



Protecting and Restoring the Santa Barbara Channel and Its Watersheds

714 Bond Avenue • Santa Barbara, CA 93103 • Tel (805) 563 3377 • Fax (805) 687 5635 • www.sbck.org

June 1, 2007

**Mayor and City Council
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117**

Re: Final Mitigated Negative Declaration for the San Jose Creek Capacity Improvement Project

Dear Mayor and City Council Members,

Santa Barbara Channelkeeper (Channelkeeper) appreciates this opportunity to submit comments regarding the proposed Final Mitigated Negative Declaration (ND) for the San Jose Creek Capacity Improvement Project. Santa Barbara Channelkeeper is a local non-profit organization dedicated to protecting and restoring the Santa Barbara Channel and its watersheds through citizen action, education, field work and enforcement. Channelkeeper as an organization has broad expertise in the biological resources and water quality of streams and are very familiar with San Jose Creek. We have been leading a volunteer-based water quality monitoring program in the Goleta Slough watershed (including on San Jose Creek) for the past five years, and thus have a strong interest in this project.

The ND document does not adequately identify or mitigate many of the significant impacts of the project and this project should therefore require a full Environmental Impact Report (EIR).

In summary, the proposed project ultimately cannot be approved because it violates the General Plan in several ways. Findings of consistency with the general plan are required for approval but cannot be made. In addition, **General Plan policy conflicts trigger a significant biological resources impact (MND at page 32), therefore necessitating preparation of a full EIR.**

This project removes 0.25 acres of riparian habitat, violating policy CE 1.6. Constructing a larger concrete channel in the ESHA also violates Policy CE 1.6

CE Policy 1.6(d) prohibits development in Environmentally Sensitive Habitat Areas (ESHAs) and buffers except for limited developments, not including flood control projects. Policy CE 1.6 states that certain developments and uses are allowed in ESHAs and ESHA buffers but does not allow flood control concrete channel enlargement projects. The General Plan clearly states that "Any land use, construction, grading, or removal of vegetation that is not listed above is prohibited." (Policy CE 1.6(f)). Furthermore, even if concrete channels were an allowed use in an ESHA, it would be impossible for the City to approve this project because the City has

not demonstrated that less damaging alternatives are infeasible. Given this policy conflict and resulting significant impact, the City is required to prepare a full EIR to comprehensively review an adequate range of feasible alternatives that avoid or substantially lessen the significant impact.

For example, has the City evaluated the construction of a deeper channel and/or leaving only a **portion** of the channel bed with a natural bottom, which can offer fish passage during low flows while minimizing the impact of added roughness? According to project engineers, the primary concern of extending a natural channel to the slough is with increased roughness created by channel vegetation. Has the City considered the construction of a roughened, slightly deeper concrete channel that can better provide for fish passage without creating additional flood control maintenance issues? These alternatives, among others, have not been adequately reviewed by the City, and therefore this proposed project cannot be approved under CE Policy 1.6(f).

The City's ND notes that 10-foot high flood walls would be needed to provide adequate channel capacity and fish passage. The ND fails to analyze how the visual impacts of the flood walls can be mitigated, i.e. berms and screening vegetation. The ND notes that this option is more costly but fails to provide any evidence that this alternative – which would comply with the General Plan and avoid the significant biological impact – is infeasible. The ND also claims with no evidence that the County would not maintain the channel if it had taller flood walls. Flood walls can be fitted with removable sections to provide access for County flood control maintenance. Therefore, the City improperly rejected the fish passage alternative.

CE Policy 1.10(g) allows flood control activities like vegetation removal and desilting, but prohibits and does not allow concrete channel development or expansion in creek ESHAs as this project entails.

There is no buffer to protect the creek from development in conflict with policies CE 1.8 and CE 2.2. While this is a flood control project, the goals can be fulfilled without encroaching into the buffer. Diverting portions of higher flows into Old San Jose Creek is a potentially feasible way to comply with the General Plan's policies requiring protection of creek buffers (aka stream protection areas).

Policy CE 1.10(a) prohibits the use of toxic materials in ESHAs. Concrete is toxic to fish in the slough. The project's proposed use of concrete in the channel violates Policy CE 1.10(a).

Policy CE 2.3 allows drainage facility maintenance in buffers (stream protection areas) but does not allow channel enlargement. The project therefore violates Policy CE 2.3.

Policy CE 2.5 prohibits new concrete channels and culverts except at bridge crossings. Policy CE 2.5 also requires restoration of creeks to natural conditions wherever opportunities exist. Clearly this project represents such an opportunity. No information in the ND shows that the natural bottom alternative (Alternative 4) is not economically feasible. The ND merely states that Alternative 4 would cost more. Therefore, this project violates Policy CE 2.5 because this project is a feasible opportunity to restore the channelized creek but restoration is not proposed. CE 2.5 also states that bridge abutments or piers shall be located outside the banks. The proposed new bridge abutment would form the creek channel banks and would not be located outside the banks, violating Policy CE 2.5.

Policy CE 2.6 requires that barriers to steelhead “shall” be removed or modified. Although this ND refers to the capture of one steelhead in San Jose Creek in 1975, it fails to mention the existence multiple resident steelhead trout populations that currently live upstream of the project boundary. The ND’s baseline description is inadequate because it fails to document the existing steelhead population upstream in San Jose Creek, and migration of the fish down through the channel.¹ The project blatantly violates this policy because it does not remove the barrier and does not provide evidence that removing the barrier is infeasible. In fact, this project will significantly extend the lifetime of an identified barrier to fish passage, exacerbating the conflict with Policy CE 2.6 and the related significant impact to biological resources. This policy further states that when the use of culverts is necessary, the culverts shall be oversized and have gravel bottoms. The project’s use of a concrete bed instead of a natural bed conflicts with this element of Policy 2.6.

This project will fill wetlands in violation of Policies CE 3.4 and 3.5.

Channelkeeper strongly supports creation of new wetlands and restoration of degraded wetlands. However, the assertion that this project creates more state wetlands than it destroys is misleading. Because of flood control maintenance activities that will likely occur within the newly created natural bottom portion, the quality of wetlands created downstream of the Hollister Bridge will be extremely minimal and will not suitably replace the native habitat removed. In addition, while we support removal of the concrete bed throughout the entire project reach, it is likely that low flows entering the channel downstream from Hollister will infiltrate into the groundwater and will not create or enhance federal or state wetlands in the limited area of earthen channel being created.

Further, the existence of tree canopy that improves aquatic habitat quality in the current natural area upstream of the Hollister Bridge cannot and will not be replaced in the new downstream natural channel because of the existence of concrete banks and flood control maintenance within the channel.

It is well established that concrete channels such as the existing channel along San Jose Creek dramatically impact water quality. The Goleta Slough wetland is currently listed on the State’s 303(d) Impaired Water Bodies List for pathogens and priority organics from urban runoff and non-point sources, necessitating that a Total Maximum Daily Load (TMDL) be developed and implemented to address these impairments in the near future. The City should be advised that TMDL processes in neighboring municipalities have cost tax payers millions of dollars to address individual impairments. Approximately five years of Channelkeeper water quality monitoring data indicates that San Jose Creek is also significantly impaired for pathogens, dissolved solids, nitrate, and algae. It would greatly behoove the City to consider taking advantage of every opportunity at its disposal to improve water quality within the Goleta Slough watershed and San Jose Creek before the enormously costly TMDL process is imposed by the Regional Water Quality Control Board. Indeed, additional costs associated with alternative designs will likely be minimal in comparison to future costs of complying with TMDL requirements.

¹ The ND incorrectly claims that juvenile resident steelhead cannot migrate downstream through the channel. However, there is no barrier to fish migration downstream. The barrier is only upstream. The ND in part uses this incorrect information to justify finding no significant impact to steelhead. Therefore the ND’s impact analysis is flawed and should be redone in an EIR.

The process leading up to the preparation and potential approval of this plan has been a complete failure in terms of providing opportunities for stakeholder involvement. Stakeholder involvement from the beginning of project development would have greatly alleviated many concerns that have only recently surfaced with the proposed plan. The process would have benefited greatly from additional collaboration in terms of plan development, review, and the identification of additional funding sources that were clearly not pursued by the City. These steps should have been taken BEFORE the development of this ND document. Although the City has ensured us that all alternatives and significant impacts have been thoroughly considered, this document does not support this assertion. In fact, even after being directed by the City Council to expand on its description of considered alternatives, this final document contains only a minimal expansion of an already listed alternative. These failures have now resulted in a politically adversarial climate between the City and concerned stakeholders instead of the synergistic energy and resources that collaboration would have provided.

For years now, community members, agency officials, and City and County government representatives have worked and advocated to restore this portion of San Jose Creek through this creek improvement project. Here an opportunity exists to significantly improve conditions along the creek, and this project completely misses the mark. Due to significant impacts not identified in this ND as well as multiple violations of the General Plan, we strongly recommend that the Council not approve this ND document and direct staff to prepare a full EIR that adequately addresses these concerns.

Respectfully,

Ben Pitterle
Watershed Programs Director
Santa Barbara Channelkeeper

Cc: California Department of Fish and Game
California Coastal Commission
NOAA
US Army Corps of Engineers
Central Coast Regional Water Quality Control Board
County Flood Control District and Board of Supervisors
CalTrout
Environmental Defense Center
Urban Creeks Council
Santa Barbara Audubon Society