



M O O R E I A C O F A N O G O L T S M A N , I N C .

August 7, 2006

Memorandum

To: SCV HCP-NCCP Stakeholder Group Members

From: Joan Chaplick, Project Manager

Subject: Stakeholder Member Participation In Liaison Group Meetings

During the agenda planning meeting for the monthly Stakeholder Group meeting, it was suggested that the Stakeholder Group may want to designate a representative to attend the Liaison Group meetings. We believe this appointment could help improve communication and ensure that members of both groups are well informed of each other's activities. For the remainder of 2006, Liaison Group meetings are scheduled for Thursday, August 24 (2 to 4), Thursday, October 26 (6 to 8) and Thursday, December 14 (10 to 12). Meetings are held at the County Government Center, 70 West Hedding Street in San Jose. We have scheduled time on the agenda for the August meeting to discuss this and are offering the following comments to help seed the discussion.

### **Potential Roles and Responsibilities**

The designated representative would be asked to provide a brief report to the Stakeholder Group at the following monthly Stakeholder meeting. If requested by the Liaison Group or Management Team, the representative might be asked to provide a brief report on the Stakeholder Group's activities. This would be done in lieu of having the information provided by a member of the Management Team. The group may consider expanding and/ further refining the roles and responsibilities for this position.

### **Potential Models**

The following models for selecting the group's representative were suggested:

- 1) The group selects a designated representative who serves in this role for a specific time period, e.g., one year or more.
- 2) The group selects multiple representatives and they attend depending on availability.
- 3) A different representative is selected prior to each Liaison Group meeting. Members can nominate themselves, depending on the time and the agenda topic.

All Liaison Group meetings are open to the public and stakeholders are invited to attend; one will not need to be a designated representative. Should the group determine that a designated representative to the Liaison Group is unnecessary, we will accept the group's decision and consider the topic closed. We look forward to hearing your comments on this topic on the 22<sup>nd</sup>.

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## Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan

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August 11, 2006

To: Stakeholder Group

From: Management Team

Subject: Permit Term

In April, the Stakeholder Group discussed the attached April 4, 2006 memo from Jones & Stokes regarding the length of the permit term. The issue was continued for further discussion. Staff concluded that further consideration of permit term-related issues would benefit from information on covered activities. Covered activities information is provided as part of a separate agenda item for the Group's August 22, 2006 meeting.

The Liaison Group is scheduled to review the issue of the permit term's length on October 26, 2006.

Notable additions/modifications to the April 4<sup>th</sup> memo include:

- Coyote Valley Specific Plan: implementation timeline is now 58 years, rather than the 40 years cited on page 2 and in Table 1;
- Morgan Hill has adopted an Urban Limit Line establishing an ultimate growth boundary; and
- The FAHCE HCP will have a 50-year term (30 year plan duration cited in Table 1).

The April Stakeholder Group consideration of the permit term triggered a series of Management Team discussions. The outcome of those discussions was a Management Team decision to recommend that the HCP/NCCP seek a 50-year permit term. The Management Team reached this conclusion for several reasons:

- Level of Certainty Regarding Future Urban Development: San Jose and Morgan Hill have ultimate urban limit lines in their General Plans. Thus to a considerable degree, many of the land consumption impacts of new urban growth are similar for a 50 year or shorter permit term. The longer permit term offers the potential for greater conservation efforts that can, in part, help reinforce the planned urban boundaries.
- Length of Some Covered Public Activities: A major benefit of the HCP/NCCP will be for public sector operations, maintenance and capital projects. Some of these projects have a long lead time; others are infrastructure work such as bridge repairs and maintenance of water pipelines and other utility facilities that occur with regularity over time. The Partner Agencies concluded that a longer permit term added considerable value for the public agencies undertaking the HCP/NCCP.

- Need for and Value of a Long Term Implementation Permit: The Santa Clara Valley HCP/NCCP will differ from most large Regional Conservation Plans in the relatively limited amount of land that is to be converted from undeveloped to urban. A considerable challenge will be finding an implementation and funding package that has an acceptable mix of public desires for open space preservation, private and public sector tolerance for new fees and charges and realistic assumptions regarding opportunities for outside funding. A shorter permit term will almost undoubtedly result in a more limited conservation effort primarily because of funding limitations. Being able to spread the implementation over a longer permit term will facilitate having a more robust set of conservation strategies.
- Achieving the Greatest Value for the Planning Effort: In addition to the cost of consultants, the Partner Agencies and the Wildlife Agencies are spending a considerable amount of staff time and other resources on the HCP/NCCP effort. Maximizing the return on this investment facilitates the conclusion that a 50-year permit term is appropriate.

In conclusion, the Management Team will recommend to the Liaison Group that preparation of the HCP/NCCP assume a 50-year permit term with that assumption incorporated into the eventual Implementing Agreement and Permit applications.

Attachment: April 4, 2006 Memorandum from Jones & Stokes



# Jones & Stokes

## Memorandum

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Date: April 4, 2006

To: Santa Clara Valley HCP/NCCP Management Team

cc:

From: David Zippin and Kathryn Gaffney

Subject: **Permit Term for the Santa Clara Valley HCP/NCCP**

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## Introduction

This memorandum summarizes the factors that should be considered in the selection of an appropriate permit term for the Santa Clara Valley HCP/NCCP. The permit term of an HCP/NCCP is the length of time for which the incidental take permits are valid and during which Permittees may undertake activities covered by the permit. The permit term is also the time period in which all land acquisition, habitat restoration, and other mitigation and conservation measures must be accomplished. Habitat management and monitoring, however, will continue beyond the permit term, although perhaps at a reduced level than during the permit term. Several factors are considered when selecting a permit term, including policy guidance from regulatory agencies, the time horizons of local planning documents, and the time necessary to implement the reserve system. Each of these factors is discussed below, along with a brief review of the permit terms of other California HCPs and NCCPs and the range of permit terms found in approved HCPs across the country. Finally, a recommendation is made for a permit term of 50 years for the Santa Clara Valley HCP/NCCP.

## Agency Guidance

The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service have published an addendum to the *Handbook for Habitat Conservation Planning and Incidental Take Permitting Process*. This addendum, known as the five-point policy, provides guidance in developing and conducting an incidental take permit (65 FR 35242). This policy recommends that applicants consider the following factors when selecting an appropriate permit term for an HCP.

- Duration of the applicant's proposed activities.
- Nature and variation in the impact of the activities on covered activities.
- Expected positive and negative effects on covered species.
  - Extent to which the operating conservation program will increase the long-term survivability of the species or enhance its habitat.
  - Length of time necessary to achieve benefits of conservation program.
  - Length of time necessary for adaptive management.

- Risk to species and habitats due to uncertainty of impacts, lack of data on species, responses, or other factors.
- Duration of time necessary to ensure long-term active commitments to the HCP.

The Natural Community Conservation Planning Act (NCCPA) suggests that that time needed to assemble the reserve system should also be considered.

No other guidance on permit terms is provided by the California Department of Fish and Game (CDFG) or in the NCCPA, but the level of assurances in the NCCP permit are tied to “[t]he appropriateness of the size and duration of the plan with respect to quality and amount of data” and “[t]he size and duration of the plan.” Thus, the permit term will influence the level of assurances provided by CDFG to the Permittees regarding changed circumstances, adaptive management, and other factors.

## **Time Horizon of Local Planning Documents**

One of the primary factors influencing the permit term is the time needed to implement all covered activities. To determine the time needed for the covered activities of Local Partners, we provide a summary of major local planning documents and the time horizon associated with each document (Table 1). These planning documents have durations between 10 and 40 years, with the Coyote Valley Specific Plan potentially extending the farthest out into the future to 2047. In order for the HCP/NCCP to fully cover the anticipated development in Coyote Valley, the permit term must be at least 38 years, assuming that the HCP/NCCP is approved in 2009.

## **Permit Terms of Other Regional HCPs and NCCPs**

Table 2 provides an overview of selected regional HCPs and NCCPs currently approved or under development in California that are similar to the Santa Clara Valley HCP/NCCP. The range of approved or proposed permit terms is 30 to 80 years. These permit terms were selected based on a variety of factors, including anticipated local growth, the necessary timeframe for assembling the reserve system, and the time needed to fully fund the plan.

Figure 1 shows the permit terms for all approved HCPs in the United States as of February 2006. As this histogram demonstrates, the most common permit terms are between five and nine years, and 30 years. Short permit terms are most common for small, project HCPs that only need a few years of take authorization in which to construct the project. The permit term for large-scale HCPs ranges from 30 to 100 years, with 30 or 50 years being the most common choices. Permit terms of 100 years were adopted for some of the earlier HCPs and are no longer being considered by USFWS because of the large uncertainty in allowing take for such a long period.

## **Recommended Permit Term**

Selecting an appropriate permit term will help ensure the success of the Plan throughout its implementation. The selected permit term should encompass the implementation of all planning efforts

currently in place or anticipated to be in place within the next several years. It should also allow adequate time to fund and implement the conservation strategy of the HCP/NCCP. Based on agency guidance, time horizons of local planning documents, and the consideration of other factors discussed above, Jones & Stokes recommends that the Local Partners propose a permit term of 50 years for the Santa Clara Valley HCP/NCCP. We believe that this permit term will:

- encompass the duration of all anticipated covered activities, with an additional 12 years to cover contingencies;
- provide sufficient time to assemble the HCP/NCCP reserve system;
- provide sufficient time to secure all necessary funding for HCP/NCCP implementation during and after the permit term; and
- provide sufficient time to implement an effective adaptive management program, given the uncertainties in our knowledge about the covered species ecology and responses to resource management.

Please provide feedback on this recommended permit term and the rationale for it.

Tables and Figures

**Table 1.** Local Planning Documents and Time Horizons

Document	Date Produced	Projection/ Time Horizon	Plan Duration
City of Gilroy General Plan	2002	2020	18 years
City of Morgan Hill General Plan	July 2001, Updated August 2005	Growth to 2010; development management measures to 2020	19 years
City of San Jose General Plan	2005	2020	15 years
County of Santa Clara General Plan	1994; Updated 2001	2010	16 years
Coyote Valley Specific Plan (City of San Jose)	Anticipated to be considered by City Council in 2007	Up to 2047	40 years
Coyote Watershed Stream Stewardship Plan (SCVWD)	2002	At least until 2016	14 years
Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) Settlement Agreement (SCVWD)	2008 (anticipated approval)	2038	30 years
Flood Protection and Stream Stewardship Program (SCVWD) (Capital Improvements are wrapped into this plan)	Adopted by the Board of Directors and approved by the voters in November 2000	2001-2016	15 years
South County Airport Master Plan Report (DRAFT) (Santa Clara County)	2005	2025	20 years
Strategic Plan for the Santa Clara County Parks and Recreation System	2003	2013	10 years
Valley Transportation Plan 2030 (VTA)	2005	2030	25 years

Sources: City of Gilroy 2002; City of Morgan Hill 2001; City of San Jose 2005; County of Santa Clara 1994, 2005, 2003; Santa Clara Valley Water District 2002, 2005; Valley Transportation Authority 2005.

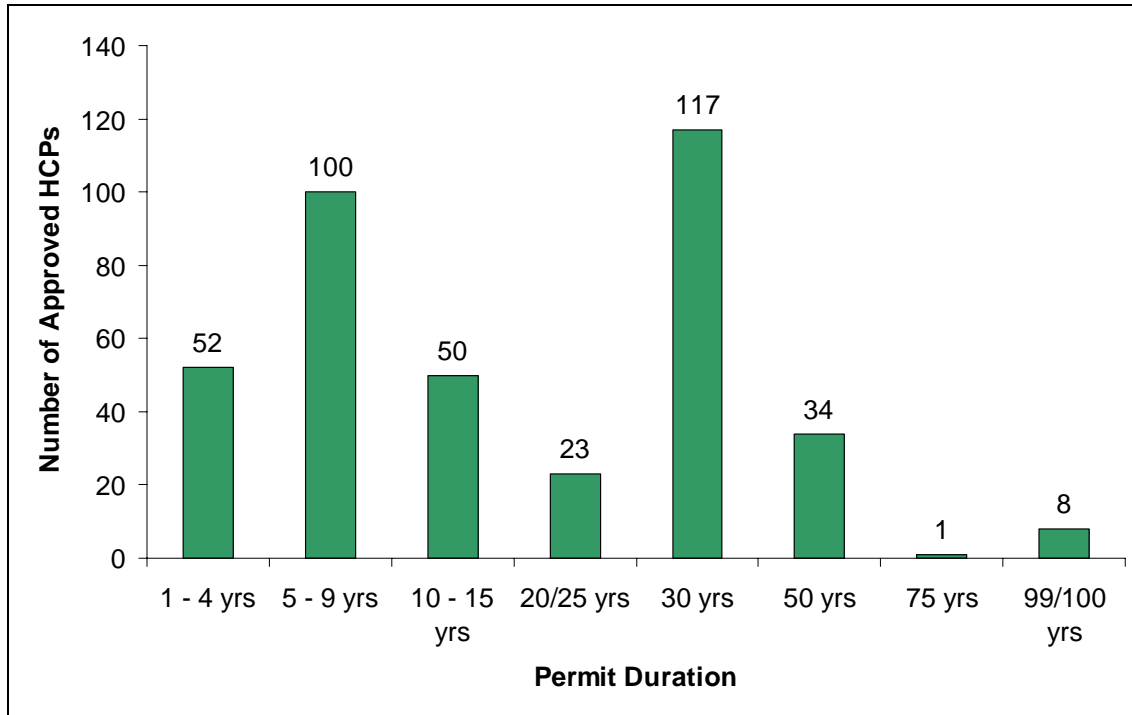
**Table 2.** Permit Terms of Other Regional HCPs and NCCPs in California

Plan	Plan Status	Permit Term	General Rationale for Permit Term
Coachella Valley Multiple Species HCP/NCCP	Approval expected in 2006	75 years	Length of time needed to fully fund plan implementation
East Contra Costa County HCP/NCCP	Approval expected 07/06	30 years	(1) Reasonable timeframe in which to forecast local growth; (2) may take longer to realize growth than 15 years or less time frame of current general plans; (3) necessary timeframe for assembling reserve system
Mendocino Redwood Company HCP/NCCP	January 2007 public draft	80 years	Length of time for replanted trees to mature
Natomas Basin HCP	Approved in 2003	50 years	N/A
North (San Diego) County Multiple Habitat Conservation Program	Approved in 2004	50 years	N/A
Placer Legacy Open Space and Agricultural Conservation Program NCCP and HCP	In process	50 years	Time required for complete build-out of county and City of Lincoln (beyond current general plan time horizons)
San Joaquin County Multi-Species Habitat Conservation & Open Space Plan	Approved 11/14/00	50 years	Period of time used to forecast regional growth
Western Riverside County Multi-Species HCP	Approved 6/17/03	75 years	Time needed to assemble reserve system and implement regional transportation plan

Sources: City of Sacramento 2003, Coachella Valley Association of Governments 2006, Contra Costa County 2005, County of Placer 2006, County of Riverside 2004, Mendocino Redwood Company 2005, San Diego Association of Governments 2004, San Joaquin Council of Governments 2000.



**Figure 1.** Permit Durations of Approved HCPs Nationwide



Source: U.S. Fish and Wildlife Service 2005.

## References

- City of Gilroy. 2002. *Gilroy General Plan 2002-2020*. Adopted June 13, 2002. Gilroy, CA.
- City of Morgan Hill. 2001. *Morgan Hill General Plan*. Revised 2005. Morgan Hill, CA.
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United States Fish and Wildlife Service. 2000. Federal Register. Vol. 65, No. 106, pp. 35242. Available: <[http://www.fws.gov/endangered/hcp/final\\_notice.pdf](http://www.fws.gov/endangered/hcp/final_notice.pdf)>.

———. 2005. Permit Durations of Approved HCPs Nationwide. February 26.

Valley Transportation Authority. 2005. Valley Transportation Plan 2030. San Jose, CA.



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Attachment: April 4, 2006 Memorandum from Jones & Stokes

**Table 2-4.** Species Covered by the FAHCE HCP and the Santa Clara Valley HCP/NCCP

Species	Status <sup>a</sup>		Species Covered by FAHCE HCP	Species Covered by Santa Clara Valley HCP/NCCP <sup>b</sup>	Species Covered by Santa Clara Valley NCCP Permit for FAHCE Activities <sup>c</sup>
	State/CNPS	Federal			
<b>Invertebrates</b>					
Bay checkerspot butterfly <i>Euphydryas editha bayensis</i>	—	FT		✓	
Unsilvered fritillary <i>Speyeria adiastra adiastra</i>	—	—		✓	
Opler's longhorn moth <i>Adela oplerella</i>	—	—	✓		
<b>Fish</b>					
Pacific lamprey <i>Lampetra tridentata</i>	—	—	✓	✓	✓
South-Central California Coastal steelhead <i>Oncorhynchus mykiss</i>	CSC	FT		✓	
Central California Coastal steelhead <i>Oncorhynchus mykiss</i>	—	FT	✓	✓	✓
Central Valley fall-run Chinook salmon <i>Onchorhynchus tshawytscha</i>	CSC	SOC	✓	✓	✓
Monterey roach <i>Lavinia symmetricus subditus</i>	CSC	—		✓	
<b>Amphibians</b>					
California tiger salamander <i>Ambystoma californiense</i>	CSC	FT	✓	✓	✓
California red-legged frog <i>Rana aurora draytoni</i>	CSC	FT	✓	✓	✓
Foothill yellow-legged frog <i>Rana boylei</i>	CSC	—	✓	✓	✓
California horned lizard <i>Phrynosoma coronatum frontale</i>	ST	—	✓		
Western pond turtle <i>Clemmys marmorata</i>	CSC	—	✓	✓	✓
<b>Birds</b>					
Golden eagle <i>Aquila chrysaetos</i>	FP	BGPA, MBTA		✓	
Western burrowing owl <i>Athene cunicularia hypugea</i>	CSC	MBTA		✓	

Species	Status <sup>a</sup>		Species Covered by FAHCE HCP	Species Covered by Santa Clara Valley HCP/NCCP <sup>b</sup>	Species Covered by Santa Clara Valley NCCP Permit for FAHCE Activities <sup>c</sup>
	State/CNPS	Federal			
Purple martin <i>Progne subis</i>	CSC	MBTA		✓	
Bank swallow <i>Riparia riparia</i>	ST	MBTA		✓	
Least Bell's vireo <i>Vireo bellii pusillus</i>	SE	FE, MBTA		✓	
Salt marsh common yellowthroat <i>Geothlypis trichas sinuosa</i>	CSC	MBTA		✓	
Tricolored blackbird <i>Agelaius tricolor</i>	CSC	MBTA		✓	
<b>Mammals</b>					
Pacific Townsend's big-eared bat <i>Corynorhinus townsendii townsendii</i>	CSC	—		✓	
San Joaquin kit fox <i>Vulpes macrotis mutica</i>	ST	FE		✓	
<b>Plants</b>					
Big scale balsamroot <i>Balsamorhiza macrolepis</i> var. <i>macrolepis</i>	1B	—	✓	✓	✓
Chaparral harebell <i>Campanula exigua</i>	1B	—	✓	✓	✓
Tiburon paintbrush <i>Castilleja affinis</i> ssp. <i>neglecta</i>	SE	FE	✓	No Take species	
Coyote ceanothus <i>Ceanothus ferrisiae</i>	1B	FE	✓	✓	✓
Mount Hamilton thistle <i>Cirsium fontinale</i> var. <i>campylon</i>	1B	—	✓	✓	✓
San Francisco collinsia <i>Collinsia multicolor</i>	1B	—		✓	
Hospital Canyon larkspur <i>Delphinium californicum</i> ssp. <i>interius</i>	1B	—	✓		
Western leatherwood <i>Dirca occidentalis</i>	1B	—	✓		
Santa Clara Valley dudleya <i>Dudleya setchellii</i>	1B	FE	✓	✓	✓

Species	Status <sup>a</sup>		Species Covered by FAHCE HCP	Species Covered by Santa Clara Valley HCP/NCCP <sup>b</sup>	Species Covered by Santa Clara Valley NCCP Permit for FAHCE Activities <sup>c</sup>
	State/CNPS	Federal			
Fragrant fritillary <i>Fritillaria liliacea</i>	1B	—	✓	✓	✓
Loma Prieta hoita <i>Hoita strobilina</i>	1B	—	✓	✓	✓
Smooth lessingia <i>Lessingia micradenia</i> var. <i>glabrata</i>	1B	—	✓	✓	✓
Arcuate bush mallow <i>Malacothammus arcuatus</i>	1B	—	✓	✓	✓
Hall's bush mallow <i>Malacothammus hallii</i>	1B	—	✓	✓	✓
Robust monardella <i>Monardella villosa</i> ssp. <i>globosa</i>	1B	—		✓	
Rock sanicle <i>Sanicula saxatilis</i>	SR/1B	—		✓	
Metcalf Canyon jewelflower <i>Streptanthus albidus</i> subsp. <i>albidus</i>	1B	FE	✓	✓	✓
Most beautiful jewelflower <i>Streptanthus albidus</i> subsp. <i>peramoenus</i>	1B	—	✓	✓	✓

Notes:

a. Status

**Federal**

FE Federally Endangered  
 FT Federally Threatened  
 BGPA Bald and Golden Eagle Protection Act  
 MBTA Migratory Bird Treaty Act  
 SOC Species of Concern (National Marine Fisheries Service only)

**State**

SE State Listed as Endangered  
 ST State Listed as Threatened  
 SR State Listed as Rare  
 CSC California Special Concern Species  
 FP Fully Protected  
**California Native Plant Society**  
 1B Rare, Threatened, or Endangered in California and Elsewhere

b. Species covered for all covered activities except FAHCE activities

c. For coverage of FAHCE activities in the Santa Clara Valley NCCP permit, the species must be covered in both plans (FAHCE HCP and Santa Clara Valley HCP/NCCP).

**Table 2-5.** Transportation Projects in Rural Areas of the Plan Study Area

Transportation Project Type	VTA ID	Project	Approximate Length (miles)	Approximate Width of New Construction (feet)	Approximate Construction Dates	Lead Agency
<b>Roadway Projects</b>						
	R40	Hill Rd. extension				Santa Clara County
		R43 DeWitt Ave./Sunnyside Ave. Realignment at Edmunson Ave.				Santa Clara County
		Alamitos Road near Almaden Quicksilver County Park (construct retaining wall and restore 2-lane operation)				Santa Clara County
		Miguelito Road at Alum Rock Road near Mt. Hamilton Road (construct retaining wall and restore 2-lane operation)				Santa Clara County
<b>Highway Projects</b>						
	H25-03	SR 25 upgrade to six-lane facility design				Valley Transportation Authority
	H101-22	U.S. 101 conversion to four-lane freeway: SR 25 to Santa Clara/San Benito County line				Valley Transportation Authority
	H101-23	U.S. 101 widening between Cochrane Rd. and Monterey Hwy				Valley Transportation Authority
	H152-03	SR 152/Ferguson Road intersection improvements				Valley Transportation Authority
<b>Mass Transit Projects</b>						
	T2	BART to Milpitas, San José, and Santa Clara				Valley Transportation Authority
	T5	Caltrain Service Upgrades—more frequent service, station upgrades, etc.				Valley Transportation Authority



Transportation Project Type	VTA ID	Project	Approximate Length (miles)	Approximate Width of New Construction (feet)	Approximate Construction Dates	Lead Agency
	T6	Caltrain South County—double tracking from San José to Gilroy				Valley Transportation Authority
	T7	Downtown/East Valley-Santa Clara/Alum Rock Corridor project				Valley Transportation Authority
	T10	New rail corridors (undefined as of yet, but one possibility is along Monterey Road through South Valley)				Valley Transportation Authority
<b>Bicycle Trail Projects</b>						
	B04	Coyote Creek Trail (Hellyer–Anderson Lake County Park)				Santa Clara County
	B12	Uvas Creek Trail (part of Gilroy Sports Park Phase 1 and 2)				Valley Transportation Authority
	B13	Uvas Creek Trail Study (Sports Park–Gavilan College)				City of Gilroy
	B21	West Little Llagas Creek Trail				Valley Transportation Authority
	B30	Coyote Creek Trail (SR 237/Bay Trail–Story Rd./Keyes St.)				City of San Jose
	B31	Guadalupe River Trail (Alviso St.–I-880)				City of San Jose
	B32	Los Gatos Creek Trail (Reach 4)				City of San Jose
	B33	Los Gatos Creek Trail (Reach 5)				City of San Jose

Source: Valley Transportation Authority 2005, Santa Clara County Roads and Airports 2006.

[**Note to Reader:** Missing information will be completed as the impact analysis is developed.]