



# MONTEREY BAY

Unified Air Pollution Control District  
serving Monterey, San Benito, and Santa Cruz counties

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# RECEIVED

AIR POLLUTION CONTROL OFFICER  
JUL 10 2007  
Douglas Quetin

CITY OF SAN JOSE  
DEVELOPMENT SERVICES

June 27, 2007

Mr. Darryl Boyd, Principal Planner  
Planning, Building and Code Enforcement  
City of San Jose  
200 East Santa Clara Street  
San Jose, California 95113-1905

Sent by Facsimile to:  
(408) 292-6063.

Original Sent by  
First Class Mail.

SUBJECT: DEIR FOR COYOTE VALLEY SPECIFIC PLAN

Dear Mr. Boyd:

Health & Safety Code §39610 and Section 70600 of Title 17 of the California Code of Regulations provide that downwind air basins affected by transport of ozone from upwind regions shall have an opportunity to comment on projects likely to produce transport. The Monterey Bay Unified Air Pollution Control District (MBUAPCD), therefore, submits the following comments for your consideration:

### Transport into the North Central Coast Air Basin

The DEIR states that the project will have a significant impact on regional air quality in the North Central Coast Air Basin (NCCAB). This impact would be created by travel generated or induced by the project, which would result in emissions of reactive organic gases (ROG) above the MBUAPCD threshold of significance of 137 lbs. per day. (Second paragraph of page 214).

Under the California Clean Air Act, the California Air Resources Board (CARB) is required to assess the impact of ozone transported from upwind regions to downwind air basins. CARB has determined that under certain weather conditions, emissions from the San Francisco Bay Area Air Basin (SFBAAB) are substantially linked to downwind violations of the State ozone standard in the NCCAB. The major pathway is the Coyote Valley between the San Jose Metro area and San Benito County, a natural corridor from the SFBAAB to the NCCAB.

Development associated with the Coyote Valley Specific Plan would be located upwind of the NCCAB within the transport corridor between the two air basins. The City of Hollister and Pinnacles National Monument are directly downwind of the proposed project site in the Coyote Valley, and Pinnacles is the Design Value site for determining attainment of State and federal ozone standards. The CARB assessments have characterized the contribution of emissions from the SFBAAB to violations at Hollister and Pinnacles as "overwhelming",

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which is the most severe level of impact in transport regulations (CA Code of Regulations, Title 17, Section 70600(b) (2) (D) (ii)). The DEIR does not address the potential direct or cumulative impacts of inducing new federal or State ozone exceedances at Pinnacles air monitoring station. Any increase in ozone levels at this site could affect planning requirements for the entire North Central Coast Air Basin. With the recent introduction of a more stringent 8-hour State ozone standard, the project would significantly contribute to exceedance potential at Pinnacles.

In addition, Pinnacles National Monument is also a federally protected Class I Area. The DEIR does not address the potential impact of project-generated emissions on regional haze at Pinnacles.

According to Hexagon Transportation Consultants (page 213), 30% of the trips generated by the project would be traveling to locations south of the project site. “Under the worst case assumption that emissions from vehicles traveling south of the project site either occur within the NCCAB or are transported into the NCCAB...”

This is not the worst-case scenario because much of the remaining 70% of trip-generated emissions are likely to be transported downwind through the previously described transport corridor under certain weather conditions. Air modeling tools are available to realistically assess the impacts on the NCCAB but are not reflected in the DEIR.

Given the relationship of emissions of NO<sub>x</sub> and ROG to the formation of ozone that could be transported into the NCCAB, and the significant unavoidable cumulative air quality impacts associated with the project, the MBUAPCD urges the City to implement all feasible measures to reduce the potential for downwind transport of ozone. To that end, the following mitigation measure is suggested:

Natural Gas Hearths / No Wood-Burning Fireplaces or Wood-Burning Stoves

“The installation or operation of a wood-burning fireplace or a wood-burning stove shall be prohibited in perpetuity on all residential, commercial and industrial properties included in the Coyote Valley Specific Plan. This restrictive covenant shall be recorded on the title of all parcels in the Coyote Valley Specific Plan and shall run with the land.” (This mitigation measure is also discussed under MM AQ-3.6, which follows on page four of this letter.)

**Air Quality Impacts and Mitigation Measures**

MM AQ-1.1. Page xxii

This mitigation measure should be rewritten to require that “All active construction areas shall be watered at least twice daily.” If a construction area on a slope can be accessed by grading equipment, it can be accessed by watering trucks or hoses. Accessibility and safety issues should not prevent watering.

MM AQ-1.12. Page xxii

Grading operations should be suspended due to wind velocity or visible dust clouds, not both. This mitigation measure should be rewritten to read “Grading activities shall be suspended when winds exceed 25 miles per hour or when visible dust clouds cannot be prevented from extending beyond active construction areas.” “Wind breaks shall be constructed at the windward side of the construction area(s) as necessary.”

MM AQ-1.15. Page xxii

This mitigation measure should be rewritten to read “Diesel equipment standing idle for more than two minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate or other bulk materials. Rotating drum concrete trucks shall also be prohibited from idling unless a diesel risk assessment concludes that emissions of all diesel equipment are within thresholds of significance.”

MM AQ-1.16. Page xxii

As written, this mitigation measure is vague and unenforceable. This mitigation measure should be rewritten to read “Excavation, grading and construction shall be scheduled to limit emissions of fugitive dust and diesel exhaust within thresholds of significance.”

Impact AQ-5. Page 215

The DEIR states that the proposed project is not consistent with the most recently adopted Clean Air Plan (Bay Area 2005 Ozone Strategy). However, DEIR Section 3.0, Consistency with Adopted Plans, Section 3.1.3.22, Air Quality Policy (page 78), states that the “significant unavoidable cumulative air quality impacts”... would be taken into consideration and any required mitigation measures would be imposed during the approval stage of the project, consistent with this policy.”

Deferring assessment and mitigation of a project’s impacts has been rejected as a violation of CEQA (See Sundstrom v. Board of Supervisors, 202 Cal.App.3d 296 (1988).) Moreover, the City’s Air Quality Policy #1 specifies that “The City should take into consideration the cumulative air quality impacts from proposed developments and should establish and enforce appropriate land uses and regulations to reduce air pollution consistent with the region’s Clean Air Plan and State law.” The DEIR does not comply with that, as noted on Impact AQ-3, page xxiii, where the DEIR states that “Implementation of standard measures would reduce this impact (MM AQ-3.1-3-7), but the impact cannot be reduced to a less than significant level. A statement of overriding considerations will be necessary for long-term regional air quality impacts.” If mitigation cannot sufficiently reduce project impacts, perhaps project redesign should be considered.

MM AQ-3.6. Page xxiii.

This mitigation measure requires that “All fireplaces to be installed in residences shall comply with the San Jose Wood-Burning Appliance Ordinance (#26133).” Given the mixed-use character of the project and the “significant unavoidable cumulative air quality impacts”, the District suggests the following mitigation measure to ensure that impacts to air quality are reduced and mitigated as much as possible:

Natural Gas Hearths / No Wood-Burning Fireplaces or Wood-Burning Stoves

“The installation or operation of a wood-burning fireplace or a wood-burning stove shall be prohibited in perpetuity on all residential, commercial and industrial properties included in the Coyote Valley Specific Plan. This restrictive covenant shall be recorded on the title of all parcels in the Coyote Valley Specific Plan and shall run with the land.”

There is nothing to suggest that this mitigation measure would not be technically or economically feasible, and the emission reductions associated with it should be analyzed.

Thank you for the opportunity to review the document.

Yours truly,



Jean Getchell  
Supervising Planner  
Planning and Air Monitoring Division

cc: Bay Area AQMD