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## San Francisco Bay Regional Water Quality Control Board

*Sent via electronic mail: No hard copy to follow*

July 25, 2025

Santa Clara Valley Water District  
Attn: Lawrence Truong ([LTruong@valleywater.org](mailto:LTruong@valleywater.org))  
5750 Almaden Expressway  
San Jose, CA 95118

**Subject: Comments on the Draft Mitigated Negative Declaration for Guadalupe River Bank Stabilization Project: Malone Road and Blossom Hill Road (SCH No. 2025061423), Santa Clara County**

Dear Mr. Truong:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Draft Mitigated Negative Declaration for Guadalupe River Bank Stabilization Project: Malone Road and Blossom Hill Road* (Project) (SCH No. 2025061423), prepared by Valley Water for compliance with California Environmental Quality Act (CEQA) environmental review requirements. As summarized in our comments below, the draft mitigated negative declaration (MND) lacks details to characterize the Project's potential impacts to water quality or Guadalupe River's beneficial uses, and we are unable to determine whether appropriate compensatory mitigation is provided. Additional information is needed for Valley Water to complete the draft MND. Also, we recognize that the Water Board will need to consider issuance of a Clean Water Act water quality certification (Certification) for the proposed project. As such, there is an opportunity to provide information in the draft MND, and to frame proposed CEQA mitigation measures, in a way that supports a future Certification application. In its present form the draft MND lacks discussion of impacts and proposed mitigation measures at a level of detail sufficient to support the Water Board's consideration of a Certification.

1. The Draft MND lacks details about site conditions to fully characterize the Project's impacts to waters of the State

CEQA Guidelines section 15125 states that the MND must include a description of the physical environmental conditions in the vicinity of the project, from both a local and regional perspective. The draft MND should define the baseline hydrologic, geomorphic, and biotic conditions at the two bank repair sites and how they relate to the Guadalupe River's (River's) designated beneficial uses (see Table 2.1 of the San Francisco Basin Water Quality Control Plan (Basin Plan) for beneficial uses). To address this, the draft MND should be revised to describe the existing conditions and benefits of these conditions to Guadalupe River's ecosystem functions and values.

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ALEXIS STRAUSS HACKER , CHAIR | EILEEN M. WHITE, EXECUTIVE OFFICER

For example, the draft MND indicates the two bank stabilization sites as generally in-kind replacement of existing hardscape. While we concur this is the case for the Blossom Hill Road site, we disagree that the bank repair at the Malone Road site would be in-kind replacement. Based on our observations during a site visit and numerous discussions with Valley Water and resource agency staff when Valley Water originally proposed repair of the Malone Road site under the Stream Maintenance Program (SMP) in 2023 (SMP project 23-SB-019), habitat complexity is present at this site, including an inset floodplain, vegetation on the bank, overhanging banks, and mature trees on the banks. Such variable habitat conditions provide a host of benefits such as niches for refugia for fish from high flow velocity and predators; shade; and foraging and nesting habitat. These conditions can support a variety of aquatic biota, insects, birds, and other wildlife, and contribute to the beneficial uses in Guadalupe River pursuant to the Basin Plan, including cold freshwater habitat (COLD), warm freshwater habitat (WARM), fish migration (MIGR), wildlife habitat (WILD), and noncontact water recreation (REC-2). The proposed Project would replace these conditions with a homogenous, concrete bank with no vegetation (except hydroseed on the upper bank), but the MND did not describe any such changes to the bank except noted that up to 14 mature trees would be removed.

Thus, the draft MND should be revised to include details about the River's aquatic habitat conditions and the biota that are likely present, such as steelhead (*Oncorhynchus mykiss*), Chinook salmon (*Oncorhynchus mykiss*), and other species in the River's ecosystem including snowy egret (*Egretta thula*), great egret (*Ardea alba*), black-crowned night heron (*Nycticorax nycticorax*), and many other native species. (Note: the Latin names listed here are assumed because they were not listed in the draft MND. The draft MND should include Latin names.)

Evaluations of whether the proposed bank stabilization methods would affect the River's hydrology and hydraulics should be included to provide context for the bank stabilization methods. Specifically, a shear stress analysis should be conducted to justify the choice of bank stabilization treatments, and this should be further evaluated for effects on the River's beneficial uses.

The draft MND has no photographs of the two sites (except aerial imagery to show footprints of various Project elements). The draft MND should be revised to include photographs of the damaged banks and other site conditions.

## 2. Compensatory mitigation proposed is inadequate

The proposed compensatory mitigation approach for unavoidable impacts of the Project is payment of Valley Habitat Plan (VHP) Fees (Mitigation Measure BIO-4). This would require Valley Water to pay applicable VHP land cover fees as compensation to mitigate for Project impacts on covered species and their habitats, including serpentine bunchgrass grassland, open water aquatic, mixed riparian forest and woodland, and covered species Santa Clara Valley dudleya. This would be inadequate to meet the Water Board's requirements for no net loss in acreage, functions, and values of waters of the State so would not comply with the Wetland Conservation Policy, also known as the No Net Loss Policy pursuant to the Basin Plan (see Basin Plan, section 4.23). The VHP does not cover impacts to waters or fish, so payment of VHP fees would be inadequate

to address the likely adverse effects of the proposed Project. Therefore, other approaches for compensatory mitigation for the Project's unavoidable impacts to waters of the State would be required for us to issue a Certification. Furthermore, the draft MND is silent on the potential impacts to riparian waters and the aquatic biota such as steelhead and Chinook salmon in Guadalupe River. As a result, we would be unable to issue a Certification for the Project.

If Valley Water opts to compensate for the Project's adverse impacts via payment of VHP In-Lieu Fee Program fees, the Water Board may consider this approach, pending our evaluation of a Certification application. The application would need to first show impact avoidance and minimization methods and procedures before proposing compensatory mitigation.

### 3. Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL)

The Project is within waters covered by the Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL) plan (Water Board, 2008) (Mercury TMDL). Disturbance of riverbed and bank surfaces can cause mercury-laden sediment to be mobilized in the water column and accelerate methylation of mercury, making the mercury more bioavailable and subject to bioaccumulation in the River's biota. For Project construction, we would require Valley Water to collect and analyze water and sediment samples for mercury and methyl mercury, consistent with the methods in the Valley Water's Stream Maintenance Program (SMP) (see SMP Manual, Attachment G-Water Quality Monitoring Plan) to help ensure the Project meets the Mercury TMDL requirements. The draft MND should be revised to address the Mercury TMDL.

For information about the TMDL, please refer to the [Water Board's website](#), and to receive copies of TMDL documents, please contact Gerardo Martinez, by email to [Gerardo.Martinez@Waterboards.ca.gov](mailto:Gerardo.Martinez@Waterboards.ca.gov), or phone at (510) 622-1015).

We look forward to continuing to work with you on this Project. If you have any questions, please contact Susan Glendening by email to [susan.glendening@waterboards.ca.gov](mailto:susan.glendening@waterboards.ca.gov) or at (510) 622-2462.

Sincerely,

Elizabeth Morrison  
Senior Environmental Scientist (Supervisor)  
Watershed Management Division

cc: Valley Water:

MND mailbox: [GuadatmaloneMND@valleywater.org](mailto:GuadatmaloneMND@valleywater.org)

Brian Mendenhall, [BMendenhall@valleywater.org](mailto:BMendenhall@valleywater.org)

Corps, San Francisco Regulatory, Sarah Firestone, [Sarah.M.Firestone@usace.army.mil](mailto:Sarah.M.Firestone@usace.army.mil)

cc: (continued)

CDFW, Michelle Battaglia, [Michelle.Battaglia@wildlife.ca.gov](mailto:Michelle.Battaglia@wildlife.ca.gov)

National Marine Fisheries Service State Board:

Darren Howe, [Darren.Howe@noaa.gov](mailto:Darren.Howe@noaa.gov)

Luka Spear, [Luka.Spear@noaa.gov](mailto:Luka.Spear@noaa.gov)

USFWS, Joseph Terry, [joseph\\_terry@fws.gov](mailto:joseph_terry@fws.gov)

SCV Habitat Agency, Edmund Sullivan, [Edmund.sullivan@scv-habitatagency.org](mailto:Edmund.sullivan@scv-habitatagency.org)

State Clearinghouse, [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)