

Dear Mr. Foran,

Thank you for your letter, dated January 13, 2014, regarding the results of the independent review conducted by the Independent Monitoring Committee (IMC) of the District's Clean, Safe Creeks and Natural Flood Protection Program (Clean, Safe Creeks). Staff has provided me with the following information relating to the two issues raised in your letter.

Activity 3.2

Activity 3.2 was part of the Clean, Safe Creeks program's Outcome 3: Healthy creek and bay ecosystems are protected, enhanced, or restored as determined appropriate by the Board. Under the section of "Summary of Key Performance Indicators for the 15-year Plan" of the Clean, Safe Creeks program, the Key Performance Indicator (KPI) for Activity 3.2 is listed as "Creation of additional wetlands, riparian habitat and favorable stream conditions for fisheries and wildlife (equivalent of 100 acres of tidal or riparian habitat created or restored)." Staff has always held this 100-acre of habitat creation and restoration as the goal for Activity 3.2 since the onset of the Clean, Safe Creeks program in 2001.

On June 15, 2012, the District received the final Audit Report on the Clean, Safe Creeks Program from Moss Adams LLP. With regards to Activity 3.2, excerpts from the audit report show:

- Some activities have achieved the KPI established in Measure B. Per the 10-11 IMC Report, an example includes: "Activity 3.2, Habitat Restoration: The District has met and exceeded the activity goal." The KPI for this activity is 100 acres created or restored. To date, the District has created or restored more than 600 acres through Program funding. (p.16)
- A summary of the status of Program KPIs as presented in the FY 10-11 IMC Report is provided below.
 - Activity 3.2. KPI is Equivalent of 100 acres of tidal or riparian habitat created or restored. Status is (reflected as) Goal met. (pp.28-30)
- The following IMC report measures should be modified to better align with KPIs:
 - Activity 3.2: Implementation of environmental enhancement acreage; Removal of fish-migration barriers and installation of fish ladders; Removal of non-native invasive plants; Re-vegetation of native plant species.
 - Suggested modification: "Implementation of environmental enhancement acreage" directly supports the KPI. The other measures provide supporting data that can be detailed in the report for added value. (pp.44-46)

On February 12, 2013, the Board received the Fiscal Year 2012 Clean, Safe Creeks Program's Independent Monitoring Committee Annual Oversight Report. The Oversight report included a status update for Activity 3.2, stating:

- The District has exceeded the Program goal of 100 acres of environmental restoration through both the planning and implementation of environmental enhancement grant projects. Through June 2012, 569 acres have been created or restored, and associated objectives have been completed.
- The Committee found that not all Activity 3.2 objectives have been met and recommends that the District work with the Independent Monitoring Committee and community members to create specific, measurable, quantifiable, and practical key performance indicators (KPI's) and measures to meet the un-qualified outcomes in Activity 3.2.

The District implemented the Moss Adams audit findings into the Clean, Safe Creeks program as it transitioned to Safe, Clean Water. Please refer to the Safe, Clean Water 15-year program as well as the Safe, Clean Water 5-Year Implementation Plan for evidence of implementation of

audit recommendations. In addition, the District has provided additional information as supporting data throughout prior annual reports to demonstrate success with regards to the additional objectives discussed under Activity 3.2. The additional objectives, such as removal of fish migration barriers, have also been carried over to the Safe, Clean Water program priority D, with a significant increase in funding to support these activities. More details are provided below.

Remaining Clean, Safe Creeks Program Funds

Regarding unspent funds, page 77 of the District's Comprehensive Annual Financial Report for fiscal year ending June 30, 2013 shows a balance of \$178.1M for the Clean, Safe Creeks fund. Of that amount, \$64.8M is unspent capital project budget that will be carried forward to the following year and designated specifically for those capital projects with unspent prior year budget according to Board policy; \$15.6M is a reserve for encumbrances (contractual commitments for which the goods or services have not yet been received) that will be carried forward to the following year and designated specifically for those projects where the encumbrance originated. The remaining \$97.7M is delineated as follows: \$5.4M for newly improved creeks (Outcome 1.3); \$7.6M for open space and trails (Outcome 4.1); \$17.9M for *environmental enhancement* (Outcome 3.2); and \$64.6M for undesignated operating and capital needs which would have been allocated to the appropriate Clean, Safe Creeks Outcomes and drawn down to zero had the Clean, Safe Creeks program run its complete 15 year course and not had been replaced by Safe, Clean Water.

The remaining \$97.7M was carried forward to the new, voter approved Safe, Clean Water measure which replaced the Clean, Safe Creeks program on July 1, 2013. The \$97.7M is not designated to specific activities; however, it is a general funding source that will pay for the five priorities of the Safe, Clean Water program, as well as help fund the remaining Clean, Safe Creeks commitments (estimated at over \$200M). As we learned from the Clean, Safe Creeks program, it is essential to maintain a reserve fund to deal with fluctuations in the economy and federal funding shortfalls to achieve our commitments to the voters.

Chart G-1 of the Safe, Clean Water Program, entitled "Safe, Clean Water Projects Summary," clearly delineates how much funding is allocated for each of the projects. The KPI's for these projects have also been improved to clearly define measurable deliverables or spending. The Board is fully aware of and appreciates the IMC's concern and wants to ensure the IMC and the general public that we will continue to improve upon and achieve what the voters entrusted us to do.

In conclusion, we value the work you and the IMC have provided over the years, and hope that this letter addresses your concerns. We believe the District has demonstrated its fairness and transparency with the Clean, Safe Creeks program as evidenced by the overwhelming support the voters placed on the Safe, Clean Water program. Lastly, as a proud note with relevancy, our Finance Professional's team received the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association for fiscal year 2012. This last note provides great confidence in our past, current and future management of all Clean, Safe Creeks and Safe, Clean Water funds that the District is grateful to be entrusted with.

Sincerely,



Tony Estremera
Chair/Board of Directors
Santa Clara Valley Water District

(C-14-0005)