



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

March 16, 2011

Ms. Cori Mustin
Senior Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Sacramento Field Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Subject: Draft Environmental Impact Report and Environmental Impact Statement for
the Santa Clara Valley Habitat Plan, Santa Clara County, California (CEQ#
20100462)

Dear Ms. Mustin:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Santa Clara Valley Habitat Plan (Habitat Plan or HCP) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The EPA appreciates the efforts of the U.S. Fish and Wildlife Service (FWS or the Service) and its Local Partners (county of Santa Clara; cities of San Jose, Morgan Hill, and Gilroy; Santa Clara Valley Water district; Santa Clara Valley Transportation Authority) to develop a Habitat Plan to avoid, minimize, and mitigate take of 23 species (Covered Species) and their habitats within 519,506 acres of Santa Clara County, California (Covered Area). We recognize the importance of a coordinated approach to protecting and preserving the Covered Species and their habitats from Habitat Plan activities (Covered Activities) over the 50-year permit term.

Based on our review of the DEIS, we have rated the proposed project and the document LO-1, Lack of Objections – Adequate (see enclosed EPA Rating Definitions). EPA commends the FWS for the comprehensive climate change analyses included in the HCP. EPA has long recommended in our comment letters to FWS regarding NEPA documents (including those for San Diego County Water Authority and Stanford University, the most recent HCP DEISs submitted for public review) that the Service include a section devoted to examining how climate change may affect the Covered Species and their habitats. The Santa Clara Valley HCP DEIS is the first to address climate change in its “changed circumstances” section. This section, along with Appendix F in the HCP (“Climate Change and the Santa Clara Valley Habitat Plan”),

represents one of the most detailed assessments of potential climate change effects our office has reviewed.

We recommend that the Final Environmental Impact Statement (FEIS) provide additional information on the potential interface between the HCP and Section 404 of the Clean Water Act (CWA). Page 1-29 of the HCP states that although “the Plan will not provide permits under Section 404 of the Clean Water Act for impacts on wetlands or other waters from covered activities, 404 permitting is expected to be streamlined substantially as a result of the Plan.” The FEIS should describe this streamlined process, including how jurisdictional wetlands will be identified over the permit term, and how FWS and the Local Partners will coordinate with the U.S. Army Corps of Engineers to ensure that any development covered by the HCP complies with the permit requirements of Section 404 of the CWA.

We appreciate the opportunity to review this DEIS, and are available to discuss our comments. When the FEIS is released for public review, please send one hard copy and one CD-ROM to the address above (Mail Code: CED-2). If you have any questions, please contact me at 415-972-3521, or contact Jason Gerdes, the lead reviewer for this project. Jason can be reached at 415-947-4221 or gerdes.jason@epa.gov.

Sincerely,

/s/

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosure: Summary of EPA Rating System

cc: John Robles, Fish and Wildlife Biologist, U.S. Fish & Wildlife Service
Ken Schreiber, Program Manager, County of Santa Clara
Cameron Johnson, U.S. Army Corps of Engineers, San Francisco District