

The Avocet

The Newsletter of the Santa Clara Valley Audubon Society

May 1998

Big Legal Victory For SCVAS---and Local Birds

by Craig Breon

We are tempted to simply steal the phrase once used by a Boston paper after an unlikely World Series victory for the Red Sox---“WE WIN!!” In reality, the story is more complicated, but the message is the same. In June, 1997 SCVAS launched its first home-grown lawsuit. Last month that suit was settled, giving us nearly all we could have hoped for, and more than we were expecting to achieve at the outset.

The suit involved a large development along Coyote Creek---the best riparian habitat left in the County---and directly across the creek from the Coyote Creek Riparian Station (CCRS). The landowners, owners of McCarthy Ranch in Milpitas, proposed a mixed residential, industrial, and commercial development on approximately 225 acres of former agricultural land. Up to 2000 units of housing were envisioned.

The development was approved by the Milpitas City Council in May of 1997.

Our chapter had three serious concerns regarding the proposal. First, the impacts to Coyote Creek from the introduction of so many people, and especially their pets, to a sensitive wildlife area. Second, the impacts to the research and continuing health of CCRS. Third, the loss of Burrowing Owl habitat on the property and regionally.

We first went through the normal channels, attempting to alter the project in ways that would reduce those impacts. We commented on the project's Environmental Impact Report (EIR), noting that CCRS' activities were barely mentioned and that the presence of so many humans, cats, and

dogs in the area could seriously disrupt the value of the nearby habitat for wildlife. We submitted scientific documents detailing the damage cats in particular can wreak on birds, amphibians, reptiles, and mammals, especially in isolated areas of high habitat value amidst an otherwise urban setting.

That didn't get us very far. As most people who have participated in local land use decisions will know, once a project is favored by a city government, it becomes very hard to derail that train. Our comments were dismissed with little remark, and no substantial changes to the project resulted, despite the fact that we offered what we felt were reasonable mitigation measures to reduce those impacts.

We then participated in hearings before the Milpitas Planning Commission and the City Council. We were joined in our opposition by some important allies. CCRS, increasingly worried that the development could eventually lead to their demise, added useful concerns about the impacts of the project on their research and the local ecosystem. The City of San Jose and Browning Ferris Industries (BFI) also vigorously opposed the project. Both

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General Membership Meeting
Wednesday May 20
“Midway Atoll and the Albatross”
with Jim and Sue Liskovec
Palo Alto Cultural Center
Newell & Embarcadero Rds.
7:30 Hospitality 8:00 Program

More than a million albatross return each November to nest on Midway Atoll. No longer a U.S. Naval base, the islands are now managed by the US Fish and Wildlife Service as a National Wildlife Refuge. The Oceanic Society is conducting monitoring studies on seabirds, Hawaiian monk seals, and spinner dolphins to ensure their reproductive success as the main island opens for tourism. Long-time SCVAS members Sue and Jim Liskovec spent ten days on this tiny Pacific island last November as seabird study participants. Please join us to ride the Pacific winds with the albatross of Midway and get a fabulous “birds-eye view” of this newest birding destination.

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VIEW FROM THE OFFICE

by Garth Harwood, SCVAS Chapter Manager

AUDUBON EDUCATION DAY: "THIS IS THE LIFE!" So said the 5 1/2-year-old son of SCVAS member Sybil Cramer, beaming up at her during the March 21 event held at McClellan Ranch Park. Sybil called in just to say "Thanks!" to all the good folks who helped put the event together. "Absolutely wonderful," she said of the event, which brought over 250 people to the park for a day spent with Audubon volunteers, wildlife displays from such groups as Wildlife Rescue and the Bay Area Amphibian & Reptile Society, and of course, the birds.

The latter came through in extraordinary fashion. Nesting WESTERN BLUEBIRDS in and around an Audubon nestbox, and a threesome of early BULLOCK'S ORIOLES (one of which was the earliest reported in the county this season), were seen throughout the day, but the show was stolen by a very-rare-for-the-park flyover by an OSPREY which was promptly chased off by two SHARP-SHINNED HAWKS.

MARCH WAS A RARE MONTH FOR BIRDS at McClellan Park in general. A record 58 species were observed over course of the month, and five of those species had already shown interest in the park's set of 24 nestboxes at month's end, with nests already constructed by WHITE-BREASTED NUTHATCHES and CHESTNUT-BACKED CHICKADEES as well as the above-mentioned bluebirds.

Chickadee-titmouse follies have kept Audubon staff and visitors to the office entertained for a month or more as each attempts to occupy the nestbox right outside the front-office window. Inspection of the interior recently revealed layered strata of the distinctive materials preferred for nest-building by each species. Lately, it seems the titmice have gained the upper hand, and as I write this column the pair are zipping in and out of the box with great determination and occasional beakful of fresh nest material. Come on by and have a look!

IT'S BABY BIRD SEASON and that usually means we'll receive a flood of calls about stranded or injured birds, which we refer to wildlife care experts. Precious time is often lost while the finder waits for us to pick up our messages, so here's a quick list of local help centers that you can clip and save:

SAN JOSE AREA: Wildlife Center of Silicon Valley (408) 283-0744
PALO ALTO AREA: Wildlife Rescue (650) 494-7283
MORGAN HILL AREA: Wildlife Education & Rehab Center (408) 779-9372

Remember, many fledgling birds remain flightless, or nearly so, for their first few days out of the nest. Although they are very vulnerable during this time, they are also receiving vital attention from their parents, which they will lose if well-meaning humans assume them to be orphaned and pick them up. If in doubt, call the wildlife experts at the above numbers for advice on how to proceed before intervening.

VOLUNTEER TAXIDERMIST(S) NEEDED . . . to prepare stuffed birds and/or study skins for our education programs! Over the past year or two we have amassed a small collection of interesting birds in our freezer. Most recently, concerned citizens brought us a SHARP-SHINNED HAWK from Palo Alto (apparently killed by slamming into a window while in pursuit of a prey bird) and a female MERLIN from the Cambrian Park area of San Jose (a possible case of secondary poisoning following pigeon eradication). There's something magical about seeing the real thing, that reaches kids (and others) in a way that no amount of color slides can ever do. Know anybody with time, an arcane skill, and a generous spirit? Please call!

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General meetings are open to the public. Board of Directors meetings are open to all members. Call the office at (408) 252-3747 for times and directions.

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SCVAS is the chapter of the National Audubon Society for Santa Clara County.

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Rare Bird Alert: 415-681-7422

May 1998 Calendar

On all field trips carpool and share expenses. Bring binoculars, field guides, warm clothing, lunch (optional on half-day trips) and liquids.

****Denotes Field Trip**

****Saturday May 2, 9:00 AM.** Full day. Mines Rd. and vicinity. Leader: Don Schmoltdt (510)215-1910. This year we'll try something different by starting in Del Puerto Canyon then moving west to San Antone Valley, ending up in Livermore. From I-580 go east over Altamont Pass, follow 580 south to Interstate 5. Go south on I-5 to Patterson exit and go west on Del Puerto Canyon Rd.; meet at first pullout (look for Don's "BAJA OWL" license plate). Highlights include possible Costa's Hummingbird, Phainopepla, Lewis' Woodpecker, Rufous-crowned Sparrow, Lawrence's Goldfinch.

****Wednesday May 6, 9:00 AM.** Half day. Riparian birding at Anderson Dam. Leader: Ed Gustafson (408)377-1123. From Hwy 101 in San Jose take Cochrane Rd east; meet at parking lot at base of Anderson Dam. Carpool from meeting place if necessary. Lunch optional; rain cancels.

Wednesday May 6, 7:30 PM. Bay Area Bird Photographers features John Cang and his multimedia program entitled "A Year in the Life of a Wildlife Photographer." Lucy Evans Baylands Interpretive Center, E. Embarcadero Rd., Palo Alto.

****Sunday May 10, 7:00 AM.** Half day. Birding by ear at upper Grant Ranch Park. Leader: Grant Hoyt (650)969-7892. 3 miles of up-and-down hiking through oak grassland with a host of challenging songs to identify, including Horned Lark, House Wren, Lazuli Bunting and Bullock's Oriole, plus Lark, Chipping and Grasshopper Sparrows all possible. Meet at Hall's Valley Lake to carpool if necessary (see Apr. 18 directions). Bring fluids, snacks, and sturdy hiking shoes.

Tuesday May 12, 9:30 AM The Eve Case Bird Discussion Group will meet at the home of Pat and Jean Dubois, 17150 Buena Vista Dr. Los Gatos (408)395-4264. Topic: Western Bluebird.

****Saturday May 16, 8:00 AM.** Half day. Alum Rock park. Leader: Dave Cook (408)871-9552. From Hwy 101 in San Jose take Alum Rock Ave east to park; meet at last parking lot near Youth Science Institute. Lunch optional.

****Sunday May 17, 8:30 AM.** Half day. Charleston Slough. Leader: Ann Verdi (408)2667-5108. From Hwy 101 in Mt. View take San Antonio Rd. exit north, go 1/4 mile to Terminal Way parking area. Beginners especially welcome for good viewing of shorebirds, herons, egrets, breeding ducks, possible Black Skimmers.

****Saturday May 23, 8:00 AM.** Skyline Ridge OSP. Leader: Bob Reiling (408)253-7527. Meet at parking lot in southeast corner of intersection of Skyline Blvd. and Alpine Rd. Moderately strenuous walking with some elevation change. Highlights: possible Chipping Sparrow, Black-throated Gray Warbler, Western Tanager.

****Wednesday May 27, 8:00 AM.** Half day. Montebello Open Space Preserve. Leaders: Rosalie Lefkowitz (650)494-6358 and Rita Colwell (650)949-1869. From I-280 in Palo Alto take Page Mill Rd. west for approx. 7 miles and meet at large Montebello OSP parking area on left. Last year we found Grasshopper, Chipping, and Black-chinned Sparrows, Lazuli Bunting, Lawrence's Goldfinch, Black-throated Gray Warbler, and even a Pileated Woodpecker. Be prepared for possible cold, wet, foggy conditions. Moderate but hilly walking. Lunch optional.

****Saturday May 30, 8:00 AM.** Half day. Montebello OSP. Leaders: Rosalie Lefkowitz and Rita Colwell. See Wed. May 27 for directions.

Saturday June 6, all day. Palo Alto Breeding Bird Count. Please contact your section leader from 1997 if you intend to participate this year.

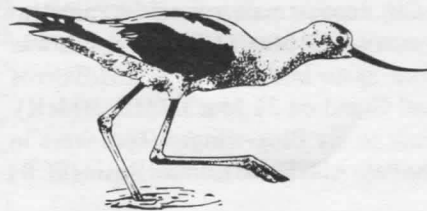
****Sunday June 7, 8:30 AM.** Russian Ridge OSP. Leader: Shirley Gordon (408)996-9863. Meet at Preserve parking lot at NW corner of Skyline Blvd (Hwy 35) and Page Mill/Alpine Rd. Highlights: Grasshopper Sparrow, Lazuli Bunting. Lunch optional.

Saturday May 9, 9 - 3.

International Migratory Bird Day S.F. Bay National Wildlife Refuge, Alviso

Visit the thriving Alviso wetlands and Coyote Creek's rich riparian corridor to celebrate bird migration in the Western Hemisphere. SCVAS, Coyote Creek Riparian Station, California Native Plant Society and other local groups are sponsoring the local version of this event, featuring bird walks, field trips, a native plant sale, birdbox building workshop, bird-banding demonstration, poster contest, and other activities for kids and adults.

Birders, conservationists, and nature lovers should enjoy the day's activities promoting a greater awareness of the South Bay's outstanding habitat resources. Don't miss this great opportunity to learn more about migratory birds and their habitat needs, and to share your appreciation of this marvelous ecosystem with friends from the bird and wildlife-loving community.



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Field Notes

by Bill Bousman

Loons through Waterfowls

Two **Common Loons** have remained on the percolation ponds at Los Gatos Creek CP with observations on 8 Mar (MJM) and 17 Mar (AME). This continues to be an exceptional winter for **Red-necked Grebes** with single birds at New Chicago Marsh on 5 Mar (SCR), a bird on Shoreline Lake on 9 Mar (SBT *fide* SCR), and one on Salt Pond A1 in Mountain View on 22 Mar (JMe). An **American Bittern** seen in the Mountain View Forebay on 8 Mar (LCh, MJM, SCR) is likely the bird seen there earlier in the winter. Three **Cattle Egrets** seen at the Arzino Ranch in Alviso on 28 Mar (SCR) and one over the Alviso EEC on 31 Mar (BMcK *fide* MMR) were the only reports in March and well down from previous years.

Three **White-fronted Geese** that have wintered locally, all immatures, were found again during March. The first, at Hellyer CP, was seen again on 2 Mar (SCR) and 10 Mar (MJM). The second, at the Palo Alto Duck Pond, was seen at least through 24 Mar (v.ob.). The third, found earlier in the winter on the Moffett Field GC, was seen again on 24 Mar (MMR). At least eight free-flying **Ross' Geese** were seen at the "Goose Farm" in Morgan Hill on 8 Mar (MJM). Winter flocks of **Wood Ducks** appear to disperse in February and March and the 28 counted on Uvas Reservoir on 8 Mar (MJM) probably represent the last of the wintering birds. **Eurasian Wigeon** were well reported this March. Single males were found in ponds near Los Esteros and Grand in Alviso and nearby in the New Chicago Marsh on 1 Mar (VT, DF). A pair of birds were at the Sunnyvale Baylands Park on 8 Mar (MJM, SCR, LCh), another male was off the Palo Alto estuary on 24 Mar (SCR), and a male was seen again in Alviso near Los Esteros and Grand on 31 Mar (MMR, BMcK). Four to six **Blue-winged Teal** were in the Palo Alto Flood Control Basin (FCB)

6-8 Mar (v.ob.) and some birds were still found there on 29 Mar (JMe). A pair was also found at the Sunnyvale Baylands Park on 8 Mar (MJM, SCR). **Greater Scaup** and **Surf Scoters**, displaced by the rains in February, were found in many locations in March and apparently have not had significant difficulties surviving away from their typical salt water habitats. **White-winged Scoters**, much less expected at our inland location, have also remained through March. The group on Salt Pond A12 in Alviso totalled 17 on 1 Mar (MJM) and ten birds remained by 24 Mar (SCR). Three birds were on Shore-

*Displaced sea ducks
continued to be found inland
and a Black Scoter
was added to the list*

line Lake on 2 Mar (MMR) and the male found last month on the Campbell percolation ponds was seen again on 8 Mar (MJM) and 17 Mar (AME). A female or immature male **Black Scoter** was found on Shoreline Lake on 1 Mar (JMe) and was seen at least through 9 Mar (v.ob.) and then again 29-31 Mar (JMe, BMcK). A male **Barrow's Goldeneye** was found on Shoreline Lake 8-12 Mar (LCh, SBT *fide* SCR, WGB). **Hooded Merganser** numbers dropped quickly in March with three on the San Jose-Santa Clara Water Pollution Control Plant (WPCP) ponds on 1 Mar (CO *fide* MJM), two on Ogier Avenue ponds on the same day (AME), and two at the Oka percolation ponds on 8 Mar (MJM, LCh). Two female **Red-breasted Mergansers** were found on Almaden Lake on 1 Mar (AV) and one was on Lake Cunningham on 29 Mar (AV, CH), both inland freshwater lakes where this salt-water merganser is seldom found.

Raptors through Skimmers

Formerly, **Ospreys** were an uncommon migrant in March, but now it appears that we have a mixture of part-time residents as well as migrating birds. Two birds seen regularly during the winter at the Parkway Lakes were recorded 1-5 Mar (AME, SCR). A bird seen at Calero Reservoir on 5 Mar (SRo) may also be one of the group. Other birds, possible migrants, include a male over Summit Ridge on 6 Mar (RWR, FV), one over the Guadalupe River at Alviso on 9 Mar (MMR), single birds along the Guadalupe River near the airport on 20 Mar (NY) and 28 Mar (MMR), one over McClellan Ranch on 21 Mar (RWR), one on Salt Pond A8 on 24 Mar (TR, JH), and a male over Stevens Creek CP on 29 Mar (MJM). A **Bald Eagle** at Calero Reservoir on 11 Mar (RWR *et al.*) was perhaps the last sighting of the bird that had wintered here. **Eight Lesser Yellowlegs** were counted in a large flock of Greater on 28 Mar in flooded fields northwest of Zanker and Hwy 237 (SCR). This is a record count for

this rare spring migrant. Two basic-plumaged **Red Knots** were seen in the Palo Alto estuary on 24 Mar (SCR) and are very rare in the spring. The immature **Lesser Black-backed Gull** that has wintered at Lake Cunningham was seen again 4-8 Mar (MMR, AV) and 29-31 Mar (AV, CH, BMcK). A 1st-winter **Glaucous Gull** was seen near the Coyote Creek Riparian Station (CCRS) waterbird pond on 31 Mar (BMcK). Our resident **Black Skimmers** shifted from Charleston Slough to the Palo Alto estuary early in the month. The maximum number seen has held steady at thirteen (m.ob.).

Owls through Goldfinches

A **Short-eared Owl** was seen on the outer levee at Charleston Slough on 7 Mar (RC) and two birds were seen there on 20 Mar (FV). Migrant **Rufous Hummingbirds** were noted at Ed Levin CP on 16 Mar (SCR) and 28 Mar (AME),

Field Notes *continued*

and at the Sunnyvale WPCP on 28 Mar (SCR). A **Lewis' Woodpecker** was seen in Henry Coe SP on 21 Mar (JY, AL), an area where they are rarely found. A bird was at this same location in November. The **Eastern Phoebe** wintering in Shady Oaks Park in San Jose was seen there again on 1 Mar (MJM) and 4 Mar (MMR). A **Cassin's Kingbird** was seen along Hwy 152 near Bloomfield Road on 1 Mar (DR, RCa) and one was seen along San Felipe Road where they nested last year on 29 Mar (SRo, KVV). It will be interesting to see if this bird is found more widely this spring. A **Marsh Wren** at Coit Lake in Henry Coe SP on 21 Mar (JY, AL) is the first record for the park and well away from typical locations. A pair of **American Dippers** above Twin Creeks on 29 Mar (JMa, JLa, TGr) was in an area where they've nested in the past. A **Blue-gray Gnatcatcher** on Stevens Creek below L' Avenida on 3 Mar (WGB) was probably the same bird found there in November and January. The first spring arrival was at Almaden-Quicksilver Park on 22 Mar (AV). A pair of **Phainopepla** were found north of San Antone Junction on 27 Mar (MMi), an area where they are believed resident. The **Yellow Warbler** wintering near the Environmental Education Center in Alviso was seen again on 20 Mar (SCR) and 28 Mar (AME). A male **Western Tanager** found at Stanford on 24 Mar (TGr) was just starting to show red on its head. This bird had undoubtedly wintered somewhere nearby---our first migrants show up in the last week in April. Numbers of **White-throated Sparrows** have been low this winter. One continues at a Los Gatos feeder (JD) and a single bird was found along Coyote Creek above Hellyer CP on 29-30 Mar (MJM). **Lawrence's Goldfinches** were found along Pacheco Creek at San Felipe Road on 29 Mar (SRo, KVV), our only records since early January.

RARITIES: Please drop me a note: Bill Bousman, 321 Arlington Way, Menlo Park, CA 94025, or: bousman@merlin.arc.nasa.gov

Honey Lake Trip Draws Raves

What a great time we had on the Susanville/Honey Lake field trip on March 14 - 15 led by Bob Hirt. He had been to Japan and the Far East during the week, returning to the Bay Area Friday---the same Friday he and we drove up to Susanville! What a guy. This was our first Honey Lake trip, but Bob's 22nd.

And many thanks to shotgun-rider Calvin, who should be named "Eagle Eye" for his spectacular spotting ability while riding in Bob's vehicle. How does he do that? Also to Bob's son John for flushing a **Great Horned Owl** for us, between lizard and snake chases.

Outstanding birds seen by the group, in approximate order of excitement for us, were: **Sage Grouse**, our main objective and a lifer for us, on their lek; **Red-naped Sapsucker**, a trip record and also a lifer for us; **Sandhill Crane**; **White-headed Woodpecker**; **Pinyon Jay**; **Townsend's Solitaire**; **Prairie Falcon**, nesting at Eagle Lake; and **Mountain Bluebird**. Other birds seen by our car but not by the entire group included **Barrow's Goldeneye** and **Snow Goose**.

On Mapes Lane we came upon a pickup truck pulled over, with a Sonoma County couple looking through a scope at a treetop bird. "What are you looking at?" we asked. "**Northern Shrike**," was the reply. We carefully checked out the mask to confirm that it didn't wrap around the area



Observers: Bill Bousman (WGB), Rita Caratello (RCa), Richard Carlson (RC), Les Chibana (LCh), Jean Dubois (JD), Dan Froehlich (DF), Al Eisner (AME), Tom Grey (TGr), Janet Hanson (JH), Caralisa Hughes (CH), Jolene Lange (JLa), Amy Lauterbach (AL), Mike Mammoser (MJM), John Mariani (JMa), Bert McKee (BMcK), John Meyer (JMe), Mark Miller (MMi), Chris Otahal (CO), Bob Reiling (RWR), Don Roberson (DR), Mike Rogers (MMR), Steve Rottenborn (SCR), Steve Rovell (SRo), Tom Ryan (TR), Scott Terrill (SBT), Vivek Tiwari (VT), Frank Vanslager (FV), Kent Van Vuren (KVV), Ann Verdi (AV), Nick Yatsko (NY), and James Yurchenco (JY).

above the bill. Fantastic---another lifer. We also had a pair of **Bald Eagles** doing 'figure eight' circles in the sky near Lake Almanor.

---Bob and Sharon Lutman

Great trip! Beautiful blue skies, no wind, shirt-sleeve weather and great looks at the birds. In addition to the birds mentioned by the Lutmans, we had amazingly close looks at two **Rough-legged Hawks** near Susanville. The **Lewis' Woodpeckers** at the cemetery were plentiful and beautiful to watch. They were making a strange sound that Bob Hirt said isn't mentioned in his field guides.

While birding outside Susanville, we came upon Stewart Anderson, president of the local Audubon group. They have 85 members. He was quite talkative! If you're up there, you might give him a jingle---he used to live in Woodside, and long ago lived in Brooklyn, where SCVAS' esteemed president, David McIntyre, used to live, and where I might add, I was born. Three Brooklynites birding together at Honey Lake---a pretty scary human migration!

Bob is a phenomenal leader. He did an excellent job of putting carpools together, among other things. I highly recommend this trip to anyone who has the endurance for it.

-----Gloria LeBlanc

Mono Lake Bird Count Volunteers Needed

For ten of the last fifteen years we have conducted a breeding bird count at Mono Lake and we're looking for 1998 participants. Last year 12 counters braved an unseasonal snowstorm to tally 117 species, a new Count record. Two new nesting species, Blue Grouse and Vesper Sparrow, were recorded for the Count, which is centered at the town of Lee Vining in Mono County.

This year's Count will be held on June 13. To participate, contact Emelie Strauss at: emelie@stillwatersci.com or (510) 540-8749. Summary data on nesting species is compiled by Point Reyes Bird Observatory to document declining riparian and songbird species in California.

Big Legal Victory

continued from Page 1

of them had nearby land uses that produced unpleasant odors. For San Jose, those were their sewage sludge ponds, where treated sewage dries in the sun. For BFI, it was a composting facility. Both facilities faced drastic, and expensive, consequences if nearby residents complained about their odoriferous activities. All these project opponents agreed that residential uses on the property were inappropriate but that commercial and industrial development would be suitable.

Despite this strong opposition, the Milpitas Council, citing the city's need for housing, approved the project. A month later, they were sued by SCVAS, San Jose, and BFI. The suits would eventually be joined as one. This triumvirate had a range of legal arguments (though Audubon's were perhaps the strongest) and considerable resources to fight in court. Settlement discussions began within two months.

For SCVAS, this was a unique experience. While the Chapter had joined in lawsuits before, the suits were generally of a Bay-wide nature, and we were allied with a host of other environmental organizations, with distant attorneys arguing the case. This time, we filed on our own and put both our reputation and our financial resources into the dispute. In addition to our own Advocate, handling his first case, SCVAS hired an accomplished local land use attorney, Peter Uzzi.

The following months saw our chances for a favorable settlement continually improve. We developed good arguments and felt confident that the papers we filed with the court would give us a decent opportunity to win the case, despite the fact that judges defer greatly to city council decisions in such situations. Settlement negotiations heated up in early winter with our court date approaching.

Twice it seemed that a good settlement was imminent, and twice our court date was delayed to make room for further studies and negotiations. Twice, however, the settlement seemed to fall through. However, the third time was a

charm, and a proposed settlement went to the judge in mid-April.

The Final Results

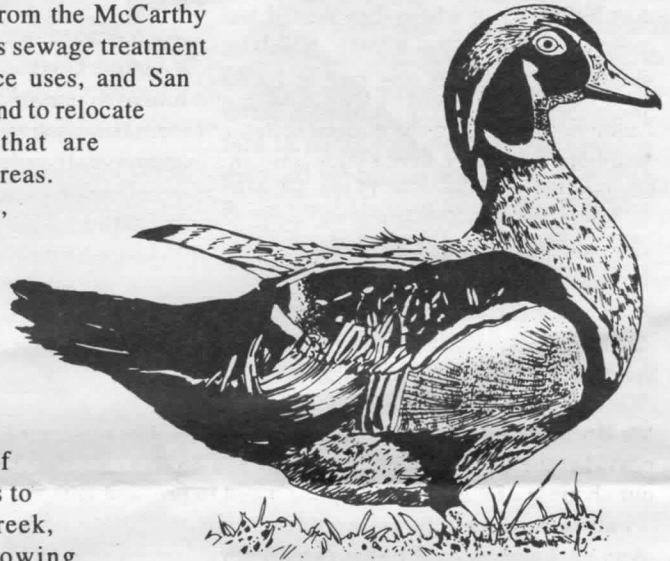
In the end, there will be no residential development on the McCarthy Ranch property. Most of the land will be developed in industrial and commercial uses, with far fewer impacts for Coyote Creek. In addition, six acres will be purchased from the McCarthy family by San Jose's sewage treatment plant for open space uses, and San Jose may use that land to relocate Burrowing Owls that are forced off other areas.

Furthermore, Audubon will be repaid their attorney's fees and costs, and thus the chapter will be made whole after expending tens of thousands of dollars to protect Coyote Creek, CCRS, and Burrowing Owls.

To inject a measure of reality into this scenario, we must acknowledge that the great majority of the site will succumb to

development. Such is the direction of Valley-level land in our region.

Nonetheless, we should be proud that our organization is willing to stand up for the preservation of birds, wildlife, and habitat in our region. It is a tribute to our Board of Directors, staff, volunteers, and our supportive members that our organization has both the resources and the will to achieve such goals.



Wood Ducks are shy and sensitive to disturbance. They are occasionally found in secluded riparian areas even in populated portions of the county

County Park Lakes, Creeks Clogged--- Clean-up Crews Needed on May 16

El Nino is being blamed for any and every unusual natural occurrence these days, but there's no doubt about the effect winter storms have had on local waterways. Storm runoff has clogged many creeks and streams, so the Santa Clara County Parks and Recreation Department and Creek Connections Action Group have scheduled a clean-up day on Saturday May 16, from 9 AM - 12 noon at three locations. Volunteers are needed to help clean park streams and lakeshores at the following sites:

- South County---Coyote Creek-Coyote Lake Co. Park
- Central County---Coyote Creek - Coyote Hellyer Co. Park
- North County---Los Gatos Creek - Vasona Lake Co. Park

Participants should bring leather-palmed gloves, a hat, sunscreen, personal water supply, and wear long pants and long sleeves. Morning refreshments and a light lunch will be served at each work site. To sign up as a volunteer, call Parks and Recreation at (408) 354-6583.

Why Litigate?

If you've ever railed against frivolous lawsuits, sleazy lawyers, or the outrageous and unjust vagaries of our legal system, please take note of the Page 1 article on Audubon's recent legal victory protecting habitat along Coyote Creek in Milpitas. Take note and take heart.

It's a small victory, perhaps, but one to be immensely savored. In the cold, hard, pragmatic overview of industrial and residential development dominating our local landscape, the preservation of six acres of prime riparian habitat and the prevention of 2000 residential units to be built near the creek might seem paltry, but to those of us fighting to protect decent wildlife habitat in the South Bay, the outcome is very significant.

This is a victory borne out of passion, hard work, sound judgment, willingness to take risk, and commitment: Our Environmental Advocate's commitment to protect bird habitat in Santa Clara County via educational, political, and even legal means; the Board of Directors' commitment to uphold long-standing Audubon ideals; and the enormous commitment demonstrated by you, our loyal members, who have given your time and money over the years to enable our Chapter to undertake this landmark effort.

Naturally, money played a huge role in this matter. SCVAS began fundraising more aggressively a few years ago in order to hire an Environmental Advocate. Attorney Craig Breon, eschewing more conventional, higher-paying employment, joined us and soon became a dynamic presence on the local environmental scene. The Board listened carefully last Spring as Craig explained that even with a strong case, highly capable attorneys, and the support of other plaintiffs, we could lose this proposed lawsuit and thousands of dollars in legal fees and expenses. We decided that the gifts, donations and bequests received in recent years had provided the Chapter with the means to take this calculated risk (Craig estimated our chances of winning as "50-50") and to proceed with the lawsuit.

To say that we're pleased with the outcome would be an understatement. The main goal was to prevent residential development next to Coyote Creek; the protection of six additional acres of riparian habitat was touch-and-go for a long time, and the reimbursement of legal fees was not guaranteed by any means. Eleventh-hour snags and complications involving the disparate positions among the various plaintiffs and defendants caused nerve-wracking delays. A partial victory seemed the likeliest result for a number of weeks.

While the final outcome is indeed gratifying, this is certainly not a time to gloat. We utilized the legal system to achieve a goal we desperately cared about, not to crush our opponents. The McCarthys and the City of Milpitas were simply looking out for their own interests, which they had every right to do. In this instance, we felt that filing suit was the most effective method to protect habitat, and it worked.

In twelve years as an SCVAS volunteer, Board member, Officer, and newsletter editor, I've heard many impassioned arguments pro and con regarding environmental lawsuits. Ardent conservationists have angrily resigned from the SCVAS Board because we *wouldn't* sue, and equally ardent birders have denounced litigation as "un-Audubon" and better left to groups like the Sierra Club. Like many Audubon members I'm terribly concerned about local habitat loss and its impact on birding, but extremely cautious about anything involving the courts.

I am confident that SCVAS has not gone lawsuit-crazy. It is clear, however, that despite widely held perceptions to the contrary, that the legal arena need not be viewed as a tar pit of entanglement, financial loss, and injustice. We have accomplished something directly in line with our mission statement, and we proudly stand behind this legal victory as a benefit to our members and the local community of conservation-minded birders and nature enthusiasts. We do not seek to frequent law offices and courtrooms on a regular basis, but neither will we turn from the courts if our commitment, judgment, and resources enable us to achieve the goal of protecting and preserving local bird and wildlife habitat.

-----Grant Hoyt

Bob Barnes' Field Trip Leaders Workshop

Audubon California's Bob Barnes is offering a Field Trip Leaders' Workshop at the Kern River Preserve on July 10, 11, 12 & 13, free of charge. The workshop is open to Audubon and other non-commercial field trip leaders, commercial trip leaders, and anyone else who is interested.

Using the rich variety of habitat in and around the Kern River area, Bob will share his experiences as a trip leader and provide guidance for those seeking to improve their field trip-leading skills for groups of all sizes. Although much of the focus will be on Kern County, general field trip leader strategies and organizational skills applicable to all trip situations will be covered.

Workshop participants will visit multiple sites and learn year-round birding opportunities for future birding trips. Some of the birds expected in and around Kern River Preserve are Yellow-billed Cuckoo, Willow Flycatcher, Indigo Bunting, Summer Tanager, Lawrence's Goldfinch, and possibly Red-eyed Vireo. Topics to be presented for discussion include Birding Throughout the Year; Kern County Rare Birds & Hotspots; Other Natural History Opportunities, and more.

Local checklists, maps, motel guides, self-guided birding booklets, birding by kayak guides and other materials will be provided. Bob will also take participants to Kern River's Fish Hatchery, the Kern Valley Museum, and other local sites.

Audubon-California's 110-acre Kern River Preserve is part of California's single largest, contiguous riparian forest: 14 miles dominated by cottonwoods and red willows, located in the southern Sierra Nevada of north-central Kern County. Within fifteen minutes of the Preserve are pinyon/juniper and Joshua tree woodlands; within one hour are Giant Sequoia groves. And within one hour and fifteen minutes is Butterbreed Springs, a well-known high desert oasis and vagrant bird trap.

Anyone interested in improving their field trip leading skills with one of the area's most knowledgeable and enthusiastic birders should take advantage of this free opportunity. To sign up contact Bob Barnes at PO Box 953, Weldon, CA 93282; phone---(760)378-2531
email---bbarnes@lightspeed.net

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Wanted: Your Important Bird Areas

The American Bird Conservancy and Partners in Flight are presently seeking input regarding the establishment of Important Bird Areas (IBAs) in California. An IBA is a site providing essential habitat to one or more species of breeding or non-breeding birds. Conceived by BirdLife International as a global program, IBAs have been designated on several continents, and have recently gained recognition in the U.S.

A site meeting any one of the following four criteria may qualify as an IBA. These criteria are not absolute; other factors such as relative importance to other sites may be weighed in making final site selections:

◆ Category 1: Sites regularly provide habitat for significant numbers of one or more endangered, threatened, or vulnerable species. This would include individuals classified as globally endangered, threatened, or vulnerable (BirdLife Int'l. list); species endangered, threatened, or candidates for listing under the U.S. Endangered Species Act; or species on the Partners in Flight *WatchList*.

◆ Category 2: Sites regularly providing habitat for an endemic species, or species with restricted ranges, such as the California Gnatcatcher, a species with an overall range of less than 50,000 square kilometers.

◆ Category 3: Sites regularly providing habitat for an assemblage of species restricted to a biome or a unique/threatened natural community type. This would include relatively large areas capable of supporting significant bird populations, especially of those bird species with particular habitat requirements, e.g.: Saguaro National Park, Arizona as an IBA for the Sonoran Desert Biome.

◆ Category 4: Sites where birds concentrate in significant numbers when breeding, in winter, or during migration. Corridors and "bottlenecks" like raptor migration sites with large seasonal totals of birds, refer not only to terrestrial sites, but to topographic features that funnel birds through those sites.

Recognized sites will be non-regulatory, but presumably influential when habitat use decisions are made. Locally the Don Edwards S.F. Bay National Wildlife Refuge has been evaluated and recognized as a Global IBA. Audubon California is actively involved in the state's nomination process for IBAs. Nominations are due by mid-June. If you are interested in nominating a particular area for IBA status, contact Kathy Gilbert, Audubon California, 555 Audubon Place, Sacramento, CA 95825; phone (916)481-5440; E-mail: kgilbert@audubon.org or Bob Barnes (see address/phone/E-mail at end of Workshop story, pg. 7).

We invite you to join the National Audubon Society and its Santa Clara County chapter (SCVAS). To join, please complete and mail this form with payment to: **SCVAS, 22221 McClellan Road, Cupertino, CA 95014.**

Santa Clara Valley Audubon Society Membership: (Check one)

Subscriber \$12 Supporter \$25 Donor \$35 Patron \$50 or more

Members receive *The Avocet* newsletter. Make check payable to SCVAS.

OR

National Audubon Society Membership: (Check one)

new members \$20 Membership renewal \$35

Members receive *Audubon* magazine and *The Avocet* newsletter. Make check payable to National Audubon Society.

Donation: SCVAS greatly appreciates your tax-deductible donation. Your gift helps fund Audubon's birding, education, and conservation programs.

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