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## San Francisco Bay Regional Water Quality Control Board

May 29, 2019

*Sent via electronic mail: No hardcopy to follow*

Governor's Office of Planning & Research

MAY 29 2019

STATE CLEARINGHOUSE

County of Santa Clara Department of Parks and Recreation  
298 Garden Hill Drive  
Los Gatos, CA 95032

ATTN: Cherise Orange (cherise.orange@prk.sccgov.org)

**Subject:** San Francisco Bay Regional Water Quality Control Board Comments on the *Initial Study and Mitigated Negative Declaration for Coyote Canyon Natural Resources Management Plan & Interim Access Plan, Santa Clara County, California*  
**SCH No. 2019059009**

Dear Ms. Orange:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Initial Study and Mitigated Negative Declaration for the Coyote Canyon Natural Resources Management Plan & Interim Access Plan (ISMND)*. The ISMND evaluates the potential environmental impacts associated with implementing the *Coyote Canyon Natural Resources Management Plan (NRM) Plan & Interim Access (IA) Plan (Project)*. The Project purpose is to manage and protect natural resources and to provide public access into a new trail network within Coyote Canyon. Under the NRM Plan, the Department would manage the 2,741-acre property in accordance with applicable guidelines and policies including, but not limited to, the *Santa Clara County General Plan, Santa Clara County Parks 2018 Strategic Plan, and the Santa Clara Valley Habitat Plan*. During evaluation of the Property for the NRM Plan, it was determined that the Property provides highly suitable habitat for sensitive plant and wildlife species and no major changes to the existing management regime were recommended. The Department of Parks and Recreation would continue to implement strategies, including managed grazing, reconnaissance surveys, and invasive plant control, to maintain and enhance conditions for natural resources.

The IA Plan includes the conversion of existing ranch roads to recreational trails, construction of new trails, and the long-term maintenance of the trails, totaling 10.4 miles of trail within the Project area. The IA Plan also identifies existing double-track ranch roads to serve as service roads to be used by Department of Parks and Recreation staff and emergency vehicles only.

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DR. TERRY F. YOUNG, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | [www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay)

## Summary

As is discussed below, the ISMND does not acknowledge that work to rehabilitate existing trail crossings at creeks or to construct new trail crossings at creeks is likely to require permits from the U.S. Army Corps of Engineers (Corps) and the Water Board. The text of the ISMND should be revised to include a discussion of permits that may be required from the Corps and the Water Board for any improvements to creek crossings associated with the recreational trails or service roads.

### Comment 1.

#### **Section J, Hydrology and Water Quality of the ISMND does not acknowledge that stream crossings by trails are likely to require permits from the Corps and Water Board.**

This discussion of creek crossings by trails in Section J of the ISMND includes the following text.

There are several smaller perennial and intermittent streams and drainages throughout the Property. The trail alignment identified under the Proposed Project could pass through streams and riparian habitat under the jurisdiction of the California Department of Fish and Wildlife. The trail alignment was designed to avoid streams to the maximum extent practicable to preserve natural resources and reduce future maintenance requirements. Stream crossings would consist primarily of rock fords but could include culverts or bridges depending on the steepness of stream banks or persistent stream flow.

For watercourses, a Lake and Streambed Alteration Agreement would be obtained prior to construction. Potential permanent and temporary impacts to watercourses would be addressed through the SCVHP. Compliance with conditions of the Lake and Streambed Alteration Agreement and SCVHP would result in less than significant impacts to riparian areas. **(Less Than Significant Impact)**

The Corps usually asserts jurisdiction over perennial and seasonal streams and may also assert jurisdiction over intermittent streams. The Water Board considers all perennial, seasonal, and intermittent streams to be waters of the State, subject to Water Board jurisdiction. Whenever a ford or culvert is placed into a stream that is subject to Corps jurisdiction, a Clean Water Act (CWA) Section 404 permit will be required from the Corps. CWA Section 404 permits require a CWA Section 401 water quality certification from the Water Board. If work is proposed in a stream that is subject to Water Board jurisdiction, but not regulated by the Corps, then Waste Discharge Requirements, issued pursuant to the authority of the State of California's Porter-Cologne Water Quality Act, must be received from the Water Board prior to installing a ford or culvert.

In addition, mitigation will be required for any fill (e.g., a rock ford or culvert) placed into a water of the State. The ISMND should include proposed mitigation measures for any hardscape placed into streams for trail or service road crossings.

Also, the list of required permits for Project implementation on page 14 of the ISMND should be expanded to include the following permits.

- U.S. Army Corps of Engineers: Clean Water Act Section 404 permit (Responsible Agency).
- San Francisco Bay Regional Water Quality Control Board: Clean Water Act Section 401 water quality certification and/or Waster Discharge Requirements pursuant to the Porter-Cologne Water Quality Act (Responsible Agency).

### **Conclusion**

The ISMND should be revised to state that permits from the Corps and Water Board are likely for any hardscape introduced into a stream for a trail or service road crossing. In addition, the ISMND should be revised to provide proposed mitigation measures for impacts to waters of the State associated with trail crossings or service road crossings of streams.

If you have any questions, please contact me at (510) 622-5680, or via e-mail at [brian.wines@waterboards.ca.gov](mailto:brian.wines@waterboards.ca.gov).

Sincerely,

**Brian Wines**

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Brian Wines  
Water Resources Control Engineer  
South and East Bay Watershed Section

cc: State Clearinghouse ([state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov))  
CDFW, Brenda Blinn ([brenda.blinn@wildlife.ca.gov](mailto:brenda.blinn@wildlife.ca.gov))  
CDFW, Kristin Garrison ([kristin.garrison@wildlife.ca.gov](mailto:kristin.garrison@wildlife.ca.gov))  
Corps, Katerina Galacatos ([Katerina.galacatos@usace.army.gov](mailto:Katerina.galacatos@usace.army.gov))