

Appendix E
Agency Correspondence

Appendix E

Index of Agency Correspondence

Date	To	From	Subject
July 21, 2010	Ann Calnan, VTA	United States Department of the Interior, Fish and Wildlife Service	Species List for BART Silicon Valley
July 3, 2010		California Department of Fish and Game	Natural Diversity Database Wide Tabular Report
October 1, 2007	Mr. John Donahue, VTA	Manuel Pineda, City of San Jose	Riparian Corridor Setback for Upper Penitencia Creek and Coyote Creek



United States Department of the Interior
FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825



July 21, 2010

Document Number: 100721105109

Ann Calnan
Santa Clara Valley Transportation Authority
3331 North First Street, Bldg. B-2
San Jose, CA 95112

Subject: Species List for BART Silicon Valley

Dear: Ms. Calnan

We are sending this official species list in response to your July 21, 2010 request for information about endangered and threatened species. The list covers the California counties and/or U.S. Geological Survey 7½ minute quad or quads you requested.

Our database was developed primarily to assist Federal agencies that are consulting with us. Therefore, our lists include all of the sensitive species that have been found in a certain area *and also ones that may be affected by projects in the area*. For example, a fish may be on the list for a quad if it lives somewhere downstream from that quad. Birds are included even if they only migrate through an area. In other words, we include all of the species we want people to consider when they do something that affects the environment.

Please read Important Information About Your Species List (below). It explains how we made the list and describes your responsibilities under the Endangered Species Act.

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be October 19, 2010.

Please contact us if your project may affect endangered or threatened species or if you have any questions about the attached list or your responsibilities under the Endangered Species Act. A list of Endangered Species Program contacts can be found at www.fws.gov/sacramento/es/branches.htm.

Endangered Species Division



U.S. Fish & Wildlife Service
Sacramento Fish & Wildlife Office

**Federal Endangered and Threatened Species that Occur in
or may be Affected by Projects in the Counties and/or
U.S.G.S. 7 1/2 Minute Quads you requested**

Document Number: 100721111701

Database Last Updated: April 29, 2010

Quad Lists

Listed Species

Invertebrates

Branchinecta conservatio

Conservancy fairy shrimp (E)

Euphydryas editha bayensis

bay checkerspot butterfly (T)

Critical habitat, bay checkerspot butterfly (X)

Lepidurus packardii

Critical habitat, vernal pool tadpole shrimp (X)

vernal pool tadpole shrimp (E)

Fish

Hypomesus transpacificus

delta smelt (T)

Oncorhynchus mykiss

Central California Coastal steelhead (T) (NMFS)

Central Valley steelhead (T) (NMFS)

Critical habitat, Central California coastal steelhead (X) (NMFS)

Oncorhynchus tshawytscha

Central Valley spring-run chinook salmon (T) (NMFS)

winter-run chinook salmon, Sacramento River (E) (NMFS)

Amphibians

Ambystoma californiense

California tiger salamander, central population (T)

Rana draytonii

California red-legged frog (T)

Critical habitat, California red-legged frog (X)

Reptiles

Masticophis lateralis euryxanthus

Alameda whipsnake [=striped racer] (T)

Birds

Charadrius alexandrinus nivosus

western snowy plover (T)

Pelecanus occidentalis californicus

California brown pelican (E)

Rallus longirostris obsoletus

California clapper rail (E)

Sternula antillarum (=Sterna, =albifrons) browni

California least tern (E)

Mammals

Reithrodontomys raviventris

salt marsh harvest mouse (E)

Vulpes macrotis mutica

San Joaquin kit fox (E)

Plants

Dudleya setchellii

Santa Clara Valley dudleya (E)

Lasthenia conjugens

Contra Costa goldfields (E)

Critical habitat, Contra Costa goldfields (X)

Streptanthus albidus ssp. albidus

Metcalf Canyon jewelflower (E)

Suaeda californica

California sea blite (E)

Proposed Species

Amphibians

Rana draytonii

Critical habitat, California red-legged frog (PX)

Quads Containing Listed, Proposed or Candidate Species:

MILPITAS (427B)

SAN JOSE WEST (427C)

SAN JOSE EAST (427D)

County Lists

No county species lists requested.

Key:

(E) *Endangered* - Listed as being in danger of extinction.

(T) *Threatened* - Listed as likely to become endangered within the foreseeable future.

(P) *Proposed* - Officially proposed in the Federal Register for listing as endangered or threatened.

(NMFS) Species under the Jurisdiction of the [National Oceanic & Atmospheric Administration Fisheries Service](#). Consult with them directly about these species.

Critical Habitat - Area essential to the conservation of a species.

(PX) *Proposed Critical Habitat* - The species is already listed. Critical habitat is being proposed for it.

(C) *Candidate* - Candidate to become a proposed species.

(V) Vacated by a court order. Not currently in effect. Being reviewed by the Service.

(X) *Critical Habitat* designated for this species

Important Information About Your Species List

How We Make Species Lists

We store information about endangered and threatened species lists by U.S. Geological Survey 7½ minute quads. The United States is divided into these quads, which are about size of San Francisco.

The animals on your species list are ones that occur within, **or may be affected by** proje

within, the quads covered by the list.

- Fish and other aquatic species appear on your list if they are in the same watershed as your quad or if water use in your quad might affect them.
- Amphibians will be on the list for a quad or county if pesticides applied in that area may be carried to their habitat by air currents.
- Birds are shown regardless of whether they are resident or migratory. Relevant birds on the county list should be considered regardless of whether they appear on a quad list.

Plants

Any plants on your list are ones that have actually been observed in the area covered by the list. Plants may exist in an area without ever having been detected there. You can find out what's in the surrounding quads through the California Native Plant Society's online [Inventory of Rare and Endangered Plants](#).

Surveying

Some of the species on your list may not be affected by your project. A trained biologist and/or botanist, familiar with the habitat requirements of the species on your list, should determine whether they or habitats suitable for them may be affected by your project. We recommend that your surveys include any proposed and candidate species on your list. See our [Protocol](#) and [Recovery Permits](#) pages.

For plant surveys, we recommend using the [Guidelines for Conducting and Reporting Botanical Inventories](#). The results of your surveys should be published in any environment documents prepared for your project.

Your Responsibilities Under the Endangered Species Act

All animals identified as listed above are fully protected under the Endangered Species Act 1973, as amended. Section 9 of the Act and its implementing regulations prohibit the take of a federally listed wildlife species. Take is defined by the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any such animal.

Take may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or shelter (50 CFR §17.3).

Take incidental to an otherwise lawful activity may be authorized by one of two procedures:

- If a Federal agency is involved with the permitting, funding, or carrying out of a project that may result in take, then that agency must engage in a formal [consultation](#) with the Service.

During formal consultation, the Federal agency, the applicant and the Service work together to avoid or minimize the impact on listed species and their habitat. Such consultation would result in a biological opinion by the Service addressing the anticipated effect of the project on listed proposed species. The opinion may authorize a limited level of incidental take.

- If no Federal agency is involved with the project, and federally listed species may be taken as part of the project, then you, the applicant, should apply for an incidental take permit. The Service may issue such a permit if you submit a satisfactory conservation plan for the species that would be affected by your project.

Should your survey determine that federally listed or proposed species occur in the area and are likely to be affected by the project, we recommend that you work with this office and the California Department of Fish and Game to develop a plan that minimizes the project's direct and indirect impacts to listed species and compensates for project-related loss of habitat. You should include the plan in any environmental documents you file.

Critical Habitat

When a species is listed as endangered or threatened, areas of habitat considered essential to its conservation may be designated as critical habitat. These areas may require special management considerations or protection. They provide needed space for growth and normal behavior; food, water, air, light, other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, germination or seed dispersal.

Although critical habitat may be designated on private or State lands, activities on these lands are not restricted unless there is Federal involvement in the activities or direct harm listed wildlife.

If any species has proposed or designated critical habitat within a quad, there will be a separate line for this on the species list. Boundary descriptions of the critical habitat may be found in the Federal Register. The information is also reprinted in the Code of Federal Regulations (50 CFR 17.95). See our [Map Room](#) page.

Candidate Species

We recommend that you address impacts to candidate species. We put plants and animals on our candidate list when we have enough scientific information to eventually propose them for listing as threatened or endangered. By considering these species early in your planning process you may be able to avoid the problems that could develop if one of these candidates was listed before the end of your project.

Species of Concern

The Sacramento Fish & Wildlife Office no longer maintains a list of species of concern. However, various other agencies and organizations maintain lists of at-risk species. These lists provide essential information for land management planning and conservation efforts. [More info](#)

Wetlands

If your project will impact wetlands, riparian habitat, or other jurisdictional waters as defined by section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act, you will need to obtain a permit from the U.S. Army Corps of Engineers. Impacts to wetland habitats require site specific mitigation and monitoring. For questions regarding wetlands, please contact Mark Littlefield of this office at (916) 414-6580.

Updates

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be October 19, 2010.

California Department of Fish and Game
Natural Diversity Database Wide Tabular Report

California Department of Fish and Game
Natural Diversity Database
CNDDDB Wide Tabular Report

Name (Scientific/Common)	CNDDDB Ranks	Other Lists	Listing Status	Total EO's	Element Occ Ranks						Population Status		Presence		
					A	B	C	D	X	U	Historic >20 yr	Recent <=20 yr	Pres. Extant	Poss. Extirp.	Extirp.
Accipiter cooperii Cooper's hawk	G5 S3	CDFG:	Fed: None Cal: None	101 S:5	0	2	1	0	0	2	0	5	5	0	0
Adela oplerella Opler's longhorn moth	G2G3 S2S3	CDFG:	Fed: None Cal: None	8 S:1	0	1	0	0	0	0	0	1	1	0	0
Agelaius tricolor tricolored blackbird	G2G3 S2	CDFG: SC	Fed: None Cal: None	427 S:5	0	0	0	0	1	4	4	1	4	1	0
Ambystoma californiense California tiger salamander	G2G3 S2S3	CDFG: SC	Fed: Threatened Cal: Threatened	1049 S:30	1	11	1	1	13	3	6	24	17	4	9
Antrozous pallidus pallid bat	G5 S3	CDFG: SC	Fed: None Cal: None	401 S:2	0	0	0	0	0	2	2	0	2	0	0
Aquila chrysaetos golden eagle	G5 S3	CDFG:	Fed: None Cal: None	141 S:2	0	2	0	0	0	0	0	2	2	0	0
Arctostaphylos andersonii Anderson's manzanita	G2 S2?	CNPS: 1B.2	Fed: None Cal: None	40 S:1	0	0	0	0	0	1	1	0	1	0	0
Ardea herodias great blue heron	G5 S4	CDFG:	Fed: None Cal: None	132 S:4	1	2	1	0	0	0	2	2	4	0	0
Astragalus tener var. tener alkali milk-vetch	G1T1 S1.1	CNPS: 1B.2	Fed: None Cal: None	66 S:3	0	1	0	0	2	0	2	1	1	1	1
Athene cucularia burrowing owl	G4 S2	CDFG: SC	Fed: None Cal: None	1231 S:45	4	15	9	8	6	3	5	40	39	5	1
Atriplex depressa brittlescale	G2Q S2.2	CNPS: 1B.2	Fed: None Cal: None	56 S:1	0	1	0	0	0	0	0	1	1	0	0
Atriplex joaquiniana San Joaquin spearscale	G2 S2	CNPS: 1B.2	Fed: None Cal: None	91 S:2	0	1	0	0	0	1	1	1	2	0	0
Balsamorhiza macrolepis var. macrolepis big-scale balsamroot	G3G4T2 S2.2	CNPS: 1B.2	Fed: None Cal: None	25 S:1	0	0	0	0	1	0	0	1	0	0	1
California macrophylla round-leaved filaree	G2 S2	CNPS: 1B.1	Fed: None Cal: None	124 S:1	0	0	0	0	0	1	1	0	1	0	0
Campanula exigua chaparral harebell	G2 S2.2	CNPS: 1B.2	Fed: None Cal: None	31 S:2	0	1	0	0	0	1	1	1	2	0	0

California Department of Fish and Game
Natural Diversity Database
CNDDDB Wide Tabular Report

Name (Scientific/Common)	CNDDDB Ranks	Other Lists	Listing Status	Total EO's	Element Occ Ranks						Population Status		Presence		
					A	B	C	D	X	U	Historic >20 yr	Recent <=20 yr	Pres. Extant	Poss. Extirp.	Extirp.
Centromadia parryi ssp. congdonii Congdon's tarplant	G4T3 S3.2	CNPS: 1B.2	Fed: None Cal: None	76 S:7	0	3	2	0	2	0	3	4	5	1	1
Charadrius alexandrinus nivosus western snowy plover	G4T3 S2	CDFG: SC	Fed: Threatened Cal: None	117 S:2	0	1	0	0	0	1	0	2	2	0	0
Chorizanthe robusta var. robusta robust spineflower	G2T1 S1.1	CNPS: 1B.1	Fed: Endangered Cal: None	23 S:1	0	0	0	0	1	0	1	0	0	1	0
Cirsium fontinale var. campylon Mt. Hamilton fountain thistle	G2T2 S2.2	CNPS: 1B.2	Fed: None Cal: None	39 S:3	0	3	0	0	0	0	0	3	3	0	0
Clarkia concinna ssp. automixa Santa Clara red ribbons	G5?T3 S3.3	CNPS: 4.3	Fed: None Cal: None	20 S:7	0	0	0	0	0	7	7	0	7	0	0
Collinsia multicolor San Francisco collinsia	G2 S2.2	CNPS: 1B.2	Fed: None Cal: None	22 S:1	0	0	0	0	0	1	1	0	1	0	0
Cordylanthus maritimus ssp. palustris Point Reyes bird's-beak	G4?T2 S2.2	CNPS: 1B.2	Fed: None Cal: None	61 S:1	0	0	0	0	1	0	1	0	0	0	1
Corynorhinus townsendii Townsend's big-eared bat	G4 S2S3	CDFG: SC	Fed: None Cal: None	237 S:1	0	0	0	0	0	1	1	0	1	0	0
Dipodomys heermanni berkeleyensis Berkeley kangaroo rat	G3G4T1 S1	CDFG:	Fed: None Cal: None	7 S:1	0	0	0	0	0	1	1	0	1	0	0
Dipodomys venustus venustus Santa Cruz kangaroo rat	G4T1 S1	CDFG:	Fed: None Cal: None	14 S:1	0	0	0	0	0	1	1	0	1	0	0
Dirca occidentalis western leatherwood	G2G3 S2S3	CNPS: 1B.2	Fed: None Cal: None	46 S:1	0	0	0	0	0	1	1	0	1	0	0
Dudleya setchellii Santa Clara Valley dudleya	G1 S1.1	CNPS: 1B.1	Fed: Endangered Cal: None	47 S:7	1	3	2	1	0	0	0	7	7	0	0
Elanus leucurus white-tailed kite	G5 S3	CDFG:	Fed: None Cal: None	156 S:3	0	1	1	0	0	1	1	2	3	0	0
Emys marmorata western pond turtle	G3G4 S3	CDFG: SC	Fed: None Cal: None	1109 S:6	0	3	1	1	0	1	0	6	6	0	0
Eriogonum nudum var. decurrens Ben Lomond buckwheat	G5T2 S2.1	CNPS: 1B.1	Fed: None Cal: None	5 S:1	0	0	0	0	0	1	1	0	1	0	0

California Department of Fish and Game
Natural Diversity Database
CNDDDB Wide Tabular Report

Name (Scientific/Common)	CNDDDB Ranks	Other Lists	Listing Status	Total EO's	Element Occ Ranks						Population Status		Presence		
					A	B	C	D	X	U	Historic >20 yr	Recent <=20 yr	Pres. Extant	Poss. Extirp.	Extirp.
Eryngium aristulatum var. hooveri Hoover's button-celery	G5T2 S2.1	CNPS: 1B.1	Fed: None Cal: None	10 S:3	0	0	0	0	2	1	2	1	1	2	0
Euphydryas editha bayensis Bay checkerspot butterfly	G5T1 S1	CDFG:	Fed: Threatened Cal: None	24 S:1	0	1	0	0	0	0	0	1	1	0	0
Falco peregrinus anatum American peregrine falcon	G4T3 S2	CDFG:	Fed: Delisted Cal: unknown	33 S:1	0	0	0	0	0	1	0	1	1	0	0
Fritillaria liliacea fragrant fritillary	G2 S2.2	CNPS: 1B.2	Fed: None Cal: None	59 S:2	0	1	0	0	0	1	1	1	2	0	0
Geothlypis trichas sinuosa saltmarsh common yellowthroat	G5T2 S2	CDFG: SC	Fed: None Cal: None	110 S:3	0	2	0	0	0	1	1	2	3	0	0
Hoita strobilina Loma Prieta hoita	G2 S2.1	CNPS: 1B.1	Fed: None Cal: None	26 S:1	0	0	0	0	0	1	1	0	1	0	0
Lasiurus cinereus hoary bat	G5 S4?	CDFG:	Fed: None Cal: None	235 S:4	0	0	0	0	0	4	4	0	4	0	0
Lasthenia conjugens Contra Costa goldfields	G1 S1.1	CNPS: 1B.1	Fed: Endangered Cal: None	33 S:3	0	2	0	0	1	0	1	2	2	0	1
Laterallus jamaicensis coturniculus California black rail	G4T1 S1	CDFG:	Fed: None Cal: Threatened	236 S:1	0	0	0	0	0	1	1	0	1	0	0
Lepidurus packardii vernal pool tadpole shrimp	G3 S2S3	CDFG:	Fed: Endangered Cal: None	249 S:3	0	2	1	0	0	0	0	3	3	0	0
Malacothamnus arcuatus arcuate bush-mallow	G2Q S2.2	CNPS: 1B.2	Fed: None Cal: None	21 S:2	0	0	0	0	1	1	2	0	1	1	0
Malacothamnus hallii Hall's bush-mallow	G1Q S1.2	CNPS: 1B.2	Fed: None Cal: None	32 S:4	0	2	0	0	1	1	2	2	3	1	0
Masticophis lateralis euryxanthus Alameda whipsnake	G4T2 S2	CDFG:	Fed: Threatened Cal: Threatened	94 S:1	0	1	0	0	0	0	0	1	1	0	0
Melospiza melodia pusillula Alameda song sparrow	G5T2? S2?	CDFG: SC	Fed: None Cal: None	38 S:4	0	1	0	0	0	3	3	1	4	0	0
Microcina homi Hom's micro-blind harvestman	G1 S1	CDFG:	Fed: None Cal: None	5 S:1	0	0	0	0	0	1	1	0	1	0	0

California Department of Fish and Game
Natural Diversity Database
CNDDDB Wide Tabular Report

Name (Scientific/Common)	CNDDDB Ranks	Other Lists	Listing Status	Total EO's	Element Occ Ranks						Population Status		Presence		
					A	B	C	D	X	U	Historic >20 yr	Recent <=20 yr	Pres. Extant	Poss. Extirp.	Extirp.
Monardella villosa ssp. globosa robust monardella	G5T2 S2.2	CNPS: 1B.2	Fed: None Cal: None	31 S:2	1	1	0	0	0	0	0	2	2	0	0
Myotis evotis long-eared myotis	G5 S4?	CDFG:	Fed: None Cal: None	107 S:1	0	0	1	0	0	0	0	1	1	0	0
Myotis yumanensis Yuma myotis	G5 S4?	CDFG:	Fed: None Cal: None	256 S:3	0	1	0	0	0	2	0	3	3	0	0
Navarretia prostrata prostrate vernal pool navarretia	G2? S2.1?	CNPS: 1B.1	Fed: None Cal: None	30 S:2	0	1	0	0	0	1	0	2	2	0	0
Neotoma fuscipes annectens San Francisco dusky-footed woodrat	G5T2T3 S2S3	CDFG: SC	Fed: None Cal: None	11 S:1	0	1	0	0	0	0	0	1	1	0	0
Oncorhynchus mykiss irideus steelhead - central California coast DPS	G5T2Q S2	CDFG:	Fed: Threatened Cal: None	38 S:1	0	0	0	0	0	1	0	1	1	0	0
Plagiobothrys glaber hairless popcorn-flower	GH SH	CNPS: 1A	Fed: None Cal: None	9 S:2	0	0	0	0	0	2	2	0	0	2	0
Polemonium carneum Oregon polemonium	G4 S1	CNPS: 2.2	Fed: None Cal: None	16 S:1	0	0	0	0	0	1	1	0	1	0	0
Potamogeton filiformis slender-leaved pondweed	G5 S1S2	CNPS: 2.2	Fed: None Cal: None	21 S:1	0	0	0	0	0	1	1	0	1	0	0
Rallus longirostris obsoletus California clapper rail	G5T1 S1	CDFG:	Fed: Endangered Cal: Endangered	90 S:2	0	0	0	0	0	2	2	0	2	0	0
Rana boylei foothill yellow-legged frog	G3 S2S3	CDFG: SC	Fed: None Cal: None	803 S:3	0	2	1	0	0	0	0	3	3	0	0
Rana draytonii California red-legged frog	G4T2T3 S2S3	CDFG: SC	Fed: Threatened Cal: None	1319 S:13	1	7	3	1	0	1	0	13	13	0	0
Reithrodontomys raviventris salt-marsh harvest mouse	G1G2 S1S2	CDFG:	Fed: Endangered Cal: Endangered	137 S:12	0	4	0	1	1	6	9	3	11	0	1
Sidalcea malachroides maple-leaved checkerbloom	G3G4 S3S4.2	CNPS: 4.2	Fed: None Cal: None	136 S:1	0	0	0	0	0	1	1	0	1	0	0
Sorex vagrans halicoetes salt-marsh wandering shrew	G5T1 S1	CDFG: SC	Fed: None Cal: None	12 S:2	0	0	0	0	1	1	2	0	1	0	1

California Department of Fish and Game
 Natural Diversity Database
 CNDDDB Wide Tabular Report

Name (Scientific/Common)	CNDDDB Ranks	Other Lists	Listing Status	Total EO's	Element Occ Ranks						Population Status		Presence		
					A	B	C	D	X	U	Historic >20 yr	Recent <=20 yr	Pres. Extant	Poss. Extirp.	Extirp.
Streptanthus albidus ssp. albidus Metcalf Canyon jewel-flower	G2T1 S1.1	CNPS: 1B.1	Fed: Endangered Cal: None	13 S:5	3	2	0	0	0	0	1	4	5	0	0
Streptanthus albidus ssp. peramoenus most beautiful jewel-flower	G2T2 S2.2	CNPS: 1B.2	Fed: None Cal: None	80 S:4	2	0	0	0	0	2	2	2	4	0	0
Suaeda californica California seablite	G1 S1.1	CNPS: 1B.1	Fed: Endangered Cal: None	17 S:1	0	0	0	0	0	1	1	0	1	0	0
Tropidocarpum capparideum caper-fruited tropidocarpum	G1 S1.1	CNPS: 1B.1	Fed: None Cal: None	19 S:1	0	0	0	0	0	1	1	0	1	0	0
Tryonia imitator mimic tryonia (=California brackishwater snail)	G2G3 S2S3	CDFG:	Fed: None Cal: None	34 S:1	0	0	0	0	0	1	1	0	1	0	0
Vulpes macrotis mutica San Joaquin kit fox	G4T2T3 S2S3	CDFG:	Fed: Endangered Cal: Threatened	950 S:1	0	0	1	0	0	0	0	1	1	0	0



RECEIVED
OCT 29 2007
SVRT PDCC

Department of Transportation

JAMES R. HELMER - DIRECTOR

October 1, 2007

Mr. John Donahue
Northern Area Group Manager
VTA
3103 North First Street
San Jose CA 95134

SUBJECT: RIPARIAN CORRIDOR SETBACK FOR UPPER PENITENCIA CREEK AND
COYOTE CREEK

Dear Mr. Donahue,

This letter is to verify that the City Council on August 14, 2007 has approved a Planned Development Zoning for the San Jose Flea Market mixed-use development project which requires a 100' riparian corridor setback for Upper Penitencia Creek and a setback of 100' from the outside edge of the riparian habitat for Coyote Creek, with the exception of a reduced setback from Coyote Creek adjacent to Mabury Road, as described further below.

The City's Riparian Corridor Policy provides for exceptions to the 100' setbacks as long as basic riparian habitat protection objectives are achieved; these exceptions include geometric characteristics of lots and roads. Conditions warranting an exception exist at Coyote Creek north of Mabury Road as described in the Flea Market Amendment and Planned Development Rezoning Environmental Impact Report. Accordingly, the City Council on August 14, 2007 approved a reduced Coyote Creek riparian setback north of Mabury Road to allow proper alignment of the planned new road serving the Flea Market property with the existing driveway on the south side of Mabury Road. These setbacks are supportive of the future SCVWD flood control projects along Upper Penitencia Creek and along Coyote Creek, as described in the attached letter from the SCVWD dated August 16, 2007.

If you have any questions or require additional information please call me at (408) 975-3295.

Sincerely,

Manuel Pineda
Division Manager

Attachments: Flood Protection Project Needs along Upper Penitencia Creek and Coyote Creek in the Vicinity of the Proposed SVRT Alignment dated August 16, 2007

cc: Akoni Danielsen, PBCE
Michael Liw, Public Works
Henry Servin, DOT
Daren Gee, VTA

B0710B113



5750 ALMADEN EXPWY
SAN JOSE, CA 95118-3686
TELEPHONE (408) 265-2600
FACSIMILE (408) 265-0771
www.valleywater.org
BY EMAIL: DMORISON@VALLEYWATER.ORG

RECEIVED

AUG 20 2007

SVRT PDCC

CC: DENNIS RUFFIN
DAVID GEE
MARK ROBINSON
HASSAN BASMA
Tom FITZWATER
JOHN DONAHUE

August 16, 2007

Mr. John Donahue
Engineering Group Manager, Northern Area
Valley Transportation Authority
3331 North First Street, Building A
San Jose, CA 95134

Subject: Flood Protection Project Needs along Upper Penitencia Creek and Coyote Creek in the Vicinity of the Proposed SVRT Alignment

Dear Mr. Donahue:

As a follow-up to previous discussions with VTA and City of San Jose (City) staffs, this letter summarizes the Santa Clara Valley Water District's (District) anticipated requirements for planned flood protection projects along portions of the subject creeks.

Upper Penitencia Creek:

Along Upper Penitencia Creek, from the Coyote Creek confluence to Dorel Drive, the District is partnering with the U.S. Army Corps of Engineers (Corps) to prepare a feasibility study and an environmental impact report/statement for future flood protection improvements. The Corps expects to complete these planning documents by late-2008. Currently, a preferred project alternative has not been selected; however, District staff, in cooperation with a number of stakeholders, has identified a staff-preferred alternative likely to be adopted at the time the study is completed.

Between Coyote Creek and approximately 400 feet easterly of the railroad crossing (where the creek turns 90-degrees), the staff-preferred alternative would require a minimum creek width of 205 feet starting from the northerly top of bank, adjacent to the existing Berryessa Road alignment, and extend southerly into the adjacent private properties. This setback area would provide enough space to create a more natural floodplain by excavating a bench for flood protection and incorporating a joint maintenance road/recreational trail. Attached is a typical cross-section which illustrates this preliminary alternative.

Coyote Creek:

Along Coyote Creek, between Montague Expressway and Interstate 280, the District is preparing an engineer's report and environmental impact report for future flood protection improvements. The District is currently evaluating project alternatives and has not yet selected a preferred alternative. However, conceptual alternatives to widen the creek have been developed in the area between Berryessa Road and just southerly of Mabury Road. These conceptual alternatives utilize a 100-foot setback along the east bank, starting from the easterly tree dripline and extend east into the private properties for the future flood protection improvements. This setback would be the minimum right-of-way required for flood protection and provides an opportunity to excavate a bench to convey high flood flows while incorporating a joint-use maintenance road and recreational trail along the creek in the future. It is recognized that less than the 100-foot setback may be available adjacent to the Mabury Road bridge due to

B0708B080



the City's existing corporation yard access road intersection. Attached is a preliminary typical cross-section which illustrates this conceptual alternative.

The District currently has limited land ownership or easements along the private properties that are adjacent to Upper Penitencia and Coyote Creeks in this area. We are looking to the City to assist the District in reserving the necessary right-of-way for future flood protection improvements through enforcement of the City's Riparian Corridor Policy when approving future development plans in these areas.

If you have any questions regarding the District's flood protection projects or the information provided, please contact me at (408) 265-2607 ext. 2748.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Fowler", with a long horizontal flourish extending to the right.

George Fowler, P.E.
Senior Project Manager
Capital Program Services Division

Attachments

cc: M. Klemencic
K. Oven
S. Tippetts
T. Hipol
Z. Shao
K. Sibley
S. Katric
S. Bui
G. Fowler

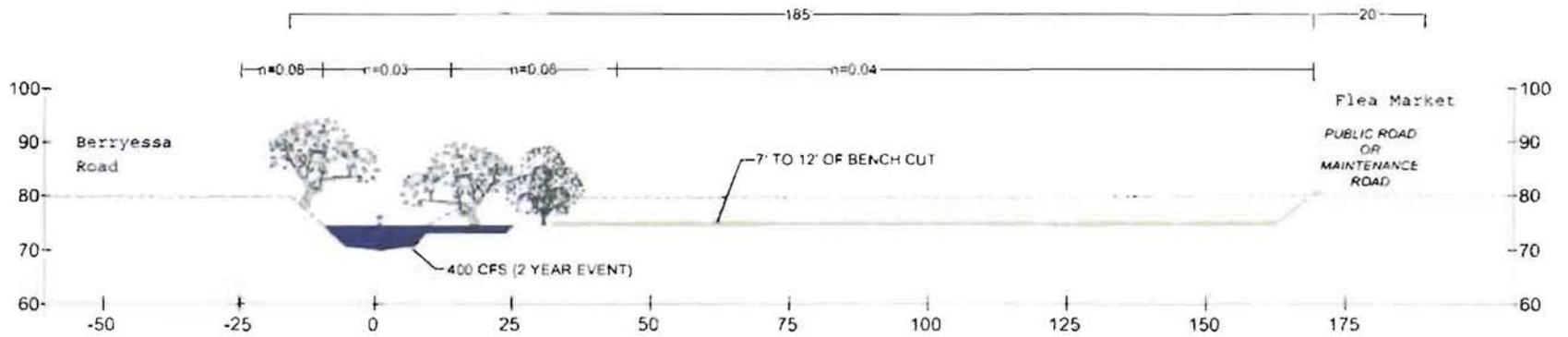
VTA – Daren Gee

City of San Jose – Henry Servin, Manuel Pineda, Mirabel Aguilar

U.S. Army Corps of Engineers – Jim Miller

DRAFT

UPPER PENITENCIA CREEK - REACH 1 (FLEA MARKET PROPERTY)
TYPICAL CROSS SECTION (LOOKING UPSTREAM)

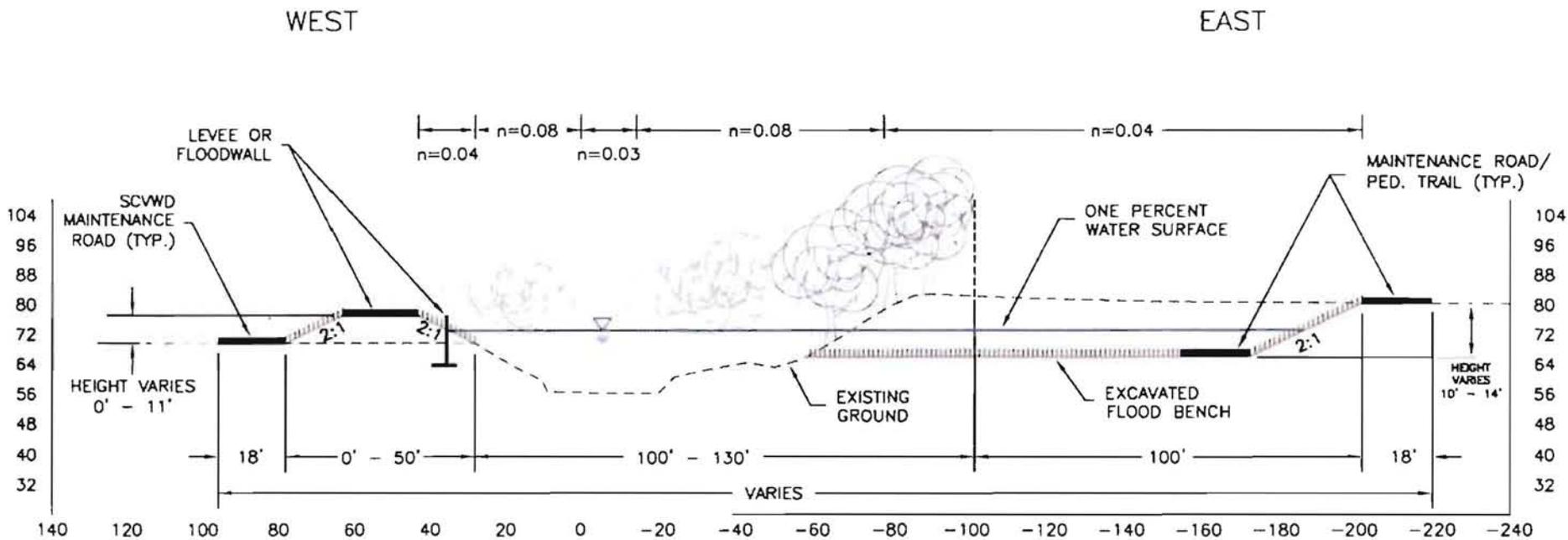


NOT TO SCALE

NOTES:

- 1) CREEK INVERT ELEVATION AT 60' NEAR COYOTE CREEK.
- 2) THE LOW FLOW CHANNEL WILL BE SLIGHTLY WIDENED AND HAVE A 400 CFS CAPACITY (2-YEAR EVENT).
- 3) THE FOLLOWING "N" VALUES WILL APPLY:
 - * n = 0.08 - RIPARIAN HABITAT, DENSE GROWTH WITH SOME MAINTENANCE
 - * n = 0.04 - SMALL SHUBS AND GRASSY AREAS MAINTENANCE REQUIRED.
 - * n = 0.03 - LOW FLOW CHANNEL.
- 4) 12' BENCH CUT NEAR COYOTE CREEK
- 5) 205' TYPICAL WIDTH FROM COYOTE CREEK TO KING ROAD.

05/10/05



COYOTE CREEK (ADJACENT TO FLEA MARKET)
TYPICAL CROSS SECTION (LOOKING DOWNSTREAM)

DRAFT

 Santa Clara Valley Water District	
MID-COYOTE PROJECT MONTAGUE EXPWY. TO I-280 TYPICAL CROSS SECTION	
SCALE: NTS	REVISED: 5/31/06