United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In Reply Refer To:
81420-2011-TA-0713-1

AUG 01 2011

Mr. John Baty
City of San Jose Planning Division
200 E. Santa Clara Street, 3rd Floor
San Jose, California 95113-1905

Subject: Comments on the Draft Program Environmental Impact Report for the Envision San Jose 2040 General Plan Update for the City of San Jose, Santa Clara County, California

Dear Mr. Baty:

This letter is in response to your June 23, 2011, request for comments from the U.S. Fish and Wildlife Service (Service) on the Draft Program Environmental Impact Report (PEIR) for the Envision San Jose 2040 General Plan Update (proposed Plan) for the City of San Jose (City) in Santa Clara County, California. Your request for comments was received by our office on June 23, 2011. At issue are the potential effects of the proposed Plan on the threatened California red-legged frog (*Rana draytonii*), threatened Central population of the California tiger salamander (*Ambystoma californiense*), endangered California clapper rail (*Rallus longirostris obsoletus*), endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), threatened Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*), endangered California least tern (*Sternula antillarum browni*), endangered California seablite (*Suaeda californica*), endangered Contra Costa goldfields (*Lasthenia conjugens*), and the endangered robust spineflower (*Chorizanthe robusta*). Additional federally listed species associated with serpentine habitats within Santa Clara County (e.g., the threatened Bay checkerspot butterfly (*Euphydras editha bayensis*) and its designated critical habitat, and listed serpentine plants including the endangered Santa Clara Valley dudleya (*Dudleya setchellii*), endangered Tiburon Indian paintbrush (*Castilleja affinis* ssp. *neglecta*), endangered Coyote ceanothus (*Ceanothus ferrisiae*), and endangered Metcalf Canyon jewel-flower (*Streptanthus albidus* ssp. *albidus*)) may be indirectly affected by growth inducement and increased atmospheric nitrogen deposition related to the proposed Plan. This response is issued under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), the California Environmental Quality Act, and the Migratory Bird Treaty Act of 1917.

The Service has the following comments on the PEIR:

1. The City should analyze all of the potential direct and indirect effects of the proposed Plan on federally listed species, State-listed species, California Native Plant Society rare species, California Species of Special Concern, bald and golden eagles (*Haliaeetus leucocephalus* and *Aquila chrysaetos*), migratory bats, and other special-status species and include appropriate avoidance, minimization, and restoration/compensation measures. The City should determine the extent of the action area where federally listed species may be directly or indirectly affected by the proposed Plan.

2. The City should evaluate the environmental baseline conditions for all listed species within the action area directly or indirectly affected by the proposed Plan. The environmental baseline should evaluate the current acres of suitable habitats within the action area, the quality of those habitats, known occurrences of listed species within and near the action area, existing threats to listed species in those habitats, and the importance of the action area as a dispersal corridor or for the recovery of listed species. The establishment of a sufficient biological baseline will be critical to develop site design alternatives and associated adequate avoidance, minimization, and conservation strategies for the proposed Plan.

3. The Draft Santa Clara Valley Habitat Conservation Plan (SCVHCP) (County of Santa Clara *et al.* 2010) is currently being refined in response to public comment. The proposed Plan should be developed consistent with the conservation strategy described in the SCVHCP. We highlight a few of these measures below. A full description of the conservation strategy is discussed in Chapter 5 of the SCVHCP.

4. The proposed Plan has the potential to be growth-inducing and lead to significant cumulative and interrelated effects to serpentine habitat and associated listed species (e.g., Bay checkerspot butterfly and listed serpentine plants) from air quality effects (e.g., increased atmospheric deposition of nitrogen) related to growth. Atmospheric nitrogen pollution degrades serpentine habitat for the Bay checkerspot butterfly and listed serpentine plants by facilitating the invasion of non-native plant species. The City should consider reducing atmospheric nitrogen pollution in transportation planning. Cumulative effects should be addressed through the implementation of minimization and restoration/compensation measures consistent with the SCVHCP.

5. Rodenticide use should be prohibited in grassland habitats that support the California tiger salamander because the amphibian relies on small mammals' burrows for refugia.

6. The City should manage ponds in a manner that reduces the presence of non-native bullfrogs (*Rana catesbeiana*) and non-native eastern tiger salamanders (*Ambystoma tigrinum*) that threaten California tiger salamanders and California red-legged frogs.

7. The proposed Plan should align all trails away from tidal marsh habitat supporting the California clapper rail and salt marsh harvest mouse and away from nesting habitat for the western snowy plover.

8. The City should avoid planting trees and constructing buildings, towers, and transmission lines adjacent to tidal marsh areas and nesting habitat for the western snowy plover; trees, buildings, towers, and transmission lines provide hunting perches for raptors that prey on California clapper rails, salt marsh harvest mice, and western snowy plovers. The City should minimize all development near tidal marsh habitat supporting the California clapper rail and salt marsh harvest mouse and nesting habitat for the western snowy plover.

9. The City should locate landfills away from tidal marsh areas and western snowy plover nesting areas. Landfills attract California gulls (*Larus californicus*) that threaten, compete with, and prey on California clapper rails, salt marsh harvest mice, and western snowy plovers.

10. In planning for sea level rise, the City should include a sufficient coastal buffer that will allow for the landward transgression of the salt marsh.

11. The City should assist the Don Edwards San Francisco Bay National Wildlife Refuge in managing mammalian and avian predators and other non-native species that threaten the California clapper rail, salt marsh harvest mouse, and western snowy plover. The City should avoid placing rip-rap near tidal marsh areas; shoreline rip-rap supports non-native Norway rats (*Rattus novegicus*) that prey on California clapper rail nests.

12. The City should plant *Grindelia* and other appropriate native vegetation adjacent to tidal marsh habitats to provide upland refugia for California clapper rails and salt marsh harvest mice.

13. The City should develop and implement a plan for managing highly invasive non-native plant species that threaten tidal marshes, riparian areas, serpentine grasslands, and other sensitive habitats.

14. An estimated 600 acres of former salt marsh along Coyote Creek, Alviso Slough, and Guadalupe Slough, have been converted to fresh- and brackish-water vegetation due to large-volume freshwater discharge from wastewater facilities in the South Bay degrading the quality of these habitats for California clapper rails and salt marsh harvest mice. The City should reduce freshwater discharges that have resulted in a significant loss of tidal marsh habitat for the California clapper rail and salt marsh harvest mouse.

15. The City should compare the proposed land uses in the Plan relative to the recovery goals identified for those lands in the 1999 *Baylands Ecosystem Habitat Goals Report* (Goals Project 1999) and the 2010 *Draft Recovery Plan for Tidal Marsh Ecosystems of Northern and Central California* (Service 2010).

16. The City should also analyze all of the potential direct and indirect effects of the proposed Plan on the Service's Birds of Conservation Concern and include appropriate avoidance, minimization, and restoration/compensation measures. Some of the Birds of Conservation Concern that may occur within the proposed Plan area include the black-chinned sparrow (*Spizella atrogularis*), Bell's sage sparrow (*Amphispiza belli belli*), peregrine falcon (*Falco peregrinus*), Nuttall's woodpecker (*Picoides nuttallii*), yellow-billed magpie (*Pica nuttalli*), Lewis's woodpecker (*Melanerpes lewis*), oak titmouse (*Baeolophus inornatus*), burrowing owl (*Athene cunicularia*), Allen's hummingbird (*Selasphorus sasin*), Costa's hummingbird (*Calypte costae*), loggerhead shrike (*Lanius ludovicianus*), yellow warbler (*Dendroica petechial brewsteri*), Alameda song sparrow (*Melospiza melodia pusillula*), black rail (*Laterallus jamaicensis coturniculus*), tricolored blackbird (*Agelaius tricolor*), olive-sided flycatcher (*Contopus cooperi*), black skimmer (*Rynchops niger*), whimbrel (*Numenius phaeopus*), long-billed curlew (*Numenius americanus*), marbled godwit (*Limosa fedoa*), short-billed dowitcher (*Limnodromus griseus*), and salt marsh common yellowthroat (*Geothylpis trichas sinuosa*) (pages 48 and 65 in Service 2008).

17. The City should follow the guidelines in the bird conservation plans developed by California Partners in Flight, Riparian Habitat Joint Venture, PRBO Conservation Science, and River Partners for managing, restoring, and conserving habitats for the benefit of migratory birds (California Partners in Flight 2000, 2002, 2004; Riparian Habitat Joint Venture 2004; River Partners and Riparian Habitat Joint Venture 2009; Hickey *et al.* 2003).

18. The City should incorporate bird-friendly designs on skyscrapers that reduce the rate of collision of migratory birds with skyscraper windows.

19. The City should follow the recommendations and suggested practices in the power line guidelines published by the Avian Power Line Interaction Committee (APLIC) and the Service to minimize impacts from existing facilities and in the construction of new utility and energy systems and associated infrastructure (APLIC 1994, 1996, and 2006; APLIC and Service 2005).

20. Lights should be designed with wildlife species in mind using appropriate wavelength light sources that are shaded to direct lights away from sensitive habitats. The City should follow the recommendations in Fure (2006) for minimizing the impacts of light pollution on migratory birds, bats, and other special-status species.

    a. Avoid illuminating bat roosting areas (*e.g.*, suitable crevices in overcrossings).

    b. Use low-pressure sodium lamps instead of high-pressure sodium or mercury lamps; fit mercury lamps with ultraviolet filters.

    c. Maintain the brightness as low as possible (less than 2,000 lumens (150 watts) are generally needed for security lights).

    d. Limit the times during which the lighting can be used to provide some dark periods.

e. Direct the lighting to where it is needed to avoid light spillage; minimize upward lighting to avoid light pollution; limit the height of lighting columns to 26 feet; use plantings to screen out light.

f. Enhance bat roosting habitat by installing bat boxes away from artificial light sources.

g. Restrict the use of insecticides in bat foraging habitat.

21. The City should maintain important wildlife corridors, remove barriers that significantly restrict their movements, and incorporate wildlife passage into the design of roadways.

22. The Service recommends working toward making the proposed Plan carbon neutral. Consistent with the Intergovernmental Panel on Climate Change (2007a,b) adaptation strategies/mitigation recommendations, the Service recommends compensating for the proposed Plan's carbon emissions by purchasing carbon offsets and/or restoring tidal marshes, reforestation, managing grasslands to increase carbon sequestration, and planting nest trees for raptors in areas away from transmission lines and sensitive prey species.

The Service appreciates the opportunity to comment on the Draft Program Environmental Impact Report for the Envision San Jose 2040 General Plan Update. We look forward to continued coordination with the City in the development of the proposed Plan. Please contact Joseph Terry, Senior Biologist, or Ryan Olah, Coast Bay/Forest Foothills Division Chief, at the letterhead address, electronic mail (Joseph_Terry@fws.gov; Ryan_Olah@fws.gov), or at telephone (916) 414-6600 if you have any questions regarding this response.

Sincerely,

E. Tatterson

For Cay Goude
Assistant Field Supervisor

cc:
Scott Wilson, California Department of Fish and Game, Napa, California
David Johnston, California Department of Fish and Game, Napa, California
Greg Martinelli, California Department of Fish and Game, Napa, California
Ken Schreiber, County of Santa Clara, San Jose, California
Eric Mruz, Don Edwards San Francisco Bay National Wildlife Refuge, Fremont, California
Maureen Goff, National Oceanic and Atmospheric Administration National Marine Fisheries Service, Santa Rosa, California
Cameron Johnson, U.S. Army Corps of Engineers, San Francisco District, San Francisco, California
Sandia Potter, San Francisco Bay Regional Water Quality Control Board, Oakland, California

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