



## CEQA Internal Decision Memorandum

**TO:** Rechelle Blank

**FROM:** Melissa Moore

**SUBJECT:** CEQA Categorical Exemption: Class 12  
**DATE:** November 12, 2020

### RECOMMENDATION

This memorandum provides the basis for the recommendation that the proposed surplus property transfer qualifies for a Categorical Exemption to fulfill Valley Water's lead agency responsibilities under the California Environmental Quality Act (CEQA). This recommendation was developed after review of the project plans, consultation with the project sponsor, and research into environmental conditions and regulations.

### ISSUE

The proposed activity is a project as defined by CEQA, so Valley Water must determine the appropriate level of environmental review to fulfill its role as Lead Agency. Santa Clara County parcel 825-10-077 is to be subdivided per parcel description (Attachment 1) and the surplus easterly portion of approximately 0.088 acres transferred back to the original owner who originally dedicated the larger parcel at no cost to Valley Water. The land transfer would preserve the current use and existing natural conditions at the property. It is important to note that this property is not located in an area of concern under statute 15206 (b)(4) therefore, this analysis is justified under 14 CCR § 15312.

### CEQA STANDARD

CEQA Guidelines §15312 defines the Class 12 categorical exemption for "Surplus Government Property Sales." Per CEQA Guidelines §15312:

"Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide, regional, or areawide concern identified in Section 15206(b)(4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

- (a) The property does not have significant values for wildlife habitat or other environmental purposes, and
- (b) Any of the following conditions exist:
  - (1) The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or
  - (2) The property to be sold would qualify for an exemption under any other class of categorical exemption in these Guidelines; or
  - (3) The use of the property and adjacent property has not changed since the time of purchase by the public agency."

A project may be disqualified for an exemption if any of the conditions in CEQA guidelines §15206(b)(4) exist:

“(4) A project for which an EIR and not a Negative Declaration was prepared which would be located in and would substantially impact the following areas of critical environmental sensitivity:

- (A) The Lake Tahoe Basin.
- (B) The Santa Monica Mountains Zone as defined by Section 33105 of the Public Resources Code.
- (C) The California Coastal Zone as defined in, and mapped pursuant to, Section 30103 of the Public Resources Code.
- (D) An area within 1/4 mile of a wild and scenic river as defined by Section 5093.5 of the Public Resources Code.
- (E) The Sacramento-San Joaquin Delta, as defined in Water Code Section 12220.
- (F) The Suisun Marsh as defined in Public Resources Code Section 29101.
- (G) The jurisdiction of the San Francisco Bay Conservation and Development Commission as defined in Government Code Section 66610”

## **ANALYSIS**

### **Project Description/Environmental Setting**

Valley Water is constructing flood protection improvements to approximately 13.9 miles of stream within Llagas Creek and its tributaries, West Little Llagas Creek and East Little Llagas Creek (Figure 1). Llagas Creek is a tributary of the Pajaro River in south Santa Clara County within the communities of Morgan Hill, San Martin, and Gilroy. An EIR and an EIS were prepared for the Project with the EIR certified June 10, 2014 and the record of decision for the EIS was issued on March 26, 2019. Regulatory permits were obtained from CDFW, CCRWQCB, USACE with a Biological Opinion from both NMFS and USFWS. Phase 1 construction began September 2019 and is ongoing with and anticipated completion in Spring 2022. Phase 2 construction is expected to advertise in Winter 2020.

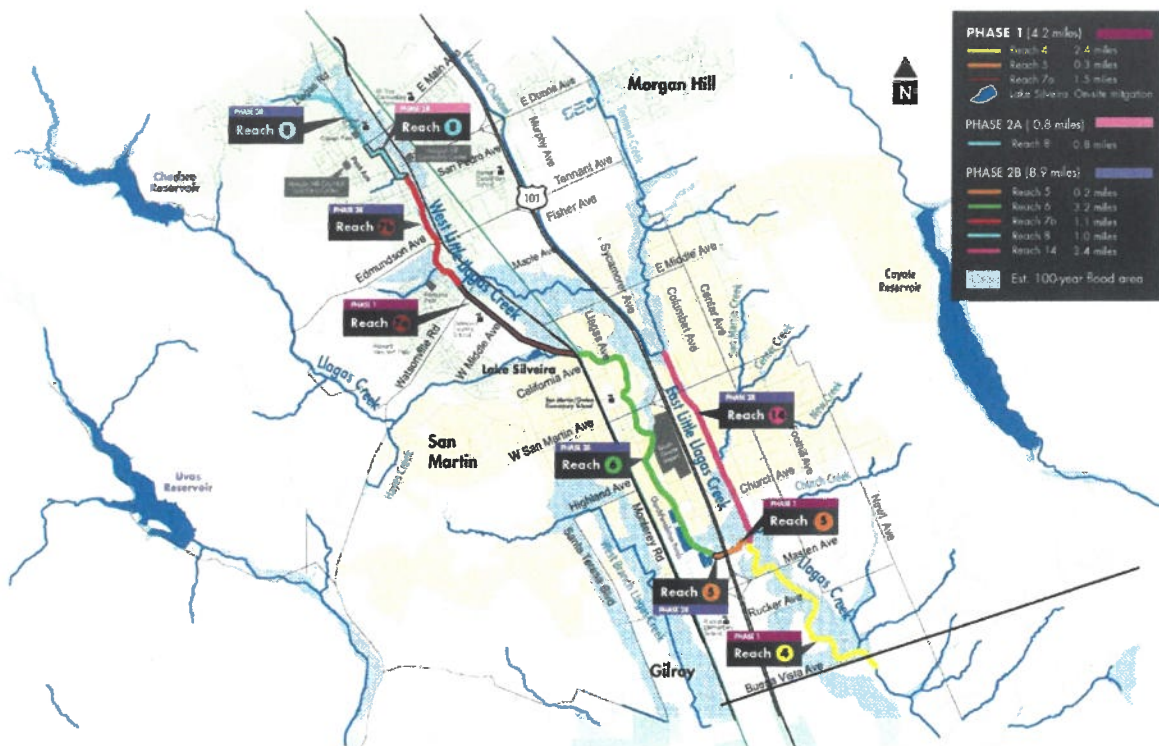


Figure 1: Upper Llagas Creek Flood Protection Project Map

In preparation for design and construction, real estate rights (i.e. fee and easement) was acquired by Valley Water along the entirety of the flood protection improvements for more than 40 years including the creek channel, maintenance roads, tunnel and culverts, and the compensatory mitigation property. As part of the property acquisition for the Project, the Santa Clara County parcel 825-10-077 was acquired by Valley Water from the California Antique Aircraft Museum on December 4, 1980. This parcel lies along the east bank of Llagas Creek within Reach 6 and has been used by the museum as an exhibit and artifact display area prior to and since acquisition by Valley Water, the subject parcel has continued to function as an exhibit and artifact display area for the museum these past 40 years. Flood protection improvements within Reach 6 will not require full use of this parcel and the California Antique Aircraft Museum has expressed an interest in reacquiring the surplus easterly portion, as described in Attachment 1.

## Environmental Evaluation

To evaluate potential impacts of the proposed activities, staff reviewed the project description and discussed the project with the project proponent. The proposed project would not result in a significant effect on the environment. The project does not include any factors listed as exceptions per CEQA Guidelines §15206(b)(4).

Class 12 CEQA Exemptions are qualified by consideration of where the project is to be

located. The surplus portion of property can be categorized as a ruderal upland habitat outside and adjacent to the riparian corridor drip line. Vegetation cover is generally sparse with minimal, native herbaceous plants such as coyote brush and other ruderal species (i.e. star thistle, Italian thistle). The surplus property is isolated from the riparian corridor by a permanent chain-link fence installed to protect the historic airplane artifacts and displays. Valley Water will construct an 18-foot wide maintenance road adjacent to the fenced surplus property during Phase 2 construction of the Upper Llagas Creek Flood Protection Project. The California Antique Aircraft Museum is expected to continue its' existing usage of this area for artifacts and displays even after the purchase of the surplus land is complete.

No portion of parcel 825-10-077 is located within an area of statewide, regional, or areawide concern identified in §15206(b)(4) and the property does not have any significant values for wildlife habitat or other environmental benefit. Additionally, the size (0.088 acres), shape (linear strip), and inaccessibility of the property makes it incapable of independent development (Attachment 1). Lastly, the use of the property and adjacent property has not changed since the time of acquisition by Valley Water. These facts support the assertion that the proposed surplus property transfer qualifies for Class 12 categorical exemption.

#### **PROPOSED CEQA DOCUMENT**

The transfer of the surplus portion of Santa Clara County parcel 825-10-077 as described in Attachment 1 qualifies for an exemption under CEQA Guidelines Class 12 "Surplus Government Property Sales" for the reasons outlined in this memorandum.

If you approve the use of a Categorical Exemption for this project, please sign below and on the attached Notice of Exemption.

DocuSigned by:

*Melissa Moore*

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Melissa Moore

Senior Water Resources Specialist

Approval:

DocuSigned by:

*Rechelle Blank*

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Rechelle Blank, Deputy Operating Officer

Attachment 1: 5010-107.1 CA Antique Aircraft Museum Legal Parcel Description

Attachment 2: Notice of Exemption

**ATTACHMENT 1****SANTA CLARA VALLEY WATER DISTRICT**  
San Jose, California

By: K. Comerer

Date: 11/04/15

Date Revised:

Revised By:

Checked by: \_\_\_\_\_ Date: \_\_\_\_\_

PROJECT: UPPER LLAGAS CREEK

PROPERTY: SCVWD TO CALIFORNIA ANTIQUE AIRCRAFT MUSEUM File No.: 5010-107.1

All of that certain parcel of land situate in the unincorporated area of Santa Clara County, State of California, more particularly described as follows:

Being a portion of the lands described in the Grant Deed from Northern California Regional Chapter of the Antique Airplane Association to the Santa Clara Valley Water District, a public corporation, recorded on December 4, 1980 as Document No. 6919020 of Official Records, Santa Clara County records, being a portion of Lot 114 as shown on that certain map entitled "San Martin Ranch Map No. 2" filed on January 27, 1893 in Book "G" of Maps, at Pages 38 and 39, said Santa Clara County Records, more particularly described as follows:

BEGINNING at the most southerly corner of said Santa Clara Valley Water District parcel; thence along the southeasterly line of said Santa Clara Valley Water District parcel, North  $66^{\circ} 51' 58''$  East, 5.65 feet to the TRUE POINT OF BEGINNING; thence leaving said southeasterly line, North  $23^{\circ} 08' 02''$  West, 198.04 feet to a point on the northwesterly line of said Santa Clara Valley Water District parcel; thence along said northwesterly line, the northeasterly and said southeasterly lines the following three (3) courses: 1) North  $66^{\circ} 52' 09''$  East, 19.35 feet, 2) South  $23^{\circ} 08' 02''$  East, 198.04 feet, and 3) South  $66^{\circ} 51' 58''$  West, 19.35 feet to the TRUE POINT OF BEGINNING.

Containing 3,832 square feet or 0.088 acre of land, more or less.

**END OF DESCRIPTION****BASIS OF BEARINGS:**

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

**SURVEYOR'S STATEMENT:**

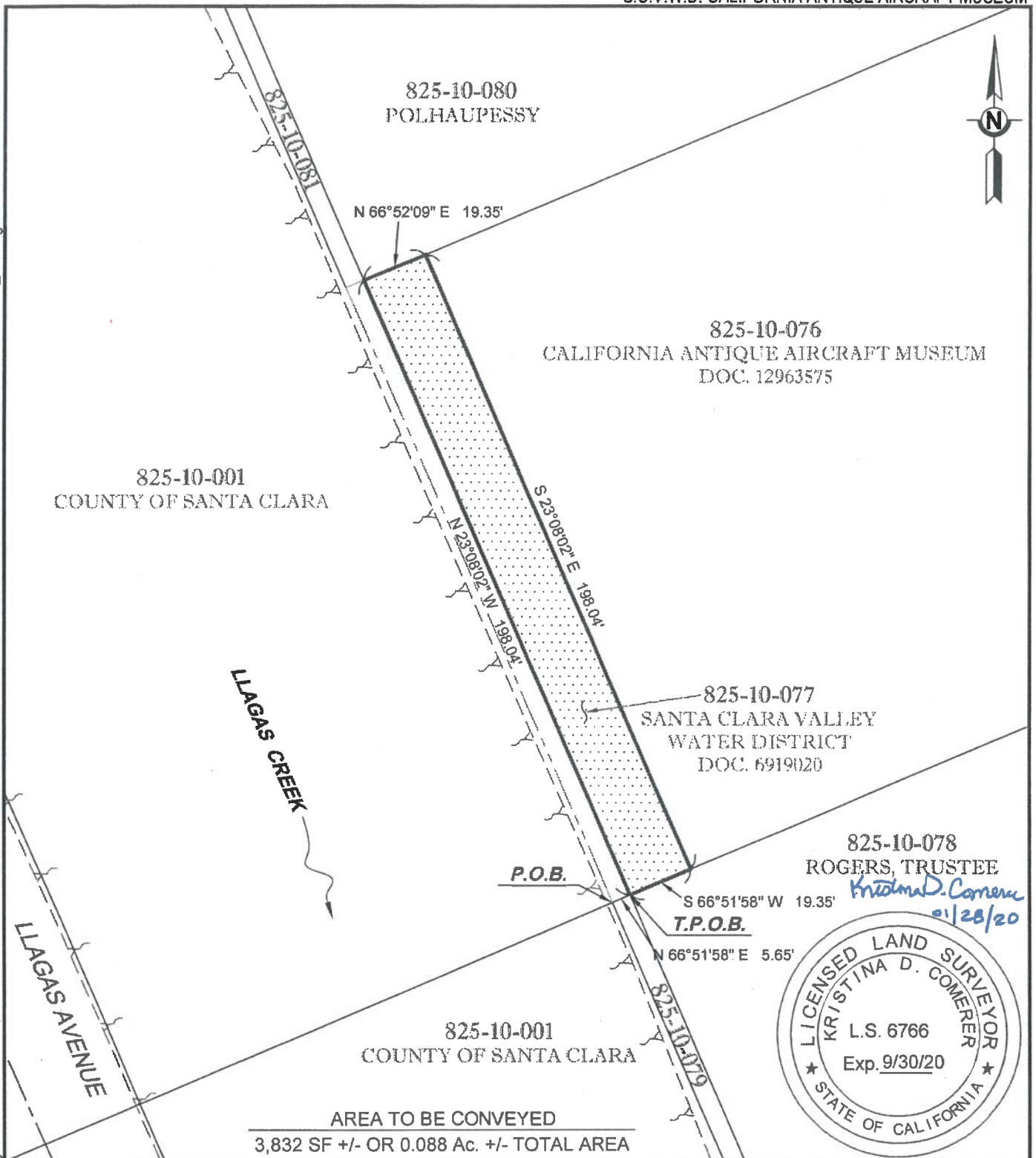
Legal description prepared by Cross Land Surveying, Inc. in November 2015 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

Kristina D. Comer  
Kristina D. Comerer, PLS 6766

Date: Dec. 18, 2019



SCVWD C:\Civil 3D Projects 2011\RMCLLG09\PLAT\SCVWD TO CALIFORNIA ANTIQUE AIRCRAFT MUSEUM 825-10-077 R6 FN 5010-107.1 PLAT\_V2.dwg



Santa Clara Valley Water District



SCALE: 1" = 40'

PROJ. NO.	26174051
FILE NO.	5010-107.1
APN	825-10-077
TITLE REPORT NO.	XXXX
DRAWN	G. Comerer
DATE	01/28/20

REV.	APPR.	DATE	DESCRIPTION
1		01/20	CHANGE APN'S AND ADD LINE WORK
2			



Public Notice  
Notice of Exemption



**To:** Santa Clara County  
Clerks Office, Business Division  
70 West Hedding Street  
San Jose CA 95110

**From:** Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose CA 95118-3686  
Telephone (408) 265-2600

**Project Title:** Reconveyance of a portion of Property back to the California Antique Aircraft Museum associated with the Upper Llagas Creek Flood Protection Project

**Project Location-Specific:** Santa Clara County Assessor Parcel Number 825-10-077

**Project Location-City:** San Martin

**Project Location-County:** Santa Clara

**Project Purpose:** The purpose of this project is to convey excess property not required to accomplish objectives for the Upper Llagas Creek Flood Protection Project back to the original owner, California Antique Aircraft Museum.

**Name of Public Agency Approving Project:** Santa Clara Valley Water District

**Name of Agency or Person Carrying Out Project:** Stephen M. Ferranti, P.E. - Santa Clara Valley Water District

**Exempt Status:** (check one)

- Ministerial [Sec. 21080(b)(1); 15268];  
Declared Emergency [Sec. 21080(b)(3); 15269(a)];  
Emergency Project [Sec. 21080(b)(c)];  
☒ X Categorical Exemptions [Section 15312; Class 12, Surplus Government Property Sales.]

**Reasons Why Project is Exempt:** The project qualifies for a Categorical Exemption under California Environmental Quality Act (CEQA) Guidelines §15312:

"Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide, regional, or areawide concern identified in Section 15206(b)(4)."

None of the conditions noted under the CEQA Guidelines § 15206(b)(4) will occur.

**Description of Project:**

The Santa Clara County parcel 825-10-077 is to be subdivided and the surplus easterly portion of approximately 0.088 acres transferred back to the original owner who originally dedicated the larger parcel at no cost to Valley Water. The land transfer would preserve the current use and existing natural conditions at the property.

**Lead Agency:** Santa Clara Valley Water District  
**Contact Person:** Melissa Moore

**Telephone:** (408) 630-2596

Signature: Rechelle Blank  
By: Rechelle Blank, P.E.  
Title: Deputy Operating Officer  
Watersheds Design and Construction Division

Date: 11/24/2020

cc: CEQA Administrative Record