

CHAPTER 3 COMMENTS AND COORDINATION

Early and continuing coordination with the general public and appropriate public agencies is an essential part of the environmental process to determine the scope of environmental documentation, the level of analysis, potential impacts and mitigation measures and related environmental requirements. Agency consultation and public participation for this project have been accomplished through a variety of formal and informal methods, including: project development team meetings, interagency coordination meetings, a scoping meeting, presentations to neighborhood groups, and meetings with commercial property owners. This chapter summarizes the results of Caltrans' and VTA's efforts to fully identify, address and resolve project-related issues through early and continuing coordination.

Substantial coordination, outreach, and public participation regarding the proposed project have occurred, which is summarized as follows:

- >> On June 7, 2007, a coordination meeting was held with the City of Gilroy regarding floodplain issues. Additional coordination meetings with the City of Gilroy were held on February 12, 2008 and December 6, 2008.
- >> On December 13, 2007, the project team met with the staff of the Santa Clara Valley Water District to discuss floodplain and hydrologic issues and concerns.
- >> On June 12, 2007, a coordination meeting was held with PG&E to discuss the relocation of a number of electrical transmission towers.
- >> On February 27, 2008, a field meeting was held with PG&E to discuss utility coordination and relocation issues.
- >> The project team met with the following stakeholders to discuss the project and to solicit input: Rapazzini Winery (August 15, 2007, September 21, 2007, and June 12, 2008); Gavilan College (August 9, 2007 and October 25, 2007); and Christopher Ranch (August 9, 2007).
- >> A Notice of Preparation of an EIR was circulated to local, regional, state, and federal agencies from October 31, 2007 through November 30, 2007.
- >> An Environmental Scoping Meeting was held in Gilroy on November 15, 2007. Approximately 40 persons attended the meeting.
- >> A coordination meeting between the project team and the San Benito County Planning and Public Works Departments was held on April 25, 2008.
- >> On May 21, 2008 and December 5, 2008, coordination meetings were held between the project team and the Santa Clara County Roads & Airports Department.

- >> During 2007, Native American consultation was undertaken for the project by VTA on behalf of Caltrans. The Native American Heritage Commission (NAHC) was contacted. Based on a list provided by the NAHC, 13 members of the local Native American community were also contacted. Members of the Ohlone community were also kept informed of the backhoe trench work that was undertaken for the project.
- >> On March 27, 2007, VTA and the project's designers met with Chris Nagano and Cori Mustin of the USFWS and David Johnston of the CDFW at the VTA offices to go over the project and then tour the project site. Comments received during the meeting and site visit were noted.
- >> On November 15, 2007, VTA submitted the project through the Interim Project Review Process of the Santa Clara Valley HCP/NCCP. This submittal included the Notice of Preparation for this EIR, a map of the project, a project description, biotic habitats map based on the BSA, and the preliminary information on the biological resources within the BSA. This information was also sent via e-mail to Cori Mustin of the USFWS, Jonathan Ambrose of the NMFS, and David Johnston of the CDFW.
- >> On December 5, 2007, VTA received a written response from the NMFS to the Interim Project Review Process submittal. This letter was similar to that received during the EIR scoping period.
- >> On December 12, 2007, VTA staff and the project's biologists attended an HCP/NCCP meeting held at Mare Island. Verbal comments were received on the project from Jonathon Ambrose of the NMFS and Cori Mustin & Chris Nagano of the USFWS and were noted.
- >> On December 18, 2007, VTA staff, Caltrans staff, the project's biologists, and the project's designers met with David Johnston and Laura Diaz-Anderson of the CDFW to tour the project site. Comments received during the site visit were noted.
- >> On February 25, 2008, a follow-up e-mail to the 15 November 2007 e-mail was sent through the HCP/NCCP Interim Project Review Process to the same resource agency staff. The purpose was to provide updated project information including a new project map that incorporated design changes, which also changed the BSA, revised information on the biological resources within the BSA, and a table describing existing and future creek crossing and median designs.
- >> On February 26, 2008, VTA staff, Caltrans staff, the project's biologists, and the project's designers met with David Johnson of the CDFW to discuss wildlife connectivity. The designers have refined the design to the extent feasible to address issues raised by Mr. Johnston.
- >> On July 18, 2008, a second follow up e-mail to the November 15, 2007 and February 25, 2008 e-mails was sent to Jonathan Ambrose of the NMFS. The purpose was to provide updated

project information, in particular the updated information included in the table describing existing and future creek crossing and median designs (previously sent on February 25, 2008).

- >> Ongoing e-mail coordination with CDFW regarding the contents of the project's biological studies.
- >> On September 11, 2007, December 5, 2007, and January 18, 2008, meetings were held with the Santa Clara County Parks & Recreation Department to solicit input regarding trails and bicycle facilities.
- >> On January 23, 2009, the project team met with the staffs of the Santa Clara County Parks & Recreation Department and the Bay Area Ridge Trail Council to ensure consistency between the proposed improvements and existing/planned trails, bikeways, and recreational facilities.
- >> On November 9, 2010, VTA staff, Caltrans staff, the project's biologists, and the project's designers met with David Johnson of the CDFW to discuss wildlife connectivity, as well as to discuss impacts to the California tiger salamander.
- >> The VTA website (www.vta.org) contains an overview of the project, a project "FAQ", and information about the schedule for the project's approval and construction (including a listing of upcoming public meetings). The website also provides an opportunity for people to submit comments and questions regarding the project.

Noticing, Circulation, and Review of the Draft EIR

The Draft EIR was made available for public review and comment from March 14, 2013 to April 29, 2013. In addition, a public hearing was held at the Gilroy Public Library on March 28, 2013. Notices of the availability of the Draft EIR and the public hearing were provided to the public via multiple methods including:

- Notices were printed in local newspapers including the Morgan Hill Times, the Gilroy Dispatch the Hollister Freelance News, Viet Nam, Philippines Today, Sing Tao Daily, Korea Times, and El Observador.
- Notices were mailed to approximately 950 business and residential addresses (landlord and tenant) located within a one-half mile radius of the project alignment.
- Notices were electronically mailed to federal, state, and local agencies and organizations, as well as interested stakeholders
- Notices were posted on VTA's Twitter and Facebook links, as well as on VTA's website.
- Notices were posted with the County of Santa Clara, the County of San Benito, and the State Office of Planning and Research (State Clearinghouse).
- News releases were provided to local media outlets.

- Notices were provided to the Gilroy Public Library, Morgan Hill Public Library, San Benito County Library, and San Juan Bautista Library.

The March 28th hearing was attended by approximately 25 members of the public from San Juan Bautista, Gilroy, and San Jose. A representative from the office of Santa Clara County Supervisor Mike Wasserman also attended, as did a member of the Gilroy Planning Commission and the Gilroy Traffic Engineer.

Materials provided at the hearing included Fact Sheets in English and Spanish. Copies of the Draft EIR were available at the hearing and were provided to members of the public, on request. Comment cards were also provided. The hearing included display boards, as well as a PowerPoint presentation by VTA staff on the project and its environmental effects.

All comments on the Draft EIR, both written and oral, are responded to in Chapter 4 of this document. A copy of each written comment is contained in Appendix F. A copy of the public hearing transcript, which contains the verbatim oral comments, is contained in Appendix G.

CHAPTER 4 RESPONSES TO COMMENTS ON DRAFT EIR

The Draft EIR was made available for public review and comment from March 14, 2013 to April 29, 2013. Comments received, including the page on which the response(s) to comments begins, are shown below. A copy of each written comment is contained in Appendix F. The transcript, which contains the verbatim oral comments from the March 28, 2013 public meeting, is contained in Appendix G.

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**RESPONSE TO COMMENT #1:
CALIFORNIA DEPARTMENT OF CONSERVATION**

Comment 1-A: The VTA DEIR does not acknowledge that 282-acre Wang Farm Agricultural Conservation Easement (“Wang Farm”) may be impacted by the proposed project. The Wang Farm (Figure 1) is under a permanent agricultural conservation easement held by the Silicon Valley Land Conservancy.

The Department’s CFCP and the United States Department of Agricultural, National Resource Conservation Service, Farm and Ranch Land Protection Program provided grant funding to purchase of the Wang Farm in 2005. As part of the original application, both the City Council of the City of Gilroy and the Santa Clara County Board of Supervisors passed resolutions of support on July 7, 2003 and June 24, 2003, respectively, supporting establishment of the Wang Farm Agricultural Conservation Easement, which was designated to be held in perpetuity. Terminating portions of the easement and fragmentation of the remaining agricultural property is directly at odds with the intent of the easement and the City’s and County’s support of the easement. Any future changes to use of this property would require permission of the United States Department of Agriculture.

The implications of this potential easement disruption are beyond the scope of the DEIR itself, but must be addressed if VTA chooses to continue with the project as described.

***Response 1-A:** Thank you for this information. Table 10 has been revised in the Final EIR to disclose the fact that two of the parcels from which right-of-way would be required are part of the 282-acre Wang Farm Agricultural Conservation Easement. This impact would be associated with the upgrade of the existing property access road (which is currently partially paved) to a full standard access road. This was included in the project because an upgrade is typically required by property owners when an adjacent highway is improved to freeway standards.*

In light of this comment, there are alternatives that VTA can discuss with the owners of the parcels: 1) eliminate the access road upgrade altogether and construct a retaining wall in lieu of the embankment along the existing right-of-way line, or 2) undertake a more limited improvement to the access road that would minimize impacts. These options can be discussed with the owners and the easement holder during the final design phase of the project.

**RESPONSE TO COMMENT #2:
CALTRANS - DISTRICT 4**

Comment 2-A: Section 1.2 - The second purpose "Accommodate projected traffic demand along U.S. 101 ..." and the fifth purpose "Enhance the movement of ..." have no correlating need statement or data. Information demonstrating the future congestion and delay needs to be included in the need section of

the document. The same information is lacking to demonstrate that the movement of goods along U.S. 101 is a problem.

Response 2-A: *VTA disagrees that there is no correlating need statement or data. Section 1.2.2.1 discusses the fact that the project segment of U.S. 101 "has insufficient capacity to accommodate future demand..." That same section states that the insufficient capacity will result in delays and congestion, which will result in "substantial social, economic, and environmental impacts associated with delays in the movement of people and goods." The discussion in Section 1.2.2.1 is supported by the data in Section 2.6.*

Comment 2-B: Section 2.6 - All tables and information (including but not exclusively Tables 19 and 20) in this section should be updated so the information in the Final Environmental Impact Report (FEIR) matches and is consistent with the information in the Project Report and TOAR. The information in the Draft Environmental Impact Report does not match/is not consistent with that in the Draft Project Report and TOAR.

Response 2-B: *VTA compared the data in all of the tables in Section 2.6 of the EIR (including Tables 19 and 20) to the tables in the TOAR, which was made available for public review during circulation of the Draft EIR. No inconsistencies were found.*

Comment 2-C: Section 2.8.1 - Please edit the final sentence of the section to read: It further specifically requires Caltrans to inventory, evaluate for significance, assess effects, and early in the planning process give notice and opportunity to comment to the SHPO.

Response 2-C: *This edit has been made, as requested. See Section 2.8.1 of the Final EIR.*

Comment 2-D: Section 2.8.2.2 - The numbers of resources discussed do not add up. 12 resources are mentioned, but only six are discussed as eligible or ineligible. This document as currently written obfuscates which resources are of maybe in State Right of Way, and are thus subject to PRC 5024.6. Eligible and potential effects for the remaining six sites not specifically have not been completed and the SHPO has not been consulted. This process must be completed prior to approval of the FEIR, to be in compliance with PRC 5024.5.

Response 2-D: *VTA disagrees that the document obfuscates those resources that are in the existing/proposed right-of-way. Section 2.8.2.2 states that there are 12 such resources, each of which is identified and described in the accompanying Table 22. Further, MM-CUL-1.1 in Section 2.8.5 sets forth the process to be followed by VTA for follow-up identification, evaluation, and mitigation (if warranted) of all historical resources prior to construction. Consultation with the SHPO will occur during this process, consistent with PRC 5024.5. There is no requirement in PRC 5024.5 that such consultation be undertaken prior to completion of a FEIR.*

**RESPONSE TO COMMENT #3:
CALTRANS - DISTRICT 5**

Comment 3-A: Page XIV: Impact NATCOM-4: By adding the word "permanent" in the following sentence it precludes barriers that might be used during construction such as cofferdams and diversions. "Construction of the proposed project will not create permanent barriers to the..."

Response 3-A: *The text in Impact NATCOM-4 has been revised to clarify that the project will not create permanent barriers to the passage of fish.*

Comment 3-B: Page XIX: MM-Animal - 9: The project is permanently removing up to 5.5 acres of riparian and oak woodland. This will undoubtedly have an impact on bats that use the area for both foraging and roosting. It is tremendously difficult to detect a bat roost in a tree (personal communication with J. Szewczak during tree removal on another project I had), therefore there may be roosts that go undetected during tree removal. Bat habitat should be provided as part of this project to help offset permanent impacts to them as a result of this project. This habitat may be incorporated into new bridge structures (several have been constructed or are in the process of being constructed in District 5) or merely an Oregon wedge type design has also been found to be successful on an existing or new structure. Off-bridge habitats have not been found to be very successful in Central/Northern California.

Response 3-B: *As shown in Table 34, under Design Option A, 8 acres of riparian habitat and 2 acres of oak woodland habitat are permanently impacted. Under Design Option B, 8 acres of riparian habitat and 1.5 acres of oak woodland habitat are permanently impacted. Avoidance and minimization measures to address roosting bats occupying these habitats include preconstruction surveys by a qualified bat biologist, buffers around active maternity roosts, and eviction of bats only under certain conditions, as described in MM-ANIMAL-9.4. Overall, the loss of potential roost sites in trees will affect only a very small proportion of available habitat in the project vicinity and regional area, and alternative roosts will be provided if a day roost is impacted, as described in MM-ANIMAL-9.5.*

Three of the 10 bridges surveyed showed evidence of bat use or potential roosting habitat: 1) northbound U.S. 101 bridge over Carnadero Creek, 2) southbound U.S. 101 bridge over the Southern Pacific Railroad and Tar Creek, and 3) northbound U.S. 101 span of the San Benito River bridge. Under both design options, the northbound U.S. 101 bridge over Carnadero Creek will be used for the new frontage road. The southbound U.S. 101 bridge over the Southern Pacific Railroad and Tar Creek will be widened by over 100 feet. The northbound U.S. 101 span of the San Benito River bridge will be widened by 25 feet. Therefore, these structures will remain suitable as bat habitat.

For the remaining bridge structures that are to be modified or replaced, Caltrans has expressed concerns over creating bat habitat that increases costs and safety precautions necessary for

inspecting bridges, and reduces the flexibility in the timing of those inspections (Caltrans, Division of Research and Innovation, "The Effectiveness of Off-Structure Bat Houses Meeting Attraction/Mitigation Regulatory Agency Requirements for State Highway Projects"). During final engineering, VTA will revisit the potential for bat habitat on the bridge structures; however, this would be an enhancement to the project and not required mitigation.

According to H. T. Harvey & Associates bat biologist Dave Johnston, Ph.D., detection of bat roosts in trees is feasible if performed by a qualified biologist using appropriate techniques. First, a qualified bat biologist would inspect all trees that are to be removed visually to determine which provide potential roost sites. Acoustic monitoring equipment would then be deployed to determine whether bats are roosting in the vicinity of these potential roosts. Because such acoustic monitoring equipment cannot detect the precise roost location (only whether concentrations of bats are present in a given area), the bat biologist would then use a combination of acoustic and visual monitoring (e.g., using the acoustic equipment to detect when bats are emerging from a roost and night-vision equipment to see bats moving to and from a roost) to identify the roost site. Dr. Johnston has used this technique to perform surveys for tree roosts of bats as described in MM-ANIMAL-9.1.

Thus, detecting whether the project will impact a day roost is feasible, and MM-ANIMAL-9.5 identifies compensatory mitigation to offset the loss of any day roost.

Comment 3-C: Page XX: MM-Animal-12.1: Permits that are currently being issues from CDFW have nest buffers for passerines and raptors of 250 and 500 feet, respectively.

Response 3-C: *It is not necessarily the case that all permits issued by the California Department of Fish and Wildlife (CDFW) incorporate buffers for passerines and raptors of 250 and 500 feet, respectively. The standard used in Santa Clara County is generally 100 feet for passerines and 300 feet for raptors. In addition, buffer zones may be adjusted to reflect existing conditions including ambient noise, topography, and disturbance, with the approval of CDFW (personal communication with Dave Johnston, CDFW, May 6, 2013).*

The text in MM-ANIMAL-12.1 has been revised to reflect the recent communication with CDFW regarding buffers, timing of preconstruction surveys, and the start of the nesting season.

Comment 3-D: Page XXI: MM-T&E-2.4: Although the creeks and rivers are not expected to provide good breeding habitat for frogs, frogs could still be present during dewatering or diversion activities. There is no mention of appropriate methods to put in place during dewatering or diversion as is discussed in the steelhead section.

Response 3-D: *It is unknown what the commentor means by "appropriate methods."*

Measures to protect steelhead during dewatering or diversion would also protect California red-legged frogs. MM-T&E-2.4 requires that a U.S. Fish and Wildlife Service (USFWS) approved biologist conducts preconstruction surveys for red-legged frogs in aquatic habitat, as well as other habitats where frogs may be found. If frogs are found, they are relocated outside the work area in appropriate habitat. Measures to protect California red-legged frogs, and other aquatic vertebrates, are also included in Chapter 6 (Table 6-2) of the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), which states, "If native fish or non-covered, native aquatic vertebrates are present when cofferdams, water bypass structures, and silt barriers are to be installed, a native fish and aquatic vertebrate relocation plan shall be implemented when ecologically appropriate as determined by a qualified biologist to ensure that significant numbers of native fish and aquatic vertebrates are not stranded." This information is included in the Natural Environment Study, Appendix C. As the project is included in the HCP/NCCP as a covered activity, the conditions on projects, as applicable, will be implemented.

Comment 3-E: Page XXII: MM-T&E-2.15: Silt fencing or Ertec fencing should be considered to exclude species from the construction zone, especially around the Castro Valley area.

Response 3-E: *As stated in this mitigation measure, "Construction of wildlife exclusion fencing around a project's impact areas is a standard practice to minimize the potential for red-legged frogs (or other species, such as the California tiger salamander) to enter, and be injured or killed in, construction areas. However, such fencing over such a long, linear project area would adversely affect the dispersal of some smaller mammals through the project area. Such fencing is not required by the HCP/NCCP, and is not proposed for this project."*

If the USFWS or CDFW choose at a later date (e.g., during Federal or California Endangered Species Act consultation, if portions of the project are not covered by the HCP/NCCP), to require temporary wildlife exclusion fencing, the type of fencing will be determined at that time. For VTA's recent projects, the USFWS/CDFW and Caltrans have refrained from requiring a particular brand name of fence, such as Ertec, and instead have required fencing that is simply approved by the USFWS/CDFW.

It should be noted that this issue is addressed in the Natural Environment Study (NES). Caltrans approved the NES on April 8, 2011.

Comment 3-F: Page 173: 2.17.3.4: Same comment as #1.

Response 3-F: *Please see Response 3-A.*

Comment 3-G: Page 177-178: The new and enhanced culverts for wildlife crossing should have post-construction monitoring to determine if the methods were successful and ways to improve in the future.

Response 3-G: *Please see Response 17-D.*

Comment 3-H: Page 196: 2.20.3.9 Impacts to Bats: See Comment #2. Removal of riparian and woodlands has a direct impact on bats, bridges are not the only bat habitat type in the project area.

Response 3-H: *Please see Response 3-B. In addition to impacts to natural habitats and bridge structures, buildings can serve as bat habitat. This is also discussed in the EIR and Natural Environment Study (NES). VTA believes the discussion of bats and the inclusion of several avoidance, minimization, and mitigation measures in the project adequately addresses potential impacts to individual bats and bat habitat. VTA was under the impression the Caltrans reviewer of the NES, who is also the author of these comments on the Draft EIR, was in agreement with the analysis included in the NES, which is summarized in the EIR, as Caltrans approved the NES on April 8, 2011. The issues regarding bats the commentor is raising at this time have been reviewed by VTA's biological consultant, who has determined that the extensive consideration bats have received in the analysis is appropriate.*

Comment 3-I: Page 202: MM-Animal - 9.5: See Comment #2. The document refers to the day roosting areas on the Tar Creek Bridge that will be impacted, yet no mitigation is being offered for this roost. Just because it is not a maternity roost does not mean that it is not important for bats. Even night roosts, when disturbed, can impact the distance that bats have to fly to and from their foraging locations, therefore lowering productivity - so it should not be discounted.

Response 3-I: *Several bat species and roosts were identified on the southbound U.S. 101 bridge over Tar Creek during biological surveys including Yuma myotis (small numbers day roosting; night roost), big brown bat (possible night roost), and Mexican free-tailed bat (small numbers day roosting; night roost). The analysis in the NES and EIR does not discount the importance of any of the bat species and roosts in the project area. Even though the species potentially day-roosting on the Tar Creek bridge are regionally common, and even though only small numbers of these bats are expected to day-roost on this bridge (since they roost in and/or between swallow nests rather than in high-quality sites such as extensive cavities), alternative roosts will be provided if a day roost of any bat species will be impacted, even if the impact is temporary, and will be erected at least one month (preferably one year or more) prior to removal of the original roost structure.*

In some circumstances, it may be beneficial to allow roosting bats to continue using a roost on a bridge structure during construction, rather than evict the bats. It should be noted that VTA's recent experience with the U.S. 101 Auxiliary Lanes Project (Route 85 to Embarcadero Rd)

indicated that bats did not use the alternative roost structures provided, but did return to the bridge after construction was completed.

Comment 3-J: Page 203: MM-Animal-9.6: Just because a non-maternity colony of bats are using a structure does not justify not providing alternative roosts or lack of monitoring.

Response 3-J: *Please see Responses 3-B, 3-H, and 3-I.*

Comment 3-K: Page 204: MM-Animal - 12.1: Same as Comment #3.

Response 3-K: *Please see Response 3-C.*

Comment 3-L: Page 210: CTS Section: CTS is no longer a candidate - it is state listed as threatened.

Response 3-L: *The text in Section 2.21.2 of the EIR has been revised to reflect the change in status for the California tiger salamander.*

Comment 3-M: Section 2.17.4, Pg 174, discussion on the HCP, 3rd paragraph: The HCP was adopted in August 2012 and the EIR should reflect that it's no longer a work in progress.

Response 3-M: *The text in Sections 2.1.2.1 and 2.17.5 of the EIR has been revised to reflect the recent activity related to the Santa Clara Valley HCP/NCCP, including the adoption of the Plan and pending implementation. Note that there are six Local Partners involved with preparation and implementation of the Plan. Each Local Partner adopted the Plan separately. The VTA Board of Directors adopted the Plan on December 13, 2012. The City of San Jose was the last Local Partner to adopt the Plan on January 29, 2013. Implementation of the Plan is anticipated in late 2013.*

Comment 3-N: Section 2.21.2.2, Pg 210, California Tiger Salamander, 2nd paragraph: CTS are no longer a "candidate species" they were State listed under CESA in 2010.

Response 3-N: *Please see Response 3-L.*

RESPONSE TO COMMENT #4: GAVILAN COLLEGE

Comment 4-A: I am writing on behalf of Gavilan College, located at 5055 Santa Teresa Blvd in Gilroy. Most of our staff and students will be directly impacted by the proposed project: U.S. 101 Improvement Project between Monterey Street and State Route 129. In reviewing the EIR, our priority was continued access to, and egress from, the existing college campus. We considered the peak traffic times to and

from the campus under the proposed scenarios. The location of our primary concern is the Hwy 25/Hwy 101 interchange, and the portion of Santa Teresa Blvd from this interchange to the college entrance. We would like to make sure the following considerations are noted and addressed:

Both options show a single lane in each direction on Santa Teresa Blvd between the college and the proposed highway 25/101 interchange. Given the large numbers of staff and students who arrive on campus (and leave) at the same time, we question whether one lane will be sufficient in this location. As it stands now, many staff and students approaching the Gavilan College campus from the north use either Mesa Road or Castro Valley Road to exit Hwy 101. When both of these are closed, the students coming from the north (as well as those from San Benito County) will use the Santa Teresa Blvd exit.

Response 4-A: *The trips generated to and from Gavilan College were accounted for in the traffic modeling conducted for the project and the analysis showed that the proposed number of lanes on Santa Teresa Boulevard will be sufficient to accommodate the projected traffic growth in the area. The project also maintains the existing right-of-way width available along Santa Teresa Boulevard, which would allow future widening of this roadway if and when the need arises in the future.*

Comment 4-B: Large numbers of cars (described above) will be making a left turn from Santa Teresa Blvd onto campus during the morning commute, and a right turn from campus onto Santa Teresa during the afternoon commute. This intersection will be upgraded with a traffic light in the proposal. We ask that consideration be made of adequate space in turn lanes to accommodate the high traffic to and from campus at peak commute times.

Response 4-B: *VTA concurs with this comment. The specific intersection layout with the appropriate length of turn lanes and turn pockets will be undertaken during the final design phase of the project. The design will take projected peak-hour demand into account.*

Comment 4-C: Access to northbound Santa Teresa Blvd from Southbound 101 must be assured. Access to northbound 101 from southbound Santa Teresa Blvd. must be assured. It does not look as though Option 2 provides for this.

Response 4-C: *Design Option B provides both of the movements mentioned in this comment. The southbound U.S. 101 to northbound Santa Teresa Boulevard traffic will make a right turn at the intersection of the off-ramp with Santa Teresa Boulevard. The southbound Santa Teresa Boulevard to northbound U.S. 101 traffic will be allowed to make a left turn at the intersection of the loop-off ramp with Santa Teresa Boulevard and merge with the northbound SR 25 to northbound U.S. 101 diagonal ramp to enter northbound U.S. 101. Please see Figure 4 in the EIR.*

Comment 4-D: Signage to Gavilan College from Hwy 25, northbound 101, southbound 101, and Santa Teresa Blvd. should be incorporated for the permanent plan and during construction.

Response 4-D: *VTA concurs with this suggestion. Appropriate signage will be installed, both during construction and on a permanent basis.*

Comment 4-E: It will be important to consider access to and from the campus during construction.

Response 4-E: *VTA concurs with this comment. As described in Section 2.22.1 of the EIR, a Transportation Management Plan (TMP) will be prepared prior to the start of construction. The TMP will address all traffic-related aspects of construction including, but not limited to: traffic handling in each stage of construction, pedestrian safety/access, emergency access, and bicycle safety/access. Safe access to and from Gavilan College will be an important component of the TMP. The TMP will also involve public dissemination of construction-related information through notices to Gavilan College and the neighborhoods, press releases, and the use of changeable message signs.*

RESPONSE TO COMMENT #5:

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

Comment 5-A: The Air Quality DEIR section and the Air Quality Report are outdated and should be updated to reflect current air quality. For example, both documents reference air quality data which is five years out of date. Additionally, the linkage between the Air Quality Report and Section 2.14 Air Quality in the DEIR is unclear. The DEIR should summarize the Air Quality Report so the findings are consistent.

Response 5-A: *Under CEQA guidelines Section 15125, the environmental baseline is established at the time the Notice of Preparation (NOP) of an EIR is circulated, which in this case was 2007. The technical studies for this EIR commenced at that time and utilized the most current data available. For large infrastructure projects such as this, it often takes several years for all studies to be completed and the DEIR to be written. CEQA does not, however, require a lead agency to continually update studies during this time as the process would never be completed. The CEQA statutes notwithstanding, VTA is not aware of any new information that would change the conclusions of the air quality analysis undertaken for this project and no such information has been provided by MBUAPCD.*

VTA is not aware of any discrepancies between the air quality technical analysis and the air quality section in the main body of the EIR.

Comment 5-B: The air quality aspects of the project should be considered in relation to the District's 2008 California Environmental Quality Act (CEQA) Air Quality Guidelines. Emissions associated with the construction and operational phases of the project should be estimated and compared to the significance thresholds in the document. The guidelines can be accessed at:

http://www.mbuapcd.org/mbuapcd/pdf/mbuapcd/pdf/CEQA_full.pdf.

Response 5-B: *For the analysis of projects on the state highway system under both CEQA and NEPA, Caltrans has prepared and adopted guidelines and procedures, which are published on the Caltrans website (www.dot.ca.gov) and are known as the Standard Environmental Reference (SER). For air quality, the SER includes specific procedures and requirements for determining conformity with the Clean Air Act, as required by EPA and FHWA. Since the U.S. 101 Improvement Project is on the state highway system, the Caltrans' procedures were required to be utilized.*

Comment 5-C: For CEQA evaluations, project impacts should be evaluated compared to existing conditions. Section 2.14 compares No Build and Build alternatives but does not compare either alternative to existing conditions. Please also confirm what was considered as the year for existing conditions. The year 2005 was reported as the base year in Table 25 while the year 2009 was reported as existing in Table 27.

Response 5-C: *Section 2.14 includes data and information regarding existing, "Future No Build", and "Future Build" conditions. For example, the text notes that CO concentrations will not exceed standards under any of these scenarios. In addition, Section 2.14.4 compares future emissions of mobile source air toxics (MSATs) to existing conditions. With regard to the base year, Table 25 references 2005 as that was the latest year for which MSAT data was available at the time the air quality analysis was undertaken. Similarly, Table 27 used 2009 as that was the most current data available for CO₂ when the analysis was undertaken.*

Comment 5-D: The following specific comments address the Summary, Section 2.14 Air Quality, Section 2.15 Climate Change, and Air Quality Report.

Table S-1, Summary of Environmental Impacts, Air Quality on page xii: Construction of the proposed project could cause or contribute to exceedances of the Californian 24-hour PM₁₀ standard, as well as local nuisance, if appropriate fugitive dust management measures are not implemented. Mitigation measure MM-CON-4 on page xxiv indicates that the project will employ CALTRANS Standard Specifications to reduce construction dust, as well as the BAAQMD dust control measures as listed in Table 37 of the DEIR. Therefore, mitigation measure MM-CON-4 should also be listed under Air Quality and applied to construction of the entire length of the project, including the portion in San Benito County.

Response 5-D: *The EIR was organized to group all of the short-term, construction-related impacts in one location. This is the reason why fugitive dust emissions are addressed under "Construction Impacts." Although MM-CON-4.1 and 4.2 reference BAAQMD measures, the intent is that the mitigation will be implemented at all project locations.*

Comment 5-E: 2.13 Hazardous Waste/Materials starting on Page 117 - Figure 3 on page 14 shows the San Benito River passing under Highway 101 project near Highway 129. The San Benito River is known to contain elevated levels of naturally occurring asbestos (NOA). Consequently, soil disturbed during construction activity may contain elevated levels of NOA. If elevated levels of NOA are found, then dust suppression measures consistent with ARB Air Toxics Control Measure (ATCM) for asbestos should be applied. The ATCM can be found at: www.arb.ca.gov/toxics/atcm/asb2atcm.htm.

Response 5-E: *VTA appreciates this information. MM-HAZ-1.7 has been added to Section 2.13 of the Final EIR to address this potential.*

Comment 5-F: Section 2.14.1, Regulatory Setting, page 122: This section focuses on federal requirements, such as, the Federal Clean Air Act and has no mention of the California Clean Air Act of 1988, which drives many California air quality planning activities. This section should be updated to include the California Clean Air Act.

Response 5-F: *The California Clean Air Act, as well as the California Air Resources Board and various California regulations, are described in the first paragraph of Section 2.14.1.*

Comment 5-G: The regulatory setting section should describe applicable local Air District rules. For example, Section 2.13 Hazardous Waste/Materials, identifies the potential for asbestos-containing materials to be present in buildings to be demolished. If asbestos-containing material is present, the project will be required to comply with the Air District Rule 424 and any demolition will be subject to District Rule 439.

Response 5-G: *Rule 424 pertains to control of asbestos-containing material during its removal. Compliance with this rule is covered by MM-HAZ-1.6 in Section 2.13.5 of the EIR. Rule 439 pertains to the control of particulates during building demolition. Compliance with this rule is covered by MM-CON-4.1 in Section 2.22.4 of the EIR.*

Comment 5-H: Section 2.14.2, Affected Environment, NCCAB, page 125: The text should be updated to include a discussion of ozone transport. Studies conducted by the California Air Resources Board indicate that exceedances of the state ozone standard in the North Central Coast Air Basin (NCCAB) are caused primarily by transport from the Bay Area. Although San Benito County only represents approximately nine percent of the population of the NCCAB, the attainment status of the entire region is often linked to conditions in San Benito County.

Response 5-H: *For highway projects, ozone is addressed through the regional conformity process. However, as stated in Section 2.14.3, the San Benito County portion of the project is located in the North Central Coast Air Basin, which is classified by EPA as an attainment area. Therefore, a regional conformity analysis is not required.*

Comment 5-I: The transport impacted ozone monitor at Pinnacles National Park in San Benito County should also be mentioned in the third paragraph. This station is key to the attainment status of the entire NCCAB so activities, such as major highway widening projects, along the upwind corridor can be important. The current state 8-hour ozone standard was exceeded 77 times between 2003 and 2007 at Pinnacles National Park. Also, the text indicates that the new state 8-hour ozone standard was only exceeded once at Hollister in 2006. Actually, the current 8-hour standard was exceeded five times in 2006.

Response 5-I: *As requested, the monitor located at Pinnacles National Park has been added to the third paragraph under "North Central Coast Air Basin" in Section 2.14.2.*

Comment 5-J: Section 2.14, Impact AQ-1, page 126: The project's potential impact to cause or contribute to a violation of an ambient air quality standard does not only apply to CO standards. More importantly, the impact of the project on ozone precursor emissions should also be evaluated. The entire section fails to address the potential impacts of the project to the nonattainment pollutant ozone. Therefore, in order to be more complete, the DEIR should assess project operation emissions in relation to applicable District thresholds, as outlined in the District's 2008 CEQA Guidelines.

Response 5-J: *As stated in Response 5-B, the air quality effects of the project were analyzed in accordance with the requirements of the Caltrans SER. As stated in Response 5-H, ozone was addressed per the regional conformity process.*

Comment 5-K: The impact analysis should also address state particulate matter air quality standards. Re-entrained road dust is a major contributor to PM10 emissions. Therefore, the Air District suggests that the following measures for minimizing re-entrained road dust also be considered whenever feasible: 1) Construct shoulders with a minimum width of eight feet; 2) Construct medians with minimum of four foot wide shoulders; 3) Plant ground cover to paved edge of roadway to stabilize shoulders and reduce fire hazard from dry weeds; 4) Pave or use non-toxic surfactants on unpaved shoulders and turnouts; 5) Plant hedges or shrubs along the Right of Way to reduce offsite migration of "dust devils" caused by large trucks traveling at high speeds; 6) Plant hedges in medians; 7) Promptly remove soil deposits after wind or storm events.

Response 5-K: *Measures #1 - #5 are already incorporated into the proposed design. For example, the freeway shoulders will exceed the widths listed in Measures #1 and #2. Shoulders will be paved as suggested in Measure #4. Landscaping will be included consistent with*

Measures #3 and #5. Measure #7 is a standard maintenance practice. Measure #6, however, is not feasible given the median widths in this segment of U.S. 101.

Comment 5-L: Fig 17, Possible Effect of Traffic Operation Strategies in Reducing On-Road CO₂ Emissions on Pg. 134: This figure and the supporting text immediately under it indicate that speeds could increase by as much as 20 to 25 mph to a maximum of 70 mph. Since CO₂, as well as other pollutants such as NO_x increase above 55 mph, excess emissions associated with this change should be estimated and compared to the applicable Air District CEQA significance thresholds.

Response 5-L: *The purpose for including Figure 17 in the EIR is to show that reducing congestion can result in the reduction of CO₂ emissions. Therefore, to the extent that the project will reduce peak-period congestion, there will be benefits with regard to CO₂ emissions. However, emissions associated with motorists traveling at speeds up to 65 mph, which is the speed limit on this segment of U.S. 101, is not an impact of the project as the project does not include a change in the speed limit.*

Comment 5-M: Section 2.15.4, CEQA Conclusion regarding Climate Change, page 140: CEQA was amended in 2010, in accordance with SB 97, because California's lawmakers recognized the need to analyze greenhouse gas emissions as a part of the CEQA process. The CEQA Guidelines were updated to direct lead agencies to analyze the greenhouse gas emissions of proposed projects (see §15064.4) and this analysis is not necessarily restricted to whether the impact would be cumulatively considerable. Other Air Districts have established thresholds indicating GHG emissions ranging from 1,150 to 10,000 metric tons CO₂ per year would result in a significant impact. Table 27 reports the potential annual CO₂ emissions for this project of 133,084 metric tons and the text on page 134 states, "These changes will have an overall negative effect on the GHG emissions generated in the project area, as compared with the No-Build scenario."

Please explain how a project with annual emissions that far exceed any established Air District threshold and that would have a negative effect on GHG emissions is considered too speculative to make a significance determination.

Response 5-M: *The text in Section 2.15.4 sets forth the basis for the determination that it is too speculative for determining the significance of the project with regard to climate change. Further, while it is acknowledged that various air districts have established thresholds for CO₂ emissions from various development projects, this type of project is different in that it does not generate traffic; rather, it accommodates traffic generated by the full range of land uses in the region's cities and counties. Although the project will accommodate more traffic, which allows for the comparison of emissions in the project area between the No Build and Build Alternatives shown in Table 27, the project is not creating such emissions because those vehicle trips will be made with or without the project. Thus, from the perspective of making a determination of the*

project's cumulative effect on the scale of global climate change, there is no basis for concluding that the project's contribution would be cumulatively considerable or significant.

Comment 5-N: Air Quality Report, Table 3-1, Air Quality Standards on Page 10: Table 3 needs to be completely updated. Incorrect standards are reported for many of the pollutants which appears to be due to a table formatting problem. Please refer to the link below to ARB's current standards table for these revisions: <http://www.arb.ca.gov/research/aaqs/aaqs2.pdf>.

Response 5-N: *Thank you for this comment. There were some formatting problems in Table 3.1 of the air quality technical report, which have been corrected.*

Comment 5-O: Air Quality Report, Air Quality Planning, MBUAPCD on Page 23: The list of applicable air quality plans at the top of this page should be updated to include the 2012 Triennial Plan Revision to the Air District's Air Quality Management Plan for the California ambient air quality standard for ozone. The plan is available on the Air District's website at: <http://www.mbuapcd.org/programs/planning>.

Response 5-O: *Thank you for this update. As noted earlier, the list of plans on page 23 of the air quality report was accurate at the time the analysis was undertaken. The addition of 2012 Triennial Report does not affect the findings of the analysis.*

Comment 5-P: Air Quality Report, Significance Criteria, MBUAPCD on Page 33: Please explain why the Air District's significance criteria are listed on page 33 and then not used as part of the impact assessment in Section 5.1. The operational impact assessment should include an evaluation of the nonattainment pollutant ozone by using the ozone precursor emission thresholds (NO_x and VOC).

Response 5-P: *As stated in Response 5-B, the air quality effects of the project were analyzed in accordance with the requirements of the Caltrans SER. As stated in Response 5-H, ozone was addressed per the regional conformity process. The MBUAPCD standards were included as background information.*

Comment 5-Q: Air Quality Report, Appendix A – Air Quality Monitoring Sites: Please note, the monitoring stations shown in the figure for Scotts Valley, Davenport, Watsonville and Moss Landing have been closed. A current map of the Air District's monitoring sites can be found on page 10 of the Air District's 2012 Triennial Plan referred to in the previous comment.

Response 5-Q: *Thank you for this update. As noted earlier, the information regarding the locations of the MBUAPCD monitoring stations was accurate at the time the analysis was undertaken. The closure of these stations does not affect the findings of the analysis.*

**RESPONSE TO COMMENT #6:
NATIONAL PARK SERVICE**

Comment 6-A: Please accept these comments from the National Park Service (NPS) in response to the Draft Environmental Impact Report (DEIR) for the proposed improvements to US 101 in south Santa Clara and north San Benito counties. The project area falls within the recognized historic corridor of the Juan Bautista de Anza National Historic Trail (Anza Trail), and also overlaps with segments of the Recreational Retracement Route of Anza Trail. The Juan Bautista de Anza National Historic Trail commemorates the 1775-76 Spanish expedition of the more than 240 men, women and children who journeyed across the frontier of New Spain to settle Alta California. The Anza Trail connects history, culture and outdoor recreation along a 1,200-mile corridor extending from Nogales, Arizona to the San Francisco Bay Area.

The Anza Trail Comprehensive Management and Use Plan (1996) envisions a continuous recreation trail from Nogales, Arizona to the San Francisco Bay Area. The Santa Clara Countywide Trails Master Plan identifies the planned recreational trail segments within the Santa Clara County. Within the project area, an east-west segment of the Anza Trail is intended to follow the same alignment as the Bay Area Ridge Trail. The north-south spine of the Anza Trail is intended to connect through the project area to an existing trail segment, located on Old Stage Road in San Juan Bautista. Some of these trail alignments are shown in Figures 5 and 6 of the Draft EIR.

Due to the Anza Trail's planned alignment with the Bay Area Ridge Trail for the east-west connection across the valley, NPS concurs the Bay Area Ridge Trail Council's recommendation that VTA adopt Alternative 2, which includes a multiuse trail connection along Carnadero Creek under the freeway bridges.

NPS also supports the planned extension of bicycle facilities along Highway 101 where the widening project is planned. Santa Clara County's Trails Master Plan identifies Santa Theresa Boulevard (at the north end of the project area) as the Anza Trail bicycle route. At the southern end of the project boundary, the planned bicycle path to the San Juan Highway would connect with a proposed trail route to San Juan Bautista State Park and the popular trail segment on Old Stage Road. Draft EIR Figures 5 & 6 also depict the proposed Pajaro River Trail, which is planned to be a multi-use north-south segment of the Anza Trail. We are supportive of the eventual development of the Pajaro River Trail, as it would provide a superior multi-use recreational trail route for pedestrians and equestrians. We are pleased to see that the Highway 101 improvement project incorporates trail undercrossings to accommodate this future trail.

Response 6-A: *The recommendation of the National Park Service for the selection of Bicycle/Trail Alternative 2 is noted for the record. This recommendation is consistent with that of the project development team, as discussed in Section 1.3.4 of the Final EIR.*

RESPONSE TO COMMENT #7:

PAJARO RIVER WATERSHED FLOOD PREVENTION AUTHORITY

Comment 7-A: On behalf of the Pajaro River Watershed Flood Prevention Authority (Authority), I am pleased to submit this comment letter on the Draft Environmental Impact Report (EIR) for the proposed US 101 Improvement Project. Unfortunately, the EIR notification was addressed to retired Authority Executive Directors and this comment letter is based only on a cursory review of the document, given the time available. A more thorough review of the Draft EIR and Appendix B Hydrology and Water Quality Environmental Impact Analysis may result in additional comments to be submitted for your consideration.

Response 7-A: *VTA acknowledges receipt of this comment letter and notes that no further comments were received from the Pajaro River Watershed Flood Prevention Authority during the Draft EIR circulation period.*

Comment 7-B: Summary Page iii – Coordination with Public and Other Agencies: In addition to the notable issues listed that require focused input from public and other agencies, please add the significant flooding issues along the Lower Pajaro River that are affected by floodplain impacts in the upper watershed, including the loss of floodplain storage. Please also list the Authority as an agency that requires focused coordination.

The Authority was established in July 2000 by State Assembly Bill 807 in order to “identify, evaluate, fund, and implement flood prevention and control strategies in the Pajaro River Watershed, on an intergovernmental basis.” The watershed covers areas of four counties and four water districts and the board is comprised of one representative from each:

- County of Monterey/Monterey County Water Resources Agency
- County of San Benito/San Benito County Water District
- County of Santa Clara/Santa Clara Valley Water District
- County of Santa Cruz/Santa Cruz County Flood Control Water Conservation District, Zone 7

Response 7-B: *As requested, the floodplain issues along the Pajaro River have been added to page iv of the Summary, and the Flood Prevention Authority has been listed. In addition, as noted in Section 3 of the EIR, VTA met with the SCVWD (a member of the Flood Prevention Authority) during the development of the preliminary design and to obtain the most current hydraulic data for use in the Location Hydraulic Study.*

Comment 7-C: The Authority is implementing the Soap Lake Floodplain Preservation Project (Soap Lake Project) to build upon the Pajaro River Risk Reduction Project being developed by the U.S. Army Corps of Engineers (Corps) on the Lower Pajaro River. Soap Lake is a floodplain within the watershed that has been found to be an extremely important flood protection feature. It acts like a natural detention basin, storing water and reducing peak flows that would otherwise increase flooding in the lower Pajaro

River in the Watsonville area. The Soap Lake Project does not involve building any structural facilities, but instead would include financially supporting the purchase of land or flood easements for the land within the Soap Lake floodplain. The objective is to maintain the current flood protection benefits provided by the Soap Lake floodplain by protecting the area from changes that would impact the flood protection properties of the floodplain.

The purchase of land or floodplain easements would restrict development and preserve agriculture and open space in the approximately 9,000 acre floodplain with the goal of preserving the floodplain attenuation benefits. Several conservation easements have already been obtained within the Soap Lake project area totaling over 1,000 acres and funding has been secured for another 1,200 acres.

The Soap Lake Project would maintain the current hydrologic and hydraulic conditions at the project site and adjacent properties. The floodplain limits would not be changed. This Project is an outcome of the Authority's Watershed Study, which investigated the Pajaro River Watershed land-use plans, existing and planned flood protection infrastructure, and alternative strategies to assure effective coordination of the former. The Soap Lake Project was selected as the preferred alternative, and the Watershed Study's Technical Appendices, and HECRAS Model provide details regarding the Project's flood attenuate functionality and performance. This Watershed Study is available via the Authority's link <http://www.pajaroriverwatershed.org/>

***Response 7-C:** Thank you for this information on the Soap Lake Floodplain Preservation Project. VTA is aware of the Soap Lake Project and its importance with regard to floodplain issues in the Pajaro River Watershed. As noted on page 28 of the Location Hydraulic Study, the Soap Lake Model was obtained from the SCVWD and was used in the analysis of the U.S. 101 Improvement Project's impacts on floodplains.*

Comment 7-D: Summary Page x - Impact HYDRO-6 and Section 2.9.2.5 – Impacts to the Pajaro River Floodplain: The U.S. 101 Improvement Project will include replacement of the existing U.S. 101 bridge over the Pajaro River. Betabel Road will also be extended and will include a new 3-span bridge over the Pajaro River. The new bridges will fill approximately 20.5 acre-feet of the floodplain of the river. For the Pajaro River, the proposed condition will raise the floodplain by 0.1 feet between the Betabel Road bridge and the U.S. 101 bridge. The water surface elevation increase upstream of the U.S. 101 bridge will be less than 0.1 feet. These floodplain and water surface impacts within the 100-year floodplain of the Pajaro River are designated as less than significant and no mitigation measures are proposed.

Given the high flood risks along the Lower Pajaro River, any loss of floodplain storage or increase in water surface elevations should be considered significant and should require mitigation. Flooding throughout the reaches of the Lower Pajaro River is a hazard to public and private property including residences, agriculture, highways, watercourses, and environmental resources. Flooding has been recorded in 1955, 1982, 1986, 1995, 1997 and 1998 causing millions of dollars in damage. The flood event of February 1998 produced the highest flows ever recorded on the Pajaro River at the U.S.

Geological Survey gage at Chittenden. These high flows resulted in overtopping and a subsequent levee break downstream of Highway 1 on the Santa Cruz side of the river (Santa Cruz County 1998).

The Pajaro River Risk Reduction Project currently being developed by the U.S. Army Corps of Engineers (Corps) on the Lower Pajaro River assumes a functioning Soap Lake floodplain as part of the baseline condition. Thus, the purpose of the Authority's project is to protect the Soap Lake floodplain so as not to exacerbate flooding downstream and any loss of floodplain storage is considered significant and requiring mitigation.

Response 7-D: *The hydraulic analysis undertaken for the project, which is described in Section 2.9 of the EIR and in the accompanying technical Location Hydraulic Study, determined that the proposed new U.S. 101 bridge over the Pajaro River would have an insignificant effect on the 100-year flood water surface elevation (WSE). The new Betabel Road bicycle bridge across the Pajaro River, which would be located 600 feet downstream of the U.S. 101 bridge, would cause an increase in the 100-year WSE of 0.1 feet (1.2 inches) between the bridges. Upstream of the bridges, the increase in WSE would be less than 0.1 feet. Based on this analysis, VTA believes this increase would not be significant under CEQA.*

The above paragraph notwithstanding, VTA understands the sensitive issues with regard to flooding along the Pajaro River. Therefore, during final design, VTA will work with the Flood Prevention Authority toward an objective of having no increase in WSE. This will most likely be achieved by slightly revising the design of the Betabel Road bicycle bridge.

RESPONSE TO COMMENT #8:

REGIONAL WATER QUALITY CONTROL BOARD

Comment 8-A: This project has the potential to impact water quality and beneficial uses of waters of the State. Therefore Central Coast Water Board staff offers the following recommendations for improving the environmental value and environmental review of the Project.

Design Option B: Central Coast Water Board staff recommends that the Santa Clara Valley Transportation Authority (SCVTA) select Design Option B, since it appears to result in fewer environmental impacts than Design Option A. Design Option A involves two additional crossings of natural drainage features/swales which can be avoided through implementation of Design Option B.

Response 8-A: *The recommendation of the Water Board for the selection of Design Option B is noted for the record. This recommendation is consistent with that of the project development team, as discussed in Section 1.3.4 of the Final EIR.*

Comment 8-B: Riparian Impacts: The Project will result in permanent loss of eight acres of riparian habitat, temporary impacts to seven acres of riparian habitat, and impacts to 890 linear feet of shaded riverine aquatic (SRA) habitat. This impact will occur in two rivers (Pajaro and San Benito), four named creeks (Uvas, Gavilan, Tick, and Tar), and numerous unnamed streams, drainage features, and other waters of the State. There is likely to be variation in the type, robustness, and environmental value of habitat in these various waterbodies. Therefore the final EIR should contain a more comprehensive and differentiated analysis of impacts to riparian habitat. This information is necessary to evaluate the adequacy of avoidance and mitigation measures.

Response 8-B: *The Natural Environment Study (NES) and EIR discuss the broad categories of habitat types in the project area. Impacts to these habitats are shown in Table 6 in the NES and Table 34 in the EIR. Some of these habitats are considered more sensitive than others. For sensitive habitats, the mitigation proposed is not determined based on high quality, moderate quality, or low quality habitat. It is assumed to be of high quality, with corresponding functions and values. Avoidance and minimization measures are applied to all riparian habitats.*

The project is currently early in the design phase and considerable attention has been given to avoid and minimize impacts to sensitive habitats to the greatest extent feasible. As the design moves forward, avoidance and minimization will continue to be paramount.

Comment 8-C: Mitigation for Riparian Impacts: The DEIR proposes to mitigate for impacts to riparian habitat through payment of development fees to the Santa Clara Valley Habitat Conservation/Natural Communities Conservation Plan (HCP/NCCP). However, the HCP/NCCP was not established to provide mitigation for impacts to riparian habitat and has not been approved by the Central Coast Water Board for this purpose. Therefore MM-NATCOM-1.1 will not mitigate for the Project's riparian impacts. As a second option, the DEIR proposes to mitigate for Project impacts to riparian habitat by creating/restoring riparian habitat. However, the DEIR does not provide sufficient information to demonstrate that appropriate mitigation areas will be available. Therefore the DEIR fails to provide mitigation for this significant impact, and the statement in the DEIR that Impact NATCOM-1 has been reduced to less than significant is unsupported. The final EIR must provide for adequate and feasible mitigation for all Project impacts.

Response 8-C: *VTA is a Local Partner in the development and implementation of the Santa Clara Valley HCP/NCCP, and the project is a "covered activity" under the HCP/NCCP. As a result, VTA has included payment of a base fee to the Implementing Entity of the HCP/NCCP (known as the Santa Clara Valley Habitat Agency) to offset impacts to habitat through the creation or restoration of equivalent habitat on a regional basis. For highly sensitive habitats, there are additional fees that must be paid beyond the base fee to offset impacts to these habitats.*

The HCP/NCCP has established requirements for both preservation and restoration/creation of riparian habitats to guide the use of impact fees paid to the Santa Clara Valley Habitat Agency. According to Table 5-12 of the HCP/NCCP (part of the conservation strategy), the HCP/NCCP is required to provide mitigation for impacts to riparian habitats via preservation and enhancement at a 2:1 ratio and restoration at a 1:1 ratio. Thus, VTA's payment of impact fees for this project will directly support a conservation program that includes riparian habitat preservation, enhancement, and restoration. As a key part of its conservation strategy, the HCP/NCCP will create, restore, and preserve hundreds of acres of riparian habitat, as discussed in Section 5 of the HCP/NCCP. This will occur on a large-scale, regional basis, which will have far greater ecological value than "traditional" mitigation that relies on isolated, piecemeal, mitigation sites. This holistic strategy is strongly endorsed by the California Department of Fish & Wildlife and the U.S. Fish & Wildlife Service, which are the state and federal trustee agencies, respectively, that have stewardship over these resources. Both of these agencies are partners in, and strong proponents of, the HCP/NCCP as they see its value as a tool for the mitigation of impacts and the long-term protection and recovery of the important resources.

VTA understands that the RWQCB is not currently a HCP partner and has not approved the use of an HCP for purposes of its regulatory permitting authority under the Clean Water Act or Porter-Cologne Act. However, the purpose of the EIR is to evaluate the project's impacts, and specify mitigation measures, under CEQA rather than under any state or federal waters and wetlands regulations. For the purposes of adequate mitigation under CEQA, the HCP/NCCP meets all requirements: 1) in-kind habitat will be created, 2) the general locations for the mitigation have been identified, and 3) there is a mechanism for its funding, implementation, maintenance, and monitoring.

However, the EIR also acknowledges that project-specific mitigation of impacts may be needed in the unlikely event that the HCP/NCCP is not ultimately implemented, or if the HCP/NCCP cannot be used to cover the entire project (such as impacts occurring in San Benito County). As a result, MM-NATCOM-1.2 includes project-specific mitigation (please see Response 17-M for the revised text applicable to MM-NATCOM-1.2), as well as the potential to purchase credits in a mitigation bank.

The NES, which was the technical report on which the text in the biology section of the EIR is based and made available for public review, identifies possible mitigation opportunities for project-specific mitigation. As stated in the NES, "A search for appropriate mitigation locations near the impacts sites was conducted, and numerous opportunities were identified to create or expand existing riparian habitat within or immediately adjacent to the BSA. These areas include the proposed staging area along the San Benito River as well as numerous agricultural parcels along the Pajaro River corridor. Off-site SRA mitigation opportunities are also present on adjacent properties along Tar Creek." The Pajaro River system is large, important, and

impaired in many areas, and there are riparian and wetland restoration opportunities along the river, as well as Tequisquita Slough. Restoration of riparian habitat is needed on an easement property adjacent to The Nature Conservancy's property near the Pajaro River. The Uvas watershed, a tributary to the Pajaro River, has a steelhead run, and several segments are in need of restoration. Millers Canal, San Felipe Lake, and Pacheco Creek are identified as steelhead bearing streams in the National Marine Fisheries Service steelhead recovery plan, and have opportunity for restoration. There are many in-kind or out-of-kind, on-site or off-site, opportunities. If desired, numerous old and poorly functioning fish ladders in the Uvas system could be replaced, with riparian restoration as a component of a project.

The text in Section 2.17.5.1 of the EIR has been revised to reflect these potential opportunities as examples of mitigation that could be implemented. In any case, VTA is committed to implementing mitigation to offset impacts to riparian habitat, and this commitment is included in the EIR.

It should be noted that the project is unfunded beyond the environmental clearance phase. When funding is obtained, it will be to advance the design and then enter construction. It is unknown when this would occur. Furthermore, the project development team recommends the selection of Design Option B for the interchange configuration. One of the advantages of this option is the ability to phase construction. Phases may be implemented over a short or long period. That remains to be determined. Any mitigation sites identified today may not be available in the future. VTA has considered doing advance mitigation for certain projects, but that has been met with some resistance due to the lack of advanced design for the civil project and precise impact calculations to various habitat types.

As already stated, and as evidenced by VTA's longstanding involvement and commitment to the HCP/NCCP, VTA is committed to mitigating impacts to riparian habitat. However, in the event the HCP/NCCP cannot provide sufficient mitigation, and project-sponsored mitigation is needed, it is premature to identify a particular site at this time due to funding constraints, schedule issues, and site availability in the future. Should project-sponsored mitigation be necessary, during the final design phase and when permit applications are prepared for the project, the details of such mitigation will be identified.

Comment 8-D: Wetland Impacts: The Project will result in permanent loss of 3.2 acres of wetlands and aquatic habitat, and temporary impacts to as much as 1.5 acres of wetlands and aquatic habitat. The final EIR should include a more comprehensive and differentiated analysis of wetland impacts, including identification and delineation of each wetland area, and a description of type (including vegetation), robustness, and environmental value of the habitat in each wetland area. This information is necessary to evaluate the adequacy of avoidance and mitigation measures.

Response 8-D: *As discussed in Response 8-B, the NES and EIR discuss the broad categories of habitat types in the project area. Impacts to these habitats are shown in Table 6 in the NES and Table 34 in the EIR. Wetlands are categorized as either freshwater emergent or seasonal. For these sensitive habitats, the mitigation proposed is not determined based on high quality, moderate quality, or low quality habitat. It is assumed to be of high quality, with corresponding functions and values. Avoidance and minimization measures are applied to all wetland and aquatic habitats. Also as stated in Response 8-B, the project is currently early in the design phase and considerable attention has been given to avoid and minimize impacts to sensitive habitats to the greatest extent feasible. As the design moves forward, avoidance and minimization will continue to be paramount.*

Comment 8-E: Wetland Mitigation: The DEIR proposes to mitigate for impacts to wetlands and aquatic habitat through payment of development fees to the Santa Clara Valley Habitat Conservation/Natural Communities Conservation Plan (HCP/NCCP). However, the HCP/NCCP was not established to provide mitigation for impacts to wetlands and aquatic habitat and has not been approved by the Central Coast Water Board for this purpose. Therefore MM-WET-1.1 will not mitigate for the Project's wetlands and aquatic habitat impacts. As a second option, the DEIR proposes to mitigate for Project impacts to wetlands and aquatic habitat by purchasing credits from the Pajaro Wetland Mitigation Bank or by creating/restoring wetlands. However, the DEIR does not provide sufficient information to demonstrate that appropriate mitigation areas will be available. Therefore the DEIR fails to provide mitigation for this significant impact, and the statement in the DEIR that Impact WET-1 has been reduced to less than significant is unsupported. The final EIR must provide for adequate and feasible mitigation for all Project impacts.

Response 8-E: *Please also see Response 8-C. Several of the areas mentioned in Response 8-C certainly would serve as project-specific mitigation for aquatic impacts, and many of the creeks could provide wetland mitigation as well, particularly if floodplains need to be restored. VTA has completed three floodplain restoration projects recently, and there are plenty of opportunities for this type of mitigation. As with impacts to riparian habitat, VTA is committed to implementing mitigation to offset aquatic and wetland impacts, and this commitment is included in the EIR.*

It should be noted that the project is unfunded beyond the environmental clearance phase. When funding is obtained, it will be to advance the design and then enter construction. It is unknown when this would occur. Furthermore, the project development team recommends the selection of Design Option B for the interchange configuration. One of the advantages of this option is the ability to phase construction. Phases may be implemented over a short or long period. That remains to be determined. Any mitigation sites identified today may not be available in the future. VTA has considered doing advance mitigation for certain projects, but that has been met with some resistance due to the lack of advanced design for the civil project and precise impact calculations to various habitat types.

As already stated, and as evidenced by VTA's longstanding involvement and commitment to the HCP/NCCP, VTA is committed to mitigating impacts to aquatic and wetland habitats. However, in the event the HCP/NCCP cannot provide sufficient mitigation, and project-sponsored mitigation is needed, it is premature to identify a particular site at this time due to funding constraints, schedule issues, and site availability in the future. Should project-sponsored mitigation be necessary, during the final design phase and when permit applications are prepared for the project, the details of such mitigation will be identified.

Comment 8-F: Mitigation for Temporary Wetland Impacts: The DEIR proposes to mitigate for temporary impacts to wetlands through the restoration of pre-construction grades, hydrology, and soil conditions, but proposes to let wetland vegetation structure, and function regenerate without further human intervention. This is not adequate to ensure mitigation of these significant impacts to less than significant levels. Temporarily impacted areas must be fully restored, including revegetation, and monitored over time to ensure that mitigation efforts result in wetlands that replace lost habitat functions and benefits. The final EIR must provide complete mitigation for all Project impacts.

Response 8-F: *As discussed in the response to comment 8-C, VTA is a Local Partner in the development and implementation of the Santa Clara Valley HCP/NCCP, and the project is a "covered activity" under the HCP/NCCP. As a result, VTA has included payment of a base fee to the Implementing Entity of the HCP/NCCP (known as the Santa Clara Valley Habitat Agency) to offset impacts to habitat through the creation or restoration of equivalent habitat on a regional basis. For highly sensitive habitats such as wetlands, there are additional fees that must be paid beyond the base fee to offset impacts to these habitats. The HCP/NCCP even requires payment of impact fees for temporary wetland impacts, and thus, the project's contribution to the HCP/NCCP's conservation program, through payment of impact fees, will help to compensate for its impacts.*

Nevertheless, in order for those impacts to be considered temporary, wetlands and aquatic habitats that are temporarily impacted will need to be restored in situ. This restoration is described in MM-WET-1.3 in the EIR. However, in response to this comment, MM-WET-1.3 has been revised; see Section 2.18.5 of this Final EIR.

Comment 8-G: Floodplain Basin: Mitigation measure MM-HYDRO-1.3 describes construction of a 120-acre-foot basin to mitigate for lost floodplain volume resulting from the Project. The DEIR proposes placing the basin in agricultural fields northeast of the existing U.S. 101/S.R. 25 interchange. However, this location is isolated from the creeks and rivers flowing through the project site. What process and criteria were used to select the location for the floodplain basin? Central Coast Water Board staff recommends locating the basin in land adjacent to Uvas Creek to provide connectivity between creek and floodplain. In addition, Central Coast Water Board staff recommends that the basin be designed and vegetated in a manner that provides full-fledged floodplain habitat, and that it be protected

as such through a permanent conservation easement. In any event, please provide information in the final EIR describing how this basin will be designed, revegetated, and used.

Response 8-G: *The purpose of the detention basin, as well as the system of culverts, bridges, and channel described in MM-HYDRO-1.1 through MM-HYDRO-1.7 is to accommodate flood flows from Carnadero Creek through the SR 25/U.S. 101 interchange area without resulting in new flooding impacts. The basin is intended to mitigate the loss of the floodplain storage volume from the geometric modifications for the proposed U.S. 101 modifications and Santa Teresa Boulevard Extension. As shown on Figures 3 and 4 of the EIR, the culverts that will accommodate flood flows under the freeway will connect to the detention basin. Thus, it was necessary to locate the basin in this area. In addition, locating the basin near Uvas Creek is not viable in terms of achieving the purpose of preventing flood impacts due to the Carnadero Creek overflow. For additional details regarding the flooding issues at this location, as well as the discussion of how the hydrological features of the project will function to prevent any significant floodplain impacts, please see the Location Hydraulic Study, which is the technical study on which Section 2.9 of the EIR is based.*

Details regarding the detention basin will be worked out when funding for the project is obtained and the project moves into the final design phase. The design will focus on the primary function of the basin, which is flood control. Other features, including vegetation, will be chosen to be consistent with this objective. VTA will coordinate the design with the Santa Clara Valley Water District, as that agency has primary responsibility for flood control at this location.

Comment 8-H: Stormwater Quality Treatment. The DEIR proposes to create 34.2 acres of biofiltration strips and swales to mitigate for stormwater quality impacts resulting from increased impervious surfaces. However, it is not clear that this amount adequately mitigates for runoff volume, rate, and quality conditions caused by the Project. Therefore it is not possible to determine whether the DEIR provides sufficient mitigation to support the statement in Impact WQ-1 that Project stormwater quality impacts have been reduced to a less than significant level.

Response 8-H: *The U.S. 101 Improvement Project follows Caltrans' policies and procedures, as it is a project on the state highway system. As stated in Section 2.10.1.4, Caltrans developed the Statewide Stormwater Management Plan (SWMP) to address stormwater pollution controls related to highway planning, design, construction, and maintenance activities throughout California. The SWMP describes the minimum procedures and practices Caltrans uses to reduce pollutants in stormwater and non-stormwater discharges. It outlines procedures and responsibilities for protecting water quality, including the selection and implementation of BMPs. The proposed project will follow the guidelines and procedures outlined in the latest SWMP to address stormwater runoff.*

The Stormwater Data Report (SWDR), which is the technical report on which Section 2.10 of this EIR is based, was prepared to implement the SWMP. Per the SWDR, the project is obligated to include treatment BMPs for stormwater runoff to the maximum extent practicable. Compliance with this requirement forms the basis for concluding that stormwater impacts have been reduced to a less-than-significant level. In this case, based on preliminary plans, MM-WQ-1.1 states "the project will create approximately 32.4 acres of biofiltration strips and swales along U.S. 101 within the project limits. The strips/swales will be located along the edges of the roadways and interchange ramps. Consistent with the requirements of Caltrans' NPDES permit, this acreage represents the maximum practicable extent of treatment for this project within the constraints of the site. This acreage is based upon preliminary design and will be updated during final design."

**RESPONSE TO COMMENT #9:
COUNCIL OF SAN BENITO COUNTY GOVERNMENTS**

Comment 9-A: The Council of Governments would like to extend its support for the US 101 Improvement Project especially the new interchange connection at US 101 and SR 25. This new interchange is a critical safety improvement for thousands of motorists who commute between Hollister and San Benito County and Santa Clara County, whether for work, recreation, or school. The extension of Santa Teresa Boulevard will be a benefit to Gavilan College students who drive or ride the bus to school. This new Santa Teresa Boulevard connection will cut travel time and improve safety.

Response 9-A: The support of the Council of San Benito County Governments for the project, including the Santa Teresa Boulevard connection, is noted for the record.

Comment 9-B: The Council of Governments is committed to preserving agriculture and the rural and historic character of San Benito County. Given this commitment, the Council of Governments recommends that the project preserve agricultural lands by requiring agricultural mitigation easements to occur within the general vicinity of the project site.

Response 9-B: The purchase of conservation easements for impacts to prime farmland is a mitigation measure that is included in the project. VTA intends to work with the Open Space Authority to identify potential easements. For details, please see MM-FARM-1.1 in Section 2.3.5 of the EIR. While MM-FARM-1.1 states these easements "will be within Santa Clara County," locating easements as close to the project site is also preferred by VTA.

Comment 9-C: The Council of Governments also supports the State Route 152 project and recommends that Design Option B accommodate the future connection of State Route 152. The Council of Governments supports Design Option B because the impact to prime and unique farmland is less than with Design Option A.

Response 9-C: *The support of the Council of San Benito County Governments for the selection of Design Option B is noted for the record. This recommendation is consistent with that of the project development team, as discussed in Section 1.3.4 of this Final EIR.*

**RESPONSE TO COMMENT #10:
SANTA CLARA COUNTY**

Comment 10-A: Cultural Resources - Issue 1 - Section 2.8.1: Regulatory Setting: Under the Regulatory Setting in Page 89, the DEIR does not include adequate language addressing all applicable federal, state and local laws and ordinances that apply for this project.

Federal: The National Historic Preservation Act of 1966, as amended, (NHPA) sets the national policy and procedures regarding historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. In addition, properties eligible to the National Register are also subject to Section 106 of NHPA and Section 4(f) of the U.S. Department of Transportation Act.

State: Include all applicable state laws that govern the project for review of impacts to historic resources.

Local: The Santa Clara County General Plan and Historic Preservation Ordinance (Division C17) would apply for properties in unincorporated Santa Clara County as stated below:

Santa Clara County General Plan: The following County General Plan Heritage Resource Policies (1994) are applicable to the proposed project:

R-RC 81: Cultural heritage resources within the rural unincorporated areas of Santa Clara County should be preserved, restored wherever possible, and commemorated as appropriate for their scientific, cultural, historic, and place values.

R-RC-85: The following strategies should provide overall direction to efforts to preserve heritage resources: 1) Inventory and evaluate heritage resources; 2) Prevent, or minimize, adverse impacts on heritage resources; 3) Restore, enhance, and commemorate resources as appropriate.

R-RC-85: No heritage resource shall knowingly be allowed to be destroyed or lost through a discretionary action (zoning, subdivision, site approval, grading permit, building permit, etc.) of the County of Santa Clara unless: a) The site or resources has been reviewed by experts and the County Historic Heritage Commission and has been found to be of insignificant value; or b) There is an overriding public benefit from the project and compensating mitigation to offset the loss is made part of the project.

R-RC-86: Projects in areas found to have heritage resources shall be conditioned and designed to avoid loss or degradation of the resources. Where conflict with the resource is unavoidable mitigation measures that offset the impact may be imposed.

R-RC-87: Land divisions in areas with heritage resources shall be encouraged to cluster building sites in locations, which will minimize the impacts to heritage resources.

R-RC-88: For projects receiving environmental assessment, expert opinions and field reconnaissance may be required if needed at the applicant's expense to determine the presence, extent and condition of suspected heritage resources and the likely impact of the project upon the resources.

Santa Clara County Historic Preservation Ordinance: Santa Clara County established a Historic Preservation Ordinance (Division C17) on October 17, 2006. The ordinance was established for the preservation, protection, enhancement, and perpetuation of resources of architectural, historical, and cultural merit within Santa Clara County and to benefit the social and cultural enrichment, and general welfare of the people.

Issue 2: Identifying Historic Resources - Discrepancy - Difference between Public Resources Code (5024.1) and Office of Historic Preservation Listed Criteria: The DEIR does not clearly state the criteria that identify potential historic resources as required under CEQA. There is a slight difference or discrepancy between the CEQA historic resource criteria cited in Public Resources Code 5024.1 and the designation criteria for the California Register of Historical Resources posted on the web site for the Office of Historic Preservation.

Public Resources Code (PRC) 5024.1 (c) cites the criteria as needing to meet the criteria for the National Register of Historic Places, but refers that significance level to California. In addition, PRC 5024.1: U) states "Historical resource" includes, but is not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic agricultural, educational, social, political, military, or cultural annals of California.

The California Register criteria (under Office of Historic Preservation), is much more inclusive and considers a resource to be a historic resource if it meets at least one of the criteria listed below:

- Criterion 1 - Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States
- Criterion 2 - Associated with the lives of persons important to local, California or national history
- Criterion 3 - Embodies the distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values
- Criterion 4 - Has yielded or has the potential to yield information important to the prehistory or history of the local area, California or the nation.

Include appropriate language for the Criteria for identifying historic resources as relevant for the project under CEQA.

Response 10-A: *VTA concurs that the discussion in Section 2.8.1 of the Draft EIR did not describe all of the criteria that is relevant to identifying historic resources under CEQA. In response to this comment, Section 2.8.1 of this Final EIR has been revised to include an expanded discussion of the criteria for determination of a historic resource under CEQA.*

This comments mentions compliance with Section 4(f) of the Department of Transportation Act and Section 106 of the National Historic Preservation Act. These requirements apply only to projects with federal approvals and/or funding, neither of which are applicable to this project.

Since this is a project on the state highway system, it is not subject to local plans and policies such as those listed in this comment. Nonetheless, VTA acknowledges that the criteria used to determine the significance of resources under CEQA might not have been clearly described in the Draft EIR and the accompanying Historic Resources Evaluation Report (HRER). Therefore, the responses to the following comments, which pertain to the process used to determine the historic significance of specific resources located within or adjacent to the project footprint, provide a discussion of such criteria.

Comment 10-B: Issue 3 - Section 2.8.2.3 Historical Resources (Page 91): The Draft EIR does not include evaluation of impacts to the historic Castro Valley Ranch/Calhoun Ranch (SCL-112) located at 4355 Monterey Road (APN 810-35-008), a resource listed in the Santa Clara County Heritage Resource Inventory. Under PRC 5024.1 (k): "Local register of historic resources" means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution. Calhoun Ranch is a locally significant historic resource listed in the County Heritage Resource Inventory. Include evaluation and adequate mitigation as applicable for the property.

Issue 4 - Review of the Technical Report - Cultural Resources (Attachment B) Historic Resources Evaluation Report (Webb and Wee 2010): The following are comments/concerns related to the Historic Resource Evaluation Reports prepared by JRP and Webb and Wee (dated March 2010).

Comment 1: The remark under footnote on Page 7 of the report states: 9 Dana Peak, Historic Preservation Program Manager, Santa Clara County, personal communication with Tony Webb, July 2007 and December 11, 2009. Santa Clara County recently adopted a historic preservation ordinance in 2006 that provides for landmark designation as well as a listing of potential or known historic resources (Heritage Resources Inventory). The County is currently in the process of updating (by re-evaluating those resources listed in) the Heritage Resource Inventory and will, at later day, adopt this updated inventory. To date, the Miller Cemetery and Calhoun Ranch, are not officially designated county landmarks, and therefore have no standing as historical resources in terms of CEQA. This

statement is incorrect. A historic resource does not have to be designated as a Landmark for consideration under CEQA. As stated under CERES:

"...resources which are listed in a local historic register or deemed significant in a historical resource survey as provided under Section 5024.1 (g) are to be presumed historically or culturally significant unless "the preponderance of evidence" demonstrates they are not. The next step is to consult the pertinent existing local register and survey. Because a local register or survey may not employ the same criteria as the California Register, listing or identification in a local survey does not necessarily establish if the property is eligible for listing on the Register. The Lead Agency will need to evaluate the resource in light of the Register's listing criteria (these will be included in guidelines expected to be released by SHPO in June 1994). The Lead Agency may determine that the preponderance of evidence demonstrates that the property in question is not historically or culturally significant despite being listed on a local register or identified in a local historic survey. When making this determination, OPR strongly recommends that the agency cite for the record the specific, concrete evidence which supports that determination."

"Third, a resource that is not listed in, or determined to be eligible for listing in, the California Register of Historic Resources, not included in a local register of historic resources, or not deemed significant in a historical resource survey may nonetheless be historically significant, pursuant to Section 21084.1."

Hence Calhoun Ranch and Miller Cemetery should be considered historic resources and evaluated for impacts under CEQA per PRC Code 5024.1.

Response 10-B: *This comment asserts that VTA erred in its conclusion that neither the Calhoun Ranch nor the Miller Cemetery is a historic resource under CEQA. For the reasons stated in the following paragraphs, VTA believes that its conclusions were correct. At the conclusion of this response, VTA explains that even if one were to assume that the Calhoun Ranch and Miller Cemetery were historic resources, the impact of the project on those resources would not be significant and, therefore, no mitigation is warranted.*

Process and Criteria Used to Evaluate Calhoun Ranch and Miller Cemetery

VTA, as CEQA Lead Agency for the proposed project, in consultation with Caltrans, determined that neither the Calhoun Ranch property nor the Henry Miller family cemetery were historical resources as defined under CEQA [California Code of Regulations, CEQA guidelines Section 15064.5(a)] because the preponderance of evidence (outlined below) demonstrated that these properties were not culturally or historically significant [California Code of Regulations, CEQA guidelines Section 15064.5(a)(2)].

Both the cemetery and Calhoun Ranch were listed in the Santa Clara County Heritage Resource Inventory before 1999. Neither the cemetery nor the Calhoun property is currently designated

as a county landmark. The Heritage Resource Inventory was adopted by the County as the local register of historical resources in its Preservation Ordinance in 2006 [Sec. C17-4]. According to the ordinance, a historic resource is an evaluated building, structure, object, or site that potentially meets the County's designation criteria for landmarks [Sec. C17-5]. The County's landmark designation criteria mimics the California Register of Historical Resources (California Register) criteria, and as a Certified Local Government, is consistent with the National Register of Historic Places (National Register) criteria.

The Calhoun Ranch and the Henry Miller family cemetery were previously inventoried and evaluated on two separate occasions, first by Caltrans between 1989 and 1991 and then by JRP Historical Consulting, LLC, in 2003, three years before the County adopted its Preservation Ordinance. Both Caltrans and JRP concluded the neither of these properties were eligible for inclusion in either the National Register or the California Register because the properties lacked significance or integrity. The State Historic Preservation Officer (SHPO) concurred with each determination of ineligibility in 1994 and 2007. These surveys conducted by Caltrans and JRP were prepared according to the Secretary of the Interior's Standards and Guidelines for the identification and evaluation of cultural resources, conforming with state standards for intensive surveys [California Public Resource Code 5024.1(g)], and meet the definition of a historic resources survey under the County's Historic Preservation Ordinance [Sec. C17-3.(K)].

Consultation with Santa Clara County's Historic Preservation Program Manager in 2009 provided further clarification of the CEQA status of these properties. Both properties were determined ineligible for listing in the National Register and California Register during an update of the Santa Clara County Heritage Resource Inventory prepared by Dill Design Group (Dill) in 2003 for the County of Santa Clara.

Project's Effect on Calhoun Ranch and Miller Cemetery Would Not be Significant

For the reasons stated above, VTA, as CEQA Lead Agency, believes that the Calhoun Ranch and Miller Cemetery are not historic resources under CEQA. This conclusion notwithstanding, given the County's current conclusion that the Calhoun Ranch and Miller Cemetery should be considered historical resources under CEQA, the following text provides the assessment of potential impacts to these properties in accordance with CEQA Guidelines Section 15064.5(b).

The project has no potential to directly impact the Henry Miller family cemetery or the two buildings that currently make up the former Calhoun Ranch. In the vicinity of these properties, the proposed project would include the widening of U.S. 101, reconstruction of the U.S. 101/SR25 interchange, extension of Santa Teresa Boulevard, and construction of new frontage roads. There are no predicted vibration or audible impacts from the construction or operation of the proposed project that would alter the characteristics of either historical resource that qualify them for inclusion in a local register of historical resources. The only potential impact

from this project are indirect visual impacts; however, these impacts are negligible and do not diminish the historic integrity of the resources' locations, setting, feeling, association, workmanship, design, or materials for the historical resource.

Under Design Option A, the Miller family cemetery would be located more than 300 feet west of the proposed frontage road that would extend southwest from Castro Valley Road, and approximately 500 feet west of the Santa Teresa Boulevard extension and the northernmost portion of the proposed interchange. Under Design Option B, the cemetery would be located approximately 75 feet west of the proposed Santa Teresa Boulevard extension and approximately a half mile northwest of the proposed interchange that would be reconstructed at the same location as the current interchange.

While the new frontage road and Santa Teresa Boulevard extension under both design options would be visible from the cemetery, neither of these project elements would cause a substantial adverse change to the cemetery property because they do not materially alter in an adverse manner the view or setting of the cemetery. The proposed interchange under Design Option A may be partially visible from the cemetery when looking northeast; however, it would be nearly at-grade at its closest point and would not materially alter the view or setting in an adverse manner. The reconstructed interchange under Design Option B would be a considerable distance away from the cemetery and would not be visible from the cemetery. Therefore, the U.S. 101 Improvement Project would not result in a substantial adverse change to the Henry Miller family cemetery.

Under Design Option A, a new interchange would be constructed northeast of the Calhoun property. The closest component of the proposed interchange would be an on-ramp that would be sited approximately 280 feet east of the property's main and secondary residences. The on-ramp would be at-grade and while it would be visible when looking east from both residences, it would not materially alter in an adverse manner the view or setting of these buildings. The new view from these building would be similar to the existing view when looking east to the modern, at-grade highway and the view to the northeast toward the proposed interchange would be partially blocked by existing landscaping bordering the north side of the main residence and driveway. While a portion of this parcel's eastern edge adjacent to the existing highway would be acquired for the widening of U.S. 101 and construction of the on-ramp, the acquisition of this vacant land would account for less than 20 percent of the entire parcel and would not materially alter in any adverse manner the physical features of this property that may convey its potential historical significance that may justify its potential eligibility for listing in a local register of historical resources.

Design Option A would also include the construction of a new access road for the Calhoun property. The location and design of the new access road will be determined at a later date by the property owner and the project proponent and will be designed and constructed so as to not

cause any substantial adverse changes to either residence on this property. Lastly, neither the extension of Santa Teresa Boulevard nor the construction of a proposed frontage road would adversely impact this property. The Santa Teresa Boulevard extension would be more than a quarter mile northwest of this property and would not be visible from either building. The proposed frontage road would be sited more than 350 feet west of the property and while it may be visible when looking from the west (secondary) sides of the residences, it would not materially alter in an adverse manner the view or setting of these buildings. Therefore, the construction of the U.S. 101 Improvement Project would not result in a substantial adverse change to the Calhoun property.

Comment 10-C: Technical Report - DPR 523 Series - SPRR - Watsonville Branch (Railroad 2) (Page 2 of 6): The DPR for the Southern Pacific Railroad (Railroad 2) included the following under Evaluation of Significance (Page 2 of 6): The Coast Line of the Southern Pacific Railroad (SPRR) is one of the major railroad trunk lines in California and was important in opening many areas of the coast counties between San Francisco and Los Angeles to settlement; it was also instrumental in the founding of many new towns and in the economic development of industries relying upon shipping goods and products to distant markets. The economy of Gilroy, for example, with its agricultural food products, the mainstay of its economy, relied upon the branch to export its products to distant markets at a time when the area was hampered by the lack of good roads or navigable rivers for commercial transportation (Criterion A). This seems to conclude that the Railroad was significant under Criterion A (Events). But the Historic Resource Evaluation report and the DEIR do not address or include its evaluation as a historic resource. A structure would be considered significant if it meets any one of the criteria listed under the Office of Historic Preservation.

Criterion 1 - Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States. The DEIR does not address this as a potential historic resource and does not evaluate impacts under CEQA.

Response 10-C: 1. *As stated in the DPR 523 forms prepared for the Southern Pacific Railroad in the HRRER, the segment of the Watsonville Branch of the Southern Pacific Railroad and its associated bridges located within the project study area have been previously inventoried and evaluated on two separate occasions and found not eligible for inclusion in the National Register and California Register. The SHPO concurred with these findings in 1994 and 2007.*

Eligibility to the National Register and California Register rests on twin factors: significance and integrity. A property must have both significance and integrity to be considered eligible for listing on the National Register or California Register. Loss of integrity, if sufficiently great, will overwhelm the historical significance of a resource and render it ineligible. While the Watsonville branch has potential significance under National Register Criterion A and California Register Criterion 1, the segment of the railroad within the project study area has been heavily altered by the replacement of tracks, ties, ballast, and signals and no longer retains

integrity of materials, design, and workmanship. Because this segment of railroad lacks integrity, it is not eligible for inclusion in the National Register or California Register and requires no further consideration under California Public Resource Code 5024.1.

Comment 10-D: Pacific Gas and Electric Transmission Towers: (DPR 523 - Page 2 of 5) - The DPR for Pacific Gas & Electric Transmission Towers & Sargent Substation: "The transmission line (and towers) do appear to meet the criteria for listing in the National Register of Historic Places (NRHP) or the California Register of Historical Resources (CRHR), nor do they appear to be a historical resource for the purposes of CEQA." This is probably a typo? Correct as necessary.

Response 10-D: *This is a typo. These facilities do not meet the criteria for listing in the National Register or California Register.*

Comment 10-E: Evaluation of Impacts and Mitigation Measures: The DEIR needs to provide clarification and additional documentation regarding the following:

Under Table S-1: Summary of Environment Impacts and Avoidance, Minimization and/or Mitigation Measures: (Page viii) Impact CUL-2: Bloomfield Ranch: A project eligible to the National Register is subject to Section 4(f). No mitigation has been provided to protect the resources during construction related activities. Although the report addresses that a 25 feet buffer zone is provided from the access road improvement, it is not included as a mitigation measure. Adoption of a Transportation Management Plan (TMP) during construction activities around Bloomfield Ranch that addresses construction impacts may be a possible mitigation.

Response 10-E: *As noted in Response 10-A, this project is not subject to Section 4(f) as it is not a federal project. The buffer zone is not identified as a mitigation measure as it is a design feature of the project itself. As described in Section 2.22.1 of the EIR, a Transportation Management Plan (TMP) will be prepared to address construction-related impacts. The TMP will address access issues to all properties that may be impacted during construction, including the Bloomfield Ranch.*

Comment 10-F: Include SPRR - Watsonville Branch (Railroad 2): Evaluation of the Southern Pacific Railroad (Railroad 2) indicates the structure to be a historic resource significant under Criterion A/1 (Events) and eligible to the California Register. The DEIR does not evaluate nor provide mitigations for impacts to the resource.

Response 10-F: *For the reasons described previously in Response 10-C, the railroad is not a historic resource and, therefore, no mitigation is required.*

Comment 10-G: Include Calhoun Ranch/Castro Valley Ranch: Castro Valley Ranch/Calhoun Ranch (SCL-112) located at 4355 Monterey Road (APN 810-35-008) is a resource listed in the Santa Clara

County Heritage Resource Inventory. The DEIR does not evaluate nor provide mitigation measures for impacts to the resource.

Response 10-G: *This comment is a repeat of Comment 10-B. Please see Response 10-B.*

Comment 10-H: Land Conservation (Williamson Act) contracted land and land under an Agricultural Preserve: Any public agency (as defined by Gov. Code §51291, subd. (a)) considering locating a public improvement on land restricted by a Land Conservation (Williamson Act) contract or land within an agricultural preserve is required to notify the Director of the Department of Conservation, of its intentions (Gov. Code §51291, subd.(b)). In addition, termination of a Williamson Act contract for a public improvement by acquisition can only be accomplished by a public agency which has the power of eminent domain. The State Department of Conservation must be notified in advance of any proposed public acquisition (Government Code §51290 - 51292), and specific findings must be made. This notification shall be submitted separately from the CEQA process and CEQA documentation. It would be advised that VTA contact the Department of Conservation directly and speak to Jacquelyn Ramsey at (916) 323-2379 for technical assistance. She can also be reached via email at: Jacquelyn.Ramsey@conservation.ca.gov.

The Santa Clara County Planning Office has identified several parcels in both option A and option B either restricted by a Williamson Act contract or under an Agricultural Preserve. As you can see in the enclosed map under Option A, 41 parcels are under the Santa Clara County Agricultural Preserve and six (6) parcels are under a Williamson Act contract and within an agricultural preserve. Under Option B, the map identifies 40 parcels under an Agricultural Preserve and 4 parcels restricted by a Williamson Act Contract and within an Agricultural Preserve. We have attached the two maps to assist VTA identify all the parcels subject to the State Department of Conservation noticing requirements for public acquisition. All Williamson Act restricted parcels and parcels under an Agricultural Preserve identified in the Draft EIR are subject to Williamson State Law noticing requirements.

Enclosed are detailed noticing requirements along with instructions. Although the project may not be constructed in the near future, once Williamson Act restricted parcels or parcels within an Agricultural Preserve have been identified as part of the scope of work they are subject to the Williamson Act public acquisition notification process as described in the enclosed Land Conservation (Williamson) Act Public Acquisition Notification Process. Please contact the State Department of Conservation for further assistance on this matter.

Response 10-H: *Thank you for this information, including the maps that show properties with Williamson Act contracts and/or within the Santa Clara County Agricultural Preserve. VTA acknowledges and understands that there are public noticing and other procedural requirements associated with such parcels. When funding is obtained and the project moves into the final design/right-of-way phase, VTA will coordinate with the Department of Conservation and other agencies, as appropriate, to implement all of the required noticing and procedures.*

Comment 10-I: Additional Recommended Agricultural Mitigations: In addition to the proposed Agricultural Mitigation measures in the Draft EIR the County would highly recommend VTA follow the LAFCO adopted agricultural mitigation policies that best address local concerns to protect and preserve agricultural land. Please see the enclosed LAFCO "Agricultural Mitigation Policies."

Due to the net loss of prime farmland we would recommend the purchase of agricultural conservation easements be located within Santa Clara County within the Sphere of Influence of a local City. Prime farmlands are generally located on the valley floor within the Sphere of Influence of local Cities. This in turn will help preserve the remaining prime agricultural land within Santa Clara County while preventing urban sprawl.

Other innovative forms of agricultural mitigations can also be incorporated into the EIR. For example, given the rich agricultural heritage and legacy of the Santa Clara Valley, public art work such as engraved cement work depicting agricultural symbols such as garlic, row crops, cherry orchards or slogans such as the Valley of Hearts Delight can face traffic along the freeway overpasses or onramps. This would be a unique form of preserving the rich agricultural history in the area given the significant and unavoidable loss of prime farmland caused by the proposed project.

Response 10-I: *As described in MM-FARM-1.1, the project will acquire farmland conservation easements at a 1:1 mitigation-to-impact ratio. The easements will be held by the Open Space Authority and will be for farmland within Santa Clara County. This mitigation measure is the same as that identified on page 3 of the LAFCO Agricultural Mitigation Policies that were attached to this comment.*

At the time the project moves into final design, VTA will work with the County and/or other agencies such as the Open Space Authority to explore the feasibility of implementing the suggestions pertaining to some form of public art with an agricultural history theme. Although such ideas would not be true mitigation for the project's impact to farmlands, there may be opportunities to incorporate such features into the design of the project.

Comment 10-J: The Santa Clara County Parks and Recreation Department, in partnership with other public agencies, is charged with furthering the implementation of the Santa Clara Countywide Trails Master Plan Update. Under Section 2.1.2.2, the DEIR correctly identifies the Trails Plans and Policies of the Countywide Trails Master Plan Update, adopted as part of the County's General Plan in 1995. However, for clarity the DEIR must characterize these regional trails as shared-use (equestrian, bicycle, pedestrian uses on shared alignment) to be in full compliance Countywide Trails Master Plan Update's polices for regionally significant routes.

Per our prior preliminary plan review and correspondence with VTA in 2008 and 2009, we recommended implementation of trail routes that would result in readily accessible and safe alignments

for all users. As such, we recommend that the project implement Alternative 2 (trail crossing under Hwy 101 at Uvas-Carnadero Creek) as the preferred alternative under either Freeway Design Option A or B.

Response 10-J: *The recommendation of the Santa Clara County Parks and Recreation Department for the selection of Bicycle/Trail Alternative 2 is noted for the record. This recommendation is consistent with that of the project development team, as discussed in Section 1.3.4 of the Final EIR.*

Comment 10-K: While recommended trail widths can be modified to suit final site conditions, Alternative 2 should be designed to accommodate equestrians as well as hikers and cyclists (see recommended Trail Design Guidelines Figure G-2 and G-7 attached). Similarly, we also recommend that future trail crossing of U.S. 101 at the Pajaro River accommodate all users in compliance with its designation as a national historic trail.

We appreciate your efforts to provide safe and accessible trail routes as part of this project's design objectives. Santa Clara County Parks and Recreation Department looks forward to working closely with VTA and other interested agencies to finalize design development for this project.

Response 10-K: *VTA concurs with this recommendation. The facilities will be designed to accommodate pedestrian, bicyclist, and equestrian users. During final design, VTA will coordinate with the County in the design of these facilities.*

Comment 10-L: Chapter 1.3.1.11 (Page 21): Construction Schedule states, "If funding for the project or an initial phase of the project is secured in the near future, the soonest construction would commence would be in the year 2013." The construction year seems to be in error; please provide the corrected scheduled construction year.

Response 10-L: *Thank you for this comment. The date in Section 1.3.1.11 has been revised in the Final EIR to state that the earliest construction would commence would be in the year 2015.*

Comment 10-M: With the completion of the SR-25 interchange improvements, Santa Teresa Boulevard will become the major connecting link from SR-25 West/Northbound and US-101 Northbound to SR-152 Westbound. The EIR needs to identify traffic impacts to the SR-152 Westbound/Santa Teresa Boulevard intersection.

Response 10-M: *The traffic analysis evaluated the impacts of the project at various intersections along Santa Teresa Boulevard including Castro Valley Road, Gavilan College, Mesa Road, and Thomas Road (see Table 20 in the EIR). However, the Santa Teresa/SR 152 intersection, which is north of these intersections, was not included because the analysis showed that the impacts of the project beyond these intersections would not be substantial.*

Comment 10-N: The extension of the Santa Teresa Boulevard will become part of the County Roads system when completed, and we look forward to working with the Valley Transportation Authority during the design phase of the project.

Response 10-N: *VTA will work with the County's Roads and Airports Department during the final design of the extension of Santa Teresa Boulevard.*

Comment 10-O: A section of the Pajaro River from just north of the existing US 101 bridges running south to parallel with SR 129 toward Chittenden is identified as a Floodway on the current FIRM panels. Please see the attached FIRMettes. These facilities have been identified in the current Federal Insurance Study (FIS) as a regulatory floodway and floodplain of known and unknown base flood elevation and are located in the unincorporated Santa Clara County. Pursuant to Title 44 Code of Federal Regulation, Section 65.3 all improvements that will affect the base flood elevations in the Pajaro River through that portion of the unincorporated County floodway will require the submittal and issuance of a Floodplain Development Permit through the Santa Clara County Building Office.

Though the DEIR does speak to Federal Emergency Management Agency's (FEMA) floodplain issues on Carnadero, Gavilan, Tar, and Tick Creeks and the Pajaro River, and briefly discusses impacts to the water surface impacts, most of this area has been identified in Flood Zone A where the Base Flood Elevation has not been determined. Pursuant to Title 44 Code of Federal Regulation, Section 60.3(b) and the Santa Clara County Floodplain Ordinance, Santa Clara County requires that the above Floodplain Development Permit include base flood elevation data for the above Zone A areas.

The above Floodplain Development Permit (FOP) application will require a Conditional Letter of Map Revision (CLOMR) be prepared to the FEMA requirements with review and approval by County and FEMA staff prior to issuance of the FOP. The permit application will also require a Letter of Map Revision (LOMR) be prepared to the FEMA requirements, with review and approval by the County, the Santa Clara Valley Water District, and FEMA staff six months prior to the completion of construction. When you submit plans for the Floodplain Development Permit, please make sure you submit the following information:

- Two full sets of construction improvement plans including erosion control.
- Two complete CLOMR applications with all required hard copies and electronic copies.
- Clearance Letters or copies of permits as applicable from Army Corp (404 permit), Regional Board (401), NOAA Fisheries, Fish 8, Wildlife, Fish 8, Game, and any other state, local or federal agencies, including San Benito and Santa Cruz Counties. Per FEMA requirements of the local floodplain administrator, Santa Clara County will review the plans and check for conformance with the local, state, and federal agencies.
- A signed and stamped No Rise Certificate prepared by a Registered Civil Engineer.
- No Adverse Impact Certificate I Statement prepared by a Registered Civil Engineer.
- A No Impact to Structures Statement prepared by a registered Civil Engineer. The SCVTA can use the FEMA example No Rise language on SCVTA letterhead. No Impact to Structures

statement should state that there are no structures located in areas that could be impacted by the proposed development and/or be affected by the increased BFE (unless they have been purchased for relocation or demolition).

- The SCVTA can also include the following statements on the same letter to address the No Adverse Impact and No Impact to Structures. The No Adverse Impact statement should state that the proposed project does not: 1) Increase the flow velocities of "Pajaro River"; 2) Expand or change the limits of the floodplain; 3) Alter or change the physical characteristics of the floodplain, and 4) Decrease the flood storage capacity.

The lead time for CLOMR approval can vary from six months to two years.

Response 10-O: *Thank you for this information. Per standard procedure, when funding is secured and the project moves into the final design phase, all of the hydraulic data and studies will be revisited, as necessary, to ensure that the project meets all applicable requirements, including those described in this comment. Modifications to various project elements (e.g., size of culverts, capacity of detention basins, bridge dimensions, roadway elevations, etc.) may occur to ensure that the project does not result in significant floodplain impacts. The most current hydraulic data available will be used. As applicable, permits will be obtained.*

RESPONSE TO COMMENT #11: SANTA CLARA COUNTY OPEN SPACE AUTHORITY

Comment 11-A: Farmlands: Per the DEIR the project will convert 157 acres and 122 acres of prime farmland to highway uses under Design Options A and B, respectively; and will convert farmlands that are under Williamson Act contracts or held under conservation easement. The County's last remaining prime cultivated croplands on large economically viable farms occurs in the area south of Gilroy where the Project is proposed. The area is part of a very fertile agricultural region that extends south of Gilroy into San Benito County. Its deep alluvial soils are fed by numerous streams, which in turn provide a relatively high and stable water table that is ideal for irrigation. As part of the upper Pajaro River floodplain the south Gilroy farmlands play a critical role in retaining floodwaters that would otherwise inundate downstream farmlands and portions of Watsonville and the unincorporated town of Pajaro. Due to its critical importance to the agricultural economy, Santa Clara County's General Plan has designated this area as an "Agricultural Preserve." It has been recognized as a conservation priority by the both the California Department of Conservation and the United States Natural Resource Conservation Service, which provided funding for agricultural conservation easements that protect over 1,100 acres of south Gilroy's farmlands.

Given the importance of the south Gilroy farmlands to the region's agricultural economy, heritage and for community health, the Authority recommends:

Increase the mitigation ratio from 1:1 to 2:1 due to the unique and vital importance of this area to Santa Clara's agricultural economy, and the potential for cumulative impacts. Please note that 2:1 is the policy of many agricultural communities with similar, predominantly prime agricultural lands at stake, including the cities of Davis in Yolo County and Hughson in Stanislaus County. The need for 2:1 mitigation is further justified by the fact that the project will result in significant growth inducing impacts if and when the application for the El Rancho San Benito Development is re-submitted. Though the Project improvements are needed independent of the ERSB, the freeway widening will likely be a condition of ERSB approval, and thus help facilitate the ERSB project. The cumulative impacts to agriculture need to be taken into account. The ERSB project will not only result in an increase in traffic along local roads in this productive agricultural region, but further erode the agricultural economy by placing additional pressures for more ranches in the vicinity to be developed for non-agricultural uses.

Response 11-A: *As noted in Section 2.3.5 of the EIR, the California Department of Conservation recommends that agencies consider the use of farmland conservation easements at a 1:1 ratio. VTA is proposing the 1:1 ratio consistent with this recommendation, recognizing that there is no feasible mitigation that will avoid the net loss of prime farmland. Despite this fact, VTA believes that the 1:1 ratio is appropriate because it recognizes (per Section 2.2 of the EIR) that the project will facilitate future growth - including ERSB should its application be re-submitted and approved - and the easements are a tool for preserving farmland from development pressures associated with such growth. As stated in Section 2.3.5, this approach has been recognized as a valid approach to CEQA mitigation by the California Court of Appeals.*

VTA further notes that the project itself has been designed to minimize its footprint and, thereby minimize impacts to farmland; see discussion of "Minimization Measures" in Section 2.3.5. Finally, the project development team is recommending Design Option B, which when compared to Design Option A will avoid impacts to 35 acres of farmland.

For the above reasons, VTA believes that the purchase of farmland conservation easements at a ratio greater than 1:1 is not justified.

Comment 11-B: Increase the total mitigation acreage due to cumulative impacts from new frontage roads. Consider adding to the proposed mitigation ratio additional acreage based upon the proposed or similar formula: multiply the linear feet of new frontage roads by a depth of likely conversion from potential non-agricultural uses (150 to 200 feet).

Response 11-B: *The calculations of the project's impact to agricultural lands that are contained in Section 2.3 already account for the footprints of the new frontage roads.*

Comment 11-C: Provide up front funding for project and stewardship costs to the agencies that will transact and hold the farmland conservation easements in order to ensure that the mitigation ratio is met.

Project costs and long-term stewardship costs borne by the agency or agencies purchasing and holding future easements should be reimbursed by the VTA. It is not clear in the DEIR that these costs are included in the "costs of the easements", or if these refer to just the easement acquisition costs. We recommend that an amount be set aside for the agency that is 18% of total estimated easement value, which represents 5% for transactions, 5% for an easement stewardship endowment and 8% for other overhead costs. This is a standard practice used by the Central Valley Farmland Trust, Sequoia Riverlands Trust, Yolo Land Trust and other nonprofits engaged in mitigation transactions.

Response 11-C: *The intent of MM-FARM-1.1 is that the project would be responsible for all of the direct costs associated with the purchase of the conservation easements. Consistent with that intent, VTA will work with the OSA to determine an appropriate value for the costs of long-term stewardship. It is VTA general policy to implement mitigation simultaneously with the construction of each phase of the project.*

Comment 11-D: Due to the fact that the project will impact 5.9 acres of the JB Limited Partners property, which is protected by an agricultural conservation easement funded by local, state and federal agencies, consider shifting the freeway widening to the west to completely avoid this property. The Silicon Valley Land Conservancy holds a conservation easement over property. The taking of a portion of this property by eminent domain will result in substantial costs to the easement holder and landowner, as well as the various agencies which funded the easement. For example, one such recent taking of a portion of an easement-encumbered farm in Solano County, in which the landowners could not agree on the transportation authority's appraised value, has resulted in a two-month-long litigation process that has severely depleted the legal defense funds of the local land trust which holds the easement. In the case of this Project, the parties will also be required to engage an appraiser to determine both the current conservation easement value and the encumbered value of the portion of the property involved in the taking and reimburse the various agencies that were involved in the funding of the conservation easement. As an alternative, VTA should explore the feasibility of shifting the Project to the west so that none of the easement-encumbered property held by JB Limited Partners is impacted by the Project. If the project cannot be shifted west, costs borne by the various parties due to the eminent domain taking should be provided separately and in addition to the funding for the farmland mitigation.

Response 11-D: *As shown in Table 3 of the EIR, the right-of-way impact of the project to the JB Limited Partners parcels (APNs 841-36-016 and 841-36-019) is estimated to be 5.5 acres. This impact would be associated with the upgrade of the existing property access road (which is currently partially paved) to a full standard access road. This was included in the project because an upgrade is typically required by property owners when an adjacent highway is improved to freeway standards.*

In light of this comment, there are alternatives that VTA can discuss with the owners of the JB Limited Partners parcels: 1) eliminate the access road upgrade altogether and construct a retaining wall in lieu of the embankment along the existing right-of-way line, or 2) undertake

a more limited improvement to the access road that would minimize impacts. These options can be discussed with JB Limited Partners during the final design of the project.

Comment 11-E: Revisit the farmland impact analysis to account for potentially underrepresented impacts to prime farmlands. The Project DEIR (Table 10, p.52) identifies APN 810-34-007 as grazing land. This appears to be incorrect, as the 2010 Important Farmland Mapping and Monitoring Program classifies this area as Farmland of Local Importance. Note that there is no longer a record of this APN in the County GIS parcel database. This parcel is listed in the 2011 GIS parcel database as APN 810-82-002. Likewise, APN 810-38-017 (Table 10 pg. 52) is identified as grazing land, but a portion of this parcel is classified as Farmland of Local Importance and is described as prime farmland according to the Natural Resource Conservation Service SSURGO dataset.

Response 11-E: *It is acknowledged that the Assessor has recently changed some of the parcel numbers. However, the Land Evaluation and Suitability Evaluation (LESA) model, which is the basis for the impact assessment in Section 2.3, did not rely on the parcel numbers or the Important Farmlands Map, but rather on the soils and other properties of the land with regard to agricultural suitability. Therefore, impacts were not underreported.*

VTA also notes that the right-of-way and associated farmland impacts of the project will likely change as the project elements are refined during the final design phase. As part of this process, the LESA report will be updated to reflect the revised data, changes in farmland mapping, etc. This process will also allow for a final calculation of farmland impacts, which in turn will dictate the conservation easement requirements using the 1:1 ratio.

Comment 11-F: Natural Communities: The Upper Pajaro River corridor has been identified in the Bay Area Critical Linkages Project and other studies as an important regional landscape linkage between the Santa Cruz Mountains and Gabilan and Diablo Ranges. It is vital to design infrastructure improvements that maintain if not enhance the ability of wildlife to travel between core habitat areas. Researchers with Connectivity for Wildlife have documented numerous road kills along the entire stretch of Highway included in the Project area, as well as use of existing culverts by many wildlife species. While the DEIR identifies improvements and culvert upgrades that should improve wildlife connectivity, use of directional fencing is limited to about half of the project area (MM-NATCOM-3.6). To enhance connectivity, the Authority recommends:

Directional fencing be installed and maintained to span all of the crossing structures associated with the project. Given the abundant wildlife in this area and its regional significance for connectivity, additional directional fencing will increase the likelihood that species will be able to successfully pass through this landscape.

Response 11-F: *We appreciate the recommendation for directional fencing from SR 25 south to the San Benito River to direct animals to undercrossings and reduce road mortality. As*

described in MM-NATCOM-3.6, such fencing will be installed from a point 0.25 mile north of Tar Creek south to the San Benito River bridge. However, such fencing is not proposed north of the point 0.25 mile north of Tar Creek, for reasons discussed below.

When planning this project and assessing its potential impacts, VTA and the design team coordinated extensively with Caltrans District 5 biologists (including Nancy Siepel, Caltrans Biologist/Mitigation Specialist in the Environmental Stewardship Branch, who is extremely knowledgeable about wildlife movement issues on road projects), CDFW staff (particularly Santa Clara County biologist David Johnston), USFWS staff, and personnel preparing the Santa Clara Valley HCP/NCCP to incorporate design elements that would continue to allow wildlife movement through the project area, or even enhance wildlife movement, while reducing road mortality of wildlife in key areas and maintaining public safety. Multiple field visits with these personnel were conducted to examine the existing conditions, including existing crossings of U.S. 101 and adjacent land uses conducive to wildlife movement, to assess and discuss how the project might affect wildlife movement through the project area, and to consider measures to maintain or improve wildlife movement across the U.S. 101. In addition, a number of meetings and conference calls were held with those staff to discuss these issues.

Wildlife movement across U.S. 101 in the project area is expected to be relatively low north of SR 25 due to developed land uses in some areas and the presence of a solid median barrier north of SR 25. Between SR 25 and Tar Creek, the presence of extensive areas of intensively cultivated lands east of U.S. 101, which do not provide high-quality habitat or cover for dispersing animals, likely limits the importance of this area for dispersal as compared to the area from Tar Creek south to the San Benito River. In the segment between Tar Creek and SR 25, it was determined that because no changes to fencing or the median were necessary to construct the project, and because wildlife movement across this segment is not as important to regional habitat connectivity as the areas south of Tar Creek, there would be no need to change the existing fencing or median designs for wildlife movement from 0.25 mile north of Tar Creek northward.

Comment 11-G: For all other described impacts to natural communities, animals, plants, riparian resources and wetlands, the Authority recommends focusing mitigation in areas that are in close proximity to the Project location. Where feasible, in-lieu fees to the HCP/NCCP for permanent impacts to natural communities or species should be directed to the southernmost areas in the County identified as high conservation priorities in the HCP/NCCP Conservation Strategy. Where in-lieu fees are not feasible, mitigation measures should be restricted to locations that are within the Pajaro River Watershed.

Response 11-G: *VTA concurs with the Open Space Authority's recommendation that mitigation priorities should be focused as close to the project site as possible, whether the mitigation is through the HCP/NCCP, mitigation banks, or project-specific mitigation, whenever feasible.*

Sometimes, benefits may be achieved locally even if the mitigation is implemented on a watershed or regional scale. Nevertheless, for biological impacts that require compensatory mitigation including impacts to natural communities, special status animals, riparian and wetland habitat (there are no impacts to special status plants due to the project), VTA will pay development fees to the Santa Clara Valley HCP/NCCP, as the project is a covered activity in this Plan. As stated in the HCP/NCCP, potential restoration sites will be evaluated in coordination with local agencies or organizations active in restoration, such as the Open Space Authority and The Nature Conservancy.

For compensatory mitigation of wetlands, an alternative approach to the HCP involves purchasing credits in a wetland mitigation bank. The closest bank to the project site is the Pajaro River Wetland Mitigation Bank.

If the use of the HCP is not viable as mitigation for all impacts, another alternative for compensatory mitigation for biological impacts is project-sponsored mitigation. If this type of mitigation is implemented, VTA will also coordinate with local agencies and organizations active in habitat restoration, such as those mentioned above. An early inquiry into potential mitigation sites revealed numerous opportunities in the project vicinity (see Response 8-C).

Please also see Responses 15-B, 8-E, and 17-M.

Comment 11-H: Bicycle and Pedestrian Facilities: An important element of the Authority's mission is to provide public recreational access to open spaces. The Authority works in close partnership with other agencies and organizations to implement regionally significant trail and public access projects. The Authority supports the recommendations from the Bay Area Ridge Trail Council and the Santa Clara County Parks and Recreation Department to establish a multiple-use trail route that will support safe, enjoyable access across U.S. 101 via a new trail to be built along Carnadero Creek, under the freeway bridges.

Incorporate Alternative 2 in the final Project plans. This alternative appears to be viable under either Freeway Design Option A or B. Where feasible, we recommend integrating design elements and native landscaping along all trail routes, and especially at road crossings, that will help facilitate wildlife movement.

Response 11-H: *The recommendation of the Santa Clara County Open Space Authority for the selection of Bicycle/Trail Alternative 2 is noted for the record. This recommendation is consistent with that of the project development team, as discussed in Section 1.3.4 of this Final EIR. Where landscaping will be provided, it is VTA and Caltrans policy to utilize native plants and to avoid the use of any invasives.*

Comment 11-I: Direct Growth Inducement: As mentioned earlier, the Project area is part of a very productive agricultural region that extends south of Gilroy into San Benito County as far as Hollister. Santa Clara County's last remaining prime cultivated croplands on large economically viable farms occur in the area south of Gilroy where the Project is proposed. Growth inducement and cumulative impacts from potential developments on surrounding ranches facilitated by the freeway widening could over time erode the agricultural economy of this region.

Response 11-I: *This comment mirrors the conclusion in Section 2.2 of the EIR, namely that the project will result in a significant and direct growth-inducing impact if and when the application for the ERSB project is resubmitted and if the approval of ERSB is conditioned on the widening of U.S. 101.*

RESPONSE TO COMMENT #12: SANTA CLARA VALLEY WATER DISTRICT

Comment 12-A: Hydrology and Floodplain, Section 2.9: General Comment No. 1: In general, this section does not address the difference between Federal Emergency Management Agency (FEMA) hydrology and floodplain mapping which is regulated by the National Flood Insurance Program (NFIP) and the local floodplain administrators, such as the City of Gilroy and the County of Santa Clara (for the portion of the project located within the County of Santa Clara) and the use of best available or current hydrology and mapping for the project. This project proposes changes to the FEMA floodplain and must follow NFIP regulations as administered by the local floodplain administrators. For NFIP purposes, the project must use FEMA effective map hydrology to determine impacts of the project on the effective FEMA floodplain or apply to change the map to reflect new existing conditions and then analyze the project to address changes in the existing condition. The Location Hydraulic Study utilizes some FEMA information, but does not use FEMA flow rates for Uvas Creek at Highway 101, the Uvas Creek-East Overbank Above Highway 101 at Highway 101, or the Uvas Creek-South Spill. As another example of inconsistency with FEMA information, it was noted that the 100-year water surface elevations on Uvas Creek at Highway 101 calculated in the Location Hydraulic Study are approximately 2.5 feet lower using a flow rate of 8400 cfs than FEMA maps show using the incorrect (and low) flow rate of 8000 cfs.

General Comment No. 2 - The District has information that the hydrology currently used by FEMA for Uvas Creek is incorrect. Additionally, during the 2009 FEMA re-mapping process to convert paper maps to Digital FIRMs, the Uvas Creek watershed, in addition to adjoining watersheds in Gilroy, were mapped incorrectly. The correct Uvas Creek 100-year flow rate at Highway 101, without spills taken into consideration, is 16,900 cubic feet per second (cfs). In order to calculate the actual flow from Uvas Creek, the full flow rate needs to be routed through the channel and the overbank flows need to be calculated (such as for the area FEMA calls Uvas Creek-East Overbank Above Highway 101 and the overflow from the south bank of Uvas Creek, which flows towards Gavilan Creek, and the flows which overtop Highway 101). Similarly, the flows which currently cross Highway 101 and form the floodplain

FEMA calls Uvas Creek-East Overbank Above SPRR, the Uvas Creek floodplain in Uvas Creek, and FEMA's Uvas Creek-South Spill all join the floodplain which currently floods Highway 25. Detailed flow routing for this area should be provided using current hydrology, in addition to performing the necessary NFIP modeling. These flows should be calculated for the existing and proposed condition.

Response 12-A: *As noted in Chapter 3 of the EIR, VTA met with both the SCVWD and the City of Gilroy on various occasions in 2007 and 2008 for the purpose of discussing floodplain and hydraulic issues that were relevant to the project. During these meetings, VTA was informed that there was concern that the FEMA hydraulic model had flow rates less than those being used by the SCVWD for Uvas-Carnadero Creek. This concern was also conveyed to VTA in the SCVWD's response to the EIR Notice of Preparation (NOP) dated November 30, 2007. As a result, SCVWD provided its model to VTA, which was used instead of the FEMA model in the preparation of the project's Location Hydraulic Study.*

Comparing the FEMA and SCVWD models, the channel flowline elevation of Uvas-Carnadero Creek at U.S. 101 in the FEMA Flood Insurance Study's (FIS) flood profiles and SCVWD hydraulic model is approximately 172 feet NAVD and approximately 167 feet NAVD, respectively. The difference in the channel flowline elevation caused the 100-year water surface elevation of Uvas-Carnadero Creek in the Project's hydraulic analysis to be 2.5 feet lower than the elevation from the FEMA FIS flood profiles. In layman's terms, because the SCVWD model used a higher flow and a lower flowline than the FEMA model, it was more conservative.

To summarize, VTA utilized the most current data available to quantify the existing hydrologic conditions as they existed at the time the NOP was circulated, as required by CEQA Guidelines Section 15125(a). The data used was provided by the SCVWD and the model itself was the one used by the SCVWD on its projects.

The above notwithstanding, per standard procedure, when funding is secured and the project moves into the final design phase, all of the hydraulic data and studies will be revisited, as necessary, to ensure that the project meets all applicable requirements. Modifications to various project elements (e.g., size of culverts, capacity of detention basins, bridge dimensions, roadway elevations, etc.) may occur to ensure that the project does not result in significant floodplain impacts. The most current hydraulic data available will be used. VTA will coordinate with the SCVWD at that time.

Comment 12-B: General Comment No. 3 - The post-project analysis did not include new flow rate calculations for flow routing changes due to the raising of Highway 101, the reduction in bridge capacity and freeboard at the proposed Highway 101 bridge at Uvas Creek, the added culvert capacity or addition of new culverts at the Tick Creek, Tar Creek, Gavilan Creek and State Route 25 floodplain crossings/bridges to allow more 100-year flow to cross Highway 101 and State Route 25 at an early time in the hydrograph which currently backs-up and pools floodwaters until they eventually weir flow over

the highways under existing conditions. These hydrograph changes can change the peak flow rate in the receiving stream, as well as the downstream receiving streams. The post-project flow rates were assumed to be the same for existing and post-project scenarios with the only change being the new cross-section geometry. This does not show how the post-project geometry and cross-section changes will change the flow rates and flood routing in the watershed.

General Comment No. 4 - The Location Hydraulic Study only looked at mitigations for increased runoff from increased impervious surfaces to the peak 100-year flow rate. The analysis did not show how the project will change the hydrographs in the various downstream watersheds and how the project will mitigate for increased flood flow volumes, as well as peak flows, to the downstream receiving water bodies and the Soap Lake floodplain under various flow events.

Response 12-B: *The analyses in the Location Hydraulic Study utilized steady state models at the request of the SCVWD. The steady state models were provided to VTA by the SCVWD for use in the analysis. No other modeling, such as that now being requested in this comment, was requested by the SCVWD at the time of the coordination meetings in 2007 and 2008. VTA notes that the steady state modeling used in the Location Hydraulic Study is a conservative approach based on an assumption of no storage of water.*

Comment 12-C: General Comment No. 5 - The Location Hydraulic Study only analyzed the 100-year flood flow event. There is no study identifying the existing capacity of downstream receiving waterbodies to contain flood waters. Downstream receiving waterbodies currently flood during more frequent events, such as the 2-year event, 10-year event, etc. based on information obtained from the Pajaro River Watershed Flood Prevention Authority. There was no analysis showing the impacts of the project on the frequency of flooding downstream or on the lateral extent of flooding during these more frequent flood events or how the project will impact the hydrograph for downstream receiving waterbodies and the Soap Lake floodplain in order to avoid flooding Highway 101 or State Route 25.

Response 12-C: *The analysis in the Location Hydraulic Study was based on the 100-year flood event, which is the standard used in most analyses and referenced in the CEQA Checklist. The SCVWD response to the EIR NOP did not request analyses of more frequent events such as the 2-year or 10-year storms.*

During the final design phase, VTA will continue its coordination with the SCVWD (and other entities such as the Pajaro River Watershed Flood Prevention Authority) on floodplain and hydrological issues to ensure that the project design meets all applicable requirements at that time.

Comment 12-D: Section 2.9.2.3 - Impacts to the Tick Creek Floodplain: The DEIR states that there is no impact since the water surface in the Tick Creek floodplain will not raise. Please see General Comment No. 3. The District is concerned that post-project hydrology may change and that the

hydrograph in Tick Creek and the downstream receiving waterbodies such as Uvas Creek and the Pajaro River may be impacted without further analysis.

Response 12-D: *This comment raises the same issue as Comment 12-B regarding the request for the use of supplemental non-steady state analyses. Please refer to Response 12-B.*

Comment 12-E: Section 2.9.3.1 - Mitigation Measures for Impacts to Carnadero Creek Floodplain - Please see General Comments No.1 through 5. Additionally, the Location Hydraulic Study only recommends purchasing flooding easements where the water surface increases up to 0.8 feet under Design Option A. Depending on an analysis of existing structures in the watershed, any increase in flood elevations can adversely impact existing properties and cause structures that are at or above the existing 100-year water surface elevation to be below the 100-year water surface elevation which triggers NFIP compliance, flood insurance, and more onerous building requirements. This does not appear to have been analyzed. Also, the County of Santa Clara has a policy of zero-increase in the floodplain for areas outside a project's right of way limits. The Location Hydraulic Study shows several areas, utilizing its existing analysis, where the 100-year water surface elevations will increase. If the flood flows are re-analyzed based on our General Comments, this may change again. The proposed detention basin only mitigates for increased runoff due to the new impervious surface area for the freeway and only addresses 100-year flooding. Again, existing studies show that flooding in downstream receiving water bodies occurs during more frequent events. Any unmitigated flows during those more frequent events may increase the frequency of flooding downstream.

Response 12-E: *The water surface increase up to 0.8 feet in the hydraulic model for Design Option A is local; it only occurs between the downstream side of Castro Valley Road and the upstream face of the cross-culverts underneath the proposed U.S. 101 on/off-ramp cloverleaf. Upstream of Castro Valley Road, Design Option A would not increase the 100-year water surface elevation of the Uvas-Carnadero Creek overbank flow flowing into Gavilan Creek. The project includes purchasing the right-of-way between Castro Valley Road and the proposed interchange under Design Option A where an increase in water surface elevation is anticipated.*

VTAs notes that this increase in water surface elevation would not occur under Design Option B, which is recommended for approval by the project development team, as discussed in Section 1.3.4 of the Final EIR.

Comment 12-F: Section 2.10.1.4 - NPDES Program: This section only identifies the Caltrans MS4 municipal NPDES permit and does not include mention of the Santa Clara County MS4 municipal NPDES permit. This section should make clear whether any portion of the project will drain from Caltrans right of way into the Santa Clara County storm sewer system or if the Caltrans storm waters will discharge directly into waters of the state or waters of the U.S. The Storm Water Data Report states that the "...Project is not located within any Municipal Separate Storm Sewer System (MS4)." It also states that the "...Project is currently not within a municipality or RWQCB that requires hydromodification

mitigation." However, it does not state how it came to that conclusion since there is no discussion of the Phase II municipal NPDES permit for Santa Clara County and the City of Gilroy.

Section 2.10.3 - Environmental Consequences of the Build Alternative: This section does not discuss how Tick Creek, Gavilan Creek, Uvas Creek and the Pajaro River will be impacted by hydromodification and increased erosion due to the constriction and/or expansion of the culverts or bridges along Highway 101 and along State Route 25. The Storm Water Data Report for the project states that peak attenuation basins will be designed to avoid downstream erosion from increased flow rates from the new impervious surface areas. This is a separate issue from increased flow rates from the changes in the culvert and bridge capacities at the various stream crossings and floodplain crossings.

Response 12-F: *At the time the NOP for the EIR was circulated and the hydraulic analyses were prepared, there were no hydromodification requirements in either the Santa Clara County or City of Gilroy Phase II municipal NPDES permits. For this reason, the EIR does not include a hydromodification analysis. Nonetheless, as stated previously in Response 12-A, VTA will be revisiting and updating the hydrological analyses during the final design phase. That process will include compliance with the latest NPDES requirements and the use of the most current hydraulic data and models. All such analysis will include coordination with the SCVWD.*

**RESPONSE TO COMMENT #13:
BAY AREA RIDGE TRAIL COUNCIL**

Comment 13-A: Please accept these comments from the Bay Area Ridge Trail Council (Council) in response to the Draft Environmental Impact Report (DEIR) for the proposed improvements to US 101 in south Santa Clara and north San Benito counties. The Ridge Trail, a planned 550+mile multiple use regional trail, will cross US 101 within the footprint of the Improvement Project. The Council is committed to preserving the best possible trail alignment in VTA's plan.

Some years back, representatives from the Council and planners from the Santa Clara County Parks Department met with VTA staff and consultants to review preliminary plans for the project. Through those meetings and subsequent site visits we identified a route that will support safe, enjoyable access across US 101 via a trail to be built along Carnadero Creek, under the freeway bridges. The alignment is incorporated in your DEIR as Alternative 2. This alternative would be viable under either Freeway Design Option A or B.

The Council recommends adoption of Alternative 2 in the final project plans. We also recommend adding text stating that the trail will accommodate equestrians as well as hikers and cyclists. Regarding the Design Options generally, the Council supports an option that allows for safe passage parallel to the freeway frontage, and through the various interchanges. These parallel trails, paths and bike lanes are

important for continuity of through passage for non-motorized travel, and connection to the regional trails.

Based on my analysis of the two Options, there does not appear to be much difference between them on that point. However, there seems to be a significant difference regarding impacts to the agricultural features of the south Santa Clara region. Option A would require taking 30 acres (about 20%) more farmland than Option B. Though the Council does not have a specific policy regarding farmland preservation, we do stand for preservation of open space (that could include working landscapes). Thus, the Council recommends ranking Option B higher than Option A.

Response 13-A: *The recommendation of the Bay Area Ridge Trail Council for the selection of Design Option B and Bicycle/Trail Alternative 2 is noted for the record. This recommendation is consistent with that of the project development team, as discussed in Section 1.3.4 of this Final EIR. Finally, as suggested, equestrians have been added to the list of trail users; see Section 2.1.2.2 of this Final EIR.*

RESPONSE TO COMMENT #14: CASTRO VALLEY PROPERTIES

Comment 14-A: Castro Valley Ranch is committed to respectful stewardship of the land and we value this opportunity to comment on the Draft Environmental Impact Report prepared regarding the 101 expansion and the 101/25 interchange. We understand the need to improve the transportation infrastructure, but believe it must be done with sensitivity to the unique character and agricultural heritage of the area.

Castro Valley Ranch has 8,400 acres and a long history of operating as a cattle ranch, farm and timberland in an environmentally sensitive manner. Much of the 101/25 interchange will be built on or near agricultural and pasture lands owned by Castro Valley Ranch and we are concerned that the Draft Environmental Impact Report inadequately addresses many of the impacts that would be caused by Design Option A.

Design Option A and Design Option B have such different environmental impacts, that we question why they are designated as "Design Options" rather than alternatives. We believe the final Environmental Impact Report should consider each of the options as alternatives and weigh the relative impact of each and choose one as preferred.

Response 14-A: *VTA chose to use the term "design option" instead of "alternative" because in the context of the project as a whole, the only difference between the options is the location of the reconstructed U.S. 101/SR 25 interchange. More important than the way these options are identified, however, is the fact that they are treated as alternatives throughout the EIR, in*

that the environmental impacts of each are broken out. Throughout Chapter 2 of the EIR, the analyses clearly differentiate between each option. Examples include, but are not limited to, farmlands, right-of-way, traffic, hydrology, visual, noise, and biology.

Comment 14-B: Pursuant to section 15126.6(d) of the CEQA Guidelines the EIR must include sufficient information to allow meaningful evaluation, analysis and comparison of the options. We do not believe the EIR in its current form meets this standard. However, in our review of what information is included in the EIR and its technical reports, the negative impacts of Design Option A seem much greater than Design Option B, and we suggest Design Option B as the preferred alternative. In the list below we have selected a few of the areas where the report must be revised to allow a meaningful comparison between Design Option A and Design Option B.

Table 4 on pages 28 through 30 of the report has several errors that imply both design options have similar or identical environmental impacts, when in fact Design Option A creates significantly more negative environmental impacts. For example, while Design Option A has significant visual impacts that cannot be mitigated, all of Design Option B's visual impacts can be mitigated to a less than-significant level. (See page 89 of the Draft EIR). Table 4 must be revised to note that there is a Significant Unavoidable Impact on views under Design Option A only.

Although Table 4 notes that Design Option A increases the impervious surfaces by 1.9 acres, nowhere does the table indicate that Design Option A also increases the Disturbed Soil Area by more than 20 acres versus Design Option B. All of these acres are in the northern area of the project, where the risk of soil erosion is highest, according to the Storm Water Data Report (page 7).

Design Option A takes significantly more prime and unique farmland but the report does not adequately consider potential mitigations. For example, the use of engineered walls rather than sloped fill might preserve much of the agricultural land, but this possibility does not seem to have been considered in the draft EIR.

Response 14-B: *Table 4 in the EIR is intended to provide a summary comparison between Design Option A, Design Option B, and the No Build Alternative. It is not intended to take the place of the detailed analyses contained throughout Chapter 2 of the EIR, nor is it intended to be all-inclusive.*

With regard to visual effects, the comment is correct in that the visual impact from Key View #1 (see Section 2.7) is significant and unavoidable under Design Option A but is less-than-significant under Design Option B. The word "unavoidable" has been added to Table 4 in this Final EIR.

The amount of disturbed soil was not called-out in Table 4 as it is not a significant factor with regard to environmental impacts in this case because the topography is relatively flat and the

soil erosion potential is low. Even if the potential for soil erosion were high, that potential could be addressed through the use of standard engineering design and construction best management practices.

With regard to minimizing farmland impacts, Section 2.3.5 of the EIR notes that the project design has been modified to reduce its footprint to the greatest extent practicable. This includes the use of retaining walls.

Finally, it is important to note that, from the perspective of the project as a whole, VTA concurs that there are fewer environmental impacts under Design Option B than under Design Option A. This fact is one of the reasons why the project development team is recommending that Design Option B be selected, as discussed in Section 1.3.4 of this Final EIR.

Comment 14-C: Design Option A permanently alters the floodplain and severs the connection between the Carnadero Creek and Gavilan Creek watersheds so that overspill from the Carnadero Creek never reaches Gavilan Creek whereas Design Option B does not. (Location Hydraulic Study Report, pg. 50.)

Response 14-C: As stated in Section 2.9.2.1 of the EIR, both design options would result in significant impacts within the Carnadero Creek 100-year floodplain. However, mitigation is included in the project under both options to reduce the impact to a less-than-significant level. The net result will be an increase in the water surface level of the 100-year flood on the west side of U.S. 101 by less than 0.8 feet under Design Option A, with no increase under Design Option B. As noted previously, the project development team is recommending that Design Option B be selected.

Comment 14-D: We note with great concern that Design Option A places the new 101/SR25 interchange in a location highly susceptible to liquefaction (Preliminary Geotechnical Report, Figure 17) and a high level of earthquake hazard (Preliminary Geotechnical Report, Figure 18) whereas Design Option B places the extension of Santa Theresa Boulevard outside of these hazard areas. In spite of including the maps identifying these hazards, the Preliminary Geotechnical Report defers any discussion of these hazards or their possible mitigation to a future date. (pg. 27)

Response 14-D: This comment is incorrect. Figure 17 of the Preliminary Geotechnical Report shows both interchange options in locations having the same earthquake shaking potential. Similarly, Figure 18 of the Preliminary Geotechnical Report shows both interchange options in locations having the same susceptibility to liquefaction.

Comment 14-E: The draft EIR notes that Design Option A destroys more acres of habitat for both the California Red-Legged Frog and the California Tiger Salamander, but fails to identify Design Option B as potential mitigation of this impact.

Response 14-E: *Both Design Options have been analyzed for impacts to California red-legged frog and the California tiger salamander habitats, with mitigation identified for these impacts. Design Option B cannot serve to mitigate for impacts under Design Option A. However, it should be noted that the project development team recommends the selection of Design Option B for the interchange configuration, as this option avoids or minimizes many of the impacts identified under Design Option A, including impacts to red-legged frog and tiger salamander habitats.*

Comment 14-F: Design Option A will disturb far more alluvium deposits than Design Option B and we question why, at least with respect to Design Option A, Caltrans allowed reliance on a Paleontology report developed for another project covering a different area and which did not consider the potential differences in effect between the two design options.

Response 14-F: *The paleontological report that was originally prepared in 2008 for the State Route 25 Project covered the footprint of the U.S. 101 Improvement Project, with the exception of the southernmost segment. Therefore, in 2011, an addendum to the 2008 report was prepared to address the missing segment. The addendum also reviewed and updated the findings and recommendations of the 2008 report, as necessary, to specifically address the U.S. 101 Improvement Project. There are no substantial differences between Design Option A and Design Option B with regard to paleontology as both pass through the same soil types that have the potential to contain paleontological resources.*

Comment 14-G: Design Option A requires two new culverted crossings of Gavilan Creek (one north of and one south of Castro Valley Road) and one new culverted crossing of Farman Canyon Creek, none of which are required by Design Option B. The environmental impact of, and potential mitigations for, these alterations to riparian habitats and stream beds do not appear to be detailed in the draft report.

Response 14-G: *The impacts of these new crossings on wetland and aquatic habitats were included in the impact acreages provided in Section 2.18.3 of the EIR. Under Design Option A, a new 6-foot x 4-foot x 45-foot reinforced concrete box culvert (RCB) would be required at the Santa Teresa crossing of Gavilan Creek and a new 6-foot x 6-foot x 50-foot RCB culvert at the Monterey Street crossing. There is no culvert required at Farman Canyon Creek for the Santa Teresa Extension. These structures are not required under Design Option B.*

The EIR and associated Natural Environment Study (NES) note that the majority of sensitive habitats, including wetland, riparian, and aquatic habitats, within the study area are associated with the bed and banks of the several creeks and rivers that cross the alignment including Gavilan Creek, and/or several unnamed intermittent drainages. Impacts to these sensitive habitats and associated mitigation are described in Section 2.17 of the EIR. Please also see the responses to comments 8-F and 17-M, which include additional text that has been added to the EIR to provide more detail on wetland and aquatic habitat mitigation. Typically, during final

engineering, when the design of the project is better defined and impacts are precisely calculated at each creek crossing, the details of compensatory mitigation, which are based on the information presented in the EIR, are refined in cooperation with the regulatory agencies having jurisdiction over biological resources; this information is then included in the permit applications. VTA has a strong record of working cooperatively with the resource agencies to identify mitigation that best offsets the impacts and ultimately provides environmental benefits at a local, watershed, or regional scale, depending on the biological objectives of each agency.

The recommendation for the selection of Design Option B is noted for the record. This recommendation is consistent with that of the project development team, as this option avoids many of the impacts identified under Design Option A, including those to biological resources, as discussed in Section 1.3.4 of this Final EIR.

Comment 14-H: The coyote brush scrub, aquatic and riparian habitats located north of Castro Valley Road (see the Natural Environment Study appendix Figure 2e) would be impacted only by Design Option A. Design Option B does not seem to have any impacts on these areas, especially if Design Option B is revised to eliminate the unnecessary eastern shift of Santa Teresa Blvd from its current alignment. Design Option A would not only directly impact these biologically valuable environments, but would leave them surrounded on all sides by roads permanently disconnecting them from the surrounding area.

Response 14-H: *Coyote brush scrub habitat is located in the northwest quadrant of the Castro Valley Road/Santa Teresa Boulevard intersection. This habitat is impacted under both design options, with the total permanent impacts to this type of habitat shown in Table 34 of the EIR. Permanent impacts to aquatic habitats are greater under Design Option B for the project as a whole. Permanent impacts to riparian habitat are the same under both design options. The stock pond (aquatic habitat) located south of Castro Valley Road, as shown on Figure 20e in the EIR, has been identified as suitable breeding habitat for California red-legged frogs and California tiger salamanders. This pond is not directly impacted by either design option. However, to facilitate movement of these species and reduce potential mortality associated with crossing roads, the project includes a bridge and one or two culverts to allow animals to cross under the frontage road (under Design Option A) or Santa Teresa Boulevard (under Design Option B), as described in Section 4.3.3.2 of the NES and Section 2.21.5 in the EIR. The alignment (easterly shift) under Design Option B is necessary to meet the design speed criterion for the road and avoid the Miller Family Cemetery.*

Comment 14-I: High intensity night lights may affect the behavior, biology, and ecology of nocturnal animals, such as bats, frogs and salamanders. Under Design Option A high intensity night lights will affect a much larger area than Design Option B both because the interchange would be significantly larger and because the additional connecting loops and ramps would cause headlights to be cast in more

directions. The Draft EIR needs to address this potentially significant impact and identify possible mitigations.

Response 14-I: *Lighting will be provided in accordance with Caltrans design standards. Where possible, the project will include low intensity, low-glare, or no-glare lighting to reduce light pollution. Lighting will be directed away from natural areas (to the greatest extent practicable considering safety issues) and vegetation will be planted to minimize long distance glare. No artificial lighting will be installed under bridges or within culverts to minimize impacts to bats and other nocturnal wildlife.*

Comment 14-J: Design Option A significantly alters the topography of the interchange site and creates more opportunities for the creation of permanent standing water which could attract nonnative predators and adversely impact protected amphibian species such as frogs and salamanders.

In addition to the potential for new permanent bodies of water, the alterations in topography may create small temporary bodies of water that attract breeding California Red-legged Frogs and California Tiger Salamanders, but which may not hold water long enough to support these species through the completion of their metamorphosis and thus significantly reduce the breeding success of these sensitive species. We do not believe that the draft EIR adequately addresses these potential impacts of Design Option A.

Response 14-J: *It is difficult to assess why the commentor believes standing water will result with implementation of the project, as no details or specific examples are given. Under Design Option A, any water that accumulates within the interchange footprint will drain to the large culverts that ultimately discharge into the detention basin. The detention basin under Design Option A is larger than under Design Option B; however, under both options, the basin includes design features that allow the water to discharge to Carnadero Creek.*

As mentioned under Response 14-H, to facilitate movement of California red-legged frogs and California tiger salamanders, the project includes a bridge and one or two culverts to allow animals to cross under the frontage road under Design Option A (or Santa Teresa Boulevard under Design Option B). These features not only serve for wildlife connectivity but also allow for drainage.

Comment 14-K: In Design Option A, the destruction of one or more wells on Castro Valley Ranch land north of the current interchange will significantly impact the area's resource base and may also result in as yet unexplored impacts on the ecological systems that are directly or indirectly dependent on the water from that well, or water that will now need to be taken from other sources of supply. The draft EIR should identify this as a significant impact and list possible mitigation measures.

Response 14-K: *To VTA's knowledge, the wells located on Castro Valley Ranch serve agricultural purposes. Any well closed due to implementation of the project will be replaced in-kind and as close to the original location as possible with minimal or no downtime. It is*

anticipated that due to relocation and minimal/no downtime, these wells will continue to serve their original function.

Comment 14-L: The items listed above are just some of the differences in environmental impacts between Design Option A and Design Option B. Even for those items where the EIR mentions a difference between the two design options, it fails to satisfy section 15126.6(a) of the CEQA Guidelines because the options are not identified as alternatives to be compared and fails to satisfy section 15126.6(d) because there is insufficient information in the EIR to allow a meaningful evaluation.

Perhaps most importantly, the draft EIR fails to comply with section 15126.6(b) and undermines the very purpose of an Environmental Impact Report because it fails to compare the options to identify if one of the two options can mitigate or avoid some of the environmental impacts of the project.

Response 14-L: *VTA disagrees with this comment. As noted in Response 14-A, the differences between Design Option A and Design Option B are clearly described throughout Chapter 2 of the EIR, including the technical analyses upon which Chapter 2 is based. In fact, both options are analyzed fully and equally throughout the EIR, which exceeds the requirements of Section 15126.6(d) of the CEQA Guidelines, which states that alternatives shall be discussed at lesser detail than a proposed project. The fact that the term “design option” instead of “alternative” is used does not change the fact that both options are evaluated fully and equally in the EIR.*

Comment 14-M: We have several additional concerns with the Draft Environmental Impact Report beyond its treatment of the design options. In reviewing the travel time analysis, we would like the final EIR to provide more detail regarding how the travel times were calculated. If these are intended to be U.S. 101 mainline travel times, they seem inconsistent with the results in Table 1 (US 101 Bottleneck Locations and Queuing) and Table 2 (Ramp Junction Level of Service) in the Traffic Operations Report and inconsistent with the results in Appendix E and F.

Response 14-M: *The travel times shown in Table 19 of the EIR are for the mainline on U.S. 101. The travel times take into account projected bottlenecks - if any - under each scenario. In other words, they take into account delays as a result of the bottlenecks and queuing shown in Table 1 of the traffic report. Table 2, Ramp Junction Levels of Service, depicts how the intersection of each freeway ramp with the local streets will operate. The data in Table 2 are not used in the travel time calculations. Appendices E and F contain input used to calculate the data shown in Tables 1 and 2. It is important to note that these numbers are only approximate calculations of the anticipated travel times through the project corridor and are intended to provide the public an indication of the anticipated travel times under the build and no-build scenarios in 2035.*

Comment 14-N: The draft EIR does not address the impact of the destruction of our large barn near the Freeman Quarry entrance. The removal of this agricultural building (which is also host to a seasonal

fruit stand) is a significant change in the use of the land and should be considered in the draft EIR as required by section 15126.2(a) of the CEQA Guidelines. We are concerned also that the planned roadways will encroach on several residences near the barn and would like the draft EIR to disclose how close the edge of the new roadways will be to the residences and perimeter fence and discuss possible mitigation measures.

The proposed project will significantly impede access to our land at several points including limiting access to Castro Valley Road. We would like the draft EIR to discuss access to ranch lands and farmlands as access limitations may change the land use and have a significant impact on the environment. At a minimum Castro Valley Ranch will require roads sufficient for farm access of heavy tractors and routine farm operations and right of ways consistent with the new upgraded road required under the Castro Valley Ranch Subdivision Environmental Impact Report.

Response 14-N: *The removal of the barn is addressed in Section 2.4 of the EIR. The project will not require removal of any other residences on the property. The edge of pavement will be 37 feet away from the nearest residence. The project will enhance access to Castro Valley Ranch by providing the owner with multiple options for connecting to the new frontage road at various locations along the property line, as best suited for the farming operations. All new publicly-owned roadways will have standard roadway geometry that can accommodate farming vehicles. Turn radii are also designed to accommodate farm vehicles.*

RESPONSE TO COMMENT #15: THE NATURE CONSERVANCY

Comment 15-A: Provide directional wildlife fencing throughout the Project to ensure wildlife connectivity: TNC supports the Valley Transportation Authority's (VTA) efforts to provide for wildlife movement across the improved section of U.S. 101 in Santa Clara and San Benito counties, given the Project's location in an area of importance for both habitat connectivity and wildlife passage. TNC has invested significant resources in identifying and preserving important properties and wildlife connections in this region, and has participated in regional planning processes that have identified the Project location as crucial to the survival of wildlife populations moving between the Gabilan, Santa Cruz, and Mount Hamilton ranges.

Based on this work, TNC recommends that EIR Mitigation Measure NATCOM-3.6 be revised to specify that directional wildlife fencing be installed at the following specific locations which will encompass all crossing structures within the study area:

- From the San Benito Bridge to the U.S. 101 - Pajaro Bridge;
- From U.S. 101 - Pajaro Bridge to the Tar Creek Culvert;
- From the Tar Creek Culvert to the Tick Creek Culvert; and

- Up to Hwy 25 from Tick Creek.

This recommendation is based on the high volume of multiple species animal movement recorded at the U.S. - 101 Pajaro Bridge, Tar Creek, and Tick Creek, as shown by camera installations commissioned by TNC at each of these locations. Furthermore, TNC has tracked a high number of animals hit by vehicles along this stretch of road, including a North American Badger, a species designated by the California Department of Fish and Wildlife as a California Species of Special Concern.

Response 15-A: *Please refer to the response to Comment 11-F above.*

Comment 15-B: Direct compensatory mitigation funding to conservation priorities in the region: Where there is a need for compensatory mitigation, we recommend the VTA engage in strategic mitigation to achieve better conservation outcomes. There exists a wealth of data and plans in the region that identify conservation priorities embraced by the environmental community and wildlife agencies. Examples include: the Bay Area Critical Linkages project, the California Department of Fish and Wildlife Conservation Action Plan and the conservation reserve design in the Santa Clara Valley Habitat Conservation Plan / Natural Communities Conservation Plan.

We urge the VTA to direct mitigation funds to protect conservation priorities that contribute to ecosystem function and in places that most closely reflect the type and location of project impacts. Although the Project may proceed in phases, to the extent practicable given funding availability, VTA should secure mitigation for the entire project as soon as possible in order to ensure the most comprehensive conservation outcome. As an added benefit, securing property for mitigation at an early stage will achieve cost savings and avoid conversion to other land uses.

Response 15-B: *VTA concurs with The Nature Conservancy's recommendation to fund conservation priorities in the region. Consistent with that intent, VTA is one of six local partners in the just-approved Santa Clara Valley HCP/NCCP. As described in Sections 2.17 through 2.21 of the EIR, the project is a "covered activity" under the HCP/NCCP and mitigation for all biological impacts will utilize the HCP/NCCP to the greatest extent permitted.*

For biological impacts that require compensatory mitigation including impacts to wetlands and aquatic habitat, riparian habitat, oak woodland habitat, and a number of special-status animal species, VTA will pay development fees to the HCP/NCCP. The Implementing Entity (formally known as the Santa Clara Valley Habitat Agency) will use the funds to offset project impacts within the Plan's reserve system or, in some cases, outside the reserve system if the environmental benefits are greater and the conservation goals of the Plan are met. As stated in the HCP/NCCP, potential restoration sites will be evaluated in coordination with local agencies or organizations active in restoration, such as the Open Space Authority and The Nature Conservancy.

For compensatory mitigation of wetlands, an alternative approach to the HCP involves purchasing credits in a wetland mitigation bank. The closest bank to the project site is the Pajaro River Wetland Mitigation Bank.

Another alternative for compensatory mitigation for biological impacts is project-sponsored mitigation. Typically, this type of mitigation is implemented on a smaller scale, whereas the HCP/NCCP and mitigation banks are on a larger in scale. Nevertheless, if this type of mitigation is implemented, VTA will coordinate with local agencies and organizations active in habitat restoration, such as those mentioned above. An early inquiry into potential mitigation sites revealed numerous opportunities in the project vicinity (see Response 8-C).

The project is currently unfunded beyond the environmental clearance phase. When funding is obtained, it will be to advance the design and then enter construction. Depending on the amount of funding identified, the project may be implemented in phases. Phases may be years apart. It is likely that funding would only include enough money to implement mitigation requirements related to a particular phase. However, if there is opportunity to do additional mitigation that the regulatory agencies would accept as "credit" for future project phases, or for other VTA projects in the area, then VTA may consider implementing a larger mitigation project. VTA's experience is that "credit" is not easily given by the regulatory agencies. Alternatively, if grant funding is available to do additional mitigation, VTA is open to discussing this with The Nature Conservancy, or other interested organizations. However, grant funding cannot typically be used for mitigation purposes.

Please also see Responses 11-G, 8-E, 17-M.

Comment 15-C: Ensure proper mitigation for growth-inducing impacts with respect to potential future development: While the EIR makes a finding of significant unavoidable impacts with respect to the growth-inducing impacts of the El Rancho San Benito (ERSB) development (Impact GR-1), it concludes without further explanation that no feasible mitigation measures exist to lessen this impact. The EIR states that as of May 2009, the application for the ERSB Specific Plan had been withdrawn and was no longer under consideration by San Benito County. However, TNC believes that the ERSB project may be resubmitted to the County in the near future, potentially as part of the San Benito County General Plan update process which is currently underway.

We understand that the Project will go forward regardless of the ERSB development, and that approval of the ERSB development lies within the jurisdiction of other regulatory entities. But the widening of U.S. 101 and improvements to the U.S. 101/Betabel Road/Y Road interchange remain a necessary component of any eventual ERSB development. Despite this, the EIR's current traffic model does not take into account the ERSB development's additional vehicle trips or other related impacts. TNC believes traffic-related impacts from the ERSB development may present threats to important habitat and to the ability of wildlife to move through the region. Given that the ERSB development may

currently be under consideration again, TNC believes that that Project's indirect effect on regional growth (Impact GR-2) merits further analysis.

Response 15-C: *As noted in the EIR and as acknowledged in this comment, there is currently no ERSB application on file. It is not known if the ERSB developer will file a new application and, if that occurs, what the ERSB project will be proposing. Therefore, an analysis of ERSB traffic, or any other environmental effect, is neither feasible nor required under CEQA. Such analysis would be speculation. The traffic forecast used in the EIR does, however, account for the growth identified in the approved San Benito County General Plan.*

**RESPONSE TO COMMENT #16:
PACIFIC GAS & ELECTRIC COMPANY (PG&E)**

Comment 16-A: Section 2.5.1 (Utilities/Emergency Services) of the EIR explains that a PG&E gas line is "located within Caltrans' right-of-way on the east side of U.S. 101. There is also an existing 115-kilovolt PG&E high voltage electric line that runs parallel to the UPRR tracks and crosses SR 25 adjacent to the at-grade crossing of the tracks." The EIR's effects analysis concludes that "some of the existing utility lines will be relocated" and that "replacement of the PG&E towers closest to SR 25 with higher towers" will be needed to maintain vertical clearance requirements.

PG&E is subject to the jurisdiction of the California Public Utilities Commission (CPUC) and must comply with CPUC General Order 131-D on the construction, modification, alteration, or addition of all electric transmission facilities (i.e., lines, substations, switchyards, etc.). In most cases where PG&E's electric facilities are under 200 kV and are part of a larger project (e.g., highway project), G.O. 131-D exempts PG&E from obtaining an approval from the CPUC provided its planned facilities have been included in the larger project's California Environmental Quality Act (CEQA) review. PG&E may proceed with construction once PG&E has filed notice with the CPUC and the public on the project's exempt status, and the public has had a chance to protest PG&E's claim of exemption. If PG&E facilities are not adequately evaluated in the larger project's CEQA review, or if the project does not qualify for the exemption, PG&E may need to seek approval from the CPUC (i.e., Permit to Construct), taking as long as 2 years or more since the CPUC would need to conduct its own environmental evaluation (e.g., Initial Study).

PG&E therefore offers the VTA the following recommendations:

- Coordinate as early as possible with PG&E's Environmental Management on the development and review of required agency permits and authorizations
- Include impacted PG&E facilities in its project description and evaluate under CEQA all impacts caused by PG&E facilities relocation
- Include construction work and design of utility facilities impacted in any permits and authorizations required by resource agencies

- Coordinate with PG&E on plans to alleviate “temporary” impacts and avoid accidental impacts to PG&E facilities during construction.

The above recommendations could reduce the project’s cost and schedule by avoiding the need for additional environmental evaluation or permitting for the relocation, replacement, and/or modification of PG&E facilities. PG&E is committed to working with VTA on this project, while maintaining its commitment to provide timely, reliable, and cost effective electric service to its PG&E customers.

Response 16-A: *VTA concurs with these recommendations. This EIR is intended to provide CEQA clearance for utility relocations associated with the project. In that regard, the analyses contained in the EIR account for the environmental impacts of the relocations of utilities, to the extent that the project will necessitate such relocations. As described in Section 2.5.2, utilities will be relocated to adjacent frontage roads or within easements on adjacent private properties. The text also notes that up to four towers supporting an existing 115-kV electric line will be replaced. The limits of disturbance delineated for the various technical analyses (e.g., cultural, biology, farmlands, etc.) include the areas where utility lines would be relocated.*

When the project enters the final design phase, VTA will work closely with PG&E regarding impacts to, or relocations of, its utility lines.

RESPONSE TO COMMENT #17: SIERRA CLUB & AUDUBON SOCIETY

Comment 17-A: I. Incomplete Species List: The DEIR provides an incomplete list of special status species that may be impacted by the Project. Table 36 (Assessment of Special-Status Animal Species for their Potential to Occur Within the Project’s Biological Study Area) does not include the California redlegged frog and California tiger salamander, although these species are discussed in the text of the document. Other species that should be included are: coast horned lizard, Swainson’s hawk, least Bell’s vireo, and legless lizard.

Response 17-A: *Section 2.20 in the EIR, in which Table 36 appears, is applicable to “wildlife not listed or proposed for listing under the state or federal Endangered Species Acts.” Species that are listed as threatened or endangered under either the Federal or State Endangered Species Act, and that could potentially be impacted by the project, such as the California red-legged frog, California tiger salamander, and least Bell's vireo, are discussed in Section 2.21.2.2.*

As described in the Natural Environment Study (NES) for the project, the habitat for coast horned lizard consists of sandy soils, usually in dry creek channels, or coastal dunes. Habitat within the Biological Study Area (BSA) for the project is not consistent with the dry, sandy

habitat in which this species typically occurs; therefore, the species is considered absent from the project area. Likewise, suitable sandy habitat for the silvery legless lizard is absent from the project area, and this species is not known to occur in the project vicinity. Because both of these California species of special concern are absent from the project area, they did not need to be included in Table 36.

Swainson's hawk, which is state-listed as threatened, occurs as an occasional migrant through Santa Clara and San Benito counties, but it is not known or expected to nest anywhere in the project area (e.g., there are no recent nest records for Santa Clara or San Benito Counties), and it is not expected to forage frequently or for long periods in the project area during migration. Therefore, this species will not be affected by the project, and its inclusion in the Draft EIR was unnecessary.

To clarify the use of the term "special-status species" in Section 2.20 as not including state or federally threatened or endangered species, the text of the EIR and the title of Table 36 have been revised.

Comment 17-B: Impacts to Wildlife Movement: The importance of this region for wildlife movement and linkage between the Santa Cruz, Diablo, and Gabilan ranges via Lomerias Muertas is acknowledged in the DEIR, and has been documented by numerous agency and planning organization projects (Missing Linkages project, 2001; California Essential Habitat Connectivity Project (CEHCP), 2010). We asked Dr. Fraser Shilling, Co-Director of the Road Ecology Center at the University of California, Davis, to provide us with a map of wildlife movement through the study area. The map he prepared (Figure 1) is based on research and documents from Caltrans and the California Department of Fish and Wildlife (CDFW). It clearly shows that US 101 at the project area cuts right through an area that Caltrans and the CDFW have designated as important for wildlife movement.

[Note: Figure 1 submitted with this comment is reproduced in Appendix F of this Final EIR.]

Response 17-B: *Figure 21 in the EIR depicts important wildlife movement pathways matching those in the figure provided with this comment, and the EIR discusses the importance of these pathways for regional wildlife movements. It should be noted that the crossing of the movement pathway along the Pajaro River by U.S. 101 is an existing condition; thus, Caltrans and CDFW have designated this movement pathway as important even in the presence of U.S. 101. The project will maintain important undercrossings, such as those at Tar Creek and the Pajaro River, to allow wildlife to continue to move under U.S. 101 at this point, and it incorporates directional fencing to guide wildlife to these undercrossings.*

Comment 17-C: We consider it unfortunate that the DEIR proposes inadequate mitigations rather than the incorporation of Best Management Practices (BMPs) for wildlife movement in the evaluation, design, construction, operations, maintenance, development of success criteria, and monitoring for this

project. North of Gilroy, US 101 creates a formidable barrier to wildlife movement. The proposed project would extend this barrier south, all the way to highway 129. This would be a great loss to California's wildlife. We recommend these documents be consulted to better evaluate the project's impacts and reduce impacts:

- Vermont's Best Management Practices for Highways & Wildlife Connectivity
- Wildlife Crossings Guidance Manual, California Department of Transportation

Response 17-C: *When planning this project and assessing its potential impacts, VTA and the design team coordinated extensively with Caltrans District 5 biologists (including Nancy Siepel, Caltrans Biologist/Mitigation Specialist in the Environmental Stewardship Branch, who is extremely knowledgeable about wildlife movement issues on road projects), CDFW staff (particularly Santa Clara County biologist David Johnston), USFWS staff, and personnel preparing the Santa Clara Valley HCP/NCCP to incorporate design elements that would continue to allow wildlife movement through the project area, or even enhance wildlife movement, while reducing road mortality of wildlife in key areas and maintaining public safety. Multiple field visits with these personnel were conducted to examine the existing conditions, including existing crossings of U.S. 101, to assess and discuss how the project might affect wildlife movement through the project area, and to consider measures to maintain or improve wildlife movement across U.S. 101. In addition, a number of meetings and conference calls were held with those staff to discuss these issues. With respect to ecological issues, more time was spent by the team investigating solutions to wildlife movement/connectivity issues than any other issue.*

A number of references on wildlife crossings and best management practices for road design were consulted to determine measures that could feasibly be incorporated into the project to meet the aforementioned goals of maintaining or enhancing wildlife movement while maintaining public safety. These references included:

- *Caltrans' Wildlife Crossings Guidance Manual*
- *Barnum, S. A. 2003. Identifying the best locations to provide safe highway crossing opportunities for wildlife. International Conference on Ecology and Transportation, 2003 Proceedings.*
- *Forman, R. T. T., D. Sperling, J. A. Bissonette, A. P. Clewenger, C. D. Cutshall, V. H. Dale, L. Fahrig, R. France, C. R. Goldman, K. Heanue, J. A. Jones, F. J. Swanson, T. Turrentine, and T. C. Winter. 2003. Road Ecology: Science and Solutions. Island Press, Washington, D.C.*
- *Jackson, S. D. and C. R. Griffin. 2000. A strategy for mitigating highway impacts on wildlife. Pages 143-159 in Messmer, T. A. and B. West (eds), Wildlife and highways: seeking solutions to an ecological and socio-economic dilemma. The Wildlife Society.*

- Ng, S. J., J. W. Dole, R. M. Sauvajot, S. P. D. Riley, and T. J. Valone. 2004. Use of highway undercrossings by wildlife in southern California. *Biological Conservation* 115:499-507.
- Ruediger, B. 2007. *Safe passage: a user's guide to developing effective highway crossings for carnivores and other wildlife*. Southern Rockies Ecosystem Project.

Wildlife movement requirements of the Santa Clara Valley HCP/NCCP, which was in development at the time of design and environmental review of the project, were also referenced. The design team then took a segment-by-segment approach to implementing such measures, as feasible, to avoid and minimize adverse effects on the ability of wildlife to move successfully across U.S. 101, focusing on the following:

- *Minimizing the footprint of expansion areas, particularly where bridges will be widened and culverts will be lengthened.*
- *Reducing road mortality in areas where wildlife movement across the highway is (or will be) of less benefit to populations.*
- *Increasing connectivity where wildlife movement across the highway is of greatest benefit to populations.*

Using this approach, best management practices were applied with the individual characteristics of existing crossings, medians, and adjacent habitats in mind. The resulting approaches could have been simply incorporated into the project design, or considered "BMPs", to support a less-than-significant impact determination. However, VTA took the more conservative approach of considering the impact to be less than significant with mitigation, and the segment-by-segment measures that were developed to maintain and enhance wildlife movement were included as mitigation measures.

We disagree that the project will extend a barrier to wildlife movement south to SR 129. Even without the implementation of mitigation measures, wildlife use of existing undercrossings would continue. Mitigation measures specified in the EIR will provide additional opportunities for wildlife movement.

Additional detail regarding existing conditions and project impacts with respect to wildlife movement, including an assessment of measures to maintain/enhance wildlife movement, can be found in the project's NES, which is the technical study on which Sections 2.17 through 2.21 of the EIR were based, and which was made available for public review.

Comment 17-D: The DEIR proposed mitigation for wildlife movement is haphazard, with little focus on the species to be impacted, design and placement of fences and crossings, monitoring to determine whether or not the goals of maintaining connectivity across suitable habitats will be achieved, or success criteria.

Response 17-D: *The mitigation for impacts to wildlife movement is not haphazard. As discussed in the response to comment 17-C, extensive discussion of wildlife movement issues and mitigation/enhancement measures occurred during the project design and initial impact assessment process. Species-specific connectivity issues were assessed in the project's NES, which is the technical study on which Sections 2.17 through 2.21 of the EIR were based, and which was made available for public review. This species-specific assessment allowed for an examination of where certain focal species move through the project area under existing conditions, what types of crossings they use, and what types of crossings (and modifications of crossings) might be needed to maintain connectivity with construction of the project.*

The design and placement of fencing, as well as the design of medians, was carefully considered, taking into account existing conditions in each segment. For example, as described in MM-NATCOM-3.6, wildlife fencing will be installed from a point 0.25 mile north of Tar Creek south to the San Benito River to direct wildlife to undercrossings. Under existing conditions, a solid median barrier throughout the majority of this segment currently prevents most animals from being able to make surface crossings, and thus keeping animals off the road and directing them toward undercrossings will reduce road mortality of animals and increase public safety while enabling animals to more easily find undercrossings. In the segment from 0.25 mile north of Tar Creek north to SR 25, existing standard fencing and the existing three-beam median barrier will be maintained.

The project is included in the HCP/NCCP as a covered activity; therefore, the conditions on covered projects, as applicable, will be implemented. In the case of post-construction monitoring of new and enhanced culverts for wildlife connectivity, the HCP/NCCP states, "... all structures constructed for wildlife movement (tunnels, culverts, underpasses, fences) will be monitored at regular intervals by the Local Partner facility owner and repairs made promptly to ensure that the structure is in proper condition. For facilities owned by entities not participating in the Habitat Plan (e.g., California Department of Transportation [Caltrans]) and where feasible, the Implementing Entity will secure access and data collection agreements with these entities to allow the Implementing Entity to conduct this monitoring." (See Chapters 6 and 7 in the HCP/NCCP). Also applicable to wildlife connectivity, the HCP/NCCP further states, "Fencing must be monitored regularly by the facility owner and repairs made promptly to ensure effectiveness."

Caltrans owns the project facility, except for any local roads in the project footprint such as Santa Teresa Boulevard. However, Caltrans is not a Partner to the HCP/NCCP. Therefore, the HCP/NCCP Implementing Entity, formally titled the Santa Clara Valley Habitat Agency, will be responsible for monitoring the performance of undercrossings following construction. The fees VTA will pay into the HCP/NCCP as a Local Partner and for this covered project will contribute to the funding of this effort.

As described in detail in the project's NES, monitoring using remote cameras documented wildlife use of a wide variety of undercrossings in the project area. Although the project will lengthen most of these undercrossings slightly as the highway is widened, there is no expectation that wildlife use of undercrossings, particularly the large, well-lit features such as the Tar Creek, Pajaro River, and San Benito River undercrossings, will decline substantially due to widening of the road or other project elements. Further, the upgrading of two culverts south of the Pajaro River to larger sizes (solely to enhance wildlife movement), the installation of an additional culvert between Tar Creek and the Pajaro River specifically for wildlife movement, and other mitigation measures described in the EIR are expected to allow wildlife movement to continue to occur at rates similar to existing rates. However, absent years of intensive study, existing rates of movement through the project area by various species cannot be determined with any statistical robustness for comparison with future rates of movement. Such intensive pre-project study is not necessary given that (a) this project's CEQA assessment is required to determine the impact of the project relative to existing conditions (which include the presence of the existing highway), rather than relative to a condition in which wildlife can move unimpeded by the existing roads, and (b) the project will not remove any existing undercrossings or substantially reduce the utility of the largest, most important undercrossings relied upon by dispersing animals. As a result, we do not believe that intensive, quantitative monitoring is necessary to document that the project has not had a significant impact on wildlife movement.

Nevertheless, in response to this comment, a new mitigation measure (MM-NATCOM-3.10) related to wildlife movement has been added to this Final EIR.

Comment 17-E: Specific information regarding the species of animals that were detected by remote camera and other surveys was not provided in the DEIR, nor were locations of animal detections described. It is stated that cameras surveys were conducted over a 4-month period. This may not have been sufficient to capture data from animals moving during breeding seasons and juvenile dispersal. Road kill information is also lacking in the DEIR.

Response 17-E: *More detailed information regarding the results of the remote camera study and road kill surveys can be found in the project's NES. These studies assisted in the determinations regarding locations of existing animal movements and the types of crossings that are used by different species, and the resulting information informed the design with respect to installation or enhancement of undercrossings and placement of directional fencing. In our opinion, extension of camera studies into different seasons would not have substantively altered the strategies for maintaining and enhancing wildlife movement through the project area or reducing road mortality of animals. For example, finding that juveniles of a given species (e.g., American badger or coyote) occur more widely than those observed during the road kill surveys or camera study, or that juveniles use a specific type of undercrossing, would not alter the strategy for facilitating wildlife movement over or under U.S. 101 as described in the EIR. A variety of undercrossing types and sizes are currently present, and will be present following*

addition/modification of selected crossings as described in the EIR's mitigation measures, to enable movement by a wide variety of wildlife species and age classes. The project's design with respect to median and fencing types reflects a desire to maintain existing conditions.

Road kill data indicated primarily that numerous animals die attempting to make surface crossings (a) where there is a solid concrete median, and (b) near some of the larger undercrossings, such as at the Pajaro River and Tar Creek. As a result, mitigation measure MM-NATCOM-3.6 describes wildlife fencing to minimize the ability of wildlife to enter the roadway in these areas.

Comment 17-F: The mitigations proposed for wildlife protection (and avoiding roadkill) and for wildlife crossing and connectivity are grossly inadequate and do not come close to what is currently accepted as Best Management Practices for wildlife connectivity. The DEIR proposes to:

- replace 2 existing pipe culverts with box culverts (one 90" in height; height of the other not specified)
- install 1 new culvert; unspecified design, "at least" 4 feet in height
- install new box culverts north of Hwy 25 (these are for flood flows, not designed for wildlife passage, and are of unspecified size or location)
- install wildlife fencing 0.25 miles south from Tar Creek and 0.25 miles north from the San Benito River to minimize animal movement onto the highway, and to install several one-way gates to allow egress from the highway
- clear vegetation from in front of existing culverts

We do not consider these mitigations adequate to reduce impacts to wildlife movements in this important linkage area to a level of less-than-significant, and ask for a reevaluation of project design to allow for adequate wildlife connectivity:

MM-NATCOM-3.1 proposes to maintain existing standard fencing and three-beam barrier north of Tar Creek. Because this does not result in any improvement in conditions for wildlife movement, it should not be considered a mitigation measure. Furthermore, the DEIR erroneously states that wire mesh and barbed-wire fencing will not inhibit wildlife movement. This is only true if the fence is no higher than 42", and has a smooth bottom wire; no lower than 16" from the ground.

Response 17-F: *We disagree that the mitigation measures are inadequate. As discussed in the response to comment 17-C, extensive discussion of wildlife movement issues and mitigation/enhancement measures occurred during the project design and initial impact assessment process to identify measures appropriate for specific project segments and specific species known or expected to be crossing the project area. Biologists from the CDFW, USFWS, and Caltrans assisted VTA and its consultants in determining the appropriate fencing, median, and undercrossing design for this project.*

As discussed in the response to comment 17-C, measures applied to individual segments of the project to maintain or enhance wildlife movement were conservatively considered mitigation measures rather than being incorporated into the project, to allow for a more transparent description of the approach to enabling wildlife movement through the project area. The commenter is correct that maintaining standard fencing and the three-beam barrier north of Tar Creek is not a new measure. However, wildlife movement through this area was carefully considered, and it was determined that no changes to the existing fencing or median designs were necessary in this segment.

Footnote number 44 of the EIR has been revised to clarify the statement regarding the effect of standard fencing on wildlife movement.

Comment 17-G: The DEIR does not rely on state-of-the-art BMPs and design criteria to allow adequate wildlife crossings. It is not clear that the proposed box culverts are favorable for movement of all affected wildlife species. For example, underpasses for deer should be at least 20 feet wide and 8 feet high, and deer should be able to see the horizon as they go through the underpass. Location, substrate, internal light and vegetation are all important considerations for design of wildlife undercrossing structures and of course – locations are of critical importance.

Focal species need to be identified, and references need to be cited to assure that crossing designs utilize the best available information regarding species' needs.

Response 17-G: *As discussed in the response to comment 17-C, the project's design team, VTA and its consultants, and biologists from Caltrans and wildlife agencies referred to a number of sources of information on design criteria for wildlife movement, taking into account existing conditions and public safety issues. All the criteria listed in this comment were considered. For example, MM-NATCOM-3.7 indicates that, where feasible, culverts that are to be lengthened will include metal grating in the shoulder to increase internal lighting.*

Deer were recorded by remote cameras using four existing undercrossings (Tar Creek/Southern Pacific Railroad, Pajaro River, San Benito River, and a 90-inch corrugated metal pipe north of the Pajaro River); although the criteria listed in this comment (e.g., ability of deer to see the horizon as they use an undercrossing) are ideal, deer in the project area regularly use undercrossings, based on the camera study and observations of tracks, where the horizon cannot be seen. There is no expectation that deer will not continue to use the very wide/high Tar Creek/Southern Pacific Railroad, Pajaro River, and San Benito River undercrossings even after the project is constructed. Replacement of the 90-inch corrugated metal pipe north of the Pajaro River with a box culvert that is at least as high as the existing culvert, but that is broader, will increase the "openness ratio" of the culvert, which is expected to maintain or enhance its attractiveness for wildlife movement. Similarly, replacement of the 54-inch reinforced concrete pipe culvert under U.S. 101 just north of the Betabel Road/Y Road

interchange with a box culvert at least 90 inches high will improve the ability of deer to cross under U.S. 101 at this location.

Species-specific connectivity issues were assessed in the NES, which is the project's technical biology report that is part of this EIR.

Comment 17-H: In the approximately 5 ½ mile distance between Hwy 25 and the San Benito River there are 2 stretches of over 2 miles with no undercrossings. More undercrossing structures must be provided, designed and located specifically as wildlife crossings, not primarily as flood control structures with utilization by wildlife as a secondary consideration. Existing culverts will be virtually unusable during periods of high flows. Wildlife crossing structures should be placed in locations with little human traffic or access, and where wildlife movement is favored by habitat and topography. Bridges, as well as culverts, may need to be re-designed to facilitate animal movement. The Caltrans/Calif. Dept. of Fish and Game 2010 CEHCP suggests spacing of crossing structures suitable for large animals such as deer at one per mile, and culvert-type structures suitable for small animals such as amphibians and small mammals at one per quarter-mile.

Response 17-H: *Figure 5 in the project's NES depicts the locations of existing bridges and culverts that could potentially be used by wildlife crossing under U.S. 101 (crossings that were confirmed in the case of many culverts by the camera study). As indicated on this figure, the longest segment between existing undercrossings, between SR 25 and the San Benito River, is approximately 1.25 miles (between Gavilan Creek near SR 25 and Tick Creek to the south). No other segments without undercrossings occur between SR 25 and the San Benito River that exceed 0.8 miles. Therefore, we disagree with the statement that there are two segments of over two miles in length without undercrossings.*

We agree that existing undercrossings have limited utility during high flows; however, this is the case both with the current project and with the proposed project. A new culvert to be installed between Tar Creek and the Pajaro River, described by MM-NATCOM-3.3, will not be located within a drainage and thus will provide an undercrossing that will not be inundated during high flows.

Both existing and proposed wildlife crossing structures are located in a variety of areas and habitat types, facilitating use by numerous wildlife species. As indicated by the camera study, many of these crossings receive considerable wildlife use. Many occur along drainages that provide cover for dispersing wildlife, and whose natural topography is conducive to wildlife movement. As indicated by Figure 5 in the project's NES, many of these undercrossings occur in areas with little human activity.

The project team attempted to locate large undercrossings at intervals that did not exceed one per mile. However, existing topography constrains the project's ability to provide such

undercrossings in relatively level areas where the road is not elevated. For example, replacement of the 54-inch reinforced concrete pipe culvert under U.S. 101 just north of the Betabel Road/Y Road interchange with a box culvert at least 90 inches high will improve this culvert's utility to movement by large animals. However, in the 1.3-mile segment between this culvert and the San Benito River to the south, the existing topography is not conducive to providing a tall culvert, as the highway is not elevated far enough above the lands to the west. Nevertheless, in the 3-mile segment from Tar Creek to the San Benito River, five undercrossings at least 90 inches high (and much higher at Tar Creek, the Pajaro River, and the San Benito River) will be present following project construction. Between Tar Creek and SR 25, the existing topography is not conducive to providing a tall culvert, but the project is not expected to result in a substantial change in the ability of large animals to move through the project area in this segment. In the 5.3-mile segment between SR 25 and the San Benito River, culverts will be present in 15 locations, for an average of one culvert every 0.35 mile. Given the existing impediments to wildlife movement due to U.S. 101, the relatively low increase (relative to existing conditions) in impacts to wildlife movement that would result from the project, and the dispersion and number of undercrossings, it is our opinion that the project will not have a significant impact on the movement of large or small wildlife species.

Comment 17-I: Success criteria should be specified in the Final EIR, and Project plans must include ongoing monitoring of undercrossings, with funding available for remediation if they are not used by all impacted wildlife species. Monitoring of crossing locations should be conducted both before and after structures are installed so that effectiveness can be assessed. Maintenance of culverts or other crossing structures also needs to be included in project plans.

Response 17-I: *Please see the response to Comment 17-D regarding monitoring of wildlife use of undercrossings.*

Comment 17-J: Wildlife barrier fencing adjacent to Tar Creek and the San Benito River should be extended. The proposed one-quarter mile barrier fencing is not a sufficient distance to guide animals away from the highway to the creek crossings. A more thorough assessment of topography, habitat, and animal use of the locations is needed to determine appropriate fence length, north and south of both drainages, and at a minimum, fencing should stretch several miles on both sides of the crossing.

Response 17-J: *As discussed in Response 17-C, extensive discussion of wildlife movement issues and mitigation/enhancement measures occurred during the project design and initial impact assessment process to identify measures appropriate for specific project segments and specific species known or expected to be crossing the project area. The extent/location of fencing to exclude wildlife from the road's surface was considered in detail. Of concern were the number of road-killed animals observed near large undercrossings such as Tar Creek and the Pajaro River, and it was determined that directional fencing was necessary near these structures not only to direct animals to the undercrossings, but also to minimize the number that*

move onto the road's surface at these locations. However, there was also a need to balance the value of this fencing in keeping animals off the road's surface with the desire to maintain existing conditions with respect to fencing and median design in the northern portion of the site. It was determined that 0.25 miles of directional fencing would be sufficient to achieve both sets of objectives.

Comment 17-K: It is stated in the DEIR that new median barriers will be installed where they do not currently exist. Solid median barriers make it virtually impossible for an animal to get across the highway. Thrie-beam barriers, as are to be maintained north of Tar Creek, or other median structures that allow animal movement, should be used throughout the project site.

Response 17-K: *The project's strategy with respect to median barriers is to generally maintain the types of barriers that currently exist in a given segment. Given the number of large, high-quality undercrossings present in the segment between Tar Creek and the San Benito River, it was determined that directing animals to undercrossings would best facilitate wildlife movement and maintain public safety. As a result, in that segment, replacement of the existing solid median barrier with a thrie-beam barrier was determined to be unnecessary. Nevertheless, the solid median barriers will be fitted with wildlife passageways (Caltrans standard "Type S, M, and/or L") so that, in the event that animals cross through the directional fencing and attempt to cross the highway, their probability of a successful crossing will improve relative to existing conditions. The presence of such passageways will actually enhance the ability of animals that get onto this segment of U.S. 101 to cross the highway, as currently, no such passageways exist on the road's surface. The Draft EIR refers to these passageways in Section 1.3.1; because they are an important component of the measures being implemented to maintain and enhance wildlife movement, a new mitigation measure related to wildlife movement has been added to this Final EIR.*

Comment 17-L: We ask for the project to incorporate a comprehensive set of BMPs in evaluation, design, construction, operations, maintenance, defining success criteria and monitoring. At the very least, design should include and specify locations for:

- Fences several miles long on each side of each crossing.
- At least four (4) crossing structures to accommodate large mammals, with no more than one mile between large crossing structures, and no more than one-quarter mile between crossing structures appropriate for small animals.
- For constructed crossings to be effective in maintaining wildlife connectivity, mitigation should include permanent protection of suitable wildlife habitat adjacent to the crossings.

Response 17-L: *Please see Responses 17-D, 17-H, and 17-J. Undercrossings that will accommodate large mammals will be located at Uvas/Carnadero Creek, just north of SR 25, at Tar Creek, at the Pajaro River, in two locations where existing culverts will be replaced with*

box culverts at least 90 inches high between the Pajaro River and the Betabel Road/Y Road interchange, and at the San Benito River.

Permanent protection of suitable wildlife habitat adjacent to the crossings is not necessary for this project to mitigate its impacts to less-than-significant levels. It is important to note that this project's impacts under CEQA are evaluated relative to existing conditions, and relative to existing conditions, this project would not alter the land use or ownership of lands in areas adjacent to the project area. The project's design and mitigation measures will reduce impacts to less-than-significant levels given the existing conditions of wildlife habitat adjacent to crossings in the project area.

Comment 17-M: Proposed Mitigation for Biological Resources: For virtually every potential impact on wildlife species and habitats, the proposed mitigation is either reliance upon payment of fees to the Santa Clara Valley Habitat Conservation Plan / Natural Communities Conservation Plan (SCVHCP), or, if that is infeasible, purchase of credits in an unidentified mitigation bank that serves the project area, or if no banks or credits are available, development of unspecified project-specific mitigation. The SCVHCP provides a permit from the wildlife agencies for the 'take' of several listed species. It should not be used as blanket coverage for any and all impacts to biological resources. This nebulous plan for mitigation for the many potential impacts of the project is not acceptable. Deference of a clear mitigation plan until after approval of the EIR violates the disclosure intent of CEQA. The DEIR also needs to include mechanisms for monitoring and funding, as well as success criteria and enforceable remediation should goals not be achieved.

Response 17-M: *The Santa Clara Valley HCP/NCCP is not used as blanket coverage for all impacts to biological resources. Other biological resources, such as nesting birds, have specific mitigation associated with their protection. The HCP/NCCP is described as the first alternative approach for mitigation for special status species and their habitats that are covered under the Plan, with other alternatives (mitigation banks or project-sponsored mitigation) given in the case of non-approval of the HCP/NCCP (highly unlikely) or the inability to use the HCP/NCCP in San Benito County (likely). For project-sponsored mitigation, the text in several measures has been revised to include additional detail:*

- MM-NATCOM-1.2 has been revised to include additional detail regarding the project-specific mitigation that will be performed in the event that MM-NATCOM-1.1 and the purchase of credits in a mitigation bank are both infeasible, necessitating project-specific mitigation.*
- Text has been added at the end of MM-NATCOM-2.2 for oak woodland habitat.*
- Text has been added at the end of MM-WET-1.2 for wetlands and other waters.*
- Text has been added at the end of MM-ANIMAL-6.5 for burrowing owls.*
- Text has been added at the end of MM-T&E-2.3 for California red-legged frogs.*
- Text has been added at the end of MM-T&E-3.3 for California tiger salamanders.*

Also see Responses 8-C, 8-E, 8-F, and 17-S.

Comment 17-N: Exclusive Reliance upon the SCVHCP is inappropriate because: At this time, the participating partners in the SCVHCP have approved the plan. However, implementation is still conditional upon agreements that may or may not be achieved, an implementation body has yet to be created, and the SCVHCP has yet to secure a “take” permit for the covered species from the California Department of Fish and Wildlife and the US Fish and Wildlife Service.

Response 17-N: *The six Local Partners involved with preparation and implementation of the Plan have adopted the HCP/NCCP, as the commentor has noted, and have signed the Memorandum of Understanding. Four of the Local Partners with land use authority have signed the Joint Powers Agreement. Each of the Local Partners has appointed representatives to the Governing Board and Implementation Board of the Implementing Entity, formally known as the Santa Clara Valley Habitat Agency. On May 16, 2013, the two Boards met to begin the business of the Habitat Agency including electing Presiding Officers, appointing an interim Executive Director, adopting a budget, and executing other start-up actions. The Wildlife Agencies, also Partners in the HCP/NCCP, have yet to issue incidental take permits; however, after many years of effort to develop the Plan, it is extremely unlikely incidental take permits would not be issued. Once the permits are issued, the Local Partners with land use authority will adopt implementing ordinances. Implementation of the Plan by the Santa Clara Valley Habitat Agency is anticipated in late 2013.*

The EIR recognizes the possibility that mitigation via payment of fees to the HCP/NCCP may not fully satisfy mitigation requirements to reduce impacts to less-than-significant levels under CEQA, either for impacts within San Benito County (which may not be covered by payment of fees to the HCP/NCCP) or for all impacts, in the unlikely event that the USFWS and CDFW do not issue incidental take permits as expected. Therefore, the EIR's biological resources mitigation measures describe alternative mitigation that would be implemented for impacts that are not mitigated through the HCP/NCCP. Thus, the EIR is not relying exclusively on the HCP/NCCP. Please also see the responses to Comments 8-F and 17-M.

Comment 17-O: The SCVHCP does not cover all species and habitats that would be impacted by this project: (the only mammal covered is the San Joaquin kit fox; not badger, special status bats, or ringtail - a Fully Protected species). Impacts to habitat of special status species, including the American badger and other California Species of Special Concern need to be addressed under CEQA. The only mitigation provided for the badger are steps to avoid disturbance of maternity dens during the pupping season, and eviction of badgers after the pupping season. For a number of species, including special status birds and ringtail, no mitigation for loss of habitat is proposed, based on the unsubstantiated assumption that low numbers of animals will be impacted. Mitigation for habitat loss of badgers and other special status species is needed.

Response 17-O: *Correct, the HCP/NCCP does not cover all special-status species that could be impacted by the project. However, all special-status species that do occur or could potentially occur in the project area are included in the detailed analysis in the NES with a summation of the analysis given in the EIR. Thus, if habitat mitigation was not proposed for a given species, such mitigation was determined to be unnecessary by the CEQA analysis. Nevertheless, it should be noted that the project's mitigation for impacts to other species will provide benefits to some of the special-status species for which species-specific mitigation was not required. For example, whether through payment of impact fees or project-sponsored mitigation, the project will compensate for its impacts to habitat of the California tiger salamander and California red-legged frog. Such mitigation will include preservation, enhancement, and management of upland habitat of these species, and that upland habitat will benefit species such as the American badger.*

Comment 17-P: Species without special status are not covered by the SCVHCP, but impacts to movement corridors for all species need to be addressed under CEQA.

Response 17-P: *The analysis of project impacts on wildlife movement in the EIR did not focus only on special-status species, but rather addressed the array of species for which movement through the project area is important. Additional detail (beyond that discussed in the EIR) regarding existing conditions and project impacts with respect to wildlife movement, including an assessment of these issues for certain species, can be found in the NES.*

Even though species without special status are not covered by the HCP/NCCP, the mitigation measures to minimize impacts on wildlife movement described in the EIR are intended to benefit both special-status and non-special-status species.

Please also see the Responses 17-C through 17-L, which pertain to both special-status and non-special-status species.

Comment 17-Q: Although it is stated in the DEIR that regulatory agencies are likely to accept mitigation through SCVHCP for impacts to special status species that occur in San Benito County, there is no assurance that this is the case, nor that it is legally defensible to do so. A separate Habitat Conservation Plan may be needed for take of listed species in San Benito County, as well as additional avoidance and mitigation measures for other impacts covered under CEQA.

Response 17-Q: *The HCP/NCCP is described as the proposed approach for mitigation for special status species and their habitats that are covered under the Plan, with other alternatives (mitigation banks or project-sponsored mitigation) given in the case of non-approval of the HCP/NCCP or the inability to use the HCP/NCCP in San Benito County. For project-sponsored mitigation, the text in several measures has been revised to include additional detail (please see Response 17-M).*

As the project elements in San Benito County will impact waters of the U.S. including wetlands, an Army Corps of Engineers Section 404 permit will be required, as stated in Table 5 of the EIR. In this case, consultation with the USFWS (and National Marine Fisheries Service) will occur pursuant to Section 7 of the federal Endangered Species Act. The Section 7 process does not require the development and implementation of an HCP. In fact, Section 7 only legally requires avoidance and minimization of impacts to federally-listed species. However, under the California Endangered Species Act (CESA) and CEQA, compensatory mitigation is also required.

In San Benito County, VTA is committed to providing funds to the HCP/NCCP for impacts to special status species and habitats, even through the Section 7 process; however, as the commentor notes, this may not be possible (e.g., the USFWS and/or CDFW may determine during Federal and State Endangered Species Act consultation that this is not appropriate). If project-specific mitigation is required, there are ample opportunities to implement mitigation in the project vicinity (see Response 8-C). It should be noted that environmental benefits may be achieved locally even if the mitigation is implemented on a watershed or regional scale, meaning potentially in Santa Clara County.

The avoidance and minimization measures included in the EIR for biological resources are appropriate for both Santa Clara County and San Benito County. VTA's commitment to these measures, whether derived from the HCP/NCCP or not, is stated in the EIR. It is not anticipated that additional avoidance and minimization measures for impacts to species and habitats, which are not defined by County lines, would be required in San Benito County.

Comment 17-R: The mitigations proposed as alternatives if payment of fees to the SCVHCP is infeasible are inadequate. Creation or restoration of sensitive habitats, riparian, wetland, and oak woodland needs to be achieved prior to impacting existing habitat, or permanent protection of additional existing habitat is needed to compensate for temporal loss of habitat. Similarly, roosting or other habitat occupied by special status species, including bats and burrowing owls needs to be created and successfully used by the species in question before habitat is impacted on the project site.

Response 17-R: *Please see Response 17-M for revised text in the EIR applicable to project-sponsored mitigation for impacts to riparian habitat, oak woodlands, wetlands and other waters. With inclusion of the revised text, the mitigation measures are adequate to reduce impacts to these habitats to less-than-significant levels. For example, the text revisions include additional detail regarding the details of mitigation plans and success criteria, which may or may not specify when occupancy of mitigation lands must occur. Mitigation does not necessarily need to be provided before habitat is impacted by a project; for example, during California Endangered Species Act permitting, it is standard practice for the CDFW to allow applicants up to 18 months between issuance of an Incidental Take Permit and satisfaction of compensatory mitigation.*

Certainly, it is preferred to create, restore, or enhance habitats in advance of the impacts to offset the functions and values lost due to the project. As the commentor notes, when there is a temporal loss, there is often additional mitigation required. However, to offset temporal loss, typically there is an increase in the mitigation ratio between the loss of habitat and the mitigation rather than permanently protecting (or preserving) existing habitat. The mitigation site is usually under a conservation easement to ensure permanent protection. One of the benefits of the HCP/NCCP is the "stay-ahead provision" whereby conservation of habitats must be implemented at or faster than the rate at which impacts on habitat or covered species occur.

A stated in the EIR (MM-ANIMAL-9.5), alternative roosts structures will be provided if a day roost of any bat species will be impacted on a bridge or in a tree, even if the impact is temporary, and will be erected at least one month (preferably one year or more) prior to removal of the original structure. In some circumstances, it may be beneficial to allow roosting bats to continue using a roost on a bridge structure during construction, rather than evict the bats. MM-ANIMAL-9.5 requires that a bat biologist monitor the alternative roost structure for up to three years following completion of the construction, or until the structure is occupied by bats in order to determine the effectiveness of the structures. It should be noted that VTA's recent experience with the U.S. 101 Auxiliary Lanes Project (Route 85 to Embarcadero Road), which is in post-construction monitoring, indicated that bats did not use the alternative roost structures provided, but did return to the bridge after construction was completed. For bats roosting in trees, the loss of potential roost sites will affect only a very small proportion of available habitat in the project vicinity and regional area; therefore, there is ample habitat for bats to find new roosts.

Please see Responses 17-M and 17-S for revised text in the EIR applicable to project-sponsored mitigation for impacts to burrowing owls, which complies with the 2012 CDFW Staff Report on Burrowing Owl Mitigation.

Comment 17-S: In lieu of SCVHCP participation, proposed mitigation for loss of burrowing owl habitat is creation of burrows and management of foraging habitat at a ratio of 6.5 acres per unpaired owl or owl pair. In 2012, CDFW issued new guidelines for burrowing owl mitigation that specifically acknowledges the older one(s) are ineffective and no longer acceptable to CDFW. The alternative to mitigation via the SCVHCP should follow the 2012 CDFW Staff Report on Burrowing Owl Mitigation.

Response 17-S: *No burrowing owls are known to occur in the project area. Based on the negative results of the protocol-level survey conducted on the majority of the project area during this project's planning, the known distribution of this species in the region (i.e., with owls occasionally wintering in the project vicinity but with breeding burrowing owls currently unknown there), and the relatively low habitat quality for this species present in the project area, as opposed to grasslands further removed from U.S. 101, there is a low probability that individual owls or occupied habitat will be impacted. As a result, mitigation for impacts to*

burrowing owls and their habitat will be required only if owls are observed during habitat mapping for this species (required by the HCP/NCCP) or during pre-construction surveys. As described in MM-ANIMAL-6.4, mitigation of impacts to burrowing owls will be provided via the payment of impact fees to the HCP/NCCP to the extent feasible. Project-specific mitigation of impacts to this species will be necessary only in the case of non-approval of the HCP/NCCP (highly unlikely) or the inability to use the HCP/NCCP in San Benito County (likely).

We agree that it is appropriate to incorporate the 2012 CDFW Staff Report on Burrowing Owl Mitigation into MM-ANIMAL-6.5 in the event that burrowing owls are detected and impacts to burrowing owls cannot be mitigated entirely via the HCP/NCCP. The 2012 CDFW Staff Report indicates that the mitigation to be provided should be based on the permanent impacts to burrowing owl habitat, requiring a site-specific assessment that cannot be conducted now (since owls are not currently known to be present), but that would rather be conducted if and when burrowing owls are detected. Therefore, MM-ANIMAL-6.5 has been revised in this Final EIR.

Please also see Response 17-M.

Comment 17-T: Several detention basins are proposed near the highway. These may attract wildlife, including California red-legged frogs, tiger salamanders, and western pond turtles, and may increase the potential for road mortalities. This potential impact needs to be addressed.

Response 17-T: *Two new detention basins are proposed - one on the north side of the San Benito River east of U.S. 101 and one in the existing northeast quadrant of the 101/25 interchange. The basin north of the San Benito River is not in an area very close to known occurrences of California tiger salamanders or California red-legged frogs, or to likely breeding ponds for these species. As indicated in Section 2.20.3 of the EIR, this basin will be graded to drain completely. It will not have depressional areas that could support long-term ponding. Rather, this basin will drain completely following high-runoff events, and thus it will not provide an attractant to California tiger salamanders, California red-legged frogs, or western pond turtles. The text in Sections 2.20.3 and 2.21.3 of this Final EIR has been revised to clarify this.*

Owing to the absence of suitable habitat on the east side of the existing 101/25 interchange (due to development and intensive cultivation), these three species are not expected to be present in, or to easily reach, the area where the new detention basin will be constructed near that interchange. However, all three species may be present in a pond on the west side of this interchange, and a few individuals may be able to disperse to the basin through the new box culverts proposed. This basin has also been designed to drain quickly (within a few days of a high-runoff event, like the basin proposed north of the San Benito River). Additional text has been added to the end of MM-HYDRO-1.3 in this Final EIR to reflect this.

Comment 17-U: Impacts of loss of riparian habitat and wetlands (NATCOM-1, WET-1) are not limited to the endangered species that are covered by the SCVHCP – the impacts are to beneficial uses of as described in the Basin Plan for the stream. The project must secure permits from the US Army Corps of Engineers and the California Water Quality Control Board (404, 401), and may require increasing efforts to avoid or minimize the Project’s impact, and to provide local mitigation in addition to or in lieu of payment to the SCVHCP.

Response 17-U: *Impacts to riparian habitats and wetlands are well described in the EIR. VTA agrees that impacts of loss of riparian habitat and wetlands are not limited to the endangered species that are covered by the HCP/NCCP. However, the benefits of restoration, creation, enhancement, and protection of these habitats by the HCP/NCCP extend well beyond the HCP/NCCP-covered species to all species that use these habitats, and to the other ecological functions that these habitats provide. As a result, contribution of development fees to the HCP/NCCP for impacts to these habitats will compensate for impacts to beneficial uses of these habitats. Please also see Responses to Comments #8-B through 8-F and Response 17-M.*

VTA acknowledges that the project will need to obtain permits from the U.S. Army Corps of Engineers and Regional Water Quality Control Board. These regulatory requirements are separate from the CEQA process, however, and therefore any conditions of these permits that are not also addressed in the EIR and in these responses to comments are not relevant to the adequacy of the CEQA assessment.

Comment 17-V: The SCVHCP does not provide mitigation for loss of Oak Woodland (NATCOM-2), since the species covered by the plan do not utilize oak woodland habitat. Payment to the SCVHCP does not provide in-kind mitigation.

Response 17-V: *The Natural Communities Conservation Act requires that natural communities within a study area be identified in a Natural Communities Conservation Plan. The Santa Clara Valley HCP/NCCP identifies oak woodland as one of the vegetative communities, or land cover types, covered in the Plan irrespective of any covered species that may use this habitat. Most of the biological goals and objectives in the HCP/NCCP "are designed at least to conserve current populations of covered and other native species in the study area." One of these goals is to "maintain and enhance functional oak woodland communities to benefit covered species and promote native biodiversity." Section 5.3.5 of the HCP/NCCP's conservation strategy contains extensive discussion of oak woodland conservation and management, including discussion of enhancement measures (which may include oak planting).*

The project will avoid or minimize impacts to oak woodland to the extent feasible. Based on the current level of design, 2 acres of oak woodland habitat are permanently impacted under Design Option A and 1.5 acres are permanently impacted under Design Option B (see Table 34 in the EIR). All of these impacts are in Santa Clara County. It should be noted that the project

development team recommends the selection of Design Option B for the interchange configuration.

VTA is a Local Partner in the development and implementation of the Santa Clara Valley HCP/NCCP, and the project is a "covered activity" under the HCP/NCCP. As a result, VTA has included payment of a base fee to the Implementing Entity of the HCP/NCCP (known as the Santa Clara Valley Habitat Agency) to offset impacts to habitat through the creation or restoration of equivalent habitat on a regional basis. Fees must be paid into the HCP/NCCP to protect oak woodland through either fee title purchase or conservation easement and then enhancing and managing that land as part of the HCP/NCCP Reserve System. Once land is acquired or a conservation easement is established, "an additional objective is to enhance oak woodlands using specific management actions to promote regeneration that will in turn sustain beneficial processes and native species diversity."

In the unlikely event that the HCP/NCCP is not ultimately approved, MM-NATCOM-2.2 includes project-specific mitigation for impacts (also see Response 17-M for the revised text applicable to MM-NATCOM-2.2).

Comment 17-W: Impacts to fish species are not covered by the SCVHCP. The project could potentially have a significant impact to Pacific Lamprey and Monterey Roach, and thus requires the development of specific mitigation measures and a permit from National Marine Fisheries Service (NMFS).

Response 17-W: *The EIR acknowledges that the project will result in both short- and long-term adverse impacts to Pacific lampreys and Monterey roach. Mitigation measures are included in the project to reduce impacts to a less than significant level pursuant to CEQA.*

Some of the project elements will impact waters of the U.S.; therefore, an Army Corps of Engineers Section 404 permit will be required, as stated in Table 5 of the EIR. In this case, consultation with the National Marine Fisheries Service (NMFS) will occur pursuant to Section 7 of the federal Endangered Species Act owing to the presence of the South-Central California Coast steelhead; neither the Pacific lamprey nor the Monterey roach is federally listed, and thus consultation with NMFS regarding these species is not necessary. VTA will include the measures identified in the EIR in the Biological Assessment for the Project. If take of steelhead is assumed, which is likely, NMFS will issue a Biological Opinion (BO) for the project.

Please also see response 17-M for revised text applicable to mitigation for riparian and aquatic habitats.

Comment 17-X: Growth-Inducing effects and Other Impacts: The DEIR acknowledges that the project will have a direct and significant growth-inducing impact if and when the application for the massive

El Rancho San Benito (ERSB) new community development project is approved. The approval of the ERSB project is conditioned upon the widening of U.S. 101 (Impact GR-1). Because of this direct dependency, this project's EIR needs to include disclosure of all the reasonably foreseeable potential impacts of ERSB including impacts to special status species and habitats, wildlife movement corridors and other biological resources; air quality; hydrology and water quality; climate change; regional traffic, etc. The fact that the ERSB project proponents (DMB) are helping to fund this Highway 101 widening project underscores the link between the two projects.

Response 17-X: *The statement that the "approval of ERSB is conditioned upon the widening of U.S. 101" is a misstatement of the language in Section 2.2 of the EIR. The EIR text states that the U.S. 101 Improvement Project would have a direct and significant growth-inducing impact if and when the application for the ERSB is resubmitted and if the approval of the ERSB project is conditioned on the widening of U.S. 101. It is important to note that neither of the events has occurred. There is currently no ERSB application on file. Further, it is not known if the ERSB developer will in fact file a new application and, if that occurs, what the project will be proposing. Therefore, a cumulative analysis taking into account the environmental effects of an ERSB project, is neither feasible nor required under CEQA. Such analysis would be speculation.*

Regarding the comment that DMB, the ERSB proponent, is helping to fund the U.S. 101 project, that funding consisted of paying for a portion of the cost of the preliminary design and this EIR. VTA is unaware of any funding of the actual construction of the project by DMB.

Comment 17-Y: In the DEIR, it is stated that the "The project's indirect effect on the rate, location, and/or amount of future growth will not be substantial." (Impact GR-2). We do not agree. The DEIR for the San Benito County 2035 General Plan, now available for public review, makes provisions for "New Communities" in the northern part of the County, several of them adjacent to Highway 101. Among the New Community Location Requirements listed is that "They are accessible to existing major transportation routes and corridors, such as State highways..." It is reasonable to assume that, like the ERSB development, other "New Communities" placement near Highway 101 will depend upon this widening project.

Response 17-Y: *The relevant question for a significant indirect growth-inducement impact is not whether this or any other infrastructure will facilitate growth. By their very nature, all infrastructure projects serve/accommodate development to some degree. If that were not true, no public agency would consider, fund, or construct an infrastructure project. The relevant question under CEQA for significant growth-inducement is whether a project would substantially affect the rate, location, and/or amount of future growth. Each of these three aspects is analyzed in Section 2.2.2.3 of the EIR and the analyses concluded that there is no basis for concluding that the project's indirect growth-inducing effect would be significant.*

Comment 17-Z: The DEIR contends that the project is not expected to have significant impact on air quality in the region. We believe that more information is needed to substantiate this assumption. Air pollutants from Highway 101 in the Coyote Valley of Santa Clara County, and their impact on listed species triggered the need for that County's HCP. Widening of Highway 101 and resultant increases in traffic in this project site may have similar effect.

Response 17-Z: *The conclusion in Section 2.14 of the EIR that the project will not result in a significant impact on air quality is based on the results of two technical reports prepared for the project: Air Quality Report (October 2010) and Mobile Source Air Toxics Emissions Report (October 2010). Both of these reports were available for public review during the circulation of the Draft EIR. Although this comment requests more information, it does not specify what aspect(s) of the analyses it believes are deficient and/or what information is needed.*

With regard to the indirect air quality effect of the project on listed species, that impact is addressed and accounted for in the recently-approved HCP/NCCP, of which this project is a "covered activity". The HCP/NCCP includes an extensive analysis of the air quality effects of development (including this project) on the serpentine habitat that is used by endangered species. The analysis concluded that the nitrogen component of such emissions does have an adverse effect on such habitat and, as a result, the HCP/NCCP includes a fee specifically related to nitrogen deposition. The fee covers such costs as the management of serpentine habitat to mitigate these adverse effects (e.g., increased invasive species control). For more information, please see Section 9.4.1 of the HCP/NCCP.

Comment 17-AA: Cumulative impacts of this project on biological resources, air quality, water quality and hydrology, and noise have not been addressed adequately. Impacts of increased traffic volumes on biological resources, air quality, water quality and hydrology, and noise have not been addressed adequately.

Response 17-AA: *Section 2.23 of the EIR analyzes the cumulative impacts of the project for each of the subject areas identified in this comment. The comment provides no data, information, or analysis to support the assertion that these impacts have not been adequately addressed. Absent such supporting information, a detailed response is not possible.*

Comment 17-BB: Conclusions and Recommendations: We oppose approval of the DEIR in its current form. We believe that the project as proposed will result in significant impacts to wildlife movement corridors and to special status species. At a minimum, Best Management Practices for wildlife movement corridors should be incorporated into the project design; whether these could reduce impacts to wildlife movement to a level of less-than-significant cannot be determined with the information that has been provided. Impacts to species that are not covered by the SCVHCP need to be disclosed, analyzed and mitigated. Mitigation for impacts to all biological resources need to be developed for San Benito County portion of the project, and alternative mitigation for species covered by the SCVHCP

needs to be developed for Santa Clara for the potential risk that the SCVHCP is not implemented, or the implementation is delayed.

Growth inducing impacts and cumulative impacts of the project require further study and analysis, as well as impacts to air quality and climate change. While we recognize the problem of traffic congestion throughout the region, investing in mass transit systems and community planning to reduce sprawl of urbanized areas offer better long-term solutions than continuing to widen and expand our existing highways.

Response 17-BB: *This comment is a summary of the detailed comments contained in this letter. Please refer to the above responses to each of the detailed comments.*

**RESPONSE TO COMMENT #18:
OMAR CHATTY**

Comment 18-A: In addition to my comments made at the March 28, 2013 public meeting, I would like to encourage, restate and emphasize the following:

This document is excellent in its breadth, depth, thorough, and comprehensive detail from not only environmental perspectives, but also human issues, and animal protection and road safety.

This EIR ought to make Caltrans and VTA management very proud of its excellence as produced by VTA and Caltrans staff.

In peer conferences such as ASHTOO and ASCE and others, I would recommend this as a template model for other jurisdictions to use as a baseline of completeness and environmental sensitivity while exercising the best in engineering standards for highway construction in the 21st century.

This EIR should serve as a baseline model for a future direct SR130 route from San Jose to Interstate 5, where environmental considerations, such as those exhibited here, are of paramount importance.

A key point of this project from a financial and human sensitivity perspective is that it has no economic dislocation outcome due to the wrong-headedness of Toll Road or Toll Lane. This road must be funded by existing motorist-generated sources.

Response 18-A: *Thank you for your comment. This input will be considered by the VTA Board of Directors when considering certification of the EIR and approval of the project.*

**RESPONSE TO COMMENT #19:
JESUS CISNEROS**

Comment 19-A: I want to tell them that if they are going to connect 25 to Santa Teresa, it should go straight through. I have seen lots of accidents and there are a lot of students who come from Castroville who can use this.

Response 19-A: *Thank you for your comment. Both Design Option A and Design Option B would directly connect SR 25 to Santa Teresa Boulevard.*

**RESPONSE TO COMMENT #20:
RICH CRIPPS**

Comment 20-A: I'm all for it. That is a very dangerous section of road that carries way too much traffic. The 25 interchange is a joke. Anyone trying to go Southbound 25 to 101 is out of luck because of traffic. 25 merge to Northbound 101 is Russian Roulette. Improvements along that entire corridor are definitely needed.

Response 20-A: *Thank you for your comment. This input will be considered by the VTA Board of Directors when considering certification of the EIR and approval of the project.*

**RESPONSE TO COMMENT #21:
JIMMY GALTMAN**

Comment 21-A: Add comments that the 100 year flood map does not include our property 5725 MONTEREY FRONTAGE ROAD PARCEL #80822002 and the properties adjacent properties #80822003, 80822012, 80822013, 80822001, 80822007, 80822008, 8082115, 8082114, 8082113, 8082127, 8082126, 8082128, 8082129, 8082130, 8082131, and 8082133 all had ~2ft. of standing water on our properties in the 1986 flood. The design team needs to make sure that the additional flood water culverts will be large enough to handle more than just an 100 year storm because in 1997 the only reason we didn't get flooded again was that the Carnadero Creek over ran its banks near where it meets the Pajaro River and relieved the Carnadero Creek and only the end of Monterey frontage road had got flooded by the highway 101 bridge. This was a close call for us just eleven years from the previous flood. Another point that needs to be considered is that debris from the Carnadero Creek that flows down the stream during heavy storms and can pile up under neat the W Luchessa Ave bridge and the highway 101 bridge. This is due to Santa Clara Water District not cleaning up the over growth vegetation of the Carnadero Creek banks and creek bed, which was one of the conditions they said they were going to do when we give up property easements in the year 1987 so that the Corps of Engineering

would build the levee on the west side of City of Gilroy. The Carnadero Creek banks and creek bed have not been maintained and this is the existing condition.

Response 21-A: *The first part of this comment consists of a request to design facilities to accommodate flows larger than those from a 100-year storm. The 100-year flood is the standard used by the Santa Clara Valley Water District, the agency with floodplain jurisdiction at this location. The 100-year flood is also the standard used by other agencies including FEMA and the U.S. Army Corps of Engineers. Therefore, the project will be designed based on the 100-year flood.*

The second part of this comment states that there are problems associated with debris in Carnadero Creek that need to be addressed. This problem is not an impact associated with the project. Instead, as acknowledged in the comment, it is a maintenance issue that needs to be addressed with the Santa Clara Valley Water District.

Comment 21-B: Add comments that all property owners of parcels including our property 5725 MONTEREY FRONTAGE ROAD PARCEL #80822002 and the properties adjacent properties #80822003, 80822012, 80822013, 80822001 want the sound wall SW2. Note that because of the existing 101 highway bridge overpass of southern pacific RR tracks higher elevation and the existing Truck stop on the eastern side of high way 101 the large semi-trucks are using their air operated Jake to slow down instead of applying their conventional brakes which creates a large amount of excessive noise at all times of the day. Another point is that the vegetation along highway 101 in front of our properties have grew to a level that acts as addition sound barrier to our 40 year old Pine/Walnut/Sequoia/Oak trees and looking at your plans to build an retention wall on the west side of highway 101 would probably remove that vegetation hence more noise problems.

Response 21-B: *As stated in Section 2.16.6 of the EIR, the costs of each of the nine soundwalls considered (including Soundwall #2), substantially exceed the calculated reasonableness allowance. Based on this information, a preliminary decision has been made to not construct the soundwalls. However, during the final design phase for the project, VTA implements a process whereby a letter is sent to all property owners adjacent to potential soundwalls to solicit their input on the construction of the soundwalls. This input will be considered by VTA when a final decision on the soundwalls is made.*

Based on the preliminary plans developed to date, only some vegetation may need to be removed to accommodate the width of the roadway, as well as to maintain an adequate clearance zone between the travel lanes and the trees for safety purposes. It is expected that the majority of the trees will remain.

Comment 21-C: Add comment that we are opposed about proposed Bike path behind our properties 5725 MONTEREY FRONTAGE ROAD PARCEL #80822002 and the properties adjacent properties

#80822003, 80822012, 80822013, 80822001, 80822007, and 80822008. We give up property easements in the year 1987 of 50 feet from the middle of Carnadero Creek across the back of our properties so that the Carnadero Creek would be able to be cleaned of over growth vegetation. The Corp of Engineering would not have built the levee on the west side of City of Gilroy without these property easements being granted and the cleaning of the over growth vegetation has not been maintain. To build the proposed Bike path behind our properties 5725 MONTEREY FRONTAGE ROAD PARCEL #80822002 and the properties adjacent properties #80822003, 80822012, 80822013, 80822001, 80822007, and 80822008 the existing trees and old growth vegetation along the Carnadero Creek banks would be disturbed and fences would need to be taken down along property lines. We feel that the city of Gilroy and this project should use the existing right of way on Farman Ln dirt road that can be used to reach the same end point of the bike path at highway 101/Carnadero Creek bridge and would cost less than trying to follow the twisted Carnadero Creek banks behind our properties 5725 MONTEREY FRONTAGE ROAD PARCEL #80822002 and the properties adjacent properties #80822003, 80822012, 80822013, 80822001, 80822007, and 80822008.

Response 21-C: *The project is not proposing to bring any bike lanes behind the subject properties or along the banks of Carnadero Creek north of the Carnadero Creek/U.S. 101 crossing. The project only proposes to construct a new bike path on the southern bank of Carnadero Creek under U.S. 101. This new bike path would connect Mesa Road to the frontage road on the east side of U.S. 101. The right-of-way impact to the properties listed is needed to accommodate shifting the alignment of U.S. 101 to the west and widening the freeway to six-lanes.*

RESPONSE TO COMMENT #22:

LIBBY LUCAS

Comment 22-A: In regards VTA's proposed project to widen #101 between Monterey Street in Gilroy to State Route 129, I would like to submit comment, with a qualification that I have not attended Pajaro River task force meetings recently and so do not know present status of COE flood control designs in this particular reach of the river.

In that Pajaro River has been said to have the most extensive acreage of upper watershed of any California river system, it would appear that with eight tributaries joining Pajaro's main channel in this 101 project area that San Francisco District Army Corps of Engineers's flood control design must be given the top priority.

Figure 16 of a Google map of FEMA 100 year Pajaro River, San Benito and San Juan Creeks' floodplain in San Benito County gives some idea of flood flows to be contended with in project area. It would suggest to me that generous setback levees would perhaps be the only feasible flood control design.

COE flood control criteria cannot come in after the fact and so not to have it front and center in this DEIR is a deficiency. There is also the constraint of the railroad line that flood control must accommodate. 101 upgrade is the more flexible element of infrastructure in project area.

At a SCVWD workshop last Thursday FEMA staff acknowledged that their flood maps do not account for back to back storm systems as with a Pacific Ocean pineapple express weather front or for any increased intensity of storm systems that might be anticipated due to climate change or global warming. Therefore, it might be prudent for this DEIR to reference FEMA 500 year floodplain parameters rather than 100-year ones.

Response 22-A: *Under numerous federal, state, and local regulations, including CEQA, projects are designed and assessed using the 100-year flood event as this event typically represents a reasonable worst-case scenario. The 100-year flood is the standard used by most agencies including, but not limited to, FEMA, the Army Corps of Engineers, the Pajaro River Watershed Flood Prevention Authority, the SCVWD, Caltrans, and numerous counties and cities.*

Comment 22-B: On DEIR biological study area maps it appears that magenta purple areas designate riparian removal. This impact would result in critical loss of riparian corridor flood retention capability as well as critical habitat loss. Please avoid this impact entirely in the proposed #101 project design. Do not believe such an impact can be mitigated except by replanting riparian corridor on site. In high water, biofiltration strips and swales provide no retention capability. They can only improve water quality by filtering out freeway contaminants. (2.10.5)

Response 22-B: *The purple areas shown on Figures 20a through 20g depict the riparian habitat in the Biological Study Area (BSA); these areas do not necessarily represent riparian removal. The BSA is an area that is greater than that expected to be directly impacted by the project in order to identify biological resources adjacent to the project. Table 34 in the EIR shows the total acreage in the BSA for various habitat types, as well as the permanent and temporary impacts to these habitats due to the project. For example, the BSA includes 35 acres of riparian habitat. Under either Design Option A or B for the interchange, 8 acres of riparian habitat would be permanently impacted and 7 acres would be temporality impacted. Section 2.17.5.1 of the EIR describes the proposed mitigation to offset permanent and temporary impacts to riparian habitat. Please also see the response to comment 17-M, which includes additional text that will be added to the EIR to provide more detail on riparian habitat mitigation.*

Biofiltration strips and swales would be included in the project to address water quality issues, in accordance with State water quality requirements. The project also includes two detention basins to retain and release floodwaters. We do not agree that the impacts to riparian habitats cannot be mitigated except by planting on-site. The extent of riparian habitat impacted is small enough, relative to the abundance of this habitat type elsewhere along the creeks and rivers

flowing through the project area, that riparian habitat loss due to the project will not result in substantial impairment of water quality or flood retention capability in and along these creeks. Nevertheless, mitigation of impacts to riparian habitat will be provided as described in the EIR, and as clarified in the response to Comment 17-M, to compensate for all the impacted riparian functions and values resulting from the project.

Comment 22-C: In regards Threatened and Endangered species, the proposed loss of riparian SRA by this project design, will have a cumulative impact on water temperature in the Pajaro River and all its tributary steelhead streams such as Llagas, Pacheco, Uvas/Carnadero and Tar Creek. Gavilan and Tick Creeks will be contributing more warm waters due to their loss of riparian cover. San Benito River may also suffer degradation of SRA habitat. As steelhead travel in cooler conditions and at night they are not always observed in a stream system so a conservative design should be a preferred management protocol. (Please note that in implementing #85 flyover with #101 at Bernal Road and Coyote Creek in 1992 Caltrans dryback killed off all fish by flawed plan).

Response 22-C: *Approximately 890 linear feet of shaded riverine aquatic (SRA) habitat at the Pajaro River, San Benito River, and Carnadero Creek will be permanently impacted by the project. The permanent impacts to this habitat are due to new or widened bridge structures. The water, therefore, will be shaded by the structures. It is not anticipated that the temperature of the water will change. In addition, it is unlikely that such a relatively small impact area compared to the quantity of water present and flowing past the project site would cumulatively impact the Pajaro River and tributaries. Please see Section 2.21.3.1 in the EIR.*

Although conventional wisdom has held that very cool, highly shaded creeks might provide better habitat for steelhead, there is some evidence that extensive shading may reduce productivity for fish, even "cold-water" fish such as steelhead. Casagrande (Casagrande, J. 2010. Distribution, abundance, growth and habitat use of steelhead in Uvas Creek, CA. M.S. Thesis, San Jose State University), studying steelhead in Uvas Creek, found that steelhead grew much more quickly, and thus were much larger by their first winter, at less shaded, somewhat warmer sites, which had higher prey abundance, than at densely shaded, cooler sites. Casagrande verified that invertebrate biomass was considerably higher at less heavily shaded sites than under a dense forest canopy. His findings confirm those of other studies demonstrating greater stream productivity, and greater salmonid production, along reaches with lower canopy closure and higher light levels. Although we are not suggesting that removal of riparian habitat necessarily benefits steelhead, it is unlikely that removal of approximately 890 linear feet of SRA habitat would have substantial adverse effects on these fish. Nevertheless, permanent impacts to SRA habitat will be mitigated at a 2:1 ratio, on a linear footage basis, and along streams that support South-Central California Coast steelhead, which may also benefit Pacific lamprey and Monterey roach. Temporary impacts to SRA habitat will be mitigated by restoring the habitat on-site.

VTA was not involved in the construction of the Route 85 project in the early 1990s. VTA is unaware of a "Caltrans dryback that killed all fish" associated with that project. In any case, any impacts from that project at Coyote Creek are unrelated to the proposed project, which is in a different location and different watershed.

Comment 22-D: At some point in DEIR read that mitigation for impacts to steelhead would be through payments to Santa Clara County HCP mitigation bank. Fisheries are not included in final Santa Clara County HCP so this is invalid option. Also, this reach of Pajaro River, if sufficiently degraded with warm water, can so stress the indigenous run of steelhead as to affect their health and reproductive capability. (2.17.5)

Response 22-D: *Please see Response 22-C regarding steelhead and water temperature.*

MM-T&E-1.1, which describes mitigation for the loss of SRA, riparian, and aquatic habitats, refers to Section 2.17.5 and Section 2.18.5. Section 2.17.5 describes mitigation for impacts to these habitats, not necessarily for direct impacts to steelhead. Nonetheless, mitigation for impacts to SRA, riparian, and aquatic habitats will offset impacts to steelhead habitat, whether that mitigation occurs via payment of impact fees to the HCP/NCCP or project-specific mitigation.

Also, please see Response 17-M for the revised text applicable to MM-NATCOM-1.2 for riparian and SRA habitat impacts and MM-WET-1.2 for wetland and aquatic habitat impacts.

Comment 22-E: Cumulative impacts on the species need to include aforementioned COE flood control project's loss of SRA for the Pajaro River system, as it has been ongoing for over a decade with all affected jurisdictions. Do not find cumulative impacts sufficiently addressed or an alternative of avoidance of impact seriously considered.

Response 22-E: *It is acknowledged that projects by the U.S. Army Corps of Engineers and others along the lower Pajaro River have the potential to impact steelhead. However, the U.S. 101 Improvement Project will avoid, minimize, and mitigate its impacts on steelhead so that it will not result in a considerable contribution to cumulative impacts to the species.*

Comment 22-F: Wetlands are not sufficiently clear as to location on biological study maps so cannot comment on extent of impacts. Perhaps on further study I will be able to understand this element appropriately.

Response 22-F: *This concern may be similar to that expressed in Comment 22-B regarding riparian impacts in the BSA; therefore, please see Response 22-B, as this response also applies to wetlands shown on Figures 20a through 20g.*

The BSA includes 4.78 acres of wetland habitat, which includes freshwater emergent wetlands and seasonal wetlands. Under Design Option A for the interchange, 1.24 acres of wetland habitat would be permanently impacted and 0.35 acres would be temporality impacted. Under Design Option B, 1.41 acres of wetland habitat would be permanently impacted and 0.55 acres would be temporality impacted. MM-WET-1.1 and MM-WET-1.2 in the EIR describes the proposed mitigation to offset permanent impacts to wetland habitat. Please also see Response 17-M, which includes revised text in the EIR that provides details on wetland mitigation for permanent impacts. MM-WET-1.3 describes the proposed mitigation to offset temporary impacts to wetland habitat. Please also see the Response 8-F, which includes revised text in the EIR that provides details on wetland mitigation for temporary impacts.

Comment 22-G: The Figure 21 Potential Wildlife Movement Pathways is one of the most important considerations in the #101 Improvement Project. It clearly illustrates how the project area is crossroads for wildlife from Diablo Range, Santa Cruz Range, Gabilan Range and Lomerias Muertas. This can mean essential revitalization of gene pools for all species of the region, as well as sustaining migratory flight paths for butterflies, hummingbirds and a myriad of birds of the Pacific Flyway. Native grasslands and oak woodlands are equally important to be preserved in and adjacent to project and natural bridges need to be designed to provide crossover facility to allow large animals like elk and kit fox, as well as small mammals safe continuity of wildlife corridor.

Response 22-G: *Please see Response 17-C for a discussion of this project's consideration of wildlife movement impacts and mitigation measures. We disagree that a crossover facility is necessary for elk or kit fox. It is important to note that this project's impacts under CEQA are evaluated relative to existing conditions, and neither the elk nor the kit fox are currently present in the project area. Nevertheless, most of the existing undercrossings would be suitable for use by kit foxes, if present, and the larger undercrossings (such as those at Tar Creek and the Pajaro River) would accommodate animals as large as elk.*

Comment 22-H: Culverts serve opportunity for inter-range exchange but provide predators with exceptional hunting options so not ideal.

Response 22-H: *The project alignment includes many culverts and creek crossings that provide passage for wildlife under U.S. 101. Culverts serve primarily to provide drainage, with safe passage by wildlife a secondary benefit. Numerous species were documented with remote cameras using the culverts successfully. With project implementation, wildlife use of the culverts and creek crossings would continue.*

On the other hand, road kill data indicated that numerous animals die on U.S. 101 attempting to make the surface crossings (a) where there is a solid concrete median, and (b) near some of the larger undercrossings, such as at the Pajaro River and Tar Creek. As a result, mitigation

measure MM-NATCOM-3.6 describes wildlife fencing to minimize the ability of wildlife to enter the roadway in these areas and, therefore, reduce road kill mortality.

For additional information on wildlife connectivity, please see Responses 17-C through 17-L, and 17-P.

Comment 22-I: Also, in 1980 public hearings on #101 upgrades along Coyote Creek, horsemen/horsewomen were promised equestrian underpasses which were never implemented. Believe natural bridge could accommodate either man on horseback or man leading horse. Precedent would be De Anza Trail implementation facility. Believe that Canada has designed exceptionally appealing natural bridges so please reference them here.

Response 22-I: *Section 2.1.2.2 of the EIR describes the elements of the project that will facilitate and accommodate planned trails. These elements will be designed to accommodate equestrians. See also Responses 6A and 13A.*

It is not known what the commentor means by the term "natural" bridge. If the commentor is referring to vegetated bridges that cannot be used for motorized vehicles, these types of bridges are prohibitively expensive. Regardless, the project includes facilities that will accommodate equestrians.

Comment 22-J: Other studies that might be included in this DEIR is the nitrogen deposition study that evaluated conversion of native grasses and incursion of invasives into natural grassland communities due to emissions from increased auto traffic, and archeological/paleontological studies that have recently unearthed camels as well as mammoths in region.

Response 22-J: *With regard to the effects of nitrogen deposition on certain habitats, that impact is addressed and accounted for in the recently-approved HCP/NCCP, of which this project is a "covered activity". The HCP/NCCP includes an extensive analysis of the air quality effects of development (including this project) on the serpentine habitat that is used by endangered species. The analysis concluded that the nitrogen component of such emissions does have an adverse effect on such habitat and, as a result, the HCP/NCCP includes a fee specifically related to nitrogen deposition. The fee covers such costs as the management of serpentine habitat to mitigate these adverse effects (e.g., increased invasive species control). For more information, please see Section 9.4.1 of the HCP/NCCP.*

With regard to the potential for the project to unearth fossils, that issue is addressed in Section 2.12 of the EIR and the accompanying technical Paleontological Evaluation Report. The EIR concludes that the project has the potential to impact paleontological resources and, as a result, a series of avoidance, minimization, and/or mitigation measures will be implemented. For the complete list of these measures, please see Section 2.12.5 of this EIR.

Comment 22-K: Geology element needs to provide stronger evaluation of geologic and plate tectonic impacts on Pajaro River watershed and channel evolution. Believe Coyote Creek once flowed into Pajaro and some other major river system is supposed to have dug out Monterey Bay's canyon, but not through here? Reason I feel this might be important is that whole nest of earthquake faults seem to focus on this crossover point of mountain range which might imply that upgrade design needs to be as resilient as possible to natural catastrophe.

Response 22-K: *As part of the preparation of this EIR, a Preliminary Geotechnical Report (PGR) was prepared for the purpose of identifying all geologic and soils conditions - including seismic risks - that could affect the project. The PGR included the mapping of active faults and an assessment of the magnitude of ground shaking that would be associated with the Maximum Credible Earthquake on each fault. Considering these data, the project will be designed and constructed in accordance with Caltrans' Seismic Design Criteria to avoid or minimize potential damage from seismic shaking on the site. Please see Section 2.11 of this EIR for a discussion of this issue; technical details can be found in the PGR.*

Comment 22-L: Finally, please restore as much riparian forest as possible for flood retention capabilities as well as for under flow supplied by tree roots and prevention of erosion.

Response 22-L: *The goal of creating, restoring, or enhancing riparian habitat is to achieve no net loss of habitat functions and values, such as erosion control. In many cases, however, mitigation for riparian habitat impacts can often improve functions and values on a local, watershed, and/or regional scale.*

Please see Responses 8-C and 17-M, which provide details of riparian mitigation for the project.

Comment 22-M: Trees should be noise reduction element, rather than sound walls which would only augment flood hazards both on and adjacent to freeway.

Response 22-M: *There is a common perception that trees can be substituted for soundwalls because trees are effective in lowering noise. However, the planting of trees has been shown to have little value with regard to noise reduction. The reason is that a noise reduction barrier should be a solid structure without holes in order to effectively block the transmission of sound waves. A row of trees would provide a visual screen but only a very limited noise reduction.*

RESPONSE TO COMMENT #23:

EMILY RENZEL

Comment 23-A: I completely agree with the comments submitted by Libby Lucas re widening 101 from Monterey Street in Gilroy to Highway 129.

Response 23-A: Thank you for this comment. Please see the above responses to the comments submitted by Libby Lucas.

RESPONSE TO COMMENT #24:

BOB SCALES

Comment 24-A: How much of the \$480 million cost estimate is for the portion of the project from Monterey Road to the SR 25 interchange including the connection to Old Monterey Road?

Response 24-A: The following table provides the requested cost information.

<i>Project Cost - Monterey St to SR 25 Including Connection to Old Monterey Rd.</i>		
<i>Item Description</i>	<i>Design Option A</i>	<i>Design Option B</i>
<i>Roadway</i>	<i>\$ 132.5 million</i>	<i>\$ 134.5 million</i>
<i>Structures</i>	<i>\$ 62.0 million</i>	<i>\$ 66.5 million</i>
<i>Right-of-Way</i>	<i>\$ 27.5 million</i>	<i>\$ 24.5 million</i>
<i>Escalation to 2017</i>	<i>\$ 12.0 million</i>	<i>\$ 12.5 million</i>
<i>Design Phase (PS&E)</i>	<i>\$ 16.0 million</i>	<i>\$ 16.5 million</i>
<i>Construction Administration</i>	<i>\$ 16.0 million</i>	<i>\$ 16.5 million</i>
<i>TOTAL:</i>	<i>\$ 266 million</i>	<i>\$ 271 million</i>

RESPONSE TO COMMENT #25:

TED THOENY

Comment 25-A: We would appreciate your consideration in the design of an interchange for S.H. 152 at the present intersection of US 101 and S.H.25 for traffic traveling north and east over the Pacheco Pass. This would help alleviate the present and future traffic impacts on northern San Benito County,

especially the small historic Mission town of San Juan Bautista and the farming community of the San Juan Valley. None of the interstate truck traffic traveling east or west, nor most of the commuter traffic using S.H. 156, stops in San Benito County. Utilizing highway tax dollars designated for S.H. 156 could be better spent supplementing your US 101 funding. Your consideration of keeping interstate traffic on US 101 would be greatly appreciated and would save the town of San Juan Bautista.

Response 25-A: *VTA concurs with the suggestion regarding SR 152. As stated in Section 1.3.1.12 of the EIR, the design of the reconstructed U.S. 101/SR 25 interchange will not preclude a possible realignment of SR 152 to provide a more direct connection between the SR 152/SR 156 and U.S. 101/SR 25 interchanges.*

Thank you for your comment suggesting a shift in funding from SR 156 to U.S. 101. SR 156 lies primarily in the counties of San Benito and Monterey. The proposed SR 156 Improvements Project near San Juan Bautista is entirely within San Benito County, and the development and funding of the project is being led by Caltrans in coordination with San Benito County. VTA does not have the authority to program or redirect another agency's funding.

**RESPONSE TO COMMENT #26:
JOSEPH THOMPSON**

Comment 26-A: Thanks for sending me the notice. I will submit a response as I did previously on Hwy 101, 25, 152 proposals. Based on VTA's conduct, one would think you had your own window on the ground floor of the Capitol. It's no wonder why VTA earned "worst in the Nation" ranking among your peers from the MIT Study of all the Nation's transit agencies. It is obvious why the Editorial Board of the Gilroy Dispatch has voted to terminate the VTA. I second their motion, again.

Response 26-A: *Thank you for your comment. This input will be considered by the VTA Board of Directors when considering certification of the EIR and approval of the project.*

Note: The following comments were made in the form of verbal testimony at the public hearing held on December 4, 2012. For each comment, a synopsis of each speaker's comments is shown. A copy of the public hearing transcript, which contains the verbatim oral comments, is contained in Appendix G.

**RESPONSE TO COMMENT #27:
OMAR CHATTY**

Comment 27-A: Please consider the impacts of the project on SR 25, SR 129, SR 152, and SR 156.

Response 27-A: *The study area for traffic impacts is depicted on Figure 3 in the technical Traffic Operations Analysis Report that was prepared for this project. The study area included those portions of SR 25, SR 129, SR 152, and SR 156 where the data indicate that this project could result in an impact. The analysis did not identify any substantial adverse effects on any of these highways.*

Comment 27-B: There may be a legal issue with VTA money being spent in San Diego County. This may need to be addressed.

Response 27-B: *This comment does not provide any information as to how or where VTA money is being spent in San Diego County. VTA is unaware of any of its monies being spent in San Diego County and believes that this statement is not correct.*

Comment 27-C: Please, no tolls on this project.

Response 27-C: *Thank you for this comment. There are no plans for tolls associated with this project.*

Comment 27-D: Please address the effects of the sun in drivers' eyes. Will some type of mitigation for this impact be necessary?

Response 27-D: *It is understood that there are certain times of the day and certain circumstances (e.g., direction of travel) where the sun can interfere with drivers' vision. It is also acknowledged that there are some projects that build facilities that direct glare from sunlight into drivers' eyes, a prime example of which would be a high-rise building with reflective glass on its exterior. However, this project is not building any such facilities or creating any circumstances that would create new sources of glare and/or exacerbate existing problems associated with sunlight. Therefore, no mitigation will be necessary.*

Comment 27-E: Please consider berms with vegetation instead of soundwalls.

Response 27-E: *For a berm to be as effective as a soundwall in terms of reducing noise, it would need to be the same height. For a berm, this would require a large footprint to accommodate slopes in a manner that does not cause erosion or slope failure. Thus, berms are practical only at locations where there is a substantial amount of room between the highway and the adjacent land use. Further, when comparing berms with soundwalls, other impacts such as greater right-of-way cost, increased land use impacts (e.g., greater loss of farmland), and maintenance costs need to be considered. In this case, in reviewing the locations where soundwalls were evaluated, the use of berms would not be a practical alternative.*

Comment 27-F: Please consider the impact of the project on emergency vehicles.

Response 27-F: *This issue is evaluated in Section 2.5 of the EIR. As stated in that section, "emergency services would indirectly benefit from the proposed project in that, by reducing peak commute period congestion, emergency vehicle response times will be reduced. The project will not sever or alter any emergency evacuation routes." In addition, with regard to the construction phase, Section 2.22.1 of the EIR states that "the effect of the project on emergency vehicle response times during construction will be minimal because road closures are not anticipated and lane closures will be limited to off-peak periods. Coordination with emergency services regarding lane closures, etc. will be part of the Traffic Management Plan."*

Comment 27-G: Regarding relocations, do you relocate businesses near off-ramps?

Response 27-G: *VTA does not physically relocate businesses. Section 2.4 discusses real property acquisition and relocations. Relocations from the project are identified in Table 13. Properties involving relocations would receive fair market value and relocation assistance in accordance with the provisions of the Caltrans Relocation Assistance Program; see Appendix C of the EIR.*

RESPONSE TO COMMENT #28:

CAROL TOGNETTI

Comment 28-A: I am concerned about farmland impacts, especially Design Option A that takes more farmland. What about the agricultural properties where only a portion of the parcel will be taken? Will the remainder be usable and, in particular, will there be access?

Response 28-A: *As stated in Section 2.3.5 of the EIR, the project has been designed to reduce its footprint to the greatest extent practicable so as to minimize impacts to farmland. Where right-of-way will be needed from agricultural properties, only the minimum amount needed for*

the project will be acquired. The intent is that the remainder of the parcel would still be viable for farming and, if warranted, replacement access will be provided by the project. In certain limited cases, the remainder of a parcel may not be viable, in which case the entire parcel would be acquired at fair market value. The calculations of farmland impacts contained in Section 2.3 have accounted for such situations.

Comment 28-B: I am concerned about greenhouse gases. Did you comply with regulations related to climate change?

Response 28-B: *Section 2.15 of the EIR is devoted entirely to the subject of greenhouse gases and climate change and was written to comply with applicable regulations. The section includes an analysis of greenhouse gas emissions associated with the project. For an overview of current regulations and policies pertaining to this issue, please see Section 2.15.1.*

Comment 28-C: I am glad that the project is addressing the issue of wildlife connectivity.

Response 28-C: *Thank you for this comment. This input will be considered by the VTA Board of Directors when considering certification of the EIR and approval of the project.*

RESPONSE TO COMMENT #29:

JIMMY GALTMAN

Comment 29-A: I am concerned about noise. There is a truck stop directly across from my property. Noise from trucks, especially their “jake brakes” is annoying. We would like a soundwall even though it’s probably not cost-effective.

Response 29-A: *Mr. Galtman also submitted this comment in writing. Please see Comment #21-B and the accompanying response.*

Comment 29-B: When they built U.S. 101 around Gilroy it created a dam. We were flooded in 1986. I’m concerned that if you elevate the area between where I live and Carnadero Creek, you will create a dam and water won’t be able to get through. Please consider the bridge you’re going to rebuild over Carnadero Creek; will the grade level stay the same?

Response 29-B: *The project will not result in an increase in flooding or the water surface elevation at this location under either Design Option A or Design Option B. For details regarding the effect of the project on flooding in this area, please see the technical Location Hydraulic Study.*

Comment 29-C: Will there be an easement on the frontage road that I live on? I have a bunch of pine trees across the front of my property, which essentially are there for a sound barrier. They're dying due to pitch canker and I've already removed about one dozen. Will these trees be impacted by the project?

Response 29-C: *Based on the preliminary plans developed to date, only some vegetation may need to be removed to accommodate the width of the roadway, as well as to maintain an adequate clearance zone between the travel lanes and the trees for safety purposes. It is expected that the majority of the trees will remain. Note that while trees provide a visual screen, they have been shown to provide very little noise reduction*

**RESPONSE TO COMMENT #30:
JOLENE COSIO**

Comment 30-A: I live in San Juan Bautista and I do not understand why Design Option A would even be considered since Option B uses up so much less prime farmland. It appears that Design Option B should be the preferred option.

Response 30-A: *Thank you for this comment. Your preference for the selection of Design Option B is noted for the record. This preference is consistent with the recommendation of the project development team, as discussed in Section 1.3.4 of this Final EIR.*

Comment 30-B: I don't know that driveways on a highway are as bad as Caltrans and VTA think they are. With proper acceleration and deceleration lanes, I think you can accommodate businesses along a highway.

Response 30-B: *U.S. 101 is a designated freeway north and south of the project site; therefore this segment of the corridor needs to be upgraded to freeway standards to match the adjacent segments. Freeways are known as "access-controlled" highways, with driveways and at-grade intersections not allowed. This control facilitates the safe movement of large numbers of vehicles at higher speeds without issues associated with ingress/egress except at interchanges.*

**RESPONSE TO COMMENT #31:
ALEX LARSON**

Comment 31-A: My brother and I own Rapazzini Winery and The Garlic Shoppe. The EIR says we will receive fair market value. However, in 1985, you constructed an overpass right in front of us, which resulted in a loss of 50% of our business. Then, you put a median down the middle of the road, which took away our southbound access, which resulted in another 30% loss of business. So, will you compensate us for the total effect of everything you've done in a piecemeal fashion over the years?

Response 31-A: *The fair market value of these businesses will be determined during the right-of-way phase. The procedure for acquiring right-of-way, including the determination of fair market value, is based on the Real Property Acquisition Policies Act of 1970. The process includes appraisals and procedures to be followed if there is a disagreement over value. In addition, businesses will also receive relocation assistance in accordance with Caltrans' Relocation Assistance Program, a copy of which is reproduced in Appendix C of this document.*

**RESPONSE TO COMMENT #32:
JOE RIZUTTO**

Comment 32-A: We've been at 5625-5655 Monterey Frontage Road since 1908. They took 90 feet from us the first time, then 150 feet the second time. Are they going to take more this time?

Response 32-A: *According to Table 3 of the EIR, the project will require 0.1 acre of right-of-way from APN 808-22-003 at 5655 Monterey Road, as well as 0.1 acre of right-of-way from APN 808-22-012 at 5625 Monterey Road. No structures on either parcel will be impacted.*

Comment 32-B: I don't know what they're going to do with the frontage road. If they raise the bridge at Carnadero Creek, the water will back up and flood us.

Response 32-B: *The project will not result in an increase in flooding or the water surface elevation at this location under either Design Option A or Design Option B. For details regarding the effect of the project on flooding in this area, please see the technical Location Hydraulic Study.*

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Donna Ball, M.S., Restoration Ecologist
Robin Carle, M.S., Wildlife Ecologist
Bat biologist Dave Johnston, Ph.D., Bat Biologist
Jennifer Brown, Ph.D., Fisheries Ecologist
Sharon Kramer, Ph.D., Fisheries Ecologist

Illingworth & Rodkin, Inc. [Noise, Air Quality, & MSAT Studies]

Michael S. Thill, Senior Consultant

James Reyff, Senior Consultant
Alina Pommerenck, Consultant
Keith Pommerenck, Consultant

Ninyo & Moore [Preliminary Geotechnical Report and Initial Site Assessment]

Greg Corson, Project Geologist
Mark Caruso, Principal Engineering Geologist
Terence Wang, Principal Engineer
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Kristopher Larson, Senior Environmental Geologist

Infrastructure Engineering Corporation [Paleontological Evaluation Report Addendum]

Anna Busing, Principal

Haygood & Associates [Visual Impact Assessment]

Leah Haygood, Principal
Charlene Saito, Photosimulations

WRECO, Inc. [Stormwater Data Report and Location Hydraulic Study]

Han-Bin Liang, Principal
Analette A. Ochoa, Senior Associate

CHAPTER 6 DISTRIBUTION LIST

This EIR was distributed to the following legislators, public officials, agencies and organizations:

Legislators and Public Officials

- U.S. Senator Dianne Feinstein
- U.S. Senator Barbara Boxer
- U.S. Representative Mike Honda
- U.S. Representative Sam Farr
- California Senator Elaine Alquist
- California Senator Anthony Cannella
- California Assemblyman Luis Alejo
- Santa Clara County Supervisor Mike Wasserman
- San Benito County Supervisor Anthony Botelho
- City of Gilroy Mayor Al Pinheiro

Federal Agencies

- U.S. Fish & Wildlife Service (Sacramento Office)
- U.S. Army Corps of Engineers (San Francisco District)
- NOAA Fisheries Service (Santa Rosa & Long Beach Offices)
- National Park Service (De Anza National Historic Trail, Oakland)

State Agencies (via State Clearinghouse)

- California Highway Patrol
- California Department of Fish & Wildlife (Region 3)
- California Department of Toxic Substances Control
- California Department of Conservation
- Regional Water Quality Control Board (Central Coast Region)
- California Public Utilities Commission
- State Historic Preservation Office
- California Transportation Commission

Regional Agencies

- Metropolitan Transportation Commission
- Association of Bay Area Governments
- Association of Monterey Bay Area Governments
- Council of San Benito County Governments
- Bay Area Air Quality Management District

- Monterey Bay Unified Air Pollution Control District
- Santa Clara Valley Water District
- Pajaro River Watershed Flood Prevention Authority
- San Benito County Express
- Monterey-Salinas Transit

Local Agencies

- City of Gilroy
- City of Hollister
- San Benito County Planning Department
- Santa Clara County Planning Department
- Santa Clara County Parks & Recreation Department
- Santa Clara County Roads & Airports Department
- Santa Clara County Open Space Authority

Organizations

- Pacific Gas & Electric Company
- Bay Area Ridge Trail Council
- Gavilan College