Midpeninsula Regional Open Space District

R-15-71
Meeting 15-13
May 13, 2015

AGENDA ITEM 11

AGENDA ITEM

Proposed purchase of the Peninsula Open Space Trust (Hendrys Creek) property in partnership with Santa Clara Valley Water District as an addition to the Cathedral Oaks Area of the Sierra Azul Open Space Preserve, located at 20610 Aldercroft Heights Road, Los Gatos in unincorporated Santa Clara County (Santa Clara County Assessor's Parcel Numbers 558-27-007, 558-27-008, and 558-51-005).

GENERAL MANAGER'S RECOMMENDATIONS

1. Adopt a Resolution approving the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring Program for Hendrys Creek Project in accordance with the California Environmental Quality Act (CEQA), and adopt the findings set out in the Draft Resolution.

2. Adopt a Resolution authorizing execution of a Memorandum of Understanding with Peninsula Open Space Trust and Santa Clara Valley Water District to purchase the property and convey a Conservation Easement and Long-term Management Plan to Santa Clara Valley Water District.

3. Adopt the Amended Preliminary Use and Management Plan, which will be incorporated into the Long-term Management Plan, and name the property as an addition to the Cathedral Oaks Area of Sierra Azul Open Space Preserve.

4. Dedicate the property as public open space pursuant to the District's Annual Policy for Dedication of Lands.

SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to enter into a Memorandum of Understanding (MOU) with Peninsula Open Space Trust (POST) and Santa Clara Valley Water District (SCVWD) to purchase the Hendrys Creek property from POST. The property will be conveyed in fee title to the District, and SCVWD will fund the full purchase price of $1,500,000. In return, the District will convey a Conservation Easement and Long-term Management Plan to SCVWD. Because of the restrictions in the conservation easement related to resource sensitivity, this property will be designated as a Conservation Management Unit (CMU) closed to public excess except by permit. The following report presents a description of

the Hendrys Creek Property, Conservation Easement, Long-term Management Plan, Amended Preliminary Use and Management Plan, environmental review, terms and conditions, and financial impacts of the proposed transaction.

MEASURE AA

The purchase of the Hendrys Creek property would further the District's Vision Plan and is an eligible Measure AA Project. A 5-year Measure AA Project List was approved by the Board at the October 29, 2014 meeting, which includes Project #22.1 (Hendrys Creek Restoration – Design and Implementation) (Report R-14-130). This project meets the criteria and aligns with the goals of Project #22.1 to preserve open space in the Los Gatos Creek Watershed, protect and restore riparian and wetland habitats of the Hendrys Creek watershed, preserve ecological connectivity and wildlife dispersal corridors, and allow for a desirable addition to the Sierra Azul Open Space Preserve.

DISCUSSION

The Hendrys Creek property is located east of the Lexington Reservoir, adjacent to the Cathedral Oaks area of Sierra Azul Open Space Preserve (Preserve), in the middle portion of Hendrys Creek canyon. The property consists of three legal parcels totaling 117.14 acres. Previously, the District purchased a 70-acre property along Weaver Road in the upper watershed of Hendrys Creek from Mr. Sal Carilli, the former owner of the POST Hendrys Creek property (see Report R-90-29).. As part of that transaction, the District received a right of first refusal on the adjacent two parcels totaling 116.14 acres still owned at that time by Mr. Carilli (Parcel 1 = 78.06 acres and Parcel 2 = 38.08 acres, shown on Attachment 1). Subsequently, , Mr. Carilli purchased another adjoining one acre parcel in 2007, identified as Parcel 3 on the attached map .Together these three parcels total 117.14 acres.

Since 2010, the SCVWD has been interested in partnering with the District to protect the Hendrys Creek watershed and the flows that it contributes to Lexington Reservoir. In 2011, POST entered into an agreement to purchase the three parcels of the remaining 117.14-acre Hendrys Creek property owned by Mr. Carilli for $1,500,000, while the District worked with SCVWD on a potential partnership to eventually purchase the property from POST. In August 2011, the District entered into a Lease and Management Agreement with POST for the District to manage the property until the agreement with the SCVWD was finalized (see Report R-11-84). The Lease and Management Agreement went into effect at the time the property was transferred to POST and the District has managed the property as a closed portion of the Preserve since that time.

The property purchase will be funded from the SCVWD's Multi-Year Stream Maintenance Program, which requires permitting agency review and approval. Since 2011, the District and SCVWD have been in negotiation with three permitting agencies (U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and San Francisco Regional Water Quality Control Board) to develop the terms and conditions of a Conservation Easement and Long-term Management Plan. General agreement on those terms and conditions was reached by all parties in March 2015.

Property Description
The 117.14-acre Hendrys Creek property is located east of Lexington Reservoir in the middle and upper portions of Hendrys Creek canyon. The property is bounded to the north by the former Moore property, purchased from POST in 2009 (see Report R-09-14) and the Cathedral Oaks area of the Preserve to the south and east. Private properties border the property to the west and along its southeastern corner. The property is accessible from a deeded access road that runs along Hendrys Creek to the west via Aldercroft Heights Road.

In most years, Hendrys Creek is a year-round creek that flows from the Preserve into Lexington Reservoir. The property is characterized by steep north and south-facing forested side-slopes, several tributaries, drainages and springs, all of which flow into Hendrys Creek canyon. Vegetation on the property includes bay, big leaf maple, sycamore, white alder, oaks and some Douglas fir. The upper south-facing slopes include chamise-mixed Manzanita, chaparral, and sagebrush. Common mammals in the chaparral community include black-tailed deer, bobcat, gray fox, mountain lion, and brush rabbit. Trout up to 12 inches in length migrate upstream from Lexington Reservoir and have been spotted in Hendrys Creek. The property also provides potential Foothill yellow-legged and California red-legged frog habitat. The Hendrys Creek canyon is a natural extension of the Preserve because of its watershed and wildlife corridor values.

Existing Structures and Improvements
A dirt access road traverses approximately two-thirds the length of the property along the north side of Hendrys Creek, with a number of culverted stream crossings where side tributaries enter Hendrys Creek. Graded earthen pads formerly occupied by unpermitted structures and trailers and a one acre grassy meadow formally used as a private golf green are still visible along this road. The only public utilities serving the property are telephone service lines. As a part of POST's purchase of the property in 2011, all structures, improvements, personal property, and debris were removed by the seller. A Phase I Environmental Site Assessment was done in 2011 indicating no evidence of environmental hazardous conditions associated with the property.

USE AND MANAGEMENT

Planning Considerations
The property is located in unincorporated Santa Clara County and zoned HS (Hillside), requiring a 20-to-160-acre minimum lot size, based upon the County's slope density formula. The property consists of three legal parcels. Parcel 1 is approximately 78.06 acres, and Parcel 2 is approximately 38.08 acres. Parcel 3 is a legal, non-conforming 1.00 acre parcel. Each of these parcels is accessed from the dirt access road via Aldercroft Heights Road. Most of the property is steeply sloping canyon and riparian zone. Per the Santa Clara County General Plan and the County's zoning regulations, the allowable land uses in HS districts include low intensity recreation, open space, and natural preserves. A finding for compliance with the General Plan for all open space acquisitions by the District in Santa Clara County was made by the Santa Clara County Planning Department in 1999.

If purchased, the property would be incorporated into the Preserve. In keeping with District practices, subsequent planning for the property would be coordinated with the District's larger-

scale planning efforts for the Preserve, and include a public process and consultation with appropriate agencies and organizations. The planning effort would analyze opportunities for natural resource management and compatible public trail use as outlined in Measure AA Priority Project #22. The planning process would include public workshops to gather input and review draft and final plans. Further environmental review would be prepared as needed.

Williamson Act Considerations

Parcels One and Two of the Hendrys Creek property are subject to a Land Conservation Agreement between the County of Santa Clara and Salvatore V. Carilli and Carolynne A. Carilli under the California Land Conservation Act of 1965 (also known as the Williamson Act). The Williamson Act Contract (Contract) is a voluntary agreement between a landowner and the County to encourage ongoing commercial agricultural use in exchange for property tax reduction. The Contract covering both parcels was recorded on February 17, 1977, and also provides for the compatible uses of open space and recreation. A contract non-renewal for Parcel Two was filed by the Salvatore V. Carilli with the County on July 17, 2007. The Contact for Parcel Two will therefore terminate on January 1, 2017. A contract non-renewal for Parcel One was filed by the Salvatore V. Carilli with the County on October 10, 2008 and will terminate on January 1, 2018. If the purchase is approved, the District will continue to comply with the Contract provisions during the non-renewal period until the Contract termination dates.

Amended Preliminary Use and Management Plan (PUMP)

A Preliminary Use and Management Plan (PUMP) for the property was originally adopted by the District Board of Directors in 2011 as part of the approval of a Lease and Management Agreement with POST to manage the land as an addition to the Sierra Azul Open Space Preserve. As of this 2011 approval, the PUMP has been amended as follows to incorporate the newly required use and management conditions that are included as part of the Conservation Easement and Long Term Management Plan. This amended PUMP would remain in effect as of the close of escrow until any future change or a Comprehensive Use and Management Plan, or Preserve Plan is approved for the Cathedral Oaks Area of the Sierra Azul Open Space Preserve. Also, any future changes to the PUMP will require approval by SCVWD and the permitting agencies and potentially be subject to additional environmental review. The PUMP, as specified below, calls for initial stream restoration and sediment-reduction practices, including excavation of fill material from stream channels. Otherwise, the property would be maintained in its current condition with no use changes anticipated.

Conservation Easement and Long-term Management Plan:	Use and manage the Property in a manner that is consistent with the Conservation Easement and the associated Long-term Management Plan.
Public Access:	Designate the Property as a Conservation Management Unit (CMU), so that use is confined to activities that are consistent with creek and riparian corridor protection, watershed and riparian habitat, and ecologically sensitive public enjoyment of the Property, consistent with the Conservation Easement.

	Close the Property to public use, except for infrequent hiking tours led by MROSD docents and a limited number of hiking permits issued on a case-by case basis on existing roads in non-sensitive areas.
Resource Management:	Manage the Property in a natural condition, consistent with the District's Resource Management Policies and the Property's Long-term Management Plan. Perform a detailed resource inventory to identify presence of special status species on the Property. De-compact and re-vegetate the former building sites for erosion control purposes. Conduct non-native invasive species management activities consistent with the District's standard policies and procedures, performing intensive removal at stream crossing rehabilitation sites and upland disturbed areas within the first six years, consistent with the Long-term Management Plan. Study, design, and implement stream crossing rehabilitation work at priority sites to prevent and reduce sediment releases to the sensitive stream environment. Maintain, repair, replace or remove existing road crossing facilities such as bridges and culverts. If needed to respond to changing stream conditions, perform corrective stream maintenance.
Roads and Trails:	Maintain existing unpaved roads below the cleared, level area known as the former "golf green" in serviceable, seasonal-use condition passable to ATV for patrol, monitoring, and resource management purposes. De-compact and re-vegetate the unpaved roads above the "golf green". Prepare a more detailed road and trail assessment of the entire Property and implement the revegetation of spur roads and trails not providing patrol access, prioritizing those sites closest to streams and tributaries. Implement minor maintenance and erosion control measures on roads as needed to adapt to changing conditions in accordance with District standards. The easement access road is to be used for District patrol, maintenance and emergency purposes and not for general public access. Work with the private property owner and other easement holders to formalize use and maintenance of the easement access road from Aldercroft Heights Road in a mutually acceptable manner.
Patrol:	Routinely patrol the Property utilizing existing roads and trails to enforce Midpeninsula Regional Open Space District's "Regulations for Use of Midpeninsula Regional Open Space District Lands," and any amendments thereto.

Signs and Site Security:	Install boundary and closed area signs where appropriate. Install a vehicle gate at appropriate roadway access points, as well as closed area, private property, and preserve boundary signs where the Property is relatively accessible from adjacent private property.
Public Safety:	Work with law enforcement officials to secure the Property, and prevent trespass and illegal activity.
Wildfire Fuel Management:	Further assess vegetative communities to determine wildfire management needs. Coordinate work on the Property with overall fuel management strategies for Sierra Azul Open Space Preserve. Conduct wildfire fuel management activities consistent with Midpeninsula Regional Open Space District practices and Resource Management Policies.
Structures and Improvements:	Not applicable - no structures or major improvements are present.
Dedication:	Dedicate the Property for public use under California Public Resources Code Section 5500 *et seq*
Subsequent Planning:	Integrate the Property into the completion of the Sierra Azul Open Space Preserve Plan in the future. All subsequent planning shall take into account the Conservation Easement and Long-term Management Plan.
Name:	Name the Property as an addition to the Cathedral Oaks Area of Sierra Azul Open Space Preserve.

CEQA COMPLIANCE

Project Description
The proposed project consists of the purchase of the 117.14 acre Hendrys Creek property by the District for open space preservation purposes, and the concurrent adoption of an Amended Preliminary Use and Management Plan to manage the property as part of the District's Sierra Azul Open Space Preserve. The District would manage the property in a natural condition and continue to maintain it as closed to the public. The project also includes implementation of a Long-term Management Plan to restore road and stream crossings over Hendrys Creek and its tributaries and rehabilitate disturbed upland areas.

The existing roadway creek crossings within the project site are susceptible to failure after large storm events, and in some locations are contributing excessive fine-grained sediment to the Hendrys Creek watershed. Three unpermitted, short-span vehicle bridges and one foot bridge, all in poor condition, would be removed. A portion of the existing roadway system would be restored and maintained to provide vehicular access within the project site for maintenance, routine patrols, and management of the property. Restoration of these road-stream crossings would reduce the potential

of these degraded areas to adversely affect the streams and other natural resources, and would reduce future maintenance needs.

Initial Study/Mitigated Negative Declaration Preparation
In 2014, the District retained the independent consulting firm of Ascent Environmental, Inc. to prepare an Initial Study/Mitigated Negative Declaration (collectively, MND) for the Project, pursuant to the requirements of the California Environmental Quality Act (CEQA, Public Resources Code sections 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regulations sections 15000 et seq.).

The MND, dated March 2015 (Attachment 2), identified potentially significant adverse effects on the environment from the proposed project, and found that mitigation measures for the proposed Project would avoid the effects or mitigate the effects to below a level of significance. Prior to public release, the draft MND was reviewed by the regulatory permitting agencies, including the SCVWD, County of Santa Clara Planning Department, US Army Corps of Engineers, California Department of Fish and Wildlife, Regional Water Quality Control Board, and the Bay Area Air Quality Management District to ensure that all concerns of the permitting agencies would be incorporated into the environmental analysis, and to develop mitigations with those agencies for potentially significant impacts.

Public Review Period and Availability
A Notice of Intent (NOI) to adopt the MND (Attachment 3) was released by the District on March 20, 2015 notifying the public that the MND would be circulated for public review for a period of 30 days, commencing on March 20, 2015 and ending on April 20, 2015.

The NOI to adopt a MND was distributed to the California Office of Planning and Research's State Clearinghouse, interested agencies, individuals, adjacent property owners, and nearby residents. It was posted in a general circulation newspaper, at the County of Santa Clara Clerk Recorder's Office, and on the District's website, notifying all interested parties of the availability and 30-day public review period. Copies of the full MND were available on the District's website, at the District's Administrative Office at 330 Distel Circle, Los Altos, CA 94022, at the Santa Clara Valley Water District Headquarters at 5750 Almaden Expressway, San Jose, CA 95118, and through the State Clearinghouse. Printed copies were available upon request.

Public Comments
In accordance with section 15088 of the CEQA Guidelines, the District as the lead agency has reviewed all comments received on the Project. As of the close of the public review period, one written comment letter was received from County of Santa Clara Parks and Recreation Department. The comment letter referenced the County's regional trail network in the vicinity of the Project but did not challenge the adequacy of the MND. The District has acknowledged receipt of this letter and District staff has confirmed that the project will not impact implementation of the Santa Clara County Countywide Trails Master Plan Update. No other comment letters have been received.

CEQA Determination
The District concludes that the Project will not have a significant effect on the environment. The environmental analysis revealed potentially significant impacts in the following areas: Biological Resources, Cultural Resources, and Hazards and Hazardous Materials; however, potential impacts have been reduced to less-than-significant levels through the incorporation of mitigation measures into the Project. All potentially significant impacts and mitigation measures are summarized below.

Biological Resources
Implementation of the proposed project could result in potentially significant impacts to special-status wildlife and plant species. Implementation of Mitigation Measures 3.4-1 through 3.4-4 to incorporate protocols to avoid or minimize impact on special status species, including California red-legged frog, Foothill yellow-legged frog, San Francisco Dusky-footed Woodrat, nesting birds, bats, and special status plants would reduce the project's impact on these species to a less-than-significant level.

The MND also includes mitigation measures to reduce potential impacts resulting from temporary construction-related impacts to wetlands or waters of the U.S. Any activities occurring within jurisdictional waters would be considered a significant impact to waters of the United States. Construction activities would result in temporary impacts to Hendrys Creek and its tributaries related to removal of creek crossings and sediment. Implementation of Mitigation Measure 3.4-5 includes submission of a wetland delineation report to the US Army Corp of Engineers; based upon their jurisdictional determination, compliance with the permitting requirements will reduce the project's impact on wetlands to a less-than-significant level.

Cultural Resources
Although no archaeological resources were identified in the project area, the potential exists that unidentified archaeological resources could be discovered during construction, which could result in a potentially significant impact. Implementation of Mitigation Measure 3.5-1 to comply with procedures in the event of a discovery of archaeological resources would reduce the project's impact on archaeological resources to a less-than-significant level.

No evidence suggests that any prehistoric or historic-era human interments are present within or near project site. However, there is a possibility that human remains could be uncovered during construction activities; therefore a potentially significant impact could occur. Implementation of Mitigation Measure 3.5-2 to comply with legally compliant procedures in the event of a discovery of human remains would reduce the project's impact on human remains to a less-than-significant level.

Hazards and Hazardous Materials
The Project site is located within the designated Wildfire and Urban Interface Fire Area with a fire hazard zone classification of very high; therefore, impacts related to wildfire would be potentially significant. Implementation of Mitigation Measure 3.8-1 to reduce potential for wildland fire ignition during routine maintenance and/or construction activities would reduce the impact to a less-than-significant level.

Mitigation Monitoring Program
In accordance with the requirements of CEQA, the District has prepared a Mitigation Monitoring Program (MMP), which describes the project-specific mitigation measures and monitoring process (Attachment 4). Adoption of the MMP ensures that all measures intended to mitigate potentially significant environmental impacts will be implemented as part of the project.

TERMS AND CONDITIONS

The 117.14 acre Hendrys Creek property is being purchased as a three party partnership between POST, SCVWD, and the District. The three parties will enter into a Memorandum of Understanding (MOU) for the District and SCVWD to purchase the property from POST at a price of $1,500,000, which is based on an independent fair market value appraisal commissioned by the District. The MOU includes the following key terms and conditions:

1. SCVWD will pay the full purchase price of $1,500,000 into escrow.
2. POST will convey fee title in the property to the District.
3. The District will convey a Conservation Easement and Long-term Management Plan to SCVWD.
4. SCVWD will also reimburse the District for the cost of District's CEQA analysis and consultant costs to prepare the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring Program. These costs are not to exceed $40,000.

Conservation Easement and Long-term Management Plan
The purpose of the Conservation Easement is to protect and preserve the property's streams, springs, natural vegetation, habitats and biological connectivity values in perpetuity, including 2.4 miles of creeks and 8.3 acres of wetland habitat. A Long-term Management Plan prepared by District staff is attached and incorporated into the Conservation Easement. Permitted and prohibited uses on the property under the Conservation Easement are summarized below:

- **Permitted uses** on the property include patrol and maintenance vehicle use, fire safety, erosion control measures, invasive plant removal, existing trails/road maintenance, creek rehabilitation and restoration, and docent and limited permit-only public hiking.
- **Prohibited uses** on the property include equestrian and bicycle uses, construction of structures or improvements, dumping, tree removal, altering water courses, transfer of development rights, commercial, industrial or agricultural uses.

The Long-term Management Plan establishes minimum management responsibilities and prevents uses that will impair or interfere with the resource values of the Hendrys Creek property. This plan allows for patrol and enforcement of the District's land-use regulations such as trespass and illegal activities, and provides for routine road and corrective stream maintenance as needed.

In addition, the Long-term Management Plan allows for the optional rehabilitation and restoration of fourteen (14) identified priority stream crossing sites. The District plans to initiate design and permits for the creek rehabilitation work in 2016 to reduce potential sedimentation impacts from degraded areas on the property that could adversely affect streams and natural

resources of the property. This rehabilitation work has an estimated cost of $245,000 and is anticipated to commence in FY2016-17. The Long-term Management Plan incorporates by reference the conditions of the Preliminary Use and Management Plan (PUMP). Future amendments to the PUMP will require approval by SCVWD and the permitting agencies.

FISCAL IMPACT

Fiscal Year (FY) 2015–16 Budget for New Land Purchases:

New Land Purchases Budget (FY2015-16)	**$11,000,000.00**
Previous Land approved for purchase this year	**($0)**
POST (Hendrys Creek) Property	Partner Funded
Ashworth Property (also on this agenda)	($ 525,000.00)
New Land Purchase Budget Remaining	**$10,475,000.00**

Because SCVWD is providing the full amount of the purchase funds of $1,500,000 for the Hendrys Creek property, title and escrow costs estimated at $5,000 are the only District land-purchase cost associated with this partnership acquisition. SCVWD is also reimbursing the District for the CEQA costs of approximately $40,000 to prepare the MND. Installation of boundary gates/fencing as necessary to prevent unauthorized vehicular entry to the property were already completed under the District's 2011 Lease and Management Agreement with POST. The Lease and Management Agreement will terminate at the close of escrow.

BOARD COMMITTEE REVIEW

The Real Property Committee held a meeting on the property on October 2, 2012. Two of the three committee members were in attendance and support the Hendrys Creek purchase. The owners of the Lupin Lodge were in attendance, and supported the property purchase at that time.

PUBLIC NOTICE

Property owners adjacent to or surrounding the subject property have been mailed written notice of the proposed partnership purchase. Public notice was provided as required by the Brown Act. No additional notice is required.

NEXT STEPS

Upon approval by the District Board of Directors, the transactional documents will be executed by the District. SCVWD's Board of Directors will consider approval of this project at their meeting on June 9, 2015. It is anticipated that the partnership purchase will close escrow by the end of June 2015. The District's South Area Outpost Field Office will continue to manage the property as an addition to the Cathedral Oaks area of Sierra Azul Open Space Preserve.

Attachments:

1. Location Map
2. Initial Study/Mitigated Negative Declaration

3. Notice of Intent to Adopt a Mitigated Negative Declaration
4. Mitigation Monitoring Program
5. Resolution to Adopt CEQA
6. Purchase Resolution

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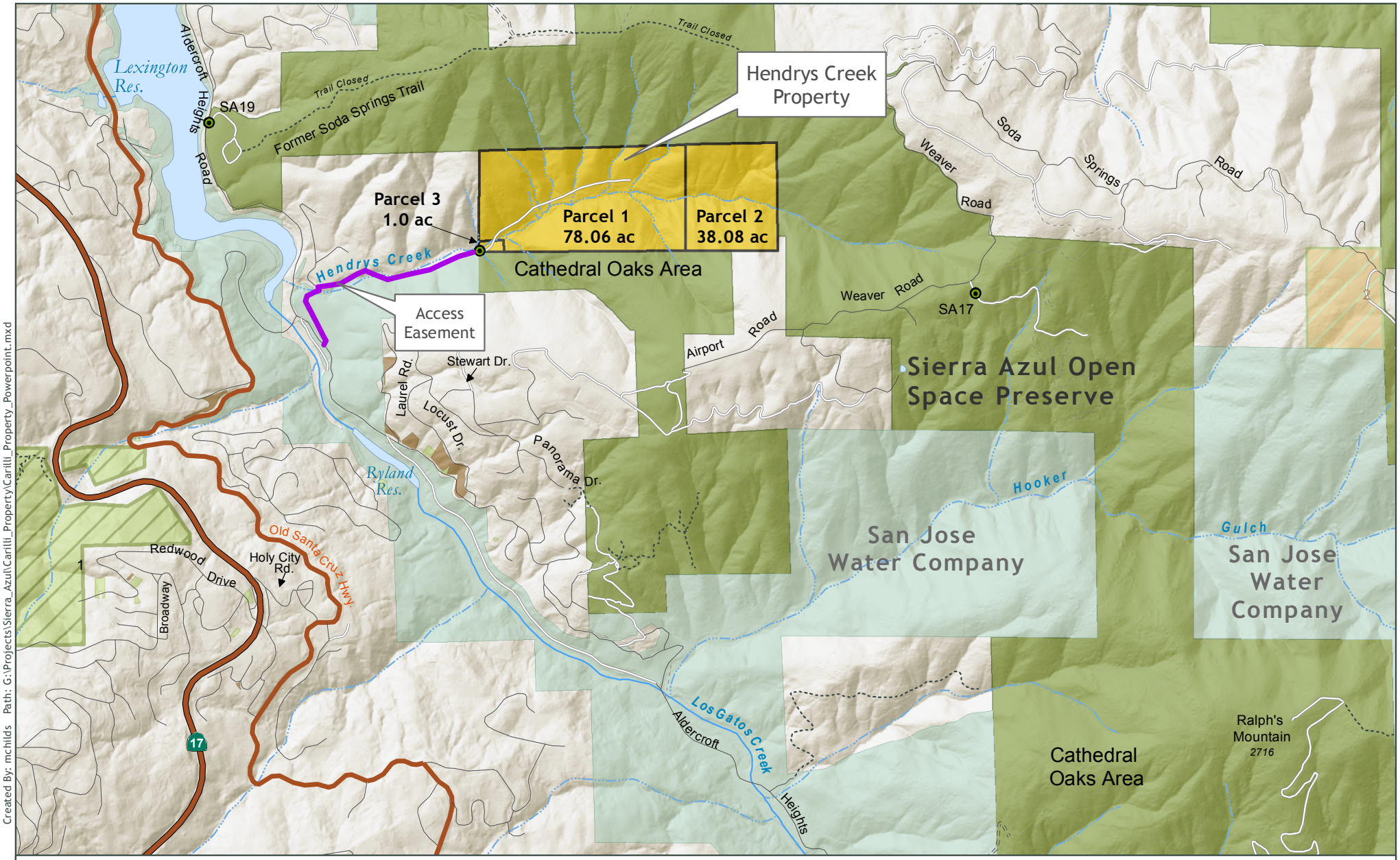

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Attachment 1: Proposed Purchase of POST (Hendrys Creek) property in partnership with SCVWD as an addition to the Cathedral Oaks Area of Sierra Azul OSP

Midpeninsula Regional Open Space District *(MROSD)*

ATTACHMENT 1

May, 2015

- POST (Hendrys Creek) Property
- MROSD Open Space Preserves
- Watershed Land
- Other Public Agency
- Other Protected Open Space or Park Lands
- MROSD Conservation or Agricultural Easement
- Land Trust
- Non-MROSD Conservation Easement
- Private Property

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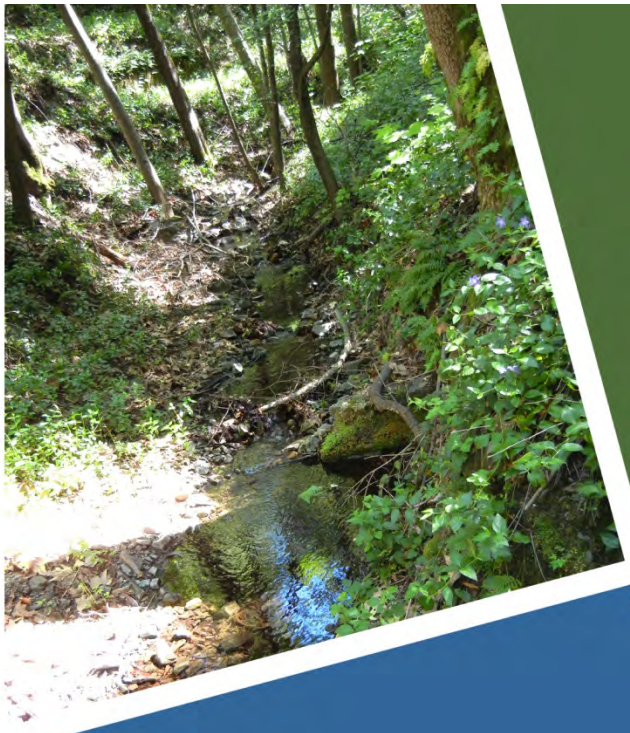
REGIONAL OPEN SPACE

While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

ATTACHMENT 2



Hendrys Creek Restoration Project

Initial Study/ Mitigated Negative Declaration

March 2015

MIDPENINSULA REGIONAL OPEN SPACE

PREPARED FOR:
Midpeninsula Regional
Open Space District
330 Distel Circle
Los Altos, CA 94022

Hendrys Creek Restoration Project

Initial Study/Mitigated Negative Declaration

PREPARED FOR

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March 2015

TABLE OF CONTENTS

Appendices

Exhibits

Tables

ACRONYMS AND ABBREVIATIONS

ADI	Area of Direct Impact
ASR	Archaeological Survey Report
BAAQMD	Bay Area Air Quality Management District
BMP	best management practice
CAL FIRE	California Department of Forestry and Fire Protection
Caltrans	California Department of Transportation
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CO_2	carbon dioxide
CRHR	California Register of Historical Resources
DFG	California Department of Fish and Game
DGC	Diablo Green Consulting
DTSC	California Department of Toxic Substances Control
EIR	Environmental Impact Report
ESA	Environmental Site Assessment
FMMP	Farmland Mapping and Monitoring Program
GHGs	greenhouse gases
IPCC	Intergovernmental Panel on Climate Change
IPM	Integrated Pest Management
IS/Proposed MND	Initial Study/Proposed Mitigated Negative Declaration
LTMP	Long-term Management Plan
MROSD	Midpeninsula Regional Open Space District
MT CO_2e/yr	metric tons of CO_2 equivalent per year
NO_X	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
OHP	Office of Historic Preservation
PM_{10}	particulate matter, exhaust
$PM_{2.5}$	particulate matter, exhaust
POST	Peninsula Open Space Trust
PRC	Public Resources Code
Preserve	Sierra Azul Open Space Preserve
ROG	reactive organic gases

SB	Senate Bill
SCCFD	Santa Clara County Fire Department
SCVWD	Santa Clara Valley Water District
SMP	2002 Multi-Year Stream Maintenance Program
VMT	vehicle miles traveled

1 INTRODUCTION

1.1 INTRODUCTION AND REGULATORY GUIDANCE

This Initial Study/Proposed Mitigated Negative Declaration (IS/Proposed MND) has been prepared by the Midpeninsula Regional Open Space District (MROSD) to evaluate potential environmental effects resulting from implementation of the Hendrys Creek Long-term Management Plan (LTMP), including rehabilitation of road crossings and upland areas. The 117-acre Hendrys Creek Property (project site) would be purchased by MROSD as an addition to the Sierra Azul Open Space Preserve (Preserve). The proposed project would provide compensatory mitigation for wetland impacts associated with the Santa Clara Valley Water District's (SCVWD) 2002 Multi-Year Stream Maintenance Program (SMP). A perpetual Conservation Easement would be held by the SCVWD describing a commitment to specifically preserve and protect the conservation values of the project site while also allowing opportunities for ecologically sensitive public enjoyment of the property. The goal of the mitigation is to preserve, protect and improve the ecological condition of selected local streams and their associated watersheds. The project site includes stream, riparian and upland habitat and is strategically located within a large preserved landscape and watershed, which would enable the protection of ecological functions, values, and processes that are important for the regional ecosystem. The permitting agencies accepting compensatory mitigation include the San Francisco District of the U.S. Army Corps of Engineers, the California Department of Fish and Wildlife, and the San Francisco Regional Water Quality Control Board. Ascent Environmental, Inc. has been retained by MROSD to prepare this analysis on their behalf.

This document has been prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations Section 15000 et seq.). An initial study is prepared by a lead agency to determine if a project may have a significant effect on the environment (State CEQA Guidelines Section 15063[a]), and thus to determine the appropriate environmental document. In accordance with State CEQA Guidelines Section 15070, a "public agency shall prepare…a proposed negative declaration or mitigated negative declaration…when: (a) The Initial Study shows that there is no substantial evidence…that the project may have a significant impact on the environment, or (b) The Initial Study identifies potentially significant effects but revisions to the project plans or proposal are agreed to by the applicant and such revisions would reduce potentially significant effects to a less-than-significant level." In this circumstance, the lead agency prepares a written statement describing its reasons for concluding that the proposed project would not have a significant effect on the environment and, therefore, does not require the preparation of an Environmental Impact Report (EIR). By contrast, an EIR is required when the project may have a significant environmental impact that cannot clearly be reduced to a less-than-significant effect by adoption of mitigation or by revisions in the project design.

1.2 WHY THIS DOCUMENT?

As described in the environmental checklist (Chapter 3), the proposed project would not result in any unmitigated significant environmental impacts. Therefore, an IS/Proposed MND is the appropriate document for compliance with the requirements of CEQA. This IS/Proposed MND conforms to these requirements and to the content requirements of State CEQA Guidelines Section 15071.

Under CEQA, the lead agency is the public agency with primary responsibility over approval of the proposed project. MROSD is the CEQA lead agency because they are responsible for purchasing the project site and implementing the proposed LTMP. The purpose of this document is to present to decision-makers and the

public information about the environmental consequences of implementing the proposed project. This disclosure document is being made available to the public for review and comment. This IS/Proposed MND will be available for a 30-day public review period from March 20, 2015 to April 20, 2015.

Supporting documentation referenced in this document is available for review at:

Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022
Phone: (650) 691-1200

Comments should be addressed to:

Meredith Manning, Senior Planner
Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022
Phone: (650) 691-1200
Fax: (650) 691-0485

E-mail comments may be addressed to: mmanning@openspace.org

If you have questions regarding the IS/Proposed MND, please call Meredith Manning at (650) 691-1200. If you wish to send written comments (including via e-mail), they must be postmarked by April 20, 2015.

After comments are received from the public and reviewing agencies, MROSD may (1) adopt the MND and approve the proposed project; (2) undertake additional environmental studies; or (3) abandon the project. If the project is approved and funded, MROSD may proceed with the project.

1.3 SUMMARY OF FINDINGS

Chapter 3 of this document contains the analysis and discussion of potential environmental impacts of the proposed project.

Based on the issues evaluated in that chapter, it was determined that the proposed project would have either no impact or a less-than-significant impact related to all but three of the issue areas identified in the Environmental Checklist, included as Appendix G of the State CEQA Guidelines. These include the following issue areas:

- aesthetics
- agricultural resources
- air quality
- geology and soils
- greenhouse gas emissions
- hazards and hazardous materials
- hydrology and water quality
- land use and planning
- mineral resources
- population and housing
- public services
- recreation
- noise
- transportation/traffic
- utilities and service systems
- mandatory findings of significance

Potentially significant impacts were identified for biological resources, cultural resources, and hazards and hazardous materials; however, mitigation measures included in the IS/Proposed MND would reduce all impacts to a less-than-significant level.

1.4 ENVIRONMENTAL PERMITS

In addition to MROSD approval, the project may require a Section 404 Permit from the U.S. Army Corps of Engineers, compliance with California Department of Fish and Game Code Sections 1602 and 2080.1, Section 401 certification from the San Francisco Regional Water Quality Control Board. As a government agency, the District is exempt from obtaining a grading permit from the County of Santa Clara.

1.5 DOCUMENT ORGANIZATION

This IS/Proposed MND is organized as follows:

Chapter 1: Introduction. This chapter provides an introduction to the environmental review process. It describes the purpose and organization of this document as well as presents a summary of findings.

Chapter 2: Project Description and Background. This chapter describes the purpose of and need for the proposed project, identifies project objectives, and provides a detailed description of the proposed project.

Chapter 3: Environmental Checklist. This chapter presents an analysis of a range of environmental issues identified in the CEQA Environmental Checklist and determines if project actions would result in no impact, a less-than-significant impact, a less-than-significant impact with mitigation incorporated, or a potentially significant impact. If any impacts were determined to be potentially significant, an EIR would be required. For this project, however, none of the impacts were determined to be significant after implementation of mitigation measures.

Chapter 4: References. This chapter lists the references used in preparation of this IS/Proposed MND.

Chapter 5: List of Preparers. This chapter identifies report preparers.

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2 BACKGROUND AND PROJECT DESCRIPTION

2.1 INTRODUCTION

The proposed project would include implementation of a Long-term Management Plan (LTMP) for the Hendrys Creek Property, which would be purchased by Midpeninsula Regional Open Space District (MROSD) and become part of the existing Sierra Azul Open Space Preserve (Preserve). Implementation of the LTMP would include restoration of road/stream crossings across Hendrys Creek and its tributaries and rehabilitation of disturbed upland areas.

2.2 PROJECT BACKGROUND AND NEED

The Hendrys Creek Property is located on 117 acres and is proposed by MROSD for purchase, environmental enhancement, and addition to the adjacent approximately 19,000-acre Preserve. The proposed project would also satisfy a mitigation requirement for another agency, the Santa Clara Valley Water District (SCVWD) by providing compensatory mitigation in perpetuity for wetland impacts associated with SCVWD's 2002 Multi-Year Stream Maintenance Program (SMP), as required by the Final Environmental Impact Report for the Multi-Year SMP (2001, SCH 2000102055). Peninsula Open Space Trust (POST) is the current property owner, and as part of a collaborative agreement between MROSD, SCVWD, and POST, the property would be acquired and placed under permanent ownership by MROSD, with a perpetual conservation easement held by SCVWD. The conservation easement property includes approximately 99 acres of Stream and Watershed Protection Buffers for 8.3 acres of freshwater wetland mitigation credit. Stream and Watershed Protection buffers are described in the SCVWD Stream and Watershed Protection Program Mitigation and Monitoring Plan (see Appendix A). The buffers constitute land preservation areas containing streams and their adjacent watersheds from 50 to 500 feet from the stream centerlines, as defined in the program. Mitigation requirements for the SMP are described in the U.S. Army Corps of Engineers Permit No 22525S (August 7, 2002), San Francisco Bay Regional Water Quality Control Board Waste Discharge Order No. R2-2002-0028 (March 5, 2002), California Department of Fish and Wildlife Lake or Streambed Alteration Agreement No. R3-2001-0119 (July 8, 2002), and Agreement No. 1600-2009-0361-R3 (January 11, 2011).

MROSD's mission is "to acquire and preserve a regional greenbelt of open space land in perpetuity, protect and restore the natural environment, and provide opportunities for ecologically sensitive public enjoyment and education." MROSD currently owns and manages more than 62,000 acres in 26 open space preserves, including the Sierra Azul Open Space Preserve to which the Hendrys Creek Property would be added. All open space preserves are managed by MROSD for low-impact recreational opportunities and the preservation and restoration of natural habitat.

Prior to purchase of the property by POST, the property was privately owned by individuals. Use of the Hendrys Creek Property is believed to have started in the 1930s, and numerous level pads and road networks were created and graded by the previous owner for small home sites, recreational vehicle trailers, and a one-acre golf green. All structures, septic tanks, personal property and debris were removed prior to POST's purchase of the property with the exception of an existing network of roads and driveways, two vehicle bridges, several culverted road/stream crossings, and a pedestrian bridge.

2.2.1 Applicable Planning Documents and Studies

The following planning documents and technical studies, which are referenced throughout this IS/Proposed MND, apply directly or indirectly to the Hendrys Creek property and the proposed project. They are available on MROSD's website, www.openspace.org.

- **Resource Management Policy Document.** MROSD adopted updated Resource Management Policies in 2011, which define the practices used by MROSD to protect and manage MROSD lands. These policies apply to all MROSD lands, including the entire Preserve.
- **Regulations for Use of Midpeninsula Regional Open Space MROSD Lands.** MROSD adopted these regulations for use of MROSD lands in 1993, and most recently revised them in 2014. These policies apply to all MROSD lands, including the entire Preserve.
- **Integrated Pest Management (IPM) Program.** MROSD's IPM program guides the pest management and invasive species control District-wide, including properties leased and managed by MROSD like Hendrys Creek.

2.3 PROJECT LOCATION

The project site is located at 20610 Aldercroft Heights Road in unincorporated Santa Clara County. The project site is east of Lexington Reservoir within the Los Gatos Creek watershed and is located along the northeast side of the Santa Cruz Mountains between Santa Clara Valley and Monterey Bay (See Exhibits 2-1 through 2-3). The project site is accessible from a deeded access road through private property to Aldercroft Heights Road. Surrounding land uses include the Preserve to the north, south, and east, and private property to the west and along its southeastern corner.

2.4 SITE DESCRIPTION

The 117-acre project site is characterized by steep, rugged terrain that ranges from 800 feet to approximately 2,600 feet in elevation. The project site is transversed by Hendrys Creek, which is a year-round spring-fed creek. An unpaved road extends up Hendrys Creek canyon with several short spur roads that served as driveways to former home sites. There are 14 stream crossings (all tributaries to Hendrys Creek) along these roads that have been evaluated for rehabilitation; eight along Hendrys Creek Road and six on other spur roads. The crossings consist of culverts, bridges, and unimproved wet fords; all are either structurally deficient or have high potential to deliver sediment to the aquatic ecosystem.

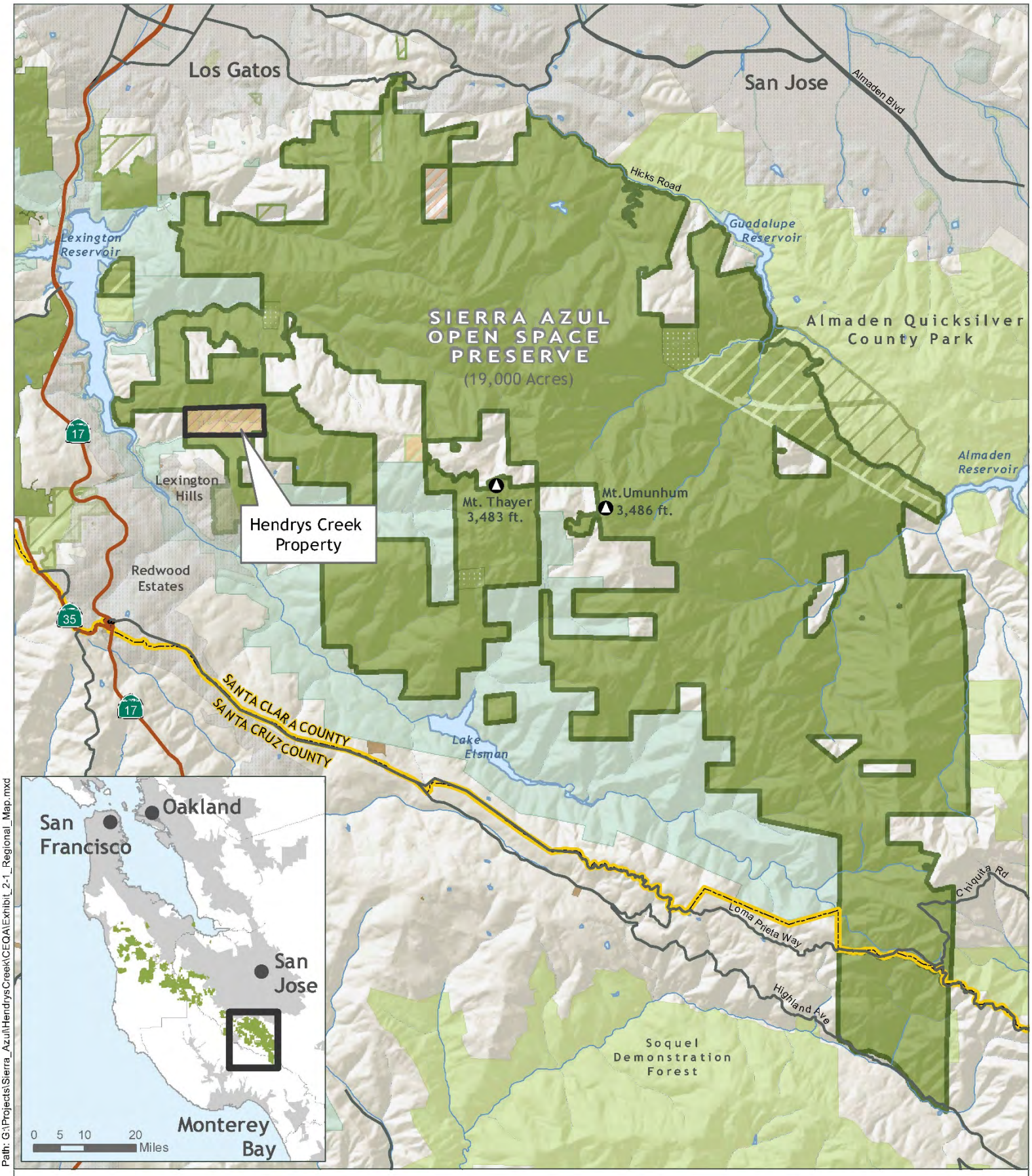

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Exhibit 2-1 **Regional Location**

- Project Area
- MROSD Preserves
- Management Agreement
- Land Trust
- County Boundary
- Watershed Land
- Private Property
- Urban Area
- Other Protected Open Space Or Park Lands
- Non MROSD Conservation or Agricultural Easement
- MROSD Conservation or Agricultural Easement

Midpeninsula Regional Open Space District

October 2014

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While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

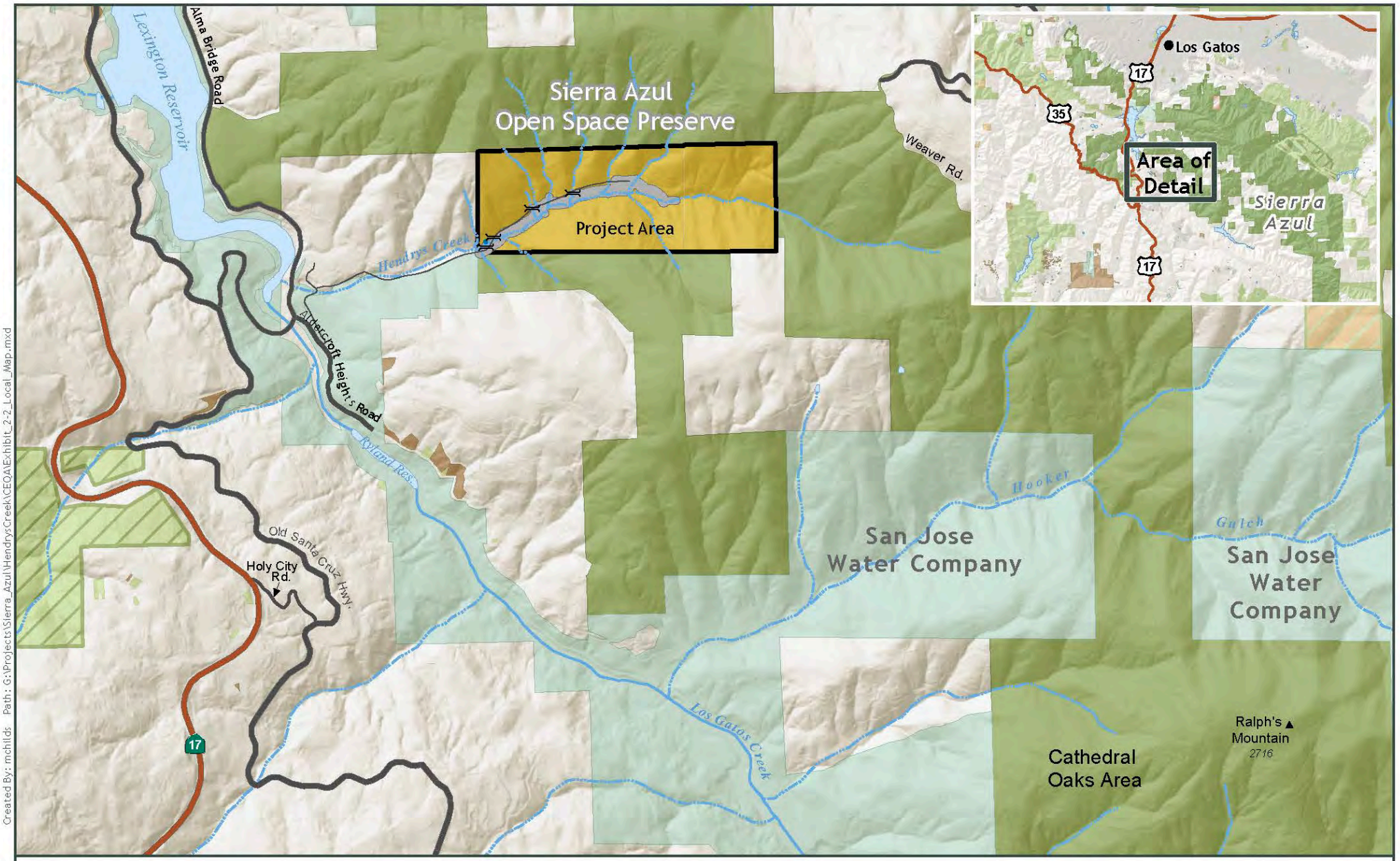

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Exhibit 2-2 **Project Location**

- Project Area
- Hendrys Creek Property
- MROSD Open Space Preserves
- Land Trust
- Watershed Land
- Other Public Agency
- Other Protected Open Space or Park Lands
- MROSD Conservation or Agricultural Easement
- Non MROSD Conservation or Agricultural Easement
- Private Property

Midpeninsula Regional Open Space District *(MROSD)*

March, 2015

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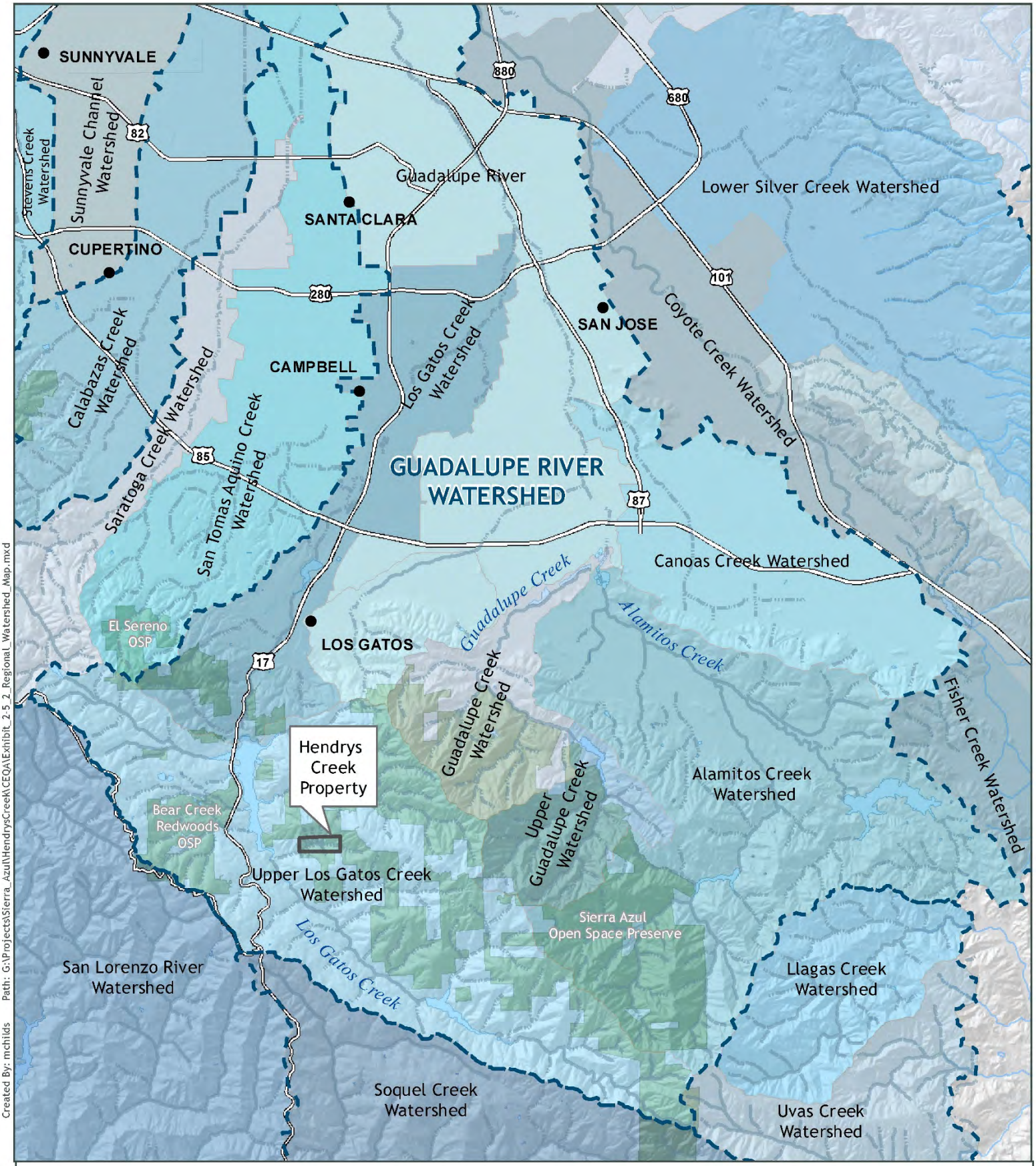
MIDPENINSULA REGIONAL OPEN SPACE



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Created By: mchilds

Exhibit 2-3 **Regional Watersheds**

Major Watersheds

Subwatersheds

Lake or Reservoir

MROSD Preserves

Midpeninsula Regional Open Space District *(MROSD)*

November, 2014

Miles 0 2 4

While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

2.4.1 On-site Vegetation

Hendrys Creek watershed supports a mix of upland plant communities including riparian woodland, mixed evergreen forest, coastal scrub, and developed/ruderal (Exhibit 2-4). These general habitat types are described briefly below. A detailed description of the specific vegetation types is provided in the attached Environmental Checklist (see Section 3.4, "Biological Resources"):

- **Riparian Woodland** is dominated by a canopy of native trees including alders, maples, sycamore, and bays with an understory of shrubs including poison oak, blackberry, and thimbleberry.
- **Mixed Evergreen Forest** is dominated by a canopy of native trees including oaks, bays, buckeyes, and maples with an understory of native shrubs and herbs such as poison oak, California hazelnut, and blackberry.
- **Coastal Scrub** is dominated by a dense cover of native shrubs and herbs including coyote brush, poison oak, sticky monkeyflower, and California blackberry.
- **Developed/Ruderal Habitat** consists of heavily disturbed areas associated with roads and former development and is either unvegetated or dominated by weedy, non-native grasses and forbs.

2.4.2 On-site Streams, Watersheds, and Aquatic Habitat

Aquatic habitats within the project site include one perennial stream (Hendrys Creek), approximately nine first or second order tributaries of Hendrys Creek, and numerous seeps and springs. These are described briefly below and in greater detail in the attached Environmental Checklist (see Section 3.4, "Biological Resources"):

- **Hendrys Creek** is a spring-fed perennial creek that flows from the Preserve into Lexington Reservoir in the Los Gatos Creek watershed. Hendrys Creek forms part of the headwaters of Los Gatos Creek, which has one of the largest watersheds in Santa Clara County. Vegetation along the creek is primarily well developed riparian woodland.
- **Hendrys Creek Tributaries** are primarily ephemeral channels that are between 2 and 5 feet wide with riparian woodland vegetation and some disturbed areas with non-native species.
- **Seeps and Springs** occur throughout the project site. The extensive network of groundwater seeps and springs partially feed surface water to the on-site creeks.

2.4.3 Onsite Structures

All structures and septic tanks were completely removed before POST's purchase of the property. The only improvements within the project site are unpaved roads, bridges, and culverts. Exhibit 2-5 shows areas of the project site that have been previously disturbed.

2.4.4 Public Access

The Hendrys Creek property is not currently open to the public.

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Exhibit 2-4 Habitat Types

- Riparian Woodland
- Mixed Evergreen Forest
- Coastal Scrub
- Ruderal/ Developed
- MROSD Preserve

Midpeninsula Regional
Open Space District
(MROSD)

November, 2014

Feet
0 500 1,000

While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

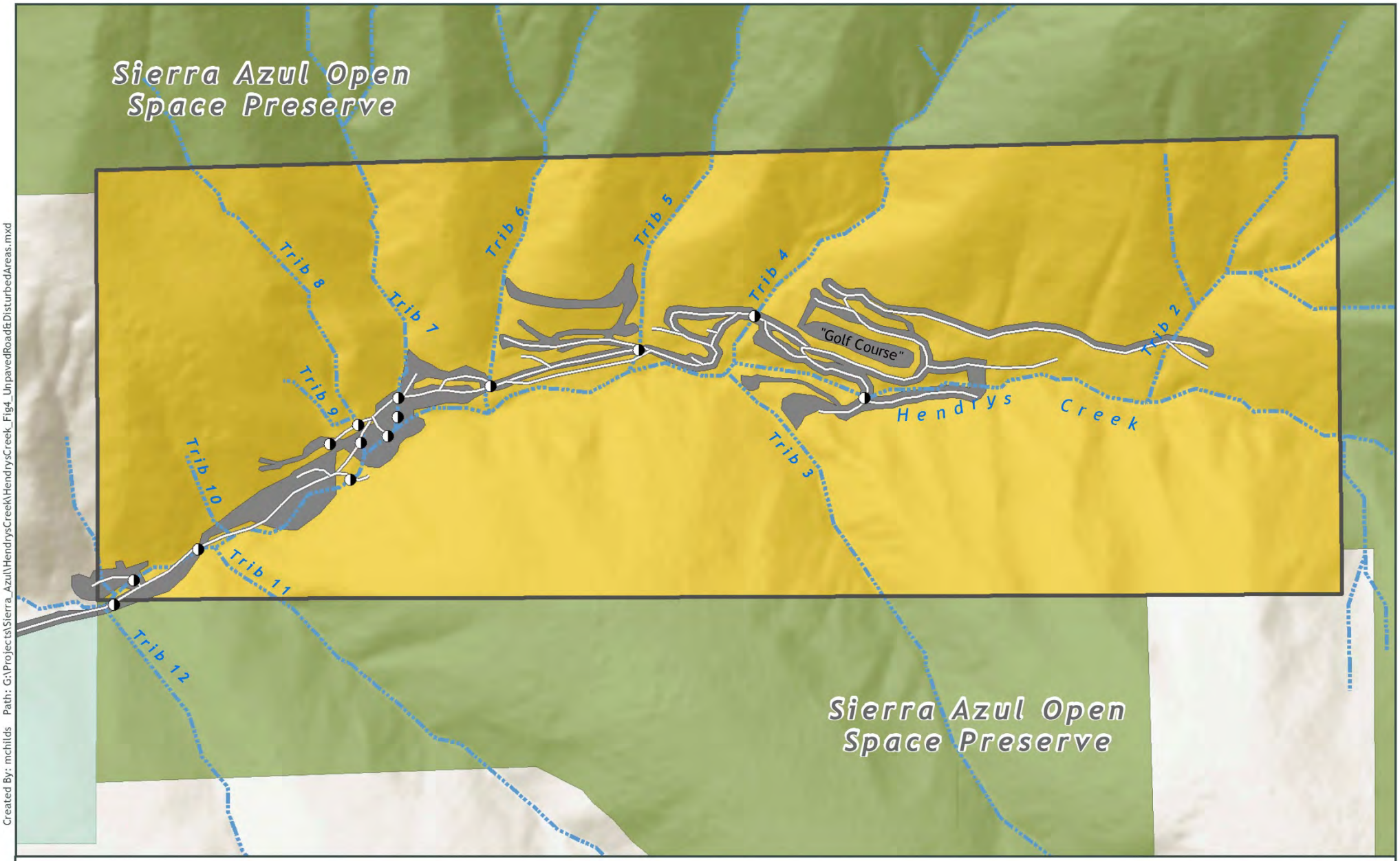

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Exhibit 2-5 **Previously Disturbed Areas**

- Hendrys Creek Property
- MROSD Preserves
- Watershed Land
- Private Property
- Disturbed Area and Unpaved Roads
- Road Crossing

Midpeninsula Regional Open Space District *(MROSD)*

February, 2015

Feet
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REGIONAL OPEN SPACE

2.5 PROJECT OBJECTIVES

The proposed project is intended to achieve the following primary objectives:

- preserve, protect, and improve the ecological condition of selected local streams and their associated watersheds;
- reduce the potential for sedimentation to the aquatic environment;
- maximize long-term benefit while minimizing impacts from the restoration actions implemented; and
- maintain access throughout property for routine maintenance and emergency vehicle access.

2.6 DESCRIPTION OF PROPOSED PROJECT

The project site is accessed from an unpaved driveway along an access easement from Aldercroft Heights Road to a system of unpaved roads throughout the property. Prior to purchase of the property by POST, the unpaved roadways provided access to future home sites and a cleared meadow used as a golf green on-site. The existing roadway creek crossings within the project site are susceptible to failure after large storm events, and in some locations are contributing excessive fine-grained sediment to the Hendrys Creek watershed. A portion of the existing roadway system would be maintained to provide vehicular access within the project site for maintenance, routine patrols, and management of the property. Restoration of these crossings would reduce the potential of these degraded areas to adversely affect the streams and other natural resources, and would reduce future maintenance needs. The proposed project would include road/stream crossing improvements, and rehabilitation of disturbed adjacent upland areas. The end result will be a network of stream channels that as a system contributes less fine-grained sediment to the aquatic environment by virtue of being more resilient to large storm events. The proposed actions are described in more detail below.

2.6.1 Restoration of Road/Stream Crossings

HENDRYS CREEK CROSSINGS

There are currently five crossings on Hendrys Creek; two of these are on Hendrys Creek Road and the other three are on spur roads (Exhibit 2-6). Only one of these crossings (Crossing H4) would be needed for future access. The remaining four crossings are no longer needed and would be removed by excavating the existing fill and restoring the excavated channel. Current plans call for all bridges, culverts, and other "built" structures at road/stream crossings to be removed, including site H4, and the stream channel "daylighted" (meaning all fill material will be excavated from the channel bottom), leaving behind a functioning stream channel that is as close to a more natural state or original configuration as practical. Table 2-1 includes a description of each crossing along Hendrys Creek. Rehabilitation of Crossing H4 is described in more detail below.

Table 2-1 Hendrys Creek Crossings

Crossing Number	Location	Existing Crossing	Proposed Improvement
H1-1	Hendrys Creek Road	Culvert	Remove
H1-2	Hendrys Creek above H1-1	None	Remove existing stream blockage and associated sediment
H2	Foot Path	Bridge	Remove
H3	Spur Road	Bridge	Remove
H4	Hendrys Creek Road	Bridge	New bridge, embedded culvert, or temporary wet ford
H5	Spur Road	Bridge	Remove

Source: Best 2012, revised by MROSD

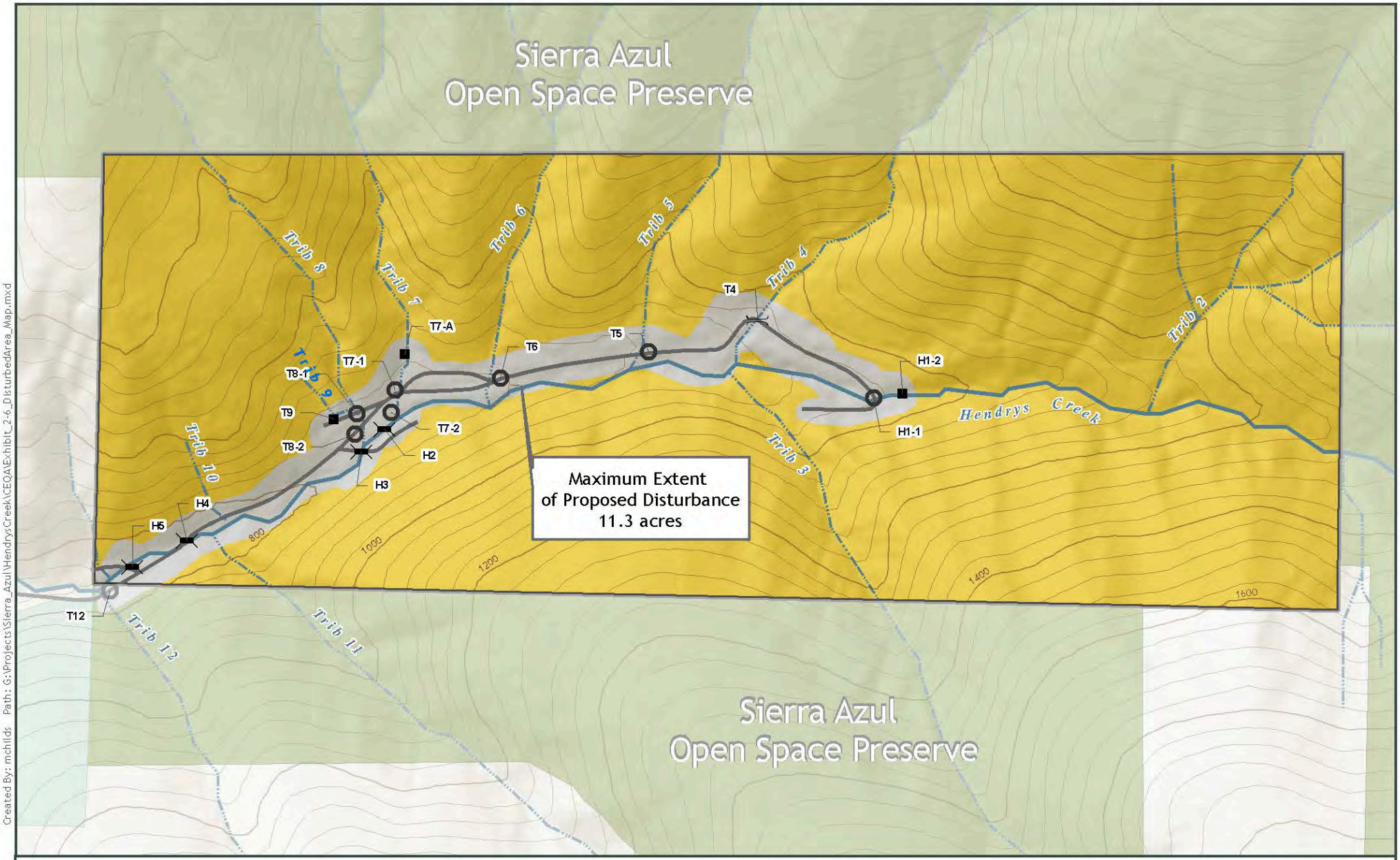

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Exhibit 2-6 **Crossing Locations and Proposed Area of Disturbance**

- Disturbed Area and Unpaved Roads
- Hendrys Creek Property (117 Acres)
- MROSD Preserves
- Watershed Land
- Private Property
- Bridge
- Culvert
- Ford
- Other
- Perennial Stream
- Intermittent Stream

Midpeninsula Regional
Open Space District
(MROSD)

February, 2015

Feet
0 500 1,000

While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

Hendrys Creek Crossing H4

Crossing H4 is currently an 11-foot bridge at Hendrys Creek Road, which is the primary access road to the interior of the property. The existing bridge was constructed within the active stream channel and has signs of degradation and undercutting by stream bank erosion, which could compromise bridge stability and safety. Because this crossing is a primary access point for the property, the existing crossing would be replaced rather than removed. The existing bridge, abutments, and fill would be removed and replaced by a temporary wet ford, embedded culvert, or new bridge. The level and area of ground disturbance would be similar for each option.

Tributary Crossings

In addition to the Hendrys Creek crossings described above, there are currently nine crossings on tributaries to Hendrys Creek (six culverts and three fords). Six of these crossings are located on Hendrys Creek Road and the other three are located on spur roads. All of these crossings are currently in poor condition, and several have failed. Several of the tributary crossings are also located on the debris fans, which places these crossings at risk for sediment deposition to the stream. Deposition could infill these crossings rendering them impassable and requiring ongoing maintenance to clear the crossings of debris or to reconstruct the crossing.

Table 2-2 includes a description of each tributary crossing.

Table 2-2 Tributary Crossings

Number	Location	Existing Crossing Type	Proposed Improvement
T4 (Upstream)	Hendrys Creek Road	Culvert	If replace w/ bridge or culvert, replace with culvert or ford. If replace with ford, realign stream and install ford or abandon.
T5	Hendrys Creek Road	Ford	Realign stream and remove
T6	Hendrys Creek Road	Ford	Realign stream and remove
T7-1	Hendrys Creek Road	Ford	Realign stream
T7-2	Spur Road	Culvert	Remove
T7-A	Graded Stream Channel	None	Restore stream channel
T8-1	Spur Road	Culvert	Remove
T8-2	Hendrys Creek Road	Culvert	Realign stream and remove
T9	Spur Road	Diverted	Maintain diversion
T12 (Downstream)	Hendrys Creek Road	Culvert	Replace with culvert or ford

Source: Best 2012; modified by MROSD

The level of future use expected for the property requires only minimal vehicular access for patrol, invasive plant removal, and monitoring the restoration activities by ATV in dry weather or on foot in inclement weather. The upper crossings at the spur roads are no longer required for vehicle or ATV access; therefore, at H4, the lowest road/stream crossing in the watershed on the property, a seasonal wet ford crossing, embedded culvert, or new bridge will be constructed to allow for seasonal patrol access via four-wheel drive all-terrain vehicle. Fords would include dips constructed through the creek channel by removing the majority of the crossing fill and reestablishing the native channel alignment where possible. Maintenance would not be required for ford crossings; however, the crossing may not be passable during periods of high runoff, and high stream flows can undercut the approaches making the crossing impassable. Crossings at the spur roads would be abandoned by removing the crossing structures and excavating any residual fill material.

There are two types of fords under consideration: 1) an unsurfaced "earth ford" or 2) a "rock ford" where the outlet and road bed are armored. Earth fords are more commonly used when the road bed is comprised of native rocky soils, such as found at Hendrys Creek, and when only seasonal access is required. Rock fords are more permanent structures constructed by armoring the outer edge of the crossing with large rock riprap and surfacing the road bed with coarse bed material. The rock used to armor the outer edge of the road would be sized to resist moving under the design storm flows. This would typically require 18-inch diameter rock that would need to be imported to the site; however, there is 12 inch rock onsite that may be used to armor some of the crossings.

2.6.2 Restoration of Disturbed Uplands

The proposed project would include rehabilitation of disturbed upland areas in addition to the creek crossings. All of the roads on the property are poorly drained with few drainage structures (e.g., dips). As a result, road runoff concentrates for long distances and results in erosion. To mitigate erosion, drainage dips would be installed approximately every 75 to 100 feet along all roads on-site.

Potentially unstable fill material also exists along some of the graded pads and along the outer edge of some roads. Because this material may be unstable, there is increased risk of erosion. These areas would be graded to remove unstable fill.

2.6.3 Public Access

Implementation of the LTMP would include designating the project as a Conservation Management Unit, and confining land uses to activities that are consistent with creek and riparian corridor protection, watershed and riparian habitat, and ecologically sensitive public enjoyment of the site.

Consistent with this designation, the project site would not be open to the general public, except for infrequent hiking tours led by MROSD docents and a limited number of hiking permits issued on a case-by-case basis for the use of existing roads in non-sensitive areas.

2.6.4 Project Construction

Construction of the proposed project is expected to take approximately three months with a maximum of six construction workers on-site at any given time. Equipment and materials would be temporarily stored on-site during construction of the proposed project. Equipment and materials would be limited to that needed to perform rehabilitation work. Total estimated area of disturbance is 11.3 acres. Project construction would occur during the daytime on weekdays and Saturdays.

Best management practices (BMPs) would be implemented during construction including placing silt fencing and wattles around storage areas for equipment and materials. Equipment and materials storage areas would be sited outside of sensitive habitats, and in areas with little to no slope to prevent transport of material. Any disturbed areas would be revegetated following construction.

The construction contractor would comply, to the extent practical and feasible, with the following the Bay Area Air Quality Management District (BAAQMD) standard BMPs during project construction to reduce emissions of criteria air pollutants:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site will be covered.

- All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads will be limited to 15 miles per hour.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A sign will be posted in a publicly visible location with the telephone number and person to contact at MROSD regarding dust complaints. This contact person will respond and take corrective action within 48 hours of complaints. The BAAQMD's phone number will also be visible to ensure compliance with applicable regulations.

2.6.5 Maintenance and Operation

The overall long-term management goal for the project site is to enhance the aquatic habitats and native vegetation on-site through monitoring, adaptive management, and restoration, if needed. Long-term management of the project site would include conducting ongoing patrols and monitoring of streams, springs, native vegetation, and habitats to determine stability and trends. Invasive species would also be monitored and removed as needed. Long-term management of the property would be primarily conducted by MROSD's Operations, Planning, Real Property, and Natural Resources departments, and other staff as appropriate in close coordination with the SCVWD as the Conservation Easement holder.

A phased approach would be undertaken to provide long-term maintenance and management of the biological resources within the project site. In the first phase, the biological resources would be evaluated and mapped to establish a baseline, and priorities and a schedule for implementation actions would be developed. This phase would last several months and would occur in the first spring and summer following adoption of the LTMP. During the second phase, which is expected to be approximately six (6) years, actions would be taken to control stream erosion and remove high priority invasive plants. The third phase would consist primarily of annual monitoring to detect and respond to events such as floods or fires, and would consist of routine management that would continue in perpetuity.

As part of its maintenance of the project site, MROSD would evaluate invasive plants on-site, and make recommendations for work that would require the use of pesticides. A limited number of herbicides would be allowed for use at the project site, and no herbicides would be used within 15 feet of water. Manual control treatments may also be used for the removal of small weed populations, individual occurrences, and populations near special-status species and their habitat or sensitive natural communities. Additionally, manual weed removal may be used as a follow-up treatment in areas where larger populations have been sprayed with an herbicide. An Integrated Pest Management Program was recently approved that directs these maintenance activities. A separate Environmental Impact Report evaluated the potential impacts of these District-wide activities.

Equipment and materials would also be stored on-site periodically for maintenance and management purposes. Equipment would be limited to that needed to perform work.

BMPs similar to those described above for construction would be used for any equipment or materials storage areas.

The project site would be monitored and maintained as part of the routine management of the Preserve, and no additional staffing would be required for management of the project site. The proposed project provides very limited additional public access and amenities; therefore, maintenance activities are expected to generate few, if any, additional vehicle trips (i.e., no more than 2 trips per day).

3 ENVIRONMENTAL CHECKLIST

PROJECT INFORMATION

1. **Project Title:** Hendrys Creek Long-Term Management Plan (LTMP)
2. **Lead Agency Name and Address:** Midpeninsula Regional Open Space District (MROSD)
   330 Distel Circle, Los Altos, CA 94022
3. **Contact Person and Phone Number:** Meredith Manning, (650) 691-1200
4. **Project Location:** 20610 Aldercroft Heights Road, Los Gatos, CA, unincorporated Santa Clara County (Assessor's Parcel Numbers 558-27-007, 558-27-008 & 558-51-005)
5. **Project Sponsor's Name and Address:**
   Santa Clara Valley Water District
   5750 Almaden Expressway
   San Jose, CA 95118-3686

   Midpeninsula Regional Open Space District
   330 Distel Circle
   Los Altos, CA 94022-1404
6. **General Plan Designation:** Santa Clara County: HS (Hillside)
7. **Zoning:** Santa Clara County: Hillside
8. **Description of Project:** (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or offsite features necessary for its implementation. Attach additional sheets if necessary.)

   See attached project description.
9. **Surrounding Land Uses and Setting:** (Briefly describe the project's surroundings) Adjacent land uses consist predominantly of residential, recreational, and open-space use. Please see attached project description.
10. **Other public agencies whose approval is required:** (e.g., permits, financing approval, or participation agreement)
    - Santa Clara Valley Water District (Approval of the LTMP and Conservation Easement)
    - U.S. Army Corps of Engineers (USACE) (Section 404 Permit)
    - California Department of Fish and Wildlife (CDFW) (Section 1602 and 2080.1 compliance)
    - Regional Water Quality Control Board (RWQCB) (Section 401 certification)
    - Bay Area Air Quality Management District (BAAQMD) (notification of demolition)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forest Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology / Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population / Housing	☐ Public Services	☐ Recreation
☐ Transportation / Traffic	☐ Utilities / Service Systems	☐ Mandatory Findings of Significance
		☒ None With Mitigation

DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project could not have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

☒ I find that although the proposed project COULD have a significant effect on the environment, there WILL NOT be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

☐ I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

☐ I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **EIR** or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **EIR** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

3/19/2015

Date

Jane Mark, AICP

Printed Name

Planning Manager

Title

Midpeninsula Regional Open Space District

Agency

EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).

5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9. The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance.

3.1 AESTHETICS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. Aesthetics. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

3.1.1 Environmental Setting

The project site has a high degree of visual quality (Exhibits 3.1-1 through 3.1-3) that is characterized by steep, rugged topography and dense, intact, native California bay forest. The water features that transverse the property contribute to the site's high scenic quality, including several tributaries, drainages and springs, all of which flow into Hendrys Creek canyon. Much of Hendrys Creek has a step pool configuration with a waterfall near the northern portion of the property. The site is largely undeveloped, with the development being limited to several unpaved roads with creek crossings (Exhibits 3.1-4 and 3.1-5) and leveled pads for former home sites.

Views from the property are largely obscured by intervening vegetation and topography; however, surrounding open space within the Preserve can be viewed to the north, south and east from the higher elevations. The Preserve has a high scenic quality generally characterized by the beauty and ruggedness of unspoiled wildlands. The highest portions of the project site offer some scenic views; however, the property is not open to the public and access to these areas is limited by steep topography and dense vegetation.

State Route 17, which is eligible for listing as a State-designated scenic highway (Caltrans 2013), is located approximately 1.5 miles west of the project site. However, views of the project site from the highway are obscured by vegetation and topography.

MROSD policies included in the "Resource Management Policies" document (MROSD 2011) are intended to reduce District-wide visual impacts. Applicable Resource Management Policies include minimizing evidence of human impacts by minimizing visibility of infrastructure and maintaining significant natural landscapes by controlling vegetation to maintain scenic views and requiring tenants to maintain landscapes.

Nighttime views in the project area are very dark and generally free of light pollution. There are currently no sources of light or glare within the property.

Exhibit 3.1-1 **Hendrys Creek Channel**

ASCENT ENVIRONMENTAL

Exhibit 3.1-2 **Hendrys Creek Channel with Crossing**

ASCENT ENVIRONMENTAL

Exhibit 3.1-3 **Tributary**

Exhibit 3.1-4 **Access Road**

Exhibit 3.1-5 **Hendrys Creek Crossing H4**

3.1.2 Discussion

a) Have a substantial adverse effect on a scenic vista?

No Impact. The majority of off-site views from the property are obscured by topography and vegetation; therefore, scenic viewpoints within the property are generally limited to those from the highest elevations. However, views from these scenic vistas are currently not available to the public, and implementation of the proposed project would only allow limited public access to the site. In addition, the proposed project would involve minor physical modifications that would generally improve the visual character of the site by removing man-made features and restoring the creek to a more natural condition. These improvements would be confined primarily to within and along the waterways within the property. Therefore, these changes would not interfere with any existing scenic views (either onsite or offsite). *No impact* would result.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. The nearest scenic highway to the project site is State Route 17, which is approximately 1.5 miles to the west. Views of the proposed project would not be visible from State Route 17 because of intervening vegetation, topography, and distance. The proposed project would include removal or replacement of degraded road crossings, which would improve the visual character of the project site by returning Hendrys Creek to a more natural state. The proposed project would not result in tree removal or removal of rock outcroppings. Therefore, because the proposed project would not substantially damage scenic resources that could be visible from a state scenic highway, *no impact* would occur.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

Less than Significant. There would be some temporary changes to the visual character of the project site during construction due to presence of construction equipment and materials; however, due to intervening topography, vegetation, and distance, these changes would not be clearly visible from surrounding areas. Implementation of the proposed project would include replacement or removal of degraded road crossing across Hendrys Creek and its tributaries. Removal or replacement of the crossings would improve the visual character of the project site and return the site to a more natural state by removing human made structures that are currently in poor condition. In addition, only limited vehicle access would be allowed on the project site so there would be very little increase in the number of viewers that would have visual access to the changes. The proposed changes would not be visible from off site. Therefore, the proposed project would improve the project site and would not result in substantial degradation of the existing visual character or quality of the site. This would be a *less-than-significant* impact.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

No Impact. The proposed project includes no development of structures or other occupied facilities and would not include any new lighting or other sources of light or glare. Construction activities would occur during the daytime hours and would not require the use of nighttime lighting. Public access would be allowed only during periodic site tours led by MROSD staff, which would only occur during the day. The project would result in *no impact* on light and glare.

3.2 AGRICULTURE AND FOREST RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
II. Agriculture and Forest Resources.				
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997, as updated) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.				
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use or a Williamson Act contract?	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☒	☐
e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

3.2.1 Environmental Setting

The majority of the Hendrys Creek Property is natural wildlands with steep hillsides, and is not in agricultural production. In addition, the project site is not designated as Farmland of Statewide or Local Importance, Unique Farmland, or Prime Farmland by the Farmland Mapping and Monitoring Program (FMMP). The FMMP designates the land within the project site and surrounding area as "Other Land" (land that does not meet the criteria of any of the other categories) (Department of Conservation 2012).

The California Land Conservation Act of 1965—commonly referred to as the Williamson Act—enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than similarly situated properties because they are based upon farming and open space uses as opposed to full market value. Local governments receive an annual subvention of forgone property tax revenues from the state via the Open Space Subvention Act of 1971. The project site is divided into three parcels, and Parcels 1 and 2, which total 116 acres of the 117-acre property, are subject to a Williamson Act Contract dated February 17, 1977, with the County. The remaining one-acre parcel is not subject to this contract. The former owner requested a non-renewal of these contracts in 2007 (Parcel 2) and 2008 (Parcel 1), but they will remain in effect throughout the nine-year non-renewal period (until 2017 and 2018 respectively). However, maintenance of project site in its natural state for the purpose of preserving open space is one of the compatible uses allowed in the Williamson Act Contract for the site.

3.2.2 Discussion

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No Impact. The FMMP identifies the project site as "other land." No Prime Farmland, Unique Farmland, or Farmland of Statewide or Local Importance occurs on the project site (Department of Conservation 2012). In addition, no agricultural uses exist on the project site and no grazing currently occurs within project site. The proposed project would include preservation of open space and removal of road crossings along Hendrys Creek, and therefore would not preclude use of the property for agricultural purposes in the future. The proposed project would have *no impact* on the conversion of Prime, Unique, or Farmland of statewide importance.

b) Conflict with existing zoning for agricultural use or a Williamson Act contract?

Less than Significant. The Santa Clara County General Plan designates the property as Hillside, which allows for agricultural uses, mineral extraction, low-density recreation, land in its natural state, wildlife refuges, very low density residential development, and commercial, industrial, or industrial uses that require remote settings or support recreation or appreciation of the natural environment. Thus, preservation of the project site as open space and removal of stream crossings would be consistent with the current zoning.
The majority of the project site (116 acres) is in the 9-year non-renewal period of a Williamson Act contract, which will terminate by 2018.Compatible uses under the Williamson Act, as amended, include "Open Space Use" and "Recreational Use." "Recreational Use" is defined in the Williamson Act (Cal. Government Code 51201(n)) as the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation.

MROSD's mission to preserve, protect, and maintain lands as open space meets the intent and purpose of the Williamson Act, and preservation of the project site as open space with limited recreational access is consistent with the Williamson Act. Therefore, the project would result in a *less-than-significant* impact associated with conflicts with zoning or Williamson Act contracts.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No Impact. As mentioned above under "b," the project site is zoned as Hillside, which is not considered forest land or timberland. The proposed project would not require a rezoning of the project site. The proposed project would only minimally remove or trim live trees, dead trees, brush and/or woody debris

where required for stream channel restoration, by fire protection agencies, for treatment of disease, for public safety, for patrol vehicle access, for recreational limited access, or fire breaks including for defensible space purposes at utility lines or at the Property lines, and would not require substantial tree removal. Therefore, the project would result in *no impact* related to conflicts with the zoning of forest land or timberland.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

Less than Significant. The project site does not contain any timberlands and riparian forest within the site located along Hendrys Creek and tributaries. Implementation of the proposed project does not include development of new structures or facilities that would require tree removal or conversion of riparian forest. As described in Section 3.4, "Biological Resources," any disturbance to riparian areas as a result of road crossing removal would be temporary and would be fully restored to an improved state following construction. In addition, recreational access within the property would be limited by MROSD, with permits granted on a case-by-case basis and periodic staff-led tours, so there would be no long-term loss of riparian forest due to overuse. Therefore, implementation of the proposed project would result in a *less-than-significant* impact on loss of forest land.

e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

No Impact. Implementation of the proposed project would not involve other changes that could result in conversion of farmland or forest land to non-agricultural or non-forest use. As described in the discussions under "a" through "d" above, implementation of the proposed project would result in *no impact* related to conversion of agricultural or forest land.

3.3 AIR QUALITY

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III. Air Quality.				
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on to make the following determinations.				
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☒	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐

3.3.1 Environmental Setting

The project site is located in Santa Clara County, which lies within the jurisdiction of BAAQMD. Santa Clara County is in State nonattainment for ozone, $PM_{2.5}$, and PM_{10}. Santa Clara County is in federal nonattainment for ozone, $PM_{2.5}$, and unclassified for PM_{10}.

Air quality within Santa Clara County is regulated by such agencies as the U.S. Environmental Protection Agency, and California Air Resources Board (ARB) at the federal and state levels, respectively, and locally by the BAAQMD. The BAAQMD seeks to improve air quality conditions in Santa Clara County through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The clean air strategy of the BAAQMD includes the development of programs for the attainment of ambient air quality standards, adoption and enforcement of rules and regulations, and issuance of permits for stationary sources. BAAQMD also inspects stationary sources, responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements other programs and regulations required by the federal Clean Air Act, federal Clean Air Act Amendments of 1990, and the California Clean Air Act.

BAAQMD's June 2010 adopted thresholds of significance were challenged in a lawsuit. On March 5, 2012 the Alameda County Superior Court issued a judgment finding that BAAQMD had failed to comply with CEQA when it adopted the thresholds. The court found that the adoption of the thresholds was a project under CEQA and ordered BAAQMD to examine whether the thresholds would have a significant impact on the environment under CEQA before recommending their use. The court issued a writ of mandate ordering BAAQMD to set aside the thresholds and cease dissemination of them until BAAQMD had complied with

CEQA. The court's order permits BAAQMD to develop and disseminate these CEQA Guidelines, as long as they do not implement the thresholds of significance.

As discussed in BAAQMD's updated CEQA guide that was released in May 2012, an analysis of environmental impacts under CEQA includes an assessment of the nature and extent of each impact expected to result from the project to determine whether the impact will be treated as significant or less than significant. CEQA gives lead agencies discretion whether to classify a particular environmental impact as significant. Ultimately, formulation of a standard or "threshold" of significance requires the lead agency to make a policy judgment about where the line should be drawn distinguishing adverse impacts it considers significant from those that are not deemed significant. This judgment must, however, be based on scientific information and other factual data to the extent possible. (State CEQA Guidelines Section 15064[b]).

As discussed above, due to the existing court order on BAAQMD's adopted 2010 CEQA Thresholds of Significance, BAAQMD cannot recommend specific thresholds of significance for use by local governments at this time. BAAQMD states that lead agencies will need to determine appropriate air quality thresholds to use for each project they review based on substantial evidence that they should include in the administrative record for the project. One resource BAAQMD provides as a reference for determining appropriate thresholds is the CEQA Thresholds Options and Justification Report developed by staff in 2009 (BAAQMD 2009). The CEQA Thresholds Options and Justification Report outlines substantial evidence supporting a variety of thresholds of significance.

MROSD has independently reviewed BAAQMD recommended thresholds from June 2010 including BAAQMD's Justification Report which explains the agency's reasoning for adopting the thresholds, and determined that they are supported by substantial evidence and are appropriate for use to determine significance in the environmental review of this project. Specifically, MROSD has determined that the BAAQMD thresholds are well-founded based on air quality regulations, scientific evidence, and scientific reasoning concerning air quality. Therefore, for the purposes of this project, the following thresholds of significance, as included in the aforementioned report, will be used to determine if an impact on air quality would be significant. The project would result in a significant air quality impact if it would result in an exceedance of any of the following levels:

- reactive organic gases (ROG): 54 lbs/day;
- nitrogen oxides (NO_X): 54 lbs/day;
- particulate matter, exhaust (PM_{10}): 82 lbs/day;
- particulate matter, exhaust ($PM_{2.5}$): 54 lbs/day; and
- particulate matter, fugitive dust ($PM_{2.5}$/PM_{10}): best management practices (BMPs)

3.3.2 Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?

Less than Significant. The emission inventories used to develop a region's air quality attainment plans are based primarily on projected population growth and vehicle miles traveled (VMT) for the region, which are based, in part, on the planned growth identified in regional and community plans. Therefore, projects that would result in increases in population or employment growth beyond that projected in regional or community plans could result in increases in VMT above that planned in the attainment plan, further resulting in mobile source emissions that could conflict with a region's air quality planning efforts. Increases in VMT beyond that projected in area plans generally would be considered to have a significant adverse incremental effect on the region's ability to attain or maintain state and federal ambient air quality standards.

The proposed project would include road/stream crossing improvements and rehabilitation of disturbed upland areas. In addition, the project site would be designated as a Conservation Management Unit; the

project site would not be open to the general public, except for limited recreational access by MROSD permit, granted on a case-by-case basis, and periodic staff-led tours. Thus, the proposed project would not generate demand for any new permanent employees or result in an increase in visitors or associated vehicle trips (e.g., employee trips, visitation trips). Temporary construction activities would result in slight increases in trips associated construction workers. However, these would be temporary and would only occur during the 3-month construction period. The project would not result in any new employment opportunities or new housing and, therefore, it would not change the amount of development projected for Santa Clara County, and it would be consistent with the population growth and VMT projections contained in the BAAQMD's AQMP. The project would not interfere with the region's ability to attain or maintain state and national ambient air quality standards. Thus, implementation of the proposed project would not conflict with or obstruct implementation of any air quality planning efforts. As a result, this impact would be *less than significant.*

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Less than Significant. Operation of the project would not result in any increases in mobile sources and therefore this is not discussed further. Implementation of the proposed project would result in minor construction activities. The use of heavy equipment would be minimal and would be primarily limited to removal of creek crossings and restoration of associated uplands. Therefore, emissions of criteria air pollutants (e.g., NO_X, ROG, and Diesel PM) would be minimal and project construction activities would not result in emissions of criteria air pollutants that could exceed applicable BAAQMD emissions thresholds. Emissions associated with construction were estimated and compared to BAAQMD emissions thresholds as shown in Table 3.3-1, below. Detailed model outputs are also included in Appendix B of this IS/MND.

Table 3.3-1 Maximum Project Construction Emissions (lbs/day)

	ROG	NO_X	PM_{10} Exhaust	PM_{10} Fugitive Dust	$PM_{2.5}$ Exhaust	$PM_{2.5}$ Fugitive Dust
Maximum Construction Daily Emissions	0.9	8.0	0.5	13.6	0.44	7.5
BAAQMD Threshold	54	54	82	Implement BMPs	54	Implement BMPs

Notes: BMP = best management practice

Source: Modeled by Ascent Environmental from BAAQMD CalEEMod 2015

Although emissions of criteria air pollutants, including emissions of fugitive dust (i.e., PM_{10} and $PM_{2.5}$) would be below applicable BAAQMD thresholds, all projects within the BAAQMD jurisdiction are required to implement BMPs during construction activities. As described in the project description, the project would implement BMPs during construction activities that would further reduce fugitive dust and exhaust emissions. These include watering of exposed surfaces twice daily, covering all haul trucks carrying dust or loose material, reducing vehicle speeds on unpaved roads, reducing engine idle times, using well maintained equipment, and cleaning dirt track-out from construction equipment daily. Therefore, project-generated emissions would not violate or contribute substantially to an existing or projected air quality violation. This impact would be *less than significant.*

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Less than Significant. Past, present and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. As explained in BAAQMD's CEQA Guidelines, and consistent with CEQA, if a project's contribution to

the cumulative impact is considerable, then the project's impact on air quality would be considered significant.

In developing thresholds of significance for air pollutants, air districts consider the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Thus, as discussed in the analysis under item "b" above, project-generated emissions would not exceed applicable thresholds and, therefore, would not violate an existing air quality standard. Additionally, the project would not result in an increase in mobile source emissions, and construction-related emissions would be minimal and temporary (i.e., 3 months) and below the applicable thresholds of significance. As a result, project-generated emissions of criteria air pollutants and precursors would not be cumulatively considerable. This impact would be a *less than significant*.

d) Expose sensitive receptors to substantial pollutant concentrations?

Less than Significant. No demolition would occur as part of the proposed project. The project would result in removal of several stream crossings; however, the crossings are primarily made of wood and steel with some concrete reinforcement. These materials do not typically contain asbestos; therefore there is no potential for the release of asbestos and this issue is not discussed further.

As discussed in "b" above, project implementation would not result in regional (e.g., ROG, NO_X, PM_{10}) or local (e.g., carbon monoxide) emissions of criteria air pollutant or precursors from construction or operational-related activities.(e.g., ROG, NO_X, PM_{10}) that would exceed applicable thresholds of significance. Thus, project-generated criteria air pollutant and precursor emissions would not expose sensitive receptors to substantial pollutant concentrations.

The project would result in short-term diesel exhaust emissions from onsite construction equipment. Particulate exhaust emissions from diesel-fueled engines (diesel PM) were identified as a TAC by the ARB in 1998. The potential cancer risk from the inhalation of diesel PM, as discussed below, outweighs the potential for all other health impacts (ARB 2003), so diesel PM is the focus of this discussion.

The primary source of diesel PM from the proposed project would be from construction-related activities (e.g., exhaust from off-road heavy diesel equipment). Sensitive receptors surrounding the project site include residences located in the hills on either side of Aldercroft Heights Road located over 1,000 feet from the proposed disturbance area (see Exhibit 3.12-1 in in Section 3.12, "Noise"). Based on the emission modeling conducted, the highest level of PM_{10} (i.e., diesel PM) that would occur on the worst construction day would be less than 1 lb/day (See Table 3.3-1 above). This level is substantially lower than the recommended threshold of 82 lbs/day. Additionally, the construction phase would be very short (i.e., 3 months) and would involve minor earthwork. Thus, considering the substantially low amount of emissions predicted from this project and the short duration of construction-related activities, the project would not be anticipated to result in the exposure of sensitive receptors to substantial pollutant concentrations.

As discussed above, the project would result in regional (e.g., ROG, NO_X, PM_{10}) or local (e.g., carbon monoxide) emissions of criteria air pollutant or precursors from construction or operational-related activities.(e.g., ROG, NO_X, PM_{10}) that would exceed applicable thresholds of significance. In addition, the project would include BMPs during construction, to the extent practical and feasible, that would further reduce short-term construction emissions. These include watering of exposed surfaces twice daily, covering all haul trucks carrying dust or loose material, reducing vehicle speeds on unpaved roads, reducing engine idle times, using well maintained equipment, and cleaning dirt track-out from construction equipment daily. Construction would be relatively short in duration (i.e., 3 months) and estimated diesel PM emissions would be considered low. Thus, project-related construction and operation would not expose nearby sensitive receptors to substantial levels of pollutants and this impact would be *less than significant.*

e) Create objectionable odors affecting a substantial number of people?

Less than Significant. The occurrence and severity of odor impacts depend on numerous factors, including the nature, frequency, and intensity of the source; wind speed and direction; and the presence of sensitive receptors. Although offensive odors rarely cause any physical harm, they still can be very unpleasant, leading to considerable distress and often generating citizen complaints to local governments and regulatory agencies.

BAAQMD has established Regulation 7 (Odorous Emissions) to address odor issues. Regulation 7 places general limitations on odorous substances and specific emission limitations on certain odorous compounds. Project implementation would not result in any major sources of odor and the project type is not one of the common types of facilities or activities that are known to produce odors (e.g., landfill, coffee roaster, wastewater treatment facility). In addition, the diesel exhaust from the use of heavy equipment during construction activities would be intermittent and temporary, and would dissipate rapidly from the source with an increase in distance. In this case, sensitive receptors are located over 1,000 feet away from any construction-related odor source. Also, construction activity would not occur at any single location for an extended period of time. Therefore, project implementation would not create objectionable odors affecting a substantial number of people. As a result, this impact would be *less than significant.*

3.4 BIOLOGICAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. Biological Resources. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?	☐	☐	☒	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☒	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

3.4.1 Environmental Setting

The following discussion is based on the vegetation, habitat, and species description included in the LTMP.

HABITAT AND SPECIES DESCRIPTIONS

The majority of the Hendrys Creek Property is comprised of natural wildlands with steep hillsides. The Hendrys Creek project area provides high quality natural habitat for many species including the San Francisco dusky-footed woodrat, mountain lion (*Puma concolor*), bats, and Nuttall's woodpecker (*Picoides nuttallii*) and contains mature riparian forest, perennial seeps and springs, oak/bay forests, chaparral, rock outcrops, and preserved jurisdictional waters of the United States. Scattered stands of non-native annual grass and French broom (*Genista monspessulana*) also occur on areas where the former building pads were located.

A map of the vegetation communities (categorized based on the CNPS Manual of California Vegetation 1995) is included below as Exhibit 3.4-1. A map of the stream corridors on the property is included as Exhibit 2-3 in Chapter 2, "Project Description."

Watershed and Stream Corridor Characteristics

The riparian canyon of the Hendrys Creek watershed traverses the project site with over 2.4 miles of streams, including one perennial multi-order stream (Hendrys Creek) and at least nine first or second order tributaries of Hendrys Creek (Exhibit 2-3).

Hendrys Creek is a spring-fed perennial creek which flows from the Sierra Azul Preserve into Lexington Reservoir. Hendrys Creek forms part of the headwaters of Los Gatos Creek, which has one of the largest watersheds in Santa Clara County. The Los Gatos Creek has a total drainage area of 55 square miles, 37 of which are located upstream of Lexington Reservoir. Los Gatos Creek starts from the headwaters and its smaller tributaries northwest of Loma Prieta Peak and traverses northwestward collecting contributions from various smaller tributaries and empties into Lake Elsman into which Austrian Gulch Creek flows as well. Los Gatos Creek continues its northwest path to its confluence with Hendrys Creek at the upstream end of Lexington Reservoir, a groundwater recharge reservoir. Los Gatos Creek exits the north end of Lexington Reservoir and flows northward through the City of Los Gatos and to its terminus at Guadalupe River near downtown San Jose.

The Hendrys Creek tributaries drain narrow and steep gradient watersheds. The north uppermost slopes of the watershed are prone to landslides. These existing and potential new landslides are subject to accelerated soil erosion. The project site is located on the low-gradient depositional reach of Hendrys Creek, and is therefore more likely to be the location where the stream's natural sediment and debris load is deposited. Debris fans have formed at the mouths of these drainages from naturally high sediment loads and infrequent debris flow landslides that extend down the tributary channel. The tributary stream channels draining across the debris fans are generally shallow and their location can naturally change over time in response to large depositional events. These natural events are likely to continue in the future regardless of any rehabilitation work or careful land management.

Fire has also been an important natural influence on the Hendrys Creek watershed. Much of the upper Los Gatos Creek watershed is in a state of regeneration and forest succession from major past disturbances including historic logging and fires. In July 1985, a wildfire burned 22 square miles of steep, predominantly chaparral-covered terrain extending from Lexington Reservoir to the top of Priest Rock Trail to Loma Prieta. The burned area included much of the Property's upper hillsides along the north side. The burned area may still be prone to mass downslope soil movements when the heavy rains occur.

Potential septic discharges and all water supply diversions on the Property that could have degraded surface water quality have been removed with the elimination of the former mobile home trailers and residence sites in winter of 2011/2012. Similarly, the active heavy road use, grading and clearing associated with the residential use of the Property has been eliminated, further benefitting water quality and general stream conditions. No known water supply diversions, septic tanks or human-influenced soil disturbance occurs upstream. In the Property's current condition, potential for lowered water quality still exists when high sediment runoff is prevalent. This condition could occur during periods of high rainfall and surface water runoff along roadways, at road/stream crossings, disturbed level clearings, or areas affected by future fire or earthquake events.

Hendrys Creek and its tributaries are well-shaded by mature riparian vegetation. The extremely permeable streambeds are well-drained and rocky, dominated by native gravels, blocky cobbles, and bedrock. Only minimal large woody debris is present and the banks are of native soils. Much of Hendrys Creek has a step pool configuration with a waterfall present near the uppermost end of the project site, and a large rock cascade present near the upper end of a tributary. Tributary channels are predominantly confined by bedrock slopes. All streams appear laterally and vertically stable with little or no evidence of direct human modification outside of the disturbed areas associated with the road system and former residence sites.

Created By: jhawk Path: G:\Projects\Sierra_Azul\HendrysCreek\HendrysCreek_Fig5_Veg.mxd

Exhibit 3.4-1 **Vegetation Communities**

- 1111 - California Bay Association
- 1120 - California Bay - Coast Live Oak Multiple Series Mapping Unit
- 1222 - Douglas-fir - California Bay Association
- 1320 - White Alder Series
- 2320 - Big-leaf Maple Series
- 3110 - Chamise Series
- 3130 - Chamise - Mixed Manzanita Multiple Series Mapping Unit
- 3150 - Birch-leafed Mountain Mahogany - Mesic Chaparral Mapping Unit
- 4310 - California Annual Grassland Series
- 9300 - Built-up / Urban Disturbance
- 9410 - Landslides, Cliffs, Rock Outcrops

Midpeninsula Regional Open Space District *(MROSD)*

July, 2012

Feet 0 500 1,000

While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

In these disturbed areas the channel, geometry is evolving to adjust to in-stream modifications, with recent landslide debris present in the streambed. Flooding does not appear to be an issue due to the permeability of the soil, although road crossing failure during high flow events remains a distinct possibility.

The Project site contains numerous seeps and springs, many of which were partly developed to facilitate use for residential drinking water, now no longer occurring. Based upon topographic map interpretation and site observations, groundwater flow beneath the site is inferred to be in a westerly direction towards Lexington Reservoir. No ponds are present on the project site. Two small instream ponds are found downstream on the adjacent private property. Streams, seeps and springs are considered to be sensitive habitats due their potential support for special-status species.

Floodplains and uplands on the project site are predominantly in a natural, vegetated condition. No impervious surfaces exist on or upstream of the Property. Human influences affecting floodplain and upland conditions consist of the road system and the level clearings formerly occupied by residential structures which contain exotic garden plants and occurrences of invasive plants.

Vegetation Characteristics and Habitat Types

General Vegetation Characteristics

Site vegetation is primarily native and includes well-developed stream side and hillside forests, including dense, intact, native California bay (*Umbellularia californica)* forests and areas of chamise (*Adenostoma facsciculatum*) chaparral blanketing the upper slopes. Coast live oak (*Quercus agrifolia*) is also common, and other typical hardwood forest species of the Santa Cruz range, such as California buckeye (*Aesculus californicus*) and madrone (*Arbutus menziesii*) are present but not as abundant. In addition to the predominant woodland species of the site, dense-canopied deciduous riparian forests occur along Hendrys Creek and some tributaries. Big-leaf maple (*Acer macrophyllum*), white alder (*Alnus rhombilfolium*), and some scattered, very large California sycamores (*Platanus racemosa*) are present. Steep moist bedrock exposures host numerous fern species. Giant chain fern (*Woodwardia fimbriata*) is present at the seeps and springs. Exhibit 3.4-1, Vegetation Map, shows the distribution of these plant communities based on the CNPS Manual of California Vegetation 1995 system. Each mapping unit depicted within the Property boundary in Exhibit 3.4-1 is described in more detail below.

Disturbance events such as wildfires in the region and repeated human influences may have altered the historic distribution of plant communities on the site. The interspersed pattern of the shrublands and forest on the site's northwestern upper slopes areas may be the result of fire patterns from the recent major fire. Invasive plants are present in the disturbed, former residential areas of the Property. The sunny upland clearings are bordered by invasive French broom (*Genista monspessulana*), and the some creek banks are covered with invasive periwinkle (*Vinca major*).

California Bay Association

This habitat type is found scattered on hillsides and along streams throughout the northern half of the Property and is dominated (greater than 75% relative cover) by dense (greater than 80%), intact California bay forests. A few scattered big-leaf maple, alder, and mixed hardwoods are also found in the overstory of this habitat association.

California Bay-Coast Live Oak Multiple Series Mapping Unit

The California Bay–Coast Live Oak Multiple Series Mapping Unit dominates in the areas immediately upslope of the Hendrys Creek riparian corridor. It is a mixed broad-leaved evergreen forest with dense components of California bay, madrone and coast live oak in the overstory; California bay and coast live oak co-dominate.

White Alder Series

Dense-canopied deciduous riparian forest, classified as white alder series, occurs along portions of Hendrys Creek as well as tributaries 4 and 5. This series is noted to be found primarily in the mid and upper portions of watersheds along perennial streams. White alder dominates, but big-leaf maple, California bay and some large California sycamores are also present.

Big-leaf Maple Series

The big-leaf maple series mapped on the project site consists of dense-canopied deciduous riparian forest along the remaining portions of Hendrys Creek not mapped as white alder series. It also occurs along stream 3, a tributary to Hendrys Creek. This habitat type is dominated by big-leaf maple with California bay also contributing to the overstory.

Chamise Series

This habitat type is found blanketing the upper slopes in the northern half of the Property. Dense chamise dominates with greater than 80% relative cover. Other chaparral species can be found as a minor component at the edges of the mapped polygons. Some of the open areas within this habitat type are covered with dense mats of bushy spikemoss (*Selaginella bigelovii*), which is unusual in the Santa Cruz Mountains although more common farther south.

Chamise-Mixed Manzanita Multiple Series Mapping Unit

Small areas of the chamise-mixed manzanita multiple series mapping unit are also found on the upper slopes of the project site in slightly more mesic settings than the pure stands of chamise. As the name suggests, various species of manzanita including brittle-leaf Manzanita (*Arctostaphylos crustacean* ssp. *crustacea*) codominate with chamise in this habitat type.

Birch-leafed Mountain Mahogany-Mesic Chaparral Mapping Unit

Two small areas of birch-leafed mountain-mahogany-mesic chaparral mapping unit are mapped on upper slopes in the northern part of the project site. This habitat type is characterized by birch-leafed mountain mahogany (*Cercocarpus betuloides* var. *betuloides*) interspersed with other chaparral species.

Built-up/Urban Disturbance

Until recently, the Hendrys Creek project site contained numerous unpermitted structures, trailers, and a former recreational golf green located on numerous level pads that had been cleared and graded. The location mapped as built-up/urban disturbance occurs near the confluence of Hendrys Creek and Stream 4, and is the area where the most concentrated prior residential use had occurred. The only improvements that remain on the project site are bridges, roads, and culverts, but residual disturbed habitat remains in this area, in particular.

Wildlife

The project site provides many of the physical and biological resources required by wildlife for survival and reproduction. The site potentially provides habitat for a suite of special-status species and migratory songbirds in addition to a wide variety of more common species.

Riparian and seasonal or perennial aquatic habitat is present along the streams, comprised of deciduous forest (alder or maple-dominated) or mixed evergreen forest (bay and oak) similar to that of adjacent upland slopes. Stream-related habitat provides benefits to several species in the form of shade, cover, nesting opportunities, and food. Stream habitats also serve as important movement corridors for a variety of wildlife species. The stream habitats intergrade with the dense bay forests and chamise chaparral of the project site, providing additional habitat variety.

Common Species

The project site is known or expected to support a wide array of bird, mammal, amphibian and reptile species including: Pacific treefrog (*Hyla regilla*), California newt (*Taricha torosa*), California slender salamander (*Batrachoseps attenuatus*), Pacific giant salamander (*Dicamptodon tenebrosus*), western fence lizard (*Sceloporus occidentalis*), northern alligator lizard (*Elgaria coerulea*), Santa Cruz garter snake (*Thamnophis atratus*), gopher snake (*Pituophis catenifer*), western rattlesnake (*Crotalus viridis*), California quail (*Callipepla californica*), mourning dove (*Zenaida macroura*), Anna's hummingbird (*Calypte anna*), great horned owl (*Bubo virginianus*), red-tailed hawk (*Buteo jamaicensis*), Northern flicker (*Colaptes auratus*), Nuttall's woodpecker, Bewick's wren (*Thryomanes bewickii*), California towhee (*Pipilo crissalis*), black phoebe (*Sayornis nigricans*), dark-eyed junco (*Junco hyemalis*), Western scrub-jay (*Aphelocoma californica*), Steller's jay (*Cyanocitta stelleri*), Botta's pocket gopher (*Thomomys bottae*), brush rabbit (*Sylvilagus bachmani*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), coyote (*Canis latrans*), gray fox (*Urocyon cinereoargenteus*), bobcat (*Lynx rufus*), mountain lion, and black-tailed deer (*Odocoileus hemionus*).

Native fish assemblages in Hendrys Creek are assumed to be potentially similar to that of Los Gatos Creek, which hosts riffle sculpin (*Cottus gulosus*), California roach (*Lavinia symmetricus*) Sacramento suckers (*Catostomus occidentalis*), and rainbow trout (*Oncorhynchus mykiss*), the landlocked form of steelhead trout. However, the two instream impoundments as well as the culvert underneath Alma Bridge Road downstream are most likely a barrier to fish passage onto the Property. Juvenile trout were observed in Hendrys Creek in August 2004.

Endangered and Threatened Species

California Red-legged Frog

The multiple drainages on the project site may serve as refugia and foraging habitat and movement corridors for California red-legged frog (CRLF), which, in addition to its federal listing, is also a state species of special concern. CRLF breeding is likely not present on the site due to the steepness of the streams and the absence of any off-stream ponds.

No CRLF have been observed on the project site, to date; however, extensive surveys have not been conducted the species. Five documented occurrences of CRLF are found within 1.5 miles of the site. The two closest locations are approximately 2,500 feet downstream of the project site where Hendrys Creek joins Lexington Reservoir.

Rare Species and Species of Special Concern

There are several other sensitive species known or expected to utilize the Property. Some of these species are discussed in more detail below.

Foothill yellow-legged Frog

The foothill yellow-legged frog (FLYF) is a state species of special concern with the potential occur on the project site. Potential refugia, foraging habitat, and movement corridors for this species are present. The existing conditions assessment prepared for MROSD's Sierra Azul Preserve in 1999 identified FYLF in several areas within the Preserve. The closest sighting is a historic occurrence just upstream of the subject property on MROSD land (1968). The Los Gatos Creek mainstem likely provides suitable habitat for FYLF, and the steeper tributaries of Hendrys Creek may also serve as refugia, foraging habitat, and movement corridors for the FYLF. Surveys were conducted for FYLF several times in 2013-14 and they were not found despite historical observations nearby.

San Francisco Dusky-footed Woodrat

The San Francisco dusky-footed woodrat, a state species of special concern, has been observed by MROSD staff on the project site. Given the riparian nature of the species and the minimal human disturbance in the

vicinity of the site, woodrats are expected to thrive on the project site and throughout the upper Los Gatos Creek watershed.

Other Sensitive Species

In addition to the species above, a number of other special-status species could potentially occur on the project site based on the presence of suitable habitat and/or documented occurrences nearby, and information collected by MROSD biologist as a component of the LTMP. Table 3.4-1 provides a list of special-status species and describes their potential to occur on the project site.

Table 3.4-1 Potential for Sensitive Species to Occur on the Project site

Common Name	Scientific Name	Federal Status[1]	State Status[1]	Other Status[1]	Potential to Occur on the Project Site[2]
AMPHIBIANS					
California red-legged frog	*Rana draytonii*	Threatened	SCC		L, Drainages provide foraging and refugia, however, the site lacks suitable breeding habitat due to due its steepness and the absence of off-stream ponds, Known to occur within 2,500 ft of project site.
Foothill yellow-legged frog	*Rana boylii*	None	SSC		M, Drainages provide foraging, refugia, and movement corridors, however, none have been identified during recent surveys conducted in 2014-15.
REPTILES					
Western pond turtle	*Emys marmorata*	None	SSC		U, Potential movement corridors, but the narrow canyon does not provide open aquatic habitat. In-stream impoundments offsite downstream may be used periodically. Marginal nesting habitat present in localized areas on south-facing slopes.
BIRDS					
Cooper's hawk	*Accipiter cooperii*	None	WL		L, Dense forested areas provide suitable foraging and nesting habitat.
Sharp-shinned hawk	*Accipiter striatus*	None	WL		L, Dense forested areas provide suitable foraging and nesting habitat.
Ferruginous hawk	*Buteo regalis*	BCC	WL		L, May forage in onsite grassland, chamise, and outcroppings. Site lacks large tracts of open grassland, sparse shrub or desert habitat typical of foraging. Not known to nest in California.
Osprey	*Pandion haliaetus*	None	WL		U, Site lacks open water habitat suitable for foraging, and snag trees adjacent to open water for nesting.
Vaux's swift	*Chaetura vauxi*	None	SSC		L, Lacks typical lake and pond foraging habitat, but may forage over forested, grassland, and chamise habitats in the site. Forested areas and bridges provide suitable structure for cup nests.
Allen's hummingbird	*Selasphorus sasin*	BCC	None		L, Scrub, chaparral, and forests areas suitable nesting and foraging habitat
Nuttall's woodpecker	*Picioides nuttallii*	BCC	None		O. Oak woodlands provide suitable nesting and foraging habitat.
Olive sided flycatcher	*Contopus cooperi*	BCC	SSC		L, Forested areas provide suitable nesting and foraging habitat.

Table 3.4-1 Potential for Sensitive Species to Occur on the Project site

Common Name	Scientific Name	Federal Status[1]	State Status[1]	Other Status[1]	Potential to Occur on the Project Site[2]
Yellow warbler	*Dendroica petechia brewsteri*	BCC	SSC		U, Site lacks typical willow and cottonwood riparian nesting sites.
Purple martin	*Progne subis*	None	SSC		U, Site lacks concentration of nesting cavities with low canopy cover and relatively open air space, or suitable large bridges.
Oak titmouse	*Baeolophus inornatus*	BCC	None		L, Forested and riparian areas provide suitable foraging and nesting habitat.
MAMMALS					
Townsend's big-eared bat	*Corynorhinus townsendii*	None	Candidate Threatened		U. Typically roost in caves or cave analogues - tunnels, mineshafts, buildings, and older bridges. No such structures exist within the proposed disturbance area.
Western red bat	*Lasirurs blossevillii*	None	SSC		L, Suitable roosting trees in forested areas and foraging habitat over grasslands and chamise.
Pallid bat	*Antrozous pallidus*	None	SSC		L, Suitable roosting sites in trees and under small bridges, may forage in grasslands, shrublands, and forested areas.
San Francisco dusky-footed woodrat	*Neotoma fuscipes annectens*	None	SSC		O, Known to nest in riparian areas within the site.
PLANTS					
Mt. Hamilton fountain thistle	*Cirsium fontinale* var. *campylon*	None	None	CRPR 1B.2	U, Site lacks suitable serpentine seeps or streams.
Brewer's clarkia	*Clarkia breweri*	None	None	CRPR 4.2	U, Site lacks suitable serpentine soils.
Santa Clara Red ribbons	*Clarkia concinna* ssp. *automixa*	None	None	CRPR 4.3	M, Chamise and woodlands may provide suitable habitat, but the species has not been observed during preliminary surveys.
Serpentine phlox-leaf bedstraw	*Galium andrewsii* ssp.	None	None	CRPR 4.2	U, Site lacks suitable serpentine soils.
Loma Prieta hoita	*Hoita strobilina*	None	None	CRPR: List 1B.1	U, Site lacks suitable serpentine soils.
Serpentine leptosiphon	*Leptosiphon ambiguous*	None	None	CRPR 4.2	U, Site lacks suitable serpentine soils.
Large-flowered leptosiphon	*Leptosiphon grandiflorus*	None	None	CRPR 4.2	U, Site lacks typical sandy habitat. Species was not observed during preliminary surveys of the area.
Serpentine phlox-leaf bedstraw	*Leptosiphon grandiflorus*	None	None	CRPR 4.2	U, Site lacks suitable serpentine soils.
Woolly-headed lessingia	*Lessingia hololeuca*	None	None	CRPR 3	U, Site lacks suitable serpentine soils.
Smooth lessingia	*Lessingia micradenia* var. *glabrata*	None	None	CRPR 1B.2	U, Site lacks suitable serpentine soils.
Spring lessingia	*Lessingia tenuis*	None	None	CRPR 4.2	M, May occur in opening in chaparral and woodland habitats.
Robust monardella	*Monardella villosa spp. globosa*	None	None	None	U, Typically occurs in forested, chaparral, or grassland habitats with rocky soils sedimentary in origin.

Table 3.4-1 Potential for Sensitive Species to Occur on the Project site

Common Name	Scientific Name	Federal Status[1]	State Status[1]	Other Status[1]	Potential to Occur on the Project Site[2]
Woodland woolythreads	*Monolopia gracilens*	None	None	CRPR: List 1B.2	U, Site lacks suitable serpentine soils.
Metcalf Canyon jewelflower	*Streptanthus glandulosus* ssp. *albidus*	Endangered	None	CRPR 1B.1	U, Site lacks suitable serpentine soils.

Notes:

[1] Status codes: BCC = Fish and Wildlife Service: Birds of Conservation Concern; SSC = California Species of Special Concern; WL= Watch List; CRPR = California Rare Plant Ranks –Plants rare, threatened, or endangered in California (formerly CNPS Lists)

[2] O=observed on site, L=Likely to occur, M=May occur, U=unlikely to occur

Biological Connectivity

The project site is linked on all sides to existing open space, park and watershed lands, promoting biological connectivity. The adjoining Sierra Azul Open Space Preserve contains a wide variety of habitats supporting many wildlife species and contains considerable biodiversity.

3.4.2 Discussion

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?

Less than Significant with Mitigation Incorporated. Two special-status wildlife species: San Francisco dusky-footed woodrat and Nuttall's woodpecker have been documented within the project site, and ten others are likely to or may occur, including California red-legged frog, Foothill yellow-legged frog, Coopers Hawk, Sharp-shinned hawk, Vaux's swift, Allen's hummingbird, Olive sided flycatcher, oak titmouse, pallid bat, and western red bat. Trees, shrubs, and herbaceous vegetation within the project site may also provide nesting habitat for bird species protected under the Migratory Bird Treaty Act and California Fish and Game Code.

In addition, 29 special-status plants have been documented in the project vicinity, many of which occur on serpentine soils which are not within the project area. Three of the special status plant species, Santa Clara red ribbons, Spring lessingia, and robust monardella have been identified within three miles of the project site and may occur, but have not been observed during preliminary surveys of the property.

Special-Status Amphibians and Reptiles

Although no special-status amphibians or reptiles have been documented within the project site, California red-legged frog and Foothill yellow-legged frog have potential to occur. California red-legged frog is federally listed as threatened and considered a species of special concern by California Department of Fish and Wildlife (CDFW). For successful reproduction, this species requires deep pools in slow-moving streams or ponds with riparian and/or emergent marsh vegetation. The project site does not support breeding habitat for California red-legged frog; however, low numbers may stray into the site during certain times of the year for foraging, sheltering, and dispersal along Hendry's Creek (MROSD 2012a). (Note that the CNDDB search identified occurrence of western pond turtle, a CDFW species of special concern, within three miles of the project site; however, the potential for occurrence on the project site is considered low because the creek's narrow canyon within the site does not provide open aquatic habitat.)

Potential refugia, foraging habitat, and movement corridors for Foothill yellow-legged frog are present on the project site, and individuals have historically been observed adjacent to the project site. Although this species was not identified in the most recent surveys, it is possible that this species could be present on the project site.

Implementation of the LTMP is intended to improve the quality of stream habitat and therefore may also improve conditions for California red-legged frog by removing creek crossings that are causing erosion and restoring Hendrys Creek and its tributaries to a more natural state. However, California red-legged frog could be affected during removal and replacement of the creek crossings or other in-stream work occurring within the project site, potentially resulting in direct mortality during construction.

In the short-term, BMPs, described in Chapter 2, "Project Description," would be implemented, including reducing erosion from construction, not storing equipment in environmentally sensitive areas, and using silt fencing and wattles around stockpiles. Long-term measures (also described in Section 2) to reduce impacts to sensitive species would include monitoring, adaptive management in areas where habitat degradation is occurring, and management of invasive species. Although these measures would reduce short-term and long-term impacts on special-status amphibians and reptiles, and the proposed project is expected to improve habitat in the long term, the potential still exists for short-term impacts to occur during construction. Because individual California red-legged frog CRLF may accidentally be injured by construction equipment or smothered during sediment removal, this impact is considered potentially significant.

Mitigation Measure 3.4-1

MROSD shall implement the following measures to avoid and minimize impacts to California red-legged frog and Foothill yellow-legged frog.

- Worker Education Seminar. Prior to conducting any action that may negatively affect listed species, all staff, contractors and persons associated with the project shall attended a worker-education seminar delivered by a qualified MROSD biologist or other qualified biologist. The seminar shall include written information regarding California red-legged frog and Foothill yellow-legged frog identification, natural history and habitat, legal status, and provisions and penalties under the Endangered Species Act, as applicable. Names and phone numbers of the biological monitors and USFWS and CDFW contacts should be included in the written information. MROSD shall maintain a signature sheet to document compliance, which will be made available upon request.

- Biological Construction Monitoring. A qualified biologist shall conduct a pre-activity survey for California red-legged frog and Foothill yellow-legged frog prior to implementing actions that include ground disturbance, vegetation removal, or other activities associated with culvert or crossing removal that could otherwise harm California red-legged frog or Foothill yellow-legged frog. A qualified biologist shall inspect the work area while vegetation and debris is removed during the initial phase of construction. If no California red-legged frogs or Foothill yellow-legged frogs are observed during either the pre-activity survey or during removal of vegetation and debris, then work may proceed without a qualified biologist present. If California red-legged frogs or Foothill yellow-legged frog are observed at any time before or during construction within the work area by anyone involved in the project, work shall cease and USFWS and/or CDFW shall be contacted for guidance.

Special-Status Mammals

Potential roosting habitat for pallid bat and western red bat occurs in mature trees and snags on the project site, and possibly (though unlikely) under the small bridges spanning Hendrys Creek or in the man-made bat houses. Pallid bat and western red bat are considered species of special concern by CDFW. In addition, seven San Francisco dusky-footed woodrat houses have been observed within the project site primarily in mixed evergreen forest and coastal scrub habitats, and more are expected to occur in the surrounding area (MROSD 2012a). Dusky-footed woodrat is also considered a species of special concern by CDFW. Roost destruction, or work in close proximity to roost sites, could result in adverse impacts to special-status bat species, and ground disturbance associated with project construction could adversely impact woodrat houses. Therefore, this impact is considered *potentially significant*.

Mitigation Measure 3.4-2

MROSD shall implement the following measures to avoid and minimize impacts special-status mammals.

- Special-Status Bats. Within 30-days prior to initiating ground disturbance or vegetation removal, a qualified bat biologist shall inspect the area of disturbance and areas adjacent (within 50 feet) for bat roosts (most likely mature trees and snags and possibly (although unlikely) under the small bridges spanning Hendrys Creek. Surveys will consist of a daytime pedestrian survey looking for evidence of bat use (e.g., guano) and/or an evening emergence survey to note the presence or absence of bats. The type of survey will depend on the condition of the habitat. If no bat roosts are found (excluding the bat houses), then no further study is required. If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts, but are not required. If roosts of pallid or western red, bats are determined to be present within the survey area, direct disturbance to the roost, such as tree removal or bridge replacement that are occupied by bats, shall be avoided during the breeding season (April 1 through August 31). The bat roosts will not be disturbed.

- San Francisco Dusky-Footed Woodrat. Within 30 days prior to project construction, a qualified biologist shall inspect the disturbance area and adjacent areas within 50 feet for woodrat houses. If none are found, then no additional measures are necessary. If a woodrat house is identified within 50 feet of the work area, an exclusion zone shall be erected around the existing woodrat houses using flagging or a temporary fence that does not inhibit the natural movements of wildlife (such as steel T-posts and a single strand of yellow rope or similar materials). The work area shall be relocated as necessary to avoid impacting woodrat houses, even if avoidance is by only a few feet. If woodrat houses cannot be avoided by the trail, CDFW shall be contacted for approval to relocate individuals by live-trapping and building a nearby artificial house as a release site. Approval to relocate shall be acquired from CDFW.

Nesting Birds

Nesting habitat is present for Coopers Hawk, Sharp-shinned hawk, Vaux's swift, Allen's hummingbird, Olive sided flycatcher, and oak titmouse as well as other native birds in trees, shrubs, and herbaceous vegetation on the project site and surrounding area. Vegetation removal, as well as noise and other disturbance during construction, could adversely impact nesting bird species, if present, potentially resulting in nest destruction or abandonment. This impact is considered *potentially significant*.

Mitigation Measure 3.4-3

MROSD shall limit vegetation removal to the minimum necessary to conduct the project. For all construction activities that could result in potential noise and other land disturbances that could affect nesting birds (e.g., tree removal, mowing, mastication, brush removal), the construction area shall be surveyed to evaluate the potential for nesting birds. Tree removal will be limited, whenever feasible, based on the presence or absence of nesting birds. For all other construction activities, if birds exhibiting nesting behavior are found within the treatment sites during the bird nesting season (March 15 – August 30 for smaller bird species such as passerines and February 15 - August 30 for raptors) impacts on nesting birds will be avoided by the establishment of appropriate buffers around active nests. The distance of the protective buffers surrounding each active nest site are: 500 feet for large raptors such as buteos, 250 feet for small raptors such as accipiters, and 250 feet for passerines. The size of the buffer may be adjusted by an MROSD biologist in consultation with CDFW and USFWS depending on site specific conditions. Monitoring of the nest by an MROSD biologist during and after construction activities will be required if the activity has potential to adversely affect the nest. Construction may resume in these areas after an MROSD biologist or designated biological monitor confirms that the young have fully fledged, are no longer being fed by the parents, and have left the nest site. For construction activities that clearly would not have adverse impacts to nesting birds (e.g. non-powered hand tool work), no survey for nesting birds would be required.

Special Status Plants

Actions planned under the proposed project, such as roadway erosion and damage repair, and removal and replacement of creek crossings, could result in smothering, compaction of soils, or crushing of root systems of special-status plants. Portions of the project site support suitable habitat for Santa Clara red ribbons,

Loma Prieta hoita, woodland woollythreads, Santa Cruz Mountains beardtongue, and white-flowered rein orchid. If these species occur in the vicinity of the project site, individuals could be adversely impacted during project implementation, including mortality of individuals by crushing or habitat destruction. Therefore, the impact is considered *potentially significant*.

Mitigation Measure 3.4-4

MROSD shall implement the following measures to avoid and minimize impacts to special-status plants.

- MROSD shall utilize qualified staff or a contractor to conduct protocol-level preconstruction special-status plant surveys for all potentially occurring species within the project footprint that has not previously been surveyed. Prior to ground-disturbance or vegetation management in potentially suitable habitat, surveys shall be conducted during the appropriate blooming period when they are most readily identifiable in accordance with Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (DFG 2009). If no special-status plants are found during focused surveys, the findings shall be documented in a letter report, and no further mitigation shall be required.

- If special-status plant populations are present in the project footprint, MROSD shall determine if the population can be avoided by adjusting the project design.

- If the impact to special-status plants cannot be avoided, MROSD shall consult with CDFW or USFWS, as appropriate depending on species' status, to determine the appropriate measures to ensure no net loss of occupied habitat or individuals. These measures may include preserving and enhancing existing populations, creation of off-site populations on project mitigation sites through seed collection or transplantation, and/or restoring or creating suitable habitat in sufficient quantities to achieve the no-net-loss standard.

Level of Impact after Implementation of Mitigation Measures

Implementation of Mitigation Measures 3.4-1 through 3.4-4 would reduce impacts to special-status wildlife and plant species by implementing measures that would minimize effects on California red-legged frog, Foothill yellow-legged frog, and nesting birds. San Francisco dusky-footed woodrat houses and the roosts of special status bat species would be avoided. Surveys would be conducted for special-status plants and avoidance and/or compensatory measures would be implemented to minimize potential take of these species or adversely affecting their habitat. This impact would be reduced to a *less-than-significant* level.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?

Less than Significant. Sensitive natural communities are of limited distribution statewide or within a county or region that provide important habitat value to native species. Most types of wetlands and riparian communities are considered sensitive natural communities due to their limited distribution in California. In addition, sensitive natural communities include habitats that are subject to USACE jurisdiction under Section 404 of the Clean Water Act (CWA), Section 1602 of the California Fish and Game Code, and the state's Porter-Cologne Water Quality Control Act. Sensitive natural communities are of special concern because they have high potential to support special-status plant and animal species. Sensitive natural communities can also provide other important ecological functions, such as enhancing flood and erosion control and maintaining water quality.

Sensitive natural communities within the project site include riparian woodland and wetlands. Project improvements, ongoing maintenance, and occasional recreational uses within the project site could adversely affect these sensitive natural communities through vegetation removal, soil compaction, and introduction of invasive weeds. However, very few trees would be removed as part of the project, and because the project is a restoration project that would reduce erosion, restore native topography, and increase the ecological functions and values of the project site, potential impacts to sensitive habitat would be minimized. In addition, the LTMP

includes elements and tasks to avoid/reduce long-term impacts on sensitive natural communities including monitoring, adaptive management in areas where habitat degradation is occurring, and management of invasive species. Implementation of these measures would ensure that potential impacts of the proposed project on sensitive natural communities would be *less than significant*.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Less than Significant with Mitigation Incorporated. Hendrys Creek and associated tributaries on the project site are tributaries to Lexington Reservoir in the Los Gatos Creek watershed (U.S. Geological Survey 1953 cited in MROSD 2012a). Based on the reconnaissance field visits of the project site conducted by Coast Range Biological, LLC, Hendrys Creek has a bed, bank, and ordinary high water mark and would be considered a potential jurisdictional "other waters" by USACE. "Other waters" are seasonal or perennial water bodies, such as lakes, stream channels (including intermittent or ephemeral streams), drainages, ponds, and other surface water features that exhibit an ordinary high water mark but lack positive indicators of one or more of the three wetland parameters (hydrophytic vegetation, wetland hydrology, hydric soils) (Federal Register 1986 cited in MROSD 2012a). Tributaries to Hendrys Creek and seeps located on-site would also be considered waters of the U.S. Construction activities would result in temporary impacts to Hendrys Creek and its tributaries related to removal of creek crossings and sediment. Any activities occurring within jurisdictional waters would be considered a significant impact to waters of the United States.

The LTMP includes numerous actions to protect or improve watershed resources and aquatic habitat in the long term, such as removing road crossings and restoring the creek banks, monitoring erosion, and removal of invasive species. In addition, the project is proposed as mitigation in perpetuity for wetland impacts associated with the SCVWD 2002 Multi-Year SMP. Therefore, the proposed project would not have any long-term impacts to wetlands or waters of the U.S.

Although the project would not result in any long-term impacts to waters of the U.S., the temporary construction-related impacts to waters located on-site would be considered *potentially significant*.

Mitigation Measure 3.4-5

MROSD operates under a special agreement known as "Waste Discharge Requirements and Section 401 Water Quality Certifications for Routine Maintenance Activities (Order No. R2-2010-0083)" with the California Regional Water Quality Control Board. In addition, MROSD holds a similarly-structured agreement known as the Final Lake or Streambed Alteration Agreement (Notification No. 1600-2012-0444-R3) District-wide Routine Maintenance Agreement with the California Department of Fish and Wildlife. A portion of the work proposed under this project will apply under these two permitting authorities and agreements; the remainder of the project work will comply with the following measures to compensate for the temporary loss of wetlands and other waters of the United States:

- MROSD will submit a wetland delineation report to USACE and request a preliminary jurisdictional determination. Based on the jurisdictional determination, MROSD will determine the exact acreage of waters of the U.S. and waters of the state that would be filled as a result of project implementation.

- MROSD will replace on a "no net loss" basis (minimum 1:1 ratio) (in accordance with USACE and/or RWQCB) the acreage and function of all wetlands and other waters that would be removed, lost, or degraded as a result of project implementation. Wetland habitat will be restored on-site as determined during the Section 401 and Section 404 permitting processes.

- MROSD will coordinate with the USACE to obtain either a Nationwide Permit or a USACE Section 404 Permit and RWQCB Section 401 certification before any groundbreaking activity within 50 feet of any wetland or water of the United States. MROSD will implement all permit conditions.

Level of Impact after Implementation of Mitigation Measures

Implementation of Mitigation Measure 3.4-5 would reduce impacts to wetlands and waters of the U.S. by restoring any disturbed areas within the waterways on-site. This impact would be reduced to a *less-than-significant* level.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Less than Significant. Wildlife corridors are features that provide connections between two or more areas of habitat that would otherwise be isolated and unusable. Often drainages, creeks, or riparian areas are used by wildlife as movement corridors as these features can provide cover and access across a landscape.

The project site and surrounding Preserve provide corridors for movement of large wildlife such as deer, mountain lions, and raptors. The project site is linked on all sides to existing open space, park, and watershed lands promoting biological connectivity. The adjoining Preserve contains a wide variety of habitats supporting many wildlife species and contains considerable biodiversity.

The proposed project includes removal of stream crossings and restoration of these areas along Hendrys Creek. Implementation of the proposed project would improve habitat within the project site, and very limited, docent-led public access would be allowed within the property. No actions proposed under the LTMP would fragment interior habitat or impede the movement of wildlife or fish throughout the property. Also, no new lighting is proposed that could inhibit the nocturnal movement of species. Therefore, implementation of the proposed project would result in a *less-than-significant* impact to wildlife corridors.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Less than Significant. The Santa Clara County General Plan includes policies and goals related to protecting biological resources. In addition, the Santa Clara County Tree Preservation and Removal Ordinance (County Code, Sections C16.1 to C16.17) serves to protect all trees measuring 12 inches diameter at breast height. The LTMP would allow removal or trimming of live trees, dead trees, brush, and/or woody debris where required by fire protection agencies, or for treatment of disease, public safety, patrol vehicle access, recreational access; however, the proposed project would be designed to avoid tree removal to the extent possible; as a result, very few trees would be removed. In addition, the measure included in the LTMP and mitigation measures included in this document would minimize potential adverse effects on sensitive habitats to less-than-significant levels. Should such a need arise for a tree to be removed, MROSD would follow Santa Clara County requirements and remain in compliance with local ordinances. Therefore, this impact is considered *less than significant*.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. The property is not located within the Santa Clara Valley Habitat Plan (which is a Habitat Conservation Plan and Natural Community Conservation Plan) study area and is not subject to an adopted or proposed Habitat Conservation Plan, Natural Community Conservation Plan or other habitat conservation plan. Therefore, *no impact* would occur.

3.5 CULTURAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. Cultural Resources. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☒	☐	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☒	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☒	☐	☐

3.5.1 Environmental Setting

The primary source referenced for this section is the Archaeological Survey Report for Hendrys Creek Property, Sierra Azul Open Space Preserve, Santa Clara County, California prepared by Mark Hylkema MA, RPA (See Appendix C).

Localized environmental conditions within the vicinity of the study area influenced patterns of prehistoric and historic land use, which span the millennia during which the ancestral Ohlone Indians developed, and then on through the early years of Spanish colonization, subsequent Mexican rule, and finally up to contemporary American occupation and the eventual establishment of Lexington Reservoir. A description of this timeline, including brief depictions of the Ohlone lifeways, is provided in the Archaeological Survey Report (ASR) included as Appendix C; the following discussion focuses on the results of the literature search and field visit conducted by Mark Hylkema.

A review of archaeological records was conducted through the Northwest Regional Information Center at Sonoma State University to determine if previously recorded archaeological sites were known to exist within, or adjacent to the project Study Area. The Information Center serves as the regional archive for the State Office of Historic Preservation (OHP) where archaeological records are kept and curated. The record search did not find any previously recorded archaeological sites within a half mile of the study area, although the nearby township of Alma (typically submerged below the waters of Lexington Reservoir) had been surveyed and recorded in 2010 by Cabrillo College when the reservoir had been emptied for reinforcement of the dam.

A review of historic maps resulted in the identification of a structure and road within the study area, established sometime before 1916. The road is likely the same one used today.

A field reconnaissance of the project site was done on October 27, 2014 by Mark Hylkema (MA RPA Archaeologist with 34 years professional experience in California Archaeology), and Dan Cearley (MA Archaeologist with 24 years professional experience).

The project site was mostly too steep to have been likely to exhibit any archaeological resources, and the survey was largely restricted to the stream corridor and terraces immediately adjacent to the stream within

the Area of Direct Impact (ADI) for the proposed stream improvements project. (See Appendix C for an exhibit showing the ADI.) A series of project pictures were taken and are presented in Appendix A of the ASR, included as Appendix C of this Initial Study.

Immediately noticeable in the study area were many tiers of graded terraces paralleling the stream corridor. These terraces represent an elaborate system of leveling that was done over the past fifty or so years to make suitable locations for a variety of small houses, shacks and sheds. MROSD staff indicated that the former resident had leased numerous sites for residential use without permits or real concern for the effects to the natural environment. Many terraces were created and some still exhibit stacked stone retaining walls-which held soil for gardens and other domestic, non-native plants. Indeed, the landscape abounds with exotic species like cactus, fruit trees, decorative shrubs, etc. Trash associated with the former residences is still evident throughout the ADI.

None of the former structure site locations could be considered historic or otherwise construed as features of an historic landscape. However, one location of a former structure, referred to here as Feature 1 (see pictures in Appendix A of the ASR—Appendix C of this Initial Study), exhibited fragmented bottles and ceramics that appeared to date to the early 1920s and later (embossed bottles with seams, transfer ware ceramics). Also, stone foundations and the use of lime mortar rather than cement at various places suggest an earlier establishment of Feature 1. Regardless, this feature also evidenced a more contemporary litter of metal and glass, as well as foundation alignments of a much more recent temporal context indicating a general lack of integrity.

A variety of structural and historic debris scattered around the larger graded area that once supported the structure of Feature 1 further confirmed the conclusion that this feature was not worth recording or detailing further in the present ASR. Moreover, the proposed project does not include removal of the remaining traces of Feature 1.

The field survey also found the alignment of a narrow grade that perhaps once functioned as a road or path. Presently, many shrubs and trees grow within its footprint suggesting that it has not been used for many years; however, the sizes of the laurel and scrub oak trees growing in the grade are not older than about fifty years. The road traversed southwest from the junction of Hendrys Creek and Tributary 11, trended upward around the toe of slope, and then after an inclined u-turn it followed a fairly straight course east towards the higher elevation of the ridge separating Hendrys Creek from Hooker Creek to the south. The alignment is outside of the project ADI and does not show up in historic maps. Therefore this potential linear feature is not considered further in the ASR.

3.5.2 Discussion

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?

Less than Significant. Historical resources include standing buildings (e.g., houses, barns, outbuildings, cabins) and intact structures (e.g., dams, bridges). A significant historical resource is defined as "a resource listed or eligible for listing on the California Register of Historical Resources (CRHR)" (Public Resources Code [PRC] Section 5024.1). A historical resource may be eligible for listing on the CRHR if it:

1. is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; or

2. is associated with the lives of persons important in our past; or

3. embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possess high artistic values; or

4. has yielded, or may be likely to yield, information important in prehistory or history.

Eligibility for listing on the CRHR rests on twin factors of significance and integrity. A property must have both significance and integrity to be considered eligible. Loss of integrity, if sufficiently great, will overwhelm historical significance a property may possess and render it ineligible. Likewise, a property can have complete integrity, but if it lacks significance, it must also be considered ineligible.

There are no standing buildings (houses, barns, outbuildings, or cabins) located on the project site, but there are culverts and creek crossings. Research into the project site did not reveal significant associations with the orchards or ranching development in San Mateo County, any important persons associated with local history, nor any specific history related to the crossings. In addition, the crossings do not embody any distinctive characteristics, as shown by hodge-podge of architecture visible at these crossings; the re-use of older materials (cobbles and wood) contrasts with the mix of modern materials (cement, wood, cinder block, and cement brick). This also shows the crossings have no remaining integrity as they appear to have been modified recently, possibly due to being washed out.

Therefore, the creek crossings do not appear to be eligible for listing in the CRHR and are not considered to be historically significant for the purposes of CEQA. This impact would be *less than significant*.

b, c) Cause a substantial adverse change in the significance of an archaeological or paleontological resource pursuant to Section 15064.5?

Less than Significant with Mitigation Incorporated. As described above under the environmental setting, neither the literature review nor field survey resulted in the identification of significant cultural resources within the study area. Remnants of structural remains, (cement and stone house foundation alignments, gardens, graded surfaces, etc.), lack any historic integrity and do not meet the criteria of significance. The landscape has been severely altered within the past forty years and no longer resembles its original natural or historical setting. The ASR prepared for this project identified negative findings.

Although no archaeological resources were identified in the ASR, the potential exists that unidentified archaeological resources could be discovered during construction. This is considered unlikely due to the level of disturbance of the project site, but damage to an unknown archaeological resources would be a *potentially significant* impact.

Mitigation Measure 3.5-1

In the event that any prehistoric or historic-era subsurface archaeological features or deposits are discovered during construction, all ground-disturbing activity within 100 feet of the find shall be halted and a qualified professional archaeologist shall be retained to assess the significance of the find. If the find is determined to be significant by the qualified archaeologist (i.e., because it is determined to constitute either an historical resource or a unique archaeological resource), the archaeologist shall develop appropriate procedures to protect the integrity of the resource and ensure that no additional resources are affected. Procedures could include but would not necessarily be limited to preservation in place, archival research, subsurface testing, or contiguous block unit excavation and data recovery. If the archaeologist determines that some or all of the affected property qualifies as a Native American Cultural Place, including a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine (Public Resources Code Section 5097.9) or a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historical Resources pursuant to Public Resources Code Section 5024.1, the archaeologist shall recommend, and MROSD shall implement, potentially feasible procedures that would preserve the integrity of the site or minimize impacts on it.

Significance after Mitigation

Implementation of this Mitigation Measure would require the performance of professionally accepted and legally compliant procedures for the discovery of archaeological and paleontological resources and would, therefore, reduce this impact to a *less-than-significant* level.

d) Disturb any human remains, including those interred outside of formal cemeteries?

Less than Significant with Mitigation Incorporated. Based on the documentary research described above, no evidence suggests that any prehistoric or historic-era marked or un-marked human interments are present within or in the immediate vicinity of the project site. However, there is a possibility that unmarked, previously unknown Native American or other graves could be present and could be uncovered during construction activities. California law recognizes the need to protect historic-era and Native American human burials, skeletal remains, and grave-associated items from vandalism and inadvertent destruction and any substantial change to or destruction of these resources would be a *potentially significant* impact.

Mitigation Measure 3.5-2

In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, the foreman shall immediately halt potentially damaging excavation in the area of the burial and notify the County Coroner and a professional archaeologist to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). Following the coroner's findings, the archaeologist, and the NAHC-designated Most Likely Descendent shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94.

Significance after Mitigation

Implementation of this Mitigation Measure would require the performance of professionally accepted and legally compliant procedures for the discovery of human remains and would, therefore, reduce this impact to a *less-than-significant* level.

3.6 GEOLOGY AND SOILS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. Geology and Soils. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to California Geological Survey Special Publication 42.)	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994, as updated), creating substantial risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒

3.6.1 Environmental Setting

The project site is within the central portion of the Coast Ranges Province of California, which is a series of coastal mountain chains dominated by a central northwest-southeast ridgeline. The project site lies on the northeastern flank of the rural Santa Cruz Mountains between Santa Clara Valley and Monterey Bay. The Santa Cruz Mountain terrain is variable and consists of rounded ridge crests with steep-sided slopes and deeply incised, V-shaped valleys. Topography within the property is characterized by steep north and south facing slopes that form Hendrys Creek canyon, with elevations ranging from approximately 800 feet to 2,600 feet (MROSD 2012b).

The project site is located within a seismically active area. The San Andreas Fault Zone is located less than 1 mile southwest of the project site. The San Andreas Fault is capable of generating a Maximum Moment Magnitude 7.9 earthquake with a recurrence interval of roughly 210 years (Petersen et al. 1996 in MROSD 2012b). Surface rupture along this segment of the fault occurred in both the 1906 San Francisco and 1989

Loma Prieta earthquakes (Wiegers and Clahan 2002 in MROSD 2012b). Uplift along the San Andreas and associated faults are responsible for the high, rugged topography of the project vicinity. The north uppermost slopes of the watershed are prone to landslides, resulting in thin soils with little capacity to hold water (MROSD 2012b).

Geology of the area is dominated by rocks from the Cretaceous and Jurassic Age Franciscan Complex (McLaughlin et al. 2001). The main stem of Hendrys Creek is Pleistocene and Holocene stream and fan deposits consisting of unconsolidated sand, gravel, and boulders. The valley bottom is formed by a series of discontinuous fluvial terraces (MROSD 2012b).

Soil types found within and adjacent to the project site include the Mouser-Katykat-Sanikara complex, 50 to 75 percent slopes; Sanikara-Mouser-Rock complex, 50 to 75 percent slopes; and Sanikara-Rock Outcrop complex, 75 to 100 percent slopes (NRCS 2013). All three soil types are well-drained and typically found on mountain slopes. The Mouser-Katykat-Sanikara is derived from sandstone colluvium over residuum and has a loam texture in the upper 24 inches. The Sanikara-Mouser-Rock is cobbly-loam textured in the upper 12 inches, and bedrock below 12 inches, and the Sanikara Outcrop soil is gravelly coarse sandy loam and very gravelly sandy loam textured in the upper 13 inches, with bedrock present below 13 inches (MROSD 2012a).

3.6.2 Discussion

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to California Geological Survey Special Publication 42.)

Less than Significant. The project site is located within a seismically active area, and is less than 1 mile from the San Andreas Fault Zone. However, the proposed project would permanently preserve the project site as open space, and existing road crossings would be removed or replaced. No additional structures would be developed as part of the proposed project. Public access to the project site would be limited by MROSD, with permits granted on a case-by-case basis and periodic staff-led tours. Visitors would be outside and would not typically be directly exposed to risk from rupture of an earthquake fault. This impact would be *less than significant*.

Note that visitors may be subject to indirect events induced by fault rupture, most notably landslides. Risk to visitors from landslides is discussed below under "iv."

ii) Strong seismic ground shaking?

Less than Significant. As indicated above under "i," the proposed project would include the removal or replacement of road crossings and would not include any habitable structures. Public access to the project site would be "permit only," and visitors would be relatively unexposed to hazards associated with seismic ground shaking. The impact would be *less than significant*.

iii) Seismic-related ground failure, including liquefaction?

Less than Significant. Although the proposed project is in a seismically active location, liquefaction and other seismic-related ground failure primarily affect structures. Because there are currently no structures on-site, and the proposed project would not result in construction of any new structures, impacts related to liquefaction would be *less than significant*.

iv) Landslides?

Less than Significant. The Hendrys Creek tributaries drain narrow and steep gradient watersheds, and the north uppermost slopes of the watershed are prone to landslides. These existing and potential new landslides are subject to accelerated soil erosion. The project site is located on the low-gradient depositional reach of Hendrys Creek, and is therefore more likely to be the location where the stream's natural sediment and debris load is deposited. Debris fans have formed at the mouths of these drainages from naturally high sediment loads and infrequent debris flow landslides that extend down the tributary channel.

Landslides are likely to continue on the property in the future regardless of any rehabilitation work or land management that occurs on the project site. However, the proposed project would include replacement of existing creek crossings and would not include construction of any new structures on site, and permit-only access would be allowed within the property. Therefore, because the proposed project would not increase the exposure of people or structures to landslides, this impact would be *less-than-significant*.

b) Result in substantial soil erosion or the loss of topsoil?

Less than Significant. The project site is located in the moderately steep to very steep hills of the Santa Cruz Mountains. The north uppermost slopes of the watershed are prone to landslides, and these existing and potential new landslides are subject to accelerated soil erosion. Grading associated with construction could also temporarily increase erosion at localized locations within property. However, implementation of the proposed project would include removal of stream crossings that are currently causing erosion and reshaping the crossings so that regular maintenance is no longer needed and future erosion is largely prevented. During the second phase of the project, concentrated efforts would also be made to control stream erosion. In addition, there are currently District-wide requirements in place to protect water quality during maintenance activities. As outlined in MROSD's *Best Management Practices and Standard Operating Procedures for Routine Maintenance Activities in Water Courses* (see Appendix D), which has been reviewed and approved by the RWQCB and CDFW, MROSD follows specifications and guidelines designed to protect water quality. Additionally, maintenance work in watercourses will meet standards and be consistent with the current RWQCB Memorandum of Understanding for routine maintenance activities on MROSD lands. These standards would be followed, as applicable, based on site conditions and specific project requirements.

Because MROSD would implement the above-described measures to reduce soil erosion and implementation of the project would reduce erosion in the long-term, impacts associated with erosion would be *less-than-significant* with implementation of the proposed project.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Less than Significant. Generally, impacts associated with unstable soils relate to potential damage to structures. The proposed project would remove or replace existing creek crossing and would not develop any new structures. Therefore, no structures would be affected by unstable soils. Landslide-related hazards associated with proposed public access are addressed under "a-iv" above. Project-related impacts related to unstable soils would be *less than significant*.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994, as updated), creating substantial risks to life or property?

Less than Significant. Similar to the discussion under "c" above, substantial risk to life or property would generally occur to habitable buildings, which could experience compromised structural integrity due to expansive soils. The proposed project would include removal or replacement of creek crossings and would not include construction of any new structures. Therefore, similar to "c" above, the impact would be *less than significant*.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

No Impact. All septic tanks have been removed from the project site and the proposed project would not include any new restrooms and would therefore not require any septic system or other form of waste water disposal. *No impact* would result.

3.7 GREENHOUSE GAS EMISSIONS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. Greenhouse Gas Emissions. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

3.7.1 Environmental Setting

Certain gases in the earth's atmosphere, classified as greenhouse gases (GHGs), play a critical role in determining the earth's surface temperature. GHGs are responsible for "trapping" solar radiation in the earth's atmosphere, a phenomenon known as the greenhouse effect. Prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO_2), methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for intensifying the greenhouse effect and have led to a trend of unnatural warming of the earth's climate, known as global climate change or global warming. It is extremely unlikely that global climate change of the past 50 years can be explained without the contribution from human activities (Intergovernmental Panel on Climate Change [IPCC] 2007). By adoption of AB 32, the California Global Warming Solutions Act of 2006, and Senate Bill (SB) 97, the State of California has acknowledged that the effects of GHG emissions cause adverse environmental impacts.

Emissions of GHGs have the potential to adversely affect the environment because such emissions contribute, on a cumulative basis, to global climate change. Although the emissions of one single project will not cause global climate change, GHG emissions from multiple projects throughout the world could result in a cumulative impact with respect to global climate change.

Legislation and executive orders on the subject of climate change in California have established a statewide context and a process for developing an enforceable statewide cap on GHG emissions. Given the nature of environmental consequences from GHGs and global climate change, CEQA requires that lead agencies consider evaluating the cumulative impacts of GHGs, even relatively small (on a global basis) additions. Small contributions to this cumulative impact (from which significant effects are occurring and are expected to worsen over time) may be potentially considerable and therefore significant.

Therefore, the global climate change analysis presented in this section estimates and analyzes the GHG emissions associated with construction- and operations-related activities that would occur under the proposed LTMP for the Hendrys Creek property.

The BAAQMD is the local agency overseeing air quality considerations in Santa Clara County. On June 2, 2010, the BAAQMD adopted new CEQA significance thresholds including a threshold for GHGs of 1,100 metric tons of CO_2 equivalent per year (MT CO_2e/yr) for evaluating operation-related emissions (BAAQMD 2010). This threshold was designed to establish the mass emissions level at which a project's contribution would be considered a significant environmental impact under CEQA. The threshold was developed based on overall

projections of development in the region, and how the region would come into compliance with the goals established by AB 32.

On March 5, 2012, the Alameda County Superior Court issued a judgment finding that the BAAQMD had failed to comply with CEQA when it adopted these thresholds. The court did not determine whether the thresholds were valid on the merits, but rather found that the adoption of the thresholds was a project under CEQA. The court issued a writ of mandate ordering the BAAQMD to set aside the thresholds and cease their dissemination until the BAAQMD had complied with CEQA.

CEQA gives lead agencies discretion whether or not to classify a particular environmental impact as significant. Ultimately, formulation of a standard or "threshold" of significance requires the lead agency to make a policy judgment about where the line should be drawn distinguishing adverse impacts it considers significant from those that are not deemed significant. This judgment must, however, be based on scientific information and other factual data to the extent possible (State CEQA Guidelines Section 15064[b]).

Although the Alameda County Superior Court has ordered the BAAQMD to cease dissemination of the previously adopted threshold of 1,100 MT CO_2e/yr, the court has made no finding on the applicability or the merits of the quantitative threshold. BAAQMD states that lead agencies will need to determine appropriate air quality thresholds to use for each project they review based on substantial evidence that they should include in the administrative record for the project. One resource BAAQMD provides as a reference for determining appropriate thresholds is the CEQA Thresholds Options and Justification Report developed by staff in 2009 (BAAQMD 2009). The CEQA Thresholds Options and Justification Report outlines substantial evidence supporting a variety of thresholds of significance.

Therefore, because the proposed project would result emissions of GHGs from construction and regular maintenance, and is located within the BAAQMD's jurisdiction for which these thresholds were determined to be applicable, MROSD considers the threshold of 1,100 MT CO_2e/yr to be an acceptable threshold for CEQA significance with regards to GHG emissions.

3.7.2 Discussion

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Less than Significant. Implementation of the proposed project would not result in a noticeable increase in visitation. Any additional vehicle trips generated during operation of the project would be negligible. Therefore, greenhouse gas emissions associated with increased vehicle trips would be minimal. Proposed construction activities include limited heavy construction equipment associated primarily with the removal of stream crossings and other creek restoration activities. To estimate GHG emissions, GHG modeling was conducted using the BAAQMD-approved California Emissions Estimator Model, Version 2001.1.1 (CalEEMod). A summary of estimated GHG emissions is provided below in Table 3.7-1.

Based on the modeling conducted, project-related activities would result in 36 MT per year (MT/year) of CO_2e emissions. These emissions levels would be less than BAAQMD's threshold of significance of 1,100 MT/year. Thus, project-generated emissions would not result in a cumulatively considerable net increase of GHGs. As a result, this impact would be *less than significant*.

Table 3.7-1 Summary of Estimated Emissions of Carbon Dioxide Equivalent Associated with Project-Related Activities (MT CO_2e/year)	
Construction-Related Activities (average annual)	36
Operations (mobile- and area sources, energy use)	–
Total	36
BAAQMD Threshold of Significance	1,100

Notes: MT/year = metric tons per year; CO_2e = carbon dioxide-equivalent
Detailed assumptions and modeling output files are included in Appendix B, including construction and methane emissions from cattle.
Any emissions from vehicle trips and power usage would be negligible and therefore were not modeled.
Emissions associated with construction activities were estimated using the BAAQMD-approved CalEEMod model.

Source: Modeling Conducted by Ascent Environmental 2014.

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less than Significant. As discussed under item a) above, the total GHG emissions associated with the proposed project would be less than BAAQMD's threshold of 1,100 MT/year. Because BAAQMD's threshold is based on the emissions reduction targets established by AB 32 for the year 2020 project-generated GHG emissions would not conflict with any other applicable plans, policies, or regulations established for the purposes of reducing GHG emissions. Therefore, this impact would be *less than significant*.

3.8 HAZARDS AND HAZARDOUS MATERIALS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. Hazards and Hazardous Materials. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and/or accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☒	☐	☐

3.8.1 Environmental Setting

During the purchase of the property, POST, the previous property owner, contracted with an environmental firm to prepare a Phase I Environmental Site Assessment (ESA). The Phase I ESA identified the use of significant quantities of hazardous substances at properties in the project vicinity; however, no use, storage, disposal, or release of hazardous substances were identified within the project site. The Lupin Naturalist Club (located outside the project site property) had one 520-gallon underground storage tank that resulted in soil contamination. A soil and groundwater investigation plan was produced in December 1999 and the County of Santa Clara granted a Complete-Case Closed on July 2001 for this site. Because this release was

limited to soils and based on its position relative to the project site, it is unlikely this former site affected the property (DGC 2011).

Wildfire has had an important role on the natural communities within Hendrys Creek watershed and the surrounding Los Gatos Creek watershed including a July 1985 wildfire that burned 22 square miles between Lexington Reservoir and Loma Prieta. This fire also burned much of the upper hillsides along the northern portion of the project site. This portion of the project site, as well as much of the upper Los Gatos Creek watershed, is undergoing regeneration and forest succession from this fire and other major past disturbances. The project site is within the designated Wildfire and Urban Interface Fire Area with a fire hazard zone classification of very high.

There are no schools within 0.25 mile of the project site and the project site is not within 2 miles of an airport or private airstrip.

3.8.2 Discussion

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less than Significant. MROSD Ordinance 93-1, Section 409.2 prohibits the general public from possessing or using harmful substances on MROSD lands. The proposed project does not include routine use of hazardous materials on the project site with the exception of small quantities of common household hazardous materials such as pesticides, fuels, oils, lubricants, solvents, and detergents. A controlled amount of pesticides would occasionally be applied to control invasive weeds. Pesticide applications would comply with label instructions and all applicable local, state, and federal regulations. Implementation of the proposed LTMP would not pose a significant hazard to the public or the environment. This impact is *less than significant*.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and/or accident conditions involving the release of hazardous materials into the environment?

Less than Significant. As discussed under "a" above, no hazardous materials were found on-site during the Phase 1 ESA, and all structures, personal property, and debris were removed prior to POST's purchase of the property, with the exception of a network of roads and driveways, two vehicle bridges, several culverted road/stream crossings, and a pedestrian bridge. Therefore, the proposed project would not involve the demolition or removal of any structures that contain hazardous materials. Public access within the project site would be limited to hiking (by permit only), which is a low-intensity, non-motorized, and non-emitting use, and would primarily be led by MROSD docents. The possibility of the incidental release of motor vehicle oil, grease, or fuel is therefore limited to the infrequent use of roads by MROSD patrol and maintenance vehicles, occasional emergency responders, and vehicles and machinery used during the temporary construction process. Any release of minor amounts of hazardous material resulting from the limited vehicular use does not pose a significant hazard to the public. This impact would be *less than significant*.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No Impact. As discussed under "a" above, the proposed project would not result in the use, transport, or disposal of substantial hazardous materials. In addition, the project site is not located within one-quarter mile of an existing or proposed school. The nearest school is Lexington Elementary School, more than 1.5 miles north of the project site boundary. *No impact* would occur.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Less than Significant. The Hazardous Waste and Substances Sites (Cortese) List is a planning document used by the State, local agencies, and developers to comply with the CEQA requirements in providing information about the location of hazardous materials release sites. Government Code section 65962.5 requires the California Environmental Protection Agency to develop at least annually an updated Cortese List. California Department of Toxic Substances Control (DTSC) is responsible for a portion of the information contained in the Cortese List. Other State and local government agencies are required to provide additional hazardous material release information for the Cortese List. DTSC's EnviroStor database provides DTSC's component of Cortese List data.

The 2011 Phase I ESA included a review of a regulatory agency database report prepared for the project site, which indicated that no records of any hazardous materials were identified for the project site. The search of California Department of Oil, Gas, and Geothermal Resources well records on-line indicates that no oil and gas wells are located on the project site (DGC 2011). The proposed project site is not identified on the Cortese list or other State and county hazardous materials lists; therefore, this impact would be *less than significant*.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

No Impact. The project site is not located within 2 miles of a public airport and is not located within an airport land use plan. *No impact* would occur.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

No Impact. The project site is not located within 2 miles of a private airstrip; therefore, construction and implementation of the project would not result in a safety hazard to people residing or working in the area. *No impact* would occur.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No Impact. There are no adopted emergency response plans or emergency evacuation plans affecting the project site. The proposed project includes very limited, permit-only public access for recreation. No structures are proposed, and no public vehicle access is proposed. The proposed project would provide appropriate emergency vehicle access. Therefore, implementation of the proposed project would not interfere with an adopted emergency response plan or emergency evacuation plan. The proposed project would therefore result in *no impact* to emergency response plans or emergency evacuation plans. See Section 3.16, Public Services for more detailed discussion regarding emergency response.

h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Less than Significant with Mitigation Incorporated. The proposed project would decrease risk of wildland fire due to the vegetation and invasive weed management on the property, which would reduce on-site fuels by controlling vegetation during the fire season. In addition, no new structures are proposed on-site and public access to the property would be permit-only and therefore very limited.

While fire protection within current MROSD boundaries is provided by the jurisdictional local fire departments and CAL FIRE, MROSD works cooperatively with these jurisdictional fire agencies to reduce fire risk by assisting them to respond quickly and effectively to wildland fires. MROSD maintains fire breaks to

slow or arrest the spread of wildland fires, and a system of MROSD-maintained fire roads ensures adequate access to remote areas. MROSD lands are patrolled routinely by trained staff members in vehicles equipped with wildland fire suppression equipment, providing first response assistance until the jurisdictional fire agencies arrive and take over the scene.

MROSD Ordinance 93-1 Section 404 prohibits fires and smoking on MROSD lands. In addition, MROSD Rangers will regularly patrol the project site and are trained and equipped for initial response in the Incident Command System for fire suppression, assisting with the response of jurisdictional fire agencies to the scene of a fire. MROSD's radio and repeater system combined with ranger patrols and staff on call 24 hours per day enables prompt and effective communication with emergency service providers in the event of a wildland fire or emergency response call.

Although these measures would be taken to reduce the potential for wildfires on-site, the project site is within the designated Wildfire and Urban Interface Fire Area with a fire hazard zone classification of very high. Therefore, this impact would be *potentially significant*.

Mitigation Measure 3.8-1

To further reduce the potential for wildland fire ignition, the following additional mitigation measure is required:

- To reduce fire ignition risk, MROSD currently requires the following measures for all maintenance and construction activities:
  - All equipment to be used during construction and maintenance activities must have an approved spark arrestor.
  - Grass and fuels around construction sites where construction vehicles are allowed to be parked will be cut or reduced.
  - Mechanical construction equipment that can cause an ignition will not be used when the National Weather Service issues a Red Flag Warning for the San Francisco Bay Area.
  - Hired contractors shall be required to:
    - Provide water and/or fire extinguisher to suppress potential fires caused by the work performed.
    - Remind workers that smoking is prohibited at the work site and on any MROSD land per contract conditions and MROSD Ordinance.
    - Maintain working ABC fire extinguishers on all vehicles in the work area.

Level of Impact after Implementation of Mitigation Measures

Implementation of Mitigation Measure 3.8-1 would reduce construction-related wildfire impacts by requiring fire prevention measures for construction equipment and construction workers to reduce the potential for ignition and spread of fire. This impact would be reduced to a *less-than-significant* level.

3.9 HYDROLOGY AND WATER QUALITY

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. Hydrology and Water Quality. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial on- or off-site erosion or siltation?	☐	☐	☒	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in on- or off-site flooding?	☐	☐	☒	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐
f) Otherwise substantially degrade water quality?	☐	☐	☒	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☒	☐
j) Result in inundation by seiche, tsunami, or mudflow?	☐	☐	☒	☐

3.9.1 Environmental Setting

The project site is within the Los Gatos Creek watershed, which is one of the largest watersheds in Santa Clara County, draining 55 square miles. Los Gatos Creek starts from the headwaters and small tributaries northwest of Loma Prieta Peak and then flows northwest collecting flows from various smaller tributaries

until flowing into Lake Elsman. It then continues to the northwest where it joins Hendrys Creek at the upstream end of Lexington Reservoir.

Hendrys Creek and its tributaries are the primary hydrologic features within the project site. Hendrys Creek is a spring-fed perennial creek that flows from the Preserve into Lexington Reservoir and drains an approximately 710-acre watershed. There are approximately nine tributaries to Hendrys Creek within the project site that are characterized as ephemeral streams ranging from 2 to 5 feet wide. Many of the tributaries are draining steep slopes and are experiencing erosion and sedimentation. Most of the tributaries have culvert crossings that are in poor condition or have failed (MROSD 2012b). The project site also contains numerous seeps and springs. No ponds are present within the project site; however, two small instream ponds are found downstream on the adjacent private property. These off-site ponds are owned and managed by Lupin Naturalist Lodge and San Jose Water Company.

The creek hydrology on-site is primarily driven by seasonal surface runoff, and the extensive network of groundwater seeps and springs. Most of the rainfall in this region occurs from November to April with the majority occurring between January and March. Average annual rainfall ranges from 60 inches on the peaks and ridges of the region to 47 inches in the stream and creek valleys. The intense rainfall, thin soils, and steep topography of this region result in a high volume of runoff within short periods of time that can result in erosion and water quality degradation. No impervious surfaces exist within or upstream of the project site; however, existing unpaved roads and road crossings that are in poor condition are contributing to erosion along the waterways within the project site.

Los Gatos Creek has been classified as an impaired water body due to diazinon from urban/stormwater runoff by the San Francisco RWQCB's 303(d) List of Impaired Water Bodies in the San Francisco Bay Region. No other waterways within the project site are listed as Impaired Water Bodies.

3.9.2 Discussion

a) Violate any water quality standards or waste discharge requirements?

Less than Significant. As discussed in the Environmental Setting above, there are erosion and sedimentation issues on the project site associated with several creek crossings. The proposed project would remove the existing failed crossings, excavate residual fill material, and regrade the crossing sites to reduce erosion and sedimentation, improve storm water drainage patterns, reduce drainage concentration on roads, and reduce immediate storm flow diversion potential. MROSD would also implement BMPs as part of the LTMP, such as soil stabilization, minimization of stream bank disturbance, and materials storage area stabilization, to further reduce short- and long-term erosion and water quality impacts.

In addition to these BMPs, runoff water quality is regulated by the National Pollution Discharge Elimination System (NPDES) Program (established through the federal CWA). The NPDES program objective is to control and reduce pollutant discharges to surface water bodies. Compliance with NPDES permits is mandated by State and federal statutes and regulations. Locally, the NPDES Program is administered by the RWQCB. According to the water quality control plans of the RWQCB, any construction activities, including grading, that would result in the disturbance of 1 acre or more would require compliance with the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activity (Construction General Permit). The project includes a total disturbance area of approximately 11.3 acres and would be subject to compliance with the Construction General Permit.

Current District-wide requirements protect water quality during maintenance activities. As outlined in MROSD's *Best Management Practices and Standard Operating Procedures for Routine Maintenance Activities in Water Courses* (Appendix D), which has been reviewed and approved by the RWQCB and CDFW, MROSD follows specifications and guidelines designed to protect water quality. Additionally, maintenance work in watercourses will meet standards and be consistent with the current RWQCB Memorandum of

Understanding for routine maintenance activities on MROSD lands. These standards would be followed, as applicable, based on site conditions and specific project requirements.

In addition, no public vehicle access would be allowed, and only limited permit-only public access would be allowed on-site. Therefore, there would be no additional erosion caused by the public's use of on-site roads.

Because BMPs would be used to minimize short-term construction-related impacts to water quality and the proposed project would result in a long-term beneficial effect on water quality, this impact would be *less than significant*.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?

Less than Significant. The proposed project does not involve groundwater pumping or interference with groundwater recharge. There would be no long-term water usage associated with the proposed project, and impervious surfaces would not be added to the project site. Therefore, groundwater recharge would not be adversely affected by the proposed project. Impacts associated with groundwater depletion and recharge would be *less than significant*.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial on- or off-site erosion or siltation?

Less than Significant. Overall, the proposed project seeks to maintain and improve the existing drainage patterns on the project site, and impervious surfaces would not be added to the project site. Therefore, the rate of runoff would not increase. As described under "a" above, the proposed project includes measures to remove existing creek crossings, excavate residual fill material, and regrade crossing sites to improve storm water drainage patterns, reduce drainage concentration on roads, and reduce immediate storm flow diversion potential. Removal of sediment from Hendrys Creek and its tributaries would occur during the dry season and would be used as part of the creek and upland restoration. Therefore, the proposed project would improve drainage on-site, and would not substantially increase the rate or amount of surface runoff such that on- or off-site erosion or siltation would occur. This impact would be less than significant.

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in on- or off-site flooding?

Less than Significant. Impervious surfaces would not be added to the project site; therefore, the rate of runoff would not increase. In addition, the proposed project would maintain and improve the existing on-site drainage patterns. As described under "a" above, the proposed project includes measures to remove the existing failed crossings, excavate residual fill material, and regrade crossing sites to improve storm water drainage patterns, and reduce immediate storm flow diversion potential. The proposed project would improve the drainage and removal of sediment would improve conveyance of the waterways on-site. Therefore, the project would not substantially increase the rate or amount of surface runoff such that on- or off-site flooding would occur. This impact would be *less than significant*.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

Less than Significant. The proposed project would not adversely affect the drainage patterns or rate of runoff on the project site because the project seeks to maintain or improve the existing drainage patterns. As described under "a" above, the proposed project incorporates measures to improve drainage on-site.

Therefore, the proposed project would not substantially increase the rate or amount of surface runoff such that exceedance of drainage system capacity would occur. This impact would be *less than significant*.

f) Otherwise substantially degrade water quality?

Less than Significant. Non-point source pollution results from land use practices where waste is not collected and disposed of in some identifiable manner. Non-point sources of pollution include: urban drainage, agricultural runoff, road construction activities, mining, grassland management, logging and other harvest activities, and natural sources such as fires, floods, and landslides.

As mentioned above under Environmental Setting, the project site is located within the Los Gatos Creek watershed, and Los Gatos Creek has been classified as an impaired water body due to diazinon from urban/stormwater runoff. Although the proposed restoration, removal of creek crossings, and limited, permit-only public access would not adversely affect long-term water quality within the watershed, construction of the proposed project has the potential to result in temporary degradation of water quality. However, as discussed under "a" above, MROSD would also implement BMPs as part of the LTMP to further reduce short- and long-term erosion and water quality impacts. The proposed project would also be required to obtain a NPDES permit to reduce pollutants associated with construction of the project.

Implementation of these project measures and BMPs would minimize the potential for water quality on the project site to be degraded. The impact would be *less than significant*.

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

No Impact. The proposed project does not include any new housing or other structures. Furthermore, the lowest portion of the project site is 720 feet above sea level, and is not located within or near a flood zone. Therefore, there would be *no impact* related to flood hazards and housing.

h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?

No Impact. As indicated under "g" above, the proposed project does not include any structures and the project site is not located within the 100-year flood zone. Therefore there would be *no impact* associated with impeding or redirecting flood flows.

i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?

Less than Significant. No new structures would be constructed on-site, and public access would be limited by MROSD, with permits granted on a case-by-case basis and periodic staff-led tours. In addition, staff would not typically access the project site during a heavy storm event. Impacts from exposure to flooding would be *less than significant*.

j) Result in inundation by seiche, tsunami, or mudflow?

Less than Significant. The project site is more than 700 feet above sea level at its lowest point. Seiche or tsunamis from the Pacific Ocean are located too far away to impact the site. The soil conditions and potential for prolonged rain events have the potential to produce mudflows. A mudflow could expose MROSD personnel or members of the general public to potentially life threatening situations if they were present while a mudflow event occurred. However, because of the low probability of such an event and the limited likelihood of MROSD personnel or the public to be in harm's way during an intense storm necessary to precipitate such an event would reduce this potential impact to a *less-than-significant* level.

3.10 LAND USE AND PLANNING

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
X. Land Use and Planning. Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

3.10.1 Environmental Setting

The project site is located in the rural western portion of unincorporated Santa Clara County in the Santa Cruz Mountains. Prior to purchase of the property by POST, the project site was privately owned and numerous level pads and road networks were created and graded by the previous owner for small home sites, recreational vehicle trailers, and a 1-acre golf green. Currently, the only access to the site is by MROSD staff and occasional trespassers. All structures, septic tanks, personal property, and debris were removed prior to POST's purchase of the property, with the exception of a network of roads and driveways, two vehicle bridges, several culverted road/stream crossings, and a pedestrian bridge.

The Santa Clara County General Plan designates the property as Hillside, which allows for agricultural uses, mineral extraction, low-density recreation, land in its natural state, wildlife refuges, very low density residential development, and commercial, industrial, or industrial uses that require remote settings or support recreation or appreciation of the natural environment. The Santa Clara County General Plan also includes development policies for any new development in the Los Gatos Watershed (Santa Clara County 1994). The project site is zoned HS (Hillside), requiring a 20- to 160-acre minimum lot size. This zoning designation provides for preserving mountainous lands in open space. The property consists of three parcels that are 78 acres, 38 acres, and a one- acre legal-nonconforming parcel, respectively.

There are currently two easements for the Hendrys Creek property including: a public easement for navigation and the incidents of navigation such as boating, fishing, swimming, and other recreational uses in Hendrys Creek and Frenchman's Creek (See Tributary 11 on Exhibit 2-4), and an easement for ingress and egress and public utilities from Alma Road, a public road, to and through the Hendrys Creek property.

Adjacent land uses in the Hendrys Creek watershed consists predominantly of rural residential, recreational, and open-space uses. There is no established residential community located within the immediate vicinity of the project site. The surrounding area is sparsely populated, with a few residences located along Soda Springs Road, Weaver Road, and Aldercroft Heights Road in the upper watershed. The adjoining private property to the west is owned by Lupin Naturalist Lodge, which currently has approximately 50 residents.

3.10.2 Discussion

a) Physically divide an established community?

No Impact. There are no structures on the project site; therefore, no established community exists within the immediate vicinity of the proposed improvements. The community of Los Gatos is located approximately 8 miles north of the project site. Because the proposed project would be an extension of an existing open space preserve, and is located in a rural area used primarily for agriculture, grazing, and open space uses, the proposed project would not divide an established community. Therefore, there would be *no impact*.

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Less than Significant. As indicated above under "Environmental Setting," the Santa Clara County General Plan designates the project site as Hillside, which allows for low-density recreation, land in its natural state, and wildlife refuges. The project site is also zoned as HS (Hillside). This zoning designation provides for preserving mountainous lands in open space. The overall goal of the LTMP is to foster the viability of the Waters of the U.S/State, native vegetation, habitats, and connectivity within the project site. Implementation of the proposed project would not conflict with the County's land use designation and zoning for the project site. Therefore, the proposed project would have a *less-than-significant impact* on applicable land use plans, policies or regulations.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

No Impact. The proposed project does not contain areas subject to a habitat conservation plan or natural community conservation plan. *No impact* would result.

3.11 MINERAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. Mineral Resources. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

3.11.1 Environmental Setting

According to the Santa Clara County General Plan EIR, there are a number of mineral resource deposits in Santa Clara County that are of regional or state-wide significance, and eight of those deposits are currently being quarried (Santa Clara County 1994). However, none of these sites are located within the project site.

3.11.2 Discussion

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No Impact. The Santa Clara County General Plan EIR identifies eight mineral deposits within the county that are of regional or state-wide significance; however, none of these sites are within the project site. In addition, removal of the road crossings within the site would not result in the loss of any known mineral resources, or preclude future access to any mineral resources. Therefore, there would be *no impact*.

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

No Impact. There are no known mineral resource recovery sites within the project site. As discussed under "a" above, the proposed project would result in the loss of or preclude future access to any mineral resources. Therefore, there would be *no impact*.

3.12 NOISE

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. Noise. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards?	☐	☐	☒	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

3.12.1 Environmental Setting

Existing noise conditions are governed by the presence of noise-sensitive receptors, the location and type of noise sources, and overall ambient noise levels. Noise-sensitive land uses are generally considered to consist of those uses where noise exposure could result in health-related risks to individuals, as well as places where a quiet setting is an essential element of their intended purpose. Residential dwellings are of primary concern because of the potential for increased and prolonged exposure of individuals to both interior and exterior noise levels. Additional parks and recreation areas are also generally considered sensitive to increases in exterior noise levels. These noise-sensitive land uses are also considered vibration-sensitive.

The project site is located east of Lexington Reservoir, within unincorporated Santa Clara County (see Exhibit 2-2). The project site lies is located along the northeast side of the Santa Cruz Mountains between Santa Clara Valley and Monterey Bay.

There are no sensitive receptors located within the project site. The property is bounded by the Preserve to the north, south, and east, and private property to the west and along its southeastern corner. The nearest offsite sensitive receptors include rural residences located over 1,000 feet from the project disturbance area and Lupin Naturalist Lodge located approximately 0.3 mile to the west (see Exhibit 3.12-1).

Noise sources that may contribute to the existing noise environment consist of aircraft flyover and natural sounds such as leaves rustling and birds chirping.

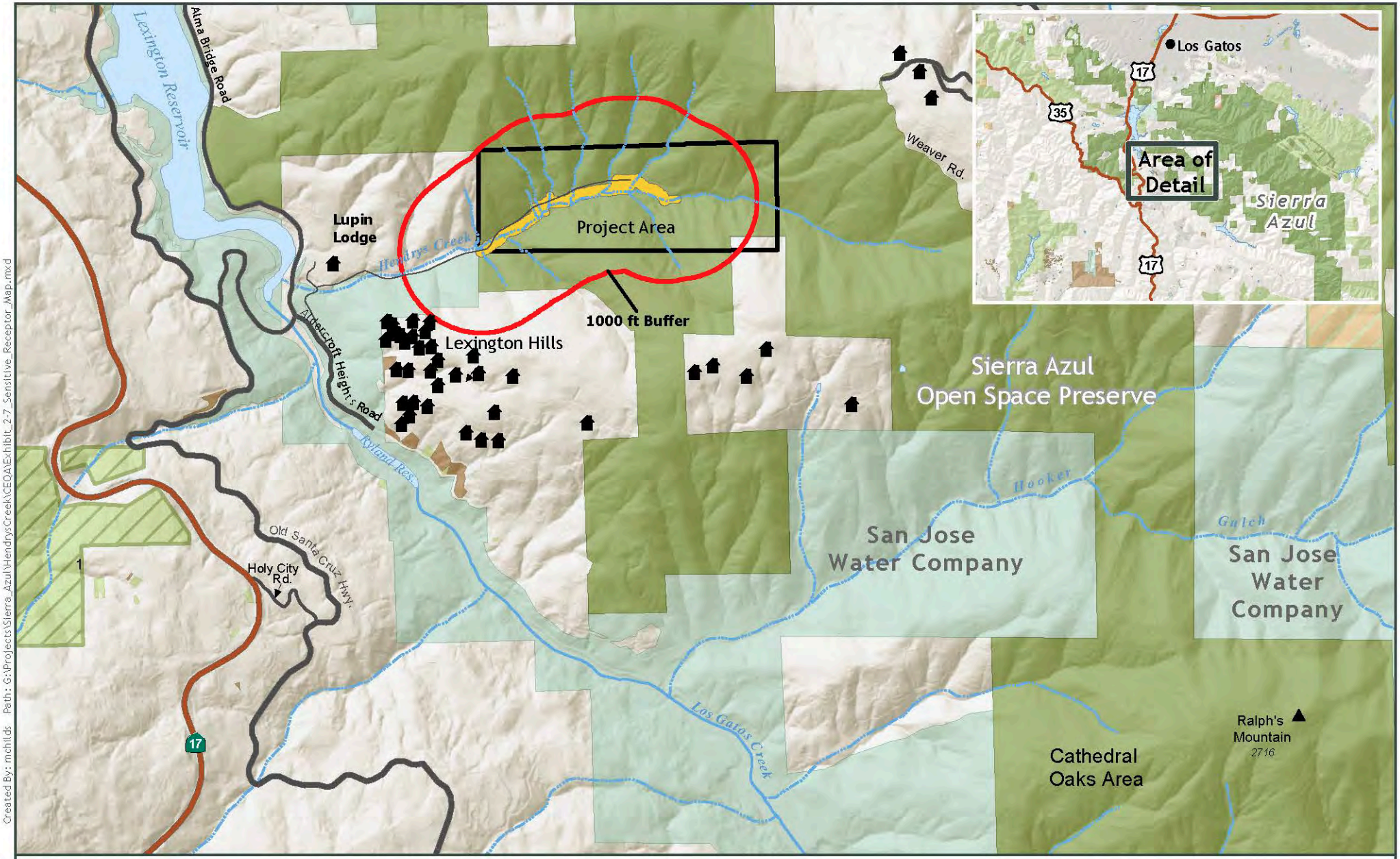

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Exhibit 3.12-1

Sensitive Receptor Locations

- Residence Locations
- 1000 ft Buffer Around Project Area
- Hendrys Creek Property
- MROSD Preserves
- Land Trust
- Watershed Land
- Other Public Agency
- Other Protected Open Space or Park Lands
- MROSD Conservation or Agricultural Easement
- Non MROSD Conservation or Agricultural Easement
- Private Property

Midpeninsula Regional Open Space District *(MROSD)*

March, 2015

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MIDPENINSULA REGIONAL OPEN SPACE

The County of Santa Clara has established noise guidelines and standards to protect citizens from potential hearing damage and other adverse physiological and social effects associated with noise. Applicable policies and regulations are contained in the Santa Clara County Zoning Regulations.

The Santa Clara Countywide Airport Land Use Plan (Santa Clara County 2008) describes the five airports within the County: Palo Alto, Reid Hillview, and South County (all general aviation airports), Moffett Field (military airport), and San Jose International Airport. All of these airports are over 10 miles from the project site.

COUNTY OF SANTA CLARA ZONING REGULATIONS

The Santa Clara County Noise Ordinance (Chapter VIII: Control of Noise and Vibration) contains the following applicable provisions:

> Construction noise is exempt from Exterior Noise standards, except for work between weekday and Saturday hours of 7:00 pm and 7:00 am, or any time on Sundays or holidays, such that the sound creates a noise disturbance across a residential or commercial property line. (Sec. B11-156 and B11-154).
>
> The County Noise Ordinance (B11 154(b) states that, where technically and economically feasible, construction activities shall be conducted in such a manner that the maximum noise levels at affected properties will not exceed those listed in the following schedule:
>
> (i) Mobile equipment. Maximum noise levels for nonscheduled, intermittent, short-term operation (less than 10 days) of mobile equipment:

	Single- and Two-Family Dwelling Residential Area	Residential Area Multifamily Dwelling	Commercial Area
Daily, except Sundays and legal holidays 7:00 a.m.–7:00 p.m.	75 dBA	80 dBA	85 dBA
Daily, 7:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays	50 dBA	55 dBA	60 dBA

> (ii) Stationary equipment. Maximum noise levels for repetitively scheduled and relatively long-term operation (periods of 10 days or more) of stationary equipment:

	Single- and Two-Family Dwelling Residential Area	Residential Area Multifamily Dwelling	Commercial Area
Daily, except Sundays and legal holidays 7:00 a.m.–7:00 p.m.	60 dBA	65 dBA	70 dBA
Daily, 7:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays	50 dBA	55 dBA	60 dBA

3.12.2 Discussion

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards?

Less-Than-Significant. The project would not result in noticeable increase in noise during operation because only limited, permit-only public access would be allowed, and staff would continue to access the site with

approximately the same frequency as under current conditions. The proposed project would result in a temporary increase in construction-generated noise resulting from the creek restoration activities. These activities could require some earth movement and truck hauling. Therefore, noise-generating equipment that would likely be used includes dozers, haul trucks, and loaders. Reference noise levels for these types of equipment are shown below in Table 3.12-1 and noise level estimates are shown in Appendix E.

Table 3.12-1 Equipment Reference Noise Levels

Type of Equipment	Noise Level (L_{max}) at 50 feet
Dozer	85
Dump Truck	84
Front End Loader	80

Source: Data compiled by Ascent Environmental in 2014

Noise generated from these pieces of equipment would be intermittent and short in duration as typical use is characterized by short periods of full-power operation followed by extended periods of operation at lower power, idling, or powered-off conditions. However, as a worst-case scenario, if these pieces of equipment were to operate at full capacity for an entire hour, noise levels could reach up to 46 dBA L_{max} at the nearest offsite sensitive receptors located over 1,000 feet from the construction area.

As identified in Santa Clara County Code of Ordinances, Section B11-156(d), Construction noise is exempt from the County's Exterior Noise Standards. The County Code of Ordinances Section B11-154 sets limits for daytime and nighttime construction noise. As indicated in Section B11-154(b)(i), the daytime limit for construction noise is 75 dBA for single-family residences and the nighttime limit is 50 dBA. The construction noise generated by the proposed project (approximately 54 dBA L_{max}) is modeled to be below the daytime construction noise standards established by the Santa Clara County Code of Ordinances. No nighttime construction would occur for this project, and the project would result in a *less-than-significant* impact.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

No Impact. The proposed project could involve the use of some heavy construction equipment for various creek restoration activities. These activities include, primarily the removal of existing stream crossings and site preparation and digging for new crossings and restoration of associated upland areas. No heavy impact equipment such as drilling or blasting would occur. The types of construction activities that are proposed include minimal site disturbance and are not the types of activities that could result in excessive ground vibrations. Considering the type and number of construction equipment and the distance to the nearest sensitive receptor (over 1,000 feet away from the construction area), the proposed project would not expose people to excessive ground vibration. The project would result in *no impact*.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

No Impact. As described above under "a," construction activities associated with the proposed creek restoration activities would be minor and temporary and would not result in noise levels that exceed any applicable Santa Clara County noise standard and therefore would not expose any nearby sensitive receptors to excessive noise levels. No new stationary noise sources or land development would be included in the proposed project. Therefore, the proposed project would not result in any permanent increase in ambient noise levels. There would be *no impact*.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Less-Than-Significant. As discussed under "a" above, the proposed project would involve the use of some noise-generating construction equipment. These types of noise-generating equipment do not operate for extended periods of time and would not exceed any applicable Santa Clara County noise standard, during the daytime or the nighttime due to the distance from sensitive receptors (over 1,000 feet away from the construction area). Therefore, this temporary increase in ambient noise would not result in a significant increase in noise levels at sensitive receptors. This impact would be *less than significant*.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. As mentioned above, the Santa Clara Countywide Airport Land Use Plan (2008) identifies five airports within the county. All five airports are over ten miles from the projects site. The proposed project does not include any occupied structures. Therefore, airport-related noise would not substantially affect the proposed project. *No impact* would occur.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. There are no active private airstrips within two miles of the project site. The proposed project would not expose people within the project area to excessive noise impacts. *No impact* would occur.

3.13 POPULATION AND HOUSING

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. Population and Housing. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing homes, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

3.13.1 Environmental Setting

According to the US Census Bureau, in 2013 Santa Clara County's population totaled 1,862,041 with 642,663 total housing units and an occupation rate of 2.91 persons per household (US Census Bureau 2014). Located in the unincorporated area of Santa Clara County, the project vicinity is sparsely populated, with housing consisting mostly of rural residences, farmhouses, and estates. There is no housing within the project site.

3.13.2 Discussion

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

No Impact. The proposed project does not include construction of new housing or commercial business. Therefore, no direct population growth would result from implementation of the proposed project. Construction would be minimal and short-term, and is not expected to result in employees relocating to the project site. No additional permanent staff would be needed for operation and maintenance of the proposed project. In addition, the long-term use of the project site would be for preservation of open space and would include limited public access controlled by permit. Therefore, the proposed project would have *no impact* on population growth.

b) Displace substantial numbers of existing homes, necessitating the construction of replacement housing elsewhere?

No Impact. The propose project would not include removal of any homes. Numerous unpermitted structures and trailers were located within the project site; however, all of these structures were removed prior to the property being purchased and there are currently no structures on-site. Therefore, the proposed project would have *no impact* on displacement of homes.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

No Impact. As described under "b" above, no homes would be displaced as a result of the proposed project. Therefore, no people or existing residences would be displaced, and there would be *no impact*.

3.14 PUBLIC SERVICES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. Public Services. Would the project:				
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☒	☐
Police protection?	☐	☐	☒	☐
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☒	☐
Other public facilities?	☐	☐	☐	☒

3.14.1 Environmental Setting

MROSD participates in fire protection of the Preserve, which will include the project site, in collaboration with other agencies, and primarily relies on CAL FIRE and Santa Clara County Fire Department (SCCFD), with first response and support to the jurisdictional fire agencies by MROSD staff. Fire protection within Santa Clara County is currently provided by 10 municipal fire districts, six county fire districts, two local fire districts, and CAL FIRE. The unincorporated areas of the county, including the project site, are served by the Santa Clara County Central Fire Protection District and CAL FIRE (Santa Clara County 1994). CAL FIRE and SCCFD provide fire suppression, basic and advanced rescue, advanced life support first response medical services, hazardous materials and technical rescue response, fire inspection, fire investigation, disaster preparedness, and public education. There are 259 full time firefighters and 40 volunteer firefighters within the county that are based at 17 fire stations (SCCFD 2010).

MROSD maintains a fire program to assist these agencies with fire response. If a fire occurs on or is threatening MROSD lands, MROSD staff helps establish Incident Command if first on scene, evacuates or closes the Preserves for visitor safety, performs initial attack when safe and effective to do so, provides logistical assistance given staff knowledge of the property, monitors and extinguishes spot fires, and supplies additional water for primary agency engines. MROSD operates a maintenance-style water truck for use in providing water for fire suppression.

Police Protection

MROSD rangers are peace officers authorized to carry out duties in patrolling MROSD preserves to promote visitor safety and provide for the protection of the natural resources of the preserves. MROSD has a total of 27 badged (rangers) (who have attended an MROSD-approved Academy and wear a peace officer badge). In an emergency, any or all of these personnel could be summoned to assist at an incident. In addition, the Santa Clara County Sheriff Office is the primary jurisdictional law enforcement agency that provides law enforcement service to unincorporated areas of Santa Clara County. MROSD staff is responsible for

enforcing MROSD regulations most importantly pertaining to vandalism, trespassing, and parking, whereas the Santa Clara County Sheriff Office is primarily responsible for criminal enforcement and all other code sections.

Schools

The project site is located within the Los Gatos Union School District. The nearest school is Lexington Elementary School, located approximately 1.5 miles north of the project site.

Parks

Several large open space preserves are located in the vicinity of the project site including the Sierra Azul Open Space Preserve, which borders the project site to the north, south, and east; Bear Creek Redwoods Open Space Preserve (MROSD Preserve located approximately 2 miles east of the site); and Lexington Reservoir County Park (located approximately 1 mile north of the site).

3.14.2 Discussion

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

Fire protection?

Less than Significant. MROSD assists with fire protection of the existing Preserve in collaboration with other agencies, primarily in reliance on the jurisdictional fire agencies of CAL FIRE and SCCFD, with first response and support to the jurisdictional fire agencies by MROSD staff. The proposed LTMP does not include development of structures in an area where no structures currently exist. In addition, as described in Section 3.8, "Hazards and Hazardous Materials," with the implementation of mitigation measures the proposed project would not result in a substantial increase in risk of wildland fire. Therefore, a substantial increase in demand for fire protection service would not occur, such that new or expanded facilities would be required to maintain appropriate level of service. In addition, Element 6A.3 and corresponding tasks in the LTMP indicate that patrol vehicle access will be maintained within the project site and that wildfire fuel management will be performed. Because the project is not expected to increase the wildfire potential for the site and the site would be managed to minimize fuel load, this impact is considered *less than significant*.

Police protection?

Less than Significant. Law enforcement service in the vicinity of the project site is currently provided by the Santa Clara County Sheriff's Department (criminal) and MROSD rangers (resource protection). Implementation of the proposed project would provide limited, permit-only public access to areas that are not currently accessed by the public. No structures would be developed on the project site. Most emergency responses would be handled internally by MROSD staff and would not tax other law enforcement agencies. Implementation of the proposed project would not result in increased demand for police protection such that new or expanded facilities are necessary to maintain current service levels. This impact is *less than significant*.

Schools?

No Impact. The nearest school is 1.5 miles from the project site and the proposed project would not directly affect any schools. In addition, the proposed project does not include development of new residences and therefore would not result in a substantial effect on the permanent population in the area that would

increase the demand for educational services. Implementation of the proposed project would have *no impact* on schools.

Parks?

Less than Significant. The project site would become part of the existing Preserve, and the proposed project would provide additional open space with limited, permit-only public access. Implementation of the proposed project is not expected to increase the demand for other parks and open space facilities, such that new or expanded facilities would be required. This impact is *less than significant*.

Other public facilities?

No Impact. The proposed project does not include development of new residences and therefore would not affect the population in the project area that would increase the demand for other public facilities such as libraries and community centers. Therefore, implementation of the project would have *no impact* on these other services.

3.15 RECREATION

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. Recreation. Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☒	☐

3.15.1 Environmental Setting

As mentioned in Section 3.14, "Public Services" above, there are several large open space preserves and parks located in the vicinity of the project site including the Sierra Azul Open Space Preserve, which borders the project site to the north, south, and east; Bear Creek Redwoods Open Space Preserve (MROSD Preserve located approximately 2 miles east of the site); and Lexington Reservoir County Park (located approximately 1 mile north of the site). Sierra Azul Open Space Preserve provides for hiking, biking, equestrian use, and Bear Creek Redwoods Open Space Preserve allows hiking and equestrian use. Lexington Reservoir County Park provides hiking, biking, fishing, picnicking, and non-power boating.

3.15.2 Discussion

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Less than Significant. As mentioned above in Section 3.14, "Public Services," the proposed project would provide additional open space that would provide limited, permit-only public access. The proposed project would be connected to the existing Preserve; however, because the project site would only provide limited public access, the proposed project is not expected to increase the demand for other parks and open space facilities, such that new or expanded facilities would be required. This impact is *less than significant*.

b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

Less than Significant. See the discussion under "a" above. The proposed project would not increase demand for other parks and open space facilities, such that new or expanded facilities would be required and would therefore result in a *less than significant* impact.

3.16 TRANSPORTATION/TRAFFIC

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. Transportation/Traffic. Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☒	☐
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☒	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☒	☐
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒

3.16.1 Environmental Setting

The project site is accessible from a deeded access road through private property to Aldercroft Heights Road. Visitors to the project site would either be accompanied by an MROSD docent and access the project site via Aldercroft Heights Road, or would access the property by hiking. There are currently no parking areas within the project site, and because the project site would not be open to the public, designated parking areas would not be provided. The haul route that would be used during construction includes Highway 17 and Aldercroft Heights Road.

3.16.2 Discussion

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

Less than Significant. The proposed project does not include public access, except by permit only. No additional MROSD staff are necessary for the proposed project. The proposed creek restoration would generate minimal additional traffic in the long-term (no more than two trips per day), although some trip generation would occur during construction. Construction-related trips would include construction worker trips, as well as haul trips for moving equipment and materials. It is anticipated that project construction would result in no more than 10 worker trips and 2 haul trips per day. Therefore, no substantial short-term or long-term vehicle trip generation would result. The proposed project would not substantially affect the performance of the circulation system and would therefore not conflict with any applicable transportation plans, ordinances, or policies. The project would result in a *less-than-significant* impact.

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Less than Significant. See discussion under "a" above. The proposed project would generate minimal vehicle trips. Therefore the proposed project would not conflict with a congestion management plan, including level of service standards and other standards for roadway/highway congestion management. The impact is *less than significant*.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

No Impact. Implementation of the proposed project would not involve development of any tall structures and would not alter air traffic patterns. Therefore, the proposed project would result in *no impact*.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No Impact. No vehicle access would be provided to the project site. Therefore, no traffic hazards would result. The proposed project would result in *no impact*.

e) Result in inadequate emergency access?

Less than Significant. The proposed project would maintain access throughout property for routine maintenance and emergency vehicle access. Also see the discussion of emergency access in Section 3.14 "Public Services." Therefore, a less-than-significant impact would result.

f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

No Impact. As mentioned above under "a," the proposed project includes limited public access (by permit only) and would not affect the number of visitors that would utilize trails within the existing Preserve. Therefore, demand for bicycle facilities and other alternative modes of transportation would not be affected by the proposed project. There would be *no impact*.

3.17 UTILITIES AND SERVICE SYSTEMS

	ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII.	**Utilities and Service Systems. Would the project:**				
a)	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b)	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c)	Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e)	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?	☐	☐	☐	☒
f)	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐
g)	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☒	☐

3.17.1 Environmental Setting

Previously, water for domestic purposes was piped from the seeps and springs within the property. Electricity was provided by generators, solar panels, and batteries, and underground septic systems with leach lines were used for wastewater. However, all structures and septic systems, and the majority of the water piping have been removed from the project site, and the only public utility present on-site is telephone lines.

Stormwater run-off from the site drains naturally. There is no municipal or other formal drainage system; however, culverts and other drainage facilities convey stormwater flow across or through roadways.

The project site is not open to the public, and MROSD does not provide regular trash collection services to the site. MROSD ordinance prohibits public littering or dumping of any material onto Preserves. Illegal trash is removed from the Preserve by MROSD staff and properly disposed of.

Downstream of the project site, Lupin Naturalist Lodge serves approximately 50 residents with their domestic water system. Also downstream, San Jose Water Company draws surface water from an in-stream impoundment in Hendrys Creek. The water is then piped to a pump station where it enters their supply network.

3.17.2 Discussion

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

No Impact. As discussed in the Environmental Setting, all septic systems have been removed from the project site. In addition, no restrooms would be constructed as part of the proposed project, and no wastewater would be generated. The proposed project would result in *no impact* related to wastewater treatment requirements.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

No Impact. See discussion under "a" above. The proposed project would result in *no impact* related to construction of new or expanded wastewater treatment facilities.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Less than Significant. For the most part, drainage of stormwater runoff occurs naturally on the project site, with the exception of features such as culverts that convey drainage through roadways. The proposed project involves improvements to existing road crossings to prevent erosion and improve water quality, by removing culverts and bridges and installing one new wet ford crossing instead. Environmental impacts associated with these improvements are evaluated in this IS. Impacts associated with installing these drainage facilities are *less than significant*.

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

No Impact. As discussed above, the majority of the water piping has been removed from the project site. In addition, the project site would have limited, permit-only public access and no potable water would be provided at the site. No water service is required for implementation of the project. Therefore, the proposed project would result in *no impact* related to water supply capacity.

e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?

No Impact. See discussion under "a" above. The proposed project would result in *no impact* related to wastewater treatment capacity.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

Less than Significant. As discussed above, all structures have been removed from the property; however, implementation of the proposed project would require removal of four bridges and a culvert. Removal of these structures would generate solid waste. Material would be recycled to the greatest extent possible and otherwise hauled to appropriate disposal facilities. Any hazardous material would be abated first per state requirements (see Section 3.9, "Hazards and Hazardous Materials") and would be disposed of at appropriate hazardous waste disposal facilities. The volume of solid waste generated during structure removal would not be substantial.

As mentioned under the Environmental Setting, MROSD does not provide regular trash collection services. Public access to the property would be allowed by permit only, and visitors would be required to dispose of their own trash. MROSD prohibits littering or dumping of any material onto the Preserve. MROSD staff removes any illegal trash, which is typically not substantial in volume, and properly disposes of it. Because

implementation of the proposed LTMP involves very limited generation of solid waste, implementation of the proposed project would not conflict with solid waste regulations and impacts to landfills would be *less than significant*.

g) Comply with federal, state, and local statutes and regulations related to solid waste?

Less than Significant. As described under "f" above, the proposed project involves very limited solid waste generation and would not conflict with federal, state, and local statutes or regulations related to solid waste. The impact is *less than significant*.

3.18 MANDATORY FINDINGS OF SIGNIFICANCE

	ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII.	**Mandatory Findings of Significance.**				
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☒	☐
c)	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Authority: Public Resources Code Sections 21083, 21083.5.

Reference: Government Code Sections 65088.4.
Public Resources Code Sections 21080, 21083.5, 21095; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

3.18.1 Discussion

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory?

Less than Significant. As described in the biological resources analysis of this IS (Section 3.4), implementation of the proposed project, including mitigation measures included in this IS/Proposed MND, would result in less-than-significant impacts related to biological resources. Natural Resource Management is one of the overarching goals of the proposed project, including protecting and enhancing habitat and wildlife populations. The proposed project does not have the potential to substantially degrade fish or wildlife habitat, adversely affect wildlife populations, or restrict the range of special-status species. Also, as indicated in the cultural resources analysis of this IS/Proposed MND (Section 3.5), implementation of the proposed project would not adversely affect existing historic structures and mitigation measures would prevent substantial adverse effects to unknown archaeological resources or human remains. These impacts are considered *less than significant*.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

Less than Significant. The proposed project includes very little soil disturbance and does not include construction of new structures or an increase in impervious surfaces. The proposed project is designed to protect and enhance existing natural and cultural resources. As indicated throughout this IS/Proposed MND, implementation of the proposed project would not result in any individually significant impact. In addition, the effects of the proposed project would not combine with the effects of other past, present, or future projects in a cumulatively considerable fashion. The cumulative impacts associated with the proposed project are *less than significant*.

c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

Less than Significant. The proposed project does not include any new sources of pollution and would not generally involve the use, handling, or transport of hazardous materials. No hazardous materials are identified on the project site that could result in exposure of construction workers or the public to contamination. This impact is *less than significant*.

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5 LIST OF PREPARERS

LEAD AGENCY

Midpeninsula Regional Open Space District

Meredith Manning ..... Project Manager

ENVIRONMENTAL CONSULTANT

Ascent Environmental, Inc.

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Stephanie Rasmussen ..... Environmental Planner
Dimitri Antoniou ..... Assistant Project Manager/Air Quality and Noise Specialist
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Linda Leeman ..... Senior Biologist
Alta Cunningham ..... Architectural Historian
Amber Giffin ..... Document Preparation
Gayiety Lane ..... Document Preparation

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Midpeninsula Regional Open Space District
330 Distel Circle Los Altos, CA 94022

Notice of Intent to Adopt a Mitigated Negative Declaration

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et sec.) that the following project will not have a significant effect on the environment.

File Number	TAZ	APN(s)	Date
n/a	n/a	558-27-007, 558-27-008 & 558-51-005	March 20, 2015

Project Name	Project Type (Use)
Hendrys Creek Long Term Management Plan	Long Term Management Plan including rehabilitation of stream crossings and disturbed uplands

Owner	Applicant
Midpeninsula Regional Open Space District	Midpeninsula Regional Open Space District

Project Location

20610 Aldercroft Heights Road, Los Gatos, CA, in unincorporated Santa Clara County. The project site is east of Lexington Reservoir within the Los Gatos Creek watershed and is located along the northeast side of the Santa Cruz Mountains between Santa Clara Valley and Monterey Bay. The project site is accessible from a deeded access road through private property to Aldercroft Heights Road.

Project Description

The proposed project would include the implementation of a Long-term Management Plan (LTMP) for the Hendrys Creek Property, which would be purchased by Midpeninsula Regional Open Space District and become part of the existing MROSD Sierra Azul Open Space Preserve (Preserve). Implementation of the LTMP would include restoration of road/stream crossings across Hendrys Creek and its tributaries and rehabilitation of disturbed upland areas.

The existing roadway creek crossings within the project site are susceptible to failure after large storm events, and in some locations are contributing excessive fine-grained sediment to the Hendrys Creek watershed. A portion of the existing roadway system would be maintained to provide vehicular access within the project site for maintenance, routine patrols, and management of the property. Restoration of these crossings would reduce the potential of these degraded areas to adversely affect the streams and other natural resources, and would reduce future maintenance needs.

The proposed project would include road/stream crossing improvements, and rehabilitation of disturbed adjacent upland areas. There are currently five crossings on Hendrys Creek; two of these are on Hendrys Creek Road and the other three are on spur roads. Only one of these crossings (Crossing H4) would be needed for future access. The remaining four crossings are no longer needed and would be removed by excavating the existing fill and restoring the excavated channel. Current plans call for all bridges, culverts, and other "built" structures at road/stream crossings to be removed, including site H4, and the stream channel "daylighted" (meaning all fill material will be excavated from the channel bottom), leaving behind a functioning stream channel that is as close to a more natural state or original configuration as practical.

For complete details of Project Description, refer to Chapter 2 of the IS/MND, available at www.openspace.org.

Purpose of Notice

The purpose of this notice is to inform you that MROSD Staff has recommended that a Mitigated Negative Declaration be approved for this project. MROSD Staff has reviewed the Initial Study for the project, and based upon substantial evidence in the record, finds that the proposed project could not have a significant effect on the environment with implementation of mitigation measures.

Public Review Period:	**Begins: March 20, 2015**	**Ends: April 20, 2015 (5:00 pm)**

Public comments regarding the correctness, completeness, or adequacy of this mitigated negative declaration are invited and must be received on or before the end of the public review period. Such comments should be based on specific environmental concerns. Written public comments must be received on or before the end of the public review period and should be addressed to **Meredith Manning, Midpeninsula Regional Open Space District, 330 Distel Circle, Los Altos, CA 94022 or sent electronically via email to mmanning@openspace.org.** For additional information regarding this Mitigated Negative Declaration, please contact **Meredith Manning**, Senior Planner at 650-691-1200 or mmanning@openspace.org.

Public Meeting:	**Date: May 13, 2015**	**Time: 7:00 pm**	**Place: MROSD Office (see address below)**

Action is tentatively scheduled on this proposed Mitigated Negative Declaration by the MROSD Board of Directors on **May 13, 2015**, beginning at **7:00 pm** in the MROSD Administrative Office, located at 330 Distel Circle, Los Altos, CA, 94022. It should be noted that the approval of a Mitigated Negative Declaration does not constitute approval of the project under consideration. The decision to approve or deny the project will be made separately. Meeting information will be posted on the Midpeninsula Regional Open Space District website at: http://www.openspace.org/about_us/meetings.asp or you may contact the District Clerk at 650 691-1200.

The Mitigated Negative Declaration and Initial Study may be viewed at the following locations:

(1) Midpeninsula Regional Open Space District, 330 Distel Circle, Los Altos, CA 94022
(2) Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, CA 95118
(3) The document is also available online during the review period at: www.openspace.org.

Other Agencies sent a copy of this document:

U.S. Army Corps of Engineers	Santa Clara Valley Water District
California Department of Fish and Wildlife	Regional Water Quality Control Board
County of Santa Clara Planning Department	Bay Area Air Quality Management District

Potentially Significant effects on the environment:

IV Biological Resources, b) Implementation of the proposed project could result in potentially significant impacts to special-status wildlife species, including California red-legged frog (CRLF), Foothill yellow-legged frog (FYLF), pallid bat, western red bat, San Francisco dusky-footed woodrat, Coopers hawk, Sharp-shinned hawk, Vaux's swift, Allen's hummingbird, Olive sided flycatcher, and oak titmouse, as well as special-status animal species, including for Santa Clara red ribbons, Loma Prieta hoita, woodland woollythreads, Santa Cruz Mountains beardtongue, and white-flowered rein orchid. Implementation of Mitigation Measures 3.4-1 through 3.4-4 would reduce the project's impact on these species to a less-than-significant level.

IV Biological Resources, c) Any activities occurring within jurisdictional waters would be considered a significant impact to waters of the United States. Construction activities would result in temporary impacts to Hendrys Creek and its tributaries related to removal of creek crossings and sediment. Implementation of Mitigation Measure 3.4-5 would reduce the project's impact on wetlands to a less-than-significant level.

V Cultural Resources, b) and c) Although no archaeological resources were identified in the project area, the potential exists that unidentified archaeological resources could be discovered during construction, which could result in a potentially significant impact. Implementation of Mitigation Measure 3.5-1 would reduce the project's impact on archaeological resources to a less-than-significant level.

V Cultural Resources, d) No evidence suggests that any prehistoric or historic-era human interments are present within or near project site. However, there is a possibility that human remains could be uncovered during construction activities; therefore a potentially significant impact could occur. Implementation of Mitigation

Measure 3.5-2 would reduce the project's impact on human remains to a less-than-significant level.

VIII Hazards and Hazardous Materials, h) the project site is within the designated Wildfire and Urban Interface Fire Area with a fire hazard zone classification of very high. Therefore, impacts related to wildfire would be potentially significant. Implementation of Mitigation Measure 3.8-1 would reduce the impact to a less-than-significant level.

Mitigation Measures included in the project to reduce potentially significant impacts to a less than significant level:

Mitigation Measure 3.4-1 would reduce potentially significant impacts to special-status amphibians (CRLF and FYLF) by requiring worker education, construction monitoring, and response actions if species are found during construction.

Mitigation Measure 3.4-2 would reduce potentially significant impacts to special-status bats (pallid bat, western red bat, and San Francisco dusky-footed woodrat) by requiring pre-construction surveys by a qualified biologist and response actions if species are identified, including avoidance or relocation (for woodrat) with approval by CDFW.

Mitigation Measure 3.4-3 would reduce potentially significant impacts to special status birds (Coopers hawk, Sharp-shinned hawk, Vaux's swift, Allen's hummingbird, Olive sided flycatcher, and oak titmouse) by limiting vegetation removal, requiring pre-construction surveys, avoidance using protective buffers, and monitoring of any identified nests.

Mitigation Measure 3.4-4 would reduce potentially significant impacts to special-status plants by requiring protocol-level preconstruction surveys, adjusting design to avoid, and consultation with CDFW and USFWS to ensure no net loss of habitat or individuals.

Mitigation Measure 3.4-5 would reduce potentially significant impacts to wetlands by requiring the Distirct to submit a wetland delineation report to USACE, replace wetlands on a "no net loss" basis, and coordinate with USACE to obtain a Nationwide or Section 404 Permit, along with Section 401 certification.

Mitigation Measure 3.5-1 would reduce potentially significant impacts to currently unknown archaeological resources by requiring stop-work and development of appropriate procedures (by a qualified archaeologist) in the event that an archaeological feature or deposit is discovered during construction.

Mitigation Measure 3.5-2 would reduce potentially significant impacts to human remains by requiring stop-work and specific procedures, including coroner examination, contact of Native American Heritage Commission, and treatment requirements, in the event that human remains are uncovered during construction.

Mitigation Measure 3.8-1 would reduce potentially significant impacts related to wildfire hazard by requiring spark arrestors on all construction/maintenance equipment, cutting of grass and other fuels around construction sites, prohibiting mechanical construction equipment on Red Flag Warning days, provision of water/fire extinguishers during construction, prohibiting smoking, and maintenance of fire extinguishers on all vehicles in the work area.

A reporting or monitoring program must be adopted for measures to mitigate significant impacts at the time the Negative Declaration is approved, in accord with the requirements of Sec.21081.6 of the Public Resources Code.

Prepared by:

Meredith Manning, Senior Planner

Jane Mark ON BEHALF OF MEREDITH MANNING
Signature

3/16/15
Date

Approved by:

Jane Mark, AICP, Planning Manager

Jane Mark
Signature

3/16/15
Date

MITIGATION MONITORING PROGRAM
FOR
HENDRYS CREEK LONG-TERM MANAGEMENT PLAN

MITIGATION MONITORING PROGRAM CONTENTS

This mitigation monitoring program (MMP) includes a brief discussion of the legal basis and purpose of the program, a key to understanding the monitoring matrix, discussion and direction regarding noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resources Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

MONITORING MATRIX

The following page provides a table identifying the mitigations incorporated into the Hendrys Creek Long-Term Management Plan (the project). These mitigations are reproduced from the Initial Study/Mitigated Negative Declaration (IS/MND) for the project. The columns within the tables have the following meanings:

Impact:	This column refers to the Initial Study section where the mitigation is discussed.
Mitigation Measure(s):	This column lists the specific mitigation identified within the Mitigated Negative Declaration.
Timing:	This column identifies at what point in time, review process, or phase the mitigation will be completed. The mitigations are organized by order in which they appear in the Mitigated Negative Declaration
Monitoring Responsibility:	This column references the District department that will ensure implementation of the mitigation.
Verification:	This column will be initialed and dated by the individual designated to confirm implementation.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the District's General Manager in written form, providing specific information on the asserted violation. The General Manager shall cause an investigation and determine the validity of the complaint; if noncompliance with a mitigation measure has occurred, the General Manager shall cause appropriate actions to remedy any violation. The complaint shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue.

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
Mitigation in Section IV Biological Resources	**Mitigation Measure 3.4-1** *MROSD shall implement the following measures to avoid and minimize impacts to California red-legged frog and Foothill yellow-legged frog.* ▪ *Worker Education Seminar. Prior to conducting any action that may negatively affect listed species, all staff, contractors and persons associated with the project shall attended a worker-education seminar delivered by a qualified MROSD biologist or other qualified biologist. The seminar shall include written information regarding California red-legged frog and Foothill yellow-legged frog identification, natural history and habitat, legal status, and provisions and penalties under the Endangered Species Act, as applicable. Names and phone numbers of the biological monitors and USFWS and CDFW contacts should be included in the written information. MROSD shall maintain a signature sheet to document compliance, which will be made available upon request.* ▪ *Biological Construction Monitoring. A qualified biologist shall conduct a pre-activity survey for California red-legged frog and Foothill yellow-legged frog prior to implementing actions that include ground disturbance, vegetation removal, or other activities associated with culvert or crossing removal that could otherwise harm California red-legged frog or Foothill yellow-legged frog. A qualified biologist shall inspect the work area while vegetation and debris is removed during the initial phase of construction. If no California red-legged frogs or Foothill yellow-legged frogs are observed during either the pre-activity survey or during removal of vegetation and debris, then work may proceed without a qualified biologist present. If California red-legged frogs or Foothill yellow-legged frog are observed at any time before or*	Prior to and during construction activities (including maintenance-related construction).	MROSD Operations Dept. (Resource Specialist) with Planning PM in consultation with USFWS and CDFW, as necessary.	

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
	during construction within the work area by anyone involved in the project, work shall cease and USFWS and/or CDFW shall be contacted for guidance.			
Mitigation in Section IV Biological Resources	**Mitigation Measure 3.4-2** *MROSD shall implement the following measures to avoid and minimize impacts special-status mammals.* ▪ *Special-Status Bats. Within 30-days prior to initiating ground disturbance or vegetation removal, a qualified bat biologist shall inspect the area of disturbance and areas adjacent (within 50 feet) for bat roosts (most likely mature trees and snags and possibly (although unlikely) under the small bridges spanning Hendrys Creek. Surveys will consist of a daytime pedestrian survey looking for evidence of bat use (e.g., guano) and/or an evening emergence survey to note the presence or absence of bats. The type of survey will depend on the condition of the habitat. If no bat roosts are found (excluding the bat houses), then no further study is required. If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts, but are not required. If roosts of pallid or western red, bats are determined to be present within the survey area, direct disturbance to the roost, such as tree removal or bridge replacement that are occupied by bats, shall be avoided during the breeding season (April 1 through August 31). The bat roosts will not be disturbed.* ▪ *San Francisco Dusky-Footed Woodrat. Within 30 days prior to project construction, a qualified biologist shall inspect the*	Prior to construction activities.	MROSD Operations Dept. (Resource Specialist) with Planning PM in consultation with CDFW, as necessary.	

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
	disturbance area and adjacent areas within 50 feet for woodrat houses. If none are found, then no additional measures are necessary. If a woodrat house is identified within 50 feet of the work area, an exclusion zone shall be erected around the existing woodrat houses using flagging or a temporary fence that does not inhibit the natural movements of wildlife (such as steel T-posts and a single strand of yellow rope or similar materials). The work area shall be relocated as necessary to avoid impacting woodrat houses, even if avoidance is by only a few feet. If woodrat houses cannot be avoided by the trail, CDFW shall be contacted for approval to relocate individuals by live-trapping and building a nearby artificial house as a release site. Approval to relocate shall be acquired from CDFW.			
Mitigation in Section IV Biological Resources	**Mitigation Measure 3.4-3** *MROSD shall limit vegetation removal to the minimum necessary to conduct the project. For all construction activities that could result in potential noise and other land disturbances that could affect nesting birds (e.g., tree removal, mowing, mastication, brush removal), the construction area shall be surveyed to evaluate the potential for nesting birds. Tree removal will be limited, whenever feasible, based on the presence or absence of nesting birds. For all other construction activities, if birds exhibiting nesting behavior are found within the treatment sites during the bird nesting season (March 15 – August 30 for smaller bird species such as passerines and February 15 - August 30 for raptors) impacts on nesting birds will be avoided by the establishment of appropriate buffers around active nests. The distance of the protective buffers surrounding each active nest site are: 500 feet for large raptors such as buteos, 250 feet for small raptors such as accipiters, and 250 feet for passerines. The size of the buffer may be adjusted by an MROSD biologist in consultation*	Before, during, and after construction.	MROSD Operations Dept. (Resource Specialist) with Planning PM in consultation with USFWS and CDFW, as necessary.	

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
	with CDFW and USFWS depending on site specific conditions. Monitoring of the nest by an MROSD biologist during and after construction activities will be required if the activity has potential to adversely affect the nest. Construction may resume in these areas after an MROSD biologist or designated biological monitor confirms that the young have fully fledged, are no longer being fed by the parents, and have left the nest site. For construction activities that clearly would not have adverse impacts to nesting birds (e.g. non-powered hand tool work), no survey for nesting birds would be required.			
Mitigation in Section IV Biological Resources	**Mitigation Measure 3.4-4** *MROSD shall implement the following measures to avoid and minimize impacts to special-status plants.* ▪ *MROSD shall utilize qualified staff or a contractor to conduct protocol-level preconstruction special-status plant surveys for all potentially occurring species within the project footprint that has not previously been surveyed. Prior to ground-disturbance or vegetation management in potentially suitable habitat, surveys shall be conducted during the appropriate blooming period when they are most readily identifiable in accordance with Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (DFG 2009). If no special-status plants are found during focused surveys, the findings shall be documented in a letter report, and no further mitigation shall be required.* ▪ *If special-status plant populations are present in the project footprint, MROSD shall determine if the population can be avoided by adjusting the project design.*	Prior to construction.	MROSD Operations Dept. (Resource Specialist) with Planning PM in consultation with CDFW and/or USFWS, as necessary.	

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
	▪ *If the impact to special-status plants cannot be avoided, MROSD shall consult with CDFW or USFWS, as appropriate depending on species' status, to determine the appropriate measures to ensure no net loss of occupied habitat or individuals. These measures may include preserving and enhancing existing populations, creation of off-site populations on project mitigation sites through seed collection or transplantation, and/or restoring or creating suitable habitat in sufficient quantities to achieve the no-net-loss standard.*			
Mitigation in Section IV Biological Resources	**Mitigation Measure 3.4-5** *MROSD operates under a special agreement known as "Waste Discharge Requirements and Section 401 Water Quality Certifications for Routine Maintenance Activities (Order No. R2-2010-0083)" with the California Regional Water Quality Control Board. In addition, MROSD holds a similarly-structured agreement known as the Final Lake or Streambed Alteration Agreement (Notification No. 1600-2012-0444-R3) District-wide Routine Maintenance Agreement with the California Department of Fish and Wildlife. A portion of the work proposed under this project will apply under these two permitting authorities and agreements; the remainder of the project work will comply with the following measures to compensate for the temporary loss of wetlands and other waters of the United States:* ▪ *MROSD will submit a wetland delineation report to USACE and request a preliminary jurisdictional determination. Based on the jurisdictional determination, MROSD will determine the exact acreage of waters of the U.S. and waters of the state that would be filled as a result of project implementation.*	Prior to construction activities near or within a wetland or other waters of the U.S.	MROSD Operations Dept. (Resource Specialist) with Planning PM in consultation with USACE.	

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
	▪ *MROSD will replace on a "no net loss" basis (minimum 1:1 ratio) (in accordance with USACE and/or RWQCB) the acreage and function of all wetlands and other waters that would be removed, lost, or degraded as a result of project implementation. Wetland habitat will be restored on-site as determined during the Section 401 and Section 404 permitting processes.* ▪ *MROSD will coordinate with the USACE to obtain either a Nationwide Permit or a USACE Section 404 Permit and RWQCB Section 401 certification before any groundbreaking activity within 50 feet of any wetland or water of the United States. MROSD will implement all permit conditions.*			
Mitigation in Section V Cultural Resources	**Mitigation Measure 3.5-1** *In the event that any prehistoric or historic-era subsurface archaeological features or deposits are discovered during construction, all ground-disturbing activity within 100 feet of the find shall be halted and a qualified professional archaeologist shall be retained to assess the significance of the find. If the find is determined to be significant by the qualified archaeologist (i.e., because it is determined to constitute either an historical resource or a unique archaeological resource), the archaeologist shall develop appropriate procedures to protect the integrity of the resource and ensure that no additional resources are affected. Procedures could include but would not necessarily be limited to preservation in place, archival research, subsurface testing, or contiguous block unit excavation and data recovery. If the archaeologist determines that some or all of the affected property qualifies as a Native American Cultural Place, including a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine (Public Resources Code Section 5097.9) or a Native American historic, cultural, or sacred site,*	During construction.	MROSD Operations Dept. (Resource Specialist) with Planning PM	

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
	that is listed or may be eligible for listing in the California Register of Historical Resources pursuant to Public Resources Code Section 5024.1, the archaeologist shall recommend, and MROSD shall implement, potentially feasible procedures that would preserve the integrity of the site or minimize impacts on it.			
Mitigation in Section V Cultural Resources	**Mitigation Measure 3.5-2** In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, the foreman shall immediately halt potentially damaging excavation in the area of the burial and notify the County Coroner and a professional archaeologist to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). Following the coroner's findings, the archaeologist, and the NAHC-designated Most Likely Descendent shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94.	During construction.	MROSD Operations Dept. (Resource Specialist) with Planning PM	
Mitigation in Section VIII Hazards and Hazardous Materials	**Mitigation Measure 3.8-1** *To further reduce the potential for wildland fire ignition, the following additional mitigation measure is required:*	During construction and maintenance activities	MROSD Administration and Operations Depts.	

HENDRYS CREEK LONG-TERM MANAGEMENT PLAN				
Impact	**Mitigation Measure(s)**	**Timing**	**Monitoring Responsibility – District Department**	**Verification (Date & Initials)**
	▪ *To reduce fire ignition risk, MROSD currently requires the following measures for all maintenance and construction activities:* ▪ All equipment to be used during construction and maintenance activities must have an approved spark arrestor. ▪ Grass and fuels around construction sites where construction vehicles are allowed to be parked will be cut or reduced. ▪ Mechanical construction equipment that can cause an ignition will not be used when the National Weather Service issues a Red Flag Warning for the San Francisco Bay Area. ▪ Hired contractors shall be required to: ▪ Provide water and/or fire extinguisher to suppress potential fires caused by the work performed. ▪ Remind workers that smoking is prohibited at the work site and on any MROSD land per contract conditions and MROSD Ordinance. ▪ Maintain working ABC fire extinguishers on all vehicles in the work area.			

RESOLUTION NO. 15-____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT ADOPTING A MITIGATED NEGATIVE DECLARATION INCLUDING A MITIGATION MONITORING PROGRAM IN CONNECTION WITH THE PURCHASE OF THE PENINSULA OPEN SPACE TRUST (POST) HENDRYS CREEK PROPERTY AS AN ADDITION TO THE SIERRA AZUL OPEN SPACE PRESERVE

I. The Midpeninsula Regional Open Space District ("MROSD") is a lead agency, as provided for under section 21067 of the California Environmental Quality Act (CEQA, Public Resources Code sections 21000 et seq.).

II. The Board of Directors of MROSD has reviewed the proposed **POST Hendrys Creek Property Purchase** ("Project") as an addition to the Sierra Azul Open Space Preserve.

III. An Initial Study and Mitigated Negative Declaration (collectively referred to as the MND), attached to the MROSD Board Report, dated May 13, 2015, and incorporated into this Resolution as if fully set forth herein; was prepared for the Project pursuant to the requirements of the California Environmental Quality Act (CEQA, Public Resources Code sections 21000 et seq.) and the CEQA Guidelines (14 Cal. Code. Regulations sections 15000 et seq.).

IV. A Notice of Intent (NOI) to adopt a MND was distributed to the California Office of Planning and Research's State Clearinghouse, interested agencies, individuals, adjacent property owners, and nearby residents, and posted in a general circulation newspaper, at the County of Santa Clara Clerk Recorder's Office, and on the MROSD website, notifying all interested parties of the availability and 30-day public review period of the MND from March 20, 2015 to April 20, 2015. Copies of the full MND were available on the MROSD website, at the MROSD Administrative Office at 330 Distel Circle, Los Altos, CA 94022, at the Santa Clara Valley Water District Headquarters at 5750 Almaden Expressway, San Jose, CA 95118, and printed copies were available upon request.

V. The MND identified potentially significant adverse impacts on the environment, including specific impacts to Biological Resources, Cultural Resources, and Hazards and Hazardous Materials, and found that mitigation for the proposed Project would avoid or mitigate these impacts to below a level of significance by adoption and implementation of the proposed mitigation measures as part of the Project and through implementation of the Mitigation Monitoring Program (MMP).

VI. A Mitigation Monitoring Program was prepared to ensure compliance with the MND's mitigation measures and attached to the MROSD Board Report, dated May 13, 2015, and incorporated into this Resolution as if fully set forth herein.

VII. On May 13, 2015, the Board of Directors of MROSD conducted a duly noticed public meeting whereby all oral and written comments received during the public review period

and a staff recommendation for approval of the MND were presented to the Board of Directors of MROSD. The Board of Directors of MROSD reviewed and considered the information in the MND, administrative record, and Staff Reports for completeness and compliance with CEQA and the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that, based upon the Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Program, all comments received, and all substantial evidence in light of the whole record presented, the MROSD Board of Directors finds that:

1. The MND and NOI were prepared and publicly noticed in accordance with all legal requirements pursuant to the California Environmental Quality Act (CEQA, Public Resources Code sections 21000 et seq.) and the CEQA Guidelines (14 Cal. Code. Regulations sections 15000 et seq.).

2. All interested parties desiring to comment on the MND were given the opportunity to submit oral and written comments on the adequacy of the MND prior to this action by the MROSD Board of Directors and all comments raised during the public comment period and at the public meeting on the MND were responded to adequately.

3. Prior to approving the Project, the MROSD Board has considered the MND, along with all comments received during the public review process.

4. The MND identified all potentially significant impacts to the environment and finds potentially significant impacts will be mitigated to less than significant or avoided by adoption of the mitigation measures as described in the MND as part of the Project and through implementation of the MMP.

5. The MROSD Board finds that, on the basis of the whole record before it, including the MND and all comments received, there is no substantial evidence that the Project will have a significant effect on the environment in that, although the Project could have a significant effect on the environment, there will not be a significant effect since Mitigation Measures have been made a part of the Project to avoid such effects.

6. The MROSD Board determines that the MND reflects MROSD's independent judgment and analysis and adopts the MND.

7. The MROSD Board adopts the MMP and finds that contractual documents between the MROSD and the Santa Clara Valley Water District ensure that these mitigation measures are fully enforceable conditions on the Project and shall be implemented as part of the Project.

8. The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based are located at the offices of the General Manager of the Midpeninsula Regional Open Space District, 330 Distel Circle, Los Altos, California 94022.

* *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2015, at a Regular Meeting thereof, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Secretary
Board of Directors

APPROVED:

President
Board of Directors

APPROVED AS TO FORM:

General Counsel

I, the Interim District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

Interim District Clerk

RESOLUTION 15-____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF A MEMORANDUM OFAGREEMENT, AUTHORIZING THE GENERAL MANAGER OR OTHER OFFICER TO EXECUTE A CERTIFICATE OF ACCEPTANCE OF GRANT DEED TO DISTRICT, AUTHORIZING THE GENERAL MANAGER OR OTHER OFFICER TO EXECUTE THE CONSERVATION EASEMENT DEED, AND AUTHORIZING GENERAL MANAGER TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO THE CLOSING OF THE TRANSACTION (SIERRA AZUL OPEN SPACE PRESERVE - LANDS OF PENINSULA OPEN SPACE TRUST HENDRYS CREEK PROPERTY)

The Board of Directors of Midpeninsula Regional Open Space District does resolve as follows:

SECTION ONE. The Board of Directors of Midpeninsula Regional Open Space District ("MROSD") does hereby accept the offer contained in that certain Memorandum of Understanding between Peninsula Open Space Trust, Santa Clara Valley Water District, and the Midpeninsula Regional Open Space District, a copy of which is attached hereto and by reference made a part hereof, and authorizes the President of the Board of Directors, General Manager or other appropriate officer to execute the Memorandum of Agreement and all related transactional documents on behalf of the District to acquire the real property described therein (the "Hendrys Creek Property").

SECTION TWO. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute a Certificate of Acceptance for the Grant Deed on behalf of the District.

SECTION THREE. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute a Conservation Easement Deed for the real property rights being conveyed to Santa Clara Valley Water District.

SECTION FOUR. The General Manager or the General Manager's designee shall cause to be given appropriate notice of acceptance to the seller and to extend escrow if necessary.

SECTION FIVE. The General Manager or the General Manager's designee is authorized to expend up to $5,000.00 to cover the cost of title insurance, escrow fees, and other miscellaneous costs related to this transaction.

SECTION SIX. The General Manager and General Counsel are further authorized to approve any technical revisions to the attached Agreement and documents, which do not involve any material change to any term of the Agreement or documents, which are necessary or appropriate to the closing or implementation of this transaction.

SECTION SEVEN. The purpose of this Section is to enable MROSD to reimburse its general fund for the cost of certain land acquisitions. MROSD wishes to finance certain of these real property acquisitions and expects to use tax-exempt debt, such as bonds, but a tax-exempt financing is not cost-justified for MROSD unless the principal amount of the financing is large enough to justify the related financing costs. Consequently, it is MROSD's practice to buy property with its general funds and, when a tax-exempt financing is cost-justified based on the aggregate value of acquisitions, to issue tax-exempt obligations to reimburse itself for previous expenditures of general funds. These general funds are needed for operating and other working

capital needs of MROSD and are not intended to be used to finance property acquisitions on a long-term basis.

* *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2015, at a Regular Meeting thereof, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Secretary
Board of Directors

APPROVED:

President
Board of Directors

APPROVED AS TO FORM:

General Counsel

I, the Interim District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

Interim District Clerk