

Exhibit 1

DECLARATION OF LAWRENCE JOHMANN

I, LAWRENCE JOHMANN, declare the following:

1. I submit this declaration on behalf of the Guadalupe-Coyote Resource Conservation District (GCRCD). The facts, stated herein, are known personally to me.

2. I am 61 years old, and have lived in the San Jose area since August 1987. I reside at 40 Redding Road, Campbell, California. I recently retired from my job as a Staff Systems Engineer at Lockheed Martin Space Systems in Sunnyvale. I currently volunteer for the GCRCD, Western Waters Canoe Club, and Silichip Salmon & Steelhead Restoration Group.

3. I have 2 years of college study in the field of Natural Science, an AAS degree in Electronic Engineering Technology, a BS degree in Manufacturing Engineering Technology, and a MS degree in Engineering Management. I am a California registered Professional Engineer, an American Society for Quality Certified Quality and Reliability Engineer, and an International Standards Organization Certified Lead Quality Auditor. I have also attended all of Dave Rosgen's classes in Applied Fluvial Geomorphology and River Restoration, Dr. Bill Annable and Dr Chester Watson's Intermediate class in Fluvial Geomorphology and River Rehabilitation, Dr. Ann Riley's class on Urban Stream Restoration and Geomorphology, and numerous other stream and salmonid restoration conferences and seminars.

4. In 1992, I became involved with the Evergreen Resource Conservation District, now the GCRCD. I have served as an Associate Director, Director, Vice President, and President over the years. Currently I am on the GCRCD Board of Directors and serve as its President. I also serve as its representative to the Santa Clara Basin's Watershed Management Initiative, and a member of their Watershed Assessment and Monitoring Subgroup where I served as the Guadalupe Watershed Assessment Team Co-Captain and the Stream Stewardship

Workgroup. I also represent the GCRCD on the Water Resources Protection Collaborative and its Guidelines and Standards Workgroup, and the Downtown Guadalupe River Flood Control Project's Adaptive Management Team. In addition, I am the Principal Investigator and Project Manager for a CALFED Grant awarded to the GCRCD to assess and monitor Upper Guadalupe River tributaries.

5. I am also a founding member of the Western Waters Canoe Club, an affiliate member of the American Canoe Association, which is based in San Jose. I currently serve as its environmental liaison, and waterway protection and access rights advocate.

6. I have been observing conditions on the Guadalupe River and its major tributaries since 1988. I am one of the few people, along with Roger Castillo, who has extensively monitored and documented the Guadalupe River, Coyote Creek, Stevens Creek and their major tributaries since the early 1990s.

7. I have photographed and videotaped conditions along the Guadalupe River, Coyote Creek, Stevens Creek and their tributaries, riparian areas and the associated wild and aquatic life for more than a decade. I also have photographed and videotaped negative impacts to the river systems caused by flood control projects, construction and homeless encampments.

8. I have observed homeless encampments along our waterways since I began visiting the river and streams. I cannot recall anytime I have visited the Guadalupe River in the Downtown area that I have not seen one or more homeless people in or near the river corridor. The problem is worse in the downtown areas of the city but there are also encampments in the lower and upper reaches of Guadalupe River, and on Coyote Creek. I estimate there are more than 100 people living along the river and under the bridges on the Guadalupe River. There can be no question that the homeless camps are causing serious pollution problems along the river

and they are a serious health and safety threat to all, especially those working in and around the river corridors.

9. For the past nine years, I have organized and participated in numerous clean-ups along Guadalupe River with the Western Waters Canoe Club under the Santa Clara Valley Water District's (SCVWD) Adopt a Creek Program and other organizations. During these clean-ups we have removed tons of trash and garbage from the river. The garbage we have collected includes bags, cups, paper items, plastics, bottles, cans, plates, silverware, clothing, boxes, drums, barrels, rugs, mattresses, sleeping bags, televisions, beds, household furniture, shopping carts, car parts, tires, paint and oil cans, water heaters, bicycles, toys, electronic equipment, all types of pipe and fencing material, hypodermic needles, sex toys, and scuba tanks. We have documented engine blocks, auto bodies, buried shopping carts and even several safes, far too heavy to remove by hand.

10. A large percentage of the trash and garbage in the river and creeks originates from the homeless encampments. Based on my observations, it appears that homeless often collect discarded items, bringing down to their camps along the river. It appears that these items are again discarded, only this time along the riverbanks and in the river channel. This process is repeated on a regular basis.

11. For the past 11 years I have monitored and photographed a cluster of homeless encampments in the vicinity of the old Hillsdale Avenue Bridge. Some individuals were living under the Capitol Expressway Bridge, while others were living in tents and tarp shelters on either side of the Guadalupe River from the Hillsdale Bridge down below Foxworthy Avenue. These individuals acquired items from the Goodwill Store on the corner of Foxworthy Street and Old Almaden Road, dragged them across the street to their river encampments, and eventually

discarded them into the river. After numerous complaints, Goodwill erected a razor wire topped chain link fence, limiting access to their drop-off bins.

12. Over the years the homeless problem has become more substantial; the number, size and sophistication of the encampments have grown. Some encampments are actually mini-villages with a dozen or more people living in them. The homeless use tents, tarps, cardboard boxes, makeshift wood and even sheet metal structures for shelter or take up residence under bridges. Last year I observed a number of encampments downstream of the Coleman Avenue Bridge on the Guadalupe River which were dug into the banks of the floodway, their entrances camouflaged with vegetation. In September 2003, I observed shelters built on platforms in trees in the middle of the river floodway downstream of Trimble Avenue.

13. In February 1995, while performing a Guadalupe River survey, I surprised a group of vagrants who were mugging someone. I startled them, and as the assailants turned their attention to me, the victim was able to escape. Fortunately, I had my handheld ham radio with me so I turned up the volume and pretended I was calling for assistance. I was far enough away that I was able to leave the area unharmed.

14. In the spring of 1995 the San Jose Mercury News and the television news did a report on a large homeless encampment near the Guadalupe River between Coleman Avenue and Taylor Street. This encampment had shelters constructed of wood, sheet metal, and frames of gutted trailers. The homeless even had working refrigerators and television sets which were powered by tapping power lines in the vicinity. After officials received an overwhelming number of complaints, city work crews with police protection finally removed the encampment.

15. I have observed vagrants defecating along the riverbanks on at least two separate occasions. I photographed rows of human waste piled up under the Coleman Avenue and New

Julian Street Bridges along the Guadalupe River. *See* Figures 3-4. I showed these photos to the City of San Jose and SCVWD's Environmental enforcement groups, the Santa Clara Basin Watershed Management Core Group, including U.S. Environmental Protection Agency (EPA), Regional Water Quality Control Board (RWQCB), California Department of Fish and Game (DFG) and Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) representatives. To my knowledge, no specific action was taken to eliminate or reduce this serious point source pollution problem. I also have photographed a large cardboard box out house placed on a gravel bar in the river channel just below one of the encampments. *See* Figure 8.¹

16. I have photographed homeless showers in various parts of the Guadalupe River. These are basically outfall pipes with flowing water. *See* Figure 1. The homeless frequently use these facilities further polluting the river, as evidenced by the discarded bars of soap and shampoo bottles strewn all over the area around the pipes.

17. In the fall of 2001, as I was returning to my truck after working along the river, two sheriff's officers questioned me downstream of the Coleman Avenue Bridge on the Guadalupe River. They were investigating reports of someone dumping buckets of stuff in the river and asked if I had witnessed such activity. I told them on the other side of the bridge they would find a homeless village that was responsible for throwing garbage into the river and along its banks, and depositing human waste in and near the river. They looked at the encampment, stated it was too dangerous to do anything, and drove away.

18. I also have witnessed homeless people who live on the river embankments poaching salmon and trout on the Guadalupe River. They are unlicensed and use illegal methods of fishing, such as snagging with treble hooks, netting, and trapping with shopping carts. All of

¹ I have included captions with the photographs, which depict the scenes as I perceived them.

these methods are prohibited under the California Fish & Game Code. They have depleted the Chinook salmon population and to a lesser degree the steelhead trout populations. Direct take seriously impedes recovery of these fragile fisheries, which number in the low hundreds.

19. In the fall of 1998 I came across a homeless encampment guarded by two pit bulls chained to a tree downstream of the Coleman Avenue Bridge. I subsequently discovered residents of this encampment were building shopping cart traps to block the Guadalupe River and illegally catch Chinook salmon and steelhead trout. *See* Figure 13. On returning to the area with Roger Castillo several days later, we found a dead Chinook salmon in one of the shopping cart traps and we called the DFG warden. *See* Figure 14-16. We photographed and disassembled the traps, then left the area to wait for the warden to contact us. In the two hours it took the warden to get to the area the traps had been partially reconstructed. We photographed this as well and removed them again with the DFG warden's help.

20. In the summer of 2002, there was a fire in the riparian area along the Guadalupe River, upstream of the Highway 880 Bridge. I was informed by several sources that a homeless person was responsible for starting the fire. Fortunately the fire was confined and quickly extinguished, but it did destroy a number of Flood Control Project mitigation plantings as well as the irrigation system in the area supporting the mitigation site.

21. In November 2002 I was monitoring and photographing Chinook salmon from the St. John's Street Bridge on the Guadalupe River in downtown San Jose when a homeless person living under the old Julian Street Bridge approached me. This individual admitted to poaching salmon. The weather forecast was for substantial rain and I warned the man that he and his friends should get out from under the bridge because the river would rise quickly when the storm

hit. He ignored my warning. The Fire Department had to rescue him and others because the storm caused the river to swell, thereby trapping them.

22. A similar incident took place a month later. A number of homeless individuals had to be rescued by the Fire Department downstream of Trimble Avenue because they were trapped on the high ground between the Guadalupe River and the overflow bypass corridor by floodwaters.

23. Homeless people have approached me numerous of times while I have surveyed fish and the river and creeks, despite my efforts to avoid them. Usually, the individuals, both male and female, are clearly drunk or on drugs and I try my best to disengage from them and leave as quickly as possible. I consider myself very fortunate to not have had more serious problems with them.

24. There has been at least one vagrant murdered by his peers according to the newspaper and television news in the past year. The man was found floating in Los Gatos Creek in an area I had visited frequently to service the GCRCD's instream temperature data loggers. On another occasion several years ago, the police captured a transient murder fugitive in another area of the Guadalupe River where we performed fish surveys.

25. I have made countless phone calls to the San Jose City Department of Park Rangers and Police, DFG, and Caltip about the homeless. I also have spoken directly to the police and rangers patrolling along the rivers about these problems. The police and rangers indicated they were unable to effectively deal with the problem.

26. In the fall of 1996, after observing an increase in the number of encampments and having numerous unpleasant and potentially dangerous encounters with homeless individuals, I wrote a letter on behalf of the GCRCD to the San Jose Chief of Police complaining of the

problems and requesting corrective action be taken. Copies of the letter were sent to the mayor, County Board of Supervisors and the SCVWD. GCRCD was invited to several meetings on the homeless problems sponsored by the police.

27. The San Jose Police sponsored, and I attended, at least two meetings at which the homeless problem was discussed between 1997 and 1998. The police indicated they did not have the funding or manpower to deal with the problem. They presented figures on the costs for police participation in task forces to clean up encampments, and stated their resources already were depleted by then-existing homeless removal projects. They indicated the problem extended beyond the riverbanks to numerous highway bridges, along railroad tracks and other vacant lots and buildings.

28. I declare under penalty of perjury of the laws of the State of California and the United States of America that the foregoing is true and correct and that this declaration was executed on January 11, 2005 at 40 Redding Road, Campbell, California.

Respectfully submitted,

Dated: January 11, 2005

A handwritten signature in cursive script that reads "Lawrence Johmann". The signature is written in black ink and is positioned above a horizontal line.

Lawrence Johmann

Figure 1



Photo by L.M. Johmann © 1995

Guadalupe River - San Jose, CA **July 8, 1995**
Low flow. Looking upstream under the old Julian Street Bridge. Outfall pipe can be seen depositing a trickle flow to the river. Also visible are clothing and trash from a homeless encampment.

Figure 2



Photo by L.M. Johmann © 2002

Guadalupe River - San Jose, CA **January 5, 2002**
Low flow. Looking upstream from under the Coleman Ave. Bridge. A large homeless encampment can be seen on the left bank, top center of the photo.

Figure 3

Guadalupe River-San Jose, CA April 1998
Low flow. Rows of human feces can be seen under the Coleman Ave. Bridge from the homeless encampments in the area. Despite frequent complains about pollution and health hazards these people are causing, the city has done little to remedy the problem.



Photo by L.M. Johann © 1998

Figure 4

Guadalupe River - San Jose, CA November 1998
Low flow. Looking downstream at the new Julian Street Bridge. The mess on the far bank under the bridge is human waste and toilet paper, a bathroom for the large number of homeless that populate the area. Despite constant complains about pollution and health hazards these people are causing, the city has done little to remedy the problem.



Photo by L.M. Johann © 1998

Figure 5



Guadalupe River - San Jose, CA

November 1998

Homeless encampment downstream of the old Julian Street Bridge can be seen in the left center of the photo. The light umbrella like item is the top of a tent.

Figure 6



Guadalupe River - San Jose, CA

November 1998

Looking down over the downstream side of the old Julian Street Bridge at garbage and trash from homeless encampments that are prevalent in this area of the river. Outfall pipe can be seen depositing a trickle flow to the river. Also visible are clothing and trash from a homeless encampment.

Figure 7



Photo by L.M. Johmann © 1996

Guadalupe River - San Jose, CA

December 1996

Low flow. Looking upstream from the Coleman Ave. Bridge. A large homeless encampment can be seen on the left bank, left center of the photo.

Figure 8



Photo by L.M. Johmann © 2002

Guadalupe River - San Jose, CA

March 16, 2002

Low flow. Looking upstream towards the old Hillsdale Ave. Bridge and drop structure. The rock weirs can be seen in the background as well as the sediment deposition below the most downstream weir, center of the photo. The arrow points to a six-foot high box on the sediment bar being used as a bathroom by a homeless encampment just to the right of the box.

Figure 9



Photo by L.M. Johmann © 1998

Guadalupe River - San Jose, CA **November 1998**
Low flow. Looking across the river channel at a vagrant encampment about two hundred and fifty yards north of Coleman Ave. A mattress, sleeping bag and articles of clothing can be seen scattered all over the area.

Figure 10



Photo by L.M. Johmann © 2002

Guadalupe River - San Jose, CA **May 11, 2002**
Low flow. Looking downstream (north) from the old Hillsdale Ave. Bridge at the series of rock weirs installed in the area in 1998. Arrow shows a vagrant encampment just downstream of the last weir. The encampment includes: a tent, tarp, lounge chairs a box bathroom. Complaints have been filed against this encampment on numerous occasions. There is another one directly on the opposite bank and yet another on the east side of the Hillsdale Ave. Bridge.

Figure 11



Photo by L.M. Johmann © 1998

Guadalupe River - San Jose, CA

November 1998

Homeless encampment toilet right on the river bank about 100 yards downstream of the old Julian Street Bridge. Despite frequent complains about pollution and health hazards these people are causing, the city has done little to remedy the problem.

Figure 12



Photo by L.M. Johmann © 1998

Guadalupe River - San Jose, CA

November 1998

View of the trash and garbage left by the vagrant encampment just up the bank from where the fish trap was discovered approximately 200 yards north of Coleman Ave.

Figure 13



Photo by L.M. Johann © 1998

Guadalupe River - San Jose, CA **November 1998**
Low flow. Looking downstream approximately 200 yards north of Coleman Ave. The photo shows the partial reconstruction of the shopping cart trap less than two hours after it was removed following finding the dead salmon.

Figure 14



Photo by L.M. Johann © 1998

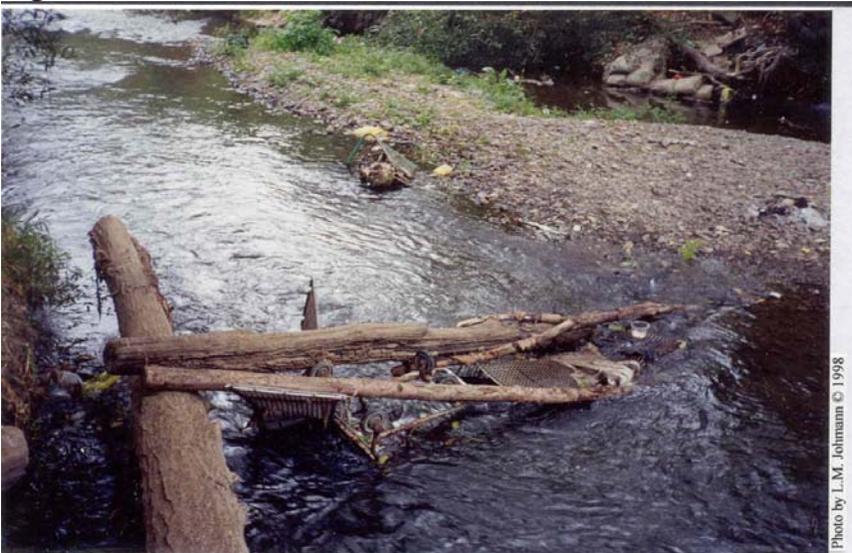
Guadalupe River - San Jose, CA **November 1998**
Low flow. Looking downstream approximately 200 yards north of Coleman Ave. The CDF&G Warden examines the dead salmon and the fish trap. Unfortunately the warden has to cover two counties so there is very little he can do to stop this illegal poaching and pollution of the river. Numerous complaints have been filed with the police and city officials about the vagrant encampments along the river. Daily sweeps should be made, if necessary, to rid the river corridor of these illegal encampments, poachers and polluters.

Figure 15



Guadalupe River - San Jose, CA **November 1998**
Low flow. Looking downstream about two hundred yards north of Coleman Ave. The area on both sides of the river is littered with trash and garbage from a vagrant encampment. A shopping cart fish trap was constructed completely across the river to capture salmon. In examining the trap, a dead salmon was found in one of the carts and floated free when the trap was dismantled. The trap was removed and the CA Dept. of Fish & Game Warden was called.

Figure 16



Guadalupe River - San Jose, CA **November 1998**
Low flow. Looking downstream about two hundred yards north of Coleman Ave. The area on both sides of the river is littered with trash and garbage from a vagrant encampment. A shopping cart fish trap was constructed completely across the river to capture salmon. In examining the trap, a dead salmon was found in one of the carts and floated free when the trap was dismantled and it was recovered for evidence. An outfall can be seen in the background, which is apparently used for washing and bathing as there was soap and shampoo bottles discarded in the area.

Exhibit 2

DECLARATION OF ROGER CASTILLO

I, ROGER CASTILLO, declare the following:

1. I submit this declaration on behalf of the Guadalupe-Coyote Resource Conservation District (GCRCD). The facts stated herein are known personally to me.

2. I am 43 years old. I was born, raised, and have lived in the San Jose area all of my life. I currently reside at 1596 Ivy Creek Circle, San José, California.

3. I have been active in efforts to restore waterways in Santa Clara County for over two decades. I started the Silichip Chinook Salmon and Steelhead Restoration Group, a grassroots group organized under the umbrella of the Institute For Fisheries Resource. I do extensive volunteer work for the GCRCD and the Western Waters Canoe Club. I also work on an outreach program – in collaboration with Larry Johmann, GCRCD, Don Bernard, Silichip Chinook Salmon & Steelhead Restoration Group, and other volunteers – aimed at educating individuals about non-point source pollution and the connection between clean water and the health of wild Chinook salmon populations in the Guadalupe River.

4. I have attended a number of classes on fluvial geomorphology, including Dave Rosgen's classes in Applied Fluvial Geomorphology and River Restoration, and Dr. Bill Annable's and Dr. Chester Watson's Intermediate class in Fluvial Geomorphology and River Rehabilitation. I also have received a certification under the Steelhead Trout Education Program or (STEP).

5. I am a primarily self-taught naturalist and urban wildlife expert. I have spent thousands of hours following fish migration patterns and documenting population rises and declines over the past thirteen years. I also have devoted much time and energy

to documenting watershed patterns in the Guadalupe River. My activities include: (1) monitoring stream and river changes, effects of pollution on a river system, and effects of flash run-off on nesting areas; (2) photographing, videotaping, and otherwise documenting salmon runs; (3) documenting habitat loss in spawning and holding areas; and (4) studying how flood projects are implemented and their short- and long-term effects on river ecology.

6. I have been a regular visitor to the Guadalupe River since 1970. When I was a young boy, I frequented the Guadalupe watershed from Helix Road off Camden Avenue, to Hillsdale Road off Almaden Expressway and Almaden Avenue, and further downstream to Hedding Road.

7. I travel to the Guadalupe River 10 to 20 times every month to boat and fish. In addition to frequenting the Guadalupe River, I have been a regular visitor to Coyote and Stevens Creeks for the past 20 years. I continue to visit the creeks at least once every month. During my visits I have observed numerous homeless people living on the riverbanks in well-established encampments on the Guadalupe River, Coyote Creek, and Los Gatos Creek (creeks). I estimate that up to several hundred homeless individuals currently live in encampments along the creeks.

8. In late October 2002, I observed a number of homeless encampments on the Guadalupe River under bridges and on gravel beds in the middle of the river. Near the encampments, I observed tons of garbage and feces in and out of the river. The park rangers acknowledged that some of the homeless had been there for three years.

9. In late October 2002, I also observed a homeless person building his camp out of plywood and other materials by the New Julian Bridge. The homeless person admitted to stealing some of his building material from a nearby construction site.

10. On September 5, 2003, I set out to document some of the homeless encampments. I observed a homeless person tunneling into the riverbank in an effort to conceal his duffle bag along the high water mark of the Guadalupe River, just below and downstream of Old Julian Bridge. This was the same individual I had seen stacking concrete slabs along the bank of the Guadalupe River three weeks earlier. I observed many more encampments further downstream of Old Julian Bridge, near or at Railroad Bridge, continuing to Coleman Road, and onward to Hedding Street. In the past I have been chased, followed and yelled at on several occasion by homeless living in these areas. It is a particularly violent and dangerous reach. People have been shot, mugged, beaten, and set on fire as they slept throughout this reach. Much of the violence has been drug related.

11. I conducted another field survey along the Guadalupe River on September 10, 2003. I videotaped an encampment located 80 yards downstream of Trimble Road Bridge, on the east bank alongside a construction site. *See* Figure 2.¹ The encampment consisted of three similarly constructed structures located on the same east bank. Each structure included a tent/lean-to placed on top of a platform situated in a tree, and a ladder used to access the structure. *See id.* The bases of the platforms were six-feet off the ground. *See id.* I observed a great deal of garbage thrown into the Guadalupe River from the elevated structures. *See* Figure 3.

¹ I have provided captions for all the figures attached to my declaration, which describe the scene as I perceived it.

12. During the same field survey, I found two more encampments downstream from Trimble Street Bridge. The second encampment was 90-yards downstream of the encampment located near the Trimble Road Bridge. *See* Figure 4. This encampment was constructed in the same manner as the first camp, but was more hidden. *See id.* As with the previous encampment, the area was strewn with garbage. *See* Figure 5. The third encampment was located 120-yards downstream of Trimble Street Bridge. The third camp was constructed in the same manner, but even more concealed than the previous camps. I photographed a bicycle parked and leaning against the foundation of one of the structures in the third encampment. *See* Figure 6.

13. As part of the September 10, 2003 field study I interviewed Mr. Matthew Miranda, a construction consultant from Anderson Pacific Engineering Construction. He told me he was well aware of the encampments, and that they had been there for two years. He said he had called the police on several occasion because of fights that had erupted in the camps and escalated to the point of jeopardizing nearby construction workers. He also told me of other concerns stemming from hypodermic needles found in the area. Mr. Miranda told me these same homeless individuals had to be rescued from this site at first rain in 2002. They had to be pulled from the trees because high flows trapped them in middle of the night.

14. On September 18, 2003, I surveyed Coyote Creek under the Capital Expressway Bridge. I observed couches and a bed set up on the channel's edge. *See* Figures 7, 8. Across from the couches I observed clothing and equipment hanging from a clothesline that had been erected. *See* Figure 9. Thirty-feet from the couches I observed

another encampment. *See* Figure 10. Due to the dense vegetation and presence of homeless individuals, I did not feel safe venturing any farther by myself.

15. One of my greatest concerns regarding the presence of homeless along the creeks is that they negatively impact the fragile Chinook salmon and steelhead trout populations. The homeless deplete salmon and trout populations through direct take. They use illegal methods of fishing that are prohibited under the California Fish and Game Code, such as blocking the river to impede fish passage, and snagging or netting fish trying to spawn over a nest.

16. In October of 1995, I observed two to three homeless encampments under the Old Julian Bridge on the Guadalupe River. Homeless individuals had set up a barbeque and fresh fish bones and fillets were on the ground. I spoke to two individuals who said they caught and sold chinook salmon from the river for money. I explained to them that the salmon were spawning in these rivers and creeks and that the men should not fish. The men became hostile, so I quickly left.

17. In October of 1996 I regularly observed homeless people catching fish by the New Julian Bridge. A channel 5 television news crew interviewed a homeless person who commented that homeless fish because they need something to eat.

18. In November 1998, Lawrence Johmann and I found a shopping cart trap set in the Guadalupe River. We found a dead Chinook salmon in one of the carts. A Department of Fish and Game (DFG) warden helped us remove the carts from the river.

19. On March 15, 2002, I spent several hours cleaning and surveying Coyote Creek near the Capital Expressway and Creek Crossing Road. I found a number of shopping carts lined up below two outfall pipes. The carts were being used to trap fish. I

removed the carts from the creek and temporarily placed them in a six-foot deep gulch so they would be hard to reuse.

20. When Gary Molle, President of GCRC, and I returned to the same location on Coyote Creek on March 22, 2002 the carts had been reset in the creek. *See* Figures 11, 12. Mr. Molle contacted the Santa Clara Valley Water District and City of San José, but neither agency was willing and/or able to take corrective action. So, Mr. Molle and I spent 2 ½ hours removing the carts. We placed the carts in the same gulch as before. *See* Figure 13. During the same season, Mark Emstal, DFG warden, also found a large trap that had been assembled using shopping carts and wire downstream from the area where Mr. Molle and I removed the traps.

21. The homeless also negatively impact the salmon and trout populations and overall health of the creeks by polluting the water in the creeks. The homeless defecate and dump refuse directly into the creeks, which degrades the overall water quality.

22. These problems continue to grow as more homeless setup encampments along the creeks. Homeless people who have lived on the creeks for several years tell other individuals where to camp and fish. This information sharing leads to new encampments being established along the creeks, which in turn increases the direct pollution and depletion of fish in the creeks.

23. I declare under penalty of perjury of the laws of the State of California and the United States of America that the foregoing is true and correct and that this declaration was executed on January 11, 2005 at 1596 Ivy Creek Circle.

Respectfully submitted,

Dated: January 11, 2005



Roger Castillo

Figure 1. “Tent dug into banks of the Guadalupe River.” Image taken from videotape recorded during field survey on September 5, 2003.



Figure 2. “Tent/lean-to shelter placed on top of an elevated platform. Arrows point to platform and ladder used to access dwelling.” Image taken from videotape recorded during field survey on September 10, 2003.



Figure 3. “Garbage and debris on banks of the Guadalupe River near a homeless encampment.” Image taken from videotape recorded during field survey on September 10, 2003.



Figure 4. “Lean-to dwelling in a homeless encampment along the Guadalupe River.”
Image taken from videotape recorded during field survey on September 10, 2003.



Figure 5. “Trash and debris near a homeless encampment on the Guadalupe River.”
Image taken from videotape recorded during field survey on September 10, 2003.



Figure 6. “Bicycle leaning against tree near a homeless encampment along the Guadalupe River.” Image taken from videotape recorded during field survey on September 10, 2003.



Figure 7. “Couch in a homeless encampment located on Coyote Creek.” Image taken from videotape recorded during field survey on September 18, 2003.



Figure 8. “Couch and other items located along Coyote Creek.” Image taken from videotape recorded during field survey on September 18, 2003.



Figure 9. “Clothesline near homeless encampment located along Coyote Creek.” Image taken from videotape recorded during field survey on September 18, 2003.



Figure 10. “Homeless encampment taken under the Capital Expressway Bridge at Coyote Creek.” Image taken from videotape recorded during field survey on September 18, 2003.



Figure 11. “Elaborate shopping cart trap set in Coyote Creek below two outfall pipes.”
Image taken from videotape recorded on March 22, 2002.



Figure 12. “Elaborate shopping cart trap set in the Coyote Creek below two outfall pipes.” Image taken from videotape recorded on March 22, 2002.



Figure 13. “Shopping carts temporarily placed in gulch along Coyote Creek to prevent their reuse to catch fish.” Image taken from videotape recorded on March 22, 2002.



Exhibit 3

DECLARATION OF MONDY LARIZ

I, MONDY LARIZ, declare the following:

1. I submit this declaration on behalf of myself as a resident of the county of Santa Clara. The facts, stated herein, are known personally to me.
2. I am 57 years old, and have lived in the San Jose area since 1954, except for a ten-year period from 1979-1989. I reside at 2353 Venndale Avenue, San Jose, California.
3. I am currently a self-employed consultant working as the program manager for the Lake Merced project under contract to California Trout, Inc. a non-profit organization. I also do volunteer work for the Urban Creeks Council, Flycasters, Inc., the Stevens and Permanente Creeks Watershed Council, the Federation of Fly Fishers, Monterey Bay Trout and Salmon Project, Steelhead Trout Education Program, and the Lake Merced Task Force. I represent some of these organizations on matters related to the Santa Clara Basin Watershed Management Initiative, and serve as a member of the Santa Clara Valley Water District's Environmental Advisory Committee.
4. My degree is in Electronic Engineering. I was a sales Engineer for a high-tech firm for 23 years, then I ran my own sales company for 8 years before selling it. I have attended numerous classes on stream preservation and restoration, including Dr. Ann Riley's class on Urban Stream Restoration and Geomorphology, and have attended numerous stream and salmonid restoration conferences and seminars.
5. In 1991, I became involved with Flycasters, Inc; later I became the conservation chairman, serving until 2003. As conservation chairman, I led two to four creek cleanups a year on Coyote Creek and Los Gatos Creek. In 1992 we adopted a reach of Los Gatos Creek, which we still maintain.

Declaration of Mondy Lariz

6. In 2002, I was a team captain for the Santa Clara Audubon Societies creek-mapping project. I led a team of about 12 volunteers as we mapped the entire creek below Anderson Dam for invasive plants. I personally covered all but about two miles of the creek.

7. I have been observing conditions on the Coyote Creek since 1992. I have also spent time on the Guadalupe River and Stevens Creek since the early 1990s.

8. In 1999, I conducted a cleanup on Coyote Creek and videotaped the conditions near Watson Park in San Jose in an effort to get the city to help us keep it clean. I also began working with the trash subcommittee of the Santa Clara Valley Urban Run-off and Pollution Prevention Program (SCVURPP) to call attention to trash conditions in our creeks.

9. I have been observing homeless encampments along our waterways since I started visiting these streams. I have seen encampments of various sizes in most areas of these creeks, but the downtown area always has the largest population of homeless people. I estimate that there are more than 100 people living along Coyote Creek under bridges or in the thick *arundo donax* bushes found along most of the creek. *See* Photographs 2, 3 (Nov. 2002). I believe these homeless camps are causing serious pollution problems along our waterways, and pose a serious health and safety threat to themselves and others working in and around stream corridors.

10. For the past ten years, I have organized and participated in numerous clean-ups under the Santa Clara Valley Water District's (SCVWD) Adopt a Creek Program and helped other organizations as a volunteer as well, the most recent was September 18, 2004 on Stevens Creek. *See* Photograph 1. During these clean-ups it is not uncommon to remove tons of trash and garbage. The garbage we have collected includes everything you could imagine, from cigarette butts to auto parts. One of the most common, large items is the shopping cart. This is the carrier of choice for the homeless, and they often abandon them in the creek bed or place

them there intentionally as a makeshift weir for poaching fish or bridges to cross the creek. I have also found torn clothing or blankets and, all too often, human excrement.

11. Since the 1990's, I have seen a steady increase in the clusters of homeless encampments in and around bridges and over crossing on Coyote Creek. The closer to town the larger the encampments seem to be.

12. Many encampments are becoming small villages with dozens of people living in them. They use old tents, tarps, cardboard boxes, wood, and even sheet metal structures for shelter, or they take up residence under bridges. I have even seen large *arundo donax* plants fashioned into dens. *See* Photographs 2, 3.

13. At a meeting of the trash subcommittee of SCVURPP on November 4, 2002, I asked a representative of the City of San José what the police were doing about these camps and was shocked when I was told that if they find a camp they push as much of the trash as they can into the creek so it can wash away! *See* Santa Clara Valley Urban Runoff Pollution Prevention Program, "Trash Ad Hoc Task Group Meeting Summary Report" (Nov. 4, 2002) (Attachment 1).

14. In October of 2001, while mapping Coyote Creek for invasive plants, I also "marked" many of the homeless encampments I found using GPS equipment and these files were provided to the Santa Clara Valley Water District. I am not aware of any action that has been taken in response to this data, I revisited many of these sites in June of 2004 and I noticed that many of these same sites are still active.

15. I have seen homeless folks defecating along Coyote Creek on a few occasions and reported one large field toilette site to the trash sub-committee because I found it ironic that it was situated behind the San Jose Police Mounted Police Stables.

16. While it is well known to all responsible agencies that the homeless problem exists and is increasing in our creeks, no measures to permanently solve the problem have been implemented. I am not aware of any meaningful plan for protecting these people, the public and our natural resources.

17. The only success stories I am aware of are that in the early 1990's the San Francisquito Creek Watershed Council (CRMP) worked with Olaf Liddums, Director of Urban Ministries, the Palo Alto Human Relations Commission, and Police to effect some change in their watershed. They were able to provide both transitional and more permanent super low cost housing as an alternative. They have a place called Clara Mateo located in the Veterans Affairs hospital that helps, and the Craig Hotel. The Streamkeeper, James Johnson, told me that the key was that Palo Alto made this issue a high priority.

18. More recently I found out about a project called Dignity Village a mobile tent city in Portland, Oregon. This project started with some homeless people camping on public land in 2000. It is still around and has grown with support from the city.

19. I declare under penalty of perjury of the laws of the State of California and the United States of America that the foregoing is true and correct and that this declaration was executed on January 11, 2005 at 2353 Venndale Avenue, San José, California.

Respectfully submitted,



Dated: January 11, 2005

Mondy Lariz

Declaration of Mondy Lariz

Figure 1. Trash along Stevens Creek (Sept. 18, 2004).



Declaration of Mondy Lariz

Figure 2. Exterior of an *Arundo donax* shelter along Coyote Creek (Nov. 2002).



Figure 3. Interior of an *Arundo donax* shelter along Coyote Creek (Nov. 2002).



Attachment 1

**Santa Clara
Valley Urban
Runoff Pollution
Prevention Program**

Date/Time: November 4, 2002, 1 pm – 3 pm

Place: San Jose Water Pollution Control Plant
Administration Building

Who Attended: See attached sheet

**Trash Ad Hoc Task Group
Meeting Summary Report**

Key Issues Discussed:

- Meeting Business- Paul Randall provided the status of action items from the last Trash AHTG meeting.
 - Program staff obtained trash assessment data collected by Regional Board staff for six Bay Area watersheds. Data was collected during FY 01-02 and includes Stevens and Permanente Creeks.
 - Chris Rummel will copy the County's Enforcement Program Plan and make it available to Program staff. The Program Plan will be used as a resource for documenting existing trash management practices and associated ordinances.
 - Program staff contacted Kristine Atkinson, California Department of Fish and Game (CDFG), to clarify permitting procedures for conducting a trash clean-up event within a stream reach. CDFG indicated that a Streambed Alteration Agreement is required to remove trash which has the potential to increase turbidity or significantly alter the stream bed, bank, or channel. Currently, CDFG is developing appropriate language for distribution to the general public. Prior to any trash clean-up event, CDFG requests the public to contact them at (707) 944-5520 to obtain proper guidance on the necessary requirements.
 - Paul Randall contacted Margaret Rands of the Santa Clara County Waste Reduction and Recycling Technical Advisory Committee (TAC) to schedule a time for presenting the goals and objectives of the Program's Trash AHTG. Paul's presentation will occur at the next TAC meeting on November 14.
 - The standardized reporting format for documenting existing trash management practices was distributed to the Management Committee and Trash AHTG during the week of October 23. Each Co-permittee has identified a staff member responsible for completing the survey. Program staff has requested that each Co-permittee submit a completed survey no later than November 13.
- Status Report on Documenting Existing Trash Management Practices- The content of the Existing Trash Management Practices Survey was discussed. To improve the current survey structure and format, AHTG members provided general comments and suggestions. Questions relating to the level of detail expected (to answer each question) were raised. It was agreed that detailed answers should be provided when additional information existed (e.g., providing multiple frequencies for an activity based on land use). Skip Lacaze asked if the TAC is participating in completing the survey. Skip Lacaze mentioned that this group can answer several survey questions. Paul Randall mentioned that he will describe the Program's trash efforts at the next TAC meeting on November 14 and request TAC members to complete the survey to assist in the Program's efforts. Kathy Wells stated that the County District Attorney's office can assist in completing the survey. Other AHTG members mentioned that others within their organizations can assist in providing information. Phil Bobel stated that he can not commit to specific trash management activities since specific control measures require the approval of others. Paul Randall stated that each Co-permittee has been asked to submit a completed survey no later than November 13. Phil Bobel asked how the responses would be

processed. John Fusco stated specific trash management activities would be compiled within the Work Plan. Phil Bobel suggested that the format be useful in demonstrating the Co-permittees efforts. He also mentioned attaching each Co-permittee response to the Work Plan.

- Draft Trash Assessment Memorandum- Paul Randall provided a draft copy of the SCVURPPP Pilot Implementation and Testing of the RWQCB Rapid Trash Assessment to meeting participants. He asked the AHTG to approve the draft memorandum prior to the next BASMAA Monitoring Committee (November 6). Trish Mulvey suggested leaving the memorandum as a draft (until the end of 2002) so BASMAA monitoring committee members and others could respond or provide additional comments. Arleen Feng, Alameda Countywide Clean Water Program, agreed since the memorandum will have regional implications. It was agreed that the memorandum will be distributed as draft on November 6. The BASMAA Monitoring Committee will be asked to provide any comments to Paul Randal no later than December 1, 2002. Any comments will be incorporated prior to the next Trash AHTG meeting. The Final Trash Assessment Memorandum will be provided to the Management Committee as information and submitted (to the Regional Board) as an attachment to the Trash Work Plan. Specific questions regarding the draft memorandum were discussed. James Downing asked if it was possible to provide clarification regarding the classification of trash as a pollutant or pollution. He also mentioned that he is interested in classifying trash by type and source. Skip Lacaze and Arleen Feng agreed that a mechanism for distinguishing two different trash sources (illegal dumping versus litter) is needed. James Downing asked if definitions were available. Skip Lacaze mentioned that the Keep America Beautiful campaign (www.kab.org) has identified seven main sources of litter. Program staff agreed to review the website for information on litter control strategies.
- Draft Outline of Trash Work Plan- - Paul Randall provided a draft outline of the Trash Work Plan. It was mentioned that the initial evaluation of trash management practices and polices (#4) would identify holes. AHTG members agreed that additional information (if available) should probably be submitted in the future. Phil Bobel agreed that we need to document what we are doing and improve if documentation is not adequate. It was also suggested that the process of evaluating existing information should be determined. Phil Bobel stated that we should also highlight the best and brightest ideas or practices relating to existing trash management activities. Arleen Feng suggested reviewing BMPs (for operational practicability) since they could be specific to each jurisdiction. The development and implementation of trash assessment protocols and procedures (#6) was discussed. It was suggested that the Work Plan include a section which identifies the seven sources of litter or trash hot spots. It was agreed that if the litter sources or trash hot spots were known, we could implement BMPs which address the sources. In addition, Phil Bobel stated that the Work Plan should identify what creative actions are being completed by the cities. It is thought that identifying current practices would help prevent unrealistic expectations. AHTG members acknowledged that an education component should exist to address litter or trash problems. Kathy Wells suggested contacting Rick Stanton, Litter Pickup TAC to see if the Trash AHTG could integrate their efforts with the TAC.

AHTG Action Items:

- Contact P/IP Work Group regarding the County's free distribution of 200 tarpaulins (to garbage haulers) on November 18. Free distribution will occur at the Guadalupe landfill.
- Consider proposing the development of a "How to Conduct a Litter Pickup Guide for Streams" as a FY 03-04 discretionary P/IP project.
- Contact Fish & Game to determine if the Program can obtain a countywide one-year permit for trash clean-ups.
- Contact designated persons responsible for completing the Existing Trash Management Practices Survey to ensure they have the latest version of the survey.
- Contact P/IP Work Group to determine if a School Outreach Program exists or will be developed for Earth Day 2003.
- Obtain Keep America Beautiful's list of identified sources of litter.
- Contact Rick Stanton, Litter Pickup TAC at (408) 277-3208 to learn about the TAC's efforts relating to litter.

Location	San Jose Water Pollution Control Plant Administration Building	
Date	November 4, 2002- 1:00 pm to 3:00 pm	
Name	Affiliation	<u>Attendance</u>
Alan Jones	Roads & Airports, Fleet and Maint. Mgr	
Bill Grimes	Sr. Env. Compliance Spec. @ Parks & Rec	
Brett Calhoun	SCVWD	
Chris Rummel	DEH. Solid Waste and LEA Section	x
Lisa Fleming	SCVWD	
Ed Morales	SCVWD- Public Information Office	
Elizabeth Neves	Creek Connections Action Group	
Irene Salazar	Anti-Graffiti and Litter Program	
Jack Judkins	San Jose – ESD	x
James Downing	San Jose – ESD	x
Jan O'Hara	RWQCB	
Jeff Daniels	San Jose	
Jim Ervin	San Jose- ESD	
Jim Letiner	San Jose – Transportation	
Kathy Wells	DA's Office, Santa Clara County	x
Kay Moss	SCVWD	
Kristy McCumby-Hyland	Sunnyvale	x
Lisa Rose	Graffiti Abatement & Anti-Trash Campaign	
Margaret Rands	County Integrated Waste Mgmt. Program Mgr	
Mondy Lariz		
Paul Randall	Program Staff - SCVURPPP	x
Phil Bobel	Palo Alto	x
Roberto Medina	Palo Alto	
Randy Turner	Creek Connections Action Group	
Rene Eyerly	West Valley Communities	
Josephine Byer	Santa Clara County- Roads and Airports	
Roger Lee	Santa Clara	
Dave Staub	Santa Clara	x
Skip Lacaze	San Jose- ESD/IWM	x
Steve Homan	Santa Clara County	
Arleen Feng	ACCWP	x
Steve Moore	RWQCB	
John Fusco	Program Staff - SCVURPPP	x
Trish Mulvey	CLEAN South Bay	x