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RE: Draft Environmental Impact Report for Coyote Valley Specific Plan

Dear Mr. Boyd:

Thank you for allowing us to comment on the Draft Environmental Impact Report (DEIR) for the Coyote Valley Specific Plan (CVSP). Since 1958, Greenbelt Alliance (GA) has been protecting natural areas and working farms. Over the years, our mission has expanded to recognize the need to accommodate the region's growing population with better land use planning. Through research and public policy development, our organization seeks to educate communities about the benefits of compact development near public transportation. Since 1990, Greenbelt Alliance has endorsed over 100 development projects and nearly 20 neighborhood plans that help relieve the pressure to build out on the greenbelt. Local examples of projects we have endorsed include Bay Meadows Phase II (San Mateo), Hitachi Campus (San Jose), Mayfield Mall (Mountain View), and Villa Montgomery (Redwood City).

Additionally, Greenbelt Alliance has produced many influential reports that have helped shape the debate over growth and development in the Bay Area. In 2004 we received a national Honor Award from the American Institute of Architects for *Getting it Right* (2003), our vision for preventing sprawl and creating a vibrant community in San Jose's Coyote Valley. Our other award-winning studies include *Smart Infill* (2002) and *Bay Area Smart Growth Scorecard* (2006).

### **Summary of Comments and Concerns**

This comment letter from Greenbelt Alliance is in addition to the comment letter submitted on our behalf from the law offices of Shute, Mihaly and Weinberger LLP.

In reading through the DEIR, it is apparent that its release is premature due to the fact that planning for Coyote Valley is not complete. This document is meant to inform the public and decision makers on the proposed development of 3,800 acres into a new community of nearly 80,000 people. This is similar to creating a city the size of Mountain View on precious land that supports working farms, wetlands and groundwater recharge. Despite the proposed project's magnitude, there are many glaring omissions and therefore, it is virtually impossible for anyone to make an informed decision as to whether or not this project should move forward.

It seems there is a rush to develop Coyote Valley as the DEIR sets the stage to weaken the triggers further to allow the adoption of the CVSP. In the face of an imminent General Plan update and significant infill opportunities throughout San Jose, there is no need to weaken the triggers or force through an unfinished plan. If San Jose is committed to smart growth, then the focus should be on North San Jose.

The DEIR fails to completely describe the Project Description, alternatives, growth inducing impacts and viable mitigation measures. In fact, the DEIR is so woefully inadequate, that the City must go back and finish the planning effort before re-circulating a DEIR. The Project Description makes no mention of Coyote Creek, the valley's use as a wildlife corridor or a feasible phasing plan for development.

Repeatedly, the DEIR relies on vague and unlikely mitigation measures for significant impacts, such as reliable Caltrain service to mitigate gridlock on Highway 101 or a nebulous advanced recycled water treatment plant to mitigate for known water supply impacts. The DEIR is also silent on the energy intensive nature of pumping and treating water for this new development.

In particular, Greenbelt Alliance questions the DEIR's heavy focus on roadway improvements. This plan has been touted as a smart growth transit-oriented community designed around the pedestrian. If so, then why are 88% of all trips made by automobile? Why must rural roads be expanded to accommodate the increased traffic?

Excavating a man-made lake is not rising up from the environmental footprint, yet the CVSP claims it is needed for flood control. With so much detail afforded to the flood control system, why is the plan lax with development adjacent to Coyote Creek and in the Laguna Seca? Ball-fields are still a form of development- especially when on sensitive wetlands. The lake is touted as being needed to create a sense of place so that people want to live in a high density environment. Then how will San Jose entice people to live in North San Jose which is proposed to have even higher densities, no lake and no immediate views to Coyote Ridge and the Santa Cruz Mountains?

Even more significant is the impact this proposed project will have to farmlands, yet there is no description of a farmland mitigation policy and in fact, the DEIR sets the stage to exempt the development from having to protect any farmland at all. How can San Jose

ever consider Coyote Valley a smart growth community when the DEIR makes no attempt to address and mitigate this significant impact?

### **Background of Proposed Project**

The City of San Jose is currently initiating an update of the General Plan. The San Jose 2020 General Plan was adopted in 1994 and as the DEIR states “the urban development of the Coyote Valley was originally determined to be beyond [it’s] scope”. Triggers for development were put in place at that time to protect the City from the premature development of an area that could become a fiscal drain on the City’s budget. Despite this, the City Council relaxed the triggers to allow the preparation of a Specific Plan in 2001 “earlier than was envisioned in the San Jose 2020 General Plan.” There are still several triggers in place that must be met before the City Council adopts the CVSP. Among these are a forecasted balanced budget and the addition of 5,000 new jobs.

Then in 2005, the City Council approved the update of the North San Jose Area Development Policy which provides for up to 83,000 new jobs and 32,000 new housing units in the employment heart of San Jose which is already served by public transportation and other infrastructure. North San Jose’s potential for redevelopment as well as its proximity to downtown and San Jose International Airport make this the largest and most significant infill opportunity in the region. Intensification of uses in this area is in keeping with the General Plan’s goal of guiding development to appropriate locations, including fostering greater intensities around light rail and other transit facilities, while preserving hillsides and other natural resources.

San Jose has also been engaging in piecemeal industrial land conversions throughout the City due to the high office vacancy rate and demand for more housing, and had attempted to rezone the last industrial land in Evergreen for residential uses. Evergreen is primarily housing, has no viable public transportation system and no job base. As a result, the traffic patterns are among the worst in the South Bay, leading to increased air pollution. Meanwhile, Coyote Valley has long been held in reserve for its “potential economic benefit to the City with the creation of industrial jobs and bringing the City’s jobs to housing ratio into better balance.” Ideally, new jobs should be directed to Evergreen before Coyote Valley to encourage a reverse commute pattern and support a light rail extension down Capitol Expressway.

Greenbelt Alliance maintains that the existing triggers must not be weakened to allow residential development to lead the way in Coyote Valley. The potential for this area to become another Evergreen is of very real concern and infill opportunities such as North First Street must be exhausted before farmland and wetlands are paved for new development. Furthermore, the City’s General Plan should be updated first, providing an opportunity to assess if the City is headed in the right direction and whether or not the City is placing itself in a precarious position with more development than it can economically provide for. These are important considerations that must be taken into

account before 3,800 acres of prime farmland are replaced with urban uses, especially if those urban uses may not be needed for awhile or could sit vacant. Smart planning utilizes infill opportunities that are adjacent to existing public transportation. Pursuing green-field development first, on the other hand, can still be categorized as sprawl.

## **Project Description**

### Coyote Creek

The DEIR fails to adequately describe a number of key project features of the CVSP in sufficient detail for their impacts to be effectively analyzed. While Bailey Avenue over the Santa Teresa Hills (BOH) is outside of the project area, it is mentioned as part of the Roadway System (2.1.7.3) as being extended to ultimately connect with Almaden Expressway. However, Coyote Creek is not mentioned at all in the Project Description even though some development is proposed within its floodplain. In the Hydrology and Water Quality section 4.8.3.5, the DEIR states that “implementation of the CVSP would include the construction of new land uses and associated infrastructure, including roadways and bridges...The construction phase would involve excavation and grading activities, including construction of two new bridges over Coyote Creek”. The DEIR goes on to say that this construction has the potential to degrade water quality in the creeks which could lead to erosion and adverse effects on wildlife.

Development of the CVSP includes urban uses east of Monterey Road up to within 100 feet of Coyote Creek. The 100 foot riparian corridor is based on a city policy. The DEIR does not adequately describe the science to support these policies. A new community with a projected build out population of 70,000- 80,000 people will have significant environmental impacts on the Coyote Creek Park Chain which the DEIR fails to describe and analyze. What the DEIR does mention is that a portion of Coyote Creek downstream from the CVSP area is experiencing “substantial creek bank incising due to recent construction of the Silicon Valley Boulevard Bridge over Coyote Creek.” (DEIR 341) It is reasonable to assume that the construction of two new bridges over Coyote Creek could lead to further erosion along the creek bed and therefore, that the DEIR fails to adequately describe these impacts.

### Wildlife Corridor

The Project Description fails to describe Coyote Valley as a wildlife crossing for a variety of animal species between the Santa Cruz Mountains and Mount Hamilton Range. There is contiguous development along Highway 101 from San Francisco through to the southern reaches of San Jose just before Coyote Valley. Coyote Valley offers the first break from development as well as the point where these two mountain ranges are in the closest proximity to each other. Absent any detailed description of this major connector for species of special status, including badgers and mountain lions, means the project impacts cannot be adequately analyzed.

### Phasing Plan

The DEIR Project Description mentions five phasing scenarios, but there is currently no phasing plan for the CVSP beyond the 5,000 jobs trigger. Once this has been met, then market-based development would occur without any plan for balancing the projected 55,000 jobs and 26,000 housing units. This trigger is insufficient for phasing development. The City of San Jose should outline how development will be phased in Coyote Valley and then re-circulate the DEIR with this analysis. Otherwise, phasing could occur in a variety of different ratios over different time periods and result in different impacts. The City is rushing ahead to release a DEIR for the CVSP which is not even complete. Therefore, the DEIR is inadequate.

### **Environmental Setting**

According to the DEIR, property owners for 45% of the total acreage to be developed in Coyote Valley did not allow access for environmental consultants to conduct field surveys. Windshield surveys are an inaccurate and insufficient form of conducting surveys. The DEIR is supposed to be based on the best information available in order to thoroughly evaluate the existing conditions of the environmental landscape. However, when only a bit over half of the 3,800 acres to be developed have been surveyed for a report that is intended to analyze environmental impacts, it is safe to assume that the DEIR is insufficient as it does not adequately nor completely describe conditions as they currently exist.

The growth inducing impacts as a result of the proposed development are not adequately described. The environmental setting fails to describe Almaden Valley's proximity to the CVSP development area. While the CVSP calls for the expansion of Bailey Avenue over the hill into Almaden Valley, it does not describe the predominantly rural nature of this valley. Almaden Valley is also designated an Urban Reserve, even though this valley makes even less sense for urbanization than Coyote Valley as it is not easily accessed by public transportation nor highways. It is foreseeable that development of Coyote Valley along with expansion of rural roads could lead to the intense pressure to develop Almaden Valley next considering San Jose's development history. The DEIR does make mention of the Santa Teresa residential neighborhoods, which are separated from the development area by Tulare Hill and the Santa Teresa Hills, but it completely fails to mention Almaden Valley to the west of Coyote Valley.

### **Land Use**

Gavilan College is proposed to be located along Bailey Avenue on the west side of Coyote Valley where there are currently industrial uses depicted on the land-use map. If CVSP is in keeping with the goal of 50,000 industry driving jobs, then where will these

industrial jobs be re-located to? The DEIR fails to describe the impacts associated with this change in land-use. In addition to moving jobs to other locations, the traffic generated by a college is quite different from campus industrial and this impact was not identified nor described in the DEIR.

### **Loss of Prime Farmland**

The CVSP calls for the conversion of over 2,400 acres of prime farmland to urban uses. Nearly 50,000 acres of farmland are being converted each year in California. One way for cities like San Jose to deal with the rapid conversion of some of the United States' most fertile farmland is to pursue more compact development within already urbanized areas by redeveloping under-utilized land. These opportunities should be exhausted before farmland is developed. This is one of the tenets of 'smart growth'.

If the CVSP is to go forward, then appropriate mitigation measures must be adopted to address the loss of farmland. Agricultural mitigation policies are becoming more popular throughout California. The City of Davis requires developers to protect two acres of farmland for every acre lost to urban development. San Joaquin County communities are required to pay a fee per acre for every acre lost to development. While this does not create new farmland, it does place farmland that is at risk of development off limits by permanently protecting it. The loss of farmland is a significant impact. Protecting other farmland at a higher ratio to what is lost could reduce this impact to less than significant. The DEIR suggests the City might consider the adoption of an agricultural conservation easement, if such an easement is ultimately determined to be feasible. To create new farmland, the DEIR calls for taking already developed land, demolishing existing structures and converting land back to agriculture. (DEIR 114) This would be an unreasonable request and lays the groundwork for the City of San Jose to adopt a statement of overriding considerations due to the infeasibility of the mitigation requirement.

In addition, it would seem that the DEIR section on page 115 stating that "protection of existing farmland...is not considered by the City of San Jose as adequate mitigation under CEQA" suggests that the City is rejecting protection of existing farmland as a feasible mitigation. This reading is reinforced by the explanation in the DEIR that preservation is supposedly inadequate "because the net result of such actions would still be a loss of farmland acreage."

Rather than seriously explore how an agricultural mitigation program might be designed and implemented, as required by CEQA, the DEIR goes into detail as to why the above mitigation measures would be difficult to accomplish. The DEIR completely fails in its task of identifying feasible mitigations for this enormous loss of farmland. For example, when considering the protection of existing farmland, the DEIR fails to specify a ratio.

The DEIR is also inconsistent with LAFCO's recently adopted agricultural mitigation policies. Even though the DEIR does not explicitly mention the Land Evaluation and Site Assessment model (LESA), a January 4, 2006 Planning Department memo is footnoted on page 116 which does make mention of the City using the LESA model. In addition, planning staff have verbally made mention at meetings of their use of the LESA model. LAFCO incorporated the Cortese-Knox-Hertzberg Act definition of prime farmland into its policies which is what San Jose should do as well. The LESA model is problematic and can be manipulated to suit the applicant's needs and has repeatedly failed to protect farmland in Gilroy. Greenbelt Alliance would like to make reference to a letter from Committee for Green Foothills (Attachment A) which outlines why the City should do the agricultural assessment now instead of segmenting it out on a project by project basis, and why a clearly defined mitigation measure must be identified now as required by CEQA.

### **Transportation and Traffic**

The CVSP calls for significant investments in highway and road improvements. For a community based on 'smart growth' principles, the approach the City has taken is backwards. There is currently no frequent nor reliable Caltrain service south of Diridon station, so this project, in addition to being on a green-field, is also not transit-oriented.

### **Trip Generation**

The DEIR states that 88% of the projected 302,780 daily new person trips would be made by automobile while only 4% would use transit. This is based on the VTA 2030 Model which was based off of the MTC Model. According to the 2000 Bay Area Travel Survey completed in 2005 by MTC, people who live within ½ mile of a rail/ ferry stop use transit for 19% of all trips while only 55% use their cars. These high auto use numbers from the DEIR highlight the lack of any viable Caltrain service in Coyote Valley. The CVSP also requires the creation of a four-lane parkway, as well as the six-lane Coyote Valley Boulevard and other significant road improvements. The majority of workplace is located in Northern Coyote as opposed to along the Caltrain line as GIR suggested. The land uses in CV support auto dependency.

The DEIR states that that majority of CVSP traffic trips will use Highway 101; that "10 of the 52 directional freeway segments...would operate at an unacceptable LOS F." These impacts are deemed significant and unavoidable. The DEIR fails to identify any mitigation measures and assumes that the future enhancement of Caltrain service could help alleviate this gridlock. However, this is an unacceptable mitigation measure as it hopes for the future possibility of frequent and reliable Caltrain service coming to South County. While this would be ideal, much of the CVSP hinges on this one uncertainty. VTA has been repeatedly vocal about the lack of funding for operating and maintenance of frequent rail service. Other public transportation improvements, such as BART, threaten to take precedence. The DEIR unreasonably relies on some possible future event

as mitigation for a certain significant impact. Gridlock on Highway 101 will entice commuters to use alternate routes for travel, placing additional pressure on rural roads and this growth inducing impact has not been adequately analyzed in the DEIR.

### Bailey over the Hill

The project description of the DEIR and the CVSP both call for expanding BOH to four lanes. However, there was insufficient analysis done to identify the impacts associated with this expansion. BOH expansion will encourage drivers to avoid the gridlock of Highway 101, as it provides an alternative entrance/ exit out of Coyote Valley. The proximity of industrial jobs in the northwest corner of the plan area in addition to Gavilan College locating closer to the west foothills provides an added incentive for people to use BOH. The impacts this increased traffic will have on Almaden Valley and County roads are not analyzed. Since the CVSP design facilitates an auto-dependent community which puts pressure on adjacent communities to invest in road improvements, the DEIR completely fails in its task to analyze the growth inducing impacts that result from constantly building up roads due to increased traffic volume.

### Santa Teresa Boulevard

In addition to Highway 101, there are two main thoroughfares that South County residents use to head north: Monterey Road and Santa Teresa Boulevard. The CVSP calls for a 50 acre lake to be excavated at the intersection of Bailey Avenue and Santa Teresa Boulevard, re-routing traffic around the lake through the Coyote Core. This effectively blocks this route as a thoroughfare which could add traffic onto rural roads in Almaden Valley. The DEIR looked at several alternatives, one of which was Greenbelt Alliance's *Getting It Right* (GIR). However, the DEIR alternatives analysis was superficial and dismissive at best and completely failed to compare the plans. GIR kept this intersection intact. A more thorough analysis on the impacts associated with each should be completed.

## **Hydrology and Water Quality**

The development of Coyote Valley will pave over nearly 3,800 acres of open lands with mostly impervious surfaces. Figure 4.8-2 (DEIR page 330) depicts the floodplain area. From a land use perspective, this map supports *Getting It Right's* (GIR) vision of a 750-foot wide floodplain for Fisher Creek, no development east of Monterey Highway, and the use of Laguna Seca for its natural flood control and storage functions. The DEIR states in section 4.8.2.4 that Laguna Seca "is subject to winter inundation when the Fisher Creek channel overflows. The flooding typically remains during wet winters when the groundwater table is especially high." The DEIR ignores how ball-fields, which the CVSP has located in this area, would be an incompatible use with wetlands needed for flood control.



Since the CVSP is supposedly based on smart growth principles and rises up from the environmental footprint, then why does it ignore Coyote Valley's unique role in flood control and groundwater recharge? The DEIR fails in its task to address the impact an increase in impervious surfaces will have on replenishing the sub-basin. It is also dismissive in the impact it will have on downstream residents. Section 4.8.3.2 of the DEIR states, "Development in or near a natural floodplain has the potential to change the floodplain and affect flooding further downstream." In the winter of 1983, heavy rainfall overflowed Coyote Creek and led to extensive damage to properties in the Alviso area of San Jose. The United States of America, on behalf of the Federal Emergency Management Agency (FEMA), sued both the City of San Jose and the Santa Clara Valley Water District for negligence. In the complaint (Attachment B), it is stated that "the Flood Control District ha[d] failed to maintain Coyote Creek in a manner that would be likely to prevent flooding in the Alviso area." It would seem that development immediately adjacent to Coyote Creek, and therefore the increased urban runoff, as well as development in the majority of the floodplain would have a significant impact on residents and properties downstream. The DEIR fails in its analysis of these potential adverse impacts.

At the bottom of page 335 in the DEIR are the following sentences: "The proposed CVSP project would have no more impervious surfaces or runoff than the previously approved CVRP project. Therefore, flood control improvements previously approved for the CVRP project...will have enough capacity proportionately for the runoff expected from similar drainage areas within the CVSP project." Please explain this statement. How could a 3,800 acre development have no more impervious surfaces than the CVRP project?

The DEIR on page 340 states that even though the San Francisco Estuary Institute indicates that Coyote Creek is relatively stable in channel form, the SCVURPPP HMP report does not exempt Coyote Creek from hydrograph modification management. A 2001 letter from the National Marine Fisheries Service to the Army Corps of Engineers mentions Coyote Creek's long history of in-stream gravel mining, stating, "down-stream of Cochrane Road, the Coyote Creek channel and floodplain have been highly altered by mining. Through this reach, water releases from Anderson Reservoir by SCVWD will provide marginal benefits to steelhead unless the channel geomorphology of Coyote Creek is restored." (Attachment C) While the DEIR mentions the Fisheries and Aquatic Habitat Collaborative agreement, it makes no mention of the gravel mining and summarizes, "the determination that Coyote Creek *may be* a stable creek channel could exempt the project from HMP requirements."

Again, the statement in the DEIR that "substantial creek bank incising" (DEIR 341) has happened along Coyote Creek downstream from the CVSP area "due to the recent construction of the Silicon Valley Boulevard Bridge over Coyote Creek" would contradict the statement under Impact H/WQ-9 that "there is no analytical or physical evidence that the proposed CVSP development would worsen Coyote Creek erosion."

Please explain how the construction of two new bridges over Coyote Creek will not result in further erosion when taking into consideration the creek's mining history?

The DEIR is setting the stage to try and make the claim that the project does not need to meet HMP requirements because it would not be possible to do so with the proposed CVSP project. "It has been determined that HMP basins placed within the CVSP development area would not be able to comply with all HMP requirements including time to drain which could result in impacts to residents associated with increased mosquito populations." (DEIR 340) Due to the shallow depths to groundwater, the SCVWD has determined that groundwater recharge with direct urban runoff is undesirable. The DEIR is highlighting here that critical pieces to the project are unknown and hopes that sometime in the future it can be demonstrated that the risk of erosion to Coyote Creek is minimal because if it is not, they are unable to properly mitigate for that impact.

## **Energy Resources**

The Energy section of the DEIR states how CEQA Guidelines require a discussion of the potential energy impacts of projects, "with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy."

Energy Policy #2 of the San Jose 2020 General Plan states that "the amount of energy used for commuting should be reduced." Infill development adjacent to existing rail lines with frequent service would support this policy. Green-field development adjacent to rail lines with limited service does not. The City's Energy Goal is to "foster development which, by its location and design, reduces the use of non-renewable energy resources in transportation....and utilities." It would seem that the DEIR of the CVSP is inconsistent with existing City policies.

Section 4.12.3.2 discusses the energy impacts of the CVSP and makes no mention of the advanced treated recycled water plant needed in order to address both water quality and water supply. The Santa Clara Valley Water District is requiring that all water used for groundwater recharge in the CVSP area must be advanced treated recycled water. Such a treatment plant is offered as a mitigation measure to address water supply, as the proposed project would "result in a reduction in groundwater elevations throughout the CVSP, affecting discharge into Fisher Creek and....to the northern Santa Clara Valley Sub-basin."

However, the cost and energy intensive nature of such an ambitious program for water supply and quality in Coyote Valley highlights yet another uncertainty in the DEIR. According to the California Energy Commission (CEC), approximately 19% of all electricity, 30% of all natural gas and 88 million gallons of diesel are used to convey, treat, distribute and use water and wastewater statewide. The CO2 emissions associated with the proposed advanced treated recycled water plant for CV are not analyzed. This has been segmented off from the DEIR even though such a plant is used as a mitigation

measure for water supply. It would seem that this would be a significant impact, but that the DEIR has completely failed in its task to identify, describe and mitigate for such an impact. Once again, the DEIR relies on a future costly and uncertain mitigation measure for a known water supply impact. The DEIR fails to adequately describe how CVSP will perform groundwater recharge by failing to describe the suggested mitigation measure.

### **Alternatives- Getting It Right**

According to CEQA Guideline 15126.6(d) the EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. Greenbelt Alliance's *Getting It Right (GIR)* was included as one of the alternatives, but the description of our vision was so completely lacking of any real detail that the public and decision-makers are unable to make an informed decision based on this comparison.

The DEIR states that the GIR is similar to the CVSP in many ways. In actuality, they are different in many ways, but one would not know that based on the limited description provided in the DEIR. It is stated that the main difference between the two plans is the smaller footprint and resulting development densities of GIR. However, the DEIR fails to describe and compare the street networks (grid system in GIR vs. parkways and expressways in CVSP), the transit systems (BRT and neighborhood bus loops in GIR vs. an untested bus system on a fixed guide-way) or the flood control systems (Fisher Creek floodplain in GIR vs. a man-made lake and urban canal) of the two plans.

The DEIR is dismissive when describing on page 450 that in GIR "office and industrial uses are located in areas perpendicular to Monterey Road rather than spread throughout the Development Area." First of all it is a stretch to say the CVSP spreads office uses throughout the Development Area (DA), and secondly locating jobs adjacent to rail lines promotes and supports transit use as opposed to jobs located along Bailey Avenue which promotes use of BOH. However, the DEIR makes no attempt to describe this difference in the two plans.

The DEIR is also confusing and misleading by stating on page 451 that "the protection of some lands may result in more intense development in other portions of the DA...[and] the less likely it will be that trees will be protected within the developed areas." This statement needs explanation as GIR promotes higher densities and therefore taller buildings on less land.

### **Conclusion**

Greenbelt Alliance maintains that development of Coyote Valley is premature given the unfinished planning process, development potential in other parts of San Jose, and need

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June 29, 2007

for a General Plan update. The DEIR is inadequate to inform the public and thereby unlawful by CEQA standards.

Greenbelt Alliance appreciates being kept informed of all future meetings and reports related to the DEIR and CVSP and for the opportunity to comment on the DEIR.

Sincerely,

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