



April 12, 2022

Via electronic mail only

Mark Friedlander
Project Manager, Santa Maria River Levee Trail Study
mkfriedlander@countyofsb.org

Re: Draft Santa Maria River Levee Trail Study-Winter 2022

Dear Mr. Friedlander:

Thank you for your extensive outreach efforts and the opportunity to comment on the Winter 2022 Draft Santa Maria River Levee Trail Study.

General Comments

1. We encourage the study to reference the “Santa Maria River Levee Trail Extension Study” to differentiate between the existing Tom Urbanske Multipurpose Trail in Santa Maria.
2. The comments in this letter are directed toward a contemplated bicycle and pedestrian pathway. Multiple public survey responses requested equestrian access. The addition of an equestrian access component would create additional land use conflicts and safety concerns that we did not address in the letter but would like to establish as an additional area of concern if this direction changes in the future.
3. We are aware of and sensitive to the distinctions and weight of the word homeless as compared to houseless, unhoused, or person experiencing homelessness. To be consistent with the feasibility study and resources referenced, in this letter we will respectfully use the term homeless.
4. Throughout the draft, there is inconsistent treatment about the project’s purpose and the corresponding necessary design elements. For example, a recreational trail might have different community needs from one intended to primarily serve as an active transportation commuting corridor. To accurately evaluate the feasibility of either, an accurate description of the intended purpose and unique design needs and constraints must be included, as outlined throughout these comments.
5. In several places we comment on specific design features and other issues specific to the proposed project if it were to proceed; these comments in no way lessen our broader concerns about fundamental land use compatibility and legal issues, as well as the importance of preventing predictable land use conflicts through thoughtful planning and siting of projects in compatible locations.
6. We believe it is an overstatement to call the study a “comprehensive feasibility study.” As also stated in the Executive Summary, “the purpose of the Study is not to design and engineer a trail.” The document as presented is predominantly a public outreach and public sentiment document with some light conceptual drawings. Important technical and financial details, such as the permits that are actually needed and feasibility and cost of obtaining those permits; level and cost of environmental review and mitigation; licenser (operator) responsible for operating, patrolling, cleaning, repairing, and maintaining the trail; feasibility of ingress/egress from the levee to Guadalupe; and fundamental design incompatibilities on whether or not to include fencing and toilets have not been addressed.

Many details are missing that would be included in a true feasibility study and allow for informed decision-making on whether to proceed with the proposed trail extension.

7. We also urge careful consideration of the opportunity cost of proceeding with this particular project instead of pursuing other transportation, active transportation, and recreation projects in Santa Barbara County. Unfortunately, the information necessary to assess the project's costs, benefits, and overall community value proposition are lacking from the current draft of the feasibility study for the reasons outlined in greater detail in these comments.

ES 1. Executive Summary/Introduction

1. As mentioned previously, it is a dramatic overstatement to call the study a “comprehensive feasibility study.” The study does “Summarize the input from the community engagement efforts” but in no way addresses the individual facts and circumstances, including factual constraints, needed to actually “determine the feasibility of the project overall.”

ES 2. Executive Summary/Project Overview

1. What documentation is available to substantiate the following statement: “The trail would complete a major gap in the active transportation network by providing a trail separated from vehicle traffic between the cities of Guadalupe and Santa Maria”? Although we are aware of interest in the potential recreational use of the trail, we do not see substantiation of the notion that the trail extension would fill a “major gap” in an existing “active transportation network.”
2. We agree and appreciate that the study recognizes that “The proposed trail is a complicated project that will require continued discussions and further analysis from key stakeholders...”

Chapter 1

1.1 History and Planning Context

1. As mentioned previously, this study is still woefully inadequate in fulfilling the “needed further study” prior to pursuing a grant for full implementation.

1.2 Related Studies

1. The Guadalupe to Beach Multi-Use Trail Feasibility Study is also an initial, conceptual exercise that looks at theoretically potential alignments but falls short of addressing significant technical and financial facts and circumstances.
2. We oppose using Peralta Street in Guadalupe as the main point of ingress and egress to the proposed extension. A portion of Peralta Street is zoned Industrial by the City of Guadalupe and is an essential access point for established Industrial use. We are concerned for the safety and order of all involved that would result from inducing high-traffic, mixed bicycle and pedestrian use into an area that encompasses semi truck traffic on a daily basis.

1.4 Santa Maria River Levee

1. We absolutely agree with Flood Control's concern with impacts to “the Maintenance team's ability to operate the levee and keep the facility in good standing with USACE.” The levee's primary purpose is to protect life and property from catastrophic flooding; it must remain intact.
2. While we agree with the need to maintain the levee's function, fencing is an essential design element in the concerning event that the levee trail extension does move forward. The food safety, theft, vandalism, and trespass concerns from not having fencing separating fresh produce cultivation from

the proposed trail are in direct conflict with Flood Control’s concerns about the impacts of fencing to its operations and wildlife; these are critical irreconcilable differences.

3. We agree with Flood Control’s concerns: “Maintaining access is another key issue for Flood Control. Flood Control cautioned that it may be challenging to maintain existing legal access for agricultural use while also restricting the public and unauthorized vehicles and equipment from accessing the levee and surrounding area.”
4. If the trail does move forward, discussions surrounding license agreements must also include liability and damage protections for growers and landowners from the extensive problems outlined in this letter. Food safety and illegal trespass are a few examples of the issues prompting these concerns.
5. The experience reported by the City of Santa Maria is inconsistent with the lived experiences of our members operating along the existing trail, especially near Blosser Road in Santa Maria. Our members have repeatedly reported theft and vandalism along the existing trail, including the portion north of the levee and east of Blosser Road. Reports on crime and calls for service for both the City and County jurisdictions should be included as part of the feasibility study’s due diligence.
6. In addition to the private crossings identified in the study, the County’s crossings at “Main Street Canal” and Bonita School Road must also be considered and addressed to prevent unauthorized access and safety threats to agricultural employees and operations.

1.5 Existing Issues Along the Levee

1. This topic merits a standalone chapter in the study that should include readily accessible public information on calls for emergency service, reported theft and vandalism, riverbed fires, plant protection materials use restrictions, and food safety requirements for produce safety. The level of detail and quantification of this study section compared to other study sections is woefully inadequate. The selective fulfillment of due diligence to complete the feasibility study is concerning, especially when issues like domestic pets and trespassing/theft were identified as top concerns in outreach meetings across multiple stakeholder groups.
2. We agree emphatically with the characterization of existing issues.
3. We would like to highlight the following points that are consistent with the lived experiences of our members and their employees on a daily basis:
 - “...staff witnessed people bypassing the denial fencing at the terminus of the Tom Urbanske multi-purpose trail at North Blosser Road.”
 - “Most of the users of the trail appeared to be residents recreating, exercising, or walking dogs. Staff also noticed people letting their dogs off-leash despite posted notices saying leashes are required at all times.”
 - “Theft, including stolen vehicles and farm equipment, is common along the Santa Maria River according to the officers [Sheriff officers from both Santa Barbara and San Luis Obispo counties].”
 - “Santa Barbara Sheriff officers also stated that there is more foot traffic than expected along the levee between Guadalupe and Santa Maria. Encampments are more concentrated near Guadalupe and Santa Maria, however, the sheriff’s [sic] also receive calls about fires and encampments in the area between the cities as well.”
4. The statement “Operators typically provide porta-potties for the farmworkers” understates both the regulatory requirements and the fulfillment of the requirements to provide employee access to field sanitation. More accurate information regarding the provision of portable field toilets can be found in the references noted below.¹ Generally, an agricultural employer must provide toilet facilities within a five-minute walk or quarter mile; in general, there are a few very limited exceptions to this

¹

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=11.&article=4 and <https://www.dir.ca.gov/title8/3457.html>.

requirement related to field topography/access and alternative means of compliance via transportation to toilet and handwashing facilities if there are fewer than five employees or less than two hours of field work to be performed.

Chapter 2

2.1 Demographics & Socioeconomic Profile

The following comments pertain to the chart on page 17:

1. What is the source of the information?
2. To increase transparency and clarity, the charts should be updated to also include the numbers corresponding to each percentage.
3. What is the total commuting population in terms of numbers of individuals and vehicles?
4. What is included in “other means” of commuting?
5. Do the numbers in the charts include individuals commuting both within and beyond City limits? What is the number of commuters and mode of transportation for each of these respective categories?

2.2 Commute Summary

Guadalupe to Santa Maria

1. The sources of information for this section must be clearly cited and the way the information is presented in this section is very confusing.
2. While it is true that “...commute times can be significantly lengthened in the early morning and afternoon due to high traffic volumes...” residents of Guadalupe typically experience “reverse commute” traffic patterns from those who reside in the City of Santa Maria. See comments in the following section for additional details.
3. The draft states “Over 48% of workers have access to three or more vehicles” and that “When looking at these findings it is interesting to see how many residents own multiple vehicles, yet travel alone to work.” There are multiple reasons why multiple vehicles might be available. This study does not include average or median household size, but potential reasons for access to multiple vehicles include: having multiple individuals in the household that are of driving age; different family transportation needs in terms of timing and destination; personal enjoyment of different styles of vehicles, recreational vehicles, and automotive projects; access to company-provided vehicles for work purposes; and various limitations of vehicles and their automotive capacities.
4. As mentioned previously, to be relevant to this study, the study should differentiate between those commuting within and beyond the City limits and include the numerical breakdown for each category.
5. What is the source of information in assessing occupation? NAICS classification codes clearly differentiate Farm and Nonfarm employment.
6. The “assumptions” are deeply flawed.
 - a. The study states “With the influence agriculture has on the community, workers also use their personal vehicles at their jobs.” There is no basis for this statement and it does not make sense. However, there are company-provided vehicles for certain occupations within agriculture. Individuals might use their personal vehicles for personal commute needs, like any other resident, and for private rideshare and carpool agreements. These factors are not unique to agriculture.
 - b. The study also states “A safe connection between Guadalupe and Santa Maria may help to eliminate the need to own multiple vehicles and mitigate the impact that not owning a vehicle would have on an individual or family.” See previous comments about the irrelevance of ownership of multiple vehicles. The problem of arriving at a specific time and destination still remains a challenge, especially in the agricultural zones between Guadalupe and Santa Maria, as does issues of transporting personal items needed throughout the day and “last mile” commute issues. There are also other ways to better address this need, such as more reliable and frequent

public transportation options and increased carpool and vanpool participation. Finally, the study should be consistent and transparent in whether the proposed trail extension should realistically be categorized as an alternative transportation project or a recreational project.

7. Although the sources of information were not clearly stated in this section, the 2020 American Community Survey Table S0801 for Guadalupe² included some interesting information that is relevant and should be included in the feasibility study. More specifically, the table estimated 3,225 “Workers 16 years and over who did not work from home.” Of that, only 0.9% walked and 0.0% bicycled, resulting in a total commuting population of 30 individuals that walked or bicycled; whether their destination was within or beyond City limits was not available in the data table. Furthermore, the survey estimated that over 75% of commuters had a “time of departure to go to work” before 7:59 am, which would severely limit the utility of the proposed levee trail extension as an active transportation commute alternative. This information should be included to be transparent and accurate.
8. Additionally, the 2020 American Community Survey Table S0802 for Guadalupe³ shows a breakdown of “Car, truck, or van-carpooled” and shows both higher levels for carpool participation for the Industry “Agriculture, forestry, fishing and hunting, and mining” and that 0% of those who carpooled had “No vehicle available.”
9. Additional findings contained in a recent traffic study that are also relevant to this section can be found below.

Santa Maria to Guadalupe

1. See previous comments about the need for consistency in describing the purpose of the proposed trail extension. It is somewhat possible that a limited number of individuals could potentially use the trail for active transportation/commuting purposes, but this is highly unlikely due to work schedules, “last mile” and access issues to arrive on time at a specific worksite, and different bicycle needs to navigate the different surfaces (e.g. road bike versus mountain bike). Additionally, the area can be subject to very dense fog and windy conditions, especially during commute hours, which could limit the desirability of the use of the proposed trail extension as a bicycle commuter route.
2. Realistically, there will be more individuals who have the available time and walking/bicycle resources to enjoy a shorter, round-trip outing along a portion of the levee, such as the existing Tom Urbanske Multipurpose Trail bordering the City of Santa Maria, rather than making a 26-mile round trip outing to the ocean. This will be made more difficult by needing a bicycle that can withstand the uneven surface of the levee rather than a road bike better suited to longer distances.
3. What are the actual commute or use patterns at the Guadalupe Amtrak station? How many of these are overnight trips that require luggage that might not be readily transportable on a bicycle? Like much of this section, assumptions about the potential trail use in connection with the Amtrak station appear to be based on conjecture, rather than probable scenarios.
4. A memo regarding a revised traffic analysis conducted on June 1, 2017 at Black Rd/SR 166 in preparation for intersection improvements contemplated by CalTrans and SBCAG found the following: “The counts show that the AM peak hour occurs from 5:15-6:15 – which is prior to the typical 7-9 AM commuter peak period.” Additionally, “...traffic is predominately westbound during the AM peak hour (from Santa Maria toward the west via westbound SR 166 and via northbound Black Rd)...” Furthermore, the traffic counts show 0 pedestrians or bicycles in the AM or PM traffic counts. For comparison, the traffic count showed that 82% of traffic passed through the intersection prior to 8:00 am.⁴

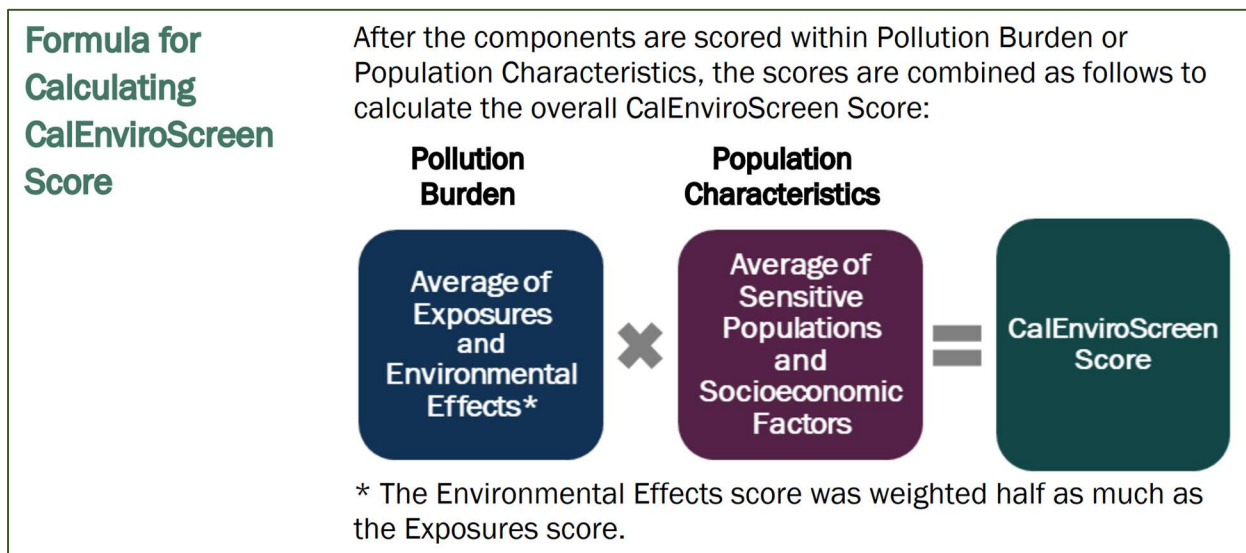
² <https://data.census.gov/cedsci/table?q=commute%20guadalupe,%20ca&tid=ACSST5Y2019.S0801>

³ <https://data.census.gov/cedsci/table?q=guadalupe,%20ca%20commute&tid=ACSST5Y2020.S0802>

⁴ Memo Re: Black Road/SR 166 – Supplemental Analysis, Associated Transportation Engineers, ATE 1107602M08 dated August 29, 2017.

2.3 CalEnviroScreen 4.0

1. It is not accurate to conclude that “The CalEnviroScreen results show that the census tract Guadalupe falls into is more likely to be burdened by negative environmental effects than Santa Maria. This could be due to the proximity of agricultural fields and the spraying of pesticides.” According to the October 2021 CalEnviroScreen Report⁵, scores are calculated as follows:



Therefore, it is also inaccurate to state that “The tool depicts the area’s scores: a high score means higher pollution and environmental burden compared to areas with lower scores.”

In fact, a closer examination⁶ of Census Tract 6083002502 data used to generate the CalEnviroScreen 4.0 map shows that the Population Characteristics actually have a higher score than the total estimated Pollution Burden. In Santa Barbara County, three of the top five “Pollution Burden” scores are actually located in Santa Barbara and Goleta: Census Tract 6083000804 (#1 pollution burden score in Santa Barbara County); 6083001206 (#3); and 6083003001 (#5). However, these three census tracts are offset by comparatively lower “Population Characteristics” resulting in lower overall CalEnviroScreen scores/percentiles. Notably, Census Tract 6083002502 does not appear in the top 5 Pollution Burden scores for Santa Barbara County.

2.5 Chapter Summary

We agree that a snapshot of demographic information can be helpful in planning. We restate our concerns about confounding the purpose of the trail for recreation versus active transportation, as both have different needs, target audiences, and implementation considerations. We have also previously outlined data gaps that would be more pertinent to the issue at hand.

⁵ <https://oehha.ca.gov/media/downloads/calenviroscreen/report/calenviroscreen40reportf2021.pdf>

⁶ <https://oehha.ca.gov/calenviroscreen/maps-data>; CalEnviroScreen_4.0Excel_ADA_D1_2021.xlsx

Chapter 3

1. We commend the study's comprehensive outreach efforts and adaptability through the COVID pandemic.
2. We would like to highlight the survey findings regarding safety and security concerns preventing use, along with the importance of maintenance and cleanliness. Additionally, the numbers regarding the primary use for biking between the Promotores survey and the Community survey are significantly different and worth noting (36% versus 71%, respectively); the Community survey seemed to have a large number of respondents who did not report zip codes such as 93434, 93458, and 93454, which could be quantified and useful context to the survey responses. Additionally, recreation was viewed as the primary benefit and the majority of respondents envisioned weekend-only use, which could create greater issues with trespass into agricultural fields, theft, and vandalism, as well as conflicts with plant protection materials applications since fewer workers would be in the fields during the weekend compared to weekdays.
3. The following statement is inconsistent with the Option 1-Selected design of a DG surface: "One of the main conclusions we can draw is that this path will be utilized for recreation and bicycling, which emphasizes the need for a paved path along the levee."

Chapter 4

4.1 Permitting

1. Although we understand the reasons behind the exemption in LUDC Section 35.10.040.G, we ask that the spirit of the LUDC be applied and consistent with the standards that others would be held to if bringing forward the project as any of the County's constituents, whether a private party or a nonprofit organization. Furthermore, even if the County is exempt from its own permitting and land use standards, it must be consistent with applicable plans and policies, including the Comprehensive (General) Plan. The Association's legal counsel submitted extensive comments on the proposed Santa Maria Levee Trail Extension in a letter dated January 26, 2022, which further details some of the County's applicable plans and policies and is included as Attachment A to this letter.
2. The unique facts and circumstances of the project warrant a complete Environmental Impact Report, not an Initial Study-Mitigated Negative Declaration. We will provide additional detail on this in response to Section 4.7 Environmental Review Process.
3. In addition to the Santa Maria River, we are under the impression that both Main Street Canal and Blosser Channel are also 303(d) listed waterbodies that would be within the project area.

4.2 Maintenance

1. A major question is how the proposed trail extension will be administered and maintained in perpetuity, especially in such a way that would address the unique challenges of operating next to an important industrial workplace responsible for producing fresh produce and feeding families worldwide. It is very concerning that a feasibility study would not be able to identify a licensor and that "A Licensor has not been identified for the proposed trail at this time." This is yet another major hole in the feasibility study and limitation to a realistic assessment of the feasibility and desirability of the project moving forward.
2. Table 4-1. Broad liability protections must extend to nearby agricultural operations and landowners and should be a topic of additional discussion and assessment of feasibility. Furthermore, future discussions should include the County and Licensor developing a significant restitution fund due to the induction of urban uses into active farming areas.
3. Table 4-1. Maintenance and litter removal must include regular removal of human feces and dog feces.

4.3 Connections to Guadalupe

1. In addition to the legal access constraints identified in the study, we further restate the concern about the industrial nature of Peralta Street and use compatibility: We oppose using Peralta Street in Guadalupe as the main point of ingress and egress to the proposed extension. A portion of Peralta Street is zoned Industrial by the City of Guadalupe and is an essential access point for established Industrial use. We are concerned for the safety and order of all involved that would result from inducing high-traffic, mixed bicycle and pedestrian use into an area that encompasses semi truck traffic on a daily basis.
2. The issue of connecting the proposed levee trail to Guadalupe is another example of a glaring hole in making an informed assessment of the feasibility of proceeding with the proposed extension.
3. Additional legal and technical issues are further addressed in Attachment A.

4.4 Bonita School Road Crossing

Although the Santa Maria River serves as a jurisdictional and geographical division, the agricultural lands on the Santa Maria Valley floor north of the Santa Maria River in San Luis Obispo County are very closely connected to their counterparts in Santa Barbara County. If it moves forward, the project would likely induce the same land use conflicts and urban activities into agricultural zones in San Luis Obispo County, especially via the new Bonita School Road crossing, which would further impact agricultural resources. Furthermore, impacts to agricultural activities and lands in San Luis Obispo County would impact agribusinesses, employees, and value-added opportunities for citizens and businesses located in Santa Barbara County.

4.5 Access-Emergency Access and Farm Access

1. We share the concerns expressed regarding emergency access.
2. We would like to highlight the following irreconcilable incompatibilities between different stakeholder needs as captured in the study:
 - a. “The Sheriff’s Office agreed that access to the trail will be challenging for law enforcement. The Sheriff’s Office could patrol the trail by car, foot, quad, or helicopter. Each mode presents challenges, however, as not all Sheriff officers are trained and certified to use quads and the nearest helicopter is based in Santa Ynez.”
 - b. “If fencing or barriers are installed, the Sheriff’s Office will request additional emergency access points to the trail so there’s redundancy. According to the Sheriff’s Office, Bonita School Road would not be sufficient as the only access point to the trail if the rest of the trail is fenced.” Additional access points will only further complicate the project design and facilitate trespass into adjacent farm fields. What is the legal feasibility and practicality of securing additional access locations? Furthermore, fencing is essential to limiting the movement of dogs and people into fresh produce farm fields to protect food safety and safe work environments for employees.
 - c. “The Sheriff’s Office currently responds to calls about trespassing in the study area because there’s no public access to the area. The Sheriff’s office was also concerned about the proposed hours for the trail. According to a Lieutenant, the County Sheriffs would have difficulty responding to complaints about homeless encampments along the levee trail if the trail is open 24 hours a day. If the trail is closed during certain hours, County Sheriff can respond to calls about loitering or encampments during the hours the trail is closed to the public.” Inducing regular public use will complicate enforcement and compete for limited law enforcement resources. Additionally, as mentioned in response to the Commute Summary Section, limited trail hours might result in limited utility as an active transportation commuting alternative due to the typical times of departure for commuting individuals, which is a further irreconcilable incompatibility of the project.

- d. “County Fire did not think the proposed trail presented challenges for fire protection. The trail is not located in a high or very high fire hazard area that is prone to wildfires.” We are surprised that fires starting from riverbed encampments were not mentioned here, as there have been several instances in recent years of fires that started due to homeless activity in the riverbed and quickly spread and caused closures to Highway 101 and Highway 166. This is a danger to life and property and these public and media records are readily accessible.⁷
- e. “County Fire and the Sheriff’s Office both advised against building restrooms, hydration stations, or other amenities as they could unintentionally increase the homeless presence along the trail and would present maintenance issues.” We vehemently oppose the proposed absence of restrooms at the proposed trailhead and along a nearly 7-mile stretch (each way) adjacent to fields growing fresh produce for human consumption. We agree that there will be issues with maintenance and vandalism, which our members already experience on a regular basis. Additionally, the City of Santa Maria has experienced vandalism and arson in its toilet facilities,⁸ and we understand that there was an arson incident in the Preisker Park toilets that coincided with the most recent 2022 riverbed cleanup efforts. At the same time, the concern of human excrement contaminating fresh produce fields and soil is a greater concern and must be addressed satisfactorily. Additionally, lack of hydration stations, especially without areas of shade, could induce individuals to seek water from farms and farm facilities or exacerbate the need for emergency services if heat illness or other dehydration emergencies arise. National Parks like Yosemite and the Grand Canyon regularly experience such issues despite prolific signage regarding water requirements and the need for individual preparedness.
- f. Farm access crossings across the levee must provide for the safe movement of equipment, vehicles, and people. Additionally, the crossings must also prevent people from using these points to illegally access the farms on both sides of the levee. The design must not impede movement or induce trespass onto farms or fields on either side of the levee. The crossings must be accessible to the types of field equipment pictured below:



⁷ <https://www.ksby.com/news/fire-watch/2019/07/24/fire-breaks-out-near-santa-maria-riverbed?msclkid=221a75c7b6a611ecbbeaee75da0a2787>; <https://www.ksby.com/weather/fire-watch/fire-in-santa-maria-riverbed-impacts-highway-101-traffic>; <https://www.ksby.com/weather/fire-watch/fire-crews-respond-to-report-of-brush-fire-near-santa-maria-river>

⁸ <https://keyt.com/video/2021/10/11/santa-maria-rec-and-parks-department-public-restrooms-at-preisker-park-to-close-indefinitely-if-vandalism-continues/>



Examples of agricultural field equipment that must be able to safely and efficiently cross the levee.

4.6 Farming Operations & Considerations

1. We appreciate the study's nuanced discussion of key issues in this section, especially surrounding the need and regulatory oversight of plant protection materials.
2. A discussion of food safety regulatory (e.g. US FDA FSMA) and market requirements (e.g. LGMA, private buyer inspections and certifications) must be included in this section (see comments on Case Studies for additional information on these requirements).
3. Information on regulations surrounding restricted materials and permitting in agriculture should be included in the feasibility study. Regulatory requirements surrounding the application of plant protection materials have changed dramatically in recent years. Buffers and application exclusion zones have now been implemented in new ways that were never requirements in the past and have only continued to expand. Currently, some products essential to crop cultivation such as strawberries have buffer zones prohibiting entry of most individuals of several hundred feet;⁹ if the buffer cannot be obtained due to the introduction of the proposed levee trail and public presence, then the application cannot move forward, which could result in reduced productivity of a significant acreage of Prime and Unique agricultural lands. To provide just one limited example of a much larger issue, depending on several factors, several essential products and applications can require a buffer zone of more than 300 feet;¹⁰ if a 300 foot buffer is extended across the 6.7 mile trail, then approximately 250 acres of Prime and Unique agricultural lands would experience a significant loss of productivity under the current use restrictions, with an associated reduction in property and business value. Agricultural lands in the Santa Maria Valley of similar productivity to those along the proposed trail are currently valued at up to \$64,000+/- per acre;¹¹ the costs from loss of use or diminished productivity in a required buffer zone would be substantial and must be considered in assessing the proposed project's feasibility. These materials use restrictions will likely only continue to expand and are just one example of many different restrictions related to plant protection, food safety, and other operational limitations that would be incurred by proceeding with the trail extension. Furthermore, the study cannot predict the ways in which new requirements will be applied in the future. At a minimum, inducing an intensive, urban, public use in an established agricultural production area that is an industrial place of work, the proposed levee trail extension will subject current and future growers and landowners to significant uncertainty on their ability to protect plants and food safety and fulfill regulatory and market

⁹ https://www.cdpr.ca.gov/docs/enforce/compend/vol_3/rstrct_mat.htm;
https://www.cdpr.ca.gov/docs/enforce/compend/vol_3/append_k.pdf

¹⁰ *Ibid*

¹¹ 2021 TRENDS® in Agricultural Lease & Land Values, California Chapter of the American Society of Farm Managers and Rural Appraisers

requirements in perpetuity. Furthermore, the study itself has documented the failure of signage to deter illegal access to the proposed levee trail. Will the County assume the risk and liability of the public's failure to abide by posted signage and indemnify growers and applicators who make a reasonable effort to comply in perpetuity?

4. If the proposed trail moves forward, the agricultural restrictions imposed by the necessary buffer zones will result in a regulatory taking of private property through inverse condemnation, requiring just compensation. The cost to compensate affected landowners for the land alone will be significant, not to mention legal costs, which dramatically impacts the feasibility and cost-benefit considerations of the project. It also does not capture the direct and indirect economic impact and opportunity cost to employees, agribusinesses, and multitude of other businesses such as restaurants and service providers that are interdependent with the County's vibrant agricultural economy.
5. In our comments regarding Section 5.1, we will outline in greater detail the limitations of the trail case studies utilized and how the trails referenced are not similarly situated.
6. We agree with the concerns characterizing trespassing from domestic pets and trail users. Additionally, impacts from a food safety incident can impact our entire society, not just local farmworkers, farmers, and supporting agribusinesses. For example, a UC Davis study on "E. coli in the Romaine Lettuce Industry: Economic Impacts from the November 2018 Outbreak" found that "We estimate that societal losses from the Fall 2018 incident were in the range of \$280 to \$350 million."¹² Relevant excerpts from the study include the following:

The net loss to society from the E. coli incident involves more than the leafy-green supply-chain participants. It also involves consumers who were unable to access romaine products during the early weeks of the incident and in the later weeks due to unfounded fears regarding product safety. Losses were also incurred by suppliers of inputs, such as labor and materials, to the industry who lost employment and sales due to the incident. We developed a methodology to estimate the societal loss from the incident based on reduced sales of romaine through the advisory period and relevant aftermath. Our estimates indicate a total social loss in the range of \$280 to \$350 million.

Ultimately it was determined that the entire Fall 2018 E. coli incident was due to contaminated romaine emanating from a single farm. Yet it resulted in widespread unavailability of romaine product, long-lasting fears among some consumers about the safety of eating this healthy product, and significant economic losses incurred by a wide range of participants in the leafy-greens industries and beyond. The magnitude and breadth of losses from this single incident indicates the importance for the industry to adopt universal food-safety standards that can either prevent, or, at worst, sharply reduce the likelihood of such incidents occurring in the future.

7. We have consistently detailed our concerns with potential food safety issues with dogs, both in terms of direct contamination of the field with urine and feces; soil contamination; and contaminated runoff moving from the trail to fields. Other potential concerns include employee safety from off-leash dogs entering farming areas. According to the U.S. Centers for Disease Control and Prevention (CDC):

Dogs can have many positive effects on the lives of their owners... Although dogs can be beneficial to the health and wellbeing of their owners, people should be aware that dogs of any age, including puppies, can sometimes carry harmful germs that can make people sick. Germs from dogs can cause a variety of illnesses, from minor skin infections to serious illnesses.¹³

The CDC website includes a list of 18 selected diseases which can be spread by dogs. Examples include:¹⁴

- *Campylobacter*

¹² <https://kiesel.ucdavis.edu/Full%20Report.pdf>

¹³ <https://www.cdc.gov/healthypets/pets/dogs.html>

¹⁴ *Ibid*

- *Cryptosporidium*
- *Giardia*
- *Leptospirosis*
- MRSA (Methicillin-Resistant *Staphylococcus aureus*)
- *Salmonella*

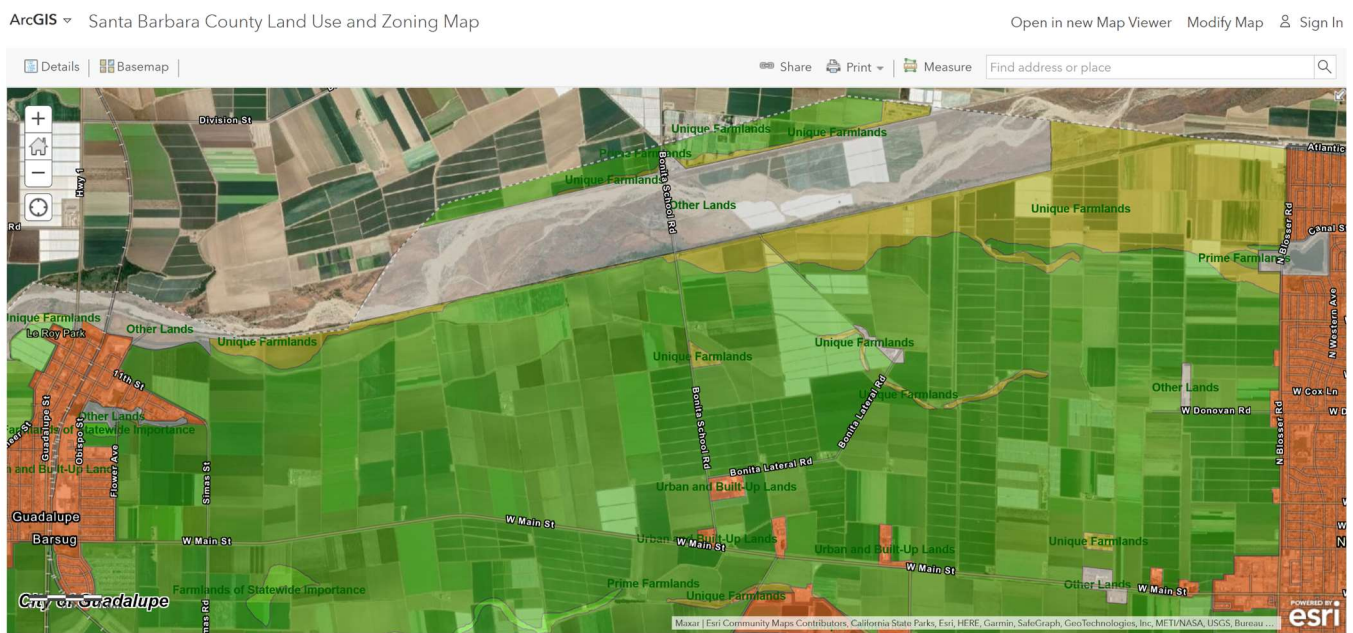
Additional information on the diseases, how they spread, and symptoms in humans can be found at the CDC website. It is particularly noteworthy that soil and soil infected by contaminated water can result in pathogens being potentially infectious for a much longer duration than the initial exposure or contamination, which further compounds risks to employees and consumers worldwide.

4.7 Environmental Review Process

1. The feasibility study appropriately recognizes the numerous and reasonably foreseeable land use and agricultural operations conflicts presented by the potential trail extension. These predictable land use conflicts could easily result in the conversion of Prime Farmland and Unique Farmland, most of which are currently contracted under the Agricultural Preserve Program (Williamson Act), to non-agricultural use. The study demonstrates the project may have a significant impact on the environment due to impacts to agricultural land, and thus it is clear an EIR will need to be prepared and adequate mitigation adopted. Maps showing the prevalence of both Prime and Unique Farmlands and contracted Agricultural Preserve Program lands in the study area can be found at the end of this section.
2. In a broader sense, one could argue that some 10,000 acres of Prime and Unique Farmlands in both Santa Barbara and San Luis Obispo Counties could be influenced or impacted by the proposed levee extension due to induction of people, dogs, trash, feces, and direct and water-borne soil microbial contamination into farm fields.¹⁵
3. Potentially significant impacts of the project that require an EIR include but are not limited to the following:
 - a. Aesthetics. "Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area."
 - b. Agriculture. "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."
 - c. Agriculture. "Conflict with existing zoning for agricultural use, or a Williamson Act contract."
 - d. Agriculture. "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."
 - e. Hydrology and Water Quality. "Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces..."
 - f. Land Use and Planning. "Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect."
 - g. Public Services. "Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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. Other public facilities."

¹⁵ Conservative, approximately estimated acreage roughly south of Division Rd, north of Main Street, west of Blosser Rd and east of Flower Ave/Hwy 1.

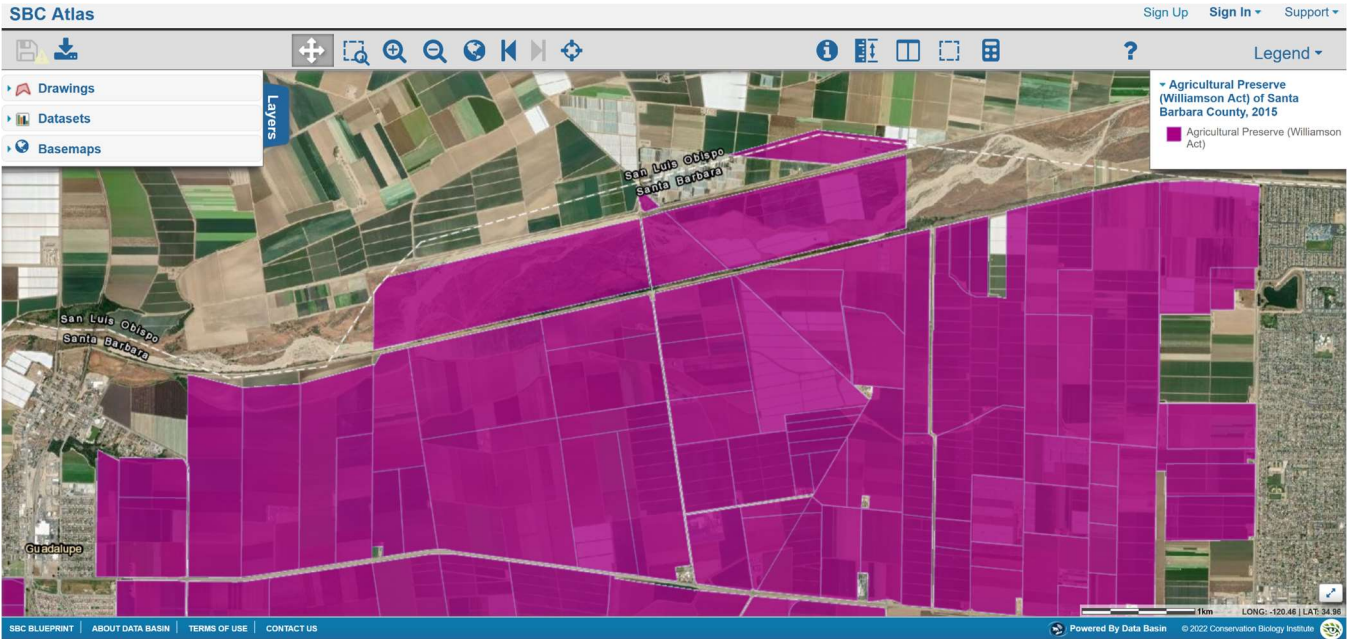
- h. Recreation. “Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?”
 - i. Transportation. “Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).”
 - j. Transportation. “Result in inadequate emergency access.”
 - k. Wildfire. “Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.”
 - l. Mandatory Findings of Significance. “Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?”¹⁶
4. The photo at the end of this section “View of the trail looking at surrounding farmland” is further documentation of the illegal trespass already occurring through crossing locked, closed gates; fences; and signage.



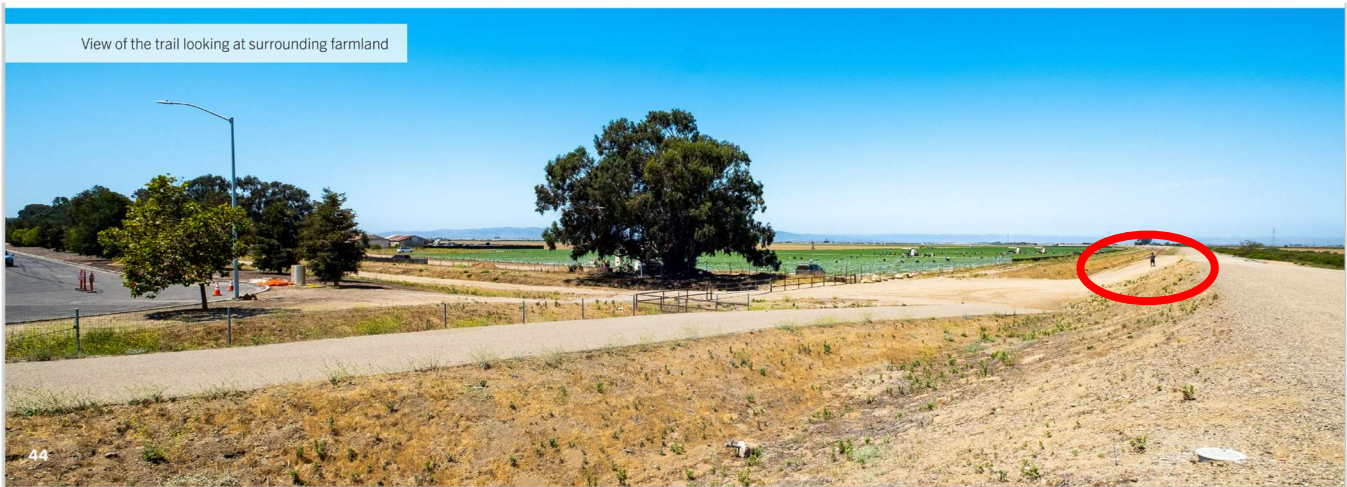
Prime Farmlands and Unique Farmlands are immediately adjacent to the proposed levee trail extension.¹⁷

¹⁶ http://califaep.org/docs/2019-Appendix_G_Checklist.pdf

¹⁷ <https://santabarbaracounty.ca.gov/plndev/maps/zoning.sbc> Important Farmland (2018), CA Department of Conservation
 Grower-Shipper Assoc of SB & SLO Counties



Agricultural Preserve (Williamson Act) contracted parcels immediately adjacent to the proposed levee trail extension, 2015¹⁸



Feasibility Study page 44 “View of the trail looking at surrounding farmland” which also documents illegal trespass through locked gates and signage. See below for actual gates and signage.

¹⁸ <https://sbcblueprint.databasin.org/datasets/293bb2006edc4c8986d6b564d4502527/>



Locked, closed gate and signage

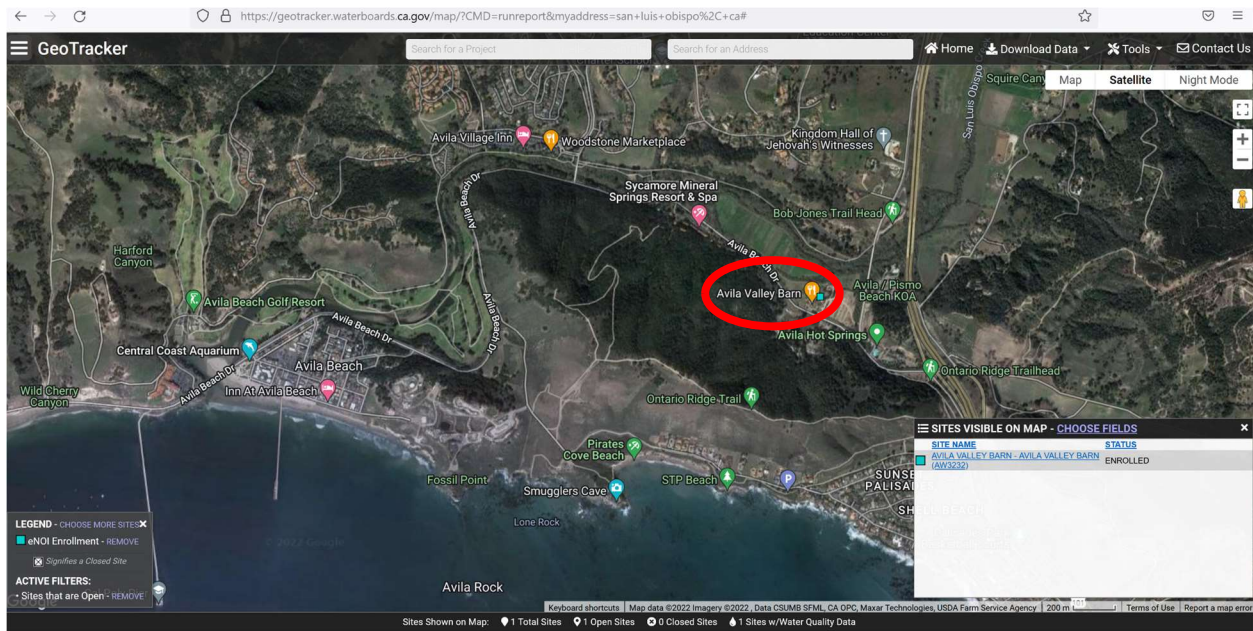
Chapter 5

5.1 Case Studies

In the following section we will detail the reasons why the case studies included in the study are not similarly situated to, or representative of, the contemplated levee extension's unique facts and circumstances. We are not currently aware of successful case studies of active trails and recreation immediately adjacent to fresh produce cultivation for the reasons that we have outlined throughout this letter.

5.1 Case Studies-Bob Jones Bike Trail, San Luis Obispo, CA

It is a stretch to describe the Bob Jones Bike Trail as being “adjacent to agriculture.” The Central Coast Regional Water Quality Control Board (Water Board) regulates discharges from irrigated agricultural lands under the Irrigated Lands Regulatory Program (ILRP) or Ag Order. The Ag Order applies to owners and operators of irrigated land used for commercial crop production. According to the Water Board GeoTracker website, the only farm enrolled in the Irrigated Lands Regulatory Program between the Ontario Rd parking area and Avila Beach is Avila Valley Barn. The trail is across San Luis Obispo Creek from Avila Valley Barn and at a distance of approximately 150 to 200+ feet to the trail.



In terms of the bike lanes on roads between the Octagon Barn and the Ontario Rd parking area, there are zero enrolled Irrigated Lands sites along Ontario Rd. Along S Higuera Rd, there are only two sites enrolled, both of which are separated from the road by San Luis Obispo Creek and have a separation of at least 100 to 200 feet.

Additionally, one difference is that San Luis Obispo Creek tends to have flows while the Santa Maria River is generally dry. One similarity is the extensive challenge related to homelessness along the trail, which has been well documented by the media and is a recurring challenge.

5.1 Case Studies-Two Rivers Trail, Sacramento, CA

It appears that the feasibility study is referencing the Two Rivers Trail-Phase II, which appears to still be in the design phase.¹⁹ Therefore, it is inappropriate to look to the success of a project as a case study as an existing trail which has not yet been constructed. Notably, the City of Sacramento’s project website does state the following:

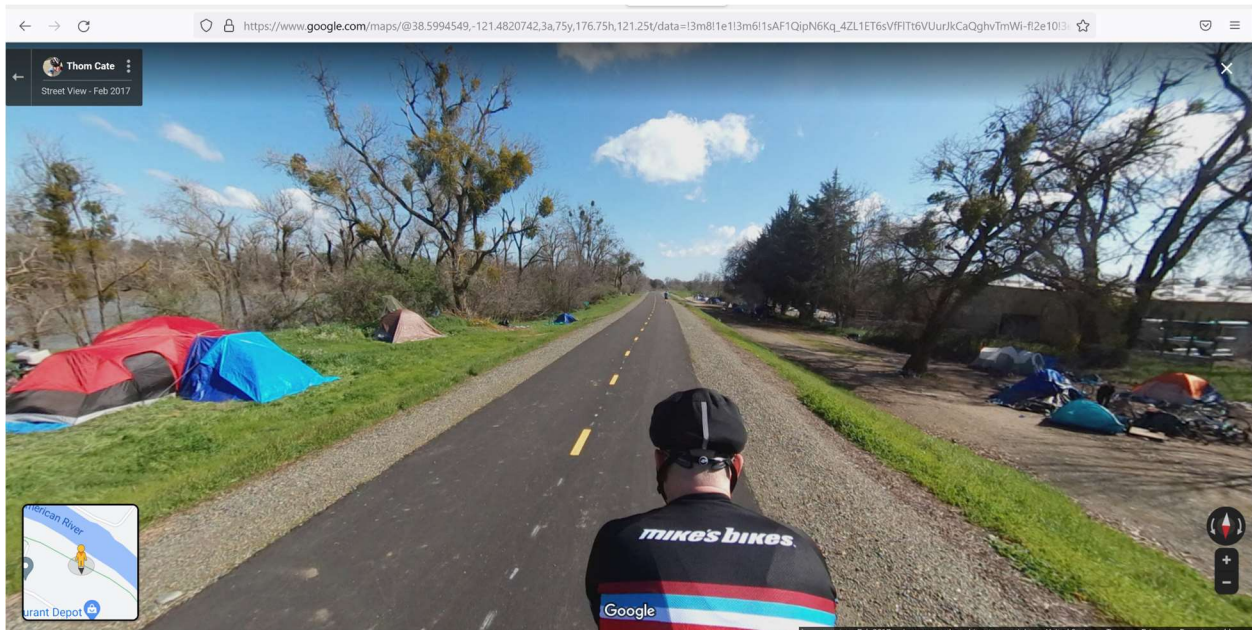
The City has prepared and circulated an initial study-mitigated negative declaration for the trail project. After receiving and evaluating comments, the City has determined that it is appropriate to upgrade the level of environmental document to an Environmental Impact Report (EIR).²⁰

The following comments pertain to the existing Two Rivers Trail. The Two Rivers Trail is not adjacent to agriculture. Additionally, the American River has regular flow, unlike the Santa Maria River. Furthermore, we question the effectiveness of the “crime prevention through environmental design.” According to the LexisNexis Crime Map, <https://communitycrimemap.com/>, as of 3/29/2022 in the past year in Jiboom Park there was 1 case of aggravated assault, 2 thefts, 1 motor vehicle theft, 1 arson, and 1 burglary-commercial. Crime reported in the past year at the Two Rivers Bike Trail and 10th Street include arson, motor vehicle theft, and robbery-individual. This is in addition to a separate case of arson west of the location.

¹⁹ <https://www.cityofsacramento.org/Public-Works/Engineering-Services/Projects/Current-Projects/Two-Rivers-Trail-Phase-II>

²⁰ *Ibid*

Additionally, photos from Google Maps Street View/Photo Sphere document extensive encampments in the area.



5.1 Case Studies-Agri-Tourism in the Sacramento Delta

We were unable to find extensive information on the Sacramento River Delta Grown Agri-Tourism Association referenced in the study due to the following:

<http://sacriverdeltagrown.org> > ...

Home - Sacramento River Delta Farms and Wineries

The Sacramento River Delta Grown Agri-Tourism Association is unfortunately dormant at this time. Please contact farms and wineries directly for updates.

However, from the limited information available it would appear that many of the participants make processed wine or cider. We are also unclear if the growers would be subject to the U.S. Food & Drug Administration (FDA) Food Safety Modernization Act (FSMA) and what type of crops are grown. We are further unclear if there is a bicycle trail component, as that information was not readily available, or if the “trail” is actually intended to be used as a vehicle driving tour, which seems to be the case from cached Google imagery (see following).



Cached Google image for Sacramento River Delta Grown “Trail” Map: “Look for this sign as you drive along...” (emphasis added)²¹

5.1 Case Studies-San Pasqual Valley Agricultural Preserve Trail

We understand from our members who have firsthand experience riding the trail that the agriculture near the San Pasqual Valley Agricultural Preserve Trail is not similarly situated to agriculture near the proposed Santa Maria levee trail extension.

More specifically, we understand that crop types grown include agritourism opportunities and hay crops, rather than commercially-focused fresh produce sales. Furthermore, the study states that crop types in the

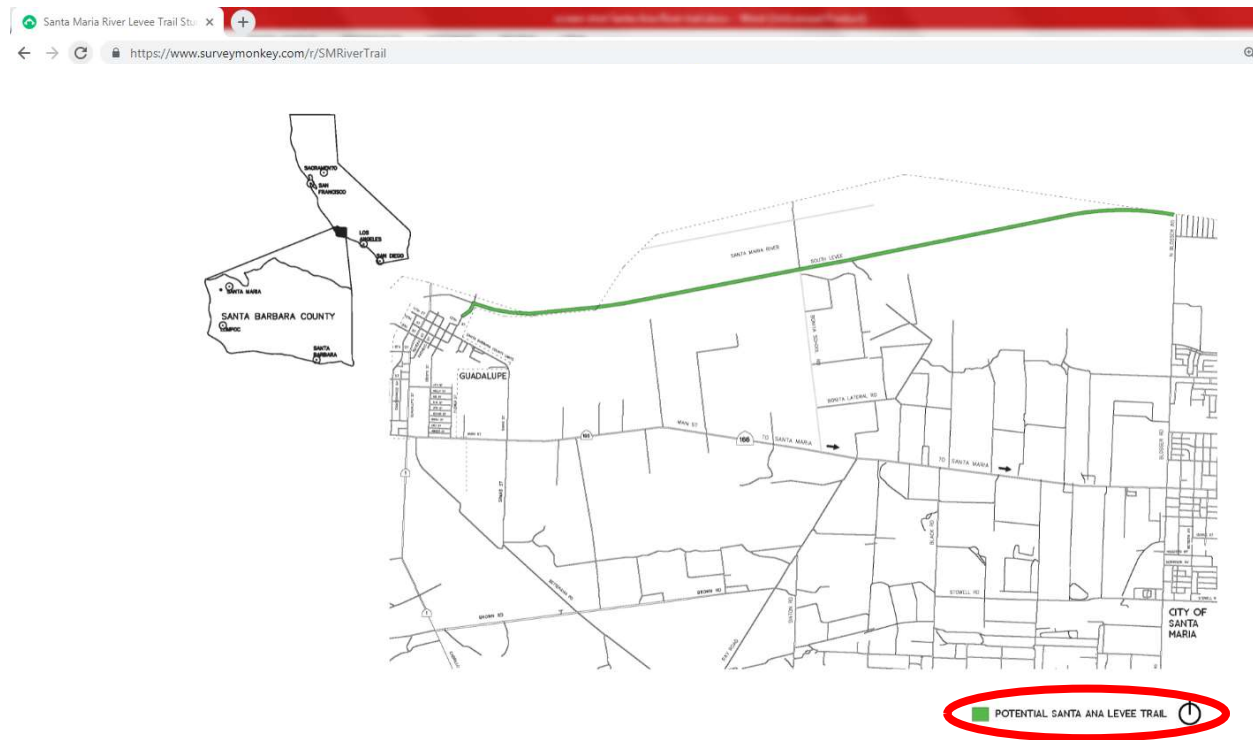
²¹ <https://imgv2-2-f.scribdassets.com/img/document/249883379/original/1c2485aaa7/1587408002?v=1>

area include “asparagus, gourd, squash, and oranges.” Notably, these growers might not be subject to the same stringent food safety standards under the U.S. FDA’s Food Safety Modernization Act (FSMA) for several reasons. First, “produce that is rarely consumed raw” is not covered by the US FDA FSMA Produce Safety Rule; crop types on this list include asparagus and winter squash.²² Additionally, depending on the sales and direct to consumer sales of a particular farm, the farm or product might not be covered under the rule or could qualify for a qualified exemption.²³ Most, if not all, of the farms adjacent to the proposed Santa Maria levee trail extension almost certainly are subject to the US FDA FSMA Produce Safety Rule, unlike the farmers in the San Pasqual Valley, due to crop types grown and sales characteristics, so the two are not actually comparable facts and circumstances. Additionally, the shorter ag-trail interface (2.75 miles for San Pasqual one way versus 6.7 miles for the proposed Santa Maria extension) and lower intensity of crop types grown are further differences that do not make for an even comparison.

5.1 Case Studies-Santa Ana River Trail

One case study that would be relevant to include is the Santa Ana River Trail. Although the location is in a more dense urban environment, similarities include the homeless encampment presence, connecting two urban areas (Santa Ana and Orange), and intermittent flows of the river.

Whether intentional or not, the online survey for the Santa Maria River Trail actually mistakenly listed the Santa Maria Levee Trail extension as the Santa Ana Levee Trail:



Additional evidence relevant to the Santa Maria levee trail extension feasibility study includes the following 2018 broadcast from CBS Los Angeles:

<https://www.youtube.com/watch?v=nH0OPG-RaJ0>

²² <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-A/section-112.2>

²³ <https://www.fda.gov/media/94332/download>

The broadcast echoes the following 2022 KSBY article on the existing Tom Urbanske Multipurpose Trail in Santa Maria:

<https://www.ksby.com/news/local-news/homeless-encampments-are-growing-in-the-santa-maria-riverbed>

For these reasons, the Santa Ana Levee Trail would be appropriate to include as a case study demonstrating the challenges with the contemplated project and limitations of use based on real-world challenges to management.

5.1 Case Studies-Santa Barbara County

We have also recently heard descriptions of dramatic conflicts between agriculture and bike paths in Santa Barbara County that would be worth additional investigation. These include the City of Santa Maria Class I Bike Path on the east side of the Santa Maria Airport Property parallel to Broadway/Hwy 135 between Foster Rd and Lakeview Rd as well as the Franklin Trail in Carpinteria.

5.2 Amenities Toolkit

Our concerns about broader land use compatibility and legal issues remain and are in no way lessened by the following specific comments on the proposed design elements:

1. Surface Treatments. If the purpose of the trail is to realistically provide a bicycle commuting route, then a smooth asphalt or concrete surface would likely be necessary. We raise the question of how a surface like asphalt or concrete would impact flows off the levee into the surrounding farm fields or potentially impact the integrity of the levee, especially during higher-intensity rain events.
2. Signage and Wayfinding. Mile markers for emergency response and no trespass signs are absolutely necessary. However, there has been substantial evidence, including in the feasibility study, that current signage is not effective in deterring illegal trespass or criminal activity or prompting compliance with leash laws for dogs.
3. Guardrails. The guardrails on the existing levee trail are consistently bypassed.
4. Fencing.
 - a. Option 2 “No fencing is proposed as dog and pedestrian control will be accomplished by the hog wire guardrail” is completely unrealistic and an unacceptable personal safety and food safety risk. Although not specified in this section, the artistic rendering of Option 2 shows a waist-height hog wire fence. The low height of the framed hog wire and solid fence top make it easy to climb and bypass. Additionally, the material is subject to vandalism and breakage, allowing dogs and trespass into farm fields.
 - b. Although we do not believe it will be successful, a chain link fence or welded wire fence with a minimum height of 8 feet would offer more protection than some of the other, completely unacceptable design alternatives. The addition of vinyl paneling would help to reduce trash blowing into fields and deter climbing. Additional physical deterrents to climbing should be incorporated. Furthermore, regular inspection, repairs, and maintenance must be included to address vandalism and wear.
 - c. Adequate fencing must be placed on both sides of the levee (north and south) where there is active farming.
5. Furnishings. Trash receptacles and dog waste stations must be included to reduce impacts to adjacent areas. Benches might encourage illegal overnight stays or other illegal activities, and if included, should be designed to deter such uses. The trash and dog waste stations must be regularly serviced and maintained. Additionally, trash and waste stations must be designed to prevent trash being blown

out by wind and prevent rodents or other pests from accessing waste, infesting the area, or removing trash out of trash receptacles.

6. Staging Areas/Entry Nodes. To help deter human urination and defecation on the levee top or in adjacent farm fields and contaminated runoff into fields and watersheds, toilets must be included at each entry/exit point (three locations) at a minimum. Omitting toilet services would be a further incompatibility with food safety for nearby fresh produce cultivation. The staging areas and parking must be able to restrict access during agricultural and levee operational closures and prevent movement into nearby agricultural fields.
7. Lighting. The hours of operation for the trail must absolutely be limited to allow for law enforcement activities.
8. Security. Patrolling and fencing are two of the most important features for safety. Sporadic cameras will result in blind spots that will be easily known to perpetrators. Images captured from cameras are only useful if individuals are swiftly apprehended and prosecuted, which has not consistently been the case, especially in recent years. More important than a few cameras and call boxes is the question of how will the area be patrolled and rules consistently enforced? What additional burden will the trail place on the Sheriff and nearby farmers and farm employees? What is the opportunity cost to community safety of directing resources towards these enforcement priorities instead of other community needs? What is the legality of drones being used to monitor the area? Will potentially ambiguous jurisdictional issues result in inaction or slowed response to calls for service?
9. Bike parking and placemaking features might be a better fit and more efficient use of finite financial resources for other projects and locations in the County.

5.3 Suggested Trail Design

We agree with the need for proper design, maintenance, and patrol of the proposed extension. In these comments we have pointed out several significant, irreconcilable incompatibilities, including conflicting recommendations from different stakeholders, especially regarding fencing and toilet facilities. Please see previous comments on specific design elements for additional details.

The narrative description in this section regarding chain link fencing could be clarified to be more consistent with the artistic rendering of Option 1. We concur with the description of challenges with fencing included in this section. We will once again raise the need for adequate fencing on both sides of the levee where there is active agricultural production.

As discussed previously, the suggested security measures are inadequate and the focus should instead be on an appropriate location for a trail, appropriate design, and adequate patrolling and enforcement.

Although we agree with law enforcement's concerns about homelessness and vandalism of toilets, restroom facilities are an absolutely essential component should the project move forward. The presence of human urine and feces is both unpleasant and unsanitary for users and nearby lands and also constitutes a significant food safety risk. We also previously called into question the effectiveness of crime prevention through environmental design.

We agree with limited hours of trail operation, although the feasibility study should recognize that this will further limit the viability of the proposed levee extension serving as an active transportation route. Additionally, since almost all County day-use parks and open spaces do not open until 8:00 am and close at sunset,²⁴ the same hours of operation should be applied to the contemplated levee trail extension. These hours would necessarily limit the trail's utility as an active transportation corridor, given the typical commute patterns noted in the comments regarding the Commute Summary above.

²⁴ <https://countyofsb.org/parks/hours.sbc>; Jalama Beach and Cachuma have differing hours of operation.

5.4 Summary of Findings, 5.5 Design Concerns and Solutions

As we have mentioned previously, the estimated costs do not include many important items, such as planning and permitting expenses, including the cost of inverse condemnation and mitigation of significant impacts to agricultural lands; toilets; and levee crossings. Comments specific to the proposed design elements that were selected and omitted can be found above.

As discussed throughout these comments, the current level of detail in the study fails to address several major components and irreconcilable differences and has not been satisfied in a way that decision-makers can make an informed assessment of the feasibility and opportunity cost of proceeding.

6.1 List of Grants, 6.2 Next Steps

We would like to restate our support for recreation and active transportation projects that benefit our community and prevent predictable land use conflicts and conflicts with agricultural operations. As we have previously commented on the Recreation Master Plan, we encourage the County to maximize benefits to the community by focusing efforts on needed services and feasible projects that are consistent with County policies, compatible with surrounding land uses, protective of food safety and public safety, and that can be implemented without significant impediments and opposition.

We also restate the consistent confusion about the true nature and intention of the project and whether it is truly an active transportation project or a recreational project.

Thank you for your attention to these comments and response through significant revisions to the draft prior to docketing the agenda item for Board of Supervisors consideration.

Sincerely,



Claire Wineman
President

Attachment A: Letter re. "Countywide Recreation Master Plan/Santa Maria Levee Trail Extension"
dated January 26, 2022

cc: Rachel Van Mullem, County Counsel
Rvanmull@co.santa-barbara.ca.us

Scott McGolpin, Public Works Director
mcolpin@cosbpw.net

Chris Sneddon, Deputy Director, Transportation Division
csneddo@countyofsb.org

Walter Rubalcava, Deputy Director, Water Resources
wrubalc@countyofsb.org

ATTACHMENT A

January 26, 2022

Via Electronic Mail Only

Jeff Lindgren, Parks Superintendent
Santa Barbara County Community Services
Department – Parks Division
jlindgren@co.santa-barbara.ca.us

Re: Countywide Recreation Master Plan/Santa Maria River Levee Trail Extension

Dear Mr. Lindgren:

This firm represents the Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties,¹ whose members include landowners and agricultural operators along the Santa Maria River Levee in Santa Barbara County (County). The following comments regarding the Countywide Recreation Master Plan (Recreation Master Plan) and the proposed Santa Maria River Levee Trail Extension (Levee Trail Extension Project) are submitted on behalf of the Association and its members, as well as other interested non-member growers and landowners who would be impacted by the Extension Project in both Santa Barbara and San Luis Obispo Counties (collectively, the “Association”).

The Association understands that the Board of Supervisors at its February 1, 2022 meeting may be asked to take some action on the Recreation Master Plan. The Association strongly supports the County’s efforts to improve recreational opportunities throughout the County. However, such efforts must respect and not conflict with existing agricultural operations and primary County policies for the protection of agriculture. Association members have been active participants as stakeholders in the County Department of Public Works Transportation Division’s efforts to study the Levee Trail Extension Project for the recreational trail along the Santa Maria River Levee from Santa Maria to Guadalupe. As articulated in the Levee Trail Extension Project stakeholder process, and discussed further

¹ Association members include over 170 growers, shippers, farm labor contractors, and supporting agribusinesses who grow diverse field and nursery crops such as broccoli, strawberries, wine grapes, vegetable transplants, flowers, and tree fruit.

Jeff Lindgren, Parks Superintendent

Re: Countywide Recreation Master Plan/Santa Maria River Levee Trail Extension

January 26, 2022

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herein, the Levee Trail Extension Project presents a unique set of environmental, economic, and legal challenges that require further detailed study and consideration. The complexity of the Levee Trail Extension Project should not impede efforts to proceed with the Recreation Master Plan, and the County's efforts to evaluate the Levee Trail Extension Project should remain separate from the Recreation Master Plan process.

I. The Levee Trail Extension Project Threatens Numerous Land Use Conflicts and Impacts to Agricultural Lands and Operations

Association members own property along and immediately adjacent to the proposed Santa Maria River Levee Trail Extension corridor that is under active cultivation for high value crops. Association members also hold easements for access across the Santa Maria River Levee to support their ongoing agricultural operations. The Association and its agricultural operators and landowners members have been actively engaged in the stakeholder process to educate County staff and consultants about the Levee Trail Extension Project's predictable land use conflicts and implementation constraints.

Association farmers are committed to the increasingly challenging task of growing safe, healthy produce to feed families locally and around the world. The Levee Trail Extension Project stakeholder process identified numerous conflicts and impacts to agricultural operations from the existing western end of the Santa Maria River levee trail at Blosser Road in Santa Maria, which has a history of vandalism, trash, homelessness, off-leash dogs, and off-trail humans on both sides of the levee. Extension of the trail through agricultural areas thus presents substantial food safety and other liability concerns resulting from dogs and people traveling off the trail. For example, the federal Food and Drug Administration's Food Safety Modernization Act Standards for Produce Safety Rule includes provisions related to domestic animal intrusion. Similarly, California's Leafy Greens Marketing Agreement requires 100 percent compliance and also outlines the food safety risk from encroachment by animals and urban settings.

The Levee Trail Extension Project stakeholder process identified significant impacts to crops, agricultural operations, food safety, and public safety, including impacts that could lead to the permanent conversion of agricultural lands. Because of these significant impacts, any approvals associated with the Project (including state or local agency grant funding, and license agreements by the County Flood Control & Water Conservation District) will require preparation of a project-specific environmental impact report (EIR) under the California Environmental Quality Act (CEQA). Approvals by the U.S Army Corps of Engineers, and any federal funding for the Levee Trail Extension Project, will require preparation of an environmental impact statement under the National Environmental Policy Act.

Jeff Lindgren, Parks Superintendent

Re: Countywide Recreation Master Plan/Santa Maria River Levee Trail Extension

January 26, 2022

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The Association urges thoughtful land use planning to prevent predictable land use conflicts. This includes transportation corridors and recreation locations that are compatible with surrounding land uses and protective of food safety and public safety. The existing levee trail follows the footprint of the City of Santa Maria and borders urban and residential uses, which is compatible with a trail. The contemplated Levee Trail Extension Project presents unique and complex facts and circumstances and we urge the Board to further consider the land use planning implications and avoid conflicts.

II. The Levee Trail Extension Project Is Inconsistent with County General Plan Goals and Policies Protecting Agriculture

As recognized by the California Supreme Court, the County's General Plan is the "constitution for all future development." (*Leshar Communications v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.) Indeed, the general plan is the County's single most important planning document. (*Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal.3d 553, 570-71.) The Recreation Master Plan must be consistent with the County General Plan. (*Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 817.) The County's success as one of the most productive agricultural areas in the world is due in no small part to the protections afforded by the County General Plan. The General Plan Agricultural Element acknowledges that "agriculture is a significant and important resource within Santa Barbara County; therefore, the Element has been created to enhance and protect that resource." (General Plan Agricultural Element, p. 13) Further "plan and policies recognize the likelihood that conflicts from trails through agricultural lands can have on agricultural viability and lead to the foreseeable conversion of agricultural lands." (See General Plan Agricultural Element, p. 26.)

County General Plan goals and policies are specifically designed to protect agricultural uses from the types of impacts threatened by the Levee Trail Extension Project. Some of the key General Plan Agricultural Element Goals and Policies relevant to the Levee Trail Extension Project are identified in Exhibit A. Association members have invested in their property and operations along the Santa Maria River Levee in reasonable reliance on the County's continued adherence to its General Plan policies. Due to the numerous land use conflicts, the Levee Trail Extension Project threatens the viability of continued agricultural operations along the nearly 7-mile-long proposed trail extension. Inducing high-intensity public use would be a major impact on agricultural producers in perpetuity, and that impact is certain to increase as production restrictions on agriculturalists expand. Because the Recreation Master Plan must be consistent with the County General Plan, the Levee Trail Extension Project should not be included in the Recreation Master Plan.

Jeff Lindgren, Parks Superintendent

Re: Countywide Recreation Master Plan/Santa Maria River Levee Trail Extension

January 26, 2022

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III. Levee Trail Extension Project Impacts Will Create Potential Damages and Nuisance Liability for the County, Requiring Adequate Compensation to Affected Property Owners and Agricultural Operators

As recognized in the Levee Trail Extension Project stakeholder process, and in the experience of other similar recreation trails immediately adjacent to cultivated agriculture, the Levee Trail Extension Project likely will result in substantial property damage from trespass by humans and dogs, as well as interference with the landowners' easement rights for access over the levee. Property owners will be entitled to just compensation if their property is damaged by the proposed public use. Project cost estimates will need to account for the County's costs to compensate Property owners for damages, including from inverse condemnation and nuisance. The Association urges the County to focus both its transportation and recreation planning resources on projects that can be accomplished with fewer impacts, at less cost, and without the Levee Trail Extension Project's legal and financial impediments.

IV. Conclusion

The Levee Trail Extension Project stakeholder process has been conducted through the County Department of Public Works Transportation Division and the project has consistently been characterized as a transportation project with recreational benefits, both for planning and funding purposes. Due to the numerous outstanding legal and practical issues with the Levee Trail Extension Project, and project-specific impacts, it would not be appropriate to include the Levee Trail Extension Project in the Recreation Master Plan and Programmatic EIR. The Association respectfully requests that any further efforts related to the Levee Trail Extension Project be considered separate from the Recreation Master Plan. For these reasons and more, the Recreation Master Plan should focus on achievable projects that are compatible with surrounding land uses and protective of food safety and public safety and that can be readily implemented, without the significant environmental and economic impacts and legal impediments of the Levee Trail Extension Project.

Thank you for considering these comments. Please include the Association and this firm on any notice lists for the Recreation Master Plan and Levee Trail Extension projects, including all CEQA notices pursuant to Public Resources Code section 21092.2(a). Please mail notices to my attention at the address on this letterhead, and also email all notices to ktaber@somachlaw.com and claire.wineman@grower-shipper.com. If you have questions

Jeff Lindgren, Parks Superintendent

Re: Countywide Recreation Master Plan/Santa Maria River Levee Trail Extension

January 26, 2022

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about these comments, please do not hesitate to contact me at (916) 469-3841 or Claire Wineman at (805) 343-2215 to discuss this letter further.

Sincerely,



Kelley M. Taber
Attorney

Exhibit A: County General Plan Agricultural Element Goals and Policies

cc: The Honorable Joan Hartmann, Chair, Santa Barbara County Board of Supervisors
jhartmann@countyofsb.org

The Honorable Das Williams, Vice Chair, Santa Barbara County Board of Supervisors
dwilliams@countyofsb.org

The Honorable Gregg Hart, Supervisor
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The Honorable Bob Nelson, Supervisor
bob.nelson@countyofsb.org;

The Honorable Steve Lavagnino, Supervisor
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Rachel Van Mullem, County Counsel
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Chris Sneddon, Deputy Director, Transportation Division
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Mark Friedlander, Project Manager, Santa Maria River Levee Trail
mfriedlander@co-santa-barbara.ca.us

KMT:mb

EXHIBIT A

Exhibit A
Santa Barbara County General Plan
Goals and Policies Relevant to
Santa Maria River Levee Trail Extension
(non exclusive list)

AGRICULTURAL ELEMENT

GOAL I. Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported.

Policy I.A. The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses.

1. On lands which are in agricultural production and have a zoning or Comprehensive Plan designation for agriculture, provisions for recreational trails or other recreational easements defined in the Comprehensive Plan may be imposed by the County as a condition for a discretionary permit or land division only in the following circumstances:
 - a. The area in which the trail is proposed to be located is land which is not under cultivation or being grazed or is not part of a rotation program, or is not an integral part of the agricultural operations on the parcel;

Policy I.F. The quality and availability of water, air, and soil resources shall be protected through provisions including but not limited to, the stability of Urban/Rural Boundary Lines, maintenance of buffer areas around agricultural areas, and the promotion of conservation practices.

GOAL II. Agricultural lands shall be protected from adverse urban influence.

Policy II.B: Santa Barbara County shall recognize, and give high priority to, the need for protection from trespass, thievery, vandalism, roaming dogs, etc., on all agricultural lands.