



COMMITTEE FOR
GREEN FOOTHILLS



Santa Clara Valley Audubon Society
Founded 1926

Friday, August 29, 2003

David Bischoff
Community Development Director
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, California 95037

Dear Mr. Bischoff,

On behalf of the Santa Clara Valley Audubon Society and the Committee for Green Foothills, we wish to register our concerns regarding the City's recent issuance of a Temporary Use Permit (TUP) for The Institute Golf Course. It is our understanding that you issued this permit earlier this week and that our organizations have ten days to appeal that decision. In suggesting a course forward, we hope to avoid an appeal.

As issued, the TUP is both legally flawed and not sufficiently protective of human health and natural resources on the site. Our legal concerns arise because required environmental documentation has not been prepared. Approval of a permit is a discretionary decision subject to provisions of the California Environmental Quality Act ("CEQA"), Cal. Pub. Res. Code § 21000 *et. seq.* CEQA requires environmental documentation to assess whether an agency decision may result in significant environmental impacts. The only existing environmental documentation regarding the golf course is incomplete, was not prepared for this TUP, and shows the operation of the golf course to have significant environmental impacts. The conditions of the TUP address several pressing issues, and we appreciate the efforts of City staff in dealing with an unfortunate situation caused by the illegal acts of the project proponents. Nonetheless, we believe ongoing maintenance and use of the course under the TUP will likely lead to further negative impacts.

We request that the City amend the TUP to further condition future activities on the site. We note that condition AA of the TUP grants the City authority to modify or add to the conditions of the TUP. The following are three suggested additions and justifications for them.

1. Eliminate fertilization and pesticide application on the entire site. This condition was requested by the Central Coast Region of the California Regional Water Quality Control Board in a July 30, 2003 agency meeting and again in a letter dated August 8, 2003. The letter states that this and other actions "would minimize or eliminate water quality impacts." This would modify condition R in the current TUP, although it should not obviate the reporting requirements of that condition.
2. Within a two week time period from amendment of the TUP, delineate those areas of the course that can be mowed and those areas that can not. Mowing should be restricted to a bare

minimum—tees, fairways, and greens only. This condition also stems from suggestions made by the Regional Board. The justification for it is the same as stated above.

3. Specify that any violation of a condition of the TUP or other requirements of permitting agencies would automatically trigger the shutting down of the entire site. What that means will need to be specified--there should be no usage, no watering, and no mowing. The only exception to this should be ongoing monitoring as outlined in the TUP and whatever measures are recommended by the US Fish and Wildlife Service and/or the California Department of Fish and Game to protect sensitive species.

The need for this last condition stems from the history of violations on the site. Unless clear consequences are outlined in advance, we have little faith that the project proponents will comply. We understand that under such constraints the course would degenerate; of course, negative environmental impacts would also lessen. The project proponents assumed this risk when they decided to proceed without the proper permits.

Please notify us on or before Wednesday, September 3 of your response to this letter, as we would need to fill an appeal shortly thereafter. Thank you for considering our concerns.

Sincerely,



Brian A. Schmidt
Legislative Advocate
Committee for Green Foothills



Craig Breon
Executive Director
Santa Clara Valley Audubon Society

cc: Jim Rowe
Helene Leichter
Steve Sorenson