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**APPENDIX M**

**COMMENTS AND RESPONSES TO COMMENTS**

- A. Gary Bentson, San Jose Water Company. October 2, 1997
- B. Captain Lewis A. Lapine, U.S. Department of Commerce National Oceanic and Atmospheric Administration. October 6, 1997.
- C. David Hembry, Los Gatos High School Science Club. October 13, 1997.
- D. Robert and Harriet Jakovina. October 18, 1997.
- E. Carolyn H. Flanagan, Hacienda Environmental Science Magnet. October 20, 1997.
- F. Keith R. Anderson, Streams for Tomorrow. October 22, 1997.
- G. Patricia Sanderson Port, U.S. Department of the Interior. October 23, 1997.
- H. Julie Caporgno, City of San Jose. October 24, 1997.
- I. Suzanne Lowd, Hacienda Environmental Science Magnet. October 24, 1997.
- J. Lawrence M. Johmann, Western Waters Canoe Club. October 26, 1997.
- K. Thomas Rountree, Santa Clara Valley Transportation Authority. October 27, 1997.
- L. Libby Lucas. October 27, 1997.
- M. Rick Bernardi, Lifeweb. October 27, 1997.
- N. David Ferrel, U.S. Environmental Protection Agency. November 3, 1997.
- O. Ashok Vyas, Roads and Airports Department, County of Santa Clara. November 13, 1997.
- P. William T. Hogarth, National Marine Fisheries Service. November 17, 1997.
- Q. Draft EIR/S Public Hearing Minutes, October 9, 1997.





San Jose  
Water  
Company

374 West Santa Clara St.  
San Jose, CA 95196-0001

Engineering and Operations Department  
1221 S. Bascom Ave., San Jose, CA 95128  
Writer's Direct Dial: (408) 279-7850  
Facsimile: (408) 292-5812

October 2, 1997

Mr. William DeJager  
Army Corps of Engineers  
Environmental Planning Section  
333 Market St., Seventh Floor  
San Francisco, CA 94105-2197

Subject: Comment on Draft EIR for the Upper Guadalupe River Feasibility Study

Dear Mr. DeJager:

The San Jose Water Company (SJWC) has reviewed the draft EIR. With the extent of this project, the SJWC will be required to relocate piping and well facilities at our existing stations. The amount of relocation will be determined by your scope of your flood control construction at each of our sites. The SJWC will design and construct these facilities.

A-1

Please note in paragraph 4.9.2; that the SJWC operates the water system in the area of this study and not the City of San Jose.

A-2

Sincerely

Gary Benson, P.E.  
Planning Supervisor

cc: Pardini  
Mello

## Appendix M

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- 1     **A.     Gary Bentson, San Jose Water Company. October 2, 1997**  
2  
3     **A-1.   Mitigation measure 3. in section 4.9.4, Public Services & Utilities, has been revised to indicate**  
4     **that the SJWC will design and construct the relocated piping and well facilities.**  
5  
6     **A-2.   Section 4.9.2, Public Services & Utilities, has been revised to state that the SJWC operates the**  
7     **water system in the feasibility study area.**



UNITED STATES DEPARTMENT OF COMMERCE  
Office of the Under Secretary for  
Oceans and Atmosphere  
Washington, D.C. 20230

October 7, 1997

Mr. William DeJager  
Army Corps of Engineers  
Environmental Planning Section  
333 Market Street, Seventh Floor  
San Francisco, California 94105-2197

Dear Mr. DeJager:

Enclosed are comments on the Draft Environmental Impact Statement for Upper Gaudalupe River Flood Control Feasibility Study San Jose, California. We hope our comments will assist you. Thank you for giving us an opportunity to review this document.

Sincerely,

A handwritten signature in cursive script that reads "Susan B. Fruchter".

Susan B. Fruchter  
Acting NEPA Coordinator

Enclosure



Printed on Recycled Paper

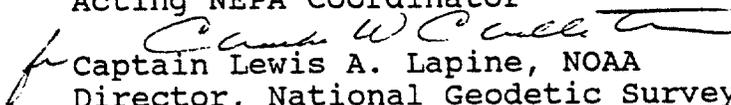




UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
National Geodetic Survey  
Silver Spring, Maryland 20910-3282

OCT 6 1997

MEMORANDUM FOR: Susan B. Fruchter  
Acting NEPA Coordinator

FROM: *for*  Captain Lewis A. Lapine, NOAA  
Director, National Geodetic Survey

SUBJECT: DEIS-9709-04--Upper Guadalupe River Flood  
Control Feasibility Study, San Jose,  
California

The subject statement has been reviewed within the areas of the National Geodetic Survey's (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

B-1 All available geodetic control information about horizontal and vertical geodetic control monuments in the subject area is contained on the NGS home page at the following Internet World Wide Web address: <http://www.ngs.noaa.gov>. After entering the NGS home page, please access the topic "Products and Services" and then access the menu item "Data Sheet." This menu item will allow you to directly access geodetic control monument information from the NGS data base for the subject area project. This information should be reviewed for identifying the location and designation of any geodetic control monuments that may be affected by the proposed project.

If there are any planned activities which will disturb or destroy these monuments, NGS requires not less than 90 days' notification in advance of such activities in order to plan for their relocation. NGS recommends that funding for this project includes the cost of any relocation(s) required.

For further information about these monuments, please contact John Spencer; SSMC3, NOAA, N/NGS; 1315 East West Highway; Silver Spring, Maryland 20910; telephone: 301-713-3169; fax: 301-713-4175.



## Appendix M

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1 **B. Captain Lewis A. Lapine, U.S. Department of Commerce National Oceanic and Atmospheric**  
2 **Administration. October 6, 1997.**

3  
4 B-1. Section 4.9.2 and 4.9.3, Public Services & Utilities, has been revised to include potential impacts  
5 on NOAA geodetic control monuments and required consultation with the National Geodetic  
6 Survey (NGS). If any monuments would be disturbed or destroyed by project construction, the  
7 Corps shall notify the NGS no less than 90 days prior to this activity in order to plan for their  
8 relocation. The Corps will be responsible for the cost of any relocation(s) required.



October 13, 1997

David Hembry  
President  
Los Gatos High School Science Club  
c/o Mrs. Vicki Wendell  
Los Gatos High School  
20 High School Court  
Los Gatos, California 95032

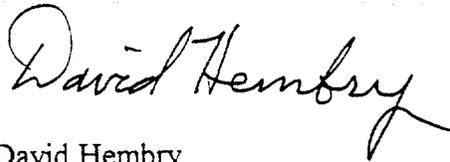
Army Corps of Engineers  
Environmental Planning Section  
333 Market Street, Seventh Floor  
San Francisco, California 94105-2197

Dear Army Corps of Engineers:

C-1

My name is David Hembry, and I am president of the Los Gatos High School Science Club for the 1997-1998 school year. As students and teachers, we in the Science Club are concerned about environmental impacts on the Guadalupe River watershed and request a copy of the Draft Feasability Report and EIR/EIS for review and discussion. We apologize for requesting a copy of the reports indicated at so late a time. Thank you for your cooperation.

Sincerely,



David Hembry  
President  
Los Gatos High School Science Club

## Appendix M

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- 1 C. David Hembry, Los Gatos High School Science Club. October 13, 1997.  
2  
3 C-1. A copy of the Draft Feasibility Report and EIR/S was sent to the Los Gatos High School Science  
4 Club, as requested. The club's interest in the project is appreciated.



October 18, 1997

William R. DeJager  
U.S. Army Corps of engineers  
333 Market St., 7th floor  
San Francisco, CA 94105-2197

Dear Mr. DeJager and Corps,

We attended the meeting in San Jose regarding the Guadalupe River Flood Control Project on Oct. 9, 1997. We own three affected pieces of property; 1760, 1784 and 1874 Creek Drive. All will face the proposed flood control project in various manners. We have long been concerned about this project and our concerns remain the same.

- D-1 | First, the environmental concerns remain high. Work on the river disrupts the salmon and other water animals. Many water birds and raptors feed in and along the Guadalupe. Silt and contamination during the life of the project must be considered. Old concrete and obstructions that prevent the salmon migration need to be removed and river returned to a more natural state. Why aren't we considering off stream storage as a solution to flood control?
- D-2 | Second, the disruption of trees cannot always be mitigated in the manner shown on paper alone. Cottonwoods for example spout from the old roots. They need to remain in the stream bed undisturbed. Re plantings of trees removed during the life of the project need to be done at the same locations, not in acre blocks in another Reach or area. If a tree goes out, a new tree must go in, and at the same place, please!
- D-3 | Last we have been concerned about the supervision of the work crews. Various schools, organizations and homeowners have developed or are working to develop plantings along the river. The "adopt a creek program" is in place (see Santa Clara Valley Water District) They (plantings, etc.) can easily be destroyed in a day by the work crew of the lowest bid; always the group picked by this city to do projects. We need to spend that extra penny and have a good job for all. Only if this project can be a real showplace, can we support it. Otherwise, we prefer NO PROJECT at all.

Respectfully submitted,

*Robert and Harriet Jakovina*  
Robert and Harriet Jakovina  
1760 Creek Dr.

San Jose, CA 95125  
ph:408-265-4595 fax: 408-445-2188

cc Zoe Lofgren  
cc Santa Clara Valley Water District

## Appendix M

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1 **D. Robert and Harriet Jakovina. October 18, 1997.**

2  
3 D-1. The EIR/S describes fish and wildlife resources and addresses potential impacts on them in section  
4 4.4. Impacts will be avoided or mitigated. Silt and contamination are addressed in sections 4.2.3,  
5 4.3.3, and 4.11.3; impacts will be avoided. Obstacles to fish migration, such as the low-flow  
6 crossing in reach 11B, will be removed. Concrete rubble will be removed from some locations,  
7 and the practicality of removing concrete rubble from other areas will be investigated in the  
8 detailed design phase. Offstream storage was investigated and found to not be feasible due to the  
9 absence of suitable sites of sufficient size (see section 2.2).

10  
11 D-2. Mitigation for riparian forest habitat losses is designed to provide replacement at feasible locations  
12 that can support riparian forest revegetation, given flood control design constraints. These  
13 constraints do not allow all mitigation plantings to be at the same location as the impact. In  
14 general, seedling-sized trees, including cottonwoods, would be planted. Cottonwoods can  
15 reproduce either by root sprouts or by seeds, depending on site conditions.

16  
17 D-3. All activities, construction, and planting will have supervision and inspection.

**Appendix M**

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1 **E. Carolyn H. Flanagan, Hacienda Environmental Science Magnet. October 20, 1997.**

2  
3 E-1. A letter has been sent to Ms. Flanagan detailing effects of the Channel-Widening and Bypass  
4 Channel plans between Hillsdale Avenue and Wren Drive. Proposed restoration subsequent to  
5 construction would result in eventually greater areas of forest and better habitat than at present.  
6 Construction is expected to last less than one year at any one location. After construction, the  
7 school would be able to resume its involvement in restoration.

8  
9 Regarding the section of river that the Hacienda Environmental Science Magnet School is helping  
10 with, the following is proposed:

11  
12 From Wren Drive upstream to the stream gauging station, the river would be rehabilitated to  
13 improve terrestrial and aquatic habitats. The channel would not need to be expanded as it is  
14 already nearly big enough; the only modification for flood control would be a low levee along a  
15 portion of the west bank. However, the bottom of the channel would be reconfigured to help  
16 create better habitat conditions, after which trees would be planted. From the stream gauging  
17 station upstream to Hillsdale Drive, the east bank would be widened to increase channel capacity.  
18 Trees on the upper portion of the east bank and on top of the bank would be removed. New tree  
19 plantings on the east bank would eventually create a denser forest than now exists in that area, but  
20 it would take time for the trees to grow. Both sections of river would ultimately have more forest  
21 and better habitat than it currently does. This site is for compensation for impacts in other portions  
22 of the river where not all impacts can be mitigated on-site.

23  
24 It is expected that the Hacienda Environmental Science Magnet School could continue its program,  
25 except when this section of river is being reworked. The downstream portion of your river section  
26 would probably be done fairly early, while the upper portion would be done later; however, this  
27 determination will be made during the detailed design phase of the study.

28  
29 E-2. The commentor's address is being forwarded to the Santa Clara Valley Water District and being  
30 added to the Corps mailing list to ensure future noticing of activities related to this project.



# HACIENDA ENVIRONMENTAL SCIENCE MAGNET

SAN JOSE UNIFIED  
SCHOOL DISTRICT

Susan Olsen, Principal

*All Students Can Learn.. All Students Can Succeed!*

October 20, 1997

William R. Dejager  
Environmental Planner, Planning Branch  
US Army Corps of Engineers  
333 Market Street, 7th floor  
San Francisco, CA 94105-2197

Dear Mr. Dejager:

E-1 | It has been brought to my attention by a San Jose resident who attended the October 9th Upper Guadalupe River Flood Control Project that this project may affect Hacienda Science Magnet School's "Adopt-A-Creek" site located on the Guadalupe River between Hillsdale Avenue and Wren Drive. This program is sponsored by the Santa Clara Valley Water District. In addition, Hacienda School is part of the River Alliance Consortium which includes a total of five schools, community resources, and businesses united under a Joint Venture grant. Each school has adopted part of the Guadalupe River and in conjunction with our curriculum, "Adopt a Watershed", we are to participate in riparian corridor rehabilitation.

We would like to know what the plans are for this section to the river and how our school could be part of the restoration.

E-2 | I wish there had been more publicity for your meeting as our school community would have liked to attend. It puzzles me that the Santa Clara Valley Water District did not notify the groups that had adopted the sections of the river in the project area of this public hearing.

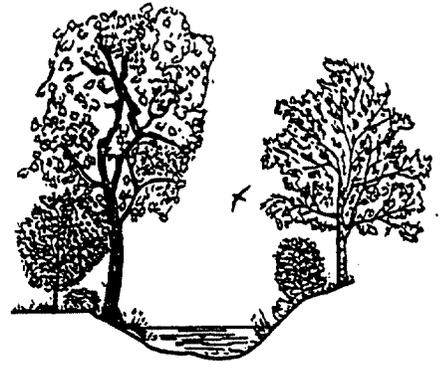
I am now hoping to be kept informed by you in the future of further meetings and plans.

Sincerely yours,

Carolyn H. Flanagan  
Science Resource Teacher

SANTA CLARA COUNTY  
**STREAMS FOR TOMORROW**

Post Office Box 1409  
San Martin, California 95046



October 22, 1997

Mr. William DeJager  
Environmental Planning Section  
U.S. Army Corps of Engineers  
333 Market Street, 7th Floor  
San Francisco, CA 94105

Dear Mr. DeJager:

Upper Gualalupe River Feasibility Study  
Draft Environmental Impact Statement/Report  
Santa Clara County

We submit the following comments and recommendations for your consideration on subject Draft EIS/EIR:

- F-1** | We support the decision to adopt an alternative that provides 100-year flood protection in this highly urbanized area. Providing this level of protection and concomitant economic benefits in the nation's eleventh largest city is in the national interest and warrants federal cost-share participation.
- F-2** | The Bypass Channel Plan, although improved over past designs, still fails to afford the maximum possible impact avoidance, riparian habitat preservation and on-site mitigation within the constraints of the basic design. The opportunities for additional impact avoidance, riparian preservation and on-site mitigation are identified and discussed - with specific recommendations for action - in the April 1997 "Revised Draft Fish and Wildlife Coordination Act Report for the Guadalupe River Flood Control Project, Upper Reaches." We advocate that the recommendations of this Draft Coordination Act Report, Recommendations Number 1 through 6, be adopted in their entirety as conditions of approval for the Draft EIS/EIR. Implementing these recommendations is essential for the full protection and mitigation of the River's valuable public trust fish and wildlife resources.

Mr. William DeJager

Page 2

Thank you for the opportunity to provide comments on the Draft FIS/EIR. If you have questions, please phone me at (408)683-4330 (voice and fax.)

Sincerely,

A handwritten signature in cursive script that reads "Keith R. Anderson".

Keith R. Anderson  
Regulatory Issues

cc: SCCSFT Reading File

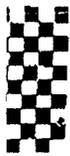
## Appendix M

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- 1 **F. Keith R. Anderson, Streams for Tomorrow. October 22, 1997.**  
2  
3 F-1. Comment noted. Your support for a 100-year level of flood protection is appreciated.  
4  
5 F-2. This comment is addressed in the Corp's response to the Revised Draft Coordination Act Report  
6 (Appendix D). The recommended concepts have been incorporated to the extent feasible. This  
7 includes updated information that will support the mitigation plan. The Corps will consider  
8 USFWS recommendations as well in developing a final design for the project. The Corps believes  
9 that the currently planned mitigation adequately compensates for impacts.



*Plan Feasibility* PO1



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
600 Harrison Street, Suite 515  
San Francisco, California 94107-1376

OPTIONAL FORM 89 (7-90)

October 23, 1997

ER 97/0511

|  |                                 |                     |
|--|---------------------------------|---------------------|
| <b>FAX TRANSMITTAL</b>                 |                                 | # of pages <b>7</b> |
| To <b>COL. RICHARD THOMPSON</b>        | From <b>PATRICIA PORT (DOI)</b> |                     |
| Dept./Agency <b>CORPS OF ENGINEERS</b> | Phone # <b>(415) 427-1497</b>   |                     |
| Fax # <b>(415) 977-8524</b>            | Fax # <b>(415) 744-4121</b>     |                     |
| NEN 7540-01-317-7388                   |                                 | 5099-101            |
| GENERAL SERVICES ADMINISTRATION        |                                 |                     |

Colonel Richard Thompson, District Engineer  
U.S. Army Corps of Engineers  
San Francisco District (DESPM-DE)  
333 Market Street, Suite 801  
San Francisco, California 94105-2197

Dear Colonel Thompson:

The Department of the Interior (Department) has reviewed the Draft Feasibility Report (Draft Report) and Environmental Impact Statement (DEIS) for the Upper Guadalupe River Flood Control Project (Project), Santa Clara County, California. The following comments are provided for your information and use when preparing the Final Feasibility Report (Final Report) and the Final Environmental Impact Statement (FEIS).

### GENERAL COMMENTS

The project includes channel modifications which increase floodway capacity to the 100 year level of protection. The modifications would permit limited potential for near-stream vegetation with higher bench cuts through the use of partial bypass and cribwall features in some areas. Nevertheless, the project proponent's desire to maintain certain project reaches within existing flood easements may result in significant thinning of the riparian corridor, permanent hardscaping, and/or revegetation off-site or away from the stream edge. To avoid these impacts while maximizing corridor quality, the Department recommends the modifications described in specific comments below be considered. The FEIS or attendant engineering report should quantitatively evaluate the susceptibility of the mitigation areas to erosion under design conditions.

G-1

The DEIS does not sufficiently document distributional changes in important vegetative features which would occur with the project, specifically, the type of vegetation allowed, corridor width, elevation above the invert, distance from the stream edge, and local soil and groundwater availability. In addition, the proposed designation of top-of-bench plantings as "riparian" and the prospective success on such terraces is uncertain. Over the long term, mitigation plantings will be subject to natural variation in groundwater levels that may recede

G-2

- G-2 | below the roots of shrubs and some trees, causing death or inhibited growth. Such areas between floodways and the stream will also lack significant surface runoff influence. These higher plantings are intended to be composed of more xeric species like oak and sycamore that are resistant to drought. This portion of the mitigation (30 percent of the total), while expected to provide sufficient habitat value, is different from the lost vegetation near the channel invert and slopes. Second, the willow riparian plantings on low benches (15 percent of the total) maximize floodway capacity but would affect habitat components associated with large trees: perches, input of large woody debris, undercuts, snag formation, and arboreal habitat volume. Differences between the impact and mitigation vegetation distribution and quality should be fully discussed in the FEIS. Scrub-shrub, albeit lower value, is partially riparian in the impact area, and should be included in the habitat loss and mitigation analyses. The FEIS should account for riparian scrub-shrub losses and prescribe appropriate mitigation actions.
- G-3 | The monitoring plan (Plan) for long-term mitigation success beyond the minimum five years suggested in the DEIS should be revised to ensure that habitat mitigation goals are met. The Plan should include: (1) key characteristics of the riparian and stream cover, soil moisture, streamflow, and water temperature; and (2) an agreement with the Fish and Wildlife Service (FWS) on monitoring parameters and protocols.
- G-4 | Performance criteria for Shaded Riverine Aquatic (SRA) cover should also be incorporated into the Plan. Essential criteria should include: (a) persistence of surface water in the mitigation sites equivalent to the impact sites, (b) shade cover by vegetation and undercut banks compared to target levels, and (c) mitigation of instream temperature impacts to pre-project levels. The FEIS should state hydrologic criteria such as soil moisture and depth of the groundwater table which will be maintained in perpetuity in all mitigation areas through naturally-occurring flows or, if necessary, upstream releases past stream gage 23b. The biological basis for such criteria should be stated and be consistent with the needs for riparian growth as specified in the mitigation plan. The Plan should include specific remedial actions and timetables in the event of mitigation failures; such actions should be a legally binding responsibility of the local sponsor.
- G-5 | The assessment of cumulative impacts section does not provide sufficient information on bank hardening, small projects, and changes in distribution and quality of riparian habitat. We believe one of the most significant impacts of bank protection is the conversion of natural bank, which has high aquatic and terrestrial habitat values, to hardened bank, which cannot support vegetation or other habitat features. This conversion needs to be fully addressed in the FEIS. In addition, the DEIS considers only major projects, and neglects to address smaller projects which have undoubtedly contributed to the overall loss of stream edge habitat. The cumulative impacts section of the FEIS should provide an accurate accounting of the existing lengths of natural and hardened bank in the project area due to all activities (major projects and minor activities) and the additional bank hardening due to the subject project. Also, the FEIS should provide a similar cumulative impacts analysis on changes in distribution and quality of riparian habitat.

The following additional information should be provided in the FEIS:

A reach-specific summary of anticipated mitigation conditions classified by plant composition (palette distribution), elevation above the channel invert, distance from the channel edge, and relevant corridor parameters. The corridor parameters should include: (a) contact length with riparian forest cover and (b) basal area of large trees (e.g., fitting criteria such as at least 30 feet tall and diameter of at least 15 cm) at the water edge and within 40 feet of the low-flow channel edge;

G-6

An updated reach-specific baseline survey of terrestrial cover-types in the impact areas with slope-corrected areas for comparing the condition of the impact areas with the proposed mitigation types. Comparative criteria should include: plant composition, elevation above the channel invert, distance from the channel edge (assuming a stream edge at the one-third bankful stage), and appropriate corridor parameters (see below);

G-7

The corrections made to the SRA and riparian areas due to the differences in water levels between those assumed for the 1984 terrestrial cover-typing (completed by a consultant, Habitat Restoration Group) and those from the 1993 SRA survey conducted by the FWS;

G-8

An evaluation of soil types, groundwater depths and groundwater responses in different water-year types, and soil types in proposed mitigation sites, especially regarding Reach 10b. Such studies are needed to evaluate the probable long-term (not to exceed five years) success of vegetation on these sites when irrigated; and

G-9

An evaluation of impacts on riparian areas and associated stream temperatures of the proposed project in combination with impacts of the Lower (downtown) Guadalupe Flood Control Project. The FEIS should clearly distinguish the mitigation areas of the upper and lower project.

G-10

## SPECIFIC COMMENTS

### Draft Feasibility Report

Page 81. Recreational Impacts Not Discussed The document refers to a comprehensive recreation network *in and around* the study area (italics added). The impacts of such recreation within specified habitat areas should be discussed in the Final Report.

G-11

### Draft Environmental Impact Statement

Pages 4.4-3 and 4.4-23 The importance of riparian scrub habitat is understated in the cover-type definitions on these pages and elsewhere in the DEIS, and riparian scrub impacts have not been quantified. Riparian scrub habitats are, in many cases, soft-bank areas that are transitional to riparian tree cover as, indeed, many of their species are the same. Since the DEIS reports only the forest values (pages 4.4-47 and 4.4-52), the FEIS should expand the

G-12

- G-13 | discussion on impacts and mitigation. Mitigation should be planned for impacts to this cover-type and discussed in the FEIS.
- G-14 | Page 4.4-7. Chinook Salmon The upper lethal limit of 77 degrees F is ambiguous. Salmon can only tolerate this exposure briefly, and thermal tolerance is not indicative of where this species is found. The FEIS should clarify the thermal tolerance of salmon.
- G-15 | Pages 4.4-7. Last Paragraph (Genetic Analysis) and Continuing on Page 4.4-8 The purpose of the brief discussion of straying and genetic affinity should be clarified. These data have not been reviewed, and the degree of straying has not been a factor in the determination of impacts and mitigation.
- G-16 | Page 4.4-9. Suitability of Reach 10b Mitigation If, as stated, the stream is dry 50 percent of the time in this reach, mitigation measures should be taken to ensure that the flow and wetted portion of this area is not different from that of the impact areas downstream. The FEIS should provide mitigation measures to address this issue.
- G-17 | Page 4.4-19. Special-Status Animals (Inadequacy of Red-legged Frog Surveys) The DEIS infers since frogs are not downtown, they probably aren't in the adjoining 6 miles of stream. However, the frogs do exist in upper portions of this watershed, and they may occasionally be distributed in the lower reaches. The statement that existing populations are "many" miles from the study area should be replaced with the number of miles in the FEIS.
- G-18 | Pages 4.4-23, 4.4-31, and 4.4-34 (Inconsistency of Riparian Impact Areas with FWS Evaluation) Throughout the document, the acreage values derived for riparian impact are lower than those determined by the FWS. For example, the Corps of Engineers (Corps) states 6.5 acres of riparian forest are impacted. However, the FWS' evaluation of the same plans and cover-type maps shows that 7.96 acres of riparian forest and 5.54 acres of riparian scrub-shrub would be impacted [refer to page 13 of 1993 Fish and Wildlife Coordination Act Report (FWCA Report) in Appendix D of the DEIS]. For the Bypass alternative, the DEIS indicates nine acres of riparian forest would be impacted, but the FWS' FWCA Report states that 11.3 acres of riparian forest and six acres of riparian scrub shrub would be impacted. The Mitigation Plan (Appendix L) without reference reports only seven acres. The FEIS should resolve these inconsistencies prior to the issuance of an FEIS.
- G-19 | Page 4.4-24. Fisheries Impacts (Assumption that Barriers Limit Salmonid Use) The assumption that fish would benefit by barrier removal is only partially true. Most salmon spawn in the downtown and "airport" reaches, below the Guadalupe's confluence with Los Gatos Creek, probably because the river is larger and flows more consistent there. Fish would benefit to the extent that they attempt to move upstream. The FEIS should make the appropriate corrections.
- G-20 | Page 4.4-25 (Beneficial Impacts Not Result of Project) Although habitat potential is improved by barrier removal, no requisite relationship exists between the flood control project features and these barriers. The FEIS should state they could be removed without the flood control project.

Page 4 4-27. Potential Impacts on Fish Migration and Spawning Due to Channel Construction (Construction Window) The mid-April construction start and the 64 degree F temperature criteria do not provide sufficient protection. For consistency with the FWS' comments on the permit application (PN 17776S) for the previous DEIS which was submitted by the local sponsor, the FEIS should state that project construction should commence not before May first, based on 7 days of sampling and a 68 degree F criterion.

G-21

Page 4 4-43. Removal and Fragmentation of riparian Wildlife Habitat (Disputed HEP Results, Rationale for HEP) This section states the SCVWD "did not participate in the HEP process." While the FWS feels this new HEP better characterizes the habitat values to be affected, the SCVWD "disagrees." In fact, the SCVWD participated as a member of the HEP team, was fully informed of the rationale for the HEP and model assumptions prior to sampling, attended meetings with the FWS on preliminary results, and was given opportunities to comment on the HEP and the revised FWCA Report. As of the date of these comments, the FWS has not received any official response or comments from the SCVWD to indicate any disagreement with the HEP process. Moreover, the DEIS incorrectly asserts that the HEP was necessary only because background data could not be located. As the FWS states in the FWCA Report, the HEP was necessary because nearly nine years had elapsed since previous measurements were taken and the data taken previously were not obtained from impact areas and were not obtained by appropriate methods. These apparent misunderstandings should be corrected in the FEIS.

G-22

Pages 4 4-46 and 47 Riparian Forest and Page 4 4-52. Riparian Forest (Improper Use of Equal Compensation) We object to 1) using equal compensation for this project and 2) the inference that this method of compensation was determined by the HEP. The FWS provided results for both in-kind and equal compensation but recommended the more conservative in-kind approach for several reasons. Several of the models used generated excess habitat value by virtue of an inherent reliance on shrub layer values that are maximized early in the project life. Others, such as the woodpecker model, require more mature forest characteristics (i.e., snag production) to show value. Application of equal compensation trades off the easily obtained, seral stage values of riparian forest for the values obtained by more valuable older stages. The need for in-kind compensation is particularly important for a project with an assumed life of 100 years (although this extended life does reduce the overall mitigation ratio). As a result of applying equal compensation, the calculated acreage needs are so low (12.27 acres for the channel alternative, 14.58 for the bypass alternative) that they do not even replace the total riparian acreage (forest and scrub-shrub) impacted by the project (13.5 acres for the channel alternative, 17.3 acres for the bypass alternative).

G-23

As we have indicated in the FWCA Report, the in-kind compensation method produces (for the bypass alternative) a reasonable 1.4 to 1.5:1 mitigation ratio when all riparian habitats (forest and scrub-shrub) are considered. We believe in-kind compensation, where the area is chosen, is clearly justified and would at least compensate all species. The Corps needs to reconsider its use of equal compensation in its planning for this project, and should correct the inference that this method of compensation was determined by the HEP in the FEIS.

G-24

Page 4 4-49. Fisheries 4. (Hardscaping Impacts Neglected) The statement that SRA cover attributes, including undercuts, would return over a period of 30 years is assumed in the

- G-24 | Habitat Evaluation Procedures (HEP) for only those portions that are not hardbanked. Areas with a hardened toe would obviously not form undercut banks, and the HEP discounts the instream cover correction factor accordingly. This assumption should be clarified in the FEIS.
- G-25 | Page 4 4-52. Shaded Riverine Aquatic Habitat (SRA) (Inconsistency in SRA Losses and Mitigation Adequacy) The 4,958 feet of replacement vegetative cover is slightly greater than the 4,775 feet calculated by the FWS for overstream length (Table 3 of the FWCA Report, p. 15 of DEIS Appendix D), and somewhat less than the 5,930 feet of riparian forest contact length with stream edge lost (Table 4 of the FWCA Report, p. 16 of the DEIS Appendix D). Determination of the SRA replanting on exact lengths of stream edge losses would not likely result in adequate mitigation because 1) not all such plantings form overstream cover and 2) some loss is due to incomplete success and gaps which form naturally during higher river flows. A contributing factor towards the existing condition (i.e., about 80 percent of contact of riparian vegetation with the stream edge actually extends over the water) may also be maintenance practices.
- G-26 | Overstream vegetative shade varies from year-to-year, and has been increasing since time of the last maintenance and time of the last major flood event. Both events can reduce the extent of such vegetation. Moreover, vegetation close to the bank (especially within 5 feet) has high potential to provide overstream shade even if it does not do so currently. However, it does provide side shade. By limiting evaluation of impacts and mitigation to overhead shade only, losses of potential for shade and side shade may not be mitigated. Similarly, it should not be assumed that bank edge mitigation would provide overstream shade on a 100 percent basis.
- G-27 | To assess the need for bank edge vegetation, the FWS evaluated two additional parameters: (1) actual intersection with the stream bank and intersection with a line parallel to the stream bank, five feet away, and (2) contact length with riparian forest cover. For the bypass alternative, FWS determined the ratio of intersection with stream edge to the five foot offset line was about 0.81. Thus, we believe the 1:1 mitigation for 1,000 feet of loss of overstream shade would require planting at least 1,190 feet, all within the five feet of the stream edge. The contact length with riparian (independent of width or palette type) is predicted, based on the original vegetation survey by the local sponsor, to increase by about 4,000 feet with the project, with most of the losses occurring in Reaches 9 and 11b-c, and the gains occurring in Reaches 10b-c and 11a. This calculated improvement in SRA is inconsistent with the suggestion in the DEIS that only 1:1 replacement of lost overstream cover with plantings is necessary. The FEIS should clarify the adequacy of the 1:1 ratio.
- G-28 | Page 4 4-54. Riparian Forest Fragmentation (Gap Analysis, Corridor Degradation) The use of mean gap length (presumably on one side of the bank), without regard for stand width, distance from edge of bank, species composition, opposite bank vegetation, or vegetation height, and with exclusion of scrub-shrub, gives the false impression that certain reaches, such as Reach 9 and 10a, are not adversely impacted. The continuous vegetation on both sides would be replaced by narrow bands of vegetation and some willows would have lower maximum height and trunk diameter than those present. The resulting effect would be a degradation of the corridor which is not revealed by the presence/absence of woody

vegetation. Also, we believe Reaches 10b and 10c should not be combined for this analysis because they have completely different existing and future project conditions. The evaluation of corridor impacts should be expanded in the FEIS.

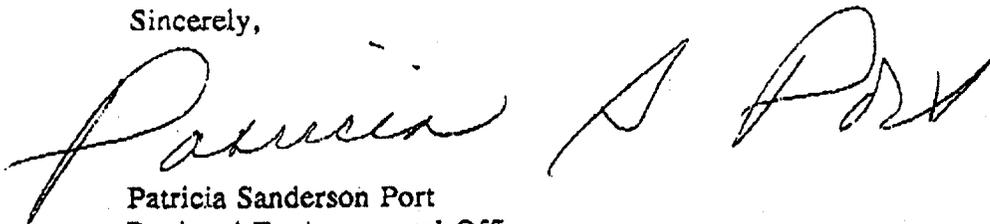
G-28

Appendix D. Pages 22 to 24. The FWCA Report identifies six modifications to the locally preferred bypass/widening alternative for conservation purposes. These specific modifications, numbered from 1 through 6 should be addressed in the FEIS

G-29

Thank you for the opportunity to comment on this document.

Sincerely,



Patricia Sanderson Port  
Regional Environmental Officer

cc:

Director, OEPC, w/original incoming  
Regional Director, FWS, Portland

## Appendix M

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1 **G. Patricia Sanderson Port, U.S. Department of the Interior. October 23, 1997.**

2  
3 **G-1 Responses to the Department's specific comments are provided below.**

4  
5 Maintenance of the integrity of the preserved creek banks and new construction features is a  
6 project element. Detailed planning for mitigation to address any site-specific erosion problems  
7 will occur during final design.  
8

9 **G-2.** The Final EIR/S clarifies the extent of impacts on riparian forest sub-communities with respect to  
10 elevation above the river channel. For example, most of the vegetation to be removed under the  
11 Bypass Channel Plan would be on the middle-to-upper portions of the banks; lower bank riparian  
12 trees (adjacent to the channel) would be left mostly intact. Riparian forest mitigation plantings  
13 would occur in a variety of settings. Plantings on top of the existing bank (15-20 feet above the  
14 channel invert) will be composed of species that are adapted to this topographic position, such as  
15 oaks and sycamores. Large individuals of these species are now present at the top of the bank in  
16 various locations, indicating that they can survive once they become established. Mitigation for  
17 the habitat value of riparian scrub-shrub is included in proposed riparian forest plantings.  
18

19 **G-3.** The Final EIR/S recommends a phased reduction in monitoring, subject to the attainment of  
20 acceptable performance objectives, beginning at 5 years following construction. Monitoring and  
21 corrective actions would occur as necessary beyond this time to meet mitigation requirements. The  
22 Corps will consider USFWS recommendations on long-term monitoring.  
23

24 **G-4.** SRA cover performance criteria would be identified during final design, with due consideration  
25 given to USFWS recommendations. The SCVWD has analyzed soil and groundwater conditions  
26 and concluded that the success of mitigation for vegetation and SRA cover does not depend on  
27 additional releases.  
28

29 **G-5.** The cumulative impact analysis is focused on present and reasonably foreseeable projects affecting  
30 the feasibility study area in concert with the proposed action. The project will provide equivalent  
31 habitat for areas converted to hardbank protection. The proposed action's contribution to  
32 cumulative bank hardening and associated impacts are discussed under cumulative impacts (section  
33 6.0) in the Final EIR/S.  
34

35 **G-6.** Existing baseline information, including the Final EIR/S appendices and other referenced  
36 documents, adequately describe the extent and significance of the impacts and do not need to be  
37 updated for the Final EIR/S. Final mitigation plans, prepared as part of the final design, would  
38 address the need for specific habitat replacement criteria in mitigation areas. Regarding the use  
39 of slope-corrected acreages as recommended by USFWS and already included in the CAR, the  
40 Corps accepts their use in that context in association with the HEP analysis. We do not agree with  
41 the necessity of revising the EIR/S to incorporate slope-corrected acreages. See additional  
42 comments on the CAR in Appendix D.  
43

44 **G-7.** See response to comment G-6.

45  
46 **G-8.** Although the terrestrial habitat maps are based on the 1984 analysis, the EIR/S relies upon the  
47 1993 evaluation of SRA cover. In each case, data were not unduly influenced by recent drought

## Appendix M

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1 or flooding. Therefore, we do not expect that updating the terrestrial habitat maps would  
2 significantly affect the results.

3  
4 G-9. Some additional information is contained in the SCVWD EIR/S (Parsons Engineering Science  
5 1997), and that document has been cross-referenced for the benefit of the reader. Additional detail  
6 would be developed as part of the final design mitigation plans.

7  
8 G-10. Additional studies of thermal effects are being conducted by the SCVWD's consultant. Mitigation  
9 areas for the upper project are clearly identified in the EIR/S. Mitigation areas for the downtown  
10 project are identified to the extent that they are known and of particular relevance to this project.

11  
12 G-11. Project-related impacts within the feasibility study area are described in the EIR/S. Most of the  
13 "comprehensive recreation network" mentioned would be outside of the study area. Proposed  
14 recreation features within the study area would be limited to a through trail and minor associated  
15 facilities (picnic tables, restrooms, etc.). The recreation trail extends downstream of the feasibility  
16 study area in Reach 6. Impacts in this reach, for example, are outside the scope of the project  
17 proposed by the Corps.

18  
19 G-12. As discussed in the Final EIR/S section 4.4.3, the Corps does not consider losses of non-wetland  
20 riparian (ruderal) scrub vegetation along the river banks to be significant under NEPA, or to  
21 require mitigation under the Clean Water Act. The Corps' mitigation plan, however, does provide  
22 mitigation for overall habitat impacts.

23  
24 G-13. See response to comment G-12.

25  
26 G-14. The subject discussion of Chinook salmon in section 4.4.2 has been modified to add that Chinook  
27 salmon can only briefly tolerate exposures to 77 degrees. Elsewhere throughout this section, it  
28 is already made clear that salmonids prefer, and exhibit higher survival and growth at,  
29 temperatures that are substantially lower than their thermal tolerances.

30  
31 G-15. An introductory rationale for the discussion of genetic affinity under chinook salmon in section  
32 4.4.2 has been added.

33  
34 G-16. See response to comment G-4. The practicality of providing supplemental flows via use of  
35 reclaimed water is being investigated by the City of San Jose. The SCVWD has concluded that  
36 augmenting flows will not be necessary for vegetation and SRA cover mitigation in Reach 10B.  
37 The cessation of surface flows during summer months is not unusual in a central California riparian  
38 system. Once established, through supplemental irrigation if necessary, it is expected that riparian  
39 forest vegetation will be able to tap into shallow subsurface flows to survive through normal  
40 summer drought conditions. Also refer to the Mitigation and Monitoring Plan, Appendix L.

41  
42 G-17. The known occurrence of red-legged frogs in the watershed has been clarified in section 4.4.2  
43 under Rare, Threatened, and Endangered Species. Red-legged frog surveys were conducted  
44 according to the USFWS protocol; no individuals of this species were found within the study area.  
45  
46

## Appendix M

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- 1 G-18. The discrepancies result largely from USFWS's use of slope-corrected acreages. See the Corps'  
2 comments on the USFWS Revised Draft CAR, Appendix D. Revision of the document based on  
3 USFWS' slope-corrected acreages is not necessary. The cited figure in Appendix L was for the  
4 Channel Widening Plan and should have read 6.5 acres for consistency, as pointed out by USFWS.  
5 Appendix L has been revised to refer to the impact generically.  
6
- 7 G-19. The Final EIR/S (section 4.4.3) has been clarified as suggested. Local habitat conditions would  
8 improve for both species, whereas access to upstream spawning areas would probably be improved  
9 mainly for steelhead.  
10
- 11 G-20. The larger barriers are acting as grade-control structures which are important for stabilizing the  
12 river in some areas. They cannot be removed independently of the project without further study  
13 and analysis, and possible remedial designs for fish passage.  
14
- 15 G-21. The recommendation is under consideration by the Corps and local sponsor for construction  
16 activities within the river.  
17
- 18 G-22. The discussion referenced in section 4.4.3 under Bypass Channel Plan, Construction Impacts--  
19 Wildlife has been clarified. The SCVWD has recently provided a comment letter explaining their  
20 disagreements with the HEP process.  
21
- 22 The statement that the new HEP was needed due to the age of the old HEP is not correct. In 1996,  
23 the USFWS had agreed that modifying the old HEP was acceptable, and had agreed to a scope of  
24 work providing for this modification. When background documentation for the previous HEP  
25 could not be located, the USFWS suggested doing a new HEP. As a result, a revised scope of  
26 work, a new schedule for this work, and additional funds were required for the coordination  
27 process under the Fish and Wildlife Coordination Act.  
28
- 29 G-23. See the Corps' comments on the USFWS CAR in Appendix D. The Corps has reservations about  
30 the assumptions and conclusions of the HEP, and in particular with the downy woodpecker model,  
31 which may not appropriately reflect the increase in habitat values that would occur through time  
32 in the mitigation areas. In this regard, one of the paradoxical features of the downy woodpecker  
33 model is that mitigation habitat values peak at moderate vegetation ages and then decline as  
34 mitigation plantings mature. The SCVWD does not agree with the HEP methodology by which  
35 the Bypass Channel Plan was evaluated. SCVWD comments have been provided under separate  
36 cover to the Corps, for discussion with USFWS.  
37
- 38 G-24. The document does not state that USFWS endorses equal compensation as mitigation for this  
39 project. The Corps has reviewed the HEP conclusions regarding in-kind compensation and  
40 believes that they do not accurately reflect the improved habitat values that would occur over time  
41 due to mitigation. This problem is due almost entirely to the downy woodpecker model. The  
42 downy woodpecker model penalizes mature riparian forest for being too dense, thereby  
43 inappropriately increasing the compensation ratio. This model does not reflect the habitat  
44 preferences of most species that prefer mature riparian forest.  
45

## Appendix M

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1 See the Corps' comments on the USFWS Revised Draft CAR (Appendix D) for additional  
2 discussion. The discussion of SRA cover reestablishment has been corrected as suggested by the  
3 USFWS.  
4

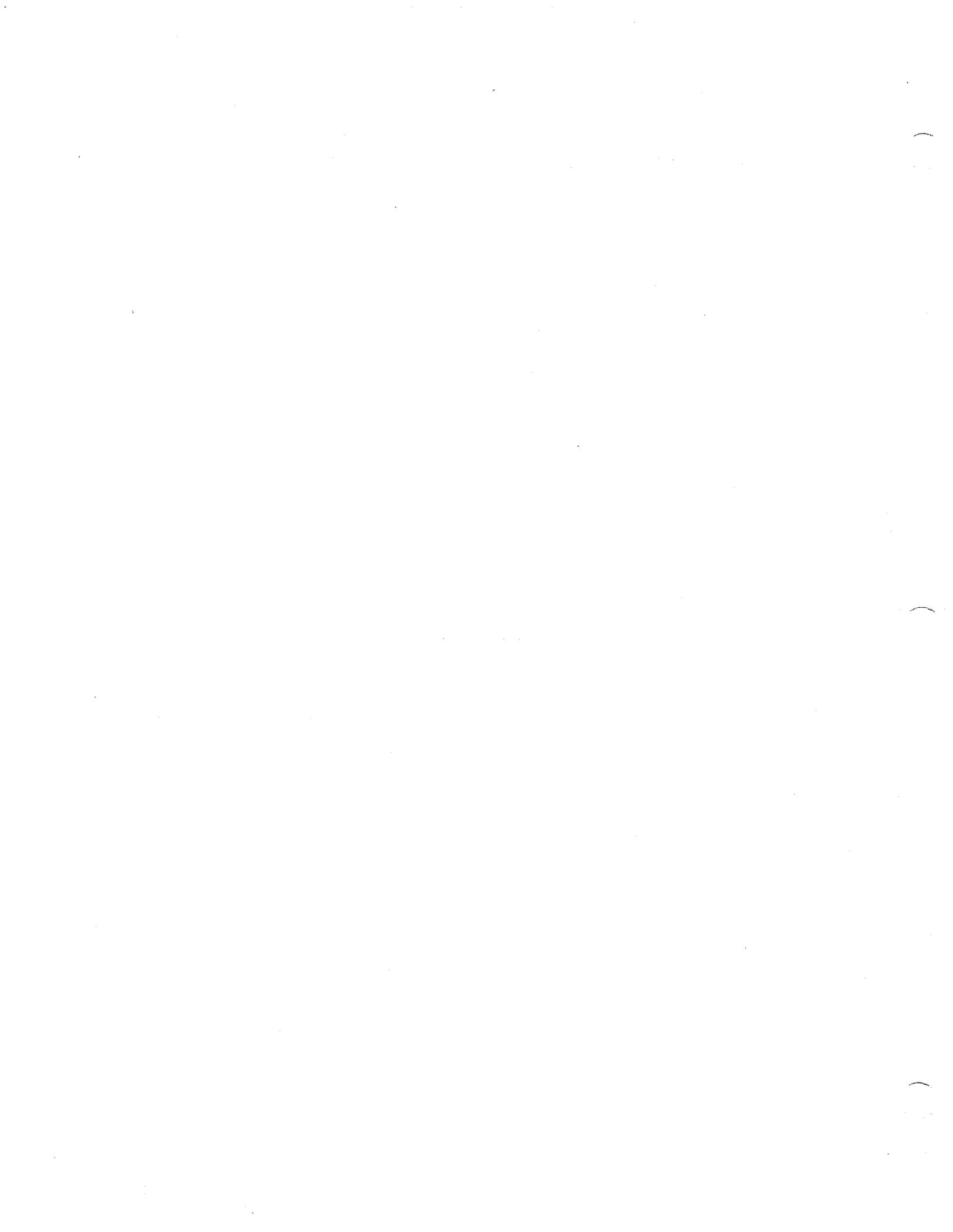
5 G-25. The figure of 4,958 linear feet of overhead cover is equal to the total calculated in the local  
6 sponsor's EIR/S minus Reach 6, which is not part of the Corps' project (Parsons Engineering  
7 Science 1997 [Table 4.14-5]). We have no explanation as to why the DEIR/S impact calculation  
8 is larger than that of USFWS, but are willing to accept the larger figure, unless it is inaccurate,  
9 as a basis for mitigation. This may result in mitigation slightly in excess of requirements. Because  
10 of the irregular shape of the overhead canopy, it is inevitable that the forest contact edge calculated  
11 by USFWS is larger than the simple linear distance. Mitigation plantings would have a similarly  
12 irregular forest contact edge and thus adequately compensate. The fact that where overhead cover  
13 exists, it typically shades about 80% of the streambank length, has been taken into account in  
14 developing mitigation plans for the project.  
15

16 G-26. The 1993 measurements of overhead cover, upon which the EIR/S relies, provide a reasonably  
17 good basis for impact assessment and mitigation planning, since at the time of measurement,  
18 riparian vegetation had recovered from previous drought and had not been recently removed by  
19 severe flooding. Side shade would be provided by mitigation plantings. As noted in the previous  
20 response, 100% bank coverage is not assumed.  
21

22 G-27. The EIR/S uses the HEP, which integrates several variables, as the basis for mitigation. The  
23 EIR/S clarifies the need to take into account the gaps in overstream cover that are likely to exist  
24 in plantings. Riparian forest mitigation plantings may result in excess mitigation for overhead  
25 shade losses. The EIR/S states the minimum requirement for successful mitigation, which will be  
26 followed.  
27

28 G-28. The comment overstates the impact on reaches 9 and 10A. Construction impacts generally affect  
29 only one side of the corridor through these reaches, leaving the forest intact on the opposite bank.  
30 There are also significant mitigation plantings in these reaches that would lessen forest  
31 fragmentation through time. We do not agree with the implication that there is an additional  
32 adverse impact that has not been accounted for and adequately discussed, or that a detailed  
33 discussion of differences between reaches 10B and 10C is needed in support of the conclusion that  
34 these reaches, and others, would experience a net reduction in forest fragmentation.  
35

36 G-29. Refer to the Corps comments on these recommendations in Appendix D.





# CITY OF SAN JOSÉ, CALIFORNIA

DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT  
801 NORTH FIRST STREET  
SAN JOSE, CALIFORNIA 95110-1795

JAMES R. DERRYBERRY  
DIRECTOR

October 24, 1997

Army Corp of Engineers  
Environmental Planning Section  
333 Market Street, 7th Floor  
San Francisco, CA 94105-2197

Dear Sir:

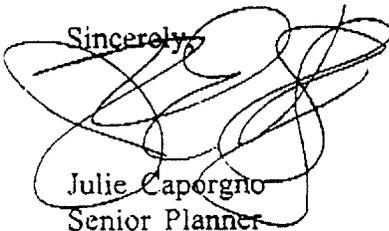
RE: EIR/EIS REPORT FOR UPPER GUADALUPE RIVER FEASIBILITY STUDY  
COMMENTS

The City of San José has reviewed the Draft Feasibility Report and Environmental Impact Statement/Report for the Upper Guadalupe River Feasibility Study and has the following comments.

H-1 Proposed floodwalls have the potential to block existing overland drainage release (flow) from adjacent neighborhoods, hence causing or aggravating localized flooding. Additionally, these walls will raise the hydraulics grade line in the river which will result in increased tailwater at existing storm drain outfalls. This will cause diminished storm drain capacity and the likelihood of discharge of both storm and river water onto local streets. The above-listed conditions are considered significant and any available mitigation should be identified or the EIR/EIS should conclude the impact is significant and unavoidable.

If you have any questions or need additional information, please contact me at (408) 27-4576.

Sincerely,

  
Julie Caporgno  
Senior Planner

CORPENG.LTR/JC/PL/HD

## Appendix M

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1 H. Julie Caporgno, City of San Jose. October 24, 1997.

2

3 H-1. Local drainage impacts resulting from the Bypass Channel Plan have been addressed with the City  
4 of San Jose. Features to address impact issues have been coordinated with the City's Hydrology  
5 Department in the development of this plan. If the Channel Widening Plan were to be  
6 implemented, additional money would need to be included with the project's costs to address the  
7 impacts associated with the inclusion of floodwalls in Reach 8 and along Ross Creek. This  
8 discussion is included in the revised section 4.3.3, Water Resources.



# HACIENDA ENVIRONMENTAL SCIENCE MAGNET

SAN JOSE UNIFIED  
SCHOOL DISTRICT

Susan Olsen, Principal

*All Students Can Learn..All Students Can Succeed!*

October 24, 1997

William R. DeJager  
US Army Corps of Engineers  
333 Market Street, 7th Floor  
San Francisco, CA 94105-2197

Dear Mr. DeJager:

I-1 | As a teacher at Hacienda Environmental Science Magnet School, I am interested in your plans for the Upper Guadalupe River Flood Control Project. We have officially adopted a section of the river south of Wren Drive and are planning lessons and projects for our students concerning this area. I have a few questions about your involvement in the Guadalupe River:

- What plans does the Army Corps have that would include this area directly or that would affect this area indirectly?
- Are there any opportunities for public input before your plans are finalized?
- If we want to plant trees or make other improvements do we need to get your permission, as well as that of the Santa Clara Valley Water District?

Besides having these questions answered, I would also appreciate receiving all future information concerning this project.

Thank you very much.

Sincerely yours,

*Suzanne Lowd*

Suzanne Lowd

## Appendix M

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1 **I. Suzanne Lowd, Hacienda Environmental Science Magnet. October 24, 1997.**  
2

- 3 I-1. Please see response to comment E-1. A letter has been sent to Ms. Lowd identifying opportunities  
4 for continued participation in river restoration.  
5

6 From Wren Drive south to the gauging station, the river channel has nearly enough capacity to  
7 handle floods up to the size of a 100-year flood. The only action proposed in this area for flood  
8 control is construction of a low levee at the top of the west bank. However, this section of river  
9 has poor habitat conditions at present due to past channelization. Therefore, the bottom of the  
10 channel would be reconfigured to provide several terraces; this would mimic natural river channel  
11 morphology and optimize the potential for habitat improvement. Riparian forest would be planted  
12 in much of the area afterwards. The intent is to provide high-quality riparian and aquatic habitats  
13 in this section of river, although achieving this goal would probably take a couple of decades.  
14

15 From the gauging station south to Hillsdale Avenue, the river channel is too small to handle large  
16 floods. Therefore, the upper portion of the east bank would be excavated to provide a widened  
17 channel. The west bank and the lower portion of the east bank would be largely unchanged.  
18 Plantings of riparian forest would be established on the widened east bank and some currently  
19 barren areas on the west bank, and would eventually result in improved habitat conditions.  
20

21 Improvement of habitat conditions along both these sections of river would compensate in part for  
22 project impacts in other areas having better habitat.  
23

24 The SCVWD can be contacted regarding any improvements including tree planting that the school  
25 wishes to do in this area (permission from the Corps is not needed unless a wetland area is  
26 disturbed). Otherwise, one runs the risk that improvements may be removed during construction.  
27 There are places on the west bank of the river that are not presently forested and which would not  
28 be disturbed by the project. Many of these areas are proposed for tree planting and may be  
29 suitable for your use if the SCVWD provides permission. After completion of the project, the  
30 school may wish to not only continue trash cleanup, but to also monitor vegetation regrowth and  
31 changes in habitat conditions and wildlife use of the area.  
32

33 When the Corps Final EIR/S and the SCVWD Final EIR/S are released, there will be an additional  
34 public comment period during which the school may respond to this proposal.

# WESTERN WATERS CANOE CLUB

40 Redding Road  
Campbell, CA 95008

October 26, 1997

Mr. William DeJager  
Army Corps of Engineers  
333 Market Street, Seventh Floor  
San Francisco, CA 94105-2197

Subject: Draft Feasibility Report & Environmental Impact Statement/Report, Upper Guadalupe River Feasibility Study, prepared by the U.S. Army Corps of Engineers San Francisco District and the Santa Clara Valley Water District.

Ref. 1: Draft Environmental Impact Report/Environmental Impact Statement, Upper Guadalupe River Flood Control Project, Dated January 1997, prepared by the Santa Clara Valley Water District & the U.S. Army Corps of Engineers.

Ref. 2: Western Waters Canoe Club Comments on Ref. 1 dated April 17, 1997

Dear Mr. DeJager:

J-1

Our club has reviewed the subject document and recognize that a lot of work has gone into its generation and publication. Unfortunately, we strongly feel that the effort was a total waste of taxpayers money. The subject report which actually consists of two reports with the same title covers the same project as the Ref. 1 report which was published by the same two agencies, only seven months ago, at substantial cost. Oddly, both of the subject reports use different names for the different options evaluated and provide different cost data than the referenced report which is very confusing and makes cross referencing very difficult. In addition, the subject reports do not cover all of the options or areas covered by the earlier report. The subject Reports do not address a Stream Restoration Alternative at all, as well as some other very important topics. For example, they totally fail to address water related recreation issues, such as fishing, boating, aquatic life observation or studies and do not discuss property value impacts as a result of the project. They also either do not adequately address or contain many incorrect statements regarding many matters of concern. Because of the magnitude of both efforts, we want to know exactly how much each

one of these separate studies and reports cost the taxpayers. We not only would like to know the cost of the publications themselves but also the cost for the research, meetings and mailings associated with them. Agencies responsible for these duplicate efforts are not only sucking up large sums of tax dollars but are also wasting the time and money of the public and other agencies who are obligated to respond to them. In view of this we also would like to know how much has been squandered to date on the Guadalupe River Flood Control Projects, including all of studies conducted to date and the actual costs of all of the projects which have been completed or are currently underway, along with all of the costs associated with trying to repair and maintain them.

L-1

We have very grave reservations regarding the workability of either of the proposed projects. The Project's plans and designs are neatly detailed on paper and are backed by text stating how beneficial the project will be in the future. But, no objective evidence or data are provided to give any kind of assurance that the projects will work as described. The Downtown Flood Control Project is not working as designed or in accordance with the conditions of it's permits. The Flood Control Project Downstream of Highway 101 is not working as designed, see Overflow Channel discussion on pages 5-7 of Ref. 2. In view of these dismal track records, we feel there is every reason to fear that the proposed project, which is very similar in design, will only continue this destructive trend of the river's ecosystem. We feel very strongly that not one bit of new flood control work, using hardscape methods, should be permitted any place on the river until the current or recently completed projects are at least working as promised and in compliance with their permits. The sections of the river covered by the proposed projects are recognized by every environmental study and publication addressing our river systems, including this EIR/EIS, as critical for our declining and threatened aquatic/wild life. The Project areas are recognized by all knowledgeable sources as having some of the last remaining quasi natural riparian corridors in Santa Clara County. They not only must be protected, they must be restored and enhanced in accordance with local and state policies as described in this report.

J-2

Unfortunately because there are enough differences in the subject and referenced reports we feel it necessary to provide detailed comments on each report. However, because of the similarities in the projects and the subject report deficiencies we frequently refer to our comments on the Ref. 1 report which we have identified as Ref. 2 and are including a copy of it as part of our comment package.

J-3

Comments On  
**DRAFT EIR/EIS - UPPER GUADALUPE RIVER FEASIBILITY STUDY**

**PUBLIC INPUT AND PREFERENCES**

Para. 3 on page 4 of the Report states a public information brochure was released in 1976 with a questionnaire soliciting public preferences for flood control alternatives. What were the results of this survey? Public comments at each of the recent project meetings held in Willow Glen were overwhelmingly opposed to both projects as recommended. Public comments were heavily in favor of less costly and more quickly implemented flood protection efforts, such as riparian corridor restoration and debris clean up as well as other watershed management methods. The Report

J-4

J-4 states, on page 58, that the public prefers bypass channels to channel widening measures and that these preferences were responsible, in part, for the bypass features in the proposed design. Please provide data to support this statement. We believe the public prefers, as we do, a bypass option to a concrete channel option or in cases where no more environmentally friendly or less costly alternatives exist, such as in the Contract 3 section of the Downtown Guadalupe River Flood Control Project (FCP). But, bypass channels are not required in this project area, nor were they required in the Contract 1 and 2 areas of the Downtown FCP. Our Club and most people we have talked to prefer a riparian restoration alternative for this project area as well as for the remainder for the Guadalupe watershed. Both the Santa Clara County and San Jose General Plans mandate that riparian corridors be preserved and restored, not degraded or destroyed. There are also a host of local environmental agencies, conservation, recreational and sport groups which support a riparian restoration alternative. In addition, the Regional Water Quality Control Board has initiated a pilot program to identify negative impacts to our watersheds and to come up with a plan to eliminate further impacts, while enhancing the waterways, riparian areas and all beneficial uses of them. This program is known as the Santa Clara Basin Watershed Management Initiative and there is a large and diverse group of stockholders working on the initiative to enhance our waterways.

## 2.2 EXISTING/ENVIRONMENTAL CONDITIONS

- J-5 WATER SUPPLY - The Report states that the Santa Clara Valley Water District (SCVWD) operates instream groundwater recharge facilities in the waterways. **This is incorrect.** The District lost its permits for operating these recharge dams on the Guadalupe and other streams in 1995 partly because they were seriously degrading our waterways and they have not been in operation since.
- J-6 WATER QUALITY - The Report states that there is a threat of nonpoint source pollution in the river, which includes pesticides and herbicides due to stormwater runoff. It doesn't address the fact that the SCVWD has a program for regularly spraying herbicides along many riparian areas and that this spraying will be greatly increased as a result of the project due to all the maintenance roads and hardscaped bypass channels being proposed. This will have a significant negative environmental impact on the river and its wild and aquatic life. The Report doesn't address the pollution caused by vagrants and homeless living along the river's banks and using it as their bathrooms and garbage dump with full knowledge of city and SCVWD officials. While the Report correctly states that there are increased water temperatures due to the lack of shade along the riverbank, it fails to state the reasons for the lack of shade, thus the increased temperatures. It fails to identify the removal of the riparian and SRA habitat by the SCVWD and ACOE flood control projects, the San Jose redevelopment and park construction efforts and other riverside construction projects as one of the prime causes of this temperature problem. It also does not address the destructive impacts caused by the SCVWD's diversion of water or the blockage of water flows down the natural channel, the other prime cause of high water temperature. While the Report correctly states that the upper reaches, 10-12, of the river have less shade cover and thus provide poor habitat for anadromous fish, it fails to state that Reach 10 has some good gravel areas and numerous salmon have been observed spawning in this reach for at least the last 10 years, and that several chinook juveniles had been captured in this area in 1994, Ref. Attachment I, as well as in 1997. The Report also fails to point out that the better salmonid spawning areas, from Curtner Ave. to I-880 are either threatened

by this FCP or Contract 3 of the Downtown FCP, or have already been destroyed by Contracts 1 and 2 of the Downtown Guadalupe FCP, Ref. 2 Attachments I to IV.

J-8

AQUATIC HABITAT - The Report correctly states that shaded riverine aquatic, SRA, habitat is essential for the maintenance of self sustaining populations of salmonids and there is considerable potential for it's improvement along the river's banks. However, it doesn't state that the proposed projects will do little, if anything, to improve the SRA habitat. Contrarily, the proposed projects will most likely have an adverse impact on it. The proposed projects have no plans to remove the concrete rubble that chokes most of the riparian corridor and limits riparian and SRA growth. This rubble also adversely affects river hydrology, causing erosion and bank failure. Bypass channels have constantly failed in the downtown area. This is adversely impacting the little SRA habitat which was not removed by the construction of those projects and there is no assurance that the same thing will not happen in the proposed project area as well.

J-9

FISHERY RESOURCES - The Report states that the only salmonids in the Guadalupe River system are chinook salmon and rainbow/steelhead trout. According to history books, the Guadalupe River also once supported coho salmon runs, Skinner 1962 & Ref. 2, Appendix D. Also, local long time resident, business owner and fisherman G. Garbarino stated he caught and/or observed silver salmon in Los Gatos Creek directly behind his business on Autumn St. almost every January up until a few years ago, when his age and decreased mobility prevented him venturing down into the creek. In early February 1995 while canoeing Los Gatos Creek, the writer and his partner observed a large pinkish salmonid, believed to be a coho, in a rapid on Los Gatos Creek just below Bascom Avenue. Video tape seen of a fairly fresh, light colored 22 to 26 inch salmon caught on the Guadalupe River in January 1994 could well have been a coho, as the size and color of the fish and timing of the catch were not consistent with the chinook salmon that have been observed. In view of the above, there is a very good possibility that a few coho salmon may still try to spawn in the Guadalupe River system, at least on occasion. Therefore, we feel this possibility needs to be recognized and addressed by this Report.

J-10

The Report states that there have been unconfirmed reports of steelhead redds in the study area. There have been many sightings of steelhead and redds in the Guadalupe River in the past ten years. The Habitat Restoration Group has documented steelhead redds in the project area as a result of their spreader dam studies for the SCVWD, and the California Dept. of Fish & Game has documented steelhead redds in the river. The writer and Roger Castillo observed and video taped steelhead trying to jump the 15 ft dam just behind the SCVWD facility off Almaden Expressway for the past several years, and the SCVWD captured several young steelhead in the river this past spring. Numerous steelhead were also observed and photographed in the river this year at St. John St. by contractors working on the Italian Village restoration project in the area.

J-11

While the temperatures in the Guadalupe River System are very warm in the summer and early fall, it is inappropriate to speculate they are above the lethal limits for salmonids in all areas. Temperatures in the Guadalupe River system vary greatly depending on where they are taken. Computerized data loggers recording temperatures at hourly intervals at different locations along shallow sections of the Guadalupe River System show these wide differences in temperature. In the

J-12

- J-12 | upper reaches, where the river is wide, shallow and devoid of cover, the temperatures are very high, the mid 80's is not uncommon in the summer and this would certainly be lethal to young salmonids. But, in the sections of the river where there is good SRA cover and deep pools, temperatures are far lower and can stay in the sixties even on the hottest days. In the downtown area, there are many sections of the river where water is up welling. This provides cool pockets of water for fish to hold in. Also, cool ground water is constantly being pumped into the river from basements of the larger buildings and wells under some freeway underpass areas in the downtown area. This is another source of cool water the fish can use. We believe fish will seek out the cooler waters and can survive in these areas when the other parts of the river are too warm for them.
- J-13 | The Report **incorrectly states** that the highest quality salmonid habitat is found in tributaries upstream of the study area. Immediately upstream of the study area there is a wide open river corridor, devoid of riparian habitat, above that is a virtually impassable 15 foot high dam. Above the dam there is a wide unshaded water storage/percolation area in the summer months and a wide shallow unshaded river channel in the winter. Above this area is the confluence of Guadalupe Creek just below Lake Almaden. Guadalupe Creek runs only several inches deep in this area in the summer and sometimes doesn't flow all of the way to the river because of SCVWD water management policies, Ref. Attachment II. It contains no riparian habitat and its temperature fluctuates greatly depending on air temperature and amount of sunlight. Temperatures in the 60's are possible on sunny days even in the winter. In the summer temperatures reach into the mid 80's, no salmonid would survive in this area. About two miles upstream of its confluence with the Guadalupe River the creek is blocked by the double drop structure, the Mason Dam. It's only above the Mason dam that creek conditions start to improve, but no migrating salmonid can reach this area. Above Lake Almaden, which serves to warm the water in the hot sun, there are several rocky drops which would impede fish migration. Above these blockages, Alamitos Creek has either no or very poor riparian cover for quite a distance. As a result, water temperatures in this area can reach into the low sixties in the winter and low seventies in the summer, which is very marginal for salmonids. There is also a channelization project in progress on the upper part of this creek which is destroying riparian habitat and hardscaping the creek's banks. Currently Alamitos and the lower part of Guadalupe Creek do not have good habitat for salmonids. Why does the Report state that they do? Both creeks have potential for being restored but there has been no mention of doing so in either the subject or referenced project.
- J-14 | **ENDANGERED & THREATENED SPECIES** - The Report fails to state that southwestern pond turtles have been observed and video taped in Reach 9 of the project area and downstream of the project area. The species potentially exists all along the study area. Why doesn't the Report address the pond turtles? Steelhead have been observed and video taped in the study area and steelhead
- J-15 | redds have be documented in the study area. Numerous steelhead were video taped trying to jump the dam behind the SCVWD headquarters the past two years in February and March and young steelhead were captured in the river system this year by the SCVWD. Why doesn't the Report recognize that steelhead spawn and survive in the river?

## 2.4 EXISTING WATER RESOURCES PROJECTS

In describing existing projects, the Report states that due to prior flood control projects which widened the river corridor between US Highway 101 and the Bay that this area will convey the 100 year event. **This is incorrect.** Due to the failure of the Downtown Flood Control project and other bank failures all along the river, the lower Guadalupe will not convey the 100 year flood. Even after emergency action was taken by the SCVWD to raise the levee's along the lower Guadalupe last year in an attempt to better protect property in the area experts state the channel will still not carry the 100 year flow, Ref. 2, Appendix C & Attachment 4.

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In describing the Downtown Flood Control Project, the Report states the project is ongoing and is expected to cost 138 million dollars. **This is incorrect.** The project is currently stopped because it is failing. It is not in compliance with it's permits and now officials admit it can not meet the permit requirements, Ref. 2, Appendix A & B and Attachments A, B & C. The project is also reportedly way over budget. In view of the above, we would like to know exactly how much has been spent to date on this project.

J-17

## 3.1 FLOODING

The Report provides estimates of how much flood damage could be expected in events of various magnitudes for each economic area without the proposed project. There are no estimates provided of how much damage could be expected within the project area in a 500 year or 100 + year event after the project has been completed or in the event of a flood wall or other type of project failure at any level. Since flood damage is always substantially higher when flood waters exceed project capacity or in the event of flood control project failure, please provide a table of such estimates and information on how the estimates were derived for each economic area. We believe such figures need to be included in any type of national economic development analysis (NED).

J-18

Also, please provide estimates of additional flood damage which will be caused downstream by the project. With the completion of the proposed project, storm waters will be moved to the downtown area and lower reaches of the Guadalupe much faster than they would have reached the area if allowed to flow in a restored natural river channel. Flash flows from the upper Guadalupe along with the runoff from the streets, buildings, parking areas and the expanded airport in the downtown area will cause the river to peak faster downstream and will most likely breach the already inadequate levees. How much damage and loss of life will this cause in view of the fact that development is being permitted right next to levees which now can't even handle a 50 year event? Ref. Attachment III and Ref. 2 Appendix C.

J-19

## 3.3 FISH AND WILDLIFE HABITAT NEEDS

The Report correctly states that human actions have caused severe cumulative loss of riparian & SRA habitat in the San Francisco Bay Area. It fails to mention that losses along the Guadalupe River are primarily the result of ACOE, SCVWD and San Jose Redevelopment Agency actions. Again, the Report **incorrectly states** that the highest quality salmonid habitat exists upstream of

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J-20 Blossom Hill Road. Removal of or laddering the dam above Blossom Hill Rd will provide no additional habitat for salmonids unless a project is undertaken immediately to restore the creeks to their natural shaded condition.

### 3.4 RECREATION OPPORTUNITIES

J-21 The Report addresses the need to provide greater public access to the river corridor. It talks about providing trails and hiking, biking, equestrian and disabled access. However, the report does not address river recreation activities such as boating, fishing, aquatic studies etc. The Guadalupe River is listed as a navigable river and is navigable by small watercraft such as canoes and kayaks at moderate to high flows from the dam above Blossom Hill Rd. to Alviso. The San Francisco Bay Basin Plan also lists non contact water recreation as a beneficial use of the Guadalupe River. Evidence of this use is provided in Ref. 2, Appendix G & Attachment 5. We not only want to see no further negative impacts to water recreation on the river, we want any work on the upper Guadalupe River to remove all of the concrete construction rubble dumped into the river in the guise of Flood Control. This rubble is dangerous with its protruding rebar, it snags debris, changes river hydrology, causes erosion, impedes riparian growth, blocks navigation at lower flows and impedes fish migration. River related activities and how they will be provided for need to be addressed in the Report.

### 4.2 PLANNING OBJECTIVES & CONSTRAINTS

J-22 The Report states that avoidance of negative impacts to habitat was a major constraint for all of the plans considered and that attempts were made to avoid removal of additional riparian forest in the development of each alternative. It also states that alternatives were developed to avoid, to the maximum extent practicable, impacts on salmonids. We do not agree with these statements. We believe the design proposed, which is similar to the downtown design will not function properly but will cause the same problems that are being realized in the downtown area.

Attempting to avoid negative impacts and avoiding impacts as much as possible is not satisfactory. The Downtown FCP is severely impacting the environment contrary to assurances that it was going to enhance it. SCVWD Flood Control projects have destroyed most of the waterways and riparian habitats in Santa Clara County, including such habitat on the lower Guadalupe River. Less than 5 miles of marginal habitat remain on the river. This habitat can not be further impacted in anyway, we must start restoring the riparian and SRA habitat already lost.

### 4.4 PLAN FORMULATION RATIONALE

J-23 This Report lists three options that were evaluated and recommends the Bypass Channel Plan. This option is very similar to the Preferred Alternative in the Ref. 1 report and is not acceptable for all of the reasons listed in Para. 3.3 of Ref. 1. The river restoration alternative was not even discussed in this EIR/EIS. The Ref. 1 report at least mentions this alternative and states that the **objective of this option is the re-establishment of the functions and values of the historic riparian corridor.** The goal of the geomorphologic approach is to restore the natural sinuosity of the Guadalupe

**River channel; enhance sediment transport ; and provide for long term stabilization of the banks by restoring the plan, profile, and geometry of the active channel. It further states that "this alternative would provide an opportunity for significant new riparian vegetation to re-establish and strives to create a functional physical and biological river system that allows natural processes to occur while restoring and maintaining habitat values for fish and wildlife."** We believe this is truly a get well prescription for our waterways. It is exactly what is necessary and the only alternative which can satisfy all of the stated policies and goals of the Santa Clara County and San Jose General Plans. These Plans clearly mandate the protection and restoration of our waterways and riparian habitats while at the same time providing flood protection and reducing maintenance costs. We believe this alternative is the only one which will satisfy the goals of the newly established Santa Clara Basin Watershed Management Initiative and succeed in the conservation of our resources in accordance with the goals of the Environmental Protection Agency (EPA), Guadalupe Coyote Resource Conservation District (GCRCD), California Dept. of Fish & Game (CDF&G), National Marine Fisheries Service (NMFS), US Fish and Wildlife Service (USF&WS), San Francisco Regional Water Quality Control Board, (SFRWQCB), the CA Public Trust Doctrine, conservation, recreation and sports fishing groups, and the wishes of the majority of our citizens.

J-23

We believe the cost of the Stream Restoration Option to be far less expensive in both construction and maintenance cost than any of the other options proposed by the subject or referenced reports. National renowned hydrologist, Dave Rosgen, visited the upper and study area reaches of the river while teaching applied fluvial geomorphology classes sponsored by the GCRCD each year for the past three years and did not indicate the need for bypass channels in these areas. Regarding construction costs for his Stream Restoration methods, Mr. Rosgen stated in a telephone conversation with the writer on 3/25/97, and again in face to face conversations on April 7-9, 1997, that his construction costs for restoration projects ranges from \$6 to \$60 per linear foot (Rosgen 1997). At \$60 per foot, the construction costs for the entire project would amount to a little over \$2 million dollars. Even if the costs were 10 times this amount, the project's construction price tag would only amount to \$20 million. It is recognized that this cost does not include construction expenses for bridge replacements, land acquisition and the like. But, even with these fees added, the Stream Restoration Option would be significantly less expensive than the Bypass Channel Plan.

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The EIR needs to describe the Stream Restoration Option in the same amount of detail as the Recommended Project. The designs need to be reviewed and validated and their estimated costs justified by a stakeholder team of engineers, hydrologists, biologists and geomorphologists. Only when the viable options and all of their related construction, mitigation and maintenance costs, as well as other impacts, are objectively presented, evaluated and compared can the best project be selected.

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## 5.2 NED ANALYSIS

The Report provides an NED analysis but we question this analysis. All of the figures listed are hypothetical and based on the project working according to plans. But past FCP's on this river have not worked as planned. There are no costs listed for the environmental damages which will be

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J-26 | created by the project, or for excess flood damages created if the project fails or has its capacity exceeded. Estimates for such damages need to be listed and factored into the NED. We take issue with the basis for some of the other figures provided and believe it is irresponsible to list others as savings. We believe, based on the experiences of the Downtown FCP, that maintenance cost for the proposed project to be significantly higher than predicted and which are being expended on present projects. All of the maintenance roads and hardscape structures of the proposed projects have to be continually maintained. Therefore, there will be not cost savings for maintenance, rather there will be a negative cost impact. How can the report state there will be a maintenance savings? The Report also lists a flood insurance cost savings. Constructing a flood control project doesn't change land contours. Property in a flood plain will still be in the flood plain when the project is completed, no matter where the flood boundary lines on a map are drawn. These properties will still get flooded, most likely more seriously, if the project fails or its capacity is exceeded. People living in the flood plain are ill advised to reduce their flood insurance if this or any other flood control project is implemented. They would be far better advised to increase their flood insurance coverage to pay for increased damages which can be expected in event of a failure, so the flood insurance savings claimed in Table 19 is questionable at best.

J-27 | Again, we feel as if the Stream Restoration Alternative would be the alternative which would maximize the net public benefits for any of the options discussed in either the subject or referenced reports and needs to be evaluated in this report for NED purposes.

J-28 | It is also interesting to note that cost estimates listed in this Report for the Bypass Channel Option are substantially higher than the cost estimates listed in the Ref. 1 report for the Preferred Alternative even though the Bypass Channel Option does not include work on Reach A, Reach 6 or Reach 12 areas or the work on Canoas Creek. Which cost estimates are correct? Why the disparity?

### 7.7 Operation, Maintenance Repair, Replacement and Rehabilitation

J-29 | This Report and the Ref. 1 report have vastly different costs listed for maintenance. How is this possible? What are the correct cost estimates? What have the maintenance costs of the Downtown Flood Control Projects been for each year for the past five years including the Project downstream of Hwy 101.?

#### Comments On

#### **DRAFT EIR/EIS - UPPER GUADALUPE RIVER FEASIBILITY STUDY**

Prepared by Science Applications International Corporation - dated August 1997

J-30 | This report starts off by stating that this EIR/S fulfills regulations of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). We disagree. Both NEPA and CEQA guidelines require that a range of reasonable alternatives to the proposed project which could feasibly attain the objectives of the project, be described and evaluated in comparative

fashion. The CEQA guidelines also require that the environmentally superior alternative be identified. The Stream Restoration Alternative which is a reasonable alternative and which would surely be the environmentally superior alternative was not even described, much less evaluated in this report.

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This Report uses the term Channel Widening Plan instead of the Valley View Plan when discussing the various plan options. Why is this the case? This just adds another confusion factor to this very complex matter.

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### 2.4.2 BYPASS CHANNEL PLAN

This Report states that a detailed description of this option can be found in the SCVWD EIR/S. Our comments on this option, which is identified as Preferred Alternative by the SCVWD, is contained in the Ref. 2 document which is part of this comment package.

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### 3.3 COMPLIANCE REQUIREMENTS

This Report lists the environmental requirements of a number of laws and regulations which affect the proposed project.

We believe the proposed project will not comply with the Clean Water Act's stated objective as it will not restore and maintain the biological integrity of the Guadalupe River, rather it will further degrade it. The Downtown FCP started to dump tons of fill material into our aquatic ecosystem soon after construction began and continues to do so with each storm contrary to this law and it's permit requirements. Promised low flow channels have not been provided and the riparian & SRA mitigation promised has not happened.

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The Federal Water Project Recreation Act of 1965 states that projects must give full consideration to the opportunities for outdoor recreation and for fish & wildlife enhancement. Recreational boating, fishing and aquatic studies have not been addressed by the Report as required by this law.

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Executive Order 11988, Floodplain Management states that each federal agency must provide leadership in restoring and preserving the natural and beneficial values of floodplains. The proposed project does not do this. Natural floodplains are being turned into hardscaped bypass channels which will most likely be kept clear of habitat by spraying with herbicides. This is destruction of the natural floodplain and habitat, not restoring and preserving it.

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As stated above we feel the CEQA guidelines have not been complied with on the proposed project as the Stream Restoration Alternative, the most environmentally friendly alternative, has not been evaluated as required.

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The Report lists the environmental requirements of the Santa Clara County General Plan, and the San Jose General Plan. We feel the proposed project will not comply with either of these two Plans

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J-37 | and the Report acknowledges the project would conflict with land use policies related to the protection of streams and natural habitats.

J-38 | The Report does not list the Rivers and Harbors Act in this section. We believe that Sections 9 and 10 of this act apply to the project area of the Guadalupe River and permits must be obtained under this act for any work done in the main river channel. The Report also does not list the State Lands Commission. The Lands Commission has exclusive jurisdiction over the bed of all navigable waterways in the State and reviews all projects affecting these waterways for consistency with the Public Trust Doctrine. There is no doubt that the proposed project will further degrade the last remaining salmonid and riparian habitat on the river and, therefore, will violate the doctrine.

#### 4.4 BIOLOGICAL RESOURCES

J-39 | FISH POPULATIONS - The comments concerning fish populations which we provided for the above report are also applicable to this report. Also reference our comments on fisheries in Ref. 2.

#### 6. CUMULATIVE IMPACTS

J-40 | This chapter discusses the cumulative impacts of many of the projects along the river but it does not discuss them all. It doesn't discuss the planned development project downstream of Highway 237, the Lower Guadalupe River Flood Control Project and how it and its mitigation is failing or the SCVWD's stated plans to reapply for permits to construct in stream spreader dams along the river and creeks.

J-41 | Most of the mitigation plantings along the Trimble Ave. to Montequ Expressway Reach of the Lower Guadalupe Flood Control Project have failed and they have yet to be replaced, (Ref. 2, Attachment 4). The report talks about the Downtown Guadalupe River Flood Control Project but it does not state that the majority of its riparian mitigation in Contracts 1 and 2 has either not been planted or is failing, (Ref. 2, Attachments 1 - 3), (Ref. 2, Appendix A & B). It does not state how it has not provided the low flow channel for fish as required and that the bypass channels are both silting up and eroding. There has not been one riparian tree re-planted along Contracts 1 and 2 as yet although some upland mitigation is starting to take hold. The statement that mitigation for the SRA habitat is now being reevaluated only means that the promised mitigation is a long way off. The EIR addresses the River Park Project but it doesn't say the mitigation plantings along the west bank gabions in the southern end of the Contract 3 have failed and have not been replanted. The report does not discuss all of the trees recently cut down at the top of the levees along the west bank of the river in Reach A of this project.

J-42 | The EIR describes many of the impacts to the Guadalupe River System and lists them in Table 6.2. However, it doesn't list them all. It doesn't list the dumping of concrete rubble all along the river and creeks. It doesn't list the operation of the in-stream spreader dams which drowns upstream vegetation and water starves down stream vegetation. It doesn't list the dams and drop structures built along Los Gatos Creek, below Vasona Reservoir or the Mason Dam on Guadalupe Creek. It doesn't list all of the concrete, concrete sacks, gabions and other hardscape materials used all along

the rivers and creeks. The negative impacts listed in Table 6.2 and the above leaves no doubt that more than enough damage has already been done to this small river system. It just can not tolerate any more degradation and still provide a home for native fish and wildlife as it does now. Our rivers and creeks have continually been devastated by man's irresponsible actions and it is long past the time to correct these misdeeds. This last remaining section of the Guadalupe River must be protected and restored. It can not be further degraded by flood control methods that are not working or are unproven.

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The EIR states the loss of SRA habitat in the Downtown area will be fully mitigated. But, it doesn't say when or where this will happen. Mitigation for the SRA and riparian losses in the Downtown area have not even started yet and no one will commit as to when they will. It is our position that no other losses should be permitted until the mitigation for the current projects are in place and prove to be successful.

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The EIR restates that mitigation will be provided on the creeks upstream of the Blossom Hill Dam. Again, we restate, that at present, these areas are **not suitable** for salmonids as there is no shade cover, the temperatures are far too warm and the water flows are far too low. The EIR does not state how the areas will be made suitable. It is also questionable if Chinook salmon would or could use these small, low flowing creeks.

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### SUMMARY

Because of all of the inconsistencies, discrepancies, omissions and erroneous statements in this EIR as detailed above it must be corrected. The fact that the Stream Restoration Alternative is potentially the most environmentally superior alternative and the likelihood that it would also be the most cost effective mandates that it must be equally addressed so it can be objectively evaluated with the Bypass Channel Alternative in this EIR. The EIR must be revised to correct the listed problems and thoroughly address the Stream Restoration Alternative.

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### ALTERNATE PROPOSAL

Our club believes that the Bypass Channel Option as described in this EIR/S is unworkable. It will be extremely expensive, both in the cost of construction and in the cost of maintenance and will continue to degrade the river, eventually destroying it completely as evidenced by the failures on the Lower and Downtown Guadalupe River Flood Control Projects. We believe there is a far better way. We need to restore our waterways and watersheds in accordance with the goals of the Santa Clara County and San Jose General Plans and the Public Trust Doctrine and we should begin this task as soon as possible.

J-46

We propose that a demonstration Stream Restoration Project be undertaken without delay on the two and a half mile stretch of Guadalupe Creek from just upstream of Camden Ave. to its confluence with the Guadalupe River. A crash effort should be undertaken to get such a project

planned, designed, approved, permitted and started. The project would use the fluvial geomorphological approach, as described in the Ref. 1 EIR's Stream Restoration Alternative. Work could be done throughout the winter, with the only breaks coming for inclement weather, as salmonid migration into this area is blocked by the Blossom Hill Dam. It is anticipated that the actual construction work could be completed in less than a year.

This project would demonstrate the superior environmental values and low cost of this alternative. It would restore an area that is extremely degraded, and one with little to no riparian corridor or shade cover. It would fix portions of the creek which are threatening the Camden Ave. Bridge and parts of Coleman Road. It would provide salmonid habitat and cool waters where they now do not exist, before areas of the Guadalupe River are impacted. A goal of the project would also be to percolate water via the natural stream bed at nearly equivalent levels as the previously employed gravel spreader dams. An EIR for this project should be relatively easy to complete as the SCVWD would have to be working on one at present to satisfy requirements for their planned mitigation for salmonid use of this area.

It is estimated that this project would cost less than \$500 K and could be funded, in the most part, by grants and donations. Dave Rosgen roughly estimated construction cost for the project to be around \$400 K when he briefly surveyed the area on April 8, 1997. Other innovative funding methods such as contributions by businesses, environmental, conservation and fishing groups, as well as individuals, coupled with volunteer work, could substantially reduce the costs.

The immediate restoration of this area would provide substantial benefits to the river. Erosion in the area would be eliminated, reducing siltation problems downstream. Flash runoff would be reduced by a more natural meandering creek which reduces the potential of flooding downstream. Percolation would be provided via the natural creek bed and/or off stream ponds instead of the expensive and environmentally damaging gravel spreader dams. As soon as riparian vegetation started to grow it would provide more and more shade to the now unshaded creek reducing the high temperature water being dumped into the river. It would provide immediate added habitat for land locked native trout which inhabit the upstream areas of the creek. It would also provide potential habitat for salmonids once a bypass is constructed around the Blossom Hill Dam. And, the new riparian area would provide a home for birds and wildlife displaced from the destruction of their habitat in the downstream areas. In addition, the project would demonstrate that the Stream Restoration Alternative is the only viable and cost effective alternative for the Upper Guadalupe Flood Control Project. The project would provide only beneficial impacts, at no cost to the downstream flood control project. If this project could be undertaken and completed within a year and initial indications showed it was meeting its cost, schedule, design and implementation goals, then a follow on project could be immediately undertaken in Reaches 12 and 13 of the Upper Guadalupe Flood Control Project.

Reaches 12 and 13 are similar in nature to Guadalupe Creek. It is devoid of good riparian habitat and shade cover and a dam will have to be removed or bypassed. Plans for using the Stream Restoration Alternative for this area should have already been completed as a result of the EIR process. According to D. Rosgen's estimates, construction costs for this 1.5 mile stretch of river

from the Guadalupe Creek confluence to Branham Lane would be less than \$500 K. Even if this figure were doubled, it would still be less than a fifth of the cost listed for the Bypass Channel Option. The projected savings would be substantial.

Once the above projects are completed and are working properly, which could be as early as the winter of 1999. Reaches 10 and 11 could be tackled the following spring. The riparian habitat in these areas is also marginal but aquatic habitat is fairly good. Salmon have been using these areas to spawn at least for the past six years. The goal of the restoration alternative is to improve both the aquatic and riparian habitat in these areas which should not be difficult.

Once the upper reaches of the river are restored the most difficult reaches, 9 through 6, would be tackled. It is recognized that restoration efforts in these areas will have a heavy impact on the river channel and riparian corridor for the short term. But it is strongly felt that it will substantially benefit the river in the long run. By restoring the upper sections of the river first, salmonids will be able to use the restored upper reaches, including Guadalupe Creek, if they so desire by the time the lower reaches are disturbed for restoration and flood protection. Again, it should be emphasized that restoration efforts of the upper reaches would **not** increase the chances of flooding downstream. D. Rosgen categorically stated that proper design and restoration would decrease the potential for flooding in the restored areas and decrease flood flows thus reducing the chance of flooding and erosion downstream.

Using the above plan, in the remote likelihood if any of the restoration efforts were to fail, it would not be difficult to implement one of the other alternatives, discussed in the EIR, on the downstream reaches of the river. We feel this will not be the case. We believe the strategy outlined above to be a winning one for all. The river will be restored in accordance with government policies and environmental goals providing local recreation opportunities for the public, wild and aquatic life will benefit, the cost of the flood prevention project will be substantially less and, therefore, it can be completed in far less time to the benefit of all citizens.



Lawrence M. Johmann, PE, CQE, CRE

## ATTACHMENT I



Two baby Chinook salmon held by Roger Castillo of Silichip Chinook came from the Guadalupe River, a spawning ground for the fish. JASON M. GROW — MERCURY NEWS

# Guadalupe River gets a little help from friends

BY BARRY WITT  
Mercury News Staff Writer

Sharks weren't the only fish on San Jose's menu Saturday: Chinook salmon — and the hopes of establishing a flourishing spawning grounds in the city's urban center — brought several dozen volunteers out to help clean up a stretch of the Guadalupe River.

of garbage carelessly tossed into the narrow channel.

"It's amazing they continue to survive despite all the adversity," said Scott Stevenson, 42, of San Jose, part of the crew that pulled everything from sofas to a bowling ball from a strip of the river south of Curtner Avenue. "It's real exciting to see something indigenous here in the city."

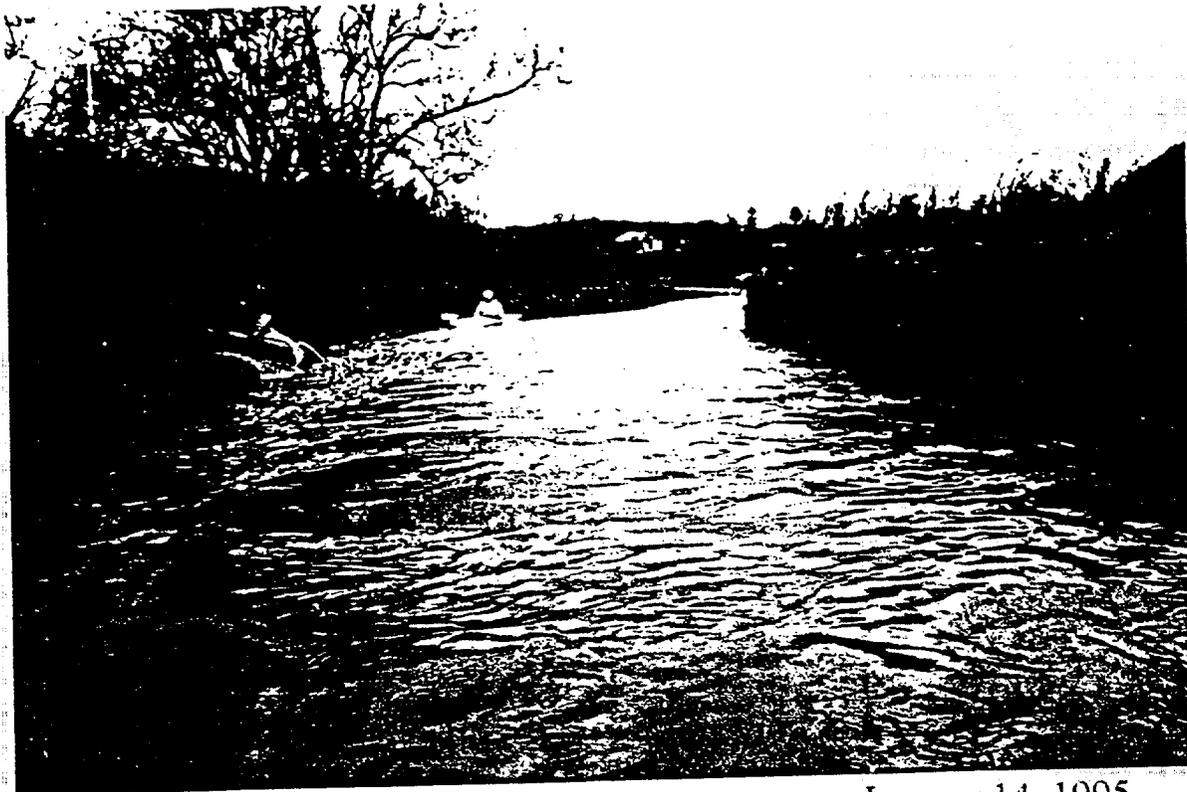
The volunteers said they were drawn to the project by their fascination with wildlife and the thought of bringing a bit of the

See **CLEAN SALMON**, Page 7B



Dozens of volunteers cleared debris Saturday from the Guadalupe River near Almaden Expressway in San Jose.

# ATTACHMENT II



Guadalupe Creek      Flow - High      January 14, 1995  
Looking Upstream. Upstream of Almaden Expressway, San Jose, CA  
Very Poor Riparian Habitat & Shade Cover, Evidence of Bank Erosion  
Spreader Dam Site, Concrete Slabs on Banks



Guadalupe Creek                      Flow - None                      April 1997  
Looking Downstream Towards the Guadalupe River From the  
Almaden Expressway Bridge  
No Shade Cover or Riparian Habitat



Guadalupe Creek                      Flow - Low                      June 1997  
Looking Towards Coleman Road, Showing Bank Erosion  
No Shade Cover, Scant Riparian Habitat

# ATTACHMENT III



Guadalupe River      Flow - Low/Low Tide      August 1997  
Looking Downstream from Tasman Ave. Bridge  
Development Next to Levee, Ground Floor of Housing is  
Below the High Tide of the River



## Appendix M

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1 **J. Lawrence M. Johmann, Western Waters Canoe Club. October 26, 1997.**

2  
3 J-1. Several public comments have suggested what is known as fluvial geomorphic restoration, which  
4 involves regrading the stream channel to re-create a natural channel shape that is in balance with  
5 the hydrology of the river. This would involve removing much existing vegetation. Even though  
6 disturbed areas would be replanted and in the long term vegetation would increase over current  
7 levels, short-term impacts would be considerable. Stream restoration could be accomplished by  
8 excavating adjacent earthen bypass channels (as in the Stream Restoration Alternative in the  
9 SCVWD's EIR/S), or through restoring natural stream morphology. However, in the latter case  
10 substantial flood control could only be achieved by also creating a new floodplain excavated below  
11 the grade level of the existing floodplain. In either case, far more land and houses would need to  
12 be acquired than under the proposed plan, thus costing much more and displacing far more people  
13 than currently proposed. This situation is discussed further in the responses to comments J-24 and  
14 J-30, and Section 2.2 of the EIR/S.

15  
16 J-2. The downtown project is designed and constructed to provide protection against up to a 100-year  
17 event. The reach of the river from I-880 downstream currently does not have sufficient capacity  
18 to carry a 100-year flood. One of the preconditions for completion of the downtown Guadalupe  
19 project is additional work by the SCVWD along that section of river to bring the capacity up to  
20 the same level as is proposed downtown.

21  
22 The proposed Bypass Channel alternative incorporates a design in which the channel's entrance  
23 is elevated well above the natural channel. In contrast, the portion of the downtown project  
24 already constructed consists of a widened channel, with the widened portion functioning to some  
25 extent like a bypass channel with a low-level entrance. Under the Bypass Channel Plan, the  
26 natural channel will be capable of handling flows up to 1,500 cfs. This design will minimize the  
27 amount of sediment entering the bypass channel from the natural channel, reducing the potential  
28 need for sediment removal (personal communication, Dennis Cheong SCVWD). The bypass  
29 channel would allow for less maintenance and disturbance in the natural channel than under  
30 current conditions.

31  
32 J-3. Response to comments made in the Western Waters Canoe Club letter of April 17, 1997 on the  
33 SCVWD draft EIR/S are included following the response to comment J-46. Comments on the  
34 SCVWD EIR/S have been considered as they relate to this EIR/S, such that the responses address  
35 only those issues related to the proposed Bypass Channel Plan alternative that do not duplicate  
36 other public comments. Other responses to comments on the SCVWD EIR/S will be provided as  
37 part of that Final EIR/S.

38  
39 J-4. Measures proposed by speakers at these meetings would not provide substantial flood control.  
40 Stream restoration in an alluvial plain environment will not generally prevent flooding unless a  
41 large enough area. See responses to comments J-1, J-24, and J-30 regarding stream restoration.  
42 Because nearly all of the floodplain is developed land, there are unavoidable tradeoffs between  
43 flood protection, displacement of residents, and riparian corridor restoration. The extremely high  
44 costs of land acquisition in the now-developed floodplain make it infeasible to acquire the land  
45 needed to implement a riparian corridor restoration alternative that would provide a 50- or 100-  
46 year level of flood protection comparable to the two alternatives analyzed in detail in the EIR/S.

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1 This approach however, has been incorporated in Reach 10B in both the Channel Widening Plan  
2 and in the Bypass Channel Plan, where land acquisition costs would not be significant.  
3

4 J-5. The in-stream percolation ponds in Reach 12 were operated for many years. They have not been  
5 operated in the last two years as a permit was not obtained from the California Department of Fish  
6 and Game. The SCVWD expects to resume operation of these ponds for percolation purposes in  
7 the future.  
8

9 J-6. Herbicide use along proposed Bypass Channel maintenance road and bypass channels would not  
10 impact the natural river channel. Only EPA-approved herbicides would be used. The use of  
11 herbicides as proposed is considered an insignificant impact on water quality as discussed in section  
12 4.3.3.  
13

14 J-7. Homeless individuals living along the river's banks are outside the scope of the proposed flood  
15 control improvements. Because their use of the area is not permitted, potential affects of the  
16 project on these people also are not addressed. Further investigation of this issue would not affect  
17 the decision to be made.  
18

19 J-8. City redevelopment and park construction efforts, and Corps and SCVWD flood control projects  
20 have not removed significant amounts of riparian vegetation within the study area, although  
21 vegetation has been removed farther downstream by various projects over a period of decades.  
22 Losses of riparian vegetation within the study area have been due to major removal of riparian  
23 forest by agricultural interests prior to urbanization: urbanization, past erosion control efforts (for  
24 example, to protect Almaden Road), the channelization of Reach 10B, and gravel mining in Reach  
25 12. Herbicide spraying by the SCVWD has prevented forest from reestablishing in some areas  
26 previously cleared by others, but it has not been used to remove existing forest. The removal of  
27 riparian vegetation on Reach 12 was by gravel mining.  
28

29 Summer flows in the river are due largely to controlled releases from upstream dams and  
30 imported water, as well as urban runoff. Under natural conditions the river would carry less  
31 flow, and during summer months some sections would be drier and warmer than they are at  
32 present. We agree that salmonids do spawn in the study area, and the EIR/S reflects this position.  
33 The document also accurately reflects the uncertainty regarding the extent of successful  
34 reproduction, since only a few juveniles have been found to date.  
35

36 J-9. The EIR/S discloses the impacts on SRA cover. Mitigation plans for both of the primary  
37 alternatives address SRA cover protection and restoration. Nothing constructed downtown to date  
38 resembles the bypass channels proposed for this project. Floods that occurred shortly after  
39 construction washed away some mitigation plantings, which will be restored shortly.  
40

41 J-10. As stated under existing conditions for Biological Resources (section 4.2.2), there are anecdotal  
42 accounts, but no reliable documentation that coho salmon have occurred historically or in recent  
43 years in the Guadalupe River, which lacks appropriate habitat for this species. The National  
44 Marine Fisheries Service agrees that Coho salmon do not occur in this river.  
45

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- 1 J-11. Since steelhead versus chinook salmon redds are difficult to distinguish, the EIR/S correctly refers  
2 to the reasonable likelihood that either or both species may spawn in some reaches of the study  
3 area.  
4
- 5 J-12. The possibility that microhabitat variation allows salmonids to persist during warm summer months  
6 is acknowledged in section 4.2.2.  
7
- 8 J-13. The Final EIR/S clarifies that habitat quality varies upstream of the study area, but affirms that  
9 suitable habitat exists, as evidenced by the presence of resident rainbow trout (section 4.2.2). The  
10 Mason Dam will be made passable to fish as a separate project, rendering upstream habitat  
11 available to these fish.  
12
- 13 J-14. Given that southwestern pond turtles have not been detected in previous surveys and breeding  
14 habitat is poor, the affected reaches of the river do not support a significant population. The  
15 possible occurrence of individual immigrants from up- or downstream areas is acknowledged in  
16 the Final EIR/S. Under these circumstances, project construction would not significantly affect  
17 the species.  
18
- 19 J-15. The Final EIR/S summarizes additional information bearing on steelhead reproduction in the river.  
20
- 21 J-16. See comment J-2 regarding the level of flood protection along the lower Guadalupe River.  
22 Periodic erosion occurs along flood channels and sometimes may require corrective actions. The  
23 erosion does not jeopardize the ability of the improved flood channels to provide the planned level  
24 of protection (personal communication, Dennis Cheong SCVWD).  
25
- 26 J-17. Planning for the Downtown Flood Control Project is ongoing. The SCVWD and the Corps are  
27 consulting with interested parties to discuss incorporation of project features to address local  
28 concerns (personal communication, Dennis Cheong SCVWD).  
29
- 30 As of 20 December 1997, approximately \$2,392,000 has been spent on project final design.  
31 Approximately \$33,130,500 in construction costs has been shared by the Corps and the local  
32 sponsor (SCVWD). Additional funds for recreational betterment totaling approximately  
33 \$2,218,000 have been expended by the local sponsor that are not eligible for federal cost-sharing  
34 (personal communication, Kenneth Myers 1998).  
35
- 36 J-18. The project would reduce damages from a 500-year event. The project has been designed to have  
37 an equal probability of failure at any one point should its capacity be exceeded. Since nearly all  
38 of the flood protection would be provided through bypass channels and channel widening (the  
39 levees in reach 12 only protect percolation ponds), in the event that the project's capacity is  
40 exceeded, flooding would most likely occur as shallow overland flow. This flooding would be far  
41 less severe (in area and depth) than an equivalent flood under current conditions. Only minor use  
42 of levees and floodwalls is proposed elsewhere.  
43
- 44 J-19. It is standard procedure in designing a Corps of Engineers flood control project to assume that all  
45 flood flows upstream of the study area will remain within the channel rather than spreading over  
46 adjacent floodplains. This assumption allows a flood control project to not have its capacity  
47 exceeded if another project providing the same level of protection is later constructed upstream.

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1 For this reason, the proposed project would not cause the capacity of the downtown project to be  
2 exceeded for any flood up to the 100-year event. Existing and proposed development within the  
3 watershed is not expected to have a major impact on runoff. Should major additional urban  
4 development occur in the upper watershed, this would affect all projects downstream.  
5

6 While a fully natural channel might convey floodwaters more slowly than the proposed channel,  
7 if designed to keep a 100-year flood within the channel, it would still convey these flows much  
8 faster than under current conditions, where there would be substantial storage of water on the  
9 urbanized floodplain.  
10

11 J-20. Refer to the responses to comments J-8 and J-13, which cover the same subjects. Some good-  
12 quality salmonid habitat with resident rainbow trout exists in upstream areas.  
13

14 J-21. Physical constraints and Corps of Engineers policy directives severely limit the type and extent  
15 recreational facilities that could be provided on a cost-shared basis. The recreational facility with  
16 the greatest potential recreational benefits and which the local sponsors are most interested in cost-  
17 sharing is a multi-use recreation trail linking the feasibility study area with existing trails along the  
18 Guadalupe River in downtown San Jose and upstream of Blossom Hill Road. This trail would also  
19 provide a critical link in a planned regional trail network, which would enhance its economic  
20 value. However, recreational access to the river must be balanced against goals of biological  
21 protection and concerns of human encroachment.  
22

23 Proposed rock weirs that would enhance migrating fish passage could significantly affect small  
24 water craft passage during moderate and high flows (see revised section 4.5.3, Aesthetics and  
25 Recreation). A mitigation measure has been added to the EIR/S to require signs along the trail  
26 identifying these water hazards during high water flows, and directing recreationists to avoid use  
27 of the river during these conditions (see section 4.5.4, Bypass Channel Plan). Under the Bypass  
28 Channel Alternative, concrete rubble would be removed in Reach 9, 10A, 10C, and 11A, and a  
29 concrete low flow crossing would be removed in Reach 11B. The channel bottom would also be  
30 deepened in Reach 11B. These activities would enhance existing canoeing and kayaking  
31 recreational activities. This discussion is incorporated in the revised section 4.5.3.  
32

33 J-22. The proposed Bypass Channel alternative is not "similar to the downtown design." The downtown  
34 design calls for single-side low-bench channel widening (already mostly constructed), two-sided  
35 widening with gabions (contract 3), and an underground bypass at the upstream end. The channel  
36 widening area already constructed somewhat resembles a bypass channel due to a berm that was  
37 retained along the edge of the widened area. The Bypass Channel alternative provides high-bench  
38 channel widening and bypass channels. This alternative incorporates a design in which the  
39 channel's entrance is elevated above the natural water surface at bankfull elevation, which  
40 minimizes the amount of sediment entering the bypass channel from the natural channel, and  
41 reduces the potential need for removal of sediment (personal communication, Dennis Cheong  
42 SCVWD) (see response to comment J-2). The Bypass Channel would allow for less maintenance  
43 and disturbance to the natural channel than under current conditions. The Corps has determined  
44 that a restoration alternative that also provides substantial flood control is not practical due to  
45 prohibitively expensive real estate costs. Restoration is offered in some reaches (10B and 12)  
46 under both project alternatives.  
47

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1 J-23. See responses to J-1 and J-30.  
2

3 J-24. We agree that stream restoration would have smaller construction costs. The high expense of a  
4 stream restoration alternative that also provides substantial flood control is due to real estate and  
5 relocation costs.  
6

7 Classic stream restoration approaches (which could use much less land than proposed in the  
8 SCVWD's stream restoration alternative) do not necessarily provide greatly expanded flood  
9 carrying capacity to restored stream channels. The usual relationship of a natural stream channel  
10 to an adjacent alluvial valley environment is for the channel to not hold larger stream flows, which  
11 therefore overflow onto the adjacent floodplain. In a natural fluvial system, this process has  
12 benefits such as reduction of flooding downstream and nutrient deposition on the floodplain.  
13 However, this natural process is no longer acceptable in the feasibility study area as the floodplain  
14 has become almost entirely urbanized. Restoring a more natural stream morphology would not  
15 change this relationship and therefore would not provide flood control unless a substantial  
16 floodplain were excavated.  
17

18 J-25. Discussion of the Stream Restoration Alternative has been added to Section 2.2, Formulation of  
19 Conceptual Plans.  
20

21 J-26. The Corps does not place dollar values on environmental damages or benefits.  
22

23 Regarding flood insurance benefits, the area where flood insurance is strongly encouraged is the  
24 area that would be covered by the 100-year flood. The extent of this area will depend upon the  
25 hydrology of the river, the capacity of the channel, and floodplain topography. Changes in any  
26 of these factors can change the floodplain boundary. If a river channel is enlarged sufficiently for  
27 any reason (natural or artificial), the 100-year flood will stay within the channel and the boundaries  
28 of the floodplain will change to only include the channel itself. Therefore, the project would  
29 remove substantial areas from the 100-year floodplain. As stated above, damages in the event that  
30 the project's capacity is exceeded would be reduced from what would be expected under current  
31 conditions.  
32

33 Regarding maintenance costs, the Corps is required by law to evaluate alternative plans based on  
34 the National Economic Development (NED) analysis methodology. The NED analysis is the Corps  
35 of Engineers' method of comparing costs and economic benefits using a standard method so that  
36 projects in different parts of the country can be compared in a standard way. This is a two-part  
37 analysis including an economic benefit analysis and a cost analysis.  
38

39 Currently, the channel experiences erosion which can be severe during large events. Current  
40 maintenance work consists of blockage removal (such as downed trees), cleaning bridge pier noses  
41 of debris, and emergency erosion repair of failing and failed banks. A flood control project will  
42 change the way in which the channel is currently maintained. Implementation of the Bypass  
43 Channel Plan would substantially reduce this type of maintenance, thus, these costs will be saved.  
44 These savings are included as an economic benefit.  
45

46 On the other hand, there will be costs associated with maintaining the Bypass Channel Plan. It is  
47 estimated that \$482,000 in average annual maintenance costs will be required for the Bypass

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1 Channel Plan. These costs will pay for annual inspections of bridges, maintenance roads,  
2 floodwalls, rock weirs, and channel slopes. They will also cover routine maintenance of these  
3 structures as well as routine repairs for gabions and cribwalls (bank stabilization structures),  
4 fencing, and recreation facilities (including daily maintenance of restrooms). Vegetation, sediment,  
5 and trash and debris removal are also covered by these costs.  
6

7 On an average annual basis, there will be a savings of erosion and debris related maintenance of  
8 \$200,000. There will be an increase of \$482,000 associated with the Bypass Channel Plan  
9 components. Thus, there will be an average annual net maintenance cost increase of approximately  
10 \$282,000. This cost increase is accounted for in the benefit-to-cost ratio and the net benefit  
11 calculation for all of the costs and benefits associated with the Bypass Channel Plan.  
12

13 J-27. See response to comment J-1 and response to J-23.  
14

15 J-28. Table 3.1 of the SCVWD Draft EIR/s (Parsons Engineering Science 1977) states that the total cost  
16 of the Preferred Project Alternative would be \$113.5 million, including rights of way,  
17 construction, and mitigation costs. This includes Reaches A and 6 (\$20.6 million) which are not  
18 included in the Corps' Bypass Channel Plan. Excluding the costs of Reaches A and 6, the  
19 comparable total cost would be reduced to \$92.9 million. If the rights of way costs are deducted,  
20 the construction costs for the Preferred Project Alternative (less Reaches A and 6) are \$72.6  
21 million. The rights of way costs do not include acquisition of real estate.  
22

23 As a Federal agency, The Corps of Engineers is required to estimate costs in a standard method  
24 so that projects in different parts of the country can be compared in a standard way. Thus, the  
25 Corps and the SCVWD have different cost components which may or may not be considered. The  
26 Corps is required to estimate financial costs and economic costs. Therefore, Table 52 of the  
27 Corps' Draft Feasibility Report lists a total cost of \$153.2 million, which includes rights of way,  
28 land acquisition, construction, traffic delays associated with bridge closures, and interest during  
29 construction. Note that land acquisition, traffic delays, and interest during construction are not  
30 included in the SCVWD cost estimate. Further note that the Corps study includes \$55.8 million  
31 in lands and damages (which include land acquisition and right of way costs). In order to compare  
32 SCVWD and Corps cost estimates in a meaningful way, one must compare the construction costs.  
33 Table 20 of the Corps Draft Feasibility Report (COE 1998) states that the construction costs would  
34 be approximately \$77.7 million. This is in relative agreement with the SCVWD estimate of \$72.6  
35 million. The six percent difference may be accountable to several factors, including variations on  
36 contingency factors, price levels, and cost estimating methodologies.  
37

38 J-29. Disparities in maintenance costs between projects may occur due to variations on contingency factors,  
39 price levels, and cost estimating methodologies, as discussed in response to comment J-28.  
40 Average annual maintenance costs for the Bypass Channel Plan are estimated to be \$482,000 (see  
41 response to comment J-26). Historical maintenance costs of the downtown flood control project  
42 are not readily available. The estimated maintenance costs for the Bypass Channel Plan are  
43 restricted to activity within the feasibility study area, rather than the Guadalupe River as a whole.  
44 Due to the fact that the downtown project is only partially constructed, a comparison of the  
45 downtown project costs to those estimated for the upper Guadalupe River proposal is inappropriate.  
46

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1 J-30. Discussion of the Stream Restoration Alternative has been added to Section 2.2, Formulation of  
2 Conceptual Plans. The alternative is discussed and shown to not be capable of achieving project  
3 objectives or fulfilling the project need, as it would require acquisition of substantially more land  
4 at extremely high cost, displacing approximately 200 households. If it used substantially less land  
5 to reduce land acquisition costs, it would not provide greatly expanded flood carrying capacity to  
6 restored stream channels.

7  
8 Section 5.0, Recommendations, has been revised to identify the Channel Widening Alternative,  
9 which provides 50-year flood protection, as the Environmentally Superior Alternative. This  
10 alternative would require less construction disturbance of biological habitat, and would avoid  
11 significant, unavoidable impacts on land use and residential character on the west side of Mackey  
12 Avenue, and parts of Willow Glen Way to Malone Road. See response to comment J-1 for  
13 discussion of the Stream Restoration Alternative.

14  
15 J-31. The feasibility study examined two different channel widening plans. The name "Valley View  
16 Plan" is used in the feasibility study to distinguish this plan from the other channel widening  
17 considered in the study. The name "Channel Widening Plan" was used in the EIR/S as it more  
18 appropriately defines the morphology of the alternative, making comparison to the Bypass Channel  
19 plan more understandable. Section 2.2, Formulation of Conceptual Alternative Plans, discusses  
20 the development of the channel widening alternative.

21  
22 J-32. Response to comments made in the Western Waters Canoe Club letter of April 17, 1997 on the  
23 SCVWD draft EIR/S are included following the response to comment J-46. Comments on the  
24 SCVWD EIR/S have been considered as they relate to this EIR/S, such that the responses address  
25 only those issues related to the proposed Bypass Channel Plan alternative that do not duplicate  
26 other public comments. Other responses to comments on the SCVWD EIR/S will be provided as  
27 part of that Final EIR/S.

28  
29 J-33. Some riparian forest mitigation has been done and additional plantings will occur in the near  
30 future.

31  
32 J-34. Compliance with the Federal Water Project Recreation Act of 1965 is included in section 3.3.1,  
33 Federal Regulations. The act does not require that all possible outdoor recreational uses be  
34 provided. The Corps Upper Guadalupe River Flood Protection Study Feasibility Report states that  
35 Corps policy directives and physical constraints severely limit the type and extent recreational  
36 facilities that could be provided on a cost-shared basis. The recreational facility with the greatest  
37 potential recreational benefits and which the local sponsors are most interested in cost-sharing is  
38 a multi-use recreation trail linking the feasibility study area with existing trails along the Guadalupe  
39 River in downtown San Jose and upstream of Blossom Hill Road. This trail would also provide  
40 a critical link in a planned regional trail network, which would enhance its value. As stated in  
41 response to comment J-21, recreational access to the river must be balanced against goals of  
42 biological protection and concerns regarding human encroachment. The project reasonably  
43 balances the goals of flood protection with outdoor recreation by providing a pedestrian/bicycling  
44 trail and amenities described in section 2.4, Recreation Plan.

45  
46 J-35. Because the floodplain throughout nearly all the feasibility study area is already urbanized, a flood  
47 control project is not capable of preserving or restoring natural floodplain values without excessive

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1 land acquisition costs and relocation of residential populations. Because the natural function of the  
2 floodplain as a water storage area is no longer acceptable due to urbanization, prevention of  
3 flooding inherently requires either upstream storage, floodproofing, or removal of all development  
4 from the floodplain (none of which are feasible), or floodway enlargement. Floodway enlargement  
5 requires either a non-geomorphic approach (as proposed) that uses some hardscape but requires  
6 much less land, or a geomorphic approach (stream restoration), which would require so much land  
7 and displacement of people (in this particular location) as to be prohibitively expensive and  
8 disruptive. A smaller stream restoration alternative that uses much less land would not by itself  
9 provide substantial flood control.

10  
11 Herbicides would be used primarily for maintaining the bypass channel and maintenance corridors.  
12 Total habitat acreage would increase due to mitigation plantings.

13  
14 J-36. Discussion of the Stream Restoration Alternative has been added to Section 2.2, Formulation of  
15 Conceptual Plans. The alternative is discussed and shown to not be capable of achieving project  
16 objectives, as it would require acquisition of substantially more land at extremely high cost, and  
17 cause significant socioeconomic impacts by displacing approximately 200 households. If  
18 substantially less land were used to reduce land acquisition costs, the alternative would only  
19 minimally provide expanded flood carrying capacity. The stream restoration alternative would  
20 therefore not be capable of feasibly attaining the basic project objectives of increased flood  
21 protection. It would substantially impede the attainment of this objective, so that it is not  
22 considered a reasonable project alternative under CEQA Section 15126. See response to comment  
23 J-25.

24  
25 J-37. Although either the Channel Widening or Bypass Channel Alternative would be inconsistent with  
26 some policies regarding protection of biological habitats, Section 3.3.4, Local Regulations,  
27 concludes that either of the flood protection alternatives would be consistent with City and County  
28 policies calling for restoration of unavoidable impacts on streams and riparian corridors. City and  
29 County governments have not indicated any project inconsistency with their plans. Total  
30 restoration of the river corridor is not a project goal of the Corps due to prohibitively expensive  
31 real estate costs.

32  
33 J-38. The River and Harbors Act has been added to section 3.3, Compliance with Environmental  
34 Requirements. The Corps does not issue itself a permit for Corps-proposed projects, but all Corps  
35 projects are planned and implemented to conform with the requirements of Section 10 of the Rivers  
36 and Harbors Act. Therefore, there are no Corps permits that are issued for the proposed actions  
37 in the feasibility study area. The State Lands Commission (SLC) is responsible for administration  
38 of state public trust lands in coastal waters (within the 3-mile territorial limit) and other tidal and  
39 submerged areas. The state's interest in these land consists of sovereign fee ownership, or a Public  
40 Trust easement, implicitly retained by the state over sovereign lands sold into private ownership.  
41 Since the Guadalupe River within the feasibility study area is not in coastal waters, or other tidal  
42 and submerged areas, the SLC has no jurisdiction over the project.

43  
44 J-39. Response to comments made in the Western Waters Canoe Club letter of April 17, 1997 on the  
45 SCVWD draft EIR/S are included following the response to comment J-46. Comments on the  
46 SCVWD EIR/S have been considered as they relate to this EIR/S, such that the responses address  
47 only those issues related to the proposed Bypass Channel Plan alternative that do not duplicate

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1 other public comments. Other responses to comments on the SCVWD EIR/S will be provided as  
2 part of that Final EIR/S.

3  
4 J-40. Section 6.1.1 describes the downtown project accurately as being in progress. Mitigation for that  
5 project has not been completed. The scope of the cumulative analysis is based on projects  
6 proposed, under construction, or recently completed at the time the DEIR/S was being prepared.  
7 Projects not proposed but under contemplation are not considered reasonably foreseeable, and  
8 therefore are outside the scope of the cumulative analysis.

9  
10 J-41. Most of these plantings were washed away in floods in 1995, and they will be replaced. Lessons  
11 learned in the downtown project would be applied in developing final mitigation plans for this  
12 project.

13  
14 J-42. This comment addresses aspects of the environmental setting resulting from past activities,  
15 including flood control management practices. The effects of these past activities are reflected in  
16 the description of the affected environment. We believe the Final EIR/S adequately addresses the  
17 project's direct, indirect, and cumulative impacts, and identifies appropriate mitigation to avoid  
18 additional deterioration of the river ecosystem.

19  
20 J-43. The comment identifies an issue with the downtown project rather than the project evaluated in this  
21 EIR/S. Replanting of flood-damaged mitigation areas will occur in the near future. No additional  
22 construction for the downtown project will be allowed by regulatory agencies until a satisfactory  
23 plan for mitigating associated impacts is approved.

24  
25 J-44. The comment implies that all habitat above the drop structure is unsuitable, but this is inaccurate.  
26 As described in section 4.2.2, habitat quality varies and includes some degraded sections. Suitable  
27 habitat does exist upstream, as indicated by the presence of resident trout in some areas. Both  
28 steelhead trout and chinook salmon have been observed at the drop structure and are expected to  
29 use suitable upstream areas once access is provided.

30  
31 J-45. We respectfully disagree, noting that a restoration alternative like the one alluded to does not meet  
32 key planning objectives.

33  
34 J-46. Constructing upstream flood control projects (assuming that the proposal would provide some  
35 measure of flood control) prior to protection of downstream areas would make these downstream  
36 areas temporarily more vulnerable to flooding, and is therefore not acceptable. If the proposal did  
37 not significantly reduce flooding, this would not be a problem, but then the proposal would not be  
38 responsive to the purpose of the Corps feasibility study.

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1 Western Waters Canoe Club letter of April 17, 1997.  
2

3 The following text responds only to comments that do not duplicate other public comments.  
4 Comments on the SCVWD draft EIR/S will be addressed in their final EIR/S.  
5

6 The design for Reach 12 should include riparian forest and SRA cover restoration.  
7

8 The design for Reach 12 provides space for seasonal in-stream percolation ponds that have been  
9 used here in the past and which the SCVWD intends to use again in the future. The SCVWD  
10 considers these in-stream ponds to be an important part of its groundwater recharge program.  
11 However, these ponds limit the amount of riparian forest and SRA cover that can be established  
12 in this reach. The USFWS does not consider riparian forest adjacent to a percolation pond to  
13 provide SRA cover.  
14

15 Removal of riparian forest adjacent to roads and the addition of maintenance roads will enable  
16 much more polluted street runoff to enter the river without being filtered by riparian forest in  
17 Reaches 9, 10A, 11B, and 11C. This is a significant impact.  
18

19 Construction of Reaches 9 and 10A will be coordinated with the City of San Jose and its planned  
20 widening of Almaden Road. The widened road will include a recreation trail. Detailed designs  
21 have not been prepared so it is not known how street runoff will be handled, but is expected to be  
22 handled through existing storm drains and outfalls. In Reaches 11B and 11C, riparian forest  
23 between the Almaden Expressway and the river will be increased in width at most locations.  
24

25 This impact would not be significant.  
26

27 Overflow channels for the downtown Guadalupe project are failing and should not be used on this  
28 project until they can be shown to work. Problems include erosion and sedimentation.  
29

30 The designs of the downtown project and this project are quite different. The overflow area in the  
31 downtown project was originally conceived as a widened channel, but during construction a berm  
32 was left between the bench and the main channel as a way of reducing impacts on SRA cover. The  
33 problem mentioned has been addressed by construction of a berm upstream. The bench area was  
34 designed with a secondary channel.  
35

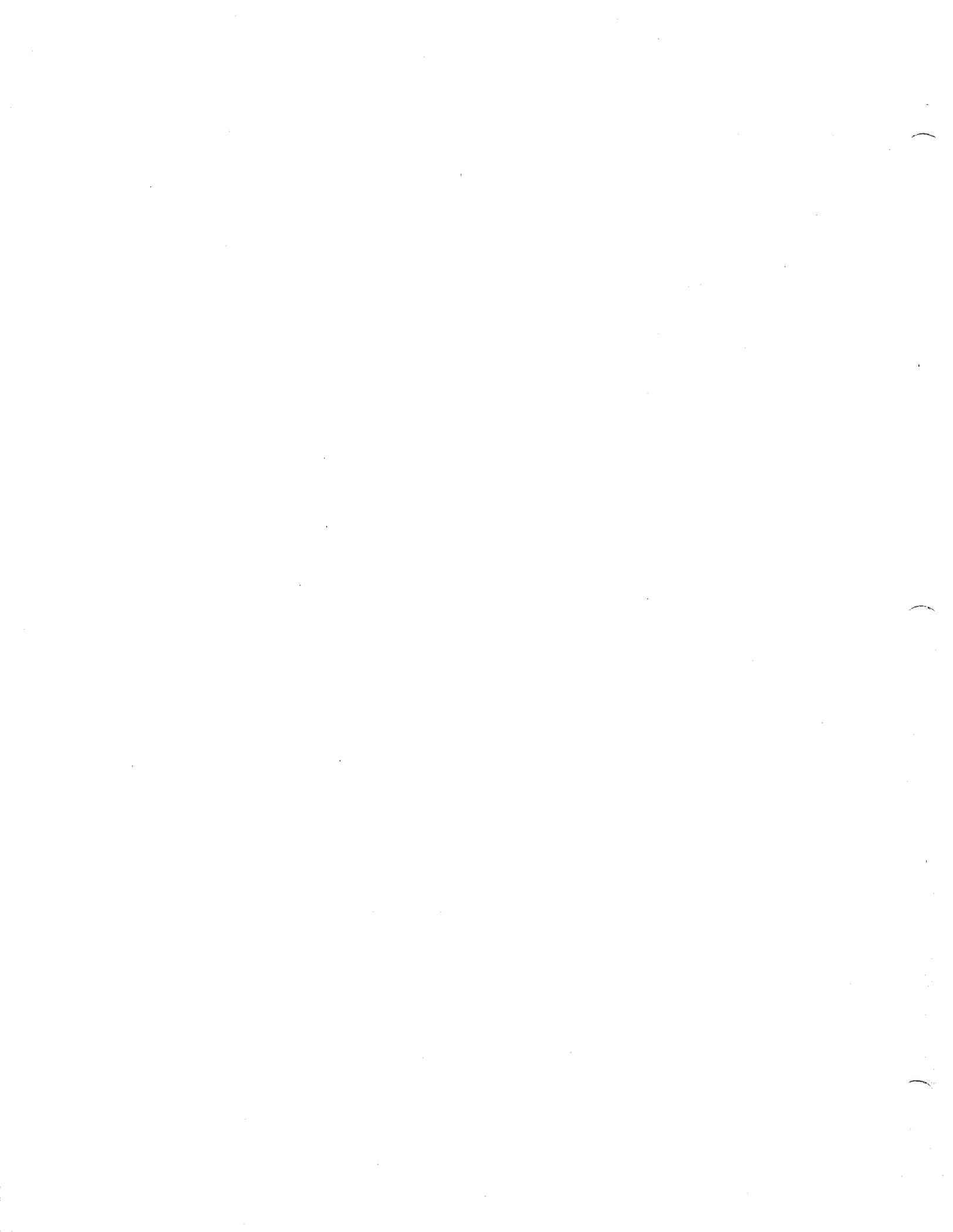
36 In contrast, the bypass channels proposed for this project would seldom contain water. These are  
37 set at an elevation above the geomorphological "bankfull" channel such that they would act as a  
38 floodplain and confine sediment transport to the natural channel. Sediment modeling has shown  
39 that sediment accumulations should generally be minor.  
40  
41

## Appendix M

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1 Maintenance roads are not needed. Natural rivers do a very good job of maintaining themselves.

2  
3 Natural rivers have broad floodplains which absorb and mitigate the impacts of large floodflows.  
4 In a natural system, debris accumulations and unrestricted vegetation growth can constrict the flow  
5 of the river and encourage its overflow onto the adjacent floodplain. Such overflow is not harmful  
6 in a natural system, but is undesirable in an urban setting. The proposed bypass design is  
7 restricted in size by adjacent urban development and cannot fully replicate the function of the  
8 floodplain, nor can it reliably convey flood flows without continuing maintenance to clear  
9 obstructions. In addition, access is needed for any necessary repair work and for removal of  
10 sediment should it be needed.





October 27, 1997

Army Corps of Engineers  
Environmental Planning Section  
333 Market Street, Seventh Floor  
San Francisco, CA 94105-2197

Attention: Mr. William DeJager

Subject: Upper Guadalupe River Feasibility Study

Dear Mr. DeJager:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the *Draft Feasibility Report (Report)* and *Environmental Impact Statement/Report (DEIS/DEIR)* prepared by the Corps of Engineers, San Francisco District (Corps) and the Santa Clara Valley Water District (SCVWD) to evaluate the impacts associated with the proposed upper Guadalupe River flood control project (Project) in Santa Clara County. Our comments are presented below:

VTA's operates *Bus Lines 25, 26, 27, 37, 38, 64, 67, 82*, and Light Rail (*LRT*) and maintains numerous bus stops and park-and-ride lots in the vicinity of the Project. Another transit service provided in part by VTA, operating in the vicinity of the Project and affected by the Project, is CalTrain.

General Comments

- VTA staff support the efforts to coordinate with the City of San Jose on recreational facilities and uses in the area. | K-1
- Santa Clara County Transit is now Santa Clara Valley Transportation Authority. References to "*Santa Clara County Transit*" found throughout the *Report* and *DEIS/DEIR* should be changed to "*Santa Clara Valley Transportation Authority*" or "*VTA*." | K-2
- VTA staff support the Bypass Channel alternative for the following reasons: | K-3
  - \* The alternative will remove the Tamien Station area and our vacant six-acre parcel from the 50-year flood plain. After construction of the Bypass Channel alternative, Tamien will be within the 500-year flood plain.

- K-4 \* The alternative will facilitate the construction of improvements--funded by the City of San Jose--to create a continuous recreational trail along the length of the river. This will allow for the connection of the recreational trail proposed for the Project area with existing trails along the Guadalupe River, in downtown San Jose and upstream of Blossom Hill Road, providing a critical link in the regional trail network.
- K-5 \* VTA staff recommend that the *Final EIS/EIR* clarify the policy of the Corps/SCVWD regarding providing unimpeded public access to the trail. Fencing and gates can preclude convenient public access and severely limit the benefits of such a trail.

### Transit Service

- K-6 • In Section 4.7.2, *Existing Conditions*, of the *DEIS/DEIR*, on Page 4.7-1, the list of streets which are affected by the project and which are used by VTA's bus lines should include the following:
- |                        |                     |
|------------------------|---------------------|
| Branham: Line #68      | Hillsdale: Line #37 |
| Blossom Hill: Line #27 | Malone: Line #67    |
- K-7 • In Section 4.7-3, *Environmental Effects*, of the *DEIS/DEIR*, on Pages 4.7-6 and 4.7-9, there are discussions of the impacts to "Mass Transit" and "Transit Lines." The discussions indicate that construction activities will significantly impact transit service; however, the "significant short-term impact" would be "mitigated to insignificance by providing early notification to the Transit district to allow for bus line rerouting and to minimize the need for rescheduling."
- \* Early notification alone will not mitigate the impact. All changes that require either rescheduling, additional operators and/or vehicles will have a significant cost impact to VTA and may inconvenience riders. VTA staff recommend that the additional operating costs and direct costs associated with notifying the public, including the staff time required to prepare new schedules and the cost to print new schedules both before and after the changes, be included in the Project budget and paid by the Corps/SCVWD.
- K-8 • Section 4.7.3, *Environmental Effects*, of the *DEIS/DEIR*, on Pages 4.7-5 to 4.7-10, refers to a "Traffic Mitigation Plan" (TMP), including a "Construction Traffic Management Plan" (CTMP), as a measure to mitigate traffic and transit impacts to a level of insignificance. Section 4.7.4, *Mitigation Measures*, on Pages 4.7-10 to 4.7-12, further discusses the measures constituting the TMP and states that "1. During design of the construction plans, a detailed Construction Traffic Management Plan shall be developed and implemented." and that "4. Santa Clara County Transit shall be notified of any bridge closures and need for rerouting."

- \* To assure good coordination between VTA Operations and the Project, VTA staff request that VTA be involved in the development of the details of the TMP and CTMP and/or be given the opportunity to review and approve the TMP and CTMP. Plans for providing line re-routes and other mitigation measures, if necessary, should be included in the TMP and CTMP to ensure that transit service will be minimally disrupted during construction. | K-8
- To state VTA's involvement in the development of the TMP and CTMP, Section 4.7.4, *Mitigation Measures*, should include language that describes who will develop and how the TMP and CTMP will be developed, the process and timeline for approving the TMP and CTMP and who will bear the cost of developing the TMP and CTMP. | K-9
- Tables 4.7-2, *Bridge Construction for the Bypass Channel Plan*, and 4.7-3, *Affected Traffic Arteries*, identify the bridges and major streets affected by the Project. Section 4.7.3, *Environmental Effects*, includes assessments of the Project impacts to local roads. The section should also include assessments of the impacts to transit service, including travel time delays and operating cost increases. | K-10
- An access permit is required for all work in and around the light rail operating right-of-way. Please contact Ron Saxbury at (408) 321-5856 for issuance of the access permit. | K-11
- Please contact Ron Wong, VTA Bus Stop Maintenance Coordinator at (408) 321-7054 a minimum of 72 hours prior to the start of any construction work which will affect existing bus stops or transit operations including, but not limited to, road closures and detours and bus stop relocations. | K-12

#### Caltrain Service

- VTA staff also recommend that Project impacts to existing and future train service using the SPRR bridge be more thoroughly discussed in the *Report* and *Final EIS/EIR*. | K-13
  - \* *Table 27: Utility Replacements & Modifications*, on Page 70 of the *Report*, identifies "Temporary railroad relocation for culvert" and "SPRR Bridge" under "Type" and "Approx. Location" for Reach 7A. However, there is no discussion within the associated text of Section 7.4, *Project Impacts and Mitigation*, regarding this listing. This bridge handles a fair amount of traffic, including freight and Amtrak service on rather unreliable schedules, and Caltrain service to Gilroy. A detailed discussion of the impacts to service and of the railroad relocation should be included in the *Final EIS/EIR*.

Army Corps of Engineers

Page 4

October 27, 1997

- K-14 \* In Section 4.7.3, *Environmental Effects*, on Pages 4.7-7 and 4.7-10 of the *DEIS/DEIR*, "*SPRR and UPRR Operations*" are discussed. The discussion, however, downplays the impacts of the Project on train service and on the Project's budget and schedule. This issue needs to be discussed more thoroughly and must consider a planned expansion of Caltrain service to Gilroy with an increased number of trains traveling to and from San Jose. As part of the increased service, VTA will likely be asked to put in track improvements, including double-tracks at certain segments of the route. This element of expanded train service must also be considered when discussing "*SPRR and UPRR Operations*" and determining the Project's approach at the SPRR bridge.

We appreciate the opportunity to review this project. If you have any questions, please call Lauren Bobadilla of my staff at (408) 321-5776.

Sincerely,



Thomas Rountree  
Environmental Program Manager

TDR:LGB:kh

## Appendix M

### **K. Thomas Rountree, Santa Clara Valley Transportation Authority (VTA). October 27, 1997.**

K-1. VTA staff support of project efforts to coordinate with the City of San Jose on developing recreational facilities and uses within the feasibility study area is appreciated.

K-2. References in the EIR/S to Santa Clara County Transit have been changed to Santa Clara Valley Transportation Authority (VTA).

K-3. The relative flood protection benefits of the Channel Widening Plan and the Bypass Channel Plan for the Tamien Station area have been incorporated into section 4.7.3. under both alternatives.

K-4. The beneficial aspects of the Bypass Channel on development of the recreational trail are discussed in section 2.4.2, Bypass Channel Plan, under the subsection titled Recreation Plan.

K-5. Design and construction of public works projects often require consideration of competing interests. In the case of fencing along the recreational trail, the interest of public safety may compete with the interest of unimpeded public access. The Corps has determined that in order to ensure public safety, it would be necessary to install protective fencing along selected portions of the trail. However, no gates are planned that would prevent public access to the trail.

K-6. Three of the indicated bridges (Branham Lane, Hillsdale Avenue, and Malone Road) used by VTA bus lines have been added to the list in section 4.7.2. The Blossom Hill Road bridge at the southern end of Reach 12 would not be impacted by the project, hence it was not added to the list.

K-7. Compensation for costs incurred by VTA during construction, such as costs associated with notifying the public of bus route/schedule changes or costs associated with operation of additional vehicles, would be a matter of negotiation between SCVWD and VTA. Mitigation Measure No. 4 in section 4.7.4 has been expanded to include this information. Also in response to this comment, the discussions in section 4.7.3 under the Channel Widening Plan regarding "Mass Transit" and under the Bypass Channel Plan regarding "Transit Lines" have been expanded and renamed to more specifically address both "Bus Service" and "Light Rail Transit Service".

K-8. The Corps concurs that VTA should be invited to participate in development of the Construction Traffic Management Plan (CTMP) and that provisions for transit line reroutes should be included in the CTMP to ensure that transit service would be minimally disrupted during construction. Mitigation Measure No. 1 in section 4.7.4 has been revised to include these points. VTA staff time for participation in the planning effort, however, cannot be compensated by the Corps.

The "Traffic Mitigation Plan" mentioned in section 4.7.4 of the Draft EIR/S was intended to refer to the overall traffic impact mitigation planning effort, which includes not only the CTMP, but many other measures that would be the responsibility of the Corps, the SCVWD, the City of San Jose Public Works, and the various contractors performing the construction work. To avoid confusion in the Final EIR/S, all references to a plan for traffic impact mitigation have been changed to "Construction Traffic Management Plan".

K-9. VTA would be invited to participate in development of the CTMP, which would occur during the same time period as development of the construction plans. Mitigation Measure No. 1 in section

## Appendix M

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1 4.7.4 has been expanded to include this information. The Corps and SCVWD would bear the cost  
2 of developing the CTMP, except for the cost of staff time incurred by any participating agencies  
3 and organizations.  
4

5 K-10. The mass transit discussion in section 4.7.3 has been retitled "Bus Service" and has been expanded  
6 to specifically refer to the possibility of travel time delays and operating cost increases.  
7

8 K-11. Construction work in or around the light rail operating right-of-way is not anticipated.  
9 Nevertheless, the requirement for an access permit from VTA for such work, if it should be  
10 necessary, has been added to section 4.7.3.  
11

12 K-12. The specific requirement to contact the VTA Bus Stop Maintenance Coordinator at least 72 hours  
13 prior to the start of any construction work affecting bus stops or bus transit operations has been  
14 added to Mitigation Measure No. 4, in section 4.7.4.  
15

16 K-13. The Corps does not anticipate that a "temporary relocation" of either the SPRR or the UPRR  
17 would be necessary for construction of box culverts under the railroad bridges in Reach 7 with the  
18 bore and jack construction method. The approach described for the Bypass Channel Plan (see  
19 section 4.7.3, SPRR and UPRR Operations) would apply for the Channel Widening Plan as well.  
20 The Channel Widening Plan discussion in section 4.7.3 has been expanded to reflect this.  
21

22 K-14. Construction at the SPRR and UPRR crossings in Reach 7 is identified in section 4.7.3 as a  
23 "significant, short-term impact" for both the Channel Widening Plan and the Bypass Channel Plan.  
24 Mitigation Measure No. 7 in section 4.7.4 describes the efforts that are proposed to minimize the  
25 impact on rail service. In response to this comment, discussions of the existing Caltrain service  
26 on the SPRR track have been added to sections 4.7.2 and 4.7.3. Information regarding the planned  
27 expansion of Caltrain service to Gilroy with an increased number of trains traveling daily between  
28 Tamien Station and Gilroy has been incorporated into section 4.7.2.

FAX 415 977-8483

October 27, 1997

Lieutenant Colonel Richard G. Thompson  
District Engineer, San Francisco District  
US Army Corps of Engineers, Regulatory Branch  
333 Market Street, San Francisco, CA 94105-2197

Attention: William DeJager, Environmental Planning Section

Dear Colonel Thompson,

In regards to the Draft Feasibility Report & Environmental Impact Statement/ Report (EIS/EIR), Upper Guadalupe River Feasibility Study, I would like to reference all my previous correspondence on the environmental constraints of the project and the entire project region.

In addition there are areas of continuing concern that I do not believe have received due consideration by you and your staff.

- I In your June 1977 Hydrologic Engineering Office Report Guadalupe River and Coyote Creek Santa Clara County, California it was documented in TABLE II that the unimpaired peak discharge - cfs of Guadalupe River at San Jose for the Standard Project Flood and One Percent Chance Flood was 33,700 cfs with 18,100 cfs above the Los Gatos Creek confluence.

Future conditions were estimated to be 17,000 cfs and 14,600 cfs due to the presence of upstream reservoirs. "The existing reservoirs can have a great effect on flood discharges in the basin even though they are operated strictly as part of a conjunctive-use water-supply system. Water stored in the reservoirs each winter is released for percolation into the groundwater basin during the summer months. This conjunctive-use system, as opposed to operating the surface water system on a firm annual yield basis with carryover storage in the reservoirs from year to year, results in many of the reservoirs being empty or nearly empty at the start of each rainy season."

These conditions on which the "balanced" hydrograph method was based and the volume-frequency curves established have been dramatically altered by the importation of water, from the Central Valley, which doubles the base for the historic supply volume. This alters, I believe, your base flow data and makes your future conditions 17,000 cfs for San Jose inaccurate.

The presence of reservoirs was referenced in your lower Guadalupe River project as being a basic element of the entire flood control project design. It is imperative that the US COE reestablish this hydrologic evaluation of Guadalupe River flows with the present water supply regimen.

- II As the downstream Guadalupe River from #280 to San Francisco Bay is flood oriented to a 100 year flow of 21,000 cfs it would appear to be more economical to delay storm events in the upper watershed until the peak flows have been passed downstream; That is if the FEMA 100 year flood program is to be the yardstick. (This is similar to the requirement for the City of San Francisco to construct an underground vault for flood water detention to keep from swamping the water treatment plant in storm events.)

This alternative to upper watershed detention could use the Almaden Mines (well lined to protect from mercury/quicksilver), the quarry in Signal Hill, or rely on flood closure of Highway #35 and turn off the dewatering pumps. But am sure your engineers could devise more sophisticated alternatives.

L-1

L-2

Lucas Guadalupe River - Upper Draft EIS/EIR US COE 10/27/97 p. 2

- L-3 III This is not a complete watershed study in that it does not account for the flora and fauna of the upper watershed, the importance of the continuity of the riparian corridor to the wildlife of the upper watershed and the Sierra Azul of the Pacific Flyway. The Riparian Brush Rabbit and the Mountain Flower, the Northwestern and Southwestern Pond Turtles, should all be considered as Candidate Species and Species of Concern.
- As the cost for mitigation for loss of environmental integrity of this prime Guadalupe River habitat is getting to be economically unviable, it would be best for the US COE to return to the Federal mandate on "avoidance of impact". This was not done on the Lower Guadalupe River flood control project reaches and the cost has overwhelmed the design.
- If a real upper watershed retention capability is found then much of the riparian losses downstream should be lessened if not avoided in toto.
- I enclose (again) the percolation potential map for the Guadalupe area in hopes that you will note the high percolation value of Ross Creek, especially where it flows into the Guadalupe River. This should not be cemented in but left an open marsh interface. Upstream retention is also possible on Ross Creek.
- Canoas Creek is also in need of its former marsh, visible on this map and the site of Canoas Gardens; and perhaps a garden of canals could be reestablished here as a form of detention basin. When the Guadalupe River is in flood stage, neither of these two rivers can drain into the main stem anyway so something special has to be devised.
- I believe the property that has been considered for a bypass at the site of the old cannery has been sold for development and so is no longer available. This is sad to have happen along so much of this corridor; that the options are all disappearing.
- It is also imperative that a proper sediment transfer analysis be done for this project. Sediment is drowning the downstream bypass channels. At the same time, the streams need natural bottoms, earthen channels, to agrade or degrade as conditions decree. A cement base can only agrade.
- In consideration of lack of time to re-review these two volumes, I beg your forbearance if I enclose my comments on the earlier documentation as most of the areas of concern still apply.

Sincerely,

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

- L-4 PS The thermal impacts of this flood control project cannot be mitigated, if any salmon or steelhead are to survive in this river system. This is just one more reason why the watershed retention alternative must be taken very seriously.

**EXPLANATION**

Area investigated by resistivity method

Area favorable for ground-water recharge

Area highly favorable for ground-water recharge

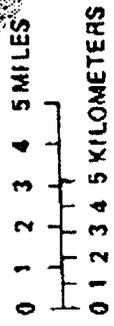
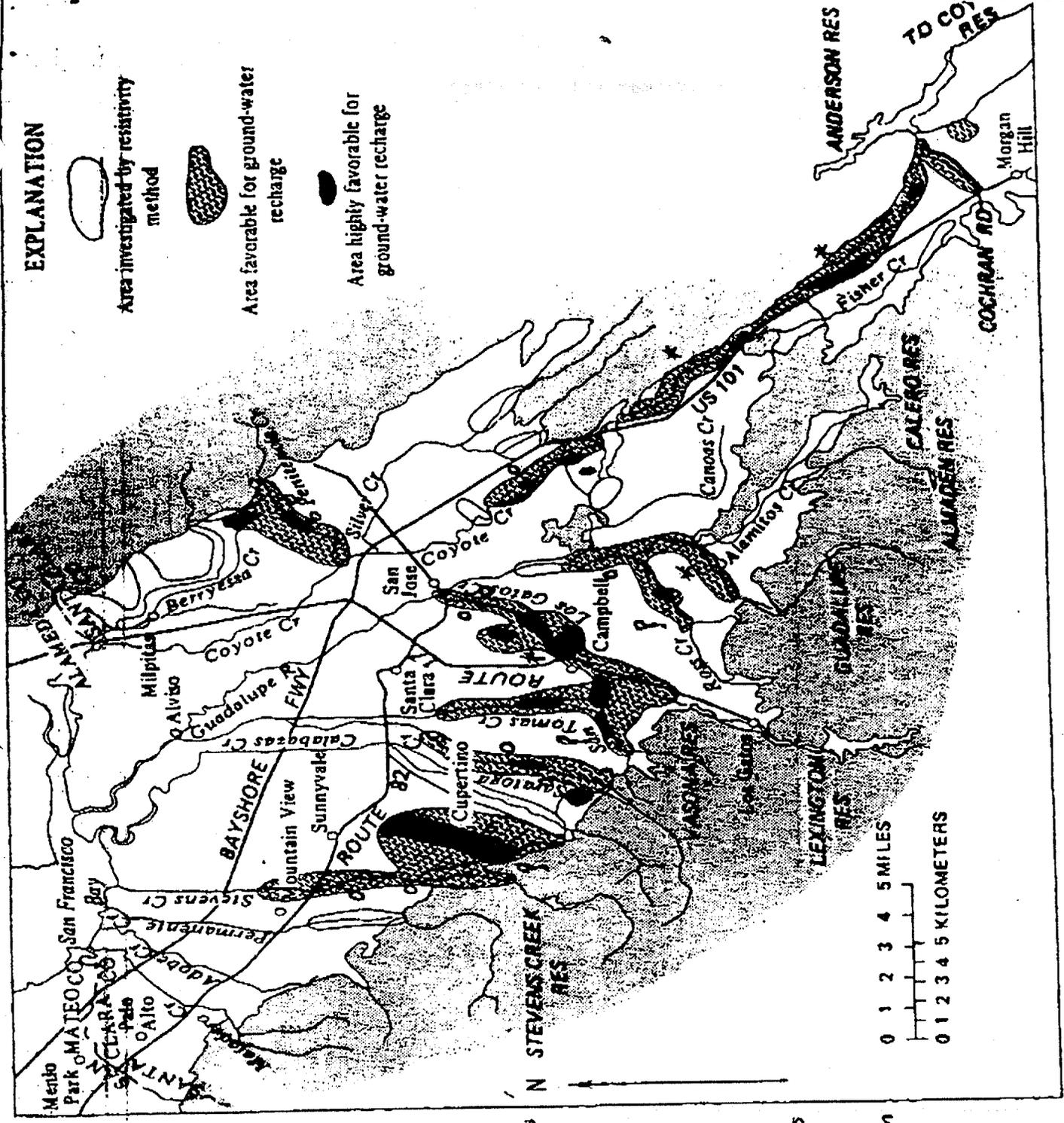
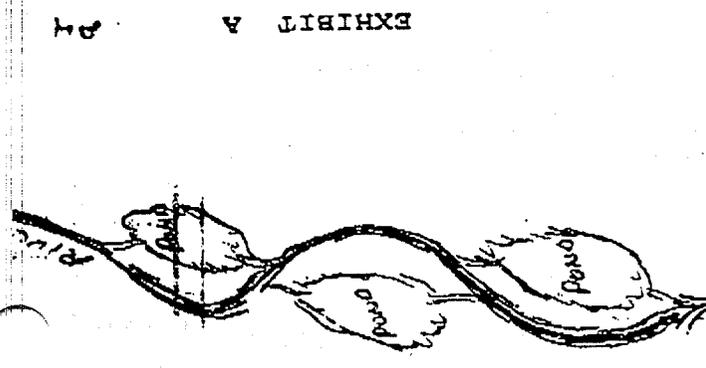
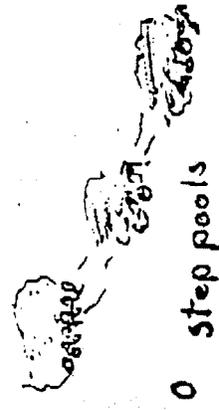


FIGURE 48.—Areas favorable for ground water recharge in northern Santa Clara County. After Page and Wire (1969).



\* off stream pond sites



o step pools

o infiltration galleries for streams modified over prime percolation gravels.

**ALTERNATIVES**

FOR IMPROVED INSTREAM RECHARGE PROGRAM

FAX 415 977-8483

April 23, 1997

Lieutenant Colonel Richard G. Thompson  
District Engineer, San Francisco District  
US Army Corps of Engineers, Regulatory Branch  
333 Market Street, San Francisco, Ca 94105-2197

Attention: Regulatory Branch PUBLIC NOTICE #17776S

Dear Colonel Thompson,

The application by the Santa Clara Valley Water District for a 404 Permit from the US COE to construct the Upper Guadalupe River Flood Control Project, to excavate and place fill in 1.85 acres of wetlands and 10.6 acres of the Waters of the United States in the Guadalupe River, I find deficient in its assessment of irreversable impact to those wetlands and waters.

There are aspects of the flood control project that are not in compliance with the environmental mandate for avoidance of alteration of a stream's wetlands and waters as the preferred alternative. (Inflatable dams not coffer?)

This project has impacts to fisheries that are improperly assessed and that it is possible to avoid in the extent of the planned project.

The extent of thermal pollution is not accurately assessed and the proposed mitigation will not assure the survival of species that are extant in the main stem of the Guadalupe River. Species of particular concern or in need of protection are steelhead, and the chinook and coho salmon.

The integrated watershed management ascribed to the San Francisco Estuary Basin Plan and which the District supports should demand that the upper Guadalupe watershed be incorporated into the environmental assessment of this flood control project which it is not. And yet mitigation is planned beyond the parameters of the project in tributary streams of this upper watershed without biotic support data.

The design of wiers and inchannel gradient controls limit the constitutional right of the public to use these navigable waters for recreation.

The placement of fencing along the banks of this river and tributary streams is in violation of Public Resources Code 6301 and Civil Code Section 803, as it restricts the public and wildlife from access to the waterways.

There is a built-in design of the 'improved' stream beds that incorporates a maintenance road into the floodway. This may be convenient for the vegetation management but removes shaded riverine aquatic habitat and the vegetative buffer that is vital to reduce non-point source pollution of the stream. It would also contribute to bank erosion, through spraying maintenances practices, and sediment transfer to the base stream flow.

Finally, there is the concern that the original COE scoping document in 1976, for flood control of the Guadalupe River was assessing the historic watershed hydrograph, whereas present water supply practices double the volume of water that is stored in reservoirs and percolated into the aquifers, with Delta and Central Valley water imports. Alamitos and Los Gatos Creeks are conveyors of this new supply which should be evaluated for the 1% flood event.

## Upper Guadalupe River Flood Control Project, Number 17776S

p.2

1. Introduction: "1.85 acres of wetlands" I find is in error, first from the standpoint that loss of linear riparian wetlands should be assessed in linear feet, not acres, should be computed for both sides of the stream bank (times 2) and should be valued as of high value (times 3) for mitigation, and that mitigation should be in kind and in place, not uplands or on another river or in San Francisco Bay. My figures for riparian wetlands loss are somewhat staggering and I would like a continuance to submit them within three weeks. The 10.16 acres of Waters of the United States is also understated, I feel, and request continuance on that point also, and a review of the tree count.

2. Project Description: Second paragraph, line 6, refers to 1995 floods. The flood surge came from the Los Gatos Creek system that swamped downtown San Jose which is not within the scope of this project environmental review, though it probably should be if this was a complete integrated watershed plan. Third paragraph, first line, says the project would convey flows up to the 100-year flood. I feel that this is optimistic with the build-out and imported water. Last line of first page references step pool fish ladder at 15-foot Blossom Hill structure which is part of entirely separate implementation of Fish & Game Code.

Page 2, line 2, I disagree with the statement that these access roads are needed and that the present District practices of weed control are consistent with the criteria of the Clean Water Act. With the extent of vegetation removal this proposed project will increase simple bank erosion and sedimentation, though it can indeed stabilize undercut and sloughing off steep banks in some of the reaches. The statement that the project will improve biotic resources by removing fish barriers is true only in that Fish & Game insist that the barriers go, but the loss of riparian cover and wetlands and the attendant thermal pollution do not improve biotic resources. The construction of these flood control facilities, as designed, I feel will immeasurably reduce the survival of significant species.

The project construction period of 25 years is too long. The potential impacts of ongoing vegetation removal is giving maintenance a blank check to harass the habitat and contributes to continual destabilization, if the downtown flood control project is any example. In-channel construction has an extremely thin window of opportunity if it is not to seriously impact either incoming salmon or outgoing fry. The May 1 to October 15 is completely inappropriate in this South Bay river system and this criteria should be edited out at all references.

If the river is functional it should be able to carry its own sediment load and sediment removal and vegetation removal should be minimal. The removal of fish barriers in the main stem of the Guadalupe River provides no benefit to fish if there is not a tributary to go to that does not have a reservoir at the head of it, Not enough water and not enough shade will be lethal to the species of concern, the steelhead and the salmon. This applies equally to Reach A and to Reach 13, and the upper tributary streams are not biotically assessed so can not be considered an option at this time? (I don't have Vol. III)

I would like to state that the fishery biologist of Natural Resource Conservation Service for the West did briefly survey two tributaries and the Guadalupe River a year and a half ago. She found the heavily shaded reaches in the River, downtown near the railroad bridges, fine for salmon. Guadalupe Creek was feasible for the steelhead with the appropriate water regimen. Alamitos Creek, however, was too warm and murky for either. The brown trout seem comfortable there but she warned not to let them get to the other two water bodies as they are predators on the steelhead and the salmon redds and fry. This would mean that if modifications were made to Almaden Lake to allow steelhead and salmon access, the brown trout should all be removed.

Upper Guadalupe River Flood Control Project, Number 17776S

p.3

At this point I would like to digress to the Fisheries paragraph on the second to last page of this text. The mitigation here proposed for the cumulative impacts on fisheries habitat by the District is highly deficient in water quality, shade and refugia of biotic value. I would request that our fishery expert visit the stream for proper scientific review before this mitigation habitat is seriously considered. She was quite definite that the Alamitos Creek was not a steelhead stream, but am sure she would like to make her report in the appropriate scientific style of the Service.

To recondition the Coleman Road/Guadalupe Creek reach so that cooler refugia could be utilized by steelhead, would require considerable planting which might well be undertaken at this time. If the District is wedded to the prospect of the 10.7 miles of Alamitos Creek being viable, they could embark on a major planting spree there too. But both these sites demand the assured base flows from the reservoirs and I'm not at all certain that the District Board has any intention of providing that supply. This should be spelled out in the mitigation package before this 404 permit is given approval of any sort.

In this upstream watershed there is the extensive old Almaden Quicksilver Mines complex that impacts both Guadalupe Creek and Alamitos Creek with water quality point and non-point pollution from the mine tunnels (miles of them) runoff and the tailings instream. This needs scientific evaluation.

The thermal pollution on both Alamitos and Guadalupe Creeks is a watershed concern that should be spelled out in the District data as they must have the readings over the past two years. (Is this in the elusive Volume III that the District omitted to circulate?) This is essential data for any consideration or assessment of the steelhead or chinook habitat and the sustainability of runs. But 13.3 miles "of more suitable upstream habitat" it is not!!!

Almaden Lake and the District percolation ponds above Reach 13 are an even more serious thermal pollution source and it is essential to review the instream management of these facilities in evaluating Reach 13 fishery potential and riparian integrity. At present most trees above the drop structure are dead from drowning in the percolation lake.

#### Ross Creek:

Thermal review of Ross Creek and Canoas Creek should also be included into the assessment of any wetlands or vegetation removal. Here again I feel the District should be planting assiduously, taking out concrete and maintenance roads and inviting the neighborhood to adopt-a-creek. There is at present a maintenance road on both banks and not a tree in sight of this nice stream.

Attached please find a map of areas favorable for groundwater recharge and note the value of Ross Creek in this regards. To line this prime percolation creek with 8,600 linear feet of articulated concrete matting is not a good watershed management integration with flood control. Great songbirds here also!!!

The increase in the use of herbicides to control preemergent vegetation along new access ramps and maintenance roads is an avoidable toxic impact. When you see almonds on a tree by a creek maintenance road you know dead squirrels mean dead burrowing owls and probably not too healthy pond turtles or red-legged frogs. This District practice has to stop in a wildlife corridor, so don't put in the access ramps and roads. This should be considered only in extreme conditions. This chemical spraying regimen is extremely unpopular with the public, as health concerns are valid. The pond turtles, osprey, steelhead, chinook salmon, owls, coho salmon (possibly) and red-legged frog are threatened or species of special concern that must be protected in project area! Libby Lucas, 174 Yerba Santa, Los Altos 94022

*Libby Lucas*

PS. Summary of Cumulative Impacts: There have been more projects on the Guadalupe River than you include here. Woz Way, pedestrian bridges, Confluence Point bridges, bank contouring and observation tower, light rail crossing, railroad bridge removal, hard edge treatment (removal of riparian vegetation) for Lincoln Towers, Adobe Systems, IBM Headquarters, Children Discovery Museum rock outcropping.... the list is endless and Highway #87 hasn't even begun. I estimate the tree loss at over 85% and it was you at the US Corps who gave out the permits. Initially your project as scoped left the old natural riparian corridor intact, more or less, for two thirds of the three-mile downtown project area. Redevelopment is remorseless!

FAX

January 23, 1997

Department of the Army  
U.S. Army Engineer District,  
Corps of Engineers,

In my January 17 response on the Guadalupe River Project, Draft Habitat Evaluation Procedure (HEP) Report, I requested a slight extension for a more thorough review of any pre-dam Guadalupe stream flow data.

What little there is to be found, with my resources, is interesting but is not enough to match a twenty year hypothetical low flow year analysis. However it does make a very strong point that all subsequent flows in the Guadalupe River system are artificial, as they are District controlled, to maximize percolation potential to the aquifer.

Water year October 1929 to September 1930 had 19 days of flow: # 11169000

|      |         |     |          |      |         |                     |         |              |
|------|---------|-----|----------|------|---------|---------------------|---------|--------------|
| 1-5  | 15 cfs  | 3-4 | 1110 cfs | 3-8  | 199 cfs | (daily mean values) | 3-15    | 84 cfs       |
| 1-12 | 10 cfs  | 3-5 | 3030 cfs | 3-9  | 107 cfs | 3-12                | 4.6 cfs | 3-16 39 cfs  |
| 1-13 | 1 cfs   | 3-6 | 1290 cfs | 3-10 | 48 cfs  | 3-13                | .4 cfs  | 3-17 14 cfs  |
| 1-16 | 9.5 cfs | 3-7 | 461 cfs  | 3-11 | 21 cfs  | 3-14                | 66 cfs  | 3-18 1.8 cfs |

October 1930 to September 1931 had 0 days of flow

October 1931 to September 1932 had 45 days of flow

|       |          |     |         |      |         |      |          |              |
|-------|----------|-----|---------|------|---------|------|----------|--------------|
| 12-24 | 1800 cfs | 1-1 | 185 cfs | 1-15 | 476 cfs | 2-1  | 115 cfs  | 2-11 296 cfs |
| 12-25 | 156 cfs  | 1-2 | 259 cfs | 1-16 | 105 cfs | 2-2  | 69 cfs   | 2-12 200 cfs |
| 12-26 | 25 cfs   | 1-3 | 149 cfs | 1-17 | 50 cfs  | 2-3  | 34 cfs   | 2-13 151 cfs |
| 12-27 | 3740 cfs | 1-4 | 71 cfs  | 1-18 | 30 cfs  | 2-4  | 24 cfs   | 2-14 108 cfs |
| 12-28 | 2650 cfs | 1-5 | 32 cfs  | 1-19 | 23 cfs  | 2-5  | 24 cfs   | 2-15 79 cfs  |
| 12-29 | 749 cfs  | 1-6 | 17 cfs  | 1-20 | 14 cfs  | 2-6  | 739 cfs  | 2-16 71 cfs  |
| 12-30 | 256 cfs  | 1-7 | 6 cfs   | 1-21 | 4.9 cfs | 2-7  | 639 cfs  | 2-17 37 cfs  |
| 12-31 | 265 cfs  | 1-8 | .4 cfs  | 1-22 | .6 cfs  | 2-8  | 951 cfs  | 2-18 10 cfs  |
|       |          |     |         | 1-31 | 8.5 cfs | 2-9  | 1090 cfs | 2-19 3.5 cfs |
|       |          |     |         |      |         | 2-10 | 494 cfs  | 2-20 .4 cfs  |

October 1932 to September 1933 had 28 days of flow

|       |        |      |         |      |         |      |         |              |              |
|-------|--------|------|---------|------|---------|------|---------|--------------|--------------|
| 12-28 | .1 cfs | 1-10 | .10 cfs | 1-16 | .10 cfs | 1-25 | 15 cfs  | 1-5 .10 cfs  | 3-23 .10 cfs |
| 12-29 | .2 cfs | 1-11 | .10 cfs | 1-17 | .20 cfs | 1-27 | 22 cfs  | 1-6 .30 cfs  | 3-24 .10 cfs |
| 12-30 | .2 cfs | 1-12 | .20 cfs | 1-18 | .40 cfs | 1-28 | 4.6 cfs | 3-15 .10 cfs | 3-29 .10 cfs |
| 12-31 | .1 cfs | 1-13 | .20 cfs | 1-19 | .20 cfs | 1-29 | 110 cfs | 3-16 .10 cfs |              |
| 12-24 | .2 cfs | 1-14 | .20 cfs | 1-24 | 9.5 cfs | 1-30 | 8.0 cfs | 3-17 .20 cfs |              |

October 1933 to September 1934 had 19 days of flow

|       |        |       |          |      |         |      |         |
|-------|--------|-------|----------|------|---------|------|---------|
| 12-12 | 88 cfs | 12-30 | 277 cfs  | 1-4  | 34 cfs  | 2-26 | 528 cfs |
| 12-13 | 86 cfs | 12-31 | 58 cfs   | 1-5  | 2.8 cfs | 2-27 | 188 cfs |
| 12-14 | .1 cfs | 1-1   | 1380 cfs | 2-23 | 133 cfs | 2-28 | 70 cfs  |
| 12-29 | 14 cfs | 1-2   | 462 cfs  | 2-24 | 236 cfs | 3-1  | 16 cfs  |
|       |        | 1-3   | 109 cfs  | 2-25 | 54 cfs  | 3-2  | 1.8 cfs |

October 1934 to September 1935 had 45 days of flow

|      |         |      |         |      |         |      |         |
|------|---------|------|---------|------|---------|------|---------|
| 1-4  | 70 cfs  | 1-17 | 15 cfs  | 3-26 | 4.6 cfs | 4-13 | 46 cfs  |
| 1-5  | 62 cfs  | 1-18 | 7 cfs   | 3-27 | .2 cfs  | 4-14 | 34 cfs  |
| 1-8  | 92 cfs  | 1-19 | 29 cfs  | 4-3  | 69 cfs  | 4-15 | 297 cfs |
| 1-9  | 626 cfs | 1-20 | 1.2 cfs | 4-4  | 197 cfs | 4-16 | 245 cfs |
| 1-10 | 566 cfs | 3-7  | 248 cfs | 4-5  | 100 cfs | 4-17 | 146 cfs |
| 1-11 | 83 cfs  | 3-8  | 50 cfs  | 4-6  | 42 cfs  | 4-18 | 93 cfs  |
| 1-12 | 2.0 cfs | 3-9  | 8 cfs   | 4-7  | 163 cfs | 4-19 | 60 cfs  |
| 1-14 | 18 cfs  | 3-23 | 122 cfs | 4-8  | 750 cfs | 4-20 | 35 cfs  |
| 1-15 | 2.3 cfs | 3-24 | 40 cfs  | 4-9  | 356 cfs | 4-21 | 20 cfs  |
| 1-16 | 24 cfs  | 3-25 | 18 cfs  | 4-10 | 194 cfs | 4-22 | 14 cfs  |
|      |         |      |         | 4-11 | 117 cfs | 4-23 | 8.0 cfs |
|      |         |      |         | 4-12 | 57 cfs  | 4-24 | 5.5 cfs |
|      |         |      |         |      |         | 4-25 | 1.0 cfs |

This last month of flow of 1935 is out of character for previous years and is not as favorable, for salmon or steelhead survival as was 1931-32, another 45 day flow year.

These water flow readings in the Guadalupe River previous to the 1935 dam installations give a more realistic flow regimen under 'natural' conditions, that is with the agricultural diversions and groundwater levels of the day lowered.

Supplemental response Guadalupe River Project, Draft HSP 1-23-97 page 2

Since 1956, the District permitted users located on lands within the District to divert storage releases from District conduits and natural channels for beneficial use. "The purpose of the program is two-fold, (1) it reduces the pumping draft on the underground reservoir and (2) increases the District's capacity to beneficially utilize the water impounded in its reservoirs."

|            |                |   |
|------------|----------------|---|
| In 1956-57 | 8,390 ac. ft.  | agriculture water delivered by direct diversion |
| 1957-58    | 10,710 ac. ft. |   |
| 1958-59    | 9,600 ac. ft.  |   |
| 1959-60    | 11,270 ac. ft. |   |
| 1960-61    | 10,200 ac. ft. |   |
| 1961-62    | 2,080 ac. ft.  |   |

Even before the Santa Clara Valley Water District management practiced its stream percolation program, farmers had long tapped the streams of the County for their farms and orchards. In most years, attraction flows for salmon and steelhead were at a minimum, which might further explain the illusive aspect of these fish. But good years like the winter of 1931-32 and the spring of 1930 sustained some remnant populations.

This water regimen for the Guadalupe River should be modeled for the years that copious records were kept and that a significant management routing was followed, ie pre-dam conditions, 1935 to 1955, 1956 to imported water supplemental infusions into the system from the East pipeline and then the San Luis-Santa Clara conduit connection.

Then to contrast what is modeled for 10b, 23b, and 20 on the Upper Guadalupe River, you have to provide a more realistic hypothetical flow for the Los Gatos Creek for the confluence with the Guadalupe and below, at present time.

The Los Gatos Creek has more imported water poured into the system because it has the highest percolation potential in the Valley. Its flood flow rate is set at a third of the Guadalupe flood flow rate, 7000 cfs of 21,000 cfs, but this is not a realistic appraisal of its low flow percentage of the flow. When I checked a couple of times, there was technically no flow in the main Guadalupe River (as it had slowly percolated away), 2 cfs was allowed by SCVWD to remain in Los Gatos and 4 cfs walled up in main stem at confluence.

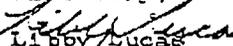
Again, I will attempt to go back on old records for the Los Gatos Creek, pre-dams, but your 1994 and 1995 measured flows will not give you the necessary scientific base line as the SCVWD says they plan to allow no more over-run, so no 2 cfs to wet the system.

The temperatures of any streamflow coming from Los Gatos Creek are lower than the Guadalupe because of remaining tree cover. However, as the future Redevelopment Agency of San Jose plans always entail extensive tree removal, some evaluation for this thermal pollution should be incorporated in your hypothetical analysis. Also the continuing bridge removals and Highway 87 expansion are going to entail extensive tree loss that has never been factored into the COE flood control project. This, if counter to the CEQA and NEPA guidelines, should be quantified in this SRA document as they are approved, overlapping state and federal projects. The Vasona light rail will also cross both streams, I believe, at least once.

The consequences of designing this river for public access at all points, I believe is highly unrealistic and flies in the face of conservation of any natural resources, the State mandate of no net loss of wetlands, and the International commitment to the biodiversity treaty that the U.S. agreed to. Shaded, fully protected deep pools with overhanging high banks must be left, and in their natural state. The public could view from a high rise or a new recreation railroad bridge, but at least a mile of this project must be kept for wildlife and for the historic Guadalupe River, as a natural corridor.

Thank you for your patience and fortitude in this extended effort.

Sincerely,

  
 Libby Lucas  
 174 Yerba Santa Avenue,  
 Los Altos, CA 94022

FAX

January 17, 1997

Planning Division  
 Department of the Army  
 U.S. Army Engineer District,  
 Corps of Engineers,

Dear Mike,

In regards the Guadalupe River Project, Draft Habitat Evaluation Procedure (HEP) Report, thank you for making this process available to the public and for the extensive year-long review of the shaded riverine aquatic SRA plan.

The constraints on the flood control project in downtown San Jose are unique and considerable. The Guadalupe River is essential to the health of fisheries and wildlife of the South San Francisco Bay, of the Estuary, of the Pacific Flyway and ultimately the estuary resource for the Pacific Ocean. As its link in the food chain of our Bay region cannot be underestimated, so it is of utmost importance that the food chain within the Guadalupe be viable.

When this project was first undertaken by the San Francisco Corps, they did a scoping study in September 1976, Guadalupe River Alternative Proposals for Flood Control & Allied Purposes, that was competent and sensitive to the river as a "valuable environmental resource".

"The Guadalupe River channel supports a rich and varied ecosystem. Fish swim in the waters of the river and birds and other wildlife find food and homes in the trees and thick vegetation along its banks. This riverbank or 'riparian' vegetation provides some of the best, and in some cases, essentially the only habitat for many species of wildlife in this area."

In July 1985, the US Army Corps of Engineers, San Francisco District, Final Guadalupe River Interim Feasibility Report and Environmental Impact Statement Guadalupe River and Adjacent Streams Investigation was published, (after the required public hearings) with the total flood control project cost of \$44,056,000. The earth channel bypass in the Coleman Loop area, while environmentally preferable as it preserved the west bank, was rejected as too expensive as it added \$4.4 million to the project costs.

The Fish & Wildlife Service data base mentioned peregrine falcon, saltmarsh yellowthroat and the San Francisco garter snake as present in these basins.

In the fall of 1986, California Department of Fish and Game noted 262 redds (potential) of chinook salmon on the Guadalupe River, with the greatest numbers downstream of Highway 280, in the project area. This background data was not made public until the US Department of the Interior Fish & Wildlife Service draft of "Guadalupe River Flood Control Project Habitat Evaluation Procedures: Analysis of Aquatic Resources for Contracts 1-3" in October 1993.

In the Sacramento COE Environmental Assessment in 1990-91 of the combined San Jose Guadalupe River Park and 1985 COE Guadalupe River Flood Control projects, under fishery concerns it states: "the FR/FEIS reported no spawning or runs of these species (steelhead and chinook salmon) in the river". This statement is deficient in light of the Fish & Game sightings made in the river in 1986-7.

The combined projects also resulted in more extensive tree loss, from 50% to 85%, in the three mile corridor that should have been environmentally assessed and public hearings held. The project costs rose \$100 million, another serious public concern. Maintenance costs and sediment transfer were not studied, in depth.

It should be noted here that streams are salmon streams or they are not. (ie all efforts to establish salmon in the Hudson River have proven futile.) The water management of the Guadalupe River for the past 100 years has not been conducive to significant runs of salmon. Salmon instinctively come in on good water years and are flexible on return years by instinct. Routine minimal water regulation is neither natural or beneficial to their survival. However, in years of drought, the deep shaded pools of the lower Guadalupe River captured groundwater flow and stayed cool enough to provide the necessary refugia for resident species.

California Environmental Quality Act and the National Environmental Protection Act have strong guidelines to protect riverine systems and wetlands. A project is supposed to have the least damaging action plan and be the most practical alternative. Endangered species must be considered. Special considerations are given to ecologically valuable features such as riffles and pools. Significant degradation of a resource is to be avoided, and if not, then it must be shown that there is no less damaging way to accomplish a necessary project. All loss must be adequately mitigated for in kind and in like value.

The alternatives that have been implemented in Contract 1 and 2 in the Guadalupe River flood control project are the most damaging to the riverine ecosystem and are the most expensive. It is questionable as to whether they are even safe as a flood control design. In the most recent high water of January 2, 1997, the surge of flood flow to the western overflow area in the Coleman Loop did direct waters away from downtown San Jose but perhaps too close to the airport.

The environmentally preferred alternative of the bypass was initially intended to preserve the majority of one mile of the west bank intact. This would have preserved the best of the stretch where the chinook salmon redds were found by California Department of Fish and Game in 1986-7. It was high ground, some of it above the 100-year flood plain, refugia for the Southwestern Pond Turtle, and the Belted Kingfisher. The lush vegetation would have kept the river waters cool from worst heat of drought years. Pools and riffles would be preserved.

However this alternative was modified to a severely cut down bank that floodwaters overtopped easily and eroded all plantings and bank improvements. The amount of sediment that this has contributed to the river has never been evaluated. Unnecessary loss of mature remnant riparian cover to be retained continues as the root structure lacks the necessary protection. The old river alignment through the airport is encouraged to reestablish itself if flood waters follow the old gravels of the river bed.

The maintenance cost of this environmentally enhanced alternative continues to be excessive, and this is above and beyond the new \$144 million price tag. The excess purchase of land for this greatly widened bypass bowl was ostensibly for purposes of recreation, but the airport expansion appears to not favor public access in this entire area.

To summarize, it is my concern that the Rubicon has already been crossed. There is no way to compensate for the destabilization of the river that has occurred by unnecessary tree removal in the upper mile and in the lower mile of this flood control project. These are the two areas that in your 1976 scoping document were to remain natural with the necessary bypasses in place.

The middle mile which was to have been the focus for the most drastic channel modifications, appears to me to be all that is holding the river in place and with any capability of sustaining salmon habitat.

Therefore, I feel the scoping document of the viability of this project has been so seriously compromised that an entirely new assessment must be made. To continue with the design, in consideration of the cumulative effect and piecemealing of attendant Redevelopment Agency highway, bridge and river park projects in the COE project three mile area, is to assuredly wipe out salmon survival in the Guadalupe River and South San Francisco Bay.

A second opinion of the handling of flood control in the middle mile should be sought. It is the only remaining option. Los Gatos Creek might be used as the supplemental upstream spawning zone. Natural armoring of the mid-section of the project area with large boulders might retain the riparian cover to a degree that would keep thermal impact under lethal limits.

The reasons that I discount the extensive efforts that you and your consultants have gone to establish viable off-site mitigation for the salmon in the upper reaches of the Guadalupe River is that any and all guarantee for fish flows in that river system rests with the Santa Clara Valley Water District. The District directors have stated most clearly that they have no intention of providing any flows for fisheries. The project design that you were directed to assimilate with the City of San Jose's park called for a base flow of 10 cfs, (it was 20 cfs in the River Park EIR). This is the same environmental assessment that they have presumably reviewed and agreed to so their position is not entirely valid.

Guadalupe River Project, Draft Habitat Evaluation Procedure (cont.)

p. 3

In regards the stream/thermal model developed by Jones & Stokes Associates for the Guadalupe River system, I feel there is a problem in modeling any data on the rate of flow as it is entirely manipulated by the District.

District declarations in regards Guadalupe Creek gage readings; "flow entirely regulated from Guadalupe Dam", regarding Alamitos Creek readings "Alamitos Creek flow regulated by releases from Almaden Reservoir", and mid-Guadalupe River, "flow extensively regulated by reservoirs in headwaters (combined capacity 15,050 acre feet) Up to 50 cfs may be introduced into the Guadalupe River from the Coyote River".

Jones & Stokes made some adjustments to flows from 1983 to 1988 to factor in the contributions of IBM groundwater cleanup operations pumping to Canoas Creek. However in that period there was some permitting of construction firms to pump water from Canoas Creek for their construction needs, especially due to drought. So there is no way that any of this data can be fine tuned to be scientific stream system analysis.

The hypothetical low flow year analysis of 21 years of historic flow would be equally flawed for water years 1973-1993. I would like to submit some pre-District dam data for comparison. (Have been down with flu so request 2 weeks).

In this discussion it should also be referenced that the Santa Clara Valley Water District Board of Directors to date have expressed no willingness for any flow allocation for purposes of fisheries or wildlife. This would be especially true in any years of drought concern. Since mid-winter releases would be premature in assessing if the reservoirs would be full at the end of Spring, this water management criteria would almost be guaranteed to be permanent.

In recent years 2cfs was allowed to run over the percolation operations in Los Gatos Creek to supplement the Guadalupe River flow but even that now a Director said was unlikely to occur.

Incidental flows in the lower Guadalupe River will continue to be enhanced by the pumping from the underground garages of all the highrises that have been constructed on the banks of the Guadalupe. So the original prime redd locations in Contract 1 and 2 would be viable if they only had riparian cover. This is a far more reliable scenario than anything that can be hoped for up the main stem of the Guadalupe to Guadalupe Creek.

Therefore, my recommendation is that the western bank of the Guadalupe River be replaced in Contract 1 & 2 to its original height and configuration, with double the depth of the riparian corridor to insure stability.

As there will be at least a 25 year growth period before any worthwhile shade and habitat can be realized, there should be a moratorium placed on removal of any trees or undercover on the rest of the project area (ie all of Contract 3).

At the same time a second opinion should be sought to find some way to anchor the remnant middle section of the project between Coleman and Santa Clara, so that the river banks can withstand flood flows without further destabilization.

A last concern is the calibre of wetlands that will sustain wildlife in this three miles of urban riparian corridor. There are three components that are deemed essential in defining wetlands 1. water hydrology 2. vegetation and 3. soils. What I would like to know is what is the linear footage of valid wetlands that will be available for flora and fauna and fish? There is a legal consideration here as to the real boundary of areas that are regulated by the Corps and the Clean Water Act and areas that are not.

Also, it should be noted what the water quality of the Guadalupe River is at the prime pool and riffle and spawning locations. Guadalupe Creek and Alamitos Creek have problems with old mercury mine tailings and this needs analysis, both as to sediments and to the residual in fish flesh samplings.

Sincerely, Libby Lucas, 174 Yerba Santa Avenue, Los Altos, CA 94022

*Libby Lucas*

## Appendix M

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1 **L. Libby Lucas. October 27, 1997.**  
2

3 L-1. Hydrologic calculations in the Hydrologic Engineering Office Report for the Guadalupe River and  
4 Coyote Creek assumed that the reservoirs would be coincidentally nearly full at the time a flood  
5 would occur based on past reservoir operations. Water imports would not increase river flows  
6 during floods. Water is only added to the river for the purpose of percolation into ground water,  
7 so any additional water added to the river during a flood would be wasted.  
8

9 L-2. Additional upstream storage has been determined to not provide adequate protection and to not be  
10 economically or environmentally feasible. The SCVWD has determined that an off-stream storage  
11 site should have a capacity of at least 6,250 acre-feet. No sites remain with this capacity, even  
12 with excavation down to the water table. The options you suggest would not provide more than  
13 a fraction of the needed capacity. New or expanded reservoirs would not be strategically located  
14 hydrologically, would not be economically feasible, and would cause greater habitat losses  
15 including upstream riparian forest.  
16

17 L-3. This EIR/S is not intended to serve as a comprehensive watershed study. The primary ecological  
18 significance of the study area's habitats to other areas is via anadromous fish and migratory birds  
19 that spend part of their life cycle in the area. Unfortunately, upstream barriers, habitat impacts,  
20 and development have largely isolated the study area from upstream habitats except from the  
21 standpoint of birds. Due to the fragmented and narrow nature of the river corridor, it is not likely  
22 to serve as a major corridor for terrestrial wildlife. However, the habitat values here merit  
23 protection (or if necessary, mitigation) on their own merits. All the species mentioned in the  
24 comment are considered in the Biological Assessment (Appendix K).  
25

26 Regarding mitigation costs, the severe lack of available land for flood control means that avoidance  
27 of impacts requires construction of bypass channels, which in turn requires purchase of and  
28 removal of structures which is very expensive. Mitigation is also very expensive. The proposal  
29 is a compromise developed by the SCVWD to optimize tradeoffs between these two types of  
30 expenses. Minimization of impacts (the SCVWD's Minimize Vegetation Impacts alternative)  
31 would cost more than the proposed plan.  
32

33 Regarding Canoas Creek, the SCVWD will conduct a flood control study in the future. Land  
34 prices may make detention infeasible, however.  
35

36 Regarding sediment issues, a sediment study has already been completed by Philip Williams and  
37 Associates, Inc., and it was determined that net sediment deposition would not be a serious  
38 problem.  
39

40 L-4. Thermal modeling is planned to better quantify the impacts and the expected success of the  
41 mitigation plan.

## Appendix M

1 Libby Lucas, April 23, 1997

2  
3 This letter commented on the SCVWD draft EIR/S. The following text responds only to comments  
4 relevant to the Corps study. Comments on the SCVWD draft EIR/S will be addressed in their final  
5 EIR/S. The letter of January 17, 1997 comments on the downtown Guadalupe River project so  
6 is not addressed here.

7  
8 The proposed mitigation will not assure the survival of species such as the steelhead trout, chinook  
9 salmon, and coho salmon.

10  
11 Consultation with the National Marine Fisheries Service (NMFS) under Section 7 of the  
12 Endangered Species Act is required. The project will not be allowed to proceed if it would cause  
13 the loss of the local runs of steelhead trout. Coho salmon do not occur in this river. Mitigation for  
14 steelhead trout will also help the chinook salmon.

15  
16 Mitigation is proposed in upstream tributaries without biological support data.

17  
18 The intent of the mitigation plan is to mitigate as much as possible within the study area. The  
19 Habitat Evaluation Procedures (HEP) study shows that nearly all aquatic habitat impacts would be  
20 mitigated within the study area, and this study did not take into account all recent modifications  
21 of the proposed plan which further reduced impacts. Mitigation in upstream areas is a relatively  
22 minor supplement to mitigation within the feasibility study area.

23  
24 Proposed weirs and fencing limit the right of the public (under the California state constitution and  
25 legal code) to access and use the river.

26  
27 The proposed recreation trail, acquisition of project lands, and removal of barriers would provide  
28 greater recreation access to the river.

29  
30 The proposed maintenance road would remove vegetation and SRA cover. It would also contribute  
31 to erosion and sedimentation.

32  
33 The proposed maintenance road would be placed where there is room in the excavated channel.  
34 The size of the proposed channel is based upon the amount of water that would flow through the  
35 channel in a given flood. The channel would not be enlarged to accommodate the maintenance road.  
36 Therefore, the road would not have any habitat impact, as it would be essentially an overlay on  
37 areas that would be impacted anyway for construction of the channel. These impacts will be fully  
38 mitigated.

39  
40 The maintenance road would be surfaced with gravel, with a portion of its width paved for the  
41 recreation trail. Therefore, it would not be a sediment source.

42  
43 The loss of riparian cover and wetlands, and attendant thermal pollution do not improve biotic  
44 resources.

45  
46 In the long term, these impacts would be mitigated. In the short term, there would be some  
47 unavoidable negative habitat impacts.

## Appendix M

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1 If the river is functional it should be able to carry its own sediment load, and removal of sediment  
2 and vegetation should be minimal.

3  
4 Agreed. The proposed project is designed to accommodate the sediment transport needs of the  
5 river. Ongoing removal of vegetation growth will only be done to maintain the flood-carrying  
6 capacity of selected parts of the channel. This is necessary due to the constricted nature of the  
7 channel, which in turn results from severe space constraints caused by adjacent development.

8  
9 There is an inherent conflict between the dynamic behavior of a natural river and a city's need for  
10 a stable physical environment. Unfortunately, given the close proximity of urban development,  
11 allowing the river to behave in a fully natural manner would cause unacceptable damage to the  
12 adjacent development over the long term. For this reason, the proposed alternative would allow  
13 some natural processes to continue, but would also control other processes such as flooding,  
14 sedimentation, and bank erosion.

15  
16 Trees should be planted along Ross Creek to provide shade.

17  
18 The existing channel of Ross Creek is far too small to contain even moderate floods. The proposed  
19 alternative would widen this channel to provide sufficient capacity. Planting of trees in this  
20 widened channel would benefit the stream but would reduce its capacity to carry floods.  
21 Unfortunately, adjacent residential development precludes the creation of a wider riparian corridor  
22 that could provide both flood control and riparian forest habitat.

23  
24 Lining Ross Creek with articulated concrete matting will prevent groundwater recharge.

25  
26 The articulated concrete matting would only be placed on the slopes of the channel. The channel  
27 bottom would remain available for groundwater recharge.

28  
29 Herbicide spraying is damaging and unpopular with the public.

30  
31 All spraying will be done in accordance with regulations promulgated by the U.S. EPA and the  
32 San Francisco Regional Water Quality Control Board. Manual clearing of vegetation would be  
33 far more expensive.

personal

# LIFEWEB

7500 Tierra Sombra Ct.  
San Jose, CA 95120

Contact: Rick Bernardi  
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October 27, 1997

Mr. William DeJager  
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Environmental Planning Section  
333 Market Street, Seventh Floor  
San Francisco, CA 94105-2197

**Subject: Draft Feasibility Report and Environmental Impact Statement/Report, Upper -  
Guadalupe River Feasibility Study, August 1997**

Dear Mr. DeJager:

On behalf of Lifeweb, I have reviewed the *Draft Feasibility Report and Environmental Impact Statement/Report, Upper Guadalupe River Feasibility Study, August 1997* (DEIR/EIS) for the Upper Guadalupe River Flood Control Project (hereinafter referred to as "the project").

There are several areas which we feel the DEIR/EIS inadequately addresses. Since this is a draft document, circulated for public comment before revision into a Final EIR/EIS, Lifeweb wishes to submit the following questions and comments for your response and inclusion in the *Final Environmental Impact Report/Environmental Impact Statement* (FEIR/EIS); thank you for the opportunity to comment. For your ease in responding, I have organized my comments and questions by DEIR/EIS chapter headings; where I use the terms "you" and "your" I am referring to the U.S. Army Corps of Engineers.

**Page 17, 2.3 Fishery Resources:** Your contention that summer water temperatures are too high for steelhead trout is unsubstantiated. Where are your temperature studies? What data do you have on which you base such a statement? I have been involved in a long-term study of water temperatures of the Guadalupe River, and can attest from my field observations that water temperatures in the river vary according to the degree of riparian forest present. I have not yet observed temperatures which would be lethal for salmonids in areas where there is riparian forest

M-1

- M-1 | cover. Do you maintain that juvenile steelhead trout do not seek refuge in these shaded riparian areas from the higher summer water temperatures to which you refer? Or do you maintain that there are no areas along the river which provide suitable refuge for juvenile steelhead trout during periods of higher water temperatures? Do you have data to substantiate your position?
- M-2 | **Page 20, 2.3 Endangered and Threatened Species:** The EIR should be corrected to note that the steelhead trout is a federally listed threatened species. As a listed species, steelhead are subject to certain protections under federal law, particularly sections 7 and 9 of the Endangered Species Act. In addition, Table 6 lists a number of special-status species, including listed and candidate species, which have been observed or potentially occur within the subject area. What limitations and responsibilities are placed upon the U.S. Army Corps of Engineers, in regards to this project, under the Endangered Species Act? To what extent is the Corps obligated, under federal law, to either (A) design a project with no impacts to potentially occurring special-status species, or (B) determine conclusively which special-status species do occur, and which do not occur, within the subject area?
- M-3 | **Page 29, 3.1 Historical Flooding:** What was the average depth of the 1958 flood in downtown San Jose? What was the duration of that event? What was the average depth of the March 1982 flood, not including the undercrossing of the Southern Pacific railroad? What was the duration of that event? The Southern Pacific Railroad undercrossing is said to have been flooded to a depth of ten feet; what is the depth below ground level of that undercrossing? Would you expect that areas which are excavated below surrounding ground level would fill with water during periods of high precipitation, or during flood events? Do you maintain that the depth of water in areas excavated below ground level establishes a need for flood control measures? The photograph on page 30 is presented with no context. Was the flooding which is depicted at ground level, on a surface street? Or was it below ground level, at an undercrossing? Without appropriate context, it is impossible to determine anything about what the photo depicts. Please explain the scene depicted in the photo.
- M-4 | **Page 31, 3.1 Existing Floodplains:** Table 11 notes the varying capacities of the channel and bridges. This table seems to indicate that a major cause of reduced channel capacity is the design of certain bridges. Is this correct? If existing bridges reduce the channel capacity, and could be rebuilt to increase channel capacity, would that be an appropriate component of a flood control project?
- M-5 | You also note that during flood events floodwaters flow parallel to the river, inundating approximately 2310 acres, before reentering the river at the downstream end of the study area. According to the description you provide, the 100 year floodplain is confined to a relatively narrow band along the Guadalupe River. If this is correct, then one possible alternative to the construction of a project within the river channel would be to remove structures from the 100 year floodplain. However, this was not presented as one of your alternatives; why was this alternative excluded? In terms of cost, how does the removal of structures compare with (A) no project and (B) the preferred project (total cost, including maintenance for the life of the project)? Would the removal of structures from the floodplain be consistent with federal goals, policies, and regulations regarding flooding and floodplain development?

**Page 32; 3.2 Existing Flood Damages:** Table 12 presents the approximate damages expected during a flood event. However, no information is presented as to how those figures were calculated. Do they represent only actual damage to property? Do they include numbers for lost productivity? Please explain what the figures in table 12 represent.

M-6

We also note that no discussion is presented in the entire Introduction regarding the need for a project. True, mention is made of past flood damages, and expected future flood damages, but this in itself does not present an argument for any sort of flood protection, let alone for a specific project. In particular, there is no discussion of why this is a project which should be financed by tax dollars (we recognize that a public safety benefit is referred to on page 5.1). As you noted, the flood damages are confined to a relatively narrow band along the Guadalupe River. Persons who choose to locate their homes and businesses within this floodplain do so of their own free will, without coercion from the government. And yet, the taxpayers are being asked to finance a project to safeguard the properties of these persons from flood damages to which they have willingly exposed themselves. There is almost no discussion in this EIS of why the project should be built, and thus, the need for this project has not been established in this EIS.

M-7

Our understanding of economics leads us to conclude that there are two options in response to the problem of inundated floodplains: one option is to allow market forces to prevail, in which case people will either choose not to locate within a floodplain, or they will choose to locate within a floodplain only if (A) they can afford to bear the cost of floodproofing, or (B) they can afford to bear the cost of flood insurance and flood damages, or (C) the opportunity cost of locating within a floodplain is low (in which case, the person would perceive the probability of damages from flooding to be relatively low, and outweighed by the potential savings from locating on floodplain land, which, in free market conditions, would be less expensive than land outside of the floodplain). The second option is for the public to provide flood protection for those who choose to locate within a floodplain. This EIS implicitly assumes that the public should provide flood control protection, without offering so much as an explanation why.

M-8

Historically, government has mitigated free market inefficiencies by providing services to society whose benefits are social or collective, and which cannot be profitably provided by the free market. These public or social benefits include military, police, and fire protection, transportation infrastructure, public education, and parks; because they are collective benefits they are enjoyed by all members of society. Generally, government services have been provided to benefit society at large. In some cases, social benefits have been provided for smaller segments of society, such as dependent children of the poor, the elderly, and the infirm with the understanding that some members of society, through no fault of their own, need public assistance to survive. Examples of these programs include the recently dismantled AFDC, Social Security, and Medicare.

M-9

However, this project appears to benefit a small segment of society by subsidizing the cost of building and locating within a floodplain, and spreading that cost to all of society. At the public meeting of April 3, 1997, one homeowner argued that the project should proceed with all haste, so that he could stop paying for flood insurance. Please explain why the taxpayers should fund a flood control project to subsidize those who choose to build or locate their homes and

M-10

businesses within a floodplain, rather than allowing market forces to prevail.

- M-11** | **Page 34; 3.4 Recreation Opportunities:** Lifeweb supports in concept the construction of recreation trails; we are opposed to the haphazard construction of trails through biologically sensitive areas. The principles of trail construction through sensitive areas have been well established, and yet local government has ignored those principles when approving trail construction. As you note, this project proposes to include trails on maintenance access roads and mitigation benches, without discussing the impacts of those trails upon biologically sensitive habitat and dependent species. We note that in later sections the Corps states that trails will avoid sensitive areas. How does the Corps propose to avoid impacting sensitive habitat and species? What features of trail construction can be incorporated into this project to reduce trail impacts? How does the Corps propose to "enforce" proper trail design if the trail will be designed and built by the City of San Jose, which is notorious for placing trails in sensitive areas (e.g., at Confluence Point).
- M-12** | **Page 37; 4.3 Description of Preliminary Flood Protection Measures:** Is the alternative identified by the Santa Clara Valley Water District as the *Stream Restoration Alternative* consistent with one or more of the alternatives described in Table 13? Why does the Corps EIS use different terminology for project alternatives than the Santa Clara Valley Water District EIR? As you may appreciate, this can lead to some confusion when comparing EIS/EIR's. Please include a discussion of Army Corps alternatives which identifies them with their Water District analogue. It is also our understanding that the *Stream Restoration Alternative* was not included as one of the alternatives the Army Corps considered: is our understanding correct? If the *Stream Restoration Alternative* was not considered, please explain why.
- M-13** | Furthermore, in our comments on chapter 3.2 (above), we noted that, generally, government provides public benefits for the enjoyment of all members of society, while this project proposes to provide a benefit for the enjoyment of a few members of society, to be paid for by all taxpayers. We believe that the *Preferred Project* does not provide sufficient benefits to all members of society to justify its expense; the benefit provided is to a relatively small segment of society, and amounts to a public subsidy of the costs incurred by building or locating within a floodplain. However, we believe that the public benefits of the *Stream Restoration Alternative* (a flood control project which actually restores the riparian ecosystem) are of sufficient significance as to justify the expenditure of public funds on the project; all members of society benefit from the *Stream Restoration Alternative*. The benefit of a restored ecosystem transforms what was a subsidy into a true public benefit.
- M-14** | As you may now appreciate, we have serious concerns about your omission of the *Stream Restoration Alternative* from consideration. We urge you to include the *Stream Restoration Alternative* within the range of alternatives considered in the DEIR/EIS, and to direct substantial attention to discussion of this alternative.
- M-15** | **Page 64; 6.5 Changes to Local Planning Environment;** you note that the floodplain is essentially fully developed, and thus a project would not encourage large-scale development of a previously undeveloped floodplain. In light of this, of what significance is your *Floodplain Management* alternative listed in Table 13, and as described in chapter 8.2(s)?

You also state that reduction of the floodplain may encourage "proper redevelopment in sections of the eastern floodplain." What does this statement mean? What do you mean by "proper redevelopment?" Would the floodplain be redeveloped with the "no project" alternative? Does the project serve as an inducement for redevelopment of the floodplain? Would redevelopment occur without a flood control subsidy? Is this consistent with federal policies regarding floodplain development (is there a difference, in federal eyes, between floodplain development and floodplain redevelopment)? On page 4.13-4, you note that "tenants are paying significantly lower rents than those advertised in the San Jose area:" are those lower rents the result of market conditions, reflected in lower land values? Would a flood control project tend to raise property values in the floodplain? Will lower income families be forced to relocate due to changed market conditions associated with higher property values and subsequent redevelopment?

M-16

**Page 2-11; Channel Widening Plan:** You state on page 2-11 that "the SCVWD will construct the bypass channel plan"; how does the Army Corps know this? No EIR has been approved, and no vote has been taken to approve that alternative, since the EIR must first be approved. Does the Army Corps have information which indicates that the SCVWD has already selected an alternative? Have the Army Corps and the SCVWD reached an agreement regarding this project before the EIS/EIR has been completed? Please explain your statement.

M-17

**Page 3-3; 3.3 Clean Water Act of 1977:** The SCVWD has been served with notice of intent to sue for violations of the Clean Water Act in regard to the downtown flood control project. In light of this, it seems odd that there is no discussion in the EIS/EIR of Clean Water Act impacts, particularly concerning thermal pollution resulting from loss of riparian forest. We recognize that any project, including our preferred *Stream Restoration Alternative*, will result in at least a temporary vegetative loss. However, the EIS/EIR should address this issue, and compare the short-term and long-term impacts of the proposed alternatives. Please discuss Clean Water Act thermal impacts and mitigation related to the construction of this project.

M-18

**Page 4.4-18; Special-Status Animals:** The EIS/EIR provides no discussion of the Southwestern Pond turtle, which is listed in Table 6. In a report prepared for the Guadalupe-Coyote Resource Conservation District by Dr. Dan Holland, and distributed to various entities, including the Santa Clara Valley Water District, the Guadalupe River was identified as a potential habitat for these turtles. Specifically, Dr. Holland wrote that he did not observe any turtles during a visual inspection of the river, but that based on his experience, it was probable that turtles are present. Yet the EIS/EIR neither discusses the habitat requirements, impacts, or mitigation measures for this species. Please provide an analysis of this special status species, discussing the factors listed above, at appropriate locations in the EIS/EIR.

M-19

**Page 4.12-1; Public Safety:** We object to the characterization of streams as "attractive nuisances to children." While we agree that there is a hazard potential associated with streams, we note that many of life's daily activities (riding in an automobile, or riding a bicycle, for instance) provide similar, or even greater hazards. Rather than a "nuisance," we consider healthy streams to be an integral part of childhood discovery. As such, stream exploration should be promoted at appropriate locations. We further object to the mitigation measures for recreation which will prevent "unauthorized" access to the stream. Specifically, we feel that the river can support a low

M-20

M-20 | level of boating recreation (canoes, kayaks, and rafts, regulated, if necessary, to maintain a low volume of traffic) without significant impact to sensitive areas and species; yet, this recreational use is not discussed, and is actively mitigated against. Please provide a discussion of boating as a public safety issue, and as a recreation issue in section 4.5.

M-21 | **Page 6-12; Blocked Access to Optimum Fishery Habitat Upstream:** The removal of barriers is proposed as a mitigation for project impacts upon the fishery. The obstacles referred to are illegal under California law, and are the subject of a petition placed before the State by the Guadalupe-Coyote Resource Conservation District, asking that the SCVWD be ordered to comply with state law and provide fish passage at those barriers. In other words, we expect that those barriers will be removed, with or without a flood control project. Do you maintain that those barriers will remain without the construction of this project? We further note that the SCVWD has an existing legal obligation to remove barriers to fish migration, and thus, that existing legal obligation cannot be considered as mitigation for the impacts of a proposed project. Please discuss this proposed mitigation in relation to the existing legal obligations of the SCVWD.

### Conclusion

M-22 | We are concerned that the Army Corps and the SCVWD may have illegally reached an agreement to construct a project before an EIS/EIR has been approved. Although both NEPA and CEQA provide for the identification of a preferred alternative, they do not permit projects to be approved, either formally or by informal agreement, before the EIS/EIR has been approved. Yet your statement that the SCVWD will construct a specific project indicates that a preferred project has not only been identified, but has been informally approved, or agreed upon, by the SCVWD *before* the circulation of an EIR for public comment, and before approval of said EIR. This informal approval goes beyond the tentative selection which characterizes a preferred alternative, since a preferred alternative may be subject to revision, or even rejection, depending upon the information provided in the EIS/EIR. In contrast, the statement that a preferred alternative will be constructed indicates that a decision has already been reached. The decision to construct a specific project before an EIS/EIR has been approved violates both NEPA and CEQA, and any agreement between two agencies to informally approve a specific project constitutes criminal conspiracy to violate the law. Given the apparent willingness of the SCVWD to violate the law in other matters, your statement regarding an apparent decision on the part of the SCVWD leaves us with grave concerns about the integrity of the EIS/EIR process for this project.

M-23 | Further, Lifeweb has serious questions about the appropriateness of providing a public subsidy to mitigate floodplain conditions for those who choose to locate there. We believe that, in general, the risk and impacts of flooding on the Guadalupe River are overstated. Yes, flooding has occurred, but we do not believe that the flooding problem on the Guadalupe is as severe as in other areas of the country. We believe that a public subsidy can become a public benefit only when benefits to the general public are achieved. Elimination of flooding does not benefit all members of the public. Eliminating flooding and restoring the riparian ecosystem does benefit everyone. We are therefore extremely disappointed to discover that the Army Corps has not even considered an alternative analogous to the *Stream Restoration Alternative* identified by the

SCVWD. We feel that the EIS/EIR is woefully inadequate, given that the range of alternatives consisted of two channel-widening plans, and a bypass-channel plan. Even if the Army Corps prefers the bypass-channel plan, a discussion of the *Stream Restoration Alternative* would provide the opportunity for comparison between the Army Corps preferred alternative and the alternative which we feel provides the most benefits over the long term. This, after all, is the rationale behind NEPA and CEQA: to provide sufficient information to evaluate a project. We urge that the EIR/EIS be rewritten to include the *Stream Restoration Alternative*; we add that we would encourage the Army Corps to consider adopting this alternative as the Preferred Project.

Sincerely,



Rick Bernardi

## Appendix M

### M. Rick Bernardi, Lifeweb. October 27, 1997.

Note to the reader: Comments M-1 through M-15 refer to sections of the Corps' Draft Feasibility Report (COE 1998).

M-1. We agree that water temperatures vary in different microhabitats along the river. Section 4.2.2 of the EIR/S reflects this perspective.

M-2. Regarding the responsibilities of the Corps of Engineers under the Endangered Species Act, the Corps is required to: (1) Request a list of endangered, threatened, and proposed species (which will also include candidate species and species of concern), (2) Prepare a Biological Assessment regarding possible impacts of the proposed action on these species and submit this document to the U.S. Fish and Wildlife Service (USFWS) and the NMFS, and (3) initiate formal consultation with the appropriate agency if a listed species may be affected by the proposed action.

Formal consultation is not required if the reviewing agency agrees that a species is not likely to be affected by the proposed action. In that event, the Corps would not be affected by the Endangered Species Act in regard to that particular species and that particular project. If formal consultation is required, then the Corps is bound by the Biological Opinion issued by the USFWS or the NMFS.

Regarding the burden of proof for the presence of special-status species, the Corp's determination regarding the likely presence or absence of the species is subject to the review and concurrence of the USFWS or NMFS. If a project is determined to affect a listed species but would not jeopardize the continued existence of this species, then the USFWS or NMFS will include in its Biological Opinion an Incidental Take Statement with binding measures to mitigate impacts on this species. A project need not be designed to avoid all impacts on listed species, but mitigation for endangered species impacts is usually quite strict.

M-3. Information on the average depth and duration of the 1958 and 1982 floods is not kept by the SCVWD. According to the SCVWD (personal communication, Dennis Cheong, SCVWD), the critical criterion of flooding event severity is measured in damage repair dollars. Inundation area cover is the accepted means of estimated flooding extent.

The SPRR undercrossing at Willow Street/Alma Street is approximately 8 feet deep. Excavated areas usually have drains, and often pumps, to prevent flooding during rainy periods. These measures sometimes are overwhelmed during heavy rainstorms, and can not effectively respond to floods. Excavated areas are a very small part of the overall floodplain and their flooding alone, while disruptive to transportation, would not justify this project. Nearly all of the floodplain is essentially at grade level. The photograph on page 30 shows a flooded underpass.

M-4. Some bridges do constrict the flow of the river. Removing these constrictions is part of both alternatives that were considered in detail. However, while this action by itself would reduce the flood danger in some locations, due to channel size limitations there would still be serious flood dangers.

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1 M-5. The "relatively narrow" floodplain you cited contains about 7,500 homes and businesses. Removal  
2 of these properties would be prohibitively expensive, probably costing in excess of \$1 billion for  
3 real estate acquisition alone. The environmental consequences (from natural resource  
4 consumption) resulting from demolishing and rebuilding so many structures (or constructing new  
5 urban infrastructure at a different location and moving the structures there), would be considerable.  
6 In addition, the Silicon Valley area has been producing far more jobs than housing in recent years,  
7 causing export of urban sprawl to other areas. Wholesale removal of housing in this area would  
8 exacerbate this process and the attendant environmental problems caused by urban sprawl and  
9 long-distance commuting.

10  
11 Removal of structures from the floodplain is not a federal mandate. In cases where such removal  
12 is clearly not economically feasible, such an alternative would be contrary to Congressional  
13 direction to the Corps to select an economically feasible plan.

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15 M-6. Table 12 of the Corps' Draft Feasibility Report (COE 1998) presents the damages that would be  
16 expected to occur within the flood plain during various storm events. These damages reflect  
17 property damage to buildings, building contents, and automobiles. They are calculated based on  
18 the elevation of the first floor of each building and property values. The figures in Table 12 do  
19 not account for lost productivity. These figures are converted to annualized sums before being  
20 included in the total average annual benefits attributed to any proposed project. Total annual  
21 average benefits are shown in Table 19 of the Draft Feasibility Report. Note that the figures in  
22 Table 12 appear as annualized sums under the category of "Flood Damage Reduction" in Table  
23 19.

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25 M-7. Regarding the need for the project, Congress has indicated that flood protection should be provided  
26 to existing developments when it is economically feasible to do so, regardless of to whom the  
27 economic benefits accrue.

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29 M-8. It appears from public comments that some residents of the floodplain are not aware of any flood  
30 danger or do not believe that it is serious. It is not clear whether the long-term consequences of  
31 the decisions to place developments in the floodplain have been widely understood by the general  
32 public, or that floodplain location has affected property values.

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34 M-9. The federal government's role in providing flood protection is well-established, and is reinforced  
35 by Executive Order 11988, Floodplain Management. This directive is summarized in section 3.3,  
36 Compliance with Environmental Requirements, and states that each federal agency shall provide  
37 leadership and take action to reduce the risk of flood loss, and to minimize the impact of floods  
38 on human safety, health, and welfare. Historical flooding within the feasibility study area has  
39 clearly resulted in flood losses, and impacts on human safety, health, and welfare. Therefore, the  
40 proposed action is consistent with federal practice.

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42 M-10. Now that the decision has been made to locate structures and urban infrastructure in these areas,  
43 failing to provide flood protection has ramifications that extend far beyond the financial well-being  
44 of the individuals who live in the floodplain. Allowing these property improvements to be  
45 damaged by floods creates numerous costs to society as a whole: emergency assistance, disaster  
46 relief, transportation disruptions, and economic inefficiencies created by damage to property  
47 improvements and infrastructure. The urbanized floodplain is not separate from the rest of the

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1 city, but is linked by relationships (economic, financial, and otherwise) to other areas. A flood-  
2 control project here would particularly benefit floodplain residents, but would also provide  
3 substantial economic benefits to society as a whole.  
4

5 M-11. The proposed Recreation Plan proposes to achieve a balance between recreational needs and  
6 wildlife protection, consistent with the City Land Use Element of the Comprehensive Plan. As  
7 discussed in section 3.3, whenever trail placement could adversely affect the riparian corridor  
8 habitat value, the trail would avoid those portions sensitive to human intrusion. Features such as  
9 additional fencing, signage, and ground cover that would physically discourage human  
10 encroachment (such as thorny blackberry) would be used. The Corps would be responsible for  
11 constructing the trail, and maintenance would be the responsibility of the SCVWD. Trail  
12 maintenance would be in accordance with federal criteria to ensure receipt of federal funding.  
13

14 M-12. The Stream Restoration Alternative is a form of channel widening, using a geomorphic approach.  
15 Different terminology was used in these two EIR/Ss in order to best describe and contrast the  
16 alternatives within a given document. The only overlap between alternatives considered in detail  
17 in the two documents is with the SCVWD's *Preferred Project* and the Corp's *Bypass Channel*  
18 *Plan*. The SCVWD's *Stream Restoration Alternative* was not included in the Corp's EIR/S  
19 because it is not acceptable to the local sponsor for reasons explained in their EIR/S (expense,  
20 greater habitat impacts, and regulatory uncertainty). However, due to the interest expressed in this  
21 alternative, a discussion regarding this alternative is provided in the Final EIR/S (see section 2.2,  
22 Formulation of Conceptual Alternative Plans).  
23

24 M-13. The Stream Restoration Alternative discussed in the SCVWD's EIR/S is a combined stream  
25 restoration/flood control project. In order to achieve both objectives, expenditures and impacts  
26 would be far greater than in the case of a stream restoration project that does not provide flood  
27 control. This substantial increment of cost would still qualify as a subsidy under the commentor's  
28 criteria. On the other hand, if a stream restoration project did not provide flood control, it would  
29 not meet study objectives even though it could be environmentally beneficial in the long term.  
30

31 M-14. Discussion of a Stream Restoration Alternative has been expanded in section 2.2, Formulation of  
32 Conceptual Alternative Plans. The Corps has considered a Stream Restoration Alternative with  
33 required flood control and determined that it would require widening the floodplain by as much  
34 as a few hundred feet to make it capable of carrying high channel flows. It would result in major  
35 impacts to existing native riparian vegetation, fisheries, and adjacent homes, where present. See  
36 response to comment J-1. Since other alternatives would be less environmentally damaging, a  
37 permit cannot be issued for this alternative under the Clean Water Act section 404(b). This  
38 approach however, has been incorporated into both plans in Reach 10B, where impacts would not  
39 be significant. See responses to comments J-1, J-24, and J-30.  
40

41 M-15. Floodplain management would only prevent or reduce the worsening of flood dangers, but would  
42 not solve the existing problem.  
43

44 M-16. The redevelopment cited is the proposed transit village around the Tamien light-rail station. The  
45 intent of this land-use plan change is the encouragement of high-density housing in the vicinity of  
46 this light-rail station. This sort of development pattern would result in definite environmental

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1 benefits and is often advocated by environmentalists. This redevelopment could occur in the  
2 absence of a flood-control project, but would be more difficult and more expensive.  
3

4 In respect to average rents in the area, no conclusive statement can be made regarding the reasons  
5 why tenants presently pay lower than average rents in the area cited. This situation could be due  
6 to the relatively high number of long-term tenants; some landlords do not raise rents to full market  
7 value when they have a good tenant. There is no indication that land or home prices in the  
8 Mackey/Malone/Almaden Road area are depressed, and much of this area is not in the floodplain.  
9

10 M-17. It is not known at this time precisely what action (if any) the SCVWD will actually choose to  
11 implement, or be able to implement. The Corps has proceeded based upon what has appeared to  
12 be the most likely course of action by the local sponsor; this approach does not constitute Corps  
13 approval of the SCVWD proposal, nor is it an agreement to construct a project. The San  
14 Francisco District of the Corps has proposed federal cost-sharing of the portion of this proposal  
15 within the boundary of the Corps feasibility study area. This proposal is under review by Corps  
16 headquarters and is subject to revision or reversal by that office or higher authorities.  
17

18 The SCVWD has a general policy of providing flood protection for 100-year floods to areas within  
19 its jurisdiction. Construction of a project providing 100-year protection to Reach 6 is essential to  
20 the success of the Corps project, but the type of channel modification provided in this reach is not  
21 so important. Both alternatives considered in detail in the SCVWD draft EIR/S would construct  
22 a gabion bypass on the east bank in Reach 6, so the Corps proposal is not dependent upon which  
23 of these alternatives is selected.  
24

25 Over the course of the Corps feasibility study, no outcome has been certain. During this period,  
26 the SCVWD proposal has evolved in response to feedback from regulatory agencies. The  
27 tentative determination of the Corps NED plan has been uncertain until very recently, and it has  
28 not been certain and is still not certain that federal funding would even be provided. For these  
29 reasons, the SCVWD has been proceeding with its own parallel study. The Corps can decide to  
30 not fund or not construct its proposal without breaking any formal or informal commitment. In  
31 this event, the SCVWD would be free to construct any project that can achieve the required  
32 regulatory approvals, political support, and local funding.  
33

34 To summarize, with respect to the SCVWD, implementation of the Corps proposal for cost-  
35 sharing is only dependent on: (1) construction by the SCVWD of a 100-year project of some sort  
36 in Reach 6 in accordance with their agency policy, and (2) the willingness of the SCVWD to  
37 provide cost-sharing and other support that is normally provided in a cost-shared Corps project.  
38

39 The EIR/S has been revised to eliminate this ambiguity.  
40

41 M-18. Thermal impacts are considered in the EIR/S. Please note that the Clean Water Act does not  
42 protect shade trees as such, but applies to more direct influences on the aquatic ecosystem, e.g.,  
43 discharges.  
44

45 M-19. The Final EIR/S (see Biological Assessment) recognizes the possible occurrence of turtles, but the  
46 potential impact is not significant.  
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1 M-20. The term "attractive nuisance" is a legal term which refers to a feature which may attract children  
2 or adults but which also contains hazards which may generate liability. Desirable features such  
3 as a swimming pool, a scenic overlook, or a river channel can qualify as attractive nuisances  
4 despite their desirability to society. The characterization of this river as an "attractive nuisance"  
5 refers to issues of potential legal liability rather than general social or environmental desirability.  
6 As the taxpayers are ultimately liable for claims against government agencies, this is an important  
7 issue.

8  
9 The Corps has received other comments criticizing the amount of public access proposed as being  
10 excessive and deleterious to wildlife. The Corps proposal for recreation access is designed to  
11 provide access to areas having minimal habitat value. Additional access beyond that proposed year  
12 could be socially desirable (as the commentor states) but could also entail additional impacts on  
13 wildlife. Local agencies could provide additional public access at 100% local cost, to the extent  
14 allowed by the law and regulatory agencies. However, if such access would impact the mitigation  
15 obligations of the SCVWD and/or the Corps, permission would be denied or the local agency  
16 would be required to mitigate any impacts.

17  
18 Regarding boating use, the EIR/s has been revised to state that proposed rock weirs in Reach 8 that  
19 would enhance migrating fish passage could significantly affect small water craft passage during  
20 moderate and high flows (see revised section 4.5.3, Aesthetics and Recreation). A mitigation  
21 measure has been added to the EIR/S to require signs along the trail identifying these water hazards  
22 during high water flows, and directing recreationists to avoid use of the river during these  
23 conditions (see section 4.5.4, Bypass Channel Plan).

24  
25 M-21. The Final EIR/S distinguishes between existing legal requirements and discretionary actions  
26 regarding barrier removal.

27  
28 M-22. See response to comment M-17.

29  
30 M-23. Regarding the statement that the flood danger has been overstated, no evidence or documentation  
31 has been provided to support this statement. Any specific criticism of the methodology or  
32 computations used in the feasibility study and the EIR/S to derive the river hydrology, floodplains,  
33 or expected frequency of flooding should be provided for consideration. It should be noted that  
34 the extent, frequency, and severity of flooding in the study area over the past 30 or 40 years do  
35 not provide an adequate sample of what can be expected over a longer period of time. See  
36 response to comments M-12 and M-14.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

NOV 3 1997

William DeJager  
Environmental Planning Section  
U.S. Army Corps of Engineers  
333 Market Street, 7th floor  
San Francisco, California 94105

|  |                                |                 |
|--|--------------------------------|-----------------|
| Post-It™ brand fax transmittal memo 7671 |                                | # of pages > 12 |
| To<br><i>Lynne Galal</i>                 | From<br><i>DAVID TOMSON</i>    |                 |
| Co.<br><i>ARMY CORPS</i>                 | Co.<br><i>EPA</i>              |                 |
| Dept.                                    | Phone #<br><i>415-744-1575</i> |                 |
| Fax #<br><i>415-977-8695</i>             | Fax #<br><i>415-744-1598</i>   |                 |

Dear Mr. DeJager:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement/Report (DEIS/R) for the **UPPER GUADALUPE RIVER FEASIBILITY STUDY, Santa Clara County, California**. We appreciate the individual extension granted to us by Ms. Lynne Galal of your office allowing EPA to provide comments by November 3 (from October 27). Our comments on the DEIS/R are provided pursuant to the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, and the Council on Environmental Quality's NEPA Implementing Regulations. In addition, our comments on Clean Water Act (CWA) Section 404 issues are advisory since the proposed project needs to be consistent with the requirements of CWA Section 404 and the 404(b)(1) Guidelines.

The DEIS/R was prepared to determine whether the United States should fund part of the cost of a flood control project on the upper portion of the Guadalupe River in Santa Clara County, California. The local project sponsor (Santa Clara Valley Water District, SCVWD) has conducted other studies on the upper Guadalupe River system as well, including a February 1997 Corps' Draft EIS/R for a proposed SCVWD project in the area (the February 1997 EIS was associated with a Section 404 regulatory permit action rather than Federal funding). The Corps' study assumes that the SCVWD will construct those portions of its preferred alternative which lie outside of the Corps study area.

This Draft EIS/R assesses in detail two action alternatives, a Channel Widening Plan and a Bypass Channel Plan, as well as the No Action Alternative required under NEPA. According to the DEIS/R Summary, these two action alternatives provide the greatest net economic benefit in terms of providing flood protection on the Upper Guadalupe. The Channel Widening Plan would provide protection for all floods to approximately the 50-year flood event, while the Bypass Channel Plan would provide protection from all floods to approximately the 100-year flood. The Corps has determined that the Channel Widening Plan is the National Economic Development (NED) Plan. In terms of biological resource impacts, construction of the Channel Widening Plan would remove 6.5 acres of riparian forest while the Bypass Channel would remove 9 acres of riparian forest; the Channel Widening

Plan would excavate or fill 0.28 acre of wetlands and 2.64 acres of Section 404 jurisdictional waters, while the Bypass Channel Plan would remove 0.88 acre of wetlands and 9.93 acres of Section 404 jurisdictional waters. According to Table S-1, the Channel Widening Plan would have "potential" adverse effects on fisheries due to the removal and loss of shaded riverine aquatic (SRA) habitat, while the loss of SRA cover under the Bypass Plan would adversely affect fishes.

We have rated the DEIS/R as Category EC-2, Environmental Concerns - Insufficient Information. Please refer to the "Summary of Rating Definitions and Follow-Up Action" (attached) for a more detailed explanation of EPA's rating system for Draft EISs. We have environmental concerns with the proposed project and its impact documentation for the following reasons:

- N-1 | 1) there is no specific discussion about which of the two action alternatives is the least environmentally damaging practicable alternative, in terms of direct, indirect and cumulative impacts to the aquatic environment. We recommend that the Final EIS/R (FEIS/R) provide a brief discussion about which of the two action alternatives is less environmentally damaging to the aquatic environment. On a related matter, we ask that the FEIS/R discuss whether a combination of structural and non-structural alternatives may be both reasonable (under NEPA) and practicable (under CWA Section 404), which may avoid and reduce adverse impacts to Section-404 protected resources.
- N-2 | 2) we are concerned that the Corps issued two DEISs for what is essentially one project, flood control on the Upper Guadalupe River. As noted, the February 1997 DEIS was issued in regard to a Section 404 regulatory permit action, while this DEIS/R is a decision-making tool in terms of Federal funding for the same project. In order to reduce confusion among agencies and the public, and for purposes of establishing a clear historic record, we recommend that both EISs be consolidated into one FEIS that would address both Federal actions being evaluated by the Corps (i.e., Section 404 permit and possible Federal funding). Should the Corps decide to combine both EISs into one FEIS, the Notice of Availability printed by EPA Headquarters in the Federal Register could notice that fact.
- N-3 | 3) there is no specific discussion about whether the project would comply with State-adopted, EPA-approved Water Quality Standards and protect beneficial uses for the Guadalupe River and its tributary or downstream waters. The FEIS/R should address whether the project is consistent with Water Quality Standards for surface waters in the project area.
- N-4 | 4) there is no discussion on environmental impacts and mitigation measures associated with the use of herbicides to control vegetation under the Channel Bypass Plan. In keeping with comments we made on April 18, 1997 in connection with the DEIS for the Upper Guadalupe River Flood Control Project, we believe

that the FEIS/R should discuss impacts associated with the use of herbicides and identify appropriate mitigation measures. We believe that a discussion of herbicide-related issues is a matter of NEPA public disclosure should the final preferred alternative provide for herbicides use. N-4

5) we are concerned that the DEIS/R did not address pollution prevention mechanisms to the extent recommended in guidance to Federal agencies by the Council on Environmental Quality. This should be done in the FEIS/R. N-5

We appreciate the opportunity to comment on the DEIS/R. Please send one copy of the FEIS/R to me at the letterhead address (code: CMD-2) when the document is filed with EPA's Washington, D.C. office. If you have any questions, please call me or my staff reviewer for this document, David Tomsovic, at 415-744-1575.

Sincerely,



David Farrel, Chief  
Federal Activities Office

Attachments: 3

- (a) Summary of Rating Definitions and Follow-Up Action
- (b) EPA comments on DEIS/R
- (c) Pollution prevention checklist

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO-Lack of Objections

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

EC-Environmental Concerns

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

EO-Environmental Objections

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

EU-Environmentally Unsatisfactory

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

Adequacy of the Impact Statement

Category 1-Adequate

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

Category 2-Insufficient Information

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

Category 3-Inadequate

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

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

EPA Comments on Upper Guadalupe River DEIS/RCLEAN WATER ACT (CWA)

NOV 3 1997

Section 404

We commend the Corps for its discussion of CWA Section 404 regulatory requirements in the DEIS/R (particularly Appendix C) and the discussion on the 404-related impacts of the two action alternatives. In keeping with the 404(b)(1) Guidelines, we believe that the Final EIS/R (FEIS/R) should identify which of the action alternatives assessed in detail (Channel Widening Plan, Bypass Channel Plan) is the least environmentally damaging practicable alternative in terms of impacts to the aquatic environment. Based upon the documentation presented in the DEIS/R, it appears that the Bypass Channel Plan has more adverse impacts to aquatic resources than the Channel Widening Plan, for example:

N-6

*Channel Widening Plan:* construction removal of 6.5 acres of riparian forest; loss of 1,700 trees; excavation or filling 0.28 acre of wetlands and 2.64 acres of Section 404 waters of the U.S.

*Bypass Channel Plan:* construction removal of 9 acres of riparian forest; loss of 3,100 trees; removal of 0.88 acre of wetlands and 9.93 acres of Section 404 waters of the U.S.

Combination of Structural & Non-Structural Alternatives

Neither the Draft Feasibility Report (e.g., Table 13) nor the DEIS/R indicates whether a combination of structural and non-structural alternatives may be a viable project alternative, either for purposes of NEPA analysis or in terms of the CWA Section 404 alternatives analysis. There is no indication, whether a combination of structural and non-structural alternatives, if determined to be reasonable under NEPA and practicable under CWA Section 404, may avoid and reduce adverse project-related impacts to wetlands, waters of the United States and related aquatic resources. The FEIS/R should briefly discuss whether such a combination may be reasonable and practicable. If so, we encourage the Corps and the SCVWD to integrate such considerations in their decision-making for Upper Guadalupe flood control. This would be in keeping with language in "Sharing the Challenge: Floodplain Management into the 21st Century" (Report of the Interagency Floodplain Management Review Committee, June 1994), e.g., the discussion on p. 118 of the 1994 report on expanding nonstructural measures. The 1994 report defines "nonstructural measures" quite broadly, including methods such as watershed management, land use planning, floodplain acquisition,

N-7

N-7 | flood-proofing techniques and other construction practices, and flood warning, contrasting non-structural measures from "more traditional structural methods" such as dams, levees and channels.

Detention/Water Storage Basins

N-8 | We recently reviewed a DEIS from the Corps Los Angeles District on Tucson Drainage Area, Arizona (April 1997) which proposes several detention basins within the Tucson Arroyo/Arroyo Chico basin study area. In addition to acting as flood water detention facilities, the basins would serve other purposes, including habitat restoration and recreational uses (Tucson DEIS, p. 2-5). The Tucson DEIS (p. S-8) indicated that the design of the detention alternatives was developed to minimize the amount of natural vegetation removal in response to community concerns about protecting natural communities.

N-9 | The Upper Guadalupe DEIS (p. 2-6) indicates that an "offstream storage facility [to] receive diverted river water during peak flow events" was dropped from detailed consideration due to high costs and associated environmental impacts. However, there is no discussion about whether storage/detention basins may lessen adverse impacts to Section 404-protected resources, for example, by minimizing the amount of channelization and placement of structures in the Guadalupe River. We note that the Upper Guadalupe Draft Feasibility Report (Table 13 - Summary of Flood Damage Prevention Measures Considered) does not include offstream storage/detention basins as a flood control measure that was initially considered. We recommend that the FEIS/R briefly discuss the feasibility of offstream storage/detention basins, particularly in areas where such basins may help to reduce adverse impacts to vegetative communities proposed for excavation or filling under the current proposal.

Water Quality Standards

N-10 | The DEIS/R identifies several impacts to water quality projected to occur with project implementation: increased erosion and sedimentation during construction; remobilization of contaminants in soil during construction; and use of herbicides to control vegetation under the Bypass Channel Plan. The DEIS/R indicates that the Stormwater Pollution Prevention Plan would ensure that adverse water quality impacts are reduced to less than significant levels. The DEIS/R also indicates that herbicide-related water quality impacts are "insignificant" (p. 4.3-14), but no documentation is provided to support this conclusion.

N-11 | We believe that the FEIS/R should clearly indicate whether the construction and operation of the proposed project would comply with State-adopted, EPA-approved Water Quality Standards as contained in the Basin Plan. The Basin Plan contains specific parameters and criteria for a variety of water pollutants, including turbidity (waters shall be free of changes in turbidity

that cause nuisance or adversely affect beneficial uses); temperature (changes in temperature shall not adversely affect beneficial uses such as fisheries); and toxicity (waters shall be maintained free of toxic substances in concentrations lethal to or that produce detrimental responses in aquatic organisms). Appropriate commitments to protect water quality and beneficial uses should also be contained in the Record of Decision.

N-11

## HERBICIDE USE

### Potential Impacts & Mitigation

The DEIS/R contains a brief reference to the use of herbicides in connection with the Bypass Channel Plan. Specifically, page 4.3-14 states that the Bypass Channel Plan "would include using appropriate herbicides to control vegetation growth in some areas, such as along the maintenance road. This would not significantly alter water quality..." We are concerned that this brief reference to herbicides use provides little substantive information to the public in terms of NEPA public disclosure regarding the nature of the herbicides proposed for use, possible non-herbicide alternatives and the environmental consequences associated with using herbicides. For example, the DEIS/R does not disclose what herbicides(s) may be used; how frequently they would be used; potential impacts associated with their use such as uptake by plants, fish and aquatic species; mitigation measures to be adopted by the SCVWD to avoid adverse impacts to water quality, nontarget species, wildlife, fisheries and public health; and whether the Corps and the SCVWD evaluated non-herbicide alternatives that may be reasonable for purposes of NEPA analysis. Such information should be contained in the FEIS/R, in accord with NEPA's public disclosure requirements.

N-12

The DEIS/R did not indicate if the SCVWD would notify the potentially-affected public before using herbicides. We encourage the SCVWD to consider public notification such as posting areas where herbicide use would occur to inform the public of potential risks due to exposure. We recommend that herbicide use postings be in the language(s) common to area residents. Commitments regarding the use of herbicides, including public notice provisions, should be in the FEIS/R and Record of Decision.

### Herbicides, Water Quality & CWA Requirements

The Water Quality Control Plan (Plan) provides that "All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms..." The Plan provides that there shall be no chronic toxicity in ambient waters. The DEIS/R contains no reference about whether the use of herbicides would be consistent

N-13

- N-13 | with the requirements in the Plan except that herbicide use "would not significantly alter water quality conditions in the river and is an insignificant impact." (p. 4.3-14). The FEIS/R should discuss whether herbicides use would be in accord with the Plan and whether herbicides would adversely affect existing or potential uses such as fish spawning and migration, protection of rare species, etc. We recommend that the Corps and the SCVWD contact the Regional Water Quality Control Board to ensure the projects consistency with the Plans requirements on toxicity and herbicides. Measures to protect water quality and beneficial uses should be in the FEIS/R and Record of Decision.

#### TOXIC AND HAZARDOUS MATERIALS

- N-14 | The DEIS/R (p. S-11) states that the Channel Widening Plan would remove four businesses, while the Bypass Channel Plan would remove 63 single-family residences and 20 businesses. There is no indication about whether any of the structures may contain lead-based paint, leaded water pipes, asbestos-containing materials or, in the case of the businesses, polychlorinated biphenyls (PCBs). We recommend that the FEIS/R discuss hazardous and toxic waste issues associated with the removal of the structures, including mitigation measures to protect worker health and safety during future demolition work, measures to prevent/minimize public exposure during demolition, and disposal of the materials at authorized waste disposal facilities.

#### POLLUTION PREVENTION OPPORTUNITIES

- N-15 | The DEIS/R did not address pollution prevention features in the proposed project to the extent recommended by the Council on Environmental Quality (CEQ) in the January 29, 1993 Federal Register. We believe that the proposed project could be strengthened by specifically designing and constructing it with pollution prevention features as an integral element. Weve enclosed a pollution prevention checklist for your use in developing the final project documentation and Record of Decision. Although several items on the checklist have been included in the DEIS/R or may prove inapplicable, other measures may be feasible as the project proceeds. We suggest that appropriate pollution prevention commitments be included in the FEIS/R and Record of Decision.

#### AIR QUALITY - GENERAL CONFORMITY

- N-16 | The DEIS/R (p. 4.1-5) indicates that because the San Francisco Bay Area is a maintenance area for ozone, a project alternative would trigger a general conformity analysis under Clean Air Act Section 176(c)(c) if the emissions exceeded 50 tons per year of volatile organic compounds (VOCs). The FEIS/R should recognize that any conformity analysis, including the applicability determination, would also need to address oxides of nitrogen (NOx), which is also an ozone precursor. Please refer to the November 30, 1993 Federal Register (p. 63249) which provides for

a de minimum level of 100 tons per year of NOx in ozone maintenance areas such as the San Francisco Bay Area. The applicability analysis found in the "Air Quality Conformity Determination" (Appendix C) should be amended to reflect NOx emissions from the project in addition to the projects VOC and carbon monoxide emissions.

N-16

## POLLUTION PREVENTION/ENVIRONMENTAL IMPACT REDUCTION CHECKLIST FOR FLOOD CONTROL PROJECTS

### How Can Flood Control Projects Affect the Environment?

Flood control projects can include channelization and channel modification activities and levee construction. Such activities can change the ability of natural systems to filter pollutants from surface waters; alter the rates and paths of sediment erosion, transport, and deposition; increase the movement of pollutants from the upper reaches of watersheds into coastal waters; lower dissolved oxygen levels; increase salinity in marshes; reduce freshwater availability; and accelerate the delivery rate of pollutants to downstream sites. Pollution prevention techniques can reduce or eliminate some environmental effects.

Also see checklists on Ecosystem Preservation and Protection, Siting, Building/Housing Construction, Dredging Projects, Dams, Hydropower, and Water Supply Reservoirs.

### What Questions Should Be Asked To Ensure That These Effects Are Minimized or Eliminated?

#### Ecosystem Concerns

- Has the use of alternatives involving levee setbacks or the use of floodways been considered?
- Will the flood control project lead to land use changes in the watershed, particularly those changes that result in increased surface water runoff and nonpoint source pollution?
- Have modifications to existing flood control structures been evaluated to determine if they can eliminate the need for the new channelization or channel modification project?
- Have all environmentally sensitive areas been characterized? Have attempts been made to avoid construction in environmentally sensitive areas?
- Does the project minimize construction parallel to rivers or streams to reduce the potential for direct runoff discharge from the roadway?
- Does the project make use of existing roadway alignments (if possible) to reduce the amount of waste generated as a result of clearing and construction activities?
- Has the project incorporated mitigation measures to reduce the impact of pollution runoff from the roadway? These measures may include stabilizing cut and fill slopes, shoulders, and medians with perennial vegetation and non-erosive materials, such as rip-rap or geotextiles, or establishing permanently controlled discharge points for storm water.
- Does the plan include native plant revegetation of areas disturbed by construction to minimize erosion and sedimentation?
- Have safe wildlife crossing structures and appropriate fencing been incorporated into the project to accommodate the movements and needs of resident wildlife and mitigate habitat fragmentation?

\* Indicates an environmental impact reduction opportunity.

Project Design and Planning. Flood control projects can affect the physical characteristics of surface waters and modify in-stream and riparian habitat.

- Have alternatives, such as upstream watershed management and floodplain widening, been considered? \*
- Are land use and agricultural practices, as well as their potential for contributing pollutants to surface waters, considered in channel design? \*
- Will building be prohibited within a defined distance from the streambed to protect the streambank?
- Are streambank protection measures, such as stone riprap, vegetation, erosion control fabrics, cellular concrete blocks, and gabions, included in the design?
- Will levees and flood walls be sited outside riparian areas and wetlands?
- Are channel slopes graded so that animals can crawl or climb out? \*

Construction. Construction activities for channel modification include vegetation clearing, soil and rock excavation and placement, equipment operations, and energy, water, and hazardous materials use, all of which can cause pollution. Effects on river and coastal area ecology from increased sediment loads and the release of hazardous constituents can occur during construction. Pollution prevention techniques can reduce or eliminate some pollutants.

- Will measures be taken to prevent surface water from entering construction areas?
- Will construction take place during dry seasons?
- Will site access routes and equipment storage areas be planned and located to minimize erosion potential? Will existing roadways be used to gain site access?
- Will construction workers be required to limit activities to designated, controlled areas to prevent vegetation destruction and soil disturbance? \*
- Will secondary containment be provided in equipment fueling areas to control fuel spills? Is a spill control plan specified?
- Will access to materials and equipment storage areas be controlled and limited? Will material storage areas be covered? Will materials be ordered only when necessary to prevent inventory from expiring?
- Will the cleaning of construction equipment be conducted in a controlled area away from surface water? Will the washwater be prevented from entering the stream?

---

\* Indicates an environmental impact reduction opportunity.

- Will reclaimed and/or recycled construction materials be used, including aggregate, rebar, lumber, and asphalt? \*
- Are alternative materials available to reduce hazardous and toxic materials use during construction?
- Will construction and storage areas be sited away from critical habitats? \*
- Will biotechnical methods, such as vegetated gabions, be used to stabilize levee and channel banks?

Maintenance. Pollution prevention can reduce or eliminate the environmental effects of flood control project maintenance. Maintenance generally consists of vegetation management, burrowing animal control, upkeep of recreational areas, and levee repairs. In-stream and riparian habitats, which provide soil erosion protection, and pollutant filtering can be affected by maintenance activities.

- Will vegetation removal methods that use chemicals, grazing, or burning be prohibited? Chemical herbicide residuals and animal wastes can be washed into waterways during rainy periods. Burning can negatively affect air quality.
- Will burrowing animals be controlled by non-chemical means? Burrowing animals can affect the integrity of structures, leading to significant reconstruction requirements.
- Will native plant species be used for revegetation of disturbed areas? \*
- Will marina fueling areas be regularly maintained and checked for leaks? Will boat owners be required to remove their craft from waterways before conducting engine and other boat repairs using hazardous materials?
- Will measures be taken to prevent downstream sediment loading during dredging operations?
- Will dredging spoils be evaluated for nutrient and contaminant content before they are applied to land areas? \*

#### Other References

Federal Interagency Floodplain Management Review Committee. August 1994. "Sharing the Challenge: Floodplain Management into the 21st Century."

Federal Interagency Floodplain Management Task Force. 1992. "Floodplain Management in the United States: An Assessment Report."

U.S. EPA, Office of Water. January 1993. *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*. 840-B-92-002.

\* Indicates an environmental impact reduction opportunity.

## Appendix M

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1 **N. David Ferrel, U.S. Environmental Protection Agency. November 3, 1997.**

2  
3 N-1. See response to comment J-30. A combination of structural and non-structural alternatives is  
4 considered infeasible, as non-structural alternatives would not provide sufficient flood control  
5 protection improvements (e.g., off-stream storage in Reach 12), as they would not enable the  
6 Corps to avoid channel modifications in sensitive areas such as Reach 9.

7  
8 The Channel Widening Plan would be less damaging but provide a lesser degree of flood  
9 protection. Non-structural alternatives have been considered in the screening process. Refer to  
10 chapter 2 of the EIR/S.

11  
12 N-2. The two projects are not "essentially the same," as the project discussed in the SCVWD's EIR/S  
13 includes features outside the limits of the Corps study area. The SCVWD study looks at different  
14 ways of providing protection against a 100-year flood. The Corps study looks at whether the  
15 Federal government should cost-share a project here, and if so, what level of flood protection  
16 should be cost-shared. The two studies are responsive to different policies and goals. It would be  
17 very difficult to integrate these two studies into one document.

18  
19 N-3. The EIR/S has been revised in section 4.3.3, Water Quality, to indicate that the SCVWD would  
20 only use EPA-approved herbicides, and certified personnel would use them according to accepted  
21 procedure. Therefore, the project would be consistent with Water Quality Standards for surface  
22 waters within the feasibility study area.

23  
24 N-4. The SCVWD has stated that all herbicides used would be EPA-approved and used according to  
25 accepted procedure by certified personnel. This compliance with existing federal regulations as  
26 incorporated in the project description is considered a standard operating procedure that would  
27 reduce any potential water quality impacts from herbicide use to insignificance. Therefore, no  
28 mitigation measures are required. The EIR/S has been revised to include this discussion.

29  
30 N-5. Mitigation measures identified in the EIR/S address the Pollution Prevention/Environmental Impact  
31 Reduction Checklist for Flood Control Projects.

32  
33 Mitigation measures in the Final EIR/S now reference these guidelines.

34  
35 N-6. See response to comment J-1, N-1.

36  
37 N-7. See response to comment J-1. Discussion of a Stream Restoration Alternative has been expanded  
38 in section 2.2, Formulation of Conceptual Alternative Plans. The Corps has considered a Stream  
39 Restoration Alternative with flood control and determined that it would require widening the  
40 floodplain by as much as a few hundred feet to make it capable of carrying high channel flows.  
41 It would result in major impacts to existing native riparian vegetation, fisheries, and adjacent  
42 homes, if present. Since other alternatives would be less environmentally damaging, a permit  
43 cannot be issued for this alternative under the Clean Water Act section 404(b). This approach  
44 however, has been incorporated in the Channel Widening in the Bypass Channel Plan in Reach  
45 10B, where impacts would not be significant.

## Appendix M

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- 1 N-8. Detention basins are not a feasible option for flood control in the study area, since the land needed  
2 for the volume of floodwaters is extensive.  
3
- 4 N-9. Use of percolation ponds as water storage basins would be possible, but their development would  
5 be expensive and they would lose their beneficial function for groundwater recharge. The only  
6 other large open space in the feasibility study area, the Valley View property in Reach 10, is only  
7 97 acres, capable of providing only a portion of the area needed to provide 6,000 acre-feet of  
8 storage. Assuming the area could be excavated to a 20 foot depth, only 1,800 acre feet of storage  
9 would result, which would be grossly inadequate for flood control purposes. Importantly, this  
10 measure would not allow the Corps to avoid impacting sensitive areas such as in Reach 9.  
11 Therefore, use of the Valley View property would be infeasible as a flood control measure.  
12
- 13 N-10. According to the SCVWD (personal communication, Dennis Cheong 1997), herbicide use along  
14 proposed Bypass Channel maintenance road and bypass channels would not impact the natural river  
15 channel. Only EPA-approved herbicides would be used and applied according to approved  
16 specifications by certified personnel. Section 4.3.3, Water Quality, has been revised to incorporate  
17 this information.  
18
- 19 N-11. Consistent with all projects where federal funding is involved, the project would comply with State-  
20 adopted, EPA-approved Water Standards as contained in the Basin Plan. Section 4.3.3, Water  
21 Quality, has been revised to incorporate this information.  
22
- 23 N-12. Discussion of proposed herbicide use is presented in response to comment N-3, N-4, and N-10.  
24 Public notification for each herbicide use would be infeasible given the small areas and applications  
25 involved with routine maintenance.  
26
- 27 N-13. All herbicides used would be EPA-approved. Herbicide application would be consistent with the  
28 Basin Plan. See response to comment N-3, N-4, N-10, and N-11.  
29
- 30 N-14. Section 4.11.2, Hazardous Materials, discusses the assessment of contaminants within the  
31 feasibility study area. The thirteen areas are identified. Potential impacts are identified in section  
32 4.11.3, and mitigation measures are provided in section 4.11.4 to address identification of  
33 contaminated soils during construction, protection of workers and public from contaminant  
34 exposure, agency notification, and remediation. The components of the Construction Contingency  
35 Plan are standard operating procedures used to address hazardous material impacts.  
36  
37 Properties will be analyzed for any hazards.  
38
- 39 N-15. Mitigation measures identified in the EIR/S address the Pollution Prevention/Environmental Impact  
40 Reduction Checklist for Flood Control Projects.  
41
- 42 N-16. The Bay Area Air Quality Management District (BAAQMD) showed in their *Ozone Maintenance*  
43 *Plan* that control of volatile organic compounds (VOCs) alone would demonstrate attainment of  
44 the national ozone standard for the next 10 years (through 2006) in the San Francisco Bay Area  
45 Air Basin (SFBAAB). This plan was approved by the EPA in May 1996 and included an  
46 exemption from controlling NOx emissions (the other component to ozone formation) for the  
47 purpose of attainment planning, assuming that the region remains in compliance with the ozone

## Appendix M

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1 standard. Consequently, this NOx exemption also applies to ozone conformity determinations in  
2 the SFBAAB and only VOC emissions need to be analyzed for this analysis. This issue is included  
3 in the Final EIR/S.



# County of Santa Clara

Roads and Airports Department  
Land Development and Permits

101 Skyport Drive  
San Jose, California 95110



November 13, 1997

✓ Mr. William DeJager  
Army Corps of Engineers  
Environmental Planning Section  
333 Market Street, Seventh Floor  
San Francisco, CA 94105-2197

Subject: Draft Feasibility Report and Environmental  
Impact Statement Report (EIS/EIR)  
Upper Guadalupe River Feasibility Study  
Almaden Expressway

Dear Mr. DeJager:

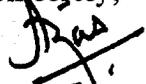
Your undated "Notice of Availability and Public Hearing" concerning the subject Draft EIS/EIR has been reviewed.

O-1 Our file information has indicated that our April 16, 1997 letter (please see the attachments) included our comments on the proposed project.

We have no additional comments/concerns at this time.

Please call me at (408) 573-2462 if you have any questions. We thank you for the opportunity to review this matter.

Sincerely,

  
Ashok Vyas  
Project Engineer

AAV:rtj  
Attachments

cc: Dennis Cheong, SCVWD  
RBP, DEC, MA, File

# County of Santa Clara

Roads and Airports Department  
Land Development and Permits

*file*



101 Skyport Drive  
San Jose, California 95110

April 16, 1997

Mr. Dennis Cheong  
Guadalupe River Planning Study  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

Subject: Guadalupe River Draft Environmental Impact Report/  
Environmental Impact Statement and Engineer's Report  
Almaden Expressway

Dear Mr. Cheong:

Your February 19, 1997 letter along with the attachments has been reviewed. Our comments are as follows:

- 1) A review of our file information has indicated that our January 8, 1991 letter included our comments on the Notice of Preparation of the proposed project. Please see the attachment. **O-1a**
- 2) From a quick review of the Draft EIR, it is observed that the Item Nos. (1), (2) and (3) of our January 8, 1991 letter are not addressed. This should be done.
- 3) The County should review and approve the improvement plans of the project relative to Almaden Expressway. We will offer specific comments at the time of reviewing improvement plans. **O-1b**
- 4) A County encroachment permit should be obtained prior to the beginning of any work within the County's Almaden Expressway right-of-way. **O-1c**

Mr. Dennis Cheong

Page 2

April 16, 1997

- O-1d | 5) As you are aware, the County of Santa Clara and Santa Clara Valley Transportation Authority (VTA) are now separate entities. VTA should review and comment upon the proposed Draft EIR.

Please call me at (408) 573-2462 if you have any questions.

We thank you for the opportunity to review this matter.

Sincerely,



Ashok Vyas  
Project Engineer

AV:rtj

Attachments

cc: TDR/JRR, VTA  
RBP  
DEC  
MA  
File

January 8, 1991

*File*

Dr. Bernard H. Goldner  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

Subject: Notice of Preparation of a Draft Environmental Impact Report (EIR)  
Guadalupe River Flood Control Project - Almaden Expressway

Dear Mr. Goldner:

Your November 19, 1990 Notice of Preparation along with the attachments has been reviewed. Our comments are as follows:

The stipulated response date of the subject referral was December 21, 1990. As discussed with Mr. George Fowler of the Water District staff during the phone conversation on January 7, 1991, we can send in our comments on or before January 11, 1991. We appreciate your consideration in this matter.

(1) The proposed project would require the addition of a reinforced concrete box (RCB) culvert at Canoas Creek and Ross Creek crossings of Almaden Expressway. As stated in your November 19, 1990 letter, a cut and cover i.e., open trench construction technique is planned to be used. Normally, open trench excavation across Expressway is not allowed. However, based upon "Amendment No. 21 to the County Expressway Policy Resolution (as Amended): Transverse Underground Utility Encroachment", an open cut across an expressway can be considered, if bore and jack method is impracticable. We have attached a copy of the County Board of Supervisors' November 3, 1980 Policy regarding the open cut method for the installation of transverse utilities, listing the procedure to be followed. It is recommended that the Engineer's Report discuss the procedure to be followed as outlined in the May 13, 1990 list for open cut method and demonstrate the following:

- o The additional construction costs and/or delays due to boring and jacking.
- o That alternative routes are impractical.
- o That the proposed construction operation will maintain public safety; minimize public inconvenience and minimize additional long term operational and maintenance costs.  
The outline dated May 13, 1980 may help you in formulating your request for the use of a open cut method to cross Almaden Expressway.

We will be prepared to issue an Encroachment Permit to open cut Almaden Expressway after the provisions of the Board's November 3, 1980 policy have been met and we have approved your construction documents (e.g. plans, specifications, traffic control measures and other items listed on the May 13, 1980 outline).

Dr. Bernard H. Goldner

Page 2

January 8, 1991

(2) It is observed that the enclosed plans do not include the portion of work near the bridge on Guadalupe River at Capitol Expressway. Please note that we have an existing operational traffic problem at the bridge location easterly of Chard Drive due to inadequate return radius. It is recommended that the Engineer's Report address this issue and include the necessary mitigation measure.

(3) This Agency is in the process of planning and designing High Occupancy Vehicles (HOV) lanes along Almaden Expressway. Typical right-of-way necessary to install HOV lane is 79 feet half street. It is, therefore, recommended that the project plan provide for a minimum length of 79 feet for the new box culvert and also the lengthening of the existing culvert so as to enable the County to install HOV lanes at a future date.

(4) We have an existing bus stop southbound Almaden Road farside Curtner Avenue which will be impacted due to the project. At the time of the project plan review, we may require transit-related improvements for the bus stop impacted due to the project.

(5) At the time of project plan review, this Agency will require that a traffic control plan be submitted for this Agency's review and approval. The traffic control plan should be based upon Caltrans' "Manual of Traffic Controls for Construction and Maintenance Work Zones" - latest edition.

(6) A County encroachment permit should be obtained prior to beginning any work within the County's Almaden Expressway right-of-way.

(7) We may have additional comments at the time of future reviews.

(8) A Copy of the Engineer's Report and Environmental Impact Study should be furnished for our review and comments.

Please call me at 299-4205 if you have any questions.

We thank you for the opportunity to review this matter.

Sincerely,

  
1/8/91  
ASHOK VYAS  
PROJECT ENGINEER

AV:kh

Attachment

cc: VCH  
WLK  
RKW  
RGH

August 29, 1980

STAFF REPORT  
TO THE  
TRANSPORTATION MODES COMMITTEE

Subject: Amendment Number 21 to the County Expressway Policy Resolution (as Amended): Transverse Underground Utility Encroachments

Introduction

Since the inception of the County Expressway System in the early 1960's the County's (unwritten) policy has been to require transverse underground utility crossings of expressways to be "bored and jacked" as opposed to allowing open cuts of the expressway pavement.

During the past year two requests were made through the Modes Committee and the Transportation Commission to the County Board of Supervisors for encroachment permits to "open cut" a County expressway for the purpose of installing underground utilities. As a result of these two requests, which were granted by the Board, County staff was authorized to: "develop a proposed amendment to the County Expressway Policy Resolution regarding "Transverse Utility Encroachments" by working with the city-owned and privately-owned public utilities".

The specific issue to be investigated in this study is as follows.

At what level of additional cost and/or delay in construction due to "boring and jacking requirements" should the County consider the "open cut" alternative, as a viable mitigation measure for the requesting city-owned or privately-owned public utility.

Representatives from most of the public utilities and cities (for city-owned utilities) have conferred with Transportation Agency staff on several occasions to address this issue. The following report addresses this problem.

Background - General

The "County of Santa Clara Expressway Policy Resolution (as amended) is a composite of the original expressway policy resolution (adopted by the Board of Supervisors on December 27, 1960) and eighteen (18) amendments formally adopted by the Board (18th amendment adopted on December 16, 1969). A copy of this composite resolution is contained in Section 6 of the Transportation Commission Handbook.

The purpose of the Expressway Policy Resolution was to provide the Board of Supervisors, the County Transportation Policy Committee (forerunner to the County Transportation Commission) and County staff with general policy statements for administering the Phase I County Expressway Program. Although the Phase I Bond Program (\$70 million) was exhausted several years ago, the County has continued the Expressway Program with County gas tax revenues. During these later years the Expressway Policy Resolution has continued to serve the County as a policy guide for matter pertaining to the County Expressway System.

In 1975 the Municipal Public Works Officials (MPWO) of Santa Clara County requested three amendments to the "Expressway Resolution (as amended)". Two of these modifications were approved by the County Board of Supervisors on October 27, 1975.

### Background - Specific

Neither the "Expressway Policy Resolution (as amended)" nor the subsequent amendments to this document specifically address the issue of additional transverse utility encroachments under an existing expressway. Since the inception of the expressway system in the early 1960's the County's (unwritten) policy has been to deny requests to "OPEN CUT" an expressway and instead require the facility to be "BORED AND JACKED" under the expressway.

The reason for this special treatment or requirement is that the County Expressway System provides a special or unique service to the general public - similar to the State's freeway and expressway system. The primary considerations that have been instrumental in developing this policy are:

1. Cost of the expressway facility.
2. Cost to repair future failing sections of pavement, if any.
3. Cost to provide satisfactory trench and structural section replacement and construction detours.
4. Safety of the general public during construction and future failure periods, if any.
5. Convenience of the general public during construction and future failure periods, if any.

Infrequent exceptions have occurred when a partial crossing has been required to "tie in" to an existing utility under an expressway, or for emergency repairs to an existing utility under an expressway.

### Discussion

The issue of "open cutting" versus "boring and jacking" has become, over the past few years, an extremely sensitive issue. On the one hand, significant construction delays and/or increased construction costs may be required under the present "bore and jack" policy. On the other hand, County staff is concerned about safety and convenience to the general public and the potential costs to repair pavement failures if "indiscriminate" open cutting of the expressways is allowed.

During the past few months representatives from the privately-owned public utilities, the city-owned utilities and the County Transportation Agency have discussed the "open cut" alternative on several occasions. The main issues developed in these discussions were as follows:

1. How to quantify the additional time and/or costs due to "boring and jacking" requirements?
2. What level of additional time and/or costs due to "boring and jacking" requirements should be considered "excessive"?

and, therefore, introduce the "open cut" alternative?

3. How rigid should the proposed policy revision be so as to both protect all the parties and, at the same time, minimize additional "bureaucratic" red tape requirements?

County staff's concern is to convey the principle that "not every request to transversely cross a County expressway with underground utilities will qualify for the "open cut" alternative", as the routine requests will continue to be required to be "bored and jacked" under the expressway (present policy).

County staff's approach has been to propose general criteria and procedures for administering the "transverse underground utility encroachments" policy with the utility companies. It is the utility company that will initiate a request to "open cut" an expressway; and the County staff will review the written request and supporting information. County staff is prepared to cooperate with the utility companies to determine which requests warrant further investigation as legitimate situations to apply the "open cut" alternative procedure, and developing specific requirements that are consistent with the site specific information, public safety and overall economy.

On May 22, 1980 the Utilities Committee submitted its revised draft procedure for implementing the "open cut" policy. County staff is satisfied that the procedure as submitted (with Part B-7 added by County staff) is a common sense plan that will both communicate the responsibilities of each party (requesting utility and County) and provide an opportunity for "early-on" staff communication in developing "site specific" problems and solutions to those problems. A copy of the draft procedure, dated May 13, 1980, as modified by County staff on August 11, 1980 is attached.

Finally, the only way to find out if this type of policy change (and related administrative procedure) will work is to "try it". The intentions of the staffs of the requesting utility companies and County staff will determine the effectiveness of the proposed policy and procedure.

#### Recommendation

It is recommended that the Transportation Modes Committee approve the policy and procedure to allow transverse underground utility encroachments to "open cut" the County expressways, as follows, and that this policy and procedure then be forwarded to the County Transportation Commission and to the County Board of Supervisors for similar action:

1. Policy: Amendment Number 21 to the County Expressway Policy Resolution (as amended): Transverse underground utility encroachments (attached).

2. Procedure: As submitted by the Utilities Committee on May 22, 1980 (dated May 13, 1980) and modified by County staff on August 11, 1980 (attached).

Submitted by:

Scotty A Bruce  
SCOTTY A BRUCE, Staff Liaison

SAB:vlt

attachments

cc: Each Member of the Transportation Modes Committee  
Each Member of the Board of Supervisors  
William Siegel  
Clerk of the Board of Supervisors  
Each City Engineer/Director of Public Works  
Lance C. Morgan, PG&E  
JHG  
LM  
RMS  
NLC

May 13, 1980

Subject: Conference to develop an "Open-cut" policy for utility encroachments of the County Expressway System

The following "Open-cut" policy is suggested by the Cities and Utilities of Santa Clara County, in response to the County's Expressway Crossing Proposal. It is to be considered only when boring of the Expressway is impractical.

A. GENERAL CRITERIA FOR GRANTING AN "OPEN-CUT" PERMIT

1. Unusual Site Conditions

- A. Soil/Weather Conditions
- B. Availability of R/W
- C. Utility Conflicts
- D. Number/Location of Inspection/Receiving Pits
- E. Cost of Boring vs. Cost of Trenching
- F. Project Time Delays Due to Method of Construction

B. RESPONSIBILITIES OF REQUESTING UTILITY COMPANY

- 1. Written Report Indicating Difficulties in a "Bore and Jack" Operation, to Justify Trenching (Siting Criteria A-f Above).
- 2. Formal Engineer Drawings and Specifications
  - A. Construction Methods
  - B. Construction Phasing
  - C. Traffic Control-Detours
    - Formal report describing existing conditions and impact open cut will have and a recommendation as to how to minimize impact on traffic.
  - D. Schedule of Operations
    - Days - Hours, etc.
  - E. Striping, Signing, Safety Device
- 3. Alerting Other Utilities of a Joint-Trench Operation
- 4. Proposing to Oversize for Future Growth Potential
- 5. Providing for Continuous County Inspection
- 6. Proposing Innovative Construction Methods, etc., to Minimize Start-to-Finish Time

STAFF → 7. ALERTING NEWS MEDIA OF SCHEDULE, HRS. OF  
11/80 OPERATION DETOUR, ETC.

1  
Same

C. GENERAL COUNTY REQUIREMENTS

1. Administrative

- A. Special Plan Check-Inspection Fee
- B. Three-Year Warranty in Writing
- \*C. Performance Bond
- \*D. Standard Insurance Requirements
- E. Maintain County Facilities  
(Electric, Drainage, etc.) at All Times

2. Construction Considerations

- A. Exclude Peak Traffic Periods from Work Operation (Seven Days a Week).
- B. Maximum Lane Closure—Generally One Lane Open in Each Direction
- C. Trenching: Saw Cut—Minimum 12" Width Trench
- D. Backfilling: Achieve 95% Compaction as Specified in the California State Test Method. Jetting Allowed Only for Backfill Within 12" Envelope Around Facilities.
- E. Pavement: 12" Deep Strength Asphalt Cover in 6" Lifts
- F. Aesthetic: Restore in Kind at General Trench Location
- G. Stripe Removal: Sandblasting
- H. Paths/Landscaping: Replace in Kind
- I. Location of Trench: Away from Intersections When Practical

\*Utilities and Governmental Agencies Using Their Own Forces Are Exempted.

September 18, 1980

9A3

TRANSPORTATION MODES COMMITTEE REPORT  
TO THE  
TRANSPORTATION COMMISSION

Subject: Amendment Number 21 to the County Expressway Policy Resolution (as Amended): Transverse Underground Utility Encroachments

Members Present: Bargabus, Fletcher, Grisham, Million, Pedersen, Siemens, Spivak.

Members Excused: Winckler

Introduction

The Committee met on Wednesday, September 10, 1980 to discuss the proposed Amendment No. 21 to the County Expressway Policy Resolution (as Amended): Transverse Underground Utility Encroachments.

The procedure for processing amendments to the County Expressway Policy Resolution requires the Transportation Modes Committee and the County Transportation Commission to review each proposal prior to consideration by the County Board of Supervisors.

Background

Background information is contained in the attached staff report dated August 29, 1980.

Discussion

The Committee discussed the staff report, including the proposed policy and procedure to allow transverse underground utility encroachments of County expressways and - in unique situations - to allow the "open cutting" of the pavement section. Mr. Lance Morgan of the Pacific Gas and Electric Company (Chairperson of the Underground Utilities Committee) represented the utility companies, and Mr. Del Bechtholdt represented the Transportation Agency staff.

The principal issues discussed by the Committee included:

1. The role of the Committee in reviewing requests to "open cut" an expressway.
2. The anticipated workload (number) of requests to be received from the utility companies.
3. The value of cost savings to public utilities from the proposed policy.
4. The role of the Committee in reviewing requests to "open cut" an expressway.

1 conformed copy to Transportation Commission, 1 conformed to County Executive,  
1 conformed copy to Dorothy Gullion Transportation

September 18, 1980

The Committee then approved the proposed Policy No. 21 and procedure for allowing transverse underground utility encroachments to County expressways with the provision that a status report be prepared by the staff after this policy and procedure have been in effect for one year.

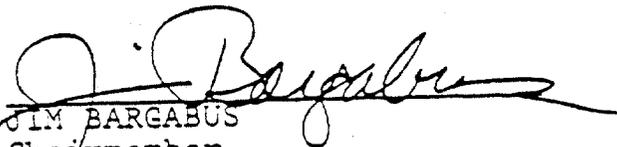
Committee Member Pedersen voted no, based on his feeling that each request to "open cut" an expressway be reviewed by the Modes Committee instead of the staff (similar to a Planning Commission variance request procedure).

Recommendation

It is recommended that the County Transportation Commission approve a policy and procedure to allow transverse underground utility encroachments, including the "open cutting" of paved sections in unique situations as follows, and that this policy and procedure then be forwarded to the County Board of Supervisors for similar action:

1. Policy: Amendment Number 21 to the County Expressway Policy Resolution (as amended): Transverse Underground Utility Encroachments (attached).
2. Procedure: As submitted by the Utilities Committee on May 22, 1980 (dated May 13, 1980) and modified by County staff on August 11, 1980 (attached).
3. Status Report: Staff prepare a status report on the policy and procedure after they have been in effect for one year.

Submitted by:

  
JIM BARGABUS  
Chairmember

attachments

cc: Each Member of the Transportation Modes Committee  
Each Member of the Board of Supervisors  
William Siegel  
Clerk of the Board of Supervisors  
Each City Engineer/Director of Public Works  
Lance C. Morgan, P.G.&E.

JHG  
LM  
RMS  
NLC  
SAB  
DHB

7-11-1960

RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA ADOPTING  
AMENDMENT NUMBER 21 TO THE COUNTY OF  
SANTA CLARA COUNTY EXPRESSWAY POLICY  
RESOLUTION, ADOPTED DECEMBER 20, 1960

The County Expressway Policy Resolution (as amended) be amended by adding Part XVIII, Transverse Underground Utility Encroachments, as follows:

The County of Santa Clara will permit the transverse installation of additional or new (1) city-owned or (2) privately owned public utilities under paved areas within County expressways provided the requesting utility agrees to "bore and jack" the facility under the paved sections of the expressway except as follows:

city-owned and privately-owned public utilities will be allowed to "open cut" the paved area of an expressway when the requesting utility can demonstrate (1) that the boring and jacking requirements of the County will result in excessive additional construction costs and/or delays, (2) that alternative routes are impractical and (3) that appropriate mitigation measures of the requesting utility will maintain public safety, minimize public inconvenience and minimize additional long-term operational and maintenance costs resulting from the utility installation.

The requesting utility will be responsible for submitting a written report justifying the need to consider the "open cut" alternative, formal engineered drawings and specifications, and proposed mitigation measures. The County will be responsible for the timely review of the utility's request, and if approved, the listing of specific administrative requirements and construction specifications, as conditions of approval.

In the event that the staffs of the requesting utility and the County are unable to reach an agreement on the request to open

cut the expressway and/or the County's conditions of approval, the requesting utility will prepare a feasibility study (without cost to the County) for submittal to the Transportation Commission (through the Transportation Modes Committee), who will make a recommendation to the Board of Supervisors.

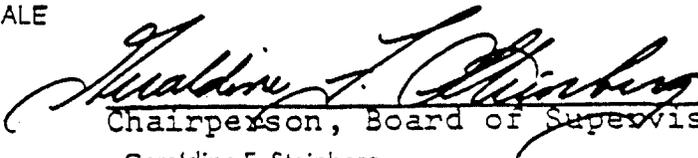
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, California on NOV 3 1980

by the following vote:

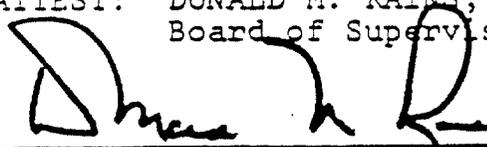
AYES: Supervisors CORTESI, ~~McCORMACK~~, STEINBERG, DIRIDON, WILSON

NOES: Supervisors NONE

ABSENT: Supervisors McCORQUODALE

  
Chairperson, Board of Supervisors  
Geraldine F. Steinberg  
Chairperson, pro tempore

ATTEST: DONALD M. RAINS, Clerk  
Board of Supervisors

  
\_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_

DONALD J. BAKER  
Assistant County Counsel  
9-19-80

County of Santa Clara  
California

October 14, 1980

40 Board of Supervisors  
County Government Center  
70 West Hedding Street  
San Jose, California 95110

Gentlepersons:

At its meeting of October 8, 1980, the Transportation Commission unanimously approved a policy and procedure to allow transverse underground utility encroachments, including the "open cutting" of paved sections in unique situations, as outlined in the Transportation Modes Committee Report dated September 18, 1980. The Commission requests approval by your honorable Board of that policy and procedure.

Sincerely,

TRANSPORTATION COMMISSION

*Loretta R. O'Donnell*  
Loretta R. O'Donnell  
Secretary

lk

Attachment

## Appendix M

- 1 **O. Ashok Vyas, Roads and Airports Department, County of Santa Clara. November 13, 1997.**  
2  
3 O-1a. This comment addresses project design details and construction methods presented in an early  
4 Engineer's Report that apparently was an attachment to the November 19, 1990, Notice of  
5 Preparation of a Draft EIR for the Guadalupe River Flood Control Project (Santa Clara Valley  
6 Water District 1990). The current version of that project is referred to in this EIR/S as the Bypass  
7 Channel Plan. The following information is presented in response to the points raised:  
8  
9 (1) A final determination regarding the construction method for installation of the reinforced  
10 concrete box (RBC) culverts at the Almaden Expressway crossings of Canoas Creek and Ross  
11 Creek has not been made. Note that consideration of the bore-and-jack method is required in  
12 Mitigation Measure No. 2 in section 4.7.4. The County policies regarding transverse underground  
13 utility encroachment of the Almaden Expressway will be followed.  
14  
15 (2) Revised drawings for the Bypass Channel Plan (SCVWD 1995) show proposed right-of-way  
16 changes that would improve the turn radii at the intersection of Capitol Expressway and Chard  
17 Drive (refer to sheet 14 of 39).  
18  
19 (3) The Corps and SCVWD are aware of the County's plans to eventually widen Almaden  
20 Expressway to accommodate HOV lanes. The length of the RBC culverts at the Canoas Creek and  
21 Ross Creek crossings will be coordinated with the County during the final design stage.  
22  
23 O-1b. This comment refers to Santa Clara County review of improvement plans. The comment does not  
24 address adequacy of the EIR/S. No response or revision to the EIR/S is necessary.  
25  
26 O-1c. The requirement for an encroachment permit from Santa Clara County for any construction activity  
27 within the Almaden Expressway right-of-way has been added to section 4.7.3.  
28  
29 O-1d. The Santa Clara Valley Transportation Authority has reviewed and commented on the Draft EIR/S.  
30 Please refer to the responses to comments K-1 through K-14 above.





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

NOV 17 1997

Mr. William DeJager  
U.S. Army Corps of Engineers  
San Francisco District  
333 Market Street  
San Francisco, CA 94105-2197

Dear Mr. DeJager:

Thank you for the opportunity to comment on the Draft EIS/EIR, Draft Feasibility Report and Environmental Impact Statement/Report (DEIS) Upper Guadalupe River Feasibility Study. Based upon our review, the draft report does not contain the information needed to make a determination that the preferred alternative would not adversely impact anadromous fish, particularly the steelhead trout that is listed as threatened in the project area. Our comments are provided as General Comments that describe the overall concerns we have regarding the adequacy of fishery considerations in the DEIS and Specific Comments that describe individual concerns or better qualify some of the "general comments."

#### General Comments

This project description is one of several independent flood control actions on the same water body, affecting perhaps as many as eight independent reaches. Anadromous fish in Guadalupe River include chinook salmon and steelhead trout that migrate through this entire system of reaches. Chinook salmon is a candidate species for listing and steelhead is already listed as a "threatened" species in the project area. The river has multiple habitat-related problems that prevent optimum fish passage and rearing conditions. Mostly these include inadequate water quantity, degraded water quality including high water temperatures, lack of adequate shoreline vegetation, and barriers that restrict migration. Many of these adverse conditions could be ameliorated with improved flood management practices and structures. Maximum benefit would occur if all flood management actions were fully coordinated and orchestrated.

P-1

The project selected and described in the Draft is a subset of the preferred and larger project described in the draft EIS/EIR of the Santa Clara Valley Water District (SCVWD), January 1997. In fact there are numerous independent, interdependent, and interrelated flood control activities occurring in this same river. Many have complex and interrelated mitigation obligations. Several projects suggest shared mitigation sites and there seems to be a possibility of double counting mitigation credits in some cases.

P-2



We also learned of several major programs that are planned for the watershed, including a watershed management initiative, a fishery management planning effort, a basin sediment management plan, and a vegetation management planning effort. All these appear to be substantially interrelated, but were not mentioned in the Draft. Considering the piecemeal approach to flood protection that continues to occur in the river, we must suggest that the draft report does not comply with the intent or spirit of the National Environmental Policy Act. A more basin-wide, or at least river-wide, consideration is necessary to fully assess the cumulative impact of all flood control projects and to fully coordinate a mitigation plan that will eliminate adverse effects to steelhead trout.

P-3

We understand the complexity of improving flood protection in a highly urbanized area like the San Jose community, especially within the highly developed historic flood plain. We also sympathize with the numerous agencies that are involved and the fragmented approach caused by variable funding opportunities. Nonetheless, a holistic watershed approach is essential in anadromous fish streams and is compatible with the Corps of Engineers national approach to flood plain management.

### Specific Comments

Considering the complex and interrelated association with the SCVWD in the Guadalupe River, our comments are grouped into the following sections that assess independent elements of your report.

#### The Corps Flood Control Project

Your draft Feasibility Study investigates several different plans, including No Action, Willow Glen, Valley View, and Bypass Channel. All four plans provide different levels of flood protection (existing, 20-, 50-, and 100-year flood events). We understand that the Corps must evaluate a range of alternatives and determine which plan maximizes the net economic benefits, defined as that which maximizes national economic development (NED). The Valley View Plan provides the highest net benefit and is selected as the NED Plan. Based totally on flood control benefits, it increases the channel capacity to accommodate a 50-year flood event. An exception to this selection could be considered if another plan will provide 100-year flood protection.

P-4

The Corps completed a trade-off analysis among the three "action" plans and determined that the Bypass Channel Plan will provide 100-year flood protection, will provide long term aesthetics, and is preferred by the public. Further, the Bypass Channel Plan would be the NED Plan if recreation is incorporated into the analysis. Therefore, although the Corps recommends the Valley View Plan as the NED, it recommends the Bypass Channel Plan as the selected alternative. If this is not an accurate synopsis, then this decision is confusing.

#### The Santa Clara Valley Water District Project

This Corps flood control project is really a subset of the larger SCVWD project of which the Corps is a partner. The cumulative impact of both projects is probably greater than that reported

P-5

in both assessments. Apparently the Corps does not intend to implement its share of the SCVWD project, but cost-share it (we noted this in the SCVWD draft EIS/EIR). Are the impacts of the Corps' share of the SCVWD project fully considered in either project?

P-5

The National Marine Fisheries Service (NMFS) is presently consulting informally with the Corps and the SCVWD on the SCVWD's preferred project. This will be difficult since it remains unclear which project will be built. Formal consultation probably will be deferred until a final determination is made. In fact, we recommend that a supplemental NEPA EIS be prepared that 1) addresses all flood control initiatives in the Guadalupe River collectively, 2) assesses the cumulative impacts of these actions, and 3) identifies the mitigation that collectively compensates for all impacts. If any flood control action becomes an emergency situation, NMFS will consider it independently and consult appropriately.

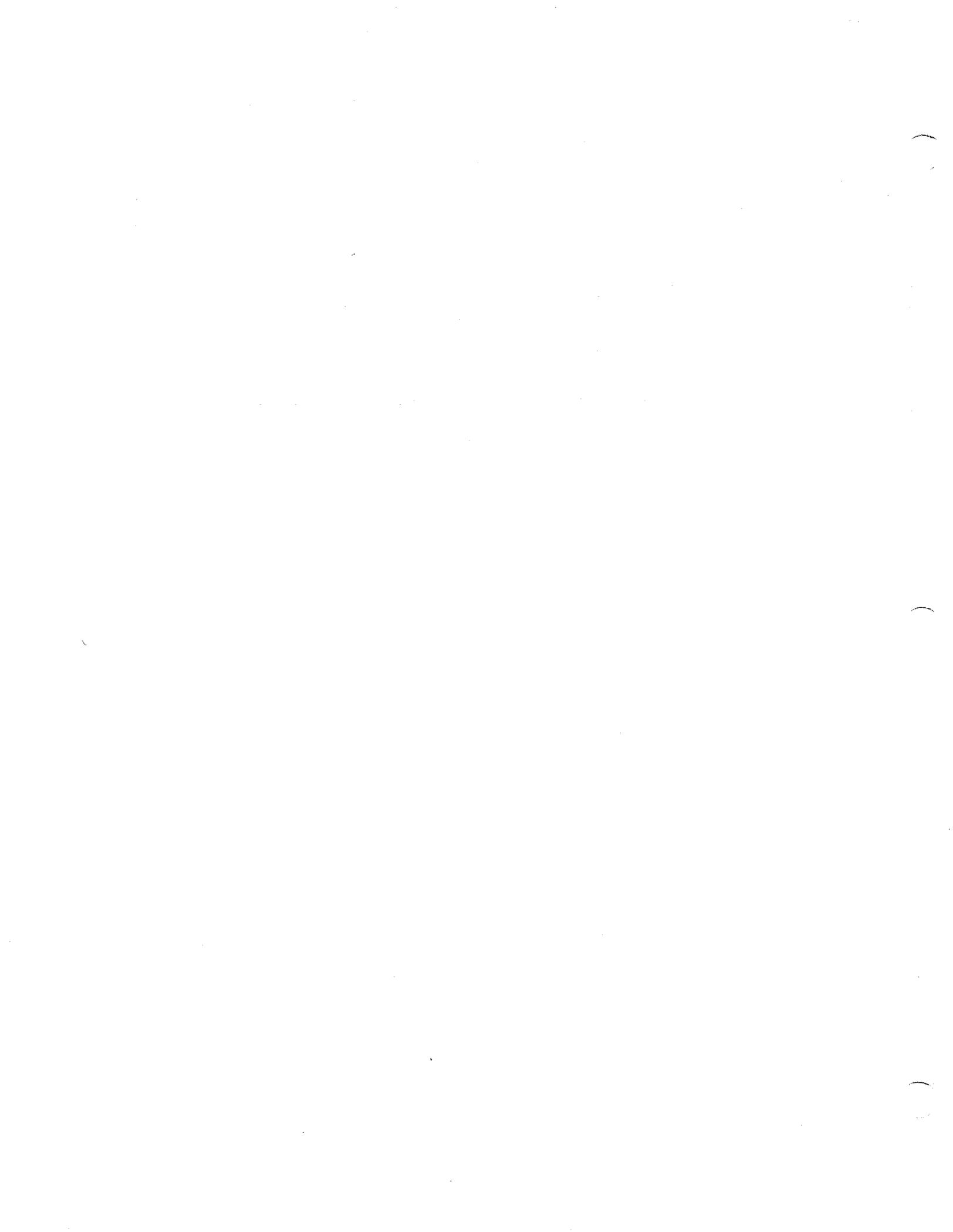
P-6

If you have questions regarding these comments, please contact Mr. Jim Bybee at (707) 575-6052.

Sincerely,

*Robney R. Milne*

for William T. Hogarth, Ph.D.  
Acting Regional Administrator



## Appendix M

1 **P. William T. Hogartu, National Marine Fisheries Service. November 17, 1997.**

2  
3 P-1. We agree with the general assessment of the river's condition and with the desirability of  
4 coordinated management actions. We are aware and have taken into account other studies and  
5 projects that would potentially affect our study area. The proposed project can stand alone with  
6 clearly separate impacts and mitigation. The Corps does not have the authority to do a  
7 comprehensive watershed study for the Guadalupe River.

8  
9 P-2. Reach 10B is intended as mitigation for the upper Guadalupe project and has also been considered  
10 as potential mitigation for the downtown project, if the upper project is determined to have excess  
11 mitigation. The San Francisco and Sacramento Corps districts and the SCVWD will coordinate  
12 to ensure that there is no double counting of mitigation. The text has been clarified to avoid any  
13 confusion.

14  
15 P-3. A basin- or river-wide approach to flood control is beyond the scope of the Corps Feasibility Study  
16 and EIR/S, although flood control options, environmental setting, and mitigation measures within  
17 the watershed beyond the feasibility study area were considered in the screening process (refer to  
18 Chapter 2).

19  
20 We are sympathetic to the comment's viewpoint, but in this context, the project's impacts have  
21 been evaluated and appropriate mitigation measures identified. A wider view of potential flood  
22 control measures was part of the screening process that has led to the two alternatives evaluated  
23 in this document.

24  
25 P-4. This comment is an accurate summary of the draft Feasibility Study alternative plan development  
26 and NED determination.

27  
28 P-5. The comment accurately identifies that the Corps' feasibility study would result in cost-sharing in  
29 Reaches 7 through 12, and Ross and Canoas Creeks, while not addressing improvements in Reach  
30 A and Reach 6 that are included in the SCVWD proposed project. This EIR/S focuses on all  
31 potential impacts resulting from the flood control improvement activities for which the Corps  
32 would be cost-sharing with the SCVWD. Flood control improvements borne solely by the  
33 SCVWD are identified in the Cumulative Impacts section, under 6.1.8 Santa Clara Valley District  
34 Upper Guadalupe River Flood Control Project. The subsequent Cumulative Impacts and  
35 Mitigation Measures discussion in section 6.2 evaluates those impacts of the Corps cost-sharing  
36 project in conjunction with the SCVWD proposed improvements in Reach A and Reach 6, as well  
37 as other reasonably foreseeable cumulative projects. Therefore, the environmental impacts of the  
38 Corps' share of the SCVWD project are fully considered in this EIS/R.

39  
40 P-6. The Corps appreciates the NMFS participation and informal consultation in developing a more  
41 environmentally protective project. The EIS/R in section 6.0, Cumulative Impacts, satisfactorily  
42 addresses requirements of both NEPA and CEQA to evaluate the impacts of the proposed project  
43 alternatives in conjunction with foreseeable cumulative projects in the vicinity. The section  
44 discusses all present and projected future flood control initiatives in the Guadalupe River in section  
45 6.1, assesses the cumulative impacts by environmental resource in section 6.2, and identifies  
46 mitigations required to reduce the project's contribution to these collective cumulative effects.

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1           Therefore, there is no justification for preparing a supplemental EIS or EIR at a later date when  
2           the final project design is completed.

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**Q. Draft EIR/S Public Hearing Minutes, October 9, 1997.**

(Paragraph numbers coincide with agenda item numbers)

A special meeting of the Santa Clara Valley Water District (District) was noticed in order to attend the public hearing of the U.S. Army Corps of Engineers (Corps) held at the Willow Glen Educational Park Cafeteria, 2001 Cottle Avenue, San Jose, California, at 7 p.m. on October 9, 1997.

1. The District staff members in attendance were R. R. Blank, E. A. Ellis, B. D. Shylo, R.R. Talley, D. Cheong, and P. K. Whitlock. No Board members were in attendance.

The Corps staff members in attendance were L. Galal, Lt. Col. Thompson, R. Chisholm, B. Smith, B. DeJager, and D. MaKitten.

2. Ms. P. Kay Whitlock, Assistant General Manager, announced that the hearing was going to begin and that Mr. Brian Shylo, Associate Real Estate Agent, Project Development Group, was available as a Spanish-speaking interpreter.

Mr. Shylo announced in both Spanish and English that his services as a Spanish-speaking interpreter were available for anyone interested.

3. Lt. Col. Thompson, Commander, Corps San Francisco District, opened the Corps public hearing on the Draft Feasibility Report and Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Upper Guadalupe River Feasibility Study from the Southern Pacific Railroad located upstream of Highway 280 to Blossom Hill Road, San Jose. He welcomed those attending the public hearing. He explained that the Corps has responsibility for the federal government's interest in the Upper Guadalupe River Flood Control Project and that the purpose of the hearing was to receive comments on the Draft EIS/EIR for the Upper Guadalupe River. He stated that the hearing was being held by the Corps, who has been partners with the District on this project since 1990. He pointed out that the Corps Sacramento District has been working with the District on another flood control project on the Guadalupe River in downtown San Jose. He stated that project is in the construction stage and is not part of tonight's hearing and that comments should be focused on the project along the upper Guadalupe River, rather than the project in the downtown San Jose area. He then opened the public hearing and introduced Ms. Whitlock, who would be acting as the hearing officer.

Ms. Whitlock explained that the District is the local sponsor for the Corps' study on this project. The local sponsor may cost share in the construction and would operate and maintain the facilities after the project is completed. Ms. Whitlock explained that the District has been working closely with the Corps and that all comments received at the District's public hearing held last April are being passed on through the District's involvement in the study process.

She explained that at tonight's hearing, Corps staff will first give a detailed description of the project, including the environmental impacts and mitigation; then the hearing will be opened to receive comments. First, written comments received to date will be entered into the record; the hearing will then be opened to receive comments by public agencies, followed by organized groups, and then comments from anyone wishing to make a statement. She stated that comments

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1 taken today will be put into the record along with any written comments received up through  
2 October 27, 1997. She conveyed that these comments will be responded to fully in the Final  
3 Report. She then introduced Ms. Lynne Galal of the Corps San Francisco District.  
4

5 Using a slide presentation, Ms. Galal reviewed the project proposals and explained that the Corps  
6 is analyzing ways to reduce the impacts of flooding between the Southern Pacific Railroad and  
7 Blossom Hill Road at the southern end of the study's 5-mile reach. She stated that approximately  
8 7,500 homes and businesses are located within the 100-year floodplain. She discussed the steps  
9 to initiating a proposed flood control project.  
10

11 Ms. Galal pointed out that the District has their own Draft EIR/S which enables the District to  
12 continue pursuing the project in a timely manner, should federal funding not be granted.  
13

14 Ms. Galal discussed the three flood control alternatives: limited channel widening, expanded  
15 channel widening, and the bypass channel plan, which is the preferred plan.  
16

17 Ms. Galal then introduced Mr. Bill DeJager of the Corps Environmental Planning Section.  
18

19 Using a slide presentation, Mr. DeJager discussed the "100-year" flood event, the Bypass Channel  
20 Plan, and the environmental impacts and mitigation associated with this plan. He then turned the  
21 hearing back over to Ms. Galal.  
22

23 Ms. Galal explained the process after the public's comments are received. She pointed out that  
24 the comment period ends October 27, 1997, and that the comments provided would be addressed  
25 in writing in the Final EIR/S.  
26

27 Ms. Whitlock stated that comments would now be taken.  
28

29 Mr. Randall R. Talley, P.E., Supervising Engineer, Water Resources Management Group, read  
30 the following statement into the record:  
31

32 I want to thank you for this opportunity to express our support for the Corps' efforts to  
33 provide flood protection on the Guadalupe River where we have experienced significant  
34 and frequent flooding that has caused damage, disrupted the community, and threatened  
35 the lives and property of hundreds of families. This is a problem that needs a solution.  
36 Potential damages from a 100-year flood are estimated to be \$280 million.  
37

38 The District is supportive of the plan to protect against the 100-year flood, which is the  
39 District Board's policy when it is possible. This will reduce or eliminate the eligibility  
40 requirements for purchasing flood insurance; it will conform to the 100-year channel  
41 improvements being constructed upstream and downstream; it will reduce the overall risk  
42 from flooding and loss of life to a large densely urbanized area; and the continuity of a  
43 100-year plan has the potential to provide substantial recreation benefits to the local  
44 community.  
45

46 Alternatives that provide less protection do not provide near the benefits of a 100-year  
47 plan. These would not be acceptable alternatives to the District or the community. The

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1 District appreciates the Corps' willingness to work closely with the us, and we assure you  
2 that the District will continue to strongly support the Corps' efforts to formulate a plan that  
3 solves a significant problem and is acceptable to the local community.  
4

5 This is being accomplished through the dual project process described by Ms. Galal. The  
6 District has brought the community's concerns learned from our public hearing held last  
7 April to the Corps by our participation in the Corps process. The District Board is  
8 reviewing the project in response to the comments received from the community during  
9 the public hearing, and the final resolution will be transmitted to the Corps.  
10

11 Ms. Whitlock called on the audience members who submitted speaker cards.  
12

13 Mr. Vincente Mendez, 311 Willow Street, San Jose, did not wish to speak.  
14

15 Mr. Lawrence Johmann, representing the Guadalupe-Coyote Resource Conservation District and  
16 the Western Water Canoes Club, expressed concern regarding maintenance costs and restoration  
17 of the river as an alternative. He stated that the natural river bypass channels should be reinstated,  
18 and that the concrete should be removed from the river. He pointed out that a combined study  
19 costs less and should have been performed as opposed to two separate studies.  
20

21 Ms. A. O. Black, 1580 Creek Drive, San Jose, expressed concern regarding creek maintenance  
22 as well as trail maintenance and revegetation. She questioned if the opportunity to not pursue the  
23 project was available if the 100-year plan was not approved.  
24

25 Ms. Erma Procaccio, 2278 Mazzaglia Avenue, San Jose, expressed the need to quickly clean up  
26 the creeks to avoid or minimize future flooding.  
27

28 Mr. Robert and Mrs. Harriet Jakovina, 1760, 1784, and 1874 Creek Drive, San Jose, expressed  
29 concern regarding habitat, maintaining the integrity of the river, mitigation, and oversight during  
30 construction.  
31

32 Mr. Roger Castillo representing the Silichip Chinook, 1596 Ivy Creek Circle, San Jose, reported  
33 that he has observed and documented the return of the salmon. He stated that he believes that  
34 money was wasted when the District raised the levees downstream. He recommended that the  
35 District implement a pilot plan using the Rosgen method since the previous plan was ineffective.  
36  
37

38 Ms. Marilyn Holmes, 1635 Creek Drive, San Jose, spoke on behalf of all Creek Drive residents.  
39 She stressed that the creeks need to be cleaned up and that she has been trying to get the District  
40 to do so near Willow Glen Way for the last five years but hasn't gotten anywhere with the District.  
41 She stated that she heard the Malone Road bridge was in trouble. She is against the project and  
42 believes that cleaning the creek would resolve the flooding problem, thereby eliminating the need  
43 for the project. She also questioned if the effectiveness of this project in preventing flooding was  
44 really known.  
45

46 Ms. Rose Houseweart, 1783 Creek Drive, San Jose, stated that cleaning up the creek does make  
47 a difference and would help reduce the flooding.

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1 Mr. William Garbett, P.O. Box 36132, San Jose, spoke on behalf of the environmental  
2 organization called T.H.E. P.U.B.L.I.C. Mr. Garbett complained about not being able to receive  
3 the Corps Draft EIR/S document. He questioned why the project was only from the Southern  
4 Pacific Railroad to Blossom Hill Road. He stated that controlled flooding is needed and that  
5 shopping carts and debris needs to be removed from Ross and Canoas Creeks. He also stated that  
6 development should be eliminated along floodplains and roads; vacant land, and park lands should  
7 be utilized as part of the solution. He expressed that he has lived along the river for 30 years and  
8 still has not seen anything done yet.

9  
10 Mr. Kevin L. David, representing Martyr On The River, 1641 Mackey Avenue, San Jose, reported  
11 that he was never notified of this meeting and that he was disappointed about the advertisement of  
12 the meeting. He questioned the schedule of the project, pointing out that the District's completion  
13 time had changed from 25 to five years. He pointed out that the dams are overflowing and  
14 suggested increasing the utilization of the lakes. In addition, he said that the bridge on Willow  
15 Glen Way needs to be raised, and that he was against the bypass channel plan. He expressed his  
16 concern that the project was under study for the past 37 years. He asked that all the costs  
17 associated with all the Guadalupe River Projects be provided.

18  
19 Ms. Nancy Malick, 644 Willow Glen Way, San Jose, stated that she also was not satisfied about  
20 the public meeting notification and that she did not receive a notice of this meeting. She pointed  
21 out that debris needs to be removed from the creeks, in particular the shopping carts. Ms. Malick  
22 questioned the effects on downstream Guadalupe River once the upstream work is complete.

23  
24 Mr. James Dumbolton, 1909 Creek Avenue, San Jose, did not wish to speak.

25  
26 Ms. Whitlock opened the meeting to anyone who did not hand in a speaker card that wished to  
27 speak.

28  
29 Mr. Gary Jansen, 1062 Fairview Avenue, San Jose, stated that he, too, did not receive a written  
30 notice of this meeting. He said that the project was taking too long, and that money was being  
31 wasted on all these studies. He stated he wanted these meetings stopped. He expressed concern  
32 that the human element was lost and was upset about the time frame involved with the project  
33 construction, 25 years for the District versus five years for the Corps. He expressed concern that  
34 the project will actually be constructed. He said he wants to see the creek cleaned up. He  
35 expressed concern about the District rental properties and complained about the flood insurance  
36 rates and benefits.

37  
38 Ms. Galal apologized that the Corps had not notified the individual residents of the study area in  
39 writing of this meeting. She stated that it was the Corps' responsibility, not the District's.

40  
41 Lt. Col. Thompson stated that staff would be available for questions after the meeting.

42  
43 4. Lt. Col. Thompson closed the public hearing and adjourned the meeting at 9:20 p.m.

44  
45 Elizabeth A. Ellis  
46 Deputy Clerk/Board of Directors

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### RESPONSES TO PUBLIC CONCERNS EXPRESSED IN THE PUBLIC HEARING ON OCTOBER 9, 1997

1  
2  
3  
4  
5 Maintain existing habitat. Maintain the integrity of the river.

6  
7 Due to severe space constraints, provision of flood control necessarily will mean removal of  
8 considerable urban development and/or riparian habitat. The proposed plan tries to balance human  
9 needs with ecological considerations. The Minimize Vegetation Impacts Alternative in the SCVWD's  
10 EIR/S would provide reduced habitat impacts but would cost an additional \$20 million and would  
11 displace more people. Some members of the public have indicated that they consider even the  
12 preferred alternative to be too expensive.

13  
14 Concrete rubble should be removed from the river as it is unsightly, a hazard, and impedes fish  
15 migrations.

16  
17 Removal is planned in some areas, and the Corps will investigate this possibility further during the next  
18 design phase. However, there are some difficulties with this idea. Mitigation for environmental  
19 impacts might be required. Removal could be difficult and expensive in some locations. In the future,  
20 installation of proposed vortex rock weirs will prevent downcutting of the channel.

21  
22 Build a stream restoration alternative instead.

23  
24 Stream restoration would provide long-term environmental benefits, but would also require a great deal  
25 more land. This would cost much more and displace far more people than the proposed plan. This  
26 situation is discussed in the SCVWD's EIR/S under their Stream Restoration Alternative, and section  
27 2.2 of the Corps's Final EIR/S.

28  
29 Maintenance costs for the project may be excessive.

30  
31 With all costs considered, including maintenance costs over the 100-year project lifetime, the proposal  
32 will still make economic sense in the long term. Project maintenance costs paid for with taxpayer's  
33 money need to be balanced against flood clean-up costs and damage to public facilities, which are also  
34 paid with taxpayer dollars. Sediment modeling indicates that there should not be a serious problem  
35 with sediment accumulation.

36  
37 Emphasis should be placed upon maintenance of the existing channel, including removal of trash and  
38 shopping carts, and cutting back brush.

39  
40 The SCVWD does not have maintenance easements for much of the river. However, if landowners  
41 wish to they can work with neighborhood groups and the SCVWD to arrange for cleanup. Removal of  
42 significant amounts of vegetation would have negative impacts on wildlife habitat and would have to be  
43 mitigated.

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1 There is too much emphasis on fish and wildlife. Take care of human needs by preventing flooding.

2  
3 The proposed alternative would protect most habitat and mitigate habitat impacts while providing  
4 substantial flood control. The Corps must follow federal laws, regulations, and policies. The SCVWD  
5 must also follow state laws, regulations, and policies.

6  
7 Environmental protection rules have been established in response to severe past impacts on the  
8 environment by activities intended to benefit humans.

9  
10 The proposal is too expensive.

11  
12 The existing river channel is far too small in many areas to handle larger floods. A much larger  
13 channel is needed to avoid serious flooding in the future. Habitats along the river are regionally  
14 scarce, ecologically valuable, and must be replaced at considerable expense if removed. Real estate  
15 along the river is very expensive, and substantial amounts of this real estate must be acquired for the  
16 project. Additional expenses include replacement of several bridges that cannot pass large floods, and  
17 relocation of utilities including water wells. Given all the practical and legal constraints involved, a  
18 project providing protection against a 100-year flood at this location is very costly.

19  
20 Do something cheaper like cleaning up the river. Cleaning up the river is all you need to do to prevent  
21 flooding.

22  
23 Cleaning up trash and shopping carts in the river would certainly be beneficial in several ways.  
24 However, this would only have a minor effect on the ability of the river to handle floods. Removal of  
25 vegetation would need to be extensive to have a significant effect, and even then the flood control  
26 benefits would not be very great. Moderate and large floods would still overflow the channel. In  
27 addition, extensive removal of vegetation without replacement would not be allowed by regulatory  
28 agencies due to environmental impacts.

29  
30 Would there be adequate oversight of construction by contractors?

31  
32 Yes, the Corps and SCVWD will have adequate oversight to ensure the contractor constructs the  
33 facility in a proper manner.

34  
35 Impacts on salmon and steelhead trout.

36  
37 The project has been designed to greatly reduce impacts on these fish, although impacts could not be  
38 entirely avoided. The project is designed to fully mitigate impacts to these fish over time. Modifying  
39 the proposal to further reduce impacts (as in the Minimize Vegetation Impacts Alternative discussed in  
40 the SCVWD's EIR/EIS) would make the project much more expensive and would displace many more  
41 people. The Corps and the SCVWD are engaged in ongoing discussions with state and federal fish and  
42 wildlife agencies regarding impacts and mitigation. See discussion below regarding mitigation of  
43 fisheries impacts.

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### Mitigation would not be effective. Upstream tributaries are not suitable habitat for anadromous fish.

There would be two primary types of mitigation: riparian forest and aquatic. Riparian forest mitigation is normally relatively easy when it is done in an area where riparian forest formerly grew and as long as irrigation is provided initially to enable the trees to become established. Existing riparian forest along the river ranges from very young to fairly mature. Mitigation of the young forest could be accomplished in 10-15 years, but it would take perhaps 40 years to replace the more mature forest. Occasional existing trees are much older, however.

Aquatic mitigation would focus on providing good habitat conditions for chinook salmon and steelhead trout. Success of the aquatic mitigation would be dependent primarily upon the establishment of enough riparian forest along the river's edge to provide adequate shade and other associated habitat features.

Habitat quality in upstream tributaries varies locally. Some areas currently have little shade or streamside vegetation, while other areas have much better habitat and resident trout populations. Providing access to these areas will benefit anadromous fish.

Please also see response to comment L-2.

### Effects of the downtown Guadalupe River project on the river and on fish.

The portion of the downtown project that has already been constructed provides an overflow area for floodwaters while enabling the river to maintain its existing course. Construction of the remainder of the project is contingent upon the approval of revised mitigation plans by regulatory agencies.

### These studies are too expensive.

We agree that the Corps study has been expensive. However, this expenditure is small compared to either the project cost or long-term flood damages.

### These studies are taking too long. The project should have been built by now.

The studies have taken longer than expected, but this is due in part to the complexity of the problem and the need to reconcile conflicting needs and objectives.

### Would the project really be effective in preventing floods?

The proposed alternative would greatly increase the capacity of the river to contain floodwaters.

### Effect of this project on the downtown Guadalupe project.

When the Corps designed the downtown project, it was anticipated that flood flows along the upper Guadalupe River would remain in the channel rather than spreading out across the floodplain. This normal planning assumption enables a downstream project to remain viable if another project is ever constructed upstream. Therefore, the upper Guadalupe flood control project will not cause the downtown Guadalupe project to be overwhelmed by floods.

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1 Controlled flooding is needed. Construct an off-stream storage facility instead of this project. Acquire  
2 the Valley View (Rubino) property and use it as an overflow area.

3  
4 The property mentioned is not large enough to hold a flood in storage. The floodplain covers about  
5 2,300 acres, while the Valley View property covers about 97 acres. While the acreage of the  
6 expanded floodway proposed by the Corps and the SCVWD would be fairly small, it would act to  
7 move water downstream rather than holding it in storage. Therefore, each acre of floodway would be  
8 able to handle many times the water volume that would cover one acre of land in static storage.

9  
10 There are no other remaining undeveloped sites large enough to make off-stream storage a workable  
11 option.

12  
13 Store water in upstream reservoirs instead.

14  
15 There are two ways this might be done. First, operation of the upstream reservoirs could be changed  
16 to make flood control their primary purpose. However, this would mean keeping the reservoirs as  
17 empty as possible during the winter months, which would largely negate their water supply function.  
18 Replacement water would be very expensive and may not be available. Unlike some reservoirs  
19 elsewhere, these reservoirs are not large enough to provide both flood control and water supply  
20 effectively. Even if they were managed exclusively for flood control, they would not be able to provide  
21 enough flood control to avoid a need for channel modifications downstream.

22  
23 Alternately, new reservoirs could be constructed. However, this would have larger habitat impacts  
24 than the proposed alternative and would still not provide enough flood control to avoid channel  
25 modification in some downstream areas. Additionally, this alternative is not economically feasible;  
26 costs would be much greater than benefits.

27  
28 I was unable to obtain the draft EIR/S from the public library where it was supposed to be located.

29  
30 The availability of this document at local libraries was verified.

31  
32 More people should have been notified of the meeting.

33  
34 We apologize for not providing notification to more people. An expanded mailing list will be used to  
35 notify the public of the availability of the final EIR/S.

36  
37 Control development along the river.

38  
39 This is the responsibility of local government. At this point, almost the entire river length has adjacent  
40 development.

41  
42 Rental properties operated by the SCVWD.

43  
44 These issues have been referred to SCVWD, which owns and manages these properties.  
45  
46  
47

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1 Flood insurance rates and benefits.

2  
3 The rules of the flood insurance program are set by Congress and by the Federal Emergency  
4 Management Agency (FEMA).

5  
6 Homeowners have been paying flood insurance premiums all these years, and now the SCVWD wants  
7 to use our tax dollars to pay for this project. Where did all the money from our flood insurance  
8 premiums go?

9  
10 The purpose of the flood insurance program is to enable residents and businesses in floodplains to  
11 obtain affordable flood insurance. Flood insurance premiums are used to pay for the cost of the  
12 program, including benefits paid to flood victims. The program is not intended to raise money for  
flood prevention.

