

Requests:

- Flexibility in long-term financial assurances including exemption from endowments.
- Provide adequate funding for regulatory agencies to improve the overall permit process and prevent project delays.
- Establish procedures which streamline the permitting process.
- Provide standards and guidance to facilitate consistent environmental review of projects.
- Seek ways to expedite timeliness of permit issuance for the routine maintenance of channels.
- Better coordination of mitigation requirements among agencies.
- Require federal and state agencies to agree to accept the same mitigation for the same project impacts.
- In lieu fee programs should be an allowable mitigation option.
- Remove permitting for routine maintenance when determined it would not cause additional environmental impacts than for which were originally mitigated.
- Environmental restoration projects should be exempt from mitigation.

Goal: The ability to effectively and efficiently work with regulatory agencies to ensure that permits are obtained in a timely and predictable manner ensures that our financial resources are appropriately utilized. Delays in obtaining permits, conflicting guidance from regulatory agencies, and inflexible financial assurance vehicles negatively impact the ability of the Santa Clara Valley Water District (District) from building/repairing vital water supply and flood protection infrastructure which benefits Santa Clara County's approximately 2 million residents.

Brief Background:

Public Entities Need Flexibility in Financial Assurance Mechanisms for Long-Term Management of Compensatory Mitigation Sites

Permitting agencies are requiring financial assurances for long-term management of compensatory mitigation sites as a condition of permit issuance. Although existing policy does allow for flexibility in financial assurance options, some federal agencies have recently been insistent that endowments are the only avenue to ensure the long-term sustainability of a compensatory mitigation site.

For the District, in particular, an endowment unnecessarily ties up capital which would otherwise be used towards flood protection and other projects.

Create a Balanced Approach to Watershed Based Regulatory Permitting and Financing for Public Agencies

The District wants to ensure that it is able to work effectively and efficiently with regulatory agencies to ensure that permits are obtained in a timely and predictable manner and that our financial resources are appropriately utilized. To that end, in situations where it can be determined that routine maintenance would not cause additional

environmental impacts than which were originally mitigated for, there should not be a need for permitting the maintenance. Removing this permitting requirement would both simplify the process and expedite the overall timeline for conducting routine maintenance. Furthermore, environmental restoration projects, by their very nature, are intended to protect, restore, and enhance the environment, and should be exempt from mitigation.

The District will pursue efforts that will: 1) allow for public agencies, which are performing routine maintenance, to bring flood protection projects back to their original capacity to be exempt from needing to obtain a permit, as long as the maintenance would not cause any additional environment impacts which were originally mitigated for; 2) allow for true environmental restoration projects to be exempt from requiring mitigation, and 3) pursue efforts which will provide agencies alternatives and exemptions to endowments if the agency has adopted the local or regional watershed management plan.

Provide Adequate Funding for Regulatory Agencies to Improve the Overall Permit Process and Prevent Project Delays

Regulatory agencies appear to lack adequate staff to process permits in a timely and predictable manner. The issuance of routine permits for both construction and routine maintenance can take years. Adequate funding would ensure the regulatory agencies have the staff to streamline permit issuance which is essential to getting local agency projects out in a timely and cost effective manner.

Where feasible, support standardizing regulatory agency internal processes and procedures to optimize the permitting application process.

Improve Permitting for Routine Channel Maintenance

Local Flood Protection Agencies are increasingly reluctant to create or restore habitat and wildlife corridors in flood protection channels due to the difficulty in obtaining natural resource agency permits to perform routine maintenance, including vegetation management. Improvements to the permitting processes for routine channel maintenance are needed to manage flood protection channels to meet both habitat and flood protection goals.

Better Coordination of Mitigation Requirements Among Regulatory Agencies is Needed

Complying with multiple and often conflicting mitigation requirements of state and federal agencies has become increasingly common, often driving up the price tag on projects and delaying projects which often are responsible for the protection of the health and safety of the community. It has become increasingly difficult to comply with conflicting regulations that govern day-to-day operations and the building of infrastructure projects.

The best mitigation option may be the establishment of an in-lieu fee program. In-lieu fee programs have priority level in the Federal Mitigation Rule and in-lieu fee is considered an effective and useful approach to satisfy compensatory mitigation requirements.

A forum or process should be created which allows for agencies to understand the requirements being placed on permittees, which will decrease the conflicts which are often present. Federal and state agencies should agree to and accept the same mitigation for the same project impacts to reduce the financial burden on public agencies. This will allow for more efficient permitting and responsible spending of public funds. In-lieu fee programs should be an allowable mitigation option.