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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

May 21, 2004

Jerome Wiggins
U.S. Department of Transportation
Federal Transit Administration, Region IX
201 Mission Street, Suite 2210
San Francisco, CA 94105

Subject: Draft Environmental Impact Statement (DEIS) for the Silicon Valley Rapid Transit Corridor (SVRTC) BART Extension to Milpitas, San Jose and Santa Clara, Alameda and Santa Clara Counties, California (CEQ #040134)

Dear Mr. Wiggins:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

The DEIS describes the proposed 16.3-mile extension of the San Francisco Bay Area rapid Transit (BART) system, beginning at the planned Warm Springs BART Station in Fremont, continuing through Milpitas and San Jose, and terminating at Santa Clara. Three alternatives are under consideration for this project: the No-Action Alternative, the "New Starts" Baseline Alternative, and the BART Extension Alternative.

Based on our review, EPA has rated the DEIS as Environmental Concerns - Insufficient Information (EC-2). We are particularly concerned that the document does not fully address the connection between the proposed action and the BART Warm Springs Extension Project, and lacks information on the environmental impacts of the No-Action Alternative.

Our comments also address issues that should be considered in the final EIS (FEIS) pertaining to impacts on water resources, air quality, cumulative impacts, and environmental justice. Please see the enclosed Detailed Comments for a description of these concerns and our recommendations. A *Summary of EPA Rating Definitions* is also enclosed.

On May 17, 2004, EPA attended a meeting with FTA and the project proponent, the Santa Clara Valley Transit Authority (VTA), to discuss the project. The meeting was very informative and we appreciate being given the opportunity to participate. At the meeting, EPA

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raised our concerns regarding this project and the BART Warm Springs Extension Project being *connected actions*, as defined at 40 CFR 1508.25. It was concluded that the issue warranted further discussion. EPA looks forward to working with FTA, VTA and BART to address the concerns we have identified. We also offer our assistance with building partnerships and fostering communication in an effort to improve transportation options in the Bay Area, protect the environment, and achieve the objectives of NEPA.

F1.2
(cont.)

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send two copies to the address above (mail code: CMD-2). If you have any questions, please contact me or David P. Schmidt, the lead reviewer for this project. David can be reached at 415-972-3792 or schmidt.davidp@epa.gov.

Sincerely,



Lisa B. Hanf, Manager
Federal Activities Office
Cross Media Division

Enclosures:

EPA's Detailed Comments
Summary of EPA Rating Definitions

cc: Tom Fitzwater, Santa Clara Valley Transport Authority
Shari Adams, San Francisco Bay Area Rapid Transit District

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) FOR THE SILICON VALLEY RAPID TRANSIT CORRIDOR (SVRTC) BART EXTENSION, May 21, 2004

Connected Action to BART Warm Springs Extension Project

The proposed SVRTC project is part of a larger plan to extend San Francisco Bay Area Rapid Transit (BART) from Fremont to Santa Clara, California. The Federal Transit Administration (FTA) and the BART District are separately evaluating alternatives for the first segment of the extension, a 5.4-mile stretch from the existing Fremont Station to a new station at Warm Springs. The agencies have just recently completed scoping under the National Environmental Policy Act (NEPA) for this first segment, and EPA submitted comments on May 17, 2004.

The SVRTC DEIS evaluates alternatives for extending BART from the proposed Warm Springs Station to Santa Clara. All of the alternatives evaluated for the extension to Santa Clara assume, and are dependent on, the construction of the first segment from Fremont. BART service could not be extended along the proposed SVRTC unless the segment from Fremont to Warm Springs is built first (i.e., it does not have independent utility).

Accordingly, the two BART projects appear to be connected actions, as described at 40 CFR Part 1508.25(a)(1), and may have more appropriately been evaluated in the same Environmental Impact Statement (EIS). Because the two projects appear to be connected, EPA is concerned that the range of reasonable alternatives available to FTA for both projects may be unnecessarily restricted.

F1.3

In our scoping comments to FTA on the BART Extension Project to Warm Springs, EPA made several recommendations for addressing this issue. Those recommendations are restated below for consideration in your decision-making on the SVRTC extension project.

Recommendations:

- (1) Evaluate the independent utility and logical termini of each project. How does a project extending BART from Fremont to Warm Springs stand alone? How does the SVRTC project alternative to extend BART from Warm Springs and to Milpitas, San Jose, and Santa Clara stand alone, particularly in light of the fact that there is currently no BART station in Warm Springs?
- (2) If the projects are in fact connected actions as defined by NEPA regulations, FTA could incorporate the Warm Springs NEPA analysis into the NEPA process for the SVRTC Project. One option is to combine the two projects in a Supplemental DEIS for the SVRTC Project, and later issue one final EIS (FEIS) and Record of Decision (ROD).
- (3) Alternatively, the DEIS for the BART Warm Springs Extension Project and the FEIS for the SVRTC Project could include a discussion of the independent utility and logical

termini for each project. The ROD for the BART Warm Springs Extension EIS should be completed prior to releasing the FEIS for the SVRTC Project. This removes the potential for limiting the range of alternatives to be analyzed during the environmental review process for the Warm Springs BART Project. If an alternative location is selected for the Warm Springs Station, the FEIS for the SVRTC Project should reflect this change.

F1.3
(cont.)

Alternatives Analysis

The No-Action Alternative described in the DEIS consists of the existing SVRTC roadway and transit networks, as well as programmed improvements that are identified in the *San Francisco Bay Area Regional Transportation Plan (RTP)* through the long-range planning horizon year 2025. Table 3.2-2 (p. 3.2-2) lists 17 proposed transit projects.

Throughout Chapter 4 (Environmental Analysis) of the DEIS, most sections that describe impacts to environmental resources do not provide an impact assessment for the No-Action Alternative. Instead, the text indicates that projects planned under that alternative will undergo separate environmental reviews to define their impacts and mitigation measures. In addition, it appears that this information is not accurately reflected in the tables that compare the impacts of the alternatives. The *Summary of Long-Term Impacts* and the *Summary of Construction Impacts* (Tables 1.5-1 and 1.5-2, respectively) both indicate "no impacts anticipated" under the No-Action Alternative for most resources. This is not supported by the information presented in Chapter 4.

F1.4

The alternatives analysis should present the environmental impacts of the proposal and the alternatives (including the No-Action Alternative) in comparative form, sharply defining the issues and providing a clear basis for choice among options by the decision-maker and the public (40 CFR 1502.14). The lack of information in the DEIS on the environmental impacts of the No-Action Alternative precludes this comparison. EPA recognizes that it may be difficult to project with certainty the environmental impacts over the next 20 years of the 17 proposed transit projects that make up the No-Action Alternative. However, a more rigorous comparison of the merits of each alternative better achieves the purposes of NEPA.

Recommendations:

- (1) The FEIS should provide additional information on the environmental impacts of the No-Action Alternative, and identify appropriate mitigation measures to reduce any adverse environmental impacts.
- (2) The information in the summary tables (Tables 1.5-1 and 1.5-2) should be consistent with the environmental analysis provided in Chapter 4.
- (3) Incorporate into the FEIS information from the *San Francisco Bay Area RTP* and other sources regarding impacts from planned projects under the No-Action Alternative.

This would allow the public and decision-makers to better evaluate the comparative merits of each alternative. At a minimum, it would be helpful to describe general impacts that may occur from similar expansion, upgrade, or construction projects, and the locations where those impacts could occur.

F1.4
(cont.)

Water Resources

CWA Section 303(d) Impaired Waters

The Clean Water Act (CWA) requires states to develop a list of water quality limited segments, establish priority rankings, and develop action plans, called Total Maximum Daily Loads (TMDL), to improve water quality. Both Coyote Creek and the Guadalupe River are listed in California's 2002 CWA Section 303(d) list of Water Quality Limited Segments. Coyote Creek is listed for diazinon and the Guadalupe River is listed for diazinon and mercury. The proposed project could have short and long-term impacts on these resources.

The DEIS does not discuss CWA 303(d) listings in the project area, whether TMDL's have been established for those water bodies, and what impact the proposed project might have on meeting CWA §303 goals.

F1.5

Recommendations:

The FEIS should provide information about all CWA Section 303(d) impaired waters and efforts to develop TMDL's. It should describe existing restoration and enhancement efforts for those waters, how the proposed project will coordinate with on-going protection efforts, and any mitigation measures that will be implemented in order to avoid further degradation of impaired waters. The FEIS should also provide a description of the CWA 303(d) program in Section 4.4.2.2 (Regulatory Setting).

Wrigley Creek

The DEIS states that, due to the construction of the South Calaveras Future Station, Wrigley Creek will be moved approximately 120 feet to the west of its current location (p.4.4-22, paragraph 1). There is no rationale provided for having to move the creek, and no discussion of the ecological functions and values associated with Wrigley Creek which might be lost from this action. Avoidance should always be the first consideration when addressing impacts to waters of the U.S., and this has not been demonstrated in the DEIS.

F1.6

Recommendation:

The FEIS should provide a description of the ecological functions and values associated with Wrigley Creek, as well as the rationale for why it must be relocated. Similar

information should be provided for any waters of the U.S. that are impacted by the project and for which mitigation measures are proposed.

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(cont.)

Upper Penitencia Creek Floodplain

The DEIS states that the Berryessa Station will be located in the floodplain of Upper Penitencia Creek. Several references are made to the Santa Clara Valley Water District (SCVWD) drainage bypass structure that would be a component of the plan to accommodate 100-year flood flows (Sections 3.4.2.2 and 4.18.4.3). It is EPA's understanding that the SCVWD has abandoned this flood control project and that the entire upper Penitencia flood control study is being conducted by the Army Corps of Engineers (ACOE). Local agencies, stakeholders and the ACOE have been meeting to discuss potential alternatives, one of which is a floodplain alternative that uses the existing channel alignment and would need additional right-of-way for planned flooding.

F1.7

Recommendations:

The FEIS should include the most current information available regarding flood control planning, particularly where structures and alignments are located in the 100-year floodplain. EPA also recommends that a representative of the ACOE be invited to participate as a member of the Technical Advisory Committee (Section 9.3.1.4) that provides agency coordination and technical input in the development of the SVRTC EIS.

Steelhead and Salmon Habitat

The DEIS states that Coyote Creek, Upper Penitencia Creek and the Guadalupe River either support, or have the potential to support, Central California Coast steelhead and fall-run Chinook salmon (pp. 4.4-6 to 4.4-9). It indicates that these waterways provide degraded habitat that may be affected by the project, and that a number of fishery conservation and restoration efforts have been implemented. Chapter 4 does not address implications of the project site being located within an area identified as an Essential Fish Habitat (EFH) under the Pacific Coast Salmon Fish Management Plan (per the February 20, 2002, letter from NOAA-Fisheries located in Appendix C).

F1.8

Recommendation:

The FEIS should address the project's impacts in relation to the EFH designation, indicate if an EFH assessment has been performed, and provide information on the emphasis that NOAA-Fisheries has placed on the Upper Penitencia Creek as a stream for salmon and steelhead migration and rearing habitat.

Air Quality

The DEIS provides a thorough discussion of regional air quality issues, general and transportation conformity requirements, and the long-term benefits to be achieved by reducing auto emissions. However, additional details on projections of emissions generated during the construction phase of the project would provide valuable information to decision-makers.

Recommendations:

The FEIS should specify the duration and concentration of air emissions, by criteria pollutant and location, for each phase of the project construction. This is particularly important where tunneling is proposed. We also recommend the following additional mitigation measures be implemented during construction activities in order to further reduce impacts associated with emissions of PM₁₀ and other toxics:

- Establish an activity schedule designed to minimize traffic congestion around the construction site,
- Utilize EPA-registered particulate traps and other appropriate controls to reduce emissions of diesel particulate matter and other pollutants at the construction site,
- Locate construction equipment and staging zones away from sensitive receptors such as children and the elderly as well as away from fresh air intakes to buildings and air conditioners,
- Use low sulfur fuel (diesel with 15 parts per million or less),
- Reduce use, trips, and unnecessary idling from heavy equipment,
- Lease newer and cleaner equipment (1996 or newer), and
- Periodically inspect construction sites to ensure construction equipment is properly maintained at all times.

F1.9

Cumulative Impacts

The DEIS describes the cumulative impacts that could potentially occur from the baseline and BART alternatives (numerous places in Chapter 6 and summarized in Section 6.3). Cumulative impacts were determined to be either less than significant (with or without mitigation) or beneficial (in the cases of transportation, air quality and energy). Section 3.7.1 provides a list of other planned or proposed transportation/transit projects, waterway projects, and development projects in the SVRTC. The DEIS does not factor potential environmental impacts from those projects into the cumulative impacts analysis, including impacts that might result from the related BART Warm Springs Extension Project.

F1.10

Recommendation:

The FEIS should address the potential impacts from other projects listed in Section 3.7.1 in the evaluation of cumulative impacts. In particular, the FEIS should include a

thorough analysis of the impacts from the BART Warm Springs Extension Project in the cumulative impacts analysis.

F1.10
(cont.)

Environmental Justice

Results of Public Outreach to Environmental Justice Communities

The DEIS does a good job of describing the significant effort made to seek community input and participation in the planning process for the SVRTC extension. A major effort was made to reach out to as many groups and organizations as possible, and VTA is to be commended for its efforts. Chapter 9 of the document shows that many organizations and media agencies that service the minority and low-income segment of the community were provided information on the project in an effort to bring them into the process. However, the document does not address the success of those efforts and the level of meaningful involvement of the affected communities. Spanish and Vietnamese interpreters were available at public meetings, but how often were they used? What concerns were raised by members of the environmental justice communities or their representative organizations, and how did it influence the Preferred Alternative?

F1.11

Recommendation:

The FEIS should provide an analysis of results achieved by reaching out to minority and low-income members of the community.

Air Quality Impacts on Sensitive Receptors

Due to the large minority and low-income populations in the project area (35 out of 40 U.S. Census block groups adjacent to the BART Alternative qualify as environmental justice communities based on ethnicity and/or income level), there may be a higher number of individuals who are more sensitive to environmental contaminants than the general population. For example, African American children in California are four times more likely to be hospitalized for asthma compared to white children. Older individuals who may be more susceptible to respiratory problems and have limited access to health care and insurance, might also be impacted by the proposed project.

F1.12

The DEIS states that vehicular trips to BART stations would produce localized air emissions (principally carbon monoxide) in the station areas, but the addition of these trips would not produce air emissions that exceed the federal or state ambient air quality standards. It also indicates that construction of the BART Alternative would generate dust and other pollutants emissions associated with construction and earthmoving activities, and that these impacts would be reduced with construction control measures (Section 4.9.3.1). The document does not address whether these impacts might be more significant for sensitive receptors in the project area.

Recommendation:

The FEIS should analyze the potential correlation between the location of sensitive populations and areas with anticipated air quality impacts. Existing maps (Figures 4.2-1 to 4.2-6) could be modified to include the locations of schools, daycare centers, senior centers, hospitals, public health clinics, athletic centers, and parks in relationship to construction sites and traffic intersections that are expected to operate at unacceptable levels of service.

F1.12
(cont.)*Potential Local Bus Service Reductions and Fare Increases*

One of the goals of the SVRTC project is to maintain adequate funding to sustain the existing transportation system while securing new funding sources for system expansion (Table 3-6.1). The recent downturn in the local economy and other factors, however, have raised the concern that, at least in the near-term, it may be necessary to reduce local bus service and increase fares. This could have impacts on environmental justice communities if they rely on local bus services.

Recommendation:

The FEIS should discuss the potential for decreased local bus service as an indirect impact of this project, and the disproportionate impact such a reduction in bus service would have on low-income and minority populations. This could include (1) the provision of additional information regarding historic and anticipated (both near-term and through the 2025 study period) service changes and increases in fares, and (2) an evaluation of the linkage that may exist between funding the BART expansion project and impacts to service/fare increases that are anticipated in the future.

F1.13

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

RESPONSE TO COMMENT LETTER F1

U.S. Environmental Protection Agency (May 21, 2004)

- F1.1** Refer to responses F1.3 through F1.13 for specific comments and responses.
- F1.2** VTA will continue to work to FTA, EPA, and BART to address the NEPA processes of the two projects.
- F1.3** The following summarizes the important dates that are related to the BART Extension to Warm Springs (WSX) and the Silicon Valley Rapid Transit Corridor (SVRTC) projects.

BART Warm Springs Extension (WSX)	Silicon Valley Rapid Transit Corridor (SVRTC)
WSX named by MTC as a Transportation Control Measure in Transportation Contingency Plan of the 1982 Air Quality Plan	
Boatwright Law (Senate Bill 1715/Chapter 1259 of 1988- Public Utilities Code 29034.7. <ul style="list-style-type: none"> • Directs BART to construct WSX Project subject to funding and environmental approvals. 	
September 15, 1992 – EIR certified. <ul style="list-style-type: none"> • approved project. • initiated design process. 	
	January 29, 2002 - Notice of Preparation issued.
	February 6, 2002 – Notice of Intent published in Federal Register.
June 26, 2003 – Supplemental EIR certified. <ul style="list-style-type: none"> • modified and updated project. 	
	March 16, 2004 – Draft EIS/EIR public review period begins.
April 6, 2004 – Notice of Intent published in Federal Register.	

Based on the prior planning and environmental approvals for the WSX Project, VTA proceeded to prepare an EIS/EIR for the SVRTC. Building upon the No-Action/No-Build Alternative, VTA defined a project with a logical terminus at Warm Springs. The terminus at Warm Springs would connect the project to the planned improvement of the BART system, which is reasonably expected to be implemented by the year 2025, the planning horizon of the Regional Transportation Plan (RTP), and is assumed as a part of the existing condition. The SVRTC would effectively achieve its purpose and needs by alleviating traffic congestion, improving air quality, improving mobility options, and enhancing regional connectivity within the VTA service area.

Federal transit planning guidance defines the No-Build or No-Action alternative as establishing the environmental baseline. This alternative may be defined as “an

alternative that incorporates planned improvements that are included in the fiscally constrained long-range plan for which need, commitment, financing and public and political support are identified and may reasonably be expected to be implemented.¹ For the following reasons, the WSX Project is included in the No-Action Alternative, and serves as the No-Build Alternative in accordance with federal transit planning requirements. In 1988, BART was directed by the California legislature to construct an extension with a terminus at Warm Springs. The BART Board of Directors adopted the WSX in 1992, and adopted the revised project in 2003. The BART WSX Project is included in the 2001 RTP for the San Francisco Bay Area as a programmed Track 1 project. The RTP was approved by the Metropolitan Transportation Commission (MTC) Board in 2001, and was amended in 2002. MTC determined that the 2001 RTP was a conforming plan. The WSX is also included in the Regional Transportation Improvement Program.

The WSX Project is also included in the New Starts Baseline Alternative, in accordance with federal transit planning guidelines. The New Starts Baseline Alternative is defined in one of three ways. "Where the adopted financially constrained regional transportation plan includes within the corridor all reasonable cost-effective transit improvements short of the New Start project, a No-Build Alternative that includes those improvements may serve as the Baseline."² Since the WSX Project is already included in the No-Action/No-Build Alternative, the EIS/EIR relies upon the second definition of the New Starts Baseline, which provides that "where additional cost-effective transit improvements can be made beyond those provided by the adopted plan, the Baseline will add those cost-effective transit improvements". The EIS/EIR defines the New Starts Baseline Alternative as building upon "existing, planned, and programmed transportation improvements in the corridor with additional express bus service, and other associated improvements. Bus service for the Baseline Alternative could be implemented, in conjunction with the completion of the WSX Project, in 2008."

In considering CEQ 1508.25 (a) (1), neither project automatically triggers other actions that may require environmental impact statements. Although CEQA compliance for the WSX Project was completed in 1992 (and supplemented in 2003), both projects are in the process of complying with NEPA in preparing their respective EIS documents. FTA's New Starts Guidance allows for segments of a proposed system to be evaluated as individual projects. FTA's final rule on Major Capital Investments states that "In many cases, local project sponsors propose an extensive regional fixed guideway transit system that must be implemented in phases over time, as federal, state and local funding permits." The 2001 RTP for the Bay Area recognizes the WSX Project as being programmed for funding. The SVRTC project seeks federal New Start funding; the WSX Project does not seek New Start funding, as its funding will largely rely upon programmed local and state funds. The incremental federal funding that is being sought will not come from FTA's discretionary sources. FTA can therefore evaluate the WSX and SVRTC projects as individual projects, and neither project is an interdependent part of a larger action that depends upon the larger action for their justification.

The SVRTC project is planned assuming that the WSX Project would be built. The SVRTC

¹ "Procedures and Technical Methods for Transit Project Planning", Accessed at: http://www.fta.dot.gov/grant_programs/transportation_planning/major_investment/technical_guidance/10049_9948_ENG_HTML.htm. On August 5, 2004.

² 49 CFR Part 611, Major Capital Investment Projects Final Rule, December 7, 2000.

EIS/EIR includes two alternatives that recognize the WSX project as both part of the environmental baseline and part of the New Starts Baseline. The SVRTC EIS/EIR already assumes the WSX Project as an existing condition that is substantiated in a federally recognized regional transportation plan and program.

To further clarify the relationship between the WXS and SVRTC projects in the EIS/EIR, the following text has been included in Chapter 3.0, Alternatives, Section 3.2.1.2, Regional Transportation Plan Improvements through 2025, after Table 3.2-2:

The BART Extension from Fremont to Warm Springs (BART Extension to Warm Springs) Project is one of the projects in the RTP. The project was approved by the BART Board of Directors in 1992 after several years of recognition as a project by state and regional agencies. Modifications and updates to the project were approved by the BART Board in 2003. The approval of the project was based on the purpose and need of alleviating traffic congestion, improving air quality, and reducing energy consumption related to travel demand within BART's service area. The project has logical termini. The terminus at Fremont connects the project to the existing BART system, and the terminus at Warm Springs was directed by state legislation (S.B. 1715) and established by the 1992 project approval. The Bart Extension to Warm Springs Project is not related to, or dependent on, the approval or construction of the SVRTC.

None of the three recommendations presented by EPA are acceptable to VTA because the two projects are not connected actions. The independent utility and logical termini of each project have been established and are being evaluated in each EIS. The WSX Project is already incorporated into the NEPA/CEQA process for the SVRTC through the analysis of the No-Action and New Starts Baseline alternatives, and through the cumulative impacts analysis. The two documents include discussion of the independent utility and logical termini for each project. VTA does not support conjoining the two NEPA processes by delaying the SVRTC Final EIS until after the Record of Decision for the WSX Project is completed. Because the two projects are not connected actions, in accordance with federal transit planning procedures, the two projects may be evaluated separately and should proceed toward conclusion of their separate environmental processes.

F1.4 *The following text has been included after the fourth paragraph in Environmental Analysis, Section 4.1, Introduction, to expand upon the No-Action Alternative discussion:*

For clarification, the No-Action Alternative consists of the existing SVRTC roadway system and transit networks, as well as programmed improvements identified in the San Francisco Bay Area Regional Transportation Plan (RTP), including the BART Warm Springs Extension. The 2001 RTP EIR discusses the impacts and identifies mitigation measures of the transportation improvements currently programmed. The impacts of the No-Action Alternative, as discussed, are based on the RTP EIR and are analyzed in relation to the proposed project and the study corridor. Specific mitigation measures required for each project included in the No-Action Alternative will be determined as each individual project goes through its environmental review. Mitigation measures for the BART Warm Springs Extension were identified in the 1992 EIR and in the 2003 Supplemental EIR. These measures are also included in the 2004 EIS for the BART Warm Springs Extension.

Many of the topic areas discussed this chapter (Biological Resources; Community

Services and Facilities; Cultural and Historic Resources; Electromagnetic Fields; Energy; Geology, Soils, and Seismicity; Hazardous Materials; Land Use; Noise and Vibration; Security and System Safety; Visual Quality and Aesthetics; Water Resources, Water Quality and Floodplains; and Construction) are site specific. A qualitative analysis was conducted and concluded that under the No-Action Alternative, conditions of the site specific-topic areas within the corridor would not change. Therefore, no adverse impacts would occur to these topic areas under the No-Action Alternative. Any impacts and mitigation measures resulting from a project included in the No-Action Alternative would be identified in the project specific environmental analysis. Other topic areas were analyzed in a comparative manner.

In addition, the following discussions are included to clarify the analysis of the No-Action Alternative in the EIS/EIR.

Traffic and Transit. *The No-Action Alternative is thoroughly discussed in Section 4.2 Transportation and Transit. As a whole, the No-Action Alternative would result in about 40,000 fewer transit boardings and more traffic congestion (59 versus 17 intersections with an unacceptable LOS) that the BART Alternative (see Table 4.2-6, Total Weekday Transit Trips Between Other Counties and Santa Clara County in 2025, and Table 4.2-20 Intersection LOS Impacts for Existing, No-Action, and No-Action with Mitigation Conditions). It would also result in almost 67,000 hours more travel time per day than would the BART Alternative (see Table 4.2.12, Daily Travel time Savings in 2025). Since the No-Action Alternative serves as the basis from which the comparative impacts of the other alternatives are derived, and is not a federal "action" under NEPA (or "project" under CEQA), these effects are not classified as impacts requiring mitigation; however, they reflect the consequences of making no improvements to the transportation system in the project area. Any adverse impacts and mitigation measures resulting from a project included in the No-Action Alternative would be identified in the project specific environmental analysis. Possible mitigation measures may include road widening, additional turn lanes, and signal improvements.*

Air Quality. *As shown in Section 4.2, Air Quality, the No-Action Alternative would not result in exceedances of federal or state criteria for carbon monoxide (CO), despite increases in congestion. A comparative analysis was conducted for the other criteria pollutants and the analysis showed that the No-Action Alternative would result in higher pollutant concentrations than the BART Alternative. Any site-specific adverse impacts and mitigation measures resulting from an individual project included in the No-Action Alternative would be analyzed in the project specific environmental analysis.*

Noise. *While BART vehicle noise would be limited to the corridor, traffic noise impacts could occur outside of the corridor. As discussed in Section 4.13, Noise and Vibration, the BART Alternative would not result in any traffic noise impacts. The No-Action Alternative would not be expected to result in adverse traffic noise impacts that could not be mitigated. Any adverse impacts and mitigation measures resulting from an individual project included in the No-Action Alternative would be identified in the project specific environmental analysis. Possible mitigation measures may include sound walls and rubberized asphalt.*

Environmental Justice. *As stated in the EIS/EIR, the No-Action Alternative would not result in adverse impacts to local communities. However, it would not provide these communities with the benefits of accessibility to transit services, as would the Baseline or BART Alternatives. Any adverse impacts and mitigation measures resulting from an*

individual project included in the No-Action Alternative would be identified in the project specific environmental analysis.

Land Use. Table 4.12-1, *Consistency of the SVRTC Alternatives With Applicable Land Use Goals and Policies*, shows a comparative analysis of the alternatives including the No-Action Alternative. No adverse impacts would occur under the No-Action Alternative, as it was found to be generally consistent with applicable plans and policies; however, the two build alternatives were found to be more consistent. Any adverse impacts and mitigation measures resulting from an individual project included in the No-Action Alternative would be identified in the project specific environmental analysis.

Socioeconomic. As stated in the EIS/EIR, no adverse socioeconomic impact would occur under the No-Action Alternative. However, the No-Action Alternative would result in a more gradual build out of the general plans of each city, as a secondary effect of the deteriorating performance of the transportation system that would occur over time with this alternative. Any adverse impacts and mitigation measures resulting from an individual project included in the No-Action Alternative would be identified in the project specific environmental analysis.

The following comparison table summarizes the impacts of each alternative. As shown in the table, the BART Alternative would result in three adverse impacts, the Baseline Alternative would result in one adverse impact, and the No-Action Alternative would result in one adverse impact. This is not to say, however, that the No-Action or Baseline alternatives would be environmentally superior alternatives. As indicated in Section 6.5, *Environmentally Superior Alternative*, the BART Alternative would reduce private automobile and truck trips by more than 345 million annual vehicle miles (versus the No-Action Alternative), and while it would result in greater localized traffic impacts at BART stations, greater noise and vibration, cultural resources, wetlands impacts, and displacements effects, the majority of these impacts would be mitigated to a less than significant level. The residual impacts, on balance, would be off-set by the benefits the BART Alternative offers in terms of transit use, improved access to community facilities, reduction in air emissions, energy conservation, and consistency with land use and planning goals.

Summary of Impacts by Alternative			
Topic Area	Alternative		
	No Action	Baseline	BART Alternative
Transportation and Transit	Adverse Impact	Adverse Impact	Adverse Impact
Air Quality	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Biological Resources and Wetlands	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Community Services and Facilities	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Cultural and Historic Resources	No Impact Anticipated	No Impact Anticipated	Adverse Impact
Electromagnetic Fields	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated

Summary of Impacts by Alternative			
Topic Area	Alternative		
	No Action	Baseline	BART Alternative
Energy	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Environmental Justice	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Geology, Soils, and Seismicity	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Hazardous Materials	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Land Use	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Noise and Vibration	No Impact Anticipated	No Impact Anticipated	Adverse Impact
Security and System Safety	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Socioeconomic	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Utilities	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Visual Quality and Aesthetics	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Water Resources, Water Quality, and Floodplains	No Impact Anticipated	No Impact Anticipated	No Impact Anticipated
Number of Adverse Impacts	1	1	3

F1.5

In response to the comment, new text has been added to Section 4.18.2.3 under the subheading “Surface Water in Alameda County/Water Quality” as follows:

None of the surface waters in Alameda County in the SVRTC project area is listed under Section 303(d) of the Clean Water Act (CWA) as impaired. Section 303(d) of the CWA is discussed in Section 4.18.3.1 below.

New text has also been added to Section 4.18.2.3 under the subheading “Surface Water in Santa Clara County/Water Quality” as follows:

In Santa Clara County in the SVRTC project area, Coyote and Los Gatos creeks are listed under Section 303(d) of the CWA as impaired for diazinon and Guadalupe River is listed as impaired for diazinon and mercury. The diazinon is a result of urban runoff; the mercury is a result from mine tailings. Section 303(d) of the CWA is discussed in Section 4.18.3.1 below.

Lastly, a new subheading, “Section 303(d) – List of Impaired Waterbodies,” has been added to Section 4.18.3.1, with the following descriptive text:

Section 303(d) of the CWA and the California Porter-Cologne Water Quality

Control Act of 1969 (discussed below), the State of California is required to establish beneficial uses of state waters and to adopt water quality standards to protect those beneficial uses. Section 303(d) establishes the Total Maximum Daily Load (TMDL) process to assist in guiding the application of state water quality standards, requiring the states to identify streams whose water quality is "impaired" (affected by the presence of pollutants or contaminants) and to establish the TMDL or the maximum quantity of a particular contaminant that a waterbody can assimilate without experiencing adverse effects. Section 303(d) lists Coyote and Los Gatos creeks as impaired for diazinon and the Guadalupe River as impaired for diazinon and mercury. The proposed TMDL deadline for all listed waterbodies is 2004. The SVRTC Project will need to be in compliance with all TMDL standards for diazinon and mercury that may be in effect when construction commences. The project will not contribute any detectable concentrations of diazinon and mercury to the listed waterbodies.

F1.6 *The ecological functions and values associated with Wrigley Creek, and other waters of the U.S. that are impacted by the BART Alternative, are discussed throughout Section 4.4 but detailed in the Biological and Wetlands Resources Technical Report, available to the public by contacting VTA.*

VTA acknowledges that the USFWS classifies Wrigley Creek in the reach of the project area as a palustrine emergent, excavated, seasonally flooded wetland. A sparse to dense layer of herbaceous vegetation characterizes the palustrine habitat biotic functions of the creek. The palustrine emergent wetlands provide a variety of benefits to wildlife species such as food, cover, and water. The intermittent live stream channel provides a seasonal source of water for wildlife and invertebrates. The bed of the creek contains vegetation and seasonal water and may provide habitat or food resources for wildlife.

The South Calaveras Future Station is not funded and not part of current Preliminary Engineering studies. If this future station were to secure funding at a later date, the station would not be constructed within the same time frame as the other components of the BART Alternative (i.e., by 2015) and would require subsequent environmental documentation. Nevertheless, as shown on Figures B-2, B-4, and B-6, all three alternatives for the parking structure at this station identify relocating Wrigley Creek to the west to enable locating the parking structure, bus transit center, and related support facilities near the station. Relocating Wrigley Creek to the west would restore the creek to its previous location, as sometime in the past the creek was rerouted to the east. Relocating the creek would affect slightly over one acre of seasonal and freshwater emergent wetlands, requiring a permit from ACOE. A design alternative to place Wrigley Creek in an enclosed culvert beneath the BART facilities was considered and discarded because of the resulting complete loss of the value of the creek. Redesign of the station and supporting facilities was evaluated; however retaining Wrigley Creek at its currently location severely hinders the ability of BART riders to access the station. In any case, the South Calaveras Station is not part of the Recommended Project being carried forward in this EIS/EIR.

F1.7 *As per Sections 3.7.2, Water Resources Related Projects, 4.18.2.4, Floodplains, and 4.18.4.3 Impacts to Floodplains, VTA acknowledges that the Santa Clara Valley Water District (SCVWD) Upper Penitencia Creek Flood Control Project is currently in the early stages of design with alternatives being considered to ensure flood protection up to the 100-year flood event. These alternatives include widening the existing channel and constructing a 0.4-mile underground bypass channel from Upper Penitencia Creek to Coyote Creek (between Berryessa Road and Mabury Road).*

As per Water Resources, Water Quality, and Floodplains, Section 4.18.4.4, Design Requirements and Best Management Practices, VTA will continue to coordinate with the SCVWD and ACOE to obtain any updated information on their design that may impact the design of the BART Alternative. VTA will provide plans and request SCVWD and ACOE for concurrence for the subject area(s) prior to Final Design.

F1.8 *Section 4.4.2.1, under the subheading "Special Status Species" has been revised as follows:*

Steelhead and Chinook salmon are special-status fish species that occur in the study area. The Central California Coast steelhead evolutionarily significant unit (ESU) has been listed as threatened under the ESA (62 FR 159, August 18, 1997). Critical habitat for steelhead was initially designated but has since been rescinded pending further review. NOAA Fisheries considers the Chinook salmon in the study area to be part of the Central Valley fall and late-fall run Chinook salmon ESU. NOAA Fisheries has determined that the Central Valley fall and late-fall run Chinook salmon ESU does not warrant listing, but the ESU is considered a candidate species (64 FR 50394, September 16, 1999). In addition, study area streams are considered essential fish habitat for Chinook salmon, a commercial species. The Magnuson-Stevens Fishery Conservation and Management Act defines "essential fish habitat" as waters and substrate necessary for fish to spawn, breed, feed, and grow to maturity. (See Section 4.4.2.2 for a discussion of the Magnuson-Stevens Fishery Conservation and Management Act.)

Section 4.4.2.2 has also been revised to include information on the Magnuson-Stevens Fishery Conservation and Management Act as follows:

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with NOAA Fisheries on all actions or proposed actions (permitted, funded, or undertaken by the federal agency) that may adversely affect fish habitats. Under the provisions of the Act, Congress mandated the identification of habitats essential to managed species (e.g., commercial species) and measures to conserve and enhance these habitats. The Act requires cooperation among NOAA Fisheries, Regional Fishery Management Councils, fishing participants, and federal and state agencies to protect, conserve, and enhance "essential fish habitat," defined as those waters and substrate necessary to fish for spawning, breeding, feeding, and growth to maturity.

The EIR/EIS states that study area streams, including Upper Penitencia Creek, support populations of steelhead and Chinook salmon. Furthermore, the EIR/EIS addresses the potential for all impacts on these species and their habitats and proposes measures to mitigate for impacts determined to be significant. As part of the environmental review process, the project applicant also will submit a biological assessment to NOAA Fisheries. This document will include an assessment for steelhead and essential fish habitat, as required by NOAA Fisheries under the Sustainable Fisheries Act of 1996, which amended the Magnuson-Stevens Fishery Conservation and Management Act. Although a separate assessment of the project's effects in relation to essential fish habitat designation is not appropriate and not required in an EIR/EIS, the EIR/EIS evaluated the potential for impacts on aquatic habitats and substrate that are necessary for the growth, survival, and reproduction of Chinook salmon.

F1.9 An additional construction emissions discussion has been added to Section 4.19.4.1, Air Quality Impacts, Baseline and BART Alternative, after the first paragraph:

Table 4.19-5 quantifies construction emissions for the Baseline and BART Alternatives. As can be seen from the table PM_{10} pollutant emissions can be reduced substantially by mitigation.

Project Alternative	Criteria Pollutant Emissions (pounds per day)					
	CO	ROG	NO_x	SO_x	PM₁₀ (without mitigation)	PM₁₀ (with mitigation)
Baseline	26	5	55	5	15	8
BART Alternative	134	25	282	23	385	193

Source: Terry A. Hayes Associates LLC, 2004.

Pollutant concentrations at various distances from the construction sites are provided in Table 4.19-6. Ambient PM_{10} concentrations currently exceed the state 24-hour and annual standards of $50 \mu\text{g}/\text{m}^3$ and $20 \mu\text{g}/\text{m}^3$, respectively. With implementation of design requirements and best management practices, PM_{10} concentrations during construction of the Baseline Alternative would be less than 5% over the ambient 24-hour and annual arithmetic mean concentrations. During construction of the BART Alternative, PM_{10} concentrations would be less than 5% over the ambient 24-hour concentration at a distance of approximately 1,050 feet or more from the construction sites. PM_{10} concentrations would be less than 5% over the ambient annual arithmetic mean concentration at a distance of approximately 500 feet or more from the construction sites. PM_{10} contributions from construction would last for several days at various sensitive receptor locations, as construction for the BART Alternative would occur on a linear basis. According to BAAQMD, if appropriate construction controls are implemented, PM_{10} emissions for construction activities would be considered less than significant.

Table 4.19-6: Pollutant Concentrations Near Construction Sites											
Distance from Construction Sites (feet)	Pollutant Concentrations										
	CO (ppm) ^{[1], [2]}		NO ₂ (ppm) ^{[3], [4], [5]}		SO ₂ (ppm) ^{[6], [7], [8]}			PM ₁₀ without Mitigation (µg/m ³) ^{[9], [10]}		PM ₁₀ with Mitigation (µg/m ³) ^[10]	
	1-Hour	8-Hour	1-Hour	Annual Arithmetic Mean	1-Hour	24-Hour	Annual Arithmetic Mean	24-Hour	Annual Arithmetic Mean	24-Hour	Annual Arithmetic Mean
Baseline											
50	11.7	7.0	0.14	0.027	0.026	0.005	0.002	73	29	72	28
100	11.7	7.0	0.13	0.027	0.025	0.005	0.002	72	28	72	28
500	11.7	7.0	0.13	0.026	0.024	0.004	0.002	71	28	71	28
1,000	11.7	7.0	0.13	0.026	0.024	0.004	0.002	71	28	71	28
1,500	11.7	7.0	0.13	0.026	0.024	0.004	0.002	71	28	71	28
BART Alternative											
50	11.7	7.0	0.17	0.032	0.027	0.006	0.002	139	44	105	36
100	11.7	7.0	0.15	0.030	0.025	0.005	0.002	111	37	91	32
500	11.7	7.0	0.13	0.027	0.024	0.004	0.002	81	30	76	29
1,000	11.7	7.0	0.13	0.026	0.024	0.004	0.002	76	29	73	28
1,500	11.7	7.0	0.13	0.026	0.024	0.004	0.002	75	29	72	28
Notes: ^[1] State 1-Hour Standard: 20 ppm; State 8-Hour Standard: 9.0 ppm ^[2] CO concentrations include the one- and eight-hour ambient concentrations of 11.7 ppm and 7.0 ppm, respectively. ^[3] State 1-Hour Standard: 0.25 ppm; Federal Annual Arithmetic Mean Standard: 0.053 ppm ^[4] The California Ambient Air Quality Standards do not have NO ₂ standards for the annual arithmetic mean. ^[5] NO ₂ concentrations include the one-hour and annual average ambient concentrations of 0.13 ppm and 0.03 ppm, respectively. ^[6] State 1-Hour Standard: 0.25 ppm; State 24-Hour Standard: 0.04 ppm; Federal Annual Arithmetic Mean Standard: 0.030 ppm ^[7] The California Ambient Air Quality Standards do not have SO ₂ standards for the annual arithmetic mean. ^[8] SO ₂ concentrations include the one-hour, 24-hour, and annual average ambient concentrations of 0.024 ppm, 0.004 ppm, and 0.002 ppm, respectively. ^[9] PM ₁₀ concentrations include the 24-hour and annual average ambient concentrations of 71µg/m ³ and 28 µg/m ³ , respectively. ^[10] State 24-Hour Standard: 50 µg/m ³ ; State Annual Arithmetic Mean Standard: 20 µg/m ³ SOURCE: Terry A. Hayes Associates LLC, 2004.											

The duration and concentrations of air emissions for each phase of the project construction are not available at this time, as such phasing details will not be determined until Preliminary Engineering. However, implementation of the BAAQMD construction control measures would reduce air quality impacts to acceptable levels as stated in the BAAQMD California Environmental Quality Act Guidelines (December 1999).

The suggested mitigation measures will be included in Section 4.19.4.3, Mitigation Measures for Air Quality Impacts, Baseline and BART Alternatives, as follows:

In addition to the BAAQMD construction control measures, to further reduce impacts associated with emissions of PM₁₀ and other toxics, the following measures will be implemented.

- Establish an activity schedule designed to minimize traffic congestion around the construction site.*
- Utilize EPA-registered particulate traps and other appropriate controls to reduce emissions of diesel particulate matter and other pollutants at the construction site.*
- Locate construction equipment and staging zones away from sensitive receptors such as children and the elderly as well as away from fresh air intakes to buildings and air conditioners.*
- Use low sulfur fuel (diesel with 15 parts per million or less).*
- Reduce use, trips, and unnecessary idling from heavy equipment.*
- Lease newer and cleaner equipment (1996 or newer).*
- Periodically inspect construction sites to ensure construction equipment is properly maintained at all times.*

F1.10 *As indicated in Chapter 6, Other CEQA and NEPA Considerations, CEQA provides for assessing cumulative impacts either through the list approach or the projections-based approach. NEPA directs that the projections-based approach should be used where appropriate, and more specifically requires the use of the adopted regional growth projections of metropolitan planning organizations (ABAG and MTC for the Bay Area). Accordingly, the regional projection approach is utilized in the EIS/EIR.*

The BART Warm Springs Extension is included in the BART Alternative cumulative analysis (and in the No-Action and Baseline Alternatives). Accordingly, the impacts of this project are reflected in the cumulative impacts analysis and in transportation, air quality, noise, and other sections of the impact analysis that address 2025 conditions with the No-Action, Baseline, and BART alternatives. Furthermore, the BART Warm Springs Extension has been subject to extensive environmental review, including a 1992 EIR and a 2003 Supplemental EIR. The 2003 Supplemental EIR includes a cumulative impact analysis that considers the impacts of the SVRTC together with the WSX project.

F1.11 *VTA has conducted extensive public outreach, including a comprehensive program to coordinate and communicate with low income and minority communities throughout the MIS/AA and the environmental review process. Community members have provided substantive input into the current project design, alignment choices, station area*

planning, and construction approach. One example of the minority and low-income segment input in the process was the recommendation to select the Alum Rock Alignment and Station U.S. 101 Diagonal Option. During the Hostetter/Alum Rock Community Working Group meetings, strong opposition was expressed against the Railroad/28th Street Option that would have had greater impacts to the local businesses and community due to cut and cover construction and greater property takes including impacts to the Portuguese Band Hall property.

As noted in the environmental document, a review of socioeconomic information for the corridor shows that a high proportion of the communities in the study area qualify as environmental justice communities based on ethnicity and/or income level.

Low income and minority communities responded to targeted outreach efforts by providing input on the project and by utilizing the project information materials that were translated into Spanish, Chinese, and Vietnamese. The materials were widely distributed to the community to provide project updates and information on community meetings and opportunities to give input. In addition, various organizations were represented on Community Working Groups, including community advocacy organizations, the Vietnamese Chamber of Commerce, the Portuguese Chamber of Commerce, and the Hispanic Chamber of Commerce.

F1.12 Community facilities and the BART Alternative alignment are mapped on Community Services and Facilities, Figures 4.5-1 through 4.5-6.

Section 4.3.3.2, *Microscale Air Quality Impacts*, analyzed both intersections and parking structures. CO concentrations at roadway intersections were estimated at worst-case sidewalk receptors. Since CO concentrations at the sidewalk receptors would not exceed the state CO standards (Note- the state standard is more stringent than the federal standard), it is not anticipated that sensitive receptors located further away would be significantly affected.

Sensitive receptors that are located near the proposed parking structures would also not be significantly impacted since CO concentrations in the area surrounding the parking structures would be well below the state standards.

Sensitive receptors would not be exposed to excessive CO, ROG, NO₂, and SO₂ concentrations during construction since concentrations for these pollutants would not exceed the state standards. Sensitive receptors located within approximately 1,050 feet of the construction sites, however, would be temporarily affected by PM₁₀ concentrations during construction of the BART Alternative. PM₁₀ concentrations within 1,050 feet of the construction sites would be more than 5% over the ambient 24-hour PM₁₀ concentration. Sensitive receptors within 1,050 feet of the construction sites would be affected only when construction activities are taking place. Additionally, high concentrations of PM₁₀ would only last for short periods of time, as construction for the proposed project would occur on a linear basis.

F1.13 Decreases in local bus services are not proposed as a part of the implementation of the BART service. As identified in Table 3.4-1, *Fleet Requirements for Baseline and BART Alternatives*, the VTA bus fleet under the BART Alternative includes 642 vehicles, an increase over the No-Action Alternative and a significant increase over current service levels. Bus service under the BART Alternative, utilizing that fleet, is described in Section 3.4.7, *BART Operating Plan*, and in the *Travel Demand Forecast Report, 2003*.

Historic and anticipated reductions in bus services and some fare increases are linked to reductions in operating revenues (primarily sales tax and fares) and the need to balance operating costs and revenues. Other fare increases reflect reasonable periodic increases to keep pace with inflation and industry fare trends. These historic shifts have no relationship to the BART Alternative. Future service shifts and fare adjustments will be linked to the same need to balance operating revenues and expenses. The effect of any changes on minority and low-income communities will be evaluated at that time.

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F2



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



ER 04/229

JUN 10 2004

Mr. Leslie T. Rogers
Regional Administrator
Federal Transit Administration
201 Mission Street, Suite 2210
San Francisco, California 94105-1839

Dear Mr. Rogers:

The Department of the Interior has reviewed the Draft Environmental Impact Statement and Section 4(f) Evaluation for the **Silicon Valley Rapid Transit Corridor-BART Extension to Milpitas, San Jose and Santa Clara in Santa Clara County, California**. The Department is providing comments on the Draft Environmental Impact Statement only.

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Specific Comment

Page 4.18-18, Chapter 4 Environmental Analysis, Section 4.18 Water Resources, Water Quality, and Floodplains, Subsection 4.18.4 Impact Assessment, Subsection 4.18.4.1 Impacts to Groundwater, second paragraph:

The U.S. Geological Survey (USGS) states that this paragraph indicates that groundwater mounding will not be an issue because the tunnel crown will be 20 feet below ground surface, below the water table. The controlling factor for whether or not groundwater could mound behind a tunnel, such as the one contemplated for this project, is not merely the elevation of the tunnel but the height of the tunnel in relation to the total thickness of the aquifer, and the direction of the tunnel compared to the direction of groundwater flow (that is, parallel to the direction of flow or across the direction of flow).

The USGS recommends that this information be provided in the final document. Further, the depth to top of tunnel (20 feet) in this paragraph is contradicted by a reported depth to top of tunnel of 30 feet described on page 4.19-77, chapter 4 Environmental Analysis, Subsection 4.19.10 Hazardous Materials, Subsection 4.19.10.1 Hazardous Materials Impacts, first paragraph. The USGS recommends that the discrepancies between these two sections be reconciled.

F2.1

Mr. Leslie T. Rogers

-2-

Thank you for the opportunity to review and comment on this project.

Sincerely,


Willie R. Taylor
Director, Office of Environmental Policy
and Compliance

✓
Thomas W. Fitzwater, AICP
Environmental Planning Manager
Santa Clara Valley Transportation Authority
3331 North First Street
San Jose, California 95134-1906

RESPONSE TO COMMENT LETTER F2

U.S. Department of the Interior (June 10, 2004)

F2.1 *After construction, groundwater flow directions and pathways may be minimally affected by the retained cuts along the BART Alternative alignment and at the downtown stations. The concrete U-walls may divert the normal flow of groundwater, potentially causing the mounding of groundwater up-gradient of these obstacles. However, it is anticipated that the interception will not result in detectable changes to overall groundwater availability or total subsurface water movement. Therefore, an adverse groundwater impact would not result from the BART Alternative. VTA will perform a detailed hydrogeologic study during the Preliminary Engineering phase of the project to determine mounding of groundwater upgradient of U-walls. Rising of the water table would be minimized by routing water underneath the U-wall by installing highly permeable preferential flow pathways underneath the U-wall during construction. Channels of highly permeable gravel placed perpendicularly directly beneath the U-wall, crossing from one side of the U-wall to the other, would create appropriate preferential flow pathways. The frequency of placed gravel channels would be determined based on hydrogeologic analysis during design of the project.*

Mounding of groundwater up-gradient of the downtown subway tunnel is not anticipated, as the subway tunnel section would be constructed a minimum of 20 feet below ground surface (bgs) at the tunnel crown, well below the water table (approximately 15 feet bgs) in the San Jose area. Therefore, groundwater would be able to flow above and below the tunnel structure. However, localized areas with reduced depth of cover will occur as the alignment transitions from bored tunnels into cut-and-cover and at-grade structures and passes beneath localized topographic features. VTA will perform hydrogeological analysis of the future conditions to determine whether mounding of water occurs upgradient of tunnel structures. Highly permeable gravel channels placed in select locations above the subway tunnel and along cut-and-cover stations will facilitate drainage if fill material does not provide adequate permeability. Section 4.18.4.1, Impacts to Groundwater Resources, BART Alternative, has been revised to include this information.

The total height of the tunnel is approximately 20 feet, compared to the total thickness of the aquifer that is between 100 to 300 feet in the project area. The tunnel is located in the uppermost portion of the aquifer and would not physically impede the flow in the aquifer regardless of the direction of water travel.

Regarding the depth of the tunnel, the EIS/EIR has been revised to state that the top of the tunnel would generally be 40 feet below ground level. However, localized areas with a reduced depth of cover will occur where the alignment transitions from bored tunnels into cut-and-cover and at-grade structures, where the tunnel passes beneath localized topographic features, and where soil conditions allow a shallower depth.

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P. 01



Terry Tamminen
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

San Francisco Bay Region

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Arnold Schwarzenegger
Governor

Date: May 12, 2004
File No. 2188.005 (BKW)

Mr. Tom Fitzwater
VTA Environmental Planning Department
331 North First Street, Building B
San Jose, CA 95134-1927

**Re: Draft Environmental Impact Report & Draft 4(f) Evaluation, BART
Extension to Milpitas, San Jose, and Santa Clara
SCH Number 2002022004**

Dear Mr. Fitzwater:

Thank you for giving Regional Water Quality Control Board (Water Board) staff the opportunity to review the *Draft Environmental Impact Report & Draft 4(f) Evaluation, BART Extension to Milpitas, San Jose, and Santa Clara (DEIR)*. The DEIR evaluates the potential environmental impacts that might reasonably be anticipated to result from extending BART service to Santa Clara, via Milpitas and San Jose. Water Board staff have the following comments on the DEIR.

Comment 1

Section 4.4.2.2 Regulatory Setting, State Laws and Regulations, Porter-Cologne Water Quality Control Act, page 4.14-17. This section of the DEIR correctly notes that the Porter-Cologne Water Quality Act gives the Water Board jurisdiction beyond areas under the jurisdiction of the Army Corps of Engineers (ACOE). However, the discussion focuses on isolated wetlands. The DEIR would be more useful if it also noted that the Water Board regulates activities on creek banks that are above the ordinary high water mark (OHW). For example, clear span bridges with abutments above OHW would not need a Clean Water Act Section 401 permit from the ACOE, but may require Waste Discharge Requirements (WDRs) from the Water Board.

S1.1

The State Water Resources Control Board was recently adopted General Waste Discharge Requirements (GWDRs) for activities that occur in waters of the State that lie outside of ACOE jurisdictional waters. Coverage under these GWDRs can be obtained by filing a Notice of Intent (NOI) with the appropriate Regional Water Quality Control Board.

Comment 2

Section 4.18.3.4, Porter-Cologne Water Quality Control Act, page 4.18-15. See Comment 1, above.

Mr. Fitzwater

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DEIR BART Extension San Jose

Comment 3

Section 4.18.3.5, Local Agencies Laws and Regulations, Alameda Countywide Clean Water Program. page 4.18-15. As noted in this section of the DEIR, the Alameda Countywide Clean Water Program is overseeing the implementation of Alameda County's National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges from new development and significant redevelopment. Under the terms of the NPDES permit, post-construction best management practices (BMPs) are required to meet the maximum extant practicable (MEP) definition of treatment specified in the Clean Water Act (CWA). The DEIR should note that the Alameda County NPDES permit was re-issued on February 19, 2003. New development and significant redevelopment Projects that are constructed after February of 2005 will be required to comply with the numeric standards for post-construction stormwater BMPs in the re-issued permit. Treatment BMPs are to be constructed that incorporate, at a minimum, the following hydraulic sizing design criteria to treat stormwater runoff. As appropriate for each criterion, local rainfall data are to be used or appropriately analyzed for the design of the BMPs.

Volume Hydraulic Design Basis: Treatment BMPs whose primary mode of action depends on volume capacity, such as detention/retention units or infiltration structures, shall be designed to treat stormwater runoff equal to:

1. the maximized stormwater quality capture volume for the area, based on historical rainfall records, determined using the formula and volume capture coefficients set forth in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)*, pages 175-178 (e.g., approximately the 85th percentile 24-hour storm runoff event); or
2. the volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology set forth in Appendix D of the *California Stormwater Best Management Practices Handbook, (1993)*, using local rainfall data.

Flow Hydraulic Design Basis: Treatment BMPs whose primary mode of action depends on flow capacity, such as swales, sand filters, or wetlands, shall be sized to treat:

1. 10% of the 50-year peak flow rate; or
2. the flow of runoff produced by a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or
3. the flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity.

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Mr. Fitzwater

- 3 -

DEIR BART Extension San Jose

BART parking lots, stations, and other facilities with more than an acre of impervious surfaces will be required to meet these treatment standards. Water Board staff strongly encourage the use of landscape-based stormwater treatment measures, such as biofilters and vegetated swales, to manage runoff from the project sites. Since landscape-based stormwater treatment measures require that some of the site surface area be set aside for their construction, the proper sizing and placement of these features should be evaluated early in the design process to facilitate incorporation of the features into the site landscaping. Regional Board staff discourage the use of inlet filter devices for stormwater management. Filtration systems require a maintenance program that is adequate to maintain the functional integrity of the systems and to ensure that improperly maintained filtration devices do not themselves become sources of stormwater contaminants or fail to function. Regional Board staff have observed problems with the use of inlet filter inserts, since these devices require high levels of maintenance and are easily clogged by leaves or other commonly occurring debris, rendering them ineffective. Research conducted by the California Department of Transportation has demonstrated that inlet filters can be clogged by a single storm event. The study found that these devices required maintenance before and after storm events as small as 0.1 inch of rain. In addition, trash, debris, and sediment in the catchment had a significant impact on the frequency of maintenance¹. Therefore, adequate maintenance of inlet filters to provide MEP water quality treatment would be prohibitively expensive and impractically time consuming.

S1.2
(cont.)

Regional Board staff recommend that the Project proponents refer to *Start at the Source*, a design guidance manual for storm water quality protection, for a fuller discussion of the selection of stormwater management practices. This manual provides innovative procedures for designing structures, parking lots, drainage systems, and landscaping to mitigate the impacts of stormwater runoff on receiving waters. This manual may be obtained from the Santa Clara Valley Urban Runoff Pollution Prevention Program's website (www.scvurppp.org) or by e-mailing a request to the e-mail address in the last paragraph of this letter.

Additional innovative techniques for incorporating structural stormwater BMPs into urban design, such as infiltration planter boxes, can be found in Portland, Oregon's 2002 *Stormwater Management Manual*, which can be obtained at www.cleandrivers-pdx.org/tech_resources/2002_swmm.htm.

¹ Othmer, Friedman, Borroum and Currier, November 2001, *Performance Evaluation of Structural BMPs: Drain Inlet Inserts (Fossil Filter™ and StreamGuard™) and Oil/Water Separator*, Sacramento, Caltrans.

Mr. Fitzwater

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DEIR BART Extension San Jose

Comment 4

Section 4.18.3.5, Local Agencies Laws and Regulations, Santa Clara Valley Urban Runoff Pollution Prevention Program. page 4.18-15. As noted in this section of the DEIR, the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) is overseeing the implementation of Santa Clara County's NPDES permit for stormwater discharges from new development and significant redevelopment. Under the terms of the NPDES permit, projects that create or replace one or more acres of impervious surfaces are already required to meet the treatment standards presented in Comment 3, above.

S1.3

Comment 5

Section 4.18.4.4, Design Requirements and Best Management Practices, Surface Water Resources. page 4.18-25. See Comments 3 and 4, above.

S1.4

Comment 6

Section 4.19.5.1, Biological Resources and Wetlands Impacts, BART Alternative. page 4.19-67. Table 4.19-5 only summarizes impacts to wetlands/other waters of the U.S. The DEIR should also summarize impacts to Department of Fish and Game jurisdictional riparian zones.

S1.5

Comment 7

Section 4.19.15.4, Design Requirements and Best Management Practices for Water Resources, Water Quality, and Floodplains Impacts, Design Requirements and Best Management Practices for Surface Water Impacts. page 4.19-94.

The DEIR should note that significant discharges of groundwater to the storm sewer system or directly to waters of the State will require written authorization from the Water Board. Authorization for discharges will require, at a minimum, compliance with the following conditions:

1. The discharged water shall not exceed 110 percent of the ambient stream turbidity of the receiving water that the storm drain discharges to, if the receiving water is a flowing stream with turbidity greater than 50 NTU, or 5 NTU above ambient turbidity for ambient turbidities that are less than or equal to 50 NTU. If the storm drain discharges to a dry streambed, the discharged water shall not exceed 50 NTUs. Turbidity shall be monitored every 15 minutes during the first hour of operation of any sedimentation or filtration device used to meet the discharge limitation and once every two hours thereafter.
2. The pH of the discharged water shall be in the range of 6.5 to 8.5. pH shall be measured once per day of discharge.

S1.6

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P.05

Mr. Fitzwater

- 5 -

DEIR BART Extension San Jose

3. A log of the monitoring results shall be maintained.
4. The discharge shall not cause pollution, contamination, or nuisance. The discharge shall cause no scouring or erosion at the point of discharge into the receiving water.
5. If a sheen is visible on the surface of extracted groundwater, the groundwater shall be tested for petroleum hydrocarbons and Regional Board staff shall be notified immediately of the presence of the sheen. The groundwater shall not be discharged to the storm drain system until a treatment method has been approved by Regional Board staff.
6. Self-Monitoring Reports shall be submitted no later than 30 days following the last day of each month in which the discharges occur. These reports shall summarize turbidity measurements, pH measurements, and approximate volumes of the discharges. An explanatory cover letter transmitting legible copies of field notes is an acceptable format for the self-monitoring reports.

S1.6
(cont.)

In addition, the contractor should provide Water Board staff with the estimated number of days on which dewatering will occur and the estimated daily rate of discharge.

Thank you for the opportunity to comment on the DEIR. If you have any questions, please contact me at (510) 622-5680 or by e-mail at bkw@rb2.swrcb.ca.gov.

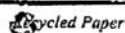
Sincerely,



Brian Wines
Water Resources Control Engineer
Alameda-Santa Clara Watershed Section

cc State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044
Santa Clara Valley Water Control District, Attn: Sue Tippetts, Community Projects Review Unit, 5750 Almaden Expressway, San Jose, CA 95118-3686
CDFG, Central Coast Region, Attn: Robert Floerke, Regional Manager, P.O. Box 47, Yountville CA 94599

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years



** TOTAL PAGE.05 **

RESPONSE TO COMMENT LETTER S1

California Regional Water Quality Control Board (May 12, 2004)

S1.1 *Biological Resources and Wetlands, Section 4.4.2.2, Regulatory Setting, under the subheading State Laws and Regulations/Porter-Cologne Water Quality Act, has been revised as follows:*

The SWRCB and San Francisco Bay RWQCB have taken the position that the Porter-Cologne Act and basin plans developed pursuant to the Act provide independent authority to regulate discharge of fill material to wetlands outside the jurisdiction of ACOE. This applies specifically to isolated wetlands considered non-jurisdictional based on the Solid Waste Agency of Northern Cook County (SWANCC) v. United States Army Corps of Engineers decision (121 S.Ct. 675, 2001), which limited ACOE's jurisdiction over isolated wetlands. The SWRCB and RWQCB also regulate activities on creek banks that are above the ordinary high water mark. For example, clear span bridges with abutments above the ordinary high water mark would not need a Section 401 permit, but may require issuance of waste discharge requirements from RWQCB. In addition, SWRCB recently adopted General Waste Discharge Requirements for activities that occur in waters of the state that are outside of ACOE jurisdictional waters. Coverage under these requirements may be obtained by filing a Notice of Intent (NOI) with RWQCB.

Water Resources, Water Quality and Floodplains, Section 4.18.3.4, Porter-Cologne Water Quality Act, second paragraph, has also been revised as follows:

Activities in areas defined as "waters of the state" that are outside ACOE's jurisdiction (e.g., isolated wetlands) and activities on creek banks that are above the ordinary high water mark are regulated by SWRCB and RWQCB. Such activities may require the issuance or waiver of waste discharge requirements from RWQCB. The SWRCB recently adopted General Waste Discharge Requirements for activities that occur in waters of the state that are outside of ACOE jurisdictional waters. Coverage under these requirements may be obtained by filing an NOI with RWQCB. Any additional mitigation above and beyond the mitigation required by ACOE, including best management practices and compensatory mitigation, may be required from RWQCB.

S1.2 *The construction and operation of the BART Alternative, including stations and station campus areas, parking lots and garages, bus transit centers, landscaped areas, and related facilities, will comply with applicable federal, state, and local codes and regulations governing stormwater runoff and water quality, including the terms of the Alameda County National Pollutant Discharge Elimination System (NPDES) permit for new development and significant redevelopment projects that are constructed after February 2005.*

The last paragraph in Section 4.18.3.5, Local Agencies, Laws, and Regulations, under the subheading Alameda Countywide Clean Water Program, has been revised as follows:

The ACCWP has developed a Storm Water Quality Management Plan that describes the ACCWP's approach to reducing stormwater pollution. Northern portions of the Baseline and BART alternatives are within the boundaries

addressed by this plan. The Storm Water Quality Management Plan for Fiscal Years 2001/02 through 2007/08 is the ACCWP's third to date and serves as the basis of the ACCWP's NPDES permit (ACCWP 2001). This permit was re-issued on February 19, 2003. New development and significant redevelopment projects that are constructed after February 2005 are required to comply with the numeric standards for post construction stormwater BMPs in the re-issued permit.

S1.3 As stated in response S1.2, VTA will comply with applicable federal, state, and local codes, including the terms of the Santa Clara County NPDES permit, which already includes the requirements listed in comment S1.2.

S1.4 As stated in response S1.2 and S1.3, VTA will meet all applicable requirements.

S1.5 The ninth paragraph in Construction, Section 4.19.5.1, Biological Resources and Wetland Impacts, under the subheading BART Alternative, has been revised as follows:

Impacts to up to 2.6 acres of Central Coast cottonwood-sycamore riparian forest along Berryessa, Upper Penitencia, and Coyote creeks could occur as a result of construction of the Montague/Capitol and Berryessa stations. Protective measures will be able to avoid encroachment on the riparian corridor and effects on Central Coast cottonwood-sycamore riparian forest in constructing the BART aerial structure crossing Upper Penitencia Creek at the Berryessa Station, in constructing the Parking Structure Northeast Option at this station, and in using the proposed laydown area at Mabury Road. The existing Mabury Road Bridge over Coyote Creek may be widened as part of the City of San Jose and Caltrans US 101/Mabury Road Interchange Project. This could encroach upon the Coyote Creek riparian corridor. Encroachment on the riparian forests could affect nesting special-status and non-special-status raptors, nesting swallows, and roosting bats. However, this project is currently unfunded and environmental analysis has not begun. If the interchange project were to move forward in an overlapping construction schedule with the BART Alternative, mitigation measures have been proposed for impacts due to the BART Alternative.

Table 4.19-7 has also been revised as follows:

Table 4.19-7: Temporary Impacts of Construction Activities for the BART Alternative to Wetlands/Other Water of the U.S. and Vegetation Communities	
Location/Type of Impact	Acreage Temporarily Affected
Wetlands/Other Water of the U.S	
Widen railroad bridge across Berryessa Creek (Waters of the U.S.)	0.001 acres
Widen railroad bridge across Wrigley Creek north of Calaveras Boulevard (Waters of the U.S.)	0.074 acres
Widen railroad bridge across Lower Silver Creek north of Alum Rock subway portal (Waters of the U.S.)	0.018 acres
Total Acreage Temporarily Affected	0.093 acres
Vegetation Communities	
Central Coast cottonwood-sycamore riparian forest	2.6 acres
Total Acreage Temporarily Affected	2.6 acres
<i>Source: Parsons Corporation, Earth Tech, Inc., 2003.</i>	

S1.6

VTA acknowledges that significant discharges of groundwater to the storm sewer system or directly to waters of the state will require written authorization from RWQCB. Section 4.19.15.4, Design Requirements and Best Management Practices for Water Resources, Water Quality, and Floodplains Impacts, has been revised to include this requirement as follows:

- *VTA will receive written authorization from RWQCB for significant discharges of groundwater into the storm sewer system or directly into waters of the state. VTA will comply with any conditions required as part of the authorization to discharge.*

S2

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION, AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, GOVERNOR

DEPARTMENT OF TRANSPORTATION

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VTA
ENV. ANALYSIS

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May 12, 2004

SCL-General
SCL000147
SCH 2002022004

Mr. Tom Fitzwater
Santa Clara Valley Transportation Authority
3331 N. First Street
San José, CA 95134-1906

Dear Ms. Ives:

**Silicon Valley Rapid Transit Corridor, BART Extension to Santa Clara -
Draft Environmental Impact Statement / Environmental Impact Report
(DEIS & DEIR) & Draft 4(f) Evaluation**

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed Silicon Valley Rapid Transit Corridor, BART Extension to Santa Clara. We have reviewed the DEIS/R and have the following comments to offer:

Forecasting - Highway Capacity Manual 2000

It appears that the entire project analysis used the Highway Capacity Manual (HCM) 1994. It is recommended that all new studies beginning after October 1, 2001 use the analysis procedures in the HCM 2000, as several differences exist between the two. For example:

1. The level-of-service (LOS) thresholds differ in that the HCM 2000 contains the latest transportation characteristics for basic freeway segments, signalized intersections, as well as non-signalized intersections.
2. The primary service measures for determining the LOS of signalized intersections used in the HCM 1994, average stop delay per vehicle, have been updated in the HCM 2000 to use average control delay per vehicle. Caltrans' Highway Design Manual 2000 (HDM 2000) is available online for more information at the link below: <http://www.dor.ca.gov/hq/oppd/hdm/hdmtoc.htm>

S2.1

"Caltrans improves mobility across California"

Mr. Tom Fitzwater
 Santa Clara Valley Transit Authority
 May 12, 2004
 Page 2

A Complete Set of Intersection Analysis

Page 4.2-22, indicates that 121 signalized intersections were analyzed in the project study area. The Department suggests that a summary report containing a complete set of the 121 signalized intersections analyzed be included in the appendix. Table 4.2-18 only shows a partial set. The report should include the additional at-grade intersection analysis of freeway on-/off-ramp and adjoining streets leading to the new BART stations, illustrated in Figures 4.2-1 through 4.2-6, as follows:

S2.2

- I-680/or I-880 on-/off-ramp and Calaveras Blvd. next to the S. Calaveras station
- I-680/or I-880 on-/off-ramp and Landess Ave. adjacent to the Montague station
- I-680 on-/off-ramp and Berryessa Rd. near the Berryessa station
- US 101 on-/off-ramp and De La Cruz Blvd as well as I-880 on-/off-ramp and The Alameda near the Santa Clara station

S2.3

Numerical Analysis Needed on Cumulative Traffic Impacts

Pages 4.2-23, 4.2-24 and 6.3-36. Although the report mentions that a cumulative traffic impact analysis is required under CEQA and the EIS/R, there is no numerical analysis per intersection and only a partial numerical analysis on freeway segments. Please provide a complete project area cumulative traffic impact analysis for each impacted intersection and freeway segment.

S2.4

Crossing County Border Traffic Reduction

Page 4.2-34, states “At freeways crossing the Alameda-Santa Clara County line, this reduction amounts to about 1,300 to 1,400 vehicles removed in the AM and PM peak hours, respectively-about 3.5 percent of the peak-hour traffic volume on the freeways.” However, we found much lower traffic reduction through border crossings by I-880 and I-680 as demonstrated in Table 4.2-18. Little difference is shown:

Freeway Segment	Dir	Peak 2025 Hour No-action	2025 BART Alternative	Difference
I-680 Jacklin to Scott Creek	NB	AM 5,846	5,822	(22)
I-680 Jacklin to Scott Creek	SB	PM 6,256	6,276	(20)
I-680 Scott Creek to Jacklin	SB	AM 5,835	5,799	(36)
I-880 Great Mall to SR 237	NB	PM 6,565	6,601	36
I-880 Dixon Landing to/from SR 237 or to/from Mission Blvd as ideal link but not available				

S2.5

Please explain, or reconcile the statement on page 4.2-34 with Table 4.2-18.

Mr. Tom Fitzwater
 Santa Clara Valley Transit Authority
 May 12, 2004
 Page 3

Highway Operations

Page 2.4-7. It appears that the titles for the locations of Figures 2.4-3 and 2.4-4 are reversed. Please correct. S2.6

Pg.4.2-26 shows that there are a few intersections with right-of-way (ROW) restraints and limitations. How will the necessary traffic signal improvements and re-striping be implemented for these intersections? S2.7

Detailed descriptions and lane configurations for all intersections to be mitigated are not provided. Please provide this information. S2.8

Page 4.2-34. The number of listed freeway segments by station do not match with Table 4.2-18. Please reconcile. S2.9

Cooperative Agreement

A "Cooperative Agreement," between the State of California, Department of Transportation and the Santa Clara Valley Transportation Authority (VTA) shall be fully executed for any improvements to State Highways, i.e., BART crossings within Caltrans Right of Way. The document(s) shall be fully executed as soon as possible and prior to any development activity, such as the Project Study Report and Plans, Specifications and Estimates (PSR and PS&E) documents. S2.10

Structures

Page 3.6-48, Section 3.6.3.2, Potential Tunneling and Station Construction Methods. How will the proposed tunnels affect the existing water table and utilities during and after construction? Are pump stations anticipated? S2.11

Transit Opportunity

In view of serious funding shortfalls for this project and the related BART Warm Springs project, consideration should be given to implementing an interim busway that would extend along the surface portions of both projects. The purpose of such an interim project would be to create a lower-cost alternative that is quicker to implement. Such a project could be implemented using alignments and structures that ultimately would be converted to use by BART trains, when funding becomes available. S2.12

Biological Resources and Wetlands

Page 4.4-26. The mitigation measures should include a provision for allowing work to continue in the event that swallow's nests are found, as long as nesting activities are not disturbed, as determined by a biological monitor, per consultation with the California Department of Fish and Game. S2.13

Mr. Tom Fitzwater
Santa Clara Valley Transit Authority
May 12, 2004
Page 4

Page 4.4-28, second mitigation bullet for California red-legged frog. This should specify that activities after the rainy season could resume only after a site inspection, by a qualified biologist, in consultation with the U.S. Department of Fish and Wildlife Service.

S2.14

Cultural and Historic Resources

Please provide cultural and historical resources technical reports for review and comment.

S2.15

Because the proposed project could affect cultural or historic resources within its right of way, Caltrans should be included in the development of a Memorandum of Agreement in order to comply with the requirements of the National Historic Preservation Act (Section 106).

S2.16

Additional comments, if any, from our Hydraulics, Environmental Engineering, and Construction Engineering Support Branches will be forwarded as they are received.

S2.17

Encroachment within State Right-of-Way


Please be advised that any work or traffic control within the State right-of-way (ROW) will require an encroachment permit from the Department. To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans (in metric units) which clearly indicate State ROW to the following address:

S2.18

Mr. Sean Nozzari, District Office Chief
Office of Permits
California Department of Transportation, District 04
P. O. Box 23660
Oakland, Ca 94623-0660

Should you require further information or have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,



TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Phillip Crimmins (State Clearinghouse)

RESPONSE TO COMMENT LETTER S2

California Department of Transportation (May 12, 2004)

- S2.1** *The Santa Clara County Congestion Management Program Guidelines require the use of the TRAFFIX software for studies within the county. The TRAFFIX software was not updated to use the HCM 2000 analysis methodology until the fall 2003. The latest version of TRAFFIX at the time the analysis was prepared utilized HCM 1994.*
- S2.2** *Table 4.2-18, Freeway Traffic Volumes and Levels of Service for 2000 Existing, 2025 No-Action, and 2025 BART Alternative Conditions, does not show a summary of signalized intersections, it shows a summary of the freeway segment analysis. The requested information is available in the three traffic impact analysis technical memorandums prepared for the Cities of Milpitas, San Jose, and Santa Clara (Technical Memorandum Traffic Impact Analysis for SVRTC EIS/EIR Alternatives). These reports are available for review by contacting the VTA Environmental Planning Department.*
- S2.3** *All the interchanges mentioned in this comment are full cloverleaf designs without significant stop controls. Therefore, there are no additional at-grade intersection analyses required.*
- S2.4** *The traffic impact analysis represents an analysis of year 2025 cumulative conditions both with and without (No-Action Alternative) the proposed BART Alternative. Table 4.2-18, Freeway Traffic Volumes and Levels of Service for 2000 Existing, 2025 No-Action and 2025 BART Alternative Conditions, provides the analysis of cumulative traffic conditions in the year 2025. Therefore, the analysis considers cumulative traffic conditions and the results apply to both intersections and freeway segments.*
- S2.5** *The reduction in freeway volume across the Alameda-Santa Clara County line was determined by summing the traffic volumes projected by the travel demand model. The freeway analysis presented in Table 4.2-18 was developed using the freeway segment analysis methodology required by the VTA Congestion Management Plan. The reduction projected by the travel demand model is the result of a much more comprehensive process and is the more reliable projection.*
- S2.6** *The comment is correct and the titles of Figures 2.4-3 and 2.4-4 have been revised.*
- S2.7** *Page 4.2-26 is Figure 4.2-2 Milpitas – Montague/Capitol Station, 2025 BART Alternative Level of Service Conditions. If an intersection is identified as “no feasible mitigation,” then impacts will be adverse and not be reduced to a less than significant level. Generally, mitigation in these cases requires additional right-of-way and the demolition of a building or buildings and/or removal of essential on-site parking that supports a business. Mitigation is provided when sliver takes and/or the removal of on-street parking is required.*
- S2.8** *The requested information is available under separate cover in the following technical appendices: Milpitas BART Stations, Traffic Impact Analysis, 2003; San Jose BART Stations, Traffic Impact Analysis, 2003; Santa Clara BART Station, Traffic Impact Analysis, 2003.*
- S2.9** *Out of the 94 freeway segments that were studied, the BART Alternative would have an impact on 29, which are shown in Table 4.2-18, Freeway Traffic Volumes and Levels of*

Service for 2000 Existing, 2025 No-Action and 2025 BART Alternative Conditions. The text in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, Freeway, first paragraph has also been revised as follows:

Year 2025 BART Alternative traffic volumes for the subject freeway segments were obtained from the traffic model. The number of freeway segments projected to be impacted by the BART Alternative, as well as those projected to improve with the BART Alternative, by station area is as follows:

- *Montague/Capitol 4 of 20 studied (4 improve)*
- *Berryessa 2 of 10 studied*
- *Alum Rock 7 of 20 studied*
- *Diridon/Arena 9 of 18 studied (1 improves)*
- *Santa Clara 0 of 26 studied (2 improve)*

S2.10 *VTA will comply with all applicable Caltrans requirements associated with the BART Alternative.*

S2.11 *The details of construction methods and sequencing are described in Section 4.19, Construction, and will be further defined in the Preliminary Engineering phase of the project. Preliminary Engineering activities will be coordinated with owners of adjacent facilities including utilities. With the use of earth pressure balance tunnel-boring machines, groundwater seepage into the tunnel should be minimal and should not affect the groundwater table in any appreciable way. Pump stations will be provided for maintenance/wash down operations and fire protection standpipe testing, and to address minimal inflows.*

S2.12 *The Major Investment Study/Alternatives Analysis (MIS/AA) evaluated 11 alternatives for the SVRTC including a Busway on the UPRR Alignment option. After an extensive public outreach process, the VTA Board of Directors determined that the benefits of the BART Alternative were far greater than those of any of the other alternatives and selected it as the Locally Preferred Alternative in November 2001. An interim bus alternative was not considered in the MIS/AA.*

The costs involved in modifying the existing railroad alignment for a busway, although less than the cost of the BART Alternative, still would be considerable. Construction of the busway would require upgrading and paving the existing railroad right-of-way to accommodate two-way bus traffic. Improvements to the railroad roadbed for the busway would require widening, relocation of utilities, drainage improvements, and remediation of any hazardous materials within the right-of-way. This includes many of the same investments required for the BART Alternative. An interim busway alternative would also require construction of access and station facilities at intermediate points along the guideway, as well as at both the north and south termini. Station sites would potentially require facilities for parking, ticketing, boarding, and restrooms, and would need to be accessible to local buses, autos, bicycles, and pedestrians. Access to stations may require street improvements, as well as the costs of the station facilities themselves.

Construction of the BART Alternative following the interim busway project would require removing the paved guideway and bus station structures. The paving would need to be

removed to allow placement of ties and rails, and the BART rail system requires facilities on a much larger scale than bus facilities, which could not be converted to BART use. For example, a BART station platform is typically 700 feet long. Therefore, a large percentage of the costs invested in an interim bus alternative could not be converted for use by the BART Alternative and would be lost. The loss of capital investments and the potentially short operating life combine to diminish the value of this alternative.

The need to transfer from bus service to BART in Warm Springs introduces an additional transfer and longer travel times that would likely result in lower ridership. In addition, the environmental impacts would likely be greater with the interim bus alternative. There would be potentially greater air pollutants depending on the type of bus operating and conversion from the busway to BART would require a second construction phase that would generate additional traffic, noise, and air quality impacts beyond that which would occur if construction were to occur in a single phase. For all of these reasons, an interim busway alternative was not carried forward.

- S2.13** *The mitigation measure applicable to nesting swallows in Biological Resources and Wetlands, Section 4.4.3.5, Mitigation Measures, has been revised to include migratory birds and swallows as follows:*

If construction activities are scheduled to occur during the nesting season of swallows and other migratory birds (generally March through August), a pre-construction survey for nesting activity will be conducted prior to commencement of construction. If active nests are identified in close proximity to construction work, a biological monitor will monitor the nests when work begins. If the biological monitor, in consultation with the California Department of Fish and Game (CDFG), determines that construction activities are disturbing adults incubating eggs or young in the nest, then a no work zone buffer will be established by the biological monitor around the nest until the young have fledged and the nest is no longer active. If a biological monitor, in consultation with CDFG, determines that construction activities occurring in proximity to active cliff swallow nests are not disturbing adults or chicks in the nest, then construction activities can continue. Nests that have been determined to be inactive (with no eggs or young) can be removed with CDFG approval.

- S2.14** *The second mitigation bullet for California red-legged frog in Biological Resources and Wetlands, Section 4.4.3.5, Mitigation Measures, has been revised as follows:*

No activities will occur in suitable California red-legged frog habitat after October 15 or the onset of the rainy season, whichever occurs first, until May 1 except for during periods greater than 72 hours without precipitation. Activities can only resume after the 72-hour period or after May 1 following a site inspection by a qualified biologist, in consultation with USFWS. The rainy season is defined as a frontal system that results in depositing 0.25 inches or more of precipitation in one event.

- S2.15** *One copy of each of the two cultural and historic resources technical reports prepared for the project, the Historic Resources Evaluation Report for the SVRTC EIS/EIR Alternatives, 2003, and the Archaeological Survey and Sensitivity Report for SVRTC EIS/EIR Alternatives, 2002, were forwarded to Caltrans, Attention: Timothy C. Sable, District Branch Chief IGR/CEQA.*

- S2.16** *VTA will add Caltrans to the list of signatories to the Draft Memorandum of Agreement*

provided in Appendix F. The decision on whether to prepare an MOA or a Programmatic Agreement is still under discussion. The appropriate type of document and its details will be developed through continuing consultations with interested parties.

S2.17 *No additional comments from the Hydraulics, Environmental Engineering, or Construction Engineering Support Branches of Caltrans were received.*

S2.18 *VTA will work with Caltrans to ensure that all required permits for the project are issued prior to the beginning of work that would affect a Caltrans facility.*

S3

BOB BALGENORTH, Chair
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June 2, 2004

Mr. Tom Fitzwater
Santa Clara Valley Transportation Authority
Environmental Planning Department
3331 North First Street, Building B
San Jose, CA 95134-1927

RE: Draft Environmental Impact Statement/Report for BART extension to Santa Clara

Dear Mr. Fitzwater:

At its May 2004 meeting the California Transportation Commission, as a responsible agency, reviewed the Draft Environmental Impact Report/Environmental Assessment (EIR) for the proposed BART extension to Milpitas, San Jose, and Santa Clara.

The Commission has three comments that Valley Transportation Authority (VTA) should address in its EIR, VTA should:

- Identify alternate funding sources and the certainty that the funds would be available to ensure that the proposed extension is fully funded if the current source of local, state and federal funds is not sufficient. S3.1
- Identify the funding sources that would be use to cover the operating subsidies needed for the extension. S3.2
- Explain the methodology used to calculate a projected fare box recovery of 71% in 2025. S3.3

If you have questions, please call Robert Chung, CTC Deputy Director at 916-654-4245.

Sincerely,

BOB BALGENORTH
Chair

c: Commissioners
Robert Chung, CTC staff

Carol-Jovin/chung/VTA2004EIRIt

RESPONSE TO COMMENT LETTER S3

California Transportation Commission (June 2, 2004)

- S3.1** *The recent economic decline presents challenges to the financing of this project. VTA staff continues to work with the VTA Board, Metropolitan Transportation Commission, the State of California, and the Federal Transit Administration to resolve the details of the funding plan for this project. As stated in the EIS/EIR "a feasible financial plan will need to be prepared to advance the project into Final Design." Chapter 8, Financial Considerations, in combination with the recommended project description (Volume II, Chapter 3), accurately represents the funding picture for the project. Section 8.5.5, Potential New Funding Sources, presents a number of options that the VTA Board is considering.*
- S3.2** *Refer to response S3.1.*
- S3.3** *The fare box recovery ratio is defined as the fare revenue divided by the operating costs. For the EIS/EIR, fare revenue for BART was derived from the travel demand model. The travel demand model generated daily fare revenue for each mode in each alternative based on actual data from the model's base year (1990). The base year included actual trip length and distance-based fare schedules. The fare revenue was discounted by 25% to account for passes and other discounted fares. The daily fare revenue was annualized using a factor of 291 (provided by BART), and inflated to 2003 dollars. In fiscal year 2003, the fare box recovery ratio for BART was 59%.*

May 17 04 10:46a

Karen Toth

S4

510-540-3807

p. 1



Terry Tamminen
Agency Secretary
Cal/EPA



Department of Toxic Substances Control

Edwin F. Lowry, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor

May 17, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First Street, Building B
San Jose, California 94134-1927

Dear Mr. Fitzwater:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (EIS)/ Environmental Impact Report (EIR) (SCH# 2002022004) for BART Extension to Milpitas, San Jose, and Santa Clara. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. The Santa Clara Valley Transportation Authority is currently negotiating a Voluntary Cleanup Agreement with DTSC to address hazardous substances found during the project

S4.1

The Draft EIR indicates proposed changes in the land use for the proposed route and stations for the BART extension. Several of the locations (stations and routes) have been impacted by hazardous materials in the past and have deed restrictions, caps or other requirements due to ongoing remediation. DTSC recommends that sampling be conducted in order to determine whether hazardous substances are present at levels which would need to be addressed as part of any development. If hazardous substances have been released, they will need to be addressed as part of a supplement to this project.

S4.2

Please contact Lynn Nakashima at (510) 540-3839 if you have any questions. Thank you in advance for your cooperation in this matter.

Sincerely,

Karen M. Toth, P. E., Unit Chief
Northern California - Coastal Cleanup
Operations Branch

cc: See next page

May 17 04 10:46a

Karen Toth

510-540-3807

p.2

Mr. Tom Fitzwater
May 17, 2004
Page 2

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Guenther W. Moskat
CEQA Tracking Center
Office of Environmental Analysis, Regulations & Audits
1001 I Street, 22nd Floor/ P.O. Box 806
Sacramento, California 95812-0806

RESPONSE TO COMMENT LETTER S4

Department of Toxic Substances Control (May 17, 2004)

- S4.1** *VTA acknowledges the role of the Department of Toxic Substances Control and will continue to coordinate with the department to address any discovered hazardous materials, as required.*
- S4.2** *As stated in Hazardous Materials, Section 4.11.3.3, Mitigation Measures, Phase Two investigations will be performed, as appropriate, to determine whether contamination is present that could affect construction and/or maintenance of facilities. Investigations will include sampling and testing for contaminants in soil and groundwater. The results will be used to develop a hazardous materials management plan.*

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Terry Tamminen
Secretary for
Environmental
Protection

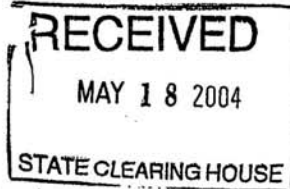
California Regional Water Quality Control Board San Francisco Bay Region



Arnold Schwarzenegger
Governor

Internet Address: <http://www.swrcb.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 FAX (510) 622-2460

S5



clear
5-14-04 Date: May 13, 2004
(ate) File No. 2188.07 (PFA)

Mr. Tom Fitzwater
VTA Environmental Planning Department
331 North First Street, Building B
San Jose, CA 95134-1927

**Re: Draft Environmental Impact Statement/Environmental Impact Report &
Draft 4(f) Evaluation, BART Extension to Milpitas, San Jose, and Santa Clara
SCH Number 2002022004**

Dear Mr. Fitzwater:

Thank you for the opportunity to review and comment on the subject project (the Project). I would like to provide comments on the DEIR/EIS in addition to those from Brian Wines of our office dated May 12, 2004.

As you know, the Berryessa Station described on page 3.4-23 of the DEIR/EIS is located adjacent to Upper Penitencia Creek in the vicinity of the proposed Santa Clara Valley Water District (District), U.S. Army Corps of Engineers (Corps) Upper Penitencia Creek Reach 1 Flood Control Project located between King Road and the confluence with Coyote Creek. The DEIR/EIS acknowledges this proposed project and states that the BART alignment "...would pass over the planned subsurface Santa Clara Valley Water District (SCVWD) drainage bypass structure", that the Berryessa Station would be "...centered between Berryessa Road and the planned subsurface SCVWD drainage bypass structure", and that "vehicular access to the parking facilities (for Berryessa Station) would be from Berryessa Road and from a new street originating at King Road and continuing parallel to or on top of the planned SCVWD drainage bypass structure."

S5.1

Interested parties, including regulatory agencies and environmental stakeholders have expressed a desire to see the District and the Corps investigate a flood control project design alternative that provides flood capacity in reach 1 of Upper Penitencia Creek by excavating a floodplain bench along the current alignment of the Creek. As a result, approvals for the planned bypass alternative are on hold while the District and Corps continue to investigate the floodplain alternative. Crucial to the success of a floodplain alternative is availability of adequate right of way to excavate an adequately sized floodplain bench that will convey the designed 100-year flood event and allow for a riparian corridor along the active channel.

Regular meetings of the Upper Penitencia Lessons Learned group, composed of the District, Corps, City of San Jose, Santa Clara VTA, regulatory agencies, and environmental stakeholders continue to work to assist with the efforts of the District and

Mr. Fitzwater

- 2 -

DEIR/EIS BART Extension San Jose

Corps to design a floodplain alternative. Active participation from VTA has been greatly appreciated, as would representation from BART in this effort.

Currently it has been estimated that a setback of approximately 165-feet from the top of the bank at the location of the Berryessa Station may be necessary to provide flood capacity around the sharp turn in the Creek at Berryessa Road, just downstream of King Road. VTA has indicated that BART is already considering a 150-foot setback in this area.

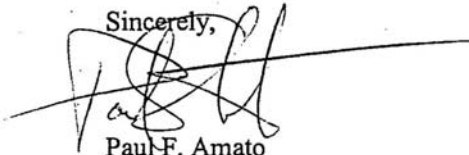
S5.1
(cont.)

Design alternatives of the BART alignment and Berryessa Station and all appurtenant facilities should be done in coordination with the current flood control project efforts to avoid any unnecessary conflict and to ensure that the best alternatives are selected to protect water quality and beneficial uses of Upper Penitencia Creek.

S5.2

Thank you for the opportunity to comment on the DEIR. I look forward to your response and participation with the efforts described above. I can be reached at (510) 622-2429 or by e-mail at pa@rb2.swrcb.ca.gov.


Sincerely,



Paul F. Amato
Environmental Specialist

cc State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044
Santa Clara Valley Water Control District, Attn: Sue Tippetts, Community Projects Review Unit, 5750 Almaden Expressway, San Jose, CA 95118-3686
CDFG, Central Coast Region, Attn: Robert Floerke, Regional Manager, P.O. Box 47, Yountville CA 94599

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RESPONSE TO COMMENT LETTER S5

California Regional Water Quality Control Board (May 13, 2004)

S5.1 *As per Sections 3.7.2, 4.18.2.4, and 4.18.4.3, VTA acknowledges that the Upper Penitencia Creek Flood Control Project is currently in the early stages of design with alternatives being considered to ensure flood protection up to the 100-year flood event. These alternatives include widening the existing channel and constructing a 0.4-mile underground bypass channel from Upper Penitencia Creek to Coyote Creek (between Berryessa Road and Mabury Road).*

At the Berryessa Station location, the BART Alternative includes a 150-foot set-back design requirement from the existing Upper Penitencia Creek. The set-back was incorporated into the BART Alternative plans to accommodate a future flood control project that may include widening of the existing Upper Penitencia Creek. Preliminary Engineering is now underway based on a 150-foot set-back. If a 165-foot set-back is needed to provide flood capacity around the sharp turn in the creek at Berryessa Road just downstream of King Road, the BART Alternative facilities may be impacted. VTA has and will continue to meet with the Santa Clara Valley Water District (SCVWD) and other agencies involved in the flood control project to ensure that all agency interests are accommodated.

S5.2 *Refer to response S5.1.*

VTA is aware that the Berryessa Creek and Upper Penitencia Creek flood control projects are currently in the early stages of design with alternatives being considered to ensure flood protection in the cities of Milpitas and San Jose from a 100-year flood event. These flood control projects will also eliminate flooding within or along the BART alignment and planned facilities from a 100-year flood event, a substantial benefit. VTA is working and will continue to work with SCVWD and USACE on the progress of these projects, whether these projects are on schedule and to be constructed prior to or concurrently with the construction of the BART Alternative. In the event these projects are not implemented in tandem with the construction of BART, VTA will have alternative plans for design and construction of the BART Alternative. These alternative plans will be further evaluated in detail so that the impact on the existing floodplain conditions are not significant and BART facilities are secured from a 100-year flood event. Based on preliminary analysis of the floodplain conditions before and after construction, in general, these alternatives are discussed in the Location Hydraulic Study¹.

VTA is preparing a detailed hydraulic study that will address these issues, and will work with SCVWD and others during the design to verify that BART project components do not impact flood flows or raise water surface elevation. VTA will provide plans and request SCVWD and others for concurrence for the subject area(s) prior to Final Engineering.

¹ Earth Tech, Inc. (2003). Location Hydraulic Study, Technical Report, Silicon Valley Rapid Transit Corridor MIS/EIS/EIR, August.

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DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS M.S. #40
1120 N STREET - ROOM 3300
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SACRAMENTO, CA 94273-0001
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TTY (916) 651-6827

S6



*Flex your power!
Be energy efficient!*

June 2, 2004

Mr. Tom Fitzwater
Santa Clara Valley Transportation Authority
Environmental Planning Department
3331 North First Street
San Jose, CA 95134

Dear Mr. Fitzwater:

Re: BART Extension to Milpitas, San Jose and Santa Clara
Draft Environmental Impact Statement, Environmental Impact Report, and 4(f)
Evaluation

Thank you for including the California Department of Transportation (Department), Division of Aeronautics in the environmental review process for the above-referenced project. We have reviewed the Draft Environmental Impact Statement / Report, dated March 2004, and offer the following comments for your consideration.

1. The project is the construction of a 16.3-mile extension of the BART rail system from just south of the future BART Warm Springs Station in Fremont to the Cities of Milpitas, San Jose and Santa Clara. The alignment would include seven stations (plus one future station, and a maintenance / storage yard in San Jose / Santa Clara. The proposed project would operate along the existing railroad right-of-way (former Union Pacific Railroad) up to Santa Clara Street in San Jose. From there, BART would leave the railroad right-of-way, tunneling under downtown San Jose to the Diridon Station. The BART extension would then turn north under the Caltrain line and terminate near the Santa Clara intermodal station. At this intermodal station, a 400-foot-long elevated or underground pedestrian connection would link the BART station platforms with the Caltrain platforms, bus plaza, and the kiss-and-ride area. The Santa Clara station would be connected to the San Jose International Airport (SJIA) via an automated people mover (APM). A design option for a "lowered profile fro a potential future airport connection" has been identified. This design option would lower the BART profile to accommodate any future BART extension directly into SJIA, eliminating the need for the APM. The proposed Santa Clara intermodal station would be approximately 0.5 miles west of SJIA.
2. The Department is dedicated to making public transportation a viable option for airport access. From a regulatory standpoint, the Government Code Section 65081.1 requires regional transportation agencies to give the highest priority to public transportation when programming projects for airport access. It is also our stated policy in the California Aviation System Plan, Policy Element to support transit and intermodal planning efforts, as well as

S6.1

"Caltrans improves mobility across California"

Mr. Tom Fitzwater
May 20, 2004
Page 2

coordination among federal, State, regional, local agencies, airport districts, and transit operators.

3. The Transportation Research Board's Transit Cooperative Research Program Report Number 62, *Improving Public Transportation Access to Large Airports*, explains three key attributes of successful regional rail connections to airports. These attributes should be taken into account in the conceptual design of the project:
 - a. Type of service to the downtown and metropolitan area: Successful systems appear to either focus on line speed between the airport and downtown (i.e., provide dedicated service) or focus on the quality of the distribution service and headway minimization that results from joint operation with regularly scheduled services. Analyses indicate that an emphasis on door-to-door travel time to a single point may be unproductive because of the typical broad distribution of airline passenger trip ends.
 - b. The quality of rail connections at the airport: For a potential rail customer, a key issue is the availability of a seamless connection between the aircraft gate and the rail platform, including the ability to easily find the platform, and the required walking distances and the number of level changes encountered. Most of the airports with the highest rail mode shares have a direct connection from the airport terminal to a single, centralized transit hub.
 - c. Baggage handling strategies and services: Rail cars should have dedicated space for storing luggage in a safe and user-friendly spot. One or two cars of a train can be designated for passengers with luggage.
4. In specific, the Department supports the "lowered profile for a potential future airport connection design option," since this would lead to the most seamless connection between the airport terminal and BART. This option is discussed on Page 3.4-31, as a part of the alternatives analysis.
5. The project proposes structured parking at Santa Clara Station. For this component of the project and for other proposed construction activities in the vicinity of SJIA, the Federal Aviation Administration (FAA) may require the filing of a Notice of Proposed Construction or Alteration (Form 7460-1), pursuant to Federal Air Regulation Part 77. For technical information and an electronic copy of the form, please refer to the FAA's Air Traffic and Airspace Management web page at <http://www.faa.gov/ats/ata/ata400/oeaaa.html>.
6. The Division of Aeronautics has technical expertise in the areas of airport operations safety, airport land use compatibility, and statewide aviation system planning. We are a permitting and funding agency for many aviation facilities throughout the State. In accordance with the California Environmental Quality Act, Public Resources Code Section 21096, the California Airport Land Use Planning Handbook must be utilized as a resource in the preparation of environmental documents for projects within the boundaries of an airport land use

S6.1
(cont.)

S6.2

S6.3

Mr. Tom Fitzwater
May 20, 2004
Page 3

compatibility plan, or if such a plan has not been adopted, within two nautical miles of an airport. For your reference, the Handbook is published on-line at <http://www.dot.ca.gov/hq/planning/aeronaut/htmlfile/landuse.php>.

S6.3
(cont.)

7. This project should also be referred to the Santa Clara County Airport Land Use Commission for their review and consistency determination.

S6.4

8. Aviation plays a significant role in California's transportation system. This role includes the movement of people and goods within and beyond our state's network of over 250 airports. Aviation contributes nearly 9% of both total state employment (1.7 million jobs) and total state output (\$110.7 billion) annually. These benefits were identified in a recent study, "Aviation in California: Benefits to Our Economy and Way of Life," prepared for the Division of Aeronautics which is available at <http://www.dot.ca.gov/hq/planning/aeronaut/>. Among other things, aviation improves mobility, generates tax revenue, saves lives through emergency response, medical and fire fighting services, annually transports air cargo valued at over \$170 billion and generates over \$14 billion in tourist dollars, which in turn improves our economy and quality-of-life.

S6.5

These comments reflect the areas of concern to the Department's Division of Aeronautics with respect to environmental and airport land use compatibility planning. We also advise you to contact our District 04 office concerning surface transportation issues.

We appreciate the opportunity to review and comment on this environmental document. If you have any questions, please call me at (916) 654-5253.

Sincerely,



DAVID COHEN
Associate Environmental Planner

c: Santa Clara ALUC
San Jose International Airport
Mr. Jerome Wiggins, Federal Transit Administration

RESPONSE TO COMMENT LETTER S6

California Department of Transportation (June 2, 2004)

S6.1 *VTA, in cooperation with the Norman Y. Mineta San Jose International Airport (SJIA) and the City of San Jose, completed an alternatives analysis of rail transit access alternatives to SJIA. This analysis concluded that the Automated People Mover (APM) from the proposed Santa Clara Station would have a number of advantages over a direct BART connection to SJIA:*

- 1. The cost for the APM is much lower (\$250 million) compared to BART (\$650 million);*
- 2. The weekday ridership is higher for the APM (7,400) compared to BART (4,700);*
- 3. The APM would provide more frequent service (3 to 5 minute headways) compared to BART (6 to 12 minutes);*
- 4. Funding has been identified for the APM through the 2000 Measure A Program, but not for a direct BART connection to SJIA;*
- 5. Spatial constraints at the airport would make BART difficult and costly to accommodate;*
- 6. Finally, a direct BART connection would make only one airport stop, so a passenger transfer is still required on the APM to other parts of the airport. Meanwhile, the APM would serve multiple stops along its route.*

BART vehicles have seating adjacent to open areas near the car doors to accommodate passengers with baggage. This arrangement currently accommodates the needs of passenger with baggage boarding at the San Francisco International Airport (SFO).

Caltrans' support for the Lowered Profile for a Potential Future Airport Connection Option is noted and included in the record for consideration by the decision-makers. However, at the May 26, 2004 SVRTC Policy Advisory Board meeting, the At-Grade Profile Beyond De La Cruz Boulevard Option was selected as the preferred option. While the at-grade option may result in higher construction costs and long-term and operational concerns, if a direct connection to the airport is later approved, it would not impede a direct connection. In addition, the BART Alternative would facilitate transit access to SFO and Oakland International Airport for Santa Clara County residents.

S6.2 *VTA's review of Federal Aviation Regulation (FAR) Part 77 indicates that the BART Alternative will be substantially below the height restriction criteria. Therefore, VTA would not need to file a Notice of Proposed Construction or Alteration with the Federal Aviation Administration (FAA). However, this conclusion will be verified during the Preliminary Engineering phase of the project.*

S6.3 *The closest BART Alternative facilities (the Santa Clara Station) are located to the west of SJIA and across Coleman Avenue. They are perpendicular and approximately 2,000 feet from the runways. Therefore, they are not in the flight path. The BART Alternative would not be in conflict with the California Airport Land Use Planning Handbook guidelines related to noise, height restrictions, and safety zones.*

S6.4 *On July 28, 2004 the Santa Clara County Airport Land Use Commission (ALUC) considered the Draft EIS/EIR. VTA staff attended the meeting and provided an overview of the BART Alternative and referred to a memo dated July 14, 2004 that was addressed to Ralph Britton, Airport Land Use Commission Chair. This memo documented that all heights of structures within the ALUC Height Restriction Boundary of SJIA for the BART Alternative would not exceed the maximum height restrictions. Therefore, no structure would interfere with airport operations or conflict with FAR PART 77 height restrictions for SJIA. The BART Alternative is also compatible with the airport noise environment. The Commission considered the Draft EIS/EIR and had "no comments".*

Regarding a consistency determination, ALUC staff responded in an email dated July 29, 2004 that "The ALUC only makes determinations of consistency with the Comprehensive Land Use Plan, if it is referred a permit application." VTA has just entered the Preliminary Engineering phase of the project and if a permit application were required, it would not be submitted for several years.

S6.5 *The importance of aviation to California's transportation system and economy is noted and included in the record for consideration by the decision-makers.*

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R1

-----Original Message-----

From: Marc Roddin [mailto:MRoddin@mtc.ca.gov]
Sent: Tuesday, May 04, 2004 2:43 PM
To: SVRTC.DEIS-EIRcomments@vta.org
Cc: jlmcmore@aol.com; james.beall@bos.co.santa-clara.ca.us; district1@co.alameda.ca.us
Subject: MTC's Comments on BART Extension to Milpitas, San Jose, and Santa Clara DEIS
May 4, 2004

Tom Fitzwater
Santa Clara Valley Transportation Authority
3331 North First Street
San José, California 95134-1906

Dear Tom:

The MTC staff has reviewed your draft environmental impact report (DEIR) and statement (DEIS) for extending BART from its planned future southern terminus in Fremont's Warm Springs neighborhood into Santa Clara County. The route begins along the VTA's San José Branch Railroad line (formerly UPRR) to Milpitas and San José, and then tunnels into downtown San José, finally heading northwest to Santa Clara, terminating at grade near the existing CALTRAIN station. The station locations would be Montague, Berryessa, Alum Rock, San José State University, Market Street, the Arena, and Santa Clara.

Our comments encompass the Transportation and Transit, and the Land Use sections of your environmental analysis, plus the Financial Considerations chapter. Thank you for the opportunity to allow MTC to comment on the content of the environmental document for the proposed project.

Transportation and Transit

The introduction to the Transportation and Transit chapter (section 4.2.1) cites five separate, independent reports that are the basis of the forecasts that appear in the DEIS. Chapter 6 of one of these reports, the Travel Demand Forecasts report, is entitled Projected Corridor Growth. It provides important information about the underlying assumptions upon which the forecasts were based. This documentation is necessary in order to understand the forecasts. Kindly include this chapter (or a summary of it) as a component of the main body of the FEIS document. When you do so, please clearly define the "narrowly focused travel corridor within the five-Superdistrict study area" discussed on page 39 of the Travel Demand Forecasts Report. Also, please document (in an appendix if necessary) any assumptions that were made in using ABAG or MTC demographics data for ascertaining the numbers of households and jobs assigned to specific traffic analysis zones used in this study.

Kindly add to this chapter a discussion that explains any mode shifts that are contemplated because of this project. Does this project draw trips off of the freeway?

R1.1

R1.2

R1.3

Please clarify in the text describing Table 2.4-5 on page 2.4-10 of the Introduction that the numbers shown are for the entire study area, as distinguished from the more narrowly focused travel corridor used for the transportation forecasting process.

R1.4

Also, in the FEIS, please state the dates when the travel forecasts were initiated and when they were completed, compared to the availability of more current ABAG or MTC forecasts during that period.

R1.5

Section 4.2.3.2 on page 4.2-4 of the DEIS assumes an expansion of the VTA bus fleet to 650 vehicles for all alternatives considered. However, earlier this year, VTA's Board of Directors approved as part of the agency's FY 2004-2013 *Short Range Transit Plan*, a bus fleet size reduction to 429 vehicles beginning in fiscal year 2007 and continuing forward from that point until at least fiscal year 2013. The 429-bus fleet assumes a 20% spare ratio in order to meet a weekday peak demand of 357 pullouts. You should also check with AC Transit to see if they still contemplate the southern Alameda County bus service increase postulated in the DEIS. Please specify which of VTA's future potential bus fleet sizes (429 or 650 buses) is correct (and if there are any changes to the AC Transit assumptions) and then revise the DEIS travel forecast calculations accordingly if necessary. The FEIS should assure the reader that the travel forecast and the financial sustainability for continued transit operations were both based on the same bus fleet size, if indeed that is the case.

R1.6

For the traffic analysis presented in Table 4.2-18 on pages 4.2-23 and 4.2-24 of the DEIS, please include impacts of the project (compared to no project) on mainline traffic flow for locations on Interstate Route 880 north of the I-880/SR 237 interchange, since this freeway parallels the extended BART line between San José and points north.

R1.7

Table 4.2-18 on pages 4.2-23 and 4.2-24 of the DEIS shows that the project increases mainline freeway traffic volumes at more than a dozen locations and causes deterioration in the mainline level of service from C to D on freeways at two of these locations, compared to the no-project alternative. We expected that rail transit in this corridor would take traffic off the mainline freeway. Please confirm if this unintuitive impact is due to access to the BART stations. Also, please evaluate ramp metering as project mitigation.

R1.8

Land Use

We found the half-mile circle maps in section 4.12.2.1 (existing land use setting) of land uses around each transit station to be very helpful in visualizing the transportation impacts of a new BART station in that location. For the residential land uses, these maps would be even more useful if they could quantify the densities with captions such as "x dwelling units per acre" and "y dwelling units per acre" right on the map. Please annotate these maps in the FEIS to quantify density in this way rather than showing it in broad general categories as is done in the draft. In the FEIS, please also include similar maps for the year 2025, so the reader can gain an appreciation for the types of land use changes contemplated to accompany the project, and to assist in visualizing the types of land uses that will provide necessary ridership for the BART project. Because it is a projection for far out future years, the broad general land use categories shown in the draft document will be fine for the new 2025 maps, rather than the more specific captions that we are requesting to depict existing land uses.

R1.9

R1.10

On DEIS pages 4.12-17 and 4.12-18; the discussion of regional development plans and policies describes MTC's regional transportation plan and the commission's TLC and HIP programs. In this section about MTC's land use policies, please also include the "Supportive Land Use Policies" embedded in MTC Resolution No. 3357. MTC Resolution No. 3434 recites *"the Commission adopted Resolution No. 3357 as the basis for assisting in the evaluations of rail and express/rapid bus projects"*. MTC will refer to the provisions of this resolution as the basis for identifying and selecting rail projects for inclusion in the Regional Transportation Plan. The associated MTC land use policy is as follows:

"One of the key findings of MTC's Blueprint evaluation of numerous proposed transit investments is that rail extensions capture more ridership in the densely settled urban core of the region. Last year [2000], the BART Board of Directors adopted a new system expansion policy that emphasized the need to "maximize ridership by supporting smart, efficient, and desirable growth patterns". Similarly, FTA's criteria for evaluating projects for New Starts funding recently have focused greater attention on transit-supportive land use policies. Considerations of "cost-effectiveness" (see below) will entail assumptions of ridership tied to existing or future employment and residential development within rail extension corridors.

R1.11

"Consequently, any evaluations of cost-effectiveness that rely on increased ridership arising from future land use patterns that differ from ABAG forecasts would require policy commitments in the form of board or council resolutions from the relevant local jurisdictions where such land use changes will occur. These resolutions must include the specific actions needed to effect the desired land uses (e.g. zoning changes, General Plan amendments) and a time line for implementing those actions. Any allocation or project approval of funds subject to the Commission's discretion, and dedicated to projects stipulated under this policy, will be contingent upon the local jurisdiction's approval of the specified implementing actions. A related consideration for land use policies would be the economic benefits of new development resulting from improved access provided by the rail investment, as well as the extent to which the rail project provides access to affordable housing and jobs."

In addition, please refer to MTC's new "Transportation and Land Use Platform" adopted during Phase One of the adoption of our Transportation 2030 Plan in December 2003. This platform further clarifies that new public transit projects will be evaluated in part based on local supportive land use policies that can be proven to increase ridership and thus maximize the cost-effectiveness of the project. Specifically, it states the following goals:

***"Promote development of land uses adjacent to major transit extensions, to support ridership markets that will make these investments economically feasible.
"Condition the award of regional discretionary funds under MTC's control for Resolution 3434 expansion projects, on the demonstration by local government that plans are in place supporting some level of increased housing/employment/mixed use density around transit stations/transfer centers."***

R1.12

In light of these adopted regional policies, please expand upon the land use chapter when you produce the FEIS with quantification of employment and residential development densities around stations under three categories, namely (1) existing, (2) permitted under existing local zoning and related land use policies, and (3) assumed in the travel forecasts. For densities assumed in category (3), identify specific actions that the appropriate city needs to take and a time line for those zoning and related land use policy actions, as required by MTC's resolution 3357.

R1.12
(cont.)

Table 4.12-1 has filled in circles that provide a quick means to see how well any particular policy is implemented. The FEIS should include explicit evaluation justifying which circles in the chart are partially or fully filled in, including the relevant criteria and their thresholds of significance. This chapter should demonstrate, rather than merely affirm, that the project supports the various plans.

R1.13

In addition, either this chapter or perhaps the Environmental Justice chapter should demonstrate the extent to which the rail project provides access to affordable housing and jobs as specified in resolution 3357.

R1.14

Financial Considerations

Although the level of detail is appropriate for a DEIS, additional financial data will be necessary to evaluate this project for inclusion in the Regional Transportation Plan.

R1.15

Table 8.2-3 (BART Alternative Cash Flow through Fiscal Year 2014) is based upon a set of assumptions as to the project implementation schedule. Please indicate in the FEIS how the total project cost might change if project implementation were to be delayed for some period.

R1.16

There is a statement on page 8.3-5 of the DEIS that Table 8.3-1 is based upon the service and fleet assumptions presented in Chapter 3. Rather than requiring the reader to flip back to another chapter in a lengthy document, please state in this paragraph the size of the VTA bus and light rail fleet (regular and spares) on which the analysis is based. You should also retain the present wording in case the reader wants to review more detailed information in the other chapter. Also, clarify bus fleet size as per our previous comment above (under Transportation and Transit) as to whether it is 429 buses, 650 buses, or something else.

R1.17

On page 8.3-6 of the DEIS, Table 8.3-1's title mentions 2015 and 2025; yet we see data only for 2025. Please reconcile. In any case, the 71.2% farebox recovery assumption appears too high given recent BART extension experience in our region. Please add one or more paragraphs of text to the section to justify the rationale for selecting this number. The additional text should compare it to current or historical farebox recovery data for BART (including BART's farebox recovery ratio forecasts for its own general purposes independent of pursuing this particular extension) and explain why the farebox recovery ratio is projected to be at this level.

R1.18

R1.19

Section 8.5.1.2 on page 8.5-11 presents a good history of the State Traffic Congestion Relief Program. The state has drafted some smart growth, land use and other economic

R1.20

development criteria, some of which may be used in future decision-making about restoring the availability of TCRP funds for projects such as this one. When the FEIS is getting finalized, please list the then-current state's criteria for making TCRP funds available, and discuss how this project might meet those criteria.	R1.20 (cont.)
Table 8.5-2 lists percentage growth rates assumed for countywide sales tax revenues for each year until 2010 and then beyond. Please supplement this table with any available official forecasts for the cities through which this project is to be routed, namely Fremont, Milpitas, San José, and Santa Clara.	R1.21
Section 8.5.3.2 on page 8.5-13 describes a VTA system wide fare recovery ratio of 20% beginning in fiscal year 2007 and maintained throughout the forecast period. This differs from the 23% fare box recovery for light rail and 26-27% farebox recovery ratio for VTA bus shown in Table 8.3-1. Please reconcile these differences in the FEIS.	R1.22
The analysis in section 8.5.3.2 assumes an increase in boardings per hour every year indefinitely. Please summarize the resulting boardings per hour by mode for VTA for the year 2025 compared to current experience of other Bay Area transit operators. Also, please clarify in this paragraph if it is talking about VTA bus, light rail, BART, or what.	R1.23
Please delete the bullet entitled Bay Area Bridge Tolls and its accompanying paragraph on the bottom of page 8.5-15 in section 8.5.5 (Potential New Funding Sources) since Regional Measure 2 does not provide funding for this project.	R1.24

Sincerely,

Marc Roddin
Santa Clara County Liaison

Marc Roddin
San Mateo and
Santa Clara County Liaison
Metropolitan Transportation Commission
Telephone (510)464-7827

Copies to:
Commissioner Beall
Commissioner McLemore
Commissioner Haggerty

RESPONSE TO COMMENT LETTER R1

Metropolitan Transportation Commission (May 4, 2004)

R1.1 *Statistics describing project corridor growth are summarized in Section 2.4, Purpose and Need for Transportation Improvements. In particular, Figures 2.4-1 through 2.4-4 show graphically the number of work trips for 2000 and 2025 in the project corridor. The technical reports are available for review upon request.*

The narrowly focused travel corridor for the project located within the five superdistrict study area is bounded approximately by the following major roadways described in a clockwise manner from the northern end of the project corridor:

- *Auto Mall Parkway in Fremont forms the northern boundary of the focused travel corridor;*
- *I-680 and I-280 in Alameda and Santa Clara counties forms the easternmost and southernmost boundaries of the corridor;*
- *San Tomas Expressway forms the westernmost boundary of the corridor; and*
- *US 101 and I-880 completes the westernmost boundaries of the project corridor in Santa Clara and Alameda counties back to Auto Mall Parkway in Fremont.*

R1.2 *Socioeconomic data for each of the traffic analysis zones (TAZs) used in the patronage forecasts were initially developed from the Association of Bay Area Governments (ABAG) Projections 2000 population and employment allocated to the Metropolitan Transportation Commission (MTC) 1099 TAZ system. As part of the model oversight committee, the SVRTC Model Working Group, initial MTC allocations within Santa Clara County and Alameda County were reviewed by the city jurisdictions in Santa Clara County located in the project corridor (Milpitas, San Jose, and Santa Clara) and the Alameda County Congestion Management Agency staff to ensure that they properly reflected expected growth patterns in each location. ABAG city control totals were preserved; however, city staff recommended reallocations of data within each city to more realistically reflect planned and adopted growth policies.*

R1.3 *Relative to the Baseline Alternative, the BART Alternative is estimated to produce 32,445 new transit trips, which would be shifting from auto modes of travel. The project is estimated to reduce the amount of peak hour traffic on the freeways across the Alameda/Santa Clara County line by 1,313 vehicles in the AM peak hour and by 1,386 vehicles in the PM peak hour relative to the No-Action Alternative. The project will reduce total peak period vehicles over the course of the entire day by approximately 25,500 vehicles relative to the No-Action Alternative.*

R1.4 *The text describing Table 2.4-5, Household and Employment Growth by Superdistrict 2000 to 2025, has been revised to include the word "entire" before SVRTC.*

R1.5 *The patronage forecasts for the SVRTC were initiated in January 2002 and completed in October 2002 and utilized the latest available data at the time, which was ABAG Projection Series 2000 datasets allocated to the MTC 1099 TAZ structure. ABAG Projection Series 2002 datasets at the census tract level were available December 2001 and ABAG Projections Series 2002 datasets at the MTC TAZ level were available September 2003. ABAG Projection Series 2003 datasets at the census tract level were*

available August 2003 and ABAG Projections Series 2003 datasets at the MTC TAZ level were available April 2004.

- R1.6** *The Short Range Transit Plan Fiscal Year (FY) 2004-2013 only addresses plans through 2013. The EIS/EIR projected a bus fleet of 642 in the year 2025, 12 years beyond the Short Range Transit Plan. Therefore, the two documents are not inconsistent. As stated in Table 3.4-1, 2025 Fleet Requirements for Baseline and BART Alternatives, a fleet of 642 buses was assumed for the BART Alternative. Regarding AC Transit bus service to southern Alameda County, the modeling assumed the latest available AC Transit route structure for all alternatives in 2025. Therefore, frequencies and route patterns were held constant for all alternatives and all of the alternatives would be equally affected with a variation from the assumptions.*
- R1.7** *As stated in Section 4.2.6.6, BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, under the subheading Freeways, compared to the No-Action Alternative, the BART Alternative removes vehicles from I-880 and therefore traffic impacts are less than the No-Action Alternative.*
- R1.8** *The traffic increase is at BART Alternative stations. However, as stated in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, under the subheading Freeways, "In comparing the BART Alternative and No-Action conditions, the BART Alternative improves the traffic volumes/conditions in some segments. Even though it does impact certain other segments near the station areas, the effects are marginal. The level of service is projected to deteriorate from LOS C to LOS D in only two segments. For all other segments, the level of service remains the same. The traffic density, the primary measure of level of service (Table 4.2-18), is lower under the BART Alternative for 22 of the 29 segments displayed. Thus, BART has a beneficial effect on freeway traffic overall." As an adverse impact is not identified, mitigation, such as ramp metering, is not proposed as part of the project.*
- R1.9** *Quantifying the residential densities around each station and depicting them on the land use figures would not change the conclusions of the EIS/EIR. However, based on the zoning ordinances of the cities of Fremont, Milpitas, and San Jose, the maximum dwelling units per acre are shown in the table below.*

Dwelling Units per Acre – Fremont, Milpitas, San Jose	
Zoning	Units per Acre
City of Fremont	
R-3-10	8.3-10
R-3-15	13-15
R-3-18	16.5-18
R-3-23	20.5-23
R-3-27	25-27
R-3-35	31-35
R-3-50	42.5-50
R-3-70	60-
City of Milpitas (Valley Floor)	
Single-Family-Low	N/A

Dwelling Units per Acre – Fremont, Milpitas, San Jose	
Zoning	Units per Acre
Single-Family Moderate	3-5
Multifamily Medium	6-15
Multifamily High	7-11
Multifamily High with Special PUD Approval	12-20
Mobile Home Park	6-7
City of San Jose	
R-1	1-8
R-2	8-14.5
R-M	25
Sources: City of Fremont Zoning Ordinance, Ordinance No. 2506, Exh. A Section 4, 7-22-03. City of Milpitas General Plan. City of San Jose Municipal Code 20.30.010.	

The City of Santa Clara states their maximum allowable densities by dwelling units per square foot of lot area, which differs based on lot size. These densities are shown in the table below.

Dwelling Units– Santa Clara		
Zoning	Lot Size	Dwelling Units per Square Feet of Lot Area
R3-36D	Up to 6,999	1/6,000
	7,000-8,499	1/3,500
	8,500-9,999	1/2,830
	10,000-22,000	1/2,500
	22,011-44,000	1/2,000
	Over 44,000	1/1,210
R3-25D	Up to 6,999	1/6,000
	7,000-8,499	1/3,500
	8,500-9,999	1/2,830
	10,000-22,000	1/2,500
	22,011-44,000	1/2,000
	Over 44,000	1/1,740
R3-18D	Up to 6,999	1/6,000
	7,000-8,499	1/3,500
	8,500-9,999	1/2,830
	10,000-22,000	1/2,500
	Over 22,000	1/2,420
Source: City of Santa Clara Zoning Ordinance Section 8-12.		

R1.10 *Each city's general plan projects future conditions for the build out year of each respective city. The cities of Fremont, Milpitas, San Jose, and Santa Clara have build out years of 2010, 2010, 2020, and 2005, respectively. Year 2025 land use projections have not been identified by any of these cities. Each general plan states policies that promote transit-oriented development near major transit services (see Section 4.12, Land Use, for a description of these policies), which would provide ridership for the BART Alternative. The existing graphics illustrate what the existing land uses are and that the BART Alternative is in compliance with the general plan of each city. General plan policies support intensification of land uses around proposed station areas, although specific areas and densities have not been identified.*

R1.11 *A new subheading in Section 4.12.2.2, under the subheading Metropolitan Transportation Commission, entitled "Supportive Land Use Policies from MTC Resolution No. 3357" has been added, along with the following text:*

One of the key findings of MTC's Blueprint evaluation of numerous proposed transit investments is that rail extensions capture more ridership in the densely settled urban core of the region. Last year [2000], the BART Board of Directors adopted a new system expansion policy that emphasized the need to "maximize ridership by supporting smart, efficient, and desirable growth patterns". Similarly, FTA's criteria for evaluating projects for New Starts funding recently have focused greater attention on transit-supportive land use policies. Considerations of "cost-effectiveness" (see below) will entail assumptions of ridership tied to existing or future employment and residential development within rail extension corridors.

Consequently, any evaluations of cost-effectiveness that rely on increased ridership arising from future land use patterns that differ from ABAG forecasts would require policy commitments in the form of board or council resolutions from the relevant local jurisdictions where such land use changes will occur. These resolutions must include the specific actions needed to affect the desired land uses (e.g., zoning changes, general plan amendments) and a timeline for implementing those actions. Any allocation or project approval of funds subject to MTC's discretion, and dedicated to projects stipulated under this policy, will be contingent upon the local jurisdiction's approval of the specified implementing actions. A related consideration for land use policies would be the economic benefits of new development resulting from improved access provided by the rail investment, as well as the extent to which the rail project provides access to affordable housing and jobs.

R1.12 *Refer to response R1.9 for a discussion of residential densities. Employment densities for each station are not available. Refer to Section 4.15, Socioeconomics, Section 4.15.2.6, Jobs and Employment, for this relevant discussion.*

A new subheading in Section 4.12.2.2, under the subheading Metropolitan Transportation Commission, entitled "Supportive Land Use Policies from the Transportation and Land Use Platform" has been added, along with the following text:

In December 2003 during Phase One of the adoption of the Transportation 2030 Plan, MTC adopted the Transportation and Land Use Platform, which states the following goals:

- *Promote development of land uses adjacent to major transit extensions to support ridership markets that will make these investments economically*

feasible.

- *Condition the award of regional discretionary funds under MTC's control for resolution 3434 expansion projects on the demonstration by local government that plans are in place supporting some level of increased housing/employment/mixed use density around transit stations/transfer centers.*

The MTC Transportation and Land Use Platform in December 2003 was completed after project scoping and after development of the ridership forecasts for the project. However, VTA has and will continue to work with the cities within the project corridor to actively promote the development of land use policies and station area plans to maximize project utilization.

As per federal guidelines, VTA is required to use the regionally adopted socioeconomic data forecasts prepared by ABAG to produce ridership forecasts for the year 2025. The table below summarizes the existing 2000 and forecast year 2025 residential and employment densities in the vicinity of each project station assumed for the respective 2000 and 2025 model runs. The densities are reported in units of households per gross residential acre and employment per gross acre of commercial-industrial acres. The results in the table show that residential and employment densities are remaining stable or are increasing near each station from the existing year 2000 to forecast year 2025.

In addition, the cities have undertaken the development of plans and the adoption of zoning and general plan changes that would provide even greater increases in development density and intensity in areas surrounding the proposed BART stations. For additional information regarding station development, please refer to the Silicon Valley Rapid Transit Corridor Project Land Use Report for the Federal Transit Administration New Starts Process (VTA 2003) available by contacting VTA Environmental Planning Department.

2000 and 2025 Residential and Employment Densities (Unit/Acre) Assumed in the Travel Demand Models in the Vicinity of Project Stations				
Station	Range of Households/ Residential Acre		Range of Employees/ Commercial-Industrial Acre	
	2000	2025	2000	2025
<i>Calaveras</i>	<i>4 – 21</i>	<i>10 – 26</i>	<i>10 – 26</i>	<i>11 - 32</i>
<i>Montague/Capitol</i>	<i>4 – 11</i>	<i>4 – 13</i>	<i>4 – 22</i>	<i>14 – 28</i>
<i>Berryessa</i>	<i>5 – 8</i>	<i>6 – 9</i>	<i>9 – 30</i>	<i>9 – 35</i>
<i>Alum Rock</i>	<i>6 – 13</i>	<i>6 – 15</i>	<i>4 – 60</i>	<i>6 – 85</i>
<i>Civic Plaza/SJSU</i>	<i>8 – 36</i>	<i>11 – 56</i>	<i>14 – 76</i>	<i>73 – 108</i>
<i>Market Street</i>	<i>11 – 17</i>	<i>11 – 20</i>	<i>68 – 101</i>	<i>91 – 148</i>
<i>Diridon/Arena</i>	<i>7 – 16</i>	<i>9 – 25</i>	<i>15 – 78</i>	<i>19 – 78</i>
<i>Santa Clara</i>	<i>7 – 10</i>	<i>10 – 17</i>	<i>22 – 62</i>	<i>30 – 62</i>

R1.13

The table concisely demonstrates each alternative's conformance with adopted policies. This table format was chosen to present the information in an easily understood, clear and concise format for the public. Since no disagreement with any of the ratings is provided, no further response is required.

R1.14

As stated in Section 2.4.1 Purpose, one of the purposes of the project is to “Improve mobility options to employment, education, medical, and retail centers for corridor residents, in particular low-income, youth, elderly, disabled, and ethnic minority populations. The BART Alternative would provide more convenient access to regional rapid transit and improved connectivity to other transit services, provide better transit service to members of the community who do not have access to a private automobile, and provide better access to employment, recreational, shopping, and public services, facilities, and opportunities. Section 4.9, Environmental Justice, discloses that the majority of communities along the BART Alternative corridor qualify as environmental justice communities. The section also discusses the fact that the BART Alternative would provide access to new transit stops along this corridor that would allow the user to connect with regional transit opportunities, vastly improving access to employment centers around the south and east bay. To the extent that employment centers are located along the major transit nodes (downtown Santa Clara, San Jose, Milpitas, Fremont, Hayward, Oakland), the BART Alternative would increase access to these employment centers.

The proposed BART alignment is in close proximity to affordable housing within the cities of Fremont, Milpitas, San Jose, and Santa Clara. The table below shows the affordable housing within one mile of the corridor for each city.

Affordable Housing within One Mile of the BART Corridor	
Name	Address
City of Fremont	
Santa Clara Development Co.	49055 Warm Springs Blvd.
City of Milpitas	
Monte Vista Apartments	1001 S. Main Street
Parc Metropolitan	Curtis Avenue, east of Main Street
Parc West	950 S. Main Street
City of San Jose	
Creekview Inn	965-967 Lundy Avenue
Arbor Park Community	899 North King Road
Casa de Los Amigos	967 Lundy Avenue
Betty Anne Gardens	945 & 955 North King Road
San Jose Family Shelter	1590 Las Plumas Avenue
Las Mariposas	Alum Rock Avenue & San Jose Figueres Avenue
Hidden Brooks Apartments	435 Wooster Avenue
Hacienda Villa Creek Apartments	399 East Court and Julian Street
Las Golondrinas	Alum Rock Avenue & Kentucky Place
Villa Hermosa	1640 Hermocilla Way
Mabuhay Senior Housing	488 North 6th Street
Ryland Mews	North First Street and Bassett Street
Julian Gardens	319 North 8th Street
San Jose Condos	372 North 4th Street
Innvision Villa	184 South 11th Street
Casa Feliz Manor House	525 South 9th Street

Affordable Housing within One Mille of the BART Corridor	
Name	Address
YWCA Villa Nueva	375 South 3rd Street
Montgomery Street Shelter	352 North Montgomery Street
Gifford	325 North Gifford Avenue
Pensione Esperanza	598 Columbia Avenue
Crescent Parc Townhomes	Auzerais Avenue between Meridian Avenue and Race Street
West San Carlos Bowl Seniors	1523 W. San Carlos Street
Roewill Drive	1059 Roewill Drive
City of Santa Clara	
Name Unknown	1284 Jackson Street
Name Unknown	2185 Homestead Road
Bill Watson Center	3490 The Alameda
<i>Sources: City of Fremont, City of Milpitas, City of San Jose, City of Santa Clara, 2004.</i>	

Therefore, the BART Alternative is consistent with and supports Resolution No. 3357 by providing access to affordable housing and jobs.

- R1.15** *The project is included in the current Regional Transportation Plan. The recent economic decline presents challenges to the financing of this project. VTA staff continues to work with the VTA Board, MTC, the State of California, and the Federal Transit Administration (FTA) to resolve the details of the funding plan for this project. As stated in the EIS/EIR Abstract “a feasible financial plan will need to be prepared to advance the project into Final Design.” Chapter 8, Financial Considerations, accurately represents the funding picture for the project in combination with the recommended project description in Volume II, Chapter 4.*
- R1.16** *VTA staff continues to work with the VTA Board, MTC, the State of California, and FTA to resolve the details of the funding plan for this project. As stated in Section 1.4.3.4, Financial Considerations, and Section 8.1, Introduction, [of Chapter 8, Financial Considerations] “a feasible financial plan will need to be prepared to advance the project into Final Design.” The environmental document cannot speculate future cost and delays. The projections made are based on the current proposed project construction schedule. Project delays are not anticipated.*
- R1.17** *Refer to response R1.6 regarding the number of buses. The reference to Chapter3 has been retained. Significant additional text would need to be added to the section to address the clarifications requested for all three alternatives represented in the table. It is appropriate to refer the reader back to Chapter 3 to make the document as concise as possible.*
- R1.18** *The heading in Table 8.3-1 has been corrected to state that only 2025 information is provided.*
- R1.19** *The fare box recovery ratio is defined as the fare revenue divided by the operating costs. For the EIS/EIR, fare revenue for BART was derived from the travel demand model. The travel demand model generated daily fare revenue for each mode in each alternative based on actual data from the model's base year (1990). The base year included actual trip length and distance based fare schedules. The fare revenue was discounted by 25% to account for passes and other discounted fares. The daily fare revenue was annualized*

using a factor of 291 (provided by BART), and inflated to 2003 dollars. In FY 2003, the fare box recovery ratio for BART was 59%. This information has been provided in the response and is not necessary to be included in the EIS/EIR text.

R1.20 No new criteria have been adopted as of August 2004.

R1.21 VTA collects a county, not city, sales tax based on previous ballot measures. The historic trends for the county would provide a better indicator than sales taxes collected by individual cities. Therefore, this information is not necessary to validate the conclusions of the EIS/EIR.

R1.22 The text in Section 8.5.3.2, Passenger Fares, reflects VTA Board of Directors' adopted policy (December, 2003) that the fare box recovery ratio for VTA services will be between 20 and 25%. The fare box recovery ratios shown in Table 8.3-1 show the fare box recovery ratios for VTA bus and light rail for 2025 as estimated by the model based on the ridership and fare assumptions included in the model. The modeling supports the conclusion that VTA will be achieving the Board adopted policy level of fare box recovery in 2025.

R1.23 Increases in ridership projected in the EIS/EIR result in 45,965,000 bus and 13,297,000 light rail unlinked trips in 2025. The BART Alternative includes 1,607,329 annual bus vehicle revenue hours resulting in 29 bus passengers per hour and 207,890 light rail train hours resulting in 64 light rail passengers per hour. These levels are below more highly urbanized areas and comparable to operators serving more suburban environments in 2001 (refer to table below).

2001 National Transit Database Passengers per Revenue Hours		
Operator	Bus	Light Rail
Municipal Railway	68	96
AC Transit	36	N/A
SamTrans	29	N/A

R1.24 The bullet has been deleted since VTA would receive no funding for this project through Regional Measure 2.

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SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

300 Lakeside Drive, P.O. Box 12688
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(510) 464-6000

R2

James Fang
PRESIDENT

May 7, 2004

Dan Richard
VICE-PRESIDENT

Thomas E. Margro
GENERAL MANAGER

DIRECTORS

Dan Richard
1ST DISTRICT

Joel Keller
2ND DISTRICT

Roy Nakadegawa
3RD DISTRICT

Carole Ward Allen
4TH DISTRICT

Peter W. Snyder
5TH DISTRICT

Thomas M. Bialock
6TH DISTRICT

Lynette Sweet
7TH DISTRICT

James Fang
8TH DISTRICT

Tom Radulovich
9TH DISTRICT

Mr. Tom Fitzwater
Santa Clara Valley Transportation Authority
Environmental Planning Department
3331 North First Street
San Jose, CA 95134

Re: Draft EIS/EIR for the SVRTC Project

Dear Mr. Fitzwater:

This letter presents the comments of the San Francisco Bay Area Rapid Transit District (BART) on the Draft Environmental Impact Statement / Environmental Impact Report (EIS/EIR) issued by the Santa Clara Valley Transportation Authority (VTA) for the Silicon Valley Rapid Transit Corridor (SVRTC) project.

BART supports the basic BART Alternative as described in sections 3.4.1 through 3.4.8 of the Draft EIS/EIR. This project would provide convenient access to the BART system for new riders in Santa Clara County and enhance regional connectivity with other transit systems. The BART Alternative would also provide important environmental benefits by reducing traffic congestion, air pollution and energy use and supporting local land use plans and goals. BART staff looks forward to continuing to work with VTA staff on coordination and implementation of this important project.

R2.1

The Draft EIS/EIR's analyses of environmental impacts of the basic BART Alternative and the New Starts Baseline and No Action Alternatives generally appear to be satisfactory. However, BART is concerned about specific assumptions that are incorporated in the Minimum Operating Segment (MOS) scenarios that have been included in the BART Alternative. Draft EIS/EIR pp. 3.4-39 - 41. In particular, both MOS scenarios involve construction and commencement of operations in phases, with the deferral of certain elements of the full BART Alternative to the second phase. Yet the document also assumes that all deferred elements in the second phase of either MOS scenario would be completed within three years of start-up of the initial MOS phase. Draft EIS/EIR, p. 3.4-40. In the absence of the facilities that are designated for deferral under the MOS scenarios (pp. 3.4-40 - 41), BART would be unable to operate the SVRTC project effectively as an extension of the BART system for more than a few

R2.2

years. The analysis and conclusions regarding environmental impacts under the MOS scenarios rely on the accuracy of these assumptions. The Draft EIS/EIR indicates that the MOS scenarios have been developed to make the project more competitive in the funding process, by reducing the initial project cost and federal funding share. Draft EIS/EIR, p. 3.4-39. Additional federal funding may be required to complete the second phase. P. 3.4-40.

R2.2
(cont.)

R2.3

In BART's view, without funding for both phases of the MOS scenarios, it is unrealistic to assume that the substantial project elements that are deferred to the second phase would be constructed and operational within three years. If VTA wishes to implement an MOS scenario without obtaining funding that ensures construction of the second phase within three years, the MOS assumptions must be reconsidered.

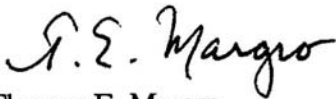
R2.4

In addition, the document states that a range of revenue vehicles will be required for the BART alternative. We agree with footnote [1] of Table 3.4-1 that the number of BART vehicles will be determined based on the Fleet Management Plan under development. Draft EIS/EIR, p. 3.4-39. BART believes that more vehicles may be required. Therefore, we recommend that the higher number of vehicles in the range provided be used for purposes of estimating the budget for this project element.

R2.5

Thank you for the opportunity to comment on the SVRTC Draft EIS/EIR. Please contact me if you have any questions.

Sincerely,



Thomas E. Margro
General Manager

cc: Board Appointed Officers
Deputy General Manager

RESPONSE TO COMMENT LETTER R2

San Francisco Bay Area Rapid Transit District (May 7, 2004)

- R2.1** *Support for the BART Alternative and its importance to the South Bay region is noted and included in the record.*
- R2.2** *VTA developed Minimum Operating Segment (MOS) scenarios for the BART Alternative in response to the Federal Transit Administration's (FTA) recommendation to include such scenarios for evaluation purposes. However, VTA remains committed to the full build BART Alternative, as approved by the voters of Santa Clara County in November 2000 and adopted by the VTA Board of Directors as the Locally Preferred Alternative in November 2001.*
- R2.3** *It is not uncommon for agencies to request and receive federal funding for projects built in phases. In fact, building a project in phases may make it more competitive in the FTA New Starts process. The FTA's Annual Report on New Starts provides several examples of projects built in phases that have received federal funding. The Hudson-Bergen Light Rail Transit project in Northern New Jersey is a perfect example of MOS scenarios, which have concurrent Full Funding Grant Agreements. Also refer to response R2.2.*
- R2.4** *Refer to response R2.3.*
- R2.5** *VTA and BART will continue to negotiate the vehicle requirement for the extension, following completion of the Fleet Management Plan by BART. At that time, the budget will reflect the outcome of these negotiations. The range of revenue vehicles to be purchased does not raise an environmental issue that needs to be addressed in the EIS/EIR.*

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May 14 04 02:59p

Dora

(510) 465-6918

p. 2

R3



May 14, 2004

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Mr. Tom Fitzwater
Santa Clara County Transportation Authority
Environmental Planning Department
3331 North First Street
San Jose, CA 95134

Subject: Comments on DEIS/DEIR
BART Extension to Milpitas, San Jose, and Santa Clara

Dear Mr. Fitzwater:

Nate Miley, Chair
Supervisor, District 4

Roberta Cooper, Vice-Chair
Mayor, City of Hayward

Tom Bates
Mayor, City of Berkeley

Keith Carson
Supervisor, District 5

Henry Chang, Jr.
Vice Mayor, City of Oakland

Mark Green
Mayor, City of Union City

Scott Haggerty
Supervisor, District 1

Alice Lai-Bitker
Supervisor, District 3

Gus Morrison
Mayor, City of Fremont

Gail Steele
Supervisor, District 2

Shelia Young
Mayor, City of San Leandro

Christine Monsen
Executive Director

The Alameda County Transportation Authority has reviewed the DEIS/DEIR and has the following comments.

The DEIR/DEIS is carrying two alternative rail alignments in Segment One where the project connects to the BART to Warm Springs Extension Project. The BART to Warm Springs Project has selected the East of Rail Right-of-Way Option for their rail alignment. Ultimately, there will need to be consistency between the BART to Warm Springs and the BART to San Jose projects at the transition point.

If the BART to San Jose project chooses a rail alignment that transitions into the UPRR right-of-way, then the costs of that project would be borne by your project. Neither ACTA nor ACTIA would assume financial responsibility for shifting the three railroad sidings and the petroleum pipeline in the Warm Springs railroad yard to the west, as it is not required for completion of the grade separation projects as noted on page 3.4-17 of the DEIS/DEIR.

Thank you for this opportunity to comment.

Sincerely,

Art Dao
Deputy Director

cc: Rebecca Kohlstrand

R3.1

RESPONSE TO COMMENT LETTER R3

Alameda County Transportation Improvement Authority (May 14, 2004)

R3.1 *On May 26, 2004, the Silicon Valley Rapid Transit Corridor Policy Advisory Board recommended the East of Rail Right-of-Way Option for the BART Alternative. Therefore, the Rail Right-of-Way Option has been eliminated from further consideration.*

05/14/2004 14:43 FAX 5106511760

ACWD

R4

002



DIRECTORS
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 Finance and Administration Manager

May 13, 2004

Mr. Tom Fitzwater
 Santa Clara Valley Transportation Authority
 3331 North First Street, Building B
 San Jose, CA 95134 - 1927

Dear Mr. Fitzwater:

Subject: Comments on the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Proposed Bart Extension to Milpitas, San Jose, and Santa Clara

Thank you for the opportunity to comment on the Draft EIS/EIR for the proposed Bart extension to Milpitas, San Jose, and Santa Clara. The Alameda County Water District (ACWD) has reviewed the document entitled, "BART Extension to Milpitas, San Jose and Santa Clara Draft Environmental Impact Statement/Environmental Impact Report & Draft 4(f) Evaluation" dated March, 2004 and offers the following comments:

1. Table 1.5-1: Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigated Measures

Impact category Utilities:

The table states there are no impacts under the New Starts Baseline Alternative. The existing 14-inch steel, 12-inch asbestos cement, and 20-inch steel water mains located respectively in the public right of way along Fremont Boulevard, South Grimmer Boulevard, and Old Warm Springs Boulevard shall be protected in place during construction of the aerial busway connector to ensure no long term impacts.

The table states that relocation of existing utilities may be required under the BART Extension Alternative. Relocation of existing encased water mains (i.e., 20-inch steel from Lopes Court to Warm Springs Court, 12-inch asbestos cement and 20-inch steel in East Warren Avenue, and the 18-inch steel in Kato Road) may be required under the BART at Grade Crossing option.

Reference is made to the following additional comments related to various sections.

R4.1

Mr. Tom Fitzwater
Page 2
May 14, 2004

2. Section 4.16 Utilities

Section 4.16.3: states that there will be no long term impacts to utilities. This is an incorrect statement. It will be necessary to maintain corrosion control equipment and measures required to safeguard steel piping from stray electric current as long as BART and the pipelines exist concurrently.

R4.2

Table 4.16.1 and Section 4.16.2: incorrectly states that the 60 inch storm drain is owned by ACWD.

R4.3

3. Section 4.19 Construction

Section 4.19.13: It is noted that no mention is made regarding stray current protection in this section. Piping which crosses and/or runs parallel to the BART tracks must have the necessary precautions installed which may include a combination of coatings, test stations, anodes and/or insulation flanges to protect the piping from stray current induced corrosion. Also, although the ACWD piping may not require relocation, we have electrolysis test stations, valves, blow-offs and other appurtenances which may require protection in place, relocation, or raising to grade.

R4.4

R4.5

4. Project Coordination

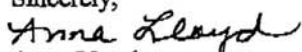
The following ACWD contacts are provided so that the proposed BART project can be coordinated with ACWD:

- Toni Lyons at (510) 668 - 4480, or by e-mail at toni.lyons@acwd.com for coordination with cathodic protection of ACWD water facilities.
- Kalpana Gandhi at (510) 668 - 4474, or by e-mail at kalpana.gandhi@acwd.com for coordination with ACWD's existing water mains.

R4.6

ACWD appreciates the opportunity to comment on the draft EIS/EIR. Unfortunately, based on our comments, the draft EIS/EIR does not adequately address ACWD's concerns regarding the impacts of the BART extension project on existing ACWD water facilities. We hope to work cooperatively with the Santa Clara Valley Transportation Authority to address these concerns.

If you have questions regarding these comments, please contact me at (510) 668 - 4479.

Sincerely,

Anna Lloyd
Project Engineering Supervisor
cs

cc: Steve Peterson
Toni Lyons
Kalpana Gandhi
Eric Cartwright
Ed Stevenson
Frank Price

RESPONSE TO COMMENT LETTER R4

Alameda County Water District (May 13, 2004)

R4.1 *As stated in Section 4.19.13.2, Design Requirements and Best Management Practices for Utilities Impacts, "VTA will continue to coordinate with utility providers throughout the design and construction phases of either the Baseline or BART alternative, as well as the MOS scenarios, to identify existing utility locations and potential conflicts in the project construction area..." This coordination effort is also stated in Section 4.16.3.2, Utilities/Design Requirements and Best Management Practices, "Ongoing coordination with utility providers will be conducted during the Preliminary Engineering, Final Design, and construction phases of the Baseline or BART alternatives, as well as the MOS scenarios, to identify any potential conflicts and formulate strategies to overcome potential problems." As such, VTA will coordinate with the Alameda County Water District (ACWD) during the Preliminary Engineering, Final Design, and construction phases to minimize impacts to utilities to the maximum extent practicable.*

R4.2 *Many older dc powered systems (such as MUNI in San Francisco) have the running rails permanently connected to ground along most of their length, as well as the negative of the traction power rectifier. As such, significant current leaves the running rails at locations remote from the traction power rectifier and returns to both the rail and the rectifier negative. It is the current returning to the rails from underground pipes that causes the "stray current corrosion." The current returning through the ground connection of the negative of the traction power rectifier does not cause any corrosion.*

For BART, the running rails are insulated from ground and little current leaves the running rails and thus little returns. The existing cathodic protection installed on the pipes near BART facilities is typically adequate for the loads and does not require any additional protective equipment.

The only time that significant stray current could occur is when the negative of the rectifier is deliberately connected to ground. This only happens when the rail to ground voltage at the rectifier exceeds 80 volts. This can occur for a few seconds when there is an electrical fault from power (or third) rail or when there are several BART trains starting concurrently in one area, which only happens when there are significant train backups. This condition is monitored to ensure that the rails are not connected to ground and conducting for long periods of time by providing alarms to BART if they should conduct for more than a few seconds.

BART has closely worked with various agencies and corporations with facilities located along the BART alignment from Dublin to Bayfair. In addition, BART has worked with PG&E on their transmission and distribution natural gas lines both parallel and perpendicular to the BART tracks to ensure that adjacent facilities are not adversely impacted. Through this process, BART has demonstrated that stray current does not cause any damage to pipes near the BART system.

The Preliminary Engineering and Final Design phases will include an analysis of stray current in the project area and will incorporate stray current protection techniques, as necessary.

R4.3 *Utilities, Section 4.16.2, Existing Conditions, and Table 4.16.1, Major Utility Locations Along the BART Alternative, have been revised to acknowledge that the 60-inch storm*

drain is owned and managed by the Alameda County Flood Control and Water Conservation District.

R4.4 *Refer to response R4.2.*

R4.5 *As stated previously, VTA will coordinate with ACWD during the Preliminary Engineering, Final Design, and construction phases of the project so as to minimize impacts to pipelines and supporting facilities to the maximum extent practicable.*

R4.6 *VTA appreciates the contact information for the ACWD to facilitate ongoing coordination between ACWD and VTA during the Preliminary Engineering, Final Design, and construction phases of project.*

R5

May 10, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First Street, Building B
San Jose, CA 95134-1927

Fax: (408) 321-5787
Email: vtabart@vta.org

RE: Silicon Valley Rapid Transit Corridor BART Extension to Milpitas, San Jose and Santa Clara, Draft EIS/EIR & Draft 4(f) Evaluation

Dear Mr. Fitzwater,

The South Bay Historical Railroad Society (SBHRS) has reviewed this document and wishes to submit the following comments.

(Alternatives, 3.4.5.2 Station Locations)

p. 3.4-31, Santa Clara Station – We fully support an underground pedestrian connection linking the BART station platforms with the Caltrain platforms, bus plaza, and kiss-and-ride area on the west side of the Caltrain ROW. We also support a pedestrian overcrossing extending north of the historic control tower on the west side of the Caltrain ROW. We DO NOT support an overcrossing which would stretch just south of the historic tower. An overcrossing in this area would have a severe adverse impact on the historic control tower by bisecting the view corridor between it, the Santa Clara Depot and the Railroad line extending to the south of the tower.

R5.1

The function of the fully restored ca.1927 Santa Clara Interlocking Control Tower, the only intact interlocking control tower left in California, was to control the railroad traffic on the RR line and as such, the view corridor was and is a major part of its significance. This impact can be avoided by either constructing a pedestrian underpass or a pedestrian overpass to the north of the tower.

R5.2

If current constraints exist that prevent the location of an overcrossing to the north of the tower (i.e., the police department concerns) there is the possibility that relocating the control tower, the speeder shed and utility shed slightly to the south would allow for the overcrossing to be constructed north of it. With only a slight move and the maintenance of its relationship to the other historic railroad structures and the RR line, the historic control tower would still maintain its integrity of location and function.

With regards to the underground pedestrian connection, concern has been expressed about pedestrian safety. However, a recent visit to Alexandria Virginia has shown that with modern technology and building techniques this is not a reasonable concern. They have constructed an underground crossing to link the new King Street MARC transit

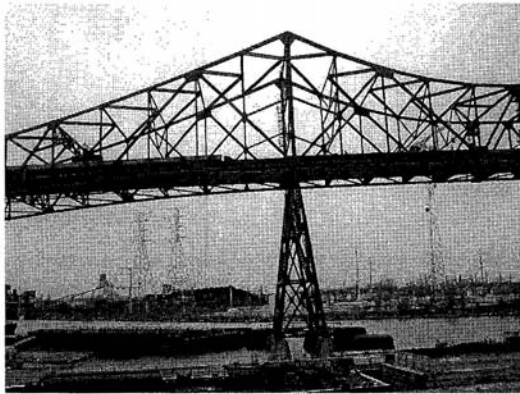
R5.3

facility to the existing historic RR station and have experienced no problems with this crossing by incorporating several visual and technological schemes into its design.

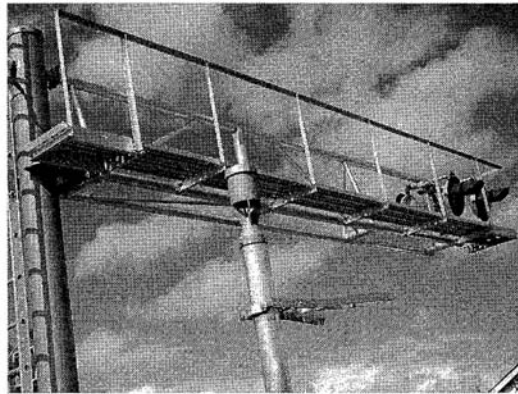
R5.3
(cont.)

(Environmental Analysis Visual Quality and Aesthetics 4.17.3.1 Impacts

p.4.17-32, Santa Clara Station and Pedestrian Crossing – We fully agree with the statement that “ Architectural sensitivity in the design of the BART station, pedestrian walkway, and parking facilities would be important because of the proximity and historical nature of the Santa Clara Caltrain station, Train Control Tower, and related facilities.” Especially important would be the architectural design of the BART station and any aerial walkway. We would recommend that design elements incorporate and be compatible with the design elements of railroad structures in order to lessen their impact.



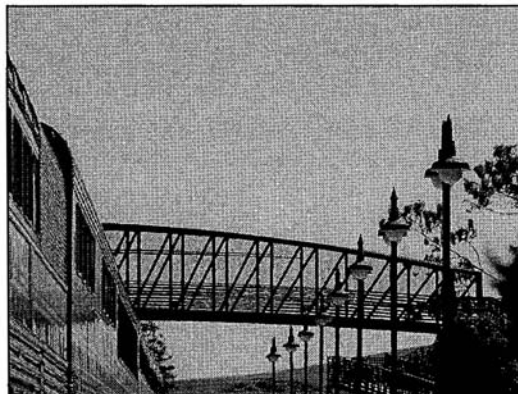
Chicago, Illinois RR Bridge



Truckee, CA RR Signal

R5.4

For example, San Luis Obispo has an aerial walkway over the tracks in close proximity to its historic depot. This design compliments the railroad line and depot by utilizing components found in RR overcrossings.



San Luis Obispo, California Overcrossing

In summary, we, the South Bay Historical Railroad Society (SBHRS) wish to reiterate that we support an underground pedestrian crossing and a pedestrian overcrossing to the north of the historic control tower but DO NOT support the creation of a pedestrian overcrossing to the south of the tower which would bisect the view corridor between the historic Santa Clara tower and historic Santa Clara depot.

R5.5

Sincerely yours,

Lorie Garcia, Covenant Representative
South Bay Historical Railroad Society
1756 Fremont Street
Santa Clara, CA 95050
Phone: 408/984-8607
Fax: 408/261-1480
Email: loriesc@ix.netcom.com

P.S. I would like to take this opportunity to inform you that any subsurface disturbance within the City limits of Santa Clara in the area proposed for the construction of a BART system would lie within the area of highest archaeological sensitivity. As such it would be subject to the City of Santa Clara's most stringent archaeological mitigation requirements. I am attaching a copy of those for your information.

**Conditions for Potentially Significant Archaeological Impacts:
Monitoring and Mitigation Requirements**

2. Insofar as this site has the potential to contain archaeological resources, the applicant shall retain the services of a qualified archaeologist to monitor earth-moving activities. Monitoring shall consist of coordinating subsurface work to allow for the careful examination of vertical and horizontal soil relationships for the purpose of defining positive archaeological finds (prehistoric and/or historic). The archaeological monitor must be approved by the Director of Planning and Inspection. After written approval, the Planning Division must be notified at least 48 hours prior to any grading or other subsurface work on the site and the client must provide a written protocol which stipulates the manner in which the applicant shall comply with the monitoring requirements. The monitor must maintain a field log of their presence and observations, carefully noting soil conditions. In the event that cultural resources are encountered, all work within the proximity of the find shall temporarily halt so that the archaeologist can examine the find and document its provenience and nature (through drawings, photographs, written description, etc, as necessary). The monitor will then direct the work to either proceed if the find is deemed to be insignificant or is adequately documented and resolved, or continue elsewhere, as appropriate, until adequate mitigation measures are adopted or the matter is otherwise resolved to the satisfaction of the City.

R5.6

Once a find has been made and deemed to be significant, the archaeologist will then submit a Treatment Plan (if one was not previously approved) to the City. The key elements of a treatment plan shall include the following:

- a) Identify scope of work and range of subsurface effects (include location map and development plan).

- b) Describe the environmental setting (past and present) and the historic prehistoric background of the parcel (potential range of what might be found).
- c) Develop research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- d) Detail field strategy used to record, recover, or avoid the finds (photos, drawings, written records, provenience data maps, soil profiles, excavation techniques, standard archaeological methods) and address research goals.
- e) Analytical methods (radiocarbon dating, obsidian studies, bone studies, historic artifact studies [list categories and methods], packaging methods for artifacts, etc.).
- f) Report structure, including a technical and a layman's report and an outline of document contents within one year of completion of development (provide a draft for review prior to a final report).
- g) Disposition of the artifacts.
- h) Appendices: site records, updated site records, correspondence, consultation with Native Americans, etc. The need for a burial agreement plan for Native American burials can be incorporated into Treatment Plan but must be done in consultation with MLD. Plan should detail goals, methods, and disposition of remains and associated artifacts.

R5.6
(cont.)

Sincerely,
Lorie Garcia

Cc: Erik Olafsson, Caltrain; Kevin Riley, City of Santa Clara; Robert Dolci, SBHRS

RESPONSE TO COMMENT LETTER R5

South Bay Historical Railroad Society (May 10, 2004)

R5.1 *On May 26, 2004, the Silicon Valley Rapid Transit Corridor Policy Advisory Board (PAB) recommended the Aerial Walkway South Option as part of the Locally Preferred Alternative. This option best meets the needs of the transferring passengers. This option does have an adverse effect on the historic Santa Clara Caltrain Station (historic Station), which includes the historic Depot and historic Tower as contributing elements. To address the adverse impact to the National Register of Historic Places (NRHP) eligible/NRHP-listed historic Santa Clara Caltrain Station, a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) will be developed and executed by VTA, appropriate city and county historic preservation bodies, the Federal Transit Administration (FTA), the Advisory Council on Historic Preservation (ACHP), and the State Historic Preservation Officer (SHPO). The MOA or PA will likely include some or all of the following mitigation measures: Avoidance; Design Standards and Guidelines; Protective Measures; Recordation (for building(s) to be demolished, relocated, or altered); Interpretive Display, Museum Exhibit, and/or Historic Image Reproduction; and/or Opportunities for Salvage. See Section 4.6.6.2, Historic Architectural Resources Mitigation, for additional information about these measures.*

The Underground Walkway Option, although supported by the South Bay Historical Railroad Society (SBHRS), City of Santa Clara Historical and Landmarks Commission, and Caltrain, requires additional elevation changes for passengers moving from BART or the future Automated People Mover to the west side of the Caltrain tracks. For example, a BART rider would exit a BART train, climb up stairs to the mezzanine, and then down stairs to the underground walkway to go to Caltrain. There are pedestrian concerns with safety and security in the long underground walkway. This option could also result in additional impacts to underground utilities and archaeological resources, and from hazardous materials under the tracks. This option is also the most expensive of the three evaluated.

The Aerial Walkway North Option requires passengers to walk a longer distance between the BART station and the Caltrain platform. This option is not supported by the City of Santa Clara out of concern that it compromises security at the adjacent police facility by increasing visibility down into the facility from the overcrossing.

R5.2 *The Aerial Walkway South Option, the Locally Preferred Alternative, would have an adverse effect on the historic Tower, a contributing element to the NRHP eligible/NRHP-listed historic Station because it may include changes to the historic Tower's physical features that contribute to its historic significance and would constitute an introduction of visual or other elements that could diminish the building's historic integrity. The suggestion to move the historic Tower and related speeder shed and utility shed south to permit the pedestrian overcrossing to be built north of the historic Tower would be considered one of the mitigation strategies. Moving the historic Tower and related structures would preserve the historic spatial relationship between the historic Tower, sheds, and the historic Depot and would mitigate for the adverse effect that would occur if the overcrossing were built at or between the historic Tower and Depot. Specifically, moving the historic Tower would avoid the adverse effect caused by demolition and would also minimize the effect of introducing a new visual element in the historic Station. The suggestion of the possible relocation of the historic Tower and related structures is evidence of the effectiveness of the Section 106 consultation process in providing a*

positive outcome that achieves the project requirements while also addressing concerns regarding historic properties.

Removal of the historic Tower from its original location, however, is also an adverse effect under Section 106 guidelines, though it would unlikely be considered a substantial adverse change under CEQA, which permits buildings to be moved to compatible sites such as the proposed new location. The adverse effect under Section 106 would be mitigated through the mitigation strategies listed in R5.1, including development of an appropriate design for the pedestrian overcrossing that would decrease its visual impact on the historic character of the Santa Clara Caltrain Station. This is already a stated goal of the proposed design at this location, and the comment provides some suggested design elements that could achieve this goal. Appropriate design for the overcrossing will include considerations regarding the size, location, materials, colors, and textures of the structure. Additional mitigation may be appropriate, such as monetary compensation for interpretive information regarding removal of the building from its original location and regarding the historic importance of the building. Moving the historic Tower appears to be a feasible solution.

The Design Standards and Guidelines would be set forth in a MOA or PA to be developed and executed by VTA, appropriate city and county historic preservation bodies, FTA, ACHP, and SHPO, as appropriate. VTA will continue to work with Ms. Garcia, Covenant Representative with the SBHRS, on developing an effective MOA or PA. The appropriate type of document and its details will be developed through continuing consultations with the appropriate parties.

R5.3 *The comment is noted and included in the record for consideration by the decision-makers.*

R5.4 *The comment provides suggestions for the architectural design and treatment of the historic Santa Clara Caltrain Station and pedestrian overcrossing. VTA will continue to work with the SBHRS on developing an effective MOA or PA that will include Design Standards and Guidelines to minimize impacts.*

R5.5 *The comment is noted and included in the record for consideration by the decision-makers. However, as stated in R5.1, some of the reasons this alternative is not preferred include:*

- The underground walkway would daylight between the historic Tower and the historic Depot, diminishing the relationship between the two historic structures;*
- Pedestrian concerns with safety and security are generally greater with the underground walkway than with the aerial walkways;*
- The underground walkway would create an additional vertical "level" change for passengers transferring between BART and Caltrain, and the proposed Airport People Mover;*
- There would be greater potential to incur hazardous materials during construction of the underground walkway; and*
- There would be additional utility relocation associated with construction of the underground walkway.*

R5.6

The northern end of the maintenance facility, the historic Santa Clara Caltrain Station, Parking Structure options for this station, and the future extension test track are within the City of Santa Clara. There will be considerable subsurface disturbance within this area, and the area is acknowledged as having high archaeological sensitivity.

To accompany the MOA, a Cultural Resources Treatment Plan (CRTP) is being developed to describe and prescribe the location and nature of archaeological monitoring and investigations on a project-wide basis. These documents are being developed in compliance with Section 106 of the National Historic Preservation Act. The documents will also be developed mindful of the archaeological mitigation requirements for the City of Santa Clara, and the City of Santa Clara will be among agencies and entities that review and comment on the documents. The key elements of a treatment plan identified in the City of Santa Clara's monitoring and mitigation requirements (a through h) correspond to key elements in the project-wide CRTP. With the City of Santa Clara's endorsement, the project-specific terms of the CRTP and MOA will supercede local requirements concerning archaeological resources.

VTA recognizes the need for subsurface archaeological investigations before, and possibly during, construction activities within the project area in the City of Santa Clara. Archaeological investigations will be directed by individuals who meet or exceed federal Secretary of Interior's Professional Qualification Standards (PQS) in the discipline of archaeology (48 FR 44738-44739).

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May 14 04 09:03a

Land Development

4084410275

p. 1

County of Santa Clara

R6

Roads and Airports Department
 Land Development and Permits
 101 Skyport Drive
 San Jose, California 95110-1302
 (408) 573-2460 FAX (408) 441-0377



May 12, 2004

Mr. Tom Fitzwater
 VTA Environmental Planning Department
 3331 North First Street, Building B
 San Jose, CA 95134-1927

Post-it* Fax Note	7671	Date	5/12/04	# of pages	4
To	Tom Fitzwater	From	Raluca Nitescu		
Co./Dept.	VTA	Co.	Roads & Airports		
Phone #		Phone #	573-2460		
Fax #	573-5781	Fax #			

Subject: Proposed Bart Extension to Milpitas, San Jose, and Santa Clara
 Draft Environmental Impact Report (EIS/EIR)

Dear Mr. Fitzwater,

Your March 16, 2004 Notice regarding the subject project have been reviewed by our office. Our comments are as follows:

1. Please see Attachment "A".
2. The intersection of Capitol Avenue and Montague Expressway will be impacted due to the two stations, LRT and BART in the vicinity of this intersection.

The close proximity of the proposed BART station, the existing LRT, and the proposed three (3) to five (5) floors of parking structure will severely impact this intersection by the increase in vehicular travel to and from the parking structure to both stations. Additionally, there will be an increase in the number of pedestrians using the intersection to circulate between the Great Mall the parking structure and the proposed BART station.

It is requested that this intersection be evaluated for the increase in traffic and pedestrian as mentioned above. The improvements at this intersection must be part of this project as more vehicles will be using it.

It is recommended a grade separating Capitol Avenue under Montague Expressway for both vehicular and pedestrian traffic (two lanes each direction).

R6.1

R6.2

Thank you for the opportunity to review and comment on this project. If you have any questions, please call me at 408-573-2464.

Sincerely,

 Raluca Nitescu
 Project Engineer



May 14 04 09:03a

Land Development

4084410275

p. 2

Attachments: Attachment "A"

Cc: MG, DEC, MA, SK, AP, WRL, File

May 14 04 09:03a

Land Development

4084410275

p. 3

**County of Santa Clara Roads & Airports Department
Design & Construction Branch
Highway Design Group**

MEMORANDUM

Date: March 18, 2004
 To: Raluca Nitescu, Land Development
 From: *de* Dan Collen, Highway Design
 Subject: Environmental Referral
 USDOT FTA & SCCVTA
BART Extension

The environmental analysis includes discussion of potential project impacts to expressway levels of service due to changed traffic patterns as a result of the project. See attached summary sheet. Our concerns are as follows:

- The location most likely to suffer a significant impact, Montague at Great Mall, where a station is planned adjacent to the intersection, does not show a significant impact. We request the traffic consultants re-examine the assumptions and analysis to verify and validate study findings.
- 6 expressway intersection are identified as projected to suffer significant impacts. Only 1 is recommended for mitigations, and those mitigations are already included in a current County project.
- The other 5 locations are rejected for mitigation because they are determined infeasible due to lack of rights-of-way. We reject the assumed limitation that the need to acquire rights-of-way results in an infeasible project. If this were the case, the BART project itself should be declared infeasible.

R6.3

Comments to each of the 5 locations proposed not to receive mitigation follow:

Montague/ Milpitas: Feasible mitigation (8-lane widening), including ROW acquisition is planned for 2005.

Montague/ Dempsey: The Montague project Plan Line (8-lane) widening project includes improvements at Dempsey. These improvements are feasible and probably do not require ROW. While it is generally assumed the project will be funded by 2025, no specific funds have as yet been identified or allocated. The DEIS/ DEIR should identify these improvements as potential mitigation, which will not apply if the work actually goes forward with other fund sources before BART.

R6.4

San Tomas/ Monroe: The recently completed Comprehensive County Expressway Planning Study identified improvements in Tier 1A (highest, immediate priority) and in Tier 2 (longer term priority). While it is generally assumed the Tier 1A project will be funded by 2025, no specific funds have as yet been identified or allocated. The DEIS/ DEIR should identify both the Tier 1A and Tier 2 improvements as potential mitigation, which will not apply if the work actually goes forward with other fund sources before BART.

San Tomas/ El Camino: The recently completed Comprehensive County Expressway Planning Study identified improvements in Tier 1A (highest, immediate priority) and in Tier 2 (longer term priority). While it is generally assumed the Tier 1A project will be funded by 2025, no specific funds have as yet been identified or allocated. The DEIS/ DEIR should identify both the Tier 1A and Tier 2 improvements as potential mitigation, which will not apply if the work actually goes forward with other fund sources before BART.

Central/ Lafayette: Feasible mitigation (8-lane widening) is planned for 2005.

cc: M. Griffis

" ATTACHMENT A

BART Extension DEIS/ DEIR
Expressway Impacts Proposed Mitigations

Expressway	Cross Street	BART Impact?	Mitigation Proposed?	If Yes, What?	If No, Why Not?	Comments
Montague	Main	no				
Montague	Trade Zone	no				
Montague	Great Mall	no				
Montague	Milpitas	YES	no		Lack of ROW	Hard to believe at Station
Montague	Dempsey	YES	no		Lack of ROW	Planned, feasible widening planned '05
San Tomas	Monroe	YES	no		Lack of ROW	Feasible widening identified in unfunded Montague project
San Tomas	El Camino	YES	no		Lack of ROW	Project identified in Tier 1A, Tier 2 of Expwy Study. 8-lanes exist now.
San Tomas	Benton	no			Lack of ROW	Project identified in Tier 1A, Tier 2 of Expwy Study. 8-lanes exist now.
San Tomas	Homestead	no				
Central	Lafayette	YES	no		Lack of ROW	
Central	De La Cruz	YES	YES	3rd EB Left Turn		Planned for construction '05

ATTACHMENT A

RESPONSE TO COMMENT LETTER R6

County of Santa Clara (May 12, 2004)

R6.1 Refer to responses R6.3 and R6.4 regarding Attachment A. The intersection of Capitol Avenue and Montague Expressway was referred to as the intersection of Great Mall Parkway and Montague Expressway, as analyzed in the EIS/EIR. The Milpitas BART Stations Traffic Impact Analysis Report (Hexagon Transportation Consultants, Inc. May 2003), Table 15, 2025 BART Extension Intersection Levels of Service (Montague/Capitol Station Only), quantified the conclusion that compared to the No-Action Alternative the BART Alternative would reduce the seconds of critical delay and reduce the critical volume to capacity ratio. This report may be obtained by contacting VTA Environmental Planning Department. Also refer to response R6.3.

R6.2 As discussed in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, the intersection of Capitol Avenue and Montague Expressway (Great Mall Parkway and Montague Expressway) is determined to not be adversely impacted by the BART Alternative, based on the criteria set forth in Section 4.6.2.3, Criteria for Assessing Project-Specific Impacts on Vehicular Traffic. While the BART Alternative does add some capacity to the intersection of Capitol Avenue and Montague Expressway, a grade separation project for this intersection is not a reasonable and feasible mitigation measure based on the relative small volume contribution of traffic the Montague/Capitol Station alone or the Montague/Capitol and South Calaveras Future stations together would add to the intersection compared to 2025 No-Action project conditions, the magnitude of construction impacts that would result, and the high cost.

R6.3 The Great Mall Parkway/Montague Expressway intersection operates at LOS F under the No Action Alternative. Based on CMP significance thresholds, CMP intersections operating at LOS F under no project conditions would experience a significant impact if the addition of station trips causes both the critical movement delay at the intersection to increase by 4 or more seconds and the demand to capacity ratio (V/C) to increase by 0.01 or more. The Great Mall/Montague intersection V/C would decrease by 0.15 and delay would decrease by 64 seconds. Therefore, a significant impact would not occur. However the intersection would still operate at LOS F.

R6.4 VTA will work closely with the County of Santa Clara to implement appropriate mitigating improvements for traffic impacts attributable to the BART Alternative. It should be noted that the majority of the expressway impacts are attributable to cumulative background growth, not the BART Alternative.

Montague/Milpitas: As stated in the Milpitas BART Stations Traffic Impact Analysis Report under the heading 2025 No Action Conditions Necessary Improvements/(13) Milpitas Boulevard and Montague Expressway, "Necessary Improvements: The intersection is projected to operate at LOS F during both the AM and PM peak hours under 2025 No Action conditions. There are plans to widen Montague Expressway to eight lanes. Though intersection operations will improve with the planned widening, the level of service will remain at LOS F. The necessary improvement consists of further widening Montague Expressway to five lanes in each direction. The widening of Montague Expressway to this extent is not feasible due to right-of-way constraints."

The traffic impact analysis included the eight-lane widening project as an existing improvement for the 2025 No Action Conditions Necessary Improvements. Widening

Montague Expressway to eight lanes would improve intersection operations; however, the level of service would still remain at LOS F without the implementation of the BART Alternative. The necessary improvement to improve 2025 No Action conditions level of service to acceptable levels at this intersection would consist of widening Montague Expressway to ten lanes. The widening of Montague Expressway to ten lanes, not eight lanes, is not feasible due to right-of-way constraints.

Landess Avenue and Dempsey Road: *The text has been revised in Table 1.5-1, Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigation Measures, in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, and in Table 6.2-2, Summary of Impacts and Proposed Mitigation for the SVRTC Baseline and BART Alternatives, to show the following additional text for adversely impacted intersections for which no feasible mitigation was identified:*

However, VTA will provide a fair share contribution to traffic improvement at this location. The contribution will be made only if feasible traffic mitigation is identified and substantial funding is in place to construct the improvement. VTA will work with the County of Santa Clara (Note: the County is only added where a county facility is impacted) and the City of Milpitas to develop an agreement at the time that the mitigation is required.

Monroe Street and San Tomas Expressway: *The text has been revised in Table 1.5-1, Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigation Measures, in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, and in Table 6.2-2, Summary of Impacts and Proposed Mitigation for the SVRTC Baseline and BART Alternatives, to show the following additional text for adversely impacted intersections for which no feasible mitigation was identified:*

However, VTA will provide a fair share contribution to traffic improvement at this location. The contribution will be made only if feasible traffic mitigation is identified and substantial funding is in place to construct the improvement. VTA will work with the County of Santa Clara (Note: the County is only added where a county facility is impacted) and the City of Santa Clara to develop an agreement at the time that the mitigation is required.

El Camino Real and San Tomas Expressway: *The text has been revised in Table 1.5-1, Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigation Measures, in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, and in Table 6.2-2, Summary of Impacts and Proposed Mitigation for the SVRTC Baseline and BART Alternatives, to show the following additional text for adversely impacted intersections for which no feasible mitigation was identified:*

However, VTA will provide a fair share contribution to traffic improvement at this location. The contribution will be made only if feasible traffic mitigation is identified and substantial funding is in place to construct the improvement. VTA will work with County of Santa Clara (Note: the County is only added where a county facility is impacted) and the City of Santa Clara to develop an agreement at the time that the mitigation is required.

Lafayette Street and Central Expressway: *As per a conversation between Casey*

Emoto, Senior Transportation Engineer of VTA, and Dan Collen, Senior Civil Engineer of Santa Clara County Roads and Airports Department, on Wednesday, July 21 2004, Dan Collen clarified that the feasible mitigation was a six-lane widening, not an eight-lane widening planned for 2005.

As stated in the Santa Clara BART Stations Traffic Impact Analysis Report (Hexagon Transportation Consultants, Inc. May 2003), under the heading 2025 No Action Conditions Necessary Improvements/(6) Lafayette Street and Central Expressway, "Necessary Improvements: The intersection is projected to operate at LOS F during both the AM and PM peak hours under 2025 No Action conditions. The necessary improvements consist of the addition of third eastbound and westbound through lanes and the addition of an exclusive southbound right-turn lane. There are plans to widen Central Expressway to three lanes in each direction. The addition of a southbound free-right-turn lane may not be feasible due to right-of-way constraints, but is included as a possible improvement. Intersection operation levels would improve to LOS E with the implementation of these improvements." This report may be obtained by contacting VTA Environmental Planning Department.

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R7

BOARD OF DIRECTORS 2004

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May 14, 2004

Mr. Tom Fitzwater
Santa Clara Valley Transportation Authority
Environmental Planning Department
3331 North First Street
San José, California 95134

Dear Mr. Fitzwater:

We thank Santa Clara Valley Transportation Authority (VTA) for including staff from the Peninsula Corridor Joint Powers Board (JPB) in the Project Development Team meetings, for meeting with JPB staff individually to discuss aspects of the proposed project, and for sending us copies of the Draft Environmental Impact Statement/Environmental Impact Report and Draft 4(f) Evaluation (DEIS/DEIR).

JPB's long term plans for the Santa Clara to San José Diridon Rail Corridor include the reconstruction of the Santa Clara Station to accommodate four Caltrain main tracks and outboard platforms plus additional main tracks from Santa Clara to San José. At the San José terminal, the existing tracks and platforms will be reconstructed to provide two additional platforms and an improved track alignment. We are enclosing a folded copy of the proposed four-track electrified alignment of Caltrain tracks between Santa Clara Station and San José Station with Details A through D outlined, and a separate sheet showing closeups of Details A through D.

R7.1

As a result of our meetings and our review of the Draft March 2004 DEIS/DEIR, we offer the following comments:

1. Table 1.5-2; Transportation and Transit Impact Category – Cut and Cover construction of the BART Diridon Station will have significant negative impact on the operations of Caltrain (JPB), Amtrak Coast Starlight, Altamont Commuter Express (ACE) trains, Capitol Corridor (CC) trains and Union Pacific Railroad (UPRR) freight operations (see Detail A attached). In the post 2010 time frame, over 150 daily and potentially 200 daily trains could be operating into or through the San José rail terminal. Due to the large count of train traffic operating into this terminal, underground construction shall require methods and techniques that 1) do not disrupt the terminal train traffic and 2) do not remove tracks from service. At the Stockton Avenue tunnel crossing, Stockton Avenue must either be closed, or a tunnel design that will not preclude a future Stockton Avenue grade separation (see comment # 9 and Detail C attached).
2. Section 3.4.4-2, Station Locations, Diridon/Arena Station – Both north and south station alignment options will have significant negative impact to operations of Caltrain, Amtrak Coast Starlight, ACE trains, CC trains and UPRR freight as both

R7.2

R7.3

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Mr. Fitzwater
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- these railroad sections have switches that serve the Caltrain Diridon station/yard (see Detail A attached). It is recommended that tunneling of the BART station at this end be applied or the BART station is shifted towards the east to avoid cut and cover under the railroad tracks. See comment at #1 above. R7.3 (cont.)
3. Page 4.17-29, the visual simulation shows part of the parking structure south of the Diridon Caltrain station on JPB property, currently an employee parking lot, being made into a parking structure. This would block vital access to the Caltrain tracks. Access needs to be maintained to the Caltrain tracks at all times at this location. If a parking structure is placed at this location, maintenance access needs to be provided to the Caltrain tracks from the east. R7.4
4. Page 4.17-32 and 33, Santa Clara Station and Pedestrian Crossing – Caltrain will require an underpass to connect both future Caltrain platforms and a future BART station. An aerial walkway of any alignment will impact Caltrain signal sight distance for trains approaching the switches and is not a viable alternative (see Detail D attached). The top of the signal lights are approximately 40 feet high, therefore, in order to clear the sight distance, the bottom of the pedestrian overcrossing would need to be over 40 feet high. A properly sized and lighted underpass, such as the recently constructed tunnel at Lawrence Caltrain Station in Sunnyvale, would serve the intermodal connection more accessibly and reliably than an overhead structure with mechanical elevators. Should a pedestrian overcrossing be considered, the design should take into account efficient pedestrian platform transfers between BART and the Caltrain outboard platform, which will have an underground connection. Easy access from the BART concourse to Caltrain’s easterly platforms should be provided. R7.5
5. Page 4.19-2, Mitigation Measures for Parking Impacts, please discuss mitigation for the loss of Caltrain patron parking at the Diridon Caltrain Station and Santa Clara Caltrain Station due to the use of those parking lots for construction staging and for permanent project impacts, i.e. how many parking spaces are used for construction staging and permanent removal, and where will Caltrain patrons be expected to park during construction and after construction. R7.6
6. Page 6.3-37, a number of “past, present, and reasonably foreseeable” future actions are not identified in the Transportation section of Cumulative Impacts. California High Speed Rail is being proposed for this corridor, the Caltrain Electrification Program is currently circulating an Environmental Assessment/Draft Environmental Impact Report, the Caltrain Maintenance and Storage Facility (CEMOF) construction is getting underway, the Caltrain CTX project is nearly finished, and there are other projects planned for this same corridor. A Project Study Report (PSR) is available for the Dumbarton Rail Corridor, which will offer daily commute service from Union City to San José, competing with the BART service. These future actions should be discussed in the Cumulative Impacts section and analyzed for synergy, conflict, and ridership. R7.7

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|---|-------|
| <p>7. Section 7.4 – Affected Section 4(f) Properties – the National Register of Historic Places boundary for the San José Diridon Caltrain Station includes the area between the Caltrain Diridon Station and the rail bridge over Alameda Street. It would seem the San José Diridon Caltrain Station should be included as an affected Section 4(f) property, as the proposed VTA/BART project includes direct, temporary and constructive use within these boundaries. As you know, JPB has jurisdiction over this resource and the Santa Clara Caltrain Station and the South Bay Historical Railroad Society is the holder of a covenant over both historic resources.</p> | R7.8 |
| <p>8. Figure A-39 – The BART vent shaft structure at the west end of the proposed BART Station shall be located outside JPB ROW. The JPB right-of-way at this section has very limited available space.</p> | R7.9 |
| <p>9. Figure A-41 – Closure of Stockton Avenue at the Caltrain crossing will be necessary as part of the BART project. A BART tunnel structure at the intersection of Stockton Avenue and Emory Street in San José (where Stockton Avenue crosses the Caltrain tracks) will preclude the ability of Caltrain from grade-separating this intersection (see Detail C attached). An underpass of Stockton Avenue will be precluded by the presence of the BART tunnels, and in order to allow an overpass, BART would need to design and build the abutments to the overpass to avoid construction in the BART envelope in the future. This leaves the best alternative for grade-separation at this location, to be a permanent closing of Stockton Avenue on both sides of the railroad tracks. This contingency should be covered in the Final EIS/EIR and should be considered part of the mitigation offered for the project.</p> | R7.10 |
| <p>10. Figure A-45 – Capitol Corridor is funding a project that will add and shift UPRR tracks at this location to enhance commuter service. Please check with Capitol Corridor and UPRR (see Detail D attached).</p> | R7.11 |
| <p>11. Figures B-34 and B-37, it is unclear from the graphic whether the orange areas are surface parking or parking structures. Caltrain/Amtrak employee parking lot and Caltrain track access at the south-west quadrant of Cahill Street and San Fernando Street (JPB property) incorrectly shown as public parking.</p> | R7.12 |
| <p>12. Figure B-35, Diridon/Arena Station, Section A-A – Cut and cover operations will substantially impact Caltrain, Amtrak, ACE and UPRR train operations in and out of the Caltrain Diridon station/yard. It is recommended that BART look into shifting the station east or decreasing the lengths of the ancillary sections on both ends of the station. Construction affecting rail operations is currently limited to a 3 hour work window from 1 AM to 4 AM for Caltrain, further limitations could occur due to UPRR freight and Amtrak's Coast Starlight operations which operate 24 hours a day, 7 days a week. See comments on #1.</p> | R7.13 |
| <p>13. Figure B-37 – This alignment option will have significant negative impact Caltrain, Amtrak, ACE, Capitol Corridor and UPRR train operations in and out of the Caltrain Diridon station/yard. See comment #1.</p> | R7.14 |

Mr. Fitzwater
May 14, 2004
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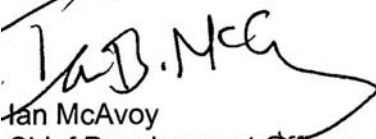
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| 14. Figures B-40 and 41, transverse Section looking North – An overhead pedestrian crossing across Caltrain tracks will impact the signal sight distance for Caltrain train operators (See Comment #4 and Detail D attached). | R7.15 |
| 15. Appendix F – Memorandum of Agreement (MOA) – as stated in Comment 8 the Caltrain Diridon Station has direct, temporary and constructive use as property on the National Register of Historic Places and a 4(f) resource. This property should be included in the MOA, and the Peninsula Corridor Joint Powers Board identified as the party with jurisdiction over the San José Diridon Caltrain Station and the Santa Clara Caltrain Station. The South Bay Historical Railroad Society should be identified as the covenant holder for both of these historic resources. | R7.16 |
| 16. Additional general comment – As shown on attached Detail B, future Caltrain plans show UPRR tracks shifted east towards the existing surface HP Pavilion parking lot and will require additional Caltrain right-of-way at this location. This right-of-way requirement should be noted in the VTA/BART design for the parking structure proposed for this area. | R7.17 |
| 17. Additional general comment – As shown on attached Detail D, at Santa Clara Caltrain Station, additional right-of-way is required to relocate the UPRR tracks and to build new platforms and add new tracks. | R7.18 |
| 18. Additional general comment – Subsurface easements, and right-of-way entry permits will be required to be obtained from the Peninsula Corridor Joint Powers Board by the BART Extension to Milpitas, San José, and Santa Clara project. | R7.19 |

We are enclosing a copy of the Caltrain Comments on the Scoping of the BART Extension EIS/EIR letter dated March 27, 2002. Please include and address these comments in the DEIS/DEIR.

Mr. Fitzwater
May 14, 2004
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Again, thank you for VTA's collaboration on this proposed project. We look forward to working with you as you complete this environmental review and during design and construction. If you need additional information, please don't hesitate to contact me at (650) 508-6346.

Sincerely

A handwritten signature in black ink, appearing to read "Ian B. McAvoy". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Ian McAvoy
Chief Development Officer
Peninsula Corridor Joint Powers Board

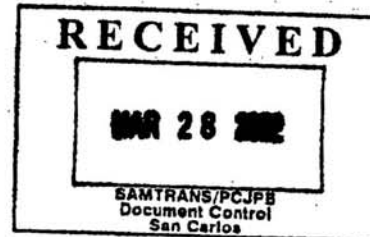
Enclosures

cc: Darrell Maxey, Michael Chan, Anthony Quicho, Stephen Chao, Raul Millena, Brian Fitzpatrick, Erik Ólafsson, Tim Chan (VTA), Document-Control, file



March 27, 2002

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Lisa Ives
Valley Transportation Authority
3331 North First Street
San Jose, CA 95134-1906

SUBJECT: Caltrain Comments on the Scoping of the BART Extension EIS/EIR

Dear Lisa:

Please include the following Caltrain considerations when preparing the scope for the BART Extension to Milpitas, San Jose, and Santa Clara Environmental Impact Statement/Environmental Impact Report (EIS/EIR):

- 1) When building under the Joint Powers Board (JPB) property:
 - a) BART structures must be constructed to support railroad loads including raised railroad structures.
 - b) BART structures must be completely below grade (i.e. vent structures, storm drains, etc.)
 - c) BART structures must be a minimum of six feet below bottom of railroad ties.
- 2) When building at grade on JPB property (including buildings, sound walls, gates, fences, etc.):
 - a) BART must allow for future 4 track alignment, maintenance access roads, and future electrical substations.
 - b) BART must account for new construction of the new Lenzen Maintenance Facility.
- 3) When building over JPB property:
 - a) BART must allow for clearance of overhead electrical cantenary systems.
- 4) When building on property adjacent to the JPB Right-of-Way, BART will insure that it's facilities do not constrict JPB's ability to expand to a 4 track alignment by working with JPB staff to guarantee:
 - a) BART subsurface structures will be constructed to support railroad loads including raised railroad structures.
 - b) BART subsurface structures will be a minimum of six feet below bottom of railroad ties in areas anticipated for the 4 track alignment.
 - c) BART above ground structures will allow for maintenance access roads and future electrical substations in support of the future 4 track alignment.

R7.20

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- 5) In conjunction with the Caltrain rail corridor capacity expansion, several yard tracks on the westside of the Newhall yard may need to be removed to provide for additional main lines. This may trigger the need to replace the westerly UPRR yard tracks with additional yard tracks on the eastside of Newhall yard. R7.21
- 6) When excavating adjacent to JPB property:
 - a) BART must account for any adverse structural impacts to the railroad tracks due to subsidence from groundwater pumping or inadequate shoring. R7.22
- 7) Caltrain Environmental Comments:
 - a) Both Caltrain Stations that the BART alignment may affect (Diridon Station and Santa Clara Station) are listed in the National Register of Historic Places. If these properties are affected by the BART project there will need to be a Section 4 (f) analysis performed. R7.23
 - b) Both Caltrain Stations that the BART alignment may affect (Diridon Station and Santa Clara Station) fall under a Preservation Covenant that stipulates certain procedures to be followed and coordination with local historical groups if your project will affect them.
 - c) There has been some planning concerning the 2012 Summer Olympic Games to be held in the Bay Area. Please comment on how the BART extension might affect the transportation picture or accommodate the games. R7.24
 - d) Please comment on how the funding of the BART extension might affect other Measure A projects in Santa Clara County. R7.25
 - e) Please comment on the capacity of parking facilities that are planned for the BART Stations and their locations. R7.26

In addition, within the proposed BART alignment, the JPB has joint facilities and shared rail corridor with the Union Pacific Railroad, ACE, and Amtrak. Within this congested corridor it currently operates 120 trains per day and it is projected to increase to 200 trains within the next ten years. R7.27

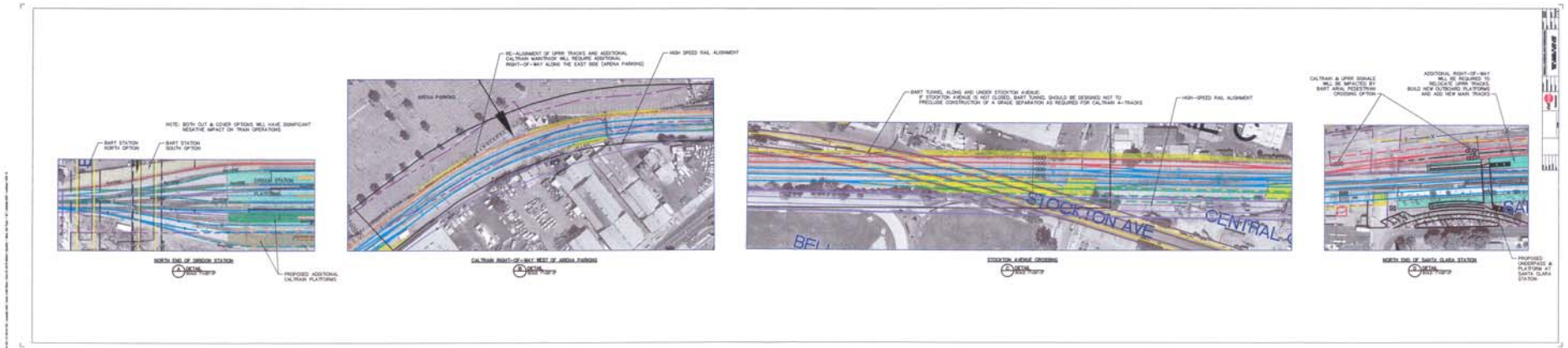
Thank you for including these considerations in your scoping of the subject EIS/EIR. If you have any questions, please contact Stephen Chao of my staff at (650) 508-6301.

Sincerely,


Howard Goode
Executive Director

Attachment
cc: Darrell Maxey
Stephen Chao
Erik Ólafsson

SAMTRANS/PCJPB Document Control San Carlos	
Log Date:	3-29-02
Project #	SANTA CLARA BART EXTENSION
File #	150.04
Log #	R-00001
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RESPONSE TO COMMENT LETTER R7

Caltrain (May 14, 2004)

R7.1 VTA has and will continue to coordinate with the Peninsula Corridor Joint Powers Board (JPB) and UPRR on Caltrain's right-of-way (ROW) needs to accommodate future expansion. Section 4.19.3.5, Design Requirements and Best Management Practices for Rail and Bus Service Impacts, has been revised to add this coordination effort as follows:

- VTA will coordinate with Caltrain and UPRR during the Preliminary Engineering, Final Design, and construction phases of the BART Diridon/Arena and Santa Clara stations to minimize construction impacts at these locations.

R7.2 The details of construction methods and sequencing will be further defined in Preliminary Engineering. Preliminary Engineering activities will be coordinated with the owners of adjacent facilities, including the railroad tracks in the vicinity of the proposed Diridon/Arena Station. As was done with VTA's Vasona Corridor Light Rail Transit Project, VTA will ensure that terminal train traffic is accommodated during the construction phase.

R7.3 At its May 26, 2004 meeting, the Silicon Valley Rapid Transit Corridor Policy Advisory Board (PAB) recommended the Diridon/Arena Alignment and Station South Option as the Locally Preferred Alternative. The details of construction methods and sequencing will be further defined in the Preliminary Engineering phase of the project. Preliminary Engineering activities will be coordinated with JPB, as they were when VTA constructed the Vasona Corridor Light Rail Transit Project.

R7.4 The comment appears to be addressing Figure 4.17-29, Diridon/Arena Station, not page 4.17-29. In response to JPB concerns, as well as concerns over cultural resources, a parking structure will no longer be located on JPB property south of San Fernando Street. However, the property would be acquired for a surface parking lot adjacent to the parking structure that would be located east of Cahill Street. With this redesign, access can be maintained to the Caltrain tracks at all times, as requested in the comment.

R7.5 At its May 26, 2004 meeting, the PAB recommended the Aerial Walkway South Option as part of the Locally Preferred Alternative. This option best meets the needs of the transferring passengers.

The Underground Walkway Option, although supported by the City of Santa Clara Historical and Landmarks Commission, South Bay Historical Railroad Society (SBHRS), and Caltrain, requires additional elevation changes for passengers moving from BART or the future Automated People Mover to the west side of the Caltrain tracks. For example, a BART rider would exit a BART train, climb up one level to the mezzanine, and then down two levels to the underground walkway, use the underground walkway and then back up one level to access Caltrain, the bus transit center, or other services. The pedestrian crossing options only require climbing up one level to the mezzanine, using the pedestrian overcrossing and then going down one level to Caltrain, the bus transit center, or other services. The underground option may also result in additional impacts to underground utilities and archaeological resources, and to hazardous materials under the tracks. The underground option is also the most expensive of the three options evaluated.

VTA will continue to coordinate with Caltrain to determine the appropriate design of the aerial walkway to ensure adequate signal sign heights for train operators and to accommodate the future overhead electrification lines.

To address the impacts of the Aerial Walkway South Option on the historic Santa Clara Tower, a contributing element to the National Register of Historic Places (NRHP) eligible/NRHP listed Santa Clara Depot, Ms. Lorie Garcia, Covenant Holder with SBHRS, has put forward the suggestion to move the historic Tower and related speeder shed and utility shed south to permit the pedestrian overcrossing to be built north of the historic Tower. This relocation would preserve the historic spatial relationship between the historic Tower, sheds, and the historic Depot. VTA staff will work with the resource stakeholders to address and resolve concerns over the location and design of the aerial walkway. The design would need to comply with ADA guidelines, accommodate bicyclists, and provide adequate protection from the elements.

R7.6

On May 26, 2004, the PAB recommended the Diridon/Arena Alignment and Station South Option as the preferred alignment and station option. As described in Section 4.19.2.1, Pre-construction Activities, the pre-construction activities include extensive on-going coordination with affected landowners and businesses including Caltrain. The BART Alternative includes two 4-6 level parking structures to serve the Diridon/Arena Station and to provide replacement Caltrain parking. The North Parking Structure would be located immediately to the west of the HP Pavilion and would provide for up to 2,200 parking spaces. The site is on 2.8 acres owned by the San Jose Redevelopment Agency. As indicated in Section 3.4.4.2, Station Locations, a total of 1,500 to 2,200 new park-and-ride spaces in two parking structures would serve this station. This was increased to 2,262 spaces during the impact analysis, based on the modeled 2025 park-and-ride parking demand of 2,056 spaces plus a 10% surplus for spares and surges (see Table 4.2-14, 2025 Park-and-Ride Space Requirements). With this increase, the EIS/EIR concludes that there would be no adverse long-term parking impacts at the Diridon Station.

The construction of the Diridon/Arena Station and Alignment would potentially remove all of the Cahill parking lots south of West Santa Clara Street. The need for replacement of the Cahill lot parking south of West Santa Clara Street during construction and over the long-term is addressed by building the South Parking Structure on property south of San Fernando Street. This structure would accommodate up to 1,000 parking spaces and would therefore more than compensate for the lost spaces.

As described in the EIS/EIR, VTA will work with the City of San Jose to develop a comprehensive Construction Impact Mitigation Plan for the BART Alternative. As noted in Section 4.19.2.1, Pre-construction Activities, the Construction Impact Mitigation Plan will include a pre-construction business survey to ensure an understanding of the delivery, vehicle, and pedestrian access needs of all businesses in downtown San Jose including Caltrain. Prior to construction, detailed plans to address the vehicle, pedestrian, and parking needs of Caltrain will be developed. Additional design requirements and best management practices and mitigation measures to address vehicular, pedestrian, and parking concerns associated with construction are described in Construction, Sections 4.19.3.2 through 4.19.3.12.

R7.7

The CEQA Guidelines permit the use of one of two possible methods for assessing the potential cumulative effects of a project: 1) a list approach in which the cumulative environmental effects of a specific list of past, present, and reasonably foreseeable future projects are evaluated or 2) a projections approach in which a summary of projections

contained in an adopted plan designed to evaluate regional or area-wide conditions is used. In order to comply with NEPA, the Federal Transit Administration (FTA) requires that regional growth projections from metropolitan planning organizations (the Association of Bay Area Governments [ABAG] and Metropolitan Transportation Commission [MTC] in the Bay Area) be used to model projected future year conditions. For this EIS/EIR VTA used the projections approach for assessing cumulative conditions because: 1) MTC has an adopted Regional Transportation Plan and VTA has an adopted Countywide Transportation Plan that meet the CEQA requirements for a projections based approach and 2) FTA requires the use of ABAG and MTC projections, which provide the foundation for both the regional and area-wide transportation plans.

Some, but not necessarily all, of the specific projects mentioned in the comment are included in the MTC projections that were used as the basis for the cumulative impacts analysis in the EIS/EIR. However, Section 3.7.1, Transportation/Transit Related Projects, includes Caltrain Track Improvements (North of Diridon Station). In addition, the discussion of Caltrain Track Improvements has been expanded in Section 3.7.1 Transportation/Transit Related Projects along with the addition of the Caltrain Electrification Program. Therefore, a combination of projections and Caltrain improvements has been considered in the environmental analysis.

The comment also includes the statement that the development of a future High Speed Train System is a reasonably foreseeable project. It should be noted that a Program-level EIR/EIS was only recent circulated to the public. In addition, the project is currently unfunded and requires an investment in excess of \$33 billion. In May the state legislature voted to place a \$9.95 billion bond measure on the November 2006 statewide ballot to fund the first phase of the project. So it will be two years before it is known if there is any funding at all for the project and that is only if a statewide bond measure passes for almost \$10 billion. Therefore, it seems highly speculative to say that the High Speed Train System is a reasonably foreseeable project.

- R7.8** *The Draft Section 4(f) Properties section has been revised to include this resource. However, the conclusions remain the same.*
- R7.9** *Vent structures are required at the ends of Diridon/Arena Station for safety purposes. During the Preliminary Engineering phase of the project, VTA will reexamine the locations of vent structures including the vent structure at the west end of the Diridon/Arena Station to determine if alternative locations are feasible. However, if an alternative location were selected, subsequent environmental documentation would be required.*
- R7.10** *The BART Alternative does not require the closure of Stockton Avenue. Should Caltrain decide to pursue closure of Stockton Avenue, the BART Alternative accommodates this project by tunneling under Stockton Avenue with sufficient structural support for freight and passenger rail movements to occur on the existing at-grade tracks. Therefore, the BART Alternative does not preclude existing at-grade rail movements or the closure of Stockton Avenue. As soon as Caltrain has developed plans for a grade separation at this location, the agency is encouraged to meet with VTA to cooperatively address any conflicts.*
- R7.11** *VTA will continue to coordinate with the Capitol Corridor and UPRR on Capitols' right-of-way needs to accommodate future expansion.*
- R7.12** *Labels have been added to the orange shaded areas in Figures B-34 and B-37 to distinguish between surface and parking structure locations. As a result of potential*

cultural resource impacts issues, the parking area in the southwest quadrant of Cahill Street and San Fernando Street will be a surface lot and not a structure. Therefore, Caltrain track access will be maintained.

- R7.13** *The Diridon/Arena Station location was identified to facilitate transfers between BART and train operations. Shifting the station to the east would require greater walking distances for transfers. The size of the station is based on BART design criteria. VTA has worked with Caltrain during the construction of the Vasona light rail line beneath the train tracks and therefore has experience in coordinating construction activities to minimize disruptions to train operations. The details of construction methods and sequencing will be further defined in the Preliminary Engineering phase of the project. Also refer to R7.1.*
- R7.14** *Refer to response R7.13.*
- R7.15** *Refer to response R7.5.*
- R7.16** *The Cahill Station and Santa Clara Underpass historic property has been evaluated in Chapter 7, Final Section 4(f) Evaluation. VTA will continue to work with Caltrain, and other stakeholders, on developing an effective Memorandum of Agreement (MOA) or Programmatic Agreement (PA). The appropriate type of document and its details will be developed through continuing consultations. The MOA or PA will be signed before the project is approved. The SBHRS has been identified as a signatory.*
- R7.17** *VTA will coordinate with JPB during the Preliminary and Final Design phases of the project to address future Caltrain plans near the existing HP Pavilion surface parking lot.*
- R7.18** *VTA will continue to coordinate with JPB and UPRR on Caltrain's ROW needs to accommodate their future expansion at the Santa Clara Caltrain Station.*
- R7.19** *VTA will coordinate with the appropriate agencies during the Preliminary Engineering and Final Design phases of the project to obtain required permits.*
- R7.20** *The details of the exact locations of facilities and construction methods and sequencing will be further defined in the Preliminary Engineering phase of the project. However, the vent structures are required to be above ground to serve their purpose. Preliminary Engineering activities will be coordinated with JPB.*
- R7.21** *VTA will continue to coordinate with JPB and UPRR on Caltrain's ROW needs to accommodate future expansion of the UPRR Newhall Yard.*
- R7.22** *Construction, Section 4.19.9.2, Design Requirements and Best Management Practices for Geology, Soils, and Seismicity Impacts, addresses subsidence and shoring to protect existing facilities. Implementation of the identified measures will reduce impacts to acceptable levels. .*
- R7.23** *Chapter 7.0, Final Section 4(f) Evaluation, addresses both the Diridon and Santa Clara stations and their listing in the National Register. Also refer to response R7.5.*
- R7.24** *On November 2, 2002, the International Olympic Committee named New York City as the U.S. Candidate for the 2012 Summer Olympic Games. Since the San Francisco Bay Area was eliminated from consideration as a Candidate City, construction of the BART Alternative, including the MOS Scenarios, would not affect the transportation picture of*

the 2012 Summer Olympic Games.

- R7.25** *VTA staff continues to work with the VTA Board to complete a project program and financing plan for the Measure A program. However, the BART project was listed as the Number 1 project in the Measure A ballot that was supported by 70.6% of the voters of Santa Clara County. Measure A is a long-term (30-year) sales tax measure that will require on-going reevaluation of tax revenues and project delivery.*
- R7.26** *Parking demand by station was developed through the patronage forecasting model. The model estimates trips to each station by mode of access, including park-and-ride. Table 4.2-14, 2025 Park-and-Ride Space Requirements, identifies the parking demand and number of spaces provided for each BART station. The spaces provided include an additional 10% to account for surges and spare parking spaces. Table 4.2-15, Park-and-Ride Space Requirements for MOS Scenarios 2015 and 2025, provides the parking provided for the MOS scenarios.*
- R7.27** *The volume of train movements is acknowledged and VTA will continue to work with the JPB and other train operators to coordinate construction activities.*

R8

-----Original Message-----

From: Christina Watson [mailto:Christina@TAMCMonterey.org]

Sent: Friday, May 14, 2004 4:35 PM

To: 'Chan, Tim'

Cc: Andy Cook (E-mail); William (Bill) (Wm.) E. Reichmuth P.E. (E-mail);
Debbie Hale (E-mail)

Subject: RE: Comments from Website

Dear Tim,

Our only comment on the DEIR (via email to get it in under the wire on the deadline) is that on page 4.2-3 the DEIR states:

"Other transit operators in the corridor include BART, AC Transit, Caltrain, ACE, Capitols, and Amtrak.... Caltrain provides shuttle service to businesses in the Silicon Valley and on the Peninsula. Potential expansion includes extending Caltrain service further south to Salinas, Monterey, and Santa Cruz."

The Caltrain Extension to Monterey County project will be to Pajaro, Castroville and Salinas. Monterey will not be on the Caltrain line, but there is another rail project for service between Monterey and San Francisco (with stops in Castroville, Pajaro, San Jose, Palo Alto, and Milbrae).

Santa Cruz is unlikely to have rail service connecting to Gilroy, though they are planning a local rail service. Santa Cruz residents will be able to connect to the Caltrain service at the Pajaro station, and in fact it is estimated that 80% of the riders boarding at the Pajaro station will originate in Santa Cruz County.

For more information on TAMC's two rail projects, see the attached flyer or contact me. For Santa Cruz projects, see <http://www.sccrtc.org/transit.html>.

Thank you,

Christina

Christina Watson
Associate Transportation Planner
Transportation Agency for Monterey County
55-B Plaza Circle
Salinas, CA 93901
Tel. (831) 775-4406
Fax (831) 775-0897
christina@tamcmonterey.org

R8.1

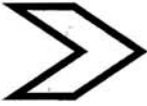
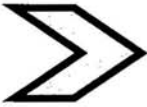
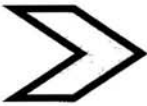
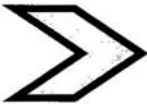
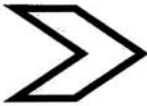
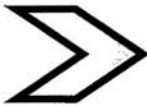
 **TAMC**
TRANSPORTATION AGENCY
FOR MONTEREY COUNTY

**MONTEREY PENINSULA
TO SAN FRANCISCO
RAIL SERVICE**

● ——— ● ——— ● ——— ● ——— ● ——— ● ——— ● ——— ●

Monterey Bay Castroville Pajaro San Jose Palo Alto Millbrae San Francisco



2003		Feasibility Studies Phase total: \$0.5 million expended Complete June 2003
2004		Right-of-Way Acquisition Phase total: \$9.7 million expended Complete October 2003
2005		Environmental Documents, Permits & Alternatives Analysis Phase total: \$0.8 million secured Complete 2006
2006		Design & Engineering Phase total: \$1.5 million unsecured Complete 2007
2007		Construction & Rehabilitation Phase total: \$25.5 million unsecured Complete 2009
2009		Start of Service: 2009 Capital total: \$38 million



TAMC
TRANSPORTATION AGENCY
FOR MONTEREY COUNTY

**CALTRAIN EXTENSION TO
MONTEREY COUNTY
SALINAS TO SAN FRANCISCO**



2003		Project Study Report, Environmental Documents & Alternatives Analysis
2004	➤	Phase total: \$3.3 million secured Complete March 2005
2005		Design & Engineering
2006	➤	Phase total: \$10.4 million secured & unsecured Right of Way Acquisition Phase total: \$10.3 million unsecured Complete mid 2007
2007		Construction & Rehabilitation
2008	➤	Phase total: \$46.6 million unsecured Complete Jan 2009
2009	➤	Start of Service: 2009 Capital total: \$70.7 million

RESPONSE TO COMMENT LETTER R8

Transportation Agency for Monterey County (May 14, 2004)

R8.1 *The text in Section 4.2.3.1, Existing System, under the subheading Rail and Bus Services, has been revised to state "Potential expansion includes extending Caltrain service further south to Pajaro, Castroville, and Salinas."*

MAY. 14. 2004 1:18PM

A C TRANSIT

R9

NO. 3574 P. 2



1600 Franklin Street, Oakland, CA 94612 - Ph. 510/891-4716 - Fax. 510/891-7157

May 14, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 N. First St., Building B
San Jose, Ca. 95134

Subject: Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR)
for the Proposed BART Extension to Santa Clara County

Dear Mr. Fitzwater:

Thank you for the opportunity to comment on the Draft EIS/EIR for the proposed BART extension to Santa Clara County. This letter provides comments on the project and alternatives, then turns to issues such as land use and impacts at BART stations in the AC Transit district.

The Project and Alternatives to It

The EIS/EIR analyzes a 16 mile extension of BART from Warm Springs in southern Fremont 16 miles through Milpitas and San Jose to Santa Clara. Up to eight new BART stations would be built in Santa Clara County, although some might not be opened with the initial construction of the line. The extension of BART from the current Fremont station to Warm Springs is being analyzed as a separate project.

AC Transit is aware of the importance of transit connections between Southern Alameda County and Santa Clara County. Our staff has worked closely with the Valley Transportation Authority (VTA) to create and modify transit links between Fremont and Santa Clara County, especially Milpitas. Improved transit in this corridor is essential to provide mobility for area residents and workers and to respond to congestion on highways in the area.

Because of the importance of this corridor, it is especially important that transit projects there be environmentally sound, cost-effective, and capable of implementation in a reasonable time frame. The great uncertainties concerning both state and federal funding for this project reinforce the need for a fiscally realistic project. It may not be possible--at least in the near term--to build the project as originally anticipated.

R9.1

May 14, 2004
BART to Santa Clara County
Page 2

Given this context, the EIS/EIR does not analyze a sufficient range of alternatives. It analyzes two required alternatives--No Action and a New Starts Baseline of added bus service. In response to the Federal Transit Administration's requirement for a Minimum Operable Segment alternative, the EIR analyzes deferring stations or station facilities. This is not responsive to the idea of a minimum operable segment--a shorter segment of line that could be initially opened, then extended.

The EIR should analyze an alternative with a shorter initial BART line. This line would extend south from Warm Springs to either the proposed Montague/Capitol station or the Berryessa station. This line could be extended to Downtown San Jose and Santa Clara at a later date. At Montague/Capitol, passengers could transfer to the VTA light rail line which is about to open. Continuing to Berryessa would provide service to East San Jose. This type of alternative is more realistic given the fiscal picture for BART construction. It could allow a portion of the BART line to begin operating years sooner than if the whole project waited to be built at one time.

R9.1 cont

Analyzing the impacts of such an extension could save time and money in the future. If the initial stage of the project must be scaled back, the environmental impacts at stations that are built will be different from those analyzed in this EIS/EIR. Thus VTA and BART could be required to reanalyze impacts and issue supplemental environmental documents at that point.

Access Modes to New Stations

The EIR projects that fully 52% of trips to and from the new BART stations will be on some form of transit, primarily VTA buses and light rail (see Table 4.2-8). An additional 24% of these trips are projected to be walk trips, leaving only 24% of trips by auto. These are ambitious and laudable targets. The extension's ability to meet its projected ridership will therefore require a robust and attractive network of connecting transit.

R9.2

This access mode split also supports the idea of a shorter initial segment. Montague/Capitol is projected to have the largest numbers of passengers transferring to other transit on the new line. It would be the transfer point for job-rich areas in Milpitas and North San Jose.

May 14, 2004
BART to Santa Clara County
Page 3

Station Area Land Use Planning

If built, the project would add up to eight new BART stations in Santa Clara County. These stations (and the BART line that serves them) would represent a major new investment for the Bay Area as a region, quite possibly the region's largest transportation investment. Therefore it is critical that the area around all of these stations be efficiently used. In particular the number of new housing units around each station should be maximized, to increase the number of passengers who could access the system without driving to it.

As part of the land use analysis, the EIS/EIR needs to provide clearer information about the amount of housing that could be developed around each of these stations. We are pleased to see the policies from Milpitas, San Jose, and Santa Clara that support transit-oriented development. We are aware that there has been a considerable amount of development around VTA light rail lines. However quantitative projections of housing development are needed to assess the likely development patterns at the proposed BART stations.

R9.3

The land use analysis should also indicate--on a station by station basis--how well each new station meets the System Expansion criteria recently adopted by BART.

Additional Parking at Existing BART stations

Chapter 5 of the EIS/EIR is devoted to an analysis of projected increases in parking demand at existing BART stations as a result of this project. Table 5.3-1 indicates a projected demand of over 3,200 spaces. P. 5.4-6 (second complete paragraph) notes that 17 stations were identified as having the potential for parking expansion--16 existing stations plus the proposed Irvington station. These 16 stations should be identified in the EIR. We understand that BART does not necessarily have current proposals to expand parking at all of these stations. We also understand that potential parking demand is being considered for groups of stations, which is appropriate. Nevertheless, the potential parking expansion stations should be identified.

R9.4

The EIS/EIR fails to identify--even at a program EIR level--all of the potential impacts associated with expansion of parking at BART stations. Expanded parking could cause additional traffic congestion at stations and/or on local arterials. Such congestion could delay bus operations. Parking expansions could also encroach on areas needed for transit centers. Parking expansions could encroach on sites for transit-oriented development or make those sites less desirable.

R9.5

MAY. 14. 2004 1:19PM A C TRANSIT

NO. 3574 P. 5

May 14, 2004
BART to Santa Clara County
Page 4

We urge BART to focus its efforts on providing non-automotive means for BART passengers to access BART stations. This approach applies to both passengers generated by the Santa Clara County extension and passengers on the existing system. BART's policies--as reflected in the 2003 **Station Access Guidelines** support this approach. These Guidelines (p. 2-4) set out a "Hierarchy" of desired access modes. The highest priority mode is walking, followed by transit. Vehicle parking is fifth, following walking, transit, bicycling and pickup/dropoff. An approach that followed this hierarchy would emphasize transit-oriented development, improvements to the pedestrian environment at and around BART, and improvements to connecting transit.

R9.6

Bus Routing Between Great Mall Transit Center and Montague/Capitol Station

As of June 5, 2004 AC Transit will reroute line 217 from its current terminus at the I-880/Milpitas light rail station to its new terminus at the new Great Mall light rail station/transit center. The new routing allows us to both continue to connect to the light rail line and serve the Great Mall. If and when Capitol/Montague BART station opens, AC Transit would continue to serve Great Mall and the BART station. However, we are concerned about assuring that there is a fast, convenient bus route between the two stations. We look forward to working with BART and VTA to plan for this service.

R9.7

Thank you for your interest on our comments. If you have any questions about them please contact Nathan Landau, Long Range Planning Division, 891-4792.

Yours Truly,



Nancy Skowbo
Acting Deputy General Manager for Service Development

RESPONSE TO COMMENT LETTER R9

AC Transit (May 14, 2004)

- R9.1** *VTA developed Minimum Operating Segment (MOS) scenarios for the BART Alternative in response to the Federal Transit Administration's (FTA) recommendation to include such scenarios for evaluation purposes. However, VTA continues to support to the full build BART Alternative, as approved by the voters of Santa Clara County in November 2000 and adopted by the VTA Board of Directors as the Locally Preferred Alternative in November 2001. There are several reasons why BART to Montague/Capitol is not a feasible and reasonable alternative. First, the current BART maintenance facilities cannot handle even a small extension into Santa Clara County. This project requires a maintenance facility preferably located at the end of the extension since midline maintenance facilities result in significant increases in annual operating costs associated with "deadheading" trains at the start and end of service. Terminating the project before Santa Clara results in the expenditure of funds for significant maintenance capacity that would be throw-away costs once the extension is completed to Santa Clara. In addition, expanded parking and access improvements to the Montague/Capitol Station would also be wasted improvements once the remainder of the extension is completed. This alternative would also not achieve several of the project's purposes including; "improve mobility options to employment, education, medical, and retail centers for corridor residents, in particular low-income, youth, elderly, disabled, and ethnic minority populations," "maximize transit usage and ridership," and "support local economic and land use plans and goals." For example, both the cities of Milpitas and San Jose have adopted transit-oriented development policies designed to promote high density around station locations.*
- R9.2** *The project will serve a corridor with considerable feeder bus and rail transit services for both existing conditions and for the forecast year 2025. The BART Alternative assumptions include expansion of the VTA bus fleet to 642 peak vehicles and completion of the Tasman/Capitol and Downtown East Valley light rail projects. While it is true that the Montague/Capitol Station provides an excellent transfer opportunity for riders to reach the employment areas in Milpitas and North San Jose, significant intermodal transfer opportunities are also provided at Alum Rock, Market Street, Diridon/Arena and the Santa Clara stations. In addition, both the Diridon/Arena and Santa Clara stations provide direct intermodal connections to Caltrain. Also refer to response R9.1.*
- R9.3** *As discussed in Section 4.12, Land Use, all of the proposed station sites along the proposed alignment would have the potential to accommodate joint development in the future. VTA has worked and will continue to work with each city to best utilize the areas around BART station sites as transit-oriented development (TOD). In the interim, the areas can be used as construction staging areas, surface parking, or other transit related uses prior to the construction of high density TOD project. As discussed in Section 4.12, Land Use, all of the BART Alternative stations comply with BART System Expansion Policy and Criteria.*
- R9.4** *As stated in Chapter 5, BART Core System Parking Analysis, Section 5.1, Introduction, "...additional parking would be provided consistent with BART's access management and improvement program" and "a programmatic approach has been used to address the environmental impacts from a number of additional parking facility possibilities." Therefore, potential environmental impacts are qualitatively discussed recognizing that subsequent project-specific NEPA and CEQA documentation would be required.*

Additional information is provided in the BART Core System Parking Analysis Technical Working Paper (VTA May, 2003, revised October 2004), available by contacting VTA Environmental Planning Department. Table 2 in this document quantifies the BART parking demand by station and a range of potential spaces at each station for expansion that could accommodate the overall parking demand. As requested, the following text has been added to Chapter 5, BART Core System Parking Analysis, Section 5.1, Introduction, second sentence:

The sixteen existing stations include South Alameda County – San Leandro, Bay Fair, Hayward, South Hayward, Union City, and Fremont; East Alameda County – Castro Valley and Dublin/Pleasanton; Oakland/Central Alameda County – MacArthur; North Alameda County/West Contra Costa County – El Cerrito Plaza and El Cerrito Del Norte; and Central and East Contra Costa County – Lafayette, Concord, North Concord/Martinez and Pittsburg/Bay Point.

R9.5 *As stated in Chapter 5, BART Core System Parking Analysis, Section 5.1, Introduction, "...additional parking would be provided consistent with BART's access management and improvement program" and "a programmatic approach has been used to address the environmental impacts from a number of additional parking facility possibilities." Therefore, potential environmental impacts are qualitatively discussed recognizing that subsequent project-specific NEPA and CEQA documentation would be required. Additional information is provided in the BART Core System Parking Analysis Technical Working Paper. Any additional parking would be designed to facilitate transit connections and promote TOD.*

R9.6 *While VTA is only funding the additional parking within the BART core system, it can be expected that BART would follow its own guidelines in promoting transit usage and TOD.*

R9.7 *VTA and BART will work with AC Transit to ensure effective bus transfer to either the BART Alternative extension or light rail system.*



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

R10

May 14, 2004

Tom Fitzwater
Environmental Planning Department
Santa Clara Valley Transportation Authority
3331 North First Street, Bldg. B
San Jose, CA 95134-1927

ALAMEDA COUNTY
Roberta Cooper
Scott Haggerty
(Chairperson)
Nate Miley
Shelia Young

Subject: BART to San Jose Extension

CONTRA COSTA COUNTY
Mark DeSaulnier
Mark Ross
Gayle Ulkema
(Secretary)

Dear Mr. Fitzwater:

MARIN COUNTY
Harold C. Brown, Jr.

Bay Area Air Quality Management District (District) staff have received the Draft Environmental Impact Statement/ Environmental Impact Report (DEIS/DEIR) for the proposed BART extension to Milpitas, San Jose and Santa Clara. The proposed project includes the construction of a 16.3 mile extension of the BART rail system including seven stations and one possible future station.

NAPA COUNTY
Brad Wagenknecht

The District supports transit improvements that reduce automobile use. Because the BART to San Jose extension is such a substantial transportation investment, it is essential that the project be planned and operated to maximize its public benefits, including air quality benefits. We have reviewed the DEIS/DEIR, and we are providing information and comments on the air quality aspects of the proposed project.

SAN FRANCISCO COUNTY
Chris Daly
Jake McGoldrick
Vacant

SAN MATEO COUNTY
Jerry Hill
Merland Townsend
(Vice-Chairperson)

We support many of the VTA's goals for the project, especially the agency's objective of supporting air quality plans (Goal #3: Environmental Benefits and Impacts, p. 3.6-44). A number of the VTA's objectives under the goals of Mobility Improvements and Regional Connectivity and Transit-Supportive Land Use will help to improve air quality including: providing more transit service, ridesharing and bicycle/pedestrian facilities; promoting transit-oriented development at transit stations; and providing incentives to encourage transit-supportive land use decisions by local government (p. 3.6-44, 3.6-45). By linking land use and transportation decisions, VTA can help improve air quality by providing transit improvements in a manner that minimizes impacts to the environment, improves connectivity and accessibility, and reduces automobile dependence. We understand that local agencies are responsible for the majority of land use planning and development decisions for the areas surrounding the proposed new BART stations. We urge VTA to work with the local governments to take advantage of these new transit nodes to intensify land uses near the new BART stations in appropriate locations (i.e. locations where those uses do not expose existing or new sensitive receptors to odors, dust or toxic air contaminants due to incompatible uses).

SANTA CLARA COUNTY
Erin Gamer
Liz Kniss
Patrick Kwok
Julia Miller

SOLANO COUNTY
John F. Silva

SONOMA COUNTY
Tim Smith
Pamela Torliatt

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

R10.1

Mr. Tom Fitzwater

-2-

May 14, 2004

The District supports infill development that is of a moderate to high density, has a variety of compatible land uses and encourages alternative modes of transportation. These projects are generally much less automobile-dependent, especially if the mixed uses include needed services. Such projects generate less air pollution than conventional sprawl development. We applaud VTA for developing the *Community Design & Transportation Manual of Best Practices for Integrating Transportation and Land Use (2003)*, and we highly support VTA's outreach efforts to cities in Santa Clara County to encourage more transit-oriented development. We are aware that BART has also developed *Transit-Oriented Development Guidelines (2003)* to help cities with planning near BART stations. Both documents can help local governments as they develop future station area plans.

R10.1
(cont.)

While we generally support residential development near transit, there may be some locations where housing is inappropriate due to adjacent land uses. We are concerned about potential land use conflicts that might arise from the development of new BART stations and associated residential units that may be built in areas with existing sources of air pollutants. Air quality problems arise when sources of air pollution and sensitive receptors are located near one another. New residents may be affected by criteria and toxic air contaminants (TACs), odors, dust, and diesel exhaust from activities associated with those existing uses.

We are concerned to note that five of the eight proposed new BART stations will be constructed near existing industrial and commercial uses. For example, the Berryessa BART station is proposed near potentially incompatible uses such as the Granite Rock asphalt/gravel plant, a Chevron bulk gasoline distribution plant and an automobile wrecking yard. Therefore, the Final Environmental Impact Statement/Report (FEIS/FEIR) should evaluate potential nuisance impacts, such as odors and dust that could result from the BART extension and station area development and, if necessary, identify mitigation measures. Citizen complaints can lead to nuisance cases that are difficult and expensive to resolve. The FEIS/FEIR should also evaluate potential impacts from toxic air contaminants that could result from this project. If TACs are found to be a potential impact, we suggest that the FEIS/FEIR contain a screening level analysis of potential land use conflicts between existing sources of TACs and proposed stations and residences. A screening level analysis will indicate if more detailed review will be needed in subsequent site-specific environmental impact reviews and in working with local governments on station area plans.

R10.2

The DEIS/DEIR states that over three-quarters of BART riders accessing the new stations will use non-auto modes (p. 4.2-9). This figure reflects the fact that many of these stations are in transit-rich areas and are within close proximity to jobs and housing. Therefore, we urge VTA to consider reducing the number of proposed new parking spaces at stations like Montague/Capitol and Santa Clara where automobile access is expected to be relatively low. We support VTA's decision to not provide parking in more dense urban areas like downtown San Jose. The elimination or reduction of off-street parking can encourage access via transit, bicycling and walking as well as increase opportunities for station area development.

R10.3

On February 20, 2003, we submitted to your agency a letter in response to the Notice of Preparation (NOP) for this document. The letter included our comments with regards to this project's proposal to expand parking at seventeen core system stations in Alameda and Contra

R10.4

Mr. Tom Fitzwater

-3-

May 14, 2004

Costa Counties. The expansion of parking facilities at BART stations has the likelihood to encourage riders to drive rather than take transit, bike, walk or carpool to the stations. In the Air Quality section of Chapter 5, Core System Parking Analysis, the DEIS/DEIR does not analyze how adding station parking capacity may have harmful effects on air quality, including the impacts of increased cold-start emissions from more vehicles being driven short distances to BART stations. We suggest that your agency include such an analysis in the FEIS/FEIR.

R10.4
(cont.)

In response to BART's past efforts to address budget shortfalls, we have expressed our support of parking fees at BART stations. Consistent parking fees at BART stations will encourage riders to access stations via transit, walking, biking or carpools, thereby reducing emissions, and provide critical funding for system operation and maintenance. In our NOP comment letter, we encouraged VTA to analyze alternatives for improved access to BART stations (including transit, bicycle/pedestrian facilities and different parking fee structures) and to include the associated air quality impacts of each alternative. We continue to encourage VTA to include such an analysis in the FEIS/FEIR. We support a carefully developed solution to the anticipated future demand for parking at BART stations that does not have negative impacts on ridership and allows BART to continue contributing to air quality improvements throughout the Bay Area.

R10.5

R10.6

We urge VTA to work with BART to provide adequate, secure bicycle parking (both lockers and racks) and bike-friendly facilities at all BART stations. We support the more generous bicycle parking design guidelines cited on page 4.2-20. The 2% of daily passenger boarding planning standard should be used as a minimum guideline for providing bike parking, and we encourage BART and VTA to monitor specific usage at each new and existing BART station and to provide more bike parking if necessary. We support the inclusion of bicycle and pedestrian facilities at all future stations, and encourage linking the station areas with existing or proposed nearby land uses and local and/or regional pedestrian/bicycle networks.

R10.7

Finally, we have some concerns about construction-related air quality impacts of developing the BART to San Jose extension. The size and scope of construction activities associated with this project will likely generate a significant amount of fugitive dust in the area. Therefore, we encourage VTA to implement all of the District's basic, enhanced and optional control measures for fugitive dust mitigation measures as noted on p. 4.19-64 of the DEIS/DEIR and also include installing wind breaks at windward sides of construction areas and limiting the area subject to excavation, grading and other construction activity at any one time. VTA should strictly enforce these mitigation measures in order to insure that the project's construction dust impact will be diminished as much as possible.

R10.8

We also urge greater emphasis on minimizing emissions from diesel construction equipment. The kinds of construction equipment necessary to construct new BART facilities (including boring tunnels) are primarily diesel-powered, and with continuous use, can lead to significant diesel particulate matter emissions. The District does not typically require quantification of construction emissions, but we do urge your agency to require the implementation of all feasible control measures. Our suggested mitigations include: use of diesel oxidation catalyst or particulate filters on construction equipment; use of alternatively fueled

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BAY AREA AIR QUALITY

PAGE 04/04

Mr. Tom Fitzwater

-4-

May 14, 2004

equipment (CNG, biodiesel, water emulsion fuel, electric); minimize idling time of equipment; maintain properly tuned equipment; and limit hours of operation of heavy duty equipment. R10.8 (cont.)

If you have any questions regarding these comments, please contact Suzanne Bourguignon, Environmental Planner, at (415) 749-5093.

Sincerely,


Jack P. Broadbent
Executive Officer/APCO

JPB:SB

cc: BAAQMD Director Roberta Cooper
BAAQMD Director Mark DeSaulnier
BAAQMD Director Erin Garner
BAAQMD Director Scott Haggerty
BAAQMD Director Liz Kniss
BAAQMD Director Patrick Kwok
BAAQMD Director Nate Miley
BAAQMD Director Julia Miller
BAAQMD Director Mark Ross
BAAQMD Director Gayle Uilkema
BAAQMD Director Shelia Young
Steve Heminger, MTC
Malcolm Quint, BART

RESPONSE TO COMMENT LETTER R10

Bay Area Air Quality Management District (May 14, 2004)

- R10.1** *VTA has worked and will continue to work closely with the cities to encourage quality transit-oriented development (TOD) adjacent to the proposed BART Stations utilizing the concepts included in the Community Design and Transportation Manual of Best Practices for Integrating Transportation and Land Use.*
- R10.2** *Figure 4.12.4, Berryessa Station Land Use, depicts the existing land uses around the station. The station is adjacent to the San Jose Flea Market and light industrial uses. Residential land uses are located to the north, east, and south. The Berryessa Station and parking facilities are not located in an industrial area where station patrons or TOD would be exposed to adverse nuisance impacts from other sources. The Alum Rock, Diridon/Arena, and Santa Clara stations are all located in industrial areas. However, as these locations have existing residential and/or transit facilities in the area, the proposed BART Alternative and associated potential TOD would also be compatible. Section 4.3.3.2, Microscale Air Quality Impacts, addresses both carbon monoxide (CO) and toxic air contaminants impacts from the BART Alternative and determined that in both cases impacts would not be adverse.*
- R10.3** *During the Community Working Group meetings for each station, numerous local residents expressed concern about spillover parking into adjacent neighborhoods. If the number of parking spaces were reduced, spillover parking could occur in neighborhoods. Table 4.2-14, 2025 Park-and-Ride Space Requirements, identifies the parking demand and number of spaces provided for each BART station. The parking demand was projected as part of the patronage forecasting process using ABAG projections 2000 for the year 2025. The spaces provided include an additional 10% to account for surges and spare parking spaces. Table 4.2-15, Park-and-Ride Space Requirements for MOS scenarios 2015 and 2025, provides the parking provided for the MOS scenarios. Even though sufficient parking will be provided at each station to accommodate the demand, VTA continues to support access by non-auto modes of travel.*
- R10.4** *Chapter 5, Core System Parking Analysis, provides a programmatic discussion of additional parking to be provided within the existing BART system. Section 5.1, Introduction, acknowledges that "subsequent project-specific documentation would be required to meet NEPA and CEQA requirements." This chapter also references the BART Core System Parking Analysis Technical Working Paper (VTA May 2003, revised October 2004) that provides sections on both an "Impact Overview" and "Potential Impacts at Individual Station". The air quality overview discussion concludes that the number of cold starts and associated emissions would be offset by reducing approximately 25,000 peak period trips and approximately 200,000 vehicle miles compared to the No-Action Alternative. Section 4.3.3.1, Regional Air Quality Impacts, under the subheading BART Alternative, quantifies the regional benefits in terms of criteria pollutant emissions.*
- R10.5** *It is premature to consider parking fees at this point with revenue service not projected to begin until 2015. However, this issue will be reexamined when VTA is closer to the opening of the system.*
- R10.6** *As discussed in Air Quality, Section 4.3.3, Impact Assessment and Mitigation Measures, the proposed parking structures would incrementally increase CO concentrations by less-than-one part per million. Additionally, CO concentrations generated by the proposed*

parking structures are anticipated to be well below the state 1- and 8-hour standards when the concentrations are added to the 2025 ambient concentrations. In addition, Section 4.3.3.1, Regional Air Quality Impacts, quantifies the regional benefits of the BART Alternative in terms of criteria pollutant emissions. Therefore, additional air quality analysis of alternatives to improve access to BART stations is not required. However, the Preliminary Engineering phase of the project will continue to evaluate designs to facilitate transit connection and non-auto access.

R10.7 *As stated in Transportation and Transit, Section 4.2.5, Pedestrians and Bicycles, VTA will provide bicycle storage at stations in accordance with VTA and BART station design guidelines. VTA also supports facilitating bicycle access to BART stations.*

R10.8 *Construction, Section 4.19.4.2, Design Requirements and Best Management Practices for Air Quality Impacts, lists the BAAQMD construction control measures that will be implemented as part of the BART Alternative. This includes all of the Bay Area Air Quality Management District's (BAAQMD) basic, enhanced, and three of the four optional control measures. In addition, in response to a comment from the U.S. Environmental Protection Agency, additional measures have been added to the list. Refer to response F1.9. No additional mitigation measures are proposed at this time to provide contractors some flexibility in the selection of construction equipment and phasing.*



R11

VTA
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AN EQUAL OPPORTUNITY EMPLOYER

File: 26326
Various

May 14, 2004

Mr. Tom Fitzwater
Environmental Planning Department
Santa Clara Valley Transportation Authority
3331 North First Street, Building B
San Jose, CA 95134-1927

Subject: Draft Environmental Impact Statement/Environmental Impact Report and
Draft 4(f) Evaluation for the Proposed San Francisco Bay Area Rapid Transit
Extension to Milpitas, San Jose, and Santa Clara

Dear Mr. Fitzwater:

The Santa Clara Valley Water District (District) has reviewed the draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the 16.3-mile extension of the San Francisco Bay Area Rapid Transit (BART) system. The following are general comments followed by comments specific to certain sections of the report.

District facilities that may be impacted as a result of this project include Calera Creek, Berryessa Creek, Milpitas Pipeline, East Penitencia Channel, Upper Penitencia Creek, Central Pipeline, Lower Silver Creek, Coyote Creek, Guadalupe River, and Los Gatos Creek. As such, any improvements over or adjacent to District utilities or within 50 feet of a creek will require review and approval by the District.

R11.1

Federal Emergency Management Agency maps show that the proposed BART alignment is located within the 100-year flood hazard zone. Currently, the District is planning flood protection projects on Berryessa Creek and Upper Penitencia Creek, and is constructing improvements on Lower Silver Creek to remove areas in the City of San Jose and City of Milpitas from the 100-year floodplain. The following are the projected construction completion dates for the aforementioned projects:

R11.2

- Berryessa Creek

The District's Lower Berryessa Creek Project (downstream of Calaveras Boulevard)—Year 2008; the joint District/United States Army Corps of Engineers (USACE) Project—Year 2010

- Upper Penitencia Creek—Year 2011

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BART's alignment begins its tunnel descent approximately 1,000 feet north of the Lower Silver Creek crossing, with its alignment either at-grade or in a retained cut within the Berryessa Creek and Upper Penitencia Creek floodplains. If the Berryessa Creek and Upper Penitencia Creek flood protection improvements are not implemented prior to the construction of the BART project, then train service could be impacted during peak storm events. As such, in the event the District's Berryessa and Upper Penitencia Creek projects are delayed or not constructed, the report should include alternatives to protect the BART alignment from flooding. The BART improvement should not be designed as to block flood flows or raise water surface elevation. Induced flooding to adjacent areas must not occur.

R11.2
cont

Since land disturbance is greater than 1 acre, a Notice of Intent to comply with the state's National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity with the State Water Resources Control Board. The project proponent must also prepare, implement, and maintain a Storm Water Pollution Prevention Plan and provide measures to minimize or eliminate pollutant discharges from construction activities, the parking lot, and landscaping areas after construction.

R11.3

Well(s) should be identified and properly maintained or abandoned in accordance with the District's standards. Property owners or their representatives should call the Wells and Water Production Unit at (408) 265-2607, extension 2660, for more information regarding well permits and registration or abandonment of any wells.

R11.4

Chapter 3, Section 3.4.1.1, Page 18

The draft EIS/EIR states that new two-track bridges would be constructed over Calera Creek for the Union Pacific Railroad (UPRR). The new UPRR bridge and the BART crossing over Calera Creek should not result in a modification to the culvert that reduces the existing culvert soffit elevation. The District favors a modification that raises the soffit elevation of the existing culvert.

R11.5

The document states that the new two-track bridges would pass over Berryessa Creek on a new 100-foot-long bridge. The District is currently planning channel improvements to increase the conveyance capacity of Berryessa Creek. The alternatives include straightening the double 90-degree curve at the railroad crossing. The preliminary hydraulic analysis results indicate that the channel needs to be widened to 140 feet to limit the increase of the hydraulic grade line (upstream side of the railroad bridge) to 1 foot.

R11.6

The proposed new two-track bridge should conform to the proposed alignment of the District's flood protection channel improvements as they are finalized.

Chapter 3, Section 3.4.1.1, Page 19

At Montague Expressway and Capitol Avenue, the proposed alignment is a retained cut. Figure A-20 indicates that the top of rail is approximately 18 feet below the existing road grade. The District's 42-inch-diameter Milpitas Pipeline, which provides treated water to Milpitas and San Jose, is located in Montague Expressway and Capitol Avenue. Impacts to this pipeline should be avoided and it should remain in operation during the entire construction period. If

R11.7

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relocation of the pipeline is unavoidable, the project will require early planning with the District. The report should address the potential impacts to water service due to the relocation of the pipeline. | R11.7
 cont

The draft EIS/EIR states that a “specially design underground culvert (siphon) would be constructed to facilitate the continued flow of storm drainage into the East Penitencia Channel below the BART retained cut.” The District will need to review all plans that result in a modification to its facilities. The proposed siphon should be designed to match the design capacity of the East Penitencia Channel. | R11.8

Chapter 3, Section 3.4.2.1, Page 21

The document states that the proposed aerial alignment south of Berryessa Road would not affect the District/USACE future flood protection bypass project that will divert flow from Upper Penitencia Creek to Coyote Creek. The District will continue to monitor the progress of the proposed BART project to ensure that any alternative carried forward does not impact the existing alignment or preclude the ability to construct a culvert. | R11.9

The District and the environmental resource agencies are considering widening the south bank of the existing channel along Berryessa Road by 150 feet to provide 100-year flood protection, in lieu of the proposed bypass culvert. The description on page 21 and Figure A-25 indicate that this reach of the BART alignment would be elevated 22 feet above Upper Penitencia Creek. The Santa Clara Valley Transportation Authority (VTA) and District should continue coordinating to ensure that the proposed widened channel and any BART facilities are planned appropriately. | R11.10

The EIS/EIR should identify the District's existing 66-inch-diameter Central Pipeline which transmits raw water to the Rinconada Water Treatment Plant. The Central Pipeline parallels the proposed BART alignment south of Berryessa Road and crosses to the west, under the existing railroad line, north of Mabury Road. Any structure built by the proposed BART project should not limit surface access to the Central Pipeline. Areas where BART crosses the pipeline on retained fill will be required to mitigate for the additional loads over the pipeline. | R11.11

Chapter 3, Section 3.7.2, Page 53

Include the District's Lower Berryessa Creek Flood Protection Project in this summary. The District is studying various alternatives to provide 100-year level of flood protection to residents and businesses in Milpitas and San Jose. The alternatives include raising the levee heights and possibly replacing one levee with a flood wall to provide wider channel conveyance. As mentioned in a previous comment, the Berryessa Creek and railroad line crossing will be widened to 140 feet to provide sufficient capacity for the 100-year flood event. The Lower Berryessa Creek project will also include channel improvements on Calera Creek to mitigate against the increased water surface elevation created by improvements on Berryessa Creek. | R11.12

Include the District's Mid-Coyote Creek Flood Protection Project in this summary. The Coyote Creek Project is located in the central portion of the Coyote Watershed. Its limits extend approximately 6.1 miles between Montague Expressway and I-280, all in the City of San Jose.

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The project's primary objective is to enhance the creek's conveyance to protect homes, schools, businesses, and highways from the 100-year flood event. This is a multi-year study with the Final EIR and Engineer's Report schedule for completion in 2009. Construction is scheduled to begin in 2011. | R11.12
(cont.)

Chapter 4.4, Section 4.4.2.1, Table 4.4-1, Page 4

The Lower Silver Creek perennial stream has been enlarged and restored in 2003–2004 at the site of the future BART crossing. The acreage of wetlands and waters may need to be adjusted accordingly. | R11.13

Chapter 4.4, Section 4.4.2.1, Page 9

The report should reference the study conducted for the District by H. T. Harvey and Associates, which concluded that the California red-legged frog is not believed to inhabit urbanized areas of San Jose, such as the project area; however, known occurrences of red-legged frogs in Alum Rock Park indicates they may potentially be transported downstream and reach the project site (H. T. Harvey and Associates, 1997). | R11.14

Chapter 4.4, Section 4.4.3.2, Page 21

The report should mention that impacts to Upper Penitencia Creek riparian habitat at the Berryessa station may differ, depending on flood protection alternatives currently considered by the USACE and the District, as continued coordination with these agencies are essential. | R11.15

Chapter 4.4, Section 4.4.3.4, Page 25

The District acknowledges the 150-foot setback at Upper Penitencia Creek for the Berryessa station development, although further coordination between VTA, USACE, and District will be required as the Upper Penitencia project alternatives analysis process and stakeholder consultation continues. | R11.16

The BART alignment will also include tunneling under Los Gatos Creek. | R11.17

Chapter 4.16, Section 4.16.2, Page 1

Include a reference to the District's 66-inch-diameter Central Pipeline in the discussion of utilities that are 36-inch in diameter or greater. See comment above for reference to the Central Pipeline. Also include this utility in Table 4.16-1. Verify the accuracy of information regarding District pipelines. The Milpitas Pipeline is located in Montague Expressway and Capitol Avenue and may be misrepresented in Table 4.16-1. | R11.18

| R11.19

Chapter 4.18, Section 4.18.2.3, Page 4

Clarify that the total watershed area referenced for Lower Penitencia Creek includes tributaries. Technically, Berryessa Creek and the East Penitencia Channel are the only tributaries to Lower | R11.20

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<p>Penitencia Creek. All the channels discussed in this section are tributary to Berryessa Creek. The other creeks tributary to Berryessa Creek include Tularcitos, Arroyo De Los Coches, Piedmont, Sierra, Crosley, and Swiebert Creeks.</p>	R11.20 cont
<p>The Berryessa Creek hydrology study was completed by the District in April 2003. The 100-year design flow upstream of the Lower Penitencia Creek confluence is 6,480 cubic feet per second (cfs) and the flow downstream of Wrigley Ford is 5,610 cfs.</p>	
<p>The 100-year peak flows indicated in the document should be noted as the "100-year design flow" rather than an actual historic 100-year event.</p>	
<p>The 100-year design flow in Upper Penitencia Creek at the proposed BART crossing is 4,800 cfs.</p>	R11.21
<p>The 100 year design flow in Guadalupe River upstream of the Los Gatos Creek confluence is 16,500 cfs.</p>	
<p>Chapter 4.18, Section 4.18.2.4, Page 12</p>	
<p>The District and the USACE are planning a project on Berryessa Creek that will remove residences, businesses, and public facilities from the 100-year floodplain attributed to Berryessa Creek.</p>	R11.22
<p>Chapter 4.18, Section 4.18.4.1, Page 18</p>	
<p>The document states that a total of eight new BART stations with some parking lots would create an increase of impervious surface area between 20 to 37 acres, resulting in a reduction of groundwater natural recharge; however, the document did not provide a quantitative estimate about the reduction nor any mitigation options.</p>	R11.23
<p>Please clarify if the proposed BART alignment, such as retained cut/tunnel segment structures, would block or divert any hydraulic discharge of groundwater to the surface. Mitigation measures should be provided as appropriate.</p>	R11.24
<p>Chapter 4.18, Section 4.18.4.2, Pages 18–19</p>	
<p>Although the increased runoff due to additional impervious surfaces will not exceed the capacity of the local drainage facilities, the cumulative increase in runoff should be considered with respect to its impacts to the watershed. Measures should be incorporated in the project to minimize impervious areas and the amount of runoff from developed areas of the project.</p>	R11.25
<p>Chapter 4.18, Section 4.18.4.3, Page 24</p>	
<p>The draft EIS/EIR stated that the BART alternative will provide for adequate transport of the 100-year flood flows. The District is currently planning or constructing flood protection improvements on various creeks in the Coyote Watershed. The 100-year peak design flow for</p>	R11.26

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each of the creeks was established. Any improvement proposed by BART to convey the 100-year flood flow should not result in an increase to the design flows currently planned for Berryessa, Upper Penitencia, or Lower Silver Creeks.

R11.26
(cont.)

Chapter 4.18, Section 4.18.4.4, Page 25

Groundwater flow directions and pathways may be affected by BART retained cut and tunnel segment structures, possibly resulting in the spread of groundwater contamination and the rise of the groundwater table. The document should discuss the risk associated with the rise of the groundwater table in the soil contaminated area, which could cause absorption of contaminants by groundwater. The groundwater level control measures may be needed to prevent such contamination.

R11.27

Chapter 4.19, Section 4.19.2.2, Page 5

Under the tunnel guideway configuration, the report notes that the tunnel would have a minimum cover of 40 feet under streets or structures (see also page 14); however, Figure A-37 and A-41 do not appear to be consistent with the previous statement.

R11.28

Chapter 4.19, Section 4.19.2.8, Figure 4.19-21, Page 35

Figure 4.19-21 shows the staging/laydown area extending onto the proposed alignment of the District's buried concrete bypass channel. Use of District property for construction staging, if available at the time of project implementation, will require prior approval and issuance of a permit from the District.

R11.29

Chapter 4.19, Section 4.19.15.1, Pages 90–91

Cutoff walls could effectively minimize, but not eliminate, the groundwater drawdown in the vicinity of the wall. Different types of the cutoff walls and keying methods could affect the drawdown differently. Further detail as to the type of the cutoff wall and keying method is needed.

Dewatering during construction, even with cutoff walls, could significantly decrease groundwater level and induce land subsidence. Drawdown control methods should be included in the report to prevent excessive dewatering and control land subsidence.

R11.30

Dewatering may lower groundwater levels in wells both downstream and upstream or reduce groundwater discharge to downstream surface flow. The report should be expanded to discuss the discharge method of the pumped water in order to mitigate for dewatering impacts on groundwater level and surface water flow.

Tunneling, drilling fluids and equipment could affect groundwater quality in the confined aquifer it is breached during construction. Please clarify if any underground construction will reach the confined aquifer, which is the main groundwater zone for drinking water supply.

R11.31

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Chapter 4.19, Section 4.19.15.3, Page 92

See the general comment for the current forecast completion dates of the District's flood protection projects.

R11.32

Chapter 6.3, Section 6.3.3, Pages 38–39

This section should address the potential cumulative impacts when the District's flood protection projects such as Berryessa Creek and Upper Penitencia Creek are taken into account. For example, the Upper Penitencia Creek project and the other proposed developments in the area of the Berryessa Station and their potential impact on steelhead and steelhead critical habitat need to be included in the analysis.

R11.33

Chapter 6.3, Section 6.3.9, Pages 41–42

As noted earlier, the document should consider the impacts if the flood control projects are not implemented due to lack of funding or delays.

R11.34

Thank you for the opportunity to comment on the draft EIS/EIR. When available, please send two copies of the final report for our review. Please reference District File No. 26326 on future correspondence regarding this project. If you have any questions or comments, you can contact me at (408) 265-2607, extension 3174, or at syung@valleywater.org.

Sincerely,



Samuel Yung
Associate Engineer
Community Projects Review Unit

cc: S. Tippets, S. Yung, T. Hipol, S. Wrightson, M. Klemencic, B. Ahmadi, Y. Liu, G. Fowler,
File (2)

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RESPONSE TO COMMENT LETTER R11

Santa Clara Valley Water District (May 14, 2004)

R11.1 *VTA will coordinate with the Santa Clara Valley Water District (SCVWD) and appropriate agencies during the Preliminary Engineering and Final Design phases of the project to obtain required permits and approvals prior to start construction of the BART Alternative. VTA will ensure that impacts to creeks and other utilities are avoided or minimized to the maximum extent practicable.*

R11.2 *VTA is aware that the Berryessa Creek and Upper Penitencia Creek flood control projects are currently in the early stages of design with alternatives being considered to ensure flood protection in the Cities of Milpitas and San Jose from a 100-year flood event. These flood control projects will also eliminate flooding within or along the BART alignment and planned facilities from a 100-year flood event. VTA is coordinating with SCVWD and the Army Corps of Engineers (ACOE) on the progress of these projects, including whether these projects are on schedule to be constructed prior to or concurrently with the construction of the BART Alternative, or whether these projects will be constructed at all. In the event these projects are delayed or are not implemented, VTA will work with SCVWD to address impacts to floodplains and potential impacts to the design of the BART Alternative. Any potential alternative designs for BART facilities will be evaluated in detail so that impacts on existing floodplain conditions are insignificant and BART facilities are secured from a 100-year flood event. Based on preliminary analysis of floodplain conditions before and after construction of the BART Alternative, design options for the BART project are discussed in general in the Silicon Valley Rapid Transit Corridor MIS/EIS/EIR, Location Hydraulic Study, Technical Report (Earth Tech, Inc., 2003).*

At present, VTA is preparing a detailed hydraulic study that will address these issues, and will work with the SCVWD and others during design to verify that BART project components do not impact flood flows or raise water surface elevation. VTA will provide plans and request SCVWD and others for concurrence for the subject area(s) prior to Final Design.

R11.3 *As per Construction, Section 4.19.10.2, Design Requirements and Best Management Practices for Hazardous Materials Impacts, construction of the BART Alternative, or any MOS scenario, will require an NPDES permit for "Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated with Construction Activity (General Permit)" (Order No. 99-08-DWQ, NPDES No. CAS000002). The conditions of the General Permit apply to all construction projects covering at least one acre. Among the conditions, the permit requires the preparation of a Storm Water Pollution Prevention Plan (SWPPP), which includes best management practices to minimize pollution and periodic inspections of the construction site to identify releases. A Notice of Intent (NOI) to discharge under the General Permit will be filed with the Regional Water Quality Control Board before discharge commences.*

In Santa Clara County, construction of the project will also require implementation of best management practices in accordance with the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), as contained in "Blueprint for a Clean Bay" and the "California Storm Water Construction BMP Handbook." In Alameda County, similar requirements per the Alameda Countywide Clean Water Program (ACCWP) are anticipated for construction activities in Fremont.

For the operational phase of the BART Alternative, or any MOS scenario, which includes stations and other facilities, stormwater treatment best management practices will be implemented that are consistent with the SCVURPPP, the ACCWP, and the NPDES permit for non-point stormwater pollutant runoff. The BART Maintenance Facility will require a General Industrial Storm Water Permit to discharge stormwater to a municipal storm sewer or directly to waters of the U.S. Under this permit, an NOI, which identifies the responsible party, location, and scope of operation, will be filed with the State Water Resources Control Board before discharge commences. In addition, a SWPPP will be developed and implemented for this facility (see Section 4.18).

R11.4 *Abandoned or improperly destroyed wells screened across both deep aquifers and overlying shallow aquifers within the BART Alternative project area could provide a conduit for vertical contaminant migration. These conduits could “short-circuit” the groundwater flow system and allow rapid transport of water vertically between aquifers. During the design phase and/or construction of the project, VTA will properly close abandoned or improperly destroyed wells on the project site that are screened across both deep aquifers and overlying shallow aquifers, in accordance with state regulations and any requirements of the SCVWD and the Alameda County Flood Control and Water Conservation District (ACFCWCD).*

For installation of any monitoring wells as part of groundwater treatment systems, VTA will obtain required permits from SCVWD and ACFCWCD. VTA regularly consults with other public agencies through agency committees and through the formal process of securing approvals and permits. VTA will coordinate with SCVWD, Wells and Water Production Unit, and ACFCWCD to identify and properly maintain or abandon wells.

R11.5 *Based on a recent reconnaissance survey of the BART Alternative right-of-way, VTA no longer anticipates adding a new two-track bridge over Calera Creek for the UPRR or modifying the existing box culvert. The length of the existing box culvert under the UPRR appears adequate for BART and UPRR tracks. However, if a new bridge is constructed over Calera Creek, VTA will ensure that the existing soffit elevation of the box culvert is not reduced.*

R11.6 *VTA is aware of the proposed Berryessa Creek Levees Project, which includes widening of the creek under existing railroad tracks. VTA is currently reviewing the alternative plans for this project and will work closely with SCVWD during design of the flood control project to verify that the BART Alternative facilities are consistent with future Berryessa Creek needs. VTA will provide plans for the subject area of the BART Alternative to SCVWD and request SCVWD, ACOE, and others for concurrence on such plans prior to Final Design.*

R11.7 *VTA will coordinate with SCVWD during the Preliminary Engineering and Final Design phases of the project so as to minimize impacts to utilities during construction to the maximum extent practicable.*

R11.8 *VTA will coordinate with SCVWD during the Preliminary Engineering and Final Design of the proposed underground culvert (siphon). The siphon will be designed to match the design flow capacity of East Penitencia Channel. VTA will submit plans for the siphon to SCVWD for review and approval.*

R11.9 *BART Alternative plans show that starting south of Berryessa Road to the north of Berryessa Station, the BART alignment is aerial for approximately 615 feet over Berryessa Road and Upper Penitencia Creek. A vertical clear space between the existing*

ground and the planned BART aerial structures over the road and creek will be about 16 to 20 feet. The proposed SCVWD flood control bypass box culvert is under the retained fill portion of the BART alignment, and would be below the existing ground surface. Though structural support of the BART retained fill structures will be necessary, the construction of the box culvert is feasible.

R11.10 As per Section 3.7.2, *Water Resources Related Projects*, Section 4.18.2.4, *Floodplains*, and Section 4.18.4.3, *Impacts to Floodplains*, VTA acknowledges that the Upper Penitencia Creek Flood Control Project is currently in the early stages of design with alternatives being considered to ensure flood protection up to the 100-year flood event. These alternatives include widening the existing channel and constructing a 0.4-mile underground bypass channel from Upper Penitencia Creek to Coyote Creek (between Berryessa Road and Mabury Road).

At the Berryessa Station location, the BART Alternative includes a 150-foot setback design requirement from the existing Upper Penitencia Creek. Incorporation of this setback addresses impacts to fisheries (see *Biological Resources and Wetlands*, Sections 4.4.3.3 and 4.4.3.4) and accommodates the future flood control project. For all alternatives being considered for the flood control project, such as widening the south bank of Upper Penitencia Creek along Berryessa Road or constructing an underground bypass channel, coordination between VTA and SCVWD will be necessary to ensure that not only appropriate flood protection is provided to homes and businesses, as well as BART facilities, but also any fisheries impacts are addressed. As per *Water Resources, Water Quality, and Floodplains*, Section 4.18.4.4, *Design Requirements and Best Management Practices*, VTA will continue such coordination with SCVWD to obtain any updated information that may impact the design of the BART Alternative.

R11.11 Section 3.4.2, *Segment 2 – Trade Zone Boulevard to Mabury Road*, under the subheading *Alignment*, has been revised to identify the SCVWD 66-inch-diameter central pipeline along the BART alignment. VTA will coordinate with SCVWD during the *Preliminary Engineering and Final Design* phases of the project so as to minimize impacts to utilities and to maintain long-term access to the maximum extent practicable.

R11.12 VTA acknowledges that SCVWD is planning flood control projects within the BART Alternative project area including the Berryessa Creek Flood Protection Project, which includes the Berryessa Creek Levees Project (aka Lower Berryessa Creek Project), and the Mid-Coyote Creek Flood Protection Project. Section 3.7.2, *Water Resources Related Projects*, has been revised to include these two projects as follows (also refer to response L4.14):

Lower Berryessa Creek Flood Protection Project (Berryessa Creek Levees Project). The SCVWD is studying various alternatives to increase the conveyance capacity of Berryessa Creek to provide flood protection to residents, businesses, and public facilities in Milpitas and San Jose from a 100-year flood event. The alternatives under consideration include increasing levee heights, replacing one levee with a flood wall, widening Berryessa Creek, straightening the double 90-degree curve at the railroad crossing, and constructing a bypass channel. The project also includes channel improvements on Calera Creek to mitigate against the increased water surface elevation created by the improvements on Berryessa Creek.

The BART Alternative would pass over Berryessa Creek on a new bridge. New at-grade bridges would also be constructed over Calera Creek and Berryessa

Creek for the UPRR.

Mid-Coyote Creek Flood Protection Project. *The Mid-Coyote Creek Flood Protection Project is located in the central portion of the Coyote Watershed. Its limits extend approximately 6.1 miles between Montague Expressway and I-280, all in the City of San Jose. The purpose of the Mid-Coyote Creek Flood Protection Project is to increase the conveyance capacity of Coyote Creek to provide flood protection to homes, schools, businesses, and highways from a 100-year flood event.*

The Mid-Coyote Creek Flood Protection Project would reduce the likelihood of flooding issues associated with the BART Alternative in the Berryessa Station area. Where Coyote Creek crosses East Santa Clara Street between 17th and 19th streets, the BART Alternative is in a twin-bore tunnel, approximately 30 feet below the bed of the creek. Therefore, the BART Alternative would not affect the SCVWD Mid-Coyote Creek Flood Protection Project or Coyote Creek.

R11.13 *At the time of environmental analysis, a total of 0.018 acres of jurisdictional wetlands and other waters of the U.S. were delineated at Lower Silver Creek for the Railroad/28th Street Option for the Alum Rock Alignment and Station, where the BART Alternative crosses the channel on a new bridge. This acreage is presented in Section 4.4, Biological Resources and Wetlands, and Table 4.4-1, Wetlands and Waters of the U.S. in the Silicon Valley Rapid Transit Corridor. The table acknowledges that Lower Silver Creek is "programmed for enlargement." Construction of the BART Alternative under the Railroad/28th Street Option would result in temporary impacts to all 0.018 acres.*

On May 26, 2004, the Silicon Valley Rapid Transit Corridor Policy Advisory Board (PAB) approved the VTA staff recommendation that the U.S. 101/Diagonal Option for the Alum Rock Alignment and Station be carried forward as the preferred design option (see Volume II, Section 1.2.1, Locally Preferred Alternative, and Chapter 2, Recommended Project). Under this option, BART will enter the tunnel segment north of Lower Silver Creek and pass beneath the channel. As a result, there will be no temporary or permanent impacts to jurisdictional wetlands and other waters of the U.S. at the Lower Silver Creek crossing. Therefore, a revised delineation is not necessary.

R11.14 *The last paragraph in Section 4.4.2.1, Existing Setting, under the subheading California Red-legged Frog, has been revised to include information from the H.T. Harvey & Associates report "Santa Clara Valley Water District: California red-legged frog distribution and status - 1997. Project Number 1164-01" as follows:*

The project area is not located within an area designated as critical habitat for the California red-legged frog. However, the riparian and aquatic habitat in Guadalupe River, Coyote Creek, Upper Penitencia Creek, and Lower Silver Creek may provide suitable habitat for the California red-legged frog, and some of the smaller streams may function as dispersal corridors for this species when they contain water. H.T. Harvey and Associates (1997) concluded that while the California red-legged frog is not believed to inhabit urbanized areas of San Jose, known occurrences of red-legged frogs in Alum Rock Park indicate that they may potentially be transported downstream and reach the project area. Four individuals were observed in July 2000 in Upper Penitencia Creek in Alum Rock Park approximately 4.5 miles east of where the project crosses Upper Penitencia Creek (CNDDDB 2003).

R11.15 *The reference given in the comment, "Chapter 4.4, Section 4.4.3.2, Page 21" is titled "Impacts to Wetlands and Other Waters of the U.S." in the EIS/EIR. It is assumed the commentor is actually referring to Section 4.4.3.1, Impacts to Vegetation Communities, under the subheading BART Alternative, where impacts to the riparian habitat at Upper Penitencia Creek riparian are discussed. The third paragraph in this section has been revised to include information about the flood control project and the potential change in impacts to the riparian habitat as follows:*

Impacts to up to 2.6 acres of Central Coast cottonwood-sycamore riparian forest along Berryessa, Upper Penitencia, and Coyote creeks could occur during construction of the Montague/Capitol and Berryessa stations. At the Berryessa Station location, the SCVWD is considering alternatives for the Upper Penitencia Creek Flood Control Project. Depending on the alternative chosen, impacts to the riparian forest due to the BART Alternative may differ, as the design of the two projects must be coordinated between VTA and SCVWD. Impacts would be reduced or avoided by techniques to avoid encroachments into riparian areas (see Section 4.4.3.5) and by provision of an additional riparian corridor buffer along the banks of all three creeks. Impacts to seasonal/freshwater emergent wetland are discussed in Section 4.4.3.2.

In addition, a table note has been added to Table 4.4-3, Impacts to Vegetation Communities with the Baseline and BART Alternatives, to indicate that impacts to the riparian forest at Berryessa Station may differ depending on the alternative chosen for the Upper Penitencia Creek Flood Control Project.

R11.16 *As noted by the comment, the BART Alternative includes a 150-foot setback design requirement from the existing Upper Penitencia Creek at the Berryessa Station location. VTA acknowledges that other alternatives are being considered for the Upper Penitencia Creek Flood Control Project in this area including widening the south bank of Upper Penitencia Creek along Berryessa Road and constructing an underground bypass channel. Coordination between VTA, SCVWD, ACOE, and other interested parties will be necessary to ensure that the BART Alternative and the flood control project are designed appropriately.*

R11.17 *The tunnel segment of the BART Alternative will pass under Coyote Creek, Guadalupe River, and Los Gatos Creek. Under the U.S. 101/Diagonal Option for the Alum Rock Alignment and Station, the tunnel segment will begin north of Lower Silver Creek and will, therefore, pass under this watercourse as well. Biological Resources and Wetlands, Section 4.4.3.4, Design Requirements and Best Management Practices, the second bullet has been edited as follows:*

- *Tunneling under Lower Silver Creek (under the Alum Rock Station U.S./101 Diagonal Option), Coyote Creek, Guadalupe River, and Los Gatos Creek would avoid impacts to aquatic/riparian habitat and fisheries.*

R11.18 *The text in Utilities, Section 4.16.2, Existing Conditions, and Table 4.16-1, Major Utility Locations Along the BART Alternative, has been revised to include the 66-inch pipeline. Subsurface utility and pothole mapping is currently underway as part of Preliminary Engineering. Utility and pothole locations will be surveyed and verified in the field. The resulting Composite Utility Plan will be provided to the Design Team so as to minimize impacts to utilities in the design. VTA will coordinate with SCVWD during the Preliminary Engineering and Final Design phases of the project to minimize impacts to utilities to the maximum extent practicable.*

R11.19 Information in Table 4.16-1, Major Utility Locations Along the BART Alternative, has been revised and updated. Also refer to response R11.18.

R11.20 Section 4.18.2.3, Surface Water Resources, under the subheading Surface Water in Santa Clara County, has been revised as follows:

Lower Penitencia Creek and its Tributaries. In 1975, Upper Penitencia Creek was diverted along Berryessa Road into Coyote Creek, separating the upper channel from the lower channel. Lower Penitencia Creek is a trapezoidal earth channel located in the northeasterly sector of Santa Clara County and bounded by Berryessa Creek to the east and Coyote Creek to the west. It flows northerly from Montague Expressway to its confluence with Coyote Creek near the intersection of I-880 and Dixon Landing Road. The Lower Penitencia Creek watershed lies in the unincorporated area of Santa Clara County and in the Cities of Milpitas and San Jose. Including the watersheds of Berryessa Creek and Penitencia Channel, the only major tributaries to Lower Penitencia Creek, the total watershed area of Lower Penitencia Creek is about 28 square miles, with about 16 square miles lying on the valley floor and the remainder in the hills of the Diablo Range. The major tributaries of Berryessa Creek are Calera Creek, Wrigley Creek, and Wrigley Ditch, and other small tributaries including Tulacitos, Arroyo del Los Coches, Piedmont, Sierra, Crosley, and Swiegert creeks. Penitencia Channel originates near Lundy Place north of Montague Expressway and drains the local urban area. Penitencia Channel merges with Lower Penitencia Creek near the intersection of West Capitol Avenue and South Main Street in Milpitas.

The 100-year design flows of Calera Creek and Wrigley Creek, upstream of the confluence with Berryessa Creek, are 920 cfs and 420 cfs, respectively. The 100-year design flow in Berryessa Creek downstream of the Wrigley Creek discharge point is 5,610 cfs and the design flow upstream of the Lower Penitencia confluence is 6,480 cfs. A peak flow of 1,000 cfs was recorded in Berryessa Creek above Calaveras Boulevard in 1980.

R11.21 The 100-year peak flows indicated in the document have been modified to the "100-year design flow" rather than an implied actual historic 100-year event. The 100-year design flow in Upper Penitencia Creek at the BART Alternative crossing has been changed to 4,800 cfs and the 100-year design flow in Guadalupe River upstream of the Los Gatos Creek confluence has been changed to 16,500 cfs. Additionally, in other locations in Section 4.18, Water Resources, Water Quality, and Floodplains, where flows are stated incorrectly as "100-year peak flows," text has been changed to "100-year design flows."

R11.22 Berryessa Creek is a tributary of Lower Penitencia Creek and, therefore, this comment is applicable to Section 4.18.2.4, Floodplains, under the subheading Floodplains of Lower Penitencia Creek and its Tributaries. This section has been revised to include information about the SCVWD's Berryessa Creek Flood Protection Project as follows:

The SCVWD is planning the Berryessa Creek Flood Protection Project within the BART Alternative project area to increase the conveyance capacity of the creek to convey 100-year design flow and to remove areas in the cities of San Jose and Milpitas from the 100-year floodplain. The project is divided up into the joint SCVWD/ACOE Berryessa Creek Project and the Berryessa Creek Levees Project (aka Lower Berryessa Creek Project). The joint SCVWD/ACOE Berryessa Creek Project begins at Calaveras Boulevard in Milpitas and ends at Old Piedmont Road

in San Jose. The Berryessa Creek Levees Project begins at the confluence with Lower Penitencia Creek in Milpitas and ends at Calaveras Boulevard. Upon completion of these projects, flooding from overflow of Berryessa Creek within the BART Alternative project area will be eliminated.

VTA will coordinate with SCVWD and ACOE during the planning and design phase of the Berryessa Creek Flood Protection Project to ensure the BART Alternative is designed appropriately.

R11.23 *The stations along the BART alignment are planned in existing developed or partially developed areas. The increase in impervious areas at the stations will have minimal impact on reduction of natural groundwater recharge. A quantitative analysis of reduction of groundwater recharge will be completed during Final Design. Where appropriate, groundwater recharge reduction can be mitigated through incorporation of infiltration basins designed into landscaping or pervious pavements included in areas not used by vehicles. Infiltration treatment best management practices will be designed to protect groundwater quality in accordance with the MS4 permit issued to the cities of Milpitas, San Jose, and Santa Clara.*

R11.24 *After construction, groundwater flow directions and pathways may be minimally affected by the retained cuts along the BART Alternative alignment and at the downtown stations. The concrete U-walls may divert the normal flow of groundwater, potentially causing the mounding of groundwater up-gradient of these obstacles. However, it is anticipated that the interception will not result in detectable changes to overall groundwater availability or total subsurface water movement. Therefore, an adverse groundwater impact would not result from the BART Alternative. VTA will perform a detailed hydrogeologic study during the design phase of the project to determine mounding of groundwater upgradient of U-walls. Rising of the water table would be minimized by routing water underneath the U-wall by installing highly permeable preferential flow pathways underneath the U-wall during construction. Channels of highly permeable gravel placed perpendicularly directly beneath the U-wall, crossing from one side of the U-wall to the other, would create appropriate preferential flow pathways. The frequency of placed gravel channels would be determined based on hydrogeologic analysis during design of the project.*

Mounding of groundwater up-gradient of the subway tunnel is not anticipated, as the subway tunnel section would be constructed at a minimum depth of 20 feet bgs at the tunnel crown, well below the water table (approximately 15 feet bgs) in the San Jose area. Therefore, groundwater would be able to flow above and below the tunnel structure. VTA will perform hydrogeological analysis of the future conditions to determine whether mounding of water occurs upgradient of tunnel structures. Highly permeable gravel channels placed in select locations above the subway tunnel and along cut-and-cover stations will facilitate drainage if fill material does not provide adequate permeability.

Section 4.18.4.1, Impacts to Groundwater Resources, has been revised to include this information.

R11.25 *Based on the existing site conditions, increase in surface water runoff volumes from the BART Alternative would not be significant. A major portion of the project will be constructed in existing developed or partially developed areas, and modifications to existing surface conditions will not be substantial. However, a quantitative analysis of increase in surface water runoff will be performed during the design phase of the project. If necessary, increase in surface runoff can be mitigated to less than significant by*

proper management practices and special design considerations, in accordance with the provisions of the MS4 permit, to minimize the impact on the watershed.

R11.26 *As stated in response R11.25, increase of surface water runoff volumes from the BART Alternative would not be significant. A quantitative analysis of increase in surface water runoff will be completed in the design stage of the project and increase in surface runoff can be mitigated to a less than significant level, if necessary, by proper management practices and special design considerations so that the 100-year design flow values currently planned for Berryessa, Upper Penitencia, and Lower Silver Creeks are not impacted.*

R11.27 *As stated in Water Resources, Water Quality, and Floodplains, Section 4.18.4.4, Design Requirements and Best Management Practices, under the subheading BART Alternative/Groundwater Resources, "Groundwater flow directions and pathways may be affected by BART Alternative retained cut and tunnel segment structures, possibly resulting in the spread of groundwater contamination and the rise of the water table. To minimize this impact, highly permeable gravel channels will be constructed directly beneath the U-wall sections of retained cuts where needed to allow water to be routed as quickly as possible underneath the U-wall." Highly permeable gravel channels under U-walls will be able to reduce the impact of the rise of groundwater levels and change in groundwater flow directions to less than significant. Therefore, the risk associated with the rise of the groundwater table in soil-contaminated areas is minimal. The frequency of placed gravel channels would be determined based on hydrogeologic analysis during the design phase of the project.*

The top of the subway tunnel will be constructed a minimum of 20 feet below ground surface (bgs), which is below the water table (approximately 15 feet bgs) in the San Jose area. Thus, groundwater will be able to flow readily both above and below the tunnel structure. Hydrogeologic analysis will be performed to evaluate upgradient groundwater mounding and effects on pollutant migration pathways and to determine where highly permeable preferential flow pathways for retained cut and tunnel segment structures will be placed. The frequency of these structures or high permeability channels and method of placement will be determined based on hydrogeological and engineering analysis during the design phase of the project. Because design requirements will reduce the potential change to groundwater levels or flow patterns, the risk associated with the rise of the groundwater table in soil-contaminated areas is minimal.

R11.28 *Typically in alluvial soils, such as those to be encountered along the BART alignment, a minimum depth of cover of 1.5 times the tunnel diameter is desirable. The BART Alternative tunnels have mined diameters of approximately 21 feet, and so a minimum depth of cover of 32 feet (or more) is desired (see Figure 4.19-7). Where the tunnel passes under structures, the top of the tunnel would generally be 40 feet bgs. However, localized areas with a reduced depth of cover will occur as the alignment transitions from bored tunnels into cut-and-cover and at-grade structures, where the tunnel passes beneath localized topographic features, and where soil conditions allow a shallower depth. The text in Section 4.19.2.2, Types of Guideways, under the subheading Tunnel Guideway, and Section 4.19.2.3, Location and Construction of Guideway Types, Stations, and Other Facilities, also under the subheading Tunnel Guideway, has been revised to reflect this clarification. Figures A-37 and A41 do show depths of cover less than 32 feet. The tunnel depths will continue to be refined during the Preliminary Engineering phase of the project.*

R11.29 *VTA will work with SCVWD to coordinate all activities on the construction*

staging/laydown area and will acquire all required permits prior to any use of SCVWD property for construction staging.

R11.30 *Cutoff walls such as slurry walls or soil/cement walls are an alternative, not a certainty, at cut and cover stations. The need for cutoff walls will likely vary with the site-specific hydrogeology at each location. Therefore, the need to utilize cutoff walls will be determined during the design phase of the project. If cutoff walls are determined to be appropriate, specifics such as the type of cutoff wall, the key layer, and the keying method will be identified for each location.*

Whether or not cutoff walls are implemented, it is important to control groundwater drawdown and thus prevent potential land subsidence, water well level impacts, and interrupted surface water discharge. VTA is committed to avoiding these impacts. Specific drawdown control measures such as cutoff walls, required maximum well depths, required maximum dewatering flow rates, and/or impact monitoring programs will be selected for each location during the design phase.

R11.31 *In general, the potable water supply is tapped from deeper confined aquifer zones, which begin at approximately 120 feet bgs and extend in some places to 1,000 feet bgs. Current plans show that the maximum depth of the bottom of the tunnel is about 90 feet bgs, well above the confined aquifer zone. Therefore, impact from tunneling, drilling fluids, and equipment is not anticipated.*

To the maximum extent possible, the materials to be used in construction will be non-hazardous. VTA will implement a program to remediate groundwater or soil from accidental spills related to excavation, drilling, grouting, and construction activities, so that impact on groundwater conditions is minimal. Also refer to Construction, Section 4.19.10.3, Mitigation Measures for Hazardous Materials Impacts.

R11.32 *VTA acknowledges that "Reach 1" of the Lower Silver Creek Flood Protection Project, which crosses the BART alignment, is currently under construction with the only remaining activity - establishment of re-vegetation - anticipated to be complete by October 2006. Currently in the planning and design phases are the Berryessa Creek Flood Protection Project, consisting of the joint SCVWD/ACOE Berryessa Creek Project, anticipated to be complete by 2010, and the Berryessa Creek Levees Project (aka Lower Berryessa Creek Project), anticipated to be complete by 2008. The Upper Penitencia Creek Flood Protection Project is anticipated to be complete by 2011; the Mid-Coyote Creek Flood Protection Project by 2016; and Reaches 3A and 3B (in the area of the BART Alternative) of the Guadalupe River Park and Flood Protection Project by December 2004.*

R11.33 *VTA acknowledges that SCVWD is constructing or planning flood control projects within the BART Alternative project area. Environmental analysis for the Lower Silver Creek Flood Protection Project is included in the Lower Silver Creek Watershed Project, 1983 Recommended Plan as Modified by the 1998 Plan Update Final Initial Study/Negative Declaration, December 2000. No significant unavoidable impacts were identified in this analysis. Environmental analysis for the Guadalupe River Park and Flood Protection Project is included in The Final Integrated General Re-Evaluation Report/Environmental Impact Report – Supplemental Environmental Impact Statement for Proposed Modifications to the Guadalupe River Project Downtown San Jose, California (February 2001) and Addendum (June 2001). This analysis addresses project impacts to water quality; aquatic and wetlands habitat; riparian, shaded riverine aquatic, and ruderal vegetation; riparian and wetland wildlife species; and special-status wildlife species. All impacts to these resources are mitigated through design features or mitigation measures*

incorporated into the flood protection project to avoid, minimize, or compensate for impacts. Completion of environmental analysis for planned projects is anticipated as follows:

- 2006 - SCVWD/ACOE Berryessa Creek Project.
- 2005 - Berryessa Creek Levees Project (aka Lower Berryessa Creek Project).
- 2005 - Upper Penitencia Creek Flood Protection Project.

The PAB approved the VTA staff recommendation of the U.S. 101 Diagonal Option for the Alum Rock Alignment and Station on May 26, 2004. With this option being carried forward, BART will enter the tunnel segment north of Lower Silver Creek and pass beneath the creek. BART continues in a tunnel along East Santa Clara Street where the alignment crosses the Mid-Coyote Creek Flood Protection Project. At this location, the tunnel is approximately 30 feet below the bed of the creek. Where the BART Alternative crosses the Guadalupe River Park and Flood Protection Project (Reaches 3A and 3B) at West Santa Clara Street, the tunnel is at approximately 20 feet below the bed of the river. With the BART Alternative in a tunnel at these locations, there will be no impacts to Lower Silver Creek, Coyote Creek at East Santa Clara Street, and the Guadalupe River.

A discussion of design requirements, best management practices, and mitigation measures applicable to the BART Alternative where the alignment crosses or station areas abut Berryessa Creek, Upper Penitencia Creek, Coyote Creek (near the Berryessa Station area and proposed construction staging area at Mabury Road), Lower Silver Creek, and the Guadalupe River is included in Section 4.4 (for biological resources), 4.18 (for water quality), and 4.19 (for construction). No significant unavoidable impacts to biological resources have been identified due to the BART Alternative.

SCVWD also incorporates design features and mitigation measures into projects to avoid, minimize, or compensate for impacts to biological resources including aquatic, wetlands, and riparian habitats, and protected species and fisheries. For example, SCVWD may include the following as project features: incorporation of setback levees and flood walls to preserve sensitive areas (minimizing the use of concrete); avoidance of sensitive habitat areas; where avoidance is not possible, restoration or enhancement of aquatic and riparian habitat, and fish passage ability; and construction of sediment control structures or implementation of other measures to protect or improve water quality.

With design features and mitigation measures incorporated into the SCVWD and BART Alternative projects to address impacts to fisheries and protected species, sensitive habitats, and water quality, no cumulative impacts to biological resources are anticipated due to the collective projects.

R11.34

VTA acknowledges that the Berryessa Creek and Upper Penitencia Creek Flood Control Projects are currently in the early stages of design with alternatives being considered to ensure flood protection in the cities of Milpitas and San Jose from the 100-year flood event.

VTA's design team will coordinate with SCVWD to determine the impact of flooding along the BART alignment in the event the flood control projects are not implemented prior to construction of the BART Alternative. This subject is discussed in the Silicon Valley Rapid Transit Corridor Location Hydraulics Study Technical Report (Earth Tech 2003). The location hydraulics study also discusses mitigation alternatives to reduce impacts on existing floodplain conditions in the event the flood control projects are not implemented

prior to construction of BART.

In addition to the 2003 location hydraulics study, VTA's design team is preparing a detailed hydraulic study that will address floodplain issues, and will work with SCVWD during the design process to verify that the BART Alternative does not impact flood flows or raise water surface elevation, including if the flood control projects are not implemented prior to construction of BART.

Coordination between VTA and SCVWD for issues applicable to water resources including floodplains is required per Section 4.18.4.4, Design Requirements and Best Management Practices, under the subheading Floodplains. This section states, "VTA will continue to coordinate with the local flood control agencies to obtain any updated information that may impact the BART Alternative, as well as the MOS scenarios, project design. VTA will also work closely with these agencies to include appropriate measures for flood protection." This coordination includes cooperation between VTA and SCVWD during the design phase of BART and the flood control projects to address the possibility that the flood control projects will not be implemented prior to construction of the BART Alternative.

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R12

TO: 14083215787

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ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

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May 20, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First Street, Building B
San Jose, CA 95134-1927

SUBJECT: Comments on the Draft Environmental Impact Statement/Report for the proposed BART extension to Milpitas, San Jose, and Santa Clara

Dear Mr. Fitzwater:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement/Report (EIS/EIR) for the proposed BART extension to Milpitas, San Jose, and Santa Clara. Santa Clara Valley Transportation Authority (VTA) proposes to construct a 16.3-mile extension of the BART rail system from just south of the future BART Warm Springs Station in Fremont to the cities of Milpitas, San Jose and Santa Clara. The alignment would include seven stations, plus one future station, along the alignment and maintenance and vehicle storage yard in San Jose/Santa Clara. The proposed project would operate along the existing railroad right-of-way (former Union Pacific Railroad) from just south of the planned Warm Springs BART Station in Fremont to approximately Santa Clara Street in San Jose. From there, BART would leave the railroad right-of-way, tunneling under downtown San Jose to the Diridon Station. The BART Extension would then turn north under the Caltrain line and terminate near the Santa Clara Station. BART trains are expected to run every six minutes with the extension of the San Francisco and Richmond lines.

The ACCMA respectfully submits the following comments:

- The Draft EIS/EIR does not address our comments (shown below) dated February 25, 2003 sent in response to the Notice of Preparation of the Draft EIS/EIR:

Station access and parking impacts to the Metropolitan Transportation System (MTS) highway and transit networks in Alameda County should be addressed for 2005 and 2025 conditions for the Alameda County BART stations listed in the NOP (i.e., MacArthur, Coliseum/Oakland Airport, San Leandro, BayFair, Hayward, South Hayward, Union City, Irvington, Fremont, and

R12.1

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Mr. Tom Fitzwater
May 20, 2004
Page 2

Dublin/Pleasanton). The MTS routes vary by station location. Please contact us for a list of MTS routes to be addressed by site.

R12.1
(cont.)

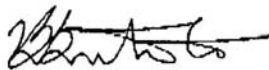
We request that these comments be addressed in the Final EIS/EIR.

- Page 4.2-1 Regulatory Setting, section 4.2.2.1 ACCMA Level of Service Policies: Level of Service Standard E is for monitoring the *existing* conditions of the CMP roadway segments; therefore, please insert "For the purposes of Level of Service Monitoring of the CMP roadway segments" in the beginning of the second sentence starting with "ACCMA's level of service..".

R12.2

Once again, thank you for the opportunity to comment on this Draft EIR/EIS. Please do not hesitate to contact me at 510/836-2560 ext.24, if you require additional information.

Sincerely,



Saravana Suthanthira
Associate Transportation Planner

cc: Jean Hart, Deputy Director
Jim Pierson, City of Fremont
Christine Monsen, ACTIA
file: CMP/Environmental Review Opinions - Responses - 2004

MAY-20-2004 08:48 FROM:

TO: 14083215787

P. 1/3



ALAMEDA COUNTY
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FAX

Date: May 20, 2004

Number of pages including cover page: 3

To: Mr. Tom Fitzwater
VTA Environmental Planning Department
Fax # (408) 321 5787

From: Saravana Suthanthira
Telephone #: (510) 836-2560
Fax #: (510) 836-2185

Re: ACCMA's comments on the Draft EIS/EIR for the proposed BART extension to Milpitas, San Jose and Santa Clara.

If this transmission is illegible or incomplete, please call (510) 836-2560.

RESPONSE TO COMMENT LETTER R12

Alameda County Congestion Management Agency (May 20, 2004)

R12.1 *As stated in Chapter 5, Core System Parking Analysis, Section 5.1, Introduction, "additional parking would be provided consistent with BART's access management and improvement program" and "a programmatic approach has been used to address the environmental impacts from a number of additional parking facility possibilities." Therefore, potential environmental impacts at core system stations are qualitatively discussed recognizing that subsequent project-specific NEPA and CEQA documentation would be required. Additional information is provided in the BART Core System Parking Analysis Technical Working Paper (VTA May 2003 (revised October 2004), available by contacting VTA Environmental Planning Department. Table 2 in this document quantifies the BART parking demand by station and provides a range of potential spaces at each station for expansion that could accommodate the overall parking demand. The working paper also provides a general discussion of parking and traffic impacts for each station. However, BART will be making decisions regarding the provision of additional systemwide parking based on their Board adopted Access Management and Improvement Policy Framework. It should also be recognized that this additional parking is not needed until the BART Alternative is opened for revenue service, which is projected to be in 2015.*

In addition, the Warm Springs Extension Supplemental EIR included an analysis of impacts to the MTS in Alameda County under its cumulative analysis.

R12.2 *The second sentence in Section 4.2.2.1, Alameda County Congestion Management Agency Level of Service Policies, has been revised as follows:*

For the purposes of level of service monitoring of the CMP roadway segments, ACCMA's level of service standard is LOS E, except where LOS F was the level of service originally measured, in which case the standard remains LOS F.

R13



COUNTY OF ALAMEDA
PUBLIC WORKS AGENCY
DEVELOPMENT SERVICES DEPARTMENT
951 Turner Court, Room 100
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VTA
ENV. ANALYSIS
2004 MAY 21 P 2:01

May 17, 2004

Zone 6, General

Tom Fitzwater
VTA Environmental Planning Department
3331 North First Street, Building B
San Jose, CA 95134-1927

Dear Mr. Fitzwater:

Reference is made to the submittal of March 16, 2004, of the Draft EIS/EIR for the proposed BART extension to Milpitas, San Jose and Santa Clara. We have reviewed the document and offer the following comments:

1. On the current Flood Insurance Rate Maps (FIRM) for the City of Fremont, the Federal Emergency Management Agency (FEMA) has designated Special Flood Hazard Areas where Agua Caliente (Line F), Agua Fria (Line D) and Scott Creek (Line A) cross the proposed BART extension alignment in Alameda County. Refer to the FEMA Flood Insurance Study for the City of Fremont, Revised February 9, 2000, Community Number-065028, and FIRM Panel Nos. 46 and 48.

R13.1

Design of bridge or culvert improvements will need to satisfy FEMA criteria and also demonstrate that the 100-year storm event water surface will not be impacted, especially as relates to designated flood hazard zones in both upstream and downstream areas.

2. On Figure 13, the proposed TPSS#2 is shown to be encroaching on the District's Scott Creek right of way. In order for the District to be able to continue maintenance of the drainage facility, the proposed TPSS#2 will need to be relocated outside the District right of way.

R13.2

3. Mitigation for loss of wetland or riparian habitat on Flood Control District lands or rights of way shall be fully established and accepted by the regulatory agencies without any further monitoring or reporting requirements prior to closure of the Flood Control District encroachment permit.

R13.3

4. Evidence of Water Quality Certification issued by the San Francisco Bay Regional Water Quality Control Board and Streambed Alteration Agreement from the State Department of Fish and Game will need to be provided prior to issuance of any District permit for discharge of groundwater into a District facility.

R13.4

TO SERVE AND PRESERVE OUR COMMUNITY

Mr. Tom Fitzwater

2

May 17, 2004

5. District facility, Line B-1 should appear on Figure A-9 in the vicinity of Station 123+00.

R13.5

Thank you for the opportunity to review the Draft Environmental Impact Statement/Environmental Impact Report for this project. If you have any questions, please call Andrew Otsuka, at (510) 670-6613.

Very truly yours,



Scott A. Swanson
Deputy Director
Development Services Department

SAS:AO

- c: Hank Ackerman, Flood Program
Tom Hinderlie, Maintenance & Operations
John Fenstermacher, Real Estate Division
Fred Wolin, Environmental Services

RESPONSE TO COMMENT LETTER R13

County of Alameda Public Works Agency (May 17, 2004)

R13.1 *Design of bridge or culvert improvements will satisfy Federal Emergency Management Agency (FEMA) criteria, and the 100-year storm event water surface will not be impacted. Bridges or culverts will be designed in a way that the encroachment on the existing 100-year floodplains is insignificant or the designed drainage structure will improve the existing flooding conditions.*

VTA will work closely with Alameda County Public Works Agency (ACPWA) during the Preliminary Engineering phase of the BART Alternative.

R13.2 *VTA will coordinate with ACPWA during the Preliminary Engineering and Final Design phases on the location of Traction Power Substation #2 so as to retain access and minimize impacts to ACPWA facilities to the maximum extent practicable.*

R13.3 *As discussed in Biological Resources and Wetlands, Section 4.4.3.5, Mitigation Measures, and Construction, Section 4.19.5.3, Mitigation Measures for Biological Resources and Wetlands Impacts, if riparian vegetation will be affected unavoidably at any of the BART crossings, including in Alameda County, then habitat quality will be assessed and confirmed with the California Department of Fish and Game (CDFG). CDFG will determine the appropriate ratio to mitigate impacts to riparian habitat. VTA will prepare a detailed riparian restoration plan to see to the replacement of lost acreage, as well as values and functions of riparian habitat, including shaded riverine aquatic vegetation. The plan will also include the locations of restoration opportunities and monitoring requirements. Monitoring is generally for three years following plant installation to ensure 80% survivorship. VTA will either oversee the monitoring or negotiate the transfer of the responsibility, with appropriate compensation, to a public agency or qualified private consultant.*

Where wetland habitat will be affected unavoidably at any of the BART crossings in Alameda County, the creation, restoration, and/or enhancement of wetland areas will be at ratios to be determined in consultation with the Army Corps of Engineers. Ratios are typically 1:1 to 3:1 depending on the quality of the habitat to ensure no net loss of wetlands. Wetland creation/enhancement credits may also be purchased at an approved mitigation bank. Similar to that for riparian habitat, VTA will either oversee monitoring activities or negotiate the transfer of the responsibility, with appropriate compensation, to a public agency or qualified private consultant.

Closure of an encroachment permit is the responsibility of the agency that issues the permit. VTA will comply with all requirements/conditions included in the encroachment permit(s).

R13.4 *Prior to discharge of groundwater to any ACPWA facility, VTA will obtain the appropriate permit from the San Francisco Regional Water Quality Control Board. For groundwater discharge into a creek, CDFG does not require a Streambed Alteration Agreement (SAA). However, VTA can apply for an SAA and CDFG will issue a "no agreement needed" letter.*

R13.5 *Figure A-9 in Appendix A has been revised to identify ACPWA's facility Line B-1 at STA 123+00 as a culvert.*

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NO. 507 0002

L1



Jennifer Sparacino
City Manager

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May 13, 2004

Mr. Tom Fitzwater
Environmental Planning Manager
VTA – Environmental Planning
Building B
3331 North First Street
San Jose, CA 95134-1927
Fax: (408) 321-5787
email: SVRTC.DEIS-EIRcomments@vta.org

Re: City of Santa Clara Historical and Landmarks Commission comments on the BART EIS/EIR.

Dear Mr. Fitzwater,

The City of Santa Clara Historical and Landmarks Commission is forwarding comments in accordance with the procedures for making public comment on the above referenced document. That is, the comments are directed to the adequacy of the alternatives, the mitigation measures and the analysis of environmental impacts developed and represented by the Lead Agency to fulfill the project.

Section 4(f) Discussion, the 'Resources Affected by Build Alternatives' identifies the Santa Clara Station as an historic district with two individual resources, the Santa Clara Station Depot and Santa Clara Tower, as listed or previously determined eligible for listing in National Register of Historic Places. The Historic Landmarks Commission expressed serious concern about the stated impacts listed resulting from the proposed BART extension to this recognized and other unidentified/unrecorded historic and cultural resources in Santa Clara.

Based on these concerns, the Commission found the Memorandum of Agreement (MOA) in Appendix F was inadequate due to its lack of content and detail and the absence of vital stakeholders in the agreement such as the Santa Clara Historical and Landmarks Commission, South Bay Historic Railroad Society, and a possible railroad citizens advisory committee that could have substantial knowledge and input in the MOAs content and implementation. The Commission strongly suggest a Programmatic Agreement (PA) approach in-lieu of an MOA which provides greater specificity on the process and methodology for dealing with potential historic resource impacts, and is more appropriate for extensive transportation projects such as the BART Extension.

A Programmatic Agreement, or PA, is a document that spells out the terms of a formal, legally binding agreement between a state Department of Transportation (DOT) and other state and/or federal agencies. A PA establishes a process for consultation, review, and

L1.1

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compliance with one or more federal laws, most often with those federal laws concerning historic preservation.

There are two basic kinds of programmatic agreements:

- a PA that describes the actions that will be taken by the parties in order to meet their environmental compliance responsibilities for a specific transportation project, called here a *project-specific PA*
- a PA that establishes a process through which the parties will meet their compliance responsibilities for an agency program, a category of projects, or a particular type of resource, called here a *procedural PA*

Using programmatic agreements results in quicker project turnaround; elimination of individual federal and state agency review of projects; predictability on large or complex projects, especially those where the full range of impacts are not known, e.g., a design/build; streamlined review of routine transportation projects; and freeing agencies to address higher priority environmental issues and projects.

In the context of Section 106 of the National Historic Preservation Act, a PA differs from a Memorandum of Agreement (MOA) in that MOAs are used to resolve known and definable adverse effects on historic properties that result from a federal undertaking. PAs are used when the effects of an undertaking are not fully known. PAs are also a tool for implementing approaches that do not follow the normal Section 106 process. This is done to streamline and enhance historic preservation and project delivery efforts.

In regards to Section 7.7 FINDING; Statement No. 7. says:

"There are no feasible and prudent alternatives that would avoid use of the historic Station, given the need to access the depot rail services for connections and the physical position of the historic Depot between the bus transit center and the proposed BART station and garages. Because of the need to provide safe connections among BART, Caltrain, the bus transit center and the parking garages, pedestrians must traverse the historic Station grounds."

Statement number 8. reads

"The project includes current and future planning to minimize harm to the historic Station."

In addition, a statement in Section 7.4 AFFECTED SECTION 4(f) PROPERTIES, reads:

"Depending on the scale of the "pop-up" entrance in relation to the Depot, Tower, and other structures, the Underground Walkway Option would also result in an adverse effect. Given the small size of the historic structures, even a relatively small walkway entrance would change the relationship of physical features within the setting of the historic station and diminish the integrity of the Tower and other structures and affect their relationships to the Depot."

The Commission found these statements to be inadequately addressed and their conclusions unsupported. The underground passageway is inadequately addressed because it does not include evaluation of many available options for providing safety and enhancement of the facility. There are numerous examples of underground facilities, including alternative types of security, i.e. ticket sales, police presence and/or video surveillance, newsstands, cafes and

L1.1
(cont)

L1.2

restaurants. The Underground Passageway is the superior alternative and could avoid visual destruction of the Railroad complex and significant adverse impacts to the National Register status of the property if designed properly. The key of underground walkways is making them safe. Designed as large and roomy spaces with the addition of cafés and other amenities or a retail atmosphere would reduce or eliminate real and perceived fears and also cater to commuters. The Commission noted the Zurich Hauptbahnhof in Switzerland, a 100,000 square foot mall that features retail uses and restaurants for users and provides an inviting atmosphere.

Appropriate design standards can be developed and adopted prior to the design being initiated. Also, at this preliminary stage, the design of the “pop up” exit point of the underground passageway has not been fully studied to conclude the effect on the Santa Clara Station would be equally affected to the same degree as the Overhead Walkway Options.

L1.2
(cont.)

The Commission also found that the Overhead Options did not adequately address obscuring the historic Depot and out buildings, and did not correctly depict the height of the overhead walkway. The electrification lines for Caltrain would require a taller overhead walkway to provide adequate clearance. A more southerly walkway would have less impact on the historic Depot. However, the Commission concluded that the underground passageway is the superior alternative and could avoid destruction of the National Register status of the Railroad property.

In Section 4.6-12 Environmental Analysis, Design Standards and Guidelines the document notes:

“If adverse effects cannot be avoided by the selection of alternatives, VTA will ensure that the project features affecting the contributing element(s) of the San Jose Downtown Commercial Historic District and the Santa Clara Caltrain Station complex are compatible with the historic and architectural qualities of the affected historic building(s) and surrounding historic district(s) in terms of scale, massing, color, and materials. Design and specifications for these project features shall be developed under the guidance of The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (U.S. Department of the Interior, National Park Service, 1995).”

The Commission believes that without the adoption of a Programmatic Agreement or expanded MOA with much more specificity, and the addition of other stakeholders included, as previously mentioned, current and future planning to minimize harm to the historic Station cannot be assured. Non-agency groups should be included in the decision making process, interpretation of the Secretary of the Interior Standards, and design approach for future development at the Station given the historical significance of the Railroad complex and its importance to the City of Santa Clara and the community.

L1.3

The Commission recommends that VTA as the lead agency adopt mitigation measures to include the creation of a Ad hoc committee which includes members of the public, commissioners and private groups that would work to develop guidelines and design input into new transit station improvements at the appropriate time. Establishing general development guidelines for this railroad corridor for the City of Santa Clara would provide parameters for the development community to be as creative as possible to create the best development solution for a constrained and unique property at such time the station improvements are designed.

L1.4

The Commission also noted that the following environmental issues were not addressed:

- Traffic and parking impacts on the Old Quad and surrounding area were not adequately addressed.
- FMC site and building has not been evaluated for historical significance.
- Santa Clara has been given excessive burden with the proposed station and maintenance yard.


L1.5

L1.6

L1.7

Thank you for allowing us to comment on this project. We look forward to VTA response to these comments and consideration of the Commission's recommendations.

Sincerely,



Charles Petersen, Chair
Historical and Landmarks Commission

cc: City Council
Historical and Landmarks Commission
Geof Goodfellow, Director of Planning and Building Inspection

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RESPONSE TO COMMENT LETTER L1

City of Santa Clara Historical and Landmarks Commission (May 13, 2004)

L1.1 *In discussions with Far Western Anthropological Research Group, Inc. (Far Western) and JRP Historical Consulting Services (JRP), the MOA was identified as the appropriate and adequate mitigation measure considering the complexity of the project, the length of the construction schedule, and the number of historic properties affected. The MOA will include a Cultural Resources Treatment Plan (CRTP), as an appendix, for addressing archaeological resources and provisions for addressing impacts to historic resources.*

The recommendation for a Programmatic Agreement (PA) instead of a MOA is being considered. The State Historic Preservation Officer (SHPO) has been consulted on this question; however, a response has not yet been received. VTA will continue to work with a number of organizations including the Santa Clara Historical and Landmarks Commission in developing an effective Memorandum of Agreement (MOA) or Programmatic Agreement (PA). The appropriate type of document and its details will be developed through continuing consultations. The MOA or PA will include the measures agreed upon, address consulting parties' comments, and provide documentary evidence that the requirements of Section 106 have been met. The MOA or PA will be signed before federal approval of the project is obtained.

L1.2 *On May 26, 2004, the Silicon Valley Rapid Transit Corridor Policy Advisory Board (PAB) recommended the Aerial Walkway South Option as part of the Locally Preferred Alternative. This option best meets the needs of transferring passengers. This option does have an adverse effect on the historic Santa Clara Caltrain Station, which includes the historic Depot and Tower as contributing elements. To address the adverse impact to the National Register of Historic Places (NRHP) eligible/NRHP-listed buildings, a MOA or PA will be developed and executed by VTA, appropriate city and county historic preservation bodies, the Federal Transit Administration (FTA), the Advisory Council on Historic Preservation (ACHP), and the State Historic Preservation Officer (SHPO). The MOA or PA will likely include some or all of the following mitigation measures: Avoidance, Design Standards and Guidelines; Protective Measures; Recordation (for building(s) to be demolished, relocated, or altered); Interpretive Display, Museum Exhibit, and/or Historic Image Reproduction; and/or Opportunities for Salvage. See Section 4.6.6.2, Historic Architectural Resources Mitigation, for additional information about these measures.*

The Underground Walkway Option, although supported by the City of Santa Clara Historical and Landmarks Commission, South Bay Historical Railroad Society, and Caltrain, requires additional elevation changes for passengers moving from BART or the future Automated People Mover to the west side of the Caltrain tracks. For example, a BART rider would exit a BART train, climb up one level to the mezzanine, and then down two levels to the underground walkway and then back up one level to access Caltrain, the bus transit center, or other services. The pedestrian crossing options only require climbing up one level to the mezzanine/pedestrian crossing and then down one level to Caltrain, the bus transit center, or other services. The underground option may also result in additional impacts to underground utilities and archaeological resources, and to hazardous materials under the tracks. The underground option is also the most expensive of the three options evaluated.

The Aerial Walkway North Option requires passengers to walk a longer distance between

the BART station and the Caltrain platform. This option is not supported by the City of Santa Clara out of concern that it compromises security at the adjacent police facility by increasing visibility down into the facility from the overcrossing.

The Aerial Walkway South Option, the Locally Preferred Alternative, would have an adverse effect on the historic Tower, a contributing element to the NRHP eligible/NRHP-listed historic Santa Clara Caltrain Station because it may include changes to the historic Tower's physical features that contribute to its historic significance and would constitute an introduction of visual or other elements that could diminish the building's historic integrity. The suggestion to move the historic Tower and related speeder shed and utility shed south to permit the pedestrian overcrossing to be built north of the historic Tower would be considered one of the mitigation strategies. This suggestion was put forward by Ms. Lorie Garcia, Covenant Representative with the SBHRS in her comment letter. (Refer to comment P25). Moving the historic Tower and related structures would preserve the historic spatial relationship between the historic Tower, sheds, and the historic Depot and would mitigate for the adverse effect that would occur if the overcrossing were built at or between the historic Tower and the historic Depot. Specifically, moving the historic Tower would avoid the adverse effect caused by demolition and would also minimize the effect of introducing a new visual element in the historic Station. Ms. Garcia's suggestion of the possible relocation of the historic Tower and related structures is evidence of the effectiveness of the Section 106 consultation process in providing a positive outcome that achieves the project requirements while also addressing concerns regarding historic properties.

Removal of the historic Tower from its original location, however, is also an adverse effect under Section 106 guidelines, though it would unlikely be considered a substantial adverse change under CEQA, which permits buildings to be moved to compatible sites which include the proposed new location. The adverse effect under Section 106 would be mitigated through some or all of the following mitigation measures: Avoidance, Design Standards and Guidelines; Protective Measures; Recordation (for building(s) to be demolished, relocated, or altered); Interpretive Display, Museum Exhibit, Historic Image Reproduction; and/or Opportunities for Salvage. These measures will include the development of an appropriate design for the pedestrian overcrossing that would decrease its visual impact on the historic character of the historic Station. This is already a stated goal of the proposed design at this location, and Ms. Garcia provides some suggested design elements that could achieve this goal (refer to comment P25.4). Appropriate design for the overcrossing will include considerations regarding the size, location, materials, colors, and textures of the structure.

These mitigation measures will be set forth in a MOA or PA to be developed and executed by VTA, appropriate city and county historic preservation bodies, FTA, ACHP, and SHPO. VTA will continue to work with Santa Clara Historical and Landmarks Commission and others on developing an effective MOA or PA.

L1.3 *Refer to responses L1.1 and L1.4.*

L1.4 *Non-agency groups are included in the decision making process through the Community Working Groups (CWGs). CWGs for the City of Santa Clara, City of Milpitas, the San Jose Hostetter/Alum Rock community, and the Downtown San Jose community were established for the environmental study to communicate project information to non-agency groups and key members of the community and to facilitate community input and participation. Group members include the leaders of neighborhood and business associations, community organizations, advocacy groups, major property owners, and*

planning commissioners.

In addition to the regular CWG meetings, VTA held a series of station and urban design workshops in Milpitas, San Jose, and Santa Clara between April and September 2002 to receive input on the design of station areas and facilities. The workshops in Santa Clara included discussions and input on the layout of BART Santa Clara Station and the location of the pedestrian crossing.

The CWGs will continue to meet through the Preliminary Engineering and Final Design phases of the project to assist with developing and interpreting appropriate guidelines and standards and to provide design input from the community as the conceptual station plans are refined. The CWGs can serve as the recommended Ad Hoc committee.

L1.5 *Existing parking is provided at the Santa Clara Caltrain Station for Caltrain users. No additional parking is proposed on the west side of the train tracks for BART users. However, over 1,000 parking spaces are included in the plans on the east side of the train tracks and closer to the BART Santa Clara Station. Those accessing BART from the west side of the tracks would primarily be traveling by Caltrain or by bus and using the bus transit center. BART passengers could also be dropped off at the bus transit center to access the BART Santa Clara Station. Therefore, the BART Alternative would not generate substantial traffic or parking demand on the west side of the tracks. Refer to Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, for a discussion of traffic and parking impacts within the City of Santa Clara.*

L1.6 *In the Historical Resources Evaluation Report, 2002, (HRER) JRP included the FMC site as Map Reference #14-5 in its survey population of resources evaluated for the NRHP and the California Register of Historic Resources (CRHR). In the HRER, JRP identified a previous recent evaluation completed for the FMC site and included this evaluation in the report. Mr. Ward Hill prepared this evaluation in March 2002 and drew the conclusion that the FMC buildings at 1115-1125 Coleman Avenue "do not appear to be eligible for the NRHP under Criteria A, B or C. The buildings have also been evaluated in accordance with Section 15064.5(a)(2-3) of the CEQA Guidelines, using the criteria outlined in Section 5024.1 of the California Public Resources Code, and they are not historical resources for purposes of CEQA." The criteria cited in the California Public Resources Code are those of the CRHR. JRP examined Mr. Hill's evaluation and concluded that it was thorough and correct, and that his conclusions were explicit.*

L1.7 *BART Design Guidelines require a maintenance and storage facility preferably located at the terminus of the extension. This location is optimal because it allows trains to access the facility for maintenance or storage without major service disruptions or operationally and costly long non-revenue service travel. Furthermore, it is extremely difficult to locate a large-scale facility of this kind in an urban environment. This site is ideal because it has existing passenger and freight operations, as well as fewer environmental, community, and cost impacts than if it were located in a more densely populated and developed area.*

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L2



CHAMBER OF
COMMERCE

April 13, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First St., Building B
San Jose, CA 95134-1927

RE: Draft EIR/EIS for the Proposed BART Extension to Milpitas, San Jose
and Santa Clara

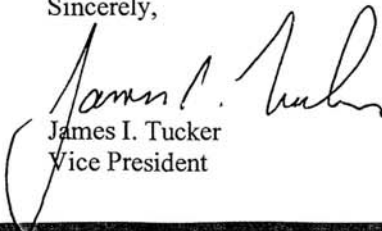
Dear Mr. Fitzwater:

We are pleased to provide comment on the Draft EIR/EIS for the Proposed BART extension to Milpitas, San Jose and Santa Clara. We have two points to make:

1. While it may be inherent in the Draft EIR/EIS, we believe it is important to make the point again that the BART extension will contribute to smart growth and the enhancement of sustainable communities in the South Bay. San Jose, for example, is already encouraging high-density housing and appropriate mixed uses around areas such as the Berryessa Station. L2.1
2. While the ultimate benefits of the project to the South Bay economy will be substantial, the potential economic disruption to individual businesses along the route also will be substantial for periods ranging from several months to several years during construction. We strongly urge that mitigations include cooperative programs with impacted businesses to help reduce the loss of customer traffic and sales the greatest extent possible. San Jose recently adopted a Construction Impact Mitigation Plan ordinance that could be a model for requirements that might become part of the BART construction effort. L2.2

We are looking forward to the completion of this important project.

Sincerely,



James I. Tucker
Vice President

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RESPONSE TO COMMENT LETTER L2

San Jose Silicon Valley Chamber of Commerce (April 13, 2004)

- L2.1** *Your support for the BART Alternative and its importance to the South Bay region is noted and included in the record for consideration by the decision-makers.*
- L2.2** *Section 4.19.2.1, Pre-construction Activities, discusses activities that will be undertaken to address construction related affects of the project including the development of a Construction Impact Mitigation Plan. The details of the Construction Impact Mitigation Plan will continue to be worked out through the Preliminary Engineering, Final Design, and construction phases of the project. VTA is working with the City of San Jose on a Construction Impact Mitigation Plan Master Agreement, as provided for by City ordinance.*

L3



Planning Division

May 13, 2004

Mr. Tom Fitzwater
Environmental Planning Manager
VTA – Environmental Planning
3331 North First Street, Building B
San Jose, CA 95134-1927

Re: BART Extension to Milpitas, San Jose and Santa Clara Draft EIS/EIR

Dear Mr. Fitzwater,

The City of Santa Clara has reviewed the Draft EIS/EIR prepared for the proposed BART extension to the South Bay. The City's review was conducted by the Project Clearance Committee (PCC) in order to involve appropriate City departments. The PCC review found that the document, at the project's current level of design detail, was generally adequate. We recognize that the planned Preliminary Engineering phase of the project that has been funded will provide substantially more information. As a responsible agency, the City will be interested in participating in the analysis that will come from that engineering effort.

L3.1

The following key comments are summarized from the discussion at our Project Clearance Committee meeting and from the attachments provided with this letter:

- The preliminary design phase should address access to the platform via the proposed elevated pedestrian bridge and/or at grade by emergency services
- Fire hydrant improvements may be required
- The proposed elevated pedestrian crossing may be located too close to the Santa Clara Police facility
- Electric and Water and Sewer facilities should be identified on project plans and should be avoided or may need to be relocated, depending upon project design
- Several Traffic Impact Analysis (TIA) edits should be addressed
- The Santa Clara Depot is currently or has been served by several private company shuttle services that should be acknowledged in the TIA
- The proposed elevated pedestrian crossing should be situated and designed to be compatible with existing historic facilities at the Depot; specific siting and design should be a part of the preliminary engineering phase of the project (Planning in coordination with the Police Department
- The proposed elevated pedestrian crossing should contemplate the conceptual overhead electrification of the existing Caltrain line
- The mitigation plan for construction within the archaeologically sensitive area inside Santa Clara's jurisdictional boundaries should comply with the City's standards for potentially significant archaeological impacts.

L3.2

L3.3

L3.4

L3.5

L3.6

L3.7

L3.8

L3.9

L3.10

City of Santa Clara – BART EIS/EIR Comments (1)

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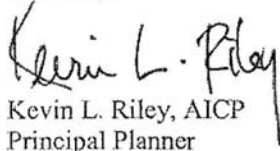
SANTA CLARA CALIFORNIA

In addition to the staff level review, the Historical and Landmarks Commission considered the document at their regular meeting of May 6 with respect to the potential impacts on cultural resources (historical and archaeological). Their comments will be compiled and included in a separate transmittal to VTA. On a separate note, a letter from the City Manager and the Mayor will be sent reaffirming the City's commitment to the BART extension to Santa Clara.

L3.11

Thank you for the opportunity to review the document. We look forward to review of the Final EIS/EIR and to working with you on further developments of the project. Please do not hesitate to call if you have questions regarding the attached comments.

Sincerely,



Kevin L. Riley, AICP
Principal Planner

cc: City Departments Distribution

Attachments:

Fire Dept Comments, PCC date 04/19/04

Traffic Engineering Comments, dated 04/16/04

Letter from Police Chief (copy), dated 11/04/03

Conditions for Potentially Significant Archaeological Impacts

J:\PLANNING\Subject\BART alternatives study\BART Comments Letter to VTA.doc

FIRE DEPARTMENT STANDARD CONDITIONS

File: 16.5 mile BART route alignment

Address/APN:

Project Clearance Committee Date: 4/19/04

Request: Agency comments

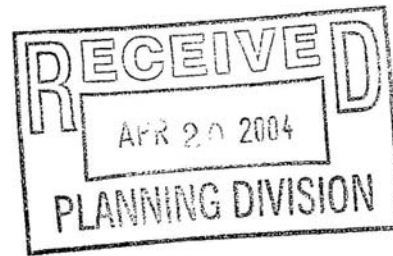
- 1) Group H Occupancies (hazardous materials in excess of exempt amounts in Article 80 of the Uniform Fire Code) may not be allowed within 1000 feet of Group R Occupancies without certain requirements/obligations implemented through project approval.
- 2) At the time of the design, consideration should be given to fire department access roads (public/private). Access roads shall be established and maintained to within 150 feet of all exterior walls of any building. Approved fire apparatus access roads shall be capable of supporting the imposed fire apparatus load (70,000 lbs.) and have an all-weather driving surface (paved).
- 3) Private fire hydrants and mains capable of supplying the required fire flow shall be installed when any portion of the building protected is in excess of 150 feet from a water supply on a public street (Hydrants shall be spaced no more than 300 feet apart from each other).

L3.12

BART DEIS/R - City of Santa Clara Traffic Engineering Comments

Page	Section, Paragraph or Table	Comments
4.2-2 and 6.2-2 4.2-9	4.2.2.6 and Table 6.2-1 Table 4.2-8	City of Santa Clara LOS standard is D; If existing LOS E ,then significance threshold occurs if <ul style="list-style-type: none"> • V/C > 0.01 and • control delay > 4 seconds
4.2-16	Table 4.2-14	An end of line station such as Santa Clara will likely have more than 14% Auto and KNR trips. In Santa Clara, an end of line station that will also serve Airport parkers will likely require more than 1,000 parking spaces. Why are existing surface spaces on west side of station not included in total?
4.2-19	<u>City Of Santa Clara</u>	The east side of Lafayette Street does have sidewalk.
4.2-45	<u>Level of Service with Santa Clara Station</u>	Please clarify the statement that “ten of the study intersections would operate at an unacceptable level...only seven would be adversely impacted by the project...” (i.e. Explain that three of the intersections would be impacted even without the project.)
4.2-45	<u>Impact and Mitigation Measures with Santa Clara Station</u>	Add information on Comprehensive County Expressway Study and Implementation Plan. Incorporate any appropriate mitigations mentioned in Plan.
4.2-46	<u>Impact and Mitigation Measures with Santa Clara Station</u>	El Camino Real and Monroe Street mitigation measure is to add third eastbound and westbound through lanes. However, El Camino currently is a 6-lane thoroughfare, and there is no ROW capability to add more lanes on Monroe Street. Please revise or explain.
4.2-45 4.2-46	<u>Impact and Mitigation Measures with Santa Clara Station</u>	Generally, when mentioning eastbound, westbound, northbound, or southbound directions, please add street name to direction.

L3.13



November 14, 2003

Tom Fitzwater
Environmental Planning
Santa Clara Valley Transportation
3331 N. 1st Street
San Jose, CA 95134

Re: BART Extension to Milpitas, San Jose and Santa Clara

Dear Mr. Fitzwater;

On August 12, 2002, representatives from the City of Santa Clara, including the Santa Clara Police Department, met with VTA staff to provide input on the BART Extension. In particular, three pedestrian connection options at the Santa Clara BART Station are being evaluated in the Draft Environmental Impact Study/Environmental Impact Report (EIS/EIR). The Police Department is concerned with one option that would provide an overpass crossing between the Santa Clara BART Station and the area just north of the Historic Train Tower and west of the Caltrain tracks. This option is adjacent to the City's jail facility.

L3.14

At that meeting, we expressed concern with the elevated pedestrian walkway at this site because of the location and elevation of the overpass would provide a direct sightline into the jail facility and would compromise security and safety.

Therefore, we do not support this option and feel the two other connection options from BART directly to the Caltrain platform area would be preferred because of the aforementioned security and safety concerns. If you wish to discuss this matter further, please do not hesitate to call me.

Sincerely,

Stephen D. Lodge
Chief of Police

Cc: Dave Pitton, City of Santa Clara
Lisa Ives, VTA
Tim Chan, VTA

RESPONSE TO COMMENT LETTER L3

City of Santa Clara (May 13, 2004)

- L3.1** *VTA will continue to work with the City of Santa Clara through the Preliminary Engineering, Final Design, and construction phases of the project to address the interests of the City of Santa Clara. Refer to Chapter 9, Agency and Community Participation, for a description of past and ongoing consultation and coordination with many agencies, including the City of Santa Clara.*
- L3.2** *On May 26, 2004, the Silicon Valley Rapid Transit Corridor Policy Advisory Board (PAB) recommended the Aerial Walkway South Option as part of the Locally Preferred Alternative. This option best meets the needs of transferring passengers. During Preliminary Engineering, VTA will meet with the police and fire departments of each jurisdiction to ensure that the designs provide for access by local emergency services.*
- L3.3** *As stated in Security and System Safety, Section 4.14.3.1, Impacts, fire sprinklers, stand pipes, smoke detectors, and alarm systems will be placed throughout the new stations in accordance with local fire department jurisdiction requirements, standards set forth by the National Fire Protection Association, California Building and Fire Codes, and BART criteria.*
- L3.4** *Three options for a pedestrian connection linking the BART station platforms with the Caltrain platforms, bus plaza, and kiss-and-ride area on the west side of the Caltrain right-of-way were evaluated. These options were the Aerial Walkway North Option with the overcrossing adjacent to the Santa Clara Police facility; the Aerial Walkway South Option with the overcrossing south of the Police facility; and the Underground Walkway Option.*
- On May 26, 2004, the PAB recommended the Aerial Walkway South Option as part of the Locally Preferred Alternative. This option best meets the needs of transferring passengers and is not the option that is adjacent to the police facility.*
- L3.5** *To the extent possible, the BART Alternative has been designed to avoid major utilities. The Preliminary Engineering effort will provide additional mapping and investigations into utility conflicts. Where it is not possible to avoid utility lines, VTA will coordinate with utility providers to minimize the time and extent of disruptions.*
- L3.6** *A revised Santa Clara BART Station Transportation Impact Analysis was prepared that addressed the City of Santa Clara comments. The revised document is dated May 1, 2003 and will be mailed to the city.*
- L3.7** *VTA does not operate any shuttles out of the Santa Clara Station. However, several private shuttles service this location including Silicon Valley Power shuttles.*
- L3.8** *On May 26, 2004, the PAB recommended the Aerial Walkway South Option as part of the Locally Preferred Alternative. This option best meets the needs of transferring passengers. VTA staff will work with the historic resource stakeholders to resolve the location concerns and the design for the aerial walkway. Appropriate design for the overcrossing will include considerations regarding the size, location, materials, colors, and textures of the structure. These mitigation measures will be set forth in a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) to be developed*

and executed by VTA, appropriate city and county historic preservation bodies, the Federal Transit Administration, the Advisory Council on Historic Preservation, and the State Historic Preservation Officer, as appropriate. VTA will continue to work with the City of Santa Clara on developing an effective MOA or PA. The appropriate type of document and its details will be developed through continuing consultations with the appropriate parties. The City of Santa Clara would be one of the signatories for resources within their jurisdiction.

L3.9 VTA will continue to coordinate with Caltrain to determine the appropriate design of the aerial walkway to ensure adequate signal sign distance for train operators and to accommodate the future overhead electrification lines. Refer to Section 3.7.1, Transportation/Transit Related Projects, where the Caltrain Electrification Project is identified.

L3.10 The northern end of the maintenance facility, the Santa Clara Station, the parking structure options for this station, and the future extension test track are within the City of Santa Clara. There will be considerable subsurface disturbance within this area, and the area is acknowledged as having high archaeological sensitivity. To accompany the MOA or PA, a Cultural Resources Treatment Plan (CRTP) is being developed that will describe and prescribe the location and nature of archaeological monitoring and investigations on a project-wide basis. These documents are being developed in compliance with Section 106 of the National Historic Preservation Act, and federal guidelines that pertain. The documents will also be developed mindful of the archaeological mitigation requirements for the City of Santa Clara, and the City of Santa Clara will be among the agencies and entities that review and comment on the documents. The key elements of a treatment plan identified in the City of Santa Clara's monitoring and mitigation requirements (see comment R5.6) correspond to key elements in the project-wide CRTP. With the City of Santa Clara's involvement and support, the project-specific terms of the CRTP and MOA or PA would be used to satisfy local requirements concerning archaeological resources. Refer to Cultural and Historic Resources, Section 4.6.6 Mitigation Measures, for further information on the MOA and CRTP.

VTA recognizes the need for subsurface archaeological investigations before, and possibly during, construction activities within the project area within the City of Santa Clara. Archaeological investigations will be directed by individuals who meet or exceed federal Secretary of Interior's Professional Qualification Standards (PQS) in the discipline of archaeology (48 FR 44738-44739).

L3.11 Comments from the City of Santa Clara Historical and Landmarks Commission were transmitted to VTA in a letter dated May 13, 2004. Refer to letter L1 for the comments and responses.

L3.12 The Fire Department Standard Conditions have been forwarded to the Preliminary Design team for incorporation into the plans. During the Preliminary Engineering phase of the project, VTA will meet with the fire departments of each jurisdiction to ensure that the designs provide for access by local emergency services.

L3.13 VTA will continue to work with the City of Santa Clara during the various design phases of the project to ensure that the BART Alternative and the Santa Clara Station are designed and constructed in a mutually beneficial manner. The eight specific comments are responded to below.

1. *The criteria cited in the comment for determining if a project does impact an intersection already operating at LOS E were used in the Santa Clara BART Station Transportation Impact Analysis (Hexagon Transportation Consultants, revised May 2003). The stated criteria are usually used for identifying near-term impacts of land development projects to existing and/or background traffic conditions (i.e., the criteria does include the word "existing"). The EIS/EIR criteria were used to assess roadway traffic operations impacts due to the BART Alternative by comparing traffic conditions in a "2025 BART Extension" scenario against a "2025 No Action Conditions with Intersection Improvements" scenario. In other words, the criteria were used if LOS E conditions were projected to exist in the "2025 No Action Conditions with Intersection Improvements" scenario. This is an accepted practice in Santa Clara County, but reiterated here for informational purposes.*
2. *Several stations are located such that they fulfill an "end of the line" function. The Alum Rock and Diridon/Arena stations are located in close proximity to major freeway intersections and serve to diminish the end of the line effects at the Santa Clara Station. Also, the Santa Clara Station has high transit accessibility, which also diminishes the end of the line effects at the station.*
3. *The Santa Clara BART Station Transportation Impact Analysis for SVRTC EIS/EIR Alternatives assumes that parking at the BART Alternative parking facility will be restricted in some fashion (price or time limited) to prevent airport patrons from using the facility as an alternative to parking at the airport. The study assumed that the existing surface parking spaces would be used by Caltrain, ACE and some bus patrons. The park-and-ride demand for BART parking was in addition to the parking requirements of these other transit modes.*
4. *The comment is correct and the text in Section 4.2.5, Pedestrians and Bicycles, under the subheadings Existing Conditions/City of Santa Clara, has been revised as follows:

 "...with the exception of the west side of Lafayette Street north of the Station..."
*However, this does not change the conclusions regarding environmental impacts.**
5. *As requested, the text in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, under the subheadings Intersections/City of Santa Clara/Level of Service with Santa Clara Station, has been revised and is shown below. The new text does not change the conclusions regarding environmental impacts.

 *"The level of service at three of the ten intersections will degrade to unacceptable levels due to regional traffic growth under the No-Action Alternative,"**
6. *The Comprehensive Countywide Expressway Planning Study and Implementation Plan was adopted on August 19, 2003 by the Santa Clara County Board of Supervisors. Although the study was not completed at the time the BART Alternative traffic studies were being conducted, the Tier 1A list of the study was used in the 2025 model.*

The text has been revised in Table 1.5-1, Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigation Measures, in Section 4.2.6.6 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures under the City of Santa Clara, and in Table 6.2-2, Summary of Impacts and Proposed Mitigation for the SVRTC Baseline and BART Alternatives, to state that VTA will provide a fair share contribution to traffic improvements at

locations where there is an adverse impact and no mitigation is feasible. The contribution will be made only if feasible traffic mitigation is identified and substantial funding is in place to construct the improvement. VTA will work with the County of Santa Clara (Note: the County is only added where a county facility is impacted) and the City of Santa Clara to develop an agreement at the time that the mitigation is required.

7. The text in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, under the intersection of El Camino Real and Monroe Street in the City of Santa Clara has been revised to reflect the analysis of the Santa Clara BART Station Transportation Impact Analysis:

The necessary improvement to mitigate the project impact at this intersection would consist of the addition of exclusive eastbound and westbound right-turn lanes on El Camino Real.

8. The text in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, has been revised to show the street names.

L3.14

Refer to response L3.4.

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L4

CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479 • www.ci.milpitas.ca.gov

May 5, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First Street, Bldg. B
San Jose, CA 95134-1927

Re: Draft Environmental Impact Statement/Environmental Impact Report
BART Extension to Milpitas, San Jose, and Santa Clara, CA

Dear Mr. Fitzwater,

Thank you for this opportunity to comment on the Draft Environmental Impact Statement and Environmental Impact Report (DEIS/EIR) for the proposed BART extension to Milpitas, San Jose and Santa Clara.

The proposed BART extension will significantly impact the character and services of the Milpitas community. With careful planning and analysis of impacts, the project is expected to be a significant enhancement for Milpitas and the Silicon Valley region.

Milpitas has dedicated substantial resources to prepare for the proposed BART extension. The Midtown Specific Plan provides the land uses, residential densities, and public improvements to encourage vibrant transit oriented development around the Montague Station. The Midtown Plan is in the implementation stage and is supported by considerable public and private investments, including significant redevelopment funds. The City created a station design alternative and will soon be initiating a transit area plan process for the station and surrounding area.

L4.1

The Montague station will be the major multi-modal station of the extension with its connection to light rail and buses and close proximity to two major freeways. The station must be carefully designed to enhance and complement the surrounding land uses and transportation corridors. Negative impacts must be aggressively and creatively addressed in project design and funding.

L4.2

Milpitas fully supports the development and operation of a second station located at the southwest quadrant of Calaveras and Milpitas Blvds. The DEIS/EIR should fully analyze the impacts of a second station located at the southwest quadrant of Calaveras and Milpitas Blvds. This will allow exploration of public/private partnership opportunities for this centrally located Milpitas station.

L4.3

The City of Milpitas has five major areas of concern regarding the DEIS/EIR:

- **Land Use/ Montague Station Design**, (City comment No. 21)
The Montague station design should maximize Transit Oriented Development (TOD) opportunities to most effectively use the public's capital investment in the BART extension and to implement the City's Midtown Plan. Specific design issues and areas of concern are: (a) minimizing property acquisition, (b) providing compact station footprints, (c) encouraging pedestrian and bicycle travel, (d) providing an urban transit experience with a plaza and transit-related retail, (e) providing aerial walkways to adjacent land uses to the southwest beyond the LRT and to the Great Mall, (f) optimizing the connection to the Great Mall with a walkway under Montague and a no-fee entry north of Montague if an aerial walkway is not constructed and (g) providing a bus transit center under the parking structure adjacent to Montague Expressway. L4.4

- **Dixon Landing Road Options**, (City comment Nos. 4 and 23)
Milpitas does not support the aerial option for the Dixon Landing Road alignment. The aerial option results in significant environmental impacts, including noise, vibration, and aesthetics, to residents and businesses in the area that cannot be mitigated. Additionally, the noise impacts of the aerial option would invalidate millions of dollars already invested by the City for soundwalls. Further analysis is needed to thoroughly evaluate the two non-aerial options. Given the information provided at this time, the City prefers the at-grade option with a design speed of 35 miles per hour if access to surrounding properties can be adequately addressed. L4.5

- **Railroad Issues** (City comment Nos. 29 through 31)
Milpitas recommends that the Union Pacific spur line, located north of Montague Expressway, be abandoned rather than relocated as proposed in the DEIS/EIR. Abandonment of the spur line would significantly reduce project costs, avoid disruption to the public park and private properties, and support future development of surrounding properties. L4.6

Milpitas supports relocating the railroad turnaround (“wye”) outside Milpitas. The proposed relocation north of Montague Expressway would negatively impact potential existing and future transit oriented development in the area.

- **Minimum Operating Segment (MOS)**, (City comment No. 2)
Significant parking impacts could occur at the Montague/Capitol station should the MOS still be in place past 2015. The DEIS/EIR states there will not be any parking impacts to the Capitol/Montague station in year 2015, because the station will be built to 2025 demand. A detailed year 2025 parking analysis under MOS conditions should be prepared analyzing "worst case" to verify that there will be adequate parking should the Berryessa Station be delayed beyond 2015. L4.7

- **Visual Quality and Aesthetics** (City comment No. 36)
The aerial option at Dixon Landing Road, will have significant and unmitigatable impacts on the aesthetics of the area and on views of Mission Peak and the Diablo Hills. Further analysis of these impacts needs to be provided. L4.8

The City's specific comments on the DEIS/EIR are as follows:

CHAPTER 1.0 EXECUTIVE SUMMARY

1. Section 1.5, *Impacts, Design Requirements/ Best Management Practices and Proposed Mitigation of SVRTC Alternatives* - Table 1.5.1
The BART Alternative would impact the existing floodplain/flood path and detention pond at Curtis Avenue. The DEIS/EIR should discuss the impacts to the detention pond and provide mitigation for loss of the detention pond located behind the Parc Metropolitan Development. L4.9
2. Section 1.6.3, *Minimum Operating Segment Scenarios*
Significant parking impacts could occur at the Montague/Capitol station should the MOS still be in place past 2015. The DEIS/EIR states, without supporting data and analysis, that there will not be any parking impacts to the Capitol/Montague station in year 2015, because the station will be built to 2025 demand. A detailed year 2025 parking analysis under MOS conditions should be prepared analyzing "worst case" to verify that there will be adequate parking should the Berryessa Station be delayed beyond 2015. The DEIS/EIR and site plan should be revised to reflect this situation and subsequent impacts on the ability to comply with TOD and smart growth principles of VTA's Best Practices Manual for the land area within a one-half mile radius of the station. Lessons have been learned from poorly designed BART stations in terms of parking in El Cerrito and Dublin/ Pleasanton. Those parking impacts are not addressed in the Milpitas stations. L4.10
3. **CHAPTER 3.0 ALTERNATIVES**
Section 3.2.2.2, *Regional Transportation Plan Improvements through 2025*
Table 3.2-4 references a "no action highway network" assumed by year 2025. Item No.13 in that table indicates the grade separation of Montague/Expressway/Capitol Avenue as a base assumption. Yet on page 4.2-36 the document states that the Montague Expressway/Great Mall Parkway (same intersection) will operate at an unacceptable level of service. The analysis is inconsistent and does not recognize that by 2025 the intersection is planned to be modified with a grade separation. L4.11
4. Section 3.4.1.1, *Segment 1 Planned BART Warm Springs to Trade Zone Boulevard, Alignment*
Milpitas does not support the aerial option for the Dixon Landing Road alignment. The aerial option results in significant environmental impacts, including noise, vibration, and aesthetics, to residents and businesses in the area that cannot be mitigated. Additionally, the noise impacts of the above grade option would L4.12

invalidate millions of dollars already invested by the City for soundwalls. Further analysis is needed to thoroughly evaluate the two non-aerial options.

The document should further consider the location of the sound wall to mitigate the noise and vibration impacts of the aerial option. The aerial alignment option should extend the soundwall to the south to mitigate potentially significant noise impacts to the adjacent mobile home parks inhabited by sensitive receptors (young and elderly populations) to the east. The City questions the conclusions of the DEIS/DEIR on noise impacts of the aerial option at Dixon Landing Road.

L4.12 cont.

Further information and analysis is necessary to evaluate the two non-aerial options. A matrix format explaining the advantages and disadvantages of each alternative's impacts is needed. Given the information provided at this time, the City prefers the at-grade option with a design speed of 35 miles per hour if access to surrounding properties can be adequately addressed. This may be accomplished by raising the grade of the railroad and BART by several feet. Also, for the At-Grade option, the clearance should be at least 16.5' to account for future resurfacing.

5. Section 3.6.4, *Parc Metropolitan Parkland Avoidance Design Option*
The last paragraph makes reference to Appendix C in discussing options to mitigate the impact to the proposed park at the end of Curtis. Appendix C does not contain any discussion of this issue. The correct cross-reference may be Section 7.6.3.1 (p. 7.6-15).

L4.13

6. Section 3.7.2, *Water Resources Related Projects*
The Berryessa Creek Flood Protection Project should be included in this section. This proposed project by the Santa Clara Valley Water District (SCVWD) may include the widening and raising of the railroad crossing at the Jacklin/Abel overpass.

L4.14

The City recently revised the location of a well to accommodate the BART alignment north of Montague by Curtis Avenue. Therefore, the BART alternative will not affect the ultimate location of the City well and pump facility. Fig. 7.5-1 should be revised to show the correct well and pump house location within the dedicated park.

L4.15

CHAPTER 4.0 ENVIRONMENTAL ANALYSIS
4.2 TRANSPORTATION & TRANSIT

7. 4.2.3.3, *Projected Rail and Bus Patronage in the Corridor*
Table 4-2.8 needs additional explanation and sources of estimates need to be stated. The mode share percentages drive the rest of the traffic analysis. It is difficult to understand how the park-n-ride percentage could be less than half any other station except Santa Clara.

L4.16

8. 4.2.5.1, *Existing Conditions*
The document refers to Escuela Road. The word Road should be changed to

L4.17

“Parkway”.

- | | | |
|-----|---|-------|
| 9. | 4.2.6.4 2025, <i>No- Action Alternative Street and Highway Conditions</i>
Table 4.2-20 summarizes the year 2025 “No action” intersection level of service by station, but does not identify improvements or which particular intersections were improved. The mitigation measure for the Montague Expressway/Milpitas Boulevard intersection stated there were no feasible improvements beyond what was identified in the year 2025 “No action” mitigation measures. Though Table 4.2-20 is a summary, the year 2025 “No action” improvements should be provided. | L4.18 |
| 10. | 4.2.6.6, <i>BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures</i>
The DEIS/EIR identifies a number of unmitigable impacts to various Milpitas intersections under both the two station and the one-station scenarios. The consistently identified reason that these impacts are analyzed as unmitigable is that there are no feasible mitigation measures due to "right-of-way constraints." The DEIS/EIR should identify what the constraints are (i.e., physical or financial constraints). Further, the DEIS/EIR should identify whether these constraints would render infeasible any mitigation measures, or whether there may be some mitigation measures that are feasible, and would reduce the impacts, even though this reduction may not rise to the level of rendering the impact less than significant. | L4.19 |
| 11. | Page 4.2-36 lists the intersection of Abel Street/Capitol Avenue as an impacted intersection. It is incorrectly shown as a four-way intersection though the existing intersection is a “T” design of Abel Street and Capitol Avenue. | L4.20 |
| 12. | Page 4.2-37 lists impacts and mitigation for the Calaveras Boulevard/Park Victoria Drive intersection. The traffic analysis shows an increase from 196 southbound left turning vehicles under existing conditions to 550 in year 2025 during the PM peak hour. The mitigation measure is to add one southbound left turn lane for a total of two. This increase is erroneous and should be recalculated. There is little, if any, growth projected to occur east of Park Victoria Drive. | L4.21 |
| 13. | Page 4.2-37 refers to impacts at the North Milpitas Boulevard/Jacklin Road intersection. The traffic analysis states that southbound PM peak hour left turns will increase from 316 under existing conditions to 641 under year 2025 conditions. This increase seems extraordinarily high. The DEIS/EIR states there are no feasible mitigation measures. However, City staff believes there are feasible geometric changes that will improve the traffic flows at this location. The east-west approaches are split phased, which could potentially be reconfigured to accommodate full phasing. Also, there is the possibility of constructing a second southbound left turn lane, as needed, in the future. | L4.22 |
| 14. | The DEIS/EIR contains tables summarizing freeway speeds and segment levels of service. Similar tables for all signalized intersections should be included. The tables should include existing delay and level of service as well as year 2025 “No | L4.23 |

action”, “Baseline” and “Build” alternatives.

15. The DEIS/EIR states in several sections that there are no feasible improvements beyond what is planned at impacted intersections along Montague Expressway. A potential alternative mitigation could contribute towards under funded projects to improve traffic flow along Montague Expressway (i.e., grade separations at Great Mall Parkway-Capitol Avenue, McCarthy Boulevard-O’Toole and Trimble Road). L4.24

16. Section 4.2.6.6 (Pages 4.2-36 to 39 and Table 6.2-2)
Specific comments for the impacted intersections within Milpitas for which mitigation is deemed infeasible are:

- Calaveras Blvd./Abel Street (With South Calaveras Station only): The document should address the need for a southbound free right turn lane for mitigation at this intersection. The City and VTA’s county-wide top priority for local streets and roads for VTP 2030 includes the widening of Calaveras Blvd. in this area. If the future BART Calaveras station is built, the project should contribute to the Calaveras widening project.
- Calaveras Blvd./Milpitas Blvd. (With Calaveras Station only): Third northbound and eastbound lanes are recommended as mitigation measures but may be infeasible. However, contribution to the planned widening of the Calaveras Blvd. overpass should be a mitigation. L4.25
- Milpitas Blvd./Jacklin Road: A second southbound left turn lane appears to be feasible and should be addressed in the document.
- Montague Expressway/Milpitas Blvd.: Further analysis should be performed to determine whether any feasible mitigation is possible at this location.
- Great Mall Parkway/Abel: An additional right turn lane appears to be possible mitigation and should be addressed in the document.
- Landess Ave./Dempsey Rd.: A fourth eastbound lane is considered an infeasible mitigation measure. The reason it is considered infeasible should be clarified. Other possible mitigation measures should also be addressed.

17. The DEIS/EIR should discuss the installation of high quality traffic signal interconnect as potential mitigation for those intersections which are noted to have no feasible mitigation measures. Adaptive traffic signal interconnect has been proven to reduce delays by 10 percent or more compared to time-of-day interconnect. L4.26

18. The technical memorandum, which forms the basis for the conclusions regarding impacts and needed mitigations for this section, should be included with Appendices of the document. **Attachment A** contains Milpitas' comments to the Traffic Impact Analysis Technical Memorandum that should be addressed in the Final EIS/EIR. L4.27

4.12 LAND USE

19. 4.12.2.1 *Existing Setting*
 Figure 4.12.2, page 4.12.3: South Calaveras (Future) Station Land Uses. If this figure is meant to describe existing land uses, rather than existing zoning, there are several items that must be corrected:

- The area east of Milpitas Boulevard and north of Calaveras Boulevard should be shown as PUBLIC/CIVIC/COMMUNITY CENTER only for the City Hall, Community Center and future Senior Center at the corner of Milpitas Boulevard and Calaveras Boulevard. The Town Center Shopping Center should be shown as General Commercial. The residential units at the north end of this area should be shown as MEDIUM-DENSITY RESIDENTIAL. L4.28
- The senior housing behind the Albertson's Market, west of Milpitas Boulevard and north of Calaveras Boulevard, should be shown as MEDIUM-DENSITY RESIDENTIAL.
- The area west of Milpitas Boulevard and south of Calaveras Boulevard should be shown as LIGHT INDUSTRIAL.
- The area between Abel Street and Railroad Avenue should be shown as MIXED USE-RESIDENTIAL/COMMERCIAL rather than HIGH-DENSITY RESIDENTIAL.

20. 4.12.2.2 *Regulatory Setting*
 On page 4.12.2, the third sentence of paragraph "South Calaveras (Future) Station Area", should be updated to say: "The station area is surrounded by Light Industrial uses including the UPRR Milpitas Yard, and other industrial uses. A new senior housing complex and a new Library will be located to the Northwest. Low, Medium and High Density Residential uses are located to the west of Railroad Avenue and to the north of the Beresford Shopping Center. The new Milpitas City Hall, Community Hall, and future Senior Center are located to the northeast. A small area of undeveloped land is situated directly south of Calaveras Boulevard." L4.29

21. *Transit Oriented Design. Figures B-8 through B-16. Montague/Capitol BART Station*
 The Montague station design should maximize TOD opportunities to most effectively use the public's capital investment in the BART extension and to implement the City's Midtown Plan. The city has worked with a consultant, to assist in this effort to identify design issues and areas of concern. In Appendix B, the L4.30

station design figures for the Montague/Capitol station should facilitate implementation of the design principles in VTA's Best Practices Manual. The following negative design characteristics found in Appendix B should be addressed in the FEIS/EIR:

- a. Surface parking located closest to the station that minimizes TOD opportunities and increases the distance pedestrians must walk, rather than a compact station design utilizing structured parking;
- b. Lack of connection to the existing light rail though this is a multi-modal station;
- c. Creating additional pedestrian and vehicle conflicts by requiring pedestrians traveling from the station to the south parking area to cross a vehicular access road;
- d. Greater noise and visual impacts by separating the bus transit center from the rest of the station rather than consolidating it with a parking structure adjacent to Montague; and,
- e. Providing no pedestrian connectivity to the Great Mall and other adjacent land uses.

L4.30 cont.

Milpitas developed an alternative design for the Montague/Capitol station as depicted in **Attachment B**. The plan will be further refined through a Transit Area Plan process that the City will initiate in the summer. The plan:

- a. Provides a parking structure adjacent to Montague and extending east to Gladding Court. This would minimize property acquisition south of the Milpitas Boulevard extension and east of Gladding court (other than the Milpitas Boulevard extension) and encourage the redevelopment of those properties;
- b. Provides a compact footprint that would encourage pedestrian and bicycle travel;
- c. Provides a more urban transit experience with a plaza and transit-related retail;
- d. Provides aerial walkways to the light rail station and adjacent land uses to the southwest;
- e. Optimizes connection to the Great Mall with walkway under Montague and a station entry north of Montague; and
- f. Provides a bus transit center under the parking structure adjacent to Montague.

L4.31

The DEIS/EIR should consider the alternative Montague station design plan so the TOD potential of the area surrounding the station can be maximized.

4.13 NOISE AND VIBRATION

22. Table 4.13-12, *BART Alternative Noise Barrier Mitigation Treatment for Residential Areas*

The noise and vibration mitigation measures should be re-evaluated to ensure that

L4.32

<p>the wall heights, lengths and placements are still valid after the elements of the alternative design plan for the Montague station, in city comment no. 21, are considered and incorporated into the project.</p>	L4.32 cont.
<p>23. Figure 4.13a, b and c, <i>Noise and Vibration Mitigation Locations</i> Only a portion of the mobile home parks are protected by the soundwall. Typically, the building construction of a mobile home allows more intrusion of noise than a standard residential dwelling. The noise analysis does not include the assumptions utilized to determine the noise reduction provided by the mobile homes.</p>	L4.33
<p>Additionally, the noise mitigation analysis should be revised to reflect comments 4, 21, 22 and 25. The placement, height and design of the soundwall should be revised to reflect this special type of use. In addition, the DEIS/EIR should consider other noise and vibration mitigation measures such as enhanced window glazing, special foundations, insulation, etc.</p>	L4.34
<p>24. Section 4.13.4.2, <i>Existing Vibration Conditions</i> On page 4.13-49 the discussion of Site SV1 states that Dixon Landing Road runs parallel to the BART alignment. Dixon Landing runs perpendicular to the BART alignment. In reviewing Figure 4.13-6, the reference to Dixon Landing may have been intended to be a reference to Calaveras.</p>	L4.35
<p>25. The technical memorandum, which forms the basis for the conclusions regarding impacts and needed mitigations for this section, should be included with Appendices of the DEIS/EIR. Attachment C comments to the Noise and Vibration Technical Memorandum. Please respond to these issues raised by HMM.</p>	L4.36
4.14 SECURITY & SYSTEM SAFETY	
<p>26. The BART system has a full service Police Department that responds and handles crime for all their facilities. A maximum response time as well as scheduling should be coordinated with the City of Milpitas Police Department to actively patrol the facility with high visibility and frequency.</p>	L4.37
<p>27. Since there is no BART police facility south of Hayward, a facility should be built close to or in the City of Milpitas. If a facility is created in the Milpitas area, the City should be closely involved in security design.</p>	L4.38
<p>28. BART should use innovative safety technology such as communication devices, cameras, and lighting, to ensure safety in its facilities.</p>	L4.39
4.15 SOCIOECONOMICS	
<p>29. Section 4.15.3, <i>Impact Assessment and Mitigation Measures Impacts</i> Pages 4.15-13 indicate the TPSS #3 Bulk Substation/Switching Station would remove 13 parking spaces from the Wrigley Creek Industrial Park. Approximately 75 spaces would remain. Building B of the Wrigley Creek Industrial Park requires 66 spaces as an office/warehouse use. A variance is not required unless the existing office/warehouse use is changed to a higher intensity use.</p>	L4.40

- 30. Spur Line Relocation**
 Milpitas recommends that the Union Pacific spur line, located north of Montague Expressway, be abandoned rather than relocated as proposed in the DEIS/EIR. Essential services to existing spur line customers should be compensated. Abandonment of the spur line would significantly save project costs, avoid disruption to the public park and private properties, and support future development of surrounding properties.
- L4.41
- Additionally, the spur line would remove driveways and 60 to 70 parking spaces behind Building B of the Milpitas Town Center Industrial Park (542-568 Gibraltar Drive). The site would be left with insufficient parking and no alternative parking options. To provide adequate setbacks required by BART, the spur line may even require the acquisition of Building B in its entirety. The relocation of the spur line in Milpitas would also limit the future redevelopment potential of this area.
- The spur line relocation would require construction of a replacement drainage detention basin that would remove parking spaces from the Great Mall. A 20 foot take would remove approximately forty parking spaces at the north end of the parking lot. A mitigation measure should be included to address the loss of parking.
- L4.42
- This spur line relocation would also take a portion of the future City park at the end of Curtis Avenue on the north side of the Parc Metropolitan subdivision. The DEIS/EIR, pages 7.6-15, proposes to implement one or a combination of four alternatives. The City proposes that VTA pay an in-lieu fee to Milpitas equivalent to the cost of the development of a replacement parkland area.
- L4.43
- 31. Milpitas supports relocating the railroad turnaround (“wye”) outside Milpitas. The proposed relocation north of Montague Expressway would remove 50 to 60 parking spaces and all or part of an industrial building off Gibraltar Drive and would negatively impact potential existing and future transit oriented development in the area. Further, the location of the Traction Power Substation and Train Control Building just north of Montague should be moved so as not to be in conflict with future development in the area--possibly over the BART retained cut.**
- L4.44
- 4.16 UTILITIES**
- 32. The DEIS/EIR should include the following information:**
- Assurance that improvements at the proposed park on the north side of the Parc Metropolitan Subdivision will not impact the ability of the future public well to meet State guidelines for municipal service. L4.45
 - Permits may be needed from San Francisco Public Utility Commission for crossing the Hetch Hetchy pipeline. L4.46
 - A description of how garbage and recycling services at stations will be managed. L4.47
 - A discussion of whether stations will have water and sewer connections with L4.48

<p>a description of sources (SFPUC or SCVWD). Milpitas utility engineering staff should be consulted.</p>	<p>L4.48 cont.</p>
<ul style="list-style-type: none"> • New landscaping, within 1000 feet of either side of Curtis Avenue, shall be irrigated with recycled water. 	<p>L4.49</p>
<ul style="list-style-type: none"> • New landscaping shall meet City water conservation requirements (Ordinance 238). 	<p>L4.50</p>
<ul style="list-style-type: none"> • Sanitary wastewater discharge during construction and/or any permanent connections shall be subject to permit by the San Jose/Santa Clara Water Pollution Control Plant. 	<p>L4.51</p>
<ul style="list-style-type: none"> • Stormwater NPDES permit C3 requirements must be met. Milpitas Stormwater C.3 Guidebook criteria should be used to comply. 	<p>L4.51</p>
<p>4.17 VISUAL QUALITY & AESTHETICS</p>	
<p>33. <i>Dixon Landing aerial option</i> The aerial option at Dixon Landing Road, will have significant and unmitigatable impacts on the aesthetics of the area and on views of Mission Peak and the Diablo Hills. Additionally, the Dixon Landing Road/I-880 interchange is a key entry point to the City of Milpitas. The first impression on arriving to Milpitas at that gateway should be the beauty of the foothills and not an aerial structure. Further analysis of these impacts needs to be provided.</p>	<p>L4.52</p>
<p>34. <i>Montague/Capitol BART Station design (Figure 4.17-22).</i> It is acknowledged that the elevation shown in Figure 4.17-22 is preliminary. However, it can be used as a beginning point for discussions about station design. Milpitas encourages positive design elements, such as a sense of openness and use of glass modeled after the new Milpitas city hall.</p>	<p>L4.53</p>
<p>The station is an important multi-modal facility that integrates BART, light rail, busses, automobiles, bicycles, and pedestrian traffic. It should be designed as a regional transportation hub that integrates all of its functions seamlessly and attractively. With this in mind, future station renditions should consider the following:</p>	
<ul style="list-style-type: none"> • Visual interest. The overall design should be interesting and incorporate public art and/or elements related to Milpitas’ surroundings and context such as the hills to the east. • Industrial tech design. The overall design has an industrial-tech aspect to it which is part of the Milpitas fabric, but as presented, is cold and uninviting. Colors, textures and warm materials should be incorporated into the design. • Cookie-cutter round rotunda. The rotunda similarly is cold and uninviting. The entry should be an inviting, warm space that welcomes and integrates passengers using BART, light rail, busses, automobiles and bicycles. • Parking garage. The parking garage should be integrated into the design rather than an unrelated stand-alone structure. The parking garage should have an attractive street frontage and be attractive to the commercial uses that will 	<p>L4.54</p>

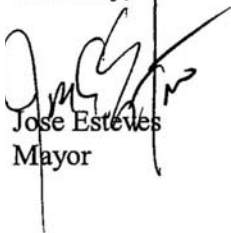
<p>develop on surrounding properties to the north, east and south.</p> <ul style="list-style-type: none"> • Transit-Oriented Design. The design should incorporate commercial and civic uses and structures to provide for an attractive, vibrant TOD mixed-use station at the core of a Transit Area Plan and increase ridership potential. It should incorporate elements of the VTA’s Best Practices Plan. • Connection to surrounding areas. The station should provide for all modes of connections to surrounding residential uses, commercial uses and the Great Mall. 	<p>L4.54 cont.</p>
<p>4.18 WATER RESOURCES, WATER QUALITY & FLOODPLAINS</p>	
<p>35. Section 4.18.4.4, <i>Design Requirements and Best Management Practices</i> The DEIS/EIR should evaluate the impacts to the project if construction starts prior to completion of the Santa Clara Valley Water District (SCVWD) and Corps of Engineers creek improvement projects. The DEIS/EIR should consider that flood hazards depicted on federal flood maps may not be eliminated before the BART project is completed.</p>	<p>L4.55</p>
<p>36. Figure A-17, <i>Creek Crossing</i> The DEIS/EIR should acknowledge that the crossing design must be consistent with SCVWD plans to enlarge the capacity of the creek. A bypass channel under the railroad or a straightening of the “S” Curve in the creek is being considered. The ability to perform this portion of the creek modifications will be very important in developing a cost effective and environmentally prudent project.</p>	<p>L4.56</p>
<p>4.19 CONSTRUCTION</p>	
<p>37. More specific information should be provided regarding the timing and duration of the potential closure of Dixon Landing Road during construction (page 4.19-30). For instance, is a shorter closure of Dixon Landing Road possible in the order of three to four months and what advantages and disadvantages does that entail? The pros and cons of this possible construction scenario should be compared for each option – including impacts on the residential and business community.</p>	<p>L4.57</p>
<p>The following information should be included in the FEIS/EIR:</p>	
<ul style="list-style-type: none"> • Construction and demolition (C&D) materials should be recycled as much as possible instead of advisory disposal at the landfill. A demolition recycling plan, including materials to be salvaged, how materials will be processed, intended locations for reuse, and quantity estimates in tons (both recyclable and landfill disposal) must be submitted in accordance with the City’s Demolition Recycling Report Process guidelines. • Recycled water must be used for dust control. • Groundwater from dewatering must be captured and tested prior to discharge (in accordance with City and State requirements). • The condition of local road pavement should be assessed prior to construction to 	<p>L4.58</p>

<p>document damage due to heavy construction traffic.</p> <ul style="list-style-type: none"> • The DEIS/EIR should discuss the impact of construction trucks and material deliveries • Affected users should be notified prior to any utility shutdowns. 	L4.58 cont.
<p>The DEIS/EIR should address the issue of worker safety (as required by Cal OSHA) to educate and protect employees working on site who may be in contact with contaminated water and/or soils.</p>	L4.59
<p>CHAPTER 7.0 DRAFT SECTION 4(f) EVALUATION</p>	
<p>38. Section 7.4.1, <i>Parc Metropolitan Development Parkland</i> The description of the park is inaccurate; it is not an “L” shaped parcel. The City well and pump house should be shown within the dedicated park.</p>	L4.60
<p>39. Section 7.6.2 should be expanded to include, as a way to avoid the taking of public parkland at Curtis Ave. (and also the private park/detention basin and Great Mall property to the south), that consideration should be given to abandoning the spur lines entirely. This action would require adequate replacement of the service to existing customers along the lines to the east. It also has the potential to be a very cost efficient alternative.</p>	L4.61
<p>NO COMMENT</p>	
<p>40. The City does not have comments for the following environmental impacts reviewed in the report</p> <ul style="list-style-type: none"> • 4.3 AIR QUALITY • 4.4 BIOLOGICAL RESOURCES • 4.5 COMMUNITY SERVICES & FACILITIES • 4.6 CULTURAL & HISTORIC RESOURCES • 4.7 ELECTROMAGNETIC FIELDS • 4.8 ENERGY • 4.9 ENVIRONMENTAL JUSTICE • 4.10 GEOLOGY, SOILS & SEISMICITY • 4.11 HAZARDOUS WASTE 	

The Milpitas City Council reviewed and approved the previous comments on the DEIS/EIR. The City looks forward to continuing to work on the BART extension project and is committed to supporting the project through appropriate land use planning and capital project endeavors.

If you have any questions or concerns regarding our comments, please contact Joe Oliva
408-586-3290.

Sincerely,



Jose Esteves
Mayor

Attachments:

- A. Comments on the Traffic Impact Analysis Technical Memorandum
- B. Alternative Montague/Capitol station design
- C. Comments on the Noise and Vibration Technical Memorandum

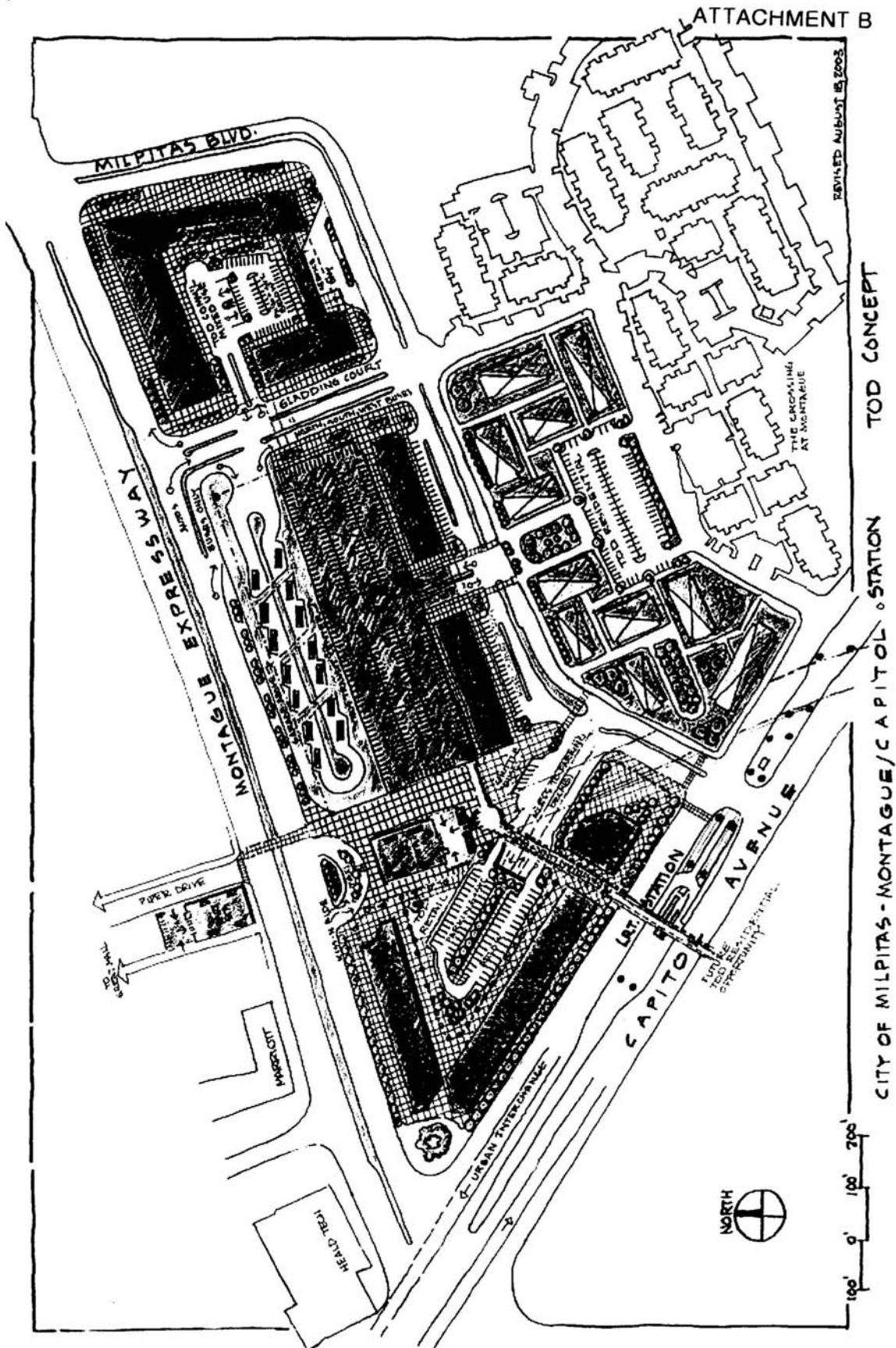
Cc: City Council
Planning Commission
BART Team

**Comments on the Technical Memorandum,
Milpitas Stations Traffic Impact Analysis
For SVRTC DEIS/EIR Alternatives**

April 23, 2004

The BART DEIS/EIR document is not adequately detailed for a full analysis, so the background Traffic Study by Hexagon dated May 2003 was also reviewed.

- ❖ Table 7 shows grade separation at Montague Expressway/Capitol. Several places in the text following this table show LOS F for the Great Mall Parkway/Montague intersection (same intersection). Need to revise the text and figures where these references are made, and possibly the LOS calculations and results for this intersection. L4.62
- ❖ The report states there is a proposed 1,500 stall parking lot. Comparing Table 4.2-7 in the BART DEIR, which shows 22,574 boardings and alighting, and Table 4.2-8 which shows 15% Park-n-ride percent, does not match. It is not clear if there are 200 stalls short of need, or if the difference can be explained by varying arrivals and departures throughout the day. More explanation is needed. L4.63
- ❖ Under trip generation, the text states 15% of daily trips occur in the AM peak, and this is the highest peak. Table 13 shows 16.5% in the AM peak: the inbound number is 15%. The PM peak is equal to the AM peak but reversed, not less than 15% as the text suggests. It appears the analysis is conservative. No response to this comment is required. L4.64
- ❖ Page 51 says 55% of trips would access the site from freeways but Figure 15 shows 70% using the freeways. It appears this is just a typo but it should be checked if it affects the analysis. L4.65
- ❖ The access analysis that starts on Page 78 needs to be greatly expanded. The Montague Expressway/Milpitas BI/Access drive is shown with LOS F, yet there is no discussion of shifting primary access to Capitol. The alternative access at Gladding Court is mentioned but not discussed as a potential mitigation to the LOS F at Montague Expressway/Milpitas BI/Access drive. The Capitol Ave/New Driveway LOS is not reported. The close spacing between the Capitol Ave/New Driveway and Capitol/Great Mall/Montague intersections needs to be discussed, especially if there may be grade separation of the Capitol/Great Mall/Montague intersection. L4.66



**Comments on the Technical Memorandum,
Noise and Vibration Impact Analysis for
SVRCT DEIR/EIS Alternatives
April 23, 2004**

The City of Milpitas has retained the services of RBF Consulting to perform a peer review of the *Noise and Vibration Impact Assessment for the Silicon Valley Rapid Transit Corridor* prepared by Harris Miller Miller and Hanson (HMMH). In addition to providing a peer review, RBF has conducted three short-term noise measurements to validate the accuracy of the measurements conducted by HMMH.

The overall analysis of the report is technically sound, and in most places follows the standard criteria and practices associated with acoustical impacted analyses for rail projects. However, there are a few areas that still require clarification or additional analysis. In an effort to prepare a concise review for the City, each comment is annotated and associated with a specific page number or impact area. The following are areas that require additional analysis:

L4.67

Parking Areas:

1. There does not appear to be any analysis of parking lots or park-n-ride lots.

Grade Crossings:

2. There does not appear to be any analysis of train horns or crossing gates.

Bus Noise:

3. Page 37, Section 3.4 – *Noise Impact Assessment*, doesn't appear to include an analysis of bus noise at the station(s).
4. Page 73, Table 13 – *Summary of Residential Noise Impact Caused by Stations and Ancillary Facilities using FTA Criteria*, identifies impacts for buses at the stations. It isn't clear where this is discussed in the report.

Train Noise Projections:

5. Page 33, Section 3.3.2 – *BART Alternative Train Noise Projections*, doesn't appear to address train noise in the stations.
6. Pages 35 and 36, there is no information with which to verify the accuracy of Figures 6 – *Projected 24-Hour Noise Exposure From BART Operations*, Figure 7 – *Projected Peak Hour Noise Exposure From BART Operations* and Figure 8 – *Projected Maximum BART Noise Levels*.

7. Page 37, Section 3.4.1.1 – *New Starts Baseline Approach*, there doesn't appear to be any assessment of noise impacts relative to the Federal Highways Administration/Caltrans criteria.
8. In Table 11 - *Summary of BART Residential Noise Impact Without Mitigation Using FTA Criteria*, some or all of the FTA criteria appear to be incorrect based on the existing noise levels. The column headings under "Noise Level" are incorrect. They should be "Existing" and "Project" rather than "Impact" and "Severe". The project levels in Table 11 do not appear to correlate with Figure 6. Some are lower than would be predicted by Figure 6 (possibly because of unexplained barrier effects) and some are higher (for reasons unexplained).
9. There does not seem to be any obvious correlation between Table 11 and Table 12 - *Summary of BART Residential Noise Impact Without Mitigation Using BART Design Criteria*. Table 11 is based on Figure 6 plus some unknown factor (see Comment #12, above), and Table 12 is based on Figure 8. The curves in both figures are the same shape (up to a track distance of about 200 feet) and show train noise decaying at the same rate (i.e., 3 dB per doubling of distance). Therefore, one would expect the Project noise levels in Table 12 to be 16 dB higher than those in Table 11 (i.e. this is the difference between L_{max} and L_{dn} in the two figures). Yet this is frequently not the case throughout the report.
10. Page 67, under the heading "Kato Rd. to Dixon Landing Rd. (BART At Grade Option)," the number of impacted homes appears to be incorrect. The correct number appears to be 12, not 15.
11. Page 67, under the heading "Dixon Landing Rd. to Jurgens Dr. (BART Aerial Option)," the number of impacted homes appears to be incorrect. There appear to be 8, not 0, homes impacted under the BART Design Criteria.
12. Page 69, the L_{dn} 's for the substations do not appear to have been calculated properly. For example, for Substation Site #4 the 1-hour L_{eq} is $[99-20*\text{Log}(200/50)-35.6] = 51.4$ dBA using the formula from Page 36. Using the FTA guideline, the L_{dn} is $[10*\text{Log}((15*\text{antilog}(51.4/10)+9*\text{antilog}((51.4+10)/10))/24) = 58$ dB. The report states 53 dB. If there are barrier or ground effects involved, they are not explained. Also, the report doesn't identify the existing ambient noise level so the assessed impact cannot be verified.
13. Page 69, the L_{max} 's for the substation do not appear to have been calculated using a reference level of 63 dBA at 50 feet, as specified in the FTA guide. For example, the L_{max} from Substation #4 should be 51 dBA not 48 dBA.
14. Page 70, the L_{dn} 's and L_{max} 's for the bulk substations do not appear to be calculated properly. Refer to Comments #11 and #18, above.

L4.67
(cont.)

15. Page 72, the L_{dn} 's calculated for the vent shafts do not appear to be correct. Refer to Comment #17, above.
16. Page 72, the computations for L_{max} levels due to the vent shafts cannot be verified since a reference noise level is not provided in either the report or the FTA guide.
17. Page 72, no analysis is provided for the emergency generators, especially with regard to low frequency noise.
18. On Page 74, Section 3.4.2.8 – *Traffic Noise Impact Assessment*, the traffic analysis only appears to address project traffic on its own, without considering its contribution to the overall traffic noise levels in the area. That is, the project traffic by itself may not generate an L_{eq} of 67 dBA, but it may be sufficient to increase existing traffic noise to a level that approaches or exceeds 67 dBA. L4.67 (cont.)
19. On Page 84, in Section 4.1.3.1 – *Surface Vibration Tests Results*, the text doesn't appear to correlate with Figure 12 – *Site SV1 Surface Line Source Transfer Mobilities*, Figure 13 – *Site SV2 Surface Line Source Transfer Mobilities*, Figure 14 – *Site SV3 Surface Line Source Transfer Mobilities* and Figure 15 – *Site SV4 Surface Line Source Transfer Mobilities*.

NOISE MEASUREMENT VALIDATION

In order to validate the HMMH measurements taken by HMMH in the Milpitas area, RBF Consulting conducted noise measurements in April 9, 2004 (refer to Appendix A - *Noise Measurements*). The noise measurement sites were taken in three of the HMMH sites and are representative of typical existing noise exposure within and immediately adjacent to the Project site. Noise monitoring equipment used for the ambient noise survey consisted of a Larson Davis Laboratories Model LDL 820 sound level analyzer equipped with a Larson Davis random incidence Type 2561 microphone. The instrumentation was calibrated prior to use with a Larson Davis CAL250 acoustical calibrator to ensure the accuracy of the measurements, and complies with applicable requirements of the American National Standards Institute (ANSI) for Type I (precision) sound level meters. Based upon the results in Table 1 – *Noise Measurements*, it appears that the HMMH measurements are valid and comply with standard acoustical practices.

**Table 1
NOISE MEASUREMENTS**

Site	Location	Time¹	RBF Leq	HMMH Leq	Difference (dBA Leq)
1	722 Main Street (HMMH Site LT6)	2:48 p.m.	49.0	50.1	1.1
2	186 Beresford Court (HMMH Site LT5)	2:05 p.m.	58.3	53.1	5.2 ²
3	231 Dixon landing Road (HMMH Site LT1)	12:18 p.m.	50.1	57.1	7.0 ³
Source: Noise Monitoring Survey conducted by RBF Consulting, April 9, 2004.					
1 – The time given in this column is for the RBF measurement. The corresponding time for the HMMH measurement was gathered from the Technical report Appendix.					
2 – There was construction activity occurring nearby Site 2 the day RBF conducted noise measurements. Thus, this measurement is could be higher than typical ambient conditions.					
3 – The previous HMMH measurement from 11A to 12P was 50.7 dBA. Thus this measurement is within tolerances.					

RESPONSE TO COMMENT LETTER L4

City of Milpitas (May 5, 2004)

- L4.1** *VTA will coordinate with the City of Milpitas to develop plans for areas surrounding the Montague/Capitol Station site to include transit-oriented development (TOD).*
- L4.2** *VTA will coordinate with the City of Milpitas to design the Montague/Capitol Station to compliment surrounding areas and transportation corridors.*
- L4.3** *The EIS/EIR includes an analysis of the South Calaveras Future Station. VTA staff have recommended moving forward with all the three design options at this location into the Preliminary Engineering phase of the project. Refer to Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, and Figure 4.2-1, Milpitas – South Calaveras Future Station 2025 BART Alternative Level of Service Conditions.*
- L4.4** *Design details for the Montague/Capitol Station will be developed during the Preliminary Engineering and Final Design phases of the project. VTA will work with the City of Milpitas on the design elements outlined in the comment; however, no commitments can be made at this time to include any specific element. VTA supports the city's desire to maximize TOD opportunities associated with this station location.*
- L4.5** *At its May 26, 2004 meeting, the Silicon Valley Rapid Transit Corridor Policy Advisory Board (PAB) recommended the Dixon Landing Alignment Retained Cut Option for the BART crossing at Dixon Landing Road. This action was taken to address concerns expressed by the City of Milpitas and local residents regarding the Dixon Landing Alignment Aerial Option*
- L4.6** *At this time, a locomotive wye to accommodate turning UPRR freight trains is required for the BART Alternative. Because of the need to accommodate the needs of currently active shippers and businesses with shippers rights, it has not been determined that abandoning the wye is viable or that it would reduce project costs. Two options for the location of this wye are included in the project description, one in the City of Milpitas and one in the City of Fremont. Both options for the wye location will be carried through the environmental process. The final location will be determined during the Preliminary Engineering phase of the project. VTA will work with UPRR, the City of Milpitas, the City of Fremont, and other interested stakeholders through Preliminary Engineering to determine the best location for the locomotive wye.*
- L4.7** *VTA is pursuing the full-build BART Alternative for the year 2025, and will not be considering any 2025 Minimum Operating Segment (MOS) as a final operating alternative (MOS-1E or MOS-1F). An MOS alternative would be considered as a potential initial operating phase prior to construction of the full-build BART Alternative. As stated in 3.4.9, Minimum Operating Segment Scenarios, all facilities under the BART Alternative would be completed within three years of initial MOS-1E and 1F phase start-up.*
- L4.8** *Refer to response L4.5. The visual effects of the three options for the BART Alternative crossing of Dixon Landing Road are discussed in Visual Quality and Aesthetics, Section 4.17.3.1, Impacts. In addition, Figure 4.17-19, Dixon Landing Road – Aerial Option, depicts the aerial option as it crosses over Dixon Landing Road. The analysis in Section 4.17.3.1 for the Dixon Landing Alignment Aerial Option states that this option would*

result in some view blockage of views to the east of the Diablo Range. However, views from this location are presently minimal and the view blockage would not be substantial.

L4.9 VTA plans to acquire a portion of the detention basin along the east edge of the Parc Metropolitan Development. While this acquisition will reduce the width of the detention basin, the length of the remaining detention basin will be extended along the BART alignment to the south to maintain existing capacity. Consequently, the net storage volume of the detention basin will remain unchanged. As the change in the configuration of the detention basin will not impact existing conditions, and there will be no loss of the detention basin, no mitigation is required.

Also refer to the response to Comment P30.7 regarding the floodplain in the Great Mall area.

L4.10 Refer to response L4.7.

L4.11 The traffic impact analysis was based on a more conservative worst-case assumption that the grade separation project would not be completed by the year 2025.

L4.12 Refer to response L4.5. A comparison of the three options was provided to the PAB meeting on May 26, 2004, as Agenda Item #4. The pros and cons of the options are reiterated below.

Pros and Cons

The following summary highlights some of the key pros and cons between the three alignment options:

<p><i>BART Aerial Option</i></p> <p><u>Pros:</u></p> <ul style="list-style-type: none"> • Allows Dixon Landing Road to remain at-grade. • The overall cost for this option is significantly less than the others. <p><u>Cons:</u></p> <ul style="list-style-type: none"> • UPRR tracks would remain at-grade, which is a concern for the City of Milpitas. • Greater noise impacts, which can be mitigated with a sound wall. • Higher vertical profile (25 feet) would create a perceived visual impact on adjacent residential, although, use is compatible with existing railroad corridor.
<p><i>BART Retained Cut Option</i></p> <p><u>Pros:</u></p> <ul style="list-style-type: none"> • Allows Dixon Landing Road to remain at-grade. <p><u>Cons:</u></p> <ul style="list-style-type: none"> • This option has the highest cost overall, requiring excavation of a long retained cut for BART and a new roadway bridge structure for Dixon Landing Road; costs approximately \$11.2 million more than the aerial option and \$2.4 million over the at-grade option. • Leaves the UPRR tracks at-grade, which is a concern for the City of Milpitas.
<p><i>BART At-Grade Option</i></p> <p><u>Pros:</u></p> <ul style="list-style-type: none"> • Dixon Landing Road would pass under both the BART and UPRR tracks, eliminating a UPRR at-grade crossing of a busy arterial street. <p><u>Cons:</u></p> <ul style="list-style-type: none"> • The cost for this option is somewhat less than the Retained Cut Option (\$2.4 million),

but significantly more than the Aerial Option (\$8.8 million).

- *The design speed on Dixon Landing Road, a major arterial, would be lowered from 40 miles per hour to 25 miles per hour.*
- *Access points to several nearby parking lots, including a driveway for an apartment complex directly east of the BART alignment and north of Dixon Landing Road, would be closed and/or consolidated with alternative access points.*
- *Retaining walls would be constructed for the underpass to accommodate the widening of Dixon Landing Road from four to six lanes (which is planned by the City of Milpitas), affecting businesses along Milmont Drive and apartment residences and a mobile home park on Dixon Landing Road east of the BART line.*
- *The intersection of Dixon Landing Road and Milmont Drive would need to be lowered and sloped, requiring retaining walls on the east side of Milmont Drive and a transitional roadway section.*

L4.13 *Appendix C has been revised to include two letters of correspondence between VTA and the City of Milpitas. The first letter is from VTA dated December 23, 2002 and was directed to Tom Wilson, City Manager of the City of Milpitas. The second letter is from the City of Milpitas dated January 28, 2003 and was directed to Michael P. Evanhoe of VTA.*

L4.14 *VTA acknowledges that the Santa Clara Valley Water District (SCVWD) is planning the Berryessa Creek Flood Protection Project within the BART Alternative project area. The Berryessa Creek Flood Protection Project includes the joint SCVWD/U.S. Army Corp of Engineers Berryessa Creek Project and the Lower Berryessa Creek Flood Protection Project (aka Berryessa Creek Levees Project). Section 3.7.2, has been revised to include the Berryessa Creek Flood Protection Project as follows:*

Joint SCVWD/U.S. Army Corp of Engineers Berryessa Creek Project.

The SCVWD is studying various alternatives to increase the conveyance capacity of Berryessa Creek from Calaveras Boulevard to Old Piedmont Road in San Jose to provide flood protection to the surrounding area from a 100-year flood event. Project features include setback levees and flood walls. The Montague/Capitol Station for the BART Alternative is in the vicinity of the flood control protection project.

Lower Berryessa Creek Flood Protection Project (Berryessa Creek Levees Project).

The SCVWD is studying various alternatives to increase the conveyance capacity of Berryessa Creek to provide flood protection to residents, businesses, and public facilities in Milpitas and San Jose from a 100-year flood event. The alternatives under consideration include increasing levee heights, replacing one levee with a flood wall, widening Berryessa Creek, straightening the double 90-degree curve at the railroad crossing, and constructing a bypass channel. The project also includes channel improvements on Calera Creek to mitigate against the increased water surface elevation created by the improvements on Berryessa Creek.

The BART Alternative would pass over Berryessa Creek on a new bridge. New at-grade bridges would also be constructed over Calera Creek and Berryessa Creek for the UPRR.

The Jacklin/Abel overpass is within the Lower Berryessa Creek Flood Protection Project

area. As stated in the comment, the railroad crossing at the Jacklin/Abel overpass may be widened and raised as part of the flood protection project; however, Preliminary Engineering for the BART Alternative indicates that raising the railroad crossing is not possible due to restrictions between the top of rail and overhead obstructions. However, the BART Alternative will be designed to accommodate the widening of Berryessa Creek at the Jacklin/Abel crossing.

As stated in Water Resources, Water Quality, and Floodplains, Section 4.18.4.4, Design Requirements and Best Management Practices, under the subheadings BART Alternative/Floodplains, VTA will coordinate with local flood control agencies, including SCVWD, to ensure the flood control projects and the BART Alternative are designed appropriately.

L4.15 Figure 7.5-1, Property Acquisition of Dedicated Parkland for BART Alternative, has been revised to show the correct well and pump house location within the dedicated park.

L4.16 The source of information provided in Table 4.2.8, Mode of Access at BART Alternative Stations, is output generated by the patronage models. Park-and-ride trips are calculated by the patronage model, as are the other station access and egress modes including transfers from transit, trips made by walking to the station, and kiss-and-ride drop-off trips. Park-and-ride demand is dependent on a variety of factors such as the markets that are being served, access to the station from major roadway facilities, parking charges, and the amount of competing access modes to the station such as feeder bus and light rail service. In addition, BART end-of-the line stations typically receive higher park-and-ride demand than mid-segment stations. For the BART Alternative, the highest park-and-ride demand stations (Alum Rock, Berryessa, and Diridon/Arena) tend to operate like de facto end of the line stations due to the configuration of the alignment. In addition, the Montague/Capitol Station is well served by the Tasman East/Capitol Light Rail and local and express feeder buses, which may be contributing to the results of the park-and-ride estimates for that station.

L4.17 The text "Escuela Road" has been changed to "Escuela Parkway" in Transportation and Traffic, Section 4.2.5.1, Existing Conditions.

L4.18 The requested information concerning the No Action Alternative intersection improvements is included in the Milpitas BART Stations Transportation Impact Analysis Report, pages 37-43 (Hexagon Transportation Consultants, Inc., May 2003). The Report is available by contacting VTA Environmental Planning Department, and was not included in an attempt to reduce the overall size of the Draft EIS/EIR.

L4.19 The term right-of-way constraints, as it applies to this EIS/EIR, refers to a property take that would affect the viability of continuing the existing land use activity. Examples of this include demolition of part or all of a commercial business structure and removal of parking critical to a business. In the Draft EIS/EIR, small strips of property or "sliver takes" were not considered right-of-way constraints. Removal of street parking was similarly not considered a right-of-way constraint. Financial constraints were not a consideration of mitigation feasibility. Therefore, feasible mitigation measures were considered at each of the intersections.

The text has been revised in Table 1.5-1, Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigation Measures, in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, and in Table 6.2-2, Summary of Impacts and Proposed Mitigation for the

SVRTC Baseline and BART Alternatives, to show the following additional text for adversely impacted intersections for which no feasible mitigation was found:

However, VTA will provide a fair share contribution to traffic improvement at this location. The contribution will be made only if feasible traffic mitigation is identified and substantial funding is in place to construct the improvement. VTA will work with the County of Santa Clara (Note: the County is only added where a county facility is impacted) and the City of Milpitas to develop an agreement at the time that the mitigation is required.

L4.20 *The comment appears to be referring to the Milpitas BART Stations Transportation Impact Analysis Report, since the EIS/EIR does not show this intersection as a four-way intersection. The traffic impact analysis report treated this location as a four-way intersection; however, if it were remodeled as a T-intersection the level of service would improve. Therefore, this would not change the conclusions of the traffic analysis.*

L4.21 *The best available travel demand models and land use projections were used to develop the information used for the traffic impact analysis. During the Preliminary Engineering phase of the project, the need for mitigation at this location will be reevaluated. If further analysis concludes that no mitigation is necessary, and this is supported by a subsequent environmental document, then no mitigation would be provided.*

L4.22 *The traffic volume forecasts are based on the latest data available as provided in the Milpitas BART Stations Transportation Impact Analysis Report. Also, as stated in the text, "The addition of a second southbound left-turn lane is not feasible due to ROW constraints." Refer to L4.19 regarding an explanation of right-of-way constraints. Implementation of an alternative signal-phasing plan should be considered by the city in coordination with other intersections to best serve city-wide needs.*

L4.23 *The information requested was not included in the EIS/EIR because of the large number of study intersections (121). A summary of impacts is provided in the EIS/EIR. The complete list of level of service ratings for each intersection is available in the Milpitas BART Stations Transportation Impact Analysis Report.*

L4.24 *The suggestions for grade separations at along Montague Expressway at Great Mall Parkway/Capitol Avenue, McCarthy Boulevard/O'Toole Avenue, and Trimble Road are major capitol improvement projects. As evident in comparing the Milpitas BART Stations Transportation Impact Analysis Report, Figure 16, 2025 Montague/Capitol Station Only Trips with Figure 21, Montague/Capitol Station 2025 BART Extension Traffic Volumes, the BART Alternative represents only a small fraction of the total traffic traveling through these intersections. In addition, the BART Alternative, by providing an alternative transit mode, would also be reducing traffic within the City of Milpitas. A partial contribution to a major unfunded capitol improvement project was not considered a mitigation measure that would guarantee that impacts would be reduced to a less than significant level. However, the text has been revised in Table 1.5-1, Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigation Measures, in Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, and in Table 6.2-2, Summary of Impacts and Proposed Mitigation for the SVRTC Baseline and BART Alternatives, to show the following additional text for adversely impacted intersections for which no feasible mitigation was found:*

However, VTA will provide a fair share contribution to traffic improvement at this location. The contribution will be made only if feasible traffic mitigation is

identified and substantial funding is in place to construct the improvement. VTA will work with the County of Santa Clara (Note: the County is only added where a county facility is impacted) and the City of Milpitas to develop an agreement at the time that the mitigation is required.

- L4.25** *The text has been revised in Table 1.5-1, Summary of Long-Term Impacts, Design Requirements/Best Management Practices, and Proposed Mitigation Measures, in Transportation and Transit, Section 4.2.6.6, 2025 BART Alternative Traffic Level of Service, Impacts, and Mitigation Measures, and in Table 6.2-2, Summary of Impacts and Proposed Mitigation for the SVRTC Baseline and BART Alternatives, to show the following additional text for adversely impacted intersections for which no feasible mitigation was found:*

However, VTA will provide a fair share contribution to traffic improvement at this location. The contribution will be made only if feasible traffic mitigation is identified and substantial funding is in place to construct the improvement. VTA will work with the County of Santa Clara (Note: the County is only added where a county facility is impacted) and the City of Milpitas to develop an agreement at the time that the mitigation is required.

- L4.26** *As evident in comparing the Milpitas BART Stations Transportation Impact Analysis Report, Figure 16, 2025 Montague/Capitol Station Only Trips, with Figure 21, Montague/Capitol Station 2025 BART Extension Traffic Volumes, the BART Alternative represents only a small fraction of the total traffic traveling through impacted intersections. In addition, the BART Alternative, by providing an alternative transit mode, would also be reducing traffic within the City of Milpitas. However, VTA encourages the City of Milpitas to install traffic signal interconnect systems along major roadways to facilitate traffic flows.*

- L4.27** *The Milpitas BART Stations Transportation Impact Analysis Report is available upon request by contacting VTA Environmental Planning Department, as are several other technical documents listed in Chapter 13, Bibliography, that support the EIS/EIR conclusions. Refer to responses L4.62 through L4.66 for responses to specific comments on the transportation impact analysis report.*

- L4.28** *Figure 4.12.2, South Calaveras (Future) Station Land Uses, has been revised as requested.*

- L4.29** *The text applicable to the South Calaveras (Future) Station Area in Section 4.12.2.1, Existing Setting, under the subheadings BART Alternative/Segment 1 – Planned BART Warm Springs Station to Trade Zone Boulevard, has been replaced as follows:*

The station area is surrounded by light industrial uses including the UPRR Milpitas Yard, and other industrial uses. A new senior housing complex and a new library will be located to the northwest. Low, medium, and high density residential uses are located to the west of Railroad Avenue and to the north of the Beresford Shopping Center. The new Milpitas City Hall, Community Hall, and future Senior Center are located to the northeast. A small area of undeveloped land is situated directly south of Calaveras Boulevard.

- L4.30** *As discussed in Section 4.12.3, Station and Urban Design Process, VTA sponsored a number of workshops from April to October of 2002 to obtain community participation and feedback regarding the development of station facility and urban design concepts for*

each station location. These meetings provided a wide range of comments regarding facility layout, station access, intermodal connectivity, environmental impacts, and land use issues, as raised in the comment. The results of this process are presented in the EIS/EIR in Appendix B, BART Alternative Station Design Concepts. VTA will continue to refine the station design concepts taking into consideration the comments received from the communities, as well as future development opportunities in surrounding areas. Specific considerations will include: urban design, pedestrian/transit integration/connectivity, safety and security, engineering requirements, operating requirements, maintenance, and BART design criteria and standards.

There are traffic signals with crosswalks at the intersection of Capitol Avenue and Montague Expressway to provide safe crossing for pedestrians moving between the Great Mall and the proposed BART Station. In addition, there will be direct pedestrian access from the BART Montague/Capitol Station to the Tasman East/Capitol Light Rail Montague Station. Passengers could use light rail to travel between the Montague and Great Mall/Main light rail stations. In the past, there have been cases where cities or property owners have contributed funds to enhance a VTA project design where an additional improvement was not warranted as a result of the environmental impact analysis.

None of the issues raised (i.e. parking, lack of connection to light rail, pedestrian and vehicle conflicts, greater noise and visual impacts, and no pedestrian connectivity to the Great Mall) were determined to result in substantial adverse environmental impacts that were not mitigated. However, VTA will continue to work with the City of Milpitas to refine the design of the Montague/Capitol Station consistent with the project purpose.

L4.31 Design details for the Montague/Capitol Station will be developed during the Preliminary Engineering and Final Design phases of the project. VTA will work with the City of Milpitas on the design elements outlined in the comment; however, no commitments can be made at this time to include any specific element. VTA supports the city's desire to maximize TOD opportunities associated with this station location.

L4.32 It appears that the reference to comment 21 was intended to be comment 31. During the Preliminary Engineering and Final Design phases of the project, all noise and vibration mitigation measures will be reevaluated and designed to provide the benefits that were intended. Any design changes to the project will be incorporated and assessed for noise and vibration impacts and appropriate measures will be taken to provide mitigation. Engineering plans and more detailed project information will be employed to validate that the mitigation measures are adequate or if additional measures need to be taken to provide the appropriate level of reduction for noise and vibration. Final lengths, heights, and placement of both noise and vibration mitigation measures will be designed to meet the needs of the project and comply with both NEPA and CEQA requirements.

L4.33 Figure 4.13-4b shows the Dixon Landing Alignment Retained Cut Option, which was chosen by the PAB at its May 26, 2004 meeting. The noise impact analysis concluded that under this alignment, no noise or vibration impacts would occur; therefore, no sound walls are necessary.

L4.34 During the Preliminary Engineering and Final Design phases of the project, all noise and vibration mitigation measures will be reevaluated and designed to provide the benefits that were intended. Any design changes to the project will be incorporated and assessed for noise and vibration impacts and appropriate measures will be taken to provide mitigation. Engineering plans and more detailed project information will be employed to

determine if the mitigation measures are adequate or if additional measures need to be taken to provide the appropriate level of reduction for noise and vibration. Final lengths, heights, and placement of both noise and vibration mitigation measures will be designed to meet the needs of the project and comply with both NEPA and CEQA requirements.

L4.35 The text applicable to Site SV1 in Section 4.13.4.2, Existing Vibration Conditions, under the subheadings BART Alternative/Test Locations, has been revised as follows:

- **Site SV1.** A surface vibration propagation test was conducted on Dixon Landing Road in Milpitas near the proposed BART Alternative alignment. The test site is representative of the ground conditions for this area of the alignment.

L4.36 The Milpitas BART Stations Transportation Impact Analysis Report is available upon request by contacting VTA Environmental Planning Department, as are several other technical documents listed in Chapter 13, Bibliography. Refer to comments L4.67 for responses to specific comments on Attachment C. .

L4.37 The BART Police Department establishes goals for minimum response time to emergency and non-emergency calls for service. The BART Police Department's goal is to have an average minimum response time of 4 minutes to emergency calls and 8 minutes to non-emergency calls. In general, they have achieved these goals (Commander Gibson, email correspondence, June 17, 2004). As stated in Community Services and Facilities, Section 4.5.3.2, Design Requirements and Best Management Practices, "In addition, VTA and BART would expand existing mutual aid agreements with the cities of Fremont, Milpitas, San Jose, and Santa Clara to ensure appropriate coordination and training to address the requirements of the BART Alternative." The BART Police Department is committed to collaborating with all allied agencies, including the City of Milpitas Police Department and the Santa Clara County Sheriff's Department, to provide visible patrol to BART stations, facilities, and the surrounding areas.

L4.38 In BART's first 13 years of revenue service, BART police officers reported to the headquarters in Oakland. However, in 1993 a program was initiated to decentralize the police force. Currently, there are BART police facilities and field offices in Oakland, Concord, Walnut Creek, El Cerrito, Dublin/Pleasanton, Castro Valley, San Leandro, Hayward, San Francisco, Daly City, Colma, and San Bruno, and at the San Francisco International Airport. Additional BART police facilities would be provided in Santa Clara County to support the BART Alternative. If a facility were established in the Milpitas area, VTA would work with the city to ensure that the facility is designed to meet the safety and security needs of the City of Milpitas Police Department and the city.

L4.39 VTA and BART would use a combination of safety measures to ensure a safe environment around the stations and other facilities. Detailed information regarding safety measures to be used as part of the BART Alternative is discussed in Section 4.14, Security and System Safety. In addition, the safety features would be consistent with the BART facility standards.

L4.40 Through the property acquisition process, VTA will coordinate with the City of Milpitas and Wrigley Creek Industrial Park should the acquisition of the location for the Traction Power Substation #3 and Bulk Substation/Switching Station #1 impact the parking requirements of the existing use at that time.

L4.41 Refer to response L4.6. As stated in Socioeconomics, Section 4.15.3.2, Design Requirements and Best Management Practices, displacement and relocation activities will

be carried out in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

L4.42 *Approximately 36 parking stalls in the northeast corner of the Great Mall site would be removed to allow for reconstruction of a replacement drainage detention basin and refuse storage area. These spaces are located a substantial distance from the Great Mall commercial uses. The Great Mall currently has approximately 6,750 parking spaces. The loss of approximately 36 parking spaces represents less than 1% (0.53%) of the available parking. However, during peak parking demand periods (holiday season) the City of Milpitas requires the Great Mall to lease off-site parking spaces (over 500 in 2003) to meet these parking requirements). The majority of the time, sufficient parking is available to accommodate patrons. The Montague/Capitol Station is located a short distance away and would be expected to provide a transit alternative for at least 36 vehicles during peak parking demand and thus offset the loss of these parking spaces.*

L4.43 *The proposal for VTA to pay an in-lieu fee to the City of Milpitas equivalent to the cost of the development of a replacement park area to compensate for the take of a portion of the future city park has been added to the list of measures in Section 7.6.3.1, Planning to Reduce Harm to Parc Metropolitan Development Parkland. The city's preference for this option is noted and included in the record for consideration by the decision-makers.*

L4.44 *The City of Milpitas's support for a locomotive wye location outside of Milpitas is noted and included in the record for consideration by the decision-makers. Also refer to response L4.6.*

The location of the Traction Power Substation #4 and Train Control Building will be environmentally cleared in the currently designated location. Should a better alternative location be determined during the Preliminary Engineering or Final Design phases of the project, subsequent environmental clearance will be completed, if required.

L4.45 *Section 7.6.3.1, Planning to Reduce Harm to Parc Metropolitan Development Parkland, lists several optional measures to compensate for parkland impacts. The city's preference of an in-lieu payment equivalent to the cost of replacement parkland has been added to the list of measures in this section. VTA and the City of Milpitas would need to work together to assure that improvements implemented as part of the BART Alternative on the north side of the Parc Metropolitan Subdivision do not impact the future public well.*

L4.46 *Prior to working adjacent to utility lines, VTA will obtain all applicable permits required including those needed for crossing utility lines.*

L4.47 *BART contracts with local vendors to collect garbage at stations. BART uses the same vendors as those used to collect garbage in the city or town in which the particular BART station is located.*

BART has a recycling program that collects newsprint, i.e., used newspapers, inside the stations and then sends the material to a recycling location. Drinking and eating are not permitted inside the paid areas of BART stations nor on BART vehicles. As such, currently there is not a recycling program for cans, bottles, or plastic.

L4.48 *The BART stations will have water and sewer facilities. As stated in Construction, Section 4.19.13.2, Design Requirements and Best Management Practices for Utilities Impacts, VTA will coordinate with the appropriate utility provider during the Preliminary*

Engineering and Final Design phases of the project regarding water and sewer facilities. Milpitas departments will be consulted as appropriate.

L4.49 *To extent feasible, new and replacement landscaping associated with the project would be designed and installed in compliance with local landscape plans and design standards. Where landscaping would be installed, the use of recycled water for irrigation purposes will be evaluated and implemented if feasible.*

L4.50 *Prior to discharge of any wastewater to a sanitary sewer or construction of any permanent facilities, VTA will obtain all applicable permits required including those required by the San Jose/Santa Clara Water Pollution Control Plant.*

L4.51 *VTA will comply with all applicable criteria when obtaining stormwater NPDES permits.*

L4.52 *At its May 26, 2004 meeting, the PAB recommended the Dixon Landing Alignment Retained Cut Option for the BART crossing at Dixon Landing Road. This action was taken to address concerns expressed by the City of Milpitas and local residents regarding the Dixon Landing Alignment Aerial Option.*

The visual effects of the three options for the BART Alternative crossing of Dixon Landing Road are discussed Visual Quality and Aesthetics, Section 4.17.3.1, Impacts. Figure 4.17-19, Dixon Landing Road – Aerial Option, depicts the aerial option as it crosses over Dixon Landing Road. The analysis in Section 4.17.3.1 for the Dixon Landing Alignment Aerial Option states that this option would result in some view blockage of views to the east of the Diablo Range; however, the impact is considered to be not substantial. The other BART Alternative alignment options for the Dixon Landing Road crossing, the Retained-cut and At-grade options, would avoid this view blockage.

L4.53 *Design details for the Montague/Capitol Station will be developed during the Preliminary Engineering and Final Design phases of the project. . VTA is coordinating, and will continue to coordinate, with the City of Milpitas on the design of the Capitol/Montague Station.*

L4.54 *Refer to response L4.30.*

L4.55 *VTA acknowledges that the Berryessa Creek and Upper Penitencia Creek Flood Control Projects are currently in the early stages of design with alternatives being considered to ensure flood protection in the cities of Milpitas and San Jose from the 100-year flood event.*

VTA's design team will coordinate with the SCVWD to determine the impact of flooding along the BART alignment in the event the flood control projects are not implemented prior to construction of the BART Alternative. This subject is discussed in the Silicon Valley Rapid Transit Corridor Location Hydraulics Study Technical Report (Earth Tech 2003). The location hydraulics study also discusses mitigation alternatives to reduce impacts on existing floodplain conditions in the event the flood control projects are not implemented prior to construction of BART.

In addition to the 2003 location hydraulics study, VTA's design team is preparing a detailed hydraulic study that will address floodplain issues, and will work with SCVWD during the design process to verify that the BART Alternative does not impact flood flows or raise water surface elevation, including if the flood control projects are not implemented prior to construction of BART.

Coordination between VTA and the SCVWD for issues applicable to water resources including floodplains is required per Section 4.18.4.4, under the subheading Floodplains. This section states, "VTA will continue to coordinate with the local flood control agencies to obtain any updated information that may impact the BART Alternative, as well as the MOS scenarios, project design. VTA will also work closely with these agencies to include appropriate measures for flood protection." This coordination includes cooperation between VTA and SCVWD during the design phase of BART and the flood control projects to address the possibility that the flood control projects will not be implemented prior to construction of the BART Alternative.

- L4.56** *VTA acknowledges that the alternatives under consideration for the Berryessa Creek Levees Project include increasing levee heights, replacing one levee with a flood wall, widening Berryessa Creek and the railroad line crossing to 140 feet, straightening the double 90-degree curve at the railroad crossing, and constructing a bypass channel.*

The BART Alternative alignment parallels the Berryessa Creek Levees Project from Calera Creek to Wrigley Creek in Milpitas. The BART Alternative is at-grade as it passes both an underground culvert containing Calera Creek and the Abel Street overcrossing. Based on a recent reconnaissance survey of the BART right-of-way, VTA no longer anticipates adding a new bridge over Calera Creek for the UPRR (refer to response R11.5). BART continues on a new bridge as it passes over Berryessa Creek. A new at-grade bridge would be constructed over Berryessa Creek for the UPRR. Wrigley Creek would be relocated approximately 120 feet to the west with construction of the South Calaveras Future Station, but would remain in an open, earthen channel.

VTA will coordinate with the SCVWD to obtain any updated information on the design of the Berryessa Creek Levees Project and to ensure that the BART Alternative is designed accordingly.

- L4.57** *At its May 26, 2004 meeting, the PAB recommended the Dixon Landing Alignment Retained Cut Option for the BART crossing at Dixon Landing Road. This action was taken to address concerns expressed by the City of Milpitas and local residents regarding the Dixon Landing Alignment Aerial Option. The traffic impacts at grade separations including Dixon Landing Road have been identified as significant and unavoidable. Construction, Section 4.19.3.2, Design Requirements and Best Management Practices, identifies actions to reduce construction related traffic impacts where possible. Details of the road closure requirements will be worked out in greater detail during the Preliminary Engineering and Final Design phases of the project. VTA will work with the City of Milpitas to reduce road closure of Dixon Landing Road to the extent reasonable and practicable.*

- L4.58** *The SVRTC project will recycle as much material as possible where it is economically feasible. The project will use recycled water for dust control where feasible and comply with all city and state requirements relative to dewatering activities. The SVRTC project will assess and document the condition of all local streets prior to the start of construction. Damage resulting directly from construction will be repaired. The impact of construction activities (including construction trucks and material deliveries) on traffic are assessed in Construction, Section 4.19.3.1, Vehicle Traffic Impacts, with design requirements and best management practices and mitigation measures for all impacts related to transportation and transit described in Sections 4.19.3.2 through 4.19.3.12. Construction impacts, design requirements, best management practices, and mitigation measures specific to utilities are described in Section 4.19.13.*

- L4.59** *As stated in Section 4.19.10.2, Design Requirements and Best Management Practices for Hazardous Materials Impacts, construction activities will be in compliance with Occupational Safety and Health Administration requirements.*
- L4.60** *The text has been changed in Section 7.4.1, Parc Metropolitan Development Parkland, to describe the park as irregularly shaped. Figure 7.5-1, Proposed Acquisition of Dedicated Parkland for BART Alternative, has also been revised to correct the park boundary and well and pump house location.*
- L4.61** *The UPRR Milpitas Yard is currently a double-ended yard. Any modification/reconfiguration of the UPRR facility will still require the same functionality - in this case a tail track south of the yard.*
- L4.62** *Because the Montague Expressway/Capitol Avenue grade separation is currently unfunded, the EIS/EIR did not assume this improvement to be present for the purpose of projecting "worst case" traffic impacts attributable to the proposed project. Therefore, the analysis does not reflect the presence of the grade separation.*
- L4.63** *The difference is due to varying arrival and departure demand throughout the day.*
- L4.64** *The comment is noted and included in the record for review and consideration by the decision-makers.*
- L4.65** *Page 51 of the Milpitas BART Stations Transportation Impact Analysis Report should have stated that 70% utilize freeways (I-880, I-680, and SR 237) not 55%.*
- L4.66** *As stated in the Milpitas BART Stations Transportation Impact Analysis Report, Montague Expressway is the primary access, as a majority of the trips will access the station from freeways running north-south. However, full access would be provided from both Montague Expressway and Capitol Avenue. Montague Expressway and Milpitas Boulevard would be a four-way intersection designed to accommodate the BART Alternative traffic. If traffic were shifted to Gladding Court this would result in an additional access onto Milpitas Boulevard potentially affecting the smooth flow of traffic including buses on Milpitas Boulevard. Station design and access issues will be further refined during the Preliminary Engineering phase of the project.*
- L4.67** *The comments on the Noise and Vibration Technical Report are responded to by number below. The report has been revised to reflect comments received during the Draft EIS/EIR public circulation period. However, the responses and clarifications do not change the previous conclusions included in the EIS/EIR. The revised Noise and Vibration Technical Report is available upon request by contacting VTA Environmental Planning Department.*
- 1. Typically, noise from parking areas or park-and-ride lots are not a significant source of noise. When parking areas or park-and-ride lots are a part of a station with bus and other activity, they are analyzed for noise impacts. The station noise impacts are discussed under Section 3.4.2.4 of the technical report. Only one station was located near sensitive land uses, the Montague/Capitol Station, where a sound wall has been identified as mitigation for impacts. .*
 - 2. BART operates completely grade separated (because of the third rail), so there are no horns to sound at crossings.*
 - 3. There are no bus station noise impacts under the New Starts Baseline Alternative.*

The only station under the BART Alternative with impacts due to bus noise is the Montague/Capitol Station, as discussed in response #1 above.

- 4. Bus noise impacts at stations are discussed under Section 3.4.2.4.*
- 5. Train operations in the stations are addressed as a part of the operational impact. A minimum speed is assumed through the stations to account for trains moving at slower speeds in the station areas.*
- 6. The information contained in the graphs on pages 35 and 36 are based on noise measurements conducted by Wilson Ihrig & Associates, Inc. and adjustments for speed and distance are based on standard, accepted noise models.*
- 7. Traffic noise projections are discussed in Section 3.3.1 and the results are discussed in Section 3.3.5. Because of the relatively small increase in traffic related to the Baseline Alternative, there are no significant increases in noise from traffic related to the project.*
- 8. The comment is correct in regard to the column headings in the table, and the headings have been revised. The noise levels in Figure 6 assume an ideal situation with no shielding, ground effects, barriers, aerial structures, special trackwork, and other features that would increase or decrease the noise levels shown in the figure. The modeling of the noise was conducted using standard Federal Transit Administration noise models, which take into account all the factors that affect the noise level at receptors adjacent to the alignment.*
- 9. For noise from the BART trains only, the figures and the tables correlate well with the relationship identified in the comment. However, there are locations where the existing freight train noise has been added to the project noise (generally increased noise levels by 1 to 2 dBA), and the relationship does not hold because of the added noise from the freight trains.*
- 10. The reported numbers are correct.*
- 11. The reported numbers are correct.*
- 12. The calculations are correct. The formula in Section 3.3.3 is for Leq, while the reported value on page 69 is for Ldn. In calculating Ldn, a penalty is added to the nighttime noise, which results in a Ldn value that is higher than a Leq value calculated with the formula in Section 3.3.3. In addition, ground effects, a standard noise modeling practice, are also included in the calculations.*
- 13. The correct reference values were used. Ground effects, a standard noise modeling practice, are included in the calculations.*
- 14. Refer to responses to 12 and 13 above.*
- 15. Refer to comments 12 and 13 above.*
- 16. The source reference levels for the vent shaft noise calculations are based on measurements conducted at the BART South San Francisco Station vent building, as stated in Section 3.3.3.*
- 17. Because emergency generators are only used very sporadically, no quantitative noise analysis was conducted.*
- 18. The changes in traffic and their associated noise levels due to the project are small and not of sufficient magnitude to have an effect on overall traffic noise levels.*
- 19. The text has been revised to match the figures.*

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L5

Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

May 14, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First Street, Building B
San Jose, CA 95134-1927

SUBJECT: Comments on Draft Environmental Impact Report/Statement for BART Extension to Milpitas, San Jose and Santa Clara (File No. OA04-03-006)

Dear Mr. Fitzwater:

The City of San Jose (CSJ) appreciates and acknowledges the work of the Valley Transportation Agency in preparing the Draft Environmental Impact Report/Statement (EIR/S) for the BART Extension to Milpitas, San Jose and Santa Clara project. The CSJ considers this to be a very important project for Bay Area residents and workers that is expected to improve traffic conditions in the region. As you know, the CSJ is committed to supporting transit-oriented development and joint development opportunities around station sites to further improve traffic conditions. This project is consistent with and furthers the City's goals related to multi-modal transportation, smart growth, economic development, and Downtown revitalization. The CSJ offers the following comments on the Draft EIR/S:

L5.1

Historic Resources

The EIS/EIR focuses on National Register eligibility with respect to historic resources. Planning staff has not had sufficient opportunity to identify resources that may also be listed on the California Register and/or local landmark eligibility and listing. Subsequent specific projects subject to the land use authority of the CSJ may require supplemental analysis as provided for by the Public Resources Code. This applies to the potential of cumulative impacts based upon specific project decisions.

L5.2

Transportation

The Draft EIR identifies specific proposals for traffic detours and haul routes; these should be considered as preliminary concepts which will be refined based on community outreach and further technical analysis during the preliminary engineering phase. The proposed traffic management plans use several one-way couplet segments that the City is planning to modify. The final traffic plans will be subject to City approval in the CIMP.

L5.3

Mr. Tom Fitzwater

SUBJECT: Comments on Draft EIR/S BART Extension to Milpitas, San Jose and Santa Clara (File No. OA04-03-006)

May 14, 2004

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Public Safety

The CSJ Police and Fire Departments should be involved with the development of Emergency Response plans for the BART system.

L5.4

Construction

The CSJ concurs with having a mutually agreed to Construction Impact Mitigation Plan (CIMP), particularly for the Downtown area. It is recommended the EIR provide more detailed information to further describe the construction impacts related to the crossover tracks. The discussion of "cut and cover" construction impacts in the Draft EIR is limited to station locations, but should also include the planned crossover location. The EIR should provide a detailed analysis as justify the crossover planned between the Market Street and Civic Plaza stations is the best possible option particularly given the high potential for construction disruption created by the cut and cover construction of the Market Street and Civic Plaza stations.

L5.5

Biological Resources and Wetlands
Water Resources, Water Quality, and Floodplains

Many elements of the project are designed to minimize or eliminate long-term impacts to habitat, water quality, and floodplains. This includes the construction of deep underground tunnels and substantial setbacks to protect riparian corridor areas. The potential for temporal impacts from the type of construction process selected to implement this design should also be considered in the impact analysis.

L5.6

Land Use

It is recommended the Draft EIR/S include discussion of the project's consistency with Historic, Archaeological and Cultural Resource General Plan Policies and with the San José Riparian Corridor Policy.

L5.7

Summary

The City of San José recognizes and appreciates the VTA's continuing efforts to coordinate this project with the City and other local agencies and we look forward to continued strong local agency coordination and community outreach efforts.

Thank you again for the opportunity to review and comment on the Draft EIR/S for this important project. If you have specific questions concerning any of the transportation comments, please contact Henry Servin, City of San José Department of Transportation at (408) 277-4217. For additional discussion on historic resources, please contact Courtney Damkroger, City of San José Historic Preservation Officer at (408) 277-4576. For issues pertaining to Downtown San José, please contact Dennis Korabiak at the San José Redevelopment Agency at (408) 794-1000.

MAY-14-2004 15:08

CITY OF SAN JOSE-PLANNING

408 277 3250 P.03/03

Mr. Tom Fitzwater

SUBJECT: Comments on Draft EIR/S BART Extension to Milpitas, San Jose and Santa Clara (File No. OA04-03-006)

May 14, 2004

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If you have questions or need additional information on any of the remaining comments, please contact Janis Moore of the Department of Planning, Building and Code Enforcement at (408) 277-4576. City staff is available at your convenience to provide any support you may need to facilitate the finalization of the Draft EIR/S.

Sincerely,



Stephen M. Haase

Director – Planning, Building, and Code Enforcement

SH:jam

OA04-03-006 DEIR-S BART Ext. Pjet Ltr.doc/JAM

RESPONSE TO COMMENT LETTER L5

City of San Jose (May 14, 2004)

L5.1 *Your support for the BART Alternative and its importance to the South Bay region is noted and included in the record for consideration by the decision-makers.*

L5.2 *The EIS/EIR includes a summary of the evaluation of the historical significance of surveyed properties in terms of both the California Register of Historic Resources (CRHR) and National Register of Historic Places (NRHP). JRP Historical Consulting Services (JRP) reviewed existing information from local, state, and federal inventories and surveys as part of the historic resources identification process for the SVRTC project. JRP reviewed the NRHP, the CRHR, the California Historical Landmarks, and the California Points of Historic Interest lists to identify known historic properties within the architectural Area of Potential Effects (APE). JRP also examined previous historic resource inventory and evaluation surveys and reports, including the City of San Jose's historic resources inventory and landmark listings. There has long been a strong historic preservation presence in San Jose, as well as Santa Clara County, and JRP found many historic resource inventory and evaluation records for properties within the APE, particularly those located in or near downtown San Jose. JRP principals and staff also met and corresponded with Courtney Damkroger, San Jose Historic Preservation Officer, and her staff to discuss the identification of historical resources in the city. JRP located many previous studies at the City of San Jose Public Library, the City of San Jose Planning Department Historic Preservation Office, and the archives of "History San Jose" at Kelly Park. Most of the properties outside San Jose had not been previously surveyed, although JRP did contact each city and county within the project area as part of the identification and data collection process. JRP also reviewed previously conducted cultural resources reports for areas in and near the APE on file with the California Historical Resources Information System Northwest Information Center at Sonoma State University.*

JRP included the historic status of each of the properties that appeared in the inventories or previous surveys on the Department of Parks and Recreation Form 523 (DPR523 form) for that property. These forms are included in the Historic Resources Evaluation Report (2002), available by contacting VTA Environmental Planning Department. The summary of the historic architectural evaluation conclusions presented in the EIS/EIR appropriately states whether or not an individual resource is listed on, or eligible for, the NRHP and/or CRHR. This summary does not specifically call out each property's local status because locally eligible properties are automatically eligible for the CRHR, and as such, are considered to be historical resources for the purposes of CEQA.

JRP evaluated the potential historic significance of all 250 buildings, structures, objects, site, and districts that were located within the APE and that dated to 1962 or before. The evaluations addressed each resource by applying the significance criteria of both the CRHR and NRHP. Both programs recognize local, state, and national levels of significance, and JRP included review of local inventories of historic resources to identify local historic status, if any. The evaluations included in the Historic Resources Evaluation Report and summarized in the EIS/EIR are legally adequate and are summarized below to help clarify the CEQA analysis.

Section 4.6, Cultural and Historic Resources, correctly states that there are 21 historic properties within the APE. All 21 of these properties are historic properties under NEPA.

These properties are also considered historical resources for the purposes of CEQA and are treated as such in the EIS/EIR. These 21 properties include 19 individual buildings, as well as a multi-component property (the historic Santa Clara Caltrain Station, which is considered to be a district property at the local level), and a district (the San Jose Downtown Commercial Historic District).

At the time the Draft EIS/EIR was prepared, four buildings appeared to be eligible for the CRHR but not the NRHP. The Final EIS/EIR, Section 4.6.4.1, Existing Conditions, under the subheading Baseline and BART Alternatives, and Table 4.6-4, Historic Properties That Do Not Appear Eligible for Listing in the NRHP, but Appear Eligible to be Considered Historic Resources Under CEQA, have been revised to reflect that at least eight buildings appear to be eligible for the CRHR but not the NRHP. This correction will capture the current status of the resources, namely, that these resources appear to be eligible for the CRHR, and that the State Historic Preservation Officer (SHPO) found that these properties did not appear to be eligible for the NRHP. These buildings, therefore, are considered to be historical resources for the purposes of CEQA, but are not historic properties under NEPA.

More than 200 of the surveyed properties do not appear to meet the eligibility criteria for either the CRHR or NRHP. As such, they are not subject to impacts analysis under CEQA or effects analysis under NEPA. JRP presented explicit conclusions that demonstrated that the preponderance of evidence showed that these resources did not meet the significance criteria for the CRHR and the NRHP, and/or did not retain historic integrity, and thus could not be considered historical resources for the purposes of CEQA. The DPR523 forms included in the Historic Resources Evaluation Report provide the supporting evidence and analysis used to formulate the evaluations and conclusions, which are summarized and presented in Section 4.6.

The environmental impacts of other specific projects subject to review by the City of San Jose should be evaluated by separate analyses prepared by and for the specific projects. The impacts of this project in combination with past, present, and reasonably foreseeable future actions are evaluated in Section 6.3, Cumulative Impacts.

L5.3 *VTA and the City of San Jose have worked and will continue to work on a Construction Impact Mitigation Plan acceptable to both parties. Section 4.19.2.1, Pre-construction Activities, discusses activities that will be undertaken to address construction related affects of the project including the development of a Construction Impact Mitigation Plan. The details of the plan will be refined during the Preliminary Engineering and Final Design phases of the project and implemented during the construction phase. VTA is working with the City of San Jose on a Construction Impact Mitigation Plan Master Agreement as provided for by City ordinance.*

L5.4 *As stated in Security and System Safety, Section 4.14.3.1, Impacts, BART will follow and apply the provisions of its current System Safety Plan and Emergency Response Plan to the extended service. BART will coordinate and train its emergency response personnel with fire departments in Fremont, Milpitas, San Jose, and Santa Clara to assure response readiness in the event of an emergency.*

As stated in Section 4.14.3.2, Design Requirements and Best Management Practices, the provisions of BART's existing System Safety Program Plan also require active participation by the BART System Safety Department in the design of system extensions. A BART safety engineer, working with VTA and the local fire department personnel, will review contract drawings and specifications for compliance with BART codes and criteria along

with local fire department requirements.

As stated in Community Services and Facilities, Section 4.5.3.1, Impacts, mutual aid agreements among local police, fire, and emergency service providers would be expanded to include BART police services, station areas, and facilities.

L5.5 *Crossover capacity is provided near the tunnel portal locations (where the tunnel surfaces at either end). BART standards also require a crossover within the tunnel segment to provide for single-tracking capability during emergency situations. Emergency conditions may include, but not be limited to:*

- An emergency medical situation on a train or on the trackway;*
- A train breakdown;*
- A police action on a train or in a station;*
- Emergency maintenance on the trackway; or*
- Other events that may require shut down of operations on a portion of the BART trackway within the tunnel segment.*

The crossover facilitates trains alternating use of the one remaining operating track (single-tracking). To ensure consistent operations throughout the BART system, the operating train headways in the downtown San Jose segment must be addressed. During normal operations, the downtown San Jose segment will have 6-minute average headways in each direction. The emergency operating plan for the downtown San Jose segment already includes turning all of the Richmond-San Jose trains at Berryessa Station, reducing the downtown headways and the required passing capacity in the downtown by one-half. The remaining trains must be able to pass the single-track segment in no more than 6 minutes to maintain the 12 minute overall headway (e.g., 6 minutes for the eastbound train to pass, 6 minutes for the westbound train to pass, 6 minutes for the next eastbound train, 6 minutes for the next westbound train, etc.). In order for this to occur, the crossover location must allow the travel time between crossovers to be 6 minutes or less. The location in the tunnel that facilitates this operating requirement is the West of Civic Plaza/SJSU Station Crossover Option location. The West of Market Street Station Crossover Option location does not meet these operational requirements. In addition, crossovers cannot be placed in a curved track section. Placement of the crossover west of the Market Street Station in combination with the recommended Diridon/Arena Station Alignment South Option would put the crossover in a curve track segment in violation of BART standards. Locations east of Civic Plaza/SJSU Station do not meet the 6-minute locational requirement. Locations west of Diridon/Arena Station do not meet the 6-minute operational requirement, and include significant curved trackway segments.

L5.6 *Section 4.19, Construction, and specifically Sections 4.19.5 and 4.19.15, provide detailed discussions of construction design requirements and best management practices, and mitigation measures to address the construction effects and impacts of the project on biological resources and wetlands, water resources, water quality, and floodplains.*

L5.7 *VTA project staff have reviewed a copy of the "San Jose 2020 General Plan Text" (as of May 6, 2004) available online at the City of San Jose's website. The Historic, Archaeological, and Cultural Resources policies are discussed in Chapter 4, pages 103-104. The BART Alternative appears to be consistent with these policies. The following discussion provides the General Plan Historic, Archaeological, and Cultural Resources*

policies and a description of the way in which the project is consistent with these policies:

1. *"Because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process."*

Preservation of historic buildings has been considered in the development of construction alternatives and options. The project's APE passes through the San Jose Downtown Commercial Historic District, for example, and although two stations are proposed for the downtown area, only one contributing building to that district would be demolished under one station portal option (refer to Figure B-31 and portal M-1A). In addition, portal M-4 was identified as located within a local historical resource. Both of these portal option locations have been deleted from further consideration and other portal locations that do not impact cultural resources were previously identified. Adverse effects to historic buildings, structures, objects, and sites will be mitigated through a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) developed and executed by VTA, appropriate city and county historic preservation bodies, the Federal Transit Administration (FTA), the Advisory Council on Historic Preservation (ACHP), and the State Historic Preservation Officer (SHPO).

2. *"The City should use the Area of Historic Sensitivity overlay and the landmark designation process of the Historical Preservation Ordinance to promote and enhance the preservation of historically or architecturally significant sites and structures."*

The Historic Resources Evaluation Report recognized city-designated landmarks as historical resources for the purposes of CEQA.

3. *"An inventory of historically and/or architecturally significant structures should be maintained and periodically updated in order to promote awareness of these community resources."*

The inventory of historically significant buildings and structures conducted for the BART Alternative contributes to the stated goal of periodically updating the city's inventory of historical resources. The project inventory is available in the Historic Resources Evaluation Report and is through the California Historic Resource Information Center at Sonoma State University and VTA Environmental Planning Department.

4. *"Areas with a concentration of historically and/or architecturally significant sites or structures should be considered for preservation through the creation of Historic Preservation Districts."*

The historic resources inventory conducted for the project identified and addressed the San Jose Downtown Commercial Historic District and examined other resources for potential significance within possible historic districts.

5. *"New development in proximity to designated historic landmark structures and sites should be designed to be compatible with the character of the designated historic resource. In particular, development proposals located within the Areas of Historic Sensitivity designation should be reviewed for such design sensitivity."*

Mitigation measures, including design standards and guidelines, will be set forth in

the MOA or PA. Section 4.6.6.2, *Historic Architectural Resources Mitigation*. *Design Standards and Guidelines*, states that "If adverse effects cannot be avoided by the selection of alternatives and/or other options, VTA will ensure that the project features affecting the contributing element(s) of the San Jose Downtown Commercial Historic District...are compatible with the historic and architectural qualities of the affected historic building(s) and surrounding historic district(s) in terms of scale, massing, color, and materials. Design and specifications for these project features will be developed under the guidance of The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings."

6. "The City should foster the rehabilitation of individual buildings and districts of historic significance and should utilize a variety of techniques and measures to serve as incentives toward achieving this end. Approaches which should be considered for implementation of this policy include, among others: Discretionary Alternate Use Policy Number 3, permitting flexibility as to the uses allowed in structures of historic or architectural merit; transfer of development rights from designated historic sites; tax relief for designated landmarks and/or districts; alternative building code provisions for the reuse of historic structures; and such financial incentives as grants, loans and/or loan guarantees to assist rehabilitation efforts."

Not applicable to this project.

7. "Structures of historic, cultural or architectural merit which are proposed for demolition because of public improvement projects should be considered for relocation as a means of preservation. Relocation within the same neighborhood, to another compatible neighborhood or to the San Jose Historical Museum should be encouraged."

If the BART Alternative were to require demolition of a historic landmark, its removal to an appropriate site will be considered during the consultation and development process for the MOA.

8. "For proposed development sites which have been identified as archaeologically sensitive, the City should require investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design."

To accompany the MOA, a Cultural Resources Treatment Plan (CRTP) is being developed to describe and prescribe the location and nature of archaeological monitoring and investigations on a project-wide basis. These documents are being developed in compliance with Section 106 of the National Historic Preservation Act. The documents will also be developed mindful of the archaeological mitigation requirements for the City of San Jose, and the City of San Jose will be among agencies and entities that review and comment on the documents.

VTA recognizes the need for subsurface archaeological investigations before, and possibly during, construction activities within the project area in the City of San Jose. Archaeological investigations will be directed by individuals who meet or exceed federal Secretary of Interior's Professional Qualification Standards (PQS) in the discipline of archaeology (48 FR 44738-44739).

9. *"Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished."*

The unexpected discovery of burials during construction will be addressed in the CRTP being developed. Refer to Section 4.6.6.1, Archaeological Resources Mitigation, for a complete discussion regarding the development of the CRTP.

10. *"Heritage trees should be maintained and protected in a healthy state. The heritage tree list, identifying trees of special significance to the community, should be periodically updated."*

The City of San Jose's 2004 Heritage Tree List was reviewed. There are no heritage trees within the project APE.

11. *"The City should encourage the continuation and appropriate expansion of Federal and State programs which provide tax and other incentives for the rehabilitation of historically or architecturally significant structures."*

Not applicable to this project.

In May 1994, the San Jose City Council adopted the Riparian Corridor Policy Study to establish detailed direction on how to implement the Riparian Corridors and Upland Wetlands Policies included in the San Jose 2020 General Plan. The San Jose Riparian Corridor Policy Study includes guidelines for development along creeks to help protect riparian habitat and minimize impacts to riparian resources. These guidelines include site design, building and fixtures design, landscaping, public recreation facilities (e.g., streamside trails), fire management, vegetation/habitat continuity, and techniques to protect water quality.

While VTA is not subject to local ordinances and policies, the BART Alternative will be designed to the maximum extent practicable to accommodate the guidelines contained in the San Jose Riparian Corridor Policy Study. For example, the Berryessa Station includes a 150-foot setback from the edge of the riparian corridor, a greater distance than the 100-foot setback required in the Riparian Corridor Policy Study. In addition, the BART Alternative will be designed to avoid or minimize impacts to riparian habitats where possible. Where impacts are unavoidable, VTA will work with the California Department of Fish and Game to mitigate for those impacts, as described in Biological Resources and Wetlands, Section 4.4.3.5, Mitigation Measures.

Land Use, Section 4.12.2.2, Regulatory Setting, under the subheadings Local Development Plans and Policies/City of San Jose has been revised to include this discussion regarding the City's riparian policy.

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L6



CITY OF SAN JOSÉ, CALIFORNIA

DAVID D. CORTESE

COUNCILMEMBER

May 13, 2004

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Environmental Planning Manager
VTA – Environmental Planning
Building B
3331 North First Street
San Jose, CA 95134-1927

Mr. Jerome Wiggins
United States Department of Transportation
Federal Transit Administration
201 Mission Street, Suite 2210
San Francisco, CA 94105

To Whom It May Concern:

Let this letter and the attached document serve as my submittal for comments to the Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR).

The attached document is an ordinance passed by the San Jose City Council, which addresses the requirement of a Construction Impact Mitigation Plans (CIMP) for major construction projects in the public right-of-way. The legislative intent of this ordinance contemplated that a CIMP would address any and all measures necessary to ensure that community, business and property interests would be made whole by advance mitigation. This is intended to avoid the need for inverse condemnation actions and other post-construction legal remedies by damaged parties.

L6.1

It is expected that in the consideration and design of the proposed Bay Area Rapid Transit (BART) extension to Milpitas, San Jose, and Santa Clara the attached ordinance be addressed in a manner that is consistent with its intent.

Thank you for your time and consideration of this matter. Should you have any questions or concerns please contact me at your earliest convenience.

Sincerely,

Dave Cortese
San Jose City Council

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 13.36 OF TITLE 13 AND CHAPTER 15.50 OF TITLE 15 OF THE SAN JOSE MUNICIPAL CODE TO REQUIRE CONSTRUCTION IMPACT MITIGATION PLANS FOR MAJOR CONSTRUCTION PROJECTS IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, Construction Impact Mitigation Plans (CIMPs) are intended to reduce the impacts on residents and businesses from major construction projects; and

WHEREAS, the elements of CIMPs should be flexible to allow for individual project circumstances and continuing refinement as the construction project is implemented; and

WHEREAS, on September 23, 2003, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15308 of the California Environmental Quality Act of 1970, as amended, under File No. PP03-09-304.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 13.36 of Title 13 of the San José Municipal Code is hereby amended to add Part 1, entitled "General Provisions," consisting in its entirety of Sections 13.36.010 through 13.36.080.

SECTION 2. Section 13.36.010 of Chapter 13.36 of Title 13 of the San José Municipal Code is hereby amended to read in its entirety as follows:

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13.36.010 Authority

- A. No person shall undertake construction or reconstruction **within or affecting the City's existing or proposed public rights of way without first obtaining a permit from the City pursuant to this Chapter or Chapter 15.50 as applicable.**

- B. Subject to the provisions of Part 2 of Chapter 13.36 **requiring Construction Impact Mitigation Plans for Major Construction Projects, the Director of Public Works may approve plans for construction or reconstruction, not including maintenance, within existing and proposed public rights-of-way, and when the cost to the City is not more than five thousand dollars (\$5,000), may approve agreements and issue permits for said work."**

SECTION 3. Chapter 13.36 of Title 13 of the San José Municipal Code is hereby amended to add a Part, to be numbered, entitled and to read in its entirety as follows:

Part 2

Construction Impact Mitigation Plans

13.36.200 Construction Impact Mitigation Plan-Purpose

- A. The purpose of this Part is to help transition residents and businesses through the temporary disruption of major construction projects by requiring, among other things, the owners of such projects to communicate with the surrounding neighbors prior to, and throughout the construction period, and to modify their approach to such projects by implementing appropriate mitigation measures in an attempt to avoid or lessen potential impacts arising from the construction.

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- B. The provisions of this Part are in addition to, and shall not replace, supersede, or be interpreted to comply with the California Environmental Quality Act, or any other provision of state or federal law, except that as provided in Section 13.36.120, the Construction Impact Mitigation Plan ("Plan") may incorporate by reference the analysis of any impacts identified in any document prepared for the project pursuant to the California Environmental Quality Act.
- C. Except as contained in an approved Plan, nothing in this Part shall be construed as requiring anyone to pay compensation to businesses or residents for damages which are otherwise not recoverable under state or federal law.

13.36.210 Construction Impact Mitigation Plan--Requirement

- A. Except as provided in subsection B below, any person required to obtain a permit from the Director of Public Works pursuant to Section 13.36.010 of this Chapter, for a Major Construction Project as defined in Section 13.36.240 of this Chapter, shall be required as a condition to the permit to submit to the Director of Public Works, for approval by the City Council, a Construction Impact Mitigation Plan. The Public Works Director shall not approve any encroachment permit for a Major Construction Project until the City Council has approved the Plan for that project.
- B. Notwithstanding subsection A, if any person commences a Major Construction Project pursuant to a Cooperation Agreement with the City, the terms of which require a Construction Impact Mitigation Plan, the terms of such Cooperation Agreement shall control over the terms of this Ordinance.

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13.36.220 Construction Impact Mitigation Plan--Contents

A Construction Impact Mitigation Plan submitted pursuant to this Chapter shall contain the following elements:

- A. A detailed project description, including site maps and a phasing schedule depicting the proposed location and timing of construction activity on a month-by-month basis for the duration of the project.
- B. A detailed analysis of the potential physical, environmental and other impacts of the construction activities on residents and businesses within a five hundred (500) foot radius of the project. The Construction Impact Mitigation Plan may incorporate by reference the analysis of any impacts identified in any document prepared for the project pursuant to the California Environmental Quality Act.
 - 1. Notwithstanding the above, if construction related impacts are significant, and substantially affect an area greater than within a five hundred (500) foot radius of the project boundaries, the applicant shall address the entire area substantially affected by the construction impacts of the project in the manner required by Sections 13.36.010 through 13.36.330. If the applicant fails to adequately address significant construction related impacts that substantially affect an area greater than a five hundred (500) foot distance from the project boundaries, the Director may recommend, and/or Council may adopt, specific findings that the construction impacts of the project will be significant and substantially affect an area more than five hundred (500) feet from the project boundaries. Upon making such

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findings, the City Council may either conditionally approve the Plan with appropriate related mitigation measures or, in the alternative, require the applicant to revise its Plan to include appropriate identification and mitigation of such impacts.

- C. A detailed description of the mitigation measures proposed to be undertaken by the contractor or the project owner to reasonably mitigate each of the impacts identified to the extent practicable. The Construction Impact Mitigation Plan may incorporate by reference the mitigations of any impacts proposed in any document prepared for the project pursuant to the California Environmental Quality Act.
- D. A detailed Communications Plan specifying the steps that will be taken by the contractor and the project owner during the course of construction of the project to alleviate the identified Impacts, which shall include, but not be limited to the following:
 - 1. a schedule of regular meetings with the surrounding businesses and residents throughout the course of construction;
 - 2. a display of maps and construction schedule information posted in and around the construction area;
 - 3. a schedule of meetings with the surrounding businesses and residents, emphasizing the market area of the impacted businesses;

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4. a schedule of regular meetings to coordinate with any other construction project within five hundred (500) feet of the project;
5. the designation of a community outreach coordinator available on-site for the duration of the construction project.

13.36.230 Potential Impacts to Businesses

A. The potential impacts required to be analyzed pursuant to Section 13.36.220.B shall include the following impacts on businesses that shall be addressed in the Construction Impact Mitigation Plan, if applicable:

1. Reduced patronage due to impediments to access, visual impediments to signage, loss of on-street parking, or perceived safety issues;
2. Forced temporary business closure due to loss of utilities, loss of access for patrons and employees, loss of access for services such as deliveries or garbage service, or perceived safety issues;
3. Forced permanent business closure due to permanent loss of access.

B. Potential mitigation measures to alleviate such impacts on businesses may include, but not be limited to:

1. Limited hours of construction;
2. Provision of alternative access routes;

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3. Outreach to businesses to schedule utility outages;
4. Increased signage to provide visibility, notice of alternative parking; notice of alternative access in conformance with San Jose Municipal Code Title 23;
5. Marketing assistance, technical business support, and cross-promotion efforts with adjacent businesses;
6. Direct or indirect financial assistance, such as, but not limited to, that which may be available through government loan or grant programs.

13.36.240 Major Construction Project-- Defined

A. For the purposes of this Chapter, a "Major Construction Project" is one in which the encroachment permit application, the plans submitted with such application, and any other relevant information requested by the Director of Public Works, or the Director's designee, indicates that the applicant's construction cost estimate or the engineer's estimate for the improvements in the public right-of-way for the entire project, including the portion for which the encroachment permit is requested, will total ten million dollars (\$10,000,000) or more, as adjusted periodically pursuant to Subsection B herein, and at least one (1) of the following conditions will exist:

1. The project will impact two (2) or more signalized intersections;

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2. Sidewalk access will be precluded for the length of a block; or
 3. The project is located within the lesser of five hundred (500) feet or one (1) block of another project located in the right of way.
- B. For the purposes of this Section, the ten million dollar (\$10,000,000) threshold defining major construction projects herein shall be adjusted every five (5) years on October 1 by the change in the Engineering News Record (ENR) Construction Cost Index from the base level on October 1, 2003. In the event that the ENR Construction Cost Index is discontinued, the Director of Public Works shall select and authorize use of a similar construction cost adjustment mechanism to replace the ENR Construction Cost Index.
- C. For the purposes of this section, the phrase "improvements in the public right-of-way" shall not include any property right that has been offered to the City through an irrevocable offer of dedication as a condition of final map approval under the Subdivision Map Act where the dedication of the property and all improvements thereupon have not been accepted by the City."

SECTION 4. Chapter 13.36 of Title 13 of the San José Municipal Code is hereby amended by adding a Part, to be numbered, entitled and to read in its entirety as follows:

Part 3

Denial, Amendment Or Revocation

13.36.300 Denial

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The Director of Public Works may deny a permit application if the Director makes any of the following determinations:

- A. The application is incomplete; or
- B. The Construction Impact Mitigation Plan, if required by this Chapter, has been determined by the City Council to be inadequate in that it fails to address any project impact in the manner, and/or to the standard, required by this Chapter; or
- C. The application if granted would jeopardize or create harm to public health and safety.

13.36.310 Amendment or Revocation

- A. The Director of Public Works may, in writing, amend or revoke a permit if the Director finds any of the following conditions have occurred:
 - 1. The permit was issued in error or on the basis of incorrect or incomplete information supplied;
 - 2. The permittee has violated any conditions of the permit, including noncompliance with an approved Construction Impact Mitigation Plan; or
 - 3. The construction activities in the right-of-way create a dangerous condition to life or property.
- B. Additionally, the Director of Public Works may amend any permit upon consideration of a permit extension when the Director determines that the circumstances in the area of the construction activities or the impacts of the

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construction activities in the public right-of-way have changed since the approval of the original permit and any previous extension thereto.

13.36.320 Appeal of Permit Denial, Revocation or Amendment

- A. The Director of Public Works shall notify an applicant, in writing, of the Director's decision to deny, amend or revoke a permit.
- B. The notice of decision shall state the grounds for denial of the application or amendment or revocation of the permit and shall notify the applicant or permittee of the hearing opportunity pursuant to Section 13.36.330.
- C. The notice of decision shall become final, unless a written request for hearing is received within ten (10) business days after the date of notice of decision.

13.36.330 Hearing

- A. Upon receipt of a timely written request for a hearing on a notice of decision to deny an application for permit or to amend or revoke a permit, the Director of Public Works shall schedule a hearing. The Director shall notify the applicant or permittee of the hearing date, time and location.
- B. The hearing with the Director of Public Works shall be held within thirty (30) days after receipt of the request for hearing.

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- C. At the hearing, the permittee or applicant may present any relevant evidence. The hearing will be conducted informally and the technical rules of evidence shall not apply. The permittee or applicant may be represented by any person.
- D. After closing the hearing, the Director of Public Works shall give a decision sustaining, reversing or modifying the decision to deny, amend or revoke the permit. A written notice of final decision shall be hand-delivered or sent by mail to the permittee or applicant.
- E. The decision of the Director of Public Works may be appealed to the City Council whose decision on the matter shall be final.

13.36.340 Noncompliance

The Director of Public Works, and the Director's designees, are hereby authorized to enforce all of the provisions of Sections 13.36.010 through 13.36.330, and any Construction Impact Mitigation Plan and Encroachment Permit issued thereunder, by any method specified in Title 1 of the San Jose Municipal Code.

SECTION 5. Section 15.50.300 of Chapter 15.50 of Title 15 of the San José Municipal Code is amended to read as follows:

15.50.300 Application

- A. All applications for a major excavation/encroachment permit pursuant to this Chapter shall be filed with the Director. The applicant shall provide a signed plan of the proposed work which, within the limits of the work to be done, includes:
 - 1. A description of the work intended to be done and the estimated number of working days required to complete the work;

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2. Size and/or location of existing above and underground facilities such as trees, sewers, pipes, conduit and cables, poles, cabinets, boxes, curb, gutter, sidewalk and edge of pavement, affected by the work;
3. Tying of new and existing facilities to well established lines of record such as monument lines, property lines or to well established physical references such as face of curb or lip of gutter;
4. Clear identification, design, engineering and contents of any structures to be constructed in the public right-of-way;
5. Accurate right-of-way alignment;
6. Clear dimensioning;
7. Definition of all abbreviations and symbols either on the plans, or by posting an up-to-date list with the City Department of Public Works;
8. A legend clearly showing items pertinent to the plan such as lines, boxes, manholes, valves and conduit;
9. A clear delineation of city limit lines;
10. Applicant's job number and city project numbers for development and related projects;

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11. A construction cost estimate or engineers estimate of the cost of the proposed work and improvements in the public right-of-way;
 12. Construction Impact Mitigation Plan pursuant to Part 2 of Chapter 13.36. when applicable.
- B. Applications for a minor excavation/encroachment permit shall be filed with the Director and may be submitted by facsimile to a number designated by the Director. The applicant shall provide the information required by the Director.
- C. All application fees shall be paid at the time an application is filed or pursuant to an invoice procedure established by the Director, in the amount set forth in the schedule of fees adopted by resolution of the City Council. If the project qualifies as a special project, the applicant shall pay the fees set forth in the schedule of fees for special projects.
- D. The Director may find the permit to be exempt from the fee requirement if the work or installation is required by the city for its own purposes and not for the benefit of the applicant.

SECTION 6. Section 15.50.500 of Chapter 15.50 of Title 15 of the San José Municipal Code is amended to read as follows:

15.50.500 Conditions

All permits shall be subject to the following conditions:

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- A. All conditions necessary to insure proper traffic control, **public safety and welfare and the lack of conflict with other existing and planned projects, structures or facilities.**
- B. An acknowledgment that the permittee agrees to be **responsible for any damage caused by its activities to any existing public or private structures or facilities.**
- C. The permittee shall indemnify and hold harmless the City of **San Jose** and any officers and employees thereof against and from all **claims, loss, liability, damages, judgments, decrees, costs and expenditures which the City or such officer or employee may suffer, or which may be recovered from or obtainable against the City or such officer or employee, proximately caused by and growing out of or resulting from the exercise of the permit by the permittee.**
- D. All work to be done under a permit shall be completed **within six (6) months from the date of issuance.**
- E. Permittee is responsible for trench and surface conditions **during the time that their facilities remain within the trench.**
- F. Any other condition deemed appropriate by the Director. **If the work is not completed, the permit shall be renewed upon payment of the applicable fee as set forth in the schedule of fees adopted by the City Council. If the delay is caused by the City, the permit shall be renewed without charge.**
- G. All conditions in the approved **Construction Impact Mitigation Plan.**

RD:PAD/VMT
9/24/03

SECTION 7. Section 15.50.600 of Chapter 15.50 of the San José Municipal Code is amended to read as follows:

15.50.600 Amendment or Revocation

- A. The Director may, in writing, amend or revoke a permit if the Director finds any of the following conditions have occurred:
1. The permit was issued in error or on the basis of incorrect or incomplete information supplied;
 2. The permittee has violated any conditions of the permit;
 3. The structures or improvements create a dangerous condition to life or property; or
 4. It is necessary to remove and/or relocate the improvements in order to accommodate the use of the right-of-way by the City, or to accommodate future improvements in, along, across, under, through, over or upon the right-of-way by the City.
- B. Notwithstanding the above, any violation of Construction Impact Mitigation Plan requirements, when applicable, shall also be subject to enforcement pursuant to Section 13.36.340 of Chapter 13.36.

SECTION 8. Section 15.50.610 of Chapter 15.50 of Title 15 of the San José Municipal Code is amended to read as follows:

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5/13/2004

RD:PAD/MT
9/24/03

15.50.610 Appeal

- A. The Director shall notify an applicant, in writing, of the Director's decision to deny, amend or revoke a permit.
- B. The notice of decision shall state the grounds for denial of the application or amendment or revocation of the permit and shall notify the applicant or permittee of the hearing opportunity pursuant to Section 15.50.620.
- C. The notice of decision shall become final, unless a written request for hearing is received within ten (10) business days after the date of notice of decision.
- D. The denial of an encroachment permit based in whole or in part upon the Construction Impact Mitigation Plan is not subject to appeal under this Section, but may be appealed pursuant to the provisions of Part 3 of Chapter 13.36.

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DAVE CORTESE

PAGE 18

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9/24/03

PASSED FOR PUBLICATION of title this ____ day of _____, 2003, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

RON GONZALES
Mayor

ATTEST:

PATRICIA L. O' HEARN
City Clerk

RESPONSE TO COMMENT LETTER L6

City of San Jose, Dave Cortese, San Jose City Councilmember (May 13, 2004)

- L6.1** *As stated in Section 4.19.2.1, Pre-construction Activities, a Construction Impact Mitigation Plan will be developed prior to construction. This plan will incorporate mitigation measures included as part of the Final EIS/EIR and adopted by VTA in the project's Mitigation Monitoring and Reporting Plan. Other measures, such as public outreach, that go beyond more traditional actions to mitigate direct physical environmental impacts will also be implemented. Therefore, the Construction Impact Mitigation Plan supplements the requirements of NEPA and CEQA that mitigation measures be implemented. Refer to Section 4.19.2.1 for a detailed description of the plan.*

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Development and Environmental Services Department
39550 Liberty Street, P.O. Box 5006, Fremont, CA 94537-5006
www.ci.fremont.ca.us

L7

VTA ENV. ANALYSIS
2004 MAY 17 P 1:53

May 13, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First Street, Building B
San Jose, CA 95134-1927

RE: BART EXTENSION TO MILPITAS, SAN JOSE AND SANTA CLARA DEIS/DEIR

Dear Mr. Fitzwater:

The City of Fremont appreciates the opportunity to comment on the Draft Environmental Impact Statement/ Environmental Impact & Draft 4(f) evaluation Report for the BART Extension to Milpitas and San Jose (March, 2004). This project is located within the boundaries of the City of Fremont, Milpitas, San Jose and Santa Clara. The City has long supported this project which has been planned for over 25 years. We look forward to the beginning of its construction and to a continuing partnership with BART and VTA as the project moves into construction and, ultimately, operation of this long-planned extension of the BART system. We are just beginning a Specific Plan for the vicinity of the proposed Warm Springs BART Station. We have also undertaken several projects which should assist the development of the BART line, including grade separations that will allow the extension to continue at-grade at several intersections within the City including East Warren Avenue.

L7.1

We have carefully reviewed the DEIR and find it to be generally thorough and complete. However, we do have the following comments and questions, by section and page.

L7.2

4.2 Transportation and Transit

There was no discussion of Fremont Intersection level of service. Yet in Chapter 6, Table 6.2-2 (page 6.2-9) there is a conclusion that there were "No impacts at any Intersection" in the City of Fremont. Note that the SEIR for the Warm Springs Extension showed a degradation of LOS from D to E at I-680 southbound Ramps/Durham/Auto Mall parkway (V/C 0.90 to 0.91) and two other intersections, Osgood/Durham/Auto Mall Parkway and Osgood/Warm Springs/S. Grimmer, where the LOS E or F volume/capacity ratios might be significantly impacted based on the criteria presented in this study. At minimum, it would be better to say that the WSX SEIR addressed impacts at Fremont Intersections. If conclusions about Fremont Intersections are presented in Chapter 6 some supportive data should be presented in Chapter 4.

L7.3

2. 4.4 Air Quality

Air-quality section did not adequately address the air quality impacts during the construction phase. The document also identified that data was collected from various monitoring stations located in Milpitas, San Jose and Santa Clara. However, the document does not mention if data from Fremont monitoring station(s) was evaluated.

L7.4

4. 4.5-1 Biological Resources and Wetlands

The Proposed BART extension is in close proximity to five flood control channels/streams within the City of Fremont and the construction work could have some impacts on these features. The document generally identifies different kinds of flora, and fauna. However, it does not indicate if

L7.5

Mr. Tom Fitzwater
VTA Environmental Planning Department

May 13, 2004

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<p>any of the channels/streams within the City of Fremont will be impacted. Additionally, any alteration to the streambed requires Alameda County Floor Control and other agency approval.</p>	<p>L7.5 (cont.)</p>
<p>5. <u>4.13 Noise</u> It appears the study didn't focus on ground borne noises for above ground alignments because ground borne noise is masked by airborne noise. What happens when the air borne noise is mitigated? How does the vibration impacts of the BART operations compare with the vibration caused by the freight trains that used to operate on the BART alignment?</p>	<p>L7.6 L7.7</p>
<p>Chapter 4, 4.13 (page 4.13) The document identified the impacts to residential areas within the City of Fremont and provided mitigation measures. However, the DEIS did not address the vibration impacts on industrial and office uses located along the proposed BART route.</p>	<p>L7.8</p>
<p>We encountered a vibration sensitive integrated circuit testing laboratory operating on a 24/7 work schedule that could be impacted by pile driving operations associated with the construction of the new I-880/Rte 262/Warren Avenue Interchange. Have efforts been made to identify any vibrations sensitive Category 1 Land Uses near the BART alignment in Fremont. None were identified in this study.</p>	<p>L7.9</p>
<p><u>4.16 Utilities</u> Please be aware that the Alameda County Water District storm drain near station 73+90 will be relocated in conjunction with Phase 1A of the I-880/Rte 262/Warren Interchange project, which will begin construction this summer.</p>	<p>L7.10</p>
<p><u>4.17 Visual Quality and Aesthetics</u> The relocation of a truck-rail transfer facility to an expanded "Sno-Boy" site near the Warm Springs Station is mentioned on page 4.17-18 and elsewhere in the report. As previously communicated to City and BART staffs are not supportive of expanding the truck-rail transfer operation at "Sno-Boy". It is located within the area around the Warm Springs BART Station where we want to see more transit supportive uses developed in the future. City staff has been actively working with VTA to identify an acceptable site for the truck rail facility. The Alternatives section (page 3.4-38) discusses a possible relocation of the truck-rail facility south of Warren. This is a site that might be acceptable to the City. However, the analysis fails to identify the new location, possible impacts and mitigation measures to reduce possible impacts of this site.</p>	<p>L7.11</p>
<p><u>4.19 Construction</u> Businesses along the alignment in Fremont should be contacted as part of an assessment to determine if they might be sensitive to vibration caused by construction activities.</p>	<p>L7.12</p>
<p><u>Haul Routes</u> E. Warren Avenue to I-880 and I-680 will serve 3,010 loaded truck trips (20 yards per truck) and Kato Road will serve 470 loaded truck trips (20 yards per truck). The E. Warren underpass must be completed to serve trucks accessing I-880.</p>	<p>L7.13</p>
<p><u>Roadway Crossings</u> The E. Warren underpass must be completed before Kato Road can be closed during construction of the Kato Road underpass. The E. Warren underpass must be available to serve detouring traffic. Two lanes of traffic must be maintained in each direction on E. Warren Avenue if Kato Road is closed while the E. Warren Avenue BART bridge is being built. We expect to only have to close Warren Avenue 10 months while constructing the underpass. The closure of Kato Road should be no longer than 10 months. Additionally, no lane closures should be permitted on Dixon Landing Road while Kato Road is closed.</p>	<p>L7.14</p>

Mr. Tom Fitzwater
VTA Environmental Planning Department

May 13, 2004

Page 3

The construction staging site south of E. Warren will have to take access from Mission Falls Lane after the E. Warren underpass is completed. Tables 4.19.3 and 4.19.4 under estimated the 2025 traffic on E. Warren with a new I-880/Warren interchange and a W. Warren underpass. It is also unlikely that Kato Road 2025 traffic will be less than the year 2000 traffic westbound during the AM and eastbound during the PM as currently shown.

L7.15

Detouring traffic to Kato and Milmont for two years while a Dixon Landing underpass is built is not acceptable.

Chapter 5

The study forecasts 1,416 parking spaces will be needed between San Leandro and Fremont to serve the south bay BART extension. However, it doesn't identify how many will be needed in Fremont. Some of these spaces could be provided at a new Irvington Station. The study seems to assume the Irvington Station will be built before the south bay extension is completed, which may not be a correct assumption. Although the City is actively pursuing funding for a future Irvington Station, it is impossible to determine at this time when the station will be built.

L7.16

Thank you again for the opportunity to comment.

Sincerely,



William Meeker
Planning Director

cc: Mike McNeely, City of Milpitas

RESPONSE TO COMMENT LETTER L7

City of Fremont (May 13, 2004)

L7.1 *Your support for the BART Alternative is noted and included in the record for consideration by the decision-makers.*

L7.2 *Refer to responses to comments L7.3 through L7.16.*

L7.3 *The Supplemental EIR for the BART Warm Springs Extension (certified in June 2003) analyzed potential cumulative traffic impacts at intersections in Fremont. The cumulative traffic analysis included the BART Alternative. Additional potential cumulative impacts with the optional Irvington Station and BART Alternative include:*

- *2025 change in volume-to-capacity ratio (V/C) and level of service at the intersection of I-680 southbound ramps/Durham Road/Auto Mall Parkway.*
- *2025 change in V/C and level of service at the intersection of Osgood Road/Warm Springs Boulevard/South Grimmer Boulevard.*
- *2025 change in V/C and level of service at the intersection of Osgood Road/Driscoll Road/Washington Boulevard.*

Therefore, additional transportation and traffic analysis was not necessary as part of this EIS/EIR.

L7.4 *An additional construction emissions discussion has been added to Construction, Section 4.19.4.1, Air Quality Impacts, under the subheading Baseline and BART Alternatives, as follows:*

Table 4.19-5 quantifies construction emissions for the Baseline and BART Alternatives. As can be seen from the table, PM₁₀ pollutant emissions can be reduced substantially by mitigation.

Table 4.19-5: Construction Emissions						
Project Alternative	Criteria Pollutant Emissions (pounds per day)					
	CO	ROG	NO_x	SO_x	PM₁₀ (without mitigation)	PM₁₀ (with mitigation)
Baseline	26	5	55	5	15	8
BART Alternative	134	25	282	23	385	193

Source: Terry A. Hayes Associates LLC, 2004.

Pollutant concentrations at various distances from the construction sites are provided in Table 4.19-6. Ambient PM₁₀ concentrations currently exceed the state 24-hour and annual standards of 50 µg/m³ and 20 µg/m³, respectively. With implementation of design requirements and best management practices, PM₁₀ concentrations during construction of the Baseline Alternative would be less

than 5% over the ambient 24-hour and annual arithmetic mean concentrations. During construction of the BART Alternative, PM_{10} concentrations would be less than 5% over the ambient 24-hour concentration at a distance of approximately 1,050 feet or more from the construction sites. PM_{10} concentrations would be less than 5% over the ambient annual arithmetic mean concentration at a distance of approximately 500 feet or more from the construction sites. PM_{10} contributions from construction would last for several days at various sensitive receptor locations, as construction for the BART Alternative would occur on a linear basis. According to BAAQMD, if appropriate construction controls are implemented, PM_{10} emissions for construction activities would be considered less than significant.

Table 4.19-6: Pollutant Concentrations Near Construction Sites											
Distance from Construction Sites (feet)	Pollutant Concentrations										
	CO (ppm) [1] [2]		NO ₂ (ppm) [3] [4] [5]		SO ₂ (ppm) [6] [7] [8]			PM ₁₀ without Mitigation (µg/m ³) [9] [10]		PM ₁₀ with Mitigation (µg/m ³) [10]	
	1-Hour	8-Hour	1-Hour	Annual Arithmetic Mean	1-Hour	24-Hour	Annual Arithmetic Mean	24-Hour	Annual Arithmetic Mean	24-Hour	Annual Arithmetic Mean
Baseline											
50	11.7	7.0	0.14	0.027	0.026	0.005	0.002	73	29	72	28
100	11.7	7.0	0.13	0.027	0.025	0.005	0.002	72	28	72	28
500	11.7	7.0	0.13	0.026	0.024	0.004	0.002	71	28	71	28
1,000	11.7	7.0	0.13	0.026	0.024	0.004	0.002	71	28	71	28
1,500	11.7	7.0	0.13	0.026	0.024	0.004	0.002	71	28	71	28
BART Alternative											
50	11.7	7.0	0.17	0.032	0.027	0.006	0.002	139	44	105	36
100	11.7	7.0	0.15	0.030	0.025	0.005	0.002	111	37	91	32
500	11.7	7.0	0.13	0.027	0.024	0.004	0.002	81	30	76	29
1,000	11.7	7.0	0.13	0.026	0.024	0.004	0.002	76	29	73	28
1,500	11.7	7.0	0.13	0.026	0.024	0.004	0.002	75	29	72	28
<p>Notes:</p> <p>[1] State 1-Hour Standard: 20 ppm; State 8-Hour Standard: 9.0 ppm</p> <p>[2] CO concentrations include the one- and eight-hour ambient concentrations of 11.7 ppm and 7.0 ppm, respectively.</p> <p>[3] State 1-Hour Standard: 0.25 ppm; Federal Annual Arithmetic Mean Standard: 0.053 ppm</p> <p>[4] The California Ambient Air Quality Standards do not have NO₂ standards for the annual arithmetic mean.</p> <p>[5] NO₂ concentrations include the one-hour and annual average ambient concentrations of 0.13 ppm and 0.03 ppm, respectively.</p> <p>[6] State 1-Hour Standard: 0.25 ppm; State 24-Hour Standard: 0.04 ppm; Federal Annual Arithmetic Mean Standard: 0.030 ppm</p> <p>[7] The California Ambient Air Quality Standards do not have SO₂ standards for the annual arithmetic mean.</p> <p>[8] SO₂ concentrations include the one-hour, 24-hour, and annual average ambient concentrations of 0.024 ppm, 0.004 ppm, and 0.002 ppm, respectively.</p> <p>[9] PM₁₀ concentrations include the 24-hour and annual average ambient concentrations of 71µg/m³ and 28 µg/m³, respectively.</p> <p>[10] State 24-Hour Standard: 50 µg/m³; State Annual Arithmetic Mean Standard: 20 µg/m³</p> <p>Source: Terry A. Hayes Associates LLC, 2004.</p>											

The additional suggested U.S. Environmental Protection Agency (EPA) mitigation measures (refer to comment and response F1.9) will also be included Section 4.19.4.3, *Mitigation Measures for Air Quality Impacts, Baseline and BART Alternatives, as follows:*

However, to further reduce impacts associated with emissions of PM₁₀ and other toxics, the following mitigation measure will be implemented.

- *Establish an activity schedule designed to minimize traffic congestion around the construction site.*
- *Utilize EPA-registered particulate traps and other appropriate controls to reduce emissions of diesel particulate matter and other pollutants at the construction site.*
- *Locate construction equipment and staging zones away from sensitive receptors such as children and the elderly, as well as away from fresh air intakes to buildings and air conditioners.*
- *Use low sulfur fuel (diesel with 15 parts per million or less).*
- *Reduce use, trips, and unnecessary idling from heavy equipment.*
- *Lease newer and cleaner equipment (1996 or newer).*
- *Periodically inspect construction sites to ensure construction equipment is properly maintained at all times.*

Table 4.3-1, Air Quality Standards, Ambient Measurements and Violations at Air Monitoring Stations, identifies data that was collected from the Fremont Chapel Way Monitoring Station. In addition, Section 4.3.2.1, Existing Setting, under the subheading Air Monitoring Data, discusses air monitoring data that was collected from the Fremont Chapel Way Monitoring Station. This monitoring station is located at 40733 Chapel Way in the City of Fremont.

L7.5

The BART Alternative crosses the following creeks within the City of Fremont: Agua Caliente Creek, Agua Fria Creek, Toroges Creek, Scott Creek, and Calera Creek. The creeks are shown on Figures 4.18-1, Segment 1 – Northern Section, and 4.18-2, Segment 1 – Northern Section continued. The proposed new construction at each of these creeks is summarized below.

Agua Caliente Creek is a concrete-lined trapezoidal channel crossing under the BART alignment. For this location, the Silicon Valley Rapid Transit Corridor Policy Advisory Board approved the VTA staff recommendation that the East of Rail ROW Option be carried forward as the preferred design option (approval date May 26, 2004). Design options at Agua Caliente Creek include extending the existing culvert east of the BART tracks or constructing aerial structure support columns. Placement of support columns would be outside of the creek base flood effective flow area. Approximately 0.008 acres of waters of the U.S. would be permanently impacted by construction of support columns.

Agua Fria Creek is a concrete-lined stream at the BART Alternative crossing. No new structures are proposed this location.

The BART alignment crosses Toroges Creek (Line C) to the south of Lipert Avenue in Fremont. Toroges Creek (Line C) is a concrete-lined trapezoidal channel upgradient of the BART crossing. The existing eastern UPRR tracks (BART tracks) cross over a bridge box structure, and timber trestle structures support the western UPRR tracks. Elsewhere, within the UPRR right-of-way, the creek flows in a rectangular channel. Downgradient, west of the UPRR tracks, the creek flows in an earthen channel. Design options for the BART Alternative include construction of a replacement bridge for the BART tracks, extension of the existing culvert, and construction of a new bridge for the UPRR relocated tracks. Approximately 0.033 acres of waters of the U.S. would be permanently impacted by construction of the bridge(s) or extension of the culvert.

Toroges Creek (Line B1) originates west of the BART alignment and does not cross the railroad corridor. A 36-inch reinforced concrete storm drainpipe, which collects stormwater from eastern urbanized areas, crosses under the railroad corridor and discharges into this creek at its origin. No new structures are proposed where the concrete storm drainpipe crosses the BART Alternative.

Scott Creek (Line B) is an earthen trapezoidal channel upgradient of the railroad corridor. The creek crosses the BART alignment in a 72-inch reinforced concrete pipe (RCP) north of Kato Road. Downgradient, the 72-inch RCP discharges into an earthen channel. At the BART crossing, a new upgrading structure may be constructed due to the undercapacity of the existing culvert. No wetlands or waters of the U.S. are identified at this location.

South of Kato Road, Scott Creek (Line A) is a concrete-lined open box channel under the BART alignment. At this location, the existing UPRR tracks are supported by a timber trestle structure. Upgradient of the BART alignment, the creek is a concrete lined trapezoidal channel; downgradient the creek widens into an earthen vegetated ditch. The timber trestle structure would be replaced with new bridge. The culvert may also be extended. Approximately 0.009 acres of waters of the U.S. would be affected by construction of a bridge or extension of the culvert.

Calera Creek is a concrete-lined rectangular channel upgradient and east of the BART alignment that discharges into two reinforced concrete box culvert structures under the railroad corridor. Downgradient, west of the railroad corridor, the creek merges with Berryessa Creek. The BART Alternative is at-grade as it passes the underground culvert containing Calera Creek. A new at-grade bridge is proposed to be constructed over Calera Creek for the UPRR. However Preliminary Engineering studies may determine that a new bridge is not needed..

For all creek crossings, water quality control measures and best management practices will be implemented to prevent sediments, debris, hazardous materials, and so forth from entering the watercourses. Construction of the BART Alternative will require a General NPDES Construction Permit, which contains waste discharge requirements. Under the General NPDES Construction Permit, VTA will develop and implement site-specific Storm Water Pollution Prevention Plans (SWPPP). The SWPPPs will include best management practices for soil stabilization, sediment control, wind erosion control, and non-storm water management/waste management measures. VTA will comply with the Alameda County's Storm Water Quality Management Plan. An erosion and sediment control plan will be developed and submitted to the Regional Water Quality Control Board (RWQCB) and Alameda County Flood Control and Water Conservation District (ACFCWCD) for review and comment. Permits will be obtained from the Army Corps of Engineers, California Department of Fish and Game, RWQCB, and ACFCWCD, as applicable. Where

falsework and stream diversions will be installed, plans will be developed and implemented in accordance with VTA's Fish-Friendly Channel Design Guidelines. Temporary and permanent impacts to riparian and wetland habitats will be mitigated through avoidance, minimization, replacement, or enhancement, as determined in consultation with regulatory agencies.

L7.6 *Even with mitigation of airborne noise, ground-borne noise levels will still be significantly below the airborne noise levels and will not exceed the criteria.*

L7.7 *The vibration generated by the BART trains will be significantly lower than that generated by typical freight trains. The BART vehicles are much shorter, lighter, and are designed to minimize vibration. Freight train wheels and rails are not maintained as well as transit systems, and generate greater vibration.*

L7.8 *Vibration impacts on industrial and commercial uses focuses primarily on locations with sensitive uses. These include such uses as hospitals and doctors' offices, but not typical office spaces or industrial uses. The analysis also provides for lower vibration criteria for locations with vibration sensitive equipment operations, such as computer chip manufacturing facilities. No vibration sensitive uses were identified adjacent to the BART Alternative alignment. In addition, vibration impacts would be greater from the existing active freight line movements along the railroad tracks than would occur with the BART vehicles.*

L7.9 *As a part of the land use survey for this project, efforts were made to identify any vibration sensitive Category 1 land uses along the alignment. No such uses were identified. Because of the greater vibration impacts from the active freight line, it is unlikely that any land uses would be adversely impacted by the lower vibration levels from the operation of BART vehicles. Regarding construction impacts from pile driving, Construction, Section 4.19.11.6, Mitigation Measures for Vibration Impacts, includes mitigation that avoids impact pile driving near vibration sensitive uses and the use of drilled piles or other techniques as quieter alternatives. The public notification program identified in Section 4.19.11.5, Design Requirements and Best Management Practices for Vibration Impacts, includes notification to businesses in advance of any impact pile driving.*

L7.10 *The information about the relocated utility line will be forwarded on to the Preliminary Engineering design team.*

L7.11 *Section 3.4.6.3, Associated Railroad Improvements, Warm Springs Rail-Truck-Tank Car Transfer Facility Relocation, only discusses the potential relocation to a site immediately adjacent to the "Sno-Boy" site in Fremont. VTA will work with the City of Fremont during the Preliminary Engineering phase of the project to address the City's concerns with this location. If another alternative location were to be identified and selected, additional environmental clearance will be necessary.*

L7.12 *Construction noise and vibration varies greatly depending on the construction process, type and condition of equipment used, and layout of the construction site. Many of these factors are traditionally left to the contractor's discretion, which makes it difficult to accurately estimate levels of construction noise. At this stage of a project, guidelines are given on controlling noise and vibration from construction. Because detailed construction plans are not available, and specific construction equipment types and scenarios for construction have not yet been determined, only a general assessment of impacts and mitigation measures can be given. A number of mitigation measures are outlined in the*

EIS/EIR, and will be incorporated into the construction process to help minimize noise impacts during construction. These measures can be refined, as more information is made available during the Preliminary Engineering phase of the project regarding construction processes and types of equipment to be used. Typical construction processes do not generate vibration levels high enough to cause damage, even to historic buildings. VTA will continue to work with the City of Fremont to identify any special land uses that might be particularly sensitive to vibration from construction and develop plans to reduce vibration level where feasible.

L7.13 *As stated in Section 4.19.2.1, Pre-construction Activities, traffic control plans will be developed in cooperation with local jurisdictions to maintain as many traffic lanes and as much traffic capacity as possible during construction.*

Section 4.19.2.7, Grade Separation and Station Construction Street and Lane Closures, under the subheadings BART Alternative/East Warren Avenue, discusses construction impacts at this location. Two lanes of traffic in each direction would be maintained. During the Preliminary Engineering phase of the project, additional analysis will be developed regarding construction techniques and phasing.

L7.14 *Refer to response L7.13.*

L7.15 *The East Warren Avenue and Kato Road levels of service are projected to be LOS A in the year 2025 with the BART Alternative. Even if the traffic projections were off by a factor of 2, the level of service would still not be considered a substantial adverse impact. The City of Fremont's opposition to the alternative to close Dixon Landing Road for up to two years during construction to expedite the construction period is noted and included in the record for review and consideration by the decision-makers.*

L7.16 *As stated in Chapter 5.0, BART Core System Parking Analysis, Introduction, "...additional parking would be provided consistent with BART's access management and improvement program" and "a programmatic approach has been used to address the environmental impacts from a number of additional parking facility possibilities." Additional information is provided in the BART Core System Parking Analysis Technical Working Paper (VTA May, 2003, revised October 2004), available by contacting VTA Environmental Planning Department. Table 2 in this document identifies the demand for 347 parking spaces at the Irvington (Optional) Station. The Warm Springs Station identifies 592 excess parking spaces as a result of it no longer being the terminus station. Therefore, if the Irvington Station were not built by the time the BART Alternative is completed, sufficient parking would be available at the Warm Springs Station immediately to the south.*

RESPONSE TO COMMENT LETTER L8

San Jose Historic Landmarks Commission (May 10, 2004)

L8.1 *In discussions with Far Western Anthropological Research Group, Inc. (Far Western) and JRP Historical Consulting Services (JRP), the MOA was identified as the appropriate and adequate mitigation measure considering the complexity of the project, the length of the construction schedule, and the number of historic properties affected. The MOA will include a Cultural Resources Treatment Plan (CRTP), as an appendix, for addressing archaeological resources and provisions for addressing impacts to historic resources.*

The recommendation for a Programmatic Agreement (PA) instead of a MOA is being considered. The State Historic Preservation Officer (SHPO) has been consulted on this question; however, a response has not yet been received. VTA will continue to work with a number of organizations including the Santa Jose Historic Landmarks Commission in developing an effective Memorandum of Agreement (MOA) or Programmatic Agreement (PA). The appropriate type of document and its details will be developed through continuing consultations. The MOA or PA will include the measures agreed upon, address consulting parties' comments, and provide documentary evidence that the requirements of Section 106 have been met. The MOA or PA will be signed before federal approval of the project is obtained.

L8.2 *To resolve all identified adverse effects, a MOA or PA will be developed and executed by VTA and the appropriate city and county historic preservation bodies, as well as Federal Transit Administration (FTA), Advisory Council on Historic Preservation (ACHP), and the State Historic Preservation Officer (SHPO). Avoidance of adverse effect is one of the goals of the project. The Secretary of the Interior's Standards are referenced in Section 4.6.6.2, Historic Architectural Resources Mitigation, under the subheadings BART Alternative/Design Standards and Guidelines, as one of several mitigation measures that will likely be included in the MOA or PA. Other mitigation measures likely to be included in the MOA or PA are Avoidance; Protective Measures; Recordation (for building(s) to be demolished, relocated, or altered); Interpretive Display, Museum Exhibit, and/or Historic Image Reproduction; and Opportunities for Salvage. The MOA or PA will include the measures agreed upon, address consulting parties' comments, and provide documentary evidence that the requirements of Section 106 have been met.*

L8.3 *VTA will continue to work with the San Jose Historic Landmarks Commission on developing an effective MOA or PA.*