ATTACHMENT B

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Letter Regarding: Sargent Ranch Quarry DEIR comments

Date: September 29, 2022

To: Carmen Borg, Shute, Mihaly & Weinberger LLP

From: Tanya Diamond

Dear Carmen,

Below are our comments regarding the Sargent Ranch Quarry DEIR analysis of the project's impacts on wildlife connectivity in the proposed project area and the impacts of the proposed project within the regional Santa Cruz Mountains to Diablo Linkage.

Main issue: The DEIR's proposed mitigation measures for the significant and unavoidable impacts to wildlife connectivity are entirely insufficient. DEIR Mitigation Measure 3.4-15 at 3.4-112 and DEIR Appendix E-Biological Resources pg. 328. Mitigation Measure 3.4-15 does not reduce the project's impacts or reduce its cumulative effects. The project impacts would be significant and unavoidable to wildlife movement, even with the proposed mitigation, which is supported by the recently released study (Diamond et al. 2022).

Mitigation Measure 3.4-15 Addressing Impacts on Wildlife Movement:

1. Fencing: The DEIR states that a barbed wire fence is currently acting as an impediment to wildlife movement at the railroad tracks (Appendix E Page 328, DEIR pages 3.4-40 and 3.4-111). The DEIR proposed to prepare a Wildlife Friendly Fencing Plan to replace the fencing with wildlife-friendly fencing. One of the main locations is the fencing along the railroad tracks by the project site.

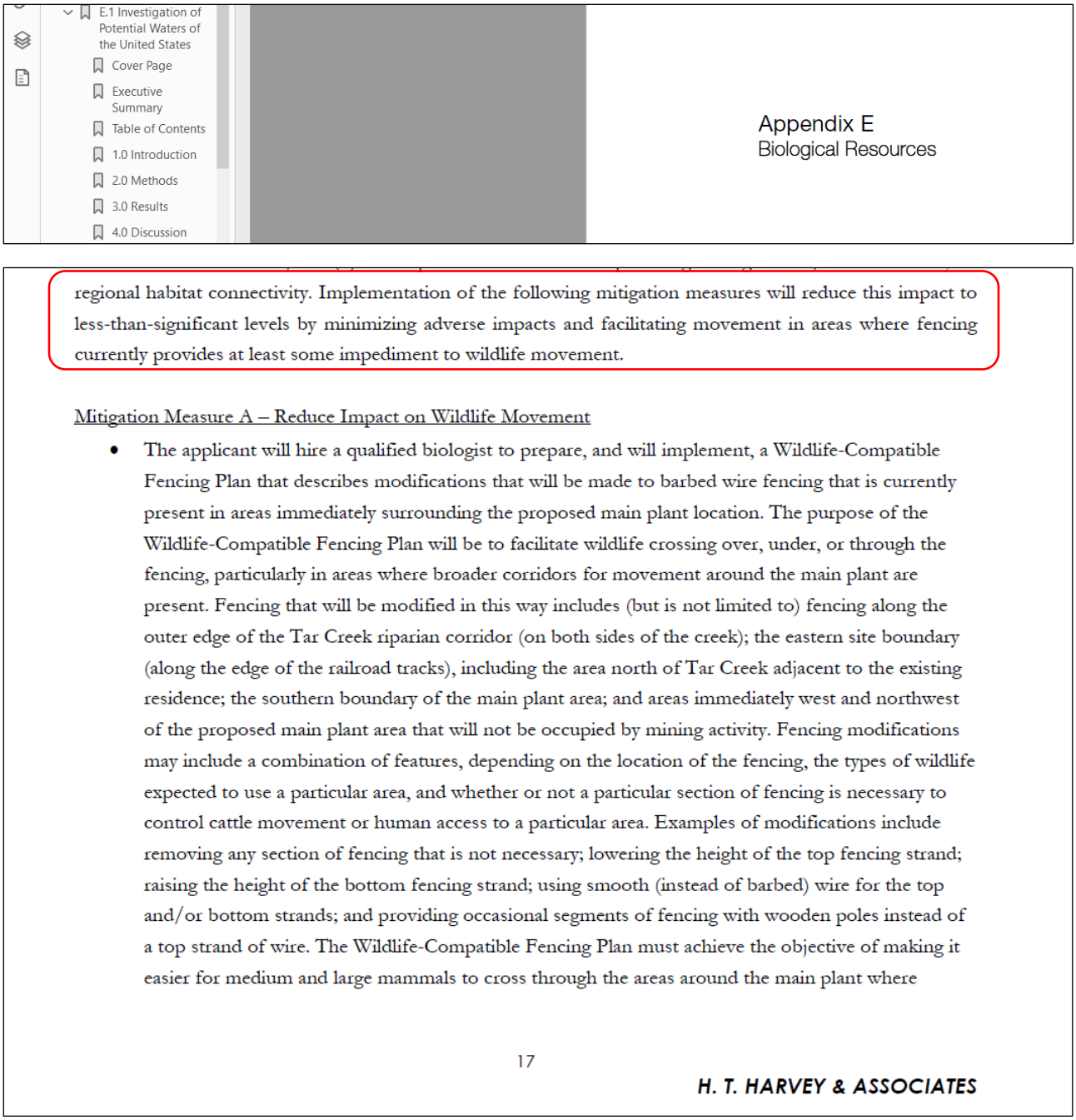

Figure 1. Page 328 of Appendix E: Biological Resources.

Comment 1: From 2018-2020, we monitored the US-101 Tar Creek underpass for wildlife movement to determine if wildlife were utilizing the underpass to travel under US-101 along with identifying which routes various species were using to travel under the underpass (Diamond et al. 2022). We set up cameras at a barbed wire fence line along the railroad tracks, at the location the DEIR claims fencing is acting as a barrier, and where the DEIR is suggesting replacing the fencing with a wildlife-friendly fencing

design (Page 328 of Appendix E: Biological Resources). **The camera data documented that the existing barbed wire fence line is not acting as an impediment to wildlife movement, see Figures 2-4.**

Figure 2. Bobcat walking through the US-101 Tar Creek fence line at the railroad tracks adjacent to the project site on 10/24/2019.

Figure 3. Bobcat walking through the US-101 Tar Creek fence line at the railroad tracks adjacent to the project site on 10/23/2019.

Figure 4. From top left to bottom right, coyote, American badger, deer, and gray fox walking through the US-101 Tar Creek fence line at the railroad tracks adjacent to the project site within July-August 2020.

Questions for Mitigation Measure A regarding the fencing: How did the DEIR come to the conclusion that barbed wire fencing is acting as an impediment at some locations: Appendix E: Biological Resources pg. 328. What data was collected to support this conclusion? The data we have collected documents that the fencing **is not currently an impediment** to wildlife movement

Comment 2: The Mitigation measure only calls for a Wildlife Friendly Fencing Plan to be developed.

Questions: How will this plan be implemented and funded? How will the effectiveness of the fencing be evaluated or monitored? How will the applicant know it is an effective measure without having any data supporting that the fencing is an impediment to wildlife movement? We have documented wildlife movement through fences on other projects using camera data, see wildlife movement through a 5-string barbed wire fence and a chain link fence in Figures 5-6. This is the type of data that needs to be documented to warrant or prove the comment that the fencing is an impediment.

Figure 5. Coyote traveling under a fence line in Coyote Valley.

Figure 6. Deer traveling under a fence line in Coyote Valley.

1. **Freight car operation hours:** A large percentage of the deer we recorded during the study included deer traveling under the underpass during the day (Figure 7). The freight car operations hours would most likely impede deer movement forcing them to find new routes. This mitigation is also inadequate and does not function to decrease the impact to a less than significant level.

Questions for Mitigation Measure A regarding the freight car operation of hours: How will the final DEIR reduce the impact to wildlife movement during the proposed operational hours? Will the final DEIR include adequate mitigation measures to reduce the project to less than significant as our data shows that this mitigation is not an adequate mitigation measure for reducing the project to less than significant?

Figure 7. Deer traveling under the US-101 Tar Creek Underpass on 10/09/2019 at the railroad tracks.

Other Issues:

1. HT Harvey used their camera data collected in 2008 to downplay the significance of the Tar Creek underpass. The DEIR states that wildlife can use other existing bridges to cross into the Pajaro Valley.

Comment: One of the key findings of the report is that the study site with the highest amount of species richness was recorded at the Tar Creek underpass (Diamond e al. 2022). We recorded multiple species including American badger, bobcat, coyote, deer, long-tailed weasel, raccoon, and skunks traveling both west and east from the project area under the underpass on a consistent basis throughout the twelve-month monitoring period. Several different deer, coyote, and bobcat individuals were recorded traveling through the fence line. This site had the highest richness of species movement throughout the US-101 study area, see Figures 8 and 9.

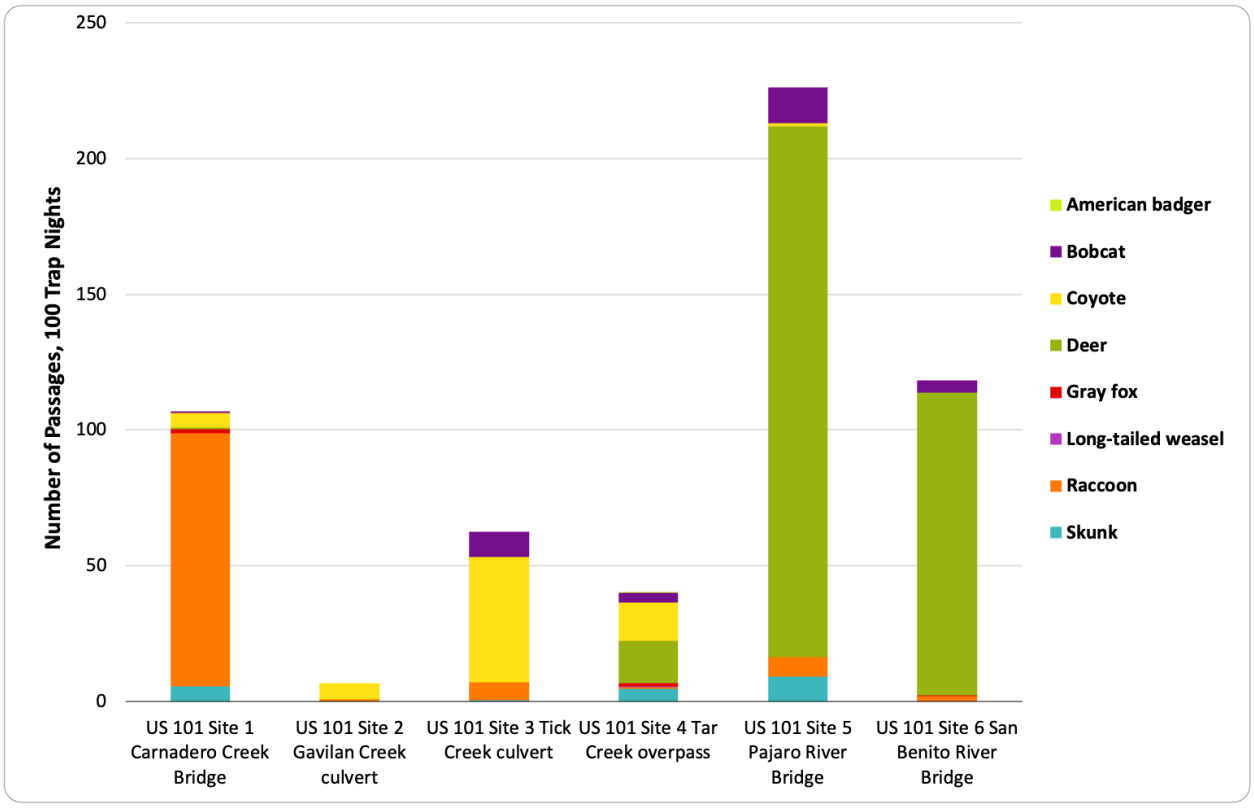

Figure 8. Species recorded at the US-101 bridges and culverts in the Pajaro Valley (Diamond et al. 20022).

Figure 9. US-101 study sites in the Pajaro Valley (Diamond et al. 2022).

3.American badgers: American badgers are a listed as a Species of Special Concern. Badgers have been well documented traveling through the linkage on the project site since 2008 (cite Diamond, T. 2009 thesis and The Nature Conservancy Pajaro Valley Wildlife Connectivity Study 2012-2013). The Nature Conservancy study recorded badgers traveling under the fence line at the railroad tracks into the project site on 7/28/2020. (Figure 10).

Figure 10. American badger traveling under the US-101 Tar Creek Underpass on 10/09/2019 at the railroad tracks.

Badgers are highly susceptible to vehicle collisions (Long 1973, Zeiner et al. 1990, Sullivan 1996, Penrod et al. 2013). The project-related increase in traffic volume will likely increase the road mortality rates for badgers along with other susceptible species.

Comment: The DEIR failed to analyze direct impacts to badgers and other species due to increased traffic.

4. Alternative 3 Would Result in Significant Impacts to Wildlife Movement: The location of Alternative 3 would still be within the core of the Santa Cruz Mountains to the Diablo Linkage. The recent study documented high rates of wildlife passage through the US-101 Tick Creek dual box culvert (Diamond et al. 2022). Species recorded included bobcat, coyote, raccoon, and striped skunk. As noted above, and acknowledged in the DEIR, the quarry project will further constrain the Santa Cruz Mountains-Diablo Range linkage. The landscape is already fragmented for wildlife movement and the **proposed project will sever this functional part of the linkage in which wildlife have been documented to travel under the highway.**

The DEIR states that "Tick Creek undercrossing is not nearly as heavily used by mammals, particularly large mammals, as the Tar Creek and the Pajaro River". This statement is accurate regarding large mammals but inaccurate regarding the intensity of

use compared to Tar Creek (Diamond et al. 2022). Tick Creek had slightly higher passage rates by native species than Tar Creek. Pajaro River Bridge had much higher passage rates by native species when standardized than either Tick or Tar Creek. The Tick Creek culvert consistently facilitated multiple individuals of bobcat and coyote along with species such as skunks, raccoons, and opossum movement through the culvert on a monthly basis throughout the twelve-month monitoring period (Figures 11-12).

From most to least standardized passages by native species in the US 101 Pajaro section: Pajaro River Bridge, San Benito River Bridge, Carnadero Creek Bridge, Tick Creek Culvert, Tar Creek Overpass, Gavilan Creek culvert (Diamond et al. 2022).

The DEIR statement is correct that Tick Creek isn't facilitating as much passage by large mammals, but important for medium-sized mammals and study recommends that it be retrofitted with a larger culvert (Diamond et al. 2022)

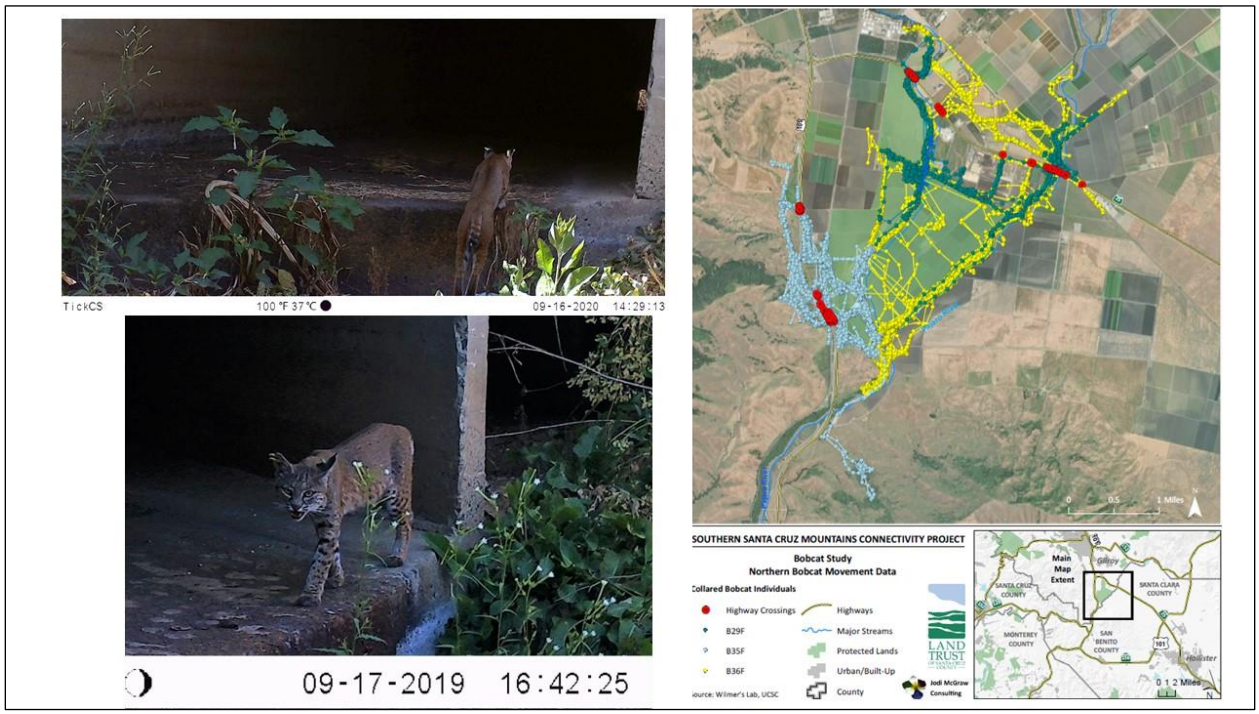

Figure 11: bobcat movement, including collared bobcats, recorded at US-101 Tick Creek.

Figure 12. Multiple individual bobcats were recorded traveling through the US-101 Tick Creek culvert.

Comment: As discussed above, proposed Mitigation Measure 3.4-15 for Alternative 3 has been proven not to be a mitigation measure through our comments under Mitigation Measure A. Therefore, it cannot be applied to any of the Alternatives, as it will not benefit wildlife movement or improve existing conditions as the fencing is already permeable for wildlife movement.

There can be no adequate mitigation set up for disruption of the Tar Creek and Pajaro River crossing locations. The noise caused by the conveyer belt across Tar Creek and the Pajaro River would deter wildlife movement through the linkage. Noise has been shown to impact wildlife usage of habitat, resulting, for example, in reduced foraging time and efficacy, and reduced nesting use, in birds (Burger and Gochfeld 2002, Stone 2000, Shannon et al. 2016). The EIR must therefore analyze noise impacts on the Wildlife Corridor on a species-by-species basis if it is to provide a full understanding of the Project's significant impacts to wildlife and wildlife mobility. The EIR does not provide this analysis.

Tar Creek and the Pajaro River are the only locations in which large mammals such as deer and mountain lions can safely travel under US-101 to cross the Pajaro Valley floor.

The US-101 San Benito bridge is too far south and leads wildlife into the Flint Hills, not the Pajaro Valley floor. Thus, the project would result in severing this critical linkage.

Sincerely,

Tanya Diamond

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