

# **Pajaro River Watershed Flood Prevention Authority**



## **Soap Lake Floodplain Preservation Project Final Initial Study and Negative Declaration**

**SCH Number: 2004091142**

**March 2005**



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# SOAP LAKE FLOODPLAIN PRESERVATION PROJECT

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Final Initial Study and Negative Declaration

## **Prepared for: Pajaro River Watershed Flood Prevention Authority**

A joint powers authority with representation from:

- County of Monterey
- County of San Benito
- County of Santa Clara
- County of Santa Cruz
- Monterey County Water Resources Agency
- San Benito County Water District
- Santa Clara Valley Water District
- Santa Cruz County Flood Control and Water Conservation District, Zone 7

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March 2005  
**RMC**

Pajaro River Watershed Flood Prevention Authority  
Soap Lake Floodplain Preservation Project  
Final Initial Study/Negative Declaration

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## LIST OF ACRONYMS

Acronym	Full Phrase
APE	Area of Potential Effect
ARM	Archaeological Resources Management
Authority	Pajaro River Watershed Flood Prevention Authority
BAAQMD	Bay Area Air Quality Management District
CDMG	California Division of Mines and Geology
CEQA	California Environmental Quality Act
CFCP	California Farmland Conservancy Program
CHP	California Highway Patrol
CNPS	California Native Plant Society
Corps	Army Corps of Engineers
CRS	Community Rating System
ESA	Endangered Species Act
ESU	Evolutionarily Significant Unit
Farmland	Farmland of Statewide Importance
FEIS	Final Environmental Impact Statement
FEMA	Federal Emergency Management Agency
HAP	Hazardous Air Pollutant
HCP	Habitat Conservation Plans
GMP	Groundwater Management Plan
LPRCD	Loma Prieta Resource Conservation District
MRZs	Mineral Resource Zones
NCCP	Natural Communities Conservation Plans
NED	National Economic Development
NFIP	National Flood Insurance Program
NMFS	National Marine Fisheries Service
NRCS	Natural Resource Conservation Service
PTE	potential to emit
PRWFPA	Pajaro River Watershed Flood Prevention Authority
PVWMA	Pajaro Valley Water Management Agency
Reclamation	The Bureau of Reclamation
SMARA	Surface Mining and Reclamation Act
TPY	ton per year
USFWS	US Fish and Wildlife Service
VTA	Santa Clara Valley Transportation Authority

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An aerial photograph of a rural landscape. A river flows from the bottom left towards the bottom right, with several meanders. The surrounding area is divided into numerous rectangular agricultural fields of varying shades of gray. There are some clusters of buildings, possibly farmhouses or small villages, scattered throughout the landscape. A vertical line and a horizontal line intersect at the bottom left, forming a corner that frames the text.

# **Executive Summary**

## EXECUTIVE SUMMARY

**BACKGROUND** The Authority was established in July 2000 by State Assembly Bill 807 in order to “identify, evaluate, fund, and implement flood prevention and control strategies in the Pajaro River Watershed, on an intergovernmental basis.” The watershed covers areas of four counties and four water districts and the board is comprised of one representative from each:

- County of Monterey
- County of San Benito
- County of Santa Clara
- County of Santa Cruz
- Monterey County Water Resources Agency
- San Benito County Water District
- Santa Clara Valley Water District
- Santa Cruz County Flood Control and Water Conservation District, Zone 7

In addition to the Authority’s primary goal of flood protection, other goals to promote general watershed interests include:

- Municipal, agricultural, and industrial water supply
- Groundwater recharge
- Support of rare, threatened, or endangered species
- Migration and spawning of aquatic organisms
- Preservation of wildlife habitat

**ALTERNATIVES CONSIDERED** Different flood protection alternatives were reviewed, including upstream flow retention or detention, downstream flow management flood protection, and sediment management for potential erosion/sediment control. Each alternative was developed and sized to build upon a flood protection project being developed by the U.S. Army Corps of Engineers (Corps) on the Lower Pajaro River. When the Corps project was deemed adequate to provide 100-year flood protection to the lower Pajaro River, structural alternatives to supplement the Corps project were not necessary. Instead, the preservation of the Soap Lake floodplain, which was an inherent assumption in the lower project, became the project evaluated in this document.

**PROJECT DESCRIPTION** Soap Lake is a floodplain within the watershed that has been found to be an extremely important flood protection feature. It acts like a natural detention basin, storing water and reducing peak flows that would otherwise increase flooding in the lower Pajaro River in the Watsonville area.

The proposed project would not build any structural facilities, but instead would include either purchasing land or obtaining flood easements for the land within the Soap Lake floodplain. The objective is to maintain the current flood protection benefits provided by the Soap Lake floodplain by protecting the area from changes that would impact the flood protection properties of the floodplain. The purchase of land or floodplain easements would restrict development and preserve agriculture and open space in the approximately 9,000 acre floodplain with the goal of preserving the floodplain attenuation benefits. Several conservation easements have already been obtained within the Soap Lake project area totaling over 1,000 acres and funding has been secured for another 1,200 acres.

This project would maintain the current hydrologic and hydraulic conditions at the project site and adjacent properties. The floodplain limits would not be changed. The project would minimize the effects of flooding on developments both within and downstream of the study area by preventing development on the property and additional flooding downstream. Floodprone land acquisition could also help create recreational opportunities, maintain agricultural land and open space, preserve riparian habitat and enhance ground water quality.

Potential impacts to resources were evaluated at a programmatic level; no significant adverse impacts were identified and no mitigation measures are proposed at this time. Impacts are summarized below.

**AESTHETICS** - The project would maintain existing views of agricultural lands and rangeland and would not substantially degrade the existing visual character or quality of the site and its surroundings. There are no designated scenic highways or scenic vistas within the project site.

**AGRICULTURE RESOURCES** - The proposed project area is comprised almost entirely of agricultural lands and rangeland including Prime Farmland, Unique Farmland, and Farmland of Statewide Importance. Other potential land uses that could be compatible within a floodplain could include environmental restoration (such as riparian or wetland restoration), open space, or trails. Such conversion would place the land in open space use but would not change the ability of the land, in terms of soil or water, to be farmed in the future if needed. If a land purchase or conservation easement included conversion of agricultural land to non-agricultural uses such as environmental restoration, separate environmental documentation would be prepared as needed.

**AIR QUALITY** - The proposed project does not include any construction activities or any other actions that would generate air pollutant emissions. Since existing land uses would be maintained, air emissions from these uses would continue but would not increase. There are no sensitive receptors (schools, hospitals, etc.) located within the project area.

**BIOLOGICAL RESOURCES** - Threatened and endangered plant and wildlife species have been identified within the 100-year floodplain, however the proposed project would not directly or through habitat modifications, have an impact on these species. If future land acquisition or conservation easements included any ground disturbing activities or changes in land use that could affect special-status species, such as the creation of a trail or conversion of agricultural land, then additional environmental documentation would be required to assess these impacts and provide mitigation measures. Both San Benito and Santa Clara Counties are in the process of preparing Habitat Conservation Plans. The proposed project is not expected to conflict with these plans, and could perhaps be used to help the counties reach their conservation goals.

**CULTURAL RESOURCES** - There are 26 recorded Native American and historic-period cultural sites within the project area of which four sites have been determined eligible for the National Register of Historic Places. There is also the potential for paleontological (fossil) resources. Because the proposed action would not involve any ground-disturbing activities and would preserve the area by minimizing future development, no mitigation measures are recommended at this stage. If a future land acquisition or conservation easement included any changes to the landscape, further archival research and field study by an archeologist or paleontologist would be required. In addition, because of the number of historic buildings and structures (bridges, canals, etc) within the project area, any future land acquisition or easement should not include changes to these features until a qualified architectural historian assesses their historical value.

**GEOLOGY AND SOILS** - Soils within the project area are rich agricultural soils underlain by alluvium. The project area is within a region of high seismic activity. The San Andreas Fault System is comprised of a series of northwest-trending faults including three active faults near the project site; the Sargent Fault, the San Andreas Fault, and the Calaveras Fault. The project would not have impacts to soils or seismic safety.

**HAZARDS AND HAZARDOUS MATERIALS** - There is one chemical facility that is located within the project's modeled 100-year floodplain. Trical's Bolsa facility is a fumigant formulation and packaging operation. If the facility is flooded, there could be a potential for hazardous materials to be released if the facility is not flood proofed. The project area is not included on the State's list of hazardous materials sites (Cortese List).



**HYDROLOGY AND WATER QUALITY** - The proposed Project would maintain existing drainage patterns, sedimentation rates, groundwater recharge and flooding conditions and could prevent worse flooding conditions downstream by restricting development in the project area. Access to the rivers and streams for continued maintenance activities would need to be provided for any conservation easements or land purchased along these water bodies.

**LAND USE AND PLANNING** - The proposed project would not conflict with any local land use policies or ordinances. In fact the project would be consistent with the recently adopted agricultural mitigation policy by the City of Gilroy. That policy identifies portions of unincorporated Santa Clara County as their preferred location for agricultural mitigation, which includes a portion of the proposed Soap Lake project area.

**MINERAL RESOURCES** - The majority of the project site appears to have not been classified for mineral resources. The proposed project would preclude development in the area, which would help preserve access to any mineral resources that may be located there.

**NOISE** - The proposed project would not change existing noise levels, would not result in any temporary or permanent increase in noise levels, or create any noise impacts in excess of established standards within the County Noise Ordinance. No sensitive noise receptors (schools, hospitals, etc) are located within the project area.

**POPULATION AND HOUSING** - Since project implementation would reduce future development within the project area, this could indirectly contribute to development in other adjacent areas. If this development occurred within city boundaries, this would be consistent with Santa Clara County policies to develop incorporated areas rather than unincorporated areas.

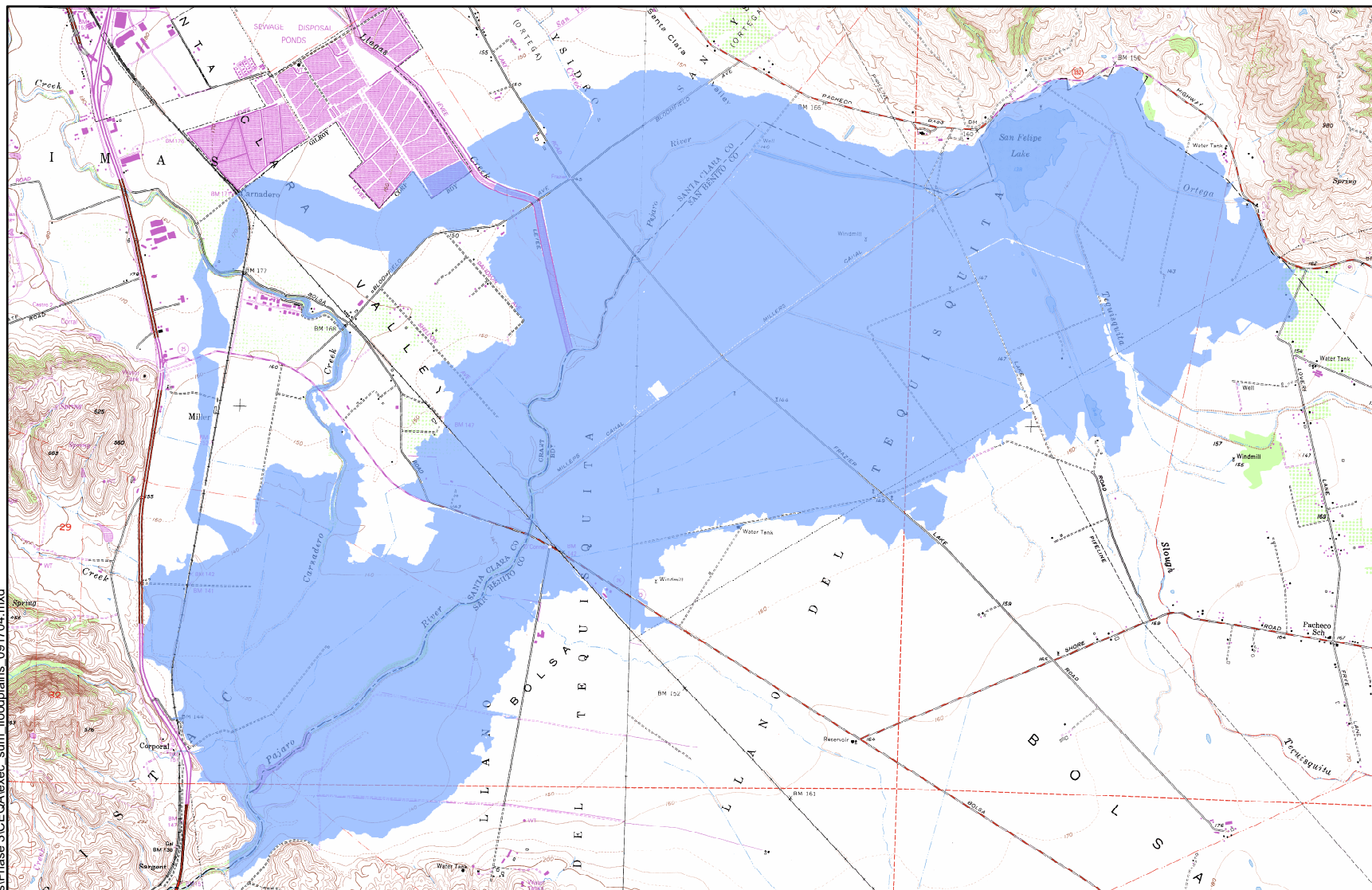
**PUBLIC SERVICES** - Because the project would limit further development within the floodplain, it could decrease the burden on flood emergency services to repair or replace flood-damaged facilities that could otherwise be located there.

**RECREATION** - If conservation easements are obtained that include trail easements, there could be a beneficial impact by providing additional recreational opportunities. There are five proposed trail routes throughout the project area. Inclusion of trails in such easements would be consistent with county policies encouraging trail development but would need to be designed to avoid conflicts with other resources.

**TRANSPORTATION/TRAFFIC** - The proposed project would not increase traffic, change levels of service, or disrupt transportation and circulation patterns. Roads, highways, bridges, and railroads would continue to be located within the floodplain and inundated during flood events. Roadways and highways that are flooded can restrict or block access for landowners, commercial traffic and emergency vehicles. This would continue to be an impact under the proposed project and existing conditions; however this risk would not be increased due to the project. Several transportation improvement projects have been completed or are proposed within the project area and some of these projects will raise the roadways due to floodplain conditions. The 100-year floodplain does cross a small portion of the Frazier Lake Airpark. However the runway and most areas of the airpark are not within the floodplain and the proposed Project would not interfere with any airport operations.

**UTILITIES AND SERVICE SYSTEMS** - A 96-inch underground water supply pipeline, the Santa Clara Conduit, provides water from the Central Valley Project to the Santa Clara Valley Water District and crosses the project area south of San Felipe Lake. Access points for the SCVWD to repair and maintain the pipeline are also within the project area. There is a risk to county water supply when the area is flooded and the district is unable to repair /maintain the pipeline. Also, the 100-year floodplain crosses an area proposed for the future expansion of the Gilroy Wastewater Treatment plant.

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0 1 2  
Miles



100-Year Floodplain

**Figure ES-1**  
**Soap Lake Floodplain**

Source: PRWS 2004

SOAP LAKE FLOODPLAIN PRESERVATION PROJECT

An aerial photograph of a rural landscape. A river flows from the bottom left towards the bottom right, with several meanders. The surrounding area is divided into numerous rectangular agricultural fields of varying shades of gray. There are some clusters of buildings, possibly farmhouses or small villages, scattered throughout the landscape. A vertical line is drawn on the left side of the image, and a horizontal line is drawn across the middle, intersecting at the text.

# **Introduction**

## CHAPTER 1



## CHAPTER 1

### 1. INTRODUCTION

This introduction provides background information on the project including formation of the Pajaro River Watershed Flood Prevention Authority (Authority), the physical setting and history of the watershed, the project objectives, a summary of the four phases of the Pajaro River Watershed Study, other related projects, and a discussion of the CEQA process.

### 1.1 BACKGROUND

#### LEGAL AUTHORITY

The Authority was established in July 2000 by State Assembly Bill 807 in order to “identify, evaluate, fund, and implement flood prevention and control strategies in the Pajaro River Watershed, on an intergovernmental basis.” The watershed covers areas of four counties and four water districts and the board is comprised of one representative from each of the eight following agencies:

- County of Monterey
- County of San Benito
- County of Santa Clara
- County of Santa Cruz
- Monterey County Water Resources Agency
- San Benito County Water District
- Santa Clara Valley Water District
- Santa Cruz County Flood Control and Water Conservation District, Zone 7

The Authority acts as a governing body through which each member organization can participate and contribute to finding a method to provide flood protection in the watershed and promote general watershed interests. In addition to flood protection, some identified benefits could include:

- Municipal, agricultural, and industrial water supply
- Groundwater recharge
- Support of rare, threatened, or endangered species
- Migration and spawning of aquatic organisms
- Preservation of wildlife habitat
- Water quality

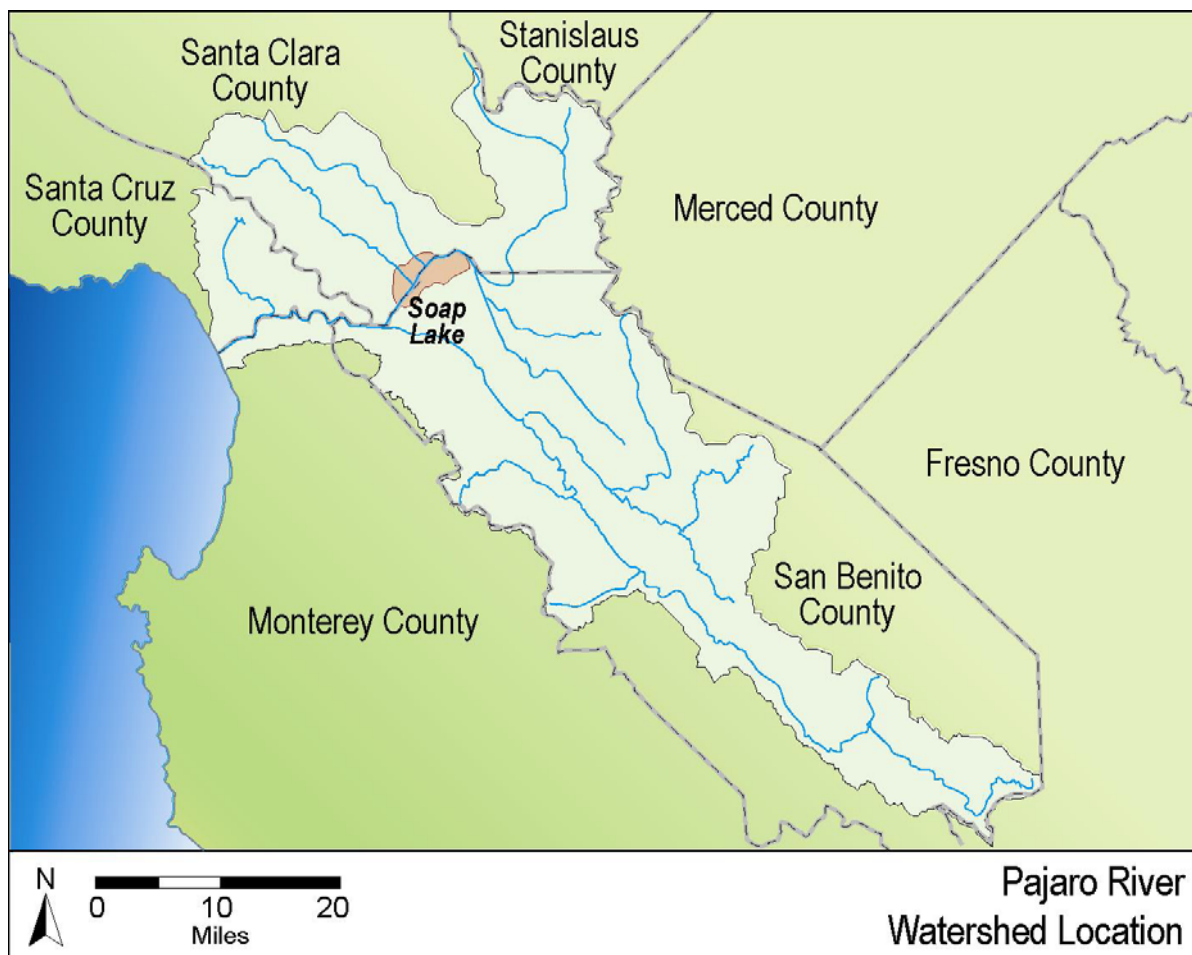
#### WATERSHED SETTING

The Pajaro River is the largest coastal stream between the San Francisco Bay and the Salinas River Watershed (Figure 1-1). The river drains into Monterey Bay and tributaries to the Pajaro River originate throughout the watershed. The largest tributary is the San Benito River.



**Figure 1-1** Project Location.

The watershed is approximately 1,300 square miles and covers portions of Santa Cruz, Santa Clara, San Benito, and Monterey Counties (Figure 1-2). The large size contributes to the number of diverse environments, physical features, and land uses within the watershed boundary. There are several flood protection structures already within the watershed including four dams: the Uvas, Hernandez, Chesbro and Pacheco Reservoirs (Figure 1-3) and levee systems along the Pajaro River and Salsipuedes Creek.



**Figure 1-2** Pajaro River Watershed County Boundaries

Development within the watershed, both urban and rural, is clustered around the major cities while the majority of the watershed land is undeveloped open space. The major urban centers are Watsonville, Gilroy, Morgan Hill, Hollister, and San Juan Bautista. Agriculture and grazing are the dominant land uses in these areas but represent a small portion of the total watershed land use. Other industries outside of the urban setting include mining and timber harvesting. The majority of the land cover is grassland, shrubland, and forest.

Over the recent years, rivers within the watershed have had significant water quality issues. They have been placed on the Clean Water Act 303d list for nutrients, sediments, fecal coliform, chloride, dissolved oxygen, sodium, and total dissolved solids. These pollutants limit the uses of the water and reduce the environmental benefits.

Soap Lake is a floodplain within the watershed that has been found to be an extremely important flood protection feature. It acts like a natural detention basin, storing water and reducing peak flows that would

otherwise increase flooding in the lower Pajaro River. Upper Soap Lake is also known as San Felipe Lake and is a permanent body of water. The Soap Lake floodplain lies within San Benito and Santa Clara Counties between San Felipe Lake and the Highway 101 crossing (Figure 1-3) and the main land use is agriculture – including row crops and pasture land. During significant rain events, the low-lying areas of the Soap Lake area become flooded and there is flow backup on the Pajaro River upstream of the San Benito River. At this time, the backwater effect is believed to be caused by a narrow passage known as Chittenden Pass that is located at the southern edge of the Santa Cruz Mountains. Soap Lake disappears as the floodwaters recede and low-lying areas are drained.

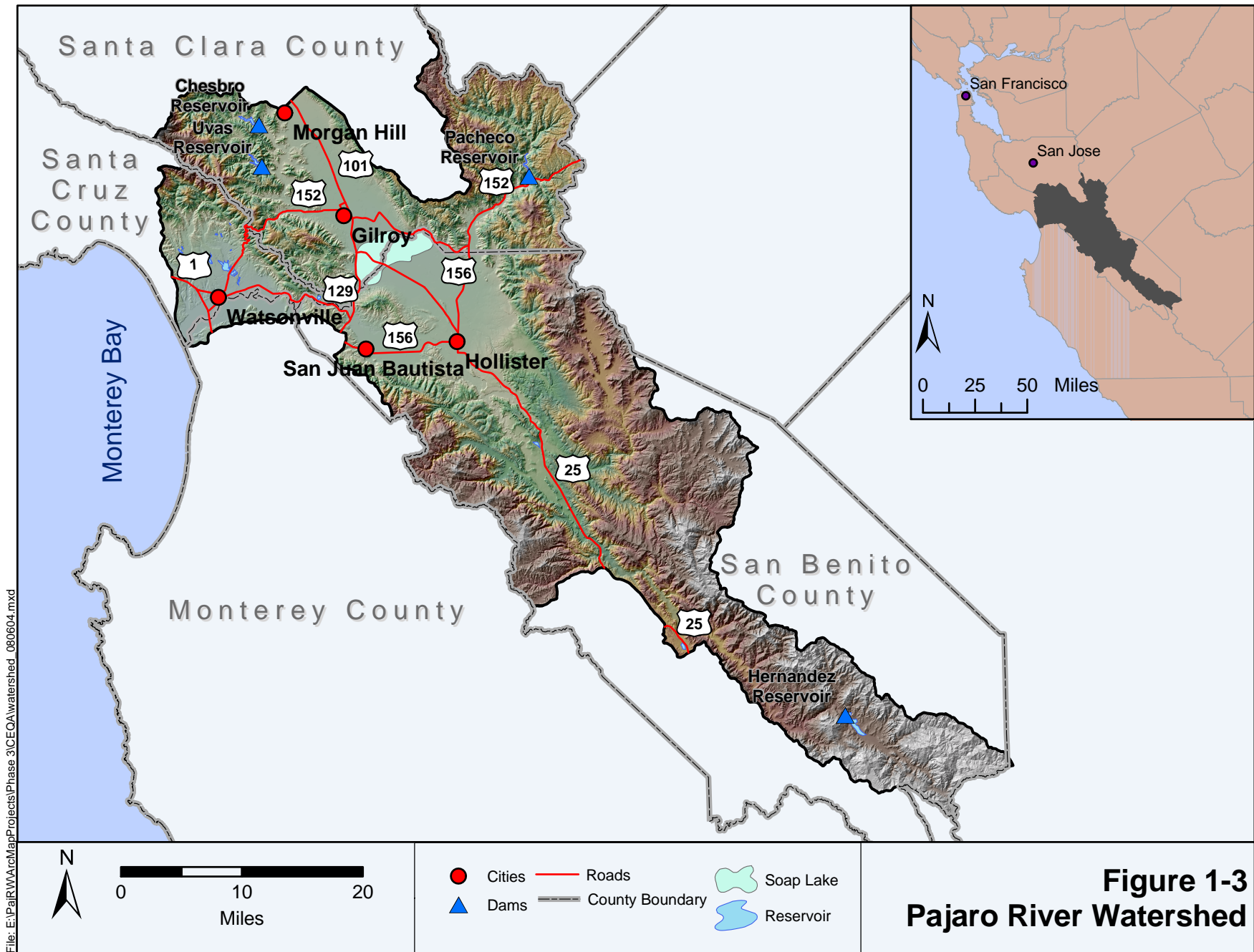


**Photo 1-1** Soap Lake Floodplain - The Soap Lake area flooded after major rain events in January 1997.

## 1.2 PROJECT OBJECTIVES

Flooding throughout the reaches of the Lower Pajaro River is a hazard to public and private property including residences, agriculture, highways, watercourses, and environmental resources. Flooding has been recorded in 1955, 1982, 1986, 1995, 1997 and 1998 causing millions of dollars in damage. The flood event of February 1998 produced the highest flows ever recorded on the Pajaro River at the U.S. Geological Survey gage at Chittenden. These high flows resulted in overtopping and a subsequent levee break downstream of Highway 1 on the Santa Cruz side of the river (Santa Cruz County 1998).

The 100-year flood protection project currently being developed by the U.S. Army Corps of Engineers (Corps) on the Lower Pajaro River (see Section 1.5 for more details) assumes a functioning Soap Lake floodplain as part of the baseline condition. Thus, the purpose of the Authority's project is to protect the Soap Lake floodplain to maintain 100-year flood protection downstream. Additional benefits of the project could include improved water quality, preservation of agricultural and open space land, reduced sedimentation, and environmental protection.



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Source: CaSIL 2001, PRWS 2002

SOAP LAKE FLOODPLAIN PRESERVATION PROJECT

## 1.3 PAJARO RIVER WATERSHED STUDY

The Authority is conducting a watershed study to determine how best to provide flood protection for the Pajaro River Watershed. The Authority has completed Phases 1 and 2 of the four-phase study and is now in Phase 3.

### Pajaro River Watershed Study

#### Phase 1 Stream Flow Modeling –

Modeled both the hydrologic and sediment regimes of the watershed. Provided a better understanding of the affects that land use changes over time have on flooding frequency and magnitude.

#### Phase 2 Development of Flood Protection Alternatives –

Identified project alternatives that would provide flood protection for the Pajaro River from the 100-year flood flows identified in Phase 1.

#### Phase 3 Selection of Projects and CEQA Analysis –

Preservation of Soap Lake floodplain project is identified as critical to success of the Corps' downstream flood prevention projects. Preparing the CEQA document and other supporting studies.

#### Phase 4 Preliminary Design of Projects –

Provide implementation criteria for the selected project, expand on the conceptual design developed under Phase 3, and generate a preliminary design report.

## PHASE 1 STREAM FLOW MODELING

### Objectives

The Phase 1 report was completed in July 2002. Phase 1 consisted of modeling both the hydrologic and sediment regimes of the watershed and land use changes over time that affect flooding frequency and flooding potential in the downstream reaches of the Pajaro River. Specifically, the objectives were to determine:

- Source of flood waters and sediment
- Affects of recent land-use changes on flooding and sediment generation
- 100-year flows along the Pajaro River

Land use is one of the factors that affects flood frequency and magnitude. For example, paved areas do not allow water to seep into the ground, which can result in greater runoff. One of the major goals of Phase 1 was to understand the potential flooding effects of land use changes over time. Four different land-use conditions were chosen to span the extent of the reasonable land use changes and associated flooding effects:

- **Back in Time to 1947:** The historical perspective provides a glimpse of how flooding has changed due to known shifts in land use. The year 1947 is significant because it was just before the Corps' levees were built and had conditions similar to when the 1955 flood occurred. In addition, three of the four existing reservoirs and some additional levees were not yet in place in 1947.
- **General Plan Buildout:** This scenario allows the model to predict the watershed flood potential using the urban and agricultural land uses for each city and county designated by the individual planning departments. This is the best estimate available for future conditions within the watershed. While the



horizons of the individual general plans vary greatly, this scenario is intended to approximately represent the years between 2015 and 2020. Development was assumed to occur within General Plan designated areas, which did not include the Soap Lake floodplain.

- **Ultimate Buildout in 2050:** This scenario represents a worst-case scenario, in terms of flooding, due to urbanization. The model predicts how the watershed would respond to significantly increased growth in the cities beyond what the general plans currently allow. The year 2050 is the approximate end of the economic life of a project started at the time of this report. Again development was assumed to occur within General Plan designated areas, which did not include the Soap Lake floodplain
- **Changes in Agriculture:** Different types of agricultural practices can increase the amount of runoff. This scenario does not represent any particular time period but parallels the Ultimate Buildout scenario in that it represents a worst-case agricultural hydrologic condition.

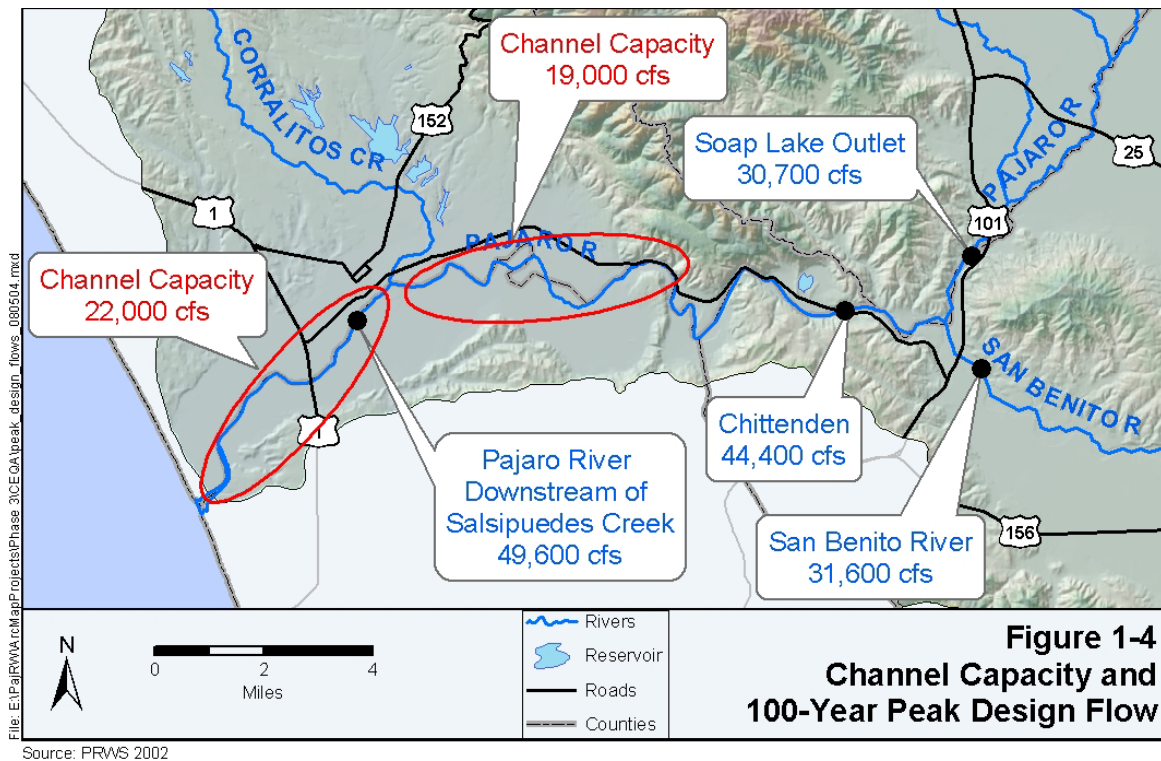
The models described the peak and 3-day discharge at four watershed locations in the lower half of the Pajaro River watershed for six flood return periods. Table 1-1 summarizes the 25-year, 50-year, and 100-year event peak discharges at each of the four locations under buildout conditions for the current General Plans for the four counties. This planning horizon occurs during the period from years 2015 to 2020.

Table 1-1 Hydraulic Model Peak Flows Based on General Plan Buildout Conditions

Watershed Location	Peak Model Flow Rate (cfs)		
	25-year Event	50-year Event	100-year Event
San Benito River	18,800	26,200	31,600
Soap Lake Outlet on Pajaro River	21,600	27,400	30,700
Chittenden Gage on Pajaro River	29,300	38,400	44,400
Pajaro River downstream of Salsipuedes Creek	32,700	43,100	49,600

Figure 1-4 is a schematic of the four locations modeled in the lower half of the Pajaro River watershed. The channel capacity just downstream from Chittenden is about 19,000 cfs, based on the design channel size and levee conditions. However, the channel capacity certifiable by the Corps based on current channel and levee conditions could be much lower, at 9,000 cfs. The design conditions of 19,000 cfs for channel capacity were used in this analysis. Flow from Salsipuedes Creek increases the peak discharge in the lower Pajaro River. The Pajaro River flow of 49,600 cfs just downstream from the Salsipuedes Creek confluence is the design flow for the 100-year flood event. The existing channel capacity in the lower reaches of Pajaro River is approximately 22,000 cfs, which is well below the expected 100-year flood event. Frequent flooding occurs in the region because of the lack of flood flow capacity in the river channel downstream of Chittenden.

The sediment modeling was conducted based on the limited sediment data available for the Chittenden gage station. This gage station is located downstream of the major tributaries to the Pajaro River. Modeling results indicated that the River between Highway 101 and the mouth is relatively insensitive to changes in sediment load. The Authority and many other groups including the Corps of Engineers and the Pajaro River Task Force recognize the importance of a better understanding of the sediment regime of the watershed. The Authority has been coordinating with these groups and is conducting additional sediment modeling in 2005.



**Figure 1-4** 100-Year Flood Peak Design Flows on the Lower Pajaro River.

### Conclusions

The following results and conclusions were based on the hydrologic modeling work:

- Since 1947, the addition of three reservoirs (Hernandez, Uvas, and Chesbro dams), in addition to the existing Pacheco Reservoir, reduced peak flood flows and the probability of flooding in the lower Pajaro River.
- The continuation of the flood protection provided by these dams and the Soap Lake floodplain is key. A 100-year event at Chittenden Pass would increase from approximately 44,000 cfs to 60,000 cfs under current conditions without Soap Lake flood storage.
- Neither current agriculture conditions nor potential changes in agricultural conditions will cause significant changes in the amount of runoff or flood conditions.
- Urbanization will increase the runoff from smaller storm events (2-year to 25-year), but causes little change in runoff from larger storms (50-year to 200-year). This is because runoff over agricultural land or open space during smaller storm events can soak into the ground, reducing the total amount of runoff. If the land was developed and paved, the runoff during these events would increase. However, for large storm events, the soil can absorb only a certain amount of water, and after that point the water runs off, just as it would over paved surfaces. Therefore, while the runoff in these large events would be greater under the paved scenario, it would not be that much more.

The following results and conclusions were based on the sediment modeling work:

- Sediment conditions within the Pajaro River channel should not be significantly altered by the small, predicted changes in peak design discharges.



- Significant growth of shrubby vegetation could be expected to cause an increase in sediment deposition.
- Changes in sediment load may have localized impacts at the confluence of the San Benito and Pajaro Rivers, but do not affect the Lower Pajaro system as a whole.
- The flooding along Soap Lake limits sediment discharge from the Pajaro River upstream of the San Benito River confluence.

Since the results and conclusions of the sediment studies indicated that sediment conditions would not change significantly from existing conditions, the alternatives developed during Phase 2 were focused primarily on reduction of flooding risk within the lower Pajaro River. However, sediment management impacts were considered for alternatives with incidental effects on sediment conditions, such as reservoirs and detention basins.

## PHASE 2 DEVELOPMENT OF FLOOD PROTECTION ALTERNATIVES

### Objectives

Phase 2 began immediately after completion of Phase 1 and was completed in April 2003. The purpose of Phase 2 was to identify project alternatives that would provide flood protection for the Pajaro River from Chittenden Pass to Monterey Bay from the 100-year flood flows identified in Phase 1.

This phase identified project alternatives that provided 100-year flood protection, and the selection of the most feasible alternatives for more detailed study in future phases. The Phase 2 projects were developed to coordinate with a concurrent U.S. Army Corps of Engineers (Corps) Lower Pajaro River flood protection project.

Flood protection measures that include both upstream and downstream alternatives were identified and defined. The alternative projects were conceptually defined by identifying a possible project location and size, the advantages and disadvantages, a planning level cost estimate, and the approximate level of flood protection.

Once the alternatives and their flood protection capabilities were outlined, the alternatives were packaged into groups of projects that provided 100-year flood protection. Further evaluation of the alternative packages led to the conclusion that some of the alternatives were not feasible due to various factors such as lack of public support, high costs, environmental regulations, or prohibitive construction constraints. The list of alternative packages was trimmed by applying the elimination criteria for these factors. The comparison criteria were used to identify nine packages from the remaining alternative packages for detailed study.

### Conclusions

The main conclusions reached from Phase 2 included:

- The Soap Lake floodplain is a necessary component for any of the downstream Corps alternatives to provide 100-year protection.
- If the Corps selects less than 100-year protection, then additional Phase 2 projects would be added to ensure 100-year protection.
- If the Corps selects 100-year protection, then only the preservation of the Soap Lake floodplain is needed upstream.

## PHASE 3 SELECTION OF PROJECTS AND CEQA ANALYSIS

Phase 3 builds on the results of Phase 2 by developing more detailed modeling and mapping of the Soap Lake floodplain and conducting other studies to supplement the CEQA analysis. These include:

- Understand how Soap Lake naturally operates to provide flood protection benefits.
  - Mapping
  - Hydraulic Modeling
  - Floodplain Delineation
- Identify project alternatives to maintain the Soap Lake flood protection benefits.
  - Flood Easements
  - Land Acquisition
  - Capital Improvement Projects
  - Land Use Restrictions
- Floodplain impacted facilities assessment
- Land acquisition needs assessment
- Enhance public outreach and agency coordination.
  - Presentations at Board meetings
  - Special public meetings
  - Participation in Lower Pajaro River meetings
  - Presentations to special groups
- Prepare CEQA documentation

In January 2004, the Corps selected the 100-year project (Alternative 2A for the mainstem and T4 for the tributaries) as their National Economic Development (NED) Lower Pajaro River flood protection project. In March 2004, the Counties of Monterey and Santa Cruz adopted this alternative as their locally preferred plan as well (see Section 1.4), although they asked the Corps to look at restricting the setback. The selection of this project on the Lower Pajaro River determined which projects were needed for the Upper Pajaro River. The preservation of the Soap Lake floodplain was the only project needed to maintain the 100-year protection, and therefore is the project analyzed in this Initial Study.

## PHASE 4 PRELIMINARY DESIGN OF PROJECTS

Originally Phase 4 was scoped to provide implementation criteria for the selected project, expand on the conceptual design developed under Phase 3, and generate a preliminary design report. However, selection of a non-structural project, the Soap Lake Preservation Project, will require a change to the scope as defined in the state contract.

## 1.4 CEQA PROCESS

### PURPOSE OF THE INITIAL STUDY

The Authority has prepared this Draft Initial Study/Negative Declaration to provide the public and Responsible and Trustee Agencies reviewing this project, with information about the potential effects of the Soap Lake Floodplain Preservation Project on the local and regional environment. This Initial Study was prepared in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended), the CEQA Guidelines, and California Administrative Code, Title 14, Chapter 3.

This Initial Study analyzes the program level impacts of preserving the Soap Lake floodplain. Specific projects in the future may need additional environmental documentation and could tier off this document.

A public meeting will be held on October 13, 2004 at 6:30 pm at the Gilroy City Hall, Council Chambers at 7351 Rosanna Street in Gilroy. The public review period begins on September 27<sup>th</sup>, 2004 and ends on October 27<sup>th</sup>, 2004. For more information on the project please visit our website at [www.PajaroRiverWatershed.org](http://www.PajaroRiverWatershed.org).

## PUBLIC OUTREACH AND CONSENSUS BUILDING

In addition to the public meeting to be held as part of this CEQA process, Authority staff and their consultants presented information on the Soap Lake Floodplain Preservation Project to stakeholders and regulatory agencies throughout the project planning process. Presentations were made to the Pajaro River Watershed Council, the Action Pajaro Valley Pajaro River Task Force, the San Benito and Santa Clara County Farm Bureaus and at the Floodplain Managers Conference in Monterey in September 2004.

## 1.5 OTHER RELATED PROJECTS

There are several other projects within the project area or within the watershed that are related to this project. These projects and organizations are listed below in alphabetical order.

**Action Pajaro Valley** – Action Pajaro Valley is a non-profit organization working on land use issues facing the Pajaro Valley. They created a Pajaro River Task Force in 2003 that represents landowners, agriculture, business, environmental organizations, community groups, City of Watsonville officials, the Army Corps of Engineers, and resource agency and county representatives from both counties. The goal of the task force is to develop a recommended Locally Preferred Plan for the Pajaro River Flood Control Project and look for the best possible solution for flood management on the Lower Pajaro River (Action Pajaro Valley 2004). (See description above for the Corps of Engineers Pajaro River Flood Control project).

**California High-Speed Train System** – The California High-Speed Rail Authority has proposed high-speed train service from San Francisco and Sacramento in the north, through the Central Valley, to Los Angeles and San Diego in the south. The Authority is the CEQA lead agency and the Federal Railroad Administration is the NEPA lead agency. A Draft EIS/EIR has been released to the public and the public comment period ends August 31, 2004. One route option crosses the Soap Lake floodplain from Gilroy to the Pacheco Pass and on to Los Banos. This route includes two possible alignments, the Gilroy alignment, or the Gilroy Bypass/Morgan Hill alignment, which is just north of the Gilroy alignment. A second route option connects from San Jose to Turlock and does not cross the Soap Lake floodplain.

**Caltrans Highway 25 and 101 Widening** – In an effort to address the recent increase in accidents along Highway 25, Caltrans, the California Highway Patrol (CHP), the Council of San Benito County Governments, and others have been working with the citizens' group "Stay Alive on 25" to improve the safety of this segment of Route 25. Highway 25 is an increasingly busy and vital thoroughfare for commuters, and carries approximately 20,000 vehicles daily, including cars, big-rig trucks, and farm equipment. Future stages of this project will see Highway 25 converted from a 2-lane highway to a 4-lane highway with interchanges at 25/101 and 25/156 and widen Route 101 from a 4 lane expressway to a six lane freeway (Phase 3). Various options are currently under review. Construction on the project is not expected to begin until 2009. The 3 in 1 proposal is currently being evaluated in the Santa Clara Valley Transportation Authority (VTA) Southern Gateway Study (Caltrans 2004).

**City of Gilroy Agricultural Mitigation Policy** – The City of Gilroy adopted an agricultural mitigation policy in 2004. That policy identifies portions of unincorporated Santa Clara County as their preferred location for

agricultural mitigation, and this area includes a portion of the proposed project area. See Section 3.9 and Appendix C for more information.

**Corps of Engineers Lower Pajaro River Flood Damage Reduction Project** – In April 2001, Congressman Farr initiated the Pajaro River Flood Protection Community Planning Process with the goal of achieving agreement on a community-based flood protection plan for the Pajaro River. The Corps of Engineers and Monterey and Santa Cruz Counties are currently studying flood protection projects for the Lower Pajaro River. The existing levee system on the Pajaro River and Salsipuedes and Corralitos Creeks was constructed in 1949 to provide 50-year protection to the Watsonville area, but is now estimated by the Corps to provide only 8-year protection. The proposed project would increase the level of protection to 100-year flood protection and was selected in March 2004 by both counties as their locally preferred plan. The EIS/EIR is being prepared now and the Draft is expected in the first quarter of 2005.

**Habitat Conservation Plans** – Both San Benito County and Santa Clara County are in the process of preparing Habitat Conservation Plans/Natural Communities Conservation Plans (HCP/NCCP). Their preliminary planning area covers a portion of the Pajaro River Watershed including the Soap Lake area. Protecting the Pajaro River might contribute to their conservation goals.

**Llagas Creek SEIS/SEIR** – The purpose of this project is to provide flood protection for residential, commercial, and agricultural developments in southern Santa Clara County, to protect and improve water quality in the watershed, and to preserve and enhance the river's habitat, fishery, and wildlife. The Corps is the NEPA lead agency and the SCVWD is the CEQA lead agency. The project is sponsored jointly by the SCVWD, the Natural Resource Conservation Service (NRCS, formerly the Soil Conservation Service), and the Loma Prieta Resource Conservation District (LPRCD). The Supplemental EIS/SEIR will supplement the original Llagas Creek Watershed Final EIS/EIR that was released in 1982 by the NRCS and the SCVWD, which evaluated the potential environmental impacts of the original Llagas Creek Flood Protection Project. The Draft EIS/EIR is expected in the first quarter of 2005.

**Pajaro River and Salsipuedes and Corralitos Creek Management and Restoration Plan EIR** – A Final EIR was published in February 2002 for a proposed project to implement a short-term management program along the Pajaro River and Salsipuedes and Corralitos Creeks that (1) maintains the flood carrying capacity of the system (2) installs and maintains bank erosion measures as necessary and (3) enhances and preserves habitat values. The project includes (1) resurfacing and maintenance of the levees, (2) monitoring and installation of bank protection measures, (3) establishing and managing vegetation and (4) periodic sediment (sand bar) removal.

The CEQA Findings found that “construction of bank protection measures may reduce hydraulic capacity within the levees and increase the threat of flooding” (Impact H-2). The FEIR stated that “This project does not preclude nor impede the development and implementation of a large-scale, long-term flood control project for the Pajaro River, which is currently being considered by Santa Cruz and Monterey Counties in cooperation with the US Army Corps of Engineers.... This project should be viewed as a short-term, interim management and restoration project for the Pajaro River that significantly lessens the environmental impacts of management actions within the existing levee system.”

**Pajaro River Watershed Council** – The Pajaro River Watershed Council is a watershed-wide Coordinated Resources Management and Planning group (CRMP) that involves a variety of local, state and federal public agencies, as well as many interest groups and individuals within the watershed area. Meetings of the Pajaro River Watershed Council are scheduled on a quarterly basis. The Council is a forum that brings together local citizens, government agencies, and landowners to work on solving problems of the Pajaro River. They prepared

a report on all the studies done on the Pajaro River and they also worked with many interest groups and individuals within the watershed to develop the Pajaro Watershed Water Quality Management Plan in June 1999.

**Pajaro Valley Water Management Agency Import Pipeline Project** – The Bureau of Reclamation (Reclamation) has prepared a Final Environmental Impact Statement (FEIS) for the Pajaro Valley Water Management Agency (PVWMA) Revised Basin Management Plan Project. The purpose of the project is to address groundwater overdraft and seawater intrusion problems in the Pajaro Valley Basin. The proposed action is the approval of the connection of a PVWMA pipeline to the Santa Clara Conduit and the funding for the design, planning, and construction of a recycled water facility. The proposed pipeline crosses the Soap Lake floodplain.

**RWQCB Pajaro River Total Maximum Daily Loads (TMDLs) for Sediment and Nutrients** – The California Regional Water Quality Control Board is currently preparing sediment and nutrient TMDLs for water bodies within the Pajaro River watershed. Watershed studies were conducted to assess water quality conditions and assist TMDL development. These studies will be incorporated into the Final TMDL Reports and are expected to be completed in 2005.

**San Benito County Groundwater Management Plan** – The Water Resources Association (WRA) of San Benito County, an association of the City of Hollister, City of San Juan Bautista, Sunnyslope County Water District, and the San Benito County Water District, recently adopted a groundwater management plan entitled Groundwater Management Plan Update for the San Benito County Part of the Gilroy-Hollister Groundwater Basin. The plan combines existing water resources programs and new project elements and activities into an integrated strategy for managing the surface and groundwater resources within the area and imported surface water from the San Felipe Project.

**Santa Clara County Riparian Corridor Ordinance** – At the direction of the County Board of Supervisors, the Santa Clara County Planning Office is initiating the preparation of Riparian Protection regulations that are proposed for integration into the County Zoning Ordinance. These regulations are intended to provide for the protection and potential enhancement of riparian habitat along designated streams in the county. Staff have conducted Planning Commission Workshops and have provided additional information in an in-depth report. Preliminary evaluation of the draft ordinance proposal is ongoing. Work is ongoing in collaboration with the Santa Clara Valley Water Resources Protection Collaborative.

**Santa Clara Valley Transportation Authority Southern Gateway Study** – The Santa Clara Valley Transportation Authority (VTA) is conducting a study to evaluate the existing and projected future conditions related to land use changes and travel patterns in one of the major corridors leading to and from Santa Clara County and the Silicon Valley area (Ristow 2004). The study area includes Highway 101, Highway 25 and Highway 152 in the Soap Lake area.

**Santa Clara Valley Water District Environmental Land Preservation Project** – The SCVWD is implementing an environmental land preservation project in Santa Clara County to help protect the county's streams and their associated watersheds. The program provides mitigation for impacts to wetlands and riparian vegetation from the District's stream maintenance program. The district will need to preserve between 820 and 1,080 acres of stream and watershed lands, of which 720 to 950 acres need to be in areas that flow into the San Francisco Bay. The Carnadero Preserve is their first land acquisition as part of this program (and is described more in Section 2.3.3); the 200-acre parcel is located within the Soap Lake floodplain. Most future preservation



lands are expected to not be within the Soap Lake area since the watershed drains to Monterey Bay and not the San Francisco Bay.

**Santa Clara Valley Water District San Felipe Preventive Maintenance Shutdown** – A Final Initial Study/Environmental Assessment was published in August 2003 by the SCVWD and the Bureau of Reclamation. The proposed project is to repair damaged portions of the Santa Clara Conduit in San Benito County, a portion of which runs through the Soap Lake Floodplain.

**Santa Clara Valley Water District Stream Maintenance Program EIR** – The Multi-Year Stream Maintenance Program is a program for conducting routine stream and canal maintenance on facilities of the SCVWD throughout Santa Clara County. The program applies to three major activities; sediment removal, vegetation management, and bank protection, and a group of minor activities. The program is intended to be ongoing and can be modified as conditions change. The District, as lead agency, completed a Final EIR in 2002.

**Santa Clara Valley Water Resources Protection Collaborative** – The Collaborative includes representatives from the SCVWD, the County of Santa Clara, each municipality within the County, the SF Bay Regional Water Quality Control Board, and representatives of property owners, the environmental community and business /development interests. It was initiated in November 2002 in order to address land use issues in response to SCVWD's proposal to revise Ordinance 83-2. The Collaborative's mission is to review and assess the current state of water resources protection measures in Santa Clara County, and to propose appropriate management strategies and institutional arrangements to implement these strategies.

During the first six months, the Collaborative produced a Memorandum of Consensus (MOC) for mutual cooperation to jointly develop water and watershed resources protection measures, guidelines and standards in Santa Clara County. The MOC included an agreed upon set of milestones, which included completion of guidelines and standards for "land use near streams" and "surface and groundwater quality and quantity." There were additional milestones which included establishing an Early Consultation Pilot Project, developing a process scope and timeline for the development of a SCVWD Strategic Plan, and outlining a framework for implementation and adaptive management.

At the August 5, 2004 Collaborative meeting, the Collaborative members ratified a Resolution of Consensus. The Collaborative members agreed to: (1) finalize the proposed guidelines and standards in accordance to the timeframe outlined in the work plan for the next phase (September 2004-August 2005), and (2) recommend approval of a resolution of implementation for the final guidelines and standards to their respective governing bodies or constituents.

**Tequisquita Slough Feasibility Study** – The USDA Natural Resources Conservation Service (NRCS) completed a feasibility study in October 2003 (USDA 2003). The problems identified by the landowners adjacent to the Tequisquita Slough and the Pacheco Watershed Working Group include a rising groundwater table, impaired groundwater quality, ineffective flood control, and a lack of steelhead passage. The NRCS developed four project alternatives to address these concerns: realign the Tequisquita Slough, a tile drain system, a constructed wetland, and a "do nothing" alternative.

**The Pajaro Project** – The Nature Conservancy and the Land Trust for Santa Clara County have identified the upper Pajaro River floodplain as a conservation priority. Their goal is to preserve the upper Pajaro River and adjacent lands as a wildlife corridor and to create a buffer zone around the River by preserving agricultural uses

of the land. They are working in coordination with their partners: The Santa Clara Valley Water District, The Santa Clara County Open Space Authority, The San Benito Agricultural Land Trust, and The American Farmland Trust.

**The Santa Clara County Countywide Trail Master Plan** – The Santa Clara County Parks and Recreation Department has been implementing these trails planning policies for about 10 years. The Master Plan is an amendment of the trails policies and map of the Parks and Recreation Element of the Santa Clara County General Plan. The Master Plan identifies five trails that cross the Soap Lake Floodplain.



An aerial photograph of a rural landscape. A river flows from the bottom left towards the center right. The land is divided into numerous rectangular agricultural fields. There are some clusters of buildings, possibly farmhouses or small villages, scattered throughout the landscape. The overall tone is grayscale, giving it a historical or official appearance.

# **Project Description and Alternatives**

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## **CHAPTER 2**

## CHAPTER 2

### **2. PROJECT DESCRIPTION AND ALTERNATIVES**

This chapter provides a background on the screening of alternatives, a description of the proposed project, the preservation of the Soap Lake floodplain as a means of flood protection, and also includes a brief description of the land acquisition and/or land management alternatives that would be used to preserve the floodplain.

#### **2.1 PRELIMINARY SCREENING OF ALTERNATIVES**

Phase 2 of the Watershed Study identified flood protection alternatives for the Pajaro River from a 100-year flood. Three types of alternatives were reviewed, including upstream flow retention/detention, downstream flow management flood protection, and sediment management for potential erosion/sediment control. These are described below.

##### **UPSTREAM ALTERNATIVES**

These alternatives generally rely on flow detention or retention to improve flood protection. Methods may include:

Detention – Temporary storage of storm water runoff for controlled release

Retention – Storage of collected storm water for percolation (with no release to surface water)

Examples of these alternatives are new detention and retention in new developments, increased regional detention and retention capabilities at existing locations (i.e. expansion of Soap Lake or raising of existing dams), and construction of new detention and retention facilities, such as new dams on the Pajaro or San Benito River.

##### **DOWNSTREAM ALTERNATIVES**

These alternatives require the modification of downstream channels and floodplains to reduce risk of flood damage. The most common type of improvement is to increase downstream channel capacity. Channel improvement may be structural, as in the case of increased levee heights or floodwalls, to provide sufficient capacity to convey the expected peak flow event. Alternatives may also be non-structural, such as dedication of specific lands as floodplains. In this case, formerly flood-prone lands are restored by removing flood flow obstacles in the floodplain.

##### **SEDIMENT MANAGEMENT ALTERNATIVES**

These alternatives would generally include best management practices for managing land in the watershed, bank stabilization measures along streams, and revisions to maintenance practices regarding sediment removal. Since the Phase 1 sediment studies indicated that sediment conditions would not change significantly from existing conditions, the alternatives developed during Phase 2 were focused primarily on upstream and downstream alternatives to reduce flooding risk.

##### **EVALUATION OF ALTERNATIVES**

The Pajaro River Watershed stretches across four counties and multiple cities, and the river itself drains many square miles of coastal plains, providing opportunities for many distinct projects throughout the watershed. The size of the watershed and the magnitude of the peak discharge allow either single projects or combinations of projects implemented together to mitigate the flooding problems on the lower Pajaro River. However, a multiple

benefit solution for the watershed would require that several projects be initiated and coordinated with each other to provide the lower Pajaro River flood protection with the maximum range of benefits.

Workshop participants reviewed the Phase 1 hydrology and sediment modeling results. Many project types and alternatives were considered including the following:

- Creating local detention basins,
- Creating regional detention basins,
- Increasing capacity of existing dams,
- Constructing new dam(s),
- Upgrading existing levees,
- Constructing new levees,
- Constructing overflow bypasses, and
- Constructing underground bypasses.

Several upstream and downstream alternatives were estimated to have potential for significant improvements on flood protection. These alternatives were a flood channel bypass on the Lower Pajaro River, control of Soap Lake at Chittenden, and a setback levee with wetlands in the Lower Pajaro River region. Each alternative could be sized to provide 100-year flood protection to meet the flood protection benefit criteria, although there are a number of engineering, environmental, land, public, and other constraints. In addition to flood protection, other potential benefits included groundwater recharge and water quality, environmental enhancement, and reliable water supply.

Alternatives providing lower level of flood protection (up to 30% of the excess peak flow) were a regional retention basin at Tres Pinos River or San Benito River, a bypass at the San Benito River, and additional flooding of Soap Lake.

Alternatives estimated to have the least amount of additional flood protection (between 0 to 10% of the excess peak flow) were raising the existing dams at Uvas, Pacheco, Chesbro, and Hernandez, and a regional detention basin at College Lake. Raising all the dams would provide approximately 5% of the necessary flood protection, while creating a regional detention basin at College Lake is estimated to provide about 10% of the necessary flood protection.

In Phase 2, alternatives were preliminarily evaluated based upon a reconnaissance level of investigation of flood benefits, other benefits, environmental and regulatory issues, right-of-way constraints, and estimated costs. Each of the alternatives was developed and sized to build upon a flood protection project currently being developed by the U.S. Army Corps of Engineers (Corps). Near the conclusion of the Phase 2 Watershed Study, the Corps project was deemed adequate to provide 100-year flood protection to the lower Pajaro River. Therefore, structural alternatives to supplement the Corps project were not necessary. Instead, projects to maintain the expected 100-year peak flow at the study values will be required to prevent additional downstream flooding. The preservation of the Soap Lake floodplain was an inherent assumption in the development of flows for the watershed study and therefore this document evaluates alternatives available to maintain those Soap Lake flood protection benefits.

## 2.2 FLOODPLAIN MANAGEMENT

A floodplain is the relatively flat area adjacent to a river or stream. It is the area that is occasionally flooded when runoff from the watershed exceeds the capacity of the channel. Because it is relatively easy to identify areas where floods occur, it makes sense to manage land use in those areas to prevent flood damage to existing and

future development. Managing floodplain development can be less expensive and more practical in the long run than building flood control structures.

The best use of floodplain land is to carry floodwater when necessary, and to preserve the floodplain for open space uses that suffer little or no flood damage. Where floodplains are not yet developed, they should be preserved for agricultural or recreational use, or otherwise kept free of buildings and other uses that are susceptible to flood damage. Open space uses that might be considered by a community include: farming, ranching, parks and trails, wildlife habitat, golf courses, shooting ranges, etc. Although these uses may be damaged by a flood, the damage will be much lower than for homes, businesses and other more intense uses. Even with floodplain management, urban development can suffer flood damage.

Obstructing the floodway may significantly increase flood elevations throughout the floodplain. A Floodplain Management Ordinance can regulate development activities in the 100-year floodplain. They typically limit new forms of residential, commercial and industrial construction in the floodplain or require mitigation measures such as elevating new residential structures, flood proofing new non-residential structures, or retrofitting an existing structure.

### 2.2.1 COUNTY POLICIES

Counties often have policies in place to prevent development within a floodplain or within a certain distance from a river. San Benito and Santa Clara county policies discourage development within the floodplains but do not prohibit development. Due to increasing pressure to provide housing and employment in the area, the counties will likely experience a great deal of pressure to allow development within the floodplain. The following sections highlight and summarize safety and building policies associated with floodplains for each county. The information was taken from the county general plans.

#### SAN BENITO COUNTY

San Benito County has a floodplain overlay on their zoning maps and the Soap Lake area is included within this floodplain area. The PRWFPA floodplain delineations are consistent with the FEMA 100-yr floodplain delineations. The following policies apply to the 100-yr floodplain (see Appendix B for the full text):

- Areas of high agricultural productivity and within the 100-year floodplain should be retained in agriculture use to serve dual open space functions (Policy 29)
- New development in potential flood hazard areas is strongly discouraged (Policy 37)
- Floodplain zoning designation precludes creation of new parcels wholly within the floodplain (Policy 36, Action 3)
- Parcels located completely within a flood hazard area and created before January 1994 are allowed one single-family residence but must reduce stormwater runoff to pre-development levels (Policy 41, Action 2) and if a leach field can be built
- Development of multiple residential homes within the 100-yr floodplain requires an environmental review pursuant to CEQA (Policy 41, Action 3)

#### SANTA CLARA COUNTY

Santa Clara County does not have floodplain designations in their zoning or general plan. Flood hazards are covered in their Health and Safety Chapter for rural unincorporated areas and also under Flood Control for the South County Joint Area Plan policies. It is assumed that the natural hazard policies apply to the FEMA 100-yr floodplain delineations. The following policies apply to the 100-year floodplain (see Appendix B for the full text):

- Significant natural hazard areas are designated as Resource Conservation Areas with low development



densities (R-HS 7)

- The resident population in high natural hazard areas should be minimized (R-HS 5)
- Areas of persistent flooding shall be used for agricultural or open space uses (R-HS 8)
- It is acknowledged that some development will occur (R-HS 9)
- In areas of highest potential hazard, such as floodways, no new habitable structures shall be allowed (R-HS 9)
- New development should not increase downstream risks (R-HS 10)
- In flood-prone areas, inappropriate development should be prevented through land use planning (SC 12.0)

The County of Santa Clara participates in the National Flood Insurance Program (NFIP) and is compliant with the rules and regulations of this FEMA hazard mitigation program. In the region of Soap Lake, FEMA NFIP mapping shows the area to lie within an Approximate Zone A, which is within the special flood hazard area (SFHA) of the 100-year floodplain where no base flood elevations have been established.

In 2003, Santa Clara County began participation in the Community Rating System (CRS), which recognizes community floodplain management efforts beyond the NFIP minimum standards. Participation in the CRS is voluntary and may reduce flood insurance premiums for the community's property owners once new flood mitigation, planning, and preparedness activities have been implemented and accepted by FEMA.

### 2.3 SOAP LAKE FLOODPLAIN PRESERVATION PROJECT

Soap Lake has been determined to be one of the most important watershed features in providing downstream flood protection to the Watsonville area. Soap Lake, primarily agricultural land, acts as a natural detention basin during large rainstorms and reduces peak flood flow from the Upper Pajaro River watershed.

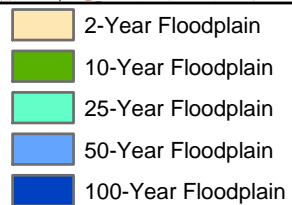
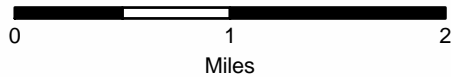
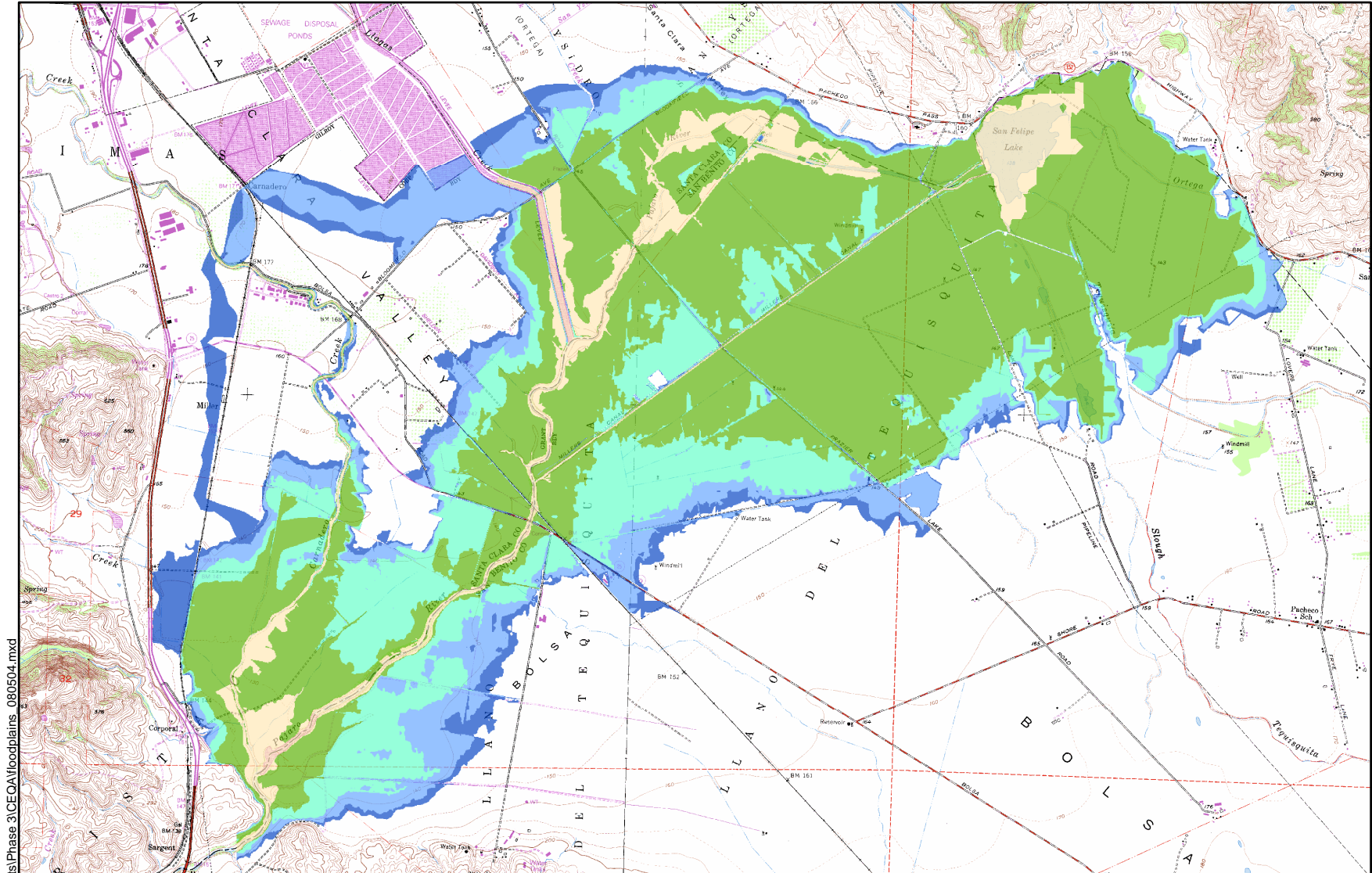
No structural facilities would be built; instead the proposed project would include either purchasing land or obtaining flood easements for the land within the Soap Lake floodplain. The objective is to maintain the current flood protection benefits provided by the Soap Lake floodplain by protecting the area from changes that would impact the flood protection properties of the floodplain. An additional benefit would be the preservation of agricultural land and open space.

The floodplain area is considered to be about 9,000 acres. The approximate location of the floodplain boundary is shown in Figure 2-1. The floodplains of the Uvas/Carnadero and Llagas Creeks extend northwesterly from the Soap Lake floodplain, but are not shown on Figure 2-1.

#### 2.3.1 FLOOD PROTECTION

The Soap Lake area serves as temporary storage for the Pajaro River. The lower Pajaro River communities (Watsonville, Pajaro, and the surrounding farms) experience flooding at flows near 25,000 cubic feet per second (cfs), which is equivalent to a 25-yr flood event. Flooding would increase if the existing floodplain storage at Soap Lake was lost. Without the floodplain, the 100-yr flood event is assumed to increase the peak downstream Pajaro River discharge by up to 15,600 cfs (from 44,400 to 60,000 cfs). This would cause additional property damage and possibly loss of life.

The proposed project would maintain the flood protection provided by the natural constriction at Chittenden Pass and the Soap Lake floodplain. The project would not reduce the magnitude of a flood flow, but would prevent increases in flood flow magnitude. Working in conjunction with the Corp's proposed levee project downstream, the proposed project would provide 100-year flood protection. Therefore, the 100-year discharge is expected to remain at 44,400 cfs between the Murphy Road Crossing and the Salsipuedes Creek confluence.



**Figure 2-1**  
**Soap Lake Floodplain**

File: E:\Pajr\W\ArcMap\Projects\Phase 3\CEQA\Floodplains\_080504.mxd

Source: PRWS 2004

SOAP LAKE FLOODPLAIN PRESERVATION PROJECT



The project would not decrease expected average annual flood damage, however, the project would prevent increases in average annual flood damages. The project would maintain the current hydrologic and hydraulic conditions at the project site and adjacent properties. The floodplain limits would not be changed. As flood frequency and magnitude increase due to urbanization elsewhere in the watershed, a protected Soap Lake would continue to provide the current level of flood protection afforded by this floodplain.

The project would preserve the floodplain through land management strategies, would maintain the existing downstream flow rates and flooding, and would not increase the costs associated with the flood damage. The project would therefore minimize the effects of flooding on developments both within and downstream of the study area by reducing flood damage to potential future development within the floodplain and by preventing increased flows downstream.

### 2.3.2 OTHER BENEFITS

Besides minimizing flood damages to specific parcels, floodprone land acquisition yields a number of other important benefits. One immediate advantage is that purchasing undeveloped floodprone property eliminates the need for structural flood protection improvements (such as bank stabilization, levees, etc.) that would otherwise be needed to protect these parcels. Another benefit is that the area's natural floodplain characteristics are preserved, which in turn helps reduce downstream flooding peaks. Floodprone land acquisition also helps create recreational opportunities, maintain agricultural land and open space, preserve riparian habitat and enhance ground water quality.

There are several benefits associated with this project. They include:

- **Surface water quality:** Suspended particles will fall out of suspension as the water velocity and turbulence decreases. This minimizes the sediment deposition in the Pajaro River channel and sediment transported downstream.
- **Groundwater recharge:** Flooding of the Soap Lake floodplain will continue to provide percolation into the groundwater and recharging of the aquifer.
- **Regulatory compliance:** Both San Benito and Santa Clara counties have language in their General Plans encouraging agricultural and open space preservation and discouraging development with detrimental effects downstream.
- **Open space preservation:** Land currently held as open space would remain open space. Protected open space preserves the complex natural habitats necessary to sustain native plant and animal life, especially endangered species. Where possible, trails could be included in conservation easements as long as there is no conflict with regulatory constraints.
- **Riparian corridor protection:** The proposed project would prevent future encroachment near the riparian corridor. Where possible, some riparian corridors might be enhanced for environmental restoration.
- **Agricultural preservation:** Farms and ranches are essential economic and cultural resources of our communities. Agricultural conservation easements and leasebacks support continued use and preservation of agriculturally viable land that might otherwise be lost to development.

Impacts to the environment are very important considerations when planning any project or developing an area. Threatened and endangered species such as the steelhead trout, the California red-legged frog, the tidewater goby, and the western pond turtle must be protected and their habitats preserved. However, a project like the Soap Lake Preservation Project at a minimum will be in compliance with the Endangered Species Act (ESA) but could go beyond simply complying by providing environmental enhancement opportunities, which would then maximize funding opportunities.

In addition to the ESA and biological environmental impacts, the Clean Water Act must be adhered to as well. For example, the Pajaro River was listed on the 303(d) list as a medium priority site for nutrients and sedimentation and as a low priority site for Fecal Coliform (impaired length is above Llagas Creek). Llagas Creek is listed for nutrients and sedimentation at a medium priority and for chloride, fecal coliform, low dissolved oxygen, PH, sodium and total dissolved solids at a low priority. San Benito River was listed as a medium priority for sedimentation and low priority for fecal coliform. Hernandez Reservoir is listed as a medium priority for mercury (Central Coast RWQCB 2004). Again, the Soap Lake Floodplain Preservation Project, with careful planning and consideration, could provide the necessary flood protection benefits as well as the needed water quality improvements.

### 2.3.3 METHODS FOR PRESERVING SOAP LAKE

Many methods for preserving the Soap Lake floodplain were examined with a focus on preservation of agricultural land. A recent report titled *Farmland Protection Action Guide: 24 Strategies for California* identifies strategies for agricultural land preservation that are also consistent with the objectives of the Soap Lake Floodplain Preservation project (Institute of Local Self Government 2002).

Land acquisition and land use restrictions can be accomplished in several different ways. Section 2.4 briefly describes some of the methods considered for the project, but not carried forward. This section identifies the methods proposed for the preservation of the Soap Lake floodplain:

- land use policies (zoning, general plan, and floodplain ordinances)
- incentive programs (Williamson Act, Farmland Security Zones, etc.)
- purchase of land,
- conservation easements, and
- mitigation banking.

Land acquisition or control can occur through two methods, the purchase of physical property or the purchase of the right to use a given property. The purchase of property would result in land ownership in fee title, with control over land access. The purchase of the right to use the land for flooding is known as a flood easement or for continued agricultural use as an agricultural conservation easement.

### LAND USE POLICIES

#### Zoning and General Plan Land Use Designation Changes

Agricultural zoning is a technique that allows municipalities to protect their rural and agricultural areas by establishing large minimum lot sizes. Both Santa Clara County and San Benito County already have designated the area within Soap Lake for agriculture with large lot sizes. Both counties also have policies in their General Plans promoting continued agricultural use of this land and it is recommended that these policies remain in place. There may be cases where zoning changes would be appropriate, although none are recommended as part of this project at this time. It is recognized that it could be difficult to change these policies to restrict future development, however this potential restriction should remain as an option and could be used in select circumstances. One disadvantage of this method would be the possibility that these changes could be rescinded in the future and may not be a permanent solution.

#### County General Plan Policies Related to Trails Planning

*The Santa Clara County Countywide Trails Master Plan* (Santa Clara County 1995) identifies policies and objectives for trails planning that are relevant to the Soap Lake Floodplain Preservation Project. The project has been defined to be consistent with these policies and objectives. Relevant trails policies consistent with the project include:

Policy #PR-TS 2.3 Trail Routes or Regional Staging Areas shown on the Countywide Trails Master Plan Map in areas currently designated on the County General Plan Land Use Map as Agriculture shall not be required (including easements) or developed outside of County road rights-of-way until or unless: (1) the land use designation is amended to a non-Agriculture designation, or (2) there is a specific interest or consent expressed by a willing property owner/seller. Where there is a specific interest or consent expressed by a willing property owner/seller, trails in prime agricultural land shall be developed in a manner that avoids any significant impact to the agricultural productivity of those lands.

Policy #PR-TS 2.4 Trail Routes or Regional Staging Areas shown on the Countywide Trails Master Plan Map in areas currently designated as Ranchland on the County General Plan Land Use Map and actively used for ranching or other agricultural purposes shall not be required (including easements) or developed outside of County road rights-of-way until or unless: (1) the County is notified of a non-renewal of Williamson Act contract affecting the land on which the trail route or regional staging area would be located; (2) such time as the active ranching and/or agricultural use has been permanently abandoned; (3) the land use designation is amended to a non-ranchland designation, or (4) there is a specific interest or consent expressed by a willing property owner/seller.

Policy #PR-TS 3.3 Trail routes shown on the Countywide Trails Master Plan Map that cross privately-owned lands shown as Agriculture, Ranchland or Hillside on the General Plan Land Use Map will only be acquired from a willing property owner/seller.

Policy #PR-TS 6.3 Public improvement projects, such as road widenings, bridge construction, and flood control projects, that may impact existing or proposed trails should be designed to facilitate provision of shared use.

### Floodplain Management Ordinance

A higher level of floodplain management could occur through greater regulatory requirements placed on development in the Soap Lake area. To do this, higher regulatory standards (ordinances) could be developed and adopted by the communities (Counties of Santa Clara and San Benito) which manage the Soap Lake floodplain through the FEMA National Flood Insurance Program (NFIP).

The NFIP is a mitigation program that lessens the impacts of flooding on communities (people and property) through damage prevention and flood insurance. Various levels of participation exist. By increasing the level at which a community participates in the NFIP, a community could reduce their constituents' flood insurance premiums, reduce the high costs associated with flood disasters to all levels of government, manage local development to mitigate for future flood disasters, and increase public safety.

To increase floodplain management strategies within the Soap Lake area, 100-year base flood elevations (BFEs) could be established through detailed hydraulic analyses and a formal NFIP mapping process. Establishing BFEs would provide an elevation to which local government can regulate construction practices to reduce flood losses. This is accomplished by establishing development and redevelopment policies that elevate residential structures, flood proof or elevate non-residential structures, and retrofit existing structures.

Long-term benefits of wise floodplain management may be greater than the upfront costs. Upfront costs include the hydraulic analyses to establish the BFEs and to revise the FEMA Flood Insurance Rate Maps (FIRMs). Often such costs are defrayed to the development community as a condition of development and permitting within the 100-year floodplain. Once FEMA and the local communities have accepted and adopted the hydraulic data and BFEs that have been scientifically developed, the communities can manage the development and redevelopment for future flood loss and public safety, and subsequently protect the natural functional purpose of the Soap Lake

floodplain. The earlier in the growth of a community such floodplain management can occur the greater the public safety during future floods.

A higher level of regulatory oversight for development could occur with the commission of a detailed hydraulic analysis of Soap Lake to establish BFEs within the SFHA. Once accepted and adopted by FEMA and the local communities, the BFEs would be used as the regulatory elevation standard for new construction and development within the Soap Lake floodplain.

### INCENTIVE PROGRAMS

Various incentive programs are already in place within these counties to discourage development and maintain agricultural uses. These programs offer tax incentives to landowners through long-term contracts such as:

- Williamson Act Contracts – for land within designated Agricultural Preserve land – 10-20 year contracts, property tax based on income as opposed to full market value, with tax revenue subvention from state through Open-space Subvention Act Program.
- Farmland Security Zones – 20 year contracts, provides greater tax incentive than Williamson Act contracts (65% of WA valuation or 65% of Prop 13 valuation, whichever is lower), and also provides that the property cannot be annexed by City or taken by school districts for school facilities.

Although these programs are successful throughout California at preserving agricultural land, and are consistent with the proposed project goals, they too are not permanent solutions. Therefore, they are recommended for the continued protection of agricultural lands in conjunction with other aspects of the project.

### PURCHASE AND LEASEBACK

Land would be acquired from a willing seller. The owner sells his property rights to the buying authority, and then the land is leased back to its original or a new owner. The buying authority then has control of the land use and no liability for damage claims, but allows a second party to maintain an acceptable land use. By allowing the land to be leased, some of the purchase price for the land can be recouped. Land acquisition is one of the options available to the Pajaro River Watershed Authority to provide flood protection to the lower Pajaro River.

### FLOOD CONSERVATION EASEMENT

In this case, the land ownership would be retained by the existing owner, or sold to a new owner, with the purchase of an easement by a third party to allow third party control of land use in the area. A flood easement is an agreement between the landowner and purchasing authority that land within a flood zone will be allowed to flood. The owner maintains the property rights and use. The original land use, such as agriculture, can be continued while that area of land is not flooded. Due to the productive agricultural land in the watershed, this will likely be the most attractive option for land acquisition.

The easement purchase would allow land to be flooded temporarily and would restrict the building of structures or facilities that could impede the flood attenuation benefits of the floodplain and that could be damaged by the flood or cause damage to the surrounding area. Examples of these structures include buildings, fill materials, and septic tanks.

Obtaining easements would also complement the work of parks and open space agencies, private land trusts, and other land conservation organizations such as the San Benito Agricultural Land Trust, Land Trust for Santa Clara County, Santa Clara County Open Space Authority, American Farmland Trust, and The Nature Conservancy. These groups are working to acquire lands for agricultural preservation through private donations and grants. But they do not always have the resources to indefinitely manage the lands they acquire. Instead, they look for partnerships with other public or private entities to ensure permanent and accountable stewardship of these lands.

Several conservation easements and land purchases have already been obtained by these groups within the Soap Lake project area totaling over 1,200 acres. In addition, funding has been secured to obtain another 1,200 acres. The easements and land obtained are described below and shown on Figure 2-2:

- **Carnadero Preserve** – 478 acres acquired with 198 acres purchased by SCVWD for mitigation and enhancement purposes and the remainder by the Land Trust for Santa Clara County to be sold for continued agricultural use, with an easement precluding future development. The portion owned by SCVWD will be used in part for mitigation purposes under the Stream Maintenance Program’s Stream and Watershed Protection Program. Portions of this land, nearest the largest streams, will be retired from farming and form an expanded buffer between the existing riparian forest and adjacent disturbance. These areas will either be passively or actively re-vegetated and managed to control noxious weeds. In addition, a 4-acre mitigation wetland project is planned, also to provide separate Stream Maintenance Program mitigation. Portions of the SCVWD land will continue to be used for agriculture (row crops and pasture) with water quality BMPs implemented (from UC Cooperative guidelines). Other environmental improvement projects, yet to be determined, may be conducted in the future. No designated public access will be provided although guided tours for groups might be accommodated.
- **Silacci Property** – 301 acres of a conservation easement purchased by the Santa Clara County Open Space Authority. Protection will include passive wetland restoration by fencing out cattle from the river and allowing some limited access (water gaps). Also includes a multi-use trail corridor along Bloomfield Road that follows the historic De Anza Trail.
- **Helperin Property** – This property has a 200-acre conservation easement for continued agricultural use and includes a 25-acre wetland area that runs adjacent to the Pajaro River. The purpose of the easement is to maintain the wetland and floodplain areas as well as protect and enhance plant and animal habitat. This easement is managed by the California Department of Fish and Game.
- **Wildlands Property** - Wildlands, Inc., a habitat development and management company, purchased 300 acres in San Benito County within the Soap Lake Floodplain to create wetlands and improve grazing land. The property was previously owned by Biosystems Management International (BMI), a subsidiary of Norcal Waste Systems and was used from 1984 to 1991 for disposal of wastewater treatment sludge resulting in elevated nitrate levels. BMI stopped disposing at the site in 1991 because high nitrate levels were found in the soil and in crops grown on the site. Wildlands would like to create wetlands on approximately 150 acres of the property, which would be similar to wetlands around San Felipe (or “Soap”) Lake to reduce the nitrate levels and return grazing to the site. Construction and operations of the site will employ best management practices to improve water quality and to minimize dust and soil erosion. No public access is anticipated for the site, although guided tours may be accommodated. San Benito County has begun its environmental and permit review of this proposal. Grading and drainage work will include relocating onsite soil to create ponds to store water and installing drains at the low points so the site can be dried for grazing and pest removal. This work is expected to be completed over about two months during the dry summer period with planting completed just before the rainy season. See Appendix F for a copy of the Corps Public Notice of this project.



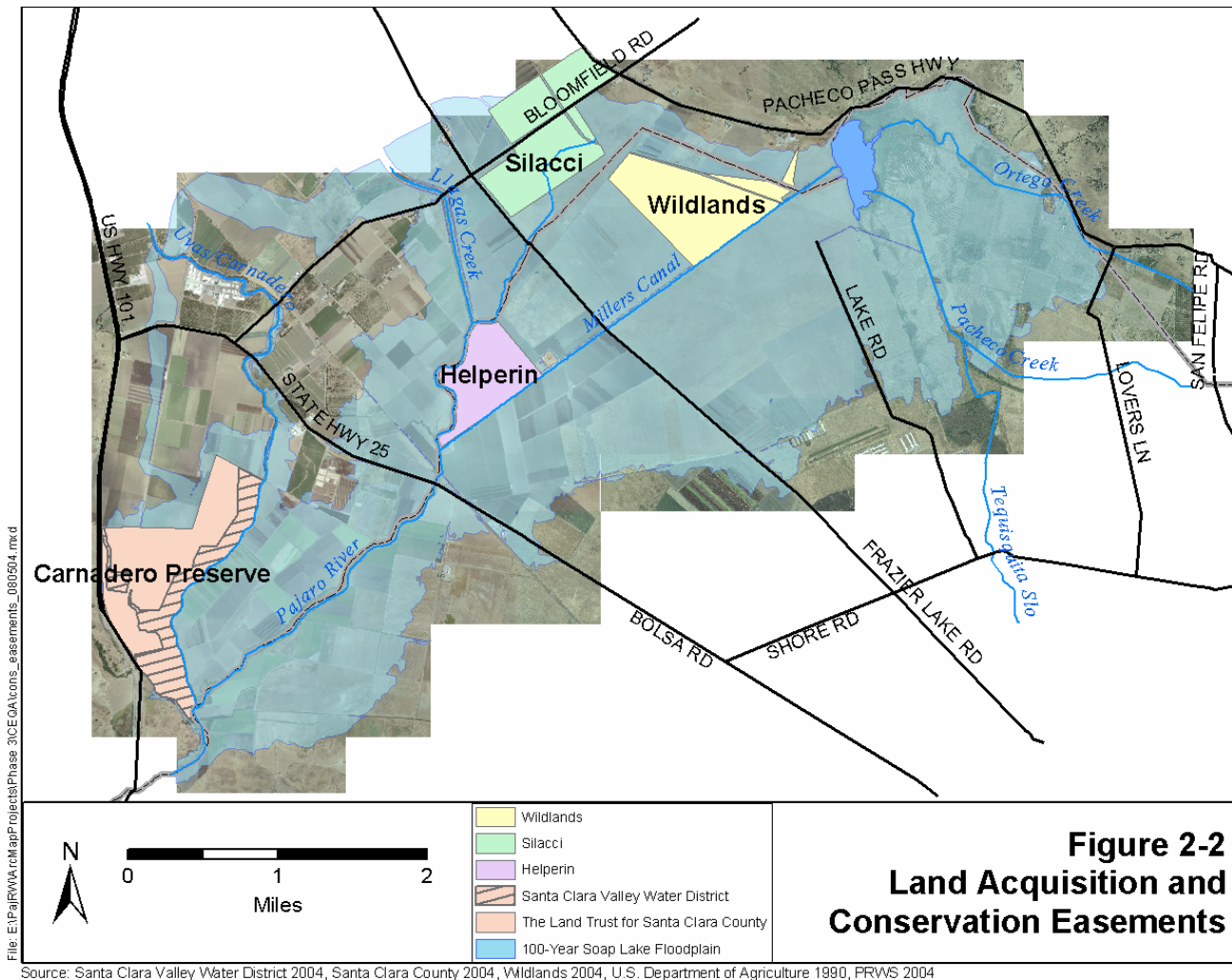


Figure 2-2 Land Acquisition and Conservation Easements Obtained within the Soap Lake Floodplain

Programs available to assist in obtaining funding for conservation easements include:

- California Farmland Conservancy Program (CFCP) – State-wide grant funding program for agricultural conservation easements
- Farm and Ranch Lands Protection Program (Farm Bill 2002) – Federal program through USDA, NRCS
- Wildlife Conservation Board – Prop 40 money for grasslands
- Department of Water Resources Flood Protection Corridor Program
- Department of Conservation
- Natural Resources Conservation Service

### MITIGATION BANKING

Agricultural land mitigation banking is a relatively new concept that allows developers to compensate for loss of agricultural land by paying for agricultural land that has been protected in other areas. Creating an agricultural mitigation banking program could be a complimentary preservation strategy in conjunction with conservation easements.

A recent CEQA Court of Appeal holds that a mitigation measure of this nature does not actually avoid or reduce the loss of farmland subject to development (*Friends of the Kangaroo Rat v California Department of Corrections* (August 13, 2003) Fifth Appellate District Number F040956). The opinion from the Appellate District was unpublished so it may not be cited as precedence.

### 2.4 Project Implementation

Public comment on the Draft Initial Study/Negative Declaration requested additional information on the implementation of the project. Comments specifically asked for information on what agency would implement the project, mechanisms for implementation, and what discretionary actions would be taken as part of the project. In response to these public comments, the Authority has prepared an Implementation Plan, presented in Appendix G, which identifies the following:

- 1) Program Administration
  - Selection and Role of Lead Administrator and Implementing Partners
  - Program Administration Cost
  - Program Schedule
- 2) Land and Flood Conservation Easement Acquisition
  - Acquisition Process (qualified appraisal and baseline documentation)
  - Methods of Acquisition (fee title, conservation easement)
  - Easement Provisions (standard provisions and potential provisions)
  - Acquisition Strategy
  - Payment Methods
- 3) Funding
  - Required Funding
  - Implementation Partners
  - Public and Private Grants (local, state and federal)
  - Landowner Incentive Programs
  - Development-Based Funds
  - Local Tax-Based Funding
- 4) Recommended Actions
  - Adopt Agricultural Mitigation Policies/Programs
  - Support Development of an Agricultural Mitigation Bank
  - Incorporate the Soap Lake Project into General Plan Updates
  - Institute Development Impact Fees and a Stewardship Fund
  - Adopt Resolutions Supporting the Soap Lake Floodplain Preservation Project
  - Designate an Open Space District for San Benito County
  - Notify the Authority when Development is Proposed Within the Floodplain

The discretionary action to be taken by the Authority is the adoption of the Soap Lake Floodplain Preservation Project Implementation Plan (as shown in Appendix G).

## 2.5 Alternatives Considered But Eliminated

This section identifies and briefly describes some of the project alternatives considered, but not carried forward.

### PURCHASE/CONDEMN

This method is used when the successive land use will be completely different from its current land use. The former owner sells his property rights to the buying authority and has no further claim to the property. For example, a parcel within the 100-yr floodplain could be bought and any structure inhibiting flood flow removed. The land could then be returned to its natural state. Since maintaining the land for agricultural use is preferred, this alternative has been eliminated from further consideration.

### EMINENT DOMAIN

All of the land acquisition options described in Section 2.3 take place between a willing seller and buyer. Occasionally landowners are not willing to sell their land or right to use the land. When this happens and it has been shown that there is no other alternative, public agencies can take the land by eminent domain for the good of the public. This involves rigorous review of different options to solve the problem, study of environmental impacts, and court proceedings. The court forces the sale of the needed land at fair market value. Out of necessity, this is the last option to be considered and is therefore not considered for this proposed project.

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An aerial photograph of a rural landscape. A river flows from the bottom left towards the bottom right, with a small dam or weir visible. The landscape is divided into numerous rectangular agricultural fields. There are some clusters of buildings, possibly farmhouses or small villages, scattered throughout the fields. The overall tone is grayscale, with varying shades of gray representing different land uses and vegetation.

# **Environmental Checklist Form**

## **CHAPTER 3**



CHAPTER 3

**3. ENVIRONMENTAL CHECKLIST FORM**

1. **Project Title:** Soap Lake Floodplain Preservation Project
2. **Lead Agency Name and Address:** Pajaro River Watershed Flood Prevention Authority (PRWFPA)
3. **Contact Person and Phone Number:** Nick Papadakis  
Executive Coordinator, PRWFPA  
445 Reservation Road, Suite G  
Marina, CA, 93933  
(831) 883-3750
4. **Project Location:** The Project encompasses portions of the unincorporated areas of Santa Clara and San Benito Counties on the eastern side of Highway 101. The project is generally bounded by Highway 101 on the West, Highway 152 to the East, just north of Bloomfield Road, and south almost to Shore Road.
5. **Project Sponsor's Name and Address:** Pajaro River Watershed Flood Prevention Authority
6. **General Plan Designation:**  
Santa Clara County  
Agriculture – Large Scale (A<sub>L</sub>)  
Major Public Facility (PF)  
  
San Benito County  
Agricultural Productive (AP)  
Floodplain (FP) Overlay  
  
City of Gilroy  
Public Facility (PF)
7. **Zoning:**  
Santa Clara County  
Agriculture (A)  
  
San Benito County  
Agriculture  
  
City of Gilroy  
Public Facility (PF)
8. **Description of Project:** The proposed project would preserve the Soap Lake floodplain to allow it to continue to act as a natural detention basin. No structural facilities would be built; instead the proposed project would include purchasing land or obtaining flood easements for the land within the Soap Lake floodplain.
9. **Surrounding Land Uses and Setting.** The project area is mostly private land in agricultural production with row crops or fields. Some residences, a chemical storage facility and some agricultural related structures are within the project boundaries. An agricultural processing plant (Christopher Ranch) is surrounded by the floodplain boundary but is not within the boundary.

**10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)**

- County of Santa Clara - If any land use zoning or general plan designations changes are proposed
- County of San Benito - If any land use zoning or general plan designations changes are proposed

**Environmental Factors Potentially Affected**

The key environmental factors checked below would be potentially affected by this Project. However, as described in the checklist below, the Project would not cause significant impacts in any of these areas and would have beneficial impacts.

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> Aesthetics                    | <input checked="" type="checkbox"/> Agriculture Resources     | <input type="checkbox"/> Air Quality                    |
| <input checked="" type="checkbox"/> Biological Resources          | <input checked="" type="checkbox"/> Cultural Resources        | <input type="checkbox"/> Geology / Soils                |
| <input checked="" type="checkbox"/> Hazards & Hazardous Materials | <input checked="" type="checkbox"/> Hydrology / Water Quality | <input checked="" type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources                        | <input type="checkbox"/> Noise                                | <input type="checkbox"/> Population / Housing           |
| <input type="checkbox"/> Public Services                          | <input checked="" type="checkbox"/> Recreation                | <input type="checkbox"/> Transportation / Traffic       |
| <input checked="" type="checkbox"/> Utilities / Service Systems   | <input type="checkbox"/> Mandatory Findings of Significance   |   |

**DETERMINATION: (To be completed by Lead Agency)**

On the basis of this initial evaluation:

- ☒ I find that the proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the Project have been made by or agreed to by the Project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed Project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Tony Campos, Chair  
Printed Name

Pajaro River Watershed Flood Prevention Authority  
For

### 3.1 AESTHETICS

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project:</b>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### Discussion

The character of the landscape within the project area is rural with views of agricultural fields, grazing lands, barns and other farm buildings and widely scattered rural residences with foothills and mountain ranges as a backdrop. Major water features and associated riparian vegetation in the area include the Pajaro River, Llagas Creek, Carnadero Creek and San Felipe Lake (see photos in Appendix A).

- a) The Santa Clara County General Plan and the San Benito County General Plan do not designate scenic vistas or areas with unique or special views that should be protected (Santa Clara County 1994, San Benito County 2002) and none have been identified within the Project site.
- b) The proposed Project would not include construction of any facilities and would not change the existing visual character of the area; therefore, no adverse effect on visual resources would occur. Although two roadways that cross the project area are eligible for designation as a state scenic highway (State Route 152 and 25), the portions within the project area are not included in this designation. One roadway that runs along the western edge of the project area, Highway 101, is not currently eligible but may be listed in the future for views of rural agricultural lands. The proposed project would protect these views and be consistent with a scenic highway designation.

Scenic resources such as trees, rocks, riparian areas, or historic buildings would not be altered.

**Highway 101**, which runs along the west side of the project area, is not designated as a Scenic Highway or as an eligible Scenic Highway within the project vicinity (Caltrans 2004). It is however listed in the Santa Clara County General Plan as a route to be added to the State Master Plan of Scenic Highways and then designated as a State scenic highway (Santa Clara County 1993). The General Plan states:

“Route 101, the South Valley Freeway. The South Valley Freeway, which is one of the major transportation arteries between northern and southern California, passes through lands that remain primarily in agricultural and rural residential uses. State scenic designations and land use protection by the County and the cities of Gilroy, Morgan Hill and San Jose can help preserve the scenic character of this corridor as future development occurs.

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Add the following highways to the State Master Plan for Scenic Highways and designate them as official State scenic highways:

a. the South Valley Freeway (Highway 101)....”

**Highway 152**, where it meets Highway 156 and heads northeast is listed on the State Master Plan, but is not yet designated as a State Scenic Highway. Although a portion of Highway 152 is adjacent to the Soap Lake floodplain, the portion that is listed on the Master Plan is not. The Santa Clara County General Plan states:

“Route 152, The Pacheco Pass Highway. This busy freeway is one of the most dramatically scenic gateways into Santa Clara County. The County is currently actively seeking official State designation of this road as a state scenic highway.”

**Highway 25** is an eligible scenic highway starting at the intersection of Highway 156 and headed south. This portion of Highway 25 is not within the project site.

- c) The Project would maintain existing views of agricultural lands and rangeland, which is in compliance with county general plan policies. The project would maintain flooding characteristics of the area and views of the area would include flooded lands at certain times of the year. However this would not substantially degrade the existing visual character or quality of the site and its surroundings.
- d) The Project would not create a new source of light or glare that would adversely affect day or nighttime views in the area.

#### Mitigation Measures

None required or recommended.

## 3.2 AGRICULTURE RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project:</b>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? ☐ ☐ ☒ ☐

Discussion

- a) The proposed Project area is comprised almost entirely of agricultural lands and rangeland including Prime Farmland, Unique Farmland, and Farmland of Statewide Importance as mapped by the California Department of Conservation (see Figure 3-1) and defined on Table 3-1:

**Table 3-1  
Farmland Classifications**

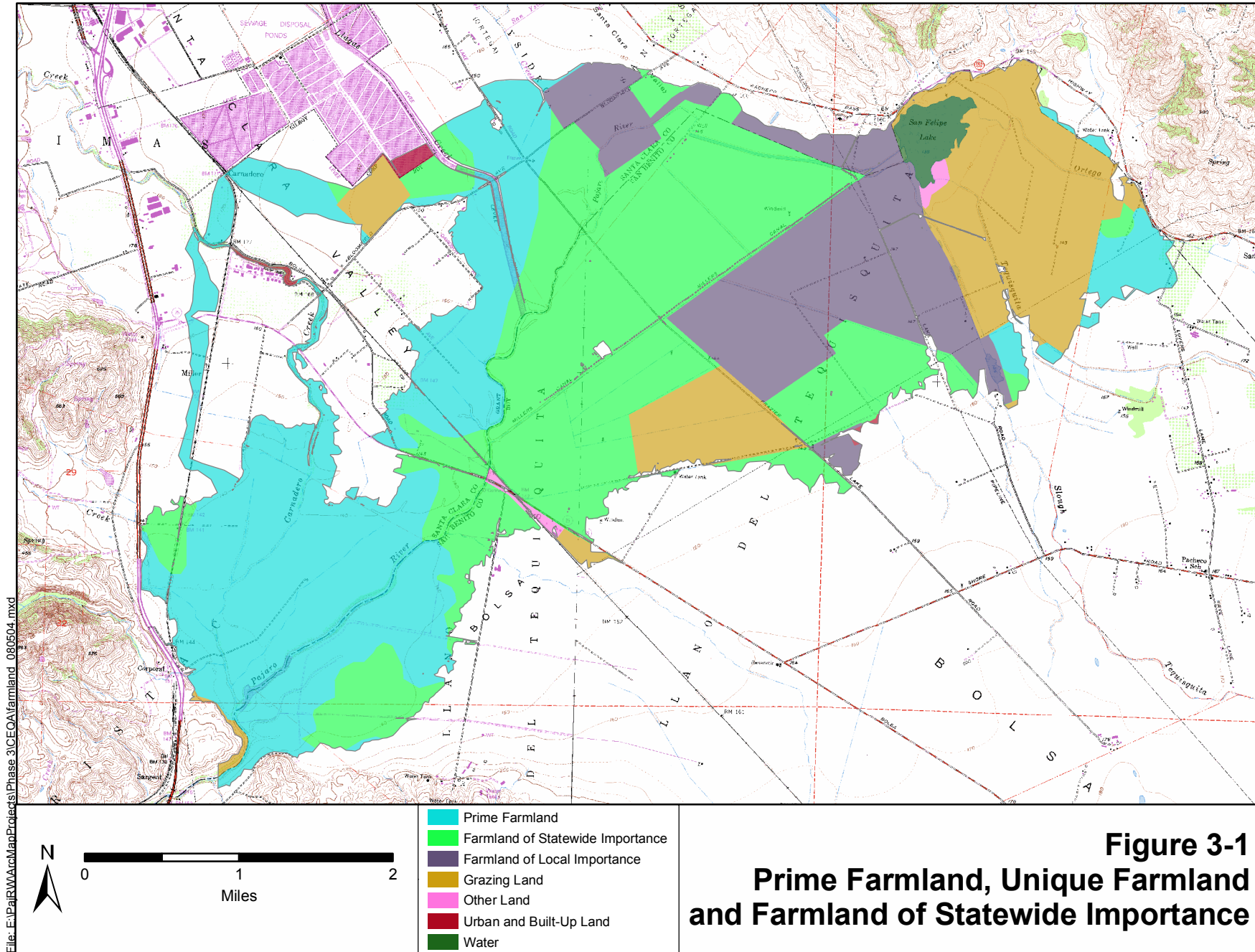
<b>Prime Farmland (P)</b> - Farmland with the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.
<b>Farmland of Statewide Importance (S)</b> - Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.
<b>Unique Farmland (U)</b> - Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated, but may include nonirrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.
<b>Farmland of Local Importance (L)</b> - Land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.
<b>Grazing Land (G)</b> - Land on which the existing vegetation is suited to the grazing of livestock. The minimum mapping unit for Grazing Land is 40 acres.
<b>Other Land (X)</b> - Land not included in any other mapping category. Common examples include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry or aquaculture facilities; strip mines, borrow pits; and water bodies smaller than forty acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as Other Land.

Source: California Department of Conservation 2005.

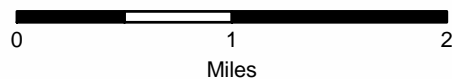
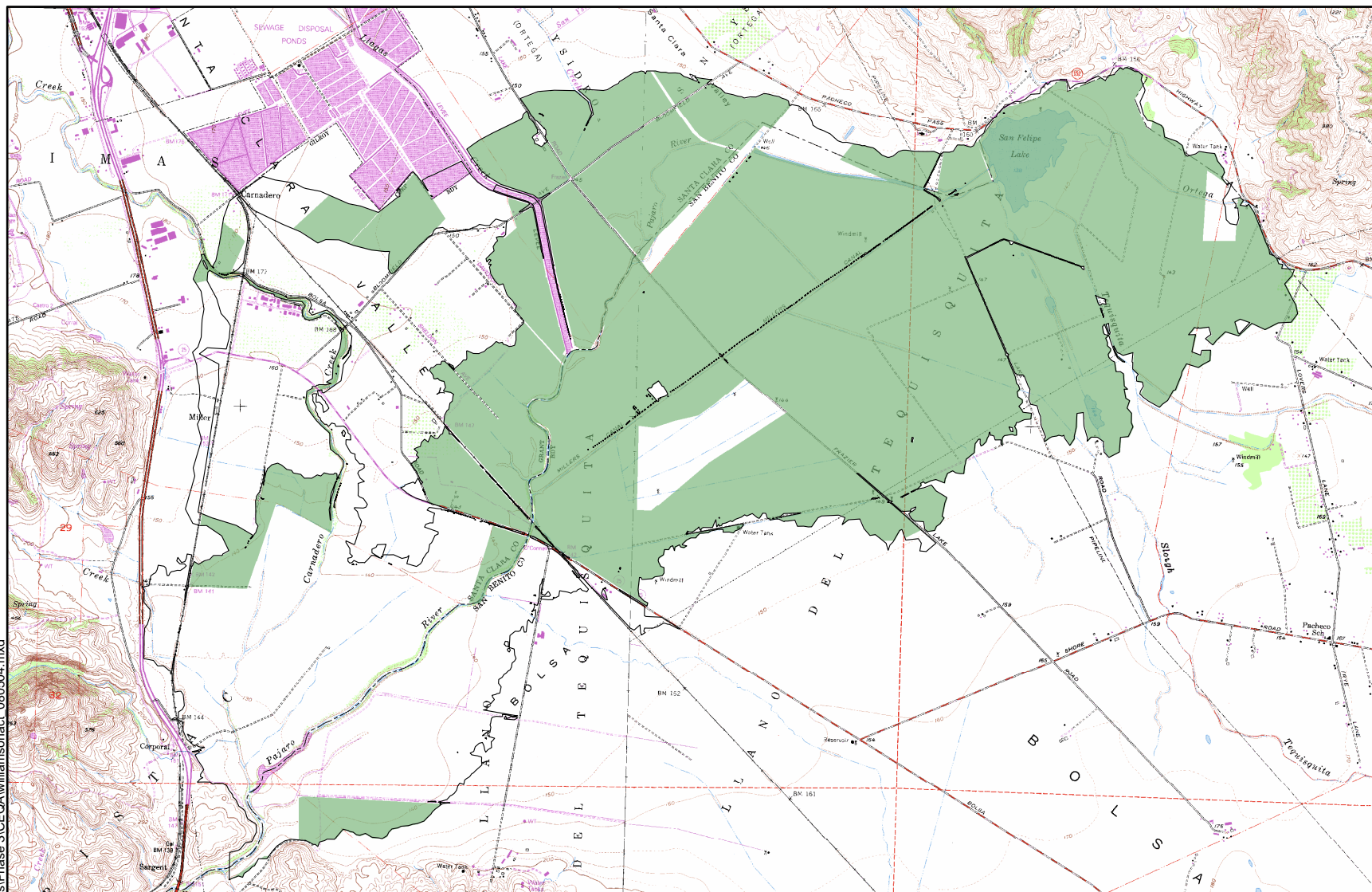
Farming is the main source of income in San Benito County. The principal crops are fruits, nuts, vegetables and other row crops, and small grains. The proposed Project's goals are to maintain the floodplain characteristics of the area through conservation easements or other land use policies.

Since the project goals are to maintain the land in land uses that are consistent with a floodplain, any conversion would continue the land in an undeveloped state and would not include construction of buildings or infrastructure. Other potential land uses that could be compatible within a floodplain could include environmental restoration (such as riparian or wetland restoration), open space, or trails. Such conversion would place the land in open space use but would not change the ability of the land in terms of soil or water, to be farmed in the future if needed. If a land purchase or conservation easement included conversion of agricultural land to non-agricultural uses such as environmental restoration, separate environmental documentation would be prepared as applicable.

- b) The land is zoned for agricultural use and there are several properties with current Williamson Act contracts (see Figure 3-2). The proposed Project would not conflict with this zoning, or with any of the Williamson Act contracts. About 77% of San Benito County is public or private open space and the



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- Williamson Act Lands
- 100-Year Floodplain Boundary

**Figure 3-2**  
**Williamson Act Lands**

Source: Department of Conservation 2002, Santa Clara County 2002

SOAP LAKE FLOODPLAIN PRESERVATION PROJECT



majority of this land (about 62%) is in private ownership as Williamson Act contract land (San Benito County 1993).

- c) Most of the area surrounding the project site is also in agricultural production. By preserving the proposed project area in agricultural production, this could potentially put pressure on other surrounding areas to be developed, which could include farmland. However, this is speculative and difficult to quantify at this time.

Mitigation measures

None required or recommended.

### 3.3 AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project:</b>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

a,b,c,d,e) The proposed Project is located within the jurisdiction of two air quality districts: the BAAQMD for the portion of the project within Santa Clara County, and the Monterey Bay Unified Air Pollution Control District for the portion within San Benito County. The Federal Clean Air Act required the US EPA to designate air basins as either “attainment” or “nonattainment” for each criteria pollutant, based on whether or not the national standards have been achieved. The air basin within San

Benito County has been designated as nonattainment for the state ozone and PM10 standards. The air basin within Santa Clara County has also been designated as nonattainment for the state ozone and PM10 standards.

The proposed Project does not include any construction activities or any other actions that would generate additional air pollutant emissions. Since existing land uses would be maintained, air emissions from these uses would continue (such as PM 10 emissions from agricultural operations) but would not increase. There are no sensitive receptors (schools, hospitals, etc.) located within the project area.

Since there is no federal agency involvement in the project, a Clean Air Act general conformity analysis is not required.

The proposed project would not include any construction activities and would not change any air emissions or odors; therefore no effect on air quality would occur.

Trical Chemical is a facility located within the modeled 100-year floodplain (see Section VII HAZARDS AND HAZARDOUS MATERIALS for further description of this facility) and is considered a federal Major Source and subject to the Title V permitting program due to the potential to emit (PTE) methyl bromide. Methyl bromide is listed as a Hazardous Air Pollutant (HAP) under Title III of the Clean Air Act. The PTE methyl bromide from the facility exceeds the 10 ton per year (TPY) major source threshold for a single HAP. This major source determination was based upon information supplied to the District in the facility's AB 2588 (Air Toxics Hot Spots Information and Assessment Act) submittal which reported 10.5 TPY of methyl bromide emissions from the facility for calendar year 1991. However, the proposed project would not affect existing conditions.

#### Mitigation Measures

None required or recommended.

### 3.4 BIOLOGICAL RESOURCES

<b>Would the Project:</b>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife corridors, or impede the use of native wildlife nursery sites?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Conservation Community Plan(NCCP), or other approved local, regional, or state HCP?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### Discussion

The project area includes three types of habitat: agricultural, valley foothill riparian, and wetlands. The majority of the proposed project area is agricultural land and rangeland. Agricultural habitats are typically subject to periodic discing, planting, harvesting, and the application of herbicides, pesticides and fertilizers, which prevent the establishment of natural plant species and communities. A number of weedy plant species are associated with cultivated lands and many of these are non-native species. Agricultural lands of this type may provide occasional habitat for transient mammals, reptiles, and amphibians, and also have some value to birds. Small mammals, such as rabbits and rodents, forage in the area and may attract predators such as hawks or feral cats. Row crops with leveled fields, as are predominant in the project area, are used as travel corridors but support no resident wildlife.

Several creeks and rivers cross the project area and support riparian habitat, including the Pajaro River, Llagas Creek, Uvas/Carnadero Creek, and the Miller Canal (see also the Hydrology section for a description of these surface water features). Riparian and wetland areas along these water features and along various drainage ditches provide habitat and movement corridors for wildlife. Some of the wetland areas contain suitable habitat for two sensitive species known to occur in the project vicinity: the California red-legged frog and the California tiger salamander. The U.S. Fish and Wildlife Service (USFWS) published their proposal to designate critical habitat for the California tiger salamander in the August 10, 2004 Federal Register (Federal Register 2004). This proposal is for the Central California population and would designate approximately 382,666 acres (ac) of critical habitat, which includes the Soap Lake floodplain area.

San Felipe Lake, which is the central feature of the “Bolsa de San Felipe” is designated as a “California Important Bird Area” by the National Audubon Society. The Bolsa is a crossroads for birds migrating between San Francisco Bay to the north, Monterey Bay to the west and the Central Valley to the east. The Bolsa is also identified by the National Audubon Society as a “bird vagrant trap”, a site where bird species far outside of their normal range appear. The fields surrounding San Felipe Lake are saturated with water during the winter months and it is possible that vernal pools could be located here. If vernal pools do exist around the lake they could serve as potential habitat for fairy shrimp and the larval stage of California tiger salamander (SCVWD 2003).

The Pajaro River serves as a migration pathway for adult steelhead (*Oncorhynchus mykiss*) migrating to spawning and nursery habitat in the upper watershed and for steelhead smolts (1-2 year old juveniles) migrating

from that habitat to the ocean. However, because of low, warm summer streamflows and substrate dominated by sand or silt, the Pajaro River provides almost no potential rearing habitat for steelhead (Smith 2002). Uvas and Llagas Creeks provide potential spawning and rearing habitat, and Uvas provides access, spawning and rearing in all but extreme drought years. Use of Llagas by steelhead is less frequent and less extensive (HRG 1977). The entire Pajaro River watershed provides potential habitat for several fish species and comprised one of the major drainages of the south-central California Evolutionarily Significant Unit (ESU) for the steelhead. Although once present in the Pajaro River, coho salmon have not been present in the river since at least the late 1960s.

Critical habitat for south-central California steelhead was designated in February 2000 and included all waterways within the Pajaro River watershed below the Chesbro and North Folk Pacheco reservoirs (Federal Register 2000). However, on April 30, 2002, the National Marine Fisheries Service (NMFS, now the National Oceanic and Atmospheric Administration Fisheries) withdrew the critical habitat designation pending further economic impact analysis (NMFS 2002). Thus, the critical habitat designation for this species is currently not in effect, but may be reinstated in the future.

The California Natural Diversity Database identified four special-status wildlife species and two special-status plant species within the project area and additional species in the surrounding area as shown on Table 3-2 and Figure 3-3. The complete listing from the CNDDDB is presented in Appendix D. In addition, the Tri-colored blackbird was identified but not shown on the map. The CNDDDB did not identify California Fairy Shrimp or Vernal Pool Shrimp, however potential habitat could exist surrounding San Felipe Lake. Also, the south-central California Coast steelhead ESU is a federally listed threatened species and a California species of concern.

- a) The proposed project would not directly or through habitat modifications, have an impact on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. If future land acquisition or conservation easements included any ground disturbing activities or changes in land use that could affect special-status species, such as the creation of a trail or conversion of agricultural land, then additional environmental documentation would be required to assess these impacts and provide mitigation measures.
- b,c) The project would not result in the removal of riparian habitat. No significant impacts to riparian habitat would occur. No impacts to wetlands or other sensitive natural communities would occur. The project location is used for agricultural production and includes several streams and rivers. However, the proposed project would not involve any construction, grading, demolition or any other activities that would affect biological resources or wetlands. The preservation of the land in its current use would maintain existing conditions and would prevent encroachment on the riparian corridors and would be compatible with potential future riparian efforts. No disturbance or fill of wetlands protected by Section 404 of the Clean Water Act would occur. If any riparian restoration or wetland creation is proposed as part of a land acquisition or conservation easement, additional CEQA documentation would be conducted as necessary to evaluate potential impacts.
- d) The proposed Project would not impact common wildlife species or the long-term ability of the area to serve as a corridor for migrating wildlife species. Maintaining the current floodplain would preserve the area for migratory birds and other animals and it would also protect the wildlife corridor. The project also would not affect steelhead's ability to use the Pajaro River and its tributaries for migration, rearing and spawning.
- e) No trees would be removed by the proposed Project.

**Table 3-2  
Special-Status Species Potentially Within or Adjacent to the Soap Lake Floodplain**

Latin Name	Common Name	Federal Status	State Status	CNPS Status
<b><u>Amphibians</u></b>				
<i>Ambystoma californiense</i>	California tiger salamander	PT	SC	--
<i>Rana aurora draytonii</i>	California red-legged frog	T	SC	--
<b><u>Birds</u></b>				
<i>Falco peregrinus</i>	American Peregrine Falcon	D	E	--
<i>Pelecanus erythrorhynchos</i>	American White Pelican	None	SC	--
<i>Haliaeetus leucocephalus</i>	Bald Eagle	T and AD	E	--
<i>Accipiter cooperii</i>	Cooper's Hawk	None	SC	--
<i>Vireo bellii pusillus</i>	least Bell's vireo	E	E	--
<i>Charadrius montanus</i>	Mountain Plover	C	SC	--
<i>Circus cyaneus</i>	Northern Harrier	None	SC	--
<i>Pandion haliaetus</i>	Osprey	None	SC	--
<i>Accipiter striatus</i>	Sharp-skinned Hawk	None	SC	--
<i>Agelaius tricolor</i>	Tricolored blackbird	None	SC	--
<i>Athene cunicularia hypugaea</i>	Western burrowing owl	SC	SC	--
<b><u>Fish</u></b>				
<i>Lavinia symmetricus subditus</i>	Monterey roach	None	SC	--
<i>Oncorhynchus mykiss</i>	Steelhead trout south-central	T	SC	--
<b><u>Invertebrates</u></b>				
<i>Lindieriella occidentalis</i>	California Fairy Shrimp	SC	None	
<i>Branchineta lynchi</i>	Vernal Pool Fairy Shrimp	T	None	
<b><u>Mammals</u></b>				
<i>Antrozous pallidus</i>	Pallid bat	None	SC	--
<i>Vulpes macrotis mutica</i>	San Joaquin kit fox	E	T	--
<b><u>Reptiles</u></b>				
<i>Emys (=Clemmys) marmorata</i>	western pond turtle	--	SC	--
<b><u>Plants</u></b>				
<i>Trifolium depauperatum</i> var. <i>hydrophilum</i>	saline clover	SC	--	1B
<i>Atriplex joaquiniana</i>	San Joaquin saltbush	--	--	1B

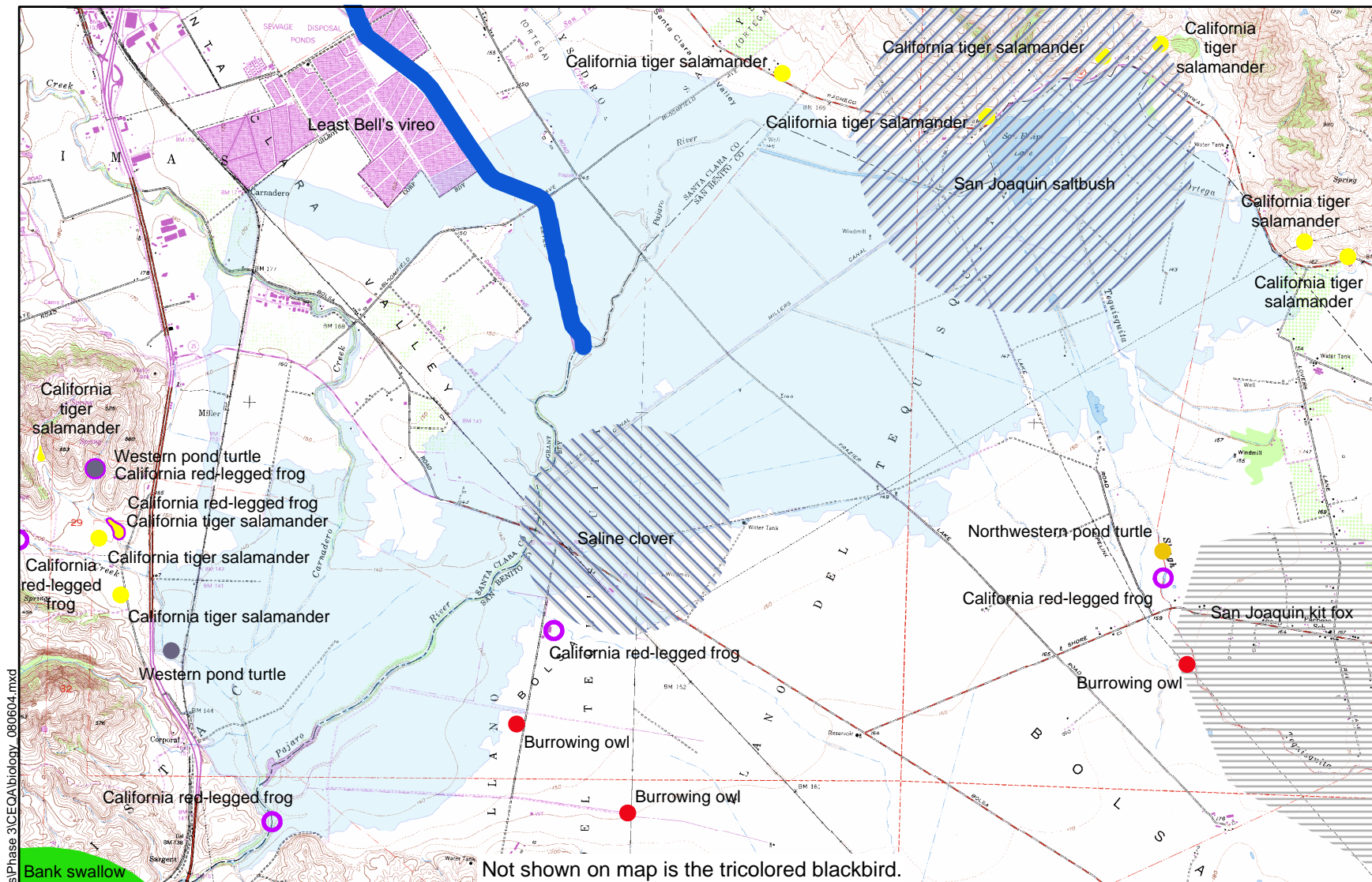
E – Endangered  
T- Threatened

PT – Proposed Threatened  
SC – Species of Concern

D - Delisted  
AD – Proposed Delisted

C – Candidate. Sufficient biological information to support proposal to list species as Endangered or threatened.  
1B - California Native Plant Society (CNPS) = plants rare, threatened, or endangered in California or elsewhere

Source: CDFG 2004, Smith 2002, Smith 2005, SBCWD 2004, and SCVWD 2003



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- |                              |                          |
|------------------------------|--------------------------|
| 100-Year Floodplain Boundary | Burrowing owl            |
| California red-legged frog   | Least Bell's vireo       |
| California tiger salamander  | Northwestern pond turtle |
| San Joaquin kit fox          | Western pond turtle      |
| Bank swallow                 | Saline clover            |
|                              | San Joaquin saltbush     |

**Figure 3-3**  
**Threatened and Endangered**  
**Species within the**  
**Soap Lake Floodplain**

Source: California Department of Fish and Game 2004

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- f) Both San Benito and Santa Clara Counties are in the process of preparing HCPs that would include the project area. The proposed project is not expected to conflict with these plans, and could perhaps be used to help the counties reach their conservation goals.

Mitigation Measures

None required or recommended at this stage, however future environmental documentation may be required and would identify mitigation measures.

### 3.5 CULTURAL RESOURCES

Would the Project:	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

- a,b) A records search of all pertinent survey and site data was conducted by the Northwest Information Center at Sonoma State University. The records were accessed by using the Chittenden and San Felipe USGS 7.5-minute quadrangle map in Santa Clara County and San Benito County. The Area of Potential Effect (APE) was set to the 100-year floodplain boundary as shown in Figure 2-1. Previous surveys and studies and archaeological site records were accessed as they pertained to the APE.

The records and information search indicated that 26 recorded Native American and historic-period cultural sites have been previously identified within the project area (18 within Santa Clara County and 8 within San Benito County). Of these sites, six sites have had determinations for National Register Eligibility. Four sites (CA-SCL-577, CA-SCL-698, P-35-025 and P-43-132) were determined eligible for the National Register (National Register Status Code 2S2) and two sites (P-43-106 and P-43-573) were determined ineligible for the National Register by consensus, but were not evaluated for local listing, such as in the California Register (National Register Status Code 6Y2). In addition, there are 12 unrecorded prehistoric and historic-period resources within the project area. Table 3-3 lists the recorded sites and their National Register Eligibility status. Appendix E provides the complete records search.

Native American archaeological sites located in the southern Santa Clara Valley tend to be located along creek banks, along the margin of former marshland, and near the mouths of canyons where they open into the valley. The project area includes these environmental features. At the time of Euroamerican contact, the Native Americans that lived in the area belonged to the Ohlone group of Indians. Given the



environmental setting and the presence of recorded prehistoric archaeological sites, there is a high potential for Native American sites in the project area (NWIC 2004).

**Table 3-3  
Recorded Cultural Resource Sites within the 100-year Floodplain**

<b>Site Number</b>	<b>Site Description</b>	<b>Eligibility Determination</b>
<b>Santa Clara County</b>		
CA-SCL-577	Prehistoric site w/large amounts of fire cracked rock and groundstone	Eligible
CA-SCL-697	Prehistoric site with a large lithic scatter and groundstone	Not Evaluated
CA-SCL-698	Prehistoric site with midden soils	Eligible
P-43-106	Prehistoric site with a lithic scatter	Ineligible
P-43-109	Prehistoric site with a lithic scatter	Not Evaluated
P-43-132	Prehistoric site with midden soils and human remains	Eligible*
P-43-214 (CA-SCL-203)	Prehistoric site with a lithic scatter and groundstone	Not Evaluated
P-43-314	C. 1900 Sunnybrook School/Fair House	Not Evaluated
P-43-496	Prehistoric site with midden soils and human remains	Not Evaluated
P-43-573	Prehistoric site with midden soils	Ineligible
P-43-575	Prehistoric site with a lithic scatter and fire cracked rock	Not Evaluated
P-43-1438	C. 1889 water reservoir	Not Evaluated
P-43-1439	C. 1914-45 historical debris scatter composed of structural and domestic items	Not Evaluated
P-43-1442	Prehistoric site with three isolated artifacts	Not Evaluated
P-43-1443	Prehistoric site with an isolated pestle fragment	Not Evaluated
P-43-1444	Prehistoric site with an isolated chert flake	Not Evaluated
P-43-1445	Prehistoric site with an isolated pestle	Not Evaluated
P-43-1486	C. 1951 bridge	Not Evaluated
<b>San Benito County</b>		
CA-SBN-191H	Historic-period pre 1887 canal (known now as Miller Canal)	Recommended ineligible – awaiting SHPO concurrence
P-35-024 (CA-SBN-23)	Prehistoric site with ground and pecked stone	Not Evaluated
P-35-025 (CA-SBN-24)	Prehistoric site with midden soils and human remains	Eligible*
P-35-178 (CA-SBN-187)	Prehistoric site with a lithic scatter	Not Evaluated
P-35-179 (CA-SBN-188)	Prehistoric site with a lithic scatter, groundstone, and fire cracked rock	Not Evaluated
P-35-327	Highway 101 with associated historic features, i.e., culverts	Not Evaluated
P-35-334	Ca. 1902 Southern Pacific trestle	Not Evaluated
P-35-335	Historic-period culvert	Not Evaluated

A National Historic Trail also crosses the project site, the Juan Bautista de Anza National Historic Trail, which is described under Section 3.14 RECREATION of this Initial Study.

\* Note: This site extends across the Santa Clara/San Benito County line and is given two site numbers, one for each county. Thus the site is identified on the NWIC letter as site P-35-025/P-43-132.

There is potential for impact to cultural resources from continued flooding of the Soap Lake floodplain. Flood waters can carry and deposit soil that can result in covering and uncovering of resources. Flooding could also damage historic structures or facilities. If a trail is proposed, there could be potential impacts to cultural resources from trampling or looters. Additional CEQA documentation would be required for specific projects to identify potential impacts and mitigation measures.

### **Cultural Resource Sites**

In addition the San Benito County General Plan identifies two historic resources possibly within the project area that are not on the cultural resource records search. These two properties are the Rancho San Joaquin O Rosa Morada (identified as site #13 on Figure 26 of the General Plan) and the Soap Lake / Spreckles Ranch / Native American village site (identified as site #11). According to the San Benito Historical Society, Rancho San Joaquin O Rosa Morada site is no longer at this site. It is possible that Site P-43-132 is the site #11 identified in the General Plan.

The PVWMA EIS (Reclamation 2004) described four sites within the Soap Lake project area. (These sites were also listed in the NWIC letter). The EIS descriptions are as follows;

A cultural resource site (CA-SBN-191H) consists of an unlined historic canal between San Felipe Lake and the Pajaro River. The historic canal (known now as the Miller Canal) possibly served as a water source for cattle driven from the San Joaquin Valley to the Santa Cruz Valley in the late 1800's. This site has been recommended to be ineligible for the National Register of Historic Places. Concurrence by the SHPO on this finding of ineligibility is pending.

Sites CA-SBN-187 and CA-SBN-188 are prehistoric lithic scatters with sparse to moderate density chert debitage, flaked stone and ground stone. Both sites were the subject of archaeological excavations by Archaeological Resources Management (ARM) in 1990. The subsurface investigations did not find significant deposits and the integrity of the deposits appears to have been compromised by agricultural activities. However, since both sites were located in what was historically marshland, within the floodplain of the Pajaro River, there is a potential for deeply buried deposits. Neither site has been formally evaluated for eligibility to the NRHP.

Site CA-SBN-23 also was the subject of archeological excavations and it was determined that there are no significant archaeological deposits present. An inspection by Pacific Legacy in 2004 of the recorded site location failed to locate any prehistoric cultural materials.

- c) There is no single repository for information on fossil locations in California. Exact locations of most fossils are not usually published in order to protect the resource from unauthorized collecting and subsequent loss of scientific information. The California High-Speed Train Program EIR/EIS, using data from the University of California Museum of Paleontology in Berkeley, identified paleontological resources within their Gilroy alignments, which are within the Soap Lake project area. The approximately 10-mile long section includes 2 miles of areas known to contain fossils and 8 miles unlikely to produce fossils. Since the exact location of the fossils is not published in the EIR/EIS, it is unknown if these resources are directly within the Soap Lake floodplain. If future conservation easements or land

purchases included ground disturbing activities, then appropriate environmental documentation would be needed and the mitigation measures discussed below would be applicable.

- d) Human remains were identified in three sites within the project vicinity, including two sites listed as eligible for the National Register. In addition, one unrecorded site, C-1330, is a possible Native American burial/cremation.

#### Mitigation Measures

Because the proposed action would not involve any ground-disturbing activities and would preserve the area as it is by minimizing future development, no mitigation measures are recommended at this stage. If a future land acquisition or conservation easement included any changes to the landscape, further archival research and field study by an archeologist or paleontologist would be required. In addition, because of the number of historic buildings, structures (bridges, canals, etc), and objects within the project area, any future land acquisition or easement should not include changes to these features until a qualified architectural historian assesses their historical value.

### 3.6 GEOLOGY AND SOILS

<b>Would the Project:</b>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

☐ ☐ ☐ ☒

Discussion

The project area has a very flat topography with creeks, drainage channels, levees, railroad, and roadway grades providing the few topographic features in the area. The area is underlain by Quaternary alluvium derived from surrounding mountains.

Soils within the project area are rich agricultural soils underlain by alluvium. The soil type in the project area within San Benito County is Sorrento-Yolo-Mocho and Clearlake-Pacheco-Willows, the most productive and intensively cultivated soils in the County, and makes up approximately 60 percent of the productive agricultural land in the County (San Benito County 2000).

- a) The proposed Project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death since the proposed Project does not include construction of habitable structures. The project area is within a region of high seismic activity. The San Andreas Fault System is comprised of a series of northwest-trending faults including three active faults near the project site; the Sargent Fault, which extends across the southern end of the project area, the San Andreas Fault, and the Calaveras Fault, which crosses the project area near San Felipe Lake. The Sargent Fault is considered to be capable of surface rupture and is designated as an Alquist-Priolo "Earthquake Fault Zone". These faults have produced strong earthquakes in the past and are expected to do so in the future. In addition, the Bolsa Road fault is an inferred fault located along Bolsa Road (Highway 25) in the project area (Department of Conservation 1993).

The 1989 Lome Prieta Earthquake, which was centered west of the project site in the Santa Cruz Mountains, resulted in deaths, injuries, and widespread damage near the project area. The project area could experience very strong to violent shaking in the event of a major earthquake along the San Andreas, Calaveras or Sargent fault. Landslide potential is considered low due to the flat terrain of the Project area.

- b) With continued agricultural use, there would be no change in erosion since there is no change in the way the land is used. The periodic flooding of the region would continue to deposit new top soil in the area as sediment from the water settles, thus providing a beneficial affect for the agricultural use of the area.

If land acquisition included conversion to open space, there could be a reduction in erosion as permanent vegetation becomes established and the land would not be tilled, which exposes the dirt.

- c,d) Because the project does not propose any new structures, it would not affect the stability of the geologic unit or soil or result in on-or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. The Project would not be affected by expansive soils if they are located within the project area.
- e) No septic tanks are proposed for the Project; therefore, no impacts are anticipated.

Mitigation Measure

None required or recommended.

### 3.7 HAZARDS AND HAZARDOUS MATERIALS

Would the Project:	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



Discussion

- a) No hazardous materials would be used and there are no known hazardous material contaminated sites in the immediate Project area. The proposed Project area is comprised almost entirely of agricultural lands and rangeland. During the course of agricultural use, pesticides and herbicides would have been applied to crops in the normal course of farming operations. Residual pesticides and associated metals from such application may remain present, primarily in the top 2 to 3 feet of soil. Residual pesticides and metals from agricultural application typically attenuate to less than significant concentrations at depths of greater than 3 feet. However, the proposed Project's goals are to maintain the agricultural uses of the land through conservation easements or other land use policies and would not involve any grading, excavation, transport or disposal of soils that may be contaminated with pesticides and herbicides.
- b) There is one chemical facility that is not located within the FEMA Zone A floodplain but is located within the project's modeled 100-year floodplain. Trical's Bolsa facility is a fumigant formulation and packaging operation. Trical formulates mixtures of methyl bromide, chloropicrin, and telone (1,3-dichloropropene) for use in the agricultural and structural pest control markets.

The chemicals are received in bulk by rail tanker, tank truck and cylinders. The chemicals are transferred under pressure into bulk storage tanks or into smaller cylinders for resale. In addition to the chemical storage, formulation, and packaging operations, the facility has an enclosed shot blaster for removing paint from the cylinders and a paint spraying operation for coating the cylinders.

If the facility is flooded, there could be a potential for hazardous materials to be released if the facility is not flood proofed.

- c) There are no schools located within ¼ mile of the project area. As discussed above, no hazardous materials would be used for the project.
- d) The project area is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, which is DTSC's Hazardous Waste and Substances Site List (Cortese List) and would not create a significant hazard to the public or the environment.
- e,f) The Frazier Lake Airpark is located along Frazier Lake Road and the 100-year floodplain does cross a small portion of the airport property near a hangar. However the runway and most areas of the airpark are not within the floodplain and the proposed Project would not interfere with any airport operations.
- g) The project would not be expected to interfere with an emergency response plan or emergency evacuation plan. If the counties chose to pursue greater floodplain management one component could be a Floodplain Hazard Mitigation Plan or a Floodplain Management Plan that could include an emergency action plan.
- h) The proposed Project would maintain land in agricultural use, would not increase wildfire potential, and would not expose people to wildfire risks; therefore, no impacts are anticipated.

Mitigation Measure

- No mitigation measures required at this stage.

### 3.8 HYDROLOGY AND WATER QUALITY

Would the Project:	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion of siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? (erosion potential)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation of seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

- a) The Pajaro River was listed on the 303(d) list as a medium priority site for nutrients and sedimentation and as a low priority site for Fecal Coliform (impaired length is above Llagas Creek). Llagas Creek is listed for nutrients and sedimentation at a medium priority and for chloride, fecal coliform, low dissolved oxygen, PH, sodium and total dissolved solids at a low priority. San Benito River was listed as a medium priority for sedimentation and low priority for fecal coliform. Hernandez Reservoir is listed as a medium priority for mercury (Central Coast RWQCB 2004).

A recent report, Final Report Upper Pajaro River Sediment Assessment, intended to identify the important controllable sources of sediment in the Llagas and Uvas-Carnadero watersheds. Controllable sources in the valley regions were identified and are related to urbanization, altered/degraded stream channels, agriculture, and grazing (Fall Creek Engineering 2004).

Keeping the land in agricultural use would maintain the existing runoff and groundwater nutrients but would not increase runoff into these impaired water bodies. The floodplain would continue to slow the water, increase the detention time, reduce the turbulence and therefore allow sediments to settle over the floodplain, thus the project would not increase sedimentation in the Pajaro River or Llagas Creek. If land is converted to wetland or open space, nutrient and pesticide inputs may decrease and could result in a beneficial water quality impact.

- b) Flooding of the Soap Lake floodplain will continue to provide percolation into the groundwater and recharging of the aquifer. Maintaining this groundwater recharge is a beneficial impact to groundwater quantity and quality. Within the project area, there is a marked difference in ground water level across the Calaveras fault (California Department of Conservation 1993). The Calaveras fault zone runs southeast through the project area from Highway 152 at San Felipe Lake. Water levels near the Hollister Municipal Airport have been observed to be approximately 60 feet higher on the east side than on the west side. The Calaveras fault thus forms a significant impediment to ground water percolating westward from the Pacheco Creek drainage basin. San Felipe Lake, fed by the waters of the Pacheco Creek, is a surface expression of this phenomenon.
- c,d,e) The proposed project would limit future development and impervious surfaces and should therefore not increase runoff patterns or exceed storm drainage systems. The proposed Project would maintain existing drainage patterns and flooding conditions. The SCVWD conducts routine maintenance of channels and canals as part of its responsibility to provide water supply and stream flood protection. Their responsibilities are covered in the Stream Maintenance Program EIR (see Section 1.4). The SCVWD maintains authority for stream maintenance activities in the Pajaro River, Llagas Creek, and Carnadero Creek within the Soap Lake project boundaries. Although SCVWD retains a right to conduct maintenance on the Santa Clara County side of Llagas Creek, maintenance activities have been restricted due to habitat for the least Bell's vireo. Access to the streams or rivers within the project area for continued maintenance activities would need to be provided under any conservation easements or land purchased along these water bodies.
- f) The proposed project would not degrade water quality in the area but could continue to reduce sedimentation since sediment will continue to be disbursed throughout the flooded area. This reduces the amount of sedimentation entering the river and creek waters. This is an important water quality issue because both the Pajaro River and Llagas Creek are listed on the 303(d) list as an impaired water body for sedimentation.

g,h,i) The project area is located within the 100-year floodplain of the Pajaro River watershed as defined by the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP). With project implementation, no adverse impacts relative to flooding are anticipated; rather, beneficial impacts of maintaining the floodplain are expected. This project does not propose homes or other structures to be constructed within the 100-year floodplain. Furthermore, the project does not include any new structures that would impede or redirect flood flows.

The goal of this project is to preserve the functional capacity of the Soap Lake floodplain and to mitigate for future flood hazards in the immediate vicinity and downstream. Managing, as well as precluding, future development in the floodplain would lessen the impacts of flooding on area communities. Higher regulatory standards on construction and development practices, if adopted, would provide public safety and damage prevention measures that would result in a reduction in the high costs of flood disasters on governmental bodies. Moreover, increased floodplain management through greater involvement with the NFIP program can result in reductions in flood insurance premiums. Lastly, and of most importance, is the functional capacity of the Soap Lake floodplain as a backwater storage area during flood flows. The preservation of the Soap Lake floodplain is essential due to its ability to attenuate flood flows to downstream communities thus reducing flood damage in the Lower Pajaro River.

j) The Project area is not subject to seiches, tsunamis, or mudflows, and no impacts are anticipated.

### 3.9 LAND USE AND PLANNING

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project:</b>				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable HCP or NCCP?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### Discussion

The main land use within the project area is farmland, with some grazing and some agricultural processing facilities. The Santa Clara County General Plan designates the project area within the county as Agriculture – Large Scale (40-acre minimum lot size) and includes a small portion designated as Major Public Facility (future expansion land for the wastewater treatment plant). The San Benito County General Plan designates the project area in that county as Agricultural Productive (also a 40-acre minimum lot size) and with a Floodplain Overlay. The Floodplain Overlay refers to lands within the FEMA designated 100-year floodplain and restricts uses to agriculture grazing, mineral extraction, wildlife refuges, land in its natural state and selected low-density recreation (San Benito County 1993). Land within the project area in both counties is zoned for agriculture.

- a) The majority of the project area is within unincorporated county land except for a small portion within the City of Gilroy. The project would not divide an established community.
- b) The proposed Project would not conflict with any local land use policies or ordinances. The project could reduce future impacts of incompatible land uses under the No Project alternative if development encroached into the agricultural lands. Land use conflicts can occur between agricultural land uses and developed land from pesticide use, dust and noise from grading/harvesting activities, and trespass issues.

In fact the project would be consistent with the recently adopted agricultural mitigation policy by the City of Gilroy. That policy identifies portions of unincorporated Santa Clara County as their preferred location for agricultural mitigation, and this area includes a portion of the proposed project area.

Upon certification of the City's General Plan EIR in 2002, the City Council declared that an Agricultural Mitigation Program is feasible mitigation. Therefore significant impacts as determined under CEQA of future projects would be subject to the City's Agricultural Mitigation Policy. This agricultural mitigation policy was adopted on May 3, 2004 and states that:

"The City of Gilroy shall require agricultural mitigation for the loss of agricultural lands due to conversion to urban uses for land defined as "prime farmland or farmland of 'Statewide Importance'."

Mitigation can be accomplished with one of the following three options:

1. Purchase an equal amount of land (1:1 ratio) of agricultural land within the "preferred areas" and the transfer of the ownership of this land to the Open Space Authority or other City-approved agency.
2. Purchase of development rights to a 1:1 ratio on agricultural land within the "preferred areas" and the transfer of ownership of these rights to the Open Space Authority or other City-approved agency.
3. Payment of an in-lieu fee for the purchase of development rights

- c) No conflicts with recovery plans or HCPs would be associated with Project implementation. There is the potential for the project to work in conjunction with the HCP's that are currently being developed by both the Santa Clara County and San Benito County planning departments.

### 3.10 MINERAL RESOURCES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### Discussion

- a) The California Division of Mines and Geology (CDMG) has classified lands within the San Francisco-Monterey Bay region into Mineral Resource Zones (MRZs) based on guidelines adopted by the California State Mining and Geology Board, as mandated by the Surface Mining and Reclamation Act



(SMARA) of 1975. The CDMG classified urbanized lands within the South San Francisco Bay Production-Consumption Region according to the presence or absence of significant sand, gravel, or stone deposits that are suitable as sources of aggregate. Areas classified as MRZ-1 are areas where adequate information indicates that no significant mineral deposits are present, or where it is judged that little or no likelihood exists for their presence. MRZ-2 areas are those where adequate information indicates that significant deposits are present. Areas classified as MRZ-3 contain mineral deposits, but their significance cannot be evaluated from available data. Areas are classified as MRZ-4 where available information is inadequate for assignment to any other MRZ category.

The majority of the Project site appears to have not been classified for mineral resources (Clinkenbeard 2004). The proposed project would preclude development in the area, which would help preserve access to any mineral resources that may be located there. Therefore, no adverse impacts are expected and no mitigation measures recommended.

#### Mitigation Measures

None required or recommended.

### 3.11 NOISE

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project result in:</b>				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

- a,b,c,d) The proposed Project would not change existing noise levels, would not result in any temporary or permanent increase in noise levels, or create any noise impacts in excess of established standards within the County Noise Ordinance. No sensitive noise receptors (schools, hospitals, etc) are located within the project area. Therefore, there would be no noise impacts.
- e,f) Although there is a private airstrip adjacent to the project area (see Section 3.7 HAZARDS AND HAZARDOUS MATERIALS), the project is not located in an airport land use plan and would not expose people to excessive noise levels.

Mitigation Measures

None required or recommended.

## 3.12 POPULATION AND HOUSING

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

No impacts related to growth inducement or population and housing would be associated with the proposed Project, and no existing housing would be displaced.

- a) Since project implementation would reduce future development within the project area, this could indirectly contribute to development in other adjacent areas. If this development occurred within city boundaries, this would be consistent with Santa Clara County policies to develop incorporated areas rather than unincorporated areas.
- b,c) The proposed Project would not displace people or housing as existing residences would not be affected; therefore, this Project would not necessitate the construction of replacement housing elsewhere.

Mitigation Measures

None required or recommended.

### 3.13 PUBLIC SERVICES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

- a) The proposed project would not involve alteration of government facilities, nor would it require new public services. In addition, the Project would not induce growth that would require the creation of increased public services. Because the Project would limit further development within the floodplain, it could decrease the burden on flood emergency services to repair or replace flood-damaged facilities.

Mitigation measure

None required or recommended.

### 3.14 RECREATION

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

☐ ☐ ☒ ☐

#### Discussion

The proposed project would not conflict with any existing or proposed recreational uses within or adjacent to the project area. If conservation easements are obtained that include trail easements, there could be a beneficial impact by providing additional recreational opportunities. There are five proposed trail routes throughout the project area, as shown on **Figure 3-4**.

**Juan Bautista de Anza National Historic Trail.** This trail crosses the project site in both Santa Clara County and San Benito County. The national trail commemorates the route followed by a Spanish commander, Juan Bautista de Anza, in 1775-76 when he led 198 emigrants and their escorts and 1,000 head of livestock on the first overland colonizing expedition from Sonora, Mexico into Alta, or Upper, California. This expedition led to the founding of the Presidio of San Francisco and missions San Francisco de Asís (Mission Dolores) and Santa Clara de Asís.

The trail was designated by the U.S. Congress in 1990 and named a National Millennium Trail in 1999. Now officially recognized only in the United States, the route began as far south as Culiacán, Mexico, where Anza began his recruitment. The national trail starts in Nogales, Arizona, and travels to San Francisco, California, and east around the San Francisco Bay.

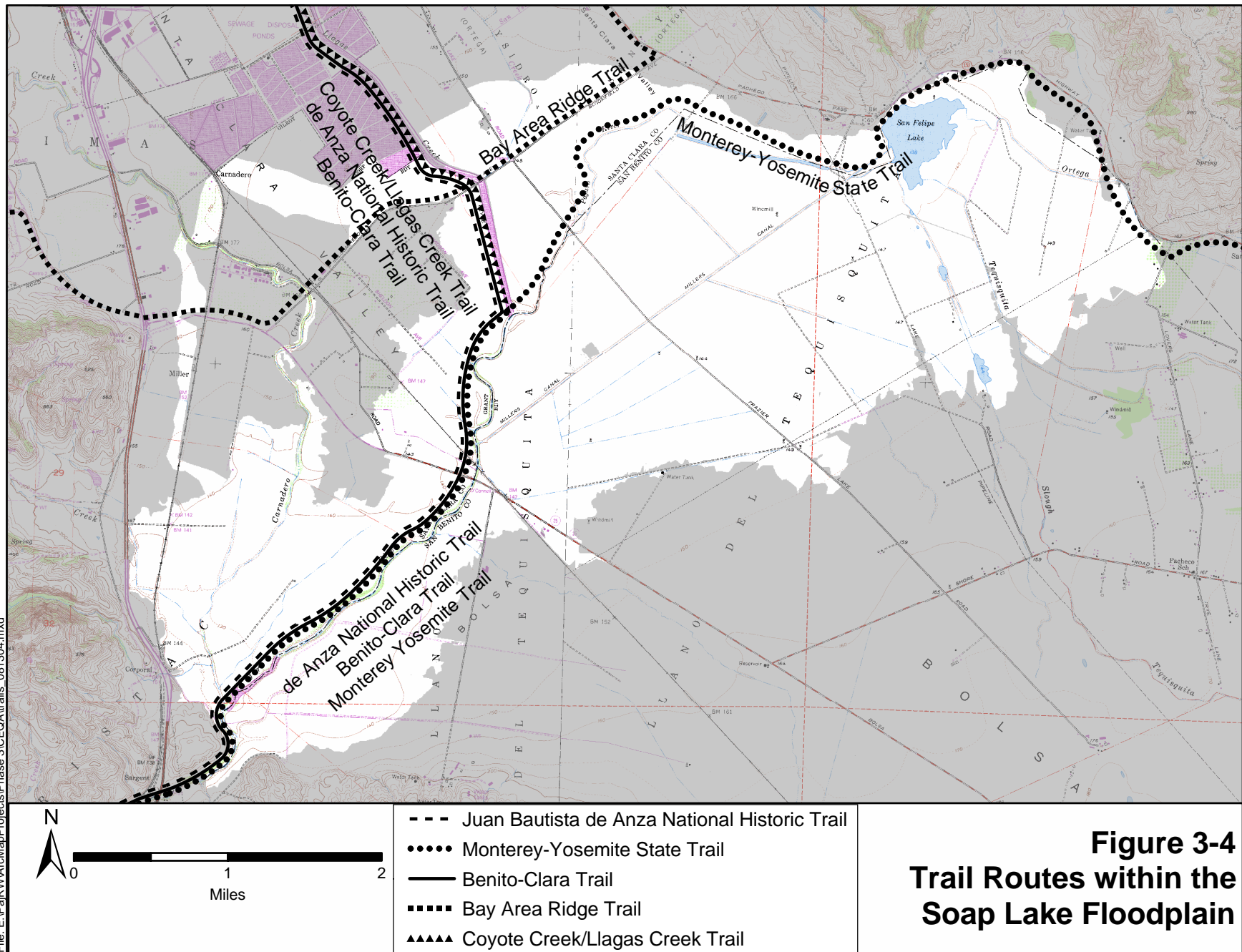
The Juan Bautista de Anza National Historic Trail is administered by the National Park Service in partnership with other federal, state, and local agencies, non-profit organizations, and private landowners. Non-federally owned trail sites, segments, and interpretive facilities are added to the national historic trail through certification agreements between the owner or managers and the National Park Service.

**Regional Trail Routes.** Three proposed regional trail routes cross through the project area and are identified on the Santa Clara County Trails Master Plan Update (SCC 1995). This plan serves as a master plan for guiding the County Park's Department program and provides a trails vision for the county. Two routes, the Monterey-Yosemite State Trail and the Benito-Clara Trail, both follow the Pajaro River within the project area. They are identified as proposed trail routes within private property under unincorporated county jurisdiction to be considered when the landowner is a willing participant. The Monterey-Yosemite Trail is identified as a corridor of statewide importance in the California Recreational Trails System Plan.

The third proposed trail, the Coyote Creek/Llagas Creek Trail, follows Llagas Creek within the project area and is identified as a trail route within public lands.

In addition to these trails, there is a non-profit organization, The Bay Area Ridge Trail Council that is planning the construction of the Bay Area Ridge Trail. This trail would be a 500-mile multiple-use trail connecting parks and preserved open spaces along the ridgelines surrounding California's San Francisco Bay (Bay Area Ridge Trail Council 2004). A portion that crosses the Soap Lake area, from the Henry Coe State Park along Bloomfield Road to Highway 25, along Highway 25 to Highway 101 and then up to Sargent Ranch. Although this trail is mainly along ridgelines, a portion of the trail crosses the Soap Lake floodplain connecting the Santa Cruz Mountains to the west with the Diablo Range to the east.

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- a,b) No new recreational facilities will be built as part of the proposed Project, and implementation of the proposed Project would not be expected to increase use of recreational facilities. However, the Project takes into consideration the existing and proposed trails throughout the project site, and does not preclude further development of these trails. In cases where a landowner is willing, conservation easements could include designation of trails such as was recently obtained for the Santa Clara County Open Space Authority easement on the Silacci property. If such trails were designated, further environmental analysis could be required to ensure that potential impacts to natural or cultural resources are avoided or minimized.

Inclusion of trails in such easements would be consistent with county policies encouraging trail development. The San Benito County General Plan states, as Objective 3 under Goal 9, to “explore options for a regional trail connections with Santa Clara and Monterey Counties.” (San Benito County 1993, Open Space and Conservation Element Update).

The Santa Clara County Trails Master Plan Update (1995) states Policy Code PR-TS 2.3:  
“Trail Routes or Regional Staging Areas shown on the Countywide Trails Master Plan Map in areas currently designated on the County General Plan Land Use Map as Agriculture shall not be required (including easements) or developed outside the County road rights-of-way until or unless: (1) the land use designation is amended to a non-Agricultural designation, or (2) there is specific interest or consent expressed by a willing property owner/seller.”

### 3.15 TRANSPORTATION/TRAFFIC

	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>Would the Project:</b>				
a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? ☐ ☐ ☐ ☒

Discussion

- a,b) The proposed project would not further increase traffic, change levels of service, or disrupt transportation and circulation patterns. Roads, highways, bridges, and railroads would continue to be located within the floodplain and inundated during flood events. Table 3-4 lists the facilities located within the 100-year floodplain. Roadways and highways that are flooded can restrict or block access for landowners, commercial traffic and emergency vehicles. This would continue to be an impact under the proposed project and existing conditions; however this risk would not be increased due to the project.
- c) The project boundary is adjacent to and slightly within the Frazier Lake Airpark (see Section 3.7 HAZARDS AND HAZARDOUS MATERIALS), but would have no impact on air traffic patterns or safety risks.

**Table 3-4  
Facilities located within the 100-year Floodplain**

Facility Type	Impact	Length/Area of Impact	Examples
Highway/Roadways	Yes	89,100 ft; 1,580,000 sf	Hwy 25, Frazier Lake Rd, Bloomfield Rd, Bolsa Rd
Bridges	Yes	10 bridges*	Bloomfield @ Llagas, Railroad @ Pajaro, Hwy 25 @ Pajaro, Bloomfield @ Carnadero, Hwy 25 @ Carnadero, Railroad @ Carnadero, Frazier Lake @ Pajaro, Frazier Lake @ Millers
Railroad	Yes	5,100 ft; 167,000 sf	Railroad bridges at Pajaro, Railroad at Tic, Railroad NW & SE of Pajaro bridge, Intersection of railroad lines
Utility	Yes	43,800 ft	Santa Clara Conduit, PVWMA Import Pipeline
Seismic Fault	Yes	12,200 ft	Sargent, Calaveras
Special Structures	Yes	2 sites	TriCal, Inc., Airport Hangars

\*Note: The floodplain modeling conducted did not specifically evaluate flooding impacts to bridges. These 10 bridges are located within the 100year floodplain and additional floodwaters will flow under these bridges but may not inundate the bridges.

- d) The Project would not change the configuration (alignment) of area roadways, and would not introduce types of vehicles that are not already traveling on area roads. Any potential trails that include a bicycle lane on a roadway should be designed according to Caltrans standards for safety to avoid potential conflicts between traffic and bicyclists.

Several transportation improvement projects have been completed or are proposed within the project area. The Santa Clara Valley Transportation Authority (VTA) is conducting a study to evaluate the existing and projected conditions related to land use changes and travel patterns in the major corridors leading to and from Santa Clara County and the Silicon Valley area. The study titled *The Southern Gateway Study* looks to develop a highway project implementation plan and includes the Soap Lake Floodplain area (Ristow

2004).

Caltrans and the VTA completed the SR 152/US 101 Interchange Improvement Project and they have recently completed a Final MND/IS for the SR 152-B Improvement Project, which includes widening of a bridge over Llagas Creek (Caltrans 2004b). A separate project that is within the project area, the widening of Highway 25, could improve traffic safety conditions within the project area. In an effort to address the recent increase in accidents along Highway 25, Caltrans, the California Highway Patrol (CHP), the Council of San Benito County Governments and others have been working with the citizens' group "Stay Alive on 25" to improve the safety of this segment of Route 25. Highway 25 is an increasingly busy and vital thoroughfare for commuters, and carries approximately 20,000 vehicles daily, including cars, big-rig trucks, and farm equipment. Future stages of this project will see Highway 25 converted from a 2-lane highway to a 4-lane highway with interchanges at 25/101 and 25/156 and widen Route 101 from a 4 lane expressway to a six lane freeway (Phase 3). Various options are currently under review. Construction on the project is not expected to begin until 2009. The 3 in 1 proposal is currently being evaluated in the Santa Clara Valley Transportation Authority (VTA) Southern Gateway Study (Caltrans 2004a). The Southern Gateway Study is evaluating possible improvements to or reconfiguration of Highways 101, 152, 156, 25, and 129. Stakeholder meetings have included representatives from Santa Clara, Santa Cruz, San Benito, Monterey, and Merced counties.

e,f,g) The proposed Project would not affect traffic flow or emergency vehicle access, parking supply or demand, or conflict with adopted policies, plans, or programs supporting alternative transportation.

Mitigation Measures

None required or recommended.

### 3.16 UTILITIES AND SERVICE SYSTEMS

	<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
<b>Would the Project:</b>				
a) Exceed waste water treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or waste water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Result in a determination by the waste water treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion

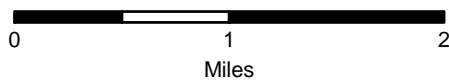
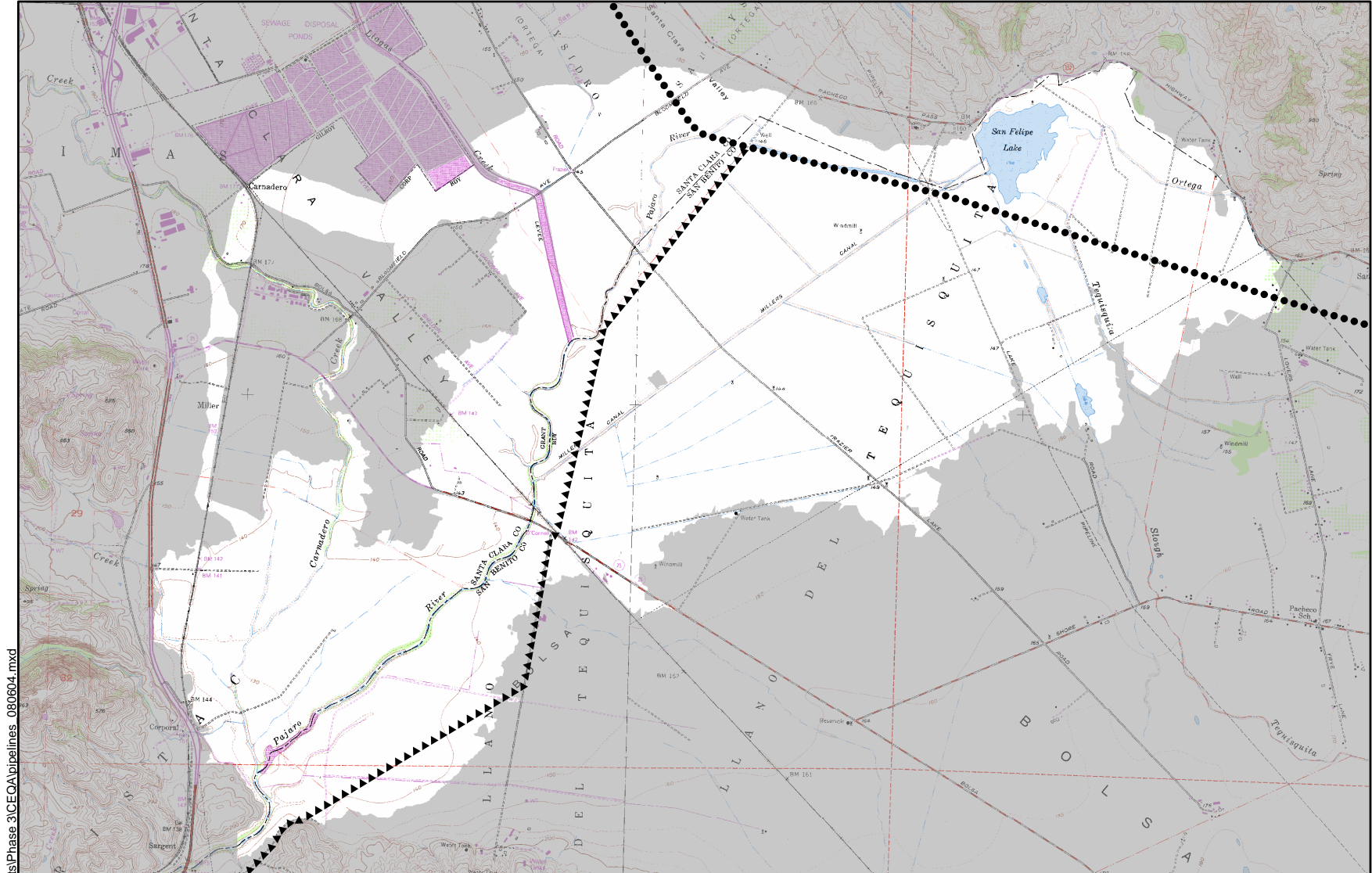
- a-g) The proposed Project would not result in any exceedance of wastewater treatment requirements, require additional facilities, and would not increase the need for storm water drainage facilities. No wastewater will be generated, so no impacts will occur concerning the regional wastewater treatment facilities. No solid waste generation would be associated with the Project. The Gilroy General Plan shows additional lands that are designated for future expansion that are currently outside of the city limits. These lands are within the 100-year floodplain.

A 96-inch underground water supply pipeline, the Santa Clara Conduit, provides water from the Central Valley Project to the Santa Clara Valley Water District and crosses the project area south of San Felipe Lake. The pipeline is one of only two import water sources to the district. While Reclamation built the pipeline and it remains a federal facility, SCVWD operates and maintains it. The pipeline crosses the Calaveras fault and has a redundant system (where it splits into two pipelines across the fault and then reconnects to one pipeline) in case of rupture. Access points for the SCVWD to repair and maintain the pipeline are also within the project area. There is a risk to county water supply when the area is flooded and the district is unable to repair /maintain the pipeline.

PVWMA has proposed a new water pipeline that would connect to the Santa Clara Conduit to import water supplies to the PVWMA service area. This proposed pipeline would cross the Soap Lake floodplain. The portions of this proposed pipeline and the existing Santa Clara Conduit that are within the Soap Lake floodplain are shown on Figure 3-5. Any conservation easements or land acquisition would need to include access to these pipelines for maintenance and operations.

Mitigation Measures

None required or recommended.



- ..... Santa Clara Conduit
- ▲▲▲▲ PVWMA Import Pipeline (Proposed)

**Figure 3-5**  
**Major Pipelines within the**  
**Soap Lake Floodplain**



### 3.17 MANDATORY FINDINGS OF SIGNIFICANCE

	<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the Project have impacts that are individually limited, but cumulative considerable? ("Cumulative considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>a) Although there are substantial natural and cultural resources within the project area, the proposed project would not adversely affect these resources. The project would not degrade the quality of the environment, reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. There is potential for beneficial impacts to these resources if land acquisition or conservation easements include environmental restoration measures.</p>				
<p>b) There are a number of projects within the project area that could contribute to cumulative impacts (see Section 1.5 for a listing of cumulative projects). Potential beneficial cumulative impacts from other projects aimed at preserving land in the project area (TNC's Pajaro Project for example) include protection of agricultural land, scenic views of agricultural land, and potential environmental restoration. Although the proposed project would not directly affect cultural resources, if a conservation easement included restoration that involved any ground-disturbing activities, cultural resources could be discovered or impacted. Other projects in the area could also contribute to these impacts including the Highway 101 and Highway 25 widening, High-speed train system, and the PVWMA import pipeline.</p>				

In recent years, many acres of agricultural lands have been converted to non-agricultural uses even though there are state and federal laws and incentives to protect prime farmland from conversion to non-agricultural uses. The total agricultural acres converted to urban uses in California from 1988 to 1998 is 497,000 acres (Institute for Local Self Government 2002). Projects within and adjacent to the Soap Lake

floodplain have converted agricultural lands such as the SR 152 project, which converted about 20 acres of agricultural lands to a non-agricultural use (Caltrans 1999).

Transportation improvement projects in the area that involve the widening of roadways and building of bridges could potentially affect flooding in the area. It is important that the agencies involved in these projects consider how these projects could impact flooding locally and downstream. The Highway 25 widening project will design the project to 100-year floodplain standards and will elevate the roadway approximately 6 feet and more where it crosses the railroad tracks. They will also detain and treat the stormwater runoff before it enters the Pajaro River (Rosales 2004).

- c) A conservation easement would not affect a property owner's requirement to continue to pay property taxes and contribute to the tax base. Although CEQA does not require an analysis of economic effects, this issue is discussed here as an impact on the human environment. The proposed project also would not affect current tax incentive programs in place for agricultural land such as the Williamson Act Contracts. An easement could provide economic advantages to property owners in the project area because these owners would be able to be paid for the future development rights of their land, while still owning the land. In addition there may be income and estate tax benefits. If future land acquisition or conservation easements retire land from agricultural use, the socioeconomic impacts of those actions would be evaluated in future environmental documentation.

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An aerial photograph of a river landscape. The river flows from the bottom left towards the top right, with several meanders. The surrounding land is divided into a patchwork of agricultural fields, some of which are dark, suggesting they might be planted or recently harvested. There are several industrial or commercial buildings, including large warehouses and smaller structures, scattered throughout the landscape, particularly along the riverbanks. A vertical line is drawn on the left side of the image, and a horizontal line is drawn across the middle, intersecting at the text.

# **Report Preparation**

## **CHAPTER 4**

## CHAPTER 4

### **4. REPORT PREPARATION**

#### 4.1 References

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*Santa Cruz, Santa Clara, and Monterey Counties, California (1-8-03-F-44).* Prepared by Ventura Fish and Wildlife Office, March 19, 2004.

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### 4.2 Consultation and Coordination

The following agencies, organizations, and individuals were consulted during the preparation of this document for information relevant to this project.

#### Federal Agencies

US Army Corps of Engineers

- Chris Eng
- David Patterson
- Eric Thaut

#### State Agencies

California Department of Transportation

- Dennis Cadd, Scenic Resources
- Jared Goldfine, District 4
- Richard Rosales, District 5

California Food and Agriculture

- Ken Trott
- Steve Schaffer

California Regional Water Quality Control Board

- Larry Harlan

#### Local Agencies

City of Gilroy

- Bill Faus, Planning Manager
- Cydney Casper, Planner

San Benito County Planning Office

- Susan Heiser, Planner
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Santa Clara County Planning Office

- Ann Draper, Planning Director
- Bill Shoe, Planner
- Pamela Wu, Planner
- Steven Golden, Planner

Santa Clara County, Parks and Recreation Department

- Jane Mark, Park Planner
- Mark Frederick, Manager Planning & Real Estate

Santa Clara Valley Transportation Authority

- Ann Calnan, Environmental Planner
- John Ristow

Santa Clara Valley Water District

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- Bill Smith, AICP, Planner
- Gale Rankin, Biologist
- Terry Anderson, Water/Utility Planning

Organizations/Individuals

Habitat Restoration Group - Dr. Jerry Smith

Land Trust for Santa Clara County - Nancy Richardson

League of California Cities - Bill Higgins

San Benito Agricultural Land Trust and Farm Bureau - Paul Hain

San Benito & Santa Clara County Farm Bureaus - MaryEllen Dick, Agricultural Water Quality Program Coordinator

San Benito County Resource Conservation District - Dawn Mathes, Pajaro Watershed Coordinator

San Benito Historical Society – Earlene McCabe

Santa Clara County Farm Bureau - Jenny Derry

Santa Clara County Open Space Authority - Patrick Congdon, General Manager

The Nature Conservancy

- Lloyd Wagstaff
- Jody Williams

### 4.3 List of Reviewers and Preparers

This document was prepared under the direction of the board members of the Pajaro River Watershed Flood Prevention Authority and prepared by the Staff Working Group and consultant, RMC Water and Environment:

**Current Board Members**

Tony Campos - Chair, County of Santa Cruz  
Donald Gage, Vice-Chair, County of Santa Clara  
Louis Calcagno, County of Monterey  
Warren Church, Monterey County Water Resources Agency  
Ken Perry, San Benito County Water District  
Sig Sanchez, Santa Clara Valley Water District  
Dale Skillicorn, Santa Cruz Zone 7 Flood Control  
Anthony Botelho, County of San Benito

**Former Board Members:**

Richard Scagliotti – Former Chair, County of San Benito

**Associate Members:**

Charles Morales, City of Gilroy  
Tony Bruscia, City of Hollister  
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Tim Harrison, PE  
Jeff Lewandowski, PE  
Kevin Smith  
Tricia Wotan, CFM



An aerial photograph of a rural landscape. A river flows from the bottom left towards the bottom right, curving slightly. The landscape is divided into numerous rectangular agricultural fields of varying shades of gray. There are some clusters of buildings, possibly farmhouses or small villages, scattered throughout the fields. A large, dark, irregularly shaped area, possibly a forest or a wetland, is located in the upper left quadrant. The overall tone is monochromatic and slightly desaturated.

# **Distribution List**

CHAPTER 5

## CHAPTER 5

### 5. DISTRIBUTION LIST

The following agencies, organizations and individuals received notice of this Initial Study for review and comment. Recipients received either a hard copy of the IS/ND, a CD copy, or the executive summary. In addition all property owners within the project area and within 300 feet of the 100 year floodplain also received notice of the IS/ND. The documents also are available at the libraries listed below and all documents and notices are posted on the project website at [www.PajaroRiverWatershed.org](http://www.PajaroRiverWatershed.org)

First Name	Last Name	Title	Agency/Organization	City	State
<b><u>ELECTED OFFICIALS</u></b>					
Mike	Honda	Representative	US Congress - 15th District	Campbell	CA
Sam	Farr	Congressman	US House of Representatives	Santa Cruz	CA
Richard	Pombo	Congressman	US House of Representatives	San Ramon	CA
John	Laird	Assemblymember	California Assembly-27th District	Monterey	CA
Simon	Salinas	Assemblymember	California State Assembly-28th District	Hollister	CA
Jeff	Denham	State Senator	California State Senate-Dist 12	Salinas	CA
Bruce	McPherson	Senator	California State Senate-Dist 15	Santa Cruz	CA
Charles	Morales	City Council Member	City of Gilroy	Gilroy	CA
<b><u>FEDERAL AGENCIES</u></b>					
Tim	Moore		Bureau of Land Management	Hollister	CA
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Bill	Douros	Superintendent	Monterey Bay National Marine Sanctuary	Monterey	CA
Joyce	Ambrosius		National Oceanic Atmospheric Administration (NOAA) Fisheries	Santa Rosa	CA
Meredith	Kaplan		National Park Service, Pacific West Regional Office	Oakland	CA
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Dave	Patterson		US Army Corps of Engineers-SF District	San Francisco	CA
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Charles	Bell	State Conservationist	USDA Natural Resources Conservation Service	Davis	CA
Bob	Rohde	District Conservationist	USDA Natural Resources Conservation Service	Hollister	CA

### STATE AGENCIES

Dennis	O'Bryant		California Department of Conservation - Division of Land Resource Protection	Sacramento	CA
Dave	Johnston		California Department of Fish and Game	Yountville	CA
Steve	Schaffer	Director	California Department of Food and Agriculture, Office of Agriculture and Environmental Stewardship	Sacramento	CA
Ken	Trott	Staff Environmental Scientist	California Department of Food and Agriculture, Office of Agriculture and Environmental Stewardship	Sacramento	CA
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Richard	Rosales	Project Manager	Caltrans - District 5	San Luis Obispo	CA
			Governor's Office of Planning and Research - State Clearinghouse	Sacramento	CA
Dwight	Dutschke		Office of Historic Preservation	Sacramento	CA
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Mark	Magtoto		Water Resources Control Board	Sacramento	CA

### LOCAL AGENCIES

Suzanne	Bourguignon		Bay Area Air Quality Management District, Planning Division	San Francisco	CA
Jay	Baksa	City Manager	City of Gilroy	Gilroy	CA
Cydney	Casper	Planner	City of Gilroy	Gilroy	CA
Clint	Quilter	City Manager	City of Hollister	Hollister	CA
J. Edward	Tewes	City Manager	City of Morgan Hill	Morgan Hill	CA
		City Manager	City of San Juan Bautista	San Juan Bautista	CA
Carlos	Palacios	City Manager	City of Watsonville	Watsonville	CA

## 5. Distribution List

Doug	Quetin	Air Pollution Control Officer	Monterey Bay Unified Air Pollution Control District	Monterey	CA
Lou	Calgano	Chairman	Monterey County	Castroville	CA
Scott	Hennesy	Director of Planning	Monterey County	Salinas	CA
Sally R.	Reed	CAO	Monterey County	Salinas	CA
Richard	Morgantini	Chairman	Monterey County Water Resources Agency	Salinas	CA
Curtis	Weeks	General Manager	Monterey County Water Resources Agency	Salinas	CA
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		County Clerk	San Benito County Clerk's Office	Hollister	CA
Rob	Mendiola	Planning Director	San Benito County Planning Office	Hollister	CA
John	Gregg	General Manager	San Benito County Water District	Hollister	CA
Ken	Perry	President of the Board of Directors	San Benito County Water District	Hollister	CA
Don	Gage	District 1 Supervisor	Santa Clara County	San Jose	CA
Peter	Kutras, Jr	County Executive	Santa Clara County	San Jose	CA
Pete	McHugh	Chair of the Board of Supervisors	Santa Clara County	San Jose	CA
		County Clerk	Santa Clara County Clerk's Office	San Jose	CA
Greg	Van Wassenhove		Santa Clara County Department of Agriculture	San Jose	CA
Mark	Frederick	Manager Planning and Real Estate	Santa Clara County Parks and Recreation Department	Los Gatos	CA
Ann	Draper	Planning Director	Santa Clara County Planning Department	San Jose	CA
John	Ristow		Santa Clara Valley Transportation Authority	San Jose	CA
Joe	Judge	Chairman	Santa Clara Valley Water District	San Jose	CA
Stan	Williams	CEO	Santa Clara Valley Water District	San Jose	CA
Luis	Jaimes		Santa Clara Valley Water Resources Protection Collaborative c/o SCVWD	San Jose	CA
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John	Gregg		Water Resources Association of San Benito County	Hollister	CA
ORGANIZATIONS					
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Holly	King		Great Valley Center	Modesto	CA
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Nancy	Richardson		Land Trust for Santa Clara County	Gilroy	CA
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Dawn	Mathes		Resource Conservation District - San Benito County	Capitola	CA
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Paul	Hain		San Benito County Agricultural Land Trust and Farm Bureau	Tres Pinos	CA
Jenny	Derry	General Manager	Santa Clara County Farm Bureau	Morgan Hill	CA
Patrick	Congdon		Santa Clara County Open Space Authority	San Jose	CA
Craig	Breon		Santa Clara Valley Audubon Society	Cupertino	CA



Dave	Foote	Schaff & Wheeler	Marina	CA
Louis	Rubin	Sierra Club Ventana Chapter, Santa Cruz County Group	Santa Cruz	CA
Mandy	Rose	Sierra Club - Loma Prieta Chapter	Hollister	CA
Keith	Anderson	South Valley Streams for Tomorrow	San Martin	CA
Lloyd	Wagstaff	Project Director, Mt. Hamilton	San Francisco	CA
B.G.	Tackett	Project Manager	Sacramento	CA
Greg	Lyman	Total Compliance Management Wildlands	Oakland	CA

**INDIVIDUALS**

Brad	Bennett			
Sarah	Bhakti		Watsonville	CA
Betty	Bobeda			
Desiree	Espinoza			
Claire	Feder		Atherton	CA
Ernest	Gortein		Atherton	CA
Margie	Kay			
Gary	Lasky			
Jed	Logan		Hollister	CA
Dave	McCabe			
Jim	Perrine			
Laura	Plaskett		Spreckels	CA
Kenn	Reiller		Watsonville	CA
Connie	Rogers			
Gloria	Sakata		Watsonville	CA
Jim	Van Houten		Watsonville	CA

**PUBLIC LIBRARIES**

Gilroy Public Library	Gilroy	CA
Hollister Public Library	Hollister	CA
Watsonville Public Library	Watsonville	CA

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An aerial photograph of a rural landscape. A river flows from the bottom left towards the bottom right, curving slightly. The landscape is divided into numerous rectangular agricultural fields of varying shades of gray. There are some clusters of buildings, possibly farmhouses or small villages, scattered throughout the fields. A vertical line is drawn on the left side of the image, and a horizontal line is drawn across the middle, intersecting at the text.

# **Responses to Public Comments**

## **CHAPTER 6**

## CHAPTER 6

### **6. RESPONSES TO PUBLIC COMMENTS**

Public comments were received by letter during the public comment period and orally at the public meeting held on October 13, 2004 in Gilroy. These comments, along with responses from the Authority, are provided in this chapter.

#### **6.1 Comment Letters Received**

Nine letters were received during the public comment period from:

- California Office of Planning and Research, State Clearinghouse and Planning Unit
- California Department of Conservation, Division of Land Resources
- Association of Monterey Bay Area Governments
- County of Santa Clara, Parks and Recreation Department
- San Benito County Water District
- Loma Prieta Resource Conservation District
- South Valley Streams for Tomorrow
- Sierra Club Ventana Chapter
- Planning and Conservation League Foundation



Arnold  
Schwarzenegger  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit

NOV 12 2004



Jan Boel  
Acting Director

October 27, 2004

Nick Papadakis  
Pajaro River Watershed Flood Prevention Authority  
445 Reservation Road, Suite G  
Marina, CA 93933

Subject: Soap Lake Floodplain Preservation  
SCH#: 2004091142

Dear Nick Papadakis:

OPR-1

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. The review period closed on October 26, 2004, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Terry Roberts  
Director, State Clearinghouse



**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2004091142  
**Project Title** Soap Lake Floodplain Preservation  
**Lead Agency** Pajaro River Watershed Flood Prevention Authority

---

**Type** Neg Negative Declaration  
**Description** The proposed project would preserve the Soap Lake floodplain to allow it to continue to act as a natural detention basin. No structural facilities would be built, instead the proposed project would include purchasing land or obtaining flood easements for the land within the Soap Lake floodplain.

---

**Lead Agency Contact**

**Name** Nick Papadakis  
**Agency** Pajaro River Watershed Flood Prevention Authority  
**Phone** (831) 883-3750 **Fax**  
**email**  
**Address** 445 Reservation Road, Suite G  
**City** Marina **State** CA **Zip** 93933

---

**Project Location**

**County** Santa Clara, San Benito  
**City** Hollister, Gilroy  
**Region**  
**Cross Streets** Highway 101 / Highway 25 / Highway 152  
**Parcel No.** Multiple  
**Township** None **Range** None **Section** None **Base** None

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**Proximity to:**

**Highways** Hwy 101, 25, 152  
**Airports** Frazier Lake Airpark  
**Railways** 2 intersecting  
**Waterways** Pajaro River, Ilagas Creek, Uvas Carnadero, Miller's Canal  
**Schools** Gavilan, Pacheco, San Ysidro, others  
**Land Use** GP: Agriculture-Large Scale & Major Public Facility (Santa Clara) Agricultural Productive & Floodplain (San Benito)  
Z: Agriculture

---

**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Landuse; Minerals; Noise; Recreation/Parks; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

---

**Reviewing Agencies** Resources Agency; Regional Water Quality Control Board, Region 3; Department of Parks and Recreation; Native American Heritage Commission; Office of Emergency Services; Department of Fish and Game, Region 3; Department of Water Resources; Department of Conservation; California Coastal Commission; Caltrans, District 5; Caltrans, District 4; Caltrans, Division of Aeronautics; Department of Boating and Waterways; State Water Resources Control Board, Division of Water Quality

---

**Date Received** 09/27/2004 **Start of Review** 09/27/2004 **End of Review** 10/26/2004

---



STATE OF CALIFORNIA

NOV 12 2004



Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit

Arnold  
Schwarzenegger  
Governor

Jan Boel  
Acting Director

October 27, 2004

Nick Papadakis  
Pajaro River Watershed Flood Prevention Authority  
445 Reservation Road, Suite G  
Marina, CA 93933

Subject: Soap Lake Floodplain Preservation  
SCH#: 2004091142

Dear Nick Papadakis:

OPR-2

The enclosed comment (s) on your Negative Declaration was (were) received by the State Clearinghouse after the end of the state review period, which closed on October 26, 2004. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2004091142) when contacting this office.

Sincerely,

Terry Roberts  
Senior Planner, State Clearinghouse

Enclosures  
cc: Resources Agency

**California Office of Planning and Research, State Clearinghouse and Planning Unit**

OPR-1      Comment noted that we have complied with the State Clearinghouse review requirements for draft documents.

OPR-2      All comment letters provided by the State Clearinghouse have been reviewed and responses provided. These comments will be considered by the Authority prior to adopting the Negative Declaration and approving the project. The Authority will notify in writing all commenting agencies of the public hearing date for the project.





DEPARTMENT OF CONSERVATION  
STATE OF CALIFORNIA

DIVISION OF  
LAND RESOURCE  
PROTECTION

801 K STREET  
SACRAMENTO  
CALIFORNIA  
95814

PHONE  
916/324-0850

FAX  
916/327-3430  
TDD  
916/324-2555

INTERNET  
consrv.ca.gov

ARNOLD  
SCHWARZENEGGER  
GOVERNOR

October 26, 2004

Mr. Nick Papadakis  
Pajaro River Watershed Flood Prevention Authority  
445 Reservation Road, Suite G  
Marina, CA 93933

Subject: SCH#2004091142 – Proposed Negative Declaration for the  
Soap Lake Floodplain Preservation Project

Dear Mr. Papadakis:

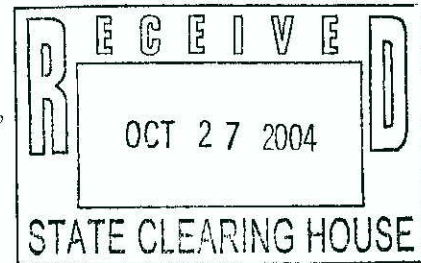
The Department of Conservation's Division of Land Resource Protection (Division) monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act, California Farmland Conservancy Program, and other agricultural land conservation programs. We have reviewed the document cited above.

Assembly Bill (AB) 807 established the Pajaro River Watershed Flood Prevention Authority was established in 2000 to address flood issues in the Pajaro River Watershed, which contains the Soap Lake project site. Eight agencies formed a JPA. Several additional watershed benefits may be examined in the future, and these include municipal, agricultural, and industrial water supply, groundwater recharge, water quality, habitat preservation, and support of species that are endangered, threatened, or rare.

Soap Lake has been determined to be an important watershed feature in providing downstream flood protection to the Watsonville area. The area is primarily agricultural and acts as a natural detention basin during large rainstorms and reduces flood flows from the Upper Pajaro Watershed. No changes in existing land uses are proposed.

The Soap Lake project would not involve structural flood control measures: it involves acquisition of lands or obtaining flood easements for the land within the Soap Lake floodplain. The objective is to maintain the current flood protection benefits currently provided by the floodplain by protecting the area from changes that would impact the flood protection properties of the floodplain. The purchase of land or floodplain easements would restrict development and preserve agriculture and open space in

*Clean*  
*10/26/04*  
*late*  
*e*





Mr. Nick Papadakis

October 26, 2004

Page 2 of 3

the 9,000-acre floodplain. Several conservation easements have been obtained within the project area for over 1,000 acres and funding has been secured for an additional 1,200 acres.

Methods for preserving Soap Lake include land use policies, incentive programs purchase of land, conservation easements and mitigation banking.

The project goals are to maintain the land in land uses that are consistent with a floodplain. Any conversion would continue that land in an undeveloped state and would not include construction of buildings and infrastructure.

#### Williamson Act

The document indicates that some land in the floodplain that may be acquired is under Williamson Act contract. The California Land Conservation Act (Government Code §51200 et seq.) of 1965, commonly known as the Williamson Act, provides a tax incentive for the voluntary enrollment of agricultural and open space lands in contracts between local government and landowners. The contract enforceably restricts the land to agricultural and open space uses and compatible uses defined in state law and local ordinances. An agricultural preserve, which is established by local government, defines the boundary of an area within which a city or county will enter into contracts with landowners. Local governments calculate the property tax assessment based on the actual use of the land instead of the potential land value assuming full development.

Williamson Act contracts are for 10 years and longer. The contract is automatically renewed each year, maintaining a constant, ten-year contract, unless the landowner or local government files to initiate nonrenewal. Should that occur, the Williamson Act would terminate 10 years after the filing of a notice of nonrenewal. Only a landowner can petition for a contract cancellation. Tentative contract cancellations can only be approved after a local government makes specific findings and determines the cancellation fee to be paid by the landowner.

#### Acquisition

The document indicates that there may be acquisitions that would expand the floodplain preservation area. Any future acquisition involving conversion from agriculture to another use would require further environmental documentation for each acquisition would be necessary, and we ask that we receive a copy of the documents for our review and comment. As is required by Government Code section 51291(c), we request that the Director of the Department of Conservation receive notification of any proposed acquisition within 10 days of its occurrence, as the subject land may be under Williamson Act contract. Government Code section 51291 specifies the notification provisions of the Williamson Act when there is a possible acquisition of Williamson Act lands. We suggest that sections 51290 – 51295 be reviewed in detail. Please do not

CDC-1

CDC-2

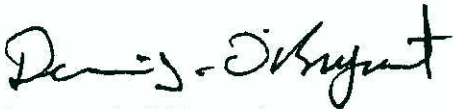


Mr. Nick Papadakis  
October 26, 2004  
Page 3 of 3

hesitate to contact the Division for assistance, and we would be pleased to meet with you when an acquisition is planned to discuss statutory requirements for such an action.

Thank you for the opportunity to review the Initial Study and Negative Declaration. Please contact Jeannie Blakeslee at (916) 323-4943 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis J. O'Bryant". The signature is fluid and cursive, with a large, stylized initial "D".

Dennis J. O'Bryant  
Acting Assistant Director

cc: State Clearinghouse

**California Department of Conservation, Division of Land Resources**

CDC-1 Any future environmental documentation prepared by the Authority will be sent to CDC for review and comment.

CDC-2 Phase 4 of the Study will prepare an Implementation Plan that specifies that CDC be notified of any proposed acquisition within 10 days of its occurrence in accordance with Government Code section 51291(c).



ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS

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November 12, 2004

Mr. Nick Papadakis  
Pajaro River Watershed Flood Prevention Authority  
PO Box 809  
Marina, CA 93933

**Re: MCH# 100426- Notice of Intent to Adopt a Negative Declaration Soap Lake  
Floodplain Preservation**

Dear Mr. Papadakis:

AMBAG's Regional Clearinghouse circulated a summary of notice of your environmental document to our member agencies and interested parties for review and comment.

The AMBAG Board of Directors considered the project on **November, 10 2004** and has no comments at this time. However, we are forwarding the comments received from other agencies.

Thank you for complying with the Clearinghouse process.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Beloso", is written over the typed name.

Jason Beloso  
Clearinghouse Coordinator

**Association of Monterey Bay Area Governments**

AMB-1     Thank you for circulating the document and forwarding comment letters.



# County of Santa Clara

Environmental Resources Agency  
Parks and Recreation Department

298 Garden Hill Drive  
Los Gatos, California 95032-7669  
(408) 355-2200 FAX 355-2290  
Reservations (408) 355-2201  
[www.parkhere.org](http://www.parkhere.org)



October 27, 2004

Mr. Nick Papadakis, Executive Coordinator  
Pajaro River Watershed Flood Prevention Authority  
P.O. Box 809  
Marina, California 93933

**SUBJECT: Comments to Soap Lake Floodplain Preservation Project – Draft Initial Study /  
Negative Declaration**

Dear Mr. Papadakis:

The Santa Clara County Parks and Recreation Department ("Parks Department") is in receipt of the draft Initial Study and Negative Declaration for the Soap Lake Floodplain Preservation Project prepared for the Pajaro River Watershed Flood Prevention Authority ("Authority"). The Parks Department is focused on the future recreational opportunities afforded by regional trail routes and trail easements throughout the Soap Lake floodplain area. To ensure that the proposed floodplain management areas and conservation easements do not preclude future trail development and implementation, the Parks Department is focused on how the Draft Initial Study and Negative Declaration addresses the integration of the future regional trail routes within the Soap Lake floodplain preservation project area.

Within the vicinity of the Soap Lake floodplain preservation area, the *Santa Clara County Countywide Trails Master Plan* map identifies five regional trail routes: Juan Bautista de Anza National Historic Trail (Route R1), Coyote Creek / Llagas Creek Trail (Route S5), Monterey-Yosemite State Trail (Route R2), Benito-Clara Trail (Route R3), and Bay Area Ridge Trail (Route R5). These regional trail routes are properly identified in the draft Initial Study/Negative Declaration in Figure 3-4 (page 3-30) and described appropriately under "Recreation (Section 3.14) in the Environmental Checklist on page 3-31. However, the following recreational impact should be designated as "less than significant impact," rather than "no impact" as currently shown in the Environmental Checklist on page 3-28 (see below):

(b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The Parks Department believe that future trail facilities that are identified in the Countywide Trails Master Plan map and Soap Lake floodplain preservation area may have potential physical effects on the environment when developed. We recommend that the designation be changed to "less than significant," dependent on findings from future environmental analysis that would be required as part of the trails development. The draft Initial Study/Negative Declaration already acknowledges the future development of trails and states, "if such trails were designated, further environmental analysis could be required to

CSC-1



Board of Supervisors: Donald F. Gage, Blanca Alvarado, Peter McHugh, James T. Beall Jr., Liz Kniss  
County Executive: Peter Kutras, Jr.



ensure that potential impacts to natural or cultural resources are avoided or minimized." (page 3-31)

CSC-2 Under Section 1.5 "Other Related Projects," the draft Initial Study/Negative Declaration should include two additional County Parks and Recreation Department planning projects. The *Countywide Trails Master Plan* map is part of the 1995 *Santa Clara County Countywide Trail Master Plan Update* ("*Countywide Trails Master Plan*") which was approved by the County Board of Supervisors in November 1995. The Parks Department has been implementing this trails planning policies for about nine years. The *Countywide Trails Master Plan* is an amendment of the trails policies and map of the Parks and Recreation Element of the Santa Clara County General Plan. We request that the Authority include the implementation of the *Countywide Trails Master Plan* as another related project under Section 1.5.

CSC-3 Under Section 2.1 "Preliminary Screening of Alternatives," the Parks Department request that the Authority consider any future impacts to any flood protection alternatives that may raise the existing dams at Uvas and Chesbro. These reservoirs provide existing recreational uses as our County park facilities.

CSC-4 Under Section 2.2 "Floodplain Management," the Parks Department request that the description of open space uses in the following sentence also state trails which may be assumed under the current "parks" uses. See below for additional text shown in underlined text:

Open space uses that might be considered by a community include: farming, ranching, parks and trails, wildlife habitat, golf courses, shooting ranges, etc. (page 2-3, second paragraph, third sentence)

CSC-5 Under Section 2.3.3 "Land Use Policies," the Parks Department request that the draft Initial Study /Negative Declaration include relevant County General Plan policies related to trails planning under the *Countywide Trails Master Plan* in this section. For example, one relevant trails policies specifically relates to the Soap Lake Floodplain Preservation project, as noted below:

**Policy #PR-TS 6.3**

Public improvement projects, such as road widenings, bridge construction, and flood control projects, that may impact existing or proposed trails should be designed to facilitate provision of shared use. (*Countywide Trails Master Plan*, page 37)

Thank you for the opportunity to review and comment on the draft Initial Study and Negative Declaration for the Soap Lake Floodplain Preservation Project. If you have any questions regarding these comments, please call me at (408) 355-2210 or send an e-mail to [Mark.Frederick@prk.sccgov.org](mailto:Mark.Frederick@prk.sccgov.org).

Sincerely,



Mark Frederick  
Manager of Planning and Real Estate Services

jm/

CC: Jane Mark, Park Planner



Board of Supervisors: Donald F. Gage, Blanca Alvarado, Peter McHugh, James T. Beall Jr., Liz Kniss  
County Executive: Peter Kutas, Jr.

**County of Santa Clara, Parks and Recreation Department**

CSC-1 The second impact in the recreation section (section 3.14 (b)) has been changed from “No Impact” to “Less Than Significant Impact”.

CSC-2 The Countywide Trails Master Plan has been added to the list of “Other Related Projects” in Section 1.5 as requested.

CSC-3 As stated on page 2-2 of the Draft IS/ND, raising the existing dams at Uvas and Chesbro were considered but found to provide the least amount of flood protection (less than 5% of the necessary flood protection). Therefore these alternatives were not considered in further detail. The proposed Soap Lake Floodplain Preservation Project does not include any changes to the dams.

CSC-4 Change made as requested by adding “and trails” to the statement.

CSC-5 Relevant trails policies from the Countywide Trails Master Plan have been added as requested.



OCT 29 2004



## San Benito County Water District

30 Mansfield Road • P.O. Box 899 • Hollister, CA 95024-0899 • (831) 637-8218 • Fax (831) 637-7267

October 13, 2004

Mr. Nick Papadakis  
Executive Coordinator  
Pajaro River Watershed Flood Prevention Authority  
P.O. Box 809  
Marina, CA 93933

**RE: PAJARO RIVER WATERSHED FLOOD PREVENTION AUTHORITY (PRWFPA)  
SOAP LAKE FLOODPLAIN PRESERVATION PROJECT,  
DRAFT INITIAL STUDY/NEGATIVE DECLARATION**

Dear Mr. Papadakis:

The San Benito County Water District (SBCWD) appreciates the opportunity to review the Draft Initial Study/Negative Declaration (IS/ND) document for the above-referenced project.

SBCWD-1

The Initial Study states that it provides program-level environmental review for preservation of the Soap Lake floodplain. Our primary comment on the document is that it is not clear from the Initial Study what agency will be implementing the project, or how it will be implemented. The Initial Study should include a clear statement of the discretionary actions to be taken as a part of the project. Without a clear statement of understanding of the project or "proposed discretionary actions," it is not possible to be certain of the adequacy of environmental review presented in this Initial Study. Further, it is not clear what discretionary actions may be tiered under this environmental review. Is the project the adoption of a Plan to preserve the Soap Lake floodplain?

It is our understanding that the project proposes to purchase land or obtain flood easements for land within the Soap Lake floodplain, in order to restrict development and maintain the current flood protection benefits provided by the undeveloped floodplain. Working in conjunction with the Corp's proposed levee project downstream, the project would provide 100-year flood protection for the Pajaro River from Chittenden Pass to the Monterey Bay. According to the Initial Study, conservation easements and land purchases have already been obtained within the project totaling over 1,200 acres and funding has been secured to obtain another 1,200 acres of the overall 7,900-acre floodplain. It appears that the project is the continuation of existing conditions, so it will have no significant environmental impacts.

The Water Resources Association (WRA) of San Benito County, an association of the City of Hollister, City of San Juan Bautista, Sunnyslope County Water District and the San Benito County Water District, recently adopted a groundwater management plan (GWMP) entitled *Groundwater Management Plan Update for the San Benito County Part of the Gilroy-Hollister Groundwater Basin*. The GWMP combines existing water resources programs and new project elements and activities into an integrated strategy for managing the surface and groundwater resources within the area and imported surface water from the San Felipe Project.

Mr. Nick Papadakis  
Pajaro River Watershed Flood Prevention Authority  
October 13, 2004  
Page Two

SBCWD-2

It appears that the Soap Lake Floodplain Preservation Project is consistent with the goals or objectives of the GWMP. It is not inconsistent with any of the existing or new project elements of the GWMP. The Soap Lake Floodplain lies in the northernmost portion of the GWMP area. The floodplain preservation project would not affect any of the conveyance pipelines proposed by the GWMP. The groundwater recharge occurring in the floodplain is compatible with the percolation and in-lieu percolation proposed in the GWMP for the Bolsa subbasin.

SBCWD-3

The Initial Study notes other projects that will be affected by the floodplain, including the Caltrans Highway 25 widening and the Pajaro Valley Water Management Agency Import Pipeline. The environmental review completed for these projects should consider the project in their environmental review.

The San Benito County Water District appreciates the opportunity to provide comments on this Initial Study and looks forward to a response from the PRWFPA. If you have any questions, please call Jeff Cattaneo at (831) 637-8218.

Sincerely,



John Gregg  
District Manager/Engineer

**San Benito County Water District**

SBCWD-1 An Implementation Plan has been prepared with specific information on what agency would implement the program and how it will be implemented. This information and the specific discretionary actions to be taken as part of the project are outlined in Chapter 2 and Appendix G. The Implementation Plan will be considered prior to adoption of the IS/ND.

SBCWD-2 Thank you for confirming consistency between the Groundwater Management Plan Update for the San Benito County Part of the Gilroy-Hollister Groundwater Basin and the Soap Lake Floodplain Preservation Project. The Groundwater Management Plan has been added to Section 1.5 Other Related Projects.

SBCWD-3 Separate from this CEQA document, the Authority will be sending a letter to the local land use jurisdictions including the County of Santa Clara, County of San Benito, Caltrans and the Valley Transportation Authority that requests the Authority be notified of any development projects within the Soap Lake 100-year floodplain. The Authority will then have the opportunity to comment on any proposed development project that has the potential to impact the flood attenuation benefits of the Soap Lake Floodplain Preservation Project.

The Pajaro Valley Water Management Agency import pipeline project environmental documentation is already completed, but the Authority will have the opportunity to comment on any future projects of this nature.





8010 Wayland Lane 1D  
Gilroy, California 95020  
(408) 847-4171  
Fax: (408) 847-1521

NOV 16 2004

October 20, 2004

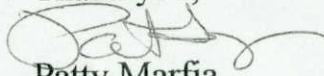
Pajaro River Watershed Flood Prevention Authority  
P.O. Box 809  
Marina, California 93933  
Attn Nick Papadakis, Executive Coordinator

Dear Nick,

LPRCD-1

The directors of the Loma Prieta Resource Conservation District, at the October 19, 2004 board meeting, requested that I submit this letter of support of the Soap Lake floodplain in Santa Clara County and San Benito county to continue to act as a natural detention basin.

Thank you,

  
Patty Marfia,  
District Clerk

**Loma Prieta Resource Conservation District**

LPRCD-1 Thank you for your letter stating your support for the Soap Lake Floodplain Preservation Project.

# South Valley Streams For Tomorrow

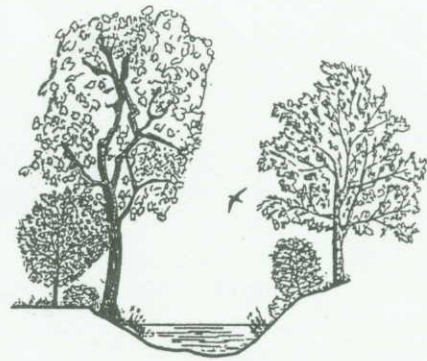
P.O. Box 1409

San Martin, CA 95046

(408) 683-4330 (voice & fax)

October 15, 2004

OCT 19 2004



Mr. Nick Papadakis, Executive Coordinator  
Pajaro River Watershed Flood Prevention Authority  
P.O. Box 809  
Marina, CA 93933

Mr. Papadakis:

## Comments on Draft Initial Study and Negative Declaration for the Soap Lake Floodplain Preservation Project

We have the following minor comments for your consideration on the subject Draft Initial Study and Negative Declaration (IS/ND).

SVSFT-  
1

1. Section 1.5 Other Related Projects: You should add: "*Groundwater Management Plan Update for the San Benito County Portion of the Gilroy-Hollister Groundwater Basin*". The Final Program EIR and the Plan Update were approved this year. The Plan Update includes actions that may impact lands and habitats within the Soap Lake Basin.

SVSFT-  
-2

2. Section 3.4 Biological Resources: The list of Special Status Species is incomplete. The Final Program EIR for the *Groundwater Management Plan Update* (referred to above) contains an extensive, up-to-date examination of Special Status Species in Table 14. The table's "Local Occurrence" column can be used to identify species associated with the Soap Lake Basin. For example, you need to add: Monterey roach, peregrine falcon, white pelican, northern harrier, Cooper's hawk, sharp-shinned hawk, Pallid bat, etc.

SVSFT-  
3

3. Section 3.9 Land Use and Planning: Item "a" states the entire project area is within unincorporated county land; however, Figure 2-1 shows a small portion within the City of Gilroy. Clarification is needed.

SVSFT-  
4

4. Section 3.17 Mandatory Findings of Significance: Item "b" makes reference to Section 1.4 for a listing of "cumulative projects". The reference probably should be Section 1.5 Other Related Projects. However, confusion occurs because this listing (Section 1.5) is not identified as a listing or summary of "cumulative projects". Clarification is needed.

Thank you for the opportunity to comment on the subject IS/ND. Please send us a copy of the final version.

Sincerely,

Keith R. Anderson  
Environmental Advocate

**South Valley Streams for Tomorrow**

SVSFT-1 The Groundwater Management Plan Update for the San Benito County Part of the Gilroy-Hollister Groundwater Basin has been added to Section 1.5 Other Related Projects.

SVSFT-2 Table 3-2 of the IS/ND has been modified to reference additional species listed in Table 14 from the Groundwater Management Plan Final EIR, which is now provided in Appendix D.

SVSFT-3 Section 3.9 has been revised to state that the majority of the floodplain is within unincorporated county land except for one small area within the City of Gilroy limits.

SVSFT-4 The reference to Section 1.4 has been corrected to Section 1.5 Other Related Projects.



**SIERRA CLUB VENTANA CHAPTER**

P.O. BOX 5667, CARMEL, CALIFORNIA 93921

CHAPTER OFFICE • ENVIRONMENTAL CENTER (831) 624-8032

Please direct any response to: Rita Dalessio  
16 Via Las Encinas, Carmel Valley, CA 93924

October 26, 2004

Pajaro River Watershed Flood Prevention Authority  
P.O. Box 809  
Marina, California 93933  
Attention Nick Papadakis, Executive Coordinator

**Subject: Soap Lake Preservation Project  
California Environmental Quality Act  
Initial Study/Negative Declaration**

Thank you for the opportunity to comment on the subject Soap Lake Preservation Project California Environmental Quality Act Initial Study/Negative Declaration (IS/ND).

SC-1

We support this Project because it proposes use of the natural floodplain to address regional flood protection issues and problems. We believe it has high economic and environmental value to watershed community interests, especially if it is integrated with the Local, State, and Federal Programs and projects, presently underway within the Pajaro River Watershed Flood Prevention Authority's jurisdiction.

Our comments focus on these integration issues, emphasizing Project organization to maximize benefits to the four county-six city watershed community.

SC-2

Integrating the Soap Lake Preservation Project (Project) with the Pajaro River Project is understood to be the principal objective of the Project. The preferred alternative to accomplish this involves a landuse control approach to sustain the flood attenuation features of the 9000-acre Soap Lake floodplain, so that regardless of upper watershed development build-out, lower watershed flood flows will remain the same. Once this objective is met, the Pajaro River Project can deliver promised benefits including maximum relief from flood insurance for communities within the floodplains.

We understand FEMA regulations define success criteria for this objective, and involve protocols for certification of Project work products including watershed hydrology studies, design plans, construction, and Operation and Maintenance commitments to assure genuine project performance throughout its service life.

SC-3

Page 2-6, 1<sup>st</sup> paragraph of the Project IS/ND provides discussion on the land-use control approach, identifying county ordinances and or flood easements on many parcels of land as the design plan to accomplish the project objectives. We believe the FEMA regulations and guidance

*...To explore, enjoy, preserve and protect the nation's forests, waters, wildlife and wilderness...*



SC-3

documents provided in Appendix A of this letter directly address this approach, and should be considered as a means to implement the Project.

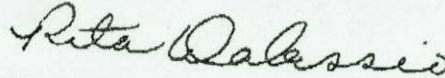
We have looked into the FEMA Community Rating System Program and anticipate that it provides a protocol to achieve the flood and environmental protection objectives described on page 1-3 of the IS/ND in a flexible manner. This program may be an effective way to implement the future projects described on page 1-9 under "Phase 4 Preliminary Design of Projects", which we perceive may include opportunities with Local, State, Federal and non-governmental organizations.

SC-4

The US Army Corps of Engineers Watershed Feasibility Project is of most interest, as it offers direct linkage with FEMA protocols to address Project objectives, quality assurance, and integrate contributions from all parties. Figure I provides a conceptual outline on how this could occur, including a proposal to combine projects to minimize duplication of effort.

Looking forward to supporting the most environmentally friendly Project.

Sincerely



Rita Dalessio  
Chapter Chair

Cc. Sam Farr



Figure 1 Pajaro River Watershed Flood Protection Progress

Timing		Projects/Programs						Benefits	
Approx. Date	Event/Issue	USACE Upper Llagas Creek Project	USACE Lower Pajaro River Project	USACE Proposed Watershed Study	4-County JPA In progress Watershed Study	Santa Cruz-Monterey Co. Maintenance	FEMA Community Rating System	Level of Flood Protection	Flood Insurance Relief
1993	Flooding		USACE 1993 Recon. Study					Of Concern	
1995						Emergency Operations & Maintenance		Failed	0%
1996	Community Concern		Sam Farr Obtains Funding	Sam Farr Obtains Funding				Recovery	
1998									
2000		Planning Activities	Planning Activities	Planning Activities	Locals Obtain Funding				
2003	Community Involvement				Planning Activities	Negotiate New Maintenance Permits	Watsonville, Monterey Co., Santa Clara Co. Morgan Hill Enter FEMA CRS Program		
2004	Discover Problems Not Authorized to Solve	Planning Studies Recognize Critical Issues, Induced Flooding, Environmental Impacts, and Project Inter-Dependencies							15%
2005	Sam Farr Obtains Coordination & Funding Legislation & Continuing Progress	Continue present NED Project	Combine Soap Lake Preservation & Pajaro River Projects into USACE NED-NER Project		Soap Lake Preservation Project CEQA				
2006	Locals Receive Benefits from Non-Structural Flood Protection	Public Involvement	Public Involvement		Public Involvement	Perform Interim Capacity Rehabilitation Maintenance & Improve Flood Warning system	Enhance Program by recycling project engineer-planning reports from USACE & 4-JPA Project	Optimized	20%
2007		Approval	Approval		Approval				
2008	Locals Receive Benefits from Non-Structural Flood Protection	LERDS-Construction	Design-LEADS-Construction			Implement Land Right Acquisition & Produce FEMA CRS Documents	Enhancements into FEMA CRS opportunities.		25%
2009									
2010									35%
2011									
2012		In-Service							40%
2013									
2014									
2015	Locals Receive Benefits from Structural & Non-Structural Flood Protection	New Project On-Line						Restructure	95% NED-NER Standard



## APPENDIX A

Internet Link to FEMA's website where Community Rating System Program is described in detail.  
<http://training.fema.gov/EMIWeb/CRS/Index.htm>

Internet Link to obtain PDF of FEMA's Community Rating System Program Manual (see item 23), this manual provides the instructions on how to apply to program to the Pajaro River and Soap Lake preservation Project as outlined in Figure 1 including application forms and examples.  
<http://www.fema.gov/nfip/intnfip.shtm>

Selected excerpts from FEMA's Community Rating System Program applicable to the Soap Lake Preservation Project and Pajaro River Project.

### 110 PURPOSE AND SCOPE

#### 111 Background

The National Flood Insurance Program (NFIP) provides federally backed flood insurance that encourages communities to enact and enforce floodplain regulations. Since its inception in 1968, the program has been very successful in helping flood victims get back on their feet. There are over 4.5 million policies in force. From 1978 through 2001, over 840,000 losses totaling more than \$11 billion have been paid.

To be covered by a flood insurance policy, a property must be in a community that participates in the NFIP. To qualify for the program, a community adopts and enforces a floodplain management ordinance to regulate development in flood hazard areas. The basic objective of the ordinance is to ensure that such development will not aggravate existing flooding conditions and that new buildings will be protected from flood damage. Today, over 19,000 communities participate in the NFIP.

The NFIP has been successful in requiring new buildings to be protected from damage by a 100-year flood. However, flood damage still results from floods greater than the 100-year flood and from flooding in unmapped areas. Under the Community Rating System (CRS), there is an incentive for communities to do more than just regulate construction of new buildings to minimum national standards. Under the CRS, flood insurance premiums are adjusted to reflect community activities that reduce flood damage to existing buildings, manage development in areas not mapped by the NFIP, protect new buildings beyond the minimum NFIP protection level, help insurance agents obtain flood data, and help people obtain flood insurance.

#### 112 Objective

The objective of the CRS is to reward communities that are doing more than meeting the minimum NFIP requirements to help their citizens prevent or reduce flood losses. The CRS also provides an incentive for communities to initiate new flood protection activities. The goal of the CRS is to encourage, by the use of flood insurance premium adjustments, community and state activities beyond those required by the National Flood Insurance Program to:

- Reduce flood losses, i.e.,
- protect public health and safety,
- reduce damage to buildings and contents,
- prevent increases in flood damage from new construction,
- reduce the risk of erosion damage, and
- protect natural and beneficial floodplain functions.
- Facilitate accurate insurance rating, and
- Promote the awareness of flood insurance.

#### 116 Natural and Beneficial Functions

Floodplains perform certain natural and beneficial functions that cannot be duplicated elsewhere. The CRS provides special credit for community activities that protect these functions, even though some of the

**Sierra Club Ventana Chapter**

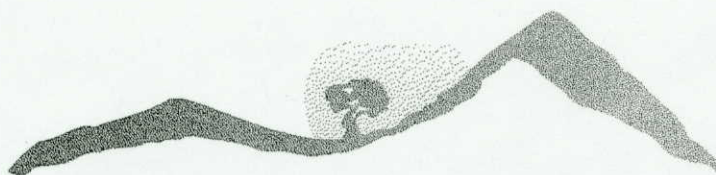
SC-1 Thank you for your stated support of the Soap Lake Floodplain Preservation Project.

SC-2 As stated in Section 1.2, the 100-year flood protection project currently being developed by the Corps on the Lower Pajaro Project assumes a functioning Soap Lake floodplain as part of the baseline condition. Thus, the purpose of the Soap Lake Floodplain Preservation Project is to “protect the Soap Lake Floodplain to maintain the 100-year flood protection downstream.” As stated in the Executive Summary and Section 2.3 “The objective is to maintain the current flood protection benefits provided by the Soap Lake Floodplain by protecting the area from changes that would impact the flood protection properties of the floodplain.”

SC-3 FEMA regulations and guidance will be considered further during Phase 4, of the Watershed Study. The potential to improve the flood forecasting capability will be evaluated. There are several areas of capability improvement available to the Pajaro River Watershed. As part of the Pajaro River Watershed Study, a new rating curve of the flow gage on the San Benito River at Highway 156 will be developed and compared to the existing rating curve. Streamflow, rainfall, and reservoir gages in the Pajaro River Watershed will be evaluated, as will the sufficiency of the existing ALERT stations. Time-of-travel curves will be developed as well to assist the ALERT system for the watershed. The last aspect of this task would be to evaluate the existing streamflow gages on Pacheco Creek at Walnut Avenue in Santa Clara County and on the San Benito River at Willow Creek in San Benito County.

SC-4 Thank you for your comment on the possible integration of our project with the Corps project. We continue to identify opportunities to partner with the Corps as well as with other watershed stakeholders.





OCT 28 2004

PLANNING AND CONSERVATION LEAGUE  
F O U N D A T I O N

October 26, 2004

Nick Papadakis, Executive Coordinator  
Pajaro River Watershed Flood Prevention Authority  
P. O. Box 809  
Marina, California 93933

**RE: Soaplake Floodplain Preservation Project Draft IS/ND**

Dear Mr. Papadakis,

PCL-1

We are pleased to present the following comments on the Soap Lake Floodplain Preservation Project Draft Initial Study and Negative Declaration (IS/ND). The PCL Foundation supports the Authority's project to protect the Soap Lake floodplain to maintain its natural flood attenuation benefits. Furthermore, we are pleased that the Authority has chosen to pursue a project that has a multitude of secondary and indirect benefits to the region, including agricultural land preservation and protection of riparian corridors. Finally, the PCL Foundation also supports the Authority's efforts to complement the downstream flood control project on the lower Pajaro River to protect residents from flood damage.

We have the following specific comments on the Initial Study document:

PCL-2

1.3 Pajaro River Watershed Study – Phase 1 – The IS/ND review of Phase 1 sediment modeling indicates that changes in sediment load do not affect the Lower Pajaro system as a whole and that the existing sediment conditions are likely to remain static. The report should state that the Phase 1 study evaluated only a limited segment of the Pajaro River mainstem. Tributaries to the Pajaro River may contribute significantly to sediment loading. The fact that sediment loading is problematic in the Pajaro Watershed is evidenced by the listing of over 134 stream miles in the Pajaro Watershed as impaired due to sedimentation on the 2002 Clean Water Act Section 303(d) List.

It is important to note that related projects within the project area, such as the Corp of Engineers Lower Pajaro River Flood Damage Reduction Project and the

*Chairman*  
David Hirsch

*Secretary-Treasurer*  
Robert Kirkwood

*Trustees*  
Harriet Burgess  
Coke Hallowell  
Armando Rodriguez  
Andrea Sumits

*Executive Director*  
Fred Keeley

*President*  
Gerald H. Meral, Ph.D.



PCL-2

Pajaro River Task Force and Stream Team convened by Action Pajaro Valley are continuing to analyze potential changes in sediment loading, transport, and deposition that may affect the Lower Pajaro system. The results of additional analyses may further refine our understanding of the system, its ability to transport sediment through the Lower Pajaro River, and the implications for flood protection strategies. The results may indicate that additional sediment management strategies are necessary to ensure a 100-year level of flood protection.

PCL-3

1.4 CEQA Process – The purpose of the IS/ND is to provide information about the potential effects of the Soap Lake Floodplain Preservation Project on the local and regional environment. The Authority, however, has not clearly stated objectives or mechanisms for implementation of this project. Therefore, analyses of effects are based on broad assumptions.

2.1 Sediment Management Alternatives – See comment on Section 1.3 above.

2.3.1 Flood Protection – It is difficult to evaluate the statements regarding flood protection benefits without additional information detailing the strategies for implementing the Soap Lake project. This study has evaluated conditions with and without the Soap Lake floodplain, but has not provided specific targets for preservation or correlated specific areas within the floodplain with potential increases in flood flows.

The Authority should develop a strategy and parameters for developing the project. For example, the Authority could target a number of acres to acquire or preserve in a certain time period. The Authority should identify specific mechanisms to complete the project, including a timeline, funding strategy, and identification of the means by which federal, state, and county policies and ordinances can work in conjunction with the Authority's preservation strategies.

PCL-4

2.3.3 Methods for Preserving Soap Lake (Floodplain Management Ordinance) – The PCL Foundation supports community efforts to fully participate in the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP), including development of detailed hydraulic studies and a formal NFIP mapping process. We also encourage participation in FEMA's Community Rating System (CRS), which rewards communities that go above and beyond the minimum NFIP requirements. In fact, one of the components of the CRS is protecting natural and beneficial floodplain functions. Greater participation in FEMA programs can complement the Authority's preservation strategies. The Authority cannot, however, rely on such projects to preserve

PCL-4

floodwater storage and flood attenuation benefits. The purpose of NFIP participation is to provide flood insurance and reduce damages to *buildings* from floodwater. We are concerned that development that meets criteria for participation in the NFIP would still result in reduced floodwater storage capacity in the Soap Lake floodplain.

We appreciate the opportunity to provide input into the creation of the Soap Lake Floodplain Preservation Project. We look forward to continued participation as this project develops.

Sincerely,

A handwritten signature in cursive script, reading "Amy L. Carter". The signature is written in black ink and is positioned above the printed name and title.

Amy L. Carter  
Central Coast Regional Coordinator

345 Lake Avenue, Suite A  
Santa Cruz, California 95062

cc: Lisa Dobbins, Executive Director, Action Pajaro Valley

**Planning and Conservation League Foundation**

PCL-1 Thank you for your stated support of the Soap Lake Floodplain Preservation Project.

PCL-2 Phase 1 of the Pajaro River Watershed Study conducted sediment modeling based on the limited sediment data available for the Chittenden gage station. This gage station is located downstream of the major tributaries to the Pajaro River. Modeling results indicated that the River between Highway 101 and the mouth is relatively insensitive to changes in sediment load. The Authority and many other groups including the Corps of Engineers and the Pajaro River Task Force recognize the importance of a better understanding of the sediment regime of the watershed. The Authority has been coordinating with both of the groups mentioned above on this issue and has developed a scope of services for additional sediment models. Section 1.3 of the IS/ND has been changed to reflect the applications and limitations of the sediment modeling.

PCL-3 An Implementation Plan has been prepared with specific information on what agency would implement the program and how it will be implemented. This information and the specific discretionary actions to be taken as part of the project are outlined in Chapter 2 and Appendix G. The Implementation Plan will be considered prior to adoption of the IS/ND.

PCL-4 See comment and response SC-3 above regarding FEMA and CRS considerations. The Soap Lake Floodplain Preservation Project goes beyond the FEMA programs by restricting development and preserving the flood attenuation benefits of the floodplain. As stated in the Executive Summary and Section 2.3 “The objective is to maintain the current flood protection benefits provided by the Soap Lake Floodplain by protecting the area from changes that would impact the flood protection properties of the floodplain.” The Implementation Plan focuses on maintaining the flood attenuation benefits of the Soap Lake Floodplain as a primary goal.

## 6.2 Comments Received at Public Meeting

Following is a summary of comments received at the public meeting held October 13, 2004 in Gilroy.

**Question 1:** The Wildlands property will convert 150 acres of the 300 acres to wetlands, what will they do with the rest of the property?

**Answer 1:** Wildlands will create seasonal wetlands on 150 acres of the site. During the dry season, most of the 300-acre site, including the seasonal wetland areas, will be used for hay harvesting or cattle grazing. Areas that remain wet most of the year may need to exclude cattle grazing (per Greg Lyman, Regional Manager, Wildlands).

**Question 2:** Will questions and answers be posted on the project website?

**Answer 2:** A feature to enable users to submit questions through the website was added to the website. When the Final IS/ND is posted all comments and responses will be posted to the website as well.

**Question 3:** Regarding coordination with the Corps on the Lower Pajaro Project, are there any specifications or stipulations on quality assurance of the hydraulic modeling, any state certification? Did the Corps of Engineers give you anything in writing or did you speak to them? Is data exchange taking place?

**Answer 3:** Both FEMA and the Corps of Engineers are on all of the appropriate mailing lists for this project and are invited to all public Authority meetings. Throughout the Pajaro River Watershed Study, the Authority has been coordinating with the Corps regarding modeling, modeling results, and project concepts and designs. While the Corps has been aware of the model data, methods and procedures, and model results, it has never been the intent of the Authority to seek certification from the Corps'. The intent instead has been consistency of the results. Results from the Authority's hydrologic and hydraulic modeling performed for Phase 1 was consistent with the results of an independent model developed by the Corps. The two models have been used concurrently to estimate the impacts of watershed changes upstream on the Lower Pajaro Levee Project. The hydraulic and floodplain models created in Phase 3 are not intended to replace the FEMA floodplain designations. While the Phase 3 models could be used as the foundation for a FEMA hydraulic model at a later date, the intent of the Phase 3 models was to develop the general project area for the Soap Lake Floodplain Preservation Project. To this end, major waterways and topographic features were included in the model while floodplain features such as culverts were not included. Data exchange has been and continues to take place with the Corps and many other agencies and organizations.

**Question 4:** Is your plan to keep the highways from developing in the floodplain?

**Answer 4:** No, but the Authority does submit written comments on any proposed development within the floodplain that has the potential to impact the floodplain benefits

**Question 5:** How long will it take to complete the project?

**Answer 5:** An implementation plan will be prepared that includes an estimate of the schedule for completion.

**Question 6:** The project puts an emphasis on purchase of land and conservation easements; does the Authority intend to get into the business of purchasing land?



**Answer 6:** The implementation plan being prepared in Phase 4 will address the methods of acquisition and determine possible landowners. It is likely that the Authority would partner with other groups to hold the land title or conservation easement. Such groups could potentially include government agencies such as the counties, water districts, and cities, and non-profit groups such as land trusts, environmental groups, open space authorities and farm bureaus. This will be determined in Phase 4.

**Question 7:** Does the authority have any funding or do they project that they may have funding in the future for such purchases?

**Answer 7:** The implementation plan will evaluate potential funding sources such as those available through Proposition 50 as well as any restrictions on the funding. Other groups such as The Nature Conservancy and the Land Trust for Santa Clara County have secured additional funding and are in the process of negotiating Soap Lake land acquisitions.

**Question 8:** There is a proposed casino in the floodplain; will the Authority influence that in any way?

**Answer 8:** The Authority submits written comments on any proposed development within the floodplain that has the potential to impact the floodplain benefits.

**Question 9:** Can the CEQA document be used by another agency involved in the purchase of easements or land?

**Answer 9:** The CEQA document analysis was done at a programmatic level and is intended to be used for other documents to tier off. Each project would be evaluated for CEQA compliance on a case-by-case basis to determine what level of CEQA documentation would be needed.

**Question 10:** What is the purpose of the project? Are we under a 100-year flood protection?

**Answer 10:** The authority was set up to bring the four counties to work together. Our goal was to provide a 100 year flood protection solution. The Corps project combined with the Soap Lake Floodplain Preservation Project is a 100-year flood protection solution.

**Question 11:** Do you coordinate with any other counties and water agencies?

**Answer 11:** Yes, the 8 member agencies of the Authority include: San Benito County Water District, San Benito County, Santa Clara Valley Water District, Santa Clara County, Monterey County Water Agency, Monterey County, Santa Cruz County and the Santa Cruz County Flood Control and Water Conservation District, Zone 7 and they all work together towards the watershed solution. In addition we coordinate with other agencies such as the Pajaro Valley Water Management Agency in Watsonville.

**Question 12:** How do those water districts benefit from this project? Is there a beneficial use of the water such as a year-round water supply? Did you evaluate other alternatives for water supply?

**Answer 12:** The participating agencies all have an interest in developing a watershed solution. In Phase 2 multi-benefit project opportunities were evaluated including flood prevention downstream, water supply, groundwater recharge, improved water quality, and potential for restoration opportunities. However, since the Corps downstream project will provide 100-year flood protection, structural alternatives to supplement the Corps project are not necessary. Therefore these alternatives were not considered in further detail. This evaluation process is summarized in Section 2.1 of the IS/ND and the Phase 2 report with more detail is available on the project website. As an example of another way a water district could benefit from the proposed project, the

SCVWD has acquired a property within the Soap Lake floodplain (the Carnadero Preserve) as a restoration site to provide mitigation for their stream maintenance program.

**Question 13:** Are there any capital improvement projects associated with this project?

**Answer 13:** No, there are no capital improvement projects like dams or levees proposed with this project. Instead the project proposes to restrict future development that would alter the flood protection benefits of the floodplain by acquiring land or conservation easements. The Corps project downstream assumes that this water is stored in Soap Lake and depends on this to provide 100-year flood protection downstream.

**Question 14:** There is a lot of trash and woody debris in the river and there is a need to work with the Corps on a maintenance program.

**Answer 14:** Channel maintenance in the Pajaro River is the responsibility of the San Benito County Water District and the Santa Clara Valley Water district. The Corps has participated in the Soap Lake project and we are coordinating with them on the Lower Pajaro Project as well as a potential partnership for a broader watershed study.

**Question 15:** Did you look at storing more water in the floodplain with a levee?

**Answer 15:** We did evaluate storage options in Phase 2 including projects upstream that would provide flood protection and water supply benefits but found that it would be difficult to increase the storage capacity of the floodplain. Those options were not evaluated further in the CEQA document. It is important to note that the Soap Lake Floodplain Preservation Project does not preclude future projects if they are proposed to create additional storage for water supply, or habitat restoration or educational benefits. This project is a foundation for all of those future opportunities. We will add a description of the alternatives evaluated in Phase 2 to the website.

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An aerial photograph of a rural landscape. A river flows from the bottom left towards the bottom right, with several meanders. The surrounding area is divided into numerous rectangular agricultural fields of varying shades of gray. There are some clusters of buildings, possibly farmhouses or small villages, scattered throughout the landscape. A vertical line and a horizontal line intersect at the bottom left, forming a corner that frames the text.

# Appendices



# Photographs

APPENDIX A

**Appendix A**  
**Photos taken on February 18, 2004**



**Photo 1.** Flooded agricultural land (in background) in the Soap Lake floodplain along a drainage ditch (in foreground).



**Photo 2.** Millers Canal looking northeast from Frazier Lake Road



**Photo 3.** San Felipe Lake from Highway 152 (Pacheco Pass Highway)

**Appendix A**  
**Photos taken on February 18, 2004**



**Photo 4.** Pajaro River looking south from Highway 25



**Photo 5.** Pajaro River, with railroad trestle, looking north from Highway 25.



**Photo 6.** Pajaro River looking north from Highway 25.



# **County General Plan Designations**

APPENDIX B



# **County General Plan Designations**

APPENDIX B-1 San Benito County General Plan



# COUNTY OF SAN BENITO

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## SAN BENITO COUNTY OPEN SPACE AND CONSERVATION ELEMENT UPDATE OF THE SAN BENITO COUNTY GENERAL PLAN

 **COPY**

Adopted by San Benito County Board of Supervisors on February 7, 1995 by Reso.  
95-12

To preserve large forms of open space areas, such as agricultural land and outdoor recreation areas, in order to serve as a means of delineating the urban/rural boundary.

**OBJECTIVE:**

1. To establish agricultural areas through a combination of the Williamson Act through the use of County agricultural and zoning districts.

**POLICY 29 - Floodplain and agricultural areas**

Where there is a coincidence of high agricultural productivity and 100-year flood plain/groundwater recharge area the land should be retained in agriculture to serve dual open space functions.

**GOAL 5**

To protect and preserve the agricultural identity of the County.

**POLICY 30 - Legislative methods to protect agriculture and rural identity**

It is the County's policy to use the Williamson Act, agricultural zoning, and legislative means, where appropriate, to preserve agricultural resources, maintain a rural identity, and to define and shape the urban form. Residential growth should be directed to where services are already provided and to the least productive agricultural lands.

**ACTIONS:**

1. The County should reaffirm and encourage the use of Williamson Act for the preservation of its agricultural resources. This should include those areas identified on Figure 4 and parcels adjacent to those already contracted into the Williamson Act.
2. The County should adopt the Agricultural zones which allow only agricultural and compatible uses as indicated in the Land Use Element.

**WASTE SOURCE REDUCTION AND RECYCLING OBJECTIVES**

1. Establish a variable disposal rate by 1995
2. Reduce generated solid waste by 25% by 1995
3. Achieve a 50% reduction in solid waste by 2000
4. To develop a recycling program consistent with the Integrated Waste Management Plan developed by the State.

**POLICY 31 - Hazardous waste and waste source reduction**

It is the policy of the County to implement the short-, mid-, and long-range goals and objectives outlined in the County of San Benito Final Source Reduction and Recycling Element and Household Hazardous Waste Element of 1992 or any future amendments.

**ACTIONS**

1. Require that new developments be reviewed for consistency with the Final Source Reduction and Recycling Element and Household Hazardous Waste Element.

2. Encourage the integration of areas for composting yard waste as a part of subdivision design.

#### POLICY 32 - Hazardous waste management plan

It is the policy of the County to implement the goals and objectives and policies of the San Benito County Hazardous Waste Management Plan, Volume I, July 1989.

### GOAL 6 AGRICULTURAL RESOURCES

To continue agriculture as an industry in the County and to preserve present agricultural resources for future generations.

#### OBJECTIVE:

1. To encourage and protect agriculture as a viable industry in the County.
2. To provide financial incentives to protect the most productive soils resources.
3. Stabilize land values for persons interested in purchasing agricultural land while providing economic incentives to land owners to avoid conversion of row crop and orchard land.

Issue: Agriculture has been one of the leading industries in San Benito County. The industry also supports the local economy with secondary jobs in processing, marketing, supplies, pest control, shipping, etc.

#### POLICY 33 - Support agricultural industry

It is the policy of San Benito County to promote and support the location of new agriculture-related business and industry and support programs that promote local agricultural products and increase marketing opportunities.

#### POLICY 34 - Options for estate planning

It is the policy of the County to recognize that there are financial options to farmers/ranchers for estate planning purposes such as land trusts.

Issue: Lands used for the production of row, fruit, and nut crops comprise only 2.5% of the County but represented about 63% of the dollar value of agricultural products produced in 1992. For every dollar generated for agricultural production of row, fruit, and nut crops, another three are generated in local support services. Urbanization of these limited areas results in an irrecoverable loss of resources and jeopardizes one of the major industries in the County.

Issue: Agriculture has been the leading industry in San Benito County, yet over 90% of the Williamson Act contract cancellations for land categorized as prime are within the North County area. This bears evidence of the tremendous pressure to convert soil resources to other uses and



a potential loss of significant resources. Piecemeal subdivisions may compromise the soil resources.

#### POLICY 35 - Maintain viable sizes for agriculture

It shall be the policy of the County to assure that units of land which are suitable for agricultural purposes are maintained.

#### ACTION

1. In areas of Agricultural zoning, the County will establish minimum lot sizes appropriate to the land use and the soil resources.
2. Discourage the subdivision of agricultural lands suitable for the production of fruit, nut, and row crops to parcel sizes that are ineligible for inclusion in the Williamson Act contracts.
3. Discourage the formation or revisions to spheres-of-influence on agricultural lands suitable for the production of row, fruit, or nut crops.

### GOAL 7 ENVIRONMENTAL HAZARDS

To discourage development in areas that are environmentally hazardous.

#### OBJECTIVE: ENVIRONMENTAL HAZARDS

1. To develop methods to avoid development in environmentally hazardous areas
2. Include landfills and areas contaminated by landfills within the environmental hazards overlay district.
3. A response time of five minutes for first-response fire engine in local responsibility areas and a response time of fifteen minutes for first-response fire engine in State responsibility areas.
4. To utilize flood prone areas for open space purposes in order to protect the health and safety of residents and property of the County, to maximize groundwater recharge, and to protect wetland resources.
5. Limit development on slopes 30% or greater or in severe to very severe erosion hazard areas that would increase erosion or jeopardize the safety of structures.
6. Develop standards to reduce erosion resulting from grading or cutting.
7. Recognize landfills, areas contaminated by landfills, existing and abandoned mines as special treatment areas.
8. Pursue funding sources and intergovernmental coordination to reclaim polluted areas.

#### POLICY 36 - Development policy for hazardous areas

It will be the policy of the County to limit densities in areas that are environmentally hazardous (fault, landslides/erosion, hillsides over 30% slope, flood plains) to levels that are acceptable for public health and safety for citizens and property. It is the County's policy to apply zoning categories, and scenic easements for the protection of environmentally hazardous or aesthetically valuable resources.

#### ACTIONS:

1. The County shall adopt an overlay zoning which establish development standards in areas of special concern, such as the Earthquake Fault Zone maps, flood plains, landslide, severe erosion hazards, slopes 30% or greater, and hazardous fire areas. These development standards would be over and above the standards applicable to basic land uses.
2. The County shall establish an overlay zoning district for environmentally hazardous areas (an "EC" environmental constraints land use designation District) which discourages by development standards development in areas hazardous to the health, safety, and welfare of citizens and community.
3. Prohibit creation of parcels by subdivision that will be wholly located within environmentally hazardous areas and/or where developable areas cannot be safely accessed.
4. Require subdivisions or lot line adjustments with property in an environmentally hazardous area to include a note to advise prospective buyers of the hazard(s).
5. The base density of a proposed development site should be reduced if a combination of environmental hazards (fire, access, fault, flood, 30% slopes) and/or natural resources (habitat, wetlands) are on a particular development site.

#### POLICY 37 - Development of existing hazardous lots

It is the policy of the County to prohibit new development on existing lots of record which are entirely located within hazardous areas (slopes greater than or equal to 30%, flood plain, landslide hazard, fault, unstable or erosive soils) unless no alternative exists.

#### POLICY 38 - Restrict creation of new lots in hazardous areas

It is the policy of the County to prohibit new subdivision or lot-line adjustments that will create new lots located entirely within hazardous areas (slopes greater than or equal to 30%, 100-year flood plain, landslide/erosion hazard, fault zone).

#### ACTION

1. Road design shall comply with policy 11 of the Transportation Element and County standards.
2. Require property with 30% or greater slope, 100-year floodplain (adopted FEMA maps), fault and the landslide/erosion hazard areas to be clearly labeled on all site plans, tentative subdivision maps, parcel maps, and final subdivision maps.
3. Newly created parcels shall include high landslide, unstable or erosive soils, 100-year flood plain, (adopted FEMA maps) fault and 30% or greater slopes into open space conservation easements and new development shall be sited outside hazardous areas.
4. Subdivisions and lot-line adjustments (that create new building sites) within or near hazardous areas shall be allowed provided that building sites for each new parcel have adequate access and lot location is consistent with polices 2 and 4 of the element.

#### POLICY 39 - Development in State Responsibility Areas

All new development shall be required to conform to the standards and recommendations for applicable fire protection agency to an acceptable fire protection risk level (CDF, County, incorporated city).

## ACTIONS

1. New development within the Sphere-of-Influence of an incorporated city shall be designed to conform with fire safety and water supply standards of the city.
2. Subdividers/developers shall be financially responsible for measures to reduce fire hazards for the protection of persons, property, and natural resources.
3. New residential development and additions to existing homes within the SRA shall be required to conform at a minimum to Public Resources Code 4290, San Benito County Code Chapter 17, Uniform Fire Code, Uniform Building Code, and National Fire Codes as applicable.
4. Development within very high or high fire hazard areas shall be required to construct fuel modification zones that will be financed by a homeowner's association, service district, or other method.
5. Measures to reduce fire hazards for the protection of persons, property, and natural resources for existing and new development (e.g. fuel modification zones) shall provide evidence that they will implement policies for preservation of wildlife, reduction of soil erosion, watershed, and protect natural resources from fire hazards.
6. Major subdivisions approved outside refuse collection boundaries shall be required to provide a plan for disposal of flammable refuse.

## POLICY 40 - Fire safety

New development will not be allowed where access is a fire safety risk.

## POLICY 41 - Flood hazard

One of the County's prime responsibilities is for the health, safety, and welfare of its citizens and property. Because the County recognizes the inherent dangers of construction or development within a flood prone area, it shall be the County's policy to discourage development within areas identified as potential flood hazard areas. Furthermore, it is the County's policy to protect and preserve the 100-year flood plain on the most recent adopted FEMA maps or other maps as wetland resources, watersheds, and tributaries as natural resources for water supply, groundwater recharge, riparian habitat, and fishes.

## ACTIONS:

1. The County recognizes that the flood prone areas make up only a small portion of the entire County lands, and therefore significant amounts of developable areas still remain. With this in mind, the County has enacted a Flood Plain zoning designation, which will preclude development within areas subject to flooding as identified on the FEMA maps.
2. If a parcel created before January 1994 is located entirely within the flood hazard area, one single-family residence will be allowed. Construction of a single-family residence shall be required to reduce the volume and velocity of storm water runoff to pre-development levels and to provide necessary measures to avoid impacts to off-site properties pursuant to Ordinance (flood plain).
3. Development of residential homes within the 100-year flood plain is considered a significant environmental impact and will require an environmental impact report (EIR).

**POLICY 42 - Reduce effects of flooding from development**

It is the County's policy to take measures to reduce potential effects of flooding from new development and encourage flood control improvements.

**ACTION**

1. Continue to cooperate with the City of Hollister for the collection of fees and development of flood control improvements for tributaries to the San Felipe Lake drainage basin.
2. It is the County's policy to require new development affecting the Enterprise Road drainage area to provide funding and/or physical improvements to reduce flooding.
3. Drainage systems shall be designed to reduce the velocity and volume of storm water runoff off site to predevelopment levels for a 10-year storm interval.

**POLICY 43 - Reclamation John Smith Landfill**

Continue to cooperate with the City of Hollister for the reclamation of the John Smith Hazardous Disposal site.

**GOALS, OBJECTIVES AND POLICIES FOR OUTDOOR RECREATION**

**GOAL 8 RECREATION**

Encourage private development of recreational facilities including, but not limited to, riding stables, golf courses, camping facilities, dude ranches and hunting clubs, and residential parks.

**OBJECTIVES:**

1. To provide incentives to individuals who wish to include private recreational facilities in conjunction with residential development and open space areas.
2. To allow for economic return for recreation uses on open space lands.
3. Promote development of recreational facilities, such as riding stables, golf courses, and camping facilities in appropriate private and public Open Space areas.
4. Recognize private recreation as an opportunity to provide jobs and revenues to the County while maintaining the inherent beauty of the area and rural atmosphere.

**POLICY 44 - Private recreation facilities**

It will be the County's policy to utilize land use ordinances to encourage land owners to provide private recreational facilities and open space areas. It will also be the County's policy to allow for an economic return on land while it is being utilized as open space.

**ACTIONS**

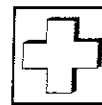
1. The County will enact procedures designed to allow the development of private recreational facilities.
2. Recognize private recreation as an opportunity to provide jobs and revenues to the County while maintaining the inherent beauty of the area.
3. Encourage the development of private recreation (e.g. campgrounds) near existing Federal and State parks.

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# **Country General Plan Designations**

APPENDIX B-2 Santa Clara County General Plan



### Strategies, Policies and Implementation

Given the prevalence of natural hazards common to many portions of the rural unincorporated areas of Santa Clara County, the General Plan contains the following strategies or major policy directions to protect public health and safety:

- Strategy #1: Inventory Hazards And Monitor Changing Conditions
- Strategy #2: Maintain Low Resident Population Densities Within High Hazard Areas
- Strategy #3: Design, Locate And Regulate Development To Avoid Or Withstand Hazards
- Strategy #4: Reduce The Magnitude Of The Hazard, If Possible
- Strategy #5: Provide Public Information Regarding Natural Hazards



### Policies and Implementation

#### R-HS 5

Strategies for reducing the threat of natural hazards to life and property within rural unincorporated areas shall be to:

1. Inventory hazards and monitor changing conditions.
2. Maintain low resident population densities within high hazard areas.
3. Design, locate and regulate development to avoid or withstand hazards.
4. Reduce the magnitude of the hazard, if possible.
5. Provide public information regarding natural hazards.



### Strategy #1: Inventory Hazards And Monitor Changing Conditions

Adequate documentation of natural hazard areas, such as flood plains, active landslide areas, fault traces, and high fire hazard areas is essential for purposes of determining appropriate densities for general areas and for determining the appropriate placement of structures such as schools, homes, landfills, and other land uses.

Although some natural features change very little over time, such as the location of fault traces, others must be regularly updated. For example, as new flood control projects are completed, some areas previously subject to a 100 year flood may be removed from that classification. As conditions change, the County's inventories and mapping must be updated to provide an adequate basis for decision-making.



### Policies and Implementation

#### R-HS 6

Inventories and mapping of natural hazards shall be adequately maintained for use in planning and decision-making, including:

- a. Relative Seismic Stability Map;
- b. Composite Geologic Hazards Map;
- c. Soil Creep;
- d. Saturated, Unstable Soils;
- e. Slope Maps;
- f. Flood Hazards maps;
- g. Relative Fire Hazard Rating;
- h. Dam Failure Inundation Areas maps;
- i. Airport Safety Zones; and
- j. closed Solid Waste Disposal Sites.

### Implementation Recommendations

#### R-HS(i) 9

Support ongoing efforts to develop and convert hazard-related spatial data to GIS digital format.



## Health & Safety

*Rural Unincorporated Area Issues and Policies*



### **Strategy #2: Maintain Low Resident Population Densities Within High Hazard Areas**

Given the hazards and topography of the more mountainous regions of the County, it is not uncommon to find that an individual parcel in the rural areas is subject to a variety of natural hazards. For example, most of the mountainous areas are classified as high or extreme fire hazard areas and many areas also contain geologic or seismic hazards. In the South Valley, areas are prone to regular flooding or poor localized drainage that are also least stable during earthquakes.

To minimize risks to resident populations in high hazard areas, the General Plan prescribes relatively low densities of development throughout the rural areas. Limited accessibility is a primary factor. Access in some of the more remote areas is often limited to narrow, dead end roads. In the event of a wildfire or earthquake which closes access roads, large areas may be isolated from assistance other than by air. Emergency response times are increased, and evacuation plans may be impossible to implement. Other concerns, as mentioned in the Summary of this section, involve public financial responsibility for maintaining and repairing roads and other infrastructure which may traverse hazardous areas, such as fault traces or active landslides. In the event that such roads or utilities suffer major damage and have to be repaired or relocated, major unplanned public expenses may be the result.



### **Policies and Implementation**

#### **R-HS 7**

Areas of significant natural hazards, especially high or extreme fire hazard, shall be designated in the County's General Plan as Resource Conservation Areas, with generally low development densities in order to minimize public exposure to risks associated with natural hazards and limit unplanned public costs to maintain and repair public infrastructure.

#### **R-HS 8**

Areas of persistent flooding and areas of potential inundation from dam failure shall generally be designated for agricultural land uses or other suitable open space use.



### **Strategy #3: Design, Locate And Regulate Development To Avoid Or With- stand Hazards**

Beyond the issue of general land use densities, the design, construction, and location of development can in many cases significantly reduce the risk associated with some natural hazards. Building codes play a major role in assuring the safety of structures from seismic hazards, and subdivision design can avoid placement of building sites within areas subject to slope failure or other geologic constraints. The general policies of the County listed below provide the basis for more detailed policies that follow which address specific types of hazards.



### **Policies and Implementation**

#### **R-HS 9**

Development in rural unincorporated areas affected by natural hazards should be designed, located, and otherwise regulated to avoid or reduce associated risks to an acceptable level:

1. In areas of highest potential hazard, such as floodways, active landslides, fault traces, and airport safety zones, no new habitable structures shall be allowed.
2. In other areas of lesser hazards, there shall be no major structures for involuntary occupancy, such as schools, hospitals, correctional facilities or convalescent centers.

#### **R-HS 10**

In all hazard areas, projects shall be designed and conditioned to avoid placement of structures and improvements where they would:

- a. be directly jeopardized by hazards;
- b. increase the hazard potential; and/or,
- c. increase risks to neighboring properties.



## Infrastructure: Transportation

### Policies

#### SC 11.0

A balanced transportation system should be developed which integrates various transportation modes with existing and proposed land uses and assures access to all.

#### SC 11.1

A balanced transportation system should be provided which assures access to all, and which integrates all appropriate modes of transportation into an effectively functioning system, including such modes as auto, ridesharing, public transit, bicycling and walking.

#### SC 11.2

The transportation system should be compatible with existing and proposed land uses and should promote environmental objectives, such as safe and uncongested neighborhoods, energy conservation, reduction of air and noise pollution, and the integrity of scenic and/or hillside areas.

#### SC 11.3

Bicycling and walking should be promoted as alternate transportation modes for their contribution to health and the reduction of energy consumption and pollution.

#### SC 11.4

Public transit should be expanded as needed to meet the changing needs of the area for local and regional access, including such methods as bus, dial-a-ride, paratransit and rail, where appropriate.

#### SC 11.5

Planning for land use and transportation development should be integrated. The timing, amount, and location of urban development should be consistent with the development of the transportation system capacity, and land uses should be designed to promote use of appropriate transportation modes.

#### SC 11.6

Options for future transportation facilities should be preserved in advance of development by such means as identification of routes, reservation of rights-of-way, setback of development to accommodate future width lines, and limiting of access along future major arterials.

#### SC 11.7

The Cities and the County should improve coordination and cooperation on all South County transportation planning.

#### SC 11.8

The recommendations of the Transportation-2000 Program, particularly as they relate: to rail connections between South County and North County and to right-of-way-reservation along major north-south corridors in South County, should be carefully reviewed by South County jurisdictions.

## Flood Control

### Policies

#### SC 12.0

Since flooding affects substantial areas of South County, and the flood control projects now being constructed are designed to protect only existing developed and planned urban areas, land development should be managed by the three jurisdictions to mitigate flooding problems and minimize the need for local public funding for additional flood control and local drainage facilities. Flood damage in South County should be minimized through a combination of actions. In flood-prone areas, inappropriate development should be prevented through land use planning, urban development policies and land use regulations. Areas which are developed or planned for development should be protected by the construction of flood control facilities. Development should be managed through advanced planning and design standards to minimize off-site flooding and drainage problems.

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# **City of Gilroy Agricultural Mitigation Policy**

## **APPENDIX C**

# AGRICULTURAL MITIGATION POLICY

## City of Gilroy

Adopted May 3, 2004

### **Section 1.00 Statement of Intent**

It is the intent of this policy to set forth the specific criteria and guidelines, consistent with the City's General Plan policies on agriculture, to enable the continued viability of agriculture and agri-tourism in the Gilroy area through:

- (a) Recognition of agriculture's significant contribution to the local economy;
- (b) Protection of agricultural lands from urban encroachment;
- (c) Preservation of agricultural lands as a natural buffer between Gilroy and surrounding communities; and
- (d) Appreciation for the role of agricultural lands in enhancing Gilroy's semi-rural, character.

### **Section 1.01 Definitions**

#### Agricultural Land or Farmland:

Those lands within the City of Gilroy's General Plan 20-year boundary that are deemed to meet the Thresholds of Significance for CEQA purposes, or those that are designated "Prime" or lands of "Statewide Importance" by the State Department of Conservation as shown on their latest "Important Farmland Map." This also includes land that has been used for agriculture but has not been irrigated for six years or more as defined by the California State Farmland Mapping Program.

#### Agricultural Mitigation Land:

Agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or such other farmland conservation mechanism acceptable to the City.

#### Agricultural Operations:

Any agricultural activity, operation, or facility including but not limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including viticulture, apiculture or horticulture, the raising of livestock, fur-bearing animals, fish or poultry, agricultural spoils areas, and any practices performed by a farmer or on a farm as incidental to or in conjunction with such operations, including the legal application of pesticides and fertilizers, use of farm equipment, storage or preparation for market, delivery to storage or to market, or to carriers for transportation to market.

#### Farmland Conservation Easement:

An easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to a farmland conservation easement is an interest in land, which is less than fee simple. However, the farmland conservation easement is permanent.

Farmland Deed Restriction:

The creation of a deed restriction, covenant or condition, which precludes the use of the agricultural land subject to the restriction for any non-agricultural purpose, use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain agricultural land.

Natural Trail:

An unimproved trail.

Preferred Preservation Area:

The agricultural lands located in the Santa Clara County agricultural preserve, specifically the agricultural lands located outside of Gilroy's General Plan boundary and within Gilroy's Sphere of Influence (See Attachment 1 "Preferred Preservation Areas").

Wildlife Habitat:

A wildlife sanctuary that provides water, food shelter and places to raise young for native wildlife.

Wildlife Sanctuary:

An area where native wildlife are safe from people or non-native animals such as dogs and cats.

**Section 1.02 Agricultural Mitigation Requirements**

(A) Those lands that require agricultural mitigation are identified in Figure 4.4-2 and Table 4.4-5 of the City of Gilroy's General Plan 2020 EIR (attached.) Mitigation requirements are not limited to these lands but would include the loss of agricultural lands due to the conversion to urban uses (including actions such as USA amendments, extension of services, or annexation) when the following criteria are met:

- (1) The City of Gilroy shall require agricultural mitigation for the loss of agricultural lands due to conversion to urban uses for land as defined as "prime farmland or farmland of "Statewide Importance" in *Section 1.01 Definitions*. Mitigation shall only be required for that portion of the land that no longer will be designated agricultural land. One time as many acres of agricultural land shall be protected as was changed to a non-agricultural zoning classification (1:1 ratio of land); and
- (2) The project site is deemed a significant impact based upon the completion of a Land Evaluation and Site Assessment Model (General Plan EIR Appendix F-2) as administered through the standard CEQA process during project review.
- (3) With the following exceptions:
  - a. A maximum of 100 feet of the land that will remain in a permanent agricultural buffer; or

- b. An area intended for city public facilities, as set forth in the City's General Plan or Parks Master Plan, that is adjacent to City roads and with nearby city infrastructure that can serve the project. Such public facilities would include public parks and/or public recreational facilities; permanent natural open space that is not disturbed by the development; trails and developed open space that is open to the public; and public school sites.
  - c. Lands dedicated for lanes, median islands, bike lanes, and pedestrian facilities which qualify for Traffic Impact Fund reimbursement or funding and are not required solely due to the proposed development project, shall not be included in the acre count for agricultural mitigation. Typically these lands include the median and all sections of the roadway except the first travel lane along the frontage and the parking/shoulder lanes for arterials. For expressways all lanes including parking, bike, and shoulder plus pedestrian facilities are included. The lands for these lanes, median islands, bike lanes, and pedestrian facilities are for the common good of the community and are not considered specific to the development.
- (4) Specific plan areas may provide agricultural mitigation on-site as established in the specific plan if approved by the City Council. All proposed mitigation in the specific plan must be consistent with the intent of the General Plan EIR Mitigation Measure 4.4-A and this policy as feasible mitigation for the loss of agricultural lands. Additional mitigation acreage may be required outside the specific plan area to meet the 1:1 ratio mitigation requirement.
- (B) Mitigation may be accomplished with one of the following three options and the options shall include all costs to cover program administration and monitoring of established easements:
  - (1) Mitigation 1: Purchase an equal amount of land (1:1 ratio) of agricultural land within the "Preferred Areas" (see *Section 1.01 Definition*) and the transfer of the ownership of this land to the Open Space Authority or other City-approved agency.
  - (2) Mitigation 2: Purchase of development rights to a 1:1 ratio on agricultural land within the "Preferred Areas" and the transfer of ownership of these rights to the Open Space Authority or other City-approved agency. The purchase value of this agricultural conservation easement will be based upon the appraisal of purchasing development rights and not fee-title rights.
  - (3) Mitigation 3: Payment of an in-lieu fee will be based upon the lowest appraisal of purchasing development rights in the "Preferred Areas."
    - a. The in-lieu fees will include all normal and customary administrative and transactional fees charged on a cost recovery basis.
    - b. The in-lieu fees will be maintained by the City in an escrow account and adjusted no more than every two years based on appraisals from the "Preferred Areas" (Attachment 1).

- (C) At the time of any initial land use application approval, the applicant shall enter into a deferred payment or dedication agreement establishing the specific criteria and timing for implementing any required mitigation. This deferred agreement shall be recorded with the County Recorder's Office against the proposed project property. All required mitigation must be completed prior to final map approval, or if no map is required, no later than issuance of the first building permit.
- (D) Lands deemed acceptable for preservation are:
- (1) Those lands designated as "Prime" or of "Statewide Importance" by the State Department of Conservation in the Preferred Areas as defined in Section 1.01 Definitions; and
  - (2) Has an adequate water supply to support the historic agricultural use on the land. The water supply for the land shall be protected in the farmland conservation easement, the farmland deed restriction or other document evidencing the agricultural mitigation.
- (E) Programs with those City-approved agencies handling conservation easements in the "Preferred Areas for Preservation (*Sec. 1.01 Definitions*)", shall include the financial responsibility by the developers for program administration, outreach to landowners and monitoring of established easements. An additional nominal fee to cover these items, the amount of which shall be established by City policy, shall be built into the in-lieu fee outlined in *Section 1.02 (B)*.

### **Section 1.03 Right to Farm Deed Restrictions**

- (A) All lands located within one thousand (1,000) feet of any agricultural lands deemed for preservation, as shown on the Farmland Preservation Area map (Attachment 1), shall be subject to the placement of a "right to farm" deed restriction that conforms with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure requirements as a condition of approval for any discretionary permit.
- (B) The deed restriction shall include the following wording:

"You are hereby notified that the property you are purchasing is located within 1,000 feet of agricultural land, agricultural operations or agricultural processing facilities. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. One or more of the inconveniences described may occur as a result of agricultural operations, which are in compliance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.

Lawful ground rig or aerial application of pesticides, herbicides and fertilizers occur in farming operations. Should you be concerned about spraying, you may contact the Santa Clara County Agricultural Commission."

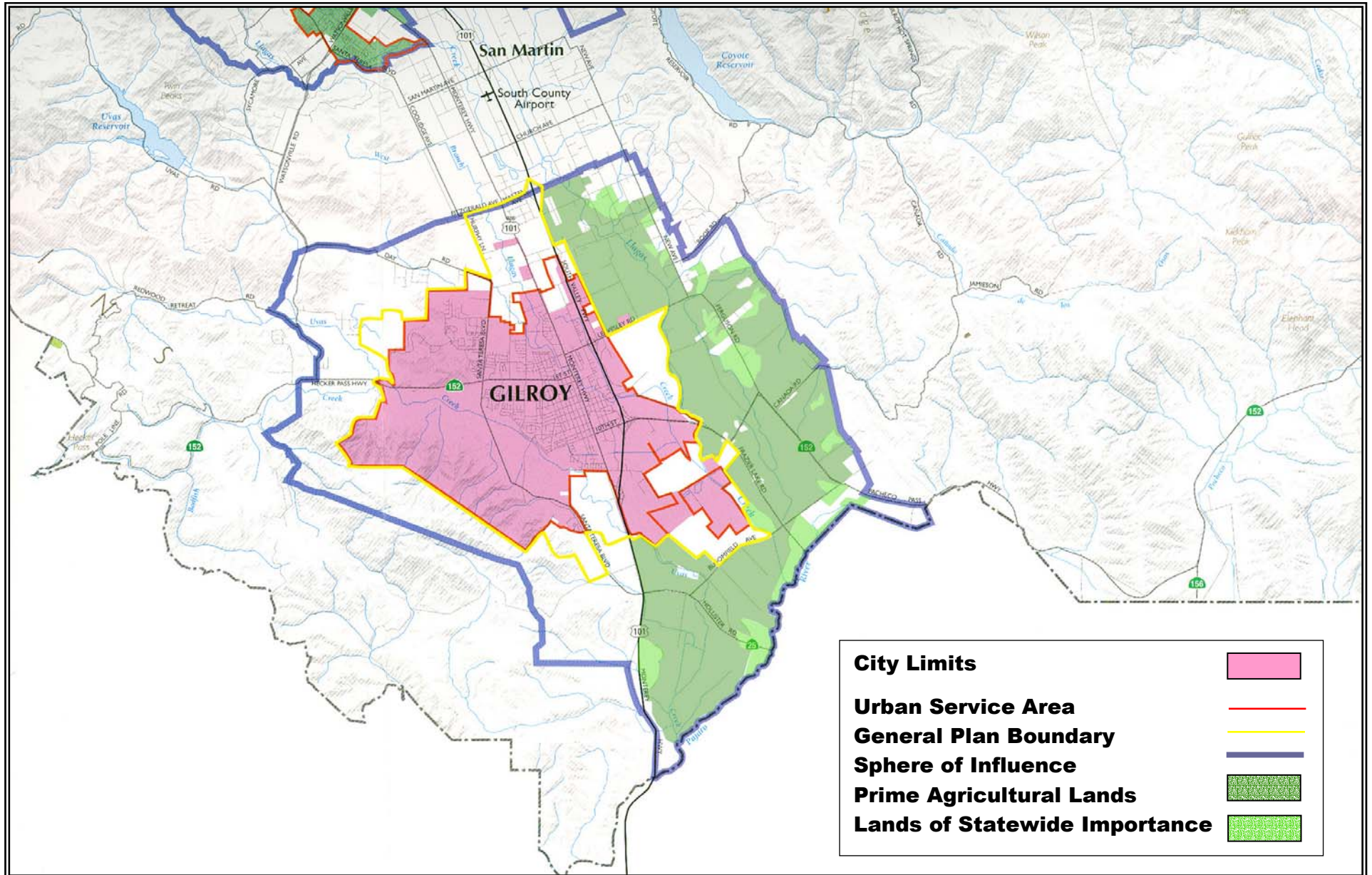


- (C) The Right to Farm Deed Restriction shall be included in all subsequent deeds and leases for this property and shall conform with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure as defined by this policy.

**Section 1.04 Agricultural Buffer**








- (A) To minimize future potential conflicts between agricultural and non-agricultural land uses, all new developments adjacent to designated agricultural, agricultural preserve, agricultural open space, greenbelt/agricultural buffer areas shall be required to provide an agricultural buffer/agricultural transition area.
- (B) The agricultural buffer/agricultural transition area shall be a minimum of one hundred fifty (150) feet measured from the edge of the agricultural, agricultural preserve, greenbelt area. No public access shall be allowed in this transition area due to the potential for complaints about and exposure to the dust and spraying associated with agricultural activities.
- (C) This agricultural buffer/agricultural transition area shall be comprised of two components:
- (1) A one hundred (100) foot minimum wide agricultural buffer zone located adjacent to the agricultural lands or greenbelt area. The following uses in the one hundred (100) foot or greater agricultural buffer area shall be limited to:
    - i. Native plants, trees or hedge rows
    - ii. Drainage channels, storm retention ponds, natural areas such as creeks or drainage swales
    - iii. Railroad tracks or other utility corridors
  - (2) A fifty (50) foot agricultural transition area located between the one hundred (100) foot minimum agricultural buffer area and any new development. The following uses are allowed in the fifty (50) foot agricultural transition area:
    - i. Native plants, trees or hedge rows
    - ii. Drainage channels, storm retention ponds natural areas such as creeks or drainage swales
    - iii. Bike paths, benches, lighting, trash enclosures and fencing
    - iv. Other non-residential uses determined by the Planning Commission to be consistent with the use of the property as an agricultural buffer; such as natural trails, bike paths, wildlife habitats, wildlife sanctuaries, or community service facilities like detention basins.
- (D) The agricultural buffer/transition area shall be constructed by the developer of any land adjacent to agricultural uses, subject to approved plans by the Community Development Department. This area shall be maintained by the developer according to standards approved by the City until the area is dedicated to and accepted by the City or other City approved agency at which time they shall be responsible for maintenance.

# City of Gilroy






**Figure 4.4-2  
Important Farmland Map**



-  = Prime Farmland
-  = Farmland of Statewide Importance
-  = Unique Farmland
-  = Farmland of Local Importance
-  = Grazing Land
-  = Other Land
-  = Urban and Built Up Land

**CITY LIMITS**  
**20 YEAR PLANNING BOUNDARY (PROPOSED)**

 Prime Farmland and Farmland of Statewide Importance Added to Planning Area or Existing Farmland Within the Planning Area Where the Designation Would Change from Open Space to an Urban Use

 Farmland Proposed for Removal from the Planning Area

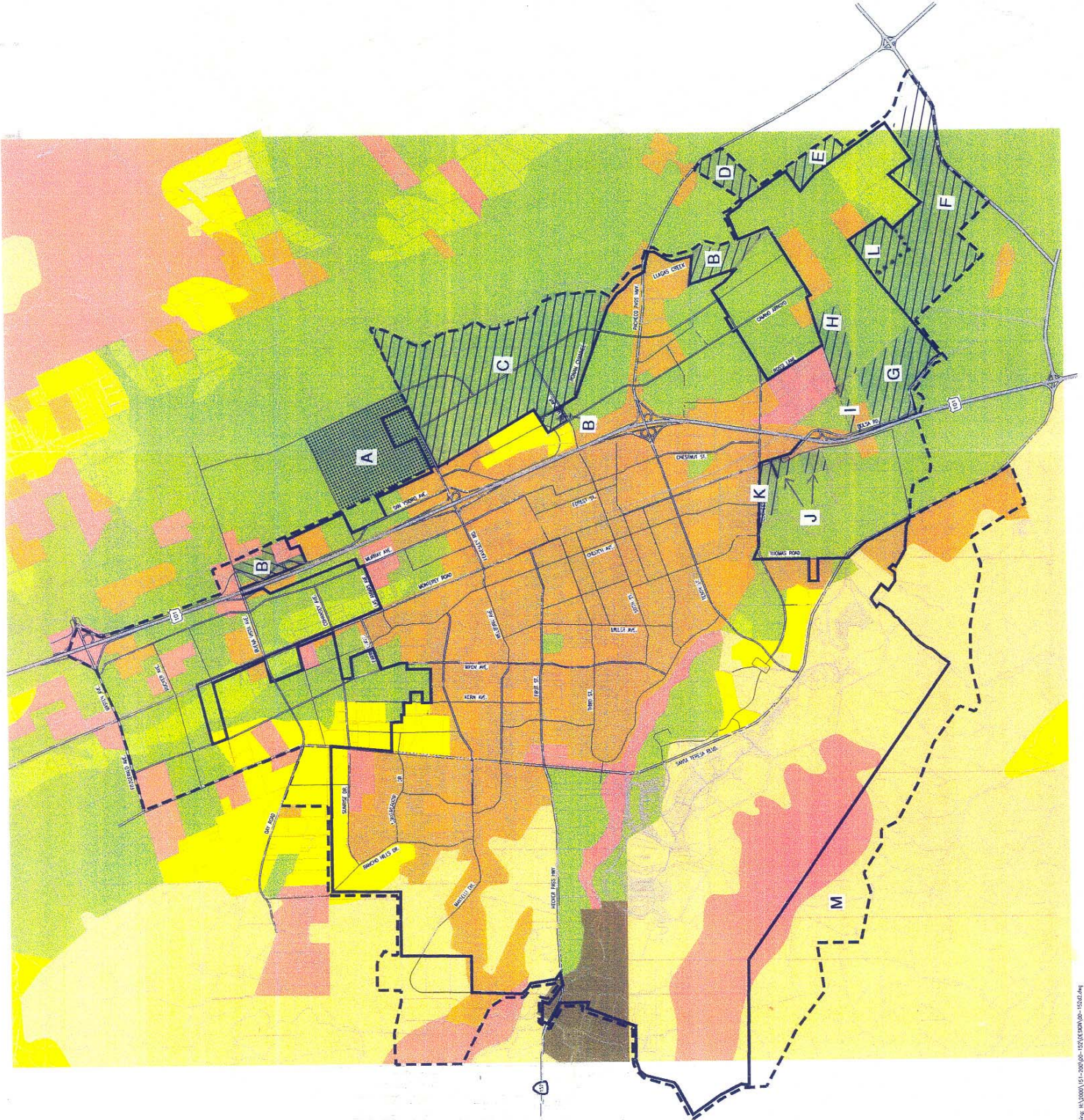
**CIRCULATION LEGEND**

-  FREEWAY
-  EXPRESSWAY
-  ARTERIAL
-  COLLECTOR

This map was prepared by staff of the City of Gilroy Planning Department, and is intended to provide information only. It is not intended to be used as a legal document. The City of Gilroy and its staff assume no responsibility for any errors or omissions.



revised 7/11/01





## Attachment 3

Table 4.4-5 Changes to Land Use Designations or General Plan Boundary <sup>1</sup> Involving Agricultural Lands		
Area ID	Notes	Acres (Approx.)
A	Prime farmland proposed for removal from the planning area (274 acres total of which 40 acres is rural residential). With the proposed General Plan, the site will be designated as County agricultural and rural residential.	-234
B	Prime farmland to be designated as Campus/General Industrial to better align the planning boundary along the east side of planning area. ("Other land" of 15 acre in northernmost area <i>not</i> included in table or on Figure 4.4-1	93
C	Prime farmland to be added to the planning area and redesignated as Campus Industrial (430 acres) and Open Space (234 acres). The Open Space area is not expected to be actively farmed due to the fact that it would be bound on the west by drainage/recreational uses upon development of the 430 acres of Campus Industrial, on the east by Llagas Creek, and the land between the two is expected to be too narrow to be effectively farmed. See more details in the following section.	664
D	Prime farmland to be added to the planning area as Public Facility. This land to be used by the South County Regional Wastewater Authority (SCRWA).	49
F	Prime and Statewide-Important farmland to be added to the planning area as Public Facility for the South county Regional Wastewater Authority.	380
E, G, H, I, J, K, L	Prime and Statewide-Important farmland within the existing and proposed General Plan areas to be redesignated from Open Space to urban uses. See below for more information.	381
M	Ranchlands to be added to the planning area and designated as Open Space. The new designation does not permit any urban development but does permit grazing; therefore it is not considered an urban use nor a conversion of agricultural land.	1,470
Farmland Proposed to Be Added to Planning Area		952
Farmland Proposed to Be Added/Converted from City or County open space or agricultural designation to an urban land use designation.		1,333
<sup>1</sup> The General Plan Boundary used for this analysis is the "Boundary of the Planning Area" shown in the General Plan map dated 1/7/98 with changes approved in the amendment for the Gilroy Sports Park.		

## AGRICULTURAL MITIGATION Policy applicability

<b>GENERAL PLAN EIR - Additional Agricultural Mitigation Measures (4.4.a)</b>		
Is the site located within an area identified in the GP EIR as being converted to urban designation (see attachments 2 & 3 of Ag Policy)?	Yes, subject to mitigation through the Ag Policy.	No, continue to next question
Is the site designated as farmland that is either of prime or statewide importance according to according to the State Department of Conservation Important Farmland Mapping?	Yes, continue to CEQA Review	No, not subject to policy
<b>California Environmental Quality Act (CEQA) Review</b>		
Does it score as significant based on the California Department of Conservation Agricultural Land Evaluation and Site Assessment (LESA) model?	Yes, mitigation through the Ag Policy is required	No, continue to next question
Are there any Williamson Act Contracts in place on the property?	Yes, significant unavoidable impact	No mitigation required, less than significant impact

\* CEQA requires all feasible mitigation for significant unavoidable impacts. Upon certification of the General Plan EIR, the City Council declared that an Agricultural Mitigation Program is deemed feasible mitigation. Therefore significant impacts as determined under CEQA would be subject to the City's Agricultural Mitigation Policy.



**Table 9. California LESA Model Scoring Thresholds**

**Total LESA Score Scoring Decision**

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0 to 39 Points	Not Considered Significant
40 to 59 Points	Considered Significant <u>only</u> if LE <u>and</u> SA subscores are each <u>greater</u> than or equal to 20 points
60 to 79 Points	Considered Significant unless <u>either</u> LE <u>or</u> SA subscore is <u>less</u> than 20 points
80 to 100 Points	Considered Significant

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# **Biological Resources**

APPENDIX D

## **Biological Resources**

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APPENDIX D-1 SBCWD GWP FEIR SPECIES TABLE

<b>Table 14</b> <b>Status and Potential Occurrence of Special-Status Plant and Animal Species</b>			
NAME	STATUS*	HABITAT	LOCAL OCCURRENCE
<b>Federal or State Endangered or Threatened Species</b>			
<b>Invertebrates</b>			
Vernal Pool Fairy Shrimp ( <i>Branchinecta lynchi</i> )	FT	Ephemeral freshwater vernal pools.	Distribution poorly known. Occurs in southern San Benito County, could occur in vernal pools in northern San Benito County.
<b>Fish</b>			
Steelhead south/central California ESU ( <i>Onchorhynchus mykiss</i> )	FT, CSSC	Free-flowing coastal rivers and streams. Spawning habitat: clear, cool streams with overhanging vegetation.	Distribution in San Benito County poorly known. Could occur in any tributary of the Pajaro River with unobstructed access.
<b>Amphibians</b>			
California Red-legged Frog ( <i>Rana aurora draytoni</i> )	FT, SP, CSSC	Streams, freshwater pools and ponds with overhanging vegetation. Requires pools of 1 m depth for breeding.	Found in a variety of freshwater habitats throughout San Benito County.
<b>Birds</b>			
Western Yellow-billed Cuckoo ( <i>Coccyzus americanus occidentalis</i> )	FC, SE	Breeds in mature riparian forests; primarily in Sierra Nevada foothills.	Not found in San Benito County since 1899. Presumed absent.
California Condor ( <i>Gymnogyps californianus</i> )	FE, SE	Forages for carrion over a variety of open habitats.	Reintroduction program recently initiated at Pinnacles NM. Foraging individuals could occur in south San Benito County.
American Peregrine Falcon ( <i>Falco peregrinus</i> )	FD, SE	Forages for other birds over a variety of habitats. Breeds primarily on rocky cliffs.	Could breed in southern portion of project area. Foraging individuals could occur throughout San Benito County.
Bald Eagle ( <i>Haliaeetus leucocephalus</i> )	FD, SE	Forages in rivers and lakes for large fish. Does not breed locally.	Wintering birds forage at local reservoirs.
Southwestern Willow Flycatcher ( <i>Empidonax trailii extimus</i> )	FE, SE	Breeds in mature riparian habitat. Now extirpated from coastal California.	No recent records of breeding birds west of the San Joaquin Valley. Migrant Willow Flycatchers in San Benito County would almost certainly be the northern, unlisted, subspecies. Presumed absent.
Least Bell's Vireo ( <i>Vireo bellii pusillus</i> )	FE, SE	Breeds in thick willow riparian groves. Range, once thought to be limited to southern California, is expanding.	Historic record of a nesting pair at the Pajaro River and Highway 101. No recent records for the Hollister area. Probably absent, however, range is expanding. Could occur in suitable habitat.
Bank Swallow ( <i>Riparian riparia</i> )	ST	Nests in colonies in sandy banks along riparian habitat.	No recent nesting records in San Benito County. Assumed absent during nesting season. Could forage at site during migration.
<b>Mammals</b>			
San Joaquin kit fox ( <i>Vulpes macrotis mutica</i> )	FE, ST	Occurs in grasslands and scrublands in the San Joaquin Valley and coastal valleys in central California.	Historic records around Hollister from 1972-1975 (CNDDDB). No recent local records, but could occur.
<b>Federal or State Candidate Species</b>			
Mountain Plover ( <i>Charadrius montanus</i> )	FC, CSSC	Breeds in great plains, winters in Central Valley and other flat open habitats in California.	Rare winter visitor to San Benito County. Could occur on agricultural fields and other open habitats.

<b>Table 14</b> <b>Status and Potential Occurrence of Special-Status Plant and Animal Species</b>			
<b>NAME</b>	<b>STATUS*</b>	<b>HABITAT</b>	<b>LOCAL OCCURRENCE</b>
California Tiger Salamander ( <i>Ambystoma californiense</i> )	FC, CSSC, SP	Vernal or temporary pools in annual grasslands, or open stages of woodlands. Typically burrows in ground squirrel burrows.	Found in grasslands and aquatic habitats throughout San Benito County.
<b>State Species of Special Concern</b>			
<b>Fish</b>			
Monterey roach ( <i>Lavinia symmetricus subditus</i> )	CSSC	Small, warm intermittent streams and isolated pools.	Occurs in San Benito River and other tributaries of the Pajaro River.
<b>Reptiles and Amphibians</b>			
Western Pond Turtle ( <i>Clemmys marmorata</i> )	CSSC, SP	Permanent or nearly permanent water in a variety of habitats.	Found in a variety of freshwater habitats throughout San Benito County.
California Legless Lizard ( <i>Anniella pulchra</i> )	CSSC	Sandy or loose loamy soils, including stream terraces and coastal dunes.	Could occur in San Benito River channel and similar habitats.
California Horned Lizard ( <i>Phrynosoma coronatum frontale</i> )	CSSC	Exposed gravelly-sandy substrates usually containing scattered shrubs, clearings in riparian woodlands.	Could occur in San Benito River channel and similar habitats.
San Joaquin Whipsnake ( <i>Masticophis flagellum ruddocki</i> )	CSSC	A variety of dry open habitats.	Records from San Benito River channel near Hollister, and south of Hollister. Could occur elsewhere in similar habitats.
Western Spadefoot ( <i>Scaphiopus hammondi</i> )	CSSC	Requires temporary rain pools for breeding. During most of the year, burrows in loose soil, primarily in grasslands.	Records from aquatic habitats south of Hollister.
Foothill Yellow-legged Frog ( <i>Rana boylei</i> )	CSSC	Small to moderate-sized streams and rivers with some cobble substrate.	No local records, but could occur in the southern San Benito River, Pacheco Creek, and similar habitats.
Coast Range Newt ( <i>Taricha torosa</i> )	CSSC	Ponds, reservoirs, and slow-moving streams, and adjacent terrestrial habitat.	One local record southwest of Hollister. Could occur elsewhere in San Benito County.
<b>Birds</b>			
American White Pelican ( <i>Pelecanus erythrorhynchos</i> )	CSSC	Breeds primarily in Great Basin, summer visitor to the Central Valley and coastal California.	Summer visitor to local reservoirs and wetlands.
Burrowing Owl ( <i>Athene cunicularia</i> )	CSSC	Grassland habitat with ground squirrel burrows (used for nesting).	Breeding records in Flint Hills and northern margin of Flint Hills. Could occur elsewhere in suitable habitat.
Northern Harrier ( <i>Circus cyaneus</i> )	CSSC	Forages in open to herbaceous stages of many habitats. Breeds in marshes and prairies.	Could breed in undisturbed grasslands. Likely to forage over a variety of open habitats.
Cooper's Hawk ( <i>Accipiter cooperii</i> )	CSSC	Breeds in riparian woodlands and wooded canyons.	Unlikely to breed near project sites. Could occasionally forage throughout San Benito County.
Osprey ( <i>Pandion haliaetus</i> )	CSSC	Forages and breeds near rivers and lakes.	Not known to breed locally. Could forage at local reservoirs.
Golden Eagle ( <i>Aquila chrysaetos</i> )	CSSC, SP	Breeds on cliffs or in large trees or structures.	Could breed in southern San Benito County, and forage over entire county. Not likely to nest near project sites.
Ferruginous Hawk ( <i>Buteo regalis</i> )	CSSC	Forages in grasslands and occasionally in other open habitats during migration and winter.	Uncommon winter visitor. Forages over grasslands and other open habitats.



<b>Table 14</b> <b>Status and Potential Occurrence of Special-Status Plant and Animal Species</b>			
<b>NAME</b>	<b>STATUS*</b>	<b>HABITAT</b>	<b>LOCAL OCCURRENCE</b>
Prairie Falcon ( <i>Falco mexicanus</i> )	CSSC	Resident in dry open country, additional migrants in winter.	Could breed in southern San Benito County, and forage over entire county. Not likely to nest near project sites.
Sharp-shinned Hawk ( <i>Accipiter striatus</i> )	CSSC	Nests in woodlands, forages in many habitats in winter and migration.	Winter visitor. Forages primarily over riparian and vegetated habitats.
Merlin ( <i>Falco columbarius</i> )	CSSC	Uses many habitats in winter and migration.	Winter visitor. Could forage over a variety of habitats throughout county.
Vaux's Swift ( <i>Chaetura vauxi</i> )	CSSC	Nests in snags in coastal coniferous forests or, occasionally, in chimneys; forages aerially.	Likely to be present only during migration (spring and fall). Uncommon.
California Horned Lark ( <i>Eremophila alpestris actia</i> )	CSSC	Short-grass prairie, annual grasslands, coastal plains, and open fields.	Nesting records from east and south of Hollister. Could occur in other grassland habitats as well.
Tricolored Blackbird ( <i>Agelaius tricolor</i> )	CSSC	Breeds near freshwater in dense emergent vegetation.	Nesting colonies could be present throughout San Benito County.
Black Swift ( <i>Cypseloides niger</i> )	CSSC	Nests on wet cliffs, often behind waterfalls. Forages aerially.	Likely to be present only during migration (spring and fall). Uncommon.
California Gull ( <i>Larus californicus</i> )	CSSC	Nests in the Great Basin and San Francisco Bay area. Winters along the Pacific Coast and the Central Valley.	Common winter visitor in many habitats.
California Yellow Warbler ( <i>Dendroica petechia brewsteri</i> )	CSSC	Breeds in riparian woodland and meadow edges.	Uncommon breeder in mature riparian areas.
Yellow-breasted Chat ( <i>Icteria virens</i> )	CSSC	Breeds in extensive riparian woodland habitat.	Uncommon breeder in mature riparian areas.
Loggerhead Shrike ( <i>Lanius ludovicianus</i> )	CSSC	Resident in dry open grasslands.	Common resident throughout San Benito County.
<b>Mammals</b>			
Big-eared Kangaroo Rat ( <i>Dipodomys elephantinus</i> )	CSSC	Resident in chaparral habitat and dry oak woodland habitat.	Nearly endemic to San Benito County. Not likely to occur in lowland habitats that will be affected by the GWMP Update.
California mastiff bat ( <i>Eumops perotis californicus</i> )	CSSC	Forages over many habitats; requires tall cliffs or buildings for roosting sites.	Likely present in southern San Benito County.
Townsend's big-eared bat ( <i>Plecotus townsendii</i> )	CSSC	Roosts in caves and mine tunnels in a variety of habitats.	Likely present in southern San Benito County.
Pallid bat ( <i>Antrozous pallidus</i> )	CSSC	Forages over many habitats.	Likely present in much of San Benito County.
<b>State Protected Species or CNPS Species</b>			
<b>Plants</b>			
alkali milk vetch ( <i>Astragalus tener</i> var. <i>tener</i> )	CNPS 1B	Alkaline soils in playas, vernal pools, and adobe clay areas in valley and foothill grassland	New project elements are within the known range of this species and suitable habitat is present within the GWMP Update Area.

**Table 14**  
**Status and Potential Occurrence of Special-Status Plant and Animal Species**

NAME	STATUS*	HABITAT	LOCAL OCCURRENCE
San Joaquin saltbush ( <i>Atriplex joaquiniana</i> )	CNPS 1B	Chenopod scrub, meadow, playa, and valley and foothill grassland habitats, particularly in areas with alkaline substrates	New project elements are within the known range of this species and suitable habitat is present within the GWMP Update Area.
Congdon's tarplant ( <i>Centromadia parryi</i> ssp. <i>congdonii</i> )	CNPS 1B	Valley and foothill grassland habitat, particularly in areas with alkaline substrates, and in sumps or disturbed areas where water collects	New project elements are within the known range of this species and suitable habitat is present within the GWMP Update Area.
round-leaved filaree ( <i>Erodium macrophyllum</i> )	CNPS 2	Clay soils in cismontane woodland and valley and foothill grassland habitats.	New project elements are within the known range of this species and suitable habitat is present within the GWMP Update Area.
Indian Valley bush mallow ( <i>Malacothamnus aboriginum</i> )	CNPS 1B	Rocky areas in chaparral and cismontane woodland habitats; often found on burned areas.	New project elements are within the known range of this species and suitable habitat is present within the GWMP Update Area.
hairless popcorn-flower ( <i>Plagiobothrys glaber</i> )	CNPS 1A	Wet, alkaline soils in meadows and coastal salt marshes and swamps	New project elements are within the known range of this species and suitable habitat is present within the GWMP Update Area.
Saline clover ( <i>Trifolium depauperatum</i> var. <i>hydrophilum</i> )	CNPS 1B	Marshes and swamps, mesic and/or alkaline valley and foothill grasslands and vernal pools.	Recently reported in agricultural fields adjacent to the Pajaro River in the northern GWMP Update area.
<b>Birds</b>			
White-tailed Kite ( <i>Elanus leucurus</i> )	SP	Resident of river valleys, riparian woodlands, and adjacent fields.	Could breed locally, and forage over a variety of habitats.
<b>Mammals</b>			
Ringtail ( <i>Bassariscus astutus</i> )	SP	Prefers riparian and heavily wooded habitats near water.	Range poorly known. Could occur in suitable riparian habitat.

**\*SPECIAL STATUS CODE DESIGNATIONS**

FE	=	Federally listed Endangered
FT	=	Federally listed Threatened
FC	=	Federal Candidate. Sufficient biological information to support a proposal to list the species as Endangered or Threatened
SE	=	State listed Endangered
ST	=	State listed Threatened
SR	=	State listed as Rare
CSSC	=	California Species of Special Concern
CNPS 1A	=	Plants considered by the CNPS to be extinct in California.
CNPS 1B	=	Plants rare, threatened, or endangered in California and elsewhere.
CNPS 2	=	Plants rare, threatened, or endangered in California, but more numerous elsewhere.
SP	=	State Protected Species

## **Biological Resources**

APPENDIX D-2 California Natural Diversity Database Results

# **Ambystoma californiense**

California tiger salamander

Element Code: AAAAA01147

Status	NDBB Element Ranks	Other Lists
<b>Federal:</b> Proposed Threatened	<b>Global:</b> G2G3	<b>CDFG Status:</b> SC
<b>State:</b> None	<b>State:</b> S2S3	
Habitat Associations		
<b>General:</b> POPULATIONS IN SANTA BARBARA & SONOMA COUNTIES CURRENTLY LISTED AS ENDANGERED. PROPOSAL TO LIST AS THREATENED STATEWIDE.		
<b>Micro:</b> NEED UNDERGROUND REFUGES, ESPECIALLY GROUND SQUIRREL BURROWS & VERNAL POOLS OR OTHER SEASONAL WATER SOURCES FOR BREEDING		

<b>Occurrence No.</b> 112	<b>Map Index:</b> 17384	<b>EO Index:</b> 11941	<b>Dates Last Seen</b>	
<b>Occ Rank:</b> Fair			<b>Element:</b> 1990-04-04	
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1990-04-04	
<b>Presence:</b> Presumed Extant			<b>Record Last Updated:</b> 1991-02-05	
<b>Trend:</b> Unknown				
<b>Main Source:</b> VONARB, R. 1990 (OBS)				
<b>Quad Summary:</b> SAN FELIPE (3612184/385B)				
<b>County Summary:</b> SAN BENITO				
<b>Lat/Long:</b> 36.95585° / -121.38535°			<b>Township:</b> 11S	
<b>UTM:</b> Zone-10 N4091192 E643753			<b>Range:</b> 05E	
<b>Radius:</b> 80 meters	<b>Mapping Precision:</b> SPECIFIC		<b>Section:</b> XX	<b>Qtr:</b> XX
<b>Elevation:</b> 250 ft	<b>Symbol Type:</b> POINT		<b>Meridian:</b> M	
<b>Location:</b> JUST WEST OF ROUTE 156, 0.25 SOUTH OF THE BARNHEISEL ROAD JUNCTION, APPROXIMATELY 4.5 MI NNE OF HOLLISTER MUNI AIRPORT.				
<b>Location Detail:</b> 200-300 INDIVIDUALS OBSERVED IN A STOCK POND USED BY CATTLE.				
<b>Ecological:</b> SURROUNDING HABITAT IS GRASSLAND/OAK WOODLAND.				
<b>Threat:</b> SITE IS PROPOSED FOR ROADWAY CONSTRUCTION.				
<b>General:</b> THE STOCK POND DRIED UP EARLY IN 1990 DUE TO DROUGHT CONDITIONS.				
<b>Owner/Manager:</b> PVT				

<b>Occurrence No.</b> 176	<b>Map Index:</b> 24501	<b>EO Index:</b> 6596	<b>Dates Last Seen</b>	
<b>Occ Rank:</b> Fair			<b>Element:</b> 1992-XX-XX	
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1992-XX-XX	
<b>Presence:</b> Presumed Extant			<b>Record Last Updated:</b> 1993-11-03	
<b>Trend:</b> Unknown				
<b>Main Source:</b> BLIZARD, R. & R. VONARB 1992 (OBS)				
<b>Quad Summary:</b> SAN FELIPE (3612184/385B)				
<b>County Summary:</b> SANTA CLARA				
<b>Lat/Long:</b> 36.96395° / -121.39506°			<b>Township:</b> 11S	
<b>UTM:</b> Zone-10 N4092076 E642874			<b>Range:</b> 05E	
<b>Radius:</b> 80 meters	<b>Mapping Precision:</b> SPECIFIC		<b>Section:</b> XX	<b>Qtr:</b> XX
<b>Elevation:</b> 350 ft	<b>Symbol Type:</b> POINT		<b>Meridian:</b> M	
<b>Location:</b> NORTH SIDE OF PACHECO PASS HWY, 0.7 MILE WEST OF THE HWY 156 JUNCTION, 7 MILES NORTH OF HOLLISTER.				
<b>Ecological:</b> HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.				
<b>Threat:</b> THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).				
<b>General:</b> 2 YOUNG FOUND AT THIS SITE DURING SURVEYS CONDUCTED MARCH-JUNE 1992.				
<b>Owner/Manager:</b> PVT				

<b>Occurrence No.</b> 177	<b>Map Index:</b> 24500	<b>EO Index:</b> 6597	<b>Dates Last Seen</b>	
<b>Occ Rank:</b> Fair			<b>Element:</b> 1992-XX-XX	
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1992-XX-XX	
<b>Presence:</b> Presumed Extant			<b>Record Last Updated:</b> 1993-11-03	
<b>Trend:</b> Unknown				
<b>Main Source:</b> BLIZARD, R. & R. VONARB 1992 (OBS)				
<b>Quad Summary:</b> SAN FELIPE (3612184/385B)				
<b>County Summary:</b> SANTA CLARA				
<b>Lat/Long:</b> 36.96435° / -121.40269°			<b>Township:</b> 11S	
<b>UTM:</b> Zone-10 N4092109 E642194			<b>Range:</b> 05E	
<b>Radius:</b> 80 meters	<b>Mapping Precision:</b> SPECIFIC		<b>Section:</b> XX	<b>Qtr:</b> XX
<b>Elevation:</b> 400 ft	<b>Symbol Type:</b> POINT		<b>Meridian:</b> M	
<b>Location:</b> 0.25 MILE NORTH OF PACHECO PASS HWY, 1.1 MILES WEST OF THE HWY 156 JUNCTION, 7 MILES NORTH OF HOLLISTER.				
<b>Ecological:</b> HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.				
<b>Threat:</b> THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).				
<b>General:</b> 10+ YOUNG OBSERVED DURING A 1992 SURVEY CONDUCTED MARCH-JUNE.				
<b>Owner/Manager:</b> PVT				

# **Ambystoma californiense**

California tiger salamander

Element Code: AAAAA01147

Status	NDBB Element Ranks	Other Lists
Federal: Proposed Threatened	Global: G2G3	CDFG Status: SC
State: None	State: S2S3	

## **Habitat Associations**

**General:** POPULATIONS IN SANTA BARBARA & SONOMA COUNTIES CURRENTLY LISTED AS ENDANGERED. PROPOSAL TO LIST AS THREATENED STATEWIDE.  
**Micro:** NEED UNDERGROUND REFUGES, ESPECIALLY GROUND SQUIRREL BURROWS & VERNAL POOLS OR OTHER SEASONAL WATER SOURCES FOR BREEDING

Occurrence No. 178	Map Index: 24499	EO Index: 6598	Dates Last Seen
Occ Rank: Fair			Element: 1992-XX-XX
Origin: Natural/Native occurrence			Site: 1992-XX-XX
Presence: Presumed Extant			
Trend: Unknown			Record Last Updated: 1993-11-03
Main Source: BLIZARD, R. & R. VONARB 1992 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SANTA CLARA

Lat/Long: 36.96566° / -121.40615°	Township: 11S
UTM: Zone-10 N4092249 E641863	Range: 05E
Radius: 80 meters	Section: XX
Elevation: 310 ft	Meridian: M
Mapping Precision: SPECIFIC	Qtr: XX
Symbol Type: POINT	

**Location:** 0.15 MILE NORTH OF PACHECO PASS HWY, 1.25 MILES WEST OF THE HWY 156 JUNCTION, 7 MILES NORTH OF HOLLISTER.

**Ecological:** HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.

**Threat:** THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).

**General:** 10-20+ YOUNG OBSERVED DURING SURVEYS CONDUCTED MARCH-JUNE 1992.

**Owner/Manager:** PVT

Occurrence No. 179	Map Index: 24498	EO Index: 6599	Dates Last Seen
Occ Rank: Fair			Element: 1992-XX-XX
Origin: Natural/Native occurrence			Site: 1992-XX-XX
Presence: Presumed Extant			
Trend: Unknown			Record Last Updated: 1993-11-03
Main Source: BLIZARD, R. & R. VONARB 1992 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SANTA CLARA

Lat/Long: 36.97312° / -121.42643°	Township: 11S
UTM: Zone-10 N4093047 E640064	Range: 05E
Radius: 80 meters	Section: XX
Elevation: 160 ft	Meridian: M
Mapping Precision: SPECIFIC	Qtr: XX
Symbol Type: POINT	

**Location:** NORTH SIDE OF PACHECO PASS HWY, 2.4 MILES WEST OF THE HWY 156 JUNCTION, 9 MILES EAST OF GILROY.

**Ecological:** HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.

**Threat:** THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).

**General:** 10-20+ YOUNG OBSERVED DURING SURVEYS CONDUCTED MARCH-JUNE 1992.

**Owner/Manager:** PVT

Occurrence No. 180	Map Index: 24497	EO Index: 6600	Dates Last Seen
Occ Rank: Fair			Element: 1992-XX-XX
Origin: Natural/Native occurrence			Site: 1992-XX-XX
Presence: Presumed Extant			
Trend: Unknown			Record Last Updated: 1993-11-03
Main Source: BLIZARD, R. & R. VONARB 1992 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SANTA CLARA

Lat/Long: 36.97429° / -121.43108°	Township: 11S
UTM: Zone-10 N4093170 E639647	Range: 05E
Radius: 80 meters	Section: XX
Elevation: 250 ft	Meridian: M
Mapping Precision: SPECIFIC	Qtr: XX
Symbol Type: POINT	

**Location:** 0.15 MILE NORTH OF PACHECO PASS HWY, 0.75 MILE WEST OF THE SAN FELIPE ROAD JUNCTION, 9 MILES EAST OF GILROY.

**Ecological:** HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.

**Threat:** THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).

**General:** 20+ YOUNG OBSERVED DURING A SURVEY CONDUCTED DURING MARCH-JUNE 1992.

**Owner/Manager:** PVT



***Ambystoma californiense***

California tiger salamander

Element Code: AAAAA01147

Status	NDDB Element Ranks	Other Lists
Federal: Proposed Threatened	Global: G2G3	CDFG Status: SC
State: None	State: S2S3	
Habitat Associations		
General: POPULATIONS IN SANTA BARBARA & SONOMA COUNTIES CURRENTLY LISTED AS ENDANGERED. PROPOSAL TO LIST AS THREATENED STATEWIDE.		
Micro: NEED UNDERGROUND REFUGES, ESPECIALLY GROUND SQUIRREL BURROWS & VERNAL POOLS OR OTHER SEASONAL WATER SOURCES FOR BREEDING		

Occurrence No.	181	Map Index:	24496	EO Index:	6601	Dates Last Seen	
Occ Rank:	Fair					Element:	1992-XX-XX
Origin:	Natural/Native occurrence					Site:	1992-XX-XX
Presence:	Presumed Extant					Record Last Updated:	
Trend:	Unknown					1993-11-03	
Main Source:	BLIZARD, R. & R. VONARB 1992 (OBS)						
Quad Summary: SAN FELIPE (3612184/385B)							
County Summary: SANTA CLARA							
Lat/Long:	36.99085° / -121.44693°				Township:	11S	
UTM:	Zone-10 N4094984 E638207				Range:	05E	
Radius:	80 meters				Mapping Precision:	Section:	Qtr: XX
Elevation:	200 ft				Symbol Type:	Meridian:	M
Location: 0.2 MILE NORTH OF PACHECO PASS HWY, 2 MILES NW OF THE LOVERS LANE JUNCTION, 8 MILES EAST OF GILROY.							
Ecological: HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.							
Threat: THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).							
General: 40+ YOUNG OBSERVED DURING A SURVEY CONDUCTED DURING MARCH-JUNE 1992.							
Owner/Manager: PVT							

Occurrence No.	182	Map Index:	24495	EO Index:	6602	Dates Last Seen	
Occ Rank:	Fair					Element:	1992-XX-XX
Origin:	Natural/Native occurrence					Site:	1992-XX-XX
Presence:	Presumed Extant					Record Last Updated:	
Trend:	Unknown					1995-11-15	
Main Source:	BLIZARD, R. & R. VONARB 1992 (OBS)						
Quad Summary: SAN FELIPE (3612184/385B)							
County Summary: SANTA CLARA							
Lat/Long:	36.98967° / -121.45298°				Township:	11S	
UTM:	Zone-10 N4094844 E637671				Range:	05E	
Radius:	80 meters				Mapping Precision:	Section:	Qtr: XX
Elevation:	200 ft				Symbol Type:	Meridian:	M
Location: 0.1 MILE NORTH OF PACHECO PASS HWY, 0.5 MILE NE OF SAN FELIPE LAKE, 8 MILES EAST OF GILROY.							
Ecological: HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.							
Threat: THREATS INCLUDE GRAZING AND NON-NATIVE PREDATORS (RED FOX, FERAL CATS).							
General: 20+ YOUNG OBSERVED DURING A SURVEY CONDUCTED MARCH-JUNE 1992.							
Owner/Manager: PVT							

Occurrence No.	183	Map Index:	24494	EO Index:	6603	Dates Last Seen	
Occ Rank:	Fair					Element:	1992-XX-XX
Origin:	Natural/Native occurrence					Site:	1992-XX-XX
Presence:	Presumed Extant					Record Last Updated:	
Trend:	Unknown					1993-11-04	
Main Source:	BLIZARD, R. & R. VONARB 1992 (OBS)						
Quad Summary: SAN FELIPE (3612184/385B)							
County Summary: SANTA CLARA							
Lat/Long:	36.98430° / -121.46518°				Township:	11S	
UTM:	Zone-10 N4094231 E638594				Range:	05E	
Radius:	80 meters				Mapping Precision:	Section:	Qtr: XX
Elevation:	180 ft				Symbol Type:	Meridian:	M
Location: JUST NORTH OF PACHECO PASS HWY, NW OF SAN FELIPE LAKE, 7 MILES EAST OF GILROY.							
Ecological: HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.							
Threat: THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).							
General: MANY YOUNG OBSERVED DURING A MARCH-JUNE 1992 SURVEY.							
Owner/Manager: PVT							

**Ambystoma californiense**

California tiger salamander

Element Code: AAAA01147

Status	NDDB Element Ranks	Other Lists
Federal: Proposed Threatened	Global: G2G3	CDFG Status: SC
State: None	State: S2S3	

**Habitat Associations**

**General:** POPULATIONS IN SANTA BARBARA & SONOMA COUNTIES CURRENTLY LISTED AS ENDANGERED. PROPOSAL TO LIST AS THREATENED STATEWIDE.  
**Micro:** NEED UNDERGROUND REFUGES, ESPECIALLY GROUND SQUIRREL BURROWS & VERNAL POOLS OR OTHER SEASONAL WATER SOURCES FOR BREEDING

<b>Occurrence No.</b> 184	<b>Map Index:</b> 24493	<b>EO Index:</b> 6604	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Fair			<b>Element:</b> 1992-XX-XX
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1992-XX-XX
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 1993-12-30
<b>Main Source:</b> BLIZARD, R. & R. VONARB 1992 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B)  
**County Summary:** SANTA CLARA

<b>Lat/Long:</b> 36.98752° / -121.48703°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4094557 E634644	<b>Range:</b> 04E
<b>Radius:</b> 80 meters	<b>Section:</b> XX
<b>Elevation:</b> 150 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** JUST EAST OF THE BLOOMFIELD AVENUE INTERSECTION WITH PACHECO PASS HWY, 6 MILES EAST OF GILROY.

**Ecological:** HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.

**Threat:** THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).

**General:** 25+ YOUNG OBSERVED DURING A MARCH-JUNE 1992 SURVEY.

**Owner/Manager:** PVT

<b>Occurrence No.</b> 259	<b>Map Index:</b> 26004	<b>EO Index:</b> 5140	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1991-05-27
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1991-05-27
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 1996-04-23
<b>Main Source:</b> SHAFFER, H. ET AL 1993 (LIT)			

**Quad Summary:** SAN FELIPE (3612184/385B)  
**County Summary:** SAN BENITO

<b>Lat/Long:</b> 36.89235° / -121.47269°	<b>Township:</b> 12S
<b>UTM:</b> Zone-10 N4084019 E636090	<b>Range:</b> 05E
<b>Area:</b> 6.5 ac	<b>Section:</b> XX
<b>Elevation:</b> 230 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POLYGON	

**Location:** 0.2 MILE SOUTH OF THE HUDNER LANE TERMINOUS IN THE FLINT HILLS, 5 MILES NW OF HOLLISTER.

**General:** SHAFFER SITE #250. CTS PRESENT ON 27 MAY 1991; NUMBER AND LIFESTAGE UNKNOWN.

**Owner/Manager:** UNKNOWN

<b>Occurrence No.</b> 478	<b>Map Index:</b> 42480	<b>EO Index:</b> 42533	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Good			<b>Element:</b> 2000-01-18
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 2000-01-18
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2001-03-01
<b>Main Source:</b> MORI, B. 1999 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B)  
**County Summary:** SANTA CLARA

<b>Lat/Long:</b> 36.99028° / -121.39607°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4094996 E642734	<b>Range:</b> 05E
<b>Area:</b> 13.6 ac	<b>Section:</b> 11
<b>Elevation:</b> 540 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POLYGON	

**Location:** 0.7 MILE WEST OF HIGHWAY 152, 3.5 MILES EAST OF SAN FELIPE LAKE, 8.5 MILES NORTH OF HOLLISTER.

**Ecological:** HABITAT CONSISTS OF TWO ARTIFICIALLY-BERMED, PERENNIAL PONDS, WITH SCIRPUS AND TYPHA AROUND THE MARGINS. PONDS ARE LOCATED WITHIN AN INTERMITTENT DRAINAGE. ADJACENT UPLAND IS GRAZED GRASSLAND/OPEN OAK WOODLAND. RLF ALSO FOUND AT THIS SITE.

**Threat:** THREATENED BY BULLFROGS, WHICH ARE ABUNDANT IN BOTH PONDS.

**General:** 2 FEMALES OBSERVED DURING A FIVE-NIGHT NOCTURNAL SURVEY; ONE WAS ~100-200 FT AWAY FROM, AND MOVING TOWARDS THE POND, WHILE THE OTHER WAS EMERGING FROM A GROUND SQUIRREL BURROW. 1 ADULT CAPTURED ON 18 JAN 2001 IN A PITFALL TRAP.

**Owner/Manager:** PVT-BOURDET RANCH

***Athene cunicularia***

burrowing owl

Element Code: ABNSB10010

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: None	Global: G4	CDFG Status: SC
State: None	State: S2	

**Habitat Associations**

**General:** (BURROW SITES) OPEN, DRY ANNUAL OR PERENIAL GRASSLANDS, DESERTS & SCRUBLANDS CHARACTERIZED BY LOW-GROWING VEGETATION.  
**Micro:** SUBTERRANEAN NESTER, DEPENDENT UPON BURROWING MAMMALS, MOST NOTABLY, THE CALIFORNIA GROUND SQUIRREL.

<b>Occurrence No.</b> 277	<b>Map Index:</b> 39735	<b>EO Index:</b> 34737	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Poor			<b>Element:</b> 1991-02-12
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1991-02-12
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 1998-09-17
<b>Main Source:</b> SCHAUSS, M. 1991 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO

<b>Lat/Long:</b> 36.90097° / -121.45240°	<b>Township:</b> 12S
<b>UTM:</b> Zone-10 N4085005 E637882	<b>Range:</b> 05E
<b>Radius:</b> 80 meters	<b>Section:</b> 08
<b>Elevation:</b> 200 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** 0.1 MILE NW OF THE INTERSECTION OF SPRR TRACKS AND HUDNER LANE, 2 MILES WNW OF HOLLISTER AIRPORT.

**Location Detail:** BURROW IS LOCATED IN A BERM ALONG THE RAILROAD TRACKS.

**Ecological:** BERM WHERE BURROW IS LOCATED IS SPARSELY VEGETATED; ADJACENT TO CULTIVATED ROW CROPS. MOST OF SURROUNDING AREA IS DOMINATED BY CULTIVATED AGRICULTURAL FIELDS.

**General:** 1 ADULT OBSERVED AT THE BURROW SITE ON 12 FEBRUARY 1991, AND AGAIN ON 17 FEBRUARY 1991.

**Owner/Manager:** PVT-SOUTHERN PACIFIC RR

<b>Occurrence No.</b> 278	<b>Map Index:</b> 39736	<b>EO Index:</b> 34738	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Fair			<b>Element:</b> 1992-09-XX
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1992-09-XX
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 1998-09-17
<b>Main Source:</b> SCHAUSS, M. 1992 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B), CHITTENDEN (3612185/386A)

**County Summary:** SAN BENITO

<b>Lat/Long:</b> 36.92410° / -121.50141°	<b>Township:</b> 12S
<b>UTM:</b> Zone-10 N4087501 E633475	<b>Range:</b> 04E
<b>Radius:</b> 80 meters	<b>Section:</b> 02
<b>Elevation:</b> 760 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** 1.75 MILES SSE OF HWY 25 CROSSING OVER THE PAJARO RIVER, SSE OF GILROY.

**Location Detail:** BURROW SITE FOUND ALONG THE DRAINAGE DITCH BETWEEN THE CULTIVATED FIELD AND IRRIGATED PASTURE.

**Ecological:** BURROW SITE IS SURROUNDED BY AGRICULTURAL CROPS (HAY) AND GRAZED FIELDS.

**Threat:** THREATENED BY AGRICULTURAL ACTIVITIES.

**General:** BURROW SITE APPEARED ACTIVE IN SEPTEMBER 1992.

**Owner/Manager:** PVT

<b>Occurrence No.</b> 648	<b>Map Index:</b> 53662	<b>EO Index:</b> 53662	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Good			<b>Element:</b> 2003-07-03
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 2003-07-03
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2003-12-22
<b>Main Source:</b> BARCLAY, J. 2003 (OBS)			

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO

<b>Lat/Long:</b> 36.93800° / -121.44242°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4089128 E638704	<b>Range:</b> 05E
<b>Radius:</b> 80 meters	<b>Section:</b> 32
<b>Elevation:</b> 160 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** 0.75 MILE EAST OF THE INTERSECTION OF SHORE ROAD AND FRAZIER LAKE ROAD, 7 MILES NW OF HOLLISTER

**Ecological:** HABITAT CONSISTS OF SPARSE GRASSES (BERMUDA GRASS), MIXED HERBACEOUS VEGETATION, AND SCATTERED SHRUBS (BACCHARIS SP), LOCATED IN HABITAT PATCHES BETWEEN A CULTIVATED AGRICULTURAL FIELD, A GAS PIPELINE RIGHT-OF-WAY, AND WETLANDS.

**General:** 3 ADULTS AND 4 JUVENILES OBSERVED ON 4 JUL 2003; ONE FAMILY GROUP WITH JUVENILES 5+ WEEKS-OLD AND FULLY CAPABLE OF FLIGHT.

**Owner/Manager:** UNKNOWN

***Atriplex joaquiniana***

San Joaquin saltbush

Element Code: PDCHE041F3

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: None	Global: G2	CNPS List: 1B
State: None	State: S2.1	R-E-D Code: 2-2-3

**Habitat Associations**

**General:** CHENOPOD SCRUB, ALKALI MEADOW, VALLEY AND FOOTHILL GRASSLAND.

**Micro:** IN SEASONAL ALKALI WETLANDS OR ALKALI SINK SCRUB WITH DISTICHLIS SPICATA, FRANKENIA, ETC. 1-250M.

<b>Occurrence No.</b> 21	<b>Map Index:</b> 20310	<b>EO Index:</b> 9589	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1938-05-28
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1938-05-28
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 1993-03-12
<b>Main Source:</b> HOOVER, R. 1938 (HERB)			

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO

<b>Lat/Long:</b> 36.89073° / -121.40811°	<b>Township:</b> 12S
<b>UTM:</b> Zone-10 N4083934 E641847	<b>Range:</b> 05E
<b>Radius:</b> 3/5 mile	<b>Section:</b> XX
<b>Elevation:</b> 220 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> NON-SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** HOLLISTER AIRPORT.

**Threat:** DEVELOPMENT COULD THREATEN.

**General:** ONLY SOURCE OF INFORMATION FOR THIS SITE IS 1938 COLLECTION BY HOOVER. NEEDS FIELDWORK.

**Owner/Manager:** UNKNOWN

<b>Occurrence No.</b> 64	<b>Map Index:</b> 49794	<b>EO Index:</b> 49794	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1896-06-10
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1896-06-10
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2003-01-07
<b>Main Source:</b> JEPSON, W. SN JEPS #59618 (HERB)			

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO, SANTA CLARA

<b>Lat/Long:</b> 36.98200° / -121.46098°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4093982 E636972	<b>Range:</b> 05E
<b>Radius:</b> 1 mile	<b>Section:</b> 18
<b>Elevation:</b>	<b>Meridian:</b> M
<b>Mapping Precision:</b> NON-SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** ON HOLLISTER ROAD NEAR SOAP LAKE (A.K.A. SAN FELIPE LAKE) NEAR SAN FELIPE.

**Location Detail:** MAPPED AS BEST GUESS BY CNDDB IN VICINITY OF SAN FELIPE LAKE ON PACHECO PASS HIGHWAY.

**General:** ONLY SOURCE OF INFORMATION FOR THIS SITE IS 1896 COLLECTION BY JEPSON. NEEDS FIELDWORK TO CONFIRM LOCATION OFF OF PACHECO PASS OR HOLLISTER ROAD.

**Owner/Manager:** UNKNOWN

***Emys (=Clemmys) marmorata marmorata***

northwestern pond turtle

Element Code: ARAAD02031

**Status**

Federal: None

State: None

**NDDB Element Ranks**

Global: G3G4T3

State: S3

**Other Lists**

CDFG Status: SC

**Habitat Associations**

**General:** ASSOCIATED WITH PERMANENT OR NEARLY PERMANENT WATER IN A WIDE VARIETY OF HABITATS.

**Micro:** REQUIRES BASKING SITES. NESTS SITES MAY BE FOUND UP TO 0.5 KM FROM WATER.

Occurrence No. 134

Map Index: 46140

EO Index: 46140

**Dates Last Seen**

Occ Rank: Excellent

Element: 2000-07-06

Origin: Natural/Native occurrence

Site: 2000-07-06

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 2001-10-15

Main Source: MORI, B. 2000 (OBS)

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO

Lat/Long: 36.94760° / -121.44530°

Township: 11S

UTM: Zone-10 N4090188 E638430

Range: 05E

Radius: 80 meters

Mapping Precision: SPECIFIC

Section: 29

Qtr: SW

Elevation: 150 ft

Symbol Type: POINT

Meridian: M

**Location:** SE OF GILROY AND NE OF HOLLISTER AIRPORT. TEQUISQUITA SLOUGH, 0.3 AIR MILES NORTH OF SHORE RD.

**Ecological:** TEQUISQUITA SLOUGH IS ABOUT 70 FT WIDE & 9 FT DEEP. WILLOW RIPARIAN & FRESHWATER MARSH VEGETATION LINE BANKS OF CHANNEL; TURBID WATER. AGRICULTURE & GRAZING IN SURROUNDING AREA.

**Threat:** THREAT INCLUDES BULLFROGS.

**General:** 2 ADULTS OBSERVED BASKING ON WOODY DEBRIS.

**Owner/Manager:** PVT



***Plagiobothrys glaber***

hairless popcorn-flower

Element Code: PDBOROV0B0

**Status**

**NDDB Element Ranks**

**Other Lists**

**Federal:** None

**Global:** GH

**CNPS List:** 1A

**State:** None

**State:** SH

**R-E-D Code:** \*

**Habitat Associations**

**General:** MEADOWS AND SEEPS, MARSHES AND SWAMPS.

**Micro:** COASTAL SALT MARSHES AND ALKALINE MEADOWS. 5-180M.

**Occurrence No.** 1

**Map Index:** 28361

**EO Index:** 29533

**Dates Last Seen**

**Occ Rank:** Unknown

**Element:** 1954-05-01

**Origin:** Natural/Native occurrence

**Site:** 1954-05-01

**Presence:** Presumed Extant

**Trend:** Unknown

**Record Last Updated:** 1996-10-09

**Main Source:** HOOVER, R. #3485 CAS #381818 (HERB)

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO

**Lat/Long:** 36.89050° / -121.40706°

**Township:** 12S

**UTM:** Zone-10 N4083909 E641941

**Range:** 05E

**Radius:** 1 mile

**Mapping Precision:** NON-SPECIFIC

**Section:** XX

**Qtr:** XX

**Elevation:** 220 ft

**Symbol Type:** POINT

**Meridian:** M

**Location:** HOLLISTER AIRPORT, NORTH OF HOLLISTER.

**Location Detail:** INCLUDES ALL KNOWN COLLECTIONS FROM VICINITY OF HOLLISTER.

**Ecological:** GRASSY ALKALINE FLAT.

**General:** THREE COLLECTIONS ATTRIBUTED TO THIS SITE. R.F. HOOVER #3485 IN 1938, A. EASTWOOD AND J.T. HOWELL #5306 IN 1938, AND R. BARNEBY SN IN 1954.

**Owner/Manager:** UNKNOWN

***Rana aurora draytonii***

California red-legged frog

Element Code: AAABH01022

**Status**  
Federal: Threatened  
State: None

**NDDB Element Ranks**  
Global: G4T2T3  
State: S2S3

**Other Lists**  
CDFG Status: SC

**Habitat Associations**

**General:** LOWLANDS & FOOTHILLS IN OR NEAR PERMANENT SOURCES OF DEEP WATER WITH DENSE, SHRUBBY OR EMERGENT RIPARIAN VEGETATION.  
**Micro:** REQUIRES 11-20 WEEKS OF PERMANENT WATER FOR LARVAL DEVELOPMENT. MUST HAVE ACCESS TO ESTIVATION HABITAT.

**Occurrence No.** 39      **Map Index:** 17385      **EO Index:** 11940      **Dates Last Seen**  
**Occ Rank:** Good      **Element:** 1990-04-10  
**Origin:** Natural/Native occurrence      **Site:** 1990-04-10  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 1991-02-05  
**Main Source:** VONARB, R. 1990 (OBS)

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO

**Lat/Long:** 36.94533° / -121.44518°      **Township:** 11S  
**UTM:** Zone-10 N4089937 E638445      **Range:** 05E  
**Radius:** 80 meters      **Mapping Precision:** SPECIFIC      **Section:** XX      **Qtr:** XX  
**Elevation:** 150 ft      **Symbol Type:** POINT      **Meridian:** M

**Location:** TEQUISQUITA SLOUGH, 0.2 MI NORTH OF SHORE ROAD, 4 MI NNW OF HOLLISTER MUNICIPAL AIRPORT.  
**Location Detail:** APPROXIMATELY 40 ADULTS OBSERVED IN A PONDED AREA ALONG TEQUISQUITA SLOUGH.  
**Ecological:** HABITAT IS FRESHWATER MARSH VEGETATED BY TULE AND WILLOWS. SURROUNDING AREA IS MADE UP OF AGRICULTURAL FIELDS.  
**General:** SLOUGH DRIED UP EARLY IN 1990 DUE TO DROUGHT CONDITIONS.  
**Owner/Manager:** PVT

**Occurrence No.** 47      **Map Index:** 24502      **EO Index:** 6594      **Dates Last Seen**  
**Occ Rank:** Excellent      **Element:** 1991-09-25  
**Origin:** Natural/Native occurrence      **Site:** 1991-09-25  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 1995-10-24  
**Main Source:** MORI, B. 1991 (OBS)

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SAN BENITO

**Lat/Long:** 36.94403° / -121.38525°      **Township:** 11S  
**UTM:** Zone-10 N4089881 E643785      **Range:** 05E  
**Area:** 6.9 ac      **Mapping Precision:** SPECIFIC      **Section:** XX      **Qtr:** XX  
**Elevation:** 200 ft      **Symbol Type:** POLYGON      **Meridian:** M

**Location:** PACHECO CREEK, AT THE HWY 156 CROSSING, 0.75 MILE NORTH OF FAIRVIEW ROAD, 6 MILES NORTH OF HOLLISTER.  
**Location Detail:** POOL WITH LARVAE FORMED AROUND BOULDERS AND A CONCRETE SLAB, WITH OVERHANGING WILLOWS.  
**Ecological:** HABITAT CONSISTS OF A POOL WITHIN PACHECO CREEK WITHIN SYCAMORE ALLUVIAL WOODLAND, DOMINATED BY WILLOWS, LIVE OAKS, VALLEY OAKS, AND SYCAMORES. CATTAILS AND OTHER MARSH PLANTS FOUND IN CREEK CHANNEL.  
**Threat:** RUN-OFF FROM CURRENT HORTICULTURAL/AGRICULTURAL USES MAY BE AFFECTING WATER QUALITY; LARVAE APPEARED DEFORMED/NEAR DEATH  
**General:** 6 LARVAE OBSERVED IN 1991.  
**Owner/Manager:** PVT-CASA DE FRUTA

**Occurrence No.** 352      **Map Index:** 42480      **EO Index:** 42480      **Dates Last Seen**  
**Occ Rank:** Excellent      **Element:** 2001-03-04  
**Origin:** Natural/Native occurrence      **Site:** 2001-03-04  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 2002-01-22  
**Main Source:** MORI, B. 1999 (OBS)

**Quad Summary:** SAN FELIPE (3612184/385B)

**County Summary:** SANTA CLARA

**Lat/Long:** 36.99028° / -121.39607°      **Township:** 11S  
**UTM:** Zone-10 N4094996 E642734      **Range:** 05E  
**Area:** 13.6 ac      **Mapping Precision:** SPECIFIC      **Section:** 11      **Qtr:** XX  
**Elevation:** 540 ft      **Symbol Type:** POLYGON      **Meridian:** M

**Location:** 0.7 MILE WEST OF HIGHWAY 152, 3.5 MILES EAST OF SAN FELIPE LAKE, 8.5 MILES NORTH OF HOLLISTER.  
**Location Detail:** PITFALL TRAPS ARE LOCATED ABOUT 500 FEET AWAY FROM THE PONDS.  
**Ecological:** HABITAT CONSISTS OF 2 ARTIFICIALLY-BERMED, PERENNIAL PONDS, WITHIN AN INTERMITTENT DRAINAGE; SCIRPUS AND TYPHA AROUND THE MARGINS. ADJACENT UPLAND HABITAT IS GRAZED GRASSLAND AND OPEN OAK WOODLAND. CTS ALSO FOUND AT THIS SITE.  
**Threat:** THREATENED BY BULLFROGS, WHICH ARE ABUNDANT IN BOTH PONDS.  
**General:** 2 ADULTS HEARD CHORUSING ON 18 JAN 1999. ON 16 FEB 1999, 2 CHORUSING FROGS OBSERVED AT ONE POND AND 3 FROGS AT THE OTHER. 1 ADULT/2 JUVENILES CAPTURED ON 17 JAN 2001 IN PITFALL TRAPS. 1 SUB-ADULT CAPTURED IN A PITFALL TRAP ON 4 MAR 2001.  
**Owner/Manager:** PVT-BOURDET RANCH

***Trifolium depauperatum* var. *hydrophilum***

saline clover

Element Code: PDFAB400R5

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: None	Global: G5T2?	CNPS List: 1B
State: None	State: S2.2?	R-E-D Code: 3-2-3

**Habitat Associations**

**General:** MARSHES AND SWAMPS, VALLEY AND FOOTHILL GRASSLAND, VERNAL POOLS.

**Micro:** MESIC, ALKALINE SITES. 0-300M.

<b>Occurrence No.</b> 5	<b>Map Index:</b> 49390	<b>EO Index:</b> 49390	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1995-XX-XX
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1995-XX-XX
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2002-11-19
<b>Main Source:</b> HILLYARD, D. 1995 (PERS)			

**Quad Summary:** SAN FELIPE (3612184/385B), CHITTENDEN (3612185/386A)

**County Summary:** SAN BENITO, SANTA CLARA

<b>Lat/Long:</b> 36.94829° / -121.50243°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4090183 E633342	<b>Range:</b> 04E
<b>Radius:</b> 3/5 mile	<b>Section:</b> 26
<b>Elevation:</b>	<b>Meridian:</b> M
<b>Mapping Precision:</b> NON-SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** BETWEEN MILLERS CANAL AND THE PAJARO RIVER, OFF OF HIGHWAY 25, SAN BENITO COUNTY ON SANTA CLARA COUNTY LINE.

**Threat:** POSSIBLE CONVERSION OF SITE TO AQUACULTURE PONDS.

**General:** NEEDS FIELDWORK.

**Owner/Manager:** UNKNOWN

***Vulpes macrotis mutica***

San Joaquin kit fox

Element Code: AMAJA03041

Status

NDDB Element Ranks

Other Lists

Federal: Endangered

Global: G4T2T3

CDFG Status:

State: Threatened

State: S2S3

Habitat Associations

General: ANNUAL GRASSLANDS OR GRASSY OPEN STAGES WITH SCATTERED SHRUBBY VEGETATION.

Micro: NEED LOOSE-TEXTURED SANDY SOILS FOR BURROWING, AND SUITABLE PREY BASE.

Occurrence No. 11

Map Index: 23591

EO Index: 12228

Dates Last Seen

Occ Rank: Unknown

Element: 1992-05-15

Origin: Natural/Native occurrence

Site: 1992-05-15

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 1996-02-23

Main Source: JOHNSON, D. 1992 (OBS)

Quad Summary: CHERRY PEAK (3612162/363B), PAICINES (3612163/364A), QUIEN SABE VALLEY (3612172/384C), TRES PINOS (3612173/385D), HOLLISTER (3612174/385C), MARIPOSA PEAK (3612182/384B), THREE SISTERS (3612183/385A), SAN FELIPE (3612184/385B), PACHECO PEAK (3712113/405D), GILROY HOT SPRINGS (3712114/405C)

County Summary: MERCED, SAN BENITO, SANTA CLARA

Lat/Long: 36.83769° / -121.34854°

Township: 13S

UTM: Zone-10 N4078139 E647257

Range: 05E

Area: 96,733.6 ac

Mapping Precision: NON-SPECIFIC

Section: XX

Qtr: XX

Elevation: 250 ft

Symbol Type: POLYGON

Meridian: M

Location: AREA SURROUNDING HOLLISTER-NORTH TO GILROY; SOUTH JUST PAST PACINES.

Location Detail: FOUR INDIVIDUALS FOUND IN 1992 (MOTHER APPEARED TO HAVE DIED, LEAVING 4-5 PUPS, 3 DIED.) SEVERAL DENS AND OBSERVATIONS BETWEEN 1972-75.

Ecological: UNDOCUMENTED.

Threat: DEVELOPMENT, GRAZING, COMPETITION FROM RED FOXES AND POSSIBLY COYOTES.

General: A PORTION OF THE AREA IS CURRENTLY USED FOR RANCHING. FUTURE PLAN EXISTS FOR GOLF COURSE AND COUNTRY CLUB. THE AREA SHOULD BE INCLUDED IN HOLLISTER HCP.

Owner/Manager: UNKNOWN

**Agelaius tricolor**

tricolored blackbird

Element Code: ABPBX0020

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: None	Global: G2G3	CDFG Status: SC
State: None	State: S2	

**Habitat Associations**

**General:** (NESTING COLONY) HIGHLY COLONIAL SPECIES, MOST NUMEROUS IN CENTRAL VALLEY & VICINITY. LARGELY ENDEMIC TO CALIFORNIA.

**Micro:** REQUIRES OPEN WATER, PROTECTED NESTING SUBSTRATE, & FORAGING AREA WITH INSECT PREY WITHIN A FEW KM OF THE COLONY.

Occurrence No. 169	Map Index: 10980	EO Index: 24673	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1989-04-15
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1989-04-15
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 1996-01-08
<b>Main Source:</b> SUDDJIAN, D. 1989 (OBS)			

\* SENSITIVE \*

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CLARA

<b>Lat/Long:</b>	<b>Mapping Precision:</b>	<b>Township:</b>	
<b>UTM:</b>		<b>Range:</b>	
<b>Radius:</b>	<b>Symbol Type:</b>	<b>Section:</b>	<b>Qtr:</b>
<b>Elevation:</b>		<b>Meridian:</b>	

**Location:** \*SENSITIVE\* Location information suppressed.

**Location Detail:** Please contact the California Natural Diversity Database, California Department of Fish and Game, for more information: (916) 324-3812.

**Ecological:** TULE MARSH WITH APPROX 30 PERCENT OPEN WATER (STOCK POND), SURROUNDED BY GRASSLANDS. APPROX 700 MALES (MANY DISPLAYING) AND 450 FEMALES (MANY CARRYING NEST MATERIAL). COLONY SUCCESS UNKNOWN.

**Owner/Manager:**

Occurrence No. 170	Map Index: 10977	EO Index: 24672	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1980-04-15
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1989-04-15
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 1996-01-08
<b>Main Source:</b> SUDDJIAN, D. 1989 (OBS)			

\* SENSITIVE \*

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CLARA

<b>Lat/Long:</b>	<b>Mapping Precision:</b>	<b>Township:</b>	
<b>UTM:</b>		<b>Range:</b>	
<b>Radius:</b>	<b>Symbol Type:</b>	<b>Section:</b>	<b>Qtr:</b>
<b>Elevation:</b>		<b>Meridian:</b>	

**Location:** \*SENSITIVE\* Location information suppressed.

**Location Detail:** Please contact the California Natural Diversity Database, California Department of Fish and Game, for more information: (916) 324-3812.

**Ecological:** CATTAIL MARSH WITH A FEW WILLOWS SURROUNDED BY GRASSLAND; NO OPEN WATER. APPROX 150 MALES AND 200 FEMALES; MALES DISPLAYING AND FEMALES CARRYING NEST MATERIAL. COLONY SUCCESS UNKNOWN.

**Owner/Manager:**

Occurrence No. 392	Map Index: 53963	EO Index: 53963	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Excellent			<b>Element:</b> 2003-06-13
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 2003-06-13
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2004-01-20
<b>Main Source:</b> MORI, B. 2003 (OBS)			

\* SENSITIVE \*

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CRUZ

<b>Lat/Long:</b>	<b>Mapping Precision:</b>	<b>Township:</b>	
<b>UTM:</b>		<b>Range:</b>	
<b>Radius:</b>	<b>Symbol Type:</b>	<b>Section:</b>	<b>Qtr:</b>
<b>Elevation:</b>		<b>Meridian:</b>	

**Location:** \*SENSITIVE\* Location information suppressed.

**Location Detail:** Please contact the California Natural Diversity Database, California Department of Fish and Game, for more information: (916) 324-3812.

**Ecological:** HABITAT CONSISTS OF A FORMER WETLAND THAT IS NOW FUNCTIONING AS A SEDIMENT BASIN FOR A QUARRY OPERATION; THE SOUTHERN EDGE CONTAINS A DENSE GROWTH OF CATTAILS AND BULRUSH, AND PATCHY WILLOW THICKETS. WATER LEVEL VARIABLE, BUT USUALLY >2'.

**Threat:** THREATENED BY NESTING SUBSTRATE VEGETATION MAINTENANCE.

**Owner/Manager:**



# **Ambystoma californiense**

California tiger salamander

Element Code: AAAAA01147

**Status**  
Federal: Proposed Threatened  
State: None

**NDDB Element Ranks**  
Global: G2G3  
State: S2S3

**Other Lists**  
CDFG Status: SC

**Habitat Associations**  
**General:** POPULATIONS IN SANTA BARBARA & SONOMA COUNTIES CURRENTLY LISTED AS ENDANGERED. PROPOSAL TO LIST AS THREATENED STATEWIDE.  
**Micro:** NEED UNDERGROUND REFUGES, ESPECIALLY GROUND SQUIRREL BURROWS & VERNAL POOLS OR OTHER SEASONAL WATER SOURCES FOR BREEDING

**Occurrence No.** 103      **Map Index:** 24660      **EO Index:** 6551      **Dates Last Seen**  
**Occ Rank:** Fair      **Element:** 1992-XX-XX  
**Origin:** Natural/Native occurrence      **Site:** 1992-XX-XX  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 1993-11-08  
**Main Source:** BLIZARD, R. & R. VONARB 1992 (OBS)

**Quad Summary:** CHITTENDEN (3612185/386A)  
**County Summary:** SANTA CLARA

**Lat/Long:** 36.94156° / -121.55587°      **Township:** 11S  
**UTM:** Zone-10 N4089363 E628595      **Range:** 04E  
**Radius:** 80 meters      **Mapping Precision:** SPECIFIC      **Section:** XX      **Qtr:** XX  
**Elevation:** 175 ft      **Symbol Type:** POINT      **Meridian:** M

**Location:** 0.2 MILE WEST OF HWY 101, SOUTH OF TICK CREEK, 1.4 MILES SOUTH OF THE HWY 25 JUNCTION, 4 MILES SOUTH OF GILROY.  
**Ecological:** HABITAT CONSISTS OF A CATTLE POND SURROUNDED BY GRASSLAND AND VALLEY OAKS.  
**Threat:** THREATS INCLUDE GRAZING AND PREDATION BY NON-NATIVE PREDATORS (RED FOX, FERAL CATS).  
**General:** 10 JUVENILES OBSERVED DURING A MARCH-JUNE 1992 SURVEY.  
**Owner/Manager:** PVT

**Occurrence No.** 107      **Map Index:** 17098      **EO Index:** 12083      **Dates Last Seen**  
**Occ Rank:** Unknown      **Element:** 1990-04-17  
**Origin:** Natural/Native occurrence      **Site:** 1990-04-17  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 2002-08-13  
**Main Source:** LSA ASSOC. 1989 (OBS)

**Quad Summary:** CHITTENDEN (3612185/386A)  
**County Summary:** SANTA CLARA

**Lat/Long:** 36.98236° / -121.57672°      **Township:** 11S  
**UTM:** Zone-10 N4093862 E626670      **Range:** 04E  
**Radius:** 80 meters      **Mapping Precision:** SPECIFIC      **Section:** 18      **Qtr:** XX  
**Elevation:** 240 ft      **Symbol Type:** POINT      **Meridian:** M

**Location:** JUST WEST OF THE JUNCTION OF MILLER AVE (AKA MESA RD) & THE PRIVATE RD INTO FARMAN CANYON, SOUTH OF GILROY.  
**Location Detail:** O'CONNELL RANCH POND "B". O'CONNELL RANCH PROJECT SITE.  
**Ecological:** 150 FT X 40 FT STOCK POND. SPARSE EMERGENT VEGETATION AT NORTH END OF POND, NO SUBMERGENT VEGETATION. GROUND SQUIRREL BURROWS ARE COMMON IN THE SERPENTINE GRASSLAND NEAR THE POND.  
**General:** 11 LARVAE OBSERVED 17 APR 1989. UNKNOWN NUMBER OBSERVED 17 APR 1990.  
**Owner/Manager:** PVT

**Occurrence No.** 405      **Map Index:** 36054      **EO Index:** 31393      **Dates Last Seen**  
**Occ Rank:** Good      **Element:** 1998-02-20  
**Origin:** Natural/Native occurrence      **Site:** 1998-02-20  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 1998-05-05  
**Main Source:** JENNINGS, M. 1997 (OBS)

**Quad Summary:** CHITTENDEN (3612185/386A)  
**County Summary:** SANTA CLARA

**Lat/Long:** 36.94718° / -121.55657°      **Township:** 11S  
**UTM:** Zone-10 N4089986 E628523      **Range:** 04E  
**Area:** 3.0 ac      **Mapping Precision:** SPECIFIC      **Section:** 29      **Qtr:** SW  
**Elevation:** 170 ft      **Symbol Type:** POLYGON      **Meridian:** M

**Location:** JUST WEST OF OLD MONTEREY ROAD, 0.3 MILE SSW OF THE HWY 101 INTERSECTION, 4 MILES SOUTH OF GILROY.  
**Ecological:** HABITAT CONSISTS OF A STOCK POND, SURROUNDED BY GRAZED GRASSLAND, WITH A FEW SCATTERED COAST LIVE OAKS. MANY CALIFORNIA GROUND SQUIRREL HOLES AROUND THE POND. CALIFORNIA RED-LEGGED FROG ALSO OCCURS AT THIS SITE.  
**Threat:** THREATS INCLUDE THE PRESENCE OF BULLFROGS AND RED-SWAMP CRAYFISH. ALSO, A PROPOSAL TO DEVELOP THE SITE INTO A QUARRY.  
**General:** 3 LARVAE OBSERVED ON 25 MAY 1997; 1 COLLECTED (MRJ #1274 AND CAS# 203266)) . 2 ADULTS COLLECTED ON 20 FEB 1998; 1 RELEASED AND 1 DEPOSITED AT CAS (#MRJ 1354).  
**Owner/Manager:** PVT

**Ambystoma californiense**

California tiger salamander

Element Code: AAAAA01147

Status	NDDB Element Ranks	Other Lists
Federal: Proposed Threatened State: None	Global: G2G3 State: S2S3	CDFG Status: SC

**Habitat Associations**

**General:** POPULATIONS IN SANTA BARBARA & SONOMA COUNTIES CURRENTLY LISTED AS ENDANGERED. PROPOSAL TO LIST AS THREATENED STATEWIDE.  
**Micro:** NEED UNDERGROUND REFUGES, ESPECIALLY GROUND SQUIRREL BURROWS & VERNAL POOLS OR OTHER SEASONAL WATER SOURCES FOR BREEDING

Occurrence No. 406	Map Index: 36398	EO Index: 31395	Dates Last Seen
Occ Rank: Good			Element: 1997-05-25
Origin: Natural/Native occurrence			Site: 1997-05-25
Presence: Presumed Extant			
Trend: Unknown			Record Last Updated: 2002-09-04
Main Source: JENNINGS, M. 1997 (OBS)			

Quad Summary: CHITTENDEN (3612185/386A)  
County Summary: SANTA CLARA

Lat/Long: 36.95346° / -121.56472°	Township: 11S
UTM: Zone-10 N4090872 E627787	Range: 04E
Area: 1.6 ac	Section: 30
Elevation: 280 ft	Meridian: M
Mapping Precision: SPECIFIC	Qtr: NE
Symbol Type: POLYGON	

**Location:** 1.25 MILES SSW OF THE INTERSECTION OF CASTRO VALLEY ROAD AND HWY 101, 3 MILES SOUTH OF GILROY.

**Ecological:** HABITAT CONSISTS OF GRAZED GRASSLAND, WITH COAST LIVE OAKS. A FEW CALIFORNIA GROUND SQUIRREL BURROWS FOUND NEAR THE POND. CLAM SHRIMP ABUNDANT IN THE POND.

**General:** 4 LARVAE OBSERVED ON 25 MAY 1997; 1 LARVA COLLECTED (MRJ #1276) AND DEPOSITED AT CAS (CAS# 203268).

**Owner/Manager:** PVT

Occurrence No. 407	Map Index: 36399	EO Index: 31396	Dates Last Seen
Occ Rank: Good			Element: 1997-05-25
Origin: Natural/Native occurrence			Site: 1997-05-25
Presence: Presumed Extant			
Trend: Unknown			Record Last Updated: 2002-09-04
Main Source: JENNINGS, M. 1997 (OBS)			

Quad Summary: CHITTENDEN (3612185/386A)  
County Summary: SANTA CLARA

Lat/Long: 36.94636° / -121.55834°	Township: 11S
UTM: Zone-10 N4089893 E628366	Range: 04E
Radius: 80 meters	Section: 29
Elevation: 175 ft	Meridian: M
Mapping Precision: SPECIFIC	Qtr: XX
Symbol Type: POINT	

**Location:** 0.2 MILE WEST OF OLD MONTEREY RD, 0.4 MILE SSW OF INTERSECTION OF OLD MONTEREY RD & HWY 101, 3.6 MILES SOUTH OF GILROY.

**Ecological:** HABITAT CONSISTS OF A POND, PARTLY SHADED BY COAST LIVE OAK. SURROUNDING AREA CONSISTS OF AN OLD FIELD (PLOWED IN THE PAST), WHICH IS NOW MAINLY VEGETATED BY GRASSES AND MUSTARD (GRAZED). CLAM SHRIMP ABUNDANT IN POND.

**Threat:** THREATS INCLUDE A PROPOSAL TO DEVELOP AN AREA TO THE NORTH INTO A ROCK QUARRY.

**General:** 1 LARVA COLLECTED (MRJ #1284) ON 25 MAY 1997 AND DEPOSITED AT CAS (CAS# 203269).

**Owner/Manager:** PVT

Occurrence No. 525	Map Index: 45578	EO Index: 45578	Dates Last Seen
Occ Rank: Fair			Element: 2000-01-11
Origin: Natural/Native occurrence			Site: 2000-01-11
Presence: Presumed Extant			
Trend: Unknown			Record Last Updated: 2001-08-14
Main Source: MORI, B. 2000 (OBS)			

\* SENSITIVE \*

Quad Summary: CHITTENDEN (3612185/386A)  
County Summary: SANTA CLARA

Lat/Long:	Township:
UTM:	Range:
Radius:	Section:
Elevation:	Meridian:
Mapping Precision:	Qtr:
Symbol Type:	

\* SENSITIVE \*

**Location:** \*SENSITIVE\* Location information suppressed.

**Location Detail:** Please contact the California Natural Diversity Database, California Department of Fish and Game, for more information: (916) 324-3812.

**Ecological:** HABITAT CONSISTS OF A LARGE, PERENNIAL RESERVOIR WITHIN A SEASONAL DRAINAGE SWALE; SURROUNDED BY GRAZED NON-NATIVE GRASSLAND AND OAK WOODLAND AT THE BASE OF THE FOOTHILLS OF THE SANTA CRUZ MOUNTAINS.

**Threat:** THREATENED BY OVER-GRAZING, NON-NATIVE PREDATORS (BASS, BLUEGILLS), AND ENCROACHING URBAN DEVELOPMENT FROM GILROY.

**Owner/Manager:**

***Ambystoma californiense***

California tiger salamander

Element Code: AAAAA01147

**Status**  
Federal: Proposed Threatened  
State: None

**NDDB Element Ranks**  
Global: G2G3  
State: S2S3

**Other Lists**  
CDFG Status: SC

**Habitat Associations**  
**General:** POPULATIONS IN SANTA BARBARA & SONOMA COUNTIES CURRENTLY LISTED AS ENDANGERED. PROPOSAL TO LIST AS THREATENED STATEWIDE.  
**Micro:** NEED UNDERGROUND REFUGES, ESPECIALLY GROUND SQUIRREL BURROWS & VERNAL POOLS OR OTHER SEASONAL WATER SOURCES FOR BREEDING

**Occurrence No.** 633      **Map Index:** 46635      **EO Index:** 46635      **Dates Last Seen**  
**Occ Rank:** Unknown      **Element:** 1993-XX-XX  
**Origin:** Natural/Native occurrence      **Site:** 1993-XX-XX  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 2001-11-28  
**Main Source:** LSA ASSOCIATES 1994 (LIT)

**Quad Summary:** CHITTENDEN (3612185/386A)  
**County Summary:** SAN BENITO

**Lat/Long:** 36.88725° / -121.54035°      **Township:** 12S  
**UTM:** Zone-10 N4083359 E630069      **Range:** 04E  
**Radius:** 2/5 mile      **Mapping Precision:** NON-SPECIFIC      **Section:** 16      **Qtr:** SW  
**Elevation:** 300 ft      **Symbol Type:** POINT      **Meridian:** M

**Location:** ABOUT 1 MILE EAST OF THE JUNCTION OF HWY 101 AND THE SAN BENITO RIVER. EAST OF THE SAN JUAN VALLEY

**General:** SURVEY DONE BY BIOSEARCH BUT REPORTED BY LSA. UNKNOWN NUMBER OF LARVAE OBSERVED IN 1993.

**Owner/Manager:** UNKNOWN

**Occurrence No.** 754      **Map Index:** 53674      **EO Index:** 53674      **Dates Last Seen**  
**Occ Rank:** Good      **Element:** 2003-05-02  
**Origin:** Natural/Native occurrence      **Site:** 2003-05-02  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 2003-12-22  
**Main Source:** FITZPATRICK, B. M. 2003 (OBS)

**Quad Summary:** CHITTENDEN (3612185/386A)  
**County Summary:** SAN BENITO

**Lat/Long:** 36.88464° / -121.56698°      **Township:** 12S  
**UTM:** Zone-10 N4083034 E627700      **Range:** 04E  
**Radius:** 80 meters      **Mapping Precision:** SPECIFIC      **Section:** 18      **Qtr:** SE  
**Elevation:** 175 ft      **Symbol Type:** POINT      **Meridian:** M

**Location:** 0.3 MILE NW OF THE INTERSECTION OF SEARLE ROAD AND HIGHWAY 129, WEST OF SAN JUAN VALLEY

**Ecological:** HABITAT CONSISTS OF A STOCK POND SURROUNDED BY GRAZED ANNUAL GRASSLAND AND ROW CROPS.

**Threat:** THREATENED BY POSSIBLE EXPANSION OF ROW CROPS AND DEVELOPMENT.

**General:** 21 JUVENILES OBSERVED ON 2 MAY 2003.

**Owner/Manager:** PVT

***Athene cunicularia***

burrowing owl

Element Code: ABNSB10010

Status	NDDB Element Ranks	Other Lists
Federal: None	Global: G4	CDFG Status: SC
State: None	State: S2	

**Habitat Associations**

**General:** (BURROW SITES) OPEN, DRY ANNUAL OR PERENIAL GRASSLANDS, DESERTS & SCRUBLANDS CHARACTERIZED BY LOW-GROWING VEGETATION.  
**Micro:** SUBTERRANEAN NESTER, DEPENDENT UPON BURROWING MAMMALS, MOST NOTABLY, THE CALIFORNIA GROUND SQUIRREL.

Occurrence No.	278	Map Index:	39736	EO Index:	34738	Dates Last Seen	
Occ Rank:	Fair					Element:	1992-09-XX
Origin:	Natural/Native occurrence					Site:	1992-09-XX
Presence:	Presumed Extant					Record Last Updated:	1998-09-17
Trend:	Unknown						
Main Source:	SCHAUSS, M. 1992 (OBS)						
Quad Summary:	SAN FELIPE (3612184/385B), CHITTENDEN (3612185/386A)						
County Summary:	SAN BENITO						
Lat/Long:	36.92410° / -121.50141°					Township:	12S
UTM:	Zone-10 N4087501 E633475					Range:	04E
Radius:	80 meters			Mapping Precision:	SPECIFIC	Section:	02
Elevation:	760 ft			Symbol Type:	POINT	Meridian:	M
						Qtr:	XX
Location:	1.75 MILES SSE OF HWY 25 CROSSING OVER THE PAJARO RIVER, SSE OF GILROY.						
Location Detail:	BURROW SITE FOUND ALONG THE DRAINAGE DITCH BETWEEN THE CULTIVATED FIELD AND IRRIGATED PASTURE.						
Ecological:	BURROW SITE IS SURROUNDED BY AGRICULTURAL CROPS (HAY) AND GRAZED FIELDS.						
Threat:	THREATENED BY AGRICULTURAL ACTIVITIES.						
General:	BURROW SITE APPEARED ACTIVE IN SEPTEMBER 1992.						
Owner/Manager:	PVT						
Occurrence No.	279	Map Index:	39737	EO Index:	34739	Dates Last Seen	
Occ Rank:	Fair					Element:	1994-03-10
Origin:	Natural/Native occurrence					Site:	1994-03-10
Presence:	Presumed Extant					Record Last Updated:	1998-09-17
Trend:	Unknown						
Main Source:	SCHAUSS, M. 1994 (OBS)						
Quad Summary:	CHITTENDEN (3612185/386A)						
County Summary:	SAN BENITO						
Lat/Long:	36.93144° / -121.51345°					Township:	11S
UTM:	Zone-10 N4088298 E632390					Range:	04E
Radius:	80 meters			Mapping Precision:	SPECIFIC	Section:	34
Elevation:	760 ft			Symbol Type:	POINT	Meridian:	M
						Qtr:	XX
Location:	1.2 MILES SOUTH OF HWY 25 CROSSING OVER THE PAJARO RIVER, SSE OF GILROY.						
Location Detail:	BURROW IS LOCATED ALONG THE WEST SIDE OF THE ROAD						
Ecological:	BURROW SITE IS SURROUNDED BY AGRICULTURAL CROPS (HAY) AND GRAZED FIELDS.						
Threat:	THREATENED BY AGRICULTURAL ACTIVITIES.						
General:	1 ADULT BIRD OBSERVED USING THE BURROW ON 1 MARCH 1994 AND AGAIN ON 10 MARCH 1994, BUT NEVER SEEN AFTER THAT.						
Owner/Manager:	PVT						
Occurrence No.	435	Map Index:	46635	EO Index:	47125	Dates Last Seen	
Occ Rank:	Excellent					Element:	2001-02-02
Origin:	Natural/Native occurrence					Site:	2001-02-02
Presence:	Presumed Extant					Record Last Updated:	2002-01-30
Trend:	Unknown						
Main Source:	FLOHR, G. E. 2001 (OBS)						
Quad Summary:	CHITTENDEN (3612185/386A)						
County Summary:	SAN BENITO						
Lat/Long:	36.88725° / -121.54035°					Township:	12S
UTM:	Zone-10 N4083359 E630069					Range:	04E
Radius:	2/5 mile			Mapping Precision:	NON-SPECIFIC	Section:	16
Elevation:	300 ft			Symbol Type:	POINT	Meridian:	M
						Qtr:	SW
Location:	ABOUT 1 MILE EAST OF THE JUNCTION OF HIGHWAY 101 AND THE SAN BENITO RIVER, EAST OF THE SAN JUAN VALLEY						
Location Detail:	SITE IS LOCATED ON THE O'CONNELL RANCH, 0.25 MILE EAST ON BETABEL ROAD, OFF HIGHWAY 101.						
Ecological:	HABITAT CONSISTS OF GRAZED OAK WOODLAND/GRASSLAND, INTERSPED BY SEASONAL ARROYOS WHICH DRAIN INTO THE SAN BENITO RIVER ON THE SOUTH BORDER OF THE SITE. THOUSANDS OF GROUND SQUIRREL BURROWS ARE PRESENT.						
Threat:	THREATENED BY DEVELOPMENT (ESTATE LOTS AND DENSE, SINGLE-FAMILY HOUSING).						
General:	1 ADULT OBSERVED ON 1 FEB 2001, AND A SECOND ADULT OBSERVED ON 2 FEB 2001, ALONG WITH MANY BURROWS.						
Owner/Manager:	PVT						

***Castilleja rubicundula ssp. rubicundula***

pink creamsacs

Element Code: PDSCR0D482

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: None	Global: G5T2	CNPS List: 1B
State: None	State: S2.2	R-E-D Code: 2-2-3

**Habitat Associations**

**General:** CHAPARRAL, MEADOWS AND SEEPS, VALLEY AND FOOTHILL GRASSLAND.

**Micro:** OPENINGS IN CHAPARRAL OR GRASSLANDS. ON SERPENTINE. 20-900M.

<b>Occurrence No.</b> 18	<b>Map Index:</b> 53706	<b>EO Index:</b> 53706	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Good			<b>Element:</b> 1992-04-08
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1992-04-08
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2003-12-29
<b>Main Source:</b> PRESTON, R. 1992 (OBS)			

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CLARA

<b>Lat/Long:</b> 36.93166° / -121.58757°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4088223 E625788	<b>Range:</b> 03E
<b>Area:</b> 181.6 ac	<b>Section:</b> 36
<b>Elevation:</b> 340 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> NON-SPECIFIC	<b>Qtr:</b> SE
<b>Symbol Type:</b> POLYGON	

**Location:** NORTH OF TAR CREEK, ABOUT 4.5 MILES SOUTH OF GILROY, SANTA CRUZ MOUNTAINS.

**Location Detail:** MAPPED MOSTLY WITHIN THE SE 1/4 OF SECTION 36.

**Ecological:** IN SEEP/SPRING WITH HORDEUM DEPRESSUM, PUCCINELLIA SIMPLEX, AND ELEOCHARIS.

**Threat:** CATTLE, FERAL PIGS, TRAMPLING.

**General:** UNKNOWN NUMBER OF PLANTS SEEN BY PRESTON IN 1992. THIS SITE IS A NEW COUNTY FOR THIS PLANT.

**Owner/Manager:** PVT



***Emys (=Clemmys) marmorata***

western pond turtle

Element Code: ARAAD02030

Status	NDDB Element Ranks	Other Lists
Federal: None	Global: G3G4	CDFG Status: SC
State: None	State: S3	

**Habitat Associations**

**General:** A THOROUGHLY AQUATIC TURTLE OF PONDS, MARSHES, RIVERS, STREAMS & IRRIGATION DITCHES WITH AQUATIC VEGETATION.  
**Micro:** NEED BASKING SITES AND SUITABLE (SANDY BANKS OR GRASSY OPEN FIELDS) UPLAND HABITAT FOR EGG-LAYING.

Occurrence No. 92	Map Index: 32894	EO Index: 5896	Dates Last Seen	
Occ Rank: Poor			Element:	1988-09-19
Origin: Natural/Native occurrence			Site:	1988-09-19
Presence: Presumed Extant			Record Last Updated: 1996-03-22	
Trend: Unknown				
Main Source: SUDDJIAN, D. 1988 (OBS)				
Quad Summary: CHITTENDEN (3612185/386A)				
County Summary: SAN BENITO				
Lat/Long: 36.88932° / -121.60132°			Township: 12S	
UTM: Zone-10 N4083507 E624632			Range: 03E	
Area: 2.4 ac	Mapping Precision: SPECIFIC		Section: XX	Qtr: XX
Elevation: 350 ft	Symbol Type: POLYGON		Meridian: M	
Location: ANZAR LAKE, EAST OF AROMAS, JUST SOUTHEAST OF ANZAR ROAD X COLE ROAD.				
Ecological: PERENNIAL LAKE WITH WETLAND HABITAT AND LIMITED WILLOW RIPARIAN; LAKE WAS DRY ON THIS VISIT (9/19/1988), APPARENTLY A RARE CONDITION AT THIS SITE.				
Threat: LAKE CURRENTLY BEING LEFT ALONE, BUT PLACEMENT OF QUARRY OVERBURDEN MATERIAL MAY OCCUR IN FUTURE W/IN 0.3 MILES OF LAKE.				
General: 1 TURTLE SHELL WAS COLLECTED BY D.L. SUDDJIAN ON DRY LAKE BED.				
Owner/Manager: PVT-GRANITE ROCK				
Occurrence No. 107	Map Index: 34677	EO Index: 326	Dates Last Seen	
Occ Rank: Fair			Element:	1992-06-22
Origin: Natural/Native occurrence			Site:	1992-06-22
Presence: Presumed Extant			Record Last Updated: 1996-02-28	
Trend: Unknown				
Main Source: MORI, B. 1992 (OBS)				
Quad Summary: CHITTENDEN (3612185/386A), GILROY (3712115/406D)				
County Summary: SANTA CLARA				
Lat/Long: 37.00463° / -121.60537°			Township: 11S	
UTM: Zone-10 N4096295 E624084			Range: 03E	
Area: 368.8 ac	Mapping Precision: NON-SPECIFIC		Section: XX	Qtr: XX
Elevation: 220 ft	Symbol Type: POLYGON		Meridian: M	
Location: UVAS CREEK, UVAS CREEK PARK, IMMEDIATELY WEST OF GILROY AND SOUTH OF HIGHWAY 152.				
Location Detail: CREEK TO BE RESTORED PER PROPOSED MASTER PLAN.				
Ecological: FORMER GRAVEL PIT; IN-CHANNEL IMPOUNDMENT. EMERGENT VEGETATION AND WILLOW SURROUNDING IMPOUNDMENT; CREEK DEGRADED DUE TO PAST QUARRYING ACTIVITIES; SAND/GRAVEL SUBSTRATE; MATURE TREES ABSENT FROM CORRIDOR; WATER IS GREENISH COLOR.				
Threat: COLLECTION BY PARK USERS.				
General: 1 ADULT OBSERVED BY B. MORI.				
Owner/Manager: CITY OF GILROY				

***Emys (=Clemmys) marmorata***

western pond turtle

Element Code: ARAAD02030

**Status**

Federal: None

State: None

**NDDB Element Ranks**

Global: G3G4

State: S3

**Other Lists**

CDFG Status: SC

**Habitat Associations**

**General:** A THOROUGHLY AQUATIC TURTLE OF PONDS, MARSHES, RIVERS, STREAMS & IRRIGATION DITCHES WITH AQUATIC VEGETATION.

**Micro:** NEED BASKING SITES AND SUITABLE (SANDY BANKS OR GRASSY OPEN FIELDS) UPLAND HABITAT FOR EGG-LAYING.

<b>Occurrence No.</b> 181	<b>Map Index:</b> 36056	<b>EO Index:</b> 44865	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Excellent			<b>Element:</b> 2000-05-05
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 2000-05-05
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2001-02-01
<b>Main Source:</b> WILKINSON, J. 2000 (OBS)			

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CLARA

<b>Lat/Long:</b> 36.95227° / -121.55894°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4090547 E626304	<b>Range:</b> 04E
<b>Radius:</b> 80 meters	<b>Section:</b> 29
<b>Elevation:</b> 240 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> NW
<b>Symbol Type:</b> POINT	

**Location:** 0.4 MILE WEST OF THE INTERSECTION OF HWY 101 AND OLD MONTEREY ROAD, 4 MILES SOUTH OF GILROY.

**Location Detail:** POND IS LOCATED ALONG THE STREAM, BELOW THE SPRINGS.

**Ecological:** HABITAT CONSISTS OF AN ARTIFICIAL POND, WITH SURROUNDING VEGETATION OF CATTAILS AND OTHER POND VEGETATION.

**Threat:** THREATENED BY A PROPOSAL TO DEVELOP THIS AREA INTO A QUARRY SITE, POND HAS BEEN DRAINED FOR QUARRY ACTIVITIES.

**General:** 1 ADULT OBSERVED ON 5 MAY 2000.

**Owner/Manager:** PVT

<b>Occurrence No.</b> 224	<b>Map Index:</b> 48546	<b>EO Index:</b> 48546	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1989-04-17
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1989-04-17
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2002-08-13
<b>Main Source:</b> LSA ASSOC. 1989 (LIT)			

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CLARA

<b>Lat/Long:</b> 36.98746° / -121.59147°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4094408 E625349	<b>Range:</b> 03E
<b>Radius:</b> 80 meters	<b>Section:</b> 12
<b>Elevation:</b> 400 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** RESERVOIR CANYON POND, 0.2 MI WEST OF INTERSECTION OF MILLER AVE AND SANTA TERESA BLVD. SOUTH OF GILROY.

**Location Detail:** O'CONNEL RANCH PROJECT SITE. POND "A".

**Ecological:** CLEAR, DEEP POND SURROUNDED BY COAST LIVE OAK WOODLAND AND SAVANNA. SUBMERGENT VEGETATION AND ALGAE PRESENT.

**General:** ONE 4-5 INCH POND TURTLE OBSERVED DURING A SURVEY FOR CALIFORNIA TIGER SALAMANDERS.

**Owner/Manager:** PVT

<b>Occurrence No.</b> 255	<b>Map Index:</b> 53908	<b>EO Index:</b> 53908	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Fair			<b>Element:</b> 2003-03-05
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 2003-03-05
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2004-01-13
<b>Main Source:</b> JASSAL, N. K. 2003 (OBS)			

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CLARA

<b>Lat/Long:</b> 36.93692° / -121.55034°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4088856 E629095	<b>Range:</b> 04E
<b>Radius:</b> 80 meters	<b>Section:</b> 32
<b>Elevation:</b> 145 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** TICK CREEK, BETWEEN HIGHWAY 101 AND THE SPRR TRACKS, 5 MILES SOUTH OF GILROY

**Ecological:** HABITAT CONSISTS OF WILLOW RIPARIAN WITH AN HERBACEOUS UNDERSTORY; SURROUNDED BY AGRICULTURE, RAILROAD TRACKS, AND A MAJOR HIGHWAY.

**General:** 1 ADULT OBSERVED ON 5 MAR 2003.

**Owner/Manager:** UNKNOWN

***Hoita strobilina***

Loma Prieta hoita

Element Code: PDFAB5Z030

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: None	Global: G2	CNPS List: 1B
State: None	State: S2.1	R-E-D Code: 2-3-3

**Habitat Associations**

General: CHAPARRAL, CISMONTANE WOODLAND, RIPARIAN WOODLAND.  
Micro: SERPENTINE; MESIC SITES.

Occurrence No. 2	Map Index: 46517	EO Index: 50132	<b>Dates Last Seen</b>
Occ Rank: None			Element: 1918-07-30
Origin: Natural/Native occurrence			Site: 1918-07-30
Presence: Possibly Extirpated			
Trend: Unknown			Record Last Updated: 2003-02-12
Main Source: MILLER, C. SN UC #866271 (HERB)			

Quad Summary: CHITTENDEN (3612185/386A), GILROY (3712115/406D)  
County Summary: SANTA CLARA

Lat/Long: 37.009111° / -121.57151°	Township: 11S
UTM: Zone-10 N4096836 E627089	Range: 04E
Radius: 1 mile	Section: 06
Elevation: 180 ft	Meridian: M
Mapping Precision: NON-SPECIFIC	Qtr: XX
Symbol Type: POINT	

Location: GILROY.  
Location Detail: MAPPED AS BEST GUESS AT GILROY BY CNDDB.  
General: NEEDS FIELDWORK. ONLY SOURCE OF INFORMATION IS COLLECTION FROM 1918 BY C. MILLER. AREA HAS SINCE BEEN HEAVILY DEVELOPED.  
Owner/Manager: UNKNOWN

***Rana aurora draytonii***

California red-legged frog

Element Code: AAABH01022

**Status**  
**Federal:** Threatened  
**State:** None

**NDDB Element Ranks**  
**Global:** G4T2T3  
**State:** S2S3

**Other Lists**  
**CDFG Status:** SC

**Habitat Associations**

**General:** LOWLANDS & FOOTHILLS IN OR NEAR PERMANENT SOURCES OF DEEP WATER WITH DENSE, SHRUBBY OR EMERGENT RIPARIAN VEGETATION.  
**Micro:** REQUIRES 11-20 WEEKS OF PERMANENT WATER FOR LARVAL DEVELOPMENT. MUST HAVE ACCESS TO ESTIVATION HABITAT.

**Occurrence No.:** 213      **Map Index:** 36054      **EO Index:** 31051      **Dates Last Seen**  
**Occ Rank:** Good      **Element:** 1997-03-23  
**Origin:** Natural/Native occurrence      **Site:** 1997-03-23  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 1998-05-05  
**Main Source:** JENNINGS, M. 1997 (OBS)

**Quad Summary:** CHITTENDEN (3612185/386A)  
**County Summary:** SANTA CLARA

**Lat/Long:** 36.94718° / -121.55657°      **Township:** 11S  
**UTM:** Zone-10 N4089986 E628523      **Range:** 04E  
**Area:** 3.0 ac      **Mapping Precision:** SPECIFIC      **Section:** 29      **Qtr:** SW  
**Elevation:** 170 ft      **Symbol Type:** POLYGON      **Meridian:** M

**Location:** JUST WEST OF OLD MONTEREY ROAD, 0.3 MILE SSW OF THE HWY 101 INTERSECTION, 4 MILES SOUTH OF GILROY.  
**Ecological:** HABITAT CONSISTS OF A STOCK POND, SURROUNDED BY GRAZED GRASSLAND, WITH A FEW SCATTERED COAST LIVE OAKS. CALIFORNIA TIGER SALAMANDER ALSO OCCURS AT THIS SITE.  
**Threat:** THREATS INCLUDE THE PRESENCE OF BULLFROGS AND INTRODUCED SALAMANDERS AND A PROPOSAL TO DEVELOP THE SITE INTO A QUARRY.  
**General:** 6 JUVENILE FROGS COLLECTED (CAS #MRJ-1241) ON 23 MARCH 1997; 3 ADULT BULLFROGS ALSO OBSERVED. CAS# 203719, SVL 64 MM, 26.9 GM.  
**Owner/Manager:** PVT

**Occurrence No.:** 214      **Map Index:** 36056      **EO Index:** 31053      **Dates Last Seen**  
**Occ Rank:** Fair      **Element:** 1997-03-23  
**Origin:** Natural/Native occurrence      **Site:** 1997-03-23  
**Presence:** Presumed Extant  
**Trend:** Unknown      **Record Last Updated:** 1997-07-09  
**Main Source:** JENNINGS, M. 1997 (OBS)

**Quad Summary:** CHITTENDEN (3612185/386A)  
**County Summary:** SANTA CLARA

**Lat/Long:** 36.95227° / -121.55894°      **Township:** 11S  
**UTM:** Zone-10 N4090547 E628304      **Range:** 04E  
**Radius:** 80 meters      **Mapping Precision:** SPECIFIC      **Section:** 29      **Qtr:** NW  
**Elevation:** 240 ft      **Symbol Type:** POINT      **Meridian:** M

**Location:** 0.4 MILE WEST OF THE INTERSECTION OF HWY 101 AND OLD MONTEREY ROAD, 4 MILES SOUTH OF GILROY.  
**Location Detail:** POND IS LOCATED ALONG THE STREAM, BELOW THE SPRINGS.  
**Ecological:** HABITAT CONSISTS OF AN ARTIFICIAL POND, LOCATED ON A 40-DEGREE SLOPE, SURROUNDED BY GRAZED GRASSLAND AND SCATTERED ROCK OUTCROPS; SOME WILLOWS AND BUNCH GRASSES GROW ALONG THE CREEK, BUT MANY THISTLES ARE PRESENT DUE TO GRAZING ACTIVITIES.  
**Threat:** THREATENED BY A PROPOSAL TO DEVELOP THIS AREA INTO A QUARRY SITE.  
**General:** 1 ADULT OBSERVED ON 23 MARCH 1997.  
**Owner/Manager:** PVT

***Rana aurora draytonii***

California red-legged frog

Element Code: AAABH01022

Status

NDDB Element Ranks

Other Lists

Federal: Threatened

Global: G4T2T3

CDFG Status: SC

State: None

State: S2S3

Habitat Associations

General: LOWLANDS & FOOTHILLS IN OR NEAR PERMANENT SOURCES OF DEEP WATER WITH DENSE, SHRUBBY OR EMERGENT RIPARIAN VEGETATION.

Micro: REQUIRES 11-20 WEEKS OF PERMANENT WATER FOR LARVAL DEVELOPMENT. MUST HAVE ACCESS TO ESTIVATION HABITAT.

Occurrence No. 215

Map Index: 36059

EO Index: 31056

Dates Last Seen

Occ Rank: Good

Element: 1997-05-25

Origin: Natural/Native occurrence

Site: 1997-05-25

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 1997-07-09

Main Source: JENNINGS, M. 1997 (OBS)

Quad Summary: CHITTENDEN (3612185/386A)

County Summary: SANTA CLARA

Lat/Long: 36.94603° / -121.56687°

UTM: Zone-10 N4089844 E627607

Radius: 80 meters

Elevation: 220 ft

Mapping Precision: SPECIFIC

Symbol Type: POINT

Township: 11S

Range: 04E

Section: 30

Meridian: M

Qtr: SE

Location: TICK CREEK, 0.65 MILE WEST OF OLD MONTEREY ROAD, 3.5 MILES SOUTH OF GILROY.

Ecological: HABITAT CONSISTS OF A POND IN THE TICK CREEK DRAINAGE; SURROUNDED BY GRAZED GRASSLAND, WITH COAST LIVE OAKS ON SURROUNDING HILLSIDES.

Threat: THREATENED BY GRAZING AND THE PRESENCE OF BULLFROGS.

General: 3 ADULT FROGS AND 2 LARVAE OBSERVED ON 25 MAY 1997; 1 LARVA COLLECTED (MRJ #1279/ CAS# 203261).

Owner/Manager: PVT

Occurrence No. 216

Map Index: 36060

EO Index: 31057

Dates Last Seen

Occ Rank: Good

Element: 1997-06-01

Origin: Natural/Native occurrence

Site: 1997-06-01

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 2002-09-04

Main Source: JENNINGS, M. 1997 (OBS)

Quad Summary: CHITTENDEN (3612185/386A)

County Summary: SANTA CLARA

Lat/Long: 36.95040° / -121.57014°

UTM: Zone-10 N4090325 E627309

Radius: 80 meters

Elevation: 300 ft

Mapping Precision: SPECIFIC

Symbol Type: POINT

Township: 11S

Range: 04E

Section: 30

Meridian: M

Qtr: NE

Location: TICK CREEK, 0.95 MILE WEST OF THE INTERSECTION OF HWY 101 AND OLD MONTEREY ROAD, 3 MILES SOUTH OF GILROY.

Ecological: HABITAT CONSISTS OF A POND; SURROUNDED BY GRAZED GRASSLAND WITH SOME COAST LIVE OAK ON HILLSIDES.

Threat: THREATS INCLUDE CATTLE GRAZING AND THE PRESENCE OF BULLFROGS.

General: 9 ADULT FROGS OBSERVED; 1 LARVA (#MRJ 1287) COLLECTED ON 1 JUN 1997 AND DEPOSITED AT CAS (CAS# 203277).

Owner/Manager: PVT

Occurrence No. 232

Map Index: 38088

EO Index: 33095

Dates Last Seen

Occ Rank: Fair

Element: 1997-04-12

Origin: Natural/Native occurrence

Site: 1997-04-12

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 1998-02-10

Main Source: DRAKE, D. 1997 (OBS)

Quad Summary: CHITTENDEN (3612185/386A)

County Summary: SAN BENITO

Lat/Long: 36.93949° / -121.50976°

UTM: Zone-10 N4089197 E632705

Radius: 80 meters

Elevation: 140 ft

Mapping Precision: SPECIFIC

Symbol Type: POINT

Township: 11S

Range: 04E

Section: 34

Meridian: M

Qtr: XX

Location: RANCHO SAN BENITO, 0.6 MILE SSE OF WHERE HWY 25 CROSSES THE PAJARO RIVER, 4 MILES SE OF GILROY.

Location Detail: LOCATED IN AN IRRIGATION DITCH BEHIND A BARN.

Ecological: HABITAT CONSISTS OF AN ARTIFICIALLY-FILLED IRRIGATION POND; SURROUNDED BY AGRICULTURAL FIELDS.

Threat: THREATS INCLUDE DEVELOPMENT AND WATER QUALITY.

General: 7 ADULTS AND 14 TADPOLES OBSERVED BETWEEN 4-12 APRIL 1997.

Owner/Manager: PVT-RANCHO SAN BENITO



***Rana aurora draytonii***

California red-legged frog

Element Code: AAABH01022

Status	NDDB Element Ranks	Other Lists
Federal: Threatened State: None	Global: G4T2T3 State: S2S3	CDFG Status: SC

**Habitat Associations**

**General:** LOWLANDS & FOOTHILLS IN OR NEAR PERMANENT SOURCES OF DEEP WATER WITH DENSE, SHRUBBY OR EMERGENT RIPARIAN VEGETATION.  
**Micro:** REQUIRES 11-20 WEEKS OF PERMANENT WATER FOR LARVAL DEVELOPMENT. MUST HAVE ACCESS TO ESTIVATION HABITAT.

Occurrence No. 233	Map Index: 38089	EO Index: 33096	Dates Last Seen	
Occ Rank: Fair			Element:	1997-04-12
Origin: Natural/Native occurrence			Site:	1997-04-12
Presence: Presumed Extant			Record Last Updated: 1998-02-10	
Trend: Unknown				
Main Source: DRAKE, D. 1997 (OBS)				
Quad Summary: CHITTENDEN (3612185/386A)				
County Summary: SAN BENITO, SANTA CLARA				
Lat/Long: 36.92256° / -121.53916°			Township:	12S
UTM: Zone-10 N4087278 E630115			Range:	04E
Radius: 80 meters		Mapping Precision: SPECIFIC	Section:	04
Elevation: 115 ft		Symbol Type: POINT	Meridian:	M
			Qtr:	XX
Location: PAJARO RIVER, BETWEEN HWY 101 AND THE HWY 25 OVERPASS, 5 MILES SOUTH OF GILROY				
Ecological: HABITAT CONSISTS OF RIPARIAN; SURROUNDED BY AGRICULTURE.				
Threat: THREATS INCLUDE DEVELOPMENT, BULLFROGS, NON-NATIVE FISHES, AND WATER QUALITY.				
General: 1 ADULT FROG OBSERVED BETWEEN 4-12 APRIL 1997.				
Owner/Manager: PVT-RANCHO SAN BENITO				
Occurrence No. 483	Map Index: 47083	EO Index: 47083	Dates Last Seen	
Occ Rank: Unknown			Element:	2001-02-02
Origin: Natural/Native occurrence			Site:	2001-02-02
Presence: Presumed Extant			Record Last Updated: 2002-01-24	
Trend: Unknown				
Main Source: FLOHR, G. E. 2001 (OBS)				
Quad Summary: CHITTENDEN (3612185/386A)				
County Summary: SAN BENITO				
Lat/Long: 36.88466° / -121.54286°			Township:	12S
UTM: Zone-10 N4083068 E629849			Range:	04E
Radius: 80 meters		Mapping Precision: SPECIFIC	Section:	16
Elevation: 300 ft		Symbol Type: POINT	Meridian:	M
			Qtr:	XX
Location: 1.6 MILES NORTH OF THE INTERSECTION OF SAN JUSTO ROAD AND PRESCOTT ROAD, JUST NORTH OF SAN JUAN VALLEY				
Ecological: HABITAT CONSISTS OF A PERENNIAL STOCKPOND, WITH TULE AROUND THE EDGES; LOCATED WITHIN A SEASONAL ARROYO THAT DRAINS TO THE SAN BENITO RIVER. POND IS SURROUNDED BY OAK WOODLAND/GRASSLAND.				
General: 1 SUB-ADULT OBSERVED ON 2 FEB 2001.				
Owner/Manager: PVT				
Occurrence No. 484	Map Index: 47084	EO Index: 47084	Dates Last Seen	
Occ Rank: Unknown			Element:	2001-02-01
Origin: Natural/Native occurrence			Site:	2001-02-01
Presence: Presumed Extant			Record Last Updated: 2002-01-24	
Trend: Unknown				
Main Source: FLOHR, G. E. 2001 (OBS)				
Quad Summary: CHITTENDEN (3612185/386A)				
County Summary: SAN BENITO				
Lat/Long: 36.88435° / -121.53009°			Township:	12S
UTM: Zone-10 N4083051 E630988			Range:	04E
Radius: 80 meters		Mapping Precision: SPECIFIC	Section:	16
Elevation: 305 ft		Symbol Type: POINT	Meridian:	M
			Qtr:	XX
Location: 1.7 MILES NNE OF THE INTERSECTION OF SAN JUSTO ROAD AND PRESCOTT ROAD, JUST NORTH OF SAN JUAN VALLEY				
Ecological: HABITAT CONSISTS OF A PERENNIAL STOCKPOND, WITH TULE AROUND THE EDGES; LOCATED WITHIN A SEASONAL ARROYO THAT DRAINS TO THE SAN BENITO RIVER. POND IS SURROUNDED BY OAK WOODLAND/GRASSLAND.				
Threat: SCHEDULED TO BE DEVELOPED INTO ESTATE LOTS AND DENSE SINGLE FAMILY SUBDIVISIONS.				
General: 1 ADULT OBSERVED ON 1 FEB 2001.				
Owner/Manager: PVT				

***Rana aurora draytonii***

California red-legged frog

Element Code: AAABH01022

**Status**

**NDDB Element Ranks**

**Other Lists**

Federal: Threatened

Global: G4T2T3

CDFG Status: SC

State: None

State: S2S3

**Habitat Associations**

**General:** LOWLANDS & FOOTHILLS IN OR NEAR PERMANENT SOURCES OF DEEP WATER WITH DENSE, SHRUBBY OR EMERGENT RIPARIAN VEGETATION.

**Micro:** REQUIRES 11-20 WEEKS OF PERMANENT WATER FOR LARVAL DEVELOPMENT. MUST HAVE ACCESS TO ESTIVATION HABITAT.

Occurrence No. 619

Map Index: 50233

EO Index: 50233

**Dates Last Seen**

Occ Rank: Fair

Element: 2002-XX-XX

Origin: Natural/Native occurrence

Site: 2002-XX-XX

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 2003-06-11

Main Source: BLAND, D. 2002 (OBS)

Quad Summary: CHITTENDEN (3612185/386A)

County Summary: SANTA CRUZ

Lat/Long: 36.91147° / -121.60714°

UTM: Zone-10 N4085957 E624078

Radius: 80 meters

Elevation: 250 ft

Mapping Precision: SPECIFIC

Symbol Type: POINT

Township: 12S

Range: 03E

Section: 02

Meridian: M

Qtr: XX

**Location:** JUST NORTH OF SODA LAKE, 1 MILE EAST OF PAJARO GAP, 7 MILES SOUTH OF GILROY

**Location Detail:** DESIGNATED "POND A." NEARBY SODA LAKE IS A SEDIMENT BASIN FOR THE ADJACENT QUARRY; BASIN ATTRACTS FROGS, BUT IS NOT USED FOR BREEDING.

**Ecological:** HABITAT CONSISTS OF A SMALL BREEDING POND; SURROUNDING VEGETATION CONSISTS OF WILLOWS.

**Threat:** THREATENED BY NON-NATIVE PREDATORS (CRAYFISH, MOSQUITOFISH) AND EXPANSION OF THE SEDIMENT BASIN.

**General:** 1-2 FROGS OBSERVED EACH NIGHT DURING SURVEYS CONDUCTED IN LATE MAY-LATE JUN 1998. ~50 ADULT FROGS OBSERVED IN 2002.

**Owner/Manager:** PVT-GRANITE ROCK

Occurrence No. 650

Map Index: 51517

EO Index: 51517

**Dates Last Seen**

Occ Rank: Unknown

Element: 1998-06-XX

Origin: Natural/Native occurrence

Site: 1998-06-XX

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 2003-06-11

Main Source: BLAND, D. 1998 (LIT)

Quad Summary: CHITTENDEN (3612185/386A)

County Summary: SANTA CRUZ

Lat/Long: 36.91336° / -121.61687°

UTM: Zone-10 N4086154 E623208

Radius: 80 meters

Elevation:

Mapping Precision: SPECIFIC

Symbol Type: POINT

Township: 12S

Range: 03E

Section: 02

Meridian: M

Qtr: XX

**Location:** 0.5 MILE NW OF SODA LAKE AND 0.5 MILE EAST OF PAJARO GAP, 7 MILES SOUTH OF GILROY

**Location Detail:** DESIGNATED "POND B."

**Ecological:** HABITAT CONSISTS OF A MEDIUM-SIZED POND WITH DENSE BULRUSH AND AQUATIC VEGETATION.

**Threat:** THREATENED BY THE PRESENCE OF BULLFROGS AND FISH.

**General:** 1 ADULT FROG OBSERVED ON 26 JUN 1998.

**Owner/Manager:** PVT-GRANITE ROCK

Occurrence No. 651

Map Index: 51518

EO Index: 51518

**Dates Last Seen**

Occ Rank: Unknown

Element: 1998-06-26

Origin: Natural/Native occurrence

Site: 1998-06-26

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 2003-06-11

Main Source: BLAND, D. 1998 (LIT)

Quad Summary: CHITTENDEN (3612185/386A)

County Summary: SANTA CRUZ

Lat/Long: 36.90607° / -121.60802°

UTM: Zone-10 N4085357 E624008

Area: 10.4 ac

Elevation: 260 ft

Mapping Precision: SPECIFIC

Symbol Type: POLYGON

Township: 12S

Range: 03E

Section: 11

Meridian: M

Qtr: XX

**Location:** SOUTH END OF SODA LAKE, 1 MILE SE OF PAJARO GAP, 7 MILES SOUTH OF GILROY

**Ecological:** HABITAT CONSISTS OF A 45-ACRE LAKE CONTAINED BY A LEVEE, WITH A MIXTURE OF BARE, DISTURBED AREAS, OPEN WATER, FRESHWATER MARSH, AND WILLOW RIPARIAN.

**Threat:** THREATENED BY THE PRESENCE OF BULLFROGS.

**General:** 2 ADULT FROGS OBSERVED ON 26 JUN 1998.

**Owner/Manager:** PVT-GRANITE ROCK

***Riparia riparia***

bank swallow

Element Code: ABPAU08010

Status

NDDB Element Ranks

Other Lists

Federal: None

Global: G5

CDFG Status:

State: Threatened

State: S2S3

**Habitat Associations**

**General:** (NESTING) COLONIAL NESTER; NESTS PRIMARILY IN RIPARIAN AND OTHER LOWLAND HABITATS WEST OF THE DESERT.

**Micro:** REQUIRES VERTICAL BANKS/CLIFFS WITH FINE-TEXTURED/SANDY SOILS NEAR STREAMS, RIVERS, LAKES, OCEAN TO DIG NESTING HOLE.

Occurrence No. 121

Map Index: 10978

EO Index: 25174

Dates Last Seen

Occ Rank: Unknown

Element: 1931-06-06

Origin: Natural/Native occurrence

Site: 1931-06-06

Presence: Presumed Extant

Trend: Unknown

Record Last Updated: 1989-08-10

Main Source: UNGLISH, W. 1931 (MUS)

Quad Summary: CHITTENDEN (3612185/386A)

County Summary: SAN BENITO, SANTA CLARA

Lat/Long: 36.90549° / -121.56300°

Township: 12S

UTM: Zone-10 N4085352 E628020

Range: 04E

Radius: 1 mile

Mapping Precision: NON-SPECIFIC

Section: XX

Qtr: XX

Elevation: 220 ft

Symbol Type: POINT

Meridian: M

Location: BETEBEL, SANTA CLARA CO.

General: WFVZ EGG SETS, FROM BANK OF RAILROAD CUT.

Owner/Manager: PVT

***Streptanthus albidus ssp. peramoenus***

most beautiful jewel-flower

Element Code: PDBRA2G012

Status	NDDB Element Ranks	Other Lists
Federal: None	Global: G2T2	CNPS List: 1B
State: None	State: S2.2	R-E-D Code: 2-2-3

**Habitat Associations**

**General:** CHAPARRAL, VALLEY AND FOOTHILL GRASSLAND, CISMONTANE WOODLAND.

**Micro:** SERPENTINE OUTCROPS, ON RIDGES AND SLOPES. 120-730M.

Occurrence No. 17	Map Index: 30508	EO Index: 26360	Dates Last Seen
Occ Rank: Good			Element: 1992-06-01
Origin: Natural/Native occurrence			Site: 1992-06-01
Presence: Presumed Extant			
Trend: Unknown			Record Last Updated: 1996-11-14
Main Source: PRESTON, R. 1992 (OBS)			

**Quad Summary:** CHITTENDEN (3612185/386A)

**County Summary:** SANTA CLARA

Lat/Long: 36.94851° / -121.59636°	Township: 11S
UTM: Zone-10 N4090080 E624978	Range: 03E
Radius: 80 meters	Section: 25
Elevation: 950 ft	Meridian: M
Mapping Precision: SPECIFIC	Qtr: NW
Symbol Type: POINT	

**Location:** CARLYLE HILLS, ABOUT 3.5 MI SSW OF GILROY. 0.25 MI N OF SPRING IN SECTION 25.

**Ecological:** DRY SERPENTINE OUTCROP WITH BROMUS MOLLIS, NASSELLA PULCHRA, KOELARIA CRISTATA, SITANION JUBATUM, PLANTAGO ERECTA, & VULPIA.

**General:** FEWER THAN 50 PLANTS IN 1992.

**Owner/Manager:** UNKNOWN

***Trifolium amoenum***

showy Indian clover

Element Code: PDFAB40040

**Status**

Federal: Endangered

State: None

**NDDB Element Ranks**

Global: G1

State: S1.1

**Other Lists**

CNPS List: 1B

R-E-D Code: 3-3-3

**Habitat Associations**

General: VALLEY AND FOOTHILL GRASSLAND, COASTAL BLUFF SCRUB.

Micro: SOMETIMES ON SERPENTINE SOIL, OPEN SUNNY SITES, SWALES. MOST RECENTLY SITED ON ROADSIDE AND ERODING CLIFF FACE. 5-560M.

Occurrence No. 10

Map Index: 46517

EO Index: 46517

Dates Last Seen

Occ Rank: None

Element: 1903-05-XX

Origin: Natural/Native occurrence

Site: 1903-05-XX

Presence: Possibly Extirpated

Trend: Unknown

Record Last Updated: 2001-11-14

Main Source: ELMER, A. #4909 SBBG (HERB)

Quad Summary: CHITTENDEN (3612185/386A), GILROY (3712115/408D)

County Summary: SANTA CLARA

Lat/Long: 37.00911° / -121.57151°

UTM: Zone-10 N4096836 E627089

Radius: 1 mile

Elevation: 180 ft

Township: 11S

Range: 04E

Section: 06

Meridian: M

Qtr: XX

Mapping Precision: NON-SPECIFIC

Symbol Type: POINT

Location: GILROY.

General: SPECIES SEEN IN 1903. ONLY SOURCE OF INFORMATION FOR THIS SITE IS COLLECTION BY ELMER; NEEDS FIELDWORK. DEVELOPMENT MAY HAVE ELIMINATED POPULATION.

Owner/Manager: UNKNOWN



***Trifolium depauperatum* var. *hydrophilum***

saline clover

Element Code: PDFAB400R5

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: None	Global: G5T2?	CNPS List: 1B
State: None	State: S2.2?	R-E-D Code: 3-2-3

**Habitat Associations**

**General:** MARSHES AND SWAMPS, VALLEY AND FOOTHILL GRASSLAND, VERNAL POOLS.

**Micro:** MESIC, ALKALINE SITES. 0-300M.

<b>Occurrence No.</b> 5	<b>Map Index:</b> 49390	<b>EO Index:</b> 49390	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Unknown			<b>Element:</b> 1995-XX-XX
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 1995-XX-XX
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2002-11-19
<b>Main Source:</b> HILLYARD, D. 1995 (PERS)			

**Quad Summary:** SAN FELIPE (3612184/385B), CHITTENDEN (3612185/386A)

**County Summary:** SAN BENITO, SANTA CLARA

<b>Lat/Long:</b> 36.94829° / -121.50243°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4090183 E633342	<b>Range:</b> 04E
<b>Radius:</b> 3/5 mile	<b>Section:</b> 26
<b>Elevation:</b>	<b>Meridian:</b> M
<b>Mapping Precision:</b> NON-SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POINT	

**Location:** BETWEEN MILLERS CANAL AND THE PAJARO RIVER, OFF OF HIGHWAY 25, SAN BENITO COUNTY ON SANTA CLARA COUNTY LINE.

**Threat:** POSSIBLE CONVERSION OF SITE TO AQUACULTURE PONDS.

**General:** NEEDS FIELDWORK.

**Owner/Manager:** UNKNOWN

***Vireo bellii pusillus***

Least Bell's vireo

Element Code: ABPBW01114

<b>Status</b>	<b>NDDB Element Ranks</b>	<b>Other Lists</b>
Federal: Endangered	Global: G5T2	CDFG Status:
State: Endangered	State: S2	

**Habitat Associations**

**General:** (NESTING) SUMMER RESIDENT OF SOUTHERN CALIF IN LOW RIPARIAN IN VICINITY OF WATER OR IN DRY RIVER BOTTOMS; BELOW 2000 FT.

**Micro:** NESTS PLACED ALONG MARGINS OF BUSHES OR ON TWIGS PROJECTING INTO PATHWAYS, USUALLY WILLOW, BACCHARIS, MESQUITE.

<b>Occurrence No.</b> 198	<b>Map Index:</b> 44352	<b>EO Index:</b> 44352	<b>Dates Last Seen</b>
<b>Occ Rank:</b> Excellent			<b>Element:</b> 2001-05-18
<b>Origin:</b> Natural/Native occurrence			<b>Site:</b> 2001-05-18
<b>Presence:</b> Presumed Extant			
<b>Trend:</b> Unknown			<b>Record Last Updated:</b> 2002-01-23
<b>Main Source:</b> PADLEY, D. 1997 (OBS)			

**Quad Summary:** CHITTENDEN (3612185/386A), GILROY (3712115/406D)

**County Summary:** SAN BENITO, SANTA CLARA

<b>Lat/Long:</b> 36.98371° / -121.52283°	<b>Township:</b> 11S
<b>UTM:</b> Zone-10 N4094085 E631465	<b>Range:</b> 04E
<b>Area:</b> 217.3 ac	<b>Section:</b> 10
<b>Elevation:</b> 170 ft	<b>Meridian:</b> M
<b>Mapping Precision:</b> NON-SPECIFIC	<b>Qtr:</b> XX
<b>Symbol Type:</b> POLYGON	

**Location:** LLAGAS CREEK, FROM HIGHWAY 152 TO THE PAJARO RIVER CONFLUENCE, EAST OF GILROY

**Location Detail:** DATA NOT SPECIFIC AS TO WHERE THE BIRDS WERE SEEN, SO ENTIRE REACH WAS MAPPED.

**Ecological:** HABITAT CONSISTS OF DENSE, MULTI-STORY VALLEY FOOTHILL RIPARIAN, DOMINATED BY WILLOWS.

**Threat:** THREATENED BY INDUSTRIAL EXPANSION AND FLOOD CONTROL MAINTENANCE.

**General:** 1-2 OBSERVED DURING 9-13 JUN 1997 SURVEY. WEEKLY SITE VISITS MADE, FROM 17 MAY-10 JUL 2001; 3 ADULTS OBSERVED ON 17-18 MAY 2001.

**Owner/Manager:** SANTA CLARA VALLEY WATER DIST

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# **Cultural Resources Records Search**

APPENDIX E

**CALIFORNIA  
HISTORICAL  
RESOURCES  
INFORMATION  
SYSTEM**



ALAMEDA  
COLUSA  
CONTRA COSTA  
LAKE

MARIN  
MENDOCINO  
MONTEREY  
NAPA  
SAN BENITO  
SAN FRANCISCO

SAN MATEO  
SANTA CLARA  
SANTA CRUZ  
SOLANO  
SONOMA  
YOLO

**Northwest Information Center**  
Sonoma State University  
1303 Maurice Avenue  
Rohnert Park, California 94928-3609  
Tel: 707.664.0880 • Fax: 707.664.0890  
E-mail: [nwic@sonoma.edu](mailto:nwic@sonoma.edu)

August 11, 2004

File No: 04-96  
(Revised 03-888)

Karen Frye  
RMC  
2001 North Main Street, Ste. 400  
Walnut Creek, CA 94596

Re: Record Search Results for the Pajaro River Watershed Flood Prevention Authority:  
Expanded Search Area

Dear Ms. Frye:

Per your rapid response request received by our office on August 10, 2004, a complete records search for the above referenced project was conducted by reviewing the State of California Office of Historic Preservation records, base maps, historic maps, and literature for Santa Clara and San Benito Counties on file at this office. Review of this information indicates that the expanded search area for the proposed Pajaro River Watershed project contains one recorded Native American cultural resource listed with the Historical Resources Information System (P-35-025/P-43-132). This Native American archaeological resource includes midden soils and human remains. This resource has been determined eligible for listing in the National Register of Historic Places (NRHP). No recorded historic-period archaeological resources are located in the expanded search area.

This office has a record of 13 cultural resources studies covering portions of the expanded search area. A bibliographic printout of these reports is attached to this letter. The Historic Properties Directory (HPD) lists several properties in the vicinity of the town of Gilroy. A copy of these listings was mailed to you.

At the time of Euroamerican contact, the Native Americans that lived in the area belonged to the Ohlone group of Indians (Levy 1978). Native American archaeological sites located in the southern Santa Clara Valley of Santa Clara and San Benito Counties tend to be situated along creek banks, along the margins of former marshland, and near the mouths of canyons where they open onto the valley. The project area includes these environmental resources. Given the environmental setting and the presence of several recorded prehistoric archaeological sites in this region, there is a high potential for Native American sites in the project area.



## RECOMMENDATIONS:

1) Given the presence of known prehistoric and historic-period cultural resources within the Pajaro River Watershed Flood Prevention project area, it is recommended that any relevant resources be assessed on a project by project basis, and treatment and/or mitigation recommendations provided at that time.

2) In addition, since there is a high possibility of identifying Native American and historic-period archaeological resources in unsurveyed portions of the proposed project area, further archival and field study by an archaeologist is recommended. Given that this is a planning document, conducting this further identification phase seems relevant and useful at this point to provide information that will complete the locational data for all cultural resources, which could then help guide future development. A referral list of qualified historical resources consultants is included with this letter.

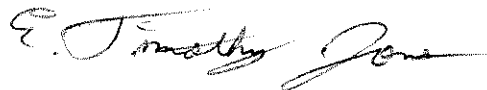
3) Review for possible historic structures has included only those sources listed in the attached bibliography and should not be considered comprehensive. The Office of Historic Preservation has determined that buildings, structures, and objects 45 years or older may be of historical value. If the area of potential effect contains such properties not noted in our research, they should be assessed by an architectural historian before commencement of project activities.

4) If cultural resources are encountered during the project, avoid altering the materials and their context until a cultural resource consultant has evaluated the situation. Project personnel should not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.

5) Identified cultural resources should be recorded on DPR 523 (A-J) historic resource recordation forms.

Thank you for using our services. Please contact our office if you have any questions, (707) 664-0880.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Timothy Jones", with a stylized flourish at the end.

E. Timothy Jones  
Researcher II

## LITERATURE REVIEWED

In addition to archaeological maps and site records on file at the Northwest Information Center of the Historical Resources Information System, the following literature was reviewed:

Bowman, J.N.

- 1951 *Adobe Houses in the San Francisco Bay Region*. Geologic Guidebook of the San Francisco Bay Counties, Bulletin 154. California Division of Mines, Ferry Building, San Francisco.

Butler, Phyllis Filiberti

- 1981 *The Valley of Santa Clara: Historic Buildings, 1792-1920*. Second Edition. Presidio Press, Novato, California.

Gudde, Erwin G.

- 1969 *California Place Names: The Origin and Etymology of Current Geographical Names*. Third Edition. University of California Press, Berkeley and Los Angeles.

Hart, James D.

- 1987 *A Companion to California*. University of California Press, Berkeley and Los Angeles.

Helley, E.J., K.R. Lajoie, W.E. Spangle, and M.L. Blair

- 1979 *Flatland Deposits of the San Francisco Bay Region - Their Geology and Engineering Properties, and Their Importance to Comprehensive Planning*. Geological Survey Professional Paper 943. United States Geological Survey and Department of Housing and Urban Development.

Hoover, Mildred Brooke, Hero Eugene Rensch, and Ethel Rensch, revised by William N. Abeloe

- 1966 *Historic Spots in California*. Third Edition. Stanford University Press, Stanford.

Hoover, Mildred Brooke, Hero Eugene Rensch, and Ethel Rensch, William N. Abeloe, revised by Douglas E. Kyle

- 1990 *Historic Spots in California*. Fourth Edition. Stanford University Press, Stanford.

Kroeber, A.L.

- 1925 *Handbook of the Indians of California*. Bureau of American Ethnology, Bulletin 78, Smithsonian Institution, Washington, D.C. (Reprint by Dover Publications, Inc., New York, 1976).

Levy, Richard

- 1978 Costanoan. In *California*, edited by Robert F. Heizer, pp. 485-495. Handbook of North American Indians, vol. 8, William C. Sturtevant, general editor. Smithsonian Institution, Washington, D.C.

Myers, William A. (editor)

- 1977 *Historic Civil Engineering Landmarks of San Francisco and Northern California*. Prepared by The History and Heritage Committee, San Francisco Section, American Society of Civil Engineers. Pacific Gas and Electric Company, San Francisco.

Nichols, Donald R., and Nancy A. Wright

- 1971 Preliminary Map of Historic Margins of Marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map. U.S. Department of the Interior, Geological Survey in cooperation with the U.S. Department of Housing and Urban Development, Washington, D.C.

Quackenbush, Margery, Editor

- n.d. County Chronicles. Local History Studies; California History Center, Volume 9. Foothill Community College District and De Anza Evening College Commission.

Roberts, George, and Jan Roberts

- 1988 *Discover Historic California*. Gem Guides Book Co., Pico Rivera, California.

Santa Clara County Historical Heritage Commission

- 1979- Heritage Resource Inventory: Santa Clara County. Santa Clara County Planning Department, San Jose, California.

State of California Department of Parks and Recreation

- 1976 *California Inventory of Historic Resources*. State of California Department of Parks and Recreation, Sacramento.

State of California Department of Parks and Recreation and Office of Historic Preservation

- 1988 *Five Views: An Ethnic Sites Survey for California*. State of California Department of Parks and Recreation and Office of Historic Preservation, Sacramento.

State of California Office of Historic Preservation \*\*

- 2004 *Historic Properties Directory*. Listing by City (through February 2004). State of California Office of Historic Preservation, Sacramento.

Thornton, Mark V.

- 1993 An Inventory and Historical Significance Evaluation of CDF Fire Lookout Stations. CDF Archaeological Reports No. 12.

Thompson & West

- 1876 Historical Atlas Map of Santa Clara County, California. Thompson & West, San Francisco. (Reprint by Smith & McKay Printing Company, San Jose, 1973).

Woodbridge, Sally B.

- 1988 *California Architecture: Historic American Buildings Survey*. Chronicle Books, San Francisco.

Works Progress Administration

- 1984 *The WPA Guide to California*. Reprint by Pantheon Books, New York. (Originally published as *California: A Guide to the Golden State* in 1939 by Books, Inc., distributed by Hastings House Publishers, New York.)

\*\*Note that the Office of Historic Preservation's *Historic Properties Directory* Includes National Register, State Registered Landmarks, and Historic Points of Interest.

# Special Search Report Archaeological Records

Northwest Information Center  
Sonoma State University  
1303 Maurice Ave.  
Rohnert Park, CA 94928-3609

<b>S - Number</b>	3299	<b>Report Date</b>	81	<b>County</b>	San Benito
<b>Author(s)</b>	Robert Cartier				
<b>Title of Report</b>	Cultural Resource Evaluation of Frazier Lake Airpark on Frazier Lake Road in the County of San Benito the County of San Benito				
<b>Quad</b>	San Felipe	<b>Additional Quads</b>			
<b>Sites</b>	0	<b>Additional Counti</b>			
<b>Size</b>	c 100 ac	<b>Maps</b>	0	<b>Trinomials or P-N</b>	
<b>Comments</b>					

<b>S - Number</b>	5240	<b>Report Date</b>	78	<b>County</b>	Santa Clara
<b>Author(s)</b>	Gary S. Breschini, Trudy Haversat				
<b>Title of Report</b>	A Preliminary Archaeological Surface Reconnaissance of the San Felipe Division, Central Valley Project, Santa Clara and San Benito Counties, California				
<b>Quad</b>	Chittenden	<b>Additional Quads</b>	Gilroy, Morgan Hill, Mt. Sizer, Pacheco Peak, San Felipe, Three Sisters, Hollister		
<b>Sites</b>	11	<b>Additional Counti</b>	San Benito		
<b>Size</b>	c 47 li mi	<b>Maps</b>	25	<b>Trinomials or P-N</b>	CA-SCL-159, CA-SCL-320, CA-SCL-321, CA-SCL-323, CA-SCL-324, CA-SCL-325
<b>Comments</b>					

<b>S - Number</b>	7461	<b>Report Date</b>	85	<b>County</b>	Santa Clara
<b>Author(s)</b>	Robert Cartier				
<b>Title of Report</b>	Cultural Resource Evaluation of the Gilroy/Morgan Hill Long Term Wastewater Management Plan in the Counties of Santa Clara, Santa Cruz, and San Benito Management Plan in the Counties of Santa Clara, Santa Cruz, and San Benito				
<b>Quad</b>	Chittenden	<b>Additional Quads</b>	Chittenden, Watsonville East, Watsonville West		
<b>Sites</b>	8	<b>Additional Counti</b>	Santa Cruz, San Benito		
<b>Size</b>		<b>Maps</b>	9	<b>Trinomials or P-N</b>	
<b>Comments</b>					

**S - Number** 8478 **Report Date** 81 **County** Santa Clara

**Author(s)** Robert Cartier, Glory Anne Laffey, Charlene Dettlefs, Peter Johnson

**Title of Report** Cultural Resources Evaluation of the Llagas Creek Watershed, March, 1981

**Quad** Chittenden **Additional Quads** Chittenden, Gilroy, Mt. Madonna, Morgan Hill

**Sites** 5 **Additional Counti**

**Size** c 70 li mi **Maps** 15 **Trinomials or P-N**

**Comments**

**S - Number** 10309 **Report Date** 88 **County** San Benito

**Author(s)** Gary S. Breschini

**Title of Report** Contributions to the Master Plan EIR for Rancho San Benito, Northern San Benito County, California

**Quad** Chittenden **Additional Quads** Chittenden, San Felipe

**Sites** 2 **Additional Counti**

**Size** overview **Maps** 0 **Trinomials or P-N**

**Comments**

**S - Number** 12071 **Report Date** 90 **County** San Benito

**Author(s)** Archaeological Resource Management

**Title of Report** Cultural Resource Evaluation for the Rancho San Benito Project in the Countyof San Benito

**Quad** Chittenden **Additional Quads** Chittenden, San Felipe

**Sites** 3 **Additional Counti**

**Size** c 3650 ac **Maps** 6 **Trinomials or P-N**

**Comments**

**S - Number** 12303 **Report Date** 90 **County** Santa Clara

**Author(s)** John Holson

**Title of Report** Archaeological Survey Report for the Route 152  
Transportation Corridor Study in Southern Santa Clara  
and Northern San Benito Counties, 04-SCI, SBT-152  
5.4/22.1

**Quad** Gilroy **Additional Quads** Gilroy, San Felipe, Chittenden, Mt. Madonna

**Sites** 17 **Additional Counti** San Benito

**Size** c 40 li mi **Maps** 49 **Trinomials or P-N**

**Comments**

**S - Number** 13611 **Report Date** 92 **County** Santa Clara

**Author(s)** Glenn Gmoser

**Title of Report** Archaeological Survey Report for Roadway  
Rehabilitation on State Highway 152 between Ferguson  
Road and State Highway 156 near Gilroy, Santa Clara  
County,

**Quad** Gilroy **Additional Quads** Gilroy, Gilroy Hot Springs, Chittenden, San Felipe

**Sites** 2 **Additional Counti**

**Size** c 9 li mi **Maps** 5 **Trinomials or P-N**

**Comments**

**S - Number** 14174 **Report Date** 92 **County** Santa Clara

**Author(s)** Glenn Gmoser

**Title of Report** Archaeological Survey of the "E" Alignment Alternative  
for the Route 152 Transportation Corridor, First  
Addendum to: Archaeological Survey Report for

**Quad** Chittenden **Additional Quads** Chittenden, San Felipe

**Sites** 1 **Additional Counti**

**Size** c 12 li mi **Maps** 11 **Trinomials or P-N**

**Comments**



**S - Number** 16192 **Report Date** 91 **County** Santa Clara

**Author(s)** Brian F. Terhorst, Elizabeth Krase

**Title of Report** Historic Architecture Survey Report for the Proposed Route 152 Corridor Relocation within the City Limits of Gilroy, Santa Clara County, and Unincorporated Rural Areas of San Benito and Santa Clara Counties, 04-SCL-152, PM 5.4/22.1, 04142-152000 (Caltrans

**Quad** Gilroy **Additional Quads** Chittenden, San Felipe, Mt. Madonna

**Sites** 0 **Additional Counti**

**Size** c 16.5 li mi **Maps** 9 **Trinomials or P-N**

**Comments** numerous historic properties

**S - Number** 16193 **Report Date** 92 **County** Santa Clara

**Author(s)** Elizabeth Krase

**Title of Report** Addendum Historic Architecture Survey Report for the Proposed Route 152 Corridor Relocation within the City Limits of Gilroy, Santa Clara County, and Unincorporated Rural Areas of San Benito and Santa Clara Counties, 04-SCL-152, PM 5.4/22.1, 04142-152000

**Quad** Chittenden **Additional Quads** San Felipe, Gilroy, Mt. Madonna, Three Sisters

**Sites** 0 **Additional Counti**

**Size** c 9 li mi **Maps** 3 **Trinomials or P-N**

**Comments** unrecorded historic properties

**S - Number** 19410 **Report Date** 90 **County** San Benito

**Author(s)** Archaeological Resource Management

**Title of Report** Cultural Resource Evaluation for the River Ranch Project in the County of San Benito, California

**Quad** Chittenden **Additional Quads** San Felipe

**Sites** 3 **Additional Counti**

**Size** c 3650 ac **Maps** 3 **Trinomials or P-N** CA-SBN-23, CA-SBN-187, CA-SBN-188

**Comments**

<b>S - Number</b>	24725	<b>Report Date</b>	08/20/01	<b>County</b>	San Benito
<b>Author(s)</b>	Robert Cartier				
<b>Title of Report</b>	Cultural Resource Evaluation for the El Rancho San Benito Project in the County of San Benito, California				
<b>Quad</b>	Chittenden	<b>Additional Quads</b>	San Felipe		
<b>Sites</b>	3	<b>Additional Counti</b>			
<b>Size</b>	c 3650 ac	<b>Maps</b>	3	<b>Trinomials or P-N</b>	CA-SBN-23, CA-SBN-188, CA-SBN-187
<b>Comments</b>					

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# **Army Corps Public Notice - Wildlands Inc.**

APPENDIX F



US Army Corps  
of Engineers

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

NUMBER: 28200S

DATE: 30 June 2004

RESPONSE REQUIRED BY: 21 July 2004

Regulatory Branch

333 Market Street

San Francisco, CA 94105-2197

PROJECT MANAGER: Bob Smith

Phone: (415) 977-8450/E-mail: rsmith@smtp.usace.army.mil

1. **INTRODUCTION:** Wildlands, Inc., 1330 Broadway, Suite 1032, Oakland, California 94612, (contact: Greg Lyman, (510) 444-8810), plans to construct a wetland mitigation bank, the Pajaro River Mitigation Bank, along a former Pajaro River alignment on 300 acres located on the border of Santa Clara and San Benito Counties, approximately  $\frac{3}{4}$  mile west of San Felipe (Soap) Lake along State Highway 152, as shown in the attached drawing.

2. **PROPOSED PROJECT:** Wildlands, Inc., proposes that the Bank be available for use for off-site compensatory mitigation for unavoidable impacts to waters of the United States, including wetlands, which result from activities authorized under Section 404 of the Clean Water Act (§404); impacts to federally-listed threatened or endangered species under §7 and §10a of the Endangered Species Act (§7 and §10a respectively) and/or occupied habitat; impacts to waters of the United States, including wetlands, which result from activities authorized by the National Resource Conservation Service under the Swampbuster provisions of the Food Security Act; provided the Bank meets all requirements applicable for mitigation with respect to a particular project and that mitigation through use of a bank is authorized by the appropriate authority.

Historically the Pajaro River Mitigation Bank site was within a large salt marsh, or alkali flat, known as the Bolsa De San Felipe that was located between the Pajaro River and Hollister. In the early 1900's, Millers Canal was built, and many of the wetlands in the area were drained and converted to agricultural lands. In the past the site has been used for the disposal of primary and secondary wastewater treatment sludge and whey solids from cheese production. During this time crops such as

winter wheat continued to be grown on the site. Sludge spreading operations were discontinued in 1991 due to high nitrate concentrations in the soil and vegetation on the site.

The Pajaro River Mitigation Bank would consist of preserved and created wetlands. Approximately 150 acres of wetland and open water habitats would be created to complement the 6.73 acres of existing wetlands that would be preserved on the site. The rest of the site would remain as upland.

The work necessary for habitat establishment would include site preparation (which may include mowing and/or burning-off of the existing weedy vegetation), grading, seeding, plant installation, and maintenance. To create the marsh complex, material excavated from the wetlands would be placed around the perimeter of the site to create gentle berms. Water control structures (e.g., flashboard risers) would be incorporated into these berms to provide for maintenance of specific water levels. Project construction would use balanced cut and fill earthwork so that all excavated materials will remain on the site. Brief descriptions of the habitats that would be created are provided below.

## **Marsh Complex**

The marsh complex includes components of open water, perennial marsh and seasonal marsh habitats. Water levels in the marsh complex will be managed by adding or removing boards from flashboard riser water control structures.

*Open Water.* To develop and maintain open water, ponding depths of between 36- and 60- inches will be created. No plants will be planted in these areas, but aquatic vegetation such as marsh primrose (*Ludwigia* sp.) may naturally colonize this habitat.

**Perennial Marsh.** Inundated or saturated soil will be present in this habitat year-around, with surface water depths generally ranging from 6 inches to 36 inches. To establish perennial marsh vegetation, cattails (*Typha* spp.) will be planted in the perennial marsh zones. Other vegetation that may naturally colonize this zone includes bulrush (*Scirpus* spp.), smartweed (*Polygonum* spp.) and willows (*Salix* spp.).

The perennial marsh may be completely drained in late August or early September to remove exotic predators such as bullfrogs, should they become an established nuisance on-site.

**Seasonal Marsh.** Seasonal marsh habitat will consist of seasonally flooded flats and swales. The basins will contain up to 18 inches of water when completely inundated. Seasonal marsh plants that already occur onsite, such as alkali bulrush (*Scirpus robustus*), pickleweed (*Salicornia virginica*), saltgrass (*Distichlis spicata*) and alkali heath (*Frankenia salina*), will be planted in the seasonal marsh zones.

Portions of the marsh may be drawn down in early to mid April by removing boards from the flashboard risers to provide very shallow water and mudflat conditions for spring migrating shorebirds. Other portions of the seasonal marsh will be allowed to draw down naturally.

### **Associated Uplands**

Upland habitats are designed to provide nesting areas and cover for upland birds and waterfowl, and aestivation areas for amphibians. Upland areas will be created in the marsh through the selective placement of excavated material. The uplands will be seeded with a mixture of creeping wild rye (*Leymus triticoides*) and other appropriate native grass and forb species.

### **Wetland Vegetation Establishment and Source**

The use of vegetation plugs collected from existing wetlands on site will be used as one source of vegetation establishment within the created wetlands.

### **Construction Management**

Construction of the wetlands will be managed to ensure that the mitigation habitats are constructed as designed, and that proper erosion control measures are taken and existing wetland habitats are not affected by construction activities. The majority of the construction activities will take place well away from existing wetlands. However, collection of plant materials will occur in existing wetlands. Therefore, to protect the naturally occurring wetlands on the mitigation site during construction of mitigation habitats, the following measures will be implemented:

- A Wildlands, Inc. representative familiar with wetland creation will observe and manage habitat creation on a daily basis. The representative will have authority to stop construction activities if situations arise that could be detrimental to the preservation of the existing wetlands. Construction will be allowed to resume only after corrective actions have alleviated the potential for detrimental activities.
- Erosion control practices will be implemented as needed, including but not limited to: grading during the dry season, compaction of berms and upland spoils, and seeding and mulching areas of exposed soil.

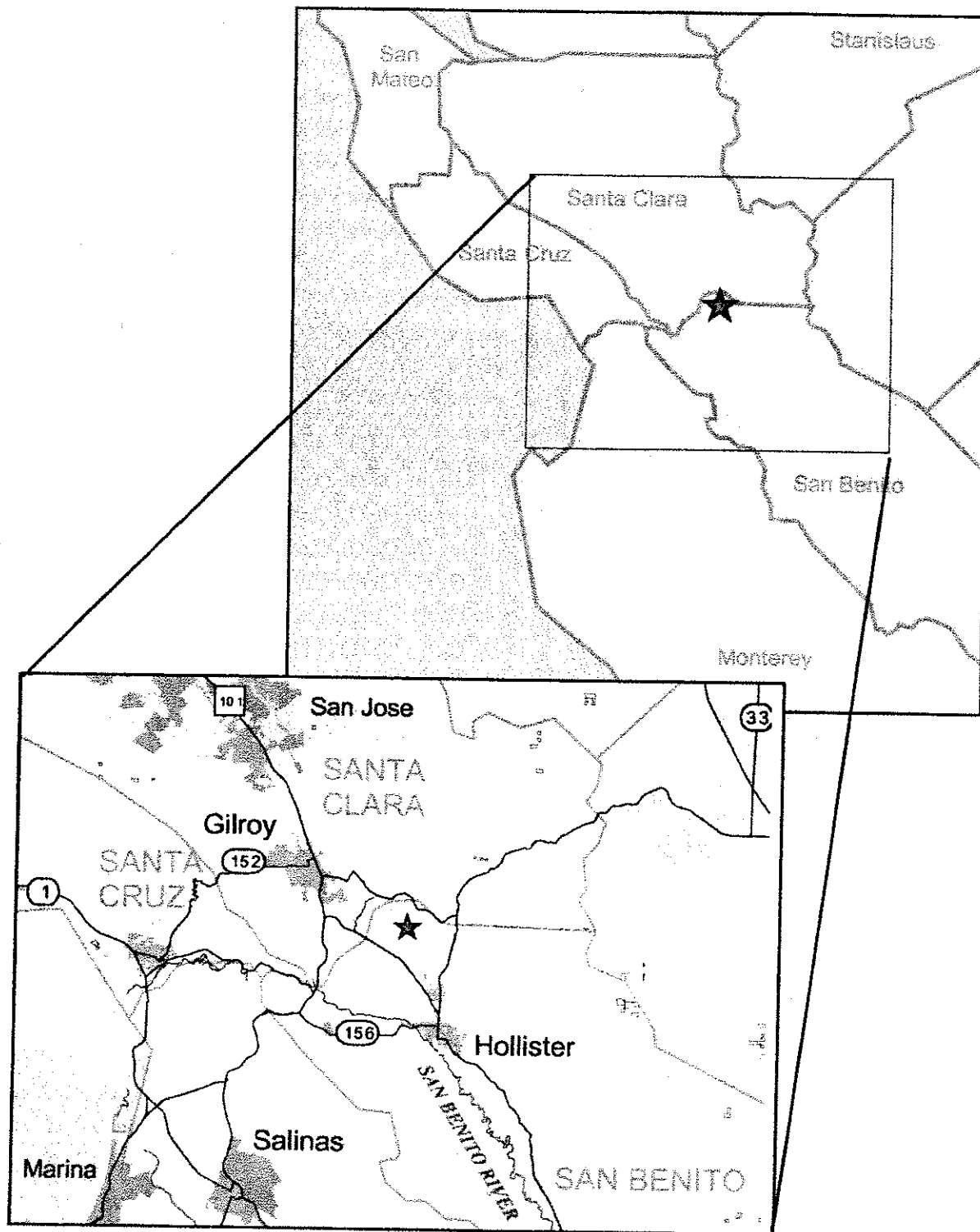
### **As-Built Report**

As-built drawings will be prepared using Global Positioning System (GPS) data points collected around the edges of the created wetlands overlaid on the original aerial map. The as-built drawings will be submitted with an as-built report to the members of the Mitigation Bank Review Team (MBRT) within 60 days after the mitigation implementation is completed.



**3. CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate authorization of the proposed bank. The Corps will consider any comments received in preparation of the bank enabling instrument.

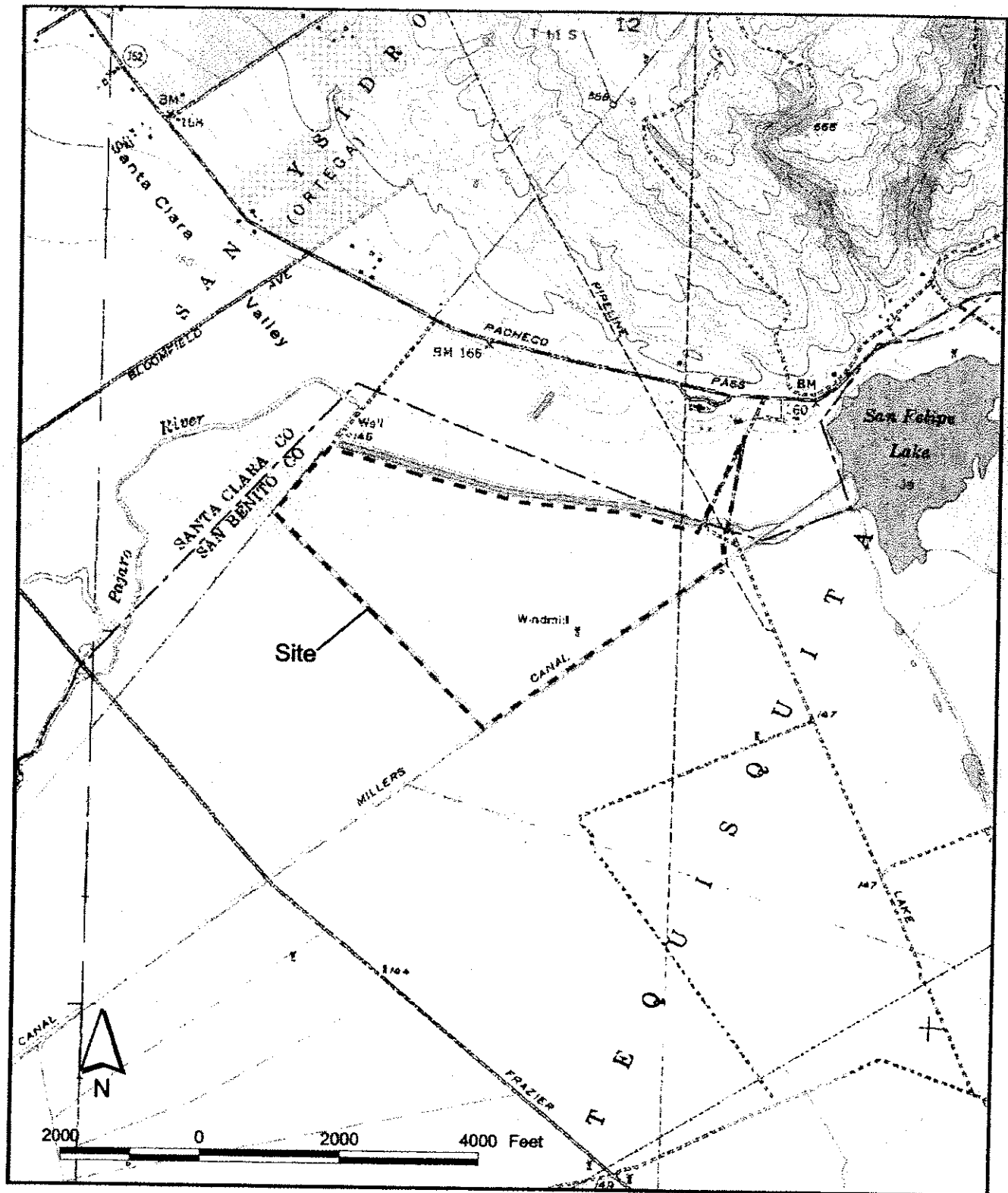
**4. SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Bob Smith of our office at telephone 415-977-8450 or E-mail: [rsmith@spd.usace.army.mil](mailto:rsmith@spd.usace.army.mil).



Wildlands, Inc.

Pajaro River Mitigation Bank Location

Figure 1



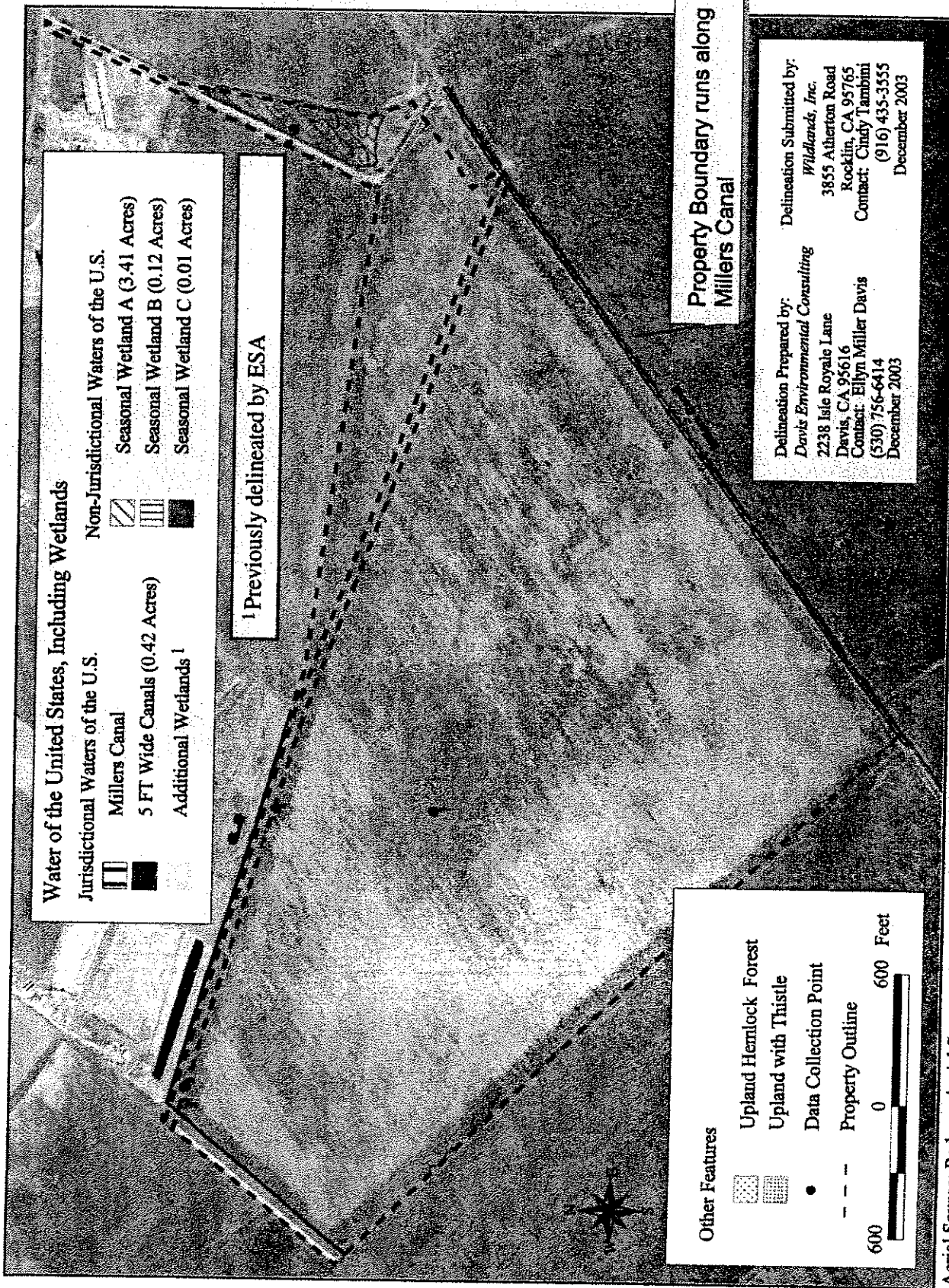
Source: USGS Topographic Quads (San Felipe and Chittenden)



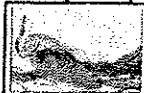
Wildlands, Inc.

## Pajaro River Mitigation Bank Vicinity

Figure 2



Aerial Source: Radman Aerial Surveys, April 8, 2003



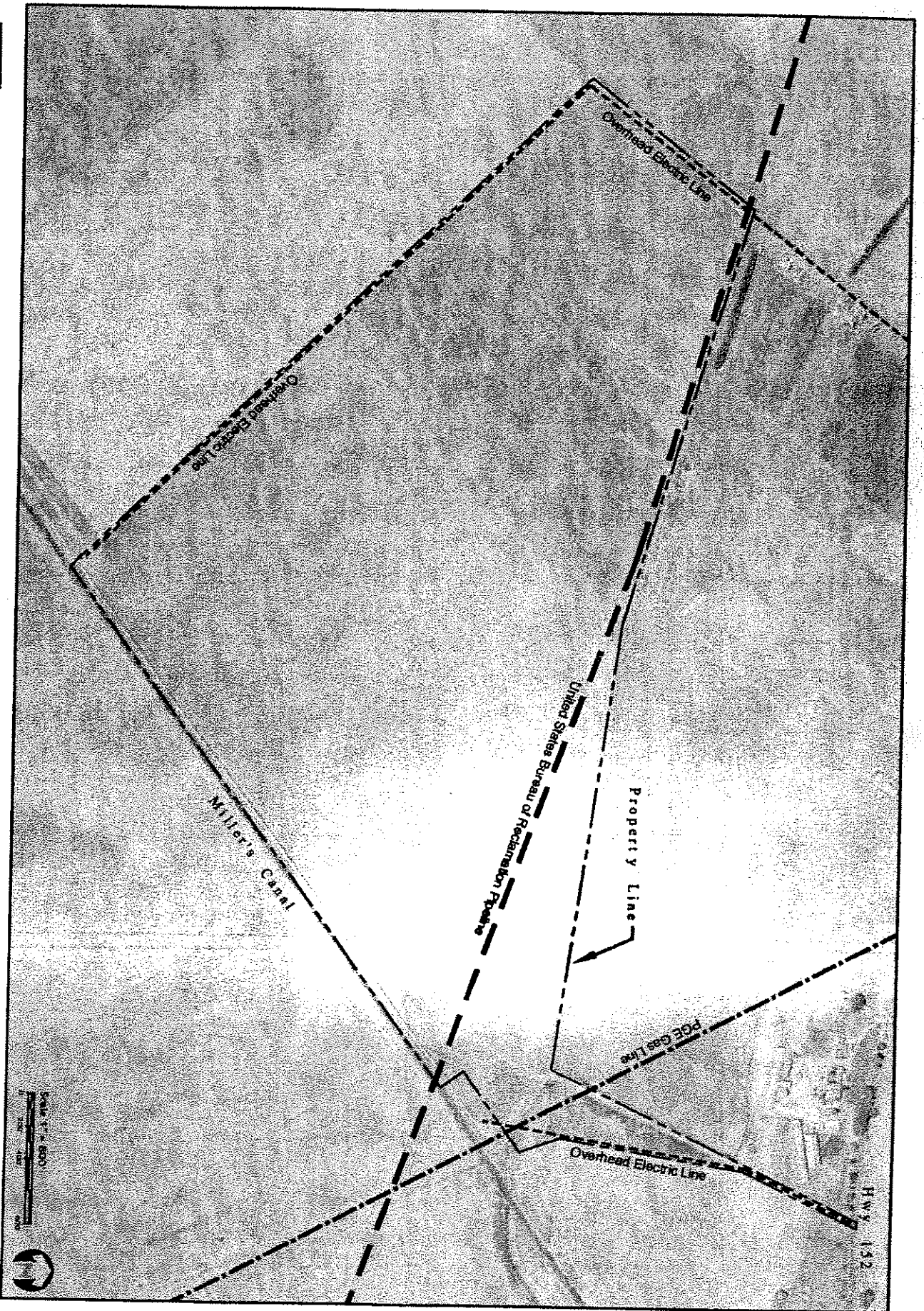
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# Pajaro River Mitigation Bank Verified Wetland Delineation

Figure 3

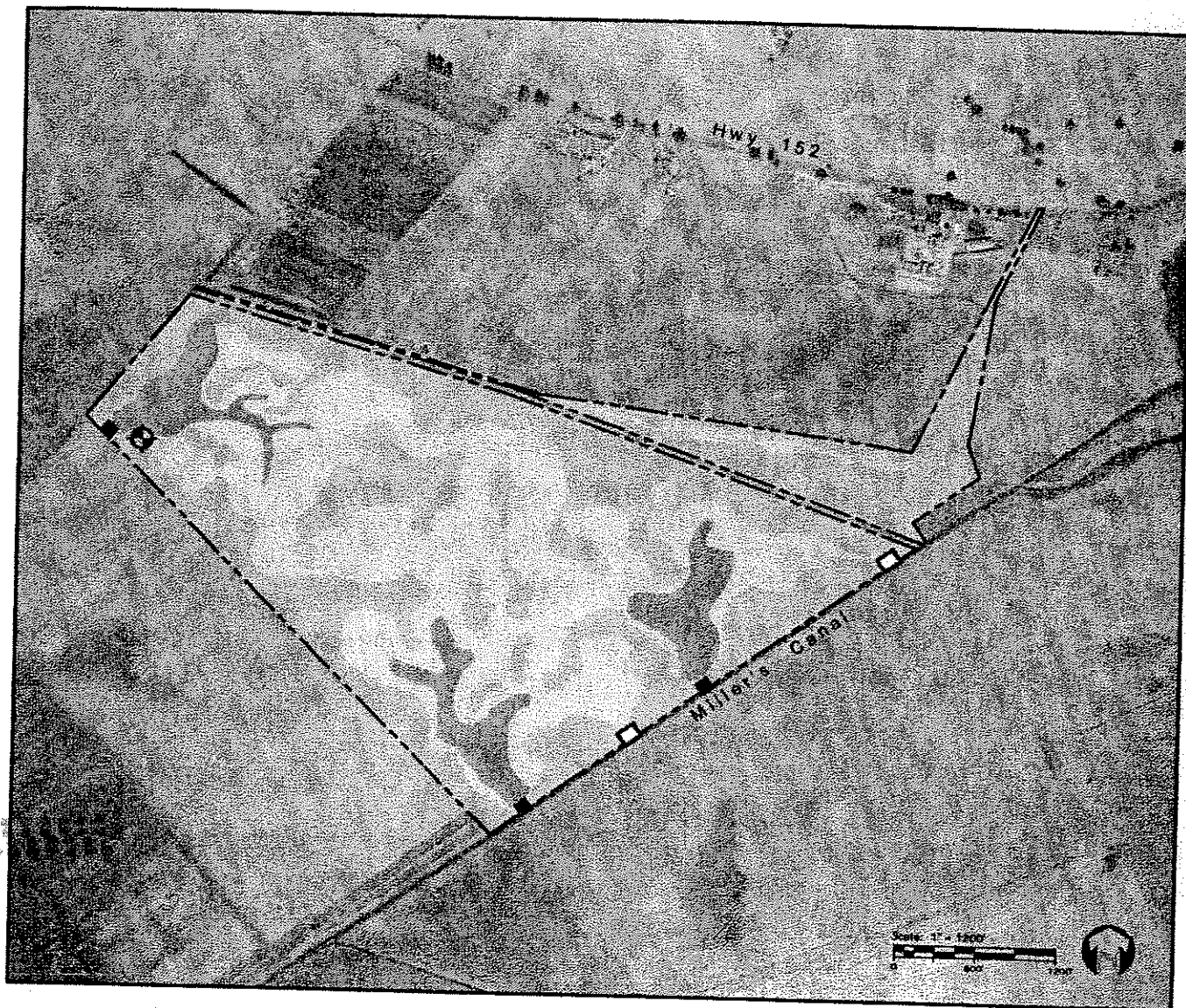






Pajaro River Mitigation Bank Existing Utilities





## Legend

---	Property Boundary	
⊕	Existing Well	
■	Proposed Water Control Device	
□	Proposed Spillway	
(Stippled pattern)	Proposed Seasonal Marsh Creation	120.83 acres
(Dotted pattern)	Proposed Perennial Marsh Creation	23.32 acres
(Horizontal lines)	Proposed Open Water Creation	5.73 acres
(Diagonal lines)	Proposed and Existing Upland	145.65 acres
(Cross-hatch pattern)	Existing Marsh	6.73 acres
Total:		302.26 acres

## Notes

- 1) This is a concept plan. It is subject to refinement and agency review.



Wildlands, Inc.

Exhibit D

Preliminary Concept Plan

Pajaro River Mitigation Bank

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# **Soap Lake Floodplain Preservation Project Implementation Plan**

APPENDIX G

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# Implementation Plan for the Soap Lake Floodplain Preservation Project

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The Soap Lake Floodplain Preservation Project (Project) is the recommended project of a cooperative study between the four counties and four water districts and agencies within or partially within the Pajaro River Watershed. The member agencies are:

- County of Monterey
- County of San Benito
- County of Santa Clara
- County of Santa Cruz
- Monterey County Water Resources Agency
- San Benito County Water District
- Santa Clara Valley Water District
- Santa Cruz County Flood Control and Water Conservation District, Zone 7

These eight agencies are the members of a joint powers authority (JPA) called the Pajaro River Watershed Flood Prevention Authority. Many other groups, watershed efforts, and flood protection projects have impacted the shaping of the Pajaro River Watershed Study and the Soap Lake Floodplain Preservation Project.

The Project is an alternative, non-structural method to prevent higher peak flows in the downstream reaches of the Pajaro River Watershed. It is the selected project of the Pajaro River Watershed Study (Study). The Project will preserve the current floodplain attenuation benefits by preventing changes that will result in increased downstream flows. Land would be preserved in agricultural or open space use through fee title acquisition and/or flood conservation easements. The Study is managed by the Pajaro River Watershed Flood Prevention Authority (Authority).

The Implementation Plan briefly summarizes information developed throughout the Study and CEQA process but further develops various aspects of implementing the Project. These aspects include defining the different roles and responsibilities of program administration, identifying priority parcels and acquisition methods, outlining a number of different funding sources, and document recommended action items for member agencies of the Authority. The primary sources of information for this Plan are technical memoranda prepared for the Authority. While information sources are cited in those TMs, a Reference section has been included at the end of this Plan that contains many resources that could prove valuable to implementation of the Project.

## **1) Project Overview**

This section of the Implementation Plan summarizes the history, goals, limitations, location, implementation methods, and impacts of the Project.

### ***Project Background***

Soap Lake is not a true lake. Instead, it is a floodplain approximately located between San Felipe Lake and just upstream of Highway 101 as shown in Figure 1. Without the Soap Lake floodplain to attenuate discharge from a significant portion of the watershed, discharges in the lower reaches of the Pajaro River could increase up to 36% above the current projected 100-year flood flows. This increase could render the proposed downstream flood protection project ineffective and cause significant flooding and damage in the Watsonville area. The proposed Lower Pajaro River Levee Project is a combination of setback levees in agricultural areas and floodwalls in urban areas. The design capacity is adequate to contain a 100-year event with 90% confidence. Should

Soap Lake not maintain its current attenuation capacity, the proposed downstream project would need to increase the levee and floodwall height to be effective. It would be extremely costly and politically difficult to raise the flood control structures due to restrictive structures such as bridges and land availability. It is therefore essential to the success of the downstream levee project that flood flows entering the downstream reaches not increase above projected levels. The following sections document the history of the project and identify how a project to accomplish this was defined.

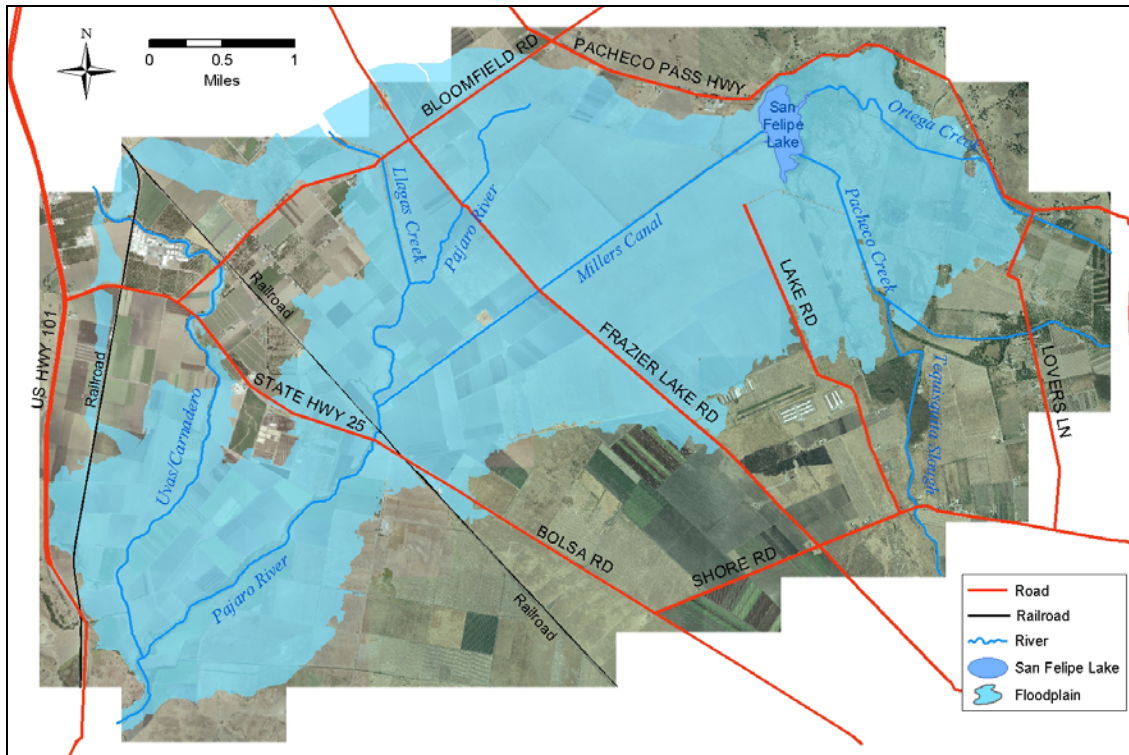


Figure 1: 100-Year Soap Lake floodplain boundaries.

## Phase 1

When the Authority started the Study in 2001, the intent of the Study was to identify a method to provide flood protection to the lower reaches of the Pajaro River. It was assumed that a structural flood control project would be used but it was unclear whether or not the project would be located in the lower reaches of the Pajaro River, the Upper Pajaro River Watershed, or the San Benito River Watershed which is the largest tributary in the Pajaro River Watershed. These areas are shown in Figure 2.

Phase 1 of the Study focused primarily on watershed scale modeling for current watershed conditions and four alternate conditions. Since the watershed is over 1,300 square miles with many tributaries and varying land conditions, it was infeasible to calibrate the models for all areas of the watershed. Therefore, the model was calibrated at four characteristic points which would define the flows from different parts of the watershed. These locations, also shown in Figure 2, and their drainage basins were:

- San Benito River Upstream of Pajaro River Confluence – Pour point for the entire San Benito River Watershed
- Soap Lake Outlet – Pour point for the Upper Pajaro River Watershed just upstream of Highway 101
- Chittenden Gage – Downstream of the Pajaro River and San Benito River confluence, this point captures flow from the entire upper watershed.
- Downstream of Salsipuedes – This calibrated node near Watsonville captures flow from the Pajaro River and all of its major tributaries.

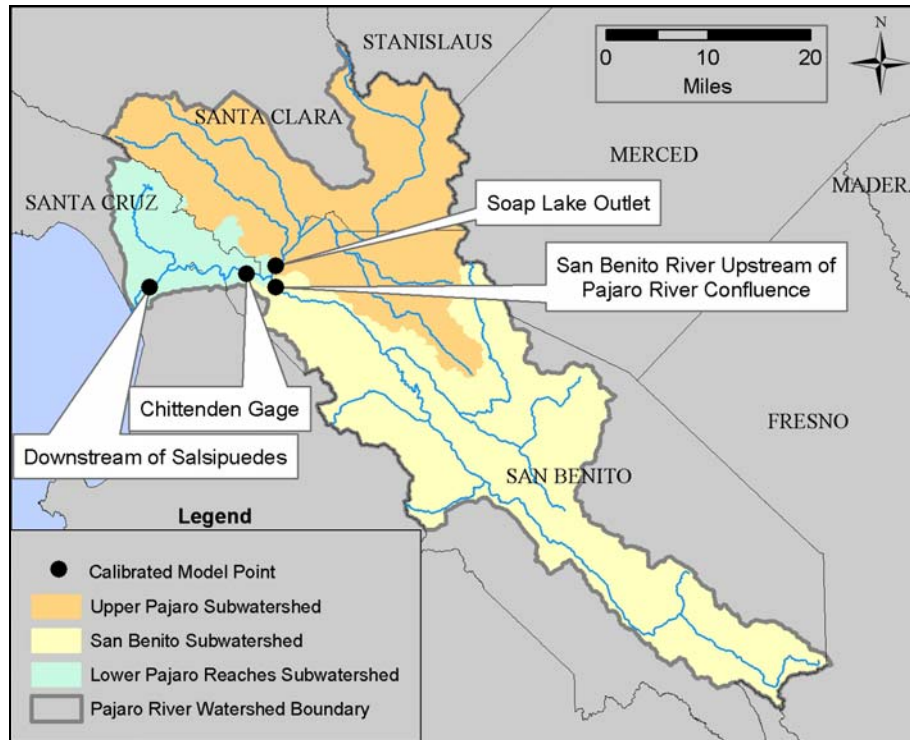


Figure 2: Major drainage areas of the Pajaro River watershed and calibrated model points.

Once the model was calibrated at these four points to current watershed conditions, four alternate land use and watershed conditions were modeled. These were:

- Historical Condition (1947): Provides insight into flooding conditions before the current Corps' levees, Hernandez Dam, Uvas Dam, or Chesbro Dam were in place.
- General Plan Buildout Condition (2015-2020): Models the flood potential using the land use designations established by the individual city and county planning departments in their General Plans.
- Ultimate Buildout (2050): This scenario is a worst case situation in terms of flooding. Urban growth is extrapolated to the year 2050 without regard to limits or regulations set forth in the General Plans.
- Changes in Agriculture: This scenario is intended to represent the worst case scenario, in terms of flooding, for agricultural changes. All agriculture present in

the current condition is changed to row crops with a poor hydrologic condition. There is no timeframe associated with this scenario.

Model results indicated that severe floods occurred more frequently in the past, before the dams were built, than in current or future modeled conditions. The modeled changes in agriculture did not significantly impact the amount of runoff on a watershed scale. Also, increases in urbanization did not have a significant impact on the modeled flows for the 50- to 200-year events. Model results did show that urbanization impacted runoff from smaller rain events (2- to 25-year events) because the ground was not saturated. During large rainfall events, the ground becomes saturated. Saturated soil can not absorb any additional surface runoff which means that the ground has become a naturally impervious surface. The urban impervious surfaces are less significant when the ground is saturated than when the ground is not saturated.

Soap Lake was identified as a significant natural feature of the watershed that detained and attenuated flood flows from the Upper Pajaro River Subwatershed in all modeled scenarios.

## Phase 2

The work in Phase 2 of the Study focused primarily on identifying flood protection alternatives throughout the watershed. Conveyance alternatives, which are designed to move water as quickly out of an area as possible, and storage alternatives, which are designed to slow the flood's progress down a waterway, were considered. Due to space constraints and flooding issues, conveyance alternatives were preferred to storage alternatives in the lower reaches, i.e. below Chittenden. In the upper watershed, flood flows can be attenuated to reduce peak flows downstream. Conveyance in the upper watershed would not attenuate the peak flows. Therefore, storage is a more favorable option in the upper watershed.

The Pajaro River Levee Project was being conceptually designed by the Army Corps of Engineers (Corps) as Phase 2 of the Authority Study was commencing. The Levee Project, as a conveyance option, was intended to move the peak flows out to the Monterey Bay as quickly as possible to avoid flooding. The Corps is partnered with the counties and agency and water district of Monterey and Santa Cruz for this project. In order to coordinate with the Levee Project, the Phase 2 analysis included the most likely levee and floodwall designs as Study alternatives.

Projects were evaluated based on flood protection benefit, cost, other benefits provided to the watershed and participating agencies, and foreseeable implementation issues. It became apparent that, except for large downstream conveyance alternatives, a single project would not be able to provide 100% of the flood protection required in the downstream reaches. Projects were paired with one another to achieve the necessary amount of flood protection. In order to take advantage of the cost savings afforded by the Corps partnership in the Levee Project, it was assumed that one version of the levee alternatives would be implemented. The Authority and recommended project would therefore only need to supplement the Levee Project, if necessary, to make the level of flood protection adequate to protect the surrounding area from floods. Figure 3 graphically depicts the partnership between the Levee Project and the Study.

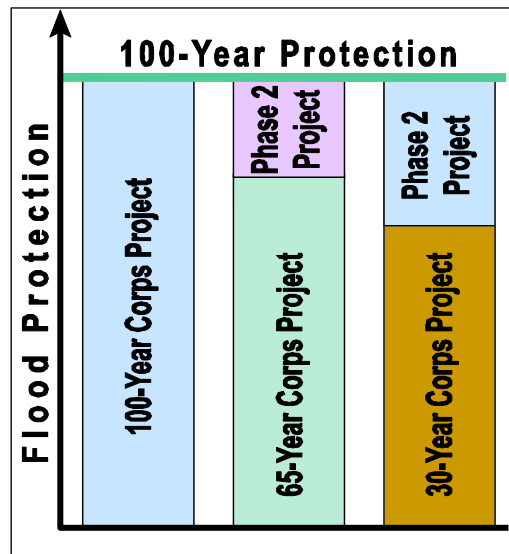


Figure 3: Role of Authority in supplementing the Levee Project protection level.

Creating groups of projects also maximized the opportunities for additional benefits available to the watershed and participating agencies. Habitat enhancement and water supply were two benefits that could be recognized through the alternative packages that might not have otherwise been included in the final recommendations.

Towards the end of Phase 2, the Corps and its downstream partners identified a setback levee and floodwall design with a sufficient capacity to contain a 100-year flood with 90% confidence. The Authority therefore did not need to provide any additional peak reduction or conveyance capacity. What was necessary though is additional confidence that the flows downstream of Chittenden would not dramatically increase in the future. Recognizing that maintaining the Soap Lake attenuation benefits was integral to preventing additional peak flows, the Authority decided to pursue a project that would help to ensure that the Levee Project design capacity would be adequate. The need to maintain the flood attenuation capabilities of the Soap Lake area became the basis of the Soap Lake Floodplain Preservation Project.

### Phase 3

The Soap Lake Floodplain Preservation Project was defined in greater detail during Phase 3. The Project extent was defined through hydraulic modeling of the floodplain. Physical impacts of the project were identified by comparing existing infrastructure and land features, such as buildings and storage facilities, to the floodplains for the 2-, 10-, 25-, 50-, and 100-year events. An approximate land value was estimated for planning purposes. All of this information was utilized in the Project California Environmental Quality Act (CEQA) documentation.



The Soap Lake Floodplain Preservation Project consists of acquiring from willing sellers the development and flooding rights to land within the 100-year floodplain. The preferred method to acquire these rights is to purchase an easement on the land, but acquiring the land in fee title is also an option. An easement purchase is preferable to fee title acquisition due to the significantly lower cost. Should land be acquired in fee title, the land can be leased or sold to another party with the necessary easement restrictions in place to offset the acquisition and maintenance costs.

CEQA documentation for the Project consisted of an Initial Study/Negative Declaration (IS/ND). The Project would have less than a significant impact or no impact on all of the resource areas analyzed. During the public comment period, several letters were received that expressed support for the Project. In response to some of the comments received, the Authority determined it was necessary to develop an Implementation Plan. This Implementation Plan, a central feature of Phase 4 of the Study, is intended to be one of the Appendices of the Soap Lake Floodplain Preservation Project CEQA documentation.

### Project Location

Soap Lake is a floodplain upstream of Highway 101 and San Felipe Lake. There is some backwater that extends upstream of San Felipe Lake also associated with Soap Lake. The Project extent is limited to the 100-year floodplain as defined in Phase 3 of the Study. FEMA floodplain maps are available for the Project area but were not used to define the Project extent since the floodplain study and maps include greater detail than the approximate FEMA floodplain study and maps. The Study floodplain maps are not intended to replace the FEMA maps however as they were intended only for use in the Study to help define the Project. Figure 4 shows the Soap Lake 100-year floodplain.

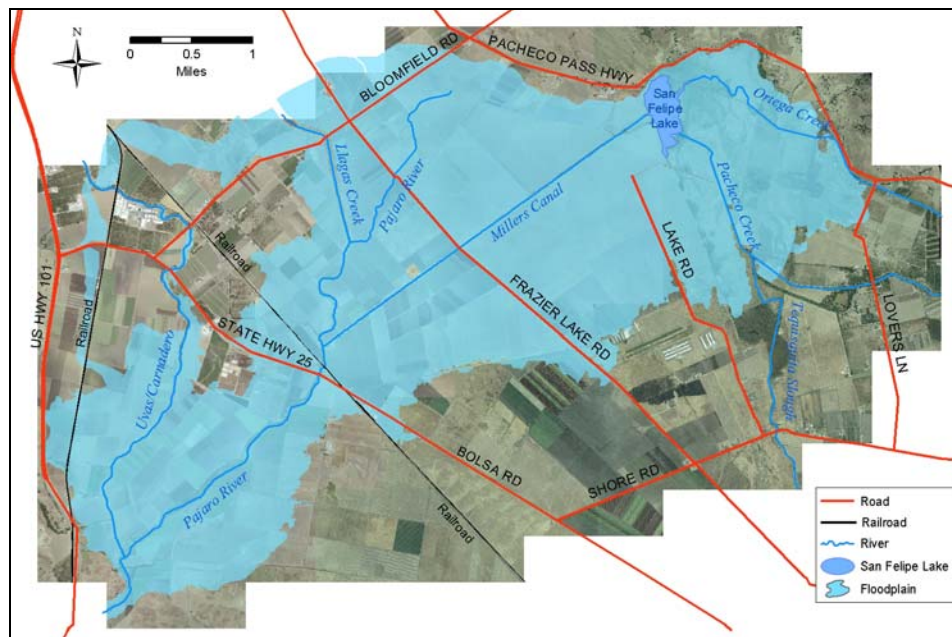


Figure 4: Soap Lake Floodplain Preservation Project boundary.



## ***Acquisition Methods***

Many land acquisition and preservation methods were investigated during the CEQA process. These included:

- Land use policies: Zoning and General Plan land use designation changes; Floodplain management ordinances
- Incentive programs: Williamson Act contracts; Farmland security zones
- Purchase and leaseback
- Flood conservation easement
- Mitigation banking
- Purchase and condemn
- Eminent domain

Four of the seven techniques identified above are not included as recommended acquisition methods for the Soap Lake Floodplain Preservation Project. The land use policies and incentive programs were deemed to be too temporary and easy to reverse to be effective at long term preservation. They do provide a short term solution and could be implemented as such. The purchase and condemn option and eminent domain were eliminated from consideration since the land use would be completely changed or the current land owner would not be a willing seller. Both of these methods are not consistent with the goals and intentions of the Project.

The remaining techniques in the above list are recommended and potential acquisition methods for the Project. The purchase and easement options are the primary acquisition methods of the Project. Mitigation banking is explored as a way to offset the costs of fee title acquisition and a method to incorporate Soap Lake preservation into local development requirements. All of these methods are described further in this Implementation Plan.

## ***Project Goals and Limitations***

Land acquisition for preservation in the Soap Lake area is a goal of many organizations and agencies. Implementation of the Project would not just add another group interested in land acquisitions to the list, but would provide an opportunity to facilitate the acquisitions and increase the likelihood of preserving the floodplain. Partnerships will be formed and assistance will be given where necessary. Not all groups and acquisitions meet the goals of the Project though and could hinder the efforts of the Authority. For this reason, limitations of support and assistance need to be set and every partnership and acquisition deal needs to be reviewed for consistency with the goals of the Project.

The Soap Lake Floodplain Preservation Project is a non-structural method to help prevent increases in downstream flood flows. The CEQA documentation has been completed and the project has received widespread support from the public. Since the acquisition would only take place if a willing seller is involved, current land owners can participate at their discretion and take advantage of owner benefits that will be described later in the document. The Project is intended to be a cooperative effort between the Authority, county and city agencies, private organizations, and the local public. The Project, flood attenuation and storage preservation through acquisition, does have some limitations however. These limitations are in place to ensure that the primary goal of the

Project is achieved. The Authority may or may not be able to support individual acquisitions based on certain restrictions or other goals for the property of the purchasing agency.

Acquisition of easements and transfer of ownership provide a window of opportunity to enact change on the property. These include but are not limited to the addition of trails, rehabilitation or creation of habitat, and land management changes. For the Soap Lake Floodplain Preservation Project though, they are considered to be ancillary to the project's primary goal of flood protection through preservation. These changes may be considered benefits and positive additions by some groups but they may also make it difficult for the land use and production from the land to continue. If the restrictions or additions make continuing on with the current land use and practices too difficult, the land owner could withdraw from the acquisition process or finding a lessee may be difficult if the land was acquired in fee title. Losing an acquisition from willing seller due to restrictions unnecessary to meet the primary objective should be avoided.

The Soap Lake Floodplain Preservation Project is intended to preserve and maintain current attenuation benefits. Additional attenuation and storage is not considered to be a part of the Project. Attempts to increase flood protection benefits or change the method of providing the attenuation and storage may not fall within the guidelines of the Project. Any change made to the land, land use, or land cover would trigger a review process to determine whether or not additional CEQA and other environmental documentation would be necessary. The existing Soap Lake Floodplain Preservation Project CEQA documentation assumes there are no land use changes incurred during or after the acquisition period. If changes or additions to the acquired land are proposed, the land acquisition may not be in accordance with the intent of the project and the Authority may not be able to support the acquisition.

## 2) Program Administration

Selection of an appropriate program administrator is a key first step in implementing the Project. The administrator is responsible for the general direction and success of the Project. This section of the Implementation Plan identifies the recommended administrator and local implementation partners. For planning purposes, some estimates of level of effort and cost are included in this section as well.

While this section of the implementation plan focuses on the lead administrator and implementing partners, there are many other groups, agencies, and individuals that will be involved in the preservation of the Soap Lake floodplain attenuation benefits. Figure 5 identifies the other parties anticipated to be involved in the Soap Lake Floodplain Preservation Project. It is expected that there will be coordination and communication between participants other than through the implementation team as well.

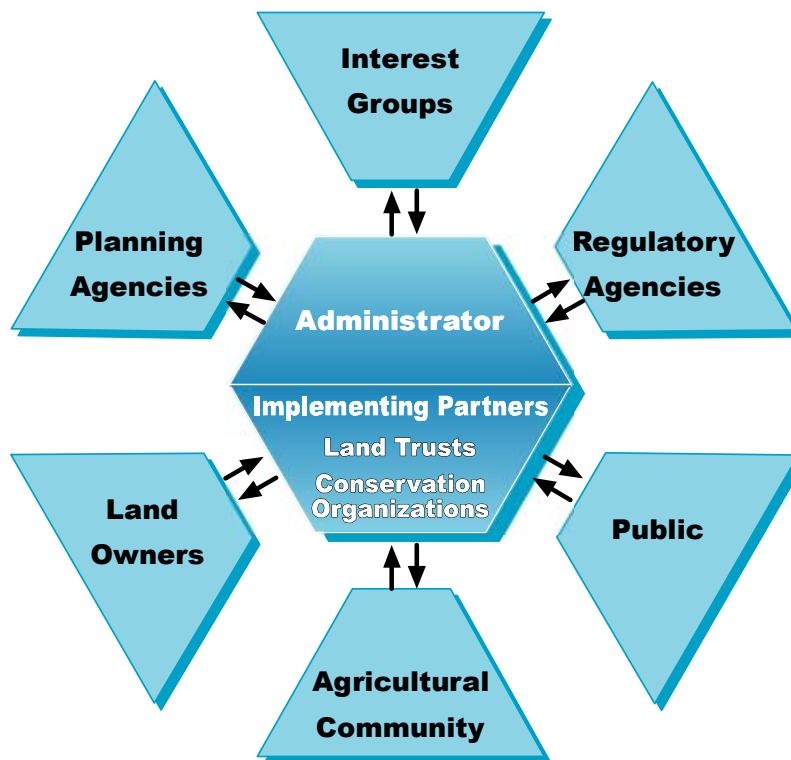


Figure 5: Administrator, implementing partners, and other participants.

### ***Selection of Lead Administrator and Implementing Partners***

Counties, land trusts, and other profit and non-profit organizations and government agencies were considered for both the lead administrator role and implementing partners for program administration. Rather than recommend a single agency or organization assume all responsibility for the Project, it is recommended that a cooperative approach

be used. There are many groups that are interested in the preservation of the Soap Lake floodplain. Responsibilities of the administrator would include coordination of local efforts of land preservation organizations and identification of key properties that a particular group may be able to acquire more easily than others.

## **Lead Administrator**

The Authority is recommended to be the lead administrator for the following reasons:

- Goals and Objectives. While other groups and agencies may assist in program implementation, they may have different goals and objectives than the Authority, whose main goal is to preserve the flood attenuation benefits of the floodplain. It is important for the Authority to remain in the lead role to ensure that the Authority's goals are met.
- Multi-Agency Collaboration. The Authority includes representation from eight counties and water districts and agencies, as well as several cities, and provides a collaborative approach to the watershed project. This is important for obtaining support for the project as well as to assist with securing funding.
- Coordination with other Watershed Efforts. The Authority is in a unique position to coordinate with other agencies and groups on other watershed efforts since the member agencies represent four counties and four water districts and agencies. This broader perspective is important for the lead administrator to understand the implications of project implementation.

## **Implementing Partners**

The Authority should partner with other organizations when practicable. Reasons for involving other agencies and organizations in the implementation program include:

- The ability to capitalize on specialized knowledge;
- The potential to minimize program operation costs;
- The increased opportunity to obtain funding;
- The relationships that these organizations have with the public; and
- The opportunity to build greater community support for local protection of the floodplain and farmland.

Several local agencies and organizations support the floodplain preservation project and have expressed interest in some level of program participation. The key entities identified include:

- Land Trust for Santa Clara County;
- San Benito Agricultural Land Trust;
- Santa Clara County Open Space Authority;
- The Nature Conservancy; and
- The American Farmland Trust.

Other groups with interest in the floodplain may also want to participate at some level. These groups could include the farm bureaus, resource conservation districts, and other conservation organizations. For example, the California Department of Conservation (CDC) has offered to discuss statutory requirements of acquisitions with implementing

agencies. As the CDC administers several agricultural land conservation programs they have requested that the Director of the CDC receive notification of any proposed acquisition within ten days of its occurrence as required by Government Code section 51291 (c). CDC has also requested copies of any additional environmental documentation for any acquisition involving the conversion of agricultural land to another use.

## **Land Trusts**

Land trusts can be valuable partners in implementing local governments' open space plans. Land trusts are likely to receive offers of easements that would not be made to a municipality, because some landowners may be hesitant to deal directly with a governmental body. Land trusts can act more quickly than a municipality to acquire easements on endangered properties, and they can raise tax-deductible funds for purchasing easements. Unlike local governments, they can purchase easements at above-appraisal prices, if necessary. Most importantly, handling conservation easements is a complicated process, involving coordination with appraisers, biologists, lawyers, surveyors, and sometimes, bankers. Municipal officials and volunteers on municipal open space committees rarely have the expertise and time necessary to handle ongoing land protection transactions. Many land trusts have full-time, paid staff with the capability in-house to handle these deals. Land trusts with volunteer staff can, at a minimum, provide guidance on the transactions as well as referrals to experienced professionals. Potential land trusts that the Authority may want to partner with include agricultural land trusts and open space land trusts, or a municipal land trust could be established. If no partnerships can be established, the Authority may want to consider establishing a municipal land trust.

### ***Municipal Land Trusts***

Municipal land trusts are basically an extension of the town or city government, and serve as the open space land conservation "arm" of the town. Almost every action a municipal land trust takes, such as a decision to secure an acquisition, has to be approved by the town council. Private land trusts are not part of the municipal government structure and are registered nonprofit agencies with their own 501(c)3 tax status.

Both types of land trusts have the same goal - to preserve land. The main difference between the two is their relationship to municipal open space money. Municipal open space dollars come from a bond issue that citizens have passed by a vote. Municipal land trusts have access to that money directly through the town government, but the amount varies from town to town. Some municipal land trusts are well-supported and have access to ample funds for administrative needs and acquisitions, while others are allocated a small amount annually (i.e. \$30,000) solely for acquisitions and must apply to the town for more municipal dollars. Private land trusts have to apply to their town for all municipal open space money.

When applying for other sources of money, such as from other organizations or other government grants, municipal land trusts must go through the town government to get access to the money since they are part of the town government, while a private land

trust can get funds directly from other organizations. Generally, this means that private land trusts can act more quickly since they are not mired down in the political process.

### ***Agricultural Land Trusts***

When the main goal of the land trust is the preservation of farmland, the organization is considered an Agricultural Land Trust. Agricultural Land Trusts can be characterized as:

1. Having substantial representation of agricultural interests on the Board of Directors
2. Having protection of agricultural land as a primary purpose stated in the Bylaws or articles of incorporation

The need for trusts to be actively involved in the local political arena has been identified as a critical part of the successful easement program. Although generally private transactions, gaining support from the political community is important to streamlining the process and developing a constituency geared towards the preservation of agriculture (Great Valley Center 1998). Three examples of agricultural land trusts that the Authority could partner with are the American Farmland Trust, the San Benito Agricultural Land Trust and the Land Trust for Santa Clara County.

### ***American Farmland Trust***

As it approaches its 16th year, the Washington, DC-based American Farmland Trust (AFT) has played an interesting nationwide role in the field of agricultural conservation. Part policy organization and part advocacy group, AFT has taken issue with the threats to prime farmland due to urbanization all over the country and has worked accordingly to generate public support to counter those threats. Building this public support has taken the form of organizing workshops, field days, and commissioning academics to focus on the effects of uncontrolled urbanization, and supporting legislative changes more conducive to farmland conservation. AFT has located its California staff people in two Central Valley field offices. Through its “demonstration farms” AFT has addressed its co-existing goal of promoting alternative, environmentally sensitive, and profitable farming practices. AFT's efforts are visible throughout the state, but have been especially prominent in Fresno and Yolo counties.

Although not a “local” trust in the true sense of the word, AFT's first negotiated transaction using Agricultural Land Stewardship Program (ALSP) funds is ongoing. AFT has also been a valuable source of information for California landowners interested in conservation easements as well as a temporary holder of donated easements in communities without local trusts. AFT is a temporary holder of the Carnadero Preserve easement in the Soap Lake floodplain for the Land Trust for Santa Clara County.

### ***San Benito Agricultural Land Trust***

The San Benito Agricultural Land Trust is devoted to providing financial options to landowners in order to protect the agricultural heritage of San Benito County. The Trust can protect land permanently and directly by accepting donations of conservation easements designed to meet the individual needs of landowners. As a non-profit, tax-exempt organization, the Trust is funded through membership, donations and grants. The San Benito Agricultural Land Trust currently protects 5,454 acres of working



ranches and farms and is actively pursuing additional lands. The San Benito Agricultural Land Trust is governed by an eleven-person board of directors. The all volunteer board is composed of community leaders who are involved the County's farming, ranching, business, education, and government industries. The board meets once a month, and there is a general membership meeting once a year.

#### *The Land Trust for Santa Clara County*

The purpose of the Land Trust for Santa Clara County is “to preserve open space and agricultural lands which sustain our communities and contribute to the overall quality of life” (Land Trust for Santa Clara County 2005). The Land Trust is a non-profit community-based organization dedicated to “providing permanent protection to the remaining agricultural and open lands and natural resources of Santa Clara County.” Working in tandem with landowners, they pursue open space protection through land acquisition, conservation easements, restoration and stewardship. They also support “green” solutions to floodplain management of valley farmlands that includes restoration of riparian and steelhead habitats.

The Land Trust has established The Pajaro Project with the goal to preserve the Soap Lake Floodplain area along the Pajaro River. They are working with the Santa Clara County Open Space Authority, The Nature Conservancy, San Benito Agricultural Land Trust, Santa Clara Valley Water District, and the American Farmland Trust. Their vision includes five key goals, and its initial efforts will focus on Santa Clara County:

- Preservation of the region’s agricultural heritage
- Protection of scenic vistas and working farms and ranches
- Greater use of the land as a floodplain for protection of users and the health of Monterey Bay
- Healthy restored riparian areas for safe, clean water and wildlife corridors
- Opportunities for recreational and educational uses

### **Other Conservation Organizations**

In addition to Land Trusts, many other conservation organizations use land acquisitions to protect open space and farmland and would be important partners for the Soap Lake Floodplain Preservation Project. Two such organizations are The Nature Conservancy and The Santa Clara County Open Space Authority. They are highlighted here because they have both acquired or partnered on acquisitions within the project area and have expressed a desire to work with the Authority on future acquisitions. There are many other organizations that could also be conservation partners with the Authority.

#### ***The Nature Conservancy***

The Nature Conservancy's mission is to “preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive” (The Nature Conservancy 2005). For more than 25 years, The Nature Conservancy has used development rights acquisition as an important tool to protect a variety of public land values. During this time the Conservancy has

participated directly or indirectly in the donation or purchase of more than 1,600 easements and has adopted policies and procedures intended to ensure that those transactions achieved real conservation benefits, were conducted in conformance with the law and that easements were appropriately monitored and enforced following their acceptance by the Conservancy.

The Conservancy inaugurated the Mount Hamilton Project in July 1998, when it made the largest single conservation purchase in northern California history, acquiring two large ranches of 61,000 acres located in the foothills east of Mount Hamilton. Over the next several years, the Conservancy will work to ensure permanent conservation management of nearly 500,000 acres within the project area, which includes the Soap Lake Floodplain Preservation Project area. They are a partner with the Land Trust for Santa Clara County on The Pajaro Project and are in negotiations for additional conservation easements with landowners in the Soap Lake Floodplain.

### ***Santa Clara County Open Space Authority***

The Santa Clara County Open Space Authority (OSA) was created by the State Legislature in 1993 in response to efforts by citizens and local governments of Santa Clara County. OSA is governed by a directly elected seven-member board of directors, each representing a unique district. OSA is comprised of the cities of Campbell, Milpitas, Morgan Hill, Santa Clara and San Jose, as well as much of the unincorporated areas of Santa Clara County.

OSA owns over 9,000 acres of land and manages 1,000 acres as easements and mitigation lands. One of these easements is within the Soap Lake Floodplain Preservation Project area and OSA has expressed interest in funding future acquisitions within the floodplain. OSA's 5 Year Plan states that it should complete at least one acquisition representing each of the following open space goals:

- Hillside preservation that is visible from the valley floor;
- Valley floor preservation that includes wetlands, baylands, riparian corridors or other unique habitats;
- Agricultural preservation;
- Segment of regionally significant trail;
- Segment of a greenbelt between cities; and
- Urban open space.

### ***Role of the Administrator***

The lead administrator role can provide funding support, technical assistance, facilitation, repository for data, and administer a public outreach program. Information about the easement process is available from the different partners; however the Authority can provide information about the program in a broader context and help create the critical mass needed to spur local land trust activity. The Authority can also increase the level of awareness of various tools for agricultural conservation.

**Facilitation with Partners.** A key role for the Authority will be to identify interested partners and maintain on-going communication with each partner through regular meetings, conference calls and e-mail. The goal will be to inform all partners of the on-going status of acquisitions, facilitate inter-agency cooperation, share strategies, work on joint projects, and ensure that the Authority's goals are being met through acquisitions. A Memorandum of Understanding (MOU) could be developed to help formalize the collaboration effort. Each partner could sign an MOU that outlines conditions and goals that the Authority hopes to accomplish. The coordination of tasks – securing funding, public outreach, and landowner contact - can all be done jointly and details in the agreement should point out who is responsible for specific tasks. The MOU could specify for the group to meet monthly each year for the next five years, with an evaluation at the end of each year to assess the group's progress. Established partners who have signed an MOU could be promoted through the Authority's website. A link to their website or program information could be included.

**Provide Funding Support.** The Authority has identified various funding sources for acquisitions within the floodplain. The Authority could be the lead applicant for funding sources that require an agency to be the lead. In some cases the Authority may need to complete the funding application paperwork, unless a partner is willing to complete this task with the Authority's review. The Authority may also provide letters of support to groups applying for grant funding if their proposed acquisition meets the Authority's goals of protecting the flood attenuation benefits as outlined in the Authority's conservation easement provisions and is in accordance with the Project definition and CEQA documentation. If any legislative action is proposed that could provide funding or support for the Soap Lake Floodplain Preservation Project, the Authority could submit a letter of support or contact the appropriate elected officials to encourage support at the legislative level.

**Grant Contract Administrator.** For grants where the Authority is the lead applicant, such as the funding provided for the Watershed Study, the Authority would also take on additional roles including grant contract administrator. This would involve oversight of the easement transaction process and coordination with the landowner.

**Establish a Reimbursement Program.** Many grants and other funding sources do not cover some up-front transaction costs (appraisal fees and survey costs), or reimburse only after the grant process is complete. The up front costs associated with the easement transaction can often be a deterrent to landowners beginning the process. A fund could be established to provide funding for these upfront costs to help facilitate the beginning steps in the process. The Authority also could advocate for these costs to be reimbursed through funding grants.

**Maintain Land Acquisition Database.** The Authority could act as the central point of contact for the status of in-progress acquisitions, potential acquisitions, and past history of acquisitions within the Soap Lake floodplain. Information will be kept on all acquisitions within the floodplain including those from the land trusts, The Nature Conservancy, California Department of Fish and Game, and The Open Space Authority. The Authority will maintain maps of the floodplain with each parcel delineated. Maps developed should be in GIS and have layers with information such as ownership, partners involved, acquisition status, prime farmland designations, county jurisdiction,

adjacent waterways, and other environmental information. The Authority would also maintain a list of agencies, organizations and firms who could assist in easement transactions such as appraisers, brokers, realtors, surveyors, environmental consulting firms, etc.

**Administer an Informational and Public Outreach Program.** It is anticipated that there will be many questions from the community as to how the project will be implemented, how the Project will benefit or impact them, and how individuals can participate and get involved. An informational program could be developed to ensure that targeted landowners within the floodplain were made aware of opportunities for land preservation. The Authority could draft materials for handouts or mailings that describe the program's goals and objectives, an overview of the need for the program, a history of land acquisitions to date, a list of partners, and financial benefits/costs to the landowner including tax benefits. A database of addresses for landowners, realtors, agencies, and other groups interested in the program would be maintained. Meetings also could be held where land trust staffs discuss the financial incentives and costs associated with land preservation. These meetings could be for groups or one-on-one with interested landowners.

If appropriate, a press release or media event can publicize acquisitions and explain its benefits to the community. This may generate more interest from other landowners within the floodplain. The Authority could post the on-going success of the program on their website and could mail information to all landowners in the area to keep them apprised of the program. The Authority may also assist the implementing partners with their outreach efforts.

**Review Easement Documents.** The Authority should review proposed easements for acquisitions in which it is involved to ensure that the easement provisions will protect the flood attenuation benefits and meet the Authority's goals. The Authority will provide implementing partners in advance with conservation easement provisions that would meet the Authority's goals. For any acquisition where the Authority is the lead agency, or where the Authority has provided a letter of support or helped secure funding, the Authority would require review of the easement document. This could be done as a one-time review and then a letter of support would be provided. For all other acquisitions, the Authority would request the opportunity to review the easement document. The Authority also would review the easement provisions with respect to the Authority's role such as monitoring, commenting, right of notification of change in ownership and proposed amendments to the easement, and successors to grantee.

**Monitoring.** Monitoring and reporting requirements will be fulfilled by the implementing partners, but the Authority could maintain a right to accompany partners on monitoring visits. The easement agreement should be written to give the Authority staff the ability to inspect the property with the implementing partner. Authority staff could visit the property, respond to landowner's questions and requests, issue written interpretations of easement restrictions to both the landowner and the implementing partner, and provide concurrence or dissent of any proposed changes to the easement. Authority staff should maintain adequate records of any of these actions. The Authority's attorney may need to help interpret the easement restrictions in question. If such a provision is included, it

should not be so onerous as to discourage the landowner from completing the transaction.

Additionally, the Authority could develop a standard checklist for monitoring inspections to ensure that flood attenuation benefits are maintained. This form could then be provided to each implementing partner for their use during monitoring activities.

**Ongoing Evaluation of Program.** The Authority should periodically evaluate the effectiveness of the program and suggest any modifications to be made. Program aspects to consider include funding sources, roles of partners and if there is a need to establish a municipal land trust, priority targets for acquisition, and implementation schedule. It may be useful to determine if there is a point when every parcel in the floodplain may not need to be preserved if the area is substantially protected when a predetermined percentage has been acquired. Because some past development proposals were not located along the urban line, this may not be as applicable to the Soap Lake Floodplain Preservation Project. However it could still be useful to make this determination especially if future acquisitions are limited by constrained funding. The Authority should prepare an annual report summarizing the accomplishments of the program implementation.

## ***Role of Partners***

The Authority's collaboration with implementing partners will be crucial to the success of the program. The partners would continue their efforts in acquiring land or easements within the Soap Lake floodplain through landowner and public outreach, completing the steps needed to obtain easements, holding title to the land (in fee or easement), and providing monitoring. The partners could also help establish an agricultural mitigation bank.

**Contacting Land Owners and Owner Outreach.** Each land trust or agency has their own public outreach efforts and the Authority would assist them with their outreach programs. The land trusts also may have established relationships with land owners and would make contact directly with them.

### **Obtaining Easements.**

The Authority could forge a partnership with a cooperating land trust to obtain conservation easements within the floodplain. The land trust would be responsible for completing the steps outlined below to obtain the easement.

- **Qualified Appraisal.** A "qualified appraisal" includes: a description of the property, information on the appraiser's qualifications, the valuation method used to determine fair market value, and a description of the fee arrangement between the appraiser and the donor.
- **Funding.** The partners would be responsible for securing funding for transactions where they will hold the title or easement. The typical process is to apply for funding grants from government and private sources. The Authority could provide a letter of support or assist with the funding application process as

described under the Role of the Authority. Some groups, such as The Conservation Fund, also can provide bridge financing for land acquisitions (fee and easement) when funding is not immediately available.

- **Sales Agreement.** Between the time the parties come to an agreement and the time they are ready to acquire the easement, a title search must be completed, an environmental assessment may be ordered, and the grantee may need time to raise funds for the purchase. To document the parties' commitment during this period, which often can take several months, it is wise to have a written agreement prepared and signed by the parties. This agreement can take the form of a standard real estate sales contract, in which the easement buyer makes a deposit towards the purchase price. In other instances, the preferred agreement would be a letter contract requiring the landowner to reimburse the municipality for title and other costs should the landowner subsequently withdraw from the transaction. The partner that intends to hold the easement would be responsible for preparing a sales agreement.
- **Baseline Documentation.** An analysis of the property's conservation values should be performed. This is an IRS requirement for landowners who intend to take a charitable tax deduction and a way for easement holders to conduct meaningful inspections in the future. The partner would prepare a report – called "baseline documentation" – that describes the condition of the property at the time the easement is placed on it and identifies the property's important resources and any threats to those resources.
- **Title Search.** An entity acquiring a conservation easement should always do a title search to check for liens, encumbrances, or other problems with the property's title. Title information furnishes the legal property description that must be included in any land transfer document. A title insurance policy is recommended for every purchased easement. Title insurance protects an easement holder from financial loss resulting from defects in the property's title, other than defects that are listed and excluded from the title insurance policy. Some grantees obtain title insurance for donated easements as well. The cost of title insurance usually is borne by the entity acquiring the easement. The partner that intends to hold the easement would be responsible for obtaining both the title search and title insurance.
- **Environmental Assessment.** A Phase I environmental assessment should be conducted to document the environmental condition of the property prior to acquisition. The assessment includes a site inspection of the property (and neighboring properties), review of past uses of the property (and neighboring properties), and could include ground or water sampling if necessary. A geology report may also be needed if mineral resources are potentially present at the site. These reports would be obtained by the partner and kept in their files. Copies of the report could be provided to the Authority.
- **Drafting the Easement Document.** The easement document will list mutually agreed-upon use and development restrictions and will specify which parcels (or portions of parcels) are covered by those restrictions. The partner would draft



the easement and negotiate the document with the landowner. The easement should be prepared following the required and suggested easement provisions provided by the Authority.

- **Survey.** A survey may be required if the property boundaries are unclear or in dispute, or if grant funds are being used. If necessary, the partner would arrange for the survey to be conducted.
- **Closing/Recording.** A real estate closing is completed after all the conditions of the easement have been agreed on. The title company or buyer's attorney generally handle the closing. After the grantor and grantee have signed the document, the easement is recorded on the deed at the county recorder's office.

**Holding Title to the Easement.** It is generally preferable to have one of the partners hold the fee title or easement title rather than the Authority. If a partner holds the easement, the Authority could be a co-easement holder or listed as a cooperating partner with specific rights. These rights could include notification of change in ownership, notification if the partner wishes to sell the easement or if the partner dissolves, the Authority's role in monitoring, and proposed amendments to the easement, and successors to grantee.

**Temporary Easement Holder.** There are some situations where a third-party is needed to hold an easement temporarily. For example, if the Authority or a partner purchases land in fee title with the intent to sell the land with an easement, a third-party would need to hold the easement temporarily (since the landowner cannot hold and sell the easement simultaneously). The American Farmland Trust has been used in this role for the Carnadero Preserve acquisition and should be considered for other acquisitions on a case-by-case basis.

**Annual Monitoring.** Part of upholding the legal terms of the easement may include monitoring and reporting. The grantee would be responsible for monitoring and enforcement responsibilities, but this does not preclude the Authority from assisting with this responsibility or of providing their own monitoring if authorized. A stewardship fund could be established to help support future monitoring and enforcement obligations of the easement holder.

**Establishing an Agricultural Mitigation Bank.** This option is being explored with the City of Gilroy and the Land Trust for Santa Clara County. Additional mitigation bank discussion is included in Section 6 of the Implementation Plan.

## ***Program Administration Cost***

Funding will need to be provided and staff will need to be dedicated to the promotion and implementation of the program. The Authority may choose to hire its own staff to manage the easement process and perform the monitoring or may, instead, decide to contract these responsibilities to a land trust, agency, or consultant.

Project coordination and implementation is estimated to require 1/2 to one full time equivalent (FTE) staffing in the first year and 1/3 to 1/2 FTE in subsequent years. These estimates assume that the Authority will partner with local land trusts and other partners to provide negotiation and monitoring of conservation easements. Estimated program management budgets for year 1 and year 2 are shown on Tables 1 and 2. Table 1 assumes the work is done by a consultant and the labor costs were estimated using a labor cost range of \$115 – \$205/hour. Table 2 assumes the work is done by a salaried employee with a salary range of \$80,000 - \$120,000 per year. The total costs included in these tables are preliminary estimates and should be refined as the position and requirements are defined.

**Table 1:** Estimated program management budget for a consultant.

	Year 1* (1/2 to 1 FTE)	Year 2* (1/3 to 1/2 FTE)
Personnel	\$120,000 – 426,000	\$80,000 - 213,000
Supplies	\$10,000	\$5,000
Printing	\$10,000	\$10,000
Postage	\$1,000	\$1,000
Travel	\$1,000	\$1,000
Other	\$1,000	\$1,000
Total	\$143,000 – 449,000	\$98,000 – 231,000

\* Cost for appraisals, negotiations and possible legal expenses are not included in the budgets. It is anticipated that fees for these items will be paid through the overall transaction costs.

**Table 2:** Estimated program management budget for a salaried employee.

	Year 1* (1/2 to 1 FTE)	Year 2* (1/3 to 1/2 FTE)
Personnel	\$40,000 – 120,000	\$27,000 – 60,000
Multiplier	2.75**	2.75**
Total	\$110,000 – 330,000	\$74,000 – 165,000

\* Cost for appraisals, negotiations and possible legal expenses are not included in the budgets. It is anticipated that fees for these items will be paid through the overall transaction costs.

\*\* Multiplier includes all standard overhead costs such as office space, equipment, insurance, and employee benefits.

## Program Schedule

The past two years have garnered increased interest in the preservation of the Soap Lake floodplain and surrounding area. Easements or land have been purchased by the Santa Clara County Open Space Authority (2003), the Carnadero Preserve (2003), and Wildlands (2004) and show that local land owners are willing to sell their land or development rights and are willing to do so multiple parcels at a time. Organizations with experience in land acquisitions have indicated that about 3 parcels per year is an

aggressive but reasonable parcel acquisition rate. Assuming the acquisition rate is 3 parcels per year, it could take up to 60 years to acquire the entire floodplain. Assuming the acquisition rate is 10 parcels per year, or 500 acres per year with an average parcel size of 50 acres, the Soap Lake acquisition program could take up to 20 years. Table 3 shows the timeline for acquisition at various rates based on the priority groupings described in Section 3 of the Implementation Plan.

**Table 3:** Acquisition timeline by assumed group.

<b>Group</b>	<b>Number of Parcels</b>	<b>Ave. Parcel Size (Acres)</b>	<b>Years @ 3 parcels/yr</b>	<b>Years @ 5 parcels/yr</b>	<b>Years @ 10 parcels/yr</b>
Already preserved	~14	85	-	-	-
1	9	150	3-4	2-3	1
2	22	100	7-8	4-5	2-3
3	66	50	20-25	12-15	6-7
4	59	20	20-25	12-15	6-7
Total (Approximate)	170	50	50-60	30-40	15-20

The preservation of the floodplain will ideally take place much more rapidly than 3 parcels per year. It's likely that the parcels will be acquired in blocks which could easily be larger than 3 parcels each. It is also clear that Soap Lake is an area in which multiple organizations are interested in preserving various aspects of the floodplain. Ideally these groups will not compete with one another but will create partnerships to promote preservation and conservation that can achieve many goals. Cooperation among the organizations could also increase the acquisition rate. While a proactive program administrator could increase the acquisition rate during some years, it's important to keep in mind that parcels may only be acquired from a willing seller. During years with no willing sellers, the acquisition rate will be below target.

The experience of buying agencies and organizations is that it generally takes 1-2 years to finalize the property transfer once the seller has indicated that the land or right to develop the land is for sale.

### 3) Land and Flood Conservation Easement Acquisition

Parcels within the Soap Lake floodplain need to be acquired to preserve the flood attenuation benefits in accordance with Project guidelines. This section identifies the recommended methods of acquisition, discusses flood and conservation easements, outlines an acquisition strategy, and identifies various methods of payment for the parcels.

#### ***Acquisition Process***

An easement or title to a parcel can either be donated to or acquired by a conservation organization or agency. A third option is a bargain sale, which is when a landowner sells a conservation easement for less than fair market value; the portion of value not received by the landowner may qualify as a charitable gift. Once the landowner and purchasing party come to an agreement in principle regarding the sale or donation of the land or easement, certain steps must be taken to complete the legal transaction. The process typically entails a recorded purchase and sale agreement between the two parties. Table 4 presents a list of typical steps in the acquisition process.

**Table 4:** Steps in the Acquisition Process

<b>Activity</b>	<b>Description</b>
Qualified Appraisal	To determine value of easement. Needed for tax purposes and to determine cost of property or easement. Details are below.
Secure Funding for Acquisition	A variety of funding sources are available. Sources of funds are discussed in Section 5.
Purchase and Sale Agreement	Provides terms and responsibilities of both parties during potentially long purchase process; may contain penalties for withdrawal from contract.
Baseline Documentation	Records existing "Conservation Values" of the property, as well as current uses and location of future allowed uses. Additional details of the Baseline Documentation are discussed below.
Title Search	Determines if liens, encumbrances, or other issues exist with property's title.
Mortgage Subordination	If property is subject to mortgage and owner cannot immediately satisfy mortgage, easement or title holder and lender must record agreement that subordinates the rights in the property to rights of easement holder
Environmental Assessment	Laws unclear regarding easement holder's liability for environmental cleanup. Assessment establishes previous contamination on property.
Geology Report	May be necessary if third party owns mineral rights.

Survey	To define boundaries of property if in dispute, or if an easement will cover only a portion of the property. Also may be used to determine boundary of building envelopes.
Stewardship Fund	Fund helps support future monitoring and enforcement obligations of the easement holder.
Real Estate Closing	Document recorded at office of local recorder of deeds. Only necessary if easement is sold.
Publicity	Public recognition of landowner's generosity, opportunity to educate community on benefits.

### **Qualified Appraisal**

The appraisal is one of the key steps in acquiring a parcel in fee title or with a conservation easement. Without consensus on the value of the land to be acquired it may be impossible to move forward with the transaction. An appraisal of the land or easement value provides an impartial, objective opinion of the cost that both parties can feel comfortable using. Many grant programs that provide acquisition funding also require and have specific requirements for appraisals.

The land owner, when selling or donating land or conservation easements, has the opportunity to take advantage of significant tax benefits. If IRS guidelines are adhered to, land and easement donations are eligible for tax deductions. Any deduction above \$5,000 must have an official appraisal proving the donation's worth. There is also a potential reduction in the estate tax when the current owner dies. Up to \$500,000 or 40% of the value of the eased land may be excluded from federal estate taxation under the American Farm and Ranch Protection Act of 1997. Additionally, if the land owner sells a flood conservation easement under the provisions of the California Farmland Conservancy Program, then the easement is valued under the same tax provision that applies to Williamson Act contracts.

Donations must utilize a qualified appraisal and must follow four guidelines to qualify as a charitable contribution under Federal tax code. Even for acquisitions that are not donated, these guidelines are appropriate and good procedures for any appraisal. The guidelines consist of:

- The appraisal should not be made earlier than 60 days prior to the date of the contribution or sale
- The appraisal should include a description of the fee arrangement for preparing the appraisal and not involve a prohibited fee, such as a fee based on the percentage of the sale or deduction
- The appraisal should include a number of specific elements described in the next section
- The appraisal should be prepared, signed, and dated by a qualified appraiser

Appraisals are oftentimes the first aspect of an acquisition and may occur 1-2 years before the sale is finalized. The acquisition process can be long and complicated but generally can't get started without the buyers and sellers agreeing on an appraised value

of the land. A final appraisal can be completed just before the sale is finalized if the sale is to be used for tax purposes.

### **Elements of an Appraisal**

An appraisal should generally consist of:

- A statement of qualifications of the appraiser
- The standard to which the appraisal is prepared
- Identification of the appraised parcel and date of appraisal
- Description of the parcel, use and its highest and best use without any restrictions
- Description of the easement (if any) and the restrictions and permissions it contains
- Description of the parcel, use and its highest and best use with easement restrictions, if any
- The valuation technique and parcel value before and after, if applicable, the easement is in place

A sample appraisal outline is provided in Appendix A. Highlights and items of particular importance include:

- The highest and best use of a property must be legal, physically possible, and financially feasible.
- Parcel valuation methods include sales comparisons, costs, and income based. If the land is vacant, the sales comparison method is often used while the cost and income approaches may not be relevant. The cost approach may not apply since it requires that the property have substantial improvements. The income approach may not apply since a currently vacant property generates no income for the owner.
- The income approach may be the best method for valuing productive agricultural lands.
- Assuming a subdivision of the parcel is only applicable in determining the easement value if the development is fairly imminent, the costs of development can be identified accurately, and when absorption rates can be supported by market evidence.
- If the easement or land donation or bargain sale is to be used for tax relief, federal Treasury regulations require that comparable sales be used if there are an adequate number of comparable donations or bargain sales.
- A bargain sale occurs when the land owner sells the land or easement well below fair market value. The difference between the sale price and fair market value can be considered to be a donation and eligible for tax benefits assuming that all federal guidelines are followed.
- The value of the restriction or easement, if no comparable sales are available, is equivalent to the difference in fair market value before the easement is applied and after the easement is applied.

### **Qualified Appraiser**

There are minimal guidelines defining who is and who is not a qualified appraiser of lands. According to the IRS, a qualified appraiser is one who:



- Holds himself or herself out to the public as an appraiser or performs appraisals on a regular basis
- Is qualified to make appraisals of the type of property being valued because of his or her qualifications that are described in the appraisal
- Is not an excluded individual such as the donor or the donor's relative
- Understands that an intentionally false statement of the value of the property being appraised may subject him or her to various penalties.

Additional certification or membership in an appraisal association may give some additional confidence in the appraiser's work. Such associations include the American Society of Farm Managers and Rural Appraisers, the American Society of Appraisers, the Appraisal Institute, the National Association of Independent Fee Appraisers, and the National Association of Master Appraisers. The state of California also maintains a list of licensed appraisers. Licensure or membership in one of these organizations does not necessarily mean that any given appraiser is qualified to do a particular appraisal. It's recommended that references be checked for previous experience with similar easements or fee title acquisitions in addition to the above certifications.

## **Baseline Documentation**

Baseline documentation is essentially a report regarding the environmental condition of the property. It should be compiled at the time the easement is placed and referenced in the easement document. This baseline documentation is necessary for three reasons:

- 1) It is an IRS requirement for landowners who intend to take a charitable tax deduction;
- 2) It is a way for easement holders to conduct meaningful inspections in the future; and
- 3) In the case of an enforcement action or dispute, it allows the landowner, easement holder, and potentially a court of law to determine the original condition of the land at the time the easement was transacted.

The report identifies "conservation values" of the property and any threats to the property's natural resources. Conservation values include natural resources that have agricultural, scenic, open space, historical, scientific, biological, or ecological significance. The baseline documentation typically includes:

- Current uses, as well as the location of future allowed uses
- A list of the property's natural flora, fauna, hydrology, geology, soils and other natural characteristics
- Photographs of the property, including aerial photographs
- Topographic and soil maps

Additionally, the document may contain a conservation plan with building envelopes mapped out and a management plan for the natural resources. A building envelope is a section of land reserved for permitted construction activities, such as building a one family residence. Building envelopes and permitted construction activities must be defined during the easement process and delineated on property maps.

## ***Methods of Acquisition***

Many methods were considered in the Study for preservation of the Soap Lake floodplain. Zoning and General Plan land use changes and floodplain management ordinances were examined. Incentive programs such as Williamson Act lands and Farmland Security Zones were also evaluated. All of these methods could contribute to short term solutions to the threat of unmitigated land use change but none could provide the long term protection benefits required for the Soap Lake Floodplain Preservation Project to be successful. Alternatively, fee title acquisition and conservation easements, could be held in perpetuity by an organization dedicated to the continued preservation of the floodplain as agriculture and open space.

Both fee title acquisition and conservation easements are appropriate for the Soap Lake Floodplain Preservation Project; but there are significant differences between the two alternatives. One may not always be appropriate based on various requirements and requests of the buyer and seller. Below is a discussion on these two acquisition alternatives.

### **Fee Title Acquisition and Leaseback**

With fee title acquisition and leaseback, the owner sells his property rights to the buying authority. All rights to the land are transferred except for those specified in previous easements or agreements. The land is then leased back to its original or a new owner. The buying authority then has control of the land use but allows a second party to maintain and use the land in an acceptable manner. By allowing the land to be leased, some of the purchase price for the land can be recouped. Title acquisition is one of the options available to the Authority to provide flood protection to the lower Pajaro River.

### **Flood and Conservation Easement**

A flood easement is an agreement between the landowner and easement holder that land within a flood zone will continue to be allowed to flood. It also typically restricts the building of structures or facilities that could reduce the flood attenuation benefits of the floodplain, that could be damaged by the flood, or cause damage to the surrounding area. Examples of these structures include buildings, parking lots, fill materials, and septic tanks. A conservation easement restricts activity on the parcel to protect natural resources associated with the land. A conservation easement typically allows current uses such as farming to continue but prevents the property from being developed for residential, commercial, and industrial uses. A flood conservation easement, a combination of the above two easements, allows the land to flood while maintaining current land use practices. Due to the productive agricultural land in the watershed, this will likely be the most attractive option for land acquisition.

Conservation values that may be protected include natural resources that have agricultural, scenic, open space, historical, scientific, biological, or ecological significance. Besides preserving essential environmental values of the land, conservation easements provide direct benefits to the land owner as well as easement holder. A sampling of these benefits is listed in Table 5.

**Table 5: Stakeholder Easement Benefits**

Stakeholder	Benefits
Landowner	Easement sale provides landowner income while retaining ownership
	Federal income tax benefits if landowner donates land
	Lower property taxes due to reduction in property value
	Estate tax benefits due to lower property value
	Assured conservation even if property is sold or zoning ordinances change
	Very flexible tools that can be tailored to landowner's needs
Easement Holder	Preserves environmental qualities and scenic beauty of region
	Less expensive than fee simple land acquisition
	Establishes permanent development restrictions
	Property still on tax rolls (for governmental agencies)

A typical easement contains the following components.

- Identification of parties involved
- Statement of purpose
- Easement objectives
- Baseline documentation reference
- Provisions:
  - Restrictions
  - Rights of grantee & grantor
  - General & special provisions
- Signatures & acknowledgments
- Legal description of the property

A sample easement from the California Department of Conservation can be found in Appendix B.

## Preferred Acquisition Method

To preserve flood attenuation benefits, both fee title acquisitions with use restrictions and flood conservation easements work equally well. Flood conservation easements should be the first option to be considered as a preservation method. Easements are less expensive than fee title acquisitions and do not require the easement holder to maintain the land. Easements are especially preferable for parcels that are only partially within the floodplain. Easements can be purchased on portions of parcels but parcels can not easily be subdivided for fee title acquisition.

There are several factors that could make fee title acquisition preferable over conservation easements in some cases. These include:

- **Owner Preference:** The land owner may not be interested in selling an easement but could be interested in selling the title. The land could be purchased and resold with a conservation easement in place or leased with restrictions to a third party. The resale or leasing would decrease the net cost to the original buyer.
- **Land Use Changes:** Although no land use changes are recommended in the Project, if the buyer has intentions to change the current land use within Project

guidelines it would be easier to do so if the land were acquired in fee title. Land identified as particularly suitable for habitat of critical species could fall into this category.

Other land applications and opportunities, such as mitigation banking, could make fee title acquisition preferable to flood conservation easements. Farm characteristic improvements, such as irrigation methods, could increase the value of the banking credit. These improvements could more easily be dictated and managed if the land was owned in fee title and leased back to an active farmer with guidelines and restrictions in place.

### ***Easement Provisions***

Even if the parcel is acquired in fee title, it is recommended that the property be leased to someone who will continue to keep the land in agricultural production or sell the land to another buyer with an easement in place. Therefore, regardless of the original acquisition method, easements will likely be involved in maintaining the current land use and topography. This section of the Implementation Plan outlines some easement provisions that should be included or considered for inclusion in future easements.

### **Recommended Standard Provisions for Easements**

The Authority's primary objective in obtaining flood conservation easements in the Soap Lake floodplain is to preserve the flood protection benefits that the existing agricultural land provides.

Effective flood conservation easements will allow landowners the continued use of their land for farming without reducing the flood attenuation capacity of the land. Provisions should not be so restrictive as to discourage the usage of easements. However, provisions must explicitly state and enforce the prohibition of reduction in flood attenuation capacity. To achieve this balance, a clear understanding of the landowner's needs and willingness to give up greater rights is required. A good working relationship is necessary between the landowner and potential easement holder.

This section recommends standard provisions and specific provision language for Soap Lake easements. These provisions represent the minimum restrictions necessary to achieve the primary objective of the Project. The provisions should serve as a guide upon which additional provisions can be added, dependent on landowner and easement holder discussions. Provisions that do not relate directly to the flood protection objective are not included here.

It is important to state in the preamble or purpose section of the easement that flood protection is the main purpose of the easement. Suggested language is as follows:

“Grantor grants this Easement (for valuable consideration) to Grantee for the purpose of assuring that under Grantee's perpetual stewardship, the flood attenuation capacity (and other values) of the Property will be conserved and

maintained forever, and the uses of the land that are inconsistent with these conservation purposes will be prevented or corrected.”

Table 6 presents the recommended standard provisions, specific easement language, and notes on each provision. Further discussion of the agricultural structures provision is presented after the table.

**Table 6:** Recommended Standard Provisions for Soap Lake Easements

<b>Recommended Provision</b>	<b>Specific Easement Language</b>	<b>Notes</b>
Maintain Floodplain Function (Purpose)	The purpose of this Easement is to enable the Property to retain its current flood attenuation capacity by preventing uses of the Property that will impair or interfere with the Property flood attenuation capacity.	In addition to this purpose, see specific restrictions regarding new structures, road building and other activities below.
Preservation of Agricultural Use of Land	Grantor retains the right to use the Property for agricultural purposes, or to permit others to use the Property for agricultural purposes, in accordance with applicable law as long as the agricultural productive capacity and open space character of the Property are not thereby significantly impaired.	Continued agricultural usage, with certain limitations, is the preferred method for continued flood protection over time. Maintains economic value of land and still pays taxes.
Construction of Agricultural Structures and Improvements within a Building Envelope	Existing agricultural structures and structural improvements may be repaired, reasonably enlarged, and replaced at their current locations within the Building Envelopes for agricultural purposes. New buildings and other structures and improvements to be used solely for agricultural production on the Property, including barns, equipment sheds, and improvements to be used for agricultural production purposes or sale of farm products predominantly grown or raised by Grantor on the Property, but not including any dwelling or agricultural employee housing, may be built on the Property within the Building Envelopes.	To minimize the amount of impervious surfaces over time, all new buildings, including greenhouses, should be restricted to a defined Building Envelope or Farmstead Area delineated in the easement document (also in Baseline Document). Must also be in accordance with applicable zoning ordinances. See discussion below.
Single Family Residence	One (existing or new) single-family dwelling and ancillary uses, including, but not limited to, swimming pool, tennis court, gazebo and garage, may be built entirely within the Building Envelope.	New residences are restricted to the Building Envelope. Specific restrictions may be placed on the size of the residence. It is important to retain the right to a single family residence to preserve agricultural use over time.
Agricultural Employee Housing	Any agricultural employee housing must be located entirely within the Building Envelope.	A specific size limitation may be placed on the structure.
Baseline Documentation	Record establishing “Conservation Values” specific to property	Water features and topography should be documented here.

**Appendix G: Implementation Plan**  
Land and Flood Conservation Easement Acquisition

<b>Recommended Provision</b>	<b>Specific Easement Language</b>	<b>Notes</b>
Utility Services and Septic Systems	Existing wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communication, or other utility services solely for serving the improvements permitted herein may be installed, maintained, repaired, removed, or relocated and replaced without further permission of Grantee.	To ensure floodplain detention capacity, the easement might limit new utility structures to be placed underground.
Recreational Improvements	Private recreational improvements (e.g. swimming pool, tennis court) for the personal, non-commercial use of Grantor and Grantor's family and guests are permitted only in the Building Envelopes.	To ensure floodplain detention capacity, no commercial recreational improvements are allowed, and no improvements may be constructed outside of the building envelope.
Subdivision	The division, subdivision, defacto subdivision or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process is prohibited. Grantor agrees the Property is comprised of one (1) existing legal parcel, and that no additional, separate legal parcels currently exist within the Property that may be recognized by a certificate of compliance pursuant to California Government Code section 66499.35 based on previous patent or deed conveyances, subdivisions, or surveys. Grantor will not apply for or otherwise seek recognition of additional legal parcels within the Property based on certificates of compliance or any other authority. Grantor shall continue to maintain the parcel comprising the Property, and all interests therein, under common ownership as a single parcel.	Prevents division of the property and subsequent loss of flood protection.
Mining	The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance, using any other method that disturbs the surface of the land is prohibited.	Ensures floodway function and attenuation capacity.

Structures can significantly impact flood attenuation. Buildings increase impervious area. They require roads for access and encourage further development. Provisions can stipulate that only necessary agricultural structures can be erected in the floodplain. The "necessary agricultural structures" can be specified on a case by case basis to 1) allow the landowner full extent of his desired rights; and 2) provide the greatest amount of floodplain protection benefits. An example of a necessary structure may be a single family residential dwelling for agricultural employees. Fences can be another necessary structure in agriculture, to prevent animals from getting either in or out. However, certain types of fences, such as stone or concrete fences, can divert flood waters. Flood



attenuation benefits can be maintained by including provisions that prohibit the construction of any impermeable fences.

Building envelopes are a standard method to specify provisions on a case by case basis. Building envelopes designate areas of farmland for the construction of certain pre-determined structures. Building envelopes can minimize the impacts structures have on floodplains by siting construction in non-vital areas of the floodplain. Sizing of the building envelope should allow the owner flexibility for future expansion of agricultural structures, but not to significantly alter flood protection capacity if the building envelope were fully developed with structures. The appropriate size should be decided on a case by case basis. The National Resource Conservation Service (NRCS) offers a “2% rule” as a guide to protect soils on large farms. This rule states that building envelopes are not to be greater than 2% of the farmland acreage.

### Potential Additional Easement Provisions

Easement provisions should be tailored to each landowner’s needs while still providing the necessary amount of floodplain protection described above. The easement provisions presented in this section are not required but should be considered. Some provide a greater level of floodplain protection and others provide ecological or other benefits. The most important factor in determining the value of these potential easement provisions is the landowner’s acceptance of the provision. It is in the best interest of the impending easement holder to allow the landowner a certain amount of leeway in the easement negotiation process. Table 7 presents the potential additional easement provisions. Additional discussion of select provisions follows.

**Table 7:** Potential Additional Easement Provisions

<b>Potential Provision</b>	<b>Description</b>	<b>Discussion</b>
Right of First Refusal & Option to Purchase	Requires landowner to offer easement holder option to purchase before selling land to outside parties.	Must determine if beneficial to easement holder on case by case basis. May be difficult to negotiate with landowner. See discussion below.
Public Use of Land	Provide use of land for public uses: trails officially identified by publication of this document, education, research (documentation, surveys)	May be difficult to negotiate with landowner. Five proposed trails currently in project area; recent trail easement recorded on Silacci property. See discussion below.
Restriction on Agricultural Practices	Require crops that leave stubble in the winter; Prohibit cultivation during the winter season; Prohibit use of plastic ground cloths	To maintain surface roughness to protect flood attenuation capacity. See plasticulture discussion below.
Restrictions on Farm Roads	Prohibit roads which parallel major drainages and creeks	Will aid in flood protection capacity. See discussion below.

Potential Provision	Description	Discussion
Best Management Practices (BMPs) and Reduction of Pollutant Loading	Identify and implement agricultural methods that will reduce or eliminate the release of sediment, nutrients, and other pollutants between crops and wetlands/riparian corridors.	Agricultural runoff is receiving more attention from regulatory agencies as a source of pollution in waterways and water bodies. It is suggested to start self-regulation before the State imposes restrictions. BMPs will help wildlife habitats as well.
Preserve Scenic Quality of Land	Prohibit uses that would destroy scenic quality of land	In most cases this is difficult to negotiate with landowners
Protect and Enhance Wildlife Habitats	Establish areas where agriculture is prohibited or certain types of agriculture or seasons or use are restricted	To protect wildlife corridors. Restrictions on tree crops, vineyards, and other permanent crops whose operations tend to leave the ground bare in the winter, may provide additional flood protection benefits. Wildlife habitat agricultural easements may cost more than ordinary agricultural easements, providing landowners with a larger easement payment.
Protect Riparian Corridors	Establish areas where agriculture is prohibited and provide for a restoration management plan.	Provides natural sediment removal, surface water benefits. Protected riparian corridors currently exist in Soap Lake project area.

### **Right of 1<sup>st</sup> Refusal and Option to Buy**

This provision is a way for the land to be acquired in full by the easement holder in the event the landowner chooses to sell the land. The landowner must offer the easement holder the option to buy the land before putting it on the market. The value of the land is determined by appraisal.

### **Public Use of Land and Recreational Use of Land**

Discussions with the landowner will determine if the land will be open to public use or recreational use. There are many different types of uses possible through these provisions, among them:

- Recreational/public use for trails
- Public use for educational purposes (i.e. wildlife research, school field trips)
- Recreational use for bird watching

For all uses besides trail easements, the provisions can be established on a case by case basis. For trail easements, however, there are planned trails and established county policies that may dictate provisions.

There are currently five proposed trails within the Soap Lake Project boundaries. The establishment of trail easements is consistent with member county policies encouraging trail development. In cases where a landowner is willing, trail easements can establish a specific, permanent right of passage over the land. Inclusion of such trails could require

further environmental analysis to ensure that potential impacts to natural or cultural resources are avoided or minimized. Trail easements can be designated separately from agricultural conservation easements yet be situated side by side to ensure no gaps in protection. Additionally, provisions regarding the management of the trail must be established. Maintenance money is not always readily available. It should be included in the provisions that the group implementing the trail is responsible for trail maintenance and associated costs. The flood and conservation easement holder and the land owner would not be responsible for maintenance or associated costs. Table 8 lists the five proposed trails within the Soap Lake floodplain.

**Table 8:** Trails in Soap Lake Project Area

Trail Name	Description
Juan Bautista de Anza National Historic Trail	National Historic Trail- National Park Service in partnership with fed, state, local agencies, non-profits, landowners
Monterey Yosemite State Trail	Regional trail and a "Corridor of Statewide Importance"
Benito-Clara Trail	Regional trail- Trail follows Pajaro River within project area.
Coyote Creek/Llagas Creek Trail	Regional trail
Bay Area Ridge Trail	Bay Area Ridge Trail Council- a non-profit organization

### Plasticulture

Plasticulture, or the use of plastics in agriculture, can have a large impact on runoff. Plastic sheets are used to surround plants and rows of crops to protect the crops from extremes in temperature, water, and wind. The plastic can be laid directly on the ground or lofted to create a tunnel. The sheets though are completely impervious by design and all rainfall is turned directly into runoff. The plastic is also very smooth so there is little potential for storage or slowing the overland flow. Due to the advantages that plasticulture can provide to farmers, limiting use of plastic sheeting is expected to be a contentious issue. The economic impact of such a limitation has not been evaluated.

To minimize conflict between farmers and implementing agencies and to stay in line with the goal and intent of the Project, it is recommended that farmers that currently use plasticulture be allowed to continue to do so. If the selling farmer does not currently use plasticulture, the easement provision that restricts the use of plastic sheets should be pursued but not at the cost of losing the acquisition. This recommendation also applies to the other restrictions on agricultural practices mentioned in the easement provision.

### Roadways

Roadways have significant impacts on floodplains. Compared to vegetated farmland, both paved and unpaved roads substantially reduce surface roughness. This provides a conduit for flood waters. In particular, roadways aligned parallel to the direction of flood water flows can dramatically decrease storage and attenuation. Whereas flood waters would normally be subject to the energy dissipating capabilities of vegetated farmland, roadways provide a channel to short circuit past the natural attenuation characteristics of farmland.

Roadway provisions may address:

- Construction of new paved or unpaved roadways
- Paving of unpaved roadways
- Expansion of existing roadways
- Raised roadways (divides floodplain)

Specifics regarding these items must be determined on a case by case basis. In general, all of the items reduce the current abilities of the floodplain to protect against flooding and should be prohibited. However, because these provisions may be impractical for landowners, roadway provisions must be discussed during the easement creation process.

## ***Acquisition Strategy***

The Soap Lake Floodplain Preservation Project is based on participation of willing sellers. It is therefore somewhat opportunistic in terms of the order of parcel purchase. Should any of the parcels become available, the potential for acquisition should be evaluated regardless of its position in the floodplain.

Acquisition order of properties need not be completely random though. Marketing the Project should be done for all parcels within the Project boundary but it's possible for the Project administrator and partners to focus on certain parcels and be sure that property owners are aware of the benefits of participating in the Project. Also, if multiple parcels are offered for sale at the same time but funding is limited, it is helpful to have a prioritization structure.

There are many factors that would impact the priority of parcels to be acquired. These include:

- Flooding frequency
- Proximity to urban development and urban features
- Proximity to already preserved areas

Each of these prioritization factors is discussed below.

## **Flooding Frequency**

More frequently flooded parcels should receive acquisition priority over parcels that are flooded less frequently. Reasons for this include:

- More frequently flooded parcels will sustain greater damage to buildings and infrastructure due to the frequency and depth of water. To avoid this, the existing and new development would need to be raised above the level of flooding. Unless heavily mitigated, this would likely cause deeper, faster water elsewhere.
- Not preserving the more frequently flooded parcels could lead to increased flow capacity in a given area. For example:  
In larger events, if the 2-year floodplain is developed and paved, flood water will flow downstream rather than flow outward and be stored on land within the 25, 50 and 100-year floodplains. This is because the area within the 2-

year floodplain can carry more water faster when paved and will result in more frequent flooding downstream. Therefore, from a hydraulic standpoint, the 2- and 10-year floodplain areas should be a higher priority for preservation than lands within the 25-, 50-, and 100-year floodplains.

### **Proximity to Urban Development and Urban Features**

Parcels that are more likely to be developed would have a higher priority for acquisition. New development usually falls into two general categories: urban growth or fragmentation. Fragmentation is when new development occurs randomly and is not necessarily connected to any existing urban area. It is difficult to predict where fragmented development will occur. Urban growth stems from existing urban areas and support features such as roads and utilities such as water, sewer, and electrical service. The closer the parcel is to these areas and facilities the more likely it is to be developed. Therefore these parcels would have a higher priority than those parcels farther away from the roads and utilities that could easily support additional development.

### **Proximity to Preserved Areas**

There are several reasons why parcels that are closer to already preserved parcels are more important to the success of the Soap Lake Floodplain Preservation Project. As preserved parcels are linked together they can form a barrier to urban expansion. Larger preserved areas are more difficult to route utilities such as water and power around which drives up the cost of construction and the resulting development. Preserving larger swaths of land can also improve public relations and improve public perception of the project. By creating large areas of preserved agricultural land, scenic views from the local roads are maintained. There are additional benefits as well. Should any land within the floodplain be developed, large pockets of preserved land will reduce the amount of exposure that farmers have to the public and therefore reduce the likelihood of vandalism and trespassing. The public exposure to dust, odors, pesticides, and slow moving machinery will also be minimized by acquiring neighboring parcels. In addition to serving as a barrier to further urban growth and urban-agricultural conflict, there are significant benefits associated with providing a corridor of agricultural or open space land. If development were interspersed among preserved areas, a corridor would not exist to provide a pathway for many species. Trails would not be possible without recreation easements that were contiguous.

### **Recommended Strategy**

Based on the above criteria, it is possible to assemble an overall parcel prioritization strategy. It is recommended that, to best meet the Authority's goals, flooding frequency be considered the most important consideration. Priority should be given to those parcels that are flooded the most frequently. More frequently flooded parcels have more value in terms of maintaining the flood attenuation benefits of the Soap Lake floodplain than less frequently flooded parcels. Additional considerations, including proximity to urban features and infrastructure and congruency with other preserved parcels, should be considered as well. Acquisition of these parcels meeting these criteria would inhibit

land use and topography changes that, unmitigated, could increase downstream flows. Other floodplain features that bring or could bring additional value to the floodplain or Project should also be considered if all other factors are equal. Though not the primary mission of the Authority, acquiring lands with recreational trails, historic sites, and high environmental value land would increase the value of the project for the public. This, in turn, would provide incentive for donations and support from sectors that are not primarily concerned with maintaining flood attenuation benefits.

### ***Payment Methods***

Within the acquisition process, a variety of payment options could be utilized to make the needed purchases from the land owners. The various payment options described below may be attractive to landowners for tax purposes and may utilize and expand the funds available for this land and easement acquisition project.

- Lump Sum – Payment is received in full for the easement or land value.
- Installment Sale – Payment is made over a period of time, usually occurring over multiple tax years. If seller-financed, the buyer may agree to pay the owner tax-exempt interest payments on the principal of the development rights. This payment option can reduce the amount of acquisition funds needed upfront and can have significant tax benefits and deferrals accrued to the landowner.
- Securitized Installment Purchase Agreement – This payment option is similar to the general installment sale except that the principal is due at the end of the financing term. Associated interest payments are tax exempt and may also defer capital gains taxes for the willing seller.
- Donation and/or Bargain Sale – A landowner may donate development rights or sell these rights at a cost less than the appraised market value, which is referred to as a “bargain sale”. In either case, a landowner may receive a charitable gift deduction.
- Like-Kind Exchange – This is an exchange of similar investment assets, on which a deferral of capital gain may be taken. The landowner may use the proceeds from a sale and roll them into other qualifying real estate.



## 4) Funding

Implementation of the Soap Lake Floodplain Preservation Project is not possible without money to acquire property when it is on the market. Having available funding is especially important when conservation of their land and land use practices is not the land owner's primary motivation to sell. If other buyers are interested in purchasing the land, a competitive situation could be established. Having funds available to acquire the land quickly could be a key factor in whether the sale will preserve the land or develop the land. This section of the Implementation Plan provides a conceptual level estimate of the cost of the entire program, outlines several funding options from five sources, and identifies the recommended programs to pursue from different tracks.

### ***Required Funding***

The approximate cost to acquire the 100-year Soap Lake floodplain is \$60 million but could be as low as \$50 million or as high as \$180 million in today's dollars. This value is provided in today's dollars to provide a reference to implementing agencies for the magnitude of money that will be needed to implement the project. The estimate is based on the best available unit costs and numerous assumptions about which parcels would be acquired through easements and which would be acquired by fee title. An easement was assumed to be \$5,000/acre and a fee title acquisition was assumed to be \$12,000/acre. It was assumed that only about 15% of the floodplain was acquired in fee title.

Due to the duration of the Project, it is difficult to predict the total cost in today's dollars. Not only will the Project likely last for decades, which will impact the value of the dollar, but there are many other factors as well. One of the major factors is demand for the land, regardless of the use. The more demand there is for the land, the higher the price will be. The converse is true as well. Acquisitions of parcels for preservation or other uses also impact the cost of the land. It would require a qualified appraisal to determine the impacts of a given acquisition on the value of the surrounding properties. As with many other commodities, land is often available at a discounted rate when purchased in large quantities. If more than one parcel can be acquired at a time from a single owner, such a discount may be available. Finally, the total cost of the land is sensitive to the acquisition method since fee title acquisitions are so much more expensive. Should more or less of the floodplain be acquired in fee title than assumed, the overall price could be higher or lower than the estimate provided here.

### ***Funding Options***

Five potential funding sources may be available for the implementation of the Soap Lake Floodplain Preservation Project. These sources include the following:

- 1) Implementing partners;
- 2) Government and private grants;
- 3) Landowner incentive programs;
- 4) Development-based funding/programs; and
- 5) Local tax-based funding/programs.

Landowners are also a critical part of the funding process, as they may contribute to the implementation process through donations of land in fee title or conservation easement, or bargain sales of fee or easements. A combination of bargain sales, non-debt (such as grants) and debt-leveraged funding (such as bonds) are proposed since multiple funding sources and mechanisms may provide funding stability over the duration of this project.

## Implementation Partners

Several conservation organizations and agencies have implemented land conservation within the Soap Lake area. These groups are Wildlands Inc., Santa Clara County Open Space Authority, Santa Clara Valley Water District, Land Trust for Santa Clara County, American Farmland Trust, The Nature Conservancy, San Benito Agricultural Land Trust, and the California Department of Fish and Game. The involvement of many of these groups is described below.

Wildlands Inc. is a private habitat development and land management company involved in mitigation and conservation banking. They recently purchased property in the Soap Lake area as a wetland mitigation bank where half of the land will be converted to wetlands with continued agricultural production. Wildlands Inc. has indicated they may be interested in future land acquisition and agricultural mitigation banking in the Soap Lake area if the location, current land use and habitat fit their vision.

The Santa Clara County Open Space Authority (Open Space Authority) has indicated they may be able to fund \$500,000 annually for preservation of agricultural land, trails, and valuable habitat within the Santa Clara County portion of Soap Lake. The Open Space Authority's goals are to preserve agricultural lands with prime and otherwise important soils, assisting in the Bay Area Ridge Trail program, and pursuing joint ventures with the Santa Clara Valley Water District (SCVWD).

The SCVWD, along with the Land Trust for Santa Clara County, owns a 480-acre property in fee title called the Carnadero Preserve (formerly the Wang property), located in the western portion of the Soap Lake area. This property satisfies the majority of the mitigation obligations of the Stream and Watershed Protection element of the SCVWD Stream Maintenance Program for the Pajaro Basin. The American Farmland Trust purchased a conservation easement on the portion of the Wang property owned by the Land Trust for Santa Clara County and is temporarily holding this easement until the land can be sold and the easement transferred to the Land Trust. The Land Trust for Santa Clara County, with the help of the American Farmland Trust, recently purchased a conservation easement over the 165-acre Mission Organics Home Ranch, and has secured approval of funding to purchase an easement over the 560-acre Taylor Ranch. All three of these properties (Wang, Mission Organics, and Taylor Ranch) are contiguous.

The Land Trust for Santa Clara County's primary mission is in the acquisition of conservation easements on agricultural lands, and they have the ability to pursue projects outside of Santa Clara County. As mentioned above, the Land Trust for Santa Clara County is currently working on conservation efforts with The Nature Conservancy, the San Benito Agricultural Land Trust, and others.

The California Department of Fish and Game (CDFG) holds a 200-acre conservation easement in the Soap Lake area near the confluence of the Upper Pajaro River and Miller's Canal. This easement, on what is known as the Helperin property, was purchased in 1990. When appropriate, the CDFG contributes funding to habitat preservation or land conversion to natural lands. The CDFG interest in acquiring additional lands in the Soap Lake area is unknown as of February 2005.

## Public and Private Grants

Several grant programs exist that may be applicable to the funding needs of this project. Public and private funding mechanisms were investigated, and are listed in Table 9.

The information provided in Table 9 was referenced from program-specific websites and grant funding search websites, as well as conversations with funding program managers and coordinators. It is important to note that Table 9 is not all-inclusive of each funding program's requirements, minimum qualifications, and other pertinent dates and information. Therefore, further investigation and inquiry is recommended before any funding proposal is formally submitted. It is also important to note that for the purposes of this project, funding options were not explored with the U.S. Army Corps of Engineers because the Corps does not fund land or conservation easement acquisition projects.

Most public grant programs require partnerships between the local interested agencies and/or non-profit groups (local project proponents) with State and/or Federal agencies. In fact, many such partnerships have successfully formed in the last few years.

## Landowner-Incentive Programs

Two landowner-incentive programs that exist for the purposes of land conservation have been identified in the CEQA documentation. They are the Federal Conservation Reserve Program and the State of California Land Conservation (Williamson) Act Program. Neither of these programs provides funds for title or easement acquisition. They are instead programs that provide economic incentives for land owners to keep their land in agricultural production. The description of each program follows.

- **Federal Conservation Reserve Program** – This federal program is administered by the USDA Natural Resources Conservation Service (NRCS). This program provides annual rental payments and cost-share assistance to private landowners for the conversion of highly erodible cropland or other environmentally sensitive acreage to vegetative cover, such as tame or native grasses, wildlife plantings, trees, filter strips, or riparian buffers. Contract duration for this program is 10-15 years. This program only allows the planting of long-term, resource-conserving covers to improve the quality of water, control soil erosion, and enhance wildlife habitat. According to local Farm Service representatives, the rental payments for this program in the Central California area are too low (\$25-\$50 per acre) to be a conservation incentive for the agricultural community.
- **California Land Conservation (Williamson) Act Program** – This program is administered by the California Department of Conservation, Division of Land

Resource Protection. This program utilizes 10-20 year contract agreements that provide agricultural landowners with 20-75 % savings in property tax liability each year for their voluntary restriction of their land to agricultural and open space uses. Only land located within an agricultural preserve is eligible. Both Santa Clara and San Benito counties are “Williamson Act” counties, whereby their Board of Supervisors has adopted resolutions for agricultural preserves. The Soap Lake Floodplain Preservation Project is mostly within designated agricultural preserve area. Within Santa Clara County, 43% of the land area of the county (more than 362,704 acres) is under Williamson Act contracts. As of 2004, greater than two-thirds of San Benito County agricultural lands are also under contract with the Land Conservation Act Program.

### **Development-Based Funding**

Development-based fees can provide funding for open space conservation and acquisition. The associated fees must demonstrate a clear nexus between the fee and its use. This type of funding is subject to specific state and federal regulations and the legality of the fees should be fully explored in relation to the participating jurisdictions.

- **Development Mitigation Fees** – Fees are charged to developers to fund open space and land preservation projects throughout a jurisdiction. These funds could be used to conserve and acquire lands for preservation, conservation, and habitat. Neither San Benito County nor Santa Clara County currently impose development mitigation fees.
- **Developer Land Dedications** – Developers could be required to acquire lands identified for conservation and must ensure their preservation in perpetuity, in order to obtain approval for developing land elsewhere in the jurisdiction.

**Table 9. Grant Opportunities for the Soap Lake Floodplain Preservation Project**

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
State	California Department of Conservation, Division of Land Resource Protection	Deniz Tuncer 916-445-9408	<b>California Farmland Conservancy Program</b>	This program seeks to encourage the long-term, private stewardship of agricultural lands through the voluntary use of agricultural conservation easements. This program provides grant funding for projects which use and support agricultural conservation easements for protection of agricultural lands. Funding can be for agricultural conservation easement acquisition, temporary fee title acquisition projects, land improvement projects, and policy. <a href="http://www.conservation.ca.gov/dlrp/CFCP/overview/index.htm">http://www.conservation.ca.gov/dlrp/CFCP/overview/index.htm</a>	\$12 million in FY 2004/2005. No project funding cap, typical amount is \$50,000-\$1 million. This is an on-going program for a few more years through Prop. 40 funding.	5-10% match required, but average match is 50%	Local governments, resource conservation districts, non-profit organizations, other authorities that have conservation of farmland among their stated purpose	Funded organizations must have conservation of farmland as long-term commitment and among its stated purpose	The application submittal process is on-going – applications can be submitted anytime.  This program has yet to have San Benito County as a participant.
State	California Department of Fish and Game, Wildlife Conservation Board	Tina Fabula 707-944-5500	<b>Land Acquisition Program</b>	This program funds real property acquisition or rights in real property for wildlife and fish. This funding mechanism has limited funds left. <a href="http://www.wcb.ca.gov/Pages/land_acquisition_program.htm">http://www.wcb.ca.gov/Pages/land_acquisition_program.htm</a>	Funding is almost gone; therefore, limited funding is still available.	No match requirement	Local governments and non-profit organizations.	All acquisition activities are carried out in conjunction with the California Department of Fish and Game.	The application submittal process is on-going – applications can be submitted anytime.
State	California Department of Fish and Game, Wildlife Conservation Board	Scott Clemens 916-445-1072	<b>California Riparian Habitat Conservation Program</b>	The program mission is to develop coordinated conservation (acquisition and restoration) efforts to protect and restore the State's riparian ecosystems. <a href="http://www.wcb.ca.gov/Pages/california_riparian_habitat_conservation_program.htm">http://www.wcb.ca.gov/Pages/california_riparian_habitat_conservation_program.htm</a>	Funding will be reduced in FY 2005/2006.  Typical funding per project is \$2,000 – \$2 million.  Contract duration is 3 years, with hope of habitat establishment in that time.	No match requirement	Local governments, non-profit organizations	Must have a 25-year management plan for funding. Private landowner must sign off on contract to uphold plan.	Grants will focus strictly on restoration activities that are part of a watershed –level or regional planning effort.  The application submittal process is on-going – applications can be submitted anytime.  Submittal process takes minimum 6 months from submittal to Board approval.  Board meets 4 times per year (February, May, August, and November).  Funding is available immediately after Board approval meeting.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
State	California Department of Fish and Game, Wildlife Conservation Board	John Donnelly, 916-445-8448	<b>Rangeland, Grazing Land, and Grassland Protection Act of 2002</b>	The purpose of this program is to protect California's rangeland, grazing land and grasslands through the use of conservation easements. Grants for rangeland, grazing land, and grasslands projects and land acquisition. <a href="http://www.wcb.ca.gov/RangelandProgramfiles/RangelandProgramRev3.htm">http://www.wcb.ca.gov/RangelandProgramfiles/RangelandProgramRev3.htm</a>	Project funding up to \$2 million  Project proposals that contain funding partners may receive a higher priority than those applicants requesting 100 percent of the necessary funds to acquire the conservation easement.	Not specified, although encouraged.	Landowner, local governments, resource conservation agencies, joint power authorities, non-profit organizations	Projects must protect the integrity of the rangeland, grazing lands and grasslands. Applicants interested in obtaining an easement on more intensified agricultural areas are encouraged to contact the Department of Conservation (DOC), California Farmland Conservancy Program  Landowner must disclose any known or suspected environmental conditions associated with the property	The application submittal process is on-going - applications can be submitted anytime. Applications should be submitted at least four months prior to a Board meeting.  The Board meets 4 times per year, every Feb, May, August and November.
State	California Department of Water Resources and State Water Resources Control Board	Sudhakar Talanki, 916-341-5434	<b>Integrated Regional Water Management Grant Program</b>	The Integrated Regional Water Management (IRWM) Grant Program, funded by Proposition 50, Chapter 8, provides about \$380 million for competitive grants for projects to protect communities from drought, protect and improve water quality, and improves local water security by reducing dependence on imported water. Funding for the IRWM program is split between the Department of Water Resources and the State Water Resources Control Board. The agencies will utilize a joint application process for awarding grants. <a href="http://swrcb2.swrcb.ca.gov/funding/irwmgp/index.html">http://swrcb2.swrcb.ca.gov/funding/irwmgp/index.html</a>	Maximum grant amounts with required match percentage: \$500,000 for Planning Grants (with 25% local match), and, \$50 million for Implementation Grants (with 10% local match).  Total program funds are committed as follows: First funding cycle, \$160 million (\$12 M for Planning and \$148 M for Implementation), and, Second funding cycle, \$220 million	25% for Planning Grants  10% for Implementation Grants	Public agencies and non-profit organizations. Other entities, such as privately owned water utilities regulated by Public Utilities Commission, may be part of the regional water management group responsible for applying for a grant and may perform work funded by the grant.	The associated IRWM Plan must meet all standards set forth in Appendix A of the Program Guidelines, and the Plan must be adopted by all partner agencies by January 1, 2007.  All proposals for funding must meet standards and requirements found in the Program Guidelines (see website for information).	The Draft Planning and Step 1 Implementation Grant Proposal Solicitation Packages (PSP) are currently (Feb. 2005) being reviewed. Once the final PSPs are released, Planning and Step 1 Implementation Grant proposals can be submitted. Dates have yet to be determined.
State	California Office of the Secretary, Resources Agency	Elaine Berkhouse 916-653-5656	<b>Proposition 50, California River Parkways Grant Program</b>	Projects must provide public access or be a component of a larger parkway plan that provides public access. Program is currently under development. <a href="http://resources.ca.gov/bonds_prop50riverparkway.html">http://resources.ca.gov/bonds_prop50riverparkway.html</a>	Funding for FY 2004/2005 is \$10 million  Funding for FY 2005/2006 is expected to be \$30 million	Will require other contributions, not yet determined.	Unknown at this time.	Guidelines being developed.  Multi-objective projects with multiple benefits to various stakeholders will be favorable.	Program funding guidelines are under development. Public comment on draft guidelines is expected to occur this spring. Requests for proposals may occur in May 2005.  There exists a five-year horizon to complete the project once funding has been awarded.



Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
State	California Office of the Secretary, Resources Agency	Elaine Berkhouse 916-653-5656	<b>Environmental Enhancement and Mitigation Program</b>	Program function is to mitigate the environmental impacts of modified or new public transportation facilities. Projects must have environmental clearance to be funded. <a href="http://resources.ca.gov/eem/">http://resources.ca.gov/eem/</a>	State Budget for FY 2005/2006 contains no funding for this program. Future funding is unknown.  Project funding limit is \$250,000. Funding may exceed this amount for acquisition projects only. Total annual funding has been \$10 million each year.	No match required	Local, state, and federal governmental agencies, nonprofit organizations	Must have direct or indirect relationship with environmental impact of a new transportation facility or modifying an existing transportation facility. All projects must provide mitigation or enhancement of the transportation project for which they are related	State Budget for FY 2005/2006 contains no funding for this program. Future funding is unknown.
State	California Coastal Conservancy	Terri Nevins, 510-286-4161, or Nadine Hitchcock, 510-286-4176	<b>Conservancy Program Grants</b>	This program funds trails and other public access to and along the coast, natural resource protection and enhancement in the coastal zone or affecting coastal areas, restoration of coastal urban waterfronts, protection of coastal agricultural land, and resolution of land use conflicts. The Conservancy can fund pre-project feasibility studies, property acquisition, planning (for large areas or specific sites), and design, environmental review, constructions, monitoring, and, in limited circumstances, maintenance. The Board meets 10 times per year. <a href="http://www.coastalconservancy.ca.gov/">http://www.coastalconservancy.ca.gov/</a>	Only a small amount of funding is available/left this year. Can submit proposal now and be wait-listed for next fiscal year.  Fund size: \$10,000 to several million, depending on the need, significance, and urgency of the project and availability of funds	Will require other contributions	Non-profit organizations who have preservation of land for educational, recreational, and open space opportunities among its principal purposes	California coastal watersheds	The application submittal process is on-going - applications can be submitted anytime.
Federal	USDA Natural Resource Conservation Service	NRCS California State Office, 530.792.5600;  Jim Kosis, California Program Manager, 530-792-5605  Denise C. Coleman, National FRPP Manager, 202-720-3527	<b>Farm and Ranch Lands Protection Program</b>	The Farm and Ranch Land Protection Program (FRPP) provides matching funds to help purchase development rights to keep productive farm and ranchland in agricultural uses. Working through existing programs, USDA partners with State, tribal or local governments and non-governmental organizations to acquire conservation easements or other interests in land from landowners. USDA provides up to 50 percent of the fair market easement value. <a href="http://www.nrcs.usda.gov/programs/frpp/">http://www.nrcs.usda.gov/programs/frpp/</a>	Total program funding for 2005 is \$112 million.  No maximum funding cap per project.	Two options - 50% of purchase price, or 25% of market value of easement	State, tribal, or local governments and non-governmental organizations	Private land owners must participate through eligible entity. Eligible land is prime, unique, statewide, or locally import soils, historical or archeological resources, subject to pending offer, etc. Landowner income from farming production must be less than \$2.5 million per year.	This program will rarely fund projects/acquisition where flooding is to occur. Flooding will prohibit farming activities for that affected period of time, so this is not looked on favorably.  Application deadline for this year is April 5, 2005.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	USDA Natural Resource Conservation Service	Helen Flach, Assistant State Conservationist, 530-792-5602; or Jon Gustafson, 530-792-5602  Floyd Wood, National Program Manager, 202-720-0242;	<b>Grasslands Reserve Program</b>	The Grassland Reserve Program (GRP) is a voluntary program offering landowners the opportunity to protect, restore, and enhance grasslands on their property. Section 2401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) amended the Food Security Act of 1985 to authorize this program. The Natural Resources Conservation Service, Farm Service Agency and Forest Service are coordinating implementation of GRP, which helps landowners restore and protect grassland, rangeland, pastureland, shrubland and certain other lands and provides assistance for rehabilitating grasslands. The program will conserve vulnerable grasslands from conversion to cropland or other uses and conserve valuable grasslands by helping maintain viable ranching operations. <a href="http://www.nrcs.usda.gov/programs/GRP/">http://www.nrcs.usda.gov/programs/GRP/</a>	National program cap is \$100 million for life of the program, and California has requested \$72 million for approved projects (may not be funded).  Unknown when funding will come through, anticipated to be March 2005. California requested funding in September 2004, but has yet to be funded. Congress has yet to authorize funding. No funding limit per project.	No match required	Private Landowner	Lands may be used for haying and grazing	The application submittal process is on-going – applications can be submitted anytime.
Federal	USDA Natural Resource Conservation Service	California State Program Office, Walter Sykes, 530-792-5672, or Luana Kiger 530-792-5661  National Program, 202-720-8770	<b>Small Watershed Program</b>  <b>(Also known as the Watershed Protection and Flood Prevention Program)</b>	The USDA's Small Watershed Program assists local organizations in conducting watershed surveys and investigations, and in planning and installing structural and land treatment measures for watershed protection and flood prevention.  The Small Watershed Program in California has been used primarily for flood control, agricultural water management, and watershed protection work. There are 30 completed watershed projects in California and 15 operational projects. About 30 watersheds are currently receiving technical assistance for local planning activities.  In fiscal year 2002, California received PL83-566 annual appropriations of \$950,000 for watershed planning, \$1,390,000 for technical assistance, and \$3,351,136 for installing practices. <a href="http://www.nrcs.usda.gov/programs/watershed/">http://www.nrcs.usda.gov/programs/watershed/</a>	This program is severely under-funded. Backlog of \$1.5 billion for projects to be funded.	Match depends on components of project	Local governments, non-profit	Watershed must be < 250,000 acres  At least 20% of the benefits of any project must be directly related to agriculture, including rural communities.  Cost/benefit analyses must be conducted and the ratio found appropriate before funding will be approved. The National Economic Development (NED) alternative must be identified. If different alternative is chosen, NRCS would be limited to funding the amount that the NED alternative would require.	The Soap Lake project would not qualify for this funding mechanism since the watershed which drains to Soap Lake is approximately 500 sq. miles (about 300,000 acres), larger than the maximum drainage area allowed (250,000 acres or approximately 390 square miles).  The application submittal process is on-going – applications can be submitted anytime.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	Environmental Protection Agency	Region IX Coordinator, Sam Ziegler, 415-972-3399; <a href="mailto:ziegler.sam@epa.gov">ziegler.sam@epa.gov</a> .  National Program, Carol Peterson 202-566-1304	Targeted Watershed Grants Program	<p>The Targeted Watersheds Grant Program is a relatively new EPA program designed to encourage successful community-based approaches and management techniques to protect and restore the nation's waters. The watershed organizations receiving grants this year exhibited strong partnerships with a wide variety of support; creative, socio-economic approaches to water restoration and protection; and explicit monitoring and environmentally-based performance measures.</p> <p>The Targeted Watershed Grants Program (formerly known as the Watershed Initiative) is a competitive grant program to encourage the protection and restoration of the country's water resources. <b>Funds are for grants to support promising watershed-based approaches to improving water quality.</b> Under the Watershed Initiative, EPA will advance the successes of watershed partnerships that have performed all of the necessary assessments and are ready to implement on-the-ground restoration activities.</p> <p><a href="http://www.epa.gov/owow/watershed/initiative/2004/2004factsheet.html">http://www.epa.gov/owow/watershed/initiative/2004/2004factsheet.html</a></p>	<p>FY 2005 funding is \$10 million.</p> <p>Average project funding amount is \$700,000 – \$800,000.</p>	25% non-federal match (cash or in-kind goods and services accepted)	Local governments, non-profit, watershed group, educational institutions, water and wastewater utilities, state and territorial agency, tribal agency	<p>Requires Governor's nomination</p> <p>Must have a biological or species monitoring component to show improvement over 3 years</p> <p>Water resources/watershed preservation, water quality improvement, ecosystem and landuse health projects</p>	<p>RFP date is expected to be mid-February 2005.</p> <p>Application deadline is 90 days after the RFP.</p> <p>Grants go through the Regional Program office.</p>

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	Federal Emergency Management Agency	<p>California Office of Emergency Services, Ken Leap 916-845-8174</p> <p>Marcia Ranchler, John Rowden, 916-845-8150</p> <p>National Program Office 202-646-4621</p>	<b>Pre-Disaster Mitigation Program - Mitigation Grants Program</b>	<p>The Pre-Disaster Mitigation (PDM) program funding is provided through the National Pre-Disaster Mitigation Fund to assist States and local governments (to include Indian Tribal governments) in implementing cost-effective hazard mitigation activities that complement a comprehensive mitigation program.</p> <p>All Applicants and Sub-applicants must be participating in the National Flood Insurance Program (NFIP) if they have been identified through the NFIP as having a Special Flood Hazard Area (a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) has been issued). In addition, the Applicant/Sub-applicant must not be withdrawn, suspended, or on probation from the NFIP.</p> <p><a href="http://www.fema.gov/fima/pdm.shtm">http://www.fema.gov/fima/pdm.shtm</a></p>	<p>\$3 million cap on Federal share per project, not to exceed 3 years.</p> <p>Approximately \$255 million is available for competitive grants, technical assistance, and program support for the Fiscal Year 2005 PDM program. As PDM funds are available until expended, this amount is comprised of approximately \$13 million FY 2003 funds, approximately \$144.6 million FY 2004 funds, and approximately \$97 million FY 2005 funds. PDM grants are to be awarded on a competitive basis and without reference to state allocations, quotas, or other formula-based allocation of funds.</p> <p>The Fiscal Year 2005 PDM program guidance documents provide information and guidance on implementing the PDM program in Fiscal Year 2005, including program requirements, eligibility and grants management.</p>	<p>25% non-Federal funds</p> <p>Impoverished communities are eligible for up to 90% Federal cost-share.</p>	NFIP communities	<p>State Emergency Management Agency can apply, and sub applicant can receive funding. Must be NFIP participating communities.</p> <p>As of November 1, 2004, states and Indian tribal governments that choose to apply directly to FEMA must have an approved mitigation plan to be eligible to receive <b>project</b> grant funding under the PDM program. In addition, as of November 1, 2003, local governments, Indian tribal governments applying as Sub-applicants, and universities must have a FEMA-approved mitigation plan to be eligible to receive <b>project</b> grant funding under the PDM program. PDM <b>planning</b> grants will continue to be available to states, Indian tribes, local governments, and universities that do not have a FEMA-approved Mitigation Plan to enable them to meet the planning requirements. 44 CFR Part 201, Hazard Mitigation Planning, establishes requirements for state, tribal, and local hazard mitigation planning. Please see FEMA's planning web site: <a href="http://www.fema.gov/fima/planning.shtm">http://www.fema.gov/fima/planning.shtm</a></p>	<p>The application period was open as of Dec. 15, 2004.</p> <p>Application deadline for applications to be submitted to the FEMA Regional Director has been extended to March 14, 2005, at 11:59 p.m. EST.</p>
Federal	Department of Interior, US Fish and Wildlife Service	<p>CA Program Manager, Debra Schlafmann 916-414-6446, or Mary Root, Ventura Office, 805-644-1766</p> <p>Martha Naley, National Program 703.358.2201</p>	<b>Coastal Program</b>	<p>This program conserves fish and wildlife and their habitats to support healthy coastal ecosystems. Effort and focus is placed on bays, estuaries, and watersheds around the U.S. coastline. Financial assistance is provided on a competitive basis to individuals, organizations, Tribes, and agencies interested in restoring wildlife habitat.</p> <p><a href="http://www.fws.gov/cep/cepcode.html">http://www.fws.gov/cep/cepcode.html</a></p>	Funding for 2005 is \$11.6 million nationwide.	50%	Non-profit individuals, organizations, Tribes, Federal, State, local agencies	A State resources agency must be the applicant for funding	<p>Four program goals: (1) Serve coastal communities, (2) Conserve pristine coastal habitats, (3) Restore degraded coastal wetland, upland, and stream habitats, and (4) Focus resources through conservation alliances.</p> <p>Prospective applicants should contact the coordinators for each Coastal Program office (Ventura office for Pajaro River Watershed).</p>

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	Department of Interior, US Fish and Wildlife Service	Don Morgan 703.358.2061	<b>Private Stewardship Grants Program</b>	This program provides grants and other assistance on a competitive basis to individuals and groups engaged in local, private, and voluntary conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species. <a href="http://endangered.fws.gov/grants/private-stewardship/index.html">http://endangered.fws.gov/grants/private-stewardship/index.html</a>	\$6.5 million nationally (No funding for land acquisition; funding only conservation efforts on behalf of at-risk or listed species.)  Project funding cap of \$300,000	10%	Landowner, Business, Nonprofit, Local Government		They do NOT fund land or easement acquisition projects.  Annual application deadline is usually in March.
Federal	Department of Interior, US Fish and Wildlife Service	703.358.2156	<b>Landowner Incentive Program (Non-Tribal)</b>	This program offers competitive matching grants to States to establish or supplement landowner incentive programs. Includes conservation easement acquisition	No state may receive > 5% of total funds available  FY 2005 program funding total is \$20 million	25% non-federal match (cash and in-kind services are accepted)	Landowner, Business, Nonprofit, Local Government, etc.	Only the lead State Fish and Wildlife Service may apply for funding on behalf of third party.	Application deadline is typically 60 days after RFP (usually in late summer or early fall).
Private	David and Lucile Packard Foundation	Main Number, 650-948-7658;  Silvia Troost 916-442-4880 stroost@resourceslawgroup.org	<b>Conservation and Science Program</b>	One focus of the foundation is their support of Conservation and Science. The foundation also has a special focus on the Northern California counties of San Mateo, Santa Clara, Santa Cruz, and Monterey. The foundation also supports the Monterey Bay Aquarium Research Institute. <a href="http://www.packard.org">www.packard.org</a>	\$200 million for grant making in 2005	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Initial inquiry letter can be sent anytime. If interested, the foundation will ask for a proposal.
Private	William and Flora Hewlett Foundation	Anne Atkinson 650-234-4500	<b>Protecting Western Lands – Public Finance for Land Conservation</b>	Some of the most spectacular and ecologically significant lands needing protection in the West belong to ranchers and other private interests. While land acquisitions are perhaps the most permanent ways to protect private land from development, the philanthropic leverage of this type of investment can be small. An encouraging recent trend has been the development of public policies encouraging and financing conservation. We will continue to support efforts to generate public dollars for the protection of critical natural resources. <a href="http://www.hewlett.org/Programs/Environment/West/WestCriteria.htm">http://www.hewlett.org/Programs/Environment/West/WestCriteria.htm</a>	Unknown	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	They do not support land acquisition, conservation easements, and watershed or habitat restoration. The Foundation will support public finance initiatives on a larger scale to influence government decisions as related to the environment.
Private	Bella Vista Foundation	415-561-6540	<b>Bella Vista Foundation, Environmental Restoration Grants</b>	The foundation is focused on grant making for restoration of land, streams, wetlands, and habitat. They fund restoration activities, as well as the acquisition of land for purposes of preservation and restoration. They will fund organizations that own land temporarily or long term. <a href="http://www.pfs-llc.net">www.pfs-llc.net</a>	Average project funding \$20,000 - \$175,000	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Application deadline is January 30 or June 15, annually.



Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Private	Resources Legacy Fund Foundation	Amanda Bohl 916-442-4880; Main Number 916-442-5057	Preserving Wild California	This program preserves significant elements of California’s wildlands and ensures their permanent protection by investing in systematic acquisitions of land and fostering supportive policies, organizations, and constituencies. The foundation seeks to fund organizations working towards its long-term conservation goals for California’s wildlands. <a href="http://www.resourceslegacyfund.org">www.resourceslegacyfund.org</a>	Average project funding \$50,000 – \$1.3 million	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Initial inquiry letter can be sent anytime. If interested, the foundation will ask for a proposal.
Private	Columbia Foundation	Henry Holmes 415-561-6880	Sustainable Communities and Economics	This program supports the promotion of sustainable food systems that work toward: secure livelihood for farmers and farm workers; protection of natural resources and biodiversity; the viability of marine ecosystems and fisheries; protection of public and environmental health; access to affordable, nutritious food from local and regional sources to meet the needs of people of differing cultures and incomes; and creation of thriving regional food economies. <a href="http://www.columbia.org/">http://www.columbia.org/</a>	\$25,000-\$100,000 per year for maximum of three years with one grant application	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Annual deadline is August 1, and funding decisions arrive in late December.



## Local Tax-Based Funding

In addition to grants and developer fees, local tax-based funding may be a potential funding source. It validates local support and reveals a link between project costs and those who will directly benefit from the project.

The development of such a funding source can be challenging since two-thirds voter approval is required. In order to be successful, a long-term commitment to community outreach and education would be needed and may require a joint effort to fund other related public needs (trails and recreation, infrastructure, etc.). A list of potential local-tax based funding sources is provided below.

- General Obligation Bonds – Considered the most secure type of municipal bond, these are the least expensive bond local governments can issue. These municipal bonds are backed by the credit and "taxing power" of the issuing jurisdiction rather than the revenue from a given project. General obligation bonds are issued with the belief that a municipality will be able to repay its debt obligation through taxation or revenue from projects - no assets are used as collateral. The annual *ad valorem* property tax is set to a rate sufficient to pay the principal and interest due on the bonds annually. The term of these bonds cannot exceed 40 years. Bonds can raise large amounts of funding quickly, which would allow more immediate preservation of the agricultural lands, which could reduce project costs over time since development rights may become more costly over the duration of a preservation project.
- Sales Tax Increase (Special Tax, Bond or Annual Revenue) – With a dedicated use, a new revenue source could be developed by raising sales taxes in the County with approval by two-thirds of the eligible voters. The tax increase could be shared among several special purposes. No market analysis has been conducted to investigate the possible impacts of an increased sales tax.
- Parcel Tax (Special Tax) – A new special tax on property could be imposed on a county-wide basis by two-thirds voter approval. The revenue would be used for open space and agricultural acquisitions. This tax could take many forms, such as a flat per parcel charge, an assessment only to certain classes of parcels, or the tax could be apportioned based on size or value of parcel improvements. The advantage of this tax type is its flexibility.
- Other Special Taxes that could leverage funding for conservation efforts follow:
  - Transient Occupancy Tax
  - Real Estate Transfer Tax
  - Business Tax
  - Utilities Tax
- Benefit Assessment Districts – This district would assess a fee on each parcel within the district proportionally to the benefit received by each parcel. Such districts can fund such conservation efforts as open space, habitat preservation

and the associated maintenance efforts. These require a majority vote, but are complicated to administer.

### ***Funding Tracks***

The ability to obtain project funding sooner rather than later will have a significant impact on the long-term costs and acquisition schedule of this project. With this in mind, more immediate funding types, such as debt-leveraged bonds, can provide faster acquisition of farmlands, which in turn, could lessen the impact of rising costs for development rights. Furthermore, conservation easement negotiations and transactions take time; therefore, it is crucial to the long-term schedule of the project that a significant portion of the desired funding is secured early on.

Numerous funding tracks will need to be explored to obtain the funding required to implement the Soap Lake Floodplain Preservation Project. Initially, the Authority will need to determine the feasibility of each funding type suggested herein, and their associated legality and appropriateness for the project and for the jurisdictions in which the Authority represents. Once the eligible funding types have been identified, specific tracks can be developed based on the timeframe and schedules of each funding mechanism. Early investigations into the chosen funding mechanisms will reveal whether that specific track is a possible avenue for funding or will need to be abandoned.

### **Local Funds**

On the local funding track, local agencies and their ability to support this project need to be identified, their funding quantified, and their commitment secured as soon as possible. This will ensure the reliability of a local cost share when pursuing grant funding. As seen in Table 9, most programs require a funding match to receive grant monies. Therefore, it is critical to secure these local sources. The ability of all local stakeholders to provide financial assistance must be explored. One potential local source identified here is the Santa Clara County Open Space Authority, which may have the ability to fund \$500,000 annually for parcels located in Santa Clara County. However, one stakeholder may not be able to sustain the local cost share over time; as a result, other local contributions will need to be secured to sustain the project, and associated match requirements, for the duration.

If it is determined that cumulatively, local stakeholder contributions will not be enough to support a local cost-share program, other local funding mechanisms mentioned herein, such as development-based and tax-based programs, should be explored. Since the development of these funding mechanisms may take several years and voter approval, the decision to pursue this type of funding would need to be made as soon as possible to begin the stakeholder outreach process.

### **Development-based Funds**

Development-based funding will require compliance with regulations set forth by the State of California Government Code Section 66000. This Code, enacted by State

Assembly Bill 1600 in 1987, is also called the Mitigation Fee Act and it requires all public agencies to satisfy specific conditions when establishing, increasing, or imposing a fee as a condition of new development. In summary, the requirements are as follows:

- Identify the purpose of the fee;
- Identify the use to which the fee will be put;
- Determine reasonable relationship between the fee's use and the type of development on which the fee is imposed;
- Demonstrate how there exists a reasonable relationship between the need for the public facility and the type of development project on which the fee is to be imposed;
- Discuss how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

The above items must be defined to demonstrate a clear nexus between the fee, the type(s) of development it is assessed to, and the purpose to which the funding will serve. It is recommended that a more in-depth investigation into this and other State and Federal legalities of development-based fees should be conducted to determine the relevancy to the Soap Lake Floodplain Preservation Project.

## Federal Funds

On the Federal funding track, it is recommended that the Authority pursue the following four funding mechanisms (see details in Table 9), which will be funded in the coming years and are the most applicable Federal grant funding mechanisms for the Soap Lake Floodplain Preservation Project:

- **Farm and Ranch Lands Protection Program** – This program supports conservation easement acquisition. However, occasional flooding may be a disadvantage to receive funding. This needs to be explored further.
- **Targeted Watershed Grants Program** – State governor must provide nomination of project to the EPA.
- **Pre-Disaster Mitigation Grants Program** – Funding applicant must be the State Emergency Management Agency. Sub applicants must be National Flood Insurance Program (NFIP) participating communities with FEMA-approved hazard mitigation plans.
- **Coastal Program** – This program will fund coastal watersheds. A State resource agency must be the primary applicant.

Other Federal programs outlined in Table 9 that are not recommended as a funding source for the Soap Lake Floodplain Preservation Project are listed below:

- Grasslands Reserve Program – No funding is available.
- Small Watershed Program – Soap Lake watershed area exceeds maximum watershed size allowed for this funding program.
- Private Stewardship Grants Program – No funding available for land acquisition, only provides funding for conservation efforts on behalf of species.
- Landowner Incentive Program – Funding provided to States to establish or supplement their own landowner incentive programs.

## State Funds

On the State funding track, it is recommended that the Authority pursue the following five funding mechanisms (see program details in Table 9), which will be funded in the coming years and are the most applicable State grant funding mechanisms for the Soap Lake Floodplain Preservation Project:

- **California Farmland Conservancy Program** – This program has yet to have San Benito County as a participant;
- **Rangeland, Grazing Land, and Grassland Program**;
- **Integrated Regional Water Management Grant Program** – Funding could be substantial if project is part of an integrated regional strategy;
- **Conservancy Program Grants** – Funding available for coastal watersheds; and,
- **California River Parkways Grant Program** – Program guidelines currently under development.

Other State programs outlined in Table 9 that are not recommended as a funding source for the Soap Lake Floodplain Preservation Project are listed below:

- Land Acquisition Program – Funding is almost gone;
- Environmental Enhancement and Mitigation Program – No funding was allocated for this program in FY 2005/2006. Future funding is unknown; and,
- California Riparian Habitat Conservation Program – Grants strictly focus on acquisition with restoration activities, which are not the main focus of the Soap Lake Floodplain Preservation Project. This program could be an option to create a riparian buffer zone if a land owner is willing to sell property abutting the river or riparian zone or be willing to convert some land to riparian habitat.

## Private Funds

Four of the five private grant-making organizations identified in Table 9 should be explored as to their interest in partnering in the Soap Lake Floodplain Preservation Project. These are the Packard Foundation, Bella Vista Foundation, Resources Legacy Fund Foundation (Preserving Wild California), and Columbia Foundation. The Hewlett Foundation is not recommended as a funding track as they do not support conservation easement and land acquisition. These organizations often choose to coordinate their investment activities with other land trusts operating in the area. Grants range from smaller planning funds to multi-million dollar project funding. Therefore, private grant-making should be a funding track explored congruently with the many other tracks identified in the Implementation Plan.

## 5) Recommendations and Policies

In support of the Soap Lake Floodplain Preservation Project, recommended actions have been identified for each member agency of the Authority and several other agencies with local influence. Each of these actions would serve to support the implementation of the project. It is recommended that these actions be implemented after the Board has approved the Final Implementation Plan. Each recommended action is discussed in more detail in the sections below including which member agencies could take each action. The recommended actions include:

- Adopt Agricultural Mitigation Policies/Programs
- Support Development of an Agricultural Mitigation Bank
- Incorporate the Soap Lake Floodplain Preservation Project in the Santa Clara County and San Benito County General Plan Updates
- Institute Development Impact Fees and Designate a Portion for a Stewardship Fund
- Adopt Resolutions Supporting the Soap Lake Floodplain Preservation Project
- Designate an Open Space District for San Benito County
- Notify Authority when Development is Proposed within the Floodplain

The primary recommendation for the Authority is to take the lead role in administering the Project as described in the second section of this Implementation Plan.

### ***Adopt Agricultural Mitigation Policies/Programs***

Effective mitigation policies will preserve the agricultural character of the Soap Lake floodplain in the face of potential regional development. To fully mitigate for the loss of agricultural land it is necessary to bring non-farmed land into agricultural production. This option is not economically feasible nor is it the most viable for a variety of reasons. However, practical mitigation policy will offset the loss of farmland due to development.

The fundamental principle of mitigation policy requires that an equal acreage of farmland is protected for every acre developed to ensure the preservation of farmland for the future. There is a net loss of farmland for a transaction such as the mitigation bank proposes. However this is true of other agricultural mitigation measures currently used throughout California, measures that are accepted as valid mitigation throughout the US. They do not establish new agricultural lands from previously unfarmed property. Mitigation measures are methods to *preserve* farmland for the future. An agricultural mitigation bank located in the Soap Lake floodplain would achieve that preservation objective.

Key components of the policy will include specific mitigation criteria, as outlined below:

- Identifying lands requiring mitigation- Lands impacted by development within the agencies jurisdiction.
- Determining acceptable mitigation lands- Lands must be of similar agricultural value, based on the California Department of Conservation farmland classifications.

- Defining acceptable mitigation measures- Four distinct measures incorporated into policy.

## Identifying Lands Required for Mitigation

Lands that would require mitigation would include agricultural land within Santa Clara County and San Benito County that are converted to other uses through development. Criteria to determine these agricultural lands should be based on the designated “Prime” or lands of “Statewide Importance” by the State Department of Conservation as shown on their latest “Important Farmland Map.” This would include land that has been used for agriculture but has not been irrigated for six years or more as defined by the California State Farmland Mapping Program.

## Determining Acceptable Mitigation Lands

The Division of Land Resource Protection (DLRP) in the California Department of Conservation has characterized and mapped farmland within California. As part of its Farmland Mapping and Monitoring Program (FMMP) the DLRP has several farmland categories based on specific agricultural characteristics. These designations will determine which lands are acceptable for offsetting mitigation. The City of Gilroy, which maintains an agricultural mitigation policy, uses the same designations as criteria for acceptable mitigation lands (See Appendix C for the May 2004 Gilroy policy). For example, if 100 acres of land designated Prime Farmland are impacted in the two counties, 100 acres of Prime Farmland within the floodplain must be protected. The farmland categories within the Soap Lake project area are listed in Table 10. A map of the Farmland Categories within the 100-year floodplain is shown in Figure 6.

**Table 10:** Important Farmland Categories in 100 Year Floodplain

<p><b>Prime Farmland (P)</b></p> <p>Farmland with the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.</p>
<p><b>Farmland of Statewide Importance (S)</b></p> <p>Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.</p>
<p><b>Farmland of Local Importance (L)</b></p> <p>Land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.</p>
<p><b>Grazing Land (G)</b></p> <p>Land on which the existing vegetation is suited to the grazing of livestock. This category was developed in cooperation with the California Cattlemen's Association, University of California Cooperative Extension, and other groups interested in the extent of grazing activities. The minimum mapping unit for Grazing Land is 40 acres.</p>



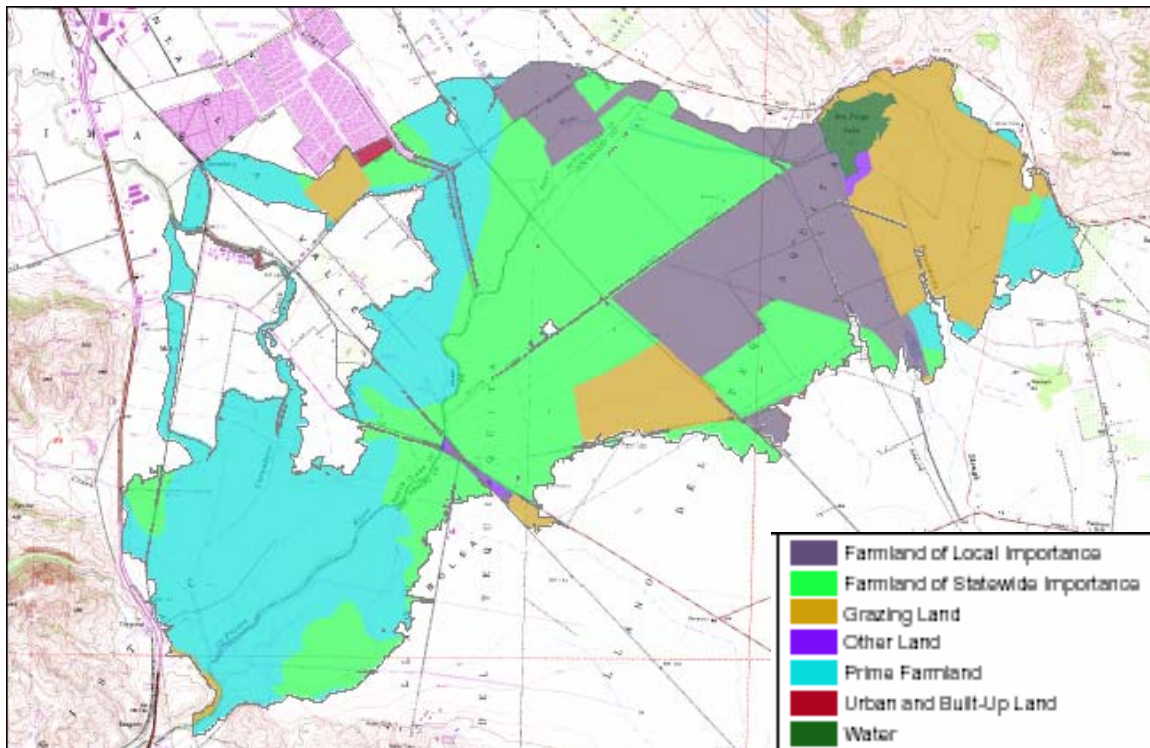


Figure 6: Land Classifications in the 100-year Soap Lake Floodplain.

## Defining Acceptable Mitigation Measures

Four mitigation strategies are incorporated into the mitigation policy, each capable of achieving stated project goals at different costs. The strategies are presented in Table 11 below.

Table 11: Mitigation Strategies

**Fee Simple Land Purchase-** Requires purchase of equal farmland acreage (1:1 ratio) of similar farmland character/designation. Land ownership is then transferred to appropriate agency or non-profit organization.

**Conservation Easement-** Purchase of conservation easement at 1:1 ratio on agricultural land and transfer to appropriate agency or non-profit organization.

**In-Lieu Fee Payment-** Payment to agency of cash value equal to or greater than cost of easement for same size land. Money to be put in fund toward goal of purchasing land or easements, when available.

**Agricultural Mitigation Bank-** Purchase of credits at Agricultural Mitigation Bank.

In all cases, the land slated for mitigation purposes must be of similar agricultural character as the farmland being lost. The agricultural value of the land is of paramount importance.

The following member agencies should adopt an agricultural mitigation policy or program similar to the May 2004 City of Gilroy agricultural mitigation policy:

- Santa Clara County
- San Benito County
- City of Hollister
- City of Morgan Hill
- City of San Juan Bautista

### ***Support Development of an Agricultural Mitigation Bank***

Agricultural mitigation banking is a concept similar to wetland mitigation banking, which is an established and accepted practice to offset the loss of natural lands due to development. The fundamental principle is that a party responsible for the change of farmland to non-agricultural use may mitigate the loss by purchasing credits from an agricultural mitigation bank. The credits represent acres of protected land, either in direct proportion to the number of acres lost or at a ratio dependent on the agricultural value of the land involved. The credit payment is then used to secure more lands for the bank or to maintain current ones.

Mitigation banks are attractive to developers because they offer an expedient and economically competitive alternative to other mitigation measures. Currently the City of Gilroy's agricultural mitigation policy, adopted May 2004, lists three qualified mitigation measures: 1) purchase of farmland equal in acreage and agricultural value as the converted land; 2) purchase of an agricultural conservation easement of equal acreage as the land developed; or 3) payment of an in-lieu fee equal or greater in value than an agricultural conservation easement. See Appendix C for complete Gilroy policy. These measures each have drawbacks. The purchase of farmland or acquisition of an easement can be a time consuming process that involves locating appropriate lands and then closing a real estate deal to purchase the land or an easement. This process has the potential to delay development projects. Economically, purchasing farmland of appropriate agricultural value is likely the most expensive option. In-lieu fees may be a less time consuming method of mitigation, however, they have the potential to be more expensive than acquiring easements. Mitigation banks may offer developers more attractive alternatives to meet their mitigation requirements. They are designed to quickly facilitate the mitigation process at competitive prices.

Land within the Soap Lake Floodplain could be preserved in an agricultural mitigation bank to help mitigate for the loss of agricultural land from development elsewhere in San Benito County and Santa Clara County. It is recommended that the Authority support the development of an agricultural mitigation bank in conjunction with agricultural mitigation policies in place or proposed for the cities of Gilroy, Hollister, Morgan Hill and San Juan Bautista and the counties of Santa Clara and San Benito. The Authority should provide a letter of support to organizations pursuing the implementation of an agricultural mitigation bank in accordance with the conservation easement provisions established by the Authority. Priority for credits should be given to local projects within the watershed boundaries. Applications from projects outside of the watershed should be evaluated so long as they don't compete with projects within the watershed.

The following member agencies should support development of an agricultural mitigation bank:

- Santa Clara County
- San Benito County
- City of Gilroy
- City of Hollister
- City of Morgan Hill
- City of San Juan Bautista

### ***Incorporate the Project into General Plan Updates***

When Santa Clara and San Benito counties revise or amend their general plans, or revise an element of their general plan, the Soap Lake Floodplain Preservation Project should be incorporated into the new plan. The goals and objectives in the general plan should reflect the Pajaro River Watershed Flood Prevention Authority's goals of maintaining flood attenuation benefits in the floodplain. These could be discussed under objectives for agricultural, land use, and flooding elements of the general plan.

The following member agencies should incorporate the Authority's goals into their general plans:

- Santa Clara County
- San Benito County

### ***Institute Development Impact Fees and a Stewardship Fund***

Development mitigation fees, or development impact fees, are part of a contractual agreement entered into between private property owners and a county or city. The fees are intended to pay for unfunded portions of public facilities and services incurred by new land developments. The fee is usually required before single-family residential dwelling building permits are issued. In some cases, a percentage of the fees can be used for other purposes such as environmental mitigation or open space preservation.

Development impact fees could be established in the four counties of the Pajaro River Watershed and a portion of the fee could be designated for a stewardship fund for the Soap Lake Floodplain Preservation Project. These funds could then be used to acquire land or conservation easements within the floodplain. The impact fees could be adopted by:

- Santa Clara County
- San Benito County

### ***Adopt Resolutions Supporting the Soap Lake Floodplain Preservation Project***

To show the multi-agency support for the Soap Lake Floodplain Preservation Project, it is recommended that each member agency adopt a resolution of support. Two member agencies (Santa Cruz County and San Benito County) have already adopted resolutions

of support. See Appendix D for a copy of the Santa Cruz County and San Benito County resolutions. Resolutions of support can be included in grant funding applications to demonstrate the multi-agency support for the project and could help secure funding. The following member agencies should adopt a resolution of support similar to the attached resolutions:

- Santa Clara County
- Monterey County
- Santa Clara Valley Water District
- San Benito County Water District
- Santa Cruz County Flood Control and Water Conservation District, Zone 7
- Monterey County Water Resources Agency
- City of Watsonville
- City of Hollister
- City of Gilroy
- City of Morgan Hill
- City of San Juan Bautista

### ***Designate an Open Space District for San Benito County***

The Santa Clara County Open Space Authority (OSA) was created by the State Legislature in response to efforts by citizens and local governments of Santa Clara County. A directly elected seven-member board of directors governs the OSA. The Authority is comprised of the cities of Campbell, Milpitas, Morgan Hill, Santa Clara and San Jose, as well as much of the unincorporated areas of Santa Clara County. The Board has defined OSA's purpose as:

*Preservation of Open Space and creation of greenbelts between communities, lands on the valley floor, hillsides, viewsheds and watersheds, baylands and riparian corridors, are immediate high priorities. These are needed to counter the continuing and serious conversion of these lands to urban uses, to preserve the quality of life in the County and to encourage outdoor recreation and continuing agricultural activities.*

*Development and implementation of land management policies that provide proper care of open space lands, allow public access appropriate to the nature of the land for recreation, are consistent with ecological values and compatible with agricultural uses.*

OSA owns over 9,000 acres of land and manages 1,000 acres as easements and mitigation lands. OSA has played an important role in preservation efforts in the Santa Clara County portion of the Soap Lake Floodplain and is a potential source of funding for future land/easement acquisitions. However, OSA is limited to preservation efforts in Santa Clara County.

It is recommended that San Benito County consider creating an Open Space District with a similar vision of preserving agricultural and open space lands. The creation of an Open Space District could assist in the preservation efforts in the San Benito County portion of the Soap Lake Floodplain. It is acknowledged that the creation of an Open Space District could be a difficult process and would require the approval of the

Legislature and of county voters. A first step could be to create a committee to study what undeveloped land should be protected and how the district would be funded. While there have been many new open space districts created over recent years, other counties have had difficulty in gaining support to create an Open Space District. Start up costs could be difficult to fund especially if they are likely to come from the County's general fund. Ventura County recently (May 2004) formed a Regional Open Space District. See Appendix E for the resolution passed by their Board of Supervisors.

It is recommended that the following member agency create an Open Space District:

- San Benito County

### ***Notify Authority when Development is Proposed within the Floodplain***

The Authority should request notification of new project applications from local jurisdictions that may be involved in approving land development projects within the 100 year floodplain. This would enable the Authority to provide comments on these applications with regard to their potential to affect the flood attenuation properties of the floodplain. The Authority has no land use approval authority of its own.

The following agencies should notify the Authority when development is proposed within the floodplain:

- Santa Clara County
- San Benito County
- California Department of Transportation (Caltrans)
- Santa Clara Valley Transportation Authority (VTA)

## 6) Implementation Plan Conclusions and Summary

The following is a summary of the information and conclusions discussed in the Soap Lake Floodplain Preservation Project Implementation Plan.

### ***Project Background and Goals***

The Soap Lake Floodplain Preservation Project is the recommended project resulting from the Pajaro River Watershed Study. The purpose of the Study is to identify a way to provide flood protection to the downstream reaches of the Pajaro River using a watershed-wide approach. During each phase of the Study, the importance of Soap Lake to downstream flood protection has been recognized and emphasized. A project identification process for the Lower Pajaro River Levee Project was occurring at the same time that conceptual ideas for the Study were being identified. When the Lower Project team identified a 100-year flood protection solution that would leverage federal funding assistance, it was not necessary for the Authority to provide additional flood protection. Instead, the Authority chose to implement a project that would help to ensure that the downstream design capacity would be adequate. The Project is a non-structural project alternative that will help to maintain the flood attenuation benefits of Soap Lake.

The goal of the project is to maintain the flood attenuation benefits of Soap Lake through preservation of the current land use, land practices, and topography of the 100-year Soap Lake floodplain. The Project, as evaluated in the CEQA document, assumes that land use is not changed. Acquisitions that would change the land use, land cover, or topography would require additional environmental review and may not receive the support of the Authority.

### ***Project Administration***

It is recommended that the Authority take the lead administrator role for the Project. While there are many groups that have an interest in preserving Soap Lake, each one has different goals and objectives. Therefore the Authority's goal for preservation of flood attenuation benefits of the land in Soap Lake can best be represented by the Authority.

It is also recommended that a partnership be formed between the groups interested in land preservation in Soap Lake. These groups include land trusts, open space authorities, farm bureaus, resource conservation districts, and other conservation districts. While each has a slightly different interpretation of land preservation, it is possible for all of the groups to obtain enough parcels to fulfill their goals. By establishing a partnership, each of the groups can work together to identify priorities and help one another target parcels that best meet their goals.

The roles of each group would be different to maximize the strengths of the individual organizations. The Authority, as the Project administrator, can utilize its multi-agency, JPA status to:

- Facilitate communication between partners;



- Support funding efforts;
- Administer grants and establish a reimbursement fund;
- Maintain a land acquisition database;
- Establish and run an outreach program;
- Review easement documents;
- Assist with monitoring; and
- Periodically evaluate the Project effectiveness.

The partners' roles would focus on their specialized knowledge of land acquisition and conservation easements, established relationships with land owners, and long-term viability. Some of the tasks would include:

- Contacting and coordinating with land owners;
- Obtaining easements;
- Holding the easement;
- Annual monitoring; and
- Establishing an agricultural mitigation bank.

For Project start-up, it's estimated that up to one full time equivalent (FTE) of effort would be required. After the first year, the effort required to sustain the project should drop to 1/3 to 1/2 FTE.

The Project is expected to take several decades to complete due to availability of funding and willing sellers. Since both of these aspects of parcel acquisition are difficult to predict, a range of project durations has been developed based on the acquisition rate. At three parcels per year, it will take approximately 50-60 years to complete the Project. At five parcels per year, it will take approximately 30-40 years to complete the Project. At ten parcels per year, it will take approximately 15-20 years to complete the Project.

### ***Parcel Acquisition***

Acquisition of development rights for the Soap Lake floodplain has already started. There are several properties that have conservation easements in place or have been purchased for conservation of farmland or open space. It is anticipated that future acquisitions will continue to be a combination of fee title acquisition with a lease option or an easement on the property. For the Project, easements are the preferred method primarily because they are less expensive than fee title acquisitions. They are also preferred because an easement is sufficient to enforce the goal of preserving Soap Lake and doesn't require assuming responsibility for land upkeep and maintenance. Easements can provide many advantages to the land owner, including additional income from the easement sale, potential tax benefits, and the assurance that the land will be conserved even if the property is sold or the zoning is changed.

Even if a parcel is purchased in fee title, it is recommended that the land be resold with an easement in place or leased with use restrictions similar to those found in an easement. Easement provisions are therefore assumed to be an important part of any Project acquisition effort. The Implementation Plan identifies a number of recommended provisions that should be included in all easements. These provide a minimum level of

protection to the flood attenuation benefits. Also identified are some additional provisions that would increase the level of protection for the current flood attenuation benefits based on existing land uses and practices. Additional provisions could be included to provide water quality, ecological, public access and outreach benefits.

The Soap Lake Floodplain Preservation Project is based on willing sellers. An acquisition strategy is helpful as it assists the Authority to recognize which areas to target and, should a conflict arise, it helps to determine which parcel is more important to the goals of the project. The Project acquisition strategy is based primarily on the hydraulic importance of the parcel. Proximity to urban development and features and congruency with other preserved areas are also significant considerations.

There are several payment options that have been identified in the Plan. These include lump sum, installment sale, securitized installment purchase agreement, donation and/or bargain sale, and like-kind exchange. Each of these should be considered during the acquisition process to determine the best option.

### ***Funding***

Having funds available to purchase easements or properties when they become available is a key element in the Soap Lake Floodplain Preservation Project. Land donations from owners are possible but can not be relied upon. Five potential funding sources have been identified for the implementation of the Project. These sources include:

- Implementing partners;
- Government and private grants;
- Landowner incentive programs;
- Development-based funding/programs; and
- Local tax-based funding/programs.

A combination of all of these will likely be required to provide funding stability and fully implement the Project.

Local funding can be used as the funding match for state and federal grants. If donations and agency grants are not adequate for the required match, other local funding mechanisms such as development-based and tax-based programs should be explored. Particularly applicable federal programs include:

- Farm and Ranch Lands Protection Program;
- Targeted Watershed Grants Program;
- Pre-Disaster Mitigation Grants Program; and
- Coastal Program.

State programs that are particularly applicable to the Project are:

- California Farmland Conservancy Program;
- Rangeland, Grazing Land, and Grassland Program;
- Integrated Regional Water Management Grant Program;
- Conservancy Program Grants; and
- California River Parkways Grant Program.

Private foundations that may wish to partner with the Authority on the Project include:

- The Packard Foundation;
- Bella Vista Foundation;
- Resources Legacy Fund Foundation; and
- Columbia Foundation.

## ***Recommendations***

It is recommended that the member agencies of the Authority adopt and that the Authority request that other organizations adopt the following policies in an effort to preserve the flood attenuation benefits of the Soap Lake floodplain. Each of these recommendations is described in the body of the report.

### Santa Clara County

- Adopt Agricultural Mitigation Policy/Program;
- Support Development of an Agricultural Mitigation Bank;
- Institute Development Impact Fees and Designate a Portion for a Stewardship Fund;
- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project;
- Incorporate the Soap Lake Floodplain Preservation Project into the Santa Clara County General Plan Update; and
- Notify the Authority when Development is Proposed within the Floodplain.

### San Benito County

- Adopt Agricultural Mitigation Policy/Program;
- Support Development of an Agricultural Mitigation Bank;
- Institute Development Impact Fees and Designate a Portion for a Stewardship Fund;
- Incorporate the Soap Lake Floodplain Preservation Project into the San Benito County General Plan Update;
- Designate an Open Space District for San Benito County; and
- Notify the Authority when Development is Proposed within the Floodplain.

### Santa Cruz County

No recommendations.

### Monterey County

- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

### Santa Clara Valley Water District

- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

### San Benito County Water District

- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

### Santa Cruz County Flood Control and Water Conservation District, Zone 7

- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

Monterey County Water Resources Agency

- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

City of Gilroy

- Support Development of an Agricultural Mitigation Bank; and
- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

City of Hollister

- Adopt Agricultural Mitigation Policy/Program;
- Support Development of an Agricultural Mitigation Bank; and
- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

City of Morgan Hill

- Adopt Agricultural Mitigation Policy/Program;
- Support Development of an Agricultural Mitigation Bank; and
- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

City of Watsonville

- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

City of San Juan Bautista

- Adopt Agricultural Mitigation Policy/Program;
- Support Development of an Agricultural Mitigation Bank; and
- Adopt Resolution Supporting the Soap Lake Floodplain Preservation Project.

California Department of Transportation (Caltrans)

- Notify the Authority when Development is Proposed within the Floodplain.

Santa Clara Valley Transportation Authority (VTA)

- Notify the Authority when Development is Proposed within the Floodplain.

## 7) Resources

This section contains references that were instrumental in the development of the Implementation Plan and will likely serve as sources of additional information as the Soap Lake Floodplain Preservation Project is implemented. The resources are separated into documents, organization, and funding opportunities.

### Documents

California Department of Conservation Easement example-

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***Foundations and Organizations***

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The Appraisal Foundation. <http://www.appraisalfoundation.org/>

California Department of Conservation, Department of Land Resource Protection.  
<http://www.consrv.ca.gov/index/>

California Office of Real Estate Assessors. <http://www.orea.ca.gov>

The Conservation Fund. [www.conservationfund.org](http://www.conservationfund.org)

The Land Trust Alliance. <http://www.lta.org/>

The Land Trust for Santa Clara County. <http://www.landtrustscc.org/>

The Nature Conservancy. <http://nature.org/>

San Benito Agricultural Land Trust. <http://sanbenitoaglandtrust.org/>

Santa Clara Land Trust. <http://www.landtrustscc.org/index.html>

Scharffenberger Land Planning and Design.

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***Funding Related Websites***

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[www.wcb.ca.gov/RangelandProgramfiles/RangelandProgramRev3.htm](http://www.wcb.ca.gov/RangelandProgramfiles/RangelandProgramRev3.htm)

[www.packard.org](http://www.packard.org)

[www.pfs-llc.net](http://www.pfs-llc.net)

[www.resourceslegacyfund.org](http://www.resourceslegacyfund.org)

[www.columbia.org](http://www.columbia.org)

## 8) Appendices

The following appendices are included as part of the Implementation Plan to provide additional references, examples, and guidelines for some of the tasks described in this document.

Appendix A: Example Appraisal Outline

Appendix B: Sample Easement from California Department of Conservation

Appendix C: Gilroy Agricultural Mitigation Policy

Appendix D: Santa Cruz County and San Benito County Resolutions Supporting the  
Soap Lake Floodplain Preservation Project

Appendix E: Ventura County Open Space District Resolution

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***Appendix A: Example Appraisal Outline***

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The following elements of an appraisal are based on the format found in the *Uniform Appraisal Standards for Federal Land Acquisition* and is taken from *A Conservation Easement Appraisal Guide*. Additional detail can be found in either of these references.

A qualified appraisal must address the following elements.

- 1) Letter of transmittal
  - i) Summarize value conclusion
  - ii) State date of value
  - iii) Identify property and purpose of appraisal
  - iv) Highlight any unusual assumptions or limiting conditions
  - v) State why the appraisal has been prepared
  - vi) Provide the appraiser's identifying number
- 2) Table of contents
- 3) Introduction
  - i) Certification
    - (a) Acknowledge assistance of others who made a significant professional contribution to the development of the appraisal
    - (b) Inform the reader that the appraiser did or did not inspect the property
    - (c) Indicate that the appraisal and report have been completed in compliance with the *Uniform Standards of Professional Appraisal Practice* or any other standards set forth by a funding source or professional associations with which the appraiser is affiliated
  - ii) Summary of Salient Facts
    - (a) Identify the owner or donor
    - (b) State location, brief legal description, or property address
    - (c) Review the purpose and function of the appraisal
    - (d) State the date of the appraisal
    - (e) Identify the property rights appraised
      1. Fee title value before the easement
      2. Fee title value after the easement (if applicable)
      3. Value of the conservation easement (if applicable)
    - (f) Include a brief description of the subject site and improvements, including water rights and the mineral estate
    - (g) Include as part of the appraisal all contiguous property owned by the donor/seller, the donor's family, or related persons
    - (h) Identify other property owned by the donor/seller or related person
    - (i) Highlight unusual or important assumptions made in the appraisal
    - (j) Summarize the easement
      1. Restrictions and permissions
      2. Conservation or historic preservation values
    - (k) Summarize the conclusions of the highest and best use
      1. Before the easement (if applicable)
      2. After the easement (if applicable)
    - (l) Summarize the value estimates of all of the property owned by the donor/seller and the donor/seller's family
      1. Before the easement (if applicable)
      2. After the easement (if applicable)
    - (m) State the market value of the easement
  - iii) Purpose and function of the appraisal

- (a) Indicate why the appraisal is being prepared
- (b) Provide this value definition:
  - 1. "... the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having a reasonable knowledge of the facts." (Treas. Reg. § 1.170A-1(c)(2))
- iv) Property rights appraised
  - (a) Define fee title and easement interests
  - (b) Address water rights associated with or appurtenant to the property
  - (c) Address fractional interests, interests of tenants in possession and mortgage holders
  - (d) Address mineral estate
- v) Scope of appraisal
  - (a) Summarize the steps taken in preparing the proposal
  - (b) State whether the appraisal has followed appropriate guidelines
  - (c) State the type of report format
  - (d) Restate any unusual or important assumptions made in the appraisal
- vi) Property identification
  - (a) Restate the summary information about the property, possibly with greater detail
- vii) Important dates
  - (a) State date of value
  - (b) Restate date of report
  - (c) Identify date(s) of property inspection
- viii) Assessment and taxation data
  - (a) Provide schedule and/or parcel number
  - (b) Summarize information available from county assessor and treasurer
  - (c) Discuss assessment classification, likelihood of change, effect of future tax burden
- ix) Property history
  - (a) Summarize and analyze leases and sales within at least the past three years, and current or recent listing agreements
  - (b) Discuss history of use
  - (c) Request data pertaining to the last sale of the property
- x) Contingent and Limiting Conditions
  - (a) Limit reliance on or use of the appraisal report
  - (b) Disclaim responsibility for issues, facts, and studies outside the purview of the appraisal
  - (c) Restate prominently and in detail any unusual or important assumptions made in the appraisal
- 4) Factual data before the grant of the easement
  - i) Legal description
    - (a) Provide detailed description using metes and bounds, aliquot portions, and/or lots & blocks
    - (b) May include map(s) or survey, overlain on USGS 7.5° quadrangle maps, tax maps, recorded plats, etc. as appropriate
  - ii) Area data

- (a) Provide information about the immediate neighborhood and market area
  - (b) Report and analyze market trends including population, water rights, employment, etc.
- iii) Property data
  - (a) What should be appraised
    - 1. State value estimate of all contiguous property owned by the donor/seller or donor/seller's family and include statement of any increase or decrease in value of any other property owned by the donor/seller or related person
    - 2. Follow accepted practice in the appraisal process
  - (b) Describe the property emphasizing the features key to its value and use
  - (c) Improvements need only be addressed in detail if their utility will be impacted
- 5) Data analysis and conclusions of the property value before the grant of the easement
  - i) Highest and best use of the property
    - (a) Site as vacant
      - 1. Legal uses
      - 2. Physically possible uses
      - 3. Financially feasible uses
      - 4. Maximally productive use
    - (b) Site as improved
      - 1. Same four tests as above
      - 2. Explain if demolition or modification of the site improvements is necessary
    - (c) Conclusion of highest and best use of the entire property (land, improvements, and water)
      - 1. Must be consistent with four tests of vacant use
      - 2. Highest and best use must be reasonably achievable
      - 3. Highest and best use does not consider proposed restrictions of easement (if applicable)
  - ii) Approaches to valuation
    - (a) Identifies valuation method (sales comparison, costs, or income) used and state reason why other methods were not used
    - (b) Land or site valuation – Sales comparison often used if land is vacant
      - 1. Land can be determined as vacant through sales comparison, allocation, extraction, subdivision development, land residual, or ground rent capitalization
      - 2. Land and site valuation can be incorporated into the sales comparison approach if the property is vacant, is considered to have the highest and best use as vacant, or the property is minimally improved with the improvements being items of contributory value
      - 3. Land and site valuation can form the initial part of the cost approach when the property improvements are being valued based on their replacement or reproduction cost

4. Other expert's opinions may be incorporated but the appraiser must be aware of USPAP requirements for consultant's reports
- (c) Cost approach is not relevant to a vacant property since it requires that the property have substantial improvements
- (d) Income approach may not be relevant to a vacant property for it is based on the income a particular property generates
- (e) The correlation and conclusion of value section will compare the values obtained using the three methods if appropriate and determine a conclusion of the value.
- 6) Factual data after the grant of easement (if applicable)
  - i) Conservation easement describes restrictions and permissions in enough detail to determine the highest and best use with the easement in place
  - ii) When possible, include a recorded copy of the deed of conservation easement. If a recorded copy is not available it should include a draft copy. If a draft copy is not available it should document the source of the terms and conditions of the easement
- 7) Data analysis and conclusions of property value after grant of easement (if applicable)
  - i) Reconsider the legally permissible, physically possible, and the financially feasible land uses to support the conclusion of what use(s) is the maximally productive land use after grant of the easement
  - ii) Introduce the concept of valuing a restricted parcel and explain the specific procedures to be used
    - (a) The easement may be valued against other comparable easements
    - (b) If no comparable easements are available, the easement value is equal to the difference between the fair market value before the restrictions and the fair market value after the restrictions
      1. Using the sales comparison technique, compare the property under study to sales of other properties subject to similar restrictions
      2. A "percentage loss in value" technique may be applied when comparing the value of restricted and unrestricted properties in other areas
        - i. Real estate listings should not be used
        - ii. Great care should be taken when relying on other appraiser's opinions
      3. Comparisons using a subdivision technique should consider the reduced number of units or parcels that can be created on the property. This technique is only valid if development is the highest and best use, when development is fairly imminent, when the costs of development can be identified accurately and when absorption rates can be supported by market evidence.
      4. Cost approach, if applicable, requires care and may not be useful in determining market value, as the easement restrictions may make it virtually impossible to account for obsolescence

5. Income approach, if applicable, may be the best method for valuing productive agricultural lands and other lands with income producing characteristics
  - i. Effective gross and net operating income estimates, overall capitalization rates, and discount rates require care in preparation
  - ii. "Premium values," such as scenic, recreational, or secluded ranches, suggest a greater reliance on the sales comparison approach
- (c) Correlation and conclusion of value
  1. General considerations can include difficulty or increased expense of obtaining mortgage financing, perception of difficulty in dealing with easement-holding organization, and potential for change in marketing time due to easement restrictions
  2. Appraisers should address increase or decrease in the value of other contiguous property owned by the donor/seller or donor/seller's family as required by the IRS. The change in value should already be included in the Before and After difference.
  3. Appraisers should address increase or decrease in the value of other non-contiguous property owned by the donor/seller or a related person
    - i. If there was no effect on contiguous or non-contiguous property, a logical explanation should be included
    - ii. Affected property may need to be appraised in order to conclude the effect on it's value
- 8) Analysis and valuation of the easement
  - i) It's anticipated that until easements become more prevalent, the Before and After rule will be the most common approach to valuing easements.
    - (a) Use of the Sales Comparison approach to value easements is mandated by the Treasury Regulations §1.170A-14(h)(3)(i) which provide that "If there is a substantial record of sales of easements comparable to the donated easement (such as purchases pursuant to a government program), the fair market value of the easement is based on the sales prices of such comparable easement."
    - (b) Sales of easement burdened property may be misleading as the comparisons developed for those sales often would not reflect damages or benefits imposed on unburdened parcels, contiguous or not. Also easement sales may be bargain sales which involve partial donation of the easement while still receiving payment from the buying party.
- 9) Exhibits
  - i) Exhibits are not required by Treasury Regulations but may be required by others.
    - (a) Maps should be legible with properties clearly identified and include legend, scale, north arrow, geographic features and ground-control information

1. Area map showing the general location of the subject neighborhood
  2. Neighborhood map showing the appraised property and its immediate neighborhood
  3. Tract or plat map showing the appraised property (including areas of different value) and pertinent physical features
  4. Comparable sales map showing the appraised property and the locations of the comparable sales
- (b) Color photographs of the appraised property and comparable sale properties including identification of the features, purpose of the photograph, location of the photograph take, direction of view, etc.
- (c) Comparable sale data sheet should show detailed information concerning each transaction, including a photograph and map of each sale.



***Appendix B: Sample Easement from California Department of Conservation***

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1 After recording, please return to:

2  
3 LAND TRUST  
4  
5  
6  
7

8 DEED OF AGRICULTURAL CONSERVATION EASEMENT  
9

10 This Deed of Agricultural Conservation Easement is granted on this \_\_\_\_ day of  
11 \_\_\_\_\_ 200\_\_, by \_\_\_\_\_ (“Grantor”), to  
12 \_\_\_\_\_ (“Grantee”), for the purpose of forever conserving the  
13 agricultural productive capacity and open space character of the subject property.  
14

15 Witness that:

16  
17 The Grantor is the sole owner in fee simple of the farm property (“Property”) legally  
18 described in Exhibit A (“Legal Description”), attached to and made a part of this  
19 Agricultural Conservation Easement (“Easement”), which consists of approximately  
20 \_\_\_\_\_ acres of land and is commonly known as the “\_\_\_\_\_  
21 Farm/Ranch,” together with buildings and other improvements, located in  
22 \_\_\_\_\_ County, California, and identified by assessor’s parcel  
23 number(s) \_\_\_\_\_. The existing buildings and  
24 improvements on the Property are shown within Building Envelope as depicted in Exhibit  
25 B (“Building Envelope and Existing Improvements”), also attached to and made a part of  
26 this Easement. Except as shown in Exhibit B, the Property is open farmland, whose soils  
27 have been classified as \_\_\_\_ (prime farmland, farmland of statewide importance,  
28 etc.) \_\_\_\_\_ by the Natural Resource Conservation Service, U.S. Department of  
29 Agriculture, and by the California Department of Conservation Farmland Mapping and  
30 Monitoring Program, because this land has a soil quality, growing season, and moisture  
31 supply needed for sustained agricultural production.  
32

33 The agricultural and other characteristics of the Property, its current use and state of  
34 improvement, are documented and described in a Baseline Documentation Report  
35 (“Baseline Report”), prepared by the Grantee with the cooperation of the Grantor and  
36 incorporated herein by this reference. Grantor and Grantee acknowledge that it is  
37 complete and accurate as of the date of this Easement. Both the Grantor and Grantee  
38 shall retain copies of this report. The Baseline Report may be used to establish that a  
39 change in the use or condition of the Property has occurred, but its existence shall not  
40 preclude the use of other evidence to establish the condition of the Property as of the date  
41 of this Easement.  
42

43 The Department of Conservation’s (“Department”) California Farmland Conservancy  
44 Program has made a grant of funds to the Grantee to support the acquisition of this  
45 Easement. These funds represent a substantial investment by the People of the State of  
46 California in the long-term conservation of valuable agricultural land, and the retention of

47 agricultural land in perpetuity. The Property and this Easement have met the California  
48 Farmland Conservancy Program's mandatory eligibility criteria and certain selection  
49 criteria, and have multiple natural resource conservation objectives. The rights vested  
50 herein in the State of California arise out of the State's statutory role in fostering the  
51 conservation of agricultural land in California and its role as fiduciary for the public  
52 investment represented here.

53  
54 The Grantor grants this Easement for valuable consideration to the Grantee for the  
55 purpose of assuring that, under the Grantee's perpetual stewardship, the agricultural  
56 productive capacity and open space character of the Property will be conserved and  
57 maintained forever, and that uses of the land that are inconsistent with these conservation  
58 purposes will be prevented or corrected. The parties agree, however, that the current  
59 agricultural use of, and improvements to, the Property are consistent with the  
60 conservation purposes of this Easement.

61  
62 The conservation purposes of this Easement are recognized by, and the grant of this  
63 Easement will serve, the following clearly delineated governmental conservation policies:

64  
65 The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. section 4201, et seq.,  
66 whose purpose is "to minimize the extent to which Federal programs and policies  
67 contribute to the unnecessary and irreversible conversion of farmland to  
68 nonagricultural uses, and to assure that Federal programs are administered in a  
69 manner that, to the extent practicable, will be compatible with State, unit of local  
70 government and private programs and policies to protect farmland;"

71  
72 The federal Farmland Protection Program, authorized by P.L. 104-127, 16 U.S.C.  
73 3830, section 388, whose purpose is to authorize the Secretary of Agriculture to  
74 purchase conservation easements or other interests in land with prime, unique, or  
75 other productive soil for the purpose of protecting topsoil by limiting non-  
76 agricultural uses of the land;

77  
78 Section 815 of the California Civil Code, which defines perpetual conservation  
79 easements;

80  
81 California Constitution Article XIII, section 8, California Revenue and Taxation  
82 Code, sections 421.5 and 422.5, and California Civil Code section 815.1, under  
83 which this Agricultural Conservation Easement is an enforceable restriction,  
84 requiring that the Property's tax valuation be consistent with restriction of its use  
85 for purposes of food and fiber production and conservation of natural resources.

86  
87 Division 10.2 (sections 10200, et seq.) of the California Public Resources Code,  
88 which creates the California Farmland Conservancy Program;

89  
90 Section 51220 of the California Government Code, which declares a public  
91 interest in the preservation of agricultural lands;

The California General Plan law, section 65300 et seq., and section 65400 et seq. of the California Government Code, and the \_\_\_\_\_ County General Plan, as amended in \_\_\_\_\_, which includes as one of its goals to protect all viable farmlands designated as prime, of statewide importance, unique, or of local importance from conversion to and encroachment of non-agricultural uses;

Resolution No. \_\_\_\_\_, approved by the Board of Supervisors of \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ which expresses support for the acquisition of this Easement on the Property, and such protection is consistent with the County's General Plan.

The Grantee is a California nonprofit organization within the meaning of California Public Resources Code section 10221 and California Civil Code section 815.3, and is a tax exempt and "qualified conservation organization," within the meaning of sections 501(c)(3) and 170(b)(1)(A)(iv) as defined by the Internal Revenue Code.

The Grantor owns the entire fee simple interest in the Property, including the entire mineral estate. Any and all financial liens or financial encumbrances existing as of the date of the execution of this Easement have been subordinated. Exhibit C (Prior Encumbrances) sets forth all the non-financial encumbrances. Grantor represents and warrants that the Property is not subject to any other conservation easement whatsoever.

Now, therefore, for the reasons given, and in consideration of their mutual promises and covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Grantor voluntarily grants and conveys to the Grantee, and the Grantee voluntarily accepts, a perpetual conservation easement, as defined by section 815.1 of the California Civil Code and California Public Resources Code section 10211, and of the nature and character described in this Easement for the purpose described below, and agree as follows:

*1. Purpose.*

The purpose ("Purpose") of this Easement is to enable the Property to remain in productive agricultural use by preventing uses of the Property that will impair or interfere with the Property's agricultural productive capacity, its soils, and its agricultural character, values, and utility. To the extent that the preservation of the open space character and [scenic, habitat, natural, or historic, etc.] values of the Property are consistent with such use, it is within the purpose of this Easement to protect those values.

*2. Right to Use Property for Agricultural Purposes.*

Grantor retains the right to use the Property for agricultural purposes, or to permit others to use the Property for agricultural purposes, in accordance with applicable law as long as the agricultural productive capacity and open space character of the Property are not thereby significantly impaired.

139  
140 *3. Prohibited Uses.*  
141

142 Grantor shall not perform, nor knowingly allow others to perform, any act on or affecting  
143 the Property that is inconsistent with this Easement. Any use or activity that would  
144 diminish or impair the agricultural productive capacity and open space character (or  
145 scenic, habitat, natural, historic etc. values) of the Property or that would cause  
146 significant soil degradation or erosion is prohibited. This Easement authorizes the  
147 Grantee to enforce these covenants in the manner described herein. However, unless  
148 otherwise specified, nothing in this Easement shall require the Grantor to take any action  
149 to restore the condition of the Property after any Act of God or other event over which it  
150 had no control. Grantor understands that nothing in this Easement relieves it of any  
151 obligation or restriction on the use of the Property imposed by law.  
152

153 *4. Permission of Grantee.*  
154

155 Where Grantor is required to obtain Grantee's permission or approval for a proposed  
156 action hereunder, said permission or approval (a) shall not be unreasonably delayed or  
157 withheld by Grantee, (b) shall be sought and given in writing, with copies of all  
158 documents to be provided to the Department, and (c) shall in all cases be obtained by  
159 Grantor prior to Grantor's taking the proposed action. Grantee shall grant permission or  
160 approval to Grantor only where Grantee, acting in Grantee's sole reasonable discretion  
161 and in good faith, determines that the proposed action will not significantly diminish or  
162 impair the agricultural productive capacity and open space character of the Property.  
163

164  
165 *5. Construction or Placement of Buildings and Other Structures.*  
166

167 Grantor may undertake construction, erection, installation or placement of buildings,  
168 structures, or other improvements on the Property only as provided in paragraphs (a)  
169 through (d) below. All other construction, erection, installation or placement of  
170 buildings, structures, or other improvements on the Property is prohibited.

171 Before undertaking any construction, erection, installation or placement that requires  
172 advance permission, the Grantor shall notify the Grantee and obtain prior written  
173 permission from Grantee.  
174

175 For purposes of this section, "improvements" shall not refer to trees, vines, or other living  
176 improvements planted for agricultural purposes, nor shall it refer to irrigation  
177 improvements necessary or desirable to irrigate the Property for agricultural purposes, all  
178 of which may be made without the permission of Grantee.  
179

180 (a) Fences— Existing fences may be repaired and replaced, and new fences may be  
181 built anywhere on the Property for purposes of reasonable and customary  
182 agricultural management, and for security of farm produce, livestock, equipment,  
183 and improvements on the Property, without any further permission of the Grantee.  
184



(b) Agricultural Structures & Improvements – Existing agricultural structures and improvements as shown in Exhibit B may be repaired, reasonably enlarged, and replaced at their current locations for agricultural purposes without further permission from the Grantee. New buildings and other structures and improvements to be used solely for agricultural production on the Property, including barns, equipment sheds, and improvements to be used for agricultural production purposes or sale of farm products predominantly grown or raised by the Grantor on the Property, but not including any dwelling or farm labor housing, may be built on the Property within the Building Envelope depicted in Exhibit B, without further permission of the Grantee. Any other agriculture production or marketing-related structures may be constructed only with the written permission of the Grantee pursuant to Paragraph 4.

(c) Single-Family Residential Dwellings – The single-family dwelling shown in Exhibit B may be repaired, reasonably enlarged or replaced at the current location entirely within the Building Envelope shown in Exhibit B without further permission of the Grantee. No other residential structures may be constructed or placed on the Property except for agricultural employee housing per Paragraph 5(d). (NOTE: Depending on the size of the Property and other circumstances, it may be appropriate to establish a maximum size of the single-family dwelling.)

(d) Agricultural Employee Housing – No agricultural employee housing may be constructed or placed on the Property without advance written permission of Grantee. Grantee may only grant permission pursuant to Paragraph 4 and only if Grantor can demonstrate to Grantee's satisfaction that such agricultural employee housing is reasonable and necessary for the agricultural operation of the Property. Any agricultural employee housing must be located entirely within the Building Envelope as established in Exhibit B.

#### 6. *Subdivision.*

The division, subdivision, defacto subdivision or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process, is prohibited.

The Grantor agrees the Property has \_\_\_\_\_ existing legal parcel(s), and that no additional, separate legal parcels currently exist within the Property that may be recognized by a certificate of compliance pursuant to California Government Code section 66499.35 based on previous patent or deed conveyances, subdivisions, or surveys. Grantor will not apply for or otherwise seek recognition of additional legal parcels within the Property based on certificates of compliance or any other authority. Grantor shall continue to maintain the parcels comprising the Property, and all interests therein, under common ownership, as though a single legal parcel.

Lot line adjustment may be permitted solely with the written approval of Grantee pursuant to Paragraph 4, and for purposes of maintaining, enhancing or expanding

agricultural practices or productivity on the Property. Grantor shall take no other steps towards lot line adjustment unless and until Grantee approves the request.

*7. Development Rights.*

Grantor hereby grants to Grantee all development rights except as specifically reserved in this Easement, that were previously, are now or hereafter allocated to, implied, reserved, appurtenant to, or inherent in the Property, and the parties agree that such rights are released, terminated, and extinguished, and may not be used on or transferred to any portion of the Property as it now or later may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield of the Property or any other property. This Easement shall not create any development rights.

*8. Mining.*

The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance, using any method that disturbs the surface of the land, is prohibited.

*9. Paving and Road Construction.*

No portion of the Property presently unpaved shall be paved or otherwise be covered with concrete, asphalt, or any other paving material, nor shall any road for access or other purposes be constructed without the advance written permission of the Grantee pursuant to Paragraph 4. Unpaved farm roads as required by agricultural operations are permitted without further Grantee permission. Grantor shall notify Grantee of any relocation or addition of unpaved roads.

*10. Trash.*

The dumping or accumulation of any kind of trash, refuse, vehicle bodies or parts, or hazardous waste on the Property, other than farm-related trash and refuse produced on the Property, is prohibited. However, this shall not prevent the storage of agricultural products and byproducts on the Property, so long as it is done in accordance with all applicable government laws and regulations.

*11. Commercial Signs.*

Commercial signs (including billboards) unrelated to permitted activities conducted on the Property are prohibited.

*12. Recreational Uses.*

Resort structures, golf courses, non-residential swimming pools, public or commercial airstrips, commercial equestrian facilities, public or commercial helicopter pads, and any other non-agricultural recreational structures or facilities are prohibited on the Property.

Other buildings and facilities for any other private recreational use may not be built on the Property without the advance written permission of the Grantee pursuant to Paragraph 4. The use of motorized vehicles off roadways and outside of the building envelope is prohibited except where used for agricultural production or for the purpose of monitoring this Easement.

13. *Water Rights.*

Grantor shall retain and reserve all ground water, and all appropriative, prescriptive, contractual or other water rights appurtenant to the Property at the time this Easement becomes effective. The Grantor shall not permanently transfer, encumber, lease, sell, or otherwise separate such quantity of water or water rights from title to the Property itself. No permanent separation of water or water rights shall be permitted. All water shall be retained in \_\_\_\_\_ County for agricultural production only. Water may be distributed to a contiguous property or other property owned or leased by Grantor on an annual basis for agricultural production only. Any temporary distribution of water shall not impair the long-term agricultural productive capacity or open space character of the Property.

14. *Rights Retained by Grantor.*

Subject to Paragraph 7 and to interpretation under Paragraph 22, as owner of the Property, the Grantor reserves all interests in the Property not transferred, conveyed, restricted or prohibited by this Easement. These ownership rights include, but are not limited to, the right to sell, lease, or otherwise transfer the Property to anyone Grantor chooses, as well as the right to privacy and the right to exclude any member of the public from trespassing on the Property and any other rights consistent with the purpose of this Easement. Nothing contained herein shall be construed as a grant to the general public of any right to enter upon any part of the Property.

Nothing in this Easement relieves the Grantor of any obligation or restriction on the use of the Property imposed by law.

15. *Responsibilities of Grantor and Grantee Not Affected.*

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:

(a) Taxes – The Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property. If the Grantee ever pays any taxes or assessments on the Property, or if the Grantee pays levies on Grantor’s interest in order to protect Grantee’s interests in the Property, the Grantor will reimburse the Grantee for the same.

(b) Upkeep and Maintenance – The Grantor shall be solely responsible for the upkeep

and maintenance of the Property, to the extent it may be required by law. The Grantee shall have no obligation for the upkeep or maintenance of the Property. If Grantee acts to maintain the Property in order to protect Grantee's interest in the Property, Grantor will reimburse Grantee for any such costs.

(c) Liability and Indemnification – In view of Grantee's and the Department of Conservation's negative rights, limited access to the land, and lack of active involvement in the day-to-day management activities on the Property, Grantor shall indemnify, protect, defend and holds harmless the Grantee, the Department of Conservation, their officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns from and against all liabilities, costs, losses, orders, liens, penalties, claims, demands, damages, expenses, or causes of action or cases, including without limitation reasonable attorneys' fees, arising out of or in any way connected with or relating to the Property or the Easement. The Grantor shall be solely liable for injury or the death of any person, or physical damage to any property, or any other costs or liabilities resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due to the negligence or willful misconduct of Grantee or the Department of Conservation. Grantee shall be named additional insured on Grantor's general liability insurance policy.

Grantee and the Department of Conservation shall have no responsibility for the operation of the Property, monitoring of hazardous conditions on it, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Without limiting the foregoing, Grantee shall not be liable to Grantor or other person or entity in connection with consents given or withheld, or in connection with any entry upon the Property occurring pursuant to this Easement, or on account of any claim, liability, damage or expense suffered or incurred by or threatened against Grantor or any other person or entity, except as the claim, liability, damage, or expense is the result of Grantee's or Grantee's agents and assigns negligence, gross negligence, or intentional misconduct.

#### 16. *Monitoring.*

The Grantee shall act as custodian of this Easement in order to uphold the Purpose of this Easement. Grantee's responsibilities as custodian of the Easement, include, but are not limited to, annual monitoring, such additional monitoring as circumstances may required, record keeping, and enforcement, for the purpose of preserving the Property's agricultural productive capacity and open space character in perpetuity. With reasonable advance notice, the Grantee has the right to enter upon, inspect, observe and evaluate the Property to identify the current condition of, and uses and practices on the Property and to monitor the use and practices regarding the Property to determine whether they are consistent with this Easement.

The Grantee shall report to the Department of Conservation by June 30 annually after the annual monitoring visit, describing method of monitoring, condition of the Property, stating whether any violations were found during the period, describing any corrective

actions taken, the resolution of any violation, and any transfer of interest in the Property. Failure to do so shall not impair the validity of this Easement or limit its enforceability in any way.

#### 17. *Enforcement.*

The Grantee may take all actions that it deems necessary to ensure compliance with the terms, conditions, covenants and purposes of this Easement. The Grantee shall have the right to prevent and correct violations of the terms of this Easement. If the Grantee finds what it believes is a violation, it may at its discretion take appropriate legal action to ensure compliance with the terms, conditions, covenants and purposes of this Easement and shall have the right to correct violations and prevent the threat of violations. Except when an ongoing or imminent violation could irreversibly diminish or impair the agricultural productive capacity and open space character of the Property, the Grantee shall give the Grantor written notice of the violation and thirty (30) days to correct it, before filing any legal action.

If a court with jurisdiction determines that a violation may exist or has occurred, the Grantee may obtain an injunction, specific performance, or any other appropriate equitable or legal remedy. A court may also issue an injunction requiring the Grantor to restore the Property to its condition prior to the violation. In any case where a court finds that a violation has occurred, the Grantor shall reimburse the Grantee for all its expenses incurred in stopping and correcting the violation, including but not limited to reasonable attorney's fees. The failure of the Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time. Grantee's remedies under this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

Without limiting Grantor's liability therefor, the Grantee shall apply damages recovered to the cost of undertaking any corrective action on the Property. Should the restoration of lost values be impossible or impractical for whatever reason, the Grantee shall apply any and all damages recovered to furthering the Grantee's mission, with primary emphasis on agricultural conservation easement acquisition and enforcement.

In the event the Grantee fails to enforce any term, condition, covenant or restriction of this Easement, as determined by the Director of the California Department of Conservation, the Director of the Department and his or her successors and assigns shall have the right to enforce this Easement after giving notice to the Grantee and Grantor and providing a reasonable opportunity under the circumstances for the Grantee to enforce the term, condition, covenant or restriction, including ensuring that the agricultural productivity of the Property and any multiple uses created by incidental activities, as specified in Public Resources Code Section 10262, are not significantly impaired. In the event that the Director of the Department determines that the Grantee has failed to enforce any of the terms, conditions, covenants or restrictions of the Easement, the Director of the Department and his or her successors and assigns shall be entitled to exercise the right to enter the Property granted to Grantee including right of immediate

entry where the Director of the Department or his or her successor or assign determines that immediate entry is required to prevent, terminate or mitigate a violation of this Easement.

Failure or refusal to exercise any rights under the terms of this Easement by Grantee in the event of a breach by Grantor of any term herein shall not constitute a waiver or forfeiture of Grantee's right to enforce any term, condition, covenant or purpose of this Easement or any other term herein.

#### *18. Transfer of Easement.*

This Easement may only be assigned or transferred to a private nonprofit organization that, at the time of transfer, is a "qualified organization" under section 170(h) of the U.S. Internal Revenue Code and under section 815.3(a) of the California Civil Code and has similar purposes to preserve agricultural lands and open space. If no such private nonprofit organization exists or is willing to assume the responsibilities imposed by this Easement, then this Easement may be transferred to any public agency authorized to hold interests in real property as provided in section 815.3(b) of the California Civil Code. Such an assignment or transfer may proceed only if the organization or agency expressly agrees to assume the responsibility imposed on the Grantee by the terms of this Easement and is expressly willing and able to hold this Easement for the purpose for which it was created. All transfers shall be duly recorded.

If the Grantee should desire to transfer this Easement, the Grantee must obtain written permission from the Grantor and the Department of Conservation, which permission shall not be unreasonably withheld.

If the Grantee or its successors ever ceases to exist or no longer qualifies under section 170(h) of the U.S. Internal Revenue Code, or applicable state law, the California Department of Conservation, in consultation with Grantor, shall identify and select an appropriate private or public entity to whom this Easement shall be transferred.

#### *19. Transfer of Property Interest.*

Any time the Property itself, or any interest in it, is transferred by the Grantor to any third party, the Grantor shall notify the Grantee in writing at least thirty (30) days prior to the transfer of the Property or interest, and the document of conveyance shall expressly incorporate by reference this Easement. Any document conveying a lease of the Property shall expressly incorporate by reference this Easement. Failure of the Grantor to do so shall not impair the validity of this Easement or limit its enforceability in any way.

#### *20. Amendment of Easement.*

This Easement may be amended only with the written consent of the Grantor, the Grantee, and the Director of the California Department of Conservation. Any such amendment shall be consistent with the purposes of this Easement and with the Grantee's



easement amendment policies, and shall comply with all applicable laws, including section 170(h) of the Internal Revenue Code, or any regulations promulgated in accordance with that section, and with section 815 et seq. of the California Civil Code, and the California Farmland Conservancy Program Act as codified in section 10200, et seq., of the California Public Resources Code, and any regulations promulgated thereunder. No amendment shall diminish or affect the perpetual duration or the purpose of this Easement nor the status or rights of the Grantee under the terms of this Easement.

This Easement and any amendment to it shall be recorded in \_\_\_\_\_ County. Copies of any amendments to this Easement shall be provided to the Department of Conservation.

#### 21. *Termination of Easement.*

(NOTE: Landowners may waive the administrative termination provision defined in Public Resources Code sections 10270-77, in which case potential easement termination shall be governed solely by judicial termination proceedings. Under such cases, the Department will continue to include language concerning proceeds as defined in paragraph 21(b).)

(a) Termination of the easement shall be governed by sections 10270-10277 of the Public Resources Code of California. This Easement shall not be terminated unless it meets the criteria for termination of this Easement including, California Constitution Article XIII, section 8, California Public Resources Code sections 10273, 10274, and 10275, Revenue and Taxation Code sections 421.5 and 422.5, and other applicable laws, rules and regulations. Grantee and the Department of Conservation shall be notified at least thirty (30) days prior to any initiation of any proceedings to terminate this Easement.

No inaction or silence by Grantee shall be construed as abandonment of the Easement. The fact that the land is not in agricultural use is not reason for termination of this Easement. Other than pursuant to eminent domain or purchase in lieu of eminent domain, no other voluntary or involuntary sale, exchange, conversion or conveyance of any kind of all or part of the Property, or of any interest in it, shall limit or terminate the provisions of this Easement.

Should this easement be condemned or otherwise terminated on any portion of the Property, the balance of the Property shall remain subject to this Easement. In this event, all relevant related documents shall be updated and re-recorded by the Grantee to reflect the modified easement area.

(b) The grant of this Easement gives rise to a property right, immediately vested in Grantee. For the purpose of determining the amount to be paid by Grantor in a repurchase of the Easement at the time of a voluntary termination pursuant to sections 10270-10277 of the Public Resources Code or pursuant to judicial proceedings, and for the purpose of allocating proceeds from a sale or other disposition of the Property at the time of termination, the Easement and Grantee's property right therein shall have a value equal to the difference between the then current fair market value of the Property

unencumbered by this Easement and the then current fair market value encumbered by this Easement. The values shall be determined by an appraisal performed by an appraiser jointly selected by Grantor and Grantee. The cost of the appraisal shall be paid by Grantor and the appraisal is subject to approval by the Department. Nothing herein shall prevent Grantor, Grantee or the Department from having an appraisal prepared at its own expense.

Upon approval of termination of this Easement or any portion thereof, Grantor shall reimburse the State of California, Department of Conservation California Farmland Conservancy Program Fund and \_\_\_\_\_(other funders) the amount equal to the Easement that is terminated pursuant to section 10276 of the California Public Resources Code. The amount required to be paid in connection with Grantor's repurchase shall be distributed as follows: (i) to the State of California, Department of Conservation, California Farmland Conservancy Program Fund, \_\_\_\_\_(\_\_\_\_%); and (ii) to the \_\_\_\_\_, \_\_\_\_\_(\_\_\_\_%), representing the proportion of easement value originally contributed by these agencies for the purchase of this Easement. This Easement shall not be deemed terminated until such payment is received by all parties. Grantee, in using any funds received from the termination of this Easement, shall use the funds in a manner consistent with the Purpose of this Easement.

(NOTE: Alternate language available for projects seeking IRS recognition of a charitable donation)

(c) If the Easement or any portion thereof is terminated by an entity exercising the power of eminent domain, by purchase in lieu of condemnation, or for any other reason, the amount of proceeds due from Grantor will be determined according to applicable state law and distributed as set forth in Paragraph 21(b).

(d) If Grantee obtains payment on a claim under a title insurance policy insuring this Easement, payment shall be distributed as forth in Paragraph 21(b).

## *22. Interpretation.*

- (a) This Easement shall be interpreted under the laws of the State of California, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.
- (b) References to authorities in this Easement shall be to the statute, rule, regulation, ordinance or other legal provision that is in effect at the time this Easement becomes effective.
- (c) No provision of this Easement shall constitute governmental approval of any improvements, construction or other activities that may be permitted under this Easement.

## *23. Perpetual Duration.*

This Easement, pursuant to California Civil Code section 815.1 shall run with the land in perpetuity. Every provision of this Easement that applies to the Grantor or Grantee shall

also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear.

No merger of title, estate or interest shall be deemed effected by any previous, contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in the Property, or any portion thereof, to Grantee, or its successors or assigns. It is the express intent of the parties that this Easement not be extinguished by, or merged into, or modified, or otherwise deemed affected by any other interest or estate in the Property now or hereafter held by Grantee or its successors or assigns.

#### 24. *Notices.*

Any notices to Grantor and Grantee required by this Easement shall be in writing and shall be personally delivered or sent by first class mail, to the following addresses, unless a party has been notified by the other of a change of address:

To Grantor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Grantee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any notices required by this Easement to be sent to the Department of Conservation shall be in writing and shall be personally delivered or sent by first class mail, at the following address, unless a party has been notified by the Department of a change of address:

To the Secretary of Resources/Department of Conservation:

Department of Conservation  
801 K Street  
Sacramento, CA 95814  
Attn: California Farmland Conservancy Program

#### 25. *Grantor's Environmental Warranty.*

The Grantor warrants that it has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property and hereby promises to defend and indemnify Grantee and the Department of Conservation against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with any release of hazardous waste or violation of federal, state or local

environmental laws.

Notwithstanding any other provision herein to the contrary, the parties do not intend this Easement be construed such that it creates in or gives the Grantee or the Department of Conservation:

- (a) the obligations or liability of an “owner” or “operator” as those words are defined and used in environmental laws, as defined below, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC section 9601 et seq. and hereinafter “CERCLA”);
- (b) the obligations or liability of a person described in CERCLA at 42 USC section 9607 (a)(3) or (4);
- (c) the obligations of a responsible person under any applicable Environmental Laws, as defined below;
- (d) the right to investigate and remediate any Hazardous Materials, as defined below, associated with the Property; or
- (e) any control over Grantor’s ability to investigate, remove, remediate, or otherwise clean up any Hazardous Materials associated with the Property.

The term “Hazardous Materials” includes, without limitation, (a) material that is flammable, explosive, or radioactive; (b) petroleum products; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the CERCLA (42 USC section 9601 et seq.), the Hazardous Materials Transportation Act (49 USC section 5101, et seq.), the Hazardous Waste Control Law (California Health and Safety Code section 25100 et seq.), the Hazardous Substance Account Act (California Health and Safety Code section 25300 et seq.), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable federal, state, or local laws, ordinances, rules, or regulations now in effect or enacted after this date.

The term “Environmental Laws” includes, without limitation, any federal, state or local or administrative agency statute, regulation, rule, ordinance, order or requirement relating to pollution, protection of human health, the environment or Hazardous Materials.

#### *26. Grantor’s Title Warranty; No Prior Conservation Easements.*

Grantor represents and warrants that Grantor owns the entire fee simple interest in the Property, including the entire mineral estate, and hereby promises to defend this Easement against all claims that may be made against the Easement. Any and all financial liens or financial encumbrances existing as of the date of the execution of this Easement have been subordinated. Exhibit C (Prior Encumbrances) sets forth all the non-financial encumbrances. Grantor represents and warrants that the Property is not subject to any other conservation easement whatsoever.

#### *27. Subsequent Easements.*

The grant of any easements, other interests in land, or use restrictions that might diminish

or impair the agricultural productive capacity or open space character of the Property is prohibited. Grantor may grant subsequent conservation easements or use restrictions on the Property provided that such easements or use restrictions do not restrict agricultural husbandry practices, or interfere with any of the terms of this Easement as determined by Grantee. "Husbandry practices" means agricultural activities, such as those specified in section 3482.5(e) of the California Civil Code, conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality. Grantee's written approval shall be obtained at least thirty (30) days in advance of executing any proposed easement or use restriction on the Property, and such subsequent easements and use restrictions shall make reference to this Easement and be subordinate to this Easement. The Grantee shall notify the Department in the event that it approves any subsequent easement or use restriction. Grantee shall disapprove any proposed subsequent easement or use restriction which appears to restrict agricultural husbandry practices, or diminishes or impairs the agricultural productive capacity or open space character of the Property.

28. *Severability.*

If any term, provision, covenant, condition or restriction of this Easement is held by a court of competent jurisdiction to be unlawful, invalid, void, unenforceable, or not effective the remainder of the agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

29. *Entire Agreement.*

This Easement is the final and complete expression of the agreement between the parties with respect to this subject matter. Any and all prior or contemporaneous agreements with respect to this subject matter, written or oral, are merged into and superceded by this written instrument.

30. *Acceptance.*

As attested by the signature of its President affixed hereto, in exchange for consideration, the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed of Agricultural Conservation Easement.

To Have and To Hold, this Deed of Agricultural Conservation Easement unto the Grantee, its successors and assigns, forever.

In Witness Whereof, the Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

Witness:

Grantor:

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by \_\_\_\_\_

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Accepted:

Witness: Grantee: \_\_\_\_\_

by \_\_\_\_\_

\_\_\_\_\_

Acknowledgments

County of \_\_\_\_\_)

State of California), ss

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me,  
\_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to  
me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose  
name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.



Witness my hand and official seal.

\_\_\_\_\_  
Notary Public (SEAL)

My commission expires:

County of \_\_\_\_\_ )  
State of California) ss:

Personally appeared before me \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and acknowledged that he is the \_\_\_\_\_, and that the execution of this Deed of Agricultural Conservation Easement is with the authority of the Board of Directors of said corporation.

\_\_\_\_\_  
Notary Public (SEAL)

My commission expires:

Acknowledgments

County of \_\_\_\_\_)

State of California), ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public (SEAL)

My commission expires:

County of \_\_\_\_\_ )  
State of California) ss:

Personally appeared before me \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and acknowledged that he is the \_\_\_\_\_, and that the execution of this Deed of Agricultural Conservation Easement is with the authority of the Board of Directors of said corporation.

\_\_\_\_\_  
Notary Public (SEAL)

My commission expires:

Exhibit A (Legal Description) Attached

Exhibit B (Building Envelope and Existing Improvements) Attached

Exhibit C (Prior Encumbrances) Attached

***Appendix C: Gilroy Agricultural Mitigation Policy***

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# AGRICULTURAL MITIGATION POLICY

## City of Gilroy

Adopted May 3, 2004

### **Section 1.00 Statement of Intent**

It is the intent of this policy to set forth the specific criteria and guidelines, consistent with the City's General Plan policies on agriculture, to enable the continued viability of agriculture and agri-tourism in the Gilroy area through:

- (a) Recognition of agriculture's significant contribution to the local economy;
- (b) Protection of agricultural lands from urban encroachment;
- (c) Preservation of agricultural lands as a natural buffer between Gilroy and surrounding communities; and
- (d) Appreciation for the role of agricultural lands in enhancing Gilroy's semi-rural, character.

### **Section 1.01 Definitions**

#### Agricultural Land or Farmland:

Those lands within the City of Gilroy's General Plan 20-year boundary that are deemed to meet the Thresholds of Significance for CEQA purposes, or those that are designated "Prime" or lands of "Statewide Importance" by the State Department of Conservation as shown on their latest "Important Farmland Map." This also includes land that has been used for agriculture but has not been irrigated for six years or more as defined by the California State Farmland Mapping Program.

#### Agricultural Mitigation Land:

Agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or such other farmland conservation mechanism acceptable to the City.

#### Agricultural Operations:

Any agricultural activity, operation, or facility including but not limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including viticulture, apiculture or horticulture, the raising of livestock, fur-bearing animals, fish or poultry, agricultural spoils areas, and any practices performed by a farmer or on a farm as incidental to or in conjunction with such operations, including the legal application of pesticides and fertilizers, use of farm equipment, storage or preparation for market, delivery to storage or to market, or to carriers for transportation to market.

#### Farmland Conservation Easement:

An easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to a farmland conservation easement is an interest in land, which is less than fee simple. However, the farmland conservation easement is permanent.

Farmland Deed Restriction:

The creation of a deed restriction, covenant or condition, which precludes the use of the agricultural land subject to the restriction for any non-agricultural purpose, use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain agricultural land.

Natural Trail:

An unimproved trail.

Preferred Preservation Area:

The agricultural lands located in the Santa Clara County agricultural preserve, specifically the agricultural lands located outside of Gilroy's General Plan boundary and within Gilroy's Sphere of Influence (See Attachment 1 "Preferred Preservation Areas").

Wildlife Habitat:

A wildlife sanctuary that provides water, food shelter and places to raise young for native wildlife.

Wildlife Sanctuary:

An area where native wildlife are safe from people or non-native animals such as dogs and cats.

**Section 1.02 Agricultural Mitigation Requirements**

(A) Those lands that require agricultural mitigation are identified in Figure 4.4-2 and Table 4.4-5 of the City of Gilroy's General Plan 2020 EIR (attached.) Mitigation requirements are not limited to these lands but would include the loss of agricultural lands due to the conversion to urban uses (including actions such as USA amendments, extension of services, or annexation) when the following criteria are met:

- (1) The City of Gilroy shall require agricultural mitigation for the loss of agricultural lands due to conversion to urban uses for land as defined as "prime farmland or farmland of "Statewide Importance" in *Section 1.01 Definitions*. Mitigation shall only be required for that portion of the land that no longer will be designated agricultural land. One time as many acres of agricultural land shall be protected as was changed to a non-agricultural zoning classification (1:1 ratio of land); and
- (2) The project site is deemed a significant impact based upon the completion of a Land Evaluation and Site Assessment Model (General Plan EIR Appendix F-2) as administered through the standard CEQA process during project review.
- (3) With the following exceptions:
  - a. A maximum of 100 feet of the land that will remain in a permanent agricultural buffer; or



- b. An area intended for city public facilities, as set forth in the City's General Plan or Parks Master Plan, that is adjacent to City roads and with nearby city infrastructure that can serve the project. Such public facilities would include public parks and/or public recreational facilities; permanent natural open space that is not disturbed by the development; trails and developed open space that is open to the public; and public school sites.
  - c. Lands dedicated for lanes, median islands, bike lanes, and pedestrian facilities which qualify for Traffic Impact Fund reimbursement or funding and are not required solely due to the proposed development project, shall not be included in the acre count for agricultural mitigation. Typically these lands include the median and all sections of the roadway except the first travel lane along the frontage and the parking/shoulder lanes for arterials. For expressways all lanes including parking, bike, and shoulder plus pedestrian facilities are included. The lands for these lanes, median islands, bike lanes, and pedestrian facilities are for the common good of the community and are not considered specific to the development.
- (4) Specific plan areas may provide agricultural mitigation on-site as established in the specific plan if approved by the City Council. All proposed mitigation in the specific plan must be consistent with the intent of the General Plan EIR Mitigation Measure 4.4-A and this policy as feasible mitigation for the loss of agricultural lands. Additional mitigation acreage may be required outside the specific plan area to meet the 1:1 ratio mitigation requirement.
- (B)** Mitigation may be accomplished with one of the following three options and the options shall include all costs to cover program administration and monitoring of established easements:
- (1) Mitigation 1: Purchase an equal amount of land (1:1 ratio) of agricultural land within the "Preferred Areas" (see *Section 1.01 Definition*) and the transfer of the ownership of this land to the Open Space Authority or other City-approved agency.
  - (2) Mitigation 2: Purchase of development rights to a 1:1 ratio on agricultural land within the "Preferred Areas" and the transfer of ownership of these rights to the Open Space Authority or other City-approved agency. The purchase value of this agricultural conservation easement will be based upon the appraisal of purchasing development rights and not fee-title rights.
  - (3) Mitigation 3: Payment of an in-lieu fee will be based upon the lowest appraisal of purchasing development rights in the "Preferred Areas."
    - a. The in-lieu fees will include all normal and customary administrative and transactional fees charged on a cost recovery basis.
    - b. The in-lieu fees will be maintained by the City in an escrow account and adjusted no more than every two years based on appraisals from the "Preferred Areas" (Attachment 1).

- (C) At the time of any initial land use application approval, the applicant shall enter into a deferred payment or dedication agreement establishing the specific criteria and timing for implementing any required mitigation. This deferred agreement shall be recorded with the County Recorder's Office against the proposed project property. All required mitigation must be completed prior to final map approval, or if no map is required, no later than issuance of the first building permit.
- (D) Lands deemed acceptable for preservation are:
- (1) Those lands designated as "Prime" or of "Statewide Importance" by the State Department of Conservation in the Preferred Areas as defined in Section 1.01 Definitions; and
  - (2) Has an adequate water supply to support the historic agricultural use on the land. The water supply for the land shall be protected in the farmland conservation easement, the farmland deed restriction or other document evidencing the agricultural mitigation.
- (E) Programs with those City-approved agencies handling conservation easements in the "Preferred Areas for Preservation (*Sec. 1.01 Definitions*)", shall include the financial responsibility by the developers for program administration, outreach to landowners and monitoring of established easements. An additional nominal fee to cover these items, the amount of which shall be established by City policy, shall be built into the in-lieu fee outlined in *Section 1.02 (B)*.

### **Section 1.03 Right to Farm Deed Restrictions**

- (A) All lands located within one thousand (1,000) feet of any agricultural lands deemed for preservation, as shown on the Farmland Preservation Area map (Attachment 1), shall be subject to the placement of a "right to farm" deed restriction that conforms with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure requirements as a condition of approval for any discretionary permit.
- (B) The deed restriction shall include the following wording:

"You are hereby notified that the property you are purchasing is located within 1,000 feet of agricultural land, agricultural operations or agricultural processing facilities. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. One or more of the inconveniences described may occur as a result of agricultural operations, which are in compliance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.

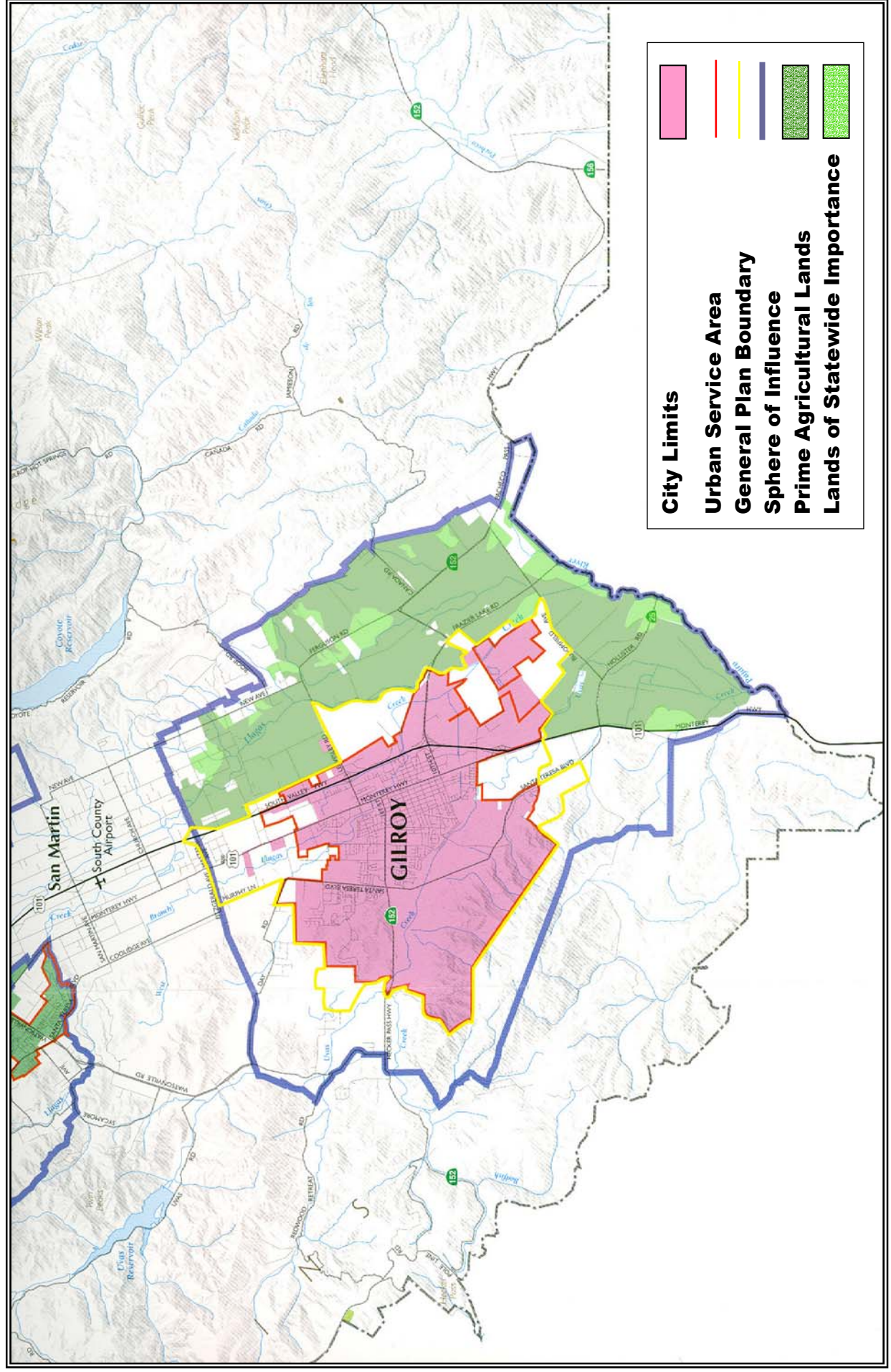
Lawful ground rig or aerial application of pesticides, herbicides and fertilizers occur in farming operations. Should you be concerned about spraying, you may contact the Santa Clara County Agricultural Commission."

- (C) The Right to Farm Deed Restriction shall be included in all subsequent deeds and leases for this property and shall conform with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure as defined by this policy.

**Section 1.04 Agricultural Buffer**








- (A) To minimize future potential conflicts between agricultural and non-agricultural land uses, all new developments adjacent to designated agricultural, agricultural preserve, agricultural open space, greenbelt/agricultural buffer areas shall be required to provide an agricultural buffer/agricultural transition area.
- (B) The agricultural buffer/agricultural transition area shall be a minimum of one hundred fifty (150) feet measured from the edge of the agricultural, agricultural preserve, greenbelt area. No public access shall be allowed in this transition area due to the potential for complaints about and exposure to the dust and spraying associated with agricultural activities.
- (C) This agricultural buffer/agricultural transition area shall be comprised of two components:
- (1) A one hundred (100) foot minimum wide agricultural buffer zone located adjacent to the agricultural lands or greenbelt area. The following uses in the one hundred (100) foot or greater agricultural buffer area shall be limited to:
    - i. Native plants, trees or hedge rows
    - ii. Drainage channels, storm retention ponds, natural areas such as creeks or drainage swales
    - iii. Railroad tracks or other utility corridors
  - (2) A fifty (50) foot agricultural transition area located between the one hundred (100) foot minimum agricultural buffer area and any new development. The following uses are allowed in the fifty (50) foot agricultural transition area:
    - i. Native plants, trees or hedge rows
    - ii. Drainage channels, storm retention ponds natural areas such as creeks or drainage swales
    - iii. Bike paths, benches, lighting, trash enclosures and fencing
    - iv. Other non-residential uses determined by the Planning Commission to be consistent with the use of the property as an agricultural buffer; such as natural trails, bike paths, wildlife habitats, wildlife sanctuaries, or community service facilities like detention basins.
- (D) The agricultural buffer/transition area shall be constructed by the developer of any land adjacent to agricultural uses, subject to approved plans by the Community Development Department. This area shall be maintained by the developer according to standards approved by the City until the area is dedicated to and accepted by the City or other City approved agency at which time they shall be responsible for maintenance.

# City of Gilroy






**Figure 4.4-2  
Important Farmland Map**

-  = Prime Farmland
-  = Farmland of Statewide Importance
-  = Unique Farmland
-  = Farmland of Local Importance
-  = Grazing Land
-  = Other Land
-  = Urban and Built Up Land

**CITY LIMITS**  
**20 YEAR PLANNING BOUNDARY (PROPOSED)**

 Prime Farmland and Farmland of Statewide Importance Added to Planning Area or Existing Farmland Within the Planning Area Where the Designation Would Change from Open Space to an Urban Use

 Farmland Proposed for Removal from the Planning Area

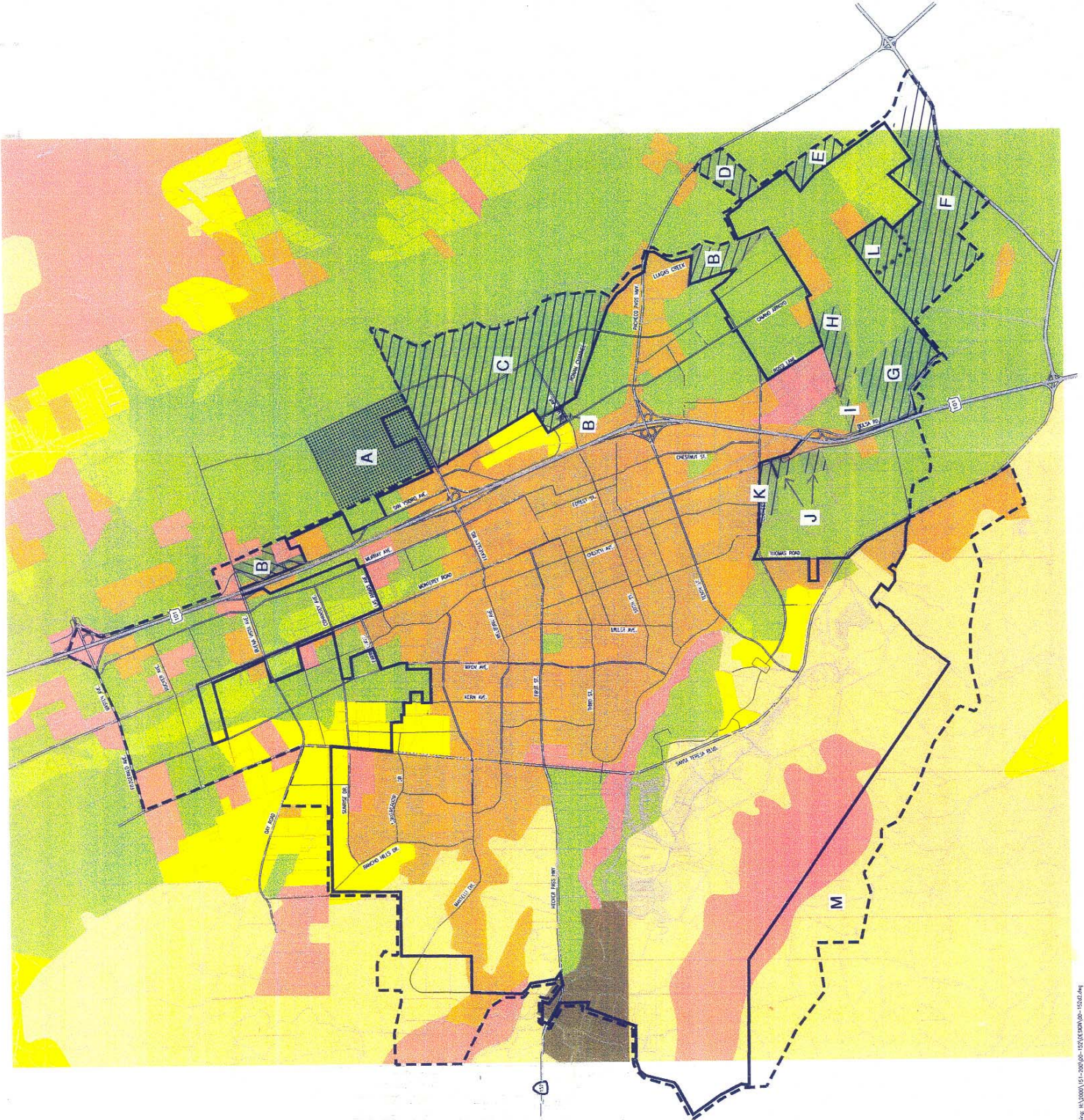
**CIRCULATION LEGEND**

-  FREEWAY
-  EXPRESSWAY
-  ARTERIAL
-  COLLECTOR

This map was prepared by staff of the City of Gilroy Planning Department, and is intended to provide information only. It is not intended to be used as a legal document. The City of Gilroy and its agents assume no responsibility for any errors or omissions on this map or any other maps.



revised 7/11/01





## Attachment 3

Table 4.4-5 Changes to Land Use Designations or General Plan Boundary <sup>1</sup> Involving Agricultural Lands		
Area ID	Notes	Acres (Approx.)
A	Prime farmland proposed for removal from the planning area (274 acres total of which 40 acres is rural residential). With the proposed General Plan, the site will be designated as County agricultural and rural residential.	-234
B	Prime farmland to be designated as Campus/General Industrial to better align the planning boundary along the east side of planning area. ("Other land" of 15 acre in northernmost area <i>not</i> included in table or on Figure 4.4-1	93
C	Prime farmland to be added to the planning area and redesignated as Campus Industrial (430 acres) and Open Space (234 acres). The Open Space area is not expected to be actively farmed due to the fact that it would be bound on the west by drainage/recreational uses upon development of the 430 acres of Campus Industrial, on the east by Llagas Creek, and the land between the two is expected to be too narrow to be effectively farmed. See more details in the following section.	664
D	Prime farmland to be added to the planning area as Public Facility. This land to be used by the South County Regional Wastewater Authority (SCRWA).	49
F	Prime and Statewide-Important farmland to be added to the planning area as Public Facility for the South county Regional Wastewater Authority.	380
E, G, H, I, J, K, L	Prime and Statewide-Important farmland within the existing and proposed General Plan areas to be redesignated from Open Space to urban uses. See below for more information.	381
M	Ranchlands to be added to the planning area and designated as Open Space. The new designation does not permit any urban development but does permit grazing; therefore it is not considered an urban use nor a conversion of agricultural land.	1,470
Farmland Proposed to Be Added to Planning Area		952
Farmland Proposed to Be Added/Converted from City or County open space or agricultural designation to an urban land use designation.		1,333
<sup>1</sup> The General Plan Boundary used for this analysis is the "Boundary of the Planning Area" shown in the General Plan map dated 1/7/98 with changes approved in the amendment for the Gilroy Sports Park.		



## AGRICULTURAL MITIGATION Policy applicability

<b>GENERAL PLAN EIR - Additional Agricultural Mitigation Measures (4.4.a)</b>		
Is the site located within an area identified in the GP EIR as being converted to urban designation (see attachments 2 & 3 of Ag Policy)?	Yes, subject to mitigation through the Ag Policy.	No, continue to next question
Is the site designated as farmland that is either of prime or statewide importance according to according to the State Department of Conservation Important Farmland Mapping?	Yes, continue to CEQA Review	No, not subject to policy
<b>California Environmental Quality Act (CEQA) Review</b>		
Does it score as significant based on the California Department of Conservation Agricultural Land Evaluation and Site Assessment (LESA) model?	Yes, mitigation through the Ag Policy is required	No, continue to next question
Are there any Williamson Act Contracts in place on the property?	Yes, significant unavoidable impact	No mitigation required, less than significant impact

\* CEQA requires all feasible mitigation for significant unavoidable impacts. Upon certification of the General Plan EIR, the City Council declared that an Agricultural Mitigation Program is deemed feasible mitigation. Therefore significant impacts as determined under CEQA would be subject to the City's Agricultural Mitigation Policy.

**Table 9. California LESA Model Scoring Thresholds**

**Total LESA Score Scoring Decision**

---

0 to 39 Points	Not Considered Significant
40 to 59 Points	Considered Significant <u>only</u> if LE <u>and</u> SA subscores are each <u>greater</u> than or equal to 20 points
60 to 79 Points	Considered Significant unless <u>either</u> LE <u>or</u> SA subscore is <u>less</u> than 20 points
80 to 100 Points	Considered Significant

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***Appendix D: Santa Cruz County and San Benito County  
Resolutions Supporting the Soap Lake Floodplain Preservation  
Project***

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**SANTA CRUZ COUNTY  
BOARD OF SUPERVISORS INDEX SHEET**

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**Creation Date:** 12/9/04

**Source Code:** BDSUP

**Agenda Date:** 12/14/04

**INVENUM:** 55571

**Resolution(s):** 400-2004

---

**Ordinance(s):**

---

**Contract(s):**

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**Continue Date(s):**

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**Index:** --Letter of Supervisor Campos of December 9 , 2004  
--Resolution

**Item: 56.1** ADOPTED RESOLUTION NO. 400-2004 supporting the Soap Lake Floodplain Preservation Project, **as** recommended **by** Supervisor Campos



# County of Santa Cruz

## BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069

(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JANET K. BEAUTZ  
FIRST DISTRICT

ELLEN PIRIE  
SECOND DISTRICT

MARDI WORMHOUDT  
THIRD DISTRICT

TONY CAMPOS  
FOURTH DISTRICT

MARK W. STONE  
FIFTH DISTRICT

**APPROVED AND FILED**

**BOARD OF SUPERVISORS**

**DATE:**

**COUNTY OF SANTA CRUZ**

**SUSAN A. MAURELLO**

**DEPUTY CLERK OF THE BOARD**

**BY**  **DEPUTY**

AGENDA: 12/14/04

December 9, 2004

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

Dear Members of the Board:

In 2000, our State representatives assisted our community by enacting legislation establishing the Pajaro River Watershed Flood Prevention Authority (the Authority). As you may recall, the Authority includes eight representatives from San Benito, Santa Clara, Monterey, and Santa Cruz Counties and their respective water resource agencies. The mandated purpose of the Authority is to provide a forum for our local governments to work cooperatively in implementing flood prevention and control strategies throughout the Pajaro River Watershed.

To this end, the Authority has recently completed Phase 2 of the Pajaro River Watershed Study. This document is the latest of numerous studies aimed at identifying potential flood control strategies throughout the watershed. Phase 2 of the Pajaro River Watershed Study has determined that preservation of Soap Lake, a natural reservoir located in San Benito and Santa Clara Counties, offers a crucial flood prevention feature to the watershed.

This project has received the unanimous support of the Authority as an essential component to managing flooding in the watershed. Additionally, this project would provide multiple benefits to the area, including ground water recharge and environmental restoration and protection. This project would also help to maximize the benefits of the future Army Corps of Engineers project in the Pajaro Valley.

#56.1

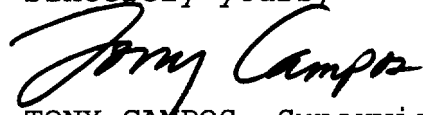


BOARD OF SUPERVISORS  
December 9, 2004  
Page 2

Flooding throughout the Pajaro River watershed poses a hazard to public and private property, including residences, agriculture, roadways, watercourses, and environmental resources, and is a threat to our residents. The Authority recognizes that while efforts by individual agency members have been made in the past in order to prevent flooding, the ultimate solution may require a regional approach by all the counties that make up the watershed.

I believe that our County will benefit from the completion of this project. Therefore, I recommend that the Board of Supervisors join the Authority in adopting the attached resolution in support of the Soap Lake Flood Control Preservation Project.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Tony Campos", written over a horizontal line.

TONY CAMPOS, Supervisor  
Fourth District

TC:lg  
Attachment

cc: San Benito County Board of Supervisors  
Santa Clara County Board of Supervisors  
Monterey County Board of Supervisors  
Pajaro River Watershed Flood Prevention Authority

154884

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 400-2004

On the motion of Supervisor Campos  
duly seconded by Supervisor Beautz  
the following resolution is adopted

RESOLUTION SUPPORTING THE SOAP LAKE  
FLOODPLAIN PRESERVATION PROJECT

WHEREAS, the Santa Cruz County Board of Supervisors has been delegated membership in the Pajaro River Watershed Flood Prevention Authority (AB 807); and

WHEREAS, the Authority has been granted responsibility by the State of California to identify solutions to prevent flooding in the lower Pajaro River watershed; and

WHEREAS, the Santa Cruz County Board of Supervisors is represented on the Authority, consisting of a total of eight members, four counties and their water resource agencies; and

WHEREAS, all members of the Authority have worked cooperatively to address issues of flood protection throughout the Pajaro River Watershed; and

WHEREAS, the Authority has been the beneficiary of a State grant to determine effective flood prevention projects in the Pajaro River Watershed; and

WHEREAS, studies conducted under the supervision of the Authority have determined that preservation of the Soap Lake Floodplain is critical to maximizing the flood capacity of the future Pajaro River levee project; and

WHEREAS, environmental review of the Soap Lake Floodplain Preservation Project under the California Environmental Quality Act has been completed by the Authority.

NOW, THEREFORE, BE IT RESOLVED that the Santa Cruz County Board of Supervisors, as a member of the Authority, hereby supports the Soap Lake Floodplain Preservation Project as an essential component for mitigating flooding in the Pajaro River lower watershed.

RESOLUTION SUPPORTING THE SOAP LAKE FLOODPLAIN PRESERVATION  
PROJECT  
Page 2

PASSED **AND** ADOPTED by the Board of Supervisors of the County  
of Santa Cruz, State of California, this 14th day of  
December, 2004, by the following vote:

AYES : SUPERVISORS Beautz, Pirie, Campos, Stone and Wormhoudt  
NOES : SUPERVISORS None  
ABSENT: SUPERVISORS None

**MARDI WORMHOUDT**

MARDI WORMHOUDT, Chair  
Board of Supervisors

**GAIL T. BORKOWSKI**

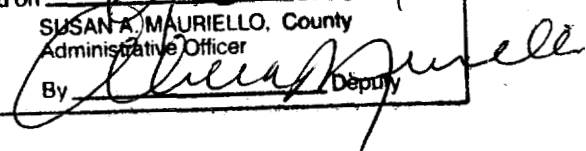
ATTEST :  
Clerk of said Board

Approved as to form:

  
County Counsel

DISTRIBUTION: San Benito County Board of Supervisors  
Santa Clara County Board of Supervisors  
Monterey County Board of Supervisors  
Pajaro River Watershed Flood Prevention Authority  
Public Works Department  
County Counsel

154884

STATE OF CALIFORNIA	)	SS
COUNTY OF SANTA CRUZ	)	
I, SUSAN A. MAURIELLO, County Administrative Officer and ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California do hereby certify that the foregoing is a true and correct copy of the resolution passed and adopted by and entered in the minutes of the said board. In witness whereof I have hereunto set my hand and affixed the seal of the said Board on <u>14th</u> day of <u>December</u> , 20 <u>04</u> .		
SUSAN A. MAURIELLO, County Administrative Officer		
By		Deputy

BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO

A RESOLUTION OF THE BOARD OF SUPERVISORS )  
COUNTY OF SAN BENITO, TO SUPPORT THE SOAP )  
LAKE FLOODPLAIN PRESERVATION PROJECT )

RESOLUTION NO.  
2004- 12

**WHEREAS**, the San Benito County Board of Supervisors has been legislatively mandated to participate in the Pajaro River Watershed flood Prevention Authority (Authority); and

**WHEREAS**, the Authority has been granted responsibility by the State of California to find solutions to repeated flooding in the Pajaro River Watershed; and

**WHEREAS**, the San Benito County Board of Supervisors has one representative on the eight member Authority, which consists of four counties and their respective water resources planning agencies; and

**WHEREAS**, all members of the Authority have worked cooperatively to further flood protection throughout the Pajaro River Watershed; and

**WHEREAS**, the Authority has been the beneficiary of a State grant to investigate flood prevention projects and propose flood mitigation measures; and

**WHEREAS**, studies conducted under the supervision of the Authority have determined that preservation of the Soap Lake Floodplain is critical to the minimization of flooding in the Pajaro River Watershed; and

**WHEREAS**, environmental review for the Soap Lake Floodplain Preservation Project under the California Environmental Quality Act has been completed by the Authority;

**NOW, THEREFORE BE IT RESOLVED**, that the San Benito County Board of Supervisors, as a member agency of the Authority, hereby supports the Soap Lake Floodplain Preservation Project as an essential component for the mitigation of flooding in the Pajaro River Watershed.

**PASSED AND ADOPTED**, by the San Benito County Board of Supervisors, on this 1<sup>st</sup> day of December 2004 by the following vote:

AYES: *Lee, Scapellato, Monaco, Keshu, Cruz*

NOES: *none*

ABSTAIN: *none*

Approved as to Legal Form:

*Bob Cruz*  
Bob Cruz, Chair  
San Benito County Board of Supervisors

*Karen R. Forcum*  
11-22-04  
Karen R. Forcum, County Counsel

ATTEST: *John R. Hedges, Clerk of the Board*

By: *Linda Churchill*  
Linda Churchill, Senior Board Clerk

***Appendix E: Ventura County Open Space District Resolution***

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**VENTURA COUNTY BOARD OF SUPERVISORS  
REGIONAL OPEN SPACE DISTRICT FORMATION RESOLUTION**

Resolution No. 222

Dated: May 25, 2004

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA, CONCLUDING THE PUBLIC HEARING CALLING FOR AN ELECTION ON THE FORMATION OF THE VENTURA COUNTY REGIONAL OPEN SPACE DISTRICT AND THE ESTABLISHMENT OF AN ANNUAL APPROPRIATIONS LIMIT, ORDERING NOTICE OF ELECTION, ORDERING CONSOLIDATION OF THE ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2004, AND REFERRING THE MATTER TO THE LOCAL AGENCY FORMATION COMMISSION EXECUTIVE OFFICER PURSUANT TO PUBLIC RESOURCES CODE SECTION 5517.1.

WHEREAS, this Board did on April 27, 2004, direct the publication of a notice of a public hearing on May 25, 2004 regarding the adoption of a resolution for the formation of the Ventura County Regional Open Space District, and

WHEREAS, that public hearing has been correctly noticed and all persons present were allowed to hear and be heard, and

NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors hereby finds, declares, determines and orders as follows:

1. That the foregoing recitations are true and correct.
2. That the public hearing is concluded.
3. The name of the District shall be the Ventura County Regional Open Space District.
4. The reason for forming the District is to further the State policy on the preservation of open space expressed in Government Code Section 65562 and to implement the Resource and Land Use Sections of the Ventura County General Plan.
5. That a 5-member board of directors appointed by the Board of Supervisors shall govern the District. The City Selection Committee shall nominate three of the five directors from a list of ten nominees, one each from the ten cities. Each of the three selected nominees shall represent one of three geographic distribution areas as set forth in Attachment A. The Board of Supervisors shall nominate two of the five directors who will represent a countywide perspective.

Should the City Selection Committee fail to timely provide a list of nominees within 30 days after the date the regional district is formed, or within 30 days after a request by the Board of Supervisors, the Board of Supervisors shall appoint the three members, one from each of the geographic distribution areas set forth in Attachment A.

6. In accordance with PRC Section 5533.7(b), within 30 days after the date the regional district is formed, the Board of Supervisors shall appoint five persons to the board of directors of the District. Each appointed board member shall be a registered voter in the District and the terms of office of each member of the board of directors is four years, commencing at noon on the first Monday in January, except as provided below.

The persons appointed to the initial board of directors shall hold their first meeting not later than the first Monday that falls after 45 days after the date of formation of the District. At the first meeting of the board, the directors shall classify themselves by lot into two classes of members. The term of office of the first class with three members shall expire at noon on the first Monday in January that is closest to the fourth year after the appointments are made. The term of office of the class with two members shall expire at noon on the first Monday in January that is closest to the second year after the appointments are made.

7. In accordance with PRC Section 5533.7(c), the Board of Supervisors shall fill any vacancy in the office of the board of directors of the District. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.
8. The Board of Supervisors may remove from office any director for cause.
9. That the District shall not have, and shall not exercise, the power of eminent domain pursuant to Section 5542 of the Public Resources Code (PRC) or any other provision of law and will only purchase interests in real property from willing sellers.
10. That being included within the District will benefit all lands within the boundaries of the District.
11. It is proposed that the District will be financed primarily by a voter-approved one-quarter cent sales tax for a period not to exceed ten years. If received, the District will also be funded by gifts, donations and grants. The District may also be funded by other sources of revenue authorized by law.
12. The boundaries of the District shall be coterminous with the boundaries of the County of Ventura.
13. The annual appropriations limit for the proceeds of the tax levied by or for the District shall be established at \$75 million and the election for the establishment of this limit shall be combined on the ballot with the formation and funding measures, and said election is hereby called for November 2, 2004.
14. The District shall be authorized to issue bonds in accordance with Section 5568 of the Public Resources Code.
15. The Board of Supervisors shall appoint a 3-member Fiscal Oversight Committee within 120 days after the first meeting of the District's Board of Directors. The Committee shall include a representative from a civic organization and the remaining two members shall have expertise in accounting, financial or legal matters. Reasonable efforts will be made to have one appointee from each of the three geographic distribution areas, as set forth

in Attachment A. The Board of Supervisors shall fill any vacancy on the Committee within 60 days of the date the vacancy becomes effective.

16. The District's Board of Directors shall appoint a geographically balanced nine-member Technical Advisory Committee within 120 days after the first meeting of the District Board. The duties of the Committee shall be to advise and make recommendations to the District Board on real property transactions and other matters that the District Board or the General Manager may, from time to time, refer to the Committee for consideration.

The Committee shall consist of nine members with knowledge and experience in areas supportive of the mission of the Open Space District. Representation on the committee shall be as follows:

- a. Three members representing the District's agricultural community.
  - b. Three representatives with expertise in wildlife corridor, habitat or wetlands conservation or watershed management.
  - c. One representative with expertise in natural parklands and/or passive recreation.
  - d. One member representing the District's real estate or real estate appraisal industry.
  - e. One member representing the District's business community.
17. An election on the measure for formation of the District is hereby called to be held on November 2, 2004. The formation measure shall be combined on the ballot with the proposed sales tax funding measure set forth in paragraph 11. No District formation shall occur unless the combined formation and sales tax ballot measure receives at least two-thirds voter approval.
  18. The election is hereby ordered consolidated with the November 2, 2004 general election and the County Clerk is hereby authorized and directed to do all things required by law to conduct the election.
  19. The Board of Supervisors requests, in accordance with PRC Section 5506.12(a), that upon approval of this Resolution by the Ventura Local Agency Formation Commission (LAFCO), that the open space district formation measure be sent directly to the voters of Ventura County rather than conducting any separate protest proceedings.
  20. In accordance with PRC Section 5517, the Clerk shall cause a certified copy of this Resolution to be published once a week for three successive weeks prior to the date of the election in the Ventura County Star.
  21. In accordance with PRC 5517.1, the Clerk shall deliver a copy of this Resolution within five days of its adoption, by registered mail to the Executive Officer of the Ventura LAFCO for the preparation of an impartial analysis to be included with the sample ballot.
  22. That the formation of the District is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15313, 15316, 15317, 15325 and 15378(b)(4) of the CEQA Guidelines.

BE IT FURTHER RESOLVED, this Board waives the County Surveyor's mapping and legal description fees related to District formation and hereby requests that the Ventura LAFCO waives its \$7,000 application fee and the Ventura County Assessor's Office waives its \$2,400 map change fee.

Attachment A Map

Upon motion of Supervisor Flynn, seconded by Supervisor Bennett  
duly carried, the forgoing resolution is approved on this 25<sup>th</sup> day of May, 2004.

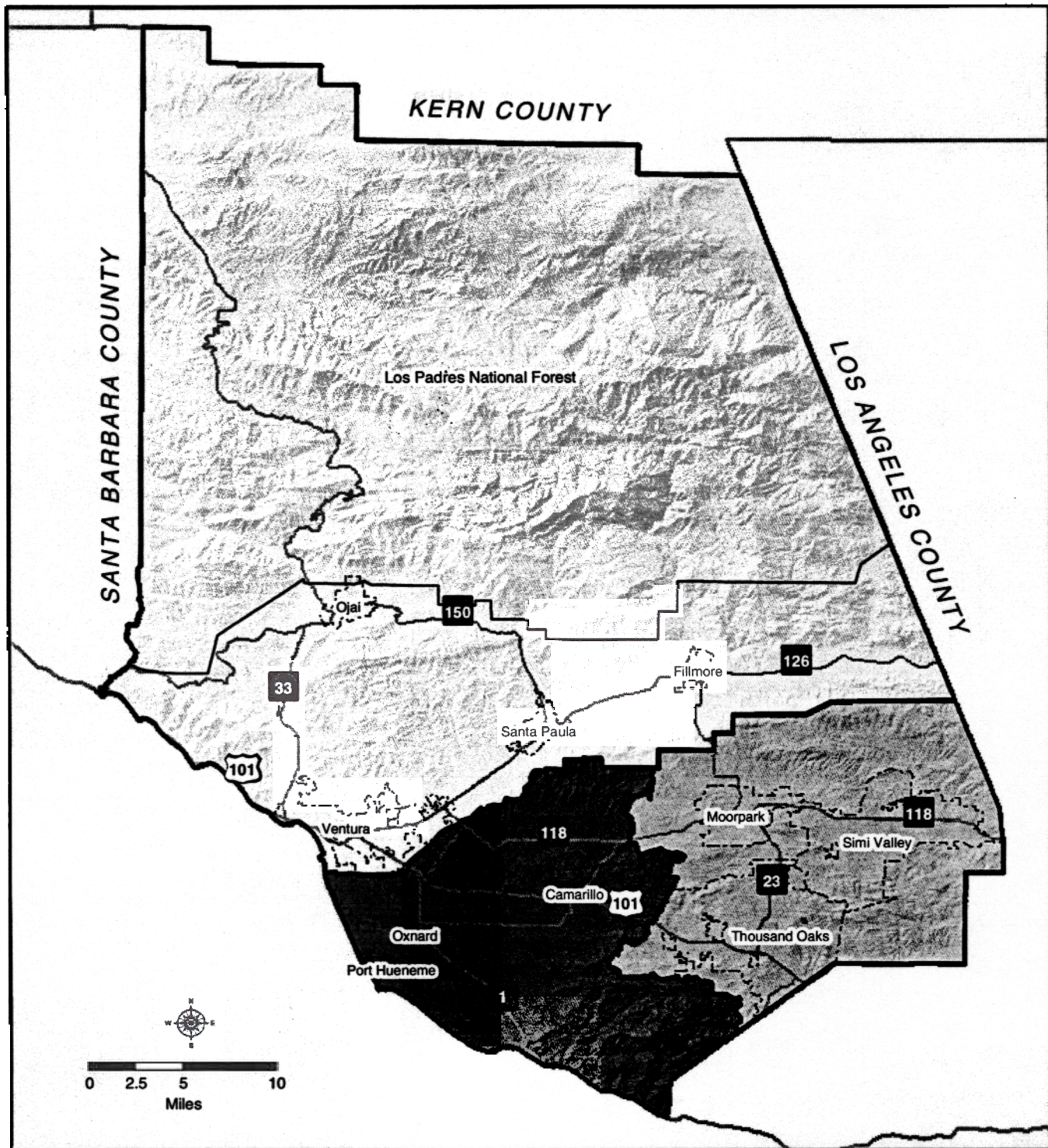


*S. Beatty*  
Chair, Board of Supervisors

ATTEST: JOHN F. JOHNSTON  
Clerk of the Board of Supervisors,  
County of Ventura, State of California

By: *C. Christina Valenzuela*  
Deputy Clerk of the Board

# ATTACHMENT A OPEN SPACE DISTRICT - GEOGRAPHIC DISTRIBUTION AREAS



## Geographic Distribution Areas

- North (Fillmore, Ojai, Santa Paula, Ventura)
- East (Moorpark, Simi Valley, Thousand Oaks)
- West (Camarillo, Oxnard, Port Hueneme)

Cities

National Forest Boundaries

Disclaimer: This map was created by the Ventura County Resource Management Agency, Planning Division, which is designed and operated solely for the convenience of the County and related public agencies. The County does not warrant the accuracy of this map and no decision involving a risk of economic loss or physical injury should be based on this map.

Ventura County Resource Management Agency  
Planning Division  
March 2003

