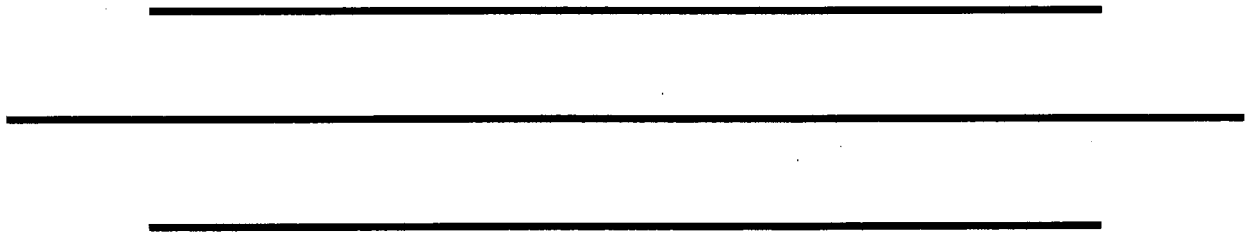


Appendix

A



Copies of Comments

Received on the

Draft EIR

Memorandum

COMMENT # 1

Date: March 10, 2006

To: State Clearing House
1400 Tenth Street, Room 121
Sacramento, CA 95814



clear
3-20-06
e

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
San Jose Area

File No.: 340.8232

Subject: EVERGREEN – EASTHILLS VISION STRATEGY PROJECT SAN JOSE,
CALIFORNIA- EIR SCH#2005102007

Thank you for the opportunity to review the "Notice of Completion" environmental document from the State Clearinghouse regarding the proposed Evergreen * Easthills Vision Strategy Project in San Jose SCH#2005102007. The California Highway Patrol (CHP) is not the primary agency for traffic law enforcement, safety, and traffic management in the immediate area surrounding the proposed development within the city limits of San Jose. The San Jose Area is responsible for traffic enforcement on the adjoining major freeways surrounding the area in question and will be affected by the implementation of this project.

Our major concern relates to the traffic flow patterns that will flow into and out of the proposed area that is to be developed. The proposed site is located in the eastern foothills of San Jose. The added traffic congestion from the approximately 5,700 housing units that are scheduled to be built in the area will have a major impact on congestion on those freeways adjacent to the development and tax the resources available to the San Jose Area. We would request if this project is allowed to proceed that additional personnel be assigned to the San Jose Area.

If you have any questions regarding these comments, please contact myself or Lieutenant Spencer Boyce at (408) 467-5400.

Sincerely,

M. D. MARLATT, Captain
Commander

cc: Golden Gate Division
Special Projects Section

Safety, Service, and Security



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA

 **COMMENT # 2**

Department of Toxic Substances Control

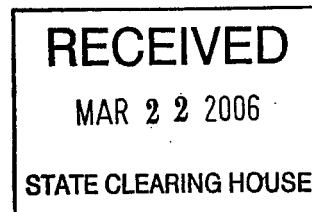
Maureen F. Gorsen, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor

March 20, 2006

Mr John W. Baty
City of San Jose
200 East Santa Clara Street
San Jose, California 94503



*Clear
3/20/06
wte e*

Dear Mr Baty:

Thank you for the opportunity to comment on the Evergreen-East Hills Vision Strategy (SCH # 2005102007) draft Environmental Impact Report (EIR). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any remediation of hazardous substance releases that may be necessary.

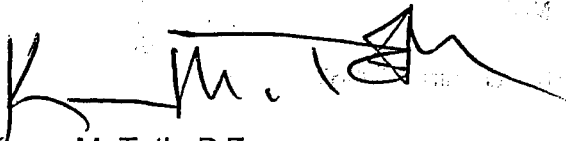
In the Hazards/Hazardous Materials section, you identified several potential contaminated sites and discussed remedial action that would be addressed during the implementation of the draft Environmental Impact Report. DTSC recommends that the following impacts associated with the soil excavation be discussed in the EIR: (1) an assessment of potential air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should there be an accident at the Site during implementation of cleanup activities.

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Mr. John W. Baty
March 20, 2006
Page 2

Please contact Claude Jemison of my staff at (510) 540-3803 if you have any questions or would like to schedule a meeting. Thank you in advance for your cooperation in this matter.

Sincerely,



Karen M. Toth, P.E.
Unit Chief
Northern California
Coastal Cleanup Operations Branch

Enclosure

cc: without enclosure

Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

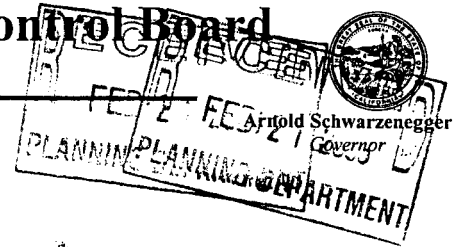
Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806



Alan C. Lloyd, Ph.D.
Agency Secretary

California Regional Water Quality Control Board San Francisco Bay Region

Internet Address: <http://www.waterboards.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 FAX (510) 622-2460



COMMENT # 3

Date: FEB 2 2006
File No. 2188.05 (BKW)

John W. Baty
Department of Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

**Re: Draft Environmental Impact Report for the Evergreen - East Hills Vision Strategy Project, San Jose, California
SCH # 2005102007**

Dear Mr. Baty:

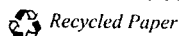
Regional Water Quality Control Board (Water Board) staff have reviewed the *Draft Environmental Impact Report (DEIR) for the Evergreen - East Hills Vision Strategy Project, San Jose*. The DEIR evaluates the potential environmental impacts of various actions which, when taken together, will fulfill the City of San Jose's (City's) vision for development of five areas within the Evergreen - East Hills area of the City. Water Board staff have the following comments on the IS/EA.

Comment 1

Section 4.6, Biological Resources, pages 198 - 223.

The discussions of wetlands and waterways in Section 4.6 should be expanded to clarify that the Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in conjunction with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs).

California Environmental Protection Agency



Comment 2***Section 4.6.2.1, Existing Biological Resources on Arcadia Property, Wetlands and Waterways, page 200.***

Text in this paragraph refers to a potential 0.1-acre, isolated wetland on the Arcadia Property. According to the text, the potential wetland is not subject to ACOE regulation under Section 404 of the CWA. However the text does not explain if this is because the area does not meet the three-parameter definition of wetlands or if this is because the wetland is an “isolated” wetland that is not subject to ACOE jurisdiction subsequent to the SWANCC decision. This paragraph should be revised to clarify that isolated wetlands continue to be regulated by the Water Board under the Porter-Cologne Act. Due to the relatively small size of this isolated wetland, activities in this wetland may qualify for coverage under the *State Water Resources Control Board’s General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction (GWDRs)*. Any fill of such a wetland will require mitigation to compensate for the fill.

Comment 3***Section 4.6.2.2, Existing Biological Resources on Pleasant Hills Golf Course Property, Wetlands and Waterways, page 205.***

Text in this paragraph refers to small wetlands and a seasonal swale on the property. These features appear to be jurisdictional features under the Porter-Cologne Act. Any activities impacting these features will be required to obtain WDRs from the Water Board. These WDRs will specify mitigation for impacts to these waters of the State.

Comment 4***Section 4.6.2.3, Existing Biological Resources on Berg/IDS Property, Wetlands and Waterways, page 206.***

Text in this paragraph states that Fowler Creek, “consists solely of a ditch that is completely dry with only minimal evidence of seasonal flows.” This feature is still a water of the State, and is also likely to be an ACOE jurisdictional feature, since it is a continuation of a feature with a defined bed and bank. Any activities that impact Fowler Creek are likely to require permits from the Water Board and the ACOE.

Comment 5***Section 4.6.2.4, Existing Biological Resources on Legacy Partners Property, Wetlands and Waterways, pages 207 - 208.***

Text in this paragraph refers to seasonal wetlands, with a combined surface area on the order of 0.01 acre. According to the text, the seasonal wetlands are not subject to ACOE regulation under Section 404 of the CWA. However the text does not explain if this is because the features do not meet the three-parameter definition of wetlands or if this is

because the wetlands are “isolated” wetlands that are not subject to ACOE jurisdiction subsequent to the SWANCC decision. This paragraph should be revised to clarify that isolated wetlands continue to be regulated by the Water Board under the Porter-Cologne Act. Due to the relatively small size of these seasonal wetlands, activities in these wetlands may qualify for coverage under the GWDRs described above under comment 2. Any fill of such wetlands will require mitigation to compensate for the fill.

Comment 6

Section 4.6.3, Biological Resources Impacts, pages 211 - 208.

In Sections 4.6.3.1, 4.6.3.2, 4.6.3.3, 4.6.3.4, and 4.6.3.5, impacts to wetlands and creeks are described as “Less than Significant Impacts”. Since the DEIR fails to note that these features are subject to the jurisdiction of the Water Board, these impacts should be revised to “Less than Significant Impact with Mitigation.”

Comment 7

Section 4.6.4, Mitigation and Avoidance Measures for Impacts to Biological Resources, pages 216 - 223.

In Sections 4.6.4.1, 4.6.4.2, 4.6.4.3, 4.6.4.4, and 4.6.4.5, mitigation measures should be provided for impacts to wetlands and creeks.

If you have any questions, please contact me at (510) 622-5680 or e-mail bwines@waterboards.ca.gov.

Sincerely,



Brian Wines
Water Resources Control Engineer

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044
USACE, San Francisco District, Attn: Regulatory Branch, 333 Market Street, San Francisco, CA 94105 –2197
Santa Clara Valley Water Control District, Attn: Sue Tippets, Community Projects Review Unit 5750 Almaden Expressway, San Jose, Ca 95118-3686
CDFG, Central Coast Region, Attn: Robert Floerke, Regional Manager, P.O. Box 47, Yountville CA 94599

DEPARTMENT OF TRANSPORTATION

P. O. BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444
(510) 286-4454 TDD



*Flex your power!
Be energy efficient!*

COMMENT #4

March 20, 2006

SCL-101-30.90
SCL101805
SCH 2005102007

Mr. John W. Baty
City of San José
200 East Santa Clara Street
San José, CA 95113-1905

Dear Mr. Baty:

Evergreen · East Hills Vision Strategy – Draft Environmental Impact Report (DEIR)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the DEIR and have the following comments to offer.

Forecasting

Pass-by and Diverted Trip Reduction

Table 12, Project Trip Generation Estimates, applies 12% pass-by trip reduction and 44% diverted trip reduction, totaled as 56% trip reduction to several land uses such as: Community Center, Adult Sports Complex, Swimming Pool, and Branch Library (BL). However, both the pass-by and diverted trip reductions for these land uses are not mentioned in the 2004 *Institute of Transportation Engineers (ITE) Trip Generation Handbook*. While the Department can only acknowledge the trip reductions for BL as referenced in the *San Diego Traffic Generators (SDTG)* manual used in the report, the Department would like to know if the trip reductions for BL in Evergreen Valley College are similar to the SDTG. If not, then the SDTG can not be used. If they are similar then the SDTG is appropriately used. Please Clarify. If the trip reductions are similar to the SDTG, please submit the access site plan so that we can visualize and ascertain whether the 44% diverted trips to adjacent streets are justified. Also, high trip reductions of 56% for other remaining land uses in similar sites should have supporting studies to validate them.

Total Project Trips per Scenario

Tables 2 and 12 are confusing as they show that the Total Project Trips per Scenario II through VI are subtracted from the Total Project Trips per Scenario I and referred to as No Project and traffic generated from existing land uses. It is not clear whether the existing land uses would be replaced by the proposed ones as it appears that the traffic under Project Conditions (Scenario II –VI) is estimated by adding existing trips to traffic generated from approved project as well as project per scenario land use. The Total Project Trips per scenario should not include subtractions of Total Project Trips per No Project scenario and traffic generated from existing land use. Please clarify.

Internal Trip Reduction

The internal trip reductions are used twice in Table 12. In the Arcadia site, the first 5% internal reduction is for non-residential internal trips, while the other 5% internal reduction is used again for residential internal trips. The total internal trip reductions are doubled to 10% daily in the AM and PM peak hour trips. This 10% trip reduction is high and further study should be done in order to justify it.

Highway Operations

EIR Volume I-V

Improvements to U.S. 101, page S-2: Missing from this list is a new southbound auxiliary lane between Capitol Expressway and Yerba Buena Road.

Operational Improvements on U.S. 101, pages 15 and 16: The document states (page 15)... "a 2005 Initial Study entitled U.S. 101 Operational Improvements from I-280/I-680 to Yerba Buena Road, which was prepared by Caltrans", and (Page 16) ... "evaluated in the Initial Study by Caltrans." This Initial Study was prepared by the Valley Transportation Authority (VTA), so please correct this statement.

Table 14, page 58: This list of improvements does not match the intersection improvements on Figure 13. Also, page S-6 lists mitigation on Tully Rd. /McLaughlin Ave. intersection which is not included in Table 14 or Figure 13. Please revise this.

Operational Improvements on U.S. 101, page 61: An auxiliary lane in the southbound direction between Capitol Expressway and Yerba Buena Road is missing from this bulleted list.

Footnote 15, page 61: Auxiliary lanes do not improve weaving as stated in this footnote; they create weaving.

Figure 15: A southbound auxiliary lane between Capitol Expressway and Yerba Buena Road is missing from this figure.

Figure 20: Not all of the future signalized intersections are shown here as listed in Table 14.

U.S. 101, page 118: Blossom Hill interchange is missing from this list of interchanges in the Evergreen area.

Effect of Scenarios II-VI on Wait Times at Freeway On-Ramps, page 141, 2nd bullet: 1) this is highly unlikely as there are no improvements recommended to northbound US 101, which is currently experiencing congested conditions. Under No Project 2030 conditions this congestion will increase and no additional on-ramp traffic (beyond existing metering rates) will be able to enter the freeway.

Table 31 and 32, page 148: The footnotes on these tables state...*"see Table 11 for a list of the roadways that are proposed to be downgraded."* Table 11 does not show a list of roadways to be downgraded.

Transportation Impact Analysis

Table ES 3, page xiv: San Felipe Road and Yerba Buena Road (S) would experience a significant impact in the P.M. peak hour. Need to include mitigation for this significant impact.

Queuing at Freeway Ramp Meters, page xxii, 1st and 3rd paragraphs: The document states (1st paragraph)...*"Due to the projected increase in freeway ramp volumes, it is assumed that the ramp meter rates would increase..."* and (2nd paragraph) *"Although the project would cause an increase in traffic volumes on these ramps, it is anticipated that the metering rates would increase..."* Northbound US 101 is already at capacity and the freeway sections within the Evergreen area are congested. There are no proposed improvements on northbound US 101 and the freeway can not handle any additional traffic in the peak hour. The assumption that the ramp metering rates will be increased is wrong. The analysis in this document that assumed this ramp meter rate increase needs to be re-calculated using the existing metering rates.

Queuing at Freeway Ramp Meters, page xxii, 4th paragraph: The document states...*"the proposed new connection from Yerba Buena Road to northbound U.S. 101 would substantially reduce the queue length and delay at this location to levels that are below existing.* This is not necessarily true; currently Yerba Buena Road is metered at the Capitol Expressway CD road. In the future Yerba Buena Road will be metered at the Yerba Buena on-ramp. As no additional traffic beyond existing metering rates will be allowed to enter northbound US 101 due to the current and future congestion on northbound US 101, the delay for Yerba Buena Road traffic would be similar to No Project traffic delay.