CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
CHECKLIST FOR THE GRANTEE
What to Submit to your Water Boards' Project Manager

If project is covered under a **CEQA Categorical or Statutory Exemption**, submit a copy of the following:

- ❑ **Notice of Exemption (filed with the Governor's Office of Planning and Research)**
- ❑ **List of Best Management Practices (BMPs) and their locations, if project implements BMPs**

If project is covered under a **Negative Declaration**, submit a copy of the following:

- ❑ **Draft and Final Initial Study/Negative Declaration**
  (or Mitigated Negative Declaration, if applicable)
  - ❑ Comments and Responses to the Draft
  - ❑ Mitigation Monitoring and Reporting Plan (if using a Mitigated Negative Declaration)
- ❑ **Resolution approving the CEQA documents**
  - ❑ Adopting the Negative Declaration
  - ❑ Making CEQA Findings
- ❑ **Notice of Determination (filed with the Governor's Office of Planning and Research)**

If project is covered under an **Environmental Impact Report (EIR)**, submit a copy of the following:

- ☑ **Draft and Final EIR**
  - ☑ Comments and Responses to the Draft
  - ☑ Mitigation Monitoring and Reporting Plan (MMRP)
- ☑ **Resolution approving the CEQA documents**
  - ☑ Certifying the EIR and adopting the MMRP
  - ☑ Making CEQA Findings
  - ☑ Adopting a Statement of Overriding Considerations for any adverse impact(s) that cannot be avoided or fully mitigated if project is implemented
- ☑ **Notice of Determination (filed with the Governor's Office of Planning and Research)**

If EIR is a joint CEQA/National Environmental Policy Act document (EIR/Environmental Impact Statement or EIR/Environmental Assessment), submit the applicable Record of Decision and/or Finding of No Significant Impact.

State Clearinghouse No. 2006121080

Final Environmental Impact Report

San Marcos Creek Specific Plan and Floodway Improvement Project

San Marcos, California

Prepared For / Applicant:

City of San Marcos

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June 2007

Technical Appendices (Included on CD in back pocket)

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ACRONYMS AND ABBREVIATIONS

AAQS	Ambient Air Quality Standards
AB	Assembly Bill
ac	Acre/acres
ACB	Articulated Concrete Block
ACM	Asbestos-containing material
ACOE	United States Army Corps of Engineers
ADT	Average Daily Trips
AEP	Annual Exceedence Probability
AMSL	Above Mean Sea Level
APCD	San Diego Air Pollution Control District
APCS	Average Passenger Car Speed (mph)
AQCMM	Air Quality Construction Mitigation Manager
AQIA	Air Quality Impact Assessment
ARB	Air Resources Board
ASTM	American Society for Testing Materials
BACM	Best Available Control Measures
BCLA	Biological Core and Linkage Area
BFPP	Bona fide prospective purchaser
BLM	Bureau of Land Management
BMP	Best Management Practice
Cal-EPA	California Environmental Protection Agency
CARB	California Air Resources Board
CCC	California Coastal Commission
CDFG	California Department of Fish and Game
CEPA	California Environmental Protection Agency
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
CESA	California Endangered Species Act
CFD	Community Facilities District
cfs	Cubic feet per second
CHU	Carlsbad Hydrologic Unit
CIP	Capital Improvement Program
CIWMB	California Integrated Waste Management Board
CLOMR	Conditional Letter of Map Revision
CMP	Congestion Management Plan
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO	Carbon monoxide
COPPS	Community Oriented Policing and Problem Solving
CRHR	California State Register of Historic Resources
CSC	California Special Concern
CUP	Conditional Use Permit
CWA	Clean Water Act
CWMP	Carlsbad Watershed Management Plan
CY	Cubic yard

D	Density, Passenger Cars per Mile per Lane
dB	Decibel
dB(A)	Decibel, A-weighted
DCSS	Diegan coastal sage scrub
DDE	Dichlorodiphenyldichloroethylene
DDT	Dichloro-Diphenyl-Trichloroethane
DEH	Department of Environmental Health
DHS	Department of Health Services
DPM	Diesel particulate matter
DTSC	Department of Toxic Substance Control
DU/DUs	Dwelling Unit/Dwelling Units
EB	Eastbound
EDCO	EDCO Waste and Recycling
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
ESA	Endangered Species Act, Environmental Site Assessment
FEMA	Federal Emergency Management Agency
FESA	Federal Endangered Species Act
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FPA	Focused Planning Areas
FRA	Federal Railroad Authority
FT	Foot/feet
FTA	Federal Transit Administration
GPA	General Plan Amendment
GPD	Gallons per Day
HABS	Historic American Building Survey
HCM	Highway Capacity Manual
HMP	Habitat Management Plan
HPLV	High-Pressure/Low-Volume
HRA	Health Risk Assessment
HVAC	Heating/Ventilation/Air Conditioning
HWCL	Hazardous Waste Control Law
JURMP	Jurisdictional Urban Run-off Management Plan
KSF	Thousand square feet
LBP	Lead-based paint
LID	Low Impact Development
LOMR	Letter of Map Revision
LOS	Level of Service
LRFMP	Long Range Facilities Master Plan
LUST	Leaking Underground Storage Tank
MBTA	Migratory Bird Treaty Act
mg/m^3	Milligrams per cubic meter
MHCP	Multiple Habitat Conservation Program
MLD	Most Likely Descendant
MMRP	Mitigation Monitoring and Reporting Program
MNBMC	Migratory Nongame Birds of Management Concern

MPH	Miles per hour
MRZ	Mineral Resource Zone
MSCP	Multiple Species Conservation Program
MTYR	Multi Track Year
NAHC	Native American Heritage Commission
NCCP	Natural Communities Conservation Planning
NCTD	North County Transit District
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NO_2	Nitrogen Dioxide
NOP	Notice of Preparation
NO_x	Nitrogen Oxides
NPDES	National Pollutant Discharge Elimination System
OEHHA	Office of Environmental Health Hazard Assessment
OHWM	Ordinary high water mark
OPR	Office of Planning and Research (Governor's)
O_3	Ozone
Pb	Lead
PEA	Preliminary Endangerment Assessment
PFF	Public Facility Fee
PM_{10}	Particulate Matter of 10 Microns or Less in Diameter
$PM_{2.5}$	Particulate Matter of 2.5 Microns or Less in Diameter
ppm	Parts Per Million
WQTR	Water Quality Technical Report
RAQS	Regional Air Quality Standards
RCP	Regional Comprehensive Plan
ROC	Reactive Organic Compounds
ROG	Reactive Organic Gases
ROW	Right-of-way
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SANDAG	San Diego Association of Governments
SANTEC/ITE	San Diego Traffic Engineers' Council/Institute of Transportation Engineers
SARA	Superfund Amendments and Reauthorization Act
SCAB	South Coast Air Basin
SCAQMD	South Coast Air Quality Management District
SCIC	South Coastal Information Center
SDAB	San Diego Air Basin
SDAPCD	San Diego Air Pollution Control District
SDCWA	San Diego County Water Authority
SDWA	Safe Drinking Water Act
s.f.	Square foot/square feet
SHPO	State Historic Preservation Office
SIP	State Implementation Plan
SMARA	Surface Mining and Recovery Act
SMUSD	San Marcos Unified School District

SO_2	Sulfur Dioxide
SO_X	Sulfur Oxides
SR-78	State Route 78
STP	Shovel Test Pit(s)
STYR	Single Track Year
SUSMP	Standard Urban Storm Water Mitigation Plan
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
T-BACT	Toxics Best Available Control Technology
TAC	Toxic Air Contaminant
TAZ	Traffic Analysis Zone
TMDL	Total Maximum Daily Loads
USACE	U.S. Army Corp of Engineers
USBC	United States Bird Conservation
USFWS	U.S. Fish and Wildlife Service
USGS	United States Geological Survey
UST	Underground Storage Tank
UWMP	Urban Water Management Plan
V/C	Volume to Capacity Ratio
VMT	Vehicle Miles Traveled
VOC	Volatile Organic Compound
VWD	Vallecitos Water District
WB	Westbound
WQTR	Water Quality Technical Report
WSA	Water Supply Assessment
$\mu g/m^3$	Micrograms per cubic meter

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0.1 INTRODUCTION AND SUMMARY

This Final Environmental Impact Report (EIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code Section 21000 *et seq*.), CEQA Guidelines (California Administrative Code Section 15000 et seq.), and the City of San Marcos CEQA procedures.

According to CEQA Guidelines §15132 the Final EIR shall consist of the following:

a) The Draft EIR or a revision of the Draft;

b) Comments and recommendations received on the Draft EIR either verbatim or in summary;

c) A list of persons, organizations, and public agencies commenting on the Draft EIR;

d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process;

e) Any other information added by the Lead Agency.

In accordance with these requirements, the San Marcos Creek Specific Plan and Floodway Improvement Project is comprised of the following:

- Draft Environmental Impact Report, San Marcos Creek Project (March 2007) (SCH No. 2006121080)
- This Final EIR document, June 2007, that incorporates the information required by §15132.

Format of the Final EIR

This document is organized as follows:

Section 0.1 **Introduction**
This section describes CEQA requirements and content of this Final EIR.

Section 0.2 **Corrections and Additions**
This section provides a list of those revisions made to the Draft EIR text and figures as a result of comments received and/or errors and omissions discovered subsequent to release of the Draft EIR for public review. None of these revisions would result in the need to recirculate the Draft EIR.

Section 0.3 **Responses to Comment Letters Received on the Draft EIR**
This section provides copies of the comment letters received and individual responses to written comments. In accordance with Public Resources Code 21092.5, copies of the written proposed responses to public agencies will be forwarded to the agencies at least 10 days prior to certifying an EIR. The responses will conform to the legal standards established for response to comments on Draft EIRs.

Section 0.4 Mitigation Monitoring and Reporting Program

This section includes the Mitigation Monitoring and Reporting Program (MMRP) which identified the mitigation measures, timing and responsibility for implementation of the measures.

0.2 CORRECTIONS AND ADDITIONS

The following Sections 2.1 and 2.2 contain a summary of revisions to information included in the Draft EIR (January 2007). These revisions were required because: (1) additional or revised information was added to the EIR to prepare a response to a specific comment; (2) updated information required due to the passage of time; and/or (3) minor typographical errors.

Given the nature of the changes associated with the document, the information added to the EIR does not meet the requirements for recirculation pursuant to Section 15088.5 of the State CEQA Guidelines. Pursuant to Section 15088.5(a), a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review. The term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to the EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

(1) A new significant environmental impact would result form the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyze would clearly lessen environmental impacts of the project, by the projects' proponents decline to adopt it.

(4) The draft EIR was so fundamentally flawed and basically in adequate and conclusionary in nature that meaningful public review was precluded.

Changes to the Draft EIR include the following:

- The project description has been revised to eliminate the McMahr crossing over San Marcos Creek. This decision was made due to constraints of the existing San Diego County Water Authority easement, as well as the results of the value engineering efforts by the City. Based upon this, a supplemental traffic analysis was prepared to evaluate the potential impacts associated with the removal of this segment. The additional analysis is included as Appendix L of the Final EIR. Based upon that analysis, no new significant impacts would occur. A supplemental noise analysis was also prepared to determine if there were any new impacts associated with the removal of the McMahr bridge. The supplemental noise analysis is presented as Appendix M. The analysis determined that the removal of the McMahr bridge would not result in a noise level change that would change the results of the EIR. Therefore, this change in project design does not change the conclusions of the Draft EIR and recirculation pursuant to Section 15088.5 of the CEQA Guidelines is not required.

- Based upon the removal of the McMahr Road bridge crossing, the project description was also revised to reduce McMahr Road from from four lanes to two lanes (with shared turn lane) between Main Street and Creekside Road. Based upon the supplemental traffic analysis included as Appendix M of the Final EIR, this change would not result in a change in the significance conclusions for traffic that were included in the Draft EIR. Therefore, this change in project design does not change the conclusions of the Draft EIR and recirculation pursuant to Section 15088.5 of the CEQA Guidelines is not required
- The project description has been revised to propose Via Vera Cruz as a bridge crossing over San Marcos Creek. The Draft EIR analyzed Via Vera Cruz as an Arizona crossing. From a traffic perspective, Via Vera Cruz, whether as a bridge or Arizona crossing, would still carry the same number of vehicles. Therefore, the traffic analysis in the Draft EIR does not change due to this project description change. With regard to biological resources, a memorandum was prepared by the project biologist addressing the change. The memorandum stated that biological resources impacts would be similar or reduced under the scenario of the removal of McMahr as a creek crossing and the construction of the Via Vera Cruz crossing as a bridge. The complete memorandum is included as Appendix N of the Final EIR. Therefore, this change in project design does not change the conclusions of the Draft EIR and recirculation pursuant to Section 15088.5 of the CEQA Guidelines is not required
- With the construction of Via Vera Cruz as a bridge crossing, the project will require construction of two check dams within San Marcos Creek to reduce the velocity of the creek flow, thus reducing the amount of sediment that is carried. The construction of these two check dams would occur in areas that were already considered impacts from a biological resources perspective. Therefore, the addition of the check dams does not result in any additional biological resources impacts that were not considered in the Draft EIR. Therefore, this change in project design does not change the conclusions of the Draft EIR and recirculation pursuant to Section 15088.5 of the CEQA Guidelines is not required.
- Mitigation measures have been revised or supplemented to the Final EIR based upon comments received from reviewing agencies. In some instances the mitigation measures are replacement measures which provide improved mitigation for the impacts identified in the Draft EIR. In other instances, they are supplemental measures added at the request of the reviewing agencies. These measures are not considerably different from others previously analyzed. Therefore, these changes to mitigation measures do not change the conclusions of the Draft EIR and recirculation pursuant to Section 15088.5 of the CEQA Guidelines is not required.

In summary, the revisions made to the Draft EIR do not meet the requirements of Section 15088.5 of the CEQA Guidelines. The revisions do not result in a new significant impact being identified, nor do the revisions identify a substantial increase in the severity of an environmental impact. Further, a feasible project alternative or mitigation measure considerable different from others previously analyzed was not included in the revisions. Finally, the Draft EIR has adequately disclosed the

potential impacts of the project and identified mitigation measures, where feasible to reduce the impacts to below a level of significance.

It should be noted that the changes in the project description are not reflected in the revised Draft EIR which follows this introduction.

0.1 REVISED AND SUPPLEMENTAL TEXT

Changes to the Draft EIR were made in response to comments received on the Final EIR. Overall, the new information clarifies information and analysis presented in the Draft EIR, or adds mitigation measures that were requested by commenters on the Draft EIR. Text that has been added to the document appears in an underline format. Text that has been deleted appears with strikeout. The revised Draft EIR is included following this introduction.

The table below identifies the changed EIR sections and accompanying page numbers in the Final EIR. The revised Draft EIR is included following this Final EIR Introduction.

Final EIR Section	Page Number
1.0 Executive Summary	Pages 1-1, 1-3, 1-10, 1-11, 1-12, 1-13, 1-18, 1-19, 1-20, and 1-30 Table 1.7-1, 1.8-1, 1.8-2 Figure 1.0-3 revised to show new Site Plan
2.0 Project Description	Pages 2-9, 2-12, 2-13, 2-19, 2-26 and 2-31 Table 2.3-1 Figure 2.3-1 revised to show new Site Plan
3.0 Environmental Analysis	No changes made.
3.1 Aesthetics	Page 3.1-5
3.2 Air Quality	No changes made.
3.3 Biological Resources	Pages 3.3-11, 3.3-35, 3.3-40, 3.3-41, 3.3-42, 3.3-49, and 3.3-50 Table 3.3-1, 3.3-4, 3.3-5, 3.3-6,
3.4 Cultural Resources	Page 3.4-1, 3.4-3, 3.4-5, 3.4-6, 3.4-7, 3.4-9 and 3.4-10 Table 3.4-2
3.5 Hazards and Hazardous Materials	Pages 3.5-7, 3.5-8 through 3.5-12
3.6 Hydrology and Water Quality	Pages 3.6-3, 3,6-6, 3.6-7, 3.6-12, 3.6-13, 3.6-14, 3.6-15, 3.6-20 through 3.6-24 Table 3.6-6
3.7 Land Use	Pages 3.7-10, 3.7-11 and 3.7-16
3.8 Noise	Page 3.8-13
3.9 Public Services	Pages 3.9-9 through 3.9-11
3.10 Traffic	Page 3.10-1, 3.10-6, 3.10-7, 3.10-8, 3.10-10 through 3.10-22, 3.10-25 through 3.10-27 and 3.10-30. Several tables were added to this section which resulted in a shifting of numbering of tables compared to the Draft EIR.
3.11 Utilities and Services Systems	Pages 3.11-1, 3.11-4 through 3.11-6, 3.11-10, 3.11-11, 3.11-14, and 3.11-15 Table 3,11-3
4.0 Alternatives	No changes made.
5.0 Environmental Effects Found not to be Significant	Page 5-1

Final EIR Section	Page Number
6.0 Growth Inducing	No changes made.
7.0 Cumulative Effects	Page 7-9
8.0 Unavoidable Significant Adverse Environmental Impacts	No changes made.
9.0 References	Pages 9-2, 9-3, 9-5 and 9-6

0.2.1 REVISED AND SUPPLEMENTAL MITIGATION MEASURES

Based upon comment letters received on the Draft EIR, some of the mitigation measures were revised for clarification purposes. Additionally, new mitigation measures were added in the Final EIR. The following represent the modified mitigation measures:

Revised Mitigation Measures

Cultural Resources

MM 3.4-1 ~~Prior to issuance of a grading permit for floodway and infrastructure improvements, a testing program shall be prepared for CA-SDI-17423. The testing program shall consist of surface collection and mapping of all cultural materials; excavation of shovel test units to identify site boundaries; and the excavation of a minimum of two 1x1 meter test units to determine whether the site contains a subsurface deposit. If the site is found to be non-eligible for inclusion in the California Register, then no additional mitigation would be necessary. However, if the site is determined to be eligible for inclusion in the California Register, mitigation of impacts in the form of data recovery would be required.~~

~~In the event that data recovery is required, a treatment plan shall be prepared that includes the following:~~

An archaeological data recovery program shall be prepared for CA-SDI-17423 that includes the following: (1) An acceptable data recovery plan stating the specific research goals and questions that are to be addressed if archaeological deposits are to be recovered; (2) postfield artifact processing and analysis; (3) report of findings; and (4) permanent curation of artifacts at a qualified institution in order to preserve and analyze a substantial portion of the site's information value.

Feature recovery shall employ standard archaeological excavation techniques. The data recovery shall be developed and implemented in consultation with interested local Native American groups. A final report on the results of the archaeological recovery shall be submitted to the Planning Director and the Southcoast Information Center. Curation and report submittal shall occur prior release of the grading bond for the project.

MM 3.4-5 Prior to the issuance of the grading permit for any grading within the project area <u>(including Caltrans right-of-way),</u> a qualified paleontologist shall review the

proposed project area to determine the potential for paleontological resources to be encountered. If there is a potential for paleontological resources to occur, the paleontologist shall identified the area(s) where these resources are expected to be present, and a qualified paleontological monitor shall be retained to monitor the initial cut in any areas that have the potential to contain paleontological resources.

If fossils are discovered during project construction, the paleontologist shall recover them. In most cases, this fossil salvage can be completed in short period of time. However, some fossil specimens may require an extended salvage period. Under this scenario, the paleontologist shall be allowed to temporarily divert or direct grading and excavation to allow for recovery of fossil remains.

Hazards and Hazardous Materials

MM 3.5-3 Project construction in areas where leaking underground storage tanks have been identified shall be avoided until proper clean up of the tanks pursuant to adopted state regulations has occurred. All clean up shall occur under a Workplan approved and overseen by the appropriate regulatory agency that has jurisdiction for the clean up. The Workplan shall include a summary of any Phase 1 and Phase II investigations and a summary table of sampling results for which hazardous materials were found.

MM 3.5-4 Prior to demolition of any facilities or relocation of any buildings on the project site, a licensed asbestos inspector shall be retained to determine the presence of asbestos and asbestos containing materials (ACMs) within structures. The inspection shall be consistent with the federal and state occupational exposure standards for asbestos and ACMs. The applicant shall comply with all applicable state and federal abatement policies and procedures for removal of ACMs present on the site.

MM 3.5-5 Prior to demolition of any facilities or relocation of any buildings on the project site, a licensed lead-based paint (LBP) inspector shall be retained to determine the presence of lead-based paint and lead-based paint containing materials (LBPCM) within structures. The inspection shall be consistent with federal and state occupational exposure standards for LBP and LBPCM. The applicant shall comply with state and federal abatement policies and procedures for removal of LBP and LBPCM present on the site.

Hydrology and Water Quality

MM 3.6-1 Construction activities shall be guided by a project-specific SWPPP. The SWPPP shall include appropriate erosion and sediment control as well as non-stormwater management BMPs. The SWPPPs shall be developed to reduce impacts to water quality during project construction. The SWPPPS shall also contain monitoring programs for discharges from the construction sites for both sediment/turbidity and non-visually detectable particles. At minimum, the SWPPP shall include:

~~The applicant(s) shall prepare an SWPPP designed to reduce potential impacts to surface water quality through the construction period of the project. The SWPPP shall include:~~

- Specific and detailed BMPs, such as those set out in Table 3.6-1, shall be required for the project. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.
- On-site construction personnel shall be educated on the importance of stormwater quality protection. Site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.
- Watering for dust control shall be performed during the dry season. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1st using native species only, and irrigated as necessary to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be provided and designed to be accessible and functional during both dry and wet conditions.

MM 3.6-2 Pursuant to the City's Stormwater Standards Manual, project specific Water Quality Technical Reports (WQTRs) shall be prepared to mitigate water quality impacts each project within the Specific Plan area. For each specific project, the WQTRs shall identify the impacts, pollutants and hydrologic conditions of concern, and select the appropriate BMPs to be designed and implemented to mitigate the water quality impacts discharging from the project sites to prevent downstream impacts in the receiving waters.

The project shall implementing three types of Best Management Practices (BMPs) for the purposes of minimizing the discharge of pollutants and maintaining the flow events (discharge rates) from the post construction project site. Again, these BMPs are implemented to minimize the impacts from developments on downstream receiving waters that include San Marcos Creek, Lake San Marcos, Batiquitos Lagoon and the Pacific Ocean. The first is the use of Low Impact Development (LID) Site Design BMPs, the second is the use of Source Control BMPs, and lastly, Treatment Control BMPs will be implemented.

The LID Site Design BMPs will include minimizing the direct connections between impervious surfaces and the storm drain systems, use of alternative surfaces instead of impermeable surfaces, and site planning to minimize the impacts of the development. Specific BMPs may include: porous concrete; grassy swales; rooftops draining to landscaped areas; flow through planters, and; infiltration trenches.

The Source Control BMPs will include the enforcement of the City's Jurisdictional Urban Runoff Management Plan and Municipal Code sections that affect existing development including commercial and residential sectors. Additionally, once the development is complete, the site use is regulated based on the activities, e.g., commercial businesses or residential units. The future development will be inspected and the City's program enforced to minimize the discharges of pollutants.

Additionally, the project improvements will include physical Source Control BMPs where applicable. Specific BMPs may include: marking of storm drain inlets; educational kiosks/signage; efficient irrigation systems; enclosed trash storage areas, and; the use of alternative building materials.

The Treatment Control BMPs shall be implemented to treat the 85th percentile flows (i.e., first flush) from the project site. At this time, the proposed treatment system is a media filtration system that is capable of treating the 85th percentile flows from the entire proposed project development area (at the expected discharge rates). The media filtration system has cartridges that are interchangeable to treat the anticipated pollutant types from the project area. If it is determined that the pollutant types coming from the project area are different than currently anticipated, the media cartridges will be adjusted so that they are effective at treating the pollutant types and loads. Other treatment features may include the following: infiltration trenches; vegetated swales; buffers zones, and; inlet filtration as pre-treatment.

Future development within the Specific Plan area shall prepare a Water Quality Technical Report (WQTR). The WQTR shall identify the project operation BMPs that shall be used to ensure that future projects do not degrade water quality. The WQTR shall also document how the future project would satisfy the requirements of the City's Stormwater Standards Manual. The WQTR shall be submitted to the City Engineer for review and approval prior to the issuance of a grading permit.

Noise

MM 3.8-1 A condition on the improvement plans and within construction contracts which require:

- Exterior construction, hauling, or delivery activities shall be scheduled to occur during normal daytime working hours, i.e. 7:00 a.m. and 6:00 p.m., Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturday. No construction would occur on Sundays and legal holidays. These criteria shall be included in the improvement plans prior to initiation of construction. Exceptions to allow expanded construction activity hours shall be reviewed on a case-by-case basis as determined by the Planning Director.

- All heavy construction equipment and all stationary noise sources (such as diesel generators) shall be fitted with factory-specified mufflers.
- Truck routes, equipment warm up areas, water tanks, and equipment storage areas shall be located in an area as far away from existing residences, schools and other sensitive receptors, as is feasible.

Utilities and Service Systems

MM 3.11-1 Future development within the Specific Plan (Phase 2) shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, focused Water and Sewer Studies shall be prepared which identify the infrastructure needed to support Phase 2 development of the project. Future developers within the Specific Plan area shall be responsible for the payment of fair share fees for the necessary water and sewer infrastructure upgrades. Additional environmental review shall be required for any off-site improvements. Additionally, prior to the issuance of building permits for Phase 2 development, the Water Supply Assessment shall be updated by Vallecitos Water District.

~~Future development within the Specific Plan (Phase 2) shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, as each development project in the Specific Plan area comes forward, project review by VWD shall be required to ensure there is adequate capacity in the VWD infrastructure to accommodate the wastewater generated by these projects. Future project applicants shall participate in a funding mechanism to ensure that adequate infrastructure is in place. The terms of the funding mechanism shall be determined by VWD.~~

Additional Mitigation Measures

Biological Resources

MM 3.3-11 Prior to issuance of grading permit, a protocol California coastal gnatcatcher survey shall be required. The survey shall be conducted by a permitted CAGN biologist. If the habitat is found to be occupied by a California gnatcatcher, no clearing or construction shall be allowed during the breeding season (February 15 – August 31). If construction should occur during the breeding season, a 300-foot buffer shall be established between construction activities and any occupied habitat. Protocol survey results shall be submitted to the Planning Director and USFWS for review.

Cultural Resources

MM 3.4-2b Prior to the issuance of a grading permit, the project applicant shall enter into a pre-excavation agreement with the San Luis Rey Band of Mission Indians. The pre-excavation agreement shall include the following: 1) a culturally affiliated Native American monitor during initial grading activities, 2) the return of cultural items that may be found during project construction, and 3) proper treatment and reburial of any remains found.

Hazards and Hazardous Materials

MM 3.5-1b Prior to the issuance of any grading, demolition, or building permits for the project site, a Risk Management Plan (RMP) shall be prepared for the project site. At a minimum, the RMP shall establish soil and groundwater mitigation and control specifications for grading and construction activities at the site, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. The RMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. The RMP shall be submitted to the City Fire Department for review and approval.

MM 3.5-6 Prior to removal of roadway and associated structures for the SR-78 hydraulic improvements, an assessment for hazardous materials (asbestos, lead-based paint and/or creosote) shall be conducted by a licensed inspector. Handling and disposal of asbestos-, lead- and creosote-containing materials (if found), shall be performed by a certified contractor according to Cal-OSAH guidelines, Title 8, Section 1532.1(e)(2)(B) and Section 1529 of the California Code of Regulations, and Federal EPA guidelines. Additionally, if asbestos-, lead-, or creosote-containing materials are discovered, a Health and Safety plan shall be prepared. The Health and Safety plan shall be submitted to Caltrans prior to construction and shall address the effects to persons working onsite and offsite, use of proper personal protective equipment onsite, handling and disposal measures of yellow paint and yellow thermalplastic paint and strip or pavement markings.

Hydrology and Water Quality

MM 3.6-3a A check dam (i.e., berm) shall be constructed within San Marcos Creek at the Via Vera Cruz crossing to reduce sediment delivery to Lake San Marcos. The check dam shall be constructed on the channel bed across the bridge opening. The check dam will be constructed so that it will not erode during flow events. Natural materials such as rock or man-made materials such as concrete shall be used. If rock is selected, then grout will be needed to secure the rock in place. The grout shall be colored to blend with the natural surrounding. If concrete is used, it shall be colored and textured for a more natural appearance. A weir (or notch) shall be constructed within the check dam to prevent water from ponding upstream of the facility. The check dam shall be designed and constructed to minimize environmental impacts and disturbances to the creek. The Via Vera Cruz check dam shall be constructed within the temporary construction easement for the crossing to the extent possible.

MM 3.6-3b A check dam shall be constructed just upstream of Discovery Street. This check dam shall cause sediment to deposit upstream of Discovery Street and further reduce sediment delivery to Lake San Marcos. The check dam height shall be designed so

that it does not adversely impact the upstream water surface elevations including the water surface elevations in Las Posas Creek. The Discovery Street check dam shall be constructed within the existing channel bed armoring to the extent possible.

Land Use

MM 3.7-5 Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify to segment of McMahr Road between future Main Street and Creekside Road and to eliminate the segment of McMahr between Creekside Road and Discovery Street.

0.3 RESPONSE TO WRITTEN COMMENTS

Section 3.0 contains responses to all comment letters received on the April 2007 Draft Environmental Impact Report (Draft EIR). A total of 20 comment letters were received during the comment period, which closed May 29, 2007. A response to each comment letter follows this introduction. A copy of each letter with bracketed comment numbers on the right margin is followed by the response for each comment as indexed in the letter. Also included is a notice from the State Clearinghouse stating that they received no additional comments.

The comment letters are listed in Table 0.1.

Table 0.1. Comment Letters

Letter No.	Commenter	Letter Date
1a	Governor's Office of Planning and Research State Clearinghouse and Planning Unit	May 31, 2007
1b	Governor's Office of Planning and Research State Clearinghouse and Planning Unit	May 30, 2007
2	United States Army Corps of Engineers	June 4, 2007
3	US Fish Wildlife Service/CDFG	May 29, 2007
4	Caltrans (combined)	Various
5	Native American Heritage Commission	April 17, 2007
6	Public Utilities Commission	May 24, 2007
7	Department of Toxic Substance Control	May 21, 2007
8	Vallecitos Water District	May 29, 2007
9	San Diego County Archaeological Society	April 30, 2007
10	California Indian Legal Services	April 16, 2007
11a	San Luis Rey Band of Mission Indians (1 of 2)	April 2, 2007
11b	San Luis Rey Band of Mission Indians (2 of 2)	June 4, 2007
12	Cupa Cultural Center	May 2, 2007
13	La Jolla Development, Citizen Development Corp., and Land San Marcos Resort (by Nanette Souhrada, Esq.)	May 29, 2007
14	Lake San Marcos Task Force	May 28, 2007
15	Rose Boyle	April 16, 2007
16	Fran Burian-Geneau	May 24, 2007
17	Linda Farrell	April 17, 2007
18	Monty Farrow	May 29, 2007
19	Lawrence Osen	May 26, 2007
20	Stephen Sunseri	May 7, 2007

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06/04/07 MON 15:41 FAX 7602814135 COSM DEV SERVICE DEPT 020

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
Governor

CYNTHIA BRYANT
Director

May 31, 2007

Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

Subject: San Marcos Creek Specific Plan and Creek Improvement Project
SCH#: 2006121080

Dear Jerry Backoff:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on May 29, 2007. 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 (2006121080) when contacting this office.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

RECEIVED
JUN 04 2007
CITY OF SAN MARCOS
PLANNING DIVISION

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Letter 1A
Governor's Office of Planning and Research, State Clearinghouse and Planning Unit

1. This comment notes the close of the public review period on May 29 and includes a transmittal of state agency comments that were received. Each of these agency comment letters were also sent to the City and are included in this response to comment section.

06/04/07 MON 15:34 FAX 7605614135 COSM DEV SERVICE DEPT 002

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CINTHIA RUTANT
DIRECTOR

May 30, 2007

RECEIVED
JUN 04 2007
PLANNING DIVISION

Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

Subject: San Marcos Creek Specific Plan and Creek Improvement Project
SCH#: 2006121080

Dear Jerry Backoff:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on May 29, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

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 contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

06/04/07 MON 15:34 FAX 7603814135 COSM DEV SERVICE DEPT 003

Document Details Report
State Clearinghouse Data Base

SCH#	2006121090
Project Title	San Marcos Creek Specific Plan and Creek Improvement Project
Lead Agency	San Marcos, City of
Type	EIR Draft EIR
Description	The 246-acre project includes three primary components: 1) implementation of the San Marcos Creek Specific Plan, which would serve as thelmaster plan for the project area, 2) roadway and infrastructure improvements, and 3) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-78.

Lead Agency Contact

Name	Jerry Backoff		
Agency	City of San Marcos		
Phone	(760) 744-1050 x3234	**Fax**	
email			
Address	1 Civic Center Drive		
City	San Marcos	**State** CA	**Zip** 92069-2918

Project Location

County	San Diego		
City	San Marcos		
Region			
Cross Streets	Grand Avenue, San Marcos Boulevard		
Parcel No.			
Township	**Range**	**Section**	**Base**

Proximity to:

Highways	SR 78
Airports	
Railways	
Waterways	San Marcos Creek, Second San Diego Aqueduct
Schools	
Land Use	The planning area vicinity includes four existing land uses: commercial, residential, industrial (non-conforming) and institutional. West San Marcos Boulevard is a predominantly retail commercial corridor with industrial land uses to the north and south. Residential land uses are located to the south and west of Discovery Street. Institutional uses are located primarily outside the planning area to the north, west and south.
Project Issues	Air Quality; Archaeologic-Historic; Flood Plain/Flooding; Drainage/Absorption; Geologic/Seismic; Job Generation; Housing; Noise; Public Services; Schools/Universities; Vegetation; Water Quality; Wetland/Riparian; Wildlife; Growth Inducing; Cumulative Effects; Other Issues; Traffic/Circulation
Reviewing Agencies	Resources Agency; Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 11; Department of Housing and Community Development; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Native American Heritage Commission
Date Received	04/13/2007 **Start of Review** 04/13/2007 **End of Review** 05/28/2007

Note: Blanks in data fields result from insufficient information provided by lead agency.

Letter 1B
Governor's Office of Planning and Research, State Clearinghouse and Planning Unit

1. This comment notes the close of the public review period on May 29 and includes a transmittal of state agency comments that were received. Each of these agency comment letters were also sent to the City and are included in this response to comment section.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

June 4, 2007

REPLY TO
ATTENTION OF
Office of the Chief
Regulatory Division

Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, California 92069-2918

Dear Mr. Backoff:

The Corps is in the process of reviewing the Draft Environmental Impact Report (DEIR) for the San Marcos Creek Specific Plan and Floodway Improvement Project prepared by HDR Engineering, Inc. dated April 2007. The proposed project is located in the southwest central portion of the City of San Marcos, approximately one mile southwest of San Marcos Town Center, and one mile northwest of California State University, San Marcos. The project area is generally bound by San Marcos Boulevard and the Creekside Marketplace on the north; Grand Avenue and SR-78 on the east; the "Valley Verde" mobile home park, Discovery Street, and the generally undeveloped University Business Park area on the south; and Discovery Street on the west. According to the DEIR the proposed project includes three primary components: (1) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-78, (2) roadway and infrastructure improvements, and (3) implementation of the San Marcos Creek Specific Plan, which would serve as the master plan for the project area as the area builds out.

Current Environmental Protection Agency (EPA) 40 Code of Federal Regulations (CFR) 230.10(a) states that "no discharge of dredged or fill material shall be permitted if there is an practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." In addition, 40 CFR 230.10(a)(2) states: "An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered." Per the above sited regulations, the Corps must first determine the basic project purpose(s) and then which portions of the proposed project, if any, are water dependent. The definition of water dependent, as stated in the Guidelines at 40 CFR 230.10(a)(3), describes an activity which "does not require access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose." Flood control and flood protection are not limited to siting within waters of the U.S. or special aquatic sites. There are successful flood-control activities that do not involve discharges of dredged and fill material into waters of the U.S. For example, set-back levees (or buried bank stabilization when appropriate) can achieve the same result without discharging dredged or fill material into

2-1

streams or wetlands. These examples demonstrate that flood control does not always require filling within wetlands and streams and is therefore, by the definition in the CFR, not necessarily a water dependent activity. 40 CFR 230.10(d) states that "no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impact of the discharge on the aquatic ecosystems." The project purpose(s) and whether or not the project is water dependent will determine the range of alternatives that must be considered in the alternatives analysis. The alternatives analysis is used to determine the Least Environmentally Damaging Practicable Alternative (LEDPA). The LEDPA would represent a project that has avoided the discharge of dredged or fill material to the maximum extent practicable, and minimized any unavoidable discharges of fill also to the maximum extent practicable per the regulations described above. This would apply to each element of the proposed project.

Flood control is not always considered a water-dependent activity, especially when paired with the non-flood control portions of the proposed project, i.e. proposed mixed use development, parks, and infrastructure. It is the Corps' understanding from previous meetings that the non-flood-control portions of the project, including impacts proposed for the development of retail, office, and dwelling units, are necessary to fund the flood-control portions of the proposed project. As such, we must evaluate the entire project together, including direct, indirect, and cumulative impacts.

2-1 Cont.

The Corps would be required to look at each element of the proposed project to determine if avoidance and minimization has been implemented to the maximum extent practicable. For example, the DEIR indicates that a portion of Las Posas Creek that flows within the proposed project site would be channelized into an open trapezoidal culvert or a box culvert. The Corps must consider alternatives to all impacts described to avoid and minimize these impacts before the LEDPA can be identified.

2-2

The Corps also has concerns about there being adequate potential mitigation sites within the San Marcos Creek watershed for your proposed project. The Corps generally does not allow maintenance activities or public access directly within mitigation areas. Avoidance and minimization of impacts resulting from the proposed project would also reduce the City's mitigation requirements for unavoidable impacts to waters of the U.S.

2-3

The Corps must perform a public interest review (PIR) which would determine whether permitting the proposed project is in the public's best interest. The Corps' PIR would look at all elements of the project. For example, the Corps would consider whether the proposed levee design includes elements which in the occurrence of a failure, either structurally or the overtopping of the levee in a large storm event, would allow the levee design to withstand overtopping and result in a "controlled" flooding event. Such elements might include designed spillways which would allow the levee to be overtopped and slowly flood at planned locations to decrease damage to the adjacent structures while maintaining the structural integrity of the levee. The City must also provide assurances that financial and staffing means are available for continued operation and maintenance for the life of the levees during the Corps' permitting process.

2-4

2-5

Under the avoidance regulations described above, impacts of a large magnitude, such as levees, should be used only as a last resort, after other alternatives, especially nonstructural ones, have been fully evaluated. According to the document provided, *National Flood Policy Challenges Levees: The Double-edged Sword*, written by the Association of State FloodPlain Managers (April 17, 2007), "Levees should not be used as a means to facilitate the development of currently undeveloped floodprone lands." This document further recommends that "Levees should not be constructed in floodways and, to the maximum extent possible, when constructed levees should be set back from rivers to allow the river to function more naturally and to provide for the protection or restoration of riparian and wetland resources between the river bank and the levee." The Corps has a responsibility to consider any source of information, including this document, as it related to the proposed project in the PIR. These issues will also need to be addressed during the Corps' permitting process.

2-6

If you have any questions, please contact Kari Coler of my staff at (858) 674-6783. Please refer to this letter and SPL-2006-881 in your reply.

Sincerely,

Mark Cochran
Chief, South Coast Branch
Regulatory Division
Los Angeles District

Enclosure(s)

Association of State FloodPlain Managers
2809 Fish Hatchery Road, Madison, WI 53713
Phone: 608-274-0123 Fax: 274-0696
Website: www.floods.org Email: asfpm@floods.org

National Flood Policy Challenges
Levees: The Double-edged Sword

This is a position paper prepared by the Association of State Floodplain Managers, (ASFPM), a non-profit professional organization dedicated to the reduction of flood losses in the United States.

Introduction

It has long been recognized that flood protection provided by levees is a double-edged sword. On one hand, levee systems have provided flood protection. On the other hand, given enough time levees either will be overtopped or will fail—leading to severe flood impacts on an unsuspecting population. Unlike a natural flood, levee failure flooding is often rapid, forceful, extremely damaging, and occurs with little or no warning.

New Orleans is only one example of a community that has felt both edges of the "sword." Many floods were repelled by the levees around the city over the years, but catastrophic flood damage occurred in 2005 as a result of levee failures and overtopping. Subsequent efforts to properly reflect the location of and true protection provided by levees on flood maps in the nation has heightened the awareness of policy makers and citizens about the enormous risk the nation faces in levee-protected areas.

An additional concern is that levees are often placed so that they encroach substantially on river systems. This creates adverse impacts both on flood frequency and severity as well as on the natural functions of the river system.

Because of the nature of levee failure flooding, the ASFPM believes that levees are not a wise community choice and should never be used to protect undeveloped land so development can occur in the flood risk area behind the levee. However, many levees already exist in the nation, especially in communities that were built right on the river or coast, usually at a time when the nation was convinced it could engineer its way out of flooding. Where levees already exist, or where a levee appears to be the best option after careful analysis of all alternatives to mitigate the incidence of flooding in existing development, the ASFPM advocates that levees (1) must be designed to a high protection standard; (2) must be frequently and adequately inspected, with all needed maintenance funded and performed (if this does not occur, the levee must be treated as nonexistent); (3) should be used only as a method of last resort for providing a LIMITED means of flood risk reduction for existing development; and (4) are inappropriate as a means of protecting undeveloped land for proposed development.

It is apparent that over time the nation has gradually and imprudently modified its various policies that affect levees and levee failure. The outcome is an unacceptably high risk of catastrophic levee failure and the resultant damage and costs at numerous sites across the United States.

Correcting this problem will require an evaluation of

- The definition of a "levee";
- The existing and future levee inventory;
- Levee design standards;
- Levee operation and maintenance, including inspection and certification;
- Management for residual risk, including (1) identification of all areas at risk of flooding from levee overtopping or failure and from internal drainage; (2) community and citizen emergency action plans (EAP) that address flood warning and response; (3) flood insurance, floodplain management measures, and effective risk communication about the residual risk areas for which levees provide "some level of protection"; and
- Mitigation for adverse flooding impacts of levees on other people, property, and communities.

Levee Definition

Due to the risk inherent in levees and the resulting implications for their design, operations, maintenance, and accompanying floodplain management measures, there is a need to more precisely define when a structure is a levee, dam, or some other incidental work that can modify flood flows. There are a number of definitions of a levee, depending on the program and its purpose. The Federal Emergency Management Agency (FEMA) has defined a levee in the National Flood Insurance Program (NFIP) regulations at 44 *CFR* as "a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding." Its primary function is flood protection.

From an engineering perspective, this is a reasonable definition of levee function; but it lacks any mention of risk, residual risk, or variation in consequences, therefore suggesting that all structures are the same. Further, the definition is sufficiently broad that it could include linear embankments (canals, roads, railroads) that could function like levees (controlling riverine flows) or in many cases merely trap and impede surface flows that are moving towards a stream or river system.

The net result is that while we are attempting to manage the significant problems associated with "true levees," we inadvertently are expanding the size of the problem to include non-levees and are failing to adequately consider the risk and vulnerabilities associated with varying sizes of levees and of the populations that are protected by them. This is leading directly to delays in releasing flood maps, and ultimately may lead to poor management decisions about the extent of the levee issue.

Recommendations

1. *The ASFPM urges FEMA and the U.S. Army Corps of Engineers, along with other federal water resources agencies, to revisit and revise the definition of levee so that it includes elements of function, risk, and vulnerability. This effort should include defining a levee.*

dam, or incidental work that modifies flood flows and the interrelationships among these definitions. The Federal Interagency Task Force on Floodplain Management is one potential vehicle to undertake this task.

Existing and Future Levee Inventory

At present the nation lacks data and information about the physical location of its levees, their ages and conditions, the level of protection each provides, whether levee failure warning and evacuation plans exist and are exercised, who owns and maintains a specific levee system, and the adequacy of the operation and maintenance plan, exercises, and implementation.

An inventory is necessary of all levees that purport to provide flood protection, federal and non-federal, both within NFIP-identified flood zones and outside of those zones. To ensure uniformity and priority, the federal government is the most logical entity to undertake this inventory and a lead agency for the initiative should be identified. However, to be successful, the inventory must include examination of all levees (public and private) that are enrolled or recognized by any federal program, not simply those that are components of the lead agency's programs. During this inventory phase the federal government would not perform detailed engineering analysis of the levees, but would geo-reference all levees and state the general condition of the levee based on a cursory physical inspection. A rough estimate of the number of people, structures, and infrastructure at risk when that levee fails should also be calculated in that initial inventory. Detailed engineering need not be provided by the levee owner to the federal government at the inventory phase but providing this information would assist the federal government in assessing the levee's condition.

Recommendations

2. *The ASFPM believes that the Corps of Engineers should be tasked as the lead agency to develop and maintain a comprehensive inventory of current and future levees. This would start with federal levees and ultimately include non-federal and private levees.*

Levee Design Standards

In those cases in which a levee is found to be an appropriate measure to protect urban areas or to be credited for protection, the levee should be constructed to a high level of protection. As described in various reports, the level of the 500-year flood, plus freeboard, is considered an appropriate minimum protection standard for constructing and accrediting levees within urban areas, with some possible exceptions on streams where dams regulate flows up to the 500-year or larger flood event.

By default, the design standard for levees is currently based on either (1) the 100-year standard of the NFIP, or (2) the level of protection justified using federal, development-oriented policy that attempts to maximize the levee project's net national economic development (NED) return to the nation. The NFIP and NED factors, along with cost-sharing requirements and the federal budget process, have resulted in "lowering the bar" for most levees in the nation to the 100-year standard, even in cases in which the consequences of the failure of a particular levee would be catastrophic. Ironically, based on current practice, the nation and citizens would fare better if a community built a "99-year levee," because this would lead to the continuation of both mandatory flood insurance as well as continued floodplain management construction practices—which collectively would lower vulnerability and risk much more than would a 100-year levee by itself.

Why are so many levees built only to the 100-year standard?

Before the 1970s, the Corps of Engineers focused on building levees to protect property from the "standard project flood," which in many cases is roughly equivalent to a 500-year flood. In some areas, as communities began feeling pressure from the requirements of the NFIP, developers and communities often sought to "remove" land from the mapped 100-year flood zone. The presence of a 100-year levee, when certified under the NFIP procedures, removes the flood zone designation from the "protected" property, and thus eliminates the NFIP requirement to comply with construction standards, such as elevation of any new or substantially improved buildings in that area, and also removes requirement for purchasing flood insurance. Increased development in these flood risk areas provides a short-term economic benefit with potentially long-term adverse consequences.

The attractiveness of this short-term relief from NFIP requirements, the resultant ease with which the levee project can be "sold" to the public, the fact that the damage costs from catastrophic failure can be largely externalized to the federal taxpayers, and the relative lack of immediate project benefits that can be derived from providing a higher level of protection, all conspire to make the minimal, 100-year level of protection the most popular standard for new levees.

This is not to suggest that pro-active local sponsor agencies and officials are not attempting to obtain more than 100-year protection, but budgeting and the overwhelming attractiveness of a perceived federal standard are making it difficult for these officials to justify more than a 100-year level of protection. At the same time, these local officials may be caught in a dilemma that the NED federal project is justified for a level that is at the 100-year level of protection, falling short of the need seen by the local officials.

Why is the 500-year standard more appropriate than the 100-year standard for urban areas?

Levee failure flooding is different from most riverine flooding both in terms of the rapidity of inundation, the concentration of high-energy flood waters in the area of the failure, and in many cases the large areal extent of the flood waters. These factors combine to pose potential impacts on buildings little prepared for flooding. The 500-year standard for levee design is just as arbitrary as the 100-year standard so the question becomes, "what level of risk to public safety can we accept?" When one compares the potential for fire damage to an individual home, case history would indicate that a 100-year standard falls far short of the level of protection afforded by modern fire systems. While fire and flood are different agents of destruction, the results of both can be similarly devastating. However, today's fire systems tend to significantly limit the degree to which an entire community can be affected by fire, yet we continue to use a much lower threshold in levee design that most certainly will result in community-wide inundation. Although there is no perfect answer to this problem, adopting a 500-year standard would move the United States closer to what it currently demands in fire protection and at the same time would mirror what other nations have done, many of which that have a considerably longer history of levee management.

There are those who believe the level of protection standard for levees should be based purely on an evaluation of benefits vs. costs. If benefit/cost analysis could adequately consider risk tolerance, then there could be some merit to this argument. There are many intangibles when evaluating public safety risks, whether they be floods, auto safety, or other personal decisions of risk that border on issues of demographics and social justice. For example, as a society would we condone relaxing the standards and expenditures for traffic safety in a retirement community because the residents are no

longer working and hence providing limited return to the nation's economy? Although this example is ludicrous, such a suggestion differs little from a policy that suggests that within residential areas we vary our level of protection based on the total existing investment at that location. The ASFPM believes that benefit/cost analysis is a valuable tool for comparing investment opportunities but that by itself, unbounded by a public safety standard, is a dangerous and potentially inequitable tool for "sizing" flood risk reduction systems.

The 100-year standard used by the NFIP was developed for use in a program concerned with the flood-resistance of individual buildings, not public safety. This confusion between public safety and insuring buildings has led to thousands of people living at great risk behind levees, thinking that they are perfectly safe because they do not believe that the government (federal, state, or local) would allow them to live behind the levee if such were not the case.

An added element of risk in current design practices is the lack of designing "planned failure" into levees. When levees fail, either by structural failure or overtopping by flood waters that exceed the design event, the results are often catastrophic, with the levee experiencing massive damage, as demonstrated in New Orleans in 2005. In many instances it is useful to design levees to withstand overtopping, or to control the overtopping to a limited number of spillways designed into the system. The aim is to prevent loss of the levee, by allowing it to be overtopped and slowly flood the area in planned locations rather than randomly, so that damage is reduced and the community can recover more quickly. If fail-resistant spillways were designed into the levee, then excess flow would move through the designated area when the levee's design level is exceeded, and failure of the whole levee system might be prevented. This "safety valve" feature is used in the design of dams to allow the passage of large flows that exceed the design capacity, so the structure stays in place and can function as soon as flood heights diminish to design levels. Strategically locating these spillways in combination with land use practices would greatly reduce the potential for catastrophic loss by directing flows away from highly developed urban areas. Coincident design features would include land use management and evacuation plans in the areas around the spillways to protect lives and property.

As accentuated by the levee failures in New Orleans, a 100- or 200-year level of protection is insufficient to avoid catastrophic losses and their resultant financial implications to all federal taxpayers. Although a catastrophic levee failure of the magnitude and impact of that experienced in New Orleans is uncommon, current planning processes for levees fail to capture the magnitude of this impact and the resulting economic, social, and environmental consequences. If similar planning, construction, and maintenance approaches were applied to dams, aircraft, and nuclear power plants, the nation would be exposed to significantly more disastrous events than would be considered acceptable. A levee failure more closely resembles a dam failure or other calamity than it does "normal" riverine flooding, and should be subject to procedures more appropriate to that risk. As such, a 500-year level of design coupled with an insurance and land use mechanism is more reflective of the risk.

Estimating the 500-year Flood

To continue to improve estimates of the 500-year flood, it will be necessary to keep collecting essential data and perhaps adapt hydrologic prediction methods to better reflect this level of flood event. This should not, however, be used as a reason to delay implementation of a 500-year standard for levees. There are vast areas of the country where the 100-year flood is estimated through methods that are accepted as reasonable and reproducible. A similar approach can and should be employed to make 500-year flood estimates.

Other Levee Standards

There is a need to review and evaluate past and current levee design practices. Among these issues are the adequacy of hydrologic and hydraulic techniques, geotechnical design, use of closures or other features that penetrate the levee embankment or floodwall, vegetation management, and the incorporation of safety factors such as freeboard vs. the use of risk and uncertainty to model risk.

Recommendations

3. *Levees should be used as a structure of last resort and only after other measures, especially nonstructural ones, have been fully considered. Levees should not be used as a means to facilitate the development of currently undeveloped floodprone lands.*

4. *Federal investments in levees should not be made for a structure that provides less than 500-year protection, and the Corps of Engineers planning process of maximizing the NED should explicitly incorporate this public safety standard as a lower boundary for federal investment.*

5. *Levees should not be constructed in floodways and, to the maximum extent possible, when constructed or reconstructed levees should be set back from rivers to allow the river to function more naturally and to provide for the protection or restoration of riparian and wetland resources between the river bank and the levee.*

6. *The ASFPM urges Congress and the Administration to adopt a policy that the 500-year level of protection for levee design is the minimal standard for purposes of flood insurance and other federal investment.*

7. *Current levees that provide less than 500-year protection but meet all the requirements for design, maintenance, and operation, and are recognized by federal programs as meeting the standards for 100-year protection, could be provided grandfathered status. Criteria should be developed to determine when and if protection provided by a specific levee would need to be upgraded and how that would be achieved.*

8. *Benefit-cost analysis is an appropriate tool with which to evaluate and contrast federal projects, but it should be bounded by a strong public safety design standard, which for federally supported levees should be the 500-year level of protection.*

9. *The design of levees should include improved methods of providing resiliency, most notably the inclusion of designed fail-resistant spillways built into many levees so that when the levee design is exceeded, excess flow spills through that area, preventing catastrophic overtopping or failure of the structure.*

10. *The impacts of any new, rehabilitated, or reconstructed levee that would result in the transfer of damage or in adverse economic, social, or environmental consequences must be mitigated.*

11. *The local sponsor must demonstrate the financial and staffing capability to provide operation and maintenance for the life of the structure—before the project is approved, constructed, re-constructed, or recognized as providing a certain level of flood protection.*

12. Congress should fund the National Research Council to engage experts to evaluate and propose modifications to levee design, operation, and maintenance standards. These efforts should include review of previous National Academies reports, and the extent to which previous recommendations have been addressed.

Certification and Inspection

The United States has in place requirements for inspecting and certifying numerous private and public enterprises that affect human health and safety. However, the nation's sole requirements for operation and maintenance of levees are found either in an agreement between a federal agency and a non-federal sponsor (executed during construction of a levee), or as a requirement imposed by FEMA in the course of mapping flood hazard areas associated with levees. In the latter case, proper inspection and certification is mandated in order for a levee to be recognized as providing 100-year flood protection.

For many of the nation's levees, the federal government planned and built the structure, with a non-federal "sponsor," often a local government, contributing some share of the cost. Under this arrangement, the local sponsor assumes responsibility for operation and maintenance of the levee after it is built. The certification and inspection of the levee is thus the responsibility of the local party who chooses to use that structure as a mitigation measure. The certification and inspection of levees is not the financial responsibility of the federal government, except in those instances where the federal government is the sole owner and operator of the levee. Although it is clear that the local sponsor is responsible for operation and maintenance, the local entity is not required to demonstrate financial or technical ability to carry out these tasks. Further, both federal and state oversight and enforcement of the adequacy of ongoing operation and maintenance is problematic.

In numerous other cases, levees were constructed by local or state governments, were private levees built specifically for purposes of compliance with the requirements of the NFIP, or were constructed to protect areas (most notably agricultural lands) from occasional inundation. These non-federal levees have become part of the protection system with varying degrees of ongoing operation and maintenance.

This haphazard approach to levee certification and inspection fails to protect the federal interest in public health, safety, and fiscal responsibility. These requirements for levees are far less stringent than the certification, design, maintenance, and inspection requirements for dams. When flood damage results from levee failure (even if the failure results from the negligence of the levee owner who did not meet the agreed-upon inspection and maintenance duties), federal programs come into the picture to rebuild failed or damaged levees, provide disaster assistance, and sometimes to provide additional financial support to the NFIP—leaving the nation's taxpayers to foot the bill. These policies combine to create a lack of understanding and accountability for levee owners to invest in proper design, construction, inspection, and maintenance of their levees. Reversing this trend will take strong leadership, a sense of shared responsibility, and sharing of the costs and consequences of levee failure.

As with other flood loss reduction programs, a federal-state partnership is the logical avenue for the effective and efficient oversight of the certification and inspection of all levees. The certification process should consider elements of the NFIP but be more aligned with determining whether a levee meets specified design, operation, and maintenance criteria rather than simply whether a

professional engineer is willing to attest that the levee will not fail. Over the long term, levee certifications that are provided to FEMA should be delivered by an approved levee safety program, most appropriately housed within state government. Although the private sector may perform much of the engineering work, it should be reviewed and approved by qualified state staff. State capability in this area is critical and must be developed through federal legislation that provides incentives and disincentives that encourage states to undertake effective state levee safety programs, which then will reduce the federal costs described above.

Recommendations

13. Written guidance is needed on what constitutes a "proper" inspection, what is needed for certification to enable the NFIP to recognize the levee, and what the actual consequences are to the levee owner if the levee is not properly maintained to meet these requirements. Both the Corps of Engineers and FEMA have guidance for requirements of programs that come into play with these issues, and the guidance from each agency must be consistent and correlated with the other agency's guidance.

14. A federal policy should be clearly articulated that the periodic certification and inspection of levees, including related operation and maintenance, is the responsibility of the levee owner and that transferring this responsibility to the federal government is inappropriate. Participation in federal programs of repair, insurance, and disaster relief must be contingent on levee owner compliance with these elements.

15. Non-federal levee owners must be required to demonstrate the long-term financial and technical ability to carry out operation and maintenance tasks. Further, both federal and state oversight and enforcement of the adequacy of periodic inspections and ongoing operation and maintenance must be in place and enforced.

16. A state-administered national levee safety program is needed to protect the federal interest in public health, safety, and fiscal responsibility, as well as to protect public safety and costs related to all levees not in the federal system. Such a program must be fully integrated with state and local programs of flood risk management, especially floodplain management and dam safety, and should use a state delegation model similar to that used to implement the Clean Water Act, rather than function as an independent program like the existing National Dam Safety Program. State capability in this area is critical and can be developed most effectively through federal legislation that provides incentives and disincentives for states to accept delegation for the development and implementation of effective state levee safety programs.

17. FEMA should require that all communities with an NFIP-recognized levee have a multi-hazard mitigation plan that considers how other hazards affect the safety of their levee (e.g., earthquake, subsidence, river sedimentation, erosion, etc.) and appropriate emergency action plans (EAP's) with action steps to account for any of these factors that affect the safety of the levee. FEMA should require that this plan be updated at least every five years, including accounting for any changes in flood flows caused by increased watershed development. The potential for catastrophic consequences of levee failure or overtopping should be included in levee planning, design, regulations, and insurance considerations.

Residual Risk, Insurance, and Communication

The levee problem currently facing the nation has been in the making for nearly a century. It will take time, perhaps 20 years or more, to reverse our vulnerability. As such it will be necessary to identify and directly communicate the risk to individuals, but at the same time provide options that allow realistic and politically viable means for adjusting direction. In the mean time, it will be essential that we properly use all tools to minimize the impact of levee failure.

There is now widespread misunderstanding of the true risks associated with levees. This in turn has helped lead to the current over-reliance on structural solutions to reduce the impact of flooding, and to the creation of a false sense of security among those living, working, or seeking to build in areas behind levees. Communication with citizens and stakeholder groups is rarely an explicit consideration when levees are permitted or built, or in the development of policy for levee design, insurance, or regulation. As a result, the problems noted herein tend to be perpetuated, and the risks associated with levees compounded by continued development. Risk communication is the responsibility of all levels of government and the private entities associated with development, lending, insurance, and conducting any business in or near flood hazard areas near levees. Communication of the residual risk associated with any levee is key to public understanding and acceptance of appropriate public safety and flood risk reduction policies in the nation.

Due to poor communication, levees promote a false sense of security. Investors, property owners, business owners, and others tend to live and conduct business with little consideration of the levee systems that protect their property. When a levee fails there are always a significant number of individuals and businesses that lose everything in the resulting flooding and are never able to recover financially. There is an essential need to modify NFIP flood insurance and perhaps other lines of insurance to recognize that coverage should be provided for the residual risk that exists behind levees. Modifying the mandatory flood insurance purchase requirements to require the purchase of insurance in residual risk areas protected by dams or levees is an essential step.

Residual risk insurance would help manage the risk that remains within those areas protected by a levee. Another component of managing risk might be to consider design practices with levees that account for potential failure modes (e.g., incorporation of spillways at key locations) coupled with development practices behind levees that project and account for some level of inundation should the levee be overtopped or fail. While a 500-year standard by itself may fall short of societal acceptance of risk, a 500-year standard combined with design standards and insurance will increase the overall level of protection afforded to property owners to make it commensurate with the threat to individuals and the community, as well as the nation's taxpayers.

Flood maps produced by FEMA are intended to show the risk to flooding for both the 100-year and 500-year floods. Many of the nation's maps do not show areas behind levees as flood risk areas that will be flooded when the levee fails or is overtopped. Identification of those areas as flood risk areas is essential to communicating flood risk to property owners and communities, so they can take responsibility for that risk, whether by applying appropriate development practices behind the levee, by developing evacuation plans, or by purchasing flood insurance.

Recommendations

18. The area that would be inundated when a levee fails or is overtopped, or when internal drainage systems are overwhelmed or incapacitated should be mapped as a residual risk flood hazard area and depicted on Flood Insurance Rate Maps.

19. *Emergency action plans (EAP's) that address flood warning and evacuation should be required for all residual risk areas behind levees in order to protect lives and minimize property damage. These plans, and the periodic exercise of them, should be a requirement of any federal or state program that recognizes the levee as providing protection.*

20. *The purchase of flood insurance and implementation of appropriate development standards should be mandatory for all property protected by levees, to reflect the potential for the catastrophic consequences of levee failure.*

21. *Communication of the residual risk behind levees on a regular basis should be an explicit component of all aspects of proposed and current levee activities. It should include notification to all property owners of the risk (e.g., a notice in an annual water bill or tax bill) along with other measures such as posting signs in all land areas at risk behind the levees. All communication should state clearly that the area behind the levee is provided with some level of protection by levees, that the levees may fail or be overtopped, and that the area is a floodplain, with indications of the depth of flooding when the levee fails or is overtopped. Communication to the property owners should provide clear information on their role if an evacuation is ordered.*

22. *The liability of owners of structural flood control projects, such as levees and dams, should be communicated to the owners of those structures on a periodic basis. Information on that liability is on the ASFPM website: http://www.floods.org/PDF/NAI_Liability_Failure_Facilities_0906.pdf.*

Adverse Impacts of Levees

Levees by their very nature adversely affect properties that are upstream, downstream, adjacent to, or across the waterway. Levees transfer flood waters onto other property or communities, interfere with the natural attenuation of flows, cause backwaters, generally increase the depth and velocity of flood waters, and encourage channel degradation and eventual bank erosion. In addition, if the levee is located immediately adjacent to the bank or the stream edge, as is common practice, important riparian vegetation is often destroyed either directly during the construction phase, or as a result of the high velocities, erosion, or sedimentation that result from the river's being narrowed by the presence of the levees.

Current policies do not adequately consider the adverse impacts of levees. For example, often levees constructed by the federal government are sited along the boundary of the floodway, which often coincides with the environmentally and hydrologically sensitive area. In some cases the transfer of these impacts is acknowledged and mitigated but frequently the impacts are ignored. This suggests the need for clarifying legislation and/or guidance that states that the creation or transfer of adverse impacts is unacceptable and these impacts must be accounted for and mitigated as part of any levee project—before that project is approved, constructed, re-constructed, or recognized as providing a certain level of flood protection. The presence of a levee encourages development in the flood risk area behind it, bringing people into harm's way when the levee fails or is overtopped.

Second, but equally important, over time levees often provide a lower level of protection than designed because upstream development or levees across the river or elsewhere in the river system or watershed result in the transfer of flooding to the leveed reach. This practice of transferring adverse impacts silently erodes the level of protection provided by the levees. Cumulative impacts

caused by levees need to be addressed. One levee in the system may not have measurable impacts, but if levees are built in additional portions of the system or watershed, the cumulative impacts can be significant, adversely affecting many communities and properties.

Recommendations

23. FEMA and the Corps of Engineers should evaluate and eliminate practices that cause increased flood damage or that lead to induced flooding (the transfer of flooding to other property that is primarily open space) unless property owners agree to a permanent flooding easement in return for this intrusion of flooding on their property.

24. The cumulative impacts of levees within a system or watershed should be evaluated before any levees are permitted, so those impacts are considered and mitigated, including increasing the design height to account for increased flood levels.

25. Levee construction, repair, and reconstruction should account for the protection of existing natural functions to avoid adverse impacts to the natural system. In addition, during repair or reconstruction of the levee, these natural functions should be restored to the maximum extent that is practical to account for past adverse impacts.

Summary

The nation has thousands of miles of levees, with millions of people living in the flood risk areas behind them, many believing they are completely protected from flooding. Communities often choose levees as their option to reduce flood damage to existing development. Current national flood policies not only encourage communities to choose a levee, but also encourage building the levees only to the low standard of the 100-year flood. Communities realize that they can gain the benefits of a levee (an increased local tax base and minimal disturbance to the people and infrastructure of the community) while externalizing the costs of levee failure and overtopping to the federal taxpayers through disaster relief, federal levee construction and repair programs, and the perception that, when flooded, they are the victims.

The result is a nation in which millions of citizens and hundreds of communities neither recognize their flood risk nor accept responsibility for reducing that risk. The overriding aim of ensuring public safety has been lost in the morass of complex benefit/cost calculations and in two misperceptions at the local level: first, that the levee option must be a completely safe and prudent one because the federal government allows (or even encourages) it; and second, that the responsibility for operation and maintenance of the levee does not rest solely with the local owner of the levee but is somehow shared with or even borne by the federal government.

To reverse these negative trends, changes will be necessary at the federal, state, and local levels, as well as on the part of citizens who live, work, and play in flood risk areas. This paper has set out the recommendations from the Association of State Floodplain Managers that we believe will be necessary to yield a public that is both safer and better informed about levees and the flood risk associated with them.

Letter 2
U.S. Army Corps of Engineers
June 4, 2007

1. This comment is a description of the proposed project as well as the regulatory processes, particularly federal regulatory processes that will apply to the project. The City acknowledges the USACE's role in evaluating the environmental effects of the proposed project under the California Environmental Quality Act (CEQA) guidelines, as well as under the National Environmental Policy Act (NEPA) and the Clean Water Act (CWA). The USACE has been an active participant in previous scoping and planning meetings regarding the project's design.

   The City intends to comply with all Federal and State laws. The City has analyzed all of the CEQA environmental review factors and identified impacts that would result from the proposed project. For those impacts considered significant, the City has incorporated appropriate mitigation measures in the DEIR that will reduce project impacts. With the exception of project- and cumulative-level air quality impacts, all impacts will be mitigated to below a level of significance.

   In addition to complying with CEQA, the City intends to submit permit applications to the USACE, the Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Game (CDFG) to address impacts to jurisdictional waters of the U.S./State, including wetlands resulting from the proposed project. The City will apply for an Section 404 of the Clean Water Act, Department of the Army Individual Permit, for activities that involve the discharge of dredged or fill material into waters of the United States. The application materials will address all issues including the direct, indirect, and cumulative impacts to regulated aquatic resources within the entire project area. As part of the Section 404 permit approval process, the City will provide an analysis of practicable alternatives following the requirements of the U.S. Environmental Protection Agency (EPA) Specification of Disposal Sites for Dredged or Fill Material ("the Guidelines"; 40 CFR Part 230, Section 404[b][1]). The City understands that it must clearly demonstrate a project that is considered the least environmentally damaging practicable alternative (LEDPA) taking into consideration cost, existing technology, and logistics in light of overall project purposes.

2. The comment indicates that, in engaging in Section 404 review of the project, ACOE will look at each project element to determine whether it represents the LEDPA. The City has considered alternatives to avoid and minimize impacts while meeting the proposed project's basic purpose. The City has made changes to the project to avoid and minimize impacts. It should be recognized that the existing conditions have adverse conditions pertaining to hydrology and hydraulics. Existing development, including portion of the local circulation network are projected to be flooded in peak flower. Thus, much of the design is intended to protect existing infrastructure. As an example, the proposed project has incorporated recent design changes that involved the removal of the McMahr Bridge crossing and relocation of the proposed pedestrian bridge to avoid and minimize project impacts, and replacing the existing Arizona crossing at Via Vera Cruz with a two-lane bridge to allow better function and values beneath the bridge. These design changes have been incorporated within the preferred project to support a LEDPA determination.

3. The proposed San Marcos Specific Plan project will fully mitigate for project-related impacts to sensitive biological resources through both onsite and offsite revegetation efforts. Revegetation efforts within the project area will connect and expand existing patches of native habitat. The overall intent of the revegetation program is to encourage the natural restoration process by

creating and enhancing wetlands habitat through the removal of non-native exotic species and establishment of appropriate native plant assemblages. The revegetation plan will consist of creating a mosaic of southern willow scrub, herbaceous wetlands, freshwater marsh and alkali meadow communities; and enhancing southern willow scrub and herbaceous wetlands within disturbed habitats throughout the project area and at offsite locations. A nonnative/invasive removal program will be implemented during the revegetation site preparation procedures and will continue throughout the long-term maintenance period. Over 35 acres of mitigation will be provided for impacts to jurisdictional waters of the U.S., including wetlands, resulting from the proposed project with a minimum 10 acres occurring within the project area from SR-78 to the golf course. The City is in the process of identifying specific offsite land, within the same watershed, to compensate for project impacts.

4. The comment explains that, when engaging in its 404 permitting review, the ACOE must perform a public interest review. In its 404 application, the City will provide a thorough analysis of alternatives for the ACOE's public interest review following the Guidelines. For each alternative, the City will ensure that the ACOE receives detailed information regarding the safety of the levee system to facilitate their decision making process. Ultimately, the City understands that the ACOE will only issue a permit for the project that is considered the LEDPA taking into consideration cost, existing technology, and logistics in light of overall project purposes.

5. The comment states that the City must provide assurances that financial staffing and means are available to maintain the levee system in its application to the ACOE. The retail, office, and residential development portion of the proposed project will fund the construction of the proposed flood control system. Since the levee system has incorporated public access routes, the continued operation and maintenance will be the responsibility of the City. Long-term financial and staffing support will be provided to the ACOE during the permitting phase of the project.

6. The comment indicates that the city must demonstrate that the levee is needed in its application to the ACOE. The comment also states that, when needed, levees should be setback from rivers to the maximum extent possible to allow the rivers to function more naturally and to provide for the protection and restoration of riparian habitat. As explained elsewhere, the city will submit a complete application to the ACOE when it applies for its permits. To be clear, however, this comment refers principally to regulatory mandates outside of CEQA. Nevertheless, the following response is offered.

   The proposed project includes the construction of a mainline, setback levee system designed in accordance with ACOE standards for levee design and construction. Mainline and tributary levees refer to levees constructed along mainstem rivers/creeks and tributaries, respectively. Setback levees are often built some distance landward from the channel's bank or edge of water.

   The City has incorporated input from public meetings and research from reputable scientific sources, such as the National Academy of Sciences, into the proposed project design. From an ecological perspective, setback levees have important advantages over those constructed immediately along the streambank in that they allow many of the riparian functions to remain while still providing land and/or building protection (National Academy of Sciences 2002). Setback levees typically allow for natural riparian plant community maintenance and growth and normal floodplain dynamics by maintaining relatively frequent overbank flows, providing flood flow detention, and allowing for fine sediment deposition to be more evenly distributed along the entire streambank and at least a portion of the floodplain (National Academy of Sciences 2002).

While every effort was made to design the levees outside of the floodplain, the location of the levees was, in part, dictated by the need to fund the floodway improvements via commercial development and to move the levees any farther north would represent a severe financial burden to the City and would conflict with the goals and objectives of the San Marcos Creek Specific Plan. The City is in the process of preparing an alternatives analysis to support findings in accordance with Section 404b(1) guidelines, of which all project alternatives will be analyzed for feasibility. This document will be provided to the ACOE during the permitting phase of the project.

The EIR has addressed the No Project/No Action alternative. It results in continued flooding impacts of existing facilities. Other alternatives were evaluated and found not to protect the existing and future development.

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In Reply Refer To:
FWS-SDG-5338.1

MAY 2 9 2007

Mr. Jerry Backoff
City of San Marcos
Planning Division
1 Civic Center Drive
San Marcos, California 92069-2918

Subject: Comments on the Draft Project/Program Environmental Impact Report for the San Marcos Creek Specific Plan and Floodway Improvement Project (SCH No. 2006121080)

Dear Mr. Backoff

The California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service (Service), hereafter collectively referred to as the Wildlife Agencies, have reviewed the April 13, 2007, draft Project/Program Environmental Impact Report (DEIR) for the San Marcos Creek Specific Plan and Floodway Improvement Project (Project), located in the City of San Marcos (City). The comments provided herein are based on the information provided in the DEIR, the Wildlife Agencies' knowledge of sensitive and declining vegetation communities in San Diego County, and our participation in regional conservation planning efforts.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.). The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), Sections 15386 and 15381, respectively. The Department is responsible for the conservation, protection, and management of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act and other sections of the Fish and Game Code, and administers the Natural Community Conservation Plan (NCCP). The City is currently participating in the NCCP program through the preparation of a draft Multiple Habitat Conservation Plan (MHCP) Subarea Plan.

TAKE PRIDE IN AMERICA

Mr. Jerry Backoff (FWS-SDG-5338.1) 2

The DEIR is a project-level EIR relative to the implementation of proposed floodway, infrastructure, and roadway improvements, and a program-level EIR relative to specific development projects within the approximately 217.3-acre San Marcos Creek Specific Plan (Specific Plan) area. The Project area is located in the southwest portion of the City of San Marcos. The Project site is south of San Marcos Boulevard, west of Grand Avenue and State Route 78 (SR-78), and northeast of Discovery Street.

The proposed Project would consist of: (1) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-78; (2) roadway and infrastructure improvements; and (3) implementation of the Specific Plan, which would serve as a master plan to guide the development and buildout of the Project area. Activities would occur in two phases. Phase 1 would include: (1) construction of floodway improvements (e.g., levee and floodwall construction); (2) hydraulic capacity improvements to SR-78; and (3) roadway and infrastructure improvements. Phase 2 would include: (1) construction of grid streets within the Specific Plan; (2) infrastructure improvements; and (3) build-out of the Specific Plan area, including construction of park features, urban trail, pedestrian bridge, and mixed-use areas. The DEIR identifies erosion and runoff control measures and other best management practices to be implemented during grading and other construction. Details regarding the proposed Project are provided in Section 2.0 of the DEIR and summarized below.

Phase 1 (one to five years)

a. Floodway Improvements
The Project would include needed improvements to alleviate the hydraulic capacity constraint at SR-78, contain the floodwaters generated by a 100-year storm event, and resolve local circulation problems that result from flooded streets. The City proposes to excavate a section of the embankment on which SR-78 sits and replace it with a 272-foot long and 155-foot wide bridge, which supplement the capacity of the existing San Marcos Creek culverts within the embankment. Additionally, levees, floodwalls, and fill would built or placed to contain a portion of the undeveloped area within the extant 100-year floodplain (the DEIR uses "overflow area" and "flood control corridor" for this area). And, the reach of Las Posas Creek within the Specific Plan area would be channelized into an open trapezoidal culvert or box culvert.

b. Roadway and Infrastructure Improvements
The Project would include improvements to existing streets and bridges to be consistent with the Circulation Element of the City's General Plan. Specifically, improvements would occur on McMahr Road, Via Vera Cruz, Bent Avenue, and Discovery Street.[1] The proposed improvements to McMahr Road include a bridge (350-400 feet long and 84 feet wide) over San Marcos Creek.[2] The existing Arizona crossings over the Creek along Via Vera Cruz and

1. Improvements on Discovery Street would occur in either Phase 1 or Phase 2.
2. Through use a combination of this crossing, a bridge over San Marcos Creek along Grand Avenue would be constructed when the property to the south of the Creek and outside of the Specific Plan Area is developed.

Bent Avenue would be enhanced by, in part, the addition of box culverts to supplement the existing ones. Discovery Street (between McMahr Road and Craven Road) would be raised in sections to be consistent with flood control elevations and improved to urban street standards.

- Infrastructure Improvements
  The Project would include the installation of North and South Storm Drain Systems (SDS). The North SDS would run along the northern, extend to the confluence of the San Marcos Creek and Las Posas Creek, collect all flows north of San Marcos Creek, and would ultimately discharge to San Marcos Creek. The South SDS would run along Discovery Street between Bent Avenue and McMahr Road and would ultimately discharge to San Marcos Creek near McMahr Road. The Project would also include the undergrounding of existing utility lines along Bent Avenue, Via Vera Cruz, McMahr Road and a segment of Discovery Street.

Phase 2 (up to 20 years):
The approximately 217.3-acre Specific Plan area encompasses 81.7 acres proposed as mixed use development, 19.9 acres of park, 77.0 acres of open space, and 38.47 acres of right-of-way. The 81.7 acres identified as mixed use will be developed with up to 1,265,000 square feet of retail, 389,000 square feet of office space, and up to 2,300 dwelling units. A rezone from Residential (R-1), Industrial (M), and Commercial (C) to Specific Plan Area (SPA) and a General Plan Amendment are required to accommodate the proposed land uses in the Specific Plan. The developable area is envisioned by the City as a series of interconnected neighborhoods with differing land uses and physical characteristics, including seven different districts (as presented in Figures 2.3-11 and Table 2.3-1 in the EIR). The areas designated as "Open Space" and "Park" within the Specific Plan area are, respectively, proposed to include (a) natural preserved and restored habitat within the San Marcos Creek corridor; and (b) a complex of urban parks, plazas, and improved parkland adjacent to the corridor and "Streetscapes" (which include pedestrian zones associated with streets and walkways). Finally, the City proposes to include a pedestrian and bicycle trail system and an enhanced transit route. One component of this system is the proposed pedestrian 12-foot wide bridge across San Marcos Creek mid-way between McMahr Road and Via Vera Cruz.

General and focused biological surveys for the project were conducted by Dudek & Associates in 1999 and from January 2005 through August 2005. Sensitive plant species observed on site include: southern tarplant (*Hemizonia parryi* ssp. *australis*) [now *Centromadia parryi* ssp. *australis*], CNPS List 1B.1); southwestern spiny rush (*Juncus acutus* ssp. *Leopoldii*, CNPS List 4.2); and Southern California black walnut (*Juglans californica*, CNPS List 4.2). The following California Special Concern Species (CSC) were observed on site: yellow-breasted chat (*Icteria virens*); yellow warbler (*Dendroica petechia*); green heron (*Butorides virescens*); Cooper's hawk (*Accipiter cooperi*); and the two-striped garter snake (*Thamnophis hammondii*). No Federal or State-listed endangered or threatened wildlife species were observed or detected during focused

surveys conducted in 2005. Table 3.3-3 in the DEIR lists all sensitive species that have moderate to high potential to occur within the Project Area.

The following table identifies the existing vegetation types within the Project Area, their acreage, the project-related impact acreage (Phase 1 and Phase 2), proposed mitigation ratios, and proposed mitigation acreage:

Table 1. Existing Vegetation Types, Phase 1 and 2 Impact Acreages (Permanent and Temporary), and Proposed Mitigation

Vegetation Community/ Land Cover	Existing Acreage	Proposed Project Impacts		Proposed Mitigation Ratio		Proposed Preservation/ Creation/Enhancement Mitigation
		Permanent	Temporary	Permanent	Temporary	
Native Upland Community						
Coyote brush scrub	0.64	0.06	0.58	1:1	1:1	0.64
Disturbed coyote brush scrub	4.57	3.36 (0.74)	0.32	1:1	1:1	3.68 (0.74)
Diegoma scrub	0.28	0.28	--	1:1	1:1	0.28
Disturbed diegoma scrub	0.09	0.05 (0.02)	0.02	1:1	1:1	0.07 (0.02)
Subtotal	5.59	3.95 (0.76)	0.92			4.67 (0.76)
Non-native Upland						
Developed land	127.86	90.79 (82.69)	7.10			
Annual (non-native) grassland	71.46	13.09 (1.49)	1.07			
Disturbed habitat	18.82	4.50 (3.80)	--			
Eucalyptus woodland	1.13	0.88 (0.10)	0.06			
Ornamental landscaping	2.82	1.89	0.43			
Ruderal land	24.40	13.85 (1.71)	1.92			
Subtotal	190.71	63.04 (91.90)	10.87			
Jurisdictional Native Wetland and Non-Wetland Waters						
Southern willow scrub	17.91	8.35 (1.07)	2.34	3:1	1:1	19.05 (0.21)/2.34
Disturbed southern willow scrub	0.14	0.14	--	3:1	--	0.14/0.14
California walnut woodlands	0.40	0.04	0.02	1:1	--	0.04/--
Freshwater marsh	2.10	0.98	0.37	1:1	1:1	0.96/0.37
Alkali meadow	2.23	0.50	0.06	1:1	1:1	0.04/0.06
Disturbed alkali meadow	1.31	1.18	0.01	1:1	1:1	1.16/0.01
Herbaceous wetlands	21.12	6.85 (0.51)	2.39	1:1	1:1	6.83 (0.51)/2.39
Disturbed herbaceous wetlands	8.70	7.00 (0.10)	0.88	1:1	1:1	7.00 (0.10)/0.88
Stock pond	0.01	--	--	--	--	--
Wetlands vegetation (ne	1.80	--	--	--	--	--
Open water	0.32	0.23	0.08	1:1	--	0.23/--
Open (storm)	0.62	0.16	--	1:1	--	0.16/--
Subtotal	56.97	25.37 (0.78)	3.79			
Jurisdictional Non-native Wetlands						
Arundo	0.12	0.01	0.01	1:1	--	-/0.01
Subtotal	0.12	0.01	0.01			
TOTAL	253.88	91.53 (99.32)				

The Wildlife Agencies appreciate that the City's proposed Project design is the most environmentally superior among the alternatives described in the DEIR that would satisfy the project objectives. However, the chosen Project design proposes significant impacts to wetlands and riparian habitats associated with San Marcos Creek, and to the buffers intended to protect their biological functions and values. We offer our recommendations and comments in the Enclosure to assist the City in minimizing and mitigating project impacts to biological resources.

1 Phase 2 acreages are in parenthesis. Mitigation acreage for Phase 2 was not proposed in the DEIR for consideration during subsequent comment period.

and to assure that the project is consistent with ongoing regional habitat conservation planning efforts.

The Wildlife Agencies appreciate the opportunity to comment on the San Marcos Creek Specific Plan DEIR. If you have any questions, please contact Janet Stuckrath (Department) at (858) 637-5510 or Julie Kirker (Service) at (760) 431-9440.

Sincerely,

Therese O'Rourke
Assistant Field Supervisor
U.S. Fish and Wildlife Service

Michael Mulligan
Deputy Regional Manager
California Department of Fish and Game

Enclosure

cc: Tamara Spear, California Department of Fish and Game
Mike Porter, Regional Water Quality Control Board
Elizabeth Goldmann, Environmental Protection Agency
Terry Dean, U.S. Army Corps of Engineers
State Clearinghouse

05/25/2007 16:46 [illegible] CFW SD COAST PAGE 07

Wildlife Agency Comments on the Draft Environmental Impact Report (DEIR) for the San Marcos Creek Specific Plan

1. The Wildlife Agencies request the opportunity to review and comment on the City's response to our comments (RTCs) at least ninety (90) days prior to the finalization of the EIR and the City Council's consideration of it for certification. Depending on the City's RTCs, the Wildlife Agencies may also request to meet with the City to resolve matters of continuing concern to us. We request that the RTCs include all the information that the City intends to add to the final EIR in response to our comments. 3-1

2. We have commented on several CEQA documents for projects within, or within the vicinity of, the subject Project area. These projects have included, but are not limited to the: (a) San Marcos Creek and Discovery Street/Grand Avenue Improvements Project (SCH# 2001081083; letter dated September 24, 2001); (b) Creekside Marketplace and Adjacent Retail Project (SCH# 2002071013; letters dated July 30, 2002, and January 30, 2003); and (c) University Business Park Specific Plan (SCH #2006051002; letter dated February 23, 2007). These projects and the subject Project have several types of features and biological impacts in common, and we have made similar comments on them in our letters. The primary focus of our comments has been (and in this letter continues to be) the need to preserve and enhance the biological functions and values of the riparian corridor supported by San Marcos Creek and the buffers to the Creek; this need arises not only from the intrinsic biological value of riparian ecosystem including the floodplain, but also the fact the this area is within the 100 percent preserve area of the City's draft Subarea Plan Focused Planning Area. 3-2

   To date, the City has not adequately addressed our comments on the adequacy of the CEQA documents, the need to reduce the biological impacts on the riparian ecosystem, and the need to protect the biological integrity of the FPA. Based on this experience, and considering our letter to the City dated December 12, 2006, regarding the status of the City's progress on finalizing the draft Subarea Plan, it is particularly important that the City demonstrate a good-faith effort to implement the Specific Plan in a manner that is responsive to the concerns we have raised and is consistent with the draft Subarea Plan. Absent adequate responses to our comments and resolution of our concerns, it may be necessary for the Wildlife Agencies to further consider whether to stop processing Habitat Loss Permit (HLP) requests by the City under the 4(d) rule (including *de minimus* exemptions), unless sufficient progress is made on the Subarea Plan.

3. The DEIR indicates that the proposed project is not within the City's draft Subarea Plan Focused Planning Area FPA. However, the City's draft Subarea Plan indicates that the wetlands of San Marcos Creek are within its core and linkage area (i.e., significant areas where conservation activities will be focused), and that San Marcos Creek is located within a 100 percent preserve area. The final EIR should clarify that the Specific Plan area does 3-3

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Mr. Jerry Backoff (FWS-SDG-5338.1) Enclosure, Page 2

encompass a portion of the FPA, and should identify, and require mitigation for, any project-related impacts on the FPA.

3-3 Cont.

4. While the DEIR acknowledges that the riparian corridor within the Specific Plan area potentially functions as a locally wildlife corridor, it concludes that it likely does not function as a regional wildlife corridor in the draft Subarea Plan, but provides no further discussion of this matter.

Contrary to the conclusion in the DEIR, a City document indicates that the reach of San Marcos Creek within the Specific Plan area supports significant biological resources, and most likely serves as a regional wildlife corridor, connecting open space and riparian habitats upstream with those downstream and off-site (City 2001).[1] As already explained, the Creek is within the FPA of the draft Subarea Plan. Furthermore, a biological resources report (Sweetwater Environmental Biologists, Inc. 1996) for the City indicates that: 1) the largest area of riparian woodland within the City occurs along the upper San Marcos Creek from Lake San Marcos east to State Route 78; 2) the largest area of freshwater marsh within the City occurs along upper San Marcos Creek, including the area between Via Vera Cruz and Echo Lane; and 3) all the riparian woodland, riparian scrub, and freshwater marsh within the City is classified as very high quality habitat. In addition, the Regional Water Quality Control Board has designated the biological beneficial uses of "warm freshwater habitat" and "wildlife habitat" for San Marcos Creek.[2]

3-4

Given the biological importance of the riparian corridor supported by San Marcos Creek and of the buffers to the Creek, the Wildlife Agencies request that the final EIR (a) resolve the apparent inconsistencies between the conclusions in the DEIR and the information in the preceding paragraph, (b) provide a more thorough analysis of the Project related impacts on the biological functions and values of the riparian corridor and its buffers, and (c) require mitigation for the impacts beyond those identified in the DEIR.

5. The DEIR states, "implementation of the proposed project would not result in permanent direct impacts to the habitat linkage or movement corridor functions of San Marcos Creek... [and] is not expected to preclude the use of onsite and adjacent habitat by wildlife or hinder its suitability as a local habitat linkage and wildlife corridor" and requires no related mitigation. This conclusion relies in part, if not solely, on past and future wetlands restoration and enhancement within the riparian corridor within the Specific Plan area. The

3-5

1. Though the cited document is associated with the San Marcos Creek and Discovery Street / Grand Avenue Improvements Project, the reach of the San Marcos Creek corridor as that it addresses is the same as for the subject Project.

2. The beneficial use of "warm freshwater habitat" includes uses of water that support warm water ecosystems including, but not limited to, preservation or enhancement of aquatic habitat, vegetation, fish or wildlife, including invertebrates. The beneficial use of "wildlife habitat" includes uses of water that support terrestrial ecosystems including, but not limited to, preservation or enhancement of terrestrial habitat, vegetation, wildlife or wildlife water and food sources.

DEIR also concludes that proposed measures (e.g., best management practices) would reduce the Project-related indirect impacts to a level less than significant. The DEIR provides insufficient information for the Wildlife Agencies to assess the validity of these conclusions. While, subsequent comments herein further address areas in which the DEIR provides insufficient information, five such areas are:

a. design of the proposed bridge for McMahr Road;
b. analysis of the biological (e.g., wildlife movement) Project-related impacts from the increases in traffic along the improved roadways (including the Arizona crossings);
c. restrictions (seasonal), if any, on the use of the proposed (i) pedestrian trail and bridge crossing San Marcos Creek between McMahr Road and Via Vera Cruz, and (ii) multi-use trail along McMahr Road and bridge;
d. analysis of the biological edge effects associated with the future development to north of the levee – the explicit intent of the fill to be placed behind the levee is to avoid having the levee create a wall between the open space corridor and the development by elevating the land to the same elevation as the top of the levee; and
e. analysis of the up- and down-stream biological effects of the concrete-aprons and concrete-lined bottom along San Marcos Creek for the proposed bridge for SR 78.

If the final EIR maintains the same conclusions, it should provide sufficient information to justify them, and include additional mitigation, as needed.

3-5 Cont.

6. We are very concerned about the proposed reduction of the 100 (and less) year floodplain (Figure 3.6-1 in the DEIR) and the associated loss of floodplain functions and disruption of the natural processes of the riparian ecosystem supported by San Marcos Creek.[1] We recognize that the Project is intended to, in part, provide man-made structures from flooding. However, this does not obviate the need for analyses of the impacts (hydrological, hydraulic, morphological, biological) of further constraining the floodflows within the San Marcos Creek corridor. The documentation we reviewed provides no such analyses; nor does it analyze the cumulative impacts from the proposed, past, and foreseeable future reductions/encroachments into the floodplain. Therefore, in addition to the information requested in comment #5(d), the final EIR should provide:

3-6

1 One reason for the fact that floodplains are intended to, in part, protect the functions and values of the adjacent wetlands and riparian habitats. These functions and values include providing wildlife habitat, food chain productivity, filtration of naturally-occurring (i.e., not anthropogenic) "pollutants," ground water recharge, and areas for the percolation from storm and floods. Over time, increased flow velocities and rates can cause erosion. Even hydrological changes can seriously damage riparian / wetland habitats. (Examples of these can include: 1) stream bed scouring and habitat degradation; 2) channelized erosion and stream bank widening; 3) loss of adjacent riparian; and 4) decreased baseflow (USEPA 1993). While the subject Project proposes some water infrastructure designed to capture urban surface flows upstream of the reach of San Marcos Creek within the Project area, the flows that are generated within the riparian corridor and floodplain may exceed the capacity of the proposed floodplain to process traffic loads or event long-term morphological (and subsequent biological) damage.

a. a recent aerial photo of the Project site with delineations of the 25-, 50-, and 100-year floodplains;
b. a thorough discussion about the Project-related hydrological, hydraulic, morphological biological impacts on San Marcos Creek and its floodplain within the Project site, and up- and down-stream of it;
c. a thorough discussion about the potential project-related and cumulative negative impacts on the riparian and benthic habitats (e.g., erosion, disturbance of habitat and aquatic and terrestrial species therein) along the Creek within the Project site and up- and down-stream of it; and
d. a thorough discussion about how the potential negative impacts would (i.e., not merely could) be avoided and minimized.

3-6 Cont.

7 The City's draft Subarea Plan includes the minimization of edge effects as conservation policy for San Marcos Creek. In order to implement this policy and retain some of the floodplain functions of San Marcos Creek (as addressed in the previous comment) the final EIR should (a) where existing development does not restrict it, reflect a realignment of the proposed locations for the levees and the benching for the Discovery Park further away from San Marcos Creek,[4] and (b) require the establishment of buffers by all future development adjacent to the open space. We provide more detail below.

a. The final EIR should provide a thorough discussion of where the proposed levees and benching for the Discovery Park could be pulled further away from San Marcos Creek (i.e., further out of the floodplain), and an analysis of alternate (less biologically damaging) methods of protecting existing structures and future development (e.g., constructing floodwalls around them).

b. If any part of the proposed project is underwritten by Federal funding, the project is subject to Executive Order 11988 (EO 11988) on Floodplain Management. EO 11988 requires action to restore and preserve the natural and beneficial values served by floodplains and the consideration of alternatives to avoid adverse effects and incompatible development in floodplains.

c. The buffers should be at least 100 feet in width (as measured from the outside dripline of the riparian vegetation supported by San Marcos Creek) to adequately protect the wetland and riparian habitats and the species they support from edge effects.[5] The Fish and Game

3-7

4 Based on Figures 2.1-1 and 2.1-..., it appears that the locations of the proposed levees and the benching for the Discovery Park would not allow for any buffer or for only very narrow buffers.

5 Edge effects are defined as undesirable anthropogenic disturbances beyond given boundaries into natural habitats (Kelly and Rotenberry 1993). Edge effects, such as disturbance to humans, trampling, noise, and fighting, and decreases in plant productivity (Andren and Angelstam 1988), are all environmental effects that have negative impacts on sensitive biological resources in southern California. Development and open space configurations should minimize adverse edge effects (Soulé 1991).

Commission Policy on the Retention of Wetland Acreage and Habitat Values states, "Buffers should be of sufficient width and should be designed to eliminate potential disturbance of fish and wildlife resources from noise, human activity, feral animal intrusion, and any other potential sources of disturbance. The size and character of buffers should ultimately be determined by the requirements of the affected species most sensitive to such disturbances." Specific recommendations for riparian buffer width in published journals range from 10 to 240 meters, or approximately 33 to 787 feet, and the Army Corps of Engineers suggests that narrow strips of 100 feet may be adequate to protect the riparian resources (USACE 1991, emphasis added).

3-7 Cont.

8. Relative to biological cumulative effects, the DEIR states, "preservation of habitat through individual permitting and CEQA review and planning in accordance with the biological resource conservation goals of the MHCP are intended to mitigate cumulative biological impacts. Therefore, cumulative impacts to biological resources are considered less than significant." However, the Wildlife Agencies are already concerned about the extant fragmented nature of the biological resources within the Specific Plan area. And, as addressed in comment #1, based on our past (e.g., Creekside Marketplace and Adjacent Retail Project - SCH# 2002071013) and current involvement in the CEQA process for projects within the City, we question this statement. Our experience is a factor in our not accepting at face value the DEIR's conclusion relative to biological impacts for the subject Project alone. In addition to providing the additional Project-specific information and analyses we request elsewhere in this letter, the final EIR should provide a thorough discussion substantiating the statement. Among other things, the discussion should address the (a) potential biological cumulative effects on San Marcos Creek and its buffers resulting in particular from Creekside Marketplace, the subject Project, and Fenton Property (i.e., University Business Park Specific Plan), and (b) and the potential for availability of enough mitigation land for the latter two projects.

3-8

9. The DEIR indicates that (though not a component of the subject Project), a bridge over San Marcos Creek along Grand Avenue would be constructed when the property to the south of the Creek and outside of the Specific Plan Area is developed. The Cumulative Effects section of the final EIR should clarify whether (a) that property is the Fenton Property listed in Table 7.1-1, and (b) that project would also include an extension of Discovery Street between its existing eastern terminus and the future southern terminus of Grand Avenue as depicted on Figure 2.3-4 of the DEIR. The final EIR should provide an aerial photograph with an overlay of the boundaries of the projects listed in Table 7.1-1.

3-9

10. On page 2-24, the DEIR indicates that native plants will be used "wherever feasible in areas adjacent to preserved habitat." The final EIR should clarify what habitat is considered "preserved," and should apply the restriction in a manner that will prevent the introduction or establishment of invasive plant species to any location where it would diminish the biological

3-10

value of the habitat. Exotic plant species not to be used include any species listed on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" List. This list includes such species as pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. A copy of the complete list can be obtained from Cal-IPC's web site at http://www.cal-ipc.org. In addition, landscaping should not use plants that require intensive irrigation, fertilizers, or pesticides adjacent to preserve areas and water runoff from landscaped areas should be directed away from the biological conservation easement area and contained and/or treated within the development footprint. The city should submit to the Agencies the final list of species to be included in the landscaping within 30 days of receiving approval of the draft list of species.

3-10 Cont.

11. The Wildlife Agencies request that the final EIR include an aerial photograph with an overlay of all the proposed trails, including the segments of the trails that would traverse San Marcos Creek and its buffers; Figure 2,3-12 in the DEIR does not depict these. Generally, we recommend that no new trails be created within designated open space unless they replace existing trails that pose greater impacts to the sensitive biological resources. We consider the proposed pedestrian trail and bridge across San Marcos Creek between McMahr Road and Via Vera Cruz inconsistent with the intent of the draft Subarea Plan. Our understanding is that the proposed McMahr road and bridge will include a multi-use trail and the Via Vera Cruz would provide sidewalks. The proposed pedestrian trail would be redundant to these and would introduce significant long-term ongoing indirect biological impacts ((e.g., noise, line-of-sight disturbances from pets or feral animals and humans). If the City does not eliminate the pedestrian trail, the final EIR should thoroughly discuss the impacts associated with its creation and operation and require appropriate mitigation for the impacts. For example, the final EIR should require that all trails be patrolled regularly to minimize impacts due to pets off-leash, erosion, trash accumulation, and unauthorized trail uses and creation.

3-11

12. The DEIR proposes to mitigate impacts to southern tarplant and southwestern spiny rush through relocation. Because southern tarplant is an annual species, relocation would not be an appropriate method to re-establish a population. We recommend that the final EIR instead require seed collection prior to impacting the existing population and then re-seeding in currently unoccupied habitat with similar soils and aspect.

3-12

13. The construction of levees and development pads would require the City to import approximately 650,000 cubic yards of material. Please indicate where this material would be imported from, what the soil composition would be, and what type of seed bank could be imported to the Project site.

3-13

14. According to the Biological Resources Technical Report referenced in the DEIR, there are 1.80 acres of existing wetland restoration between McMahr and Via Vera Cruz Roads. Table

3-14

3.3-4 in the DEIR indicates that the existing wetland restoration site will not be impacted by the proposed project. The final EIR should clarify the location of this wetland restoration (provide an aerial photograph with an overlay of the restoration area), when and why it was required, its status (i.e., have the agencies signed it off), and whether the subject Project would affect it. If the restoration area would be affected by the subject Project, the final EIR should acknowledge that the mitigation ratios will be higher for those impacts than for impacts on habitat that is not already mitigation. 3-14 Cont.

15. The DEIR incorrectly identifies 24.40 acres of vegetation as ruderal. The MHCP does not use the classification of ruderal as a vegetation type. Areas that formerly would have been classified as ruderal should now be classified using one of the categories described in Appendix F of the Final MHCP Volume II. The final EIR should correct this designation and adjust the mitigation requirements accordingly as needed. 3-15

16. The final EIR should address total impacts to community habitat types, combining both Phase 1 and Phase 2 of the Project. 3-16

17. Coyote brush scrub and isocoma scrub are both sub-communities of coastal sage scrub and exist very near the project footprint boundaries. Therefore, focused protocol-level surveys for the federally threatened coastal California gnatcatcher (*Polioptila californica californica*) should be performed. 3-17

18. Page 2-24 of the DEIR indicates that the Project would incorporate source control, treatment control, and site design best management practices (BMPs). The final EIR should provide a figure that depicts the locations of and briefly describes the Project-related construction- and post-construction BMPs. We are particularly interested in the BMPs that would attenuate the surface flows prior to their discharge to San Marcos Creek. All the BMPs should be within the development footprint (*i.e.*, they should not be considered mitigation nor should they be within mitigation or open space areas), and if their footprint increases the losses of habitat identified in the DEIR, the final EIR should increase the proposed mitigation acreages accordingly. 3-18

19. The final EIR should discuss the details involved in the construction of the all bridges, including the location of supports (*e.g.*, within or outside wetland/riparian areas), and the degree of streambed shading resulting from the placement of the bridge. 3-19

20. The DEIR indicates that a Streambed Alteration Agreement (SAA), pursuant to Section 1600 *et seq.* of the Fish and Game Code, will be needed for the Project. The Department's issuance of a SAA for a project that is subject to CEQA requires CEQA compliance actions by the Department as a Responsible Agency. As a Responsible Agency under CEQA, the Department may consider the City's EIR for the project. To minimize additional 3-20

requirements by the Department pursuant to Section 1600 *et seq.* and/or under CEQA, the final EIR should fully identify the potential impacts to stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the SAA. A SAA notification form may be obtained by writing to the Department of Fish and Game, 4949 Viewridge Avenue, San Diego, California 92123-1662, or by calling (858) 636-3160, or by accessing the Department's website at http://www.dfg.ca.gov/1600. Table 3.3-5 of the DEIR proposes mitigation ratios for impacts on wetlands and riparian habitats. We defer comments on the proposed ratios until the negotiations for the SAA. However, given the sensitivity of the affected habitats (e.g., southern willow scrub, coastal and valley freshwater marsh, and herbaceous wetland), it is possible that the SAA will require higher mitigation ratios. The final EIR should reflect this possibility.

3-20 Cont.

21. The final EIR should require that the applicant install permanent protective fencing along any interface between developed and mitigation/open space areas, and/or use other measures approved by the Wildlife Agencies to deter human and pet entry into on- or off-site habitat. Fencing should have only lockable gates (for access only by the land manager) and be designed to prevent intrusions by pets, especially cats. The final EIR should also require the posting and maintenance of signage at conspicuous locations along the protective fencing. Plans for fencing and/or other preventative measures and signage should be submitted to the Wildlife Agencies for approval at least 30 days prior to initiating project impacts.

3-21

22. The DEIR indicates that "cut-off type" lighting fixtures that focus light down and shield surrounding areas would be used to minimize lighting impacts "within the creek" (pages 2-24 and 3.3-35) and to direct light away from "any adjacent native habitat." We request that the final EIR: (a) clearly apply these requirements to all future development within the Specific Plan area; (b) extend the same requirements to the buffer areas for the riparian corridor; (c) prohibit lighting on the vehicular and pedestrian crossings over San Marcos Creek and its associated buffers; (d) require the installation of walls (or similar serving structures) along the Arizona crossings to prevent vehicular lighting (and attenuate vehicular noise) from reaching the sensitive habitats they traverse; (e) except for the minimal security lighting required around the parking area and buildings, prohibit lighting in the Discovery Park (and any other park areas) adjacent to the San Marcos Creek and its buffers; and (f) require that, if night work is necessary, night lighting be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from natural habitats.

3-22

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Letter 3
U.S. Fish and Wildlife Service/California Department of Fish and Game
May 29, 2007

a. This comment provides a summary of the project, notes the Wildlife Agencies responsibilities, and provides other introductory remarks. Because this comment does not address the adequacy of the environmental document, no additional response is necessary.

1. The Wildlife Agencies request an extended period to review responses to comments—90 days. CEQA does not mandate that a final EIR be circulated 90 days prior to its certification. The City will meet all CEQA-related noticing requirements and will provide responses to the Wildlife Agencies at least 10 days before the hearing, as required by CEQA. The City is happy to meet with the Wildlife Agencies at any time, before or after the EIR's certification.

2. The Wildlife Agencies state that they have provided guidance to the City in the past on other projects, and consistent with that past guidance their primary concern is the need to preserve and enhance the biological functions and values of the riparian corridor supported by San Marcos Creek. The Wildlife Agencies also express concern that the project has not been adequately evaluated for its consistency with the draft Subarea Plan Focused Planning Area of the Multiple Species Conservation Plan. The City recognizes the need to maintain the intrinsic biological value of San Marcos Creek and has taken that into consideration in the design of the proposed project. The City values the comments received by the Wildlife Agencies on the proposed project and has incorporated appropriate mitigation measures in the DEIR that will reduce project impacts to a level that is less than significant. With respect to the proposed project, includes various measures to better protect and enhance the existing, preserved resources of San Marcos Creek:

   - The project shall use directional lighting (i.e., shielded, low sodium, low wattage street and building lighting that is focused down to protect surrounding areas from intrusive light). This sort of lighting is mandated by the City's lighting standards as well as the specific plan and will minimize lighting impacts within the creek area. (See, e.g., pages 2-24, 3.1-6.);
   - The project shall include habitat creation and restoration, including onsite and offsite habitat restoration (see Mitigation Measures MM 3.3-1, MM 3.3-2, MM 3.3-3, MM 3.3-5, MM 3.3-6, MM 3.3-7, MM 3.3-8, MM 3.3-9, and MM 3.3-10 at pages 1-32 to 1-37, 2-23, 2-24, 2-25, and 3.3-43 to 3.3-48.)
   - The project shall also include invasive species control, directional drainage, resident and business outreach/information dissemination, trash/litter removal, trail design, and fencing/signage (see, e.g., MM 3.3-4 (weed eradication program) at pages 1-34, as well as pages 2-23 (discussing trash control), 2-12 (drainage plan)

   The Wildlife Agencies also refer vaguely to comments that may have been made on other projects and the supposed inadequacy of that mitigation to address biological impacts on the riparian ecosystem. Without more information, a response is impossible except to direct the Wildlife Agencies to responses below addressing comments on mitigation devised for this

particular project. Again, the City is happy to meet with the Wildlife Agencies to discuss this further.

The focus of the City's draft Subarea Plan is to maintain chaparral and coastal sage scrub-dominated ridgelines and slopes in northern and southern San Marcos to provide effective movement corridors for the federally-listed threatened California gnatcatcher. Through various large-project entitlement processes, unrelated to the proposed project, a preserve generally consistent with the City's draft Subarea Plan is currently being assembled within city limits that will provide essential movement corridors necessary for breeding, foraging, and genetic and demographic interchange. The City continues to work with the Wildlife Agencies on addressing issues pertaining to the City's Subarea Plan to ensure that the Plan is prepared in a fashion that is agreeable to the Wildlife Agencies and protective of listed species. Strategy meetings are currently in progress to help finalize the Subarea Plan. (See also response 3 below.)

3. The Wildlife Agencies state that the EIR indicates that the proposed project is outside of the draft Subarea Plan's Focused Planning Area, but in fact the project falls within a 100 percent preserve area. San Marcos Creek and all associated wetlands are located within the City's urbanized core outside of both the Northern and Southern Focused Planning Areas (FPAs) but within an area informally described as the San Marcos Creek FPA. While not explicitly described in the City's draft Subarea Plan, the San Marcos Creek FPA refers to the primary watercourse and vegetated riparian corridor of San Marcos Creek the majority of which extends from SR-78 to Lake San Marcos. Pursuant to existing state and federal regulations relevant to resource impacts in this area, the City's Subarea Plan supports the "No Net Loss of Wetlands" policy (see Page 63 of City's draft Subarea Plan). As such, as defined in the City's draft Subarea Plan, San Marcos Creek is 100% conserved in accordance with the "No Net Loss of Wetlands" policy, which states that for each acre of wetlands/waters impact, an acre must be restored, enhanced, and/or created thus maintaining and/or increasing the overall wetlands present.

   The proposed flood improvement and circulation elements including the construction of earthen levees from Bent Avenue/Craven Road west to the golf course, a proposed bridge crossing at Via Vera Cruz, and improvements to Bent Avenue were contemplated within the City's Subarea Plan and are deemed necessary for the public health safety and welfare and as such are deemed consistent with the goals, standards, and policies of the City's Subarea Plan (Sections 2.4, 4.3.1, and 4.3.2 of City's draft Subarea Plan). The proposed project meets all of the conservation goals, rates, and policies for the San Marcos Creek FPA as outlined below:

   - No net loss of habitat values – Pursuant to existing state and federal regulations relevant to aquatic resource impacts, the City's draft Subarea Plan supports the federal Clean Water Act's "No Net Loss of Wetlands" policy (Section 4.3.2, page 63, of City's draft Subarea Plan). This policy states that for each acre of wetlands impacted, an acre must be restored, enhanced, and/or created thus maintaining and/or increasing the overall wetlands present. Therefore, as defined in the City's draft Subarea Plan, 100 percent of the wetland habitat within San Marcos Creek will be conserved in accordance with the "No Net Loss of Wetlands" policy through

wetlands avoidance, minimization, and mitigation (restored, created, or enhanced) within San Marcos Creek or its tributaries.

- Avoidance of sensitive habitats where feasible – The proposed flood control improvements have been designed to avoid and/or minimize sensitive habitats to the maximum extent practicable.
- Minimize edge effects – The short-term and long-term direct and indirect effects resulting from edge effects would be mitigated through the incorporation of best management practices (BMPs) and landscape controls to reduce impacts to a level that is less than significant (see MM 3.6-1, MM 3.6-2, MM 3.3-3. MM 3.3-2, MM 3.3-6, MM 3.3-7, and MM 3.3-8 of the DEIR)
- Control access – The 20.6 acres designated for improved public parkland includes three urban parks that are located internal to the development area and continuous greenways along both the north and south sides of the creek open space corridor. These greenways link a series of park spaces that are strategically located to maximize visual connection to and physical access by the public to the park areas. However, the parklands have been designed to restrict direct public access to the creek open space corridor. The series of parks, plazas, and walking and bicycling paths located atop the new levees will provide views down into the open space without the potential environmental disturbance associated with physical access. Fencing and/or gates will be used to ensure that public access to the creek is avoided.
- Limit direct impacts by regulating clearing of native habitat – As summarized in the proposed project's biological resources technical report (Table 5, page 52), approximately 24 percent of the project area is characterized by native upland and riparian/wetland plant communities. The proposed flood control improvements have been designed to limit the direct impacts to these native plant communities. Approximately 64 percent of the native upland and riparian/wetland plant communities will be avoided by the project. Furthermore, any future clearing of native habitat needed to ensure proper flood flow within the creek, if needed, will be limited to existing culvert outlets and developed areas.
- Limit chemical use, including fertilizers and pesticides, within the vicinity – A weed eradication program will be implemented during the habitat revegetation program and will continue throughout the long-term maintenance period. Use of herbicides and pesticides will be minimized to the maximum extent practicable and, if deemed appropriate, would follow the manufacturers recommended application and would not harm native or migratory species.
- Control non-native competitive species – One of the key factors in the proposed project's habitat restoration program is the removal of non-native exotic species in order to encourage a fully functional wetland and floodplain ecosystem that is compatible with the City's anticipated flood control improvements and economic growth.
- Protect against frequent or catastrophic fires – Implementation of the proposed project will occur in accordance with local fire policies including utilizing appropriate buffer widths from buildings to open, vegetated areas and planting the buffers with appropriate, low-growing, drought-tolerant species.

- Manage conserved area for preservation of wetland habitats - The San Marcos Creek floodplain has been targeted for wetlands restoration and enhancement in order to provide additional wildlife habitat and increase its biological functions. The overall intent of the revegetation program is to create and enhance wetlands habitat. The revegetation plan will consist of creating a mosaic of southern willow scrub, herbaceous wetlands, freshwater marsh and alkali meadow communities and enhancing southern willow scrub and disturbed herbaceous wetlands within disturbed habitats throughout the project area and at offsite locations in the project vicinity. The restoration program will consist of a five year maintenance and monitoring period that will target achieving the specified success criteria and performance standards for wetlands habitat within the study area. Once the initial five year maintenance and monitoring period is complete, the City will entrust a management entity to maintain the revegetated areas in perpetuity.
- Allow stream crossings at Bent Avenue, Grand Avenue, Via Vera Cruz, Melrose Avenue, Discovery Street, and McMahr Avenue and needed flood control appurtenances – The purpose of the proposed project is to ensure the timely construction of the abovementioned stream crossings and flood control improvements to protect public safety.
- Allow construction of passive recreational improvements, including pedestrian and equestrian bridges, as well as maintenance of existing recreational facilities –The proposed project has incorporated a system of pedestrian, equestrian, and bicycle trails throughout the open space system. The proposed project provides for a comprehensive system of trails and other facilities that is intended to address both the recreation and commute needs of the local community.
- Allow biological restoration activities – The San Marcos Creek floodplain has been targeted for wetlands restoration and enhancement in order to provide additional wildlife habitat and increase its biological functions. The overall intent of the revegetation program is to create and enhance wetlands habitat. The revegetation plan will consist of creating a mosaic of southern willow scrub, herbaceous wetlands, freshwater marsh and alkali meadow communities and enhancing southern willow scrub and disturbed herbaceous wetlands within disturbed habitats throughout the project area and at offsite locations in the project vicinity.

Additionally, proposed flood improvement and circulation elements including the construction of earthen levees from Bent Avenue/Craven Road west to the golf course, a proposed bridge crossing at Via Vera Cruz, and improvements to Bent Avenue were contemplated within the plan and are deemed necessary for the public health safety and welfare and as such are deemed consistent with the goals, standards, and policies of the City's Subarea Plan (see pages 23 and 54 of City's draft Subarea Plan). Therefore, the project as proposed would not conflict with the goals and standards of the City's draft Subarea Plan.

4. The Wildlife Agencies comment that this EIR and another EIR prepared for the San Marcos Creek Discovery Street/Grand Avenue Improvements Project potentially conflict; according to the Wildlife Agencies, the former EIR states that the creek is not a regional wildlife corridor, whereas the latter supposedly states that it does function as a wildlife corridor. As

explained in the EIR, San Marcos Creek in the project area is considered a local wildlife corridor, but was not identified as an important regional wildlife corridor in the draft subarea plan. (See Draft EIR, p. 3.3-24.) The EIR explains as well that not only was the creek in the project area not identified as a regional wildlife corridor in the draft subarea plan, it likely does not in fact function as such a regional corridor. (See Draft EIR, p. 3.3-24.) The reasoning in the EIR was thus. The floodplain of San Marcos Creek, in general, was historically grazed and farmed for decades resulting in the growth of low-growing disturbed wetlands and non-native upland habitats. The stretch of San Marcos Creek associated with the actual flow line, however, is fairly well-developed and well-stratified supporting an assemblage of riparian habitats ranging from low-growing herbaceous wetlands to mature southern willow scrub with a depauperate understory. Nevertheless, the EIR acknowledged that because San Marcos Creek is a perennial stream channel providing essential cover and aquatic resources for local wildlife it likely permits wildlife movement functions connecting more lacustrine habitats to the west (*e.g.*, Lake San Marcos) to vegetated riparian areas upstream of SR-78. (See Draft EIR, p. 3.3-24.) However, this area likely does not function as a regional wildlife corridor due to the historical and transitional development patterns present in proximity to San Marcos Creek, namely the development of SR-78 which, as stated in the City's draft Subarea Plan, precludes connectivity to the Northern focused planning area(See Draft EIR, p. 3.3-24; see also San Marcos Subarea Plan, p. 49-51 Finally, the EIR evaluated the potential for the project to restrict wildlife movement, and concluded that it would not restrict such movement. (See Draft EIR, p. 3.3-42.) The Wildlife Agencies suggest that another EIR prepared by the City indicated that the creek may serve as a regional corridor; regardless, the Wildlife Agencies do not claim or point to substantial evidence indicating that the project would have impacts on the ability of the creek to function as either a regional or local wildlife corridor. Because no impacts to wildlife corridors are anticipated, mitigation is not needed. As discussed below, however, project elements and mitigation for other impacts will improve the ability of the creek to function as a wildlife corridor.

San Marcos Creek will be directly, adversely affected by the proposed project. However, the floodplain in areas west of Bent Avenue will remain wide with an average width of approximately 500 feet. This area of the floodplain has been and will continue to be targeted for wetlands restoration and enhancement, thereby providing additional wildlife habitat and increasing the functionality of this portion of the creek as a local wildlife corridor. Designated work areas within the creek consist of degraded or disturbed wetlands habitat; thus onsite revegetation efforts along with existing revegetation efforts in the area will connect and expand existing patches of native habitat and will enhance wildlife habitat use along the riparian corridor by providing increased plant cover and protection. Wildlife diversity and density are expected to increase as a result of the expanded habitat cover. Although wildlife movement may be disrupted temporarily during construction, these impacts are considered temporary in nature and implementation of the overall project will not result in permanent direct impacts to the habitat linkage or movement corridor functions of San Marcos Creek. The resultant channel dimension will be on average approximately 500 feet in width to ensure the longevity of a significant channel bottom. A majority of San Marcos Creek will continue to remain preserved in open space and the linkage will be retained, providing connectivity to existing open space by retaining a restored and enhanced riparian corridor from Lake San Marcos to SR-78. Thus, the EIR has adequately evaluated and proposed mitigation for the project's temporary and permanent impacts. Please see Section 3.3. of the EIR for the impact analysis and mitigation measures.

5. The Wildlife Agencies request more information in five areas in order to assist them in evaluating the EIR's conclusion that there will be no impacts to wildlife corridors. See responses 5a, 5b, 5c, 5d, and 5e, below.

5a. The Wildlife Agencies ask for more information on the design at the proposed bridge at McMahr Road. The Draft EIR included a description of the bridge in Section 2.0 of the EIR. However, since the circulation of the DEIR, the City has opted to eliminate the McMahr Bridge crossing to reduce overall project impacts and cost. As detailed in the Final EIR, a bridge is proposed at Via Vera Cruz. Thus, the environmental impacts associated with this design feature are no longer being considered in this DEIR.

5b. The Wildlife Agencies ask for more information on new creek crossings, particularly the crossing at Via Vera Cruz, where an Arizona crossing is proposed. Due to design changes, Via Vera Cruz will now be a bridge crossing in lieu of an improved Arizona crossing. Please see the introduction to the Final EIR for a description of the Via Vera Cruz bridge. This will facilitate safer wildlife passage through the study area at this location. The Arizona crossing at Bent Avenue will remain in place upon project completion and will continue to provide wildlife passage opportunities for local wildlife species. Additionally, the bridge at McMahr will be removed, and an extension of McMahr across the creek will not occur. The biological resource consultant for the project has prepared a memorandum, which is included as Appendix N of the Final EIR. The memorandum notes that removal of McMahr and the development of a bridge at Via Vera Cruz would have impacts that are equal to or less than the scenario discussed Draft EIR.

The Arizona crossing at Bent Avenue will remain in place upon project completion and will continue to provide wildlife passage opportunities for local wildlife species. Specific measures to minimize impacts to protect wildlife species will be negotiated with the Wildlife Agencies during the regulatory permitting process, but may include establishing wildlife deterrents around creek crossings such as protective fencing.

5c. The Wildlife Agencies ask for more information on seasonal restrictions, if any, on the use of the (i) proposed pedestrian trail and bridge crossing San Marcos Creek between McMahr Road and Via Vera Cruz and (ii) the multiuse trail along McMahr Road and bridge. No restrictions are proposed on future trails and bridges within the study area at this time. Note, however, that the pedestrian crossing originally proposed at San Marcos Creek between McMahr Road and Via Vera Cruz will be relocated in areas closer to McMahr Road where the creek is substantially narrower to reduce direct impacts on San Marcos Creek.

5d. The Wildlife Agencies request an analysis of the biological edge effects associated with future development north of the levee in as much as the "explicit intent of the fill to be placed behind the levee is to avoid having the levee create a wall between the open space corridor and the development." As described in the biological resources technical report, there are a number of undeveloped, infill sites to the north of the proposed levee/development pad that will be developed. No development proposals have been submitted for these sites to date, but these areas will be directly impacted by future development as implementation of the Specific Plan continues. The following vegetation communities will be directly impacted by the proposed future work: 0.07 acre of southern willow scrub; 0.55 acre of herbaceous wetlands; 0.16 acre of disturbed herbaceous wetlands; 0.74 acre of disturbed coyote brush

scrub; 0.02 acre of disturbed isocoma scrub; 1.49 acres of annual (non-native) grassland; 82.39 acres of developed land; 13.80 acres of disturbed habitat; 0.10 acre of eucalyptus woodland; and 1.71 acres of ruderal land.

Development of the Specific Plan area has the potential to indirectly impact biological resources through "edge effects," and may be short-term in nature, related to construction, or long-term in nature, associated with development in proximity to biological resources within natural open space. For the proposed project, it is assumed that the potential indirect impacts resulting from construction activities include dust, noise, and general human presence that may temporarily disrupt species and habitat vitality and construction-related soil erosion and runoff. With respect to these latter factors, however, all project grading will be subject to the typical restrictions (*e.g.*, BMPs) and requirements that address erosion and runoff, including the federal Clean Water Act, National Pollution Discharge Elimination System (NPDES), and preparation of a Stormwater Pollution Prevention Plan (SWPPP). Long-term indirect impacts may include noise, lighting, invasion by exotic plant and wildlife species, effects of toxic chemicals (*e.g.*, fertilizers, pesticides, herbicides, and other hazardous materials), urban runoff from developed areas, soil erosion, litter, fire, hydrological changes, increased predation of native species; and an increase in general human presence. These impacts would be mitigated through the incorporation of BMPs and landscape controls to reduce impacts to a level that is less than significant. (See, e.g., MM, 3.6-1, MM 3.6-2; see also Mitigation Measures MM 3.3-3. MM 3.3-2, MM 3.3-6, MM 3.3-7, MM 3.3-8.)

5e. The Wildlife Agencies request an analysis of the up-and-down-stream biological effects of the concrete aprons and concrete-lined bottom along San Marcos Creek for the proposed bridge for SR 78. The incorporation of the concrete aprons and concrete lining into the project design is a necessary element of the overall project in helping the watercourse achieve the appropriate flood capacity and conveyance of the 100-year event. The SR-78 hydraulic improvements, combined with the remaining floodway improvement project will enhance creek flows, redefine the 100-year floodplain in the project area and also eliminate the flooding that occurs in the project vicinity during large storm events. Results of recent hydraulics reports show that the proposed improvements will have minimal to no adverse effect on upstream and downstream hydrology. As a result, sufficient hydrology in the post-construction scenario will continue to maintain downstream and upstream vegetation communities. Furthermore, the proposed habitat enhancement, restoration and creation activities will also be ultimately supported by the post-construction scenario. Minimal direct impacts to plants and wildlife species will result from the installation of concrete structures to protect flood control structures against sedimentation and scour. However, revegetation efforts in the area will connect and expand existing patches of native habitat and will enhance wildlife habitat use along the riparian corridor by providing increased plant cover and protection. Wildlife diversity and density are expected to increase as a result of the expanded habitat cover.

6. The Wildlife Agencies express concern about the proposed reduction in the 100 year floodplain, and the potential morphological and biological impacts that might result from its loss. The proposed project includes the construction of a mainline, setback levee system designed in accordance with U.S. Army Corps of Engineers standards for levee design and construction. Mainline and tributary levees refer to levees constructed along mainstem rivers/creeks and tributaries, respectively. Setback levees are often built some distance

landward from the channel's bank or edge of water. From an ecological perspective, setback levees have important advantages over those constructed immediately along the streambank in that they allow many of the riparian functions to remain while still providing land and/or building protection (National Academy of Sciences 2002). Setback levees typically allow for natural riparian plant community maintenance and growth and normal floodplain dynamics by maintaining relatively frequent overbank flows, providing flood flow detention, and allowing for fine sediment deposition to be more evenly distributed along the entire streambank and at least a portion of the floodplain (National Academy of Sciences 2002).

The project would result in the redefinition of the 100-year FEMA floodplain. In order to minimize the potential impacts of channelization and the associated cost to mitigate for loss of habitat, the City has elected to pursue a flood control approach that focuses on retention of as much of the natural creek channel and natural vegetation as is feasible. The proposed project's hydrological and biological impacts have been analyzed in the DEIR. The proposed project is consistent with the City's General Plan, Conservation and Safety Elements. Project design features as will allow for terracing within the project area to promote the growth of different types of vegetation and to imitate floodplain-like functions. Furthermore, no significant morphological or biological impacts would result from implementation of the proposed project. The City has been requested by the Environmental Protection Agency (EPA) to support the impact analysis by conducting a functional assessment of the wetland resources within and adjacent to the proposed San Marcos Creek Specific Plan project impact area. The analysis will elaborate on the project-related hydrological, hydraulical, morphological biological impacts. The City will soon be preparing and submitting for Wildlife Agency review and approval a California Rapid Assessment Methodology (CRAM)-based functional assessment of the wetland resources. Completion of the CRAM-based wetlands functional assessment will require detailed field investigation by several surveyors within all wetlands habitats, as well as adjacent uplands habitats within the proposed project site. The assessment, when completed, will produce a series of scores or values (metrics) that help determine the quality and nature of the wetlands site (based on wetlands function indicators observed onsite). Wetlands functional assessment reports are typically used by resource agency regulators to establish appropriate mitigation ratios for proposed impacts to wetlands resources. However, they also can be used for a variety of purposes including identifying wetlands resources that would be difficult to replace or mitigate, comparing proposed project impact scenarios and their relative effects on regulated wetlands resources, and/or analyzing proposed mitigation plans for anticipated wetlands impacts.

The EIR has evaluated the biological and hydrological functions and valued and concluded there would be a significant impact. However, mitigation has been proposed to replace those values.

7. The Wildlife Agencies state that in accordance with policies in the draft Subarea Plan designed to minimize edge effect, the levees along Discovery Park should be realigned away from the creek and buffers should be established for all future areas adjacent to open space. See responses 7a, 7b, and 7c, below.

7a. The Wildlife Agencies state that the EIR should discuss how the levees can be pulled away from the creek in Discovery Park and the EIR should evaluate alternatives to levees in this area such as floodwalls. While every effort was made to design the levees outside of the

floodplain, the location of the levees was, in part, dictated by the need to fund the floodway improvements via commercial development. Moving the levees any farther north would represent a severe financial burden to the City and would conflict with the goals and objectives of the San Marcos Creek Specific Plan. The City is in the process of preparing an alternatives analysis to further support findings in accordance with Section 404b(1) guidelines, of which all project alternatives will be analyzed for feasibility. This document will be provided to the Wildlife Agencies during the permitting phase of the project.

7b. The Wildlife Agencies indicate that if the project is subject to federal funding, it must consider alternatives to development in floodplains. No known federal funding is available at this time; however, should federal funds be pursued the City will review and adhere to all pertinent documents related to floodplain management.

7c. The Wildlife Agencies state that buffers of at least 100 feet, outside of riparian vegetation driplines, are needed to adequately protect riparian species from edge effects. All slopes leading down to the creek, including the levee bank to the north, will be vegetated with native species to provide vegetated buffering. Thus, buffers for the proposed project were measured from the outside dripline of riparian vegetation immediately associated with San Marcos Creek and range anywhere from 50 feet to over 100 feet. This is consistent with the California Department of Fish and Game's and United States Army Corps of Engineers' guidelines for buffers cited by the Wildlife Agencies. Additionally, this was considered adequate because of the physical nature of the levee precludes access into riparian habitat and provides a vertical buffer. The height of the levee would serve to reduce indirect impacts of human activity in the vicinity. The levee blocks views of people from wildlife result in less flushing of wildlife.

8. The Wildlife Agencies express concern that the cumulative biology impacts of the project were not adequately considered. In particular, the agencies request additional information about the (i) potential biological cumulative effects of the San Marcos Creek and its buffers from the Creekside Marketplace, the proposed project, and the Fenton Property (University Park Specific Plan) and (ii) the potential for availability of enough mitigation land for the latter two projects. Implementation of the proposed project in conjunction with other planned projects in the City of San Marcos would result in the cumulative loss of biological resources in the region. This impact was acknowledged in the EIR at page 7-4. Continued development within San Marcos would extend urban land uses into vacant areas currently characterized by natural vegetation communities, which support sensitive plants and are used by a variety of sensitive wildlife. In addition to direct loss of habitat, the combined effects of planned urban development in the area would result in habitat fragmentation that may contribute to species decline.

The cumulative impact analysis in the EIR accounted for the cumulative impacts of the Fenton Property and the Creekside Marketplace. (See, e.g., Table 7.1-1 at page 7-2.) The University Business Park site (*i.e.*, the Fenton parcel), located east of Bent Avenue/Craven Road, is proposed to be constructed as a mixed-use urban development with several major roadway improvements proposed including the extension of Discovery Street from Bent Avenue/Craven Road to Twin Oaks Valley Road and the construction of a 495 foot-long bridge at Grand Avenue. The EIR for that project has circulated for public review; however, the project has not been heard by either Planning Commission or City Council. There are also

a number of undeveloped, infill sites to the north of the proposed levee/development pad that will be subjected to future development proposals by private developers within the project area as allowed by the current General Plan. No development proposals have been submitted for these sites to date but these areas will be directly impacted by future development as implementation of the Specific Plan continues. The following vegetation communities will be directly impacted by the proposed future work: 0.07 acre of southern willow scrub; 0.55 acre of herbaceous wetlands; 0.16 acre of disturbed herbaceous wetlands; 0.74 acre of disturbed coyote brush scrub; 0.02 acre of disturbed isocoma scrub; 1.49 acres of annual (non-native) grassland; 82.39 acres of developed land; 13.80 acres of disturbed habitat; 0.10 acre of eucalyptus woodland; and 1.71 acres of ruderal land.

In addition, approximately 1,620 southern tarplant individuals will be directly impacted by future development proposal to the north. The loss of 0.07 acre of southern willow scrub; 0.55 acre of herbaceous wetlands; 0.16 acre of disturbed herbaceous wetlands; 0.74 acre of disturbed coyote brush scrub; and 0.02 acre of disturbed isocoma scrub would contribute to the cumulative loss of these sensitive biological resources within San Marcos. This impact is considered significant. With respect to the Creekside Marketplace and Adjacent Retail Project (SCH #2002071013), the project resulted in direct, permanent impacts to 0.05 acre of unvegetated ephemeral stream channel with the remaining impacts to disturbed land. The City provided compensatory mitigation for impacts to unvegetated ephemeral stream channel in accordance with the California Environmental Quality Act (CEQA), the U.S. Army Corps of Engineers (ACOE), the California Department of Fish and Game (CDFG), and the Regional Water Quality Control Board (RWQCB). Additional mitigation was provided for impacts to the unvegetated ephemeral stream channel resulting in a net increase in wetlands functions and values in the San Marcos Creek watershed. The proposed project as well as the University Business Park site (i.e., Fenton property) both will be required to fully mitigate for project-related impacts to sensitive biological resources through both onsite and offsite revegetation efforts. Over 35 acres of mitigation will be provided for impacts to jurisdictional waters of the U.S., including wetlands, resulting from the proposed project with a minimum 10 acres occurring within the study area from SR-78 to the golf course.

The City intends to comply with all appropriate environmental laws as governed by the CDFG, ACOE, RWQCB, and U.S. Fish and Wildlife Service (USFWS). The City is in the process of preparing an alternatives analysis to further support findings in accordance with the Section 404b(1) guidelines, of which all project alternatives will be analyzed for feasibility. This document will include an analysis of the potential offsite land that may be required to compensate for project-related impacts. The analysis of appropriate offsite mitigation areas will be discussed and resolved with the Wildlife Agencies during the permitting phase of the project.

9. The Wildlife Agency asks for a clarification on whether the cumulative impacts analysis included as part of the Fenton Property (i) the bridge over San Marcos Creek along Grand Avenue as part of the Fenton Property and (ii) an extension of Discovery Street between its existing terminus and the future southern terminus as shown on Figure 2.3-4. The University Business Park site (*i.e.*, the Fenton Property), located east of Bent Avenue/Craven Road, will be constructed as a mixed-use urban development with several major roadway improvements proposed including the construction of a 495 foot-long bridge at Grand Avenue and the extension of Discovery Street from its existing terminus at Bent Avenue/Craven Road, to its

future southern terminus at Grand Avenue, to its future eastern terminus at Twin Oaks Valley Road. This project was considered in the cumulative impact analysis prepared for the project. Please see line 3 of Table 7.1-1.

10. The Wildlife Agencies as for a clarification on what project habitat will be preserved, and request some sort of mitigation or other action to prevent the introduction or establishment of invasive species within the preserve lands. Over 26 acres of land will remain preserved in open space within the study area and enhanced/restored, where appropriate, as part of the mitigation efforts for this project. This land is located within the floodplain of San Marcos Creek in areas north of Discovery Street and south of the proposed levee. All slopes leading down to the floodplain will be revegetated with a composition of native upland species to prevent the introduction or establishment of invasive plant species in San Marcos Creek. This requirement is identified in Section 4 of the Specific Plan. The City's landscape design team will consult with the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" List to ensure that noxious invasives are not introduced into the plant palette. This requirements has been added as a project mitigation measure (MM 3.2-12). The City will landscape all areas immediately adjacent to the creek with species that require very little maintenance and irrigation. Section 4 of the Specific Plan states that the project will include drought-tolerant native species in the revegetation efforts. As requested, the City will submit to the Wildlife Agencies the final species list to be included in the landscape plan for review and approval within 30 days or receiving approval of the draft species list.

11 The Wildlife Agencies request an aerial photograph with an overlay of proposed trails. The agencies also suggest that the pedestrian facilities within the open space area may have unevaluated impacts. The proposed pedestrian bridge has been relocated to an area just immediately upstream of the McMahr Bridge crossing, which has since been eliminated, in part to reduce project impacts. The pedestrian bridge will be elevated over the creek at this location so line of sight disturbances from pets and humans is not expected to be an issue. In terms of potential noise impacts, the pedestrian bridge will host passive recreation uses. Therefore, noise levels will not exceed current noise levels in that area. With the exception of the proposed pedestrian bridge, the proposed project does not include the construction of trails within designated open space areas.

12 The Wildlife Agencies express concern about the proposal to mitigate tarplant and spiny rush through relocation. As described in the biological resources technical report, southern tarplant will be mitigated through a combination of direct transplanting of mature plants, direct seeding, and planting of southern tarplant grown from seeds collected from the project area. Southern tarplant salvage areas shall be flagged for seed collection and individual plant salvaging during the appropriate collection period. Seed shall be collected from anticipated populations to be impacted and stored for subsequent seeding efforts at proposed translocation sites. A portion of the seed shall be propagated at a native plant nursery to produce container plants for out-planting at the proposed translocation sites. Each southern tarplant translocation site shall be designed in a location(s) where long-term viability of the populations can be assured (size of translocation site to be based upon original impacts to the existing population, estimated at 2,400 individuals). Soils and solar exposure shall be comparable to the original donor site. The translocated populations shall border native areas or shall be established in context to the native plant revegetation effort, to help avoid invasion of non-native plant species. Southwestern spiny rush is a hearty species that grows well from

nursery propagations. Thus, to mitigate for direct impacts to southwestern spiny rush, southwestern spiny rush will be planted within the project area within suitable, preserved riparian habitat.

13. The Wildlife Agencies request information on the soil that will be imported to the site, and the seed bank associated with the fill. At this point of the design, no borrow site(s) have been identified. The designers are still determining what, if any of the excavated materials may be used from on-site. As the project continues through final design, a borrow site(s) will be determined. In addition, the soil composition and seed bank have yet to be determined during the design process. The levee designers are working closely with the geotechnical engineers and City to finalize options. This will be confirmed during the final design process.

14. The Wildlife Agencies request further information on an existing wetland restoration site between McMahr and Via Vera Cruz Roads. The 1.80-acre wetlands restoration site refers to an existing City-funded wetlands restoration program located just west of Via Vera Cruz and east of McMahr Road comprised of southern willow scrub and mulefat scrub habitat with an herbaceous wetland understory. These restoration efforts are intended to compensate for impacts to jurisdictional waters of the U.S., including wetlands, resulting from the City's Las Posas Road Interchange and Creekside Marketplace projects. The project is in its fifth year and has not been signed off by the resource agencies. The wetlands restoration site will not be adversely affected by the proposed project.

15 The Wildlife Agencies asks clarification on vegetation identified as ruderal, and requests a discussion of that habitat in accordance with the classifications in Appendix F of the MHCP. All areas identified as ruderal vegetation will now be classified as disturbed land in accordance with Appendix F of the Final MHCP Volume II. This change has been made in Section 3.3 of the Final EIR. No additional mitigation is required for disturbed land designations.

16. The Wildlife Agency asks for a total of the Final EIR "address total impacts to community habitat types" in phase I and phase II. The impacts provided in the final biological resources technical report and DEIR combine the Phase I and Phase II portions of the project. Summary discusses have been added to Section 3.3.3.2 of the Final EIR.

17. The Wildlife Agencies states that focused gnatcatcher surveys are required because coyote scrub brush and iscoma scrub brush exist near the project footprint boundaries. Focused, protocol-level gnatcatcher surveys were not previously conducted for the project because the habitat that exists near the project is highly disturbed, fragmented in nature, and does not connect to other patches of coastal sage scrub, including recognized sub-communities of coastal sage scrub. The Draft EIR noted (Table 3.3-3) that this species has a low potential to occur on the site. However, given the fact that there is coastal sage scrub on the project site, the City will perform protocol-level surveys for the California gnatcatcher approximately one year prior to project implementation. This requirement has been added as a mitigation measure into the Final EIR. Please see mitigation measure MM 3.3-11

18. The Wildlife Agency asks that the EIR include a figure that "depicts the locations and briefly describes the Project-related construction and post-construction BMPs." The Wildlife

Agencies note that if BMPs are within mitigation and open space areas, and increase habitat loss, the impact of the BMPs should be accounted for in the mitigation. At this time we are not able to provide a figure with the proposed construction BMPs for they will be confirmed as part of the Stormwater Pollution Prevention Plan (SWPPP) process. A project-specific SWPPP will be prepared that will include appropriate erosion control and sediment control as well as non-stormwater management BMP's. The SWPPP will also contain a monitoring program for discharges from the construction site for both sediment / turbidity and non-visually detectable pollutants.

The City will follow its own requirements of projects and ensure that the project SWPPP is developed per Caltrans template. The template contains standard descriptions that will be tailored for the specific project, including the appropriate BMP's selected and implemented, as well as the monitoring program.

As for post construction BMP's, the comprehensive project will utilize low impact development site design BMP's, source control BMP's, as well as treatment control BMP's to mitigate for the increased imperviousness of the area as well as the proposed pollutant generating activities that will be associated with the future development.

Surface flow may be attenuated (to prevent downstream erosion and impacts) by means of porous pavement, bio-swales, flow through planters, and other methods of on-site landscaping.

The overall BMP system will collectively address the increased impervious surfaces (e.g. additional runoff rates) and the pollutants of concern from the development. The BMP's to be implemented may include:

Phase 1 -- San Marcos Creek Flood Improvements Project

- Collection and treatment of stormwater
- Trash collection
- Porous paving
- Landscaping of slopes
- Bio-swales

Phase 2 -- Specific Plan Development

- Porous paving
- Flow-thru planters
- Inlet filters
- Stormwater inlet stenciling and signage (i.e."Outlets to Creek")
- Trash collection storage design
- Other BMPs to be considered as project develops

For clarification, the proposed BMP's will be sited within the development foot-print and are not being considered as mitigation nor will increase the losses of habitat identified in the DEIR.

19. The Wildlife Agencies ask for construction detail on all brides, including location of supports, and the degree of streambed shading. Due to recent design changes, the McMahr Bridge crossing has been eliminated to reduce project impacts. In lieu of replacing the existing Arizona crossing at Via Vera Cruz, the City intends to construct a two-lane bridge at this location, subsequently restoring those areas beneath the bridge to natural stream habitat. Bridge supports needed for the Via Vera Cruz bridge will occur within the existing roadway

20. The Wildlife Agencies state that a streambed alternation agreement will be needed, and mitigation for that agreement may be in addition to that identified in the EIR. The City intends to submit permit applications to not only the CDFG but to the U.S. Army Corps of Engineers (ACOE) and the Regional Water Quality Control Board (RWQCB) to address adverse impacts to jurisdictional waters of the U.S./State, including wetlands resulting from the proposed project. The EIR includes mitigation ratios that have been determined to adequately mitigated impact pursuant to CEEQA. The City recognizes that the Wildlife Agencies may require additional measures while implementing their regulatory oversight. The City will work with the regulatory agencies to identify appropriate mitigation ratios for impacts to affected habitats during the permitting phase of the project, which is expected to commence by summer 2007. The City acknowledges that the responsible and federal agencies have their own regulatory programs, and may impose mitigation ratios that are higher than those identified in the EIR.

21 The Wildlife Agencies request that fencing separate the open space/mitigation areas and developed areas within the project. Because proposed open space will be adjacent to future commercial and residential development, a number of management issues will be addressed to reduce the potential indirect impacts and edge effects to proposed open space that may occur due to project implementation. Access controls including the construction of permanent physical barriers (fences/walls and gates) and signage to control the access of unauthorized people, vehicles, and pets into and within designated open space will be required. This would include the construction of boundary fencing and signage, trail fencing and signage, and the placement of appropriate gates at accessible points to provide direct access to creek locations. Design and construction of the physical barriers will be consistent with the San Marcos Specific Plan development theme. Fencing requirements can be further discussed during the permitting process. Please see page 2-26 of the Final EIR.

22. The Wildlife Agencies have several comments on project lighting. See responses 22a, 22b, 22c, 22d, 22e, and 22f, below.

22a. The Wildlife Agencies request that all lighting fixtures within the project site be “cut-off time” that minimize lighting within the creek and direct light away from native habitat. All future lighting systems within the Specific Plan study area, including those areas adjacent to the vegetated buffers, shall comply with City standards for shielded low sodium, low wattage lighting designed to cut glare and light scatter and to direct light away from sensitive biological resources.

22b. The Wildlife Agency requests that all lighting fixtures within buffer areas to the riparian corridor be “cut-off time” that minimizes lighting within the creek and direct light away from native habitat. Refer to Response 22a

22c. The Wildlife Agency requests that lighting be prohibited on vehicular and pedestrian creek crossings. Due to public safety requirements, lighting will be provided along vehicular and pedestrian crossings across San Marcos Creek to provide users safe passage across the creek. However, lighting provided will be sparse and with limited exposure to minimize light impacts on adjacent habitat to the greatest extent feasible.

22d. The Wildlife Agency requests that walls be built along the Arizona crossings to prevent vehicular light from reaching sensitive habitat. While referred to in the DEIR as an improved Arizona crossing, Via Vera Cruz has since been redesigned to include a bridge crossing across San Marcos Creek to Discovery Street. Any street lighting proposed for this bridge will be sparse with shielded low sodium, low wattage lights to minimize light impacts on adjacent habitat. Bent Avenue, however, will remain an Arizona crossing. Because Bent Avenue is an existing Arizona crossing and will remain an Arizona crossing upon project completion, no additional lighting beyond what is currently present is proposed at this location. Thus, protective walls are not required.

22e. The Wildlife Agencies request that lighting be prohibited in Discovery Park. Proposed lighting within the study area will be concentrated in those areas closest to commercial and residential development, including parking areas and buildings. Lighting provided will be the minimum necessary to address public safety requirements. Some lighting will be needed at the Discovery Park site, specifically in proximity to the parking area and along proposed trails. However, proposed park lighting will be selectively placed, shielded, and directed away from San Marcos Creek.

22f. The Wildlife Agencies request that night lighting be limited and shielded. Night work is not anticipated at this time. However, should night work be necessary within the study area, it will be of the lowest illumination required for human safety and will be selectively placed, shielded, and directed away from San Marcos Creek.

State of California

Memorandum

To: Dennis Jung
Environmental Planner
Environmental Analysis

From: Joel Kloth
Engineering Geologist
Environmental Engineering

Date: May 24, 2007
File: 11-SD-78
PM: 12.1-12.9
EA: 28720K

Subject: Hazardous Materials Review, Route 78 at the San Marcos Creek Bridge, San Marcos Creek Floodway Improvement Project, San Marcos, California.

Environmental Engineering staff has performed a review of the potential for encountering hazardous materials for work within Department of Transportation (Department) right-of-way for the subject project. Hazardous waste concerns not addressed in the Environmental Impact Report (EIR) for the subject project with regard to the San Marcos Creek bridge include Aerially Deposited Lead (ADL), removal of yellow and yellow thermoplastic paint stripe and pavement marking, asbestos containing materials (ACMs) and lead based paint (LBP) on the bridge materials, and removal of guardrail posts coated with creosote along Route 78.

Results of a lead investigation that includes the Department right of way within the subject project footprint can be found in a report entitled *"Site Investigation report, State Route 78/Twin Oaks Valley Road, Interchange Improvements, San Marcos, California"*. The report addresses the presence of ADL within Department right-of-way within the subject project footprint. Concentrations of ADL range from below the detection limit of 5 milligrams per kilogram (mg/kg), to 642 mg/kg with an average 80% Upper Confidence Level total lead concentration of 72.3 mg/kg, and an average 80% Upper Confidence Level citric lead concentration of 4.7 mg/kg. These concentrations indicate that the soil is non-hazardous with regard to ADL. Therefore, special handling of soil that would be excavated around the San Marcos Creek Bridge with regard to ADL is not required.

Yellow paint or yellow thermal plastic paint stripe or pavement marking within the Department right-of-way may contain lead chromate. If yellow paint or yellow thermal plastic paint stripe or pavement marking is to be removed by itself (without asphalt) during construction activities, proper precautions must be taken to avoid worker exposure, and the paint material must be collected, handled, and disposed as a hazardous waste.

4-1

It is recommended that the San Marcos Creek bridge structure be assessed for the presence of ACMs and LBP (particularly in bridge joints, between bridge railings and concrete, and in bridge piping). Handling and disposal of ACMs and LBP (if found) shall be performed by a certified ACM and lead contractor according to Cal-OSHA guidelines, Title 8, Section 1532.1(e)(2)(B) and Section 1529 of the California Code of Regulations, and Federal EPA guidelines. The contractor shall be advised of the presence of ACMs and LBP, if found.

Treated wood waste is wood that has been treated with a chemical preservative, such as the wood posts from the guardrail that would be removed. Chemicals in wood treatment include creosote, pentachlorophenol, copper azole (CA-B), copper boron azole (CBA), chromated copper arsenate (CCA), ammoniacal copper zinc arsenate (ACZA), copper naphtalenate, and alkaline copper quitternary (ACQ). The wood preservatives are registered pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and by the California Department of Pesticide Regulation

(DPR). AB 1353 requires treated wood waste, to be disposed of in either a Class I hazardous waste landfill or in a composite-lined portion of a solid waste landfill unit that meets the requirements applicable to disposal of municipal solid waste in California after October 9, 1993 and that is regulated by waste discharge requirements.

4-1 Cont.

A Health and Safety plan shall be prepared and submitted to the Department prior to construction that addresses the effects to persons working onsite and offsite, use of proper Personal Protective Equipment onsite, and handling and disposal measures of yellow paint or yellow thermal plastic paint and stripe or pavement marking, ACMs, LBP, and treated wood waste with regard to the above referenced hazardous waste issues within Department right-of-way, if found. If you have any questions or comments, contact me at (510) 688-3146.

4-2

Joel Kloth, PG
Engineering Geologist
Environmental Engineering
Hazardous Waste Division

oc: Jayne Dowda

Karen C Crefts/D11/Caltrans/CAGov
05/30/2007 03:12 PM

To Dennis Jung/D11/Caltrans/CAGov@DOT
cc
bcc
Subject San Marcos Creek Br Ext 28720k

History This message has been replied to.

Dennis, I reviewed the Draft EIR for the San Marcos Creek Specific Plan. The identification and proposed mitigation of historic/cultural resources within our ROW is adequate. What is not addressed is paleontology. A Paleontological Resource Assessment of the project area will need to be conducted to summarize existing paleontological resource data; assess potential impacts to paleontological resources from implementation of project construction and identify mitigation measures to avoid or reduce project related impacts wherever feasible.

4-3

Jeff
Bentz/D11/Caltrans/CAGov
05/31/2007 10:14 AM

To: Dennis Jung/D11/Caltrans/CAGov@DOT
cc: Stephen Alvarez/D11/Caltrans/CAGov@DOT
bcc:
Subject: EA 26720K SR-78 San Marcos Creek - Preliminary Visual Review

Dennis,

Here are my initial thoughts on the project. As we discussed, the materials you forwarded do not include an appropriate VIA. The CEQA document is not adequate. Because the work involves a transportation element that is within Caltrans right-of way, a federal level VIA that follows FHWA guidelines is required. It should address the bridge structure itself as well as the highway's viewshed. The SER should be referred to for the correct format. The VIA would then provide the basis for any text for visual considerations--and landscape costs--that would be included in the PSR/PR.

4-4

Hope this helps--Jeff

JEFF BENTZ | LANDSCAPE ASSOCIATE
Landscape Architecture | 619.220.5434

State of California — Business, Transportation and Housing Agency

MEMORANDUM

To: Dennis Jung
Environmental Analysis Branch A

Date: May 31, 2007

File: 11-SD-78
EA 28720K
KP 19.5-20.8 (PM 12.1-12.9)

From: DEPARTMENT OF TRANSPORTATION
District 11 - Environmental Resource Studies

Subject: City of San Marcos, San Marcos Creek Specific Plan and Floodway Improvement Project Biological Impacts Review

The City of San Marcos has requested a biological impacts review for floodway improvements to San Marcos Creek in California Department of Transportation (Caltrans) right-of-way (ROW), including hydraulic improvements to State Route 78 (SR-78), roadway and infrastructure improvements, and implementation of the San Marcos Creek Specific Plan, which would serve as the master plan for the project area as the area builds out. Within Caltrans ROW, the project proposes a new bridge to supplement the capacity of the San Marcos Creek culverts that cross beneath SR-78 between kilometer posts 19.5 and 20.8 (post miles 12.1 and 12.9) in San Marcos, San Diego County, California. The existing culverts constrain the creek flow and are the primary cause of flooding along San Marcos Boulevard during 100-year flooding events. The proposed bridge would be approximately 82.9 meters (272 feet) long and 47.2 meters (155 feet) wide, accommodating four 3.7-meter (12-foot) lanes and two 3.0-meter (10-foot) shoulders in both the eastbound and westbound directions. The bridge structure would be supported on multi-column piers and high cantilever abutments. Concrete aprons would be required on the upstream and downstream sides of the bridge. The channel bottom would be lined with concrete, reducing the possibility of soil scour adjacent to the piers.

Habitat within Caltrans ROW includes 0.25 hectare (0.61 acre) of southern willow scrub, 0.21 hectare (0.53 acre) of freshwater marsh, 0.12 hectare (0.29 acre) of open channel, 0.004 hectare (0.01 acre) of ruderal habitat containing non-native vegetation, 0.49 hectare (1.20 acres) of disturbed habitat, and 0.49 hectare (1.20 acres) of developed land.

The project will result in impacts to a total of 0.46 hectare (1.14 acres) of jurisdictional waters of the United States in Caltrans ROW, including impacts to 0.24 hectare (0.59 acre) of southern willow scrub, 0.21 hectare (0.53 acre) of freshwater marsh, and 0.01 hectare (0.02 acre) of open channel. Proposed compensation includes creation of 0.24 hectare (0.59 acre) of southern willow scrub, 0.21 hectare (0.53 acre) of freshwater marsh, and 0.01 hectare (0.02 acre) of open channel and enhancement of 0.48 hectare (1.18 acre) of southern willow scrub. The City of San Marcos should consult with the U.S. Army Corps of Engineers and the California Department of Fish and Game to determine whether the proposed compensation is sufficient for impacts to waters of the

4-5

4-6

United States. Caltrans requests documentation of the correspondence with the agencies or copies of the permits to work in jurisdictional waters of the United States once the permits are obtained. 4-6 Cont.

No sensitive plant or animal species were identified within Caltrans ROW, but sensitive bird species, including black-crowned night heron (*Nycticorax nycticorax*) and yellow-breasted chat (*Icteria virens*), were detected nearby during field surveys conducted in 2005 by biologists from Dudek & Associates. To reduce indirect impacts to migratory birds, the City of San Marcos proposes:

- Retaining a qualified biologist to provide biological monitoring while work occurs within San Marcos Creek.
- Phasing the project, where feasible, to avoid work during the bird nesting season (January 1 through September 15). If construction activity is to commence during the nesting season, a one-time pre-construction survey for nesting bird species must be conducted within the proposed impact area 72 hours prior to construction.
- Flagging any active nests detected during monitoring and mapping the area on the construction plans along with a minimum buffer of 7.6 meters (25 feet) and a maximum buffer of 91.4 meters (300 feet) for raptors, as determined by the project biologist. This buffer shall be avoided until the nesting cycle is complete.

Caltrans requests that any clearing and grubbing that occurs within the Caltrans ROW take place between September 16 and December 31 to avoid any potential impacts to nesting birds. 4-7

If modifications are made to the project plans, the Caltrans biology section must be notified so that a reevaluation may be completed. Should there be any questions regarding this memorandum, please contact me at 619-688-0189. 4-8

Michael Galloway
District Biologist

[illegible] of California [illegible]

Memorandum

To: DENNIS JUNG
Environmental Analysis Branch A

Date: June 1, 2007
File: 11-SD-78
EA 28720K
PM 12.1-12.9

From: ENVIRONMENTAL STEWARDSHIP

Subject: Review of Project for Permitting Requirements

The proposed project would provide increased hydraulic and hydrology capacity of San Marcos Creek at State Route 78 (SR-78) to prevent flooding along San Marcos Blvd during a 100-year storm event.

San Marcos Creek currently flows within four 10-feet by 8-feet reinforced concrete box culverts as it crosses below SR-78. A replacement bridge is proposed that would be supported on multi-column piers and high cantilever abutments. According to the Draft Environmental Impact Report (HDR Engineering, Inc., April 2007) 0.53 acre of freshwater marsh, 0.59 acre of southern willow scrub and 0.02 acre of open channel within the SR-78 right-of-way would be permanently impacted by construction of the new bridge.

Impacts to freshwater marsh, southern willow scrub and open channel would require permits: Section 1602 Streambed Alteration Agreement (California Department of Fish and Game, Section 401 Water Quality Certification (Regional Water Quality Control Board) and Section 404 Clean Water Act (U.S. Army Corps of Engineers). Please note that impacts exceeding 0.50 acre of waters of the U.S. requires an Individual Permit. Should any listed species be found within the SR-78 right-of-way, a Section 7 consultation with the U.S. Fish and Wildlife must be completed before the Corps will issue the Section 404.

4-9

Gladys T. Baird

Gladys T. Baird
Associate Environmental Planner (Natural Sciences)

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
District 11
4050 Taylor Street, MS 240
San Diego, CA 92110
PHONE (619) 688-6960
FAX (619) 688-4299
TTY (800) 735-2929

Flex your power!
Be energy efficient!

June 6, 2007

11-SD-078
PM 12.13

Mr. Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

Dear Mr. Backoff:

The California Department of Transportation (Caltrans) appreciates the opportunity to have reviewed the Draft Environmental Impact Report (DEIR) – (SCH No. 2006121080) for the proposed **San Marcos Creek Specific Plan and Floodway Improvement Project**, located south of State Route 78 (SR 78) and San Marcos Boulevard. We have the following comments:

- The Traffic Impact Analysis (TIA) did not include an analysis of the SR 78 mainline. The current level of service and the future level of service should be analyzed for the SR 78 mainline segment between the Las Posas Road and San Marcos Boulevard interchanges in the Specific Plan. Should direct or cumulative impacts be identified for the SR 78 mainline segment, mitigation measures should be identified in the analysis, such as auxiliary lanes, in order to fully explore all potential feasible options to reduce any potential impacts to a level of insignificance. 4-10

- Table 3.1-9, Page 3.10-14, The SR 78/Las Posas Road interchange and ramps should also be included in the analysis. 4-11

- All freeway interchanges should be analyzed using the Intersecting Lane Vehicle (ILV) procedures from the Caltrans Highway Design Manual (HDM), Topic 406, page, 400-21.

- Future development within the Specific Plan that results in traffic impacts to State facilities will need to be analyzed on a project by project basis, and mitigation measures should be identified that will reduce project-level impacts to below a level of significance. 4-12

  Caltrans endeavors to maintain a target LOS at the transition between LOS "C" and LOS "D" on State highway facilities. However, Caltrans acknowledges that this may not always be feasible and recommends that the lead agency consult with Caltrans to determine the appropriate target LOS. The City of Oceanside recommends LOS "D" or better. The LOS for operating State highway facilities is based upon Measures of Effectiveness (MOE) (see Appendix "C-2" of the TIS guide). If an existing State highway facility is operating at less than this target LOS, the existing MOE should be maintained.

"Caltrans improves mobility across California"

- Table 3.10-11, Page 3.10-22, Goals 1 and 2, Policy 1, Implementing Strategy 1.1: Improvements to the State's facilities (interchanges and mainline) should also be considered when assessing developer "fair share" contributions. 4-13

- Caltrans agrees with the Hydrology/Hydraulic portion of the DEIR in concept, and reserves the right to make further comments on the improvements for San Marcos Creek upon review of the Design Plans and the Hydrology/Hydraulic report for the new bridge at San Marcos Creek. 4-14

- Caltrans in collaboration with the North County Transit District and the City of San Marcos submitted a grant application for the FY 2008 Transportation Planning Special Studies. The Project includes a case study of a Transit Oriented Development - Community Facilities District (TOD-CFD) in order to implement smart growth projects near transit centers and train stations in the City of San Marcos. Potential impacts from the development of the San Marcos Creek areas per the Specific Plan could be reduced or mitigated by the adoption of a CFD for the benefit of providing local transit services to planned residential and commercial development. The voluntary fees collected under the CFD could be used to support services that reduce overall traffic by supporting walking and transit use. Connection to the Sprinter Light Rail Corridor could also be funded through the CFD by linking the Specific Plan area to regional employment and commercial centers. 4-15

- All lighting (including reflected sunlight) within this project should be placed and/or shielded so as not to be hazardous to vehicles traveling on SR-78. 4-16

- Caltrans will not be held responsible for any noise impacts to this development. If there is a noise impact, the developer has the responsibility to provide mitigation. 4-17

- All signs visible to traffic on SR 78 need to be constructed in compliance with county and state regulations. 4-18

- Grading from this proposed project which would modify existing drainage and increase runoff to the SR 78 right of way will not be allowed. 4-19

- Any work performed within Caltrans Right of Way (R/W) will require an encroachment permit. Improvement plans for construction within Caltrans R/W must include: typical cross sections, adequate structural sections, traffic handling plans, and signing and striping plans stamped by a professional engineer.

  Furthermore, the applicant's environmental document must include such work in their project description and indicate that an encroachment permit will be needed. As part of the encroachment permit process, the developer must provide appropriate environmental approval for potential environmental impacts to Caltrans R/W. 4-20

Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (619) 688-6158. Early coordination with Caltrans is strongly advised for all encroachment permits;

- Please submit to us a revised TIA. 4-21

Caltrans appreciates the opportunity to review this project proposal. If you have questions regarding Caltrans' comments, please contact Vann Horst at (619) 688-6819.

Sincerely,

JACOB ARMSTRONG, Acting Chief
Development Review Branch

Letter 4
California Department of Transportation (Caltrans)
May 31, June 1, and June 6, 2007

1. This comment notes that improvements to SR-78 have the potential for hazardous materials impacts, including impacts are related to aerially-deposited lead, yellow and yellow thermoplastic paint stripes, asbestos containing materials, lead based paints, and creosote soaked guardrails. The removal, handling, and disposal of these materials are governed by several federal, state, and local laws; compliance with these laws will assure that no potentially significant impact will occur.

   Nevertheless, based upon this comment, an additional mitigation measure has been added to the Final EIR:

   MM 3.5-6 Prior to removal of roadway and associated structures for the SR-78 hydraulic improvements, an assessment for ACMs and LBPCM by a licensed asbestos and lead-based paint inspector shall be conducted. Handling and disposal of ACMs and LBPs (if found), shall be performed by a certified contractor according to Cal-OSHA guidelines, Title 8, Section 1532.1(e)(2)(B) and Section 1529 of the California Code of Regulations, and Federal EPA guidelines. Additionally, if ACMs or LBPCM are discovered, a Health and Safety plan shall be submitted and prepared to Caltrans prior to Construction. The Health and Safety plan shall be prepared and submitted to the Department prior to construction and shall address the effects to persons working onsite and offsite, use of proper personal protective equipment onsite, handling and disposal measures of yellow paint and yellow thermalplastic paint and strip or pavement markings.

2. This comment requests the preparation of a Health and Safety plan. The provision of a health and safety plan has been included in mitigation measure MM 3.5-6. Please see response 1.

3. This comment states that paleontological resources were not addressed within the Caltrans right-of-way. In the Draft EIR, paleontological resources were addressed for the entire project site, including the area that falls within the Caltrans right-of-way. Mitigation identified for the project for paleontological resources (MM 3.4-5) would also be applicable to the Caltrans right-of-way.

   Additionally, this information has been added to Table 1.8-2 of the Final EIR. This table provided a summary of the analysis as it pertains to the Caltrans right-of-way.

4. This comment states that a visual impact assessment (VIA) was not included in the EIR to address the potential visual impacts of the project as it relates to the SR-78 hydraulic improvements. The requirements of the Caltrans Project Study Report/Project Report (PSR/PR) are different than the requirements of CEQA. A VIA will be prepared and included in the PSR/PR. In compliance with CEQA, the Draft EIR did address the aesthetic impacts of the SR-78 hydraulic improvements. For instance, page 3.1-3 noted that construction activities associated with the SR-78 hydraulic improvements could include

staging areas with construction equipment and supplies. Due to the short-term nature of the SR-78 hydraulic improvements, as well as the fact that the construction activities would generally occur underneath the SR-78 roadway and out of view, a less than significant impact is identified.

It should be noted that the requirements of the Caltrans PSR/PR are different than the requirements of CEQA. A VIA will be prepared and included in the PSR/PR.

5. This comment provides introductory remarks on the SR-78 hydraulic improvement portion of the project as it pertains to biological resources. It summarizes the proposed improvements within the Caltrans right-of-way and also notes the biological resources located within the Caltrans right-of-way. This comment does not raise an issue with the adequacy of the EIR.

6. This comment identifies the proposed biological resource impacts expected to occur within the Caltrans right-of-way. The comment also suggests coordinating with the Wildlife Agencies and USACE for mitigating impacts. The City has been coordinating with these agencies, and permits will be required from CDFG, USACE, as well as the Regional Water Quality Control Board. Permit applications are underway and the City will keep Caltrans apprised of matters relating to the permitting process.

7. This comment reiterates that no sensitive species were identified within the Caltrans right-of-way and notes the proposed mitigation for indirect impacts to migratory birds. Caltrans requests that any clearing or grubbing within the Caltrans right-of-way occur between September 16 and December 31 to avoid potential impacts to nesting birds. This request is consistent with the mitigation measure (MM 3.3-10) identified for the project that requires avoidance of work during the nesting season (January 1 through September 15), which means that clearing would occur between September 16 and December 31. It should be noted that this mitigation measure does allow for a preconstruction survey and avoidance of nesting birds should they be found on the site. This will afford protection of nesting birds and still allow for construction activities to proceed.

8. This comment requests that if changes are made to the project plans then the Caltrans biology section be notified to reevaluate the project impacts. The City will be coordinating closely with Caltrans on the processing of the project, and the biology section of Caltrans would be made aware of updates through internal Caltrans procedures. This comment does not address the adequacy of the EIR and no additional response is warranted.

9. This comment provides a description of the proposed hydraulic improvements within the Caltrans right-of-way and notes that impacts to marsh, southern willow scrub and open channel would require permits, including an Individual Permit from USACE. The City is aware of the permitting requirements for the project and has been coordinating with the respective permitting agencies. This comment does not address the adequacy of the EIR. Therefore, no additional response is warranted.

10. This comment states that the EIR did not include an analysis of the project's impacts on the SR-78 mainline. A detailed traffic study was not performed initially on the SR-78 mainline because it was determined, based on preliminary analysis that impacts were not anticipated

on SR-78. Caltrans, however, has asked for an analysis of the project's potential impacts for the SR-78 mainline between Las Posas Road and San Marcos Boulevard, and mitigation if impacts are identified. Based upon this comment, additional analysis pertaining to the SR-78 mainline has been conducted. The complete analysis is included as Appendix P of the Final EIR. The results of the freeway mainline segment analysis confirm that all study freeway mainline segments operate at acceptable levels of service (LOS E or better) under existing conditions and under Year 2030 conditions with both the Specific Plan and General Plan land uses (i.e., buildout of the General Plan with existing conditions remaining on site). Therefore, no traffic impacts associated with the proposed San Marcos Creek Specific Plan are identified for the freeway mainline segments.

11. Caltrans requests that an analysis of the SR-78/Las Posas Road interchange and ramps be undertaken. Based upon this comment, additional analysis pertaining to the SR-78/Las Posas interchange ramps has been prepared. It should be noted that the Las Posas Road / SR-78 interchange was not yet completed at the time the San Marcos Creek Specific Plan Traffic Impact Analysis Report was prepared and submitted for review. The interchange was completed in the summer of 2006, and traffic counts have been collected at the ramp intersections since the opening of the interchange. The results of the intersection HCM analysis shows that the study ramp intersections operate at acceptable levels of service (LOS D or better) under existing conditions and under Year 2030 conditions with both the Specific Plan and General Plan land uses. Therefore, no traffic impacts associated with the proposed San Marcos Creek Specific Plan are identified for the ramps or interchanges.

12. This comment states that future projects within the Specific Plan area should be analyzed on a project by project basis. The Draft EIR included a mitigation measure (MM 3.10-2) requiring subsequent traffic analyses. The mitigation measures require future development within the Specific Plan area to undergo subsequent traffic analysis to identify mitigation measures to reduce project-level impacts to below a level of significance. Impacts shall be mitigated to a level of service that is consistent with the Circulation Element of the San Marcos General Plan. This comment also identifies operational LOS goals of Caltrans.

13. This comment states that future developers should also have to pay fairshare for improvements to State facilities. As explained above, the analysis of the project's impacts on SR-78 reveal no significant impacts. In the event that subsequent traffic analysis indicates that impacts to State facilities occur, however, the future developers would be required to mitigate impacts through the provision of traffic improvements or the payment of fair share fees. This would include improvements/fees for impacts to State facilities.

14. This comment notes that Caltrans concurs with the conclusions in the hydrology portion of the EIR. A separate letter regarding hydrology was submitted by Caltrans and is included with this combined Caltrans response. Please see response 9.

15. This comment addresses opportunities for funding of local transit services or other opportunities to encourage connections to the SPRINTER and alternative transportation modes. The Specific Plan has been designed to encourage pedestrian and bicycle use as realistic transportation options. Additionally, the project includes a trolley-type service to move people within the project area, as well as connections to other areas in the City, including the SPRINTER stop. It should be noted that no 2030 Year traffic impacts were

identified for the project. Prior to development within the Specific Plan area, project-specific traffic studies would be required to identify any interim traffic impacts.

16. This comment addresses lighting from the project, including reflected sunlight and the potential impact to vehicles traveling on SR-78. Section 3.1 of the Draft EIR included an analysis of lighting and glare issues. The analysis on page 3.1-6 is as follows:

> "The lighting and glare analysis considers the lighting impact of the proposed project as a whole. The proposed project would incorporate lighting to the extent necessary for safety and security, and to complement architectural character of future buildings developed within the Specific Plan Area. Additionally, street lighting would be incorporated along the roadways and bridges that are planned for development as part of the project.
>
> "Lighting requirements are guided by standards set by the City of San Marcos, downward-directed low-pressure sodium vapor lighting, with the exception of specialized streetscape lighting or architectural detail lighting. These requirements aid in the preservation of dark-sky conditions, which are needed by the local observatories. The proposed project is required to comply with the City's lighting standards, and the location, type, and direction of the lighting would be reviewed during Site Development Review to ensure compliance with City requirements. Additionally, the Specific Plan (Chapter 6) includes specific requirements for building lighting.
>
> "Future structures on the project site are not expected to be a substantial source of glare, as they are not expected to include highly-reflective treatments or finishes. Therefore, the project would not result in a significant aesthetic impact related to glare."

17. This comment addresses noise issues associated with the project. The City understands that Caltrans would not be responsible for noise impacts to the project. The Draft EIR included a noise impact analysis. Due to the distance of the proposed development, as well as the location of the Creekside Marketplace commercial center, it is expected that noise attenuation via distance and intervening buildings would result in no appreciable impact to future uses within the Specific Plan due to the location of SR-78.

18. This comment addresses signage requirements for those signs that may be visible from SR-78. Due to the location of the project, it is unlikely that signage associated with the project would be visible from SR-78. However, the City understands that any signage visible from SR-78 would need to comply with county and state regulations.

19. This comment raises concern with any proposed grading that would modify existing drainage and increase runoff to SR-78 right-of-way. Due to the elevated location of SR-78 in the project vicinity, any grading activities associated with the project would occur below the grade of SR-78. Therefore, no impact to SR-78 due to increase drainage or runoff within the right-of-way would occur. The drainage patterns of the Creek under SR-78 would be

modified, as the hydraulic improvements would remove the existing flow constraint under SR-78.

20. The City understands that all work within the Caltrans right-of-way will require an encroachment permit. The City is coordinating closely with Caltrans for the proposed SR-78 hydraulic improvements and will provide Caltrans with appropriate improvement plans. The Draft EIR prepared for the project includes an impact analysis for project components that will occur within the Caltrans right-of-way. The EIR indicates that an encroachment permit is required from Caltrans for this work. (See Draft EIR, p. 2-27.)

21. This comment requests a revised traffic impact analysis (TIA) be submitted to Caltrans. The traffic impact study included in the Draft EIR has not changed; however, two additional traffic appendices have been added to the Final EIR. These additional items will be submitted to Caltrans along with this response.

04/23/07 MON 07:26 FAX 7605014135 COSM DEV SERVICE DEPT 002

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PLANNING DIVISION

STATE OF CALIFORNIA Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net

April 17, 2007

Mr. Jerry Backoff
CITY OF SAN MARCOS
1 Civic Center Drive
San Marcos, CA 92069

Re: SCH#2007041013; CEQA Notice of Completion; Draft Environment Impact Report (DEIR) for San Marcos Creek Specific Plan and Floodway Improvement Project; City of San Marcos; San Diego County, California

Dear Mr. Backoff:

Thank you for the opportunity to comment on the above-referenced document. The Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

√ Contact the appropriate California Historic Resources Information Center (CHRIS). Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278)/ http://www.ohp.parks.ca.gov/1068/files/ic%20Roster.pdf The record search will determine:

- If a part or the entire APE has been previously surveyed for cultural resources.
- If any known cultural resources have already been recorded in or adjacent to the APE.
- If the probability is low, moderate, or high that cultural resources are located in the APE.
- If a survey is required to determine whether previously unrecorded cultural resources are present.

√ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.

- The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
- The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.

√ Contact the Native American Heritage Commission (NAHC) for:

- A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section: .
- The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE).

√ Lack of surface evidence of archeological resources does not preclude their subsurface existence.

- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

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* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the Initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. 5-5 Cont.

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. 5-6

√ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning. 5-7

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: List of Native American Contacts

04/23/07 MON 07:26 FAX 7605614135 CDSM REV SERVICE DEPT 004

Native American Contacts
San Diego County
April 17, 2007

Rincon Band of Mission Indians
Angela Veltrano, Rincon Culture Committee
P.O. Box 68 Luiseno
Valley Center , CA 92082
council@rincontribe.org
(760) 749-1051
(760) 749-8901 Fax

San Luis Rey Band of Mission Indians
Carmen Mojado, Co-Chair
1889 Sunset Dr. Luiseno
Vista , CA 92081

San Luis Rey Band of Mission Indians
Henry Contreras, Most Likely Descendent
1763 Chapulin Lane Luiseno
Fallbrook , CA 92028
(760) 728-6722 - Home
(760) 207-3618 - Cell

San Luis Rey Band of Mission Indians
Mark Mojado, Cultural Resources
P.O. Box 1 Luiseno
Pala , CA 92059 Cupeno
(760) 742-4468
(760) 586-4858 (cell)

San Luis Rey Band of Mission Indians
Russell Romo, Chairman
12064 Old Pomerado Road Luiseno
Poway , CA 92064
(858) 748-1586

Cupa Cultural Center (Pala Band)
Shasta Gaughen, Assistant Director
35008 Pala-Temecula Rd.PMB Box 445 Luiseno
Pala , CA 92059
cupa@palatribe.com
(760) 742-1590
(760) 742-4543 - FAX

Pauma & Yuima
ATTN: EPA Coordinator
P.O. Box 369 Luiseno
Pauma Valley , CA 92061
kymberli_peters@yahoo.com
(760) 742-1289
(760) 742-3422 Fax

La Jolla Band of Mission Indians
ATTN: Rob Roy,Environmental Director
22000 Highway 76 Luiseno
Pauma Valley , CA 92061
lajolla-sherry@aol.com and
(760) 742-3790
(760) 742-1704 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed San Marcos Creek Specific Plan and Floodway Improvement Project; City of San Marcos; San Diego County, California for a draft Environmental Impact Report pursuant to CEQA for SCH#2006121060.

04/23/07 MON 07:28 FAX 7605914135 COSM DEV SERVICE DEPT 008

Native American Contacts
San Diego County
April 17, 2007

Charles Devers, Chair
Cultural Committee; Pauma & Yuima Reservations
P.O. Box 369 Luiseno
Pauma Valley , CA 92061
(760) 742-1289
(760) 742-4543 FAX

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed San Marcos Creek Specific Plan and Roadway Improvement Project; City of San Marcos; San Diego County, California for a draft Environmental Impact Report pursuant to CEQA for [illegible].

Letter 5
Native American Heritage Commission
April 17, 2007

1. The comment suggests that in order to assess the project's impacts on historical resources and records search at the nearest California Historic Resources Information Center (CHRIS) should be undertaken. In fact, a records search was prepared as part of the cultural resources report. The search was conducted at the closest CHRIS—the South Coastal Information Center (SCIC) at San Diego State University. The results of the search are described in Section 3.4 and Appendix D of the Draft EIR. No change was made to the EIR based upon this comment.

2. The comment indicates that after a records search, a field survey may be required. The final step would be to prepare a report detailing the findings and setting out mitigation, a copy of which should be submitted to the CHRIS. As explained in the EIR, a cultural resources study was prepared for the project and included a walking survey of the project site. The report was summarized in Section 3.4 of the Draft EIR and included as Appendix D of the Draft EIR. The report was submitted to SCIC. No change was made to the EIR based upon this comment.

3. The comment indicates that the Native American Heritage Commission (NAHC) should be contacted for a search of its Sacred Lands File (SLF). In response to this comment, a SLF search form was submitted to the NAHC on March 13, 2007. The search came back negative. The response from the NAHC is included at the end of this response.

   The comment also provided a list of local tribes for consultation about the project. Tribal consultation request letters were sent out pursuant to SB 18 in December 2006. Consultation was requested by the San Luis Rey Band of Mission Indians. (See comment letters 11a and 11b) The City met with tribal representatives San Luis Rey Band on May 9, 2007. Consultation is ongoing. As part of that consultation process, a mitigation measure was added to the Final EIR requiring a pre-excavation agreement be signed with the San Luis Rey Band, as detailed below:

   MM 3.4-2b Prior to the issuance of a grading permit, the project applicant shall enter into a pre-excavation agreement with the San Luis Rey Band of Mission Indians. The pre-excavation agreement shall include the following: 1) a culturally affiliated Native American monitor during initial grading activities, 2) the return of cultural items that may be found during project construction, 3) proper treatment and reburial of any remains found, and 4) avoidance of significant and sacred sites.

4. The comment suggests that the mitigation plan include specifically provisions for the discovery of accidentally discovered subsurface resources. The following mitigation measure is included in the Final EIR to ensure that undetected resources are adequately protected during project grading:

   MM 3.4-2a All initial grading activities in undeveloped areas bordering San Marcos Creek within the project boundary shall be monitored by a qualified

archaeologist. In the event that buried archaeological resources are exposed during project construction, work within 50 feet of the find shall stop until the archaeologist can identify and evaluate the significance of the discovery and develop recommendations for treatment. The archaeologist shall also have the authority to make an informed, final decision to either resume construction or require more extensive investigation. If the discovered cultural resources display the potential to be significant, the archaeologist shall notify the City of San Marcos immediately, and all work shall stop immediately within an expanded 100-foot radius pending resolution of the discovery. Recommendations could include preparation of a treatment plan, which could require recordation, collection and analysis of the discovery; preparation of a technical report; and curation of the collection and supporting documentation at a qualified institution. At the completion of the activity that requires an archaeological monitor, the monitor shall submit a monitoring report including a daily log of all monitoring activity and possible recommendations to the Planning Director.

5. The comment suggests that provisions be made in the event of discovery of human remains, and to consult with tribes identified by the NAHC to determine whether human remains are likely to be present. As indicated above, tribal consultation was initiated last year. As a result, mitigation measure MM 3.4-2b was drafted, which requires a pre-excavation agreement with the San Luis Rey Band of Mission Indians. Additionally, if human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Adherence to this regulation is required as a matter of course. This information was noted on page 3.4-6 of the Draft EIR.

6. The comment suggests that if cultural resources are encountered, avoidance should be considered. Depending on the location of the resources, the City may consider avoidance. However, due to the required design of the flood control design, avoidance of archaeological resources is infeasible for this project to avoid impact to CD-SDI-17423. This resource is located where grading will be required for floodway improvements. The project identified mitigation measures to ensure that any potential impact to resources will be reduced to below a level of significance.

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STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

PUBLIC UTILITIES COMMISSION

May 24, 2007

Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Dear Mr. Backoff:

Re: SCH# 2006121080; San Marcos Creek Specific Plan and Floodway Improvement Project

As the state agency responsible for rail safety within California, we recommend that the development project planned near North County Transit District's Escondido Subdivision right-of-way be planned with the safety of the rail corridor in mind. The new development at Grand Avenue and San Marcos Blvd. (lat= 33° 8'14.03"N, long=117°10'44.72"W) may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way. Commission staff is particularly concerned with increased congestion at the nearby grade crossing:

1. San Marcos Blvd. (DOT 027578V, lat= 33° 8'30.24"N, long=117° 9'38.23"W)

Safety factors to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade highway-rail crossings due to increase in traffic volumes and appropriate fencing to limit the access of trespassers onto the railroad right-of-way.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the City.

Please advise us on the status of the project. If you have any questions in this matter, please contact me at (213) 576-7078 or at rsm@cpuc.ca.gov.

6-1

Sincerely,

Rosa Muñoz, PE
Utilities Engineer
Rail Crossings Engineering Section
Consumer Protection & Safety Division

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MAY 25 2007
CITY OF SAN MARCOS
PLANNING DIVISION

C: Richard Walker, NCTD

Letter 6
Public Utilities Commission
May 24, 2007

1. This comment addresses traffic increases at grade crossing and associated congestion. The City of San Marcos has conducted traffic impact analyses and engineering studies. Major roadway network enhancements such as the extension of Discovery Street (as a four to six-lane arterial) to connect into Barham Drive south of SR 78 will provide a major new east-west corridor that will serve traffic that is currently served by San Marcos Boulevard and Mission Road. As a result, traffic flows currently on San Marcos Boulevard and Mission Road will be distributed to a degree. The SANDAG North County Traffic Model is able to re-distribute 2030 east-west traffic flows onto the existing and new roadway corridors and actually shows a slight drop on traffic volumes on San Marcos Boulevard at the NCTD at-grade crossing. The 2030 daily traffic forecast is between 16,000 and 17,000 while the current traffic volume is approximately 18,000. Thus, as explained above and in the EIR in Chapter 3.10, the project will not impact existing or planned transit facilities, including the rail facilities owned by NCTD.

   It should be noted that a number of future City actions, undertaken independent of this proposed project, could improve upon existing conditions. The City has a CIP under design to improve this intersection and crossing to improve operations, capacity and safety. This work includes construction of an additional northbound left turn from San Marcos Boulevard to Mission Road and signal/crossing improvements in coordination with the North County Transit District. This will improve the capacity of this intersection as well as the safety, particularly with regard to the upcoming SPRINTER commuter rail service. Application for this intersection modification has been made to the CPUC. The project also includes other capacity enhancing aspects: an exclusive eastbound right-turn lane from San Marcos Boulevard to Rancheros Drive, a northbound right-turn lane and an additional eastbound left-turn pocket from Rancheros to San Marcos Boulevard, a right-turn pocket from San Marcos Boulevard into City Hall, and sidewalk improvements to fill in gaps on both sides of San Marcos Boulevard near City Hall. The goal is to have construction completed before the Sprinter starts train service in December 2007.

2. This comment addresses safety issues at at-grade crossings. It should be noted that the project site is not adjacent to the NCTD rail line. The project site is approximately ½ mile north of the project site, on the other side of SR-78.

Department of Toxic Substances Control

Linda S. Adams
Secretary for
Environmental Protection

Maureen F. Gorsen, Director
5796 Corporate Avenue
Cypress, California 90630

Arnold Schwarzenegger
Governor

May 21, 2007

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MAY 22 2007
CITY OF SAN MARCOS
PLANNING DIVISION

Mr. Jerry Backoff
Planning Division
City of San Marcos
1 Civic Center Drive
San Marcos, California 92069

NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE SAN MARCOS CREEK SPECIFIC PLAN AND FLOOD IMPROVEMENT PROJECT (SCH# 2006121060)

Dear Mr. Backoff:

The Department of Toxic Substances Control (DTSC) has received notice of your submitted Notice of Availability of a draft Environmental Impact Report (EIR) for the above-mentioned project. The following project is stated in your document: "The project includes three primary components: 1) implementation of the San Marcos Creek Specific Plan, which would serve as the master plan for the project area, 2) roadway and infrastructure improvements, and 3) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-78. Each of these components is discussed in detail below. Specific Plan: The San Marcos Creek Specific Plan includes 81.7 acres proposed as mixed use, 19.9 acres of park, 77.0 acres of open space, and 38.47 acres of right-of-way."

7-1

Based on the review of the submitted document, DTSC has the following comments:

1) The EIR should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances.

7-2

2) The EIR should identify and also summarize the status of the known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:

7-3

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- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
- Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
- Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
- Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
- The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).

7-3 Cont.

3) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. DTSC will require an oversight agreement in order to review such documents. Please see comment No. 17 below for more information.

7-4

4) Your document states: "MM 3.5-4 has been included to ensure that any leaking underground storage tanks on the project site are cleaned up prior to project construction within those areas where the tanks are located." All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any

7-5

investigations, including Phase I and II investigations should be summarized in the document. All sampling results in which hazardous substances were found above health risk levels should be clearly summarized in a table for clarification. 7-5 Cont.

5) Your document states: "Mitigation measure MM 3.5-2 would be implemented to ensure that any hazardous materials that are found on the site are remedied in accordance with all federal and state requirements." Proper investigation, sampling and remedial actions overseen by a regulatory agency, if necessary, should be conducted at the site prior to the new development or any construction. 7-6

6) If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a Border Zone Property. 7-7

7) Your document states: "Mitigation measure 3.5-1 has been included to ensure that fill material for levee construction and earthwork activity is clean and free of any potential hazardous materials." The project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination. 7-8

8) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is determined, a study of the site overseen by the appropriate government agency and qualified Risk Assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment. 7-9

9) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). 7-10

10) If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (714) 484-5423 to initiate pre application discussions and determine the permitting process applicable to the facility. 7-11

11) If it is determined that hazardous wastes will be generated, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. 7-12

12) Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA. 7-13

13) If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB). 7-14

14) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area would cease and appropriate health and safety procedures should be implemented. 7-15

15) If weed abatement, agricultural production, or cattle or animal activities were conducted onsite, soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project. 7-16

16) Envirostor (formerly CalSites) is a database primarily used by the California Department of Toxic Substances Control, and is accessible through DTSC's website. DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489, for the VCA. 7-17

If you have any questions regarding this letter, please contact Ms.Teresa Hom, Project Manager, at (714) 484-5477 or email at thom@dtsc.ca.gov.

Sincerely,

Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress Office

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

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814

CEQA # 1636

Letter 7
Department of Toxic Substances Control
May 21, 2007

1. This comment provides opening remarks and a brief summary of the project description. It does not raise any environmental issues; therefore, no additional response is required.

2. This comment states that the EIR should identify current or historic uses on the project site that may have resulted in a release of hazardous waste/substances. Page 3.5-1 of the Draft EIR detailed the existing uses on the project site. Existing uses on the site include a residential and commercial uses as well as undeveloped parcels and open space associated with San Marcos Creek. Page 3.5-2 also discusses some existing and past uses with the potential to release hazardous waste/substances. In particular, existing uses with the potential to release hazardous substances include dental and veterinary practices, auto repair and oil changes businesses, and gasoline stations. Past uses that actually released hazardous materials were principally auto related. (See page 3.5-2.)

3. This comment states that the EIR should identify and summarizes the status of known or potentially contaminated sites within the project area. The comment also states that, for all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. A database search was conducted by Environmental Data Resources (EDR) in January 2007. Results of the search are presented in Figure 3.5-1. (See also Appendix E (Hazards Database Report).) The database search indicated that several locations within the project area that appear on a state or local database for hazardous materials. Several leaking underground storage tank cases (both historical and current) were identified within the project area, as detailed below:

   - Texaco, 615 San Marcos Boulevard (post-remedial action monitoring)
   - San Marcos Auto Mall, 755 San Marcos Boulevard (case closed)
   - San Marcos Auto Center, 747 San Marcos Boulevard (work plan submitted)
   - TLC Carwash, 740 West San Marcos Boulevard (leak being confirmed)
   - First National Bank, 885 San Marcos Boulevard (case closed)
   - Lloyd Pest Control, 223 Bent Avenue South (case closed)

   In three of the six instances, the cases are closed, which means adequate remediation of the site has occurred. In the remaining three instances, the leak is being confirmed or a work plan for the clean up is being prepared. All leaking tanks would be subject to clean up. Assessment and clean up is governed by the Porter Cologne Water Quality Control Act (Water Code) and Chapter 16 (Article 11) of the Underground Storage Tank Regulations.

   The EIR evaluated whether any of these identified sites would pose a threat to human health or the environment, and concluded that if the project were to proceed before remediation were concluded the impacts could be potentially significant. (Page 3.5-8.) As a result, the EIR recommended the adoption of two mitigation measures, MM 3.5-2 and MM 3.5-3, which are discussed below.

4. This comment states that the EIR should identify mechanisms to initiate any required

investigations or remediations for any site that may be contaminated as well as the government agency to provide regulatory oversight The Draft EIR includes a mitigation measure to deal with this issue (see MM 3.5-2 provided below).

MM 3.5-2 Prior to initiation of any grading, it shall be confirmed that there are no hazardous materials on the project site. In the event that hazards materials are found on the project site, the materials shall be remedied in accordance with all federal and state requirements. Remediation shall be completed prior to construction within the impacted area.

5. This comment states that any environmental clean up shall occur under a Workplan and overseen by a regulatory agency that has jurisdiction. Based upon this comment, mitigation measure MM 3.5-3 has been revised. The added language is shown in underline format below. All clean up shall occur in a manner that is consistent with adopted regulations.

MM 3.5-3 Project construction in areas where leaking underground storage tanks have been identified shall be avoided until proper clean up of the tanks pursuant to adopted state regulations has occurred. All clean up shall occur under a Workplan approved and overseen by the appropriate regulatory agency that has jurisdiction for the clean up. The Workplan shall include a summary of any Phase 1 and Phase II investigations and a summary table of sampling results for which hazardous materials were found.

6. This comment states that proper investigation, sampling, and remedial action should be done prior to development or construction. Mitigation measure MM 3.5-2 mandates that all clean up would have to occur prior to grading on the impacted site.

7. The comment notes that "Border Zone" concerns may arise if a project is located within 2,000 feet from a contaminated site, and recommends that if Border Zone concerns arise then precautions should be taken during construction. While there are sites that have documented contamination within the project site, remediation efforts have already been completed, or investigations are underway to support future clean up. There are no "Border Zone" properties known to occur within 2,000 feet of the proposed project.

8. The comment states that fill material that is imported to the site should be tested to confirm that the soil is free of contamination. Mitigation Measure 3.5-1 has been included to ensure that imported fill material is free of contamination. As a result of this comment, it has been modified to clarify that testing will be performed to verify that the soil is free of contamination before the soil is brought to the project site for use.

MM 3.5-1 Fill material for levee construction and earthwork activity shall be free of organic matter, hazardous materials, or other unsatisfactory materials. Testing shall be undertaken to verify that the materials are free of contamination. Written verification shall be provided to the City Engineer that the fill is free of hazardous materials prior to the transport of fill materials to the project site.

This comment also states that any contaminated soils on site would have to be properly disposed of. The City understands this requirement. Any export of contaminated material would be conducted in a manner that is consistent with currently regulatory requirements.

Additionally, it is expected that Phase 1 environmental site assessments would be prepared for any future development within the project area. These assessments would determine if there is a potential for contamination on specific sites. Based upon these assessments, additional site sampling may be required on a case by case basis.

9. This comment addresses protection of human health during the construction and demolition activities. The Draft EIR included mitigation measures addressing asbestos-containing materials (ACMs) and lead-based paint (LBP) that could be released during construction and demolition. The specific measures are provided below:

MM 3.5-4 Prior to demolition or relocation of any buildings on the project site, a licensed asbestos inspector shall be retained to determine the presence of asbestos and asbestos containing materials (ACMs) within structures. The inspection shall be consistent with the federal and state occupational exposure standards for asbestos and ACMs. The applicant shall comply with all applicable state and federal abatement policies and procedures for removal of ACMs present on the site.

MM 3.5-5 Prior to demolition or relocation of any buildings on the project site, a licensed lead-based paint (LBP) inspector shall be retained to determine the presence of lead-based paint and lead-based paint containing materials (LBPCM) within structures. The inspection shall be consistent with federal and state occupational exposure standards for LBP and LBPCM. The applicant shall comply with state and federal abatement policies and procedures for removal of LBP and LBPCM present on the site.

Additionally, as noted above, mitigation measures MM 3.5-1, MM 3.5-2, and 3.5-3, will assure that known hazardous areas are fully remediated prior to excavation and that imported fill materials are clean.

The Draft EIR also analyzed impacts related to construction air emissions. Construction of both Phase 1 and Phase 2 of the project would result in significant PM_{10} and NO_x emissions. Mitigation measures have been identified to reduce the PM_{10} impact resulting from floodway improvements, demolition activities, Specific Plan area grading, nuisance soiling, and construction-related equipment emissions. These measures include limiting the amount of grading that can occur within a given day and also requiring the use of best available control measures. However, even with implementation of all mitigation measures, project-related construction impacts to PM_{10} emissions are still significant. Similarly, mitigation measures have also been identified for the construction-related NO_x emissions; however, these measures would not reduce the impact to below a level of significance. Therefore, the project will have significant and unavoidable construction impacts.

10. This comment addresses the generation of hazardous wastes by the operation of the project. The commenter notes that any wastes produced on site must be mandated in accordance with

state law. The potential for transport, use, and disposal of hazardous materials on the project site was analyzed on page 3.5-7 of the Draft EIR. Future uses proposed within the project area include residential, commercial and office uses. These types of land uses are not typically characteristic of generating or using large amounts of hazardous materials. Residential uses may use and generate hazardous materials via the use of household cleaning products as well as the generation of universal waste, such as batteries and electronics. Depending on the future tenants of the commercial or office uses, such as doctors or dentists, small amount of medical waste could be generated. These businesses are required to comply with state regulations for the handling and disposal of these materials. For household-generated hazardous materials, collection points are located in the North County San Diego area to provide proper disposal of these items. Therefore, a less than significant impact is identified for this issue area.

11. This comment addresses the storage of hazardous wastes or materials in containers for more than 90 days. As detailed in response 10 above, any waste stored or generated by the project would be handled in a manner that is consistent with current regulatory requirements.

12. The comment notes that certain hazardous waste treatment generation facilities may require special permitting under applicable law. Please see response 10.

13. The comment notes that certain hazardous waste treatment processes may require special permitting under applicable law and addresses the need for authorization from the local Certified Unified Program Agency (CUPA). The project does not propose any uses that would involve hazardous waste treatment processes; therefore, authorization from the local CUPA is not anticipated.

14. This comment addresses discharge of wastewater into stormdrains. Wastewater from the project site will be placed in the Vallecitos Water District sewer system. No wastewater would be placed in the public storm drain system.

15. This comment addresses the discovery of contaminated soil or groundwater during project construction. In the event that contaminated soil is identified during project construction, all appropriate health and safety procedures would be implemented in accordance with existing regulations. Additionally, a mitigation measure has been added to the Final EIR requiring the preparation of a Risk Management Plan. The new mitigation measure is presented below:

MM 3.5-1b Prior to the issuance of any grading, demolition, or building permits for the project site, a Risk Management Plan (RMP) shall be prepared for the project site. At a minimum, the RMP shall establish soil and groundwater mitigation and control specifications for grading and construction activities at the site, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. The RMP shall also include an Operations

and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. The RMP shall be submitted to the City Fire Department for review and approval.

16. This comment addresses the potential for contamination associated with past agricultural activity. The floodplain of San Marcos Creek, in general, was historically grazed and farmed for decades (Dudek, 2007). As to the site's possible agricultural history, it is possible that pesticides may have been applied to the site. In general, many pesticides applied to soils are readily immobile and do not readily leach downward to groundwater. Therefore, there is a low potential that future occupants would be exposed to possible residual pesticides and a less than significant impact is identified. However, based upon this comment, a Risk Management Plan shall be prepared for the project, as detailed in response number 15, above.

17. This comment addresses the Envirostar database. A data base search was conducted as part of the environmental review for the project. The complete results of the database search were included as Appendix E of the Draft EIR.

VALLECITOS WATER DISTRICT
a municipal agency
201 Vallecitos de Oro • San Marcos, California • 92069-1453 Telephone (760)744-0460

May 29, 2007

Mr. Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069 5201

RE: DRAFT EIR FOR SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT

General

The above referenced project is within the boundaries of the Vallecitos Water District and the majority of the project is within a Sewer Improvement District. Water and sewer service will be provided under the rules and regulations of the District, under normal operating conditions after all required fees have been paid and all conditions of the District have been satisfied.

Any existing pipelines located within the boundaries of the project that are in conflict with the proposed development will require either relocation into the proposed right-of-way or new easements. District policy requires that all newly created parcels have frontage on the District main and extensions of facilities to serve each newly created parcel will be required. The exact location of the main line extensions and relocation will be determined during the design phase of the project.

Proposed water or sewer facilities not within the public right-of-way will require a minimum 20-foot easement granted to the District. The District may require additional easements through private properties for future extensions. The owner of the project is responsible for obtaining any easements including expenses incurred. Joint use of these easements is not allowed by the District and easements for storm drain and other facilities should be analyzed early so that adequate sizing of easements for all facilities and various agencies is provided.

No structures will be allowed over District facilities. This includes but is not limited to, walls, entrance medians, landscaping, gates, guard house structures, curbs and gutters, or driveways that will be constructed over District facilities.

8-1

Administration (760) 744-2738 Engineering (760) 744-3507 Finance (760) 744-0460
Meadowlark Water Reclamation Facility (760) 744-2455 Operations/Maintenance (760) 744-5240

More specifically, the following information is provided for the water and sewer sections of the DEIR:

Water and Sewer

1.0 Executive Summary Page 1-12

- Vallecitos Water District Improvements – Throughout the document, it is stated that "it would be beneficial to VWD to modify the alignment of the interceptor and conduct the replacement concurrent with development of the project." The document has depicted potential sewer interceptor alignments within the project area in Figure 2.3-5.

  The District has been coordinating the replacement of the pipeline with the City for numerous years and considered the various alignments studied by the City. Coordination of the project may be mutually beneficial to both the District and the City and the District will coordinate with the City as much as possible, however the pipeline is at or near capacity and in need of replacement. Additionally, the District is in final design stages and has completed most of the CEQA review and documentation required for the project.. It is anticipated that construction of the eastern portion and the western portion will commence independently of the Creek project. To the maximum extent possible, the District has designed the sewer project so that the alignment will be compatible with the Creek project utilizing future public roadways. The District will coordinate construction of the center portions of the sewer pipeline with the Creek project. 8-2

- Water Improvements – The document states "Phase 1 Improvements would include construction of a 12-inch waterline within Creekside Road. Phase 2 improvements would expand the water infrastructure into the proposed Specific Plan Area. These water lines would also be 12-inch".

  A focused "Water Study" has not been completed for the project and it may be premature in determining size or location of facilities. A water study will be required to identify proper infrastructure requirements prior to project plan approvals. 8-3

- Sewer Improvements – "Phase 1 Improvements would include construction of an 8-inch sewer line within Creekside Road. Phase 2 improvements would expand the sewer infrastructure into the Specific Plan area".

  A focused "Sewer Study" has not been completed for Phase 1 or Phase 2 of the project and it is premature to determine the size or location of sewer collection facilities. A sewer study will be required to identify proper infrastructure requirements prior to project plan approvals. 8-4

1.0 Executive Summary Page 1-21

- Utilities and Service Systems – This Section discusses the need for additional services in Phase 2 of the development and increasing the size of the San Marcos Interceptor by VWD as well as expansion of the outfall at the Encina treatment plant to occur earlier than later.

  This Section places responsibility for sewer collection facilities on Vallecitos. For instance, "A mitigation measure has been identified which requires completion of the San Marcos Interceptor by VWD prior to development within the Specific Plan area, as well as further coordination with VWD by future project applicants." However, as previously noted, the project proposes that the sewer interceptor be constructed as a part of Creek project. It appears from this statement that this mitigation measure reduces the impact to wastewater services to below a level of significance. It should be made clear that all facilities required are determined through studies and costs/mitigation measures are outlined well before "future project applicants" come on line to build. The proposed land use will generate greater flows then allowed for in the District's Master Plan. Acknowledgement of the need for additional treatment and conveyance capacity needs to be further elaborated upon and made clear that the project does have a significant impact upon public services

8-5

3.11 Utilities and Service Systems Page 3.11-1

- 3.11.1.1 – Water Supply – This portion of the document addresses Senate Bill (SB) 610 and what is required.

  The Water Supply Assessment, dated January 12, 2007, identifies long term (20 year) water supplies from both the San Diego County Water Authority and the Metropolitan District of Southern California. The study concluded that sufficient water supplies are expected to be available over the next 20 years to serve the development. Although the Water Supply Assessment identifies long term water supplies, it does not identify the project's impact on the District's existing infrastructure and storage facilities. As previously noted, a focused water study of the project's impacts on the existing distribution and storage system has not been completed and mitigation has not been identified. This study will be required to identify proper infrastructure requirements prior to project plan approvals.

8-6

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Page 3.11-2 & Page 3.11-3– Water

- City of San Marcos General Plan – Conservation Element

  The document has addressed the conservation element. The document addresses issues such as drought-tolerant plans for landscaping and reclaimed water use where feasible, automatic drip systems for commercial, manufacturing and public projects with common green areas. Requires drip irrigation where feasible. It should be noted that no recycled water is available for the project and reference to its use as mitigation should be eliminated

8-7

Page 3.11-3- Sewer

- The document discusses Goals for a Wastewater System. Throughout the document there is discussion on the use of recycled wastewater for irrigation of open space and recreational and agricultural areas to the maximum extent possible. At this time, there is no recycled water available nor has anything been proposed regarding an onsite wastewater treatment facility for recycling purposes. The use of recycled water is not a valid mitigation measure.

8-8

3.11 Utilities and Service Systems – Page 3.11-4

3.11.1.2 Existing Resources – Water Service

- The first paragraph states "The Majority of the proposed project is located within the District's service area."

  The document should state that the entire project is within the District's water boundary and a majority of the proposed project is within the District's sewer boundary.

8-9

- Paragraph three – District currently sells approximately 2 million gallons per day (MGD) to the City of Carlsbad for landscape irrigation "An expansion of the recycled water program....."

8-10

Need to add "Upon completion of the current expansion of the existing Meadowlark Wastewater Facility, the District will sell up to 3 million gallons per day of recycled water to the City of Carlsbad and up to 1.5 million gallons per day to the Olivenhain Municipal Water District. 8-10 Cont.

- The Water Supply Assessment by K/J needs to be updated with correct figures and reissued for the project. There have been changes to the maps and the WSA may be understated based on the overall increase in water demands. 8-11

3.11.1.2 Existing Resources – Wastewater Service 8-12

- "Encina Water Pollution Control Facility" This facility is called the Encina Wastewater Authority

- The document states "Encina has a capacity of approximately 7.54 mgd."

  The Vallecitos Water District currently has capacity of 7.54 mgd at Encina, however the overall treatment capacity at Encina (prior to Phase V expansion) is 36.0 mgd with a solids handling of 38.0 mgd capacity. 8-13

Page 3.11-5 Section 3.11.2 Thresholds of Significance Water/Wastewater 8-14

- Under Wastewater, Bullet 3 discusses Storm Water Drainage Facilities –

  A discussion about drainage facilities does not seem appropriate in this section

Page 3.11-6 Section 3.11-3 Project Impacts 8-15

Water Infrastructure

- The District does not supply "raw" water

Water Supply 8-16

- Phase 2 development will result in an increase in the need for potable water compared to the current condition.

These figures need to be re-evaluated since completing the WSA. This document has made assumptions that do not reflect the City's development accurately. District staff is currently reviewing the figures and assumptions to reflect the mixed use residential proposed for the project. As stated above, the WSA needs to be updated and the revised WSA utilized in the project EIR. 8-16 Cont.

- Figure 3.11-1 – The figure depicts a conceptual water plan for the project. There does not seem to be any emphasis anywhere in the document regarding possible "offsite" facilities, upgrades, mitigation for facilities, etc. An offsite study would include a hydraulic analysis which would identify impacts so that the correct sizing of facilities could be determined. These facilities could include additional storage facilities, pressure reducing stations, pump stations, etc. 8-17

Page 3.11-8 Utilities and Service Systems

- The District is re-evaluating WSA for this project and updating figures at this time. The existing WSA is being revised and the current one is not valid. Upon completion of the revised WSA, the document should be included in the EIR. 8-18

Page 3.11-9 Utilities and Service Systems

Wastewater Infrastructure

- "An 8-inch sewer line is proposed under Creekside Road with 6 to 8-inch laterals proposed under the street.....infrastructure into the proposed mixed-use development area (VWD 2006)"

  The sizes will be determined during the focused planning for the different land uses/areas. What is the "(VWD 2006)" reference? 8-19

- The Paragraph: "In 2001, the Vallecitos Water District approved replacement of the San Marcos Sewer Interceptor.....To date, VWD has not initiated the interceptor replacement.....When the alignment approved in 2001 is reviewed in light of the proposed project, it may be beneficial for VWD to modify the alignment.....Since the proposed VWD alignment falls within the footprint of disturbance analyzed in the EIR....." 8-20

The District has initiated a project and portions of the project were constructed as a demonstration project. Due to Environmental constraints and mitigation required by the Agencies, the remainder of the project has been delayed. The statement that it would be beneficial for VWD to modify the alignment and complete with the "project" may not be a potential alternative for the District because this pipe is in need of replacement. The "project" may take longer than the District can wait and as previously discussed above, the District has been coordinating the replacement of the pipeline with the City for numerous years and considered the various alignments studied by the City. However, as discussed in Section 1.0 Executive Summary 1-12, coordination of the project with the City of San Marcos may be mutually beneficial. The District is in final design stages of the pipeline replacement project and anticipates construction of the eastern portion and the western portion independently of the Creek project. The pipeline is at or near capacity and in need of replacement. Only segments of the overall sewer pipeline can be coordinated with the Creek project.

8-20 Cont.

Wastewater Service Demand

- Phase 2 development will result in an increase in the need for wastewater services. This would include additional capacity in the District's Outfall, Encina Wastewater Authority and the Interceptor. ***"this represents a significant impact"***

The draft EIR is correct in saying that this increase in sewage will represent a significant impact to the system based on preliminary numbers that have been reviewed. However, the document does not address what it will entail to expand or build a new outfall or to expand the Encina Wastewater Plant. These are major components that should be addressed and included in the EIR. Reference to these needed sewer studies and inclusion of the impacts should be incorporated into the document. To not include these facilities and potential costs, as they are substantial, does not adequately address the impact and minimizes what is a substantial impact if wastewater treatment capacity is not available for the increased generation proposed by the project.

8-21

Page 3.11-12 – Mitigation Measures Wastewater

- MM3.11-1 – "Future development within the Specific Plan (Phase 2) shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, as each development project in the Specific Plan area comes forward, project review by VWD ... to ensure there is adequate capacity ... Infrastructure to accommodate the wastewater ... Future project applicants shall participate in a funding mechanism to ensure ..."

8-22

This should be analyzed now and not as each project moves forward. "Cumulative Impacts" analyses, including a sewer study, need to be conducted early to determine how each project will be required to install facilities and pay fair share costs for offsite facilities. The City needs to act as the lead development project and identify and construct the "Major Infrastructure" required for the project while considering adjacent projects. Because this could have enormous environmental and financial impacts, a mitigation measure within the EIR should be incorporated that requires a sewer study prior to any construction or plan approval by the City of San Marcos, District, or any of the permitting agencies.

The project needs to also include the cumulative impacts of the other proposed development projects adjacent to and near the creek and potential impacts from upstream projects, or the cumulative impacts are not clearly defined.

8-22 Cont.

Section 3.11.5 Conclusion

- The document discusses wastewater and states that it will be a significant impact, however a mitigation measure to condition "future project applicants" would take care of this.

No up front studies of what these measures are have been completed. How will the facilities be constructed and financed? The Outfall alone will be a major undertaking with environmental concerns that should be addressed with more specific impacts addressed at a later date at the "project" level. As noted above, the impact of this project as well as the cumulative impacts of the proposed adjacent developments has not been adequately discussed. The potential impact to the EWA treatment and disposal capacity has not been adequately discussed nor evaluated and this is a significant impact upon Vallecitos. The project does not discuss its impacts much less the cumulative impacts of proposed projects that will result in even larger increases in sewer generation.

8-23

Page 3.11-13 – Project Consistency with Applicable Utilities and Service System Goals and Policies (City of San Marcos General Plan)

- Goal 7 Policy 14 - "Manage and conserve domestic water....."

This addresses an issue that has come up regarding water features. It states that any water features designed should be done with minimal amounts of water and re-circulated. This appears to be a good policy and adequately addressed.

8-24

- Strategy 14.1 "Require the use of drought-tolerant plants and reclaimed water……

  These statements appear to be sound and adequately address water conservation, except it should be noted that no recycled water is available for the project and reference to its use should be eliminated.

- Strategy 14.2 – "Require drip irrigation where feasible.

  Good Policy

8-25

- Goal 7 Policy 15 – "Ensure an adequate wastewater system for existing and future development."

  "It is the responsibility of VWD to ensure that there is an adequate wastewater system for existing and future development".

  This is not the District's responsibility as it relates to this project. Specific project impacts need to be addressed in a focused "Sewer Study" by the owner/developer for onsite and offsite facilities so that the District can adequately plan for the project's impacts on the existing system beyond the 2002 VWD Master Plan. The District Master Plan is based on existing approved land use planning documents. The project, as well as adjacent proposed projects cumulatively, increases the sewer generation which was not allowed for in the District's Master Plan. The DEIR does not adequately address this significant impact and to state that it is the District responsibility is incorrect. The DEIR is insufficient in addressing this significant impact and needs to reevaluate the mitigation proposed.

8-26

Strategy 15.1 – "Phased Construction"

As previously mentioned, until sewer and water studies are completed, it is not known how phased construction will occur. Who will be responsible for the major onsite and offsite facilities. How will they be mitigated, financed, or constructed

8-27

- Strategy 15.2

  This goal seems to put replacement and expansion on the District and says the District will do a separate environmental review. If this project causes additional environmental review for the upgrade of facilities, the owner/developer will be responsible

8-28

- Strategy 15.3

  The use of reclaimed water is a good goal, however no study has evaluated an onsite Wastewater Reclamation Facility for the generation of any recycled water

8-29

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No recycled water is available for the project from the District. Clarification in the document should be made to say that the District will be selling reclaimed water to the Olivenhain Municipal Water District and City of Carlsbad. 8-29 Cont.

- **Page 4-22 Utilities and Service Systems**

  This is a less dense alternative. This alternative should say "decrease" not increase in need for water and wastewater. 8-30

- **Page 6-2 Growth Inducing Impacts**

- "The document states that the future VWD interceptor .....was analyzed in a Mitigated Negative Declaration." And is designed to accommodate existing flows and additional flows at build out.

  This was only evaluated based on the adopted VWD 2002 Master Plan which is based on the existing San Marcos Land Use and it does not consider the increased density of the project or the cumulative impacts of adjacent development projects proposing increased densities. The DEIR needs to evaluate cumulative impacts from the proposed densification. This is a substantial issue which the DEIR does not adequately address. 8-31

- **Page 7-9 Cumulative Effects Section**

- 7.1.11 Utilities and Services Systems

- The document referenced (J. Gumpel) regarding information received. The document also states that "Additional phasing of a cumulative project....contingent on San Marcos Interceptor...." Also "while the cumulative projects increase the demand for wastewater service.....wastewater impacts are less that significant and the project would not contribute to a cumulatively public services impact."

  This may need to be evaluated in a focused "Sewer Study" because the project could contribute to impacts based on what will need to occur "environmentally". Upgrades to the outfall pipeline and to the Encina Wastewater Authority could contribute to impacts cumulatively.

  In our opinion, overall cumulative impacts have not been adequately addressed in accordance with 14 CAL Code REGS Sections: 15355 (a), 15355 (b), and 15130 (a) and should be re-evaluated throughout the document. 8-32

Page 9-3 /9-6 Persons and Organizations consulted and References

VWD 2002 MP is not referenced

8-33

Conclusion

It is anticipated that the wastewater flows will have a significant impact to the adjacent downstream sewer collection and conveyance system, as well as treatment facilities. Upgrades to existing collection and conveyance facilities, and the Encina Wastewater Authority may be required. This may include the purchase or construction of additional treatment and disposal capacity. In addition, the project will have an impact on the existing Land Outfall and proposed sewer flow equalization projects identified in the District's 2002 Master Plan. Upon completion and review of all sewer studies, actual facilities required and all associated costs will be determined. None of this has been adequately addressed in the Draft EIR for the project nor are cumulative impacts per CEQA Guidelines.

At this time, it is highly recommended that complete, focused water and sewer analyses for the entire project be completed. As previously mentioned, this project could have enormous environmental and financial impacts. A mitigation measure within the DEIR should be incorporated that requires focused water and sewer studies prior to any construction or plan approval by the City of San Marcos, District, or any of the permitting agencies. The proposed densities and associated demands have changed since the adoption of the 2002 Water, Wastewater, and Reclamation Master Plan. Upon receipt, the project specific impacts will be analyzed in conjunction with the District's Master Plan and the associated impacts will be determined. The project impacts should be analyzed in a "Master Plan" type study including all of the projects cumulatively rather than relying on future developers.

The focused study including adjacent projects can be performed under direction of the District upon receipt of the appropriate deposits, or can be performed by a private consultant of the proponent's choice and submitted to the Vallecitos Water District for review. Costs associated with the District review as well as costs associate with the review of the project's impact on the District Master Plan facilities shall be the responsibility of the developer/owner. As mentioned above, the impacts of the project may have an impact on offsite facilities. If the study concludes that there is an increase in density and flows, or additional water facilities are required, the owner will be required to do an off site study for water and sewer facilities to determine the impacts of the project to downstream facilities including local sewer main, the interceptor, pump station, outfall and treatment and also off site water facilities such as storage, pump stations, larger pipelines, etc.

8-34

Mr. Jerry Backoff
DRAFT EIR FOR SAN MARCOS CREEK SPECIFIC PLAN
AND FLOODWAY IMPROVEMENT PROJECT
May 29, 2007
Page 12

This letter is issued for planning purposes only, and is not a representation, expressed or implied that the District will provide service at a future date. The Vallecitos Water District relies one hundred percent on imported water supplies. water may not be available at the time the project is built. Commitments to provide service are made by the District Board of Directors and are subject to compliance with District fees, charges, rules and regulations.

8-34 Cont.

Sincerely,

VALLECITOS WATER DISTRICT

Cheryl Brandstrom
Engineering Supervisor

cc: Dennis Lamb, Director of Engineering and Operations
Ken Gerdes, Engineering Manager

Letter 8
Vallecitos Water District
May 29, 2007

1. This comment provides opening remarks and notes specific development requirements for the project if it falls within the VWD right of way. This comment does not raise any environmental issues, therefore, no additional response is warranted.

2. This comment discusses the coordination efforts between the Vallecitos Water District (VWD) and the City of San Marcos over the Sewer Improvement District Project. The comment notes that VWD has designed the sewer project to be compatible with the proposed project. This comment does not raise any environmental concerns with the District's improvement within the project area.

3. This comment addresses water improvements associated with development of the proposed project. The comment notes that a water study would be required to determine the appropriate infrastructure requirements for proposed water facilities associated with the proposed project. Anticipated sizing for the water line is based upon preliminary modeling effort by the project engineers. A Water Study shall be required for the project to establish precise sizing requirements, as detailed in revised mitigation measure MM 3.11-1:

   MM 3.11-1 Future development within the Specific Plan (Phase 2) shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, focused Water and Sewer Studies shall be prepared which identify the infrastructure needed to support Phase 2 development of the project. Future developers within the Specific Plan area shall be responsible for the payment of fair share fees for the necessary water and sewer infrastructure upgrades. Additional environmental review shall be required for any off-site improvements. Additionally, prior to the issuance of building permits for Phase 2 development, the Water Supply Assessment shall be updated by Vallecitos Water District.

4. This comment addresses sewer improvements associated with the development of the proposed project. The comment notes that a sewer study would be required to determine the appropriate requirements for proposed sewer collection facilities associated with the proposed project. Anticipated sizing for the sewer line is based upon preliminary modeling effort by the project engineers. A Sewer Study shall be required for the project to establish precise sizing requirements, as detailed in revised mitigation measure MM 3.11-1. Please see response 3 for the revised mitigation.

5. This comment addresses utilities and service systems associated with the development of the proposed project. The mitigation measure referenced in this comment has been revised. Please see responses 3 and 4 for more information on the revised mitigation measure.

6. This comment addresses water supply associated with development of the proposed project. The comment notes that a focused water study would be required to determine the proposed project's impact to existing VWD distribution and storage systems. Phase 2 of the project

was evaluated at a programmatic level. The requirement for a focused Water Study has been included within mitigation measure MM 3.11-1 and will be completed prior to approval of any permits for Phase 2 development.

7. This comment addresses the Conservation Element in the City of San Marcos General Plan and notes that no recycled water is available or the proposed project and reference to its use as mitigation should be eliminated from the EIR text. The reference to recycled water is referring to Implementing Strategy 15.3 of the Conservation Element of the City's General Plan. The Draft EIR discusses the project's consistency with the various goals and objectives of the General Plan. The use of recycled water is not proposed as a project mitigation measure.

8. This comment notes corrections that need to be made to the EIR text to indicate that the project falls entirely within the VWD services area. The recommended changes have been made on page 3.11-4 of the Final EIR. These text modifications do not change the conclusions of the EIR.

9. This comment notes corrections that need to be made to the EIR text regarding he amount of recycled water sold by VWD to the City of Carlsbad. The recommended changes have been made on page 3.11-4 of the Final EIR. These text modifications do not change the conclusions of the EIR.

10. The comment states that the Water Supply Assessment (WSA) needs to be updated with correct figures to accurately reflect water demands. The Water Supply Assessment was provided by VWD to the City of San Marcos for use in preparation of the Draft EIR. The conclusions in the WSA were carried forward and served as the basis for the analysis in the Draft EIR. . Mitigation measures MM 3.11-1 has been revised for the Final EIR to note the requirement for the revisions of the WSA. This shall be required prior to the issuance of any grading permits for Phase 2 of the project.

11. This comment notes corrections that need to be made to the EIR text. The recommended changes have been made on pages 3.11-4 and 3.11-5 of the Final EIR. These text modifications do not change the conclusions of the EIR.

12. This comment notes corrections that need to be made to a typographical error in the EIR text. The recommended changes have been made on page 3.11-5 of the Final EIR. These text modifications do not change the conclusions of the EIR.

13. This comment notes that the discussion of drainage facilities does not seem appropriate in Section 3.11.2 of the EIR. This threshold has been removed. Storm water management and infrastructure is discussed in Section 3.6 of the EIR.

14. This comment notes corrections that need to be made to the EIR text. The recommended changes have been made on page 3.11-6 of the Final EIR. These text modifications do not change the conclusions of the EIR.

15. This comments states that the Water Supply Assessment for the project needs to accurately reflect the development proposed by the project. Please response 10.

16. This comment states that the EIR did not address potential off-site improvements needed to serve the project. The Draft EIR noted, in a programmatic level, that off-site improvements, including the upsizing of the Encina land outfall would be required. It is important to note that the Draft EIR provided a programmatic level review of the impacts from development of the Specific Plan. VWD requests an off-site study be prepared to addresses this issue. Mitigation measures have been added requiring Water and Sewer studies to be prepared prior to development within the Specific Plan area. Please see mitigation measure MM 3.11-1 in the Final EIR as well as responses 3 and 4.

17. This comment states that VWD is reevaluating the WSA prepared for the project. Please see response 16.

18. This comment addresses wastewater infrastructure associated with the development of the proposed project. VWD is questioning the source of the "VWD 2006" reference in Section 3.11-9 on the EIR. The "VWD 2006" reference was inadvertently placed in the document. The text preceding the reference was actually a description of the improvements prepared for the project. The reference to VWD 2006 has been removed in the Final EIR.

19. This comment addresses wastewater infrastructure associated with the development of the proposed project. The comment states that only segments of the overall sewer pipeline can be coordinated with the proposed project. The City understands that VWD is in the final planning stages of this infrastructure upgrade. The City will continue to work with VWD to ensure that the proposed project and the VWD interceptor project are compatible.

20. This comment addresses wastewater service demand associated with development of the proposed project. VWD recommends that the EIR include a discussion on the sewer studies needed to determine the capacity needed to support the wastewater service demand generated by the proposed project. The EIR has been revised to include the requirement of a project-specific sewer study. That study will identify the additional off-site improvements that are required. Additional off-site improvements would be subject to separate CEQA review. The construction of a new outfall or expansion of the Encina Wastewater Plan would likely result in potentially significant environmental impacts. Due to the speculative requirements, it is not feasible within this environmental document to assess the costs associated with those improvements.

21. This comment addresses wastewater mitigation measures. VWD recommends a mitigation measure be inserted into the EIR that requires a sewer study prior to construction or plan approval. The requested mitigation measure has been added to mitigation measures 3.11-1. Please see response 3.

    Additionally, the comment states that the EIR include a discussion on the cumulative impacts of other proposed projects in the area. A cumulative impact analysis was presented in Section 7 of the Draft EIR. The analysis concluded that development of the project in conjunction with other cumulative project would increase the demand on wastewater services and infrastructure for VWD. As noted above, the requirement for a Sewer Master Study has been identified prior to development of Phase 2 of the project.

22. This comment states that the impacts of the proposed project and cumulative impacts of other project in the area on wastewater/sewer services have not been adequately addressed in the EIR. The Draft EIR discussed the proposed sewer generation anticipated for the project and noted that upgrades to existing off-site infrastructure may be required. A subsequent sewer study will be required to identify these improvements. Please see revised mitigation measure MM 3.11-1. With regard to cumulative impacts, the Draft EIR noted that the proposed project, in conjunction with other cumulative project will increase the demand for wastewater services for VWD and could result in an impact to VWD facilities. The draft EIR goes on to note that while the cumulative projects increase the demand for wastewater service, payment of fees, timing of construction and ongoing coordination with VWD would ensure that wastewater impacts are less than significant, and the project would not contribute to a cumulatively considerable public services impact.

23. This comment notes that the proposed project goal of managing and conserving domestic water is adequately addressed in the EIR. This comment does not raise an issue with the adequacy of the EIR; therefore no additional response is warranted.

24. This comment notes that the reference to recycled water should be removed from Strategy 14.1 in the EIR. The reference to recycled water has been removed in the Final EIR.

25. This comment notes that it is not VWD's responsibility to ensure adequate water services for existing and future development, as stated in the EIR. The analysis pertaining to this goal has been revised. Reference is made to the Sewer Study that would be required as part of the project mitigation.

26. This comment states that until sewer and wastewater studies are completed, it is not known how phased construction will occur. As noted in previous responses the requirements for project-specific water and sewer studies have been included as mitigation measures. These studies will need to be complete prior to the issuance of building permits for Phase 2 (Specific Plan) of the project. Please see mitigation measure MM 3.11-1.

27. This comment states that if the proposed project requires additional environmental review for the upgrade of sewer and/or wastewater facilities, the owner/developer would be responsible, not VWD. Based upon a review of the project, a lead agency would be identified. The identification of the lead agency is established in CEQA. The funding for the environmental document would be the responsibility of the lead agency (either the lead agency pays, or the agency can require the project applicant).

28. This comment addresses the proposed project's goal of utilizing reclaimed water. The comment notes that no recycled water is available for the proposed project from VWD. The Final EIR has been modified state that recycled water infrastructure is not in place in the project vicinity.

29. As suggested by the text on Page 4-22 of the EIR has been revised to note that the reduced density alternative would result in a reduction in the utility needs compared to the proposed project.

30. The comment notes that the IS/MND for the VWD interceptor does not consider the increased density of the project or the cumulative impacts of adjacent development projects. As noted in responses 3 and 4 above, Water and Sewer Studies shall be prepared for the Specific Plan to finalize sizing requirements for utility infrastructure.

31. This comment addresses the cumulative effects to utilities and service systems associated with the development of the proposed project. VWD states that overall cumulative impacts have not been adequately addressed in the EIR. The City does not concur with this statement. As noted in Section 7 of the EIR, development of the project, in conjunction with the cumulative projects identified in Table 7.1-1 of the Draft EIR would increase the need for water and wastewater services, solid waste services and dry utilities. Water and wastewater master planning is within the purview of the Vallecitos Water District (VWD). Based upon communication with VWD (2007a), VWD is currently reviewing the anticipated water and wastewater needed of the various development projects proposed within the vicinity of the project.

    Within the project area and vicinity, VWD would be constructing the San Marcos Interceptor. This wastewater generation would require upsizing of the San Marcos Interceptor, as well as expansion of the outfall at the Encina treatment plant to occur at an earlier time than anticipated by VWD. However, the project, as well as future projects would be required to coordinate with VWD for wastewater service and pay applicable fees. Additionally, projects phasing for some of the cumulative projects may be contingent on the completion of the San Marcos Interceptor. So while the cumulative projects increase the demand for wastewater service, payment of fees, timing of construction and ongoing coordination with VWD would ensure that wastewater impacts are less than significant, and the project would not contribute to a cumulatively considerable public services impact.

    VWD would also be the provider of potable water for the cumulative projects. The Water Supply Assessment (WSA) prepared for this project (Kennedy/Jenks 2007) indicated that VWD has the ability to meet existing and planned future demands over a 20-year period. Therefore, water supplies are available for the project and other cumulative projects. Therefore, cumulative impacts related to water supply would be less than significant.

32. This comment notes that "VWD 2002 Master Plan" is not referenced in the Persons and Organizations Consultant and References sections of the EIR. A reference to this document has been included in Section 9.

33. This comment provides VWD's conclusions of their review of the San Marcos Creek Specific Plan EIR. This comment does not raise any new environmental issues that were not addressed in the previous comments. Please see response to comment 32.

ORIGINAL

San Diego County Archaeological Society, Inc.

Environmental Review Committee

30 April 2007

RECEIVED
MAY 01 2007
CITY OF SAN MARCOS
PLANNING DIVISION

To: Mr. Jerry Backoff, Director
Planning Division
City of San Marcos
1 Civic Center Drive
San Marcos, California 92069-2918

Subject: Draft Environmental Impact Report
San Marcos Creek Specific Plan and Floodway Improvement Project

Dear Mr. Backoff:

I have reviewed the cultural resources aspects of the subject DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR and its cultural resources appendix, we have the following comments:

1. The DEIR defers testing of archaeological site SDI-17423 until after project approval. Testing is not mitigation, it is the basis for defining mitigation. While the site is being considered "potentially significant", there would be no public review of the actual significance determination or the mitigation measures, if any, to be applied. This is inconsistent with the intent of CEQA, as well as the *Sundstrom v. County of Mendocino* decision. Essentially, the City is considering the site significant, yet it is providing no public disclosure of the mitigation that may be necessary to reduce the impacts to the level that they are not significant. In theory, doing so could mean that significant impacts would result from the project and neither the public nor the decision-makers would have had any knowledge of that fact. It is necessary for the testing to be conducted and the results and mitigation recommendations to be circulated for public review prior to project approval. 9-1
2. It does not appear that the 1928 aerial photographs of the project area were reviewed. Doing so would help confirm if any other structures previously existed within the project boundaries, which might identify areas that need to be tested or, at the very least, provide helpful information for the archaeological monitors. 9-2
3. Curation of archaeological material recovered, together with the associated records, from all phases of the project must be a requirement regardless of the site significance. This includes the material recovered as part of the survey for this project, for all material from the testing of SDI-17423, and the recovery from the monitoring program. Also, efforts should be made to locate the 1992 collection from SDI-12735 and curate it as well. 9-3

P.O. Box 81106 • San Diego, CA 92138-1106 • (858) 538-0935

Curation should be in accordance with the State Historical Resource Commission's *Guidelines for the Curation of Archaeological Collections*, dated May 7, 1993. 9-3 Cont.

4. Deadlines should be specified for completion of the final monitoring report and the curation of resulting material and records. Confirmation that the collections, associated records and title have been received by the curation institution should be a requirement for release of the grading bond, if one exists, or issuance of the certificate of occupancy. 9-4
5. Finally, copies of the final report specified in MM 3.4-1 should also go to the South Coastal Information Center at SDSU. 9-5

Thank you for this opportunity to participate in the public review of this project's environmental documents.

Sincerely,

James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: ASM Affiliates
SDCAS President
File

P.O. Box 81106 • San Diego, CA 92138-1106 • (858) 538-0935

Letter 9
San Diego County Archaeological Society
April 30, 2007

1. This comment expresses concern that the Draft EIR deferred testing of Site SDI-17423. The EIR assumed the site was significant, and included mitigation to assure that the impact was minimized to less than significance. (See EIR p. 3.4-8.) Nevertheless, subsequent to circulation of the Draft EIR, Site SDI-17423 underwent a testing program and the information has been included in the Final EIR. Please see revised Section 3.4. A subsequent archaeological investigation of prehistoric site CA-SDI-17423 was conducted to evaluate the site's eligibility for listing on the CRHR. Shovel test pits were excavated to determine the presence or absence of subsurface cultural materials. Prehistoric artifacts recovered from CA-SDI-17423 included seven retouched flakes, one utilized flake, one modified cobble, one percussing tool, one hand stone, and 493 pieces of debitage. The recovered subsurface deposits were substantially intact. Based on this information, CA-SDI-17423 appears to be eligible for listing in the California Register as it is likely to yield information regarding the little-known Archaic-period Pauma Complex of northern San Diego County. Due to the requirements of the project design, these archaeological resources cannot be preserved in their present location. Therefore, impacts to this resource would be considered significant. This conclusion is not changed from that made in the draft EIR.

   A mitigation measure requiring data recovery for this site was included in the EIR and is modified as follows:

   MM 3.4-1 An archaeological data recovery program shall be prepared for CA-SDI-17423 that includes the following: (1) An acceptable data recovery plan stating the specific research goals and questions that are to be addressed if archaeological deposits are to be recovered; (2) postfield artifact processing and analysis; (3) report of findings; and (4) permanent curation of artifacts at a qualified institution in order to preserve and analyze a substantial portion of the site's information value.

   Feature recovery shall employ standard archaeological excavation techniques. The data recovery shall be developed and implemented in consultation with interested local Native American groups. A final report on the results of the archaeological recovery shall be submitted to the Planning Director and the Southcoast Information Center. Curation and report submittal shall occur prior release of the grading bond for the project.

2. This comment notes that a 1928 aerial photograph should be reviewed. Per ASM Affiliates, the cultural resources consultant for the project, 1928 aerial photographs of the project site were examined as part of the cultural resource work done for the project.

3. The comment states that the archeological material recovered from the site during all phases of the project, including initial surveys, must be properly curated. The comment also suggests that all efforts should be made to locate the 1992 collections from site SDI-12735

for curation as well. Mitigation measure MM 3.4-1 has been revised to require curation of material recovered during the testing phase. MM 3.4-1 had already included language requiring curation of any materials encountered during data recovery. The revised measure is provided at the end of this response.

This comment also notes that an effort should be made to locate the materials recovered from SDI-12753, a site that was subject to data recovery in 1992. This City does not know the location of the materials that were recovered, and that recovery was done by a different archaeological consultant than the one currently working on the project.

4. This comment notes that a deadline should be identified for the completion of the final monitoring report and the curation of resulting materials and record. A timing mechanism has been added the mitigation measure MM 3.4-1 which requires curation and report submittal to occur prior to the release of the grading bond. The revised measure is provided below.

5. This comment states that final mitigation and monitoring reports mandated by MM 3.4-1 should be sent to the Southcoast Information Center at SDSU. Mitigation measure MM 3.4-1 has been revised to note that the final report should also be submitted to the Southcoast Information Center. The added language is shown in an underline format.

MM 3.4-1 An archaeological data recovery program shall be prepared for CA-SDI-17423 that includes the following: (1) An acceptable data recovery plan stating the specific research goals and questions that are to be addressed if archaeological deposits are to be recovered; (2) postfield artifact processing and analysis; (3) report of findings; and (4) permanent curation of artifacts at a qualified institution in order to preserve and analyze a substantial portion of the site's information value.

Feature recovery shall employ standard archaeological excavation techniques. The data recovery shall be developed and implemented in consultation with interested local Native American groups. A final report on the results of the archaeological recovery shall be submitted to the Planning Director and the Southcoast Information Center. Curation and report submittal shall occur prior release of the grading bond for the project.

ORIGINAL

CALIFORNIA INDIAN LEGAL SERVICES

Escondido Office
609 South Escondido Boulevard, Escondido, CA 92025 ✦ Phone 760/746-8941 ✦ Fax 760/746-1815
www.calindian.org ✦ contactCILS@calindian.org

BISHOP OAKLAND
EUREKA SANTA ROSA
ESCONDIDO WASHINGTON, D.C.

April 16, 2007

VIA FACSIMILE (760-591-4135) AND U.S. MAIL

Mr. Jerry Backoff, Planning Director
City of San Marcos
Planning Department
1 Civic Center Drive
San Marcos, CA 92069

Re: San Marcos Creek Specific Plan and Creek Improvement Project

Dear Mr. Backoff:

My office represents the San Luis Rey Band of Mission Indians. This letter is in response to your request of January 3, 2007 for consultation with the Band pursuant to SB 18, as well as a letter sent by the Band on April 2, 2007. The San Luis Rey Band does wish to enter into formal consultation with the City of San Marcos regarding the above project and Specific Plan. The Tribe has already received a copy of the cultural resources assessment. 10-1

In addition, the cultural resources inventory by ASM Affiliates recommends monitoring as a "result of the high number of prehistoric sites near the project, poor visibility of the ground surface caused by thick vegetation, and extensive development within the project area..." See page 28 of the Cultural Resources Inventory.

Based on the likelihood that cultural resources may be found and disturbed during the grading process, the San Luis Rey Band specifically requests that a formal Pre-Excavation Agreement be a mandatory requirement for the grading permit in this Project. The Agreement will formalize the treatment of human remains and cultural items, as well as describe the monitoring services provided by the Tribe for the project, including compensation for the monitors at the developer's expense. Additionally, the Band requests that tribal monitors be included as a mitigation measure, in addition to archaeological monitors. 10-2

If you have any questions, please feel free to contact me at (760) 746-8941. To schedule the SB 18 consultation, I suggest that you contact Carmen Mojado, Secretary of Government Relations for the Band. She can be reached at (760) 724-8505. I look forward to working with you and the City of San Marcos on this project. 10-3

Sincerely,

CALIFORNIA INDIAN LEGAL SERVICES

Michele Fahley
Staff Attorney

cc: Carmen Mojado (Hand-delivered)

Letter 10
California Indian Legal Services
April 16, 2007

1. This comment states that the San Luis Rey Band of Mission Indians would like to enter into consultation on the project. The City met with representatives of the San Luis Rey Band on May 9, 2007. Based upon that meeting, the City's cultural resources consultant, ASM Affiliates, would contact the tribal representatives for a site walk through over the next month. The purpose of the site walk through would be for ASM to share the results of the site survey and to get additional tribal input for the treatment of archaeological resources that may be identified on the project site.

2. The Draft EIR included mitigation for monitoring, as noted below.

   MM 3.4-2 All initial grading activities in undeveloped areas bordering San Marcos Creek within the project boundary shall be monitored by a qualified archaeologist. In the event that buried archaeological resources are exposed during project construction, work within 50 feet of the find shall stop until the archaeologist can identify and evaluate the significance of the discovery and develop recommendations for treatment. The archaeologist shall also have the authority to make an informed, final decision to either resume construction or require more extensive investigation. If the discovered cultural resources display the potential to be significant, the archaeologist shall notify the City of San Marcos immediately, and all work shall stop immediately within an expanded 100-foot radius pending resolution of the discovery. Recommendations could include preparation of a treatment plan, which could require recordation, collection and analysis of the discovery; preparation of a technical report; and curation of the collection and supporting documentation at a qualified institution. At the completion of the activity that requires an archaeological monitor, the monitor shall submit a monitoring report including a daily log of all monitoring activity and possible recommendations to the Planning Director.

   Additionally, as requested by the San Luis Rey Band, the following mitigation measure has been added, which will require a pre-excavation agreement and the provision of a Native American monitor.

   MM 3.4-2b Prior to the issuance of a grading permit, the project applicant shall enter into a pre-excavation agreement with the San Luis Rey Band of Mission Indians. The pre-excavation agreement shall include the following: 1) a culturally affiliated Native American monitor during initial grading activities, 2) the return of cultural items that may be found during project construction, 3) proper treatment and reburial of any remains found, and 4) avoidance of significant and sacred sites.

3. This comment provides closing remarks and suggests the City contact Carmen Mojado, Secretary of Government Relations for the Band. The City met with Ms. Mojado and other representatives of the San Luis Rey Band on May 9, 2007. At this information, information on the project was presented to Tribal representatives. At that meeting, the City agreed to continue to coordinate with the San Luis Rey Band. This comment does not raise address the adequacy of the EIR, therefore, no additional response is provided.

04/05/07 THU 12:23 FAX 7608914135 COSM DEV SERVICE DEPT 001

SAN LUIS REY BAND OF MISSION INDIANS
1889 Sunset Drive Vista, Ca 92081
Tel: (760) 724-8505 Fax: (760) 724-2172

Contact information
1889 Sunset Drive
Vista, CA 92081
Tel: (760) 724-8505
Fax: (760) 724-2172

RECEIVED
APR 05 2007
CITY OF SAN MARCOS
PLANNING DIVISION

To: Planning Dept.

RE: SENATE BILL 18 CONSULTATION

Site Name San Marcos Creek

Site Number _____

The San Luis Rey Band of M. I. does wish to enter into a formal consultation with the City of San Marcos regarding the above referenced project and Specific Plan. Please send us a copy of your cultural resources report.

The _____
does not wish to enter into a formal consultation with the _____
_____
regarding the above referenced project and Specific Plan. We understand that this does not limit our ability to comment or claim any artifacts or cultural articles if they are found during excavation or any ground disturbance. The San Luis Rey Band is to be notified so a monitor can be sent to the project.

Carmen Mojado 760-724-8505
Signature

4/2/07
Date

Please send copy of this Report to Calif Indian Legal Services

Thank You

11-1A

06/05/07 TUE 14:38 FAX 7603914135 COSM DEV SERVICE DEPT 017

SAN LUIS REY BAND
of Mission Indians

Tribal Council

Russell Romo
Captain

Carmen Mojado
Secretary of Government Relations

Charlotte Herrera
Secretary of the Treasury

Tom Beltran
Secretary of Economic Development

Al Cerda
Secretary of Tribal Ethics and Information

Clara Guy
Tribal Elder

Henry Contreras
Council Member

Mel Vernon
Council Member

Mary Lou Beltran
Council Member

Carrie Lopez
Tribal Advisor

Merri Lopez, Esq.
Tribe Legal Advisor

Contact information
1889 Sunset Drive
Vista, CA 92081
Tel: (760) 724-8505
Fax: (760) 724-2172

June 4, 2007

RECEIVED
JUN 05 2007
CITY OF SAN MARCOS
PLANNING DIVISION

Re: SB 18 CONSULTATION

Site Name: San Marcos Creek Spa Project

Site Number: _____

Dear City of San Marcos

X The San Luis Rey Band of Mission Indians does wish to participate in formal consultation with the Planning pursuant to SB 18 regarding the above referenced project and Spa Plan. Please send us a copy of the cultural resources report for the project.

___ The San Luis Rey Band of Mission Indians does not wish to participate in formal consultation with the _____ pursuant to SB 18 regarding the above referenced project and _____ Plan. We understand that this does not limit the Band's ability to comment or claim any artifacts or cultural items found during excavation or any ground-disturbing activity associated with the above project. The Band requests that the Developer notify the Band in the event that such items are found so that an appropriate tribal monitor can be sent to the project site.

11-1B

Sincerely,

Russell Romo, Tribal Captain
San Luis Rey Band of Mission Indians

Letters 11A and 11B
San Luis Rey Band of Mission Indians
April 2, 2007

1. These letters state that the San Luis Rey Band of Mission Indians would like to enter into consultation on the project. The City met with representatives of the San Luis Rey Band on May 9, 2007. Based upon that meeting, the City's cultural resources consultant, ASM Affiliates, would contact the tribal representatives for a site walk through over the next month. The purpose of the site walk through would be for ASM to share the results of the site survey and to get additional tribal input for the treatment of archaeological resources that may be identified on the project site.

   Additionally, please see responses to the letter submitted by the California Indian Legal Services (letter 10 of the comment letters submitted.)

05/07/07 MON 15:23 FAX 7605914135 CDSB DEV SERVICE DEPT 002

CUPA CULTURAL CENTER
Pala Band of Mission Indians

RECEIVED
MAY 07 2007
CITY OF SAN MARCOS
PLANNING DIVISION

May 2, 2007

Jerry Backoff, Planner
City of San Marcos
1 Civic Center Drive
San Marcos, California 92069

Re: Review, EIR San Marcos Creek Specific Plan and Floodway Improvement Project

Mr. Backoff,

The Pala Band of Mission Indians recently established a tribally recognized Tribal Historic Preservation Office to address consultation issues surrounding historic preservation. We have received your notification of the project as above. This letter constitutes our response on behalf of Robert Smith, Tribal Chairman.

We have consulted our maps and have determined that the project as described is not within the boundaries of the recognized Pala Indian Reservation. It also is beyond the boundaries of territory that the Tribe considers its Traditional Use Area. Therefore, we have no objection to continuation of project activities as currently planned and we defer to the wishes of Tribes in closer proximity to the project area. However, if the project boundaries are modified to extend beyond the currently proposed limits, we do request updated information and the opportunity to respond to your changes. 12-1

We appreciate involvement with your initiative and look forward to working with you on future efforts. If you have questions or need additional information, please do not hesitate to contact Joseph M. Nixon at 1 (760) 891 3592 or at e-mail jnixon@palatribe.com

Cordially,

Joseph M. Nixon, Ph. D., RPA
Cultural Resource Coordinator
Pala Band of Mission Indians

C:\MMData\cultural\letters\jb_ltr2007\sm_marcos_5-2.07.doc

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Pala, CA 92059
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Letter 12
CUPA Cultural Center, Pala Band of Mission Indians
May 2, 2007

1. This comment from the Cultural Resources Coordinator of the Pala Band of Mission Indians notes that the project site is outside of the boundaries of the Pala Reservation and beyond the territory that the tribe considers its Traditional Use Area. Therefore, the tribe does not have any concerns with the project and suggests the City coordinate with tribes who would have an interest in the area.

   The City has been is coordinating with the San Luis Rey Band of Mission Indians on this project.

May 29, 2007

Mr. Jerry Backoff
Planning Department
1 Civic Center Drive
San Marcos, CA 92069-1918

Ms. Lisa Kiss
lkiss@san-marcos.net

Re: Response to EIR for the San Marcos Creek Specific Plan & Floodway Improvement Project (SCH No. 2006121080)

Dear Mr. Backoff:

Below please find La Jolla Development Group LLC and Citizens Development Corp's ("LDG" and "CDC" respectively), response to the City of San Marcos' April 13, 2007 draft Environmental Impact Report for the San Marcos Creek Specific Plan and Floodway Improvement Project, hereinafter the "EIR" and the "Project").

LDG and CDC are local California businesses devoted to the acquisition, development and management of residential and commercial property, resorts and golf courses, including the Lake San Marcos Resort. We see many benefits coming from the proposed Project and recognize that such an expansive redevelopment Project will revitalize our community by providing new jobs for our residents and residents of neighboring cities, and will increase revenue as a result of more families moving into the community and the ability to attract new businesses and a greater overflow from San Diego's tourist trade.

13-1

With that said however, a Project of this magnitude will also have a significant impact, not necessarily all positive, on San Marcos, particularly the residents and businesses bordering the 248 acre project. We recognize the amount of work that has already gone into the San Marcos Creek Specific Plan emphasis added, however, in certain instances there is still a disconcerting lack of specificity and as well as a "glossing over" of some of the critical issues which you have conceded are "impact significant". While ultimately we believe this Project should go forward, the "Hydrology and Water Quality" and "Sedimentation" major impact issues have not been adequately addressed, and another – "Traffic" – merely has a "feel good" fix which, upon a more in-depth reading shows it does little in reality to alleviate the traffic problems this Project will create.

Pursuant to the above, LDG and CDC request that the below issues, as well as those cited in a separate Letter Response from the residents of Lake San Marcos, be thoroughly investigated and satisfactorily addressed before the final EIR is published.

13-2

Sedimentation

Lake San Marcos has been the dumping ground for SMC's pollution and run-off for over 25 years. LSM cannot afford any increase in sediment deposits, as the issue is already critical. LSM at its creation was 22' deep, but due to sediment deposits from SMC, it is now losing over 1 1/3" of water each year and today is less than 5' deep. Given its current rate of attrition, it won't be much longer before the boats will run aground and LSM will no longer be able to support the recreation and boating activities which draw so many residents and visitors to San Marcos.

Before any further steps are taken by the City of San Marcos relating to this long-term Project, LDG and CDC demand that the City of San Marcos take immediate action now before commencement of the Project, to mitigate the damage the Lake has already sustained as a result of the continued sediment deposits from SMC. San Marcos must first dredge the Lake and remove the already existing sedimentary deposits and pollutants which contaminate LSM, and then all other action necessary to remove LSM from the 303(d) list of impaired waters.

13-3

While the EIR admits the Project will have a significant impact on increased sedimentation, it provides no concise immediate plan to address the problem, and then concludes that the Project will, if not alleviate the problems caused by sedimentation, significantly reduce them by Project completion! Such an optimistic outcome is highly improbable. The fact is the EIR is based on only a 30% complete design plan. Therefore there can be no real understanding of the long-term consequences that will occur as a result of the continuous construction and development over the life of this Project--which is not expected to be completed until approximately 2030. This is why the City of San Marcos must act now to alleviate the pre-existing problems caused to LSM as a result of SMC's run-off.

13-4

As we all know, sedimentation shortens the length of life of a body of water and contributes to pollutants being transferred into it. Any increase in sediment flow to LSM by the Project will shorten its lifespan (Appendix F-2, pg. 1). The proposed Project, by increasing surface drainage and moving storm water discharge to the SMC has the potential to increase sediments and pollutants, which are not accounted for in the EIR. The EIR confirms *development of the project and other cumulative projects would create more impervious surfaces, thereby increasing the amount of storm water runoff.* Rather than taking responsibility for creating this problem, the EIR dismisses it as an issue by claiming *individual projects are responsible for meeting local and state requirements pertaining to storm water runoff and detention,* thereby concluding that the *cumulative impacts due to storm water runoff are expected to be less than significant. (EIR 7.1.6, 7-5)* This is despite the fact that none of the other "cumulative" projects propose any improvements within SMC, with the exception of the Fenton Property (Scripps). However that project is still in its early stages and while it proposes to extend Grand Avenue across the SMC via a bridge, no specifics are yet available. Certainly nothing definitive enough to claim that it would *not alter the*

13-5

rate or flow of water within the [San Marcos] creek, nor would it increase sediment transport [EIR 7.1.6, pg. 7-6].

13-5 Cont.

While the proposed road crossing with culverts to armor the Vista Vera Cruz crossing (EIR 3.6.4, Appendix E-2) does address some of the sedimentary delivery downstream, it does not take into consideration the number of downstream storm drain outlets and flow increases that are not mitigated through additional check dams and/or desiltation and/or filtration systems. If those issues are not separately addressed, to claim that the sediment transport impact would be reduced to below a level of significance and below the existing conditions for the FEMA 100-year flood, flood series and ultimate flood series is fiction (EIR, 3.6-21).

13-6

In addition, the proposed sewer main improvements to the Vallecitos Water District water lines run downstream of the SMC check dam and proposed filtration systems. Therefore, if any breakage occurs, there will be additional pollutants that cannot be contained.

13-7

The F-2 Sedimentation Report also states that check dams or sedimentation controls are not needed because of a step grade that creates a backflow of the SMC. However, this does not take into consideration the amplified street flow from the increase in impervious surfaces and the shortening of the flood plane channel system to bring that grade step to a lower amount, thereby lessening that safety factor and increasing the possibility of sediment road transfer into the LSM water body.

13-8

100-Year Flood Plan

The upstream flow of Discovery Street Bridge is the highest flow based on the Hydrology Report [Appendix F-2, pg. 3-6 tables], yet the proposed levies and floodwalls do not extend down to the Discovery Street Bridge. The existing Discovery Street crossing does not have the capacity for the 100-year flood through the bridge opening, and yet the bridge will not be improved or replaced [Appendix F-2, pgs. 6, 14]. The EIR states that as long as the proposed crossings are adequately designed with on-going maintenance other methods of sediment removal will not be necessary. But this statement is based on only the 30% of the plan design which has been submitted. Therefore, the EIR's conclusion that *sediment transport will approach an equilibrium condition under the design which will not create adverse impacts on LSM* [Appendix F-2, pg. 16] is based on a design plan that is not even 50% completed. Given the amount of sedimentary deposits into LSM currently, this is unacceptable. Saying that the Project along SMC with either of the two suggested sediment control measures will not cause any increase in sediment delivery toward LSM, therefore, is sheer speculation. Likewise, EIR's statement that [I]*n fact, the mitigation reduces the sediment transport to LSM*... is based on no objective foundation whatsoever.

13-9

While the EIR also admits that *implementation of the Project will result in the redefinition of the 100-year flood plain* (EIR 7.1.6, 7-6), it downplays this significance by stating that the projects on the "cumulative list" are either subject to or undergoing environmental review. While we appreciate what is happening with those other projects, our concern is the here and now and what San Marcos is doing and plans to do in conjunction with this Project to ameliorate the effects of a redefinition of the 100-year flood plain?

13-10

Hydrology and Water Quality

LSM is the largest private lake in San Diego County. It is in the center of a primarily retired community and home to over 4000 residents. LSM is a habitat for a variety of fish and approximately 70 bird species. LSM provides recreational opportunities, including fishing, boating, bird watching, nature walks and bird preserves. While earlier also a favorite for swimming, due to the SMC run-off and sediment deposits, it is no longer used for swimming or water skiing.

As we know, water quality is affected by chemical, physical and biological changes to water as a result of flowing over and through developed areas' soils or rock material. This is exactly what is occurring between SMC and LSM, and it has already reached a critical stage. SMC is no longer a body of water which the State Water Resources Control Board "proposed" to list as impaired for phosphorus, DDE and sediment toxicity. In October 2006 SMC, along with LSM, were officially designated "impaired water bodies". LSM's impairment is caused primarily by ammonia as nitrogen, phosphorus, sediment toxicity and nutrients, and affects over 108 acres. Despite this fact, no TMDL project for LSM has been instituted to date, and the CA Regional Water Quality Control Board has nothing scheduled until 2019.

13-11

Traffic

Once this Project is underway, Discovery Street at the stop sign to Via Vera Cruz (E& F traffic flow) will become even more unmanageable and will unquestionably affect traffic patterns (and noise) toward Twin Oaks and other primary arterials. Despite this fact, because of the uncertainty of the buildout of the entire Project (since the plan design is only 30% complete), analysis for the near-term impacts associated with buildout of the Project have not been conducted--only the buildout in the Year 2030. Instead the Plan relies upon an expectation that the individual projects will prepare traffic impact analyses and implement mitigation measures to address the interim conditions and allocate the mitigation measures concurrently with the impacts (EIR 3.10-12). Again, this is unacceptable. Every step of this Plan has an impact on the residents and business in San Marcos, particularly those like Lake San Marcos Resort, whose only access and exit is Discovery Street, which is clearly currently, and will be in the future, impacted by adverse traffic flow patterns. Those of us who traverse Discovery Street on a daily basis must be allowed to review and provide input in all of the proposed traffic mitigation measures affecting Discovery Street.

13-12

Finally, the Traffic Study does not account for the true nature of traffic patterns on Discovery Street. Increased traffic patterns warrant additional improvements now to accommodate the expected increases. As all of the residents and businesses know in this area, traffic on the major streets detour onto Discovery to avoid morning and evening commuter traffic. Further "cut thru" traffic, as a result of the Project and its on-going construction and temporary closure of major roads, will increase to an unmanageable level due to the density of the Project and the bridge expansion on McMar Road. An immediate, preliminary traffic study must be undertaken to manage this problem for both the short and long-term.

13-13

Conclusion

While it is clear significant time, effort and cost have been invested in this draft EIR, there are simply too many areas where the "mitigation" efforts are insufficient, incomplete or unacceptable. Before the final EIR is published, further studies of the sedimentation and water quality issues, the plans affecting the 100-year flood, and traffic patterns must be conducted and again submitted to the public for review and comment. There is too much at stake, both positive and negative, to not address these issues in a more clear, concise and complete manner before moving forward on this ambitious Project.

13-14

Respectfully submitted,

/s/

Nannette (Nicki) Soulsrada, Esq.
On behalf of La Jolla Development Group LLC,
Citizens Development Corp and
Lake San Marcos Resort

(signed copy to Jerry Backoff via US Mail)

Letter 13
La Jolla Development Group, Citizen Development Corp., and Land San Marcos Resort (by Nanette Souhrada, Esq.)
May 29, 2007

1. This comment provides opening remarks and background information on La Jolla Development Group and Citizens Development Corp. This comment does not address the adequacy of the EIR and no further response is warranted.

2. This comment discusses the impact of the proposed project on the City of San Marcos and raises the concern that several issues discussed in the EIR were not adequately addressed (Hydrology, Water Quality, Sedimentation and Traffic). These concerns summarize comments detailed in the rest of the letter, and the responses to those detailed comments are provided below as well.

3. This comment addresses sedimentation of Lake San Marcos. The commenter's request that the City of San Marcos dredge Lake San Marcos in order to mitigate damage from past sedimentation before commencing with the development of the proposed project. The impacts of past sedimentation cannot be attributed to the proposed project. Moreover, Lake San Marcos is a privately-owned lake, and it is not within the City of San Marcos jurisdiction. It is not incumbent upon the City to dredge the lake. However, the proposed project is anticipated to improve the situation.

   The Draft EIR for the project included an analysis regarding sediment delivery with implementation of the proposed floodway improvements. With implementation of the project, sediment delivery would increase. However, mitigation was identified to ensure that sediment delivery is at or below pre-project levels. The Draft EIR assumed that a bridge would be constructed at McMahr. The bridge at McMahr is no longer proposed, but one is proposed at Via Vera Cruz. The conclusions in the Draft EIR with regard to sediment delivery are still similar under this scenario, and would be reduced to below a level of significance.

4. The DEIR is based on the 60% design level of the flood control system. The affirmation by the City that the sediment transport will not increase to the lake San Marcos is based studies and sediment models using the FLUVIAL-2 software.

   The San Marcos Creek channel improvements will be completed in Phase I of the Specific Plan, which will include the proposed check dam(s) to mitigate sediment transport issues. These dams are identified as mitigation measures MM 3.6-3a and 3.6-3b. These Phase I improvements will reduce sediment delivery into Lake San Marcos from existing conditions. The development of Phase II will be continuous through completion, anticipated by 2030. The Phase II improvements will not increase sediment transport to the creek due to the proposed drainage collection and water treatment system by trapping sediment prior to discharging runoff into the creek.

   As part of the San Marcos Creek project, it will alleviate and mitigate the pre-existing condition. There is no project scheduled to address existing conditions prior to the San

Marcos Creek Flood Control project. Any addition, any "early" projects would impact the environmental wetlands and would need resource agency permits, which the DEIR is trying to accomplish.

Water quality regulations require that future development within the project footprint capture sediment and treat pollutants prior to discharge into the San Marcos Creek. The initial project and all future "cumulative" development within the project footprint will be required to meet the regulations. The final design of the Grand Avenue crossing will also need to meet all water quality and engineering regulations.

5. This comment addresses increased surface drainage, stormwater discharge and increase sedimentation. The developed conditions will not increase sediment to the creek because it will go through a drainage collection system before discharging the flow to the creek. The increase of runoff by the future development will be mitigated by a combination of Best Management Practices (BMP's) such as underground vaults, grass swales, flow through planters, inlet filters, porous pavement, etc. The City will require individual developers to comply with water quality regulations in accordance the legal requirements depending on the type of development. Each developer also must accommodate the proper BMP's for his individual scenario and comply with the Federal, State, and local laws. Please see mitigation measure MM 3.6-2.

6. This comment states that proposed armoring of the Via Vera Cruz crossing does not take into consideration downstream flows. Flow in the storm drain facilities downstream of the Via Vera Cruz crossing will be mitigated by water quality best management practices (BMP's). Although these facilities are below the crossing, the overall sediment transport to Lake San Marcos will still be reduced by the project due to mitigation efforts of the project. The discharges to the creek from the proposed developed areas will have the sediment removed by the proposed storm drain system and its components as part of the treatment system prior to discharge into San Marcos Creek and therefore Lake San Marcos.

   The existing number of downstream storm drain outlets will not be modified, and flows not increased. As the project proceeds through final design, the potential impacts will be addressed to be in compliance with water quality regulations and designed to reduce sediment transport into Lake San Marcos. The proposed development is not responsible for existing conditions generated by other parties outside the project limits.

7. This comment addresses proposed sewer line replacement in relation to proposed check dams and filtration systems. There are existing water and sewer lines that cross and/or parallel to the creek. The existing sewer lines crossing the creek will not increase with the proposed improvements by Vallecitos Water District. The proposed Vallecitos Water District sewer line is a replacement of two existing lines with small variances from the original alignment and issues related to breakage and spilling will be addressed in accordance with Federal, State and local laws.

8. This comments states that the sedimentation report does not take into account amplified street flow from increase in impervious surfaces associated with the project. The sediment transport analyses have been based on various flow conditions including the City of San Marcos' ultimate flow rates, which represent ultimate build-out in the City. Therefore, the heightened

flow rates associated with future development have been considered as part of the project design. Sediment generated by any proposed development will be trapped by the proposed storm drain and its components and not be discharged into the Creek. Today, the surface flow carries some sediment load to the creek, which will not occur in the future, an improvement over the existing conditions.

9. This comment states that statements in the EIR regarding sediment reduction are based upon a 30% design and that there is no basis of stating that the proposed mitigation will reduce sediment flows. This comment also states that the Discovery Street crossing cannot accommodate the flows.

   The Discovery Street crossing is in the County of San Diego. Therefore, the City of San Marcos has no jurisdiction over this facility. The sediment transport report is based on the 60% design package and FLUVIAL-12 model specifically developed for sediment transport analysis. The conclusions by the design team therefore are based on technical studies, sediment transport models, and engineering practice.

10. The comment states that the issue of the redefinition of the 100-year floodplain was not adequate addressed in the EIR. The City does not concur with this statement. Currently, flooding activities impact developed areas including important circulation network roadways. The project would result in a redefinition of the floodplain. This was discussed on pages 3.6-12 and 3.6-13 of the EIR.

11. The comment notes that both San Marcos Creek and Lake San Marcos have been designated "impaired water bodies" by the State Water Resources Control Board; The Draft EIR, on page 3.6-5 notes that "In October 2006, however, in a revised draft of an update of the state's list of impaired waters (Clean Water Act 303(d) list), the State Water Resources Control Board proposed to list San Marcos Creek as impaired for phosphorus, DDE (dichlorodiphenyldichloroethylene), and sediment toxicity. DDE is a chemical similar to DDT (dichloro-diphenyl-trichloroethane), which was a pesticide once use widely to control insects in agriculture and insects that carry disease such as malaria. It was banned in the US in 1972 due to damage to wildlife. DDE has no commercial use. According to the California Coastal Commission, phosphorus, DDE, and sediment toxicity result primarily from urban runoff/storm sewers (CCC 2006)."

12. This comment addresses traffic impacts at the Discovery Street/Via Vera Cruz intersection associated with the development of the proposed project. The comment states that the traffic analysis used in the preparation of the EIR is inadequate because it does not analyze the near-term impacts associated with the development of the proposed project.

    The roadway design process is already underway for the widening and extension of Discovery Street. These street improvements will include a new signal at the intersection of Via Vera Cruz and Discovery Street. The widening and extension of Discovery Street has a high priority in the City and will be required for the development of the Fenton Property as well as the San Marcos Creek SP project.

    Due to the uncertainty of the buildout of the Specific Plan area, analysis for the near-term impacts associated with buildout of the Specific Plan was not conducted for the project. It is

unknown at what rate the individual development projects within the Specific Plan would come forward. It is also unknown the size and potential trip generation that could occur with the individual projects. Analysis for the buildout of the Specific Plan in the Year 2030 has been conducted, and is discussed in the following section.

Given that several segments and intersections within the project vicinity currently operate at a degraded level of services, it is likely that development projects coming forward in the future within the Specific Plan area would exacerbate those impacts unless additional roadway and intersection improvements occur. This represents a potentially significant impact. A mitigation measure (MM 3.10-2) has been identified requiring individual projects to prepare a traffic impact analysis and implement mitigation measures to address the interim conditions and allocate the mitigation measures concurrently with the impacts.

It should also be noted that the Specific Plan includes a Policy (3.7.2) stating that traffic conditions within the Specific Plan area shall be analyzed every three years to assess the need to adjust capacity projections. If the analysis indicates that the proposed development is consuming network capacity faster or slower than projected, the City would adjust the development intensity categories.

As part of the traffic mitigation monitoring program, the San Marcos Creek SP project will rely on the "requirement" (not expectation) that future defined project development phases prepare a traffic analysis in advance of development to determine traffic circulation requirements and roadway network improvement needs. This will allow improvements to be identified and implemented in advance of the traffic increases associated with the development phase.

It should be noted that the project no longer includes a bridge over San Marcos Creek on McMahr Road.

13. The comment states that the proposed project would contribute additional traffic impacts to residential and secondary streets during construction activities. The comment also states than a preliminary traffic study should be performed to addresses this deficiency. The Draft EIR analyzed the buildout of the Specific Plan and how that would impact roadways and intersections on the project site and in the project vicinity. As discussed in Section 3.10 of the EIR, with mitigation, all Year 2030 traffic impacts would be less than significant. The EIR also noted that as specific development projects come forward within the Specific Plan Area (Phase 2), project-specific traffic studies would be required (see MM 3.10-2). Mitigation would be identified in these subsequent studies to reduce traffic impacts to levels less than significant. The Draft EIR noted that an interim traffic analysis would be speculative in nature, as it is unclear at what rate the Specific Plan Area will build out.

14. This comment provides closing remarks and also recommends that further studies be performed and submitted to the public for review and comment. The City does not concur with this statement. The Draft EIR adequately analyzed the water quality, sedimentation and traffic impacts of the proposed project. Additional studies in support of the EIR are not required.

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CITY OF SAN MARCOS
PLANNING DIVISION

28 May 2007

Jerry Backoff, Planning Director
The City of San Marcos
1 Civic Center Drive
San Marcos, CA. 92069-2918

SUBJECT: Draft Environmental Impact Report, dated April 13, 2007, for the SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT.

Dear Mr. Backoff:

The juxtaposition of the San Marcos Creek Specific Plan and the Community of Lake San Marcos has created interest and concerns for the residents of Lake San Marcos. This letter presents our comments and questions.

(1) WATER QUALITY AND SEDIMENT. For many years, pollutants and sediment have entered San Marcos Creek from upstream and from various sites north of San Marcos Blvd. by way of Las Posas Creek. Then San Marcos Creek carries these pollutants and sediment past Discovery Street Bridge and into Lake San Marcos. There is a spiderweb of dirt ditches that empty into these two creeks. There is no regular maintenance performed by the City except when citizens report to the Public Works Department that there are various kinds of rotting trash in a ditch or foul smelling water.

The Executive Summary of the Sediment Study states "Any increase in sediment flow to the lake will shorten its life span". It is reassuring to learn that this problem is recognized and that the National Pollutant Discharge Elimination System (NPDES) requires the City obtain a General Construction Activity Stormwater Permit for the proposed construction activity.

We request the City to take action now by opening a dialogue with CDC/La Jolla Development Group, owners of the lake, to discuss protections required before construction begins and creates an increase in pollutants flowing from the creek to the lake. What will the City do to prevent contaminants from entering the Creek Specific project area via Las Posas Creek? Protective systems such as bio-filters and settling basins must be evaluated, approved by the Regional Water Quality Control Board (RWQCB), and installed in advance of any construction activities.

14-1

(2) AIR QUALITY. The Draft EIR also acknowledges that "Air quality cannot be mitigated below a level of significance". An increase in unhealthy air quality is an extremely menacing negative associated with this Plan. Exposure to poor air quality is dangerous for children, the elderly, persons with allergies, asthma, emphysema – all classified as Sensitive Receptors.

14-2

continued ...

(2) AIR QUALITY (Continued)
San Marcos High School, its students and faculty, agricultural department, and athletic field, are located less than a half block from the project. High Tech High, opening this September, has been approved to offer education for Grades One to Twelve, and is located at the intersection of San Marcos Boulevard and Discovery. Also less than a block west of the project are nursing homes, assisted living facilities, and a shopping center. At the Discovery Street border of the project, the mostly senior retirement community of Lake San Marcos will be the recipient of increasingly poor air quality. 14-3

We are fearful that the projections on air quality will be exceeded by the reality of the construction activity and resulting pollutants as described in the Draft EIR and also by traffic increases on San Marcos Boulevard, Discovery Street, and Rancho Santa Fe Rd. 14-4

(3) TRAFFIC. Mitigating measures mentioned in the Draft EIR are inadequate. The use of bicycle lanes is impractical when the city's Capital Improvements Budget mentions expanding San Marcos Boulevard to six (6) lanes. The shuttle or jitney service from the parking lots of Palomar College and California State University San Marcos to the sites of the Creek Specific Plan does not seem feasible. The parking lots may have security systems that prohibit vehicles without a parking permit, or otherwise authorized to use the parking lots, from using the facilities. Shuttle systems have never been successful in Southern California. "Pedestrian friendly" sounds pleasant but patrons will use their vehicles to reach the "downtown".

A light rail project is implied for the future but it is not clear if this would be limited to service the length of San Marcos Boulevard only. The Sprinter's success, or lack of it, will reflect how bonded drivers are to their vehicles and whether they will use public transportation.

The traffic mitigating measures have little substance. Has the City sought and received additional recommendations to mitigate traffic density on San Marcos Boulevard?

(4) TRAFFIC STUDIES. The study by Southland Car Counters, performed on October 22, 2003, is outdated and not credible. The traffic today is much more dense than it was in 2003. There has been expansive development south of Lake San Marcos, off Rancho Santa Fe Road, for the past four years. We experience the gridlock traffic on Rancho Santa Fe Road and San Marcos Boulevard, every day and night. The increased traffic over the past four years has been substantial and any study that is performed should begin with current traffic conditions and then consider what will be added by the new 'downtown' and increased student population. 14-5

continued ...

(4) TRAFFIC STUDIES (Continued)
According to CSUSM's website, projected enrollment of 25,000 fulltime students may well be a fact well before the Horizon Year 2030 stated in the Creek Specific Plan. Palomar College has a current enrollment of 30,000 full and part-time students.

The stated population of San Marcos is 78,000 and the city is 75% built-out. The future presence of 25,000 fulltime students at CSUSM is significant because it represents almost one-third of the current population of the city! Have these student populations been factored into the traffic studies and predictions? If not, why not? What percentage of the student population is anticipated to use the Sprinter or ride-sharing systems?

14-6

(5) DRIVE-THROUGH TRAFFIC. The gridlock on Rancho Santa Fe Road is creating such extended delays that drivers use a GPS and find a shortcut by turning into the Lake San Marcos Resort, and driving through our community to exit on Discovery Street. This system of using our roads to bypass 3 or 4 stoplights is an increasing problem. The County owned roads, and privately owned bridge, were not built to sustain an overload of vehicles that are not driven by Lake San Marcos residents or by the Resort guests. Drivers are also increasingly entering our community at Discovery Street and driving through to Rancho Santa Fe Road. This is time saving, passing 3 or 4 stoplights, but again, an unsafe increase in our residential traffic.

14-7

(6) DISCOVERY STREET TRAFFIC LIGHT. San Pablo Drive at Discovery Street is a prime entrance and exit for Lake San Marcos. Residents requested a stoplight about 8 years ago at this location for safety reasons. The City and the County denied the request, stating if a light were to be installed, traffic would back up on San Marcos Boulevard across and past Rancho Santa Fe Road. Discovery Street is owned by the City on the east side of the center line and by the County on the west side.

Will there be a reconsideration of the need for a stoplight because of the predictable traffic increase the project will create? Has the Fire Department evaluated the possible impact to a potential need to evacuate the Lake San Marcos community for fire or other emergency? If not, why not?

14-8

(7) NOISE. The Draft EIR addresses mitigating measures to protect future inhabitants of the 'downtown' development. The EIR does not speak to the disturbance of peace and tranquillity to the neighboring communities. With diesel trucks forming a steady stream of traffic, carrying fill and construction materials, over an extended period of years, residents will lose the ability to enjoy their patios, yards, and golf courses. A greasy, black substance deposited by these trucks is windblown onto outdoor furnishings, providing proof of the pollutants spread by the dense traffic on RSFe Road and SM Boulevard. Sound will carry from the project in peculiar and unpredictable ways. Noise is a pollutant.

14-9

Continued ...

4 Jerry Backoff, Planning Director 28 May 2007
The City of San Marcos

(8) ECO-SYSTEM. The EIR comments are flawed. Mule Deer are seen at Lake San Marcos. One pair swam from shore to shore across our lake near our dam, delighting a resident in his kayak one recent early morning. The hoof imprints on the picnic grounds further verify their presence in our community. The City needs to have the Audubon Society undertake a survey of birds seen on the project site. Migratory birds cannot be fully identified by a day or two of bird watching.

We are attaching a page of information on the eco-system at Lake San Marcos. It is unique, precious, and must be protected from the impacts of unprincipled development. The lake and the wetlands cannot and will not survive the projected 20 years of intensive construction.

14-10

(9) RE-CIRCULATION OF DEIR. We have been told that a 25' easement for a 108" diameter water main will prevent the City from building a vehicle bridge at McMahr (to link with Las Posas) as planned and repeatedly mentioned in the DEIR. If this is true, the areas of the DEIR that mention the McMahr bridge must be re-circulated with new information to prevent confusion and as required by CEQA regulations. Is this being prepared for distribution now? If not, why not?

14-11

(10) LAND ACQUISITION. 2.0 Project Description and Project Setting, includes this statement: "Implementation of some of the project components may require acquisition of land that is privately owned and/or has been improved with structures, including private residences. This would occur under both Phase I and Phase II of the project. Should acquisition be necessary, the City of San Marcos would be required to adhere to the applicable federal and state laws regarding acquisition of property, compensation to property owners, and relocation assistance and benefits for persons who may be displaced".

In fact, this translates into the use of EMINENT DOMAIN. We believe this could be a most unfortunate action and may generate an angry reaction from San Marcos residents - who might well worry "Who will be next?"- if the City Council should approve taking of property by the process of EMINENT DOMAIN.

Will the San Marcos Creek Specific Plan require clearing the entire 217 acres of all structures that currently exist within the CSP boundaries? Will San Marcos businesses such as Green Thumb Nursery, Towne Jewellers, and the buildings and occupants that passersby now see on San Marcos Boulevard from Grand Avenue to Discovery ALL be demolished? If so, this information must be made public to afford timely comments.

14-12

Continued ...

(11) SAN MARCOS CREEK SPECIFIC PLAN. The project description is woefully insufficient in specificity. "Implementation of the San Marcos Creek Specific Plan, which would serve as the Master Plan for the project area" is not in any way *specific*.

The DEIR only states the acreage allocations: "81.7 acres identified as mixed use will be developed with 1,265,000 s.f. of retail, 589,000 s.f. of office, **and up to 2,300 high-density dwelling units**". (The 19.9 acres of park, 77.0 acres of open space, and 38.47 acres of right-of-way bring the total to 217 acres.) "A Rezone from Residential, Industrial, and Commercial to Specific Plan Area (SPA) and a General Plan Amendment are required to accommodate the proposed land uses in the *Specific Plan*".

Newspaper reports on the Creek Specific Project have speculated that the plan may include a hotel, 6-story office buildings (up to 80' height), upscale retail shops and restaurants, and an entertainment venue (for rock concerts?) but specifics are elusive.

What are high-density dwelling units? Is the City planning for occupation by students, low-income housing, for families? 2,300 Dwelling Units will have an immediate impact on traffic and will require substantial parking spaces for residents and their guests to avoid any possibility of parking overflowing onto neighboring streets. What is the Plan? The occupancy of these 2,300 dwelling units could surpass the population of the Lake San Marcos community. Did the traffic studies include factoring in an estimate of the number of vehicles these 2,300 DUs would add to the streets and roadways? If not, why not?

The magnitude of this Creek *Specific* Plan to develop 217 acres of property definitely requires the City to provide its residents and neighbors with a detailed description of what will be built and the precise locations on this vast site with a Horizon Year of 2030 for completion. The City should be serving the needs and requests of its citizens, if in fact they long for an "identity downtown", and not instead be working to provide unlimited, prolonged development opportunities for contractors, investors, real estate brokers, lenders, and developers.

14-13

(12) QUALITY OF LIFE. What impact does the City anticipate that The San Marcos Creek Specific Plan will have on its residents, its visitors, and the adjacent unincorporated communities? There is no feature in the DEIR describing improvement of quality of life.

Without thoughtful consideration and planning, the impact on the environment could create a nightmare. We understand the participants who will benefit from this Plan. But what will the residents of San Marcos and Lake San Marcos gain from this project?

14-14

Continued ...

-6- Jerry Beckoff, Planning Director 28 May 2007
The City of San Marcos

(12) QUALITY OF LIFE (Continued)
After reading as many sections of the DEIR as was possible, our sense is that the project would result in a worsened, unhealthy air quality, an acceleration of already gridlock traffic, a predictable destruction of the wetlands and of the wildlife that make the creek its habitat, an unknown increase in population within a dense area that will lead to parking on residential streets, and a need for increased services for law enforcement and fire protection. Is Quality of Life not a consideration? There is no merit in a goal to attract visitors from all over North County to this project while destroying the peace and security of the local residents. What has the City identified as a compelling reason and need for the Creek Specific Plan?

14-14 Cont.

(13) CUMULATIVE IMPACT STUDY. The City has numerous and diverse projects in the planning or approval stage most of which interface and interact with each other, especially with respect to traffic density and flow. They are currently being examined separately as if they were "islands" and not part of one, large city acreage with overlapping and conflicting impacts.

Comments on cumulative impacts are also insufficient in the Creek Specific EIR. No comments about what the City plans to have built on the Twin Oaks properties. No comments on the Las Posas parcels being rezoned – for what new use? No comments on the proposed Fenton/Scripps project. No information on the 439-bed hospital that Kaiser Permanente plans to build off Craven and Twin Oaks Valley Road. And others we don't list. What about the unincorporated properties that the City may be planning to annex?

It should not be necessary for residents, Planning Division staff, and the City Council members to complete a jigsaw puzzle with a fourth of the pieces missing.

We believe it is imperative for the City to prepare a full **CUMULATIVE IMPACT STUDY** to bring the big picture into focus for the benefit of all concerned parties. Will the City agree to prepare a full Cumulative Impact Study? If not, why not?

14-15

Rancho Santa Fe Road and San Marcos Boulevard will always be arterial roads from the #5 Freeway to the #78 and #15. These roads will always carry increasing numbers of vehicles in both directions. IF a 'downtown' is necessary, placing it along the length of San Marcos Boulevard, one of the city's busiest streets, is not an appropriate location.

14-16

With the eventual population of 55,000+ college students studying in San Marcos, the City should be planning entertainment, shopping, recreational, and housing facilities closer to the university for convenient access, possibly in the Twin Oaks Road area.

14-17

continued ...

-7- Jerry Backoff, Planning Director 28 May 2007
The City of San Marcos

(14) CITY COUNCIL RESPONSIBILITIES. The Draft EIR, including its appendices, runs thousands of pages. City Council members must assert that they are completely conversant with an EIR documentation before they can legally vote to approve or disapprove.

There should be hours of questions and discussions at numerous public meetings before voting takes place. Questions and statements from the public will provide both the Planning Commission and the City Council with a better understanding of public opinion on this project. Members of the Creek Specific Plan Task Force have admitted that even after several years of attending meetings, they don't understand all the details.

The Draft EIR describes the project as having three primary components: (1) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-78; (2) roadway and infrastructure improvements; and (3) implementation of the San Marcos Creek *Specific Plan*, which would serve as the master plan for the project area.

There will be a lengthy time frame for the City to work with the numerous regulatory agencies who must approve (1) floodway improvements to San Marcos Creek, and (2) roadway and infrastructure improvements. Why not deliberate and vote only on those two components and not propose a vote on the third component?

The CITY COUNCIL must ultimately approve the final EIR. We suggest that no council member would in good conscience vote to approve the *Specific* Plan (an ironic name) when it is totally lacking in specificity. It is not reasonable or fair to the citizens of San Marcos for the City Council to be asked to vote for a *Specific Plan* that offers few details beyond acreage allocations and that Eminent Domain may be used in the process of Land Acquisition.

The Undersigned represent a fraction of the Lake San Marcos community residents that are alarmed and concerned by the contents of the Draft EIR for the San Marcos Creek Specific Plan and Floodway Improvement Project, dated April 13, 2007.

7 of 7

SIGNATURES WITH IDENTIFICATION ON ATTACHED PAGES.

14-18

14-19

THE UNDERSIGNED RESIDENTS WISH TO REGISTER THESE COMMENTS AND QUESTIONS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT, DATED APRIL 13, 2007, ISSUED BY JERRY BACKOFF, PLANNING DIRECTOR, THE CITY OF SAN MARCOS, FOR THE SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT. COMMENT PERIOD OPEN THROUGH MAY 29, 2007.

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- ADDITIONAL SIGNATURE PAGES ATTACHED -

05/29/07 TUE 14:33 FAX 7605914135 CDSM DEV SERVICE DEPT 010

THE UNDERSIGNED RESIDENTS WISH TO REGISTER THESE COMMENTS AND QUESTIONS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT, DATED APRIL 13, 2007, ISSUED BY JERRY BACKOFF, PLANNING DIRECTOR, THE CITY OF SAN MARCOS, FOR THE SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT. COMMENT PERIOD OPEN THROUGH MAY 29, 2007.

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05/29/07 TUE 14:23 FAX 7605914135 COSM DEV SERVICE DEPT 011

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05/29/07 TUE 14:24 FAX 7605914135 COSM DEV SERVICE DEPT 013

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Maryann M. Nelson 1462 La Linda Drive, San Marcos 92078

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05/29/07 TUE 14:24 FAX 7605914135 COSM DEV SERVICE DEPT 014

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(760) 744-3562 Louis Pellon 1163 Calle del Boston L.S.M.

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(760) 741-9059 Edwin R. Sparks 834 San Pablo Dr, Lake San Marcos, CA 92078

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05/29/07 TUE 14:24 FAX 7605914138 COSM DEV SERVICE DEPT 015

THE UNDERSIGNED RESIDENTS WISH TO REGISTER THESE COMMENTS AND QUESTIONS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT, DATED APRIL 13, 2007, ISSUED BY JERRY BACKOFF, PLANNING DIRECTOR, THE CITY OF SAN MARCOS, FOR THE SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT. COMMENT PERIOD OPEN THROUGH MAY 29, 2007.

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05/29/07 TUE 14:24 FAX 7605914135 COSM DEV SERVICE DEPT 016

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Marjorie M Burford
1463 La Linda Dr. San Marcos Ca. 92078
760-591-0345
Harry D Burford SAME ADDRESS

05/29/07 TUE 14:24 FAX 7605914135 COSM DEV SERVICE DEPT 017

THE UNDERSIGNED RESIDENTS WISH TO REGISTER THESE COMMENTS AND QUESTIONS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT, DATED APRIL 13, 2007, ISSUED BY JERRY BACKOFF, PLANNING DIRECTOR, THE CITY OF SAN MARCOS, FOR THE SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT. COMMENT PERIOD OPEN THROUGH MAY 29, 2007.

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Jesse Hazen 1420 LA HABRA DR SM CA 760 473-0873

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THE UNDERSIGNED RESIDENTS WISH TO REGISTER THESE COMMENTS AND QUESTIONS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT, DATED APRIL 13, 2007, ISSUED BY JERRY BACKOFF, PLANNING DIRECTOR, THE CITY OF SAN MARCOS, FOR THE SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT. COMMENT PERIOD OPEN THROUGH MAY 29, 2007.

Suzanne M. Verdugo 1472 La Linda Dr. Lake San Marcos 760-891-0730

Janet R. Rut

05/29/07 TUE 14:25 FAX 7605914135 COSM DEV SERVICE DEPT 018

THE UNDERSIGNED RESIDENTS WISH TO REGISTER THESE COMMENTS AND QUESTIONS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT, DATED APRIL 13, 2007, ISSUED BY JERRY BACKOFF, PLANNING DIRECTOR, THE CITY OF SAN MARCOS, FOR THE SAN MARCOS CREEK SPECIFIC PLAN AND FLOODWAY IMPROVEMENT PROJECT. COMMENT PERIOD OPEN THROUGH MAY 29, 2007.

1464 La Linda Dr.
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05/29/07 TUE 14:25 FAX 7605914135 COSM DEV SERVICE DEPT 020

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Donald W. Mullin, 1854 San Pablo Dr. San Marcos Ca. 92078

05/29/07 TUE 14:25 FAX 7603914135 COSM DEV SERVICE DEPT 021

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Bob Garretson 1428 La Plaza Dr. San Marcos 92078

Donald Guerra 1739 CALLE DEL ARROYO, SAN MARCOS, 92078

M. Joan Grace 1739 Calle del Arroyo San Marcos 92078

05/29/07 TUE 14:15 FAX 7605914135
COSM DEV SERVICE DEPT
005
Lake San Marcos
Ecosystem
I. WATER PLANTS
Algae (1) (3)
Cattails
Water Lily
II. Fish
Thread Fin Shad (2)(4)
Bass (4)
Bluegill (4)
Crappie (4)
Channel Catfish (4)
Carp (4)
III. Amphibians
Frogs
Salamanders
IV. Reptiles
Turtle
Snakes (3)
Lizards
V. Birds (3)
Herons (3)
Egret (3)
Duck (5)
White Pelican (5)
Cormorant (5)
Crow (5)
Dove (5)
Finch
Coot (5)
Swan (4)
Hawks (3)
• Least Tern (6)
Swan (4)
Quail
VI. Mammals
Mountain Lion
Deer
Raccoon
Possum
Rabbit
Ground Squirrel
Bobcat
Coyote
Statistics of Lake
Size - 80 Acres
Length 1 1/5 miles
Depth - 8 Feet (Average)
28 Feet at Dam
Run off, 45 sq. mile water shed
3 Springs under Lake
510 Feet Above Sea Level
Dam 65 Feet High
Largest Private lake in County
1.) Essential for Production of Oxygen
Some Algae Toxic / Blue Green
2.) Major food for Fish , Birds
And Mammals
3.) Many Species
4.) Exotic Species
5.) Migratory Federal Protection
• 6.) Endangered Species
Water Quality Affects Ecosystem
Thomas McIndoe
5/2/07

Letter 14
Lake San Marcos Task Force
May 28, 2007

1. This comment addresses water quality and sediment associated with existing conditions the development of the proposed project. The project includes measure to reduce the water quality impacts of the future project, as identified in Section 3.6.4 of the Draft EIR. The proposed project will implement three types of Best Management Practices (BMPs) for the purposes of minimizing the discharge of pollutants and maintaining the flow events (discharge rates) from the project site. The first is the use of Low Impact Development (LID) Site Design BMPs, the second is the use of Source Control BMPs, and the third is the Treatment Control BMPs.

   The LID Site Design BMPs will include minimizing the direct connections between impervious surfaces and the storm drain systems, use of alternative surfaces instead of impermeable surfaces, and site planning to minimize the impacts of the development. Specific BMPs may include: porous concrete; grassy swales; rooftops draining to landscaped areas; flow through planters, and; infiltration trenches.

   The Source Control BMPs will include the enforcement of the City's Jurisdictional Urban Runoff Management Plan and Municipal Code sections that affect existing development including commercial and residential sectors. As future development occurs, they will be subject to the same development requirements stated in the response provided above for land-development projects. Additionally, once the development is complete, the site use is regulated based on the activities, e.g., commercial businesses or residential units. The future development will be inspected and the City's program enforced to minimize the discharges of pollutants.

   Additionally, the project improvements will include Source Control BMPs where applicable. Specific BMPs may include: marking of storm drain inlets; educational kiosks/signage; efficient irrigation systems; enclosed trash storage areas, and; the use of alternative building materials.

   The Treatment Control BMPs will be implemented to treat the 85th percentile flows (i.e., first flush) from the project site. At this time, the proposed treatment system is a media filtration system that is capable of treating the 8t5th percentile flows from the entire proposed project development area (at the expected discharge rates). The media filtration system has cartridges that are interchangeable to treat the anticipated pollutant types from the project area. If it is determined that the pollutant types coming from the project area are different than currently anticipated, the media cartridges will be adjusted so that they are effective at treating the pollutant types and loads. Other treatment features may include the following: infiltration trenches; vegetated swales; buffers zones, and; inlet filtration as pre-treatment.

   The City is willing to meet with CDC/La Jolla Development to discuss the proposed project.

2. This comment addresses air quality associated with the development of the proposed project and the impact on sensitive receptors. The Draft EIR included a hot spots CO analysis. The

purpose of the analysis was to determine whether future traffic changes would create an adverse air quality impact at a very local level. The CO hot spot analysis determined that the impacts would be less than significant. Additional air quality analysis was performed to determine the project impact on regional air quality. The Draft EIR identified mitigation measures to reduce some of the air quality impacts identified or the project, however, some of the impacts remain significant and unmitigated. It should be noted that the development proposed by the Specific Plan is mixed use in nature. Therefore, future residents of the Specific Plan area will be able to meet some of their recreational, entertainment and retail needs within the project area. This will result in less dependence on vehicles, which has a beneficial air quality impact.

3. This comment addresses air quality associated with the development of the proposed project on adjacent sensitive receptors. The Draft EIR identified mitigation measures to reduce some of the air quality impacts identified or the project, however, some of the impacts remain significant and unmitigated.

4. This comment addresses traffic associated with development, proposed mitigation measures and the implementation of alternative transportation. First, the comment questions the feasibility of the bike lanes. The provision of bicycle lanes on San Marcos Boulevard, it is not uncommon to have bike lanes along six-lane arterials. Further west, where San Marcos Boulevard becomes Palomar Airport Road, bike lane exist along a six-lane cross-section of Palomar Airport Road that would be similar to the proposed six-lane segment of San Marcos Boulevard.

   This comment also addresses the shuttle and pedestrian features of the project. The Specific Plan has been designed to encourage pedestrian movement. This includes the provisions of wide pathways, trails, and sidewalks. As a mixed-use development, future residents of the project will be closer to retail, offices and entertainment opportunities; therefore, there is more of an impetus to walk, compared to driving. This comment states that shuttle systems have not been successful in Southern California. First, it is unclear to what systems the commenter is referring. The shuttle proposed by the project is an intra-city shuttle and will serve as another form of alternative transportation.

   With regard to the reference to light rail, the project is not proposing any light rail for transportation. The shuttle service proposed by the project would connect with the SPRINTER rail line.

   The project proposes specific circulation network improvements. The three principal north-south streets through the proposed Specific Plan area would be improved to full urban street standards and would provide through access between San Marcos Boulevard and Discovery Street. Bridges are proposed over San Marcos Creek at Via Vera Cruz and Grand Avenue. Improvements are also proposed to McMahar Road.

   Regarding additional improvements that would mitigate traffic densities along San Marcos Boulevard, in addition to the extension and widening of Discovery Street, the City is studying the possibility of adding a new crossing over SR 78. Initial studies indicate that a new crossing would reduce traffic on San Marcos Boulevard in the vicinity of SR 78. This

improvement may be considered as part of the Heart of the City Specific Plan; however, these improvements are not needed to mitigate the traffic impacts of the project.

5. This comment addresses traffic studies associated with the development of the proposed project by which the project impacts are assessed. In particular, the comment complains that the data for the traffic study was too old. The original traffic study for the San Marcos Creek Specific Plan was prepared in 2005 and a combination of traffic count data from 2003, 2004, and 2005 were used to document current conditions at that time. It is important to note, however, that the "existing" traffic counts were not used to develop the future 2030 traffic volumes with and without the proposed Specific Plan. The 2030 traffic volumes were developed by the SANDAG North County Traffic Model and do not rely on existing traffic counts. Since the existing traffic counts do not affect the 2030 forecast traffic, the 2030 analysis results for conditions with and without the proposed Specific Plan will not change if the existing counts are updated. Therefore the relative comparison of conditions with the Specific Plan to conditions with the current General Plan is still valid.

   The documentation of existing conditions is provided as a point of reference and as a means for comparing the change in existing traffic volumes and traffic conditions that may be expected as a result of implementing either the General Plan land uses or the proposed Specific Plan land uses. For comparison purposes, a summary of more recent traffic volumes is provided in Exhibits 1 and 2 for several of the key study roadway segments and study intersections. Updated levels of service for the more recent traffic counts are provided in Tables 1 and 2. These supporting exhibits and tables are provided following this letter.

   As can be observed in the updated traffic count data and updated level of service analysis, traffic volumes have increased and service levels have generally worsened since the 2003/2004/2005 conditions were evaluated. In the summer of 2006, the Las Posas Road/SR-78 interchange was completed, which has resulted in lower traffic volumes at the Rancho Santa Fe Road/SR-78 and the San Marcos Boulevard/SR-78 interchanges.

   Table 1, following at the end of this response, shows that since the opening of the Las Posas Road/SR-78 interchange, daily traffic volumes on San Marcos Boulevard have increased significantly west of Las Posas Road, and have decreased significantly east of Bent Avenue near the San Marcos Boulevard/SR-78 interchange.

   Table 2, following at the end of this response, shows that most study intersections have experienced increases in delay and diminishing levels of service since the SMCSP traffic study was prepared in 2005. With the exception of San Marcos Boulevard/Pacific Street (unsignalized), the other study intersections where recent peak hour count data is available are continuing to operate at acceptable levels of service (LOS D or better).

   It should also be noted that the extension of Twin Oaks Valley Road to San Elijo Road is expected to be completed this summer. The connection to San Elijo Road will provide a new route to Rancho Santa Fe Road, and it is anticipated that traffic volumes on San Marcos Boulevard will decrease as a result of traffic shifting to Twin Oaks Valley Road to reach Rancho Santa Fe Road.

6. This comment also addresses traffic studies associated with the development of the proposed project. The comment raises concern that future enrollments at CSUSM and Palomar College have not been factored into future traffic conditions.

   Concerning the future CSUSM and Palomar College enrollment projections, the SANDAG 2030 North County Traffic Model that was used for the 2030 traffic analysis includes the most current projections for the expanded enrollment at each institution. A specialized transportation mode choice model that is part of the SANDAG Traffic Model estimates the portion of students using transit and ridesharing.

7. This comment addresses drive-through traffic associated with the development of the proposed project. The comment raises concern over the use of Lake San Marcos Resort as an alternative route to avoid traffic delays on Rancho Santa Fe Road. This comment is not directly related to the project considered in the Draft EIR. It should be noted that the City is in the process of implementing improvements at the intersection including adding additional through lanes on San Marcos Boulevard. These improvements should help alleviate the cut-through traffic that this comment addresses.

8. This comment raises concern that a traffic light would be needed at the San Pablo Drive/Discovery Street intersection due to increase in traffic associated with development of the proposed project. The traffic concern noted in this comment is caused by pre-existing conditions that are not related to the San Marcos Creek SP project. The City has specific warrants for new signals and intersection spacing is also considered. While traffic volumes are expected to increase on this segment of Discovery Street in the 2030 scenario, it is not expected that a significant portion of this traffic would be project related. The most direct route to the project site is to continue east on San Marcos Boulevard to McMahr Road, Via Vera Cruz, or Bent Avenue. The increase in traffic will be primarily due to through traffic traveling to and from points east of the project along Discovery Street and Barham Drive.

   With regard to Fire Department review, the Fire Department reviews all proposed development plans for safety features.

9. This comment addresses noise impacts associated with the development of the proposed project and impacts on adjacent residents, including noise and diesel emissions. Construction-related noise was analyzed on page 3.6-8 of the EIR. The EIR considered construction noise for each phase of the project and determined that noise impacts due to construction would be less than significant with implementation of the following mitigation measures:

   MM 3.8-1 A condition on the improvement plans and within construction contracts which require:

   - Exterior construction, hauling, or delivery activities shall be scheduled to occur during normal daytime working hours, i.e. 7:00 a.m. and 6:00 p.m., Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturday. No construction would occur on Sundays and legal holidays. These criteria shall be included in the improvement plans prior to initiation of construction. Exceptions to allow expanded

construction activity hours shall be reviewed on a case-by-case basis as determined by the Planning Director.

- All heavy construction equipment and all stationary noise sources (such as diesel generators) shall be fitted with factory-specified mufflers.
- Truck routes, equipment warm up areas, water tanks, and equipment storage areas shall be located in an area as far away from existing residences, schools and other sensitive receptors, as is feasible.

The condition shall be reviewed and approved by the Development Services prior to the issuance of permits.

MM 3.8-2 The applicant shall prepare and post readily visible informational signs at each entrance of the construction area indicating that the site is a "Noise Controlled Zone" and that person, vehicles, machinery and equipment may be barred from the site for violations of the noise regulations. A Noise Complaint Hotline telephone number shall appear prominently on the sign. The overall sign, including format, size, style and content shall be pre-approved by the City prior to posting.

Toxic air contaminants, including diesel particulate matter, were analyzed in the Draft EIR (pages 3.2-12 and 3.2-13). Off-site public exposure to diesel exhaust would not create any significant excess cancer risk beyond the 300,000 in one million that is the probability of developing a serious form of cancer in one's lifetime in the United States. No impacts were identified for this issue area.

10. This comment addresses biological resources impacts associated with the development of the proposed project and states that additional migratory bird surveys should be conducted. Biologists made at least 19 site visits to conduct the habitat assessment and protocol bird surveys (see Table 1 of the Biological Resources Report for the EIR). While mule deer may occur in the project vicinity, they were not observed on the project site, nor was there evidence of mule deer observed (e.g., scat, prints). Table 3.3-3 of the Draft EIR noted that mule deer have a low potential to occur onsite due to surrounding urbanization and that they would have been detected during surveys if present. Migratory birds are afforded protection under the Migratory Bird Treaty Act. Mitigation measure MM 3.3-10 was identified in the Draft EIR to ensure that nesting birds on the project site will not be impacted due to project construction. The mitigation measure is as follows:

MM 3.3-10 To reduce indirect impacts to migratory birds, the City shall retain a qualified biologist to provide biological monitoring while work occurs within San Marcos Creek to assure that sensitive species present within the creek are not directly impacted by the proposed work. Construction would be phased, where feasible, to avoid work during the breeding season (*i.e.*, January through September). If construction activity is to commence during the breeding season (January 1 through September 15), a one-time pre-construction biological survey for nesting bird species must be conducted within the proposed impact area 72 hours prior to construction. This survey

> is necessary to assure avoidance of impacts to nesting raptors (i.e., Cooper's hawk) and/or birds projected by the federal Migratory Bird Treaty Act. If any active nests are detected, the area would be flagged and mapped on the construction plans along with a minimum of a 25-foot buffer and up to a maximum buffer of 300 feet for raptors, as determined by the project biologist, and would be avoided until the nesting cycle is complete.

This comment states that the project area would be subject to 20 years of extensive construction. The buildout of the Specific Plan are would not be characterized as 20 years of extensive construction. As proposed, the Specific Plan Area includes approximately 81 acres of mixed use and approximately 19 acres of park space. If construction was averaged out over a 20-year period, approximately 5 acres of development would occur within the Specific Plan each year. This would hardly be characterized as "extensive construction". It is recognized that buildout of the Specific Plan will occur at a varied rate given the site of the projects that come forward; however, it is not correct to characterize it as extensive construction.

11. This comment notes that the EIR should be amended and re-circulated for review to include updated information on McMahr Bridge. The project description has been revised to elimination the McMahr crossing over San Marcos Creek. This decision was made due to constraints of the existing San Diego County Water Authority easement, as well as the results of the value engineering efforts by the City to reduce costs. Based upon this, a supplemental traffic analysis was prepared to ensure that the removal of this segment would not result in new traffic impacts. The additional analysis is included as Appendix L of the Final EIR. Based upon that analysis, no new significant impacts would occur. A supplemental air quality and noise analysis was also prepared given the removal of the McMahr bridge. The supplemental noise analysis is presented as Appendix M. The analysis determined that the removal of the McMahr bridge would not result in a noise level change that would change the results of the EIR. Therefore, this change in project design does not change the conclusions of the Draft EIR and recirculation pursuant to Section 15088.5 of the CEQA Guidelines is not required.

12. This comment raises concern that implementation of the proposed project would result in the use of eminent domain. The need for acquisition of property for implementation of the floodway and infrastructure improvements was identified as part of the project description. With regard to the statement of clearing existing businesses within the Specific Plan area, there are no plans to remove existing businesses. The Specific Plan has been designed to be a 20-year plan, with lots developing or redeveloping at varied rates based on private development proposals. Existing businesses will be able to continue as they currently operate.

13. This comment addresses the level of detail of analysis of the Specific Plan in the Draft EIR. The City does not concur with the statement that the project description for the EIR is inadequate. California Government Code Section 65451 specifies the mandatory contents of a specific plan. The San Marcos Creek Specific Plan establishes the framework by which future projects within the Specific Plan area will develop (e.g., design requirements, landscaping requirements, signage requirements). At the same time, it allows some flexibility as to the arrangement of land uses within the Specific Plan area to allow for changes in market demand in the future.

Office and hotel uses would be acceptable uses under the Specific Plan. The Specific Plan is designed around a series of sub-districts, as identified in Table 2.3-1 of the Draft EIR, with each sub-district having a preferred emphasis on land uses.

This comment asks what "high density" units are. The density of the project is driven by the concept of floor-area ratio (FAR). The higher the FAR, the denser the future development would be. Figure 3.7-4 presented the proposed FAR for the project. Future residences within the Specific Plan area would serve a broad range of population. It is not designed specifically for any one group (e.g., families, students, low income).

Parking for the project includes a combination of on- and off-street parking. Parking structures would be used to maximize parking space while minimizing parking footprints. Figure 3.10-5 presents the proposed parking strategy for the Specific Plan area. No impacts related to parking were identified for the project.

The traffic impact study and Draft EIR analyzed the impact of vehicular trips generated by the future residences, including future residential uses. Please see Section 3.10 of the EIR for the complete traffic analysis, including generation rate assumptions for the various uses proposed within the project.

14. This comment addresses the impact of the proposed project on the quality of life in the project area. The purpose of the Draft EIR is to disclose the physical change to the environment based upon implementation of the project. The California Environmental Quality Act does not contemplate "quality of life" issues. However, some issues, which can lead to a diminished quality of life include traffic congestion, noise environment and impaired air quality. The Draft EIR analyzed these issues and determined that traffic and noise impacts would be reduced to below a level of significance, and that air quality impacts, though mitigated, would be significant and unmitigated.

This comment also asks what the residents of San Marcos and Lake San Marcos will gain from the project. Development of the Specific Plan will provide local residents with an integrated park network, including creek-side open space. Additionally, future uses within the Specific Plan will include more retail and entertainment opportunities, many of which would be within walking distance from residents of Lake San Marcos and other nearby neighborhoods.

This comment also states that the project would result in unhealthy air quality, an acceleration of gridlock, wetland and wildlife destruction, unknown population increase, and increase in public services. The Draft EIR addressed all of these issues and disclosed the impacts of the project. The project will have significant and unmitigated air quality impacts (Section 3.2 of the Draft EIR). Traffic impacts will be reduced to below a level of significance (Section 3.10 of Draft EIR) with implementation of mitigation measures. Impact to biological resources, including wetland and wildlife were analyzed in Section 3.3 of the Draft EIR. The project proposes mitigation via habitat enhancement and creation for all impacts to wetlands. Additionally, the project will be required to secure permits from the regulatory agencies for impacts to wetlands. Mitigation measures were identified to ensure that impacts to wildlife are less than significant.

Page 3.9-1 of the Draft EIR noted that the project could add up to 6,808 residents to the City. This assumes 2.96 residents per unit with up to 2,300 units. Section 3.9 of the Draft EIR analyzed the projects' potential impact on public services, including police and fire protection. The analysis concluded that Development of the proposed project would result in an increase in demand for fire protection, police protection, school services, library facilities, and parks and recreation; however, the increase would not be at a level that would result in a significant impact. Future developments within the Specific Plan would be required to annex into an existing community facilities district (CFD) or pay appropriate fees.

15. This comment addresses cumulative impacts associated with the development of the proposed project. The comment states that cumulative impacts are not adequately discussed in the EIR. The City does not concur with this statement. Section 7 of the EIR included a cumulative impact analysis for all issue areas that were analyzed in Section 3 of the EIR. The analysis determined that cumulative traffic impacts would be less than significant. Cumulative air quality impacts were determined to be significant and unmitigated.

    This comment identifies specific projects. Table 7.1-1 of the EIR lists the development projects in the area that are under construction or have been recently completed in the City of San Marcos. The cumulative list of projects is consistent with the *2007 CEQA Guidelines* §15130(b)(1)(A), which states that "a list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside of the control of the agency" should be included in the analysis of cumulative effects in the EIR. However, for some issue areas the cumulative impact analysis take a "plan" approach, and discusses cumulative projects in terms of build out of the City of San Marcos General Plan. The latter approach is the approach taken with the cumulative traffic and air quality analyses.

16. This comment raises concern that the proposed project's current location along San Marcos Boulevard is not an appropriate location from a traffic standpoint. As a floodway improvement project, the project has to be focused along the creek where the current flooding issues need to be controlled. Therefore, the location of the project is appropriate. Additionally, with the construction of the floodway improvements, the land adjacent to the creek is removed from the floodplain and become viable for development.

17. This comment states that the City should focus future development near the university to support the anticipated growth in student enrollment. This comment does not directly address the environmental document. It should be noted that a shuttle is proposed within the Specific Plan. The shuttle would provide service within the Specific Plan area and also connect to other important nodes in the City, including Cal State San Marcos.

18. This comment discusses the City Council in deciding on the project. The Draft EIR discloses the impacts of the project for the decision-makers. The decision-makers will consider the EIR, along with other project information as they make their decision. The project will be heard at both a Planning Commission meeting as well as a City Council meeting. The public will be afforded the opportunity to speak on the project.

    This comment also addresses the City Council considering just one project components at a time. With regard to only approving one of two components of the project, it should be noted

that all three components are intertwined with each other. Therefore, per the requirements of CEQA, all three have been addressed in the EIR so as to avoid piece-mealing. Approval of the CEQA document is required before the permits can be provided by the regulatory agencies.

The City does not concur with the statement that the Specific Plan "totally lacks specificity". Please see response 13.

19. This section includes six signatures of the letter preparers as well as several signed pages of a petition which represent an additional 49 signatures. The petition does not raise any new environmental issues; therefore, no additional response is warranted.

Table 1
Comparison of Daily Traffic Volumes and LOS
2003 - 2005 Counts vs. 2006 - 2007 Counts

Segment	Location	Class (# lanes)	Capacity	Daily Volumes/LOS from 2005 Traffic Study (10/03 - 3/05)			Daily Volume/LOS from Recent Traffic Counts (11/06 - 3/07)			Change in ADT
				ADT	V/C	LOS	ADT	*V/C*	LOS	
San Marcos Boulevard	Rancho Santa Fe Rd. to Discovery St.	Major (5)	45,000	**42,674**	**0.948**	**E**	**53,733**	**1.194**	**F**	11,059
	Discovery St. to Pacific St.	Major (4)	40,000	**39,723**	**0.993**	**E**	**46,577**	**1.164**	**F**	6,854
	Pacific St. to Las Posas Rd.	Major (4)	40,000	**39,723**	**0.993**	**E**	**48,718**	**1.218**	**F**	8,995
	Las Posas Rd. to Via Vera Cruz	Major (4)	40,000	**35,391**	**0.885**	**E**	**38,640**	**0.966**	**E**	3,249
	Via Vera Cruz to Bent Ave.	Major (4)	40,000	**43,282**	**1.082**	**F**	**43,676**	**1.092**	**F**	394
	Bent Ave. to Grand Ave.	Prime (6)	60,000	52,432	0.874	D	44,591	0.743	C	-7,841
	Grand Ave. to SR-78	Prime (6)	60,000	**61,632**	**1.027**	**F**	45,632	0.761	C	-16,000
Discovery Street	San Marcos Blvd. to La Sombra Dr.	Collector (2)	15,000	11,531	0.769	C	-	-	-	-
	La Sombra Dr. to Via Vera Cruz	Collector (2)	15,000	11,673	0.778	C	-	-	-	-
	Via Vera Cruz to Bent Ave./Craven Rd.	Collector (2)	8,000	**12,400**	**1.550**	**F**	-	-	-	-
Pacific Street	Linda Vista Dr. to San Marcos Blvd.	Collector (2)	8,000	1,753	0.219	A	-	-	-	-
Las Posas Road	Linda Vista Dr. to San Marcos Blvd.	Secondary (4)	30,000	7,749	0.258	A	9,974	0.332	A	2,225
Via Vera Cruz	Linda Vista Dr. to San Marcos Blvd.	Secondary (4)	30,000	4,827	0.161	A	-	-	-	-
	San Marcos Blvd. to Discovery St.	Collector (2)	8,000	5,244	0.656	D	-	-	-	-
Bent Avenue/ Craven Road	Grand Ave. to San Marcos Blvd.	Collector (2)	15,000	2,753	0.184	A	-	-	-	-
	San Marcos Blvd. to Discovery St.	Collector (2)	8,000	4,935	0.617	C	5,668	0.709	D	733
	South of Discovery St. (Craven Rd.)	Secondary (4)	30,000	13,002	0.433	B	15,819	0.527	B	2,817
Grand Avenue	Bent Ave. to San Marcos Blvd.	Secondary (4)	30,000	10,065	0.336	B	10,942	0.365	B	877
	South of San Marcos Boulevard	Major (4)	40,000	10,988	0.275	A	-	-	-	-

Note: Deficient roadway segment operation shown in **bold**.

Table 2
Comparison of Peak Hour Intersection LOS
2004/2005 Counts vs. 2006/2007 Counts

Study Intersection	Peak Hour LOS from 2005 Traffic Study (10/03 - 3/05)		Peak Hour LOS from Recent Traffic Counts (11/06 – 3/07)		AM Change (sec.)	PM Change (sec.)
	AM Delay – LOS (sec.)	PM Delay – LOS (sec.)	AM Delay – LOS (sec.)	PM Delay – LOS (sec.)		
San Marcos Blvd. / Rancho Santa Fe Rd.	28.8 – C	31.6 – C	37.9 – D	49.7 – D	9.1	18.1
San Marcos Blvd. / Discovery St.	15.4 – B	9.8 – A	28.6 – C	26.0 – C	13.2	16.2
San Marcos Blvd. / Pacific St. (1)(2)	40.1 – E	90.0 – F	76.7 – F	435.7 – F	36.6	345.7
San Marcos Blvd. / Las Posas Rd.	23.2 – C	18.5 – B	25.7 – C	36.5 – D	2.5	18.0
San Marcos Blvd. / Via Vera Cruz	10.7 – B	17.1 – B				
San Marcos Blvd. / Bent Ave.	10.5 – B	15.0 – B	21.8 – C	43.7 – D	11.3	28.7
San Marcos Blvd. / Grand Ave.	11.3 – B	18.5 – B	15.1 – B	31.6 – C	3.8	13.1
San Marcos Blvd. / SR-78 EB Ramps	18.1 – B	18.5 – B	–	–	–	–
San Marcos Blvd. / SR-78 WB Off-Ramp	32.1 – C	30.5 – C	–	–	–	–
Linda Vista Dr. / Las Posas Rd.	23.7 – C	23.4 – C	17.0 – B	19.4 – B	-6.7	-4.0
Linda Vista Dr. / Via Vera Cruz (3)	9.8 – A	9.2 – A	–	–	–	–
Bent Ave. / Grand Ave.	5.1 – A	10.0 – A	–	–	–	–
Discovery St. / La Sombra Dr. (1)(2)	13.1 – B	17.1 – C	–	–	–	–
Discovery St. / McMahr Rd. (1)(2)	13.4 – B	15.8 – C	–	–	–	–
Discovery St. / Via Vera Cruz (3)	15.9 – C	50.3 – F	–	–	–	–
Discovery St. / Bent Ave.-Craven Rd. (3)	13.7 – B	11.1 – B	16.9 – C	13.7 – B	3.2	2.6
Twin Oaks Valley Rd. / Barham Dr.	22.2 – C	29.5 – C	27.9 – C	28.1 – C	5.7	-1.4
Twin Oaks Valley Rd. / Craven Rd.	24.1 – C	28.6 – C	27.4 – C	29.6 – C	3.3	1.0

Note: Deficient intersection operation shown in **bold.**
(1) Indicates an unsignalized two-way stop-controlled intersection.
(2) The highest approach delay, rather than the average delay, is reported for two-way stop-controlled intersections.
(3) Indicates an unsignalized all-way stop-controlled intersection.

RoseBoyle.txt

From: Kiss, Lisa [LKiss@san-marcos.net]
Sent: Tuesday, April 17, 2007 8:14 AM
To: Habl-Mitchell, Sophia L.
Subject: FW: creek project, Via Vera Cruz street

Sophia,
I will start forwarding you all the letters I receive on the SM Creek project since release of the DEIR.
Here's the first one.
Lisa
(I'm also forwarding them to Jerry).

-----Original Message-----
From: roseboyle@juno.com [mailto:roseboyle@juno.com]
Sent: Saturday, April 14, 2007 2:38 PM
To: Kiss, Lisa
Subject: creek project, Via Vera Cruz street

Hi,
In reading about the creek development project in San Marcos, I am curious as to how soon improvements will be made to Via Vera Cruz, the section between Discovery and San Marcos Blvd. As you probably know, it is a very dangerous transit for cars and pedestrians. I live on Discovery near Via vera Cruz, and I would love to be able to walk up to all the businesses on San Marcos Blvd, but as a person is forced to walk out on the street in the midst of heavy traffic, this is too dangerous. there are no sidewalks nor proper shoulder. the area is not handicap accessible. I hope that current plans will address this issue ASAP.
Thank you. Rose Boyle

15-1

Page 1

Letter 15
Rose Boyle
April 14, 2007

1. This comment raises question on the timing of the Via Vera Cruz improvements between Discovery Street and San Marcos Boulevard. The proposed project has been revised from what was considered in the Draft EIR. The project now proposes construction of a bridge at Via Vera Cruz instead of an at-grad crossing. Construction of the Via Vera Cruz bridge could begin in about 30 months and will take about 18 months to complete. Improvements to Discovery Street could begin in approximately 24 months and will take approximately 24 months to complete. Discovery Street will be constructed concurrently with the levees on the south side of the Creek.

   This comment also raises questions about pedestrian and vehicular safety on Discovery and Via Vera Cruz. The Via Vera Cruz bridge will include a multi-use trails on both sides. The bridge is also intended to include decorative features such as ornamental railing, pilaster, lighting, and banners that would visually enhance the bridge experience for pedestrians and traveling public. Beyond Via Vera Cruz, the San Marcos Creek Specific Plan is designed to provide enhanced pedestrian facilities. Pedestrian activity within the Specific Plan area would be enhanced through the use of broad, tree-line sidewalks on both sides of all streets within the development area, pedestrian streets or "paseos" that provide off-street pedestrian movement, and the provision of a Class I, multi-use trail within the proposed open space corridor. These pathways will also be handicap accessible and fully compliant with the requirements of the Americans with Disabilities Act (ADA).

05/29/07 TUE 14:15 FAX 7605814135 COSM DEV SERVICE DEPT 002

COPY

FRAN BURIAN-GENEAU
1406 LA PLAZA DRIVE
SAN MARCOS, CA 92078

Phone: (760)510-6404 Fax: (760)510-6405

May 24, 2007

RECEIVED
MAY 29 2007
CITY OF SAN MARCOS
PLANNING DIVISION

VIA HAND DELIVERY AND EMAIL

City of San Marcos
Mr. Jerry Backoff, Director of Planning
1 Civic Center Dr.
San Marcos, CA

Re: San Marcos Creek Specific Plan and Floodway Improvement Project Draft Environmental Impact Report ("DEIR"), SCH No. 2006121080

Dear Mr. Backoff:

These comments are submitted in response to the Draft Environmental Impact Report ("DEIR") for the proposed San Marcos Creek and Floodway project ("Project").

The purpose of an EIR is "to provide public agencies and the public in general with *detailed information* about the effect which a proposed project is likely to have on the environment." Pub. Res. Code Sec. 21061. The EIR is central to CEQA, and "protects not only the environment but also informed self-government." Its purpose is *"to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." County of Inyo v. Yorty (1973) 32 Cal. App. 3d 795, 810.*

These comments arise from the opinion that this project, as stated, could cause significant environmental harm and impact. The current site conditions and the future impacts of the project have been insufficiently analyzed and understood, which will likely result in inadequate mitigation efforts.

16-1

Additionally, the specific economic, social, and other benefits of the project have not been stated sufficiently that we are persuaded they would override the significant harm to the environment and permanent loss of quality of life, health, and property values of neighboring residents and commuters.

As one court has stated, a "legally adequate EIR must contain sufficient detail to help ensure the integrity of the process of decision making by precluding stubborn problems or serious criticism from being swept under the rug." *Kings County Farm Bureau, 221 Cal.App. 3d at 733.*

To the end of gathering substantial supporting evidence for the either the method or even the necessity of the creek channeling, the need for a dense urban environment at all, and specific pollution mitigation efforts, the following comments and questions are submitted: 16-1 Cont.

(A) SPECIFIC DEVELOPMENT PROJECT PLANS ARE NECESSARY TO DEVELOP EDUCATED CONCLUSIONS ABOUT THE DESIRABILITY OF THE PROJECT AS A WHOLE AND THE NECESSITY OF THE CREEK CHANNELING. A "program level" description is not sufficient. (1-1) Without information regarding the specific nature and locations of the housing, retail and offices, we are left with nothing on which to base our conclusions of the merits of the project. And if the project is market-driven, what will we be left with after the expense of 100 million dollars and more on infrastructure, if the market is not conducive to significant private expenditure, or expenditure resulting in development that the residents as a whole will benefit from? 16-2

Please respond to the following questions about specific development plans: 16-3

1) What are the cross-streets of the low-income housing?
2) How high, and how many units will the specific housing unit buildings be?
3) Will the low-income housing be for all ages, or seniors? If senior housing is planned, where will that be located?
4) What specific kind of development, on what parcels, do you see as being essential for the project's economic feasibility? Please provide a listing of those parcel numbers that are essential to San Marcos' "vision" of the Creekwalk?
5) Where will the 80' buildings be sited?
6) Most cities use story-poles so that residents can determine the true impact of proposed structures. The desirability of 80' buildings, in particular, should be presented for public review using story poles. Do you intend to erect story poles? If not, why not? 16-4
7) What impact do you foresee on Lake San Marcos traffic, specifically the San Pablo Dr. cut-through. How does the City propose to prevent cut-through traffic? 16-5
8) Has the City prepared CAD drawings so that the impact and aesthetics of the building heights, levees, channeling, containment ponds (in wet and dry weather) and light pollution impact be evaluated by the adjacent communities? If not, please make those renderings available to the public as soon as possible. 16-6

(B) SUFFICIENT ALTERNATIVE PROJECT DESCRIPTION IS NOT PROVIDED. There is not sufficient alternative project description that allows for review of a project that would not require the loss of wetlands and protected plant and animal species, density, levees, and other components of a dense, urbanized downtown. CEQA requires that an EIR produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned. That has not been done 16-7

The project as proposed will admittedly cause an unmitigatable degradation of air quality. It will also cause significant increases in traffic noise, traffic congestion, and public safety problems. And it will diminish the safety of the many elderly residents of Lake San Marcos who have residences on San Pablo Dr., which is currently absorbing cut-through traffic from Rancho Santa Fe. Dr. and San Marcos Blvd. Those streets are already heavily congested and will not 16-8

be widened as a condition of this project. The project is surrounded by elementary and high schools, senior residence and medical care facilities, and the predominately retirement community of Lake San Marcos. The particular vulnerabilities of the surrounding population demand that an alternative project, with fewer or lessened negative impacts to public health and safety, be carefully and completely presented for public consideration.

San Marcos is in very sound financial condition, and has not proven that the financial and other needs and benefits of the project override the negative effects.

16-8 Cont.

(C) THE HYDROLOGY AND INFRASTRUCTURE DESCRIPTIONS ARE ALSO PROGRAM LEVEL, NOT PROJECT LEVEL; AND MATERIAL FACTS REGARDING THE CURRENT REGULATIONS THAT WILL DETERMINE THE EXTENT OF WATER MONITORING AND POLLUTION CONTROL ARE OMITTED OR MISSTATED. These facts are critical to the evaluation and description of the project, and are as follows:

- San Diego County Water Authority has a 25' easement on McMahr that may preclude the construction of a bridge that is central to controlling the projected traffic volume and flow. Has the McMahr Bridge been eliminated? Where will the traffic intended for McMahr be diverted?

16-9

- The DEIR references on 3.6-3 the RWQCB Order 2001-01 NPDS permit that "regulates stormwater discharges from public drainage systems," and requires the City to "implement a plan to eliminate pollutant discharges by requiring the implementation of appropriate BMP's at applicable areas." It goes on to state that "the City has prepared a Jurisdictional Run-off Management Plan (JURMP) which would apply to this project." However, RWQCB Order 2007-01 has replaced Order 2001-01, and is more stringent. As such, it potentially nullifies the JURMP previously prepared within the context of the expired Order 2001-01.

16-10

- The conclusion contained in the DEIR that the project will have no effect on the recreational use of Lake San Marcos is false if proper precautions and appropriate infrastructure improvements are not made. Effort must be taken to ensure that the sewage system is sufficient for the project, that restaurants are monitored to ensure that greases and fat do not enter the sewage system and cause sewage spills, and the use of fertilizers and other nutrients are limited.

16-11

- The current state of San Marcos Creek drainage, erosion, and pollutant content negatively impacts recreational use of Lake San Marcos in the following ways: being the source of unsightly sediment dumping after rain events, effecting the appearance of the lake and destroying fish spawning habitat; floating and uprooted vegetation after rain events, which have the potential to damage boat engines and so limits boating, and sewage spills, leading to the lake being posted and causing any recreational or other contact with the lake water to be avoided.

16-12

- Lake San Marcos is experiencing worsening groundwater impacts. Owners of dozens of homes on streets throughout the Lake are having to incur the expense of French drain systems and pumping systems to remove the groundwater that consistently collects on a year-round basis, and the loss of landscape plants due to soil saturation. To our knowledge, no study has been conducted to ascertain the source of the increasing groundwater. 16-13

Please respond to the following questions:

1) What impact will Order 2007-01 have on the project? In what specific ways is it more stringent? 16-14
2) What specific measures will you take to be in compliance with 2007-01?
3) Will the City consider formally limiting the use of fertilizers? 16-15
4) Can Vallecitos Water District divert sewage into pipes that are not lying under or adjacent to the lake? 16-16
5) In the event of a sewage spill into Lake San Marcos, what specific measures will the City and Vallecitos Water District take to control the spill and mitigate potential damage? 16-17
6) How will the elimination of the McMahr Bridge effect the traffic flow or other proposed street widenings and bridges? 16-18
7) What hydrological or geological evidence does the City have that water contained in sediment ponds at the Discovery Bridge location, and other locations, will not go into the soil and contribute to the groundwater problem in the Lake San Marcos neighborhood? 16-19
8) What specific sizable projects have the designers of the creek channel completed in the past? 16-20

- The DEIR states on 3.6-5 that "in accordance 303(d) of the Clean Water Act, the State Resources Control Board has established a list of 'impaired water bodies.' According to current 303(d) list, the City has no impaired water bodies." My understanding is that as of October, 2006, San Marcos Creek and Lake San Marcos were approved for inclusion on the 303(d) list of impaired water bodies. San Marcos Creek, which is within the boundaries of the City, is listed for, amongst other things, toxic sediment. 16-21

Please respond to the following questions:

1) What are the specific contaminants of the toxic sediment?
2) In what specific areas have those specific contaminants been deposited?
3) Is there potential that any toxins have been deposited into Lake San Marcos?
4) If they have been deposited into Lake San Marcos, or it is projected that they may be deposited, what methods is the City undertaking to prevent future entry of pollutants from San Marcos Creek? 16-22
5) What testing measures is the City undertaking to monitor the quality of the sediment and water that flows from the creek into Lake San Marcos? If testing is being done, how are the results being made available to the public? 16-23
6) Does contaminated leachate from Bradley Park enter the creek, and then Lake San Marcos? If there is contamination of the creek, what methods will the City undertake to prevent that leachate from entering Lake San Marcos?
7) Is the planned site for the project such that it overlaps with areas that are now or may be in the future contaminated by Bradley Park leachate? 16-24

4

8) Inclusion on the 303(d) list will require that TMDL's be applied that are appropriate for a lake that provides valuable habitat and is used recreationally in ways that result in secondary human contact. What does the City project those TMDL's to be for the specific contaminants that will be generated by the project? What specific methods will the City employ to ensure that those TMDL's are achieved? 16-25

(D) INSUFFICIENT GRAPHIC AND OTHER INFORMATION IS PROVIDED TO DETERMINE THE AESTHETIC IMPACT OF THE PROJECT. No visual information is provided to substantiate the conclusion that the project would "not result in glare or lighting impacts" and that there is "a less than significant impact to scenic vistas and scenic resources." 16-26

1) A berm of up to 15' is a very dominant feature of the project, and has the potential to be intrusive and unsightly. Has a mock-up or detailed illustration of the channel and berm build-up, in particular in its location nearest to the Lake San Marcos exit at Discovery, been done? If so, please provide that to the public. 16-27
2) Has a mock-up or detailed illustration of the holding or settling ponds, at the end of the creek prior to its entry into Lake San Marcos been done? If so, please provide that to the public. 16-28
3) How realistic is viable wetlands creation? How successfully can native plants be transplanted? 16-29
4) How will the City prevent off-roading and the other kinds of habitat destruction that has occurred on its natural wetlands? 16-30
5) What are the credentials of the agency or individuals who will be responsible for the wetlands creation, transplanting, and the subsequent preservation and protective measures that protected habitat creation will require to? 16-31

Please provide a report of the City's mitigation areas, with the specific locations of those areas and the species and number of the particular plants that were transplanted. 16-32

(E) SAN MARCOS HAS A NUMBER OF COMMERCIAL/OFFICE, INDUSTRIAL, RESIDENTIAL/PLANNED COMMUNITY, AND OTHER DEVELOPMENTS EITHER APPROVED OR UNDER CONSIDERATION. THESE DEVELOPMENTS WILL ALSO SIGNIFICANTLY IMPACT TRAFFIC FLOW, STORMWATER QUALITY, AIR QUALITY, AND HABITAT. THE IMPACT OF THESE PROJECTS IS CUMULATIVELY CONSIDERABLE, YET THE DEIR DOES NOT INCORPORATE A CUMULATIVE IMPACT REPORT (CIR). WITHOUT A LISTING OF PROBABLE FUTURE PROJECTS AND THEIR POTENTIAL IMPACTS AS A WHOLE, AN INFORMED REVIEW OF THE CREEK PROJECT IS IMPOSSIBLE AND WE CANNOT DETERMINE WHETHER THE FULLEST POSSIBLE PROTECTION OF THE ENVIRONMENT IS ACHIEVED, AS REQUIRED BY LAW. 16-33

A listing from a paper titled "City of San Marcos Development Update" dated February 21, 2007, lists the following approved projects or projects in the application phase, that also are located in areas impacted by the Project:

1) S. Twin Oaks Valley Rd. 4.6 acre Village P, mixed use development;
2) Montell/Leona Dr., Specific Plan for 25,000 s. f. office building approved but plans expired. In modification discussions;
3) SW corner of Melrose and Sparrow Lane, 19,078 s.f. retail/commercial center on 1.95 acres;
4) Mission and Vineyard, mixed use 23,000 s.f. retail, 30,000 s.f. office and 76 live/work home united proposed by City Center;
5) 125 Twin Oaks Valley Rd., 5.9 acres, 4 buildings totaling 60,000 s.f.;
6) 300 Rancheros _ 99,500 office building on 4.43 acres, to be completed at end of 2007;
7) Boardwalk and Parkplace, 24,000 s.f. office building on 1.35 acres;
8) S. Santa Fe Ave., 2 light industrial building in plan check;
9) Barham, 9.57 acres with potential for 181,056 s.f of light industrial being processed;
10) Old Scripps Hospital site, H.G. Fenton processing plans for 580,000 s. f. Business Park and 750 multifamily units on 86 acres;
11) Carmel St. south of SR 78, 112,000 s. f. 4-story office building, approved;
12) Windy Pointe Way, plans in check for 7 industrial/office buildings;
13) NE corner of Twin Oaks Valley, 12,000 s.f. industrial/office building;
14) Hanson Aggregate Heart of the City Specific Area Plan, not described;
15) Las Posas and Mission Rd., "Palomar Station," mixed use on 14.32 acres, 333 residential condominiums, 4,800 retail, 9,800 s.f. office building, and 6, 280 s.f. restaurant use.
16) Build-out of San Elijo Hills
17) Hi Tech High, and grade school, projected at San Marcos Blvd. and Discovery;
18) California Cove senior community, 105 units and retail space, in Lake San Marcos community.
19) Other projects reasonably anticipated but not known at this time.

16-33 Cont.

Please respond to the following questions:

1) What projects have been applied for that will impact the traffic patterns predicted to be impacted by the Creek project? 16-34
2) How will those projects add to the amount of impervious surfaces and thus the volume of urban runoff that will be dumped into the creek and Lake San Marcos? 16-35
3) If the City deems a Cumulative Impact Report (CIR) unnecessary, what legal grounds is it relying on to justify avoiding preparing for review a CIR? 16-36

G) SITE DESCRIPTION LACKS ANY SPECIFIC REFERENCE, DISCUSSION OR DESCRIPTION OF THE SITE CONDITIONS OF LAKE SAN MARCOS. It is critical to the health of the mostly retired and senior residents of the 200 homes lining Lake San Marcos, to the home values of the approximately 2,300 homes in the lake, to the health and habitat of the variety of fresh-water wildlife, migratory waterfowl, and for the economic viability of the Lake San Marcos Resort, that particular care be taken to assure that best available methods be used to protect the quality of the water entering the lake through the stormdrains and other sources originating from the City. 16-37

Please respond to the following questions:

1) During the preparation of the DEIR, was a site visit made by City officials and consultants to Lake San Marcos (LSM) to determine its condition (soil, vegetation, erosion conditions) at the juncture of the lake and the creek, adjacent to the golf course? 16-38

2) Has the City determined that the creek channel as it flows onto land in San Diego County jurisdiction and owned by CDC, is structurally and in other ways environmentally capable to receive, with no damage incurred, the volume, velocity, and urban runoff contaminates that the project and channeled creek is projected to generate? 16-39

3) We have photographs taken in March of a waterfall at that juncture. Serious erosion, tree uprooting, and bank undercutting occurred. Given the fact that the water was flowing from the City, what was the source of that water, and is the extensive erosion of the banks adjacent to the golf course a concern in relation to the lake's ability to "absorb" increased storm/ water flows without further erosion and sediment dumping? 16-40

4) What are the specific urban contaminants or impurities not typically contained in drinkable water that are expected to be generated by this urbanized environment? (The site is currently 55% undeveloped, per the DEIR.) 16-41

5) What specific contaminants or impurities will the 2007 stormwater permit require the City to test for and control? 16-42

6) What will those testing methods be? Who will conduct those tests?

7) What will the testing locations be, and how are they determined in respect to the project design and conditions? Please provide a map of those testing locations.

8) What are the locations of the stormdrains, both "natural" and manmade, that dump from the City into Lake San Marcos? Which storm drains are expected to carry the highest water volumes? Please provide a map of the stormdrains and drainage ditches, noting those currently carrying the highest volume, and those projected to carry the highest volume as the project commences. 16-43

9) Discuss with specificity the location and structure of the on-site drainage facilities. 16-44

10) Please discuss with specificity any and all other urban water pollution mitigation devices and methods the City will incorporate into the project, noting the factual evidence that those particular methods and devices effectively control pollutants of concern to the RWQCB. 16-45

11) The nutrient load of the sewage spills of February through April, 2005 promoted a dramatic bloom of cyanobacteria, commonly known as blue green algae. Dr. Lilian Busse' of Scripps Institute of Oceanography confirmed the strains as anabaena and oscillatoria. Both are known to produce to toxins. (Egrets and other wildlife sickened and died.) What will the City do to limit the nutrient-load that is dumped into LSM from its stormdrains? Has the City considered a policy that would promote the use of drought-tolerant plants that require little or no fertilization? 16-46

(G) LAKE SAN MARCOS IS A WINTER DESTINATION OF A VARIETY OF MIGRATORY BIRDS, AND A NUMBER OF BIRDS NEST AND FEED FROM THE LAKE. The following is an email from Darold Hollen, member of Buena Vista Lagoon Audubon Society, and is a listing of the birds he observed during a short boat ride on Lake San Marcos: 16-47

From: HoltenDarold@aol.com

To: fburian@adelphia.net ; baldwinpacific@adelphia.net

Cc: HoltenDarold@aol.com

Sent: Wednesday, January 10, 2007 2:26 PM

Subject: Birding at Lake San Marcos on January 9

Listed below are the birds we saw on January 9. In all we saw 35 different species. They are listed below in alphabetical order with the number of each species listed to the right of the name. If we saw large numbers, we just wrote "many".

Black bird, red-winged 2
Bushtit 1
Coot 5
Crow 9
Cormorants, double-crested many
Ducks:
Buffle headed many
Mallard 3
Ring-necked many
Ruddy 1
Egrets:
Cattle 1
Great 3
Snowy 9
Finch, house 3
Hawk, Red-tailed 1
Gadwall 1
Gull, Ring-billed 5
Grackle, Common 1
Grebe, Piedbill 1
Herons:
Black Crowned Night 4
Great Blue 2
Green 1
Hummingbird, Anna's 2
Moorhen, Common 1
Pelican, White 1
Phoebe, Black 6
Scaup, Lesser 10
Shoveler, Northern 2
Swan, Mute 1
**Tern, Least 2 (bolding is mine)
Towhee, Spotted 1
Wren, Marsh 1

Wrentit 11
Warbler, Yellow-rumped , many
Woodpecker, Ladder-backed 1
Yellowthroat, Common 1

Darry and Virginia Holten

I have the following that have been identified using the Audubon Field Guide, to add to the list:

DUCKS AND GEESE:

Redhead duck (population declining due to habitat loss)

Cinnamon Teal

American Wigeon

Common Merganser

Western Grebe

Pied Billed Grebe

Canada Goose

SANDPIPER:

Spotted Sandpiper

GROUND OR PREDATORY BIRDS

California Quail

Owls

Red Tailed Hawk

Osprey

Coopers Hawk

Terns (unable to determine which species)

PERCHING:

Cliff Swallows

Belted Kingfisher

American Dipper

Great Tailed Grackle

Phainopepla

It is anticipated that when the fish population recovers from the massive fish kill of June, 2005, the White Pelicans will migrate to the lake in the number of the previous year, which was at least 60.

Please respond to the following question:

1) Many of these birds are migratory. What are the specific data and sources of that data that the City used to base its conclusion that the project will not affect migratory patterns?

16-47 Cont.

THE DEIR MUST BE RECIRCULATED

The Californian Supreme Court has held that recirculation is required where the DEIR is "so fundamentally and basically inadequate and conclusory in nature that public comment (is) essentially meaningless." A failure to recirculate the EIR would deny the public and the agencies "an opportunity to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom."

16-48

The DEIR has the following fundamental deficiencies:

1) The traffic, stormwater quality, and other impacts cannot be reasonable evaluated unless all projected projects are evaluated as a whole in a Cumulative Impact Report.

16-49

2) The JURMP was developed within the parameters of an expired and less stringent stormwater permit.

16-50

3) There is no discussion of the environmental significance of the inclusions of San Marcos Creek and Lake San Marcos on the 303(d) list.

16-51

4) The vagueness of the project (i.e. the "uncertainty of the buildout, 1-20) is used to forego an analysis of the near-term impacts and to proclaim "unknown" the size and potential trip generation that could occur with the individual projects. The public and regulatory agencies, as a result, are unable to evaluate if the infrastructure is adequate, if the project is too large, or even if the creek needs to be channeled to accommodate the project.

16-52

5) No alternative project is presented in any detail that will allow the creek path to be natural and viable rich wetlands environment, rather than channeled, bermed and leveed. And no project alternative is presented that will protect nearby residents from years of construction noise, dust, and traffic, and the unhealthful effects of significant permanent degrading of air quality.

16-53

The DEIR is so sufficiently lacking that the only way to correct these issues is to revise it and

16-54

16-54 Cont.

recirculate an adequate report.

Thank you for your careful consideration of these comments, and I look forward to your response.

Very truly yours,

Fran Burian-Geneau
1406 La Plaza Dr.
Lake San Marcos, CA 92078

cc: Regional Water Quality Control Board
EPA
U S Fish and Wildlife
California Department of Fish and Game
U S Army Corps of Engineers
Sierra Club
Coastkeeper
Savediscovery

Letter 16
Fran Burian-Geneau
May 24, 2007

1 This comment provides opening remarks and addresses the requirements of an EIR. This comment does not raise a specific issue with the environmental document not otherwise addressed with the responses below.

2 This comment addresses the program-level review of the Specific Plan area. As noted in Section 2.4 of the Draft EIR, the EIR provides a program-level analysis of the impacts associated with implementation of the Specific Plan. Because specific development projects are not proposed within the Specific Plan area at this time, the EIR provides a program level clearance for this portion of the project. Subsequent environmental review may be required for future development within the Specific Plan area, including project-specific traffic and noise assessment. Other technical studies may be required on a project-by-project basis.

The Specific Plan is designed to allow flexibility in the location of particular land uses throughout the project area. The Specific Plan has been set up in sub-districts, with each district having a different emphasis. This information was presented in Table 2.3-1 of the EIR. Figure 2.3-10 of the EIR also presented the proposed floor to area ratios for the Specific Plan area. The higher the floor to area ratio, the denser the proposed development will be.

To the extent that this comment questions the overall wisdom of this project, such a comment goes beyond the purview of CEQA and no further discussion is required.

3 This comment asks about low income housing as it relates to the Specific Plan development. The project will include housing to meet a variety of economic levels. Since specific development plans are not yet available for parcels within the Specific Plan, it cannot be identified where these would occur.

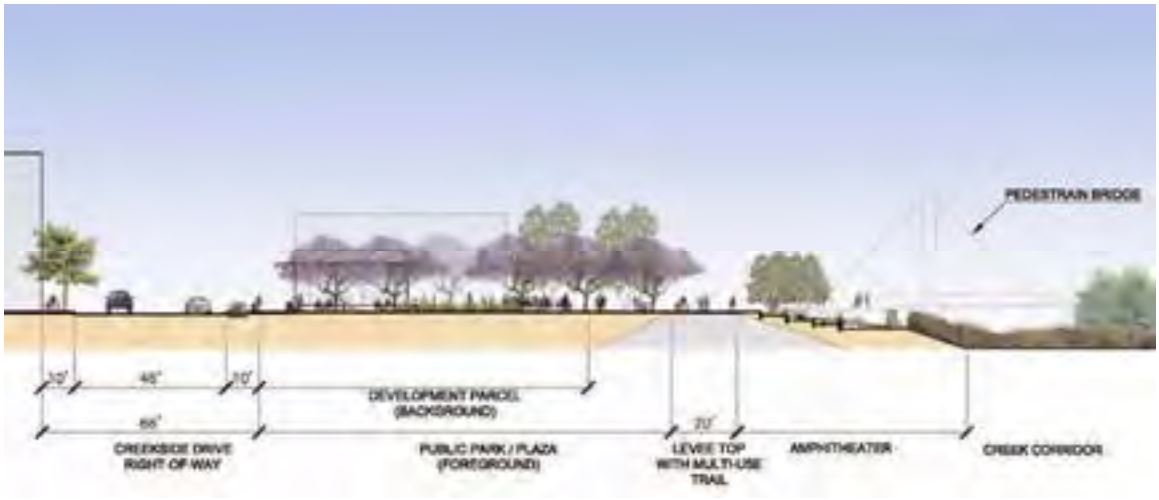
This comment also asks which parcels are essential for the project's economic feasibility. The City has not identified key parcels at this time. The Specific Plan is designed to be built out over a 20-year time period.

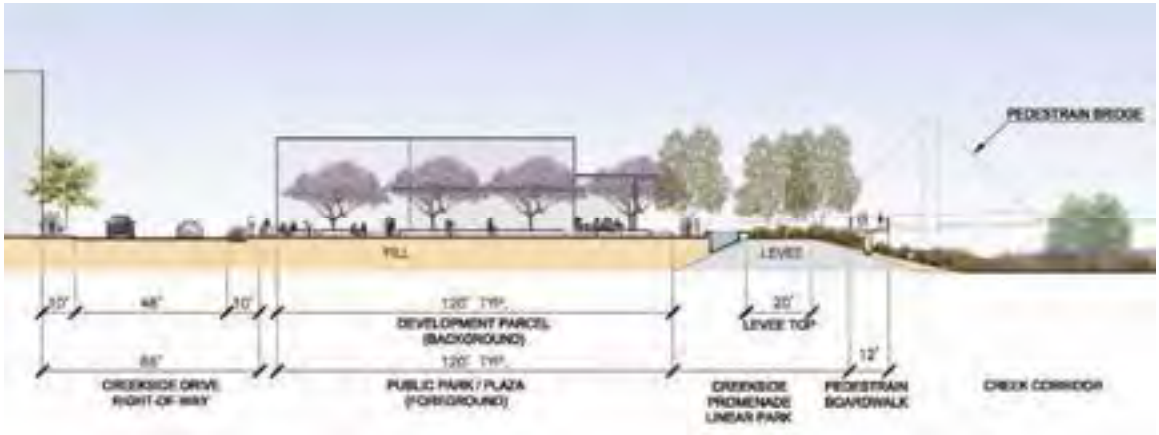
4 As noted in response 2, the denser areas within the Specific Plan are identified in Figure 2.3-10 as having the highest floor to area ratio. This generally corresponds to a taller building. At this time, it is not realistic to erect story poles, as there are no specific development proposals pending and it is not known what the specific height of the future buildings will be.

5 A traffic impact analysis was prepared for the project. Cut through traffic on San Pablo Blvd. was not addressed at part of the traffic study. Comment 7 of the Lake San Marcos Task Force letter raised a similar comment. As noted in that response, this comment is not directly related to the project considered in the Draft EIR. It should be noted that the City is in the process of implementing improvements at the intersection including adding additional through lanes on San Marcos Boulevard. These improvements should help alleviate the cut-through traffic that this comment addresses.

6 The Specific Plan prepared for the project included cross sections of the creek and levee, and

these illustrations are provided below. The levees will have a gradual slope and will be vegetated so as to appear as an extension of the creek vegetation.





7 This comment states that there was not a sufficient alternative project description. This comment is interpreted to mean that there were not adequate alternatives considered in the EIR. The City does not concur with this statement. The selection of alternatives was based on consideration of project impacts as explained on pages 4-1 and 4-2 of the Draft EIR. The Draft EIR considers four project alternatives:

- No Project/No Development Alternative;
- No Project/Existing General Plan Alternative;
- Via Vera Cruz Bridge Alternative; and
- Reduced Density Alternative.

As explained in the EIR, each alternative was identified and evaluated on the basis of its ability to eliminate or reduce impacts in the following resource areas:

- Aesthetics;
- Air Quality;
- Biological Resources;
- Cultural Resources;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Land Use;
- Noise;
- Public Services;
- Transportation and Traffic; and
- Utility and Service Systems.

(Draft EIR, pp. 4-1 to 4-2.)

Moreover, as explained in the EIR, and summarized at Table 4-1, each identified project alternatives has fewer overall impacts than the proposed project. (Draft EIR, pages 4-2 to 4-25, especially 4-24 to 4-25.) Additionally, each alternative has at least one reduced impact as compared to the proposed project in the one category of impacts identified as significant and unavoidable for the proposed project air quality. (*Id.*)

8 This comment addresses air quality, traffic and public safety impacts associated with the project. Each of these issue areas was addressed in the EIR. Section 3.2 of the EIR analyzed the air quality impacts of the project. The analysis concluded that the project would have significant and unmitigated air quality impacts due to project construction (NOx) and project operation (PM10, ROG and NOx). Section 3.10 of the EIR analyzed the traffic impacts of the project. As noted in Section 3.10, all year 2030 traffic impacts will be mitigated to below a level of significance. This section of the EIR also noted that due to uncertainty of the buildout phasing of the Specific Plan area, analysis for the near-term impacts associated with buildout of the Specific Plan was not conducted for the project. It is unknown at what rate the individual development projects within the Specific Plan would come forward. It is also unknown the size and potential trip generation that could occur with the individual projects. Analysis for the buildout of the Specific Plan in the Year 2030 has been conducted, and is discussed in the following section.

Given that several segments and intersections within the project vicinity currently operate at a degraded level of services, it is likely that development projects coming forward in the future within the Specific Plan area would exacerbate those impacts unless additional roadway and intersection improvements occur. This represents a potentially significant impact. A mitigation measure has been identified (MM 3.10-2) requiring individual projects to prepare a traffic impact analysis and implement mitigation measures to address the interim conditions and allocate the mitigation measures concurrently with the impacts.

It should also be noted that the Specific Plan includes a Policy (3.7.2) stating that traffic conditions within the Specific Plan area shall be analyzed every three years to assess the need to adjust capacity projections. If the analysis indicates that the proposed development is consuming network capacity faster or slower than projected, the City would adjust the development intensity categories.

The EIR also addressed Public Services in Section 3.9 of the Final EIR. The analysis concluded that development of the proposed project would result in an increase in demand for fire protection, police protection, school services, library facilities, and parks and recreation; however, the increase would not be at a level that would result in a significant impact. Future developments within the Specific Plan area shall either annex into an existing community facilities district (CFD) or be responsible for payment of Level 2 school fees ($4.26 per s.f.) as specified in the District's most recent School Facilities Needs Analysis at the time the building permit is obtained. The project would also have to contribute to a Public Facility Fee payment, which includes a category for parks and recreation. Further, the project is consistent with the applicable goals, policies and implementing strategies of the Safety Element and the Park and Recreation Element of the San Marcos General Plan.

9 This comment addresses the elimination of the McMahr bridge crossing. Subsequent to the circulation of the Draft EIR, it was determined that the McMahr bridge would not be constructed. Instead, a bridge is proposed for Via Vera Cruz, as analyzed in Chapter 4 (Alternatives) of the Draft EIR. A subsequent traffic analysis was performed to evaluate the effects of the elimination of the McMahr bridge would result in a significant change in the traffic conclusions. Based upon the memorandum prepared by RBF Consulting, in the 2030 year condition, all roadway segments and intersections would operate at an acceptable level of service, even with elimination of the McMahr bridge. Thus, the elimination of the McMahr bridge would not change the significance conclusions in the EIR regarding traffic impacts. The complete memorandum is included as Appendix L of the Final EIR.

10 This comment addresses the RWQCB Order 2007-01. Page 3.6-3 of the EIR has been revised to reflect RWQCB Order 2007-01. The new information is as follows:

> *In January 2007 the RWQCB adopted Order 2007-0001, a municipal permit to all of the jurisdictions within San Diego County. This permit and the previous permit (Order 2001-01) have requirements of development projects to minimize or eliminate the impacts of development on water quality. This project is subject to the requirements of the municipal permit as it is implemented via the City's Urban Runoff Management Program. The specific requirements include the selection of appropriate BMPs to avoid, prevent or reduce the pollutant loads info the storm drain system and the receiving waters.*

11. This comment addresses sewage systems and the impact from grease from restaurants. The conceptual sewer plan prepared for the project is designed to meet the wastewater generation of the project. The City will coordinate with Vallecitos Water District, the agency that would serve the project, to assess how the project will tie into the District's backbone sewer system. Additionally, as identified in mitigation measure (MM 3.11-1) a Sewer Study shall be prepared to the satisfaction of VWD and shall identify the needed infrastructure needed to support Phase 2 development of the project. Future developers within the Specific Plan area shall be responsible for the payment of fair share fees for the necessary water and sewer infrastructure upgrades. Additional environmental review shall be required for any off-site improvements.

With regard to grease traps, the City does ensure that restaurants install grease traps, per the

building code. Fertilizer and nutrient use within the project area would be limited to the maximum extent practicable. Additionally, the project will incorporate BMPs that will minimize contaminants before they enter the public storm drain system.

12 This comment provides information on existing contamination at Lake San Marcos. This comment does not address the project area, nor does it address an environmental issue related to the project. Therefore, no further response is warranted.

13 This comment addresses groundwater impacts of Lake San Marcos on nearby residents. This comment does not address the project area, nor does it address an environmental issue related to the project. Therefore, no further response is warranted.

14 This comment addresses RWQCB Order 2007-01 and the impact it would have on the project. Order 2007-0001 will have varying near-term and long-term impacts to the project. The near-term impacts deal with the development of the site. Per the previous permit, Order 2001-01, the City requires that all development projects, including the San Marcos Creek project, implement Best Management Practices (BMPs) to mitigate impacts of the project.

For Phase I of the project, the City is proposing to implement Low Impact Development Site Design BMPs, Source Control BMPs and Treatment Control BMPs.

The LID Site Design BMPs will include minimizing the direct connections between impervious surfaces and the storm drain systems, use of alternative surfaces instead of impermeable surfaces, and site planning to minimize the impacts of the development. Specific BMPs may include: porous concrete; grassy swales; rooftops draining to landscaped areas; flow through planters, and; infiltration trenches.

The Source Control BMPs will include the enforcement of the City's Jurisdictional Urban Runoff Management Plan and Municipal Code sections that affect existing development including commercial and residential sectors. As future development occurs, they will be subject to the same development requirements stated in the response provided above for land-development projects. Additionally, once the development is complete, the site use is regulated based on the activities, e.g., commercial businesses or residential units. The future development will be inspected and the City's program enforced to minimize the discharges of pollutants.

Additionally, the project improvements will include Source Control BMPs where applicable. Specific BMPs may include: marking of storm drain inlets; educational kiosks/signage; efficient irrigation systems; enclosed trash storage areas, and; the use of alternative building materials.

The Treatment Control BMPs will be implemented to treat the 85th percentile flows (i.e., first flush) from the project site. At this time, the proposed treatment system is a media filtration system that is capable of treating the 8t5th percentile flows from the entire proposed project development area (at the expected discharge rates). The media filtration system has cartridges that are interchangeable to treat the anticipated pollutant types from the project area. If it is determined that the pollutant types coming from the project area are different than currently anticipated, the media cartridges will be adjusted so that they are effective at treating the

pollutant types and loads. Other treatment features may include the following: infiltration trenches; vegetated swales; buffers zones, and; inlet filtration as pre-treatment.

15 This comment asks if the City will formally eliminate the use of fertilizers. At this time, there are no plans within the City to formally eliminate the use of fertilizers on a City-wide basis.

16 This comment pertains to sewer diversion by VWD. This comment is not related directly to the project and the City does not have specific information about sewer diversion possibilities. The City encourages the commenter contact the Engineering Department of VWD (www.vwd.org).

17 This comment poses a hypothetical situation of a sewage spill into Lake San Marcos. A sewage spill would be the responsibility of the agency or jurisdiction that caused the spill to occur. This comment does not specifically address the adequacy of the EIR. Therefore, no additional response is provided.

18 This comment address potential change in traffic flows based upon the elimination of the McMahr bridge. Based upon the change in project description to remove Mc Mahr bridge, an addendum to the traffic impact report was prepared. The addendum looked at the new distribution of traffic with elimination of McMahr. Based upon the new analysis, the conclusions in the Draft EIR for transportation and the traffic remain the same. That is to say, the elimination of the McMahr bridge does not result in new significant traffic impacts. Please see Appendix L of the Final EIR for the additional analysis prepared by RBF.

19 This comment addresses groundwater percolation from the proposed settling pond at the Discovery Bridge. Groundwater impacts are an existing issue in the Lake San Marcos community, and as the reader notes, it is unknown where the source of the problem is. Implementation of the project is not expected to further exacerbate the problem.

20 The comment asks about the experience of the floodway improvement design engineers. The floodway improvement project is designed by registered professional engineers in the state of California who are employed with Parsons Brinkerhoff (www.pbworld.com).

21 This comment reiterates a statement that was included in the Draft EIR. This paragraph leads into the comments that follow in comments 22 through 24.

22 This comment asks about what the specific contaminants are in toxic sediment. Sediment toxicity is a condition rather than a pollutant. The 303(d) listing for sediment toxicity was generated by the State Water Resources Control Board (SWRCB). For more information about the exact location of the site where the samples were taken that determined the impairment, please refer to the SWRCB fact sheet pertaining to the listing which can be located at the following website address http://www.swrcb.ca.gov/tmdl/docs/303dlists2006/final/staffreport/v3r9_final.pdf on page 205 of 272.

The City currently does not have information as to exactly where the sampling site is that qualified as impaired for sediment toxicity. Please refer to the SWRCB fact sheet (listed above) for more information. The City currently does not have information on the impacts in

Lake San Marcos – other than the inference that the Lake itself was not listed for sediment toxicity.

The City's Jurisdictional Urban Runoff Management Plan and the Carlsbad Watershed Urban Runoff Management Plan implement and requires the implementation of BMPs and activities in order to minimize the pollutant loadings to the City's storm drain and the receiving waters, including San Marcos Creek, Lake San Marcos, Batiquitos Lagoon and the Pacific Ocean.

23 This comment asks about sediment testing for water quality purposes. There are no monitoring efforts for testing sediment quality in San Marcos Creek before it enters the Lake. The City has dry weather monitoring activities throughout the City to determine if there are illicit discharges occurring into the City's storm drain system. This dry weather monitoring program has locations along the City's system that are tributary to San Marcos Creek and Lake San Marcos. The results of the City's program are available upon request of the City.

24 This comment addresses contaminants at Bradley Park and steps the City may take to remedy the issue. There is no evidence that leachate is leaving the Old Linda Vista Landfill, located at Bradley Park. Therefore, it is not possible to make a statement as to whether leachate impacts the San Marcos Creek, the project area or Lake San Marcos.

25 This comment asks what TMDLs will be applied to the lake and creek. There is no way of knowing what the TMDLs will be for San Marcos Creek or Lake San Marcos. It is suggested that the commenter "stay tuned" with the City and the Regional Water Quality Control Board in the coming months and years as the TMDLs for these areas are developed. Until TMDLs are established, the City, and other involved entities, won't know what specific methods will be used to achieve the TMDLs.

26 This comment states that the EIR does not include adequate to conclude that the project would not result in lighting and glare impacts. The EIR included an analysis of why lighting and glare impacts would be less than significant.

The lighting and glare analysis on pages 3.1-15 and 3.1-16 of the EIR considers the lighting impact of the proposed project as a whole. The proposed project would incorporate lighting to the extent necessary for safety and security, and to complement architectural character of future buildings developed within the Specific Plan Area. Additionally, street lighting would be incorporated along the roadways and bridges that are planned for development as part of the project.

Lighting requirements are guided by standards set by the City of San Marcos, which requires downward-directed low-pressure sodium vapor lighting, with the exception of specialized streetscape lighting or architectural detail lighting. These requirements aid in the preservation of dark-sky conditions, which are needed by the local observatories. The proposed project is required to comply with the City's lighting standards, and the location, type, and direction of the lighting would be reviewed during Site Development Review to ensure compliance with City requirements. Additionally, the Specific Plan (Section 6.2.2) includes specific requirements for building lighting. Per the proposed Specific Plan, over-illumination shall be avoided. Therefore, no significant impacts related to local observatories are noted.

Future structures on the project site are not expected to be a substantial source of glare, as they are not expected to include highly-reflective treatments or finishes. As identified in the Specific Plan (Chapter 6), preferred materials include stone, tile, terra cotta, metal and glass. While glass and metal are identified, it is expected that they would be used more as accents. Therefore; the project would not result in a significant aesthetic impact related to glare.

The EIR also determined that the project would have a less than significant impact to scenic vistas and scenic resources. As noted in Section 3.1.1, scenic vistas within the City of San Marcos are associated with vistas of primary and secondary ridgelines. The project site is not located within a primary or secondary ridgeline. The greatest visual amenity within the project area is San Marcos Creek, which runs along the southern portion of the project area. Improvements are proposed for the creek to reduce flooding. This would result in the removal of some vegetation; however, mitigation is provided to replace this lost vegetation. Implementation of the project includes preserved natural open space areas, as well as public parks, which would enhance the user's experience of the creek and enhance scenic vistas.

Development associated with the Specific Plan will vary in height depending on the location within the Specific Plan. The densest areas will be a minimum of three stories (35 feet) and can reach up to 80 feet. The remaining areas of the Specific Plan will be a minimum of two stories (25 feet) and can reach up to 65 feet. Please see Section 3 of the Specific Plan for complete details on the development standards for the project. Current development north of the project site does not have views to the creek; therefore, the development of the project area would not remove any existing views to the creek corridor. Portions of the Discovery Hills neighborhood located south of the project site have views of the creek, primarily the vegetation associated with the creek. These views would not be impeded, as development associated with the project would be located north of the creek. Therefore, implementation of the project would not result in a loss of scenic vistas and a less than significant impact is identified.

State Route 78 is not identified as a Scenic Highway per the Caltrans State Scenic Highways Program. SR-78 passes through the northeastern portion of the project site, though views to the project site are limited due to topography and intervening development. Specifically, the existing Creekside Marketplace on San Marcos Boulevard, adjacent to the SR-78, greatly blocks the view of the project site from east-bound SR-78 traffic. Development of the project would result in the removal of vegetation; including trees (see Section 3.3, Biological Resources). No significant rock outcroppings are known to occur on the site; therefore, no

outcroppings would be altered as part of the project. Historic structures are located within the project area (see Section 3.4, Cultural Resources), and these structures are likely to be removed as part of project development; however, these structures are not visible from SR-78. The loss of vegetation and the historical structures is not expected to result in a significant visual impact, as vegetation would be replanted as part of the project mitigation. Further, future development within the Specific Plan area would have to adhere to strict design guidelines, as identified in the Specific Plan. Therefore, a less than significant impact is identified for this issue area.

27 This comment addresses the proposed 15-foot levee berm and the associated visual impacts. The 15-foot berm will be terraced and vegetated, which will enhance the appearance of the feature. Please see Chapter 4 of the Specific Plan for additional information on the types of planting programs and visual enhancements that are proposed for the levee. Cross sections have been prepared and are presented in response 6 above. Specific illustratives have not been prepared for the area in question.

28 This comment asks if a mock up or detailed illustration of the berm has been prepared at this time. A mock-up or detailed illustration has not been prepared. Please see response 27.

29 This comment asks how viable wetland creation is and how successful native plants can be transplanted. Wetland creation is viable mitigation option and has successfully been implemented in the City of San Marcos and northern San Diego County. Native plant transplantation can also be successful. Both wetland creation and native plant relocation will be subject to a management plan that will identify specific performance criteria for species success and subject to monitoring to ensure success of the program. Please see mitigation measure MM 3.3-1 for the proposed wetland mitigation program and mitigation measure MM 3.3-7 for the proposed sensitive plant relocation program.

30 This comment addresses illegal off-roading and how the City will discourage this within the project area. The City does not condone off-roading or other habitat destruction. The proposed project would bring more people to the area surrounding the creek. Typically, with more people present, illegal activities, such as off-roading in undesignated areas, would be curtailed.

31 This comment addresses the credentials of the biologist that will complete the habitat restoration. The proposed restoration, creation and enhancement for the project will be conducted by a qualified biologist. Restoration, creation and enhancement mitigation will be subject to a management plan that will identify specific performance criteria for species success and subject to monitoring to ensure success of the program.

32 The comment asks for a list of the City's mitigation areas. This comment does not address the adequacy of the EIR; therefore, no additional response is warranted.

33 This comment notes a list of projects that are included in a February 21, 2007 development update list from the City website. It is assumed that these projects are referenced as cumulative project. Some of these projects were considered as cumulative project in the impact analysis. Please see Table 7.1-1 of the EIR.

34 This comment asks which of the project listed in comment 34 have been applied for and what the traffic impacts will be. Some of the project identified in comment 33 may add traffic to the same roadway segments as those used by the project. The traffic impact analysis prepared for the project considered the orderly buildout of the City for the Year 2030 analysis, including the identified projects. The analysis concluded that in year 2030, all roadway and intersections would operate at an acceptable level of service.

35 This comment asks how the project identified in comment 33 will add to the volume of urban runoff. Development of the project will increase the amount of impervious surface on the project site compared to the existing condition. All projects within the City of San Marcos are required to incorporate site design BMPs and other detention features to control runoff in a matter that prevents impact to the downstream channel. The City has implemented water quality requirements for all new development which require projects to control peak flow rates and duration so as to not cause downstream erosion

36 This comment requests that a Cumulative Impact Report be prepared. There is no legal requirement for a stand-alone cumulative impact report. The EIR included a cumulative impact analysis in Section 7 of the EIR.

37 This comment states that the EIR should provide more information on Lake San Marcos. The project site does not include Lake San Marcos. Therefore, extensive information about the lake is not included in the Draft EIR. Page 3.6-6 did note that the project site is located approximately 0.5 mile upstream from Lake San Marcos. The project includes specific Best Management Practices (BMPs) for the purposes of minimizing the discharge of pollutants and maintaining the flow events (discharge rates) from the project site. The first is the use of Low Impact Development (LID) Site Design BMPs, the second is the use of Source Control BMPs, and the third is the Treatment Control BMPs.

The LID Site Design BMPs will include minimizing the direct connections between impervious surfaces and the storm drain systems, use of alternative surfaces instead of impermeable surfaces, and site planning to minimize the impacts of the development. Specific BMPs may include: porous concrete; grassy swales; rooftops draining to landscaped areas; flow through planters, and; infiltration trenches.

The Source Control BMPs will include the enforcement of the City's Jurisdictional Urban Runoff Management Plan and Municipal Code sections that affect existing development including commercial and residential sectors. As future development occurs, they will be subject to the same development requirements stated in the response provided above for land-development projects. Additionally, once the development is complete, the site use is regulated based on the activities, e.g., commercial businesses or residential units. The future development will be inspected and the City's program enforced to minimize the discharges of pollutants. Additionally, the project improvements will include Source Control BMPs where applicable. Specific BMPs may include: marking of storm drain inlets; educational kiosks/signage; efficient irrigation systems; enclosed trash storage areas, and; the use of alternative building materials.

The Treatment Control BMPs will be implemented to treat the 85th percentile flows (i.e., first flush) from the project site. At this time, the proposed treatment system is a media filtration

system that is capable of treating the 8t5th percentile flows from the entire proposed project development area (at the expected discharge rates). The media filtration system has cartridges that are interchangeable to treat the anticipated pollutant types from the project area. If it is determined that the pollutant types coming from the project area are different than currently anticipated, the media cartridges will be adjusted so that they are effective at treating the pollutant types and loads. Other treatment features may include the following: infiltration trenches; vegetated swales; buffers zones, and; inlet filtration as pre-treatment.

38 This comment asks if a site visit was made to Lake San Marcos during the preparation of the Draft EIR. The area in question is not within the proposed project area of the Draft EIR; therefore, a specific site visit for purposes of the environmental document preparation was not conducted.

39 This comment asks if the City has determined the creek channel is structurally capable of handling the runoff anticipated from the project. The project is expected to reduce solids (sediments and trash, debris) carried to the Lake San Marco; urban runoff contaminates will go treated through Best Management Practices (BMP's) before being released into the creek. The total runoff volume generated by the project will not be greater than the existing conditions or that would be generated by the development of the area without the proposed creek improvements. The proposed levee system conforms to FEMA generated parameters immediately downstream of the Discovery Street bridge.

40 This comment addresses existing off-site erosion impacts. The area in question is outside the project limits, however the proposed conditions will not increase the volume of flow from the existing conditions. The flow entering Lake San Marcos is generated from an approximately 17,000 acre watershed that currently follows a natural course to Lake San Marcos – albeit through some developed areas. The proposed area of improvement is approximately 300 acres, about 1.75% of the total watershed, and will meet existing conditions at the Discovery Street outlet, therefore not increasing the bank erosion from current conditions. Through engineering studies and modeling, it has been determined that the proposed "check dam(s)" being designed will reduce sediment transport to Lake San Marcos during the 100-year storm event.

41 The comment asks what contaminants are expected from the urban runoff. Expected pollutant types that will generated and accounted for in the BMP and treatment process selection will be, in no particular order of importance: bacteria, pesticides, nutrients, oil and grease, sediment, trash, and heavy metals.

42 This comment asks for what contaminants will the 2007 storm water permit require the City to test for. This comment is not specific to the project and the EIR, but rather is related to the City's JURMP which is currently being revised to meet the new permit requirements. The revised program isn't due to the RWQCB and required to be implemented until January 24, 2008. Therefore, testing requirements are not known.

43 This comment asks about the location of the proposed storm drains that will intersection with the Creek. The project is still being designed and the final locations of the storm drains have not been finalized, therefore a map cannot be provided at this time. The total conveyance in the Creek during the 100-year storm, including existing runoff in San Marcos Creek, Las

Posas channel, and input from all developed storm drains is approximately 18,000 cubic feet per second (cfs) at the Discovery Street crossing including fully developed conditions, which matches existing conditions. The major contributor is the San Marcos Creek itself with approximately 14,000 cfs coming from the portion upstream of SR-78, plus an additional 3,400 cfs from the Las Posas channel; the area between SR-78 and Discovery Street bridge within the Specific Plan limits contributes approximately 550 cfs, less than 2% of the total discharge at the Discovery bridge. Under the proposed, fully developed conditions, there are no storm drains that will dump water into Lake San Marcos. All storm drains will dump treated water into San Marcos Creek, which is a tributary to Lake San Marcos.

44 This comment asks about the proposed location and structure of on-site drainage facilities. The primary structure will be the flood control improvements along San Marcos Creek between SR-78 and Discovery Street. This system will include levees, a bridge at Via Vera Cruz, a low flow crossing at Bent, and a check dam at the Via Vera Cruz structure and immediately upstream of the Discovery Street bridge. In addition, improvements along SR-78 will construct a new bridge crossing over San Marcos Creek to contain the 100-year event, preventing the current flooding conditions along San Marcos Boulevard. The portion of Las Posas channel, south of San Marcos Boulevard will be routed through concrete box culverts until it convenes with the Creek. In addition, a storm drain system in Discovery Street and Main Street will collect local flows for BMP treatment prior to discharge into the Creek.

45 This comment asks about specific water quality control mitigation devices. The media filtration treatment control BMP and the site design and future source control BMPs are all acceptable to the RWQCB as they are a part of the regional Model SUSMP document that the RWQCB accepted. The BMPs were selected to be effective for treating the expected priority pollutants of concern – bacteria, nutrients, pesticides and sediment. Also, please see response 14 above.

46 This comment addresses nutrient loading in Lake San Marcos. The City's program uses several methods in order to reduce nutrient loading from its storm drain system to San Marcos Creek which is tributary to Lake San Marcos. The City's program includes education and outreach to the community regarding the use of nutrients (fertilizers) as well as the dry weather monitoring program that is intended to identify illicit dischargers of pollutants including nutrients. The City's program also requires that application of nutrients be done in consideration of the required Best Management Practices (BMPs). These BMPs are listed in the City's Jurisdictional Urban Runoff Management Plan and the Commercial-Industrial Manuals. The City has encouraged the use of plant types that are native to the area that would require little or no fertilization as well as reduced amounts of irrigation. The encouragement comes through the education and outreach process.

47 This comment includes a list of migratory birds that may nest and feed at Lake San Marcos, as compiled by a member of the Buena Vista Audubon Society. This comment also addresses the project's impact on migratory birds. With regard to migratory bird species, the EIR concluded that the project has the potential to impact migratory birds. A mitigation measure (MM 3.3-10) is included requiring a pre-construction survey for nesting raptors and other birds that are protected under the MBTA.

48 This comment states that the Draft EIR should be recirculated due to fundamental

deficiencies. Specific areas of concern are identified in subsequent comments. The City does not concur with this statement. With regard to recirculation of the Final EIR, the changes do not meet the requirements for recirculation at detailed in Section 15088.5 of the State CEQA Guidelines.

49 This comments states that traffic, stormwater quality and other impacts cannot be evaluated unless a cumulative impacts report is prepared. Per CEQA, the Draft EIR included a cumulative impact analysis in Section 7 of the EIR, this included analyses of traffic, hydrology/water quality, and other issue areas. Therefore, no additional analysis is required.

50 Page 3.6-3 of the EIR has been revised to reflect RWQCB Order 2007-01. The new information is as follows:

> *In January 2007 the RWQCB adopted Order 2007-0001, a municipal permit to all of the jurisdictions within San Diego County. This permit and the previous permit (Order 2001-01) have requirements of development projects to minimize or eliminate the impacts of development on water quality. This project is subject to the requirements of the municipal permit as it is implemented via the City's Urban Runoff Management Program. The specific requirements include the selection of appropriate BMPs to avoid, prevent or reduce the pollutant loads info the storm drain system and the receiving waters.*

This change in description does not change the conclusions of the Draft EIR.

51 This comment states that there is no discussion of the inclusion of Lake San Marcos and San Marcos Creek on the 303(d) list. The inclusion of San Marcos Creek and Lake San Marcos on the 303(d) list was identified in the Draft EIR. This would be assumed to be a baseline condition for the project.

52 This comment states that the environmental document did not provide enough specificity to evaluate impacts. Please see Response 2 about the level of detail of analysis included in the Draft EIR. Floodway improvements are part of the proposed project. The floodway improvements are needed to improve circulation in the project area. Currently during large storm events, the creek overflows and water backs up on to San Marcos Creek Boulevard.

53 This comment states that the project did not include adequate alternatives, including alternatives to keep the creek as a natural wetland. The objective of the project is to provide floodway improvement to eliminate flooding that occurs during large storm events. In order to achieve this objective, leaving the creek in its natural state is not a feasible alternative. With regard to the comment that the project did not include an alternative that would reduce the air quality impacts of the project, the project did include a Reduced Density alternative as well as a No Project/ No Development Alternative. These alternatives would decrease the amount of emissions associated with vehicular trips.

54 This comment provides closing remarks and does not raise any environmental issues. Therefore, no additional response is warranted.

LindaFarrellLisa

From: Kiss, Lisa [LKiss@san-marcos.net]
Sent: Tuesday, April 17, 2007 8:14 AM
To: Habl-Mitchell, Sophia L.
Subject: FW: San Marcos Creek

FYI -

-----Original Message-----
From: Linda Farrell [mailto:lfar@roadrunner.com]
Sent: Monday, April 16, 2007 11:23 AM
To: Kiss, Lisa
Subject: San Marcos Creek

Lisa -
I received a notice of availability of the EIR regarding San Marcos Creek project. I live at Lakeview Mobile Estates, 809 Discovery which is across the road from this proposed development. My home is on the first road in the mobile home park and butts up to Discovery. I am concerned about the widening of Discovery and how it is going to affect us. These are my concerns:

1. Is any of our park going to be eliminated (first row of mobile homes) when street is widened. 17-1
2. What does that do to access to our community. 17-2
3. Construction of that magnitude creates many problems -dirt, noise, access to Discovery, wildlife migration. 17-3
4. When is this proposed project going to begin - widening of Discovery particularly since that impacts us greatly. 17-4

Your immediate attention and response is appreciated.
Linda Farrell
809 Discovery #5
760 744 3591

Page 1

Letter 17
Linda Farrell
April 17, 2007

1. This comment asks if any of the mobile homes along Discovery Street will be eliminated with the improvements to Discovery Street. Mobile homes along Discovery Street will not be impacted, however, the proposed floodway improvement portion of the project twill impact mobile homes on the north side of the creek. There will be a loss of several units north of the creek between McMahr and westerly limits of the project.

2. This comment addresses access to the mobile home community during project construction. Construction of the project, including improvements to Discovery Street, has been designed to minimize impacts on access to the mobile home park property. A construction management plan will be required for the project.

3. This comment raises concern regarding construction nuisance, including dirt, noise, access to Discovery Road and wildlife migration. It should be noted that the concerns are general in nature and difficult to respond to at a specific level. The Draft EIR prepared for the project considered construction related impacts, including air, noise and traffic impacts. These items were analyzed in Sections 3.2, 3.8 and 3.10 of the Draft EIR.

   Dirt Tracking

   Dirt tracking associated with project construction will be minimized through implementation of mitigation measure MM 3.2-2, as detailed below. Adherence to these requirements will ensure that dust disturbance and dirt tracking will be minimized.

   MM 3.2-2 In addition to mandatory compliance with SCAQMD Rule 403, surface disturbance shall occur only in conjunction with the use of best available control measures (BACMs), including, but not limited to, those presented in Table 3.2-14, BACM Requirements for Proposed Project.

Table 3.2-14. BACM Requirements for Proposed Project

Construction Activity	Control Measures
Earthmoving	• Conduct watering as necessary to prevent visible dust emissions from exceeding 100 feet in length in any direction. • Cease all active operations when winds exceed 25 miles per hour (MPH).
Disturbed Areas (Active)	• Apply dust suppression to maintain a stabilized surface. Water at least twice per day if there is any evidence of wind-driven fugitive dust. • Increase watering frequency to four times per day if winds exceed 25 MPH.
Inactive Areas (Previously Disturbed)	• Apply water at least once per day. • Increase watering if winds exceed 25 MPH.
Unpaved Roads	• Water all roads and restrict vehicle speeds to 15 MPH. • Stop all vehicular traffic if winds exceed 25 MPH.
Open Storage Piles	• Apply water on a daily basis. • Install temporary coverings, or water at least twice per day if winds exceed 25 MPH.
Trackout Control	• Prevent or remove within an hour any trackout of bulk material onto public paved roadways as a result of off-pavement operations.
Equipment Exhaust	• Give preference to grading contractors who provide exhaust soot filters on the majority of their diesel-fueled off-road equipment. • Require tune-ups for all off-road diesel-fueled equipment operating on-site for more than 90 days to reduce NO_x and smoke emissions from optimum ignition timing.
Paints and Coatings	• Require use of interior flat-stock coatings not to exceed 100 grams of VOC per liter. • Require use of high pressure, low velocity spray equipment to maximize transfer efficiency.

Noise

Construction-related noise mitigation measures have been identified for the project and will ensure that construction-related noise disturbances are minimized. The measures are as follows:

MM 3.8-1 A condition on the improvement plans and within construction contracts which require:

- Exterior construction, hauling, or delivery activities shall be scheduled to occur during normal daytime working hours, i.e. 7:00 a.m. and 6:00 p.m., Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturday. No construction would occur on Sundays and legal holidays. These criteria shall be included in the improvement plans prior to initiation of construction. Exceptions to allow expanded construction activity hours shall be reviewed on a case-by-case basis as determined by the Planning Director.

- All heavy construction equipment and all stationary noise sources (such as diesel generators) shall be fitted with factory-specified mufflers.
- Truck routes, equipment warm up areas, water tanks, and equipment storage areas shall be located in an area as far away from existing residences as is feasible.

The condition shall be reviewed and approved by the Development Services prior to the issuance of permits.

MM 3.8-2 The applicant shall prepare and post readily visible informational signs at each entrance of the construction area indicating that the site is a "Noise Controlled Zone" and that person, vehicles, machinery and equipment may be barred from the site for violations of the noise regulations. A Noise Complaint Hotline telephone number shall appear prominently on the sign. The overall sign, including format, size, style and content shall be pre-approved by the City prior to posting.

Traffic/Access

Construction-related traffic mitigation has also been identified for the project to ensure that construction-related traffic is not disruptive to local residents. The mitigation measure is as follows:

MM 3.10-1 Prior to the issuance of grading permits and infrastructure improvement, the project applicant shall prepare a Construction Management Plan for review and approval by the Planning Director. The Construction Management Plan shall, to the extent feasible, direct traffic away from heavily congested streets during peak hours. The Construction Management Plan shall address the following:

- Control for any street closure, detour, or other disruption to traffic circulation;
- Routes that construction vehicles would utilize to access the site;
- Hours of construction traffic;
- Off-site vehicle staging and parking areas; and
- Posted information for contact in case of emergency or complaint.

Wildlife Migration

The project will adhere to certain design measures to ensure that wildlife disruption is kept to a minimum. The protection of sensitive habitat during project construction, as detailed below, will ensure that wildlife disruption is minimized as well.

- A qualified project biologist shall inspect all construction fencing prior to construction and shall monitor construction (grading) activities to avoid unauthorized impacts;
- Prior to construction activities, all wetland areas within or adjacent to construction areas shall be encompassed by orange environmental fencing to protect them from construction;
- Silt fencing or other sediment trapping devices shall be installed and maintained in order to prevent runoff from entering the water systems during construction activities;
- Erosion control shall be adequate to ensure that areas disturbed by the project remain stable and do not erode during rain events;
- Spoil, trash, or any debris shall be removed off-site to an appropriate disposal facility;
- No equipment maintenance shall be conducted within or near any drainage where petroleum products or other pollutants from the equipment may enter these areas under any flow;
- No equipment maintenance shall be conducted near riparian areas where petroleum or ethylene glycol pollutants from the equipment may enter these areas under flow; and
- All construction area limits shall be clearly delineated prior to construction activity with orange construction fencing or silt fencing to ensure that construction activity remains within the defined construction limits. Fencing shall not interfere with wildlife movement.

4. The project would be constructed in two phases, as detailed in the table below. Phase 1 of the project include construction of the floodway improvements, SR-78 Bridge, roadway improvements and infrastructure improvements. Phase 1 includes the improvements to Discovery Street. Improvements to Discovery Street could begin in approximately 24 months and will take approximately 24 months to complete. Discovery Street will be constructed concurrently with the levees on the south side of the Creek.

   Phase 2 of the project includes development of the Specific Plan area, including wet and dry utility improvements to support the future development within the Specific Plan area.

Proposed Project Phasing

Project Phase	Proposed Improvements	Details
Phase 1 (one to five years)	Flood Control Improvements	Levee and Floodwall Construction Remediation Grading to remove illegally-placed fill
	SR-78 Hydraulic Capacity Improvements	Construction of a bridge at SR-78 to provide adequate hydrologic flows.
	Roadway Improvements	Bent Avenue Discovery Avenue (1) Via Vera Cruz Creekside Road (2) Grand Avenue (3)
	Infrastructure Improvements	Water, Sewer and Dry Utility Improvements within Creekside Road Drainage Improvements VWD Sewer Interceptor SDCWA 108" pipeline encasement
	Biological Mitigation	Habitat Restoration and Enhancement due to Phase 1 improvements.
Phase 2 (up to 20 years)	Specific Plan Roadway Improvements	Construction of the grid streets within the Specific Plan area.
	Specific Plan Infrastructure Improvements	Water, Sewer, and Dry Utility Improvements within the Specific Plan area (exclusive of those improvements carried out as part of Phase 1).
	Specific Plan Development	Buildout of the Specific Plan including construction of parks features, urban trail, pedestrian bridge, and mixed-use areas.

(1) Discovery Avenue improvements would occur during either Phase 1 or Phase 2 of the project.
(2) Creekside Road is a proposed road that would be located north of the Creek atop the northern levee.
(3) Grand Avenue Bridge to be constructed by another project.

COPY

Monty Farrow
1451 La Loma Drive
San Marcos, CA. 92078
(760) 471-5674

RECEIVED
MAY 29 2007
CITY OF SAN MARCOS
PLANNING DIVISION

May 29, 2007

Mr. Jerry Backoff
Planning Director
City of San Marcos
1 Civic center Drive
San Marcos, CA. 92069

Reference: Draft EIR
San Marcos Creek Specific Plan and
Floodway Improvement Project

Dear Mr. Backoff:

I live in the beautiful Community of Lake San Marcos and as a Civil Engineer, I have over 25 years of experience in geotechnical, environmental and waste management projects.

I sincerely appreciate the City's needs and desire to improve the flood control conditions, implement the City's Circulation Elements, while enhancing the commercial value and the utility of the land in the Project area.

While at this point I do not have an adversarial posture regarding this project, as a resident of this area I am concerned about a number of issues and in particular those related to the Lake San Marcos, a vital and sensitive body of water downstream of the proposed development as stated below:

18-1

Hydrology & Sediment Transport:

1) The Hydrology study by Chang Consultants, dated December 2006, states that without any mitigation, the sediment flow from the proposed project will shorten the life span of the lake. For example, the study indicates that the sediment delivery at the discovery street, closest to the lake, will be increased from 452,000 to 686,000 tons under the Ultimate Flood Series, which is a significant jump.

18-2

2) However, the study predicts that the sediment flow from the proposed project will decrease from 452,000 to 444,000 tons by providing certain "grade controls" at the Vera Cruz Bridge crossing. This evaluation is based on the assumption that the grade control structure would act as an effective "check valve" thereby reducing the sediment transport.

3) Considering the critical implications of the increased sediment flow to the Lake from the proposed Project, the validity and efficiency of the grade control structure check valves must be verified and validated with minimum uncertainty practice before the Project starts.

18-2 Cont.

4) Will the increased flow from the proposed Project impact recent FEMA's reassessment of the 100-year Base Flood Elevations for the homes on the Lake?

18-3

5) The hydrology and sediment transport study does not specially mention the impact of the project on the segment of the Creek from Discovery Street to the Lake.

18-4

Pollution Prevention Water Quality:

1) Will there be an SWPPP with corresponding water monitoring during construction?

2) How will this development be incorporated in the City's general SWPPP permit and monitoring program?

3) What control measures will be in place to minimize discharge of run-off pollutions from the proposed construction and future developments into the Lake?

18-5

Construction Traffic:

1) It is estimated that the Project will require approximately 650,000 Cubic Yards of imported material to the area. This volume of soil will translate to over 40,000 truck loads. The EIR has estimated truck traffic of 112 per day which is an average based on the total duration of the project. However, the truck traffic will depend on the daily construction production needs which could far exceed the daily average number estimated.

18-6

Visual:

1) The proposed floodway improvement will include embankments as high as 15 feet and as wide as 80 feet from toe to toe. The visual impact of this large structure in particular as it extends along the discovery road must be considered and visually illustrated to the Community.

18-7

The proposed development is a monumentally significant project economically and environmentally. In particular, this project could have far reaching impacts on the longevity of Lake San Marcos which in turn will affect the economic-vitality, quality of life and livelihood of its over 2000 homeowners.

Therefore, extreme care must be taken before finalizing this proposed Project by sincerely and diligently considering all issues and input offered by all concerned individuals or entities.

18-8

Regards,

Monty Farrow

Letter 18
Monty Farrow
May 29, 2007

1. This comment provides opening remarks and states that the commenter has several issues of concern regarding the proposed project. These issues are detailed in the following comments/responses.

2. This comment addresses the hydrology and sediment transport associated with the proposed project. First, the comment expresses concern that a report prepared by Chang consultants indicates that, without mitigation, the project will increase sediment delivery and potentially decrease the lifespan of Lake San Marcos. The Chang report notes that the sediment will actually decrease, as compared to existing conditions, because of "grade controls" at the Via Vera Cruz Bridge. The complete report was included in Appendix F.1 of the Draft EIR. The comment notes that this conclusion is based on the assumption that the grade control structure will work as a "check valve"; because of its importance, the commenter suggests that the validity and efficiency of the grade control structure check valves must be verified and validated before construction activities commence. The project, as currently proposed, identified two check dams as mitigation within San Marcos Creek to reduce sediment delivery entering the lake. The study used FLUVIAL-12 Model and validated that the proposed design would reduce the amount of sediment transported into the lake with the proposed facilities. The study shows that sedimentation loads at Discovery Street will be reduced for a 100-year storm event. Over a 100-year period, the study shows that sedimentation will be reduced for the series of storms within that timeframe. Final design plans will review and verify the preliminary specification for the check dams (size, capacity and location) will be provided. If new conclusions are identified, than a new review would be required.

3. The commenter questions whether the increased flow from the proposed project will impact FEMA's reassessment of the 100-year Base Flood Elevations for the homes on Lake San Marcos. There is no anticipated increase in volume or water surface elevation to the lake by this project and the proposed improvements. Therefore, the project should not impact FEMA's reassessment of the 100-year Base Flood Elevations for the homes on Lake San Marcos.

4. The comment raises concern that the hydrology and sediment transport study does not specifically mention the impact of the proposed project on the segment of San Marcos Creek from Discovery Street to Lake San Marcos. The section between Discovery Street and Lake San Marcos are outside the project study area for engineering design because they are outside of the project footprint. Nonetheless, from a hydraulic engineering standpoint, the creek flow is of a nature (technically known as subcritical flow) that the project improvements will not affect water surface elevations or flow velocities in the reach downstream of the project limits. The sediment transport modeling indicates that the downstream sediment delivery will be reduced. The proposed design is conforming to existing conditions (discharge, water surface elevation, sections, etc) at the discharge point immediately downstream of Discovery Street where no negative impacts are expected.

5. This comment raises three concerns related to water-quality. See responses 5a, 5b, and 5c, below.

5a. This comment addresses pollution prevention and water quality associated with the development of the proposed project, and asks whether a Stormwater Pollution Prevention Plan (SWPPP) will be prepared will be prepared for construction. A project specific SWPPP will be prepared for the project that will include appropriate monitoring for discharges from the construction site for both sediment/turbidity and non-visually detectable pollutants.

The City will follow all applicable federal, state and local regulations to ensure that the project SWPPP is properly prepared and implemented. The SWPPP will use the Caltrans template. The template contains standard descriptions that will be tailored for the specific project, including the Monitoring Program. The SWPPP is a public document.

5b. The commenter asks: "How will this development be incorporated into the City's general SWPPP permit and monitoring program?" It is assumed that the commenter is referring to the City's Jurisdictional Urban Runoff Management Plan (JURMP) aka Stormwater Program as required by the RWQCB Municipal Permit. The San Marcos Creek development project is guided by the City's JURMP as it must meet the requirements of the City's land-use and planning component of the document.

The land-use planning component of the JURMP clearly describes the requirements that affect all land-development projects within the City, regardless if they are private development, public development or even capital improvement projects. To summarize, the requirements state that projects are not allowed to cause additional downstream erosion and must implement Low Impact Development Site Design BMPs, Source Control BMPs as well as Treatment Control BMPs that are designed to treat the 85th percentile rainfall event.

The San Marcos Creek project will meet the requirements of the City's JURMP. A Water Quality Technical Report will be prepared that is specific to the project that will address the requirements stated above and in the City's current Stormwater Standards Manual, September 2004.

The City is required to determine if the San Marcos Creek project BMPs are effective at treating the expected pollutants of concern from the project and future development. The information collected to make this determination includes, site visits, maintenance records, and monitoring information. The Water Quality Technical Report will have the operations and maintenance, including monitoring, information included for the San Marcos Creek project area.

5c. The commenter asks: "What control measures will be in place to minimize discharge of run-off pollutions form the proposed construction and future developments into the Lake?" The proposed project will implement three types of Best Management Practices (BMPs) for the purposes of minimizing the discharge of pollutants and maintaining the flow events (discharge rates) from the project site. The first is the use of Low Impact Development (LID) Site Design BMPs, the second is the use of Source Control BMPs, and the third is the Treatment Control BMPs.

The LID Site Design BMPs will include minimizing the direct connections between impervious surfaces and the storm drain systems, use of alternative surfaces instead of impermeable surfaces, and site planning to minimize the impacts of the development. Specific BMPs may include: porous concrete; grassy swales; rooftops draining to landscaped areas; flow through planters, and; infiltration trenches.

The Source Control BMPs will include the enforcement of the City's Jurisdictional Urban Runoff Management Plan and Municipal Code sections that affect existing development including commercial and residential sectors. As future development occurs, they will be subject to the same development requirements stated in the response provided above for land-development projects. Additionally, once the development is complete, the site use is regulated based on the activities, e.g., commercial businesses or residential units. The future development will be inspected and the City's program enforced to minimize the discharges of pollutants.

Additionally, the project improvements will include Source Control BMPs where applicable. Specific BMPs may include: marking of storm drain inlets; educational kiosks/signage; efficient irrigation systems; enclosed trash storage areas, and; the use of alternative building materials.

The Treatment Control BMPs will be implemented to treat the 85th percentile flows (i.e., first flush) from the project site. At this time, the proposed treatment system is a media filtration system that is capable of treating the 8t5th percentile flows from the entire proposed project development area (at the expected discharge rates). The media filtration system has cartridges that are interchangeable to treat the anticipated pollutant types from the project area. If it is determined that the pollutant types coming from the project area are different than currently anticipated, the media cartridges will be adjusted so that they are effective at treating the pollutant types and loads. Other treatment features may include the following: infiltration trenches; vegetated swales; buffers zones, and; inlet filtration as pre-treatment.

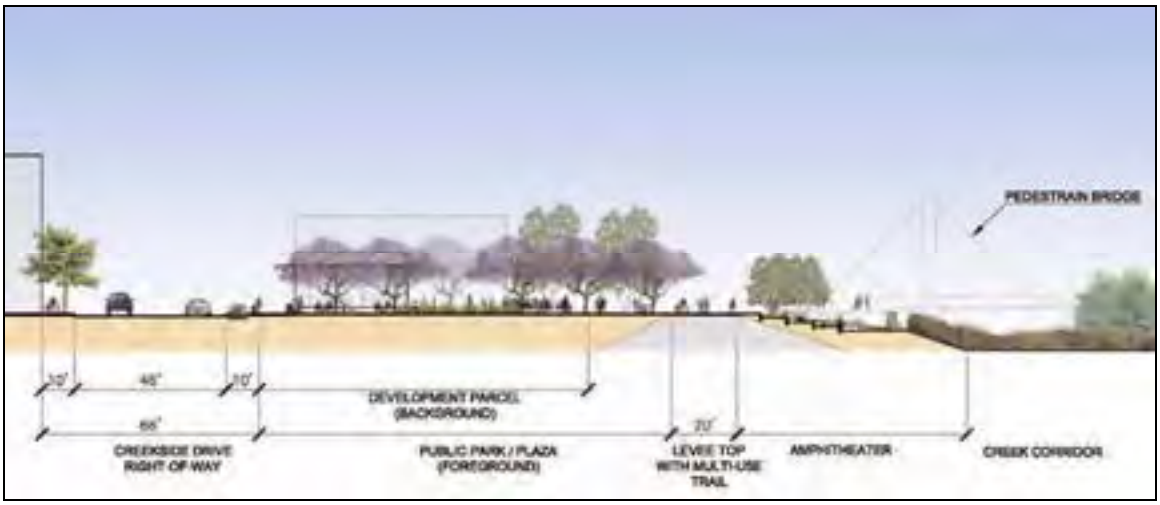
6. This comment addresses construction-related traffic impacts associated with the proposed importation of fill material to the site. In particular, the commenter notes that an average of 112 truck trips per day will be needed to haul in 650,000 cubic yards of material, and that peak truck traffic may exceed average traffic levels considerably. The Draft EIR identified this as a potentially significant impact in Section 3.10. Based up on this conclusion, the following mitigation measure was in included in the EIR. Implementation of a Construction Management Plan, as detailed in mitigation measure MM 3.10-1, will reduce the impact to below a level of significance.

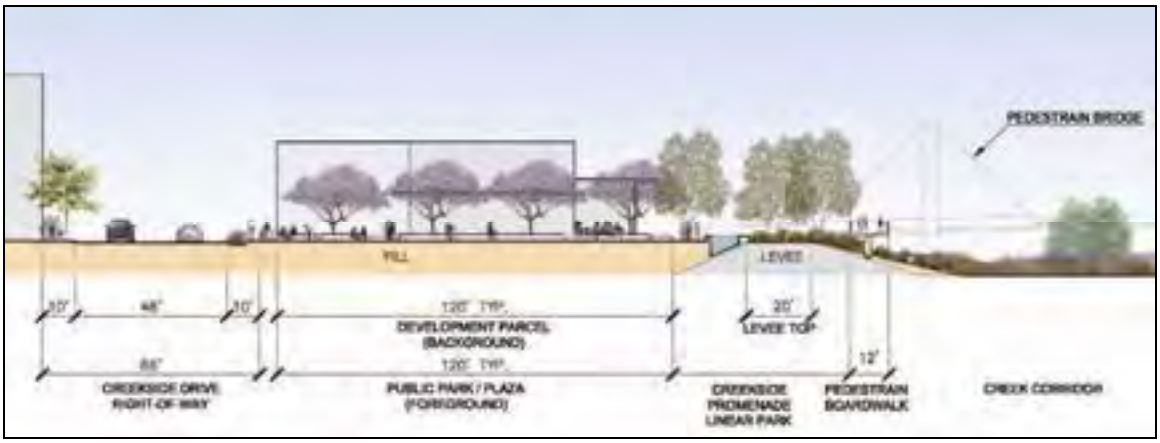
MM 3.10-1 Prior to the issuance of grading permits and infrastructure improvement, the project applicant shall prepare a Construction Management Plan for review and approval by the Planning Director. The Construction Management Plan shall, to the extent feasible, direct traffic away from heavily congested streets during peak hours. The Construction Management Plan shall address the following:

- Control for any street closure, detour, or other disruption to traffic circulation;

- Routes that construction vehicles would utilize to access the site;
- Hours of construction traffic;
- Off-site vehicle staging and parking areas; and
- Posted information for contact in case of emergency or complaint.

7. This comment addresses visual impacts associated with the development of the proposed project. In particular, it asks for visual illustration of impacts of the embankments along Discovery Road. The Specific Plan prepared for the project included cross sections of the creek and levee, and these illustrations are provided below. The levees will have a gradual slope and will be vegetated so as to appear as an extension of the creek vegetation. Thus, with the adequate gradual slope, revegetation combined with the intervening development would not result in significant impacts.





8. This comment provides closing statements as well as reiterating concerns raised above. (See response 2 above.) Aside from the matter raised and addressed above, these closing remarks do not address the adequacy of the EIR, therefore, no additional response is provided.

May 26, 2007

Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

RE: Environmental Impact Report for the San Marcos Creek Specific Plan and Floodway Improvement Project (SCH No. 2006121080)

I live in San Marcos and have worked as a teacher for the San Marcos Unified School District since 1990. I also have a sincere interest in this proposed development within the City of San Marcos. Thank you for the opportunity to comment on the San Marcos Creek Specific Plan and Floodway Improvement Project Environmental Impact Report.

I have a number of concerns regarding the project that are noted below. It is my hope that the City of San Marcos can address these issues pursuant to Federal and State guidelines prior to proceeding with the improvements and development stated in the Environmental Impact Report. In addition, I sincerely urge the Planning Department to encourage and/or mandate construction practices that promote sustainable development including, but not limited, to nationally recognized "green building" practices. 19-1a

In past projects, the city has allowed significant environmental degradation to occur as a result of modifications to the General Plan and/or Specific Plans. In particular I cite the developments on, and around, the Cerro de las Posas ridgeline and San Elijo Hills development. It is my hope that the EIR and its mitigation measures are followed and that all impacts are reduced to the most insignificant levels possible.

Regarding constructive activities and cumulative impacts that will result from the implementation of the San Marcos Creek Specific Plan and Floodway Improvement Project I offer the following comments:

AESTHETICS -

a) How can the contractor completely mitigate for environmental degradation as a result of the significant grading including significant embankment excavation of San Marcos Creek? 19-1b
b) Will you create an updated 360-degree Project CAD image of the Creekside Project and make it available to the public at the City's website or in subsequent Public Meetings? 19-2
c) The project will alter the existing visual character or quality of the site and its surrounding. Local and regional effects of grading and permanent alteration of natural features will be significant. 19-3
d) Night Sides – Street lights and other forms of lighting will be significant and visible from homes surrounding CSUSM, Discovery Lake, and Lake San Marcos. 19-4

Regarding Aesthetics, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-5

AIR QUALITY

a) Will the project conflict with implementation of air quality plans considering required blasting, grading, and subsequent application of pesticides and/or fertilizers? A seasonal analysis of prevailing wind patterns should be included. 19-6

b) I am concerned with the estimated number of vehicle trips per day created by the addition of multi-family housing (2300 high-density units), other residences, and business traffic including proposed special events like "Street Festivals" similar to those in Carlsbad and Encinitas. 19-7

c) Will emissions from the use of gas powered leaf blowers, tractors-mowers, skip loaders, and other machinery increase smog?

d) What serious efforts will be made to mandate low emission, Natural Gas City and/or other public vehicles in the project area? 19-9

e) Nearby schools including San Marcos High School, Discovery Elementary, and High Tech High, will all be exposed to significant levels of air pollution. Senior Citizens living in and around the project area will also be adversely affected with significant levels of additional traffic. 19-10

f) In the Notice of Availability of an Environmental Impact Report dated April 13, 2007, you state that "Mitigation measures have been identified to reduce impact to below a level of significance **with the exception of air quality** (project- and cumulative-level NO_{xs}, PM_{10}, and ROG). 19-11

Regarding Air Quality, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation.

BIOLOGICAL RESOURCES

a) Identify all potential areas of habitat take, threatened and/or endangered plant and animal species including the California Gnat Catcher. Include findings on all destruction and/or elimination of vital habitat preserves and corridors. Additionally, all development will have a significant negative impact in the proposed project area especially on migratory birds. 19-12

b) How do you mitigate the loss of ground animals due to intentional poisoning resulting in "secondary kill" of riparian organisms including wildlife due to the use of poisons? 19-13

c) Historically, parks have introduced foreign grasses and associated organisms and destroyed the original bio inhabitants (e.g. Pampas grass, etc.). Additionally, biocide treatment of grass greenways can harm native and migratory birds. 19-14

d) It is obvious that increased urbanization will occur with the concomitant loss of natural vegetation due to development in the riparian zone. What evidence exists to show the existence of vernal pools and that they will be protected? 19-15

e) **This project site lies within the North County Wildlife Forum's Multiple Habitat Conservation Plan (MHCP).** There are serious flaws with the project proposal that will remove or alter natural features of a strategic preserve area within the City of San Marcos. 19-16

f) The alteration of the terrain will have additional significant ecological impacts that may reduce the number and variety of indigenous plant and animal species. Proper management of the entire San Marcos Creek watershed area north and east of Lake San Marcos will be essential in limiting the cumulative negative effects upon native wildlife and plants. 19-17

Regarding Biological Resources, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-18

GEOLOGY AND SOILS

a) How much topsoil will be eroded or lost as a result of grading and completion of the project? With slope variances altered as a result of substantial grading, will the potential for erosion increase? 19-19

Regarding Geology and Soils, I don't believe there is substantial evidence in the record to support the conclusions that those impacts are less than significant. Please provide all relevant documentation. 19-20

HAZARDS AND HAZARDOUS MATERIALS

a) Will the public be endangered in any way with the transport and use of pesticides, herbicides, and fungicides? Estimates of fertilizer, pesticides, and fungicides may be significantly underestimated. 19-21

b) What is the chance of hazardous materials seeping into groundwater supplies, Lake San Marcos, or San Marcos Creek and other tributaries? 19-22

c) Where will hazardous surface materials end up when it rains? I am specifically concerned with further pollution of Lake San Marcos, San Marcos Creek and the Batiquitos Lagoon. 19-23

d) How will blasting materials, and all organic and inorganic chemicals used in the project area be controlled and contained? 19-24

Regarding Hazards and Hazardous Materials, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-25

HYDROLOGY AND WATER QUALITY

a) What are the project's impacts on San Marcos Creek, its 100-year flood plain and Batiquitos Lagoon, with varying sedimentation flow depending on yearly rainfall fluctuations? Without significant alteration of San Marcos Creek, a 100-year flood could have devastating affects on businesses and residences in the project area. 19-26

b) How will this sedimentation including residual fertilizers, pesticides and herbicides affect riparian areas including Lake San Marcos and Batiquitos Lagoon? 19-27

c) How will irrigation water used by the parks and landscaped areas leach biocides and fertilizers into the groundwater below? How can the developer and/or the City of San Marcos guarantee containment? 19-28

d) Will consumption of potable water by this project and associated development threaten water availability for domestic and diversified agricultural uses? How much potable water will be consumed daily? 19-29

e) Data on evaporation rates and loss of water may be inaccurate and I would request a subsequent study. In addition, I do not believe that the EIR provided evidence that the holding ponds will NOT become saturated with runoff toxins and become highly corrosive. 19-30

f) Will the project conform to the new state Storm water runoff regulations? Significant increases in surface water runoff pollutants may not be contained. Specifically how will fertilizers, pesticides, fungicides and herbicides be contained? 19-31

g) Prior to the commencement of project, will a Storm Water Pollution Prevention Plan (SWPPP) be prepared? Prior to its approval will a second party, not affiliated with the Contractor/Developer, be able to review and comment on it? 19-32

h) Identifying the source of water used to provide water to the project area is important as climate change may limit the amount of potable water to planned residences and businesses. Will groundwater supplies be substantially diminished? Would irrigation water be cutoff in years of severe drought? How much water does the project anticipate using on a daily basis? I am concerned with VWD's ability to sustain current levels of water in a crisis or prolonged period of drought. 19-33

i) How will current drainage patterns be affected by grading and alteration of the natural physical features? How will substantial erosion be mitigated? If heavy rains fall during the peaks in project grading, will the City be able to mitigate the impact of a significant volume of water flowing through the project into Lake San Marcos? 19-34

j) The EIR identifies surface water impacts with an emphasis on Lake San Marcos and San Marcos Creek. Any and all development will have a significant impact on the Creek's natural features and patterns of water flow. 19-35

k) What impacts will the development have on any and all 100-year flood hazard areas? 19-36

l) Will water quality be degraded in Lake San Marcos and San Marcos Creek? 19-37

m) How will the City mandate gray water irrigation systems to mitigate the problem on site and in the adjoining park spaces? Will the high density multi-family residential units be equipped with gray water systems? 19-38

n) Observation of another drainage channel adjacent to the railway just south of City Hall revealed polluted water, trash, and invasive plant species. A portion of this past improvement project may be used to correct flaws in the current project that could be addressed prior to any further development along San Marcos Creek. 19-39

Regarding Hydrology and Water Quality, I don't believe there is substantial evidence in the record to support the conclusions that all of the abovementioned impacts are less than significant. Please provide all relevant documentation. 19-40

LAND USE AND PLANNING

a) The City of San Marcos' General Plan provisions and/or ordinances, specifically Conservation Elements, were neglected vis-à-vis the protection of ridgeline developments in San Marcos. They were rarely followed and I am concerned that the same will be true with this project. 19-41

b) Environmental advantages and disadvantages have been identified but the impacts are very significant considering the loss of and/or modification of natural open space including the riparian wildlife and plant community. 19-41

c) Create an ArcView or AutoCAD map showing vegetation types, and proposed land use. 19-42

d) Compatibility – Will residential development adjacent to the Creekside Development be compatible with natural open space considering the number of negative impacts? 19-43

Regarding Land Use and Planning, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-44

NOISE

a) What effect will the sound from the proposed sustained blasting during the construction phase have on the residents living in surrounding neighborhoods? 19-46

b) Studies showed the negative effects of noise on wildlife - especially endangered animal species with respect to breeding seasons. Even low levels of noise generated by constant vehicle and pedestrian traffic will have a significant impact on wildlife in the proposed project area. 19-47

c) How can you accurately measure (anticipate) sound created by people and vehicles, including PA systems and amplified music, both during the day and at night in the Development zone? Will comparative sound samplings be utilized? Will the project generate sound at levels similar to 5th Street in San Diego's Gaslamp Quarter? 19-48

d) Will automobile and delivery truck traffic to the Creekside Project adversely affect local residents living within a one mile radius? 19-49

Regarding Noise, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-50

POPULATION AND HOUSING –

a) With changes in city staff and city councils, will there be limitations placed upon future development including building height? 19-51

b) The project would involve the introduction of new businesses dependent on private automobiles and service vehicles. Traffic congestion will not be eased along arteries or collectors as a result of this project as, in fact, will increase substantially **when Twin Oaks Boulevard is opened** over the Cerro de las Posas ridgeline into the San Elijo Hills community. Traffic will significantly increase along with traffic failures where Twin Oaks Blvd. and San Marcos Blvd. intersects with State Highway 78. 19-52

Regarding the cumulative impacts on Population and Housing, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-53

PUBLIC SERVICES

a) What are the proposed impacts to fire and police service? Would any additional patrols be required by either service? I imagine that the development of residential units and commercial spaces will require significant increases in public services. 19-54

b) Who will ultimately be responsible for paying for the additional service? 19-55

Regarding Public Services, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-56

TRANSPORTATION-TRAFFIC

a) Given that Rancho Santa Fe Road and San Marcos Blvd. will not be widened in the next ten years, if ever, what effect will the additional ADTs on Discovery Street, Craven Road, Via Vera Cruz, and Bent have on these roads? 19-57

b) What effect will construction vehicle traffic used to remove debris and soil have on area collectors and arterials? Traffic delays will have a significant impact upon the majority of people living in San Marcos as well as others who daily commute to work through San Marcos. 19-58

c) The proposed project will result in a significant increase of patron and service related traffic adding to the congestion on San Marcos Blvd. and Rancho Santa Fe Road. Widening Discovery Street to 6 lanes will result in a yet another **significant impact**. 19-59

d) What percentage of people living in the proposed 2300 high-density residences will commute to work? Even with conservative estimates, traffic impacts from the project on San Marcos will be highly significant. Concomitant air and noise pollution, and storm water runoff will also have greater than significant impacts. 19-6

e) What measures will be taken to insure that drivers under the influence of alcohol consumed at the project's planned restaurants and night clubs will not become a threat to other drivers in the City of San Marcos and surrounding areas. Issues with alcohol have arisen recently with respect to The BLVD, an eating establishment on San Marcos Blvd. 19-61

f) The project would result in inadequate emergency access due to an increase in morning and afternoon traffic congestion resulting in another significant impact. 19-62

g) Alternative transportation methods were identified but what GUARANTY does the city offer to insure their implementation. 19-63

h) Greater efforts to decrease car dependency, increase public transportation, and promote pedestrian friendly streets must be a priority. If not, the impacts resulting from additional vehicle traffic would be very significant. Will the City stipulate the addition of additional pedestrian walkways similar to those found in Santa Monica, LA's Farmers Market, and San Antonio's Riverwalk? 19-64

Regarding Transportation and Traffic, I don't believe there is substantial evidence in the record to support the conclusions that these impacts are less than significant. Please provide all relevant documentation. 19-65

UTILITIES AND SERVICE SYSTEMS

a) How much energy will be required to operate the facilities throughout the year especially during the summer months? How much energy will be required to operate pumping stations to take water to the development area? 19-66

a) Given significant drought conditions, what type of pipelines would be needed to irrigate the proposed project (size and length)? 19-67

b) Would new roadways be needed to support the proposed project and who picks up the cost for the construction of new roadways, the developer or the city? 19-68

c) What are the energy requirements needed to continually power this project and its development area? 19-69

d) How would the project handle solid waste disposal? What will be the cost to San Marcos taxpayers? 19-70

e) Regarding the use of all available green technologies available and not mentioned, I do not believe that there is substantial evidence, including recent past practices in the City of San Marcos' Planning Department, that the stated mitigations will be to a level considered less than significant. 19-71

Regarding Utilities and Service Systems, I don't believe there is substantial evidence in the record to support the conclusions that the abovementioned impacts are less than significant. Please provide all relevant documentation. 19-72

OTHER FINDINGS OF SIGNIFICANCE

Suggested mitigations

a) What measures will be enacted to protect any and all sensitive wildlife species located in this area as most biological studies are not longitudinal? I am very concerned with the accuracy of wildlife counts especially during those months with the highest percentage of migrating birds. Mitigation could be the improvement of the entire San Marcos Creek system that would include invasive plant removal, revegetation with California natives, regular water sampling, and responsible stewardship. 19-73

b) With respect the alignment of Discovery Street, I recommend it be moved to the far north of the project to mitigate potentially significant noise, air, and visual pollution to the residents of Discovery Meadows and other neighboring subdivisions. 19-74

Cumulative Impacts – Has the EIR explained mitigation for failure to restore and preserve sensitive habitats and vegetation within the Creekside Development Project? What agency or persons are ultimately responsible for the maintenance and preservation of the proposed preserves over time? 19-75

In my opinion, any development along San Marcos Creek must be sustainable. As stated earlier, construction practices should include green building practices including any and all efforts to conserve water, energy and other energy sources. Also, will the City attempt to educate its residents on the environmental benefits of any proposed projects, in addition to previously stated economic benefits? 19-76

Thank you for your consideration of these comments.

Sincerely,

Lawrence Oser

3508 Shirley Drive
San Marcos, CA 92069

cc: California Regional Water Quality Control Board
US Fish and Wildlife
California Department of Fish and Game
U.S. Army Corps of Engineers
SANDAG
Sierra Club
Lake San Marcos Task Force

Letter 19
Lawrence Osen
May 26, 2007

1a. This comment provides opening remarks and provides general statements about the commenter's concerns with development in the City generally and the project. Additionally, the comment indicates support for sustainable development and "green building" practices. As these statements do not implicate the EIR, no further response is needed. This comment also expresses concern about implementation of mitigation measures. All mitigation measures identified for the project will be included in a mitigation monitoring and reporting program (MMRP), which will be adopted with the Final EIR. The MMRP identifies the timing and responsible party for implementation of the mitigation measures for the project. The adopted MMRP will include all feasible mitigation measure to reduced project impacts. In those instances where the mitigation does not reduce the impacts to below a level of significance, the EIR identifies those issues as significant and unmitigated.

1b. This comment raises concern over the ability to mitigate environmental degradation resulting from grading activities including embankment excavation of San Marcos Creek. This comment does not indicate what specific environmental degradation the commenter is concerned with. The EIR adequately disclosed the potential impacts of the project, and the impacts are summarized in Table 1.8-1 of the EIR.

The project does not propose significant embankment excavation as part of the project. Additionally, as explained in the EIR at page 3.1-5, the specific plan includes a number of goals and policies to assure that important open space resources are protected and enhanced. (See, e.g., Goal 4.2 (preservation and enhancement of open space resources in conjunction with flood control improvements and urban development) and Policies 4.2.1 through 4.2.8, Goal 4.3 (preservation and enhancement of wetlands)and Policies 4.3.1 through 4.3.7, Goal 4.4 (preservation and enhancement of habitat value, visual quality, and recreational value of the creek) and Policies 4.4.1 through 4.4.3, Goal 4.5 (adopt a flood control strategy that resolving flood problems and produces an attractive natural open space) and Policies 4.5.1 through 4.5.4, and Goal 4.6 (maintain and create attractive creekside open space corridor with scenic views within an open high quality park setting) and Policies 4.6.1 through 4.6.3). For instance, Policy 4.2.3 and Program 4.2.3.1 require that the city design and implement a detailed mitigation and habitat restoration plan in conjunction with the flood control improvements. Any restructuring of the banks will be followed up with revegetation of appropriate species. (See, e.g., Specific Plan Policy 4.4.2 (maintaining creek in natural condition to the extent feasible and restoring any disturbed aspects of the channel to natural condition).) This would soften the appearance of the proposed levee, thus ensuring that aesthetic impacts were less than significant.

2. The commenter requests an updated 360-degree CAD image to be developed and made available to the public. At this time it is uncertain how the private areas of the Specific Plan area will build out with specific heights of buildings. Therefore, it is not feasible to create 360-degree simulations of the project site. The specific plan includes a number of visual simulations, consistent with the policies contained in that document, that are illustrative of what the City envisions for the project. The specific plan is available for public review at the

City of San Marcos Planning Division counter. As explained in the Draft EIR, Chapter 6 of the Specific Plan includes the Community Design element of the project. Based on the design standards set out in that document, the Draft EIR addressed the aesthetic impacts of the project site and determined that impacts would be less than significant. (See Draft EIR at pp. 3.1-4 through 3.1-6.)

3. This comment addresses the existing visual character of the project site and its surroundings and project grading. The EIR acknowledges that the project will, to some degree, alter the project site, but concludes that the alteration would be minimal and in some respects beneficial. In the private development parts of the specific plan, the project would replace the existing low density, often non-conforming commercial, industrial, and residential uses with a comprehensively planned, vibrant urban center. (See, e.g., Draft EIR, at pp. 2-1, 3.1-1, 3.1-4 through 3.1-6.) These would, by and large, represent beneficial aesthetic impacts. The project will also require some development on existing undeveloped land, but would impose design standards to assure that the change would be aesthetically pleasing. (*Ibid*.; see also Specific Plan, Chapter 6.) Moreover, about 45 percent of the project site (about 97 acres) would be preserved as parkland and open space. (See Draft EIR, at pp. 2-17; see also Specific Plan at p. 3-7.) The project will require the import of fill in some of the park and open space areas; however, extensive grading will not be required, as the project site is relatively flat. Moreover, as explained in response 2 above, the Specific Plan includes many policies to assure that the areas subject to fill or otherwise disturbed are restored to a natural, aesthetically pleasing state. As a result, pages 3.1-4 and 3.1-5 analyzed the existing visual character of the site and how the project would change the existing visual character of the site.

4. This comment raises concern about lighting and impact to night skies. The Draft EIR addressed this issue. As detailed on page 3.1-6, lighting requirements are guided by standards set by the City of San Marcos, which requires downward-directed low-pressure sodium vapor lighting, with the exception of specialized streetscape lighting or architectural detail lighting. These requirements aid in the preservation of dark-sky conditions, which are needed by the local observatories. The proposed project is required to comply with the City's lighting standards, and the location, type, and direction of the lighting would be reviewed during Site Development Review to ensure compliance with City requirements. Additionally, the Specific Plan (Chapter 6) includes specific requirements for building lighting. As required by the proposed Specific Plan, over-illumination shall be avoided. Therefore, off-site lighting impacts to the communities of CSUSM, Discovery Lake and Lake San Marcos, as well as the local observatories, would be less than significant.

5. This comment states that there is a lack of substantial evidence to conclude that project impacts to aesthetics would be less than significant, as stated in the EIR. The conclusions in the Draft EIR were based upon analysis of project impacts in light of the recognized thresholds. Specifically, the analysis addressed scenic resources, scenic vistas, visual character and lighting/glare. The aesthetics analysis considered the applicable General Plan policies in light of the design goals of the Specific Plan. The existing uses, as well as their distance from the proposed project were considered. Aesthetics impacts were determined to be mitigated to below a level of significance.

6. This comment addresses consistency with applicable air quality plans in light of blasting, grading and application of pesticides and fertilizers. It also calls for a seasonal analysis of wind patterns.

   First, it should be noted that the project does not propose any blasting, nor is this identified as part of the project description. The Draft EIR addresses air quality impacts due to project construction, including grading. As detailed in Table 3.2-7, the project would have significant construction-related impacts for PM_{10} and NO_x. Feasible mitigation has been identified for these impacts (see Mitigation Measures MM 3.2-1 through 3.2-11), but the impacts will remain significant and unavoidable.

   Pages 3.2-5 and 3.2-6 of the Draft EIR discussed wind patterns in the project area. The onshore winds across the coastline diminish quickly when they reach the foothill communities east of San Diego, and the sinking air within the offshore high-pressure system forms a massive temperature inversion that traps all air pollutants near the ground. The resulting horizontal and vertical stagnation, in conjunction with ample sunshine, cause a number of reactive pollutants to undergo photochemical reactions and form smog that degrades visibility and irritates tear ducts and nasal membranes. High smog levels in coastal communities occasionally occur when polluted air from the South Coast (Los Angeles) Air Basin drifts seaward and southward at night, and then blows onshore the next day. Such weather patterns are particularly frustrating because no matter what San Diego County does to achieve clean air, such interbasin transport occasionally causes unhealthy air quality over much of the County. As explained in the EIR, the project would contribute to these significant impacts. (Draft EIR, at pp. 3.2-24, 7-3.) Feasible mitigation has been identified for this impact (see Mitigation Measures MM 3.2-12), but the impact will remain significant and unavoidable.

   Occasional use of pesticides may occur within the project area; however, the use of pesticides is not anticipated to be extensive, will be controlled by state regulations, and would be applied in a manner consistent with manufacturer's recommendations and is not anticipated to result in any significant air quality impacts.

7. This comment raises generalized concerns with regard to air quality impacts associated with project vehicular trips. An Air Quality technical report was prepared for the project and summarized in the Draft EIR. (See Draft EIR, Section 3.2 and Appendix B.) As detailed in the Draft EIR, vehicular emissions associated with future project traffic will result in significant NO_x, PM_{10}, and ROG impacts. (Draft EIR, at pp. 3.2-24, 7-3.) While the project does incorporate pedestrian and bicycle facilities as well as an intra-city shuttle as part of project design to encourage alternative transportation modes in addition to mitigation measures which would reduce operational emissions, emissions would not be reduced to below a level of significance. Therefore, the project results in a significant and unmitigated air quality impact.

8. This comment addresses the use of gas-powered leaf blowers, tractor mowers and other machinery. The use of this equipment was considered in the air quality impact analysis. As shown in Table 3.2-11, these items were considered in the "Area Source" emissions calculation.

9. This comment discusses the use of low emission, natural gas City vehicles and other public vehicles in the project area. Currently, the City has a propane-powered forklift. The City will be spending significant amounts to upgrade pollution control systems on its diesel-powered on-highway equipment in the near future. The upgrade is intended to capture particulates from diesel exhaust.

   It should be noted that the project was designed to inherently minimize air quality impacts; as a relatively dense, pedestrian friendly, mixed-use project, the project will provide air quality benefits as residents will be able to have shopping and entertainment opportunities within walking distance from homes and offices.

10. This comment raises concern that nearby schools and senior citizens living the project area would be exposed to significant levels of air pollution resulting from additional traffic generated by the proposed project. The Draft EIR included hot-spot CO modeling (page 3.2-19). The analysis determined that no CO hotspots would occur.

    As explained in the Draft EIR the project would have significant project- and cumulative-level air quality impacts. Mitigation measures have been identified (see Mitigation Measures MM 3.2-1 through 3.2-12), but the impacts will remain significant even with mitigation. It should be noted that the air basin is already in non attainment. (See response 6 above.)

11. This comment states that there is a lack of substantial evidence to conclude that project impacts related to air quality would be less than significant. As explained in the Draft EIR, and in the responses above (6-10), the project will have significant and unmitigated project- and cumulative-level air quality impacts. Mitigations were presented in the EIR that would reduce some of the emissions (see MM 3.2-1 through MM 3.2-12); however, these impacts were still determined to be significant and unmitigated. Please see EIR section 3.2 and Appendix B for the detailed analysis of the project's air quality impacts.

12. This comment addresses habitat loss and species impacts do the project. A biological resources technical report was prepared for the project and discussed in Section 3.3 of the EIR. (The report is contained in Appendix C of the Draft EIR.) Figures 3.3-1a and 3.3-1b identified the footprint of project development and how it may impact the various habitat types. The direct impact to habitats was summarized in Tables 3.3-4 and 3.3-5 for Phase 1 of the project, and in Table 3.3-6 for phase 2.. Mitigation measures were identified to fully mitigate these impacts: MM 3.3-1 through 3.3-9. The EIR also analyzed whether the project would impact any threatened and/or endangered plant or animal species. The analysis concluded that the project would not result in an impact to any endangered or threatened plant or animal species (See Section 3.3.3.5 of the EIR).

    With regard to migratory bird species, the EIR concluded that the project has the potential to impact migratory birds. A mitigation measure (MM 3.3-10) is included requiring a pre-construction survey for nesting raptors and other birds that are protected under the MBTA.

13. This comment addresses the use of poisons and the impact that would have on riparian organisms, including wildlife. It is unclear what "intentional poisoning" the commenter is referring to. The project is not planning to intentionally poison any animals. Occasional use of pesticides may occur within the project area; however, the use of pesticides is controlled

by state regulations and would be applied in a manner consistent with manufacturer's recommendations. Future users within the Specific Plan area may keep small amounts of cleaners and other hazardous materials; however, all materials would be used and stored in a manner that is consistent with manufacturers' specifications. The use of these items was identified in Section 3.5 of the Final EIR.

14. This comment addresses non-native species to be used in parks and landscaping. The project proposes to use drought-tolerant native species or non-invasive species. The proposed planting palette has taken into consideration the project location in/adjacent to San Marcos Creek and has selected plant species that will be compatible with the native vegetation that would typically occur in the creek corridor. Use of biocides is not anticipated.

15. This comment addresses vernal pools. Based upon the biological resources report prepared for the project (see Draft EIR, Appendix C), which included habitat mapping for the project site, vernal pools were not identified on the site. Therefore, no impact to vernal pools is anticipated for the project.

16. This comment states that the project site is a strategic preserve area within the North County Multiple Habitat Conservation Program (MHCP). The project site lies in the MHCP project area. The MHCP was approved and finalized in 2003 (SANDAG 2003) and contains guidelines by which development of natural habitat containing sensitive species can be regulated. The City began preparing a draft of the City Subarea Plan of the MHCP in December 1999 and although the draft has not yet been approved by the USFWS and CDFG, the plan is a component of the MHCP and is currently being used as a guide for open space design within the City. The intent of the City's Subarea Plan is to identify a citywide preserve system that meets local and regional biological goals while minimizing fiscal and economic impacts to the City and adverse impacts on private property owners (City of San Marcos 2001). To help achieve this goal, certain areas, known as focused planning areas (FPAs), have been designated with parcel-level preserve goals which will contribute to achieving local and regional conservation goals while minimizing adverse effects on property rights and property values (City of San Marcos 2001). The Northern FPA encompasses approximately 1,184 gross acres and provides for the conservation of coastal sage scrub-dominated land north of Borden Road, west of Twin Oaks Valley Road, east of Las Posas Road, and south of Buena Creek Road (City of San Marcos 2001). The Southern FPA links Carlsbad to Lake Hodges and encompasses approximately 2,349 gross acres of land centered along the ridgeline of Cerro de las Posas, Double Peak, and Frank's Peak (City of San Marcos 2001). The project area is located within the urbanized core of San Marcos and is not located within either the Northern or Southern FPA.

17. This comment addresses loss of native plant and animal species both on the project site as well as the larger San Marcos Creek Watershed and in the Lake San Marcos area. The biological resources report (Appendix C) and Draft EIR identified all impacts to habitat, plant and animal species. Mitigation measures have been identified to reduce the permanent and temporary direct and indirect impacts to biological resources to below a level of significance. With regard to management of the San Marcos Creek watershed and the areas north and east of Lake San Marcos, the Draft EIR (Table 3.6-4) included a consistency analysis with the Carlsbad Watershed Management Plan (CWPM). The CWMP calls for protection, restoration and enhancement of undeveloped open space in the headwaters of the watershed that would

provide natural filtering capabilities for water runoff control and water quality improvements. Also, it calls for the purchase or transfer into public ownership or control of as many of the open space and wetland

18. This comment states that there is a lack of substantial evidence to conclude that project impacts to biological resources would be less than significant, as stated in the EIR. The biological resources report and Draft EIR adequately identified the biological resource impacts of the project. The EIR identifies feasible mitigation measures to reduce the impacts to below a level of significance. This comment asks that all relevant documentation be provided. The complete biological technical report was included in the Draft EIR as Appendix C. The EIR's conclusions are based on the analysis contained in the EIR, the analysis set out in Appendix C, and the information and documents cited in Appendix C.

19. This comment addresses erosion control during project grading and the loss of topsoil, and questions whether the project will increase the site's potential for erosion. The project will be required to Best Management Practices (BMPs) relating to erosion control. Table 3.6-1 of the Draft EIR lists the proposed BMPs to prevent erosion issues during project construction. (See also Mitigation Measures MM 3.6-1 and 3.6-2.) Upon completion of the levee construction and other slopes associated with the project, will be revegetated, which will reduce erosion. (See responses 1b and 3 above.)

20. This comment states that there is a lack of substantial evidence to conclude that project impacts to geology and soils would be less than significant, as stated in the EIR. The project's potential to increase erosion and thus impact water quality was analyzed in section 3.6 and Appendix F of the Draft EIR. These documents, as well as the literature cited within them, provide substantial evidence for the Draft EIR's conclusions. Other impacts related to geology and soils were determined to be less than significant during the Initial Study process, as detailed in Section 5 of the Draft EIR and explained in Appendix A.

21. This comment questions whether there will be human hazards associated with the transport and use of pesticides and fungicides. Occasional use of pesticides may occur within the project area; however, the use and transport of pesticides is controlled by state regulations and would be applied in a manner consistent with manufacturer's recommendations.

22. This comment addresses impact of groundwater supplies due to hazardous materials seepage. Hazardous materials use and storage is regulated by local and state authorities. The project does not propose uses that would typically be identified as polluting groundwater. Section 3.6 of the Draft EIR noted the existing issue areas within the project site. Any existing site contamination issues would need to be resolved prior to starting new construction. For these reasons, the project is not expected to result in the seepage of hazardous materials into groundwater supplies.

23. This comment addresses project-generated surface runoff and its potential impact to Lake San Marcos, San Marcos Creek, and the Batiquitos Lagoon. The proposed project will implement three types of Best Management Practices (BMPs) for the purposes of minimizing the discharge of pollutants and maintaining the flow events (discharge rates) from the project site. The first is the use of Low Impact Development (LID) Site Design BMPs, the second is the use of Source Control BMPs, and the third is the Treatment Control BMPs.

The LID Site Design BMPs will include minimizing the direct connections between impervious surfaces and the storm drain systems, use of alternative surfaces instead of impermeable surfaces, and site planning to minimize the impacts of the development. Specific BMPs may include: porous concrete; grassy swales; rooftops draining to landscaped areas; flow through planters, and; infiltration trenches.

The Source Control BMPs will include the enforcement of the City's Jurisdictional Urban Runoff Management Plan and Municipal Code sections that affect existing development including commercial and residential sectors. As future development occurs, they will be subject to the same development requirements stated in the response provided above for land-development projects. Additionally, once the development is complete, the site use is regulated based on the activities, e.g., commercial businesses or residential units. The future development will be inspected and the City's program enforced to minimize the discharges of pollutants.

Additionally, the project improvements will include Source Control BMPs where applicable. Specific BMPs may include: marking of storm drain inlets; educational kiosks/signage; efficient irrigation systems; enclosed trash storage areas, and; the use of alternative building materials.

The Treatment Control BMPs will be implemented to treat the 85th percentile flows (i.e., first flush) from the project site. At this time, the proposed treatment system is a media filtration system that is capable of treating the 8t5th percentile flows from the entire proposed project development area (at the expected discharge rates). The media filtration system has cartridges that are interchangeable to treat the anticipated pollutant types from the project area. If it is determined that the pollutant types coming from the project area are different than currently anticipated, the media cartridges will be adjusted so that they are effective at treating the pollutant types and loads. Other treatment features may include the following: infiltration trenches; vegetated swales; buffers zones, and; inlet filtration as pre-treatment.

24. This comment addresses hazards impacts associated with blasting. The project does not propose blasting as a part of project construction.

25. This comment states that there is a lack of substantial evidence to conclude that project impacts related to hazards and hazardous materials would be less than significant, as stated in the EIR . Hazards impacts were addressed in Section 3.5 of the Draft EIR and were determined to be less than significant. In addition to the analysis set out in section 3.5, a database search was conducted for the project and included as an Appendix to the EIR (see Appendix E). These documents, as well as the literature cited within them, provide substantial evidence for the Draft EIR's conclusions.

26. This comment raises concern over the project's impacts on San Marcos Creek, the creek's 100-year floodplain, and Batiquitos lagoon. One of the primary objectives of the project is to improve the San Marcos Creek floodway through the project area in order to allow more space for floodwaters. This would eliminate the existing flooded conditions that occur on the project site and in the project vicinity during large storm events. Implementation of the proposed project would result in the redefinition of the 100-year flood hazard area such that all existing and proposed development would be outside of the 100-year flood hazard area.

By design, improvement features would be implemented with the intent to redirect flood flows and redefine the 100-year flood hazard area. The project would add a new bridge to an existing box culvert to direct flows under State Route (SR) 78. This is required as existing flows currently overtop SR-78 and flow down San Marcos Boulevard. Channel armoring downstream would enable increased flow velocity generated by implementation of the proposed project to be adequately handled. Therefore, while the project would place structures (check dams) within the 100-year flood hazard area which would control flood flows, these structures would contain the 100-year storm flows to minimize on-site and downstream impacts. Impacts would be less than significant. Please see Section 3.6 of the EIR for a complete discussion of hydrology.

27. This comment addresses the introduction of fertilizers, pesticides and herbicides into riparian areas in the project vicinity, including Lake San Marcos and Batiquitos Lagoon. The Draft EIR addressed sedimentation due to implementation of the project. As detailed in Section 3.6 of the Draft EIR, the project would increase sediment load with implementation of the floodway improvements. However, mitigation is provided to reduce the sedimentation level below pre-project levels (MM 3.6-3). This would have the indirect effect of reducing sediment loads carried to Lake San Marcos and Batiquitos Lagoon.

28. This comment addresses the potential for project-related irrigation water to leach fertilizers, pesticides and herbicides into the groundwater. Fertilizers and biocides would be used on an as needed basis and in limited quantities. Any runoff of irrigation that carries fertilizers or biocides that enters the storm drain system would be subject to filtration by project-specific BMPs. Contamination of groundwater is not expected due to anticipated limited use of these items.

29. This comment addresses the amount of potable water required for proposed project. The comment raises concern over the availability of water services for domestic and agricultural uses. A water supply assessment (WSA) was prepared for the project and included as Appendix I of the Draft EIR. Implementation of the project will not result in a threat to water availability for domestic an agricultural use. As noted in the WSA, VWD anticipates the district would use 28,781 acre feet annually under normal conditions, 30,652 acre feet annually under single dry year conditions, and 23,739 acre feet annually under multi-year dry conditions by the year 2030.[1] In addition, the WSA projects 22,903 acre feet per year of water supply would be available in 2030 under normal conditions, 24,413 acre feet per year under single dry year conditions, and 23,739 acre feet per year under multi-year dry conditions. Therefore, water supply is adequate under multi-year dry conditions. It should be noted that refinement of the water supply assessment will occur prior to development within the Specific Plan area of the project, as identified in mitigation measure MM 3.11-1.

30. This comment raises concern over the accuracy of evaporation rates and loss of water data included in the EIR. The commenter requests an additional study be performed. The comment also raises concern that the holding ponds might become polluted with surface runoff from the proposed project. Evaporation rates and loss of water data are not included in the EIR, so it is unclear what material the commenter is referencing. With regard to

[1] Multi-year dry condition projections are for 2028.

contamination of holding ponds, the project includes BMPs to ensure that runoff from the surface would not result in a water quality impact. Please see response 23.

31. This comment queries whether or not the proposed project would conform to the new storm water runoff regulations. The project will adhere to all storm water requirements, as detailed in Section 3.6 of the Draft EIR. Please see response 23 for information on BMPs which will reduce the contaminant load in future project runoff.

32. This comment addresses whether or not the proposed project would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP). A project specific SWPPP will be prepared for the project that will include appropriate monitoring for discharges from the construction site for both sediment/turbidity and non-visually detectable pollutants.

    The City will follow its own requirements of projects and ensure that the project SWPPP is developed per the Caltrans template. The template contains standard descriptions that will be tailored for the specific project, including the Monitoring Program. The SWPPP is a public document.

33. This comment addresses water supply. Section 3.11 of the Draft EIR addressed water supply. The project will rely on Vallecitos Water District for potable water service. The use of groundwater is not proposed as a potable source. With regard to irrigation in drought conditions, the planting palette for the project includes primarily drought-tolerant native species, so in the event of reduced water consumption requirements, the landscaping is still expected to be sustainable.. Table 3.11-1 of the Draft EIR identified the total water demand for the project. According to Table 3.11-1, the project will require 428,930 gallons per day. With regard to the comment of VWD's ability to sustain water supplies during periods of drought, VWD has a variety of conservation programs in place to ensure that water supplies are used judiciously. Further, the water supply assessment considers water supply in a variety of precipitation conditions, including normal year, single dry year, and multiple dry years. The water supply assessment concluded that the needs of the project could be met.

34. This comment addresses the potential impacts to drainage patterns and erosion resulting from grading activities associated with development of the proposed project. The Draft EIR included an analysis of alteration of drainage patterns. As detailed on pages 3.6-12 and 3.6-13, one of the objectives of the project objectives is to bring the 100-year storm flows within the constraints of the improved channel, thereby eliminating the flooding of San Marcos Boulevard and adjacent surface streets, adjacent residences and businesses, and portions of SR-78. The creek improvement portion of the project would include alterations of the creek through construction of a levee and other flood control measures. By design, these features would channelize the course of the creek.

    With regard to erosion, all construction activities will be required to adhere to the requirements of the SWPPP. The SWPPP will identify BMPs which will reduce erosion and potential water quality impacts. Additionally, once the propose levee is in place, the levee will be vegetated. The establishment of plant material will minimize erosion.

    This comment also addresses water flows during heavy storm events. The project has been designed to accommodate flows associated with a 100-year storm event.

35. This comment makes a statement, but does raise issue with the environmental document. The Draft EIR noted that the project has the potential to impact water quality; however, specific mitigation measures are provided (MM 3.6-1 and 3.6-2) to reduce the impact to below a level of significance. Please see response 34 for a discussion of the projects' impacts to drainage features.

36. This comment addresses impacts to the 100-year flood hazard zone resulting from development of the proposed project. According to the Federal Emergency Management Authority's Flood Insurance Rate Maps panels, the main branch of San Marcos Creek and adjacent areas are located within the 100-year flood zone. However, implementation of the floodway improvements portion of the project would contain the 100-year flood flows within the creek channel. The project would result in the redefinition of the 100-year flood hazard area such that all proposed development would be outside of the 100-year flood hazard area. Therefore, the project would not place housing within a 100-year flood hazard area as mapped on any flood hazard delineation map. However, in order to ensure that the redefinition of the floodplain has occurred, and development within the Specific Plan area is not within the 100-year flood zone, mitigation has been identified in the EIR. MM 3.6-4 states that before any specific plan development may be approved by the City of San Marcos within properties currently within the 100-year floodplain, the applicant must demonstrate that a Letter of Map Revision (LOMR) removing the affected parcels from the floodplain or CLOMR has been obtained from the Federal Insurance Administration of FEMA.

    Implementation of the proposed project would result in the redefinition of the 100-year flood hazard area such that all existing and proposed development would be outside of the 100-year flood hazard area. By design, improvement features would be implemented with the intent to redirect flood flows and redefine the 100-year flood hazard area. The project would add a new bridge to an existing box culvert to direct flows under State Route (SR) 78. This is required as existing flows currently overtop SR-78 and flow down San Marcos Boulevard. Channel armoring downstream would enable increased flow velocity generated by implementation of the proposed project to be adequately handled. Therefore, while the project would place structures within the 100-year flood hazard area which would control flood flows, these structures would contain the 100-year storm flows to minimize on-site and downstream impacts. Impacts would be less than significant with implementation of these features.

37. This comment addresses impacts to the water quality of Lake San Marcos and San Marcos Creek. Water quality impacts of the project were analyzed in Section 3.6 of the Draft EIR and were determined to be potentially significant. Mitigation measures were identified (MM 3.6-1 and 3.6-2) to ensure that water quality impacts to San Marcos Creek and Lake San Marcos would be less than significant.

38. This comment addresses grey water systems. The City is not going to mandate the use of grey water systems for this project.

39. This comment discusses problems associated with an adjacent drainage channel, but does not specifically address this project. Potential water quality impacts of the project were analyzed in the Draft EIR (Section 3.6). The analysis concluded that the project would have impacts. Mitigation measures were identified to reduce the impacts to below a level of significance.

Please see response 23. Implementation of the BMPs discussed in response, such as use of trash enclosures, would reduce the amount of trash and refuse that would end up in the creek. With regard to invasive plants, the project proposes restoration of habitat through removal of exotic and invasive plant species.

40. This comment addresses the lack of substantial evidence to conclude that project impacts to hydrology and water quality would be less than significant, as stated in the EIR. The City does not concur with this statement. The Draft EIR analyzed the potential hydrology and water quality impacts of the project (Section 3.6). The EIR identifies feasible mitigation measures to reduce the impacts to below a level of significance. This comment asks that all relevant documentation be provided. The hydrology report and sediment studies were included as appendices to the Draft EIR. (See Draft EIR, Section 3.6 and Appendices F.1 and F.2).The significance conclusions in the EIR were based on the analysis in the EIR, in the Appendices, and in all of the documents relied on in the EIR and Appendices.

41. This comment addresses adherence to provisions in the Conservation Element and ridgeline developments. The Draft EIR included an analysis of the project's consistency with all applicable General Plan policies and goals. As noted in Table 3.3-1, the project site does not support any ridgelines. Therefore, no conflict with this goal was identified.

42. This comment notes that impacts associated with the loss and/or modification of open space resulting from development of the proposed project are significant. The Draft EIR notes that development of the project will result in permanent and temporary impacts to vegetation (pages 3.1-4 and 3.1-5). Impacts to wetlands, upland habitats as well as sensitive plant species were determined to be significant. However, revegetation is proposed within the creek to replace habitat that would be temporarily impacted during construction of the floodway and infrastructure improvements. Please see mitigation measures MM 3.3-1 and 3.3-2.

43. The comment asks for an ArcView or AutoCAD map showing vegetation types and proposed land uses. Figures 3.3-1a and 3.3-2b of the Draft EIR depict the current vegetation types and shows the area of impact from development of the project.

44. This comment addresses the compatibility of the proposed project with adjacent open space. As explained in the EIR and in the Specific Plan, development intensity decreases as it approaches the creek corridor. An open space area and pathway will further buffer the proposed development from the open space area. Compatibility issues are not anticipated. Additionally, the project includes specific project features/design components that will reduce the indirect impacts of developing adjacent to an open space area. These measures are listed on pages 3.3-34 and 3.3-35 of the EIR and include:

- A qualified project biologist shall inspect all construction fencing prior to construction and shall monitor construction (grading) activities to avoid unauthorized impacts;
- Prior to construction activities, all wetland areas within or adjacent to construction areas shall be encompassed by orange environmental fencing to protect them from construction;

- Silt fencing or other sediment trapping devices shall be installed and maintained in order to prevent runoff from entering the water systems during construction activities;
- Erosion control shall be adequate to ensure that areas disturbed by the project remain stable and do not erode during rain events;
- Spoil, trash, or any debris shall be removed off-site to an appropriate disposal facility;
- No equipment maintenance shall be conducted within or near any drainage where petroleum products or other pollutants from the equipment may enter these areas under any flow;
- No equipment maintenance shall be conducted near riparian areas where petroleum or ethylene glycol pollutants from the equipment may enter these areas under flow; and
- All construction area limits shall be clearly delineated prior to construction activity with orange construction fencing or silt fencing to ensure that construction activity remains within the defined construction limits. Fencing shall not interfere with wildlife movement.

In addition, the following feature will be implemented as part of project design:

- Install directional lighting (i.e., use of cut-off type fixtures that focus light down and shield surrounding areas) to minimize lighting impacts within the creek;
- Implement landscape controls (i.e., install native landscaping wherever feasible in areas adjacent to preserved habitat);
- Any plants that are defined by the California Native Plant Society as being able to proliferate and aggressively alter or displace indigenous biological communities (CNPS 1996) or any exotic plant species listed in the "Invasive Plant Inventory", published by the California Invasive Plant Council in February 2006 shall be excluded from the project's landscaping design;
- Select, design, and utilize BMPs including source control BMPs (i.e., parking lots, signage, and trash enclosures), treatment control BMPs (i.e., constructed wetlands, filter inserts, bio-swales, and catch basins), and site design BMPs (i.e., landscaping).

45. This comment addresses the lack of substantial evidence to conclude that project impacts to land use and planning would be less than significant, as stated in the EIR. This comment is rather vague as it does not identify what specific documentation should be provided. Section 3.7 of the Draft EIR addressed the project's consistency with applicable plans, including the General Plan, applicable community plans and the Regional Comprehensive Plan. Additionally, the project analyzed land use compatibility by comparing proposed uses with those in the project vicinity. The conclusions in the Draft EIR were based upon analysis of project impacts in light of the recognized thresholds. All land use and planning impacts were determined to be mitigated to below a level of significance.

46. This comment addresses noise impacts associated with blasting. The project does not propose blasting as a part of project construction; therefore, no impact would occur to adjacent residents.

47. This comment discusses how noise impacts resulting from development of the proposed project would have a significant impact on breeding/nesting birds. Potential indirect impacts of the project on biological resources were discussed in Section 3.3 (Biological Resources) of the Draft EIR. Indirect impacts result primarily from adverse "edge effects," and may be short-term in nature, related to construction, or long-term in nature, associated with development in proximity to biological resources within natural open space. For the proposed project, it is assumed that the potential indirect impacts resulting from construction activities include dust, noise, and general human presence that may temporarily disrupt species and habitat vitality and construction-related soil erosion and runoff. Long-term indirect impacts resulting from operation of the proposed project may include noise, lighting, invasion by exotic plant and wildlife species, effects of toxic chemicals (e.g., fertilizers, pesticides, herbicides, and other hazardous materials), urban runoff from developed areas, soil erosion, litter, fire, hydrological changes, increased predation of native species, and an increase in general human presence. However, all project grading will be subject to the typical restrictions (e.g., best management practices [BMPs]) and requirements that address erosion and runoff, including the federal Clean Water Act, National Pollution Discharge Elimination System (NPDES), and preparation of a Stormwater Pollution Prevention Plan (SWPPP). The project includes BMPs will be implemented to reduce impacts during the construction phase.

    In addition, the following project design features will be implemented as part of project design: install directional lighting (i.e., use of cut-off type fixtures that focus light down and shield surrounding areas) to minimize lighting impacts within the creek; implement landscape controls (i.e., install native landscaping wherever feasible in areas adjacent to preserved habitat); select, design, and utilize BMPs including source control BMPs (i.e., parking lots, signage, and trash enclosures), treatment control BMPs (i.e., constructed wetlands, filter inserts, bio-swales, and catch basins), and site design BMPs (i.e., landscaping). Moreover, the project will comply with policies contained in the Specific Plan which seek to preserve and enhance the creek as natural open space.

    Noise impacts are anticipated to be less than significant, as there will be a substantial buffer between the open space areas and the proposed development. Additionally, more intensely used portions of the Specific Plan are proposed internal to the project, with less dense uses closer to the creek. The Discovery Street park will also serve as a buffer between the creek and Discovery Street.

48. This comment addresses anticipated noise impacts associated with the development of the proposed project. In particular, the comment asks how noise from the proposed project can be forecast. The methodology of the noise analysis includes taking existing noise level measurements and then modeling the anticipated noise levels from various activities associated with the project. The modeling is done with software programs that are standard in the industry.

    Vehicular traffic generated by the project would generate the greatest amount of noise from the project. This type of noise generation can impact both the project site as well as off-site uses. The Draft EIR analyzed the noise associated with vehicular traffic. The EIR also considers the noise compatibility of the various project uses. Mixed use settings can have a

higher noise level compared to less dense developments. Mitigation measures were identified in the Draft EIR (Section 3.8.4) to reduce all impacts to below a level of significance.

It is impossible to comment qualitatively on the sound level of the Gaslamp (downtown San Diego) in comparison to the proposed project. It is possible to qualitatively note some differences between the project settings that significantly affect ambient noise. The proposed project includes more park and open space than the development in the Gaslamp. Additionally, the Gaslamp development is located near a major sports stadium and the San Diego International Airport, both of which are significant sources of noise.

49. This comment addresses vehicular noise, including delivery trucks to adjacent residences. In particular, the comment asks whether vehicular noise from the project will represent a significant noise impact, affecting residents within a one mile radius of the proposed project. The Draft EIR included an analysis of off-site noise impacts due to traffic generated by the project. The analysis concluded that offsite vehicular noise impacts would be less than significant. With regard to the concern of delivery truck noise to adjacent residents, the buffer provided by the creek as well as bordering roadways would provide adequate distance to attenuate delivery truck noises. The Draft EIR did include a mitigation measure regarding the interface of future residential and commercial uses within the project area. Mitigation measure MM 3.8-6 provides that as development proposal come forward for the Specific Plan area, a site specific noise study shall be prepared for the development. The noise study shall analyze the impact of co-locating residential and commercial uses on the project site. Mitigation measures shall be identified and incorporated into the Conditional Use Permits, to reduce noise impacts associated with these uses. The mitigation measures shall provide sound level reductions so that future uses within the Specific Plan area are consistent with the CNEL levels identified in the San Marcos General Plan.

50 This comment states that there is a lack of substantial evidence to conclude that project impacts to noise would be reduced to below a level of significance. The Draft EIR included a project-specific noise study (see EIR Appendix G) as well as a complete EIR Section (see Section 3.8) addressing the noise generated by the project. The significance conclusions in the EIR were based on the analysis contained in section 3.8, in Appendix G, and the documents and materials cited therein.

51. This comment addresses limitations on future development, including building height. Future development during Phase 2 of the project will be guided by the Specific Plan document. City staff will review proposed development within the Specific Plan area and see how it conforms to the policies in the Specific Plan. If a future developer proposes something that is not consistent with the Specific Plan, then a Specific Plan Amendment would be required. The Amendment would be subject to separate CEQA review.

It should be noted that building height within the future Specific Plan is a function of floor area ratio. The Draft EIR noted that building heights within the Specific Plan area could be up to 80 feet, as noted in this comment.

52. This comment raises the concern of potential cumulative traffic impacts associated with the development of the proposed project and other development projects in the vicinity. The project included a traffic impact analysis for the Year 2030 scenario. It was determined that

all impacts would be mitigated to below a level of significance. Additionally, as future development projects come forward, project-specific traffic impact studies will be required. Additional mitigation may be required to reduce the interim impacts of these projects.

This comment also expresses a concern about auto-dependent development. The project has been designed as a mixed-use development. Therefore, those who live or work in the project area will be able to fulfill some of their retail, recreation and entertainment needs within the project area. This results in less vehicular trips and more pedestrian or bicycle trips. The project has been designed to be "pedestrian friendly" through the use of pedestrian walkways and trails, tree-lined streets and design features which promote pedestrian-scale facades to buildings. The project also includes a bicycle path network, as well as a shuttle service which can move people throughout the project area as well as other centers within the City.

53. This comment states there is a lack of substantial evidence to conclude that project impacts to population and housing would be less than significant, as stated in the EIR This comment is vague, as it does not identify what specific documentation should be provided. The conclusions in the Draft EIR were based upon analysis of project impacts in light of the recognized thresholds. Population and housing impacts were determined to be less than significant during the Initial Study process, as detailed in Section 5 of the Draft EIR.

54. This comment addresses potential impacts to fire and police protection services associated with the development of the proposed project. Impacts to public services, including police and fire protection services were analyzed in Section 3.9 of the Draft EIR. As noted on page 3.9-11 of the Draft EIR: Development of the proposed project would result in an increase in demand for fire protection, police protection, school services, library facilities, and parks and recreation; however, the increase would not be at a level that would result in a significant impact. Future developments within the Specific Plan area shall either annex into an existing community facilities district (CFD) or be responsible for payment of Level 2 school fees (currently $4.26 per s.f.) as specified in the District's most recent School Facilities Needs Analysis at the time the building permit is obtained. The project would also have to contribute to a PFF payment, which includes a category for parks and recreation.

55. This comment addresses the source of funding for additional fire and police protection services associated with the development of the proposed project. As noted in response 54, these additional services would be provided by the new development by annexing into a CFD.

56. This comment states that there is a lack of substantial evidence to conclude that project impacts to public services would be less than significant, as stated in the EIR. This comment is vague as it does not identify what specific documentation should be provided. The conclusions in the Draft EIR were based upon analysis of project impacts in Section 3.9 (as well as the documents, materials, etc. referenced therein) in light of the recognized thresholds. Public service impacts were determined to be less than significant.

57. This comment addresses potential traffic impacts to project area roadways associated with the development of the proposed project. This comment raises the concern of potential cumulative traffic impacts associated with the development of the proposed project and other development projects in the vicinity. The project included a traffic impact analysis for the

Year 2030 scenario. It was determined that all impacts would be mitigated to below a level of significance. Additionally, as future development projects come forward, project-specific traffic impact studies will be required. Additional mitigation may be required to reduce the interim impacts of these projects. Please see Table 3.10-10 for a summary of roadway LOS, including the specific segments identified in this comment.

58. This comment addresses potential traffic impacts resulting from construction activities associated with the development of the proposed project. The Draft EIR analyzed the potential traffic impacts associated with project construction on pages 3.10-10 and 3.10-11 of the Draft EIR. Traffic associated with construction activities includes truck trips associated with the import of fill as well as the trips associated with the delivery of construction materials and equipment, and construction employee vehicles.

Creek improvements associated with construction of the levee are expected to require the import of 650,000 cubic yards of fill material. Assuming a truck size of 20 cubic yards, this equates to 32,500 truck trips. Assuming four trucks per hour at seven hours a day for four different staging areas, this equates to approximately 112 truck trips per day. At this rate, import of material would occur over approximately 290 work days. Assuming a truck equals three passenger cars, the import of levee fill material is expected to add 12 vehicle trips per hour to the local roadway network. It should be noted that the source location for the fill material is not known at this time. To keep costs as low as possible, the City would seek a source that is close to the proposed project, thus reducing the distance that the imported material needs to be carried. Another 200 vehicles per day are assumed for: (1) delivery of additional construction equipment and supplies to support the floodway improvement project, SR-78 hydraulic improvements and roadway/infrastructure improvements and (2) construction crew vehicles. Construction employee vehicle trips are expected to occur in the morning and evening. Therefore, construction activities would result in the addition of up to 312 vehicles during peak hour. The addition of 312 vehicles during peak hour represents an incremental increase to the traffic in the project vicinity. Since the project area already experiences degraded roadway conditions, as detailed in Section 3.10.1, construction traffic could result in a potentially significant short-term impact.

Mitigation measures (MM 3.10-1 through MM 3.10-3) include preparation of a construction management plan, preparation of future project-specific traffic studies for development within the Specific Plan area, as well as mitigation for a Year 2030 impacts. Please see Section 3.10-4 of the EIR for full details of the proposed mitigation.

59. This comment addresses potential traffic impacts to project area roadways associated with the development of the proposed project. The Draft EIR included a traffic impact analysis (Section 3.10). The analysis concluded that with implementation of mitigation, project-level Year 2030 impacts would be less than significant.

Due to the uncertainty of the buildout of the Specific Plan area, analysis for the near-term impacts associated with buildout of the Specific Plan was not conducted for the project. It is unknown at what rate the individual development projects within the Specific Plan would come forward. It is also unknown the size and potential trip generation that could occur with the individual projects. Analysis for the buildout of the Specific Plan in the Year 2030 has been conducted, and is discussed in the following section.

Given that several segments and intersections within the project vicinity currently operate at a degraded level of services, it is likely that development projects coming forward in the future within the Specific Plan area would exacerbate those impacts unless additional roadway and intersection improvements occur. This represents a potentially significant impact. A mitigation measure (MM 3.10-2) has been identified requiring individual projects to prepare a traffic impact analysis and implement mitigation measures to address the interim conditions and allocate the mitigation measures concurrently with the impacts.

It should also be noted that the Specific Plan includes a Policy (3.7.2) stating that traffic conditions within the Specific Plan area shall be analyzed every three years to assess the need to adjust capacity projections. If the analysis indicates that the proposed development is consuming network capacity faster or slower than projected, the City would adjust the development intensity categories.

This comment also discusses widening Discovery Lane to six lanes. The project proposes to widen Discovery Street between McMahr Road and Craven Road would be raised in sections to be consistent with flood control elevations on the south side of the street and be improved to urban street standards. The improved roadway would include two 11-foot travel lanes in each direction, a 10-foot center turn lane, two 5-foot bike lanes and an 8-foot parking lane on the north side of the roadway adjacent to the proposed open space. Improvements to Discovery Street would occur as part of either Phase 1 or Phase 2 of the project.

60. This comment asks how many future residents within the project area would commute to work. This question is difficult to answer, as the answer varies with who the future occupants will be. The Specific Plan does provide office and commercial uses adjacent to residences, so there is potential that some residents of the Specific Plan may also work in the same area. The project site will be served by transit, and will also have a shuttle service to the SPRINTER rail station. Those would be additional commute options for future residents. However, it is difficult to assign a specific percentage. For the purposes of the traffic impact analysis, each condominium was assigned 5.4 average daily trips. Typically a multi-family unit is assigned eight trips per day. The reduction in 2.6 trips per day is due to the mixed-use nature of the proposed project.

61. This comment questions what measures would be in place to control alcohol-related incidents associated with development of the proposed project. Any establishments within the future project area that wishes to serve alcohol would have to secure the proper liquor license and would be subject to applicable laws governing service of alcohol. Additionally, the City of San Marcos police department would be responsible for detecting and arresting drivers under the influence of alcohol

62. This comment addresses the issue of inadequate emergency access due to traffic increases associated with development of the proposed project. As explained in the EIR, the project would not result in significant unmitigated traffic impacts. Moreover, implementation of the project could have the beneficial impact of improving emergency access, as the project will buildout portions of the City's Circulation Element. Additionally, during large storm event, existing roadways in the project area flooded, thereby impeding traffic flow and emergency vehicle access. The proposed project would alleviate that flooding threat so that traffic flows and emergency vehicle access is no longer impeded during large storm events.

63. This comment addresses the likelihood that the alternative transportation measures discussed in the EIR would be implemented. The alternative transportation options identified in the EIR are proposed to be implemented as part of the Specific Plan. Specifically, Policies 5.10-1 through 5.10-6 of the Specific Plan relate to the proposed shuttle.

64. This comment discusses efforts to increase public transportation and promote pedestrian friendly streets. The project proposes a pedestrian trail system as well as facilities for bicycles. Pedestrian activity within the Specific Plan area would be enhanced through the use of broad, tree-line sidewalks on both sides of all streets within the development area, pedestrian streets or "paseos" that provide off-street pedestrian movement, and the provision of a Class I, multi-use trail within the proposed open space corridor. Figure 3.10-3 of the Draft EIR depicts the proposed pedestrian network.

Bicycle use within the Specific Plan area would be encouraged through the provision of an inter-connected system of Class II bicycle lanes that connect to existing and planned bicycle facilities on San Marcos Boulevard, Las Posas Road, Discovery Road, McMahr Road, and Craven Road. The project proposes bicycle lanes on Bent Avenue, Via Vera Cruz, McMahr Road, Discovery Street, Creekside Drive, and the north-south local streets within the Specific Plan area. Figure 3.10-4 of the Draft EIR depicts the proposed bicycle network.

Enhanced transit service is also identified within the Specific Plan. Enhanced transit would be accomplished through the provision of a new local shuttle. This shuttle would provide internal circulation within the Specific Plan area and would also loop with connections to other key nearby San Marcos destinations (e.g., employment centers, campuses, and transit stations). Policy 5.10-1 of the Specific Plan addresses linkages of the proposed shuttle service.

The pedestrian, bicycle and transit improvements that are proposed as part of the Specific Plan are designed to work with the existing network in place in the City as well as work with future alternative transportation opportunities. The provision of bicycle and pedestrian facilities would enhance alternative transportation opportunities not only for future residents of the project area, but also residents in the project vicinity.

65 This comment states that there is a lack of substantial evidence to conclude that project impacts to transportation and traffic would be less than significant, as stated in the EIR. This comment is vague as it does not identify what specific documentation should be provided. The conclusions in the Draft EIR were based upon analysis of project impacts in light of the recognized thresholds. A project-specific traffic report was also prepared for the project and was included as Appendix H of the EIR

66. This comment addresses electricity demand for the proposed project, including the proposed pumping stations. It is difficult to quantify the amount of energy that would be required to serve the project, as specific development projects have not come forward at this time. However, all development projects within the Specific Plan area would have to adhere to Title 24 Energy Efficiency standards.

67. This comment addresses the irrigation infrastructure needed to supply the project site with irrigation water. The water supply assessment determined that the project would use

approximately 34,170 gallons per day park landscaping and approximately 22,460 gallons per day for open space maintenance. Specific details on proposed irrigation infrastructure are not available at this time. Irrigation planning would occur as part of the landscape planning efforts as individual development projects come forward

68. The comment addresses the necessity and associated cost of any new roadways that would be required to support the proposed project. The project includes improvements to existing roadways as well as the development of new roadways and a bridge within the project area. The cost of these infrastructure improvements will be a combination of City CIP funds as well as future developers within the Specific Plan area. The division of costs would be on a fair share basis and would be on a pro rated basis.

69. This comment addresses electricity demand for the proposed project. Please see response 66.

70. This comment addresses solid waste generation and disposal. Page 3.11-12 of the Draft EIR addressed the solid waste generation by the project. Solid waste disposal services are provided by EDCO. Solid waste disposal is not paid by taxpayers. Fees for trash collection are negotiated between the City and EDCO (or other hauler) on a periodic basis; however fees are paid by the residents.

71. This comment is confusing, but appears to suggest that there are green technologies that are available to mitigate significant utilities and public services impacts. As explained in the EIR, the mitigation measure (MM 3.11-1 through 3.11-3) provided for utilities and service systems will reduce the utility and service system impacts to less than significant levels.

72. This comment states that there is a lack of substantial evidence to conclude that project impacts to utilities and service systems would be less than significant, as stated in the EIR. This comment is vague as it does not identify what specific documentation should be provided. The conclusions in the Draft EIR were based upon analysis of project impacts in light of the recognized thresholds. Utility and service system impacts were determined to be mitigated to below a level of significance.

73. This comment raises concern with the protection of sensitive wildlife species located in the project area. The biological resources technical report is a culmination of 19 different site visits through various times of year. This comment also suggests that mitigation could by the improvement of the entire San Marcos Creek watershed. The project does include enhancement and restoration of riparian habitat within the project area. However, not all mitigation will be able to occur within the project area. Mitigation requires a nexus with the project impacts. Therefore, the mitigation proposed by the project is directly related to the impacts (e.g., like habitat replacing like habitat). Off-site mitigation will occur within the San Marcos Creek watershed. Please see mitigation measures MM 3.3-1 for complete details on the proposed mitigation.

74. The commenter recommends a realignment of Discovery Street to mitigate significant noise, air, aesthetics impacts associated with the development of the proposed project. The project does not propose a realignment of Discovery Street. It is possible that the commenter is referring the University Business Park (UBP) project which is located adjacent to the project. The UPB project proposes a new alignment for the extension of Discovery Street.

75. This comment addresses the failure to mitigate cumulative impacts to sensitive habitat and vegetation associated with the Creekside Development Project. It is unclear if the commenter is addressing the existing Creekside Marketplace project, or the proposed San Marcos Creek development project. Oversight of implementation of all project mitigation is the responsibility of the City, which is the Lead Agency under CEQA. The project applicant is responsible for the maintenance and preservation of the preserves over time. In this case, of the proposed project, the City is the project applicant.

76. This comment notes the commenter's opinion that development along San Marcos Creek should be sustainable. This comment does not specifically address the adequacy of the EIR. The proposed Specific Plan incorporates many features that could be characterized as sustainable. For example, the mixed-use nature of the development, combined with a comprehensive bicycle and pedestrian network will allow for alternative transportation modes. Please see response 52. Additionally, as individual development projects come forward, there is opportunity for "green" features to be incorporated into those developments.

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May 7, 2007

Jerry Backoff
City of San Marcos
1 Civic Center Drive
San Marcos, California 92069

Re: *Comments on the Draft Environmental Impact Report for the San Marcos Creek Specific Plan and Floodway Improvement Project (SCH No. 2005121080)*

Dear Mr. Backoff:

This letter is submitted in response to your request for comments on the Draft Environmental Impact Report (Draft EIR) for the proposed San Marcos Creek Specific Plan and Floodway Improvement Project (SMC Project), dated April 13, 2007.

As you know, the EIR for the SMC Project must comply with the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000, *et seq.*, and its implementing regulations, the State CEQA Guidelines, Title 14, California Code of Regulations section 15000, *et seq.* ("CEQA Guidelines"). CEQA includes an express policy that public agencies, like the City of San Marcos (the City), should "not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available," which would avoid or substantially lessen the project's significant environmental effects. (Pub. Resources Code, §21002.) Indeed, the procedures required by CEQA are "intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures, which will avoid or substantially lessen such significant effects." (*Id.*) The function of an EIR is not to be a rubber stamp for a proposed project, but to provide a forum for changing and improving a proposed project, to get the most public benefit with the least environmental harm.

The Draft EIR contains several substantive inadequacies, which constitute critical impediments to the fundamental goals articulated in CEQA and the CEQA Guidelines. In summary:

20-1

THE SELECTION OF PROJECT ALTERNATIVES WAS NOT THE PRODUCT OF A CEQA ALTERNATIVES ANALYSIS.

CEQA requires that the range of alternatives analyzed in an EIR "*shall* include those that ... could avoid or substantially lessen one or more of the significant effects" of the project (*Emphasis added.*) (*See*, CEQA Guidelines, §15126.6, subd. (c).) In this case, a review of the project alternatives reveals at least two fatal flaws relative to the threshold selection of the "alternatives," thereby rendering the EIR's alternatives analysis inadequate.

The first flaw is that the range of "alternatives" appears to have been selected *prior* to the preparation of the EIR and, therefore, the selection could not have been made with the intention of avoiding or substantially lessening any of the significant environmental effects of the project because the significant effects of the project were not known at the time the alternatives were selected.

The second flaw is that the selection of the alternatives was not based on the consideration of avoiding or lessening significant environmental effects, either individually or relative to the other alternatives. Rather, the selection was based on the results of a cost/benefit analysis with no apparent consideration given to the potential effects the alternative would have on the environment.

In sum, the range of alternatives analyzed in the EIR is inadequate in that it fails to meet the basic purpose of a CEQA-based alternatives analysis – to focus on alternatives that are capable of avoiding or substantially lessening the significant effects of the project. Because the selection of alternatives fails to comply with CEQA, the EIR's alternatives analysis, by necessity, is inadequate.

20-2

THE DRAFT EIR'S "PROJECT" DESCRIPTION IS INADEQUATE.

There is a fundamental flaw with the EIR's description and analysis of the "project." The proposed "project" is described as consisting of: (i) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-76; (ii) roadway and infrastructure improvements; and (iii) implementation of the San Marcos Creek Specific Plan.

Under CEQA, the EIR was required to describe and analyze "a range of reasonable alternatives *to the project*, or to the location *of the project*, ..." (CEQA Guidelines §15126.6(a).) The Draft EIR should have presented an identifiable project, evaluated the environmental impacts of that project, and analyzed a range of reasonable alternatives to that project – alternatives that were required to have been developed to feasibly attain most of the basic objectives of the identified project, and to avoid or substantially lessen any of the identified project's significant effects. (CEQA Guidelines §15126.6(a).) Here, *three* separate projects were described in the Draft EIR, but there were no alternatives identified and evaluated for those three separate project proposals. Because the City elected to identify a project, it was required to identify and analyze a range of reasonable alternatives *to each of those three projects*.

Had the above analytical approach required by CEQA been followed by the City in preparing the Draft EIR, the public and the decision makers would have been presented with alternatives to a defined project that would have avoided or substantially lessened the significant environmental

20-3

effects of that defined project. Instead, three separate projects were advanced in the EIR. Each "alternative" project included the *same* analyses; consequently, no attempt was made in the Draft EIR to ever identify, discuss, and analyze alternatives.

The City's failure to address true alternatives to the proposed project(s), or to address alternatives to the three projects presented in the Draft EIR, renders the document inadequate under CEQA. This substantive inadequacy cannot be rectified, absent the redrafting and recirculating of the EIR. Only in this way will there be an adequate consideration of alternatives to the project, as proposed by the City.

20-3 Cont.

THE DRAFT EIR MUST DESCRIBE MITIGATION FOR IDENTIFIED SIGNIFICANT ENVIRONMENTAL IMPACTS.

An EIR must propose and describe mitigation measures to minimize the significant environmental effects identified in the EIR. (Pub. Resources Code §§21002.1 subdivision (a); 21100 subdivision (b)(3); CEQA Guidelines §15126.4.) The mitigation must be designed to minimize, reduce or avoid the identified environmental impact, or rectify or compensate for that impact. (CEQA Guidelines §15370.)

Some known significant environmental impacts are identified in the Draft EIR, but are nonetheless determined to be "less than significant" without incorporating feasible mitigation measures. For these impacts, *enforceable* mitigation measures must be identified and disclosed in order to make a proper determination of whether a particular significance level has been reduced to "less than significant." These include, but are not limited to: (i) change in air traffic patterns; (ii) increase in hazards due to design features; and (iii) inadequate emergency access.

20-4

THE DRAFT EIR'S EVALUATION OF TRANSPORTATION/TRAFFIC IS INADEQUATE.

In analyzing the traffic impacts, the EIR utilizes the Horizon Year 2030 Conditions for the General Plan and Specific Plan Land Uses. However, as for the Specific Plan Land uses, no mention is made to determine the level of traffic impacts and what they will be as a result of specific projects. Instead, specific project impacts will be evaluated *after* approval of this EIR. This is particularly true for the "near-term" project phasing.

> "Due to the uncertainty of project phasing, [traffic] modeling for the near-term impacts associated with buildout of the Specific Plan was not conducted for the project."

The EIR states that the rate of development is unknown, the size and trip generation rate will be unknown, and a near-term traffic analysis is speculative. (*See*, Section 3.10-5.) This traffic analysis is completely inadequate as current traffic impacts (without project implementation) are environmentally significant within City limits on San Marcos Boulevard. The EIR must be redrafted and reticulated with a full and complete traffic analysis for all phases of the project. Approval of an EIR with a deficient traffic analysis will be a disservice to the community.

20-5

EXISTING TRAFFIC LEVELS OF SERVICE ARE DEFICIENT TO ACCOMMODATE FUTURE DEVELOPMENT.

According to the traffic study in the EIR, many study *intersections* operate at "acceptable" LOS (LOS D or better), during peak AM and PM hours. However, numerous *roadway segments* (between those intersections) currently operate at "deficient levels of service" (LOS E or F). All but one of those roadway segments run along San Marcos Boulevard (the proposed project location), and all of those traffic impacts exist *currently*, prior to any proposed project implementation.

Under CEQA Guidelines traffic constitutes a significant environmental impact if it causes an increase in traffic which is substantial in relation to the existing traffic load and capacity. There is inadequate information in the Draft EIR to determine whether the extent of existing traffic loads will be lessened or significantly impacted by the proposed project, because no study was conducted in connection with Specific Plan uses. What is disclosed, however, is that 650,000 cubic yards of soil will be imported into the project location, which will undoubtedly create a traffic overburden in the short- and long-term. This traffic burden equals 290 days of triple digit truck trips on roads within City limits that are *already* overburdened, according to the current traffic study. Mitigation measures to reduce this overburden, should include, but not be limited to, pre-project infrastructure improvements (widened roadways), efficiently planned alternative traffic routes during AM and PM peak hours to accommodate commuters and existing business patrons, improve the efficiency of the current signalized intersections along San Marcos Boulevard and surrounding feeder routes, and efficiently manage construction traffic during peak and off-peak hours to minimize residents within the surrounding communities. 20-6

As you well know, several schools are located within the vicinity of the proposed project: (i) San Marcos High School; (ii) Discovery Elementary School; and (iii) Valley Christian School. No mention was made in the EIR as to the level of traffic impacts will be on the already overburdened roadways at or near those school facilities. Noise and air quality (fugitive dust made during construction) in and around those schools, should also be evaluated in addition to the traffic concerns. 20-7

In sum, the lack of information in the Draft EIR renders the EIR wholly deficient. Complete General Plan and Specific Plan traffic analyses must be conducted prior to approval of this EIR. As presented, significant impacts are unknown and approval without adequate studies will cause overall impacts to the community's residents. 20-8

Thank you for considering these comments.

Sincerely,

Stephen A. Sasseri

Letter 20
Stephen Sunseri
May 7, 2007

1. This comment is principally an introduction to the subject matter of the letter as well as an introduction to some of the standards set forth in CEQA and CEQA Guidelines for preparing alternatives analyses in environmental documents. Comment noted. The comment raises no legal issues concerning the adequacy of the EIR.

2. The comment asserts that the selection of project alternatives "was not a product of the CEQA Alternatives Analysis." Specifically, the commenter states that: (1) the alternatives were selected before the EIR was prepared and therefore "could not have been made with the intention of avoiding or substantially lessening any of the significant environmental effects of the project;" and (2) the selection of alternatives was not based on the consideration of avoiding or lessening of significant environmental effects but rather was based on a cost benefit analysis with no "apparent" consideration given to reducing project impacts.

   CEQA mandates that an EIR describe a range of alternatives that would feasibly attain most of the project objectives but would avoid or lessen *any* of the significant impacts of the project. (CEQA Guidelines, § 15126.6, subd. (a).) In other words, CEQA mandates a particular type of analysis be included in an EIR. However, CEQA does not mandate a particular procedure for developing alternatives. Alternatives are frequently developed during the scoping process, and CEQA acknowledges this possibility (see, e.g., CEQA Guidelines, § 15126.6, subd. (c)). CEQA does not foreclose the possibility that alternatives that may be devised earlier in the planning processes and still might meet the needs of an EIR's alternatives analysis. Moreover, nothing in CEQA mandates that all pre-EIR analysis of alternatives be disregarded. The commenter's suggestion that impacts cannot be known prior to formal environmental review is not accurate. For instance, the EIR explains that an early version of the project, which was considered and rejected, was an alternative that would involve additional riprap and impacts on biological resources (see Draft EIR, p. 4-2.) During the planning processes, those impacts were foreseen and the project was changed to minimize those impacts. There is nothing in CEQA that forbids this sort of early anticipation of impacts; likewise, there is nothing in CEQA that mandates that the development of project alternatives await formal environmental review. That said, at least one alternative was suggested in the scoping process—evaluation of an alternative to an Arizona-type crossing of San Marcos Creek—and that alternative was evaluated in the EIR as the Via Vera Cruz Bridge Alternative. (See Sierra Club Letter dated 1/17/07, p. 1, contained in Appendix A to the draft EIR (commenting on NOP).)

   Second, the selection of alternatives was based on consideration of project impacts as explained on pages 4-1 and 4-2 of the Draft EIR. The Draft EIR considers four project alternatives:

   - No Project/No Development Alternative;
   - No Project/Existing General Plan Alternative;
   - Via Vera Cruz Bridge Alternative; and
   - Reduced Density Alternative.

As explained in the EIR, each alternative was identified and evaluated on the basis of its ability to eliminate or reduce impacts in the following resource areas:

- Aesthetics;
- Air Quality;
- Biological Resources;
- Cultural Resources;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Land Use;
- Noise;
- Public Services;
- Transportation and Traffic; and
- Utility and Service Systems.

(Draft EIR, pp. 4-1 to 4-2.)

Moreover, as explained in the EIR, and summarized at Table 4-1, each identified project alternatives has fewer overall impacts than the proposed project. (Draft EIR, pages 4-2 to 4-25, especially 4-24 to 4-25.) Additionally, each alternative has at least one reduced impact as compared to the proposed project in the one category of impacts identified as significant and unavoidable for the proposed project -- air quality. (*Id.*)

3. The commenter states that the "project" description is inadequate because it has three elements: (i) the floodway improvements to San Marcos Creek; (ii) roadway and infrastructure improvements; and (iii) implementation of a specific plan. The commenter indicates that these elements must be considered as separate projects.

Nothing in CEQA mandates that activities proposed by the City of San Marcos be parsed out and analyzed separately as distinct projects in the manner suggested by the commenter. Rather, CEQA evinces a strong preference for the concept of project to be understood broadly to encompass the whole of an agency's proposed action(s). The CEQA Guidelines explain that a project means "the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment." (CEQA Guidelines, § 15378, subd. (a).) Thus, CEQA contemplates that broad policy-rich land use decisions may be made at a generalized planning level, such as a specific plan or a general plan, and those planning decisions may appropriately be, and indeed must be, analyzed as a project. (See, e.g., CEQA Guidelines, § 15378, subd. (a)(1); *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 793-794.) The approach suggested by the commenter would raise "piecemealing" concerns such that—were an agency to "break up" a project into smaller parts for the purposes of analysis in separate EIRs—the collective impacts of those smaller parts could be underestimated. (See, e.g., *Burbank Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592; CEQA Guidelines, § 15165 ["where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effects, the lead agency shall prepare a single program EIR"].)

Here, the City of San Marcos proposes one "project" composed of three interrelated actions: (i) the floodway improvements to San Marcos Creek; (ii) roadway and infrastructure improvements; and (iii) implementation of a specific plan. The first two actions are anticipated to occur in the near term, and thus are analyzed at a project level; the latter action, development of the specific plan, is only expected to occur as individual development proposals come forward from private actors. Because the precise nature and timing of those private proposals cannot be known at this time, the specific plan development is analyzed on a programmatic level. Given what is known and knowable at this time, this division of analysis is entirely appropriate and permissible under CEQA.

As explained above in response 2, the EIR examined four alternatives to the proposed project, all of which have fewer impacts in some way than the proposed project. As such, the EIR satisfies the requirements of CEQA to analyze alternatives to the proposed project. (CEQA Guidelines, § 15126.6.)

4. The commenter states that some "known significant environmental impacts" are identified in the Draft EIR but are determined to be less than significant without incorporating feasible mitigation. In particular, the commenter notes that the following impacts fall within that category of impacts: (i) change in air traffic patterns; (ii) increase in hazards due to design features, and (iii) inadequate emergency access. The commenter is mistaken. These three impacts were determined to be less than significant during the scoping process. (See Draft EIR, pp. 3.10-1, 5-4, and Appendix A.) Because the impacts were determined to be less than significant, no mitigation is required under CEQA. The commenter cites to no particular evidence requiring that these significance conclusions be reevaluated.

5. This comments states that the traffic impact analysis in the EIR is inadequate as it does not consider the interim impacts of developing the Specific Plan area. As noted in the Draft EIR, Due to the uncertainty of the buildout of the Specific Plan area, analysis for the near-term impacts associated with buildout of the Specific Plan was not conducted for the project. It is unknown at what rate the individual development projects within the Specific Plan would come forward. It is also unknown the size and potential trip generation that could occur with the individual projects. Analysis for the buildout of the Specific Plan in the Year 2030 has been conducted, and is discussed in the following section.

   Given that several segments and intersections within the project vicinity currently operate at a degraded level of services, it is likely that development projects coming forward in the future within the Specific Plan area would exacerbate those impacts unless additional roadway and intersection improvements occur. This represents a potentially significant impact. A mitigation measure has been identified requiring individual projects to prepare a traffic impact analysis and implement mitigation measures to address the interim conditions and allocate the mitigation measures concurrently with the impacts.

   It should also be noted that the Specific Plan includes a policy (3.7.2) stating that traffic conditions within the Specific Plan area shall be analyzed every three years to assess the need to adjust capacity projections. If the analysis indicates that the proposed development is consuming network capacity faster or slower than projected, the City would adjust the development intensity categories.

6. This comment addresses construction-related traffic. The EIR concluded that construction related traffic would result in the addition of up to 312 vehicles during peak hour. The addition of 312 vehicles during peak hour represents an incremental increase to the traffic in the project vicinity. Since the project area already experiences degraded roadway conditions, construction traffic could result in a potentially significant short-term impact. Mitigation was identified to reduce this impact to below a level of significance. Mitigation measure MM 3.10-1 requires the preparation of a Construction Management Plan for review and approval by the Planning Director. The Construction Management Plan shall, to the extent feasible, direct traffic away from heavily congested streets during peak hours. The Construction Management Plan shall address the following: (1) control for any street closure, detour, or other disruption to traffic circulation; (2) routes that construction vehicles would utilize to access the site; (3) hours of construction traffic; (4) off-site vehicle staging and parking areas; and (5) posted information for contact in case of emergency or complaint.

7. This comment states that no traffic analysis was done regarding the impacts of traffic near these schools. The Draft EIR summarized the traffic impacts associated with buildout of the project area under the proposed Specific Plan. The analysis concluded that, with mitigation, all traffic impacts will be mitigated to below a level of significance. As noted in response 5, subsequent traffic analyses will be required as individual development projects come forward within the Specific Plan area.

   With regard to air and noise, the Draft EIR included specific technical air and noise reports for the project, as well as summaries of the reports in Sections 3.2 and 3.8 of the Draft EIR. With regard to fugitive dust during project construction, the Draft EIR noted that significant PM_{10} impacts could occur due to project construction. Mitigation measures were identified (MM 3.2-1 and 3.2-2) which will reduce the impacts to below a level of significance. This will ensure that PM10 will not nuisance those in the vicinity of the project, including the schools mentioned in this comment letter.

8. This comment states that the EIR is deficient. The City does not concur with this statement. The EIR provides a project-level review of the floodway and infrastructure improvements. Section 2.4 of the EIR stated that the Specific Plan development was analyzed at a programmatic level. The EIR states that subsequent environmental review may be required for future development within the Specific Plan area, including project-specific traffic and noise assessment. Other technical studies may be required on a project-by-project basis.

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0.4 MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Section 21081.6 of the Public Resources Code and the CEQA Guidelines Section 15097, public agencies are required to adopt a monitoring or reporting program to assure that the mitigation measures and revisions identified in the Draft Environmental Impact Report (DEIR) are implemented. As stated in Section 21081.6 of the Public Resources Code:

> *"…the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment."*

Pursuant to Section 21081(a) of the Public Resources Code, findings must be adopted by the decision maker coincidental to certification of the DEIR. The Mitigation Monitoring Program must be adopted when making the findings (at the time of approval of the project).

As defined in the *CEQA Guidelines*, Section 15097, "reporting" is suited to projects that have readily measurable or quantitative measures or which already involve regular review. "Monitoring" is suited to projects with complex mitigation measures, such as wetland restoration or archaeological protection, which may exceed the expertise of the local agency to oversee, are expected to be implemented over a period of time, or require careful implementation to assure compliance. Both reporting and monitoring would be applicable to the proposed project.

0.4.1 MITIGATION MATRIX

To sufficiently track and document the status of mitigation measures, a mitigation matrix has been prepared and includes the following components:

- Impact
- Mitigation measure number
- Mitigation measure (text)
- Implementation Action
- Timing
- Responsibility

Mitigation measure timing of verification has been apportioned into several specific timing increments. Of these, the most common are:

1. Incorporation of measures into plans and specifications
2. During construction

The mitigation matrix is included in Table 0-2.

0.4.2 MITIGATION MONITORING PROCEDURES

The City of San Marcos is the designated lead agency for the Mitigation Monitoring and Reporting Program (MMRP). The City is responsible for review of all monitoring reports, enforcement actions, and document disposition. The City will rely on information provided by the monitors (e.g., construction manager, biologist, etc.) as accurate and up-to-date and will field check mitigation measure status as required.

Table 0-2. Mitigation Monitoring and Reporting Program

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
Air Quality					
Construction of the proposed project would result in significant emissions of PM_{10}.	MM 3.2-1	The total disturbance acreage during demolition or new construction involving surface disturbance (clearing, excavation or grading) shall not exceed 10 acres per day.	City to verify that disturbance is no more than 10 acres per day and that BACMs are utilized.	Prior to and during construction.	City Engineer
	MM 3.2-2	In addition to mandatory compliance with Rule 403, surface disturbance shall occur only in conjunction with the use of best available control measures (BACMs), including, but not limited to, those presented in Table 3.3-13, BACM Requirements for Proposed Project.			
Construction of the proposed project would result in significant emissions of NO_x.	MM 3.2-3	Maintain equipment in tune as per manufacturers' specifications.	City to verify that equipment specifications are included on grading plans.	Prior to issuance of grading permit and during construction	City Engineer
	MM 3.2-4	Utilize catalytic converters on gasoline-powered equipment.			
	MM 3.2-5	The project applicants shall designate an on-site Air Quality Construction Mitigation Manager (AQCMM) who shall be responsible for directing the BACM compliance with mitigation measures for project construction.			
	MM 3.2-6	All diesel-fueled engines used in the construction of the project shall use ultra-low sulfur diesel fuel, which contains no more than 15 ppm sulfur or alternative fuels (e.g., reformulated fuels, emulsified fuels, compressed natural gas, or power with electrification). Low-sulfur diesel fuel (500 ppm sulfur content) shall be used only if evidence is obtained and maintained from the fuel supplier(s) that ultra-low sulfur diesel fuel is infeasible.			
	MM 3.2-7	All construction diesel engines that have a rating of 50 horsepower (hp) or more shall meet, at a minimum, the Tier 2 California Emission Standards for Off-road Compression-Ignition Engines as specified in California Code of Regulations, Title 13, Section 2426(b)(1) unless certified by the on-site AQCMM that such an engine is not available for a particular item of equipment. In the event that a Tier 2 engine is not available for any off-road engine larger than 50 hp, that			

[1] Biologists, archaeologists, the project Applicant, construction managers and others may also be involved in the implementation of the mitigation measures.

Impact	Mitigation Measure	Action	Timing	Responsibility[1]
	engine shall be a Tier 1 engine. If a Tier 1 engine is not available for any off-road engine larger than 50 hp, then that engine shall be a 1996 or newer engine. The AQCMM may grant relief from this requirement for an engine if compliance with this requirement is infeasible. All diesel-fueled engines used in the construction of the project shall have clearly visible tags issued by the AQCMM showing that the engine meets this requirement. MM 3.2-8 Idling time shall be minimized to 5 minutes when construction equipment is not in use, unless more time is required per engine manufacturer's specifications or for safety reasons.			
Construction of the proposed project would result in significant emissions of ROG.	MM 3.2-9 Future development within the Specific Plan area shall use low-VOC paints and efficient transfer systems. MM 3.2-10 Future architectural coatings shall adhere to the requirements of SDAPCD Rule 67 (Architectural Coatings). MM 3.2-11 Finish work that includes architectural coatings shall be limited to 25,000 square feet per day. This requirement shall be included as a note on all improvement plans for development within the Specific Plan area.	City to verify that architectural finishing specifications are included on improvement plans.	Prior to issuance of building permit during project construction.	City Engineer
Implementation of the proposed project would result in significant vehicular emissions of NOx, PM_{10}, and ROG.	In addition to providing alternative transportation facilities on-site which is planned as part of project design, the project shall incorporate the following mitigation measure to reduce operational-related emissions of NO_x, PM_{10}, and ROG: MM 3.2-12 Prior to issuance of building permits, the applicant shall submit a transportation management plan and provide evidence, to the satisfaction of the City, that indicates compliance with the following measures outlined in the transportation management plan: • Provide preferential parking for carpool/vanpool vehicles; • Provide secure and conveniently located bicycle parking and storage for workers and patrons; and • Provide preferential parking for hybrid and alternative fuel vehicles. In addition, the following measure shall be included within the	City to review building plans	Prior to issuance of building permit	City Engineer

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		transportation management plan with specific criteria and standards to be reviewed and approved by the City: • Use energy-efficient lighting and process systems, such as low-NO_x water heaters, furnaces, and boiler units.			
Biological Resources					
Permanent impacts to jurisdictional wetland and non-wetland waters of the U.S. are considered significant and require mitigation due to Phase 1 of the project.	MM 3.3-1	Permanent impacts to jurisdictional waters of the U.S., including wetlands, totaling 23.38 acres due to Phase 1 improvements, shall be mitigated as follows: • Impact to 6.35 acre of Southern willow scrub shall be mitigated at a 3:1 ratio. This will be accomplished through creation of 6.35 acres of southern willow scrub and enhancement of 12.70 acres of southern willow scrub. • Impact to 0.14 acre of disturbed southern willow scrub shall be mitigated at a 3:1 ratio. This will be accomplished through the creation of 0.14 acre of disturbed southern willow scrub and enhancement of 0.28 acre of disturbed southern willow scrub. • Impact to 0.04 acre of walnut woodland shall be mitigation at a 1:1 ratio. This will be accomplished by the creation of 0.04 acre of walnut woodland. • Impact to 0.96 acre of freshwater marsh shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 0.96 acre of freshwater marsh. • Impact to 6.83 acres of herbaceous wetland shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 6.83 acres of freshwater marsh. • Impact to 7.00 acres of disturbed herbaceous wetland shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 7.00 acres of disturbed freshwater marsh. • Impact to 0.50 acre of alkali meadow shall be mitigated at a 1:1 ratio. This will be accomplished	City to verify onsite restoration plan and offsite mitigation purchase to meet all mitigation requirements.	Prior to issuance of grading permit.	City Planning Director

Impact	Mitigation Measure	Action	Timing	Responsibility[1]
	by the creation of 0.50 acre of this habitat. • Impact to 1.16 acre of alkali meadow shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 1.16 acre of this habitat. • Impact to 0.23 acre of open water shall be mitigated at a 1:1 ratio. This will be accomplished by creating 0.23 acre of this habitat. • Impact to 0.16 acre of open channel shall be mitigated at a 1:1 ratio. This will be accomplished by creating 0.16 acre of this habitat. • Impact to 0.01 acre of arundo shall be mitigated at a 1:1 ratio. This will be accomplished by enhancing 0.01 acre of habitat. Of the 57.09 acres of jurisdictional waters and wetlands identified within the project area, 33.71 acres would remain preserved as open space and enhanced/restored, where appropriate, as part of the mitigation efforts for this project. To achieve the appropriate hydraulics for the proposed levee, specific areas of the channel at both the downstream and upstream ends were designated for energy dissipation purposes. In lieu of riprap, a plantable articulated concrete block (ACB) matrix system (i.e., Armorflex or a suitable alternative approved of by the resource agencies) would be installed to allow for onsite revegetation. The mitigation ratios for wetland and non-wetland waters impacts are proposed in accordance with the 1989 federal "no net loss of wetlands" policy, which states that for each acre of wetlands impact, an acre must be restored, enhanced, and/or created thus maintaining and/or increasing the overall wetlands present. Thus, a total of 36.36 acres of wetlands mitigation is proposed to compensate for permanent wetlands impacts to 23.38 acres. Of the 36.36 acres of proposed mitigation, 23.38 acres would be created both onsite and offsite and the remaining 12.99 acres would be either created and/enhanced. Approximately 10 acres of wetlands mitigation would occur			

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		within the project area, where feasible, and would allow for terracing onsite in order to promote the growth of different types of vegetation and to better imitate floodplain-like functions. The balance of the mitigation obligation, totaling approximately 26.36 acres, would occur at an off-site location(s). The off-site locations would be reviewed and approved by the City Planning Director. The criteria for the mitigation site includes a preference for a site in the same watershed or in geographic proximity, and replaces the function and value of the wetland lost. The details of the revegetation program would be described in a conceptual wetlands mitigation and monitoring plan, which would be prepared and submitted to the USACE, RWQCB, and CDFG during the wetlands permitting phase of the project. The conceptual wetlands mitigation and monitoring plan would address all impacts to jurisdictional areas as well as mitigation needed to compensate for those impacts in accordance with resource agency permit requirements. The plan would summarize existing site conditions, discuss the project description and impacts, outline the goals of the revegetation program, detail the planting design, address plant materials sources and lead time, describe installation requirements, irrigation sources, erosion control, maintenance and monitoring requirements, and outline reporting/documentation requirements.			
Permanent impacts to jurisdictional wetland and non-wetland waters of the U.S. are considered significant and require mitigation due to Phase 2 of the project.	MM 3.3-2	Impact to 0.07 acre southern willow scrub shall be mitigated at a 3:1 ratio (0.21 acre mitigation required); 0.55 acre herbaceous wetland shall be mitigated at a 1:1 ratio (0.55 acre mitigation required); and 0.16 acre of disturbed herbaceous wetland shall be mitigated at a 1:1 ration (0.16 acre mitigation required). This mitigation would be the responsibility of future developers within the Specific Plan area.	City to verify offsite purchase of adequate mitigation lands.	Prior to issuance of grading permit.	City Planning Director

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
Temporary Impacts to Jurisdictional Wetland and Non-Wetland Waters of the U.S. (Phase 1)	MM 3.3-3	Temporary impacts during Phase 1 to vegetated wetlands, totaling 7.20 acres, shall be restored at a 1:1 ratio to pre-construction contours and vegetation types.	City to verify creation of restoration and weed eradication program.	Prior to issuance of grading permit and post construction.	City Planning Director
	MM 3.3-4	A weed eradication program shall also be implemented during the revegetation site preparation procedures and would continue throughout the long-term maintenance period. The mitigation areas, through expansion of the riparian zone, should provide increased benefits to native wildlife by providing additional buffering effects from the adjacent developments, increasing habitat diversity and increasing foraging opportunities, thus increasing the overall habitat function and value of this portion of San Marcos Creek.			
Direct permanent and temporary impact to upland habitat due to Phase 1 project construction.	MM 3.3-5	Permanent and temporary impacts to 0.64 acre of coyote brush scrub, 3.58 acres of disturbed coyote brush scrub, 0.28 acre of isocoma scrub, and 0.07 acre of disturbed isocoma scrub due to Phase 1 of the project would be mitigated at a proposed ratio of 1:1 in accordance with the City's draft Subarea Plan. Therefore, a total of 4.57 acres of mitigation is required for impacts to these vegetation communities. This mitigation shall occur through offsite creation, enhancement, and/or preservation of 4.57 acres of coastal sage scrub, or any variant described herein.	City to verify offsite purchase of adequate mitigation lands.	Prior to issuance of grading permit.	City Planning Director
Direct permanent and temporary impact to upland habitat due to Phase 2 project construction would be significant.	MM 3.3-6	Future development within the Specific Plan area (Phase 2) would result in impact to 0.74 acre of disturbed coyote brush scrub and 0.02 acre of disturbed isocoma scrub. This habitat would be mitigated at a proposed ration of 1:1 in accordance with the City's Draft Subarea Plan. Therefore, a total of 0.76 acres of mitigation is required for impacts to these vegetation communities. This mitigation shall be the responsibility of future developers within the Specific Plan Area, if the habitat identified above occurs on their specific project area.	City to verify offsite purchase of adequate mitigation lands.	Prior to issuance of grading permit.	City Planning Director
Direct and indirect impacts to approximately 2,400 southern tarplant individual during Phase 1 of the project would be significant	MM 3.3-7	Impacts to 2,400 southern tarplant due to Phase 1 of the project shall be mitigated through relocation to suitable onsite and offsite locations. This would be achieved through a combination of direct transplanting of mature plants, direct seeding, and planting of southern tarplant grown from seeds collected from the project area. Southern tarplant salvage	City to verify preparation of relocation plan.	Prior to issuance of grading permit.	City Planning Director

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		areas shall be flagged for seed collection and individual plant salvaging during the appropriate collection period. Seed shall be collected from populations to be impacted and stored for subsequent seeding efforts at proposed translocation sites. A portion of the seed shall be propagated at a native plant nursery to produce container plants for out-planting at the proposed translocation sites. Each southern tarplant translocation site shall be designed in a location(s) where long-term viability of the populations can be assured (size of translocation site to be based upon original impacts to the existing population, estimated at 2,400 individuals). Soils and solar exposure shall be comparable to the original donor site. The translocated populations shall border native areas or shall be established in context to the native plant revegetation effort, to help avoid invasion of non-native plant species. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit. Additionally, the final restoration plan designed to achieve the above-specified performance measures shall be approved by the Planning Director.			
Direct and indirect impacts to approximately 1,600 southern tarplant individual during Phase 2 of the project would be significant	MM 3.3-8	Impact to 1,600 southern tarplant due to future development in the Specific Plan area (Phase 2), shall be mitigated through relocation to suitable onsite and offsite locations. This would be achieved through a combination of direct transplanting of mature plants, direct seeding, and planting of southern tarplant grown from seeds collected from the project area. Southern tarplant salvage areas shall be flagged for seed collection and individual plant salvaging during the appropriate collection period. Seed shall be collected from populations to be impacted and stored for subsequent seeding efforts at proposed translocation sites. A portion of the seed shall be propagated at a native plant nursery to produce container plants for out-planting at the proposed translocation sites. Each southern tarplant translocation site shall be designed in a location(s) where long-term viability of the populations can be assured (size of translocation site to be based upon original impacts to the existing population, estimated at 1,600 individuals). Soils and solar exposure	City to verify proof of habitat acquisition.	Prior to issuance of grading permit.	City Planning Director

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		shall be comparable to the original donor site. The translocated populations shall border native areas or shall be established in context to the native plant revegetation effort, to help avoid invasion of non-native plant species. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit.			
Direct impact to southwestern spiny rush would be significant.	MM 3.3-9	Direct impacts to southwestern spiny rush shall be mitigated through replanting within the project area. Southwestern spiny rush individuals potentially impacted would be planted within the project area within suitable riparian habitat.	City to verify preparation of relocation plan.	Prior to issuance of grading permit.	City Planning Director
Indirect impacts to sensitive wildlife are potentially significant and require mitigation.	MM 3.3-10	To reduce indirect impacts to migratory birds, the City shall retain a qualified biologist to provide biological monitoring while work occurs within San Marcos Creek to assure that sensitive species present within the creek are not directly impacted by the proposed work. Construction would be phased, where feasible, to avoid work during the breeding season (*i.e.*, January through September). If construction activity is to commence during the breeding season (January 1 through September 15), a one-time pre-construction biological survey for nesting bird species must be conducted within the proposed impact area 72 hours prior to construction. This survey is necessary to assure avoidance of impacts to nesting raptors (i.e., Cooper's hawk) and/or birds projected by the federal Migratory Bird Treaty Act. If any active nests are detected, the area would be flagged and mapped on the construction plans along with a minimum of a 25-foot buffer and up to a maximum buffer of 300 feet for raptors, as determined by the project biologist, and would be avoided until the nesting cycle is complete.	Preparation of preconstruction survey by qualified biologist if construction proposed between January 1 and September 15	Prior to issuance of grading permit.	City Planning Director
Indirect impacts to sensitive wildlife are potentially significant and require mitigation.	MM 3.3-11	Prior to issuance of grading permit, a protocol California coastal gnatcatcher survey shall be required. The survey shall be conducted by a permitted CAGN biologist. If the habitat is found to be occupied by a California gnatcatcher, no clearing or construction shall be allowed during the breeding season (February 15 – August 31). If construction should occur during the breeding season, a 300-foot buffer shall be established between construction activities and any occupied habitat. Protocol survey results shall be submitted to the	Preparation of protocol gnatcatcher survey by qualified biologist if construction proposed between January 1 and September 15	Prior to issuance of grading permit.	City Planning Director

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		Planning Director and USFWS for review.			
Cultural Resources					
Development of Phase 1 of the project would impact CA-SDI-17423.	MM 3.4-1	An archaeological data recovery program shall be prepared for CA-SDI-17423 that includes the following: (1) An acceptable data recovery plan stating the specific research goals and questions that are to be addressed if archaeological deposits are to be recovered; (2) postfield artifact processing and analysis; (3) report of findings; and (4) permanent curation of artifacts at a qualified institution in order to preserve and analyze a substantial portion of the site's information value. Feature recovery shall employ standard archaeological excavation techniques. The data recovery shall be developed and implemented in consultation with interested local Native American groups. A final report on the results of the archaeological recovery shall be submitted to the Planning Director and the Southcoast Information Center. Curation and report submittal shall occur prior release of the grading bond for the project.	Preparation of a data recovery program and archiving of artifacts.	Data recovery to occur prior to issuance of grading permits. Curation recovery to occur prior to release of grading bond for the project.	City Planning Director
Development of the project may impact previously unidentified archaeological resources.	MM 3.4-2a	All initial grading activities in undeveloped areas bordering San Marcos Creek within the project boundary shall be monitored by a qualified archaeologist. In the event that buried archaeological resources are exposed during project construction, work within 50 feet of the find shall stop until the archaeologist can identify and evaluate the significance of the discovery and develop recommendations for treatment. The archaeologist shall also have the authority to make an informed, final decision to either resume construction or require more extensive investigation. If the discovered cultural resources display the potential to be significant, the archaeologist shall notify the City of San Marcos immediately, and all work shall stop immediately within an expanded 100-foot radius pending resolution of the discovery. Recommendations could include preparation of a treatment plan, which could require recordation, collection and analysis of the discovery; preparation of a technical report; and curation of the collection and supporting documentation at a	Archeologist sill conduct monitoring and submit a monitoring summary report to the Director of Planning.	During all initial grading activities that disturb the upper soil layer.	City Planning Director

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		qualified institution. At the completion of the activity that requires an archaeological monitor, the monitor shall submit a monitoring report including a daily log of all monitoring activity and possible recommendations to the Planning Director.			
	MM 3.4-2b	Prior to the issuance of a grading permit, the project applicant shall enter into a pre-excavation agreement with the San Luis Rey Band of Mission Indians. The pre-excavation agreement shall include the following: (1) a culturally affiliated Native American monitor during initial grading activities, (2) the return of cultural items that may be found during project construction, and (3) proper treatment and reburial of any remains found.			
Implementation of the project would result in significant impacts to one historical structure located at 918 Discovery Street.	MM 3.4-3	Prior to relocation of the residence at 918 Discovery Street, a Historic American Building Survey shall be conducted. The survey shall be prepared by a qualified historian and shall include large-format black and white photography of the exterior elevations and interior of the house. The survey shall also include a ground plan of the building, additional archive research and preparation of a detailed history of the building and its occupants.	Preparation of a Historic American Building Survey by a qualified historian	Prior to relocation of building	City Planning Director
	MM 3.4-4	Prior to any surface disturbance activities associated with the floodway improvement project, the residence at 918 Discovery Street shall be relocated to another location within the City of San Marcos. Upon relocation, the residence shall be rehabilitated. Rehabilitation shall occur in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation.			

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
Implementation of the project has the potential to result in significant impacts to paleontological resources.	MM 3.4-5	Prior to the issuance of the grading permit for any grading within the project area (including Caltrans right-of-way), a qualified paleontologist shall review the proposed project area to determine the potential for paleontological resources to be encountered. If there is a potential for paleontological resources to occur, the paleontologist shall identified the area(s) where these resources are expected to be present, and a qualified paleontological monitor shall be retained to monitor the initial cut in any areas that have the potential to contain paleontological resources. If fossils are discovered during project construction, the paleontologist shall recover them. In most cases, this fossil salvage can be completed in short period of time. However, some fossil specimens may require an extended salvage period. Under this scenario, the paleontologist shall be allowed to temporarily divert or direct grading and excavation to allow for recovery of fossil remains.	Qualified paleontologist shall identify sensitive areas with regard to paleontological resources. If required, a paleontologist shall monitor all ground disturbing activities. At the monitoring phase, a summary report, including a daily log of all monitoring activity and any recommendations.	Review for sensitivity shall occur prior to issuance of grading permit. If monitoring is required, the monitoring shall occur during project grading.	City Planning Director
Hazards and Hazardous Materials					
The project would require the import of up to 650,000 cubic yards of fill material. The ultimate source of the fill material has not been identified. In the event that the fill contained hazardous materials, there is a potential for a significant hazard impact.	MM 3.5-1a	Fill material for levee construction and earthwork activity shall be free of organic matter, hazardous materials or other unsatisfactory materials. Written verification shall be provided to the City Engineer that the fill is free of hazardous materials.	Testing of fill material and submittal of written verification to City Engineer.	Prior to import of fill onto project site.	City
	MM 3.5-1b	Prior to the issuance of any grading, demolition, or building permits for the project site, a Risk Management Plan (RMP) shall be prepared for the project site. At a minimum, the RMP shall establish soil and groundwater mitigation and control specifications for grading and construction activities at the site, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or	Preparation of a Risk Management Plan	Prior to issuance of grading, demolition or building permits.	City Planning Director and City Fire Department

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. The RMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. The RMP shall be submitted to the City Fire Department for review and approval.			
Underground storage tanks are located within the proposed development area of the Specific Plan. Should project construction occur before the underground storage tanks located onsite are cleaned up, a potentially significant impact would be identified.	MM 3.5-2	Prior to initiation of any grading, it shall be confirmed that there are no hazardous materials on the project site. In the event that hazards materials are found on the project site, the materials shall be remedied in accordance with all federal and state requirements. Remediation shall be completed prior to construction within the impacted area.	Site assessment to ensure that no hazardous materials or leaking underground tanks are on the project site.	Prior to project grading.	City Planning Director
	MM 3.5-3	Project construction in areas where leaking underground storage tanks have been identified shall be avoided until proper clean up of the tanks has occurred. All clean up shall occur under a Workplan approved and overseen by the appropriate regulatory agency that has jurisdiction for the clean up. The Workplan shall include a summary of any Phase 1 and Phase II investigations and a summary table of sampling results for which hazardous materials were found.			

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
Future buildout of the project vicinity would result in the removal of older structures, as well as the relocation on one structure that could contain hazardous asbestos containing materials or lead based paint.	MM 3.5-4	Prior to demolition of facilities or relocation of any buildings on the project site, a licensed asbestos inspector shall be retained to determine the presence of asbestos and asbestos containing materials (ACMs) within structures. The inspection shall be consistent with the federal and state occupational exposure standards for asbestos and ACMs. The applicant shall comply with all applicable state and federal abatement policies and procedures for removal of ACMs present on the site.	Testing for asbestos- and lead-containing materials.	Prior to demolition of any structures or facilities or prior to relocation of structures.	City Planning Director
	MM 3.5-5	Prior to demolition of facilities or relocation of any buildings on the project site, a licensed lead-based paint (LBP) inspector shall be retained to determine the presence of lead-based paint and lead-based paint containing materials (LBPCM) within structures. The inspection shall be consistent with federal and state occupational exposure standards for LBP and LBPCM. The applicant shall comply with state and federal abatement policies and procedures for removal of LBP and LBPCM present on the site.			
SR-78 hydraulic improvements have the potential to result in release of Asbestos-Containing Materials, Lead-Based Paints and Creosote-Containing Materials. This represents a significant impact.	MM 3.5-6	Prior to removal of roadway and associated structures for the SR-78 hydraulic improvements, an assessment for asbestos-containing materials, lead-based paint containing materials and creosote-containing materials shall be conducted by a licensed inspector. Handling and disposal of asbestos-, lead- and creosote-containing materials (if found), shall be performed by a certified contractor according to Cal-OSAH guidelines, Title 8, Section 1532.1(e)(2)(B) and Section 1529 of the California Code of Regulations, and Federal EPA guidelines. Additionally, if asbestos-, lead-, or creosote-containing materials are discovered, a Health and Safety plan shall be prepared. The Health and Safety plan shall be submitted to Caltrans prior to construction and shall address the effects to persons working onsite and offsite, use of proper personal protective equipment onsite, handling and disposal measures of yellow paint and yellow thermalplastic paint and strip or pavement markings .	Assessment for asbestos-, lead- and creosote-containing materials. If materials are found on site, a Health and Safety Plan shall be prepared.	Prior to demolition activities associated with the SR-78 hydraulic improvements.	City Planning Director and Caltrans.

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
Hydrology and Water Quality					
Phase 1 and Phase 2 project construction of the project may result in a significant impact to water quality.	MM 3.6-1	The applicant(s) shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction-period of the project. The SWPPP shall include: • Specific and detailed Best Management Practices (BMPs), such as those set out in Table 3.6-1, shall be required for the project. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. • On-site construction personnel shall be educated on the importance of stormwater quality protection. Site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP. • Watering for dust control shall be performed during the dry season. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1st using native species only, and irrigated as necessary to ensure that adequate root development has occurred prior to October 1.	Preparation and implementation of a SWPPP	Prior to issuance of grading permits.	City Engineer

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be provided and designed to be accessible and functional during both dry and wet conditions.			
Operation of Phase 2 of the project may result in impacts to water quality.	MM 3.6-2	Future development within the Specific Plan area shall prepare a Water Quality Technical Report (WQTR). The WQTR shall identify the project operation BMPs that shall be used to ensure that future projects do not degrade water quality. The WQTR shall also document how the future project would satisfy the requirements of the City's Stormwater Standards Manual. The WQTR shall be submitted to the City Engineer for review and approval prior to the issuance of a grading permit.	Preparation and implementation of Water Quality Technical Report.	Prior to issuance of grading permit	City Engineer
The project would result in an increase of sediment delivery downstream towards Lake San Marcos. This represents a significant impact.	MM 3.6-3a	A check dam (i.e., berm) shall be constructed within San Marcos Creek at the Via Vera Cruz crossing to reduce sediment delivery to Lake San Marcos. The check dam shall be constructed on the channel bed across the bridge opening. The check dam will be constructed so that it will not erode during flow events. Natural materials such as rock or man-made materials such as concrete shall be used. If rock is selected, then grout will be needed to secure the rock in place. The grout shall be colored to blend with the natural surrounding. If concrete is used, it shall be colored and textured for a more natural appearance. A weir (or notch) shall be constructed within the check dam to prevent water from ponding upstream of the facility. The check dam shall be designed and constructed to minimize environmental impacts and disturbances to the creek. The Via Vera Cruz check dam shall be constructed within the temporary construction easement for the crossing to the extent possible.	Inclusion of two check dams on project plans for floodway improvements	City to review plan prior to issuance of grading permits.	City Engineer
	MM 3.6-3b	A check dam shall be constructed just upstream of Discovery Street. This check dam shall cause sediment to deposit upstream of Discovery Street and further reduce sediment delivery to Lake San Marcos. The check dam height shall be designed so that it does not adversely impact the upstream			

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		water surface elevations including the water surface elevations in Las Posas Creek. The Discovery Street check dam shall be constructed within the existing channel bed armoring to the extent possible.			
Project design proposes a redefinition of the 100-year floodplain boundary; however, until FEMA approval is obtained, development is proposed within an existing 100-year floodplain. Impacts are significant.	MM 3.6-4	Before any specific plan development may be approved by the City of San Marcos within properties currently within the 100-year floodplain, the applicant must demonstrate that a Letter of Map Revision (LOMR) removing the affected parcels from the floodplain or Conditional Letter of Map Revision (CLOMR) has been obtained from the Federal Insurance Administration of the FEMA.	Receipt of LOMR or CLOMR	Prior to issuance of grading permits for Phase 2	City Engineer
Construction of levees could potentially cause a significant impact.	MM 3.6-5	The flood control facilities shall be designed by a professional engineer who would certify that the flood control facilities, including the levee, meet requirements for stability and safety as set forth by the U.S. Army Corp of Engineers. Final geotechnical and hydraulic studies shall be completed by professional engineers to support the certification of the levee.	Preparation of final hydraulic and geotechnical studies.	Prior to issuance of grading permits.	City Engineer
Land Use and Planning					
Implementation of the proposed project would result in an inconsistency with the current General Plan.	MM 3.7-1	Prior to project implementation, a General Plan Land Use Element Amendment shall be approved to change the General Plan designations within the portion of the project proposed for development as Specific Plan. This is warranted in that the proposed project uses would not be compatible with the existing land use designation and result in a significant land use impact.	City to approve General Plan Amendment.	Prior to project implementation.	City Planning Director
Implementation of the proposed project would result in an inconsistency with the current zoning designation.	MM 3.7-2	Prior to project implementation, a Rezone shall be approved for the areas identified for developed to Specific Plan. This is warranted in that the proposed project would not be compatible with the existing zoning for the property and result in a significant land use impact.	City to approve Rezone	Prior to project implementation.	City Planning Director

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
The proposed right-of-way for three roadway segments is inconsistent with the Circulation Element. The segment of Discovery Street between McMahr and Craven, the segment of Grand Avenue between the future Grand Avenue bridge and Discovery, and the segment of McMahr between Main Street and Creekside Drive are proposed at a different classification that what is identified in the Circulation Element.	MM 3.7-3	Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify the segment of Discovery Street between McMahr and Craven to a modified Secondary Arterial with parking along the north side of the street.	City to approve General Plan Amendment.	Prior to project implementation.	City Planning Director
	MM 3.7-4	Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify the segment of Grand Avenue between the future Grand Avenue bridge and Discovery Street to a Secondary Arterial.			
	MM 3.7-5	Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify to segment of McMahr Road between future Main Street and Creekside Road and to eliminate the segment of McMahr between Creekside Road and Discovery Street.			
Noise					
Implementation of the proposed project would result in significant construction-related noise impacts during Phase 1 and Phase 2 of the project.	MM 3.8-1	A condition on the improvement plans and within construction contracts which require: • Exterior construction, hauling or delivery activities shall be scheduled to occur during normal daytime working hours, i.e. 7:00 a.m. and 6:00 p.m., Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturday. No construction would occur on Sundays and legal holidays. These criteria shall be included in the improvement plans prior to initiation of construction. Exceptions to allow expanded construction activity hours shall be reviewed on a case-by-case basis as determined by the Planning Director. • All heavy construction equipment and all stationary noise sources (such as diesel generators) shall be fitted with factory-specified mufflers. • Truck routes, equipment warm up areas, water tanks, and equipment storage areas shall be located in an area as far away from existing residences as is feasible. The condition shall be reviewed and approved by the	Notes shall be placed on improvements plans noting these requirements.	During improvement plan preparation and review and project construction.	City Planning Director

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
		Planning Director prior to the issuance of permits.			
	MM 3.8-2	The applicant shall prepare and post readily visible informational signs at each entrance of the construction are indicates that the site is a "Noise Controlled Zone" and that person, vehicles, machinery and equipment may be barred from the site for violations of the noise regulations. A Noise Complaint Hotline telephone number shall appear prominently on the sign. The overall sign, including format, size, style and content shall be pre-approved by the City prior to posting.	Posting of signs.	Prior to construction of Phase 1 of the project. Sign shall remain posted during duration of Phase 1 construction activities.	City Planning Director
Implementation of the proposed project would result in noise impacts to future residential units due to traffic noise.	MM 3.8-3	As development proposals come forward for the Specific Plan area, noise attenuation shall be required to reduce noise levels to acceptable standards. In the event that patios and balconies are determined to occur within the 65 dBA noise contour, noise attenuation would be required to reduce noise levels to 65 dBA CNEL or lower. This may include the use of architectural treatments, barriers, or other noise attenuating measures. The mitigation measures shall provide sound level reductions so that future uses within the Specific Plan area are consistent with the CNEL levels identified in the San Marcos General Plan.	Review of architectural plans to ensure that appropriate windows and ventilation systems are provided that meet noise attenuation.	Prior to issuance of building permits.	City Planning Director
Implementation of the proposed project would result in noise impacts to interior residential space.	MM 3.8-4	Residential uses adjacent to project site roadways shall have dual-paned windows and supplemental ventilation (e.g., air conditioning systems) on their facades facing exterior roads.	Review of architectural plans to ensure that appropriate windows and ventilation systems are provided that meet noise attenuation.	Prior to issuance of building permits.	City Engineer

<table>
<tr><th>Impact</th><th>Mitigation Measure</th><th>Action</th><th>Timing</th><th>Responsibility[1]</th></tr>
<tr><td></td><td>MM 3.8-5 Noise-sensitive uses within 500 feet of San Marcos Boulevard shall be shielded by intervening structures, or shall employ upgraded noise mitigation (e.g., premium windows, etc.). The hierarchy of structural noise reduction is as follows, and shall be employed as needed to meet interior noise level of 45 dB.
<table>
<tr><th>Exterior to Interior Reduction Desired (dB)</th><th>Measure(s) Needed</th></tr>
<tr><td>0-10</td><td>None</td></tr>
<tr><td>10-20</td><td>Close single-paned windows facing roadway. Provide supplemental ventilation.</td></tr>
<tr><td>20-25</td><td>Close standard dual-paned windows. Provide supplemental ventilation.</td></tr>
<tr><td>25-30</td><td>Close upgraded dual-paned windows. Provide supplemental ventilation. Baffle vents and line ducts with absorbers.</td></tr>
<tr><td>>30</td><td>Custom upgrades (dual layer drywall, triple-paned windows, steel doors, etc.)</td></tr>
</table></td><td>Review of architectural plans to ensure that appropriate windows and ventilation systems are noted.</td><td>Prior to issuance of building permits.</td><td>City Engineer</td></tr>
<tr><td>Implementation of the proposed project would result in potential noise conflicts at the interface between retail commercial development and residential uses.</td><td>MM 3.8-6 As development proposal come forward for the Specific Plan area, a site specific noise study shall be prepared for the development. The noise study shall analyze the impact of co-locating residential and commercial uses on the project site. Mitigation measures shall be identified and incorporated into the Conditional Use Permits, to reduce noise impacts associated with these uses. The mitigation measures shall provide sound level reductions so that future uses within the Specific Plan area are consistent with the CNEL levels identified in the San Marcos General Plan.</td><td>Preparation of project-specific noise studies. City to review.</td><td>Prior to issuance of CUP.</td><td>City Planning Director</td></tr>
</table>

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
Transportation and Traffic					
Implementation of the proposed project would result in significant short-term impacts to project area roadways during the construction phase.	MM 3.10-1	Prior to the issuance of grading permits and infrastructure improvement, the project applicant shall prepare a Construction Management Plan for review and approval by the Planning Director. The Construction Management Plan shall address the following: • Control for any street closure, detour, or other disruption to traffic circulation; • Routes that construction vehicles would utilize to access the site; • Hours of construction traffic; • Off-site vehicle staging and parking areas; and • Posted information for contact in case of emergency or complaint.	Preparation of Construction Management Plan to the satisfaction of the City Engineer.	Prior to issuance of grading permit.	City Engineer
Future development within the Specific Plan may result in localized traffic impacts. This represents a significant impact.	MM 3.10-2	As future development projects are proposed within the Specific Plan area mitigation measures to reduce project-level impacts to below a level of significance concurrent with impacts would be identified and implemented. Impacts shall be mitigated to a level of service that is consistent with the Circulation Element of the San Marcos General Plan.	Preparation of project-specific studies. City of review.	Prior to issuance of any grading or building permit.	City Engineer

Impact	Mitigation Measure		Action	Timing	Responsibility[1]
Under Horizon 2030 conditions with the proposed Specific Plan land uses, two roadway segments are forecast to operate at deficient levels of service.	MM 3.10-3	Extend Creekside Drive west from Bent Avenue to McMahr Road. This improvement shall be funded on a "fair share" basis by future developers within the Specific Plan area.	Extension of Creekside Drive between Bent and McMahr.	Prior to issuance of any building permit.	City Engineer
Utilities and Service Systems					
There is a potential that off-site wastewater and water infrastructure improvement may be required to serve the project. However, the extent of these potential off-site improvements is not known at this time. This represents a significant impact.	MM 3.11-1	Future development within the Specific Plan (Phase 2) shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, focused Water and Sewer Studies shall be prepared which identify the infrastructure needed to support Phase 2 development of the project. Future developers within the Specific Plan area shall be responsible for the payment of fair share fees for the necessary water and sewer infrastructure upgrades. Additional environmental review shall be required for any off-site improvements. Additionally, prior to the issuance of building permits for Phase 2 development, the Water Supply Assessment shall be updated by Vallecitos Water District.	Preparation of Water and Sewer Studies and refinement of the water supply assessment.	Prior to issuance of building permit	City Engineer and VWD

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1.0 EXECUTIVE SUMMARY

1.1 INTRODUCTION

This Environmental Impact Report (EIR) is to serve as an informational document which would inform public agency decision makers and the public generally of the significant environmental effects of the San Marcos Creek Specific Plan and Floodway Improvement Project (project), identify possible ways to minimize the significant effects, and describe the reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information which may be presented to the agency [*California Environmental Quality Act (CEQA) Guidelines* §15121(a)].

This EIR has been prepared in accordance with the City's guidelines for compilation of an EIR and with all criteria, standards, and procedures of CEQA of 1970 as amended (Public Resources Code §21000 et seq.) and *CEQA Guidelines* (California Code of Regulations §15000 et seq.). Per §21067 of CEQA and §§15367 and 15050 through 15053 of *CEQA Guidelines*, the City of San Marcos is the lead agency under whose authority this document has been prepared.

This EIR is prepared to serve as a project-level EIR for implementation of proposed floodway, infrastructure and roadway improvements. This EIR also provides a program-level analysis of the impacts associated with implementation of the Specific Plan. Because specific development projects are not proposed within the Specific Plan area at this time, the EIR provides a program level clearance for this portion of the project. Subsequent environmental review may be required for future development within the Specific Plan area, including project-specific traffic and noise assessments. Other technical studies may be needed on a project by project basis. Please see Section 1.7 for a description of the above-mentioned project components.

1.2 PURPOSE OF AN EIR

The purpose of an EIR is to analyze the potential environmental impacts associated with a project. CEQA states that the purpose of an EIR is to: (1) inform the public and decision-makers of the potential environmental impacts of a project; (2) identify methods that could reduce the magnitude of potentially significant impact of a project; and (3) identify alternatives that could reduce the magnitude of environmental impacts or propose more effective use of the project site.

1.3 EIR ADEQUACY

The principal use of this Draft EIR is to evaluate and disclose potential environmental impacts associated with the implementation of the proposed project. An EIR is an informational document and is not intended to determine the merits or recommend approval or disapproval of a project. Ultimately, City decision-makers must weigh the environmental effects of a project among other considerations, including planning, economic, and social concerns.

The standards of adequacy of an EIR, defined by Section 15151 of the *CEQA Guidelines*, are as follows:

> "*An EIR should be prepared with a sufficient level of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effect of a proposed project need not be exhaustive, but sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have not looked for perfection but for adequacy, completeness, and good faith effort at full disclosure.*"

1.4 DOCUMENT ORGANIZATION

The content and format of this Draft EIR are designed to meet the current requirements of CEQA and the *CEQA Guidelines*. This Draft EIR is organized into ten chapters, as described below, so the reader can easily obtain information about the proposed project and its specific issues. Additionally, within each analysis chapter in Section 3.0, a specific analysis is provided for the State Route (SR) 78 hydraulic improvements. This discussion is called out separately for ease of use by Caltrans for issuance of an encroachment permit.

Section 1.0 – Executive Summary: Provides a summary of the potential impacts, mitigation measures of the proposed project and impact conclusion. This section also describes the purpose and use of the Draft EIR, and the organization of the Draft EIR.

Section 2.0 – Project Description: Describes the project site and general environmental setting, outlines the overall objectives for the revised project, proposed land use summary, and project components.

Section 3.0 – Environmental Impact Analysis: Presents, for each environmental issue, the existing environmental setting or conditions before project implementation; methods and assumptions used in impact analysis; thresholds of significance; impacts that would result from the revised project; mitigation measures that would eliminate or reduce significant impacts, and a conclusion.

Section 4.0 – **Alternatives:** The Alternatives section of this EIR evaluates the environmental effects of the project alternatives, including the No Project/No Development Alternative, No Project/Existing General Plan Alternative, Via Vera Cruz Bridge Alternative, and Reduced Density Alternative. Additionally, this chapter also identifies an environmentally superior alternative.

Section 5.0 – Environmental Effects Found Not to be Significant: Discusses the environmental issues that were determined to be less than significant through preparation of the Initial Study.

Section 6.0 – Growth-Inducing Impacts: Discusses whether or not the proposed project would induce substantial population growth in the area.

Section 7.0 – Cumulative Impacts: This section of the EIR presents, for each environmental issue area discussed in Section 3.0, a cumulative impact analysis.

Section 8.0 –Unavoidable Significant Adverse Environmental Impacts: Includes a discussion of significant environmental effects that cannot be avoided if the proposed project is implemented. This

section also discusses significant irreversible environmental changes that would occur if the project is implemented.

Section 9.0 –References and Preparers: Identifies the documents (printed references) and individuals (personal communications) consulted in preparing this Draft EIR and also lists the individuals involved in preparing this Draft EIR

Appendices – Presents data supporting the analysis or contents of this Draft EIR. All technical appendices are provided electronically on a CD in a pocket at the end of this document. In addition, copies of these reports are on file at the City of San Marcos, Planning Division, 1 Civic Center Drive, San Marcos, CA 92069 during normal business hours.

1.5 EIR BACKGROUND AND CONTENT

Development of the proposed project is subject to the requirements of CEQA because it is an action that has the potential to result in a physical change in the environment subject to discretionary approval by a public agency (in this case, the City of San Marcos). The first step in complying with the procedural requirements of CEQA is the preparation of an Initial Study. The major purpose of the Initial Study is to determine whether the proposed project could potentially cause significant impacts on the environment, and, if so, identify the effects that would be analyzed in the EIR. The project's Initial Study was prepared by the City of San Marcos and is provided in Appendix A. It explains why some potential effects were found not to be significant and why other effects are studied further in this Draft EIR.

After determining that an EIR is required, the City distributed a Notice of Preparation (NOP) to public agencies for a required 30-day review and comment period (see Appendix A). The NOP notified local agencies and the public that an EIR was being prepared and solicited their environmental concerns regarding the project. Comments regarding the NOP were received by the City and are also provided for review in Appendix A. Table 1.5-1 summarizes the NOP comments and provides responses to the comments raised.

1.5.1 Environmental Topics Addressed

Based upon the analysis presented in the Initial Study and the information provided in the comments to the NOP, the following environmental topics are analyzed in this Draft EIR:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural and Paleontological Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Public Services
- Transportation/Traffic
- Utilities and Service Systems

The responses to the NOP reflect to some degree the issues to be decided and the areas of controversy for this project and are as follows:

Table 1.5-1. Summary of NOP Comments

Issue Raised	Response
State Clearinghouse and Planning Unit – December 19, 2006	
This letter provides dates of review for the NOP.	No environmental issues were raised; therefore, no additional response is required.
Public Utilities Commission – June 28, 2006	
This letter recommends that any development projects planned adjacent to or near the North County Transit District right-of-way be planned with the safety of the rail corridor in mind. Development of the proposed project may increase traffic volumes at at-grade highway/rail crossings.	The project is not proposed adjacent to an NCTD right-of-way. A traffic impact analysis was prepared for the project and is summarized in Section 3.10 of the Draft EIR. All traffic impacts would be mitigated to below a level of significance.
Department of Transportation – January 19, 2007	
This letter requests that a traffic impact study be prepared for the proposed project incorporating analysis for short- and long-term impacts, impacts to state-owned signalized intersections, and cumulative impacts. Any work performed within Caltrans right-of-way would require an encroachment permit, the application for which is required to be obtained by the developer and analysis for which, both direct and indirect, is required to be analyzed in the EIR. In addition, grading which would divert drainage from the proposed project and cause increased runoff to existing state facilities is not permitted.	A traffic analysis was prepared for the proposed project and is summarized in Section 3.10, Transportation/Traffic. The analysis incorporates short-term construction-related impacts and long-term Horizon Year 2030 conditions. Cumulative impacts were also analyzed. Impacts were identified for project-area intersections. Portions of the project, specifically, the bridge replacement at SR-78 would occur with in the Caltrans right-of-way, and an encroachment permit would be secured. Section 3.6 of the EIR, identifies that drainage facilities to be constructed on the project site to ensure the amount of runoff water is within the capacity of existing and planned drainage systems. On- or off-site impacts to State facilities would not occur.
Native American Heritage Commission – December 20, 2006	
This letter recommends types of supporting documentation and actions required to comply with CEQA requirements and to avoid unanticipated discoveries once the project is underway.	A cultural resources technical study was prepared for the proposed project and is included as an appendix of this EIR. In addition a Sacred Lands File request was conducted and SB 18 Native American Consultation has occurred. The results are summarized in Section 3.4, Cultural Resources.
Vallecitos Water District – January 5, 2007	
This letter acknowledges receipt of a request to prepare a Water Supply Assessment pursuant to SB 610 for the proposed project and requests a 30-day extension to clarify water use details.	A Water Supply Assessment was prepared for the project by VWD and is included as an appendix to the EIR. The conclusions of the Water Supply Assessment are included in Section 3.11 of the Draft EIR.
Vallecitos Water District – January 19, 2007	
This letter indicates the proposed project is located within the boundaries of the Vallecitos Water District and is eligible for water service. Water lines and sewer facilities in conflict with the proposed project would require relocation and potentially require easements. The Fire Department should verify fire flow requirements and location of fire facilities. A hydraulic analysis would identify available fire flow for the	A Water Supply Assessment was prepared for the project by VWD and is included as an appendix to the EIR. The conclusions of the Water Supply Assessment are included in Section 3.11 of the Draft EIR. A sewer analysis is under preparation for the project. Preliminary information from the sewer study is included in Section 3.11 of the Draft EIR.

Issue Raised	Response
proposed project. Upgrades to existing sewer facilities may be required. A complete water and sewer analysis is recommended to be conducted for the proposed project to be verified by the District an analyzed for compliance with the District's Master Plan.	
San Diego County Archaeological Society, Inc. – December 26, 2006	
This letter acknowledges receipt of the NOP and requests to be included in the distribution of the Draft EIR. A copy of the cultural resources technical report was also requested.	A copy of the EIR and all cultural reports would be sent to the San Diego County Archaeological Society as requested.
North County Transit District – January 18, 2007	
NCTD requests that the EIR address pedestrian circulation for transit passengers, seniors, and people with disabilities, bus stop improvements, and encouraging alternative modes of transportation.	Section 2.0, Project Description and 3.10, Transportation/Traffic, discuss the alternative modes of transportation that would be accommodated within the project.
Pala Band of Mission Indians – January 15, 2007	
This letter indicates a low level of concern regarding possible areas of cultural sensitivity. Formal consultation is not requested. However, the possibility remains that areas of significance may be identified by other tribes or revealed during project construction.	Section 3.4, Cultural Resources, identifies potentially significant cultural resources identified on the project site and provides mitigation to reduce potential impacts to less than significant levels. Specifically, all initial grading activities in undeveloped areas bordering San Marcos Creek within the project boundary would be monitored by a qualified archaeologist in order to identify potential cultural resources. As a matter of course, project construction and development would also adhere to the regulations contained in State Health and Safety Code Section 7050.5, which states that if human remains are encountered, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin.
Sierra Club, San Diego Chapter – December 18, 2006	
This letter requests a copy of the NOP and to be added to the list for notification of all future CEQA documents, public hearings, and other meetings/public documents relating to the proposed project. A copy of the EIR was also requested.	A copy of the NOP was sent to the letter preparer. Further, the Sierra Club was notified that the EIR would be placed on the City's website and also available for viewing at the Counter and library.
Sierra Club, San Diego Chapter – January 17, 2007	
Channelization of the creek as proposed is not appropriate and would degrade the quality of the creek. Also, roads crossing the creek would further impair the quality of the creek and are inappropriate. The City is recommended to use the MHCP "Biological Goals, Standards, and Guidelines for Multiple Habitat Preserve Design" when planning improvements to San Marcos Creek. Wildlife movement along the creek and adjacent areas needs to be tracked. The letter also urges a reduction of discharge to the creek during rainy periods to minimize impacts to the Carlsbad Hydrologic Unit downstream. The Carlsbad Watershed Management Plan should be consulted for watershed improvement information.	Project design would alter the course of San Marcos Creek through construction of a levee and other flood control measures. As discussed in Section 3.6, Hydrology and Water Quality, implementation of the proposed project would result in increased sedimentation downstream; however, mitigation is proposed to reduce impacts to less than significant levels. Stormwater runoff would also be increased; however, the project would construct drainage facilities capable of conveying 100-year on-site storm flows to the creek without adversely impacting on-site flow rates. This would ensure impacts are less than significant downstream within the Carlsbad Hydrologic Unit. As discussed in Section 3.3, Biological Resources, the proposed creek improvements are determined to be consistent with the goals, standards, and policies of the City's draft Subarea Plan.

Issue Raised	Response
	Wildlife movement is discussed in Section 3.3, Biological Resources. As identified, the area adjacent to the creek has not been designated as a regional wildlife corridor in the City's draft Subarea Plan and does not function as such due to the historic transitional pattern in proximity to San Marcos Creek. Impacts to wildlife corridors are not expected to occur. Project consistency with the Carlsbad Watershed Management Plan is discussed in Section 3.6 of the Draft EIR.
Friends of Lake San Marcos, For a Clean Lake (March 5, 2007)	
Letter states that Recreation should be addressed in the EIR. Letter states that certain aspects of hydrology and water quality should be addressed in the EIR.	Recreation is discussed in the public services section of the EIR, please see Section 3.9. With regard to impacts to recreation on Lake San Marcos due to the project, a sediment study was prepared for the project and concluded that, with mitigation, the project would have a less than significant impact on downstream sedimentation. Therefore, no impact to recreational activities associated with Lake San Marcos would occur.

1.6 EIR PROCESSING

The Draft EIR has been distributed to affected federal, state, regional, county and city agencies and interested parties for a 45-day review period in accordance with Section 15087 of the *CEQA Guidelines*. In addition, this Draft EIR, including supporting technical documents, is made available to the general public for review during normal business hours at the following locations:

City of San Marcos - Planning Division Counter
1 Civic Center Drive
San Marcos, CA 92069

San Marcos Library
2 Civic Center Drive
San Marcos, CA 92069

Interested parties may provide written comments on the Draft EIR before the 45-day public review and comment period. Written comments on the Draft EIR must be submitted to:

Jerry Backoff
City of San Marcos Planning Division
1 Civic Center Drive
San Marcos, CA 92530

Upon completion of the 45-day review period, written responses to all comments on environmental issues discussed in the Draft EIR would be prepared and incorporated into the Final EIR for consideration by the City of San Marcos, as well as any other public decision makers. Furthermore, written responses to comments received from any Public Agency would be made available to those agencies at least 10 days prior to the public hearing at which the Certification of the Final EIR would be considered.

1.7 PROJECT SETTING AND DESCRIPTION

The project area is located in the southwest central portion of the City of San Marcos, approximately one mile southwest of the city's Town Center, and one mile northwest of California State University, San Marcos. The project area is generally bounded by San Marcos Boulevard and the Creekside Marketplace on the north; Grand Avenue and SR-78 on the east; the "Valley Verde" mobile home park, Discovery Street, and the generally undeveloped University Business Park area on the south; and Discovery Street on the west. Figure 1.0-1 shows the project area's regional context and vicinity. Figure 1.0-2 shows the boundaries of the project.

The project includes three primary components: (1) floodway improvements to San Marcos Creek, including hydraulic improvements to SR-78, (2) roadway and infrastructure improvements, and (3) implementation of the San Marcos Creek Specific Plan, which would serve as the master plan for the project area as the area builds out.

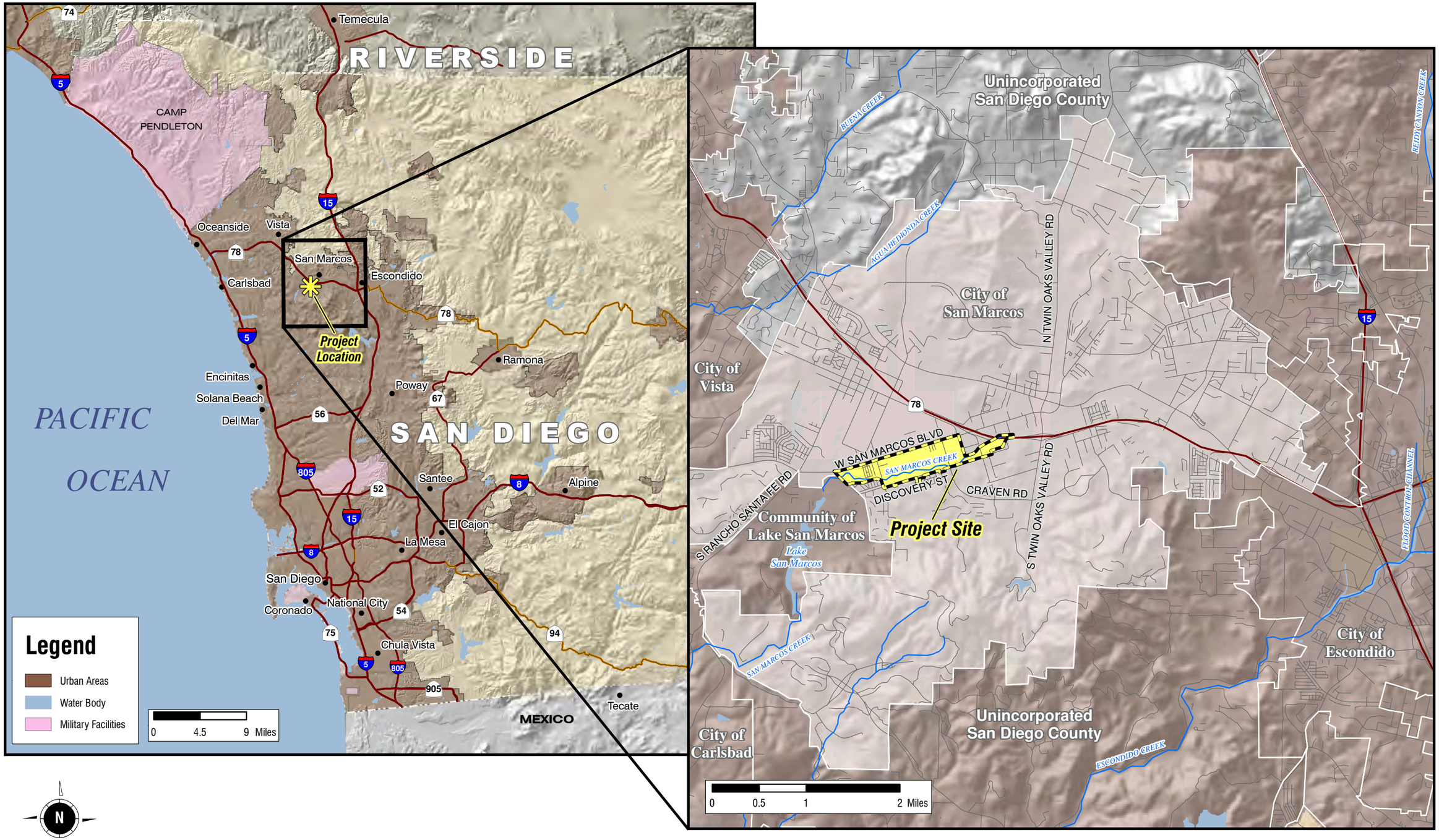
Each of these components is discussed in detail below. Except in minor respects as noted below, floodway improvements, as well as the roadway and infrastructure improvements are proposed to be developed in the first phase of the project. Implementation of the Specific Plan would occur as a second phase. Project phasing is discussed in more detail in Section 2.4 of the EIR

Flood Control Improvements

Flood control improvements would occur during the first phase of the project. The intent of the proposed flood control improvements is to provide flood protection for existing streets and existing and future uses in the project area, while maintaining a hydrologic regime that supports sensitive biotic communities along the creek corridor. Since future development within the San Marcos Creek watershed (both in and upstream of the project area) would continue to exacerbate flood potential by adding impervious surfaces that would increase both the rate and volume of stormwater runoff, the proposed flood control improvements have been designed to accommodate a FEMA 100-year storm event and to accommodate projected stormwater runoff at buildout of the City per the City Master Drainage Plan. Similarly, the flood control improvements have been designed to ensure that future development in the Specific Plan area does not increase potential for downstream flooding or harm the biological and aesthetic qualities the community seeks to protect.

Flood control improvements proposed as part of the project would provide the additional capacity needed to contain flood control facilities to contain stormwater run-off associated with 100-year storm events while protecting areas designated for development. Rather than modifying the existing creek channel and impacting existing vegetation and habitat, the improvement strategy is to establish a broad overflow area on either side of the creek channel that is contained by building up adjacent areas with levees, flood walls, and fill. The existing creek channel would continue to carry normal stream flows, while the broader overflow areas within the levees would accommodate storm flows that exceed the capacity of the existing natural creek channel. The overflow areas, which would be dry most of the year, generally would be maintained as natural open space.

In order to contain peak storm flows, the levees, flood walls and fill would range between 3 and 15 feet in height along the north side of the corridor, and between 10 and 15 feet high along the south



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Regional & Vicinity Map

FIGURE 1.0-1

Specific Plan Boundary

Temporary Staging Areas for SR-78 Culvert Improvements

LA MIRADA DR
LOS VALLECITOS BL
GRAND AV
N ECHO LN
KNOLL RD
TRAVELERS WY
JOHNSTON LN
W SAN MARCOS BL
78
S LAS POSAS RD
LINDA VISTA DR
S PACIFIC ST
COMMERCE ST
RYAN DR
STONE DR
VIA VERA CRUZ
BOARDWALK
PARK PL
S BENT AV
GRAND AV
ECHO LN
CRIBBAGE LN
DAISY LN
MARANATHA WY
PACIFIC ST
W SAN MARCOS BL
LAW ST
TAMARISK LN
MCMAHR RD
HAPPY HILL LN
LOCUST ST
CRAVEN RD
DISCOVERY ST
GINGER GLEN
HONEYGLEN DR
LUPINE DR
SONOMA ST
ECHO LN
WINDRIDGE CR
SHENANDOAH AV
SAN PABLO DR
GRANADA WY
LILAC CT
CRESTVIEW CT
APPLEWILDE DR
LA NOCHE DR
LA SOMBRA DR
ORIOLE WY
PHEASANT CT
MOCKINGBIRD LN
GARDENIA CT
VIA VERA CRUZ
SMOKETREE CT
HONEYSUCKLE DR
POPPY RD
LARKSPUR CT
FOXHALL DR
WHITESAGE RD
CREEKNETTLE RD
BUCKHORN AV
PRIVATE RD
ORCHID AV
SANTA BARBARA DR
WILD LILAC CR
AVENIDA LACUESTA
CAM CARTA
ECHO LN

N

0 325 650 1,300 Feet

Source: Aerial, Landscor, January 2005 | G:\Projects\200595_SANMARCOS\31175_SANMARCOS_CRK\map_docs\mxd\EIR\Project_Site.mxd | Last Updated: 02-16-07

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Project Site

FIGURE 1.0-2

side (In the area between McMahr Road and Via Vera Cruz on the south side of the channels, no levee or fill is required). The inboard side of the levees (i.e., facing the creek) generally would have a 3:1 slope. However, in an effort to soften the engineered appearance of the levees, the inboard slopes are flattened to 5:1 in some areas, and curves have been added to the levee alignment. The levee slopes also would be planted with native grasses and shrubs compatible with the upland species in the flood control channel to make the banks appear as natural as possible. To avoid having the levee create a wall between the creek open space corridor and future development to the north, fill would be used to raise the land on the north side of the levee to the same elevation as the levee top.

The floodway improvements include the removal of fill material that was illegally placed within the creek area. This fill is located on the south side of the creek, west of SR-78. Upon removal of the fill, this area would be restored with high-value wetland vegetation.

Another component of the floodway improvement project would address the portion of Las Posas Creek that flows into San Marcos Creek in the northwestern portion of the project site. Within the project site, this portion of Las Posas Creek would be channelized into an open trapezoidal culvert or a box culvert.

SR-78 Hydraulic Capacity Improvements

Another component of the Flood Control Improvement portion of the project includes a new bridge to supplement the capacity of the San Marcos Creek culverts that cross beneath SR-78. The construction of the bridge at SR-78 would occur during the first phase of the project. The existing culverts constrain the creek flow and are the primary cause of the flooding along San Marcos Boulevard during the 100-year storm. The proposed bridge would be approximately 272 feet long and 155 feet wide, accommodating four 12-foot lanes and two 10-foot shoulders in both the westbound and eastbound directions. A bicycle/pedestrian pathway would extend approximately 18 additional feet and consists of two 7-foot travel lanes, a concrete barrier to separate the pathway from traffic, and an outside concrete railing.

Roadway and Infrastructure Improvements

~~Consistent with the General Plan, the four~~Three principal north-south streets (~~McMahr,~~ Via Vera Cruz, Bent Avenue and Grand Avenue) through the proposed Specific Plan area would be improved to full urban standards and would provide through access between San Marcos Boulevard and Discovery Street. Bridges are proposed over San Marcos Creek at ~~McMahr Road~~Via Vera Cruz and Grand Avenue. It should be noted that the Grand Avenue bridge is not proposed as part of the project. The construction of the Grand Avenue bridge is proposed as part of the adjacent Fenton project.

Discovery Street Improvements

Discovery Street between McMahr Road and Craven Road would be raised in sections to be consistent with flood control elevations on the south side of the street and be improved to urban street standards. The improved roadway would include two 11-foot travel lanes in each direction, a 10-foot center turn lane, two 5-foot bike lanes and an 8-foot parking lane on the north side of the roadway

adjacent to the proposed open space. Improvements to Discovery Street would occur as part of either Phase 1 or Phase 2 of the project.

A General Plan Amendment is required to modify the Circulation Element for the segment of Discovery Street between McMahr and Craven. This segment is currently identified as a Major Arterial and would be reclassified as a Secondary Arterial with parking along the north side of the street.

Grand Avenue Improvements

Grand Avenue bridge construction is not proposed as part of the project. The bridge would be constructed when the property to the south of the project develops. The future bridge over the creek would be approximately 500 feet in length and would carry a total of four 11-foot lanes of traffic, two northbound and two southbound, with a constant five-foot shoulder on the west side and a variable width shoulder on the east side. The west side of the bridge would be designed to accommodate approximately a 9-foot-wide multiuse sidewalk/trail area with ornamental railing, pilasters, lighting, and banners, to enhance and promote a special visual experience for pedestrians and the traveling public. The bridge is proposed to be a cast-in-place pre-stressed concrete box girder.

A General Plan Amendment is required to modify the Circulation Element for the segment of Grand Avenue between the future bridge to Discovery Street. This segment is currently identified as a Major Arterial and would be reclassified as a Secondary Arterial.

McMahr Road Improvements

McMahr Road would be extended through the project site as the extension of Las Posas Road. From San Marcos Boulevard to Creekside Road, McMahr Road would be designed as special four-lane Creekside District arterial with 84-foot interim right-of-way and 98-foot ultimate right-of-way. From Main Street to Creekside Road, McMahr would be designed as a two-lane collector with 84-foot right of way. McMahr would terminate at Creekside Drive within the Specific Plan area. Improvements to McMahr Road would occur as part of Phase 1 of the project.

A General Plan Amendment is required to modify the Circulation Element for the segment of McMahr between San Marcos Boulevard and Discovery Street. The project will reclassify this segment as a special four-lane Creek District arterial with an 84-foot interim ROW and a 98-foot ultimate ROW. From Main Street to Creekside Road, McMahr would be designed as a tow-lane collector with an 84-foot ROW.

~~McMahr Road would be extended through the project site as the extension of Las Posas Road. From San Marcos Boulevard to Discovery Street, McMahr Road would be designed as special four-lane Creekside District arterial with 84-foot interim right-of-way and 98-foot ultimate right-of-way. Improvements to McMahr Road would occur as part of Phase 1 of the project.~~

Via Vera Cruz Improvements

Via Vera Cruz, between San Marcos Boulevard and Discovery Street, would be improved to have an 84-foot right-of-way with four 11-foot travel lanes, a 10-foot left turn pocket or a landscaped median. Additionally, there would be two 5-foot bicycle lanes and 10-foot sidewalks. The improvements to Via Vera Cruz include a bridge that would be approximately 450 feet in length, 84 feet in width and would include four 11-foot wide travel lanes, 5 foot bike lanes and multi use trails on both sides. The bridge is also intended to include decorative features such as ornamental railing, pilaster, lighting, and banners that would visually enhance the bridge experience for pedestrians and traveling public.

~~Via Vera Cruz, between San Marcos Boulevard and Discovery Street, would be improved to have an 84-foot right-of-way with four 11-foot travel lanes, a 10-foot left turn pocket or a landscaped median. Additionally, there would be two 5-foot bicycle lanes and 10-foot sidewalks. The improvements to Via Vera Cruz include an enhanced low-water crossing with additional box culverts supplementing the existing culverts, or Arizona Crossing, at San Marcos Creek. An Arizona Crossing is an at-grade crossing designed to allow flood waters to flow over the roadway. Improvements to Via Vera Cruz would occur as part of Phase 1 of the project.~~

Bent Avenue Improvements

Bent Avenue, between San Marcos Boulevard to Discovery Street would be upgraded to urban street standards consistent with their designations in the General Plan Circulation Element. Bent Avenue would be designed as a two-lane Collector with a 68-foot interim and 76-foot ultimate right-of-way. The improvements to Bent Avenue also include construction of an Arizona Crossing at San Marcos Creek. Bent Avenue improvements would occur as part of Phase 1 of the project.

Pedestrian Bridge

In addition to the roadway improvements across the creek, a 12-foot pedestrian bridge is proposed to enhance pedestrian opportunities within the project area. The pedestrian bridge is proposed mid-way between McMahr Road and Via Vera Cruz, and would be inline with a north-south trending street within the proposed Specific Plan area. The pedestrian bridge would be developed as part of Phase 2 of the project.

Vallecitos Water District Improvements

In 2001, the Vallecitos Water District (VWD) approved replacement of the San Marcos sewer interceptor. A portion of the alignment for the interceptor falls within the project site. To date, VWD has constructed a portion of the sewer interceptor within the project area, though the majority of the project has not been completed. When the alignment approved in 2001 is reviewed in light of the proposed project, it may be beneficial for VWD to modify the alignment of the interceptor and conduct the replacement concurrent with development of the project. Figure 2.3-5 depicts the potential sewer interceptor alignments within the project area. Construction of the VWD alignment would occur during or prior to Phase 1 of the project.

Water Improvements

The project site is within the service area of the VWD. Water line improvements are required to serve the project and include both Phase 1 and Phase 2 improvements. Phase 1 improvements would include construction of a 12-inch waterline within Creekside Road. Phase 2 improvements would expand the water infrastructure into the proposed Specific Plan Area These water lines would also be 12-inch.

Sewer Improvements

VWD is also the wastewater provider for the project. Sewer line improvements are required to serve the project and include both Phase 1 and Phase 2 improvements. Phase 1 improvements would include construction of an 8-inch sewer line within Creekside Road. Phase 2 improvements would expand the sewer infrastructure into the Specific Plan area.

Drainage Improvements

Drainage improvements are proposed as part of the project and include approximately 5,900 feet of a new North Storm Drain System. The North Storm Drain System would begin at the north levee alignment and extend to the confluence of San Marcos Creek and Las Posas Creek. All flows north of San Marcos Creek would be routed through the new storm drain system which would ultimately discharge directly into San Marcos Creek. It should be noted that runoff would pass through bio filter before it is discharged into the storm drain system.

Additionally, a new South Storm Drain System, approximately 4,000 feet in length, would be placed along the length of Discovery Street from Bent Avenue to McMahr Road. The proposed widening of Discovery Street includes existing storm drains and routes them through the new South Storm Drain System. This system would discharge directly into San Marcos Creek near McMahr Road.

Dry Utility Improvements

As part of the project, existing above-ground utility lines along Bent Avenue, Via Vera Cruz, McMahr Road and a portion of Discovery Street would be undergrounded. Interim temporary relocation of the lines would be required while roadway improvements are underway during Phase 1 of the project. This relocation would occur adjacent to the existing alignment, but outside of the road right-of-way. Ultimately, the lines would be undergrounded.

San Diego County Water Authority Pipeline Encasement

A 108-inch waterline owned by the San Diego County Water Authority (SDCWA) runs through a portion of the project site. During construction activities for the levee ~~and McMahr bridge,~~ a portion of the SDCWA pipeline would be exposed and encased. ~~This activity would occur within the construction footprint of the McMahr bridge construction. Therefore, any biological resources impacts associated with this activity would be considered in the impacts due to McMahr bridge.~~ The encasement would occur as part of Phase 1 of the project. Future development within the Specific Plan area would meet SDCWA requirements for easement maintenance.

San Marcos Creek Specific Plan

Specific Plan Land Uses

The San Marcos Creek Specific Plan area covers approximately 217.3 acres. This includes 81.7 acres proposed as mixed use development, 19.9 acres of park, 77.0 acres of open space, and 38.47 acres of right-of-way. Figure 1.0-3 depicts the distribution of the land uses.

The 81.7 acres identified as mixed use would be developed with up to 1,265,000 square feet (s.f.) of retail, 589,000 s.f. of office, and up to 2,300 dwelling units. Differing development intensities are proposed throughout the Specific Plan area and are based upon differing Floor Area Ratios (FAR). FAR is the total floor area of a building or structure on a lot divided by the total area of the lot. FARs vary from 1.25:1 to 2.25:1 within the Specific Plan area. Development associated with the Specific Plan will vary in height depending on the location within the Specific Plan. The most dense areas will be a minimum of three stories (35 feet) and can reach up to 80 feet. The remaining areas of the Specific Plan will be a minimum of two stories (25 feet) and can reach up to 65 feet.

A General Plan Amendment is required to change the existing General Plan land use designations to Specific Plan Area for those areas that are covered by the Specific Plan. Additionally, a Rezone is required to change the existing zoning to Specific Plan Area for the area that corresponds to the area identified in the Specific Plan.

Specific Plan Park and Open Space

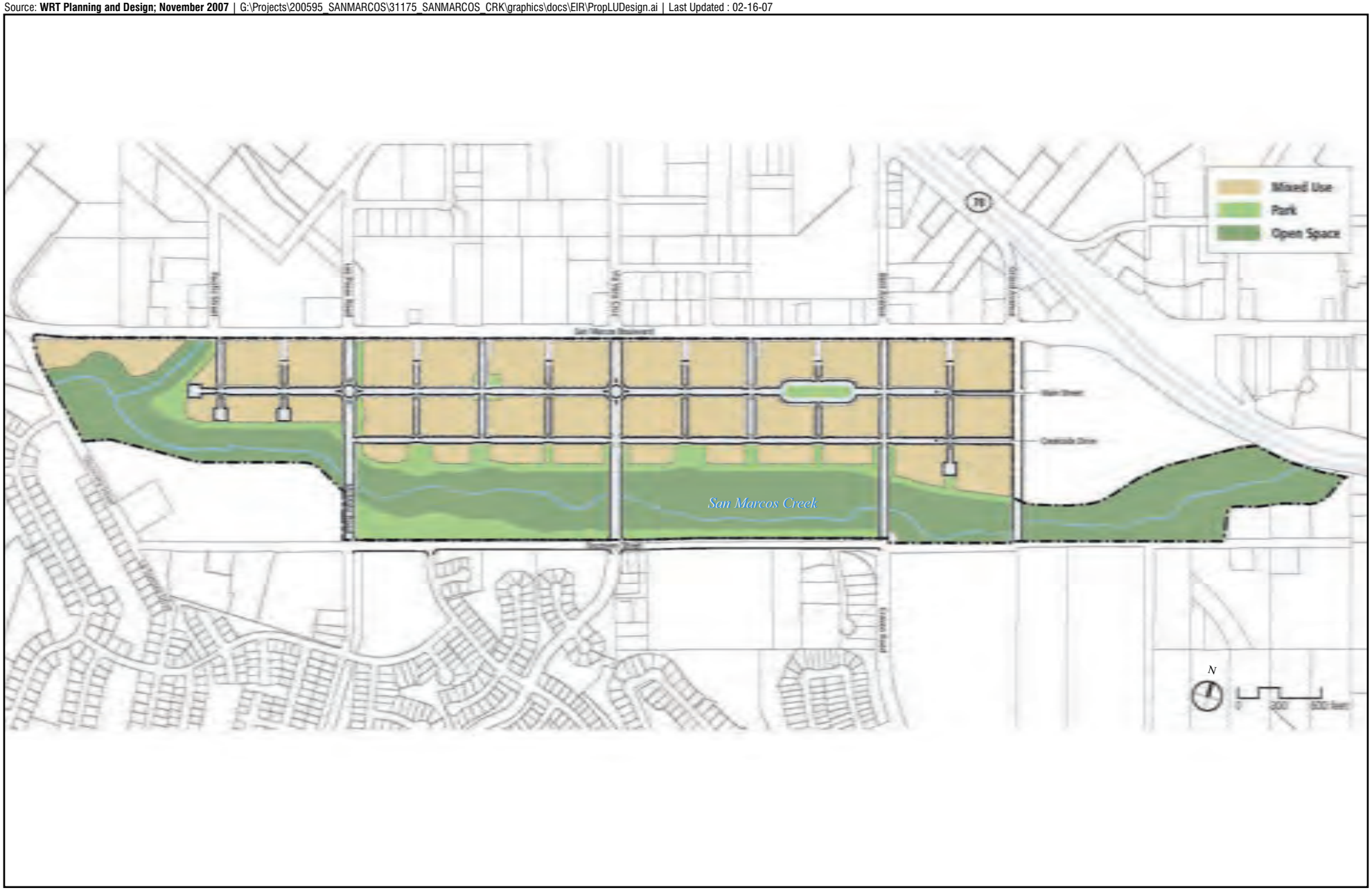
The open space concept for the Specific Plan is to establish a comprehensive and integrated system of pedestrian-oriented open space areas that link the various districts of the Specific Plan area. The system has three components: “Open Space,” which consists of natural preserved and restored habitat within the San Marcos Creek corridor; “Parks,” which include a complex of urban parks, plazas and improved parkland adjacent to the creek and “Streetscapes,” which include the pedestrian zones associated with the Specific Plan areas streets and walkways.

Specific Plan Bicycle and Pedestrian Facilities

The project proposes a pedestrian trail system as well as facilities for bicycles. Additionally, the project proposes enhanced transit services. Pedestrian activity within the Specific Plan area would be enhanced through the use of broad, tree-line sidewalks on both sides of all streets within the development area, pedestrian streets or “paseos” that provide off-street pedestrian movement, and the provision of a Class I, multi-use trail within the proposed open space corridor.

Bicycle use within the Specific Plan area would be encouraged through the provision of an inter-connected system of Class II bicycle lanes that connect to existing and planned bicycle facilities on San Marcos Boulevard, Las Posas Road, Discovery Road, McMahr Road, and Craven Road. The project proposes bicycle lanes on Bent Avenue, Via Vera Cruz, McMahr Road, Discovery Street, Creekside Drive, and the north-south local streets within the Specific Plan area.

Source: **WRT Planning and Design; November 2007** | G:\Projects\200595_SANMARCOS\31175_SANMARCOS_CRK\graphics\docs\EIR\PropLUDesign.ai | Last Updated : 02-16-07



Proposed Land Use Designations

FIGURE 1.0-3

Enhanced transit service is also identified within the Specific Plan. Enhanced transit would be accomplished through the provision of a new local shuttle. This shuttle would provide internal circulation within the Specific Plan area and would also loop with connections to other key nearby San Marcos destinations (e.g., employment centers, campuses, and transit stations).

Project Phasing

The project would be constructed in two phases, as detailed in Table 1.7-1. Phase 1 of the project include construction of the floodway improvements, SR-78 bridge, roadway improvements and infrastructure improvements. Phase 2 of the project includes development of the Specific Plan area, including wet and dry utility improvements to support the future development within the Specific Plan area.

Table 1.7-1. Proposed Project Phasing

Project Phase	Proposed Improvements	Details
Phase 1 (one to five years)	Flood Control Improvements	Levee and Floodwall Construction Remediation Grading to remove illegally-placed fill
	SR-78 Hydraulic Capacity Improvements	Construction of a bridge at SR-78 to provide adequate hydrologic flows.
	Roadway Improvements	Bent Avenue Discovery Avenue (1) Via Vera Cruz ~~McMahr~~ Creekside Road (2) Grand Avenue (3)
	Infrastructure Improvements	Water, Sewer and Dry Utility Improvements within Creekside Road Drainage Improvements VWD Sewer Interceptor SDCWA 108" pipeline encasement
	Biological Mitigation	Habitat Restoration and Enhancement due to Phase 1 improvements.
Phase 2 (up to 20 years)	Specific Plan Roadway Improvements	Construction of the grid streets within the Specific Plan area.
	Specific Plan Infrastructure Improvements	Water, Sewer, and Dry Utility Improvements within the Specific Plan area (exclusive of those improvements carried out as part of Phase 1).
	Specific Plan Development	Buildout of the Specific Plan including construction of parks features, urban trail, pedestrian bridge, and mixed-use areas.

(1) Discovery Avenue improvements would occur during either Phase 1 or Phase 2 of the project.
(2) Creekside Road is a proposed road that would be located north of the Creek atop the northern levee.
(3) Grand Avenue Bridge to be constructed by another project.

Discretionary Actions Required

This EIR covers the list of discretionary actions included below. Please see Section 2.4 of this EIR for a complete description of these actions.

- Certification of the EIR (City of San Marcos)
- General Plan Amendment – Land Use Element (City of San Marcos)
- General Plan Amendment – Circulation Element (City of San Marcos)
- Rezone (City of San Marcos)
- Adoption of the San Marcos Creek Specific Plan (City of San Marcos)
- Section 1602 Permit (California Department of Fish and Game)
- Section 401 Water Quality Certification (Regional Water Quality Control Board)
- Encroachment Permit (Caltrans)
- Section 404 Permit (United States Army Corps of Engineers)
- Encroachment Permit (San Diego County Water Authority)
- Approval of Realignment (Vallecitos Water District)

1.8 ENVIRONMENTAL ANALYSIS

Project impacts and mitigation measures are presented in Table 1.8-1, Summary of Project Impacts and Mitigation Measures. Due to the size of the table, it is presented at the end of this chapter. The complete environmental analysis is presented in Section 3.0, Environmental Analysis.

1.8.1 Aesthetics

No significant aesthetic impacts related to construction of Phase 1 and 2 of the project were identified for the project. Development associated with the Specific Plan area would result in a less than significant impact to scenic vistas and scenic resources. The project would not result in lighting or glare impacts, as future building would not including highly reflective finishes or excessive lighting. Future project within the Specific Plan would have to go through design review to ensure that they are compatible with the guidelines in the Specific Plan, and to ensure they are visually pleasing. Additionally, landscaping will soften the appearance of the building and revegetation within the creek will enhance the visual quality of the creek corridor. Therefore, the project was determined to have a less than significant aesthetic impact.

1.8.2 Air Quality

Impacts to air quality are discussed in Section 3.2 of this Draft EIR. Construction of both Phase 1 and Phase 2 of the project would result in significant respirable particulate matter (PM_{10}) and nitrogen oxides (NO_x) emissions. Mitigation measures have been identified to reduce the PM_{10} impact to below a level of significance. These measures include limiting the amount of grading that can occur within a given day and also requiring the use of best available control measures. Mitigation measures have also been identified for the construction-related NO_x emissions; however, these measures would not reduce the impact to below a level of significance.

Future development within the Specific Plan area would require the use architectural coatings for building finish work. Depending on the amount of painting that occurs at a time, there is a potential for significant reactive organic gas (ROG) impacts. Mitigation measures have been identified to reduce this impact to below a level of significance. Finally, vehicular emissions associated with future project traffic results in significant NO_x, PM_{10}, and ROG impacts. While the project does incorporate pedestrian and bicycle facilities as well as an intra-city shuttle as part of project design to encourage alternative transportation modes in addition to mitigation measures which would reduce operational emissions, emissions would not be reduced to below a level of significance. Therefore, the project results in a significant and unmitigated air quality impact.

1.8.3 Biological Resources

Impacts to biological resources are discussed in Section 3.3 of this Draft EIR. As identified, implementation of the proposed project would result in direct and indirect impacts to biological resources during both Phase 1 and Phase 2 of the project. Specifically, the project would result in significant impacts to jurisdictional wetland and non-wetland waters of the U.S. Impacts to these communities would be mitigated to below a level of significance through on- and off-site wetland habitat enhancement and/or restoration. The proposed project would also result in impacts to sensitive habitat including coyote brush and isocoma scrub. Mitigation for these losses would include off-site creation, enhancement, and/or preservation of like habitats. Impacts to sensitive plants including southern tarplant and southwestern spiny rush would be mitigated through on- and off-site relocation efforts and planting of spiny rush individuals within the project area in suitable riparian habitat, respectively. . Potential impacts to sensitive wildlife would be mitigated by conducting a one-time pre-construction biological survey for nesting bird species, avoidance of any active nests, and performance of a protocol gnatcatcher survey. With incorporation of these mitigation measures, impacts to biological resources would be less than significant.
~~Potential impacts to sensitive wildlife would be mitigated by conducting a one-time biological survey for nesting bird species and avoiding any active nests. With incorporation of these mitigation measures, impacts to biological resources would be less than significant.~~

1.8.4 Cultural Resources

~~Impacts to cultural resources are discussed in Section 3.4 of this Draft EIR. Implementation of the project has the potential to significantly impact CA-SDI-17423, an archaeological site that contains a light to moderate density scatter of metavolcanic and quartz debitage. Mitigation measures have been identified that would reduce the impact to below a level of significance. Additionally, project grading has the potential to destroy unidentified archaeological resources that may have been obscured by dense vegetation.~~

Implementation of the project will result in a significant impact to CA-SDI-17423, an archaeological site that is eligible for listing in the CRHR. A mitigation measure requiring data recovery has been identified, which would reduce the impact to below a level of significance. Additionally, project grading has the potential to destroy unidentified archaeological resources that may have been obscured by dense vegetation. A mitigation measure has been included which would require an archaeological and tribal monitor during grading activities adjacent to San Marcos Creek, would reduce this impact to below a level of significance.
~~has been included which would require an archaeological monitor during grading activities adjacent to San Marcos Creek, would reduce this impact to below a level of significance.~~

Finally, future development associated with the project would impact one building, a house located at 918 Discovery Street. This house is eligible for inclusion on the California Register of Historic Resources. Demolition of this house would result in a significant impact. A Historic American Building Survey (HABS) would be required prior to relocation of the house. The he project would relocate the house to another area of San Marcos and subsequent rehabilitation. This would reduce the significant impact identified to the house to below a level of significance. Further mitigation has been identified to reduce potential impact to unknown paleontological resources to below a level of significance.

1.8.5 Hazards and Hazardous Materials

Impacts due to hazards and hazardous materials are analyzed in Section 3.5 of this Draft EIR. Potential significant hazard impacts were identified for the project related to the potential for hazardous materials in the levee fill material, the presence of leaking underground storage tanks on the project site, and the potential for asbestos-containing materials and lead-based paint. Specifically, existing structures that are proposed for removal or relocation may contain asbestos-containing materials and lead-based paint due to their age. Additionally, the house proposed for relocation may have issues with these materials as well. Mitigation measures have been included to ensure that fill material for levee construction and earthwork activity is clean and free of any potential hazardous materials. Another mitigation measure requires that any hazardous materials that are found on the site are remedied in accordance with all federal and state requirements, and that any leaking underground storage tanks on the project site are cleaned up prior to project construction within those areas where the tanks are located. With incorporation of these mitigation measures, potentially significant impacts would be reduced to below a level of significance.

1.8.6 Hydrology/Water Quality

Impacts to hydrology and water quality are discussed in Section 3.6 of this Draft EIR. As identified, the proposed project would incorporate a desiltation and/or filtration system as part of project design that would filter runoff before it enters the public stormwater drainage system. These design features (i.e., detention basins, filters, sizing of pipes, etc.) would convey existing and project runoff flows across the property in drainage systems as approved by the City Engineer. Additionally, the proposed project is required to comply with adopted water quality and waste discharge requirements, including the preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Any potential water quality impacts associated with increased downstream sedimentation would be mitigated through implementation of one of the above design measures. With incorporation of one of the above-mentioned design measures, downstream sediment transport would not create adverse impacts to Lake San Marcos.

The project would be designed to contain the FEMA 100-year and Ultimate Build Out 100-year storm events within the channel improvements such that adjacent properties north and south of the creek would be out of the floodplain and can be successfully redeveloped in accordance with the City's San Marcos Creek Specific Plan. The proposed improvements meet the design criteria/requirements provided from the entities and are improving the overall neighborhood environment. Proposed project design includes storm water management improvements that would ensure that the storm water drainage system would adequately handle the runoff anticipated by the proposed project. Impacts would be less than significant.

The project would increase downstream sediment delivery. However, the project proposes two check dams to decrease the velocity of the creek flow. ~~to reduce this impact, the armoring of the Via Vera Cruz Road Crossing would be required.~~ This would reduce sediment delivery to below the existing conditions for the FEMA 100-year flood, the FEMA flood series, and the ultimate flood series. In summary, all impacts relating to hydrology and water quality would be less than significant.

1.8.7 Land Use

Impacts to land use are discussed in Section 3.7 of this Draft EIR. A significant impact related to an inconsistency between the proposed uses on the project site and the uses currently allowed under the General Plan and Zoning Ordinance was identified. These significant land use impacts would be reduced to below a level of significance through the adoption of General Plan Amendments, a Rezone, and adoption of the San Marcos Creek Specific Plan. Additionally, an inconsistency between the proposed right-of-way of ~~two~~ three roadway segments was identified. The segment of Discovery Street between McMahr and Craven is currently identified as a Major Arterial and would be constructed as a modified Secondary Arterial. ~~Additionally,~~ The ~~the~~ segment of Grand Avenue between the future Grand Avenue bridge and Discovery Street is currently identified as a Major Arterial and would be constructed as a Secondary Arterial. Additionally, the project would reclassify the segment of McMahr between San Marcos segment as a special four-lane Creek District arterial with an 84-foot interim ROW and a 98-foot ultimate ROW. From Main Street to Creekside Road, McMahr would be designed as a two-lane collector with an 84-foot ROW. Adoption of a Circulation Element Amendment to change these classifications would eliminate the inconsistency and reduce the impact to below a level of significance.

1.8.8 Noise

Impacts to noise are discussed in Section 3.8 of this Draft EIR. Construction activities for the project would adhere to the requirements of the San Marcos Noise Ordinance, Section 10.24.020(i). The Ordinance limits construction activities to the hours of 7:00 a.m. to 6:00 p.m., Monday through Fridays, and 8:00 a.m. to 5:00 p.m. on Saturdays. Adherence to Mitigation Measure 3.8-1 and adherence to the Noise Ordinance would reduce the short term construction impacts to below a level of significance.

Vehicular trips associated with project development would result in a noise increase along five roadway segments. Four of these segments are off-site and located in commercial or light industrial areas and would not impact sensitive receptors. For the one on-site segment that is identified to have a significant increase, existing residential uses are set back far enough from Bent Avenue so that the impact would be less than significant. Future residential uses proposed by the project may be impacted by roadway noise levels from San Marcos Boulevard. Additionally, potential impacts associated with adjacent residential and commercial uses have been identified for the project. Mitigation measures, requiring that future development incorporate measures to reduce noise levels to acceptable ranges would be incorporated as part of the required CUP as specific development plans come forward, have been identified. All mitigation measures identified would be required to be implemented. Incorporation of these mitigation measures would reduce noise impacts to below a level of significance.

1.8.9 Public Services

Public services are discussed in Section 3.9 of the Draft EIR. Development of the proposed project would result in an increase in demand for fire protection, police protection, school services, library facilities, and parks and recreation; however, the increase would not be at a level that would result in a significant impact. Future developments within the Specific Plan area shall either annex into an existing community facilities district (CFD) or be responsible for payment of Level 2 school fees (currently $4.26 per s.f.) as specified in the District's most recent School Facilities Needs Analysis at the time the building permit is obtained. The project would also have to contribute to a PFF payment, which includes a category for parks and recreation. Further, the project is consistent with the applicable goals, policies and implementing strategies of the Safety Element and the Park and Recreation Element of the San Marcos General Plan.

1.8.10 Traffic

Impacts to traffic are discussed in Section 3.10 of this Draft EIR. The proposed San Marcos Creek Specific Plan development is forecast to generate a net change over the General Plan land uses of approximately 9,792 trips per day, with 1,177 trips occurring in the AM peak hour and 1,087 trips occurring in the PM peak hour.

Development of the project would result in the need to import fill material for levee construction as well as other trips associated with construction deliveries and employees. Due to the already degraded roadway conditions in the project vicinity, this additional traffic has the potential to create a significant short-term impact. A mitigation measure has been included which requires the preparation of a Construction Management Plan. Preparation and implementation of the Construction Management Plan would reduce this potential impact to below a level of significance.

Due to the uncertainty of the buildout of the Specific Plan area, analysis for the near-term impacts associated with buildout of the Specific Plan was not conducted for the project. It is unknown at what rate the individual development projects within the Specific Plan would come forward. It is also unknown the size and potential trip generation that could occur with the individual projects.

Given that several segments and intersections within the project vicinity currently operate at a degraded level of services, it is likely that development projects coming forward in the future within the Specific Plan area would exacerbate those impacts unless additional roadway and intersection improvements occur. This represents a potentially significant impact. A mitigation measure has been identified requiring individual projects to prepare a traffic impact analysis and implement mitigation measures to address the interim conditions and allocate the mitigation measures concurrently with the impacts.

The results of the Horizon Year 2030 peak hour intersection analysis with the General Plan land uses show that all of the study intersections are forecast to operate at acceptable levels of service (LOS D or better). Under Horizon Year 2030 conditions with the proposed Specific Plan land uses, all of the study intersections are forecast to operate at acceptable levels of service (LOS D or better).

The results of the Horizon Year 2030 daily roadway segment analysis show that all of the study roadway segments are forecast to operate at acceptable levels of service (LOS D or better) with the

General Plan land uses. Under Horizon Year 2030 conditions with the proposed Specific Plan land uses, two roadway segments are forecast to operate at deficient levels of service. The segment of Main Street between Las Posas and Via Vera Cruz, as well as the segment of Main between Via Vera Cruz and Bent would have an unacceptable LOS. Mitigation has been identified which would extend Creekside Drive west from Bent Avenue to McMahr, would provide additional roadway for travel and alleviate the deficient capacity on the impacted segments. This would provide an LOS D or better for the segments, thus reducing this impact to below a level of significance.

1.8.11 Utilities and Service Systems

Impacts to utilizes and service systems are analyzed in Section 3.11 of the Draft EIR. Development of the project, particularly buildout of the Specific Plan as part of Phase 2, would result in an incremental increase in the need for water and wastewater services, and solid waste services. The analysis in this chapter concluded that impacts to solid waste services would be less than significant Water and wastewater impacts would be potentially significant, as improvements to off-site infrastructure may be required to serve Phase 2 of the project. Mitigation has been identified that requires that water and sewer studies be prepared for Phase 2 of the project. The preparation of these reports would provide the project-level clearance for future development within the Specific Plan area. In the event that these water and sewer studies identify the need for off-site infrastructure improvements, those improvements would need to occur prior to issuance of building permits for Phase 2 projects. Subsequent environmental review would be required for any infrastructure improvements that are not included in this environmental document or other environmental documents. Additionally, prior to issuance of building permits for Phase 2 of the project, the water supply assessment of the project shall be refined to reflect final development within the Specific Plan area. Implementation of these mitigation requirements would reduce the potential water and wastewater impacts to below a level of significance.

~~Development of the project, particularly buildout of the Specific Plan as part of Phase 2, would result in an incremental increase in the need for water and wastewater services, and solid waste services. The analysis in this chapter concluded that impacts to these service providers would be less than significant, with the exception of wastewater. The wastewater generated by the project would require upsizing of the San Marcos interceptor by VWD, as well as expansion of the outfall at the Encina treatment plant to occur at an earlier time than anticipated by VWD. A mitigation measure has been identified which requires completion of the San Marcos Interceptor by VWD prior to development within the Specific Plan area, as well as further coordination with VWD by future project applicants. Implementation of this mitigation measure would reduce the impact to wastewater services to below a level of significance.~~

1.8.12 SR-78 Hydraulic Improvements Impact Summary

The project includes a new bridge to supplement the capacity of the San Marcos Creek culverts that cross beneath SR-78. The impacts associated with the SR-78 improvements are analyzed through out the EIR as part of the Phase 1 project improvements. However, in order to facilitate the issuance of the right-of-way encroachment permit from Caltrans, impacts within the Caltrans right-of-way have been summarized separately. Table 1.8-2 summarizes the impacts within the right-of-way.

Table 1.8-2. Summary of Impacts within Caltrans Right-of-Way

Environmental Issue Area	Summary of Impacts
Aesthetics	Construction activities associated with the SR-78 hydraulic improvements could include staging areas with construction equipment and supplies. Due to the short-term nature of the SR-78 hydraulic improvements, as well as the fact that the construction activities would generally occur underneath the SR-78 roadway and out of view, a less than significant impact is identified.
Air Quality	Construction The SR-78 hydraulic improvements could generate air emissions from construction equipment as well as from minor earthwork activities. Due to the small size of the SR-78 hydraulic improvements area (approximately 3.5 acre), excessive emissions from construction equipment at a significant level is not expected. Additionally, compared to the 110.54 acres that would be impacted during Phase 1, the SR-78 roadway improvements represent approximately three percent of the overall project disturbance area. Even if the 3.5 acres were simultaneously graded at once, the project PM_{10} emission, with use of BACMs would be 50 lbs/day, which is only half of the threshold of 100 lbs/day. Therefore, a less than significant impact due to construction of the SR-78 hydraulic improvements is identified. Operation Operational emissions due to the SR-78 hydraulic improvements are not expected. The same number of freeway lanes and access would be maintained during and after the SR-78 improvements. Therefore, no increase in emissions due to vehicular trips is identified, and no impact is identified.
Biological Resources	Jurisdictional Wetland and Non-Wetland Waters of the U.S. SR-78 hydraulic improvements would impact 1.14 acres of jurisdiction wetland and non-wetland waters within the Caltrans SR-78 ROW. This includes impact to 0.53 acre of freshwater marsh, 0.59 acre of southern willow scrub, and 0.02 acre of open channel. Sensitive Habitats Aside from the impacts to jurisdictional wetlands and non-wetland waters of the U.S., no additional impacts to sensitive habitats are identified. Other Habitats SR-78 hydraulic improvements would impact 1.29 acres of developed land, 1.13 acres of disturbed habitat, and 0.01 acre of ~~ruderal~~ disturbed land within the Caltrans SR-78 ROW. However, these habitats are not considered sensitive by local, state, or federal agencies. Therefore, impacts are not significant. Sensitive Plants No direct impact to sensitive plants would occur with implementation of the SR-78 hydraulic improvements. Sensitive Wildlife No direct impact to sensitive wildlife species would occur with implementation of the SR-78 hydraulic improvements.

Environmental Issue Area	Summary of Impacts
Cultural Resources	Archaeological Resources Based upon the field survey and records search, no archaeological resources were identified within the footprint of the proposed SR-78 hydraulic improvements. Therefore, no impact would occur to archaeological resources due to implementation of the SR-78 hydraulic improvements. Historical Resources Based upon the field survey and records search, no historical resources were identified within the footprint of the proposed SR-78 hydraulic improvements. Therefore, no impact would occur to historical resources due to implementation of the SR-78 hydraulic improvements. Paleontological Resources There is a potential for paleontological resources to occur on the project site, including the area identified for the SR-78 hydraulic improvements. This represents a potentially significant impact for paleontological resources.
Hazards and Hazardous Materials	Construction activities associated with the SR-78 improvements would require the transport of fuels, lubricants, and various other liquids needed for operation of construction equipment at the site. In addition, workers would commute to the project site via private vehicles, and would operate construction vehicles/equipment on both public and private streets. Materials hazardous to humans, wildlife, and sensitive environments would be present during the construction of the SR-78 hydraulic improvements. These materials include diesel fuel, gasoline, equipment fluids, concrete, cleaning solutions and solvents, lubricant oils, adhesives, human waste, and chemical toilets. The potential exists for direct impacts to human health and biological resources from accidental spills of small amounts of hazardous materials from construction equipment during construction of the buildings; however, existing federal and state standards are in place for the handling, storage and transport of these materials. Additionally, project design measures have been incorporated into the project (see Section 2.0) that include prohibition of equipment maintenance and fueling where petroleum or ethyl glycol pollutants from equipment many enter riparian areas. Because compliance with these standards is required through these regulations, and design measures are part of the project, no significant impacts are expected due to the transport, use, or disposal of hazardous materials as it pertains to the SR-78 hydraulic improvements. Improvements to SR-78 will require the removal of existing roadway materials. There is a potential for these features to contain asbestos-containing materials and lead based paint. Additionally, the yellow thermoplastic paint stripe and pavement marking may contain aerially deposited lead. Therefore, the removal of these materials as part of the hydraulic improvements represents a potentially significant impact. Mitigation measures are provided to reduce this potential impact to below a level of significance.
Hydrology and Water Quality	Water Quality Construction activities related to SR-78 hydraulic improvements have the potential to impact water quality through increased sedimentation or accidental fuel spills from construction equipment. This represents a potentially significant impact. Best Management Practices (BMPs) have been identified that would be incorporated during construction of the floodway improvements, circulation network, and infrastructure improvement proposed as part of Phase 1. These BMPs are identified in Table 3.6-1, the list of BMPs in Table 3.6-1 should be considered preliminary. Adherence to BMPs and implementation of mitigation measure identified in Section 3.6.4 of the EIR would reduce this impact to below a level of significance.

Environmental Issue Area	Summary of Impacts
	Hydrology The SR-78 hydraulic improvements are a critical component of the overall project. The SR-78 hydraulic improvements, combined with the rest of the floodway improvement project, will enhance creek flows, redefine the 100-year floodplain in the project area, and also eliminate the flooding that occurs in the project vicinity during large storm events. Therefore, a less than significant impact is identified.
Land Use and Planning	Implementation of the SR-78 hydraulic improvements would not result in a land use impact. The improvements would not divide an established community, as SR-78 is already an established feature in the project vicinity. This component of the project will increase hydraulic capacity under the bridge. No inconsistencies with applicable plans are identified with this improvement. Therefore, no land use impacts are identified for this component of the project.
Noise	Construction activities associated with the SR-78 hydraulic improvements are considered as part of the Phase 1 infrastructure improvements discussed in Section 3.8 of the Draft EIR. As identified, the SR-78 hydraulic improvements would add to the significant, short-term noise impact identified for Phase 1 of the project. However, the SR-78 hydraulic improvements, alone, would not be expected to result in a significant noise impact, as there are no sensitive receptors near the proposed SR-78 hydraulic improvements. Further, existing noise levels associated with the SR-78 traffic would mask any construction-related activity, as the construction would occur within the Caltrans right-of-way.
Public Services	The improvements associated with the bridge construction at SR-78 would not be characterized as generating a need for additional police, fire, school or library services. This portion of the project involves increasing the hydraulic capacity of the culvert at SR-78 as part of the overall floodway improvement project. Therefore, no impact is identified for this issue area.
Traffic	One component of the project includes a new bridge to supplement the capacity of the San Marcos Creek culverts that cross beneath SR-78. The construction of the bridge at SR-78 would occur during the first phase of the project. This improvement would require an encroachment permit from Caltrans. Construction of the new bridge would be completed in several stages and would require lane shifts of the traffic. The number of traffic lanes and freeway access as is currently provided would be maintained during all stages. Except for some pavement overlay for the eastbound traffic lanes, SR-78 would essentially be restored as it exists today. The major areas of work to accommodate the traffic staging include pavement overlays, re-striping, sign relocations, and some localized widening as previously described. The area of SR-78 affected by the traffic staging extends about 1,500 feet east and west of the San Marcos Creek crossing. The number of freeway traffic lanes and existing freeway access would be retained during and after the improvements. Therefore, there would not be any disruptions to freeway traffic due to the improvements. Therefore, the SR-78 hydraulic improvements will not have a significant impact on SR-78 traffic.
Utilities and Service Systems	The improvements associated with the bridge construction at SR-78 would not be characterized as generating a need for additional utilities or service systems. This portion of the project involves increasing the hydraulic capacity of the culvert at SR-78 as part of the overall floodway improvement project. Therefore, no impact is identified for this issue area.

1.9 ALTERNATIVES

A comparison of impacts for the proposed project and the project alternatives is summarized in Table 1.9-1, Comparison of proposed project and Alternatives.

1.9.1 No Project/No Development Alternative

The No Project/No Development Alternative is analyzed in Section 4.3.1 of the Draft EIR. Under the No Project/No Development alternative, the project site would remain it its existing condition. No further development would occur under either the General Plan or the proposed Specific Plan. Additionally, no floodway or infrastructure improvements would be developed.

Compared to the project, this alternative would reduce the air quality, biological resources, cultural resources, hazards, noise, traffic (as it relates to restricted traffic movement during large storm events) and utility system impact that have been identified for the project. However, this project would not realize the beneficial improvements related to flooding and traffic flow in the project area. Under this alternative, the floodway improvements would not be implemented and flooding would occur during large storm events. This alternative does not meet the majority of the project objectives. Some of the project objectives include providing flood control, implementing the City's Circulation Element, protecting water quality, protecting biological resources, and developing a mixed-use neighborhood. Please see Section 2.3.2 of the Draft EIR for a list of project objectives.

1.9.2 No Project/Existing General Plan Alternative

The No Project/Existing General Plan Alternative is analyzed in Section 4.3.2 of the Draft EIR. Under the No Project/Existing General Plan alternative, the project site would be developed in accordance with the current General Plan designations on the project site. This includes 107 acres of commercial north of the creek and up to 1,170 multifamily residential units south of the creek adjacent to Discovery Street. Additionally, the roadway improvements identified for Bent Avenue, Via Vera Cruz and McMahr Road as part of the proposed project would be developed under this alternative. Floodway and infrastructure improvements were still assumed to occur under this alternative.

Compared to the project, this alternative would reduce the amount of air emissions, traffic and noise generated by the project, as trip generation would be reduced by 16 percent. However, the reduction in these trips is not enough to eliminate the significant air quality, noise and traffic impacts identified for the project. Under this alternative, traffic would not be distributed as well through the project area, as a grid system of streets would not be developed north of the Creek. There may also be a new noise impact associated with putting multi-family residences adjacent to Discovery Street.. Cultural resources, hazards, and utility system impacts would be similar under this alternative as those identified for the project.

Table 1.9-1. Comparison of Proposed Project and Alternatives

Category	Proposed Project	No Project/ No Development	No Project/ Existing General Plan	Via Vera Cruz Bridge Alternative	Reduced Density Alternative
Aesthetics	Less than Significant	Less than Significant	Less than Significant	Less than Significant	Less than Significant
Air Quality	Significant, Unmitigated	Less than Significant	Significant, Unmitigated	Significant, Unmitigated	Significant, Unmitigated
Biological Resources	Mitigated to below a level of significance	Less than Significant	Mitigated to below a level of significance	Mitigated to below a level of significance	Mitigated to below a level of significance
Cultural Resources	Mitigated to below a level of significance	Less than Significant	Mitigated to below a level of significance	Mitigated to below a level of significance	Mitigated to below a level of significance
Hazards/Hazardous Materials	Mitigated to below a level of significance	Less than Significant	Mitigated to below a level of significance	Mitigated to below a level of significance	Mitigated to below a level of significance
Hydrology/ Water Quality	Mitigated to below a level of significance	Less than Significant (does not afford any relief from flooding during 100-year storm events)	Mitigated to below a level of significance	Mitigated to below a level of significance	Mitigated to below a level of significance
Land Use	Mitigated to below a level of significance	Less than Significant	Less than Significant	Mitigated to below a level of significance	Mitigated to below a level of significance
Noise	Mitigated to below a level of significance	Less than Significant	Mitigated to below a level of significance	Mitigated to below a level of significance	Mitigated to below a level of significance
Public Services	Less than Significant	Less than Significant	Less than Significant	Less than Significant	Less than Significant
Traffic	Mitigated to below a level of significance	Less than Significant (does not afford any relief from traffic interruption due to flooding during 100-year storm events)	Mitigated to below a level of significance	Mitigated to below a level of significance	Less than Significant
Utilities/Service Systems	Mitigated to below a level of significance	Less than Significant	Mitigated to below a level of significance	Mitigated to below a level of significance	Less than Significant
Meeting the Project Objectives	Meets nine out of nine objectives	Does not meet any of the project objectives.	Meets five of the nine objectives, partially meets a 6th objective, and does not meet three objectives.	Meets nine out of nine objectives	Meets five of the nine objectives, partially meets a 6th objective, and does not meet three objectives.

1.9.3 Via Vera Cruz Bridge Alternative

The Via Vera Cruz Bridge Alternative is analyzed in Section 4.3.3 of the Draft EIR. Under the Via Vera Cruz Bridge Alternative, a bridge would be proposed across San Marcos Creek at Via Vera Cruz. Under the proposed project, an Arizona crossing would be constructed at this location. This alternative was selected to reduce potential environmental impacts associated with an Arizona crossing. All other project components under this alternative would be similar to those identified for the project (see Section 2.0). This includes the intensity and type of development within the Specific Plan area and the proposed floodway and infrastructure improvements.

Development of the Via Vera Cruz Bridge Alternative would result in a similar level of impact as the project. Since this alternative would develop with the same intensity as the project, impacts associated with air quality, cultural resources, hazards, land use, noise, traffic, and utilities/services systems would be the same. Biological resources impacts area also expected to be similar as well. The Via Vera Cruz Alternative meets all of the project objectives.

1.9.4 Reduced Density Alternative

The Reduced Density Alternative is analyzed in Section 4.4.4 of the Draft EIR. The Reduced Density Alternative assumes that the Phase 1 improvements would occur as proposed by the project. This includes the floodway improvements, SR-78 hydraulic improvements and roadway improvements. Phase 2 development, which calls for buildout of the Specific Plan, would be reduce by approximately 75 percent. This alternative was designed to reduce some of the air quality and noise impacts to below a level of significance. Assuming a 75 percent reduction in development intensity, this alternative would be developed with approximately 316,000 s.f of retail, 147,000 s.f. of office use, and up to 575 residential units.

Compared to the project, this alternative would reduce the amount of air emissions, traffic and noise generated by the project, as trip generation would be reduced by 75 percent. This reduction would reduce some of the significant air impacts for the project, and would reduce all of the noise and traffic impact of the project. Cultural resources, and hazards impacts would me similar under this alternative as those identified for the project. Wastewater infrastructure impacts identified for the project would be reduced under this alternative. The Reduced Density Alternative meets the majority of the project objectives.

1.10 ENVIRONMENTAL EFFECTS FOUND NOT TO BE SIGNIFICANT

During the preparation of the Initial Study for the proposed project, the following areas were determined to be less than significant: agricultural resources, geology/soils, mineral resources, and population/housing. Additionally, some thresholds for hydrology/water quality and traffic were determined to be less than significant during the Initial Study. A discussion of these issues is presented in Section 5.0, Environmental Effects Found Not to Be Significant.

1.11 GROWTH-INDUCING EFFECTS

15126.2(d) of the *CEQA Guidelines* requires a discussion of the potential growth-inducing impacts of a project. This discussion addresses how implementation of the project could foster economic or

population growth, or the construction of additional housing, either directly or indirectly upon the surrounding environment. Projects can induce growth by removing or reducing barriers to growth, for example extension of infrastructure into an undeveloped area. The *CEQA Guidelines* also state that growth inducement may place increased demands on existing community facilities. Certain growth-inducing impacts may facilitate or exacerbate the effects of other activities, either individually or cumulatively, that could significantly affect the environment. §15126.2(d) concludes that growth in an area must not be assumed to be necessarily beneficial, detrimental, or of little significance to the environment.

Floodway and SR-78 Hydraulic Capacity Improvements

Floodway improvements identified for the project are designed to contain the 100-year floodplain. These improvements would provide the additional capacity needed to accommodate flood control facilities to contain stormwater run-off associated with 100-year storm events while protecting areas designated for development. Since future development within the San Marcos Creek watershed (both in and upstream of the project area) would continue to exacerbate flood potential by adding impervious surfaces that would increase both the rate and volume of stormwater runoff, the proposed flood control improvements have been designed to accommodate a FEMA 100-year storm event and to accommodate projected stormwater runoff at buildout of the City per the City Master Drainage Plan. The floodway improvements have not been designed to allow for "additional" growth beyond that considered in the City Master Drainage Plan. Therefore, the floodway improvements would not be characterized as growth inducing.

Another component of the floodway improvements portion of the project includes a new bridge to supplement the capacity of the San Marcos Creek culverts that cross beneath SR-78. The bridge would maintain the existing number of lanes on SR-78 and would not provide additional capacity. Therefore, the SR-78 hydraulic capacity improvements would not be characterized as growth inducing.

Infrastructure Improvements

Infrastructure improvements for the project include circulation network improvements, as well as water, sewer and drainage improvements.

Circulation network improvements associated with the project include extensions of McMahr and Grand Avenues, as well as improvements to Bent Avenue and Via Vera Cruz. These infrastructure improvements are provided to better connect the future development within the Specific Plan area with existing use to the south of San Marcos Creek. Additionally, the capacity provided by these roadways is needed, thus they are identified as Circulation Element roadways in the San Marcos General Plan. These circulation network improvements would not be characterized as opening up new areas to development. Therefore, these circulation network improvements are not considered growth inducing.

Water, sewer and drainage improvements have been designed to accommodate existing flows in the areas as well as the additional flows that are anticipated from buildout of the Specific Plan area. They have not been designed to accommodate future flows. The future VWD interceptor that is proposed within the project area was already analyzed in a Mitigated Negative Declaration.

Specific Plan

Buildout of the Specific Plan would result in the addition of up to 2,300 residential units, 1,265,000 square feet (s.f.) of commercial uses and 589,000 s.f. of office uses. The project would it is located adjacent to San Marcos Boulevard, and generally surrounded by development. Overall, implementation of the Specific Plan represents an intensification of uses compared to what would be allowed under the current General Plan and Zoning.

Using a rate of 2.96 residents per dwelling unit, the project is anticipated to add approximately 6,800 residents to the City[1]. Given that the City of San Marcos has a population of approximately 76,725 (SANDAG 2006), the addition of 6,800 residents represents an 8.8 percent increase in the City's 2006 population. It should be noted that development within the Specific Plan area is expected to occur over the next 20 years; therefore, the population increase would be spread over that period as well, and would average approximately 340 residents per year. It should be noted that under the current General Plan designations on the project site, the project area could be developed with up to 944 residences without implementation of the Specific Plan. Therefore, the actual increase in residences due to the Specific Plan implementation is less.

While the project represents an increase in population and an increase in intensity than would be developed under the current General Plan designations, this increase would not be characterized as growth inducing. Therefore, a less than significant impact is identified for this issue area.

1.12 CUMULATIVE EFFECTS

The cumulative impact analysis is presented in Section 7.0, Cumulative Effects. As required by CEQA, this EIR analyzes the cumulative impacts of the proposed project. The EIR cumulative analysis considered past, present, and probable future projects as well as future development associated with the General Plan. The analysis presented in Section 7.0 determined that the project would have significant and unmitigated cumulative impacts for air quality.

1.13 UNAVOIDABLE SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS

The direct and cumulative environmental effects of the proposed project are discussed in detail in Section 3.0, Environmental Analysis, and in Section 7.0, Cumulative Effects, of this EIR. With the exception of one impact (air quality), the potentially significant impacts identified in these analyses can be adequately mitigated or reduced to below a level of significance through the adoption of mitigation measures and the implementation of sound environmental planning practices.

[1] This section assumes that the project would develop up to 2,300 dwelling units with an average occupancy 2.96 residents per unit. This is based upon 2006 population and housing information from SANDAG. However, it should be noted that the actual number of residents per household is expected to be less than that due to the type of residential units proposed. However, for the purposes of the public services analysis, 2.96 residents per unit is assumed.

1.14 MITIGATION MONITORING AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program (MMRP) ~~would~~ has been~~be~~ prepared for the project in accordance with §15097 of the CEQA Guidelines. The complete MMRP is included in Section 0.4 of the Final EIR. To ensure that the mitigation measures and project revisions identified in the EIR are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. ~~The MMRP would be included as part of the Final EIR for the project.~~

Table 1.8-1. Summary of Project Impacts and Mitigation Measures

Impact	Mitigation Measure		Conclusions
Aesthetics			
Impacts are less than significant.	No mitigation measures are required.		Less than significant.
Air Quality			
Construction of the proposed project would result in significant emissions of PM_{10}.	MM 3.2-1	The total disturbance acreage during demolition or new construction involving surface disturbance (clearing, excavation or grading) shall not exceed 10 acres per day.	Mitigated to below a level of significance.
	MM 3.2-2	In addition to mandatory compliance with Rule 403, surface disturbance shall occur only in conjunction with the use of best available control measures (BACMs), including, but not limited to, those presented in Table 3.3-13, BACM Requirements for Proposed Project.	
Construction of the proposed project would result in significant emissions of NO_x.	MM 3.2-3	Maintain equipment in tune as per manufacturers' specifications.	Significant and unmitigated
	MM 3.2-4	Utilize catalytic converters on gasoline-powered equipment.	
	MM 3.2-5	The project applicants shall designate an on-site Air Quality Construction Mitigation Manager (AQCMM) who shall be responsible for directing the BACM compliance with mitigation measures for project construction.	
	MM 3.2-6	All diesel-fueled engines used in the construction of the project shall use ultra-low sulfur diesel fuel, which contains no more than 15 ppm sulfur or alternative fuels (e.g., reformulated fuels, emulsified fuels, compressed natural gas, or power with electrification). Low-sulfur diesel fuel (500 ppm sulfur content) shall be used only if evidence is obtained and maintained from the fuel supplier(s) that ultra-low sulfur diesel fuel is infeasible.	
	MM 3.2-7	All construction diesel engines that have a rating of 50 horsepower (hp) or more shall meet, at a minimum, the Tier 2 California Emission Standards for Off-road Compression-Ignition Engines as specified in California Code of Regulations, Title 13, Section 2426(b)(1) unless certified by the on-site AQCMM that such an engine is not available for a particular item of equipment. In the event that a Tier 2 engine is not available for any off-road engine larger than 50 hp, that engine shall be a Tier 1 engine. If a Tier 1 engine is not available for any off-road engine larger than	

Impact	Mitigation Measure		Conclusions
		50 hp, then that engine shall be a 1996 or newer engine. The AQCMM may grant relief from this requirement for an engine if compliance with this requirement is infeasible. All diesel-fueled engines used in the construction of the project shall have clearly visible tags issued by the AQCMM showing that the engine meets this requirement.	
	MM 3.2-8	Idling time shall be minimized to 5 minutes when construction equipment is not in use, unless more time is required per engine manufacturer's specifications or for safety reasons.	
Construction of the proposed project would result in significant emissions of ROG.	MM 3.2-9	Future development within the Specific Plan area shall use low-VOC paints and efficient transfer systems.	Mitigated to below a level of significance.
	MM 3.2-10	Future architectural coatings shall adhere to the requirements of SDAPCD Rule 67 (Architectural Coatings).	
	MM 3.2-11	Finish work that includes architectural coatings shall be limited to 25,000 square feet per day. This requirement shall be included as a note on all improvement plans for development within the Specific Plan area.	
Implementation of the proposed project would result in significant vehicular emissions of NOx, PM_{10}, and ROG.	In addition to providing alternative transportation facilities on-site which is planned as part of project design, the project shall incorporate the following mitigation measure to reduce operational-related emissions of NO_x, PM_{10}, and ROG:		Significant and unmitigated
	MM 3.2-12	Prior to issuance of building permits, the applicant shall submit a transportation management plan and provide evidence, to the satisfaction of the City, that indicates compliance with the following measures outlined in the transportation management plan: • Provide preferential parking for carpool/vanpool vehicles; • Provide secure and conveniently located bicycle parking and storage for workers and patrons; and • Provide preferential parking for hybrid and alternative fuel vehicles. In addition, the following measure shall be included within the transportation management plan with specific criteria and standards to be reviewed and approved by the City:	

Impact	Mitigation Measure		Conclusions
		• Use energy-efficient lighting and process systems, such as low-NO_x water heaters, furnaces, and boiler units.	
Biological Resources			
Permanent impacts to jurisdictional wetland and non-wetland waters of the U.S. are considered significant and require mitigation due to Phase 1 of the project.	MM 3.3-1	Permanent impacts to jurisdictional waters of the U.S., including wetlands, totaling 23.38 acres due to Phase 1 improvements, shall be mitigated as follows: • Impact to 6.35 acre of Southern willow scrub shall be mitigated at a 3:1 ratio. This will be accomplished through creation of 6.35 acres of southern willow scrub and enhancement of 12.70 acres of southern willow scrub. • Impact to 0.14 acre of disturbed southern willow scrub shall be mitigated at a 3:1 ratio. This will be accomplished through the creation of 0.14 acre of disturbed southern willow scrub and enhancement of 0.28 acre of disturbed southern willow scrub. • Impact to 0.04 acre of walnut woodland shall be mitigation at a 1:1 ratio. This will be accomplished by the creation of 0.04 acre of walnut woodland. • Impact to 0.96 acre of freshwater marsh shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 0.96 acre of freshwater marsh. • Impact to 6.83 acres of herbaceous wetland shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 6.83 acres of freshwater marsh. • Impact to 7.00 acres of disturbed herbaceous wetland shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 7.00 acres of disturbed freshwater marsh. • Impact to 0.50 acre of alkali meadow shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 0.50 acre of this habitat. • Impact to 1.16 acre of alkali meadow shall be mitigated at a 1:1 ratio. This will be accomplished by the creation of 1.16 acre of this habitat.	Mitigated to below a level of significance.

Impact	Mitigation Measure	Conclusions
	• Impact to 0.23 acre of open water shall be mitigated at a 1:1 ratio. This will be accomplished by creating 0.23 acre of this habitat. • Impact to 0.16 acre of open channel shall be mitigated at a 1:1 ratio. This will be accomplished by creating 0.16 acre of this habitat. • Impact to 0.01 acre of arundo shall be mitigated at a 1:1 ratio. This will be accomplished by enhancing 0.01 acre of habitat. Of the 57.09 acres of jurisdictional waters and wetlands identified within the project area, 33.71 acres would remain preserved as open space and enhanced/restored, where appropriate, as part of the mitigation efforts for this project. To achieve the appropriate hydraulics for the proposed levee, specific areas of the channel at both the downstream and upstream ends were designated for energy dissipation purposes. In lieu of riprap, a plantable articulated concrete block (ACB) matrix system (i.e., Armorflex or a suitable alternative approved of by the resource agencies) would be installed to allow for onsite revegetation. The mitigation ratios for wetland and non-wetland waters impacts are proposed in accordance with the 1989 federal "no net loss of wetlands" policy, which states that for each acre of wetlands impact, an acre must be restored, enhanced, and/or created thus maintaining and/or increasing the overall wetlands present. Thus, a total of 36.36 acres of wetlands mitigation is proposed to compensate for permanent wetlands impacts to 23.38 acres. Of the 36.36 acres of proposed mitigation, 23.38 acres would be created both onsite and offsite and the remaining 12.99 acres would be either created and/enhanced. Approximately 10 acres of wetlands mitigation would occur within the project area, where feasible, and would allow for terracing onsite in order to promote the growth of different types of vegetation and to better imitate floodplain-like functions. The balance of the mitigation obligation, totaling approximately 26.36 acres, would occur at an off-site location(s). The off-site locations would be reviewed and	

Impact	Mitigation Measure		Conclusions
		approved by the City Planning Director. The criteria for the mitigation site includes a preference for a site in the same watershed or in geographic proximity, and replaces the function and value of the wetland lost. The details of the revegetation program would be described in a conceptual wetlands mitigation and monitoring plan, which would be prepared and submitted to the USACE, RWQCB, and CDFG during the wetlands permitting phase of the project. The conceptual wetlands mitigation and monitoring plan would address all impacts to jurisdictional areas as well as mitigation needed to compensate for those impacts in accordance with resource agency permit requirements. The plan would summarize existing site conditions, discuss the project description and impacts, outline the goals of the revegetation program, detail the planting design, address plant materials sources and lead time, describe installation requirements, irrigation sources, erosion control, maintenance and monitoring requirements, and outline reporting/documentation requirements.	
Permanent impacts to jurisdictional wetland and non-wetland waters of the U.S. are considered significant and require mitigation due to Phase 2 of the project.	MM 3.3-2	Impact to 0.07 acre southern willow scrub shall be mitigated at a 3:1 ratio (0.21 acre mitigation required); 0.55 acre herbaceous wetland shall be mitigated at a 1:1 ratio (0.55 acre mitigation required); and 0.16 acre of disturbed herbaceous wetland shall be mitigated at a 1:1 ration (0.16 acre mitigation required). This mitigation would be the responsibility of future developers within the Specific Plan area.	Mitigated to below a level of significance.
Temporary Impacts to Jurisdictional Wetland and Non-Wetland Waters of the U.S. (Phase 1)	MM 3.3-3 MM 3.3-4	Temporary impacts during Phase 1 to vegetated wetlands, totaling 7.20 acres, shall be restored at a 1:1 ratio to pre-construction contours and vegetation types. A weed eradication program shall also be implemented during the revegetation site preparation procedures and would continue throughout the long-term maintenance period. The mitigation areas, through expansion of the riparian zone, should provide increased benefits to native wildlife by providing additional buffering effects from the adjacent developments, increasing habitat diversity and increasing foraging opportunities, thus increasing the overall habitat function and value of this portion of San Marcos Creek.	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
Direct permanent and temporary impact to upland habitat due to Phase 1 project construction.	MM 3.3-5	Permanent and temporary impacts to 0.64 acre of coyote brush scrub, 3.58 acres of disturbed coyote brush scrub, 0.28 acre of isocoma scrub, and 0.07 acre of disturbed isocoma scrub due to Phase 1 of the project would be mitigated at a proposed ratio of 1:1 in accordance with the City's draft Subarea Plan. Therefore, a total of 4.57 acres of mitigation is required for impacts to these vegetation communities. This mitigation shall occur through offsite creation, enhancement, and/or preservation of 4.57 acres of coastal sage scrub, or any variant described herein.	Mitigated to below a level of significance.
Direct permanent and temporary impact to upland habitat due to Phase 2 project construction would be significant.	MM 3.3-6	Future development within the Specific Plan area (Phase 2) would result in impact to 0.74 acre of disturbed coyote brush scrub and 0.02 acre of disturbed isocoma scrub. This habitat would be mitigated at a proposed ration of 1:1 in accordance with the City's Draft Subarea Plan. Therefore, a total of 0.76 acres of mitigation is required for impacts to these vegetation communities. This mitigation shall be the responsibility of future developers within the Specific Plan Area, if the habitat identified above occurs on their specific project area.	Mitigated to below a level of significance.
Direct and indirect impacts to approximately 2,400 southern tarplant individual during Phase 1 of the project would be significant	MM 3.3-7	Impacts to 2,400 southern tarplant due to Phase 1 of the project shall be mitigated through relocation to suitable onsite and offsite locations. This would be achieved through a combination of direct transplanting of mature plants, direct seeding, and planting of southern tarplant grown from seeds collected from the project area. Southern tarplant salvage areas shall be flagged for seed collection and individual plant salvaging during the appropriate collection period. Seed shall be collected from populations to be impacted and stored for subsequent seeding efforts at proposed translocation sites. A portion of the seed shall be propagated at a native plant nursery to produce container plants for out-planting at the proposed translocation sites. Each southern tarplant translocation site shall be designed in a location(s) where long-term viability of the populations can be assured (size of translocation site to be based upon original impacts to the existing population, estimated at 2,400 individuals). Soils and solar exposure shall be comparable to the original donor site. The translocated populations shall border native areas or shall be established in context to the native plant revegetation effort, to	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
		help avoid invasion of non-native plant species. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit. Additionally, the final restoration plan designed to achieve the above-specified performance measures shall be approved by the Planning Director.	
Direct and indirect impacts to approximately 1,600 southern tarplant individual during Phase 2 of the project would be significant	MM 3.3-8	Impact to 1,600 southern tarplant due to future development in the Specific Plan area (Phase 2), shall be mitigated through relocation to suitable onsite and offsite locations. This would be achieved through a combination of direct transplanting of mature plants, direct seeding, and planting of southern tarplant grown from seeds collected from the project area. Southern tarplant salvage areas shall be flagged for seed collection and individual plant salvaging during the appropriate collection period. Seed shall be collected from populations to be impacted and stored for subsequent seeding efforts at proposed translocation sites. A portion of the seed shall be propagated at a native plant nursery to produce container plants for out-planting at the proposed translocation sites. Each southern tarplant translocation site shall be designed in a location(s) where long-term viability of the populations can be assured (size of translocation site to be based upon original impacts to the existing population, estimated at 1,600 individuals). Soils and solar exposure shall be comparable to the original donor site. The translocated populations shall border native areas or shall be established in context to the native plant revegetation effort, to help avoid invasion of non-native plant species. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit.	Mitigated to below a level of significance.
Direct impact to southwestern spiny rush would be significant.	MM 3.3-9	Direct impacts to southwestern spiny rush shall be mitigated through replanting within the project area. Southwestern spiny rush individuals potentially impacted would be planted within the project area within suitable riparian habitat.	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
Indirect impacts to sensitive wildlife are potentially significant and require mitigation.	MM 3.3-10	To reduce indirect impacts to migratory birds, the City shall retain a qualified biologist to provide biological monitoring while work occurs within San Marcos Creek to assure that sensitive species present within the creek are not directly impacted by the proposed work. Construction would be phased, where feasible, to avoid work during the breeding season (*i.e.*, January through September). If construction activity is to commence during the breeding season (January 1 through September 15), a one-time pre-construction biological survey for nesting bird species must be conducted within the proposed impact area 72 hours prior to construction. This survey is necessary to assure avoidance of impacts to nesting raptors (i.e., Cooper's hawk) and/or birds projected by the federal Migratory Bird Treaty Act. If any active nests are detected, the area would be flagged and mapped on the construction plans along with a minimum of a 25-foot buffer and up to a maximum buffer of 300 feet for raptors, as determined by the project biologist, and would be avoided until the nesting cycle is complete.	Mitigated to below a level of significance.
	MM 3.3-11	Prior to issuance of grading permit, a protocol California coastal gnatcatcher survey shall be required. The survey shall be conducted by a permitted CAGN biologist. If the habitat is found to be occupied by a California gnatcatcher, no clearing or construction shall be allowed during the breeding season (February 15 – August 31). If construction should occur during the breeding season, a 300-foot buffer shall be established between construction activities and any occupied habitat. Protocol survey results shall be submitted to the Planning Director and USFWS for review.	
Cultural Resources			
Development of the project would impact CA-SDI-17423.	MM 3.4-1	An archaeological data recovery program shall be prepared for CA-SDI-17423 that includes the following: (1) An acceptable data recovery plan stating the specific research goals and questions that are to be addressed if archaeological deposits are to be recovered; (2) post-field artifact processing and analysis; (3) report of findings; and (4) permanent curation of artifacts at a qualified institution in order to preserve and analyze a substantial portion of the site's information value.	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
		Feature recovery shall employ standard archaeological excavation techniques. The data recovery shall be developed and implemented in consultation with interested local Native American groups. A final report on the results of the archaeological recovery shall be submitted to the Planning Director and the Southcoast Information Center. Curation and report submittal shall occur prior release of the grading bond for the project.	
	~~MM 3.4-1~~	~~Prior to issuance of a grading permit for floodway and infrastructure improvements, a testing program shall be prepared for CA-SDI-17423. The testing program shall consist of surface collection and mapping of all cultural materials; excavation of shovel test units to identify site boundaries; and the excavation of a minimum of two 1x1 meter test units to determine whether the site contains a subsurface deposit. If the site is found to be non-eligible for inclusion in the California Register, then no additional mitigation would be necessary. However, if the site is determined to be eligible for inclusion in the California Register, mitigation of impacts in the form of data recovery would be required.~~	
		~~In the event that data recovery is required, a treatment plan shall be prepared that includes the following: (1) An acceptable data recovery plan stating the specific research goals and questions that are to be addressed if archaeological deposits are to be recovered; (2) post-field artifact processing and analysis; (3) report of findings; and (4) permanent curation of artifacts at a qualified institution.~~	
		~~Feature recovery shall employ standard archaeological excavation techniques. The testing and evaluation plan shall be designed an implemented by a qualified archaeologist. Both the testing and evaluation plan and the data recovery shall be developed and implemented in consultation with interested local Native American groups. A final report on the results of the archaeological recovery shall be submitted to the Planning Director.~~	
Development of the project may impact previously unidentified archaeological resources.	MM 3.4-2a	All initial grading activities in undeveloped areas bordering San Marcos Creek within the project boundary shall be monitored by a qualified archaeologist. In the event that buried archaeological resources are exposed during project construction, work within 50	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
		feet of the find shall stop until the archaeologist can identify and evaluate the significance of the discovery and develop recommendations for treatment. The archaeologist shall also have the authority to make an informed, final decision to either resume construction or require more extensive investigation. If the discovered cultural resources display the potential to be significant, the archaeologist shall notify the City of San Marcos immediately, and all work shall stop immediately within an expanded 100-foot radius pending resolution of the discovery. Recommendations could include preparation of a treatment plan, which could require recordation, collection and analysis of the discovery; preparation of a technical report; and curation of the collection and supporting documentation at a qualified institution. At the completion of the activity that requires an archaeological monitor, the monitor shall submit a monitoring report including a daily log of all monitoring activity and possible recommendations to the Planning Director.	
	MM 3.4-2b	Prior to the issuance of a grading permit, the project applicant shall enter into a pre-excavation agreement with the San Luis Rey Band of Mission Indians. The pre-excavation agreement shall include the following: 1) a culturally affiliated Native American monitor during initial grading activities, 2) the return of cultural items that may be found during project construction, and 3) proper treatment and reburial of any remains found.	
Implementation of the project would result in significant impacts to one historical structure located at 918 Discovery Street.	MM 3.4-3	Prior to relocation of the residence at 918 Discovery Street, a Historic American Building Survey shall be conducted. The survey shall be prepared by a qualified historian and shall include large-format black and white photography of the exterior elevations and interior of the house. The survey shall also include a ground plan of the building, additional archive research and preparation of a detailed history of the building and its occupants.	Mitigated to below a level of significance.
	MM 3.4-4	Prior to any surface disturbance activities associated with the floodway improvement project, the residence at 918 Discovery Street shall be relocated to another location within the City of San Marcos. Upon relocation, the residence shall be rehabilitated. Rehabilitation shall occur in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation.	

Impact	Mitigation Measure		Conclusions
Implementation of the project has the potential to result in significant impacts to paleontological resources.	MM 3.4-5	Prior to the issuance of the grading permit for any grading within the project area (including Caltrans right-of-way), a qualified paleontologist shall review the proposed project area to determine the potential for paleontological resources to be encountered. If there is a potential for paleontological resources to occur, the paleontologist shall identified the area(s) where these resources are expected to be present, and a qualified paleontological monitor shall be retained to monitor the initial cut in any areas that have the potential to contain paleontological resources. If fossils are discovered during project construction, the paleontologist shall recover them. In most cases, this fossil salvage can be completed in short period of time. However, some fossil specimens may require an extended salvage period. Under this scenario, the paleontologist shall be allowed to temporarily divert or direct grading and excavation to allow for recovery of fossil remains.	Mitigated to below a level of significance.
Hazards and Hazardous Materials			
The project would require the import of up to 650,000 cubic yards of fill material. The ultimate source of the fill material has not been identified. In the event that the fill contained hazardous materials, there is a potential for a significant hazard impact.	MM 3.5-1a	Fill material for levee construction and earthwork activity shall be free of organic matter, hazardous materials or other unsatisfactory materials. Written verification shall be provided to the City Engineer that the fill is free of hazardous materials.	Mitigated to below a level of significance
	MM 3.5-1b	Prior to the issuance of any grading, demolition, or building permits for the project site, a Risk Management Plan (RMP) shall be prepared for the project site. At a minimum, the RMP shall establish soil and groundwater mitigation and control specifications for grading and construction activities at the site, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. The RMP shall also include an Operations and	

Impact	Mitigation Measure		Conclusions
		Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. The RMP shall be submitted to the City Fire Department for review and approval.	
Underground storage tanks are located within the proposed development area of the Specific Plan. Should project construction occur before the underground storage tanks located onsite are cleaned up, a potentially significant impact would be identified.	MM 3.5-2	Prior to initiation of any grading, it shall be confirmed that there are no hazardous materials on the project site. In the event that hazards materials are found on the project site, the materials shall be remedied in accordance with all federal and state requirements. Remediation shall be completed prior to construction within the impacted area.	Mitigated to below a level of significance.
	MM 3.5-3	Project construction in areas where leaking underground storage tanks have been identified shall be avoided until proper clean up of the tanks has occurred. All clean up shall occur under a Workplan approved and overseen by the appropriate regulatory agency that has jurisdiction for the clean up. The Workplan shall include a summary of any Phase 1 and Phase II investigations and a summary table of sampling results for which hazardous materials were found.	
Future buildout of the project vicinity would result in the removal of older structures, as well as the relocation on one structure that could contain hazardous asbestos containing materials or lead based paint.	MM 3.5-4	Prior to demolition of facilities or relocation of any buildings on the project site, a licensed asbestos inspector shall be retained to determine the presence of asbestos and asbestos containing materials (ACMs) within structures. The inspection shall be consistent with the federal and state occupational exposure standards for asbestos and ACMs. The applicant shall comply with all applicable state and federal abatement policies and procedures for removal of ACMs present on the site.	Mitigated to below a level of significance.
	MM 3.5-5	Prior to demolition of facilities or relocation of any buildings on the project site, a licensed lead-based paint (LBP) inspector shall be retained to determine the presence of lead-based paint and lead-based paint containing materials (LBPCM) within structures. The inspection shall be consistent with federal and state occupational exposure standards for LBP and LBPCM. The applicant shall comply with state and federal abatement policies and procedures for removal of LBP and LBPCM present on the site.	

Impact	Mitigation Measure		Conclusions
SR-78 hydraulic improvements have the potential to result in release of Asbestos-Containing Materials, Lead-Based Paints and Creosote-Containing Materials. This represents a significant impact.	MM 3.5-6	Prior to removal of roadway and associated structures for the SR-78 hydraulic improvements, an assessment for asbestos-containing materials, lead-based paint containing materials and creosote-containing materials shall be conducted by a licensed inspector. Handling and disposal of asbestos-, lead- and creosote-containing materials (if found), shall be performed by a certified contractor according to Cal-OSAH guidelines, Title 8, Section 1532.1(e)(2)(B) and Section 1529 of the California Code of Regulations, and Federal EPA guidelines. Additionally, if asbestos-, lead-, or creosote-containing materials are discovered, a Health and Safety plan shall be prepared. The Health and Safety plan shall be submitted to Caltrans prior to construction and shall address the effects to persons working onsite and offsite, use of proper personal protective equipment onsite, handling and disposal measures of yellow paint and yellow thermalplastic paint and strip or pavement markings	Mitigated to below a level of significance.
Hydrology and Water Quality			
Phase 1 and Phase 2 project construction of the project may result in a significant impact to water quality.	MM 3.6-1	The applicant(s) shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction-period of the project. The SWPPP shall include: • Specific and detailed Best Management Practices (BMPs), such as those set out in Table 3.6-1, shall be required for the project. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. • On-site construction personnel shall be educated on the importance of stormwater quality protection. Site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
		• Watering for dust control shall be performed during the dry season. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1st using native species only, and irrigated as necessary to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be provided and designed to be accessible and functional during both dry and wet conditions.	
Operation of Phase 2 of the project may result in impacts to water quality.	MM 3.6-2	Future development within the Specific Plan area shall prepare a Water Quality Technical Report (WQTR). The WQTR shall identify the project operation BMPs that shall be used to ensure that future projects do not degrade water quality. The WQTR shall also document how the future project would satisfy the requirements of the City's Stormwater Standards Manual. The WQTR shall be submitted to the City Engineer for review and approval prior to the issuance of a grading permit.	Mitigated to below a level of significance.

Impact	Mitigation Measure	Conclusions
The project would result in an increase of sediment delivery downstream towards Lake San Marcos. This represents a significant impact.	MM 3.6-3a A check dam (i.e., berm) shall be constructed within San Marcos Creek at the Via Vera Cruz crossing to reduce sediment delivery to Lake San Marcos. The check dam shall be constructed on the channel bed across the bridge opening. The check dam will be constructed so that it will not erode during flow events. Natural materials such as rock or man-made materials such as concrete shall be used. If rock is selected, then grout will be needed to secure the rock in place. The grout shall be colored to blend with the natural surrounding. If concrete is used, it shall be colored and textured for a more natural appearance. A weir (or notch) shall be constructed within the check dam to prevent water from ponding upstream of the facility. The check dam shall be designed and constructed to minimize environmental impacts and disturbances to the creek. The Via Vera Cruz check dam shall be constructed within the temporary construction easement for the crossing to the extent possible. MM 3.6-3b A check dam shall be constructed just upstream of Discovery Street. This check dam shall cause sediment to deposit upstream of Discovery Street and further reduce sediment delivery to Lake San Marcos. The check dam height shall be designed so that it does not adversely impact the upstream water surface elevations including the water surface elevations in Las Posas Creek. The Discovery Street check dam shall be constructed within the existing channel bed armoring to the extent possible. ~~MM 3.6-3 The project applicant shall implement the following mitigation measure to control downstream sedimentation and ensure that sediment delivery does not exceed pre-project levels:~~ • ~~Armoring of the proposed Via Vera Cruz Road Crossing: The proposed road crossing with culverts for the Via Vera Cruz crossing is shown in Figure 9 of the Sediment Study (see Appendix E.2 of the Draft EIR). Since the road crossing is slightly above the existing channel bed, it would act as a check dam to induct sediment deposition on its upstream side, thereby reducing sediment flow toward downstream.~~	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
Project design proposes a redefinition of the 100-year floodplain boundary; however, until FEMA approval is obtained, development is proposed within an existing 100-year floodplain. Impacts are significant.	MM 3.6-4	Before any specific plan development may be approved by the City of San Marcos within properties currently within the 100-year floodplain, the applicant must demonstrate that a Letter of Map Revision (LOMR) removing the affected parcels from the floodplain or Conditional Letter of Map Revision (CLOMR) has been obtained from the Federal Insurance Administration of the FEMA.	Mitigated to below a level of significance.
Construction of levees could potentially cause a significant impact.	MM 3.6-5	The flood control facilities shall be designed by a professional engineer who would certify that the flood control facilities, including the levee, meet requirements for stability and safety as set forth by the U.S. Army Corp of Engineers. Final geotechnical and hydraulic studies shall be completed by professional engineers to support the certification of the levee.	Mitigated to below a level of significance.
Land Use and Planning			
Implementation of the proposed project would result in an inconsistency with the current General Plan.	MM 3.7-1	Prior to project implementation, a General Plan Land Use Element Amendment shall be approved to change the General Plan designations within the portion of the project proposed for development as Specific Plan. This is warranted in that the proposed project uses would not be compatible with the existing land use designation and result in a significant land use impact.	Mitigated to below a level of significance.
Implementation of the proposed project would result in an inconsistency with the current zoning designation.	MM 3.7-2	Prior to project implementation, a Rezone shall be approved for the areas identified for developed to Specific Plan. This is warranted in that the proposed project would not be compatible with the existing zoning for the property and result in a significant land use impact.	Mitigated to below a level of significance.
The proposed right-of-way for ~~two~~ three roadway segments is inconsistent with the Circulation Element. The segment of Discovery Street between McMahr and Craven, ~~and~~ the segment of Grand Avenue between the future Grand Avenue bridge and Discovery, and the segment of McMahr between Main Street and Creekside Drive are proposed at a different classification that what is identified in the Circulation Element.	MM 3.7-3 MM 3.7-4 MM 3.7-5	Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify the segment of Discovery Street between McMahr and Craven to a modified Secondary Arterial with parking along the north side of the street. Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify the segment of Grand Avenue between the future Grand Avenue bridge and Discovery Street to a Secondary Arterial. Prior to project implementation, a General Plan Circulation Element Amendment shall be approved to reclassify to segment	Mitigated to below a level of significance

Impact	Mitigation Measure		Conclusions
		of McMahr Road between future Main Street and Creekside Road and to eliminate the segment of McMahr between Creekside Road and Discovery Street.	
Noise			
Implementation of the proposed project would result in significant construction-related noise impacts during Phase 1 and Phase 2 of the project.	MM 3.8-1	A condition on the improvement plans and within construction contracts which require: • Exterior construction, hauling or delivery activities shall be scheduled to occur during normal daytime working hours, i.e. 7:00 a.m. and 6:00 p.m., Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturday. No construction would occur on Sundays and legal holidays. These criteria shall be included in the improvement plans prior to initiation of construction. Exceptions to allow expanded construction activity hours shall be reviewed on a case-by-case basis as determined by the Planning Director. • All heavy construction equipment and all stationary noise sources (such as diesel generators) shall be fitted with factory-specified mufflers. • Truck routes, equipment warm up areas, water tanks, and equipment storage areas shall be located in an area as far away from existing residences as is feasible. The condition shall be reviewed and approved by the Planning Director prior to the issuance of permits.	Mitigated to below a level of significance.
	MM 3.8-2	The applicant shall prepare and post readily visible informational signs at each entrance of the construction are indicates that the site is a “Noise Controlled Zone” and that person, vehicles, machinery and equipment may be barred from the site for violations of the noise regulations. A Noise Complaint Hotline telephone number shall appear prominently on the sign. The overall sign, including format, size, style and content shall be pre-approved by the City prior to posting.	

<table>
<tr><th>Impact</th><th colspan="2">Mitigation Measure</th><th>Conclusions</th></tr>
<tr><td>Implementation of the proposed project would result in noise impacts to future residential units due to traffic noise.</td><td>MM 3.8-3</td><td>As development proposals come forward for the Specific Plan area, noise attenuation shall be required to reduce noise levels to acceptable standards. In the event that patios and balconies are determined to occur within the 65 dBA noise contour, noise attenuation would be required to reduce noise levels to 65 dBA CNEL or lower. This may include the use of architectural treatments, barriers, or other noise attenuating measures. The mitigation measures shall provide sound level reductions so that future uses within the Specific Plan area are consistent with the CNEL levels identified in the San Marcos General Plan.</td><td>Mitigated to below a level of significance.</td></tr>
<tr><td>Implementation of the proposed project would result in noise impacts to interior residential space.</td><td>MM 3.8-4</td><td>Residential uses adjacent to project site roadways shall have dual-paned windows and supplemental ventilation (e.g., air conditioning systems) on their facades facing exterior roads.

MM 3.8-5 Noise-sensitive uses within 500 feet of San Marcos Boulevard shall be shielded by intervening structures, or shall employ upgraded noise mitigation (e.g., premium windows, etc.). The hierarchy of structural noise reduction is as follows, and shall be employed as needed to meet interior noise level of 45 dB.</td><td>Mitigated to below a level of significance.</td></tr>
<tr><td></td><td colspan="2"><table><tr><th>Exterior to Interior Reduction Desired (dB)</th><th>Measure(s) Needed</th></tr><tr><td>0-10</td><td>None</td></tr><tr><td>10-20</td><td>Close single-paned windows facing roadway. Provide supplemental ventilation.</td></tr><tr><td>20-25</td><td>Close standard dual-paned windows. Provide supplemental ventilation.</td></tr><tr><td>25-30</td><td>Close upgraded dual-paned windows. Provide supplemental ventilation. Baffle vents and line ducts with absorbers.</td></tr><tr><td>>30</td><td>Custom upgrades (dual layer drywall, triple-paned windows, steel doors, etc.)</td></tr></table></td><td></td></tr>
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Impact	Mitigation Measure		Conclusions
Implementation of the proposed project would result in potential noise conflicts at the interface between retail commercial development and residential uses.	MM 3.8-6	As development proposal come forward for the Specific Plan area, a site specific noise study shall be prepared for the development. The noise study shall analyze the impact of co-locating residential and commercial uses on the project site. Mitigation measures shall be identified and incorporated into the Conditional Use Permits, to reduce noise impacts associated with these uses. The mitigation measures shall provide sound level reductions so that future uses within the Specific Plan area are consistent with the CNEL levels identified in the San Marcos General Plan.	Mitigated to below a level of significance.
Public Services			
Impacts are less than significant.	No mitigation measures are required.		Less than significant.
Transportation and Traffic			
Implementation of the proposed project would result in significant short-term impacts to project area roadways during the construction phase.	MM 3.10-1	Prior to the issuance of grading permits and infrastructure improvement, the project applicant shall prepare a Construction Management Plan for review and approval by the Planning Director. The Construction Management Plan shall address the following: • Control for any street closure, detour, or other disruption to traffic circulation; • Routes that construction vehicles would utilize to access the site; • Hours of construction traffic; • Off-site vehicle staging and parking areas; and • Posted information for contact in case of emergency or complaint.	Mitigated to below a level of significance.
Future development within the Specific Plan may result in localized traffic impacts. This represents a significant impact.	MM 3.10-2	As future development projects are proposed within the Specific Plan area mitigation measures to reduce project-level impacts to below a level of significance concurrent with impacts would be identified and implemented. Impacts shall be mitigated to a level of service that is consistent with the Circulation Element of the San Marcos General Plan.	Mitigated to below a level of significance.

Impact	Mitigation Measure		Conclusions
Under Horizon 2030 conditions with the proposed Specific Plan land uses, two roadway segments are forecast to operate at deficient levels of service.	MM 3.10-3	Extend Creekside Drive west from Bent Avenue to McMahr Road. This improvement shall be funded on a "fair share" basis by future developers within the Specific Plan area.	Mitigated to below a level of significance.
Utilities and Service Systems			
There is a potential that off-site wastewater and water infrastructure improvement may be required to serve the project. However, the extent of these potential off-site improvements is not known at this time. This represents a significant impact. ~~Wastewater generated by the proposed project would require increased capacity at the wastewater treatment plant~~ ~~.~~	MM 3.11-1 ~~MM 3.11-1~~	Future development within the Specific Plan (Phase 2) shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, Water and Sewer Studies shall be prepared to the satisfaction of VWD and shall identify the needed infrastructure needed to support Phase 2 development of the project. Future developers within the Specific Plan area shall be responsible for the payment of fair share fees for the necessary water and sewer infrastructure upgrades. Additional environmental review shall be required for any off-site improvements. Additionally, prior to the issuance of building permits for Phase 2 development, the Water Supply Assessment shall be revised by Vallecitos Water District. ~~Future development within the Specific Plan shall not occur until the VWD San Marcos Interceptor project has been completed. Additionally, as each development project in the Specific Plan area comes forward, project review by VWD shall be required to ensure there is adequate capacity in the VWD infrastructure to accommodate the wastewater generated by these projects. Future project applicants shall participate in a funding mechanism to ensure that adequate infrastructure is in place. The terms of the funding mechanism shall be determined by VWD.~~	Mitigated to below a level of significance.