

February 25, 2020

Sherilyn Tran
Santa Clara Valley Water District
Community Benefits Program
5750 Almaden Expressway
San Jose, CA 95118

SUBJECT: Three Creeks Trail – Trestle and Interim Improvements
Valley Water Grant Funding

Dear Ms. Tran:

The City of San José must unfortunately request an extension for the Three Creeks Trail – Trestle and Interim Improvements. We wish to acknowledge Valley Water's past support and accommodations as we have faced a prolonged delay from an advocacy organization seeking to prevent the project from moving forward.

We are submitting this letter prior to a Court ruling that will provide certainty on our path forward. We do this because we recognize that your grant deadline of March 20, 2020 is just days after the scheduled court hearing ruling on March 17. Should we receive an unexpected ruling from the Court, we will contact you immediately and ask that this request be dropped.

This is our fourth request for an extension. We acknowledge that this is unusual delay and requires Board engagement. We only seek this extension because we do believe that the Court will rule in the City's favor.

As some background on our strong position for gaining the Court's support:

- In 2004, we documented that the trestle structure was of a common form and did not possess the quality, character, or relationships needed for historical designation. This conclusion was supported by Consulting Architectural Historian Ward Hill on May 19, 2014 and by Milford Wayne Donaldson, the State Historic Preservation Officer, on September 10, 2004.
- In 2014, we master planned the trail system and engaged the community through multiple workshops and outreach events with stakeholder groups over a two-year period to state the intent to replace the trestle with a clear-span bridge structure.
- A claim by an advocacy group, Friends of the Three Creeks Trestle, was heard by the Superior Court of the County of Santa Clara. Per that court decision, the City proceeded to prepare a \$500,000 Environmental Impact Report to assess environmental impacts. Our project team included Stephen Mikesel, an expert on historic trestle structures, author, and former staff for the California Landmarks Commission. The EIR has been provided to your organization.

- In 2014, the City contracted with Gordon Ball Construction to remove the trestle structure and install a custom-built 210' clear-span, steel bridge structure. The bridge was fabricated and remains stored with the manufacturer in Colorado.
- In 2018, the trestle was recognized by our Historic Landmarks Commission and by the State's Historic Landmarks Commission. The issue was addressed by the County Superior Court and the City was able to proceed with demolition of the structure. The court's decision was not issued until late in the construction season (June to October) and permit extensions could not be secured, resulting in the work being delayed to 2019.
- The Federal Government's Historic Landmarks Commission has declined to consider the trestle's status.
- In June 2019, the Superior Court of California issued a preliminary injunction order that prohibited the City from demolishing the trestle, but allowed for site preparation work to proceed.
- In July 2019, the Sixth Appellate District Court extended the preliminary injunction order issued by the Superior Court halting construction work until 2020.
- In fall 2019, City staff and advocates met for Court-ordered mediation.

We believe that the Court will reflect upon the mediation process and rule that the project may move forward because:

- Multiple agencies approved the project prior to beginning construction and these approvals should be effective unless the project has been significantly modified or changed.
- The Court system has heard the case numerous times and it is doubtful that the advocates will have further or new information upon which to base a new claim.
- The City has retained Gordon Ball Construction under contract for 6 years, and both are prepared to move forward quickly.

Upon issuance of a Notice to Proceed to the Contractor, removal of the structure is expected to take no more than 30 days. Construction of footings and related work would support installation of a pedestrian bridge by October 15, 2020. We would move quickly to report all allowable expenses and submit a final reimbursement packet to you by March 30, 2021.

The City organization continues to strongly support the project moving forward. We have made every effort to expedite the project and respectfully request that Valley Water District accept our request to extend the grant term date to March 30, 2021.

Sincerely,



Yves Zsutty
Trail Manager