



Vine Transit Bus Maintenance Facility

Comments and Responses/Revisions to the
Draft Initial Study-Mitigated Negative Declaration

prepared by
Napa Valley Transportation Authority
625 Burnell Street
Napa, California 94559

prepared with the assistance of
Rincon Consultants, Inc.
449 15th Street, Suite 303
Oakland, California 94612

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1 Comments and Responses /Revisions to the Draft IS-MND

The Final Initial Study-Mitigated Negative Declaration (Final IS-MND) and this Comments and Responses/Revisions to the IS-MND document collectively comprise the Final Initial Study- Mitigated Negative Declaration for the Napa Valley Transportation Authority's (NVTA) Vine Transit Bus Maintenance Facility. Changes made to the text of the Draft IS-MND correcting or adding information, data or intent, other than minor typographical corrections or minor working changes, are generally indicated in the Final IS-MND as changes from the Draft IS-MND with a vertical line in the margin next to the changed or added text. The substantive corrections or additional text are illustrated in the responses below in strikethrough (deleted text) and underline (added text) format.

Summary of Revisions to the Draft IS-MND

The changes incorporated into the Final IS-MND correct minor errors or clarify information. These edits, in addition to other minor or technical edits found in the text of the Final IS-MND (including in the Appendices), do not individually or collectively comprise substantial revision as defined in the CEQA Guidelines and do not affect the conclusions of the IS-MND. The Final IS-MND (including the Appendices) reflects the final, corrected IS-MND text.

Comments and Responses

In accordance with Section 15088 of the CEQA Guidelines, NVTA, as the lead agency, has reviewed the comments received on the Draft IS-MND for the 2016 RTP-SCS and has prepared written responses to the written and verbal comments received. The Draft IS-MND was circulated for a 30-day public review period that began on October 7, 2016 and concluded on November 6, 2016. The comment letters included herein were submitted by public agencies, groups and individuals.

Each comment on the Draft IS-MND that NVTA received is included in this section. Responses to these comments have been prepared to address the environmental concerns raised by the commenters and to indicate where and how the Final IS-MND addresses pertinent environmental issues.

The comment letters have been numbered, and each issue within a comment letter, if more than one, has a number assigned to it (for example, Letter 1, Comment 2 is referenced as 1.2). Each comment letter is reproduced in its entirety (with the exception of some attachments that do not specifically reference the Draft IS-MND) with the issues of concern numbered in the right margin. The commenters are listed below.

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EDMUND G. BROWN JR.
GOVERNOR

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



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MNTA

KEN ALEX
DIRECTOR

November 8, 2016

Antonio Onorato
Napa Valley Transportation Authority
625 Burnell Street
Napa, CA 94559

Subject: Vine Transit Maintenance Facility
SCH#: 2016102012

Dear Antonio Onorato:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on November 7, 2016, and no state agencies submitted comments by that date. 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 call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

1

**Document Details Report
State Clearinghouse Data Base**

SCH# 2016102012
Project Title Vine Transit Maintenance Facility
Lead Agency Napa Valley Transportation Authority

Type MND Mitigated Negative Declaration
Description Construction of an approximately 23,000 sf, single story (approximately 24-28 ft in height) bus maintenance facility that would include a bus wash, seven spaces for bus repair work, one space for paint and body work, and tire storage. The project would also include the construction of a single story 3,917 sf administration office building up to 16 ft in height with an outdoor landscaped courtyard. The two parking lots would accommodate approximately 93 public transit vehicles as well as 75 employee and visitor vehicles respectively. These project components would occupy approximately 4.88 acres of the project site, including approximately 3.73 acres of parking and circulation areas, 27,082 sf of building footprints, and 23,140 sf of landscaping. A wall of up to eight ft in height would be along the eastern property line.

Lead Agency Contact

Name Antonio Onorato
Agency Napa Valley Transportation Authority
Phone 707-259-8779 **Fax**
email
Address 625 Burnell Street
City Napa **State** CA **Zip** 94559

Project Location

County Napa
City Napa
Region
Lat / Long 38° 13' 40" N / 122° 15' 55" W
Cross Streets Sheehy Court/Devin Rd
Parcel No. 057-250-025, -036
Township **Range** **Section** **Base**

Proximity to:

Highways 29, 12
Airports Napa County
Railways yes
Waterways Sheehy Creek
Schools
Land Use LU: Vacant; Z: industrial park, airport compatibility; GP: Industrial park; Specific plan: business/industrial park

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 3; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 4; Regional Water Quality Control Board, Region 2; Native American Heritage Commission

Date Received 10/07/2016 **Start of Review** 10/07/2016 **End of Review** 11/07/2016

Letter 1

COMMENTER: Scott Morgan, on behalf of the State Clearinghouse

DATE: November 8, 2016

Response

The Director of the State of California Governor's Office of Planning and Research (OPR) State Clearinghouse and Planning Unit (State Clearinghouse) submitted this letter to acknowledge compliance with the review requirements for draft environmental document, pursuant to the California Environmental Quality Act (CEQA). The letter states that no state agencies submitted comments on the Draft IS-MND.

These comments have been received and noted, and no further response is required. It should be noted that state agencies listed for IS-MND distribution in NVTA's Notice of Completion/environmental document transmittal form included the Regional Water Quality Control Board, Department of Fish & Wildlife, among others.



Public Works
Water Division

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NVTA

October 14, 2016

Napa Valley Transit Authority (NVTA)
ATTN: Antonio Onorato
625 Burnell Street
Napa, CA 94559-3420

Dear Mr. Onorato,

The letter confirms receipt of your notice of intent to adopt a mitigated negative declaration (MND) for the public transit maintenance facility at the terminus of Sheehy Court (APNs 057-250-025 and 057-250-036).

The City owns and operates a transmission main across the northern portion of the northern parcel (APN 057-250-025) as shown on page 5 of the MND (Figure 3 Proposed Site Plan).

The Water Division does not have specific comments on the initial study/MND; however, I will reserve comment(s) for construction document production (plans, specifications and estimates). As the project evolves, please route all plans to my attention and I will work with you to ensure the City's pipeline is adequately protected in place and noted as such on all applicable construction documents.

Please call our office at 257.9521 for any questions, record drawings, etc.

Respectfully,

Michael J. Hether, P.E.
Senior Civil Engineer

Scoop/Author/File

\\NAS1\Groups\PubWrks\Water\Outside Agency\NVTA\Public Transit Maintenance Facility (Sheehy Court)\Response Letter to NOI to Adopt MND - 10-14-2016.docx

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Letter 2

COMMENTER: Michael J. Hether, P.E. Senior Civil Engineer, on behalf of the City of Napa Public Works Water Division

DATE: October 14, 2016

Response

The commenter confirms that the City of Napa Public Works Water Division received the Notice of Intent to Adopt a Mitigated Negative Declaration for the proposed project. The commenter states that the City owns and operates a transmission main across the northern portion of the northern parcel (APN 067-250-036). The commenter indicates they do not have specific comments on the IS-MND but would like all construction documents (plans, specifications and estimates) to be routed to their attention to ensure the City's pipeline is adequately protected in place and noted as such on all applicable construction documents.

These comments have been received and noted, and no further response is required.



Dedicated to Preserving the Napa River for Generations to Come

November 1, 2016

Mr. Antonio Onorato
Project Manager
Napa Valley Transportation Authority
625 Burnell Street
Napa CA 94559-3420

SUBJECT: Vine Transit Maintenance Facility
Comment Letter – IS/MND

Dear Mr. Onorato:

Thank you for inviting Napa Sanitation District (NSD) to provide comments on the Draft Initial Study / Mitigated Negative Declaration (IS/MND) for the proposed Vine Transit Maintenance Facility to be located on Sheehy Court (APN 057-250-025 and 057-250-036).

NSD has the following comments:

- 1. The IS/MND, in several locations, contains the word “grey” when referring to NSD’s recycled water. The recycled water produced by NSD’s water recycling facility is tertiary treated and disinfected for unrestricted use as defined by Title 22 of the California Code of Regulations. Please remove the word “grey”. The appropriate nomenclature is “recycled water”. 1
- 2. Section 17e, Page 96
 - a. The IS/MND states that *“there is currently a surplus capacity of 5.4 MGD.”* - This statement is incorrect. 2
 - b. *“Wastewater generation was calculated by taking the existing water use data provided by NVTA and assuming that water use equals 120% of wastewater generation. The non-potable water utilized for irrigation at the new facility would not contribute to wastewater requiring treatment by the Napa Sanitation District; therefore, 51,000 gallons of water (the current monthly average) was used to calculate the projected wastewater, which would be much the same as it is at the existing facility. The proposed project would generate an estimated 42,500 gallons per month of wastewater.”* - Capacity in the sanitary sewer collection system and treatment plant is an analysis of peak flow, not monthly average flows. 3

Mr. Onorato
November 1, 2016
Page 2

a. *"The 42,500 gallons per month of wastewater generated by the proposed project would represent about 0.03% of the SCRF's remaining 5.4 MGD capacity. However, this is a conservative assessment, which assumes that the facility is a brand new use. As mentioned, the facility would not be a brand new facility, but instead would be a relocation of the existing bus maintenance facility. Therefore, even if the facility represented a brand new use, the projected wastewater generation would be within the projected future surplus capacity, and impacts to wastewater treatment systems would be less than significant."* - NSD will reserve sanitary sewer capacity at the 720 Jackson Street location. The proposed Sheehy Court facility shall be evaluated as a new facility.

4

The Soscol Water Recycling Facility (SWRF) has a permitted capacity of 15.4 million gallons per day (MGD). Available capacity is not 5.4 MGD. However, the sanitary sewer collection system and the treatment plant have adequate capacity to serve the proposed development. Payment of capacity charges by development projects establishes funds for expansion projects.

5

If you have questions, please contact me at adamron@napasan.com or (707) 258-6000.

Sincerely,



Andrew Damron, PE
Technical Services Director

Letter 3

COMMENTER: Andrew Damron, PE Technical Services Director, on behalf of Napa Sanitation District

DATE: November 1, 2016

Response to Comment 3.1

The commenter states that the IS-MND uses the word “grey” to refer to Napa Sanitation District’s (NSD) recycled water. The commenter clarifies that the recycled water produced by NSD’s water recycling facility is tertiary treated and disinfected for unrestricted use and requests the term “grey” water be replaced with “recycled” water.

The term “grey” water was replaced with “recycled” water in Introductory Section 9, *Description of Project*, and in Section 9, *Hydrology and Water Quality*, as shown below. Additionally, the discussion of the water treatment system included in Section 9, *Hydrology and Water Quality* has also been revised as shown to reflect the tertiary treatment of the water as well as unrestricted use.

Landscaping and Water Quality

The proposed project would include landscape elements in the site design. All plants selected for the landscape would be California native species or drought tolerant. Trees would be located in clusters throughout the employee and visitor parking lot, and office, and around most of the site perimeter. The landscaped plants and trees would be irrigated with recycled grey water sourced from the Napa Sanitation District.

Utilities

The project site would utilize recycling, compost, refuse, and waste water collection services as well as potable water, ~~grey~~ recycled water, electricity, natural gas, and storm drains services.

Section 9, Hydrology and Water Quality Impact “a”

The Napa Sanitation District (NSD), which will provide wastewater and non-potable water services to the project, also requires industrial users to obtain a wastewater discharge permit to protect treatment plant functioning and local water quality. In some cases, permit holders are required to implement BMPs and be regularly inspected by NSD staff. The bus maintenance facility would produce waste water from toilets, sinks, and the bus wash facility. All of these indoor water appliances would be contained indoors within the two structures and all waste water would be directed into the sewer line for treatment at the NSD. Waste water would undergo primary, ~~and secondary, and tertiary~~ treatment before being discharged into the Napa River or sold as ~~grey water (recycled water) for irrigation purposes.~~

Response to Comment 3.2

The commenter states that the IS-MND is incorrect in stating that “*there is currently a surplus capacity of 5.4 MGD*”. This statement has been deleted from the IS-MND as follows:

The District’s SWRF has a dry weather capacity of 15.4 million gallons per day (MGD) and treats an average of 10.0 MGD. ~~Therefore, there is currently a surplus capacity of 5.4 MGD.~~ Approximately 270 miles of underground sewer mainlines carry wastewater from homes and businesses in the City and unincorporated areas to SWRF (NSD website, 2016).

See also Response 3.5, below.

Response to Comment 3.3

The commenter quotes the IS-MND and states that capacity in the sanitary sewer collection system and treatment plant is an analysis of peak flow, not monthly averages. This comment is noted and Section 17, *Utilities and Service Systems*, impact a, b, and e have been revised accordingly as follows:

The San Francisco Bay Regional Water Quality Control Board (RWQCB) in connection with the implementation of the National Pollutant Discharge Elimination System (NPDES) program imposes requirements on the treatment of wastewater and its discharge into local water bodies. Wastewater produced by the project would meet these requirements through treatment by the Soscol Water Recycling Facility (SCRF), which is owned and operated by the Napa Sanitation District (NSD). The NSD provides wastewater collection, treatment, and disposal services to over 80,000 customers in a 23 square mile area that comprises the City of Napa and surrounding unincorporated areas. The SCRF uses full tertiary treatment and a final disinfection process to purify the water, operating 24 hours a day/365 days a year to recycle approximately ~~612~~ 650 million gallons of water annually. The District's SWRF has a dry weather capacity of 15.4 million gallons per day (MGD) and treats an average of 10.0 MGD. ~~Therefore, there is currently a surplus capacity of 5.4 MGD.~~ Approximately 270 miles of underground sewer mainlines carry wastewater from homes and businesses in the City and unincorporated areas to SWRF (NSD website, 2016). Per personal correspondence with Andrew Damron, Technical Services Director with NSD, the sanitary sewer collection system and treatment plant have adequate capacity to serve the proposed development.

Wastewater generation was calculated by taking the existing water use data provided by NVTa and assuming that water use equals 120% of wastewater generation. The non-potable water utilized for irrigation at the new facility would not contribute to wastewater requiring treatment by the Napa Sanitation District; therefore, 51,000 gallons of water (the current monthly average) was used to calculate the projected wastewater, which would be much the same as it is at the existing facility. The proposed project would generate an estimated 42,500 gallons per month of wastewater.

The 42,500 gallons per month of wastewater generated by the proposed project would represent about 0.03% of the SCRF's remaining 5.4 MGD capacity. However, this is a conservative assessment, which assumes that the facility is a brand new use. As mentioned, the facility would not be a brand new facility, but instead would be a relocation of the existing bus maintenance facility. Therefore ~~Nonetheless per NSD, there is sufficient capacity to accommodate the project;~~ even if the facility represented a brand new use, the projected wastewater generation would be within the projected future surplus capacity, and impacts to wastewater treatment systems would be less than significant.

Response to Comment 3.4

The commenter states that NSD will reserve sanitary sewer capacity at the 720 Jackson Street location and considers the proposed Vine Transit Bus Maintenance Facility to be a new facility. The comments are noted and the IS-MND has been revised accordingly; please see revisions shown in Response 3.3.

Response to Comment 3.5

The commenter states that the Soscol Water Recycling Facility (SWRF) has a permitted capacity of 15.4 MGD and that available capacity is not 5.4 MGD. Nonetheless, the commenter states that the sanitary sewer collection system and treatment plant have adequate capacity to serve the proposed development and that payment of capacity charges by development projects establishes funds for expansion.

The comments are noted and the IS-MND has been revised; please see revisions shown in Response 3.3. In addition, payment of capacity charges by the project could be included as a condition of approval.



Chuck McMinn
Board President

Philip Sales
Executive Director

November 5, 2016

**NAPA VALLEY VINE TRAIL COALITION
BOARD MEMBER ORGANIZATIONS**

LAND INTEREST GROUPS

Napa Valley Vintners (co-founder)
Napa Valley Grapegrowers (co-founder)
Land Trust of Napa County (co-founder)
Napa County Farm Bureau
Winegrowers of Napa County

PUBLIC AGENCIES

Napa County Transportation &
Planning Agency (NCTPA)
City of Vallejo/Solano County
NCTPA/TAC Public Works Planners
Active Transportation Advisory
Committees of Napa County (ATAC)
Napa County Regional Park &
Open Space District
California Department of Fish & Game
Napa County Planning Commission
Napa County Law Enforcement
Napa County Sheriff's Department
City of Napa Police Department
California Highway Patrol
Napa Valley College
Caltrans District 4

**ECONOMIC
INTEREST GROUPS**

Visit Napa Valley
Napa Valley Chambers of Commerce
NV Hispanic Chamber of Commerce
Calistoga Vitality Group
Cycling Businesses of Napa Valley
North Bay Realtors/Napa Group

**ENVIRONMENTAL
INTEREST GROUPS**

Sierra Club Napa Group
Sustainable Napa County
Friends of the Napa River

**CULTURAL & COMMUNITY
INTEREST GROUPS**

Napa County Bicycle Coalition
Health, Wellness & Medical Coalition
Youth Development/Safety Education
Safe Routes to School Napa County
Runners of Napa Valley
Rotary Clubs of Napa Valley
Arts Council Napa Valley

Antonio Onorato
Transportation Planner
Napa County Transportation Authority
625 Burnell Street
Napa, CA 94559

Dear Mr. Onorato:

Ref: Mitigated Negative Declaration for Vine Transit Bus Maintenance Facility, Sheehy Court, Napa CA.

The Napa Valley Vine Trail Coalition would like to submit the following comments and a copy of the Study prepared by TrailPeople (*"Napa Valley Vine Trail: Napa Sanitation District Property Route Study" October 17, 2016*), which discusses the alternatives for the Vine Trail alignment as an alternative to the Soscol Ferry Road/Devlin Road corridor.

The goal of the NVVTC is to create a seamless multi-use path (Class 1 Trail) from the Vallejo Ferry Terminal to Calistoga. This section of the trail corridor was studied in 2013. Its general alignment is in the Countywide Bicycle Plan adopted in 2012. The future development of Devlin Road south to American Canyon will result in the corridor becoming more impacted by traffic. In addition, future plans by NVTA and Caltrans will significantly impact bike and pedestrian traffic at the intersection of Devlin Road and Soscol Ferry Road. An alternative to this route would be desirable.

Beginning in April this year the Vine Trail Engineering Committee looked at the potential of realigning the Vine Trail along property owned by the Napa Sanitation District as an alternative to the Devlin Road alignment previously studied in 2013 by Alta Planning + Design.

There were two primary alignments:

1. Base Route: From Soscol Ferry Road, this follows the Napa Valley Sanitation District's eastern boundary with several variations.



2. Soscol Creek as an alternative to Soscol Ferry Road and then south on the Devlin Road corridor.

The Base Route Option 1 has studied five alternatives, three of which would affect the NVTA's project. These are:

Connection Option 1C. Crossing the NVTA's property and another property to the east to connect to Devlin Road.

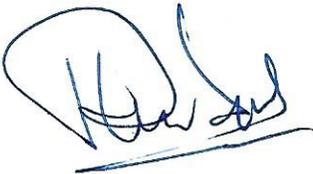
Connection Option 1D. Crossing the NVTA's western boundary and crossing Sheehy Creek to connect to an existing pedestrian trail on the south side of Sheehy Creek

Connection Option 1E. This option may require some easement to cross the northwest corner of the NVTA's property to access the flag lot on Technology Way.

Following evaluations of criteria, Option 1D was considered to have the most merit, however it will require significant permitting and review by California Department of Fish and Wildlife, the Napa Valley Gateway Business Park Property Owners Association and the County Planning Department. Option 1C which would place the Vine Trail along the western edge of the NVTA property and within the 150' creek setback appears to be the most feasible and would require inclusion on the NVTA's plan. Both alignments have merit and would provide a safe and separate route for the Vine Trail.

We respectfully request that the NVTA include both 1C and 1D alignments in the proposed plan and Negative Declaration.

Sincerely

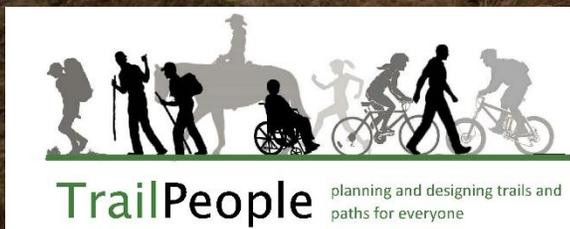


Philip Sales
Executive Director
Napa Valley Vine Trail Coalition

1 cont'd

Napa Valley Vine Trail Napa Sanitation District Property Route Study

October 17, 2016



TrailPeople, Landscape Architects and Planners
919 First Street, Suite 1, Benicia, CA

Napa Valley Vine Trail

Napa Sanitation District Property Route Study

Prepared October 17, 2016, by

TrailPeople, Landscape Architects and Planners,
919 First Street, Suite 1, Benicia, CA 94510
(707) 205-1370

Bruce R. (Randy) Anderson, Principal Landscape Architect
randy@trailpeople.net
Casey Osborn, Senior Planner
Brian Wilson, GIS Specialist

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Study Objectives

This study addresses an approximately two mile long route that extends from Soscol Ferry Road to Sheehy Court or Gateway Road, primarily on property owned by the Napa Sanitation District (Napa San), as well as an alignment along Soscol Creek (see Figure 1). There are a number of alternatives for the alignment and connection south of the Napa San property. Overall these alignments would be alternatives to following parts of Devlin Road, which is the current designated Vine Trail alignment.

The terminus of the route study is the intersection of Airport Boulevard and Devlin Road. Though the current plan is that the Vine Trail would be aligned on the east side of Devlin Road, where some trail segments have already been completed, the alternative routes would require trail improvements on parts of the west side of Devlin Road, as well as on Sheehy Court or Technology Way/Gateway Road if they are used to connect to Devlin Road.

The objective of the study is to document the conditions and highlight the significant opportunities and constraints along the main route and alternative connections, and summarize and compare them to facilitate further discussions, planning, and potentially decisions and negotiations.

Study Methodology

The alternative routes were mapped in ArcGIS. Based on available GIS data and field reconnaissance, pertinent conditions, opportunities and constraints were added to the maps, such as known utilities (PG&E gas line, water lines) existing roads and trails and public right-of-ways and easements for them; pertinent land uses, plans and proposals, drainages, including existing bridges and areas that may be subject to flooding as interpreted from FEMA maps or local knowledge or data; existing sidewalk or path alignments and conditions, where they may be part of a trail connection.

This memorandum report summarizes the route and alternatives, and illustrates them with site photos and reference exhibits keyed to the study maps. A table compares and contrasts the respective lengths, features and pros and cons of the alternatives.

Study Setting and Overview of Route Options

The Vine Trail currently terminates near the Napa River at the driveway to the Napa Sanitation District (Napa San) treatment facility.

Alternative Route 1 - Napa Sanitation District Property (Napa San Route): This is the primary opportunity for an alternative or additional Vine Trail route to Devlin Road. Conceptually the Vine Trail would follow the eastern edge of the property. For the Napa San Connection there are five alternative routes from the Napa San property to Devlin Road (see Figure 1):

A and B – Hotel Parcels: Along either the north or south boundary of two parcels that have been part of a long-term proposal to develop a hotel.

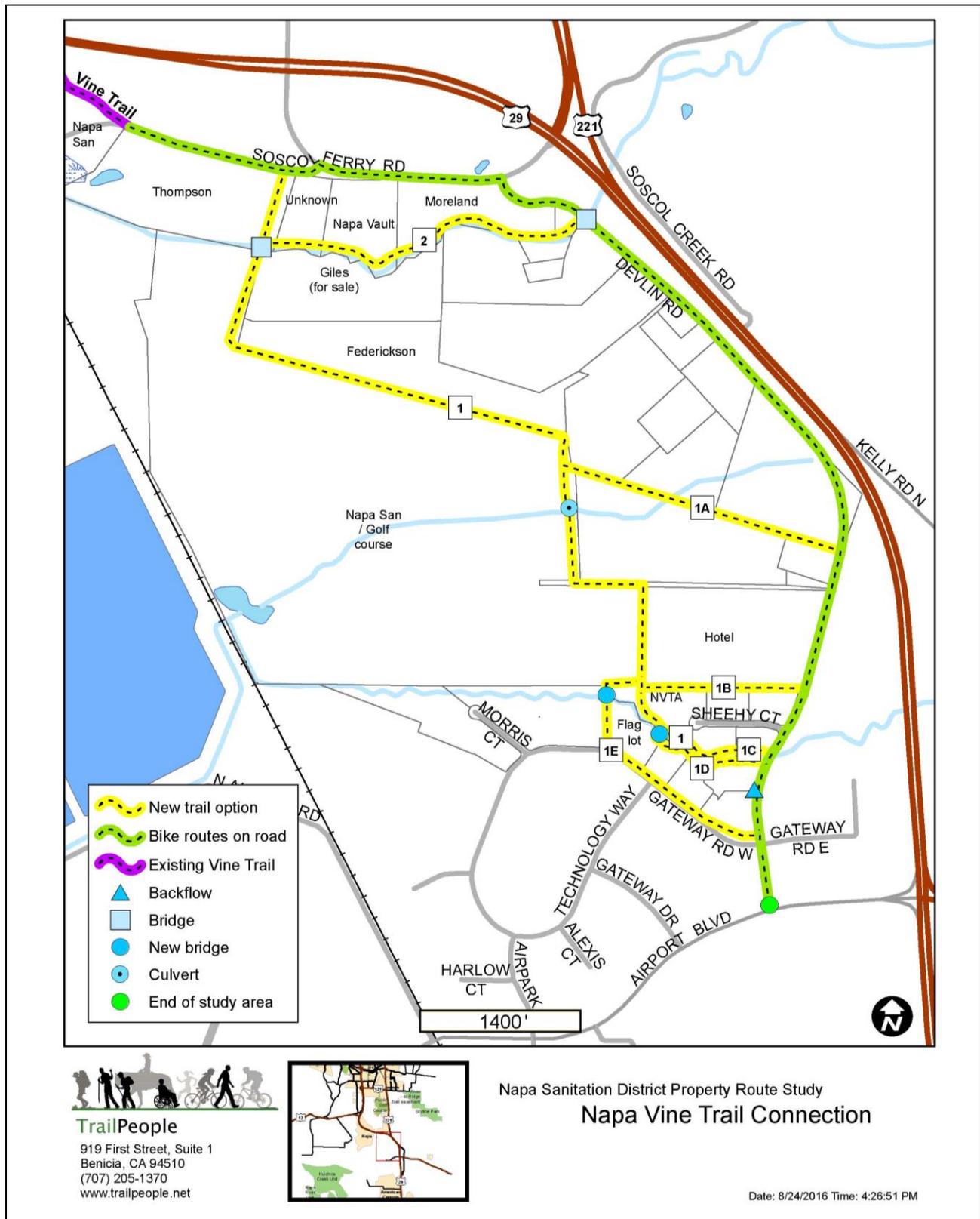
C – NVTA Property: On the north side of Sheehy Creek on property that is currently being purchased by the Napa Valley Transportation Authority (NVTA) for a bus storage and maintenance facility, and one undeveloped private parcel on the corner of Sheehy Court and Devlin Road. A sub-alternative is for the trail to connect to Sheehy Court along the east boundary of the NVTA parcel.

D – Existing Trail South of Sheehy Creek: A 6' wide paved trail on the south side of Sheehy Creek was installed as an amenity for the office complex. Using it for the Vine Trail would require some reconstruction, a new bridge across the creek, and modification of an existing easement that excludes bikes.

E – Undeveloped Flag Lot off Technology Way. A flag lot on the north side of Technology Way that connects to the Napa San property beyond the limits of Sheehy Creek. The trail would need to be improved along Technology Way/Gateway Road to connect to Devlin, and a new bridge would be required over Sheehy Creek.

Alternative Route 2 – Soscol Creek Route: The Soscol Creek connection would occupy the north bank of Soscol Creek from the Napa San Property to Devlin Road. This would involve crossing private parcels in 4 different ownerships – an undeveloped property that is for sale; a property that is currently in the review process for development as a storage facility (“Napa Vault” – see Figure 11); and a storage facility and adjacent undeveloped parcels owned by the same party. The concept is that trail would occupy the creek setback space from the development in an easement either donated by the owner or as a condition of approval of development.

Figure 1: Regional Route Alternatives Map



Trail Improvements on the West Side of Devlin Road

The *Napa Airport Area Class I Path Feasibility Study*, completed April 6, 2012 by Alta Planning + Design for the Napa Vine Trail Coalition, assessed both sides of Devlin Road and determined that the east side of Devlin was less constrained. On that basis improvements on the east side frontage have been pursued in conjunction with development approvals and some wider 10' paths have been installed in the vicinity of Sheehy Court to Airport Blvd.

If the potential connections to the west side of Devlin Road addressed in the current study were pursued, a pathway meeting Vine Trail standards (10' path with 2' shoulders) would need to be constructed at least from the respective point of connection to Devlin south to Airport Blvd. An inventory of the conditions along the route, including along Soscol Ferry Road, is included in the 2012 study, and a corresponding GIS map was provided. There are some physical constraints, particularly embankments along the north part of Devlin Road, but generally it is feasible to construct or retrofit a pathway to meet Vine Trail standards in the right-of-way on the west side. Photo 1 below shows the existing western sidewalk looking south towards Airport Boulevard.

Photo 1: Devlin Road



Detailed Route Description and Assessment

1 – Base Route: Napa Sanitation District Property (Napa San Route)

This is the primary opportunity for an alternative or additional Vine Trail route to Devlin Road. There are a series of alternative connections from the Napa San Property to Devlin Road, as illustrated on the maps and described in the report sections below.

This property is owned the Napa Sanitation District as a buffer for the sewage treatment facility located along the Napa River to the west.

Photo 2: Eucalyptuses on Napa San Property

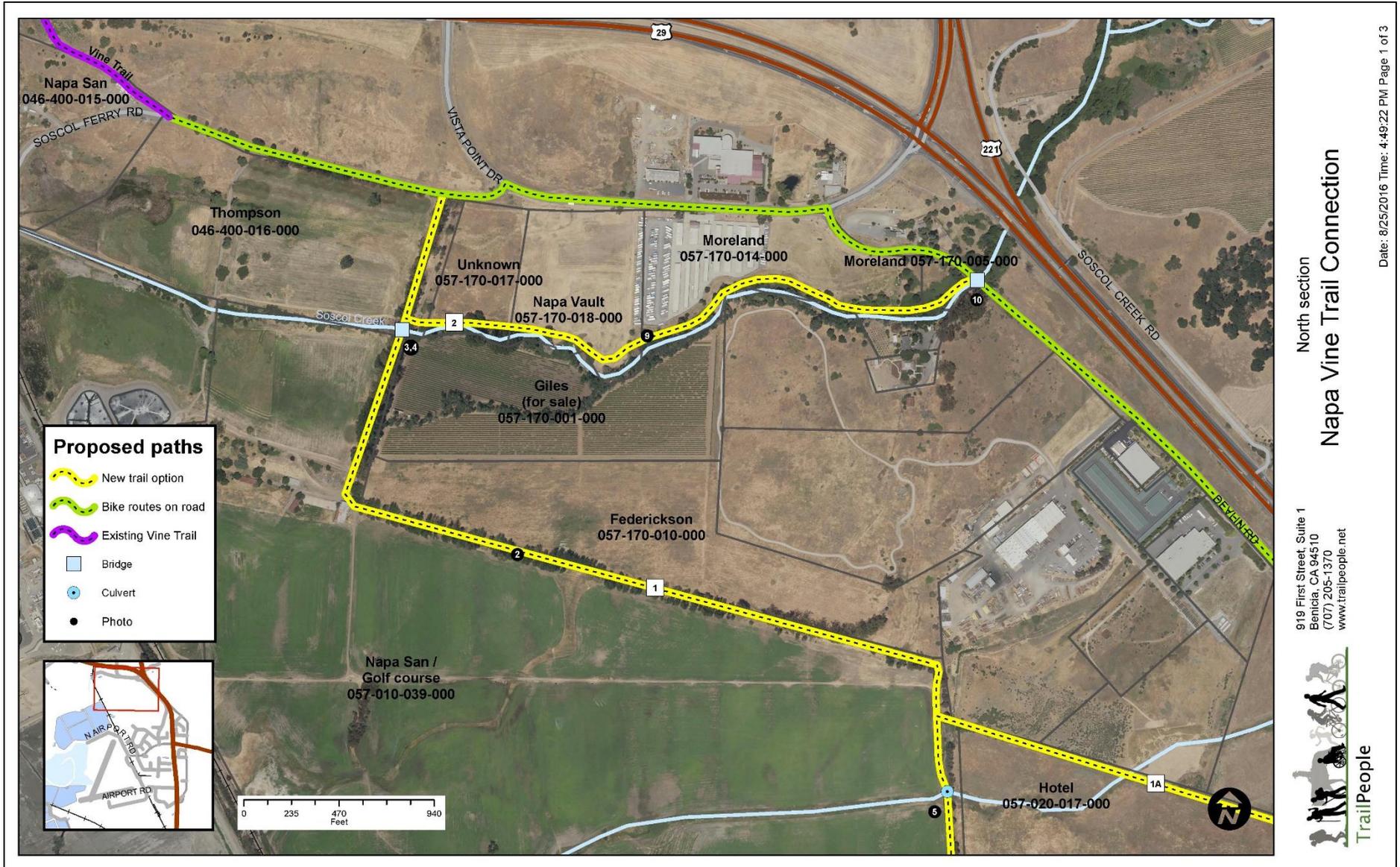


Currently an old agricultural access road follows the east and north boundaries of the property, including sections that pass between or along rows of mature eucalyptus trees (see Figure 2 and Photo 2 above) – a potential maintenance challenge for the trail due to dropping branches, bark, and seeds. The bulk of the Napa San property is used for spray of treated wastewater effluent, currently onto alfalfa fields. The property has been leased for the past several years by investors who propose to build a golf course (see **Error! Reference source not found.**3), or potentially plant vineyards. The golf course would potentially complement a proposed hotel/spa project on adjacent property to the east – a project that has also been a long-term proposal.

**Napa Valley Vine Trail
Napa Sanitation District Property Route Study**

October 17, 2016

Figure 2: Northern Napa San Property



North section
Napa Vine Trail Connection

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Figure 3: Golf Course and Hotel Site Plan



Where the access road crosses Soscol Creek, there is a short bridge with an approximately 20' span and 16' width. It has concrete abutments and a timber structure with a steel plate surface. If used for the trail some surfacing on the potentially slippery steel plates and addition of a railing would be necessary, and examination by a structural engineer would be a desirable precaution, though the structure appears sound (see Photo 3 and Photo 4).

Photo 3: Bridge on Napa San property



Photo 4: Side View of Bridge on Napa San property



There are at least 3 smaller drainages where culverts may be required. At the crossing of one of these Napa San has installed a double ABS culvert (see Photo 5).

A PG&E gas line passes through the property in an easement. This does not appear to be a constraint for the trail. PG&E is planning to remove approximately 30 trees on or near the gas line along the

portion of the road that runs east-west.¹ The trees to be removed are mostly honey locust and poplars and do not include the large eucalyptus that pose more of a maintenance problem for the trail.

Photo 5: Existing Double Culvert



¹ Andrew Damron, Napa Sanitation District, personal communication, August 18, 2016

Connection Option 1A – Hotel Property North Side

A public trail between the envisioned golf course and hotel may not be acceptable to the owners/developers because it would divide the two uses and potentially expose trail users to golf balls. An option to connect from the Napa San Property to Devlin Road may be to create a trail easement and corridor on the north side of the property (see Figure 2: Northern Napa San Property

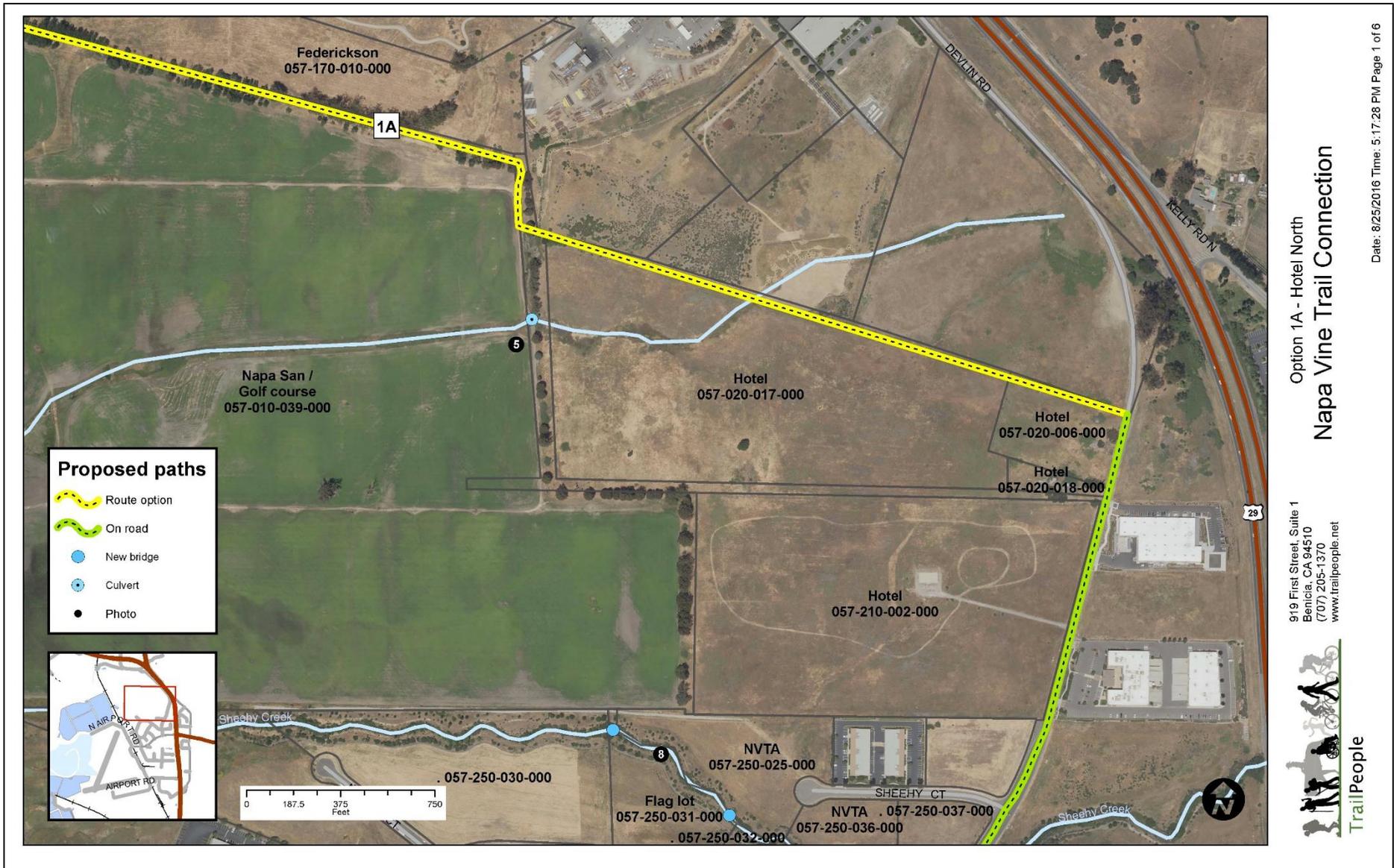
Figure 3 Figure 4 below).

There is a minor drainage crossing that might require a culvert, but otherwise there are few physical constraints to developing the trail, which would potentially be an agreement or condition of approval associated with the hotel development. This would presumably include an enhanced sidewalk on the Devlin Road frontage of the hotel (10' wide vs. the standard 6') that would be part of the hotel improvements.

Napa Valley Vine Trail Napa Sanitation District Property Route Study

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Figure 4: Option 1A -- North Side of Hotel Property



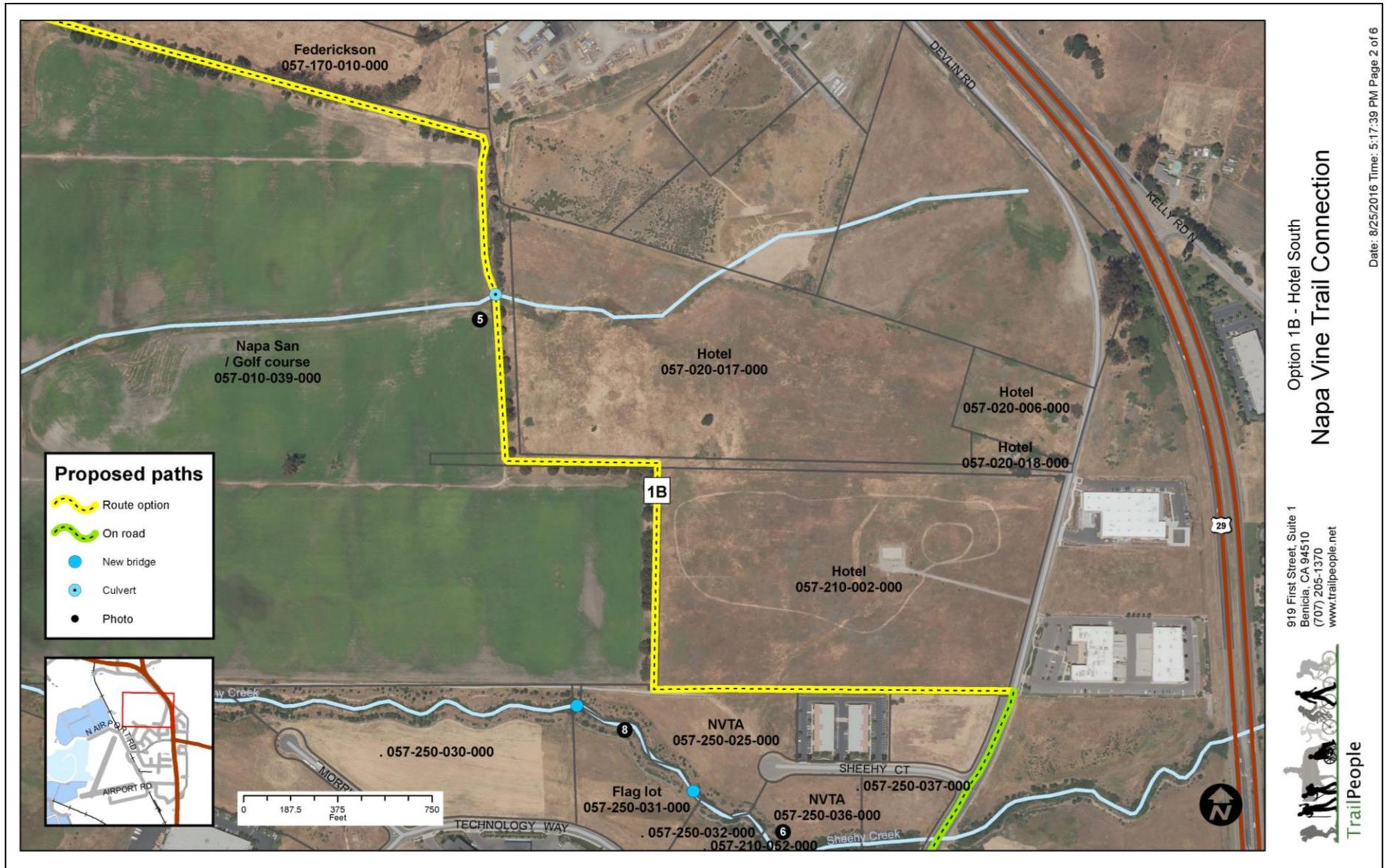
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Option 1A - Hotel North
Napa Vine Trail Connection

[Connection Option 1B – Hotel Property South Side](#)

If a trail between the Napa San Property and the Hotel Property was not an issue, but the other connections to the south proved challenging, potentially the trail could follow the south boundary of the hotel property to Devlin Road (See Figure 55 on the following page). There are no significant physical constraints. This would potentially be an agreement or condition of approval associated with the hotel development.

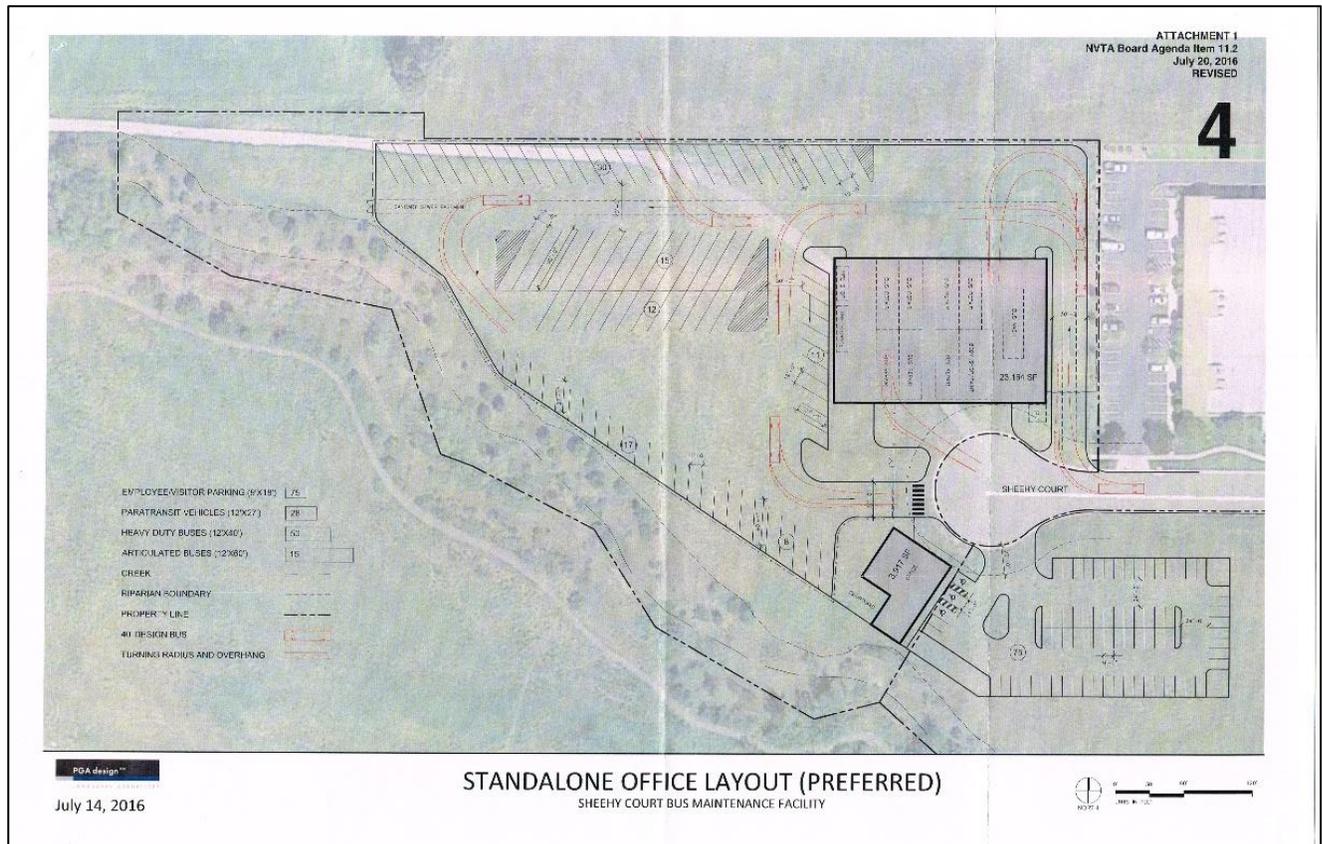
Figure 5: Option 1B - South Side of Hotel Property



Connection Option 1C – NVTA Property

At the southeast corner of the Napa San property there are two parcels on Sheehy Court that are being purchased by the Napa Valley Transportation Authority (NVTA) for development of a bus maintenance and storage facility. The development plan includes a required setback from Sheehy Creek (see Figure 66).

Figure 6: Plan for NVTA Bus Maintenance Facility



If a trail corridor was provided along the north side of the creek (see Photo 6) this could provide access to Devlin Road, if it was also secured across a third undeveloped parcel, currently for sale, on the corner of Sheehy Court and Devlin Road. Alternatively, the trail could connect north on the east end of the NVTA parcels and extend east in the right-of-way of Sheehy Court, which would require a 10' wide sidewalk/path rather than the standard 6' sidewalk. There are no significant physical constraints to developing the trail on these alignments – it is a matter of acceptability to the property owners, the relative merits of the route for trail users, and potentially environmental issues associated with the creek. Figure 77 shows the route for this option.

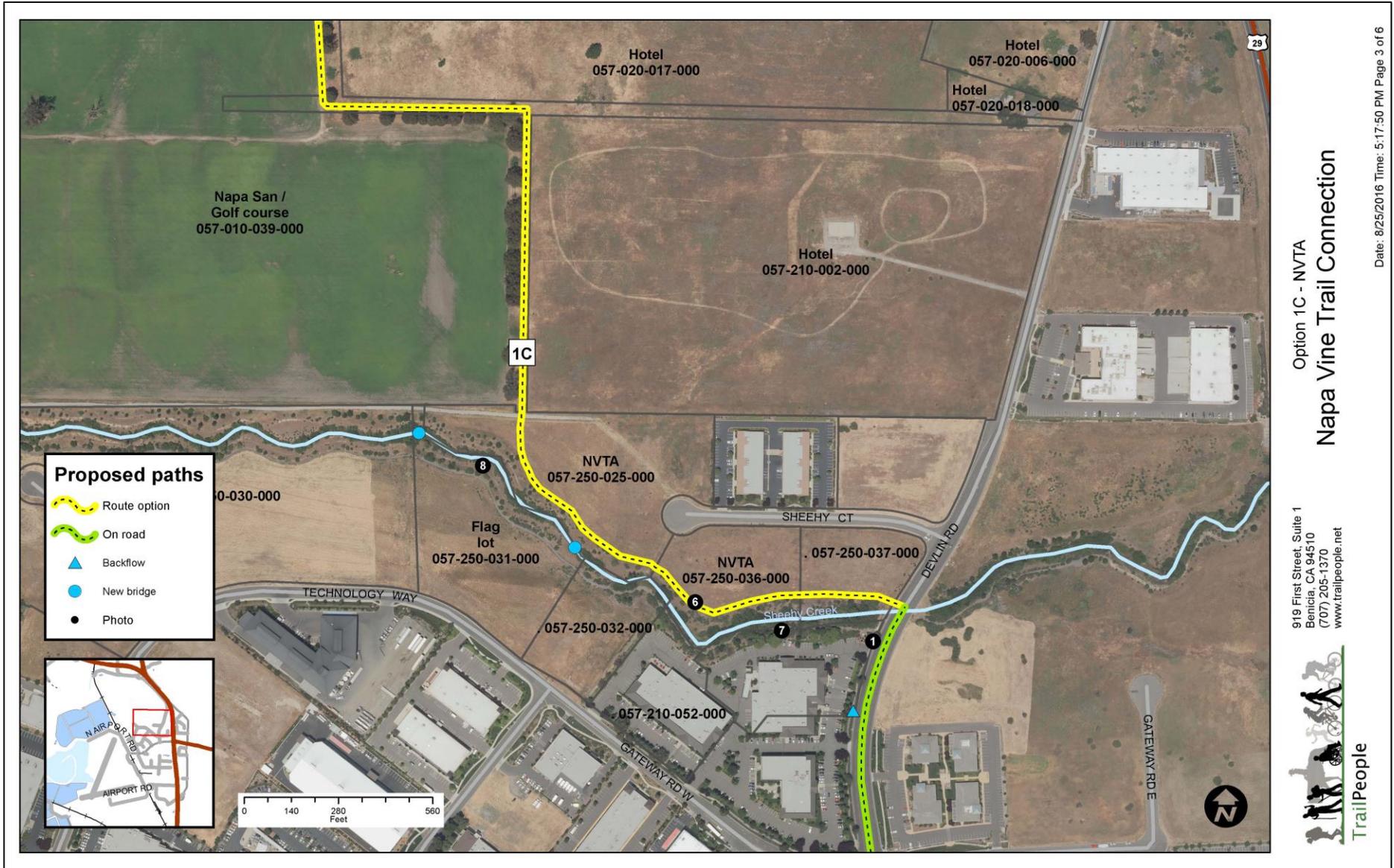
Photo 6: North Side of Sheehy Creek, Looking West



**Napa Valley Vine Trail
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Figure 7: Option 1C – NVTA Property North Side of Sheehy Creek



[Connection Option 1D – Existing Trail on S. Side Sheehy Creek](#)

As an amenity for the development of the Airport business park, a nature trail and associated native tree plantings were developed along the south side of Sheehy Creek, extending on the east side of Devlin Road and on the west side from Devlin to west of Morris Court (see Figure 88). This trail is paved with asphalt approximately 6' wide (see Photo 7 below), versus the Vine Trail standard of a 10' width. It winds along the edge of the creek with turns that are tighter than desirable for a bike path. It exists in an easement that was granted to Napa County by the developer. The easement was modeled based on input from the U.S. Fish and Wildlife Service (USFWS) in conjunction with a U.S. Army Corps of Engineers permit for drainage work on an active stream. The easement excludes bicycles from the trail, and it would have to be modified (if possible) to convert the trail for multi-use.

Physically it is feasible to widen and straighten the trail and improve the sight distance without removing native trees. Existing baccharis/coyote brush shrubs would have to be trimmed back or removed. These are generally overgrown and woody dead branches from prior trimming for the trail. In addition to the easement modifications these changes would potentially require agreement from U.S. Fish and Wildlife Service and a Streambed Alteration Permit from California Department of Fish and Wildlife.

Photo 7: Existing Trail South of Sheehy Creek



The creek itself has been dammed in a few spots by beaver activity, and there is at least one lodge apparent. There did not appear to be recent tree gnawing by the beavers, and they may or may not remain on the site.

If this existing trail was improved and converted as a segment of the Vine Trail a bridge over Sheehy Creek would be needed to connect to the Napa San Property. This would either need to cross the NVT property in the west end, well away from the develop area, or on the adjacent undeveloped "flag" lot as

Napa Valley Vine Trail Napa Sanitation District Property Route Study

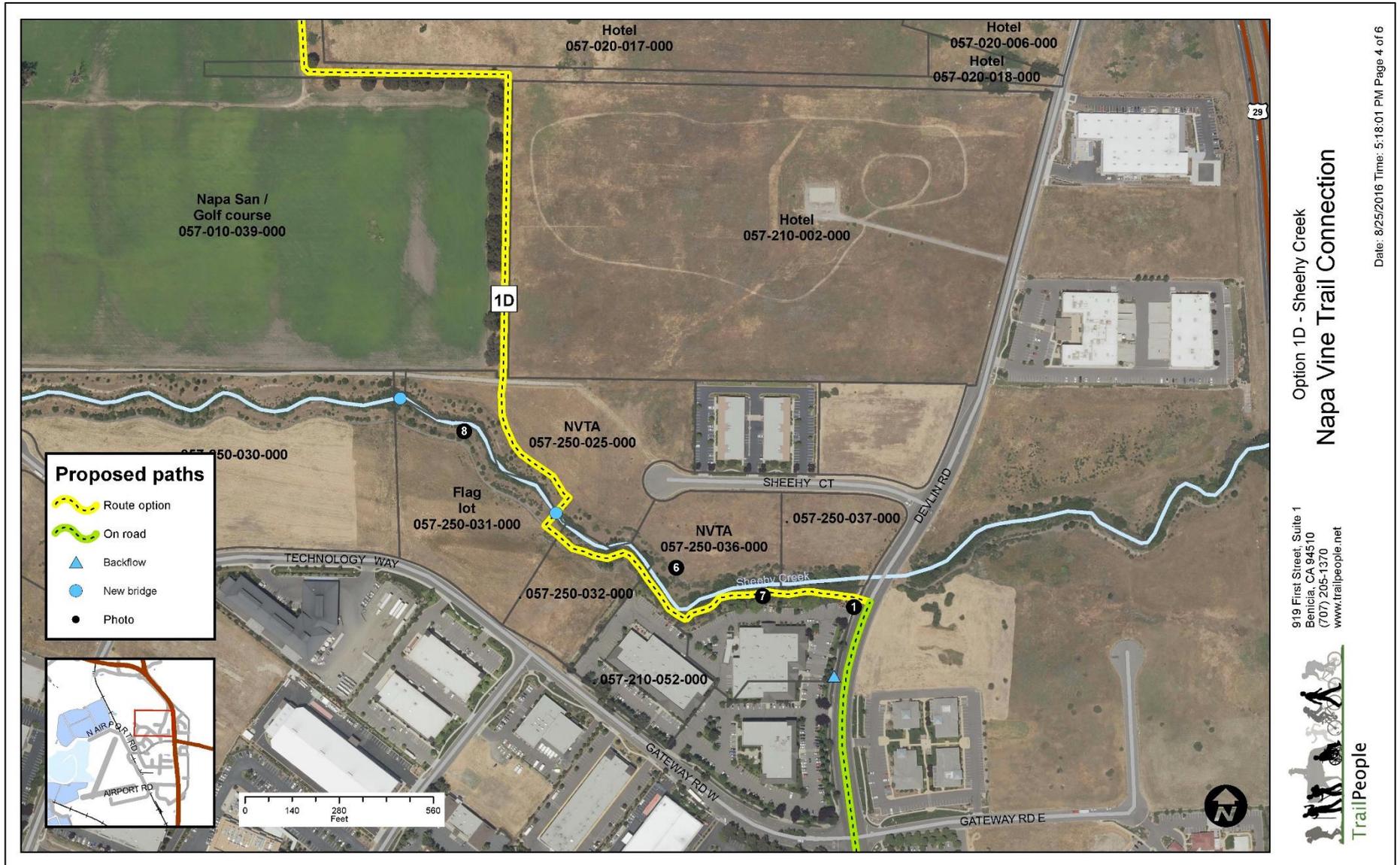
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discussed under Option 1E below. The overall top of bank distance of most of the drainage is approximately 40 feet (see Photo 8), but in spite of the back-up of water from the beaver dams there are locations where it is possible to step across the channel. Depending on the location of the crossing, it could involve a bridge approximately 30' to 50' long to span from top of bank to top of bank, or a shorter bridge with boardwalk connections.

Photo 8: Wide Portion of Sheehy Creek



Figure 8: Option 1D - Existing Path South of Sheehy Creek



Option 1D - Sheehy Creek
 Napa Vine Trail Connection

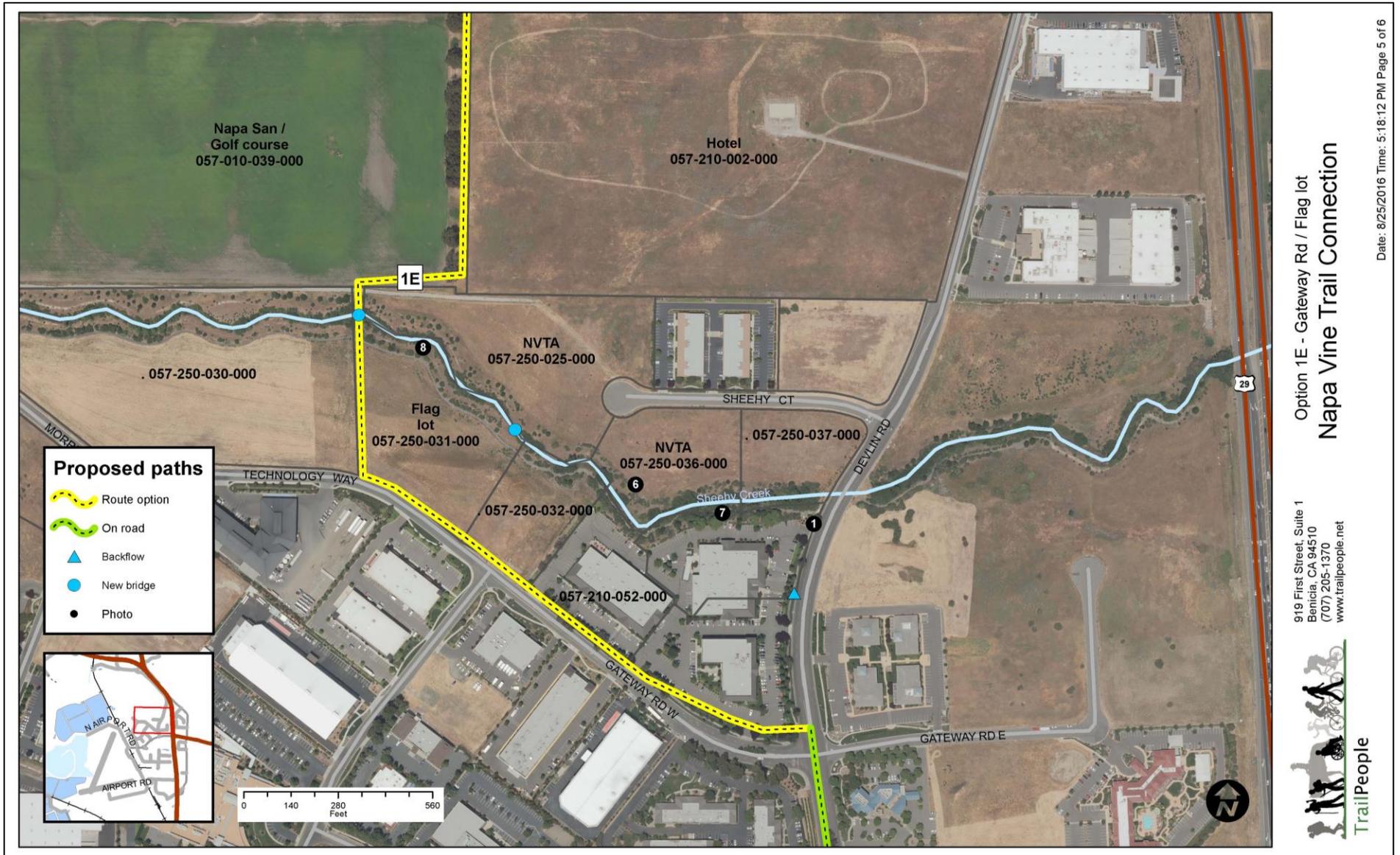
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**Napa Valley Vine Trail
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Figure 10: Option 1E - Gateway Road/Flag Lot



Alternative Route 2 – Soscol Creek Route

This is a concept for a route along the north side of Soscol Creek. Potentially it could start where the creek crosses the access road on the Napa San property, in which case it would have to cross a “flag” access corridor to an area of vineyards south of the creek (owned by Giles, it is currently for sale); as well as an undeveloped parcel owned by the Mt. Lassen Motor Coach Company (see Figure 122 for a map of this route). To the east is a parcel that is currently undergoing development review for a storage facility – the “Napa Vault Project” (see Figure 11 below). There is an approximate 75’ setback for development from the south bank of the creek in the development plan. A similar setback exists for the storage facility to the east. This property, as well as the vacant parcels to the east up to Devlin Road, are owned by David Moreland, who has been supportive of the idea of a trail along the creek.

Along the western portion of the Soscol Creek route there are large swales, or depressions in the ground, but the setback requirements provide adequate space for the trail to route around them. Closer to Devlin Road is an existing levee (see Photo 9: Existing Levee along Soscol Creek The levee is wide enough and clear for the trail to run along it. Crossing south over Soscol Creek at Devlin Road will require building an approximately 40’ bridge, as well as removal of riparian trees and plants. The existing bridge at Devlin Road has an 8’ shoulder on the west (see Photo 10), but this is not enough space for a two-way trail.

The primary advantage of Alternative Route 2 is that it is scenic and users would enjoy the pleasant conditions along Soscol Creek. The creek is well-shaded by many mature trees including black oaks. This, coupled with receptive property owners make Alternative Route 2 attractive. However, the remaining miles on Devlin Road are less scenic and overall this alternative may be less desirable than the Napa San alternatives.

Photo 9: Existing Levee along Soscol Creek



Photo 10: Devlin Road Bridge



Figure 12: Option 2 - Soscol Creek

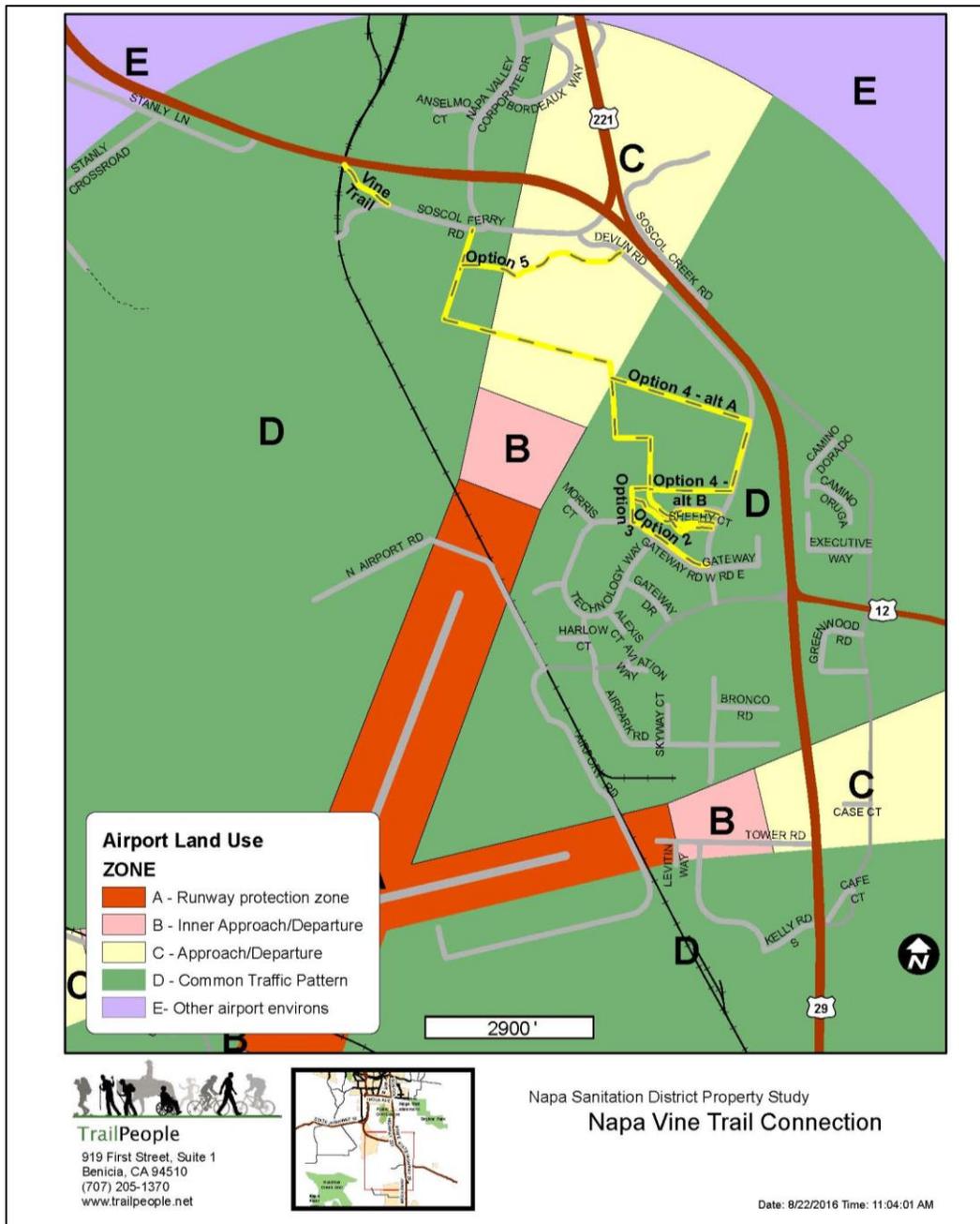


Option 2 - Soscol Creek
 Napa Vine Trail Connection

Airport Land Use Restrictions

The Napa Airport has restrictions on activity within a certain radius of the runways (see Figure 133). While all of the proposed routes fall within the Zone “C” Approach/Departure Zone, and are not subject to any of the airport’s restrictions, they most likely would trigger and Airport Land Use Commission (ALUC) consistency review, per statute GC 21676. The Napa County Airport Land Use Commission recommends avoiding any alignments that run through Zones “A” and B.”²

Figure 13: Napa Airport Land Use Zones



² Personal Communication, John McDowell, Deputy Executive Director, Napa County ALUC, October 2016.

Summary and Comparison

Table 1 on the following page compares and contrasts the existing route along Soscol Ferry Road and Devlin Road, the main alternative route on the Napa San property, along with its several southern connection options, and the separate alternative route along Soscol Creek.

The Napa San Route and any of its' connections would be slightly more distance and would have more changes in direction than following Devlin Road. A commute bicyclist who was trying to minimize travel time would be best off using the bike lanes on Devlin. A class I path along Devlin would allow almost as much efficiency with greater separation from traffic and a more scenic setting in the landscape frontage. However, the alternative routes offer very bucolic settings and a great recreational experience compared to following Soscol Ferry Road and Devlin Road either in the bike lane or on a separated trail, where users are exposed to heavy fast traffic, noise from Highway 29, and must cross many driveways and cross streets. Any combination of these alternative routes would offer welcome relief from traffic for recreational bicyclists and pedestrians and even commute bicyclists might choose to take advantage of them. The primary issue for feasibility is the status of the golf course/hotel project and willingness of the owner of that project to accommodate the trail, which could also include the connection to Devlin Road if none of the other connection opportunities proved feasible.

Napa Valley Vine Trail

Napa Sanitation District Property Route Study

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Table 1: Route Alternatives Summary and Comparison Table

#	Name	Off-Road Portion - Feet	Off-Road Portion - Miles	Route Total Miles	% of Total Along Roads	Number of Parcels/Owners	Receptivity to Access	Construction or Operation Constraints	Environmental or Permitting Requirements	Aesthetics/ Comfort (shade, views quiet, few conflicts)	Summary
Existing Route	Current On-Road Alignment (Napa San driveway, Soscol Ferry Rd and Devlin)	0	0.00	2.11	100	NA	NA	Minimal on east side; moderate on wst	NA	Low	A separate path in the landscape frontage may be a welcome alternative to bike lanes, but still exposed to sight and sound of busy road, and many road or driveway crossings
1	Base Napa San route (is included with alternative connections below)	7,466	1.41	NA	0	1/2	Napa San positive/ Golf Course investors unknown	Large eucalyptus trees along some portions; need railings on existing bridge; gates at beginning and end	None	High - views, shade; well separated from roads	An indirect route compared to Devlin, but high aesthetic value and safety
1A	Hotel route A	7,406	1.40			2/1	Unknown	Minimal	None	Moderate - would be adjacent to development	A fall-back if golf course blocked trail or connections below proved infeasible
1A	On-Road Portion*	4,639	0.88	2.28	39		NA	Minimal	None	Low	
1B	Hotel route B	8,844	1.68			2/1	Unknown	Minimal	None	Moderate - would be adjacent to development	A fall-back if connections below proved infeasible
1B	Plus On-Road Portion*	3,401	0.64	2.32	28		NA	Minimal	None	Low	
1C	NVTA route	8,888	1.68			3/2	NVTA Negative/ unknown	Minimal	Potentially, associated w/ creek; bracketing the creek w/ 2 trails may be an issue	Moderate - would be adjacent to development but also along creek	An efficient and feasible route if acceptable to NVTA and one other owner
1C	Plus On-Road Portion*	2,752	0.52	2.20	24		NA	Minimal	None	Low	
1D	Sheehy Creek Trail	9,074	1.72			2/2	Unknown/ negative for NVTA	Need 40' bridge or boardwalk combo to cross creek	Significant - associated w/ trail reconstruction, bridge, and easement change	High - along creek, buffered from development; some shade	Challenging from an environmental and easement standpoint, but physically feasible and desirable
1D	Plus On-Road Portion*	2,652	0.50	2.22	23		NA	Minimal	None	Low	
1E	Technology Way Flag Lot	9,798	1.86			2/2	Unknown	Need 40' bridge or boardwalk combo to cross creek	Significant - associated w/ bridge	Moderate - would be adjacent to development	A fall-back if other connections proved infeasible
1E	Plus On-Road Portion*	2,019	0.38	2.24	17		NA	Minimal	None	Low	
2	Soscol Creek Trail	3,693	0.70			5/4	2 Positive, 2 Unknown	Minimal	Potentially, associated w/ creek	High - along creek, buffered from development; some shade	Could eliminate a challenging section of Soscol Ferry Road and Devlin, but requires developing trail on W side of Devlin for long distance
2	Plus On-Road Portion*	8,462	1.60	2.30	70		NA	Need 60' bridge over Soscol Creek; some retaining walls on W side	Significant - associated w/ bridge	Low	

* Includes Napa San driveway from end of existing trail to Napa San route gate; portion of Devlin from where trail connects south to Airport Blvd.; portion of Technology Way and Gateway Rd for 1E

Conclusion

Based on discussion at the October 3, 2016 Vine Trail Engineering Subcommittee Meeting, the general concept of a route across the Napa San property is very attractive compared with following Devlin Road because of the heavy and ever-increasing traffic on Devlin and the challenge of crossing Soscol Ferry Road or Devlin to use the alignment on the east side.

The alternative that has the most merit for further consideration is Alignment 1D (see Figures 2 and 10). This entails crossing the Napa San property, crossing the west end of the NVTA property, crossing Sheehy Creek on a short bridge or boardwalk, and using and improving the existing walking trail along the south side of Sheehy Creek and the sidewalk on the west side of Devlin south to Class I/Vine Trail standards, creating a connection to Airport Boulevard. At this point the Vine Trail route extending south is already on the west side of Devlin.

This alternative is preferred because it would involve significant access negotiations only with Napa San and the private lessors of the Napa San property who envision the golf course project (or potentially vineyards, per local hearsay). In addition, there would be negotiation with the owners of the underlying properties where the easement along Sheehy Creek is located and regarding the widening of the sidewalk in the ROW of Devlin Road.

To avoid the maintenance and operation impact of the rows of big eucalyptus, it was suggested that the trail be located west of the existing road, in what is currently spray fields, subject to the approval of Napa Sanitation District.

Herb Fredericksen of NVTA said that the agency would be amenable to allowing the trail to cross through the creek setback area. The extension of the trail along the eastern boundary of the Napa San property would pass through an undeveloped buffer area, per NVTA's preferred layout plan (Figure 6).

The Napa County easement for the trail along the creek would need to be modified to allow bikes. Physically the trail could be widened and straightened without cutting any trees and would require only the removal of overgrown woody coyote brush (*baccharis*) shrubs.

It was suggested that this alignment should be the Vine Trail's new preferred alignment in this location.

If a trail across the eastern edge of the Napa San property proved to be a sticking point with the golf course/hotel interests, routing the trail across the western portion of the Napa San property might be an option, working around the constraints of ponds and wetlands on the far west, and the airport runway protection zone on the far southwest.

Alternative 2, a route along the north side of Soscol Creek, does not have significant advantages for avoiding Devlin, but it would be a pleasant spur route. It would require negotiation of access across 2 additional properties, and the construction of a second or wider bridge across Soscol Creek at Devlin. The option for its' future development should be held open in planning approvals, but it would not be actively pursued at this time.

Appendix 1: Property Owner/ Contact List

Option 1A, 1B:

Parcel (s): 057-170-001-000 (Option 1A, 1B, 1C, 1D, 1E, Option 2)

Location: South of Giles, north of route

Owner: Federickson

Contact:

Parcel (s): 057-010-039-000 (Option 1A, 1B, 1C, 1D, 1E, Option 2)

Location: Main parcel along road

Owner: Napa Sanitation District

Contact: PO Box 2480 Napa, CA 94558

Parcel (s): 057-020-006-000 (Option 1A only), 057-020-018-000 (Option 1A only), 057-210-002-000 (Option 1B only, 1C, 1D, 1E), 057-020-017-000 (Option 1A, 1B,1C, 1D, 1E)

Location: Proposed hotel site, proposed developer of golf course on Napa San property

Owner: Capbridge Group

Contact: Mr. Frank Orrell, Chairman & CEO

The Capbridge Group, Azabu West Building 1F, Nishi-Azabu 2-24-11, Minato-ku, Tokyo 106-0031, Japan
f.orrell@capbridge-group.com, +011 81 3 5468 2811

Option 1C:

Parcel (s): 057-250-025-000 (Option 1C and 1D), 057-250-036-000

Location: West and south of Sheehy Court

Owner: NVTA

Contact: Herb Frederickson

hfederick@nvta.ca.gov, (707) 259-5951

Parcel (s): 057-250-037-000

Location: South of Sheehy Court

Owner: Sonoma Valley Transport Inc.

PO Box 1143, American Canyon, CA 94503

Option 1D,1E:

Parcel (s): 057-250-031-000

Location: 305 Technology Way

Owner: Unknown

Contact: Cathy D'Angelo Holmes, (707) 304-338 (Coldwell Banker Commercial)

Parcel (s): 057-250-032-000

Location: Technology Way

Owner: Satish M. Chohan and Suretha S Trustees

131 Chesapeake Drive, Vallejo, CA 94591

Parcel (s): 057-210-052-000

Location: Gateway Road

Owner: Gateway Business Park

Napa Valley Vine Trail

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Contact: Unknown

Parcel (s): 057-250-030-000 (Option 1E only)

Location: Technology Way

Owner: Rombauer Investments LLC, Koerner & Joan K Rombauer Trust Investments LLC

Koerner Rombauer Trustees and the Joan K Rombauer marital Trust, 3522 Silverado Trail, St Helena, CA 9457

Contact: Cushman & Wakefield, 1850 Mt. Diablo Blvd, Suite 540, Walnut Creek, CA 94596, (925) 627-2880.

Option 2:

Parcel (s): 046-400-016-000

Location: Along Soscol Ferry Road, just east of existing Vine Trail

Owner: Thompson

Contact: Unknown

Parcel (s): 057-170-001-000

Location: Flag lot along Soscol Creek

Owner: Kimbal Griggs Giles and Therese Boldgett-Giles

Contact: 1605 G St Napa, CA, 94599

Parcel (s): 057-107-017-000

Location: Soscol Ferry Road

Owner: Mt. Lassen Motor Company

Contact: PO Box 8081044, Petaluma, CA 94975

Parcel (s): 057-170-018-000

Location: Soscol Ferry Rd, two parcels east of Napa San road

Owner: Napa Vault

Contact: Erik Bedford, erik@cityvault.com

Parcel (s): 057-170-014-000, 057-170-005-000

Location: Storage facility and adjacent parcel along Soscol Creek road

Owner: Dave Moreland, 1111 Soscol Ferry Self Storage LLC

Contact: dmoreland@agpollen.com, 1304 Oak Ave, Saint Helena, CA 94574

Letter 4

COMMENTER: Philip Sales, Executive Director of Napa Valley Vine Trail Coalition

DATE: November 5, 2016

Response to Comment 4.1

The commenter provides background information on the proposed Vine multi-use trail. The commenter states an opinion that the proposed project would “significantly impact bike and pedestrian traffic at the intersection of Devlin Road and Soscol Ferry Road,” and requests that the proposed project include two of the conceptual alignments for the Vine Trail that are identified in the Napa Valley Vine Trail Napa Sanitation District Property Route Study, which is attached to the letter.

Regarding the project’s potential for impacts to bicycles and pedestrians, please see Section 16, *Transportation/Traffic*, of the Draft IS-MND. Potential impacts to bicycles and pedestrians are discussed under subsection g in that section, and impacts were found to be less than significant. The commenter does not provide specific information or analysis contrary to the discussion in or conclusions of the Draft IS-MND in this regard; therefore further response is not required.

The commenter’s request that the proposed project include two conceptual alignments for the Vine Trail is noted. This comment relates to the nature and merits of the project, rather than the analysis, conclusions or adequacy of the Draft IS-MND. Nevertheless, this comment will be forwarded to NVTA’s staff and board for consideration.

Response Regarding the Attachment to this Letter:

Letter 4 includes the Napa Valley Vine Trail Napa Sanitation District Property Route Study as an attachment. This attachment provides background and other information related to topics covered in Letter 4, but does not directly address the adequacy, analysis or conclusions of the Draft IS-MND; therefore, no responses to the attachment are required. This attachment may be viewed by appointment at NVTA offices during regular business hours, and will be forwarded to the NVTA Board for their consideration.

November 6, 2016

RECEIVED

2016 NOV -7 P 3:47

Kate Miller, Executive Director
Napa Valley Transportation Authority
625 Burnell St.
Napa, CA 94559

RE: **Comments Regarding NVTA's Notice to Adopt A Mitigated Negative Declaration for the Vine Transit Maintenance Facility**

Dear Ms. Miller:

This firm represents The Capbridge Group and Napa Lifestyle Holdings LLC I & II (collectively, "Napa Lifestyle"). Napa Lifestyle owns real property located in the County of Napa known as "The Resort at Napa" (also known as "Montalcino at Napa"), which is located at 353 Devlin Road, Napa, California (the "Resort"). The Resort property is a permitted development project that previously commenced construction. It is located directly adjacent and to the north of the location of NVTA's proposed Vine Transit Bus Maintenance Facility (the "Project"). This letter formally comments on the Project and, specifically, the environmental review process pursuant to the California Environmental Quality Act California, Public Resources Code § 21000, *et seq.* ("CEQA").

I. Summary of Concerns

We write on behalf of Napa Lifestyle, which is a party that will be directly affected by the Project and is a party acting in the important public interest to obtain enforcement of NVTA's public duty to properly review and inform the public of potentially significant environmental impacts resulting from NVTA's actions.

Napa Lifestyle has serious concerns regarding both the Project's environmental impacts and the sufficiency of NVTA's initial study and mitigated negative declaration ("IS/MND").¹ In summary, Napa Lifestyle's comment will demonstrate that NVTA (1) either ignored or failed to consider volumes of information available in the public record that demonstrates potential direct, indirect and cumulative significant environmental impacts, (2) failed to discover that the land is not zoned for its intended purpose cannot proceed with the project without a rezone and Specific Plan amendment, and (3) must prepare an environmental impact report ("EIR") due to substantial evidence of potential significant environmental impacts and the IS/MND's other legal inadequacies.

1

¹ Vine Transit Bus Maintenance Facility Initial Study – Mitigated Negative Declaration, October 2016.

II. NVTA Project

NVTA purchased the two Project parcels of land in south Napa County prior to permitting and conducting environmental review for the Project.

NVTA's stated purpose for the Project is "to acquire property consisting of approximately 351,964 square feet of undeveloped land to develop a public transit maintenance facility." NVTA proposes to construct a new public transit maintenance facility to replace the currently leased site at 720 Jackson St. in Napa. When complete, the Project would span at 8.08 acres, and includes parking for 93 public transit vehicles up to 60' long, a maintenance building with up to eight bays, an administration building, and 75 visitor and employee parking spaces.

III. The Project Requires the Preparation of an EIR

The IS/MND contains deficiencies and fails to disclose the Project's potentially significant environmental impacts, both of which require the preparation of an EIR. The inadequacies in the IS/MND render the review inadequate to provide full disclosure of the environmental consequences of the Project.

The legal standards under CEQA, as set forth in the Public Resources Code and interpreted by the California Courts, require the preparation of an EIR when there is a substantial record of evidence of a "fair argument" of potentially significant environmental impacts. The information in this letter, along with the reports and studies attached hereto and cited below, provide the evidentiary basis of a fair argument of potentially significant environmental impacts. Based on this information, an EIR is required.

Preparation of an EIR also will provide the public and decision-makers with a full appraisal of the Project's environmental effects. This will include the consideration of appropriate mitigation and feasible alternatives to the Project that would substantially lessen significant effects, which must occur prior to further consideration of the Project's approval. Preparation of an EIR also will provide a better public process. In situations, such as this Project, when no EIR is prepared it can lead to the appearance of self-dealing where the project proponent (NVTA) also is the CEQA Lead Agency.

A. NVTA Project IS/MND Deficiencies

As detailed below, the IS/MND fails to provide an adequate project description as required by CEQA Guideline § 15063(d). The IS/MND must accurately describe and quantify existing baseline conditions in order to determine significance. *See Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal. App. 4th 1013. The inaccurate statements and



1, cont'd

2

lack of baseline factual information described below are material defects, which render the IS/MND legally inadequate. *Christward Ministry v. Superior Court* (1986) 184 Cal. App. 3d 180, 197.

1. IS/MND SECTION 6 & 7 (GENERAL PLAN AND ZONING DESIGNATION)

While the IS/MND states that the Project is located within the Napa Valley Business Park Specific Plan (“Specific Plan”) and zoned Industrial Park, it fails to disclose that the Project’s use is not permitted or conditionally permitted by either the Specific Plan or zoning. Failure to disclose that the Project will require a Specific Plan amendment and a rezone violates CEQA Guideline § 15603(d)(5) and renders the IS/MND technically inadequate. *Christward Ministry, supra*. These deficiencies are discussed in more detail in the Land Use and Planning discussion, below.

2. IS/MND SECTIONS 8 & 9 (BACKGROUND & DESCRIPTION OF PROJECT)

While the IS/MND describes that the current two NVTA facilities in Napa are not adequate for future growth, the IS/MND does not describe what activities will occur on the two Napa properties once the Project is complete. Failing to include the potential impacts from continued, new or different activities at the remaining two facilities in the Project Description, and thus the subsequent analysis, is a fatally deficient flaw for failing to describe the entire project and all phases. *See City of Antioch v City Council* (1986) 187 Cal. App. 3d 1325.

In addition, the Project Description fails to provide any specific or meaningful information on the amount of trees that NVTA will remove from the site, or meaningful information on the nature of the existing grassland condition of the site. The Project Description states that the grading would be balanced and that there would be no import or export of soils, but fails to describe the extent of grading which is necessary for the analysis of impacts caused by site disturbance. Failing to include a project description that adequately describes the changes to the physical is a fatally deficient flaw.

3. IS/MND SECTION 10 (ENVIRONMENTAL SETTING AND SURROUNDING LAND USES)

The Project Description fails to mention that directly adjacent and to the north of the project site is Napa Lifestyle’s 305-acre site for the approved Resort project. The Resort was subject extensive environmental review, including a Draft EIR, a Recirculated Draft EIR, Response to Comments and FEIR, a Draft Subsequent EIR, and Subsequent Response to Comments and FEIR (“Montalcino EIRs” or “EIRs”).² The Resort project’s use also is included in the Specific Plan. These documents are in the public record, and are substantiated and certified by Napa

² Attached as Exhibits 1-5.



County.³ These documents and related public records provide substantial evidence and pertinent information related to the analysis of the NVTA Project. *See Sierra Club v. Department of Forestry and Fire Protection* (2007) 150 Cal. App. 4th 370; CEQA Guideline § 15604(f)(5) and 15384. Yet, the IS/MND does not include any mention or analysis of impacts on the Resort or include the known adjacent Resort impacts in its cumulative impacts analysis.

On September 22, 2006 Napa County determined that the Resort project also had been “used” through the commencement of construction and other advancements in the Resort project. *See Exhibit 6*. In addition, Napa Lifestyle has been in conversations with Napa County, Napa Sanitation District and American Canyon recently and in the past years regarding satisfaction of Resort conditions of approval and construction timing on its project. Napa Lifestyle expects to complete the Resort within the next three years. *See Exhibit 7*. The approved and used Resort project must be included in the Project’s existing baseline, its impact analysis and cumulative impacts analysis. A project description that does not adequately describe surrounding land uses is a fatally deficient flaw. *Christward Ministry, Supra*.

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B. Evidence of Potentially Significant Environmental Impacts Resulting From the NVTA Project

Preparation of an EIR is required where a project may result in a significant environmental impact. (See Public Resources Code §§21002.1, 21061, 21080, 21080.1 *et seq.*) Under the “fair argument” standard, an agency may not weigh conflicting evidence to make a determination as to an impact’s significance. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75; *Friends of “B” Street v. City of Hayward* (1980) 106 Cal. App. 3d 988, 1000-1003. Instead, the agency must prepare an EIR if there is substantial evidence that supports an argument that such an impact will result.⁴ These legal standards reflect a preference for requiring an EIR to be prepared. *Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 332.

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This section B describes the specific elements of the environment in the IS/MND wherein substantial evidence exists to supports a fair argument that the Project may result in a significant environmental impact.

³ See Napa County Resolution Nos. 04-44, 04-45, 04-46, 06-17.

⁴ A conflict in expert opinion over the significance of an environmental impact requires preparation of an EIR. (Guidelines § 15064(g).) An EIR is substantial evidence if the contents are from agencies with expertise or expert opinion. *See e.g., Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal. App. 4th 144. It is well established that a low-threshold fair argument is achieved if the record contains facts or fact-based assumptions or expert opinions of any potentially significant environmental impact, regardless of substantial evidence to the contrary. *League for Protection v. City of Oakland* (1997) 52 Cal. App. 4th 896, 905.

1. AIR QUALITY

The Project's construction and operational activities could create potentially significant impacts on air quality. The IS/MND at 27 states:

Construction activities would generate pollutants due to fugitive dust (PM10 and PM2.5) and exhaust emissions from heavy construction equipment with internal combustion engines (ROG, NOx, CO, SOx, PM10 and PM2.5). CalEEMod was utilized to model air emissions resulting from the construction of three distinct land uses associated with the proposed project: an automobile repair facility, general office space, and a parking lot. An automobile repair facility was selected as the modeled use because it is the most similar land use option to a bus maintenance facility.

7, cont'd

However, the use of an automobile repair facility, general office space, and a parking lot **underestimates** the construction pollutants due to fugitive dust and exhaust emissions from heavy construction equipment with internal combustion engines. This is because an automotive repair facility is not a full time bus maintenance facility. A project specific and reasoned analysis based on substantial evidence is required to determine there would be no significant impact. *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204. The IS/MND fails to do so.

Further, Mitchell Air Quality Consulting describes that for air quality modeling purposes the IS/MND is inconsistent with the number of buses that could use the facility, again underestimating the impacts. *See Exhibit 8*. Because the buses are the primary source of project oxides of nitrogen (NOx) emissions, the air quality expert concluded that there could be a substantial increase the NOx emissions exceeding the significance threshold for the pollutant, which was not addressed adequately in the IS/MND. Therefore, substantial evidence exists that the construction and operational activities could potentially violate air quality standards causing a potentially significant health impact.

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Additionally, the IS/MND at 29 states:

Bus operation would also introduce diesel air emissions to the area. However the nearest sensitive receptor is a residence located 0.5 mile northeast of the project site on the opposite side of state route 29. Due to the distance and the presence of state route 29, the project would not cause a substantial pollutant concentration at the nearest sensitive receptor.

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This incorrectly concludes that neither construction nor operational impacts would be significant. The IS/MND is incorrect in its assumption that the nearest

actual sensitive receptor is a residence located 0.5 mile northeast of the project site on the opposite side of state route 29. As previously described, the Resort project is directly adjacent to the Project. The planned and approved Resort with hotel rooms, daily workers and guest areas will be within 100 to 200 feet of the Project. See Exhibits 1-5. For purposes of impact analysis, the Project must assume that its site-specific impacts include impacts to the Resort. In this case, the Resort will have transient residential guests will include children, the elderly, and people with health problems, and can be particularly sensitive to air pollution. The Project IS/MND does not include any such analysis.

The MND states that construction activities would generate pollutants due to fugitive dust (PM10 and PM2.5) and exhaust emissions from heavy construction equipment with internal combustion engines (ROG, NOx, CO, SOx, PM10 and PM2.5), that long-term emissions associated with project operations would include emissions from vehicle trips (mobile sources), natural gas and electricity use (energy sources), and landscape maintenance equipment, consumer products and architectural coating associated with onsite development (area sources). It also states that the Project's operations would introduce diesel air emissions to the area. Yet it concludes that there would be no potential significant impact resulting from exposing sensitive receptors to substantial pollutant concentrations because such receptors are more that 0.5 miles away and on the other side of the highway. The IS/MND fails to include the potential sensitive receptors located within a few hundred feet of the project, which underestimates the impacts. See Exhibit 8.

Mitchell Air Quality Consulting also points out that the use of the latest guidance from the Office of Health Hazard Assessment on preparing health risk assessments results in increases in cancer risk up to three times greater than analyses based on the previous guidance on construction projects greater than three months in length. Mitchell Air Quality Consulting concluded that the potential exists for significant impacts resulting from the reduced air quality from the increase in emissions and other pollutants from the Project. See Exhibit 8.

The IS/MND's conclusion that the Project would not cause a substantial pollutant concentration due to the nearest sensitive receptor distance's from the Project being over 0.5 miles away and the presence of state route 29 in between the Project and nearest sensitive receptor is incorrect. Instead, the evidence shows that the nearest actual sensitive receptor will be within a few hundred feet. The IS/MND is inadequate for basing its analysis on materially inaccurate information. Substantial evidence indicates that the potential exists for significant impacts resulting from the the increase in emissions and other pollutants from the Project, exposing sensitive receptors to substantial pollutant concentrations.

The IS/MND also fails to adequately address cumulative impacts. Mitchell Air Quality Consulting concluded that air quality impacts for the adjacent Resort property examined in the *Montalcino at Napa Draft EIR, Recirculated Draft EIR,*

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Response to Comments and FEIR, Draft Subsequent EIR, and Subsequent Response to Comments and FEIR were not included in the IS/MND and that the same potentially significant air quality impacts identified in the EIRs also could occur in connection with the Project. *See Exhibit 8.* The Montalcino EIRs concluded that the Resort project would potentially cause significant "Construction Period Air Quality Impacts" See Impact discussion 5.3-1 in Exhibits 1-5. The Montalcino EIRs concluded that dust generation from short-term construction activities would cause potential health and nuisance impacts to adjacent land uses; and that dust generation could also pose flight safety hazards. These were determined by Napa County to be potentially significant impacts. *See Exhibits 1-5.*

12, cont'd

Because the IS/MND fails to include and analyze the air quality impacts from the neighboring Resort project, it underestimates cumulative impacts. The available public record contains previously analyzed potentially significant impacts. The addition of air quality impacts from the Project, at the same time as the previously analyzed Resort significant impacts, would have a potentially significant cumulative effect by resulting in a cumulatively considerable⁵ net increase in pollutants and would contribute to cumulative exposure to sensitive receptors. *See San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 622 (A project's impacts must be found cumulatively considerable if the incremental effects are significant when viewed within the context of past, current and probable future projects).

2. BIOLOGICAL RESOURCES

The Project's construction and operational activities would create potentially significant impacts on biological resources. Pacific Biology reviewed the biological resources section of the Initial IS/MN) for the Project. *Exhibit 9.* Pacific Biology's report provides substantial evidence of the following:

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1. The IS/MND fails to disclose significant impacts associated with the loss of Swainson's hawk foraging habitat and to provide mitigation for related impacts as recommended by the California Department of Fish and Wildlife (CDFW).
2. The IS/MND does not provide adequate mitigation to reduce potential impacts to nesting Swainson's hawks to a less-than-significant level.
3. The IS/MND does not disclose potentially significant impacts to California red-legged frog and contradicts the findings and recommendations for that species.

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⁵ Cumulatively considerable means that the incremental effects of the Project are significant when examined in connections with the effects of other past, present and future projects. *See San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 389.

4. The IS/MND does not adequately address potential impacts to special-status plant species and misrepresents a half-day reconnaissance survey as being “full floristic surveys”.
5. The IS/MND ignores potentially significant indirect impacts to sensitive biological resource that could occur to the adjacent creek and riparian habitat.

Based on Pacific Biology’s analysis, substantial evidence exists that the Project’s construction and operational activities could create potentially significant impacts on biological resources described above.⁶

Regarding cumulative impacts, Pacific Biology found that the IS/MND does not provide a complete evaluation of cumulative impacts to biological resources. See Exhibit 9. According to Pacific Biology, biological resources and related impacts for the permitted resort and golf course property directly adjacent to the north of the Project were thoroughly examined in the *Montaleno at Napa Draft EIR*, a *Recirculated Draft EIR*, *Response to Comments and FEIR*, a *Draft Subsequent EIR*, and *Subsequent Response to Comments and FEIR* (EIRs). However, the IS/MND failed to analyze or even mention the impacts from the Resort project.

The following impacts disclosed in the EIRs should have been considered in the Project’s cumulative impacts analysis. Failure to do so means that IS/MND inadequately addresses cumulative impacts by underestimating the totality of known and documented impacts.

- **Impact to Woodland and Riparian Communities:** Significant impacts to the mixed riparian woodland and willow riparian communities could occur during construction activities as a result of trampling of vegetation, staging of equipment, placement of materials, and/or dumping of debris.
- **Construction-Related Impacts to Downslope Wetlands Due to Intrusion:** Significant impacts to the wetland communities downslope of the grading envelope could occur during construction activities and after project development as a result of trampling of vegetation, staging of equipment, placement of materials, and dumping of debris. The wetland communities involved include the brackish marsh, freshwater marsh, drainage swales, and seasonal wetlands.
- **Construction-Related Impacts to Riparian Habitat Due to Intrusion:** Significant impacts to the mixed riparian woodland and willow riparian communities could occur during construction activities as a result of trampling of vegetation, staging of equipment, placement of materials, and/or dumping of debris.

⁶ See Exhibit 8 for the analysis of potentially significant impacts.

- **Long-Term Operation-Related Impacts to Riparian Habitat Due to Intrusion:** Significant impacts to the mixed riparian woodland and willow riparian communities could occur after project development as a result of trampling of vegetation by pedestrians and/or golfers and automobiles and/or golf carts accessing the areas near Suscol Creek.
- **Long-Term Operation-Related Impacts to Downslope Wetlands Due to Intrusion:** Significant impacts to the wetland communities downslope of the grading envelope could occur after project development as a result of trampling of vegetation and intrusion by golfers and equipment. The wetland communities involved include the brackish marsh, freshwater marsh, drainage swales, and seasonal wetlands.
- **Construction-Related Drainage Impacts to Special-Status Species Occupying Aquatic Habitats:** Significant impacts to aquatic animals associated with wetlands may result from decreased water quality due to contaminated and or sediment laden runoff originating from construction areas. Decreased water quality due to contaminated and or sediment laden runoff originating from construction areas may impact special-status fish and aquatic animals associated with wetlands and the riparian habitats.
- **Long-Term Operational Drainage Impacts to Special-Status Species Occupying Aquatic Habitats:** Significant impacts to special-status fish and aquatic animals associated with wetlands and the riparian habitats associated with Suscol Creek may result from decreased water quality due to contaminated runoff originating from the Project.
- **Impacts to Freshwater Marsh Occupying Species:** Special-status bird species potentially associated with the freshwater marsh community (e.g., California black rail, black-crowned night heron, and tricolored blackbird). could be significantly temporarily impacted by adjacent construction's disturbance of potential habitat and nesting areas.
- **Construction-Related Impacts to Northwestern Pond Turtles:** Direct significant impacts to the northwestern pond turtle may occur due to removal of the habitat, if the species is determined to be breeding on the project site.
- **Permanent Tree Removal:** Significant impacts may result from the permanent removal of trees located in the grading envelope.
- **Construction-Related Disturbance to Remaining Oak Trees:** During construction and implementation of the proposed project, damage to oak trees could occur.

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- **Removal/Disturbance of Active Nests of Colonial Nesting Birds:** The removal of trees along the edge of the project site may result in significant impacts to colonial nesting birds such as double-breasted cormorant, great egret, or great blue heron as a result of the destruction of nests or disturbance to nests during construction.
- **Removal/Disturbance of Active Raptor Nests:** Nests of raptors, including special-status species birds such as Swainson's hawk, osprey, Northern harrier, Cooper's hawk, white-tailed kite, burrowing owl, short-eared owl, and loggerhead shrike may be present on the project site and could be significantly impacted by construction activities and permanent removal of trees and grasslands.
- **Conversion of Non-Native Grassland Wildlife Habitat:** The conversion of non-native grassland habitat would eliminate a substantial area of cover and a portion of the prey base of many wildlife species. The loss of suitable foraging habitat for those species requiring open grassland habitat would be a significant impact. Swainson's hawk has recently been seen foraging and potentially nest-building adjacent to the project site and, therefore, is a special-status species that could be significantly impacted by the loss of non-native grassland habitat.
- **Disturbance to Active California Horned Lark Nests in Grassland Community:** The California horned lark has potential to nest in the grassland habitat on or near the project site. The removal of habitat may have significant direct impacts to this species.
- **Disturbance to Active Bat Maternity Roosts:** Significant impacts to potentially occurring special-status bats may occur from removal of snags and structures. The species potentially impacted are small-footed myotis, long-eared myotis, fringed myotis, long-legged myotis, Yuma myotis, Townsend's big-eared bat, California mastiff bat, and pallid bat.

These impacts also could occur on the Project site due to similar land disturbances and the proximity of the sites (they are immediately adjacent), and because that the sites have some similar biological resources and characteristics.

The above-described impacts also could be exacerbated by the Project, leading to significant cumulative impacts that were not analyzed or disclosed in the IS/MND, but the IS/MND did not consider the analyses in the Montalcino EIRs. For example, the Pacific Biology report found that the approved Resort project would result in the conversion of approximately 193 acres of grassland habitat to a golf course and associated uses. However, the IS/MND's analysis of cumulative impacts to sensitive biological resources only considers potential cumulative impacts to riparian habitat. The IS/MND does not address the Project's contribution towards

19, cont'd

the regional loss of grassland habitat, which provides foraging habitat for numerous raptor species, including the state-threatened Swainson's hawk. *See Exhibit 9.*

Based on Pacific Biology's analysis, some potentially significant impacts disclosed in the EIRs could occur and get worse as a result of the Project. Because the IS/MND fails to include and analyze the impacts to biological resources from the neighboring Resort project, it underestimates cumulative biological impacts. Because there were potentially significant impacts disclosed in the Montalcingo EIRs affecting the area's biological resources, the addition of impacts to biological resources from the Project will have a potentially significant cumulative effect. This requires the preparation of an EIR. *San Joaquin Raptor/Wildlife Rescue Center, supra.*

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3. GREENHOUSE GAS EMISSIONS

The Project's construction and operational activities could create potentially significant impacts on the environment from greenhouse gas emissions. Mitchell Air Quality Consulting reviewed the greenhouse gas section of the IS/MND. The Project greenhouse gas analysis provided in Section 7 of the IS/MND relies on the project traffic study trip generation rates to estimate mobile source GHG emissions. *See Exhibit 8.* The analysis estimates that project emissions are 817.8 MTCO_{2e} and mobile emissions alone are 591 MTCO_{2e}. Mitchell Air Quality Consulting concluded that because the number of bus trips is understated by more than half, the Project would exceed the 1,100 MTCO_{2e} threshold of significance and produce a potentially significant impact. Therefore substantial evidence exists that the construction and operational activities could create potentially significant greenhouse gas impacts.

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The IS/MND also fails to include and analyze the greenhouse gas impacts from the neighboring Resort project. The addition of greenhouse gas impacts from the Project at the same time of the Resort project impacts will have a potentially significant cumulative effect by resulting in a cumulatively considerable net increase greenhouse gasses. Because of this, the IS/MND underestimates cumulative impacts, and an EIR is required. *San Joaquin Raptor/Wildlife Rescue Center, supra.*

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4. HYDROLOGY AND WATER QUALITY

The Project's construction and operational activities could create potentially significant impacts on the hydrology and on water quality. Impacts from the Resort project that were not analyzed in the IS/MND, but are similar to what could occur from the Project. This means that IS/MND fails to adequately address cumulative impacts by not factoring in the Resort project impacts.

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The IS/MND failed to analyze the following hydrology and water quality impacts from the Resort project that also would occur on the Project site due to the similar land disturbances (*See Exhibits 1-5*) and the proximity of the sites that have the same or substantially similar hydrological conditions:

- **Site and Downstream Water Quality:** Project run-off could yield residual concentrations of these harmful substances into the drainage ways and the wetlands located near the watershed outlet.
- **Construction Disturbance- Site Erosion and Sedimentation:** Project implementation would create extensive land disturbance during active construction and for one to two years thereafter, prior to site revegetation. Raindrop impact and site runoff could cause soil erosion and downstream sedimentation in both constructed site water features and downstream receiving waters.
- **Site and Downstream Water Quality Impacts:** Project implementation would increase the concentration of trace elements and other urban storm water contaminants in the project site runoff, due to increased automotive access and project grading prior to site revegetation.

These impacts would be exacerbated by the Project, leading to cumulative water quality and hydrology impacts that were not disclosed in the IS/MND. Because the IS/MND fails to include and analyze the evidence of hydrological and water quality impacts from the neighboring Resort project, NVT underestimates cumulative water quality and hydrology impacts. Based on the substantial evidence of significant impacts contained in the EIRs, the addition of water quality and hydrological impacts from the Project would have a potentially significant cumulative effect by resulting in a considerable increase in pollutants. An EIR is therefore required. *See San Joaquin Raptor/Wildlife Rescue Center, supra.*

5. LAND USE AND PLANNING

The IS/MND fails to mention that directly adjacent and to the north of the project site is Napa Lifestyle's 305-acre site for the approved Resort. The Resort project was subject extensive environmental review, documented by Napa County in the Montalcino EIRs. The Resort use also is specifically mentioned in the County's Specific Plan. As previously described, Napa County determined that the Resort project has been "used" through the commencement of construction, and the Resort project is proceeding and should be completed over the next few years. *See Exhibits 6 and 7.* The Resort project must be assumed in the Project baseline (a permitted, used project that has commenced construction and is publically moving forward toward completion is an existing condition). This includes both the Resort's impacts for cumulative analysis and the Project's impacts on the Resort.

The IS/MND fails to include any mention of the Resort project, and the County public record on the Resort details with substantial evidence the Resort's land use. Due to the IS/MND's failure to consider the Resort, the IS/MND fails to adequately analyze the Project's compatibility with existing land uses in the vicinity,

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as required by the CEQA Checklist, which renders the IS/MND technically inadequate. See CEQA Guideline § 15603(d); *Christward Ministry, supra*.

↑ 23, cont'd

Most significant is the Project's inconsistency with zoning and the Specific Plan. While the IS/MND states that the Project is located within the Specific Plan and is zoned Industrial Park, it fails to disclose that the Project is not a use permitted or conditionally permitted by either the Specific Plan or the IP Zoning District. Because of this, the Project requires a rezone and a Specific Plan amendment. Nowhere is this discussed in the IS/MND. Instead, the IS/MND states:

The project site is designated Industrial in the Napa County General Plan. The site is also within the Napa Valley Business Park Specific Plan (1986, amended through 2013), where it is designated as Business/Industrial Park. As described in the Specific Plan, the Business/Industrial Park designation is intended "to accommodate light industrial uses such as research and development, light manufacturing, light assembly, warehousing and distribution, large administrative headquarters, and other professional and administrative uses." The proposed bus maintenance facility is compatible with this overall description, providing for bus storage and maintenance and administrative offices. Therefore, no impact would occur.

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Failure to disclose that the Project will require a Specific Plan amendment and a rezone violates CEQA Guideline § 15603(d)(5). The Is/MND general statement of compatibility in light of specific requirements of zoning and the Specific Plan is legally insufficient to establish conformity and conclude no significant impact. See *Spring Valley Lake Assn. v. City of Victorville* (2016) 248 Cal. App. 4th 91.

The attached legal opinion the details of the applicable County zoning requirements and describes why the Project does not comply with Napa County's basic IP Zoning District provisions and Specific Plan policies.⁷ The opinion concludes:

The Project's bus storage and maintenance use is prohibited at the site under the zoning code and Specific Plan. Issuance of a use permit to NVRTA for a use that is inconsistent with zoning and the Specific Plan violates Napa County Code §18.124.070(D) and the uniformity requirement of the State Planning and Zoning Law.

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⁷ The attached Exhibit 10 provides a detailed code analysis documenting that the Project requires a rezone and specific plan amendment. Exhibit 10 includes copies of the relevant zoning and the Specific Plan, incorporated by reference herein.

Under these circumstances, IS/MND fails to meaningfully analyze compatibility between the Project and applicable land use plans as required by CEQA. Based on the conflicts outlined above, the Project material conflicts with applicable Napa County land use plans, and this conflict could only be resolved with a rezone and Specific Plan amendment. Given these conflicts, which are not addressed in the IS/MND, the IS/MND cannot be said to fulfill the requirement of CEQA Guideline §15063(d)(5) to examine "whether the Project would be consistent with existing zoning, plans, and other applicable land use controls." In my professional opinion, for the reasons stated above, the Project conflicts with an applicable land use plan (the Specific Plan and zoning), and an EIR is required to disclose and analyze the potentially significant impacts resulting from allowing the Project's conflict use.

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See Exhibit 10.

Based on this analysis and the language of the zoning text, under California Law, the IS/MND fails to adequately analyze compatibility with the local land use plan. Substantial evidence demonstrates that the Project requires a Specific Plan Amendment and rezone. However, the IS/MND presents no information about the zoning amendment or the conflict with applicable land use plans and policies of Napa County. Therefore, an EIR is required because NVT failed to analyze the potentially significant impacts of a rezone and Specific Plan amendment. See *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal. App. 3d 229, 251.

IV. Public Records Act Request

The fact that NVT purchased the property when the zoning and Specific Plan do not allow the proposed use raises other significant legal concerns about the Project and the adequacy and transparency of the review and procedures involved in the acquisition of the site.

Pursuant to the California Public Records Act (California Government Code §6250 et seq.), please consider this a formal request make available for inspection the following public records: all NVT staff and consultant written documents and communications, including electronic communications, such as email, regarding County of Napa zoning and/or Specific Plan, and permitting, including but not limited to the requirements for a Use Permit or rezone as it relates to the Project.

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V. Conclusion

As detailed above, based upon the legal standards set forth in the Public Resources Code and by the California Courts, the inadequacies in the IS/MND plus substantial record of evidence of a "fair argument" of potentially significant environmental impacts require the preparation of an EIR. The law requires that NVTA not adopt the IS/MND and instead commence the preparation of an EIR.

Failure of NVTA to comply with its legal requirements under CEQA and its public duty to inform the public will result in the initiation of appropriate legal action requesting the Courts to order NVTA to comply with CEQA and require the prepare an EIR. Napa Lifestyle's also will request NVTA to pay is legal fees pursuant to the California Code of Civil Procedure § 1021.5 for NVTA's failure to comply with CEQA.

Please feel free to call or email me if you would like to discuss this matter prior to talking any action on the Project. I can be reached at 707-927-4272 or by email at teague@htralaw.com.

Sincerely,



Kevin Teague

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November 5, 2016

Kate Miller, Executive Director
Napa Valley Transit Authority
625 Burnell St.
Napa, CA 94559

RE: **Napa Valley Transportation Authority (NVTA)
Vine Transit Maintenance Facility**

Dear Ms. Miller:

I am the Chairman and CEO of The Capbridge Group. Our affiliated entities, Napa Lifestyle Holdings LLC I & II owns real property located in the County of Napa that we call The Resort at Napa (it also was known by the County as "Montalcino at Napa"). Our property is located at 353 Devlin Road directly adjacent to the north of NVTA's proposed Vine Transit Bus Maintenance Facility (the "Project").

We write because we are very concerned about the impacts from NVTA's proposed project on our resort site, which is immediately next door. We also are concerned about the environmental review process and what appears to be the inadequate disclosure and analysis of the environmental impacts from your project on the environment.

You should be aware that the County of Napa approved our development in 2004 and its modified development in 2006. The process required three draft EIRs and two Final EIRs. Our development went through a stringent and detailed analysis of environmental impacts. While all of this information is part of the public record and readily available, your Initial Study and Mitigated Negative Declaration make no reference to the existing analyses in the record. A detailed analysis of your project similar to ours would be beneficial to the public.

The public records describe our Resort project. Our development is on 305 acres, with the Hotel and Resort portion on 72 acres adjacent to your site. It includes 379 hotel rooms and suites with 408,184 square feet of new building development, and includes recreation areas, a spa and fitness building, market and retail buildings, restaurants, conference space, special events rooms, a children's activity area. Your facility would be located within what appears to be 100 feet of our facility and rooms. However, your Initial Study and Mitigated Negative Declaration documents include no reference or discussion of our project, our environmental documents or NVTA's impacts on our site.

In 2006, construction began on the Resort site. On September 22, 2006, Napa County issues a "use determination" letter that states the project has sufficiently started construction in a manner that the permits remain active. In 2014, Capbridge acquired the site. Since acquiring the site we have made our intent to move forward with the construction and development of the property publically known. We have meet with various governmental officials in Napa and have advanced our

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development plans. We plan to continue our work on our conditions of approval and resume construction within a year. We expect the Resort to be operational within three years.

Because our development approvals and its commencement of construction predates the NVTA project, we believe your project should consider its impacts on our property and the Resort project, its employees and guests, as well as its overall environmental impacts to the same extent as our project.

Thank you for the opportunity to comment.

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The Capbridge Group



Frank S. Orrell
Chairman and CEO

Mitchell Air Quality Consulting

November 4, 2016

Kevin Teague
Holman Teague Roche Anglin, LLP Attorneys at Law
1455 First Street, Suite 217
Napa, CA 94559

Subject: Peer Review of IS-MND for the Vine Transit Bus Maintenance Facility Air Quality and Greenhouse Gas Sections

Dear Mr. Teague:

Mitchell Air Quality Consulting (MAQC) has reviewed the air quality and greenhouse gas sections of the subject project IS-MND and offers the following comments.

Air Quality Impacts

The project analysis of operational air quality impacts discussed in Section 3 page 28 of the IS-MND is based on trip generation contained in the project's traffic study. The trip generation from traffic study provided in Table 16 of the IS-MND includes a project specific estimate of 90 daily bus trips. For air quality modeling purposes, this equates to 45 incoming and 45 outgoing trips per day. This appears to be inconsistent with the number of buses that would use the facility. The current bus fleet has 80 buses. If each bus made one roundtrip per day, the daily trip generation would be 160 trips per day. The project description indicates that the bus fleet is expected to expand to 93 buses which at one trip in and one trip out per day would generate 186 trips per day. No accounting is provided to indicate that half of the buses remain parked each day or if they park in another location. Based on the number of parking spots provided for buses in the new facility, it is possible that the buses would return to the new facility each day. The buses are the primary source of project oxides of nitrogen (NOx) emissions. More than doubling the number of bus trips used in the analysis would substantially increase the NOx emissions and could potentially exceed the significance threshold for this pollutant.

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The IS-MND at page 29 dismisses impacts to sensitive receptors based on the half mile distance to the nearest sensitive receptor and because the project does not exceed regional criteria pollutant thresholds. It appears that no localized analysis of construction or operational emissions was conducted to determine if the project has the potential to create a localized exceedance of NO2 or PM2.5 standards. Although not normally considered sensitive receptors, employees at neighboring businesses and guests at the approved resort project adjacent to the project could be exposed to NO2 or PM2.5 concentrations that exceed health based standards. In addition, the use of the latest guidance from the Office of Health Hazard Assessment (OEHA) on preparing health risk assessments results in increases in cancer risk up to three times greater than analyses based on the previous guidance and recommends assessing construction projects greater than 3 months in length. Without an emission analysis and a health risk assessment, it is not possible to conclude that no sensitive receptors would be subject to substantial pollutant concentrations. Instead, given the construction and operational emissions disclosed and underestimated in the IS-MND and the potential health risks on the neighboring property,

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the potential exists for significant impacts resulting from the reduced air quality from the increase in emissions and other pollutants from the project.

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28, cont'd

Lastly, air quality impacts for the Resort property directly adjacent property to the north of the Vine Transit Bus Maintenance Facility project were thoroughly examined in the *Montalcino at Napa Draft EIR, Recirculated Draft EIR, Response to Comments and FEIR, Draft Subsequent EIR, and Subsequent Response to Comments and FEIR* (EIRs). The same potentially significant air quality impacts identified in the EIRs also occur in connection with the project. Is this due the similar construction related impacts as well as operational impacts. This results in the same or similar potentially significant impacts disclosed in the EIRs occurring at the Maintenance Facility Project. These impacts were not considered in the IS-MND, which as a result underestimates direct, indirect and cumulative air quality impacts by failing to analyze total likely and known particulates and pollutants.

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Greenhouse Gas Impacts

The project greenhouse gas (GHG) analysis provided in Section 7 of the IS-MND also relies on the project traffic study trip generation rates to estimate mobile source GHG emissions. The analysis estimates that project emissions are 817.8 MTCO₂e and mobile emissions alone are 591 MTCO₂e. If the number of bus trips is understated by more than half as described above, the project may exceed the 1,100 MTCO₂e threshold of significance and produce a potentially significant impact.

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The analysis contained in this letter is based on my professional opinion as an air quality scientist with over 20 years of experience in the field. If you have any questions or concerns regarding this review, please contact me at (559) 246-3732 or via email at dmitchell@mitchellaq.com.

Sincerely,



David M. Mitchell
Owner/Senior Air Quality Scientist
Mitchell Air Quality Consulting
1164 E. Decatur Avenue
Fresno, CA 93720

PACIFIC BIOLOGY



635 Carmel Avenue, Albany, CA 94706
Telephone/Fax: (510) 527-1008

TO: Kevin Teague, Holman Teague
FROM: Josh Phillips, Principal Biologist
DATE: November 6, 2016
SUBJECT: Vine Transit Bus Maintenance Facility Initial Study/Mitigated Negative Declaration
 - Comments on the Biological Resources Section

Pacific Biology was retained by Holman Teague to review the biological resources section of the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Vine Transit Bus Maintenance Facility Project (Napa Valley Transit Authority 2016). The biological resources section of the IS/MND was reviewed, as well as the supporting Natural Environmental Study (Rincon Consultants 2016). In summary, the following inadequacies of the IS/MND were identified:

- The IS/MND fails to disclose significant impacts associated with the loss of Swainson's hawk foraging habitat and to provide mitigation for related impacts as recommended by the California Department of Fish and Wildlife (CDFW).
- The IS/MND does not provide adequate mitigation to reduce potential impacts to nesting Swainson's hawks to a less-than-significant level.
- The IS/MND does not disclose potentially significant impacts to California red-legged frog and contradicts the findings and recommendations for that species provided in the supporting NES.
- The IS/MND does not adequately address potential impacts to special-status plant species and misrepresents a half day reconnaissance survey as being "full floristic surveys".
- The IS/MND ignores potentially significant indirect impacts to sensitive biological resource that could occur to the adjacent creek and riparian habitat.

Each of these issues is further discussed below:

(i) Swainson's Hawk

Swainson's hawk (*Buteo swainsoni*) is a state Threatened species. The project site provides suitable foraging habitat for this species and suitable nesting habitat occurs adjacent to or near the project site. This is supported by the following statements in the IS/MND (p.35): the "species was observed in the Project study area during surveys", there are "three CNDDDB recorded occurrences within one mile of the project site", "suitable foraging habitat capable of supporting this species is present within the Project", and "large trees for nesting and roosting are present within one-quarter mile of the Project". However, the IS/MND (p. 38) later downplays the suitability of the onsite foraging habitat as being "marginally suitable foraging habitat" and fails to address the significant impact associated with the loss of Swainson's hawk foraging habitat. The CDFW has determined that nearby foraging habitat is critical for successful species nesting and has developed recommendations and mitigation guidelines to protect suitable Swainson's hawk foraging habitat within a 10-mile radius of an active nest (i.e., a nest used during one or more of the last 5 years) (CDFG 1994). Given the high-level of Swainson's hawk activity documented in the project area, it should be expected that one or more of the nests documented in the area are still used, that another active nest could now occur in closer proximity to the project site, that the grassland habitat on the project site is used by foraging Swainson's hawks, and that the onsite grasslands would be considered Swainson's hawk foraging habitat by the CDFW and subject to their mitigation recommendations. However, the IS/MND fails to disclose impacts associated with the loss of Swainson's hawk foraging habitat and fails to require mitigation to address this significant impact.

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In regards to potential impacts to nesting Swainson's hawks, the IS/MND (p.38) acknowledges that "impacts could include nest abandonment as a result of construction activity and noise". To address this potential impact, the IS/MND (p.39) requires a general preconstruction nesting bird survey (BIO-1). However, this mitigation measure is insufficient because it does not comply with the accepted Swainson's hawk nesting survey protocol (Swainson's Hawk Technical Advisory Committee 2000) and does not require large enough buffers to protect an active Swainson's hawk nest. For example, the IS/MND (BIO-1) only requires a maximum nest buffer of 500 feet, but as correctly required in the NES (Section 4.4.11), a buffer of 0.25 mile may be required to adequately protect an active Swainson's hawk nest. Therefore, BIO-1 could fail to identify and protect an active Swainson's hawk nest, and would not reduce related impacts to a less-than-significant level, because it does not require appropriate timing, biologist qualifications, a large enough survey area, or adequate buffers.

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(ii) California Red-Legged Frog

California red-legged frog (*Rana draytonii*) is a federally listed threatened species. The IS/MND (p.37) concludes that no project-related impacts would occur to California red-legged frog, but does state that “Sheehy Creek and its surrounding riparian areas offer suitable habitat for...California red-legged frog” and that “the upland area north of Sheehy Creek is adequate migratory habitat for California red-legged frog”. The supporting NES states that “the species has a moderate potential to occur” and that “suitable habitat capable of supporting the species is present within the Project”. The supporting NES also states that “the conversion of upland non-native grasslands for industrial use has the potential to impact CRLF if individuals are present at the time of construction”. Given the rarity of California red-legged frog, the loss of a single frog would be considered a significant impact under CEQA. To address potential impacts to California red-legged frog during construction, the NES requires a variety of avoidance and minimization measures, including but not limited to seasonal work restrictions, preconstruction clearance surveys, and biological resources training for all construction personnel. However, while the NES indicates that the potential for impacts to occur to California red-legged frog is large enough to require avoidance measures, the IS/MND does not disclose any potential impacts to California red-legged frog and ignores the avoidance and minimization measures recommended in the supporting NES.

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(iii) Special-Status Plant Species

The IS/MND (p.32-33, p.36-37) identifies 10 special-status plants that “were determined to have potential to exist within the BSA based on their biological requirements compared to existing site conditions and the range of each species”. As identified in Table 6 of the IS/MND (p.32-33), many of these special-status plant species are associated with grassland habitats, including bent-flowered fiddleneck, big tarplant, Congdon’s tarplant, Napa blucurls, pappose tarplant, and saline clover. The IS/MND dismisses the potential of special-status plant species to occur in the grassland portions of the project site due to the disturbed condition of that area. However, suitable habitat may be present for congested-headed hayfield tarplant because the species is often found in disturbed areas, including fallow fields and sometimes along roadsides. Additionally, the IS/MND (p.36) indicates that salt grass (*Distichlis spicata*) occurs in the grassland portion of the project site, which indicates the presence of alkaline soils that could be suitable for special-status species such as Congdon’s tarplant (as well as other locally occurring special-status plant species apparently dismissed in the NES because of the presumed absence of alkaline soils). Additionally, the IS/MND (p.36-37) incorrectly states that “full floristic surveys

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were completed over the entire BSA”. As discussed in the supporting NES (Section 2, Study Methods) only a single survey was conducted on May 18, 2016. Many plant species, including special-status plant species for which the project site provides suitable habitat (e.g., big tarplant, Bolander’s water-hemlock, Napa blucurls) would not have been in bloom or identifiable at that time of year. The single survey that was conducted should not be represented as “full floristic surveys” and should not be used to support the presumed absence of special-status plant species for which appropriately-timed surveys were not conducted.

35, cont'd

The IS/MND (p.37) concludes that “suitable habitat for the majority of special-status plant species with potential to occur in the BSA is limited to the riparian corridor outside of the proposed project footprint”. This indicates that suitable habitat for some special-status plant species is present in the grassland portion of the project. As appropriately-timed surveys were not conducted for all special-status plant species that could occur in the grassland and riparian areas, it is not known if special-status plant species occur in either location. If special-status plant species occur in the grassland portion of the project site, they would be subject to direct impacts, and indirect impacts (e.g., altered hydrology, incidental disturbance) could occur to any special-status species occurring in the riparian portion of the project site. Given the above, the IS/MND’s evaluation of potential impacts to special-status plants is misleading and incomplete.

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(iv) Indirect Impacts to Sensitive Biological Resources

As discussed in the IS/MND and associated NES, numerous sensitive biological resources could occur in Sheehy Creek and associated riparian habitat, including California red-legged frog, western pond turtle, California freshwater shrimp, Cooper’s hawk, white-tailed kite, other birds protected by the Migratory Bird Treaty Act and California Fish and Game Code, and special-status plant species. However, the IS/MND does not provide any evaluation of potentially significant indirect impacts that could occur to special-status plant and wildlife species in the adjacent aquatic/riparian habitat. Operation of the proposed project would require the routine transport, use, and disposal of potentially hazardous materials, such as batteries, oil, lubricants, paint, cleaning solvents, and other chemicals. The accidental release of any such materials into the creek could result in significant impacts to federally-listed species (i.e., California red-legged frog, California freshwater shrimp), western pond turtle, and numerous other aquatic species. The IS/MND (p.59) concludes that “compliance with existing laws and regulations governing the transport, use, release and storage of hazardous materials and wastes, including the required SWPPP and HMBP, would reduce impacts related to exposure of the public or environment, including adjacent Sheehy Creek, to hazardous materials to less than significant”. However, any

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accidental spills or leakage that enters the creek could have severe impacts on the creek and associated sensitive biological resources. Therefore, storage of hazardous materials near the creek is ill-advised and is not adequately evaluated in the biological resources section of the IS/MND.

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37, cont'd

The IS/MND also does not include any analysis of potential impacts to wildlife resulting from increased light and glare into the adjacent riparian area. Numerous sensitive wildlife species could occur in Sheehy Creek and associated riparian habitat, including California red-legged frog, western pond turtle, California freshwater shrimp, Cooper's hawk, white-tailed kite, and other birds protected by the Migratory Bird Treaty Act and California Fish and Game Code. Nighttime lighting can disturb the resting and foraging behavior of a number of wildlife species and can potentially alter breeding cycles and nesting behavior. If uncontrolled, nighttime lighting—especially where proximal to woodlands or wildlife movement routes—could adversely affect the composition and behavior of the animal species in the area, as well as make wildlife vulnerable to predation. The IS/MND ignores this issue and does not disclose related impacts.

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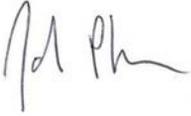
(v) Cumulative Impacts

The IS/MND does not provide a complete evaluation of cumulative impacts to biological resources. Biological resources and related impacts for the permitted resort and golf course property directly adjacent to the north of the project were thoroughly examined in the *Montalcino at Napa Draft EIR*, a *Recirculated Draft EIR*, *Response to Comments and FEIR*, a *Draft Subsequent EIR*, and *Subsequent Response to Comments and FEIR* (EIRs). However, the IS/MND did not consider the analyses from the EIRs. For example, the approved Montalcino project would result in the conversion of approximately 193 acres of grassland habitat to a golf course and associated uses. The IS/MND's analysis of cumulative impacts to sensitive biological resources (p.99) only considers potential cumulative impacts to riparian habitat and does not address the project's contribution towards the regional loss of grassland habitat, which provides foraging habitat for numerous raptor species, including the state-threatened Swainson's hawk.

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Please feel free to contact me with any questions regarding this comment letter.

Sincerely,

A handwritten signature in black ink, appearing to read "JP" followed by a stylized surname.

Josh Phillips

Literature Cited

CDFG. 1994. *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo Swainsoni) in the Central Valley of California.*

Napa Valley Transportation Authority. 2015. *Vine Transit Bus Maintenance Facility, Initial Study/Mitigated Negative Declaration.*

Rincon Consultants, Inc. 2016. *Sheehy Court Bus Maintenance Facility Project Natural Environmental Study (NES).*

Swainson's Hawk Technical Advisory Committee. 2000. *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley.* May 31, 2000.

HolmanTeague

real estate law · land use law · business law · climate change law

November 5, 2016

Kate Miller, Executive Director
Napa Valley Transit Authority
625 Burnell St.
Napa, CA 94559

Re: Zoning Regulations Applicable to NVRTA's Vine Transit Bus Maintenance Facility

Dear Ms. Miller:

I am a California attorney. The primary focus of my law practice is land use permitting, zoning, and environmental review in Napa County. I have practiced almost exclusively in this area since 2004, and I have years of daily experience working with Napa County's zoning ordinance and regulations including the Napa Valley Business Park Specific Plan (the "Specific Plan"). I also am familiar with Californian statutes and case law governing zoning and permitting interpretations and decisions.

I have reviewed the initial study and mitigated negative declaration ("IS/MND") for Napa Valley Transportation Authority's ("NVRTA") Vine Transit Bus Maintenance Facility (the "Project"). I also have reviewed the Specific Plan designations and Industrial Zoning Districts applicable to the Project and nearby properties. In addition, my law partner, who represents an adjacent owner to the Project, requested I provide this professional opinion.

40

The zoning analysis below describes why the IS/MND is legally inadequate because it fails to disclose and analyze the fact that the Project is not permitted under current County zoning and Specific Plan designation on the Project site. The Project would require a rezone and Specific Plan amendment to be approved, which is contrary to the information supplied in the IS/MND. Because the Project conflicts with an applicable land use plan (the Specific Plan and zoning), an Environmental Impact Report ("EIR") is required to disclose and analyze the potentially significant impacts resulting from allowing the Project's conflict use.

IS/MND Land Use and Planning Description

The IS/MND correctly states that the Project is located within the Napa Valley Business Specific Plan and zoned Industrial Park. The IS/MND at page 4 also accurately states that certain "*permitted land uses under this zoning designation include commercial and industrial uses under the condition that a Use Permit is obtained (Napa County Code chapters 18.40 and 18.80).*" However, the Land Use and Planning portion of the Environmental Checklist of the IS/MND at page 67 incorrectly states:

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As described in the Specific Plan, the Business/Industrial Park designation is intended “to accommodate light industrial uses such as research and development, light manufacturing, light assembly, warehousing and distribution, large administrative headquarters, and other professional and administrative uses.” The proposed bus maintenance facility is compatible with this overall description, providing for bus storage and maintenance and administrative offices. Therefore, no impact would occur.

41, cont'd

The above language is the sole basis upon which the IS/MND concludes that the Project has no land use and planning impacts and that the Project is compatible to zoning and the Specific Plan. This conclusion is factually and legally inaccurate as explained below.

Zoning Analysis

The Project site is zoned as Industrial Park or “IP”, which is regulated by Napa County Code Chapter 18.40. Allowed uses in the IP district are set forth in Napa County Code §18.40.020, and these uses all require a Use Permit with rare exceptions.¹ To issue a Use Permit, Napa County must make the following finding:

[T]he proposed use complies with the applicable provisions of this code and is consistent with the policies and standards of the general plan and any applicable specific plan.²

Therefore, in order to be built, the Project’s bus storage and maintenance and administrative offices must obtain a Use Permit from Napa County, which cannot be approved unless the above finding can be made. In this case, the finding cannot be made because the applicable provisions of the County zoning code do not permit the Project’s proposed bus storage and maintenance.

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The list of allowable uses in the IP district does not include bus storage and maintenance. Such use is not contemplated in the IP district, which is consistent with IP district’s intent “to provide areas exclusively for modern, non-nuisance light industrial and office uses which are compatible both with each other and with the adjoining nonindustrial areas ... which have no significant potential for major pollution, adverse visual impacts, or nuisance or hazard factors.”³

If Napa County had intended to allow bus storage and maintenance, Napa County would have adopted IP provisions that match the General Industrial (“GI”) district.⁴ That zoning district expressly provides for such uses by allowing “[t]ruck terminals, including

¹ See Exhibit A. The IP district does allow agriculture, minor antennas, and telecommunications facilities without a use permit, but those uses are not relevant to the Project.

² Napa County Code §18.124.070(D).

³ Napa County Code 18.40.010.

⁴ See Exhibit B.

truck repair facilities”⁵ and “[e]quipment storage, rental or repair yards, including contractor storage yards or building materials yards if conducted within a completely enclosed building or screened outdoor yard area.”⁶ The GI zoning district does not apply to the Project, but it is legally relevant to the interpretation of the IP zoning regulations. Under California law, the fact that the County’s GI district regulations contemplate large vehicle maintenance and the IP regulations are silent is direct evidence that a facility for bus storage and maintenance and administrative offices is prohibited.

A zoning scheme... is similar in some respects to a contract; each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests.⁷

This prohibition of the Project’s use is consistent with the purpose of the IP district, which is “to provide areas exclusively for modern, non-nuisance light industrial and office uses which are compatible both with each other and with the adjoining nonindustrial areas.”⁸ Vehicle maintenance and storage, a stated General Industrial use under the zoning code is not compatible with the desired uses in the IP district.

When zoning does not permit a use, issuance of a use permit allowing that use also requires a zoning amendment under Chapter 18.136 of Napa County Code.⁹ Under local regulations, the Project must obtain a zoning amendment, which must be analyzed during environmental review.

Specific Plan Analysis

The Specific Plan contains land use policies for designated areas,¹⁰ which includes the Business/Industrial Park designation. The Business/Industrial Park designation applies to the Project.¹¹

The Business/Industrial Park is intended “to provide exclusively for modern, well-planned, non-nuisance light industrial and business park uses.”¹² This description does not include the outdoor storage of vehicles or bus maintenance. The Specific Plan’s list of allowable uses within the Business/Industrial Park designation does not include bus

⁵ Napa County Code §18.40.020A(6).

⁶ Napa County Code §18.40.020A(5).

⁷ *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 517-18.

⁸ Napa County Code §18.40.010.

⁹ *Neighbors in Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 CalApp4th 997 (use permit allowing commercial wedding facility invalidated on grounds that zoning did not permit such use).

¹⁰ The Specific Plan is attached as Exhibit C. The land use policies are located at § I.D on page 7 of the Specific Plan.

¹¹ See map attached as Exhibit D.

¹² Specific Plan § I.D at page 7.

42, cont'd

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storage and maintenance and administrative offices listed as allowed uses.¹³ However, those uses are expressly provided for in the Specific Plan's General Industrial designation.¹⁴ By comparison, "contractor's equipment storage or rental yards; truck terminals including major repair" are expressly allowed in the General Industrial designation.¹⁵ Read together, this means that the bus maintenance facility is not an allowed use in the Business/Industrial Park designation.

43, cont'd

Similar to the zoning issues explained above, Napa County cannot make the finding that "the [Project's] proposed use ... is consistent with the policies and standards of the general plan and any applicable specific plan."¹⁶

Conclusion

The only reasonable legal conclusion is that the Project's bus storage and maintenance use is prohibited at the site under the zoning code and Specific Plan. Issuance of a use permit to NVT A for a use that is inconsistent with zoning and the Specific Plan violates Napa County Code §18.124.070(D) and the uniformity requirement of the State Planning and Zoning Law.¹⁷

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Under these circumstances, IS/MND fails to meaningfully analyze compatibility between the Project and applicable land use plans as required by CEQA. Based on the conflicts outlined above, the Project material conflicts with applicable Napa County land use plans, and this conflict could only be resolved with a rezone and Specific Plan amendment. Given these conflicts, which are not addressed in the IS/MND, the IS/MND cannot be said to fulfill the requirement of CEQA Guideline §15063(d)(5) to examine "whether the Project would be consistent with existing zoning, plans, and other applicable land use controls." In my professional opinion, for the reasons stated above, the Project conflicts with an applicable land use plan (the Specific Plan and zoning), and an EIR is required to disclose and analyze the potentially significant impacts resulting from allowing the Project's conflict use.

Thank you for the opportunity to provide my professional opinion.

Sincerely,


Rob Anglin

¹³ Specific Plan § V.B.

¹⁴ Specific Plan § I.D at page 7.

¹⁵ Specific Plan § V.C(2)(d) at page 62.

¹⁶ Napa County Code §18.124.070(D).

¹⁷ California Government Code §65852.

Letter 5

COMMENTER: Kevin Teague, of Holman Teague on behalf of Napa Lifestyle

DATE: November 6, 2016

Response to Comment 5.1

The commenter states that they are writing on behalf of Napa Lifestyle and outlines the location of their client's property to the north of the project site. The commenter states that they have concerns regarding the project's environmental impacts and the sufficiency of the IS-MND. The commenter states an opinion that the NVTA ignored or failed to consider information and misunderstood the zoning, further suggesting that the project requires preparation of an EIR. The commenter continues by opining that the IS-MND contains deficiencies and fails to disclose the project's significant environmental impacts. The commenter summarizes by restating that the project would require an EIR. This comment is a general introduction to the specific comments that follow and are accordingly addressed in the specific responses below.

The IS-MND prepared for the project found that all impacts were either less than significant or could be reduced to a less than significant level through the implementation of identified mitigation measures. EIRs are required when a project would cause significant and unavoidable impacts. Since the proposed project would not result in significant and unavoidable impacts, the preparation of an EIR is not required.

Response to Comment 5.2a

The commenter provides an unsubstantiated opinion that the project description in the Draft IS-MND is deficient because it fails to provide an adequate project description or accurately describe and quantify existing baseline conditions.

The Project Description in the Initial Study is adequate. The Project Description far exceeds the length of the description that is indicated as acceptable in Appendix G, including a description of the location of the project, and multiple maps, as well as a Description of the Project at pages 4 through 8 of the Initial Study that describes both the "Objective and Purpose" of the Project and a Project Overview that describes, in detail the facility and project components to be constructed, as well as plans for access, landscaping, utilities, the provision of emergency services, the length of the construction period, and the anticipated level of grading required.

The commenter does not specify a particular deficiency in baseline condition that was omitted from the IS-MND. See response 5.6 regarding baseline conditions.

Response to Comment 5.2b

The commenter states an opinion that the project description in the Draft IS-MND is deficient because it does not state that the proposed use is "not permitted or conditionally permitted by either the Specific Plan or zoning," and that the project requires a Specific Plan amendment. This comment is similar to comments 5.40 through 5.44. See responses 5.40, 5.41, 5.42, 5.43, and 5.44.

Response to Comment 5.3

The commenter states an opinion that future potential uses of the existing NVTA facilities that would be replaced by the proposed project and thus no longer needed for NVTA's bus maintenance activities must be analyzed in the IS-MND. NVTA does not own the parcels on which NVTA's bus maintenance activities are conducted, and therefore does not have plans for future use of the existing properties currently used for bus maintenance, nor is it aware of any proposed uses for the property. Analysis of a new use on those sites would be speculative, and such speculation is discouraged in the CEQA statute (e.g. sections 21080, 21082) and Guidelines (e.g. sections 15145, 15384).

Response to Comment 5.4

The commenter states that the project description in the Draft IS-MND does not provide information on the number of trees that would be removed or the nature of the existing grassland condition of the site. No trees would be removed. Section 9, *Project Description*, has been revised as follows:

A 35-foot buffer from the top of the bank of Sheehy Creek, which borders the site to the south and east, would be maintained; no disturbance or development is proposed within the buffer. This buffer area is also governed by a conservation easement deeded to the County of Napa in 2006. No trees are located within the area proposed for disturbance/development, and no trees would be removed as part of the project. The proposed site plan is shown on Figure 3.

The commenter also states an opinion that the project description does not describe the existing vegetative conditions on the site. Existing conditions are not part of the project description, and therefore do not belong in that section. Existing project site conditions, including vegetation, are discussed in Item 10, *Environmental Setting and Surrounding Land Uses*, of the introductory sections to the IS-MND. No further revisions to the IS-MND are warranted.

Response to Comment 5.5

The commenter states an opinion that the project description fails to describe the extent of proposed grading, and that failing to include this information in the project description is a “fatally deficient flaw.”

The project site is generally flat; therefore, grading would only be necessary to even out minor variations in the site surface and prepare the surface for drainage, paving and foundations. Grading is assumed to occur over the entire proposed development/disturbance area of the site. While it is not appropriate to include a detailed description of the extent of proposed grading in the project description (see response 5.2a), the related impacts of the anticipated grading are appropriately discussed in their respective sections of the Draft IS-MND, including the discussions regarding air quality, greenhouse gas emissions, hydrology and water quality, geology/soils and noise.

As discussed therein, impacts would be less than significant or mitigable to less than significant levels through identified mitigation measures. CalEEMod was used to model the air quality emissions for construction of the project. CalEEMod assumes that a grader with a 12-foot wide blade is used, as well as other construction equipment (please see Appendix A, Air Quality Modeling Results, for construction equipment assumptions). The grading construction phase was assumed to last 15 days for this project; this number was determined by using CalEEMod default values in the absence of detailed project-specific information. As shown in the CalEEMod results, included as Appendix A to the IS-MND, the total grading area accounted for was 7.5 acres. CalEEMod includes the assumption that some areas of a site would require multiple passes with the grader to achieve a level site. Therefore, the 4.35-acre site would be graded 1.7 times.

For the noise analysis (Section 12, *Noise*, of the Draft IS-MND), it was assumed that the equipment required to construct the project would work up to the edge of the project area. This would be the maximum-impact scenario because it would generate the loudest noise at surrounding properties. For this project, the IS-MND uses the nearest receptor (an industrial facility) at 75 feet from the project boundary and then discusses the typical maximum noise level, in Lmax (dBA), at 75 feet. This would account for construction equipment, including graders, operating at the edge of the project site. Impacts would be less than significant with mitigation identified in the Draft IS-MND.

Response to Comment 5.6

The commenter states that the project description does not mention the approved Napa Lifestyle Resort project that was proposed north of the project site. This is appropriate, as the resort project is not part

of the proposed project and thus would not be described in the project description for the proposed project.

The commenter further states that the IS-MND did not include any mention of or analysis of impacts on the resort, or include discussion in the cumulative project impact analysis. Because the project is currently approved, and the Napa County determined that the Resort project also has been “used” through the commencement of construction and other advancements in the Resort project, the commenter claims that it must be included in the proposed project’s existing baseline.

As discussed in CEQA Guidelines Section 15125, CEQA considers the environmental setting for a project to consist of “the physical environmental conditions in the vicinity of the project, *as they exist at the time the notice of preparation is published*, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant” [emphasis added]. Therefore, the IS-MND appropriately does not analyze impacts to development or land uses that do not currently exist. The Draft IS-MND impact analysis uses a baseline that includes existing land uses and development in the area.

Regarding cumulative impacts, as described on Page 15 of Appendix E (the traffic impact study for the project), the resort’s vehicle trip generation was included in the background conditions analysis for traffic impacts and, as a result, was also accounted for in the air quality and noise analyses.

Response to Comment 5.7

The commenter states that preparation of an EIR is required where a project may result in a significant impact, quotes related Public Resources Code sections, and discusses the “fair argument” standard for assessing challenges to IS-MNDs. These comments are noted. CEQA Guidelines Section 15064 states that an EIR is required if “there is substantial evidence [...] that a project would have a significant effect on the environment.” The Draft IS-MND prepared for the project found that all impacts would either be less than significant or could be reduced to a less than significant level through the implementation of mitigation measures. Therefore, preparation of an EIR is not required.

The commenter goes on to provide an unsubstantiated opinion that the use of the automobile repair facility land use in the CalEEMod emissions model underestimated emissions because it is not the same as a bus maintenance facility.

The air quality analysis completed for the project found that construction and operational emissions would be below the applicable BAAQMD thresholds and that impacts would be less than significant. The emissions modeling used the land use classification of automobile repair facility because it is the one available in CalEEMod that most closely resembles the bus maintenance facility. The construction of an auto repair facility and the construction of the proposed bus maintenance facility would use generally the same types of construction equipment. For operational emissions, the traffic mix (which determines the type of vehicles that would travel to and from the facility) was adjusted to match the type of vehicles that currently drive to and from the existing bus maintenance facility. The number of public buses was increased and the number of personal vehicles was decreased over the typical default amounts used in CalEEMod. The traffic mix used is shown in Table 4.4 in Appendix A to the Draft IS-MND. This accounts for the main difference between the bus maintenance facility and the auto repair facility. An auto repair facility and the proposed bus maintenance facility would utilize generally similar types of equipment on site, such as hydraulic vehicle lifts, and would therefore have similar levels of emissions from operations. The analysis in Section 3, *Air Quality*, of the Draft IS-MND identified emissions levels below significance thresholds; impacts would be less than significant.

Response to Comment 5.8

The commenter states an opinion that the Draft IS-MND is inconsistent with the number of buses that could use the facility and thus underestimates impacts. The number of bus trips used in the air quality analysis and in the traffic analysis is based on the traffic study prepared for the project (Appendix E to the Draft IS-MND). The traffic study estimates 345 daily trips (inbound and outbound). This includes support vehicles, personal employee vehicles and the current fleet of 80 buses plus a 10% increase for future expanded services. Although the site would accommodate 93 buses, the study did not assume that every space would be used in the future.

Of these 345 trips, the report does not break down how many are buses and how many are other vehicles. It is also possible that future operations would have a few buses in reserve or in for maintenance where they are parked on site and not being driven. The study states that the trip generation estimate was based on the following:

- A review of daily staffing schedules, bus schedules and interviews with facility staff.
- Many of the bus operators and support staff would be anticipated to arrive/depart from the project site during periods that are beyond the AM or PM peak hours.
- Although the proposed project would be significantly larger than the current facility, the size of the proposed project would not have a significant change on the bus operations and staffing.
- To account for the effect of buses on the study area traffic stream, a heavy vehicle adjustment factor was applied to convert bus trips to passenger vehicle trips. The effect of heavy vehicles on traffic flow is typically accounted for through the use of passenger car equivalency (PCE) factors. These factors are intended to approximate the effect of heavy vehicles and are expressed as multiples of an average passenger car. As such, PCE factor of 2.0 was applied for every project bus trip to approximate the relative impact to surrounding traffic streams as passenger car units.
- Also, to incorporate the possibility of future growth in operations, namely adding bus routes and support staff, an increase of 10 percent was added to the trip estimates to determine the final trip generation estimate.

The air quality analysis used the trip generation from the traffic study in the CalEEMod modeling that was completed for the project (please see Appendix A, Air Quality Modeling Results, for model inputs). Even though the traffic analysis used passenger car equivalents (PCEs), the air quality analysis utilized the trips for the buses themselves to ensure that the correct emissions factors were being represented. The analysis in Section 3, *Air Quality*, of the Draft IS-MND identified emissions levels below significance thresholds; impacts would be less than significant.

Response to Comment 5.9

The commenter states an opinion that the Draft IS-MND is incorrect in the assumption that the closest sensitive receptor is a residence 0.5 miles northeast of the site and instead should have used the unbuilt resort project as a sensitive receptor, and therefore underestimates project impacts. This opinion is clearly erroneous.

See Response 5.6 for a discussion of the baseline used in the Draft IS-MND and why the previously approved but not yet constructed resort project was not considered an existing sensitive receptor. In addition, the resort would not be considered a sensitive receptor for air quality impact analysis, including health risk analysis. The California Air Resources Board's (ARB) *Air Quality and Land Use Handbook* (2005) defines sensitive individuals and land uses as follows:

Sensitive individuals refer to those segments of the population most susceptible to poor air quality (i.e., children, the elderly, and those with pre-existing serious health problems affected by air quality). Land uses where sensitive individuals are most likely to spend time include schools

and schoolyards, parks and playgrounds, daycare centers, nursing homes, hospitals, and residential communities (sensitive sites or sensitive land uses).

The resort that could potentially be constructed near the project site at an unidentified future time is not a land use that ARB identifies as a sensitive receptor. It is also not a land use where individuals would spend an extended period of time, such as a school or residence. Resort guests would not be exposed to substantial pollutant concentrations that could result in cancer or chronic health risks because those risks are long-term in nature. As discussed in Section 3, *Air Quality*, of the Draft IS-MND, impacts related to air quality would be less than significant.

Response to Comment 5.10

The commenter states an opinion that a Health Risk Assessment (HRA) should be prepared to evaluate the project’s impacts to the approved, but not yet constructed resort. See responses 5.6 and 5.9.

Response to Comment 5.11

The commenter reiterates their opinion that the unbuilt resort should be considered as the nearest sensitive receptor for air quality analysis. See responses 5.6 and 5.9.

Response to Comment 5.12

The commenter states an opinion that the Draft IS-MND did not adequately address cumulative impacts. The commenter states that the EIR prepared for the resort project found that construction impacts from that proposed project were potentially significant and required mitigation.

Please refer to Response to Comment 5.6 above for a discussion of cumulative impacts as analyzed in the Draft IS-MND. Additionally, the BAAQMD 2010 CEQA Air Quality Guidelines states, “By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. Instead, a project’s individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project’s contribution to the cumulative impact is considerable, then the project’s impact on air quality would be considered significant.” Therefore, since the project’s emissions would be less than significant, then the cumulative impacts would be less than significant.

The EIRs prepared for the unbuilt resort project did find that, without mitigation, construction impacts would be potentially significant. The mitigation that the EIRs required were for dust management including watering exposed dirt twice per day, sweeping paved areas, and using soil stabilizers. The modeling completed for the proposed NVTA project assumed compliance with BAAQMD Rule 6-1-301 which places limitations on visible emissions which includes dust generated by construction. Even without compliance with this rule, the emissions from construction of the project would be less than significant, as shown in the table below.

Unmitigated Construction Emissions (total pounds/day)

	Emissions (lbs/day)					
	ROG	NO_x	CO	PM₁₀	PM_{2.5}	SO_x
Maximum Daily Emissions	10.5	45.7	37.2	20.6	12.2	<0.1
BAAQMD Thresholds	54	54	N/A	82	54	N/A
Threshold Exceeded?	No	No	N/A	No	No	N/A

a See Table 2.1 “Overall Construction-unmitigated” of Winter emissions CalEEMod worksheets in Appendix A of the IS-MND.
N/A = not applicable; no BAAQMD threshold for CO or SO_x

As discussed in Section 3, *Air Quality*, of the Draft IS-MND, impacts related to air quality from project construction would be less than significant.

Response to Comment 5.13

The commenter states an opinion that project construction and operational activities would result in potentially significant impacts on biological resources. This comment is a general introduction to the specific comments related to biological resources that follow it. Please see responses 5.14 through 5.19 and 5.31 through 5.44. As discussed in the Draft IS-MND, potentially significant impacts associated with the proposed project could be reduced to less than significant levels with incorporation of the identified mitigation measures.

Response to Comment 5.14

The commenter states an opinion that the Draft IS-MND fails to disclose significant impacts associated with the loss of foraging habitat for Swainson's hawk and provide mitigation as recommended by California Department of Fish and Wildlife (CDFW). CDFW guidelines regarding mitigation for loss of foraging habitat for Swainson's hawk state that "Staff does not recommend requiring mitigation pursuant to CEQA nor a Management Authorization by the Department for infill (within an already urbanized area) projects in areas which have less than 5 acres of foraging habitat and are surrounded by existing urban development, unless the project area is within ¼ mile of an active nest tree." The project site is located in a largely developed or cleared/maintained area and would occupy approximately 4.88, acres which is less than 5 acres. Additionally, the non-native grassland only provides marginal foraging habitat for Swainson's hawk and there are no known Swainson's hawk nests within ¼ mile of the project site. As discussed in the Draft IS-MND in Section 4, *Biological Resources*, impacts related to species and habitat would be less than significant with implementation of the identified mitigation measures. No changes to the IS-MND are warranted.

Response to Comment 5.15

The commenter states an opinion that the Draft IS-MND does not provide adequate mitigation for potential impacts to nesting Swainson's hawks. Mitigation Measure BIO-1, Nesting Birds, has been revised to include a 0.25 mile buffer for nesting pre-construction survey. The revised language in BIO-1 is as follows:

"The nesting bird pre-construction survey shall be conducted on foot inside the project boundary, including a 300-foot buffer (500-foot for raptors and 0.25 mile buffer for Swainson's hawk), and in inaccessible areas (e.g., private lands) from afar using binoculars to the extent practical."

Impacts would continue to be less than significant with implementation of the identified mitigation measures, as concluded in the Draft IS-MND.

Response to Comment 5.16

The commenter states an opinion that the Draft IS-MND did not disclose potentially significant impacts to California red-legged frog.

The potential for impacts to California red-legged frog are discussed in Section 4, *Biological Resources*, subsection "a". The section discusses that Sheehy Creek and surrounding riparian area offers suitable habitat for the California red-legged frog. The section further describes that the species was not observed onsite and there is a known predator of the species onsite, American bullfrog. Additionally, as noted in the IS-MND, USFWS staff considers it unlikely that Sheehy Creek is currently occupied by California red-legged frog. The project has also been designed to avoid Sheehy Creek and associated riparian areas, including the 35-foot buffer between the creek and paved portions of the project.

The following revisions have been made in the Final IS-MND to clarify impacts discussed in the Natural Environment Study (NES), Appendix B of the IS-MND.

The upland area north of Sheehy Creek is adequate migratory habitat for California red-legged frog; however, as discussed in the NES, the USFWS considers it unlikely that Sheehy Creek is currently occupied by California red-legged frog (L. Goude, personal communication, May 23, 2016). The conversion of the upland non-native grasslands for industrial use has the potential impacts to CRLF if individuals were present at the time of construction activity. Although these species may be present within Sheehy Creek, the proposed project is designed to avoid Sheehy Creek and associated riparian areas (including a County code-specified buffer zone of 35 feet minimum between the creek and the paved portions of the proposed project); Because CRLF are considered unlikely to be present in Sheehy Creek, and because the adjacent land on the project would only function as migratory habitat if the species were present in Sheehy Creek, the potential for project activity to impact California red-legged frog is low. therefore, Nevertheless, Mitigation Measure BIO-4 is recommended to further reduce the less-than-significant impact. There would be no project related impacts to any of these species California freshwater shrimp and Western pond turtle.

The mitigation measure below, BIO-4, California Red-legged Frog Avoidance and Minimization, is added as a clarification to avoid any take of California red-legged frog though they are not expected to be present at the project site. Please note, previous Mitigation Measures BIO-4 and BIO-5 have been renumbered to BIO-5 and BIO-6.

BIO-4 *Recommended Measure California Red-legged Frog Avoidance and Minimization.* To ensure no impacts to California red-legged frog, the following avoidance and minimization efforts are drawn from the Programmatic Biological Opinion for Issuance of Permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including authorizations Under 22 Nationwide Permits, for Projects that May Affect the Threatened California Red-Legged Frog in Nine San Francisco Bay Area Counties, California and are recommended:

- A Service-approved biologist(s) will be onsite during all activities that may result in take of the California red-legged frog. The qualifications of the biologist(s) will be submitted to the Service for review and written approval at least thirty (30) calendar days prior to the date earthmoving is initiated at the project site. The Service-approved biologist(s) will keep a copy of this programmatic biological opinion and the appendage in their possession when onsite.
- No more than twenty-four (24) hours prior to the date of initial ground disturbance, a preconstruction survey for the California red-legged frog will be conducted by a Service-approved biologist at the project site. The survey will consist of walking the project limits and within the project site to ascertain the possible presence of the species. The Service-approved biologist will investigate all potential areas that could be used by the California red-legged frog for feeding, breeding, sheltering, movement, and other essential behaviors. This includes an adequate examination of mammal burrows, such as California ground squirrels or gophers. If any adults, subadults, juveniles, tadpoles, or eggs are found, the Service-approved biologist will contact the Service to determine if moving any of the individuals is appropriate. In making this determination the Service will consider if an appropriate relocation site exists. If the Service approves moving animals, the Corps through the applicant will ensure the Service approved biologist is given sufficient time to move the animals from the work site before ground disturbance is initiated. Only Service-approved biologists will capture, handle, and monitor the California red-legged frog.

- The Service-approved biologist(s) will be given the authority to freely communicate verbally, by telephone, electronic mail, or in writing at any time with construction personnel, any other person(s) at the project site, otherwise associated with the project, the Service, the Department, or their designated agents. The Service-approved biologist will have oversight over implementation of all the conservation measures in this programmatic biological opinion, and, through the applicant, will have the authority and responsibility to stop project activities if they determine any of the associated requirements are not being fulfilled. If the Service approved biologist(s) exercises this authority, the Service will be notified by telephone and electronic mail within twenty-four (24) hours. The Service contact is the Coast Bay Foothills Division Chief of the Endangered Species Program at the Sacramento Fish and Wildlife Office at telephone (916) 414-6600.
- The Service-approved biologist will conduct employee education training for employees working on earthmoving and/or construction activities. Personnel will be required to attend the presentation which will describe the California redlegged-frog, avoidance, minimization, and conservation measures, legal protection of the animal, and other related issues. All attendees will sign an attendance sheet along with their printed name, company or agency, email address, and telephone number. The original sign-in sheet will be sent to the Service within seven (7) calendar days of the completion of the training.
- The applicant will minimize adverse effects to the California red-legged frog by limiting, to the maximum extent possible, the number of access routes, construction areas, equipment staging, storage, parking, and stockpile areas. Prior to the date of initial ground disturbance at the project site, equipment staging areas, site access routes, construction equipment and personnel parking areas, debris storage areas, and any other areas that may be disturbed will be identified, surveyed by the Service-approved biologist, and clearly identified with 5-foot tall bright orange plastic fencing. The fencing will be inspected by the Service approved biologist and maintained daily by the applicant until the last day that construction equipment are at the project.
- To the extent practicable, initial ground-disturbing activities will be avoided between November 1 and March 31 because that is the time period when California red-legged frogs are most likely to be moving through upland areas. When ground-disturbing activities must take place between November 1 and March 31, the Corps through the applicant will ensure that daily monitoring by the Service-approved biologist is completed for the California red-legged frog.
- To minimize harassment, injury death, and harm in the form of temporary habitat disturbances, all project-related vehicle traffic will be restricted to established roads, construction areas, equipment staging, storage, parking, and stockpile areas. These areas will be included in pre-construction surveys and, to the maximum extent possible, established in locations disturbed by previous activities to prevent further adverse effects. Project-related vehicles will observe a 20-mile per hour speed limit within construction areas, except on County roads, and State and Federal highways. Off-road traffic outside of designated and fenced project work areas will be prohibited.
- The Corps through the applicant will ensure bio-swales and bio-filtration are installed at the project site adjacent to roadways to avoid and minimize sediment loading and point source pollutants.
- Stormwater pollution prevention plans (SWPPPs) and erosion control BMPs will be developed and implemented to minimize any wind- or water-related erosion and will be in compliance with the requirements of the Corps. The applicant will include provisions in construction contracts for measures to protect sensitive areas and prevent and

minimize stormwater and non-stormwater discharges. Protective measures will include, at a minimum, those listed below:

- a) No discharge of pollutants from vehicle or equipment cleaning will be allowed into any storm drains or water courses.
 - b) Vehicle and equipment fueling and maintenance operations will be at least 50 feet away from water courses, except at established commercial gas stations or established vehicle maintenance facilities.
 - c) Concrete waste and water from curing operations will be collected in washouts and will be disposed of and not allowed into water courses.
 - d) Spill containment kits will be maintained onsite at all times during construction operations and/or staging or fueling of equipment.
 - e) Dust control measures will include use of water trucks and organic tackifiers to control dust in excavation-and-fill areas, covering temporary access road entrances and exits with rock (rocking), and covering of temporary stockpiles when weather conditions require.
- The applicant will maintain all construction equipment to prevent leaks of fuels, lubricants, or other fluids.
 - Each encounter with the California red-legged frog will be treated on a case by case basis in coordination with the Service, but the general procedure is as follows: (1) the animal will not be disturbed if it is not in danger; or (2) the animal will be moved to a secure location if it is in any danger. These procedures are further described below:
 - a) When a California red-legged frog is encountered in the action area, all activities which have the potential to result in the harassment, injury, or death of the individual will be immediately halted. The Service-approved biologist will then assess the situation in order to select a course of action that will avoid or minimize adverse effects to the animal. To the maximum extent possible, contact with the frog will be avoided and the applicant will allow it to move out of the potentially hazardous situation to a secure location on its own volition. This procedure applies to situations where a California red-legged frog is encountered while it is moving to another location. It does not apply to animals that are uncovered or otherwise exposed or in areas where there is not sufficient adjacent habitat to support the species should the individual move away from the hazardous location.
 - b) California red-legged frogs that are in danger will be relocated and released by the Service approved biologist outside the construction area within the same riparian area or watershed. If relocation of the frog outside the fence is not feasible (i.e., there are too many individuals observed per day), the biologist will relocate the animals to a Service preapproved location. Prior to the initial ground disturbance, the applicant will obtain approval of the relocation protocol from the Service in the event that a California red-legged frog is encountered and needs to be moved away from the project site. Under no circumstances will a California red-legged frog be released on a site unless the written permission of the landowner has been obtained by the applicant.
 - c) The Service-approved biologist will limit the duration of the handling and captivity of the California red-legged frog to the minimum amount of time necessary to complete the task. If the animal must be held in captivity, it will be kept in a cool, dark, moist, aerated environment, such as a clean and disinfected bucket or plastic container with a damp sponge. The container used for holding or transporting the individual will not contain any standing water.

- d) The applicant will immediately notify the Service once the California redlegged frog and the site is secure. The contact for this situation is the Coast Bay Foothills Division Chief of the Endangered Species Program by email and at telephone (916) 414-6600.
- Uneaten human food and trash attracts crows, ravens, coyotes, and other predators of the California red-legged frog. A litter control program will be instituted at each project site. All workers will ensure their food scraps, paper wrappers, food containers, cans, bottles, and other trash are deposited in covered or closed trash containers. The trash containers will be removed from the project site at the end of each working day.
 - All grindings and asphaltic-concrete waste may be temporally stored within previously disturbed areas absent of habitat and at a minimum of 150 feet from any culvert, pond, creek, stream crossing, or other waterbody. On or before the date of project completion, the waste will be transported to an approved disposal site.
 - Loss of soil from run-off or erosion will be prevented with straw bales, straw wattles, or similar means provided they do not entangle, block escape or dispersal routes of the California red-legged frog.
 - The applicant will not apply insecticides or herbicides at the project site during construction or long-term operational maintenance where there is the potential for these chemical agents to enter creeks, streams, waterbodies, or uplands that contain potential habitat for the California red-legged frog.
 - No pets will be permitted at the project site, to avoid and minimize the potential for harassment, injury and death of the California red-legged frog.
 - No firearms will be allowed at the project site except for those carried by authorized security personnel, or local, State, or Federal law enforcement officials to avoid and minimize the potential for harassment, injury and death of the California red-legged frog.
 - For onsite storage of pipes, conduits and other materials that could provide shelter for California red-legged frogs, an open-top trailer will be used to elevate the materials above ground. This is intended to reduce the potential for animals to climb into the conduits and other materials.
 - To the maximum extent practicable, no construction activities will occur during rain events or within 24-hours following a rain event. Prior to construction activities resuming, a Service-approved biologist will inspect the action area and all equipment/materials for the presence of California red-legged frogs. The animals will be allowed to move away from the project site of their own volition or moved by the service-approved biologist.
 - To the maximum extent practicable, night-time construction will be minimized or avoided by the applicant. Because dusk and dawn are often the times when the California red-legged frog is most actively moving and foraging, to the maximum extent practicable, earthmoving and construction activities will cease no less than 30 minutes before sunset and will not begin again prior to no less than 30 minutes after sunrise. Except when necessary for driver or pedestrian safety, to the maximum extent practicable, artificial lighting at a project site will be prohibited during the hours of darkness.
 - Dust control measures will be implemented during construction, or when necessary in the opinion of the Service-approved biologist, Service, California Department of Fish and Wildlife, or their authorized agent. These measures will consist of regular truck watering of construction access areas and disturbed soil areas with water or organic soil stabilizers to minimize airborne dust and soil particles generated from graded areas. Regular truck

watering will be a requirement of the construction contract. Watering guidelines for truck watering will be established to avoid any excessive run-off that may flow into contiguous or adjacent areas containing potential habitat for the California red-legged frog.

- Trenches or pits one (1) foot or deeper that are going to be left unfilled for more than forty eight (48) hours will be securely covered with boards or other material to prevent the California red-legged frog from falling into them. If this is not possible, the applicant will ensure wooden ramps or other structures of suitable surface that provide adequate footing for the California red-legged frog are placed in the trench or pit to allow for their unaided escape. Auger holes or fence post holes that are greater than 0.10 inch in diameter will be immediately filled or securely covered so they do not become pitfall traps for the California red-legged frog. The Service-approved biologist will inspect the trenches, pits, or holes prior to their being filled to ensure there are no California red-legged frogs in them. The trench, pit, or hole also will be examined by the Service-approved biologist each workday morning at least one hour prior to initiation of work and in the late afternoon no more than one hour after work has ceased to ascertain whether any individuals have become trapped. If the escape ramps fail to allow the animal to escape, the Service-approved biologist will remove and transport it to a safe location, or contact the Service for guidance.

Impacts would be less than significant with implementation of the identified mitigation measures, as concluded in the Draft IS-MND.

Response to Comment 5.17

The commenter states an opinion that the IS-MND does not adequately address impacts to special-status plant species and “misrepresents” the reconnaissance survey as being a “full floristic survey.” Please see Response 5.35.

Response to Comment 5.18

The commenter states an opinion that the IS-MND does not provide an evaluation of indirect impact to sensitive biological resources that could occur to the adjacent creek and riparian habitat.

This unsubstantiated opinion ignores Section 4, *Biological Resources*, sub-section “b,” which discusses impacts that could occur to Sheehy Creek and the riparian habitat adjacent to the project. This section identifies that riparian habitat would not be affected by construction activities due to the 35 foot buffer adjacent to Sheehy Creek and that construction would be located completely outside of the riparian dripline.

The section also identifies potentially significant indirect impacts to Sheehy Creek from facility construction and operations resulting in stormwater or operational runoff entering the creek. The IS-MND discusses the project’s requirement to comply with Section 402 of the Clean Water Act through a General Construction Permit under the National Pollutant Discharge Elimination System and a Stormwater Pollution Prevention Plan. Additionally, mitigation measure BIO-4 would reduce impacts from runoff to a less than significant level.

The section also identifies a potentially significant indirect impact from the potential for spread of invasive species through disturbance caused by the project. Mitigation measure BIO-5, Removal of Invasive Species, reduces this impact to a less than significant level.

As discussed in the Draft IS-MND in Section 4, *Biological Resources*, impacts would be less than significant with implementation of the identified mitigation measures.

Response to Comment 5.19

The commenter states an opinion that IS-MND does not provide a complete evaluation of cumulative impacts to biological resources from the permitted resort and golf course property directly adjacent to the north of the project, and lists 16 specific impacts from the project or adjacent golf course project. The 16 impacts are:

- **Impact to woodland and riparian communities.** The commenter states an opinion that significant impacts to mixed riparian and willow riparian communities could occur during construction activities as a result of trampling of vegetation, staging of equipment, placement of materials, and or dumping of debris. The IS-MND did not identify any direct impacts, which would include trampling of vegetation, staging of equipment, placement of materials, and or dumping of debris, to woodland or riparian communities. The project has been designed to avoid impacts to Sheehy Creek with the project design and construction activity being located outside of the riparian drip line. Mitigation measures HYD-1 and HYD-2 would address indirect impacts to the riparian corridor related to stormwater runoff and water quality. Additionally, construction activity is further constricted by a County code-specified buffer zone of 35 feet between Sheehy Creek and paved portions of the proposed project. As the project would not result in impacts on woodland or riparian communities, and the incremental effect would be less than significant, the project would not have a cumulatively considerable contribution to impacts on these communities. No revisions to the IS-MND are warranted.
- **Construction-related impacts to downslope wetlands due to intrusion.** The commenter states an opinion that significant impacts to wetland communities downslope of the grading envelope could occur during construction. The IS-MND identifies less than significant project-level impacts on wetlands. As discussed in the IS-MND, the project has been designed to avoid direct impacts to USACE, CDFW and RWQCB jurisdictional areas, and Napa County code requires a minimum 35-foot setback from Sheehy Creek. Mitigation measures HYD-1 and HYD-2 would address indirect impacts to the riparian corridor related to stormwater runoff and water quality. Additionally, the project would also not result in the discharge of dredged or fill material below the ordinary high water mark of Sheehy Creek or any other wetlands. As described in Response 5.18, above, NVTA would be required to complete a General Construction Permit under the NPDES to reduce construction stormwater effects. As the project would not result in impacts on wetlands due to intrusion, and the incremental effect would be less than significant, the project would not have a cumulatively considerable contribution to impacts on wetlands. No revisions to the IS-MND are warranted.
- **Construction-related impacts to riparian habitat due to intrusion.** The commenter states an opinion that significant impacts to the mixed riparian woodland and willow riparian communities could occur during construction. The IS-MND identified no impacts on riparian habitat due to the 35 foot buffer between Sheehy Creek and the paved portions of the project. All construction activity would be located outside of the riparian dripline. Mitigation measures HYD-1 and HYD-2 would address indirect impacts to the riparian corridor related to stormwater runoff and water quality. As there would be no project level impacts on riparian habitat due to intrusion from construction activities, and the incremental effect would be less than significant, the project would not have a cumulatively considerable contribution to such an impact. No revisions to the IS-MND are warranted.
- **Long-term operation-related impacts to riparian habitat due to intrusion.** The commenter states an opinion that significant impacts to the mixed riparian woodland and willow riparian communities could occur after project development as a result of trampling of vegetation by pedestrians and/or golfers and automobiles and/or golf carts accessing the areas near Suscol Creek. The proposed project is not located near Suscol Creek and the project involves the development of a bus maintenance facility and would not involve any golfing that could generate trampling in riparian areas. Mitigation measures HYD-1 and HYD-2 would address indirect impacts to the riparian corridor

related to stormwater runoff and water quality. Additionally, the IS-MND identified no impacts on riparian habitat due to the 35 foot buffer between Sheehy Creek and the paved portions of the project. All project operations would be located outside of the riparian dripline. As there would be no project-level impacts on riparian habitat due to intrusion from project operations, and the incremental effect would be less than significant, the project would not have a cumulatively considerable contribution to such an impact. No revisions to the IS-MND are warranted.

- **Long-term operation-related impacts to downslope wetlands due to intrusion.** The commenter states an opinion that the impacts to wetland communities including (brackish marsh, freshwater marsh, drainage swales, and seasonal wetlands) could occur downslope of the grading envelope from trampling of vegetation and intrusion by golfers and equipment. The project involves the development of a bus maintenance facility and would not involve any golfing that could generate trampling in riparian areas. Additionally, paved portions of the project would be located outside of a 35 foot buffer from Sheehy Creek. Mitigation measures HYD-1 and HYD-2 would address indirect impacts to the riparian corridor related to stormwater runoff and water quality. As noted in the project description, no disturbance or development is proposed within the buffer. The project would not result in significant project-level or cumulative impacts related to intrusion on wetlands; and the incremental effect would be less than significant. No revisions to the IS-MND are warranted.
- **Construction-related drainage impacts to special-status species occupying aquatic habitats.** The commenter states an opinion that significant impacts to aquatic animals associated with wetlands may result from decreased water quality due to contaminated and or sediment laden runoff originating from construction areas. The IS-MND identified mitigation measures BIO-5, HYD-1, and HYD-2 to address potential project-level impacts from runoff during construction and operation. A cumulative impact to water quality could occur if there were multiple construction projects occurring adjacent to Sheehy Creek in the same timeframe. However, mitigation measures BIO-5, HYD-1, and HYD-2 would reduce the projects contribution to a cumulative impact to a less than significant level.

As discussed in Response 5.16, the IS-MND has been revised to clarify project-level impacts to CRLF. CRLF are considered unlikely to be present in Sheehy Creek. Mitigation measure BIO-4 has been added as clarification to avoid any take of CRLF though they are not expected to be present at the project site. As CRLF are not expected to be present at the site and mitigation measures BIO-5, HYD-1, and HYD-2 would reduce project-level impacts to a less than significant level, construction impacts are temporary and would not have a cumulatively considerable effect, and the project would not have a cumulatively considerable contribution to impacts on CRLF.

Section 18, *Mandatory Finding of Significance*, of the IS-MND has been revised to clarify that Mitigation Measure BIO-5 would address cumulative impacts as well as project-level impacts as follows:

Cumulative impacts have been addressed above for all relevant resources areas, including Aesthetics (light), Air Quality, Biological Resources, Greenhouse Gases, Hydrology and Water Quality, Noise, Transportation/ Traffic, and Utilities and Services.

The mitigation measures related to the resources areas that may involve cumulative impacts are listed below for reference.

- AES-1 Light Pollution and Glare
- BIO-5 Setback Requirements
- HYD- 1 Bus Maintenance Facility Runoff Prevention
- HYD-2 Design-level Drainage Analysis and Minimization of Runoff

- **Long-term operational drainage impacts to special-status species occupying aquatic habitats.** The commenter states an opinion that significant impacts to special-status fish and aquatic animals associated with wetlands and the riparian habitats associated with Suscol Creek may result from decreased water quality due to contaminated runoff originating from the Project. The proposed project is not located near Suscol Creek. Additionally, mitigation measures BIO-5, HYD-1, and HYD-2 described above in “Construction-related drainage impacts to special-status species occupying aquatic habitats” would also apply to operation of the project. No further revisions to the IS-MND are necessary.
- **Impacts to freshwater marsh occupying species.** The commenter states an opinion that special-status bird species potentially associated with the freshwater marsh community could be significantly temporarily impacted by adjacent construction disturbance of potential habitat and nesting areas. Tri-colored blackbird, ferruginous hawk, and white-tailed kite are species identified by the NES prepared for the project, Appendix B of the IS-MND, that are potentially associated with freshwater marsh communities. The NES did not identify any freshwater marshes in the study area. Further, Mitigation Measure BIO-1, Nesting Birds, would mitigate impacts to nest of these species to a less than significant level. As there are no marshes located in the study area, the project would not have any impacts on marshes. Disturbance of nesting birds is a temporary impact. Therefore, there would be no significant cumulative impact to nesting birds from the project or build out of adjacent areas.
- **Construction-related impacts to northwestern pond turtle.** The commenter states an opinion that significant impacts to the northwestern pond turtle may occur due to removal of the habitat, if the species is determined to be breeding on the project site. The IS-MND identified no project level impacts to western pond turtle, which can be referred to as northwestern pond turtle in study area. The project is designed to avoid Sheehy Creek and associated riparian areas including a 35 foot buffer between the creek and the paved portions of the project. As there would be no project-level impacts on western pond turtle due to construction, and the incremental effect would be less than significant, the project would not have a cumulatively considerable contribution to such an impact. No revisions to the IS-MND are warranted.
- **Permanent tree removal.** The commenter states an opinion that significant impacts may result from the permanent removal of trees located in the grading envelope. As described in Response to Comment 5.4, no trees are located within the area proposed for disturbance/development, and no trees would be removed as part of the project. Therefore, the project would have no contribution to a cumulative impact on permanent tree removal. No revisions to the IS-MND are warranted.
- **Construction-related disturbance to remaining oak trees.** The commenter states an opinion that during construction and implementation of the project, damage to oak trees could occur. The only oak trees located on the project site are located in the riparian area. See the NES prepared for the IS-MND including as Appendix B. As described in the IS-MND, a 35 foot buffer from Sheehy Creek and all construction activities would be located outside the riparian drip line. No impacts to oak trees would occur. Therefore, the project would have no contribution to a cumulative impact on oak trees. No revisions to the IS-MND are warranted.
- **Removal/disturbance of active nests of colonial nesting birds.** The commenter states an opinion that removal of trees may result in significant impacts to colonial nesting birds. The IS-MND identified project-level potential impacts to resident and migratory species during project construction. No trees are proposed for removal as part of the project. However,

bird nests could be disturbed in the adjacent riparian areas from construction activities, including noise and vibrations. These impacts would be mitigated to a less than significant level through implementation of Mitigation Measure BIO-1, Nesting Birds, and through compliance with the Migratory Bird Treaty Act. Disturbance of nesting birds is a temporary impact. Therefore, there would be no significant cumulative impact to nesting birds from the project or build out of adjacent areas. No revisions to the IS-MND are warranted.

- **Removal/disturbance of active raptor nests.** The commenter states an opinion that raptor nests may be present on the project site and could be impacted by construction activities and permanent removal of trees and grassland. The IS-MND identified project level potential impacts to American peregrine falcon, burrowing owl, Cooper’s hawk, ferruginous hawk, Swainson’s hawk, and white-tailed kites. No trees are proposed for removal as part of the project. However, raptor nests could be disturbed in the adjacent riparian areas from construction activities, including noise and vibrations. These impacts would be mitigated to a less than significant level through implementation of Mitigation Measure BIO-1, Nesting Birds, and through compliance with the Migratory Bird Treaty Act. As described in Response 5.15, revisions to Mitigation Measure BIO-1 have been made to include a 0.25 mile buffer for Swainson’s hawk. Disturbance of raptors nests is a temporary impact. Therefore, there would be no significant cumulative impact to raptors nests from the project or build out of adjacent areas. No revisions to the IS-MND are warranted.
- **Conversion of non-native grassland wildlife habitat.** The commenter states an opinion that conversion of non-native grassland habitat would eliminate a substantial area of cover and a portion of the prey base of many wildlife species. The commenter also notes the impacts of the loss of non-native grassland on Swainson’s hawk. As described in Response 5.14, the IS-MND identified less than significant with mitigation project level impacts from the loss of non-native grassland foraging habitat. The project would not have a cumulatively considerable contribution on the loss of foraging habitat through the conversion of non-native grasslands. As described in Section 4, *Biological Resources*, of the Draft IS-MND, the non-native grassland only provides marginally suitable habitat for Swainson’s hawk. Additionally, the foraging habitat is of lesser importance to raptors at a regional scale due to its small size (4.88 acres), proximately to development and availability of suitable foraging habitat in the area. (The resort project would disturb several hundred acres of open land, in contrast to the project’s 4.88-acres of disturbed land.) Further, the Environmental Impact Report for the Napa Valley Business Park Specific Plan considered the impacts from building in the area, including the project site; thus the adopted Specific Plan already envisions this conversion which was analyzed in the associated EIR. The project would not have any additional effect on the loss of non-native grassland than that already studied in the Environmental Impact Report for Napa Valley Business Park Specific Plan. No revisions to the IS-MND are warranted.
- **Disturbance to active California horned lark nests in grassland community.** The California horned lark is currently on the California Department of Fish and Wildlife Watch List. The NES completed for the IS-MND, and included as Appendix B, did not identify any California horned larks or nests during field surveys. However, the IS-MND did identify project-level potential impacts to resident and migratory species during project construction. These impacts would be mitigated to a less than significant level through implementation of Mitigation Measure BIO-1, Nesting Birds, and through compliance with the Migratory Bird Treaty Act. Disturbance of nesting birds is a temporary impact. Therefore, there would be no significant cumulative impact to nesting birds from the project or build out of adjacent areas. No revisions to the IS-MND are warranted.

- **Disturbance to active bat maternity roosts.** The commenter states an opinion that significant impacts to potentially occurring special-status bats may occur from removal of snags and structures. The project would not remove any trees or structures. No project-level or cumulative impacts to bats would occur. No revisions to the IS-MND are warranted.

Finally, as noted above, the impacts of the resort project, cumulative and otherwise, are not directly comparable, particularly in scale, to those of the proposed Vine Transit Facility. The resort project would involve disturbance of hundreds of acres of open land, while the proposed project would involve disturbance of fewer than five acres.

Response to Comment 5.20

The commenter states an opinion that the greenhouse gas emissions (GHGs) associated with construction and operation of the proposed facility would be potentially significant and were underestimated due to the fact that the vehicle trips were underestimated. Please refer to Response 5.8 for a discussion of the trip generation estimates used in the analysis.

As discussed in Section 7, *Greenhouse Gas Emissions*, of the Draft IS-MND, impacts related to greenhouse gas emissions would be less than significant.

Response to Comment 5.21

The commenter states an opinion that the IS-MND failed to include and analyze the GHG emissions of the unbuilt resort project and include them in the cumulative analysis, and that the combination of the two projects would result in a potentially significant cumulative impact. This opinion is unsubstantiated and clearly erroneous.

Analyses of GHG emissions and climate change are cumulative in nature, as they affect the accumulation of GHGs in the atmosphere. Projects that exceed the thresholds discussed in the IS-MND would have a significant impact on GHG emissions and climate change, both individually and cumulatively. Since the proposed project would not have a significant impact on GHG emissions, it would not result in a cumulatively considerable contribution or significant impact. As discussed in Section 7, *Greenhouse Gas Emissions*, of the Draft IS-MND, impacts related to greenhouse gas emissions would be less than significant.

Response to Comment 5.22

The commenter states an opinion that project construction and operation could have potentially significant impacts on hydrology and water quality. The commenter suggests that the IS-MND failed to adequately address cumulative impacts to water quality by not factoring the resort project impacts into the analysis. Specifically, the commenter states that due to the proximity of the sites and the similar hydrological conditions, there could potentially be impacts to the site and downstream water quality and site erosion and sedimentation due to construction disturbances. The commenter further states that these potential impacts would be exacerbated by the project, which could lead to cumulative water quality and hydrology impacts.

Impacts related to water quality would be managed by individual projects; both projects would be required to meet performance standards for drainage and water quality. The commenter does not provide information or analysis to support an argument that impacts would be significant. Discharge to surface water is regulated through the Clean Water Act which created the National Pollutant Discharge Elimination System (NPDES) permit program, which is controlled by the Environmental Protection Agency. An NPDES permit is typically a license for a facility to discharge a specified amount of a pollutant into a receiving water under certain conditions. An individual permit is a permit specifically tailored to an individual facility. Once a facility submits the appropriate application(s), the permitting authority develops a permit for that particular facility based on the information contained in the permit

application (e.g., type of activity, nature of discharge, receiving water quality). The authority issues the permit to the facility for a specific time period (not to exceed five years) with a requirement that the facility reapply prior to the expiration date. The Regional Water Quality Control Board issues NPDES permits in California. Since permits are tailored to individual sites, they have the opportunity to take into account existing pollution levels in the local body of water as well as the topography of the site and the area as well as the use that is proposed and the uses in the area. As discussed in Section 9, *Hydrology and Water Quality*, the project would be required to obtain a NPDES permit because it would disturb more than one acre. Additionally, the draft IS-MND includes mitigation measures HYD-1, *Bus Maintenance Facility Runoff Prevention*, and HYD-2, *Design-level Drainage Analysis and Minimization of Runoff*, to reduce the potential impacts associated with water quality to reduce impacts to a less than significant level. Since the NPDES permit takes into account development in the area and pollution in the body of water, the requirements would be sufficient to ensure that the pollution levels in the body of water would not exceed thresholds. Therefore, cumulative impacts related to water quality would remain less than significant.

Response to Comment 5.23

This comment is similar to Comment 5.6 and includes elements of subsequent comments. See responses 5.6, 5.9, 5.10, 5.11, 5.12, 5.19 and 5.21.

Response to Comment 5.24

This comment is similar to comment 5.40 through 5.44. See responses 5.40, 5.41, 5.42, 5.43, and 5.44.

Response to Comment 5.25

The commenter makes a Public Records Act request. This comment is noted and NVTA provided a separate initial response to the request on November 21, 2016. The commenter also states an opinion that the project requires an EIR, and threatens to take legal action against NVTA. As discussed throughout the Draft IS-MND, and this response to comments, the project would not result in significant environmental impacts that cannot be mitigated to less than significant levels through implementation of identified mitigation measures. Therefore an EIR is not required.

Response to Comment 5.26

The commenter states concerns about impacts of the proposed project on an unbuilt resort on an adjacent site. As the commenter does not reference specific impacts of the analysis or conclusions of the Draft IS-MND, a specific response is not possible. NVTA will be happy to work with the commenter to address specific concerns they may have, to the extent feasible.

The commenter also opines that the Draft IS-MND does not reference the environmental documentation completed for the resort project. See response 5.6. As discussed throughout the Draft IS-MND, the project would not result in significant environmental impacts that cannot be mitigated to less than significant levels through implementation of identified mitigation measures. Please refer also to responses 5.6, 5.9, 5.10, 5.11, 5.12, 5.19, 5.21, and 5.22.

Response to Comment 5.27

The commenter states an opinion that the trip generation completed for the project is inaccurate and that this inaccuracy makes the air quality analysis that is based on that generation inaccurate as well. This is similar to Comment 5.8. Please refer to Response 5.8 above.

Response to Comment 5.28

The commenter states an opinion that the Draft IS-MND dismisses impacts to sensitive receptors and does not include a localized analysis of construction or operational emissions. The commenter states that

a Health Risk Analysis is required. Please refer to responses 5.6 and 5.9 above for a discussion of this topic.

Response to Comment 5.29

The commenter states an opinion that the same potentially significant air quality impacts that were identified in the Montalcino at Napa EIRs would also occur in connection with the proposed project. The commenter states that these impacts were not considered in the IS-MND. Please see Response 5.12 above for a discussion of the air quality impacts from the resort project and those of the proposed maintenance facility.

Response to Comment 5.30

The commenter states an opinion that the GHG analysis in the Draft IS-MND relies on the traffic impact study's trip generation rates which the commenter believe to be incorrect. Please see Response 5.8 for a discussion of the trip generation rates and how they were derived and used in the IS-MND.

Response to Comment 5.31

The commenter states an opinion that the Draft IS-MND fails to disclose significant impacts associated with loss of Swainson's hawk foraging habitat; impacts to nesting Swainson's hawks; impacts to California red-legged frog and special status plant species; and indirect impacts to sensitive biological resources including Sheehy Creek and riparian habitat. See responses 5.13 through 5.18.

Response to Comment 5.32

The commenter states an opinion that the Draft IS-MND fails to disclose impacts associated with the loss of Swainson's hawk foraging habitat and fails to require mitigation to address the impact. See Response 5.14.

Response to Comment 5.33

The commenter states an opinion that the Draft IS-MND does not provide adequate mitigation for potential impacts to nesting Swainson's hawks. See Response 5.15.

Response to Comment 5.34

The commenter states an opinion that the NES included as Appendix B of the Draft IS-MND indicated the potential for impacts to occur to California red-legged frog should merit required avoidance measures, but that the Draft IS-MND does not disclose any potential impacts to California red-legged frog or provide mitigation measures. See Response 5.16.

Response to Comment 5.35

The commenter states an opinion that the Draft IS-MND dismisses the potential of special-status plant species to occur in the grassland portions of the project site due to the disturbed condition of that area. The commenter further states that suitable habitat may be present for congested-headed hayfield tarplant because the species is found in disturbed areas and Congdon's tarplant could be present due to the presence of alkaline soils. Additionally, the commenter states that the IS-MND incorrectly states that "full floristic surveys were completed."

Table 6, *Special Status Plant Species and Habitats Present*, in the Draft IS-MND in Section 4, *Biological Resources*, discusses the presence or absence of special status species and if suitable habitat is present. For Congdon's tarplant the table indicates that marginal habitat is present at the project site. For congested-headed hayfield tarplant the table indicates that suitable habitat is present within the project site. For both species the table states that there are no recorded occurrences of the species within 1 mile of the project site. As described in the Draft IS-MND, a field survey was completed by a qualified botanist

on May 18, 2016. The survey was completed during the appropriate blooming period for both species when they would have been easily identified. Neither species was present.

As described in the NES, Appendix B of the Draft IS-MND, biological field surveys were completed on May 18, 2016 from 1:40 p.m. to 7:20 p.m. The botanical survey was floristic in nature in that the goal was to identify all plants present on the site at the time of the survey. The potential for special status species to occur on the project site was then evaluated from multiple lines of evidence including survey results, vegetation communities, site conditions, soil types and disturbance history at the site. The survey was conducted on foot throughout the 9.1 acre Biological Study Area. A list of all plant species encountered was generated at the time of the survey and specimens that could not be identified to species in the field were later identified using a stereo dissecting microscope. See Appendix B of the NES for a complete list of species identified. Additionally, survey methods followed the Protocols for Surveying and Evaluation Impacts to Special Status Native Plant Populations, and Natural Communities of one person-hour per eight acres needed for a comprehensive field survey in grassland with medium diversity and moderate terrain (CDFG, 2009). The survey hours for a BSA of 9.1 acres would be 1.13 hours, indicating that an appropriate amount of time was taken to complete a detailed comprehensive survey.

As discussed in the IS-MND in Section 4, *Biological Resources*, impacts to biological resources would be less than significant with the identified mitigation. No changes to the IS-MND are warranted.

Response to Comment 5.36

The commenter states an opinion that special status plants located in the grassland portion of the project site could experience direct impacts and that special status species in the riparian area would experience indirect impacts (e.g., altered hydrology, incidental disturbance) due to the project.

As described in Section 4, *Biological Resources*, subsection “a”, no special status plants were found during the botanical survey. Additionally, the IS-MND further describes that no special status plant species have potential to occur on the portions of the project site located outside of the riparian corridor due to the 20 years of ongoing disturbance in the non-native grassland and the resulting invasive plant communities. See Response to Comment 5.35 for further discussion on special status plants.

Sub-section “b” discusses potential indirect impacts on the riparian habitat including stormwater or operational run-off entering the creek, the introduction of non-native species, and runoff, indirect spray, or splashing produced by the bus wash entering the creek. Mitigation Measure BIO-4, Setback Requirements, is provided to reduce impacts to a less than significant level. Additionally, Section 1, *Aesthetics*, discusses potential impacts to the riparian habitat from light and glare. See Response to Comment 5.38 for more information.

As discussed in Section 4, *Biological Resources*, of the Draft IS-MND, impacts related to biological resources would be less than significant with the identified mitigation. No revisions to the IS-MND are warranted.

Response to Comment 5.37

The commenter states an opinion that the Draft IS-MND fails to evaluate potentially significant impacts that could occur to special-status plant and wildlife species in the adjacent aquatic/riparian habitat. The commenter further suggests that the accidental release of potentially hazardous materials into the creek could result in significant impacts to federally-listed species, western pond turtle, and other aquatic species. The commenter states an opinion that storage of hazardous materials near the creek is ill-advised and is not adequately evaluated in the biological resources section of the Draft IS-MND.

Section 8, *Hazards and Hazardous Materials*, of the Draft IS-MND addresses the use, transport, and storage of hazardous materials in both construction and operation of the project. The use of hazardous materials would be monitored by local (Napa County Environmental Health Division) and State

(Department of Toxic Substances Control) entities. As the Draft IS-MND discussed, the facility would be required to store hazardous materials in designated areas with secondary containment designed to prevent accidental release to the environment. As discussed in Section 4, *Biological Resources*, Section 9, *Hydrology and Water Quality*, and Section 8, *Hazards and Hazardous Materials*, of the Draft IS-MND, impacts related to hazards, water quality and biological resources would be less than significant with the identified mitigation. No revisions to the IS-MND are warranted.

Response to Comment 5.38

The commenter states an opinion that the Draft IS-MND does not include the analysis of potential impacts to wildlife resulting from increased light and glare into the adjacent riparian area.

Section 1, *Aesthetics*, of the Draft IS-MND, subsection “d” discusses the impact of light and glare introduced by the project on the surrounding environment. The section states that “There are no light-sensitive uses such as residences in the vicinity of the site that would be directly affected by light spillover or glare from light fixtures; however, site lighting may be visible from more distant residences, local streets and State Route 29, and wildlife in the creek corridor could also be adversely affected by project lighting.” Mitigation Measure AES-1, Night Lighting, is provided to reduce impacts of light and glare on the surrounding environment, including adjacent habitat, to a less than significant level. A reference to the discussion from Section 1, *Aesthetics*, subsection “d” has been added to Section 4, *Biological Resources*, sub-section “b” as follows:

The proposed project construction footprint has been designed to avoid impacts to Sheehy Creek with the construction activity to occur completely outside of the riparian drip line. All construction activity would be further constrained by a County code-specified buffer zone of 35 feet minimum between the creek and the paved portions of the proposed parking lot and maintenance facility. Therefore, project activity would not encroach upon riparian habitat. Impacts from lighting and glare on the riparian habitat are discussed in Section 1, *Aesthetics*, subsection “d.”

Mitigation measure AES-1, Night Lighting, has been revised to clarify that night lighting shall be designed, shielded, or installed in a manner that would minimize lighting and glare on the riparian habitat adjacent to the project site and Sheehy Creek.

AES-1 **Night Lighting.** The following measures shall be reflected in final building and lighting plans for the proposed facility:

- **Lighting Plans and Specifications.** Final project plans shall include a lighting plan and specifications for all exterior lighting fixtures and light standards. The plans shall include a photometric design study demonstrating that all outdoor light fixtures to be installed are shielded and designed or located in a manner as to contain the direct rays from the lights on-site and to minimize glare perceived from surrounding properties and riparian habitat adjacent to Sheehy Creek. All parking lot lighting shall be shielded and directed downward and away from property lines to the extent feasible while providing adequate safety and security.

As discussed in Section 4, *Biological Resources*, of the Draft IS-MND, impacts related to biological resources would be less than significant with the identified mitigation.

Response to Comment 5.39

The commenter states an opinion that the IS-MND does not include a complete evaluation of cumulative impacts to biological resources including impacts disclosed for the permitted resort and golf course directly adjacent. See Response 5.19.

Response to Comment 5.40

The commenter introduces himself and goes on to introduce the comments that follow. The commenter summarizes the comments to follow, claiming that they show that the Draft IS-MND is inadequate; that the proposed project is not permitted under the existing Napa Valley Business Park Specific Plan and zoning; that impacts would be significant; and that an EIR is required. This comment is a general introduction to the specific comments that follow (Comments 5.41 through 5.44) and are accordingly addressed in the specific responses to Comments 5.41 through 5.44, below.

Response to Comment 5.41

The commenter states an opinion that the proposed project is not compatible with the Napa Valley Business Park Specific Plan and County zoning.

As stated in the IS/MND, the Napa County General Plan designates the two project parcels as “Industrial.” (Napa County General Plan (2009), p.AG/LU-69.) This includes the Industrial Park, Industrial, and General Industrial designations. The proposed project is clearly consistent with this designation in the General Plan, as well as the overall policies of the General Plan. Furthermore, the proposed project is generally consistent with the Airport Land Use Plan.

As the constitution for development in the County, the proposed project must be consistent with Industrial designation set forth in the Napa County General Plan. However, consistency with County zoning and the Napa Valley Business Park Specific Plan (“Specific Plan”) is not required.

As a joint powers agency, formed by the County of Napa and the five cities in the County pursuant to Government Code, §§ 6500 et seq., NVTa enjoys the same exemption from local zoning and building regulations held by the County of Napa. (See *Zack v. Marin Emergency Radio Authority* (2004) 118 Cal.App.4th 617, 628.) Because NVTa is exempt from local zoning requirements, including the Specific Plan, it is not required to apply for or obtain a use permit from the County prior to developing the proposed project.

Despite this, the commenter argues that the proposed project is not consistent with the Industrial Park designation in the Specific Plan because the list of allowable uses in the Industrial Park does not include bus storage and maintenance, and that the proposed project is more appropriate for the General Industrial zoning district. However the commenter ignores the fact that the list of allowable uses in the NVBPSP is not an exclusive list. At Section V.B.2. of the NVBPSP, it states that all uses in the Industrial Park shall require a Use Permit, and that “[p]ossible uses in the Business/Industrial Park areas... include *but are not limited to* the following list:” [emphasis added]. And the final category on the list provides for “[o]ther uses, which in the opinion of the PBES Director, are non-nuisance-causing and similar in character to the above list of uses.” (NVBPSP, § V.B.2.o.)

If the proposed project were subject to the zoning in the NVBPSP and required to obtain a use permit, arguably the PBES Director could determine that the proposed project is non-nuisance-causing and similar in character to the uses listed in the Business/Industrial Park designation, such as a “utility service center combining both administrative and equipment yard functions in one facility” or manufacturing, warehousing, and distributing goods (NVBPSP, § V.B.2., subd. (c) and (m).) Based on the comprehensive study of the environmental impacts of the project on the existing physical environment and mitigation planned, as reflected in the IS/MND, it is clear that the proposed project is non-nuisance-causing and its impacts are substantially similar to those associated with these types of uses.

See also Response 5.42.

Response to Comment 5.42

The commenter states an opinion that the proposed project is not consistent with the zoning designation, and requires a Use permit from the County of Napa which cannot be granted because, in his

opinion, the findings for a Use Permit cannot be made, and therefore the project must obtain a zoning amendment that must be analyzed during environmental review.

Because NVTA is exempt from local zoning requirements, it is not required to apply for or obtain a use permit from the County prior to developing the proposed project. See Response 5.41.

But even if the commenter were correct, and a zoning amendment or use permit was required, it would only require the assessment of the impact of the rezoning, including its potential impact on the existing environment. The proposed project has already met this standard through the preparation of the IS/MND, which already examines all of the potential environmental impacts of such a change on the existing physical environment.

Response to Comment 5.43

The commenter states an opinion that the proposed project is not consistent with the Napa Valley Business Park Specific Plan.

Consistency with the Napa Valley Business Park Specific Plan is not required. See Response 5.41 and 5.42.

Response to Comment 5.44

Based on his foregoing comments, the commenter concludes with an opinion that the project would require a rezone and Specific Plan amendment, and that the Draft IS-MND is inadequate because it does not describe these requirements, and that an EIR is required.

See Responses 5.41 and 5.42.

Response Regarding Attachments to this Letter

Letter 5 includes a number of attachments. Responses to four of these are included above. The remaining attachments provide background and other information related to topics covered in Letter 5, but do not directly address the proposed project or the adequacy, analysis or conclusions of the Draft IS-MND; therefore, additional responses to these informational attachments are not required. These attachments may be viewed by appointment at NVTA offices during regular business hours, and will be forwarded to the NVTA Board for their consideration.

83 Sheehy Court Letterhead
Napa, CA 94558

November 5, 2016

Antonio Onorato, Project Manager
Napa Valley Transportation Authority
625 Burnell Street
Napa, California 94559

Re: Vine Transit Bus Maintenance Facility

Dear Mr. Onorato:

We are the owners of property located at 83 Sheehy Court, adjacent to the proposed Bus Maintenance Facility. We are extremely concerned about the potential impacts of the project on our property, our tenants and on the environment. We have expressed our concerns in meetings with your staff and have suggested that your decision to by-pass the formal public review process and avoid the use permit process is a egregious violation of the public trust. We believe a full discussion of the project at an advertised public hearing is a reasonability that you have as a public agency. We continue to urge you to allow the public to comment on the project itself as well as its potential environmental impacts.

1

Following our review of the draft Initial Study and its conclusions, we believe that it is incomplete and does not fully disclose project details or its direct and cumulative impacts on the environmental. Accordingly we strongly believe that an Environmental Impact Report (EIR) should be prepared for the project.

Project Description

The project description is incomplete. The Initial Study does not disclose how many employees will be on site, the hours of operation of the various components of the project. For example: when do employees work? During what hours will maintenance occur? Washing?

Environmental Setting

The project site is located adjacent to Sheehy Creek that is a tributary to the Napa River. The Napa River is listed as an impaired river under the Federal Clean Water Act. The Napa River is a fish-bearing stream and the Resource Conservation District is directly involved in restoration of Sheehy Creek upstream of the project site

2



Biologic Impacts

The Initial Study references the Natural Environmental Study prepared by Rincon. The Initial Study refers to it as Appendix B. Yet the Initial study available on your website did not include that Appendix. Without it, it is not possible to determine if the floristic study was conducted during the appropriate time of year when many of the special status plant species listed in Table 6 are in bloom. In addition, no discussion of the potential impacts of project on fisheries is contained in the Initial Study. As a full disclosure document, it is incumbent on the Authority to do so.

↑
2, cont'd
3

The Industrial Park (IP) district requires that “a permanent conservation easement covering the required corridor along the [Sheehy] creeks [sic] shall be irrevocably offered by the property owner to the county of Napa, appropriate state agency or a public non-profit land conservation entity . . . “Said corridor shall include a landscaped ten-foot-wide easement between the riparian growth (if any) and the edge of the planned development.” Plans for restoration, enhancement and permanent maintenance of required setback areas for the purposes set forth in Section 18.40.170(A)(1) shall be required as part of any site plan or discretionary or administrative permit approval. The project as described in the Initial Study fails to provide evidence that a conservation easement or a restoration plan has been provided.

4

As no conservation easement or restoration plan has either been prepared or approved, the proposed project is in conflict with local polices and ordinances protecting biological resources. Therefore a conclusion that the project has a less than significant impact is not based upon evidence in the record.

Geology and Soils

The Initial Study indicates that the project site is composed of alluvial soils that are susceptible to “strong seismic ground shaking.” However, the Initial Study does not discuss or disclose potential impacts associated with the recent discovery of the fault trace associated with the 2014 Napa earthquake. The conclusions in the Initial Study were not based on site-specific investigations but rather region-wide conclusions. Without a site specific investigation that incorporates the USGS findings relating to the 2014 Napa earthquake, a conclusion that either the structure or employees will not be at risk due to seismic ground shaking is premature and inappropriate. Further the Authority has responsibility to the taxpayers to ensure that a thorough investigation of the site is completed before it makes a decision to spend the substantial public funds on this project.

5

Hydrology and Water Quality

The Initial Study concludes that the project “would have the potential to create runoff that would contain chemicals and could drain into the Creek. The project includes biofiltration systems such as bioswales to ensure that polluted runoff does

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not drain into the creek. However, the runoff would drain into bioswales and then infiltrate into the soil or continuous surface flow into Sheehy Creek. This could potentially result in contaminants being introduced into the groundwater or the creek. Impacts would be potentially significant unless mitigation is incorporated.” The proposed mitigation measure is the development of drainage plan including a variety of stormwater control measures as enumerated in mitigation measure HYD-2.

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It is inappropriate to defer drainage studies and the adoption of specific mitigation measures until after the project has been approved. Without the studies called for in the Initial Study, the public cannot be assured that the proposed project will not have a significant impact on the water quality of Sheehy Creek or the Napa River, an impaired water body under the Clean Water Act. Deferral of mitigation is not acceptable under California’s environmental rules nor is it appropriate for a public agency intending to use taxpayer’s moneys to build this project.

Land Use Planning

We strongly object to the conclusion that the proposed project is consistent with the applicable specific plan and IP zoning district. As we indicated to you during our meetings and correspondence, the proposed use is not consistent with the intent of the IP zoning district (18.40.010) and is both incompatible with the uses permitted in the IP zoning district (as enumerated in section 18.40.020) and our property. There are no uses similar to it in the IP zoning district. We believe that the Authority has tacitly accepted this conclusion—why else would the Authority have exempted itself from the use permit/public hearing process? We strongly object to this exemption.

7

As stated in section 18.40.010, the purpose of the IP zoning district is to “provide areas exclusively for modern, non-nuisance light industrial and office uses which are compatible both with each other and with the adjoining nonindustrial areas including, but not limited to, the Napa County Airport, the Highway 29 corridor, and surrounding agricultural and open space areas, and which have no significant potential for major pollution, adverse visual impacts, or nuisance or hazard factors.” In fact, as we discussed with you when we met, the proposed project will expose our tenants and us to:

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- Fumes and noxious odors from diesel and gas powered vehicles idling on site and on Sheehy Ct.
- Excessive noise due to bus operation and repair equipment line pneumatic tools used in the vehicle repair operation.
- The back up warning devices on the equipment will be a constant source of noise pollution as they most of the buses parking as head first so they have to back out of the parking spaces. and
- The pneumatic tools can be very loud.

In addition, as we pointed out in the Biological Impacts section above, the project fails to comply with the standards of the IP zoning district with regard to watercourse protection. Thus, the Initial Study should have concluded that the project in fact conflicts with the applicable land use plan and thus would result in a potentially significant impact for which an EIR should be prepared.

9

Noise

We strongly object to the methodology used in the Initial Study. The conclusions in the Initial Study were based on measures taken at the existing site and applying them to the proposed site! Further, the results of the noise study as documented in the Initial Study primarily address continuous noise, for more than 30 minutes in a given hour. This analysis does not address the potentially significant noise impacts associated with intermittent noise. These noise sources, such as idling of buses, pneumatic tools and warning devices associated with backing out have not been analyzed. These sources of noise have the potential to significantly impact our business and our tenants. An EIR must be prepared to document both continuous and intermittent noise impacts of the project.

10

Transportation/Traffic

The Initial Study concludes that the proposed facility will generate a minimum of 345 daily trips, equivalent to 35 new homes! These trips are all new trips as the current baseline traffic conditions for the project site is 0 trips. Using trip generation based on the facility on Jackson Street is irrelevant and inappropriate. Further, we would note that Appendix E was not appended to the Initial Study so we are unclear the origin of the employees who will work at the facility, or the projects included in the cumulative impact analysis. We are not clear the relevance of including intersections 3 and 6 since they relate more to the existing project site not the proposed project location. Yet the Initial Study omits an analysis of Airport Blvd. and Highway 29/12! The omission of this key intersection in Table 17 of the Initial Study is a clear deficiency of the Initial Study and violates the rule for full disclosure so important to the function of a public agency.

11

Mandatory Findings of Significance

The City of American Canyon recently circulated the draft Watson Ranch Specific Plan EIR (WRSP) that is the most current document that analyzes recent project approvals that contribute to traffic in the vicinity of the proposed project. It is unclear whether the data and conclusions of this document were incorporated into the TIS or the Initial Study. Regardless, the WRSP EIR indicates on Table 4.12-11 that intersections potentially impacts by new trips generated by the proposed project (e.g. SR 29/12/Airport Blvd.; SR 29/So. Kelly Road; SR 29/12/221/Soscol Ferry Road; and SR 29/Napa Junction Road) will all operate at LOS F under existing conditions + background + [WRSP] Project. Clearly then, the addition of the new trips resulting from the development of Vine Transit Maintenance Facility will also

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result in a cumulatively significant impact on intersections in both the County of Napa and within the City of American Canyon. Absent evidence to the contrary, we presume that some or all of the future employees at the maintenance facility will reside in communities outside of the City of Napa such as Fairfield, Vallejo or American Canyon where housing is more affordable. Potential cumulative project impacts on intersections within the county including but not limited to such Airport Road/Highway 12/29 and intersections in American Canyon as well as the principal access roads of Highway 12 and 29 must be evaluated in an EIR.

12, cont'd

As a side note, we find it ironic that the Initial Study references General Plan Policy CIR-16 as “justification” for its conclusion that the project will not result in significant or potentially significant cumulative traffic impacts. It seems that the Authority invokes those portions of county policy that support its conclusion but yet exempts itself from use permit and other discretionary requirements.

Conclusions

We strongly believe that based on evidence in the Initial Study that the Authority is obligated to prepare an EIR due to project conflicts with the Airport Area Specific Plan and associated IP zoning district standards; the lack of analysis of intermittent noise impacts; the inappropriate use of baseline conditions to analyze both noise and traffic impacts; and the lack of disclosure of potentially significant project impacts on key intersections in the project area, including but not limited to Airport Blvd./Highway 29/12; and intersections in American Canyon. As part of the EIR, a complete project description is needed. In addition, a detailed drainage plan must be prepared together with disclosure of measures to protect water quality must be analyzed in the future environmental document.

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As a public agency we strongly believe that full disclosure is incumbent on the district when our tax dollars are at stake. Gong the extra mile to ensure that full disclosure of potential impacts associated with the Vine Transit Maintenance Facility is required.

Sincerely,

Eamon Griffin for
83 Sheehy Court Association

CC: Mike Thompson, Congressman District 3?

Letter 6

COMMENTER: Eamon Griffin on behalf of 83 Sheehy Court Association

DATE: November 5, 2016

Response to Comment 6.1

The commenter states general concerns about the project and NVTA's process for considering the project, and an opinion that an environmental impact report should be prepared. Regarding the Draft IS-MND, the commenter states an opinion that the project description is incomplete and does not disclose how many employees would be on site and what the hours of operation would be.

Hours of operation are discussed in Section 1, *Aesthetics*, where the Draft IS-MND states that the facility "would be operational 24 hours a day...buses would be primarily operational between the hours of 5:00 a.m. and 8:00 p.m. with two routes that operate beyond 9 p.m. returning to the yard between 10:00 and 11:00 p.m." As discussed in Section 8, *Hazards and Hazardous Materials*, "there would be fewer than 150 employees and visitors on the entire eight-acre site at any given time."

Response to Comment 6.2

The commenter states an opinion that the Draft IS-MND references a Natural Environmental Study (NES) included as Appendix B, but that the NES was not included in the published Draft IS-MND. This is incorrect. A link to the digital version of the Draft IS-MND, including Appendix B, was included in the Notice of Intent to Adopt a Mitigated Negative Declaration. This link was active during the public review period for the Draft IS-MND. (Although accessed from the same web page, the link to the appendices is a separate link from the Draft IS-MND, which may be why the commenter did not access the NES.) Additionally, as the Notice of Intent to Adopt a Mitigated Negative Declaration states, copies of the appendices were available at NVTA offices during the public review period; these copies included the NES appendix. NVTA has no record of requests for the NES or other IS-MND appendices during the public comment period, or receipt of other comments that the NES or other IS-MND appendices were not available.

Response to Comment 6.3

The commenter states an opinion that the Draft IS-MND did not discuss potential impacts of the project on fisheries. Table 7 of the Draft IS-MND identifies all known special status species within a 5-mile radius of the project site. No special status fish species were identified within 5 miles of the site including in Sheehy Creek. There are no proposed impacts to Sheehy Creek and therefore no impacts expected for special status fish or fisheries. Appendix B of the NES lists all species identified during the field survey completed on May 18, 2016. The only observed fish species were minnows. No other fish species including special status species were identified. As discussed in the IS-MND in Section 4, *Biological Resources*, impacts to special status species would be less than significant with implementation of the identified mitigation measures. No changes to the IS-MND are warranted.

Response to Comment 6.4

The commenter states an opinion that the Draft IS-MND fails to provide evidence that a conservation easement or a restoration plan is provided as required in the Industrial Park (IP) district. The commenter further states that if the project does not include the required conservation easement or restoration plan it is in conflict with local policies and ordinances.

The Napa County Municipal Code Title 18, Chapter 18.40.170 requires a 35 foot setback from the top of the bank of Sheehy Creek. Page 7 of the Draft IS-MND states that "A 35-foot buffer from the top of the bank of Sheehy Creek, which borders the site to the south and east, would be maintained; no

disturbance or development is proposed within the buffer. This buffer area is also governed by a conservation easement deeded to the County of Napa in 2006.” Section 4, Biological Resources, subsection “e” has been amended as follows to provide clarity:

“Napa County Municipal Code Title 18, Chapter 18.40.170-Watercourse Protection: ~~The paved portions of the proposed project would be located at least A 35-foot feet~~ buffer from the top of the bank of Sheehy Creek would be maintained pursuant to setback distance requirements. This buffer area is also governed by a conservation easement deeded to the County of Napa in 2006.”

As discussed in the IS-MND in Section 10, *Land Use and Planning*, impacts related to local policies and ordinances would be less than significant.

Response to Comment 6.5

The commenter states an opinion that the Draft IS-MND does not discuss or disclose potential impacts associated with the recent discovery of the fault trace associated with the 2014 Napa earthquake. The commenter is correct that new fault traces have been identified in Napa County. However, the new traces are substantially north and west of the project site (U.S. Geological Survey, as quoted in Los Angeles Times, December 26, 2014). The commenter also opines that a site-specific geotechnical study is required.

CEQA does not require a site-specific study for every project. The analysis in the IS-MND (Section 6, *Geology and Soils*) refers to a study for a nearby property that includes information relevant to the project site. As also discussed in Section 6, California Building Code (CBC) includes seismic design standards and geo hazard study requirements that would need to be observed during project design. The Draft IS-MND also includes Mitigation Measure GEO-1, which requires a geotechnical investigation prior to project development. Per the measure, “unstable soils or soil that would become unstable during a seismic event shall be remediated to ensure that on-site soils would provide adequate structural support for proposed project structures. Soil remediation may be achieved through, for example, structural piers, excavation of unstable soils, importation of clean, engineered fill, compaction of existing on-site soils, improvement of sub-surface drainage, or a combination of methodologies.” As discussed in Section 6, *Geology and Soils*, impacts related to geologic hazards would be less than significant with implementation of the identified mitigation measure.

Response to Comment 6.6

The commenter quotes the IS-MND, stating that the project includes a biofiltration system such as bioswales to ensure that polluted runoff does not drain into the creek. The commenter also briefly outlines Mitigation Measure HYD-2, included in Section 9, *Hydrology and Water Quality*, stating an opinion that it is inappropriate to defer drainage studies and the adoption of specific mitigation measures until after the project has been approved.

Mitigation Measure HYD-2 includes specific performance standards to achieve the mitigation goal, such as requiring that the project achieve conformance with NPDES and Napa County stormwater requirements to ensure that post-development, off-site peak flow drainage from the project site would not be greater than pre-development peak flow drainage and that contaminated runoff would not enter Sheehy Creek. The measure also includes methods to achieve this standard once the required technical information is developed, such as “source control, site design, treatment control, or a combination of methodologies,” and includes specific actions including “frequent sweeping of parking areas, frequent maintenance of vehicles such that parked vehicles do not leak engine oil or other fluids, rapid clean-up of any vehicle fluid leaks or spills, and isolation of maintenance areas from stormwater flows...bio-filtration, sand filters, constructed wetlands, oil/water separation vaults, or other treatment methods necessary to maintain pre-development stormwater quality...above-ground retention and/or detention basins, stormwater collection tanks, subsurface infiltration devices such as cisterns with permeable bottoms or

perforated pipes, permeable pavement, and vegetated swales.” Thus the mitigation measure does not constitute deferral. As concluded in Section 9, *Hydrology and Water Quality*, impacts would be less than significant with identified mitigation.

Response to Comment 6.7

The commenter states an opinion that the project is inconsistent with the applicable Specific Plan and zoning designation. The commenter suggests that the proposed use is not consistent with the intent of the Industrial Park zoning district and is both incompatible with the uses permitted in the Industrial Planning zoning district and their property. The commenter also states an opinion that NVTA has “exempted itself from the use permit/public hearing process.” See Responses 5.41 and 5.42.

The commenter also states an opinion that the project would be incompatible with the use of their property, but does not state in what way it would be incompatible; therefore a specific response is not possible. As discussed throughout the Draft IS-MND, impacts to surrounding industrial properties and land uses would be less than significant with identified mitigation measures.

Response to Comment 6.8

The commenter quotes the purpose of the Industrial Planning Zoning District, and states an opinion that the project would expose them to “fumes and noxious odors” from vehicles idling, as well as excessive noise due to bus operation and repair, backup warning devices, and pneumatic tools.

Page 29 of the Draft IS-MND states that the proposed facility would require the use of materials and substances which may have an odor. This includes idling buses and the use of oil, lubricants, paint, and other chemicals. Some of these activities, such as painting and bus washing, would occur inside the new structure which would reduce some of the odor for the surrounding properties. Although the proposed uses might generate odors, these would be consistent with allowed and ongoing light industrial uses in IP Zone District and would not include harmful fumes or noxious odors.

The IP Zone District allows for uses such as machine shops and manufacturing. These may also use power tools that could generate similar noise levels to those cited by the commenter. Additionally, noise measurements were taken at the existing bus maintenance facility. These measurements were used to determine the noise levels at the proposed facility. The Draft IS-MND, in Section 12, *Noise*, determined that the project would not exceed the exterior noise standard of 75 dBA at adjacent industrial uses and that impacts would be less than significant. Also see Response to Comment 6.10 below.

Response to Comment 6.9

The commenter refers to their previous comments regarding biological resources and hydrology and water quality, and states an opinion that project impacts related to watercourse protection result in a significant land use impact requiring an EIR. As discussed in responses 6.3, 6.4 and 6.6, and in sections 4 and 9 of the IS-MND, impacts in these issue areas would be less than significant with implementation of the identified mitigation measures. As discussed in Section 10, *Land Use and Planning*, impacts related to adopted regulations, plans and policies would be less than significant.

Response to Comment 6.10

The commenter objects to the methodology used for noise analysis included in the Draft IS-MND. The commenter states an opinion that the conclusions were based on noise measurements taken at the existing site and applying them to the proposed property. Additionally, the commenter states that the Draft IS-MND primarily addresses continuous noise, and does not address the potentially significant impacts associated with intermittent noise, including buses idling, pneumatic tools, and warning devices. The commenter further opines that these noise sources could potentially impact businesses and tenants and requires preparation of an EIR.

As discussed in Section 12, *Noise*, of the Draft IS-MND, noise measurements at the existing facility were taken during peak operation. Since the project involves the moving of the existing facility to the proposed site, taking noise measurements at the current facility is the most accurate reasonable way to determine operational noise for the project. Noise measured at the existing facility captured intermittent sources of noise, such as buses idling and back-up beeping (e.g. warning devices), as well as the use of pneumatic tools within the existing maintenance facility. Therefore, the noise measurement used to assess operational noise is reflective of intermittent noise levels. Furthermore, the project's operational noise impacts were evaluated against the County's noise standards; as the County does not have a noise standard for intermittent sources of noise.

In addition, the noise levels of 59 to 70 dBA Leq measured at the existing facility were taken at distances of approximately 50 feet. The adjacent facility is more than 70 feet from the project site boundary. Noise levels would be lower at the receiving facility due to the greater distance than the noise levels measured at the existing maintenance facility. Furthermore, as stated in the Draft IS-MND project description, the project includes a wall of up to eight feet in height along the site's eastern border with the adjacent existing industrial property; this wall would further reduce noise at that property boundary and the commenter's location. Solid walls that break line of sight between a noise source and receptor typically attenuate noise by 5 to 10 dBA. Nonetheless, to provide a conservative analysis of operational noise levels, the Draft IS-MND compared the measured noise levels at 50 feet without barrier attenuation to the County's standard of 75 dBA and found that impacts would be less than significant.

The commenter also suggests that noise impacts warrant preparation of an EIR; however, as discussed in Section 12, *Noise*, of the Draft IS-MND, impacts related to noise would be less than significant with implementation of the identified mitigation measure.

Response to Comment 6.11

The commenter suggests that using current trip generation based on the existing location is irrelevant and inappropriate and states an opinion that Appendix E was not appended to the Initial Study. The commenter continues by stating that they are unclear about the relevance of including intersections 3 and 6, yet omitting analysis of Airport Boulevard and Highway 29/12.

Please refer to Response to Comment 5.8 above for a discussion of the trip generation and traffic impact methodology and analysis, and Response to Comment 6.2 for a discussion of the availability of IS-MND appendices during the public circulation period. The intersection of Airport Boulevard and Highway 29/12 was included but was referred to as Intersection 3, Lincoln Highway and Airport Boulevard.

As discussed in the Draft IS-MND in Section 16, *Transportation/Traffic*, impacts related to traffic, transportation and circulation would be less than significant.

Response to Comment 6.12

The commenter refers to the Watson Ranch Specific Plan EIR prepared by the City of American Canyon, and states an opinion that, based on information in that EIR, the proposed project would result in cumulatively considerable traffic impacts.

Page 15 of the traffic impact study prepared for the project lists projects that were incorporated into the background conditions analysis for the proposed project. This includes the Montalcino at Napa Resort Hotel and the Montalcino at Napa Golf Course. Trips associated with these projects were added to each study intersection under the Background Condition LOS analysis. The Watson Ranch Specific Plan EIR included a project list-based approach to cumulative development. Both traffic analyses found that the common intersections (ST 29/12 and Airport Boulevard, and SR 29/12 and SR 221) would operate at LOS F during both the AM and PM peak hours. The reason that it is not considered a significant impact for the proposed project is that the increase in delay associated with the project's traffic contribution to the cumulative impact would not exceed Napa County's applicable significance thresholds.

The commenter also states an opinion that NVRTA “invokes those portions of county policy that support its conclusion but yet exempts itself from use permit and other discretionary requirements.” See Responses 5.41 and 5.42.

Response to Comment 6.13

The commenter states an opinion that an EIR is required for the proposed project based on potential impacts related to hydrology and water quality, land use and planning, noise, and traffic, as outlined in their comments summarized and addressed above. Please refer to responses to comments 6.1 through 6.12 above where the commenter’s specific opinions regarding these issues are summarized and responded to. As impacts in all issue areas would be less than significant or less than significant with mitigation, an EIR is not required.

From: Gavin Long [<mailto:glong@tugboatinc.com>]
Sent: Monday, October 24, 2016 2:28 PM
To: NVTA Info
Cc: Kara Long
Subject: Vine Transit Maintenance Facility - Opposition

I am writing to oppose the planned NVTA public transit maintenance facility on Sheehy Court. We are located at 398 Devlin Road which is across the street and a few hundred feet north of the proposed site. Traffic on Devlin Road is a mess as people who commute in/out of Napa use this road as a bypass for Highway 29 which creates almost daily gridlock. Often times, traffic is so backed-up that you cannot make a left onto Devlin Road (heading South). If you turn right and head North, there are additional delays at the corner of Devlin and Soscol Ferry Road as people try to get onto Highway 29.

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The addition of 93 public transit vehicles and 75 visitor/employee vehicles will only compound the congestion.

While I do agree that moving the maintenance facility out of downtown Napa is a very good idea, the proposed location is not suitable.

Thanks,



Gavin Long
Tugboat, Inc.
398 Devlin Road, Napa, CA 94558
tel. (800) 231-2558 dir. (707) 294-6571



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Letter 7

COMMENTER: Gavin Long on behalf of Tugboat, Inc.

DATE: October 24, 2016

Response to Comment 7.1

The commenter states opposition to the project and an opinion that the addition of project-generated traffic to the local road network will exacerbate existing congestion. The commenter does not provide specific information or analysis that questions or conflicts with the analysis or conclusions of the Draft IS-MND; therefore, a specific response is not possible. Nevertheless, this comment will be forwarded to the NVTB Board for their consideration. Traffic impacts are discussed in the Draft IS-MND in Section 16, *Transportation/Traffic*. As discussed therein, impacts would be less than significant.