

**RESPONSE TO COMMENTS RECEIVED ON THE  
MITIGATED NEGATIVE DECLARATION FOR THE  
SAN JOSE INTERNATIONAL JET FUEL PIPELINE PROJECT**  
File No. CP09-012

**LIST OF AGENCIES & ORGANIZATIONS COMMENTING ON THE INITIAL STUDY**

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- A. Santa Clara Valley Transportation Authority
- B. AMB Property Corporation
- C. Legacy Partners
- D. Santa Clara Valley Water District
- E. California Department of Transportation, Division of Aeronautics

**RESPONSES TO COMMENTS RECEIVED ON THE INITIAL STUDY**

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The following section includes all of the comments on the Initial Study that were received by the City of San José during the review period. The comments have been excerpted from the letters and are presented as “Comment” with each response directly following (“Response”). The actual letters submitted follow the responses to comments.

**LETTER A from Roy Molseed, Senior Environmental Planner, Santa Clara Valley Transportation Authority, June 15, 2009**

**Comment A-1:**

VTA requests the opportunity to review plans and pertinent information related to the section under VTA right-of-way. The project will need to conform to all appropriate standards and regulations including cathodic protection where necessary.

**Response A-1:**

Comment noted. Wickland has submitted project plans to the VTA through the construction access permit process. Wickland has also indicated they have met with VTA staff and have on-going tele-conferences to discuss the project. The project will conform with appropriate standards and regulations including cathodic protection where necessary.

**Comment A-2:**

Our understanding is that the contractor (Wickland Pipelines) is in the process of obtaining a construction access permit from VTA.

Response A-2:

As indicated above, Wickland Pipelines is in the process of obtaining a construction access permit from VTA.

Comment A-3:

Because a portion of the work will occur within the active rail operating envelope, a Restricted Access Permit will also be required. All contractors needing access to any restricted access area used for VTA Right of Way must complete the Light Rail Roadway Worker Protection safety training course and obtain written permission (Restricted Access Permit) prior to entry so that VTA can monitor activities and make sure that the work is done safely. Our current Policy adopted October 7, 2004 also established that fees would be collected for Restricted Access Permits, Training, the level of protection required, including power removal, flagmen, Bus Bridge etc, or any unscheduled disruption to bus or train revenue vehicles.

Response A-3:

Comment noted. The contractor (Wickland Pipelines) will obtain a Restricted Access Permit and require contractors to complete the Light Rail Roadway Worker Protection safety training course, as well as pay any fees related to the Policy adopted on October 7, 2004 for Restricted Access Permits, Training, the level of protection required, including power removal, flagmen, Bus Bridge etc, or any unscheduled disruption to bus or train revenue vehicles.

**LETTER B** from Mark H. Hansen, Senior Vice President, Value Added Conversion, AMB Property Corporation, June 15, 2009

Comment B-1:

Pursuant to our discussion today, AMB Property Corporation is the owner and operator of several properties in North San Jose, including 3 buildings located at 109-125 Component Drive, 2411-2435 Zanker Road, and 2437-2465 Zanker Road. All of these buildings are adjacent to the jet fuel pipeline location proposed pursuant to CP09-012.

Response B-1:

Comment noted.

Comment B-2:

As we discussed, AMB Property Corporation is concerned what impacts this proposed pipeline may create, including disruption of access during construction and possible hazards outlined in Paragraph 3/7 of the draft Negative Declaration circulated by your department. In particular, it states that there may be potential risks due to “upset conditions” resulting in accidental release of hazardous materials or fire.

We would request that any project documentation address these potential threats relative to existing properties....

Response B-2:

Ingress/Egress During Construction: All properties will be able to be accessed during construction. At least one ingress/egress point to each property will remain open during construction. Any temporary disruption of access would be made in consultation with property owners. The project owners representative will contact the affected business and coordinate scheduling of the disruption and other measures such as temporary plating so the business is least impacted. Temporary disruptions of access are considered less than significant environmental impacts.

Upset Conditions: Potential risks due to upset conditions are mitigated through a variety of laws and regulations which govern the construction, maintenance and operation of the pipeline. As stated in the Initial Study on Pages 3-30 to 3-31, "The design, installation and operation of the pipeline would comply with or exceed safety standards established by the US Department of Transportation's (US DOT) Office of Pipeline Safety, the Office of The California State Fire Marshal (OSFM) and the American Petroleum Institute including:

- Uniform Building Code for Seismic Zone 4,
- City of San Jose Building Code,
- Federal Occupational Safety and Health Standards Act (OSHA),
- California State Industrial Safety Orders,
- ASME B31.4 Liquid Transportation Systems for Hydrocarbons, and
- US DOT 49CFR195 Transportation of Hazardous Liquids by Pipelines.

However, the potential still exists for severe damage impairing operation of the pipeline in the event of an earthquake. Explosion would be unlikely as jet fuel is a form of kerosene, a non-explosive substance. However, if an ignition source were present, a pipeline failure could expose drivers or nearby industrial buildings to fire.

A more likely hazard would result from a pipeline failure resulting in an accidental release of fuel to the environment. A leak could result in contamination of the Guadalupe River, groundwater or soil (see Sections 3.6 Hydrology and Water Quality, 3.8 Biological Resources and 3.12 Hazardous Materials for further discussion). However, given the standard measures (described below), the pipeline's location a minimum of 25 feet (or as dictated by SCVWD requirements) below the bed of the Guadalupe River and at shallower depths (five ft of cover) over 100 ft from the river corridor; the hazard from an accidental release during a seismic event or unstable soils is considered less than significant."

The following standard measures will be implemented by the project to reduce seismic related impacts:

- The proposed project shall be designed and constructed in conformance with the Uniform Building Code Guidelines for Seismic Zone 4, OSFM, and Federal regulations to avoid or minimize potential damage from seismic shaking.
- A soil engineering report shall be prepared for the project site and the recommendations will be included in the project plans. The investigation will be consistent with the

guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center (SCEC report).

In addition, pump valves automatically close upon loss of power, pressure, or signal. With the implementation of these standard measures; the fact that the pipeline is a minimum of five (5) feet and an average of over 20 feet underground; there are no existing buildings over the pipeline easement; and the fact that an ignition source would have to be present for a fire to start (Jet A is not explosive, it has a lower vapor pressure than gasoline, LPG, or natural gas, and it would not create a flammable cloud if released), the impact due to upset conditions was found to be less than significant.

Comment B-3:

... as well as confirm that this project would, in no way, impact future land use changes which are consistent with the current General Plan and the North San Jose development plan currently in place.

Response B-3:

Implementation of the project does not preclude future land use changes. Public utility petroleum pipelines are located throughout California, and are found in residential, commercial and industrial settings. As the Initial Study indicates, the proposed and alternative pipeline alignments are for the most part located in public street rights-of-way and areas zoned either Heavy Industrial (HI) or Industrial Park (IP). The Initial Study (Page 3-36) also states the project is compatible with the North San Jose Development Policy (Policy). The proposed and alternative pipeline alignments are within the industrial core or otherwise undesignated land use areas of the Policy. As stated on Page 10 of the Policy, "The Policy supports industrial to residential conversions only within the Transit/Employment Residential District Overlay areas depicted in Figure 3. According to Figure 3 of the Policy, the proposed and alternative pipeline alignments are not within areas designated as "Transit/Employment Residential District Overlay," "Other Residential Area," or "Potential Expansion of the Residential District Overlay". As with most utility easements, future land development would be restricted from the placement of structures on top of (over) the pipeline easements.

LETTER C from Tom Jodry, Senior Vice President Facilities, Legacy Partners, dated June 15, 2009, received June 16, 2009

Comment C-1:

In response to the "Public Notice – Intent to Adopt a Mitigated Negative Declaration (MND), City of San Jose, CA" dated May 15<sup>th</sup>, 2009, for the aforementioned Conditional Use Permit – as a property Owner directly affected by the project vis-à-vis the direct path of the pipeline and the project requirement to encroach onto our property, we submit the following objection by way of this letter to be submitted as public comment:

- Presence of the pipeline will have a direct negative impact on property value.

Response C-1:

Comment noted. Evaluation of property values is not an environmental issue evaluated in CEQA. Nevertheless, comments of this nature will be forwarded to the Planning Commission for consideration in their review of the Conditional Use Permit. The portion of the alignment owned by Legacy Partners (APN 101-02-015) is within a utility corridor already occupied with large electrical transmission lines and towers. The corridor is also designated in the North San Jose Area Development Policy and the North San Jose Grid System Master Plan as a future extension of Component Drive. Pipeline installation would not preclude street construction.

Comment C-2:

- The presence of the pipeline will deter a significant percentage of potential future users from interest in the property.

Response C-2:

Comment noted. Evaluation of future interest in affected properties is not an environmental issue evaluated in CEQA. Nevertheless, comments of this nature will be forwarded to the Planning Commission for consideration in their review of the Conditional Use Permit. See also response to comment C-1 above

Comment C-3:

- Lack of consideration of Security/Safety issues associated w/ pipeline contents.

Response C-3:

The most probable cause for a leak is due to corrosion or physical damage by a third party, train derailment, or earthquake. Prior to installation, the pipeline is coated to prevent corrosion and rusting. Once installed, monitoring of internal pipeline integrity to detect corrosion is conducted by the insertion of “smart pigs.” As stated on Page 2-7, smart pigs “can measure and analyze conditions along the pipeline’s inner and outer walls. As it travels through the pipe, the smart pig electronically reads and records the slightest change in wall thickness, which enables operators to identify problems before they become leaks.” Wickland is also an Underground Service Alert member and as such, when notice is received of a planned excavation, Wickland will mark the location of their facility for avoidance. The pipeline is a minimum of five (5) feet underground and has an average depth of 20 feet deep. Please also see response to Comment B-2 above regarding potential environmental impacts associated with the pipeline in the event of a disaster or accident and response to Comment C-4 below regarding safety and criminal acts.

Comment C-4:

- Lack of adequate consideration of potential environmental impacts associated w/ the presence and quantity of hazardous material in the event of a natural disaster, accident or criminal act.

Response C-4:

Please see response to Comment B-2 above regarding potential environmental impacts associated with presence and quantity of hazardous material in the event of a disaster

(earthquake) or accident. See also Response C-3 above with regard to security and safety issues. With regard to criminal acts, the pipeline's location a minimum of five (5) feet underground and an average depth of over 20 feet deep makes it an unlikely target. The pipeline surfaces at the terminal ends behind locked, secured, and monitored compounds.

Impacts due to other natural disasters such as flooding (Page 3-39 to 3-44), landslides (3-29), and wildfires (Page 3-34) were found to be "no impact" or "less than significant impact." Most of the project facilities (pipeline) would be located underground. Above ground facilities at the terminal ends have been designed to accommodate the 100-year flood or are protected from 100-year flooding by earthen berms or levees. Pump valves automatically close upon loss of power, pressure, or signal. The site would not be subject to landslides as no steep slopes are present. In addition, there are no wildlands adjacent to the project site that creates a risk for wildfires.

Comment C-5:

- Lack of information on insurance and the enhanced cost of insurance for property owners.

The "Mitigated Negative Declaration" does not adequately address these and many other issues.

Legacy Partners II SJ Orchard Parkway LLC is opposed to the issuance of the MND and the granting of the Conditional Use Permit until these issues are adequately addressed.

Response C-5:

As with comments C-1 and C-2, this comment does not identify a CEQA environmental issue. However, this comment will be forwarded to the Planning Commission for consideration in their review of the proposed Conditional Use Permit. The applicant, Wickland Pipelines has provided the following information in response to this comment; "With limited exceptions, California state law holds public utility pipeline corporations strictly liable without regard to fault for any third party damages arising out of, or caused by, pipeline discharges or leaks. State law also prohibits Wickland from operating the SJC Pipeline unless and until the State Fire Marshal certifies that Wickland possesses adequate insurance, or otherwise demonstrates sufficient financial responsibility to meet this strict liability standard. The exact dollar amount of insurance required will be calculated by the State Fire Marshal pursuant to a statutorily mandated financial responsibility formula. In the event the pipeline system is ever permanently closed, state law also requires the State Fire Marshal to require evidence of financial responsibility to fund post-closure cleanup costs, if any."

**LETTER D** from Colleen Haggerty, P.E., Community Projects Review Unit, Santa Clara Valley Water District, June 16, 2009

Comment D-1:

The Santa Clara Valley Water District (District) has reviewed the Draft Mitigated Negative Declaration (MND) and Initial Study (IS) for the SJ International Airport Jet Fuel Pipeline circulated on May 15, 2009 and received by the District on May 18, 2009.

As noted in the IS the District is a responsible agency under CEQA for this project, since the proposed pipeline will cross the District's fee title property at the undercrossing of the Guadalupe River. In accordance with the District's Water Resources Protection Ordinance the applicant will be required to secure a District permit prior to starting any work on District Property. Also, due to the nature of this utility the District will require the applicant to purchase a pipeline easement from the District for the pipeline crossing of District property at the Guadalupe River, which must be obtained prior to issuance of the District's permit.

Response D-1:

Comment noted. The Initial Study (Page 2-13) states an encroachment permit is required from the District. The applicant (Wickland) shall obtain a District permit prior to starting any work on District property. In addition, the applicant will purchase a pipeline easement from the District.

Comment D-2:

Page 3-37 of the IS notes that the District is responsible for "reservoir operations and flood protection." The District's responsibilities also include water supply management (both groundwater and surface water supplies), groundwater protection, and stream stewardship. Please also note that the District is a Santa Clara Valley Urban Runoff Pollution Prevention Program member

Response D-2:

Comment noted. The text of the IS will be revised as follows (new text is shown in underlined text and deleted text is shown as ~~striketrough text~~): On Page 3-37, the District is responsible for "reservoir operations, and flood protection, water supply management, (both groundwater and surface water supplies), groundwater protection, and stream stewardship. The District is also a Santa Clara Valley Urban Runoff Pollution Prevention Program member."

Comment D-3:

Please forward a copy of the adopted MND to the District when approved. The District will need to make its own findings on the document when approving the easement and permit as a responsible agency

Response D-3:

Comment noted. A copy of the MND will be forwarded to the District when it is adopted and the Conditional Use Permit is approved.

LETTER E from Sandy Hesnard, Aviation Environmental Specialist, the Department of Transportation, dated June 5, 2009, received June 18, 2009

Comment E-1:

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California

Environmental Quality Act (CEQA). The Division has technical expertise in areas of airport operations safety, noise, and airport land use compatibility. We are a funding agency for airport projects and we have permit authority for public-use and special-use airports and heliports.

The proposal is for the installation of a two-mile long underground pipeline connecting the Kinder Morgan San Jose Terminal to the Airport Tank Farm at San Jose International Airport, Norman Y. Mineta (SJC).

Caltrans is the primary State agency responsible for permitting airports and heliports. Our mandated process is further described in the California Code of Regulations (CCR), Title 21, Section 3534(b). SJC operates with an airport permit issued by the Division. From the information provided, it does not appear that the proposal will affect the State airport permit. New construction projects, however, must meet or exceed the minimum design standards for a permitted airport, as specified in the CCR, Title 21, Article 3, "Design Standards, Airports Only."

The guidance in the Federal Aviation Administration's (FAA) Advisory Circular 150/5370-2E, *Operational Safety on Airports During Construction*, should be incorporated into the project design in order to identify any permanent or temporary construction-related impacts (e.g. construction cranes, etc.) to the airport/heliport imaginary surfaces. This advisory circular is available at <http://faa.gov>. Depending on structural heights during construction, the FAA may require a Notice of Proposed Construction or Alteration (Form 7460-1) pursuant to Federal Aviation Regulation Part 77. Form 7460-1 is available at <http://forms.faa.gov/forms/faa7460-1.pdf>.

Response E-1:

Comment noted. Santa Clara County Airport Land Use Commission reviewed the application for the Fuel Farm in late 2007 and found it to be consistent with the Land Use Plan for San Jose International Airport. The MND acknowledged that the proposed project was within the Airport Influence Area for SJC and reviewed the project for related safety and noise impacts (Page 3-45).

While it is not anticipated that any construction or operational equipment (permanent or temporary) will be within the airport imaginary surfaces the project applicant will, prior to commencing any construction activities, consult with the San Jose Airport's operations/engineering department to confirm that there are no impacts and review Construction Safety Planning Guide applicable requirements to ensure all safety plans and notifications have been made. If impacts to imaginary surfaces are likely then applicant will comply with all applicable requirements of 150/5370-2E.

Comment E-2:

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 4 office concerning surface transportation issues.

Response E-1:

Comment noted. The project actually reduces traffic on local streets and freeways by eliminating the need for trucked deliveries of jet fuel between the fuel terminals in Brisbane and San Jose and the Airport. Therefore, there are no surface transportation issues.