

5.0 Response to Comments

5.1 INTRODUCTION

The County's responses to comments received during the public review period (November 6, 2006, through December 5, 2006) on the Mitigated Negative Declaration for the Coyote Creek Parkway County Park Integrated Plan are presented below. All comments are reprinted as received and in the order received.

5.1.1 LETTER 1: JIM ARTHUR (E-MAIL DATED NOVEMBER 12, 2006)

Comment L-1-1: In Parks and Rec meetings in the past members of the Coyote Estates HOA (the community at the trailhead in Morgan Hill by the current Ranger station) expressed concern about the development of the Peet Road Orchard area (Figure 2-5). We have been told repeatedly that any plans would be for future use and that area is to be left alone. Now I see a new paved road going through that area, and an extension allowing access to Peet Rd at Eagle View Dr. This is very concerning to us as this will encourage parking on the streets and unauthorized use of the private homeowners park and tennis courts located right where the trail comes out. Also, please let us know why the need for the new road from the future Ranger station that junctions the existing bike trail, and extends towards the houses and Burnett Road. Why cannot the existing Malaguerra road be used? This seems redundant and unnecessary.

Response L-1-1: The Visitor Center/Park Office Malaguerra Staging Area illustration labels the Peet Road Orchard area as a "Future Use Area."

The Integrated Plan includes a connecting trail between the Coyote Creek Trail and Peet Road, not a "new paved road" going through the area. The City of Morgan Hill *General Plan* (July 2001. Updated July 2004) contains numerous policies encouraging non-motorized transportation. For example, Policy 18I states "Coordinate trails, parks, and recreation facilities with a citywide bikeways system to include bicycle paths, lanes and routes." The City of Morgan Hill's *Bikeways Master Plan* (August 2000, Administrative Draft.

Updated July 2000) illustrates a Planned City Trail/Bicycle Route along Peet Road. This has been constructed as a bicycle lane on the road. The trail connection, illustrated in the Integrated Plan, through the Peet Road Orchards Area is consistent with these policies and conditions on Peet Road. Existing signage to the Parkway from Cochrane Road will not be altered and traffic will not be directed to this local trail connection. It is designed for use by residents of the immediate area and elsewhere in Morgan Hill who bicycle to the Parkway on the City's bicycle system.

The trail shown extending from the future Ranger Station towards Burnett Road would replace the existing equestrian and hiking trail. This trail alignment would be sited further away (to the extent practical while retaining a varied trail experience) from Coyote Creek and towards the outer edge of the proposed Riparian Habitat Corridor. However, this route also provides maintenance access to a number of City of Morgan Hill drinking water wells. Hence, the winding nature of the alignment.

The figure has been modified to better portray the trails.

Comment L-1-2: Is the parking lot at the Park Office/Visitor Center to be paved? The architects drawing insert in Figure 2-5 is too hard to read. We have been told till now that it was to stay a dirt and gravel lot like it is today, but the legend makes it out to be a road, which I take to be paved. If so, this also is contrary to what we have been promised.

Response L-1-2: It is standard procedure to retain staging areas surfaces in native soils with a gravel overlay until such time as level of use exceeds ability to reasonably maintain the area. It is not anticipated that the current level of use will substantially increase in the near future. But for purposes of CEQA analysis, the surface of the parking lot has been calculated into the total acreage of impermeable surface created by the project.

Comment L-1-3: Can someone explain what is meant by the "Overflow Event Parking" area in the Perry's Hill Area (Figure 2-8)?

Response L-1-3: There are a few annual events that now occur at the Santa Clara County Model Aircraft Skypark where parking cannot be accommodated near the Skypark. Overflow parking for these events has historically occurred on private property west of Coyote Creek with shuttle vehicles using the existing access route to the Skypark that now crosses Coyote Creek. The

Integrated Plan proposes to replace this existing access route with one through the Perry's Hill Recreation Area. This action will enhance the habitat values of the Creek while providing enhanced access from Highway 101. The "Overflow Event Parking Area" illustrated at Perry's Hill will allow for continuation of these very popular special events.

5.1.2 LETTER 2: CALIFORNIA DEPARTMENT OF FISH AND GAME (DATED NOVEMBER 21, 2006)

Comment L-2-1: The Department of Fish and Game (DFG) has reviewed the document for the subject project. Please be advised this project may result in changes to fish and wildlife resources as described in the California Code of Regulations, Title 14, Section 753.5(d)(1)(A)-(G). Therefore, if you are preparing an Environmental Impact Report or an Initial Study and Negative Declaration for this project, a de minimis determination is not appropriate, and an environmental filing fee as required under Fish and Game Code Section 711.4(d) should be paid to the Santa Clara County Clerk on or before filing of the Notice of Determination for this project.

Response L-2-1: Comment noted.

5.1.3 LETTER 3: CALIFORNIA DEPARTMENT OF TRANSPORTATION (DATED NOVEMBER 21, 2006)

Comment L-3-1: Encroachment Permit—Please be advised that any work or traffic control within the State right-of-way (ROW) will require an encroachment permit from the Department. To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address below. Traffic related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website [link](http://www/dpt/ca/gov/hq/traffops/developserv/permits/) for more information <http://www/dpt/ca/gov/hq/traffops/developserv/permits/>.

Response L-3-1: Comment noted.

Comment L-3-2: Cultural Resources—If there is an inadvertent archaeological discovery within State right-of-way, the Department's Cultural Resources Studies office needs to be contacted immediately at (510) 286-5618. A staff archaeologist will evaluate the finds within one business day after contact.

Response L-3-2: Comment noted.

5.1.4 LETTER 4: LIBBY LUCAS (DATED DECEMBER 4, 2006)

Comment L-4-1: The mandated plan that all outdoor recreation be compatible with natural resources is a commendable management objective for County Parks to implement and this Coyote Creek Parkway appears to honor that philosophy in most of its essentials.

Response L-4-1: Comment noted.

Comment L-4-2: The identification of Biological Resources of Coyote Creek's riparian forest, sycamore, cottonwood, and oak woodlands, grasses and marsh vegetation, and related special status plants is thorough. These habitats and biospheres of Coyote Creek are quite unique for a suburban setting. However, in consideration of county population pressures advancing on Coyote's watershed and particularly in Coyote Valley, this plan, I feel, still needs more protective land buffer than the few orchards and agriculture lands that are proposed.

Response L-4-2: The Integrated Plan is focused on the preservation of the Riparian Habitat Corridor as depicted, which includes its extent in the existing Parkway and in areas with potential future opportunities for parkland expansion. The Integrated Plan makes recommendations for minimum setbacks and buffers to protect these habitats. Any additional areas that can be set aside for buffers will only have a beneficial impact. However, County Parks has no jurisdiction over land use on adjacent properties. Santa Clara County, along with other partner agencies, is currently engaged in the development of a Countywide Habitat Conservation Plan that will address the implementation of future development and conservation of special status species and sensitive habitats that may occur in Santa Clara County.

Comment L-4-3: There are a half dozen tributaries and vegetated gulches reaching down from Coyote Ridge that have historically provided wildlife corridors to crucial creek water. This wildlife runs the gamut from California

tiger salamander, California red-legged frog, and western pond turtle to Grant Ranch's herd of tule elk. I do not find site specific reference to protective measures that will be sufficient to keep this ravine access to mid-Coyote Creek viable. This is a deficiency.

Response L-4-3: As these tributaries are not within the Parkway boundary, the Integrated Plan does not propose management of these areas. The Integrated Plan, as noted above, is designed to protect existing resources within the current Parkway boundary. The Integrated Plan does suggest connecting the Parkway to adjacent open spaces in the vicinity of the Parkway, such as the Malaguerra Winery, if feasible. As the County has a strict policy of expanding only through acquisition from willing sellers, this is not certain to occur under the Integrated Plan. Santa Clara County, along with other partner agencies, is currently engaged in the development of a Countywide HCP that will address potential open space connections to Coyote Creek.

Comment L-4-4: Page 3-62 is in error when it states that "there is no evidence that any terrestrial species use the parkway for regular migration". A Guadalupe Coyote Resource Conservation District Director has photos of night travel of terrestrial species to Coyote Creek, though this may not be technically 'migration'.

Response L-4-4: The text has been modified to clarify the difference between localized movement within a species' typical home range and long distance migration to other discrete ranges. The Parkway does provide a corridor for species moving within the Diablo Range and valley floor, but does not serve as a long distance migratory corridor for terrestrial species.

Comment L-4-5: There is fencing on park district land that drastically disrupts wildlife travel along Coyote Creek (in particular at Metcalf percolation ponds, a critical cross valley corridor from Coyote Ridge to Santa Teresa parklands) and this too is a deficiency. The Bay Checkerspot Butterfly will be able to reach Tulare Hill but this reserve should be a biosphere accessible for all the aforementioned species.

Response L-4-5: Fencing is required in portions of the Parkway due to safety and use concerns within the surrounding area. Best Management Practices within the Parks Department require that 5-strand, smooth wire fences (maximum 48 inches high with 12 inches of ground clearance) be the preferred

method of Parkway fencing. In the vicinity of Tulare Hill, the presence of the Parkway Lakes lease operation requires additional fencing along the right of way of Metcalf Road due to both security and safety needs. Security fencing in the vicinity of the Metcalf Energy Center, the PG&E substation, and other private parcels is outside the purview of County Parks.

Comment L-4-6: In regards Coyote Parkway's (I still prefer historical nomenclature of Coyote Creek Parkchain as it does not remind one of area's inundation by cars) bordering agricultural land, is there a benefit in the concept of purchasing conservation easements over these adjacent agriculture lands as aesthetic buffer? Limited trail access might also be purchased within strict conservative guidelines. It would be nice to do everything possible to keep Coyote Valley agriculture in business and this approach of mixing recreation with farmland has existed successfully for centuries in Britain. Conservation easements could be realistically achieved in a more timely manner, while land management concerns might be simpler and less costly for Santa Clara County Parks.

Response L-4-6: Conservation and/or trail easements are advised, if possible, in addition to or in concert with potential acquisition opportunities. Provisions for the execution of trail easements with private landowners are included in the Trails Master Plan Update of the County General Plan (approved 1995). However, as with Parks Department acquisition policy, Parks Department enters into such easements only with willing participants and thus, these actions cannot be assumed to occur as priority actions during the life of the Integrated Plan.

Comment L-4-7: The threatened Central California Coast Steelhead and Fall-run Chinook Salmon, a federal species of concern, and a state species of special concern, need more prominent consideration in any geomorphic evaluation that County Park's consultants make of Coyote Creek, its channel meanders and its connectivity to ravine tributary sources of sediment supply. The present SCVCWD low-flow regimen of 600 cfs release from Anderson Reservoir is not in compliance with California water law (I believe) in that it cannot keep Coyote Creek instream beneficial uses viable below Metcalf Narrows where 600 cfs flow is entirely absorbed into percolation gravels and aquifer. (District records show this rate of flow satisfies optimum Coyote Creek absorption potential.)

Response L-4-7: A geomorphic assessment (Balance Hydrologics, May 2005) was conducted to define appropriate boundaries for protection of Coyote Creek as a resource within the Parkway, where it was identified that 550 to 600 cfs is the maximum volume of a controlled release from Anderson Dam into Coyote Creek. However, Parks does not have jurisdiction over the Coyote Creek channel or its flow and, thus, has only minimal ability to either harm or conserve native fish species that occur within the Parkway. The SCVWD is the appropriate agency responsible for stream flows in Coyote Creek within the boundary of Coyote Creek Parkway. SCVWD is currently involved in the FAHCE, which is concerned with protection of central California coast steelhead, and fall-run Chinook salmon in streams under SCVWD jurisdiction, including Coyote Creek. FAHCE will result in a HCP that will identify acceptable flow regimes that will protect and conserve salmonids within the boundaries of Coyote Creek Parkway.

Comment L-4-8: Now there is therefore not the amount of winter flow necessary to accommodate a 'downstream coldwater fishery in good condition' below Coyote and Anderson dams, past Metcalf Narrows. An associated concern is loss of sufficient regular pulses of instream flows that would keep the downstream channel clear of clogging debris dams. At present there are twenty such major obstructions in middle to lower Coyote Creek which are a health and flood hazard. It could be a recommendation of Santa Clara County to request increased Coyote Creek flows (modeled on historic frequency) for recreation purposes on weekends. The Arno River is so managed.) This would benefit recreation as well as all beneficial instream river resources and is within riparian rights of Santa Clara County.

Response L-4-8: As noted in Response to Comment L-4-7, the SCVWD is the appropriate agency responsible for instream flows in Coyote Creek within the boundary of Coyote Creek Parkway. When completed, SCVWD's FAHCE program will define management of Coyote Creek flows for sustainable riparian habitat conditions for central California coast steelhead and fall-run Chinook salmon.

Comment L-4-9: At the other end of SCVWD's water supply operation I continue to be concerned about high water levels that are drowning out historic riparian corridors along percolation ponds. In particular, the instream Metcalf percolation pond's steel dam need not have been replaced as it has been when it blew out in 1990s and certainly not raised to its present height. It

creates an obstruction to steelhead migration as well as recreation boating that is hard to mitigate. This and Ogier Ponds need geomorphological review if health and continuity of riparian corridor are considered a priority. It would be reassuring if professional review could be given these two instream water supply features to see if they make most of Coyote stream percolation potential?

Response L-4-9: As noted in Response to Comment L-4-7, the SCVWD is the appropriate agency responsible for instream flows in Coyote Creek within the boundary of Coyote Creek Parkway. When completed, SCVWD's FAHCE program will define management of Coyote Creek for central California coast steelhead and fall-run Chinook salmon.

Comment L-4-10: In considering 25 to 100 year flows, there is a water quality problem in restrooms situated in Coyote Creek's floodplain, that do not believe is referenced? In recent flooding, in 1994-5, floodwaters had serious health implications for San Jose residents who were cleaning up even minor garage flooding because park restroom facilities had been flooded out. Has this been remedied, and restrooms set back from floodplain, and therefore is no longer a problem?

Response L-4-10: Part of the Integrated Plan requires the re-evaluation of the location of facilities and the potential conflict of facilities with the Parkway's natural resources. Long-term plans for restoration of this use area as part of the Riparian Habitat Corridor call for phasing out restrooms in the La Raza area. All new restroom facilities proposed in the Integrated Plan are located in areas outside of the limits of the 100-year floodway and/or have access to municipal sanitary sewer lines.

Comment L-4-11: Do appreciate professional analysis of biological integrity of habitat for protected species such as Western Pond turtle's floating logs and upland oviposition site in vicinity of aquatic habitat. Please do give your consultants opportunity to create as many sandy banks and haul-out sites as possible in the parkchain reach for turtles. For species diversity California tiger salamanders, red-legged frogs and whole range of Coyote watershed wildlife need as many varied opportunities for habitat as possible. Please also include sufficient allocation for monitoring survival success of these species of special concern.

Response L-4-11: Comment noted. The Parks Department recognizes the need for heterogeneity of habitats and will take this into consideration. Projects in aquatic habitats will occur in coordination with the SCVWD and applicable resource agencies. Monitoring programs will be implemented, as appropriate, at the time features are installed, to be suited to the situation and the species affected.

5.1.5 LETTER 5: LIBBY LUCAS (DATED DECEMBER 5, 2006)

Comment L-5-1: On page 2-14 of the Coyote Creek Initial Draft it states “The Integrated Plan provides for changes to the trail to accommodate the normal winter releases of approximately 600 cubic feet per second (cfs).”

This 600 cfs is not the normal winter release but the maximum spillway release when Anderson Reservoir is full, I believe, which does not occur on even an annual basis.

In the middle of paragraph 8 of my comment letter I erroneously referred this 600 cfs as routine base flow that is absorbed into Coyote Creek channel percolation gravels. What I intended to reference was SCVWD data of 6000 acre feet per year which is conveyed through Metcalf Narrows to supply Santa Clara Valley by routine winter and summer release of 7 cfs.

It is the 7 cfs base flow which is a challenge for steelhead attempting upstream migration as it does not provide stream continuity and I feel this can not be in compliance with California water law that is designed to protect the biological integrity of the State’s natural resources.

Response L-5-1: As noted in Response to Comment L-4-7, the SCVWD is the appropriate agency responsible for instream flows in Coyote Creek within the boundary of Coyote Creek Parkway. When completed, SCVWD’s FAHCE program will define management of Coyote Creek flows for central California coast steelhead and fall-run Chinook salmon.

Comment L-5-2: On page 2-19 there is mention of hydroseeding to prevent erosion and I would request that some criteria be established to assure that hydroseed stock be of native and local in origin. It is possible that hydroseed appropriate for wetlands and marshes may differ from seed best suited for use in uplands.

Response L-5-2: Comment noted. The Parks Department concurs that specific hydroseed mixes of local origin and of native stock if possible, will be required, based on the habitat type in which work is occurring.

5.1.6 LETTER 6: SAN FRANCISCO REGIONAL WATER QUALITY CONTROL BOARD (DATED DECEMBER 5, 2006)

Comment L-6-1: Most of the activities described in the Initial Study as part of the Integrated Plan appear to provide opportunities for enhancement and restoration of the riparian habitat within the Park. However, we would like to see additional details for Project 9, which provides for new the bridges to accommodate equestrian use in two locations and project 10, which calls for improvements to avoid low-flow crossings and prevent equestrian use of drainages. These projects have the potential to improve the condition of creek channels at the new crossings. Please provide additional design details so that Water Board staff can fully evaluate the potential benefits or impacts of these new facilities on Coyote Creek.

Response L-6-1: There are currently a number of constructed low flow crossings of Coyote Creek along the Coyote Creek Trail. In addition, there are a number of low-flow, in-stream crossings of Coyote Creek and side drainage channels that have historically been used by equestrians. The goal of the Coyote Creek Trail priority projects is to eliminate these crossings, thereby enhancing water quality and protection of potential habitat for steelhead trout. This would be accomplished by providing a number of new and/or retrofitted bridges along the Coyote Creek Trail that will accommodate multiple users, including equestrians.

Many horses are frightened by bridges and other elevated environments, particularly lattice or perforated bridges and trestles that allow the animal a view of the ground surface substantially below the bridge deck. The general design criteria for an "equestrian-friendly bridge" as called for in the Draft Integrated Plan, is:

- Minimum width of 14 feet.
- Span to be as short as possible while recognizing that the bridge would ideally be a clear span of the 100-year water surface elevation. Where this is not feasible a bridge will be evaluated and designed for resultant lateral and uplift forces. A flood-hydraulic analysis will be conducted at

the time of any bridge design and permitting to identify if any significant increases to the water surface elevation during a high flow event.

- ❑ Railings of sufficient height so to contain an equestrian should they be tossed from the horse.
- ❑ Mounting / dismounting platforms provided at each end of the bridge for equestrians that wish to walk their horses over the bridge.
- ❑ Decking design (such as decking following the traffic flow) and soft surfacing that does not make sound when horses travel over it.
- ❑ Signage on either side of the bridge to remind equestrians to use bridges or lose the privilege.

Additional design details will be provided to the San Francisco RWQCB at the time Water Quality Certification is requested from the Board, as final design details have not yet been determined.

Comment L-6-2: Additional information should also be provided that describes the reasonably anticipated impacts from several other components of the Integrated Plan, including the Coyote Ranch Staging Area, the Perry's Hill Recreation Area, and the Trail Improvements planned for the specific segments of the trail.

Response L-6-2: Additional environmental analysis and review at the construction-design level may occur for these projects as part of the regulatory agency permit process prior to implementation. Additionally, design details for these projects would be provided to the SFRWQCB at the time Water Quality Certification is requested from the Board.

5.1.7 LETTER 7: SANTA CLARA VALLEY WATER DISTRICT (DATED DECEMBER 5, 2006)

Comment L-7-1: The proposed bridges should be designed to span across Coyote Creek and constructed above the 100-year water surface elevation. Freeboard should be consistent with the Guidelines and Standards for Land Use Near Streams manual. If it is not feasible to construct a bridge that will pass the 100-year flood flows, the bridge should be evaluated for resultant lateral and uplift forces. A flood hydraulic analysis should be conducted and mitigation measures provided for any significant increases to the water surface elevation during a high flow event.

Response L-7-1: The Integrated Plan calls for bridge spans to be as short as possible while recognizing that the bridge would ideally be a clear span of the 100-year water surface elevation. Where complete spanning of the 100-year flood elevation is not feasible, a bridge will be evaluated and designed for resultant lateral and uplift forces. A flood-hydraulic analysis will be conducted at the time of any bridge design to identify if any potential significant increases to the water surface elevation would occur during a high flow event.

Comment L-7-2: The easterly bridge shown in Figure 2-4 is located in the proximity of the District's Anderson Force Main Pipeline. Alternative locations for the creek crossing need to be considered if the District's operation and maintenance of the pipeline will be impacted.

Response L-7-2: The Parks Department will consult with SCVWD regarding the exact placement of this bridge prior to the initiation of final design.

Comment L-7-3: The area in Figure 2-4 contains native vegetation including serpentine chaparral which is habitat for the federally endangered coyote ceanothus (*Ceanothus ferrisiae*). Any new trail construction leading to the "Interpretive Overlooks" should proceed with caution and should first have comprehensive botanical surveys conducted at the appropriate times of the year for sensitive species prior to the start of work. Bisecting habitat in this area with a new trail could be detrimental to native species and habitat. In general, the Toyon/Live area is a sensitive habitat area for rare and endangered plant species and new improvements in these areas should be limited.

Response L-7-3: Comment noted. Parks is aware of the potential for serpentine habitats to occur within the vicinity of the Toyon/Live Oak area. As discussed in the Mitigated Negative Declaration (Page 3-95), mitigation is proposed to compensate for any potential loss of serpentine vegetation.

Comment L-7-4: There are two natural seeps that bisect the proposed disc golf area and drain into the District's Coyote Canal. These seeps and surrounding grassland area contain documented occurrences of sensitive plant species, including Mt. Hamilton thistle (*Cirsium fontinale* var. *campylon*), Soil analysis of this area indicates that it is serpentine alluvial soils (Hillman 2004 unpublished data). The proposed improvements for this area, including the hiking trail, disc golf, and increased human and animal visitation and traffic in

this area, has a high potential to negatively impact the sensitive species and wetland areas.

Response L-7-4: The Parks Department's current assessment and a site visit by a qualified botanist found the area to consist of heavily impacted ruderal grassland with local stands of non-native eucalyptus trees. However, if serpentine vegetation were found in the area, Mitigation Measures BIO-1 and BIO-2 would reduce this potential impact to less than significant. Parks will conduct special-status plant surveys in the vicinity of the site prior to any development activity to confirm whether serpentine vegetation is at the site.

Comment L-7-5: Vegetation Enhancement and Maintenance, Page 2-11

The use of any invasive plants should not be included. As such, please delete the text "highly" from the last sentence in this paragraph.

Response L-7-5: The word "highly" has been deleted from text.

Comment L-7-6: Summary of Regional and Local Geology, Page 3.12

It should be noted that serpentine alluvium occurs south of Highway 101 along the Coyote Canal and in the Coyote Creek Golf Course.

Response L-7-6: Comment noted. Please also refer to Response to Comment L-7-4.

Comment L-7-7: Discussion of Impacts and Mitigation No.8, Page 3-42

It should be noted that the well(s) should be properly maintained or destroyed in accordance with District's standards. Please contact the District's Wells and Water Production Unit at (408) 265-2607, extension 2660, for more information regarding well permits and registration or destruction of any wells.

Response L-7-7: Comment noted. Parks will coordinate any change regarding the status of wells with the SCVWD.

Comment L-7-8: Land Cover Descriptions, Page 3-55

The habitats listed in this section should include Serpentine Grassland and Serpentine Seeps.

Response L-7-8: Serpentine grasslands are discussed under "sensitive native grasslands" on page 3-56. Due to the very limited occurrence of serpentine

grasslands within the areas to be impacted, exhaustive treatment of this natural community is not warranted. Impacts to this natural community and the species that it supports will be less than significant with the implementation of mitigation measures. See Mitigation Measures BIO-1, BIO-2, BIO-3, and BIO-4. BIO-4 has been added to strengthen the mitigation already proposed for potential impacts to serpentine habitat.

Comment L-7-9: Table 3.2, Special-Status Plants Known to Occur or That May Occur In the Coyote Creek Parkway

Mt. Hamilton Thistle and Most Beautiful Jewel-Flower are known to occur in the Parkway. Additional species may also be present due to the presence of serpentine soils along the Coyote Canal. This may include smooth lessingia. Special status plant surveys are strongly suggested.

Response L-7-9: Special status plant surveys will be conducted in areas that have the potential to impact sensitive natural communities or known populations of special status plants prior to the initiation of any park development and/or construction activities. See Mitigation Measures BIO-1 and BIO-2.

Comment L-7-10: Mt. Hamilton Thistle, Page 3-70

Mt. Hamilton Thistle is located within the Parkway at various locations along the Coyote Canal and in seeps that drain into the canal.

Response L-7-10: Please refer to Response to Comment L-7-4.

Comment L-7-11: Most Beautiful Jewel-Flower, Page 3.72

Most Beautiful Jewel-Flower is located within the Parkway at the Perry Hill Recreation Area.

Response L-7-11: Please refer to Response to Comment L-7-4.

Comment L-7-12: Discussion of Impacts and Mitigation 2, Page 3.91

Trails and signage are not the only actions with potential to impact sensitive species or habitat. This section should be revised to address impacts resulting from the proposed nature center, roads, restrooms, dog areas, and golf areas.

Response L-7-12: The referenced text refers only to the potential for impacts within the defined Riparian Habitat Corridor, not the entire Parkway. Impacts associated with development outside the Riparian Habitat Corridor that have the potential to impact special status species and sensitive natural communities are identified on pages 3-93 through 3-108 of the Mitigated Negative Declaration.

Comment L-7-13: Impact: Removal of Special Status Serpentine Plants, Page 3-91

Mitigation measures are not sufficient to reduce the impact to less than significant. Re-routing trails will not address the impacts.

Response L-7-13: Rerouting trails around sensitive areas will reduce impacts to sensitive resources; particularly since sensitive habitat types such as serpentine can be accurately delineated. Further, it should be noted that while trails may facilitate visitation of an area, they also serve to control that visitation and may actually lower the impact that visitors have on the larger areas over the long term. Informal trails are often a major source of degradation of sensitive habitats near urban areas.

Comment L-7-14: Table 3-3, Special-Status Wildlife Known to Occur or That May Occur in the Coyote Creek Parkway, Page 3-75

The table identified the Northwestern pond turtle "within 2 miles of the Parkway boundary, but not in the Parkway." However, Figure 3-1 identified this species within the parkway boundary. The table or map should be revised for consistency.

Response L-7-14: The CNDDDB notes occurrence of the Northwestern pond turtle at various locations within the Parkway (e.g., Parkway lakes, Ogier ponds). It is generally thought that the species persists throughout the Parkway. Table 3-3 was modified to reflect this change.

Comment L-7-15: Table 3-3, Special-Status Wildlife Known to Occur or That May Occur in the Coyote Creek Parkway, Page 3-76

The tables noted the bald eagle potential for occurrence as "Inappropriate habitat composition at Anderson Reservoir and in the vicinity of the Parkway corridor. No CNDDDB records within 2 miles," Please clarify if the statement specifically refers to nesting bald eagles or if it is inclusive of regular bald eagle

sightings. District biological staff has observed bald eagles at Anderson reservoir during winter surveys in 1998-2000. There may be a potential that the parkway may provide habitat as a migratory corridor for bald eagles traveling between reservoirs in the winter months.

Response L-7-15: The CNDDDB tracks bald eagle nests or significant winter congregations (winter roosts) but not bald eagle sighting. Anderson Reservoir and other reservoirs (Calero) within Santa Clara County occasionally host bald eagles during the winter months, but there are no known established winter roost sites within the Parkway that have been recorded with the CNDDDB.

Comment L-7-16: Table 3-3, Special-Status Wildlife Known to Occur or That May Occur in the Coyote Creek Parkway, Page 3-77

Potential for Golden Eagle occurrence was documented as “no CNDDDB records within 2 miles.” District biological staff has observed both adult and juvenile golden eagles at Anderson reservoir during 1998-2000 and flying over the Coyote Creek Parkway and adjacent US 101. District staff suggests contacting Dr. Granger Hunt of UCSC, who has been studying golden eagles in the Diablo range, for more particulars on the habitat suitability along the Coyote Creek Parkway,

Response L-7-16: The CNDDDB tracks occurrences as nests rather than sightings of individuals for golden eagles. There are no golden eagle nests within 2 miles of the Parkway, though individuals may forage in the adjacent grasslands.

Comment L-7-17: Table 3-3, Special-Status Wildlife Known to Occur or That May Occur in the Coyote Creek Parkway, Page 3-78

Jones and Stokes draft species account for the Santa Clara Valley HCP/NCCP noted that one Least Bell's Vireo was observed within the project area. Consideration of this species should be included in the document.

Response L-7-17: The documented occurrence was the first along the Parkway ever and only the second in the county since 2002. While a foraging Bell's vireo was observed, it was not determined to be a breeding individual and was never relocated after the initial sighting. If the species were to breed in the Parkway in the future, Mitigation Measures BIO-5 and BIO-10 would reduce potential impacts to less than significant.

Comment L-7-18: Table 3-3, Special-Status Wildlife Known to Occur or That May Occur in the Coyote Creek Parkway, Page 3-81

Please verify the listing status of Central Valley Fall-Run Chinook salmon. The CDFG web page lists the Late-Fall Run Chinook as a state species of special concern.

Response L-7-18: Table 3-3 on Page 3-81 lists Central Valley fall-run chinook as a State species of special concern.

Comment L-7-19: Table 3-3, Special-Status Wildlife Known to Occur or That May Occur in the Coyote Creek Parkway, Page 3-81

Chemical cues from imported water may not be the sole cause of Central Valley Fall-Run Chinook salmon strays in the system but as a result of several factors. Please refer to the CDFG and National Marine Fisheries Service website for further details.

Response L-7-19: The text “due to chemical cues from imported Delta water” will be deleted.

Comment L-7-20: Riparian Setback Requirements, Page 3-89

Central California Coast Steelhead ESU- The last sentence in the paragraph noted that the FAHCE project identified the Metcalf Perc Pond as a barrier to migration. However, with the completion of the fish ladder in 1999, as noted in the next paragraph under the Fall-Run Chinook salmon, it is possible that salmonids can pass this facility.

Response L-7-20: The text will be revised to reflect that while Metcalf Dam was an identified barrier in FAHCE, it is now passable for steelhead.

Comment L-7-21: Riparian Setback Requirements, Page 3-89

Fall-Run Chinook Salmon-Please verify the listing status of Central Valley Fall-Run Chinook salmon. As noted earlier, the CDFG webpage lists the Late-Fall Run Chinook as a state species of special concern.

Response L-7-21: The text currently notes that Central Valley fall-run Chinook are a State species of special concern and this has been verified.

Comment L-7-22: Riparian Setback Requirements, Page 3-89

Information that may be useful includes a 2002 District-sponsored genetic study of Chinook salmon from the Guadalupe and Coyote Creek watershed in Santa Clara County. Over 450 tissue samples were analyzed in this study. Results showed that the Santa Clara County Chinook salmon was most closely related to the Central Valley Fall-Run hatchery Chinook.

Response L-7-22: Comment noted.

Comment L-7-23: Discussion of Impacts and Mitigation, Page 3-91

No. 2- This section should be revised to include impacts resulting from the proposed nature center, roads, restrooms, dog areas, and golf areas.

Response L-7-23: Section 3.6.3 – No. 2 has been modified to include the consideration of these projects. It should be noted that these projects are part of the long-term program and are currently at the conceptual design phase. Final design will be determined in the future and subject to additional project level CEQA analysis. Project-level impacts on biological resources for priority projects being analyzed at this time are discussed on Pages 3-104 through 3-108.

Comment L-7-24: Discussion of Impacts and Mitigation, Page 3-91

Impacts: Removal of Special-Status Serpentine Plants-Mitigation measures may not be sufficient to reduce the impact to less than significant as the re-routing of the trail may not address the impacts.

Response L-7-24: Please refer to Response to Comment L-7-13.

Comment L-7-25: Discussion of Impacts and Mitigation, page 3-95

Mitigation Measure BIO-12- To accurately assess the loss of native trees due to project Impacts, we recommend County Parks consult an ISA (International Society of Arboriculture) or ASCA (American Society of Consulting Arborists) certified arborist who specializes in construction impacts to trees, particularly for trail refurbishment where the trail is routed through existing riparian habitat (i.e., grinding of riparian tree roots which have buckled trail surface should be deleted as a construction option due to the physical damage, disease initiation, and potential destabilization effect it will have on trees). Removal of the trail from the invert would also help to minimize tree loss.

Response L-7-25: Mitigation Measure BIO-12 (Mitigation Measure BIO-13 in the approved Initial Study) has been revised to require a certified arborist or authorized natural resources management staff when potential impacts are identified to trees that qualify as per the County's Tree Preservation and Removal Ordinance.

Comment L-7-26: Discussion of Impacts and Mitigation, page 3-95

Mitigation Measure BIO-13-When available, we request the landscape plan and plant palette for the project be sent to the District for review. A native plant nursery should be retained to collect Coyote watershed-specific plant propagules at least 1 year in advance of the proposed plant installation date and to grow container stock for native species to be used.

Response L-7-26: Prior to initiation of plantings that are determined to occur within the SCVWD's jurisdiction and that are associated with development that could occur during the lifetime of the plan, County Parks will submit landscaping plans to SCVWD.

Comment L-7-27: Toyon/Live Oak Use Area, 3-96

Please address if the proposed trail would reduce the amount or quality of potential habitat for rare and endangered serpentine species.

Response L-7-27: The trail could result in the loss of serpentine habitat and species. Mitigation Measure BIO-4 will be added to existing Mitigation Measures BIO-1, BIO-2, and BIO-3 to include more stringent requirements covering not just listed serpentine species, but also serpentine habitat, a recognized CDFG-sensitive natural community. The measure will now also require enhancement of adjacent local communities if avoidance is impossible. While the Parks Department still believes avoidance of serpentine areas to be possible, this mitigation is being strengthened to specifically respond to concerns that no mitigation is defined if avoidance is not possible. The Parks Department's primary intent still is to avoid impacts to special status plants and sensitive natural communities. Please also refer to Response to Comment L-7-13. The new Mitigation Measure will be inserted as follows:

Mitigation Measure BIO-4: Protection and Enhancement to Serpentine Communities

If serpentine habitat is identified in an area where trails or other infrastructure are to be built, the trail(s) and other proposed facilities will be rerouted to avoid this sensitive natural community. If avoidance is not feasible, opportunities for enhancement and/or protection of adjacent serpentine habitats will be coordinated with CDFG and USFWS to ensure that take of Bay Checkerspot Butterfly does not occur. If take of Bay Checkerspot Butterfly is determined to be unavoidable, proposed trail(s) and other facilities will not be constructed.

Comment L-7-28: Perry's Hill Recreation Area, Page 3-98

Construction of the improvements would have an impact on sensitive plant species and wetlands. This section should be revised to include these two significant impacts.

Response L-7-28: Both of these resources are discussed under Section 3.6.4, Perry's Hill Recreation Area, and mitigation measures are outlined for each resource.

Comment L-7-29: Appendix C, Natural Resources Management Plan: Actions and Priorities, Table C-1, Objective 4.4, Page C-2

The District does not currently have a program for exotic fish control or eradication. We suggest removal of this action under Objective 4.4 since the District has no plans to implement this type of program.

Response L-7-29: During many discussions held with the Coyote Watershed Integrated Working Group (CWIWG) over the course of preparing the Integrated Plan, the subject of non-native fishery impacts on the viability of Coyote Creek to sustain steelhead trout (*Oncorhynchus mykiss*) and Chinook salmon (*Oncorhynchus tshawytscha*) was raised.

The Parks Department consulted directly with the SVCWD on the inclusion of management actions related to the "Settlement Agreement Regarding Water Rights of the SCVWD on Coyote, Guadalupe, and Stevens Creeks" referred to as the FAHCE. The FAHCE states "This Agreement commits SCVWD and other Parties to a program of measures intended to restore and maintain fisheries, wildlife, water quality and other beneficial uses of the Three Creeks in

good condition.” This may or may not include controlling key non-native fish species.

This action and responsibilities, if any, were reviewed with SCVWD staff on March 15, 2006. Exotic fish control or eradication was retained based on this review with District staff. We will now remove this action from the NRMP at the District’s request.

5.1.8 LETTER 8: U.S. FISH AND WILDLIFE SERVICE (DATED DECEMBER 5, 2006)

Comment L-8-1: We are concerned about the potential adverse effects of the proposed project on the threatened bay checkerspot butterfly (*Euphydryas editha bayensis*) (bay checkerspot), threatened California tiger salamander (*Ambystoma californiense*) (tiger salamander), threatened California red-legged frog (*Rana aurora draytonii*) (red-legged frog), endangered least Bell’s vireo (*Vireo bellii pusillus*), Tiburon Indian paintbrush (*Castilleja affinis ssp. neglecta*), Coyote ceanothus (*Ceanothus ferrisiae*), Santa Clara Valley dudleya (*Dudleya setchellii*), and Metcalf Canyon jewelflower (*Streptanthus albidus ssp. albidus*).

Response L-8-1: All of the aforementioned species and the potential for impacts were considered. Parks has concluded that all potential impacts have been identified and, at a minimum, can be mitigated to less-than-significant levels.

Comment L-8-2: We are also concerned about project related effects on the following proposed covered species in the draft HCP/NCCP (covered species) that do not currently have Federal listing status: western pond turtle (*Clemmys marmorata*), burrowing owl (*Athene [=Spetylo] cunicularia*), Townsend’s western big-eared bat (*Corynorhinus townsendii townsendii*), big-scale balsamroot (*Balsamorhiza macrolepis var. macrolepis*), chaparral harbell (*Campanula exigua*), Mount Hamilton thistle (*Cirsium fontinale var. campylon*), fragrant fritillary (*Frifillaria liliacea*), loma prieta hoita (*Hoifa stobilina*), smooth lessingia (*Lessingia micradenia var. glabrata*), Hall’s bush mallow (*Malacothamnus hallii*), and most beautiful jewelflower (*Streptanthus albidus ssp. peramoenus*).

Response L-8-2: As above, all of the aforementioned species that have the potential to occur within the parkway and the potential for impacts were

considered. The Parks Department has concluded that all potential impacts have been identified and, at a minimum, can be mitigated to less-than-significant levels.

Comment L-8-3: Section 9 of the Act prohibits the take of any listed animal species by any person subject to the jurisdiction of the United States. As defined in the Act, "take" is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" has been further defined to include habitat destruction when it injures or kills a listed species by interfering with essential behavioral patterns, such as breeding, foraging, or resting. Thus, not only are the bay checkerspot butterfly, California tiger salamander, California red-legged frog, and least Bell's vireo protected from activities such as collecting and hunting, but they are also protected from actions that result in their death or injury due to the damage or destruction of their habitat. The Act prohibits activities that "...remove and reduce to possession any listed plant from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law." The term "person" is defined as "...an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States. "

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project and a listed species is going to be adversely affected, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved in the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a)(1)(B) of the Act should be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be taken by the project.

Response L-8-3: Comment noted.

Comment L-8-4: The Initial Study describes proposed expansion areas to create a viable riparian habitat corridor, proposed improvements to existing use areas, proposed creation of use areas, and proposed alignments of the Coyote Creek Trail. The Natural Resources Management Plan consists of three basic elements that work in tandem to maintain the natural resources and character of the Coyote Creek Parkway (Parkway). The three elements include: 1) establishment of a riparian habitat corridor, 2) division of the Parkway into resource management zones, and 3) detailed resource management actions and priorities. Based on the information available to us, it appears that the project may result in take of bay checkerspot butterfly, California tiger salamander, California red-legged frog, and least Bell's vireo through injury, death, harassment, and/or harm. The proposed project may also adversely affect Tiburon Indian paintbrush, Coyote ceanothus, Santa Clara Valley dudleya, Metcalf Canyon jewelflower, and covered species. Therefore, we recommend that the Santa Clara County Parks and Recreation Department (Parks Department) obtain authorization for incidental take pursuant to either sections 7 or 10(a)(1)(B) of the Act prior to certification of the final California Environmental Quality (CEQA) document.

Response L-8-4: As noted above, the County has determined that all potential impacts have been identified and, at a minimum, can be mitigated to less-than-significant. Neither the Integrated Plan nor proposed priority projects are anticipated to result in take of listed species. If future project-level CEQA analysis of programmatic elements of the plan identifies potential take, authorization from the appropriate resource agencies will be sought.

Comment L-8-5: The Service is supportive of the activities detailed in Appendix C of the Initial Study, "Natural Resources Management Plan: Actions and Priorities." We encourage the Parks Department and its potential partners to pursue proposed activities that would enhance and restore the Parkway. Some of these actions include, but are not limited to: revegetating native plants in all areas where non-native plant removal is necessary; trapping and eradicating bullfrogs (*Rana catesibeiiana*); removing giant reed (*Arundo donax*), yellow star thistle (*Centaurea solstitialis*), and barbed goat grass (*Aegilops triuncialis*); evaluating the status of non-native fish and potential methods for eradication; identifying areas where native bank protection and stabilization could be implemented; enhancing and restoring existing riparian vegetation and shaded riverine aquatic cover within the Parkway; incorporating the Parks

Department's recommended setback as outlined in the Draft Master Plan (150 feet from the top of bank of streams and 100 feet from the top of bank of altered streams); evaluating and relocating as necessary, existing recreation facilities within the riparian corridor that pose a serious risk to native wildlife; evaluating existing roadway wildlife crossings; encouraging the development and implementation of large mammal and migratory bird monitoring studies; and enhancing California tiger salamander, California red-legged frog, and western pond turtle habitat.

Response L-8-5: Comment noted. The Service's support is appreciated.

Comment L-8-6: The Service recommends that the Parks Department develop a clear and concise project description that summarizes all components of the proposed project. Portions of the current project description are scattered throughout the 19 pages currently comprising Chapter 2. We suggest that a summary paragraph be inserted into the beginning of Chapter 2 to clearly describe the project.

Response L-8-6: The Integrated Plan and identified priority projects are a complex entity that is not easily summarized. The 19-page project description in the Initial Study is a concise summary of the elements found in the more than 120-page Integrated Master Plan. The project description includes a description of the Natural Resources Management Plan, the Master Plan, and the defined priority projects to be implemented.

Comment L-8-7: The Initial Study does not identify all project related direct and indirect impacts. The project description contained in Section 3.6.4 of the Initial Study is limited to brief descriptions of 11 priority projects. However, Figure 2-3 of the Initial Study, "Proposed Integrated Plan" appears to depict a total of 20 activities. As such, the impacts and appropriate minimization and mitigation measures for at least nine activities are not addressed. Furthermore, the Initial Study does not appear to analyze impacts associated with the Natural Resources Management Plan. Although many of the activities described in the Natural Resources Management Plan would likely result in long term benefits to federally listed species and covered species, all project related effects, including temporary and beneficial effects, should be addressed.

Response L-8-7: Many activities identified in the Integrated Plan are programmatic and will require project-level CEQA analysis at the time of implementation. These elements are described as best as they are currently understood and are programmatically evaluated within the Mitigated Negative Declaration, but will need subsequent environmental analysis. The Parks Department's evaluation of the plan, albeit programmatic, characterizes the complete anticipated impacts that could potentially occur under the life of the plan in order to fully document and account for potential cumulative impacts that may occur as the result of full implementation of the Integrated Plan. Because not all of the plan may be fully implemented, the County does not want to assume that beneficial effects will occur, even if these benefits are likely. This allows for the analysis to determine a reasonably foreseeable worst-case scenario and thus fully discloses potential impacts that could occur over the life of the plan.

Comment L-8-8: We also recommend that the Parks Department address indirect effects on federally listed species and covered species. Indirect effects are project related effects that occur later in time. Indirect effects that should be addressed, include, but are not limited to: a) effects of increased recreational activities in the Parkway, b) effects of nitrogen deposition on serpentine grassland habitat due to increased motor vehicle traffic, and c) effects of the implementation of the Resources Management Plan. Federally listed species and covered species would likely be affected by the development of a recreational attraction and subsequent increase in vehicular, bicycle, and foot traffic. It is reasonable to assume that these species would be indirectly affected by increased vehicle strikes and predation by feral and domestic house cats (*Felis catus*) and dogs (*Canis familiaris*). The Parks Department should also consider the deleterious effects of nitrogen deposition on serpentine soils due to increased Parkway use. Finally, the Parks Department also should take into account the many beneficial effects that would likely result from the implementation of the Resources Management Plan.

Response L-8-8: While implementation of the Integrated Plan will enhance the Parkway as a recreational attraction, it will do so in a way that increases the functionality of the riparian corridor within the Parkway. The Integrated Plan has identified a quantifiable Riparian Habitat Corridor based on five key physical attributes, established minimum setbacks and buffers between the riparian habitat corridor and other activities, applied a parkland classification

system to lands within the project that identifies natural areas, historic areas, and lands appropriate for the development of rural recreation, developed a framework of resource management units and actions within those units to direct resource enhancement, and finally, has identified types and areas of recreational activities to be located outside of the Riparian Habitat Corridor that are compatible with the vision, goals, and objectives of the Integrated Plan for Coyote Creek Parkway County Park. Implementation of the actions and projects outlined in the Integrated Plan are designed to allow visitors the opportunity to enjoy the natural environments of the Parkway while limiting or moving activities away from sensitive riparian areas and providing better quality habitat for the suite of riparian species that occur there.

Any increase in vehicular traffic is likely to have some effect on the amount of nitrogen that reaches serpentine habitats near the Parkway. This impact on the quality of serpentine habitat cannot be discerned from many other sources in the region (e.g., Highway 101, urban and suburban San Jose, and the continued development of the Santa Clara Valley floor).

By directing development and recreational activities away from the riparian corridor and establishing minimum setbacks and buffers between the riparian corridor and designated facilities, the Integrated Plan should reduce the impact of increased recreational activities on special status wildlife species and create a more contiguous stretch of protected habitat for these species. Other incidental impacts to special status species (feral cats and dogs) are nearly impossible to control in riparian corridors that are connected to urban or suburban areas. The Parks Department is in the process of identifying and implementing possible measures to reduce the impact of feral cats and dogs. Measures currently include installing animal proof trash receptacles, which are primarily a deterrent for pigs and raccoons, but have also been shown to deter feral cats and dogs.

Comment L-8-9: We recommend that the Parks Department quantify temporary and permanent effects by acreage and habitat type.

Response L-8-9: It is conservatively estimated that up to 15 acres of riparian and/or wetland habitat would be impacted by *all* of the priority projects identified in the Draft Integrated Plan. This estimate will be refined on a case-by-case basis based site-specific planning and permitting requirements.

Approximate estimates by priority project area of the effects on the Riparian Habitat Corridor are as follows:

Toyon/Live Oak Use Areas

1.4 acres: construction of habitat access control fencing and creek access points, connecting trail, and bridges

Anderson Visitor Center/Office

1.4 acres: revegetation of existing open areas as riparian habitat in coordination with removal of existing facilities and construction of new facilities

Malaguerra Winery and Fields

0.8 acres: removal of existing buildings with revegetation as riparian habitat

Perry's Hill Recreation Area

1.0 acre: removal of existing access road from Monterey Highway and low-flow crossing of Coyote Creek with revegetation as riparian habitat

3.0 acres: construction of interpretive trail, pond access points, habitat access control fencing

2.9 acres: construction of graded riding and hiking trail approximately 12 feet wide (assumes a 20 foot-wide construction zone)

2.9 acres: renovation of the existing multi-purpose trail to standards (assumes a 20 foot-wide construction zone)

8.8 acres: revegetation as riparian habitat of open areas surrounding existing and new trails

Coyote Ranch Staging Area

3.6 acres: removal of existing use areas and facilities (dog training area and segment of Coyote Creek trail) and revegetation as riparian habitat

0.2 acres: construction of new trail within immediate use area

0.2 acres: revegetation as riparian habitat of open areas surrounding new trails

Parkway Lakes

0.2 acres: construction of new fish screens and maintenance access routes

0.2 acres: revegetation as riparian habitat of area surrounding new fish screens

Parque de la Raza de Paz

7.5 acres: removal of the existing use area and facilities and revegetation as riparian habitat

Coyote Creek Trail

Malaguerra Avenue Staging Area (0.0) to Model Airplane Park (2.3)

1.1 acres: renovation of the existing multi-purpose trail to standards (assumes a 20 foot-wide construction zone)

1.8 acres: construction of new equestrian trails (assumes a 20 foot-wide construction zone)

2.9 acres: revegetation as riparian habitat of abandoned trails or open areas surrounding existing and new trails

Mile 2.3 to Mile 3.5 -- See Perry's Hill Recreation Area

Mile 3.5 to Mile 4.6

2.4 acres: rehabilitation of existing multi-purpose trails, approximately 12 feet wide with equestrian shoulder (assumes a 25 foot-wide construction zone)

0.7 acres: construction of graded riding and hiking trail approximately 12 feet wide (assumes a 20 foot-wide construction zone)

0.9 acres: construction of multi-purpose trails approximately 12 feet wide (assumes a 25 foot-wide construction zone)

0.1 acres: construction of a new bridge (assumes a 25 foot-wide construction zone)

4.1 acres: revegetation as riparian habitat of open areas surrounding existing and new trails

Mile 4.7 to Mile 7.5

1.1 acres: removal of existing trails and two low-flow crossings of Coyote Creek with revegetation as riparian habitat

6.1 acres: rehabilitation of existing multi-purpose trails approximately 12 feet wide with equestrian shoulder (assumes a 25 foot-wide construction zone)

1.3 acres: construction of multi-purpose trails approximately 12 feet wide with equestrian shoulder (assumes a 25 foot-wide construction zone)

0.3 acres: construction of a new bridge (assumes a 25 foot-wide construction zone)

7.7 acres: revegetation as riparian habitat of open areas surrounding existing and new trails

Mile 7.5 to Mile 8.5 -- See Coyote Ranch Staging

Mile 8.2 to Mile 14.1

4.1 acres: addition of a 6 foot-wide equestrian shoulder to the existing trail (assumes a 10 foot-wide construction zone)

2.2 acres: rehabilitation of multi-purpose trails approximately 12 feet wide (assumes a 20 foot-wide construction zone)

3.6 acres: rehabilitation of multi-purpose trails approximately 12 feet wide with equestrian shoulder (assumes a 25 foot-wide construction zone)

0.1 acres: construction of new trail bridges (assumes a 25 foot-wide construction zone)

10.0 acres: revegetation as riparian habitat of open areas surrounding existing and new trails

Mile 14.1 to Highway 101/Hellyer Park

2.0 acres: removal of existing trails and two low-flow crossings of Coyote Creek with revegetation as riparian habitat

However, implementation of the Integrated Plan and potential associated improvement/realignment of facilities would result a conservative estimate of up to 52 acres of enhanced and/or restored habitat within the riparian habitat corridor. Supporting this estimate is a working philosophy of the Integrated Plan to assure that whenever public access improvements are initiated, they are: sited and designed in a way that allows the public to enjoy the Parkway without unnecessarily jeopardizing its resources; and are complemented with resource enhancement activities in contiguous or nearby wetland, riparian, and upland habitats. This would include:

- ❑ approximately 16 acres of existing public use areas and facilities that would be removed and revegetated as riparian habitat
- ❑ approximately 20.1 acres of existing trails that would be renovated with riparian revegetation along the trail corridor that is, at a minimum, equal in area to the physical trail corridor being improved
- ❑ approximately 16.6 acres of new trail or facility construction in existing open grassland or riparian areas with riparian revegetation planted at a minimum 1:1 ratio for all lands disturbed by construction.

Comment L-8-10: The Coyote Creek Parkway County Park Integrated Natural Resources Management Plan and Master Plan is considered an interim project under the HCP/NCCP Planning Agreement (County of Santa Clara *et al.* 2005). The Planning Agreement states that “The Parties agree that potential conflicts with the preliminary conservation objectives shall be identified during the Interim Process to help achieve the preliminary conservation objectives, not preclude important conservation planning options or connectivity between areas of high habitat values, and help guide and ensure development of a successful [HCP/NCCP] that incorporates these interim projects” (County of Santa Clara *et al.* 2005). Therefore, the Service recommends that the Parks Department review the draft HCP/NCCP chapters at [January 2007](http://www.scv-</p></div><div data-bbox=)

habitatplan.org/www/default.aspx to ensure that the proposed project does not preclude the developing conservation strategy for covered species.

Response L-8-10: County Parks, as a partner in the HCP/NCCP has reviewed the draft chapters of the HCP as they have become available and have integrated, as needed, such information into the development of the Integrated Plan. County Parks presented the Draft Integrated Plan at the February 2006 Agency Coordination Meeting of the HCP, which included representatives of USFWS, NMFS, and CDFG. As an identified Interim Project under the Santa Clara County HCP/NCCP, County Parks submitted an Interim Project filing and information packet to the US Fish & Wildlife Service, California Department of Fish & Game, and NOAA Fisheries on September 15, 2006. A draft of the Draft Integrated Plan and the Mitigated Negative Declaration were also provided to Ken Schrieber, the HCP/NCCP Program Manager, for review.

Comment L-8-11: The Service recommends that the revised Initial Study address the Parks Department's assessment of how the proposed Resource Management Plan and Master Plan would affect the wildlife movement through the Parkway. The wildlife movement discussion should address the Parks Department's analysis of the expected change in wildlife movement resulting from the implementation of the proposed project (i.e. overall negative effect, no effect, or overall positive effect). This analysis should take into account baseline data as well as indirect effects associated with increased human activity along the Parkway.

Response L-8-11: The impact that the Integrated Plan will have on wildlife movement within the Parkway is discussed in Section 3.6.3 Number 1. One of the primary goals of the Integrated Plan is to increase the vitality of the riparian corridor within the Parkway. By doing so, the result of plan implementation will increase the ability of wildlife to move through the Parkway and to have access to all of the resources necessary to carry out variable life stages.

Comment L-8-12: The Parks Department should contact NOAA Fisheries regarding potential project related effects on the threatened Central California steelhead (*Oncorhynchus mykiss*), candidate Central Valley Fall-run Chinook salmon (*Oncorhynchus tshawytscha*), and other listed species under NOAA Fisheries' jurisdiction. The NOAA Fisheries contact may be reached at: Jonathan.Ambrose@noaa.gov.

Response L-8-12: As noted above, County Parks presented the Draft Integrated Plan at the February 2006 Agency Coordination Meeting of the HCP that included Jonathan Ambrose of NMFS. Additionally, Gary Stern of NOAA Fisheries is a member of the Coyote Watershed Integrated Working Group (CWIWG), which serves as the Technical Advisory Group for the Integrated Plan. County Parks has made presentations and participated in discussions with the attending regulatory agencies on the development of the Integrated Plan in quarterly meetings of CWIWG on October 28, 2004, December 16, 2004, March 10, 2005, June 9, 2005, September 22, 2005, January 12, 2006, April 20, 2006, July 13, 2006, and October 3, 2006.

Comment L-8-13: The Parks Department proposed a total of 13 mitigation measures to minimize project related effects to wildlife and natural communities. However, none of the mitigation measures specifically address the California tiger salamander, California red-legged frog, and western pond turtle. Although Mitigation Measures BIO-10 (Avoid Watercourses, Aquatic, and Wetland Habitats) and BIO-11 (Replace Watercourses, Aquatic, and Wetland Habitats) would contribute to minimizing effects to these species, they do not include surveys for these animals. The Service recommends the addition of mitigation measures that include adequate pre-construction surveys for tiger salamander, red-legged frog, and western pond turtle.

Response L-8-13: As the Integrated Plan only proposes minimal work in aquatic environments and these species have not been identified in areas where the Parks Department anticipates construction to occur, no impacts were identified. The only of these species known to regularly occur in the parkway is the Western pond turtle and County Parks is not proposing to be the lead agency for work occurring in Parkway ponds. However, habitat enhancement proposed under the Integrated Plan could result in increased presence and range of these species over the lifetime of the Integrated Plan. For this reason, potential mitigation measures for these aquatic species will be identified to provide a framework for mitigation of these species if encountered during the Integrated Plan lifetime. Mitigation measures proposed for tiger salamander, red-legged frog, and western pond turtle, respectively, are as follows:

Mitigation Measure BIO-9: Implement Avoidance and Minimization Measures for Potential Impacts on California Tiger Salamander Habitat.

For areas where construction would occur within identified California tiger salamander habitat, County Parks shall consult with the USFWS and CDFG to obtain authorization for activities that could affect this species and implement all applicable protection measures specified through this consultation. Protection measures shall be focused on locations where California tiger salamander habitats have been identified within and adjacent to the right-of-way and where California tiger salamander could potentially be affected as determined in consultation with the USFWS. Protection measures could include, but would not be limited to, the following:

- ❑ Where impacts on potential California tiger salamander breeding habitats can be avoided, establish site-specific exclusion zones to protect these areas. Install temporary plastic fencing around the exclusion areas with “Sensitive Habitat Area” signs posted and clearly visible on the outside of the fence.
- ❑ Where it is not feasible to avoid work within or adjacent to potential California tiger salamander breeding sites, limit work in these areas to the period from June 1 to October 14 or when the ponds are dry.
- ❑ From October 15 to May 31 within potential California tiger salamander dispersal habitat, minimize operation of proposed project vehicles and equipment at night off pavement during rain events and within 24 hours following rain events, and check under vehicles parked overnight off pavement before moving them.

If permanent loss of occupied or potential California tiger salamander breeding habitat cannot be avoided, compensation shall be provided through protection and enhancement of California tiger salamander habitat within the right-of-way, purchase of off-site mitigation credits, and/or contribution to regional conservation and recovery efforts for the species as determined in consultation with the USFWS and CDFG.

Mitigation Measure BIO-10: Implement Avoidance and Minimization Measures for Potential Impacts on California Red-Legged Frog Habitat.

County Parks or its contractor will implement the following measures before and during construction activities occurring within or near California red-legged frog habitat to minimize both direct and indirect effects on California red-legged frogs.

- ❑ A pre-construction survey shall be conducted immediately preceding any construction activity that occurs in California red-legged frog habitat or an activity that may result in take of the species. The USFWS-approved biologist shall carefully search all obvious potential hiding spots for California red-legged frogs and the perimeter of any aquatic habitat. In the unlikely event that a California red-legged frog is found during the preconstruction survey, the biologist will contact the USFWS immediately to determine the appropriate course of action.
- ❑ An erosion and sediment control plan will be implemented to prevent impacts to the SCVWD channel outside of the study area. Tightly woven natural fiber netting or similar material shall be used for erosion control or other purposes at the project site to ensure that California red-legged frogs are not trapped. This limitation will be communicated to the contractor through use of special provisions included in the bid solicitation package. Coconut coir matting is an acceptable erosion control material. No plastic monofilament matting shall be used for erosion control.
- ❑ Access routes to the SCVWD channel and the size of staging and work areas will be limited to the minimum necessary to achieve the project goals. Routes and boundaries of the access roads will be clearly marked prior to initiating construction/grading.
- ❑ All food and food-related trash will be enclosed in sealed trash containers at the end of each workday and removed completely from the construction site once every three days.
- ❑ No pets will be allowed on the construction site.
- ❑ A speed limit of 15 mph on dirt roads will be maintained.

- ❑ All equipment will be maintained such that there will be no leaks of automotive fluids such as fuels, oils, and solvents. Any fuel or oil leaks will be cleaned up immediately and disposed of properly.
- ❑ Hazardous materials such as fuels, oils, solvents, etc. will be stored in sealable containers in a designated location that is at least 200 feet from the SCVWD channel (Ronan Channel). All fueling and maintenance of vehicles and other equipment will occur at least 200 feet from the channel. Construction within the SCVWD channel would be conducted during the dry season between May 1 and October 15.
- ❑ Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, and the like shall be re-contoured if necessary, and revegetated to promote restoration of the area to pre-project conditions. An area subject to “temporary” disturbance means any area that is disturbed during the project, but that after project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas should be determined on a site-specific basis in consultation with USFWS, California Department of Fish and Game, and revegetation experts.
- ❑ The City shall include special provisions that include the mitigation measures described above for bid information when applicable.

Mitigation Measure BIO-11: Conduct A Preconstruction Survey for Western Pond Turtles and Relocate, If Necessary.

A qualified biologist shall conduct a pre-construction survey for western pond turtles no more than 30 days prior to construction in suitable aquatic habitats within the project corridor, including stream crossings, drainage ditches, and culverts. A combination of visual and trapping surveys may be performed with authorization from the CDFG. If the species is found near any proposed construction areas, impacts on individuals and their habitat shall be avoided to the extent feasible. If occupied habitat can be avoided, an exclusion zone shall be established around the habitat and temporary plastic fencing shall be installed around the buffer area with “Sensitive Habitat Area” signs posted and clearly visible on the outside of the fence. If avoidance is not possible

and the species is determined to be present in work areas, the biologist with approval from CDFG may capture turtles prior to construction activities and relocate them to nearby, suitable habitat a minimum of 300 feet downstream from the work area. Exclusion fencing should then be installed if feasible to prevent turtles from reentering the work area. For the duration of work in these areas the biologist should conduct monthly follow-up visits to monitor effectiveness.

Comment L-8-14: We recommend that the Parks Department address the least Bell's vireo in the revised Initial Study. The species was observed along Coyote Creek, near the Coyote Creek Golf Course in June 2006 (T. Rahmig pers. comm. with M. Thomas of the Service, November 16, 2006; Jones & Stokes 2006). The endangered least Bell's vireo is a covered species in the draft *HCP/NCCP*; the Service recommends that direct and indirect effects to the species be analyzed in the Initial Study. The species is known to occur in willow riparian habitat, similar to that found in the project area.

Response L-8-14: The implementation of the Integrated Plan will have a net positive effect on riparian obligate species such as the least Bell's vireo over the long term by buffering the riparian corridor from urban development and allowing the corridor to return to a fully functioning ecosystem. The least Bell's vireo has not been documented nesting within the Parkway and has only been documented nesting in Santa Clara County one time (Llagas Creek 1999) in the recent past. Impacts to nesting riparian obligate songbirds such as the least Bell's vireo will be mitigated to less than significant by implementing Mitigation Measure BIO-4 and impacts to their habitat will be mitigated by Mitigation Measures BIO-8 and BIO-9.

Comment L-8-15: The Initial Study does not include mitigation measures that specifically address burrowing owl. The burrowing owl is a covered species under the draft *HCP/NCCP*. Mitigation Measures BIO-4 (Survey for Migratory Bird Nests) and BIO-6 (Survey for Active Raptor Nests) do not adequately address the species. Burrowing owls could be present in the project area year round, not just during the migratory bird nesting season. They are heavily dependent upon rodent burrows and typically prefer short vegetation and ruderal areas (Haug *et al.* 1993). The project area contains 1,035 acres (61.3% of the project area) of California annual grasslands (2M Associates *et al.* 2006) that likely support the species. The Service recommends the addition of mitigation measures that specifically address this species. Mitigation measures

should include, but are not limited to, pre-construction surveys and avoidance of rodent burrows occupied by burrowing owls.

Response L-8-15: While potential habitat for this species is known to occur throughout the Parkway, the species is not known to occur within the Parkway currently. While much of the grasslands in the Parkway have the potential to be converted to riparian woodlands over the lifetime of the Integrated Plan, the Integrated Plan also calls for the restoration and/or enhancement of native grasslands. Additionally, the species is known to occur in the region and could move into the Parkway over the life of the plan. For this reason, mitigation has been identified for burrowing owl as follows:

Mitigation Measure BIO-12: Conduct Preconstruction Surveys for Active Western Burrowing Owl Burrows and Implement the California Department of Fish and Game Guidelines for Western Burrowing Owl Mitigation and Compensate for Habitat Loss, If Necessary.

DFG (1995) recommends that preconstruction surveys be conducted to locate active western burrowing owl burrows in the study area and within a 250-foot-wide buffer zone around the study area in suitable habitat. The City or its contractor will retain a qualified biologist to conduct preconstruction surveys for active burrows according to CDFG's Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1995). The preconstruction surveys will include a breeding season survey and wintering season survey. If no western burrowing owls are detected, no further mitigation is required. If active western burrowing owls are detected, the City will implement the following measures.

- Occupied burrows will not be disturbed during the breeding season (February 1 to August 31).
- If avoidance is the preferred method of dealing with potential impacts, no disturbance should occur within 160 feet of occupied burrows during the non-breeding season (September 1 to January 31) or within 250 feet during the breeding season (February 1 to August 31).
- When destruction of occupied burrows is unavoidable during the non-breeding season (September 1 to January 31), unsuitable

burrows will be enhanced (enlarged or cleared of debris) or new burrows created (by installing artificial burrows) at a ratio of 2:1 on protected lands approved by CDFG. Newly created burrows will follow guidelines established by CDFG.

- If owls must be moved away from the project site during the non-breeding season, passive relocation techniques (e.g., installing one-way doors at burrow entrances) will be used instead of trapping, as described in the CDFG guidelines. At least 1 week will be necessary to complete passive relocation and allow owls to acclimate to alternate burrows.

If active western burrowing owl burrows are found and the owls must be relocated, County Parks shall offset the loss of foraging and burrow habitat within the parkway by permanently protecting a minimum of 6.5 acres of foraging habitat per occupied burrow identified on the project site. The protected lands shall be located within the Parkway boundary adjacent to the occupied western burrowing owl habitat on the project site or at another occupied site near the project site. The location of the protected lands will be determined in coordination with CDFG.

Comment L-8-16: We recommend that botanical surveys described in the Initial Study include big-scale balsamroot, chaparral harebell, and loma prieta hoita. These plants species are proposed covered species under the draft HCP/NCCP. Although the IS indicates that these species have a low potential to occur onsite because they were not detected by park staff, who routinely survey the Parkway, suitable habitat for these species is present in the project area. Subsequently, these plants may be affected by the proposed project.

Response L-8-16: Comment noted. These species have been added to the discussion of impacts under Section 3.6.3, Number 2. The discussion has also been broadened to include all sensitive natural communities, not just serpentine grassland. Please refer to Response to Comment L-7-27 for more information.

Comment L-8-17: The Service recommends that a mitigation measure be added to the Initial Study to protect serpentine habitat in the project area. Although impacts to serpentine habitat would be partially minimized by the implementation of Mitigation Measures BIO-2 (Avoid Special-Status Plants) and BIO-3 (Avoid Bay Checkerspot Butterfly Host Plants), the Service

considers serpentine grassland as a sensitive natural community. Serpentine grassland provides habitat to many rare plants and animals and its protection will likely play an important role in the developing conservation strategy for the HCP/NCCP. As such, we recommend that the Parks Department avoid all permanent impacts to serpentine habitat onsite. Permanent impacts, include, but are not limited to, grading activities and construction activities including trails, staging areas, parking lots, and recreational facilities.

Response L-8-17: Please refer to Response to Comment L-8-16 and L-7-27.

Comment L-8-18: Figure 2-3

Figure 2-3 depicts the proposed integrated plan. However, it does not appear to depict the Anderson Visitor Center/Office. The Anderson Visitor Center/Office was identified by the Parks Department as a priority project.

Response L-8-18: Figure 2-3 identifies the Visitor Center/Ranger Office/Malaguerra Staging Area, but does not specifically identify it as "Anderson."

Comment L-8-19: p. 2-6

The Service disagrees with the Parks Department's assumption that the average migration distances between breeding and refuge sites for adult and juvenile tiger salamander is 118 feet and 85 feet respectively. Depending upon the situation, the Service considers upland habitat within a minimum of 1.3 miles from breeding habitat as potential dispersal and dry season habitat for the species.

Response L-8-19: While tiger salamanders may occur, under specific circumstances, up to 1.3 miles from breeding habitat, Loredó et al. (1996) found that tiger salamanders commonly use burrows that are first encountered during movements from breeding to upland sites. This information allows for the Parks Department to better refine the Natural Resources Management Plan for protection and enhancement of habitat that may support tiger salamanders in the future.

Comment L-8-20: p. 2-16

Please clarify priority project #10, Improvements to Avoid Low-Flow Crossings and Prevent Equestrian Use of Drainages. Please describe the dimensions of

the proposed culvert at trail mile 12.9 as well as the surrounding habitat and anticipated impacts. Please also describe the proposed equestrian-friendly general use bridges at trial miles 4.1, 8.7, 10.4, and 10.8. Please describe the design of these bridges (i.e. are they clear span?) as well as the surrounding habitat and anticipated impacts.

Response L-8-20: Please refer to Response to Comment L-6-1.

Comment L-8-21: p. 3-56

The discussion of serpentine grassland in the Sensitive Native Grasslands section is limited to 3 discrete patches, totaling 0.05 acre, within the reach of Coyote Creek located southeast of Silver Creek Valley Road. However, page 3-91 indicates that the proposed trail alignment through the Toyon/Live Oak Area runs through serpentine habitat. Please clarify the extent and location of serpentine habitat in the entire project area (i.e. quantify the amount of serpentine grassland in the Live Oak Group Area, Toyon Group Area, Silver Creek Staging Area, and/or Shady Oaks Park Area).

Response L-8-21: Serpentine habitat that occurs in the Toyon/Live Oak area was not mapped along with the 0.05 acre already mapped. Thus total acreages for potential habitat are not available. Page 3-56 will be revised to reflect these unmapped areas.

Comment L-8-22: p. 3-91

At this time, the Service does not have enough information to concur with the Parks Department's assumption that the proposed project will not result in the reduction of habitat that would impact species numbers or diversity. The proposed project involves building pedestrian and multiple-use bridges; creating interpretive trails; realigning, expanding, eliminating, and developing trails; developing facilities such as nature centers, restrooms, parking areas, and picnic areas; and developing new access roads. The Initial Study indicates that the trails and signage proposed in the riparian corridor will have the highest potential for impacts to endangered, threatened, or rare species. We request that the Parks Department quantify the amount of temporary and permanent impacts by habitat type.

Response L-8-22: Please refer to Response to Comment L-8-9 for information on potential acres of sensitive natural community impacts anticipated to occur under the Integrated Plan.

Comment L-8-23: p. 3-96

The Live Oak Group Area and the Toyon Group Area are located at the southern end of the project area, near the mouth of Anderson Lake. It appears as though some, if not all, of this portion of the project area is contained within critical habitat unit #8 for bay checkerspot butterfly. Please clarify where critical habitat for the bay checkerspot occurs within the project area. If critical habitat is present within the project area, we recommend avoidance or additional mitigation measures to protect these sensitive areas. The Initial Study indicates that the proposed trail through the Toyon/Live Oak Use Areas would lead up to the interpretive overlook and observation platform that runs through serpentine habitat. We disagree with the assumption that impacts would be less than significant with the implementation of Mitigation Measures BIO-1 (Survey for Special-Status Plants), BIO-2 (Avoid Special-Status Plants), and BIO-3 (Avoid Bay Checkerspot Butterfly Host Plants). As indicated earlier, we consider serpentine grassland as a sensitive community. We recommend that the trail alignment avoid impacts to all serpentine grassland

Response L-8-23: The Live Oak Group Area and Toyon Group Area do fall within Bay Checkerspot butterfly critical habitat. Critical habitat is discussed on page 3-83 in the IS/MND. Although this site is within the critical habitat unit the only occupied habitat in this area is further up the ridge on Pigeon Point. The habitat that will be impacted by the proposed facilities at these two sites is currently degraded hillside habitat that does not support the larval host plants for the Bay Checkerspot butterfly nor any other known special status serpentine species. Construction of the proposed facilities will not effect the existing population at Pigeon Point.

Comment L-8-24: p. 3-97

According to the Initial Study, the Coyote Ranch staging area may impact narrow leaf willow and Fremont cottonwood communities. The Service does not concur that the implementation of Mitigation Measures BIO-10 (Avoid Watercourses, Aquatic, and Wetland Habitats) and BIO-11 (Replace Watercourses, Aquatic, and Wetland Habitats) will result in a less than

significant impact. These mitigation measures do not address the endangered least Bell's vireo, which is known to occur in riparian woodland dominated by willow. The species was observed in the project area, in the vicinity of the Coyote Creek Golf Course in June 2006. We recommend that appropriate mitigation measures be implemented to minimize project related impacts to this endangered animal for all activities that may affect riparian habitat (i.e. Coyote Ranch Staging Area, Perry's Hill Recreation Area, Improvements to Avoid Low-Flow Crossings and Prevent Equestrian Use of Drainages, Specific Trail Segment Improvements, etc.). We recommend that the revised Initial Study include a mitigation measure that includes protocol surveys for the least Bell's vireo.

Response L-8-24: Please refer to Response to Comment L-8-14. Coyote Creek Parkway is an important habitat for a wide variety of bird species. The Santa Clara Valley Audubon Society routinely publishes a list of species to be identified within the County and the Audubon Society has identified Bell's vireo as a vagrant species. Identified sightings by reliable sources have been limited to those referenced in Comment 8-14 and Response 8-14. Protocol-level surveys for this species would most likely not result in any new information, and would not serve as mitigation for any impacts that might occur.

5.1.9 LETTER 9: JAN HINTERMEISER (DATED DECEMBER 6, 2006)

Comment L-9-1: What happens to the riparian habitat corridor around ponds? I believe the riparian habitat corridor should encompass the ponds. Based on that, figure 2-3, proposed integrated plan, is incorrect in the Mitigated Neg Dec because it does not show ponds as being within the Riparian Habitat Corridor.

Response L-9-1: The Riparian Habitat Corridor does continue around ponds throughout the Parkway, as shown in Figure 2-3.

Comment L-9-2: The Mitigated Neg Dec describes a two-tiered approach. Nowhere does it define which projects actions are in which tier. Does the Mitigated Neg Dec apply to long-term expansion of the Parkway, or just the TBD immediate actions.

Response L-9-2: As noted on Page 2-4 of the Mitigated Negative Declaration, the first tier consists of the "priority projects" identified in Section 2.5. The

second tier consists of all other elements of the program, including Parkway expansion.

Comment L-9-3: Please clarify the Zones (p. 2-7 in Mitigated Neg Dec) with respect to the Riparian Habitat Corridor.

- a. As I understand it, the Riparian Habitat Corridor is the sum total of land that meets any one of the 5 criteria on page 2-5,6. Is that correct?
- b. The zones on page 2-7 are meant to divide up the Riparian Habitat corridor into 7 non-overlapping habitat areas, so that the sum total of the zones exactly covers the Riparian Habitat Corridor. Is that correct?
- c. Zones 4-7 are not defined in a logically clear manner. (Sorry, my background is mathematics.) When multiple criteria are listed, it's not clear whether the criteria are to be ANDed or ORed. This is my interpretation of what is meant. I may be wrong.
 - i. Zone 4 should be defined as outside the riparian vegetation area, inside the parkway boundary and inside one or more of the flood zone, the meander zone, or riparian soils.
 - ii. Zone 5 is ok
 - iii. Zone 6 should be defined as outside the parkway boundary and inside one or more of the flood zone, the meander zone, or riparian soils.
 - iv. Zone 7 is anything outside of zones 1-6 that is within the movement corridor.

Response L-9-3: The Riparian Habitat Corridor is, in fact, the sum total of land that meets any one of the 5 criteria presented on page 2-5 through 2-6 of the Mitigated Negative Declaration. Additionally, the zones on page 2-7 divide the Riparian Habitat Corridor into 7 non-overlapping habitat areas, so that the sum total of the zones exactly covers the Riparian Habitat Corridor. However, it is important to note that currently developed areas outside of the Parkway were considered not viable for future expansion and were excluded from the Riparian Habitat Corridor designation.

The commenter's interpretation of the management zones is accurate and will be appropriately clarified in the Mitigated Negative Declaration on Page 2-7.

Comment L-9-4: On p. 2-9, does this mean that other users are shut out of Parque de la Raza de Paz between April and October, i.e. the disc golfers have exclusive use of the area? When the permanent golf course is built at Perry's Hill, does disc golf remain on the 9 holes at Hellyer?

Response L-9-4: Due to the incompatibility of disc golf with the current use of the area as a group picnic area, it is recommended by the Parks Department staff that use of Parque de la Raza de Paz will be restricted to disc golf between April and October. Between November and March targets for disc golf will be dismantled and the area will be reverted to a reservable group picnic area, depending on seasonal conditions. However, the Parks Department may reserve the right to accommodate group picnic use on an as-needed basis at Parque de la Raza de Paz through provisions of an Annual Use Permit with the disc golf clubs. Loss of a group picnic area at this location was determined to be a less-than-significant impact because this facility would not be permanently closed until new facilities for group picnicking had been developed in the Parkway. When a permanent disc golf course is established at Perry's Hill, Parque de la Raza de Paz will be closed to all recreational use, including disc golf. The existing 9-hole course on the east side of Coyote Creek at Hellyer County Park will remain.

Comment L-9-5: I can't understand how the figures B-1 through B-17 make sense. As I understand the definitions, the Resource Management zones (1-7) should extend at least out 500 feet from the bank of the creek (movement corridor). Yet they clearly don't in the figures. For example in Figure B-2, Zone 7 does not extend 500 feet from the bank. Also on the lower right, zone 7 has some sort of indentation towards the creek that doesn't make any sense based on the definitions.

Response L-9-5: As noted in Response to Comment L-9-3, currently developed areas outside of the Parkway were considered not viable for future expansion and were excluded from the Riparian Habitat Corridor designation. Additionally, as the areas were defined in GIS, spatial derivations of the rules produce visual oddities on the map that were modified, as appropriate, for implementation.

Comment L-9-6: The entire Live Oak and Toyon Group Areas, including rest rooms are within the RHC, which violates our own setback guidelines. Have

we identified all cases in which the proposed project violates our own setback guidelines?

Response L-9-6: Established uses in the Parkway were evaluated as part of the existing conditions of the project area at the start of the Integrated Plan process. Any new development or modification of facilities in the Parkway would need to comply with the buffers and setbacks recommended in the Integrated Plan. Additional impacts on resources in the vicinity of the Toyon and Live Oak Group Areas and proposed mitigations have been identified in the Mitigated Negative Declaration.

Comment L-9-7: On page 2-11 it states that the Appendix C, Table C-1 vegetation enhancement and maintenance goals will “generally be focused in upland areas outside the Riparian Habitat Corridor and the Resource Management Zones identified in the Natural Resource Management Plan.” I don’t understand this statement at all. Nearly 100% of the actions in Appendix C are inside, not outside of the Corridor. The way the zones are defined, most management actions for upland habitats are defined for upland habitats within the Corridor. That may not be the intent, but that’s how I read the documents.

Response L-9-7: The word “outside” will be changed to “inside.”

Comment L-9-8: Again on p. 2-11, we don’t allow “highly invasive” non-native plants. I’d remove “highly”. Why would we allow any invasive non-natives?

Response L-9-8: Please refer to Response to Comment L-7-5:

Comment L-9-9: On figure 2-7, the northern boundary of the Riparian Habitat Corridor has a crazy shape around the vineyard and extending north. Something isn’t correct, maybe what is drawn isn’t really the RHC boundary?

Response L-9-9: This portion of the Riparian Habitat Corridor delineates tributaries that provide movement connections to open spaces adjacent to the Parkway.

Comment L-9-10: Figure 2-8 for Perry’s Hill shows future swimming area. Have we evaluated the impact of the swimming area on the wildlife of Ogier Ponds and concluded that there is no impact? The swimming area will definitely heavily impact the very rare fresh-water marsh habitat on the edge of the ponds. The swimming area definitely is within the Riparian Habitat Corridor.

Response L-9-10: The Parks and Recreation Department concluded a Swimming Feasibility Study in January 2004. At that time, the recommendation of the Parks and Recreation Commission was to further explore the possibility of finding a potential future location for a “naturalized” swimming facility as part of the Integrated Plan for Coyote Creek Parkway that met the general parameters outlined in the Swimming Feasibility Study. While the Integrated Plan has identified a location for a potential future swimming facility within the limits of the project, a final determination that this is the preferred location for such a facility has not been made. Therefore, a regional swimming area is not considered an approved project and was not evaluated as part of the Integrated Plan in the Mitigated Negative Declaration. Should a decision to consider the location proposed in the Integrated Plan as the preferred location for such a swimming facility within the County Parks system, it would be the subject of separate CEQA analysis and project-level evaluation when pursued.

Comment L-9-11: Figure 2-8 for Perry’s Hill shows a retriever training lease limit line. Have we evaluated the impact of retrievers on the wildlife of Ogier Ponds and concluded that there is no impact? Do we know the impact of dog training on the birds and amphibians that use the ponds? The retriever training area on Figure 2-10 is a relatively small area. How did it get to be so large when it was moved to Perry’s Hill? The lease line is shown as extending over a very large area.

Response L-9-11: Dog training in the Parkway is an existing condition operated under an Annual Use Permit with the Parks Department with specific dog clubs. Training is limited to specific times of the year and areas in the Parkway. Those conditions are not being altered in scope under the Integrated Plan and therefore, the impacts are not evaluated under CEQA, as the impact of dogs on wildlife would proportionately be the same and considered not to be significant. Conditions are reviewed annually and any new development or modifications of the permitted use would need to comply with the buffers and setbacks recommended in the Integrated Plan.

Comment L-9-12: P. 3-94, impact to natural communities. The only impacts mentioned are trails. However, the swimming area could have major impacts that may not be possible to mitigate.

Response L-9-12: The swimming area is not evaluated in the Mitigated Negative Declaration and would be the subject of separate CEQA analysis and evaluation if pursued. For further information, please refer to Response to Comment L-9-10.