



Loma Prieta Chapter: San Mateo, Santa Clara & San Benito Counties

Darryl Boyd, Principal Planner  
City of San Jose  
San Jose, CA

June 29, 2007

Dear Mr. Boyd,

These comments are submitted on behalf of the Sierra Club. We support and incorporate by reference the comment letter of Shute, Mihaly and Weinberger, Attorneys, and the separate letters of the Greenbelt Alliance, the Committee for Green Foothills, the Santa Clara Valley Audubon Society, and the Center for Biological Diversity. We also incorporate all other written and oral comments submitted by all persons and organizations commenting on this DEIR and the NOP for this DEIR. All of these written comments and record of oral comments are in the City's records pertaining to the draft Specific Plan and DEIR.

We applaud the city's interest in planning a smart growth community and the urban plan has improved over time. However, because development of Coyote Valley would occur on undeveloped lands the planning standards should be different from that of infill projects such as the North First Street planned development area. In particular, the natural functioning of wetlands, riparian areas, native habitats and wildlife corridors must be equally integrated parts of the planning process and any proposed project designed to ensure the future preservation of the local ecology (both the valley floor and the surrounding hillsides). In general, all development planning today must recognize and address global climate change, California's regular (and likely increasing) periods of drought and the overriding need to address energy and water conservation and air quality protection. We feel that neither the Specific Plan nor the DEIR adequately address these concerns.

We concur with the findings of Shute, Mihaly and Weinberger that the DEIR is inadequate in meeting the legal requirements of the California Environmental Quality Act, especially in providing an adequate project description and failing to meet the goals of either a program or project level analysis. We are especially concerned that the DEIR's intent appears to be designed to preclude future residential development from further environmental review. Finally we believe that the DEIR does not provide adequate information for assessing the proposed project's ability to meet the goals of the Santa Clara County Habitat Conservation Plan/Natural Communities Conservation Plan currently in process. Therefore it may well allow the CVSP go forward in a manner that

contradicts the goals of the HCP/NCCP and preclude the successful achievement of this effort. In sum, we find the DEIR inadequate and therefore request that it be withdrawn for revision and recirculation. This is especially important in light of the evolving changes currently occurring to the CVSP.

In this introductory section, we will lay out several broad, cross-cutting areas of concern about the inadequacies of the DEIR and the overall planning process to which we expect a detailed response. This introductory section will be followed by detailed comments on specific sections of the DEIR.

### **I. Overriding Concerns about the DEIR and the Planning Process**

CEQA standards for an EIR are that it “should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently considers environmental consequences” (§15151, pg. ix). The DEIR does not provide adequate information (technically or comprehensively) about the environmental consequences of the proposed project. Project consultants had access to less than 60% of the lands included in the project area thus it is impossible to make an informed decision about the potential environmental consequences of the proposed project. This situation means the DEIR fails to meet CEQA’s substantial evidence standard (CEQA Guidelines Section 15384(a)). The lack of access results in inadequate site characterization and the inability to accurately describe potential environmental impacts of the proposed project. Ultimately this failing points to a significant issue – the lack of full disclosure in the DEIR about its limits. Furthermore, one of the City Council’s 16 expected outcomes is that “the Specific Plan must be financially feasible for private development” (Section 1.4 pg. 8). An accurate assessment of this criterion cannot be made because of the lack of information contained in the DEIR.

The Coyote Valley Specific Plan process is ahead of both the City of San Jose’s general plan update process (commenced in 2007) and the HCP/NCCP process (begun in 2005). Both of these related and covering planning processes provide the necessary and required landscape level analysis to guide any possible future development in Coyote Valley. Continuing the current planning process for the CVSP separately from the GP update process undermines the ability of the city to ensure that city services and residential quality of life city-wide are of the highest and most sustainable quality.

The HCP/NCCP is specifically considering and ultimately planning for how to ensure the viability of threatened and endangered species and native habitats for future generations. Similarly, the regional impact that will result from the scale of development the current project represents is not adequately addressed in the DEIR. The growth inducing impacts (e.g. Bailey-over-the-hill and traffic) are ignored and the analysis generally relies too heavily on possible future conditions to reduce potentially significant impacts to less than significant (for example see Santa Clara Valley Water District comment letter, section 4.8). Please explain how the city can guarantee, given the abysmal level of analysis in the DEIR, the goals of the HCP/NCCP will be met. Also, please explain how a new city on the urban edge will NOT create cumulative impacts that will further exacerbate residents’ quality of life.

The CVSP is currently undergoing plan refinements in response to comments received in advance of, but not included in the DEIR. Changes include the need to accommodate a second high school, a corporation yard, the loss of 44 acres for planned active recreation fields in the Laguna Seca area and 55 acres for Gavilan College. These approximately 100+ acres represent the pitfalls of inadequate attention to related planning processes and failure to adequately assess the environmental conditions of the proposed project area. Together with the previously discussed lack of adequate site characterization and inadequate project description there will be changes to the CVSP that will be significant enough to warrant a revised and recirculated DEIR. This is especially true in light of the failure to comply with CEQA standards regarding project description and the DEIR's unsuccessful attempt to bridge the standards of project and program environmental impact reporting.

The Sierra Club is interested in supporting the city of San Jose's efforts to plan for growth. We are pleased that the City is a signatory of the Mayor's Climate Protection Agreement and has outlined a set of steps for implementing a reduction in greenhouse gas emissions. In view of the realities of global climate change and the significant loss of open space and agricultural lands and declining air quality our smart growth policies focus on the importance of infill and transit-oriented development as the most appropriate strategy to create livable and sustainable communities. Because of the inadequacies in the DEIR we respectfully request the city to stop the current planning process and finish the general plan update and HCP/NCCP process before defining what development, if any, is appropriate in Coyote Valley.

Should any general plan update process identify a need to develop in Coyote Valley a reduced scale project that is transit-oriented, dense and designed to ensure the viability of the historic flood control and water quality functions of Coyote Valley, its role in wildlife connectivity between the Diablo/Mt. Hamilton Range and the Santa Cruz Mountains and provide detailed plans for meeting the restoration goals of the HCP/NCCP may be considered a viable alternative.

We reserve the right to submit additional comments prior to project approval by the city council of San Jose.

## **II. The Environmentally Preferable Alternative Which is Consistent with City of San Jose Policies and Goals as Defined in the Current General Plan**

It is important to note that the DEIR found that all of the growth the proposed CVSP can be accommodated in North San Jose. According to the CVSP DEIR (p. 453), development along North First Street infill and reuse lots would provide 83,300 jobs and 32,000 new housing units --- all concentrated along a major transportation corridor identified in the GP as ideal for high density development. Also as stated in the GP, this development would maximize mass transportation efficiency and increase its use, while minimizing infrastructure and energy costs, all GP goals and policies. Please explain why the DEIR did not find this the environmentally preferable alternative.

### **III. Consistency with Local Area Formation Commission Policies**

We recognize that CEQA does not require evaluating a project in terms of LAFCO policies, but we feel that the scale of the project warrants informal comments on the consistency of the CVSP DEIR with SC LAFCO Policies

The CV-DEIR seems to conflict primarily with elements of LAFCO's USA policies. These are discussed in what follows.

Policy B.3.e basically says that LAFCO will consider whether the conversion of agricultural and other open space lands is premature. Since the CV-DEIR admits that all of the CV development could be built into existing infill locations, such as North San Jose, the proposal therefore seems to be clearly premature.

Policy B.5 asks the USA applicants to explain:

- Why the expansion is necessary,
- Why infill development is not undertaken first, and
- How an orderly, efficient growth pattern will be maintained

To date these explanations have not been supplied and therefore fails to meet LAFCO requirements.

Policy B.7 asks the USA applicant to analyze how the project will affect the totality of County agricultural and open space resources with a particular emphasis on the relative agricultural value and economic viability of the lands proposed for development. This does not seem to have been done in the CV-DEIR.

We are also concerned that the proposed agricultural mitigations in the DEIR do not meet the standards of LAFCO's recently adopted policy. We would like to see the revised DEIR include evaluation of this issue.

### **IV. Comments on Specific Sections of the DEIR**

#### **Introduction - Section 1**

##### **Specific Comments**

I1. The objectives of the project (sections 1.4 and 5.1.1) are too narrowly defined and so improperly restrict the range and evaluation of alternatives. The City may have evidence that it needs to provide for 26,000 new housing units and 55,000 new jobs, but these residences and jobs need not be in the Coyote Valley.

I2. The DEIR's description of CVSP expected outcomes/objectives (p. 8-9) fails to include minimization of and mitigation for project impacts, except for a vague brief reference to land acquisition and conservation easements. These omissions must be remedied.

I3. In addition, the land use actions listed on p. 9 and project components listed on p. 11 fail to include implementation of minimization and mitigation measures and as such this

list is inadequate to achieve the proposed CVSP. Please provide a detailed list of minimization measures (preferred under CEQA).

I4. Of the responsible and trustee agencies listed in Table 1.0-1, none is tasked with implementing or accepting any mitigations other than for traffic impacts, a serious oversight. Further, while the county Parks and Recreation department (for example) may be capable of implementing some of the biological mitigations proposed, the City – in consultation with the County – should present evidence that the Santa Clara County Department of Parks and Recreation and other listed agencies are willing and able to undertake all of the actions that may be required, or appropriately enlarge and provide evidence to support the responsible agency list. Please provide evidence that trustee agencies (or other designees) have the capacity and interest in accepting and/or implementing mitigation measures identified in the DEIR.

## **Comments on Project Description - Section 2**

### **General comments**

PD1. The City has committed in the CVSP DEIR and elsewhere that the CVSP, as an “interim project” under the larger Santa Clara Valley Habitat Plan (a Habitat Conservation Plan/Natural Communities Conservation Plan), will adequately mitigate consistent with the Habitat Plan, and “will not preclude the development of a viable conservation strategy.” This will be a significant challenge, as the CVSP will be one of the largest developments envisioned in the Habitat Plan area. Yet the CVSP DEIR consistently addresses only whether species may or may not be present under current conditions, whereas the Santa Clara HCP/NCCP will address standards of recovery of rare species, as well as other criteria considerably more demanding than addressed by the DEIR (e.g., ‘minimize and mitigate to the maximum extent practicable,’ under federal ESA section 10(a)(2)(B)(iii), and providing functioning wildlife linkages, under the California Natural Communities Conservation Planning Act). To be consistent with the Habitat Plan, the CVSP must examine not only presence or absence of species in the present moment but also long-term habitat and other needs for their recovery applicable to the CVSP area. The CVSP must also meet all the applicable criteria under the California NCCP act. Both the federal ESA and the NCCP Act also require decisions to be based on the best available science, whereas the DEIR neglects a great deal of currently available, highly relevant scientific information. The DEIR does not present evidence or analysis of the CVSP’s attainment relative to these standards. Please explain this oversight and provide a remedy.

### **Specific comments**

PD2. The project description alludes to use of “Environmental Footprint” (a methodology?) in Plan development (p. 14), but no reference is provided, precluding the ability of the public and public agencies to fully review this aspect of the Plan or DEIR.

PD3. The Plan appears to allow development too close to Coyote Creek, specifically, in its floodplain and likely within its future meander zone. The DEIR should re-analyze flood risk and fluvial geomorphology east of Monterey Road and pull development area back from Coyote Creek as discussed further below.

PD4. The proposed “focal lake” and other perennial water features would be likely to support a population of the non-native bullfrog, a competitor and predator of the threatened California red-legged frog (CRLF) and California tiger salamander (CTS), and would be a source of dispersing bullfrogs that would colonize surrounding CRLF and CTS habitats. The Lake should be downscaled and drained seasonally to kill bullfrog larvae. A bullfrog monitoring and control program should be implemented, and CRLF and CTS habitats should be enhanced.

PD5. Figures 2.0-1 and 2.0-2 both inappropriately lack scales, making it unnecessarily difficult to evaluate such things as riparian buffer widths. Please revise these figures with scales so that the information they intend to present is comprehensible.

PD6. It is unacceptable for wildlife corridor(s) to be merely conceptual (e.g. footnote in Figure 2.0-4, p. 26) when impacts to animal movement/linkages are planned, mapped, and significant. We address this point further elsewhere in these comments.

### **Consistency with Adopted Plans – Section 3.0**

#### **San Jose General Plan – Section 3.1**

The San Jose 2020 General Plan says it is based on the premise that natural resources are not inexhaustible commodities to be exploited, but are valuable assets to be judiciously used and wisely managed for the benefit of present and future generations (San Jose 2020 General Plan [SJGP 2020], 112). The San Jose 2020 General Plan aims to guide new housing development to urban, infill locations (SJGP 2020, p. 152) and recognizes that development in outlying areas is more costly to serve than the same amount of development in infill locations (SJGP 2020, p. 86) and that high-density infill housing ... works to ensure the efficient use of land and to reduce the pressure to build more housing at the fringe of the city (SJGP 2020, p. 50). Therefore to be consistent with Sustainable City Strategy Goals, San Jose should foster development which, by its location and design, reduces the use of non-renewable energy resources in transportation, buildings and urban services (SJGP 2020, p.122).

The City should promote development in areas served by public transit and other existing services. Higher residential densities should be encouraged to locate in areas served by primary public transit routes and close to major employment centers. Decisions on land use should consider the proximity of industrial and commercial uses to major residential areas in order to reduce the energy used for commuting. (SJGP 2020, p. 122)

By conserving natural resources and preserving San Jose's natural living environment, the concept of sustainability becomes a means of encouraging and supporting a stronger economy and improving the quality of life for all who live and work in San Jose (SJGP 2020, p. 51)

Given these farsighted and important goals on the part of the city of San Jose we find the entire concept of the CVSP -- building a new city from scratch 12 miles south of downtown San Jose -- is in itself highly inconsistent with goals and policies of the General Plan. It certainly does not meet the intent of the City's sustainability or growth management goals.

Furthermore, the DEIR wrongly claims that the CVSP is largely consistent with the SJGP 2020 before the provision of specific project details regarding the vast majority of those policies/goals (see DEIR Table 3.0-1 pages 48-51). As noted elsewhere in this comment letter the lack of an adequate project description and the mushy information generated from an implausible combination of project and program levels of environmental analysis undermines any claim that the project is "largely" consistent with SJGP 2020 GP.

Based upon careful review, we find the proposed Coyote Valley Specific Plan does not comply with intent or the policies and goals of the San Jose General Plan.

### **MAJOR STRATEGIES – 3.1.2.**

#### **Specific Comments**

3.1.2.1 Economic Development - the CVSP is not consistent with the city's Economic Development strategy. First as acknowledged in the DEIR (p. 53) the city of San Jose has a jobs/housing imbalance favoring housing. As noted in the DEIR the current plan for 25,000 residential units is 9,000 units short of the 34,000 necessary for the jobs identified for Coyote Valley (DEIR p. 53). If as stated in the SJGP 2020 and DEIR "Economic development is, therefore, a basic priority for San Jose, it is difficult to understand how the development of Coyote Valley (where the cost of city services for residential are higher than what the city recognizes in revenue) is consistent with this goal. Please explain how creating a new city at the urban fringe that will be costly in terms of city services is consistent with the City's economic development policies.

3.1.2.2 Housing Strategy – the housing strategy of SJGP 2020 is laudable, but the CVSP can hardly be claimed to meet the most important policy goal in the context of sustainable planning "development in downtown core areas" (p. 53). There is nothing in the GP that directs development of Coyote Valley as a solution for the creation of affordable housing for the city of San Jose. As noted elsewhere, the NSJDPU has the potential for 32,000 new housing units, of which at least 20% can meet the city's goals for increasing affordable housing. Of equal importance in this context is the reliance of individuals and families who live at or below the poverty line is their dependence on public transit. Again, as noted elsewhere the CVSP has limited capacity for transit and in particular there is no guarantee that connection to the downtown core by bus or train will

ever occur. The speculative nature of most of the claims for SJGP 2020 consistency are not tenable and we demand better explanations of how these goals will be guaranteed.

3.1.2.3 Sustainable City – like the forgoing major strategies, it is hard to understand how the proposed CVSP is consistent with the City’s Sustainable City Policy. The reliance on the force of existing policy to ensure that the project at build-out (30-40 years in the future) meets the policy intention is too speculative for such a large and long term project. As noted elsewhere in this comment letter and in others the expectation that only 4% of new person trips generated at build-out will use transit demonstrates the DEIR’s own lack of confidence in the sustainability of the proposed project. The overall reliance on policy to ensure concrete outcomes throughout the DEIR is an insufficient foundation for assurance. We would like to see greater analysis and more concrete actions (e.g. detailed plans) identified in the DEIR and specific plan.

3.1.2.4 Growth Management – as the DEIR notes the development of Coyote Valley is largely on rural and undeveloped lands. The costs of such development are significantly higher than infill development ([www.NRDC.org](http://www.NRDC.org); [www.smartgrowth.org](http://www.smartgrowth.org)) and it is impossible to accurately know future economic conditions. Therefore it is highly imprudent to consider development of Coyote Valley outside a general plan process.

### **Goals and Policies 3.1.3**

#### 3.1.3.3 Commercial Land Use Policies

Policy #3 – The development of Regional Commercial uses in Coyote Valley is not consistent with this policy. The intent of the policy is to encourage development downtown San Jose and not encourage sprawl. The DEIR acknowledges that regional commercial will draw people from outside the plan area but appears to conclude that this makes the plan consistent when it is not a relevant consideration. This section is incomprehensible in its twisted logic of trying to justify the CVSP with regional commercial development and discount its incompatibility with this policy. Please provide an analysis of how the creation of regional commercial uses in Coyote Valley will NOT contribute to sprawl and cumulative impacts.

#### 3.1.3.4 Industrial Land Use Policies

Policy #2 – the claim that the development of Coyote Valley will improve regional transit patterns in such a manner that is consistent with this policy is highly speculative and patently absurd. The DEIR identified significant traffic impacts throughout San Jose and other communities (DEIR pages 151-162) that are generated by the project. Please provide the analysis that supports the DEIR’s conclusion.

### **Santa Clara Valley HCP/NCCP – 3.10**

In the HCP/NCCP Planning agreement the CVSP is specifically identified as an “Interim Project.” This agreement states that interim projects will not preclude important conservation planning options or preclude connectivity between areas of high habitat values and will adequately compensate for all direct and indirect effects from the project.

The CVSP should be viewed as inconsistent with the HCP if this condition is not met. These conditions are stated in the CV-DEIR page 91.

The newly released draft Chapter 4 of the HCP calls out a number of impacts relevant to the HCP effort. These are given below with included consistency comments. The CVP will:

- 1) Result in a permanent reduction in the acreage of burrowing owl foraging and overwintering habitat

The draft HCP estimates that there is approximately 144,328 total acres of burrowing owl habitat in the HCP study area. It also estimates that in the next 50 years 10,908 of these acres will be lost to development (excluding the CVSP) with 133,420 acres remaining. So, the CVSP is not expected to preclude an effective conservation strategy for the burrowing owl.

- 2) Preclude the potential to restore historical wetland and riparian areas within the Coyote Creek floodplain for covered species such as the California tiger salamander, tricolored blackbird, western pond turtle and the California red-legged frog.

Coyote Creek, downstream of Anderson reservoir, is a primary target of all HCP alternatives for conservation and restoration. Numerous restoration actions are proposed throughout the conservation strategy. It must be concluded then that the current CVSO plans do preclude an important HCP conservation plan and is therefore inconsistent with it.

- 3) Degrade the existing riparian habitat as a stopover site for migratory birds and well as a migratory corridor for wide-ranging mammals, e.g. mule deer and bobcats.

Among others in the study area, Coyote Creek (downstream of Anderson Reservoir) is regarded by the HCP Conservation Strategy as a critically important migration corridor for aquatic and terrestrial species. All current proposed conservation alternatives call for improving these important population connection channels, therefore, degradation is inconsistent with the plans and goals.

- 4) Result in a long-term adverse effect on serpentine grassland along Coyote Ridge. Ultimately, this effect will reduce the amount of habitat available for covered serpentine plant species and the Bay Checkerspot Butterfly.

Serpentine grasslands support a number of the plans covered species, including the Bay Checkerspot butterfly. Since the range of the Bay Checkerspot butterfly is almost entirely within the study area a high priority has been placed on protecting the remaining serpentine grasslands (a goal of 80 – 100% of available). The

degree to which this impact is inconsistent with the HCP goals depends on the magnitude of the effect which is currently unknown. The most that can be said is that the CVP is working against the objectives of the HCP with respect to serpentine grasslands.

#### **Transportation and Traffic – Section 4.2**

The DEIR blows the “city shed” because the CVSP is ahead of the City’s General Plan. It is incomplete in that it looks at reduced traffic from a mixed use project perspective and yet its results are similar to a sprawl: traffic mix to 88% auto. The result is polluting two watersheds: Santa Clara and Monterey Counties. The DEIR ignores several technical constraints of the anticipated operating patterns proposed for a new city on the 101 corridor between Morgan Hill and San Jose. Specifically, TDM measures and ped/bike patterns in smart growth infrastructure are not factored into mobility demand. The result of these concerns is that unreasonable costs are added by proposing expansive expansion of the automotive roadway to attract more vehicles miles traveled. Another issue is permeable v. impermeable surfaces and runoff and the DEIR does not identify a threshold of significance for this issue resulting in the pollution of two watersheds Monterey and SC. 2% reduction in automotive trips (2500 trips) at Build-out is clearly not an adequate justification for transit -this also blows the city shed, it is now expanded to include Merced or where ever the 60% of north and south traffic will come from. Traffic linked housing is not in the PLAN and not addressed in the DEIR. All the mitigated traffic impacts are growth induced impacts – completely based on land use pattern implying expansion of the city shed outside the development of Coyote Valley (e.g. Bailer Over Hill) implying an inability to contain the pollution and an anticipating that people will be coming from all over.

Other constraints not addressed in the EIR include the substandard separation of the existing non connected bike and ped infrastructure and the lack of connected trail system which can be utilized as an alternative transport network if land uses are planned in parallel.

#### **Air Quality - Section 4.4**

The DEIR does not address how to mitigate the local impacts of the proposed development. Instead, air quality is analyzed on a regional perspective with the significant impact being untreatable. However, even this analysis is predicated on the unreasonable, unsubstantiated assumptions that smart growth will have the same modal splits as sprawl. There is no identifiable source for the assumption of offsets realizable from smart growth design or from TDM. In addition, the use of the baseline for the air quality analysis, as with the noise analysis, allows the emission of significant noted tons of pollutants per day with a negative impact on air quality, even though these figures are much larger than the AQMD threshold of significance which is not provided (pg 143, 4.2.2.1). Both the plan and DEIR need to accommodate the demand from north 40% and south 20% (page 146) on the fixed motor-way. The ideal coach solution to 101- the only way in and out would be on a converted coach only lane. Other TDM measures (page 144) would be effective.

Walking and Biking: pg 118- The DEIR needs to adequately account for TP variables such as #8 and 9- safety of bicycle and peds needs to be accounted for and that through traffic on neighborhood streets should be discouraged. It does not identify sources for the assumed values of these variables, nor include a sensitivity or risk analysis which identifies and discusses their tendency to fluctuate significantly, nor include an analysis of other factors such as employment, household income, disposable income, household size, age, licensed drivers in the household, etc. while recognizing the effect of LOS expansion on walking and biking. Consideration of these additional variables would result in the generation of more accurate mobility mode demand forecasts. For example Table 4.2.2 on page 123 accounts for none of these variables as LOS is only considered from TP#5 pg 118. What is the impact of 5 on 8 and 9?

Modal Split: Page 146- DEIR only posits a sprawl based auto dependent pattern of 88% automotive trips with significant resultant infrastructure needs. See mitigation 4.2.5 page 174. Bike and ped infrastructure is completely misunderstood in the DEIR (pg 140). Not only are the numerous policies ignored on pg 118 but the walkable cores and paseos and parks are not addressed as infrastructure necessary up front to achieve a smart growth design. 4.2.2.8 on page 163 says development will be concurrent and have a beneficial impact. However it's only expected to offset 2% of automotive trips 4.2.3.1 page 166 or 2500 trips. Assuming that number represents someone going and coming on transit the additional trips are being made by only 1250 persons. Giving each person a bus at \$250k would only end up costing \$0.31B. Where is the demand to support a successful fixed guideway system, light rail, BRT and Caltrain?

Infrastructure page 139 4.2.1.6 Improvements should come later after Smart Growth principle have been put into place and sustainable usage of existing streets saturate with demand. For example beginning industrial development by linking available parking on one leg of the fixed transit feature to the initial development area would allow for an intermediate shuttle while still meeting parking demand. Also see pg 143 near term traffic study assumption of CVSP would build out or partially relatively quickly (3-5 years) is unrealistic for a smart growth plan with overriding mitigation in Impact Trans-17 page 182 4.1.1.8 page 104. Bailey Over the Hill (BOH) "require" the construction of an extension of Bailey Ave. to the Almaden Valley.' This land use conflict (as described in 4.1.2.2- on the physical environment in the vicinity of the project) will only open up for development the two regions and result in the loss of more open space. This should be a last consideration. The buffer should be preserved.

Solutions- Setting the speed limit across the development at 17 mph will allow full use of Golf Carts dramatically improving air quality and green house gases. Making primary parking spots available for Golf Carts will also encourage use. Phasing in development with available surface parking and a shuttle to the development will allow for the first stages of the fixed wheel transit to be implemented with jobs. Congestion Charging, zero waste programs and zero energy housing will also dramatically reduce green house gases. Meeting trail development and complete streets goals for walking and biking and Traffic Reduced Housing through shared parking, car free housing, unbundled parking, parking

cashout, charged parking, etc will reduce auto demand and attain air and water quality goals. These are in the plan but not measured or accounted for in the EIR.

## **Biological Resources -- Section 4.6 and Appendix G**

### **General comments**

B1. From the standpoint of biological resources, a particular deficiency of the DEIR we wish to highlight is the lack of provision for habitat linkages enabling wildlife movement within and across the Coyote Valley. The DEIR falls far short of the City's commitment and requirement – as an interim project within the Santa Clara Valley Habitat Plan area – of living up to the standards of the California Natural Communities Conservation Act and section 10 of the federal Endangered Species Act. Even though a significant impact on animal movement is found, the impacts of the project to animal movement are underestimated in the DEIR, and proposed avoidance, minimization, and mitigation measures fail to provide or protect adequate habitat linkages for animal movement across the Valley.

B2. Humans often underestimate the movement capabilities of dispersing animals. This underestimation is not only human dismissal of animal abilities, but also based on the difficulty of observing animal movements and the disproportionate difficulty of detecting long-distance movements. When we do hear of animal movements of many miles (e.g., a Rocky Mountain elk nicknamed “Earl” in 1987 journeyed 1800 miles from Montana to Missouri, across roads and rivers and through urbanized areas: Manning 1995), we consider them exceptional oddities; but in fact even in scientific studies dedicated to examining movement, the longest movements are the hardest to observe. The reasons for this are two-fold. First, to find marked animals that have moved long distances, researchers must search exponentially increasing areas the farther the movement distance (since area increases as movement-radius squared). Second, often only a small minority of individuals of a species moves very far, so the chance of marking or tracking one of the most mobile individuals is small. Yet movement of even one new animal per generation into a separate population yields significant genetic mixing (Mayr 1970), so animal movements and actions that would block them must be taken seriously.

B3. The DEIR fails to acknowledge, disclose, and adequately assess, minimize, or mitigate well-known “edge effects” on biological resources (e.g., Soule 1986, Saunders et al. 1991). For example, intensive development with attendant human and pet incursions, artificial lighting, and noise would be located directly adjacent to the Coyote Creek Parkway, an important habitat and movement corridor for wildlife. In places the development is proposed only 100 feet from Coyote Creek itself. The City must provide larger buffers for such biologically valuable areas and provide mitigations to reduce impacts along development edges.

B4. “Bailey over the hill” (BOH) alignment approval is oddly tacked onto this specific plan and properly belongs in a separate CEQA process. This road development is not

needed for the CVSP but is likely to have extensive and significant future growth-inducing effects outside the CVSP study area (e.g., providing greatly improved access to areas adjoining McKean, Almaden, and Uvas Roads, including the South Almaden Valley Urban Reserve and areas within County jurisdiction; see below). The BOH alignment is both out of place and very inadequately addressed in this DEIR, as is discussed further below. The developer fees that would be spent on re-alignment of BOH would be better spent on conservation of needed wildlife movement corridors.

B5. The Sierra Club protests the failure of the DEIR to adequately survey affected lands for biological resources. Figure Bio-1 in Appendix G states that it shows unaccessed lands but in fact does not do so; and this information was only made public via the CVSP website on June 18, 2007, and revised on June 20, nine days before the end of the comment period. The map eventually provided (“CVSP Property Owner Access Confirmation”) shows that on the order of 40% of the proposed development area was not accessed for surveys (J. Hart, San Jose Planning, personal communication). The City should consider whether it should be moving ahead with a plan in which many of the plan area’s affected landowners are not fully cooperating. The failure to survey the complete plan area, and failure to inform the public in a timely manner as to what lands were and were not intensively studied, is a glaring gap in the project’s environment impact assessment and disclosure, and must be remedied by the City, and the DEIR recirculated. Further, the recirculated DEIR should address explicitly what weaknesses the inaccessibility of large portions of the project area creates in the environmental analysis and disclosure.

B6. The DEIR and appendix lack critical information on the level of biological survey effort conducted, for example as quantified in person-hours. The CVSP study area covers thousands of acres, with hundreds of acres of wetlands, over 20 miles of streams, dozens of ponds, over 1000 acres of less-disturbed habitats – not to mention the BOH alignments – requiring diverse searches for dozens of special-status species of plants and animals in a variety of seasons and weather conditions, day and night. Unless a veritable army of biologists was employed, the surveys must have been rather sparse. For example, how many mile-nights of rainy-night drift fence for CTS were actively monitored, where and when? How much drift fence was deployed around Laguna Seca, which the USFWS judged to be likely breeding habitat for CTS (USFWS 2001)? How much time was spent in the 34 acres of serpentine grassland, for example, or on areas impacted by BOH alignments, surveying for plants and for animals including bay checkerspot butterfly? The scientific standard for any published study is that a reviewer should be able to replicate the study with the information provided on methods. This information needs to be provided for each type of survey performed to adequately describe the nature and quality of the information developed. Placement of this detailed information in an appendix is acceptable; however the DEIR must be recirculated to provide the public and public agencies with an opportunity to truly assess the information and the document as a whole.

B7. Regarding survey effort, we also note that a single year of survey is inadequate for many of the species addressed in the DEIR. For example, some plants may not germinate

in certain years, and surveys for bay checkerspot butterfly may not detect them at low population densities in some years. All survey efforts are less likely to detect extant populations at low densities when the surveys are conducted with low search effort. We request the City to undertake a more robust survey effort to more accurately identify species that would be impacted and provide more detailed information on avoidance (primary goal) and mitigation (secondary goal) measures.

B8. The impacts of the plan to riparian habitats, ponds, and other wetlands are excessive and easily reduced by greater avoidance, such as in the Laguna Seca area. We discuss this in more detail below.

B9. The DEIR calls for nearly all the wetlands mitigation to be carried out in the to-be-restored Fisher Creek corridor, but we did not find an analysis of to what extent that corridor can accommodate the mitigation called for. Given the magnitude of the acreages involved, such an analysis is needed. Please provide the analysis in a recirculated DEIR or explain why this is not required.

B10. The DEIR repeatedly gives the impression that the CVSP will serve to preserve the Greenbelt area. In fact, the only changes to the status quo in the Greenbelt that we are able to infer from the CVSP are impacts – larger, faster, higher-traffic roads and growth inducement (not properly addressed in the DEIR). The funding for agricultural preservation or easements proposed would only maintain the status quo to a limited extent, not enhance conditions or mitigate impacts, and is not certain to be feasible in the absence of willing sellers. Why does the DEIR lack a more detailed explanation of how the greenbelt will be able to achieve the plant and wildlife mitigation goals mentioned? Furthermore, as noted by the wildlife agencies, the DEIR presents an apparent conflict in proposed uses for the greenbelt. Please explain how goals related to wildlife and plant mitigation can be simultaneously achieved while providing groundwater recharge and other uses the DEIR has identified for the greenbelt.

### **Specific comments**

B11. p. 244 – while the non-native grassland habitat type per se may not be regulated (or other habitat types as noted), impacts to any habitat are regulated where the habitat provides support for or is used by special status species. We have further comments on the significance of loss of “lower value” habitats as linkages between important wildlife habitats, under wildlife movement categories, below.

B12. The DEIR should clarify that locations of special status species – Figures 4.6-2 and 4.6-3 – are by no means restricted to the dots shown on these maps. Most if not all the species mapped occur more widely in the mapping area and some may come to be found in the CVSP Area, including the development area. This clarification should be provided in a recirculated DEIR.

B13. In addition, considering the 40-year timeframe for build-out of the CVSP, species locations and even ranges are likely to shift. The DEIR should acknowledge this and

state that species distributions will have to be re-determined and updated over time. Since the current DEIR does not acknowledge this reality, a recirculated DEIR is necessary.

B14. A recent locality for the federally listed, endangered San Joaquin kit fox is shown in Fig. 4.6-3 on Coyote Ridge east of Tulare Hill, but not in Table 4.6-3. How the CVSP will address this species is not consistently or adequately treated and it should. Please explain why this inconsistency occurred. Please rectify in a recirculated DEIR.

B15. p. 253 – The DEIR is inadequate because it fails to note that the biological value of native trees is higher in that they provide better habitat for a diversity of native wildlife, including birds, bees and other vertebrate and invertebrate species (e.g., Chace & Walsh 2006). This issue needs to be addressed in a recirculated DEIR.

#### Section 4.6.4 Wildlife Corridors

B16. In general this section misleadingly downplays wildlife movement across and within the CVSP area, without justification and contrary to existing evidence. This dismissal of the function of the area in facilitating wildlife movement results in underestimation of the magnitude of project impacts and in inadequate avoidance, protective measures, and mitigation. The section repeatedly makes statements lacking in supporting evidence, and neglects existing evidence to the detriment of the analysis. In a number of places the DEIR is misleading or in error about CVSP area conditions related to wildlife movement, leading us to ask that this entire section be re-researched, fact-checked and re-written. (Refer to data collected and submitted by DeAnza and San Jose State University students.)

B17. The DEIR repeatedly refers to “potential” movement but should also more clearly and consistently acknowledge documented wildlife movement. For example, researchers involved in studies locally recently made presentations at a scientific workshop (“Sierra Azul workshop”) hosted by the Coastal Training Program of the Elkhorn Slough National Estuarine Research Reserve (presentations, proceedings, and a variety of related wildlife corridor scientific resources available online at: <http://conserveonline.org/workspaces/sierra.azul.workspace> , also [www.elkhornsloughctp.org](http://www.elkhornsloughctp.org) )

B18. The City has committed the CVSP to equaling the standards of the Santa Clara Valley Conservation Plan (SCVCP) under development, by not impairing or precluding the conservation of species or habitats treated under the Conservation Plan. As a California Natural Communities Conservation Plan, the Conservation Plan must meet high standards to “provide linkages” between reserves or habitats – including habitats outside the plan area – and “sustain effective movement and interchange of organisms” (NCCP Act). The CVSP and the DEIR need substantial improvement in this area to reach these standards. Please refer to the comments of the wildlife agencies. The DEIR does not adequately explain how the CVSP will ensure that it supports achievement of the goals of the HCP/NCCP and must be recirculated with a plan that clearly conveys to the public and decision-makers how this will be accomplished.

B19. An artificial, uni-directional model of terrestrial animal movement is followed in the DEIR without supporting evidence, as shown by the artificial division of north-south and east-west movement directions. In fact, animals may move in a variety of directions or in no particular direction, and explore a variety of routes. Please justify the use of the model with appropriate scientific citations.

B20. p. 269 – first paragraph on terrestrial wildlife corridors should acknowledge that species have different capabilities of surmounting barriers; for example, a 6-foot unbroken vertical wall may be problematic to a badger but can readily be jumped by a mountain lion. Similarly, barriers are not all created equal – a rail line is a minor hindrance or none compared to a busy multi-lane freeway with barriers. Thus, the DEIR paints an inaccurate picture of potential and real wildlife movement. The lack of scientifically valid wildlife surveys and unsubstantiated models is not acceptable.

B21. Including Coyote Creek as a barrier to wildlife movement does not appear reasonable considering that it is a natural feature, easily passed by many species, and that likely the Coyote Creek Parkway has a highly positive effect on wildlife movement as a wildlife corridor and sheltering and foraging area.

B22. p. 269 – Ideally, measures provided for wildlife movement past barriers should include appropriately designed surface passage or overpasses, as long enclosed culverts may pose a psychological barrier to movement by some species. The DEIR provides almost no detail regarding how CVSP features could be designed to facilitate wildlife movement. This oversight reduces confidence in how the CVSP will be able to facilitate achievement of the goals of the HCP/NCCP. We request a detailed explanation with scientific evidence of which design features will facilitate wildlife movement and how others will be modified to minimize impact.

B23. p. 269, 271 – We support the DEIR's assessment that the CVSP study area provides a valuable and irreplaceable regional wildlife linkage between Diablo Range and Santa Cruz Mountain habitats, including Santa Teresa County Park and private conservation lands on Tulare Hill. This point should be emphasized and documented by reference to recent studies of this connecting function (e.g., the "Sierra Azul" workshop referred to above; Thorne et al. 2006), as well as to state and federal wildlife agencies' evaluations of its importance.

B24. For example, with regard to linkages to provide for wildlife movement, the DEIR should acknowledge that the Tulare Hill Corridor Critical Habitat Unit of the bay checkerspot butterfly, bridging the Coyote Valley at Tulare Hill, was federally designated with preservation of habitat connectivity as one of its principal purposes (Federal Register 66:21488, April 30, 2001). This Critical Habitat area, which also encompasses the Laguna Seca area and other portions of the CVSP study area, should be mapped in the DEIR, not merely in Appendix G. Further, this area should be excluded from development, including development as ballfields, and permanently protected and managed as natural open space. The plan to place lighted ballfields in the Laguna Seca

area is inconsistent with the goals of maintaining critical habitat. The DEIR needs to be recirculated to reflect the removal of the ball fields from the Laguna Seca area.

B25. p. 271 – first full paragraph: While there is no doubt that the lanes of Highway 101 are a formidable obstacle to wildlife movement, the description here is inaccurate. Lanes of 101 do not differ in elevation by 12 feet throughout the CVSP study area; along much of the distance they differ only mildly or not at all. The median between Bailey Road and the curve south of Coyote Creek Golf Drive is 30 to 60 feet wide, not 20, and throughout the study area 20 feet is close to the minimum width of the Highway 101 median, not the average width. A 2:1 slope in the median appears to be a maximum: exceptional rather than an average over the study area, and in general the slopes are more gradual to nearly flat. The medial barrier along the northbound lane appears to be a standard K-rail, approximately 3 feet tall, not 5 feet. The DEIR must be revised and recirculated to provide the public and decision-makers with a more accurate picture of the project area. As currently described much of the project area and this area in particular are presented in a misleading way.

B26. p. 270 – Monterey Road: The DEIR does not provide evidence that Monterey Road is preventing meaningful wildlife movement, and we believe the barrier it represents is exaggerated in the DEIR, for many species. Monterey Road is much less of a barrier than Highway 101, partly because of its substantial number of surface-level gaps, partly because it carries less traffic – particularly in small hours of the night when some animals may be moving – and traffic moves at lower speeds. The base of the central barrier is a concrete K-rail 31 inches tall, with a wire and 24-inch tall plastic baffle above to a total height of 4 feet 7 inches, not 6 feet as stated in the DEIR (p. 271). The baffle allows wildlife to see across the barrier, and is damaged or missing in numerous places.

B27. The DEIR fails to show that the Monterey Road median barrier, even in an undamaged state, is a significant obstacle to mountain lions, which famously can leap 8 feet high or more, nor that the barrier bars elk and deer (the Oregon Department of Fish and Wildlife recommends elk fences 7 feet in height, and notes that adult deer in good condition will jump 6 foot fences when excited:  
<http://www.dfw.state.or.us/springfield/deer-elkfences.html>).

B28. The DEIR erroneously refers to a “retaining wall along Monterey Road at Tulare Hill” (p. 271). No such wall exists. See comment B33, below, for further discussion.

B29. p. 271 – culverts: The DEIR should describe the size of the Highway 101 culverts, both diameter and length. Wildlife movement through the culverts has been documented and should be included in the DEIR, and the size of the culverts is crucial information in evaluating animal movement. It also should be noted that animals carry plant seeds on their bodies or in their guts, so animal movement also enables dispersal of plant seeds. Please revise and recirculate the DEIR to incorporate this information.

B30. p. 271. The DEIR should provide evidence that culverts supposedly too steep for animal use are in fact not used, or other data documenting that culverts of comparable grades are too steep for various species of wildlife – or, lacking evidence to the contrary, presume they are used, since available evidence to date shows that the 101 culverts are used by wildlife. The DEIR also states without further information that the Fisher Creek culvert under Monterey Road possesses a steep drop and limited overhead. We measured this very large concrete box culvert as approximately 6 feet high, did not note a steep drop, and overall it appears to be a very sheltered and accessible animal movement corridor. The DEIR should document and quantify conditions of the Fisher Creek crossing that may be important to animal movement.

B31. Wildlife movement researchers report that wildlife are moving regularly and abundantly in both directions through the various diameters of Highway 101 culverts (raccoon/skunk-sized, bobcat/coyote-sized, and mountain lion/deer-sized culverts – at least one culvert, near Bailey Road, is large enough for humans to walk through, and there is also ample evidence of wildlife use: T. Diamond, personal communication). Some of these culverts connect to the northern part of the CVSP study area. This information contravenes the DEIR's unsupported presumption that only smaller animals can use the culverts, as well as its contention that there are only three passages across Highway 101 for large mammals (this error also is repeated on p. 272). In fact researchers have documented mountain lion and deer crossing Highway 101 in culverts.

B32. Tule elk have been seen west of Highway 101, presumably from the population on Coyote Ridge east of the highway (H. Coletto, cited in the Sierra Azul workshop proceedings and presented as testimony before the San Jose City Council June 26, 2007). The DEIR should be revised to account for the strong likelihood of regular movement by large terrestrial mammals and recirculated so that the public and decision-makers are presented a more accurate picture of the ecological conditions in the valley and able to make a more informed decision.

B33. p. 271-272 – Metcalf Overpass: The paragraph contains errors. If anything, the fencing along the Metcalf Road overpass is beneficial to animal movement, since it merely dissuades animals from leaping over the rail into the lanes of Highway 101 below. The overpass does not extend to end abruptly at Monterey Road but reaches ground level at a point considerably further east, affording some access to the Coyote Creek natural corridor. There is no “retaining wall” between Monterey Road and Tulare Hill. The west end of Metcalf Road faces across Monterey Road and railroad track to a steep rocky cut in the side of Tulare Hill, but this steep cut is only about 240 meters long, and there is easy access on either side to the natural open space of the hill. A clearly visible game trail leads from the railroad right-of-way up the hill (T. Diamond, personal communication). The Sierra Azul wildlife connectivity workshop (see reference above) discussed the potential to convert the Metcalf Road overpass to a high quality wildlife overcrossing. The DEIR should be revised and recirculated to reflect the potential of the Metcalf Overpass for facilitating wildlife connectivity.

B34. p. 272 – first full paragraph: DEIR presumably refers to kills of prey *by* mountain lions. This paragraph also needs to add available data on wildlife movement in and across the CVSP area from cameras, tracks, and scat to more fully reflect the current state of knowledge.

B35. p. 272 – bulleted points: The DEIR again artificially and unjustifiably distinguishes between north-south and east-west directions. In fact, animal movement is relatively unrestricted within the Coyote Creek corridor and in the hills east and west of the CVSP area, and this movement provides access to Highway 101 and Monterey Road crossings throughout the CVSP area, without evidence of any north-south distinction. The DEIR also should disclose that future construction of a Coyote Valley Parkway interchange with Highway 101, if any, would provide opportunity to create a high-quality wildlife passage across 101 at the north end of the CVSP area.

B36. p. 272 – paragraph following bullets: The DEIR appears to be trying to draw an artificial distinction between north (proposed for development) and south (greenbelt) portions of the CVSP area. No evidence is provided that the proposed Greenbelt in the south provides better wildlife crossing opportunities than the proposed development area to the north. Rather, existing information indicates that, from east or west, in the hills adjoining the valley, all parts of the valley are comparably accessible. While the Coyote Creek crossing under Highway 101 does provide excellent wildlife passage, once within the Coyote Creek corridor wildlife has comparable access to both north and south of the CVSP area. The valley is comparably developed to north and south within the area, as can be seen from satellite images or a drive through. Further, the statements in this paragraph about Palm and Live Oak Avenues do not make sense. There is very little development around Monterey Road at Palm Avenue – mostly the land use is agriculture – and there is even less distinction between north and south sides. Similarly, there is only an orchard on the east side of Monterey Road at Live Oak Avenue, while limited intensive development occurs both to the north and south of Live Oak on the west. The Bailey Road crossing – now both a surface level opening and an underpass – is currently perhaps the least developed, remaining almost entirely agricultural in surroundings. The DEIR should also disclose that future development, if any, of an intersection or interchange of Monterey Road with the proposed Coyote Valley Parkway would provide opportunity for creating a high-quality wildlife passage across Monterey Road.

B37. p. 272 – Reptile and Amphibian Movement: Clarify that species such as CRLF may require sheltering opportunity (not, for example, breeding habitat) for longer dispersal movements. Also, we are not aware of evidence that movement areas for CRLF need to be “relatively undisturbed;” rather, research shows that the frogs are capable of moving long distances across agricultural landscapes, through forests, and across steep topography (Bulger et al. 2003). The DEIR should be corrected in this regard.

B38. p. 273 – first full paragraph: The DEIR minimizes amphibian dispersal potential within the CVSP area in the absence of complete data. First, the CVSP area has not been fully surveyed for special status species, and it cannot be assumed that the only occupied locations are those mapped in the document. Second, the DEIR sets up a straw man by

positing straight-line dispersal between the northwestern CVSP area and Ogier ponds. Instead, the DEIR should acknowledge the many more natural and advantageous movement pathways for amphibians in the plan area, namely the Coyote Creek and Fisher Creek corridors, and other ditches and drainages. The CRLF is capable of moving distances greater than 1 mile: distances up to 2.8 km (1.7 miles) are documented (Bulger et al. 2003), and this neglects the possibility of stepping-stone dispersal. Finally, the DEIR should consider Smith and Green's (2005) finding of "strong evidence that amphibian dispersal is not as uniformly limited as is often thought," i.e. many researchers and the public tend to underestimate amphibian dispersal capabilities.

B39. p. 273 – second full paragraph: Please present evidence that the railroad and Coyote Creek constitute substantial barriers to amphibian movement. We believe existing information indicates the contrary, that they are not substantial barriers. The DEIR is incorrect in saying that amphibian movement is random. Biologists have known since the classic work of Twitty with red-bellied newts in the 1950's that amphibians are capable of directed movements (e.g., Twitty 1959). While the DEIR may refer to the initial scattershot dispersal of metamorphosing juveniles from their natal pond or other development site, a considerable majority of California tiger salamanders, despite their capability to seek other ponds, return to their natal pond to breed from their summer-fall sheltering site (Loredo et al. 1996, Trenham et al. 2001). Fencing can help guide amphibians and other animals to culverts or other safe passage (CTE 2007, [FHWA 2002a](#), [FHWA 2002b](#)).

B40. Aquatic Species: The DEIR should disclose that commercial/industrial and residential development are likely to increase flows in CVSP area waterways, particularly Fisher Creek, due to runoff from irrigation of lawns and landscaping. The effects of this increase on aquatic and semi-aquatic species, non-native species, and habitats must be addressed. The DEIR also fails to address the effect of increased impermeable surfaces in developed areas (pavement, roofs) on flood flows and the hydrographs of Coyote Creek and Fisher Creek, with resulting impacts on aquatic and riparian habitat and special status species. Minimization and mitigation of such impacts must also be addressed.

B41. p. 273 to 274 – Flying Species: This section contains unsubstantiated statements. It is incorrect to say that all species use habitats associated with water for dispersal, or that only high quality "nesting" or foraging habitats are used for dispersal. The bay checkerspot butterfly, as just one example, is not known to prefer habitats associated with water for dispersal corridors, and is known to disperse across non-breeding habitat, as are many other species. Many birds and bats are capable of dispersal over non-breeding, non-foraging and non-aquatic habitat (e.g., migratory species). The DEIR should acknowledge that less-disturbed natural habitats generally have higher value for sheltering, foraging, breeding, and dispersal.

B42. We agree with the DEIR's statement that large developed areas constitute a partial barrier to movement for some flying species, and that roads cause mortality or a partial behavioral barrier to movement – the larger and busier the road, the greater the impacts (e.g., Mumme et al. 2000 and other references cited in Forman et al. 2003, pp. 115, 119,

166). The DEIR should note that owls (e.g., Newton et al. 1991), and burrowing owls in particular (Todd & Wellicome 2005), are susceptible to road-kill by fast-moving traffic.

B43. CVSP is projected to cause significant traffic increases in the Greenbelt (section 4.2.2.11, p. 165; see also our comment TX1, below). The proposed project includes improvements to roadways within the Greenbelt, including widening Monterey Road and portions of Santa Teresa Boulevard. These road widenings and increases in traffic volumes, with increased crossing distance, higher traffic speeds, and possible median or shoulder barriers, will significantly adversely impact the ability of the Greenbelt to serve as a wildlife linkage area or habitat. This impact must be acknowledged, minimized, and mitigated.

#### Section 4.6.2.5: Bailey Over-the-Hill

B44. The biological resources presentation for Bailey over-the-hill – at 4 paragraphs and completely lacking any disclosure of resources or information about likely future development in the areas this alignment would serve due to growth facilitation – is completely inadequate.

#### Section 4.6.3: Biological Resources Impacts

B45. We question the accuracy of the DEIR's figures on habitat impacts when a substantial fraction of the proposed development area could not be surveyed. Table 4.6-5 should be separated into estimates for surveyed and for unsurveyed lands, and unsurveyed lands should be mapped relative to the study area and their inferred habitats shown, to allow a fuller public review of the evidence for and accuracy of the analysis.

B46. Only 4 acres of coastal sage-chaparral scrub falls in the CVSP development area (Table 4.6-5). "Often on serpentine", all of this habitat appears to be on the extreme margin of the CVSP area and to fall within bay checkerspot butterfly designated critical habitat (Santa Teresa Hills Unit). Most-beautiful jewelflower (*Streptanthus albidus peramoenus*) also occurs in this habitat, as might other special-status species. While this type of chaparral ranks in the top 20 in extent in the region, according to Thorne et al. (2002, p. 19), none of it is currently within conservation management. This is the classic definition of a conservation gap – a lack of conservation coverage of a particular habitat type. The CVSP easily can and should avoid this habitat by pulling back the development margin.

B47. Table 4.6-5 projects development impacts to 84% of on-site wetlands (125/148 ac). This level of impact is excessive – extremely large and out of line with accepted practice. A greater degree of avoidance of wetlands is needed. Areas that can reasonably be avoided include but are not limited to the Laguna Seca area. This natural feature is likely to be needed for flood abatement, and should also remain as natural open space for animal movement and as seasonal wetland habitat for species such as the threatened California tiger salamander. The area is mapped as open space in the DEIR, and it should be planned as natural open space (i.e. not ballfields or golf courses) and wetland impacts

there avoided. Other wetlands throughout any eventual development area should be intensively evaluated with regard to special-status species such as CTS and the California red-legged frog, and areas inhabited or valuable for recovery of the species should be avoided and conserved.

B48. Impact BIO-13 (p. 282) – the treatment here in the DEIR ignores the key fact that the Tulare Hill Corridor Unit of bay checkerspot butterfly (BCB) critical habitat was designated in part to protect dispersal space for the species (Federal Register 66:21488, April 30, 2001). The significance of impacts to this critical habitat unit must be reconsidered, specifically addressing whether the plan could discourage butterfly movement.

B49. Impact BIO-15 (p. 283) – permanently increased chance of road-kill of burrowing owl adults and juveniles should be included in this impact statement, given the project's increased road density, vehicle loads and speeds.

B50. Impact BIO-16 (p. 283) – the loss of foraging habitat for golden eagles should be considered significant. Golden eagles forage very widely, and are commonly observed in the area. It is inconsistent for their foraging habitat to be dismissed because of supposed lack of very nearby nesting (within ¼ mile), then to consider impacts to nesting significant.

B51. Impact BIO-21 (p. 284) – the DEIR's unsubstantiated assertion that the CVSP would not result in loss of nesting habitat for birds is flawed, since road and urban development is well known to reduce densities and nesting of many native bird species: through habitat loss and fragmentation; habitat degradation; road mortality; disturbance from noise, lights, and human activity; predation by domestic cats and other pets; and competition with human-commensal species (e.g., Forman et al. 2003, Chapter 5 and references).

B52. Impact BIO-26 (p. 286) – While we agree with the City that the project would significantly impact wildlife movement, the discussion preceding this impact assessment is very incomplete, neglects major effects of the project, and is in places inaccurate. At minimum, in addition to what is already written, the discussion should acknowledge the following: The project will replace over 2000 acres of predominantly open, traversable lands with dense urban residential, commercial, and industrial development, numerous large and small roads, landscaping, and other infrastructure. Wildlife movement is now occurring, both in the proposed development area and the Greenbelt, with no evidence of any preference between the two. Construction (temporarily) and the noise, light, and structure of the two bridges (permanently) across Coyote Creek are likely to reduce movement of some species in the Coyote Creek corridor. The ability of the Laguna Seca flood storage basin to serve as a wildlife passage depends strongly on how it is designed, configured, and managed, and cannot merely be assumed here. Ballfields are not likely to have good corridor values for many species, due to many factors including fencing, night lighting and human use. Contrary to implication, CVSP has not proposed any definitive "preservation" of the Greenbelt, but rather a continuation of the status quo (the

Greenbelt is outside the City's green line), which does not prevent certain kinds of development nor benefit wildlife movement relative to no-project. To the contrary – under the CVSP many roads would be constructed, reconstructed or upgraded (e.g., Figure 2.0-5, p. 27). According to Forman and collaborators in the seminal volume *Road Ecology*, “As roads are upgraded to accommodate greater traffic volume, the rate of successful wildlife crossing decreases significantly” (Forman et al. 2003, p. 114). For example, the CVSP would enlarge Monterey Road and Santa Teresa Boulevard/Hale Avenue and increase traffic volumes and speeds between the proposed development area and Morgan Hill (DEIR section 4.2 and Appendix C), which would increase the risk of roadkills and degrade wildlife crossing opportunities in the Greenbelt. Traffic along Monterey Road and Santa Teresa Boulevard next to Tulare Hill and the risk of roadkills there also would be increased. Proximity of development and jobs in the CVSP area would induce allowed forms of growth in the Greenbelt. The County Planning Office estimated in December 2000 full residential buildout in the Greenbelt under existing rules of roughly 100 new homes (Santa Clara County 2000). Furthermore, there is no guarantee that what development restrictions exist or are being implemented by the County in the Greenbelt will remain in effect into the future: this depends on the balance of votes in the elected Board of Supervisors. Therefore there is no permanent protection of habitat or of wildlife linkages in the Greenbelt, and the CVSP proposes only future funding of possible agricultural easements on lands currently in agriculture. In sum, we agree that there would be significant impacts to wildlife movement, but the DEIR discussion must be more comprehensive and accurate about what and where and how great these impacts are.

#### 4.6.3.7: Nitrogen Deposition

This section is extensively flawed and requires re-analysis, rewriting and recirculation. These defects are detailed below.

B53. p. 286-287: While the DEIR is correct that nitrogen deposition is likely to impact serpentine grassland habitats, it neglects the fact that nitrogen deposition also is likely to impact any natural low-fertility habitat (e.g., Weiss 2006). For example, serpentine scrub/chaparral occurs in the airshed of the plan area, and is similarly vulnerable to nitrogen deposition impacts. This habitat supports the endangered Coyote ceanothus (*Ceanothus ferrisiae*), for example. The DEIR needs to assess and address other habitats and species vulnerable to excess nitrogen deposition, not only serpentine grassland.

B54. The second paragraph on page 287 gives the flawed impression that the nitrogen deposition conclusions and mitigation in the DEIR strictly follow the USFWS precedent. This is not the case. There are many deviations from the USFWS methods and assumptions, discussed further below. Please correct this misimpression. This paragraph also incorrectly implies there was just one consultation for both CVRP and MEC. The USFWS issued separate biological opinions regarding the projects.

B55. Also in this paragraph is the first of many places where the DEIR ignores ammonia emissions from vehicles – a relatively small but important component of vehicle exhaust

present in biologically significant amounts. In addition to being deposited rapidly relative to many other nitrogen compounds, ammonia is a precursor to particulate formation of human health concern (S. Weiss, personal communication). Historically many air quality studies also have ignored ammonia because it only came to be a substantive component of vehicular pollution with the advent of highly reactive catalytic converters (Weiss 2006), and even now is not always addressed – this DEIR and its appendices being an example. Ammonia is again ignored in numbered paragraph “2)” on page 287, and is inappropriately dismissed in footnote 5 of appendix D to Appendix G, the Biological Resources Technical Report. These instances are by no means exhaustive. The City should revise its treatment of nitrogen and air pollution accordingly.

B56. In the third paragraph on this page, the DEIR lays the conclusion that the MEC would cause increased nitrogen deposition on Coyote Ridge at the feet of Weiss (1999). However, Weiss (1999) makes no mention of MEC – though the article does review and build on a broad scientific literature regarding excess nitrogen deposition from air pollution and its effects on nitrogen-poor natural habitats like those on serpentine soils. In fact the MEC conclusions were drawn by the California Energy Commission, in part with input from Dr. Weiss, as well as Calpine Corporation, CH2M Hill, staff scientists, and others.

B57. In the numbered paragraphs on p. 287-288, the DEIR attempts to address its assertion that the USFWS assumptions regarding MEC nitrogen deposition are very conservative, though the DEIR fails to quantify what it means by “very conservative.” These paragraphs themselves make a number of unsupported assumptions that are flawed or not necessarily true, and thus point out the lack of evidence or solid analysis in the DEIR. In the absence of such evidence, the DEIR should not depart from precedent in nitrogen impact assessment and mitigation – precedent well established by several prior projects in the area and likely to be continued in the SCVCP.

B58. Paragraph “2)” irrelevantly discusses trends in the reduction of NO<sub>x</sub> (again improperly neglecting ammonia); as if to imply that because others are reducing their pollution it is OK for CVSP to emit more. The declining trend is the baseline against which proposed CVSP emissions must be evaluated. If the DEIR is saying here that its CVSP nitrogen emissions estimates are incorrect, then they should be corrected.

B59. In the paragraph numbered “3)” the DEIR incorrectly implies that emissions from area sources (“indirect sources”) are everywhere less than emissions from a point source. This entirely depends on details of the spatial distribution of emissions, receiving habitats, and aerial mixing, chemistry, and transport. It is possible and even likely for deposition from an area source to exceed deposition from a point source in many of the receptor locations, because an area source is directly upwind from and in proximity to a larger receiving area than is a point source. In the absence of detailed analysis of one or more sophisticated atmospheric models, the best the DEIR can scientifically say is that in some receptor areas deposition will be less than from a point source, while in others it will be greater. The expert controversy the DEIR vaguely alludes to is primarily about which is the best computer model to use in a particular instance, or about how existing

models might best be improved. Nevertheless there are a relatively small number of broadly recognized models, some of which are accepted or stipulated for certain regulatory analyses. Rather than hiding from the complexity of these models and the inevitable attendant scientific discourse about them, the City should either choose the best one and make an analysis, or analyze and compare the results from several reasonable models. In the absence of such analysis the DEIR has no evidence that comparison to a point-source analysis constitutes a worst-case analysis relative to the CVSP.

B60. p. 288: In paragraph “4)” the DEIR appears to claim there is no precedent for significance of biological impacts from nitrogen deposition. This ignores several pre-existing EIR’s and several USFWS endangered species consultations that established precedent in determining significant nitrogen deposition impacts and mitigation.

B61. p. 288, following numbered paragraphs (including footnotes): The DEIR lacks sufficient information to assure us that it fully or correctly interprets the nitrogen analyses of the CVRP and MEC projects. For example, some key pieces of information neglected in the discussion are that the CVRP did not publish nitrogen emissions estimates for sources other than vehicles, despite the planned existence of other sources; and the CVRP provided no estimate of ammonia emissions from vehicles or any source, despite the foreseeable existence of such emissions. (Thus the USFWS NO<sub>x</sub>-to-NO<sub>x</sub> comparison criticized in several places by the CVSP DEIR was at least an apples-to-apples comparison, and based on the data available.) Similarly, the CVSP DEIR fails to provide estimated ammonia emissions. The nitrogen emissions-to-deposition numbers and calculations used and relied on in this DEIR need to be fully presented and explained in order for the public and public agencies to have a full opportunity to review. A full exposition also is lacking from Appendix G.

B62. p. 288: The DEIR’s use of the term “nitrogen emissions” here is inaccurate; in fact the DEIR is only addressing NO<sub>x</sub> emissions. As noted above, ammonia is a strongly biologically active component of nitrogen emissions, and ammonia emissions due to the CVSP must be estimated, disclosed, and addressed. Primary data sources should be cited: for example, the DEIR cites the USFWS biological opinion on the CVRP for the figure of 1,271 pounds of NO<sub>x</sub> (sic) produced per day, yet the biological opinion cites the City’s CVRP DEIR as the source of this figure. It should be noted that the 1,271 pounds figure corresponds to NO<sub>x</sub>, not total nitrogen as stated in the CVSP DEIR.

B63. The DEIR also fails to note that the CVRP emissions estimates did not include some component of increased traffic on Highway 101 due to widening of the highway. The USFWS 2001 biological opinion estimated an additional 6,809 pounds of NO<sub>x</sub> emissions per day would result from full eight-lane buildout with added traffic on Highway 101. The CVSP DEIR should disclose what portion of the traffic load on Highway 101 would be attributable to the CVSP, and whether the resulting nitrogen emissions have been accounted for and mitigated.

B64. Impact BIO-27: While we agree that nitrogen deposition impacts to serpentine from the CVSP would be significant, the figure arrived at of 149 acres appears disproportionately small, relative to figures from comparable projects (see also further comments below). For example, it makes little sense that the CVSP, more than three times as large as the CVRP (70,000 vs. 20,000 jobs; over 2000 vs. 688 acres) would have only two-thirds the nitrogen emissions (66.7%), especially if the calculation is based on current emissions rates (as appears to be stated in paragraph “2” on pages 287-288 and in Appendix G). Instead we logically anticipate an impact approximately three times as large as the CVRP impact. If the City does not detect an error in the NO<sub>x</sub> emissions estimate for the CVSP or the CVRP, for example, it should re-examine the assumptions made in arriving at these figures. Besides CVRP and the MEC, other nitrogen-emitting projects that have mitigated for nitrogen deposition impacts and provide a standard of comparison include the Los Esteros Critical Energy Facility in Alviso, the Donald Von Raesfeld (Pico) plant in Santa Clara, the Gilroy Peaker Plant south of Gilroy, and the Highway 101/85 widening/interchange project in San Jose and the Coyote Valley.

B65. The DEIR (p. 288) refers to Appendix G for a description of other possible methods of determining CVSP nitrogen deposition impacts; in this comment we address those methods (from appendix D to Appendix G). Method 1 is the same one discussed in the DEIR section 4.6.3.7; see our comment above. Methods 2 through 4 use the same NO<sub>x</sub> figure as Method 1, which appears unreasonably low relative to the CVRP NO<sub>x</sub> figure, and so all potentially suffer the same problem. It also appears to us that Method 2 may be mathematically equivalent to Method 1 (though obscured by several intervening calculation steps and rounding error) and so is not an independent estimate, thus explaining the essentially identical results. The same may be true of Method 3: since the CVRP impact estimate was originally just a proportional transformation of the MEC impact, performing a corresponding proportional transformation of the MEC impact or the CVRP impact to estimate the CVSP impact is going to yield essentially the same result.

B66. Use of 3,910 acres as the amount of serpentine grassland habitat surrounding the CVSP area and likely to be affected by excess nitrogen deposition (Method 2, appendix D to Appendix G) constitutes a serious underestimate and results in inadequate assessment of impacts and inadequate mitigation. At minimum, and pending consideration of what the USFWS may recommend, the Sierra Club believes the CVSP must mitigate for nitrogen deposition impacts to the following: the Kirby (6,912 ac), Kalana Hills (244 ac), Metcalf (3,351 ac), Morgan Hill (724 ac), San Felipe (998 ac), Santa Teresa Hills (4,500 ac), and Tulare Hill Corridor (876 ac) units of bay checkerspot critical habitat (total: 17,605 ac), plus other acreage of serpentine chaparral and nitrogen-sensitive habitats (see comment B53). All the BCB critical habitat units listed above are within close proximity to the project and to traffic projected to be generated by the project. To the extent that MEC or CVRP nitrogen impact calculations relied on a similarly restricted acreage of habitat at risk (i.e., 3,910 acres, or other value less than about 17,600 ac), extrapolation from MEC or CVRP calculations (Methods 1 through 3) must be modified to increase the vulnerable receptor acreage in calculating the CVSP nitrogen impact.

#### 4.6.3.8: Impacts of Bailey-over-the-hill

B67. As discussed above, the impact discussion on BOH here and elsewhere in the DEIR is profoundly inadequate due to lack of treatment of indirect and growth-inducing effects.

#### 4.6.4: Mitigation and Avoidance Measures for Biological Resources

B68. Avoidance is considered the first step in minimizing adverse effects of projects on biological resources (e.g., federal mitigation policy: Federal Register 46:7656-7663, January 23, 1981; online at: [www.fws.gov/policy/a1npi89\\_02.pdf](http://www.fws.gov/policy/a1npi89_02.pdf)). The DEIR focuses instead on compensating measures after impacts. We urge the City to revise the Plan to avoid more impacts to habitats, habitat linkages, and species. We note that non-development of the Greenbelt cannot be considered avoidance.

B69. Table 4.6-9: Regarding 79 acres of wetlands impact to Laguna Seca, the natural resource agencies and the Sierra Club prefer what is called “in-kind” mitigation, which is replacement of the habitat type impacted with like habitat. Thus whether the Laguna Seca impacts should be considered self-mitigating cannot merely be assumed but depends on details of the restoration and management of the Laguna Seca as a flood storage basin. For example, ballfields or other non-native landscaping would not be a self-mitigating design. We urge the City to identify Laguna Seca in the CVSP as a natural open space area and to seek to conserve and enhance populations of CTS and CRLF there.

B70. Considering the problematic status of the BCB over its entire range and the number of unique species dependent on limited regional serpentine habitat, the proposed mitigation ratio of 2:1 for serpentine grassland is too low, especially in comparison with (hopefully) temporary restoration impacts to the same habitat, and ratios for riparian habitats (DEIR Table 4.6-9). The City should increase the plan’s avoidance of serpentine, and adopt a ratio of at least 3:1 for mitigation of direct permanent impacts to serpentine. Also see our comment above about avoiding the 4 acres of impact to coastal sage-chaparral scrub.

B71. Mitigation MM Bio-2.2: To accommodate meanders (and wildlife movement, see below), this mitigation measure should provide for greatly increased width of the undeveloped corridor around Fisher Creek between Santa Teresa Boulevard and Metcalf Energy Center.

B72. Mitigations MM Bio-2.4 and MM Bio-5.2: Mitigations need to be added to minimize the impacts on wildlife movement of lighting and noise resulting from permanent operation of the bridges over the Coyote Creek natural corridor, such as sound baffles, minimized, motion-activated and directed lighting, and lighting shields.

B73. Mitigation MM Bio-3.1: This measure should also prohibit landscaping contractors, garden stores and nurseries operating in the plan area from selling non-native invasive plants.

B74. Section 4.6.4.2 Mitigation for impacts to special-status plant species – This section ignores the fact that special status plants other than big scale balsamroot and bent-flowered fiddleneck may be found in the future within the plan area, due to incomplete surveys for the present document, or changes in populations due to yearly variation in rainfall or climate, or due to longer-term shifts in distributions over the life of the plan. Pre-project surveys and mitigations should be provided for all special-status plants with potential habitat in the plan area.

B75. MM Bio-10.7: Experience tells us there is no such thing as “permanent fencing.” Border fencing is likely to be required and desired in any case without a mitigation measure; what this mitigation measure really needs in order to work is monitoring and enforcement of applicable laws and regulations such as leash laws, with associated funding and provisions in the CVSP RMP. As discussed in the letter from the Santa Clara Audubon Society we request a revised DEIR with a detailed mitigation and monitoring plan for special status species.

B76. The mitigation measures for the CRLF should note that the measures may be modified during Section 7 consultation with USFWS.

B77. Mitigation MM Bio 11.1: Avoiding ground disturbance or limiting fill to the non-breeding season for CTS is not a functional mitigation measure, since the habitat would be destroyed in any case, and salamanders would be killed whether breeding in the pond or hiding in their underground summer retreats. The City should adopt measures as recommended by CDFG or USFWS.

B78. Mitigation MM Bio 11.2: To preserve CTS genetic diversity and regional adaptations, this measure should be changed such that, after avoidance and minimization, mitigation of CTS habitat impacts within the CVSP area is strongly favored. There is plenty of opportunity on-site to conserve the species.

B79. A mitigation measure for Impact BIO-13 is required if any project aspect may impact bay checkerspot butterfly movement across its Tulare Hill Corridor critical habitat unit.

B80. We note that these mitigation measures fail to meet a recovery standard for the CTS and other listed endangered and threatened species, and fail to provide habitat linkages for wildlife movement. Needs to recover the listed species (or to conserve unlisted species covered under the SCVCP) must be analyzed and impacts mitigated to meet this standard to make the CVSP consistent with the Santa Clara Valley Conservation Plan effort. The SCVCP and therefore the CVSP also must meet standards of providing functional habitat linkages under the California Natural Communities Conservation Planning Act, which the project with mitigation as proposed fails to do. Habitat linkages and animal movement are discussed at length below under MM Bio-26.1.

B81. Mitigations MM Bio-15.1 through MM Bio-15.6: The mitigation measures for the western burrowing owl are inadequate because the plan fails to avoid enough breeding habitat for the species to conserve it on-site in the development area. Appropriate habitat should be retained in the plan. In addition, a mitigation measure is required for impacts of increased road-kill risk to the owls from construction of the CVSP. For example, suitable nesting burrow habitat could be provided at distances of more than ¼ mile from any road with a speed limit over 30 miles per hour, thereby reducing the chance of owl-vehicle collisions.

B82. Mitigation MM Bio-16.1: The DEIR should substantiate its presumption that a ¼ mile buffer would adequately mitigate heavy construction disturbance of nesting golden eagles. The USGS Northern Prairie Wildlife Research Center (DeJong 2004) references Call (1979) as recommending nest buffers for golden eagle of 0.8 to 1.6 km (½ to 1 mile).

B83. A mitigation measure MM Bio-16.2 is needed to address the significant impact of loss of golden eagle foraging habitat (see discussion of Impact BIO-16, above). A feasible and appropriate measure would be purchase and permanent conservation of nearby foraging habitat at a 2:1 ratio.

B84. Mitigation MM Bio-17.1: This measure should include consultation with CDFG and USFWS, which have stewardship responsibilities and enforcement authorities under the Migratory Bird Treaty Act.

B85. Mitigation MM Bio-18.1: If California horned lizards are found on-site, this measure does not mitigate the destruction of habitat. An appropriate and feasible mitigation is for the CVSP to require the species to be conserved on-site through conservation easements and conservation management.

B86. Mitigation MM Bio-20.1: This measure does not mitigate destruction of roosts. The measure should provide for replacement roosting habitat within the CVSP area.

B87. Mitigation MM Bio-21.1: This measure should include mitigation of loss of breeding habitat for native birds, as discussed under Impact BIO-21, above. Replacement of breeding habitat would be an appropriate and feasible mitigation.

B88. Mitigation MM Bio-26.1: This measure describes an impact, not a mitigation. Construction of new roads, even with culverts or other limited passages, is likely to impair wildlife movement, not improve it. Continuing the status quo of development procedures in the Greenbelt as envisioned in the DEIR does not constitute mitigation or preservation. As has been discussed under Impact BIO-26 and elsewhere above, this DEIR has not adequately presented or acknowledged the magnitude or severity of the plan impacts to wildlife movement in an area scientifically assessed as a critically valuable, irreplaceable regional linkage. The DEIR is remote from adequately addressing the impacts of the CVSP to wildlife movement in the Coyote Valley. The City needs to modify the CVSP to avoid and minimize these impacts, and recirculate the DEIR. For example, some appropriate and feasible changes include:

B88.1. If the North San Jose Alternative is not selected, reduce the size of the development area in the Coyote Valley by about one-half. Re-allocation of some of the currently proposed development to North San Jose would be appropriate and feasible. With the reduced development, re-design the CVSP development area to maximize animal crossing potential, including in the Tulare Hill/Laguna Seca and Greenbelt areas.

B88.2. Conserve and enhance expansive, continuous wildlife movement corridors and buffers by purchase of land or perpetual conservation easements, including the Greenbelt area. Strictly limit humans and pets along corridor areas to day uses of buffers at corridor edges (retaining a wide scent-free corridor: J. Thorne, UC Davis, in litt. 2006; wildlife will not use passages frequented by humans: Anthony Clevenger, Effectiveness of the Trans-Canada Crossing Structures, [http://www.cte.ncsu.edu/CTE/gateway/banff\\_classroom.asp#Clevenger](http://www.cte.ncsu.edu/CTE/gateway/banff_classroom.asp#Clevenger) ), and provide for necessary monitoring and enforcement funding for these restrictions. Provide adequate alternative recreation opportunities for pets and owners. Control feral cats, dogs, and other non-native species in the corridors. Provide ongoing funding for conservation management of the wildlife corridors.

B88.3. Lower roadway design speeds in the plan area to protect wildlife; provide lower-speed lanes and incentives and amenities for lower speed or lower impact commuters, including neighborhood electric vehicles (NEVs), bicycles, and public transit riders (with ancillary air quality and energy benefits).

B88.4. Minimize or modify existing roads crossing wildlife corridors to create many, large, state of the art crossing facilities for a diversity of species. Do not build new roads in the corridors, and remove existing roads in the corridors wherever feasible. Implement an ongoing adaptive management program, in the corridors and throughout the plan area, to monitor and make changes to maximize safe animal movement – for example, testing and implementing the use of fencing, partial barriers, and “escape-ramps” to guide wildlife to designed crossing structures, creating separated lanes in K-rail or other traffic separators in road medians to provide surface breaks for wildlife (see photo), eliminating or modifying night lighting, erecting sound baffles, cultivating screening vegetation, and enhancing sheltering and stepping-stone habitats.



CalTrans photo ( <http://www.fhwa.dot.gov/environment/wildlifeprotection/index.cfm?fuseaction=home.viewArticle&articleID=111> )

B88.5. Close the Metcalf Road–Highway 101 overcrossing to vehicle traffic (re-routing traffic to Bailey or Coyote Valley Parkway crossing) and modify the crossing for animal passage based on successful European and Canadian animal overcrossings (CTE 2007, FHWA 2002b).

B88.6. Expand and enhance the proposed Fisher Creek corridor between the Metcalf Energy Center and Santa Teresa Boulevard to increase corridor width and functionality for wildlife movement, and to reduce flood risk. Enhance wildlife crossings of Monterey Road and Santa Teresa Boulevard along Fisher Creek.

B89. Section 4.6.4.6 Mitigation for Impacts Associated with Nitrogen Deposition: this section is likely to require revision after revising the impacts section on nitrogen deposition. See our comments above regarding section 4.6.3.7.

#### Section 4.6.5 Conclusions Regarding Impacts to Biological Resources

B90. The conclusions in this section often have no disclosed basis of evidence or analysis, but appear to be merely assumed. We find many of the conclusions, including but not limited to the following, are flawed or the adequacy of the mitigation unsupported, as discussed above: Impacts BIO 2, 5, 10, 11, 13, 15-18, 20, 21, 26-33. As discussed above, there are also biological impacts that should be included in this list but were neglected; therefore the list also is incomplete.

## **Hydrology and Water Quality – 4.8**

HW1. The subsection on flooding appears to neglect the risk that failure of the Coyote Reservoir dam would pose to overtopping or failure of Anderson Dam. Please present a re-analysis or clarify.

HW2. Subsection 4.8.3.2 states that the 3800-acre CVSP would have no more impervious surface or runoff than the 688-acre CVRP (p. 335-336). This defies common sense; please present supporting evidence or a re-analysis of CVSP impervious surface and flood effects. If the DEIR means to say that the CVSP will have a similar *ratio* of impervious surface to total surface as the CVRP, this does not change the fact that the much greater total impervious surface in the CVSP will result in need for greater peak flood-bearing capacity. This must be discussed, not dismissed. It also should be noted that 100-year flood protection is considered a barely tolerable minimum for urban areas: 200-year to 500-year protection (ASFP 2007), or a risk-management approach (Carter 2005) is becoming more accepted in the United States. The DEIR should disclose where flood management for the CVSP stands with respect to the more protective 200-year and 500-year standards.

HW2. The same subsection also reports that the project would encroach into the 100-year floodplain of Coyote Creek. There is no compelling reason for the project to allow this, especially since the 100-year floodplain is relatively narrow west of the creek through most of the proposed development area. The analysis also fails to take into account fluvial geomorphology and the likely erosion and migration of meander zones of the creek. Greater public benefits could be achieved by avoiding the floodplain and its hazards, allowing greater floodway conveyance capacity, avoiding development in natural meander zones, and providing a wider riparian area and wildlife corridor around the creek.

### **Comprehensive Commentary addressing the long term affects of inappropriate recognition of historic conditions**

The Coyote Valley Specific Plan (CVSP) DEIR does not provide sufficient information to demonstrate how potential adverse project impacts to regional water supply planning will avoided or minimized. This topic is deferred to other agency programs and studies where future projects to adapt Coyote Valley groundwater recharge infrastructure to address CVSP impact mitigation and address other regional issues including climate change and drought. The subject of flood protection is another area of concern. The DEIR describes reliance on prior flood protection improvements associated with a former project proposal indicated to be a hydrological equivalent, and therefore requiring no additional analysis. The DEIR lacks substance regarding these improvements and effectiveness to mitigate impacts.

Agency personnel referenced in the DEIR include a few a my former co-workers at the Santa Clara Valley Water District (SCVWD) who shared many of my work experiences and institutional knowledge of water supply and flood protection infrastructure in Coyote Watershed. Since my retirement from SCVWD in 2003, participation with the Sierra

Club's Pajaro Watershed Committee involving Federal and State programs including the Pajaro Watershed Integrated Resource Water Management Plan (IRWMP) has contributed to this knowledge. Since the scope of the IRWMP overlaps the CVSP study area, the water supply issues raised involve both the Loma Prieta and Ventana Chapters of the Sierra Club interests.

Section 4.16.2.2      Groundwater recharge in Coyote Valley Sub-basin,      Page  
422

This Section discusses the need for additional ground water recharge basin planning in Coyote Valley to increase SCVWD water supply infrastructure capacity to offset adverse impacts from the CVSP, however this planning is not proposed to be part of this DEIR, but rather segmented, and consequently performed in the future after the DEIR is completed.

*Comment:*      Segmenting this planning is inadequate since the currently proposed CVSP drainage system design is based on the existing degraded hydrologic landscape and water management policy constraints that have accumulated over time in the Coyote Valley. My comments for Appendix J further discuss this degraded landscape (Section 1.1.3.4 Water Resources, Existing Hydrologic Conditions in Coyote Valley). Segmenting drainage and flood control project elements from groundwater recharge project elements has the potential to adversely impact future planning and the development of alternatives for the latter.

The strategy for future studies is described on [pages 27 and 28](#) of the July 2001 SCVWD Ground Water Management Report. Here future studies are discussed as necessary to better understand operational storage capacity and groundwater management alternatives. Deferring groundwater recharge planning is inadequate because solutions may become impractical once the project is approved. The IRWMP has been identified as a means to conduct these studies involving integration of priority community interests.

Appendix D      Groundwater Basin      Page D-10

This section discusses historical groundwater conditions in the Coyote Valley characterizing depth to groundwater elevations which are relevant to the CVSP design limitations for the drainage system and related flood protection project elements. The DEIR proposes that a well at Palm Ave. is representative of the historic groundwater levels in the Coyote Valley Basin. Justification for this site appears to be based on the time span of record keeping for this well.

*Comment:*      Additional information on groundwater management history is necessary to characterize groundwater levels in the Coyote Valley area. Background information should be provided on the evolution of groundwater recharge management policy to maximize basin storage while avoiding adverse high groundwater conditions that impact land use policy. For drought planning purposes, this historical high groundwater avoidance policy should be discontinued in favor a policy that maximizes basin storage.

CVSP alternative designs should be based on a groundwater basin that is characterized at maximum storage potential to address water supply reliability including drought reserves.

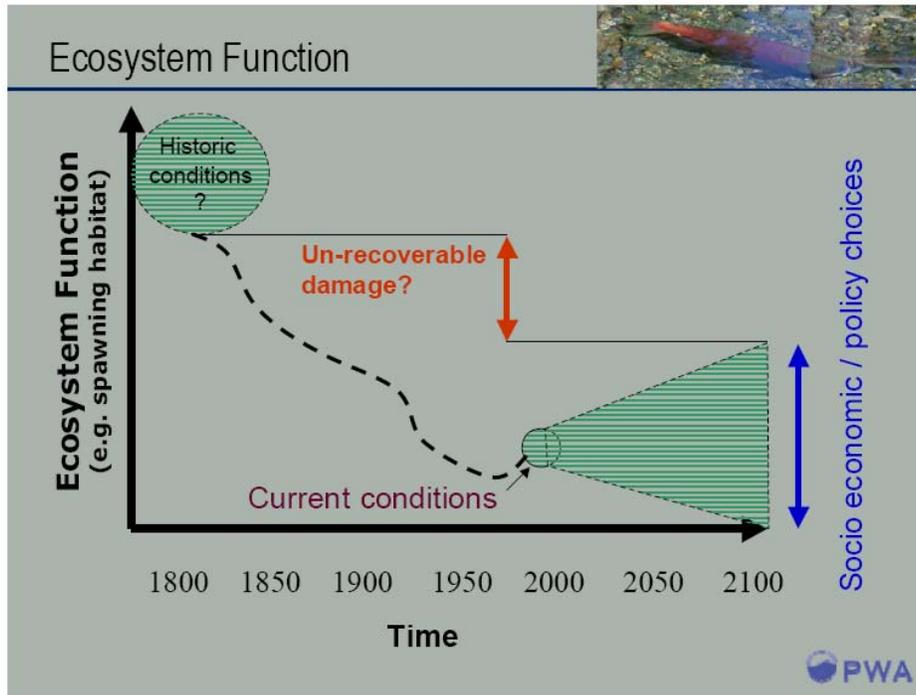
Given the aforementioned back ground information considered, the Palm Ave. monitoring well location proposed in the DEIR to characterize groundwater conditions based on length of record appears to less relevant than a different well used to manage recharge operations to avoid of high groundwater conditions in Coyote Valley. This monitoring well (Noted as Well Number 7 in various reports) is situated near Bailey Road and Santa Teresa Expressway a considerable distance north of the Palm Ave. site proposed as representative in the DEIR. Since the Bailey Ave. location has been the historical monitoring location to manage groundwater levels a groundwater behavior analysis correlating these wells and other data should be performed commensurately with the aforementioned future SCVWD IRWMP water supply planning.

This scale of planning is commensurate with public need and is anticipated to integrate potential groundwater recharge enhancements associated with integrated restoration of Coyote Creek. Here restoring the incised streambed to historic pre-quarry elevations would raise groundwater conditions, recharge potential, basin storage synergistically with habitat restoration and endangered species recovery. These linkages and integration of the various beneficial uses of water are consistent with IRWMP goals, but are likely to conflict with CVSP drainage and flood protection design elements.

This likelihood extends from the projects cross purposes, the drainage project elements to collect and dispose of water as a common enemy, and the IRWMP goals to collect and store water as a valuable resource. Delayed water supply project planning relegates this critical resource to un-necessary risks involving reduced groundwater recharge production and basin storage. Delayed discovery of design conflicts and lost integration opportunities relegates mitigation to water supply projects, imposing impact avoidance to their flood control project predecessors. This could constrain water supply development or require costly mitigation to address conflicts. It also introduces un-necessary risks to implement restoration or enhancement of optimum hydrologic conditions to address water supply reliability involving public resource management as discussed in comments for Section 9.2 Commitment of Future Generations to Similar Use.

The scope of planning for these water supply projects is not adequately discussed in the DEIR; hence it is not possible to determine if the CVSP as proposed would constrain efforts to adapt water supply development in the regional basins including the Santa Clara Valley and Pajaro Valley. Policies that assure land use practices will not prevent government from adapting and optimizing the community's water supply via groundwater basin optimization must precede development commitment in critical recharge zones such as the Coyote Valley. To this end, the hydrologic information absent in the DEIR should be provided to enable this determination involving historical, present, and potentially enhanced hydrologic conditions. The DEIR refers to some of this information in the CVSP hydrologic Model, appendix J, and SCVWD and WMI Studies. The SCVWD Coyote Valley Water Supply Assessment, January 2007 describes future improved analysis to addresses the aforementioned concerns. An example of what is

anticipated to be appropriate information for this work is provided in graphic below (replacing *Spawning Habitat* with *Groundwater Basin Storage* on the abscissa).



Appendix J    Hydrologic Conditions in Coyote Valley    [Page 1-6](#)

This section discusses baseline hydro-geologic conditions in Coyote Valley and outlines water management activities. Paragraph 3 states regional discontinuous clay layers present in low areas of Coyote Valley create perched standing water which is a consequently separated from the continuous aquifer below, and cites the Metcalf percolation Pond among the examples given.

*Comment*        This description is inadequate to characterize water management theory and practice for this area resulting in poor visibility of potential project impacts to water supply and flood protection management.

Groundwater management in this area is briefly described in the DEIR and the aforementioned 2001 SCVWD Groundwater Management Report, alluding to utilization of the streambed, the impounded streambed behind the Coyote Percolation Dam at Metcalf Rd., and quarry ponds are used for ground water percolation purposes. The hydrologic description needs to include the phreatic zone, which is situated between the streambed and the aquifer below playing an important role in groundwater management activities. These activities in some cases have involved conflicts between land use and recharge operations resulting in operational restrictions to avoid development of high ground conditions, as described in SCVWD's 2001 Groundwater management Report Page 28.

In this surface water to groundwater transition zone, water spreading over the landscape is maximized to infiltrate surface water via porous substrate zones to the aquifers below. The lateral extent and relative continuity between surface water and groundwater in this zone generally depends on surface water elevation, spreading area, hydraulic potential, and water delivery to the streambed. Historical constraints on these management objectives are reflected in the historical data base reflecting a perceived less than optimum groundwater recharge and storage basin condition.

Examples of these conflicts should be included and discussed in the DEIR. The discussion of the Coyote Canal in section 4.8.2.1 (pg.327) should expand detail on the purpose of the Canal to manage "loss", which involves a historical complaint resolution between Coyote Valley Farmers and the water conservation agency that preceded the Santa Clara Valley Water District who inherited the Canal upon merger. This matter is briefly mentioned in The [Coyote Valley Water Supply Assessment January 2007](#), without adequate discussion of this management constraint inhibiting groundwater development in the Coyote Sub-basin. Information pertaining to groundwater levels should reference this management constraint and the conflicting land use that influenced the regional groundwater elevations.

Appendix I    Existing Hydrologic Condition in Coyote Valley    [Page 1-17:](#)

The description of the analysis of 100-Year flooding conditions outlines reliance on delayed Coyote Creek flood peak timing with Fisher Creek peak flood flows presuming Anderson Dam Operations accommodate these conditions to take place.

*Question* How does this analysis compare with USACE analysis standards applicable to the Lower Coyote Creek Levee Flood Control Project that protects North San Jose Technology Parks and Residences?

*Comment:* The analysis should utilize a conservative base line site flooding conditions where Coyote and Fisher Creek flood peaks are not delayed and produce a conservative base line to measure downstream impacts.

Appendix I General Hydrologic Impacts from Urbanization [Page 2-6:](#)

This Section discusses the scope of adverse impacts from urbanization. Displacement and relocation of flood water volumes should be included in the list of general hydrologic impacts.

*Comment* The Coyote Valley area has historically and continues to moderate downstream flooding via detention of volumes of floodwater which occur in the Coyote and Fisher Creek floodplains and remnant Laguna Seca lake bed. The relative flood protection benefit provided to downstream communities varies with rainfall-flood frequency and land management practice. The historic land uses that have impacted these floodplains and lakes are proposed to be modified again as part of the CVSP. Given the regional scope of this land use change proposal, a watershed wide perspective of flood protection should be taken including cumulative impacts from other development, the effects of sea level rise associated with global warming, and the plight of the Lower Coyote and Guadalupe Watershed Community situated at low topographical relief where up and down-watershed impacts are likely to take place.

Section 2.1.9.1 Description of Proposed project, Fisher Creek [page 37](#)

This Section describes constructing channel depths to ten feet deep but does not provide sufficient information to evaluate induced flooding and or groundwater management impacts.

Landscape features including stream channel and seasonally high ground water level elevations along the proposed channel alignments should be analyzed and results presented to indicate where groundwater recharge and floodwater disposal design elevations potentially interface and adversely impact each other. The historic conditions bulleted below should be considered in light of the aforementioned IRWMP goals to maximize groundwater recharge and basin storage and potential impacts.

- Post 1950's-present reflecting SCVWD groundwater recharge management constraints to avoid high groundwater conditions.
- Pre 1950's-1935 reflecting SCVWD groundwater recharge management opportunities to restore groundwater conditions.

- Pre 1870 reflecting historic wetland conditions prior to Captain Fisher’s initial drainage canal to the reclaim the Laguna Seca lake bed reported to extend from approximately Tilton Ave. to Monterey Road near the Coyote Grange. (See SCVWD Report by John Clarke, circa 1955, and History of Morgan Hill by Beth Wyman, circa 1980 for more precise locations).

Section 4.8.31            Hydrologic Impacts, Thresholds of Significance            [Page 334](#)

*Comment*        Bullet number 2 needs to be broader to address global warming impacts and management situations where regional water supply enhancements are needed to sustain the baseline regional community. Terms like “substantially inhibit the rehabilitation, restoration, and or enhancement of public trust resources should not be allowed” should be employed to enable society to adapt to climate change and evolution of water supply paradigms.

Bullet number 3, 4, and 5; this flooding significance threshold definition for on or off site impacts appears absolute (zero tolerance) and in conflict with the one-foot depth of flooding significance standard referred to page 336. This apparent conflict needs to be resolved.

Section 4.8.3.2.2        Flooding Impacts, Fisher Creek, Coyote Creek            [Page 336](#)

*Question*        The use of the aforementioned flooding depth significance standard (less than one-foot) is proposed for “other areas” in this section; Does this include locations such as Williams street and the Lower Coyote Creek levee system that protects East and North San Jose residences and Technology Parks respectively?

The DEIR does not address cumulative impacts to the aforementioned areas from this “less than one foot” threshold standard. The CVSP in conjunction with other land developments within the Coyote Watershed needs to be addressed.

Section 4.15.6            Conclusions regarding global climate change            [Page 420](#)

*Comment*        Although the CVSP may be a small contributor to global warming, the project as designed is anticipated to inhibit attempts of local water resource agencies to adapt to the adverse effects global warming will have on water supply. The project is situated within the hydrologic influence area of ground water management and flood management zones where groundwater supply storage may vary in elevation and storage depending on management options. These options should be guarded during these uncertain times and polices to avoid any future development that inhibits the maximum potential storage and output of local water resource assets should be paramount and institutionalized to demonstrate the community’s commitment to reliable water supply.

Since the regional water supply currently relies on imported water to service sixty percent of the demand, and the reliability of this source is likely to be adversely impacted by climate change, a robust local supply capable to manage extended drought will become a measure of a communities where-with-all to demonstrate long term viability. A robust local water supply will need to recognize and implement it’s assets to their full potential

via manageable, and efficient programs that maximize opportunities and minimize unnecessary risks. Proactive programs such as the aforementioned IRWMP involving restoration projects as discussed in comments for Appendix D should be carried out in advance of land use change proposals such as the CVSP.

Section 9.2    Commitment of Future Generations to Similar Use    Page 530

*Comment*    The project is situated within groundwater and floodwater management zones, where groundwater recharge and storage vary with management practice. There is a considerable history of water management practice in this area affecting current (baseline) conditions that should be carefully investigated and reported to provide policy makers with sufficient background of the how this area has been historically managed to address conflicting land use practices involving; water supply/ground water recharge serving regional interests, versus drainage control/reclamation serving local interests.

The outcome of these conflicts has resulted in aquifer recharge constraints to accommodate agricultural land drainage as discussed in comments for Appendix I. These practices and policies should be revisited in light of contemporary drought problems to address long term water management issues anticipated from Global Warming involving more frequent extreme drought and flooding events.

The DEIR does not provide adequate information for these considerations commensurate with the magnitude of the land use changes proposed in the CVSP alternatives. To address the greater community water supply goals, a project alternative that prioritizes stream restoration and cessation of the aforementioned historic constraints to maximize groundwater recharge and basin storage should be developed to and contrasted with the project sponsor's preferred alternative to assure maximum beneficial use potential of this public trust resource.

## DEIR Text for Ready Reference

### Existing Hydrologic Conditions Return

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#### *Chapter 1 – Existing Hydrologic Conditions in Coyote Valley*

Coyote Creek, with headwaters in the Diablo Range southeast of Gilroy, flows for about 75 miles to San Francisco Bay through the cities of Morgan Hill, San José, and Milpitas. The principal tributaries of Coyote Creek within the Santa Clara Valley are Lower Penitencia Creek, Upper Penitencia Creek, Silver Creek, and Fisher Creek. Coyote Creek and its tributaries drain most of eastern Santa Clara County (Figure 1-2). Most of Coyote Creek's watershed is located in rugged, sparsely populated areas to the east of the Santa Clara Valley.

The SCVWD manages Coyote and Anderson Reservoirs, with a combined storage capacity of 115,000 acre-feet, to help regulate non-flood flows in Coyote Creek. Stored water is released to achieve desired flows in the creek for downstream water supply and environmental enhancement. Coyote Creek enters the Coyote Valley from the southeast at Anderson Reservoir. The creek crosses US 101 and meanders northward past Coyote Creek Golf Course to the Coyote Narrows. Several percolation ponds operated by SCVWD are located along Coyote Creek to recharge the groundwater sub-basin in San José. Abandoned quarry ponds, which are also used for groundwater recharge, are located along the creek in the southeastern portion of the CVSP area. Toward the northwest end of the valley, discontinuous basin deposits of clay tend to keep ponds, including the Metcalf Percolation Ponds, and other low areas filled with perched groundwater, above the main saturated aquifer.

The Coyote Canal is located to the east of Coyote Creek and parallels Highway 101. This facility was built to help manage water resources in the valley, and in particular to deliver water around Coyote Creek's recharge area between Highway 101 and the Coyote Creek Golf Course because this recharge historically caused high groundwater levels in Coyote Valley. The Coyote Canal has historically been a tool to manage groundwater in Coyote Valley and prevent the loss of water supplies upstream of the Metcalf Percolation Ponds and the aquifer it recharges.

Several manmade ponds dot the study area, particularly near Coyote Creek where abandoned river gravel quarries remain filled with groundwater all year. Toward the northwest end of the valley, discontinuous basin deposits of clay tend to keep ponds and other low areas filled with perched groundwater, above the main saturated aquifer.

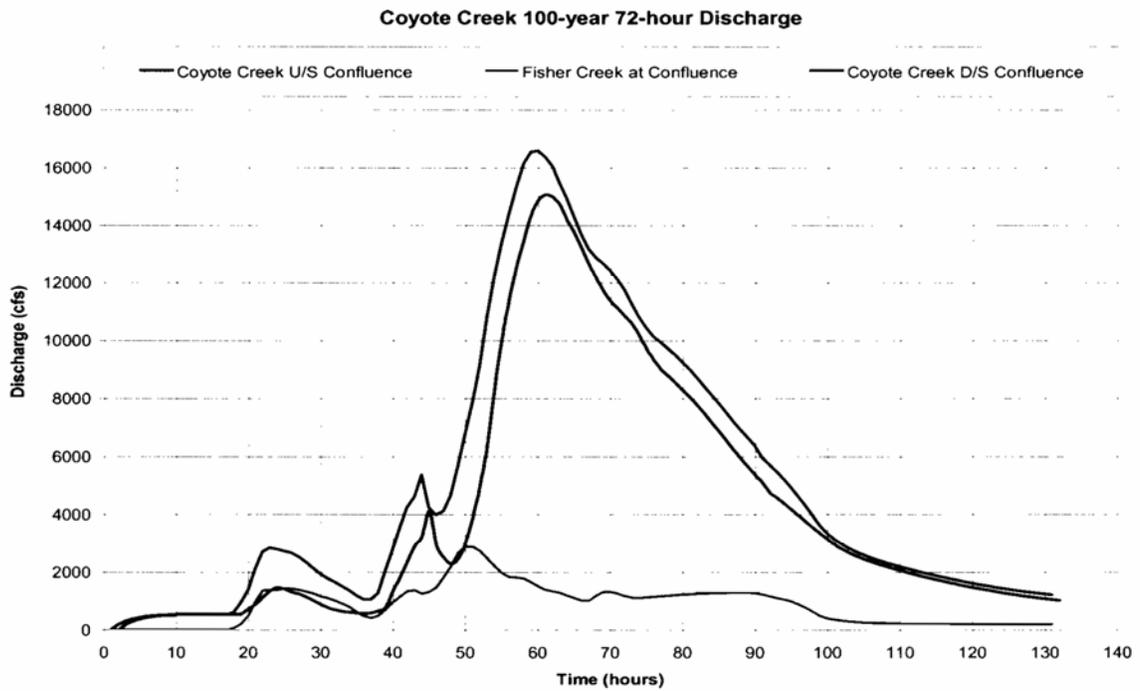
#### **1.2 Surface Water Hydrology**

Surface water hydrology is a term used to describe the study of liquid water where it occurs above the ground surface. Groundwater hydrology generally refers to water storage and distribution below the ground surface. Surface water often begins as groundwater (and vice versa), so the two fields of study are completely inter-related, and this is especially the case in Coyote Valley. For convenience

Appendix I return

*Chapter 1 – Existing Hydrologic Conditions in Coyote Valley*

The published one-percent (100-year) discharge at this location is 15,000 cfs meaning about 1,300 cfs could spill into the western overbank upstream of the golf course. However, additional hydrologic modeling (Figure 1-18) shows that during extreme events, attenuation in Anderson Reservoir affects the timing of Coyote Creek overflows so that the spill would not add directly to the peak flow in Fisher Creek. Rather, the Coyote Creek spill would be attenuated and add to a flow of about 1,150 cfs in Fisher Creek and produce similar inundation along Fisher Creek as shown in Figure 1-16, which is mapped for a flow of 2,400 cfs at Richmond Avenue where the spilled flow would enter Fisher Creek. Between Monterey Highway and Fisher Creek, the Coyote Creek overflow would be at an average depth of less than six inches and would not be mapped as a special flood hazard area.



**Figure 1-18: Coyote Creek and Fisher Creek Discharge at Narrows Confluence**

Figure 1-18 also demonstrates that although the first significant peak of Coyote Creek’s design hydrograph nearly coincides with Fisher Creek’s peak discharge, the second (and larger) Coyote peak occurs as Fisher Creek is within its recession. This phenomenon is due to the relative size of the two watersheds and reservoir attenuation on Coyote Creek.

## Fisher Creek Design reference

### 2.1.9.1 *Fisher Creek*

A key component of the proposed CVSP drainage and flood control system would be significant improvements to Fisher Creek. Fisher Creek is an eight mile long northerly flowing creek located in the central portion of the CVSP area, west of Santa Teresa Boulevard. Fisher Creek drains approximately 16 square miles of undeveloped uplands and agricultural valley floor between Monterey Road and the Santa Cruz Mountains. As part of a project designed to improve flood control and drainage in northern Coyote Valley, the creek was reconstructed in the early 1900's as an approximately 30 to 50-foot wide, seven foot deep manmade earthen channel, generally privately owned and maintained for agricultural and hillside drainage. The following paragraphs describe the improvements to Fisher Creek on a segment-by-segment basis, beginning at the downstream end. Many of the improvements are currently under construction as part of the CVRP project.

Segment 1: Segment 1 of Fisher Creek runs from its confluence with Coyote Creek to a point about 3,600 feet upstream (approximately 1,400 feet east of Santa Teresa Boulevard). Improvements would consist of channel widening and enhancing riparian habitat along its banks. This widened channel would provide some flood storage in the riparian areas. The open water portion of the channel would be maintained to convey flood flows.

Segment 2: Within this segment which extends from 1,400 feet east of Santa Teresa Boulevard to Bailey Avenue, much of the improvements are currently being constructed by the CVRP in a manner that is compatible with the proposed CVSP project. These improvements include a 72-inch outfall being constructed in the channel at the upstream end of the segment. This outfall is referred to as the "North Coyote Valley Flood Control Outfall" (refer to Figure 2.0-10) and would allow the adjacent detention basin to drain to the Fisher Creek channel. The North Coyote Valley Detention basins are described subsequently. The segment of Fisher Creek from the North Coyote Valley Flood Control Outfall to Santa Teresa Boulevard is being widened and riparian habitat enhanced similar to the downstream segment described previously. Widening of this segment adjacent to Detention Basin 2 includes removal of an existing berm and construction of a new dam/embankment (approximately 10 feet high). As a part of the CVRP Fisher Creek improvements, a new box culvert (12 feet by 12 feet) is being constructed beneath Santa Teresa Boulevard adjacent to an existing box culvert of the same size. A weir is being constructed at the culvert entrance underneath Santa Teresa Boulevard to limit downstream flows in Fisher Creek.

The CVRP Flood Control system retains the existing segment of Fisher Creek from Santa Teresa Boulevard to Bailey Avenue, but it would be abandoned and filled as part of the CVSP project. A new flood control bypass channel is being excavated as part of the CVRP improvements, and for the CVSP project, this Fisher Creek bypass channel would replace the existing Fisher Creek. This channel alignment would be located just south of the new Detention Basin 1 and then along the base of the western hills to follow the "historic alignment" and original location of Fisher Creek, as described in Appendix J of this EIR. The bypass channel would be approximately 10 feet deep and would be constructed within a 300-foot wide riparian corridor. The bypass channel would be designed to contain the 100-year flood flow within the banks and would meet the necessary National Flood Insurance Program (NFIP) and Santa Clara Valley Water District (SCVWD) free board requirements.

## Flooding Outside Return

**2.4.3.3 Flooding Outside the Plan Area.** Hydrologic modeling prepared for the original City of San Jose Flood Insurance Study (1982) has been modified to include updated work for the Fisher Creek watershed, under both existing and post-development conditions. To be consistent with established hydrology for Coyote Creek, a 72-hour 100-year design storm is simulated. Figure 2-8 presents 72-hour, 100-year discharge hydrographs for Coyote Creek immediately downstream of the Fisher Creek confluence with and without CVSP, assuming the FIS condition of Anderson Reservoir antecedent storage (81,000 acre-feet).

Because Coyote Creek's drainage area dominates Fisher Creek's, and adequate floodplain storage is maintained in Fisher Creek and Laguna Seca, there is very little impact to Coyote Creek's downstream 100-year hydrograph.

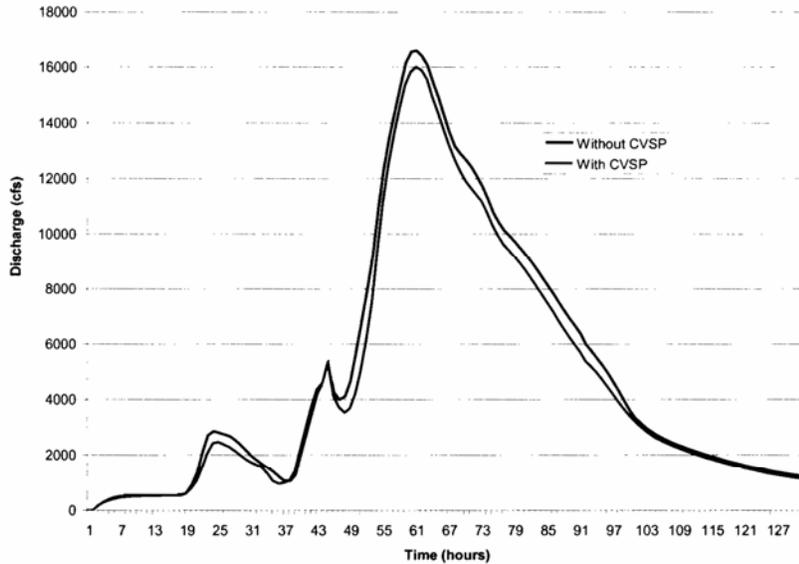


Figure 2-8: Impact of CVSP on Coyote Creek Hydrograph Downstream of Fisher Creek

Table 2-6 lists predicted 100-year discharges for Coyote Creek at William Street with (“Post”) and without (“Exist”) CVSP development. William Street is located at the creek’s historic bottleneck and is the point of initial flooding between Fisher Creek and San Francisco Bay (Figure 2-9). Its bank-full capacity has been estimated to be approximately 9,500 cfs, noting that an upstream capacity of roughly 14,700 cfs downstream of Edenvale limits the discharge of water in the creek channel. Because the initial storage in Anderson Reservoir plays a significant role in the magnitude of downstream flooding, a range of antecedent pool storage has been analyzed, with 81,000 acre-feet representing the modeled 100-year condition (per SCVWD).



Figure 2-9: William Street Park after 1997 Flood.

**Table 2-6: CVSP Impact on 100-year William Street Flooding (cfs)**

Coyote Creek Flow Parameter	Initial Storage in Anderson Reservoir (acre-feet)									
	10,000		30,000		60,000		70,000		81,000	
	Exist.	Post	Exist.	Post	Exist.	Post	Exist.	Post	Exist.	Post
Peak Discharge Below Fisher Creek (cfs)	5,190	5,170	5,250	5,230	7,770	7,220	10,910	10,250	16,590	16,010
Peak Discharge below Edenvale (cfs)	6,580	6,570	6,650	6,640	7,850	7,310	11,340	10,610	14,700	14,700
Peak Discharge at William Street (cfs)	7,130	7,080	7,200	7,140	7,770	7,240	11,360	10,740	14,700	14,700
Spill at William Street?	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Time of Initial Spill (hours)	---	---	---	---	---	---	66	67	54	56
Duration of Spill (hours)	---	---	---	---	---	---	17	13	30	26

Hydrologic modeling summarized by Table 2-6 demonstrates that plan development would not have an adverse impact on 100-year flood discharges at the point of first release out of the Coyote Creek system. Downstream discharge is limited to channel capacity at William Street and local tributaries unaffected by proposed CVSP development.

**2.4.4 Induced Stream Erosion Inside or Outside of Plan Area**

A hydrology and water quality impact is considered significant if the plan would alter existing drainage patterns, including streams and rivers, in a manner that would result in significant erosion inside or outside the plan area.

Development in or near a natural floodplain has the potential to change that floodplain by increasing stream discharges (relative to the undeveloped state) and affecting the balance of sediment transport so that bed or bank erosion within the stream begins or is worsened.

**2.4.4.1 Defining the Features of a Stable Channel.** In recent years, the terms ‘stable’ and ‘sustainable’ have been used more often to describe restoration and project goals. For the purposes of this report, the term ‘sustainable’ is defined as that which is environmentally sensitive, practical, cost-effective, and not only requires a minimum amount of maintenance to perform its function, but also has a minimum negative impact on all related systems. For example, the restoration of Fisher Creek is sustainable because it is designed to be self moderating in terms of sediment budget, it enhances habitat for wildlife and biota, and also provides an environmentally friendly transportation and recreational service (e.g. creek-side trail system).

## Appendix I

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### *Chapter 2 – Project Impacts*

#### **2.2 General Hydrologic Impacts Due to Urbanization**

Land currently vacant, fallow, or in agricultural production will convert to urban uses (residential, commercial, industrial, institutional) as the specific plan area develops. An urban area has the potential to require more water for domestic and municipal demands than a rural area. (This potential, which addressed in detail herein, is not a given.) Urban uses also contain more hardscaped area (building footprints, paving, sidewalks, plazas, etc.) than currently rural areas. These hard surfaces are more impermeable and result in less soil infiltration of rainfall and surface runoff. Moreover, urbanized areas tend to have more developed and efficient drainage systems than rural areas, with storm runoff often conveyed in underground pipes. Storm water runs off more quickly from an urban area than a rural area, all other conditions equal.

Potential hydrologic impacts from urbanization in the development area include:

- Increased water demands;
- Less groundwater recharge;
- Increased storm water runoff; and
- Changes in water quality.

Urbanization could potentially upset the existing hydrologic balance in Coyote Valley. To avoid this impact, the Coyote Valley Specific Plan proposes mitigation by project design. Project elements that provide mitigation by design are introduced in the next section.

##### **2.2.1 *Potential Hydrologic Impact of Urban Typologies***

Land uses shown on Figure 2-2 are used in conjunction with development typologies outlined in Table 2-2 to analyze potential hydrologic impacts. The existing conditions hydrology model described in Section 1.2.3.1 has been modified to reflect increased impervious surfaces within the Development Area assuming that natural floodplain attenuation is eliminated. Table 2-3 presents the results of this analysis for 100-year conditions (10-year conditions would see a proportionally similar change), and Figure 2-3 shows the change in the 24-hour, 100-year discharge hydrograph to Coyote Creek. The potential impact is very significant and would require a substantial increase in Fisher Creek capacity to avoid flooding. Therefore, the proposed CVSP project is designed to include drainage and flood control systems that preserve effective floodplain storage within Coyote Valley. Impacts of the proposed project as described in this chapter have been determined assuming that the described flood control system is constructed as part of the project.

#### 4.11.2.4 Storm Drainage System Impacts

The proposed project includes the construction of a storm drainage system as described in Section 2.8 of this EIR. Other improvements include those already approved as part of the CVRP project as described in Appendix B. These improvements include replacing existing pipes and installing new pipes in Bailey Avenue, Santa Teresa Boulevard, and Monterey Road. With the construction of the new system and implementation of the system currently planned for the CVRP project, impacts to the storm drain system would be less than significant.

As previously described in Section 4.8, *Hydrology and Water Quality*, the construction of HMP basins in the CVSP area may not be desirable or necessary. Unstable portions of Coyote Creek have been identified by the SCVWD near the Silicon Valley Boulevard crossing of Coyote Creek. Improvements at this location would mitigate impacts associated with downstream erosion to a less than significant level.

**Impact UTIL-4:** The volume of stormwater expected to be generated by the proposed CVSP project would be accommodated in the planned storm drainage system. Impacts to Coyote Creek downstream of the CVSP Area would be mitigated by MM HYD-9.1 and 9.2. **[Less than Significant Impact]**

#### [Future groundwater recharge project](#)

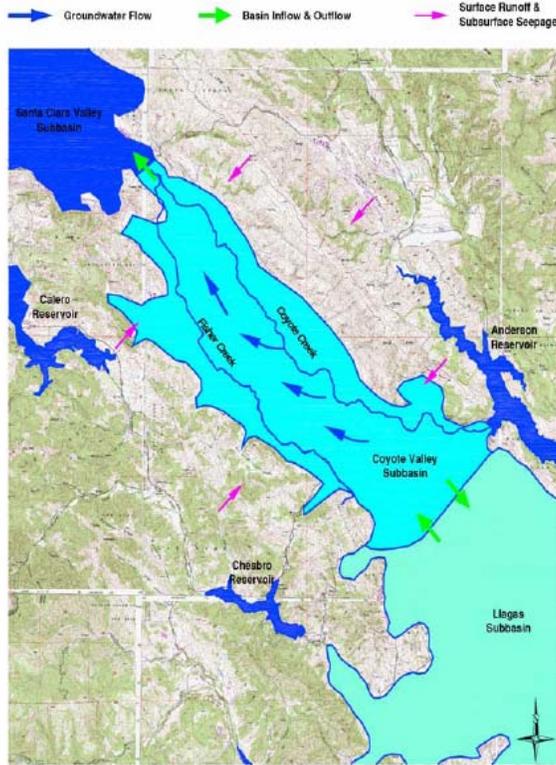
#### 4.16.2.2 Groundwater Recharge in Coyote Valley Sub-basin

Groundwater recharge in the Coyote Valley Groundwater Sub-basin (6,000 afy) would require the construction of groundwater recharge basins within the approximately 3,600-acre Greenbelt area of south Coyote Valley. It is anticipated that these basins would be located according to soil types, the location of Fisher and Coyote Creeks, distance to water sources, surrounding land uses, biological and cultural resource conditions, and other siting criteria to be determined by the SCVWD. The need, location, and construction timing of these basins will be outlined as part of the overall infrastructure financing plan, with input from the SCVWD.

At this time, it is believed that approximately 50 to 100 acres of groundwater recharge basins would be needed, depending upon their location and the underlying soil conditions. To avoid water quality problems, the basins should be at least ten feet deep. Per the requirements of the SCVWD, only advanced treated recycled water would be used to supply the groundwater recharge basins to protect the water quality in the sensitive groundwater sub-basin. The basins would be maintained and operated by the SCVWD according to their existing policies for such facilities.

[Coyote Valley Water Supply Assessment January 2007 return](#)

City of San José  
 Coyote Valley Water Supply Assessment (January 2007)



**Figure D-2: Groundwater Management in Coyote Sub-basin**

The Coyote Canal is located to the east of Coyote Creek and parallels Highway 101. This facility was built to help manage water resources in the valley, and in particular to deliver water around Coyote Creek’s recharge area between Highway 101 and the Coyote Creek Golf Course because this recharge historically caused high groundwater levels in Coyote Valley. The Coyote Canal has historically been a tool to manage groundwater in Coyote Valley and prevent the loss of water supplies upstream of the Metcalf Percolation Ponds and the Santa Clara Sub-basin aquifer it recharges.

Several manmade ponds dot the study area, particularly near Coyote Creek where abandoned river gravel quarries remain filled with groundwater all year. Toward the northwest end of the valley, discontinuous basin deposits of clay tend to keep ponds and other low areas filled with perched groundwater, above the main saturated aquifer.

## Appendix D-13

City of San José  
Coyote Valley Water Supply Assessment (January 2007)



Figures D-7 and D-8 show, respectively, the long-term average depth to groundwater (as measured in feet from the ground surface) during the fall and spring. Both fall and spring groundwater tables become shallower toward the Narrows. Note also that the long term average spring condition shows groundwater at the surface (depth 0) in Laguna Seca at the north end of Coyote Valley.

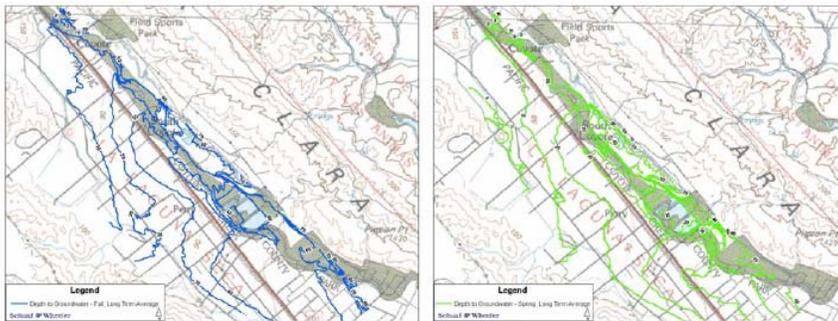


Figure D-7: Avg. Depth to Groundwater in Fall

Figure D-8: Avg. Depth to Groundwater in Spring

**Groundwater Storage.** In April of 2002 the District released a report on a study of the operational storage capacity within the Coyote and Llagas sub-basins. Because the District has not always used a dynamic groundwater model to simulate conditions in the Coyote Basin, estimates of operational storage are made based on the volume between two sets of groundwater elevation surfaces in the basin. The District's analysis is based on groundwater surfaces from the drought of 1976-1977 and the wet conditions of 1982-1983. Two sets of specific yield values were used; one from DWR Bulletin 118, and another from previous estimates made by the District, assuming a constant specific yield is assumed for the entire vertical column under a particular node, ignoring differences in specific yield attributable to the heterogeneity of aquifer materials.

Using the two sets of specific yield values, the District estimates operational storage capacity in the Coyote Sub-basin to be between 23,000 and 33,000 acre-feet. Thus, if water is not recharged to the basin through rainfall, runoff and/or reservoir releases, the basin would run dry in one or two years with current average discharges.

## SCVWD 2001 Groundwater Supply Management

### *Groundwater Supply Management*

#### *Core Elements*

- In 1997, the District entered into a Reallocation Agreement that provides a reliability “floor” of 75 percent of contract quantity for the District’s Municipal and Industrial CVP supply, except for extreme years when CVP allocations are made on the basis of public health and safety.
- A study was recently conducted to determine the frequency of critical dry periods using a statistical approach that showed the preferred strategies are very robust although not perfect.
- The Operational Storage Capacity of the Santa Clara Valley Subbasin was evaluated and refined in 1999 (SCVWD, 1999) – see section on operational storage capacity.

#### **Future Direction**

An ongoing process of monitoring the baseline conditions and contingency action levels is being developed. Updates to the IWRP are scheduled for every 3 to 5 years. The District is currently developing the 2002 IWRP Update.

As the District’s water supply planning document through year 2040, the IWRP has identified the operation of the groundwater basin as a critical component to help the District respond to changing water supply and demand conditions. Planning and analysis efforts for future updates of the Groundwater Management Plan and the IWRP need to be integrated in order to provide a coordinated and comprehensive water supply plan for Santa Clara County.

#### Additional Groundwater Supply Management Activities

##### **Groundwater Modeling**

The District uses a three-dimensional groundwater flow model to estimate the short-and long-term yield of the Santa Clara Valley Subbasin and to evaluate groundwater management alternatives. Six layers are used to represent the subbasin, and changes in rainfall, recharge, and pumping are simulated. The model is used to simulate and predict groundwater levels under various scenarios, such as drought conditions, reduced imported water availability, or increased demand. The groundwater model also allows the District to evaluate the operational storage capacity (discussed below) in the Santa Clara Valley Subbasin.

In the future, a three-dimensional flow model similar to the one used in the Santa Clara Valley Subbasin will be developed for the Coyote and Llagas Subbasins, enabling the District to simulate groundwater conditions throughout the County.

##### **Operational Storage Capacity Analysis**

The operational storage capacity is an estimate of the storage capacity of the groundwater basin as a result of District operation. Operational storage capacity is generally less than the total storage capacity of the basin, as it accounts for operational constraints such as

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***Groundwater Supply Management***

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available pumping capacity and the avoidance of land subsidence or high groundwater levels. Identifying a reasonable range for the amount of groundwater that can be safely stored in wet years and withdrawn in drier years is critical to proper management of the groundwater basin.

The operational storage capacity of the Santa Clara Valley Subbasin was evaluated (SCVWD, 1999) using the groundwater flow model and historical hydrology, which included two periods of severe drought. The key findings of the analysis were that:

- The operational storage capacity of the Santa Clara Valley Subbasin is estimated to be 350,000 af.
- The rate of withdrawal from the basin is a controlling function and pumping should not exceed 200,000 af in any one year.
- The western portion of the subbasin is operationally sensitive which requires the Rinconada Water Treatment Plant to receive the highest priority when supplies become limited.

In 2001, an analysis of the operational storage capacity for the Coyote and Llagas Subbasins was conducted (SCVWD, 2001). As the District does not currently have a groundwater model for these two subbasins, a static analysis was used. Unlike a groundwater model, a static analysis cannot simulate changes in recharge, pumping, or demand. Instead, the operational storage capacity was estimated as the volume between high and low groundwater surfaces, chosen to maximize storage while accounting for operational constraints such as high groundwater conditions. The draft estimate for the combined operational storage capacity of the Coyote and Llagas Subbasins ranges from 175,000 to 198,000 af. The District is working to narrow the range of estimates for operational storage capacity through further analysis.

Having an estimate of the amount of water that can be stored within the basin during wet years and withdrawn during drier times will continue to be critical in terms of long-term water supply planning. As hydrology, water demands, recharge, and pumping patterns change, the estimate of operational storage capacity will need to be updated.

***Subsidence Modeling***

Due to substantial land subsidence that has occurred within the Santa Clara Valley Subbasin, the District uses numerical modeling to simulate current conditions and predict future subsidence under various groundwater conditions. PRESS (Predictions Relating Effective Stress and Subsidence) is a two-dimensional model that relates the stress associated with groundwater extraction to the resulting strain in fine-grained materials such as clays. The District has calibrated the model at ten index wells within the subbasin, and has established subsidence thresholds equal to the current acceptable rate of 0.01 feet per year.

## Hydrologic Impacts reference

### 4.8.3 Hydrologic Impacts

#### 4.8.3.1 *Thresholds of Significance*

For the purposes of this project, a hydrologic impact is considered significant if the project would:

- violate any water quality standards or waste discharge requirements; or
- substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted); or
- substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site; or
- substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site; or
- create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; or
- otherwise substantially degrade water quality; or
- place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map; or
- place structures within a 100-year flood hazard area, such that flood flows would be impeded or redirected; or
- expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam; or
- be subject to inundation by seiche, tsunami, or mudflow.

The proposed project would result in the conversion of land that is currently vacant, fallow, or in agricultural production to urban uses, thereby upsetting the existing hydrologic balance in Coyote Valley. Urban uses contain significantly more hardscaped areas which are impermeable and result in an increase in stormwater runoff and less groundwater recharge. Other hydrologic impacts from urbanization include increased water demands and changes in water quality. These impacts are all described in the section below.

<sup>36</sup> Lawrence Livermore National Laboratory, *California Aquifer Susceptibility: A Contamination Vulnerability Assessment for the Santa Clara and San Mateo County Groundwater Basins*, 2002, p. 17.

<sup>37</sup> County of Santa Clara Department of Agriculture and Environmental Management, *Quarterly Report on Perchlorate Contamination in South County Ground Water Supply*, February 15, 2007.

## Flooding Impacts reference

**Coyote Creek**

While the proposed project includes a 100-foot riparian corridor setback from Coyote Creek, some development is proposed within the 100-year floodplain of Coyote Creek. Development within the floodplain would be required to be placed on fill meeting NFIP regulations and the City of San José's flood hazard ordinance. A detailed HEC-RAS analysis using published 100-year discharge shows that the proposed CVSP floodplain encroachment increases base flood water surface elevations in Coyote Creek by up to 0.8 feet. When defining regulatory floodways, FEMA does not consider any flood surface increase of less than one foot as a significant impact. While the CVSP development in the floodplain would be filled above the increased water surface elevation, one structure on the Coyote Creek Golf Course property (a refurbished maintenance building in the Greenbelt Area) could be impacted by a slight increase in flood depth. This structure, however, is already subject to 100-year inundation.

Fill used to raise building pads would be engineered fill compacted in accordance with FEMA regulations (generally 95 percent relative compaction), but would not be considered an artificial levee requiring three feet of freeboard. However, because Coyote Creek is a perched channel (banks are higher than the surrounding ground surface), some measure of freeboard (one or two feet) would be provided above the 100-year water surface.

With the exception of the one maintenance structure located in the Greenbelt, the area of the CVSP project within the Coyote Creek floodplain would be safely elevated above the 100-year floodplain and fill placed in the floodplain would not affect water surfaces in other locations by more than one foot. For these reasons, the project would not result in significant flooding impacts associated with development within the Coyote Creek floodplain.

**Impact H/WQ-2:** The proposed project would not result in significant flooding impacts associated with development within the Coyote Creek floodplain. **[Less than Significant Impact]**

#### 4.8.3.3 *Flooding Impacts Outside of the CVSP Area*

Hydrologic modeling prepared for the original City of San José Flood Insurance Study (1982) was modified to include updated work for the Fisher Creek watershed, under both existing and post-development conditions. A 72-hour, 100-year design storm was simulated to be consistent with

## Energy – 4.12

### Introduction

The energy section fails to adequately assess energy demand from work commute trips, recycled water treatment and the proposed buildings. The location of the project outside the City's existing urban boundaries and the building of the wastewater treatment plant will have significant impact on energy use and a negative impact on environmental and economic sustainability of the City. This is not consistent with the City's Sustainable City Strategy. Building outside the core area will cost the city in terms of increased pollution and energy use for commuting. The use of public funds to build this new infrastructure –roads, water treatment and ground water recharging will have a long-term fiscal impact on the City. The NSJDPU alternative project is more consistent with Sustainable City Strategy and is recommended.

### Transportation

The auto trip assumptions assume average trip length to be 6 miles and 303,000 new person trips per day with 85% being vehicle trips. Trip lengths will be at least 15% greater. This is based on the assumptions that new residents in the 26,000 dwelling units will work at the nearby offices. The assumption that these employees will move to the new multifamily homes as they are currently settled north of the project area is flawed.

Secondly, the retail workers will probably come from a 20-mile radius, which will be a significantly longer trip than estimated generate more trips. In this case it is not likely the retail workers, who make minimum wage, will be able to afford the new housing.

Thirdly, building at the edge of the urban core of San Jose will increase commuting. This is not consistent with the City's Energy Policy #2. The NSJDPU alternative to the proposed project will require less commuting and have less environmental impact because it is located within existing urban areas with infrastructure and has transit links to draw on a wide labor pool.

The average net density of the project is 16/du/ac. For an area that is so transit rich, this is not acceptable. Studies show that VMT is reduced when the average density is 25/du/ac.

Mitigation measures:

1. Concentrate new development closer to the existing office parks.
2. Reduce the amount of new commercial.
3. Reduce the R-1-1: it is not consistent with sustainable land use and is more energy intensive.
4. Locate plug-in hybrid chargers in all new commercial and residential buildings.
5. Try to establish neighborhoods that achieve an average net density of 25/du/ac by mixing housing types.
6. Increase the residential over commercial as most trips are to service destinations.

7. Neighborhood identity encourages more pedestrian activity and consumer choices that reduce driving. Encourage distinct neighborhoods through urban design, clustered developments and mixed land uses.
8. Reduce the need for driving by providing the commercial services nearby. Specifically locate more commercial uses near the medium density uses.
9. Provide for more internal circulation that relies for smaller vehicles, scooters and the like, which can be utilized by the young and those with limited mobility or vision.

### **Water Treatment**

The project requires an Advanced Recycled Water Treatment Facility (ARWTF) with the capacity of 5-6 mgd. Reverse osmosis will have 70% efficiency, which means the gross supply required is approximately 14,700 afy or 13.1 mgd. The CVSP project would require a net supply of approximately 9,100 afy (eight mgd) of advanced treated recycled water for groundwater recharge and other non-potable demands.

The treatment of wastewater is significantly more energy intensive than is the treatment of raw water for potable use. The proposed ARWTF is estimated to be sized for 10 mgd of advanced treated water. At 0.1 kWh per 1,000 gallon and 5 kWh per 1000 gallons for micro-filtration and RO, respectively.

The energy impacts of the ARWTF alternatives need to be assessed in the EIR, as do the additional requirements of the pumping stations and the pipeline. The need for recycled water and the additional infrastructure improvements could increase energy usage by as much as 10%.

Mitigation measures:

1. Utilize alternative energy to power all water treatment systems.
2. Reduce water demand through building and landscape design.
3. Reduce use of landscaped areas reducing the amount to R-1 zoning units, which will have big water demands.

### **Buildings**

The assumptions of 6500 kWh/du, 13KWh/ft(2)/year, and 18KWh/ft(2)/year for residential, commercial and office respectively is high, considering san Jose wants to comply with AB32 and reduce GHG emissions by 25%.

The proposed mitigations measures such as BIG, LEED, and Energy Star or PG&E's CMFNH program provide for 15% performance improvement above Title 24. This is not enough to off set the energy impacts of constructing and operation of the project.

Ideally the new project would have a zero if not net negative demand on electricity/energy. The project and its buildings need to be energy independent to assist San Jose in reaching its AB32 goal of 25% reduction in GHGs.

### Mitigation Measures

1. Utilize renewable energy for all construction equipment
2. Minimize grading
3. Locate land uses and buildings for optimum solar access. Particular attention should be paid to mitigate shadow impacts through land use planning and site orientation.
4. Identify sites and/or districts and sets of buildings for alternative energy generation systems. Create energy generation overlay districts in areas with prime solar access and where collocation would be beneficial.
5. Design buildings and groups of buildings with alternative energy generation in mind.
6. Place high-rise buildings so shadows cast over streets and 101 freeway.
7. For multifamily housing and all commercial provide for solar thermal water heating.
8. Make each building provide at least 25% of its electricity needs through alternative energy such as PV, solar, wind or solar thermal.
9. Design for plug-in hybrids in all buildings
10. Identify sites for recycling waste and composting.

### **Global Climate Change – 4.15**

General Comment - This section states incorrectly that the CVSP would not be vulnerable to increasing sea level (p. 419). This neglects the fact that a portion of the Valley's water supply comes from the federal Central Valley Project via pumps in the south Delta. The quality and suitability of this water for municipal use is threatened by higher sea levels due to salinity intrusion, especially as exacerbated by projected future collapse of Delta island levees due to pressure and erosion from higher sea levels (Mount and Twiss 2004, Lund et al. 2007).

The DEIR is wholly inadequate in its approach to the issue of global climate change. We incorporate by reference the detailed comments provided to the City of San Jose by the Center for Biological Diversity.

### **Alternatives Discussion – 5.0**

A1. Section 5.6.1.9 contains circular reasoning, or a “catch-22.” By defining plan objectives that stipulate development within Coyote Valley, the City finds that the North San Jose alternative, which meets all other project objectives and is superior in a great many respects, does not meet the project purposes. (The assertion that the NSJDPU alternative would not result in comparable protection of the Greenbelt is inaccurate, because the CVSP entails only impacts to the Greenbelt and at most merely provides for continuation of agriculture in a few areas where agriculture is already in place there.) Such pre-loaded deliberation is not an equitable approach to CEQA alternatives analysis, or to planning for fulfilling the City's needs in a holistic, environmentally sound way. We must ask that the City disclose what criteria it shall require in order to accept *any* alternative site. If no alternative site can be acceptable then this alternatives analysis frustrates the intent and execution of the law.

#### North First Street:

According to the CVSP DEIR (p. 453), development along North First Street infill and reuse lots would provide 83,300 jobs and 32,000 new housing units --- all concentrated along a major transportation corridor identified in the GP as ideal for high density development. Also as stated in the GP, this development would maximize mass transportation efficiency and increase its use, while minimizing infrastructure and energy costs, all GP goals and policies.

Only 600 acres of burrowing owl habitat would be lost here as compared to 1,130 acres in Coyote Valley; only 34 acres of prime farmland would be lost as opposed to 2,400 acres in Coyote Valley (CV SP DEIR, p. 455-6). Based on personal survey of the area (Sierra Club volunteer Annie Belt 2007), developing the environmentally denuded infill lots along North First Street would result in the loss of NO heritage or ordinance-sized trees, NO wetlands, NO oak woodlands, NO grasslands, and NO riparian habitat, all sensitive environmental features identified for protection under the SJ GP.

Development on North First Street would almost certainly enhance the already urban visual/aesthetic appeal of this major transportation corridor, which directly feeds into San Jose's downtown, promising to enliven the City's downtown and enhance her coffers.

#### Coyote Valley:

The largest and most environmentally costly of the proposed development alternatives for Coyote Valley would provide fewer jobs (50,000) and fewer housing units (25,000) than would development along North First Street.

Lost would be 3,800 acres of current open space, far from the City's present urban border, 2,400 acres of which would be prime agricultural land targeted for protection and preservation in the SJ GP. Also lost would be 1,130 acres of burrowing owl habitat, one of several species of special concern that would be strongly negatively impacted by the valley's development.

Development of Coyote Valley would largely destroy the visual and aesthetic value of the Coyote Valley Scenic Corridor tagged for special protection in the General Plan CV SP DEIR, p. 456).

The CVSP DEIR's rosy traffic analysis is based on the highly dubious assumption that people who moved to the new city would also work there: not likely!

The cost to provide, from scratch, the infrastructure, energy, and mass transportation needed to support an entirely new city 12 miles from downtown would very likely negatively impact the City's finances and do nothing to enhance her downtown core. It would also do nothing to enhance the City's sense of identity, another GP goal. (See CVSP DEIR. p. 456.)

Combing through the SJ 2020 GP, no statement was found that would indicate a development like that proposed in Coyote Valley would comply with the City's carefully considered goals and policies outlined in SJ 2020 GP:

“The Housing Major Strategy works with the Growth Management Major Strategy which focuses on encouraging infill development which the City can serve without overwhelming the City's fiscal resources. The housing strategy, therefore, tends to encourage ... higher density residential development particularly near transit facilities. This is exemplified by the Transit-Oriented Development Corridors and Housing Initiative Special Strategy Areas. These areas foster pedestrian-oriented, high-density residential or mixed residential/commercial development to support transit use. Both of these increased the City's potential housing supply by thousands of units. “High density infill housing also works to ensure the efficient use of land and to reduce the pressure to build more housing at the fringe of the city...” (p. 50)

“The Sustainable City Major Strategy is a statement of San Jose's desire to become an environmentally and economically sustainable city. A “sustainable city” is a city designed, constructed, and operated to minimize waste, efficiently use its natural resources and to manage and conserve them for the use of present and future generations.....The strategy seeks to reduce traffic congestion, pollution, wastefulness, and environmental degradation of our living environment. By conserving natural resources and preserving San Jose's natural living environment, the concept of sustainability becomes a means of encouraging and supporting a stronger economy and improving the quality of life for all who live and work in San Jose.... “[T]he General Plan's continued emphasis on land use related issues such as ... orienting development around transit facilities contributes to sustainability by shortening trip lengths and helping to increase the availability and convenience of transit, biking, and walking. This conserves energy and improves water and air quality.... “By promoting the importance of conservation and preservation of natural resources in the City, the Sustainable City Major Strategy works with the other major strategies of the General Plan to ensure that San Jose will be able to provide urban services to its residents in the most efficient manner possible, and that the City will have its best chance to sustain adequate level of services into the future.” (51-2)

“The City should promote the revitalization of the Downtown Core Area as a major focal point for the identity of San Jose.” (56)

“Higher densities are encouraged near passenger rail lines and other major transportation facilities to support the use of public transit.... “[R]emaining vacant land resources are finite and should be used as efficiently as possible, ... the relative affordability of housing is enhanced by higher densities given the rising price of land, and ... higher densities make the delivery of public services more cost-effective. The Plan contains the Housing Initiative and the Transit-Oriented Development Corridors Special Strategy Areas to facilitate the creation of high-density residential and mixed-use development along existing and planned transit routes.” (57)

“[T]he preservation of [agricultural] lands and resources are of mutual concern to both City and County residents and will materially affect life in the future..” (67)

“Greenline/Urban Growth Boundary Goals:

“... 2.Promote fiscally and environmentally sustainable development in locations where the City can most efficiently provide urban services.

“3. Preserve substantial areas of the surrounding hillsides, baylands, and other lands, as open space both to conserve the valuable natural resources contained on these lands and to protect valley floor viewsheds.” (67)

“Concern for the effect of growth and development on the levels of municipal services is a fundamental element of the City’s land use planning philosophy.

“Population and economic growth cause increases in the demand for municipal services. Factors which affect the impacts on the provision of services are the revenue generating potential and geographic location of growth. In general, development in outlying areas is more costly to serve than the same amount of development in infill locations.” (86)

“Development along designated Rural Scenic Corridors should preserve significant views of the Valley and mountains, especially in, or adjacent to, Coyote Valley....” (p. 110)

“Serpentine grasslands, particularly those supporting sensitive serpentine bunchgrass communities of plant and animal species of concern, should be preserved and protected to the greatest extent feasible.” (114)

“Riparian Corridors and Upper Wetlands Goal:

“Preserve, protect, and restore riparian corridors and upland wetlands within the City of San Jose’s Sphere of Influence.

“Riparian Corridors and Upland Wetlands Policies:

“1. Creeks and natural riparian corridors and upland wetlands should be preserved whenever possible.” (114)

“Species of Concern Goal:

“Preserve habitat suitable for Species of Concern, including threatened and endangered species.

“Species of Concern Policies:

“...2. Habitat areas that support Species of Concern should be retained to the greatest extent feasible.” (117)

“Development projects should include the preservation of ordinance-sized, and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance-sized or other significant trees should be avoided...” (118)

“The City should promote development in areas served by public transit and other existing services. Higher residential densities should be encouraged to locate in areas served by primary public transit routes and close to major employment centers. “Decisions on land use should consider the proximity of industrial and commercial uses to major residential areas in order to reduce the energy used for commuting.” (p. 122)

“The Guadalupe Corridor is part of a multi-nodal transportation system which combines light rail with a freeway and incorporates bicycle lanes along portions of its right-of-way. The light rail lines of this corridor are planned to be extended to the east and west along Tasman Drive to link the cities of Milpitas (east) and Sunnyvale and Mountain View (west). The City has already established a strategy for intensifying this corridor through the Housing Initiative process.” (146)

Golden Triangle Area goal 4:

“Housing construction within the Golden Triangle which brings residents closer to job centers and reduces cross-country commutes. The additional housing units are expected to help support the anticipated employment growth....

“[This measure] to improve traffic levels of service directly [implements] the Growth Management Strategy and indirectly [supports] the Economic Development Strategy...” (151)

“The San Jose 2020 General Plan guides new housing development to urban, infill locations. Building upon the strong policy framework contained in the Plan, the Housing Initiative promotes the production of high-density housing and supportive mixed uses in close proximity to public transit corridors. This innovative and proactive program focuses on a portion of the Guadalupe Transit-Oriented Development Corridor from Highway 101 to Cottle Road and Coleman Avenue....

“The objectives of the Housing Initiative are to produce high density housing for all income levels, encourage public transit use, locate housing near job centers, optimize the service capacity of existing infrastructure, and encourage more efficient use and reuse of land.” (152)

“The efficient use of land, infrastructure, and urban services is becoming increasingly important as the City matures and vacant land is absorbed by urban development. The General Plan contains policies to encourage the efficient use and reuse of lands for housing, directing more intensive residential development to key locations, including Downtown and Transit-Oriented Development Corridors. It is critical that planned higher densities occur so that San Jose can provide sufficient housing opportunities for its existing and future residents within the Urban Service Area.” (SJ GP, p. 153-4)

### **Growth-Inducing Impacts – 7.0**

GI1. This section of the DEIR is entirely dismissive of growth-inducing impacts without justification and based on flawed assumptions. The first assumption (p. 524) irrelevantly states that growth is planned in the CVSP area. The text goes on to acknowledge that the

Plan will lead to growth in the CVSP area, but then, that is the explicit purpose of the plan, so clearly this does not refer to growth-inducement in the *surrounding* area.

GI2. The second assumption is patently false, as the Plan *will* extend infrastructure outside the Urban Growth Boundary, into the area surrounding the CVSP plan area – namely the proposed, improved and enlarged Bailey-over-the-hill Road, and improvements to Monterey Road and Santa Teresa Boulevard – notably south toward Morgan Hill. The BOH re-alignment is not even mentioned in this section. Yet this significant access improvement to the Almaden Valley, the South Almaden Valley Urban Reserve area, McKean Road and Uvas Road areas cannot rationally be excluded as fostering and removing obstacles to economic and population growth in these areas, including new housing. The DEIR traffic analysis supports this point, projecting greatly increased traffic in all these areas due to the project (see below). Growth-inducement can also reasonably be expected in Morgan Hill and the Greenbelt, due to increased job availability in closer proximity with improved access, all created by CVSP.

GI3. The third assumption of this section also is false because Bailey-over-the-hill is not needed for the CVSP area development. The lack of importance of the BOH alignment to the CVSP is supported by the traffic analysis, which shows nearly all commuter exchange with surrounding areas taking place via public transit or other roads. In addition, the proposal includes interchanges with Highway 101 that would improve access to lands east of 101, outside of the project area. Improved access and higher traffic volumes are expected at points accessing lands east of 101 at the proposed Coyote Valley Parkway, Bailey Road, and Metcalf Road. The traffic analysis for Metcalf Road supports this point (see below). The Growth-Inducing Impacts section fails to mention these access improvements east of 101. The CVSP project also improves access to and is likely to induce growth in the adjacent Greenbelt area unless specific additional restrictions on development there are put into effect, which the CVSP does not propose. The DEIR does not provide substantive evidence that road widenings through the Greenbelt are needed to serve the proposed CVSP development.

### Appendix C – Traffic

TX1. Traffic volumes within and outside the development area increase markedly under the CVSP (Table 9, Appendix C pp. 58-59); the following are all increases due to CVSP:

150 vehicle-trips, lower Metcalf Road	Change due to CVSP: +44%
900 vehicle-trips, Bailey Ave (Santa Teresa to McKean)	+63%
3100 vehicle-trips, Monterey Road (Bernal to Bailey)	+181%
more than 1100 vehicle-trips, Monterey Road (Bailey to Cochrane)	+44%
3870 vehicle-trips, Santa Teresa Boulevard (Bernal to Bailey)	+271%
about 500 vehicle-trips, Santa Teresa Boulevard (Bailey to Tilton)	+49%
about 300 vehicle-trips, Uvas Road (Bailey to Oak Glen)	+56%
more than 500 vehicle-trips, McKean Road (Bailey to Harry)	+58%

Cumulatively this represents an increase in traffic volume between the development area and surrounding areas approaching 10,000 vehicle-trips on surface streets alone (i.e., not counting increased traffic on Highway 101). This traffic would drastically impact the ability of wildlife to survive and move within and across the Valley (see above, Biological Resources), and also is reflective of the growth-inducing pressure of the CVSP on surrounding areas (see above, Growth-Inducing Impacts)

### **Appendix I – Geotechnical**

GX1. The Geotechnical Report states incorrectly that the only reservoir upstream of the study area is Anderson Reservoir (Appendix I p. 14). Coyote Reservoir is upstream of Anderson Reservoir, and is also vulnerable to earthquake and flood. A failure of the Coyote Reservoir dam could result in overtopping or failure of Anderson Dam. This risk must be added to the “reservoir embankment failure” scenario and re-evaluated.

### **V. Summary Conclusion**

Given the foregoing deficiencies, the DEIR must be revised and recirculated. The present DEIR cannot properly form the basis of a final EIR. In order to cure the numerous defects described above (as well as submitted by other individuals and organizations), the revised DEIR must necessarily include substantial new information that triggers CEQA’s recirculation request. Failure to recirculate the revised DEIR would violate CEQA.

Thank you,



Melissa Hippard  
Chapter Director

## References

- ASFPM. 2005. Levees: the double-edged sword. White Paper on National Flood Policy Challenges, Association of State Floodplain Managers. 10 pp. Online at: [www.floods.org/PDF/ASFPM\\_Levee\\_Policy\\_Challenges\\_White\\_Paper\\_021907.pdf](http://www.floods.org/PDF/ASFPM_Levee_Policy_Challenges_White_Paper_021907.pdf)
- Bulger, J.B., Scott Jr., N.J., Seymour, R.B. 2003. Terrestrial activity and conservation of adult California red-legged frogs *Rana aurora draytonii* in coastal forests and grasslands. *Biological Conservation* 110:85–95.
- Call, M. 1979. Habitat management guides for birds of prey. U.S. Department of the Interior, Bureau of Land Management, Technical Note 338, Filing Code 6611.
- Carter, N.T. 2005. Flood risk management: federal role in infrastructure. Congressional Research Service, Library of Congress, Washington, DC. Order Code RL33129. Online at: <http://fpc.state.gov/documents/organization/56095.pdf>
- Chace, J.F., and Walsh, J.J. 2006. Urban effects on native avifauna : a review. *Landscape and Urban Planning* 74:46-69.
- CTE (Center for Transportation and the Environment). 2007. Banff Field Course – Links. North Carolina State University. Online at: [http://www.cte.ncsu.edu/CTE/gateway/banff\\_links.asp](http://www.cte.ncsu.edu/CTE/gateway/banff_links.asp)
- DeLong, J. P. 2004. Effects of management practices on grassland birds: Golden Eagle. Northern Prairie Wildlife Research Center, Jamestown, ND. 22 pages. Online at: <http://www.npwrc.usgs.gov/resource/literatr/grasbird/goea/goea.htm>
- FHWA (Federal Highway Administration). 2002a. Critter crossings: Linking habitats and reducing roadkill (Website). U.S. Department of Transportation, Washington, DC. Online at: <http://www.fhwa.dot.gov/environment/wildlifecrossings/main.htm>
- FHWA (Federal Highway Administration). 2002b. Greener Roadsides – Summer 2002: The International Scan Tour Addressing Wildlife Ecology and Transportation Issues in Europe (Website). U.S. Department of Transportation, Washington, DC. Online at: <http://www.fhwa.dot.gov/environment/greenerroadsides/sum02p1.htm>
- Forman, R.T.T., Sperling, D., Bissonette, J.A., Clevenger, A.P., Cutshall, C.D., Dale, V.H., Fahrig, L., France, R., Goldman, C.R., Heanue, K., Jones, J.A., Swanson, F.J., Turrentine, T., Winter, T.C. 2003. *Road Ecology: Science and Solutions*. Island Press, Washington, DC. 481 pp.
- Loredo, I., VanVuren, D., and Morrison, M.L. 1996. Habitat use and migration behavior of the California tiger salamander. *Journal of Herpetology* 30:282-285.

- Lund, J., Hanak, E., Fleenor, W., Howitt, R., Mount, J., and Moyle, P. 2007. *Envisioning Futures for the Sacramento-San Joaquin Delta*. Public Policy Institute of California/University of California, Davis, California. 324 pp. Online at: [www.ppic.org/main/publication.asp?i=671](http://www.ppic.org/main/publication.asp?i=671)
- Manning, R. 1995. *Grassland: The history, biology, politics, and promise of the American prairie*. Penguin Books, New York.
- Mayr, E. 1970. *Populations, Species, and Evolution*. Belknap Press, Harvard University, Cambridge, MA. 453 pp.
- Mount, J., and Twiss, R. 2004. *Subsidence, Sea Level Rise, Seismicity in the Sacramento-San Joaquin Delta: Report to the Levee Integrity Subcommittee of the California Bay-Delta Authority Independent Science Board*. California Bay-Delta Authority, Sacramento, December 2004. 22 pp. Online at: [http://science.calwater.ca.gov/pdf/isb/ISB\\_subcom\\_levee\\_report\\_120104.pdf](http://science.calwater.ca.gov/pdf/isb/ISB_subcom_levee_report_120104.pdf)
- Newton, I., Wylie, I., and Asher, A. 1991. Mortality causes in British barn owls *Tyto alba*, with a discussion of aldrin-dieldrin poisoning. *Ibis* 133:162-169.
- Raupach, M.R., Marland, G., Ciais, P., LeQuere, C., Canadell, J.G., Klepper, G., and Field, C.B. 2007. Global and regional drivers of accelerating CO2 emissions. *Proceedings of the National Academy of Sciences, PNAS Early Edition*, published online May 22, 2007: [www.pnas.org/cgi/doi/10.1073/pnas.0700609104](http://www.pnas.org/cgi/doi/10.1073/pnas.0700609104)
- Santa Clara County. 2000. *Coyote Valley Greenbelt: Implementation Challenges*. County of Santa Clara, Planning Office, December 2000. Online, search "greenbelt" at: [www.sccgov.org](http://www.sccgov.org)
- Saunders, D.A., Hobbs, R.J., and Margules, C.R. 1991. Biological consequences of ecosystem fragmentation: a review. *Conservation Biology* 5:18-32.
- Smith, M.A., and Green, D.M. 2005. Dispersal and the metapopulation paradigm in amphibian ecology and conservation: are all amphibian populations metapopulations? *Ecography* 28:110-128. Online at doi:10.1111/j.0906-7590.2005.04042.x
- Soule, M.E., editor. 1986. *Conservation Biology: The Science of Scarcity and Diversity*. Sinauer Associates, Sunderland, Massachusetts. 584 pp.
- Thorne, J.H., Ph.D. 2006. Letter to David Johnston, California Department of Fish and Game, November 15, 2006. 3 pp.
- Thorne, J.H., Cameron, D., and Jigour, V. 2002. *A guide to wildlands conservation in the central coast region of California*. California Wilderness Coalition, Davis, California. 143 pp. Online at:

<http://conserveonline.org/workspaces/sierra.azul.workspace/Central%20Coast%20Report.pdf>

Thorne, J.H., Cameron, D., and Quinn, J.H. 2006. A conservation design for the central coast of California and the evaluation of mountain lion as an umbrella species. *Natural Areas Journal* 26:137-148.

Todd, D., and Wellicome, T. 2005. Status of the burrowing owl (*Athene cunicularia*) in Alberta: Update 2005. Alberta Wildlife Status Report No. 11, Update 2005. Alberta Sustainable Resource Development and Alberta Conservation Association, Edmonton, Alberta, Canada. 28 pp. Online at: [www.srd.gov.ab.ca/fishwildlife/status/pdf/bowl.pdf](http://www.srd.gov.ab.ca/fishwildlife/status/pdf/bowl.pdf)

Trenham, P.C., Koenig, W.D., and Shaffer, H.B. 2001. Spatially autocorrelated demography and interpond dispersal in the salamander *Ambystoma californiense*. *Ecology*, 82:3519–3530.

Twitty, V.C. 1959. Migration and speciation in newts. *Science* 130:1735–1743.

USFWS. 2001. Formal endangered species consultation on the U.S. Highway 101 Widening, Route 85/U.S. 101 South interchange, Riparian and Wetland Consolidated Biological Mitigation Project, Bailey Avenue Extension/U.S. 101 interchange, and Coyote Valley Research Park projects, San Jose and Santa Clara County, California (file 1-1-01-F-186). Letter to Calvin C. Fong, U.S. Army Corps of Engineers, San Francisco District, from Cay C. Goude, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, Sacramento, California. July 31, 2001. 60 pp. plus attachments.

Weiss, S.B. 1999. Cars, cows, and checkerspot butterflies: nitrogen deposition and management of nutrient-poor grasslands for a threatened species. *Conservation Biology* 13: 1476-1486 (doi:10.1046/j.1523-1739.1999.98468.x)

Weiss, S.B. 2006. Impacts of nitrogen deposition on California ecosystems and biodiversity. Final Report, CEC 500-2005-165. California Energy Commission, Public Interest Energy Research Program, Sacramento, CA. Online at: [www.creeksidescience.com/files/weiss\\_2006\\_nitrogen.pdf](http://www.creeksidescience.com/files/weiss_2006_nitrogen.pdf)