



January 27, 2020

Mr. Michael Martin  
Valley Water  
michaelmartin@valleywater.org

RE: Comments on Almaden Lake Improvement Project Draft EIR

Dear Mr. Martin,

The Sierra Club Loma Prieta Chapter (SCLP) and the Santa Clara Valley Audubon Society (SCVAS) thank the City of San Jose for the opportunity to review the Draft Environmental Impact Report (DEIR) for the Almaden Lake Improvement Project (Project). The Project's purposes are to restore Alamos Creek's function within the footprint of Almaden Lake Park in order to improve physical habitat for steelhead and other anadromous fish, while improving water quality within the lake footprint, and minimizing impacts to existing recreational features within the Park.

SCVAS was founded in 1926, and is one of the largest National Audubon Society chapters in California. SCVAS' mission is to promote the enjoyment, understanding, and protection of birds and other wildlife by engaging people of all ages in birding, education, and conservation. SCVAS has engaged in the protection of burrowing owls and their habitat, other endangered (and common) species, and the protection of riparian and aquatic ecosystems for decades. Our members have a strong interest in projects that could impact biological resources.

The mission of the Sierra Club is to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. The Loma Prieta Chapter conservation program works to proactively identify natural constraints and/or trends that will impact our local ecosystems and environment, and to present solutions for action.

Key elements under consideration include - Alamos Creek restoration, Almaden Lake separation, open park area expansion, 2 island areas, Almaden Lake source water connection, Almaden Lake connection to Los Alamos Percolation Pond, and native revegetation.

Our organizations have actively participated in the process that resulted in the current project design and mitigations. We commend the technical staff for the innovative and creative approach to reducing the dependency of the project on the operation of the flashboard dam, inclusion of nesting islands, and creation of upland vegetated area adjacent to the lake.

We remain concerned with the following elements of the EIR:

### 1. Nesting birds

Impact 3.D-1 proposes, “Construction or operation of the Project could have a substantial effect on special-status birds, common nesting migratory birds and raptors, and roosting bats in the Study Area”. Mitigation Measure 3.D-1a focuses on removal of vegetation. However, on the Island and around Almaden Lake, many bird species nest on the ground, or in cavities in the ground - including Mallard, Canada Goose, Common Merganser, California Quail, Pied-billed Grebe, Spotted Sandpiper, American Coot, Common Moorhen, Northern Rough-winged Swallow, and Belted Kingfisher (Reference: *Breeding Bird Atlas of Santa Clara County*. William Bousman, Santa Clara Valley Audubon Society, 2007).

- Please provide mitigation for disturbance to nests of ground nesting species during construction.
- Please provide mitigation for impacts due to operation of the Project.
  - We recommend the prohibition of public access to the islands to avoid trampling and disturbance, and to mitigate potential impacts to roosting and nesting birds.
  - To minimize disturbance of resting or nesting birds, we recommend prohibition of boating within 50-yards of the island shores.
  - Please prohibit dogs on the levee between the new lake and Los Alamitos Creek.

### 2. Western Pond Turtle

DEIR Section 3.D Biological Resources under Project Setting (p. 3.D-2) mentions Western Pond Turtle as a species that may occur on the Project site. Avoidance and Minimization practice #91 proposes “...aquatic species will be netted at the drain outlet when draining reservoirs or ponds to surface waters. Captured native fish, native amphibians, and western pond turtles will be relocated if ecologically appropriate...”. The EIR provides no mitigation for take of Western Pond Turtles.

To adequately mitigate for impact to individuals and to habitat, please:

- Provide a Western Pond Turtle relocation Plan.
- Provide training so project personnel can identify Western Pond Turtles and know what to do if they encounter a turtle.
- The Western Pond Turtle relocation Plan should include plans for the draining of the lake, including the potential need for pumping water. Also, during the draining of the last ⅓ of the water volume in the lake, consider daily sunrise survey for Pond Turtles along the entire perimeter of the lake to check for out-migrating Western Pond Turtles, or turtles digging hideouts or stuck in the mud.
- Mitigation and best practices to minimize impacts to Western pond turtles should include Habitat enhancements:
  - Submerged Wetland Benches. To provide cover, foraging, and nesting opportunities for wildlife, including hatchling and juvenile Western pond turtles, wetland benches can be integrated into the design of the levees and incorporated into the grading plans for the islands. These features should be at an optimum elevation/water surface depth for emergent wetland plant species to grow and propagate (approximately 0 to 2 feet below the water line). Wetland benches varying in width from approximately 8 feet to up to 30 feet from the islands will also serve to deter boats from approaching the islands and contribute to reducing erosion.
  - To benefit wildlife species such as pond turtles, waterfowl, and shorebirds, basking logs, basking zones, nesting zones, and raptor perches can be installed along the shoreline and on the islands. Pavers, stones, and gravel should be installed on roughly 6 foot by 10 feet sections along the islands shorelines to serve as turtle basking zones and to

facilitate maintenance access. Portions of the islands can be amended with sand to encourage turtle nesting.

### 3. Islands

- The expanded existing island is positioned very close to the trail and thus it is likely to become accessible to swimming predators including domestic dogs. Please widen the water channel between the island and the levee, even if that means that the island will be smaller.

### 4. Source of water and drought conditions

- The discussion of existing conditions does not explain the existing source of water to Almaden Lake or what percentage of that water is imported water compared to 100% imported water to be used for the Project. Please add this information. Also add some information about nutrients in imported water under Hydrology and Water Quality Operations Impacts on page 3.K-23 where it is not mentioned at all.
- Imported water from the Delta is high in nitrates and susceptible to Harmful Algal Blooms (HABs). Please discuss in project description the possible increase in nitrate concentrations (and any other water quality issues that may be introduced) due to the use of imported water, and discuss the impacts on water quality in the Lake (especially the potential for HABs) and mitigations needed in section 3.K Hydrology and Water Quality.
- The Project is projected to use 4,350 AFY of imported water. Please discuss the impact of this new demand on imported water in the project description or in Section 3.P Utilities and Service Systems as appropriate. How will this diversion of imported water impact the distribution of imported water and amount of imported water used (especially under drought conditions).
- Discuss the impact on the Project in the event of an extended drought up to 6-year drought period analyzed in the Water Supply Master Plan. How will this impact Lake levels, flow through the Lake, and therefore the ability of the project to meet objectives in this situation?

### 5. Impacts on Sycamore Terrace property

The identified staging area and pipeline location on the City's Sycamore Terrace property may impact the riparian corridor and significant vegetation and therefore we request the following changes to the analysis related to the use of this property in the DEIR as follows:

- On Figure 2-2b which shows the staging area boundaries, update the boundary of the Sycamore Terrace staging area so it doesn't encroach into the 100' setback from top of bank. Also, include language in the project description stating that no trees will be removed on this property. There should be no reason to remove trees for a staging area (see Santa Clara Valley Habitat Plan Avoidance and Minimization Measures, #49).
- Figure 2-5 which shows the location of the pipeline from Almaden Lake to the Los Alamitos Percolation Pond going through the middle of at least one Sycamore grove. Figure 3.D-1a which shows the study area along the west edge of this property doesn't appear to include the Sycamore grove. Please update Figure 2-5 to move the location of the pipeline into the study area shown in Figure 3.D-1a.
- The revegetation plan on Figure 2-6 does not include any mitigation planting on the Sycamore Terrace property. Please expand the revegetation plan to include this property and provide mitigation for the impacts caused by using this property as a staging area.
- In general the potential impacts to this property have not been adequately addressed in this DEIR. For example, will the use of the property as a staging area substantially alter the drainage pattern and cause increased surface runoff or erosion? Please make sure to analyze and mitigate all impacts at the Sycamore Terrace property.

- All mitigations to prevent damage to the riparian habitat and floodplain and to water quality at this confluence point are essential. Please add language to clarify that all water quality and hydrology mitigations apply to equally to this property.
- The impacts of horizontal drilling at the Sycamore Terrace property need to be discussed and mitigated. Please provide information, analysis, and mitigation to respond to the following questions. What will be the impact of placing and operating the large drilling rig and where will the rig be placed? What will be the impact of drilling noise and vibration? How will materials or waters generated during drilling be stockpiled? Please include this boring project in the discussion of Best Management Practice WQ-12 since it is not currently mentioned there.

#### 6. Lighting

Artificial night lighting has an adverse impact to all living things, and interferes with biological processes in wildlife, including fish and birds. The DEIR dismisses Project impacts due to light and glare since the Project has no development elements that would generate lighting during operations, and “Security lighting would not be required beyond what is already present in the Park.” However, it is reasonable to expect that lighting will be part of the new planned park area, and that there will be an interest in the community to add sport lighting, lighted art, and other additional lighting features and elements.

- To avoid or minimize impacts of future lighting development, the EIR should specify that lighting will not be permitted on the new levee, and require mitigation for potential future park lighting to prevent light trespass into habitat areas.

#### 7. Tree removal

- More information is needed to fully analyze the impacts of tree removal. Please include a figure with a site plan showing all tree removals planned within the study area, including at the Sycamore Terrace staging area. Mitigation planting for tree Removal Plan should be provided on the Planting Plan, especially for the Sycamore Terrace property as indicated under #5 above.

#### 8. Impacts of dewatering

- To minimize the impact of dewatering, add a mitigation measure provide retention and infiltration/evaporation outside of construction areas either onsite or at another location near the Project site. This approach meet will minimize stormwater runoff with Source Control as established in the City of San Jose Post-Construction Urban Runoff Management Policy (6-29).

#### 9. Impacts of flashboard dam operation

- Please include in the project description how the interaction between Almaden Lake and the Los Alamitos Drop Structure will change as a result of the Project. Will the dammed water still back up into the Lake? Will it back up into the newly separated stream? If it will back up to these areas, please analyze the impacts and provide mitigation as appropriate. Alternative, explain how operation of the flashboard dam be changed to prevent any such impact.

#### 10. Alternatives

Sierra Club has previously proposed an alternative that would include cessation of operation of the flashboard dam at the Alamitos Drop Structure, re-plumbing of the inflow to Alamitos Percolation Ponds, and conversion of the ponded backwater to a flowing stream. By creating a direct pipeline connection from Almaden Lake to the Los Alamitos Percolation Pond, the recommended Project begins to make this recommendation possible. Although that expanded project will not be included in this

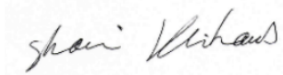
project, we urge the District to pursue that project in the future, as recommended in a letter to the District from NOAA Fisheries in May 2014.

We thank you for the opportunity to provide comments on the Draft EIR.

Sincerely,

A handwritten signature in cursive script that reads "Katja Irvin".

Katja Irvin  
Conservation Committee co-chair  
Sierra Club Loma Prieta Chapter

A handwritten signature in cursive script that reads "Shani Kleinhaus".

Shani Kleinhaus, Ph.D.  
Environmental Advocate  
Santa Clara Valley Audubon Society