

FINAL
ENVIRONMENTAL IMPACT REPORT

**Murphy Ranch
Residential Project**

City of Milpitas

September 2007

PREFACE

This document, together with the DEIR, constitutes the Final Environmental Impact Report (FEIR) for the Murphy Ranch Residential Project. The DEIR was circulated to affected public agencies and interested parties for a 45-day review period from June 18 to August 2, 2007. This volume consists of comments received by the Lead Agency on the DEIR during the public review period, responses to those comments, and revisions to the text of the DEIR.

In conformance with the CEQA Guidelines, the FEIR provides objective information regarding the environmental consequences of the proposed project. The FEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FEIR is used by the City and other Responsible Agencies in making decisions regarding the project. The CEQA Guidelines require that, while the information in the FEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the DEIR by making written findings for each of those significant effects. According to the State Public Resources Code (Section 21081), no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effect on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

In accordance with City policy, the FEIR will be made available to the public for ten days prior to certification of the Environmental Impact Report.

**MURPHY RANCH RESIDENTIAL PROJECT
FINAL EIR**

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**I. LIST OF AGENCIES AND ORGANIZATIONS TO WHOM THE DRAFT EIR
WAS SENT**

Federal/State Agencies

- A. United States Army Corps of Engineers
- B. California Department of Fish and Game
- C. California Department of Toxic Substances Control
- D. California Department of Transportation
- E. California Department of Water Resources
- F. California Office of Planning and Research
- G. State Water Resources Control Board
- H. Air Resources Board

Regional Agencies

- I. Association of Bay Area Governments
- J. Bay Area Air Quality Management District
- K. Metropolitan Transportation Commission
- L. Regional Water Quality Control Board
- M. Santa Clara County Planning Department
- N. Santa Clara County Open Space District
- O. Santa Clara County Roads and Airports
- P. Santa Clara Valley Transportation Authority
- Q. Santa Clara Valley Water District

Local Agencies

- R. City of Santa Clara
- S. City of San José
- T. City of Fremont
- U. San José/Santa Clara Water Pollution Control Plant
- V. San Francisco Water Department

Organizations

- W. Environmental Resource Center, San José State University
- X. Milpitas Chamber of Commerce

Businesses and Individuals

- Y. Adams, Broadwell, Joseph, & Cardozo
- Z. Pacific, Gas & Electric

II. LIST OF COMMENTS LETTERS RECEIVED ON THE DRAFT EIR

State Agencies

- | | | |
|----|---|---------------|
| A. | Department of Toxic Substances Control | July 13, 2007 |
| B. | California Department of Transportation | July 31, 2007 |

Regional Agencies

- | | | |
|----|---|----------------|
| C. | California Regional Water Quality Control Board | July 26, 2007 |
| D. | Santa Clara Valley Water District | August 2, 2007 |

III. REVISIONS TO THE TEXT OF THE DRAFT EIR

No text revisions are proposed as part of this FEIR.

IV. RESPONSES TO COMMENTS RECEIVED ON THE DRAFT EIR

The following section includes all the comments on the DEIR that were received by the City in letters, emails, and phone calls during the advertised 45-day review period. The comments are organized under headings containing the source of the comment and the date submitted. The specific comments have been excerpted from the letters and are presented as "Comment" with the response directly following. Each of the letters submitted to the City of Milpitas is also contained in its entirety in Section V of this document.

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies. Section I of this document lists all of the recipients of the DEIR.

The four comment letters below are from public agencies. The CEQA Guidelines require that:

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation. [§15086(c)]

Regarding mitigation measures identified by commenting public agencies, the CEQA Guidelines state that:

Prior to the close of the public review period, a responsible agency or trustee agency which has identified what the agency considers to be significant environmental effects shall advise the lead agency of those effects. As to those effects relevant to its decisions, if any, on the project, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state. [§15086(d)]

None of the comment letters received from public agencies includes any performance objectives for mitigation measures.

A. RESPONSE TO COMMENTS FROM DEPARTMENT OF TOXIC SUBSTANCES CONTROL, JULY 13, 2007

Comment A1: Thank for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Murphy Ranch Residential Project (Project) SCH# 2007022106. The Project involved construction of up to 285 single-family dwelling units and 374 apartments on an approximately 22-acre property in the City of Milpitas.

As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project under the California Environmental Quality Act (CEQA) adequately addresses activities pertaining to releases of hazardous substances.

Appendix E of the Draft EIR include environmental assessment reports which determined that the site was historically used for agricultural purposes (on the basis of aerial photography). Testing for pesticides was recommended however it does not appear that was completed.

For each parcel included in the Project, DTSC strongly recommends an investigation into each property's current and historic uses, and site assessments should be completed to determine whether hazardous substances need to be addressed. Where concerns are identified, sampling should be conducted to determine whether there is an issue that will need to be addressed in the CEQA compliance document.

If hazardous substances are expected to be encountered, they will need to be addressed as part of this project. For example, if hazardous substances are expected to be encountered, the CEQA compliance document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should be there an accident at the Site.

Response A1: While the project site was not used as agricultural land for a significant period of time, the City recognizes that residual pesticides are a common issue in Santa Clara County. As a condition of approval, the City will require soil testing prior to issuance of grading permits. If pesticide contaminated soil is found above established Environmental Screening Thresholds for residential development, the City will require excavation and disposal of contaminated soil in accordance with applicable state and federal standards.



Department of Toxic Substances Control

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



Arnold Schwarzenegg
Governor

Linda S. Adams
Secretary for
Environmental Protection

July 13, 2007

Mr. Geoff I. Bradley
Department of Planning and Neighborhood Services
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, California 95035

RECEIVED

JUL 16 2007

STATE CLEARING HOUSE

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Dear Mr. Bradley:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Murphy Ranch Residential Project (Project) SCH# 2007022106. The Project involves construction of up to 285 single-family dwelling units and 374 apartments on an approximately 22-acre property in the City of Milpitas.

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Appendix E of the Draft EIR includes environmental assessment reports which determined that the site was historically used for agricultural purposes (on the basis of aerial photography). Testing for pesticides was recommended however it does not appear that was completed.

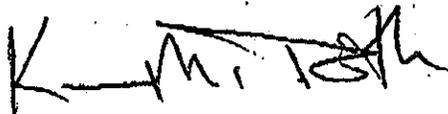
For each parcel included in the Project, DTSC strongly recommends an investigation into each property's current and historical uses, and site assessments should be completed to determine whether hazardous substances need to be addressed. Where concerns are identified, sampling should be conducted to determine whether there is an issue that will need to be addressed in the CEQA compliance document.

Mr. Geoff I. Bradley
July 13, 2007
Page 2

If hazardous substances are expected to be encountered, they will need to be addressed as part of this project. For example, if hazardous substances are expected to be encountered, the CEQA compliance document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should be there an accident at the Site.

If you have any questions or would like to schedule a meeting, please contact Tom Price of my staff at (510) 540-3811. Thank you in advance for your cooperation in this matter.

Sincerely,



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

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

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

B. RESPONSE TO COMMENTS FROM CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, JULY 26, 2007

Comment B1: Water Board staff has reviewed the Draft Environmental Impact Report (DEIR) for the proposed Murphy Ranch Project, located at the southwest corner of Technology Drive and Murphy Ranch Road in Milpitas. The project will consist of two parts: Murphy Ranch South with 285 single-family attached townhouses on 14.15 acres and Murphy Ranch North with 374 apartments on 7.58 acres. The project includes a clubhouse, pool, and five-story parking garage with roof level parking.

The project will create approximately 15.45 acres of impervious surfaces on an undeveloped 22 acre parcel of land; therefore, the project is subject to the New and Redevelopment Requirements (provisions C.3.) in Milpitas's municipal stormwater permit. Provision C.3. requires that new and redevelopment projects treat stormwater runoff to remove pollutants to the maximum extent practicable (MEP).

The Murphy Ranch Project proposes to install vegetated swales to treat some of the stormwater runoff (Drainage Areas F-H) and hydrodynamic devices (CDS Model PMSU20) to treat the rest of the runoff from the site (Drainage Areas A-E). Oil/water separators will be installed to treat runoff from the parking garage.

We have the following concerns:

I. Although hydrodynamic devices are good at removing coarse pollutants/sediment such as trash and debris, they do not remove the fine sediments, metals, soluble pollutants, or total petroleum hydrocarbons. As such, Water Board staff considers hydrodynamic separators installed alone (i.e., not enhanced with replaceable filters nor installed as part of a treatment train) inadequate for meeting the MEP criteria. Therefore, the proposed treatment measures do not meet the requirements of Provision C.3. The stormwater control plan for this project must be revised to provide stormwater treatment measures that meet MEP.

Response B1: The hydrodynamic devices proposed as part of the stormwater treatment plan will be CDS units or another comparable unit and will contain replaceable media filter cartridges. As stated on Page 33 of the DEIR, these systems will be monitored regularly by the City of Milpitas through the City's Operation & Management agreement for maintenance and performance of post-construction treatment measures. The O&M agreement will ensure that the proposed systems will remain operational and meet the requirements of Provision C.3 of the NPDES permit.

Comment B2: 2. It is unclear from the DEIR whether stormwater runoff from the parking garage (interior and exterior levels) will flow to the storm or sanitary sewer. In accordance with State and federal regulations, any discharge from the interior levels of the garage must flow to the sanitary sewer. Additionally, we recommend that the one exterior level of the parking garage also be connected to the sanitary sewer since the rest of the garage will be connected anyway. The stormwater control plan for this project must be revised to reflect the proper connection of the parking garage to the sanitary sewer.

Response B2: All levels of the parking structure will be treated by an oil-grease separator which will be connected to the sanitary sewer system as required by State and federal regulations.

Shannon George

From: Geoff Bradley [geoff@mplanninggroup.com]
Sent: Tuesday, July 31, 2007 11:19 AM
To: Sue Ma
Cc: Shannon George
Subject: Re: Concerns Regarding Murphy Ranch Residential Project @ Technology Dr & Murphy Ranch Rd

Thank you for your comments Sue. I am forwarding these to the environmental consultant that is preparing the EIR.

Thanks,
Geoff I. Bradley
metropolitan planning group, inc.
400 west evelyn avenue
sunnyvale california 94086

p 408 730 4106
f 408 730 5186
c 408 603 0072

www.mplanninggroup.com

----- Original Message -----

From: Sue Ma <SMa@waterboards.ca.gov>
To: bkaderi@ci.milpitas.ca.gov; gbradley@ci.milpitas.ca.gov; geoff@mplanninggroup.com
Cc: kphalen@ci.milpitas.ca.gov; mnickel@ci.milpitas.ca.gov; puppal@ci.milpitas.ca.gov; Brian Wines <BWines@waterboards.ca.gov>; Dale Bowyer <DBowyer@waterboards.ca.gov>
Sent: Thursday, July 26, 2007 11:29:24 AM
Subject: Concerns Regarding Murphy Ranch Residential Project @ Technology Dr & Murphy Ranch Rd

Hi Geoff,

Water Board staff has reviewed the Draft Environmental Impact Report (DEIR) for the proposed Murphy Ranch Project, located at the southwest corner of Technology Drive and Murphy Ranch Road in Milpitas. The project will consist of two parts: Murphy Ranch South with 285 single-family attached townhomes on 14.15 acres and Murphy Ranch North with 374 apartments on 7.58 acres. The project includes a clubhouse, pool, and five-story parking garage with roof level parking.

The project will create approximately 15.45 acres of impervious surfaces on an undeveloped 22 acre parcel of land; therefore, the project is subject to the New and Redevelopment Requirements (Provision C.3.) in Milpitas's municipal stormwater permit. Provision C.3. requires that new and redevelopment projects treat stormwater runoff to remove pollutants to the maximum extent practicable (MEP).

The Murphy Ranch Project proposes to install vegetated swales to treat some of the stormwater runoff (Drainage Areas F-H) and hydrodynamic devices (CDS Model PMSU20) to treat the rest of the runoff

from the site (Drainage Areas A-E). Oil/water separators will be installed to treat runoff from the parking garage.

We have the following concerns:

1. Although hydrodynamic devices are good at removing coarse pollutants/sediment such as trash and debris, they do not remove the fine sediments, metals, soluble pollutants, or total petroleum hydrocarbons. As such, Water Board staff considers hydrodynamic separators installed alone (i.e., not enhanced with replaceable filters nor installed as part of a treatment train) inadequate for meeting the MEP criteria. Therefore, the proposed treatment measures do not meet the requirements of Provision C.3. The stormwater control plan for this project must be revised to provide stormwater treatment measures that meet MEP.
2. It is unclear from the DEIR whether stormwater runoff from the parking garage (interior and exterior levels) will flow to the storm or sanitary sewer. In accordance with State and federal regulations, any discharge from the interior levels of the garage must flow to the sanitary sewer. Additionally, we recommend that the one exterior level of the parking garage also be connected to the sanitary sewer since the rest of garage will be connected anyway. The stormwater control plan for this project must be revised to reflect the proper connection of the parking garage to the sanitary sewer.

Please call or email me if you have any questions.

Sue Ma
Water Resources Control Engineer
1515 Clay Street, Suite 1400
Oakland, CA 94612
510-622-2386
FAX 510-622-2460
SMa@waterboards.ca.gov

**C. RESPONSE TO COMMENTS FROM CALIFORNIA DEPARTMENT OF
TRANSPORTATION, JULY 31, 2007**

Comment C1: The department was unable to complete the review of the environmental document as the traffic output sheets and results were not included in the Transportation Impact Analysis. Please submit these for our review and comment.

Response C1: The requested information has been sent to the California Department of Transportation for review.

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5505
FAX (510) 236-5559
TTY (800) 735-2929



*Flex your power!
Be energy efficient!*

July 31, 2007

SCL237158
SCL-237-7.99
SCH2007022106

Mr. Geoff I. Bradley
City of Milpitas
4567 E. Calaveras Boulevard
Milpitas, CA 95035

Dear Mr. Bradley:

Murphy Ranch Residential Project -- Draft Environmental Impact Report (DEIR)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed project. The following comments are based on our review of the DEIR.

Highway Operations

The Department is unable to complete the review of the environmental document as the traffic output sheets and results were not included in the Transportation Impact Analysis. Please submit these for our review and comment.

Should you have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-55353.

Sincerely,

A handwritten signature in black ink that reads "Timothy C. Sable".

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Scott Morgan (State Clearinghouse)

D. RESPONSE TO COMMENTS FROM SANTA CLARA VALLEY WATER DISTRICT, AUGUST 2, 2007

Comment D1: The Santa Clara Valley Water District (District) has reviewed the DEIR for the subject project, received on June 19, 2007.

District comments remain the same as in our comment letter dated May 29, 2007, enclosed.

The DEIR does not discuss the proposed ramp to access the levee top. If this proposal is still valid, it should be included in the DEIR and the District should be identified as a responsible agency under CEQA so that this document can be relied on for the District's discretionary action to permit this ramp on District property.

Response D1: An access ramp to the top of the adjacent levee is not proposed as part of the Murphy Ranch housing project.

Comment D2: A permit from the Army Corp of Engineers (Corps) will be required for any work on the levee.

Response D2: The project, as proposed, would not include or result in any work on the levee.

Comment D3: In addition, the document should address cumulative impacts on wildlife as a result of the project and others in the region, more specifically the cumulative loss of raptor foraging areas and cumulative loss of burrowing owls foraging and potential nesting sites.

Response D3: As stated on Page 38 of the DEIR, the project site is only one of several sites in the project area that is available to raptors for foraging. No other foraging sites within the project area are currently slated for development and no modifications to the riparian corridor are proposed. As such, there is no cumulative loss of foraging land for raptors in the project area.

Five other projects were identified as reasonably foreseeable development projects (see Page 98, Table 20 of the DEIR) which, combined with the proposed project, may have the potential for cumulative impacts. Of the five project sites identified, only one site (South Main/Abel) was undeveloped and had any potential for on-site foraging by raptors. The South Main/Abel site is not, however, within close proximity to the project site, has only one tree on-site and no other vegetation, and is not in close proximity to any local waterway with raptor nesting habitat. As such, the development of this site, in combination with the proposed project site, would not result in a cumulative loss of raptor foraging habitat.

As stated on Page 39 of the DEIR, the loss of Burrowing Owl habitat on the project site was previously mitigated by the purchase of 26 mitigation credits at the Agua Fria Conservation Bank in Merced County through a mitigation agreement with the California Department of Fish and Game (Mitigation Agreement CDFG #1802-2001-011-3). With the implementation of this mitigation agreement, the project site was no longer considered Burrowing Owl habitat within Santa Clara County. Therefore, development of the project site will not result in a cumulative loss of Burrowing Owl habitat.

Comment D4: A reconnaissance survey for burrowing owls is not sufficient to “determine if burrowing owls occupy the project site.” In order to determine if burrowing owls occupy the site, the protocol for burrowing owl surveys is provided by the California Department of Fish and Game (CDFG) in the CDFG Staff Report on Burrowing Owl Mitigation, October 1995. The DEIR calls for one survey 14 days prior to construction. The District requests and recommends that the project site be surveyed in accordance with the CDFG protocol to determine the status of burrowing owls on the site.

Response D4: No Burrowing Owls have been documented on the project site since 2001. In addition, the site is disked regularly and it is unlikely that owls would take up residence on the site. While it is highly unlikely that owls would occupy the site under the existing conditions, there is a small chance that owls could occupy the site. Therefore, the DEIR identified the loss of individual owls as a significant impact. To avoid the loss of individual owls, pre-construction surveys will be completed in accordance with CDFG protocols to identify any owls on-site. If owls are found, they will be evicted (if construction occurs outside the breeding season) or a protection area will be established around any active nest (if construction occurs within the breeding season) in accordance with CDFG requirements. This is standard mitigation approved by the CDFG to address the loss of individual owls and will reduce the impact to individual owls to a less than significant level.

Comment D5: Section 4.11.2.2, Water Impacts, page 89 notes that the project would result in a net shortfall of 169 acre feet per year from current use to the proposed project, and that the City of Milpitas (City) and the District have determined that there is sufficient water supply available. According to Appendix J, the Water Supply Assessment (WSA) for the project, District staff commented on the draft WSA that the WSA assumed that the shortfall of 169 acre-feet per year would be supplied by the District, although there were no funds secured to meet this shortfall. The Final WSA notes the concerns of the District, but notes that as the primary water wholesaler to the County, the District is committed to ensure that the water supply is reliable to meet current and future demands. The City also notes that funding must be secured to meet the demands for long-term water supply for the project. It is not clear from the WSA that the City and the District have adequately determined that there will be sufficient water supply for the proposed project.

Response D5: The conclusion of the WSA (Page 9 of Appendix J) for the proposed project states the following:

“This evaluation is based on projections from the City of Milpitas 2005 Urban Water Management Plan, City of Milpitas 2002 Water Master Plan and the Santa Clara Valley Water District’s 2005 Urban Water Management Plan. Based upon evaluation results, the staff of the Utility Engineering Section of the City of Milpitas has determined that there is sufficient water supply to provide service to the Murphy Ranch Residential development project.”

Based on the above statement, the City concluded that there will be sufficient water supply for the proposed project.

The draft WSA was reviewed by the SCVWD for accuracy and all comments on the draft assessment were incorporated into the final WSA approved by the City of Milpitas

Planning Commission on March 26, 2006. Because the SCVWD reviewed the draft document and all comments were incorporated, the final WSA appears to represent the expert opinions of both the City of Milpitas and the SCVWD.

Comment D6: A Phase I prepared in 2000 by LawGibb Group is noted on page 7 of the Phase I prepared by PES Environmental, Inc. (PES) under Appendix E. The 2000 Phase I noted that the presence of a marshy area in the northwest portion of the site near some pumping equipment. The site visit conducted by PES did not confirm a marshy area during the summer, but PES recommended further investigation to determine if the marshy area was seasonal. A seasonal marshy area could adversely impact storm water drainage from the site. If additional investigation was conducted at the site, it was not included in the DEIR.

Response D6: It is not specifically stated in the Phase I report or in the SCVWD comment letter how the marsh area could adversely impact storm water drainage from the site. The proposed site plan on Page 7 of the DEIR shows the northwest corner of the project site to be developed with a 20-foot fire lane and other hardscape. In addition, the project site will be constructed in accordance with design-level geotechnical investigations that will need to be approved by the City prior to issuance of building permits. As such, any drainage issues in the northwest corner of the site will be sufficiently alleviated through the development review process and the design of the proposed project.

Comment D7: The DEIR should be revised to identify and mitigate hydromodification impacts. A Hydromodification Management Plan (HMP) must be implemented in compliance with the Santa Clara Valley Urban Runoff Pollution Prevention Program's (SCVURPPP) National Pollutant Discharge Elimination System (NPDES) permit, including the October 2001 RWQCB Order 01-119 amending the Program's C.3 permit provisions regarding new development and redevelopment requirements. In particular, per C.3 provisions the project shall be required to treat its stormwater and shall not increase stormwater runoff rates or duration when such increases will result in an increased potential for erosion or other adverse impacts to beneficial uses.

Comment D7: As discussed on Page 33 and in Appendix B of the DEIR, the project has proposed a Stormwater Treatment Plan to comply with the City of Milpitas Stormwater C.3. requirements and the SWRCB NPDES permit. The treatment plan includes 1) landscape infiltration areas which not only allow percolation of stormwater (thereby reducing the amount of water entering the storm drainage system), but filter out pollutants and slow the flow of water; 2) landscape swales which also filter out pollutants and slow the flow of water; 3) mechanical stormwater treatment systems (to be installed in the on-site stormwater drainage lines) that filter out pollutants and slow the flow of water; and 4) oil-grease separators in the parking structure. With all of these treatment systems in place, the City believes that the project will comply with the SCVURPPP NPDES permit.

Copy of Letter D

File: 22210
Coyote Creek

August 2, 2007

Mr. Geoff Bradley
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

Subject: Draft Environmental Impact Report (DEIR) for Murphy Ranch Residential Project

Dear Mr. Bradley:

The Santa Clara Valley Water District (District) has reviewed the DEIR for the subject project, received on June 19, 2007.

District comments remain the same as in our comment letter dated May 29, 2007, enclosed.

The DEIR does not discuss the proposed ramp to access the levee top. If this proposal is still valid, it should be included in the DEIR and the District should be identified as a responsible agency under CEQA so that this document can be relied on for the District's discretionary action to permit this ramp on District property.

A permit from the Army Corps of Engineers (Corps) will be required for any work on the levee.

In addition, the document should address cumulative impacts on wildlife as a result of the project and others in the region, more specifically the cumulative loss of raptor foraging areas and cumulative loss of burrowing owls foraging and potential nesting sites.

A reconnaissance survey for burrowing owls is not sufficient to "determine if burrowing owls occupy the project site." In order to determine if burrowing owls occupy a site, the protocol for burrowing owl surveys is provided by the California Department of Fish and Game (CDFG) in the CDFG Staff Report on Burrowing Owl Mitigation, October 1995. The DEIR calls for one survey 14 days prior to construction. The District requests and recommends that the project site be surveyed in accordance with the CDFG protocol to determine the status of burrowing owls on the site.

Section 4.11.2.2, Water Impacts, page 89 notes that the project would result in a net shortfall of 169 acre feet per year from current use to the proposed project, and that the City of Milpitas (City) and the District have determined that there is sufficient water supply available. According to Appendix J, the Water Supply Assessment (WSA) for the project, District staff commented on the draft WSA that the WSA assumed that the shortfall of 169 acre-feet per year

Mr. Geoff Bradley
Page 2
July 31, 2007

would be supplied by the District, although there were no funds secured to meet this shortfall. The final WSA notes the concerns of the District, but notes that as the primary water wholesaler to the County, the District is committed to ensure that the water supply is reliable to meet current and future demands. The City also notes that funding must be secured to meet the demands for long-term water supply for the project. It is not clear from the WSA that the City and the District have adequately determined that there will be sufficient water supply for the proposed project.

A Phase I prepared in 2000 by LawGibb Group is noted on page 7 of the Phase I prepared by PES Environmental, Inc. (PES) under Appendix E. The 2000 Phase I noted that the presence of a marshy area in the northwest portion of the site near some pumping equipment. The site visit conducted by PES did not confirm a marshy area during the summer, but PES recommended further investigation to determine if the marshy area was seasonal. A seasonal marshy area could adversely impact storm water drainage from the site. If additional investigation was conducted at the site, it was not included in the DEIR.

The DEIR should be revised to identify and mitigate hydromodification impacts. A Hydromodification Management Plan (HMP) must be implemented in compliance with the Santa Clara Valley Urban Runoff Pollution Prevention Program's (SCVURPPP) National Pollutant Discharge Elimination System (NPDES) permit, including the October 2001 RWQCB Order 01-119 amending the Program's C.3 permit provisions regarding new development and redevelopment requirements. In particular, per C.3 provisions the project shall be required to treat its stormwater and shall not increase stormwater runoff rates or durations when such increases will result in an increased potential for erosion or other adverse impacts to beneficial uses.

Please address the aforementioned issues, and reference File No. 22210 on further correspondence regarding the project.

Should you have any questions, please give me a call at (408) 265-2607, extension 2494 or email me at THipol@valleywater.org.

Sincerely,



Theodore Hipol
Assistant Engineer
Community Projects Review Unit

Enclosures: Letter Dated May 29, 2007

cc: S. Tippets, T. Hipol, N. Merrill, J. Castillo, E. Fostersmith, H. Barrientos, R. Narsim, L. Spahr, M. Klemencic, S. Katric, D. Duran, File (2)

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T. Hipol

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AN EQUAL OPPORTUNITY EMPLOYER

File: 22210
Coyote Creek

May 29, 2007

Ms. Kristine Lowe
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035-5411

Subject: Site Development Plans for Murphy Ranch in Milpitas

Dear Ms. Lowe:

The Santa Clara Valley Water District (District) has reviewed the site plans for the subject project.

At the southwest corner of the site, a proposed trail access along a ramp is shown connecting to the existing trail on the District's Coyote Creek levee. We will need to see details for the construction of this access before any approval of work upon District lands. We suggest that a preliminary design be prepared for this ramp to ascertain if the ramp can be constructed in the footprint shown. Additional fill is needed on the levee slope to support the ramp. No portion of the ramp or stair foundation may cross the plane of the existing levee slope. We have found that additional land outside the District's property is typically needed to accommodate the fill for this type of ramp. A geotechnical analysis of the impacts of the fill on the levee will be required.

After the District has reviewed plans for the proposed ramp, we will refer them to the Army Corps of Engineers for review. Additional time of approximately 4 weeks should be considered in project time lines for this review.

We are also interested in reviewing the overall plan for the trail system with respect to similar trail connections from developments to the levee trail. The number of ramp structures needs to be minimized and should be placed in accordance with a master plan for the trail.

Please also identify the entity responsible for maintenance of this proposed access ramp.

For developed portions of the site, storm water runoff should be collected and distributed to the city's storm drain system. The preliminary grading and drainage plans show proposed drainage to an existing outfall at the Bellew Pump Station located adjacent to the northwest corner of the site. Please verify if the drainage from the site was included in the design flow of the Bellew pump station. Plans show the adjacent access roads will be sloped toward the levee toe and that storm drains will be installed along this toe. To minimize potential risk to the levee

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associated with drainage features at the toe, we urge placement of the storm drain catch points on the east side of the road and sloping of the road toward the east.

To prevent pollutants from construction activity, including sediments, from reaching Coyote Creek, please follow the Santa Clara Urban Runoff Pollution Prevention Program's recommended Best Management Practices for construction activities, as contained in "Blueprint for a Clean Bay," and the "California Storm Water Best Management Practice Handbook for Construction."

Postconstruction water quality mitigation needs to be implemented. The design of the project area should incorporate water quality mitigation measures such as those found in the "Start at the Source-Design Guidance Manual for Stormwater Quality Protection," prepared for the Bay Area Stormwater Management Agencies Association.

For sites greater than one acre, the developer must file a Notice of Intent to comply with the State's National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity with the State Water Resources Control Board.

Regarding the landscape conceptual drawings, comments are as follows:

General Comments

The District installed, maintains and monitors acres of young riparian habitat mitigation on Coyote Creek both upstream and downstream of the project site as mandated by state and federal resource agencies. Selection of the project landscape palette should be done with extra sensitivity such that no deleterious impacts to the existing or newly planted riparian forest result.

The District collaborated with Ima Design this year on a project in Milpitas where the District provided pertinent landscape guidance documents excerpted from the 'Guidelines and Standards for Land Use Near Streams'. These same design concepts should be incorporated into the Murphy Ranch project. For specific plant questions, please consult Chapter 4, Design Guides 1-5, at minimum, and feel free to contact Linda Spahr at 408-265-2607, extensio 2752.

website:

http://www.valleywater.org/Water/Watersheds_streams_and_floods/Taking_care_of_streams/Guidelines_&_standards/Guidelines_&_Standards.shtm

Specific Comments

Sheet L-003, L-100, and L-101:

These sheets show proposed shrubs and trees located adjacent to the existing levee.

In accordance with the District's levee practice, which adheres to the U.S. Army Corps of Engineers' (Corps) 'Guidelines for Landscape Planting and Vegetation Management at Floodwalls, Levees, and Embankment Dams', plantings other than grass should be located away from the toe of the levee and should not be located within the "vegetation and root-free zone". This vegetation free zone is indicated as 15 feet wide.

Sheet L-103:

To prevent light impingement into the riparian forest, permittee should confirm that light from the project will not adversely enter the riparian corridor at night.

Sheets L-100 and L-200. Landscape Concept Plan for Town Homes [L-100] and Apartments [L-200]:

Local Native-

Heritage *Platanus racemosa*, CA sycamore, exists just inside the levee adjacent to the project. To protect the integrity of the local genotype, any CA sycamore used on the project should be local natives, i.e. must be grown from seed collected on Coyote Creek from as close to the project site as possible and at approximately the same elevation. This requires 1 year lead time to grow out a 1-gallon container tree. There are no 24-inch box local CA sycamores available from commercial nurseries. Since they are quick growers, it may take only 3-4 yrs to grow out a 24-inch box specimen from seed. Seed is not produced every year, however. Alternatively, substitution with a drought-tolerant, non-invasive species which will not cross-pollinate the local riparian natives and which is commercially available may be easier. Please propose a substitute if you choose.

Invasive Plants-

- Koeleria* is known to be vectored by birds and to self-sow in the wild. We recommend a substitute.
- Celtis reticulata* and *Wisteria sinensis* have a potential to be invasive. We recommend a substitute.

Ecologically Incompatible Plants-

Two types of native oaks exist along Coyote Creek near the project site. Oaks readily hybridize between species, so we recommend not introducing the non-native red oak into the area. It is desirable to prevent the acorns from being vectored by birds across the levee where they can become an invasive tree in the riparian forest. We recommend a substitute.

District records show two wells on the site. In accordance with the District Ordinance 90-1, the owner should show any existing well(s) on the plans. The well(s) should be properly maintained or destroyed in accordance with the District's standards. Property owners or their representatives should call the Wells and Water Production Unit at (408) 265-2607, extension 2660, for more information regarding well permits and registration or destruction of any wells.

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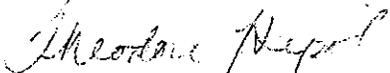
In accordance with District Ordinance 06-1, revised plans for construction on District property should be sent to us for review and issuance of a permit

Please submit two sets of revised plans (one large set, one reduced set), when available, for our review and issuance of a permit.

Please reference File No. 22210 on further correspondence regarding the project.

Should you have any questions, please give me a call at (408) 265-2607, extension 2494 or email me at THipol@valleywater.org.

Sincerely,



Theodore Hipol
Assistant Engineer
Community Projects Review Unit

cc: Mr. Jason Neri
Carlson, Barbee & Gibson, Inc.
6111 Bollinger Canyon Road, Suite 150
San Ramon, CA 94583

S. Tippets, T. Hipol, L. Spahr, S. Katric, J. Castillo, M. Klemencic, D. Duran, File (2)

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MITIGATION MONITORING AND REPORTING PROGRAM

MURPHY RANCH RESIDENTIAL PROJECT

SCH No. 2007022106

City of Milpitas, California

October 2007

PREFACE

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the Mitigation Monitoring and Reporting Program is to ensure compliance with the mitigation measures during project implementation.

The Environmental Impact Report for the proposed Murphy Ranch Residential Project concluded that the implementation of the project could result in significant effects on the environment; therefore, mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program outlines these measures and how, when, and by whom they will be implemented.

**MITIGATION MONITORING AND REPORTING PROGRAM
VALLEY FAIR SHOPPING CENTER EXPANSION PROJECT VARIANCE APPLICATION & ARCHITECTURAL APPROVAL**

Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
HYDROLOGY				
Implementation of the project would result in an increase in the amount of stormwater runoff compared to existing conditions which will contribute to an existing deficiency in the capacity of the existing storm drainage system. [Significant Impact]	A 42-inch storm drain bypass line will be installed parallel to the existing 72-inch storm drain line pursuant to the City Stormdrain Master Plan to provide adequate capacity to convey stormwater runoff from the project site to the pump station.	Prior to issuance of occupancy permits, the project applicant will be required to install the new bypass line.	Upon completion of installation, the bypass line will be inspected by the building inspector to ensure that the line complies with City code.	Director of Public Works.
Construction activities will result in increased erosion which could cause the degradation of water quality within Coyote Creek and San Francisco Bay. [Significant Impact]	The following measures, based on RWQCB Best Management Practices, have been included in the project to reduce construction-related water quality impacts: <ul style="list-style-type: none"> • Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains. • Earthmoving or other dust-producing activities shall be suspended during periods of high winds. • All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary. • Stockpiles of soil or other materials that can be blown by the wind would be watered or covered. • All trucks hauling soil, sand, and other loose material would be covered and all trucks would be required to maintain at least two feet of freeboard. • All paved access roads, parking areas, staging areas, and residential 	During all phases of project construction, the project applicant shall ensure these measures are implemented to mitigate construction-related water quality impacts).	All measures shall be printed on all construction documents, contracts, and project plans. Prior to the issuance of a grading permit, the applicant shall provide a SWPPP to the Department of Public Works. All measures shall	Senior Building Inspector, Building Department.

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	<p>streets adjacent to the construction site would be swept daily (with water sweepers).</p> <ul style="list-style-type: none"> • Vegetation in disturbed areas would be replanted as quickly as possible. • All unpaved entrances to the site would be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City. • A Storm Water Permit will be administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses, the project proponent will file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB mitigation. • The project proponent will submit a copy of the draft SWPPP to the City of Milpitas for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions. 		<p>be printed on all construction documents, contracts, and project plans.</p>	
VEGETATION AND WILDLIFE				
<p>Construction activities could result in the abandonment of active raptor nests. [Significant Impact]</p>	<p>The following mitigation measures will be implemented during construction to avoid abandonment of raptor nests:</p> <ul style="list-style-type: none"> • Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay Area extends from February through August. • If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through 	<p>Prior to the start of construction, the project applicant shall retain a qualified ornithologist to complete the mitigation and avoidance measures. A pre-construction survey for active nesting raptor nests</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>A report prepared by a qualified ornithologist documenting the</p>	<p>Director of Planning and Neighborhood Services</p>

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	<p>April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with California Department of Fish and Game, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.</p>	<p>shall be done no more than 30 days prior to ground disturbance</p>	<p>results to the survey and any designated buffer zones shall be submitted to the Director of Planning and Neighborhood Services prior to the issuance of any grading or building permit.</p>	
<p>Implementation of the proposed project could result in a take of Burrowing Owls. [Significant Impact]</p>	<p>The following measures will be implemented during construction to avoid take of Burrowing Owls:</p> <ul style="list-style-type: none"> • No Burrowing Owls would be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted as a means to avoid take, pending evaluation of eviction plans and receipt of formal written approval from the California Department of Fish and Game (CDFG) authorizing the eviction. • A protected area 250 feet in radius, within which no activity will be permissible, will be maintained between project activities and nesting burrowing owls or individual resident owls. This protected area will remain in effect between February 1 and August 31, or at the CDFG discretion and based upon monitoring evidence, until any young owls are foraging independently. In the non-nesting season, a protected area 50 meters (165 feet) in radius, within which no new construction activity will be permissible, will be maintained between project activities and burrows occupied by Burrowing Owls. Any development within these protected areas would be approved beforehand by the CDFG. 	<p>Prior to the start of construction, the project applicant shall retain a qualified ornithologist to complete a pre-construction survey for active nesting Burrowing Owls in accordance with CDFG protocol.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>A report prepared by a qualified ornithologist documenting the results to the survey and any designated buffer zones shall be submitted to the Director of Planning and Neighborhood</p>	<p>Director of Planning and Neighborhood Services</p>

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			Services prior to the issuance of any grading permits.	
TRANSPORTATION				
Implementation of the proposed project would have a significant impact on the intersection of McCarthy Blvd/Tasman Drive by causing the intersection to fall from LOS D to LOS E during the AM Peak Hour. [Significant Impact]	The southbound lanes of McCarthy Boulevard will be restriped, to the satisfaction of the City’s Director of Public Works. The existing configuration is two left-turn lanes, one through lane, and one shared right/through lane. The shared right/through lane would be changed to a designated right-turn only lane, allowing the intersection to operate at LOS D in the AM Peak Hour and LOS C in the PM Peak Hour. An overlap phase for the southbound right turn movement would also be included at the McCarthy Boulevard/Tasman Drive intersection.	Prior to issuance of occupancy permits, the project applicant will be required to restripe the southbound lanes of McCarthy Boulevard to provide for a designated right-turn only lane.	Upon completion of the roadway restriping, the roadway will be inspected by the Public Works Department.	Director of Public Works.
AIR QUALITY				
Implementation of the proposed project would result in sensitive receptors being exposed to toxic air contaminants due to the project’s proximity to an existing pump station. [Significant Impact]	Prior to issuance of occupancy permits the pump station diesel engines will be upgraded to electric engines with backup emergency generators by the applicant, or at the City’s option retrofitted, to meet the ATCM 2009 requirements for diesel emissions. The City of Milpitas staff will review and approve the retrofit of the existing engines or the purchase and installation of the new engines.	Prior to issuance of occupancy permits, the pump station diesel engines will be replaced or retrofitted by the project applicant.	Upon completion of the pump station upgrade, the pump station will be inspected by the Public Works Department.	Director of Public Works.

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>Construction of the proposed project would result in short-term air quality impacts associated with dust generation. [Significant Impact]</p>	<p>The following dust control measures will be implemented during all construction phases:</p> <ul style="list-style-type: none"> • Water all active construction areas at least twice daily and more often during windy periods. • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites. • Sweep daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets. • Hydroseed or apply non-toxic soil stabilizers to inactive construction areas. • Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) • Limit traffic speeds on unpaved roads to 15 mph. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways. • Replant vegetation in disturbed areas as quickly as possible. 	<p>During all phases of project construction, the project applicant shall ensure these measures are implemented (to mitigate construction-related air quality impacts).</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>