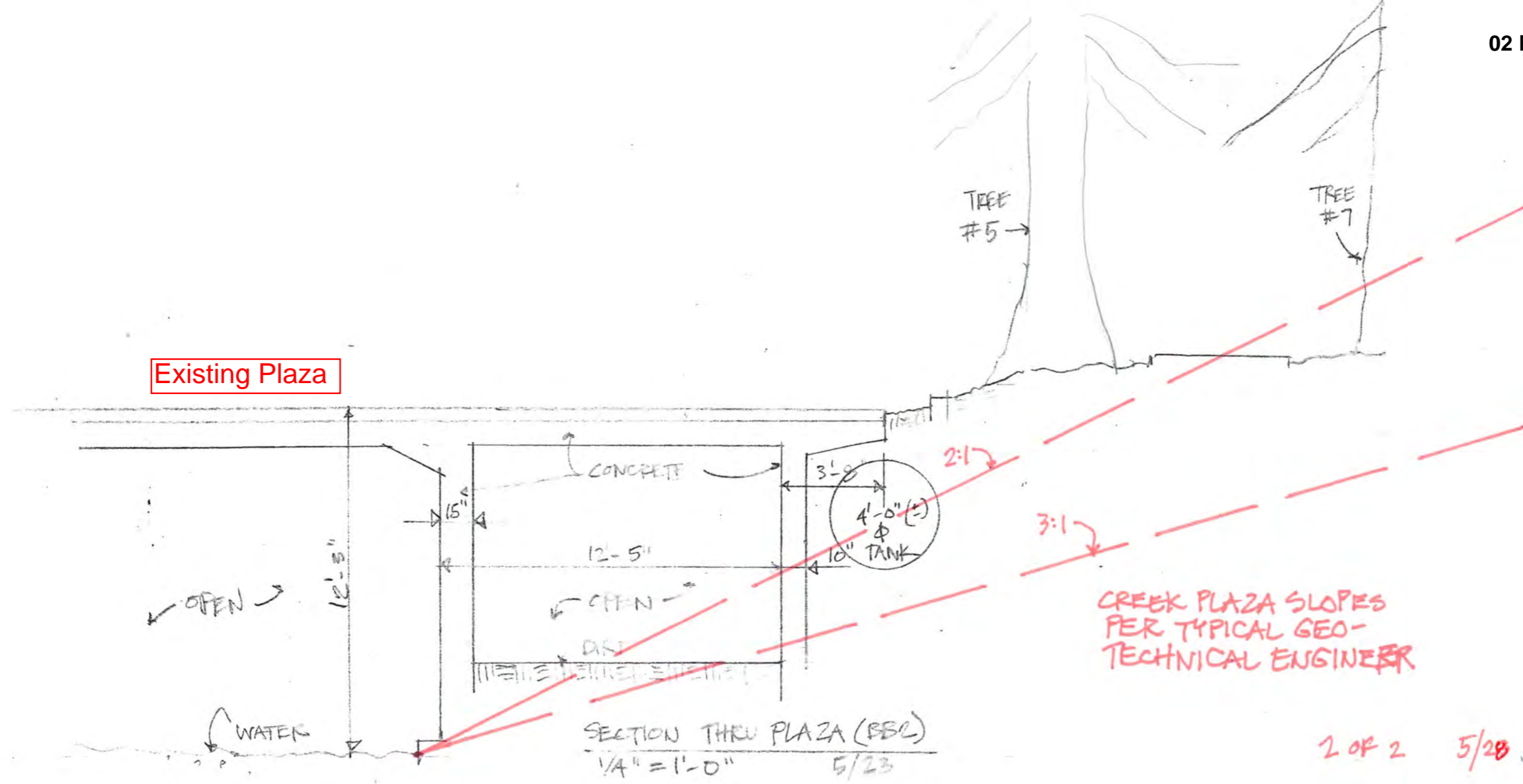
1 OF 2 5/28

CREEK FILL
(NEVER ALLOWED
BY ARMY CORP.
OF ENGINEERS!)

Cross section from RHAA Reimagined Park Drawings.

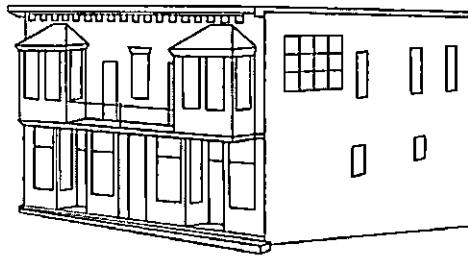
Distance shown is per plan from Redwood #5

May 29, 2023



Cross section of slope from bottom of existing concrete plaza structure. The red lines show the slope not being constructed in the flow of the creek.

May 29, 2023



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Monday, July 10, 2023

Ms. Rachel Reid
Environmental Planning Manager
MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

Envplanning@marincounty.org

RE: *Public Comment on Addendum to San Anselmo Flood Risk Reduction Project*

Dear Ms. Reid:

Following please find my comments regarding the above Addendum and FEIR for the San Anselmo Flood Risk Reduction Project (SAFRR) which was approved in May 2018.

Introduction

“Bridge constrictions and poorly designed streambank stabilization structures have exacerbated flooding on this naturally flood-systems constricting the channel increase overbank flooding onto the developed flood plains. [cites omitted]” (FEIR at 4.9-7 to 4.9-8.) In a 100-year storm the inundation area in San Anselmo extends from above the Nokomis Bridge in San Anselmo to past the Lagunitas Bridge in Ross including Shady Lane and Sylvan Lane in Ross. (FEIR Figure 4.9-5 [see inset].) These areas are included in the scope of the FEMA Regulatory Floodway. (FEIR Figure 4.9-6.)

In 2018 the FEIR acknowledged the repair or replacement of five bridges would have a cumulative impact on the SAFRR Project. Aside from noting such bridge improvements would “**allow greater flow volumes to pass downstream**” (FEIR at 4.9-55), the FEIR provides no further detail or analysis noting only they were “undergoing environmental review” and such repair/replacement would occur “within the next 5 years; some could occur simultaneously with the Project.” (FEIN at 5-4 and Table 5-1.) The bridges referenced in Table 5-1 are Nokomis Avenue, Madrone Avenue, Center Blvd.-Sycamore Avenue and Winship Avenue. It is now almost five years since the approval of the FEIR.

The discussion omits bridge repair/replacements at Meadow Way in Fairfax and Morningside and Mountain View in San Anselmo.

Potential
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1. Both the FEIR and Addendum Fail to Account for the Hydrological Impact and Base Elevation Rise of Flood Waters from the Repair and/or Replacement of 7 Bridges Upstream from BB2 and 2 Bridges Downstream from BB2.

As noted in the introduction, bridge repair and replacement is contemplated for 5 (actually 7) bridges that will have a cumulative or incremental impact on the Project. This is only natural as the bore of each bridge will be increased that will “allow greater flow volumes to pass downstream.” Just like the removal of Building Bridge 2 at 634-636 San Anselmo Avenue “would allow more water to remain in the channel” (FEIR at 4.9-55) increasing the bore of each of the 7 bridges will have the same effect. “[T]he different approaches to downstream improvements in creek channel capacity must be discussed together because the streams form a connected hydraulic system with interactions in overall flood risk that each Project element influences.” (FEIR at 6-23 Impact 4.9-4)

The FEIR opines in San Anselmo (and excluding Unit 4 homes) “Areas where inundation depths would increase would be very limited.” (FEIR at 5-23.) Indeed, for the 25-year event and the 100-year event the total number of parcels that will experience increased flood risk will be 20. (FEIR at Table 4.9-3; 4.9-55 “There are approximately 20 parcels in this area of increased inundation.”)

2. SAFRR Project Scope is Arbitrarily Limited so as to Exclude Structures Impacted by an Increase in Base Flood Elevation including Homes in the Unit 4 Area in Ross comprised of houses on Sylvan Lane, Shady Lane and Sir Francis Drake

The FEIR occludes any sort of analysis of the area south of the Sir Francis Drake Bridge and north of the Lagunitas Bridge which is generally known as Unit 4. This omission is arbitrary and without reason as there is nothing which automatically eliminates Base Flood Elevation rise in this area. Furthermore, the Addendum for the SAFRR Project omits reference to any structures south of the Winship Bridge and north of the Sir Francis Drake Bride. This omission is arbitrary for the same reason. The reason for these omissions appears to be both a concern for not having the funding to pay for mitigation and also the duration of work would extend past the cut off of availability for the Department Water Resources \$8.6 million grant at the end of calendar year 2024.

Potential
Impacts of
Downtown
San
Anselmo
Component

3. Both the FEIR and the Addendum Fail to Conduct the Analysis the FEMA No-Rise Regulations Require and Seek to Shift the Financial Burden of Mitigation onto Property Owners.

FEIR merely acknowledges “Because the Project would occur in a FEMA designated floodway, a No-Rise Certification may be required.” (FEIR at 1-3)

Even though “The building at 634-636 San Anselmo Avenue [BB2] is within the 100-year floodplain and regulatory floodway as shown in Figure 4.9-6.” (FEIR at 4.9-14), the FEIR discussion of no-rise goes no further.

The FEIR recognizes at least 20 properties will suffer increased flood risk. (FEIR at Table 4.9-3; 4.9-55; see also email chain 3/11/21-Liz Lewis and James Reilly “SAFRR Modeling Using FEMA Model” attached hereto as Exhibit 1.)

“Once a community has adopted a floodway, it must prohibit development in the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed using standard engineering practice that the development will not result in any increase in flood levels during the base flood. FEMA defines ‘any’ as meaning a zero increase (greater than 0.00 feet). This analysis is usually called a ‘no-rise’ or ‘zero-rise’ analysis and results in a ‘no-rise’ or ‘zero-rise’ certification by a qualified registered professional engineer.” (Floodway Analysis and Mapping [Floodway Mapping] – Guidance Document No. 79 (FEMA Nov. 2021) at 10, § 2.2; 44 CFR 60.3 (d)(3).)

Variations shall not be issued by a community within any designated regulatory flood way if any increase in flood levels during base floor discharge would result. (Floodway Mapping at 10, § 2.3; 44 CFR 60.6 (a).) Floodway requirements are intended to prevent the actions of one property owner from causing increased floor damages to adjacent or downstream property owners. (Floodway Mapping at 12, § 2.5.) New bridges are “seldom identical to those that they replace since design standards will change. Unless the new bridge is identical to the one it replaces, “you will have to conduct a hydraulic analysis and demonstrate there will be no increase in flood stage. . . so that the no-rise certification can be provided.” (Floodway Mapping at 41 § 11.2.2.)

44 CFR 60.3 (c)(10) applies along watercourses where FEMA has provided base flood elevations as it has in San Anselmo. (Floodway Mapping at 49 § 12; FEIN at Figure 4.9-6.)

44 CFR 60.3 (c)(10) requires until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1–30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation

Mitigation Measure
4.9-4, Provide Flood Protection to Substantially Affected Areas

of the base flood more than one foot at any point within the community. (11/22/22 Serena Cheung to Richard Simonitch email "Winship Bridge" attached hereto as Exhibit 2.)

The FEIR states:

"For areas upstream and downstream of the Winship Bridge (between Barber Avenue and the Sir Francis Drake Bridge): If the Winship Bridge Replacement Project is not completed prior to construction of the Project, the Flood Control District shall develop, fund, and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event. The flood barriers shall be designed based on hydraulic modeling demonstrating that the flood barriers would protect existing habitable structures on any properties upstream of the Sir Francis Drake Bridge from new inundation during the 25-year event.

For areas immediately upstream of the Nursery Basin site: The Flood Control District shall develop, fund, and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event. For both of those locations: The flood barriers would ensure that existing habitable structures would not be inundated by the 25-year event. Upon confirmation of permission by the property owners, the Flood Control District shall implement this measure, including implementing any measures identified in permits required from the California Department of Fish and Wildlife, Regional Water Quality Control Board, or other regulatory agencies. However, the potentially adversely affected parcels are privately owned, and the Flood Control District cannot necessarily require the installation of flood barriers because the property owner(s) may specifically request that such measures not be implemented. In that case, this Mitigation Measure shall not be implemented and the affected parcels may experience an increased level of flood inundation in a 25-year event or larger.

Significance with Mitigation: Significant and Unavoidable. Mitigation Measure 4.9-4 would be implemented to avoid the potentially adverse effects of flooding resulting from changes to drainage patterns by installing flood barriers to contain the flows within the existing channel such that existing structures on affected parcels would not be flooded during the 25-year event (for areas upstream of the Winship Bridge, this would only occur if the Winship Bridge Replacement project is not completed prior to Project implementation). The additional flow containment barriers upstream of the Sir Francis Drake Bridge would not cause increased downstream flood risk because the creek channel capacity gets much larger immediately downstream of the Sir Francis Drake Bridge. Flood barriers upstream of the Nursery Basin site would not cause increased downstream flood risk because they would not redirect large volumes of flow back into the channel.

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

Implementation of Mitigation Measure 4.9-4 would have other direct and indirect effects on the physical environment similar to those identified for the Project. These impacts are evaluated in other sections of this EIR and include emissions of criteria air pollutants and toxic air contaminants during construction, activities that could degrade water quality during construction, mortality or injury of special-status species and nesting birds, disturbance of wetlands during construction, and increase in downstream and upstream scour during operations. With implementation of the mitigation measures identified for these impacts in this document, the impacts of Mitigation Measure 4.9-4 would be less than significant. However, in the event that property owner permission to install flood barriers under Mitigation Measure 4.9-4 is not secured, the resultant impact would be significant and unavoidable.
(FEIR at 4.9-56 to 59)

The addendum states at Appendix A-10:

“Mitigation Measure 4.9-4: Provide Flood Protection to Substantially Affected Areas For areas upstream and downstream of the Winship Bridge (between Barber Avenue and the Sir Francis Drake Bridge): ~~If the Winship Bridge Replacement Project is not completed prior to construction of the Project,~~ ~~the~~ Flood Control District shall develop, fund, and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event. The flood barriers shall be designed based on hydraulic modeling demonstrating that the flood barriers would protect existing habitable structures on any properties upstream of the Sir Francis Drake Bridge from new inundation during the 25-year event. or to any higher degree of protection required for that particular type of measure by applicable building codes. Flood barriers include but are not limited to the following measures:

- Elevation of structures above the 100-year flood elevations
- Basement removal and construction of an addition to contain utilities removed from the basement
- Wet flood proofing of structures, in which, with use of water resistant materials, floodwaters are allowed to enter a structure during a flood event
- Dry flood proofing of structures
- Berms or flood walls

For areas immediately upstream of the Nursery Basin site: The Flood Control District shall develop, fund, and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event. For both of those locations: The flood barriers would ensure that existing habitable structures would not be inundated by the 25-year event. Upon confirmation of permission by the property owners, the Flood Control District shall implement this measure, including implementing any measures identified in permits required from the California Department of Fish and Wildlife, Regional Water Quality Control

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

Board, or other regulatory agencies. However, the potentially adversely affected parcels are privately owned, and the Flood Control District ~~cannot necessarily~~ is not proposing to require the installation or implementation of flood barriers because without the consent of the property owner(s), who may ~~specifically~~ request that such measures not be implemented. In that case, this Mitigation Measure shall would not be implemented, and the affected parcels may experience an increased level of flood inundation in a 25-year event or larger.

The degree of flood protection provided to an individual property will vary depending on the specifics of the flood barrier selected. For most of the flood barriers, the Flood Control District shall provide protection from the 25-year event. However, pursuant to Marin County building code and associated permitting requirements, any increase in structure elevation must be to an elevation sufficient to raise the finished first floor above the elevation of the 100-year flood event. Therefore, property owners who accept that form of flood barrier would receive assistance to implement 100-year protection.

Funding and Implementation Responsibility (Both Locations): For flood walls or berms at the top-of-bank of San Anselmo Creek or Fairfax Creek on privately owned parcels and with the property owners' permission, the Flood Control District shall fund, design, build, and maintain all aspects of those measures, including their possible future removal if implementation of other flood risk reduction projects renders these flood walls or berms unnecessary as determined by the Flood Control District. For a flood barrier that involves improvements or modifications to privately owned habitable structures covered by Mitigation Measure 4.9-4 (structure elevation, wet proofing, dry proofing, basement removal and construction of an addition to house water heaters, furnaces, and similar home appliances, etc.), the Flood Control District shall fully fund the design and provide funding to the property owner for implementation –that is proportional to the increased flood depth with the project. The funding would be provided to the property owner to implement these modifications or improvements. The property owner would be responsible for construction, implementation, and future maintenance of the structure and any associated flood mitigation measures or improvements. (Addendum, Appendix A at A10)

The modifications set forth in the addendum differ from the requirements imposed by the no-rise rule. The no-rise rule requires the Flood Control District to pay for mitigation. In the event the property owner does not consent to the offered mitigation, federal regulations and practice would require the Flood Control District to use eminent domain to condemn the property and bring it into compliance. (Email 8/9/22 from Liz Lewis to Serena Cheung attached hereto as Exhibit 3 "San Anselmo Project Check-in"; Comments by Flood Zone 9 Project Manager Liz Lewis on March 31, 2022, and April 25, 2022 in response to questions by Board Member Greene during publicly noticed meeting of Flood Zone 9 Advisory Board.)

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

The addendum deviates from proper practice by placing the burden on the property owner to accept the Flood Control District’s valuation of mitigation, perform the repairs herself or forego relief if she were to say No. In addition, the addendum further deviates from proper practice by forcing the property to agree to the standard of finished first floor above the elevation of the 100-year flood event instead of any impact of increased base flood elevation on the

property’s structure such as a basement containing electrical or AC/Heating equipment or where moisture will migrate upwards into drywall.

The Flood Control District does not have the funds to pay for the mitigation FEMA regulations require. By changing the rules pursuant to the Addendum, the Flood Control District seeks to make the property owners pay for and bear the burden of the harmful and adverse effects of its SAFRR Project. If there is a conflict as to value between the property owner and the County current Project Manager Berenice Davidson stated she looks at complying with FEMA regulations as requiring her to “gift public funds.” (6/26/23 Partial Transcript Flood Zone 9 Advisory Board Meeting at 11:23-12:6 attached as Exhibit 4)

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

4. The Flood Control District Has Disregarded the Proper Conditional Letter of Map Revision (CLOMR) for an Improper Letter of Map Revision (LOMR).

Current Project Manager Berenice Davidson stated she has changed the Flood Control District’s approach in compliance with FEMA’s instruction to submit a conditional letter of map revision prior to construction. (See Exhibit 2 for FEMA’s comments re the SAFRR Project and the required Conditional Letter of May Revision).

Davidson stated on June 26, 2023 “We don’t need any approval from FEMA at this point. The recommended strategy is that we go to FEMA and require a little map revision after we remove Building Bridge 2.” (6/26/23 Partial Transcript Flood Zone 9 Advisory Board Meeting at 7:20-23 attached as Exhibit 4)

A Conditional LOMR reviews a project prior to construction. CLOMRs review the difference between the pre-project and proposed (post-project) conditions. This is done to isolate the flood level changes due to the proposed project.” (Exhibit 5: Base Flood Elevations and Letters of Map Revision.)

A LOMR reviews the as-built (post construction) ground conditions against the current effective FIRM information. Flood Insurance Rate Maps (FIRMs) are based on existing conditions at the time of the analysis.” (Exhibit 5: Base Flood Elevations and Letters of Map Revision.)

Conclusion

The real agenda of current addendum to the FEIR is to cover up a wholesale change of approach regarding the SAFRR Project's guarantee of flooding downstream neighbors who currently do not flood. The cover up is hiding the real changes in an appendix in small print while pretending the real thrust is planting trees in San Geronimo Valley to compensate for the Flood Diversion and Storage Basin in Fairfax. It is a novel form of greenwashing with local government being abusive of the rights of its citizens. The real changes are not to comply with FEMA regulations and stick property owners with an illegal and unfair financial burden. The Flood Control District has the burden of providing and paying for mitigation. Similarly, to do so, it must first get permission from FEMA. It is illegal to demolish the bridge at 634-636 San Anselmo Avenue, cause damage to downstream property owners and then turn to FEMA with a Letter of Map Revision and instead of complying with the law to seek forgiveness.

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

Sincerely Yours:

HUB LAW OFFICES

By _____

Ford Greene, Esq.

:acg
Encls. (5)

RE: SAFRR Modeling Using FEMA Model

Lewis, Liz <LizLewis@marincounty.org>

Thu 3/11/2021 7:57 PM

To: Davis, Hugh <HDavis@marincounty.org>

Good job presenting last night! I thought we would have more questions about FEMA process.

Liz Lewis | Water Resources Manager

Marin County Flood Control and Water Conservation District

lizlewis@marincounty.org

415.608.8688

www.marinwatersheds.org

From: Davis, Hugh <HDavis@marincounty.org>

Sent: Thursday, March 11, 2021 4:31 PM

To: Lewis, Liz <LizLewis@marincounty.org>; jamesr <jamesr@stetsonengineers.com>

Cc: Xiaoqing Zeng <xiaoqingz@stetsonengineers.com>; Guoyuan Li <guoyuanl@stetsonengineers.com>;

Leventhal, Roger <RLeventhal@marincounty.org>

Subject: RE: SAFRR Modeling Using FEMA Model

11 am tomorrow works and I will set up Teams call if Stetson can join then,

Hugh

From: Lewis, Liz <LizLewis@marincounty.org>

Sent: Thursday, March 11, 2021 3:56 PM

To: jamesr <jamesr@stetsonengineers.com>; Davis, Hugh <HDavis@marincounty.org>

Cc: Xiaoqing Zeng <xiaoqingz@stetsonengineers.com>; Guoyuan Li <guoyuanl@stetsonengineers.com>;

Leventhal, Roger <RLeventhal@marincounty.org>

Subject: RE: SAFRR Modeling Using FEMA Model

James,

I am available tomorrow at 11am if that works for you and Hugh and hopefully Roger can join us.

Thanks,

Liz

Liz Lewis | Water Resources Manager

Marin County Flood Control and Water Conservation District

lizlewis@marincounty.org

415.608.8688

www.marinwatersheds.org

From: James Reilly <jamesr@stetsonengineers.com>

Sent: Thursday, March 11, 2021 3:31 PM

To: Davis, Hugh <HDavis@marincounty.org>; Lewis, Liz <LizLewis@marincounty.org>

Cc: Xiaoqing Zeng <xiaoqingz@stetsonengineers.com>; Guoyuan Li <guoyuanl@stetsonengineers.com>;

Leventhal, Roger <RLeventhal@marincounty.org>

Subject: SAFRR Modeling Using FEMA Model

Hugh, Liz, Roger – Attached are the results of modeling using the FEMA model. The results show the BFE profile and a plan view showing the change in BFE (+ and -) are selected model cross section locations.

Here are a few key points:

1. We had to modify the FEMA model because it would not “converge”. The problem was fixed by modifying the solution method at the Madrone Bridge. With the modification, the model converged and the results are shown in the attached WSE profile. As directed by D. Patel/FEMA’s contractor, this model should not be referred to as the “Corrected Effective Model.”
2. The results of the “Corrected Effective Model” show that the project causes more water to be kept in the channel and directed d/s of BB2 (about 833 cfs). The results are tabulated below:

Table 1 In- Channel flow d/s of BB2

Ex. 1

Scenarios	Flow (cfs)	Diff (cfs)
Existing Conditions -- FEMA Original Effective Model	4000	
Existing Conditions -- FEMA Corrected Effective Model	4003	
Project Conditions -- (BB2_Winship) FEMA Corrected Effective Model	4836	833

3. The results of the "Corrected Effective Model" show that there is a project-caused (BB2 + Winship replacement) rise in BFE d/s of BB2, as expected due to the increase in in-channel flow – and a lowering of BFE u/s of BB2 (as expected). The BFE rise extends d/s to the d/s SFD crossing in Ross. Numerous properties and structures would be "impacted" by the rise, thus requiring mitigation per FEMA regulations.
4. We identified some problems with the "Corrected Effective Model" in the vicinity of Winship Bridge, which may warrant further model corrections as it could potentially reduce the BFE rise near Winship—we can discuss details further later. While further model corrections could potentially result in less/fewer "impacted" properties btwn Barber and near Winship, we would still expect that there would still remain a substantial number of properties and structures impacted btwn BB2 and Barber.

Let me know if you'd like to schedule a call to discuss further.

- James

Winship Bridge

Richard Simonitch <rsimonitch@townofross.org>

Mon 10/3/2022 8:10 AM

To: Lewis, Liz <LizLewis@marincounty.org>; Davidson, Berenice <BDavidson@marincounty.org>; Davis, Hugh <HDavis@marincounty.org>

From: Cheung, Serena <serena.cheung@fema.dhs.gov>

Sent: Thursday, September 22, 2022 2:22 PM

To: Richard Simonitch <rsimonitch@townofross.org>; Stein, Antoinette <antoinette.stein@fema.dhs.gov>

Cc: Nakagaki, Michael <michael.nakagaki@fema.dhs.gov>; Lohmann, Edith <Edith.Lohmann@fema.dhs.gov>;

Alvelo, Teresa <Teresa.Alvelo@verisk.com>; PE CFM Robert C. Lampa (Robert.Lampa@water.ca.gov)

<robert.lampa@water.ca.gov>

Subject: RE: CRS Points

Hi Richard,

Thanks for taking my call regarding the bridge project in the regulatory floodway. I just wanted to summarize our discussion and guidance.

Since the project is in a floodway, the development must comply with Title 44 of the Code of Federal Regulations (44 CFR) Section (§) 60.3(d)(3), which states that any alterations to a floodway must not cause ANY rise in the base flood elevation (BFE).

44 CFR Section 60.3(d)(3) states that a community shall "Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge."

In order to comply with this regulation, NFIP communities must perform an encroachment review and maintain a record of all projects in the regulatory floodway to ensure that the project does not increase flood heights. This is commonly referred to as a "no-rise" certification, which is certified and prepared by a licensed, professional engineer and supported by a hydrologic and hydraulic (H&H) study and modeling. Please refer to [FEMA 480 page 5-21 – 5-26](#) for additional guidance on floodway development and a sample no-rise certificate. It is the responsibility of the Town to conduct the review of the documentation and determine whether it is sufficient and the development shows no rise in the floodway.

A rise in BFE is only allowed by complying with 44 CFR § 65.12 "Revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments," which states:

(a) When a community proposes to permit encroachments upon the flood plain when a regulatory floodway has not been adopted or to permit encroachments upon an adopted regulatory floodway which will cause base flood elevation increases in excess of those permitted under paragraphs (c)(10) or (d)(3) of § 60.3 of this subchapter, the community shall apply to the Federal Insurance Administrator for conditional approval of such action prior to permitting the encroachments to occur and shall submit the following as part of its application..."

This means, an applicant must submit a Conditional Letter of Map Revision (CLOMR) if the proposed project elevates the BFE more than allowed: [Letters of Map Revision and Conditional Letters of Map Revision | FEMA.gov](#). However, based on the information you provided, it does not seem that your project requires a CLOMR, as it does not cause any rise. As I mentioned on the phone, if the Town would like to submit a CLOMR to have FEMA review the project proposal, you are more than welcome.

Thanks,

Serena Cheung

Floodplain Management Specialist | Mitigation Division | FEMA Region 9

Mobile: (510) 424-2783

serena.cheung@fema.dhs.gov | Pronouns: she/her

Federal Emergency Management Agency

[fema.gov](https://www.fema.gov)

From: Richard Simonitch <rsimonitch@townofross.org>

Sent: Thursday, September 22, 2022 1:53 PM

Ex. 2.

To: Stein, Antoinette <antoinette.stein@fema.dhs.gov>
Cc: Nakagaki, Michael <michael.nakagaki@fema.dhs.gov>; Lohmann, Edith <Edith.Lohmann@fema.dhs.gov>;
Alvelo, Teresa <Teresa.Alvelo@verisk.com>; PE CFM Robert C. Lampa (Robert.Lampa@water.ca.gov)
<robert.lampa@water.ca.gov>; Cheung, Serena <serena.cheung@fema.dhs.gov>
Subject: RE: CRS Points

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Hello Antoinette,

Thank you for your response. I am the CRS coordinator and Floodplain Manager for the Town of Ross, and I am a CFM, as well as a licensed Civil Engineer and Land Surveyor so I wear a lot of hats in Ross! I worked with Berenice Davidson and Beb Sky to develop the County's CRS program when I worked at the County DPW back in 2012-2016 so I know them well. Thank you for Robert Lampa's contact information, I tried to reach Ray Lee at DWR a few weeks ago but I guess he no longer works there.

We did not make any claims in the 2019 declared disaster. The flooding stayed mostly within the banks here in Ross which kept the Town from any serious flooding.

I just completed the FEMA's EMI L0278 course in Salem Oregon last week and boy I wish I took it 2 years ago before our 5 year cycle that was just completed last year. Anyway I have some questions on the cycle CRS scoring so I assume I need to contact Teresa Alvelo with those questions, is that correct?

I also want to meet with Michael Nakagaki to discuss no-rise certification on our Winship Bridge project which is planned for construction within the regulatory floodway.

Thank you,

Richard Simonitch
Public Works Director/Town Engineer
Town of Ross
P.O. Box 320
Ross, CA 94957
(415) 453-1453 ext. 115

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From: Stein, Antoinette <antoinette.stein@fema.dhs.gov>
Sent: Thursday, September 22, 2022 1:19 PM
To: Richard Simonitch <rsimonitch@townofross.org>
Cc: Nakagaki, Michael <michael.nakagaki@fema.dhs.gov>; Lohmann, Edith <Edith.Lohmann@fema.dhs.gov>;
Alvelo, Teresa <Teresa.Alvelo@verisk.com>; PE CFM Robert C. Lampa (Robert.Lampa@water.ca.gov)
<robert.lampa@water.ca.gov>; Cheung, Serena <serena.cheung@fema.dhs.gov>
Subject: RE: CRS Points

Hi Richard,

I'm a FEMA Region 9 CRS Coordinator and Hazard Mitigation Floodplain Specialists.

It is very nice to make your acquaintance.--Please let me know how I can be of assistance.

Are you the Town of Ross's CRS Coordinator? I see that there has been a 2019 declared Disaster in Marin County, did this impact your Town? As you may know the County's FPA and CRS contacts are Berenice Davidson, 415-473-3770, bdavidson@marincounty.org and Beb Skye, 415-473-4284, bskye@marincounty.org).

Please note that Robert Lampa is the State of California CRS Coordinator who works for their Department of Water Resources, Division of Flood Management, Interagency Collaboration and Outreach Unit, Cell. His contact info is Robert C. Lampa, PE, CFM, (916) 204-2576, Robert.Lampa@water.ca.gov).


Look forward to further correspondence and discussion regarding technical assistance I can provide to you including many helpful FEMA resources related to CRS or NFIP.

Best,

Antoinette Stein, PhD

HM Floodplain Management Specialist & Community Planner

Mitigation Division | FEMA Region IX
Mobile: (202) 288-1697
antoinette.stein@fema.dhs.gov |
Federal Emergency Management Agency
fema.gov

 Federal Emergency Management Agency logo

From: Cheung, Serena <serena.cheung@fema.dhs.gov>

Sent: Thursday, September 22, 2022 11:12 AM

To: rsimonitch@townofross.org

Cc: Stein, Antoinette <antoinette.stein@fema.dhs.gov>; Nakagaki, Michael <michael.nakagaki@fema.dhs.gov>;

Lohmann, Edith <Edith.Lohmann@fema.dhs.gov>; Alvelo, Teresa <Teresa.Alvelo@verisk.com>

Subject: CRS Points

Hi Richard,

Thank you for the call! As discussed, cc'ed is Teresa Alvelo, your ISO Specialist who can answer questions regarding your CRS points, as well as our FEMA CRS Coordinator Antoinette Stein.

Thanks,

Serena Cheung

Floodplain Management Specialist | Mitigation Division | FEMA Region 9

Mobile: (510) 424-2783

serena.cheung@fema.dhs.gov | Pronouns: she/her

Federal Emergency Management Agency

fema.gov

RE: San Anselmo Project check-in

Lewis, Liz <LizLewis@marincounty.org>

Tue 8/9/2022 9:21 AM

To: Cheung, Serena <serena.cheung@fema.dhs.gov>; Steinberger, Nancy <nancy.steinberger@fema.dhs.gov>; Davis, Hugh <HDavis@marincounty.org>

Cc: Koper, Brian <brian.koper@fema.dhs.gov>; Mansell, Frank <Frank.Mansell@fema.dhs.gov>; Davidson, Berenice <BDavidson@marincounty.org>

Hi Serena,

I will look to set up a Zoom call early next week. Would Monday at **2pm PDT** work for you?

Our team is requesting clarification on a question that we asked Naresh last year. This question is related to removal of the BB2 and the up to 20 property owners who may see a rise > 0.00' in the regulatory floodway. I understood that per CFR 60.3 (d)(3) the District is required to offer mitigation options to these property owners if the removal causes a rise that is > 0.00' and impacts the structure. My understanding is that this is the gist of the CFR but wanted to confirm what is required per the question posed below.

Question 10: What if property owner refuses to accept any of the proposed options?

Answer 10: Mitigation of a residential or non-residential property is at the discretion of the owner if that property is not required to be brought into compliance with the minimum NFIP requirements or local codes due to a triggering event, such as substantial damage or substantial improvement.

If the owner of a property does not wish to pursue mitigation including elevation, dry floodproofing, or wet floodproofing (as permissible per the minimum NFIP requirements or local floodplain management ordinances and local building codes), then the community may offer a buyout program to acquire the property at the fair market value and demolish the structure, leaving the property as green open space, in perpetuity.

Property owners with flood insurance should be aware that for structures that have sustained flood damage (substantial damage and repetitive loss), they may be eligible to use their Increased Cost of Compliance coverage that can provide up to \$30,000 to fund improvements that bring the structure into compliance with local floodplain management laws or ordinances (44 CFR Part 61). For structures that are mitigated using other federal funding sources, Increased Cost of Compliance funds may also be used to pay for the non-federal share or local match requirement, if one is required.

Property owners that do not have flood insurance, incur damage, and receive FEMA disaster assistance to address repair and restoration of the structure (Title 42 United States Code - Chapter 68 - Section 5145a), are required to purchase and maintain flood insurance in order to receive FEMA disaster assistance in the future.

Thanks!

Liz

Liz Lewis | Water Resources Manager
Marin County Public Works
lizlewis@marincounty.org
415.608.8688
www.marinwatersheds.org

From: Cheung, Serena <serena.cheung@fema.dhs.gov>

Sent: Monday, August 8, 2022 3:11 PM

Ex. 3

To: Steinberger, Nancy <nancy.steinberger@fema.dhs.gov>; Lewis, Liz <LizLewis@marincounty.org>; Davis, Hugh <HDavis@marincounty.org>
Cc: Koper, Brian <brian.koper@fema.dhs.gov>; Mansell, Frank <Frank.Mansell@fema.dhs.gov>
Subject: RE: San Anselmo Project check-in

Hi Liz,

I hope you had a nice weekend! It's nice to connect with you virtually. I would like to set up a Zoom meeting to touch base on the San Anselmo Flood Risk Reduction Project and discuss the resident's concerns. Please let me know when you would be available to meet.

Thanks,

Serena Cheung
Floodplain Management Specialist | Mitigation Division | FEMA Region 9
Mobile: (510) 424-2783
serena.cheung@fema.dhs.gov | Pronouns: she/her

Federal Emergency Management Agency
fema.gov

From: Steinberger, Nancy <nancy.steinberger@fema.dhs.gov>
Sent: Monday, August 8, 2022 2:23 PM
To: Lewis, Liz <LizLewis@marincounty.org>; Davis, Hugh <HDavis@marincounty.org>
Cc: Cheung, Serena <serena.cheung@fema.dhs.gov>; Koper, Brian <brian.koper@fema.dhs.gov>; Mansell, Frank <Frank.Mansell@fema.dhs.gov>
Subject: RE: San Anselmo Project check-in

Hi Liz,

Glad to hear the CLOMR is in for signatures. I just left you a voicemail, and I'm available if you'd like to call. Brian Koper would be the best contact for CLOMR questions, and Serena Cheung would be the best person for NFIP compliance questions. I'm just connecting folks at this point, and providing a bit of the history (filling in some gaps now that Michael Hornick has retired). I'm happy to help coordinate if a meeting would be helpful.

Best,
Nancy

Nancy Steinberger, P.E.*
Civil Engineer - FEMA Region IX
Risk Analysis Branch, Mitigation Division
202-430-4945 (cell)
1111 Broadway, Suite 1200
Oakland, CA 94607
*Registered in CO
Pronouns: she, her, hers



Nancy.Steinberger@fema.dhs.gov

From: Lewis, Liz <LizLewis@marincounty.org>
Sent: Monday, August 8, 2022 12:12 PM

To: Steinberger, Nancy <nancy.steinberger@fema.dhs.gov>; Davis, Hugh <HDavis@marincounty.org>
Cc: Cheung, Serena <serena.cheung@fema.dhs.gov>; Koper, Brian <brian.koper@fema.dhs.gov>; Mansell, Frank <Frank.Mansell@fema.dhs.gov>
Subject: RE: San Anselmo Project check-in

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Thanks Nancy, Hugh is back in the office today.

The CLOMR application is being routed for signatures this week so it is on it/s way to FEMA.

Nancy-are you available for a call this afternoon?

Liz

Liz Lewis | Water Resources Manager
Marin County Public Works
lizlewis@marincounty.org
415.608.8688
www.marinwatersheds.org

From: Steinberger, Nancy <nancy.steinberger@fema.dhs.gov>
Sent: Wednesday, August 3, 2022 1:14 PM
To: Lewis, Liz <LizLewis@marincounty.org>; Davis, Hugh <HDavis@marincounty.org>
Cc: Cheung, Serena <serena.cheung@fema.dhs.gov>; Koper, Brian <brian.koper@fema.dhs.gov>; Mansell, Frank <Frank.Mansell@fema.dhs.gov>
Subject: San Anselmo Project check-in

Hi Liz and Hugh,

I hope you're both doing great these days. I wanted to connect you with Serena Cheung at FEMA R9's Floodplain Management and Insurance (FM&I) Branch. The contact I sent you before (Michael Nakagaki) is the Branch Chief, and he has assigned Serena Cheung of his staff to assist.

We received an email (attached) from a concerned citizen regarding the San Anselmo Flood Risk Reduction Project, and we noticed a recent article in [The Marin Independent Journal](#). Looking through my emails, I'm not sure if your CLOMR questions and Building Science questions were fully resolved before Michael Hornick retired.

Were you able to identify a project alternative or design that results in no-rise? Is there anything you need from the MT-2 team or FM&I? We would be happy to attend a virtual meeting to touch base and make sure you have the support needed for compliance with the NFIP requirements. The MT-2 team has not yet seen a CLOMR submission, so we're not sure about the status.

Please let me know if a meeting would be helpful.

Warm regards,
Nancy

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Email Disclaimer: <https://www.marincounty.org/main/disclaimers>

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MARIN FLOOD DISTRICT
FLOOD ZONE 9 ADVISORY BOARD MEETING
JUNE 26, 2023

---o0o---

Partial Transcription
From Digital Audio Media

REPORTED BY: DEBORAH FUQUA, CSR #12948
CERTIFIED STENOGRAPHIC REPORTER

Ex 4.

1 Monday, June 26, 2023 Time Marker 00:36:50

2 ----o0o----

3 P R O C E E D I N G S

4 TRACY CLAY: So with that, I'm going to hand
5 it over to Berenice Davidson, the Assistant Director of
6 Public Works, to go over some of our work we've been
7 doing with FEMA and the rest of the FEMA presentation.

8 UNIDENTIFIED SPEAKER: Tracy, can I ask just a
9 couple questions? On the -- so you sent out the
10 letters today to -- I'm assuming it's the 20 or 22
11 properties that may be affected?

12 TRACY CLAY: Actually, it's more than that.

13 UNIDENTIFIED SPEAKER: It's only about 50 --
14 50 properties.

15 UNIDENTIFIED SPEAKER: 50 properties.

16 UNIDENTIFIED SPEAKER: Yeah. Including all
17 the downtown businesses.

18 UNIDENTIFIED SPEAKER: Okay. And these are
19 properties that will require surveying. And you also
20 just gave notice that -- that, you know, they're I
21 guess somehow linked to the Environmental Impact
22 Report, and they may or may not get mitigations based
23 on the modeling test, correct?

24 BERENICE DAVIDSON: Let me -- maybe can I
25 answer the question. These structures have been

1 identified to experience a rise in the base flood
2 elevation. And in order for us to determine the
3 mitigations that we are going to be proposing, we have
4 to survey the first floor elevation. It is crucial to
5 identifying what type of mitigations we are going to be
6 offering to the property owners.

7 There may be some structures that experience a
8 rise in the base flood elevation, and the base flood
9 elevation will still remain in the crawl space area.
10 It may not affect any of those structural items -- or
11 of their mechanical/electrical or be nowhere near the
12 first floor elevation. And I will cover the textbook
13 mitigation measures in that other slide, just to
14 review.

15 TRACY CLAY: Can I add one thing to that? We
16 identified 50 properties that have a rise in water
17 surface elevation. We wouldn't know until we survey
18 the actual homes.

19 UNIDENTIFIED SPEAKER: That would be what my
20 question is.

21 TRACY CLAY: Yeah.

22 UNIDENTIFIED SPEAKER: Because we got into
23 that back in March, when you guys were here. We talked
24 about parcels, property, or structures.

25 TRACY CLAY: Yeah.

1 UNIDENTIFIED SPEAKER: You were just saying
2 "structures," Berenice.

3 BERENICE DAVIDSON: Yes.

4 UNIDENTIFIED SPEAKER: But were you meaning
5 properties? Or are we def- -- or are we talking about
6 existing structures?

7 BERENICE DAVIDSON: The model spat out a
8 parcel being impacted, again, based on a square inch in
9 the corner of the parcel. If the model says it's
10 impacted, it experiences a rise. It is not until we
11 look at the entire parcel, where is the house in
12 relation to the property lines, where are the
13 elevations of the first floor of the structure, and
14 where is the baseline before and after.

15 So I cannot -- and I will not commit to saying
16 the number of structures. I can only refer to them as
17 parcels right now.

18 UNIDENTIFIED SPEAKER: Right. That's what I
19 wanted to clarify because a few minutes ago you were
20 saying structures, and I wanted to clarify for the
21 record.

22 BERENICE DAVIDSON: Yes. I don't -- I don't
23 want people to think that we have to elevate 50
24 structures. That is not what we're saying. Okay.

25 UNIDENTIFIED SPEAKER: I just wanted a

1 clarification.

2 UNIDENTIFIED SPEAKER: So did you note -- I'm
3 sorry. Go ahead.

4 UNIDENTIFIED SPEAKER: I was just wondering if
5 FEMA provided you with the criteria that you're
6 evaluating each structure by.

7 BERENICE DAVIDSON: Absolutely. And I will
8 cover that. Actually, that's the next slide.

9 UNIDENTIFIED SPEAKER: Okay.

10 BERENICE DAVIDSON: Yeah, so I just want to
11 report that, since we last met, we had an opportunity
12 to meet with FEMA representatives, not just from FEMA
13 Region 9, which is the local region, but also FEMA
14 representatives from Headquarters Mapping. These are
15 staff that are in charge of doing any map changes in
16 any jurisdiction. And in attendance was also FEMA
17 counsel.

18 This meeting was arranged by Supervisor Katie
19 Rice and Director Gaglione, and worked with Jared
20 Huffman's office. So the meeting happened, and I
21 described in detail the history of this project, how we
22 have -- our EIR was certified, and how we do recognize
23 that we are causing a rise. That's been a point of
24 misunderstanding.

25 FEMA does have a requirement that no project,

1 no new development that happens in floodways, you
2 cannot allow anything if it causes a rise. FEMA has
3 very antiquated regulations. They were written in the
4 '70s. This structure was built a hundred years ago or
5 close to. This is regarded as an obstruction to the
6 natural flow of the creek. This is an encroachment.
7 We are not building anything new. We're removing an
8 encroachment.

9 Jurisdictions have the authority and
10 responsibility to remove the obstructions that are
11 causing floods. This bridge was identified as such,
12 and therefore, we have identified as being removed.
13 The EIR concludes that the removal of this bridge does
14 cause a rise, and we are required to mitigate. But we
15 are past the no-rise requirement. We are very open; we
16 will cause a rise. And we will mitigate because, if we
17 don't mitigate, then we get in trouble with FEMA, and
18 that is the least thing we want to do.

19 These mitigation measures that we are going to
20 be proposing, depending on the impacts, are in strict
21 adherence to FEMA requirements; they are in strict
22 adherence to our local floodplain ordinances, not just
23 from the unincorporated areas of Marin but the Town of
24 San Anselmo and the Town of Ross. And we will do
25 everything in accordance to those requirements.

1 We discussed this with FEMA representatives.
2 And what they -- they told us is that, as local
3 jurisdictions, we know best than the national
4 representatives what is best for our community. It is
5 my understanding and in collaboration with the Town of
6 Ross and the Town of San Anselmo floodplain
7 administrators that we're openly still recommending the
8 removal of Building Bridge 2.

9 The Town of San Anselmo and the Town of Ross
10 floodplain administrators were not in the meeting with
11 me when we had this discussion. And therefore, I am
12 requiring the FEMA Region IX civil engineer to have
13 another meeting with me so that they can be present and
14 they can hear what I heard because it is very important
15 that all floodplain administrators agree with our
16 determination, agree with our next step and so that
17 they can check what we're doing and they can also agree
18 what I've already concluded, that we are not going to
19 break any FEMA requirement.

20 We don't need any approval from FEMA at this
21 point. The recommended strategy is that we go to FEMA
22 and require a little map revision after we remove
23 Building Bridge 2. And we're going to do two things.
24 We're going to share the district's model because the
25 model better represents the floodplains of this valley.

1 Our model shows its water elevations, and it matches
2 what we experienced with the hundred year floods of
3 '05, '06. The effective map that we have now do not
4 truly represent this. So that -- that's the next step.

5 And can you go to the next slide. I think I
6 talked about everything on all the slides.

7 So I just want you to have a visual of the
8 information that we need in order to do the proper
9 mitigations on each structure. The model -- we already
10 know what the existing base flood elevation is. When,
11 as Tracy described, Stetson did a recent run of the
12 model. And the changes from the certified EIR is that
13 Winship is to remain.

14 The EIR ran the model with Winship removed,
15 with Building Bridge 2 removed, and some of the bridges
16 upstream removed. So we have to change it because
17 we're only doing Bridge 2 next year. And therefore, we
18 have to identify which properties are the ones
19 impacted. The impacts are the same. They're either
20 going to cover a rise and where -- it's the same. We
21 identify that in the EIR. We simply need to know which
22 ones we need to work with. And that's what we're
23 doing.

24 And you can see every single house is
25 different. Some of them, the first floor are more at

1 ground level. Others are a bit above the ground level.
2 Some have crawl spaces, and they have different
3 foundations. So we really need to go in there and see
4 what each of them is. This is just a simple visual so
5 you can see.

6 The next slide, I presented this at the
7 meetings, council meetings with Town of Ross and
8 San Anselmo. These are textbook scenarios so that you
9 can see where the first floor is. The dashed line is
10 the existing base flood elevation, and then the changes
11 after a project, in this case, our bridge. When we
12 remove it, if the base flood elevation is below -- as
13 shown in this picture -- below the first floor and then
14 it rises to above the first floor, the requirement in
15 mitigation on the district is to raise this structure
16 to a foot above the new base flood elevation. So we
17 would have to elevate the home in this scenario.

18 The next slide shows another situation. The
19 existing base flood is a little higher but still below
20 the first floor. After project, it's above the first
21 floor. We will have to elevate the house. And those
22 are, again, mitigation measures required by FEMA for
23 our ordinances and their summarizing the certified EIR
24 from 2018.

25 Next one, you can see the base flood elevation

1 still remains below the first floor. In this case, the
2 mitigation depends on what the property owners have
3 below the first floor. We need to know if they have
4 electrical or mechanical equipment, and we need to have
5 final and mitigate that.

6 And the same thing, you can see on the next
7 slide, this is something that does not impact the
8 structure, does not impact the house. It does impact
9 the parcel. The base flood elevation does touch the
10 parcel, the terrain, but the structure is not even
11 touched. So in this case, there's no mitigation that's
12 required. We don't have to do anything to that house.

13 The next slide, this is a controversial
14 scenario. And in this case, you have a structure where
15 the base flood elevation is already above the first
16 floor. The strictest interpretation of FEMA definition
17 is that this house is already at risk. It has a risk
18 already. And the fact that I remove the bridge does
19 not create a new risk. It does -- it perhaps has
20 implications on how much insurance, flood insurance
21 they'll be paying. But my project does not create a
22 new risk. This structure is already at risk in the
23 strict interpretation of FEMA.

24 UNIDENTIFIED SPEAKER: Can I just ask you a
25 quick question about that?

1 BERENICE DAVIDSON: Yes.

2 UNIDENTIFIED SPEAKER: Because you explained
3 that when you were at our council.

4 BERENICE DAVIDSON: Yes.

5 UNIDENTIFIED SPEAKER: And I thought it was
6 very clear and understandable. But then a scenario
7 popped in my mind that I wanted to ask you. What if
8 the people in this scenario have -- you know, were
9 aware that they're in -- that they're above the flood
10 -- the base flood elevation, their first floor is below
11 it essentially.

12 BERENICE DAVIDSON: Yes.

13 UNIDENTIFIED SPEAKER: And they had, I guess
14 in designing that house or whatever, put mechanical
15 stuff, you know, on the first floor but like risen
16 above that. Since it's impacting -- if the rise would
17 impact that mechanical stuff, would that still
18 basically mean, no, you started under there, you're
19 still under there, so there's no cause for mitigation?

20 BERENICE DAVIDSON: Well --

21 UNIDENTIFIED SPEAKER: And I realize that's a
22 really specific scenario, but --

23 BERENICE DAVIDSON: I guess what I'm going to
24 offer is that I imagine the conversation with property
25 owners with these circumstances is going to be a

1 back-and-forth. What I'm dealing with is that I cannot
2 gift public funds. Can we arrive at some sort of
3 agreement? I think so. But I'm not willing to engage
4 at this point until I -- until I have the specifics.
5 But that is a conversation that's going to have to
6 occur given each of those scenarios.

7 UNIDENTIFIED SPEAKER: Thank you.

8 UNIDENTIFIED SPEAKER: Berenice, doesn't that
9 kind of fall under the same textbook scenario of the
10 flood still remaining under the floor? Like if,
11 there's mechanical equipment in the crawl space, I
12 think what you're saying it's what equipment is
13 impacted in the first floor? And the then bottom line
14 is that none of that triggers raising the foundation,
15 which is the big-ticket item, so I don't think that
16 that's relevant financially.

17 I had a quick question though. You know, when
18 -- let's just fast forward a little bit and say, well,
19 I live downstream from Building Bridge 2. And you
20 know, I have -- something in my FEMA map indicates
21 that, before this work, the water would have been in my
22 crawl space. And after this work, the water will be on
23 my first floor. You know, we've done the surveying,
24 and that's the outcome. So let's just say that's an
25 established fact. What are the options for the

1 homeowner and the City? I mean, does the offer of
2 raising the elevation, is that something where there's
3 an option to turn down that offer? Or what happens to
4 the choice in that matter for the homeowner and for
5 the, you know, for the government as well?

6 BERENICE DAVIDSON: So all I can refer to is
7 in our certified EIR did -- they did a statement of
8 overriding considerations. And their definition of
9 that is that, if you offer a reasonable mitigation and
10 it's not accepted, we -- the district does not have any
11 authority or requirement to go into private property
12 and do any work. We simply cannot. It is not legal.
13 We are not going to do it.

14 And that is the definition of the statement of
15 overriding consideration because we still recommend
16 moving forward the project. And those conversations
17 are going to be had with the property owners and with
18 the district and perhaps our counsel present so that
19 those conversations can be had.

20 UNIDENTIFIED SPEAKER: Is there a liability
21 then to the County or to the, you know, Town of Ross or
22 anybody? If you make that offer and you say it's an
23 overriding consideration and it's a reasonable
24 mitigation and the person turns it down, what does that
25 to do to my ability?

1 BERENICE DAVIDSON: Well, I want to defer
2 those questions to counsel. I'm not an attorney. But
3 I suspect we are going to have disagreement when we
4 have these conversations with property owners. And
5 those will have to take its course. I'm not going to
6 speculate what the legal implications will be or the
7 liability. But I'm sure we will have those
8 conversations with the proper expertise in the room.

9 UNIDENTIFIED SPEAKER: Okay. Appreciate it.

10 UNIDENTIFIED SPEAKER: If I can just follow up
11 on that. So I think what you're getting to is, if they
12 turn it down and the county -- do you think the
13 county's just going to plow ahead without an agreement
14 and just finish the project under some kind of
15 exemption? Or do you need, as Mr. Greene has
16 suggested, are you required to have an agreement from
17 every single property owner that's on that list?

18 BERENICE DAVIDSON: According to the certified
19 EIR, we do not have to have agreement from a hundred
20 percent of the property owners to move forward with the
21 project.

22 UNIDENTIFIED SPEAKER: Do you need agreements
23 from a hundred percent of those who have mitigation
24 requirements?

25 BERENICE DAVIDSON: No. That is the

1 definition of the statement of overriding
2 considerations.

3 UNIDENTIFIED SPEAKER: Okay.

4 (End of audio transcription at
5 Time Marker 00:55:00)

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STATE OF CALIFORNIA)
) ss.
COUNTY OF MARIN)

I, DEBORAH FUQUA, a Certified Shorthand Reporter of the State of California, do hereby certify that the foregoing audio media was reported by me, a disinterested person, and thereafter transcribed under my direction into typewriting and is a true and correct transcription of said proceedings, subject, however, to the quality of the media submitted for transcription.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing proceeding and caption named, nor in any way interested in the outcome of the cause named in said caption.

Dated the 7th day of July, 2023.



DEBORAH FUQUA

CSR NO. 12948

BLE and Letters of Map Revision (LOMRs)

Once Flood Insurance Rate Maps (FIRMs) are released as effective the flood hazard information (floodplain extents, floodways and Base Flood Elevations) should be maintained by the community and local developers who modify the natural drainage areas with grading and construction activities. The Code of Federal Regulations was updated in the 1980s and 1990s to formalize the submittal requirements and share the maintenance requirements of the FIRM to include the development community and locals. The intent was to move the cost of maintenance from all taxpayers to those that "benefit from the modification".

The minimum requirements for communities participating in the National Flood Insurance Program (NFIP) all proposed development activity should be permitted. Additionally, local reviews should be completed to assure that, the project, once completed will be reasonably safe from flooding. This is completed through local permitting and local floodplain management reviews. Local permitting that results in modifications to the flood information on the FIRM should be submitted within six-months after construction has been completed. *44 CFR 65.3*

Flood Insurance Rate Maps (FIRMs) are based upon existing conditions at the time of the analysis.

LOMRs review the as-built (post construction) ground conditions against the current effective FIRM information.

LOMR

Letter of Map Revision

REQUIRED WHEN: Changes to physical/climatic information results in a change to the flood hazard information in the vicinity of flooding sources shown on FIRMs. Man-made changes (grading or moving flood source) and culvert/bridge addition or replacement.

PURPOSE: Change effective flood delineations/extents, floodway and/or Base Flood Elevations (BFEs)

RESULT: FEMA issues a letter/document, as well as revised Flood Insurance Rate Map (FIRM)/Flood Insurance Study (FIS) documents.

Zone AE areas (no floodway). When a floodway has not been designated, communities are responsible for monitoring all proposed development to assure that the cumulative effect of the planned modifications to be made during construction (in combination with all existing and anticipated development) will not increase the base flood elevation (BFE) more than one foot at any point along the study area. *44 CFR 60.3(c)(10)*

In the case where a proposed project increases the BFE more than 1.0 foot, a Conditional Letter of Map Revision (CLOMR) is required.

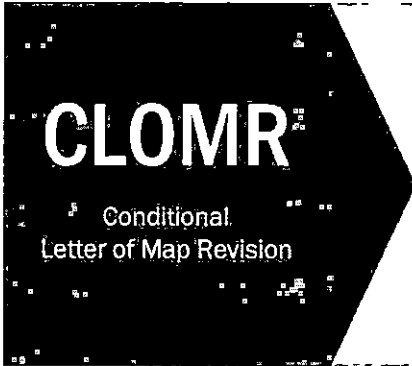
Zone AE areas (with floodway). When a floodway is shown on the FIRM in the vicinity of a proposed development, the community is required to prohibit encroachments (fill, new construction, or other improvements) unless it has been demonstrated through analysis that the proposed development would not result in any increase in the base flood elevation in the vicinity of the proposed project. *44 CFR 60.3(d)(3)*

In the case where a proposed project increases the BFE more than 0.0 foot, a Conditional Letter of Map Revision (CLOMR) is required.

Conditional LOMRs review projects prior to construction activities taking place.

CLOMRs review the difference between the pre-project and proposed (post-project) conditions. This is done to isolate the flood level changes due to the proposed project.

Ex. 5



REQUIRED: When a project's effects are found to be larger than 0.0 ft in Zone AE (with floodway) or 1.0 foot in Zone AE (no floodway), the project should be reviewed locally for mitigation measures and should be required to submit a CLOMR to FEMA.

PURPOSE: Review of pre-project versus post-project conditions. Provides an awareness to surrounding property owners and requires contact to alert them of potential effects to their property prior to construction.

RESULT: FEMA issues a letter to indicate the potential changes to the floodplain, floodway and Base Flood Elevations relative to the proposed project.

Zone A areas. When a floodplain has been provided on the FIRMs, but does not show any Base Flood Elevations, it is designated a Zone A (or Zone A1-A30). These areas still require coordination with local development authorities and should provide a pre-project and proposed project analysis to assist local community officials in understanding the project's effects prior to permitting on construction. A CLOMR submission may be requested if the project is found to increase the base flood elevations more than 1.0 foot at any point in the vicinity of the proposed project.

BLE as Available Flood Hazard Information. Both LOMRs and CLOMRs require engineering modeling to be prepared for comparison. Base Level Engineering (BLE) makes skeleton models available for use and may be used to prepare LOMR and CLOMR submittals. The table below indicates how BLE may be used to prepare required submittals for local permitting reviews in the vicinity of flood prone areas.

Project	Changes	Flood Zone on FIRM	Can BLE be used? *
<p>Man made changes have been completed</p> <p><i>For a full list of development activities reference 44 CFR 59.1 - Definitions.</i></p>	<p>H&H analysis and floodplain mapping for completed project indicates changes to the floodplain, floodway and/or base flood elevations in the study reach</p> <p>ACTION: Submit LOMR to update FIRM</p>	<p><u>Post-Project Model</u></p> <ol style="list-style-type: none"> No Effective Flood Data, no flood zone Zone A Zone AE (with or without floodway) 	<ol style="list-style-type: none"> Yes, use for pre- and post-project conditions Yes, use for pre- and post-project conditions No. BLE terrain input may be used to update cross-section data in pre-project conditions or provide data upstream and downstream of project area.
<p>Proposed man-made development activity</p>	<p>H&H analysis is to be provided for the following two conditions:</p> <ul style="list-style-type: none"> Pre-Project Proposed Project <p>Review graphic above to identify when CLOMRs are necessary.</p> <p>ACTION: Submit Conditional LOMR (CLOMR) to determine project effects.</p>	<p><u>Pre-Project Model</u></p> <ol style="list-style-type: none"> No Effective Flood Data, no flood zone Zone A Zone AE (with or without floodway) <p><u>Proposed (Post-Project)</u></p> <ol style="list-style-type: none"> Any Zone 	<ol style="list-style-type: none"> Yes, model may be used as is for existing conditions. Yes, model may be used as is for existing conditions. Yes, model may be used, however will likely require refinement* No. Proposed ground conditions

*Refinement may include updated topography (breaklines, cell density), integrating existing structure information from effective modeling or updates to hydrologic or hydraulic model inputs.

Integrate Base Level Engineering when possible in agreement with the workflow below. Leverage available engineering models to prepare submittal requirements. A high-level workflow is identified below for reference:



QUICK FACTS

- Local community reviews are used to assure that development meets both minimum federal and higher-local floodplain requirements.
- The authority to approve/deny development exists at the local level. Permits are issued by communities.
- FEMA's LOMR and CLOMR reviews are intended to assure that FEMA has the required documentation to update the Flood Insurance Rate Maps (FIRMs) with new information.
- FEMA does not approve development for participating NFIP communities.
- A LOMR allows FEMA to revise flood hazard information on an NFIP map via letter without physically revising and reprinting the entire map panel.
- The requester is responsible for providing all the information needed for the review, including (if necessary) elevation information certified by a licensed land surveyor or registered professional engineer.
- According to FEMA's Technical Bulletin 10-01 "to be reasonably safe from flooding during the Base Flood condition, the basement must (1) be dry, not have any water in it, and (2) be structurally sound, not have loads that either exceed the structural capacity of walls or floors or cause unacceptable deflections."
- FEMA does charge a review fee for LOMRs and CLOMRs. Review the current fee schedule at: <https://go.usa.gov/xsGwr>.

Additional Resources. The Code of Federal Regulations, NFIP minimum floodplain requirements, and FEMA submittal processes are very complex and initiate a high volume of calls and inquiries to FEMA's Mapping and Insurance eXchange (FMIX). The following resources can provide additional information for communities, property owners and the development industry.

- Protecting Floodplain Resources – A Guidebook for Communities (www.hsdl.org/?abstract&did=456496)
- Reducing Losses in High Risk Flood Hazard Areas <https://go.usa.gov/xsGwX>
- Managing Floodplain Development Through the NFIP, Unit 5 (NFIP Requirements) <https://go.usa.gov/xsGwU>
- Tutorial Flood Insurance Rate Maps (<https://go.usa.gov/xsGw7>)
- MT-2 Forms and Instructions (<https://go.usa.gov/xsGwM>)
- On-Line Letter of Map Change (<https://go.usa.gov/xsGfa>)
- Tutorial – On-Line LOMC Tools (<https://go.usa.gov/xsGfr>)



From: [Garril Page](#)
To: [EnvPlanning](#)
Cc: [Christa Johnson - Town Manager](#); Karla.nemeth@water.ca.gov; [Steve Burdo](#); [Bishop, Michael](#); [Nakagaki, Michael](#); [Serena Cheung](#); [Brian](#); [BOS](#); towncouncil@townofsananselmo.org; towncouncil@townofross.org
Subject: Addendum Comment
Date: Monday, July 10, 2023 12:08:44 PM

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July 10, 2023

I appreciate the opportunity to Comment on the SAFRR Addendum and submit my comments timely for inclusion in the record of this procedural step in the administrative process.

Comment on Chapter 1:

It is remarkable that the County Flood District (CDF) assumes the nearly five years that have elapsed since certification have erased both memory and factual data about the 2018 SAFRR FEIR. I do not blame ESA for this: consultants perform the job for which they are paid. The standard for moral turpitude is markedly lower for some than others.

The EIR Addendum selection violates CEQA *Guidelines* Section 15162 continuing the deceit and bad faith that blocks any path of meaningful progress toward beneficial flood remediation in the Ross Valley. Applying the criteria listed on **1.3 Supplemental Environmental Review of the Proposed Action** of this Addendum demands circulation of a subsequent EIR, not an abbreviated Addendum free of the burden of public comment.

Conditions 1) and 2) list "...a substantial increase in the severity of previously identified significant effects;".

Condition 3) lists: " New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was adopted, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the EIR;
- (B) Significant effects previously examined will be substantially more severe than shown;..."

The 2018 EIR was primarily based on conceptual design. Failure to acknowledge new information from data revisions, project area plan modifications, and proposed actions curtailed due to fiscal reality affecting the scope and nature of the project, all meet conditions 1-3 of the CEQA Guidelines, thereby necessitating a supplemental EIR and disqualifying the selection of abbreviated Addendum.

That the 2018 EIR has gaps and fails to account for currently identified impacts further justifies recirculation of an EIR. It does not justify concealing important information through an Addendum. Selecting the San Geronimo compensatory mitigation planting as the subject and 'planned action' of the Addendum is improper subterfuge, and open to legal challenge for misdirection and failure to observe CEQA Guidelines.

Scope of the Mitigation Planting Addendum

The proffered Addendum is part of the County’s heedless scramble to protect access to the Department of Water Resources bond funding, a grant for which the project no longer qualifies.

Scope of the Mitigation Planting Addendum

The large increase in potentially impacted areas from increased flooding created by SAFRR is enough to account for EIR recirculation. Per one source, the 2023-06-01 updated Meridian Survey, that number has jumped to over fifty-five parcels. Due to the limited study area within the larger project site, the number may be higher. Further, FEMA AE flood maps indicate errors and omissions in the computer-generated list being used by CFD to identify parcels requiring surveys for potential damage and mitigation. How many parcels need what level of mitigation has not been completed so the omission may be far more substantial and severe. This is not speculation but reseach resulting from continued hydraulic models, surveys, and observed data from past flood events. This is cause for a recirculated EIR, not an abbreviated Addendum.

CEQA seeks study of environmental effects. If even one inch of water touches each identified parcel, there is potential environmental impact, the nature of which deserves EIR analysis. Hydraulic forces and flow velocity changes cause scour, erosion, aggradation, soil disruption, vegetative disturbance, effects on riparian and wildlife patterns. All are appropriate environmental effects for CEQA review and analysis.

Potential Impacts of Downtown San Anselmo Component

More numerous Substantive Significant Effects lie in changes to project site embankments, modification of project elements to protect commercial structures as well as downstream parcels in San Anselmo and Ross. SAFRR may not be within the Town of Ross but Ross' agreement and cooperations are essential to SAFRR. Bridge and culvert changes assumed replaced in the 2018 EIR now remain in place necessitating hydraulic and hydrologic modifications and greater environmental impacts. There have been changes in Fairfax basin size, function, revegetation, site access and maintenance elements. Remediation is an on-going and future county commitment that by CEQA Guidelines should be revealed in new environmental concerns.

All of preceeding concerns have been ignored in the selection of the Addendum where San Geronimo mitigation is the subject and ‘planned action’ while San Anselmo and Fairfax, the project site of SAFRR are largely omitted. The Chapters and the Environmental CheckLlist devoted exclusively to the substituted San Geronimo compensatory mitigation instead of the current SAFRR project do not comply with CEQA goals and Guidelines.

Scope of the Mitigation Planting Addendum

The Addendum is a sham.

Chapter 2 Comment:

The San Geronimo compensatory mitigation site was not in 2018 EIR and qualifies for inclusion as a new element. This should should not lead to failure to include other elements and impacts.

Potential Impacts of Downtown San Anselmo Component

"FEIR Mitigation Measures 4.5-7a: Vegetation Protection for Sensitive Natural Communities, and 4.5-7b: Habitat Restoration and Monitoring Plan, included below, were among the mitigation measures adopted as part of the CEQA Findings and are required to be implemented for the SAFRR project..."

The redwood stand in San Anselmo Creek Park qualify as a Sensitive Natural Community in the riparian community of Creek Park. The redwoods should be added for Vegetation Protection 4.5-7a and Monitoring, 4.5-7b. Dewatering, soil disturbance, and intended or accidental compaction is certain to accompany demolition of BB2 and daylighting of that section of the creek. Due to the age and size of these trees, in-kind replanting or restoration is impossible. Demolition-related impacts and habitat loss is likely to impair the trees' shallow-rooted, interlocking, water-seeking support system The resultant decline and eventual death of the redwoods is a nearly incalculable loss to the town. If San Geronimo replanting is deemed important enough to elevate it to both subject and 'action plan' of this EIR Addendum, inclusion of central San Anselmo's redwood stand deserves equal attention.

Potential Impacts of Downtown San Anselmo Component

Chapter 3 Comment:

Omitting all but San Geronimo's compensatory mitigation is contrary to the intent, goals, and Guidelines of CEQA.

3.1.1 Volume 2 of SAFRR FEIR August 2018 Response to Comments relied on inadequate, incomplete Master responses to many concerns about the project. Over the intervening years 2018-2023, these concerns have been validated and deserve a recirculated EIR to fully answer and address them.

3.1.2. Proposed changes involve New or Substantially More Severe Impacts, Direct and reasonably foreseeable indirect physical changes in the environment. Projection, not speculation, as is done in hydraulic modeling, shows substantive increase in number of potentially impacted parcels, an admitted impact of SAFRR project. See Comment on Chapter 1 above.

Potential Impacts of Downtown San Anselmo Component

3.1.5 Do Existing FEIR Mitigation Measures Reduce Impacts to Less-than-Significant Level? No. Because county admits increased new flooding and admittedly lacks funding for the needed mitigation proposed and detailed in FEIR the answer is **NO**. Where a determinative, substantive remedy in the FEIR is deemed infeasible, a recirculated EIR is required.

3.3.1 Aesthetics and visual resources impacted, Adverse effect, substantially damaged, degraded.

The correct response is **Unknown** because no survey nor plans for newly impacted area is available. A required EIR would contain discussion of the potential loss of signature heritage Redwood stand in San Anselmo's Creek Park and remediation for such an impact.

3.3.3 Air Quality

The downtown San Anselmo construction/demolition project is projected to take seven months. Diesel particulate matter, dust, impact to vegetation including the omitted redwood stand, as well as increased traffic exhaust resulting from street and parking area blockages are justly subjects for a current, more accurate evaluation of impacts through a recirculated EIR.

3.3.4 Biological resources (e.) (f.)

The redwood stand is included in approved local habitat conservation plan and tree preservation policy or ordinance for heritage tree preservation. These trees were omitted from FEIR discussion, a failure that should be remedied by an EIR, not an abbreviated Addendum for compensatory mitigation in San Geronimo.

3.3.9 Hazardous material

ESA and CFD were apparently unaware that the former gas station tank remains within the project site in downtown San Anselmo. Mitigation for this hazard is omitted along with the impacts of its removal on the redwood stand and Creek Park. Toxics in a public recreation site, Creek Park, may remain quiescent but disturbance caused by the SAFRR project demands both remediation and an EIR.

3.3.10 Hydrology

Comment on Chapter 1 above addresses the Substantive New Risk. Further, Mitigation in Appendix A. is moot and infeasible: CDF cannot perform the proposed remedial mitigations as both funding and required procedural requirements are lacking. This is particularly relevant since the projected new water surface increases caused by the project SAFRR project encroach and occur in areas that have not flooded previously.

3.3.16 Recreation

Aside from the 7 months of construction, new fencing and proposed guard rails, and tree removal, the daylighted creek will repel and repulse visitors to this area. Increased use which revitalizes San Anselmo is a benefit, not a detraction. Loss of the downtown plaza through BB2 demolition of BB2 means permanent loss of visual and physical access. Any elimination of San Anselmo's limited parkland results in decreased enjoyment of the downtown area. This is a substantive, detrimental impact to pedestrians and bikers that has increased substantially since 2018. A full EIR is indicated to address this increased impact on the town.

3.3.17 Transportation /Traffic

New sidewalk and narrowing of roadway in high demand area is an obvious negative effect. Decreasing parking and access creates more dangerous circulation: drivers circle the blocks seeking spaces, endangering pedestrians and bikes while those pedestrians and bikes navigate narrowed aisle with lowered visibility. This results in permanently increased conflict, competition and confrontation between cars, bikes and pedestrians. Emergency access and first responders are hindered by streets clogged with traffic, bikes and pedestrians dodging each other. This results in major impact. Though the project scope is small, limited road width in a high demand area. A substantial, permanent negative impact of SAFRR is inadequate access, and increasingly difficult access.

Conclusion:

The county has prepared an abbreviated Addendum when CEQA Guidelines lists criteria for a recirculating a full EIR in order to discuss and potentially mitigate new, significant, and substantive environmental impacts of the SAFRR Project. EIR recirculation is a legal necessity due to changes in creekbed conditions increasing both flood flows and impacted areas, requiring new, approved hydraulic analysis and computer models to secure federal permits. Bridges and culverts previously considered replaced now remain in place. Inclusion of measures infeasible in preventing flood remediation altogether are new project elements. Outdated claims that 480 homes will benefit from SAFRR are as deceitful as the deflection to tree-planting in San Geronimo.

That the CEQA process intended to inform the public of potential substantial impacts of the proposed SAFRR project has been warped into a vehicle to advance careers and Vanity Projects, not flood remediation, is a violation of public trust. This Addendum is a dissembler

Potential Impacts of Downtown San Anselmo Component

Scope of the Mitigation Planting Addendum

extraordinaire.

Evading FEMA's CLOMR (Conditional Letter Of Map Revision) with a LOMR (Letter Of Map Revision) process may enable demolition of BB2, but risks loss of both FEMA's NFIP and FEMA's annual Community Rating System discounts on homeowners' flood insurance.

Scope of
the
Mitigation
Planting
Addendum

Garril Page
San Anselmo

From: [Ann Politzer](#)
To: [EnvPlanning](#)
Subject: Draft SAFRR EIR Addendum
Date: Monday, July 10, 2023 3:57:52 PM

You don't often get email from annpolitzer@gmail.com. [Learn why this is important](#)

Dear Ms. Reid,

I am writing you today regarding the the Public Draft of the SAN ANSELMO FLOOD RISK REDUCTION PROJECT MITIGATION PLANTING Addendum to the 2018 San Anselmo Flood Risk Reduction Project Final Environmental Impact Report (SCH # 2017042041). The Draft SAFRR EIR Addendum is a Trojan horse. In it, the County reneges on Federal requirements and on the County's own repeated assurances that it will FUND effective mitigation to downstream homeowners, who's properties will be impacted by the water rise occasioned by the SAFRR Project's removal off Building Bridge 2 at Creek Park Plaza in San Anselmo. The County's project at Creek Park CANNOT go forward until this Addendum ie revised, recirculated and "made right" in terms of FEMA requirements.

Marin County's Board of Supervisors and Public Works Department have known about FEMA's 0.0 water rise requirement since 2014. They have also known, since that date, that before they undertake upstream work in the federally regulated San Anselmo Creek, they must first have completed plans and available funding to do mitigation work downstream for properties affected by the potential 4 inch water rise occasioned by the removal of Building Bridge 2. After nine years, the County cannot provide adequate plans or funding, despite having spent \$52.1 million on flood control.

The County has tried to come up with several quick fixes to get around their negligence and bad management. The most publicly visible fix would be the "Baffle", a concrete structure that replicates the flow constraints of the existing BB2 structure and supposedly, although it doesn't meet any of the requirements under funding terms, gives the County time to figure out how to fix their mess so they don't lose their grant money. The most publicly invisible fix would be the meeting set up by Supervisor Katie Rice with Representative Jared Huffman and FEMA. The purpose of their meeting seems to have been to persuade FEMA not to hold the County to federal requirements. Neither of the FEMA administrators for San Anselmo or Ross attended this meeting.

Draft SAFRR EIR Addendum is the sneakiest and most dishonest fix attempt of the lot. Hidden in the tail end of the Trojan Horse, the County literally crosses out the word FUND—implying they will NOT FUND promised mitigation for at least 20 properties on Ross. The addendum then goes on at length about planting trees in San Geronimo. How that provides mitigation for homeowners in Ross flooded by the County's actions, I do not know.

A recently as the **March 9, 2023 Ross Town Council Meeting**, Bernice Davison

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

reassured Ross homeowners that they would all be visited by County representatives to asses mitigation need for individual properties. The County has said that before, and the statement was regarded with skepticism. And rightly so.

DO NOT let the SAFRR Project proceed as stand and DO NOT let this Trojan Horse into our gate.

Thank you for your time and consideration.

Sincerely,

Ann Politzer
San Anselmo

Mitigation
Measure
4.9-4,
Provide
Flood
Protection to
Substantially
Affected
Areas

From: [Doug Ryan](#)
To: [EnvPlanning](#)
Cc: [John Crane](#); [Jenny Mota](#); [Samantha Hobart](#); [Richard Simonitch](#)
Subject: EIR Addendum SAFRR flood control project
Date: Saturday, June 17, 2023 1:19:01 PM

You don't often get email from dougryan999@gmail.com. [Learn why this is important](#)

My name is Doug Ryan and I reside at 74 Sir Francis Drake Blvd in Ross. As you are doubtless aware, my property is one of the many that will face a water level rise AT MY HOUSE as a result of the SAFRR project, and I need to make sure you are aware of the following.

FEMA has a "no rise" rule whereby the water level cannot rise above 0.00" as a result of the project or mitigation must be performed prior to commencement of the project. I don't see that mentioned in the EIR addendum and believe it should be specifically called out. The previous EIR also did not address the "no rise" rule and that was a flaw in the process.

Scope of the Mitigation Planting Addendum

My house will see a water level increase of between 2 - 4 inches at my dwelling as a result of this project. I don't see that listed in your addendum.

Potential Impacts of Downtown San Anselmo Component

Your addendum references addressing 25 year flood water rise rather than the correct 100 year flood water rise. Please correct.

Your addendum deletes "fund" when talking about implementing flood water barriers at homes. What is the purpose of the deletion and how will it impact the needed mitigation at my home?

Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas

Your addendum discusses "basement removal" at affected properties - that would substantially impair the value of my house and the flood control district would need to compensate me for that unjust taking of my private property. Please address that in the addendum.

Your addendum acknowledges putting more water in the creek as a result of removing BB2 but does not provide any specifics for those homes impacted. Please include or provide a table identifying the 20 plus properties affected and what the impacts are.

Your addendum does not mention any increase in water levels past the bridge on sir francis drake blvd next to my house - where is all the additional water being put in the creek going if the water level after the bridge doesn't increase? On my property? Please address in the body of the addendum how the additional water can be put in the channel at BB2 and not increase the water level past the bridge next to my house, and where that water will go.

Potential Impacts of Downtown San Anselmo Component

In 2018, prior to the adoption of the EIR, Chris Martin, then-president of the Zone 9 Flood Board Advisory Council, said in a recorded meeting if mitigation was required at my house it would be performed by the County at no cost to me. Please review the relevant meeting recording.

As background, you should be aware the County has consistently refused to approach myself (or most other affected homeowners) to discuss mitigation because the cost is daunting. The last time your county project manager, Hugh Davis, was at my property in 2021 he suggested (seriously) they cut my house in half and raise half. He also previously told me the increase in

risk was minor and I should be willing to accept that increase in risk. Liz Lewis, in a 2020 zoom call, said a 2" increase in water level at the walls of my house were "not significant" and didn't merit mitigation. When asked by Rich Simonitch if a one foot water level increase would be considered significant, she would not answer.

I look forward to the appropriate revisions to the draft addendum prior to it becoming final. Please reach out to me for any further documentation needed.

Doug Ryan
415.297.8402

Attachment B

Resolution No. 2018-100 A Resolution of the Marin County Flood Control and Water Conservation District Board of Supervisors Approving the San Anselmo Flood Risk Reduction Project in Unincorporated Marin County and San Anselmo

RESOLUTION NO. 2018-100
A RESOLUTION OF THE MARIN COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT BOARD OF SUPERVISORS
APPROVING THE SAN ANSELMO FLOOD RISK REDUCTION PROJECT IN
UNINCORPORATED MARIN COUNTY AND SAN ANSELMO

SECTION 1: CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

- I. WHEREAS an Final Environmental Impact Report (EIR) was prepared for the San Anselmo Flood Risk Reduction Project (Project) by ESA, environmental consultant to the Marin County Flood Control and Water Conservation District, pursuant to requirements of the California Environmental Quality Act ("CEQA," Public Resource Code Sections 21000-21177), State CEQA Guidelines, and County CEQA procedures; and
- II. WHEREAS on September 18, 2018, the Marin County Flood Control and Water Conservation District Board Of Supervisors adopted Resolution No 2018-99, which certified the EIR for the San Anselmo Flood Risk Reduction Project as adequate for purposes of taking an action on the project; and

SECTION 2: FINDINGS FOR APPROVAL OF THE PROJECT

- III. WHEREAS, The San Anselmo Flood Risk Reduction Project will reduce the acute risk of flooding in Ross Valley by implementing flood mitigation projects on two parcels in San Anselmo and Fairfax: one to remove a channel-constricting building on San Anselmo Creek at 634-636 San Anselmo Avenue and one to construct a flood diversion and storage basin at 3000 Sir Francis Drake Boulevard along Fairfax Creek; and
- IV. WHEREAS, the Findings are attached as Exhibit A.

SECTION 3: ACTION AND VOTE

- V. WHEREAS, on September 18, 2018, the Marin County Flood Control and Water Conservation District Board of Supervisors conducted a duly noticed public hearing on the San Anselmo Flood Risk Reduction Project, receiving testimony on the proposed project and considering the recommended project.


NOW, THEREFORE BE IT RESOLVED that the Marin County Flood Control and Water Conservation District Board of Supervisors hereby approves the San Anselmo Flood Risk Reduction Project as recommended and described in Exhibit C, attached to this Resolution including the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit B.

SECTION 4: ACTION AND VOTE

PASSED AND ADOPTED at a regular meeting of the Marin County Flood Control and Water Conservation District Board of Supervisors of the County of Marin held on this 18th day of September 2018, by the following vote:

AYES: SUPERVISORS Dennis Rodoni, Katie Rice, Judy Arnold, Kathrin Sears,
Damon Connolly

NOES: NONE
ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS
MARIN COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

ATTEST:



CLERK

EXHIBIT A

FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT SAN ANSELMO FLOOD RISK REDUCTION PROJECT

I. OVERVIEW

A. Purpose of the Findings

The purpose of these findings is to satisfy the requirements of section 21081 of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 et seq., and sections 15091, 15092, and 15093 of the State CEQA *Guidelines*,¹ associated with adoption of the San Anselmo Flood Risk Reduction Project (“Project” or “SAFRRP”). These findings provide the written analysis and conclusions of the Marin County Flood Control and Water Conservation District (Flood Control District) Board of Supervisors regarding the SAFRRP. They are divided into general sections. Each of these sections is further divided into subsections, each of which addresses a particular impact topic and/or requirement of law. At times, these findings refer to materials in the administrative record, which is readily available for review at the Flood Control District offices at the Marin County Civic Center.

These findings are made and adopted by the Flood Control District Board of Supervisors in satisfaction of State and local requirements relative to the environmental review, analysis, consideration, and approval of the SAFRRP.

B. Background

The Flood Control District, a political subdivision of the state of California, is the California Environmental Quality Act (CEQA) Lead Agency for the Project. A Lead Agency is defined by Section 15367 of the State CEQA *Guidelines* as the public agency that has the principal responsibility for carrying out or approving a Project. The Flood Control District intends to use this EIR in a decision process that also involves the Marin County Board of Supervisors, acting as the Flood Control District Board, and Responsible Agencies, to approve the Project and its elements, issue applicable permits, and comply with various agency requirements. The Flood Control District’s planning and approval process involves the following two main steps prior to approval of the Project: (1) circulation of the Draft EIR, and (2) certification of the Final EIR and adoption of Findings and a Statement of Overriding Considerations, adoption and incorporation into the Project of the mitigation measures, and adoption of the Mitigation Monitoring and Reporting Program. Multiple opportunities for the public to comment on the Project were made available during the review process.

The Flood Control District’s mission is to reduce the risk of flooding for the protection of life and property while utilizing sustainable practices. Several times in recent history, Ross Valley has been flooded by overflow from Corte Madera Creek and its upstream tributaries, including San Anselmo Creek, Sleepy Hollow Creek, and Fairfax Creek. Prior to establishment in 1951 of the United States Geological Survey (USGS) Streamflow Gage in Ross, flooding was

¹ The State CEQA *Guidelines* are found at California Code of Regulations, title 14, section 15000 et seq.
Marin County Flood Control and Water Conservation District
Resolution No. 2018-100 – Exhibit A
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reported as far back as the 1860's and in calendar years 1914, 1925, 1937, 1940, and 1942. Since 1951, flood events have been recorded in calendar years 1951, 1952, 1958, 1967, 1969,

1970, 1982, 1983, 1986, 1993, 2005 and 2017. Of these, the two most severe floods occurred in 1982 and 2005, with peak discharges of approximately 7,200 cubic feet per second (cfs) and 6,800 cfs, respectively; and the percent-annual-chances (i.e., probabilities) of which were approximately 0.6% and 1% (translating to a 200-year flood event and a 100-year flood event), respectively. Historical flooding has caused extensive property damage and economic hardship to residents, businesses, and local governments. In the 2005 flood, losses to the public and private sector totaled \$94,836,880 in 2006 dollars (Marin County, 2012). Flooding in Ross Valley has also threatened the lives of those living in the floodplain, with at least one recorded death occurring in the 1955 flood. The 1955 flood was an approximate 4% annual-chance flood or a 25-year flood event.

C. San Anselmo Flood Risk Reduction Project

Location

The Project would occur in two locations. The first is at the former site of the Sunnyside Nursery in unincorporated Marin County, adjacent to the western border of the Town of Fairfax in the upper portion of the Fairfax Creek subwatershed. The address is 3000 Sir Francis Drake Boulevard. The second location is at 634-636 San Anselmo Avenue in downtown San Anselmo along San Anselmo Creek in the subwatershed of the same name. Both Fairfax Creek and San Anselmo Creek are part of the larger Corte Madera Creek Watershed, which is also referred to as the Ross Valley Watershed, or Ross Valley, in central eastern Marin County, California. Ross Valley is approximately 12 miles north of San Francisco, with Mount Tamalpais to the west, the City of San Rafael to the east, and San Pablo Bay and San Francisco Bay to the south.

The Ross Valley Watershed contains 42 linear miles of stream channels, and covers approximately 28 square miles. It is characterized by ridges and small stream valleys. Within the watershed are 29 named tributaries and four subwatersheds. This Project involves the Fairfax subwatershed, which is drained by Bothin and Fairfax Creeks and contains the Town of Fairfax, and the San Anselmo subwatershed, which is drained by Deer Park, San Anselmo and Sleepy Hollow Creeks, and includes the Town of San Anselmo and the unincorporated areas of Sleepy Hollow and Oak Manor. Downstream of the Project area, the Ross subwatershed includes the Town of Ross and is drained by Phoenix, Bill Williams and Ross Creeks. The Larkspur subwatershed includes the City of Larkspur, the incorporated areas of Greenbrae and Kentfield, and the Town of Corte Madera, and is drained by Corte Madera Creek and Larkspur Creek.

Objectives

The primary goal of the San Anselmo Flood Risk Reduction Project (Project) is to substantially reduce the frequency and severity of flooding within portions of the San Anselmo Creek and Fairfax Creek subwatersheds in Ross Valley. The Flood Control District would meet this goal by implementing a project that would remove existing obstructions to flow in order to increase creek capacity by enlarging the San Anselmo Creek channel and reduce peak discharge by attenuating flows through use of a new flood diversion and storage (FDS) basin. By implementing this Project, as described in more detail later in this section, the existing flood risk in portions of Ross Valley would be substantially reduced, eliminating flooding in many places and reducing the depth of inundation in many others.

Based on the flood risk reduction needs of San Anselmo and surrounding communities, the goals of the original DWR grant for the project proposed at Memorial Park, and subsequent guidance about reallocating the grant funds to a different project, the Project objectives are as follows:

1. Reduce the risks related to both frequency and severity of flooding.
2. Provide multiple public benefits including environmental enhancements and recreational enhancements.
3. Provide a flood risk reduction project in balance with available and reasonably foreseeable funding.
4. Maintain the quality of adjoining neighborhoods.
5. Ensure basin design meets community needs.
6. Comply with local, state, and federal environmental laws and regulations.
7. Protect the public's health and safety.

In addition, the Flood Control District has committed to engaging the community in designs for flood risk reduction projects, including FDS basins, and providing opportunities for consistent public participation and input at key decision points.

Project Description

Chapter 3 of the EIR provides a detailed description of the project. As described there in greater detail, the primary purpose of the Project is to substantially reduce the frequency and severity of flooding within portions of the San Anselmo Creek and Fairfax Creek subwatersheds in Ross Valley, which is another name for the watershed drained by Corte Madera Creek. The Project would be built and operated in two locations. The first is at the former site of the Sunnyside Nursery in unincorporated Marin County, adjacent to the western border of the Town of Fairfax. The second location is at 634-636 San Anselmo Avenue in downtown San Anselmo along San Anselmo Creek. The Flood Control District would implement this project to reduce flood risk by (1) reducing peak discharge by attenuating flows through use of a flood diversion and storage (FDS) basin at the former Nursery site along Fairfax Creek, and (2) increasing creek capacity by removing existing obstructions to creek flow (a “building bridge” that spans San Anselmo Creek and has its foundations in the channel) and then regrading and improving the creek channel.

The Project’s FDS basin would be located immediately adjacent to Fairfax Creek. The FDS basin would be built below the existing grade by excavating the site to create a space for storing diverted flows. A diversion structure in Fairfax Creek would have openings to allow normal flows to pass but would detain higher flows, causing them to pond in the channel and spill over a side-weir into the basin. When peak flows have passed, the diverted water would drain from the basin back into Fairfax Creek, downstream of the diversion structure. This temporary diversion and storage would reduce the risk of downstream flooding by taking that water out of the creek system until peak flows had passed.

Creek capacity improvements are typically made by widening and/or deepening certain sections of creeks and/or by modifying or removing bridges, culverts, buildings, or bank protection structures that encroach into the creek. These structures often encroach into the creek, restrict

flows, and cause water to back up and overtop creek banks during large flood events. In downtown San Anselmo, there are several of these constrictions; the building at 634-636 San Anselmo Avenue has a deck that extends two feet below the other buildings. That building and its footings and foundations would be removed, and the creek channel would be sloped back and bioengineered using bio-stabilization slope protection methods to restore the creek banks. This would allow flows to pass downstream and thus reduce flooding in downtown San Anselmo.

Public Review Process

On April 6, 2017, the Flood Control District issued a Notice of Preparation (NOP) of a Draft EIR for the Project pursuant to Section 15082 of the State CEQA *Guidelines* to seek comments from responsible and trustee agencies and the public about the scope of the EIR. The 30-day NOP comment period closed on May 8, 2017. During the comment period, on April 20, 2017, the Flood Control District held a public scoping session (meeting) regarding the Project to solicit agency and public input on the range of environmental effects that should be analyzed in the EIR. Oral comments were received at the scoping meeting, and additional written comments were received at and following the meeting. A scoping report containing the NOP and scoping comments received are included in the EIR. The scoping report also identifies the Draft EIR sections that address the scoping issues raised in the comments received.

The Flood Control District circulated a Draft EIR on May 17, 2018 to public agencies and members of the public for a 45-day public review period in accordance with State CEQA *Guidelines* Section 15087. After the close of the Draft EIR review period on July 2, 2018, the Flood Control District assembled all comments received prior to and during the public review period, including oral comments received at the public hearing on the Draft EIR. As required by State CEQA *Guidelines* Section 15088, the Flood Control District evaluated comments received on the environmental issues, and prepared written responses. The comments and responses are included in the Final EIR, including any revised EIR text.

The Flood Control District circulated the Final EIR² on August 31, 2018, to Responsible and Trustee Agencies that commented on the Draft EIR and all interested parties for a minimum of 10 days to review the responses to comments. All written comments received during the 45-day public review period and all comments received at the public hearing were addressed in the Final EIR. Pursuant to this analysis, the revisions do not alter the conclusions of the Draft EIR, nor do they meet the requirements for recirculation set forth in section 15088.5 of the State CEQA *Guidelines*.

D. Defined Terms

To provide consistency in the use of terms and to increase readability, these findings often provide short terms for certain longer, more encompassing terms or concepts. Unless the context requires a different meaning, any term or phrase used in these findings, which has its first letter capitalized, has the meaning given to it by these findings. Certain such terms and

² San Anselmo Flood Risk Reduction Project Final Environmental Impact Report, Volume 1 – Revisions to the Draft Environmental Impact Report State Clearinghouse No. 2017042041, August 2018; San Anselmo Flood Risk Reduction Project Final Environmental Impact Report, Volume 2 – Response to Comments, State Clearinghouse No. 2017042041, August 2018.

phrases are referenced below, while others are defined where they appear in the text of these findings.

Approval Resolution – The Resolution approving the SAFRRP. These findings are attached to the Approval Resolution.

CEQA - The California Environmental Quality Act: Public Resources Code §21000 et seq.

County - The County of Marin.

San Anselmo Flood Risk Reduction Project - This is the "Project" pursuant to Public Resources Code §21065 and State CEQA *Guidelines* §15378. It is sometimes abbreviated as SAFRRP and sometime referred to as the “Project”.

EIR - The term "EIR" (environmental impact report) is a general reference to the Final Environmental Impact Report, and other documents incorporated by reference into the Final EIR, including the Draft EIR and Appendices A through E (May 2018), Responses to Comments on the Draft EIR (August 2018) and Final EIR (August 2018).

Flood Control District - The Marin County Flood Control and Water Conservation District.

Level of Service – For a road system of a given capacity, the volume-to-capacity ratio (i.e., a measure of the degree to which the total capacity of a roadway is used by vehicles) is the primary indicator of the transportation system’s performance. The volume-to-capacity ratio is converted to a letter grade called the “level of service.”

Mitigation Measures -- CEQA requires that, where feasible, significant impacts of a project be avoided or mitigated. Measures to avoid or mitigate such impacts are referred to herein as Mitigation Measures.

MMRP - The term "MMRP" (Mitigation Monitoring and Reporting Program) refers to a mitigation monitoring program that is adopted if a project is approved with an EIR that identifies significant environmental impacts pursuant to Public Resources Code §21081.6. The MMRP contained in "**Exhibit B**" of the Approval Resolution, is designed to ensure project compliance with adopted Mitigation Measures during project implementation.

State CEQA Guidelines -- The State regulations implementing CEQA; California Code of Regulations, Title 14, Chapter 3 §15000 et seq.

E. Severability

If any term, provision, or portion of these findings or the application of same to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these findings, or the application of the same to other situations, shall continue in full force and effect unless amended or modified by the County.

F. Relationship to Ross Valley Flood Protection Program - Program EIR

The Flood Control District has determined that an EIR is the appropriate environmental document to evaluate the effects of the overall Project, pursuant to the requirements of CEQA. A Project EIR enables the Flood Control District, as the CEQA Lead Agency, to examine and

Marin County Flood Control and Water Conservation District

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disclose the significant environmental effects of the proposed course of action of implementing the Project, to identify significant cumulative effects, and to take steps to reduce or avoid significant adverse environmental effects of the proposed project. The EIR also fulfills the legal requirement imposed by CEQA to conduct appropriate environmental review prior to taking discretionary action. In this case, the initial discretionary action is approval of the Project by the Flood Control District Board of Supervisors.

The timing of the preparation of this EIR, which is a project-level, EIR, does not allow it to tier from the program-level EIR (“Program EIR”) that is currently being prepared for the Ross

Valley Flood Protection and Watershed Program (Program).³ Instead, the full, project-level assessment of the Project elements in this project-level EIR will inform the cumulative impacts analysis of the Program, of which this Project is a part, in the Program EIR. Similarly, the preparation of the Program EIR involves developing basin-wide information and analysis for the Ross Valley Watershed as a whole, which informs the project-level analysis in this EIR and associated studies and have assisted in the environmental documentation of the project-level effects. The Program EIR and this project-level EIR will use the pertinent aspects of the same hydraulic modeling, baseline environmental conditions, regulatory settings, source documents, and other background information, because the Project is within the geographic area of the Ross Valley Flood Program.

As stated above, the analysis included in this EIR is at a project level of detail. This level of detail is required to identify and evaluate the range of elements and other actions needed to fulfill the Flood Control District’s objectives for the Project, as described above. The analysis in this EIR evaluates all reasonably foreseeable impacts of the Project as currently designed.

The EIR provides a complete evaluation of not only the proposed Project, but also the cumulative impacts of the project along with other existing and proposed uses, and alternatives to the Project.

II. FINDINGS ARE DETERMINATIVE

The Flood Control District Board of Supervisors recognizes that there may be differences in and among the different sources of information and opinions offered in the documents and testimony that make up the EIR and the administrative record; that experts can disagree; and that the Flood Control District Board of Supervisors must base its decisions and these findings on the substantial evidence in the record that it finds most compelling. Therefore, by these findings, the Flood Control District Board of Supervisors approves, clarifies, and/or makes insignificant modifications to the EIR and resolves that these findings and the Mitigation Monitoring and Reporting Program shall control and are determinative of the significant impacts of the Project.

³ “Tiering” under CEQA “refers to the analysis of general matters contained in a broader EIR with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project” (CEQA State CEQA Guidelines Section 15152. CEQA encourages agencies to tier environmental analyses as a means to eliminate repetitive discussions of the same issues and focus the later EIR on the actual issues ripe for discussion.

In addition, the Flood Control District Board of Supervisors declares that, except as otherwise provided herein, in the event of any discrepancy between the wording in these Findings and the wording in the 2018 EIR or the MMRP, the wording in the EIR or MMRP is in error and shall be replaced with the wording in these Findings.

III. CONCURRENCE WITH CONCLUSIONS OF EIR REGARDING POTENTIAL IMPACTS DETERMINED TO BE LESS-THAN-SIGNIFICANT WITHOUT MITIGATION

The Flood Control District Board of Supervisors has reviewed and considered the information in the EIR, including Chapters 4, 5, and 6 addressing environmental effects, mitigation measures, and alternatives.

These chapters conclude that the less than significant impacts for the proposed project evaluated in the EIR are also less than significant impacts for the Project. Therefore, the Flood Control District Board of Supervisors, relying on the facts and analysis in the EIR, which was presented to the Flood Control

District Board of Supervisors and reviewed and considered prior to any approvals for the Project, concurs with the conclusions of the EIR regarding the less-than-significant environmental impacts of the Project.

GROWTH-INDUCING AND IRREVERSIBLE ENVIRONMENTAL IMPACTS

The Project would not allow additional growth to occur than what has already been planned, nor would it change the locations where this growth is planned to occur. Consequently, implementation of the proposed project would not affect current and/or projected population growth patterns within Marin County as already evaluated and planned for in the Countywide Plan and, therefore, would not have a growth-inducing impact.

Construction activities associated with the proposed Project would result in an irretrievable and irreversible commitment of natural resources through direct consumption of fossil fuels and use of materials. However, the energy consumption for construction would not result in long-term depletion of non-renewable energy resources and would not permanently increase reliance on energy resources that are not renewable. Construction activities would not reduce or interrupt existing electrical or natural gas services such that existing supplies would be constrained.

Project operations that would affect irretrievable resources would be limited to annual maintenance activities. Maintenance activities would result in irreversible and irretrievable use of energy and material resources, and conversion of land use from commercial uses to flood management uses.

The use of nonrenewable resources is expected to account for a minimal portion of the region's resources and would not affect the availability of these resources for other needs within the region. Similarly, the conversion of one parcel of land from its former commercial land use to a flood management facility would not affect the availability of commercially zoned parcels in Marin County, Ross Valley as a whole, or in the adjacent Town of Fairfax.

IV. PUBLIC RESOURCES CODE §21081(A) REQUIREMENTS REGARDING SIGNIFICANT IMPACTS

The EIR identifies certain significant environmental impacts caused by the Project and recommends specific mitigation measures to reduce these impacts to a less-than-significant level and the Flood Control District Board of Supervisors has certified the EIR as being adequate according to CEQA and has reviewed and considered the information in the EIR and in the entire record; therefore, the Flood Control

District Board of Supervisors makes specific findings, as set forth in the sections that follow, for each significant impact, pursuant to Public Resources Code §21081(a), based not only on the EIR, but on the evidence in the entire record, including written and oral testimony to the Flood Control District Board of Supervisors.

According to Public Resources Code §21081, no public agency shall approve or carry out a project for which an Environmental Impact Report has been certified which identified one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

1. The public agency makes one or more of the following findings with respect to each significant effect:
 - a. Changes or alterations have been required in, or incorporated into, the project, which mitigate or avoid the significant effects on the environment (referred to herein as: "Finding 1: The impact is mitigated to a less-than-significant level.")
 - b. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency (referred to herein as "Finding 2: Another public agency can and should mitigate the impact.").
 - c. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the environmental impact report (referred to herein as: "Finding 3: Specific considerations make mitigation measures or alternatives infeasible.")
2. With respect to the significant effects, which were subject to Finding 3 described above, the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

The facts, findings, and substantial evidence supporting the findings related to significant effects of the Project in the sections that follow, do not repeat the full analysis of impacts contained in documents making up the administrative record. Instead, the following discussion specifically references particular locations in documents containing such information (e.g., specific pages in the EIR). The referenced documents are either included or attached herein, or are readily available to the public for review at the Marin County Flood Control and Water Conservation District's offices at 3501 Civic Center Drive, Room 304, San Rafael, California.

The discussion which follows under the caption "Facts" for each significant impact recites some of the background environmental impact information related to the Project; the finding made by the Flood Control District Board of Supervisors is set forth under the caption "Public Resources Code §21081(a) Finding"; and the discussion under the caption "Evidence Supporting the Finding" contains substantiating information about what mitigation is provided and how it reduces the significant impact. The numerical assignments used in these facts, findings, and substantial supporting evidence correspond to the numbering system used in the EIR.

The Final EIR shows modifications to the Draft EIR in underlined and ~~strikeout~~-text. This modified text has been included in the discussion of impacts and mitigation measures below. The modified text is also presented with the same formatting in Chapter 4 of the Response to Comments document.

These findings summarize the environmental determinations of the EIR before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the EIR. Instead, these findings provide a summary description of and basis for each impact in the EIR, describe the applicable mitigation measures identified in the EIR, and state the Flood Control District Board of Supervisors' findings and rationale on the significance of each impact with the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the EIR, and these findings hereby incorporate by reference the discussion and analysis in the EIR regarding mitigation measures and the Project's impacts.

The Flood Control District intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby referred to, adopted, and incorporated in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in these Findings shall control unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections V through VI, below, provide brief descriptions of the impacts the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

V. SIGNIFICANT UNAVOIDABLE IMPACTS WITH MITIGATION PROPOSED

The Final EIR identifies the following significant and unavoidable adverse impact associated with the approval of the San Anselmo Flood Risk Reduction Project. The Flood Control District cannot require adoption or implementation for mitigation measures for some impacts, because they cannot be legally imposed on private property owners. Therefore, as explained below, one impact will remain significant and unavoidable notwithstanding the proposed feasible mitigation measures. Because the Flood Control District cannot require mitigation measures on private properties, it is hereby determined that these significant and unavoidable adverse impacts are acceptable for the reasons specified in Section VIII, below. Pub. Resources Code § 21081(a)(3). The Flood Control District Board of Supervisors finds that the Project may be approved despite this impact for the reasons specified below in the Statement of Overriding Considerations. The Flood Control District Board of Supervisors further finds that there are no additional feasible mitigation measures or alternatives that the Flood Control District Board of Supervisors could adopt at this time that would reduce the following impacts to a less than significant level. The findings in this Section are based on the Draft EIR and the Final EIR, the discussion and analysis in which is hereby incorporated in fully by this reference.

HYDROLOGY AND WATER QUALITY

IMPACT 4.9-4 The Project would substantially alter the existing drainage pattern of the watershed, altering patterns of flooding onsite and offsite. (*Significant and Unavoidable*)

Facts

Removal of the building at 634-636 San Anselmo Avenue in downtown San Anselmo would lead to small increases in inundation depths and/or small increases in the extent of flooding from San Anselmo Creek in the 25-year event and the 100-year event (Significant), but would also reduce localized flooding by

adding upstream storage capacity and by adding more creek capacity upstream and downstream (Beneficial). As shown in Table 2-1 of the Draft EIR, these adverse effects would take place on a small number of parcels, compared to the several hundred on which flooding would decrease. A similar effect would occur upstream of the proposed FDS basin at the former Sunnyside Nursery site adjacent to Fairfax Creek. As explained in Section 4.9, *Hydrology and Water Quality*, of the EIR, this element of the proposed Project would cause sediment deposition in the Fairfax Creek channel, which could cause occasional increases in the risk of flooding on one parcel there (Significant).

Public Resources Code §21081(a) Finding

Finding 3: Specific legal, economic, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR. The only feasible mitigation measure to address the potentially significant impact associated with increased flood risk on a small number of properties requires the permission of private property owners to implement flood barriers on those properties, which is not legally enforceable and therefore may be infeasible. If the mitigation were implemented, the impact would be less than significant, as discussed in EIR Section 4.9, *Hydrology and Water Quality*.

Evidence Supporting the Finding

Based on the EIR and the entire record, this impact would be mitigated with imposition of Mitigation Measure 4.9-4 found on page 4.9-56 of the EIR, as revised on pages 4.9-56 and 4.9-59 of the Final EIR.

As explained there, the Flood Control District has identified a potential mitigation measure to reduce this adverse effect (in both the upstream and downstream locations) to a less-than-significant level, but it would require the cooperation of those private property owners to allow the installation of a flood barrier on their properties. Because this measure cannot be required by the Flood Control District, this impact must be considered significant and unavoidable.

However, in the expected future condition, as discussed in Chapter 5, *Growth-Inducing and Cumulative Impacts*, this significant and unavoidable impact would be avoided in the San Anselmo Creek location by the removal of several other flow-constraining bridges over San Anselmo Creek and associated tributaries. Removal of those bridges would allow flows to pass safely downstream within the creek channel. Because those are separate projects that are within the responsibility and jurisdictions of other agencies, not the Flood Control District, their implementation cannot be assumed, and the impact remains significant and unavoidable.

The entire mitigation measure as proposed in the EIR is included below. Revisions established in the Final EIR are shown in underlined and ~~strikeout~~-text. New language added by the Flood Control District Board of Supervisors is underlined. Language deleted by the Flood Control District Board of Supervisors is identified with a ~~striketrough~~.

Adopted Mitigation Measure: 4.9-4

Mitigation Measure 4.9-4: Provide Flood Protection to Substantially Affected Areas

For areas upstream and downstream of the Winship Bridge (between Barber Avenue and the Sir Francis Drake Bridge): ~~If the Winship Bridge Replacement Project is not completed prior to construction of the Project, t~~The Flood Control District shall develop, ~~fund~~, and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event. The flood barriers shall be designed based on hydraulic modeling demonstrating

that the flood barriers would protect existing habitable structures on any properties upstream of the Sir Francis Drake Bridge from new inundation during the 25-year event, or to any higher degree of protection required for that particular type of measure by applicable building codes. Flood barriers include but are not limited to the following measures:

- Elevation of structures above the 100-year flood elevations
- Basement removal and construction of an addition to contain utilities removed from the basement
- Wet flood proofing of structures, in which, with use of water resistant materials, floodwaters are allowed to enter a structure during a flood event
- Dry flood proofing of structures
- Berms or flood walls

For areas immediately upstream of the Nursery Basin site: The Flood Control District shall develop, ~~fund,~~ and implement flood barriers on properties where existing habitable structures would experience new inundation in a 25-year event.

For both of those locations: The flood barriers would ensure that existing habitable structures would not be inundated by the 25-year event. Upon confirmation of permission by the property owners, the Flood Control District shall implement this measure, including implementing any measures identified in permits required from the California Department of Fish and Wildlife, Regional Water Quality Control Board, or other regulatory agencies. However, the potentially adversely affected parcels are privately owned, and the Flood Control District ~~cannot necessarily~~

is not proposing to require the installation or implementation of flood barriers because without the consent of the property owner(s), who may specifically request that such measures not be implemented. In that case, this Mitigation Measure shall would not be implemented, and the affected parcels may experience an increased level of flood inundation in a 25-year event or larger.

The degree of flood protection provided to an individual property will vary depending on the specifics of the flood barrier selected. For most of the flood barriers, the Flood Control District shall provide protection from the 25-year event. However, pursuant to Marin County building code and associated permitting requirements, any increase in structure elevation must be to an elevation sufficient to raise the finished first floor above the elevation of the 100-year flood event. Therefore, property owners who accept that form of flood barrier would receive assistance to implement 100-year protection.

Funding and Implementation Responsibility (Both Locations): For flood walls or berms at the top-of-bank of San Anselmo Creek or Fairfax Creek on privately owned parcels and with the property owners' permission, the Flood Control District shall fund, design, build, and maintain all aspects of those measures, including their possible future removal if implementation of other flood risk reduction projects renders these flood walls or berms unnecessary as determined by the Flood Control District. For a flood barrier that involves improvements or modifications to privately owned habitable structures covered by Mitigation Measure 4.9-4 (structure elevation, wet proofing, dry proofing, basement removal and construction of an addition to house water heaters, furnaces, and similar home appliances, etc.), the Flood Control District shall fully fund the design and provide funding to the property owner for implementation –that is proportional to the increased flood depth with the project. The funding would be provided to the property owner to implement these modifications or improvements. The property owner would be responsible for

construction, implementation, and future maintenance of the structure and any associated flood mitigation measures or improvements.

The Board adopts and incorporates into the Project Mitigation Measure 4.9-4 as proposed in the EIR.

VI. POTENTIALLY SIGNIFICANT IMPACTS MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

Chapter 4 of the EIR analyzes potentially significant environmental impacts and identifies impacts that can and will be mitigated to a less than significant level or avoided by incorporation of mitigation measures or policy alternatives into the Project. The Flood Control District Board of Supervisors has incorporated the mitigation measures described below into the project. The measures are set forth in full in the Mitigation Monitoring Reporting Plan. As explained in the EIR, implementation of these mitigation measures described below would lessen their respective impact(s) to a less than significant level.

The Final EIR identifies the following potentially significant impacts associated with the Project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less than significant level or avoided by adopting and incorporating these mitigation measures into the Project. The findings in this section are based on the Draft EIR and the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

AIR QUALITY AND GREENHOUSE GASES

IMPACT 4.3-1: CRITERIA POLLUTANT EMISSIONS

Facts

The EIR found that construction of the Project would generate criteria pollutant emissions that could exceed air quality standards or contribute substantially to an existing or projected air quality violation. This impact is discussed starting on page 4.3-33 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this air quality impact is mitigated with imposition of Mitigation Measure 4.3-1, found on page 4.3-37 of the EIR. These measures are established by BAAQMD to minimize impacts related to construction emissions.

Adopted Mitigation Measure 4.3-1: BAAQMD Basic Construction Measures.

To limit dust, criteria pollutants, and precursor emissions associated with construction, the following BAAQMD-recommended Basic Construction Measures shall be implemented and included in all contract specifications for components constructed under the Project:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved 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.
6. 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.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
8. Post a publicly visible sign with the telephone number and person to contact at the Flood Control District 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.

The Board adopts and incorporates into the Project Mitigation Measure 4.3-1 as proposed in the EIR.

IMPACT 4.3-2: EMISSIONS AND 2017 CLEAN AIR PLAN CONSISTENCY

Facts

The EIR found that construction of the Project would result in emissions that could conflict with the 2017 Clean Air Plan. This impact is discussed starting on page 4.3-37 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this air quality impact is mitigated with imposition of Mitigation Measure 4.3-1, found on page 4.3-37 of the EIR. These measures are established by BAAQMD to minimize impacts related to construction emissions.

Adopted Mitigation Measure 4.3-1: BAAQMD Basic Construction Measures. (see above)

The Board adopts and incorporates into the Project Mitigation Measure 4.3-1 as proposed in the EIR.

IMPACT 4.3-4: EMISSION OF TOXIC AIR CONTAMINANTS

Facts

The EIR found that construction of the Project could expose sensitive receptors to toxic air contaminants, including diesel particulate matter emissions. This impact is discussed starting on page 4.3-40 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this air quality impact is mitigated with imposition of Mitigation Measure 4.3-4, found on page 4.3-46 of the EIR. These measures are established by BAAQMD to minimize impacts related to diesel particulate matter emissions.

Adopted Mitigation Measure 4.3-4: Tier 4 Engines for Construction Equipment.

All off-road equipment greater than 25 horsepower that operates for more than 20 total hours over the entire duration of construction activities shall have engines that meet the USEPA or CARB Tier 4 interim or Tier 4 Final off-road emission standards.

The Board adopts and incorporates into the Project Mitigation Measure 4.3-4 as proposed in the EIR.

ENERGY, MINERAL, FOREST AND AGRICULTURAL RESOURCES

IMPACT 4.4-1: INEFFICIENT ENERGY, OIL OR NATURAL GAS USE

Facts

The EIR found that implementation of the Project could use energy, oil, or natural gas in an inefficient manner; encourage activities that would result in the use of large amounts of energy, oil, or natural gas; result in the energy supplier not having the capacity to supply the Project's energy needs with existing or planned supplies; or require the development of new energy resources. This impact is discussed starting on page 4.4-10 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this air quality impact is mitigated with imposition of Mitigation Measure 4.3-1, found on page 4.3-37 of the EIR. These measures are established by BAAQMD to minimize impacts related to construction emissions.

Adopted Mitigation Measure 4.3-1: BAAQMD Basic Construction Measures. (see above)

The Board adopts and incorporates into the Project Mitigation Measure 4.3-1 as proposed in the EIR.

BIOLOGICAL RESOURCES

IMPACT 4.5-1: Impacts to Special-Status Aquatic Species and Habitats

Facts

The EIR found that Project implementation could have substantial adverse effects on special-status aquatic species or habitats. This impact is discussed starting on page 4.5-38 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-1a-c, found on page 4.5-42 of the EIR. Mitigation Measure 4.5-1a would restrict most work to seasons when creek flows are low and aquatic wildlife less likely to be present, thus reducing the direct and indirect effects of turbidity and other water quality-related impacts from in water work on aquatic wildlife. Mitigation Measure 4.5-1b would provide for the safe relocation of fish and other aquatic wildlife species, by resource agency-approved biologists and in accordance with approved resource agency methods, before in-water construction work could proceed. This would remove individuals of special-status aquatic species from the construction area. Mitigation Measure 4.5-1c would train the construction contractors on proper environmental practices and the requirements of issued regulatory permits, the relevant mitigation measures identified in this EIR, and the construction plans and specifications. In doing so, it would reduce the risk to special-status aquatic species and other wildlife species and habitats. With implementation of these measures, this impact would be *less than significant*.

Adopted Mitigation Measure 4.5-1a: Seasonal Avoidance of Sensitive Aquatic Species.

In-water construction work, including activities on the banks that are expected to create turbidity or disturb the streambed, shall be conducted within resource agency-approved work windows intended to reduce potential impacts on salmonids (generally limiting work to the period between June 15 and October 15) with resource agency concurrence for the following exceptions:

- 1) Removal of debris, foundations, large amounts of trash or other manmade materials from the creek bed may continue year-round, in areas of the stream which are dry and where such activity shall not create turbidity.
- 2) Tree removal and invasive species removal may take place year-round, providing the area is free of nesting birds and roosting bats as provided under **Mitigation Measure 4.5-4**.
- 3) Revegetation activities may occur year-round.

Adopted Mitigation Measure 4.5-1b: Relocation of Special-Status Fish.

If in-channel work requires dewatering, including for sediment removal maintenance activities, fish shall be captured and relocated downstream of the Project areas to avoid injury and mortality and minimize disturbance. The Flood Control District shall implement the measures below, or whatever more stringent species preservation and avoidance measures are imposed by resource agencies, including NMFS and CDFW, with jurisdiction over aquatic special-status species.

- 1) The name(s) and credentials of qualified biologist(s) to act as construction monitors shall be submitted to CDFW and NMFS for approval at least 15 days before construction work begins.
- 2) Prior to and during the initiation of construction activities, qualified fisheries biologist (i.e., approved by CDFW and/or NMFS) shall be present during installation and removal of creek diversion structures.
- 3) For sites that require flow diversion and exclusion, the work area shall be blocked by placing fine-meshed nets or screens above and below the work area to prevent salmonids from re-entering the work area. To minimize the potential for re-entry, mesh diameter shall not exceed 1/8 inch. The bottom edge of the net or screen shall be secured to the channel bed to prevent fish from passing under the screen. Exclusion screening shall be placed in low velocity areas to minimize fish impingement against the mesh. Screens shall be checked

periodically and cleaned of debris to permit free flow of water.

- 4) Before removal and relocation on individual fish begins, a qualified fisheries biologist shall identify the most appropriate release location(s). In general, release locations should have water temperatures similar to (<3.6°F difference) the capture location and offer ample habitat (e.g., depth, velocity, cover, connectivity) for released fish, and should be selected to minimize the likelihood of reentering the work area or becoming impinged on exclusion nets or screens.
- 5) The means of capture shall depend on the nature of the work site, and shall be selected by a qualified fisheries biologist as authorized by CDFW and NMFS. Complex stream habitat may require the use of electrofishing equipment, whereas in outlet pools, fish and other aquatic species may be captured by pumping down the pool and then seining or dip netting. Electrofishing, if necessary, shall be conducted only by properly trained personnel holding current permits from CDFW and NMFS and following the most recent NMFS electrofishing guidelines (NMFS, 2000).
- 6) Initial fish relocation efforts shall be performed several days prior to the scheduled start of construction. Flow diversions and species relocation shall be performed during morning periods. The fisheries biologist shall survey the exclusion screening throughout the diversion effort to verify that no special-status fish, amphibians, or aquatic invertebrates are present. Afternoon pumping activities shall be limited and pumping shall be suspended when water temperatures exceed 18 degrees Celsius (64.5° F). Water temperatures shall be measured periodically, and flow diversion and species relocation shall be suspended if temperatures exceed the 18-degree limit under NMFS guidelines. Handling of fish shall be minimized. When handling is necessary, personnel shall wet hands or nets before touching them.
- 7) Prior to translocation, fish that are collected during surveys shall be temporarily held in cool, aerated, shaded water using a five-gallon container with a lid. Overcrowding in containers shall be avoided; at least two containers shall be used and no more than 25 fish shall be kept in each bucket. Aeration shall be provided with a battery-powered external bubbler. Fish shall be protected from jostling and noise, and shall not be removed from the container until the time of release. A thermometer shall be placed in each holding container and partial water changes shall be conducted as necessary to maintain a stable water temperature. Special-status fish shall not be held more than 30 minutes. If water temperature reaches or exceeds 18 degrees Celsius (USFWS 2012), the fish shall be released and relocation operations shall cease.
- 8) If fish are abundant, capture shall cease periodically to allow release and minimize the time fish spend in holding containers.
- 9) Fish shall not be anesthetized or measured. However, they shall be visually identified to species level, and year classes shall be estimated and recorded.
- 10) Reports on fish relocation activities shall be submitted to CDFW and NMFS in within one week.

Adopted Mitigation Measure 4.5-1c: Contractor Environmental Awareness Training and Site Protection.

All construction personnel that are working in areas of potential endangered species habitat shall attend an environmental education program delivered by a qualified biologist prior to working on either Project site. The training shall include an explanation as how to best avoid the accidental take of special-status species, including salmonids and other fish species, western pond turtle,

California red-legged frog, and listed birds.

The training session shall be mandatory for contractors and all construction personnel. The field meeting shall include topics on species identification, life history, descriptions, and habitat requirements during various life stages. Emphasis shall be placed on the importance of the habitat and life stage requirements within the context of maps showing areas where minimization and avoidance measures are being implemented. The program shall include an explanation of appropriate federal and state laws protecting endangered species.

The contractor shall provide closed garbage containers for the disposal of all trash items (e.g., wrappers, cans, bottles, food scraps). Work sites shall be cleaned of litter before closure each day, and placed in wildlife-proof garbage receptacles. Construction personnel shall not feed or otherwise attract any wildlife. No pets, excluding service animals, shall be allowed in construction areas.

The Board adopts and incorporates into the Project Mitigation Measures 4.5-1a, 4.5-1b, and 4.5-1c as proposed in the EIR.

IMPACT 4.5-2: IMPACTS TO SPECIAL-STATUS PLANTS

Facts

The EIR found that Project implementation could have substantial adverse effects on special-status plants. This impact is discussed starting on page 4.5-44 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-2, found on page 4.5-44 of the EIR. Implementation of Mitigation Measure 4.5-2 would reduce this impact to less than significant by requiring pre-construction surveys and implementation of avoidance and minimization measures if rare plants are located within the Project site. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.5-2: Avoid Impacts to Rare Plants.

A qualified biologist shall conduct a pre-construction survey of each Project site for special-status plant species with the potential to occur within the area of disturbance. The survey shall be floristic in nature and shall follow the procedures outlined in the CDFW Publication *Protocols for Surveying and Evaluating Impacts to Special-status Native Plant Populations and Natural Communities* (CDFW, 2009). The survey shall be conducted between April and July in conjunction with the blooming seasons of those rare plants with moderate potential to occur in the Project area.

If no special-status plants are observed during appropriately timed surveys by a qualified botanist, it is assumed the construction activity will have no impact on special-status plants and no further action is required.

If special-status plants are identified within the Project area, the individuals or populations shall be mapped and quantified and reported to the CNDDB, and the project manager shall be notified so that potential impacts to these known occurrences shall be avoided, when feasible.

Coordination with CDFW and/or USFWS staff shall be conducted to establish appropriate avoidance and minimization measures if the species is federally or State listed. Avoidance and minimization measures may include:

- 1) No-disturbance buffers.
- 2) Work windows for low impact activities that are compatible with the dormant phase of a special-status plant life cycle but that may kill living plants or severely alter their ability to reproduce.
- 3) Silt fencing or construction fencing to prevent vehicles, equipment, and personnel from accessing the occupied habitat.
- 4) Erosion control BMPs such as straw wattles made of rice straw, erosion control blankets, or hydroseeding with a native plant seed mix to prevent sedimentation from upslope construction activities.
- 5) Before the construction activity commences, special-status plant occurrences shall be marked with pin flags in the field, and all maintenance personnel shall be instructed as to the location and extent of the special-status plants or populations and the importance of avoiding impacts to the species and its habitat.
- 6) If needed a qualified biologist shall be present or on-call during construction activities to provide guidance on avoiding special-status plants, ensure that other avoidance measures (buffers, fencing, etc.) are observed, and to document the total impact of the maintenance activity, particularly if it is greater or less than anticipated.
- 7) In consultation with, and as authorized by, CDFW or USFWS, a qualified botanist may collect and spread seeds or relocate plants to appropriate locations.

The Board adopts and incorporates into the Project Mitigation Measure 4.5-2 as proposed in the EIR.

IMPACT 4.5-3: Impacts to Special-Status Amphibians

Facts

The EIR found that Project implementation could have substantial adverse effects on special-status amphibians. This impact is discussed starting on page 4.5-45 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-3a, found on page 4.5-46 of the EIR, and Mitigation Measure 4.5-3b, found on page 4.5-46 of the EIR.

Implementation of Mitigation Measure 4.5-3a would reduce this impact to less than significant by keeping these special-status species out of the work areas and avoiding direct adverse effects. Implementation of Mitigation Measure 4.5-3b would reduce this impact to less than significant by requiring U.S. Fish and Wildlife Service-approved biologists to survey the project construction area for these species; monitor

construction requirements to avoid them; inspect, maintain, and repair exclusion fencing; stop work if one is observed; and implement other protective activities. These measures, together with Mitigation Measure 4.5-1c and the various requirements to reduce increased turbidity and other water quality effects, discussed in Section 4.9 Hydrology and Water Quality, would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.5-3a Install Wildlife Exclusion Fencing.

The Flood Control District shall implement the measures below, or whatever more stringent California red-legged frogs (CRLF) and western pond turtle (WPT) preservation and avoidance measures are imposed by resource agencies with primary jurisdiction over special-status wildlife species, including USFWS and CDFW.

- 1) Before ground-disturbing activity occurs, the contractor shall install temporary exclusion/silt barrier fencing around the perimeter of the construction site. Fencing shall be installed to the extent necessary to exclude CRLF from the construction area (in areas with habitat), and minimize impacts to natural habitat. Fencing material shall provide for wildlife exclusion as well as maintenance of water quality. Construction personnel and construction activity shall avoid areas outside the fencing. The need for and exact location of the fencing shall be determined by a qualified biologist, with the goal of protecting sensitive biological habitat and water quality. The fencing shall be checked at regular intervals (e.g., weekly) and maintained until construction is complete at individual work sites. The fence shall contain exit funnels to allow any wildlife within the construction area to leave without human intervention while preventing entry into the construction zone. Exit funnels shall be placed at ground level no more than 100 feet apart along the fence, or as modified by a qualified biologist or as directed by resource agencies with primary jurisdiction over special-status wildlife species.
- 2) The fencing shall be monitored as prescribed in Mitigation Measure 4.5-3b.

Adopted Mitigation Measure 4.5-3b: Avoid Impacts to California Red-legged Frog and Western Pond Turtle.

The name(s) and credentials of the qualified biologist(s) to act as construction monitors shall be submitted to the USFWS for approval at least 15 days before construction work begins.

Prior to commencing work, an approved biologist shall survey the entire construction footprint for California red-legged frog and other special-status species with potential to be present, such as western pond turtle.

At the beginning of each workday that includes initial ground disturbance, including grading, excavation, and vegetation-removal activities, an approved biologist shall conduct on-site monitoring for the presence of these species in the area where ground disturbance or vegetation removal is planned. If required by the USFWS or CDFW, 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 fence.

All excavated or deep-walled holes or trenches greater than 2 feet deep 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.

If a special-status species is present within the exclusion fence area during construction, 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.

The contractor shall maintain the temporary fencing—both exclusion fencing and protective fencing (if installed)—until all construction activities are completed. No construction activities, parking, or staging shall occur beyond the fenced exclusion areas.

The Board adopts and incorporates into the Project Mitigation Measure 4.5-3a and 4.5-3b as proposed in the EIR.

IMPACT 4.5-4: IMPACTS TO NESTING BIRDS

Facts

The EIR found that Project implementation could have substantial adverse effects on nesting birds. This impact is discussed starting on page 4.5-47 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-4, found on page 4.5-47 of the EIR. Implementation of Mitigation Measure 4.5-4 would reduce this impact to less than significant by limiting tree removal to the non-nesting season, and requiring pre-construction surveys and no-work buffers, which would reduce direct and indirect effects on these species. This would reduce this impact to a *less than significant* level.

Adopted Mitigation Measure 4.5-4: Avoid Impacts to Special-status and Nesting Birds, including Raptors and Northern Spotted Owls.

Tree removal activities shall be avoided during the nesting season (February 1 to August 31). Prior to any tree removal or construction in nesting season, a qualified biologist shall conduct a spotted owl and general nesting bird survey in each Project site and areas within 1/2-mile. Any identified spotted owl nesting areas or activity centers shall be flagged and avoided with a buffer of 1/4-mile throughout the active nesting season. Other nesting birds with active nests in the vicinity of the construction area shall be avoided by a buffer of 50 feet, or as determined in coordination with USFWS and CDFW. Construction work may continue outside of the no-work buffer. Northern spotted owl nesting surveys shall be conducted in coordination with Marin County Parks and Point Blue Conservation Science (Point Blue, 2017).

The Board adopts and incorporates into the Project Mitigation Measure 4.5-4 as proposed in the EIR.

IMPACT 4.5-5: IMPACTS TO NORTHERN SPOTTED OWLS

Facts

The EIR found that Project implementation could have substantial adverse effects on Northern spotted owls. This impact is discussed starting on page 4.5-48 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-4, found on page 4.5-47 of the EIR. Implementation of Mitigation Measure 4.5-4 would reduce this impact to less than significant by limiting tree removal to the non-nesting season, and requiring pre-construction surveys and no-work buffers, which would reduce direct and indirect effects on these species. This would reduce this impact to a *less than significant* level.

Adopted Mitigation Measure 4.5-4: Avoid Impacts to Special-status and Nesting Birds, including Raptors and Northern Spotted Owls (see above).

The Board adopts and incorporates into the Project Mitigation Measure 4.5-4 as proposed in the EIR.

IMPACT 4.5-6: IMPACTS TO SPECIAL-STATUS BATS

Facts

The EIR found that Project implementation could have substantial adverse effects on bats. This impact is discussed starting on page 4.5-48 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-6, found on page 4.5-49 of the EIR. Implementation of Mitigation Measure 4.5-6 would reduce this impact to less than significant by requiring pre-construction surveys to identify roosting bats and requiring actions to protect roosting bats, if present. This would reduce this impact to a *less than significant* level.

Adopted Mitigation Measure 4.5-6: Avoid Impacts to Special-status Bats.

Prior to any construction, a qualified bat biologist shall conduct a pre-construction survey for roosting bats in trees to be removed or pruned and structures to be demolished. If no roosting bats are found, no further action is required. If a bat roost is found, the following measures shall be implemented to avoid impacts on roosting bats.

If active maternity roosts are found in trees or structures that shall be removed or demolished as part of construction, tree removal or demolition of that structure shall commence before maternity colonies form (generally before March 1) or after young are flying (generally by July 31). Active maternal roosts shall not be disturbed.

If a non-maternal roost of bats is found in a tree or structure to be removed or demolished as part of construction, the individuals shall be safely evicted, under the direction of a qualified bat biologist and with approval from CDFW. Removal of the tree or demolition of the structure should occur no sooner than two nights after the initial minor site modification (to alter airflow), under guidance of the qualified bat biologist. The modifications shall alter the bat habitat, causing bats to seek shelter elsewhere after they emerge for the night. On the following day, the tree or structure may be removed, in presence of the bat biologist. If any bat habitat is not removed, departure of bats from the construction area shall be confirmed with a follow-up survey prior to start of construction.

The Board adopts and incorporates into the Project Mitigation Measure 4.5-6 as proposed in the EIR.

IMPACT 4.5-7: IMPACTS TO SENSITIVE NATURAL COMMUNITIES

Facts

The EIR found that Project implementation could have substantial adverse effects on sensitive natural communities, including oak woodlands and riparian corridors. This impact is discussed starting on page 4.5-49 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-7a, found on page 4.5-50 of the EIR, Mitigation Measure 4.5-7b, found on page 4.5-51 of the EIR, and Mitigation Measure 4.5-7c, found on page 4.5-51 of the EIR. Implementation of Mitigation Measure 4.5-7a would reduce this impact to less than significant by limiting the impacts to designated Project construction limits and thereby reducing or avoiding impacts on the surrounding areas. Implementation of Mitigation Measure 4.5-7b would reduce this impact to less than significant by requiring the implementation of a habitat restoration and monitoring plan to restore, replace, and revegetate areas of impacted riparian and oak woodland habitat and specifies the nature and requirements of that restoration, revegetation effort and its long-term monitoring. Mitigation Measure 4.5-7c would reduce these impacts to less than significant by specifying practices to clean construction equipment prior to entering the site and thus avoid spreading invasive species and pathogens. Together, these measures as well as other compensatory mitigation measures expected from various permit conditions, would reduce this impact to a *less than significant* level.

Adopted Mitigation Measure 4.5-7a: Vegetation Protection for Sensitive Natural Communities.

Prior to start of construction of any Project element, the extent of sensitive natural communities within the work area shall be identified by a qualified biologist experienced in the definition and recognition of these communities. The area of impact in sensitive natural communities shall be minimized by siting construction staging and access areas outside the limits of riparian and oak woodland vegetation (as determined during pre-construction surveys) and by utilizing previously-disturbed areas. Before construction begins, the Project engineer and a qualified biologist shall identify locations for equipment and personnel access and materials staging that will minimize riparian vegetation disturbance. When heavy equipment is required, unintentional soil compaction shall be minimized by using equipment with a greater reach, or using low-pressure equipment. Temporary impacts on sensitive natural communities shall be mitigated by revegetation with native species, as required by Mitigation Measure 4.5-7b.

Adopted Mitigation Measure 4.5-7b: Habitat Restoration and Monitoring Plan.

The Flood Control District shall prepare a Habitat Restoration and Monitoring Plan for restoration following construction activities at both Project sites. The plan shall describe required salvage and replanting protocols prior to and after construction is complete and shall thereby reduce the long-term amount of losses of these natural communities. This plan shall include, but not be limited to, protocols for replanting of vegetation removed prior to or during construction,

and management and monitoring of the plants to ensure replanting success pursuant to Marin County's Countywide Plan, Marin County Code, or Code requirements of the Town of San Anselmo, or by any more stringent requirements included in other permits issued for the Project.

The plan shall specify monitoring and performance criteria for the species planted, invasive species control criteria, as well as the best time of year for seeding to occur, pursuant to requirements of permits from the various resource agencies with regulatory purview over the Project. Revegetated areas shall be monitored for a five-year period to track progress toward performance criteria.

Native riparian vegetation within the Project sites shall be salvaged prior to construction and replanted after construction is completed. Areas impacted by construction-related activity shall be replanted or reseeded with native trees, shrubs, and herbaceous perennials and annuals from the watershed under guidance from a qualified biologist. Local plant materials shall be used for revegetation of the disturbed area. The plant materials shall include local cuttings from the local watershed or from adjacent watersheds. This shall ensure that the seeds can be collected during the appropriate season and the container plants shall be of an appropriate size for out-planting. Using local cuttings can reduce the length of this phase.

The Habitat Restoration and Monitoring Plan shall also address restoration of jurisdictional wetlands and waters. Temporary impacts to wetlands shall be restored onsite with native wetland species under guidance from a qualified biologist. Permanent impacts to jurisdictional wetlands shall be mitigated for by replacement on- or off-site at an equal ratio or whatever more stringent requirements are included in the permits to be issued for the Project.

The monitoring plan shall include annual monitoring of restored areas for at least 5 years. The plan shall contain vegetation management protocols, protocols for monitoring replanting success, and an adaptive management plan if success criteria are not being met. The adaptive management plan would include interim thresholds for replanting success and alternative management approaches, such as weed control or additional replanting, to undertake if thresholds are not met.

Adopted Mitigation Measure 4.5-7c: Avoid Spread of Invasive Species and Pathogens.

All vehicles and equipment entering each Project site shall be clean of noxious weeds. Noxious weeds could spread between sites as well as from outside the Project sites. All construction equipment shall be washed thoroughly to remove all dirt, plant, and other foreign material prior to entering the Project sites. Particular attention shall be shown to the under-carriage and any surface where soil containing exotic seeds may exist. Arrangements shall be made for inspections of each piece of equipment before entering each Project site to ensure all equipment has been properly washed. Equipment found operating on the Project that has not been i.e., properly washed shall be shut down and may be subject to citation.

- 1) Certified weed-free permanent and temporary erosion control measures shall be implemented to minimize erosion and sedimentation during and after construction.
- 2) The contractor shall conform to applicable federal, state, and local seed and noxious weed laws.
- 3) Nursery operations where plants are stored, propagated, or purchased must certify implementation of best management practices to reduce pest and pathogen contamination within their nursery.

- 4) Disturbed and decompacted areas outside the restoration area shall be revegetated with locally native vegetation. Revegetated areas shall be protected and tended, including watering when needed, until restoration criteria specified by regulatory agency-issued permits is complete.
- 5) All tree removal and pruning activities shall include measures to avoid the spread of the Sudden Oak Death (SOD) pathogen. Such measures may include, but are not limited to the following:
 - i. As a precaution against spreading the pathogen, clean and disinfect pruning tools after use on confirmed or suspected infested trees or in known infested areas. Sanitize tools before pruning healthy trees or working in pathogen-free areas. Clean chippers and other vehicles of mud, dirt, leaves, organic material, and woody debris before leaving a site known to have SOD and before entering a site with susceptible hosts.
 - ii. Inform crews about the arboricultural implications of SOD and sanitation practices when they are working in infested areas.
 - iii. Provide crews with sanitation kits containing chlorine bleach, scrub brush, metal scraper, boot brush, and plastic gloves.
 - iv. Sanitize shoes, pruning gear, and other equipment before working in an area with susceptible species.
 - v. When possible, work on SOD-infected and susceptible species during the dry season (June-October). When working in wet conditions, keep equipment on paved, graveled, or dry surfaces and avoid mud. Work in disease-free areas before proceeding to infested areas.
 - vi. If possible, do not collect soil or plant material (wood, brush, leaves, and litter) from host trees in the quarantine area. Within the quarantine area, host material (e.g., wood, bark, brush, chips, leaves, or firewood) from tree removals or pruning of symptomatic or non-symptomatic host plants should remain onsite to minimize pathogen spread.
 - vii. Use all reasonable methods to sanitize personal gear and crew equipment before leaving a SOD infested site. Scrape, brush, and/or hose off accumulated soil and mud from clothing, gloves, boots, and shoes. Remove mud and plant debris by blowing out or power washing chipper trucks, chippers, bucket trucks, fertilization and soil aeration equipment, cranes, and other vehicles. Restrict the movement of soil and leaf litter under and around infected trees as spores may be found there.
 - viii. Tools used in tree removal/pruning may become contaminated and should be disinfected with alcohol or chlorine bleach.

The Board adopts and incorporates into the Project Mitigation Measures 4.5-7a, 4.5-7b, and 4.5-7c as proposed in the EIR.

IMPACT 4.5-8: IMPACTS TO WETLANDS AND OTHER WATERS

Facts

The EIR found that Project implementation could have substantial adverse effects on wetlands and other waters of the U.S. and State of California. This impact is discussed starting on page 4.5-53 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-7a, found on page 4.5-50 of the EIR, and Mitigation Measure 4.5-7b, found on page 4.5-51 of the EIR. Implementation of Mitigation Measure 4.5-7a would reduce this impact to less than significant by limiting the area of sensitive natural communities, including wetlands and waters, impacted by construction. Implementation of Mitigation Measure 4.5-7b would reduce this impact to less than significant by requiring the development and implementation of a Habitat Restoration and Monitoring Plan for the site for replanting and maintenance of restored riparian areas as well as compensatory mitigation for wetlands permanently impacted by the Project. The plan applies restoration success criteria for maintenance of replanted or restored vegetation, pursuant to Marin County ordinances or any more stringent requirements of other permits issued for the Project. Together, these measures as well as other compensatory mitigation measures expected from various permit conditions, would reduce this impact to a *less than significant* level.

Adopted Mitigation Measure 4.5-7a: Vegetation Protection for Sensitive Natural Communities (see above).

Adopted Mitigation Measure 4.5-7b: Habitat Restoration and Monitoring Plan (see above).

The Board adopts and incorporates into the Project Mitigation Measures 4.5-7a and 4.5-7b as proposed in the EIR.

IMPACT 4.5-9: IMPACTS TO RIPARIAN WILDLIFE MOVEMENT CORRIDORS

Facts

The EIR found that Project implementation could have substantial adverse effects on riparian wildlife movement corridors. This impact is discussed starting on page 4.5-54 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-1a, found on page 4.5-42 of the EIR, Mitigation Measure 4.5-3b, found on page 4.5-46 of the EIR, Mitigation Measure 4.5-4, found on page 4.5-47 of the EIR, and Mitigation Measure 4.5-6, found on page 4.5-49 of the EIR.

Implementation of Mitigation Measure 4.5-1a would reduce this impact to less than significant by restricting work activities to the months when sensitive aquatic species are less likely to be present. Implementation of Mitigation Measure 4.5-3b, Mitigation Measure 4.5-4, and Mitigation Measure 4.5-6 would reduce this impact to less than significant by requiring pre-construction surveys and implementation of measures to protect special-status species with the potential to occur at the Project sites. Together, these measures would reduce this impact to a *less than significant* level.

Adopted Mitigation Measure 4.5-1a: Seasonal Avoidance of Sensitive Aquatic Species (see above).

Adopted Mitigation Measure 4.5-3b: Avoid Impacts to California Red-legged Frog and Western Pond Turtle (see above).

Adopted Mitigation Measure 4.5-4: Avoid Impacts to Special-status and Nesting Birds, including Raptors and Northern Spotted Owls (see above).

Adopted Mitigation Measure 4.5-6: Avoid Impacts to Special-status Bats (see above).

The Board adopts and incorporates into the Project Mitigation Measures 4.5-1a, 4.5-3b, 4.5-4, and 4.5-6 as proposed in the EIR.

IMPACT 4.5-10: TREE REMOVAL IMPACTS

Facts

The EIR found that Project implementation could have substantial adverse effects related to tree removal. This impact is discussed starting on page 4.5-55 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this biological resource impact is mitigated with imposition of Mitigation Measure 4.5-10, found on page 4.5-56 of the EIR, and Mitigation Measure 4.5-7b, found on page 4.5-51 of the EIR. Implementation of Mitigation Measure 4.5-10 would reduce this impact to less than significant by requiring replacement of heritage trees and riparian trees at a ratio of 1:1 or greater if required by regulatory agency permits. Implementation of Mitigation Measure 4.5-7b would reduce this impact to less than significant by requiring the development and implementation of a Habitat Restoration and Monitoring Plan for the site for replanting and maintenance of restored riparian areas as well as compensatory mitigation for wetlands permanently impacted by the Project. The plan applies restoration success criteria for maintenance of replanted or restored vegetation, pursuant to Marin County ordinances or any more stringent requirements of other permits issued for the Project. Together, these measures would reduce this impact to a *less than significant* level.

Adopted Mitigation Measure 4.5-10: Mitigation for Removal of Heritage or Protected Trees.

During construction, as much understory brush and as many native trees as possible shall be retained, to maintain shade-producing and bank-stabilizing vegetation for the creeks. All trees to remain during construction within the grading area shall be protected and trimmed if necessary to ensure their trunks and/or limbs are not disturbed during construction.

To mitigate for tree removal: For each tree to be removed, the Flood Control District shall plant a replacement tree of the same species or a suitable native species substitute, at a rate of one planting per tree removed or such other mitigation ratio requirements included in the LSAA to be obtained from CDFW (for riparian trees) or any applicable County and/or town recommendations

(for heritage trees), and ensure that replacement trees are planted within or in the vicinity of the Project sites to the maximum extent practicable, as follows:

- 1) Trees shall be replaced within the first year after the completion of construction or as soon as possible after construction is completed.
- 2) 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, consistent with the site Habitat Restoration and Monitoring Plan (**Mitigation Measure 4.5-7b**).

Adopted Mitigation Measure 4.5-7b: Habitat Restoration and Monitoring Plan (see above).

The Board adopts and incorporates into the Project Mitigation Measures 4.5-10 and 4.5-7b as proposed in the EIR.

HAZARDS AND HAZARDOUS MATERIALS

IMPACT 4.8-2: IMPACTS FROM HAZAROUS MATERIALS SITES

Facts

The EIR found that Project implementation could have substantial adverse effects to construction workers and the public related to disturbance of potential soil contamination at a former hazardous material site and/or hazardous building materials. This impact is discussed starting on page 4.8-21 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this hazardous materials impact is mitigated with imposition of Mitigation Measure 4.8-2a, found on page 4.8-22 of the EIR, Mitigation Measure 4.8-2b, found on page 4.8-22 of the EIR, and Mitigation Measure 4.8-2c, found on page 4.8-23 of the EIR. Implementation of Mitigation Measures 4.8-2a, 4.8-2b, and 4.8-2c would reduce impacts associated with encountering potentially contaminated soil or groundwater to less than significant levels by controlling contact with and release of these materials into the environment. Methods of control include soil testing, stopping work should these materials be encountered, and use of a qualified contractor to dispose of contaminated materials in accordance with regulatory requirements. These measures would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.8-2a: Check 700/750 Sir Francis Drake Boulevard investigation status.

Prior to beginning construction activities, the contractor shall check the status of the 700/750 Sir Francis Drake Boulevard investigation available at the SWRCB GeoTracker website at:

<http://geotracker.waterboards.ca.gov/>. Relevant information from the GeoTracker shall be used to
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inform the Health and Safety Plan and Soil Management Plan, described in subsequent mitigation measures.

Adopted Mitigation Measure 4.8-2b: Health and Safety Plan.

The construction contractor(s) shall prepare and implement a site-specific Health and Safety Plan in accordance with 29 CFR 1910.120 to protect construction workers and the public during all

excavation and grading activities. The Health and Safety Plan shall include, but is not limited to, the following elements:

- 1) Designation of a trained, experienced site safety and health supervisor who has the responsibility and authority to develop and implement the site health and safety plan;
- 2) A summary of all potential risks to construction workers and maximum exposure limits for all known and reasonably foreseeable site chemicals based on the most recent reporting of the investigation at 700/750 Sir Francis Drake Boulevard site overseen by the Regional Water Quality Control Board;
- 3) Specified personal protective equipment and decontamination procedures, if needed;
- 4) Emergency procedures, including route to the nearest hospital; and
- 5) Procedures to be followed in the event that evidence of potential soil or groundwater contamination (such as soil staining, noxious odors, debris or buried storage containers) is encountered.

These procedures shall be in accordance with hazardous waste operations regulations and specifically include, but are not limited to, the following: immediately stopping work in the vicinity of unknown discovered or suspected hazardous materials release and notifying the Marin County CUPA (415-473-7085).

Mitigation Measure 4.8-2b applies to both the Nursery Basin and the Downtown San Anselmo sites.

Adopted Mitigation Measure 4.8-2c: Soil Management Plan.

For the Downtown San Anselmo site, the Flood Control District or its contractor shall develop and implement a Soil Management Plan that includes a materials disposal plan specifying how the construction contractor shall remove, handle, transport, and dispose of all excavated material in a safe, appropriate, and lawful manner. The plan shall identify protocols for training workers to recognize potential soil contamination (such as soil staining, noxious odors, debris or buried storage containers), soil testing and disposal by a qualified contractor in the event that contamination is identified, and identification of approved disposal sites (e.g., approved landfill or reuse site). Contract specifications shall mandate approval of the Soil Management Plan by the Flood Control District as well as full compliance with all applicable local, state, and federal regulations related to the identification, transportation, and disposal of hazardous materials.

The Board adopts and incorporates into the Project Mitigation Measures 4.8-2a, 4.8-2b, and 4.8-2c as proposed in the EIR.

HYDROLOGY AND WATER QUALITY

IMPACT 4.9-1. IMPACTS FROM DEGRADED WATER QUALITY

Facts

The EIR found that Project implementation could have substantial adverse effects to water quality related to sediment discharge, turbidity, fuel or chemical release to receiving waters during construction. This impact is discussed starting on page 4.9-40 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this water quality impact is mitigated with imposition of Mitigation Measure 4.9-1, found on page 4.9-43 of the EIR. Implementation of Mitigation Measure 4.9-1 would reduce this impact to less than significant by requiring the implementation of standard BMPs to remove sediment from the dewatering discharge directed to receiving waters and to control the rate of discharge such that adverse effects related to runoff, flooding, and damage to adjacent structures would not occur. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.9-1: Implement Dewatering BMPs for In-Water Work

For in-water dewatering during sediment removal activities, the Flood Control District or its contractor(s) shall prepare a Dewatering Plan. The Dewatering Plan shall identify best management practices (BMPs) that ensure sediment removal activities meet water quality objectives. In-stream sediment removal shall follow approved and permitted dewatering practices for wet weather sediment removal during more infrequent flood events in Fairfax Creek. This work shall be timed to take place as flows are receding and only after instream measures to reduce downstream turbidity are in place. In addition, the Flood Control District shall implement the measures below, or whatever more stringent water quality protection measures are imposed by the RWQCB.

1. All work performed in-water shall be completed in a manner that meets the water quality objectives to ensure the protection of beneficial uses as specified in the Basin Plan
2. All dewatering and diversion methods shall be installed such that natural flow is maintained upstream and downstream of the project area.
3. Any temporary dams or diversion shall be installed such that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the project area.
4. Screened pumps shall be used in accordance with CDFW's fish screening criteria and in accordance with the NMFS Fish Screening Criteria for Anadromous Salmonids and the Addendum for Juvenile Fish Screen Criteria for Pump Intakes
5. Cofferdams shall remain in place and functional throughout the in-stream construction or maintenance periods.
6. Disturbance of protected riparian vegetation shall be limited or avoided entirely.

The Board adopts and incorporates into the Project Mitigation Measure 4.9-1 as proposed in the EIR.

IMPACT 4.9-3. ALTER DRAINAGE PATTERNS CAUSING EROSION OR SILTATION

Facts

The EIR found that Project implementation could have substantial adverse effects to drainage patterns, potentially causing new erosion or siltation. During operations at the Nursery Basin, sediment could deposit behind the diversion structure. During operations near the Downtown San Anselmo site, scour could increase along San Anselmo Creek from the Downtown San Anselmo site upstream to the Bridge Avenue bridge. This impact is discussed starting on page 4.9-46 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this drainage impact is mitigated with imposition of Mitigation Measure 4.9-3a and 4.9-3b, found on page 4.9-50 of the EIR. Mitigation Measure 4.9-3a would avoid or reduce the volume of new sediment deposited by the Project between multiple high flow events by either incorporating design modifications into the Project that result in maintaining existing sediment transport capacity within Fairfax Creek channel or conducting sediment removal. Mitigation Measure 4.9-3b would reduce adverse effects of scour caused by the Project by requiring that existing structures be protected to depths below potential scour, based on advanced project design. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.9-3a. Prioritize Nursery Basin Reach for Stream Maintenance

The Stream Maintenance Program waste discharge requirements impose limits on the total volume of material allowed to be removed from all of the streams covered by that permit. In order to retain the design capacity of the Nursery Basin and the associated storage within the Fairfax Creek channel behind the diversion structure, the Flood Control District shall prioritize sediment removal at this site over other sites covered by the Stream Maintenance Program and shall remove all deposited sediment up to the maximum volume allowed under the existing permit (2,100 cubic yards). If deposited sediment still remains after removing the maximum volume, then this site shall be prioritized in subsequent years to remove the remaining sediment and any newly accumulated material, again up to the maximum allowed.

Adopted Mitigation Measure 4.9-3b. Scour Analysis and Protection Measures Upstream of the Downtown San Anselmo Site

Due to the dependence of erosion and sedimentation patterns on the bed-scale morphology of the new structures, measures to counter scour and sedimentation issues must be based on more advanced project design. To reduce Project impacts on erosion and sedimentation, the Flood Control District shall conduct a scour analysis for the San Anselmo Creek channel upstream of the Downtown San Anselmo site and then develop and implement appropriate scour countermeasures from the analysis into project design and operations. The analysis shall be based on at least 30 percent design and must evaluate the potential for scour and channel bank erosion including specifying the expected depth and lateral extent both immediately upstream and downstream of the Project site from 634-636 San Anselmo Avenue to Bridge Avenue bridge. The analysis shall recommend foundation designs and scour protection measures that protect structures to depths below potential scour, estimated using standard engineering methods. The

Flood Control District shall implement the foundation designs and scour protection measures in final project design. Foundation design and scour protection measures commonly used to protect existing in-channel structures and banks and that could be implemented in this Project include but are not limited to:

1. Adding new rock revetment or extending the depth of existing rock revetments
2. Extending the foundations of vertical retaining walls using sheet pile or concrete

The Board adopts and incorporates into the Project Mitigation Measure 4.9-3a and 4.9-3b as proposed in the EIR.

PARKS AND RECREATION

IMPACT 4.14-2. RECREATIONAL FACILITIES

Facts

The Project includes replacements of and improvements to the top-of-bank structures on the northern bank of San Anselmo Creek within the Town's Creek Park. The EIR therefore found that Project implementation could include public access and recreational facilities or could require the construction or expansion of recreational facilities which could have an adverse physical effect on the environment. This impact is discussed starting on page 4.14-12 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, impacts related to recreational access is mitigated with imposition of Mitigation Measure 4.3-1 and 4.9-1, found on pages 4.3-38 and 4.9-43 of the EIR. With implementation of construction best management practices and prescribed mitigations, the dust, emissions, and runoff would be reduced and the associated construction impact from the Project's implementation would be less than significant. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.3-1: BAAQMD Basic Construction Mitigation Measures (see above)

Adopted Mitigation Measure 4.9-1: Implement Dewatering BMPs for In-Water Work (see above).

The Board adopts and incorporates into the Project Mitigation Measure 4.3-1 and 4.9-1 as proposed in the EIR.

TRANSPORTATION AND CIRCULATION

IMPACT 4.15-1. TEMPORARY CONSTRUCTION TRAFFIC IMPACTS

Facts

The EIR found that construction activity associated with the Project could temporarily generate increased traffic volumes in relation to the existing traffic load and capacity of the road system (potentially resulting in a substantial increase in traffic congestion affecting vehicle or transit circulation), and could conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system. This impact is discussed starting on page 4.15-5 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, impacts related to recreational access is mitigated with imposition of Mitigation Measure 4.15-1, found on page 4.15-6 of the EIR. The Traffic Management Plan (TMP) would provide for continuity of vehicular, pedestrian, and bicyclist traffic; reduce the potential for traffic accidents; and ensure worker safety in construction zones. Where Project construction activities could disrupt mobility and access for bicyclists and pedestrians, the TMP measures shall ensure safe and convenient access would be maintained. Implementation of these measures would ensure that effects on traffic flow conditions in the Project vicinity would be less than significant. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.15-1: Traffic Management Plan.

Prior to initiation of construction, the Project contractor(s) shall use a qualified traffic engineer to prepare a TMP. The TMP shall be developed during the design phase on the basis of detailed design plans for the approved Project. The TMP shall be reviewed and approved by the Flood Control District and agencies with jurisdiction over roadways affected by Project construction activities, prior to construction. Once approved, the TMP shall be incorporated into the contract documents specifications. The TMP shall include, but not necessarily be limited to, the elements listed below:

- a) Develop truck access routes to minimize impacts on local street circulation. The route selection for movement of heavy equipment and truck traffic shall be coordinated with the Marin County Department of Public Works, Marin County Sheriff's Department, and Police Departments for applicable towns, cities, and unincorporated communities. Truck drivers shall be notified of, and required to use, the most direct route between the Project work sites and U.S. 101.
- b) As needed to avoid unacceptably adverse impacts on traffic flow, schedule truck trips outside of peak morning and afternoon/evening traffic hours.
- c) Control and monitor construction vehicle movements by enforcing standard construction specifications through periodic on-site inspections.
- d) Install traffic control devices where traffic conditions warrant, as specified in the applicable jurisdiction's standards (e.g., the *California Manual on Uniform Traffic Control Devices; Part 6: Temporary Traffic Control*); flaggers would be used, when warranted, to control vehicle movements.

- e) Implement a public information program to notify interested parties of the impending construction activities using means such as print media, radio, and/or web-based messages and information.
- f) Comply with roadside safety protocols to reduce the risk of accidents.
- g) Maintain access for emergency vehicles at all times. Provide advance notification to local police, fire, and emergency service providers of the timing, location, and duration of construction activities that could affect the movement of emergency vehicles on area roadways.
- h) Store all equipment and materials in designated contractor staging areas on or adjacent to the worksite, in such a manner to minimize obstruction to traffic.
- i) Identify locations for parking by construction workers (within the construction work site or at the designated construction staging areas, or, if needed, at a nearby location with transport provided between the parking location and the worksite).
- j) Prior to Project construction, document road conditions for all routes that shall be used by Project-related vehicles. Roads damaged by construction shall be repaired to a structural condition equal to that which existed prior to construction activity.
- k) Maintaining pedestrian and bicycle access and circulation during Project construction where safe to do so. If construction activities encroach on bicycle routes or multi-use paths, advance warning signs (e.g., “Bicyclists Allowed Use of Full Lane” and/or “Share the Road”) shall be posted that indicate the presence of such users.

During construction, an environmental compliance manager shall monitor and complete a construction monitor environmental inspection report checklist to ensure that the contractor implements the TMP measures included in the contract documents. Any noncompliance shall be documented and reported to the Flood Control District to ensure corrective action. A final compliance report shall be prepared post-construction.

The Board adopts and incorporates into the Project Mitigation Measure 4.15-1 as proposed in the EIR.

IMPACT 4.15-2. TEMPORARY CONSTRUCTION ACCESS IMPACTS

Facts

The EIR found that Construction activity associated with the Project could impede access to local streets or adjacent uses, including access for emergency vehicles This impact is discussed starting on page 4.15-8 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, impacts related to access to local streets, adjacent uses or emergency access, is mitigated with imposition of Mitigation Measure 4.15-1, found on page 4.15-6 of the EIR. The Traffic Management Plan would provide for continuity of vehicular, pedestrian, and bicyclist traffic; including emergency service providers. Implementation of these measures would ensure

that effects on traffic flow conditions in the Project vicinity would be less than significant. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.15-1: Traffic Management Plan (see above).

The Board adopts and incorporates into the Project Mitigation Measure 4.15-1 as proposed in the EIR.

IMPACT 4.15-3. IMPACTS ON PEDESTRIAN AND BICYCLE ACCESS AND SAFETY

Facts

The EIR found that Construction activity associated with the Project could have an adverse effect on pedestrian and bicycle accessibility and safety. This impact is discussed starting on page 4.15-9 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, impacts related to bicycle and pedestrian access and safety is mitigated with imposition of Mitigation Measure 4.15-1, found on page 4.15-6 of the EIR. The TMP would provide for continuity of pedestrian, and bicyclist traffic; reduce the potential for traffic accidents; and ensure worker safety in construction zones. Where Project construction activities could disrupt mobility and access for bicyclists and pedestrians, the TMP measures shall ensure safe and convenient access would be maintained. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.15-1: Traffic Management Plan (see above).

The Board adopts and incorporates into the Project Mitigation Measure 4.15-1 as proposed in the EIR.

IMPACT 4.15-4. TRANSPORTATION OR TRAFFIC SAFETY HAZARDS

Facts

The EIR found that construction activity associated with the Project could temporarily increase traffic safety hazards due to incompatible uses (e.g., heavy truck traffic, and roadway wear-and-tear. This impact is discussed starting on page 4.15-9 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, impacts related to increased traffic safety hazards due to construction traffic is mitigated with imposition of Mitigation Measure 4.15-1, found on page 4.15-6 of the EIR. The TMP would provide for a reduction in traffic safety hazards through such measures as installation of traffic control devices, scheduling trips outside of peak morning and afternoon/evening traffic hours, and repair of damaged roads after Project construction. This would reduce this impact to a *less-than-significant* level.

Adopted Mitigation Measure 4.15-1: Traffic Management Plan.

The Board adopts and incorporates into the Project Mitigation Measure 4.15-1 as proposed in the EIR.

PROJECT ALTERNATIVES

A. CEQA Alternatives Analysis

Sections 15126.6(a) and (f) of the State CEQA *Guidelines* requires that an EIR include “a range of reasonable alternatives to the project, or to the location of the project, which feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any significant effects of the project.” Based on the analysis in the EIR, the Project as proposed was expected to result in significant and unavoidable impacts related to increased flood risk, which is part of the Hydrology and Water Quality analysis. The alternatives to the Project were designed to avoid or reduce this significant and unavoidable impact and to further reduce impacts that are found to be less than significant. The Board has reviewed the significant impacts associated with a reasonable range of alternatives as compared with the significant impacts of the proposed Project in evaluating the alternatives has also considered each alternative’s feasibility, taking into account a range of economic, environmental, social, legal, and other factors. In evaluating and rejecting the alternatives, the Board has also considered the important factors listed in the Statement of Overriding Considerations, below.

Definition of Feasibility of Alternatives

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or if the site is already owned by the proponent). As defined in Public Resources Code §21061.1, the term "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

B. Findings on Feasibility of Alternatives

The EIR examined four alternatives to the proposed project in Chapter 6 of the EIR, including Alternative 1 - No Project Alternative; Alternative 2 – Morningside/Passive Basin Alternative; Alternative 3 – Raised Building Alternative; and Alternative 4 – Increased Capacity Basin Alternative.

For the reasons set forth below and considering the entire record, the Flood Control District Board of Supervisors hereby determines that the EIR presents a reasonable range of alternatives, in accordance with CEQA. The Board approves the proposed Project rather than any of the numbered and named alternatives or the modified alternative developed from a new combination of elements of the other alternatives. The Board finds that Alternative 1 - No Project Alternative; Alternative 2 - Morningside/Passive Basin Alternative; Alternative 3 – Raised Building Alternative; and Alternative 4 – Increased Capacity Basin Alternative are infeasible within the meaning of these statutes. Each reason set forth below is a separate and independent ground for the Flood Control District Board of Supervisors' determination.

1. Alternative 1: No Project

Description of the Alternative

CEQA requires consideration of a no project alternative. The "No Project/No Action Alternative" is discussed starting on page 6-5 of the EIR. Consistent with the State CEQA *Guidelines*, the No Project Alternative assumes the continuation of existing plans and policies. Under the No Project Alternative, there would be no construction actions taken or changes to the existing flood risk management system or its current operations, maintenance, or management practices. There would be no FDS basin at the former Sunnyside Nursery site to temporarily detain peak stormwater runoff. The building at 634-636 San Anselmo Avenue would remain. The Flood Control District and the Town of San Anselmo's Public Works Department would continue to maintain creek channels, bridges, culverts, and other parts of the existing system as they do now. Many of those activities are governed by permits issued for the Flood Control District's Stream Maintenance Program.

Under the No Project Alternative, none of the impacts (discussed in Chapter 4, *Environmental Setting, Impacts, and Mitigation Measures*) attributable to the construction and operation of the Nursery Basin or of the building removal and creek channel improvements in downtown San Anselmo would occur. None of the flood risk hazard reduction benefits of the proposed Project would occur under the No Project Alternative; therefore, existing flood risk in San Anselmo would persist. As described in Section 3.2 of the EIR, current creek capacity is at an approximately six-year level of flood protection, and several times in recent history San Anselmo Creek has overtopped its banks causing property damage and economic hardship to residents, businesses, and local governments, as well as environmental damage to resources within and near the creek.

Reasons for Rejecting the Alternative

Under the No Project Alternative, the Flood Control District's objectives for flood risk reduction in the Towns of San Anselmo and Fairfax would not be met; flooding within the San Anselmo and Fairfax areas would persist. The grant funding that was obtained for the original flood risk reduction project at Memorial Park would be lost because there would not be sufficient time to conceive, design, and obtain environmental clearance and permitting for a new project before the funds expire. The proposed Project's potential contribution to the overall level of flood risk reduction targets in the Corte Madera Creek watershed in the Ross Valley Flood Protection and Watershed Program would not be realized, meaning that the larger program goals would need to be met in some other way. For the foregoing reasons, the No Project Alternative is hereby rejected.

2. Alternative 2: Morningside/Passive Basin Alternative

Description of the Alternative

"Alternative 2" is discussed starting on page 6-7 of the EIR. This alternative includes a smaller and simpler version of the Nursery Basin involving no diversion structure in Fairfax Creek and thus limited work within the creek channel as compared to the proposed Project. This alternative also includes removal or replacement of two bridges along the lower portion of Sleepy Hollow Creek in the Morningside neighborhood of San Anselmo. This alternative does not include removal of the Bridge Building in Downtown San Anselmo. This alternative is based on a study performed by the Flood Control District's hydraulic engineering consultant (Stetson Engineers, 2017). Sleepy Hollow Creek is a tributary to San Anselmo Creek just upstream (about one-half mile) of Downtown San Anselmo. This alternative was selected for analysis because it would reduce the magnitude and severity of multiple impacts associated with the FDS basin, as proposed, and would reduce some of the impacts at the Downtown San Anselmo site. This alternative would be located at the Nursery Basin site and along Sleepy Hollow Creek in the Morningside residential neighborhood of San Anselmo at the Morningside Drive and Mountain View Avenue bridges.

Reasons for Rejecting the Alternative

Alternative 2 would provide substantially less overall flood risk reduction benefit than the proposed Project and would thus only partially meet the project objectives. This alternative's FDS basin system is smaller and would not provide as much flood protection as the proposed Project. Further, removing the flow-constraining bridge foundations on Sleepy Hollow Creek would pass those flows into San Anselmo Creek, where there is an existing flood risk that could be exacerbated, depending on the size of the flood event. These adverse outcomes would more than offset the slight reductions in impacts associated with the lack of a diversion structure, including sedimentation in Fairfax Creek and subsequent risk of backwater flooding, and reduced biological impacts. While some Project objectives would be met (maintaining the quality of adjoining neighborhoods, complying with environmental laws and regulations, and protecting public health and safety), the objective of providing multiple public benefits (environmental and recreational enhancements) would be met to a lesser extent under this alternative because creek and riparian habitat enhancement would be less than the proposed Project, and the alternative would not add or enhance public access and recreational opportunities. For the foregoing reasons, the Morningside/Passive Basin Alternative is hereby rejected.

3. Alternative 3: Raised Building Alternative

Description of the Alternative

"Alternative 3" is discussed starting on page 6-36 of the EIR. The Raised Building Alternative was developed in response to community interest in preserving rather than removing the bridge building at 634-636 San Anselmo Avenue (refer to scoping comments presented in Appendix A). This alternative fosters public participation, consistent with State CEQA *Guidelines* Section 15126.6(a). This alternative would achieve a comparable level of flood risk reduction as the proposed Project by raising the bridge building at 634-636 San Anselmo Avenue and its foundation out of the creek channel (Geomorph Design, 2018). This alternative would use the same design for the Nursery Basin as the proposed Project, which is described in *Chapter 3, Project Description*. That element would be unchanged in this Raised Building Alternative and is discussed only minimally hereafter.

The existing single-story wood-framed commercial building at 634-636 San Anselmo Avenue would be raised to a higher elevation. Its supporting bridge deck and abutments would be modified or replaced as needed to support the building and provide a large enough culvert to reduce or eliminate the current flow impairment. It is the bridge deck and abutments/foundations that cause the hydraulic channel restriction. To be acceptable for flood protection, the modified building would need to be configured to better match the alignment and dimensions of the foundation and deck of the building immediately upstream (638-702 San Anselmo Avenue). The proposed construction method for raising this building carries with it an unknown risk of damage to the building frame, concrete deck, or both due to the building's age and the unknown condition of the existing concrete and steel reinforcement in the bridge deck. Raising and modifying an existing building that spans a creek is not commonly done. Further inspection is needed to determine if the existing building and deck have adequate strength for this alternative.

Reasons for Rejecting the Alternative

Alternative 3 has large uncertainties in the implementation feasibility of raising the building, as described above, and would not allow the same degree of stream channel habitat and riparian corridor improvements as would full removal. Moreover, keeping the building in place would not allow for the same degree of planned public access improvements that would be part of the proposed Project, including increased visibility of the creek and the new sidewalk and patio area above the restored creek channel.

Nor would it facilitate future improvements to Creek Park. Raising the building would take longer and be costlier than removing it. The existing tenants would need to be temporarily relocated during construction.

The environmental impacts attributable to the Downtown San Anselmo Element of the proposed Project would be the same or similar under this alternative with only minimal reductions in impacts to aesthetics, land use plans, hazardous building materials, and transportation, all of which would be less than significant with implementation of the mitigation measures identified in the EIR.

The risks and feasibility issues combined with the minor reductions in adverse environmental impacts lead the Board to conclude that this alternative would not provide flood risk reduction in balance with available and reasonably foreseeable funding, as intended by the grant, thereby failing to meet one of the project objectives. For the foregoing reasons, the Raised Building Alternative is hereby rejected.

4. Alternative 4: Increased Capacity Basin

Description of the Alternative

Alternative 4, the Increased Capacity Basin Alternative, would make the same changes to San Anselmo Creek in downtown San Anselmo as the proposed Project would (i.e., removing the building at 634-636 San Anselmo Avenue and making other creek capacity and channel improvements), but it would construct a larger capacity FDS basin at the former Sunnyside Nursery site, shown on **Figure 6-4** (Stetson Engineers, 2018). This alternative was selected for analysis to investigate whether the provision of additional flood detention capacity could lessen the magnitude of downstream flooding associated with the proposed Project. Additional flooding is identified in Chapter 4 as the only significant and unavoidable impact of the Project. The total capacity of the Increased Capacity basin design would be 41 acre-feet, compared to 31.6 acre-feet for the Project. The bottom elevation of this basin would be 2.5 feet deeper than the proposed Project. At the southeast corner of the basin, a deeper pocket would be excavated to a depth of 10 feet below the rest of the basin floor to create a sump. A pump would be installed to fully drain the deeper basin when needed.

Reasons for Rejecting the Alternative

Alternative 4 would have costlier operational and maintenance requirements associated with the pump would be substantially greater than those of the proposed Project, thereby reducing its feasibility. It would also have potentially increased impacts from pump noise during the operational period. The construction impacts related to a deeper excavation, more in-stream construction work, and off-hauling of material would also be greater. Alternative 4 would provide a somewhat greater degree of flood risk reduction without increasing downstream risk to the potentially adversely affected properties, but it would not eliminate the project's single significant and unavoidable impact.

The Project objectives would all be met by this alternative. Overall, though, the Board concludes that feasibility issues and increases in some environmental impacts combined with the minimal reductions in adverse environmental impacts lead the Board to reject this alternative. For the foregoing reasons, the Raised Building Alternative is hereby rejected.

C. Environmentally Superior Alternative

On page 6-47, the EIR discusses which alternative is environmentally superior, based on the alternatives analysis. The EIR concluded that, of the three named and numbered action alternatives, Alternative 2 (the

Morningside/Passive Basin Alternative) was environmentally superior to the proposed project and the other alternatives to the project. The EIR also noted that a “more environmentally superior alternative” than any of the three numbered alternatives could be formed by combining the passive basin from Alternative 2 with the proposed Project’s building removal. Both of those alternatives would have avoided one of the two types and general locations of increased flood risk, which was the only significant and unavoidable impact identified in the EIR. However, in doing so, those alternatives would have provided substantially less flood risk reduction in those areas that would benefit from the project, and their impact on the remaining significant and unavoidable impact would be greater than that of the proposed Project. Neither of them would reasonably implement the Flood Control District’s objectives. Therefore, neither Alternative 2, nor the modified alternative (created from elements that were fully analyzed in the other action alternatives) were the alternative adopted by the Board.

VIII. STATEMENT OF OVERRIDING CONSIDERATIONS.

As set forth above, the Flood Control District Board of Supervisors has found that one of the adverse environmental impacts of the SAFRRP remains significant following adoption mitigation measures described in the EIR and incorporated into the Project. Section 15093(b) of the State CEQA *Guidelines* provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. Having balanced the benefits of the revised project against its significant and unavoidable environmental impacts, the Flood Control District finds that the Project’s benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable. The Flood Control District further finds that each of the Project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

In accordance with section 15083 of the State CEQA *Guidelines*, the Board has weighed the economic, legal, social, technological, and other benefits of the SAFRRP against related unavoidable significant environmental impacts in determining whether to approve the Project, and has determined that the benefits of the Project outweigh its unavoidable adverse environmental effects so that the adverse environmental effects may be considered “acceptable.”

Evidence

Based upon the Project objectives identified in the EIR and through extensive public participation, the Flood Control District Board of Supervisors has determined that the Project should be approved and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific environmental, economic, fiscal, social, and other overriding considerations, each one being a separate and independent basis upon which to approve the Project. Substantial evidence in the record demonstrates the following benefits that the County would derive from the Project.

A. ENVIRONMENTAL CONSIDERATIONS

1. Several times in recent history, Ross Valley has been flooded by overflow from Corte Madera Creek and its upstream tributaries, including San Anselmo Creek, Sleepy Hollow Creek, and Fairfax Creek. Prior to establishment in 1951 of the United States Geological Survey (USGS) Streamflow Gage in Ross, flooding was reported as far back as the 1860’s and in calendar years 1914, 1925, 1937, 1940, and 1942. Since 1951, flood events have been recorded in calendar years 1951, 1952, 1958, 1967, 1969, 1970, 1982, 1983, 1986, 1993, 2005 and 2017.

2. Flooding in Ross Valley has threatened the lives of those living in the floodplain, with at least one recorded death occurring in the 1955 flood. The 1955 flood was an approximate 4% annual-chance flood or a 25-year flood event.
3. The current creek capacity is at an approximately 6-year level of flood protection.
4. Preliminary modeling indicates that implementing the project elements would reduce the frequency of flooding in Ross Valley, and reduce the severity of flooding by reducing the total area of inundation in the San Anselmo and Fairfax subwatersheds (illustrated in EIR Figures 3-13a-c, 3-14a-c, and 3-15a-c).
5. Table 3-1 on page 3-24 of the EIR states the results of modeling conducted for the project and identifies 520 parcels either removed from the inundation area or experiencing a decreased inundation depth in a 10-year flood event. In a 25-year event, 20 parcels would be removed from the inundation area, and 615 would experience decreased inundation depth. In a 100-year event, 10 parcels would be removed from the inundation area, and 470 would experience reduced inundation depth. Therefore, as shown in the table, depending on the size of the event, the flood risk would be reduced on 480 to 635 parcels. This provides benefit to public safety and private property within the affected area.
6. The project would restore a more natural creek channel along San Anselmo Creek, improving aquatic habitat.
7. The Project incorporates all feasible mitigation measures to reduce potential environmental impacts to the greatest extent practicable. The Flood Control District has identified a potential mitigation measure to reduce this adverse effect to a less-than-significant level, but it would require the cooperation of affected private property owners to allow the installation of a flood barrier on their properties.

B. FISCAL AND ECONOMIC CONSIDERATIONS

8. The Project protects and supports the local economy by substantially reducing inundation of parcels during varying frequencies of flood events. Historical flooding has caused extensive property damage and economic hardship to residents, businesses, and local governments. In the 2005 flood, losses to the public and private sector totaled \$94,836,880 in 2006 dollars. Flooding in Ross Valley has also threatened the lives of those living in the floodplain, with at least one recorded death occurring in the 1955 flood. The 1955 flood was an approximate 4% annual-chance flood or a 25-year flood event. Project implementation would provide reduced inundation related to this frequency event.

C. SOCIAL AND LEGAL CONSIDERATIONS

1. The Project ensures that private property owners will continue to have economically viable uses of their lands. This promotes economic development, spreads public burdens fairly, and protects the County from regulatory takings challenges.
2. The Project is consistent with the rule that, in mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than the California Environmental Quality Act. Public Resources Code § 21004.

3. The proposed Mitigation Measure 4.9-4, Provide Flood Protection to Substantially Affected Areas, is feasible and would completely avoid the potential increased in flood risk on the small number (<20) of downstream parcels that could experience it. Each individual property owner in the areas that could experience increased flood risk following project implementation would be offered the flood barrier described in Mitigation Measure 4.9-4, which would avoid that increased flood risk. However, the Flood Control District cannot require those property owners to accept the mitigation measure on their private properties. Therefore, the significance determination associated with potential increases in flood risk was that there would be a significant and unavoidable impact. The Flood Control District will work with property owners to develop, specify, and implement a property-specific combination of the individual measures included under the category of “flood barrier” described in Mitigation Measure 4.9-4, so that this significant impact could be avoided.

IX. RECIRCULATION NOT REQUIRED.

In the course of responding to comments received during the public review and comment period on the EIR, certain portions of the EIR have been modified and new information amplifying and clarifying information in the EIR has been added to the Final EIR. As part of the final approval documents for the SAFRRP, the Flood Control District has assessed whether those modifications trigger the thresholds for recirculation as identified in Public Resources Code §21092.1 and in Section 15088.5 of the State CEQA *Guidelines*. Adoption and implementation of the SAFRRP will not result in any new significant environmental impacts not identified in the EIR or result in a substantial increase in the severity of a significant environmental impact identified in the EIR. There are no substantial changes in the project or the circumstances under which the project is being undertaken that necessitate revisions of the EIR, nor has significant new information become available. "Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR." 14 Cal. Code Regs. § 15088.5(b). The Flood Control District Board of Supervisors hereby determines, based on the standards provide in Public Resources Code § 21092.1 and Section 15088.5 of the State CEQA *Guidelines*, that recirculation of the SAFRRP EIR is not required.

X. RECORD OF PROCEEDINGS

The documents and other materials that constitute the record of proceedings (i.e. those items listed in Section 21167.6(e) of the Public Resources Code) on which the Flood Control District Board of Supervisors' Findings are based are located at the Marin County Flood Control and Water Conservation District, 3501 Civic Center Drive, Room 304, San Rafael, California. The custodians for these documents are the Marin County Flood Control and Water Conservation District and the Clerk to its Board of Supervisors. This information is provided in compliance with Public Resource Code §21081.6(a)(2) and 14 Cal Code Regs §15091(e).

XI. CONCLUSION

In accordance with Public Resources Code section 21081 and State CEQA *Guidelines* section 15091, the Flood Control District Board of Supervisors finds as follows:

The EIR for the San Anselmo Flood Risk Reduction Project was prepared pursuant to the State CEQA *Guidelines*. The Flood Control District Board of Supervisors independently determined that the EIR fully and adequately addresses the impacts of the proposed operation.

The number of project alternatives identified and considered in the EIR meet the test of "reasonable" analysis and provide the Board with important information from which to make an informed decision.

Public hearings were held before the Flood Control District Board of Supervisors. Substantial evidence in the record from those meetings and other sources demonstrates various economic, legal, social, and environmental benefits which Marin County would achieve from the implementation of the San Anselmo Flood Risk Reduction Project.

The Flood Control District Board of Supervisors has balanced these project benefits and considerations against the unavoidable environmental impact identified in the EIR and has concluded that the impact is outweighed by the project benefits.

In accordance with Public Resources Code section 21081 and State CEQA *Guidelines* section 15091, the Flood Control District Board of Supervisors finds as follows:

- A. Based on the foregoing Findings and the information contained in the record, the Flood Control District Board of Supervisors hereby makes one or more of the following findings with respect to each of the significant environmental effects of the Project:
 1. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects of the Project; or
 2. Specific economic, legal, social, technological or other considerations make infeasible one of the mitigation measures or alternatives identified in the Final EIR.

- B. Based on the foregoing Findings and the information contained in the record, the Flood Control District Board of Supervisors finds that:
 1. All significant effects on the environment due to the approval of the Project will be eliminated or substantially lessened where feasible through the incorporation and implementation of mitigation measures.
 2. The remaining significant effect on the environment found to be unavoidable is acceptable due to the factors described in the Statement of Overriding Considerations above.

- C. These findings are based on the Draft and Final EIR (SCH #2017042041), San Anselmo Flood Risk Reduction Project, Mitigation Monitoring and Reporting Program, comments from other responsible agencies and the public received on the EIR, testimony before the Flood Control District Board of Supervisors during public hearings, staff analysis and commentary, and the administrative record as a whole.

The Board concludes that the San Anselmo Flood Risk Reduction Project should be approved.

EXHIBIT "B"

Mitigation and Monitoring Reporting Program *(included in the Final EIR as Appendix E and incorporated here for the record)*

Exhibit “C”

The Project as proposed includes the 31-acre feet flood storage and diversion basin at 3000 Sir Francis Drake Boulevard, the removal of the building bridge at 634-636 San Anselmo Avenue and the implementation of flood barriers consistent with **Mitigation Measure 4.9-4 Provide Flood Protection to Substantially Affected Areas.**