



# Santa Clara Valley Water District

File No.: 24-1039

Agenda Date: 12/6/2024

Item No.: 4.1.

## COMMITTEE AGENDA MEMORANDUM Board Policy and Monitoring Committee

Government Code § 84308 Applies: Yes  No   
(If "YES" Complete Attachment A - Gov. Code § 84308)

### SUBJECT:

Discuss San Francisquito Creek Flood Protection Project (Project) and Issues Related to Santa Clara Valley Water District's Participation in the San Francisquito Creek Joint Powers Authority (SFCJPA) and Provide Feedback.

### RECOMMENDATION:

- A. Receive an update on Project status and issues related to Santa Clara Valley Water District's participation in the SFCJPA; and
- B. Discuss and identify opportunities for improvement to help resolve these issues and provide feedback to staff on next steps.

### SUMMARY:

At Santa Clara Valley Water District's (Valley Water) September 24, 2024, Board meeting, the Board approved payment of Valley Water's annual member contribution to the SFCJPA Operating Budget. At that time, the Board referred recently encountered policy issues associated with the SFCJPA and the Project to the Board Policy and Monitoring Committee (Committee) for further discussion. The summary below provides the background on the SFCJPA and the Project, a Project status update, and a summary of policy issues to be discussed by the Committee.

### Background

San Francisquito Creek forms the boundary between San Mateo and Santa Clara Counties, with the cities of Menlo Park and East Palo Alto to the north and the City of Palo Alto to the south. The creek has overtopped and caused flooding in the surrounding communities several times in the past. The largest flood on record occurred in 1998 and was considered a once in 70-year flood event. The most recent flood event occurred on December 31, 2022, and was the second-largest flood on record.

The SFCJPA was formed in 1999 following the 1998 flood event and consists of five member agencies: Valley Water, the City of East Palo Alto, the City of Menlo Park, the City of Palo Alto, and the San Mateo County Flood and Sea Level Rise Resiliency District (One Shoreline). Each of the member agencies designate their own elected representative to the SFCJPA Board. Since its formation in 1999, the SFCJPA has been working to implement the San Francisquito Creek Flood

Protection Project (Project).

The Project is part of Valley Water’s Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) that voters renewed in November 2020. Each project in the Safe, Clean Water Program has established key performance indicators (KPIs) that are used to monitor the progress and completion of the project. Flood protection projects reliant on federal funding have two KPIs; one for the preferred project with federal funding and another for a local-funding-only project. This approach allows progress on local KPIs while pursuing additional federal funding sources. Valley Water is currently aiming to achieve the local funding KPI listed below for this Project:

*“With state and local funding only: Protect approximately 3,000 parcels by providing 1% (100-year) flood protection downstream of Highway 101, and approximately 1.4% (70-year) protection upstream of Highway 101.”*

The Project consists of two reaches: The downstream reach from San Francisco Bay to US Highway 101 and the upstream reach from US Highway 101 to Middlefield Road. The downstream reach of the Project was completed in 2018 and provides 100-year flood protection, thus meeting the Safe, Clean Water KPI for the downstream reach. The project included sediment removal, channel widening, levee improvements, and floodwalls. Valley Water took a lead role in implementing the downstream reach of the Project and managed the design and construction. There was no formal agreement for Valley Water to lead the project; rather, it was an informal arrangement between the SFCJPA Executive Director, Valley Water executive management, and other member agencies at the time. Valley Water contributed \$51.2 million, or over 70% of the total cost of the downstream reach. Approximately \$46.8 million was funded by the Safe, Clean Water Program, with the remainder funded by Valley Water’s Watershed Stream Stewardship Fund.

The upstream reach of the Project is in progress. An EIR was approved in September 2019, and the preferred alternative included four project elements that would protect from a 70-year flood event. These four elements moved forward into design and have reached various levels of completion, listed below:

1. Pope-Chaucer Bridge Replacement - 90% design (by Valley Water)
2. Channel Widening (4 separate sites) - 90% design (by Valley Water)
3. Newell Road Bridge Replacement - design complete (by City of Palo Alto)
4. Top-of-Bank Improvements (floodwalls) - 60% design (by Valley Water)

### **Current Project Status**

As a result of the December 31, 2022 flooding, Valley Water staff determined that the existing creek capacity was less than estimated in previous models. Consequently, the four above-mentioned project elements would no longer convey the 70-year design flow. The Project, as designed, does not meet the Safe, Clean Water KPI for the upstream reach to provide 70-year flood protection.

Valley Water continued to lead the design of the four upstream project elements until February 2023, when at the SFCJPA’s request, Valley Water turned over project design to the SFCJPA to lead. In spring 2024, the SFCJPA hired a consultant to re-evaluate the project alternatives and reaffirm the

preferred alternative (the four elements). Currently, the Pope Chaucer Bridge replacement, channel widening, and top-of-bank improvements are on hold until that analysis is complete.

The City of Palo Alto completed the Newell Road Bridge replacement design and is now proceeding to project construction since it has been determined that the bridge replacement will provide flood protection benefits without transferring risk downstream, and the project has grant funding. This project is being funded by a Caltrans Highway Bridge Program grant, with Valley Water contributing the local match funds for the grant of approximately 11% through a cost-share agreement with the City of Palo Alto.

### **Summary of Issues**

The issues related to Valley Water's participation in the SFCJPA fall into three categories:

1. Valley Water's role in the SFCJPA
2. Project direction
3. Financial concerns

### **Valley Water's Role in the SFCJPA**

Valley Water has limited authority over the Project outcome. Valley Water has limited voting rights as one of five member agencies, each having one vote. Furthermore, while San Mateo County has three member agencies and three votes (One Shoreline, City of East Palo Alto, and City of Menlo Park), Santa Clara County has only two member agencies and two votes (Valley Water and City of Palo Alto). This creates some inequity in representation on the SFCJPA Board between the two counties. In addition, Valley Water is no longer leading the project and SFCJPA staff has taken over the lead role.

Despite this limited authority over the Project outcome, Valley Water has committed a total of \$81.5 million, which is the majority of funding for the Project. As of Fiscal Year 2024, Valley Water has expended approximately \$60.4 million (which includes both Safe, Clean Water and Watershed Stream Stewardship funding), and approximately \$21.1 million remains in Safe Clean Water funding.

For the downstream reach, Valley Water contributed \$51.2 million (which includes both Safe, Clean Water and Watershed Stream Stewardship funding), while the four other member agencies contributed a combined total of \$4.5 million, as outlined in the First Amended Construction Funding Agreement for the downstream reach. The SFCJPA also received \$8.8 million in Department of Water Resources Proposition 1E and Proposition 84 grant funding for the downstream reach, with Valley Water leading pursuit of the Proposition 84 grant.

For the upstream reach, the City of Palo Alto is currently securing a \$12.5 million Caltrans Highway Bridge Program grant for Newell Bridge Construction. The SFCJPA has executed an agreement for Proposition 1 grant funds in the amount of \$5 million and is pursuing approximately \$8.2 million in U.S. Army Corps of Engineers (USACE) CAP 205 funding.

While other member agency contributions and grant funding have been important to the Project's success, Valley Water's funding has been substantial in comparison.

Additionally, although Valley Water has limited authority over the Project outcome, the Safe, Clean Water Program KPI implies that Valley Water is responsible for project delivery. The Project's KPI calls for delivering 70-year flood protection for the upstream reach. However, Valley Water's altered role more closely aligns with a 'funding contribution' KPI. Several projects in the Safe, Clean Water Program are measured by funding contribution KPIs. One such example is Project F8: Sustainable Creek Infrastructure for Continued Public Safety, with the KPI to "*Provide up to \$7.5 million in the first 15-year period to plan, design and construct projects identified through Watershed Asset Management Plans.*"

Lastly, the Project is included in Valley Water's Capital Improvement Program (CIP) Fiscal Years 2025-29 Five-Year Plan. Aside from USACE partnership projects, this is the only project in Valley Water's CIP that is being led by another agency. Other similar projects where Valley Water is not the project owner and only contributing funds through partnership agreements are included in operating budgets rather than the CIP. Examples of these types of projects include the Los Vaqueros Reservoir Expansion Project, the Delta Conveyance Project, and the B.F. Sisk Dam Raise and Reservoir Expansion Project. Valley Water has limited authority over the delivery of these projects, and therefore, they are included in operating budgets rather than the CIP.

#### Project Direction

The next issue, which is also discussed above under 'Project Status,' is that the current project does not meet the Safe, Clean Water KPI to provide 70-year flood protection. Following the December 2022 flood event, it became evident that the Project as designed would no longer provide 70-year flood protection, and the SFCJPA hired a consultant to re-evaluate the preferred project alternative. SFCJPA staff is currently working with its consultant and the JPA Board to reaffirm the preferred alternative and select an updated level of flood protection. It is uncertain what level of protection the SFCJPA will pursue. If the SFCJPA proceeds with the current design, it will not meet Valley Water's KPI. If the SFCJPA proceeds with 70-year flood protection, additional flood protection elements will need to be added to the design.

#### Financial Concerns

Until the updated level of protection for the upstream reach of the Project is determined, the total project costs are unknown. Even with the remaining Safe, Clean Water funding applied to the Project as currently designed, which does not provide 70-year flood protection, there is an approximate \$25 million funding gap. Valley Water estimates that 70-year flood protection would require additional infrastructure, and \$50 to \$100 million or more in funding.

Other financial concerns are related to SFCJPA operations. The SFCJPA Agreement requires annual financial audits, but these have not been completed for the past five (5) years. Financial audits are required by law at least bi-annually.

Additionally, there is no clear delineation of operations expenses between the two projects that the SFCJPA leads: the San Francisquito Creek Flood Protection Project and the SAFER Bay Project. The SAFER Bay Project provides coastal and sea level rise flood protection along the San Mateo County Shoreline. The SAFER Bay Project is located in and fully benefits San Mateo County. At a

2022 SFCJPA Board meeting, Valley Water and the City of Palo Alto raised concerns about continuing to contribute toward operating costs unless there was a clear separation of funding between the two projects. The purpose of separating expenses is to ensure that no portion of Valley Water or the City of Palo Alto's annual member contribution (approximately \$350,000) is funding SAFER Bay project operations expenses, which benefits San Mateo County.

### **Next Steps**

Some potential next steps for the Committee's consideration are provided below.

1. Investigate options for Valley Water's long-term participation in the SFCJPA: Valley Water staff could investigate options for Valley Water's continued participation in the SFCJPA, how the San Francisquito Creek Flood Protection Project would proceed under each option, and the pros and cons associated with each option. Options include withdrawing from the SFCJPA, taking a lead role in the SFCJPA, or continuing in the current limited role. The SFCJPA Agreement includes a clause for withdrawal, which would need to occur by May 1<sup>st</sup> to avoid payment of the following year's annual member contribution.
2. Take steps to improve the existing SFCJPA and SFCJPA Agreement: If Valley Water wishes to continue to participate in the SFCJPA, there are actions that may help resolve some of the identified issues, including:
  - a. Request to amend the Agreement to include weighted voting rights: Weighted voting rights would provide Valley Water with more authority over project direction and could be based on funding contribution and/or equal weighting between Santa Clara and San Mateo Counties. Some other JPAs that Valley Water participates in include weighted voting based on funding contribution.
  - b. Request to amend the Agreement so member contribution is contingent upon financial audits and clear separation of SAFER Bay expenses: The Agreement could be amended so that payment of member contributions is contingent on the SFCJPA conducting annual financial audits and demonstrating clear separation of expenses between the San Francisquito Creek and SAFER Bay projects. This would provide more transparency regarding how Valley Water funds are being used by the SFCJPA.
  - c. Confirm and advocate for Valley Water's preferred level of protection: Valley Water may wish to confirm the level of protection it desires for the project to provide (70-year or other). Confirming the level of protection may include an abbreviated planning effort or other cost-benefit analysis. Once determined, Valley Water's representative on the SFCJPA Board could advocate for Valley Water's preferred level of protection.
  - d. Advocate for additional funding from other members or outside sources: It's clear that no matter which level of protection is selected or how Valley Water chooses to continue to participate, additional funding will benefit the Project and the SFCJPA. Valley Water may wish to advocate for additional funding from other SFCJPA members or other local, state, or federal sources.

3. Consider modifications to the Safe, Clean Water Program: Depending on how Valley Water chooses to participate in the SFCJPA and the level of protection offered by the Project, Valley Water will need to modify the Safe, Clean Water Program, specifically the Project KPI. If Valley Water continues its current role, a funding contribution KPI more accurately reflects that role. Additionally, the Project level of protection will need to be modified once determined by the SFCJPA unless it remains at the 70-year level.
  
4. Consider Changing the Project from a capital to an operations project: Unless Valley Water becomes the project owner, consider removing the Project from the Capital Improvement Program (CIP) to be more consistent with other similar projects where Valley Water is not the project owner or lead agency.

Staff is requesting feedback from the Committee on proceeding with any of the above listed or other next steps that the Committee recommends.

**ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

This action is unlikely to or will not result in adverse impacts and is not associated with an equity opportunity.

**ATTACHMENTS:**

Attachment 1: PowerPoint

**UNCLASSIFIED MANAGER:**

Bhavani Yerrapotu, 408-630-2735



# San Francisquito Creek Project and JPA

Board Policy and Monitoring Committee Update  
December 6, 2024

# Overview

- Background and History
- Project Status
- Summary of Issues
  - Valley Water's Role in the SFCJPA
  - Project Direction
  - Financial Concerns
- Committee Discussion
  - Recommendations and Next Steps



# Flooding History

- 1998: Highest flow on record, a once in 70-year flood event
- 2022: Most recent and second highest event on record

## HISTORIC PEAK STREAMFLOW RATES SAN FRANCISQUITO CREEK AT USGS GAGE 11164500 1930 - 1941; 1950 - 2023

	<u>DATE</u>	<u>PEAK FLOW RATE (CFS)</u>
1.	FEBRUARY 3, 1998	7200
2.	DECEMBER 31, 2022	5880
3.	DECEMBER 22, 1955	5560
4.	DECEMBER 23, 2012	5400
5.	JANUARY 4, 1982	5220
6.	JANUARY 1, 2005	4840
7.	FEBRUARY 7, 2017	4820
8.	APRIL 2, 1958	4460
9.	JANUARY 21, 1967	4000
10.	FEBRUARY 13, 2000	3930

# San Francisquito Creek Joint Powers Authority (SFCJPA)

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- Formed following the 1998 flood event to lead projects that mitigate the risk of flooding along San Francisquito Creek and San Francisco Bay
- Five Member Agencies:



# San Francisquito Creek Project

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- Downstream Project (Reach 1)
  - Hwy 101 to Bay
  - Complete
- Upstream Project (Reach 2)
  - Middlefield Rd to Hwy 101
  - In progress



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# Safe Clean Water Key Performance Indicator (KPI)

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## Project E5: San Francisquito Creek Flood Protection

With state and local funding only: Protect approximately 3,000 parcels by providing 1% (100-year) flood protection downstream of Highway 101, and approximately 1.4% (70-year) protection upstream of Highway 101.

- ✓ **Downstream Project KPI (complete):**  
Provide 100 Year protection
- **Upstream Project KPI (in progress):**  
Provide 70 Year protection

# Downstream Project: 100-year Protection

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- Construction complete in 2018
  - Sediment removal, channel widening, levee improvements, and floodwalls
- Valley Water informally led the project as a member of the JPA
- Valley Water contributed approximately 70% of total funding (\$51.2 million<sup>1</sup>)

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# Upstream Project: 70-year protection

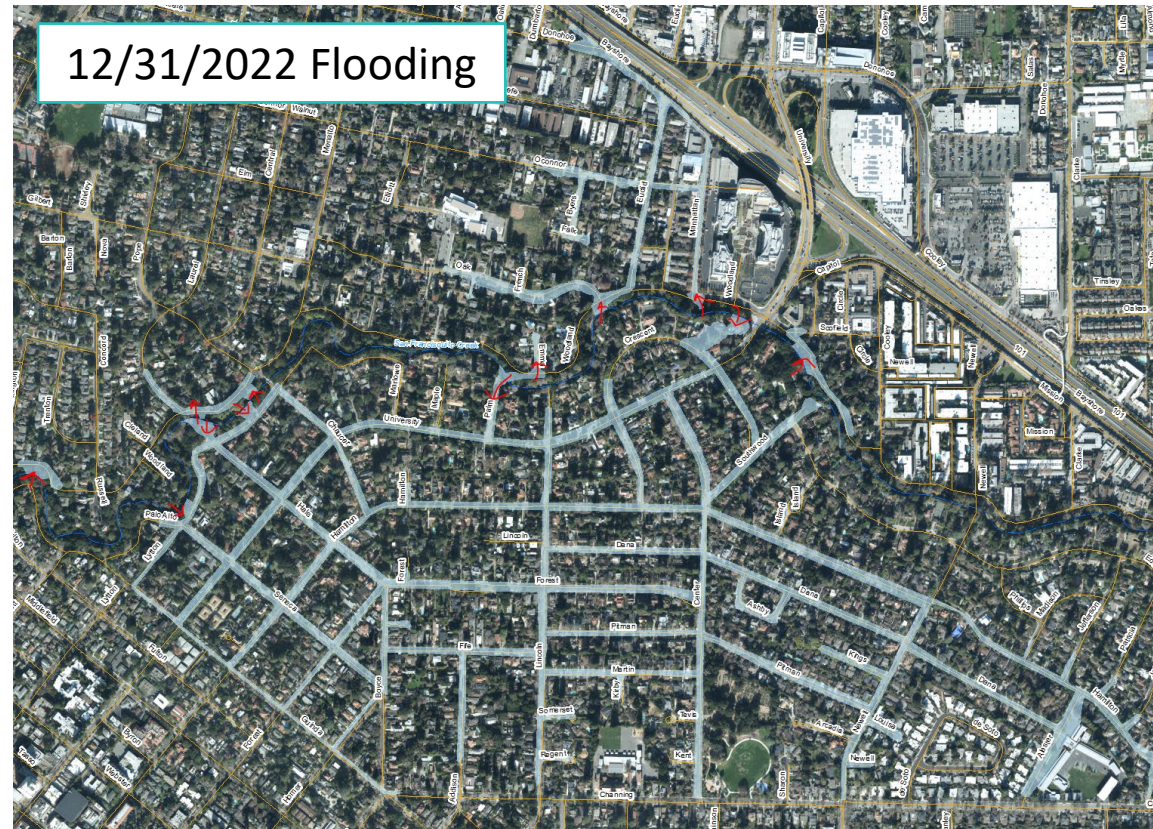


- Four Project Elements:
1. Pope Chaucer Bridge (90% design – Valley Water)
  2. Channel Widening (90% design – Valley Water)
  3. Newell Bridge (Design Complete – City of Palo Alto)
  4. Top of Bank (60% design – Valley Water)

# Upstream Project Status

- After flooding on December 31, 2022, staff found that existing creek capacity is lower than estimated
- Proposed project (four elements) will not convey 70-year design flow

***Current design does not meet the SCW KPI to provide 70-year flood protection upstream of Hwy 101***



# Upstream Project Status (continued)

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- In February 2023 at SFCJPA request, Valley Water turned over design to SFCJPA to lead
- In Spring 2024, SFCJPA executed a consultant agreement to re-evaluate EIR alternatives and reaffirm the preferred alternative
- Channel Widening, Top of Bank, and Pope-Chaucer Bridge designs are **on-hold** pending updated consultant analysis
- Newell Bridge construction planned for 2025
  - City of Palo Alto leads, with grant funding from Caltrans



# Summary of Issues

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1. **Valley Water's Role:** Valley Water has limited authority over Project outcome, yet:
  - a) Has contributed the majority of Project funding
  - b) The Safe Clean Water KPI indicates Valley Water is responsible for Project delivery
  - c) The Project is included in Valley Water's CIP
2. **Project Direction:** The Project does not provide 70-year protection to meet the Safe Clean Water KPI
3. **Financial Concerns:**
  - a) The Project does not have enough funding for construction
  - b) SFCJPA annual financial audits have not been completed in five years
  - c) No clear delineation of SAFER Bay Project operations expenses

# Issue #1: Limited Authority Over Project Outcome

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- Valley Water is one of five member agencies with equal voting rights
- Two member agencies represent Santa Clara County while three represent San Mateo County
  - Unequal representation between counties
- Historically, Valley Water led project design and construction, but this changed in 2023
  - Currently SFCJPA staff are leading the project

# Issue #1.a: Valley Water has Contributed the Majority of Project Funding

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Total Contributions (millions) Upstream and Downstream Reaches Combined	
Valley Water <sup>1</sup>	\$81.5
Other JPA Members <sup>2</sup>	\$4.5
Grants <sup>3, 4</sup>	\$26.3

<sup>1</sup>\$60.4 expended as of July 1, 2024; \$21.1 remaining  
<sup>2</sup>For downstream project construction  
<sup>3</sup>Includes \$12.5 pending Caltrans Highway Bridge Program Grant for Newell Bridge  
<sup>4</sup>Does not include \$8.2 potential USACE CAP 205 funding

# Issue #1.b: The Safe Clean Water KPI Indicates Valley Water is Responsible for Project Delivery

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- Valley Water is contributing funds with limited authority for project delivery
- This role more closely aligns with a 'funding contribution' KPI

## CURRENT KPI:

### Project E5: San Francisquito Creek Flood Protection

With state and local funding only: Protect approximately 3,000 parcels by providing 1% (100-year) flood protection downstream of Highway 101, and approximately 1.4% (70-year) protection upstream of Highway 101.

## EXAMPLE OF FUNDING CONTRIBUTION KPI:

### Project F8: Sustainable Creek Infrastructure for Continued Public Safety

Provide up to \$7.5 million in the first 15-year period to plan, design and construct projects identified through Watershed asset management plans.

# Issue #1.c: The Project is Included in Valley Water's CIP

- Aside from USACE partnership projects, this is the only project in Valley Water's CIP being led by another agency
- Similar projects led by other agencies where Valley Water is contributing funds are included in VW's operations budget

## *Capital Investments Not Included in the CIP*

Valley Water is currently engaged in planning for the future water supply needs of the county. This effort includes updating the Water Supply Master Plan 2040, which was approved by the Board on November 20, 2019. Development of the Water Supply Master Plan 2050 was initiated in 2023 and is expected to conclude in 2024, with updated recommendations on water supply projects and portfolios.

The following capital water supply projects are being led by other agencies, with Valley Water's participation being evaluated in the Water Supply Master Plan 2050. As Valley Water is not the project owner and only contributing funds through partnership agreements, these projects are not included in the CIP Five-Year Plan, but rather are included in Valley Water's operating budget forecasts:

- Los Vaqueros Reservoir Expansion Project
- Delta Conveyance Project
- B.F. Sisk Dam Raise and Reservoir Expansion Project

*Excerpt from Page II-3 of Valley Water's 2025-2029 Capital Improvement Program Five Year Plan*

# Issue #2: The Project Does Not Provide 70-year Protection to Meet the Safe Clean Water KPI

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- Current design does not provide 70-year protection
- SFCJPA is re-assessing the current design and level of protection
  - Uncertain what level of protection the SFCJPA Board will select
- 70-year protection would require additional improvements



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# Issue #3.a: The Project Does Not Have Enough Funding for Construction

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- Upstream Project funding needs are uncertain until an updated level of protection is determined, and design completed
- Even with Safe Clean Water funding, there was an approximate \$25 million funding gap for the current project which does not provide 70-year protection
- 70-year protection would require an estimated additional \$50-100 million or more

# Issue #3.b: SFCJPA Annual Financial Audits Have Not Been Completed in Five Years

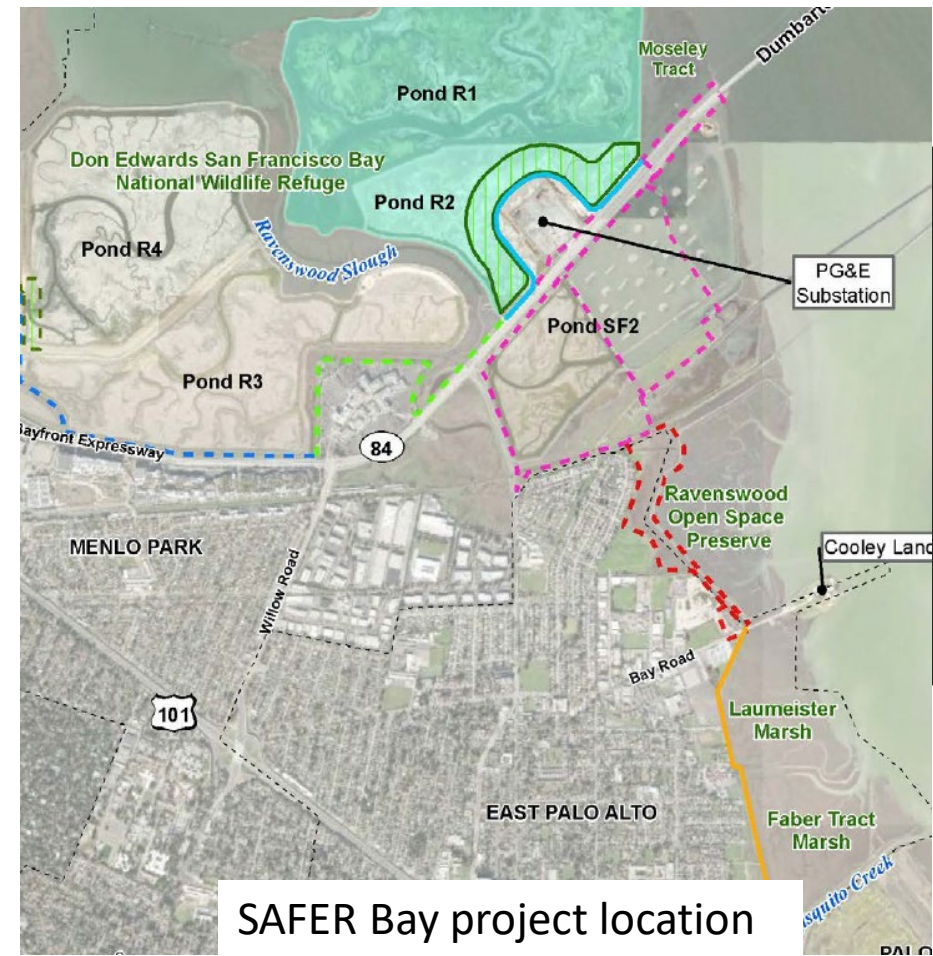
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- SFCJPA Agreement requires annual financial audits
  - Also required at a minimum of biannually by law
- Last audit was completed in 2019



# Issue #3.c: No Clear Delineation of SAFER Bay Project Operations Expenses

- In addition to the San Francisquito Creek Project, the SFCJPA leads the SAFER Bay Project
- The SAFER Bay Project provides coastal and sea level rise flood protection along the San Mateo County shoreline
  - The project is located outside of Santa Clara County
- In 2022, Valley Water and City of Palo Alto raised concerns about contributing toward the SFCJPA’s operating costs unless a clear separation of funds is in place



SAFER Bay project location

# Potential Next Steps

- Investigate options for Valley Water's long-term participation in the SFCJPA
  - Withdraw, take a lead role, continue current role
- Take steps to improve the existing SFCJPA and JPA Agreement
  - Weighted voting based on funds contribution and/or equal weighting between counties
  - Payment of member contribution contingent on financial audits and clear separation of SAFER Bay expenses
  - Confirm and advocate for Valley Water's preferred level of protection (70 year, other?)
  - Advocate for additional funding from other members or outside sources
- Consider modifications to the Safe, Clean Water Program
- Consider changing the Project from a capital to an operations project

# Committee Discussion

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- Opportunities for improvement and resolution of issues
- Recommended next steps



# Valley Water

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