

# **Appendix A**

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## **CEQA Checklist**

# CEQA Environmental Checklist

04-SCL-101-25  
05-SBT-101

0.0-5.0; 1.6-2.5  
4.9-7.5

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P.M/P.M.

E.A.

This checklist identifies physical, biological, social and economic factors that might be affected by the proposed project. In many cases, background studies performed in connection with the projects indicate no impacts. A NO IMPACT answer in the last column reflects this determination. Where there is a need for clarifying discussion, the discussion is included either following the applicable section of the checklist or is within the body of the environmental document itself. The words "significant" and "significance" used throughout the following checklist are related to CEQA, not NEPA, impacts. The questions in this form are intended to encourage the thoughtful assessment of impacts and do not represent thresholds of significance.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
<b>I. AESTHETICS:</b> Would the project:				
a) Have a substantial adverse effect on a scenic vista	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**II. AGRICULTURE AND FOREST RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**III. AIR QUALITY:** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**IV. BIOLOGICAL RESOURCES:** Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**V. CULTURAL RESOURCES:** Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**VI. GEOLOGY AND SOILS:** Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**VII. GREENHOUSE GAS EMISSIONS:** Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?
- b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

An assessment of the greenhouse gas emissions and climate change is included in the body of environmental document. While Caltrans has included this good faith effort in order to provide the public and decision-makers as much information as possible about the project, it is Caltrans determination that in the absence of further regulatory or scientific information related to GHG emissions and CEQA significance, it is too speculative to make a significance determination regarding the project's direct and indirect impact with respect to climate change. Caltrans does remain firmly committed to implementing measures to help reduce the potential effects of the project. These measures are outlined in the body of the environmental document.

**VIII. HAZARDS AND HAZARDOUS MATERIALS:** Would the project:

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**IX. HYDROLOGY AND WATER QUALITY:** Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**X. LAND USE AND PLANNING:** Would the project:

a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XI. MINERAL RESOURCES:** Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XII. NOISE:** Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XIII. POPULATION AND HOUSING:** Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**XIV. PUBLIC SERVICES:**

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XV. RECREATION:**

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**XVI. TRANSPORTATION/TRAFFIC:** Would the project:

- |   |                          |                          |                                     |                                     |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**XVII. UTILITIES AND SERVICE SYSTEMS:** Would the project:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XVIII. MANDATORY FINDINGS OF SIGNIFICANCE**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

# **Appendix B**

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## **Title VI Policy Statement**

**DEPARTMENT OF TRANSPORTATION**

OFFICE OF THE DIRECTOR  
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SACRAMENTO, CA 94273-0001  
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*'Flex your power'  
Be energy efficient'*


July 20, 2010

### TITLE VI POLICY STATEMENT

The California Department of Transportation, under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person in the State of California shall, on the grounds of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers.

For information or guidance on how to file a complaint based on the grounds of race, color, national origin, sex, disability, or age, please visit the following web page:  
[http://www.dot.ca.gov/hq/bep/title\\_vi/t6\\_violated.htm](http://www.dot.ca.gov/hq/bep/title_vi/t6_violated.htm).

Additionally, if you need this information in an alternate format, such as in Braille or in a language other than English, please contact Charles Wahnnon, Manager, Title VI and Americans with Disabilities Act Program, California Department of Transportation, 1823 14<sup>th</sup> Street, MS-79, Sacramento, CA 95811. Phone: (916) 324-1353 or toll free 1-866-810-6346 (voice), TTY 711, fax (916) 324-1869, or via email: [charles\\_wahnnon@dot.ca.gov](mailto:charles_wahnnon@dot.ca.gov).

  
CINDY MCKIM  
Director

# **Appendix C**

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## **Summary of Relocation Benefits**

## **California Department of Transportation Relocation Assistance Program**

### **DECLARATION OF POLICY**

“The purpose of this title is to establish a **uniform policy for fair and equitable treatment** of persons displaced as a result of federal and federally assisted programs in order that such persons **shall not suffer disproportionate injuries** as a result of programs designed for the benefit of the public as a whole.”

The Fifth Amendment to the U.S. Constitution states, “No Person shall...be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation.” The Uniform Act sets forth in statute the due process that must be followed in Real Property acquisitions involving federal funds. Supplementing the Uniform Act is the government-wide single rule for all agencies to follow, set forth in 49 Code of Federal Regulations, Part 24. Displaced individuals, families, businesses, farms, and nonprofit organizations may be eligible for relocation advisory services and payments, as discussed below.

### **FAIR HOUSING**

The Fair Housing Law (Title VIII of the Civil Rights Act of 1968) sets forth the policy of the United States to provide, within constitutional limitations, for fair housing. This Act, and as amended, makes discriminatory practices in the purchase and rental of most residential units illegal. Whenever possible, minority persons shall be given reasonable opportunities to relocate to any available housing regardless of neighborhood, as long as the replacement dwellings are decent, safe, and sanitary and are within their financial means. This policy, however, does not require Caltrans to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

Any persons to be displaced will be assigned to a relocation advisor, who will work closely with each displacee in order to see that all payments and benefits are fully utilized, and that all regulations are observed, thereby avoiding the possibility of displacees jeopardizing or forfeiting any of their benefits or payments. At the time of the initiation of negotiations (usually the first written offer to purchase), owner-occupants are given a detailed explanation of the state's relocation services. Tenant occupants of properties to be acquired are contacted soon after the initiation of negotiations, and also are given a detailed explanation of the Caltrans Relocation Assistance Program. To avoid loss of possible benefits, no individual, family, business, farm, or nonprofit organization should commit to purchase or rent a replacement property without first contacting a Caltrans relocation advisor.

## **RELOCATION ASSISTANCE ADVISORY SERVICES**

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Caltrans will provide relocation advisory assistance to any person, business, farm or nonprofit organization displaced as a result of the acquisition of real property for public use, so long as they are legally present in the United States. Caltrans will assist eligible displacees in obtaining comparable replacement housing by providing current and continuing information on the availability and prices of both houses for sale and rental units that are "decent, safe and sanitary." Nonresidential displacees will receive information on comparable properties for lease or purchase (For business, farm and nonprofit organization relocation services, see below).

Residential replacement dwellings will be in a location generally not less desirable than the displacement neighborhood at prices or rents within the financial ability of the individuals and families displaced, and reasonably accessible to their places of employment. Before any displacement occurs, comparable replacement dwellings will be offered to displacees that are open to all persons regardless of race, color, religion, sex, national origin, and consistent with the requirements of Title VIII of the Civil Rights Act of 1968. This assistance will also include the supplying of information concerning Federal and State assisted housing programs, and any other known services being offered by public and private agencies in the area.

Persons who are eligible for relocation payments and who are legally occupying the property required for the project will not be asked to move without first being given at least 90 days written notice. Residential occupants eligible for relocation payment(s) will not be required to move unless at least one comparable "decent, safe and sanitary" replacement dwelling, available on the market, is offered to them by Caltrans.

## **RESIDENTIAL RELOCATION PAYMENTS**

The Relocation Assistance Program will help eligible residential occupants by paying certain costs and expenses. These costs are limited to those necessary for or incidental to the purchase or rental of a replacement dwelling and actual reasonable moving expenses to a new location within 50 miles of the displacement property. Any actual moving costs in excess of the 50 miles are the responsibility of the displacee. The Residential Relocation Assistance Program can be summarized as follows:

### Moving Costs

Any displaced person, who lawfully occupied the acquired property, regardless of the length of occupancy in the property acquired, will be eligible for reimbursement of moving costs.

Displacees will receive either the actual reasonable costs involved in moving themselves and personal property up to a maximum of 50 miles, or a fixed payment based on a fixed moving cost

schedule. Lawful occupants who move into the displacement property after the initiation of negotiations must wait until the Department obtains control of the property in order to be eligible for relocation payments.

#### Purchase Differential

In addition to moving and related expense payments, fully eligible homeowners may be entitled to payments for increased costs of replacement housing.

Homeowners who have owned and occupied their property for 180 days or more prior to the date of the initiation of negotiations (usually the first written offer to purchase the property), may qualify to receive a price differential payment and may qualify to receive reimbursement for certain nonrecurring costs incidental to the purchase of the replacement property. An interest differential payment is also available if the interest rate for the loan on the replacement dwelling is higher than the loan rate on the displacement dwelling, subject to certain limitations on reimbursement based upon the replacement property interest rate. The maximum combination of these three supplemental payments that the owner-occupant can receive is \$22,500. If the total entitlement (without the moving payments) is in excess of \$22,500, the Last Resort Housing Program will be used (See the explanation of the Last Resort Housing Program below).

#### Rent Differential

Tenants and certain owner-occupants (based on length of ownership) who have occupied the property to be acquired by Caltrans prior to the date of the initiation of negotiations may qualify to receive a rent differential payment. This payment is made when Caltrans determines that the cost to rent a comparable "decent, safe and sanitary" replacement dwelling will be more than the present rent of the displacement dwelling. As an alternative, the tenant may qualify for a down payment benefit designed to assist in the purchase of a replacement property and the payment of certain costs incidental to the purchase, subject to certain limitations noted under the Down Payment section below. The maximum amount payable to any eligible tenant and any owner-occupant of less than 180 days, in addition to moving expenses, is \$5,250. If the total entitlement for rent supplement exceeds \$5,250, the Last Resort Housing Program will be used.

In order to receive any relocation benefits, the displaced person must buy or rent and occupy a "decent, safe and sanitary" replacement dwelling within one year from the date the Department takes legal possession of the property, or from the date the displacee vacates the displacement property, whichever is later.

#### Down Payment

The down payment option has been designed to aid owner-occupants of less than 180 days and tenants in legal occupancy prior to Caltrans' initiation of negotiations. The down payment and incidental expenses cannot exceed the maximum payment of \$5,250. The one-year eligibility



period in which to purchase and occupy a "decent, safe and sanitary" replacement dwelling will apply.

#### Last Resort Housing

Federal regulations (49 CFR 24) contain the policy and procedure for implementing the Last Resort Housing Program on federal-aid projects. Last Resort Housing benefits are, except for the amounts of payments and the methods in making them, the same as those benefits for standard residential relocation as explained above. Last Resort Housing has been designed primarily to cover situations where a displacee cannot be relocated because of lack of available comparable replacement housing, or when the anticipated replacement housing payments exceed the \$22,500 and \$5,250 limits of the standard relocation procedure, because either the displacee lacks the financial ability or other valid circumstances.

After the initiation of negotiations, Caltrans will within a reasonable length of time, personally contact the displacees to gather important information, including the following:

- Number of people to be displaced;
- Specific arrangements needed to accommodate any family member(s) with special needs;
- Financial ability to relocate into comparable replacement dwelling which will adequately house all members of the family;
- Preferences in area of relocation;
- " Location of employment or school.

### **NONRESIDENTIAL RELOCATION ASSISTANCE**

The Nonresidential Relocation Assistance Program provides assistance to businesses, farms and nonprofit organizations in locating suitable replacement property, and reimbursement for certain costs involved in relocation. The Relocation Advisory Assistance Program will provide current lists of properties offered for sale or rent, suitable for a particular business's specific relocation needs. The types of payments available to eligible businesses, farms and nonprofit organizations are: searching and moving expenses, and possibly reestablishment expenses; or a fixed in lieu payment instead of any moving, searching and reestablishment expenses. The payment types can be summarized as follows:

#### Moving Expenses

Moving expenses may include the following actual, reasonable costs:

- The moving of inventory, machinery, equipment and similar business-related property, including: dismantling, disconnecting, crating, packing, loading, insuring, transporting, unloading, unpacking, and reconnecting of personal property. Items acquired in the Right

of Way contract may not be moved under the Relocation Assistance Program. If the displacee buys an Item Pertaining to the Realty back at salvage value, the cost to move that item is borne by the displacee.

- Loss of tangible personal property provides payment for actual, direct loss of personal property that the owner is permitted not to move.
- Expenses related to searching for a new business site, up to \$2,500, for reasonable expenses actually incurred.

#### Reestablishment Expenses

Reestablishment expenses related to the operation of the business at the new location, up to \$10,000 for reasonable expenses actually incurred.

#### Fixed In Lieu Payment

A fixed payment in lieu of moving, searching, and reestablishment payments may be available to businesses which meet certain eligibility requirements. This payment is an amount equal to half the average annual net earnings for the last two taxable years prior to the relocation and may not be less than \$1,000 nor more than \$20,000.

### **ADDITIONAL INFORMATION**

Reimbursement for moving costs and replacement housing payments are not considered income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the extent of eligibility of a displacee for assistance under the Social Security Act, or any other law, except for any Federal law providing local "Section 8" Housing Programs.

Any person, business, farm or nonprofit organization which has been refused a relocation payment by the Caltrans relocation advisor or believes that the payment(s) offered by the agency are inadequate, may appeal for a special hearing of the complaint. No legal assistance is required. Information about the appeal procedure is available from the relocation advisor.

California law allows for the payment for lost goodwill that arises from the displacement for a public project. A list of ineligible expenses can be obtained from Caltrans Right of Way. California's law and the federal regulations covering relocation assistance provide that no payment shall be duplicated by other payments being made by the displacing agency.

### **RESIDENTIAL RELOCATION PAYMENTS PROGRAM**

The links below are to the Relocation Assistance for Residential Relocation Brochure.

- [http://www.dot.ca.gov/hq/row/pubs/residential\\_english.pdf](http://www.dot.ca.gov/hq/row/pubs/residential_english.pdf)
- [http://www.dot.ca.gov/hq/row/pubs/residential\\_spanish.pdf](http://www.dot.ca.gov/hq/row/pubs/residential_spanish.pdf)

# **Appendix D**

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## **List of Acronyms**

# List of Acronyms

ABAG	Association of Bay Area Governments
AMBAG	Association of Monterey Bay Area Governments
BAAQMD	Bay Area Air Quality Management District
BSA	biological study area
CalEPA	California Environmental Protection Agency
CARB	California Air Resources Board
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CO	carbon monoxide
CO <sub>2</sub>	carbon dioxide
CRHR	California Register of Historic Resources
CWA	Clean Water Act
EB	eastbound
EPA	Environmental Protection Agency
ESU	evolutionary significant unit
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
GHG	greenhouse gas
HCP	habitat conservation plan
HOV	high occupancy vehicle
ISA	Initial Site Assessment
LESA	Land Evaluation & Site Assessment
LOS	level of service
MBUAPCD	Monterey Bay Unified Air Pollution Control District
MCE	maximum credible earthquake
MPO	metropolitan planning organization
MS4	municipal separate storm sewer system
MSATs	mobile source air toxics
MTC	Metropolitan Transportation Commission

NAAQS	National Ambient Air Quality Standards
NB	northbound
NCCP	natural communities conservation plan
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NO <sub>2</sub>	nitrogen dioxide
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
O <sub>3</sub>	ozone
PM	particulate matter
POC	pedestrian overcrossing
PRC	(California) Public Resources Code
RAP	Relocation Assistance Program
RCB	reinforced concrete box
RCP	reinforced concrete pipe
RCRA	Resource Conservation and Recovery Act
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	southbound
SCVWD	Santa Clara Valley Water District
SHPO	State Historic Preservation Officer
SO <sub>2</sub>	sulfur dioxide
SR	State Route
SWMP	Stormwater Management Plan
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TMDL	total maximum daily load
WB	westbound
WDR	waste discharge requirement
VOC	volatile organic compound
VTA	Santa Clara Valley Transportation Authority
VTP 2035	Valley Transportation Plan 2035

# **Appendix E**

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## **List of Technical Studies**

# List of Technical Studies

The following technical studies were prepared during the preparation of this EIR for this project.

These studies are available for review at the locations listed inside the front cover of this document.

Traffic Operations Assessment Report (Dowling Associates)

Visual Impact Assessment (Haygood & Associates)

Land Evaluation Suitability Assessment (LESA) Report (David J. Powers & Associates)

Historic Properties Compliance Report (Far Western Anthropological Research Group)

Historic Resources Evaluation Report (JRP Historical Consulting)

Archaeological Survey Report (Far Western Anthropological Research Group)

Location Hydraulic Study (WRECO)

Stormwater Data Report (WRECO)

Preliminary Geotechnical Report (Ninyo & Moore)

Paleontological Evaluation Report Addendum (Infrastructure Engineering Corporation)

Initial Site Assessment (Ninyo & Moore)

Air Quality Report (Illingworth & Rodkin)

Mobile Source Air Toxics Report (Illingworth & Rodkin)

Noise Study Report (Illingworth & Rodkin)

Natural Environment Study (H.T. Harvey & Associates)

# **Appendix F**

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## **Comments Received on the Draft EIR**





# DEPARTMENT OF CONSERVATION

*Managing California's Working Lands*

## DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE [conservation.ca.gov](http://conservation.ca.gov)

April 29, 2013

VIA EMAIL to [101 Widening@VTA.org](mailto:101_Widening@VTA.org)

FAX at (408) 321-7535

Santa Clara Valley Transportation Authority

Environmental Programs and Resources Management Dept.

3331 North First Street – Building B-2

San Jose, CA 95134-1927

Attn: Ann Calnan

Subject: U.S. 101 IMPROVEMENT PROJECT BETWEEN MONTEREY STREET AND STATE ROUTE 129; DRAFT ENVIRONMENTAL IMPACT REPORT (SANTA CLARA AND SAN BENITO COUNTIES) SCH# 2007102141; WANG FARM AGRICULTURAL CONSERVATION EASEMENT

Dear Ms. Calnan:

The Department of Conservation's Division of Land Resource Protection has reviewed the Draft Environmental Impact Report (DEIR) for the referenced project. The Department's Division of Land Resource Protection monitors farmland conversion on a statewide basis and administers the California Land Conservation Act (Williamson Act), the California Farmland Conservancy Program (CFCP), the Farmland Mapping and Monitoring Program (FMMP); and other agricultural land conservation programs. We offer the following comments.

### Project Description

The Santa Clara Valley Transportation Authority (VTA) has prepared this DEIR in its role as the Lead Agency under the California Environmental Quality Act (CEQA). The VTA, in cooperation with the California Department of Transportation (Caltrans), proposes improvements to U.S. 101 in southern Santa Clara County and northern San Benito County.

### Impacts to Agricultural Conservation Easements

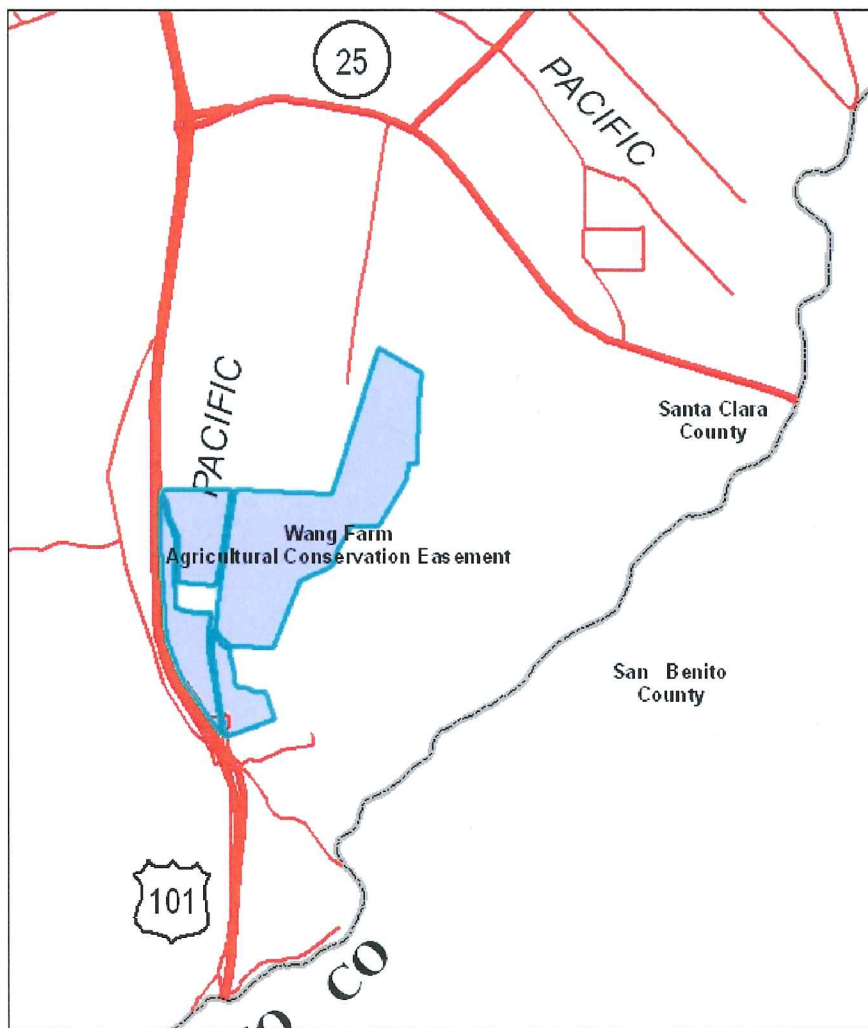
The VTA DEIR does not acknowledge that 282-acre Wang Farm Agricultural Conservation Easement<sup>1</sup> ("Wang Farm") may be impacted by the proposed project. The Wang Farm (Figure 1) is under a permanent agricultural conservation easement held by the Silicon Valley Land Conservancy.

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<sup>1</sup> Wang Farm Agricultural Conservation Easement: APN 841-036-011 (portion)

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.

Figure 1:



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.

Santa Clara Valley Transportation Authority

April 29, 2013

Page 3 of 3

Thank you for giving us the opportunity to comment on this DEIR. If you have questions on our comments, please contact Tim Bryant, CFCP Grant Manager, at (209) 742-6191; or for Williamson Act related questions Meri Meraz at (916) 445-9411, 801 K Street, MS 18-01, Sacramento, California 95814.

Sincerely,

A handwritten signature in blue ink that reads "Molly A. Penberth". The signature is written in a cursive style and is positioned above a horizontal line.

Molly A. Penberth, Manager  
Division of Land Resource Protection  
Conservation Program Support Unit

cc:  
State Clearinghouse

Silicon Valley Land Conservancy, 117 Bernal Rd, #70-181, San Jose, CA 95119

USDA-NRCS-Farm and Ranchland Protection Program 430 G Street, #4164  
Davis, California 95616

## Memorandum

*Flex your power!  
Be energy efficient!*

**To:** NICK SALEH  
Regional Project Manager  
Project Management South

**Date:** April 25, 2013

**File:** 3A160

**From:** CRISTIN HALLISSY *CH*  
Branch Chief  
Office of Environmental Analysis

**Subject:** US 101 Improvement Project Between Monterey St. and SR 129 DEIR OEA Comments

The Office of Environmental Analysis offers the following comments on the Draft Environmental Impact Report for the U.S. 101 Improvement Project between Monterey Street and State Route 129 in Santa Clara and San Benito Counties. The Santa Clara Valley Transportation Agency (VTA) is the CEQA lead agency for this project, and the California Department of Transportation (Caltrans) is a CEQA responsible agency.

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.

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.

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.

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 may be 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.

**c:** File

**From:** Moonjian, Jennifer M@DOT  
**Sent:** Thursday, April 25, 2013 2:18 PM  
**To:** Olejnik, John@DOT  
**Cc:** Siepel, Nancy R@DOT; Bonner, Larry E@DOT  
**Subject:** Hwy 101 Improvement Project - DEIR Comments from D-5 Bio

Dear John,

Below are my comments for the 101 Widening Project. Let me know if you have any questions or concerns.

Thank you,  
Jennifer Moonjian  
Biologist (District 5)  
805-542-4763

Highway 101 Improvement Project between Monterey Street and State Route 129  
Draft Environmental Impact Report  
Comments from Jennifer Moonjian  
25 April 2013

1. 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..."
2. 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. Szweczek 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.
3. 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.
4. 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.
5. 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.
6. Page 173: 2.17.3.4 : Same comment as #1.
7. 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.
8. 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.
9. 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.

10. 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.

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

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

**From:** Jan Bernstein-Chargin [<mailto:jbchargin@gavilan.edu>]

**Sent:** Friday, April 12, 2013 1:02 PM

**To:** 101\_Widening

**Subject:** Comments on Draft EIR: U.S. 101 Improvement Project between Monterey Street and State Route 129

Attn: Ann Calnan

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:

1. 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.
2. 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.
3. Access to northbound Santa Teresa Blvd from Southbound 101 must be assured.
4. Access to northbound 101 from southbound Santa Teresa Blvd. must be assured. It does not look as though option 2 provides for this.
5. 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.
6. It will be important to consider access to and from the campus during construction.

Thank you for your consideration.

Jan Bernstein Chargin  
Director, Public Information  
Gavilan College  
(408) 848-4724



April 29, 2013

Submitted Via E-mail

Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Dept.  
Attn: Ann Calnan  
3331 North First Street - Building B-2  
San Jose, California 95134-1927  
[101\\_Widening@VTA.org](mailto:101_Widening@VTA.org)

Subject: U.S. 101 Improvement Project between Monterey Street and State Route 129  
Draft Environmental Impact Report (SCH 2007102141)

Dear Ms. Calnan:

Thank you for providing the Monterey Bay Unified Air Pollution Control District (Air District) the opportunity to comment on the above-referenced document. The Air District has reviewed the document and has the following general and specific comments to address the air quality and climate change sections.

#### General Comments on Section 2.14 Air Quality and Air Quality Report

- 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.
- 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](http://www.mbuapcd.org/mbuapcd/pdf/mbuapcd/pdf/CEQA_full.pdf).
- 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.

#### Specific Comments

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.

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: <http://www.arb.ca.gov/toxics/atcm/asb2atcm.htm>.

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.
- 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.

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.
- 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.

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.
- 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:
  - Construct shoulders with a minimum width of eight feet.
  - Construct medians with minimum of four foot wide shoulders.
  - Plant ground cover to paved edge of roadway to stabilize shoulders and reduce fire hazard from dry weeds.
  - Pave or use non-toxic surfactants on unpaved shoulders and turnouts.
  - Plant hedges or shrubs along the Right of Way to reduce offsite migration of “dust devils” caused by large trucks traveling at high speeds.
  - Plant hedges in medians.
  - Promptly remove soil deposits after wind or storm events

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 CO<sub>2</sub>, as well as other pollutants such as NO<sub>x</sub> increase above 55 mph, excess emissions associated with this change should be estimated and compared to the applicable Air District CEQA significance thresholds.

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 CO<sub>2</sub> per year would result in a significant impact. Table 27 reports the potential annual CO<sub>2</sub> 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.

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>

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>.

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 (NOx and VOC).

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.

Please contact me if you have questions, I can be reached at (831) 647-9418 ext. 227 or [aclymo@mbuapcd.org](mailto:aclymo@mbuapcd.org).

Best regards,



Amy Clymo  
Supervising Air Quality Planner

cc: Mike Gilroy, Deputy Air Pollution Control Officer



# United States Department of the Interior



NATIONAL PARK SERVICE  
Pacific West Region  
Juan Bautista de Anza National Historic Trail  
333 Bush Street, Suite 500  
San Francisco, California 94104

IN REPLY REFER TO:

April 25, 2013

VTA Environmental Programs/Resources Management Dept.  
Attn: Ann Calnan  
3331 N. First St., Bldg. B-2  
San Jose, CA 95134

RE: US 101 Improvement Project – Monterey St. to State Route 129

Dear Ms. Calnan:

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 is 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.

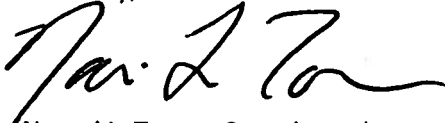
Due to the Anza Trail's planned alignment with the Bay Area Ridge Trail for the east-west connection across the valley, NPS concurs the Bay Area Ridge Trail Council's recommendation that VTA adopt Alternative 2, which includes a multiuse trail connection along Carnadero Creek, under the freeway bridges.

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.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Naomi L. Torres". The signature is fluid and cursive, with a long horizontal flourish at the end.

Naomi L. Torres, Superintendent  
Juan Bautista de Anza National Historic Trail

Cc: Bern Smith, Bay Area Ridge Trail Council  
Jane Mark, Santa Clara County Parks and Recreation Department  
Janelle Cox, San Benito County Parks and Recreation Commission

April 29, 2013

Member Agencies:

County of Monterey

Ann Calnan  
VTA Environmental Programs/  
Resources Management  
3331 North First Street, Bldg. B-2  
San Jose, CA 95134-1927

County of San Benito

County of Santa Clara

County of Santa Cruz

Dear Ms. Calnan:

Monterey County Water  
Resources Agency

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.

San Benito County  
Water District

Santa Clara Valley  
Water District

Santa Cruz County Zone  
7 Flood Control District

Comment No. 1 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 and Water Conservation District, Zone 7

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/>.

Comment No. 2 Summary Page x - Impact HYDRO-6 and Section 2.9.2.5 – Impacts to the Pajaro River Floodplain

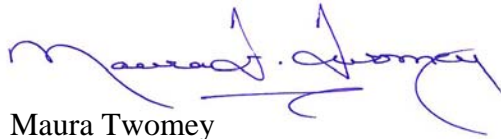
The US 101 Improvement Project will include replacement of the existing U.S. 101 bridge over the Pajaro River. Betabel Road will also be extended and will include a new 3-span bridge over the Pajaro River. The new bridges will fill approximately 20.5 acre-feet of the floodplain of the river. For the 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 0.1feet. 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.

Thank you for your consideration.

Sincerely,



Maura Twomey  
Executive Coordinator  
PRWFPA



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## Central Coast Regional Water Quality Control Board

April 29, 2013

Ann Calnan  
Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Department  
3331 North First Street, Building B-2  
San Jose, CA 65134-1927  
Email: ann.calnan@vta.org

**BY ELECTRONIC MAIL**

Dear Ms. Calnan:

**CENTRAL COAST WATER BOARD COMMENTS ON THE MARCH 2013 DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE U.S. 101 IMPROVEMENT PROJECT BETWEEN MONTEREY STREET AND STATE ROUTE 129, SANTA CLARA AND SAN BENITO COUNTIES, FILE NO. 430313CQ1**

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the above-referenced project. The Central Coast Regional Water Quality Control Board (Central Coast Water Board) is a responsible agency under the California Environmental Quality Act (CEQA). Central Coast Water Board staff understands that the proposed U.S. Highway 101 Improvement Project between Monterey Street and State Route 129 (Project) includes the following elements:

- Widen U.S. 101 from four lanes to six lanes between the Monterey Street interchange in Gilroy and the S.R. 129 interchange in San Benito County (approximately 7.6 miles);
- Upgrade U.S. 101 to a freeway within the same bounds by removing connections to surface streets and adjacent properties;
- Reconstruct the U.S. 101/S.R. 25 interchange, either at the current location or 0.2 mile further north;
- Construct an additional auxiliary lane in each direction on U.S. 101 between the Monterey Street and S.R. 25 interchanges;
- Extend Santa Teresa Boulevard approximately 0.5 miles from Castro Valley Road to the new U.S. 101/S.R. 25 interchange;
- Construct new frontage roads to replace existing connections to surface streets and adjacent properties;
- Grade-separate the Union Pacific Railroad crossing on S.R. 25 west of Bloomfield Avenue;
- Construct bicycle facilities, as needed, to replace access lost due to upgrading U.S. 101 to a freeway; and
- Construct new or widened crossings over Uvas Creek, Tick Creek, Tar Creek, Gavilan Creek, Pajaro River, San Benito River, and numerous unnamed streams, drainage features, and other waters of the State.

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.

- 1) 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.
- 2) 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.
- 3) 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.
- 4) 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.
- 5) 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.

- 6) 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.
- 7) 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.
- 8) 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.

If we may clarify any of our comments or be of further assistance, please contact **Jon Rohrbough** at (805) 549-3458, or via email at [jrohrbough@waterboards.ca.gov](mailto:jrohrbough@waterboards.ca.gov), or Phil Hammer at (805) 549-3882.

Sincerely,

for  
Kenneth A. Harris, Jr.  
Interim Executive Officer



April 18, 2013

Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Dept.  
Attn: Ann Calnan  
3331 North First Street - Building B-2  
San Jose, CA 95134-1927

**RE: Comments on the US 101 Improvement Project Environmental Impact Report**

Dear Ms. Calnan:

The Council of San Benito County Governments submits this letter for comment on the draft Environmental Impact Report for the US 101 Improvement Project between Monterey Street and State Route 129.

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.

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.

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.

Thank you for the opportunity to comment on the US 101 Improvement Project. If you have any questions, please contact Lisa Rheinheimer, Executive Director, at (831) 637-7665.

Sincerely,

Anthony Botelho  
Chair

cc: Tim Gubbins, Caltrans District 5

# County of Santa Clara

Department of Planning and Development  
Planning Office

County Government Center, East Wing, 7th Floor  
70 West Hedding Street  
San Jose, California 95110-1705  
(408) 299-5770 FAX (408) 288-9198  
www.sccplanning.org



April 29, 2013

Ms. Ann Calnan  
Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Dept.  
3331 N. First Street, Building B-2  
San Jose, CA 95134-1927

**RE: Comments regarding Draft Environmental Impact Report (DEIR) for US 101  
Improvement Project Between Monterey Street and State Route 129**

Dear Ms. Calnan:

Please find enclosed comments from the County regarding the Draft Environmental Impact Report (DEIR) for the US 101 Improvement Project Between Monterey Street and State Route 129. These include comments from Planning, Land Development Engineering, Roads and Airports, and Parks & Recreation Dept.

The attached comments include concerns the County has regarding agricultural/Williamson Act, historical, floodplain, traffic, and recreational trails.

If you have any questions regarding coordination of comments on the DEIR from the County, please contact Priya Cherukuru, Historical Heritage Coordinator at (408) 299-5787, Sylvia Ornelas Wise, Williamson Act Program Manager at (408) 299-5759, Chris Freitas at (408) 299-5732, in Land Development Engineering, Dawn Cameron at (408) 573-2465, in Roads & Airports Dept. and Elish Ryan at (408) 355-2236 in Parks & Recreation Dept.

We look forward to reviewing the Final Environmental Impact Report (FEIR), and working with the VTA during the design phase of the project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ignacio Gonzalez", is written over a horizontal line.

Ignacio Gonzalez  
Director of Planning and Development

cc:

Rob Eastwood, Priya Cherukuru, Sylvia Ornelas-Wise – Planning  
Chris Freitas, Darrell Wong – Land Development Engineering  
Dawn Cameron – Roads & Airports Dept.  
Elish Ryan, Jane Mark – Parks & Recreation Dept.  
Roland Velasco, Mike Wasserman - Board of Supervisors District 1  
Sylvia Gallegos – Deputy County Executive, County Executive Office



# County of Santa Clara

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April 25, 2013

Ann Calnan  
Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Dept.  
3331 N. First Street, Building B-2  
San Jose, CA 95134-1927

**RE: Comments regarding Draft Environmental Impact Report (DEIR) for US 101  
Improvement Project Between Monterey Street and State Route 129**

Dear Ms. Calnan:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for US 101 Improvement Project Between Monterey Street and State Route 129. The County Planning Office has comments related to environmental impacts associated historical resources, and agricultural/Williamson Act impacts as detailed below.

**Please contact Priya Cherukuru, Historical Heritage Coordinator at (408) 299-5787,  
Priya.Cherukuru@pln.sccgov.org regarding the following:**

The following are comments from County Planning Department for review of Historic Resources- **Cultural Resources Section (2.8)** in the Draft EIR and the related Technical Report - *Cultural Resources (Attachment B) Historic Resources Evaluation Report (Webb and Wee 2010)*:

## **2.8 : 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: (j) 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.

**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.

#### Technical Report - DPR 523 Series

1. SPRR – Watsonville Branch (Railroad 2) (Page 2 of 6)

The DPR for the **Southern Pacific Railroad (Railroad2)** 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.

2. 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.

**Issue 5:**

**Evaluation of Impacts and Mitigation Measures:**

The DEIR needs to provide clarification and addition 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.

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.

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.

Please contact Sylvia Ornelas-Wise, Williamson Act Program Manager at (408) 299-5759, Sylvia.Ornelas-Wise@pln.sccgov.org regarding the following:

**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.

**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.

If you have any questions of the comments, please contact Priya Cherukuru and/or Sylvia Ornelas-Wise; contact information provided above. The Planning Office would appreciate notification of the Final Environmental Impact Report to review when it is available.

Sincerely,

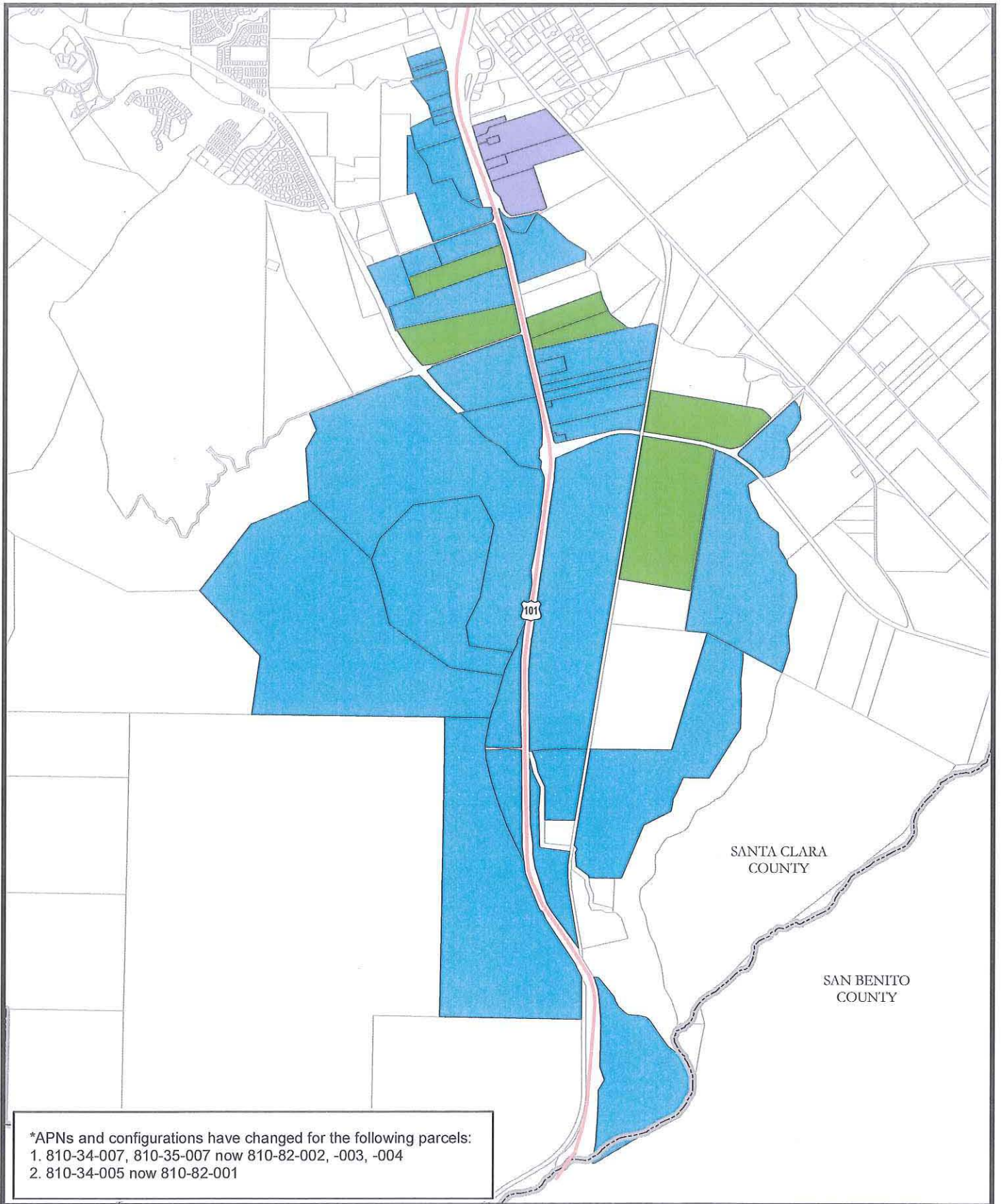


Rob Eastwood  
Principal Planner, AICP

cc: Planning - Priya Cherukuru, Sylvia Ornelas-Wise  
LAFCO – Dunia Noel, Neelima Palacherla  
Dept. of Conservation – Jacquelyn Ramsey

Enclosures:

- Williamson Act Contract/Agricultural Preserve Maps
- State Dept. of Conservation Williamson Act Public Acquisition Notification process and notification packet guidelines
- LAFCO Agricultural Mitigation Policies

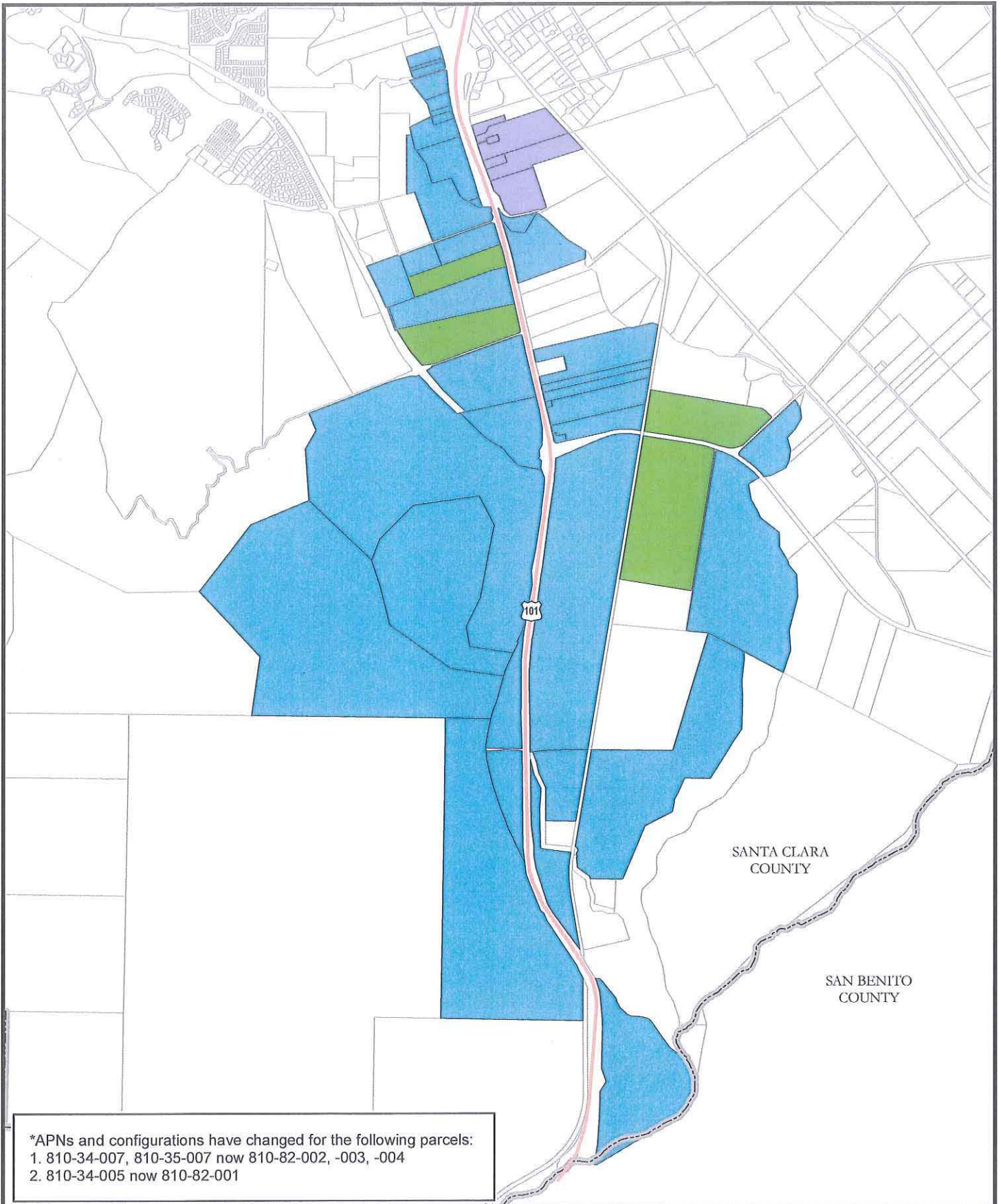


**Parcels Under Williamson Act Contract/Agricultural Preserve in Santa Clara County Impacted by U.S. 101 Improvement Project, Option A**

- Agricultural Preserve (41 parcels)
- Ag. Preserve/Williamson Act (6 parcels)
- Neither (6 parcels)







**Parcels Under Williamson Act Contract/Agricultural Preserve in Santa Clara County Impacted by U.S. 101 Improvement Project, Option B**

■ Agricultural Preserve (40 parcels) ■ Ag. Preserve/Williamson Act (4 parcels) ■ Neither (6 parcels)



4/10/2013

Sylvia

1

**LAND CONSERVATION (WILLIAMSON) ACT PUBLIC ACQUISITION NOTIFICATION PROCESS**

The following is information about public acquisition and the notification process for public acquisition of land located in an Agricultural Preserve and/or under Land Conservation (Williamson) Act contract:

**What is Public Acquisition?**

- A public acquisition is the acquisition of land located in an "agricultural preserve" by a "public agency" or "person", acting on behalf of a public agency, (Government Code section 51291, subd. (a)) for a "public improvement" as defined by Government Code section 51290.5 (which includes interests in real property).

**When is Notice Required?**

- Public Acquisition Notice is required whenever it appears that land within an agricultural preserve may be required by a public agency, or by a person (acting on behalf of a public agency) for a public use. The public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the agricultural preserve of its intention to consider the location of a public improvement within the preserve (Government Code section 51291(b)), or on property restricted by a Williamson Act contract.

**What is not Public Acquisition Notice?**

- Public Acquisition Notice must be provided separately from CEQA environmental notice. CEQA Notice does not equal Williamson PA Notice.

**What are the Legal Requirements for Notice?**

- The requirement to notice occurs three times in Williamson Act statute.

**FIRST NOTICE:** A Public Agency must notify (1) the Director of the Department of Conservation and (2) the local jurisdiction (city/county) administering the agricultural preserve (City/County) when the Public Agency has the intention to acquire land in an agricultural preserve or on property restricted by Williamson Act contract for a public purpose (Government Code section 51291(b)).

The **First Notice** prior to acquisition should include the following information:

1. The public agency's explanation of [its] preliminary considerations of the findings of Government Code section 51292 (a) and (b);
  2. A description of the agricultural preserve land or the property restricted by a Williamson Act contract the public agency intends to acquire for the public improvement;
  3. A copy of any Williamson Act contract that pertains to the subject land (Government Code section 51291(b)).
- The Department must be notified in advance of any proposed public acquisition (Government Code sections 51290-51295), and specific findings must be made by the public agency.



**LAND CONSERVATION (WILLIAMSON) ACT PUBLIC ACQUISITION NOTIFICATION  
PROCESS (Continued)**

- The public agency **must** consider the Department of Conservation's comments prior to taking action on the acquisition.
- The Public Agency **must** acquire the property via eminent domain or in lieu of eminent domain in order to void the contract (Government Code section 51295). The Public Agency is required to provide evidence that the acquisition actually occurred via eminent domain or in lieu of eminent domain (e.g., documents such as copies of condemnation orders or a copy of the offer letter made to the landowner to purchase the land in lieu of eminent domain to complete the administrative record).

**SECOND NOTICE:**

A **Second Notice** is required within 10 working days after acquisition (escrow has closed), (Government Code Section 51291 (c)). The **Notice** shall include the following:

1. The notice shall include a general explanation of the decision and the findings made pursuant to section 51292.
2. A general description, in text or by diagram, of the agricultural preserve land acquired (a vicinity map is good); and
3. A copy of any applicable Williamson Act contract(s).

Note: If the information and documents, noted above, were provided to the Department in the original notification then the **Second Notice** need only list the documents previously provided and reference the date of the Public Agency's original letter to the Department, unless the Department requests resubmission of the documentation in its comment response letter.

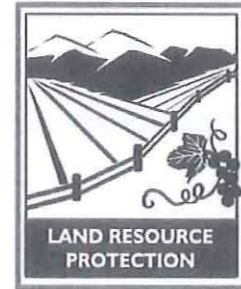
**THIRD NOTICE** (if necessitated):

- If there is a significant change in the public improvement, the Public Agency must provide **Notice** to the Department and the local jurisdiction (city/county) regarding the actual land acquired, increases or decreases in the amount of land acquired, or any changes in the project (Government Code section 51291(d)); **OR**
- If the Public Agency decides not to acquire the property and/or decides to return the property to private ownership;
- If the Public Agency decides not use the land it acquired for the public improvement that it originally notified the Department it intended to locate on the property it acquired, the land **must** be reenrolled under a contract that is as restrictive as the one it was under before acquisition occurred (Government Code Section 51295).

All required Notices should be sent to:

Mark Nechodom, Director  
Department of Conservation  
Division of Land Resource Protection  
801 K Street, MS 18-01  
Sacramento, CA 95814-3528





# CALIFORNIA DEPARTMENT OF CONSERVATION

## Division of Land Resource Protection

Public Acquisition of land within agricultural preserves and/or enrolled in the  
Williamson Act:

**What to include in notification packet**

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The following material is provided to assist you in compiling and submitting information to the Department of Conservation (Department) when your agency plans to acquire land that is located within an agricultural preserve, or is enrolled in the Williamson Act, for public improvements. It is the Department's goal to ensure your project moves forward in a streamlined manner, by providing technical assistance toward meeting the requirements of Government Code §51291.

If you have additional questions, or suggestions for improvement of this document, please contact the Williamson Act Program at 916-324-0850.

(Agency letterhead)

## NOTIFICATION OF PUBLIC ACQUISITION OF WILLIAMSON ACT LAND

Date of Notification

Mark Nechodom, Director  
Department of Conservation  
c/o Division of Land Resource Protection  
801 K Street, MS 18-01  
Sacramento, CA 95814

Subject:

Dear Director Nechodom,

1. *What is the total number of acres of Williamson Act contracted land and/or agricultural preserve land being considered for acquisition?*

Contracted land must be located within an agricultural preserve. Some jurisdictions make the contracted land co-terminus with the agricultural preserve, so that the boundary of the preserve is the same as the contracted parcel(s). An acquisition usually will involve contracted land only, in which case, specify the number of acres under contract(s). However, if the acquisition involves agricultural preserve land not under contract, make that distinction and specify the number of acres. Identify the Assessor Parcel Number (APN) of each parcel (or portion of a parcel) to be acquired and the number of acres per parcel. A table can be included if multiple APNs are to be acquired.

2. *Is the land considered prime or nonprime agricultural land according to Government Code §51201(c)?*

Customarily, the City or County Assessor's Office or Planning Department will have this information. If the acquisition will involve both prime and nonprime land, specify the number of acres under each designation and which APNs are included within each designation. A table can be included if multiple APNs are to be acquired.

3. *What is the purpose of the acquisition?*

Describe the planned public improvement - the project or reason for acquiring the property.

4. *Where is the land located?*

Describe the location of the property using a street address, if available, nearest roads or landmarks with approximate distance and direction from the roads or landmarks, the city, if applicable, and the county. Submit a vicinity map and a location map (see #8, below).



5. *What are the characteristics of the adjacent land?*

Describe the characteristics of the land adjacent to the Williamson Act/agricultural preserve property. Is the adjacent land Williamson Act contracted land, noncontract agricultural land, open-space, urban development, etc.?

6. *Why was this land identified as necessary for the public improvement?*

Describe the reasons for selecting this particular property. This description should be consistent with the findings indicated below. Describe the steps that will be taken or that have been taken to acquire the property by eminent domain or in lieu of eminent domain pursuant to Government Codes §7267.1, 7267.2 and 51295.

As a public agency, the Authority to acquire property through the eminent domain process should be expressed in statute. Please provide for the administrative record the relevant citations codified in statute through which your agency derives the authority to acquire property using the power of eminent domain.

7. *How does this acquisition meet the findings required under Government Code §51292(a) and 51292(b)?*

Describe how the findings would be met and submit any supporting documentation. A simple declarative statement that the findings have been or would be met; or repeating or paraphrasing the findings; is not sufficient. **There must be an explanation or rationale in support of the findings.** The descriptions above and documents submitted must be consistent with this explanation. Some points to keep in mind:

- *"The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve (§51292(a))."*

The cost of land under contract or within an agricultural preserve is presumed to be less because of its restricted status. The explanation should make it clear whether cost was or will be a primary consideration and provide evidence in support of this.

- *"If the land is agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement (§51292(b))."*

The second finding requires that there are "no other" locations, not under contract, that are "reasonably feasible" for the public improvement. Consideration of the area immediately adjacent to or surrounding the selected property may not be sufficient in meeting this finding. Because the area of consideration is determined by the nature of the public improvement, it may be restricted by very limited boundaries or may be open to any county or regional land. This area should be well defined and justified. In this regard, a map showing the selected property, the area of consideration, and a description of the geographic context, should be submitted. It should denote the selected property and land uses within the defined area by parcel or some other boundary. Land uses should be described in terms of agricultural, residential, commercial, industrial, vacant, etc. If the land is planned for a particular use, specify planned residential, planned commercial, etc. Local zoning designations are not sufficient unless they distinguish

between current and planned use. In addition, identify land that is under Williamson Act contract or within an agricultural preserve.

Preferences generally cannot support the second finding. CEQA analysis, for example, may be expressed in terms of a preferred location and feasible alternatives. Such an analysis often does not support the finding for public acquisition because it does not speak in terms of "reasonable feasibility." The explanation should focus on the feasibility or infeasibility of other locations in comparison to the selected property. It is the responsibility of the public agency to define and support what is feasible or infeasible.

Although local zoning and general plans are important considerations in locating the public improvement, they can change and do not necessarily define feasibility or infeasibility. Moreover, the Williamson Act is the prevailing authority governing contracted land and agricultural preserves.

Many public agencies wish to avoid an acquisition by eminent domain and, therefore, seek a negotiated purchase. However, the fact that a location is not for sale or cannot be negotiated for purchase does not, in itself, make it infeasible.

#### Exemptions Under Government Code §51293

Public agencies may avoid the requirements of Government Code §51292 if the public improvement is exempt from the requirements pursuant to Government Code §51293. Several types of public improvements are identified under Government Code §51293 as exempt from the requirements to make the findings required by Government Code §51292. **These exemptions are described in Attachment A.** However, even if the Government Code §51293 exemptions apply, the requirement to provide notice to the Department under Government Code §51291(b) remains in place. Furthermore, Government Code §51293's exemption does not eliminate a public agency's responsibility under State policy, which is to avoid locating public improvements in agricultural preserves or upon land that is subject to a Williamson Act contract (Government Code §51290(a) and (b)), and to give consideration to the value to the public of such land as set forth in the Williamson Act (Government Code §51290(c) Prime Farmland).

If it is determined that the public improvement is exempt under Government Code §51293, please explain the nature of the contemplated public improvement and why the improvement would be exempt from the findings stipulated in Government Code §51292 pursuant to Government Code §51293.

#### *8. Submit a vicinity map and a location map.*

Include a map of the proposed site and an area of surrounding land identified by characteristics and large enough to help clarify that no other, noncontract land is reasonably feasible for the public improvement. The vicinity map should include the entire project outline and the area of consideration (described under #7, above). The location map should include the parcel outlines, APNs, and identify which parcel(s) (or portion of parcel(s)) are being considered for the public improvement.

#### *9. Submit a copy of the contract(s) covering the land.*

Contracts are held by the landowner and local jurisdiction (city or county) with administrative authority for the agricultural preserve. The Department does not maintain individual contracts. Submit copies of the entire contract(s). If the acquisition involves preserve land not under contract, submit a copy of

the Agricultural Preserve Resolution. Make sure the contract(s)/resolution is an official recorded copy that includes the date stamp from the county Assessor's Office.

*10. Submit copies of all related Environmental Impact Reviews pursuant to the CEQA process.*

Please submit a copy of the Title Page, Project Summary, and the Agricultural Resources sections of the CEQA document. Listing a link to the document on the Internet is also sufficient. If the project is exempt, submit the supporting document for exemption. If a document has not been completed, describe the plan for its completion.

*11. Submit copies of all related Eminent Domain (or in lieu of Eminent Domain) documents pursuant to Government Code §51295.*

A Williamson Act contract is an enforceable restriction pursuant to Article XIII, §8 of the California Constitution and Government Code §51252. Pursuant to Government Code section 51295, only public acquisitions made via eminent domain (or in-lieu of) will nullify a Williamson Act contract (assuming other necessary requirements are met). Unless the public acquisition is purchased via eminent domain or in-lieu of it, the use of the property will remain limited by the terms of the existing contract and the provisions of the Williamson Act.

Submit copies of any documents supporting acquisition by eminent domain, such as the Resolution of Necessity, eminent domain proceedings and copies of any other pertinent documents. If in lieu of eminent domain, submit copies of the property appraisal and written offer and copies of any other pertinent documents. If the acquisition will not be by eminent domain or in lieu of eminent domain, describe the steps that will be taken or that have been taken and submit any supporting documents. If a document has not been completed, describe the plan for its completion.

Signature

Contact Person  
Title

cc: County Board of Supervisors or the local governing body (i.e. City Council) responsible for the administration of the agricultural preserve.

Note: The local governing body responsible for the administration of the agricultural preserve must also be notified. The local governing body is usually the County, but may be a City or other local agency. A copy of this notification will serve as notice to the local governing body.

## Attachment A

### Exemptions Under Government Code §51293:

(a) The location or construction of improvements where the board or council administering the agricultural preserve approves or agrees to the location thereof, except when the acquiring agency and administering agency are the same entity.

(b) The acquisition of easements within a preserve by the board or council administering the preserve.

(c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.

(d) The acquisition of either (1) temporary construction easements for public utility improvements, or (2) an interest in real property for underground public utility improvements. This subdivision shall apply only where the surface of the land subject to the acquisition is returned to the condition and use that immediately predated the construction of the public improvement, and when the construction of the public utility improvement will not significantly impair agricultural use of the affected contracted parcel or parcels.

(e) The location or construction of the following types of improvements, which are hereby determined to be compatible with or to enhance land within an agricultural preserve:

(1) Flood control works, including channel rectification and alteration.

(2) Public works required for fish and wildlife enhancement and preservation.

(3) Improvements for the primary benefit of the lands within the preserve.

(f) Improvements for which the site or route has been specified by the Legislature in a manner that makes it impossible to avoid the acquisition of land under contract.

(g) All state highways on routes as described in Sections 301 to 622, inclusive, of the Streets and Highways Code, as those sections read on October 1, 1965.

(h) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12934 of the Water Code,

except facilities under paragraph (6) of subdivision (d) of that section.

(i) Land upon which condemnation proceedings have been commenced prior to October 1, 1965.

(j) The acquisition of a fee interest or conservation easement for a term of at least 10 years, in order to restrict the land to agricultural or open space uses as defined by subdivisions (b) and (o) of Government Code Section 51201.





## State of California Department of Conservation

[DLRP](#) → [LCA](#) → [Basic Contract Provisions](#)

### Williamson Act Program - Basic Contract Provisions

#### PUBLIC ACQUISITIONS

When there is a need for a public agency or other eligible entity to acquire land enrolled in a Williamson Act contract, or located in an agricultural preserve, the Department of Conservation must be notified. Specific information must accompany the notification in order to ensure the requirements of Government Code §§51290 - 51295 and 51296.6 are met.

While agencies are not required to follow a specific template to submit Williamson Act Public Acquisitions notices, these example documents may be useful if you are compiling a notice. Following this outline may streamline your work process, by ensuring that all required material is contained in your initial notice. The items are in PDF format.

- [Notification form template](#) - describes each item that is required in the notification.
- [Example notification letter](#) - an example of what the notification form would contain for a theoretical project.
- [Examples of supporting documentation](#) (5.9 MB)- the attachments a notification requires, including a Williamson Act contract, agricultural preserve resolution, pertinent CEQA information, Eminent domain documentation, and example maps.

#### Questions and Answers about Williamson Act Public Acquisition Notification

- [What is public acquisition of Williamson Act land?](#)
- [Who can acquire Williamson Act land by public acquisition?](#)
- [What happens to the contract?](#)
- [What is a public improvement?](#)
- [What are the requirements for public acquisition of Williamson Act contracted land?](#)
- [What kinds of information must be included with notification?](#)
- [Can we notify the Department through the CEQA process?](#)
- [Will selecting the "best" location for the public improvement satisfy the findings required?](#)
- [Will the contract terminate when we acquire the property?](#)
- [Isn't an acquisition "in lieu" of eminent domain simply a purchase from a willing seller?](#)
- [What if we provide notice and then decide to modify the project?](#)
- [What if we acquire the property and then decide not to use it for the public improvement?](#)

→ Once we provide notice, does our responsibility end?

#### What is public acquisition of Williamson Act land?

Public acquisition of Williamson Act land is acquisition, by provision in the Act (Government Code §§51290 - 51295, 51296.6), of land located within an agricultural preserve or enforceably restricted by a Williamson Act or Farmland Security Zone contract by a public agency or person for a public improvement.

#### Who can acquire Williamson Act land by public acquisition?

A public agency or person may acquire Williamson Act land by public acquisition. As defined by the Williamson Act,

"(1) 'public agency' means any department or agency of the United States or the state, and any county, city, school district, or other local public district, agency, or entity, and (2) 'person' means any person authorized to acquire property by eminent domain (Government Code §51291(a))."

A school district cannot acquire land that is under a Farmland Security Zone contract (§51296.6).

#### What happens to the contract?

If requirements for public acquisition of Williamson Act land are met, the land may be acquired and the contract may be terminated. If requirements are not met, the acquisition may not be valid, and the contract may remain in force and continue to restrict use of the land. If the acquired property remains within an agricultural preserve, land use remains subject to the rules of the preserve.

#### What is a public improvement?

As defined,

"'public improvement' means facilities or interests in real property, including easements, rights-of-way, and interests in fee title, owned by a public agency or person, as defined in subdivision (a) of Section 51291 (Government Code §51290.5)."

#### What are the requirements for public acquisition of Williamson Act contracted land?

The policy of the state, consistent with the purpose of the Williamson Act to preserve and protect agricultural land, is to avoid, whenever practicable, locating public improvements and any public utilities improvements in agricultural preserves. If it is necessary to locate within a preserve, it shall be on land that is not under contract (Government Code §51290(a)(b)). More specifically, the basic requirements are:

- Whenever it appears that land within a preserve or under contract may be required for a public improvement, the public agency or person shall notify the Department of Conservation (Department) and the city or county responsible for administering the preserve (§51291(b)).
- Within 30 days of being notified, the Department and city or county shall forward comments, which shall be considered by the public agency or person (§51291(b)).
- "No public agency or person shall locate a public improvement within an agricultural preserve unless the following findings [emphasis added] are made (§51292):"

"(a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve (§51292(a)).

b) If the land is agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement (§51292(a)(b))."



- ⇒ The contract shall be terminated when land is acquired by eminent domain or in lieu of eminent domain (§51295).
- ⇒ The Department and city or county shall be notified before project completion of any proposed, significant changes to the public improvement (§51291(d)).
- ⇒ The Department shall be notified within 10 working days upon completion of the acquisition (§51291(c)).
- ⇒ If, after acquisition, the acquiring public agency determines that the property will not be used for the proposed public improvement, before returning the land to private ownership, the Department and city or county administering the involved preserve shall be notified. The land shall be reenrolled in a new contract or encumbered by an enforceable restriction at least as restrictive as that provided by the Williamson Act (§51295).

#### What kinds of information must be included with notification?

Pursuant to Government Code §51291(b), the notice shall include:

- ⇒ The total number of acres of Williamson Act land to be acquired and whether the land is considered prime agricultural land according to §51201.
- ⇒ The purpose of the acquisition and why the land was identified for acquisition.
- ⇒ A description of where the parcel(s) is located.
- ⇒ Characteristics of adjacent land (urban development, Williamson Act, noncontract agricultural, etc.).
- ⇒ A vicinity map and a location map (see below also).
- ⇒ A copy of the contract(s) covering the land.
- ⇒ CEQA documents for the project.
- ⇒ The findings required under Government Code §51292, an explanation of the preliminary consideration of §51292 and documentation to support the findings. (Include a map of the proposed site showing an area of surrounding land identified by characteristics and large enough to demonstrate, along with the explanation, that no other, noncontracted land is reasonably feasible for the public improvement.)
- ⇒ Documentation to support acquisition by eminent domain or in lieu of eminent domain to void the contract pursuant to §51295. (Include copies of eminent domain proceedings, if applicable, a property appraisal and written offer pursuant to Government Code §§7267.1 and 7267.2, a chronology of steps taken or planned to effect acquisition by eminent domain or in lieu of eminent domain and copies of any other pertinent documents, such as a Resolution of Necessity.)

#### Can we notify the Department through the CEQA process?

No, it is not permissible to provide notice through CEQA. Notification must be made separately to the Department (Government Code §51291(b)).

#### Will selecting the "best" location for the public improvement satisfy the finding required?

No, selecting the "best" or "preferred" location will not satisfy the finding. The criterion to locate on contract land is that there is no other location that is not under contract and reasonably feasible for the public improvement (Government Code §51292(b)).

#### Will the contract terminate when we acquire the property?

Not necessarily. The contract will be terminated or voided when the property is acquired by eminent domain or in lieu of eminent domain (Government Code §51295). If these requirements are not met, the contract will remain in force and continue to restrict use of the land.

**Isn't an acquisition "in lieu" of eminent domain simply a purchase from a willing seller?**

No, an acquisition "in lieu" of eminent domain must follow eminent domain law. The Department does not provide counsel as to the requirements of eminent domain law. We recommend that the public agency or person obtain legal counsel for this purpose.

**What if we provide notice and then decide to modify the project?**

The Department and city or county responsible for administering the involved agricultural preserve shall be notified before project completion of any proposed significant changes to the public improvement (Government Code §51291(d)).

**What if we acquire the property and then decide not to use it for the public improvement?**

If, after acquisition, the acquiring public agency determines that the property will not be used for the proposed public improvement, before returning the land to private ownership, the Department and city or county administering the involved agricultural preserve shall be notified. The land shall be reenrolled in a new contract or encumbered by an enforceable restriction at least as restrictive as that provided by the Williamson Act (Government Code §51295).

**Once we provide notice, does our responsibility end?**

No. The notice may be incomplete, in which case the Department will request additional information to complete proper notice. The public agency or person is required to consider the Department's comments (Government Code §51291(b)) and to adhere to the Williamson Act statute in determining whether to complete the acquisition. As noted above, additional notice is required if significant changes are proposed and if the property will not be used for the proposed public improvement. In addition, when the land is acquired, the Department shall be notified within 10 working days, and the notice shall include a general explanation of the decision and findings made (§51291(c)).

# AGRICULTURAL MITIGATION POLICIES

## Background

LAFCO's mission is to encourage orderly growth and development, discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with other factors in its evaluation of proposals. LAFCO's Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

## Purpose of Policies

The purpose of these policies is to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands.

## General Policies

1. LAFCO recommends provision of agricultural mitigation as specified herein for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policy #6. Variation from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.
2. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies.
3. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with these policies.
4. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.

5. LAFCO will review and revise these policies as necessary.

#### **Definition of Prime Agricultural Lands**

6. "Prime agricultural land" as defined in the Cortese Knox Hertzberg Act means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:
  - a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
  - b. Land that qualifies for rating 80 through 100 Storie Index Rating.
  - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
  - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
  - e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

#### **Mitigation Recommendations**

7. Proposals involving the conversion of prime agricultural lands should provide one of the following mitigations at a not less than 1:1 ratio (1 acre preserved for every acre converted) along with the payment of funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and maintenance of agriculture on the mitigation lands:
  - a. The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
  - b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.

- c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund\*:
  - 1. The cost of acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
  - 2. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of maintaining agriculture on the mitigation lands.

\* with provisions for adjustment of in-lieu fees to reflect potential changes in land values at the time of actual payment
- 8. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity should be located in Santa Clara County and be lands deemed acceptable to the city and entity.
- 9. The agricultural mitigation should result in preservation of land that would be:
  - a. Prime agricultural land of substantially similar quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, and
  - b. Located within cities' spheres of influence in an area planned/envisioned for agriculture, and
  - c. That would preferably promote the definition and creation of a permanent urban/agricultural edge.
- 10. Because urban/non-agricultural uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. Examples of such measures include, but are not limited to:
  - a. Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
  - b. Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.
  - c. Development of programs to promote the continued viability of surrounding agricultural land.

### **Agricultural Conservation Entity Qualifications**

11. The agricultural conservation entity should be a city or a public or non-profit agency. LAFCO encourages consideration of agricultural conservation entities that:
  - a. Are committed to preserving local agriculture and have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
  - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
  - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and are operating in compliance with those standards.

### **Timing and Fulfillment of Mitigation**

12. LAFCO prefers that agricultural mitigation be in place at the time of LAFCO approval or as soon as possible after LAFCO approval. The mitigation (as detailed in the Plan for Mitigation) should be fulfilled no later than at the time of city's approval of the final map, or issuance of a grading permit or building permit, whichever occurs first.
13. Cities should provide LAFCO with information on how the city will ensure that the agricultural mitigation is provided at the appropriate time.
14. Cities should provide LAFCO with a report on the status of agricultural mitigation fulfillment every year following LAFCO approval of the proposal until the agricultural mitigation commitments are fulfilled.
15. The agricultural conservation entity should report annually to LAFCO on the use of the in-lieu fees until the fees have been fully expended.

### **Plan for Mitigation**

16. A plan for agricultural mitigation that is consistent with these policies should be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO. The plan for mitigation should include all of the following:
  - a. An agreement between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property owner(s) to provide the mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation. Upon LAFCO approval of the proposal, the agreement should be recorded with

the County Recorder's office against the property to be developed. The agreement should specify:

1. The type of mitigation that will be provided in order to mitigate for conversion of agricultural lands. (purchase of fee title or easement or payment of in-lieu fees)
  2. The agricultural conservation entity that will be involved in holding the lands, easements, or in-lieu fees.
  3. The acreage that would be preserved through mitigation and /or the amount of in-lieu fees that would be paid (with provisions to adjust fees to reflect land values at time of payment) along with the methodology adopted by the entity for calculating the in-lieu fees.
  4. The location of the mitigation lands, when possible.
  5. Information on the specific measures adopted by the city as encouraged in Policy #10 (mitigation for impacts to adjacent agricultural lands)
  6. The time-frame within which the mitigation will be fulfilled, which should be no later than at the time of city's approval of the final map, or issuance of the grading permit or building permit, whichever occurs first.
  7. The mitigation agreement is to be contingent on LAFCO approval of the proposal.
- b. Applicant should provide all other supporting documents and information to demonstrate compliance with these policies.





# County of Santa Clara

## Parks and Recreation Department

298 Garden Hill Drive  
Los Gatos, California 95032-7669  
(408) 355-2200 FAX 355-2290  
Reservations (408) 355-2201  
[www.parkhere.org](http://www.parkhere.org)



April 23, 2013

VTA Environmental Programs/Resources Management Dept.  
Attention: Ms. Ann Calnan  
3331 N First St, Bldg. B-2  
San Jose CA 95134

Subject: **SCH 2007102141** - Draft EIR for U.S. 101 Improvement Project between Monterey St. and State Route 129, Santa Clara and San Benito Counties, California

Dear Ms. Calnan,

Thank you for the opportunity to provide comments on the DEIR for proposed improvements to U.S. Hwy 101 between the city of Gilroy and the Santa Clara/San Benito County line and improved connectivity to State Route 25 and Route 129 in response to projected traffic demand and need to improve public safety.

### ***Section 2.1.2.2 Compliance with State, Regional, and Local Plans and Programs***

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) trail 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.

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.

**Board of Supervisors:** Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian

**County Executive:** Jeffrey V. Smith



***Participation in Ongoing Design Development***

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.

Sincerely,

Elish Ryan  
Planner III

Attachments: Countywide Trails Master Plan Update Figure G-2 and Figure G-7

Cc: Colleen Oda, County Planning Department  
Naomi Torres, NPS De Anza Trail Superintendent  
Bern Smith, Bay Area Ridge Trail Council

**Board of Supervisors:** Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian

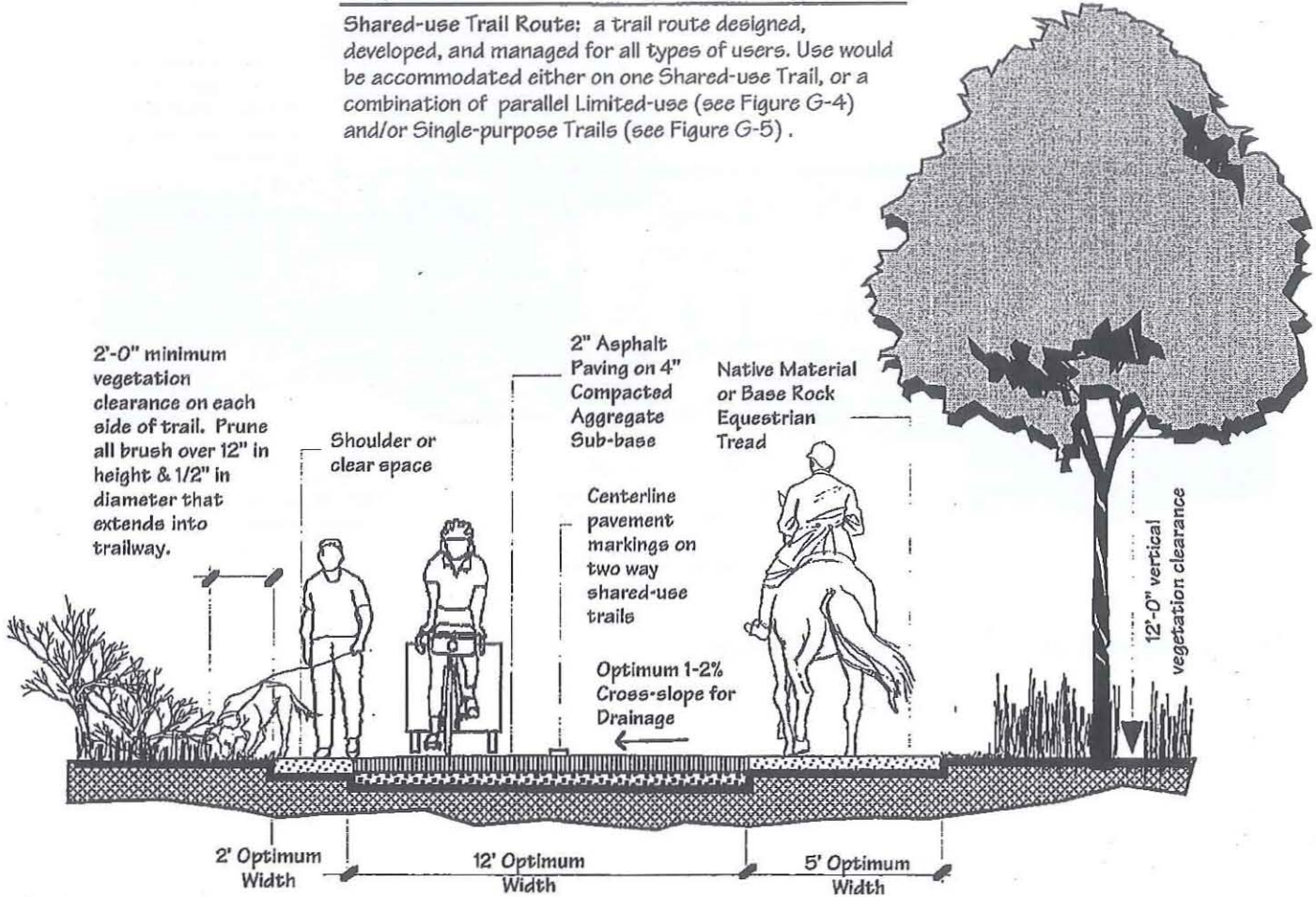
**County Executive:** Jeffrey V. Smith



# Shared-use Trails

## Paved Tread - Double Track Trail Equestrians, Hikers & Bicycles

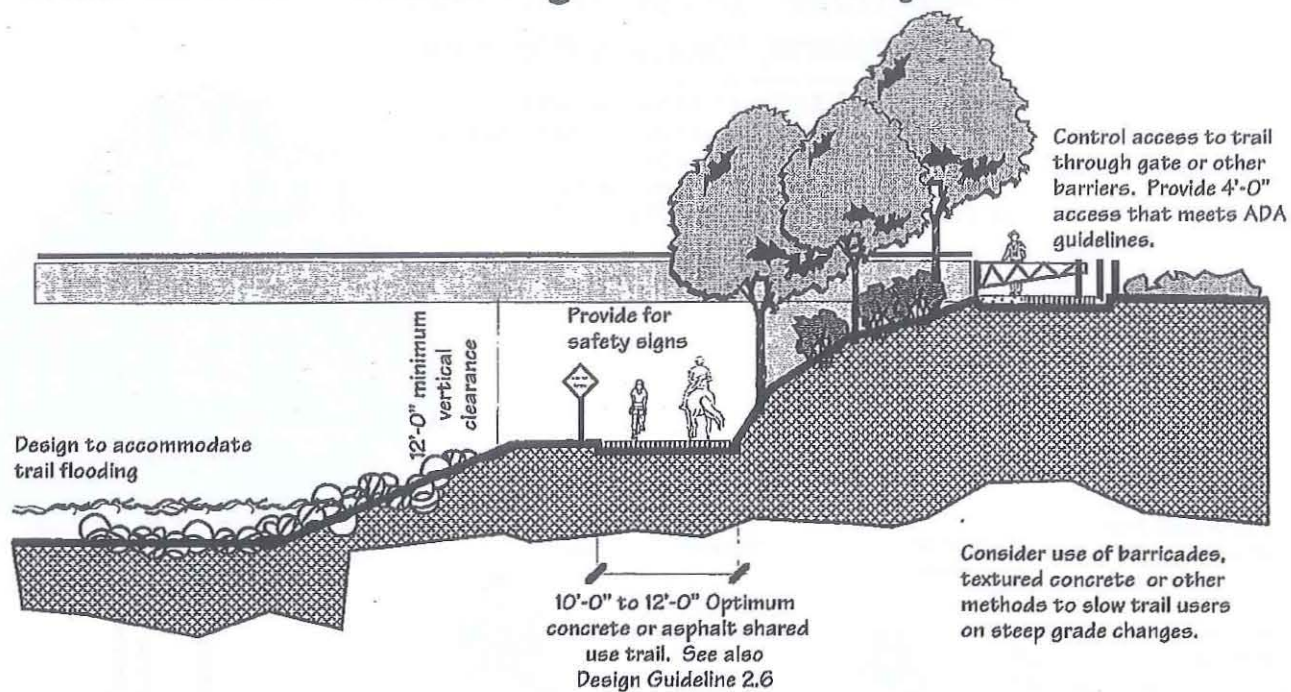
Shared-use Trail Route: a trail route designed, developed, and managed for all types of users. Use would be accommodated either on one Shared-use Trail, or a combination of parallel Limited-use (see Figure G-4) and/or Single-purpose Trails (see Figure G-5).



### Notes:

- "Optimum:" the best or most favorable condition for a particular trail situation from the perspective of responsible management.
- Should a situation be encountered where the optimum width indicated can not be achieved or a staged development approach is used where narrower trails precede the optimum buildout width, mitigation measures should be used to provide for trail user safety. Such measures could include, but are not limited to: brush removal and clearing to augment lines-of-sight, trail pullouts at regular intervals, one-way trail management, signage, or dismounting requirements.

# Trail Under - Crossings at Roadways



## Grade Separation - Trail Undercrossings

# County of Santa Clara

Roads and Airports Department

101 Skyport Drive  
San Jose, California 95110-1302  
1-408-573-2400



April 15, 2013

Ann Calnan  
Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Dept.  
3331 N. First Street, Building B-2  
San Jose, CA 95134-1927

**SUBJECT: Draft Environmental Impact Report  
U.S. 101 Improvement Project between Monterey Street and State Route 129**

Dear Ms. Calnan:

The County of Santa Clara Roads and Airports Department appreciates the opportunity to comment on the Draft Environmental Impact Report. The Department is submitting the following comments for clarification and analysis:

1. 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.
2. 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.

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.

Sincerely,

Dawn S. Cameron  
County Transportation Planner

c: MA, MLG



**County of Santa Clara**  
**Department of Planning and Development**  
County Government Center, East Wing  
70 West Hedding Street, 7<sup>th</sup> Floor  
San Jose, California 95110



Administration	Affordable Housing	Building Inspection	Fire Marshal	Land Development Engineering	Planning
Ph: (408) 299-6740	(408) 299-5750	(408) 299-5700	(408) 299-5760	(408) 299-5730	(408) 299-5770
Fax: (408) 299-6757	(408) 299-6709	(408) 279-8537	(408) 299-6757	(408) 279-8537	(408) 288-9198

**Via USPS**

April 9, 2013

Ms. Ann Calnan  
VTA Environmental Programs/Resources Management Department  
3331 North First Street, Building B-2,  
San Jose, CA 95134-1927

Subject: Santa Clara County's review comments for the  
Santa Clara Valley Transportation Authority's Draft Environmental Impact Report  
for U.S. 101 Improvement Project Between Monterey Street and State Route 129.

Dear Ms. Calnan:

This letter is in response to your "U.S. 101 Improvement Project Between Monterey Street and State Route 129 Draft Environmental Impact Report" (DEIR), prepared by the Santa Clara Valley Transportation Authority (SCVTA) and dated March, 2013. This letter discusses floodplain issues only. Other letters from Santa Clara County may be forthcoming.

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 (FDP) 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 FDP. 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.

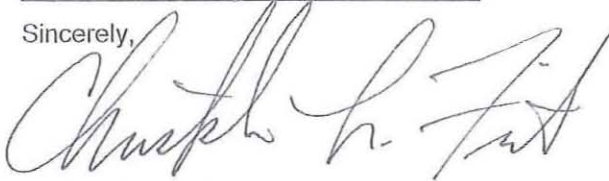
When you submit plans for the Floodplain Development Permit, please make sure you submit the following information:

- Two full sets of construction improvement plans including erosion control.
- Two complete CLOMR applications with all required hard copies and electronic copies.

- o Clearance Letters or copies of permits as applicable from Army Corp (404 permit), Regional Board (401), NOAA Fisheries, Fish & Wildlife, Fish & 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.
- o A signed and stamped No Rise Certificate prepared by a Registered Civil Engineer.
- o No Adverse Impact Certificate / Statement prepared by a Registered Civil Engineer.
- o 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).
- o 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. If you have any questions and/or when you are ready to submit, please contact me at (408) 299-5732 or [CHRIS.FREITAS@PLN.SCCGOV.ORG](mailto:CHRIS.FREITAS@PLN.SCCGOV.ORG).

Sincerely,



Christopher Freitas, P.E.  
Senior Civil Engineer  
County of Santa Clara

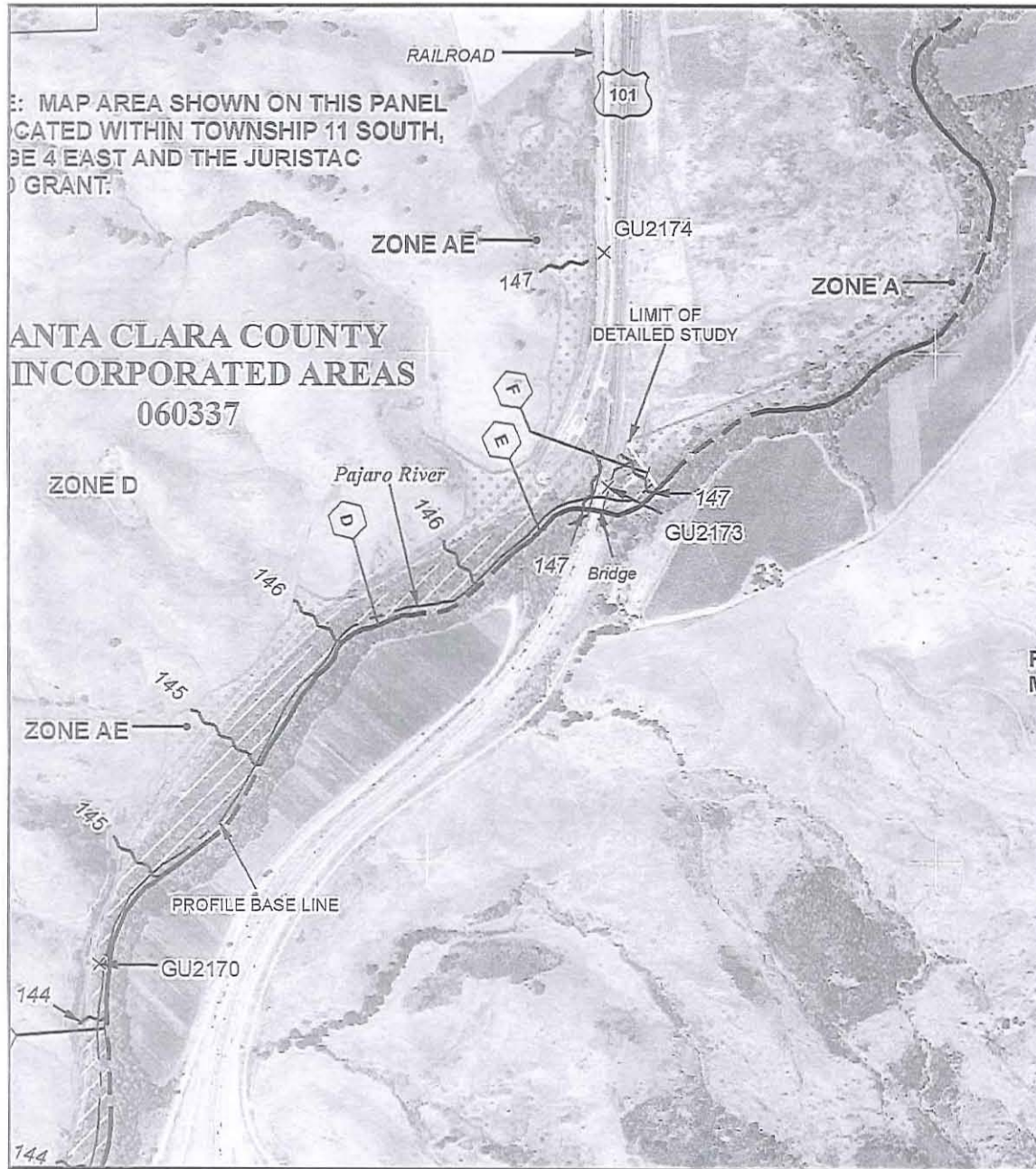
Attachments: Two (2) Firmettes

cc: Michael Harrison - Floodplain Administrator, Building Department  
Darrell Wong - Principal Civil Engineer, LDE  
Colleen Oda - Planner III, Planning Office  
Sarah Owen - FEMA -- by E-mail [Sarah.Owens@dhs.gov](mailto:Sarah.Owens@dhs.gov)  
Ray Lee - California State Department of Water Resources -- by E-mail [Ralee@water.ca.gov](mailto:Ralee@water.ca.gov)

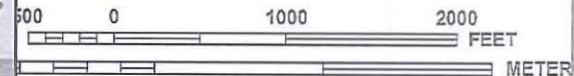


MAP AREA SHOWN ON THIS PANEL  
 LOCATED WITHIN TOWNSHIP 11 SOUTH,  
 RANGE 4 EAST AND THE JURISTAC  
 GRANT.

**SANTA CLARA COUNTY  
 INCORPORATED AREAS  
 060337**



MAP SCALE 1" = 1000'



**NATIONAL FLOOD INSURANCE PROGRAM**

PANEL 0770H

**FIRM**

FLOOD INSURANCE RATE MAP

SANTA CLARA COUNTY,  
 CALIFORNIA  
 AND INCORPORATED AREAS

PANEL 770 OF 830  
 (SEE MAP INDEX FOR FIRM PANEL LAYOUT)

**CONTAINS:**

COMMUNITY	NUMBER	PANEL	SUFFIX
SANTA CLARA COUNTY	060337	0770	H

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.

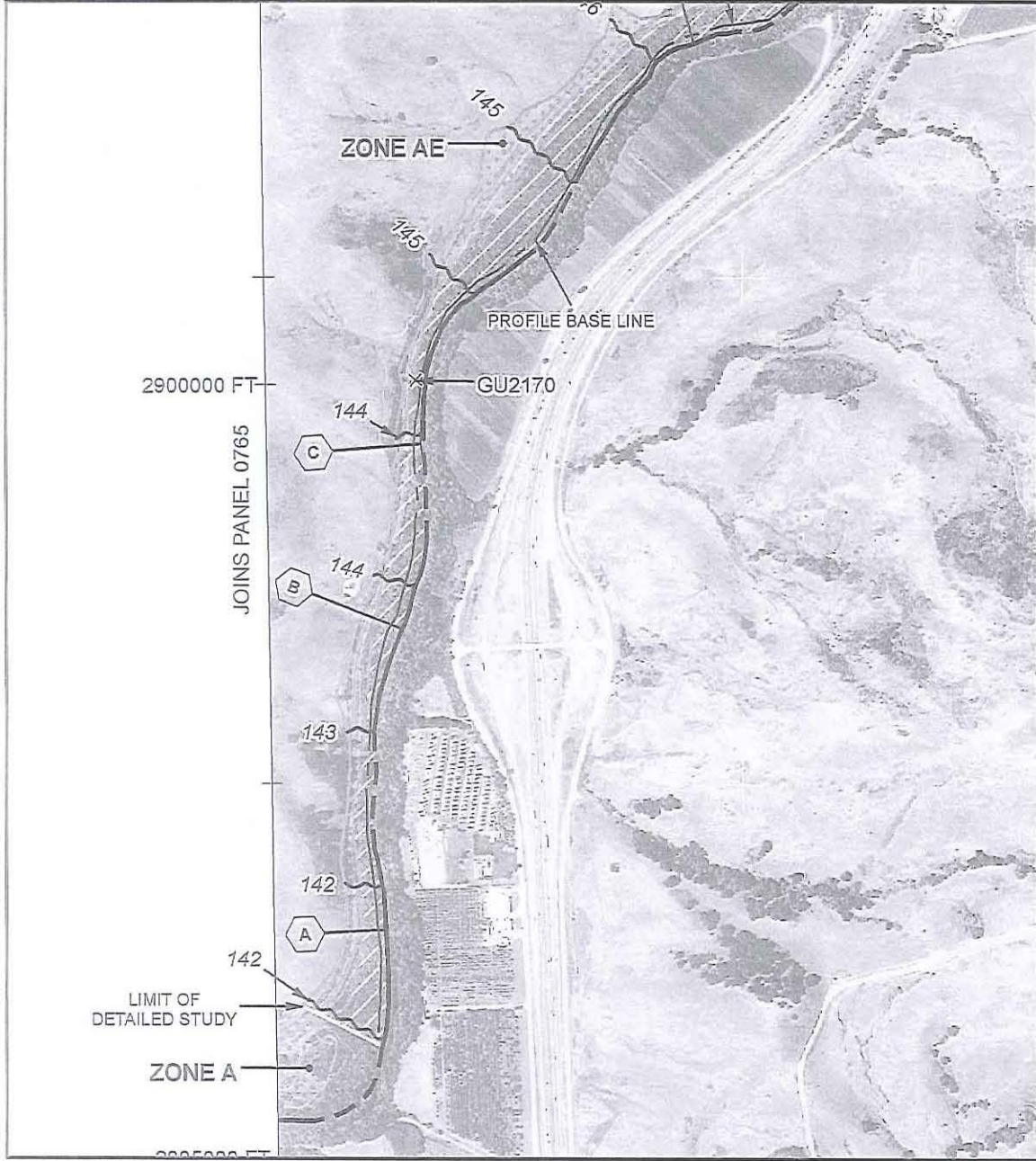


MAP NUMBER  
 06085C0770H

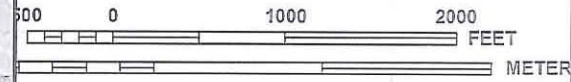
EFFECTIVE DATE  
 MAY 18, 2009

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)



MAP SCALE 1" = 1000'



PANEL 0770H

**FIRM**  
FLOOD INSURANCE RATE MAP

SANTA CLARA COUNTY,  
CALIFORNIA  
AND INCORPORATED AREAS

PANEL 770 OF 830  
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
SANTA CLARA COUNTY	050237	0770	H

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER  
06085C0770H

EFFECTIVE DATE  
MAY 18, 2009

Federal Emergency Management Agency

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April 29, 2013

Santa Clara Valley Transportation Agency  
Environmental Programs/Resources Management Department  
Attention: Ann Calnan  
3331 North First Street, Building B-2  
San Jose, CA 95134-1927

Re: Comments on US 101 Improvement Project Draft Environmental Impact Report

Dear Ms. Calnan,

Thank you for the opportunity to review and comment on the *Draft Environmental Impact Report, US 101 Improvement Project between Monterey Street and State Route 129* (Project). The Santa Clara County Open Space Authority (Authority) is a special district created by the California Legislature in 1993, responsible for protecting greenbelts, natural resources, agricultural lands, wildlife habitat and open space within unincorporated Santa Clara County and the cities of Milpitas, Santa Clara, San Jose, Campbell and Morgan Hill. The Authority has protected nearly 16,000 acres to date through fee purchase, conservation easements, and partnerships with other conservation agencies and non-profits. The Authority's interest is in assuring the protection of natural resources, agricultural viability, and recreation and other open space values that could be impacted by the Project. On behalf of the Authority, I would like to provide feedback on a number of Project-related impacts addressed in the Project DEIR.

#### **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 ESRB, the freeway widening will likely be a condition of ESRB 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.
- 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).
- 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 non-profits engaged in mitigation transactions.
- 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.

- 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.

### **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.
- 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.

### **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.

**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.

We appreciate the opportunity to provide comments on this Project. Please feel free to contact my office at (408) 224-7476 if you would like more information about the Authority or to discuss our input.

Sincerely,



Andrea Mackenzie  
General Manager

Cc: Board of Directors, Santa Clara County Open Space Authority

File: 31247  
Tick Creek  
X-Fac: Uvas Carnadero Creek  
Gavilan Creek  
Tar Creek

April 29, 2013

Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Dept.  
Attn: Ann Calnan  
3331 North First Street—Building B-2  
San Jose, CA 95134-1927

Subject: U.S. 101 Improvement Project: Monterey Street to SR 129

Dear Ms. Calnan:

The Santa Clara Valley Water District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the subject project. The District provides flood protection and wholesale water supply to the County of Santa Clara as well as providing stream stewardship in association with its flood protection and water supply purposes. Due to the project's regional size and impact, the flooding and watershed impacts should be looked at regionally rather than site specifically. The District has concerns with the project as outlined below:

### 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.

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.

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.

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.

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.

## **2.10 Water Quality and Stormwater Runoff**

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.

Ms. Ann Calnan

Page 4

April 29, 2013

If you have any questions, you may reach me at (408) 630-2319, or by e-mail at [yarroyo@valleywater.org](mailto:yarroyo@valleywater.org). Please reference District File No. 31247 on future correspondence regarding this project.

Sincerely,



Yvonne Arroyo  
Associate Engineer  
Community Projects Review Unit

cc: S. Tippets, S. Katric, L. Xu, C. Presley, J. Xu, J. Men Lo, B. Ahmadi, K. Lueneburger,  
File



Bay Area  
Ridge  
Trail  
Council

VTA Environmental Programs/Resources Management Dept.  
Attention: Ann Calnan  
3331 N First St, Bldg. B-2  
San Jose CA 95134  
Re: US101 Improvement Project – Monterey St. to State Route 129

22 April 2013

Dear Ms. Calnan –

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.

Thank you for your consideration of our comments –

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

Bern Smith  
South Bay Trail Director



**Castro Valley Properties**  
2010 Castro Valley Road  
Gilroy, CA 95020

April 29, 2013

Santa Clara Valley Transportation Authority  
Environmental Programs and Resources Management Dept.  
Attn: Ann Calnan  
3331 North First Street – Building B-2  
San Jose, CA 95134-1927

Dear Ms. Calnan:

RE: Comments on the Draft Environmental Impact Report, U.S. 101 Improvement Project  
between Monterey Street and State Route 129 dated March 2013

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.

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.

1. 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.

2. 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).
3. 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.
4. 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.)
5. 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)
6. 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.
7. 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.
8. 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.
9. 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.

10. 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.
11. 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 non-native predators and adversely impact protected amphibian species such as frogs and salamanders.
12. 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.
13. 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.

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.

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.

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.

Please contact Peter Morrissey at 650-566-6448 if you have any questions or would like further clarification regarding our comments.

Sincerely



Bruce W. Madding  
Chief Executive Officer



April 30, 2013

Ann Calnan, Senior Environmental Planner  
Environmental Programs and Resources Management Department  
Santa Clara Valley Transportation Authority

Via e-mail: 101\_Widening@VTA.org

Dear Ms. Calnan,

Thank you for providing us with the opportunity to review the Draft Environmental Impact Report (EIR) for the proposed U.S. 101 Improvement Project (Project). The Nature Conservancy (TNC) is a global organization dedicated to conserving the lands and waters on which all life depends. TNC uses the best available science, a creative spirit, and a non-confrontational approach to craft innovative solutions to complex conservation problems at scales that matter and in ways that will endure. Our comments on the Draft EIR follow.

- 1) 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:

- 1) From the San Benito Bridge to the U.S. 101 - Pajaro Bridge;
- 2) From U.S. 101 - Pajaro Bridge to the Tar Creek Culvert;
- 3) From the Tar Creek Culvert to the Tick Creek Culvert; and
- 4) 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.

2) 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.

3) 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.

Please feel free to contact me if TNC can provide further resources to support these recommendations, or if I may otherwise assist you with the environmental review process.

Sincerely yours,

Abigail Ramsden  
Mt. Hamilton Project Director  
The Nature Conservancy



**Lonn Maier, Supervisor**  
Environmental Management,  
Electric Transmission

2730 Gateway Oaks Drive  
Sacramento, CA 95818  
Office: (916) 923-7020

April 17, 2013

VTA Environmental Programs/Resources Management Department  
Attention: Ann Calnan  
3331 North First Street, Building B-2  
San Jose, CA 95134-1927

RE: Comment to the Draft Environmental Impact Report (EIR) for the U.S. 101 Improvement Project  
(Monterey Street to State Route 129)

Dear Ms. Calnan:

Thank you for the opportunity to review the EIR for the U.S. 101 Improvement Project. Pacific Gas and Electric Company (PG&E) has the following comments and suggestions to offer regarding the proposed project by Santa Clara Valley Transportation Authority (VTA).

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. Please contact Doug Edwards, Senior Land Planner, by telephoning (916) 923-7060 or emailing at [DXEL@PGE.COM](mailto:DXEL@PGE.COM) if you have any questions concerning our comments or recommendations.

Sincerely,



Lon Maier  
Supervisor, Environmental Management, Electric Transmission



April 29, 2013

*via email*

Ann Calnan, Senior Environmental Planner  
Environmental Programs and Resources Management  
Santa Clara Valley Transportation Authority

Re: US 101 Improvement Project Between Monterey Street and State Route 129

Dear Ms. Calnan,

The Loma Prieta Chapter of the Sierra Club and the Santa Clara Valley Audubon Society thank you for the opportunity to submit public comments on the Draft Environmental Impact Report for the Valley Transportation Authority (VTA) proposed US 101 Improvement Project Between Monterey Street and State Route 129 (DEIR). Our organizations share an interest in the preservation of natural landscapes, biodiversity and habitats. We are concerned with the proposed project and its potentially significant effects on the environment. We do not believe the DEIR fulfills the requirements of the California Environmental Quality Act (CEQA) to address, disclose and mitigate the impacts of the proposed widening of US 101. In our comments, we express our concerns, request additional disclosure and analysis, and propose additional mitigation measures that would better protect our natural resources.

### **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 red-legged 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.

### **II. Impacts to Wildlife Movement**

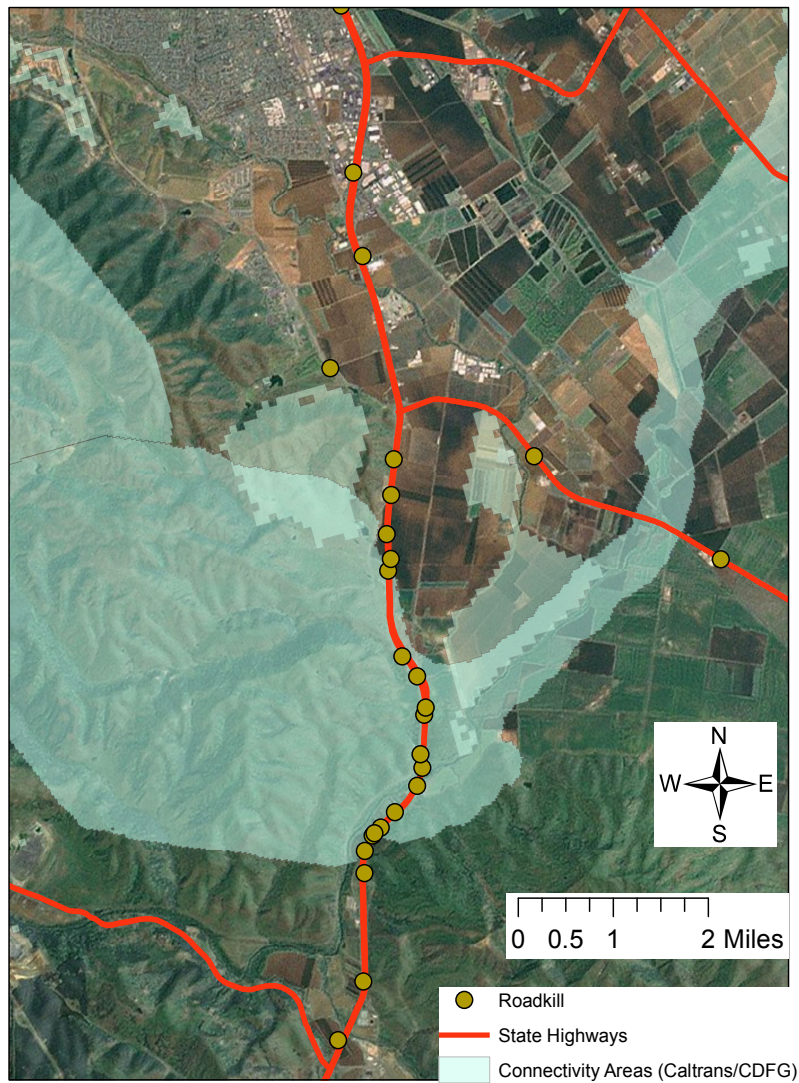
The importance of this region for wildlife movement and linkage between the Santa Cruz, Diablo, and Gabilan ranges via Lomerias Muertas is acknowledged in the DEIR, and has been documented by numerous agency and planning organization projects (Missing Linkages project, 2001<sup>1</sup>; California Essential Habitat Connectivity Project (CEHCP),

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<sup>1</sup> Missing Linkages Assessment, 2001. California Wilderness Coalition. [www.calwild.org/linkages/](http://www.calwild.org/linkages/)

2010<sup>2</sup>). We asked Dr. Fraser Shilling, Co-Director of the Road Ecology Center at the University of California, Davis<sup>3</sup>, 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.

Figure 1: State highways and connectivity areas (Map by Dr. Fraser Shilling, UC Davis)



<sup>2</sup> California Essential Habitat Connectivity Project, 2010. Calif. Dept. of Transportation and Calif. Dept. of Fish and Game, 213 pp. [www.dfg.ca.gov/habcon/connectivity](http://www.dfg.ca.gov/habcon/connectivity)

<sup>3</sup> <http://roadecology.ucdavis.edu/>

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<sup>4</sup>
- Wildlife Crossings Guidance Manual, California Department of Transportation<sup>5</sup>

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.

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.

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 re-evaluation of project design to allow for adequate wildlife connectivity:

1) 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

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<sup>4</sup> Vermont's Best Management Practices for Highways & Wildlife Connectivity. 2012.

<sup>5</sup> Wildlife Crossings Guidance Manual. 2009. California Department of Transportation [www.dot.ca.gov/hq/env/bio/wildlife\\_crossings](http://www.dot.ca.gov/hq/env/bio/wildlife_crossings)



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<sup>6</sup>.

2) 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<sup>7</sup>. 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.

3) 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.

4) 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.

5) 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

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<sup>6</sup> A Landowner's Guide to Wildlife Friendly Fences, 2<sup>nd</sup> ed., 2012. Montana Fish, Wildlife and Parks, 56 pp.

<sup>7</sup> Habitat Guidelines for Mule Deer, California Woodland Chaparral Ecoregion, 2007. Western Association of Fish and Wildlife Agencies, 52 pp. [www.muledeerworkinggroup.com](http://www.muledeerworkinggroup.com)

appropriate fence length, north and south of both drainages, and at a minimum, fencing should stretch several miles on both sides of the crossing.

6) 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.

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.

### **III. 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.

Exclusive Reliance upon the SCVHCP is inappropriate because:

- 1) 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.
- 2) 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.

3) Species without special status are not covered by the SCVHCP, but impacts to movement corridors for all species need to be addressed under CEQA.

4) 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.

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.

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<sup>8</sup>

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.

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.

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<sup>8</sup> Staff Report on Burrowing Owl Mitigation. 2012. California department of Fish and Wildlife <http://www.dfg.ca.gov/wildlife/nongame/docs/BUOWStaffReport.pdf>

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.

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)

#### **IV. 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.

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.

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.

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.

## **Conclusions and Recommendations**

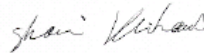
We oppose approval of the DEIR in its current form. We believe that the project as proposed will result in significant impacts to wildlife movement corridors and to special status species. At a minimum, Best Management Practices for wildlife movement corridors should be incorporated into the project 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.

We thank you for the opportunity to comment on this DEIR. Please do not hesitate to contact us if you have questions.



Heyward Robinson  
Conservation Chair  
Sierra Club Loma Prieta Chapter



Shani Kleinhaus  
Environmental Advocate  
Santa Clara Valley Audubon Society

**From:** Omar Chatty [<mailto:omarchatty@mindspring.com>]  
**Sent:** Monday, April 29, 2013 5:01 PM  
**To:** 101\_Widening  
**Subject:** Quick additional comments on US101-SR129 Widening Project EIR

Hello,

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.

Regards,

Omar Chatty

Member of a number of Transportation organizations and Taxpayer watchdog groups.

## US 101 Improvement Project

### Comment from Jesus Cisneros

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.

**From:** Richard Cripps [<mailto:richard.cripps@gmail.com>]  
**Sent:** Tuesday, March 12, 2013 12:51 PM  
**To:** 101\_Widening  
**Subject:** 101 Widening between Monterey St and 129

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.

Rich Cripps

--

750 Babbs Creek Drive  
Gilroy, CA 95020



## Things that need to be commented on for the US101 Highway/SR25 improvements

1. 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 coverts 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 Canadero 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 steam during heavy storms and can plies 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 going to do when we give up property easements in the year 1987 so that the Corp of Engineering would built 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.
2. 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.
3. 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 Canadero Creek across the back of our properties so that the Canadero 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 Canadero 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/ Canadero Creek bridge and would cost less than trying to follow the twisted Canadero Creek banks behind our properties 5725 MONTEREY FRONTAGE ROAD PARCEL #80822002 and the properties adjacent properties #80822003, 80822012, 80822013, 80822001, 80822007, and 80822008.

**From:** [JLucas1099@aol.com](mailto:JLucas1099@aol.com) [mailto:[JLucas1099@aol.com](mailto:JLucas1099@aol.com)]

**Sent:** Monday, April 29, 2013 4:07 PM

**To:** 101\_Widening

**Subject:** DEIR US 101 Improvement Project Monterey Street to State Route 129 - comment

VTA Environmental Programs/Resources Management Department  
Attention: Ann Calnan  
3331 North First Street, Building B-2  
San Jose, CA 95134-1927

April 29, 2013

RE: DEIR US 101 Improvement Project Between Monterey Street and State Route 129

Dear Ann Calnan,

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.

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)

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).

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).

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.

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.

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.

Culverts serve opportunity for interrange exchange but provide predators with exceptional hunting options so not ideal. 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.

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.

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.

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

Thank you for consideration of these concerns.

Libby Lucas  
174 Yerba Santa Ave.,  
Los Altos, CA 94022

From: Emily Renzel [<mailto:marshmama2@att.net>]

Sent: Monday, April 29, 2013 6:08 PM

To: 101\_Widening

Subject: I agree 100% with Libby Lucas

Dear Ann Calnan: I completely agree with the comments submitted by Libby Lucas re widening 101 from Monterey Street in Gilroy to Highway 129.

Sincerely, Emily M. Renzel, 1056 Forest Avenue, Palo Alto, CA 94301 and also of San Juan Bautista (so I use this stretch of 101 regularly).

MARCH 2, 2013

ANN CALNAN

VTA, SANTA CLARA COUNTY

DEAR MS. CALNAN,

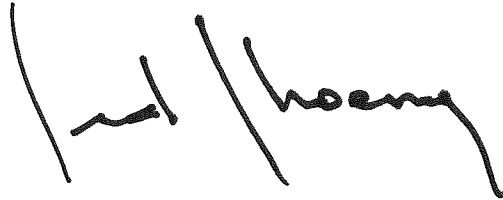
WE WOULD APPRECIATE YOUR CONSIDERATION IN THE DESIGN OF AN INTERCHANGE FOR S.H. 152 AT THE PRESENT INTERSECTION OF U.S. 101 AND S.H. 25 FOR TRAFFIC TRAVELING NORTH AND EAST OVER THE PACHECO PASS. THIS WOULD HELP ALLEVIATE THE PRESENT AND FUTURE TRAFFIC IMPACTS ON NORTHERN SAN BENITO COUNTY, ESPECIALLY 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 U.S.101 FUNDING.

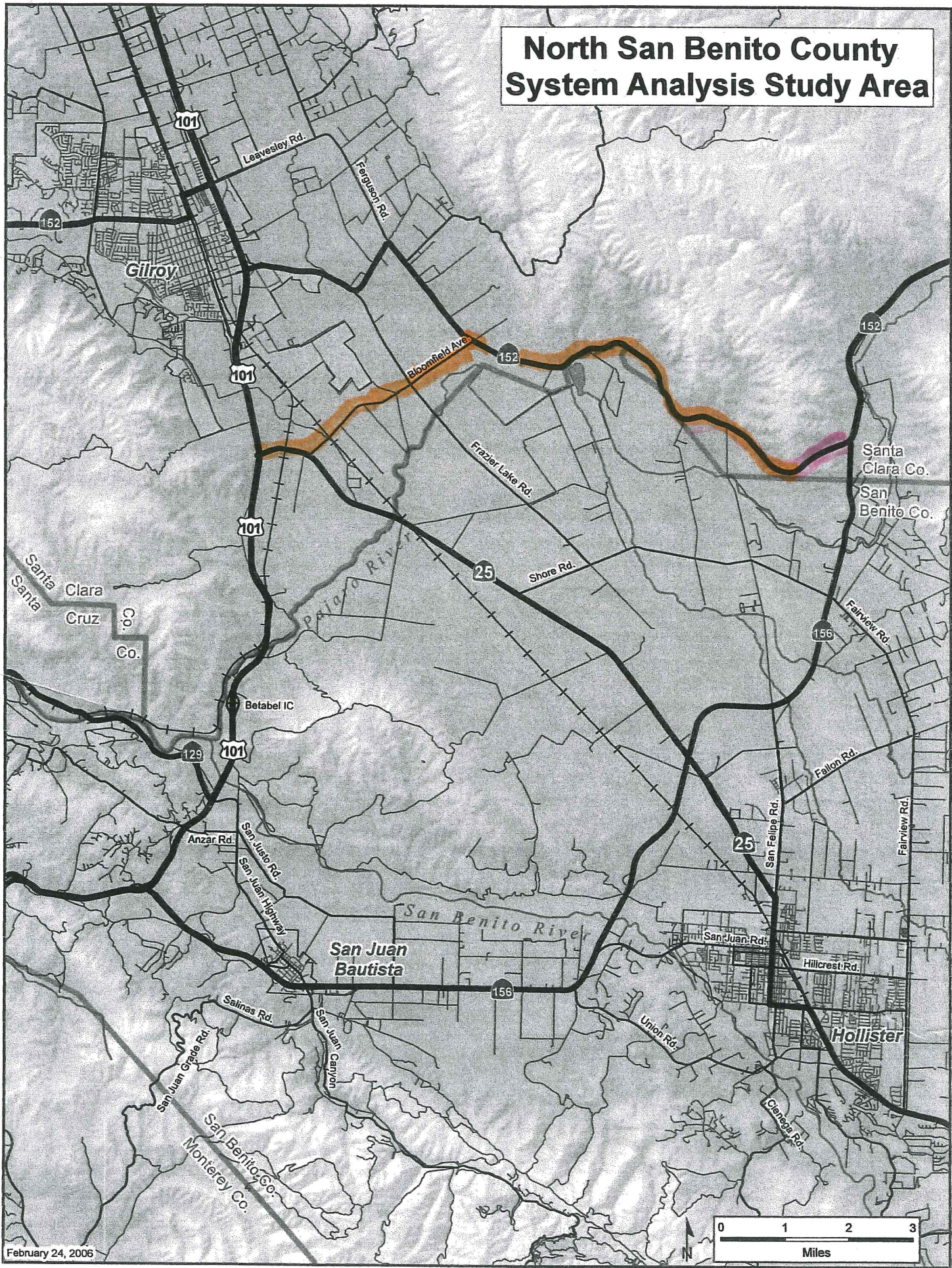
YOUR CONSIDERATION OF KEEPING INTERSTATE TRAFFIC  
ON U.S.101 WOULD BE GREATLY APPRECIATED AND  
WOULD SAVE THE TOWN OF SAN JUAN BAUTISTA.

SINCERELY,  
TED THOENY P.E.

A handwritten signature in black ink, appearing to read "Ted Thoeny". The signature is written in a cursive style with a large initial "T" and a long, sweeping tail.

MAP ENCLOSED

# North San Benito County System Analysis Study Area





PUBLIC COMMENT

Next Meeting

Subject: Re: U.S. 101 Improvement Project - Draft Environmental Document Available

From: Joseph Patrick Thompson (translaw@pacbell.net)

To: Ann.Calnan@vta.org;

Cc: pwoodward@terra-law.com; vghollister@sbcglobal.net; askmike@garlic.com; president@gilroyedc.org; editor@gilroydispatch.com; editor@freelancenews.com; editor@morganhilltimes.com; kyancey@losbanosenterprise.com; newsroom@thecalifornian.com; info@sanjuanstar.net; info@sanbenitocog.org;

Date: Thursday, March 14, 2013 11:49 PM

CHAMBER BOARD AND EDC BOARD - NEXT MEETING

Dear Ms. Calnan,  
Yes. Thanks for sending me the notice. I will submit a response as I did previously on Hwy 101, 25, 152 proposals.

Joseph P. Thompson  
Past-Chair, Legislation Committee, Transportation Lawyers Assn.  
(408) 848-5506

PS,  
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.

Joe

JPT + GRC Too.

From: "Calnan, Ann" <Ann.Calnan@vta.org>  
To: 101\_Widening <101\_Widening@vta.org>  
Cc: 101\_Widening <101\_Widening@vta.org>  
Sent: Thursday, March 14, 2013 11:14 AM  
Subject: U.S. 101 Improvement Project - Draft Environmental Document Available

Good morning/afternoon,

Attached is the Notice of Availability of the Draft Environmental Impact Report (EIR) for the **U.S. 101 Improvement Project (Monterey Street to State Route 129)** prepared in accordance with the California Environmental Quality Act. The Notice provides a brief description of the project and the location and time for the public meeting. The public meeting serves to provide information and answer questions about the project, and to accept comments on the project as part of the formal environmental review process. All comments received on the project at the public meeting and during the public review period will be addressed in the Final EIR. **The public review period begins on Thursday, March 14, 2013 and ends on Monday, April 29, 2013 at 5 PM.** You may submit your comments via e-mail (101\_Widening@vta.org), facsimile, postal mail, or at the public meeting. Details are provided in the attached Notice. (Note that the Notice is in multiple languages.)

The Draft EIR and technical reports are available to download from this ftp site:  
[http://www.vta.org/cma/environmental\\_public/101\\_Improvement.Project/](http://www.vta.org/cma/environmental_public/101_Improvement.Project/)

Compact disks (CDs) or hard copies of the Draft EIR are available upon request. Please call

VTA - ROAD TO SOME VOM LIKE USSR

LOS BANOS MAYOR CALLED VTA "DIRTY GOVERNMENT"

I CALL IT UNCONSTITUTIONAL

VTA Community Outreach at (408) 321-7575 or send an email to [community.outreach@vta.org](mailto:community.outreach@vta.org).

Thank you!



Ann Calnan / Senior Environmental Planner  
Environmental Programs and Resources Management / Santa Clara Valley Transportation Authority  
3331 North First Street, Bldg. B-2 / San Jose, CA 95134-1927  
<http://www.vta.org/>

JOSEPH P. THOMPSON  
Attorney at Law  
8339 Church Street, Gilroy, CA 95020  
**Post Office Box 154, Gilroy, CA 95021-0154**  
Telephone (408) 848-5506; Fax (408) 848-4246  
E-mail: TransLaw@PacBell.Net

July 3, 2005

Fax: 408-321-5787  
Mr. Tom Fitzwater  
Valley Transportation Authority  
Environmental Planning  
3331 North First Street, Bldg. B  
San Jose, CA 95134-1927

Re: Proposed Don Pacheco "Y" Project & Community Response Opportunity

Dear Mr. Fitzwater,

Referring to the VTA's invitation for public comment regarding the proposed interchange improvements for the intersection of State Highways 152 & 156, please refer to my letter to your predecessor five years ago (copy enclosed).

Also, please find enclosed my position paper offered in response to your request.

Thank you for the opportunity to give you my opinion regarding the proposed project.

Due to the voluminous content of my response, I will not send it by fax, but rather, by mail only. If there are questions, please do not hesitate to contact me.

Very truly yours,

Encl.

JOSEPH P. THOMPSON

cc: Hon. Don Gage, Santa Clara County Board of Supervisors  
cc: Hon. Reb Monaco, San Benito County Board of Supervisors  
cc: COG Directors  
cc: AMBAG

**Don Pacheco Y 2005: A Transportation Business and Logistics Perspective  
on the Proposed Highway 152 & 156 Intersection Changes**

by

Joseph P. Thompson, Esq.

PHOTO AVAILABLE UPON REQUEST

**Aftermath of a head-on collision between a big-rig and a school bus on State Highway 152, Gilroy, California, April 1994. Transportation planning must include consideration of the movement of goods and people.**

This reply, like the last one I wrote to the Valley Transportation Authority (VTA) regarding the proposed widening of U.S. Highway 101 between San Jose and Morgan Hill, is made in VTA's request for public comment to the proposed changes in the intersection of State Highways 152 & 156, known as the "Don Pacheco Y," in Santa Clara County, California. A copy of my last paper, which was published in local newspapers and Chamber of Commerce papers, is attached hereto as Exhibit "A."

#### *The Author*

I volunteer this paper as a transportation policy student, not on behalf of any client, or for any association or organization to which I belong. For some time now I have been doing post-doctoral study of transportation policy at the Norman Y. Mineta International Institute for Surface Transportation Policy Studies at San Jose State University, the Transportation Research Board at Georgetown University, and at the Library of Congress. I was formerly a member of the Government Review Councils of the Gilroy and Hollister local chambers of commerce. I am the past-president of the Gilroy-Morgan Hill Bar Assn., and past-president of Vineyard Estates Mutual Water Co., Inc. I am the founder of Abraham Lincoln Learning Fortress for Responsible Enterprise Education-SBC Small Business Incubator, and have served as a member of the Executive Committee of the Debtor-Creditor-Commercial Law Section of the SCCBA. I am a member of the Conference of Freight Counsel, Citizens for Reliable and Safe Highways, Citizens Rail Advisory Committee of San Benito County, Association for Transportation Law, Logistics & Policy (ATLLP), Transportation Lawyers Association (TLA), Safe Kids Coalition, Gavilan Employers Advisory Council, and other professional organizations within the geographical region of the proposed project. I am a candidate for the American Society for Transportation & Logistics (AST&L). In 1997 I received the National Directors' Best Research Paper Award from the AST&L. For more than 42 years I have been engaged in the transportation industry either directly as a truck dispatcher, intermodal facility supervisor and railroad complaint clerk or indirectly by representing carriers and their customers on the Central California Coast before federal and state courts and agencies as an attorney in the private practice of transportation law. My reply is my personal opinion and should not be viewed as that of any organization or association to which I belong, and I am solely responsible for its content.

#### *Summary*

Focusing on the movement of goods through the Don Pacheco Y, and to and from the Central California Coast Region, I conclude, as I have previously, that the Region needs an intermodal facility. Movement of people and goods in the arteries of commerce inevitably increases when obstacles are abated, yet shippers and receivers in this Region lack a viable option to highways for their traffic. We must afford our commerce an economical and efficient option that presently existing technology has achieved in intermodal TOFC/COFC service.

### *Background*

I here restate what I said to VTA about the U.S. 101 widening project, and refer the reader to Exhibit "A."

### *History*

I here restate what I said to VTA about the U.S. 101 widening project, and refer the reader to Exhibit "A."

### *Today*

Today is worse than the "today" I described in my last paper. Why? What is the explanation for our extravagantly-funded MPO's failures? Why do we spend so much tax money furnishing the MPO's like VTA, AMBAG, MTC, TAMC, COG, SCCRTC, etc., with unlimited resources of highly compensated personnel and incomprehensible sums, yet see conditions in the highway arteries of the Region, State, and Nation, deteriorating? What are we doing wrong?

Again, I refer the reader to my earlier paper (Exhibit "A") for my analysis.

Overall, I explained the structural flaws in our transport policy in my paper, "ISTEA Reauthorization and the National Transportation Policy," 25 *Transportation Law Journal*, pp. 87-*et seq.* (1997), which was published in shortened version as "ISTEA Reauthorization and the National Transportation Policy: Overlooked Externalities and Forgotten Felt Necessities," *Transportation Lawyer* (Dec. 1997). Since then, other commentators have ventured comparable analyzes. For example, Eno Transportation Foundation CEO & President Tom Downs, in a recent speech to the American Society of Civil Engineers in Baltimore, said: "The reality of this issue is that our country has needs that transcend the needs of any individual state, but parochial greed will outweigh national purpose every time. The real problem is that it means that the program is just about revenue distribution, and not about national transportation needs. The forces behind this movement are so emotional and greed driven that I do not have much hope for a resolution that benefits the entire country."

The flaws identified by knowledgeable transportation people like Mr. Downs undermine our Region's ability to achieve sound, sustainable transportation solutions.

VTA and other MPO's waste so much money on irrational mass transit solutions that their greed make the Robber Barons seem like altar boys in comparison, yet our MPO's politicians and advocates describe such waste as "success." Is it really "success," or dreadful failure? It depends upon whether one is receiving the transit subsidies, or paying them.

### *Intermodal Options*

What I said in the last paper is just as true today. "Neither Silicon nor Salinas Valleys have intermodal facilities. San Jose has the distinction of being the largest urban area in

debate and forests of paper on how to achieve the best solution, private or public, but until we do, we will see future generations paying for this schizophrenic transportation policy, which I believe is the fundamental reason why we have arteriosclerosis in our arteries of commerce. Better minds than mine have reached this conclusion. For example, our former Mayor and Congressman, recently nominated by the President to become our next Secretary of Commerce, said in 1995: "The crucial question in transportation today is: What should government do? And what should it leave to others?" Quoted with my earlier thoughts on this in "ISTEA Reauthorization and the National Transportation Policy," 25 *Transportation Law Journal* 87-*et seq.* (1997).

This project, as all others, will not happen in a vacuum. National and international forces will affect it. We may see, for example: (1) fuel prices continue to increase, (2) commercial drivers hours of service regulations modified to worsen the Nation's driver shortage, (3) vehicle weights "harmonized" with those of our NAFTA "partner" Mexico (107,000 lbs. vs. our present limit of 80,000 lbs.), (4) long combination vehicles (LCVs), i.e., triple short trailers and "freeway doubles" 2-53 footers, nationwide, or rather, throughout North America under NAFTA's transportation "side agreements," and (5) more axles bearing greater concrete-cracking, bridge-buckling loads. Legislation now pending in Congress may make some of these developments arrive on our highways in the near future." With TEA-21 reauthorization in the hands of the Congress, and our policy flaws unchanged, I see no hope to the deteriorating conditions. The MPO's leaders will continue to hopelessly tax people out of their cars as they Sovietize American transport policy.

### *Recommendations*

My recommendation to our leaders at VTA, and the other MPO's, and their so-called "senior transport planners," who have co-opted the term "intermodal" to mean something entirely different than what earlier generations of transportation men understood it to mean, is the same as before:

"When there were more than 100 Class 1 railroads, the Nation had more than 2,000 intermodal facilities. Today we have 5 Class 1's and about 200 intermodal facilities. To garner 10% of our Nation's freight revenue (trucks currently take 77%), the railroad industry has been forced to contract to stay profitable. Although it takes four times as much fuel to move a ton with rubber tires over concrete highways than with steel wheels on steel rails, and although air pollution is vastly greater from one fully-loaded "big rig" than from an automobile, I do not see anyone at our MPOs promoting our intermodal options. Even studies like Jack Faucet & Associates 1995 *Freight Study* for AMBAG and Barton-Ashman Associates 1992 *I-880 Intermodal Corridor Study: Truck Travel in the San Francisco Bay Area* for Caltrans District 4 and Alameda County miss their mark or, sadly, are disregarded by our MPOs. I believe that it is wrong to restrict our senior

North America without one. The closest ones are located in Richmond on the ATSF-BN and in Lathrop on the UP. Business must cope with the congested I-880 corridor to get traffic from our Region to ATSF-BN's ramp, or dray loads over the Gabilans through Pacheco Pass or Sunol Grade and Altamont Pass to catch UP's Lathrop intermodal facility. The former intermodal facility site on the SP at Taylor and Coleman Streets in San Jose is for sale. The former intermodal yard in Salinas adjacent to the Amtrak Station off Market Street has been partly built upon. UP, SP's successor by merger, offers no intermodal service from this Region. *Union Pacific Railroad Company, Exempt Circular 20-B: Governing Publication of Rules and Charges Applying on TOFC/COFC Shipments* (12/1/1997). So, as a result, the westbound tonnage to the Region moves primarily by highway, and the eastbound tonnage, mostly produce from the Salad Bowl of America--Salinas Valley, also goes by truck. These commodity flows are constantly increasing, along with the population of motorists competing for space on the subject route, among others, e.g., State Highways 152, 156, 129, & 25. Increasing the capacity of the 101 corridor will, like a wider drain, draw more of the same flows. How long can this go on?" Well, it is still going on today in 2005, under the leadership of our MPO's planners and directors. I must ask, again, why? Are we planning for serfdom?

### *The Future*

My prediction, resulting from my analysis of VTA's intransigence and greed for socialist mass transit solutions like Lite Rail and BART, remains the same as I said before: "Our regional metropolitan planning organizations (MPOs) Metropolitan Transportation Commission (MTC) and Association Monterey Bay Area Governments (AMBAG) have taken the position that they will not support residents' and GRC's efforts to restore intermodal facilities in the Region. MTC's 1999 *Transportation Improvement Program for the Nine-County San Francisco Bay Area* (9/23/98) mentions "multimodal" projects, but by this term it means only passenger transit operations linking, for example, transit buses with passenger trains and BART. The term "intermodal," which was the keystone of the Intermodal Surface Transportation Efficiency Act of 1991, Pub.L. 102-240 ("ISTEA"), supposedly renewed in the Transportation Efficiency Act for the 21st Century ("TEA-21"), H.R. 2400, has received little or no attention. This artificial division between public-sector passenger transit planners and private-sector transportation is a source of waste and inefficiency in our Nation. In this regard we are, I believe, a House Divided against ourselves.

The long-range congestion management plans for both Silicon and Salinas Valleys do not mention intermodal facilities. This should not be surprising because their position has been, since their inception, that they cannot support private sector transportation solutions, and are, in fact, in competition with them. Even the California Transportation Commission's (CTC) 1999 study of California's transportation infrastructure needs for the next decade failed to mention them. We can continue to sacrifice countless hours of



transportation planners at our MPOs from planning private sector options. While I do not find any legislative support for their position, that is a fundamental assumption on which they operate. I believe that we ought to untie their hands and let them harness the private sector solutions. I would recommend to our senior transportation planners and policy makers the TRB's Conference Proceedings No. 12, "National Conference on Setting an Intermodal Transportation Research Framework" (1997) for guidance on this strategy.

If the Southern California Association of County Governments can recommend "truck only" lanes, we in Northern California ought to show them a better solution, i.e., intermodal facilities. After all, the whole Nation looks to our Region as the leaders of the "new economy," so why not show us also to be brighter about transportation solutions? We ought to give our shippers and receivers an alternative to highways for their traffic, especially when truck brokers are claiming that "driver shortages" (real or imagined) exist, forcing-up the freight charges to sky-high rates. The freight savings can be passed along to the ultimate consumers."

### *Conclusion*

Again I repeat to the "senior transportation planners" and VTA's leaders, "We have here in our Region what NAFTA calls a "barrier to trade." This barrier is a result of our previous decisions and our existing transportation policy. I think we are smart enough to remove it. Therefore, I urge you to consider these ideas in your endeavor to seek solutions in your environmental impact report." My recent paper "Intermodal Facility for the Hollister Branch Line: A Private Sector, Sustainable, User-Fees Funded Transportation Solution for the 21st Century," was attached to the last paper I gave VTA, and which I presented to the CTC at their meeting at the PUC headquarters in San Francisco in 2002. I believe that the ramifications of the proposed improvements to the Don Pacheco Y ought to be mitigated by the restoration of intermodal facilities on the Central California Coast, and if neither MTC nor AMBAG want them in this Region, then I believe that the only place to build one would be on the Hollister Branch Line beyond their jurisdiction in San Benito County.

Joseph P. Thompson

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July 2005

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July 7, 2000

Mr. Roy Molseed Fax: 408-321-5787  
 Valley Transportation Authority  
 Environmental Planning  
 3331 North First Street, Bldg. B  
 San Jose, CA 95134

Mr. Rob Oneto, Chair Fax: 831-384-0800  
 Government Review Council  
 Gilroy Chamber of Commerce  
 7174 Monterey Street  
 Gilroy, CA 95020

Re: Proposed U.S. 101 Widening Project & Community Response Opportunity

Dear Messrs. Molseed and Oneto,

Confirming my telephone conversations with you, due to 71st annual meeting of the Association for Transportation Law, Logistics & Policy (ATLLP) in Montreal, I was unable to attend the community workshops that were held in connection with this project, but as promised, I am submitting, under separate cover, my response to VTA's invitation for comments from the public.

While I am a member of GRC of both Gilroy and San Benito County Chambers of Commerce, Citizens Rail Advisory Committee, Citizens for Reliable and Safe Highways, Safe Kids Coalition, Transportation Lawyers Assn., ATLLP, and President of the Morgan Hill-Gilroy Bar Assn., among other things, my response should not be considered GRC's or that of any other association or organization with which I am affiliated, and I am solely responsible for its content.

My response is not sent on behalf of a client, but merely represents some ideas of this former transportation complaint clerk, truck dispatcher and intermodal facility supervisor in San Jose for many years, and now post-doctoral student of transportation law and policy.

Thank you for giving me this opportunity to submit my thoughts on this vital endeavor. Due to the voluminous content of my response, I will not send it by fax, but rather, by mail only. If there are questions, please do not hesitate to contact me.

Very truly yours,

JOSEPH P. THOMPSON

Encl.  
 cc: Hon. Don Gage, Santa Clara County Board of Supervisors  
 cc: Susan Valenta, Gilroy Chamber of Commerce  
 cc: Carole Appling, San Benito County Chamber of Commerce

**El Camino Real 2000: A Transportation Business and Logistics Perspective**  
**on the Proposed Widening of U.S. Highway 101**

by

Joseph P. Thompson, Esq.

**Aftermath of a head-on collision between a big-rig and a school bus on a State Highway, Gilroy, California, April 1994. Transportation planning must include consideration of the movement of goods and people.**

This reply is gratefully offered at the invitation of the Valley Transportation Authority (VTA) to the public for comment on the proposed widening of U.S. Highway 101 between San Jose and Morgan Hill in Santa Clara County, California.

### *The Author*

I volunteer this paper as a transportation policy student, not on behalf of any client, or for any association or organization to which I belong. Recently I have been doing some post-doctoral study of transportation policy at the Norman Y. Mineta International Institute for Surface Transportation Policy Studies at San Jose State University. I am a member of the Government Review Councils of two local chambers of commerce, Citizens for Reliable and Safe Highways, Citizens Rail Advisory Committee of San Benito County, Association for Transportation Law, Logistics & Policy (ATLLP), Transportation Lawyers Association (TLA), Safe Kids Coalition, Gavilan Employers Advisory Council, and other professional organizations within the geographical region of the proposed project. I am the President of the Morgan Hill-Gilroy Bar Association, and a candidate for the American Society for Transportation & Logistics (AST&L). In 1997 I received the National Directors' Best Research Paper Award from the AST&L. For more than 35 years I have been engaged in the transportation industry either directly as a truck dispatcher, intermodal facility supervisor and railroad complaint clerk or indirectly by representing carriers and their customers on the Central California Coast before federal and state courts and agencies as an attorney in the private practice of transportation law. My reply is my personal opinion and should not be viewed as that of any organization or association to which I belong, and I am solely responsible for its content.

### *Summary*

Focusing on the movement of goods in the Hwy. 101 corridor, I conclude that the Central California Coast Region needs an intermodal facility. Movement of people and goods in the arteries of commerce inevitably increases when obstacles are abated, yet shippers and receivers in this Region lack a viable option to highways for their traffic. We must afford our commerce an economical and efficient option that presently existing technology has achieved in intermodal TOFC/COFC service.

### *Background*

At least since the Roman roads were built, people and goods have moved together on highways. I will not dwell on the proposed project's consequences for commuters, except insofar as passenger travel on the highway is affected by the movement of goods. Democracy, transportation, environment, freedom, business and other major subjects of importance to society are undoubtedly intertwined in the proposed project, as are politics,

taxation, planning, zoning, housing, employment and myriad things that transportation touches in our lives. Leaving to others the difficulties inherent in those aspects of this project, giving VTA's talent pool its due, and other members of the public more knowledgeable than me about those things, I think that we owe it to ourselves and future generations of residents of this Region to consider what this project will mean for the movement of goods.

### *History*

Since its creation by the Spanish missionaries, the El Camino Real has seen a steady increase of capacity. As the Interstate Highway System neared completion, Hwy. 101 was improved by previous generations from its trace down Monterey Road and old El Camino Real when the freeway portions were created east of Morgan Hill and Gilroy and northward to link with older freeway sections in south San Jose. Concurrently, population and commerce increased, swelling demand in the Region. During this period of highway construction in the Region, we abandoned our intermodal facilities in the Santa Clara and Salinas Valleys, while the rail option for travelers also ended. Automobile and truck traffic thus grew, no viable options being available. This Region was not alone in witnessing these trends, which have culminated in us realizing that we need non-highway transportation options.

During the Vietnam War, when I was the graveyard shift supervisor at San Jose's intermodal facility, local business owners could have their inbound loads spotted, deramped, and delivered to their doorsteps by 6AM. Cargoes as diverse as Trident missile sections and military material to domestic loads of every description moved long-haul segments of their trips to Piggyback Ramps. Examples included U.S. Mail and "swinging beef," two of the "hottest" commodities that we handled. Salinas Valley shippers and receivers also had the benefit of the less-expensive intermodal option, giving rise to the inclusion of Bud Antle's 500 refrigerated trailers to the consist of the "Salad Bowl Express."

### *Today*

Today the loads business needed by 6AM may still be out on the highways leading into these Valleys on congested routes late into the morning. Although the Nation now utilizes the services of more than 3 million "owner-operators," Just-in-Time logistics is back-firing, and freight charges are escalating. The resurgence in passenger rail illustrates how we have gone back to the future, so to speak, in the movement of people in the Region. What about with goods movement? What are the options? To reach the airports and ports of San Francisco Bay, our business owners must use Hwy. 101. No water or air transportation options serve the Region even though agribusiness foreign sales dictate containerized freight. Even if shippers and receivers of overseas traffic utilize marine

container service, the local legs of those international trips are on the Region's highway connection with the San Francisco Bay ports. Trans-Mississippi tonnage moves OTR both EB and WB to and from this Region, mostly via long-haul trucks. Most of this tonnage is funneled onto the Hwy. 101 corridor, moving together with automobile traffic in what has become a badly congested route for both. Like other Bay Area highway corridors, e.g., Sunol Grade, Altamont Pass, etc., goods movement in our clogged arteries of commerce is a part of the problem generated by our unprecedented economic success in the Region. Free trade initiatives mean the trend will continue. If mass transit and passenger rail options deserve our respect, our attention, and our tax dollars, then what about options for movement of goods? Can we divert some of that tonnage to another mode?

### *Intermodal Options*

Neither Silicon nor Salinas Valleys have intermodal facilities. San Jose has the distinction of being the largest urban area in North America without one. The closest ones are located in Richmond on the ATSF-BN and in Lathrop on the UP. Business must cope with the congested I-880 corridor to get traffic from our Region to ATSF-BN's ramp, or dray loads over the Gabilans through Pacheco Pass or Sunol Grade and Altamont Pass to catch UP's Lathrop intermodal facility. The former intermodal facility site on the SP at Taylor and Coleman Streets in San Jose is for sale. The former intermodal yard in Salinas adjacent to the Amtrak Station off Market Street has been partly built upon. UP, SP's successor by merger, offers no intermodal service from this Region. *Union Pacific Railroad Company, Exempt Circular 20-B: Governing Publication of Rules and Charges Applying on TOFC/COFC Shipments* (12/1/1997). So, as a result, the westbound tonnage to the Region moves primarily by highway, and the eastbound tonnage, mostly produce from the Salad Bowl of America--Salinas Valley, also goes by truck. These commodity flows are constantly increasing, along with the population of motorists competing for space on the subject route, among others, e.g., State Highways 152, 156, 129, & 25. Increasing the capacity of the 101 corridor will, like a wider drain, draw more of the same flows. How long can this go on?

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### *The Future*

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H.R. 2400, has received little or no attention. This artificial division between public-sector passenger transit planners and private-sector transportation is a source of waste and inefficiency in our Nation. In this regard we are, I believe, a House Divided against ourselves.

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### *Recommendations*

When there were more than 100 Class 1 railroads, the Nation had more than 2,000 intermodal facilities. Today we have 5 Class 1's and about 200 intermodal facilities. To garner 10% of our Nation's freight revenue (trucks currently take 77%), the railroad industry has been forced to contract to stay profitable. Although it takes four times as much fuel to move a ton with rubber tires over concrete highways than with steel wheels on steel rails, and although air pollution is vastly greater from one fully-loaded "big rig" than from an automobile, I do not see anyone at our MPOs promoting our intermodal options. Even studies like Jack Faucet & Associates 1995 *Freight Study* for AMBAG and Barton-Ashman Associates 1992 *I-880 Intermodal Corridor Study: Truck Travel in the*

*San Francisco Bay Area* for Caltrans District 4 and Alameda County miss their mark or, sadly, are disregarded by our MPOs. I believe that it is wrong to restrict our senior transportation planners at our MPOs from planning private sector options. While I do not find any legislative support for their position, that is a fundamental assumption on which they operate. I believe that we ought to untie their hands and let them harness the private sector solutions. I would recommend to our senior transportation planners and policy makers the TRB's Conference Proceedings No. 12, "National Conference on Setting an Intermodal Transportation Research Framework" (1997) for guidance on this strategy.

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### *Conclusion*

We have here in our Region what NAFTA calls a "barrier to trade." This barrier is a result of our previous decisions and our existing transportation policy. I think we are smart enough to remove it. Therefore, I urge you to consider these ideas in your endeavor to seek solutions in your environmental impact report. My recent paper "Intermodal Facility for the Hollister Branch Line: A Private Sector, Sustainable, User-Fees Funded Transportation Solution for the 21st Century," is attached hereto. I believe that the ramifications of the proposed project on Hwy. 101 ought to be mitigated by the restoration of intermodal facilities on the Central California Coast, and if neither MTC nor AMBAG want them in this Region, then I believe that the only place to build one would be on the Hollister Branch Line beyond their jurisdiction in San Benito County.

FRA's administrator for policy announced last week at ATLLP's 71st annual meeting in Montreal that TEA-21's RRIF and TIFIA (see §7203 of TEA-21) regulations were to be released (finally) by USDOT very shortly. When they are, then we ought to encourage a short line railroad to seek that "seed money" from the federal government and use it to acquire the Hollister Branch Line from the UP and build the Central California Coast an intermodal facility like the one that the UP has at Lathrop. If that is done then the proposed Hwy. 101 widening will not be so badly congested as it will be without one. I believe that we could show the rest of the Nation how to solve some of their highway congestion and road maintenance expenses if we did this.

Joseph P. Thompson

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July 2000



**YOUR OPINION COUNTS**

Date: 3/28/13 Name of Project: VSFO -> Improvement to SR 129

I have a question/comment about:  
This is an excellent project to have + Auxiliary to SR 129 plan + enable future automobile + traffic growth  
24/7 and for resident + emergency engines + egress, commerce, safety, and safe bicycling  
- Please NO toll lanes at all, never  
- though not dependent, display and analysis  
+ plan for US 101 widening from Cochrane road to market  
- Consider Feeder interchange + low of future SR 129 for adequate future capacity

I would like more information about:  
 Design Features  Community Meetings  Funding  
 Property Acquisition  Environmental Effects  Schedule  
 Construction Impacts  Other: Any consideration of toll  
Or construction pricing as I may consider such

Phase - In good method. - Consider a.m. sun in drivers eyes  
 Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call Community Outreach at (408) 321-7575 or email [community.outreach@vta.org](mailto:community.outreach@vta.org)

Name: OMAR CHATTY  
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 City: San Jose State: CA Zip: 95119-1865  
 Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

VTA collects personal information to provide members of the public with project updates. We do not share this information with third parties unless required by law. Please be advised that the contact information you provide may be subject to inspection and copying under the California Public Records Act.

11128115

**YOUR OPINION COUNTS**

Date: 3/28/13 Name of Project: US 101 Improvement Project

I have a question/comment about:  
Agricultural Resources with Option A

I would like more information about:  
 Design Features  Community Meetings  Funding  
 Property Acquisition  Environmental Effects  Schedule  
 Construction Impacts  Other: \_\_\_\_\_

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call Community Outreach at (408) 321-7575 or email [community.outreach@vta.org](mailto:community.outreach@vta.org)

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 Address: 820 Carignano Dr  
 City: Gilroy State: CA Zip: 95020  
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11128115

**YOUR OPINION COUNTS**

Date: 3/27/13 Name of Project: US 101 Market St  
 I have a question/comment about: State route 129  
Regiment Winery  
The Garlic Shoppe

I would like more information about:  
 Design Features  Community Meetings  Funding  
 Property Acquisition  Environmental Effects  Schedule  
 Construction Impacts  Other: \_\_\_\_\_

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call Community Outreach at (408) 321-7575 or email [community.outreach@vta.org](mailto:community.outreach@vta.org)

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 Address: 8407 Davis Ct  
 City: Gilroy State: CA Zip: 95020  
 Phone: 4088471285 E-mail: JCL@V66baric.com

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11128111

**YOUR OPINION COUNTS**

Date: 3-28-13 Name of Project: \_\_\_\_\_

I have a question/comment about: \_\_\_\_\_

US 101 Improvement project at bridge

I would like more information about:

- Design Features
- Property Acquisition
- Construction Impacts
- Community Meetings
- Environmental Effects
- Other: Rebuilding - Bridge
- Funding
- Schedule

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call Community Outreach at (408) 321-7575 or email [community.outreach@vta.org](mailto:community.outreach@vta.org).

Name Joe Rizzuto

Address 5625-55 Monterey Fr. Rd.

City: San Jose State: Ca Zip: 95020

Phone: 408 842-5004 E-mail: \_\_\_\_\_

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111728115

**YOUR OPINION COUNTS**

Date: 3/28/13 Name of Project: US 101 widening to SR 129

I have a question/comment about: \_\_\_\_\_

Option A  
- Please consider 6 lanes, plus 6 lanes + auxiliary  
safety of narrow space between cars in a  
6 lane  
- Retention alternatives

I would like more information about:

- Design Features
- Property Acquisition
- Construction Impacts
- Community Meetings
- Environmental Effects
- Other: \_\_\_\_\_
- Funding
- Schedule

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call Community Outreach at (408) 321-7575 or email [community.outreach@vta.org](mailto:community.outreach@vta.org).

Name \_\_\_\_\_

Address \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

VTA collects personal information to provide members of the public with project updates. We do not share this information with third parties unless required by law. Please be advised that the contact information you provide may be subject to inspection and copying under the California Public Records Act.

111728115

**YOUR OPINION COUNTS**

Date: \_\_\_\_\_ Name of Project: \_\_\_\_\_

I have a question/comment about:

- 1) NOISE ISSUES
- 2) FLOOD ISSUE, HIGHWAY GRADE LEVEL TO THE SAME ELEVATION IN FRONT OF PROPERTIES NORTH/WEST SIDE OF CARANDELA CREEK/101 BRIDGE.
- 3) IS THERE GOING TO BE ANY PROPERTY ACQUISITION OR EASEMENT TO MONTEREY FRONTAGE RD.

I would like more information about:

- Design Features
- Community Meetings
- Funding
- Property Acquisition
- Environmental Effects
- Schedule
- Construction Impacts
- Other: \_\_\_\_\_

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call Community Outreach at (408) 321-7575 or email [community.outreach@vta.org](mailto:community.outreach@vta.org).

Name JIMMY GALTMAN By 4/28/13

Address 5725 MONTEREY FRONTAGE RD

City: GILROY State: CA Zip: 95020

Phone: (408) 897-1142 E-mail: JIMMY.GALTMAN@GE.COM

VTA collects personal information to provide members of the public with project updates. We do not share this information with third parties unless required by law. Please be advised that the contact information you provide may be subject to inspection and copying under the California Public Records Act.

11172815

**YOUR OPINION COUNTS**

Date: 3-28-13 Name of Project: US 101 Improvement

I have a question/comment about:

- Option A/B

I would like more information about:

- Design Features
- Community Meetings
- Funding
- Property Acquisition
- Environmental Effects
- Schedule
- Construction Impacts
- Other: \_\_\_\_\_

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call Community Outreach at (408) 321-7575 or email [community.outreach@vta.org](mailto:community.outreach@vta.org).

Name Jolene Cesio

Address \_\_\_\_\_

City: SJB State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

VTA collects personal information to provide members of the public with project updates. We do not share this information with third parties unless required by law. Please be advised that the contact information you provide may be subject to inspection and copying under the California Public Records Act.

11172815

# **Appendix G**

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## **Public Hearing Transcript**

VALLEY TRANSPORTATION AUTHORITY  
PUBLIC MEETING

U.S. 101 IMPROVEMENT PROJECT  
BETWEEN MONTEREY STREET  
AND STATE ROUTE 129

REPORTER'S TRANSCRIPT OF PUBLIC COMMENTS

Date: Thursday, March 28, 2013  
Time: 6:36 p.m.  
Location: GILROY PUBLIC LIBRARY  
350 West Sixth Street  
Gilroy, CA 95020  
Reported By: Noelia Espinola, CSR  
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A P P E A R A N C E S

Facilitator: CHERYL PHELPS

The Reporter: ADVANTAGE REPORTING SERVICES  
BY: NOELIA ESPINOLA,  
CSR #8060  
1083 Lincoln Avenue  
San Jose, CA 95125  
(408) 920-0222

--o0o--

1 MS. PHELPS: Okay. So now we've learned more  
2 about the project.

3 I've got one card, which I don't know, who's  
4 got more comments. Does anybody else -- the gentleman  
5 over in the aisle is getting ready to make a comment,  
6 perhaps. What about anybody else? Any -- any other  
7 comments tonight? Kathleen, the lady right here in the  
8 pink. She said she's got a card too.

9 Okay. All right. So what I'd like for you  
10 to do is that -- Kathleen here is going to be helping  
11 us tonight with the timer. She's got it on her iPad.  
12 You'll have three minutes to speak. And here's  
13 Kathleen right here on the side, with the iPad. She'll  
14 set it. We'll give you three minutes, and then it will  
15 beep when the three minutes are up so you'll know it's  
16 time for you to give the floor over to the next person.

17 So let's see. First I'd like to call Omar  
18 Chatty. And if you would state your name for the  
19 record. We have the court reporter right here, and she  
20 will record your name and stuff.

21 MR. CHATTY: Okay. My name is Omar Chatty,  
22 and I've been active in transportation in Santa Clara  
23 Valley for well over 30 years.

24 Fighting for Highway 152 approval that  
25 happened 30 years ago, saved a lot of lives. And

1 hoping to get the rest of 152 finished without tolls.

2           So this is extra presentation. This is the  
3 way -- this is the hallmark of VTA. Once this is  
4 approved, I hope to take this on the road, to the  
5 highway engineers and other transportation planners  
6 around the country. This is the model, especially your  
7 environmental sensitivity and your concern about the  
8 neighbors and the businesses. So I just want to give  
9 you that kudos.

10           This project plan is for future -- future  
11 auto mobility. It's -- I do want to consider the  
12 impacts on 156, 125, 152 and 129 in the future. What  
13 happens is when you widen the road, there is some  
14 impacts down the road. 156 is already -- and it is  
15 already dangerous for the capacity. So be careful. We  
16 may need to widen that.

17           I don't know if it's a legal issue with  
18 respect to VTA money being spent in San Diego County.  
19 That may need to be addressed to avoid a lawsuit.

20           Again, no tolls on this. This is pure --  
21 what engineers do. This is the way California used to  
22 be, for those old enough to remember, when we built  
23 freeways. But now we do go for the aesthetic and  
24 environmental sensitivity. I really appreciate the  
25 animal concern. I know some people think that's funny,



1 but it's not. Because, as indicated, people die  
2 because they hit deer or they hit small animals or try  
3 to avoid them.

4 So I also hope you consider sun in the  
5 driver's eye. I notice there is really bad accidents  
6 down by the rocks where the sun -- people coming in  
7 from Prunedale. I don't know if that's going to affect  
8 here, but if there's any kind of mitigation that may be  
9 necessary.

10 Let's see. So, again, thank you for not  
11 being political in this. It's not a bus rapid transit.  
12 It's not a road diet. It's really to do something.  
13 But it does seem to also meet the SB 375 requirement  
14 not to produce more vehicle miles traveled because we  
15 now have to reduce it, based on our beloved  
16 legislature.

17 I would also ask you to consider berms with  
18 vegetation. Some kind of solid vegetation instead of  
19 sound walls where you have to do that. You may have  
20 already done that. I don't know. But berms are good  
21 as long as you don't destroy the view, because then you  
22 get into significant impacts.

23 So -- so, anyway, this is just great. This  
24 is what -- this is really what VTA is about when you  
25 guys really are responding to the public need, both

1 locally and regionally. And I just -- I just really,  
2 really, really thank you, and I wish VTA would do more  
3 of it. Especially further up in the county.

4 Thank you.

5 MS. PHELPS: Thank you. Next I'd like to  
6 call Carolyn Tognetti.

7 MS. TOGNETTI: Carol Tognetti. I live in  
8 Gilroy. We own Garlic World. I don't live out there,  
9 but we have a business that is going to be affected  
10 with the frontage road. We won't be taken.

11 But my concern is actually for agriculture  
12 and looking at the two options. Especially on  
13 Option A, which takes more of the farmland. I think my  
14 question -- it's kind more of a question -- it's  
15 comment and a question. But wondering, on the farmland  
16 that is not taken and that is left that is to the  
17 south, I guess it is, of where the road will be, will  
18 there be access for that? Because if it's not, it's  
19 gone as well. It won't be able to be farmed. So I  
20 don't know if there's consideration for that, but I  
21 hope there is. So that at least that isn't affected by  
22 the road crossing through and then nobody can get to it  
23 with tractors and all of those things.

24 And the other comment I have is just -- you  
25 just mentioned greenhouse gases, gas emissions. But

1 that's a huge factor. So I don't know if you're  
2 complying with the climate change things and all of  
3 that with the State. Anyway, that's a big issue. Glad  
4 to see you're paying attention to the critters and  
5 their connectivity.

6 And thank you very much.

7 MS. PHELPS: Thank you.

8 And one more card. The name is Jimmy  
9 Galtman.

10 MR. GALTMAN: My name is Jimmy Galtman. I  
11 live on 5725 Monterey Frontage Road. That's right  
12 where the southbound lane heading south on 101 meets.

13 My concern is noise issues. You know,  
14 they're talking about how they -- okay. So, basically,  
15 it's a noise issue. Right now they talk about how  
16 they've done an environmental impact as far as the  
17 noise. Right now, because there's a truck stop  
18 directly across my property -- you've heard of a Jake  
19 brake? Those trucks heading northbound, heading into  
20 that truck stop, go off -- I don't know how you take  
21 your sound, you know, levels, but it's very noisy.  
22 Plus, on the southbound lanes of 101, just after you go  
23 over the overpass, heading south over the railroad  
24 tracks there, there is something in the highway that  
25 when these big rigs hit it, my front windows rattle.

1                   So -- you know, it's a big impact to me. So  
2 now you're talking about widening the freeway all the  
3 way down. The traffic -- the flow of traffic is going  
4 to move faster in both directions. You know, you are  
5 improving the flow. We're concerned about that. And  
6 we would like a sound wall through that area. I know  
7 it's probably not cost-effective, but that's our  
8 suggestion.

9                   The other thing has to do with flood control.  
10 In 1986 we were flooded. Basically, when they did the  
11 bypass of 101 around Gilroy, they created a dam. If  
12 you look at the history, 100-year flood, water used to  
13 go under that area there, just about where the bypass  
14 starts, and goes in the east side of the Highway 101 in  
15 Gilroy. Well, in '86 it flooded the southern part of  
16 Gilroy, backed up towards our property, and I got two  
17 inches of water into my home. My neighbor, Joe  
18 Rizzuto, got a lot of water in his house. He's at the  
19 apex. We're concerned that between that area where I  
20 live and the Canadero bridge -- if that is elevated,  
21 you're going to create a dam there and water isn't  
22 going to go.

23                   Even though you have an easement, the  
24 so-called 100-year flood, you know how our climate has  
25 been changing. There is exceptions, and there's a lot

1 of them that has been happening recently if you look at  
2 our weather conditions. And the way they built  
3 Gilroy, it's all going to the northwest. They're  
4 covering more ground up there, towards the foothills.  
5 So you're getting more water that is going to that  
6 creek. And if you look at the graphics of that creek,  
7 the way it meanders, it's a disaster in the making.

8 So you have to consider that part north of  
9 Canadero Creek, that bridge that you're going to  
10 rebuild, and if the grade level will stay where it's  
11 at.

12 And I guess the other thing -- let's see.  
13 There was one more point we wanted to make. Oh,  
14 easement. Is there going to be an easement on that  
15 frontage road that I live on now? I have a bunch of  
16 pine trees that run across the front of my property,  
17 and essentially they're there for a sound barrier. And  
18 because of the pitch canker, they're dying. I've  
19 already taken out a dozen trees. I put up some  
20 sequoias. I kind of want to know -- they run along  
21 frontage road there -- am I going to be impacted by  
22 that also.

23 I think that's it. Thank you.

24 MS. PHELPS: Thank you very much.

25 I also have a card from Jolene Cosio.

1 MS. COSIO: I'm Jolene Cosio. I live in San  
2 Juan Bautista. And we've had a pretty bad experience  
3 there with Caltrans, with 156 eating up a great deal of  
4 farmland in the plan that they have proposed. And I do  
5 not understand why Option A would even be considered  
6 when Option B uses up so much less prime ag land. It  
7 just -- I don't know that much about the plan, but just  
8 looking at it briefly today, it appears that Option B  
9 should be the preferred option. I don't know. Maybe  
10 somebody likes straight lines and that's what so great  
11 about Option A. It doesn't look like a good idea to  
12 me.

13 And then the other thing I'm just going to  
14 mention: I don't know that driveways on a highway are  
15 as bad a thing as Caltrans and maybe the VTA seems to  
16 think they are. With proper acceleration and  
17 deceleration lanes, I think that you can accommodate  
18 businesses along a highway.

19 MS. PHELPS: Thank you.

20 Does anyone else have a comment they would  
21 like to have recorded for the public record? Yes.  
22 Charles Larson.

23 MR. LARSON: I'm Alex Larson.

24 MS. PHELPS:

25 MR. LARSON: My brother Charlie and I both

1 own Rapazzini Winery and The Garlic Shoppe. And on the  
2 EIR deal it says that you guys are going to give us  
3 fair market value. My concern is that fair market  
4 value has been diminished because back in 1985 you put  
5 an overpass right in front of us, so you took away 50  
6 percent of our business. And a few years ago you put a  
7 head-on median down the middle of the road so we no  
8 longer had the southbound access. So you took away  
9 another 30 percent of our business -- of our retail  
10 business. So I want to make sure that we're being  
11 compensated for everything that you're taking away from  
12 us, not what you're taking away from us after you've  
13 already piecemealed it and taken away over the years.

14 Thank you.

15 MS. PHELPS: Thank you.

16 So those are all of the comments that we have  
17 tonight. I would like to encourage you -- yes:

18 MS. PODRASKEY: We have one more.

19 MS. PHELPS: Oh, one more? Mr. Chatty would  
20 like to come back?

21 MR. CHATTY: May I use my last 20 seconds?

22 MS. PHELPS: Yes, you may.

23 MR. CHATTY: I failed to mention, I'm hoping  
24 the EIR -- I haven't had a chance to look at it -- will  
25 also consider the emergency services. That was vital

1 with Highway 85, for emergency vehicles to get back and  
2 forth quickly to fires and other emergencies. And so  
3 with this road, when we have a fire or a flood, either  
4 here or Southern California, you can see the troops of  
5 CDF or Cal Fire vehicles moving up and down. And we  
6 will have another earthquake and fire, so I hope they  
7 consider that as well as the issue of safety of a  
8 six-lane freeway where automobiles have more space  
9 between them. You're less likely to have an accident  
10 as you do with a four-lane. And also the emergency  
11 vehicles to get to an accident in that stretch once  
12 it's widened, how much better that is than today. So I  
13 hope you consider that.

14 And also, on the relocation issue, I think  
15 that's important. Do you relo- -- and also consider:  
16 Do you relocate businesses near off ramps? There are  
17 other options including lanes.

18 MS. PHELPS: Thank you.

19 For anybody else that has a comment, I would  
20 like to encourage you to fill out one of the comment  
21 cards and leave it with us or send something in, e-mail  
22 it like Ann suggested. You can fax it. Please get in  
23 touch with us if you have comments that you would like  
24 to share -- we have another comment?

25 MS. PODRASKEY: We have one more.



1 MS. PHELPS: Okay. Mr. Rizzuto.

2 MR. RIZZUTO: We've been on this property --

3 MS. PHELPS: Will you please state your name,  
4 and will you move a little closer.

5 MR. RIZZUTO: All right. Thank you.

6 MS. PHELPS: Thank you.

7 MR. RIZZUTO: I'm Joe Rizzuto. We've been on  
8 5625-5655 Monterey Frontage Road. We've been there  
9 since 1908. They took 90-some feet the first time and  
10 150 feet the second time. Now what worries me, they're  
11 going to come back and take more now. But I gather  
12 not.

13 Now, I don't know what they're going to do on  
14 the frontage road. If they raise the Canadero bridge,  
15 it's going to back up and flood us. Because if you  
16 state guys just walk down along the railroad tracks --  
17 they're used to be openings underneath, where it could  
18 flood. That's the way the water always went. But if  
19 they build that bridge up, it's going to back up to us.

20 Now, Jim, you had water in your house -- what  
21 is it? In '83?

22 MR. GALTMAN: '86.

23 MR. RIZZUTO: '86. And it ran two inches  
24 around the bottom vents, below it.

25 And this is our problem. I don't know what

1 they're going to do with the bridge. Are they going to  
2 raise it all the way up in front, where the water can't  
3 get across? I don't know. I don't know if an engineer  
4 can tell us.

5 MS. PHELPS: They'll be able to tell you  
6 after the meeting. We're just recording your comments  
7 right now.

8 MR. RIZZUTO: All right. Thank you.

9 MS. PHELPS: Thank you. So if you have  
10 comments, please let us know.

11 One thing I meant to ask earlier and I  
12 forgot -- I know someone is here from San Juan  
13 Bautista. But is there anybody else here from San Juan  
14 Bautista? Can you raise your hand if you're from San  
15 Juan Bautista. So a couple more. Two or three people.

16 What about Hollister?

17 From Gilroy?

18 Anybody here from Morgan Hill? No?

19 Okay. I just was curious to see. I live in  
20 Hollister, so I was curious to see where everybody  
21 lives.

22 MR. CHATTY: San Jose.

23 MS. PHELPS: San Jose. Mr. Chatty is from  
24 San Jose. You made the drive.

25 Well, I would like to thank you all for

1 coming and let you know that your participation is  
2 appreciated, and your comments are appreciated and will  
3 be included -- they will be recorded, and they will be  
4 included as part of this document.

5 And please don't hesitate to stay around and  
6 ask more questions. We'll be here. So if you have any  
7 questions -- especially your questions, Mr. Rizzuto,  
8 that weren't answered -- you can ask those.

9 And get in touch with us -- we've given you  
10 several different ways to do that -- about -- you can  
11 contact me about just general information or about this  
12 project or anything to do with VTA.

13 Yes? You have a question?

14 UNIDENTIFIED SPEAKER: Who are the key  
15 individuals that you can ask right now that know how --  
16 where the project is and what are they addressing like  
17 our concerns? Are there individuals here that we can  
18 talk to specifically?

19 MS. PHELPS: I think so. There's -- right  
20 here, John. And also Darrell Vice. Margaret  
21 Simmons-Cross. Yeah. So just stick around after the  
22 meeting.

23 Yes.

24 UNIDENTIFIED SPEAKER: At what point will  
25 they be choosing the options? That was kind of

1 confusing. Because you're commenting, but you're not  
2 sure which option you're really commenting on exactly.

3 MS. PHELPS: Right. That would be another  
4 question for the people who are here with the name  
5 tags. So I'd like -- can I just direct you in any way  
6 before we end.

7 Yes?

8 UNIDENTIFIED SPEAKER: I'm on the VTA  
9 advisory committee --

10 MS. PHELPS: Yes.

11 UNIDENTIFIED SPEAKER: -- and I understand  
12 that there is actually no funding for this project at  
13 all and no funding on the horizon. So I am just  
14 wondering -- you know, what more -- you know, you can  
15 add to that -- you know, is there any hope for a  
16 timeline or what funding options are they trying for?

17 MS. PHELPS: I think Darrell addressed that  
18 when he was at the microphone, and he can probably  
19 address that more --

20 UNIDENTIFIED SPEAKER: I'm sorry. I came  
21 late.

22 MS. PHELPS: Oh, yes. That was part -- he  
23 was talking a little bit about that. But we'll all be  
24 around. If you want to address that on the microphone,  
25 it's fine. Or you can just stay around after the

1 meeting, and we'll be at the boards.

2 This is Darrell Vice. He's the project  
3 manager. And he did address that a little bit in his  
4 presentation, so I'm sure he'd be happy to speak with  
5 you.

6 So thank you again for coming, and please  
7 stay around and ask more questions. And next time we  
8 would like to have you participate as well, when we  
9 have other projects. And thank you -- thanks for your  
10 questions. Thanks for coming.

11 (Public comments were concluded at 6:54 p.m.)

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1 STATE OF CALIFORNIA  
2 COUNTY OF SANTA CLARA

3  
4

5 I, NOELIA ESPINOLA, Certified Shorthand  
6 Reporter in and for the State of California, do hereby  
7 certify:

8 That said public comments was taken down by  
9 me in shorthand at the time and place therein named,  
10 and thereafter reduced to computerized transcription  
11 under my direction.

12 I further certify that I am not interested in  
13 the outcome of this matter.

14  
15  
16

17 Date: \_\_\_\_\_, 2013

18  
19

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NOELIA ESPINOLA  
Certified Shorthand Reporter  
License No. C-8060

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