

**CALIFORNIA COASTAL COMMISSION**

North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, California 94105-2219  
(415) 904-5260 or (415) 904-5200 FAX (415) 904-5400



# Th10

## **NORTH CENTRAL COAST DISTRICT DEPUTY DIRECTOR'S REPORT**

*For the  
May Meeting of the California Coastal Commission*

### **MEMORANDUM**

Date: May 13, 2014

**TO:** Commissioners and Interested Parties  
**FROM:** Dan Carl, North Central Coast District Deputy Director  
**SUBJECT:** *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the North Central Coast District Office for the May 2014 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the North Central Coast District.

## **DETAIL OF ATTACHED MATERIALS**

### **REPORT OF IMMATERIAL AMENDMENTS**

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
A-2-MAR-10-022-A1 Attn: Carissa Brader	Request to amend Special Conditions 3.A.3, 4, 5, 9.C.1, and 10.A.1 and 10.A.2 to previously approved CDP to develop agriculture operations consisting of sheep grazing, vegetable and fruit production, vineyard to supply on-site brandy distillery, equipment and brandy barns, equipment shed, greenhouse, hopyard shelter and sheep shelters, farmhouse and garage, affirmative agricultural easement, and supporting infrastructure (utilities, water wells and tanks, septic system and leach field)	17990 - 0 Shoreline HWY, Marshall 06041-106-220-20

### **REPORT OF EXTENSION - IMMATERIAL**

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
A-2-PAC-07-022-E5 Attn: Simon Weng	CDP A-2-PAC-07-022 was approved by the Coastal Commission on March 7, 2008, and provided for the construction of a nine-unit three story condominium building with a 10,575 square-foot subterranean parking garage	1567 - 0 Beach BLVD, Pacifica 06081-016011190

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NORTH CENTRAL COAST DISTRICT OFFICE

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**NOTICE OF PROPOSED PERMIT AMENDMENT****Date:** May 1, 2014**To:** All Interested Parties**From:** Nancy Cave, North Central Coast District Manager  
Susan Craig, Supervising Coastal Planner (Central Coast District)**Subject: Proposed Amendment to Coastal Development Permit (CDP) A-2-MAR-10-022**  
Applicants: Tony Magee and Carissa Brader**Original CDP Approval**

CDP A-2-MAR-10-022 was approved by the Coastal Commission on April 11, 2013 and allows for agricultural operations on a 150-acre agriculturally-zoned parcel consisting of sheep grazing, vegetable and fruit production, and a vineyard to supply an on-site brandy distillery; construction of a brandy barn and equipment barn with attached shed, an open-sided hopyard shelter, two open-sided sheep shelters, and a greenhouse; a 3,165-square-foot farmhouse with attached 648-square-foot garage; and related infrastructure including five water tanks, a water well, septic system and leach field, fire hydrants, propane tanks, and sewer, water, and power lines; a habitat conservation deed restriction area and conveyance of an affirmative agricultural conservation easement.

**Proposed CDP Amendment**

CDP A-3-MAR-10-022 would be amended to modify: **1)** Special Condition 3.A.3 to allow, without Executive Director review and approval, repair and maintenance of agricultural development on the site that already exists or has been specifically authorized by CDP A-3-MAR-10-022; **2)** Special Conditions 4,5 , and 10.A.1 to allow fencing and continued livestock grazing in certain locations within the habitat conservation area, specifically grazing in the wetland and riparian corridor/stream buffers and associated livestock fencing at the border of these habitat areas and their associated buffers; **3)** Special Condition 9.C.1 to allow a trained non-biologist to survey the work sites for California red-legged frog and Western pond turtle each day prior to construction activities, and; **4)** Special Condition 10.A.2 to allow repair and maintenance of certain development in the habitat conservation area that already exists or has been specifically authorized by CDP A-3-MAR-10-022, without the need for a CDP amendment. The Commission's reference number for this proposed amendment is **A-2-MAR-10-022-A1**. See Attachment A for the proposed changes to the above conditions.

**Executive Director's Immateriality Determination**

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations (CCR), the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

CCR Section 13252 provides for repair and maintenance activities that require a CDP because they involve a risk of substantial adverse environmental impact. Specifically, Section 13252 requires a CDP for repair and maintenance activities to facilities or structures that are located in sensitive locations, such as within an environmentally sensitive habitat area (ESHA), in any sand area, within 50 feet of the edge

## **NOTICE OF PROPOSED PERMIT AMENDMENT**

**CDP A-2-MAR-10-022 (Magee and Brader)**

**Proposed Amendment A-2-MAR-10-022-A1**

**Page 2**

of a coastal bluff, or within 20 feet of coastal waters or streams. The proposed amendment eliminates the need for Executive Director review and approval of the repair and maintenance of either existing agricultural development on the site or agricultural development authorized by CDP A-3-MAR-10-022. The proposed amendment also eliminates the need for a CDP amendment for specified repair and maintenance activities located within the required habitat conservation area, but located outside the environmentally sensitive habitat itself. Approval of the proposed amendment to eliminate the need for either Executive Director or CDP approval of the repair and maintenance of specified existing and authorized development is consistent with the provisions of Section 13252 of the Commission's regulations, which only require CDPs for repair and maintenance activities located within ESHA or within 20 feet of coastal waters or streams. Because the specified repair and maintenance activities will be located outside of those sensitive locations, the repair and maintenance of the specified existing and authorized development will not result in significant impacts on coastal resources.

The proposed amendment allows grazing and associated livestock fencing to continue to take place in the habitat setback areas that have historically supported grazing, consistent with Marin County Land Use Plan Natural Resources Policy 4(c) authorizing grazing and other agricultural uses in areas already used for such activities. The Commission's senior ecologist has reviewed the proposed amendment language and is in agreement with the proposed changes to Conditions 4, 5, and 10.A.1.

Condition 9.C.1 requires a qualified biologist to be onsite each day prior to the start of construction activity, specifically to ensure protection of California red-legged frog and Western pond turtle. The proposed amendment would require a qualified biologist to be onsite during all initial ground disturbance and removal of vegetation material at each work site, but would allow for a biologist or a trained representative (i.e. a trained non-biologist, probably a member of the construction team) to survey the work sites and animal barriers each day prior to the beginning of construction activities. The proposed amendment matches the biological protection requirements/protocols that will be employed during construction activities to the requirements/protocols typically used by the U.S. Fish and Wildlife Service. The Commission's senior ecologist has reviewed the proposed amendment language and is in agreement with the proposed changes to Condition 9.C.1.

### **Coastal Commission Review Procedure**

The CDP will be amended as proposed if no written objections are received in the North Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on May 15, 2014 in Inverness. If three Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

**If you have any questions about the proposal or wish to register an objection, please contact Susan Craig in the Central Coast District office at (831) 427-4863.**

Attachment A: Proposed Amendment Language

**PROPOSED AMENDMENTS TO CDP A-2-MAR-10-022  
(CDP A-2-MAR-10-022-A1)**

- 3.A.3.** Repair and maintenance, ~~subject to Executive Director review and approval~~, of the development listed in A.1 and A.2 above, and of the following existing development in the Agricultural Resource areas:
- a. Farm track road north of the riparian corridor
  - b. Farm track road south of the riparian corridor
  - c. Hop yard
  - d. water well, pump, and portable generator
  - e. 4,950-gallon water tank
  - f. Surface irrigation hoses and water lines between the water tanks, wells, and hop yard
  - g. Livestock fencing and gates

*(A.1 The following development, as authorized by this coastal development permit north of the riparian corridor as generally depicted on Exhibit 2:*

- a. Vineyard and drip irrigation system*
- b. Compost pile or pit adjacent to the vineyard*
- c. Buried wastewater/septic system disposal pipeline*
- d. Underground septic system leach field*
- e. Water well, pump, and portable generator*
- f. Buried water lines between the well and the farmhouse*
- g. Surface irrigation hoses between the water well and the vineyard*
- h. Two 4,950-gallon water tanks*
- i. Aerial power line between the existing power pole adjacent to the pond and the farmhouse*
- k. Drainage and erosion control measures as required by Special Conditions 11 and 12*
- l. Landscaping required by Special Condition 1)*

*(A.2. The following development as authorized by this coastal development permit south of the riparian corridor and generally depicted on Exhibit 2:*

- a. Sheep grazing in fenced pastures*
- b. Permanent and temporary/portable livestock fencing and gates*
- c. Two 4,950-gallon water tanks*
- d. Two 1,500 sq. ft. sheep shelters*
- e. One 1,800 sq. ft. hop yard shelter*
- f. Surface water lines and irrigation hoses connecting the water well, water tanks, livestock watering troughs, and the existing hop yard*
- g. Drainage and erosion control measures as required by Special Conditions 11 and 12*
- h. Landscaping required by Special Condition 1)*

- 4. Grazing Limitations.** Consistent with the Applicant's proposal, no grazing of sheep or other livestock is allowed to occur in any of the wetlands, stream and riparian corridors, ~~or their respective setback areas~~, as generally depicted on Exhibit 6 of this report.

5. **Livestock Fencing.** Consistent with the Applicant's proposal, all fencing shall be installed on the property ~~outside the habitat conservation deed restriction area~~ at the border between the habitat areas and the habitat buffers as required by Special Condition 10 and generally depicted on Exhibits 2 and 4 and shall be wildlife friendly to allow for the continued movement of wildlife through and across the property, including to the blue-line stream. All wetlands, and riparian areas, ~~and their buffer areas~~ south of the blue-line stream depicted on Exhibits 2 (page 1) and 4 that are located adjacent to the proposed sheep grazing pastures shall be protected by livestock fencing at the border between the wetland and the riparian areas and their respective buffer areas. The height and wire-grid spacing of the fence will prohibit sheep in the grazing pastures from entering these habitat areas while allowing deer and other animals to move over or under such fences.

9.C.1 A qualified biologist shall be on-site ~~once each day prior to the start of construction activity during all initial ground disturbance and removal of vegetation material at each work site and will~~ to survey the current work sites at those times, including material and vehicle storage areas and the protective barriers installed around construction and storage areas. The biologist, or a representative that the biologist has designated and trained, shall survey the work sites and animal barriers each day prior to the beginning of construction activities. If California red-legged frogs are found within the work areas, all development within the affected areas shall cease until after ~~and~~ the biologist or trained representative shall contact the U.S. Fish and Wildlife Service and consults as to the required course of action. If Western pond turtles are found within work areas, all development within the affected areas shall cease until after the biologist or trained representative contacts the California Department of Fish and Wildlife and consults as to the required course of action.

10. **Habitat Conservation Deed Restriction Area**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the Habitat Conservation areas identified below and generally depicted on Exhibits 2 and 4 except for:

1. The following development, as authorized by this coastal development permit:

- a. An extension of an aerial power line from the existing power pole at the north side of the pond to the farmhouse
- b. A 600 sq. ft. greenhouse with portable generator and a one-quarter acre vegetable garden, all of which are located outside the required buffer areas set forth below
- c. Surface flexible irrigation hoses placed on the existing farm track providing access to the greenhouse and vegetable garden area
- d. Drainage and erosion controls measures consistent with the requirements of Special Conditions 11 and 12.
- e. Fencing at the border between the habitat areas and the habitat buffer areas, as described in Special Condition 5.
- f. Grazing in the habitat buffer areas, as described in Special Condition 4.

2. Repair and maintenance, ~~if authorized by a coastal development permit~~, of the development listed in Section 1 above, and of the following existing development in the Habitat Conservation areas:
- a. ~~Earthen dam and~~ Farm road on crest of earthen dam
  - b. Power pole and aerial power line
  - c. Pump shed (housing an electrical panel and meter, water pump, and pressure tank) on northern side of pond
  - d. Water tank at northern side of pond
  - e. Farm road providing access to greenhouse/vegetable garden site
  - f. Fencing and gates

Susan Craig  
Central Coast District Office  
California Coastal Commission  
mailto:Susan.Craig@coastal.ca.gov

May 9, 2014

**Re: Proposed Amendment CDP A-2-MAR-10-022 (Brader-Magee)**

Ms. Craig:

I am writing to object to the Executive Director's Immateriality Determination of the proposed amendment.

The staff report for the Marin County LUPA, under Commission review as agenda item ~~Th42~~ <sup>Th 10</sup> for May, 2014, states that:

- The LUPA retains the existing requirements for buffers around ESHA, 100 feet for wetlands and streams and a newly defined 50 feet for terrestrial ESHA, and also maintains that the uses allowed within buffers are only those that are allowed within the ESHA itself (p.7)
- In terms of buffers, the [existing] LUP requires 100 foot buffers around wetlands and streams, and the only allowed uses within the buffers are those that are allowed within the wetland/stream itself. (p.16)
- [T]he proposed LUPA allows for a reduction in the required buffer to an absolute minimum of 50 feet for both wetlands and streams, and no absolute minimum for terrestrial ESHA. (p.7)
- Allowable uses within the three types of ESHA mirror those allowed in the existing LUP and Coastal Act. ... within streams and riparian vegetation: necessary water supply projects, flood control projects and fish and wildlife improvement projects (p.7)

The proposed amendment would allow grazing of livestock in stream and wetland corridors (#4) and require fencing at the outer edge of the habitat area, rather than the outer edge of the habitat buffer (#5). This elimination of buffer protection for stream and wetlands is remarkably inconsistent with the existing LUP requirement and also the proposed update. (Attachment A, Notice of Proposed Permit Amendment, May 1, 2014)

Such a material change in the CDP should be processed as a material amendment.

Sincerely yours,

*B. Mitchell*

Bridger Mitchell  
PO Box 31  
Inverness, CA 94937

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**NOTICE OF PROPOSED PERMIT EXTENSION**

**Date:** April 30, 2014

**To:** All Interested Parties

**From:** Nancy Cave, North Central Coast District Manager *nk*

**Subject:** Proposed Extension to Coastal Development Permit (CDP) A-2-PAC-07-022  
Applicant: Simon Weng

**Original CDP Approval**

CDP A-2-PAC-07-022 was approved by the Coastal Commission on March 7, 2008, and provided for the construction of a nine-unit three story condominium building with a 10,575 square-foot subterranean parking garage at 1567 Beach Boulevard in Pacifica, San Mateo County.

**Proposed CDP Extension**

The expiration date of CDP A-2-PAC-07-022 has been extended by the Commission four times previously (to March 7, 2011, March 7, 2012, March 7, 2013 and March 7, 2014, respectively), and would be extended by one year to March 7, 2015. The Commission's reference number for this proposed extension is A-2-PAC-07-022-E5.

**Executive Director's Changed Circumstances Determination**

Pursuant to Title 14, Section 13169 of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that there are no changed circumstances affecting the approved development's consistency with the certified City of Pacifica Local Coastal Program and/or Chapter 3 of the Coastal Act, as applicable.

**Coastal Commission Review Procedure**

The Executive Director's determination and any written objections to it will be reported to the Commission on May 15, 2014 in Inverness, Marin County. If three Commissioners object to the Executive Director's changed circumstances determination at that time, then the extension shall be denied and the development shall be set for a full hearing of the Commission.

**If you have any questions about the proposal or wish to register an objection, please contact the North Central Coast District office.**

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**Memorandum****May 13, 2014**

To: Commissioners and Interested Parties

FROM: Dan Carl, North Central Coast District Deputy Director  
 North Central Coast District

Re: **Additional Information for Commission Meeting**  
**Thursday, May 15, 2014**

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>
Th12a	Marin County LC P Amendment Number LCP-2-MAR-13-0224-1 Part A (Marin Land Use Plan Update)	Ex Parte Communication, Amy Trainer, EAC of West Marin Ex Parte Communication, Jack Liebster, Brian Crawford, County of Marin Ex Parte Communication, Amy Trainer Correspondence, Pacific Legal Foundation Correspondence, John A. Becker Correspondence, Linda Emme Correspondence, Richard and Brenda Kohn Email, Jules Evens Email, Amy Trainer Email, John Kelly Email, Tim Stanton Email, Michael Sewell Correspondence, Christian C. Scheuring Email, Susan Burrows

**Note: 990 email comments substantially identical to this email comment were received. This email comment is provided as a representative sample of the 990 email comments. All of the 990 email comments substantially identical to this email comment are available for review at the Coastal Commission's North Central Coast Office in San Francisco.**

Correspondence, Jon Elam  
 Correspondence, West Marin  
 Environmental Action Committee

Correspondence, Kirk Wilbur  
Correspondence, Megan Isadore  
Email, Ione Conlan  
Email, Carol Smith  
Email, Thomas Baty  
Correspondence, Carol K Longstreth  
Correspondence, Catherine Caufield  
Correspondence, Bridger Mitchell  
Correspondence, Kirk Wilbur  
Correspondence, Louise Gregg  
Correspondence, David Lewis

**Th14a**

A-2-HMB-12-005 (Stoloski, Half Moon Bay)

Ex Parte Communication, Stanley Lamport  
Ex Parte Communication, Marc Gradstein  
Ex Parte Communication, Stan Lamport  
for applicant Stoloski  
Correspondence, Lennie Roberts  
Correspondence, John F. Lynch  
Correspondence, Donald Torre  
Correspondence, James Benjamin  
Correspondence, Kenneth Rosales  
Correspondence, Lennie Roberts  
Correspondence, Charise Hale McHugh  
Correspondence, Ralph Faust  
Correspondence, Stanley W. Lamport  
Correspondence, Paul Stewart  
Correspondence, Stuart Schillinger

**Th14b**

A-2-MAR-11-025 (Caltrans, Marin County)

Correspondence, Frank Dean  
Correspondence, Andy Peri  
Ex Parte Communication, Stefan Galves  
Correspondence, Danita Rodriguez

Th 12a

## FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Marin County LUP - EAC/ Trainer -Marin County LCP  
Amendment No. LCP-2-MAR-13-0224-1 Part A (Marin LUP Update).

Date and time of receipt of communication: May 12, 2014 10:00-10:30 a.m.

Location of communication: Santa Barbara

Type of communication (letter, facsimile, etc.): telecon

Person(s) initiating communication: Amy Trainer, EAC of West Marin 415 663 9392

EAC believes that Marin County's submittal is a complete rewrite of the certified LCP. So the Commission should look at both the chapter 3 policies as well as the certified land use plan.

The impacts of changing the definition of "parcel" to "legal lot", based on the County's own buildout analysis will result in additional development potential of 1,000,000 square feet. They have been trying to get the County to realize that this would open the door to development pressure that is antithetical to long term continuation of ag operations.

Right now the County is required to consider all contiguous parcels, under the new definition, that is they could consider. e.g. 1 400 acre dairy operation would be allowed 1 new farmhouse. Right now there is no provision for the intergenerational housing, so there is a new development category.

Under the rewrite, they could allow 129 houses x 7000 square feet per legal lot. When you add in the additional permitted principal use of up to 5000 square feet of commercial agriculture, its huge. They are not saying it shouldn't be allowed, but allowing as a principal use without appeal is an enormous amount of new development; no impact analysis has been done. This has the potential to change the character of Marin's agricultural production lands.

EAC fully supports young family farmers. Some new housing will be supported. This is a far reaching drastic change in how development is permitted in the ag production zone.

There are no findings to support what they are proposing. In April 2009, the Coastal Commission wrote a letter saying there have to be findings and analysis.

Also object to the change in the definition of agriculture. Right now is defined as agricultural production, pasturing, food and fiber. That zoning district is 2/3 of the Marin coastal zone. Farmhouse plus intergenerational housing and farmworker housing. In few or no cases would there be a right to appeal. For now, what is proposed is a limit of 27 units. They were not requiring the occupant to have anything to do with the farming operation. The staff report says they can allow whoever they want, they want to be very clear with the purpose of the housing. It may not have anything to do with the operation, violating 30241, 30242 and 30250, not minimizing conflicts between ag uses and urban. She believes that the current average size of farmhouses is 2000-3000 square feet.

She also stated that Marin commissioned an agricultural economic analysis in 2003, and its conclusions do not support what the rewrite would allow. They are concerned that there is another 500 square feet added to the 7000 square feet, concerned about high value estate development driving up land ownership costs. The report gives specific examples; on a 400 acre parcel, if you add a 7000 square ft residence, it adds a \$73.00 cost per acre. The point is that after the proposed improvements, all of the parcels have costs exceeding agricultural income. The higher level concern that these new definitions by right will open wide the door to new non agricultural development pressure; land costs will go up, and MALT is not going to have the capacity to keep up.

This is premature, inadequate environmental analysis, should be rejected and sent back to work out policies that actually achieve their intended purpose. Not salvageable unless the definitions of agriculture and parcel are retained as in the certified LCP.

May 12, 2014

/s/ Jana Zimmer

Th/2g

## FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Marin County LUP Marin County LCP  
Amendment No. LCP-2-MAR-13-0224-1 Part A (Marin LUP Update)

Date and time of receipt of communication: May 8, 2014 10:00 a.m. - 10:40 a.m.

Location of communication: Santa Barbara

Type of communication (letter, facsimile, etc.): telecon

Person(s) initiating communication: Jack Liebster, Brian Crawford, County of Marin

Their approaches to preserving agriculture have been four fold: strong land use protections in the LUP; strong relations with the Marin Agricultural Land Trust, saving over 40% of all ag lands in conservation easements; Williamson Act; and support of multigenerational housing on ag land.

They are mostly in agreement with the staff modifications, they need to clarify CAG 7. There has been a shift to organic, speciality crops, with the proximity to San Francisco, people are willing to pay more for these foods. He thinks most individual farm operators are willing to accept the LUP, he feels the plan represents compromise at the highest level, recognizing both the needs of farmers and high standards for environmental protection.

They see the shift to recognizing development potential on a per legal lot basis is legally required, would result in one farmhouse and intergenerational housing per legal lot; they cant force merger. However, he stated that their legal lots mostly are in excess of the 60 Acre minimum lots size under zoning.

They have a definition of farmhouse in their IP, which assures that the 'residential' use on a lot will be subordinate to the agricultural operation. They do require ACE as a condition of residential development, and have other standards to protect from conversion to estate residential, i.e. the 7000 square foot aggregate limit on development

Regarding coastal hazards, they have a concern with the specificity of definition of the 50% redevelopment criteria on coastal bluffs. They think Marin is very different from Solana; they don't have so much a bluff erosion issue as a sea level rise issue; they have grants to address and want to work out the specifics of their definition in the IP.

Jana Zimmer

Th12a

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

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**Date and time of receipt of communication:**

May 12, 2014 at 11:00 a.m.

**Location of communication:**

Redwood City

**Type of communication:**

Teleconference

**Person(s) in attendance at time of communication:**

Amy Trainer

**Person(s) receiving communication:**

Carole Groom

**Name or description of project:**

Item Th12a – Marin County LCP Amendment No. LCP-2-MAR-13-0224-1 Part A (Marin LUP Update)

**Detailed substantive description of the content of communication:**

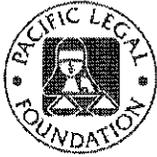
Ms. Trainer expressed concern about the proposed update to the Marin County Local Coastal Program (LCP)'s Land Use Plan (LUP). Ms. Trainer maintained that the proposed modifications amount to a fundamental change in the balance between agricultural lands and development of the region and that the update violates Sections 30241, 30242, 30250, and 30006 of the California Coastal Act.

The representative indicated that a core facet of her concern was changing the language in the LUP from "parcel" (contiguous lots under common ownership) to "legal lot of record." The representative also indicated that changing the permitting on farm houses and other structures from conditional to by-right uses would reduce or eliminate the possibility of oversight and public participation in the process. Ms. Trainer stated that the by-right uses would no longer be appealable to the Coastal Commission and that public meetings would not happen as before. The representative said she agreed that there should be narrowly tailored policy that allows for the expansion of intergenerational housing, but that the proposed LUP changes are too far-reaching.

**Date:** May 12, 2014

**Signature of Commissioner:** \_\_\_\_\_

Carole Groom



# PACIFIC LEGAL FOUNDATION

TH/2a

July 29, 2013

President Judy Arnold and  
The Marin County Board of Supervisors  
3501 Civic Center Drive, Room 329  
San Rafael, CA 94903

**VIA EMAIL: c/o Kristin Drumm**  
**kdrumm@marincounty.org**

Re: Comments for July 30, 2013, Public Hearing on Local Coastal Program Amendments

Dear Supervisors:

Pacific Legal Foundation, the nation's oldest public interest property rights foundation, has followed Marin County's Local Coastal Amendment process with great interest. Foundation attorneys have regularly filed comment letters highlighting particular concerns,<sup>1</sup> and Principal Attorney Paul Beard recently addressed some of these concerns in person at your February 26th hearing. While we very much appreciate some of the changes that your Board, the Marin County Planning Commission, and the staff of the Community Development Agency have adopted to address property owners' concerns, we remain alarmed about a number of issues.

Primarily, we believe that the LCPA, as drafted, does not sufficiently advise permitting authorities, the public, or Marin County property owners of the limits on the County's ability to demand dedications of private property in exchange for building permits. Throughout the LCPA, there are requirements that property owners dedicate public access easements, conservation easements, or open space easements in order to put their property to particular uses.<sup>2</sup> We fully agree with the Marin County Farm Bureau's Attachment #1 to its letter of 2/19/2013, that the LCPA should contain more detailed, clear and consistent language setting forth the circumstances under which the County may require such dedications.

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<sup>1</sup> See, e.g., Pacific Legal Foundation's Letters to the Planning Commission: 11/3/2008, 6/19/2009, 6/22/2009, 7/22/2009, and 11/19/2009; and those to the Board of Supervisors: 10/1/2012, and 3/18/2013.

<sup>2</sup> See, e.g., Development Code Sections: 22.64.180 *Public Coastal Access Standards*, 22.65.040 *C-APZ Zoning District Standards*, 22.64.180 *Public Coastal Access*, and Policies: C-AG-7 *Development Standards for the Agricultural Production Zone (C-APZ)*, C-AG-7.B.3 *Conservation Easements*, C-PA-2 *Public Coastal Access in New Development*.

President Judy Arnold and  
The Marin County Board of Supervisors  
July 31, 2013  
Page 2

Incorporating the following “constitutionality clause” into the LCPA, both in the Land Use Plan and Development Code, and including brief references to the clause in applicable policy and code sections, would solve this problem. To date, we have not seen your board specifically address this issue, even though it has been raised numerous times by the Farm Bureau, and Pacific Legal Foundation. We again request that you consider incorporating the following language into C-INT-1, Consistency with Other Law:

Proposed Constitutionality Clause

Where the County seeks to impose conditions on a property owner’s proposed land use, the County bears the burden of demonstrating—on an individualized, case-by-case basis—that the proposed use will create an adverse impact on public access, public infrastructure or other public good. The County must then also demonstrate: (1) a nexus between the impact of the proposed land use and the condition; and (2) proportionality between the impact of the proposed land use and the condition, such that the condition directly mitigates for the adverse impacts of the proposed land use.

It is settled law that the County may only require property owners to dedicate easements—whether for public access, open space, or conservation—as a condition of obtaining a development permit, where there is a close connection between the easement and the mitigation of harm that will be caused by the proposed development. As we have explained before, under the United States Supreme Court’s decision in *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987), the burden falls on the government to demonstrate that close connection or “essential nexus” between the impact of the development and harm mitigation. The Court’s subsequent decision in *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), further requires government to undertake an “individualized determination” to show that there is “rough proportionality” between the condition and the harm. Where those connections are missing, dedication requirements are illegal.

Last month, the Court reaffirmed the continuing importance of these limitations on government permitting conditions in *Koontz v. St. Johns River Water Management District*, 133 S. Ct. 2586 (2013). In that case, the Court reiterated the holdings of *Nollan* and *Dolan*, noting, that “government may not condition the approval of a land-use permit on the owner’s relinquishment of a portion of his property unless there is a ‘nexus’ and ‘rough proportionality’ between the government’s demand and the effects of the proposed land use.” *Koontz*, 133 S. Ct. at 2591. The Court also described these cases as a special application of the unconstitutional conditions doctrine which “protects the Fifth Amendment right to just compensation for property the government takes when owners apply for land-use permits.” *Id.* at 2594. It noted that:

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[Given the] realities of the permitting process, . . . land-use permit applicants are especially vulnerable to the type of coercion that the unconstitutional conditions doctrine prohibits because the government often has broad discretion to deny a permit that is worth far more than the property it would like to take. By conditioning a building permit on the owner's deeding over a public right-of-way, for example, the government can pressure an owner into voluntarily giving up property for which the Fifth Amendment would otherwise require just compensation.

*Id.* The Marin County Draft LCPA does not go far enough to counter this dynamic or to incorporate the federal Constitution's limit on government permitting power. The following examples are particularly troubling and we urge you to address them:

Section 22.64.180.B.1 Public Coastal Access Standards

Section 22.64.180.B.1 provides:

New development located between the shoreline and the first public road shall be evaluated for impacts on public access to the coast per Land Use Plan Policy C-PA-2. Where a nexus exists, the dedication of a lateral, vertical and/or bluff top accessway shall be required . . .

While we appreciate that this code section is premised on "impacts" to public access—and the reference to "a nexus" seems to imply that the County will fulfill its constitutional obligations, the reference to Land Use Plan Policy C-PA-2 is troubling. That policy provides in relevant part:

Impacts of public access include, but are not limited to, intensification of land use resulting in overuse of existing public accessways, creation of physical obstructions or perceived deterrence to public access, and creation of conflicts between private land uses and public access.

These conditions setting forth what may constitute "impacts," say nothing about their proportionality. Neither is it clear how a "perceived deterrence to public access" could possibly be a cognizable harmful impact for which mitigation could legally be required. This language gives the distinct impression that the County will always be able to come up with "evidence of impacts" to satisfy the LCP, anytime property owners along the coast apply for permits.

Of course, that is not what the Constitution, as interpreted by *Nollan*, *Dolan*, and *Koontz* requires. Adding the constitutionality clause, as proposed above, would ensure that the County acts within the scope of its lawful authority when demanding easement dedications.

Section C-AG-7 Development Standards for the Agricultural Production Zone (C-APZ) Lands

In addition, we are concerned that other provisions of the LCPA unlawfully restrict the right of property owners to make productive use of their land and hence leave the County vulnerable to legal challenge. Section C-AG-7 is particularly egregious. Its requirement that property owners with land zoned C-APZ must place 95% of their property into a permanent agricultural conservation easement in order to use 5% of the land for non-agricultural uses, is precisely the type of “one-size fits all” provision that *Nollan*, *Dolan*, and now *Koontz* disallow.

Even more troubling, however, is the fact that by its own terms, this section only allows proposed development for non-agricultural uses if “the development is necessary because agricultural use of the property would no longer be feasible” and “the proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development.” C-AG-7(B)(4)(a)-(b). If both of these conditions are met—agricultural uses are no longer feasible on that particular 5% of the property and the proposed development will not inhibit agricultural production on the remaining 95% of the property—the County will never be able to satisfy the individualized assessment required by *Nollan*. How could the County ever demonstrate that there is an essential nexus between the impact of the proposed development of 5% of the property, and the condition that 95% of the property be put into an agricultural easement when the County will only allow non-agricultural development *if it does not impact agricultural uses*?

Since the LCPA concedes that the County will only approve development if there is no adverse impact on agricultural uses, this requirement fails both the “essential nexus” and “rough proportionality” standards. A property owner may only be required to dedicate land for an agricultural easement where such an easement mitigates—both in nature and extent—specific harmful impacts of proposed development.

In addition, the requirement in Policy C-AG-7.B.3, that a property owner execute an unconditional covenant not to divide his or her property in exchange for a permit to use land for non-agricultural uses has takings implications. Unless the County meets its burden of establishing that the proposed use will create harmful impacts that are proportional—both in nature and extent—to the surrender of the owner’s right to divide his or her property, the requirement fails the constitutional standard. Reference to the constitutionality clause should be included as a part of this policy and in the corresponding Development Code section 22.65.040.C.2.a.

CDA staff has opined that a single constitutionality clause and references to it were unnecessary and would render the document cumbersome. We disagree. Eliminating the unclear and sometimes internally-inconsistent language and replacing it with a simple reference to the clause wherever it is applicable, would result in a more transparent, clear, and consistent document.

Some additional examples of where existing language is unclear, internally inconsistent, or does not go far enough to ensure that the LCPA complies with the “essential nexus” and “rough proportionality” constitutional standards, include:

Conservation Easement Requirement

22.65.040 - C-APZ Zoning District Standards: “*Where consistent with state and federal laws . . . Preservation shall be accomplished by permanent conservation easements or other encumbrances acceptable to the County . . .*” (emphasis ours).

Policy C-AG-7.B.3. Conservation easements: “*Where consistent with state and federal laws, a permanent agricultural conservation easement . . . shall be required . . .*” (emphasis ours).

Prescriptive Rights

Policy C-PA-6.4. Protection of prescriptive rights. New development shall be evaluated to ensure that it does not interfere with the public’s right of access to the sea where acquired through historic use per Land Use Plan Policy C-PA-7.

22.64.180 - Public Coastal Access (Policy C-PA-2)

A. Application requirements.

1. Site Plan. Coastal permit applications for development on property located between the shoreline and the first public road shall include a site plan showing the location of the property and proposed development in relation to the shoreline, tidelands, submerged lands or public trust lands. Any evidence of historic public use should also be indicated.

Notably, the LCPA Appendices, Appendix 1 - List of Recommended Public Coastal Accessways, recommend that on APN #100-040-33 and -57 “Public pedestrian access shall be maintained to Estero day San Antonio on dirt road north of Oceana Marin . . .” and that “Lateral and/or blufftop access shall be required on all parcels north of 100-100-46/north of Oceana Marin . . .”

While the County may consider evidence of historic public use, it is improper to ask a permit applicant to produce that evidence. The burden falls on the County to establish a prescriptive right; it may not coerce a permit applicant into assisting in that process. Moreover, only a court may declare prescriptive rights in favor of the public. It is unacceptable to base permitting decisions on potential public prescriptive rights that have not been adjudicated and confirmed by a court of law.

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*See LT-WR, LLC v. Cal. Coastal Comm'n*, 152 Cal. App. 4th 770 (2007). To burden a landowner with a public access easement condition because of "any evidence of historic public use" impermissibly usurps the role of the judiciary in adjudicating interests in real property. Only courts are competent to declare prescriptive rights. They are bound by procedural safeguards that are designed to assess the credibility of evidence and to ensure fairness. Those same safeguards are absent from County proceedings which therefore do not adequately protect property owners. Please see Attachment #1 of MCFB's 2/19/2013 letter for additional Policies and Codes where reference to a constitutionality clause would satisfy existing law.

We also support the positions set forth in the 7/26/2013 letter submitted jointly by the California Cattlemen's Association and the Marin County Farm Bureau dealing with CDA's July 2, 2013, Staff Report, in particular the issues with constitutional Fifth Amendment takings implications including:

- the proposed aggregate cap on residential square footage;
- the proposed allowance of one farmhouse per "farm" rather than per "legal lot;"
- the proposed 5% clustering provision;
- the proposed expansion of ESHA and ESHA buffers; and
- the proposed building limitations for the "protection of Ridgeline views."

Further, we concur with CCA's and MCFB's assertion that the Coastal Act gives you, the local government, the authority over and autonomy from the Coastal Commission when determining the precise content of your Local Coastal Program. *See* Pub. Res. Code §§ 30500, 30512.2.

In closing, we urge you to carefully consider these highlighted concerns. Bringing the LCPA into closer conformity with constitutional norms for land use will help to insulate the County from future litigation. It will put applicants and County employees alike on notice of their respective rights and obligations, and it will ensure respect for the constitutional rights of Marin County property owners.

Sincerely,



PAUL J. BEARD II  
JENNIFER F. THOMPSON  
PACIFIC LEGAL FOUNDATION

Attorneys

President Judy Arnold and  
The Marin County Board of Supervisors  
July 31, 2013  
Page 7

CC: Marin County Board of Supervisors [BOS@co.marin.ca.us](mailto:BOS@co.marin.ca.us)  
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Nancy Gates, Coastal Landowners for Agricultural Sustainability and Security [ndgates@pacbell.net](mailto:ndgates@pacbell.net)



# PACIFIC LEGAL FOUNDATION

Th/2a

July 29, 2013

President Judy Arnold and  
The Marin County Board of Supervisors  
3501 Civic Center Drive, Room 329  
San Rafael, CA 94903

**VIA EMAIL: c/o Kristin Drumm**  
**kdrumm@marincounty.org**

Re: "Categorical Exclusions" for Agricultural Lands Along the Coast

Dear Supervisors:

We wanted to draw your attention to an issue that has been discussed via email between Jack Liebster and others. Namely, the extent to which the Coastal Act authorizes you to extend categorical exclusions for agriculture in the Coastal Zone. Mr. Liebster has argued that the Board cannot adopt geographical exclusions for agricultural lots located directly on the coast. That is because Section 30610.5(b) states in relevant part:

Tide and submerged lands, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust shall not be excluded under either subdivision (a) of this section or subdivision (e) of Section 30610.

Section 30610(e) provides:

Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program.

Hence, Mr. Liebster maintains that under the Coastal Act, the Commission may only have authority to grant categorical exclusion orders for agricultural lands that are not tide or submerged lands, beaches, or lots immediately along the coast.

President Judy Arnold and  
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July 29, 2013  
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Whether or not an exclusion based on *geography* may be prohibited, an exclusion based on the *nature of a project*—like agriculture-related development—is not. That is because Section 30610.5(b)'s limitation does not apply to Section 30610(e)'s provision allowing the exclusion of “[a]ny category of development.” Thus, the County has a legal way of obtaining an important goal for its agricultural constituents by requesting, by way of an LCP amendment, that the Coastal Commission exclude agriculture-based projects (including all those projects listed in the existing Agricultural Exclusions in the Categorical Exclusion Orders) from the costly and burdensome CDP process. We would note that the County’s LCP (C-AG-2.a) already contemplates the possibility of using this legal strategy of obtaining relief for the agricultural community. That section provides for “review [of] aspects of agricultural operations that are not currently excluded from coastal permit requirements to determine if there are additional categories of agricultural developments that do not cause adverse environmental impacts and, hence, could be eligible additions to the categorical exclusion.”

In addition, the County could consider other amendments to its LCP to accommodate the pressing needs of the agricultural community. One such proposed amendment that would be consistent with the Coastal Act, for example, could specifically define the term “lot” in the last sentence of Section 30610.5(b)—a term that is undefined in the Coastal Act. The term “lot” in this context could be defined to mean a “a buffer that runs inland from the beach/mean high tide line (MHTL) by X feet.” This would substantially alleviate the present inequity of designating certain inland lots that are not adjacent to the beach/MHTL as Excludable Areas, while *not* excluding large portions of agricultural lots that happen to be adjacent to the beach/MHTL, but that may run inland to the same extent as those excluded lots.

We hope that you will seriously consider these options as tools to support sustainable agriculture in Marin County.

Sincerely,



PAUL J. BEARD II  
JENNIFER F. THOMPSON  
PACIFIC LEGAL FOUNDATION

Attorneys

President Judy Arnold and  
The Marin County Board of Supervisors  
July 29, 2013  
Page 3

CC: Marin County Board of Supervisors [BOS@co.marin.ca.us](mailto:BOS@co.marin.ca.us)  
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Tito Sasaki, Sonoma County Farm Bureau [tito@att.net](mailto:tito@att.net)  
Sandra Schubert, Undersecretary of Agriculture [Sandra.Schubert@cdfa.ca.gov](mailto:Sandra.Schubert@cdfa.ca.gov)  
Nancy Gates, Coastal Landowners for Agricultural Sustainability and Security [ndgates@pacbell.net](mailto:ndgates@pacbell.net)



# PACIFIC LEGAL FOUNDATION

Th/2a

May 12, 2014

Mr. Kevin Kahn  
District Supervisor, LCP Planning  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

VIA EMAIL: [kevin.kahn@coastal.ca.gov](mailto:kevin.kahn@coastal.ca.gov)

Re: Agenda Item No. Th 12a--May 15, 2014 Meeting  
Marin County LCP Amendment No. LCP-2-MAR-13-0224-1 Part A  
Marin LUP Update

Honorable Commissioners,

Pacific Legal Foundation attorneys submit for the record the attached letters addressing specific concerns with provisions of Marin County's Local Coastal Plan Amendment. While the policy numbers referenced in these letters may have changed in the document currently before the Commission, the issues have not. And the arguments remain relevant. As the letters explain, the Foundation's attorneys are very concerned that the LCPA, as drafted and with the Commission's staff's suggested modifications, does not adequately protect Marin County property owners' right to the beneficial use and enjoyment of their property. Clarifying the LCPA, as the letters suggest, will ensure that the document incorporates state and federal constitutional property rights' protections, which may help to insulate the Commission, and the County, from future legal challenges.

Thank you for your careful consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "P. Beard".

PAUL J. BEARD  
JONATHAN WOOD  
JENNIFER F. THOMPSON  
Attorneys for Pacific Legal Foundation

Enclosures

Th/2a

John Becker

PO BOX 1102

Inverness CA 94937

May 6, 2014

California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, CA 94105-2219

RECEIVED

MAY 08 2014

CALIFORNIA  
COASTAL COMMISSION

Dear Commission:

My name is John Becker, and I am a full time resident of Inverness, CA, 94937. I moved to Inverness because of coastal protections preserving the nature of West Marin.

I generally support the "talking points" of the Environmental Action Committee of West Marin.

The California Coastal Commission is meeting at the Inverness Yacht Club on May 15, 2014. One proposed agenda item significantly reduces weakened coastal regulations proposed by Marin County for West Marin Coastal zone.

Please **advocate for strong coastal protection** and not for reduced and/or weakened coastal protection. Please do not unravel effective coastal protection. Please ensure compliance with a strong Local Coastal Plan which maintains local coastal protection for generations as the Commission hears arguments relevant to North Coast development and protection.

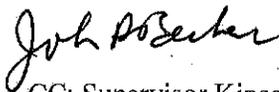
My view is **STRONG** coastal protection and enforcement is necessary for the preservation of West Marin values.

Please:

- Advocate strong coastal protection without significant development
- Please **do not** support Marin County proposals for weakened coastal protection
- Require well defined MC Permits with implementation oversight

Sincerely,

John A. Becker



CC: Supervisor Kinsey, Marin County

Executive Director, EAC of West Marin

JAngusBecker@gmail.com

Phone: 415-669-7524

Fax: 206-376-1920

Th/2a

Linda Emme

lindaemme708@gmail.com  
415.663.8633  
lindaemme.com

California Coastal Commission  
c/o Charles Lester, Executive Director  
45 Fremont Street #2000  
San Francisco, CA 94105-2219

clester@coastal.ca.gov  
cc: jstaben@coastal.ca.gov

May 8, 2014

RE: Vote against the LCP changes proposed by Marin County.

1. Do not allow Marin County to remove the right of appeal to the CA Coastal Commission. This is a give away to developers at the cost of protecting the coast.

Is Marin County always right? NO! The people presently in power back development at the cost of the environment as seen in the County's failure to adequately protect coho salmon in San Geronimo Valley.

Please do not allow Marin County to take away the citizen's right to question a development project through appeal to the CCC. That is putting all of the decision making power in just a very few hands that can be influenced by campaign donations rather than the public good. In my experience, the CCC is a reasonable government body that is charged with protecting the coast and has done a remarkable job.

2. Viticulture should be categorized as a "conditional use" rather than a "principally permitted use". Viticulture is unsuited to West Marin's climate. Water is in short supply. Vining plants can not grow in salt winds. Grapes can not ripen in fog. To tear up the grasslands of West Marin - with many native grasses and wild flowers - to plant grapes, which will not grow here, is unwise and should be monitored by the CCC.

Thank you for considering my views.

Sincerely,



Linda Emme  
44 year resident of West Marin

Th12a

May 9, 2014

5 Ahab Drive  
Muir Beach, CA 94965

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Re: Comments on Marin County LUPA No. LCP-2-MAR-13-0224-1 Part A.

Dear Commissioners,

Thank you for the opportunity to comment on the proposed draft of the LUPA. We hope that these suggestions will assist the Commission as it considers the LUPA in order to promote the Coastal Act's objective of protecting the coastline and its resources. *Landgate, Inc. v. California Coastal Commission* (1998) 17 Cal.4<sup>th</sup> 1006, 1011.

**Visual Resources C-DES-2.**

As stated in our letter dated September 1, 2013 p.3, we believe this provision should use the statutory language "to and along the ocean and scenic coastal areas" instead of "to and along the coast." There appears to be no good reason not to track the language in Public Resources Code Sec. 30251, which is more comprehensive.

We urge you to delete as unnecessary the language "rather than coastal views from private residential areas." The preceding sentence and the sentence in which this phrase appears make perfectly clear that protected views are from public viewing areas as defined. See our letter dated September 1, 2013 p.4; letter to Jack Liebster dated July 10, 2013 p.2. Adding surplusage, particularly the phrase "private residential areas", is superfluous and muddies what is perfectly clear.

This is not a quibble over semantics. The phrase is too vague to carry out the intent of the Coastal Act. Because the LUP has the force and effect of a statute, it should be as specific as possible in order to avoid unforeseen applications in the future.

If such language must be included, the following history should be considered. At one time the California Coastal Commission had adopted the following statement:

"The primary concern under this section of the Act is the protection of ocean and coastal views from public areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, coastal streams and waters used for recreational purposes, and other public preserves *rather than coastal views from private residences where no public vistas are involved.*"

*Schneider v. California Coastal Commission* (2006) 140 Cal.App.4<sup>th</sup> 1339, 1346-47.  
(italics added)

The version of C-DES-2 adopted by the Planning Commission contained the final sentence regarding private residences. When it got to the BOS the CDA staff changed the phrase "private residences" to "private residential areas" and eliminated the phrase "where no public vistas are involved." See our letter dated July 10, 2013 p.2 (Liebster) This change was approved, introducing uncertainty by use of the phrase "residential areas" and omitting the key phrase "where no public vistas are involved."

All we are asking is that the Commission return to the *status quo ante* and use its own language that was cited in the *Schneider* case. That language is crystal clear and, in contrast to the proposed language, carries out the intent of the Coastal Act.

### **Community Plans C-INT-3**

The statement that only the community plans in Dillon Beach and Bolinas Gridded Mesa have been certified by the Coastal Commission ignores the fact that in *Hyman v. California Coastal Commission*, the Marin County Superior Court held that the Muir Beach Community Plan was incorporated into the certified LCP for Unit 1. Rulings on Petitioners' Request for Judicial Notice, Petitioners' Motion to Deem Facts Admitted, Request to Strike Verified Crosby Answer and Augment the Record, and the Petition for Writ of Mandate, pp. 4, 17-18, 33-34) In our opinion the California Coastal Commission, as a party to that litigation, will be bound by this ruling in any future litigation involving the certification issue by principles of *res judicata* and collateral estoppel.

Even if that were not the case, the Staff Report does not address the substance of the Court's reasoning which was based on the undisputable fact that the Muir Beach Community Plan was extensively discussed in the LCP and approved with two specified exceptions. Absent a persuasive explanation refuting the Court's reasoning, the Muir Beach Community Plan should be accorded the same status as the Dillon Beach and Bolinas Gridded Mesa community plans.

Please see our letter dated June 10, 2013 and others incorporated by reference.

### **Any reference in the LUPA to a de minimis waiver procedure should be limited to the Coastal Commission**

The Introduction at page 3 contains the following sentence: "Any activity meeting the definition of development within the Coastal Zone requires a Coastal Permit unless the development is categorically excluded, exempt, or *qualifies for a de minimis waiver*, consistent with Chapter 22.68." (italics added) As we have pointed out in prior correspondence, the statute invests exclusive authority regarding *de minimis* waivers in

the Coastal Commission. See our letters dated June 10, 2013, June 21, 2013, July 10, 2013 p.3 (Liebster).

The Development Code is not before the Commission at this time. If this phrase is included in the LUPA, it should make clear that only the Coastal Commission has the authority to grant a *de minimis* waiver.

**Change the term “new development” to “development”**

The term “new development” is a defined term in the Public Resources Code and is limited to public access issues. To avoid confusion, all references to “new development” should be changed to “development” unless reference is being made to access issues. For example, Sec. C-DES-3, relating to protection of ridgeline views, refers to “new development” in the opening sentence. See our letter dated June 10, 2013 p.4 and others incorporated by reference.

Thank you for your consideration.

Richard and Brenda Kohn

**Marquez, Maria Elena@Coastal**

Th/29

**From:** jevens <avocetra@gmail.com>  
**Sent:** Friday, May 09, 2014 2:28 PM  
**To:** CoastalMarinLCP  
**Subject:** Marin Local Coastal Plan Amendment

Dear Commissioners:

The amendments proposed to the Marin LCP would undermine nearly a half-century of hard won coastal protections by promoting the build-out of "legal lots" on agricultural lands.

This amendment is in direct conflict to protections ratified in 1972 under the Coastal Act (##s 30241, 30242, and 30250) and works at cross purposes with the Williamson Act.

Please require that this proposal is subjected to full public scrutiny and appropriate analysis under CEQA, otherwise the credibility and ultimate viability of the Coastal Commission will be placed in jeopardy.

These brief comments are submitted in honor of the late Peter Douglas.

Respectfully,

Jules Evens

Jules Evens, Principal  
Avocet Research Associates, LLC  
P.O. Box 839  
Point Reyes, CA 94956

[avocetra@gmail.com](mailto:avocetra@gmail.com)  
415/706-3318 (mobile)  
415/663-8032 (office)

[Introduction to California Birdlife - Jules Evens - Paperback - University of California Press](#)

[Natural History of the Point Reyes Peninsula, Fully Revised and Expanded Edition - Jules Evens - Paperback - University of California Press](#)

[Field Guide to Birds of the Northern California Coast - Rich Stallcup, Jules Evens - Paperback - University of California Press](#)

Th12a

**From:** Amy Trainer <[amy@eacmarin.org](mailto:amy@eacmarin.org)>

**Date:** May 9, 2014, 10:53:52 AM PDT

**To:** "Mary ([mkshallenberger@gmail.com](mailto:mkshallenberger@gmail.com))" <[mkshallenberger@gmail.com](mailto:mkshallenberger@gmail.com)>, Jana Zimmer <[zimmerccc@gmail.com](mailto:zimmerccc@gmail.com)>

**Subject:** additional analysis on Marin LCP

Dear Mary and Jana,

Yesterday afternoon I talked with Charles and Dan Carl about our serious concerns about the Marin LCP Amendment allowing huge amounts of new residential and commercial development by right.

Their response was that it wasn't much of a change, that Marin's Certified Land Use Plan already allowed a residence on each legal lot.

We put together the attached analysis and excerpts from the Marin Certified LUP that clearly show that for the past 30+ years agricultural production lands have only been allowed 1 residence per "parcel" which is all contiguous lots under common ownership, and that this residence was not the PPU for appeal purposes.

I hope you find this helpful. This and the prior analysis will form the basis of our comment letter which I hope to complete and submit Monday afternoon.

Thanks,  
Amy

Amy Trainer  
Executive Director  
Environmental Action Committee of West Marin  
Box 609 Point Reyes, CA 94956  
[amy@eacmarin.org](mailto:amy@eacmarin.org)  
(415) 663-9312 office  
(415) 306-6052 cell

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*Those who contemplate the beauty of the Earth  
find reserves of strength that will endure  
as long as life lasts. ~ Rachel Carson*

**Marin County's Wholesale Policy Shift For Development on Agriculture Production Lands Is Not Supported By Any Findings or the Applicable Coastal Act Policies**

Under the Marin Certified LCP a residential development on a Coastal-Agriculture Production Zone parcel is appealable to the Commission. A parcel is defined as "all contiguous assessor's parcels under common ownership." Little residential development has occurred in over thirty years, thereby achieving Chapter 3 policies to protect the maximum amount of agricultural land in production. The Commission's guidance document<sup>1</sup> for updating LCPs, the plain language of Marin's Certified LCP, and our analysis of appeals in agricultural districts support continuation of these essential concepts.

Conversely, Marin County's submitted LCP Amendment is a fundamental and wholesale change from Marin's existing LCP policy that does not follow the Commission's guidance or the Coastal Act. The excerpts below make clear that this is the case because the Marin LCP Amendment would change policy on agriculture production lands so that:

- 1) A residence could be built on every legal lot, rather than one for all contiguous parcels under common ownership,
- 2) All residential development is considered a "Principal Permitted Use" and thus not subject to appeal to the Commission, whereas such appeal has been allowed for over 30 years,
- 3) A significant amount of new residential housing could be built for and occupied by persons having nothing to do with the agricultural operation, and
- 4) The potential build-out that the Marin LCP Amendment would permit directly conflicts with Coastal Act policies 30241, 30242, and 30250.

*The consequence of this wholesale policy shift, according to Marin County's build-out analysis, would be to allow an enormous amount of new residential and commercial development by right – over 1 million square feet. Neither Marin County nor the Commission staff report have directly addressed this potential and its clear conflicts with the Coastal Act. This reversal of policy should not be supported if we are to have meaningful protection of our agricultural production zone lands in West Marin.*

**The Marin Certified LCP**

- In agricultural references the Marin County certified Land Use Plan (LUP) consistently regards a "parcel" as "all contiguous assessor's parcels under common ownership."

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<sup>1</sup> CCC: LCP Update Guide: Examples and Citations for Some Recommendations and Suggestions. (Published April 2007; revised July 31, 2013.)

- In analyzing potential build-out for agriculturally-zoned land, the LUP uses the same definition – a parcel is defined as “all contiguous assessor's parcels under common ownership.”
- The LUP requires that a master plan for planned districts (including C-APZ) ... “shall include at least all contiguous properties under the same ownership.”
- The LUP enumerates Principal Permitted Uses (PPUs) that are permitted in all C-APZ districts subject to an approved master plan.
- For the C-APZ district, the LUP allowance for a single-family dwelling is one dwelling for “all contiguous parcels under common ownership.”
- The certified IP defines “parcel” as “all contiguous assessor's parcels under common ownership (unless legally divided as per Title 20, Marin County Code).”

### **Coastal Commission Documents**

The Commission’s LCP Update Guide states that an LCP Update should include standards for agricultural areas that require that:

- **residential use is a conditional use, (not PPU)**
- **is restricted to one home per parcel**
- is only for an agricultural owner or operator

On two appeals of Marin agricultural Coastal Development Permits the Commission staff has consistently found that on a C-APZ parcel:

- development of a **residence is not the PPU**
- development of a **residence is therefore appealable** to the Commission

In certifying LCP Amendments, the Commission has required modifications that:

- identify the single PPU for purpose of appeal
- designate residential use as a non-appealable use in a timberland production district (Mendocino County)

### **The Proposed Marin LCP Amendment**

Marin County’s LCP Amendment submission (LCPA) states incorrectly that the Certified LCP’s definition of “parcel” as “all contiguous assessor’s parcels under common ownership” has not been deleted, but maintained and relocated in the LCPA:

Marin LCPA Cross-out/Underline Comparison to Unit I and II:  
 AGRICULTURE Policies. In the table, yellow in the LCP column indicates relocated text:

**b. "Parcel" is defined as all contiguous assessor's parcels under common ownership.** See LUPA Ex4 p10; (pdf. p1518)

In fact, the LCPA 22.130 defines:

**"Parcel"** (coastal). See "Legal Lot of Record"

**"Legal Lot of Record"** is defined as a parcel created in conformance with either a) a recorded subdivision, b) individual lot legally created by deed, or c) government conveyance.

LCPA policy C-AG-2 states that:

In the C-APZ zone, the principal permitted use shall be agriculture as follows:

...

6. Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, including **one farmhouse per legal lot**, one intergenerational home, agricultural worker housing, limited agricultural product sales and processing, educational tours, agricultural homestay facilities with three or fewer guest rooms, barns, fences, stables, corrals, coops and pens, and utility facilities (not including wind energy conversion systems and wind testing facilities).

## **Excerpts from supporting documents**

### **Marin County Certified LCP LUP - Unit II**

p. 79

#### **LAND ACREAGES**

Parcel and farm sizes. The 37,000 acres of agricultural land in Unit II are divided into approximately 155 parcels, (One **"Parcel" is defined as all contiguous assessor's parcels owned by one individual or group.** Although there is some question about the effect of recent state legislation on merged parcels, the County of Marin does have a merger ordinance which, in the opinion of County Counsel, most likely merges these agricultural parcels. The specific effect of the legislation would have to be determined on a case-by-case basis.)

p. 87

#### **EXISTING AGRICULTURAL POLICIES IN MARIN COUNTY – PLANNING ISSUES**

The build-out potential under the Countywide Plan for agricultural lands in the Unit II coastal zone can be calculated by applying existing zoning densities. Build-out figures for lands zoned A-60 or ARP-60 are given in Table 12. One **"parcel" is defined as all contiguous assessor's parcels under common ownership,**

p. 88

Sections 30241, 30242, and 30250(a) of the Act support the preservation of agriculture

by strictly limiting conversion of agricultural lands to other uses. Any potential land use regulation must be evaluated, to a large degree, for its effectiveness in achieving this goal.

p. 89

Studies of agriculture estimate that approximately 400 to 1200 acres are needed to operate a dairy in Marin County while beef grazing operations need 500 acres or more.

Given the requirements of dairy and grazing operations in Marin County, it is apparent that units of land larger than 60 acres are needed to maintain agriculture. **Over the long term, this relatively small parcel zoning serves as a subdivision plan which slowly erodes the agricultural land base and permanently reduces the amount of land necessary to maintain agricultural uses.** . . .the LCP has, however, made major changes in the pattern of potential parcel configuration by requiring clustering and has added numerous conditions which must be met before development can be permitted. (Emphasis ours)

p.89

**BUILDOUT POTENTIAL/CONCENTRATION OF DEVELOPMENT**

The build-out potential of lands in Unit II zoned A-6 is 442 units total, 28 on parcels 60 acres or less in size and 417 on parcels greater than 60 acres. . . . ***Build-out at this scale raises several conflicts with the Coastal Act.*** One of the major conflicts is with the Act's policies requiring that new development be located within or close to existing developed areas or in other suitable areas where it can be concentrated (Section 30250(a)). ***The purpose of these policies is to avoid sprawl and its associated environmental and economic costs.***

**Buildout under A-60 zoning would** spread evenly at low density over 37,000 acres of agricultural land in the Unit II coastal zone, **inefficiently utilizing the land, requiring large investments for public services, and pushing out agricultural uses.** A more desirable alternative would be to cluster development in a few selected locations and to direct new construction to existing communities where it could be accommodated. LCP policies are written to achieve these purposes. (Emphasis ours)

p. 100

6. Definitions and uses. The **definition of agricultural uses in the APZ** is given below, . . .

- h. One single-family dwelling per parcel. **"Parcel" is defined as all contiguous assessor's parcels under common ownership.**

**Marin County Certified LCP LUP - Unit I**

p. 35

Of these two general levels of agricultural land use, the first, consisting of **the larger**

**agricultural holdings on Bolinas Mesa, is presently zoned as minimum 60-acre lot size zoning. These lands, however, share the same issues and potential responses as many of the agricultural lands in Unit II. ... it is more appropriate and expeditious to delay consideration of this issue in Unit I and combine its consideration with Unit II's agricultural land use policy formation. ... This approach seems particularly appropriate given the very small proportion of such agricultural lands in Unit I.**

### **Marin County Certified LCP Implementation Plan**

22.57.030I C-APZ--Coastal agricultural production zone districts.

...

22.57.032I Principal Permitted Uses. The following uses are permitted in all C-APZ districts subject to an approved master plan:

2. One single-family dwelling per parcel. **Parcel is defined as all contiguous assessor's parcels under common ownership (unless legally divided as per Title 20, Marin County Code).**

Chapter 22.45I

PD-DISTRICTS--PLANNED DISTRICTS

22.45.030I Plan area.

The area of the **master plan and development plan shall include at least all contiguous properties under the same ownership.** The area may also include multiple ownerships.

### **CCC: LCP Update Guide: Examples and Citations for Some Recommendations and Suggestions<sup>2</sup>**

#### **Part I - Updating LCP Land Use Plan (LUP) Policies**

(Published April 2007; revised July 31,2013.)

#### **Residential Use**

One of the more recent trends that threatens agricultural land viability is the development of residential uses not in direct support of agriculture, especially large "statement" homes. Non-agricultural residential development can change the real estate values in agricultural areas so as to negatively affect the viability of continuing agriculture. It also introduces residential use that may conflict with on-going surrounding agriculture,

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<sup>2</sup> <http://www.coastal.ca.gov/la/lcp.html>

potentially placing pressure on agriculture to be reduced.

To resist a trend to change the character of an agricultural area to a more residential setting, **an LCP update should consider revising criteria for residential approval to ensure that it supports agriculture. For example, standards can require that any residential use:**

- **is a conditional (not principally permitted) use,**
- **is only for an agricultural owner or operator,**
- is allowed only upon an analytic conclusion that it will not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production (see following section: "Agricultural Land Conversion Criteria"),
- is governed by size limits, placement on a parcel, and design criteria,
- **is restricted to one home per parcel,**
- does not lead to subdivision,
- is on a **parcel protected for continued agricultural use** (see following section: "Affirmative Agricultural Easements").

## Part II: Updating LCP Implementation Plan (IP) Procedures

(Published 2010.) Last updated: January 6, 2011

[http://www.coastal.ca.gov/la/lcpguide/lcp\\_ip\\_guide.pdf](http://www.coastal.ca.gov/la/lcpguide/lcp_ip_guide.pdf)

### Appendix B: Examples and Citations for Some Recommendations and Suggestions

*Pp.99-101*

*For the context of this example, please see the Commission staff reports for Del Norte County's LCP Amendment*

**For counties, update the IP to show only one principal permitted use in each zoning district.**

*EXAMPLE: Commission suggested modifications to excerpt from county's agricultural zoning district [see especially text in bold]:*

#### **21.08.020 The principal permitted use.**

*The principal permitted agriculture exclusive use entails all agricultural uses including horticulture, crop and tree farming, livestock farming and animal husbandry, including dairies, public and private stables, but excepting feed lots and accessory buildings and uses including barns, stables, greenhouses constructed without a slab or perimeter foundation, and other agricultural buildings. These respective uses are not appealable to the California Coastal Commission pursuant to Section 21.52.020(A) (3) and Public Resources Code (PRC) Section 30603(a)(4), but may be so appealed pursuant to other provisions of Section of PRC Section 30603.*

#### **21.08.025 Other principally permitted uses.**

*Other principally permitted uses not requiring securement of a conditional use permit but which are appealable to the California Coastal Commission pursuant to*

***Section 21.52.020(A) (3) and Public Resources Code (PRC) Section 30603(a)(4) entail:***

A. A farm dwelling with appurtenant uses including home occupations, and appurtenant accessory structures. A manufactured farm dwelling may be placed in lieu of a conventional farm dwelling; and

B. Farm quarters for up to five farm laborers employed full-time on the premises. Manufactured farm quarters may be placed in lieu of conventional farm dwelling units. (Ord. 2009-\_\_\_ § \_ (part))

**Commission analysis of appeals in agricultural districts**

In two appeals of Marin County coastal permits the staff found that residential development is not a principal permitted use in the agricultural production zone.<sup>3</sup>

For Mendocino County's LCP amendments the Commission found that only forest production uses are the principally permitted use in the timberland production district and rejected that county's inclusion of residential uses for purposes of appeal.<sup>4</sup>

**Brader-Magee staff report**

W10a, 9/2/2010

Appeal No. A-2-MAR-10-022 (Tony Magee and Dillon Vision LLC, CP-09-39), 17990 Shoreline Highway, Marshall, Marin County. Filed: June 1, 2010.

p2. Pursuant to Coastal Act Section 30603(a)(4), this [Marin County] approval is appealable to the Commission because the approved **project involves development approved by a coastal county (i.e., the proposed single family residence) that is not designated as the principal permitted use in the Coastal, Agricultural Production Zone (C-APZ-60)** in the certified zoning ordinance. (Emphasis ours)

**A-2-MAR-10-022 (Magee and Brader)**

W9a, 3/6/2013

p. 25

**D. APPEAL HISTORY**

Pursuant to Coastal Act Section 30603(a)(4), the **County's approval was appealable** to the Commission because the approved **project involves development approved by a coastal county (i.e., the proposed farmhouse) that is not designated as the principal permitted use in the Coastal, Agricultural Production Zone (C-APZ-60)** in the certified zoning ordinance. (Emphasis ours)

<sup>3</sup> Hansen-Brubaker (2/14/03), Brader-Magee (9/2/10).

<sup>4</sup> Mendocino County LCP Amendment No. MEN-MAJ-1-08 (4/28/11).

... on September 15, 2010, the Commission conducted a public hearing on the six substantial issue questions raised in the appeal ... the Commission determined that the appeal of the Marin County-approved coastal permit CP-09-39 raised a substantial issue with respect to the policies of the certified Unit II Local Coastal Program (in particular, potential project impacts on ESHA and public views, and the County's waiver of the agricultural master plan requirement), that the County's approval of CP-09-39 no longer governed, and that the Commission would consider the consistency of the proposed project with the certified LCP *de novo*

**Hansen Brubaker**

**A-2-MAR-02-234**

**Hearing 3/6/2002**

**Appellants: Commissioners Wan and Desser, EAC**

p. 6 Under Coastal Act Section 30603 only one use can be designated "principally permitted use" for purposes of appeal. Since [Marin] Zoning Code Section 22.57.032 allows for the designation of more than one principally permitted use, **the approved residential development cannot be considered as the principally permitted use of the agriculturally zoned site.** Moreover, even if, residential development may be considered a principally permitted use if it is the subject of an approved master plan, **no master plan was prepared for the approved development. Thus, the approved residential development cannot be considered a principally permitted use. Therefore, the approved development is appealable under Section 30603(a)(4) of the Coastal Act.**

**MEMO May 3, 2004**

**TO: Commissioners and Interested Persons**

**FROM: Peter Douglas, Executive Director**

**RE: Protecting Views from the Ocean Under the Coastal Act**

**CDP Appeal: A-2-Mar-02-024 (Hansen and Brubaker).** Although the project was withdrawn after the Commission's staff report was published and the Commission never had the opportunity to act on this appeal, a major issue in the staff report dealt with the adverse visual impacts the project would have on views both from nearby public parklands as well as from the waters of Tomales Bay. Public opposition also focused on these impacts, as did that of the National Park Service and State Parks.

The proposed project was for a one story, 23-foot high, 3,113-square-foot single family residence, 336-square-foot detached guest house, 937-square-foot detached garage and a garden storage building and 26.5-foot high, 1,920-square-foot detached barn/equipment storage building on a 207 acre parcel. The Commission received two appeals of the County's approval of the proposed development contending, among other issues, that the approved development is inconsistent with local coastal plan visual resource protection policies because it is sited in a visually prominent location on the parcel, is not compatible with the character of the surrounding natural environment, and obstructs significant views as seen from public viewing places, including the waters of Tomales Bay. The staff recommended denial because of the project's adverse impacts on scenic resources and recommended that the project be redesigned and the structures resited in a less visually prominent location of the property. After the staff report was published, the applicant dropped the project.

**Marquez, Maria Elena@Coastal**

Th/29

**From:** John Kelly <kellyjp@egret.org>  
**Sent:** Saturday, May 10, 2014 11:11 AM  
**To:** CoastalMarinLCP  
**Subject:** Comments on the Marin County LCP amendment proposal  
**Attachments:** Kelly and Evens to CCC re Marin LCP.pdf

Greetings,

Please consider the attached comments on the Marin County LCP amendment proposal. Thank you.

Sincerely,

John Kelly and Jules Evens



John P. Kelly, PhD  
Director, Conservation Science  
Audubon Canyon Ranch  
Cypress Grove Research Center  
415/663-8203  
[kellyjp@egret.org](mailto:kellyjp@egret.org)

[www.egret.org](http://www.egret.org)

Audubon Canyon Ranch protects nature through land preservation,  
nature education and conservation science.

## Tomales Bay Supports 80,000-100,000 Water Birds Annually

By Jules G. Evens<sup>1</sup> and John P. Kelly PhD<sup>2</sup>

<sup>1</sup> Jules G. Evens, Principal, Avocet Research Associates, Point Reyes Station, CA; email: [avocetra@gmail.com](mailto:avocetra@gmail.com). Author, *Natural History of the Point Reyes Peninsula*, University of California Press (2008)

<sup>2</sup> John P. Kelly, Director of Conservation Science, Audubon Canyon Ranch, Stinson Beach, CA; email: [kellyjp@egret.org](mailto:kellyjp@egret.org)

May 11, 2014

California Coastal Commission  
Dr. Charles Lester, Executive Director  
Via email: [charles.lester@coastal.ca.gov](mailto:charles.lester@coastal.ca.gov)

Re: Marin County LCP amendment proposal

Dear Dr. Lester,

We are writing to correct an error in the Marin County Local Coastal Plan amendment proposal (LCPA) regarding the number of waterbirds that migrate through and utilize Tomales Bay for critical forage and resting. The "Biological Resources" section of the LCPA states that approximately 20,000 birds utilize Tomales Bay. However, the actual number as documented by more than 20 years of scientific research and monthly bird counts is 80,000-100,000 birds.

In addition, we are concerned that any of the LCPA may allow an increase or expansion of mariculture operations, and we strongly oppose any such expansion. Mariculture operations in Tomales Bay are serviced by motorized boats which have measurable impacts to waterbirds.

The peer-reviewed literature documenting the effects of disturbance to waterbirds by motorcraft in estuarine environments is robust (e.g., Kaiser and Fritzell 1984, Kahl 1991, Burger 1991, Dahlgren and Korshgwn 1992, Davidson & Rothwell 1993, Galicia and Baldasserre 1997, Madsen 1994, York 1994, Avocet Research Associates 2009, Takekawa 2008). Available scientific evidence, (including sources referenced below) strongly supports the conclusion that the cumulative impacts of daily intrusion by watercraft cause flight responses in loafing and foraging waterbirds that impose energetic costs and challenge their daily energy balance. Allowing such costs is at odds with the enabling legislation of the Estero for the "maximum protection, restoration, and preservation of the natural environment within the area."<sup>1</sup>

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<sup>1</sup> [www.nps.gov/pore/parkmgmt/upload/lawsandpolicies\\_publiclaw94\\_544.pdf](http://www.nps.gov/pore/parkmgmt/upload/lawsandpolicies_publiclaw94_544.pdf)

“Disturbance” describes any interruption in the normal behavioral or ecological needs of waterbirds. Normal behaviors primarily involve foraging or roosting, although social interaction and community dynamics may be affected as well. “Flushing” is the most observable response to disturbance and involves moving away or fleeing from the source. In waterbirds, a flushing response includes swimming, diving, or flying and is usually preceded by an alert response (e.g., “head alert”). Subtle behavioral or physiological responses to disturbance, such as increased heart rate or the production of stress hormones, are likely to precede flushing (Tarlow and Blumstein 2007). Many studies have demonstrated that shorebirds and other waterbirds concentrate where there is the best opportunity to maximize energy gain (Cayford 1993, Davidson & Rothwell 1993).

Flushing may reduce the time waterbirds spend feeding, or resting, and cause them to move to suboptimal feeding or resting areas. Studies have documented displacement of wintering waterfowl to less productive foraging areas (Tuite et al. 1983, Knapton et al. 2000) or complete abandonment of foraging habitat under increased levels of disturbance (Tuite et al. 1983). Repeated flushing increases energy costs to waterbirds, and may have cumulative effects on migratory energy budget and, ultimately, reproductive success (Ward and Andrews 1993, Galicia and Baldassarre 1997, Cywinski 2004).

Waterbirds almost invariably rely on energetically expensive flight as a response to disturbance. To compensate for increased levels of disturbance, they must either increase their food intake to balance additional flight costs, or fly to other less profitable but less disturbed areas to feed. Waterbirds must also accumulate fat and protein reserves to override winter periods of low food availability, prepare for migration, and to store energy for breeding. If feeding opportunities are already restricted, or birds cannot balance their energy needs, increased disturbance could lead to abandonment of the area, reduced fitness, reduced reproductive success, or starvation (Davidson, Evens and Kelly, Comments on Drakes Estero DEIS Page 4 of 14 and Rothwell 1993, Baldassarre and Bolen 1994). Movement patterns and foraging behavior of waterfowl represent a balance between costs and benefits of wintering in a human-influenced environment (Reed and Flint 2007).

Waterfowl raft in dense flocks as an anti-predator, “safety in numbers” strategy. The energetic costs are equivalent whether flocks are flushed by predators or by boats, but the additional costs imposed by boat disturbance increases their overall costs relative to undisturbed conditions. Many studies have documented loss of feeding time due to disturbance by watercraft (op. cit.). In general, approaches from the water disturb birds more than from the land; e.g., in one study, curlews flew from a sail board at 400 m away compared with about 100 m from a walker (Smit & Visser, *in* Rothwell & Davidson 1993). Mathews (1982) studied water-based recreation in Britain and ranked power-boating as the greatest disturbance to wintering waterfowl, followed by sailing, wind-surfing, rowing, and canoeing.

Published evidence strongly suggests that estuarine birds may be seriously affected by even occasional disturbance during key parts of the feeding cycle. Fox et al. (1993) showed that American Wigeon (an abundant species in Drakes Estero) flushed from eelgrass feeding areas will abandon the area until the next tidal cycle unless the disturbance occurs early in the feeding cycle. Brant, which also feed tidally in eelgrass in Tomales Bay, display similar distributional responses (Henry 1984, Stock 1993).

It is difficult to determine or predict when and what level of disturbance will threaten the energy balance in waterbirds. Even before birds begin to operate on an energy deficit, disturbance behaviors may compromise their foraging efficiency, avoidance of predation risk, and selection of particular habitat areas. During certain conditions and times of year, waterbirds are close to their energy balance thresholds and are, therefore, more vulnerable to increased energy demands imposed by disturbance.

For example, waterbirds are likely to be particularly vulnerable to disturbance during

- periods of prolonged storm events, when foraging is more difficult and the energy demand for thermoregulation is higher (Kelly et al. 2002)
- periods of feather molting, which involve significant increases in energy demand
- migratory and pre-migratory periods, which exact heavy energy costs and require waterbirds to build up stores of fat in preparation for their long-distance migration from Tomales Bay to their nesting northern grounds in the spring.

Indeed, available evidence indicates that, prior to spring migration, birds are feeding at or near their maximum intake (Ens et al. 1990). Rodgers and Schweikert (2003) recommended that buffer zones for mixed-species flocks should be based on the largest flush distance or the species most sensitive to human disturbance. They developed a formula for determining waterbird sensitivity to disturbance, based on disturbance response distances that account for at least 95 percent of the expected disturbance responses.

In estimating these distances, they included an additional 40 m to their probability estimates to account for unmeasured responses not observable in the field (e.g., increased heart rate and other physiological responses). The addition of 40 m to the buffer zones was considered to be an important safety margin, to minimize adverse (undetected) impacts to birds before they actually flush, and to account for the increased sensitivity of larger flocks and mixed species assemblages to human distance (Thompson and Thompson 1985).

In a waterbird disturbance study conducted in San Francisco Bay (Avocet Research Associates 2004, 2009), scaups (*Aythya* spp.) showed the greatest sensitivity to disturbance and were one of the most abundant waterbird species studied; scaup species are also abundant in Tomales Bay.

“Black” Brant is a California Bird Species of Special Concern (Davis and Deuel 2008) that relies heavily on Tomales Bay as a “refueling” site during its annual migrations from winter estuarine habitat in Mexico to nesting areas in the low Arctic (Shuford et al.

1989). Numbers of Brant can be very high in the Tomales Bay, ranging upward to 5000 individuals during migratory peaks (Davis and Deuel 2008). Brant are obligate eelgrass (*Zostera maritima*) foragers and their fitness is determined by the availability of this primary forage plant (Reed et al. 1998). Brant are expected to exhibit an enhanced sensitivity to disturbance (taking flight at greater distances from oyster boats) when they are feeding in eelgrass areas than when they are resting (Mori et al. 2001).

The dramatic, historic decline and shift in Brant abundances from primary wintering areas in California in the 1950s, southward into Mexico, are thought to have been a response to disturbance from hunting and other human activities and a reduction in the abundance of eelgrass (Derksen and Ward 1993, Unitt 2004, Harris 2005, Moore and Black 2006). Conversely, recent increases in numbers of wintering Brant (Davis and Deuel 2008) have been attributed to a long-term reduction in disturbance (Moore and Black 2006) and the more recent recovery of eelgrass habitats along the California Coast (Unitt 2004).

Kramer (1976) and Owens (1977) found that Brant were highly sensitive to human disturbance during the fall and winter months. Disturbance during winter and staging is of particular concern because it can negatively affect the ability of Brant to build energy reserves for migration and breeding and thus lower reproductive success (Henry 1980, Derksen and Ward 1993, Reed et al. 1998, Ward et al. 2005).

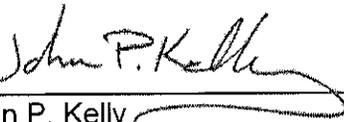
Thank you for your consideration.

Sincerely yours,



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Jules Evens



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John P. Kelly

References cited above are provided in the following publication:

[www.eqret.org/sites/default/files/scientific\\_contributions/kelly\\_evens\\_waterbird\\_disturbance\\_tech\\_rpt\\_2013pdf.pdf](http://www.eqret.org/sites/default/files/scientific_contributions/kelly_evens_waterbird_disturbance_tech_rpt_2013pdf.pdf)

Th/2a

**Marquez, Maria Elena@Coastal**

---

**From:** Tim Stanton <tkeelst@aol.com>  
**Sent:** Sunday, May 11, 2014 4:34 AM  
**To:** CoastalMarinLCP  
**Subject:** Marin County LCP Amendment Proposal

To the California Coastal Commission:

I am deeply concerned by Marin County's proposed Local Coastal Plan Amendments that will be voted on by the Commission on May 15<sup>th</sup>. Marin County's LCP Amendment would allow over one million square feet of new residential and commercial development by right on agricultural production lands almost entirely without public hearings or right of appeal to the Coastal Commission.

Conversely, Marin's Certified Local Coastal Plan intentionally limited residential development with support from the agricultural community in order to limit development pressure and maintain the maximum amount of agricultural land in active production. The switch from using the definition of "parcel" to "legal lot" is the significant change that is absolutely critical here, as is the entitlement by right to additional residential development. The proposed LCP Amendment results in a substantial increase in the entitlement by right of residential development on C-Agricultural Production Zone lands for each lot, rather than each farm.

Based on the County's build-out analysis, 129 new residential units could currently be built by right. Each legal lot can have up to 7,540 square feet of residential development on it. Within ten years, if all Williamson Act contracts expired, the number of new residential units, including "farmhouses" and "inter-generational housing" by right, would increase to 210. Additionally, Marin County proposes up to 5,000 square feet of commercial processing space by right on each C-APZ zoned lot.

This is a drastic, wholesale change in coastal zone policy that is not supported by any County studies or findings. No cumulative impact analysis has been performed pursuant to CEQA; it violates applicable Chapter 3 policies of the Coastal Act; and it serves as a disincentive to continue Williamson Act contracts. Marin's LCP Amendment proposal would undermine the Coastal Act if passed, and would set a bad precedent statewide to allow substantial amounts of new development on needed agricultural production lands.

I support family farming and ranching in West Marin and throughout the California coastal zone, as well as the ability of families to create housing for their workers and processing facilities as needed for their farm products. However, I also know that we can meet these needs, protect irreplaceable natural resources, and protect local economies, if we plan carefully and use land efficiently. Careful planning depends on an open, transparent, and inclusive process that ensures all stakeholders and community members have the opportunity to share their perspective and aspirations, which Marin's LCP Amendment Proposal would severely limit. The Amendment undermines the Coastal Act and the community's right to participate in land use and development decisions in the coastal zone.

Thank you for your kind consideration of these comments.

Sincerely,

Timothy K Stanton

P.O. Box 344  
Point Reyes Station, CA 94956  
[tkeelst@aol.com](mailto:tkeelst@aol.com)  
415-663-1405

**Marquez, Maria Elena@Coastal**

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**From:** Michael Sewell <michael@visualpursuit.com>  
**Sent:** Monday, May 12, 2014 6:01 PM  
**To:** CoastalMarinLCP  
**Subject:** Coastal Changes

Th/2a

Dear Coastal Commission Members and Staff,

I would like to go on record as opposing any increase in building and the rewriting of the coastal regulations. The traffic is at a standstill already and the infrastructure does not support additional traffic on the main arteries to West Marin. Your changes will impact the tourist business and general appeal of the Marin Coast. The traffic on weekends and weekday commuter traffic is already untenable.

Sincerely,

Michael Sewell  
Forest Knolls, CA

Th/29



# CALIFORNIA FARM BUREAU FEDERATION

OFFICE OF THE GENERAL COUNSEL

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May 12, 2014

*Via U.S. Mail, Facsimile (415-904-5400),  
and E-Mail (kevin.kahn@coastal.ca.gov)*

California Coastal Commission  
Kevin Kahn  
Supervising Coastal Planner, LCP Planning  
Central Coast District Office  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

**Re: Agenda Item No. Th 12a – May 15, 2014 Meeting  
Marin County LCP Amendment No. LCP-2-MAR-13-0224-1 Part A  
Marin LUP Update**

Dear Commissioners:

The California Farm Bureau Federation (“Farm Bureau”) appreciates the opportunity to comment upon the California Coastal Commission’s noticed public hearing on May 15 regarding the Marin County LCP Amendment/LUP Update.

Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing nearly 78,000 agricultural, associate and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources. On behalf of its membership, Farm Bureau has been consistently monitoring land use planning processes in the coastal zone which directly affect production agriculture.

We understand that the County of Marin has submitted to the Commission a comprehensive update of its Local Coastal Program’s (LCP’s) Land Use Plan (LUP), after a lengthy process in which Farm Bureau’s county and state organizations provided substantial input. At this point, Commission staff has now proposed certain modifications to the LUP, which we believe are unduly restrictive of agriculture in light

NANCY N. McDONOUGH, GENERAL COUNSEL

ASSOCIATE COUNSEL:

CARL G. BORDEN • KAREN NORENE MILLS • CHRISTIAN C. SCHEURING • KARI E. FISHER • JACK L. RICE

of both the LUP's primary intent with respect to agriculture<sup>1</sup> and the policies set forth in the Coastal Act.<sup>2</sup> We offer several comments and requests in relation to your decisionmaking on this item on Thursday, both for Marin County's plan in particular, and as a matter of general precedent:

- **Policy C-AG-2. Coastal Agricultural Production Zone (C-APZ).** The strikeouts and language inserts in Policy C-AG-2 which were offered by staff should be rejected.
  - In particular, there is no principled reason under the Coastal Act for the Commission to modify the County's intent to preserve "privately-owned" agricultural land in striking the balance that it must between local desires and administration of the Coastal Act.
  - It is unduly restrictive and administratively workable to inject a standard of "and necessary for" into the policy language on development incidental to agricultural production. Farmers and ranchers must have some measure of operational discretion in determining what incidental ancillary development supports their operations.
  - The policy loses a measure of flexibility if staff's strikeout of "substantially similar uses of an equivalent nature and intensity" is accepted with respect to principal permitted uses. The staff report indicates that this is term "not specific enough" to remain, yet it is no less specific than staff's own addition of the "and necessary for" language referenced in the bullet immediately above. Farming and ranching is an evolving line of work in California, if anywhere, and the language must remain to allow for Marin County's farmers and ranchers to adapt to changing conditions.
- **Policy C-AG-9. Agricultural Dwelling Unit Impacts and Agricultural Use.** We request that the Commission remove the staff report's suggested additional requirement of siting "agricultural dwelling units" to protect "significant public views".
  - The requirement is internally consistent, calling for clustering with existing structures and development on the farm at the same time it requires protection of "significant public views".

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<sup>1</sup> Marin County LCP Policy C-AG-1.

<sup>2</sup> As the staff report notes, "Coastal Act policies require[e] the protection and maintenance of agricultural production and the agricultural economy." (Staff Report, p. 4.)

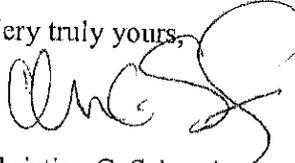
- For the same concern expressed by staff about language “not specific enough” in the context of principal permitted uses, the “significant public view” language is unduly vague and subject to administrative mischief.
- **Policy C-BIO-14. Wetlands.** Staff’s suggested strikeouts and additions in Policy C-BIO-14 should be rejected.
  - The term “ongoing agricultural activities” as a limitation on what may be excepted from the prohibition on agricultural or grazing activities in a wetland is too restrictive. The original language should be restored, as it reflects that many agricultural lands may lie fallow for a period of time, as may grazing lands.
  - The language exempting wetland features created by agricultural activities – tire ruts, for example – from the buffering requirements of C-BIO-19 is pretty sensible. Among other things, turning tire ruts into protected wetlands may have the unintended consequence of creating new tire ruts. Staff’s deletion of this sensible exemption should be rejected.
- **Policy C-PA-3. Exemptions to Public Coastal Access Requirements.** The staff report’s recommended strikeouts and additions in Policy C-PA-3 should be rejected.
  - The concerns about mitigation are adequately addressed in existing language.
  - Staff’s strikeouts completely eliminate any consideration of privacy from analyzing public access requirements, a legally questionable change.

We respectfully remind the Commission of the recent public workshop the Commission held on agriculture in the coastal zone. At that workshop, held on May 8, 2013 in Marin County, the Commission heard directly from a spectrum of farmers and ranchers who live and raise families in the coastal zone, as well as produce food and fiber on its working landscapes. We felt that the workshop, the first dedicated to comprehensively interface with agriculturalists in the coastal zone, was a valuable and productive exercise that would lead to an improved regulatory environment between the Commission and agriculture. We hope that it has, and hope that the Commission can bring some of the context developed at that workshop to bear in approaching the LUP in question here.

California Coastal Commission  
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As an alternative to adoption of this particular LUP's policies on agriculture and Commission staff's proposed changes to these policies, Farm Bureau urges the Commission to defer action on this agenda item at this time, and to instruct Commission staff to work with agricultural stakeholders to develop language with greater flexibility to accommodate agriculture in Marin County in a manner that is consistent with other resource values. We would be available to directly participate in this process.

Very truly yours,

A handwritten signature in black ink, appearing to read 'C. Scheuring', written in a cursive style.

Christian C. Scheuring  
Managing Counsel

CCS/pkh

cc: Marin County Board of Supervisors (bos@co.marin.ca.us)  
Marin County Farm Bureau

**From:** Sierra Club <information@sierraclub.org> on behalf of Susan Burrows <susan.burrows@gmail.com>  
**Sent:** Monday, May 12, 2014 9:52 AM  
**To:** CoastalMarinLCP  
**Subject:** Save West Marin from a million square feet of new development!

May 12, 2014

Coastal Commission

Marin County's proposed Local Coastal Plan Amendment contains many improvements, but the County's drastic proposal to allow over 1 million square feet of new development by right in West Marin's 60-acre minimum lot size coastal agriculture production zoning district goes way too far. Please do not support this terribly misguided proposal that would destroy West Marin's rural character and historic agricultural production lands.

Marin County's amendments would open almost 2/3 of the non-federal land in the coastal zone to residential, commercial, and industrial development without any public input or right of appeal to the Coastal Commission. Marin County performed no cumulative impact analysis of this radical change in policy as required by law, and so there are neither sufficient findings nor facts to support this Amendment. Please protect agricultural production and family farms without destroying the rural character of West Marin!

I absolutely support family farming and ranching in West Marin, and the ability of families to create housing for their new workers and processing facilities as needed for their farm products. However, Marin's proposal to allow a new residential house on every legal lot as an entitlement, plus adding "bonus" (intergenerational) housing by right, will drastically increase development pressure that is antithetical to meaningful agricultural preservation under the Coastal Act.

Marin County has a poor track record of following its own plans and policies. The California Court of Appeals recently invalidated the Marin Countywide Plan due to the County's failure to adequately consider cumulative or individual impacts for the federally endangered Central Coast coho salmon. In recent years, the public has filed numerous appeals to the Coastal Commission due to the County's incorrect interpretation and misapplication of its coastal zone policies. Without the public's right to participate in public hearings and to appeal permits for the siting, design, and location of over 1 million square feet of new development there is no chance that Marin's stunning coastal zone will be protected.

Please support the following changes to the staff report:

1. The definition of "agriculture" for the Coastal-Agriculture Production Zone should only allow the following "principal permitted uses": 1) agricultural production like breeding and grazing livestock, 2) agricultural accessory structures like barns and fencing, 3) one farmhouse for all contiguous lots under common ownership based upon a finding of need, 4) agricultural worker housing based on a finding of need, 5) agricultural home-stays, and 6) not-for-profit educational tours. All other proposed uses on the C-APZ zoning district should be "permitted" or "conditional" uses -- subject to a public hearing and the right to appeal to the Coastal Commission.
2. Viticulture should be categorized as a "conditional use" rather than a "principally permitted use" due to the lack of groundwater and surface water supplies in West Marin and significant impacts to habitat such development would cause.
3. The "inter-generational" housing should be categorized as a "conditional use" and not allowed as a "principally permitted use."

4. All new development on C-APZ lands should be clustered on no more than 3% of agricultural lands to maintain the maximum amount of land in agricultural production. Under absolutely no circumstances should development be allowed on greater than 5% of agricultural lands. [For a 500 acre parcel, this would allow 15 acres of developed area at 3%, and 25 acres at 5%]. All existing and new roads should be included in the calculation of development.

5. Language should be added to policies for adjustments to Wetland Buffers (C-BIO-20) and Stream Buffers (C-BIO-25) so that the proposed exceptions to the 100-foot buffer requirement are only allowed: 1) for rare and exceptional circumstances, and only for the Principally Permitted Uses in that zoning district, or 2) only for a public purpose, or 3) to avoid a taking of private property. A public hearing should be required for any proposed buffer adjustment.

6. Qualify the last sentence in C-MAR-1 such that "support for onshore facilities necessary to support mariculture operations in coastal waters" is limited to shellfish grown in Tomales Bay. That is, expansion of existing onshore facilities should not be driven by increased importation ["ship and dip"] of shellfish from other locations.

7. Require professional engineering or other studies for coastal permit applications for new or expanded groundwater wells or other sources serving two (2) or more lots, rather than five (5) or more, and require such studies for any application for viticulture or row crops under policy C-PFS-13.

8. Require a showing that any new or expanded groundwater well will not exacerbate saltwater intrusion under policy C-PFS-16.

Thank you for protecting the priceless coastal zone of West Marin!

Sincerely,

Susan Burrows  
5 Morning Sun Ave  
Mill Valley, CA 94941-4432



Protecting Marin Since 1934

May 12, 2014

Mr. Kevin Kahn  
Supervising Coastal Planner  
California Coastal Commission  
Central Coast District Office  
725 Front St., Suite 300  
Santa Cruz, CA 95060

Th/2a

**SUBJECT: Item 12A, May 15, 2014: Marin County LCP Amendment No. LCP-2-MAR-13-0224-1 Part A (Marin LUP Update)**

Dear Mr. Kahn:

This letter submitted by Marin Conservation League (MCL) addresses several outstanding issues in the proposed Marin County LCP Amendment (Land Use Plan Amendment, or LUPA). The Coastal Commission Staff-modified version of the LUPA has resolved some of our concerns, but several ambiguities remain unresolved. Clarification is needed to reassure the public that agricultural and biological resources in the Marin County Coastal Zone will be adequately protected throughout the approximate 20-year life of the Amendment. As they now stand, ambiguities have prompted "worst case" speculation over potential future development (build-out) in the Marin Coastal Zone.

Marin Conservation League actively participated throughout the LCP Amendment process in Marin. Our public comments during that time, however, were subsumed under the name of *Community Marin*, a consensus document that presents recommendations of Marin County's major environmental organizations to provide an environmentally responsible foundation for land use planning in Marin County. Initially written in 1991 and updated several times since then, the document was most recently approved by MCL's Board and collaborating environmental organizations in 2013. Although *Community Marin's* recommendations are intended to apply generally throughout the County, a number of them are applicable to Coastal Resources.

Based on MCL Board of Directors' approval of *Community Marin* recommendations, and on our interpretation of proposed policies in the LCP Amendment, we are submitting these comments and questions as "Marin Conservation League," independent of other signatories to *Community Marin*.

**1. Intergenerational homes in C-APZ district.**

- a. Number of homes (farm dwellings). While the current LUP only allows one single family

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Marin Conservation League was founded in 1934 to preserve, protect and enhance the natural assets of Marin County.

residence per parcel (emphasis added), the proposed LUPA would allow one intergenerational home (in addition to a farmhouse) per lot for members of the farm operator's or owner's immediate family as a principally permitted agricultural use. A second intergenerational home could be built as a conditional use (i.e., subject to appeal by the CCC). However, as proposed, the homes cannot be divided from the rest of the agricultural legal lot, and must maintain the C-APZ district's required 60 acre density, meaning that a first intergenerational home would only be allowed when a parcel is at least 120 acres, and a second only when the parcel is at least 180 acres.

The LUPA needs to clarify the distinction between "per parcel" and "per lot" as used in this context. Because *Community Marin* recommends that ". . .any residential development is secondary and subordinate to the primary agricultural use of sites," and an *additional dwelling should be allowed only on legal lots larger than 120 acres*, MCL has objected to the concept of first intergenerational homes without public review. The Staff-modified LUPA recommends a practical cap of 27 for the total number of first intergenerational homes, but doesn't set any cap for 2<sup>nd</sup> intergenerational homes. MCL is concerned that the number of intergenerational homes that theoretically might be built is not clear except as a maximum, consistent with zoning.

- b. Occupancy of intergenerational homes by immediate family. The County added intergenerational housing to its proposed LUPA as an allowed use (second intergenerational residences were added as a conditional use) as a means of perpetuating the culture of family farms in Marin County by enabling either retiring or succeeding generations – or family members not directly engaged in farm operations – to live on the farm. Family occupancy of intergenerational homes would be enforced by a covenant restricting occupants to be "immediate family members."

Based on interpretation of *Community Marin* recommendations, MCL believes that such a covenant would be impossible to monitor and thus unenforceable. Therefore, we agree with the CCC Staff recommendation to remove from the County's proposed LUPA the ". . . requirement that occupants of intergenerational homes can only be family members and do not have to be actively or directly engaged in agricultural use, in that state and federal housing laws prohibit regulating housing based on familial status."

- c. Square footage of homes (farm dwellings). The LUPA limits the aggregate square feet of one (farmhouse) plus one or two intergenerational homes to 7,000 s.f., plus 1,040 s.f. for ancillary structures and/or office space, bringing the total per lot (?) to 8,040 s.f. Whether the total is per lot or per parcel should be clarified. Would the 1,040 s.f. of ancillary structures and office space be divided in a similar fashion?

The limitation of 3,500 s.f. per home (if there are two homes – less if there are three) roughly conforms to *Community Marin's* recommendation to keep residences in Marin at a reasonable size (3,500 plus 500 s.f. of ancillary structures). Therefore MCL supports this limitation.

- d. Clustering of development. In its proposed LUPA the County states that development must be clustered on no more than 5% of the gross acreage of the parcel. This echoes the limitation retained by the County in its certified LUPA that development be clustered on no more than 5% of the gross acreage of the parcel, to the extent feasible. MCL agrees with this limitation because it is consistent with a *Community Marin* recommendation.

## 2. **Agricultural worker housing.**

The proposed LUPA allows as a PPU agricultural worker housing providing accommodations consisting of no more than 36 beds in group living quarters per legal parcel or 12 units or spaces per legal parcel for agricultural workers and their households. Agricultural worker housing above 12 units per legal lot would be a conditional use.

*Community Marin* supports residential units for workers only where they are directly related to the primary agricultural use of the property, and meet health and safety standards. It does not otherwise address how much worker housing should be allowed. Once again, MCL requests that the distinction between per parcel, and per lot be clarified in this context.

## 3. **Agricultural product sales and processing facilities**

The proposed LUPA allows as a PPU agricultural product sales and processing of products grown on-site, provided that for sales, the building(s) or structure(s), or outdoor areas used for sales, do not exceed an aggregate floor area of 500 square feet, and for processing, the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet. Product sales and processing of products not grown on-site would require a conditional use permit.

*Community Marin* recommends limiting product sales structures to 250 s.f., and product processing facilities to 2,500 s.f. Regardless of this difference in recommended size, neither the County's proposed LUPA nor the CCC Staff-modified LUPA specifies the unit of land on which the total square footage of sales and processing facilities would be based – per lot? Per parcel? Per "farm"? Furthermore, no size limit is provided for facilities selling or processing products not grown on site. These clarifications need to be added.

#### 4. Additional issues for the record

- b. Viticulture. Viticulture is listed in the proposed LUPA as an agricultural operation that does not require a coastal permit. During hearings, the Planning Commission requested that viticulture be removed from the list and that conversion to, or installation of, viticulture require a conditional use permit. County staff disagreed, citing the County's Viticulture Ordinance as an adequate mechanism for "regulating" viticulture.

*Community Marin* has long held that changes in intensity of agricultural use involving significant grading or intensity in use of water, such as change from livestock grazing to viticulture, should be subject to conditional use review. Conversion of grazing land to viticulture would require grading, cultivation, and/or irrigation, any of which could affect surface and/or groundwater resources as well as alter sediment regimes in water courses. Therefore, MCL recommends that Viticulture should be removed as a principal permitted use.

- c. Grazing in wetlands. *Community Marin* contains numerous recommendations for protection and buffering of wetlands. Although none of them refers specifically to grazing in wetlands, MCL recommends prohibiting agricultural practices that would harm these resources and sensitive wildlife habitat. (E.g., *Community Marin* Recommendation 3.9 "There should be no agricultural activity or any development within 100 feet of a wetland or riparian habitat.")
- d. Wetland and stream buffers and buffer adjustments. Language in the proposed LUPA would allow a 100-foot wetland or stream buffer to be adjusted to a minimum of 50 feet, contingent on a biological assessment. A 100-foot buffer to protect wetlands and streams is listed among policies in the existing certified LCP. The additions to the proposed LUPA which allow a "fall-back" from the recommended 100-foot buffer to a minimum buffer of 50-foot minimum, while appearing to limit adjustments, and recommended by Coastal Commission Staff, would serve as an open invitation to those seeking minimum solutions.

Marin Conservation League appreciates the years of effort put into updating the LCP by Marin County CDA Staff, as well as the Coastal Commission Staff's painstaking review. We believe that some important gaps need to be closed – gaps that leave open the possibility of unwarranted doubts about the future protection of Marin's Coastal Resources.

Sincerely,



Jon Elam, President



Th12a

May 12, 2014

Dr. Charles Lester, Executive Director  
California Coastal Commission  
Via email: [clester@coastal.ca.gov](mailto:clester@coastal.ca.gov)

Dear Dr. Lester,

The Environmental Action Committee of West Marin (EAC) offers the following comments and analysis on Marin County's proposed comprehensive Land Use Plan rewrite to our Certified Local Coastal Program (Rewrite). Since 1971, EAC has been protecting the natural environment and rural character of West Marin.

We would like to thank you and your staff for your continued participation, transparency, and willingness to provide feedback throughout Marin County's LCP rewrite process. While we had hoped to be in agreement with the Commission's staff report based on your letters written over the past three years expressing many of the same concerns with Marin County's proposal as EAC has, unfortunately we are not. We do not agree that what Marin County submitted is an "amendment" or even a "comprehensive amendment." Rather, Marin County submitted a complete rewrite of the 1981 Certified LCP. For purposes of this letter, we refer to what you have labeled the proposed Marin County Local Coastal Plan Amendment as the "Rewrite."

The Rewrite proposes a drastic, far-reaching policy change in the way that residential and commercial development would be permitted on coastal agriculture production zone lands. The Rewrite redefines "agriculture," which is the Principal Permitted Use in the agriculture production zoning district, to include a host of residential dwellings, in conflict with the Countywide Plan's definition. The Rewrite redefines "parcel" as a "legal lot of record" while currently it is defined as "all contiguous parcels under common ownership." If a ranch is made up of five legal lots of record, under the Rewrite it would be entitled to have a residential dwelling unit on each lot up to 7,500 square feet in size.

The impact of these changes, according to the County's build-out analysis, is that 129 new residential units could be developed as "agriculture." Thus the Rewrite could permit over 1 million square feet of new residential development on agricultural production lands entirely outside of the Commission's review authority. This is a wholesale change in coastal zone policy that is not supported by any County studies or findings. No cumulative impact analysis has been performed pursuant to CEQA, it violates applicable Chapter 3 policies of the Coastal Act, and it could serve as a disincentive to continue Williamson Act contracts.

Environmental Action Committee of West Marin  
PO Box 609 Point Reyes, California 94956  
[www.eacmarin.org](http://www.eacmarin.org) 415.663.9312

***EAC strongly supports family farming in West Marin, and the ability of farming families to create some new housing and processing facilities for their farm products.*** However, Marin County's Rewrite goes way too far and would open the floodgates of an unprecedented level of new residential development pressure, including high-value estate development, on coastal agricultural lands. The Rewrite is overly broad to achieve its stated purpose of allowing some new residential housing for the next generation of family farmers. There is an important difference between policies that support agricultural production and those that have the effect of increasing speculative land development pressure.

Truly, the public have made a significant investment in keeping the agricultural production lands in active production – public funds obtained through the Coastal Conservancy, Natural Resource Conservation Service (NRCS), and Marin Measure A [which EAC supported] have helped purchase conservation easements on agricultural lands in the coastal zone. Additionally, public funds support compliance with water quality regulations for family farms and dairies, including through UC Cooperative Extension, Marin's Resource Conservation District, and NRCS. EAC strongly supports the purchase of development rights and dedication of affirmative agricultural conservation easements on C-APZ parcels by the Marin Agricultural Land Trust.

EAC has participated at every stage in the County's Rewrite process. We have testified and submitted over a dozen comment letters. We have called attention to our concerns with the County, as the Coastal Commission staff has done, repeatedly yet without an adequate substantive response. EAC agrees with many of the modifications your staff report made to the Marin County submittal, and do believe that they strengthen and clarify portions of the submittal; however we cannot support its passage as a certified land use plan. We strongly believe that the Rewrite violates Coastal Act sections 30006, 30241, 30242, 30250, and 30251, and that it fails to provide the required environmental analysis that is mandated by the California Environmental Quality Act (CEQA).

It is Marin County's responsibility to make an affirmative showing that the Rewrite meets the Chapter 3 policies of the Act. That affirmative showing is supposed to include findings of fact and analysis which support any changes made, which EAC and the public have asked for multiple times yet never received. Nor have we seen any project alternatives, mitigation measures, or cumulative impact analysis of the potential 1 million square feet of new residential and commercial development on coastal agriculture production lands. Marin County has a history of not complying with CEQA.<sup>1</sup> Pursuant to CEQA, the public is entitled to this level of environmental review prior to Lead Agency certification.

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<sup>1</sup> The California Court of Appeals ruled on March 5, 2014 that Marin County's policies and EIR for the 2007 Countywide Plan failed to comply with CEQA by 1) failing to adequately assess the cumulative impacts of development along the main watershed and stream conservation area of the endangered Central Coast Coho, 2) failing to define or adopt adequate mitigation measures to reduce impact of buildout on the fish, 3) and failing to adopt performance standards by which to evaluate mitigation measures recommended.  
<http://www.courts.ca.gov/opinions/nonpub/A137062.PDF>

The California Supreme Court has stated that the CEQA process "protects not only the environment but also informed self-government. For "functionally equivalent" review documents, informed self-government is protected by the requirement that an agency respond in writing to significant environmental points raised during the project review process. That requirement "ensures that members of the [governmental decision-making body] will full consider the information necessary to render decisions that intelligently take into account the environmental consequences. It also promotes the policy of citizen input underlying CEQA."<sup>2</sup>

EAC and Commission staff have commented for over two years that the way the County changed the definitions of "agriculture" and "parcel" was not acceptable. In fact, the consequences of the substantial changes in the Rewrite are not supported by the Marin County Agricultural Economic Analysis that Strong Associates prepared in November 2003. That analysis makes clear that even a new 3,500 square foot residential development on agricultural lands greatly increases the property tax and insurance costs per acre that could tip the scale for an agricultural operator. EAC wants to preclude West Marin's coastal zone from being gentrified by high-value estate development that will push out real agriculture operations. We are committed to protecting the long-standing rural character of West Marin in a way that supports family farming. The County's proposal simply goes way too far and is overly broad to achieve this purpose.

For both these and other reasons addressed below, we continue to believe that Marin County's submittal of this Rewrite to the Commission was premature, as we testified to the Board of Supervisors at the July 30, 2013 public hearing. EAC stands ready to work collaboratively with Marin County and Commission staff to define policies that are agreeable to all parties and that meets the letter and spirit of the Coastal Act.

### **I. Marin's Coastal Zone Forms A Scenic Panorama of Unparalleled Beauty.**

The Marin Coastal Zone is a place of singular beauty with magnificent visual character that is a major attraction to the 2.5 million tourists who visit Point Reyes National Seashore and the West Marin area annually. A significant part of the coastal zone is owned and managed by the National Park Service, including the Point Reyes National Seashore, Golden Gate National Recreation Area, and Muir Woods National Monument. The entire Marin coastal zone is surrounded by the waters of the Gulf of the Farallones National Marine Sanctuary. In 2002 Tomales Bay was internationally recognized as a "wetland of importance" under the Ramsar Convention. Approximately 100,000 water birds utilize Tomales Bay every year for feeding and resting during their long migratory journey.<sup>3</sup>

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<sup>2</sup> See 2006 Guide to CEQA, 11<sup>th</sup> Edition by Remy et al. Page 2.

<sup>3</sup>[http://www.egret.org/sites/default/files/scientific\\_contributions/kelly\\_evens\\_waterbird\\_disturbance\\_tech\\_rpt\\_2013pdf.pdf](http://www.egret.org/sites/default/files/scientific_contributions/kelly_evens_waterbird_disturbance_tech_rpt_2013pdf.pdf)

Truly, there is no other place like the West Marin coastal zone in California, and its protection did not happen by accident. Residents fought off development proposals to turn scenic Highway 1 into a 4-lane freeway and repealed the 1967 West Marin General Plan that would have suburbanized the east shore of Tomales Bay<sup>4</sup> with development for 150,000 people.<sup>5</sup> The rolling hills and agricultural operations in the coastal zone have been protected by environmentalists and agriculture operators alike for over thirty years. Of the non-federal land in Marin's coastal zone, almost 2/3 of it is zoned as "agriculture production land."

## **II. Marin's 1981 Certified Local Coastal Plan Policies Protect Agriculture Production Lands and Comply With Coastal Act Policies.**

Under the Marin Certified LCP one residential dwelling unit on a Coastal-Agriculture Production Zone (C-APZ) parcel is a "Permitted Use" that is appealable to the Commission. In agricultural references, the Marin County certified Land Use Plan (LUP) consistently regards a "parcel" as "all contiguous assessor's parcels under common ownership." Minimal residential development has occurred on these agriculture lands since certification of the LUP in 1981, thereby achieving Chapter 3 policies to maintain the maximum amount of agricultural land in production.

The Certified LUP requires that a master plan for planned districts (including C-APZ) ". . . shall include at least all contiguous properties under the same ownership." The LUP enumerates Principal Permitted Uses (PPUs) that are permitted in all C-APZ districts subject to an approved master plan. For the C-APZ district, the LUP allowance for a single-family dwelling is one dwelling for "all contiguous parcels under common ownership." The certified Implementation Plan defines "parcel" as "all contiguous assessor's parcels under common ownership (unless legally divided as per Title 20, Marin County Code)."

The Marin County Certified LCP LUP Unit II is replete with references to protecting the C-APZ zoning district from the 60-acre zoning density build-out. Preventing development at the one residence per 60-acre build-out prevents the de facto subdivision and conversion of agriculture production lands that would violate Coastal Act policies 30241, 30242, and 30250.

Consider the following excerpts from Marin's Certified LCP Land Use Plan Unit II:

p. 79

### **LAND ACREAGES**

Parcel and farm sizes. The 37,000 acres of agricultural land in Unit II are divided into approximately 155 parcels, (One "**Parcel**" is defined as all contiguous assessor's parcels owned by one individual or group. Although there is some question about

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<sup>4</sup> The Tomales Bay watershed covers approximately 228 square miles, and the Bay itself is about 12 miles long, 1.5 miles wide and covers 9,000 acres.

<sup>5</sup> See Dr. L. Martin Griffin's "Saving the Marin-Sonoma Coast," available at: <http://martingriffin.org/the-book/about/>

the effect of recent state legislation on merged parcels, the County of Marin does have a merger ordinance which, in the opinion of County Counsel, most likely merges these agricultural parcels. The specific effect of the legislation would have to be determined on a case-by-case basis.). (Emphasis ours).

p. 87

#### EXISTING AGRICULTURAL POLICIES IN MARIN COUNTY – PLANNING ISSUES

The build-out potential under the Countywide Plan for agricultural lands in the Unit II coastal zone can be calculated by applying existing zoning densities. Build-out figures for lands zoned A-60 or ARP-60 are given in Table 12. One **"parcel" is defined as all contiguous assessor's parcels under common ownership,**

p. 88

Sections 30241, 30242, and 30250(a) of the Act support the preservation of agriculture by strictly limiting conversion of agricultural lands to other uses. Any potential land use regulation must be evaluated, to a large degree, for its effectiveness in achieving this goal.

p. 89

Studies of agriculture estimate that approximately 400 to 1200 acres are needed to operate a dairy in Marin County while beef grazing operations need 500 acres or more.

Given the requirements of dairy and grazing operations in Marin County, it is apparent that units of land larger than 60 acres are needed to maintain agriculture. **Over the long term, this relatively small parcel zoning serves as a subdivision plan which slowly erodes the agricultural land base and permanently reduces the amount of land necessary to maintain agricultural uses.** . . .the LCP has, however, made major changes in the pattern of potential parcel configuration by requiring clustering and has added numerous conditions which must be met before development can be permitted. (Emphasis ours).

p.89

#### BUILDOUT POTENTIAL/CONCENTRATION OF DEVELOPMENT

The build-out potential of lands in Unit II zoned A-60 is 442 units total, 28 on parcels 60 acres or less in size and 417 on parcels greater than 60 acres. . . . **Build-out at this scale raises several conflicts with the Coastal Act.** One of the major conflicts is with the Act's policies requiring that new development be located within or close to existing developed areas or in other suitable areas where it can be concentrated (Section 30250(a)). The **purpose of these policies is to avoid sprawl and its associated environmental and economic costs.** (Emphasis ours).

**Buildout under A-60 zoning would spread evenly at low density over 37,000 acres of agricultural land in the Unit II coastal zone, inefficiently utilizing the land, requiring large investments for public services, and pushing out agricultural uses.** A more

desirable alternative would be to cluster development in a few selected locations and to direct new construction to existing communities where it could be accommodated. LCP policies are written to achieve these purposes. (Emphasis ours).

p. 100

6. Definitions and uses. The **definition of agricultural uses in the APZ** is given below, ... h. One single-family dwelling per parcel. **"Parcel" is defined as all contiguous assessor's parcels under common ownership.**

It is clear from this Certified LUP language that the writers of the 1981 LCP were cognizant of trying to protect family ranch and dairy operations from development pressure to convert agriculture production lands to sprawling development. The Certified LUP specifically limited future development on a ranch or dairy operation basis, knowing that likely many such coastal zone operations already had multiple houses for family members from pre-Coastal Act development. It is also clear that they believed that allowing build-out akin to the 60-acre zoning density would conflict with the Coastal Act policies aimed at protecting the conversion of such lands to non-agricultural production uses. The Rewrite's allowance of over 1 million square feet of new development is a major diversion from the Certified LUP's strong agriculture protections.

### **III. Changing the Definitions of "Parcel" and "Agriculture" Allows Substantially More Development on Agriculture Production Zone Lands In Violation of Coastal Act Section 30241, 30242, and 30250.**

The Rewrite proposes a drastic, far-reaching policy change in the way that residential and commercial development would be permitted on coastal agriculture production zone lands. The Rewrite redefines "agriculture," which is the Principal Permitted Use in the agriculture production zoning district, to include a host of residential dwellings, in conflict with the Countywide Plan's definition. The Rewrite redefines "parcel" as a "legal lot of record" while currently it is defined as "all contiguous parcels under common ownership." If a ranch is made up of five legal lots of record, under the Rewrite it would be entitled to have a residential dwelling unit up to 7,500 square feet on each lot.

The impact of these changes, according to the County's build-out analysis, is that 129 new residential units could be developed as "agriculture." The Rewrite would allow each legal lot over 7,500 square feet, thus it could permit over 1 million square feet of new residential development on agricultural production lands entirely outside of the Commission review authority. Allowing a farmhouse as a Principal Permitted Use on every legal lot of record would open the door to substantial amounts of new residential development on agriculture production lands. The Rewrite would thus allow an entitlement by right to new residential development on the 37,000 acres of agriculture production land for each legal lot, rather than each farm as it has existed since 1981.

The Principal Permitted Use for the C-APZ zoning district is proposed to be the greatly expanded definition of "agriculture." The Rewrite changes the meaning of agriculture from the Certified LCP to add single-family residential uses to the definition, including a

farmhouse, inter-generational house, and farmworker housing.

The Marin County 2007 Countywide Plan defines "agriculture" as the "breeding, raising, pasturing, and grazing of livestock for the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; and the planting, raising, harvesting, and producing of agricultural, aquacultural, horticultural, and forestry crops."<sup>6</sup> The 2007 Countywide Plan defines "agricultural production" as "the commercial production of agricultural crops." Thus, the Rewrite proposes a definition of "agriculture" that clearly conflicts with the Countywide Plan.

Based on the County's build-out analysis, 129 new residential units could be built by right in the C-APZ zoning district under the Rewrite policies. Each legal lot can have up to 7,540 square feet of residential development on it. Within ten years, if all Williamson Act contracts expired, the number of new residential units, including "farmhouses" and "inter-generational housing" by right, would increase to 210. Additionally, Marin County proposes authorizing up to 5,000 square feet of commercial processing space by right on each C-APZ zoned lot. Marin County's land use policies have discouraged the sale or subdivision of individual agricultural lots precisely to avoid this scale of development. Yet the Rewrite would allow all of this development could occur without the sale or subdivision of a single lot.

*The consequence of this wholesale policy shift, based on Marin County's build-out analysis, would be to allow an enormous amount of new residential development by right – over 1 million square feet – on agriculture production lands. New development can be clustered on up to 5% of the gross acreage per C-AG-7 A.4., thus the overall amount of agricultural land that could be converted is undeniably significant.*

**Neither Marin County nor the Commission staff report have directly addressed the fact that this substantial amount of potential new development would amount to very significant changes in the character of West Marin's coastal zone, that it could have very significant impacts on visual resources, water quality, water quantity, wildlife habitat protection, and the ongoing viability of agriculture operations.** Thus, the Rewrite proposal conflicts with the Coastal Act. Additionally, neither Marin County nor the Commission staff report has performed any level of meaningful cumulative impact analysis under CEQA on these multiple significant environmental impacts from the amount of potential new development.

To protect the agricultural economy, Sections 30241, 30242, and 30250 of the Act require conflicts between agricultural and urban uses to be minimized by establishing stable urban-rural boundaries, providing agricultural buffers, ensuring that non-agricultural development is directed first to lands not suitable for agriculture or to transitional lands on the urban-rural boundary, restricting land divisions, and controlling public service or facility expansions.

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<sup>6</sup> 2007 Marin Countywide Plan, Glossary section, page 5-22.

Consider the following comparison chart:

<u>Principal Permitted Use Development On Agriculture Production Lands</u>	<u>Certified LCP</u>	<u>Rewrite Proposal</u>
Density calculation based upon definition of "parcel"	A parcel is defined as all contiguous legal lots under common ownership.	A parcel is instead defined as a legal lot of record. A farm can consist of multiple legal lots.
Farmhouse	Entitled to 1 by right with public hearing - public appeal right to CCC.	Entitled to 1 per legal lot by right up to 7,540 sf - No public hearing generally <sup>7</sup> - no public appeal to CCC unless ESHA impacted or in geographic appeal zone
1 <sup>st</sup> Additional Private Residence (labeled 1 <sup>st</sup> Inter-generational Home)	Does not contain allowance for this type of residential development.	Entitled to 1 per legal lot by right if density [120 acre lot] allows - Occupant not required to be at all involved in agricultural operation - subject to 7,540 overall sf cap - no public hearing generally - no public appeal to CCC unless ESHA impacted or in geographic appeal zone
Farm Worker Housing	Conditionally permitted Use permit and Design Review required Public appeal to CCC allowed	Entitled to significant amount by right and based on showing of need - Not part of density calculation - Not subject to square foot limit - No public appeal to CCC unless ESHA impacted or in geographic appeal zone
2 <sup>nd</sup> Additional Private Residence (labeled 2 <sup>nd</sup> "Inter-generational Home")	Does not contain allowance for this type of residential development.	Conditionally permitted if density [180 acre lot] allows subject to 7,540 overall sf cap - public hearing is required - Use permit required - Public appeal to CCC allowed
Easement dedication requirement	Development of a parcel requires recording a covenant not to divide parcel, and that the parcel not be further subdivided.	Proposes that residential development labeled "Intergenerational homes" <b>"shall not be subdivided or sold separately</b> from the <i>primary</i> agricultural legal lot."

<sup>7</sup> No public hearing in nearly all. Hearing on a PPU application would be required if (1) in geographic appeals zone, or (2) a hearing is required for another discretionary planning permit for that project. So if it's a farmhouse anywhere on a lot that touches Hwy One and is < 300' from the "shoreline", it's geographically appealable and thus would get a hearing. If a PPU project has a component that requires Design Review, the Design Review is a discretionary permit and triggers a public hearing. However, C-APZ is not a planned district, so Design Review doesn't apply.

**The Commission staff report admits that “Since single-family dwellings are inherently not necessary for agricultural production, nor can they meet Coastal Act 30241’s requirements, they must be deleted as an allowable land use.”**

To get around this statement, the staff report decrees, without any stated basis, that the 7500 square foot cap on allowable residential construction per legal lot under policy C-AG-9 and renamed the residences “agricultural dwelling units” thereby “insures consistency with 30241.” However, simply putting a cap on the size of residential development that would otherwise not be allowed on agricultural productive lands, and coming up with a new name for what the County’s submittal itself terms a single-family residence, when it is not consistent with Section 30241, 30242, or 30250 in the first place, violates the clear purpose of the Act. These Coastal Act sections require protecting agricultural production lands from precisely the kind of build-out proposed by Marin County’s Rewrite and unaccountably supported by the Commission staff report.

In addition to the current number of legal lots of record, numerous additional parcels may be uncovered through survey work to obtain “Certificates of Compliance” (COC). Development on legal, non-conforming parcels legitimized through the issuance of COCs, and adjusted by lot line adjustment has plagued communities statewide. The Coastal Commission has made significant efforts in the Santa Monica Mountains, San Luis Obispo County, and elsewhere to try to minimize damage from this pernicious land use practice. Under the Certified LUP, there is little incentive for agricultural operators to research and obtain COCs. But if the Commission allows the County’s new definition of “parcel,” a veritable land rush could ensue.

Based on the proposed changes, consider the following example comparing maximum build-out of a parcel in the C-APZ zone under the Certified LCP and as proposed in the LCP Rewrite. Assume a 540-acre farm, a parcel currently composed of three 180-acre legal lots under common ownership.

3 development scenarios include:

- 1) Certified LCP: Allows 1 farmhouse for all 540 acres.
- 2) Certified LCP, with sale of 2 lots: Allows each of the separate owners of the now 3 lots to build a farmhouse.
- 3) Proposed LCP Rewrite: Would allow development of 3 farmhouses, 3 Bonus Houses (“Inter-generational houses”) by right and 3 additional Bonus Houses (“2<sup>nd</sup> Inter-generational house”) with a conditional use permit for a total of 9 residences possible without engaging in subdivision of any lot.

Thus, the Rewrite policies could allow three times or more of the current residential development. Even accepting all of the Coastal Commission staff report’s recommended modifications, most of which are improvements to the Rewrite proposal, the County’s proposed significant wholesale shift in allowable development that it could

permit in the coastal zone is alarming. The staff report's added development standards for C-APZ land in policy AG-7 do not alter the Rewrite's overall effect or this conclusion.

We greatly appreciate Marin County's desire to make possible housing for the next generation of family farmers possible, and understand and agree that some new housing should be allowed. However, the Rewrite simply goes far beyond its purpose in allowing a farmhouse as a "Principal Permitted Use" on every legal lot in the agriculture production zone district.

In summary, Marin County's Rewrite as modified by the staff report and proposed for certification would fundamentally undo existing certified coastal protection policies and does not comply with the Coastal Act. Moreover, the Rewrite would change policy on agriculture production lands so that:

- 1) A residence could be built on every legal lot, rather than one for all contiguous parcels under common ownership, without any public right to seek review by the Coastal Commission,
- 2) A significant amount of new residential housing could be built for and occupied by persons having nothing to do with the agricultural operation, and
- 3) The potential build-out that the Marin LCP Rewrite would permit directly conflicts with Coastal Act policies 30241, 30242, and 30250.

The Rewrite should not be supported if we are to have meaningful protection of our agricultural production zone lands in West Marin. The additions made in the Commission staff report do not correct this fundamental problem.

#### **IV. Coastal Commission Comment Letters and the Commission's LCP Update Guide Support EAC's Conclusions That the Rewrite Goes Too Far.**

The Commission's guidance document<sup>8</sup> for updating LCPs supports EAC's recommendations. It states:

To resist a trend to change the character of an agricultural area to a more residential setting, an LCP update should consider revising criteria for residential approval to ensure that it supports agriculture. For example, standards can require that any residential use:

- is a conditional (not principally permitted) use,
- is only for an agricultural owner or operator,
- is allowed only upon an analytic conclusion that it will not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production (see following section: "Agricultural Land Conversion

<sup>8</sup> CCC: LCP Update Guide: Examples and Citations for Some Recommendations and Suggestions. (Published April 2007; revised July 31, 2013.)

Criteria”),

- is governed by size limits, placement on a parcel, and design criteria,
- is restricted to one home per parcel,
- does not lead to subdivision,
- is on a parcel protected for continued agricultural use (see following section: “Affirmative Agricultural Easements”).

**For counties, update the IP to show only one principal permitted use in each zoning district.**

*EXAMPLE:<sup>9</sup> Commission suggested modifications to excerpt from county’s agricultural zoning district [see especially text in bold]:*

**21.08.020 The principal permitted use.**

*The principal permitted agriculture exclusive use entails all agricultural uses including horticulture, crop and tree farming, livestock farming and animal husbandry, including dairies, public and private stables, but excepting feed lots and accessory buildings and uses including barns, stables, greenhouses constructed without a slab or perimeter foundation, and other agricultural buildings. These respective uses are not appealable to the California Coastal Commission pursuant to Section 21.52.020(A) (3) and Public Resources Code (PRC) Section 30603(a)(4), but may be so appealed pursuant to other provisions of Section of PRC Section 30603.*

**21.08.025 Other principally permitted uses.**

*Other principally permitted uses not requiring securement of a conditional use permit but which are appealable to the California Coastal Commission pursuant to Section 21.52.020(A) (3) and Public Resources Code (PRC) Section 30603(a)(4) entail:*

A. A farm dwelling with appurtenant uses including home occupations, and appurtenant accessory structures. A manufactured farm dwelling may be placed in lieu of a conventional farm dwelling; and

B. **Farm quarters for up to five farm laborers employed full-time on the premises.** Manufactured farm quarters may be placed in lieu of conventional farm dwelling units. (Ord. 2009-\_\_\_ § \_ (part)).

As far back as January 7, 2012 the Commission staff who were engaged in Marin County’s LCP overhaul process made the following comments:

As we’ve stated in our previous comment letters and testimony at hearings, we have some fundamental concerns with the agricultural policy amendments. Although its not explicit in all the policies, it appears that the overall approach is to define agriculture in such a way as to include not only the

<sup>9</sup> For the context of this example, please see the Commission staff reports for Del Norte County’s LCP Rewrite.

cultivation of crops and raising of animals; but also to include uses that have deemed to accessory structures or uses appurtenant and necessary to the operation of agricultural uses. Then, using this construct, the standards for development on agricultural lands (in C-AG-7) are divided between 'agricultural uses' and 'non-agricultural uses.' Some of these appurtenant structures include intergenerational homes for families that aren't required to be working the land, farm worker housing, and agricultural home stays. While these uses may be appropriate under certain circumstances, **we have serious concerns with this one-size fits all approach, because we do not believe that they should be defined as agriculture, and that there are insufficient standards for review of these uses. As currently drafted, the policies could open the door to abuse and conversion of agricultural lands to non-agricultural uses, inconsistent with Coastal Act Sections 30241 and 30242.** (Emphasis ours).

On July 30, 2013, the Commission staff wrote to Marin County:

**In terms of agricultural protection, we continue to believe that the LCP needs to be structured around a more traditional definition of agriculture that is tied to working of the land (including crop production, cultivation, and grazing), so that standards and criteria can be made clearer in terms of allowing, siting, and designing other uses and development that might be appropriate on agricultural lands (e.g. farmhouses, farmworker housing, intergenerational housing, agricultural processing structures, etc.).** There are many sub-issues related to agricultural protection, but many of our remaining concerns stem from the Update's proposed definition of agriculture. (Emphasis ours).

Thus, despite clear input from the Commission staff and the public throughout the Rewrite process that its proposed new treatment of agriculture production lands was troublesome, Marin County ignored those comments. Then, for reasons still unclear and without adequate support, the Commission staff report reversed course and abandoned its prior comments in support of Marin County's Rewrite proposal.

**V. Defining "Agriculture" To Include Residential and Commercial Development As A "Principal Permitted Use" Substantially Excludes the Public from Participation in Violation of Coastal Act Section 30006.**

Section 30006 of the Coastal Act states:

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

Of the non-federal lands in Marin's coastal zone, almost 2/3 are in the agricultural production zone. The Principal Permitted Use for the C-APZ zoning district is proposed to be the greatly expanded definition of "agriculture." The Rewrite changes the meaning of agriculture from the Certified LCP to add single-family residential uses to the definition, including a farmhouse, "inter-generational house," and farmworker housing.

If approved, the new residential development categorized as a Principal Permitted Use for every legal lot in the C-APZ zoning district would almost never be appealable by the public to the Commission whereas such appeal has been allowed for over 30 years. It also means that a public hearing would seldom occur. Public input and appeals have greatly contributed to ensuring that Marin County's Certified LCP is followed [see Appendix 2]. We strongly believe that the Rewrite proposes a major change that violates Section 30006 of the Coastal Act.

Additionally, if approved the Rewrite would remove the Commission's oversight of residential development on almost 2/3 of Marin's coastal zone. We think this is a terrible precedent and also violates the Coastal Act.

#### **VI. Neither Marin County Nor the Commission Staff Report Has Presented Sufficient Findings or a Cumulative Impacts Analysis As Required By CEQA.**

On April 22, 2009, the Commission staff sent a letter to Marin County stating that "Where you [county] proposed to alter or delete standards in the certified LCP it is important to provide data and analysis explaining the change so it can be evaluation for conformance with the Coastal Act." EAC and others have asked the County repeatedly for such data analysis but still have not been provided any.

Marin's Certified LCP contains substantial findings and has dozens of pages of background information that lay out the purpose and foundation of the adopted policies. Not only does the Rewrite eliminate entirely these findings, but also it has not provided new or revised substantive findings to support the proposed significant changes.

Pursuant to CEQA, the LCP Rewrite is supposed to be the "functional equivalent" of an EIR. CEQA Section 15091 lays out explicit and detailed requirements regarding Findings (that must be made with respect to each and every environmental impact) that appear in every EIR but are nowhere to be found in any of the County's or Commission's documents. The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.

**Neither Marin County nor the Commission staff report have directly addressed the fact that this substantial amount of potential new development would amount to very significant changes in the character of West Marin's coastal zone, that it could have very significant impacts on visual resources, water quality, water quantity, wildlife habitat, or the ongoing viability of agriculture operations.**

For example, the conclusions in the "Marin County Agricultural Economic Analysis Final Report" (Report) prepared for the County's Community Development Agency in November 2003 by Strong Associates of Oakland do not support the Rewrite and have not been addressed by Marin County. The Report states that "high-value estate development on the County's agricultural lands drives up the land ownership costs for both property taxes and insurance. This can tip the scales so that the cost of land ownership exceeds (by orders of magnitude) what the agricultural income can cover."

The Report gave some pertinent examples. "On a 400-acre parcel that would net \$18.40 income per acre for agricultural use, adding a 7,000 sq. ft. residential development results in an \$73 per acre net cost." "For the 210-acre Hansen-Brubaker parcel, base land is valued at \$4,024 per acre, rising to \$9,362 per acre after improvements." "For the 446-acre Patrick Brennan parcel, the land is valued at \$432 per acre, rising to \$1,629 per acre with the recently completed development."

The Report concludes that, "Before improvements, the parcels range from small net incomes to significant net costs. **After proposed improvements, however, all of the parcels have costs exceeding potential agricultural income.**" "While these landowners may choose to sustain higher annual costs for the benefits of their rural estate lifestyle, landholding costs in the range of three to ten times the potential agricultural income will, in the long term, be a disincentive to continued agricultural operations." (Emphasis ours).

The Report concludes that, "**keeping land values (and thus costs) in balance with agricultural income is critical to maintaining long-term agricultural viability.**" EAC agrees. The Rewrite would open up the possibility of high-value estate development and compromise the long-term viability of agricultural operations. The agricultural economic analysis that the County supplied as a background document does not support its proposed Rewrite.

As another example of no cumulative impact analysis, EAC has repeatedly pointed out that Tomales Bay is an "impaired" water body under Section 303(d) of the Clean Water Act. The Regional Water Quality Control Board has established a Total Maximum Daily Load (TMDL) for the Bay to address nutrients, pathogens, and sediment pollution. EAC has repeatedly referenced the water quality testing reports prepared by the Tomales Bay Watershed Council for scientific data and conclusions showing that the water quality in the Bay is not improving.<sup>10</sup> The 2012 report concludes that, "TBWC's water quality monitoring results suggest that the monitored tributaries are not complying with bacteria objectives proposed in the pathogen TMDL for Tomales Bay." The new stormwater Best Management Practice policies are a great improvement, but it's uncertain that they would apply for the new residential construction since the threshold is 10,000 square feet. The County has provided no cumulative impact analysis of how the Rewrite might impact water quality.

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<sup>10</sup> See [http://www.tomalesbaywatershed.org/assets/2011\\_12\\_tbcw\\_finalwqreport\\_complete\\_finalv4\\_sm.pdf](http://www.tomalesbaywatershed.org/assets/2011_12_tbcw_finalwqreport_complete_finalv4_sm.pdf)

Finally, EAC has consistently commented that the County has not addressed the conclusion from the Certified LCP that “water supply is a serious constraint” to development on the east shore of Tomales Bay. No improvement district exists there, and it is beyond the jurisdiction of the North Marin Water District. Language is included in the Rewrite that a new residential dwelling would have to show that there is adequate water, but that does not excuse the County from performing meaningful analysis of a known public facility constraint on development and ongoing agricultural production.

In sum, the County has provided insufficient findings to support the proposed Rewrite.

## **VII. Proposed Changes to Marin County’s LCP Rewrite.**

Absent the appropriate level of environmental analysis of cumulative impacts, and to comply with previously cited sections of the Coastal Act, the Rewrite must retain existing Certified LCP policies, including:

1. “Parcel” should be defined as “all contiguous lots under common ownership.”
2. For the C-APZ zoning district, “Principal Permitted Use” should remain under Marin’s Certified LCP Land Use Plan, page 100, except that:
  - a. Viticulture should be categorized as a “conditional use” rather than a “principally permitted use” due to the lack of groundwater and surface water supplies in West Marin and significant impacts to habitat such development could cause.
  - b. Farmworker housing and processing facilities should become a “Permitted Use” with the possibility of streamlined approval where there is avoidance of ESHA and ESHA buffers and where scenic and visual resources are protected.
3. The 27 bonus homes called “inter-generational” housing should be categorized as a “conditional use” but development allowed where findings show that a long-standing family farm needs housing for its younger generation to come live on and work the land.
4. To ensure that exceptions to the buffer requirement do not become common practice, language should be added to policies for adjustments to Wetland Buffers (C-BIO-20) and Stream Buffers (C-BIO-25) so that the proposed exceptions to the 100-foot buffer requirement are only allowed:
  - 1) for rare and exceptional circumstances, and only for the Principally Permitted Uses in that zoning district, or
  - 2) only for a necessary public purpose, or
  - 3) to avoid a taking of private property.

Proposed exceptions should be evaluated taking into account all contiguous lots under common ownership. A public hearing should be required for any proposed

buffer adjustment.

5. Qualify the last sentence in C-MAR-1 so that "Support provision for onshore facilities necessary to support mariculture operations in coastal waters" is limited to supporting facilities for shellfish grown in Tomales Bay. That is, expansion of existing onshore facilities should not be driven by increased importation ["ship and dip"] of shellfish from other locations.
6. Require professional engineering or other studies for coastal permit applications for new or expanded groundwater wells or other sources serving two (2) or more lots, rather than currently proposed at five (5) or more. Require such engineering and studies for any application for viticulture or row crops under policy C-PFS-13.
7. Require a showing that any new or expanded groundwater well will not exacerbate saltwater intrusion under policy C-PFS-16.
8. Retain language from the Certified LCP, p. 194: "Tomales Bay and adjacent lands in the Unit II coastal zone form a scenic panorama of unusual beauty and contrast. The magnificent visual character of the Unit II lands is a major attraction to the many tourists who visit the area, as well as to the people who live there. New development in sensitive visual areas, such as along the shoreline of Tomales Bay and on the open rolling grasslands east of the Bay, has the potential for significant adverse visual impacts unless very carefully sited and designed."
9. Retain language from the Certified LCP, Unit I, p.65: "new development shall not *impair or obstruct* an existing view of the ocean .... " and incorporate this language in policy C-DES-2.

EAC would like to propose an outside-the-box solution that may help all parties come to closer agreement about how to meet the needs of young family farmers while protecting all priority Coastal Act resources.

Consider creating a new, special LCP category called "multi-generation farms." These farms would put an irrevocable conservation easement (no subdivision, no use other than farming) on the property. In exchange, the LCP would allow flexibility in farm labor housing, barns, processing facilities while still requiring clustering and other standards be met. If ESHA and ESHA buffers were avoided in such development, a streamlined coastal permit process could be developed. The goal would be to truly keep family farm operations intact and remove development pressure or incentives to sell off lots that would, under the Rewrite, have the ability to develop new residential units.

On lots greater than 60 acres it would allow for a new residence not to exceed 3500 square feet to be built and occupied by the next generation farm family (or someone

engaged in working on the farm.) The conservation easement could be donated for tax credit, sold to a local land trust, or bought by the county. It allows farmers to take the cash out of their farms now.

With this proposal we could:

- 1) work with the farmers who want to pass on the farm and not sell it off by legal lots.
- 2) Tweak the proposal based on their feedback
- 3) Deter speculators who really are running a land-bank for future development
- 4) Set up a model for preserving agriculture on the entire coast of California
- 5) Reduce draconian paperwork requirements for those who just want to farm, and
- 6) Allow farmers to get cash now and preserve their farms.

### **VIII. Conclusion**

Marin County's Rewrite of our Certified LCP violates the Coastal Act and does not comply with CEQA. By allowing residential development per legal lot as Principal Permitted Use on agriculture production lands, the conversion of such lands would be inevitable. Such conversion conflicts with Coastal Act Section 30241, 30242, and 30250. Removing the public's right of appeal, and Commission's review authority over, development on almost 2/3 of Marin's coastal zone violates the Coastal Act's declaration of the importance and right of public participation in all coastal development decisions under Section 30006. Finally, the Rewrite fails to comply with CEQA because no findings and no environmental or cumulative impact analysis of the over 1 million square feet of potential new development has been provided for public review and comment.

Accordingly, the Commission should (1) deny the certification, and (2) return it to the County to resubmit when they have developed policies, findings, and analysis that effectively address and overcome all of these defects.

Respectfully submitted,



Amy Trainer, Executive Director

## **APPENDIX 1**

### **Referenced Sections of the Coastal Act**

#### **Section 30241 Prime agricultural land; maintenance in agricultural production**

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

#### **Section 30242 Lands suitable for agricultural use; conversion**

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

#### **Section 30250 Location; existing developed area**

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

#### **Section 30251 Scenic and visual qualities**

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

#### **Section 30006 Legislative findings and declarations; public participation**

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support;

and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

## **APPENDIX 2**

### **Recent LCP Coastal Permit Errors by Marin County Zoning Officials**

- 1) Fergus-Beekman (Inverness, 2008). Staff recommended 24-foot height second unit, violating Community Plan standard requiring height exceeding 15 feet have no adverse impact on neighbors.
- 2) Bar-Or (Pt. Reyes Station, 2009): Zoning Administrator incorrectly found that an in-lieu housing fee for development of the subdivision was not required. Staff subsequently acknowledged the error but failed to obtain payment of the fee by the applicant.
- 3) Baxter (Inverness, 2011) CP 03-13. Application for Lot Split. Applicant not informed by staff that a lot division of the parcel required a Master Plan Amendment prior to investing substantial time and money.
- 4) Bar-Or (Pt. Reyes Station, 2012): Zoning Administrator incorrectly approved two dwellings on one lot of a four-lot single-family residence subdivision.
- 5) Kirschman (Dogtown, 2011). County approved administratively a land division that resulted in higher density than maximum allowed in the C-ARP-5 district.
- 6) Lambert (36 Starbuck, Muir Beach, 2012). Coastal Permit Extension approved without public notice and hearing. Further permit extension granted beyond the LCP maximum extension period.
- 7) Rivet-Cornac (Inverness, 2013). Failure to provide public hearing notice. Staff failed to require merger of contiguous parcels under same ownership when lot density exceeds maximum for zoning district (merger ultimately required at public hearing).

### **Appeals of County Issued Coastal Permits to CCC:**

1. Caltrans (Stinson Beach, 2011). County approved repair and maintenance of State Highway One. Substantial issue hearing regarding visual resources and habitat protection policies: May, 2014.
2. Lawsons Landing (Dillon Beach, 2012). County approved residential housing trailers with no permitted septic, vehicles in wetlands and buffers. Coastal Commission adopted conditioned CDP that protect dozens more acres of ESHA than County approval.
3. Hansen-Brubaker (Marshall, 2012). Ridge-top housing in C-APZ. Application withdrawn.
4. Brader-Magee (Marshall, 2010). CCC required new biological report; conditioned CDP established wetland buffers and rerouted driveway.

5. NextEra (north shore of Tomales Bay, 2011). Meteorological wind turbine study towers. CCC found Substantial issue, nothing in LCP that justified county coastal permit. Application withdrawn.
6. Kirschman (Dogtown, 2012). Development of domestic well in wetlands. Pending.
7. Rumsey (Inverness, 2013). Bluff stairway in hazardous area and wetland buffer to Tomales Bay without adequate studies, no LCP provision allowing private stairway. CCC found substantial issue. Pending.
8. Crosby (Muir Beach, 2008). Superior Court found that proposed addition violates Muir Beach Community Plan standards – visual resources and that Muir Beach Community Plan is a component of the LCP. Pending.

# CALIFORNIA CATTLEMEN'S ASSOCIATION

1221 H STREET - SACRAMENTO, CALIFORNIA - 95814-1910



Th/2a

SERVING THE CATTLE  
COMMUNITY SINCE 1917

PHONE: (916) 444-0845  
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www.calcattlemen.org

W4

California Cattlemen's Association (CCA)

May 12, 2014

Dr. Charles Lester, Executive Director  
and Commissioners  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105-2219

Via: Kevin Kahn, District Supervisor, LCP Planning  
[kevin.kahn@coastal.ca.gov](mailto:kevin.kahn@coastal.ca.gov)

**Re: Suggestions following the May 8, 2013 Agriculture Workshop**

Dear Dr. Lester and Honorable Commissioners:

The California Cattlemen's Association (CCA) appreciates the opportunity to address the California Coastal Commission (Commission). We want to once again express our thanks to the Commission for hosting the Agriculture Workshop on May 8, 2013, and to remind the Commission of the issues discussed at the workshop and the work that must still be done to ensure that agriculture remains sustainable in the Coastal Zone.

Last year's Agriculture Workshop was extremely productive, and the agricultural community remains grateful to the Commission for conducting it. At the workshop, the agricultural community and the Commissioners agreed that agriculture is an equal, priority element of the Coastal Act, on par with the Act's other goals of resource protection and public access. Furthermore, the Commissioners generally recognized that enhanced agricultural productivity and streamlined regulations are important to ensure that agriculture remains sustainable in the Coastal Zone.

On May 31, 2013, CCA submitted a letter to the Commission suggesting four broad policies the Commission could explore to ensure that agriculture remains sustainable in the Coastal Zone. These policies were (1) allowing greater regulatory flexibility within a streamlined permit process, (2) exempting traditional agricultural practices from the permitting process, (3) increasing the availability of family housing in agriculturally-zoned parcels, and (4) the development of a Policy Guidance Document. One year after the Agriculture Workshop, these issues remain important, and it is our hope that the Commission will take this opportunity to follow up on last year's successful workshop by addressing these critical issues.

TIM KOOPMANN  
PRESIDENT  
SUNOL

JACK HANSON  
TREASURER  
SUSANVILLE

BILLY GATLIN  
EXECUTIVE VICE PRESIDENT  
HERALD

FRED CHAMBERLIN  
SECOND VICE PRESIDENT  
LOS OLIVOS

DAVE DALEY  
SECOND VICE PRESIDENT  
CHICO

BILLY FLOURNOY  
FIRST VICE PRESIDENT  
LIKELY

BILL BRANDENBERG  
FEEDER COUNCIL CHAIR  
EL CENTRO

RICH ROSS  
SECOND VICE PRESIDENT  
LINCOLN

MIKE SMITH  
FEEDER COUNCIL VICECHAIR  
SELMA

### **Agriculture requires both certainty and flexibility**

As a business, agriculture requires certainty, a clear and streamlined permitting process, and regulatory flexibility in order to remain viable, adapt to changing market conditions, and to support emerging opportunities within agriculture. To ensure that these goals can be met, we ask for your support in maintaining such regulatory flexibility within the context a clear, streamlined permitting process. Agriculture faces significant challenges in the Coastal Zone, with land uses held to a high standard of resource protection and a high level of scrutiny within the review process. This places ranchers within the Coastal Zone at a significant competitive disadvantage to inland producers, who are not impacted by the extra time and expense required to navigate the regulatory maze confronted by ranchers on the coast. An efficient permitting process which provides flexibility for agriculture uses would alleviate some of these burdens upon ranchers.

It is also important to recognize that new ranchers and farmers are key to California's success as one of the world's largest suppliers of agricultural commodities. These farmers and ranchers are on the front lines as enlightened stewards of our working landscapes and habitat for wildlife. It is especially important for this new generation of ranchers and farmers to have the ability to diversify with compatible ancillary profit centers, such as visitor serving facilities, tours, and local events. Flexibility within the permit process is essential for the success of these new farmers and ranchers.

### **Traditional agricultural practices ought to be exempt from Coastal Development Permit requirements**

At the May 8, 2013 Agriculture Workshop, the Coastal Commissioners and staff generally recognized that enhancing agricultural productivity and streamlining regulations of agriculture are both important, priority objectives. We believe that, in order to best achieve these objectives, traditional agricultural practices ought to be exempt from the requirement of obtaining Coastal Development Permits, even where those practices involve change or productivity enhancements such as irrigating land or improving rangeland from brush to grass. Such exempted agricultural practices would include (but not be limited to) the ability to maintain existing agricultural roads without seeking a permit, the ability to explore for potential water sources, and the cultivation of lands within the footprint of the agricultural operation, including improvement of rangeland for the purpose of increased livestock productivity. We strongly believe that such categorical exclusions for agriculture should apply to *all* agriculturally-zoned lands within the Coastal Zone.

### **The Commission should move to accommodate additional family housing on agriculturally-zoned parcels**

There is a critical need for additional family housing on agriculturally-zoned parcels within the Coastal Zone. Most agricultural operations are family businesses, and may be operated by family members from several generations, or even multiple households within a generation. One public commenter at last year's Agriculture Workshop suggested that a 60-acre parcel could easily accommodate a second family dwelling unit without negatively impacting the resource values of the land. We recommend that, at a minimum, a second family dwelling unit be allowed on any agriculturally-zoned parcel which exceeds 60 acres. We support this concept where permitted

within existing local zoning codes. Such homes would not only support the agricultural operation, but would also serve to reduce the impacts of family members traveling from offsite locations to work the farm.

**The Commission should draft a Policy Guidance Document to clarify agricultural policies**

At the Agriculture Workshop, it was suggested by many members of the public and several Commissioners that the Commission ought to develop a Policy Guidance Document to address, update, and clarify the Commission's agricultural policies. Such a Document might address, in addition to general agricultural policies and terms, definitions for vegetation, major vegetation, removal of vegetation, and what constitutes development in the context of agricultural operations. The Policy Guidance Document would also provide an excellent venue and framework for the Commission to explore the above-detailed policy improvements.

**Conclusion**

Again, CCA, its members, and the broader agricultural community appreciate your work on last year's Agriculture Workshop and your continued dedication to addressing agricultural concerns within the Coastal Zone. We hope that the Commission will seriously consider the above suggestions and any other changes that will help to sustain agriculture throughout the Coastal Zone, and that you will act rapidly to implement them. A good place to begin is with the Marin County Land Use Plan Amendments that your Commission will address Thursday, May 15. The California Cattlemen's Association, its members in coastal counties, and others engaged in agriculture stand ready to assist the Commission and its staff in any way necessary to ensure implementation of these important objectives.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kirk Wilbur', with a long horizontal flourish extending to the right.

Kirk Wilbur  
Director of Government Relations  
California Cattlemen's Association

May 12, 2014

TH/2a

California Coastal Commission  
Via email: [MarinLCP@coastal.ca.gov](mailto:MarinLCP@coastal.ca.gov)

Dear Commissioners:

I am writing to ask you to reject the Marin County Local Coastal Plan Amendment (LCPA). The LCPA, as submitted, violates Coastal Act policies by failing to protect coastal resources. In fact, the submitted LCPA would encourage further degradation of watersheds and other habitat areas that have been protected for over 30 years by the current LCP.

Specifically, the LCPA:

1. Encourages development in the buffer areas of coastal streams and wetlands. Tomales Bay and Lagunitas Creek are already classified as impaired under the Clean Water Act. The relative ease of obtaining buffer adjustments under the LCPA would accelerate the degradation of these invaluable coastal resources. Buffer adjustments should only be allowed in order to avoid a taking of private property.
2. Encourages the conversion of agricultural lands to urbanized uses. Much of non-federal open space and wildlife corridors in the coastal zone are encompassed by agricultural lands. Facilitating development of these lands would compromise the Coastal Act's promise "to protect the ecological balance of the coastal zone and prevent its deterioration and destruction."
3. Encourages development without adequate ground or surface water to support it. The scale of development enabled by the LCPA would stress to the point of exhaustion the watershed resources that support the coastal zone's invaluable biological diversity.

Protection of natural resources is a paramount concern under the Coastal Act. The LCPA actively undermines that principle, and should be rejected as a result.

Respectfully,

Megan Isadore

**Marquez, Maria Elena@Coastal**

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**From:** Sierra Club <information@sierraclub.org> on behalf of IONE CONLAN <iconlan@aol.com>  
**Sent:** Tuesday, May 13, 2014 7:58 AM  
**To:** CoastalMarinLCP  
**Subject:** Marin County Coastal Plan

Th/2a

May 13, 2014

Coastal Commission

I and my late husband were and I continue to be a lifetime member of the Sierra Club. Our over one thousand acres have been in the same family continually in agriculture for almost 150 years, annually feted at the Sacramento State Fair.

Our lands are Certified Organic, and we produce Animal Welfare Approved grass fed livestock and poultry Agriculture remains in Marin County because of families such as ours have suffered bankruptcy, drought, inheritance taxes four times, predators human and animal. Now comes well meaning but uninformed groups, who have come into this beautiful county because of our preservation, and using "carpet bagger" methodology want to tell us how to farm, what we can farm, where we should place our buildings, whether our children have the right to live on the farm My well meaning but uninformed Sierra Club members, should come out to the farm and observe how we have to nightly secure our heritage poultry to avoid being torn apart while alive by "those cute little badgers", observe how we rotate our livestock to preserve our lands, and the myriad of sacrifices we make daily to provide those lands they now want to control. The community through many sessions honed the LCP for Marin, and now self interest well meaning folks who have never cleaned an egg or sat up all night with a sick calf, now have become farm experts. I protest and ask the CCC to accept the suggestions of real honest to goodness farmers. Ione Conlan

Sincerely,

Mrs. IONE CONLAN  
PO Box 412  
Valley Ford, CA 94972-0412  
(707) 876-1893

Th 12a

**Marquez, Maria Elena@Coastal**

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**From:** Sierra Club <information@sierraclub.org> on behalf of Carol Smith <carolsmith2@gmail.com>  
**Sent:** Monday, May 12, 2014 1:53 PM  
**To:** CoastalMarinLCP  
**Subject:** SUPPORT LCP BY MARIN NOT STAFF

May 12, 2014

Coastal Commission

Dear California Coastal Commissioners,

Please SUPPORT the LCP as developed and submitted by Marin residents.  
I've been a Sierra club member for decades and I support well thought-out coastal protection.

This took years of hard work by locals from the entire political spectrum who want to maintain the rural agricultural nature of west Marin.

Marin doesn't want big political engines like the Sierra Club pushing them around and destroying their rural lifestyle.

The updating of Marin's LCP has been in process for more than five years, numerous meetings were held in West Marin spread amongst all the Coastal communities, 28 public hearings were conducted by the County Planning Commission and seven public hearings were convened by the Board of Supervisors. After all of that scrutiny, including consideration of thousands of public comments, letters, and emails, does it make sense to allow Marin voters be bullied by a political engine?

Thanks for your consideration and vote in favour of Marin and it's voters.

Sincerely,

Ms. Carol Smith  
3500 north highway one  
Albion, CA 95410

**Marquez, Maria Elena@Coastal**

Th/2a

**From:** sherry baty <sherrybaty@gmail.com>  
**Sent:** Monday, May 12, 2014 9:47 AM  
**To:** CoastalMarinLCP  
**Subject:** Opposition to the proposed changes in the agricultural component of the West Marin LCP

TO: California Coastal Commission  
FROM: Thomas Baty

Dear Commissioners,

Please reconsider the sweeping changes being proposed for the agricultural lands in West Marin in the LCP update.

I grew up in West Marin, witnessing firsthand the nearly miraculous preservation of our natural and pastoral landscapes as so much of the rest of the state has been dramatically (and in some cases, tragically) changed by development. I actively support local agriculture, particularly on privately held lands---those most at risk from both the sprawl of development and the disappearance of genuine working landscapes.

The economic realities of Bay Area real estate are tilting more historic coastal Marin agricultural properties into the category of country estates or ranchettes where the primary use is residential and agricultural use is just a hand-waving exercise. We now have non-productive olive orchards and vineyards that are simply planted to satisfy the requirements of the County's agricultural zoning.

Easing the restrictions for development on these agricultural lands will only accelerate the shift away from genuine agricultural use. Agricultural land valuations are perhaps barely within range of the economic valuations of what can be produced on these lands. The significant potential of additional development embedded in the proposed policy changes will plainly increase the demand for these agricultural parcels from interests with little or no commitment to agriculture.

Agricultural preservation efforts such as MALT will ultimately be handicapped the proposed changes as increased development potential will surely increase the price of conservation easements and diminish landowner's interest in participation.

I urge the Commissioners to table these proposed changes and to re-direct staff and LCP consultants to draft a more modest vision of potential development and build-out on these lands. If the Commission, the County of Marin, and the community are truly intent on preserving agriculture in the West Marin Coastal Zone, there needs to be a basic recognition that authentic, long-term agricultural interests will not be well-served by inviting substantially more development on these lands.

Respectfully,

Thomas Baty

Th12g

*Carolyn K. Longstreth*

P.O. Box 657, Inverness CA 94937  
(415) 669-7514; (415) 497-3010 [cell]  
[cklongstreth@gmail.com](mailto:cklongstreth@gmail.com)

May 12, 2014  
California Coastal Commission  
Via email: [MarinLCP@coastal.ca.gov](mailto:MarinLCP@coastal.ca.gov)

Dear Commissioners:

I write to urge you to decline to certify Marin County's proposed LCP Amendment. While many of the changes are beneficial, the Program has serious deficiencies that need to be addressed before certification would be warranted.

The protection of California's precious coastal resources should not be taken for granted. The people of Marin are the beneficiaries of a strong tradition of conservation, particularly in the western part of the County. This heritage has been handed down by many committed and far-sighted individuals who worked tirelessly to assure the protection of coastal resources in this County.

Agriculture is an important part of this legacy. While I am open to adjustments that would strengthen the economic viability of our local farms and ranches, I fear that the proposed LCP Amendment "throws the baby out with the bathwater." It greatly loosens the regulations that govern residential and commercial/industrial development on coastal ranches while simultaneously weakening protections for visual resources and curtailing the public's opportunity to be heard and to appeal.

A case in point is the removal of the current LCP's recognition of the east shore of Tomales Bay for its scenic qualities. Unit II eloquently stated:

Tomales Bay and adjacent lands in the Unit II coastal zone form a scenic panorama of unusual beauty and contrast. .... New development in sensitive visual areas, such as along the shoreline of Tomales Bay and on the open rolling

grasslands east of the Bay, has the potential for significant adverse visual impacts unless very carefully sited and designed.

This formal recognition of the east shore as a sensitive visual area had particular significance in light of Section 30251 of the Coastal Act, which provides:

The scenic and visual qualities of coastal areas shall be considered and protected as a *resource of public importance*. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. *New development in highly scenic areas such as those designated .... by local government shall be subordinate to the character of its setting* [emphasis added].

The existing LCP further addresses scenic resources by specifically requiring structures to be "designed to follow the natural contours of the landscape and sited so as not to obstruct significant views as seen from public viewing places." LCP II at 194, 207.

For now at least, Marin County Code Section 22.57.024(1)(a,b)I requires that structures be sited in the "least visually prominent" portion of the site-- specifically, behind "existing vegetation, rock outcroppings or depressions in topography-- adding that such siting "is especially important on grassy hillsides."

With the interplay between Unit II, the County Code and Section 30251 of the Coastal Act, these provisions afforded strong protection for the viewshed on east shore of Tomales Bay and throughout the coastal zone. But such enhanced protections have been gutted under the new LCP: the specific recognition for the renowned scenic resources on the east shore of Tomales Bay has been eliminated.

Not only has the County withdrawn its recognition of the special scenic qualities of the east shore of Tomales Bay, the new standards for protecting scenic views are weaker and more general. While there is a clustering rule of debatable effectiveness, the standards otherwise state only that agricultural housing must be "compatible with ridgeline policies" and sited to protect "significant public views." C-AG-7, 9. With the additional new allowances

for residences, worker housing and sales or processing facilities on coastal zone ranches, the weakening of scenic protections is decidedly worrisome.

I question whether the record supports these changes. Is there evidence that the public wants less viewshed protection than afforded by the current LCP? Is there evidence to support the conclusion that agricultural needs cannot be met without sacrificing viewshed protections?

These poorly conceived substantive changes are exacerbated by significant procedural modifications. The new LCP expands the definition of Principal Permitted Use (PPU) in the Agricultural Protection Zones (C-APZ) so as to include so-called "intergenerational" residences, worker housing and processing or sales facilities. C-AG-2. Because of the operation of Coastal Act Section 30603(a)(4) (permits authorizing PPUs may not be appealed to the Commission), the effect is to empower County staff to issue administrative permits for residential and other development on ranches, with minimal notice, no public hearing and no public right of appeal to this Commission.

As a result, impairment of coastal resources will inevitably occur. Although standards for issuing permits for agricultural housing set forth in C-AG-7 and 9 include some protections for scenic and natural resources, these make no reference to Environmentally Sensitive Habitat Areas (ESHAs). Moreover, interested persons-- if they receive notice-- will have only minimal opportunity to be heard by staff or to present information regarding the application of the standards to specific proposals. Without a public hearing, the applicant and County staff will likely be less responsive to concerns raised by the public and the factual record for any appeal to County agencies or a court will be less robust than currently.

In the aggregate, these changes will confer upon the County the discretion to approve poorly sited new housing and processing facilities on coastal ranches, curtail public comment and then evade scrutiny of its decisions by this Commission. This surely fails to comply with the spirit of the Coastal Act, which states:

...the public has a right to fully participate in decisions affecting coastal planning, conservation and development; ... achievement of sound coastal conservation and development is dependent upon public understanding and support; and ... the continuing planning and implementation of programs for coastal conservation and

development should include the widest opportunity for public participation.

Section 30006.

Sadly, experience shows what the outcome of these changes will be: resources in the coastal zone will lose protections that are currently in place. Administrative decisions are more likely to be carelessly or arbitrarily made, and with more deference to the only party to the proceedings, the applicant. The result: the public will lose confidence in the Coastal Act and in this Commission.

The concept of “intergenerational housing” is also not ready for approval. C-AG 5. While ranchers’ need to provide housing for family members and workers should be addressed, the proposal is entirely disconnected from either familial relationship or intention to help with ranch work. Basically, the farmer or rancher could simply build a second residence and rent it out to whomever he or she pleases. Indeed, under your staff’s annotations, the requirement that residential development not diminish agricultural production does not even apply to these new PPU’s.

This inadequately regulated housing program violates the purpose of the C-APZ by failing to protect productive land for agricultural use or to assure that development within the C-APZ be necessary for agricultural production. C-AG-2. It will seriously weaken protections for natural resources and scenic values and is arguably unfair to others in all other zoning districts whose development proposals must meet more stringent standards and go through a public process.

For these reasons, I urge the Commission to reject the LCP Amendment in its current form. I respectfully suggest that you instruct the County to restore the existing protections for scenic resources, abandon the ill-conceived broadening of PPU in the C-APZ, and restore the right of interested persons to be heard on specific applications to construct new housing and to appeal adverse decisions to this Commission.

Please support the following additional changes to the staff report:

1. Viticulture should be categorized as a “conditional use” rather than a “principally permitted use” due to the lack of groundwater and surface water

supplies in West Marin and significant impacts to habitat such development would cause.

2. All new development on C-APZ lands should be clustered on no more than 3% of agricultural lands to maintain the maximum amount of land in agricultural production. Under absolutely no circumstances should development be allowed on greater than 5% of agricultural lands. [For a 500 acre parcel, this would allow 15 acres of developed area at 3%, and 25 acres at 5%]. All existing and new roads should be included in the calculation of development.

3. Language should be added to policies for adjustments to Wetland Buffers (C-BIO- 20) and Stream Buffers (C-BIO-25) so that the proposed exceptions to the 100-foot buffer requirement are only allowed: 1) for rare and exceptional circumstances, and only for the Principally Permitted Uses in that zoning district, or 2) only for a public purpose, or 3) to avoid a taking of private property. A public hearing should be required for any proposed buffer adjustment.

4. Qualify the last sentence in C-MAR-1 such that “support for onshore facilities necessary to support mariculture operations in coastal waters” is limited to shellfish grown in Tomales Bay. That is, expansion of existing onshore facilities should not be driven by increased importation [“ship and dip”] of shellfish from other locations.

5. Require professional engineering or other studies for coastal permit applications for new or expanded groundwater wells or other sources serving two (2) or more lots, rather than five (5) or more, and require such studies for any application for viticulture or row crops under policy C-PFS-13.

6. Require a showing that any new or expanded groundwater well will not exacerbate saltwater intrusion under policy C-PFS-16.

Thank you for your attention and for carefully considering the important issues raised by this proceeding. The future of our priceless coastal zone rests in your hands.

Sincerely,

Carolyn K. Longstreth

TH12a

TH12a  
Catherine Caufield

Steve Kinsey, Chair  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Subject: Marin County Local Coastal Program Amendment Number LCP-2-MAR-13-0224-1 Part A (Marin Land Use Plan Update).

Dear Commissioners,

I am writing to urge you to adopt several changes to Marin's proposed LCP Amendment. As it stands, the LUPA contains language that not only greatly expands the potential for residential, industrial and commercial development on agricultural land, but removes the public's existing rights to comment on these developments and to appeal to your Commission. However, a few changes that do not affect the underlying intention to protect agricultural lands and the ability of farming families to remain in farming, can right these wrongs.

**1. Reinstate the existing definition of a parcel.**

The existing LCP defines a parcel as "all contiguous assessor's parcels under common ownership." (LCP Unit II, p. 100). Thus a 600 acre C-APZ ranch that consists of three 200-acre lots is currently considered one parcel. But the LUPA defines a parcel as a "legal lot of record," meaning that the same 600 acre ranch will now be considered three parcels. Because the LUPA allows as a principally permitted use one residential unit and one inter-generational unit plus garages and office space (for a maximum of 8580 sq ft) on each parcel, this ranch would be allowed a total of 25,740 sq ft of residential development, three times as much as would be allowed under the current definition.

Besides dramatically expanding the development potential of agricultural lands, the new definition is inherently unfair, favoring ranchers whose land happens to be divided into several legal lots over those whose land is in one legal lot. This historical accident does not reflect agricultural needs and should not be the basis on which development rights are awarded.

In the LUPA that you are being asked to approve, the County indicates that the existing definition: "*Parcel*" is defined as all contiguous assessor's parcels under common ownership has been kept, but moved to a different location in the LUPA. (Exhibit 4, p. 10 [p. 1518 of the staff report PDF]). This is incorrect; it has not been included in the LUPA. Instead, the County has included a new definition of Parcel in Section 22.130 of the LCPA IP development code, which is still in draft mode.

*"Parcel" (coastal). See "Legal Lot of Record"*

*"Legal Lot of Record" is defined as a parcel created in conformance with either a) a recorded subdivision, b) individual lot legally created by deed, or c) government conveyance.*

I ask that you instruct the County to reinstate in Section 22.130 the existing definition of parcel as all contiguous assessor's parcels under common ownership, and amend the LUPA as indicated in the attached excerpts.

**2. Restrict principally permitted uses to agricultural production, accessory structures, one agricultural dwelling, and agricultural worker housing.**

If intergenerational housing and agricultural produce sales and processing are made principally permitted uses, the public has almost no right to comment on or appeal to the Coastal Commission about what could be a major surge in development on coastal agricultural land -- as much as one million sq ft of development in the form of residences, sales facilities and processing plants.

The LUPA allows one intergenerational unit per legal lot as a principally permitted use, and a second as a conditional use. Commission staff have attempted to address the potential massive explosion of intergenerational housing by limiting to 27 the number of IG units that can be approved in Marin. This is not the right solution. It will create a first-come, first served stampede that will favor ranchers who can afford to build right now at the expense of those whose needs may be greater, but who cannot afford new development at the present time. Rather than setting an arbitrary limit, approval of IG units should be based on their demonstrated contribution to preserving family farming. However, since reserving housing for family members conflicts with state and federal housing law, the so-called IG units will merely be required to be occupied by people "authorized by the farm owner or operator." As Homer Simpson would say, "Doh." This is not a high bar to meet and does nothing to ensure that the IG unit will be used to further agriculture. A more equitable and responsive approach is needed and could be achieved either by requiring IG housing to be subject to public review and to appeal to the Coastal Commission or by sending the Amendment back to Marin County to draft policies that actually support the young generation of family farmers.

Agricultural Accessory Activities should be eliminated because it is vague and unnecessary, given the inclusion of "Agricultural Production" and "Other Agricultural Uses."

Viticulture should be categorized as a "conditional use" rather than a "principally permitted use" due to the lack of groundwater and surface water supplies in West Marin and significant impacts to habitat such development would cause.

I ask that you make the changes indicated via strikeouts and underlines in the attached excerpts of the Agricultural Policies of the LUPA, which incorporates the proposed staff alterations.

I regret that I have not had time to cover the rest of the LCP in the same detail, but I have reviewed the changes proposed by the Environmental Action Committee of West Marin, which I support and ask you to incorporate also.

Thank you for your work on this document, which is so crucial to the future of Marin.



Catherine Caufield  
PO Box 884  
Inverness, CA 94937

Catherine Caufield

Proposed amendments to Coastal Commission Staff amendments to Marin County LUPA:

**C-AG-2 Coastal Agricultural Production Zone (C-APZ).**

*In the C-APZ zone, the principal permitted use shall be agriculture, limited to the following as follows, per parcel (defined as all contiguous assessor's parcels under common ownership):*

*1) Agricultural Production:*

- *Uses of land for the breeding, raising, pasturing, and grazing of livestock;*
- *The production of food and fiber;*
- *The breeding and raising of bees, fish, poultry, and other fowl;*
- *The planting, raising, harvesting and producing of agriculture, aquaculture, mariculture, horticulture, viticulture, vermiculture, forestry crops, and plant nurseries.;*

*2) Agricultural Accessory Structures;*

*3) ~~Agricultural Accessory Activities;~~*

*~~3-4) One farmhouse or a combination of one farmhouse and one intergenerational home per parcel (defined as all contiguous assessor's parcels under common ownership) legal lot, consistent with the size limits of C-AG-5 and C-AG-9;~~*

*~~4-5) Agricultural worker housing, providing accommodations consisting of no more than 36 beds in group living quarters per legal parcel or 12 units or spaces per legal parcel for agricultural workers and their households;~~*

*~~5-6) Other Agricultural Uses, if appurtenant and necessary to the operation of agriculture, limited to:~~*

- *~~Agricultural product sales and processing of products grown on-site, provided that for sales, the building(s) or structure(s), or outdoor areas used for sales do not exceed an aggregate floor area of 500 square feet, and for processing, the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet;~~*
- *Not-for-profit educational tours.*

*Conditional uses in the C-APZ zone include up to two ~~a second~~ intergenerational homes per parcel legal lot, agricultural product sales and processing of products ~~not~~ grown on-site or off-site, provided that for sales, the building(s) or structure(s), or outdoor areas used for sales do not exceed an aggregate floor area of 500 square feet per parcel, and for processing, the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet per parcel; water-intensive agricultural activities such as viticulture; for-profit educational tours, agricultural homestay facilities, agricultural worker housing above 12 units per legal lot, and additional agricultural uses and non-agricultural uses, consistent with Policies C-AG-6, 7, 8 and 9.*

*Development shall not exceed a maximum density of 1 agricultural dwelling unit per 60 acres. Densities specified in the zoning are not entitlements but rather maximums that may not be achieved when the standards of the Agriculture policies below and other relevant LCP policies are applied. The County (and the Coastal Commission on appeal) ~~shall~~ ~~may~~ include all contiguous properties under the same ownership when reviewing a Coastal Permit application*

**C-AG-5 Agricultural Dwelling Units (Farmhouses, Intergenerational Housing, and Agricultural Worker Housing).** Support the preservation of family farms by facilitating multigenerational operation and succession. Agricultural dwelling units may be permitted on C-APZ lands subject to the policies below, as well as any applicable requirement in C-AG-6, 7, 8,

and 9, and all other applicable requirements in the LCP. No more than a combined total of 7,000 sq ft may be used as an agricultural dwelling by the farm owner or operator, whether in a single farmhouse or in a combination of a farmhouse and intergenerational homes(s).

Intergenerational farm homes may only be occupied by persons authorized by the farm owner or operator, shall not be divided from the rest of the ~~parcel~~ legal lot (defined as all contiguous assessor's parcels under common ownership) and shall be consistent with the standards of LCP Policy C-AG-7 and the building size limitations of Policy C-AG-9. Such intergenerational homes shall not be subject to the requirement for an Agricultural Production and Stewardship Plan (C-AG-8), or permanent agricultural conservation easement (C-AG-7). A density of 60 acres per unit shall be required for each farmhouse and intergenerational house (i.e. at least 60 acres for a farmhouse, 120 acres for a farmhouse and an intergenerational house, and 180 acres required for a farmhouse and two intergenerational homes), including any existing homes.

~~Where a legal lot is less than 60 acres, The reviewing authority shall consider all contiguous properties under the same ownership to achieve the requirements of the LCP. No Use Permit shall be required for the first intergenerational home on a qualifying lot. A Use Permit shall be required for each a second intergenerational home. No more than 27 intergenerational homes may be allowed in the County's coastal zone.~~

**A. Standards for Agricultural Uses All Development in the C-APZ:**

All of the following development standards apply:

2. Development shall be permitted only where analysis by qualified engineers demonstrate that adequate water supply, sewage disposal, road access and capacity and other services are available to support the proposed development after provision has been made for existing and continued agricultural operations production.

Th 12a

PO Box 31  
Inverness, CA 94937

May 12, 2014

California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219  
FAX (415) 904-5400  
Email: [Dan.Carl@coastal.ca.gov](mailto:Dan.Carl@coastal.ca.gov)

**Th12a, May 15, 2014**  
**Marin County LCPA LCP-2-MAR-13-0224-1 Part A**

*Re: Opacity in permitting of housing development on agricultural land*

My comments focus on the extensive curtailment of public participation in land use Coastal Development Permit decisions proposed in Marin County's Local Coastal Plan Amendment (LCPA), accurately termed the "Rewrite" by the Environmental Action Committee of West Marin.<sup>1</sup>

Wide public participation in decisions regarding coastal development is a fundamental principle included in the Coastal Act:

**Section 30006 Legislative findings and declarations; public participation**

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

Protection of coastal resources benefits from public participation and oversight of local governmental decisions. The submitted LCPA, however, narrows and largely eliminates public participation in the decision-making on coastal permit applications in the agricultural production zone (C-APZ) district. The Rewrite proposes to classify (1) residential housing, (2) farmworker housing, (3) farmstays, (4) processing facilities having areas up to 5000 sq. ft, (5) retail sales facilities and activities having areas up to 500 sq. ft., and (6) educational tours as "principal permitted uses".

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<sup>1</sup> Comment letter: West Marin Environmental Action Committee dated May 12, 2014.

As a result, all of these uses on agricultural production lands will:

1. Receive limited public notice (no newspaper publication)
2. Have no staff report
3. Have no public hearing
4. Not be appealable to the Commission

Unlike nearly all other housing developments in other coastal zoning districts, the LCPA uniquely grants agricultural housing a favored “streamlined” status. Development of a new residence on an agricultural parcel does not receive the same scrutiny as nearly all other housing developments in other zoning districts, which require widespread public notice, a staff report, and a public hearing, and where the county coastal permit decision is subject to appeal to the Commission. Opaque administrative decisions, made out of sight of public view, are the polar opposite of the transparency required by the Coastal Act.

When Marin County coastal permits decisions have been appealed, the Commission and its staff have consistently found that residential development in the C-APZ district is not “the principal permitted use” for purposes of Coastal Act section 30603 (a)(4).

Providing for public participation at public hearings, informed by wide public notice and meaningful staff reports, expands the relevant information available for assessing a coastal development application and helps to ensure that developments are consistent with the LCP and that coastal resources are protected. In fact, Marin County has made numerous errors in issuing coastal permits, and appeals of County permit decisions have raised substantial issues of consistency with the County LCP that required the Commission to address the development applications *de novo* in public hearing.

The latest of these is the appeal brought by Commissioners Shallenberger and Stone of the permit granted to CalTrans for developments on Highway One at Stinson Beach.<sup>2</sup> Earlier, the Commission found that two residential developments on C-APZ parcels above the East Shore of Tomales Bay were appealable because they included residential development in the C-APZ district and raised significant issues of consistency with the LCP visual resource protection policies.<sup>3</sup> Other recent appeals of County-issued coastal permits that have raised substantial issues include permits for Tomales Bay residential bluff stairs in a wetland buffer<sup>4</sup> and NextEra meteorological towers in Pacific flyway.<sup>5</sup>

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<sup>2</sup> Agenda item Th14b at this Thursday’s (4/15/14) Commission meeting.

<sup>3</sup> Hansen-Brubaker (Th9a, 3/7/2003) and Brader-Magee (W9a, 3/6/2013).

<sup>4</sup> Rumsey (F8a, 6/14/2013).

<sup>5</sup> NextEra (W24b, 3/9/2011).

Each of these permits was granted following a public hearing. Nevertheless, it is undeniable that the right to appeal to the Commission was necessary to achieve consistency with the certified LCP.

The Marin LCPA would deprive the public of its right of review of most land use developments on almost two-thirds of the non-federal land in the Marin County coastal zone. I urge the Commission to **continue to find County coastal permit decisions on residential development on agricultural production land to be a land use that is appealable to the Commission** and thereby to maintain the public's right of full participation in land use decisions affecting coastal resources, including public hearings

Sincerely yours,

A handwritten signature in cursive script that reads "B. Mitchell".

Bridger Mitchell



Th/2a

MARIN COUNTY FARM BUREAU

Th12a  
California Cattlemen's Association (CCA)  
Marin County Farm Bureau (MCFB)

May 12, 2014

Dr. Charles Lester, Executive Director  
and Commissioners  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105-2219

Via: Kevin Kahn, District Supervisor, LCP Planning  
[kevin.kahn@coastal.ca.gov](mailto:kevin.kahn@coastal.ca.gov)

**Re: May 2, 2014 Staff Report on the Marin County Local Coastal Program Amendments  
Number LCP-2-MAR-13-0224-1 Part A (Marin Land Use Plan Update) (2)**

Dear Dr. Lester and Honorable Commissioners:

The California Cattlemen's Association (CCA) and Marin County Farm Bureau (MCFB) welcome the opportunity to comment on the California Coastal Commission (Commission)'s staff report on the Marin County Local Coastal Program Amendments (LCPA). CCA represents over 3,400 members, including over 1,700 cattle ranchers throughout the state. MCFB represents over 700 members. A significant number of CCA and MCFB's members conduct their ranching and farming activities in the Coastal Zone, and thus coastal issues are of utmost importance to members of both organizations, and have implications for farmers and ranchers up and down the California coast. Additionally, Marin's Countywide Plan specifies that regulations certified in the LCPA will eventually be applied to the Inland Rural Corridor.

CCA and MCFB have closely followed Marin County's LCPA, and in recent years have on numerous occasions submitted comments to the Marin County Board of Supervisors regarding concerns about the LCPA's impacts on agriculture. We write the Commission now both to reiterate concerns we have had with the proposed LCPA throughout the amendment process, as well as to object to modifications to the LCPA proposed by Commission staff which, if adopted, would prove *more* harmful to agriculture than was the Marin County draft.

We urge the Commission to defer action on the LCPA until it has had a chance to work with agricultural stakeholders to develop language with greater flexibility for agricultural producers and landowners. Deferring action until a later date will also allow the Commission to ensure consistency between the LCPA and the language and intent of the California Coastal Act. As Commission staff notes in their May 2 memorandum to the Commission, the Commission has

until July 27, 2014 to take final action on the LCPA, and has the authority to extend the action deadline by up to one year (as late as July 27, 2015). We hope the Commission will use at least some of that available time to further deliberate and work on these important issues.

## **I. CONTINUED OBJECTIONS TO LCPA POLICIES ADOPTED BY MARIN COUNTY AND FORWARDED TO THE COMMISSION**

Though the Marin County Board of Supervisors consulted extensively with the public in preparing its LCPA, and in so doing addressed some of the concerns of CCA and MCFB members, there are a number of objections to the LCPA that we have had since the beginning of the amendment process, and that bear repeating at this stage.

### **A. Categorical Exclusion Orders**

We remain disappointed that there has been no policy language produced to address the inequity of the geographical designation of where Categorical Exclusions can be applied. The County Categorical Exclusion Orders E-81-2 and E-81-6 exclude from coastal permit requirements agriculturally-related development, including production activities, barns and other necessary buildings, fencing, storage tanks and water distribution lines, and water impoundment projects. As currently written and shown on maps 27g & 27j, large areas encompassing thousands of acres are considered "Non-Excludable Areas," and as such require Coastal Development Permits for all agricultural projects including barns, storage, equipment and other necessary buildings, fencing, and other agricultural development. "Non-Excludable Areas" include lots immediately adjacent to the inland extent of any beach and apply to parcels zoned C-APZ at the time of the exclusion orders' adoption if those parcels are outside of the area between the sea and the first public road or a half-mile inland, whichever is less.

To prevent a circumstance in which an entire ranch that happens to be inland of the coastline is considered Non-Excludable, Marin County legal staff and supervisors discussed specifically defining the term "lot" in the last sentence of Section 30610.5(b)—a term that is undefined in the Coastal Act. The term "lot" in this context could be defined as follows:

"Lot, Coastal Tidelands, Agricultural, Non-Excludable, Unrecorded. A buffer that runs inland from the beach/mean high tide line of the sea and from waters subject to the public trust, by X feet."

As for determining the buffer width "X," the agriculture community would likely support a 100 foot designation, which would also be consistent with the Marin County LCPA's C-BIO-19 Wetland Buffers and C-BIO-20 Wetland Buffer Adjustments and Exceptions.

This would substantially alleviate the present inequity of designating certain inland lots that are not adjacent to the beach/mean high tide line as Excludable Areas, while *not* excluding large portions of agricultural lots that happen to be adjacent to the beach/mean high tide line, but that may run inland to the same extent as those excluded lots.

Please amend the Categorical Exclusion Orders with the addition of this definition.

## **B. C-BIO-1 Environmental Sensitive Habitat Areas (ESHAs)**

CCA and MCFB have on numerous occasions written to oppose the overbroad definition of ESHAs under the proposed LCPA. It remains our view that threatened and endangered plant and animal species in California are already protected by state and federal endangered species designations, and thus do not require any further perceived protection under an ESHA designation. Additionally, wetlands and riparian areas receive protection from local, state, and federal jurisdictions. For those plant and animal species that are not otherwise protected, the public interest would best be served if those designations were appropriated through a public process.

## **C. C-BIO-3 ESHA Buffers**

Throughout the LCPA process, we have consistently objected to arbitrary minimum absolute ESHA buffer widths. We renew that objection now. The LCPA already requires that biological site assessments be conducted for terrestrial ESHA. We strongly urge the Commission to recognize the importance of these biological site assessments, and to permit ESHA buffers to be based on the conclusions drawn from the individual site assessments. An absolute minimum buffer of 25 feet reflects an arbitrary policy decision, rather than the evidence-based approach intended by the biological site assessments. If a biological site assessment suggests that there is no threat to ESHA from a buffer of fewer than 25 feet, there is no sound purpose for demanding that the buffer nevertheless be 25 feet. We ask the Commission to reject this—or any other—absolute minimum buffer, and instead permit for ESHA buffers to accommodate the findings of individual biological site assessments.

## **D. C-AG-9.3**

We have long objected to Marin County's policy limiting the aggregate of residential development to no more than 7,000 square feet for a total of all agricultural dwellings. A 7,000 square foot cap not only severely limits the ability of families to stay on their farms, but it is grossly unfair to disallow larger homes on big ranches when large residences are allowed on tiny lots in other parts of Marin County. It is critical that farmers and ranchers have the ability to build accessory structures and residences that support their continued economic sustainability. It is also important for Commission staff to remember that including these structures as principally permitted uses does not mean that the planning and permitting will not be reviewed. Adding an additional layer of regulatory burdens to farm and ranch families who wish to expand their ability to continue to work and live on their land is counterproductive. Such a limit could also be construed as a taking, as it ignores the zoning and existing development potential. We urge the Commission to remove the aggregate square footage cap.

## **II. OBJECTIONS TO MODIFICATIONS PROPOSED BY COMMISSION STAFF**

Though CCA and MCFB members are concerned with a number of LCPA elements that we have opposed from the inception of Marin County's amendment process, we are particularly concerned with a number of *amendments* proposed by Commission staff in their May 2 staff

report. These amendments are significant, represent an overreach by commission staff, and detract from the five years of work that went into developing the proposed LCPA carefully considered and adopted by the Marin County Board of Supervisors.

#### **A. Concerns about the scope of Commission staff's review**

California Public Resources Code Section 30500(c) states that "the precise content of each local coastal program shall be determined by the local government . . . in full consultation with the commission and with full public participation."<sup>1</sup> In passing the California Coastal Act, the legislature demonstrated an intent that the Commission would *consult* with local governments in local governments' development of local coastal programs.

Here, however, Commission staff has acted beyond this role of consultation, unilaterally making significant amendments to Marin County's Local Coastal Program. Marin County's LCPA reflects a lengthy public engagement process over many years which permitted the County to draft reasonable and responsible amendments that reflected the views of local ranchers, farmers, and all other concerned parties. The LCP is, by statute, supposed to be a *local* plan developed by the *local* government. To permit Commission staff to replace carefully-negotiated language, addressing multiple interests over the course of many years, greatly compromises the local control envisioned by statute. Where Commission staff has significantly amended Marin County's LCPA, the policies devised by the local government should be given deference over staff's suggestions.

#### **B. C-AG-2 Coastal Agricultural Protection Zone (C-APZ): Deletion of "Substantially similar uses of an equivalent nature and intensity" from the list of permitted agricultural production**

Our members strongly object to the omission of "substantially similar uses of an equivalent nature and intensity" from the list of principal permitted uses for agricultural production. One of the common themes heard at the May 8, 2013 Agriculture Workshop was that, in order to remain viable and sustainable, agricultural enterprises required regulatory flexibility and efficiency in the permitting process. This item would permit for just such regulatory flexibility, and it is for this reason that we request that it be reincorporated in the LCPA.

Given the uncertainty in future conditions, including climate, economics, disease, and other unforeseen circumstances, new and creative types of food and fiber production might prove beneficial or necessary for ranchers in the future. Furthermore, the requirement under the amendment as adopted by the Marin County Board of Supervisors that such use be "of an equivalent nature and intensity" adequately protects against any risk of harm to coastal resources. Thus, we respectfully request that this element be reincorporated into the LCPA.

#### **C. C-AG-5 Agricultural Dwelling Units**

As stated in our discussion above of C-AG-9.3, CCA and MCFB have on numerous occasions expressed to the Commission the need for more family housing for agriculture in the Coastal

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<sup>1</sup> Cal. Pub. Res. Code § 30500.

Zone. Most agricultural operations are family businesses and involve several generations. Increased family housing is necessary to sustain agriculture in the Coastal Zone, and such an increase would have the added benefit of reducing negative impacts from family traveling to the farm from offsite locations.

Unfortunately, Commission staff's amendments regarding Agricultural Dwelling Units only serves to exacerbate, rather than alleviate, the problem.

We are also quite concerned by the addition of language that "No more than 27 intergenerational homes may be allowed in the County's coastal zone." While this number may be based on some determination involving the number of properties not currently encumbered with development right limitations, limiting the number of intergenerational homes *throughout Marin County's Coastal Zone* does nothing to address farmers' and ranchers' important need for additional housing—rather, it additionally burdens agriculture.

#### **D. C-AG-7 Development Standards for the Agricultural Production Zone (C-APZ) Lands**

Under the Marin County LCPA, structural developments could be centered in one or more clusters. Commission staff would limit this to one cluster. Importantly, under both versions of the amendment, no more than 5% of gross acreage could be used for structural developments. We urge the Commission to defer to the County standard, which permitted flexibility for ranchers and farmers while protecting an equal amount of agricultural land as would Commission staff's proposed amendment. Staff's amendment provides no further benefit, with the detriment of limiting ranchers' ability to meaningfully manage their property.

#### **E. C-AG-9.2**

We further object to staff's addition that clustered development "shall be sited and designed to protect significant public views." We have long argued that when siting agricultural development, best management practices are most important, and also that while protecting the public's views of the coastline from obstruction by development, nowhere in the Coastal Act does the public own rights to views *of* our properties.

#### **F. C-BIO-14 Wetlands: "Wetlands" emerging from agricultural activity**

In some instances, "wetlands" may emerge from agricultural activities such as livestock management, tire ruts, row cropping, or other means. Under Marin County's carefully considered proposed LCPA, the origin of these "wetlands" would be considered, and if substantial evidence demonstrated that they originated *as a result* of agricultural activities *and* they did not provide habitat for ESHA, then such "wetlands" could be maintained for agricultural uses.

Under the Commission staff's proposed amendments, most of this provision has been eliminated, substituted by "Prohibit grazing or other agricultural uses in a wetland, except for ongoing agricultural activities." This amendment is concerning because it substitutes the very specific language adopted by the Marin County Board of Supervisors with the vague "for ongoing agricultural activities." Under the LCPA as adopted by Marin County, a field left fallow, but

which has “wetlands” resulting from previous cultivation, may be cultivated once again despite having lain fallow so long as ESHA are not present in the agriculturally-produced wetlands. Under the Commission staff’s substantial amendment, however, it may be deemed that the agricultural activity has not been sufficiently “ongoing,” and a farmer or rancher may arbitrarily be stripped of the historical use of his or her land. This is particularly concerning because the very **nature** of responsible land stewardship requires the laying fallow of pastures for several seasons. This vague proposed amendment threatens to punish farmers and ranchers for practicing responsible land stewardship. This policy was much better under the Marin County version, which permitted much greater temporal flexibility than Commission staff’s amendment, and we strongly urge the Commission not to adopt staff’s amendment.

### III. CONCLUSION

CCA and MCFB once again thank the Commission for the opportunity to provide comments on Marin County’s LCPA. While there are many elements of the LCPA adopted by Marin County’s Board of Supervisors with which we disagree—such as failure to address Categorical Exclusions and the insistence on arbitrary ESHA buffers—we nevertheless find the carefully-considered LCPA developed over years of public participation in Marin County to be preferable to the amendments hastily and unilaterally suggested by Commission staff. However, to best address both categories of concerns, we ask that the Commission defer action on a final LCPA until a later date, permitting the Commission to consult with a number of agricultural stakeholders and ensure that the LCPA is consistent with the language and intent of the California Coastal Act.

Finally, we hope that you will recognize, as was made clear at the May 8, 2013 Agriculture Workshop, that agriculture is of co-equal importance to resource protection and public access. We urge you to consider the regulatory flexibility necessary for coastal ranchers and farmers to maintain viable operations, and to reflect the importance for such regulatory flexibility in the final version of the Marin County LCPA.

Sincerely,



Kirk Wilbur  
Director of Government Relations  
California Cattlemen’s Association

*Sam Dolcini*

Sam Dolcini  
President  
Marin County Farm Bureau

CC:

Marin County Board of Supervisors, [bos@co.marin.ca.us](mailto:bos@co.marin.ca.us)

Christian Scheuring, Managing Counsel, California Farm Bureau Federation  
[cscheuring@CFBF.com](mailto:cscheuring@CFBF.com)

Stacy Carlsen, Marin County Agriculture Commissioner, [SCarlsen@co.marin.ca.us](mailto:SCarlsen@co.marin.ca.us)

Paul J. Beard, Principal Attorney, Pacific Legal Foundation [pjb@pacificlegal.org](mailto:pjb@pacificlegal.org)

Louise Gregg  
Box 127  
Tomales, Ca. 94971

Remove Large WECS from the Energy Plan.

RECEIVED  
MAY 13 2014  
CALIFORNIA  
COASTAL COMMISSION

Dear CCC,

I am sending you a copy of a letter I wrote on 8/26/2010. "Appeal of Marin County Deputy Administration's Approval of Joblons and Cornett Coastal Permits (Meteorological Research Towers)."

My reason is the CCC is still including LARGE WECS . After 2 years of hearings and a CEQA Law suit I would expect the CCC to move on to considering other options for this area. Every Environmental organization in Marin Co. attended each and every hearing. No one wanted this monstrous industrial giant. I do not think the people who were employed to represent the Machine, Next EraEnergy, wanted it. I really don't understand why it was left in. Please remove it.

Thank you for reading my letter,

Louise Gregg 707-878-2778 louisebgregg@yahoo.com

Louise B. Gregg  
PO Box 127  
Tomales, CA 94971

Appeal of Marin County Deputy Administration's Approval of Joblons and Cornett Coastal Permits (Meteorological Research Towers). August 26, 2010

I, Louise B. Gregg, 27075 Hwy 1, Tomales, CA., support the appeal, submitted September 2, 2010.

-- In regards to #1 of the appeal: I spoke with Ron Parson, coordinator of CEQA, in Sacramento.

He told me that there is *no exemption* for wind turbines, period. Ron Parson can be reached at: 916-445-7016.

-- In regards to # 3: Living in Marin County all my life, I am aware that there has been a law against building anything on ridge lines. In fact, the law requires that nothing shall be built protruding above ridge lines. (See: Ridgeline Development, Single Family Design guidelines in the Marin County Plan, November 6, 2007.)

-- In regards to #4: The most important facts are: Joblans and Cornet property are both across the road from the Estero De San Antonio; Joblons Farm is in contract with MALT; and Cornet is in contract under the Williamson Act. Both are receiving federal money to *not* develop their properties beyond agricultural use. These agricultural contracts are incompatible with the proposed industrial business, i.e the MET towers *and* future industrial wind turbines.

-- In regards to # 5: All scientific data should be made public and collected by an unrelated unbiased third party.

-- In regards to #6: Our appeal requires the project to file an environmental impact report.

"Whenever federal monies are involved, an historical resources survey must be conducted before starting a project such as this." (Peterson, Dan, AIA Architect. Tomales Historic Resource Survey, January 1976.) Also see: Section 106:

"Those undertaking Federally sanctioned or permitted projects that might affect historic properties listed or eligible for listing in the National Register of Historic Places should initiate consultation with State Historic Preservation Officer/Tribal Historic Preservation Officer (SHPO/THPO).

It is important to note that an environmental impact report shall be filed for any property included in the National Registry of Historic properties (including districts, sites, buildings, structures, and objects, their settings) when conditions of a proposed undertaking cause or may cause any changes – beneficial or adverse – in the quality of the historical, architectural, archeological or cultural character that qualified the property under the National Register criteria. It is

important to note that Tomales Presbyterian Church is on the National Registry. As well, there are numerous important Miwok archeological sites in this area; indeed, I have found and donated numerous Miwok artifacts to Tomales History Museum. Additionally, the entire town of Tomales is designated as a Historic District by Marin County and the State of California.

See: 800.9 Criteria of Adverse Effect [See also: 800.8: Criteria of Effect]

- a. destruction or alteration of all or part of a property;
- b. isolation from or alteration of its surrounding environment;
- c. introduction of visual, audible, or atmospheric elements that are out of character with the property or its setting;
- d. transfer or sale of a federally owned property without adequate conditions or restrictions regarding preservation, maintenance, or use; and
- e. neglect to a property resulting in its deterioration or destruction.

There will be adverse effects. The placement of this tower alters Tomales and its surrounding environment. The tower is out of scale and out of character and will do irreparable damage to the historic character of this region. The tower introduces visual elements incompatible with the historic character of Tomales; the future wind turbine project introduces audible and atmospheric elements that are definitely out of character for those properties *and their surroundings* already on and eligible for the National Historic Registry. This pristine historical region should be protected for the future.

I would like to add that the general public was not adequately informed of the August 2, 2010 hearing. This is illegal; according to the Brown Act, authored by Assembly member Ralph M. Brown, 1953, the public has the right to attend and participate in meetings of local legislative bodies.

It is extremely important to remember that according to NOAA, there is a restriction on over-flight of motorized aircraft within one nautical mile of the Farallon Islands, Bolinas Lagoon, or any Area of Special Biological Significance (ASBS), as designated by the State of California (15 CFR Ch. IX §922.82), including Bird Rock (Tomales Point), Point Reyes Headlands, and the Farallones Marine Sanctuary. It can be safely concluded that a wind turbine mounted on a potentially 400-ft tower operating 24 hours a day can be accurately compared to an aircraft flying at less than 1000 ft. If laws are ignored, birds will die, lands will be destroyed, and human community will suffer.

Please, let us protect the birds, the land, the air, and the water. Those who came before us have created laws to protect the land. We must continue this work and preserve this beautiful coast for future generations.

sincerely,

*Louise Gregg*

1/24/11

cover

wecs

case

1 Susan Brandt-Hawley/SBN 75907  
2 BRANDT-HAWLEY LAW GROUP  
3 P.O. Box 1659  
4 Glen Ellen, CA 95442  
5 707.938.3900, fax 707.938.3200

6 Attorneys for Petitioners

7  
8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF MARIN**

11  
12 **West Marin/Sonoma Coastal Advocates, Case No.**  
13 **an unincorporated association, and**  
14 **Susie Schlesinger;**

15 **Petitioners,**

**Petition for**  
**Writ of Mandamus**

16 v.

17  
18 **County of Marin and Marin County**  
19 **Board of Supervisors;**  
20 **Respondents;**

**California Environmental Quality Act**  
**[CEQA]**

21 **NextEra Energy Resources, Diane**  
22 **Cornett, Gregory Cornett, Francis**  
23 **Cornett, David Jablons, Tamara Hicks,**  
24 **and Does 1 to 10;**

25 **Real Parties in Interest.**

**From:** Susan Brandt-Hawley (susanbh@preservationlawyers.com)  
**To:** louisebgregg@yahoo.com; chisosdog@earthlink.net;  
**Date:** Fri, April 8, 2011 4:33:39 PM  
**Cc:**  
**Subject:** update

e-mail  
w e c s  
c a s e

Hi Louise and Susie.

Happy spring!

I finally have been able to talk to the NextEra lawyer. Since the Coastal Commission will be reviewing this matter now, NextEra suggests that we put the lawsuit on hold to see what the Commission does. If the Commission denies the permit, the lawsuit won't be needed. If the Commission approves it, we can proceed with the lawsuit to request an EIR.

This sounds like it might make sense. Maybe we could all talk together on a conference call about it? I have a conference call capability on my phone. If it's just the three of us, I can just call you both at once, or if you'd like more people on the call we could arrange a call-in number.

Monday or Tuesday would work for me, let me know what you think!

Susan

Susan Brandt-Hawley  
Brandt-Hawley Law Group  
707.938.3900  
[preservationlawyers.com](http://preservationlawyers.com)

email  
wec's  
case

Re: Good news!!! Confirmation re NextEra Withdrawal from Tomales

Hide Details

FROM: Susan Brandt-Hawley

Sunday, October 16, 2011 12:03 PM

TO: Susan Brandt-Hawley

CC: louise gregg Susie Schlesinger Sid Baskin Bev McIntosh helen kozoriz 2 More...

Thanks for all of your happy and appreciative emails. I still don't have written confirmation from NextEra's lawyer, except to confirm that the demurrer is off-calendar (I will keep on top of that with the court too, not just take counsel's word for it...) I really haven't done that much since the case had not yet moved forward to briefing, but I was ready to -- and I'm sure NextEra knew that. Glad to be part of this happy moment, realize it's not over but still a great place to be for now. Susan

From: Susan Brandt-Hawley

Sent: Wednesday, October 12, 2011 5:19 PM

To: Susan Brandt-Hawley

Cc: Frank Egger ; louise gregg ; Susie Schlesinger ; Sid Baskin ; Bev McIntosh ; chips Armstrong ; helen kozoriz

Subject: Good news!!! Confirmation re NextEra Withdrawal from Tomales

Hello all.

As you know, we have a case management conference and demurrer in our case pending in two weeks. I have been preparing for both and was planning to talk to you all soon.

But after I received the emails below, I called the NextEra attorney Chris Griffith from the SSL law firm. We spoke yesterday and again just a few minutes ago -- and she has confirmed to me that NextEra is going to withdraw their application for the Tomales project. I am waiting for something in writing but she was very clear about the decision.

I can explain next steps as I know more.

The bottom line is that the pending demurrer (NextEra was asking the case to be put on hold while awaiting Coastal Commission final action) is going to be dropped by NextEra, and NextEra is going to withdraw its project application in Tomales. :-)

Before we dismiss the case, I will seek to have the categorical exemption set aside and your costs reimbursed, as well as some small amount of attorneys fees for my time. They will argue that their project withdrawal is unrelated to our lawsuit (hard to prove either way) and that we should not get costs or fees. But hopefully they will pay since the amounts are small.

Congratulations!

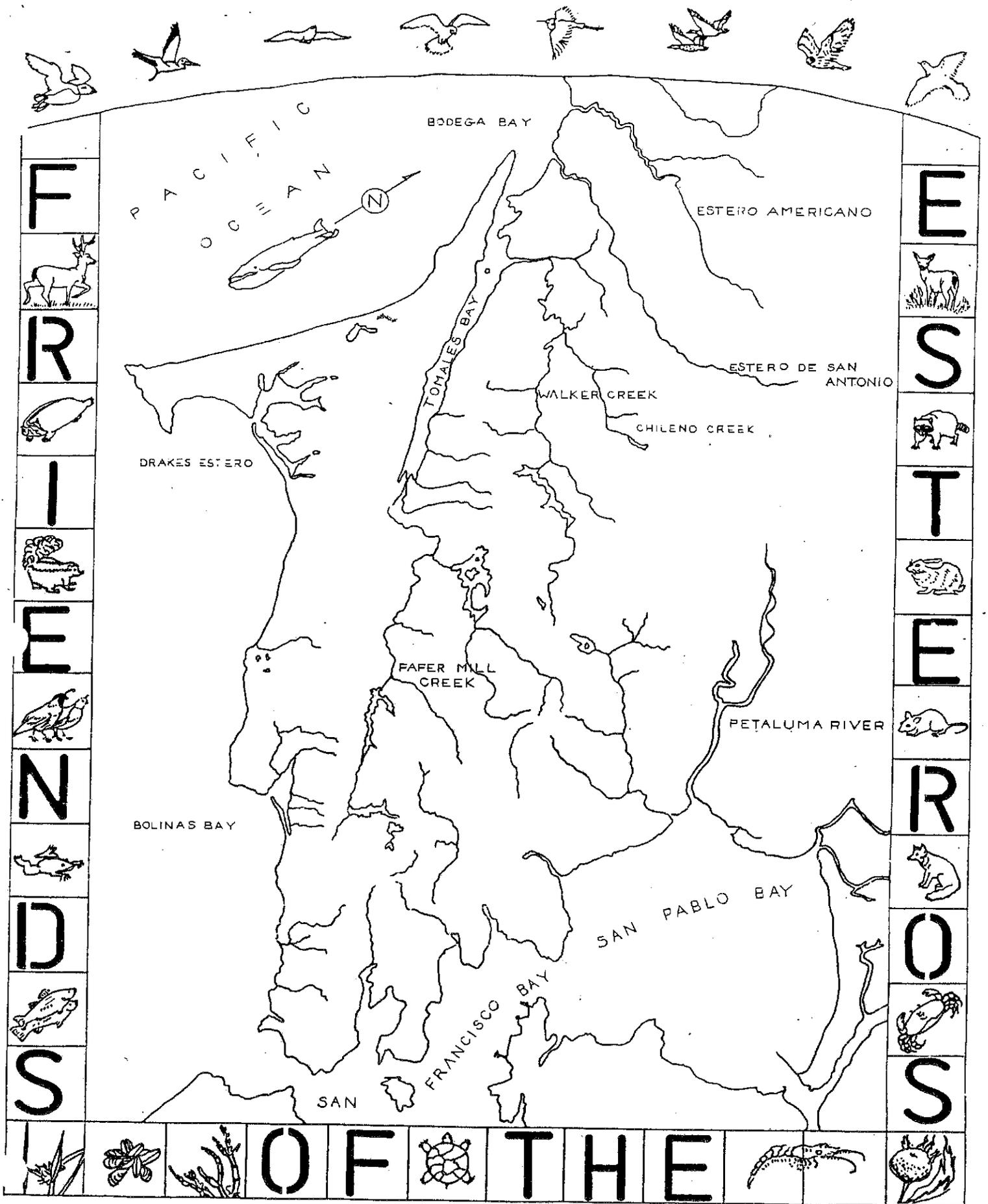
As soon as I have something in writing confirming any of this, I will forward to you.

This is public info, you are not required to keep it confidential.

Thanks! Happy to confirm good news!

Susan

Susan Brandt-Hawley  
Brandt-Hawley Law Group  
707.938.3900  
[preservationlawyers.com](http://preservationlawyers.com)



Louis Dressy 92

Change Visitor Appeal to Historic Resources.

RECEIVED  
MAY 13 2014  
CALIFORNIA  
COASTAL COMMISSION

Dear California Coastal Commission:

My HAR Comments:

PP 3. Please use Legal language that will best protect our Historical Resources. It is important for that MLCP, CEQA and NEPA are all on the same page. Please do not create conflict by softening the Legal Language. It will result in confusion on a local level and needless expensive time consuming Law Suits.

Section 30251 example, "protection for visual resources etc." Why not be legally accurate by saying Historic Resources? The way Architecture looks is important but as important is the Historic Architecture's legal "view shed."

PP5. If the LCP protects archaeological and paleontological resources by requiring development applications to be reviewed for potential impacts to these resources why not to Historic resources? Please include Historic Resources in this legal process.

Policies:

The CCC keeps Archeological and Paleontological Resources in the Northwest Information Center and this also includes all information acquired through the EIR process. Please treat our National Historic Resources with as much care. This should be easy. Due to the fact that the Northwest Information Center is working with and is supported by the California Historical Resources Information System. See: [nwic@sonoma.edu](mailto:nwic@sonoma.edu)

C-HAR7- Please include "No demolition by neglect." The owner of historic property should at least stabilize it and not use neglect to get rid of a Historic building.

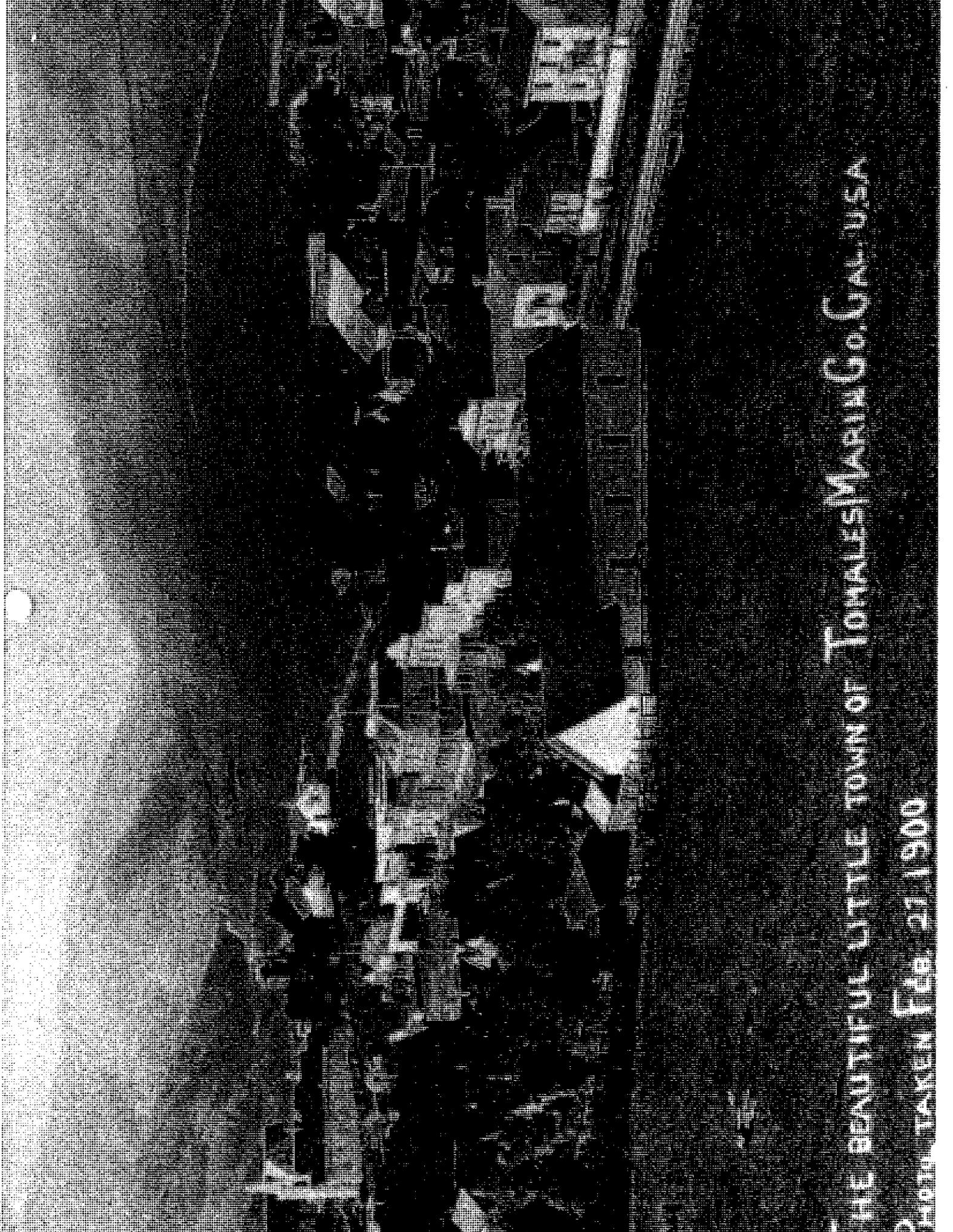
C-HAR-8- Please say Historic Villages. Within Historic Areas. See mapped Historic Boundaries in Stinson Beach, Bolinas, Tomales, Marshall, Point Reyes, Olema, and Inverness.

Downgrading Treasured Historic Areas by describing them as "Visitor Appeal" creates indifference to the loss of nationally valuable Resources.

Thank you for your time in reviewing my comments. Louise Gregg 707-878-2778  
[louisebgregg@yahoo.com](mailto:louisebgregg@yahoo.com)

P.O. Box 127 Tomales, Ca. 94971

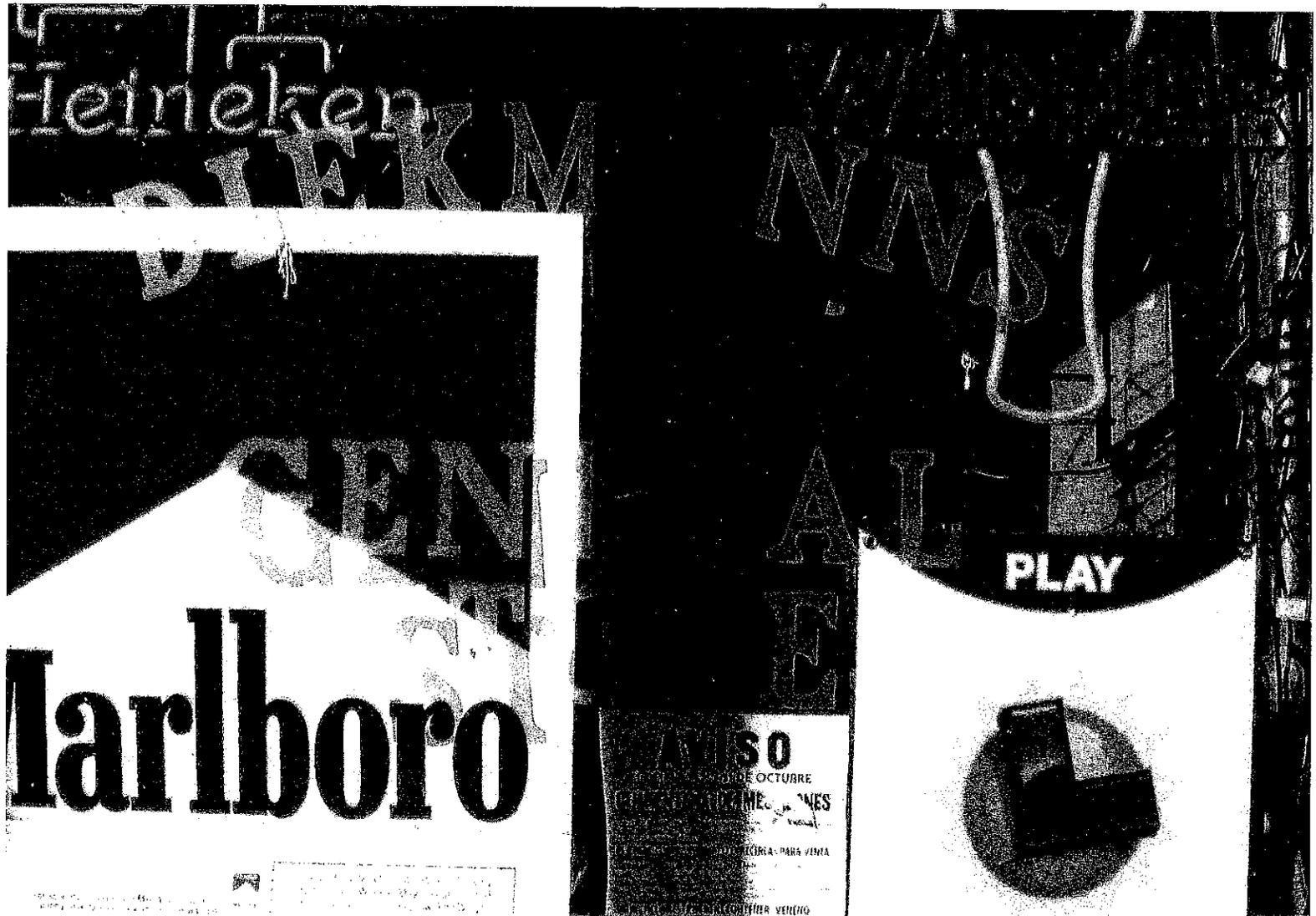
My neighbors wanted to sign. Alex and Diana Muhanoff

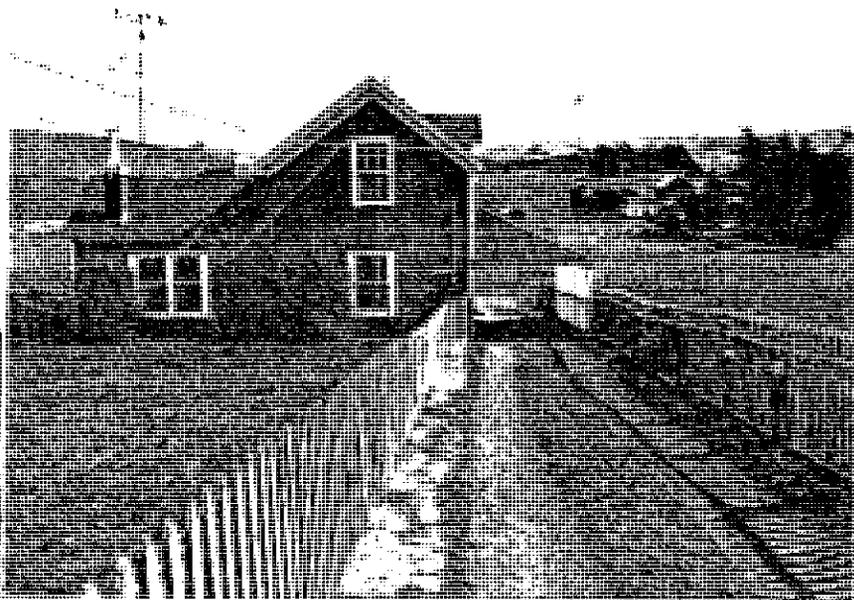


THE BEAUTIFUL LITTLE TOWN OF TOMALES MARIN CO. CAL. U.S.A.

PHOTO TAKEN FEB. 21, 1900

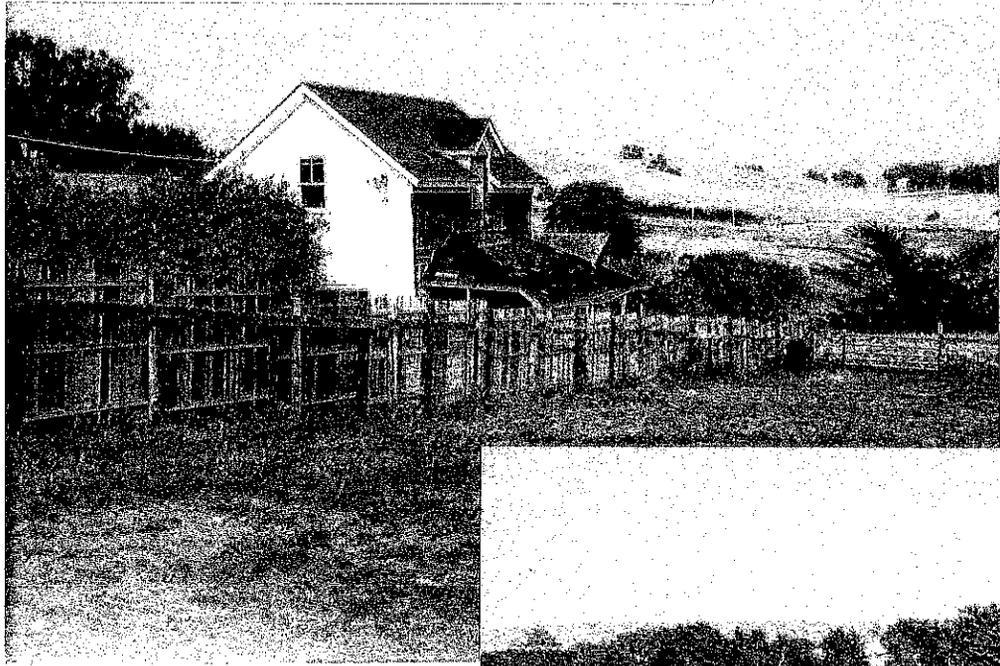
NOW DIEKMANN'S GENERAL STORE HAS  
11 NEON SIGNS AND A LOTTO RESEVING  
DISK 1 FT. FROM OUR P.O. DOOR



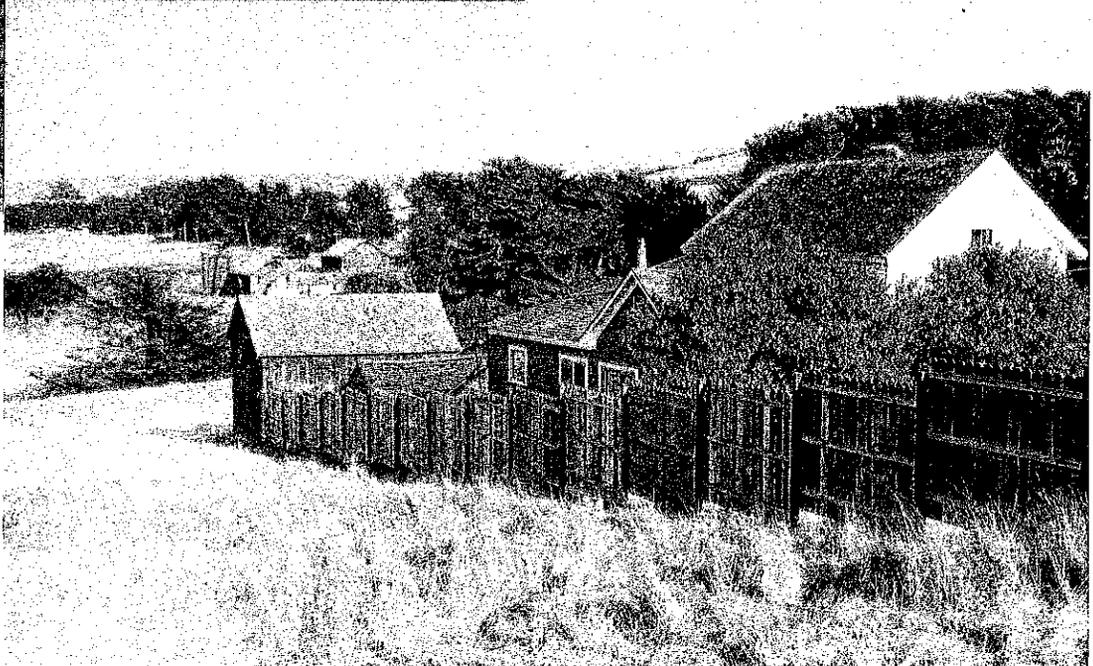


Andrew Fisher house (on Highway One across from the History Center) may be the oldest dwelling in Tomales. Andrew Ludwig Fisher (Irish immigrant born in 1837, moved the rough cabin, built in 1850, by John Keys, and added to it—this is the 1 1/2 story portion of the house. Fisher was a carpenter. He and Peter Morris are credited with the construction of the Church of the Assumption and the original rectory (also on Tomales Petaluma Road).

This picture was on the cover of the 1977 Tomales Community Plan



fence hiding a sliding glass door on North side of "fisher house" built 1850





Tomales

Catholic

Parish

Night

2014



Dillon Beach



Lawson's  
Landing

MAY 1 1914

RECEIVED  
MAY 1 9 2014  
City of  
Dillon



. Parking Lot bussiness

Coalition to Protect Tomales Dunes

California Coastal Protection Network  
 California Native Plant Society (CNPS)  
 Dorothy King Young Chapter, CNPS  
 Marin Chapter, CNPS  
 North Coast Chapter, CNPS  
 Coastal Organizers & Advocates for Small Towns  
 Environmental Action Committee of West Marin  
 Environment in the Public Interest  
 Friends of the Dunes  
 Friends of the Earth US  
 Golden Gate Audubon Society  
 Humboldt Watershed Council  
 League for Coastal Protection  
 Marin Audubon Society

Marin Conservation League  
 Ocean Outfall Group  
 Planning and Conservation League  
 Salmon Protection & Watershed Network  
 Save Our Shores  
 Sierra Club, Great Coastal Places Campaign  
 Sierra Club, Gaviota Coast Campaign  
 Sierra Club, Marin Group  
 Santa Lucia Chapter, Sierra Club  
 SLO Coast Alliance  
 Tomales Bay Association  
 Vote the Coast  
 Wilderness Society—California/Nevada Office



Lawson's Landing Gate. They have a Leash law

Parking Lot bussiness  
 Do not have a Leash law

From: Louise Gregg (louisebgregg@yahoo.com)  
To: editor@pointreyes.com;  
Date: Tuesday, June 19, 2012 10:37 AM

415-289-SEAL  
the marine mammal center  
Dillon Beach

I sent you 2 photographs from the Marine Mammal Rescue you can use for this news story. Thank you all for time in working with this. Louise Gregg

----- Forwarded Message -----

From: louise gregg <louisebgregg@yahoo.com>  
To: "eac@svn.net" <eac@svn.net>; Frederick Smith <fmsmith@ucdavis.edu>; "editor@pointreyes.com" <editor@pointreyes.com>  
Sent: Monday, June 18, 2012 12:21 PM  
Subject: Fw:

I hope this is the FINAL DRAFT. I am open for corrections thanks Louise

----- Forwarded Message -----

From: louise gregg <louisebgregg@yahoo.com>  
To: louise gregg <louisebgregg@yahoo.com>  
Sent: Monday, June 18, 2012 12:14 PM  
Subject: Fw:

----- Forwarded Message -----

From: louise gregg <louisebgregg@yahoo.com>  
To: louise gregg <louisebgregg@yahoo.com>  
Sent: Sunday, June 17, 2012 10:54 AM  
Subject:

that

included

Greetings, It was good to see everyone at the EAC 41st annual Pot Luck. The best food I have had all year and the lecture was important. I am sending you an e-mail I requested from Marine Mammals Rescue center in Sausalito. It shows the "Dog Problem" on Dillon Beach. "Responded to a report of a HS on the beach near the parking lot at Dillon Beach (Marin County). Found a HS pup, est. 9 Kg, (actual; 7.6 Kg.), 2 ft., no umbi, no tags, no visible injuries, pink mucus membranes. The pup was being washed around in the shallow surf like a disrag, hence the name "Dishrag." This is a free dog beach and there were several unleashed dogs in the vicinity. The reporting person and another couple spent several hours fending off dogs from the pup. The pup was much too lethargic to defend itself from, or escape from dogs. After discussion with the Center, I picked it up before I took pictures because of the incoming tide. Stranding Intern." After Eac, with Catherine Caufield's leadership, won a 13 year battle to protect the Tomales Dunes which includes protecting the Snowy Plovers on Dillon Beach I became aware of a Dog problem. While walking with my daughter on the beach recently we witnessed a Harbor Seal Pup that was hauled out onto the beach by its mother while she was fishing. The Pup was in danger because the Dogs were off their leashes. This problem is being ignored by the new owners of the Dillon Beach Store and Parking lots. While they are receiving \$7.00 a Car and more for a bus the Snowy Plovers that are on the endangered Species List and the Harbor Seals, that have a 100 ft distance law to protect them, are not being enforced. At the Gate of the Parking lot there is a new sign that reads "No Pit Bulls" I was told a child was bitten by a Pit Bull. The Coastal Zone is for all the people including children and older people who now have to deal with the aggressive dog behavior and the unsanitary waste they leave behind.. Every year more people and their dogs visit this beach. I do hope we can correct this problem. I believe that dog owners need to create their own Dog Park and not turn Dillon Beach into one. We really need to figure this out.

Pk

leashes

Stranding Intern  
stranded@tmmc.org  
415.289.7350

The Marine Mammal Center  
415-289-5242





Th12a



May 13, 2014

California Coastal Commission  
Kevin Kahn  
Supervising Coastal Planner, LCP Planning  
Central Coast District Office  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

Re: Marin County LCP Amendment No. LCP-2-MAR-13-0224-1 Part A

Dear Commissioners,

**A long and open process**

The Marin County Local Coastal Program Amendment you are considering for approval on May 15, 2014 has arrived after a more than five-year process of public meetings, draft documents, public comment, and revisions. The Marin County Community Development Agency staff, Marin County Planning Commission, Marin County Board of Supervisors, and Coastal Commission staff have made themselves available to hear concerns and develop related options that maintain the intent of the Coastal Act. As Commissioners, you toured Marin County to visit sites so that you could better understand Marin’s Coastal Zone on April 29, 2012. You also hosted the first California Coastal Commission workshop on Agriculture on May 8, 2013.

**Flexibility for farming and ranching**

Through this process a shared understanding has been forged that agricultural production is not a past, current, or future use. Agriculture is as dynamic and vibrant as weather, climate, and the natural resources, to which it is inextricably linked. Agriculture is always changing, day to day, intra-annually and inter-annually, from decade to decade and century to century.

Farm diversification has become increasingly important both globally and locally, especially for marginally profitable farms that might not otherwise be able to survive the price fluctuations and income seasonality typical to many farm enterprises. Agricultural diversification has been directly responsible for allowing many of the younger generation of Marin farmers and ranchers to stay on their family farms and keep them in business.

Flexibility and the ability to diversify agricultural operations are essential to the continued economic sustainability of farming and ranching. Changing crops as needed, adapting to new market trends, processing raw harvests into value added products, and developing new marketing strategies have allowed generations of Marin County farmers and ranchers to stay in business for over 150 years.

Appreciation of the need for flexibility in viable farming and ranching operations, including diversification, is evident in Commission staff's approval of C-AG-2. This includes listing as Principally Permitted Uses (PPUs) the diversity of agricultural production systems represented in items 1 through 4 and "accessory structures or uses appurtenant and necessary to the operation," including intergeneration home and agricultural product processing and retail sales.

Farm diversification has been a central tenet of Marin County farmers' ability to survive in times when market forces, increasing regulation and more attractive careers threaten to lure young farmers and ranchers away from our many multi-generational farms. Diversification, in the form of on-site agricultural product processing and retail sales has saved numerous Marin family farms over the past decade. The younger generation is creatively producing new products and finding new markets to keep 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> generation farms viable.

### **Local review and approval to meet strict requirements**

Allowing small-scale agricultural processing and retail sales, as well as intergenerational homes on coastal farms and ranches as PPUs, will allow local farm families within the Coastal Zone to be able to afford to diversify their operations as their inland neighbors can. This means that, even as PPUs, these activities require extensive permitting through Marin County's Planning, Building Environmental divisions of the Community Development Agency, and Marin County Public Works and Fire Departments. These reviews and approvals insure that siting, parking, employee support, fire protection and other aspects of any project are appropriately designed and implemented to protect environmental resources and public safety.

### **Agritourism**

By making homestay facilities and educational tours that earn income for farm families conditional uses in C-AG-2, the recommended amendment is rendering agritourism inoperable on Marin coastal farms and ranches. Agricultural tourism is a commercial enterprise at a working farm or ranch, conducted for the enjoyment or education of visitors, and that generates supplemental income for the owner.

Marin farmers and ranchers have generously been hosting individuals, school children, and other groups for decades. The popularity of such farm tours has increased in recent years, especially for urban residents who want to learn and teach their children about the source of their food.

Requiring that agricultural landowners obtain conditional permits for farm, ranch, or processing plant tours would discourage this type of agricultural education and potential income source. In cases where farmers and ranchers wish to earn additional income to help support their primary agricultural use, charging fees for tours should be an option as organizing and leading tours take valuable time away from other income producing work. The cost of obtaining conditional permits would require landowners to intensify the number of tours offered in order to cover permitting costs. If tours are offered free of charge by the landowner, the cost of obtaining a conditional permit may prevent them from opening their farm or ranch for public education.

## **Marrying on-site and off-site agricultural products**

The recommendation that “processing and sales of production grown on-site is a principally permitted use, while those using products grown off-site are conditional” needs to be tempered with situations wherein such processing and sales is necessary for on-site production and that of other ranches and farms in Marin and the region. For instance, some cheeses are made using milk from multiple species. These “mixed milk” cheeses are generally artisan products marrying goat, sheep and cow milk. It is likely that a farm with a creamery would have the pasture and facilities for one of these livestock species and maybe two but not all three, requiring them to seek out the missing milk type from another local producer. This is one example of many for why processing as a PPU should not be limited to on-site agricultural products.

## **Response and understanding**

Both Marin County and Coastal Commission staff have demonstrated a strong commitment through their responsiveness to comments and suggestions from community members throughout the Marin County Local Coastal Program Amendment. This has fostered a strong understanding of the Coastal Act and how agricultural producers are the keystone partners in achieving Coastal Act goals. This includes revisions submitted by Coastal Commission staff that clearly recognize protecting coastal resources and supporting agricultural production are not mutually exclusive, and that, in fact the nexus between these two important elements of the Coastal Act is vast. Additionally, Commission staff understands that sustainable agricultural production relies not only on productive soils and adequate water, but also on each farm family’s ability to live on their land and diversify their farming operations as changing times require. It is hoped that staff and the Commission can again respond to the identified concerns and offer a solutions to advance further the understanding that the proposed LCP demonstrates.

Sincerely,



David J. Lewis  
Director



Lisa Bush  
Agricultural Ombudsman

Th 14a

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

---

**Date and time of receipt of communication:**

May 7, 2014 at 10:00 a.m.

**Location of communication:**

Redwood City

**Type of communication:**

Teleconference

**Person(s) in attendance at time of communication:**

Stanley Lamport

**Person(s) receiving communication:**

Carole Groom

**Name or description of project:**

Item Th14a -- Appeal No. A-2-HMB-12-005 (Stoloski Subdivision, Half Moon Bay)

**Detailed substantive description of the content of communication:**

The representative identified four areas of issue with the Coastal Commission staff's findings and recommendation. First, the representative maintained that four protocol level surveys have been done of the Pullman Ditch, revealing that there is no evidence of red legged frog or California garter snake, that there is evidence of heavy predation, and that there is no standing water to create viable food sources for invertebrates.

Second, the representative indicated that policies of perennial streams only apply to map overlay of environmentally sensitive habitats. He maintained that, as this site is not currently identified as a sensitive habitat, the city should first amend the overlay map with the designation of environmentally sensitive and then implement the policies instead of implement policies in spite of the overlay map designation, as the staff recommends.

Third, the representative indicated that the buffer zone provisions should refer to riparian corridors, which must be reflected in the overlay map. Similar to the sensitive habitat designation, the representative maintains that the overlay map should first be amended to show the riparian corridors, and then policies should be implemented. He maintained that the buffer zones should not apply in this situation because the riparian corridor is not on the map. Finally, the representative maintained that the proposal is consistent with planned development policies and is meant to limit density and direct access from Highway 1.

All materials have been provided to staff.

Date: May 12 2014

Signature of Commissioner: \_\_\_\_\_

carole groom

Th14a

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

---

**Date and time of receipt of communication:**

May 9, 2014 at 2:30 p.m.

**Location of communication:**

Redwood City

**Type of communication:**

Teleconference

**Person(s) in attendance at time of communication:**

Marc Gradstein

**Person(s) receiving communication:**

Carole Groom

**Name or description of project:**

Item Th14a -- Appeal No. A-2-HMB-12-005 (Stoloski Subdivision, Half Moon Bay)

**Detailed substantive description of the content of communication:**

The appellant expressed concern over the approval of this project by the City of Half Moon Bay when it neglected to address the requirements of its LCP. Mr. Gradstein maintained that the LCP requires a Specific Plan for any development in a PUD district, which was not addressed prior to approval of the project.

Further, Mr. Gradstein maintained that the Pullman Ditch does fill with water and can lead to flooding during times of intense rainfall, which has not occurred recently due to drought conditions. Mr. Gradstein expressed concern for both his property and adjacent properties regarding potential flooding issues in the future that could arise based on the proposal.

Date: May 12 2014

Signature of Commissioner: Carole Groom

Th/49

## FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Stoloski appeal .A ppeal No. A-2-HMB-12-005

Date and time of receipt of communication: May 12, 2014 10:30 a.m. - 10:45 a.m.

Location of communication: Santa Barbara

Type of communication (letter, facsimile, etc.): telecon 213 393 2033

Person(s) initiating communication: Stan Lamport for applicant Stoloski

The bottom line as late as the beginning of this year, they were 'assuming' the species was there pending further studies. They brought in Mark Jennings, after FW letter came in they had a meeting with staff. Exhibit 8 is Jennings letter of February, said it is impossible for species to be there. The May 6 2014 is a protocol survey which found there were no invertebrates at all in the ditch. The protocol calls for one summer survey, which hasn't happened, but using the optimal conditions they found none. The reason they found no invertebrates is because they really are not a food source, the water is not collecting long enough. They are going to get predated. If the ditch is not a sensitive habitat the buffer is not an issue.

There are no proposed homes, there is a development envelope is 30 feet from the center line of the ditch. The bridge was found by Dixon previously not to have an adverse impact. If the bridge is not allowed, the question then is where you take access. The City does not want the alternative access; they don't want infrastructure in Surf Beach. The City's objective was to reduce the number of intersections. The advantage of using the bridge is using existing roads. Not putting infrastructure in Surf Beach tract; not facilitating the conversion of the paper lots.

They did pull a building permit for the Oliva house. There was a SI hearing, and Exh 17, the appeal was withdrawn, appellants Steve Blank and Mike Reilly. There is no explanation of why. Staff claims that City had found that it was a sensitive habitat. The staff report is in exhibit 15, highlighted at p. 151 of the exhibit. The city's position was actually identical to the position the applicant is taking now.

May 12, 2014

/s/ Jana Zimmer



COMMITTEE FOR  
GREEN FOOTHILLS

Th14a

May 4, 2014

ITEM TH.14.a  
Support Staff

Steve Kinsey, Chair and  
Members of the California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Re: Item TH 14. a. **Appeal No. A-2-HMB-12-005 (Stoloski, Half Moon Bay)** Appeal by Marc Grandstein and Jane Gorman of City of Half Moon Bay's decision granting permit with conditions to Mark Stoloski for subdivision of 2 parcels, totaling 2.1 acres, into 4 residential lots with associated infrastructure improvements, including utilities, in 2700 block of No. Cabrillo Hwy (State Highway One) in Half Moon Bay, San Mateo County. (JM-SF)

Dear Chair Kinsey and Commissioners,

On behalf of Committee for Green Foothills (CGF), I am writing in strong support of the Staff Recommendation that you find **the Appeal raises Substantial Issues** as to the above-referenced project's conformity with the Coastal Act and LCP. CGF further commends the staff for their thorough analysis and recommendation that you **Deny the Coastal Development Permit** for the proposed subdivision and associated development for the following reasons:

1. **Subdivision of this parcel and associated development is inconsistent with the Half Moon Bay certified LUP Policies regarding Planned Development.** The project is located within the 50-acre Surf Beach/Dunes Beach Planned Development (PD) area as designated in the certified HMB Land Use Plan. The intent of the PD designation is to ensure that large, undeveloped areas planned for residential use are planned in a comprehensive way that protects resource values, ensures coastal access, eliminates poorly planned subdivisions, and clusters development to provide open space and recreation (LCP Policies 9.8 and 9.9). LUP Policy 9.3.3 (a) specifically requires that a Specific Plan for the entire Surf Beach/Dunes Beach Area shall be prepared that shows the locations of roads and structures, and indicates the amount and location of open space, public recreation, and commercial recreation. The Specific Plan shall be subject to environmental review under city CEQA guidelines. No Specific Plan has yet been prepared for this area.
2. **The proposed project does not comply with HMB LCP Policy 9.9 which requires that PD areas use flexible design concepts to create comprehensive development plans with the goal of protecting coastal resources and provision of public open space.** The proposed project would impact sensitive habitats in and around Pullman Ditch, which provides riparian habitat and dispersal and foraging habitat for sensitive species including San Francisco garter snake and California red-legged frog. The Dunes Beach area also contains prime agricultural soils and has well documented drainage and flooding issues that

COMMITTEE FOR  
GREEN FOOTHILLS

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www.GreenFoothills.org

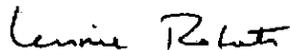
threaten nearby residential areas and the Coastal Trail. All of these constraints need to be addressed comprehensively through a Specific Plan.

- 3. Approval of the proposed subdivision within the PD area amounts to piecemeal development and does not comply with the comprehensive planning that is called for in the certified HMB LUP.** The City of Half Moon Bay is currently doing a comprehensive update of its LCP. Approval of this proposed subdivision would be premature in light of the ongoing planning at the local level and could prejudice the outcome.

Please deny this Coastal Development Permit and provide clear direction to the City of Half Moon Bay that the LCP requires that the Dunes Beach/Surf Beach area must be comprehensively planned in order to protect adjacent homes and natural areas from flooding, to ensure protection of special status species, to maintain public recreation, agricultural and open space uses, and to provide for public access to the coast as required by the certified LCP.

Thank you for consideration of our views.

Sincerely,



Lennie Roberts  
San Mateo County Legislative Advocate

San Mateo  
County

# League for Coastside Protection

Th/4a

May 5, 2014

California Coastal Commission Item Th.14.a (Stoloski)  
North Central Coast District Office Support Staff Recommendation  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Dear Chair Kinsey and Members of the Commission:

The San Mateo County League for Coastside Protection (SMC LCP) strongly supports the Staff Recommendation that the Commission find that Appeal No A-2-HMB-12-005 (Stoloski) raises Substantial Issues as to the proposed project's conformity with the LCP and Coastal Act. Further, SMC LCP supports the Staff Recommendation for Denial of the Coastal Development Permit.

As the Staff Report points out, several elements of the project are in direct conflict with policies of Half Moon Bay's certified Local Coastal Program (LCP) which control development in and adjacent to sensitive habitat areas, in areas subject to coastal hazards such as flooding, and in LCP designated Planned Development areas.

The Staff Report observes that riparian areas are protected under the LCP whether intermittent or perennial, man-made or natural. The project is adjacent to and would affect flows in the Pullman Watercourse. The project, as proposed, and approved by the City, does not ensure an adequate buffer from the intermediate Pullman drainage and associated riparian area.

The California Department of Fish and Wildlife and the US Fish and Wildlife Service consider the project area as occupied by listed species, and have concluded that the project may result in a take of the California red-legged frog and San Francisco garter snake through degradation of upland dispersal and foraging habitat.

Furthermore, the appellants and others have reported flooding in the vicinity of the Pullman watercourse, and this project, as proposed, would increase flows in the already inadequate drainage. The LCP requires permitted development to

neither cause nor contribute to flood hazards, and there is not sufficient information to justify the City of Half Moon Bay's conclusion that the project complies with this requirement.

Finally, the project is located within the Surf Beach/Dunes Beach Planned Development (PD) district. All Planned Development districts require that a specific plan be adopted and certified prior to approval of development, but there is no such adopted plan for this district. The specific plan should include the district's beach access routes, drainage impoundments to manage flood risks and to enhance habitat, and identification and protection for the biological productivity of environmentally sensitive habitats with appropriate buffer areas.

For all these reasons, the San Mateo County League for Coastsides Protection strongly endorses the conclusion of the Coastal Commission's staff, and urges the Coastal Commission to adopt the Staff Findings for Denial as outlined on page 6 of the staff report dated May 2, 2014.

Thank you for considering our position, and for protecting the coast for future generations.

Respectfully,

John F. Lynch, (signed)  
Chairman Emeritus

2098 Touraine Lane • Half Moon Bay CA 94019  
LCP.sanmateo.org • ID 1234363

Donald and Silvana Torre  
16 Kimmie Court  
Belmont, CA 94002

TH/4a

Steve Kinsey, Chair and  
Members of the California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

May 8, 2014

Re: Item TH14.a.Appeal No.A-2-HMB-12-005 (Stoloski) –  
**Oppose staff recommendation – support Half Moon Bay approval of the project**

Dear Chair Kinsey and Members of the California Coastal Commission,

We own two 50' x 100' parcels (APN 048-121-100 and 048-121-160). Pullman ditch is located along the entire length of the southern boundary of our parcels. Our property is zoned for single-family development. There are homes in our neighborhood and the adjacent Oliva parcel to our lot on Pullman Avenue has applied for a building permit. We hope to develop our lots in the future for our children.

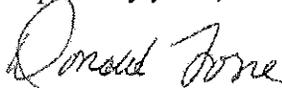
**We have always supported the Stoloski project and endorse the development of his 2+-acre parcel adjacent to our property** into four future home sites. We have no objection to the proposed street extensions of Pullman that fronts our parcel APN 048-121-100 and Champs Elysee that fronts our parcel 048-121-160. There is an existing water main across the Pullman ditch at Pullman Avenue already on Mr. Stoloski's parcel and existing buildings on his parcel. The proposed project is consistent with the intent of the HMB zoning and General Plan.

The project approved by Half Moon Bay would create four large residential lots with a minimum of a 30-foot setback from Pullman ditch. **The proposed project well exceeds two other existing homes located at 2805 Naples and 2805 Alameda that are 5 feet or less from Pullman ditch. These two homes were approved under the current Half Moon Bay Local Coastal Plan. Why would the CCC staff recommend a different standard for the Stoloski project?** This is not fair to the Stoloski project and would also prevent any development of our two residential lots. Has the CCC staff considered the impacts to all the undeveloped lots along the Pullman ditch? If you approve the CCC staff recommendation, how will we be compensated for our two standard sized residential lots?

The staff report also brings up the PUD policies in regards to the Stoloski project. This project relies on the existing roads in our neighborhood and Roosevelt Avenue for access to Highway One. This is consistent with the HMB LCP and Circulation Element. **Why would CCC staff recommend an alternative that could create a new access hazard on Highway One?**

**The Stoloski project was unanimously approved by the Planning Commission the City Council that correctly found the project consistent with the HMB Certified Local Coastal Plan. Mr. Stoloski amended his project to appease the appellants. The appellants enjoy ZERO setback from the Pullman ditch. Please support the local jurisdiction's appropriate action on this project and deny the appeal.**

Respectfully yours,



Donald Torre  
650-787-7075

May 9, 2014

California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Item Th.14.a (Stoloski)  
Support Staff Recommendation

Th14a

Dear Chair Kinsey and Members of the Commission:

After reviewing the applicant's response to the staff report, I write to convey my continuing support of staff's recommendation that the Commission find that Appeal A-2-HMB-12-005 (Stoloski) raises substantial issues as to the proposed project's conformity with the policies of Coastal Act and the City of Half Moon Bay's certified Local Coastal Program (LCP) as well as its implementing ordinance. Because of this non-conformance, the coastal development permit should be denied.

This project's Planned Unit Development Area (PUD) location is a poster child of piecemeal development's threat to such areas, and why the City's LCP wisely requires approved specific plans prior to development in PUDs. Such a plan would locate roads away from sensitive habitat, and would minimize conflicts between coastal access and residential circulation within the PUD. A well-thought-out plan for drainage would not only mitigate coastal hazards such as flooding, but would also improve the biologic productivity and the area's appeal for visitors and residents. A plan that protects foraging and dispersal habitat of listed species, and treats draining water as a resource instead of a nuisance, could easily yield a biological opinion from the US Fish and Wildlife Service that development would likely not result in take of listed species, and CA DFW would concur. The proposed project achieves none of these LCP policy goals.

As a former Chair of the Half Moon Bay Planning Commission, I have worked extensively with the policies and implementing ordinance of the City's LCP. Unfortunately, even as revised the project continues to violate these policies and ordinance. The City's long term biological vitality, freedom from hazards, livability, and appeal to visitors all depend on honoring these principles, particularly in our large PUDs. For this reason, I respectfully ask that the Coastal Commission accept its staff's recommendations, and require a specific plan for the PUD prior to development.

Thank you for considering my views, and for protecting the coast for future generations of residents and visitors to the City of Half Moon Bay.

Very truly yours,

/s/James Benjamin

James Benjamin  
400 Pilarcitos Avenue  
Half Moon Bay



Sierra Club Loma Prieta Chapter  
Celebrating 80 years of protecting the planet

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TH 14a

May 9, 2014

California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, California 94105

Item TH.14.a  
Support Staff Rec

Dear Chairman Kinsey and Coastal Commissioners,

On behalf of the Sierra Club's Loma Prieta Chapter Coastal Issues Committee - acting as the conservation policy voice of the Sierra Club for the San Mateo coastline - we wish to express the Committee's unanimous support for the Staff Recommendation for a finding of Substantial Issue and subsequent Denial of the above referenced project.

The Sierra Club has a long history of support for the California Coastal Act as administered through Local Coastal Programs with oversight from the California Coastal Commission. That oversight is much needed in this particular case as necessitated by the City of Half Moon Bay's inadequate -- to say the least -- implementation of its responsibilities under the Local Coastal Program with regard to coastal resource protection and Planned Development District planning requirements.

Regarding the adjoining waterway, we do not understand the miraculous happenstance by which this particular waterway in this coastal plain would come to be the only such waterway in Half Moon Bay that's devoid of habitat potential - especially since it's been in existence since at least the 1940s and is well within the migratory range of other known habitats.

More importantly, though, is the fact that this project should not be before you without an LCP mandated Specific Plan processed as an LCP amendment. Such an amendment is referenced under several development policies in Chapter 9 of the Half Moon Bay LCP yet the City's findings, as shown in your staff report, recognize only that one policy using the word "may" and then interpret that word as excusing the requirement. Those findings ignore the policies using the word "shall" that make it clear that such a Plan is mandatory, not optional.

This type of evasive practice does no favor to the applicant. Now, after two years of the appeal process, there is no Specific Plan LCP Amendment at hand for the Commission to certify and the Commission has no legislative authority to create one.

The sooner this proposal is sent back to the City for straightforward processing consistent with the Half Moon Bay Local Coastal Program the better off the applicant will be.

Thank you for your staff's understanding of the key issues regarding this proposal.

Best Regards,

A handwritten signature in black ink, appearing to read 'K. Rosales', with a stylized flourish at the end.

Kenneth Rosales  
Conservation Programs Coordinator  
Sierra Club Loma Prieta Chapter



COMMITTEE FOR  
GREEN FOOTHILLS

Th/4a

May 11, 2014

Steve Kinsey, Chair and Members  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**Re: Stoloski Appeal – Item Th 14.a. May 15, 2014**

Dear Chair Kinsey and Commissioners,

Please accept these additional comments on behalf of Committee for Green Foothills (CGF) in support of the Staff Recommendation for Substantial Issue and Denial of the Stoloski subdivision.

As you know, the Coastal Act is a unique partnership between the California Coastal Commission and local governments to carry out the mandates of the Coastal Act. This partnership depends upon local governments to take their obligation seriously.

Unfortunately, the City of Half Moon Bay is not committed to upholding its own end of the bargain, as evidenced by how it has handled the local approval of the Stoloski project as well as several other recent proposed projects.

The City's Planning Staff cherry-picked policies of the certified Land Use Plan, apparently hoping that no one would notice the absence of analysis of the project's compliance with all applicable policies. One only has to look at the City's Findings for Approval to realize that key LUP policies regarding the Surf Beach/Dunes Beach PDD, were simply ignored. These include:

**Policy 9-14:** In the case of any Planned Development District hereafter described where portions of the District are in separate ownership, **approval may be given for development of a parcel or group of parcels** in the same or different ownerships, **provided that the City has approved a specific plan for the District as required by the provisions of this section.**

**Planned Development District 9.3.3 (a):** Surf Beach/Dunes Beach: A specific plan shall be prepared for the entire area which incorporates all of the conditions listed below and conforms to all other policies of the Land Use Plan. The specific plan shall show the locations of roads and structures, and indicate the amount and location of open space, public recreation, and commercial recreation. The specific plan shall be subject to environmental review under City CEQA guidelines. (emphasis added)

The failure of the City to analyze the project's conformance with these clear and unambiguous LUP policies is deeply disappointing but not surprising. It would be even more disappointing and a great surprise if the California Coastal Commission were to reward this egregious oversight with an approval.

COMMITTEE FOR  
GREEN FOOTHILLS

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CGF notes that several previous development proposals in another portion of the Surf Beach/Dunes Beach PD area have not proceeded forward due to their inability to secure access across other properties as well as the need to prepare a Specific Plan prior to approval.

The Applicant is an experienced General Contractor (Stoloski and Gonzalez) with longstanding relationships with Half Moon Bay City officials. He has done many public works projects in San Mateo County and beyond. Undoubtedly he has done a good job. His consultants on this matter have many years of experience in coastal planning. Neither the Applicant nor his consultants should be surprised by the fact that his project, as approved by a development-friendly City Planning Commission and Council, has created significant controversy.

Rather than continuing to push for special treatment that ignores the clear and unambiguous LUP policies for the Surf Beach/Dunes Beach Planned Development Area, the Applicant should be working with the City to ensure that a Specific Plan for this area is prepared as part of the ongoing LCP Update.

Please do not set a terrible precedent for this Planned Development District and all of the other PD Districts in Half Moon Bay.

Please deny the Coastal Development Permit for this project.

Sincerely,



Lennie Roberts, San Mateo County Legislative Advocate



**HALF MOON BAY COASTSIDE**  
CHAMBER OF COMMERCE & VISITORS' BUREAU

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Th/4a

May 13, 2014

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco CA, 94105

**Re: A-2-HMB-12-005 (Stoloski Subdivision)**

Dear Commissioners:

The Half Moon Bay Coastsides Chamber of Commerce & Visitors' Bureau does not take a stance on residential sub divisions, but would like to comment on the specifics surrounding this project A-2-HMB-12-005 (Stoloski Subdivision).

We understand the Commission and its staff are charged with the need for a cautious approach towards development. However, when a project has met all local government requirements and request-upon-request is made by the Coastal Commission staff for objections, and then finally neighbors who never commented during any of the previous local process comment periods all of a sudden speak up with unsubstantiated objections, then it makes one wonder??

Two neighbors who live together (Mark Gradstein and Jane Gorman) appealed the proposal to the Coastal Commission. Gradstein and Gorman claim (with no studies performed on their part or published data submitted to the Coastal Commission, and therefore, no financial investment on their part.

Their complaint centers around:

- 1) The project requires a specific plan. It does not. The project is consistent with the HMB LCP wherein the property is zoned Planned Unit Development and is a stand along parcel and therefore, not subject to the dictates of the Surf Beach tract – a claim made by the Coastal Commission staff
- 2) That a ditch running on the property is habitat to a protected frog and snake. The proponent has had additional biological studies done that, again, confirmed the WRA findings though it was apparent that Coastal Commission staff kept trying to find a consultant who would countermand that conclusion.
- 3) That a proposed culvert for storm water would create flooding near the home of the appellants at 2805 Naples. The culvert was subsequently removed to appease the appellant.

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Encouraging a sustainable future

It is disturbing when reporting agencies do not raise an issue and CCC staff overrides local approvals and makes decisions on surmises and assumptions rather than data.

Interestingly, the proponent continuously supplied the Coastal Commission staff with requested information and made repeated requests to meet on site, which staff never did until December of last year. The proponent also had several project alternatives prepared per request of the Coastal Commission staff but a two way discussion never takes place. This seems to be a repeated scenario by the California Coastal Commission.

We appreciate the opportunity to express our concerns, and thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Charise McHugh". The signature is written in black ink and is positioned above the typed name and title.

Charise Hale McHugh, ACE  
President/CEO

Th 14a

Ralph Faust  
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Mr. Steve Kinsey, Chair  
Coastal Commissioners  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Re: Stoloski Appeal: A-2-HMB-12-005; Agenda # TH. 14 (a)

Dear Chair Kinsey and Coastal Commissioners:

I represent Marc Gradstein and Jane Gorman. I write to you in support of their appeal of the approval of the Stoloski subdivision by the City of Half Moon Bay (A-2-HMB-12-005). Commission staff has carefully reviewed the record on the appeal and recommends that the Commission find that the appeal raises a substantial issue on three separate grounds. Staff further recommends that the Commission deny the permit at the de novo hearing and remand the matter back to the City of Half Moon Bay for further consideration and development of a Planned Unit Development Plan (PUDP) prior to approval of development in this area of the City, as is required by the City's certified Local Coastal Program. We support the recommendation of the staff and urge the Commission to adopt the findings and deny the proposed development.

#### INTRODUCTION

Stoloski proposes to subdivide a long and narrow 2.1-acre parcel into four separate parcels. The existing Stoloski parcel is at the north end of the Surf Beach/Dunes Beach District which is an area designated in the City's LCP for Planned Development (PD). It is bordered on the north by Pullman Ditch, an intermittent stream that drains an area of the City to the east of Highway 1. Pursuant to the terms of the City's LCP, Pullman Ditch is both a "riparian area" and "sensitive habitat". In addition, the U. S. Fish and Wildlife Service and the California Department of Fish and Wildlife have notified the Commission and the applicant that the habitat of Pullman Ditch supports rare and endangered species. The area toward the western end of Pullman Ditch is subject to periodic flooding.

The Stoloski parcel is bordered on the south by an antiquated subdivision, the Surf Beach tract, which is the principal focus of the requirement in the LCP for preparation of a PUDP for the Surf Beach/Dunes Beach District. To the south of the Surf Beach tract is additional land south of Young Ave., also within the Surf Beach/Dunes Beach (PD) District, planning for which also must be encompassed within a PUDP for the District.

Although the parcel proposed to be subdivided in this matter presently has access to Highway 1 directly at its eastern edge, access to the proposed subdivision instead is planned to come through an existing subdivision to the north of Pullman Ditch, requiring the construction of roads and two bridges through that riparian area. The extent and location of development to be allowed in the PD area, including on this parcel, appropriate circulation routes and access to Highway 1 to be developed in light of that development, and resolution of the drainage and flooding issues in the area west of Highway 1 are all among the issues that are properly contemplated to be resolved in the planning process for the preparation of the PUDP. Approval of development of this parcel without prior completion of the PUDP is prohibited by the LCP, precisely because it would have significant impacts not simply upon this parcel itself, but also, more importantly, upon the options for resolution of the more comprehensive planning issues that exist within the PD, some of which are discussed below.

**THE CITY IS REQUIRED TO PREPARE AND APPROVE A PLANNED UNIT DEVELOPMENT PLAN FOR THE ENTIRE SURF BEACH/DUNES BEACH AREA DESIGNATED IN THE LCP AS PLANNED DEVELOPMENT BEFORE IT APPROVES ANY DEVELOPMENT WITHIN THAT PD DISTRICT.**

The parcel that the applicant proposes to develop is at the north end of the Surf Beach/Dunes Beach Planned Development District (PD). As is specified in LCP Policy 9.3.3, the Surf Beach/Dunes Beach area

“Is a partially undeveloped area totaling about 50 acres, bisected by Young Avenue and bounded by Half Moon Bay State Beach on the west and south, Highway 1 on the east, and the partially developed City of Naples subdivision on the north.”

The applicant has contended (in their letter of May 8) that the specific plan requirement applies only to the Surf Beach tract, but the clear language of the LCP contradicts that contention. The land described in the above quoted language from Policy 9.3.3 includes the Surf Beach tract, but it also includes parcels both to the north and to the south of the Surf Beach tract, including the Stoloski property that is the subject of this permit application. (See Exhibit 2 of the Commission staff report,

which graphically illustrates the area described in the quoted language; the entire area is labeled PD on the map).

Policy 9.3.3 discusses the entire PD area and the various constraints that exist in that area. These include water supply, drainage and flooding, traffic and access to Highway 1, commercial recreation, visitor-serving development and recreation, and the extent and location of residential development. The policy makes clear that the purpose of the required PUDP is to resolve these various and potentially conflicting issues at one time for the entire area of the PD. Piecemeal development only serves to limit the future planning options, and is specifically prohibited by Policy 9-14 which allows approval of development on a portion of the land in the PD only where "the City has approved a specific plan for the District as required by the provisions of this section". There is no provision in Policy 9-14 for approval of development within a portion of the District after approval of a PUDP for only a portion of the District, as the City purported to do here. Consequently, approval of the proposed Stoloski subdivision is prohibited by this LCP provision.

Nor are these issues hypothetical in relation to this project; rather they are part and parcel of the issues that the PUDP is required to address. The proposed subdivision, if approved, would result in 4 residential lots; but the PD presently has a theoretical identified zoned development potential of 241 lots in addition to this parcel, and Policy 9.3.3 limits future development in the PD to 150 lots total. So a minimum of 245 "theoretical" lots would have to become 150 "actual" lots as part of the PUDP process. Whether the lots to be created in this subdivision application should be permitted at the expense of other potential development on other parcels in the PD is precisely the purpose of the PUDP. Approval of these lots now is premature; it is bad planning and it is contrary to the LCP.

In addition, the subdivision proposed in this application takes access through a convoluted scheme involving two bridges over Pullman Ditch from the Naples Beach subdivision to the north, which is not in the Surf Beach/Dunes Beach Planned Development District. The habitat protection problems created by this proposal (to be discussed below) are rationalized based upon the need to limit existing and future access to Highway 1, which has significant traffic problems that Caltrans and the City are attempting to address. LCP Policy 9.3.3 (h), for example, provides that not more than one opening onto Highway 1 north and south of Young Avenue shall be permitted to provide access to residential development within the Surf Beach/Dunes Beach District.

Thus the location of future access to the Surf Beach/Dunes Beach PD area is one of the critical issues that the PUDP is intended to address. The applicant itself, in its May 8 letter, suggests at least three alternatives to its proposed access route within the Surf Beach tract, which it then dismisses because they would involve development of that tract. These alternatives did not even include Young Avenue or the other potential access opening to Highway 1 from the District south of Young

Avenue. Which route or combination of routes is best suited to the development pattern that the City wants to endorse in the PD is again precisely the task of the PUDP. All of these decisions should be made in an integrated fashion. They should not be piecemealed as would result from approval of the development proposed in this permit, in a manner that forecloses future options and creates unnecessary additional problems. This is particularly the case with respect to habitat impacts in Pullman Ditch that can be completely avoided after development of the PUDP.

Finally the appeal raised, and the Substantial Issue portion of the staff report considered, issues related flooding hazards. The City has long been aware of drainage and flooding problems in the area west of Highway 1. The LCP notes that "drainage is poor" in the entire area of the Surf Beach/Dunes Beach PD and further notes that "drainage requirements may conflict with dune protection". The appellants, in a letter to the City Council dated January 12, 2012, noted the flooding problems that they thought would ensue from the proposed development, and further noted that the Fire Department had on at least two occasions during their ownership come out to intervene to help ease the flooding. The applicant attempted to remove this issue from consideration at the de novo stage by eliminating the underground drainage feature from its project description, and staff has not further analyzed it in its de novo report. But the issues of flooding and drainage predate this project and will only be exacerbated by the increase in impermeable surfaces from the new development. These drainage and flooding issues are best addressed with an integrated solution that looks at the problems and the proposed development in the PD as a whole and that, with the entire context of the future problem in view, crafts appropriate mitigation to alleviate the problem. Once again, this is a task that the PUDP, looking at the entire area, should address and resolve.

These are examples of the reason for the requirement of Policy 9-14 that no individual development within the Surf Beach/Dunes Beach PD be approved until the City has approved a specific plan for the District. Approval of this proposed subdivision is illegal because it is contrary to the requirement that a PUDP be prepared prior to development in the area. It also makes no planning sense. The proposed subdivision must be denied.

**THE PROPOSED DEVELOPMENT WOULD HAVE SIGNIFICANT IMPACTS UPON PULLMAN DITCH, WHICH IS BOTH A RIPARIAN AREA AND SENSITIVE HABITAT UNDER THE LCP. THE LCP REQUIRES A BUFFER AREA TO SEPARATE ALL DEVELOPMENT FROM THAT RESOURCE.**

### ***Riparian Area***

Policy 3.3 of the City of Half Moon Bay LCP defines "riparian area" as any area of land bordering a stream or lake, including its banks. It includes land at least up to the highest point of an obvious channel and extends outward to the outer edge of

Ralph Faust letter re Gradstein/Gorman appeal of Stoloski project

4

May 13, 2014

appropriate indicator plant species. It applies, by the language of the Policy, not merely to natural watercourses but to all bodies of water, intermittent or perennial, man-made or natural. Thus Pullman Ditch is a riparian area within the meaning of the LCP.

The applicant suggests that Pullman Ditch does not qualify as a riparian corridor, because, under Policy 3-7, riparian corridors are defined by the "limit of riparian vegetation", and except for one patch of arroyo willow, the existing vegetation along Pullman Ditch is not riparian vegetation. While this narrow interpretation is beneficial for the applicant's position in this matter, its application as an interpretation of the LCP would eliminate many of Half Moon Bay's stream courses themselves from any protection whatsoever. Simply put, this confuses riparian vegetation with the riparian area, the stream and its banks, itself.

The applicant's letter of May 8 also cites, but then ignores Policy 3-11, which provides for the establishment of buffer zones. Policy 3-11 (b) provides that "where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams". As this language makes clear, a minimum buffer of 30 feet is required from the midpoint of intermittent streams, even if there is no riparian vegetation whatsoever. The clear meaning of this subsection is made even more apparent when it is compared to the language of Policy 3-11 (a). That subsection provides: "On both sides of riparian corridors, from the 'limit of riparian vegetation', extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams".

Thus it is clear that Policy 3-11 (a) defines the outward limit of any riparian vegetation buffer, where riparian vegetation exists that meets the definition, based upon the 'limit of riparian vegetation', in Policy 3-7, while Policy 3-11 (b) establishes the minimum buffer requirement where the stream is not bordered by any riparian vegetation. This interpretation is in accord with Section 18.38.075 (A) (2) of the City's Zoning Code, regarding Riparian Buffer Zones, which provides that the riparian buffer zone includes "land along both sides of riparian corridors which extends fifty feet from the bank edge for perennial streams and thirty feet from the midpoint of intermittent streams, where no riparian vegetation exists" (Emph. Added).

In conclusion, all development in Half Moon Bay at the edge of a riparian area, as defined in Policy 3-3, must observe a minimum buffer of 30 feet "from the midpoint of intermittent streams". The proposed development here, to the extent that it does not meet that minimum required buffer, cannot be approved pursuant to the LCP.

### ***Sensitive Habitat***

Pullman Ditch is also "sensitive habitat" pursuant to the LCP. Policy 3.5.3-1 (a) defines eight categories of sensitive habitat. These include: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (and) (2) all perennial and intermittent streams and their tributaries. Pullman Ditch qualifies as sensitive habitat under both of these categories. It supports "rare and endangered species", specifically the California Red Legged Frog (CRLF) and the San Francisco Garter Snake (SFGS), as noted by both the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) in letters to the Commission. Further it is unquestionably an intermittent stream.

The applicant's letter of May 8 contends that, by the terms of Policy 3.4, only habitat that is designated in the Habitat Areas and Water Resources Overlay qualifies for the protections for "sensitive habitat" provided in the LCP. Again, this interpretation is unduly narrow and is belied by other language in the LCP. The Habitat Areas and Water Resources Overlay Map was intended to symbolically indicate the location of six ecological categories specified in Policy 3.4. However, at the time that the LCP was written, no threatened or endangered species had been documented in Half Moon Bay. The last sentence of Policy 3.4 makes that clear, and thus also makes clear that the Overlay Map did not and was not intended to cover threatened and endangered species, habitats for which are not among the six specified ecological categories covered by the Overlay Map.

However, the policies contained in Policy 3.5 do cover the habitats of rare and endangered species, as is made clear in Policy 3-1 (a). Further, pursuant to Policy 3-2 (a) sensitive habitats include, but are not limited to, those "shown on the Habitat Areas and Water Resources Overlay". (Emph. Added). Consequently, habitat for rare and endangered species is, by definition, "sensitive habitat", whether or not it is shown on the Habitat Areas and Water Resources Overlay. Further, this is the interpretation that has been carried over and implemented in the City's Zoning Code. Section 18.38.085 (D) provides that "the minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet". Thus the critical question becomes whether Pullman Ditch can be called habitat for a rare or endangered species.

Biologists from the U. S. Fish and Wildlife Service and from the California Department of Fish and Wildlife have for a number of years asserted that Pullman Ditch supports the CRLF and the SFGS, rare and endangered species. Consultants hired by the Applicant and the City, on the other hand, suggest that Pullman Ditch does not provide suitable habitat for either the CRLF or the SFGS. The Commission's Senior Staff Ecologist, Dr. John Dixon has weighed the various scientific opinions, and after several personal site visits has concluded that Pullman Ditch habitat supports the two rare and endangered species under consideration and therefore

qualifies as "sensitive habitat". Therefore, pursuant to this conclusion, the Commission should find that development must be set back 50 feet from Pullman Ditch pursuant to Section 18.38.085 (D). Because the development proposed by the applicant and approved by the City does not meet that standard, the project must be denied.

**THE COMMISSION MUST DENY THE PROPOSED DEVELOPMENT.**

There are two fundamental reasons why the Commission must deny the proposed subdivision. First, the property is within the Surf Beach/Dunes Beach Planned District. The LCP for that area in Section 9-14 requires that a Planned Unit Development Plan (PUDP) be approved by the City prior to its approval of any specific development within the District. As discussed above, there are multiple good planning reasons for this requirement, and the coordination and implementation of multiple uses within the context of specific development constraints was a critical goal in the creation of the Planned Districts. More important, however, for purposes of this appeal, is that approval of the proposed development here, in the absence of an approved PUDP for the District, is prohibited by the LCP. For this reason the proposed subdivision must be denied.

Second, Pullman Ditch, over which access to the new lots would occur, is both a "riparian area" and "sensitive habitat" under the terms of the LCP. The LCP requires that buffers be maintained at specific distances from streams designated as riparian areas and from land designated as sensitive habitat. Development cannot be placed within these buffer areas. The development proposed here by Stoloski would intrude into these required buffer areas, and for that reason cannot be approved consistent with the LCP. For both of these reasons, the proposed Stoloski subdivision must be denied.

Sincerely,

[Original Signed By]

Ralph Faust

Cc: Dr. Charles Lester, Executive Director  
Ms. Nancy Cave, District Manager  
Ms. Jeannine Manna, District Supervisor  
Mr. Marc Gradstein  
Ms. Jane Gorman



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May 8, 2014

File No. 68298

California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, CA 90405

Re: Stoloski Half Moon Bay Appeal – Item 14a May 15, 2014

Dear Chair Kinsey and Members of the Coastal Commission:

We represent the project applicants in this appeal. For the reasons set forth in this letter, we request that your Commission find that there is no substantial issue, or, alternatively, that your Commission approve the project on the terms and conditions of the City of Half Moon Bay (“City”) approval.

This letter addresses the following points:

1. The Staff Report’s conclusion regarding the Pullman Ditch habitat value is based on speculation and assumptions that have been disproven by extensive field reconnaissance surveys and by recent protocol surveys of Pullman Ditch. These studies show that neither California Red Legged Frog (“CRLF”) nor the San Francisco Garter Snake (“SFGS”) occupy Pullman Ditch and that Pullman Ditch does not function as any kind of habitat for either species.

2. None of the City LCP policies and zoning ordinances the Staff Report cites apply to Pullman Ditch. All of the LCP policies the Staff Report cites are tied to the City’s Habitat Areas and Water Resources Overlay Map, which does not designate Pullman Ditch as a sensitive habitat. The Overlay Map would have to be amended before the policies the Staff Report cites could apply to Pullman Ditch. That would require an LCP amendment that only the City can initiate. Furthermore, the zoning code buffer only applies when a biological report indicates that an endangered species actually exists in a location, which has never been the case for Pullman Ditch.

3. Contrary to the Staff Report claim, the City has never determined that Pullman Ditch is a sensitive habitat.

4. The City’s LCP does not require either Mr. Stoloski or the City to adopt a specific plan to facilitate development of the Surf Beach Tract.

**A. Background Information**

This appeal concerns the City's approval of a tentative subdivision map and a planned unit development permit ("PUDP") to create four residential lots and an open space lot on a 2.1 acre parcel. The subdivision is just north of the Surf Beach Tract, an antiquated subdivision containing 91 small lots with dedicated rights of way. The undersized lots in the Surf Beach Tract are not developed and are currently in agricultural production. (See Ex. 1.)

Pullman Ditch is immediately north of the subdivision. Pullman Ditch is a man made drainage ditch that carries surface runoff from a large commercial agricultural operation and other properties located to the east of the subdivision across Highway 1 out to the beach. To the north of Pullman Ditch is the largely developed Naples tract of single family residences on lots typically ranging in size between 5,000 and 7,000 square feet.

The appellants, Marc Gradstein and Jane Gorman ("Gradstein"), live in one of two houses that are located on top of Pullman Ditch. (Exs. 2 & 3.) Both houses were built after the Coastal Act was enacted. The Gradstein's appeal primarily concerns the City's approval of a culvert on the Stoloski property as part of the subdivision to resolve drainage problems in Pullman Ditch that have resulted from the construction of the Gradstein residence and the other house built on the ditch. The drainage issue is associated with runoff coming from the agricultural operation east of Highway 1. It has never been associated with the Stoloski property. Mr. Stoloski had included the culvert in his subdivision to address the drainage problem, even though his property was not contributing to that problem.

As a result of the Gradstein appeal, in June 2012 Mr. Stoloski removed the culvert from the plan. (Ex. 4.) In addition, as a result of the large size of the proposed lots, the project will be able to incorporate low impact design standards, which retain runoff onsite. While the Staff Report mentions the drainage issue in the substantial issue discussion, this issue is now moot as a result of the removal of the culvert and because there is no offsite drainage from the subdivision as approved.

The remaining issue in this appeal concerns the driveway access to the subdivision and the setback from Pullman Ditch. The development envelopes on the four residential lots are setback 30 feet from the Ditch. The proposed subdivision has been designed to avoid developing infrastructure in the Surf Beach Tract by extending two public streets and utilities in the Naples tract over Pullman Ditch through two free standing bridges. In so doing, the subdivision allows the Surf Beach Tract to remain in agricultural use and avoids hastening the conversion of that land to residential development, which would inevitably result if the subdivision was required to develop access through the Surf Beach Tract.

The basic issue here concerns the bridges and the setbacks. The Staff Report maintains that Pullman Ditch is a habitat that supports CRLF and SFGS and that the City's certified LCP requires a 50-foot setback from Pullman Ditch and prevents constructing the bridges over Pullman Ditch. The Staff Report also maintains that the subdivision should be taking access and

extending utilities through the Surf Beach Tract and that the LCP requires the City to approve a specific plan to facilitate residential development of the Surf Beach Tract.

#### **B. Pullman Ditch Does Not Support Any Endangered or Unique Species**

The U.S. Fish and Wildlife Service (“USFWS”) and the California Department of Fish and Wildlife (“CDFW”) maintain that the ditch *is assumed to be used* by both species as dispersal and foraging habitat. USFWS maintains that the ditch has some of the constituents of an upland habitat that both species use for dispersal and foraging. CDFW now claims that Pullman Ditch is within a distance that CRLF and SFGS could travel and therefore assumes that both species could be present in the ditch.

It is important to understand that neither USFWS nor CDFW maintain that Pullman Ditch actually supports either species. Instead they are assuming that the ditch could support the species until surveys using the USFWS protocols are performed that would determine whether Pullman Ditch is actually a viable habitat. In the January 7, 2014 letter attached to the Staff Report, USFWS states, “Due to the presence of suitable upland habitat and *the lack of survey data*, it is reasonable for the Service to consider that the Pullman drainage, and potentially similar drainages throughout Half Moon Bay area, is occupied by both species.” (Emphasis added.) In the November 7, 2013 email attached to the Staff Report, CDFW states, “*Based on the lack of site specific surveys* for CRLF and SFGS in this area...one cannot biologically validate the absence of these species *without further intensive surveys*.” (Emphasis added.)

Surveys using the USFWS protocol have now been performed in Pullman Ditch by WRA, who has been the City’s biologist with respect to this project. (See Ex 5.) That survey not only found there are no CRLF or SFGS in Pullman Ditch, but that the ditch is devoid of any invertebrates (no frogs, newts, or snakes). The survey found that key elements that are necessary for the habitat to support CRLF and SFGS are not present in the ditch. The ditch does not have the aquatic conditions suitable for foraging (there is nothing for either species to feed on). In addition, the ditch is subject to heavy predation by raccoons and cats, which explains the absence of any invertebrates in the ditch.

The protocol surveys confirm that Pullman Ditch does not support either CRLF or SFGS. There is nothing for either species to feed on in the ditch and they could not survive in the ditch for long in light of the heavy predation and the absence of prolonged surface water. In light of the protocol level survey work that has now been performed, there is no basis for either USFWS or CDFW to assume that either species is present in the ditch.

The protocol work confirms the results of years of field reconnaissance work that found that neither species is present in the ditch or ever likely to use the ditch for dispersal or foraging.

In November 2010, WRA, Inc., the City’s consulting biologists, conducted a biological reconnaissance of the Stoloski property and Pullman Ditch. (Ex. 6.) With respect to SFGS, WRA’s biological resource assessment concluded (i) the SFGS requires seasonal or permanent

water bodies as a basic habitat requirement, which is not present in the Pullman Ditch, (ii) there is no connectivity between documented SFGS occurrences and Pullman Ditch, and (iii) Pullman Ditch does not provide suitable dispersal habitat due to the lack of connectivity and the absence of continuous vegetative cover along the ditch.

With respect to CRLF, the WRA report concluded: (i) Pullman Ditch does not provide aquatic breeding habitat for CRLF, and (ii) the lack of connectivity between Pullman Ditch and other suitable habitats make Pullman Ditch unsuitable as either an upland habitat or a dispersal and foraging habitat. These results were consistent with field work on Pullman Ditch that WRA performed for the City in October 2007 and October 2009.

WRA reiterated its findings in its August 8, 2013 letter to the Commission when this project was last on the Commission's agenda. (Ex. 7.) The letter states that (i) WRA has been employed by the City to oversee biological resources assessments, surveys and reporting on the Pullman Ditch and surrounding areas since 2000, (ii) WRA biologists, who are highly trained in identification of CRLF and SFGS and their habitats and who carry USFWS federal recovery permits for both species, have investigated Pullman Ditch on numerous occasions, (iii) neither CRLF nor SFGS have been found in Pullman Ditch and are highly unlikely to be found there based on the lack of connectivity to documented occurrences of both species, and (iv) no riparian habitat is present in Pullman Ditch.

Dr. Mark Jennings also studied Pullman Ditch. Dr. Jennings has conducted 25 years of research on CRLF movement and habitats in San Mateo County. Much of the current knowledge regarding the habitats and movement of CRLF is based on his work, which was extensively used for the USFWS recovery plan for the species. His report is attached as Exhibit 8.

Dr. Jennings conducted an extensive site assessment in November 2013 to determine whether Pullman Ditch has the Primary Constituent Elements (PCEs) that comprise the necessary habitat required for occupancy by CRLF and SFGS. He also reviewed prior biological resource assessments performed on Pullman Ditch as well as the correspondence from USFWS and CDFW.

Dr. Jennings found (i) the vegetation structure and species composition is not the kind of habitat used by CRLF and SFGS along this part of the Central Coast, (ii) there is no established pool of surface water that would support a foraging habitat for the CRLF or SFGS, and (iii) there are no conditions that would allow CRLF to reach Pullman Ditch from locations where the species is known to occur. With respect to the last point, Dr. Jennings stated:

Based on my long-term familiarity with this species along the Central Coast (Jennings and Hayes 1990; Rathbun et al. 1993; and Jennings 1998, 2005), and my experience with known occupied CRLF habitats in Half Moon Bay (e.g., Kehoe Ditch, Belleville Road, and Wavecrest Village), I find it impossible that CRLF would be able to move over 3,300 feet between these two creeks (and to and from the Pullman Ditch) given the absence of sustained

surface water, narrow strip of land available for frog overland movement, and the presence of so much urbanization nearby (with the resulting large population of domestic cats (*Felis catus*) and raccoons (*Procyon lotor*)). I have observed locals to regularly leave pet food at specific outdoor locations in Half Moon Bay for feral cats, raccoons, and other wild animals. Such activities certainly have increased the population of these known predators of CRLF and SFGS (Jennings 2000a, 200b) to artificially high levels. With the only potential movement corridor for CRLF adjacent to the Half Moon Bay Coastal Trail, which would certainly be regularly used by domestic cats and raccoons, no CRLF would be able to move overland without a high probability of being predated.

With respect to the USFWS and CDFW claims that Pullman Ditch should be assumed to be a dispersal and foraging habitat, Dr. Jennings stated:

Agency (CDFW and USFWS) documents maintain that the site is within the known dispersal distance for CRLF and SFGS and, as a result, they hypothesize that Pullman Ditch could be occupied by CRLF and SFGS (Triffleman 2006, 2007; DeLeon 2012; Tattersall 2014). However, the agencies' hypotheses have not been validated in the biological assessments conducted since 2005 by myself and other biologists who have examined the site and surrounding area in detail, and are familiar with CRLF and SFGS in Half Moon Bay, and have reviewed all of the known information (H.T. Harvey and Associates 2005, WRA 2010, Riggs 2013).

There are many sites within the Half Moon Bay city limits that have suitable PCEs for the presence of CRLF and SFGS. However, a close examination of many individual sites within the City and surrounding area has demonstrated to me that CRLF and SFGS are not found throughout the City and that every drainage within the City is not a potential habitat either for resident populations or for dispersal or foraging. These locations lack one or more PCEs for these species and therefore they are not present. The Pullman Ditch Project falls into the latter category and thus the development of the Stoloski Subdivision including the two proposed, free-spanning bridge crossings of Pullman Ditch would not have any negative effect on CRLF and SFGS populations in the vicinity of Half Moon Bay.

The Staff Report asserts that a Cal Trans biological assessment in 2005 contradicts the foregoing assessments. However, that assessment was not based on a field survey and did not examine whether Pullman Ditch is connected to other drainages or means of dispersal. The report simply assumed that Pullman Ditch is a foraging and dispersal habitat, as USFWS and CDFW have. The most recent protocol surveys and the field work performed by WRA and Dr. Jennings demonstrate that there is no connectivity between Pullman Ditch and known

populations of the species and that the ditch does not have essential PCEs to support either species as a foraging or dispersal habitat.

Dr. Dixon's report, which is attached to the Staff Report, does not address the lack of connectivity. Dr. Dixon's conclusion is "that the Pullman ditch is degraded habitat that is not appropriate breeding habitat for these sensitive species and may not be regularly inhabited, but it does provide dispersal and foraging habitat that *may be periodically used* by both species." (Emphasis added.) Yet Dr. Dixon acknowledges that his conclusion is highly speculative. His report states:

It is difficult to assess the risk of "take" resulting from the proposed development because it is a joint function of the likelihood these species would be present in the ditch habitat, the likelihood that they would move into the upland area, and the likelihood that they would move onto the roadway and be killed, none of which is known.

Of course, the recent protocol surveys and the WRA and Dr. Jennings' findings directly address the factors Dr. Dixon listed above. They all show, based on extensive field work, that the likelihood that the species would ever be present is extremely low. Furthermore, the protocol survey results show that neither species is occupying Pullman Ditch.

Dr. Dixon's report acknowledges that the bridges that would be constructed for the subdivision over Pullman Ditch would have relatively little effect on the quality of the habitat within the ditch. Instead, Dr. Dixon maintains that the greatest risk to the species would result if the species used the road on the bridge to bask. Given the lack of connectivity and the lack of actual foraging and dispersal habitat in Pullman Ditch, the likelihood that either species would be basking on the roadway to the subdivision is extremely low; likewise, if either species were to bask on the roadway they would likely be predated due to the number of urban predators documented in the ditch. Dr. Dixon's report does not explain why CRLF and SFGS would be any more likely to be basking on the driveways leading to the subdivision than on any of the many other roads and hardscapes they would necessarily encounter in order to reach Pullman Ditch.

The USFWS and CDFW positions are based on speculation and assumptions about the likely presence of CRLF and SFGS in Pullman Ditch, which has been repeatedly disproven in the field. A habitat that does not provide actual foraging and which would subject the species to heavy predation is not a habitat that supports the species.

### **C. The Development Restrictions the Staff Report Cites Do Not Apply**

#### **1. Pullman Ditch Has Not Been Designated as a Sensitive Habitat in the LCP**

The Staff Report asserts incorrectly that the Half Moon Bay LCP treats any watercourse that has any riparian vegetation as a sensitive habitat. Based on this incorrect premise, the Staff

Report claims every body of water, intermittent or perennial, man-made or natural in the City, including the Pullman Ditch must comply with LCP Policy 3-1 (stating how the City will define a "sensitive habitat"), Policy 3-3 (stating that the City will prohibit land use or development that will impact sensitive habitat areas) and Policy 3-4 (stating that the City will permit only resource dependent uses in sensitive habitats and require compliance with USFWS and CDFW regulations in sensitive habitats).

The Staff Report's conclusion is based on selective quotes from the City's LCP, which omit a key provision that ties all of these policies only to riparian habitats designated in the City's Habitat Areas and Water Resources Overlay Map ("Overlay Map"), which does not designate the Pullman Ditch as a riparian habitat. (See Ex. 9.) The rare and endangered species habitat policies and the unique species habitat policies would only apply if the Overlay Map were amended to designate the habitat. Such an amendment would require an LCP amendment, which only the City can initiate.

All of the habitat policies the Staff Report quotes are found in Section 3.5 of the LCP. However, the Staff Report fails to cite LCP Section 3.4, which qualifies the scope of the Section 3.5 policies. Section 3.4 states:

3.4 Habitat Areas and Water Resources Overlay Designation

The Land Use Plan proposes Habitat Areas and Water Resources Overlay designation to address the deficiencies in existing regulatory procedures. The overlay designation symbolically indicates the locations of habitat areas in Half Moon Bay. ***The policies set forth within this Plan and particularly this section of the Plan are to serve as guidelines for development on or adjacent to the areas illustrated on the Habitat Areas and Water Resources Overlay Map.*** (Emphasis added; See Ex. 10.)

Thus, contrary to the Staff Report contention, Policies 3.1, 3.3, 3.4 and 3.5 do not apply to every drainage ditch in the City. Section 3.4 specifically ties these policies to the habitats designated on the Overlay Map, which does not designate Pullman Ditch as a riparian habitat area. As a result, the policies the Staff Report cites regarding resource dependent uses and setbacks in designated habitats do not apply to Pullman Ditch.

Furthermore, the LCP is clear that the Overlay Map must be amended through an LCP amendment initiated by the City to designate Pullman Ditch as a riparian habitat before the policies apply. In this regard, Section 3.4 has a footnote, which states:

While the designations reflected on the Habitat Areas and Water Resources Overlay Map represent the best available information, these designations are not definitive and may need modification in the future. The scale of the map precludes complete accuracy in the mapping of habitat areas, and in some cases, the precise location of habitat areas is not known. In addition, migration of

species or discovery of new habitats would result in the need for designation of a new areas [sic]. Therefore, the boundaries of the designations would be updated periodically in order to incorporate new data. **Changes in the overlay designations may be initiated by the City or by landowners.** (Emphasis added.)

This concept is carried into the policies concerning the designation of habitats for rare and endangered species and concerning the designation of habitats for unique species. Policy 3-21 addresses the designation of habitats for rare and endangered species. It states:

3-21 Designation of Habitats of Rare and Endangered Species

In the event the habitat of a rare or endangered species is found to exist within the City, **revise the *Habitat Areas and Water Resources Overlay* to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31.** (Emphasis added.)

Thus, before the land use restrictions in Policies 3-22 through 3-24 apply to a particular location, the Overlay Map must first be amended to designate the areas where those policies will apply. Policy 3-32 sets up exactly the same process for the designation and regulation of unique species habitats. It states:

3-32 Designation of Habitats of Unique Species

(a) In the event the habitat of a unique species is found to exist within the City, **revise the *Habitat Areas Resources Overlay* to show the location of such habitat. Any habitat so designated shall be subject to policies 3-33 through 3-36.** (Emphasis added.)

The City's Zoning Code reinforces this point. (See Ex. 11.) Section 18.38.025 of the City's Coastal Resource Conservation Standards governs amendments to coastal resource area maps. It states that "Amendments to coastal area maps shall be made as prescribed for amendments to zoning district boundaries in this title." Section 18.01.035 of the City's Zoning Code governs amendments to zoning district maps. It states, "All changes in boundaries or reclassification of territory from one district to another shall be by ordinance adopted pursuant to the provisions of this title."

Chapter 18.24 governs the amendment process itself. (See Ex. 12.) Section 18.24.010 states that "This title may be amended by changing the boundaries of districts or changing any other provisions whereof whenever the public necessity and convenience and the general welfare require such amendments by following the procedure specified in this chapter." It then states that Amendments may be proposed by (a) resolution of intention by the city council, (b) resolution of intention of the planning commission, (c) property owners, or (d) a plaintiff in an eminent domain action. It does not provide for the Coastal Commission to initiate an amendment.

The Chapter 18.24 provisions follow the normal process for amending an LCP, involving hearings and a decision at the City followed by a submission to the Coastal Commission for certification when the amendment is to the LCP. (Section 18.24.100.)

Under the Coastal Act, the Commission cannot unilaterally amend a certified LCP. (*Security National Guaranty, Inc. v. California Coastal Com.* (2008) 159 Cal.App.4th 402 (“SNG”).) SNG court stated:

SNG asserts that the Commission has no authority under the Coastal Act to designate its property as ESHA in the course of a permit appeal. SNG contends that the ESHA designation effected an amendment of the Sand City LCP and that the Coastal Act assigns the task of drafting and amending the content of an LCP exclusively to local government. SNG's position is that the Coastal Act grants to local governments the power to draft their own LCP's and to determine the content thereof. SNG contends that the Commission's role is limited to determining whether a local government's LCP complies with the provisions of the Coastal Act. Our examination of the relevant provisions of the Coastal Act compels us to conclude that SNG is correct. (SNG 159 Cal.App.4th at 419.)

Just as the Commission could not amend the Sand City LCP in SNG to designate an ESHA not designated in a certified LCP, the Commission cannot amend the Half Moon Bay Overlay Map to designate Pullman Ditch as either a riparian habitat or as a rare, endangered or unique species habitat.

Because Pullman Ditch has not been designated as a sensitive habitat on the Overlay Map, the policies the Staff Report cites do not apply. As a result, the subdivision is not inconsistent with those policies.

## **2. The Buffer Zones Do Not Apply to Pullman Ditch**

The Staff Report also incorrectly claims that the LCP buffer zone provisions prevent any non-resource dependent development within 50-feet of Pullman Ditch. The claim is based on LCP Policy 3-11 and City Zoning Code Section 18.38.085D. However, neither buffer zone applies to Pullman Ditch. Policy 3-11 is limited to “riparian corridors,” which do not exist in Pullman Ditch. Zoning Code Section 18.38.085 applies when a biological report indicates the existence of a rare or endangered species, which has not occurred.

### **a. Policy 3-11 Applies to Riparian Corridors, Which Pullman Ditch Is Not**

The Policy 3-11 buffer zones, which the Staff Report cites, relate to “riparian corridors” within designated riparian habitats. Even if Pullman Ditch had been designated as a riparian habitat in the Overlay Map (which is not the case), Pullman Ditch is not a riparian corridor. Policy 3-11 states:

### 3-11 Establishment of Buffer Zones

(a) On both sides of riparian corridors, from the 'limit of riparian vegetation,' extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.

(b) Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams. (Emphasis added.)

The LCP defines a "riparian corridor" in Policy 3-7 as follows:

### 3-7 Definition of Riparian Corridors

(a) Define riparian corridors by the "limit of riparian vegetation" (i.e. a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of fresh water: red alder, jaumea, picklewood, big leaf maple, marrowleaf, cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). ***Such a corridor must contain at least a 50% cover of some combination of the plants listed.*** (Emphasis added.)

As the Staff Report notes, the only riparian vegetation in Pullman Ditch is a small patch of arroyo willow located at the western end of the site where the open space lot is located. (Ex 13.) It clearly does not comprise 50% of the vegetation cover in Pullman Ditch. Since the setbacks relate to riparian corridors and Pullman Ditch does not qualify as a riparian corridor, the setbacks do not apply.

Indeed, no biologist contends that Pullman Ditch is a riparian corridor. The City's biologist, who has thoroughly investigated Pullman Ditch on multiple occasions since 2000, found it was not a riparian corridor. Dr. Jennings, whose expertise concerning CRLF and SFGS habitats and movement has been described above, conducted a field reconnaissance of the ditch and found that it did not meet the criteria for a riparian corridor. USFWS and Dr. Dixon both refer to Pullman Ditch as an upland habitat, which the LCP definition of "Riparian Vegetation" distinguishes as non-riparian vegetation.

Since the 50-foot and 30-foot setbacks and the development restrictions associated with those setbacks in the LCP only apply to riparian corridors and because Pullman Ditch is not a riparian corridor, the setbacks do not apply even if the ditch could be designated as a sensitive habitat.

**b. The Zoning Code Buffer Applies Only Where Endangered Species Actually Exist**

The Staff Report claims that City Zoning Code Section 18.38.085.D requires a minimum 50-foot buffer around rare or endangered species habitats for all development in the City. In fact that is not the case. While the Staff Report quotes Zoning Code Sections 18.38.085.A (which lists the SFGS as one of the rare or endangered species that could occur in the coastal zone) and Section 18.38.085.D (which calls for the 50-foot buffer around rare and endangered species habitat), it does not mention Section 18.38.085.B, which states that the use restrictions apply only “in the event that a biological report indicates the existence of any of the [listed endangered] species in an area.”

It is important to note that the Zoning Code section only concerns rare or endangered species, which is limited to SFGS. It does not apply to CRLF, which is classified as a unique species.

No biological report has ever found that SFGS exists in Pullman Ditch. The 2005 H.T. Harvey Report prepared for the City vegetation clearance work in Pullman Ditch found that Pullman Ditch is not a habitat for SFGS. (Ex. 14.) WRA, the City’s biologist, has conducted multiple biological resources assessments, surveys and reporting on the Pullman Ditch over many years. Over that time, WRA consistently reported that the SFGS has not been found in Pullman Ditch and is highly unlikely to be found there based on the lack of connectivity to known occurrences of the species. (Ex. 7.) Dr. Mark Jennings performed an extensive field reconnaissance of Pullman Ditch last year. His report concludes that Pullman Ditch is not suitable for (or inhabited by) SFGS. (Ex. 8.)

Neither USFWS nor CDFW has ever found SFGS in Pullman Ditch. Even Dr. Dixon acknowledges that Pullman Ditch is degraded habitat that is not appropriate breeding habitat for SFGS and may not be regularly inhabited by the species. Dr. Dixon claims that Pullman Ditch may be periodically used by SFGS. However, Dr. Dixon notes that it is difficult to assess the risk of a “take” of SFGS resulting from the subdivision because, among other things, he does not know the likelihood that SFGS will ever actually be present in the ditch.

In the absence of any biological report indicating that SFGS exists in Pullman Ditch, there is no basis to apply the 50 foot buffer in Section 18.38.085.D.

**D. The City Never Determined Pullman Ditch to Be a Sensitive Habitat in Any Permit**

The Staff Report claims that the City previously found that Pullman Ditch was an intermittent stream per their certified LCP in connection with the City approval of the Francisco Oliva single family residence in March 2007. In fact, the City’s Resolution of Approval for that project (PDP 004-06) referenced in footnote 5 in the Staff Report made no such finding. (See Ex. 15.) The Oliva project is located on Pullman Avenue on a lot adjacent to Pullman Ditch (across the ditch from the Stoloski subdivision).

In fact, the Commission (by Commissioners Reilly and Blank) appealed the City's approval of the Oliva project. The grounds for the appeal were that the approved house would be set back 42 feet from the edge of the riparian vegetation next to Pullman Ditch and that improvements such as a stone path and landscaping would be installed less than 42 feet from the edge of Pullman Ditch. (Ex. 16.) After the Commission found a substantial issue on May 9, 2007, the appeal was withdrawn which left the City approval of the residence within 42 feet of the ditch in place. (Ex. 17.)

Thus, not only did the City not find that Pullman Ditch was a sensitive habitat, but it did not apply the 50 foot setback in Zoning Code Section 18.38.085.D. The Commission's 2007 staff report for the substantial issue hearing noted that the City did not apply the setback because the biological report found that no threatened or endangered species were likely to occur in the ditch. In other words, the City did not apply the 50 foot setback in Section 18.38.085.D for the very reasons why it does not apply in this case. In withdrawing its appeal, the Coastal Commission allowed the City's decision to stand.

Indeed, neither the City nor the Coastal Commission has imposed a setback on any development approved adjacent to Pullman Ditch since the Coastal Act was enacted. In addition to the Oliva residence, the Gradstein residence, which is located on Pullman Ditch, was constructed in 1981. (Ex. 2.) The second house located on Pullman Ditch was constructed in 1994. (Ex. 3.)

All of this is consistent with the fact that the City has never determined that Pullman Ditch is a sensitive habitat.

#### **E. The Project Is Consistent with the PD Policies**

##### **1. The Subdivision Was Designed to Avoid Development in the Surf Beach Tract**

The project was designed to provide access through the Naples tract in order to use the existing roadway connection to Highway 1 and to avoid facilitating the development of the Surf Beach Tract to the south. The City policy is to limit the number of roadway intersections with Highway 1. Specifically, the City's General Plan states:

To the maximum extent practical, future access along Highway 1 and Highway 92 will be limited to signalized intersections, the locations of which will be in accordance with the adopted General Plan traffic improvements... Access to existing properties will be modified and consolidated at these designated locations when possible. Additional signalization of existing intersections along Highway 1 will be considered if warranted and necessary to provide safe and convenient access to and egress from established residential neighborhoods and commercial district.

Consistent with this policy, the City conditioned the approval to cutoff direct access from the Stoloski subdivision to Highway 1.

Based on the assumption that Pullman Ditch is a sensitive habitat and that the LCP development restrictions and buffer zones apply, the Staff Report maintains that there are several feasible alternatives to providing access over Pullman Ditch. If Pullman Ditch is not a sensitive habitat under the City's LCP and the development restrictions and buffer zones do not apply (as is clearly the case), then there is no need to consider alternative means to access the subdivision.

The alternatives the Staff Report suggests all produce inferior results. While the Staff Report maintains that access could be accomplished through the Stoloski property to Highway 1, this alternative is both impractical and inconsistent with the City's policy. Mr. Stoloski provided staff with an alternative showing a roadway designed to City standards through his property to Highway 1. (Ex. 18.) As the exhibit shows, the roadway, combined with the 50 foot setback would consume most of the site and would create a new intersection at Highway 1 that would be just north of Knewing Avenue, a dedicated roadway right of way in the Surf Beach Tract that is undeveloped at this time. If and when Knewing Avenue is developed, there would be the potential of two streets in incompatibly close proximity to one another.

The other alternatives all involve developing roadways within the Surf Beach Tract. One alternative would be to develop Knewing Avenue along the northern boundary of the Surf Beach Tract. (Ex. 19.) Another option would be to develop Osborn Avenue in the middle of the Surf Beach Tract (Ex. 20.) The latter alternative would effectively end any continuing agricultural use of the Surf Beach Tract, but it is the logical intersection for the Surf Beach Tract if it was converted from this existing agricultural use to a residential development.

All of these alternatives entail developing sewer and water infrastructure that would eliminate some of the existing barriers to developing the Surf Beach Tract.

Developing the subdivision as approved by the City is clearly the superior approach. It connects to existing roads within the Naples Tract. It does not create a new intersection at Highway 1. It does not entail developing the Surf Beach Tract or facilitating the development of that tract.

## **2 The PD Zone Was Created to Address the Surf Beach Tract**

While the Stoloski property is within the limits of the Surf Beach PD, the property is not part of the Surf Beach Tract. (Ex. 21.) In approving the subdivision, the City recognized that the Stoloski property exists as a separate 2.1 acre parcel under single ownership located between the Surf Beach Tract and the Naples Tract.

As the City noted in its findings, Policy 9.3.3 addresses the unique land use issues associated with the Surf Beach Tract. Surf Beach is one of several "paper subdivisions" in the City where there has been little, if any, development. The LCP states, "All of these subdivisions

have existed for many years and represent a large proportion of the theoretical development capacity of the City, although their lack of streets, water, and sewer services and fragmented ownership have historically prevented development. (See Ex. 22.) The LCP continues, “[D]evelopment of these areas in accordance with existing platting would conflict with a number of Coastal Act policies pertaining to scenic resources, coastal access, and recreational opportunities, habitat protection and hazard avoidance, and provision for local recreational opportunities.” The LCP then states:

In order to resolve conflicts between the future development potential of all these subdivisions and relevant Coastal Act policies, all but two of the undeveloped subdivisions are proposed to be designated Planned Development Districts for low density development. This designation will require re-planning and re-platting of the areas and substantial reductions in permitted densities to achieve reasonable patterns of development protective of coastal resources consistent with modern development standards.

This intent is reflected in Policy 9.3.2 (Specific Planned Development Policies), whose stated purpose includes to allow flexibility and innovative design and “to eliminate poorly platted and unimproved subdivisions whose development would adversely affect coastal resources.”

All of this shows that the purpose of the Planned Development zone is to achieve a reduction in the density of the Surf Beach Tract and to do so before development occurs within the tract that could foreclose the ability to reconfigure the existing small lots within that tract in the future. In approving the subdivision, the City recognized that it was appropriate to plan the Stoloski subdivision as a distinct unit because it is not part of the Surf Beach Tract, it does not contain the small lots that require re-planning and reconfiguration, and it does not entail the development of that tract.

As designed and approved, the Stoloski subdivision leaves the Surf Beach Tract intact and thereby preserves the City’s ability to develop a plan that addresses the density of the Surf Beach Tract. It does so in a manner that does not hasten the conversion of the Surf Beach Tract from agriculture to residential development.

The Staff Report is interpreting the LCP Planned Development policies in a manner that is disconnected from their purpose. It serves no useful purpose to require the Stoloski project to be part of a specific plan that would facilitate the development of the Surf Beach Tract when the Stoloski project can be developed in a manner that does not entail the development of the Surf Beach Tract, as it does now. The City recognized as much in approving the subdivision.

The Staff Report claims that failing to include the Stoloski project in a Surf Beach specific plan will result in piecemeal planning, which is not the case. Piecemealing occurs when parts of a large project are approved in a manner that forecloses the ability to address a larger

issue in the project. For example, an approval of development on some of the substandard lots in the Surf Beach Tract could foreclose options to reconfigure the rest of the lots within the tract. That is not the case here because the Stoloski property is not within the Surf Beach Tract and is not proposing to develop any portion of the tract. It is not foreclosing any options the City would have to re-plan and reconfigure the Surf Beach Tract lots.

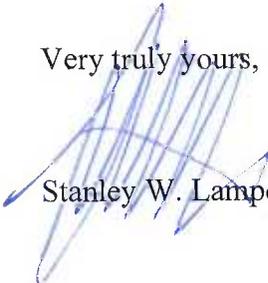
Finally, the Staff Report asserts that approving the Stoloski subdivision “would impact other property owners within the PD from developing residential parcels within their property holdings.” The Staff Report says this would result because the PD district already contains 91 previously subdivided parcels and that adding four parcels on the Stoloski property would somehow limit the development opportunities on the Surf Beach Tract lots.

There are a couple of problems with this argument. First, the LCP allows for up to 100 units in the Surf Beach Tract, so it is hard to see how increasing the number to 94 (assuming the existing Stoloski parcel is counted as one of the 91 lots) would limit any other owner’s development opportunity. (See Ex. 23.) Second, and more importantly, the purpose of the PD is to reduce the number of lots in the Surf Beach Tract, so that there would be far less than the 91 lots developed on the Tract.

By designing the subdivision to obtain access and utilities from the Naples tract, the Stoloski subdivision came up with an innovative way to develop the property in a manner that preserves the City’s ability to plan the development of the Surf Beach Tract and avoid hastening the conversion of that tract from its present agricultural use to a residential development that the LCP seeks to avoid. The City recognized that the Stoloski project was consistent with the purpose and objective of the Planned Development zone, as should your Commission.

For all of the foregoing reasons, our clients request your favorable consideration of this matter.

Very truly yours,



Stanley W. Lamport

SWL/rsi

Enclosures

068298\6190775v1

cc: Ms. Kerry Burke  
Mr. Mark Stoloski



**STOLOSKI HALF MOON BAY  
APPEAL: A-2-HMB-12-005**

**ITEM 14A  
MAY 15, 2014 COASTAL COMMISSION AGENDA**

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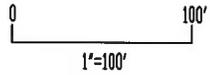
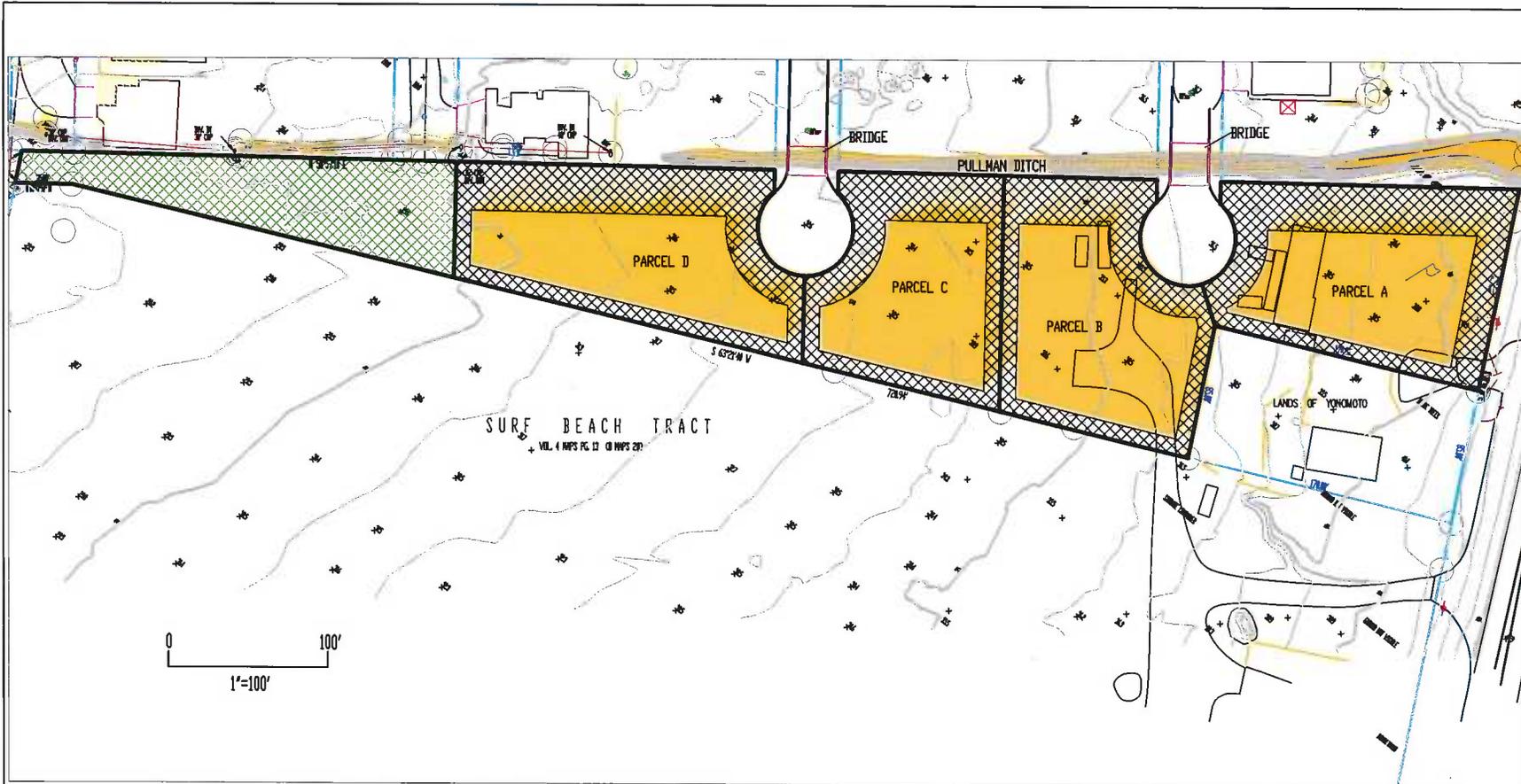
**COX, CASTLE & NICHOLSON LLP**

EXHIBIT 1



ENV

Date: De  
Map By:



**LEGEND**

-  EXISTING TENTATIVE MAP SETBACK LINES
-  PROPOSED COMMON OPEN SPACE
-  PULLMAN DITCH
-  POTENTIAL BUILDING ENVELOPE

**GENERAL NOTES**

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2008
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.



DATE: 2-5-14	 Sigma Prime Geosciences, Inc. SIGMA PRIME GEOSCIENCES, INC. 111 VASSAR STREET SAN FRANCISCO, CA 94019 (860) 728-5388 FAX: 728-3893
DRAWN BY: CMK	
CHECKED BY: AZB	
REV. DATE:	

**EXISTING SETBACK MAP:**  
**STOLOSKI PROJECT**  
 STOLOSKI PROPERTY  
 APN 048-133-010

SHEET  
 C-1

EXHIBIT 2

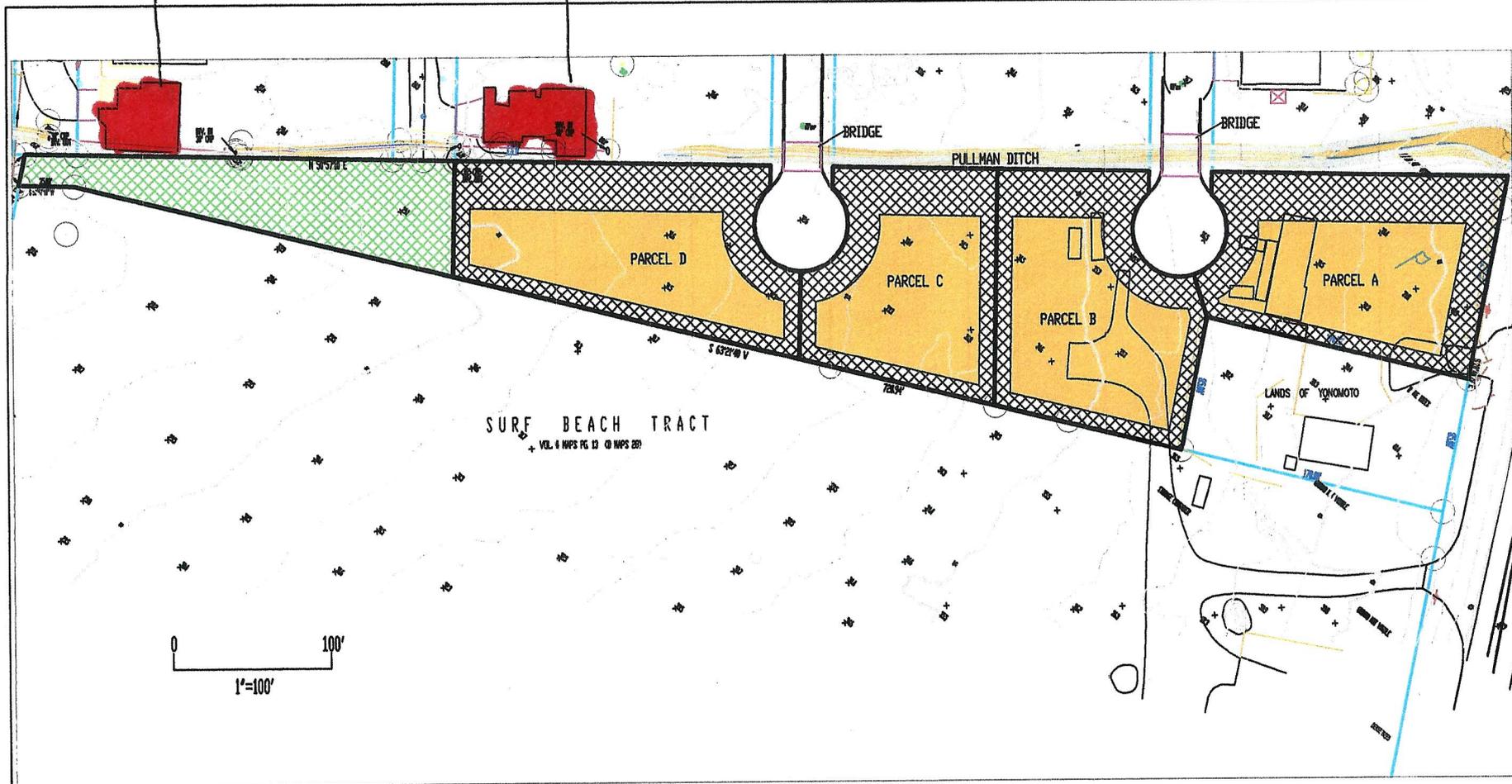


GRAND CHEROKEE 4x4



GRADSTEIN / GORMAN  
2805 NAPLES

FARRELL  
2805 ALAMEDA



DATE: 1-27-14  
DRAWN BY: CMK  
CHECKED BY: AZS  
Sigma Prime Geosciences, Inc.  
SIGMA PRIME GEOSCIENCES, INC.  
1111 W 55th STREET

EXISTING SETBACK MAP:  
STOLOSKI PROJECT

SHEET  
C-1

**LEGEND**

-  EXISTING TENTATIVE MAP SETBACK LINES
-  ADDITIONAL 20-FOOT SETBACK LINE
-  PROPOSED COMMON OPEN SPACE
-  POTENTIAL BUILDING AREA\*

\*SUBDIVISION CONDITION NUMBER 18  
MAXIMUM BUILDING AREA: THE MAXIMUM  
AMOUNT OF LOT COVERAGE SHALL NOT EXCEED  
30% OR PROVIDE NO MORE THAN 8,000 SQUARE  
FEET OF BUILDING AREA, WHICHEVER IS  
GREATER.

**MAXIMUM BUILDING AREAS**

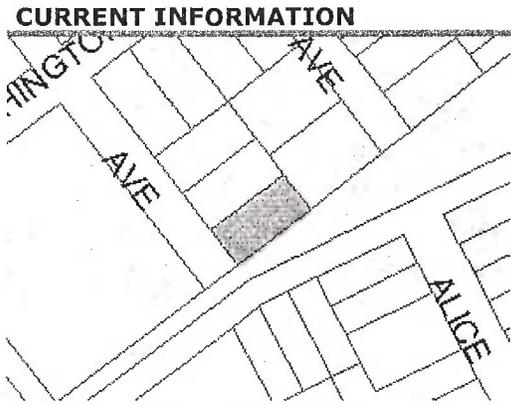
- PARCEL A:**  
TOTAL LOT AREA = 10,373 SF  
30% OF TOTAL LOT AREA = 3,112 SF  
BUILDING ENVELOPE AREA = 9,233 SF  
MAXIMUM BUILDING AREA = 8,000 SF
- PARCEL B:**  
TOTAL LOT AREA = 18,399 SF  
30% OF TOTAL LOT AREA = 5,511 SF  
BUILDING ENVELOPE AREA = 10,818 SF  
MAXIMUM BUILDING AREA = 8,000 SF
- PARCEL C:**  
TOTAL LOT AREA = 15,169 SF  
30% OF TOTAL LOT AREA = 4,551 SF  
BUILDING ENVELOPE AREA = 8,149 SF  
MAXIMUM BUILDING AREA = 8,000 SF
- PARCEL D:**  
TOTAL LOT AREA = 19,808 SF  
30% OF TOTAL LOT AREA = 5,942 SF  
BUILDING ENVELOPE AREA = 9,684 SF  
MAXIMUM BUILDING AREA = 8,000 SF

**GENERAL NOTES**

1. PLANS PREPARED AT THE REQUEST OF:  
MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE  
LAND SURVEYING AND VERTICAL MAPPING  
RESOURCES INC., 2009.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC  
STAFF REQUEST.







**Property Use Details**

<b>SINGLE FAMILY RES (01)</b>	
Land Area (sq. ft.):	5000
Year Built:	1981
Base Area (sq. ft.):	2660
Total Rooms:	8
No. of Bedrooms:	3
No. of Bathrooms:	2

**Summary of Property Details**

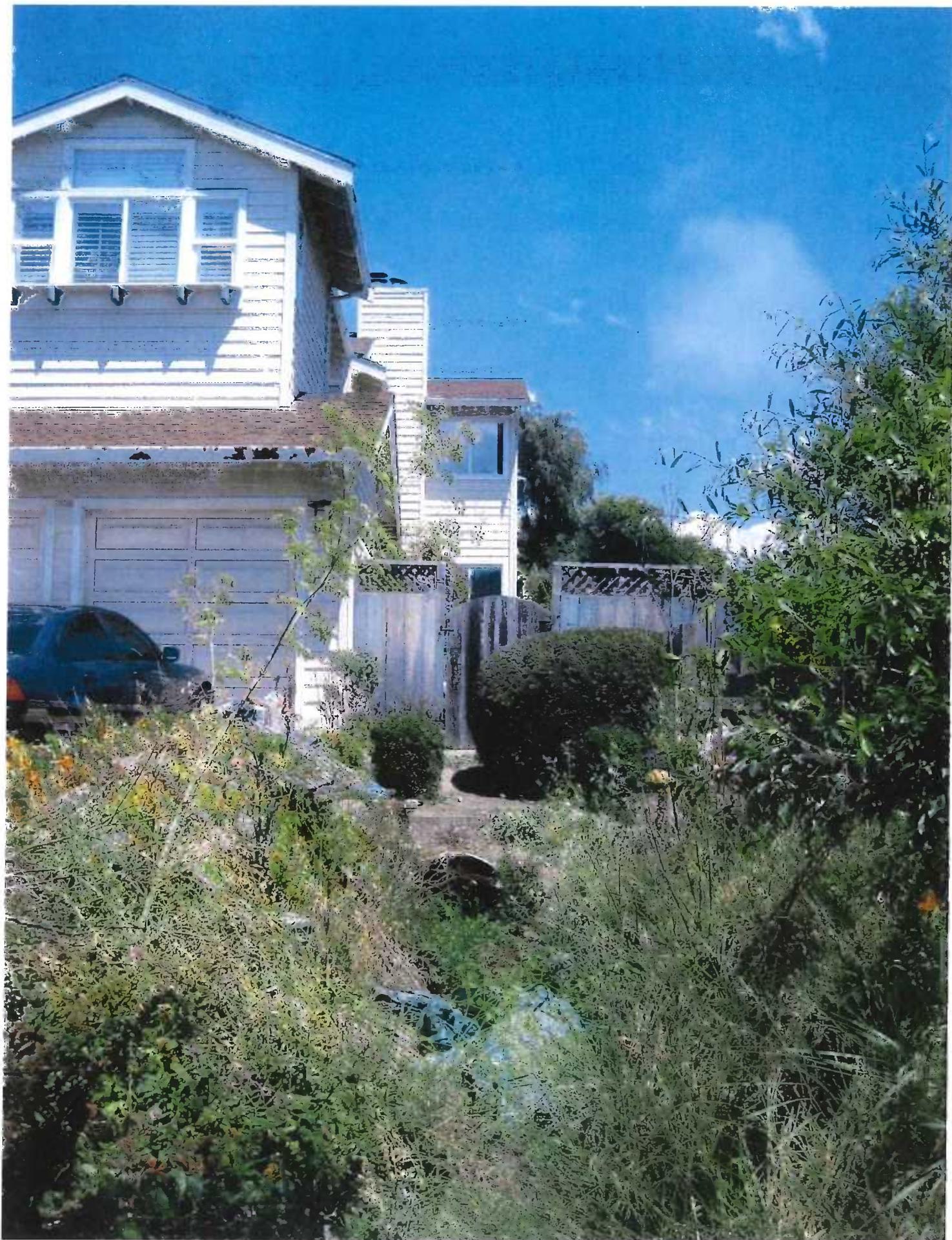
APN:	048111010
Owner 1:	Gradstein Marc H
Owner 2:	Gorman Jane A
Care Of:	
Owner Address:	2805 Naples Ave
	Half Moon Bay CA
	94019-
Situs Address:	2805 Naples Ave
	Half Moon Bay
Legal Description:	LOTS 15 16 BLOCK 17 CITY OF NAPLES
District:	2
Neighborhood:	020A

Secured Assessment Roll: 2013-1

Assessee Details		Assessment Values		Assessment Details	
Owner 1:	GRADSTEIN MARC H	Land:	\$688,307	Assessment Type:	Annual
Owner 2:	GORMAN JANE A	Temp Land:		Temp Code:	
Care Of:		Root:		Notice Date:	
Owner Address:	2805 NAPLES AVE HALF MOON BAY, CA 94019	Min/Mineral:		Change #:	
Document Number:	2000116359	Improvements (Structure):	\$688,307	TRA:	017003
		Temp Improvements (Structure):		PUC:	01
		Fixtures:		PUC Description:	Single Family Residence
		Total Gross:	\$1,376,614		
		Total Temp:			
		Exemption - Home Owner:	\$7,000		
		Exemption - Other:			
		Net Assessed:	\$1,369,614		

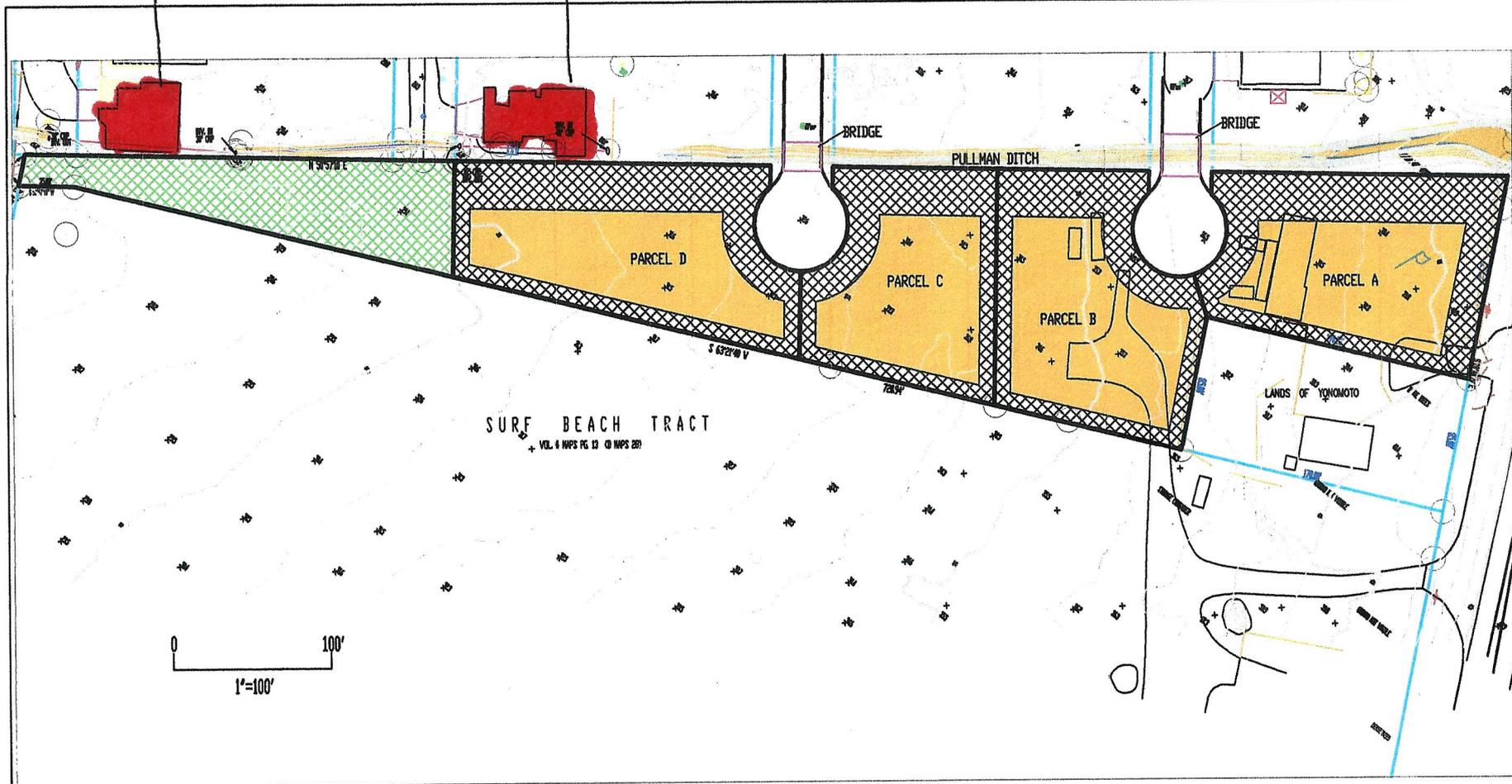
Current Jurisdictions		Current Tax Rate Area #017003		
Supervisorial:	3	GENERAL TAX RATE	GENERAL COUNTY TAX	COUNTY DEBT SERVICES
Congressional:	14	FREE LIBRARY	CITY OF HALF MOON BAY	HALF MOON BAY DEBT SERVICES
Assembly:	24			
Senatorial:	13	CABRILLO UNIFIED GEN PUR	CABRILLO UNIFIED BOND	SM JR COLLEGE GEN PUR
Election Precinct:	3320	SM JR COLLEGE BD 2002	SM JR COLL BOND SER 2005 B	SM JR COLL BOND 2001 SER C
City Name:	HALF MOON BAY	SM JR COLL BOND 2006 SER A	SAN MATEO COMM COLL 2005 SER B	SM JR COLL BOND REF 2012
Zip Code:	94019	COASTSIDE FIRE PROTECTION DIST	GRANADA SANITARY DISTRICT	COASTSIDE COUNTY WATER DIST
Mitigation Fee Area:	None Assigned	BAY AREA AIR QUALITY MANAGEMEN	COUNTY HARBOR DISTRICT	COUNTY EDUCATION TAX

EXHIBIT 3



GRADSTEIN / GORMAN  
2805 NAPLES

FARRELL  
2805 ALAMEDA



DATE: 1-27-14  
DRAWN BY: CMK  
CHECKED BY: AZS  
Sigma Prime Geosciences, Inc.  
SIGMA PRIME GEOSCIENCES, INC.  
1111 W. 55th STREET

EXISTING SETBACK MAP:  
STOLOSKI PROJECT

SHEET  
C-1

**LEGEND**

-  EXISTING TENTATIVE MAP SETBACK LINES
-  ADDITIONAL 20-FOOT SETBACK LINE
-  PROPOSED COMMON OPEN SPACE
-  POTENTIAL BUILDING AREA\*

\*SUBDIVISION CONDITION NUMBER 18  
MAXIMUM BUILDING AREA: THE MAXIMUM  
AMOUNT OF LOT COVERAGE SHALL NOT EXCEED  
30% OR PROVIDE NO MORE THAN 8,000 SQUARE  
FEET OF BUILDING AREA, WHICHEVER IS  
GREATER.

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30% OF TOTAL LOT AREA = 5,511 SF  
BUILDING ENVELOPE AREA = 10,818 SF  
MAXIMUM BUILDING AREA = 8,000 SF
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TOTAL LOT AREA = 15,169 SF  
30% OF TOTAL LOT AREA = 4,551 SF  
BUILDING ENVELOPE AREA = 8,149 SF  
MAXIMUM BUILDING AREA = 8,000 SF
- PARCEL D:**  
TOTAL LOT AREA = 19,808 SF  
30% OF TOTAL LOT AREA = 5,942 SF  
BUILDING ENVELOPE AREA = 9,694 SF  
MAXIMUM BUILDING AREA = 8,000 SF

**GENERAL NOTES**

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MARK STOLOSKI, OWNER
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RESOURCES INC., 2009.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC  
STAFF REQUEST.



**CURRENT INFORMATION**



**Property Use Details**

**SINGLE FAMILY RES (01)**

Land Area (sq. ft.): 5000  
 Year Built: 1994  
 Base Area (sq. ft.): 2510  
 Total Rooms: 8  
 No. of Bedrooms: 4  
 No. of Bathrooms: 2.5

**Summary of Property Details**

APN: 048112220  
 Owner 1: Farrell Joseph J & Carol A  
 Owner 2:  
 Care Of:  
 Owner Address: 2805 Alameda Ave  
 Half Moon Bay CA  
 94019--1382  
 Situs Address: 2805 Alameda Ave  
 Half Moon Bay  
 Legal Description: LOTS 15 16 BLK 18 CITY OF NAPLES RSM 5/30  
 District: 2  
 Neighborhood: 020A

Secured Assessment Roll: 2013-1

Assessee Details		Assessment Values		Assessment Details	
Owner 1:	FARRELL JOSEPH J & CAROL A	Land:	\$310,553	Assessment Type:	Annual
Owner 2:		Temp Land:		Temp Code:	
Care Of:		Root:		Notice Date:	
Owner Address:	2805 ALAMEDA AVE HALF MOON BAY, CA 94019-1382	Min/Mineral:		Change #:	
Document Number:	94103508	Improvements (Structure):	\$414,075	TRA:	017003
		Temp Improvements (Structure):		PUC:	01
		Fixtures:		PUC Description:	Single Family Residence
		Total Gross:	\$724,628		
		Total Temp:			
		Exemption - Home Owner:			
		Exemption - Other:			
		Net Assessed:	\$724,628		

Current Jurisdictions		Current Tax Rate Area #017003		
Supervisory:	3	GENERAL TAX RATE	GENERAL COUNTY TAX	COUNTY DEBT SERVICES
Congressional:	14	FREE LIBRARY	CITY OF HALF MOON BAY	HALF MOON BAY DEBT SERVICES
Assembly:	24			
Senatorial:	13	CABRILLO UNIFIED GEN PUR	CABRILLO UNIFIED BOND	SM JR COLLEGE GEN PUR
Election Precinct:	3320	SM JR COLLEGE BD 2002	SM JR COLL BOND SER 2005 B	SM JR COLL BOND 2001 SER C
City Name:	HALF MOON BAY	SM JR COLL BOND 2006 SER A	SAN MATEO COMM COLL 2005 SER B	SM JR COLL BOND REF 2012
Zip Code:	94019	COASTSIDE FIRE PROTECTION DIST	GRANADA SANITARY DISTRICT	COASTSIDE COUNTY WATER DIST
Mitigation Fee Area:	None Assigned	BAY AREA AIR QUALITY MANAGEMEN	COUNTY HARBOR DISTRICT	COUNTY EDUCATION TAX

EXHIBIT 4

Kerry L. Burke

BurkeLandUse@gmail.com / 650-726-1738

Karen Giesler  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

June 28, 2012

**Subject: Stoloski project: File # 2-HMB-11-010**

Dear Ms. Giesler,

Please find attached the plans that include plans for access spans across the Pulman ditch at Pulman Ave and Champs Elysee Blvd. The proposed plan eliminates the previously proposed culvert on the Stoloski property that would have carried the stormwater from east of Highway One to the Pulman Ditch at Naples. The purpose of this submittal is to clarify the project description and allow the processing of this application to proceed. The bridge design avoids contact with any wetted surface of the Pulman ditch and does not change the existing drainage patterns in the ditch or the surrounding area.

The March 26, 2012 letter from the City of Half Moon Bay addressed all appeal issues raised in Marc Gradstein and Jane Gorman's appeal and the CCC appeal of the Stoloski project. A recap of that information regarding biological assessment, drainage and infrastructure is listed below.

**Biological**

As stated in the City's letter there have been numerous projects and biological reports approved in the vicinity of the Pullman Ditch including work by CalTrans within the Pullman Ditch and several homes adjacent to the Pullman ditch. WRA prepared the Biological Assessment for the Stoloski project and found no significant biological resources impacted by this project. The City of Half Moon Bay certified the Mitigated Negative Declaration with all appropriate mitigation measures that the property owner agreed to perform as part of this project.

**Drainage**

The proposed bridge design will not impact drainage in the surrounding area since it will not change the current drainage patterns and will not change the location of the current culvert outfall at the western edge of Highway One.

**Infrastructure**

The City of Half Moon Bay's letter states that the project is in conformance with all required infrastructure requirements. All necessary findings were made regarding this projects conformance with the General Plan and Zoning requirements for this property. The level of proposed use is consistent with the certified Local Coastal Plan for this property and there are minimal impacts from a subdivision to the surrounding area.

With the receipt of the enclosed plans and the letter from the City of Half Moon Bay, we would like you to proceed with the processing of our project. Please contact me if you have any questions.

Respectfully submitted,



Kerry Burke  
cc: Mark Stoloski  
Robert Lanzone

EXHIBIT 5



May 6, 2014

Kerry Burke  
Burke Land Use  
34 Amesport Landing  
Half Moon Bay, CA 94019

**Re: Coastal Commission Appeal of Stoloski Subdivision, A-2-HMB-12-005 – Results of Site-Specific Surveys for Listed Species**

Dear Ms. Burke,

This letter has been prepared in response to the letter dated January 07, 2014 from U.S. Fish and Wildlife regarding "Suitable Habitat for Listed Species within the Pullman Drainage, Half Moon Bay, San Mateo County, California". Based on comments from this letter and email correspondence from CDFW, that due to "the presence of suitable upland foraging and dispersal habitat" and "the lack of survey data" or "site specific surveys for CRLF and SFGS", the USFWS and CDFW concludes Pullman drainage has the potential to be occupied. In response, WRA has conducted further site-specific studies including USFWS protocol-level site surveys as dictated by the above referenced letter from USFWS. This letter presents the preliminary results of those surveys.

On March 27, 2014 WRA, Inc. initiated protocol-level surveys for California red-legged frog (CRLF) in accordance with USFWS *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (August 2005; Attachment A). Surveys were performed within the Study Area which consisted of the Pullman drainage ditch (between Cabrillo Highway and the Pacific Ocean, and all vegetation located within 50 feet from the top of bank on the north and south side of the ditch.

**Methods**

According to revised USFWS protocol, a total of eight field surveys (3 day and 5 night surveys) should be conducted between January and September; one day and one night survey are recommended to occur between June 30 and Sept 1. Night time surveys were conducted March 27, April 14, and May 5. Day time surveys were conducted on March 27. This report presents preliminary results as the full protocol has not been implemented. However, based on the current finding by USFWS that Pullman drainage contains suitable upland foraging and dispersal habitat, WRA concentrated survey efforts during periods when frogs would most likely be present. Such optimal conditions include moist or humid, mostly clear evenings (greater than 60% humidity without the presence of fog) following a precipitation event(s) provided temperatures exceed 50 degrees Fahrenheit, and wind speeds are below 5 mph. USFWS conclude upland and dispersal habitats are utilized by CRLF during periods of wet weather (USFWS 2005; Attachment A). Weather conditions at the time of the surveys are presented in Table 1; rainfall totals during the survey period are provided in Table 2.

In accordance with the protocol, all surveyors possessed the minimum qualification requirements stated (Attachment A). The field survey involved visually scanning aquatic features, shoreline areas and upland habitat within the Study Area during both day and night surveys. Eyeshining during the night surveys was accomplished using three-D cell mag-lites accompanied with LED headlamps. Surveyors also listened for vocalizing males calling during the night time surveys. While surveying along the bank, care was taken not to crush sheltering habitat though these areas were searched thoroughly.

## Results

No CRLF or SFGS was observed during any of the surveys performed to date in the Study Area. Furthermore, no common aquatic/terrestrial amphibians were observed in the Study Area such as Pacific treefrog (*Pseudacris regilla*), California newt (*Taricha torosa*), or western toad (*Anaxyrus boreas*). No aquatic organisms were observed.

No flowing water was observed in Pullman ditch during any of the surveys despite recent precipitation. The majority of the Study Area contained no surface water whatsoever. A few shallow standing pools were observed close to culverts (apparently the result of erosional processes at the downstream end of these culverts). These pools lack emergent vegetation and cover needed to protect any frogs from predators. Numerous raccoon tracks were observed in these areas, and several feral cats were observed during the first two surveys. No CRLF calls were heard. Pacific treefrog was heard calling east of Cabrillo Highway on several night surveys, though no calls were heard within the Study Area.

All surveys were conducted during optimal conditions as depicted in Tables 1 and 2.

Table 1. Weather Conditions at the Time of Surveys

Date	Humidity (%)	Temperature (F)	Wind Speed (mph)
3/27/14 (day)	88	60 F	5 mph (occasional gusts up to 10)
3/27/14 (night)	72	54 F	1 – 3 mph
4/14/14 (night)	77	56 F	1 – 3 mph
5/5/14 (night)	65	55 F	3 - 5 mph (occasional gusts 10 to 15)

Table 2. Cumulative Rainfall\* Totals During the Survey Period (March to May 2014)

Date	Rainfall (in)
3/1-3/27	0.95
3/15-3/27	0.54
3/28-4/14	1.94
4/15-5/5	0.58

\*Station ID: US1CASM0007: Located approximately two miles south of Pullman Avenue

## Discussion

A total of one day and three night surveys have been performed in accordance with the required guidelines outlined by USFWS for CRLF protocol-level surveys (Attachment A) with negative findings. Notably, no other amphibians were detected in the Study Area during any of the

surveys despite optimal conditions following a series of precipitation events. Furthermore, the absence of available aquatic prey and presence of predators suggests that the site cannot sustain CRLF or SFGS for any prolonged period. Therefore, if occupied we would expect to see CRLF present under the most optimal conditions during a rainy period when weather conditions are best. All four surveys were conducted under such optimal conditions, and yet no amphibians were observed. Based on the results of these surveys, it is presumed that CRLF and subsequently SFGS are not present in the Study Area.

Please do not hesitate to contact me with questions or concerns regarding these findings.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana Riggs". The signature is written in a cursive style with a horizontal line extending to the left of the first letter.

Dana Riggs  
Principal Biologist

Attachments



# U.S. Fish and Wildlife Service



## Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog

August 2005

### I. Introduction

The U.S. Fish and Wildlife Service (Service) issued guidance on conducting site assessments and surveys for the California red-legged frog (*Rana aurora draytonii*) (CRF) on February 18, 1997 (1997 Guidance). Since then, the Service has reviewed numerous CRF site assessments and surveys results, accompanied wildlife biologists in the field during the preparation and performance of site assessments and CRF surveys, and consulted with species experts on the effectiveness of the 1997 Guidance. Based on our review of the information, the Service has determined that the survey portion of the 1997 Guidance is less likely to accurately detect CRF than previously thought, especially in certain portions of the species range and particularly where CRF exist in low numbers. In response to the need for new guidance, the Service has prepared this *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (Guidance).

Similar to the 1997 Guidance, two procedures are recommended in the new Guidance to accurately assess the likelihood of CRF presence in the vicinity of a project site: (1) an assessment of CRF locality records and potential CRF habitat in and around the project area and, (2) focused field surveys of breeding pools and other associated habitat to determine whether CRF are likely to be present.

Because CRF are known to use aquatic, riparian, and upland habitat, they may be present in any of these habitat types, depending on the time of year, on any given property. For sites with no suitable aquatic breeding habitat, but where suitable upland dispersal habitat exists, it is difficult to support a negative finding with the results of any survey guidance. Therefore, this Guidance focuses on site assessments and surveys conducted in and around aquatic and riparian habitat.

This Guidance was developed by the Service's Sacramento Fish and Wildlife Office in coordination with the Ventura Fish and Wildlife Office. Input by field biologists and scientists experienced in surveying for the CRF was also used in the development of this Guidance.

***If the following Guidance is followed in its entirety, the results of the site assessments and surveys will be considered valid by the Service for two (2) years, unless determined otherwise on a case-by-case basis by the appropriate Service Fish and Wildlife Office. After two (2) years, new surveys conducted under the most current Service Guidance may be required, if deemed necessary by the appropriate Service Fish and Wildlife Office.***

Modifications of this Guidance for specific projects or circumstances may be approved by the appropriate Fish and Wildlife Office; however, we strongly recommend that all modifications be reviewed and approved by the Service prior to implementation.

## **II. Permit Requirements**

Unless otherwise authorized, individuals participating in site assessments and surveys for CRF may **NOT** take the California red-legged frog during the course of site assessments or survey activities. Take may only be authorized via section 7 or section 10 of the Endangered Species Act of 1973, as amended. Typically, take associated with survey activities is authorized via issuance of section 10(a)(1)(A) permits. For reference, an application for a section 10(a)(1)(A) permit is available through the appropriate Fish and Wildlife Office or online at: <http://forms.fws.gov/3-200-55.pdf>.

*The site assessment and survey methods recommended in this Guidance do NOT require the surveyor to have a permit. As stated below, the surveyor must be otherwise qualified to conduct the surveys.*

It is the responsibility of the surveyor to ensure all other applicable permits are obtained and valid (e.g., state scientific collection permits), and that permission from private landowners or land managers is obtained prior to accessing a site and beginning site assessments and surveys.

## **III. Site Assessments**

*To prevent any unnecessary loss of time or use of resources, it is essential that completed site assessments be submitted to the appropriate Service Fish and Wildlife Office for review in order to obtain further guidance from the Service before conducting surveys.*

Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting a site assessment to prevent the spread of parasites and diseases to CRF and other amphibians.

Careful evaluation of the following information about CRF and their habitats in the vicinity of a project or other land use activities is important because this information indicates the likelihood of the presence of CRF. This information will help determine whether it is necessary to conduct field surveys.

To conduct a site assessment for CRF, complete the data sheet in Appendix D and return it with any necessary supporting documentation to the appropriate Service Fish and Wildlife Office for review prior to initiating surveys. The following information is critical to completing a proper site assessment:

**1. Is the site within the current or historic range of the CRF?**

Since knowledge of the distribution of the CRF is likely to change as new locality information becomes available, biologists are expected to contact the appropriate Fish and Wildlife Office (see section IV below) to determine if a project site is within the range of this species.

**2. Are there known records of CRF at the site or within a 1.6-kilometer\* (1-mile) radius of the site?**

The biologist should consult the California Natural Diversity Data Base (CNDDDB) maintained by the California Department of Fish and Game's (CDFG) Natural Heritage Division as a starting point to determine if there are reported localities of CRF within a 1.6-kilometer (1-mile) radius of the site. Information on the CNDDDB is attached to the end of this document. Data entry into the CNDDDB is not always current nor do all surveyors submit reports to the CNDDDB, thus it is essential that other information sources on local occurrences of CRF be consulted.

These sources may include, but are not limited to, biological consultants, local residents, amateur herpetologists, resource managers and biologists from municipal, State, and Federal agencies, environmental groups, and herpetologists at museums and universities. The biologist should report to the Service all known CRF records at the project site and within a 1.6-kilometer (1-mile) radius of the project boundaries. One-point-six (1.6) kilometers (1 mile) was selected as a proximity radius to a project site based on telemetry data collected by Bulger *et al.* (2003), rounded to the nearest whole mile. This distance may be subject to change when new data becomes available, or based on site-specific conditions, so it is advised that surveyors check with the appropriate Service Fish and Wildlife Office to ensure they are using the most up-to-date information.

**\* IMPORTANT:** One-point-six (1.6) kilometers (1 mile) radius is a general guideline. The appropriate Service Fish and Wildlife Office will advise surveyors of the most appropriate distance for each specific project location on a case-by-case basis.

**3. What are the habitats within the project site and within 1.6 kilometers\* (1 mile) of the project boundary?**

In order to properly characterize the habitat within 1.6 kilometers (1 mile) of the project site, individuals conducting site assessments must visit the project site and as much of the surrounding habitat within 1.6 kilometers (1 mile) of the project site as possible. Aerial photographs, maps, and other resources should be consulted as well to ensure all possible accessible habitats are considered. Based on this reconnaissance assessment, the surveyor shall describe the upland and aquatic habitats within the project site and within 1.6 kilometers (1 mile) of the project boundary. The aquatic habitats should be mapped and characterized (*e.g.*, ponds vs. creeks, pool vs. riffle, ephemeral vs. permanent (if ephemeral, give date it goes dry), vegetation (type, emergent, overhanging), water depth at the time of the site assessment, bank full depth, stream gradient (percent slope), substrate, and description of bank). The presence of

bullfrogs (*Rana catesbeiana*) and other aquatic predators such as centrarchid fishes (bass, perch, sunfish) should be documented even though their presence does not negate the presence of CRF. Upland habitats should be characterized by including a description of upland vegetation communities, land uses, and any potential barriers to CRF movement. The information provided in Appendix A serves as a guide to the features that will indicate possible CRF habitat.

#### **4. Report the results of the site assessment**

A site assessment report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

- 1) Copies of the data sheet provided at Appendix D;
- 2) Copies of field notes and all other supporting documentation including:
  - A. A list of all known CRF localities within 1.6 kilometers\* (1 mile) of the project site boundaries;
  - B. Photographs of the project site (photopoints shall be indicated on an accompanying map);
  - C. A map of the site showing all of the habitat types and other important features as well as the location of any species detected during the site assessment within 1.6 kilometers (1 mile) of the project site boundaries. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) *or* geographic information system (GIS) data;
  - D. A description of the project and/or land use that is being proposed at the site.

Based on the information provided in the site assessment report, the Service will provide guidance on how CRF issues should be addressed, including whether field surveys are appropriate, where the field surveys should be conducted, and whether incidental take authorization should be obtained through section 7 consultation or a section 10 permit pursuant to the Endangered Species Act.

#### **IV. Field Surveys**

Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting surveys to prevent the spread of parasites and diseases to CRF and other amphibians.

*To avoid and minimize the potential of harassment or harm to CRF, no additional surveys will be conducted in an area once occupancy has been established, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.*

The Service should be notified in writing (e.g., email) by the surveyor within three (3) working

days once a CRF is detected. The Service will provide guidance to the surveyor regarding the need to collect additional information such as population size, age class, habitat use, *etc.*

#### **A. Qualifications of Surveyors**

Surveyors must be familiar with the distinguishing physical characteristics of all life stages of the CRF, other anurans of California, and with introduced, exotic species such as the bullfrog and the African clawed frog (*Xenopus Laevis*) prior to conducting surveys according to this Guidance.

***Surveyors must submit their qualifications to the Service along with their survey results.***

A field guide should be consulted (*e.g.*, Wright and Wright 1949; Stebbins 2003) to confirm the identification of amphibians encountered during surveys. Surveyors also should be familiar with the vocalizations of the CRF and other amphibians found in California. Recordings of these vocalizations are available through various sources (*e.g.*, Davidson 1995). Surveyors that do not have experience with the species are required to obtain training on locating and identifying CRF adult, larval and egg stages before survey results are accepted. Training may include attendance at various workshops that have an emphasis on the biology of the California red-legged frog, accompanied by an appropriate level of field identification training; field work with individuals who possess valid 10(a)(1)(A) permits for the CRF; and experience working with ranids and similar taxa.

In some localities more intensive surveys (*e.g.*, dip-netting larvae and adults) may be desirable to document the presence of CRF. In order to conduct such focused surveys a valid section 10(a)(1)(A) permit is required (refer to introduction section for information on how to apply for a section 10(a)(1)(A) permit). Applicants will be considered qualified for a section 10(a)(1)(A) permit if they meet the Service's most current qualification requirements. At a minimum, prospective applicants must:

- 1) Possess a Baccalaureate degree in biology, ecology, a resource management-related field, or have equivalent relevant experience;
- 2) Have completed course work in herpetology and study-design/survey-methodology or have equivalent relevant experience;
- 3) Have verifiable experience in the design and implementation of amphibian surveys or research or have equivalent relevant experience;
- 4) Have verifiable experience handling and identifying a minimum of 10 CRF, or similar ranid species, comprised of a minimum of 5 adults and a combination of larva and juveniles;
- 5) Obtain a minimum of 40 hours of field experience through assisting in surveys for the CRF during which positive identification is made;
- 6) Have familiarity with suitable habitats for the species and be able to identify the major vegetative components of communities in which California red-legged frog surveys or

research may be conducted.

- 7) Have familiarity with and be able to identify native and non-native amphibians that may co-occur with the listed species.

## B. Survey Periods

Surveys may begin anytime during January and should be completed by the end of September. Multiple survey visits conducted throughout the survey-year (January through September) increases the likelihood of detecting the various life stages of the CRF. For example, adult frogs are most likely to be detected at night between January 1 and June 30, somewhere in the vicinity of a breeding location, whereas, sub-adults are most easily detected during the day from July 1 through September 30.

Due to the geographic and yearly variation in egg laying dates, it is not possible to specify a range of dates that is appropriate for egg surveys throughout the range of the CRF. The following table summarizes the best approximated times to survey for CRF egg masses.

<b>Geographic Area</b>	<b>Best Survey Period*</b>
Northern California along the coast and interior to the Coast Range (north of Santa Cruz County)	January 1 and February 28
Southern California along the coast and interior through the Coast Range (south of, and including Santa Cruz County)	February 25 and April 30
Sierra Nevada Mountains and other high-elevation locations	Should not begin before April 15

Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval prior to conducting the surveys.

## Survey Methodology

This Guidance recommends a total of **up to** eight (8) surveys to determine the presence of CRF at or near a project site. Two (2) day surveys and four (4) night surveys are recommended during the breeding season; one (1) day and one (1) night survey is recommended during the non-breeding season. Each survey must take place at least seven (7) days apart. At least one survey must be conducted prior to August 15<sup>th</sup>. The survey period must be over a minimum period of 6 weeks (*i.e.*, the time between the first and last survey must be at least 6 weeks). Throughout the species' range, the non-breeding season is defined as between July 1 and September 30.

***If CRF are identified at any time during the course of surveys, no additional surveys will be conducted in the area, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.***

The following methodology shall be followed unless otherwise specified, or approved by the

appropriate Service Fish and Wildlife Office:

- 1) Upon arrival at the survey site, surveyors should listen for a few minutes for frogs calling, prior to disturbing the survey site by walking or looking for eye shine using bright lights. If CRF calls are identified, the surveyor should note this information on the survey data sheet and note the approximate location of the call. Once the survey begins, the surveyor should pay special attention to the area where the call originated in an attempt to visually identify the frog.
- 2) The most common method of surveying for CRF is the visual-encounter survey. This survey is conducted either during daylight hours or at night by walking entirely around the pond or marsh or along the entire length of a creek or stream while repeatedly scanning for frogs. This procedure allows one to scan each section of shore from at least two different angles. Surveyors should begin by first working along the entire shoreline, then by entering the water (if necessary and no egg masses would be crushed or disturbed), and visually scanning all shoreline areas and all aquatic habitats identified in the site assessment. Generally, surveyors shall focus on all open water to at least 2 meters (6.5 feet) up the bank. When wading, surveyors must take maximum care to avoid disturbing sediments, vegetation, or larvae. When walking on the bank, surveyors shall take care to not crush rootballs, overhanging banks, and stream-side vegetation that might provide shelter for frogs. Surveys must cover the entire area, otherwise the remaining survey area must be surveyed the next day/night that weather conditions allow (both visits would constitute one day/night survey).
- 3) Day surveys may be conducted on the same day as a night survey.

The main purpose of day surveys during the breeding season is to look for larvae, metamorphs, and egg masses; the main purpose of day surveys during the non-breeding season is to look for metamorphosing sub-adults, and non-breeding adults. Daytime surveys shall be conducted between one hour after sunrise and one hour before sunset.

#### 4) Night surveys

The main purpose of night surveys is to identify and locate adult and metamorphosed frogs. Conditions and requirements for conducting night surveys are as follows:

- A. Night surveys must commence no earlier than one (1) hour after sunset.
- B. Due to diminished visibility, surveys should not be conducted during heavy rains, fog, or other conditions that impair the surveyor's ability to accurately locate and identify frogs.
- C. Nighttime surveys shall be conducted with a Service-approved light such as a Wheat Lamp, Nite Light, or sealed-beam light that produces less than 100,000 candle watt. Lights that the Service does not accept for surveys are lights that are either too dim or too bright. For example, Mag-Light-type lights and other

types of flashlights that rely on 2 or 4 AA's/AAA's, 2 C's or 2 D batteries. Lights with 100,000 candle watt or greater are too bright and also would not meet Service requirements.

- D. The Service approved light must be held at the surveyor's eye level so that the frog's eye shine is visible to the surveyor.
- E. The use of binoculars is a must in order to effectively see the eye shine of the frogs. Surveys conducted without the use of binoculars may call in to question the validity of the survey.

5) Weather conditions.

Weather and visibility conditions must be consistent throughout the duration of the survey; if weather conditions become unsuitable, the survey must be completed at another time when conditions are better suited to positively locating and identifying frogs. Suitable conditions are as follows:

- A. Air temperature at the survey site must be at least 10 degrees Celsius (50 degrees Fahrenheit). Frogs are less likely to be active when temperatures are below 10 degrees Celsius (50 degrees Fahrenheit).
- B. Wind speed must not exceed 8 kilometers/hour (5 miles/hour) at the survey site. High wind speeds affect temperatures and the surveyor's ability to hear frogs calling.
- C. Surveys must be conducted under clear to partly cloudy skies (high clouds are okay) but not under dense fog or during heavy rain, as stated above. Surveys may be conducted during light rains.

Surveyors should carefully consider weather conditions prior to initiating a survey. Ask yourself, "Can I collect accurate, reliable data under the existing weather conditions" prior to proceeding with the survey. Weather conditions will be taken into account when the data is reviewed by the appropriate Service Fish and Wildlife Service Office.

6) Decontamination of equipment

In an effort to minimize the spread of terrestrial and aquatic pathogens, all aquatic survey equipment including chest waders, wet suits, float tubes, kayaks, shall be decontaminated before entering potential CRF habitat using the guidelines in Appendix B. Careful attention shall be taken to remove all dirt from boots, chest waders, wetsuits, float tubes, kayaks, and other equipment before placing equipment into the water.

7) Unidentified larvae, sub-adults, and adults

If the larval life stage is the only life stage detected and the larvae are not identified to species (or similarly, if sub-adult or adult frogs are observed but not identified to

species), the surveyor must either return to the habitat to identify the frog in another life stage or obtain the appropriate permit (e.g., section 10(a)(1)(A) permit) authorization allowing the surveyor to handle CRF and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

8) Reporting results of the surveys

A species survey report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

1. Copies of the data sheets provided at Appendix E;
2. Copies of field notes and all other supporting documentation including:
  - A. Photographs of all CRF observed during the survey and of the habitat where each individual was located, if possible without harming or harassing the individual;
  - B. A map of the site showing the location of any species detected during the survey. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) *or* geographic information system (GIS) data;

Based on the information provided in the site assessment report and the survey results, the Service will provide guidance on how CRF issues should be addressed through the section 7 or section 10 processes.

All information on CRF distribution resulting from field surveys shall be sent to the California Natural Diversity Database (CNDDDB). CNDDDB forms shall be completed, as appropriate, for each listed species identified during the survey(s) and submitted to the California Department of Fish and Game, Wildlife Habitat Data Analysis Branch, 1807 13<sup>th</sup> Street, Suite 202, Sacramento, California 95814, with copies submitted to the appropriate Service Fish and Wildlife Office. Each form sent to the CDFG shall have an accompanying 1:24,000 scale USGS map (or an exact scale photocopy of the appropriate portion(s) of the map) -or- Global Information System (GIS) data coverage of the site. Copies of the form can be obtained from the CDFG at the above address (telephone: 916-324-3812) or online at: <http://www.dfg.ca.gov/whdab/html/animals.html>. Additional information about the CNDDDB is available in Appendix C.

The Service may not accept the results of field surveys conducted under this Guidance for any of the following reasons:

- A. if the appropriate Service Fish and Wildlife Office was not contacted to review the results of the site assessment prior to field surveys being conducted;
- B. if field surveys were conducted in a manner inconsistent with this Guidance or with

survey methods not previously approved by the Service;

- C. if field surveys were incomplete;
- D. if surveyors were not adequately qualified to conduct the surveys;
- E. if the reporting requirements, including submission of CNDDDB forms, were not fulfilled.

#### **IV. Service Contacts**

There are three Service Fish and Wildlife Offices within the range of the CRF (see Map 1). The appropriate office to contact regarding site assessments or survey authorization depends on the location where the surveys are to be conducted.

For project sites and land use activities in Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, and Ventura Counties, portions of Los Angeles and San Bernardino Counties outside of the Los Angeles Basin, and portions of Kern, Inyo and Mono Counties east of the Sierra Crest and south of Conway Summit, contact:

Ventura Fish and Wildlife Office,  
2493 Portola Road, Suite B  
Ventura, California, 93003  
(805/644-1766).

For project sites and land use activities in all other areas of the State south of the Transverse Ranges, contact:

Carlsbad Fish and Wildlife Office  
Attn: Recovery Permit Coordinator  
6010 Hidden Valley Road  
Carlsbad, California, 92009  
(760/431-9440).

For project sites and land use activities in all other areas of the State, contact:

Sacramento Fish and Wildlife Office  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825  
(916/414-6600).  
(916/414-6713, fax)

For information on section 10(a)(1)(A) recovery permits, contact:

Regional Office,  
Eastside Federal Complex  
911 N.E., 11th Avenue  
Portland, Oregon 97232-4181  
(503/231-6241)



\* These are independent offices overlapping with the Sacramento Fish and Wildlife Office. Their work primarily focuses on salmonid restoration, fishery monitoring and Forest Plan Implementation.

Map 1. Map of California showing jurisdictional boundaries of Service Fish and Wildlife Offices.

## References

- Davidson, C. 1995. Frog and toad calls of the Pacific Coast: Vanishing Voices. Library of Natural Sounds, Cornell Laboratory of Ornithology, Ithaca, New York. 27 pp. +1 cassette.
- Stebbins, R.C. 2003. A field guide to western reptiles and amphibians. Third edition. Houghton Mifflin Company, New York, New York. 533 pp.
- Wright, A.H. and A.A. Wright. 1949. Handbook of frogs and toads of the United States and Canada. Third Edition. Comstock Publishing Company, Ithaca, New York. xii+640 pp.

**Appendix A.**  
**California red-legged frog identification and ecology.**

1. Identification

The following information may aid surveyors in the identification of California red-legged frogs and similar species. However, all surveyors are expected to consult field guides (Wright and Wright 1949; Davidson 1995; Stebbins 2003) for further information.

*General Description*

The California red-legged frog (*Rana aurora draytonii*), is a relatively large aquatic frog ranging from 4 to 13 centimeters (1.5 to 5 inches) from the tip of the snout to the vent. From above, the California red-legged frog can appear brown, gray, olive, red or orange, often with a pattern of dark flecks or spots. The skin usually does not look rough or warty. The back of the California red-legged frog is bordered on either side by an often prominent dorsolateral fold of skin running from the eye to the hip. The hindlegs are well-developed with large webbed feet. A cream, white, or orange stripe usually extends along the upper lip from beneath the eye to the rear of the jaw. The undersides of adult California red-legged frogs are white, usually with patches of bright red or orange on the abdomen and hindlegs. The groin area can show a bold black mottling with a white or yellow background.

*Adults*

Positive diagnostic marks should be used to accurately distinguish California red-legged frogs from other species of frogs that may be observed. A positive diagnostic mark is an attribute of the animal that will not be found on any other animal likely to be encountered at the same locality. The following features are positive diagnostic marks that, if observed, will distinguish California red-legged frogs from foothill yellow-legged frogs (*Rana boylei*) and bullfrogs (*Rana catesbeiana*):

- a. Prominent dorsolateral folds (thick upraised fold of skin running from eye to hip) on any frog greater than 5 centimeters (2 inches) long from snout to vent. Young yellow-legged frogs can show reddish folds; these usually fade as the frogs mature.
- b. Bright red dorsum.
- c. Well defined stripe as described above running along upper lip.

Since California red-legged frogs are often confused with bullfrogs, surveyors should note those features that might be found on bullfrogs that will rarely be observed on California red-legged frogs. These features are:

- a. Absence of the dorsolateral fold.
- b. Bright yellow on throat.
- c. Uniform bright green snout.
- d. Tympanum (ear disc) distinct and much larger than eye.

Please note that some frogs may lack all of the above characteristics given for both California red-legged frogs and bullfrogs. Surveyors should regard such frogs as unidentified, unless it is clearly identified as another species.

California red-legged frogs are cryptic because their coloration tends to help them blend in with their surroundings, and they can remain immobile for great lengths of time. When an individual California red-legged frog is disturbed, it may jump into the water with a distinct "plop." The California red-legged frog may do this either when the surveyor is still distant or when a surveyor is very near. Bullfrogs exhibit similar behavior but will often emit a "squawk" as they dive into the water. Because a California red-legged frog is unlikely to make such a sound, a "squawk" from a fleeing frog will be considered sufficient to positively identify the frog as a bullfrog.

#### *Larvae*

Tadpoles may be trapped and handled only by those with a valid 10(a)1(A) permit. California red-legged frog larvae range from 14 to 80 millimeters (0.5 to 3.25 inches) in length. They are greenish to generally brownish color with darker marbling and lack distinct black or white spotting or speckling. Large California red-legged frog larvae often have a wash of red coloration on their undersides and a very small single row of evenly spaced whitish or gold flecks along the side where the dorsolateral fold will develop. Other features to look for to identify California red-legged frog larvae include: eyes set well in from the outline of the head (contrasts with treefrogs (*Hyla* spp.)), oral papillae on both the sides of the mouth and the bottom of the mouth (contrasts with *Bufo* spp.), well developed oral papillae on the sides of the mouth (contrasts with other subspecies of red-legged frogs (*Rana aurora* spp.) and spadefoot toads (*Scaphiopus* spp.)), generally mottled body and tail with few or no distinct black spots on tail fins (contrasts with bullfrogs), and two to three tooth rows on the top and bottom (contrasts with foothill yellow-legged frogs).

#### *Eggs*

California red-legged frogs breed during the winter and early spring from as early as late November through April and May. Adults engage in courtship behaviors that result in the female depositing from 2,000 to 6,000 eggs, each measuring between 2 and 3 millimeter (0.1 inches). California red-legged frog eggs are typically laid in a mass attached to emergent vegetation near the surface of the water, where they can be easily dislodged. However, egg masses have been detected lying on the bottom of ponds. The egg mass is well defined and

about the size of a softball. Eggs hatch within 6 to 14 days after deposition at which time the newly hatched larvae are delicate and easily injured or killed. California red-legged frog larvae transform into juvenile frogs in 3.5 to 7 months.

During the time that red-legged frog egg surveys are conducted, other amphibian eggs may be found including those of Pacific treefrogs, spadefoot toads, California tiger salamanders, and newts. Bullfrogs and foothill yellow-legged frogs lay their eggs later in the season. Field guides should be consulted for additional information on egg identification.

## 2. Habitat

California red-legged frogs occur in different habitats depending on their life stage, the season, and weather conditions. Rangelwide, and even within local populations, there is much variation in how frogs use their environment; in some cases, they may complete their entire life cycle in a particular habitat (*i.e.*, a pond is suitable for all life stages), and in other cases, they may seek multiple habitat types (U.S. Fish and Wildlife Service 2002).

### *Breeding habitat*

All life history stages are most likely to be encountered in and around breeding sites, which are known to include coastal lagoons, marshes, springs, permanent and semi-permanent natural ponds, ponded and backwater portions of streams, as well as artificial impoundments such as stock ponds, irrigation ponds, and siltation ponds. California red-legged frog eggs are usually found in ponds or in backwater pools in creeks attached to emergent vegetation such as *Typha* and *Scirpus*. However, they have been found in areas completely denuded of vegetation. Creeks and ponds where California red-legged frogs are found most often have dense growths of woody riparian vegetation, especially willows (*Salix* spp.) (Hayes and Jennings 1988). The absence of *Typha*, *Scirpus*, and *Salix* at an aquatic site does not rule out the possibility that the site provides habitat for California red-legged frogs, for example stock ponds often are lacking emergent vegetation yet they provide suitable breeding habitat. California red-legged frog larvae remain in these habitats until metamorphosis in the summer months (Storer 1925; Wright and Wright 1949). Young California red-legged frogs can occur in slow moving, shallow riffle zones in creeks or along the margins of ponds.

### *Summer habitat*

California red-legged frogs often disperse from their breeding habitat to forage and seek summer habitat if water is not available. In the summer, California red-legged frogs are often found close to a pond or a deep pool in a creek where emergent vegetation, undercut banks, or semi-submerged rootballs afford shelter from predators. California red-legged frogs may also take shelter in small mammal burrows and other refugia on the banks up to 100 meters from the water any time of the year and can be encountered in smaller, even ephemeral bodies of water in a variety of upland settings (Jennings and Hayes 1994; U.S. Fish and Wildlife Service 2002).

### *Upland habitat*

California red-legged frogs are frequently encountered in open grasslands occupying seeps and

springs. Such bodies may not be suitable for breeding but may function as foraging habitat or refugia for dispersing frogs. During periods of wet weather, starting with the first rains of fall, some individuals make overland excursions through upland habitats (U.S. Fish and Wildlife Service 2002).

### 3. Movement

California red-legged frogs may move up to 3 kilometers (1.88 miles) up or down drainages and are known to wander throughout riparian woodlands up to several dozen meters from the water (Rathbun *et al.* 1993). Dispersing frogs have been recorded to cover distances from 0.40 kilometer (0.25 mile) to more than 3.2 kilometers (2 miles) without apparent regard to topography, vegetation type, or riparian corridors (Bulger 1998). California red-legged frogs have been observed to make long-distance movements that are straight-line, point to point migrations rather than using corridors for moving in between habitats. Dispersal distances are considered to be dependent on habitat availability and environmental conditions. On rainy nights California red-legged frogs may roam away from aquatic sites as much as 1.6 kilometers (1 mile). California red-legged frogs will often move away from the water after the first winter rains, causing sites where California red-legged frogs were easily observed in the summer months to appear devoid of this species. Additionally, California red-legged frogs will sometimes disperse in response to receding water which often occurs during the driest time of the year.

## References for Appendix A

- Bulger, J. 1998. Wet season dispersal and habitat use by juvenile California red-legged frogs (*Rana aurora draytonii*) in forest and rangeland habitats of the Santa Cruz Mountains. Research proposal.
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- Hayes, M.P. and M.R. Jennings. 1988. Habitat correlates of distribution of the California red-legged frog (*Rana aurora draytonii*) and the foothill yellow-legged frog (*Rana boylei*): Implications for management. Pages 144-158 In: R.C. Szaro, K.E. Severson, and D.R. Patton (technical coordinators), Proceedings of the symposium on the management of amphibians, reptiles, and small mammals in North America. United States Department of Agriculture, Forest Service, General Technical Report (RM-166):1-458.
- Jennings, M.R. and M.P. Hayes. 1994. Amphibian and reptile species of special concern in California. Final report to the California Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, California, under contract (8023). iii+255 pp.
- Rathbun, G.B., M.R. Jennings, T.G. Murphy, and N.R. Sipel. 1993. Status and ecology of sensitive aquatic vertebrates in lower San Simeon and Pico Creeks, San Luis Obispo County, California. U.S. Fish and Wildlife Service, National Ecology Research Center, San Simeon, California. Prepared for the California Department of Parks and Recreation. 103 pp.
- Stebbins, R.C. 2003. A field guide to western reptiles and amphibians. Third edition. Houghton Mifflin Company, New York, New York. 533 pp.
- Storer, T. 1925. A synopsis of the Amphibia of California. University of California Publications in Zoology 27:1-342.
- U.S. Fish and Wildlife Service. 2002. Recovery plan for the California red-legged frog (*Rana aurora draytonii*). Portland, Oregon. 173 pp.
- Wright, A.H. and A.A. Wright. 1949. Handbook of frogs and toads of the United States and Canada. Third Edition. Comstock Publishing Company, Ithaca, New York. xii+640 pp.

**Appendix B.**  
**Recommended Equipment Decontamination Procedures**

In an effort to minimize the spread of pathogens that may be transferred as result of activities, surveyors should follow the guidance outlined below for disinfecting equipment and clothing after entering a pond and before entering a new pond, unless the wetlands are hydrologically connected to one another:

- i. All organic matter should be removed from nets, traps, boots, vehicle tires and all other surfaces that have come into contact with water or potentially contaminated sediments. Cleaned items should be rinsed with clean water before leaving each study site.
- ii. Boots, nets, traps, hands, *etc.* should be scrubbed with either a 75% ethanol solution, a bleach solution (0.5 to 1.0 cup per 1.0 gallon of water), Quat-128™ (1:60), or a 6% sodium hypochlorite 3 solution. Equipment should be rinsed clean with water between study sites. Cleaning equipment in the immediate vicinity of a pond or wetland should be avoided (*e.g.*, clean in an area at least 100 feet from aquatic features). Care should be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- iii. Used cleaning materials (liquids, *etc.*) should be disposed of safely, and if necessary, taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.
- iv. Additionally, the surveyors shall implement the following when working at sites with known or suspected disease problems: disposable gloves should be worn and changed between handling each animal. Gloves should be wetted with water from the site or distilled water prior to handling any amphibians. Gloves should be removed by turning inside out to minimize cross-contamination.

**Appendix C.**  
**General instructions for filling out CNDDDB field survey forms**

The Natural Diversity Data Base (NDDDB) is the largest, most comprehensive database of its type in the world. It presently contains more than 33,000 site specific records on California's rarest plants, animals, and natural communities. The majority of the data collection effort for this has been provided by an exceptional assemblage of biologists throughout the state and the west. The backbone of this effort is the field survey form. We are enclosing copies of Natural Diversity Data Base (NDDDB) field survey forms for species and natural communities. We would greatly appreciate you recording your field observations of rare, threatened, endangered, or sensitive species and natural communities (elements) and sending them to us on these forms.

We are interested in receiving forms on elements of concern to us; refer to our free publications: *Special Plants List*, *Special Animals List*, and *Natural Communities List* for lists of which elements these include. Reports on multiple visits to sites that already exist in the NDDDB are as important as new site information as it helps us track trends in population/stand size and condition. Naturally, we also want information on new sites. We have enclosed an example of a field survey form that includes the information we like to see. It is especially important to include a xeroxed portion of a USGS topographic quad with the population/stand outlined or marked (see back of enclosed example).

Without the map, your information will be mapped less accurately, as written descriptions of locations are frequently hard to interpret. Do not worry about filling in every box on the form; only fill out what seems most relevant to your site visit. Remember that your name and telephone number are very important in case we have any questions about the form.

If you are concerned about the sensitivity of the site, remember that the NDDDB can label your element occurrence "Sensitive" in the computer, thus restricting access to that information. The NDDDB is only as good as the information in it, and we depend on people like you as the source of that information. Thank you for your help in improving the NDDDB.

Copies of the NDDDB form can be obtained from the CDFG at the above address (telephone: 916-324-3812) or online at: <http://www.dfg.ca.gov/whdab/html/animals.html>.

**Appendix D.**  
**California Red-legged Frog Habitat Site Assessment Data Sheet**

This data sheet is to assist in the data collection of California red-legged frog habitat in the vicinity of projects or other land use activities, following the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance), issued by the U.S. Fish and Wildlife Service. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance.

The "Site Assessments" section of the Guidance details the data needed to complete a site assessment. When submitting a complete site assessment to the Service (one that has been done following the Guidance), one data sheet should be included for each aquatic habitat identified. If multiple aquatic habitats are identified within the project site, then multiple data sheets should be completed. A narrative description of the aquatic, riparian, and upland habitats should be provided to characterize the breeding habitat within the project site and the breeding and dispersal habitat within 1.6 kilometers (1 mile) of the project site. In addition to completing this data sheet, field notes, photographs, and maps should be provided to the appropriate Fish and Wildlife Service Office, as requested in the "Site Assessments" section of the Guidance.

**Appendix D.  
California Red-legged Frog Habitat Site Assessment Data Sheet**

Site Assessment reviewed by \_\_\_\_\_  
(FWS Field Office) (date) (biologist)

Date of Site Assessment: \_\_\_\_\_  
(mm/dd/yyyy)

Site Assessment Biologists: \_\_\_\_\_  
(Last name) (first name) (Last name) (first name)

\_\_\_\_\_

(Last name) (first name) (Last name) (first name)

Site Location: \_\_\_\_\_  
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

**\*\*ATTACH A MAP** (include habitat types, important features, and species locations)\*\*

Proposed project name: \_\_\_\_\_

Brief description of proposed action:

- 1) Is this site within the current or historic range of the CRF (circle one)? YES NO
- 2) Are there known records of CRF within 1.6 km (1 mi) of the site (circle one)? YES NO  
If yes, attach a list of all known CRF records with a map showing all locations.

**GENERAL AQUATIC HABITAT CHARACTERIZATION**

*(if multiple ponds or streams are within the proposed action area, fill out one data sheet for each)*

**POND:**

Size: \_\_\_\_\_ Maximum depth: \_\_\_\_\_

Vegetation: emergent, overhanging, dominant species: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Substrate: \_\_\_\_\_

\_\_\_\_\_

**Perennial or Ephemeral** (*circle one*). If ephemeral, date it goes dry: \_\_\_\_\_

**Appendix D.**  
**California Red-legged Frog Habitat Site Assessment Data Sheet**

**STREAM:**

Bank full width: \_\_\_\_\_

Depth at bank full: \_\_\_\_\_

Stream gradient: \_\_\_\_\_

Are there pools (circle one)? YES NO

If yes,

Size of stream pools: \_\_\_\_\_

Maximum depth of stream pools: \_\_\_\_\_

Characterize non-pool habitat: run, riffle, glide, other: \_\_\_\_\_

\_\_\_\_\_

Vegetation: emergent, overhanging, dominant species: \_\_\_\_\_

\_\_\_\_\_

Substrate: \_\_\_\_\_

\_\_\_\_\_

Bank description: \_\_\_\_\_

\_\_\_\_\_

**Perennial or Ephemeral** (*circle one*). If ephemeral, date it goes dry: \_\_\_\_\_

Other aquatic habitat characteristics, species observations, drawings, or comments:

**Necessary Attachments:**

1. All field notes and other supporting documents
2. Site photographs
3. Maps with important habitat features and species location

**Appendix E.**  
**California Red-legged Frog Survey Data Sheet**

This data sheet is to assist in the data collection during surveys for California red-legged frogs in areas with potential habitat. This data sheet is intended to assist in the preparation of a final report on the field surveys as detailed in the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance) issued by the U.S. Fish and Wildlife Service (Service). Before completing this data sheet, a site assessment should have been conducted using the Guidance and the Service should have been contacted to determine whether surveys are required. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance. To avoid and minimize the potential of harassment to California red-legged frogs, all survey activities shall cease once an individual California red-legged frog has been identified in the survey area, unless prior approval has been received from the appropriate Service Fish and Wildlife Office. The Service shall be notified within three (3) working days by the surveyor once a California red-legged frog is detected, at which point the Service will provide further guidance. Surveys should take place in consecutive breeding/non-breeding seasons (*i.e.*, the entire survey period, including breeding and non-breeding surveys should not exceed 9 months). It is important that both the breeding and non-breeding survey be conducted during the time period specified in the Guidance. Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval. The survey consists of two (2) day and four (4) night surveys during the breeding season and one (1) day and one (1) night surveys during the non-breeding season.

All California red-legged frog life stages should be surveyed for. Surveyors may detect larvae but not be able to identify this life stage to species as handling any life stage of the California red-legged frog necessitates a valid 10(a)(1)(A) permit. If the larval life stage is the only life stage detected and the larvae are not identified to species, the surveyor must either return to the habitat to identify the frog in another life stage or have a valid 10(a)(1)(A) permit allowing the surveyor to handle California red-legged frogs and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

**Appendix E.  
California Red-legged Frog Survey Data Sheet**

Survey results reviewed by _____ <small>(FWS Field Office) (date) (biologist)</small>
--

Date of Survey: \_\_\_\_\_ Survey Biologist: \_\_\_\_\_  
(mm/dd/yyyy) (Last name) (first name)

Survey Biologist: \_\_\_\_\_  
(Last name) (first name)

Site Location: \_\_\_\_\_  
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

**\*\*ATTACH A MAP** (include habitat types, important features, and species locations)\*\*

Proposed project name: \_\_\_\_\_  
Brief description of proposed action:

Type of Survey (circle one): **DAY** **NIGHT**                      **BREEDING** **NON-BREEDING**

Survey number (circle one):            1    2    3    4    5    6    7    8

Begin Time: \_\_\_\_\_ End Time: \_\_\_\_\_

Cloud cover: \_\_\_\_\_ Precipitation: \_\_\_\_\_

Air Temperature: \_\_\_\_\_ Water Temperature: \_\_\_\_\_

Wind Speed: \_\_\_\_\_ Visibility Conditions: \_\_\_\_\_

Moon phase: \_\_\_\_\_ Humidity: \_\_\_\_\_

Description of weather conditions: \_\_\_\_\_  
\_\_\_\_\_

Brand name and model of light used to conduct surveys: \_\_\_\_\_

Were binoculars used for the surveys (circle one)?            YES    NO

Brand, model, and power of binoculars: \_\_\_\_\_

**Appendix E.**  
**California Red-legged Frog Survey Data Sheet**

**AMPHIBIAN OBSERVATIONS**

Species	# of indiv.	Observed (O) Heard (H)	Life Stages	Size Class	Certainty of Identification

Describe potential threats to California red-legged frogs observed, including non-native and native predators such as fish, bullfrogs, and raccoons: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Other notes, observations, comments, *etc.*

- Necessary Attachments:**
4. All field notes and other supporting documents
  5. Site photographs
  6. Maps with important habitat features and species locations

EXHIBIT 6

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# North Cabrillo Highway Subdivision Biological Resource Assessment

Half Moon Bay, California

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**Prepared For:**

City of Half Moon Bay  
501 Main Street  
Half Moon Bay, California 94019  
Attn: Steve Flint

**Contact:**

Dana Riggs  
riggs@wra-ca.com

**Date:**

January 2010



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Appendix A.	List of Observed Plants and Wildlife Species in the Project Area and Study Area
Appendix B:	Representative Photographs
Appendix C:	Special Status Plant and Wildlife Species Table

## 1.0 INTRODUCTION

On November 11, 2010 WRA, Inc. (WRA) conducted a biological reconnaissance of the Stoloski Property (APN 048-133-010; hereinafter, "Project Area"); and the surrounding 200-foot-wide Study Area required by section 18.38.035. Mapping of Coastal Resources, around the Project Area including the off-site Pullman Ditch located on North Cabrillo Highway (Highway 1) in the City of Half Moon Bay, San Mateo County, California (Figure 1).

The purpose of this reconnaissance and report is to identify, describe, and map any potential existing wild strawberry habitat, sensitive habitats including riparian and wetland areas or other Environmentally Sensitive Habitat Area (ESHA), and "rare, threatened, or endangered" species which may occur in the Project Area and the surrounding 200-foot-wide Study Area (Figure 1). Additionally, this report includes an analysis of potential impacts associated with an application for a Coastal Development Permit (CDP) (hereinafter, the "proposed project"). The proposed project consists of an application for a CDP and Tentative Parcel Map to divide approximately 2.1 acres of existing farmed lands into four lots, and to construct a new on-site storm drain system to replace an existing open channel (Pullman Ditch), located along the northern boundary of the proposed Project Area. The proposed project would not include development other than infrastructure including the installation of streets, storm drains, and utilities.

WRA performed the biological reconnaissance in accordance with the City of Half Moon Bay (City) Local Coastal Program (LCP), including the Section 18.38.035 of the Zoning Code LCP Implementation Plan, and Chapter 3 of the Land Use Plan. This assessment is based on site conditions observed on the date of the site visit, related information available at the time of the study, and from past reports completed for properties located on or adjacent to Pullman Ditch. This report also contains an evaluation of potential impacts to special status species or ESHAs that may occur as a result of the proposed project and potential mitigation measures to compensate for those impacts.

As part of this study, WRA also performed a habitat assessment for rare, endangered, or unique species listed in the LCP that typically occur in habitats similar to those of the Project and Study Areas including: the California Red-legged Frog (CRLF, *Rana draytonii*), San Francisco Garter Snake (SFGS, *Thamnophis sirtalis tetrataenia*), and Raptors, to determine if the Project Area or Study Area provides "habitats containing or supporting rare and endangered species," as that term is used in the City LCP.

### 1.1 Setting

The Stoloski Property (Project Area) is located at 37° 29' 19.40" N latitude, 122° 27' 07.84" W, longitude, approximately ± 20 feet west of Highway 1 and 600 feet landward of the Pacific Ocean, ±9,300 feet northwest (2.0 miles, up coast) from the intersection of Highways 1 and 92. (Figure 1). The nearest streams mapped by the California Coastal Commission (CCC) (2004) are: Frenchman's Creek, approximately 2,500 feet to the south; Naples Ditch (aka "Naples Creek"), 875 feet to the north; and Arroyo de en Medio, 2600 feet to the north of the Project Area.

The LCP designates the Project Area as Planned Development (PD). The Zoning Map designates the site Planned Unit Development (PUD). The Project Area is bordered by residential development to the north, a commercial nursery to the east, agricultural fields to the south, and the Half Moon Bay State Beach and Pacific Ocean to the west. The western boundary of the Project Area is 225 feet east of Balboa Boulevard (part of the Half Moon Bay State Beach park road and bike trail).

Present Pullman Ditch<sup>1</sup> (top of bank) is located on the northern boundary outside of the Project Area; culverts extend underneath existing residential structures for a length of +80 feet. Waters enter Pullman Ditch through a box culvert located adjacent to the northwest corner of the Project Area, but is located in Caltrans right-of-way. The box culvert drains various properties including the nursery located on the east side of Highway One.

Pullman Ditch, where it traverses the Study Area north of the Project Area, consists of a man-made, mechanically excavated one to two feet deep and one to two feet wide, geometrical channel, with earthen bed and banks. At the time of the site visit, water was flowing through the ditch. (See Appendix B for photographs). The western most extent of Pullman Ditch within the Study Area is daylighted and bounded by a concrete retaining wall to the north and straw bale swales to the south for a length of ±90 feet, as shown in Appendix B. The eastern extent of the ditch is a narrow (approximately 5 feet wide) deeply incised channel dominated by non-native vegetation. Pullman ditch trends southwesterly north of the Project Area boundary and drains into the Pacific Ocean through a box culvert at the westernmost extent of the Study Area.

#### *1.1.1. Project Area*

The approximately 2.1-acres (91,476 square feet) Project Area consists of existing agricultural and ruderal field bordered by Pullman Ditch to the north, Cabrillo Highway to the east, the Half Moon Bay State Beach and Pacific Ocean to the west, and additional row crop fields to the south (Figure 1). Portions of the Project Area are used for equipment and material storage and dominated by ornamental shrubs and compacted gravel. Additionally, at the time of the site visit, the eastern portion of the Project Area was used as a pumpkin patch.

---

<sup>1</sup> Pullman Ditch was dug by hand in or about 1912 as an agricultural drain, +2 feet wide and +1.5 feet deep, south of its present location. Pullman Ditch consists of an open ditch with culverts, located in the side yards of or partly underneath, homes approved and constructed after 1976 on Champs Elysee, Alameda, Pullman, and Naples Avenues. In addition, Pullman Ditch discharges to the gully and beach at the State Park unit through a culvert underneath the paved park road and trail.



Figure 1. Location Map

North Cabrillo Highway Subdivision  
Half Moon Bay, California



Date: December 2010  
Map By: Michael Rochelle

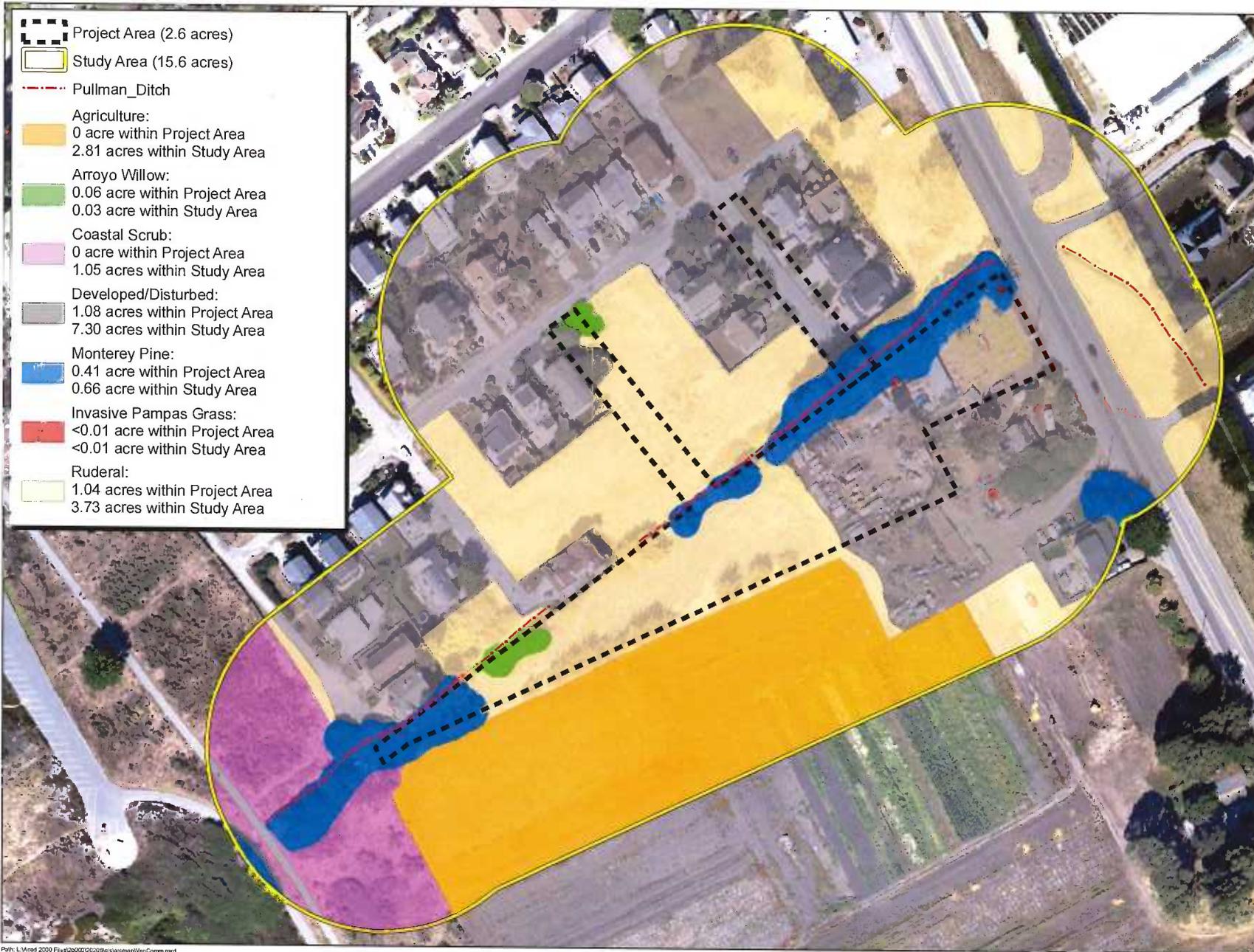
### 1.1.2 Study Area

Non-native ruderal herbaceous grassland exists within the surrounding 200-foot-wide Study Area on the adjacent vacant lots immediately to the north of the Project Area. Land use to the south of the Project Area is dominated by agricultural row crops. Horticultural landscaping associated with the adjacent homes also occurs within the Study Area to the north. Coastal scrub is present in the western portion of the Study Area; this vegetation community is highly disturbed likely due to adjacent agricultural and recreational land uses. Additionally, a commercial nursery is located east of Highway 1 and the Project Area within the Study Area.

## 1.2 Project Description

The proposed project consists of an application for a CDP and Tentative Parcel Map to divide approximately 2.1 acres of existing farmed lands and coastal scrub into four lots, and to construct a new on-site storm drain system to replace an existing open channel (Pullman Ditch), located on adjoining properties along the northern boundary of the Project Area (Figure 2). Local Coastal Program (LCP) Land Use Plan designates the Project Area as Planned Development (PD). The Project Area is located in a Planned Unit Development zoning district, which is consistent with the LCP. The existing parcel would be subdivided into four parcels with a portion of Parcel D designated Reserve (open space). The proposed project would not include development other than infrastructure including the installation of streets, sidewalks, storm drains, and utilities.

Access to the proposed project would be from extensions of Pullman Avenue and Champs Elysee Boulevard. Pullman Avenue would be extended 60 feet with a cul-de-sac and the extension of Champs Elysee Boulevard would be constructed in the existing right of way from Washington Boulevard to the Project Area with a cul-de-sac. Cul-de-sacs are located on the Project Area. Sidewalks, gutters, and culverts would be added to bring these streets to city standards. A storm drain culvert would be constructed from Cabrillo Highway westerly to Naples Avenue as a replacement facility for the existing Pullman Ditch. Sewers would be constructed from Naples Avenue easterly to Champs Elysee Boulevard and Pullman Avenue. According to information provided by the Applicant, the existing sewer grades conflict with the proposed storm drain culvert, thus precluding a southerly extension of the sewer line to the site. The existing water mains in Champs Elysee Boulevard and Pullman Avenue would be extended to the Project Area. Total earthwork for street and infrastructure improvements would include less than 200 cubic yards of soil (Ashley 2010). Earthwork related to infrastructure was not included in the tentative parcel map. Generally these impacts are temporary as storm drains and culverts are underground and soils are balanced on-site.

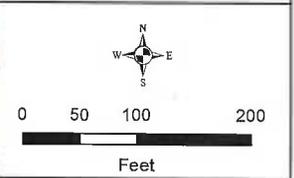


-  Project Area (2.6 acres)
-  Study Area (15.6 acres)
-  Pullman\_Ditch
- Agriculture:**  
 0 acre within Project Area  
 2.81 acres within Study Area
- Arroyo Willow:**  
 0.06 acre within Project Area  
 0.03 acre within Study Area
- Coastal Scrub:**  
 0 acre within Project Area  
 1.05 acres within Study Area
- Developed/Disturbed:**  
 1.08 acres within Project Area  
 7.30 acres within Study Area
- Monterey Pine:**  
 0.41 acre within Project Area  
 0.66 acre within Study Area
- Invasive Pampas Grass:**  
 <0.01 acre within Project Area  
 <0.01 acre within Study Area
- Ruderal:**  
 1.04 acres within Project Area  
 3.73 acres within Study Area

  
 ENVIRONMENTAL CONSULTANTS  
 2169-G East Francisco Blvd.  
 San Rafael, CA 94901  
 (415) 454-8868 Phone  
 (415) 454-0129 Fax

North Cabrillo Highway  
 Subdivision  
 Half Moon Bay,  
 California

Figure 2.  
 Vegetation Communities



Map Date: December 2010  
 Map By: Michael Rochele

Path: L:\Mod 2000 Files\2000\02\2009\gis\arcmap\vegComm.mxd

## **2.0 REGULATORY SETTING**

### **2.1 The California Coastal Act**

The CCC, in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone under the California Coastal Act (CCA). On land the coastal zone varies in width from several hundred feet in highly urbanized areas up to five miles in certain rural areas, and offshore the coastal zone includes a three-mile-wide band of ocean. Development activities, which are broadly defined by the CCA to include (among others) construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a CDP from the CCC. The CCA includes goals and policies that constitute the statutory standards applied to planning and regulatory decisions made by the CCC and by local governments.

### **2.2 City of Half Moon Bay Local Coastal Program Land Use Plan and Coastal Resource Conservation Standards**

The Half Moon Bay Land Use Policies and Map constitute the Land Use Plan of the LCP. The Zoning Code (Title 18 of the Municipal Code, including Chapter 18.20, which regulates Coastal Development Permits) together with the Zoning District Map constitutes the Implementation Plan of the LCP. The primary goal of the LCP is to ensure that the local government's land use plans, zoning ordinances, zoning maps, and implemented actions meet the requirements of the provisions and policies of the Coastal Act at the local level. Coastal Resource Conservation Standards are described in Chapter 18.38 of the LCP and define sensitive habitat and coastal resource areas for conservation to include: sand dunes; marine habitats; sea cliffs; riparian areas; wetland, coastal tidelands and marshes, lakes, ponds, and adjacent shore habitats; coastal or off-shore migratory bird nesting sites; areas used for scientific study, refuges, and reserves; habitats containing unique or rare and endangered species; rocky intertidal zones; coastal scrub communities; wild strawberry habitat; and archaeological resources. Marine and water resources (including riparian habitats) are further defined in Chapter 3 of the Land Use Plan.

## **3.0 METHODS**

On November 11, 2010, WRA biologists traversed both the Project Area and the Study Area on foot to determine (1) the presence of sensitive coastal resources or habitat areas (ESHAs); and (2) if existing conditions provided suitable habitat for any rare, endangered, or unique plant or wildlife species (special status species), including a detailed habitat assessment specifically for endangered CRLF and SFGS known to occur in the vicinity of the Project Area. All plant and wildlife species encountered were recorded, and are summarized in Appendix A.

### **3.1 Sensitive Biological Communities**

The Project and Study Areas were surveyed to describe biological communities present and whether any sensitive habitats as defined in the LCP were present. A preliminary wetland assessment was conducted and findings were based primarily on the presence of wetland plant indicators or hydric soils. Biological communities present in the Project and Study Areas were classified based on existing plant community descriptions described in *Terrestrial Vegetation of California, Third Edition* (Barbour, Keeler-Wolf, and Schoenherr, 2007). In addition, the presence

of any unvegetated, ponded areas or flowing water, or evidence indicating their presence such as a high water mark or a defined drainage course, was investigated. The banks of Pullman Ditch, were also examined for hydrophytic or stream-dependent woody plant species (riparian species) other than those listed in the LCP.

### 3.2 Special Status Species

Potential occurrence of special status species in the Project and Study areas was evaluated by first determining which special status species occur in the vicinity of the Project and Study areas through a literature and database search. Database searches for known occurrences of special status species included the Half Moon Bay 7.5 minute U.S. Geological Survey (USGS 1997) quadrangle and the seven surrounding USGS quadrangles. The following sources were reviewed to determine which special status plant and wildlife species have been documented to occur in the vicinity of the Project and Study Areas:

- California Natural Diversity Database(CNDDDB) records California Department of Fish and Game (CDFG 2010)
- California Native Plant Society (CNPS) Electronic Inventory records (CNPS 2010)
- CDFG publication "California's Wildlife, Volumes I-III" (Zeiner et al. 1990)
- CDFG publication "Amphibians and Reptile Species of Special Concern in California" (Jennings and Hayes 1994)
- A Field Guide to Western Reptiles and Amphibians (Stebbins 2003)

A site visit was conducted to search for suitable habitats within the Project and Study Areas for those species identified as occurring within the vicinity. Potential for special status species to occur in the Project and Study Areas was then evaluated according to the following criteria:

(1) No Potential. Habitat on and adjacent to the site is clearly unsuitable for the species requirements (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime).

(2) Unlikely. Few of the habitat components meeting the species requirements are present, and/or the majority of habitat on and adjacent to the site is unsuitable or of very poor quality. The species is not likely to be found on the site.

(3) Moderate Potential. Some of the habitat components meeting the species requirements are present, and/or only some of the habitat on or adjacent to the site is unsuitable. The species has a moderate probability of being found on the site.

(4) High Potential. All of the habitat components meeting the species requirements are present and/or most of the habitat on or adjacent to the site is highly suitable. The species has a high probability of being found on the site.

(5) Present. Species is observed on the site or has been recorded (i.e. CNDDDB, other reports) on the site recently.

Appendix C presents the special status plant and wildlife species with a potential to occur within the Project Area, their habitat requirements, and a rating of potential for occurrence.

A site visit is intended to identify suitable habitat for special status species known to occur in the vicinity in order to determine their potential to occur within the Project or Study Areas. The site visit

does not constitute a protocol-level survey and is not intended to determine the actual presence or absence of a species; however, if a special status species is observed during the site visit, its presence will be recorded and discussed.

### **3.3 Rare, Endangered, and Unique Species Habitat Assessment**

A WRA wildlife biologist conducted the habitat assessment on the entirety of the Project Area and all physically accessible portions of the Study Area to determine whether habitats containing or supporting rare and endangered species or unique species are present in the Project Area or Study Area. All potential aquatic and wetland habitats were located and examined for the presence of potential CRLF or SFGS habitat per the habitat requirements of each species as described in the literature. Any potential breeding and estivation sites were noted. Upland habitats, trees, and shrubs were evaluated for their potential to support breeding raptors common to the San Mateo County coastal zone.

## **4.0 RESULTS AND DISCUSSION**

No coastal resources or sensitive habitats were found in the Project Area or Study Area. Biological communities in the Project Area include Monterey pine stands, arroyo willow stands, ruderal herbaceous grassland, and developed areas. Expanding outward from the Stoloski lot the Study Area includes Monterey pine stands, ruderal herbaceous grassland, northern coastal scrub, agricultural and developed areas. The site is bordered to the east by a Highway One and to the west by a public access recreation area along the Pacific Ocean. Residential development is present to the north, and actively farmed agricultural areas are present to the south. A description of the biological communities within the Project and Study Areas is provided below and illustrated in Figure 2.

### **4.1 Biological Communities**

#### *4.1.1 Non-sensitive Biological Communities*

##### Monterey Pine

Monterey pine is one of the most widely planted conifers in the world, but in its native habitat it is restricted to five locations: the Monterey Peninsula, Cambria, Año Nuevo, and two locations on Mexican islands off the Pacific coast of Baja California. It is listed as a rare CNPS 1B taxon, but is also considered an invasive species where planted outside of its native range (Cal-IPC 2010). Half Moon Bay is not within the native range of Monterey pine, and stands in the Project and Study areas appear to have originated as linear plantings. Approximately 0.41 acre of Monterey pine stands are present in the Project Area, primarily along Pullman Ditch. An additional 0.66 acre of Monterey Pine is present in the Study Area along Pullman Ditch and in an isolated stand adjacent to Highway One. Although Monterey pines are considered a unique species by the City of Half Moon Bay (LCP page 59), the management restrictions outlined in the LCP only apply to forestry practices. Monterey Pine provides suitable nesting habitat for many migratory avian species, and may provide roosting habitat for Monarch butterfly.

### Arroyo Willow

Arroyo Willow typically occurs in an open to dense broadleaved winter-deciduous thicket typically <10 m in height and tolerant of frequent flooding and sustained inundation. The Project Area contains approximately 0.06 acre of arroyo willow comprising of approximately three to four trees. Although arroyo willow is a riparian species, conditions within the Project Area do not meet the requirements of a riparian habitat per the LCP guidelines. Chapter 3 of the LCP defines riparian vegetation as "at least 50 percent of the cover in an area made up of riparian species" (Riparian Habitats, page 42, of the LCP). The total 0.09 acre (0.06 acre within the Project Area) of arroyo willow present in the Study Area comprises less than 50 percent of the total vegetative cover along Pullman Ditch; Pullman Ditch itself is not a riparian area per the definition provided in the LCP due to its ephemeral nature. Arroyo willow provides suitable nesting habitat for many migratory avian species.

### Ruderal herbaceous grassland

Ruderal herbaceous grassland refers to weedy, non-forested areas that have been partially developed or have been used in the past for agriculture. The Project Area is composed of approximately 1.04 acres of ruderal herbaceous grassland. Plant species observed in ruderal herbaceous grassland in the Project Area include Italian thistle, bristly ox-tongue, and broadleaved pepperweed. Dominant plant species consist of ornamental plants including red passionflower (*Passiflora* aff. *manicata*) and garden nasturtium. A linear stand of Monterey cypress (*Callitropsis macrocarpa*) was presumably planted as a windbreak as they are sited along the southern boundary of the Project Area within the ruderal grassland habitat.

There is a small field at the extreme western edge of the Project Area where pumpkins and other winter vegetable crops are cultivated. During the November 11, 2010 site visit, these areas included pumpkins and other non-native species such as wild radish (*Raphanus sativus*) and black mustard (*Brassica nigra*), as well as non-native annual grasses.

In addition, approximately 3.73 acres of ruderal herbaceous grassland is also present in the Study Area in between areas of urban and commercial development. A small patch of ruderal grassland is present at the western edge of the Study Area just east of the coastal scrub. Dominant plant species in this area include California aster (*Aster chilensis*), bristly ox-tongue, broadleaved pepperweed and Italian ryegrass. Ruderal herbaceous grassland provides habitat for a number of common wildlife species adapted to disturbed conditions including Deer Mouse (*Peromyscus maniculatus*) and Striped Skunk (*Mephitis mephitis*).

### **Pullman Ditch**

Within the ruderal herbaceous grassland habitat, Pullman Ditch, which trends along the northern boundary of the Project Area, is a man-made ephemeral drainage for an upslope highway corridor segment. In 1947, the California Division of Highways installed two parallel 24-inch diameter pipes underneath and perpendicular to Highway 1 that, in conjunction with earthen and concrete-lined ditches to the east, apparently discharged to the head of a westerly-trending ditch located immediately adjacent to, the Stoloski parcel. In recent years, the nurseries east of Highway 1 discharged irrigation runoff to Pullman Ditch, in addition to seasonal episodic stormwater runoff from the sub-watershed (WRA 2007). Currently, the nurseries' water management program is designed and constructed to capture irrigation water runoff for on-site storage and reuse, but stormwater runoff associated with measurable precipitation from the sub-watershed, including the impervious greenhouse complex surfaces, continues to be discharged in typically high velocity,

short period flows to Pullman Ditch that are observed to flow rapidly to the ocean (WRA 2007).

Pullman Ditch consists of culverts, located in the side yards of or partly underneath, homes approved and constructed after 1976 on Champs Elysee, Alameda, and Naples Avenues. In addition, Pullman Ditch discharges to the gully and beach at the State Park unit through a culvert underneath the paved park road and trail.

Pullman Ditch is not mapped or designed as a blue-line (intermittent or perennial) stream by the City, CCC (2004) or USGS (1997), nor as a "riparian habitat" by the City. By contrast, Naples Drainage (Creek) is mapped as a "Riparian Habitat-Intermittent Stream" by the City (i.g., Habitat Areas and Water Resources Overlay map, page 223, of the LCP) and is shown as a jurisdictional stream by CCC (2004). Per the LCP Land Use Plan Chapter 3, Pullman Ditch neither qualified as a "riparian area" due to its ephemeral nature, nor does it support riparian vegetation.

According to the LCP, the definition of a riparian corridor is "the limit of riparian vegetation"(i.e. a line determined by the association of plant and animal species normally found near streams, lakes, or other bodies of fresh water: The LCP further defines a riparian corridor as a corridor must contain at least a 50 percent cover of some combination of [riparian] plants listed" (Riparian Corridors, page 66, of the LCP). Of these species, only arroyo willow is present in Pullman Ditch in and adjacent to the Project Area, and provides less than 50 percent cover along the length of Pullman Ditch. Greater than 50 percent of the vegetation along the ditch within the Project Area and Study Area is non-native ornamental passion flower and garden nasturtium with only a few willow trees. The remaining area consists of Himalayan blackberry (*Rubus discolor*), native California blackberry (*R. ursinus*), ruderal species, Monterey pine, and planted ornamental trees. The majority of the eastern portion of the ditch (approximately 1000 feet extending from Highway 1 to the State Park walking path) is shaded by a semi-contiguous canopy of Monterey cypress and Monterey pine.

#### Developed

Developed areas within the Project Area include residential housing, roads, and ornamental landscaping, including a few arroyo willows, garden nasturtium, and other ornamental shrubs and trees. The Project Area is composed of approximately 1.08 acres of developed/disturbed areas. The Study Area is composed of approximately 7.30 acres. These areas provide limited opportunities for wildlife species, but can be utilized by opportunistic species such as raccoon (*Procyon lotor*).

#### Agricultural Areas

The agricultural lands located in the southern portion of the Study Area consist of ruderal grassland and row-crop species. Approximately 2.81 acres of agricultural crops are present in the Study Area. Agricultural areas provide foraging habitat for many raptor species.

#### Northern Coastal Scrub

Northern coastal scrub usually occurs at <500 m elevation in the coolest and most mesic habitats of any of the coastal scrub types. The Study Area includes approximately 1.05 acres of Northern coastal scrub. Dominant species include coyote brush (*Baccharis pilularis*), poison oak (*Toxicodendron diversilobum*), sticky monkeyflower (*Mimulus auranticus*), black mustard (*Brassica nigra*), and fennel (*Foeniculum vulgare*). This biological community is relatively disturbed particularly along the edges of recreational trails and adjacent agricultural areas.

## 4.2 Special Status Species within the Project and Study Areas

No special status plant or wildlife species or “unique” species, per the CDFG or City of Half Moon Bay LCP, were observed during the November 11, 2010 site visit. All of the plant and wildlife species observed in the Project Area are common species (Appendix A).

### 4.2.1 Plants

Based upon a review of the resources listed in Section 3.2, 65 special status plant species and two special status mosses are known to occur in nine USGS-quad area surrounding the Project and Study areas (CDFG 2010; CNPS 2010). Twenty-two (22) special status plant species are documented in the CNDDDB within five miles of the Project and Study areas (CDFG 2010; Figure 3). Appendix C summarizes the potential for occurrence for these species in the Project Area. Forty-eight (48) of these plant species were considered to be unlikely to occur or have no potential to occur onsite due to lack of suitable habitat, such as species dependent on serpentine soils, chaparral, wetlands, or inland conditions. One species, Monterey pine, is planted onsite, and the Project and Study areas are not in the native range where this species is considered rare.

Nineteen (19) species, including 17 plants and two mosses, were determined to have a moderate potential to occur in the Study Area. However, these species are unlikely to occur in the Project Area due to higher levels of disturbance and a lack of coastal scrub habitat. No special status plant species were considered to have a high potential to occur in the Project or Study areas due to limited native habitat and levels of disturbance onsite. Species with a moderate potential to occur in the Study Area are discussed below.

**Blasdale’s bent grass (*Agrostis blasdalei*). CNPS List 1B.** Blasdale’s bent grass is a perennial grass in the family Poaceae that is rhizomatous but usually grows in compact cespitose-like clumps. This species occurs at coastal bluff edges in coastal dune, coastal bluff scrub, and coastal prairie communities. It is found in sandy or gravelly soil close to rocks, often in nutrient poor soil with sparse vegetation. It is known from 5 to 150 meters in elevation in Marin, Mendocino, San Mateo, Santa Cruz, and Sonoma counties, and blooms from May through July.

**San Francisco Bay spineflower (*Chorizanthe cuspidata var. cuspidata*). CNPS List 1B.** San Francisco Bay spineflower is an annual herbaceous species in the family Polygonaceae. It occurs in coastal bluff scrub, coastal dunes, coastal prairie, coastal scrub, often on sandy soils. It is recorded from 3 to 215 meters in elevation in Alameda, Marin, San Francisco, San Mateo, and possibly Sonoma counties, and blooms between April and August.

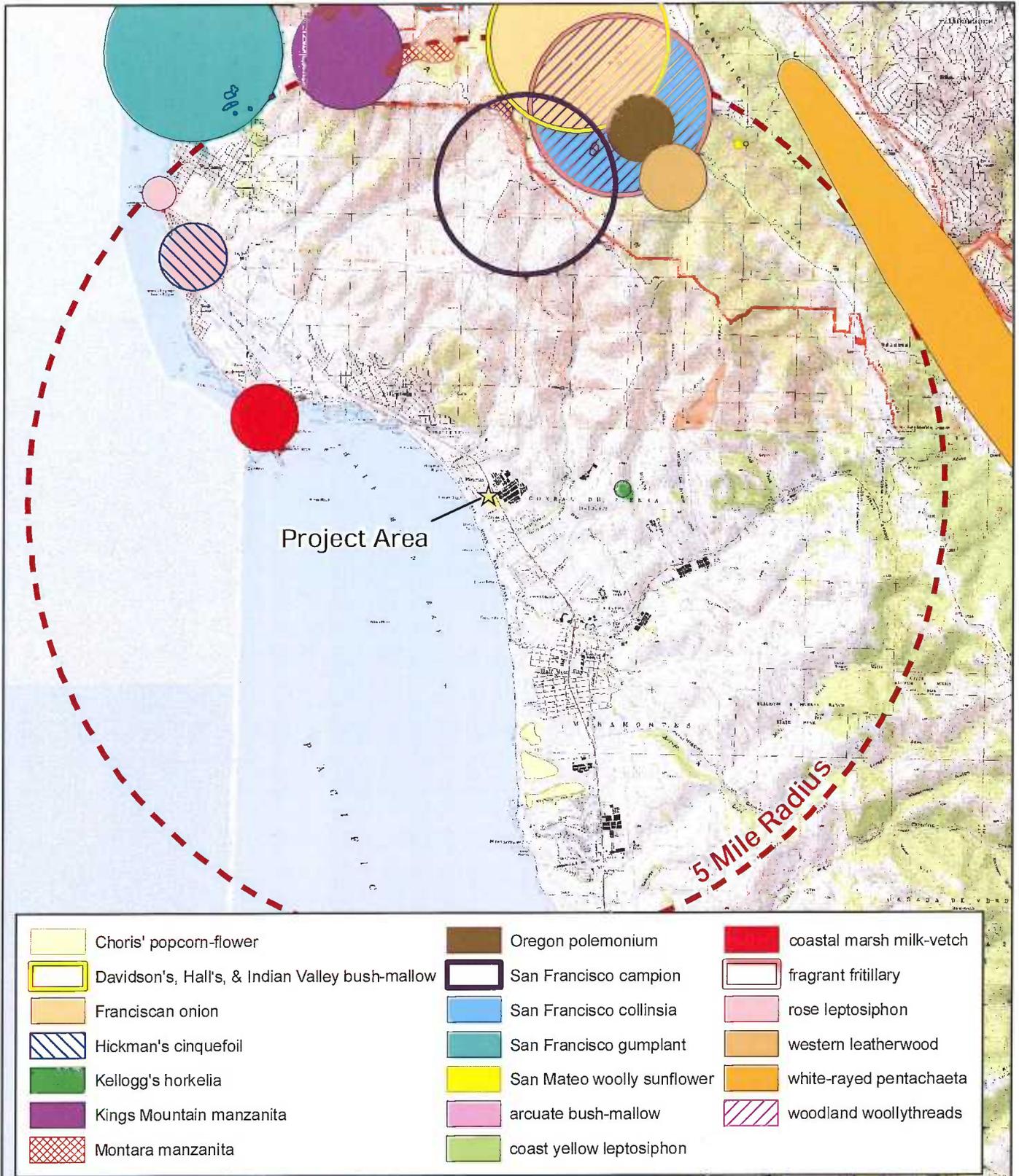


Figure 3. CNDDDB Plants

North Cabrillo Highway Subdivision  
Half Moon Bay, California



0 1 2  
Miles



ENVIRONMENTAL CONSULTANTS

Date: December 2010  
Basemap: USGS Topo Quad  
Map By: Michael Rochelle

**Robust spineflower (*Chorizanthe robusta* var. *robusta*). Federal Endangered, CNPS List 1B.** Robust spineflower is an annual herb in the family Polygonaceae. It occurs in openings in cismontane woodland, coastal dunes, coastal scrub, and maritime chaparral. It is typically found on sandy terraces and bluffs or in loose sand. It is recorded from 3 to 120 meters in elevation in Monterey, Santa Cruz, San Francisco, and possibly Marin counties, and is presumed extirpated from Alameda, Santa Clara, and San Mateo counties. It blooms between April and September.

**Franciscan thistle (*Cirsium andrewsii*). CNPS List 1B.** Franciscan thistle is a perennial herb in the family Asteraceae. It occurs in mesic areas, and sometimes serpentine soils, in broadleaved upland forest, coastal bluff scrub, coastal prairie, and coastal scrub. It is recorded from 0 to 135 meters in elevation in Contra Costa, Marin, San Francisco, San Mateo, and Sonoma counties, and blooms between March and July.

**Compact cobwebby thistle (*Cirsium occidentale* var. *compactum*). CNPS List 1B.** Compact cobwebby thistle is a perennial herb in the family Asteraceae. It occurs in both sand and clay soils in chaparral, coastal dunes, coastal prairie, and coastal scrub. It is recorded from 5 to 155 meters in elevation in San Luis Obispo and possibly Monterey counties, and is believed to be extirpated from San Francisco County. It blooms between April and June.

**San Francisco collinsia (*Collinsia multicolor*), CNPS List 1B.** San Francisco collinsia is an annual herb in the family Scrophulariaceae. It occurs in closed-cone coniferous forest and coastal scrub, and is sometimes found on serpentine soils. It is recorded from 30 to 250 meters in elevation in Monterey, Marin, Santa Clara, Santa Cruz, San Francisco, and San Mateo counties, and blooms between March and May.

**Coast (or "sand-loving") wallflower (*Erysimum ammophilum*). CNPS List 1B.** Coast wallflower is a perennial herb in the family Brassicaceae. It occurs in sandy openings in maritime chaparral, coastal dunes, and coastal scrub. It is recorded from 0 to 130 meters in elevation in Monterey, San Mateo, Santa Cruz, and Santa Barbara counties as well as Santa Rosa Island. It blooms between February and June.

**Marin checker lily (*Fritillaria lanceolata* var. *tristulis*). CNPS List 1B.** Marin checker lily is a perennial bulb in the family Liliaceae. It occurs in coastal bluff scrub, coastal prairie, and coastal scrub. It is recorded from 15 to 150 meters in elevation in Marin and San Mateo counties, and it blooms between February and May.

**Dune (or "blue coast") gilia (*Gilia capitata* ssp. *chamissonis*). CNPS List 1B.** Dune gilia is an annual herb in the family Polemoniaceae. It occurs in coastal dunes and coastal scrub. It is recorded from 2 to 200 meters in elevation in Marin, San Francisco, and Sonoma counties, and it blooms between April and July.

**San Francisco gumplant (*Grindelia hirsutula* var. *maritima*). CNPS List 1B.** San Francisco gumplant is a perennial herb in the family Asteraceae. It occurs on bluffs or in sandy or serpentine soils in coastal scrub, coastal bluff scrub, and valley and foothill grassland communities. It is recorded from 15 to 400 meters in elevation in Marin, San Francisco, San Luis Obispo, and San Mateo counties, with possible additional occurrences in Monterey and Santa Cruz counties. It blooms between June and September.

**Short-leaved evax (*Hesperevax sparsiflora* var. *brevifolia*).** CNPS List 1B. Short-leaved evax is a small annual herb in the family Asteraceae. It occurs in sandy or rocky bluffs and flats in coastal bluff scrub and coastal dunes. It is recorded from 0 to 200 meters in elevation in all coastal counties from Del Norte to Santa Cruz County, but is presumed extirpated from San Francisco. It blooms between March and June.

**Kellogg's horkelia (*Horkelia cuneata* ssp. *sericea*).** CNPS List 1B. Kellogg's horkelia is a perennial herb in the family Rosaceae. It occurs on gravelly or sandy soils in closed-cone coniferous forest, maritime chaparral, and openings in coastal scrub habitat. It is recorded from 10 to 200 meters in elevation in Alameda, Monterey, Santa Barbara, Santa Cruz, San Mateo, and San Luis Obispo counties, and is presumed extirpated from Marin and San Francisco counties. It blooms between April and September.

**Point Reyes horkelia (*Horkelia marinensis*).** CNPS List 1B. Point Reyes horkelia is a perennial herb in the family Rosaceae. It occurs in sandy flats and dune in coastal dunes, coastal prairie, and coastal scrub. It is recorded from 5 to 30 meters in elevation in Mendocino, Marin, Santa Cruz, San Mateo, and Sonoma counties. It blooms between May and September.

**Perennial goldfields (*Lasthenia californica* spp. *macrantha*).** CNPS List 1B. Perennial goldfields is a perennial herb in the family Asteraceae. It occurs in coastal bluff scrub, coastal dunes, and coastal scrub. It is recorded from 5 to 520 meters in elevation in Mendocino, Sonoma, Marin, San Mateo, and San Luis Obispo counties. It blooms between January and November.

**Marsh microseris (*Microseris paludosa*).** CNPS List 1B. Marsh microseris is a perennial herb in the family Asteraceae. It occurs in closed-cone coniferous forest, cismontane woodland, coastal scrub, and valley and foothill grassland, often where grasses are low-growing. It is recorded from 5 to 300 meters in elevation in Mendocino, Monterey, Marin, San Benito, Santa Cruz, San Luis Obispo, and Sonoma counties, and is presumed extirpated from San Francisco and San Mateo counties. It blooms between April and June.

**Oregon polemonium (*Polemonium carneum*).** CNPS List 2. Oregon polemonium is a perennial herb in the family Polemoniaceae. It occurs in coastal prairie, coastal scrub, and lower montane coniferous forest. It is recorded from 0 to 1830 meters in elevation in Del Norte, Siskiyou, Humboldt, Sonoma, Marin, Alameda, San Francisco, and San Mateo counties. It blooms between April and September.

**San Francisco champion (*Silene verecunda* ssp. *verecunda*).** CNPS List 1B. San Francisco champion is a perennial herb in the family Caryophyllaceae. It occurs in sandy soils in coastal bluff scrub, chaparral, coastal prairie, coastal scrub, and valley and foothill grassland. It is recorded from 30 to 645 meters in elevation in San Francisco, San Mateo, Santa Cruz, and Sutter counties. It blooms between March and August.

**Coastal triquetrella (*Triquetrella californica*).** CNPS List 1B. Coastal triquetrella is a moss in the family Pottiaceae. It grows on soil in coastal bluff scrub or coastal scrub communities. It is recorded in fewer than ten small coastal occurrences in California, between 10 and 100 meters in elevation, as well as one occurrence in Oregon. California occurrences are in Del Norte, Mendocino, Sonoma, Marin, San Francisco, San Mateo, Contra Costa, and San Diego counties.

#### 4.2.2 Wildlife

A total of 61 special status wildlife species are known to occur in the general vicinity of the Project Area and Study Area; nine of these species are documented to occur within five miles of the Project and Study Area by CNDDDB (CDFG 2010; Figure 4). Appendix C summarizes the potential for occurrence for these species in the Project and Study Areas. Those with a moderate or high potential to occur in the Project Area or Study Area are discussed below.

#### Mammals

**Hoary Bat (*Lasiurus cinereus*). WBWG Medium Priority.** This species is most abundant in the forests and croplands of the plains states and in forests of the Pacific Northwest, and is also found in the forests of the eastern United States and the arid deserts of the Southwest (TPWD 2007). Diverse woodland habitats with a mixture of forest and small open areas that provide edges seem ideal for this species (TPWD 2007). This species has been found in Spanish moss, squirrel nests, woodpecker holes, and out in the open on the trunks of trees. Summer tree roosts are typically located along edge habitats close to feeding grounds. Most females rear young in deciduous trees, while males prefer to roost in conifers. Both sexes appear to prefer older trees as roosts, which they use for up to five weeks, and apparently provide greater safety (TPWD 2007). Mature trees and snags may provide suitable roost habitat for this species in the Project Area, as well as in the Study Area.

**Pallid Bat (*Antrozous pallidus*). CDFG Species of Special Concern, WBWG High Priority.** The Pallid Bat is found in a variety of low elevation habitats throughout California. It selects a variety of day roosts including rock outcrops, mines, caves, hollow trees, buildings, and bridges. Night roosts are usually found under bridges, but also in caves, mines, and buildings. Pallid Bat are sensitive to roost disturbance. Unlike most bats, Pallid Bat primarily feed on large ground-dwelling arthropods, and many prey are taken on the ground (Zeiner, et al. 1990). Mature trees and snags may provide suitable roost habitat for this species in the Project Area, as well as in the Study Area.

**Western Red Bat (*Lasiurus blossevillii*). WBWG High Priority.** This species is considered highly migratory, and broadly distributed, reaching from southern Canada, through much of the western United States. They are typically solitary, roosting primarily in the foliage of trees or shrubs. Day roosts are commonly in edge habitats adjacent to streams or open fields, in orchards, and sometimes in urban areas possibly an association with riparian habitat (particularly willows, cottonwoods, and sycamores). Mature trees and snags may provide suitable roost habitat for this species in the Project Area as well as in the Study Area.

**San Francisco Dusky-footed Woodrat (*Neotoma fuscipes annectens*). CDFG Species of Special Concern.** This species inhabits hardwood forests of moderate canopy with a moderate to dense understory. The subspecies occurs in Coast Ranges between San Francisco Bay and the Salinas River (Matocq, 2003). It prefers brushy riparian habitats, coast live oak woodland, and dense scrub communities. Prominent stick houses typically provide evidence of its presence. Nests are constructed out of leaves, shredded grass, and other material. Habitat for this species exists in the shrubs of the Project and Study areas.

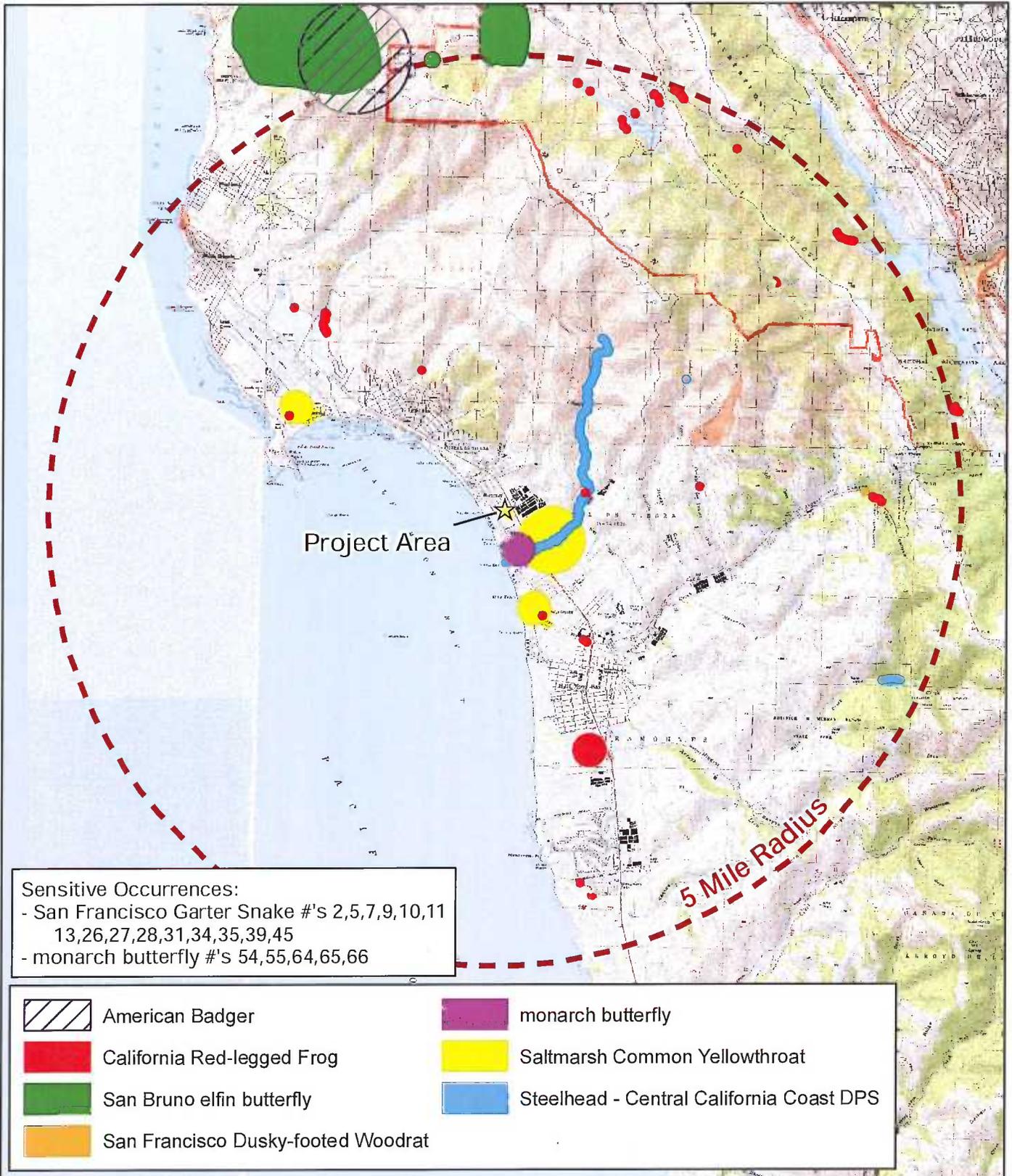


Figure 4. CNDDDB Wildlife

North Cabrillo Highway Subdivision  
Half Moon Bay, California



ENVIRONMENTAL CONSULTANTS

Date: December 2010  
Basemap: USGS Topo Quad  
Map By: Michael Rochelle

## Birds

**White-tailed Kite (*Elanus leucurus*). CDFG Fully Protected Species.** Kite occur in low elevation grassland, agricultural, wetland, oak woodland, and savannah habitats. Riparian zones adjacent to open areas are also used. Vegetative structure and prey availability seem to be more important than specific associations with plant species or vegetative communities. Lightly grazed or ungrazed fields generally support large prey populations and are often preferred to other habitats. Kite primarily feed on small mammals, although, birds, reptiles, amphibians, and insects are also taken. Nest trees range from single isolated trees to trees within large contiguous forests. Preferred nest trees are extremely variable, ranging from small shrubs (less than 10 ft. tall), to large trees (greater than 150 ft. tall) (Dunk 1995). Suitable foraging habitat is present and suitable nesting habitat may be present in trees and/or large shrubs within the Project Area, as well as in the Study Area.

**Olive-sided Flycatcher (*Contopus cooperi*). CDFG Species of Special Concern, USFWS Bird of Conservation Concern.** Within the coniferous forest biome, this species is most often associated with forest openings, forest edges near natural openings (e.g., meadows, canyons, rivers) or human-made openings (e.g., harvest units), or open to semi-open forest stands (Altman, 2000). Suitable foraging habitat is present and suitable nesting habitat may be present in trees and/or large shrubs within the Project Area, as well as in the Study Area.

**Loggerhead Shrike (*Lanius ludovicianus*). CDFG Species of Special Concern, USFWS Bird of Conservation Concern.** Loggerhead Shrike is a common resident and winter visitor in lowlands and foothills throughout California. It prefers open habitats with scattered trees, shrubs, posts, fences, utility lines or other perches. Nests are usually built on a stable branch in a densely-foliaged shrub or small tree and are usually well-concealed. The highest densities occur in open-canopied valley foothill hardwood, valley foothill hardwood-conifer, valley foothill, riparian, pinyon-juniper, juniper, and desert riparian habitats. While this species eats mostly Arthropods, they also take amphibians, small to medium-sized reptiles, small mammals and birds. They are also known to scavenge on carrion. Suitable foraging habitat is present and suitable nesting habitat may be present in trees and/or large shrubs within the Project, as well as in the Study Area.

**San Francisco Yellowthroat (*Geothlypis trichas sinuosa*). USFWS Bird of Conservation Concern, CDFG Species of Special Concern.** This subspecies of the Common Yellowthroat is found in freshwater marshes, coastal swales, riparian thickets, brackish marshes, and saltwater marshes. Their breeding range extends from Tomales Bay in the north, Carquinez Strait to the east, and Santa Cruz County to the south. This species requires thick, continuous cover such as tall grasses, tule patches, or riparian vegetation down to the water surface for foraging and prefers willows for nesting. Suitable foraging habitat is present in the Project and Study Areas and suitable nesting habitat may be present in Pullman Ditch downstream of the Project Area and the bike path. Typical nesting habitat is not present in the Project Area.

**Bryant's Savannah Sparrow (*Passerculus sandwichensis alaudinus*). CDFG Species of Special Concern.** The Bryant's is a Savannah Sparrow subspecies and California endemic whose range extends along the fog belt from Monterey County north to Del Norte County. It is most often associated with salt marsh habitat, but will also use grasslands. Suitable foraging habitat is present in the Project and Study Areas and suitable nesting habitat may be present in the undisturbed grassland and northern coastal scrub habitat within the Study Area. Typical nesting habitat is not present in the Project Area.

## Invertebrates

**Monarch Butterfly (*Danaus plexippus*). CDFG Roost Protected.** Winter roost sites extend along the coast from northern Mendocino to Baja California, Mexico. Roosts are located in wind protected tree groves, with nectar and water sources nearby. A documented roost site is located approximately 0.4 miles south of the Project Area. Suitable winter roost habitat may exist for this species in the Monterey pine trees located in the Project Area.

A focused discussion on the potential occurrence of rare, endangered, or unique species: CRLF, SFGS, and raptors is provided below.

### **4.3 Rare, Endangered, and Unique Species Habitat Assessment**

#### *4.3.1 California Red-legged Frog*

Primary Constituent Elements (PCEs), as defined by the Fish and Wildlife Service (Service), are those physical and biological features of a landscape that a species needs to survive and reproduce. For CRLF, the Service has determined the PCEs to be 1) aquatic breeding habitat, 2) aquatic non-breeding habitat, 3) upland habitat and 4) dispersal habitat. Each of these elements is discussed in greater detail below with relation to the Project and Study Areas. The Project and Study Areas are not within U.S. Fish and Wildlife Service (USFWS) designated Critical Habitat (USFWS 2010).

#### Aquatic Breeding Habitat

According to USFWS (2010), *Aquatic Breeding Habitat* includes standing bodies of fresh water (with salinities less than 4.5 ppt), including natural and manmade (e.g., stock) ponds, slow-moving streams or pools within streams, and other ephemeral or permanent water bodies that typically become inundated during winter rains and hold water for a minimum of 20 weeks in all but the driest of years.

Pullman Ditch is an ephemeral man-made ditch that is fully channelized, or culverted, between Highway 1 and Naples Avenue, including where it traverses immediately above and below the Project Area. Even under normal rainfall conditions, this reach of Pullman Ditch does not provide inundation at a sufficient depth or length of time during the breeding season to support CRLF breeding. In addition, high winter flows would likely preclude egg deposition attempts.

#### Aquatic Non-breeding Habitat

According to USFWS (2010), *Aquatic Non-Breeding Habitat* includes freshwater pond and stream habitats, as described above, that may not hold water long enough for the species to complete its aquatic life cycle but which provide for shelter, foraging, predator avoidance, and aquatic dispersal of juvenile and adult CRLF. Other wetland habitats considered to meet these criteria include, but are not limited to: plunge pools within intermittent creeks, seeps, quiet water refugia within streams during high water flows, and springs of sufficient flow to withstand short-term dry periods.

Pullman Ditch may provide aquatic non-breeding habitat, however, barriers between the Project Area and nearby occurrences and nearby suitable habitat likely prevent this species from occurring in this feature. Potential barriers are discussed in greater detail below in the dispersal section.

### Upland Habitat

According to USFWS (2010), *Upland Habitat* includes areas adjacent to or surrounding breeding and on-breeding aquatic and riparian habitat up to a distance of one mile (1.6 km) in most cases (i.e., depending on surrounding landscape and dispersal barriers) including various vegetational types such as grassland, woodland, forest, wetland, or riparian areas that provide shelter, forage, and predator avoidance for CRLF.

Vegetation adjacent to the ditch is limited to primarily non-native and ornamental species, with a few arroyo willows, and does not extend more than a few feet, nor is this habitat contiguous between Pullman Ditch and other suitable aquatic habitats. Other sources of refugia such as ground squirrel burrows are not present. The Project Area may provide suitable upland Habitat for CRLF, however, barriers from nearby occurrences and nearby suitable habitat likely prevent this species from occurring on site. Potential barriers are discussed in greater detail below in the dispersal section.

### Dispersal Habitat

According to USFWS, *Dispersal Habitat* includes accessible upland or riparian habitat within and between occupied or previously occupied sites that are located within one mile (1.6 km) of each other, and that support movement between such sites. Dispersal habitat includes various natural habitats, and altered habitats such as agricultural fields, that do not contain barriers (e.g., heavily traveled roads without bridges or culverts) to dispersal. Dispersal habitat does not include moderate- to high-density urban or industrial developments with large expanses of asphalt or concrete, nor does it include large lakes or reservoirs over 50 acres (20 ha) in size, or other areas that do not contain those features identified in PCEs as essential to the conservation of the species.

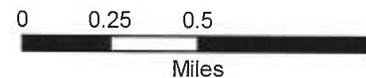
According to CNDDB, the nearest documented CRLF population is 0.75 miles east of the Project Area, in the headwaters of Frenchman's Creek (CDFG 2010; Figures 4 and 5). An additional occurrence is located approximately 1.2 miles to the south adjacent to Pilarcitos Creek (Figures 4 and 5). The Project Area is within the dispersal capabilities of the CRLF occurrence in Frenchman's Creek, however, Highway 1 and a large nursery complex to the east of the Project Area compromise a substantial and possibly insurmountable barrier. As mentioned in the PCE definition above, dispersal habitat does not include industrial developments with large expanses of asphalt or concrete, which the nursery complex contains. The development of Miramar is a substantial barrier to the north and the Pacific Ocean is to the west of the Project Area. If CRLF were to migrate from the mouth of Frenchman's Creek along the State Beach unit to the area where Pullman Ditch discharges into the incised gully, the frog's travel up-ditch would be impeded by culverts, including a four-foot drop culvert located approximately 200 feet to the west. In addition, active agricultural fields, horse stables, residential development and public beach access make it unlikely a CRLF would disperse to the Project Area from this direction.

Due to the lack of connectivity with other suitable habitats, high channelization and potentially high velocity flows during the rainy season in Pullman Ditch, CRLF are not expected to be present in the Project Area or in the surrounding 200-foot-wide Study Area.



Figure 5. Nearby CRLF Occurrence Information  
(SFGS Locations are Sensitive)

North Cabrillo Highway Subdivision  
Half Moon Bay, California



ENVIRONMENTAL CONSULTANTS

Date: December 2010  
Map By: Michael Rochelle

#### 4.3.2 San Francisco Garter Snake

The SFGS requires seasonal or permanent water bodies as a basic habitat requirement. In addition to the basic requirement of a water source, Barry (2005) listed four critical habitat components for the SFGS:

1. "vegetative cover extending a minimum of three feet upland from the water's edge;
2. basking sites upland of the water;
3. food sources for all life stages of the snake; and
4. water depth of less than three-feet within three feet of the water's edge, providing access to food sources."

During the summer, snakes may disperse from the typical vegetated aquatic-edge habitat into adjacent areas to feed on amphibians or hibernate in rodent burrows. Typically, SFGS utilize upland rodent burrows within several hundred feet of their aquatic habitat (McGinnis 2001). Literature suggests that lowland rodent burrows are not utilized for hibernation due to the potential for flooding (McGinnis 2001).

During periods of heavy rain or shortly after, SFGS may make long-distance movements of up to 2 km along drainages within the dense riparian cover, and are not documented to travel over open terrain (McGinnis 2001).

The nearest documented SFGS occurrence is located approximately two miles from the Project Area (CDFG 2010). The location of the SFGS occurrence is characterized by dense riparian habitat, gradual banks, and the presence of CRLF. In contrast, Pullman Ditch lacks the typical vegetative cover and food sources (CRLF). Some vegetative cover does extend a minimum of three feet from the water's edge along portions of Pullman Ditch, however, water flow in this portion of the ditch travels at a relatively high velocity and therefore, does not provide suitable foraging habitat. Upland basking sites are not present in most places adjacent to Pullman Ditch due to heavy vegetation, development and agricultural practices. Culverts are also located immediately above and below the Project Area. Furthermore, food sources for all life stages are most likely not present. Sierran Treefrog (*Pseudacris sierra*) may be present in Pullman Ditch; however, based on the habitat assessment for CRLF, ranid frogs (the primary prey of SFGS, e.g. CRLF) are unlikely to be present.

No suitable aquatic habitat is located within the vicinity of the Project Area and residential housing and heavily farmed areas preclude most of the Study Area as potential upland habitat.

There are no streams that connect the Project Area and the nearest SFGS location, and dense riparian vegetation between the two is therefore lacking. Pullman Ditch has limited vegetative cover. The cover is not contiguous and SFGS would have to travel over open terrain or through culverts within the ditch to reach the Project Area from the nearest occurrences. SFGS would have to navigate through active agricultural fields and active horse stables in order reach the Study Area and Pullman Ditch. These barriers are not insurmountable, but because SFGS are not documented to travel over open terrain and habitat in the Study Area is suboptimal, it is unlikely SFGS would disperse to Pullman Ditch from the south. In terms of potential SFGS dispersal from the east, Highway 1 (a highly traveled route), the 50+ foot long culverts under the highway, truck and other vehicle parking along the easterly highway right-of-way, and the nursery complex to the east of the Highway all constitute barriers to SFGS movement to or from potential breeding habitat to the east. Furthermore, the lack of connectivity between documented SFGS occurrences, and the absence

of continuous vegetative cover along Pullman Ditch indicate Pullman Ditch does not provide suitable dispersal habitat. SFGS are unlikely to occur in the Project and Study Areas.

#### 4.3.3 Raptor Assessment

The Project Area and Study Area do not provide suitable breeding habitat for ground nesting raptors such as Northern Harrier (*Circus cyaneus*). Agricultural activities, residential development and disturbance from the public and their pets along the Half Moon Bay Coastal Trail likely prevent nesting attempts from ground nesting raptors. Suitable breeding habitat, however, is available for many raptor species in the mature trees within and adjacent to the Project Area. Some raptor species that could potentially utilize these trees as breeding habitat include: Red-tailed Hawk (*Buteo jamaicensis*), American Kestrel (*Falco sparverius*) and White-tailed Kite (*Elanus leucurus*). In addition, the agricultural fields and adjacent open space provide suitable foraging habitat for a number of resident and migratory raptor species.

## 5.0 IMPACTS AND MITIGATION

The conclusions of this biological resources report and impact analysis reflect conditions observed at the time of the field visit and the biologist's interpretation of those conditions.

### 5.1 Biological Communities

According to Chapter 18.38.020A of the City of Half Moon Bay's Zoning Code, sensitive habitat areas are defined as areas in which plant or animal life or their habitats are either rare or especially valuable, and/or as designated on the Habitat Areas and Water Resources Overlay Map. Areas considered by the City to be sensitive include sand dunes, marine habitat, sea cliffs, riparian areas, and wetlands, among others. No sensitive habitat areas were observed in the Project Area or within the surrounding 200-foot-wide Study Area. Furthermore, no habitat for rare, endangered, or unique species is present in the Project Area; northern coastal scrub habitat in the Study Area provides marginal habitat for a few special status plant and wildlife species. However measures discussed below are prescribed to avoid potential impacts to such species. Therefore, impacts to these resources are not anticipated from the proposed project, and no additional mitigation measures are required or recommended.

The Project Area is a vacant lot with ruderal vegetation. The Study Area consists of residential areas, heavily farmed areas, and ruderal habitat. Pullman Ditch, between Highway 1 and the State Beach, and specifically where it traverses the Project Area, is a man-made ditch that in segments (reaches) functions through pipes, and culverts.

Pullman Ditch does not provide habitat for, or contain, plant or animal life that is either rare, unique, or especially valuable, as defined by CDFG; is not a perennial or intermittent (blue-line) stream as defined or mapped by the City's LCP, the CCC updated post-LCP certification map, or the USGS; does not contain, front on, or connect to coastal tidelands or marshes; does not support migratory waterfowl; is not a fish and wildlife biological scientific research and study area; contains neither lakes nor ponds, nor their adjacent shore habitat; is not part of a CDFG or USFWS refuge or reserve; and does not include or consist of sand dunes. (LCP Land Use Policy 3.5 (3-1(a)), definition of sensitive habitat areas.) Because of its ephemeral nature it is not considered a "riparian area" by LCP definition, nor does it contain "riparian vegetation". Based on these findings, Pullman Ditch is not considered an ESHA under the definitions of the LCP.

No riparian vegetation was identified in the Project Area, pursuant to the definition of riparian vegetation provided in the LCP. The willow and blackberry plants present on the property are not growing within Pullman Ditch. Although these species are listed as potential wetland and riparian plants, they can also grow in areas where the groundwater is relatively high; though not within the upper 12 inches normally associated with wetland habitats. It is assumed that these plants are tapping deeper groundwater sources; not the surface water within the ditch itself. Furthermore, vegetation within the Project Area contains less than 50 percent riparian species, and is therefore not considered "riparian habitat" according to the LCP or a "riparian corridor" (LCP pages 42 and 66). Culverts extending more than 50 feet located under residential homes immediately north of the Project Area reduce connectivity for riparian plant and animals. Based on this analysis, we do not consider this willow patch to meet the definition of ESHA under the City's LCP, and no Riparian Habitat or Riparian Corridor is present in the Project Area. No other ESHA is present within the Project Area or the surrounding 200-foot-wide Study Area.

The proposed project is located in a Planned Unit Development (PUD) Zoning District. According to the City's Zoning Code Chapter 18.15.010, a PUD district is intended to provide for a variety of land uses, such as attached and detached single-family residential development, multiple-family housing development, professional and administrative areas, commercial and industrial uses, institutional uses, and public and private open space and recreation opportunities through the adoption of a comprehensive development plan as set forth in the city general plan and Chapter 18 of the Zoning Code. The proposed project would be consistent with the development requirements as defined in Chapter 18.15.010 of the City of Half Moon Bay's Zoning Code. Approval of the proposed project is pursuant to City review. Further phased development of the Project Area would be investigated under separate review processes. There are no adopted Habitat Conservation Plans for the Project Area.

## **5.2 Special Status Plants and Wildlife**

### *5.2.1 Special Status Plants*

There is moderate potential for the special status plants described in Section 4.3 to occur in the Study Area, particularly in the coastal scrub community. Due to potential disturbance, special status plant species are unlikely to occur in the Project Area. Therefore, seasonally-appropriate protocol-level plant surveys in the Study Area are recommended. These surveys should cover the blooming periods of all species listed in Section 4.3, or be conducted at an appropriate time to rule out presence of the species.

Since special status plants are unlikely to occur within the Project Area, but may be found within the Study Area, the proposed project has potential to impact the buffers of special status plant ESHAs. If any special status plant species are identified in the Study Area or Project Area, development activities should avoid these areas and appropriate buffer areas established around such species. The size and location of any buffer shall be determined by a qualified biologist. If a suitable protective ESHA buffer cannot be preserved, mitigation should include restoration and improvement of habitat within the remaining buffer area or other suitable areas on the property. Restoration would include removal of invasive species that threaten the continuance of the special status species and its habitat. Fencing or other barriers should be installed to prevent disturbance of the special status species ESHA and buffer area during and following project construction.

Direct impacts to special status plant species are not expected from the project as currently proposed. However, if the results of protocol-level surveys indicate the presence of special status species in proposed work areas, additional mitigation measures should be developed by a qualified biologist.

### 5.2.2 *Special Status Wildlife*

Potential impacts to special status wildlife species in the Project Area and Study Area, if present, could occur as a result of the proposed project and can be summarized as follows:

- Bats, including some special status bats, may be impacted by construction activity during critical life stages if disturbance occurs near potential bat roosts (trees, snags, undisturbed buildings).
- Construction activities have the potential to impact the San Francisco Dusky-footed Woodrat if the stick houses of this species are observed within or near areas where disturbance is to take place.
- Nesting birds, including a number of special status birds, may be impacted if construction activities occur in or near potential breeding habitat during the breeding season from February through August.
- The monarch butterfly may be impacted if construction activities disturb occupied overwintering roost habitat in the Study Area.

#### Bats

Habitats that support large, mature trees, snags and abandoned buildings have the potential to support roosting habitat for common and special status bats. Bat roosts are protected by CDFG and removal of occupied roosts would be considered a significant impact. WRA recommends the following measures be implemented to avoid take of roosting or special status bats.

Trees and snags may be removed outside of the maternity roosting season without performing preconstruction bat surveys, September through March. Preconstruction surveys for bats should take place during the maternity roosting season (defined as: April 1 through August 31) if trees, snags or unused buildings are to be removed during this time frame. Additionally, unused buildings may provide winter roost habitat and should be surveyed for roosts if removed between November and March.

If special status bat species are detected during surveys, appropriate, species and roost specific mitigation measures will be developed. Such measures may include postponing removal of trees, snags or structures until the end of the maternity roosting season or construction of species appropriate roosting habitat within, or adjacent to the Study Area. Consultation with CDFG may be warranted to determine appropriate mitigation measures if roosts are disturbed or destroyed.

#### Woodrat

The shrub areas in the Study Area have the potential to support the San Francisco Dusky-footed Woodrat. If stick houses are observed, they should be avoided if possible. If avoidance is not feasible, the houses will be dismantled by hand under the supervision of a biologist. If young are encountered during the dismantling process, the material should be placed back on the house and the house should remain unmolested for two to three weeks in order to give the young enough time to mature and leave the house. After two to three weeks, the nest dismantling process may begin again. Nest material will be moved to suitable adjacent areas that will not be impacted.

## Birds

Nesting birds protected by the Migratory Bird Treaty Act and other regulations may be impacted by construction during the bird breeding season from February through August. Ideally, the clearing of vegetation, removal of buildings and the initiation of construction can be done in the non-breeding season from September through January. If these activities cannot be done in the non-breeding season, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. The survey area should encompass the Project Area and the entirety of the Study Area. If nesting birds are discovered in the vicinity of planned activities, a buffer area around the nest should be established until the nest is vacated. The size of the buffer would be dependent on the habitat, level of disturbance and the particular species of nesting bird.

## Monarch Butterfly

Monarch butterflies have known winter roosts just to the south of the Study Area. No impacts would be expected if tree removal is scheduled between March and September. If construction activities or vegetation removal is scheduled during the winter from October through February, then a monarch winter roost survey would be recommended. Detection of a roost may require consultation with CDFG.

EXHIBIT 7



August 8, 2013

Kerry Burke  
Burke Land Use  
34 Amesport Landing  
Half Moon Bay, CA 94019

**Re: Coastal Commission Appeal of Stoloski Subdivision, A-2-HMB-12-005**

Dear Ms. Burke,

This letter responds to the biological contentions in the August 1, 2013 Coastal Commission Staff Report for the appeal of the City of Half Moon Bay approval of the Stoloski Subdivision ("Staff Report").

WRA, Inc. (WRA) has been employed by the City of Half Moon Bay to conduct and oversee the biological resources assessment, surveys, and reporting on the Pullman Ditch and on surrounding properties since 2000. This work was performed in connection with proposed development on a number of parcels surrounding the Pullman Ditch, including the proposed subdivision now before the Coastal Commission. In connection with this work, we have visited Pullman Ditch and the surrounding area on numerous occasions. WRA biologists are highly trained in the identification of both California red-legged frog (CRLF) and San Francisco garter snake (SFGS) and their habitats; our biologists carry USFWS federal recovery 10(a)(1)(A) permits for both species, have worked on numerous projects in the region, and are very familiar with documented breeding and dispersal habitats throughout Half Moon Bay and the greater San Mateo County coastal area.

WRA disagrees with the contentions in the Staff Report that Pullman Ditch is either a riparian habitat or an environmentally sensitive habitat area. No riparian habitat is present in the Pullman Ditch areas proposed for development. Neither the California Red Legged Frog (CRLF) nor the San Francisco Garter Snake (SFGS) have been found in the Pullman Ditch and it is highly unlikely that either species would ever be found in the Pullman Ditch. According to Title 18.38.050 of the City of Half Moon Bay Zoning Code, development is permitted within sensitive habitat areas if they will not have any significant adverse environmental impact.

*Absence of Riparian Habitat in the Project Development Area*

Vegetation alongside Pullman Ditch in the proposed project development area consists primarily of the following upland species: Monterey pine, Monterey cypress, California blackberry (aka dewberry), poison hemlock, and ruderal non-native herbaceous species such as bristly ox-tongue. As stated in the Staff Report, riparian corridors by definition in the LCP are defined by the "limit of riparian vegetation" including: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder. "Such a corridor must contain at least a 50% cover of some combination of the

plants listed." Chapter 3 of the LCP further states that "vegetation shall be considered riparian if at least 50% of the cover in an area is made up of riparian species". Because no riparian species are present in the Pullman Ditch, no riparian vegetation will be removed and thus, the Appellants' claim that such vegetation will be eliminated is unfounded.

Attachment A includes a map showing the location of dominant vegetation types adjacent to Pullman Ditch, photographs of these communities taken at the location of each crossing, and a list of all botanical species found within the proposed development area located along Pullman Ditch.

#### *No Significant Adverse Impacts to ESHAs*

WRA concluded in our biological resource assessment report dated January 2010 for the City of Half Moon Bay regarding the Stoloski Subdivision that both CRLF and SFGS are unlikely to occur in the proposed development area. These findings are based on extensive site assessments and surveys over many years by WRA biologists of the Pullman Ditch and the surrounding areas to assess the suitability of the site to support a breeding population of either CRLF or SFGS and to assess connectivity between nearby documented breeding sites to Pullman Ditch for foraging. WRA concluded based on these findings that the project would not likely impact either species due to the very low likelihood that either species is present in Pullman Ditch.

Pullman Ditch does not provide breeding habitat for CRLF or SFGS. Based on numerous visits to the Pullman Ditch over many years, WRA found that high flows (as evidenced by steeply incised channels lacking vegetation), preclude CRLF egg deposition throughout most of Pullman Ditch. In the few areas where pools occur, those pools either do not hold water long enough for CRLF to metamorphose or do not provide sufficient cover from predators; both CRLF larvae and adult SFGS require dense emergent vegetation or undercut banks and woody debris not found in Pullman Ditch to escape or hide from predators – particularly in or near residential areas where predators such as raccoon and feral cat are more abundant. Extensive investigations of Pullman Ditch and upland areas surrounding the ditch revealed small mammal burrows used by both species are predominantly absent – likely due to mowing and discing of surrounding fields. SFGS depend on small mammal burrows both for cover as well as to bear young in. Small mammal burrows may be present in denser vegetation adjacent to the ditch; however burrows in these areas do not receive enough sunlight to maintain thermoregulation for SFGS adults and young during winter months. The absence of rodent burrows alone likely precludes SFGS from occupying Pullman Ditch, however other factors were also found to indicate both CRLF and SFGS absence.

The lack of connectivity between documented occurrences and Pullman Ditch support the conclusion that CRLF and SFGS are unlikely to be present. Pullman Ditch does not lie along any logical dispersal corridor between known sites (see Attachment B). Heavy residential development to the north is a significant barrier due to fencing and lack of cover. To the east, Pullman Ditch ends at the large nursery complex east of Highway 1, where water is captured from measurable sheet flow runoff from the surrounding greenhouses and impervious lots. The nursery itself forms a substantial barrier to dispersing CRLF or SFGS from the foothills located to the east; impervious lots and buildings largely preclude movement. If frogs were to make it through the greenhouse complex they would then face several underground culverts measuring several hundred feet in length or they would have to cross a very large parking lot and then Highway 1. To the south, open grassland subject to frequent mowing and discing is present,

thereby eliminating rodent burrows and other forms of cover. WRA surveyed this area extensively to determine if any irrigation or similar man-made ditches are present that might connect Pullman Ditch to Frenchman's Creek located one half mile to the south. No such features were found and little to no cover (shrubs, rodent burrows, tall grasses) needed for SFGS dispersal is present in this area. The nearest SFGS occurrence is in Pilarcitos Creek, located south of Frenchman's Creek. No recorded observations of SFGS in Frenchman's Creek are present in the literature or CDFW database. However, Frenchman's Creek like Pilarcitos Creek provides optimal conditions for SFGS including adequate cover, perennial water and food sources, and an abundance of rodent burrows in uplands close to the creek. Therefore, it is presumed SFGS likely occur in Frenchman's Creek.

While CRLF could conceivably disperse across open areas lacking cover such as the area to the south of the site; though it seems unlikely for them to do so given the more optimal conditions present in Frenchman's Creek. The USFWS concluded in their final designation of critical habitat that CRLF are unlikely to disperse into uplands away from their breeding sites unless aquatic habitat is not available (2010). Fellers and Kleeman (2007) found that most CRLF dispersal events are within 500 meters of their breeding habitat, and longer overland journeys tend to be rare occurring only when aquatic breeding sites dry out. Because the nearest documented occurrence of CRLF is located in Frenchman's Creek more than 500 meters to the south, it seems highly unlikely based on USFWS conclusions that CRLF would leave Frenchman's Creek – a perennial water source containing optimal cover both in and adjacent to the creek for both larvae and adults for the more marginal quality habitat in Pullman Ditch. The same holds true for SFGS – SFGS are unlikely to leave optimal foraging habitat for the more marginal habitat present in Pullman Ditch.

The proposed subdivision and crossings create no new barriers to dispersal and are wholly located outside of Pullman Ditch and any riparian habitat. Because of the absence of suitable breeding habitat for CRLF and SFGS and the lack of connectivity to more optimal habitats in the vicinity, both species are highly unlikely to be present in Pullman Ditch and therefore are unlikely to be significantly impacted by the proposed project.

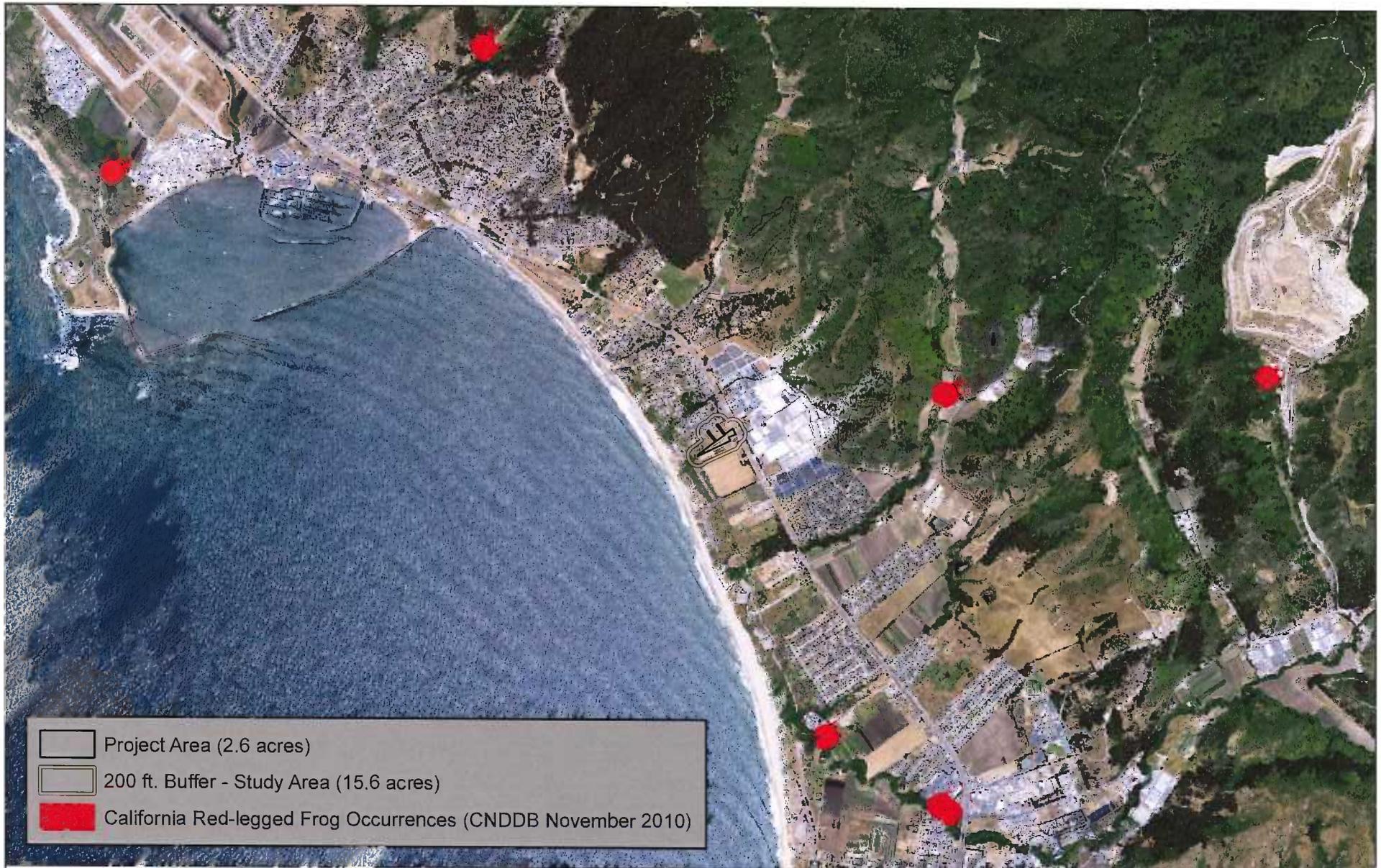
Please do not hesitate to contact me with questions or concerns regarding these findings.

Sincerely,



Dana Riggs  
Associate Principal Biologist

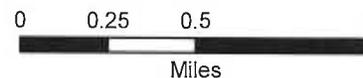
Attachments



-  Project Area (2.6 acres)
-  200 ft. Buffer - Study Area (15.6 acres)
-  California Red-legged Frog Occurrences (CNDDDB November 2010)

Attachment B. Nearby CRLF Occurrence Information  
 (SFGS Locations are Sensitive and not authorized to be shown on public documents)

Stoloski Subdivision  
 Half Moon Bay, California



Date: December 2010  
 Map By: Michael Rochelle

EXHIBIT 8

**RANA RESOURCES**  
P.O. Box 2185  
Davis, CA 95617-2185  
(530) 753-2727  
RanaResources@aol.com

#16,931  
February 09, 2014

Ms. Jeannine Manna  
District Supervisor  
North Central Coast District  
California Coastal Commission

Dear Ms. Manna:

Since 1986, I have been engaged in extensive field work and study of the California red-legged frog (*Rana draytonii*; CRLF) and the San Francisco gartersnake (*Thamnophis sirtalis tetrataenia*; SFGS). During the past 25 years, I have conducted research on CRLF movement and habitats ranging from San Luis Obispo County (Rathbun et al. 1993) to the north in Santa Cruz and San Mateo Counties (e.g., Jennings 2005, Jennings and Hayes 1990). Much of the current knowledge regarding the habitats and movement of CRLF has resulted from this initial work which was extensively used for the U.S. Fish and Wildlife Service (USFWS) recovery plan for the species (U.S. Fish and Wildlife Service 2002).

I've now had a chance to review all the materials regarding the Stoloski Subdivision, A-2-HMB-12-005 Project (which includes Pullman Ditch) in Half Moon Bay as it relates to the possibility of potential habitat for the California red-legged frog (*Rana draytonii*; CRLF) and the San Francisco gartersnake (*Thamnophis sirtalis tetrataenia*; SFGS). Specifically, the reviewed documents included the following:

- North Cabrillo Highway Subdivision Biological Resource Assessment (WRA 2010).
- Pullman Ditch Biological Resources Assessment (H.T. Harvey and Associates 2005).
- North Cabrillo Highway Tentative Parcel Map.
- Various agency correspondence from the California Department of Fish and Wildlife [CDFW] (Formerly California Department of Fish and Game) and USFWS (Triffleman 2006, 2007; DeLeon 2012, 2013; Tattersall 2014).
- WRA letter prepared in response to Coastal Commission Appeal of Stoloski Subdivision (Riggs 2013).

I visited Pullman Ditch and the surrounding area on November 10, 2013 in order get a first-hand assessment of the issues in question. My site assessment included walking the length of Pullman Ditch from Hwy 1 to its terminus at the beach. I additionally viewed the site and adjacent open space along the Half Moon Bay Coastal Trail for the Primary Constituent Elements (PCEs) that comprise the necessary habitat components required for occupancy by CRLF and SFGS. I also investigated the upland areas in the vicinity of the proposed free-span bridge crossings.

Ms. Jeannine Manna  
February 09, 2014  
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Based on my site visit and review of materials, I am in agreement with 2006 and 2007 CDFW and USFWS assessments and with the WRA and H.T. Harvey assessments that the vegetation structure and species composition is not the kind of habitat used by CRLF and SFGS along this part of the Central Coast. The vegetation along the ditch is largely dominated by non-native species and according to WRA (Riggs 2013), does not meet the definition of a "riparian habitat" and does not constitute a "riparian habitat" as defined by the Local Coastal Plan (LCP).

Pullman Ditch only contains fast flowing surface water during periods of rainfall runoff and is thus dry for most of the year. In fact, it was completely dry during my visit. Lack of a continuous presence of surface water is important because it is a critical PCE for CRLF (and hence SFGS) habitat. There is currently no coastal lagoon present at the mouth of Pullman Ditch, only patches of damp sand and several large redwood (*Sequoia sempervirens*) logs were observed. Before Pullman Ditch became deeply incised and downcut, a brackish water lagoon and associated freshwater marsh/riparian zone may have been present. However, current conditions show the mouth of the ditch to have completely filled in with soil and woody debris and thus there is no chance for a lagoon to form.

The above aspect is important. Based on our field work since 1990, we have found that CRLF presence and habitat suitability are closely tied to such lagoon habitats in areas that exhibit the characteristics of Pullman Ditch, where stream systems consistently dry up during the late spring and summer months. Based on previous radio tracking studies of CRLF I have conducted along the coastal lagoons of San Simeon Creek and Pico Creek in extreme northern San Luis Obispo County, we found that juvenile and adult frogs need to hydrate in fresh water every couple of days in order to survive (Rathbun et al. 1993). This means that although CRLF may forage some distance away from riparian zones during periods of rainfall or foggy weather, there must be an established pool of surface water present in the area for them to hydrate.

For the Pullman Ditch location, the closest surface water present that potentially contains CRLF is 875 feet to the north in Naples Ditch [aka "Naples Creek"] and 2,500 feet to the south in Frenchman's Creek. The only potential movement corridor between these two creeks and the Pullman Ditch is a very narrow strip of coastal scrub and large patches of introduced crystalline iceplant (*Mesembryanthemum crystallinum*) along the paved coastal access trail behind the beach. As pointed out in previous WRA correspondence, the rest of the area to the east and north is blocked by urban development, agricultural fields, Hwy 1, and an extensive nursery.

Based on my long-term familiarity with this species along the Central Coast (Jennings and Hayes 1990; Rathbun et al. 1993; and Jennings 1998, 2005), and my experience with known occupied CRLF habitats in Half Moon Bay (e.g., Kehoe Ditch, Belleville Road, and Wavecrest Village), I find it impossible that CRLF would be able to move over 3,300 feet between these two creeks (and to and from the Pullman Ditch) given the absence of sustained surface water, narrow strip

of land available for frog overland movement, and the presence of so much urbanization nearby (with the resulting large population of domestic cats (*Felis catus*) and raccoons (*Procyon lotor*)). I have observed locals to regularly leave pet food at specific outdoor locations in Half Moon Bay for feral cats, raccoons, and other wild animals. Such activities certainly have increased the population of these known predators of CRLF and SFGS (Jennings 2000a, 200b) to artificially high levels. With the only potential movement corridor for CRLF adjacent to the Half Moon Bay Coastal Trail, which would certainly be regularly used by domestic cats and raccoons, no CRLF would be able to move overland without a high probability of being predated.

In light of the above conditions it's just too far of a distance for CRLF to successfully move overland under suitable wet conditions to the Pullman Ditch location from suitable occupied CRLF habitats to the north and south.

Given that CRLF would not be present in the vicinity of Pullman Ditch, then it is also my conclusion that SFGS would also not be present. As stated in Jennings and Hayes (1994) and confirmed by others (e.g., Barry 1994), SFGS populations can only survive in aquatic habitats that contain a ranid frog. This requirement of a large amphibian food base has also been extended to other gartersnake (*Thamnophis* spp.) taxa in parts of California (Jennings et al. 1993). Thus, if there are no CRLF in the immediate area, then SFGS are therefore not present. Further, the negative effect of predation pressures of domestic cats, raccoons, and urbanization would also preclude the presence of SFGS attempting to reach the Pullman Ditch locality for foraging activities.

As noted by Jennings (1992), Barry (1994), and others, SFGS are a rare component of the snake fauna in any habitats they occupy. Invariably, Santa Cruz gartersnakes (*Thamnophis atratus atratus*) and coast gartersnakes (*T. elegans terrestris*) are considerably more abundant (in orders of magnitude) where SFGS are known to be present. This is true at the locations where I have surveyed for SFGS in Half Moon Bay. Thus, any habitats lacking PCEs (such as required food resources) for SFGS, will ensure that the snake is not present because of its very specific habitat requirements for the survival of even a small number of adult snakes.

In summary it is my professional opinion that the Pullman Ditch is not suitable for (or inhabited by) CRLF and SFGS due to the lack of sustained surface water conditions, the proximity and extent of urbanization (with documented frog and snake predators), and the great distance to the nearest suitable CRLF and SFGS habitat via an extremely narrow coastal scrub/iceplant corridor that is regularly patrolled by domestic cats and raccoons.

Agency (CDFW and USFWS) documents maintain that the site is within the known dispersal distance for CRLF and SFGS and, as a result, they hypothesize that Pullman Ditch could be occupied by CRLF and SFGS (Triffleman 2006, 2007; DeLeon 2012; Tattersall 2014).

Ms. Jeannine Manna  
February 09, 2014  
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However, the agencies' hypotheses have not been validated in the biological assessments conducted since 2005 by myself and other biologists who have examined the site and surrounding area in detail, and are familiar with CRLF and SFGS in Half Moon Bay, and have reviewed all of the known information (H.T. Harvey and Associates 2005, WRA 2010, Riggs 2013).

There are many sites within the Half Moon Bay city limits that have suitable PCEs for the presence of CRLF and SFGS. However, a close examination of many individual sites within the City and surrounding area has demonstrated to me that CRLF and SFGS are not found throughout the City and that every drainage within the City is not a potential habitat either for resident populations or for dispersal or foraging. These locations lack one or more PCEs for these species and therefore they are not present. The Pullman Ditch Project falls into the latter category and thus the development of the Stoloski Subdivision including the two proposed, free-spanning bridge crossings of Pullman Ditch would not have any negative effect on CRLF and SFGS populations in the vicinity of Half Moon Bay.

Thank you for allowing me to comment on this project. Please feel free to contact me if you have any questions on the above.

Sincerely,

A handwritten signature in blue ink that reads "Mark R. Jennings". The signature is written in a cursive style with a horizontal line underneath the name.

Mark R. Jennings  
Herpetologist and Fisheries Biologist

Ms. Jeannine Manna  
February 09, 2014  
Page 5.

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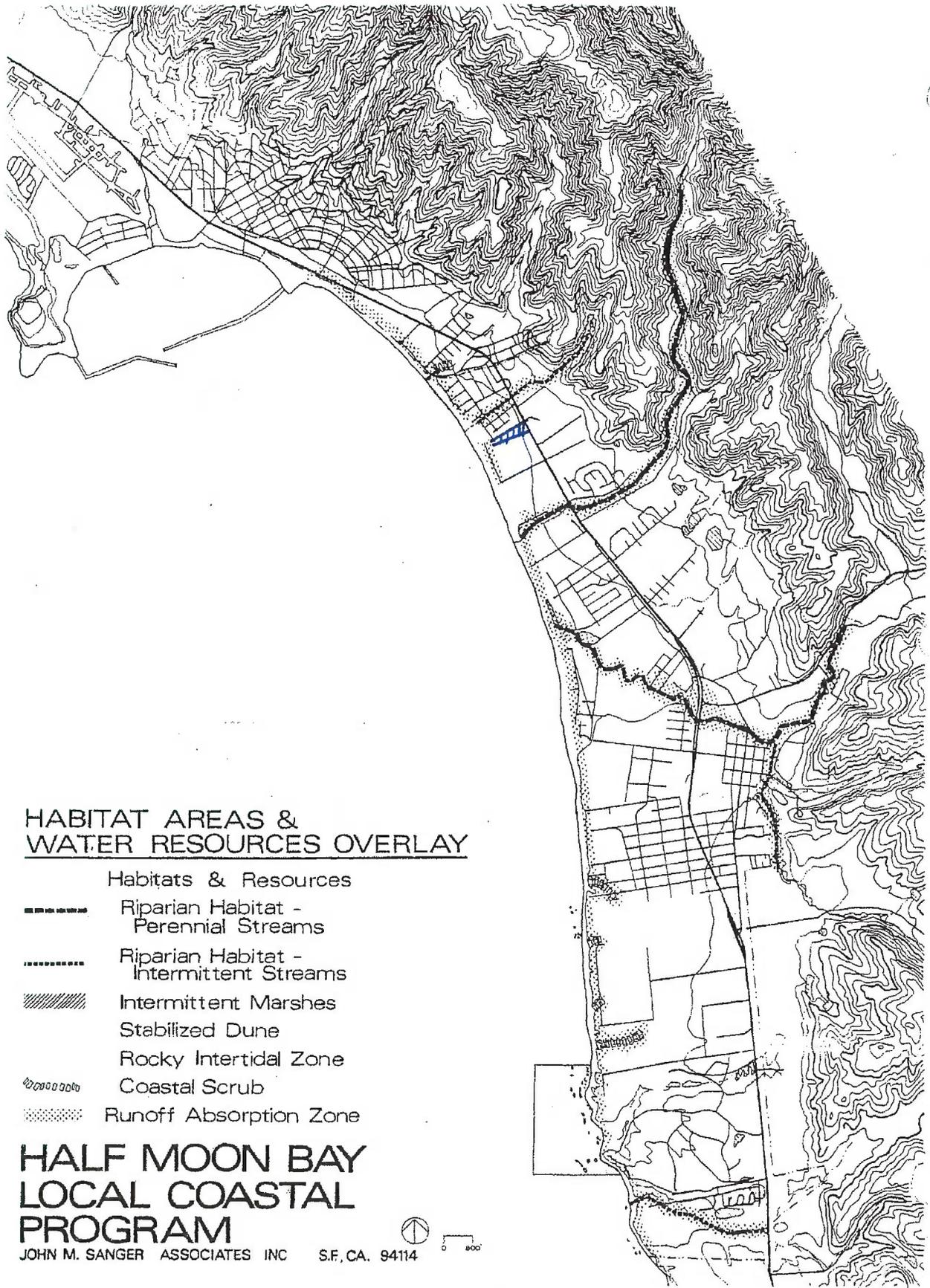
Ms. Jeannine Manna  
February 09, 2014  
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Ms. Jeannine Manna  
February 09, 2014  
Page 7.

WRA, Inc. 2010. North Cabrillo Highway Subdivision, biological resource assessment, Half Moon Bay, California. Final report prepared for Steve Flint, City of Half Moon Bay, California. WRA Environmental Consultants, San Rafael, California. i+27 p. + 3 appendices.

EXHIBIT 9



**HABITAT AREAS &  
WATER RESOURCES OVERLAY**

- Habitats & Resources
- Riparian Habitat - Perennial Streams
- ..... Riparian Habitat - Intermittent Streams
- //// Intermittent Marshes
- Stabilized Dune
- Rocky Intertidal Zone
- ~~~~ Coastal Scrub
- Runoff Absorption Zone

**HALF MOON BAY  
LOCAL COASTAL  
PROGRAM**

JOHN M. SANGER ASSOCIATES INC S.F., CA. 94114

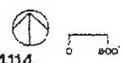


EXHIBIT 10

However, stronger policies are needed to: (1) ensure effective administration and more focused protection by specifying permitted uses and performance criteria for different types of habitats, (2) restore damaged sensitive habitats, and (3) balance Coastal Act requirements for protection of fragile resources with requirements for the provision of shoreline access while keeping in mind that the protection of environmentally sensitive habitats has highest priority.

Since most sensitive habitats in Half Moon Bay are related to streams and the coastal bluff and foredune area, problems associated with maintenance and restoration are closely linked with hazard and water resource issues. Existing public ownerships and General Plan policies offer major opportunities for protection of habitats, along with the accomplishment of other objectives.

## RIPARIAN HABITATS

### Background Information

#### Definitions

##### Riparian Area

The Local Coastal Plan defines "riparian area" as any area of land bordering a stream or lake, including its banks. It includes land at least up to the highest point (in cross section) of an obvious channel or enclosure of a body of water. Such areas extend to the outer edge of appropriate indicator plant species (see Riparian Vegetation).

Although water rights law considers riparian rights only on natural watercourses, the definition included here extends riparian area to all bodies of water, intermittent or perennial, man-made or natural. Vernal pools or vernal wet areas are excluded except when accompanied by riparian vegetation.

##### Riparian Vegetation

Riparian vegetation requires or tolerates soil moisture levels in excess of that available in adjacent terrestrial areas, and is typically associated with the banks, edges, or terrestrial limits of freshwater bodies, watercourses, and surface emergent aquifers. Riparian vegetation can be distinguished from adjacent upland vegetation as it forms a visually distinct and structurally separate linear plant assemblage along the shoreline of waterways. Vegetation shall be considered to be riparian if at least 50% of the cover in an area is made up of riparian species.

### 3. Brooms

There are many "brooms." French (Cytisus monspesulanus) and Scotch brooms (Cytisus scoparius), are the primary invasive ones located often along the inland roadways in prolific yellow bloom. The condemnation of these brooms does not, however, condemn the use necessarily of all brooms, many of which are highly ornamental and are not as invasive.

### 4. Weedy Thistles

Weedy thistles are particularly offensive and common to heavily grazed areas. These thistles are host to the plume moth larva, a pest which is very devastating to artichoke production.

## Existing Regulations

At neither the Federal, State, or local levels are there any regulations controlling the particular weeds mentioned in this section. There are numerous regulations regarding the use of herbicides.

## Issues

The control on private lands of weedy or undesirable plants is not easily handled unless such plants are declared highly noxious weeds by the State Department of Food and Agriculture. Also, it is virtually impossible to ban the sale in nurseries of plants which are common nursery items without adequate policing control.

On public lands, it is possible, given funds and manpower, to control or eradicate plants which are not desirable.

Still, natural seeding and lack of care by residents having the undesirable plants can continue to menace the natural habitat and provide a continual resource for reinfestation.

The blue gum, pampas grass, French and Scotch brooms are all sold by the various nurseries on the Coastside, the Bayside, or elsewhere. Presumably a ban on selling these plants in the Coastal Zone (or in the County as a whole) would create a policing problem, but it would be hoped that retail nurseries would understand the problem and voluntarily take such plants off the market.

### 3.4 Habitat Areas and Water Resources Overlay Designation

The Land Use Plan proposes Habitat Areas and Water Resources Overlay designation to address the deficiencies in existing

regulatory procedures. The overlay designation symbolically indicates the locations of habitat areas in Half Moon Bay. The policies set forth within this Plan and particularly this section of the Plan are to serve as guidelines for development on or adjacent to the areas illustrated on the Habitat Areas and Water Resources Overlay Map.

The following habitat areas and water resources are designated on the Habitat Areas and Water Resources Overlay Map:<sup>(1)</sup>

Riparian habitats along perennial streams

Riparian habitats along intermittent streams

Intermittent marshes

Stabilized dunes

Rocky intertidal zone

Coastal scrub community associated with coastal bluffs and gullies

The following criteria were used in determining which habitats and resources warranted the overlay designation:

1. Unique, rare, or fragile communities which should be preserved to ensure their survival in the future, i.e. dune vegetation, riparian vegetation, and biological life in intertidal pools and marine terraces.
2. Areas that are structurally important in protecting natural land-forms and species, i.e. dunes which protect inland areas, riparian corridors that protect stream banks from erosion, provide shade and surface water supply and promote groundwater recharge, rocky intertidal pools which provide cover for many species.

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<sup>(1)</sup>While the designations reflected on the Habitat Areas and Water Resources Overlay Map represent the best available information, these designations are not definitive and may need modification in the future. The scale of the map precludes complete accuracy in the mapping of habitat areas, and in some cases, the precise location of habitat areas is not known. In addition, migration of species or discovery of new habitats would result in the need for designation for a new areas. Therefore, the boundaries of the designations would be updated periodically in order to incorporate new data. Changes in the overlay designations may be initiated by the City or by landowners.

No threatened and endangered species have been documented in Half Moon Bay.

### 3.5 Policies

The City will:

#### 3-1 Definition of Sensitive Habitats

- (a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tidelands and marshes, (4) coastal and offshore areas containing breeding and/or nesting sites and coastal areas used by migratory and resident water-associated birds for resting and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Such areas include riparian areas, wetlands, sand dunes, marine habitats, sea cliffs, and habitats supporting rare, endangered, and unique species.

#### 3-2 Designation of Sensitive Habitats

- (a) Designate sensitive habitats as those, including but not limited to, shown on the Habitat Areas and Water Resources Overlay.

#### 3-3 Protection of Sensitive Habitats

- (a) Prohibit any land use and/or development which would have significant adverse impacts on sensitive habitat areas.
- (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.

#### 3-4 Permitted Uses

- (a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.

- (b) In all sensitive habitats, require that all permitted uses comply with U. S. Fish and Wildlife and State Department Fish and Game regulations.

### 3-5 Permit Conditions

- (a) Require all applicants to prepare a biologic report by a qualified professional selected jointly by the applicant and the City to be submitted prior to development review. The report will determine if significant impacts on the sensitive habitats may occur, and recommend the most feasible mitigation measures if impacts may occur.

The report shall consider both any identified sensitive habitats and areas adjacent. Recommended uses and intensities within the habitat area shall be dependent on such resources, and shall be sited and designed to prevent impacts which would significantly degrade areas adjacent to the habitats. The City and the applicant shall jointly develop an appropriate program to evaluate the adequacy of any mitigation measures imposed.

- (b) When applicable, require as a condition of permit approval the restoration of damaged habitat(s) when, in the judgment of the Planning Director, restoration is partially or wholly feasible.

### 3-6 Allocation of Public Funds

- (a) In setting priorities for allocating limited local, State, or Federal public funds for preservation or restoration, use the following criteria: (1) biological and scientific significance of the habitat, (2) degree of endangerment from development or other activities, and (3) accessibility for educational and scientific uses and vulnerability to overuse.

## RIPARIAN CORRIDORS

The City will:

### 3-7 Definition of Riparian Corridors

- (a) Define riparian corridors by the "limit of riparian vegetation" (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

## 8 Designation of Riparian Corridors

- (a) Establish riparian corridors for all perennial and intermittent streams and lakes and other bodies of fresh water in the Coastal Zone. Designate those corridors shown on the Habitat Areas and Water Resources Overlay and any other riparian area as sensitive habitats requiring protection, except for manmade irrigation ponds over 2,500 square feet surface area.

## 3-9 Permitted Uses in Riparian Corridors

- (a) Within corridors, permit only the following uses: (1) education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fish and wildlife management activities, (4) trails and scenic overlooks on public land(s), and (5) necessary water supply projects.
- (b) When no feasible or practicable alternative exists, permit the following uses: (1) stream-dependent aquaculture provided that non-stream-dependent facilities locate outside of corridor, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, (3) bridges when supports are not in significant conflict with corridor resources, (4) pipelines and storm water runoff facilities, (5) improvement, repair or maintenance of roadways or road crossings, (6) agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels.

## 3-10 Performance Standard in Riparian Corridors

- (a) Require development permitted in corridors to: (1) minimize removal of vegetation, (2) minimize land exposure during construction and use temporary vegetation or mulching to protect critical areas, (3) minimize erosion, sedimentation, and runoff by appropriately grading and replanting modified areas, (4) use only adapted native or non-invasive exotic plant species when replanting, (5) provide sufficient passage for native and anadromous fish as specified by the State Department of Fish and Game, (6) minimize adverse effects of waste water discharges and entrainment, (7) prevent depletion of groundwater supplies and substantial interference with surface and subsurface waterflows, (8) encourage waste water reclamation, (9) maintain natural vegetation buffer areas that protect riparian habitats, and (10) minimize alteration of natural streams.

### 3-11 Establishment of Buffer Zones

- (a) On both sides of riparian corridors, from the "limit of riparian vegetation," extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.
- (b) Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams.
- (c) Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point, except for man-made ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.

### 3-12 Permitted Uses in Buffer Zones

- (a) Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) structures on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) crop growing and grazing consistent with Policy 3-9, (4) timbering in "streamside corridors" as defined and controlled by State and County regulations for timber harvesting, and (5) no new parcels shall be created whose only building site is in the buffer area except for parcels created in compliance with Policies 3-3, 3-4, and 3-5 if consistent with existing development in the area and if building sites are set back 20 feet from the limit of riparian vegetation or if no vegetation 20 feet from the bank edge of a perennial and 20 feet from the midpoint of an intermittent stream.

### 3-13 Performance Standards in Buffer Zone

- (a) Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural topography to minimize erosion potential, (3) make provisions to (i.e. catch basins) to keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor, (6) remove vegetation in or adjacent to man-made agricultural ponds if the life of the pond is endangered, (7) allow dredging in or adjacent to man-made ponds if the San Mateo County Resource Conservation District certifies that siltation imperils continued use of the pond for agricultural water storage and supply.

## SEA CLIFFS

### 3-19 Permitted Uses

- (a) Where nesting or roosting exists, permit only education and research activities.
- (b) Where nesting or roosting do not exist, permit only the following uses: (1) education and research, (2) limited foot paths, (3) limited recreational rock climbing, (4) road and underground utility construction where no feasible alternative exists, and (5) intake or outfall lines provided that the habitat is not threatened.

### 3-20 Development Standards

- (a) Restrict pedestrian traffic in bluff and cliff areas and on faces to a limited number of well-defined trails which avoid seabird nesting and roosting sites.
- (b) Post signs informing recreational users not to disturb natural vegetation or nesting and roosting sites.

## RARE AND ENDANGERED SPECIES

The City will:

### 3-21 Designation of Habitats of Rare and Endangered Species

- (a) In the event the habitat of a rare and endangered species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31.

### 3-22 Permitted Uses

- (a) Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.
- (b) If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U.S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

### 23 Permit Conditions

- (a) Require, prior to permit issuance, that a qualified biologist prepare a report which defines the requirements of rare and endangered organisms. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and migration requirements, (2) plants' life histories and soils, climate, and geographic requirements, (3) a map depicting the locations of plants or animals and/or their habitats, (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

### 3-24 Preservation of Critical Habitats

- (a) Require preservation of all habitats of rare and endangered species using the policies of this Plan and other implementing ordinances of the City.

### 3-25 San Francisco Garter Snake

- (a) Prevent any development where there is known to be a riparian location for the San Francisco garter snake with the following exception: (1) existing man-made impoundments smaller than 1/2-acre in surface, and (2) existing man-made impoundments greater than 1/2-acre in surface, providing mitigation measures are taken to prevent disruption of not more than one-half of the snake's known habitat in that location in accordance with recommendations from the State Department of Fish and Game.
- (b) Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.

### 3-26 San Francisco Tree Lupine Moth

- (a) Prevent the loss of any large populations (more than 100 plants in a 1/10 acre area) of tree lupine within 1 mile of the coastline.

### 3-27 Brackish Water Snail

- (a) Prevent any development which can have a deleterious effect on the California brackish water snail, including any dredging of its known or potential habitat.

- (b) Encourage the State Department of Parks and Recreation to manage their lands in such a manner as to enhance the habitat for the California brackish water snail.

3-28 Sea Otter

- (a) Encourage the appropriate agency to protect, monitor, and enhance sea otter habitats. In the development of mariculture facilities, encourage appropriate State and Federal agencies to seek measures to protect them from predation by the sea otter.

3-29 Globose Dune Beetle

- (a) Assess, monitor, and contain the spread of dune grass.
- (b) Provide roped-off trails for public access to the beach with the explanation of the dune beetle and its surrounding habitat.

3-30 Rare Plant Search

- (a) Encourage a continued search for any rare plants known to have occurred in the San Mateo County Coastal Zone but not recently seen. Such search can be done by various persons or groups concerned with such matters.

3-31 Development Standards

- (a) Prevent any development on or within 50 feet of any rare plant population. When no feasible alternative exists, permit development if: (1) the site or a significant portion thereof is returned to a natural state to allow for the re-establishment of the plant, or (2) a new site is made available for the plant to inhabit.

UNIQUE SPECIES

The City will:

3-32 Designation of Habitats of Unique Species

- (a) In the event the habitat of a unique species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-33 through 3-36.

### 3-33 Permitted Uses

- (a) Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

### 3-34 Permit Conditions

- (a) Require, as a condition of permit approval, that a qualified biologist prepare a report which defines the requirements of a unique organism. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation, and migration requirements, and (2) plants' life histories and soils, climate, and geographic requirements.

### 3-35 Preservation of Habitats

- (a) Require preservation of all rare and endangered species habitats using the policies of this Plan and implementing ordinances of the City.

### 3-36 California Wild Strawberry

- (a) Require any development within 1/2-mile of the coast to mitigate against the destruction of any California wild strawberry in one of the following ways:
  1. Prevent any development, trampling, or other destructive activity which would destroy the plant, or
  2. After determining specifically if the plants involved are of particular value, successfully transplant them or have them successfully transplanted to some other suitable site. Determination of the importance of the plants can only be made by a professional doing work in strawberry breeding.

### WEEDY, UNDESIRABLE PLANTS

The City will:

### 3-37 Voluntary Cooperation

- (a) Encourage the voluntary cooperation of private landowners to remove from their lands the undesirable pampas grass, French, Scotch, and over-invasive brooms. Similarly, encourage

EXHIBIT 11

6. Isolated hills and knolls. (1996 zoning code (part)).

**18.38.025 Amendments to coastal resource area maps.**

Amendments to coastal resource area maps shall be made as prescribed for amendments to zoning district boundaries in this title. (1996 zoning code (part)).

**18.38.030 Required reports.**

Biological, archeological and geological reports shall be required as set forth in Sections [18.38.035](#), [18.38.040](#), and [18.38.045](#). Required reports shall be prepared by a qualified professional selected by the city in accordance with established city procedures. Unless otherwise specified herein, all required biological, archaeological, and geological reports shall be performed by a consultant selected by the city and paid for by the applicant.

- A. Report Requirements. The following requirements apply to reports.

1. Reports shall identify significant impacts on identified coastal resources on the project site that would result from development of the proposed project.
2. Reports shall recommend feasible measures to mitigate any significant impacts and to protect the identified coastal resource. The adequacy of these measures shall be evaluated under a program developed jointly by the applicant and the planning director. These measures may include, but are not limited to:
  - a. Changes in development intensity;
  - b. Siting of buildings, structures or paving; and
  - c. Limitations on the timing and location of construction.
3. Reports shall contain a proposed monitoring and reporting program to ensure that development conditions imposed are adequately being carried out and that significant impacts on the coastal resources have not occurred.
4. Reports shall be reviewed by the city for consistency with this title and with the California Environmental Quality Act.
5. Reports shall be completed to the satisfaction of the planning director prior to the determination that a required development permit application is considered complete.

- B. Exceptions. The planning director may grant exceptions to the requirements of this chapter if he or she finds that existing studies adequately fulfill the requirements of this chapter, provided such studies were prepared by a qualified professional as a part of a previously certified final EIR in accordance with the provisions of this chapter. (1996 zoning code (part)).

**18.38.035 Biological report.**

A. When Required. The planning director shall require the applicant to submit a biological report, prior to development review, prepared by a qualified biologist for any project located in or within one hundred feet of any sensitive habitat area, riparian corridor, bluffs and sea-cliff areas, and any wetland.

1. Exception. The development of one single-family dwelling within a designated wild strawberry habitat area and not within any other designated coastal resource area shall not be subject to this requirement.

B. Report Contents. In addition to meeting the requirements of Section [18.35.030](#), the biological report shall contain the following components:

1. Mapping of Coastal Resources. The biological report shall describe and map

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**ARTICLE I. GENERAL PROVISIONS**

**Chapter 18.01  
ZONING ORDINANCE--GENERAL PROVISIONS**

Sections:

18.01.010 Intent and purpose.

Sections: (Continued)

18.01.015 Designation of districts.

18.01.020 Compliance required.

18.01.025 Adoption of zoning district map.

18.01.030 District boundaries.

18.01.035 Amendments to the zoning district map.

**18.01.010 Intent and purpose.**

The overall intent and purpose of this title is to protect and promote the public health, safety and general welfare, to implement the policies of the general plan, as provided in the California Government Code, Title 7, Chapters 3 and 4, and in the California Constitution, Chapter 11, Section 7, and to put the goals and policies of the land use plan and the Coastal Act of 1976 into effect. More specifically the zoning ordinance is intended to:

- A. Guide, control and regulate the future growth of the city;
- B. Prevent excessive population densities and overcrowding of land and buildings;
- C. Protect the character and social and economic stability of agricultural, residential, commercial, industrial and other public and private areas within the city;
- D. Provide adequate light, air, privacy and access to property;
- E. Ensure that service demands associated with new development not exceed the capacity of existing streets, utilities or other public services;
- F. Conserve and enhance the city's architectural, historical and cultural resources;
- G. Conserve and enhance important visual resources within the city, including views from Highway 1 of the Pacific Ocean and coastal beaches and bluffs, the visual character of the old downtown area, and views of the inland hillsides at the eastern edge of the city; and
- H. Protect, conserve and, where possible, restore natural environmental resources within the city. (1996 zoning code (part)).

**18.01.015 Designation of districts.**

The districts established by this title are as follows:

District	Use
R-1	Single-family residential
R-2	Two-family residential
R-3	Multiple-family residential

C-D	Commercial--Downtown
C-R	Commercial--Residential
C-G	Commercial--General
C-VS	Commercial--Visitor serving
PS	Public service
IND	Industrial
U-R	Urban reserve
OS-R	Open space reserve
OS-A	Open space--Active
OS-P	Open space--Passive
OS-C	Open space--Conservation
A-1	Agriculture--Exclusive floriculture
A-2	Agriculture and agriculture reserve
PUD	Planned unit development
MHP	Mobile home park

(Ord. C-6-07 §2, 2007; 1996 zoning code (part)).

**18.01.020 Compliance required.**

No land shall be used and no structure shall be constructed, enlarged, altered, moved, or used in any district as shown on the zoning district map except in conformance with the regulations established by this title. (1996 zoning code (part)).

**18.01.025 Adoption of zoning district map.**

The zoning district map described in this title is on file with the city clerk and is adopted as a part of this title and is incorporated in this title by reference. The designations, locations and boundaries of the districts are as set forth in the map. (1996 zoning code (part)).

**18.01.030 District boundaries.**

Wherever any uncertainty exists as to the boundary of a district as shown on the zoning district map, the following regulations shall apply:

- A. Where a district boundary line is indicated as following a street or alley, it shall be construed as following the right-of-way line thereof.
- B. Where a district boundary line follows or coincides approximately with a lot line or a property ownership line, it shall be construed as following the lot line or property ownership line.
- C. Where a district boundary line is not indicated as following a street or alley, and does not follow or coincides approximately with a lot line or property ownership line, the boundary line shall be determined by the use of the scale shown on the zoning district map.
- D. Where further uncertainty exists, the planning commission, upon written application or upon its own motion, shall determine the boundary of the district in question, giving due consideration to the location indicated on the zoning district map, the objectives of this title, and the purposes set forth in the district regulations. (1996 zoning code (part)).

**18.01.035 Amendments to the zoning district map.**

All changes in boundaries or reclassification of territory from one district to another shall be by ordinance adopted pursuant to the provisions of this title. Upon adoption of an ordinance amending the zoning district map, the planning director shall make the appropriate changes to the map, with a notation of the date and the number of the ordinance amending the map. The failure of any such notation of change to be placed on the map shall not effect the validity of the amendment or change. (1996 zoning code (part)).

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**The Half Moon Bay Municipal Code is current through Ordinance C-2014-03, passed February 4, 2014.**

Disclaimer: The City Clerk's Office has the official version of the Half Moon Bay Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.half-moon-bay.ca.us/>  
City Telephone: (650) 726-8270  
Code Publishing Company

EXHIBIT 12

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## Chapter 18.24 AMENDMENTS

### Sections:

<a href="#">18.24.010</a>	Resolution of intention--Application.
<a href="#">18.24.020</a>	Application--Hearing--Notice.
<a href="#">18.24.030</a>	Recommendation by planning commission.
<a href="#">18.24.040</a>	Council hearing--Notice.
<a href="#">18.24.050</a>	Resolution of intention by city council.
<a href="#">18.24.060</a>	Decision by city council.
<a href="#">18.24.070</a>	Withdrawal of petition.
<a href="#">18.24.080</a>	Hearing--Notice--When not required.
<a href="#">18.24.090</a>	Application--Resubmittal after final disapproval.
<a href="#">18.24.100</a>	Certification of local coastal program amendments.

### **18.24.010 Resolution of intention--Application.**

This title may be amended by changing the boundaries of districts or by changing any other provisions hereof whenever the public necessity and convenience and the general welfare require such amendment, by following the procedure specified in this chapter. Amendments may be proposed by:

- A. Resolution of intention of the city council; or by
- B. Resolution of intention of the planning commission;
- C. Property owners, their duly authorized agents, or a plaintiff in an action in eminent domain, by filing a verified application with the planning commission for amendments to this title involving their property or property to be acquired by the plaintiff in an action in eminent domain;
- D. Any application made pursuant to subsection C of this section shall be in writing and signed and verified by the owner of the land involved or by his authorized agent. If the application is made by a person other than the owner, written authorization to act on behalf of the owner shall be submitted with such application. The application shall show or be accompanied by the legal description of the property for which the amendment is requested, and the street address or addresses, if any, or other common description of the premises. The planning commission may also require that the application be accompanied by a map drawn to scale showing the location of the property concerned and the location of all highways, streets and alleys, and all lots and parcels of land within a distance of five hundred feet from the exterior boundaries of the property involved. The accuracy of such map shall be the responsibility of the applicant. (1996 zoning code (part)).

### **18.24.020 Application--Hearing--Notice.**

Upon the receipt of such an application, the planning commission shall consider the requested amendment and may, if it so determines, adopt its resolution of intention to propose an amendment as requested, or in its discretion, different from that petitioned for. Upon the adoption of such resolution of intention by the planning commission, it shall set a hearing thereon and give notice thereof by at least one publication in a newspaper of general circulation in the city at least ten days before the hearing and may give additional notice by either one or both of the following means when the amendment involves reclassification of property:

- A. Posting public notices of the proposed amendment not less than ten days prior to the date of the first of such hearings. Such notices shall be placed not more than three hundred feet apart along each and every street upon which the property proposed to be reclassified abuts and such posting shall extend along the said street or street a distance of not less than three hundred feet from the exterior limits of such property or properties as are proposed for reclassification. Such notice shall consist of the words, "Notice of Proposed Change of Land Use District," printed or lettered in plain type or letters not less than one inch in height, and in addition thereto, there shall be a statement in smaller type setting forth a description of the property involved in the proposed change of district, the time and place at which the public hearings on the proposed change will be held, and other information which the planning commission deems necessary;
- B. Mailing a postal card notice not less than ten days prior to the date of such hearing to the owner or owners of all property within three hundred feet of the exterior boundaries of the property proposed to be reclassified, as said owners are shown on the last equalized assessment roll of the city;
- C. Any failure to post public notices or to mail postal card notices as aforesaid shall not invalidate any proceedings taken for the amendment of this title;
- D. The planning commission may hold such additional hearings as it may deem necessary. (1996 zoning code (part)).

**18.24.030 Recommendation by planning commission.**

Following the aforesaid hearing or hearings, the planning commission shall make a report of its findings, summaries or hearings, and recommendations with respect to the proposed amendment and shall file such reports with the city council within thirty days from the final hearing thereon. If the planning commission proposes to recommend adoption of the proposed amendment, such recommendation shall be by resolution of the commission carried by the affirmative votes of not less than two-thirds of its total voting members and shall likewise be filed with the city council within thirty days from the final hearing thereon. (1996 zoning code (part)).

**18.24.040 Council hearing--Notice.**

The city council may hold one or more public hearings upon the proposed amendment and before adopting the proposed amendment shall hold at least one public hearing thereon, notice of which shall be published at least once in a newspaper of general circulation in the city at least ten days before the hearing. At the conclusion of such hearing, the city council, if it so determines, may adopt an ordinance amending this title in accordance with the proposal of the planning commission. The city council may not make a change in any amendment proposed by the planning commission until the proposed change has been referred to the planning commission for a report and such report received. (1996 zoning code (part)).

**18.24.050 Resolution of intention by city council.**

The city council may adopt its own resolution of intention to amend this title when it deems it to be for the public interest, but shall not adopt an amendatory ordinance until it shall have first referred such proposal to the planning commission for a report. Before making a report, the planning commission shall hold at least one public hearing in the same manner as heretofore prescribed. The failure of the planning commission to make such report within forty days after the reference to it shall be deemed an approval of the proposed change. Upon receipt of such report or the expiration of time above mentioned, the city council may proceed to hold a hearing as provided in Section 18.24.040, at the conclusion of which it may adopt an ordinance

amendment this title. (1996 zoning code (part)).

**18.24.060 Decision by city council.**

The decision of the, city council shall be rendered within ninety days after the receipt of a report and recommendation from the planning commission. (1996 zoning code (part)).

**18.24.070 Withdrawal of petition.**

Upon the consent of the planning commission, any petition for an amendment may be withdrawn upon the written application of a majority of all the persons who signed such petition. The city council or the planning commission, as the case may be, may by resolution abandon any proceedings for an amendment initiated by its own resolution of intention; provided, that such abandonment may be made only when such proceedings are before such body for consideration and provided that any hearing of which public notice has been given shall be held. (1996 zoning code (part)).

**18.24.080 Hearing--Notice--When not required.**

No notice of hearing as prescribed by this chapter need be given with respect to any hearing before either the planning commission or the city council where the proposed amendment does not involve the changing of district boundaries or the changing of property from one district to another. (1996 zoning code (part)).

**18.24.090 Application--Resubmittal after final disapproval.**

An application for an amendment to this title which has been finally disapproved may not be resubmitted for a period of one year from final disapproval, unless the application has been substantially changed. Nothing herein shall preclude the city council or planning commission from initiating proceedings for amendments to this zoning ordinance or zoning map at any time. (1996 zoning code (part)).

**18.24.100 Certification of local coastal program amendments.**

Any proposed amendment to the local coastal program shall not take effect until it has been certified by the Coastal Commission. Any amendment approved by the city shall be submitted to the Coastal Commission in accordance with Sections 30512 and 30513 of the Public Resources Code. An amendment to this local coastal plan as certified by the Coastal Commission shall not become effective after city council adoption until the amendment is submitted pursuant to the requirements of Section 13551 et seq. of the California Code of Regulations and also certified by the California Coastal Commission pursuant to Chapter 6, Article 2, of the California Coastal Act. (1996 zoning code (part)).

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**The Half Moon Bay Municipal Code is current through Ordinance C-2014-03, passed February 4, 2014.**

Disclaimer: The City Clerk's Office has the official version of the Half Moon Bay Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.half-moon-bay.ca.us/>  
City Telephone: (650) 726-8270  
Code Publishing Company

EXHIBIT 13



ENVIRONMENTAL CONSULTANTS  
2169-G East Francisco Blvd.  
San Rafael, CA 94901  
(415) 454-8868 Phone  
(415) 454-0129 Fax

North Cabrillo Highway  
Subdivision

Half Moon Bay,  
California

Figure 2.

Vegetation Communities

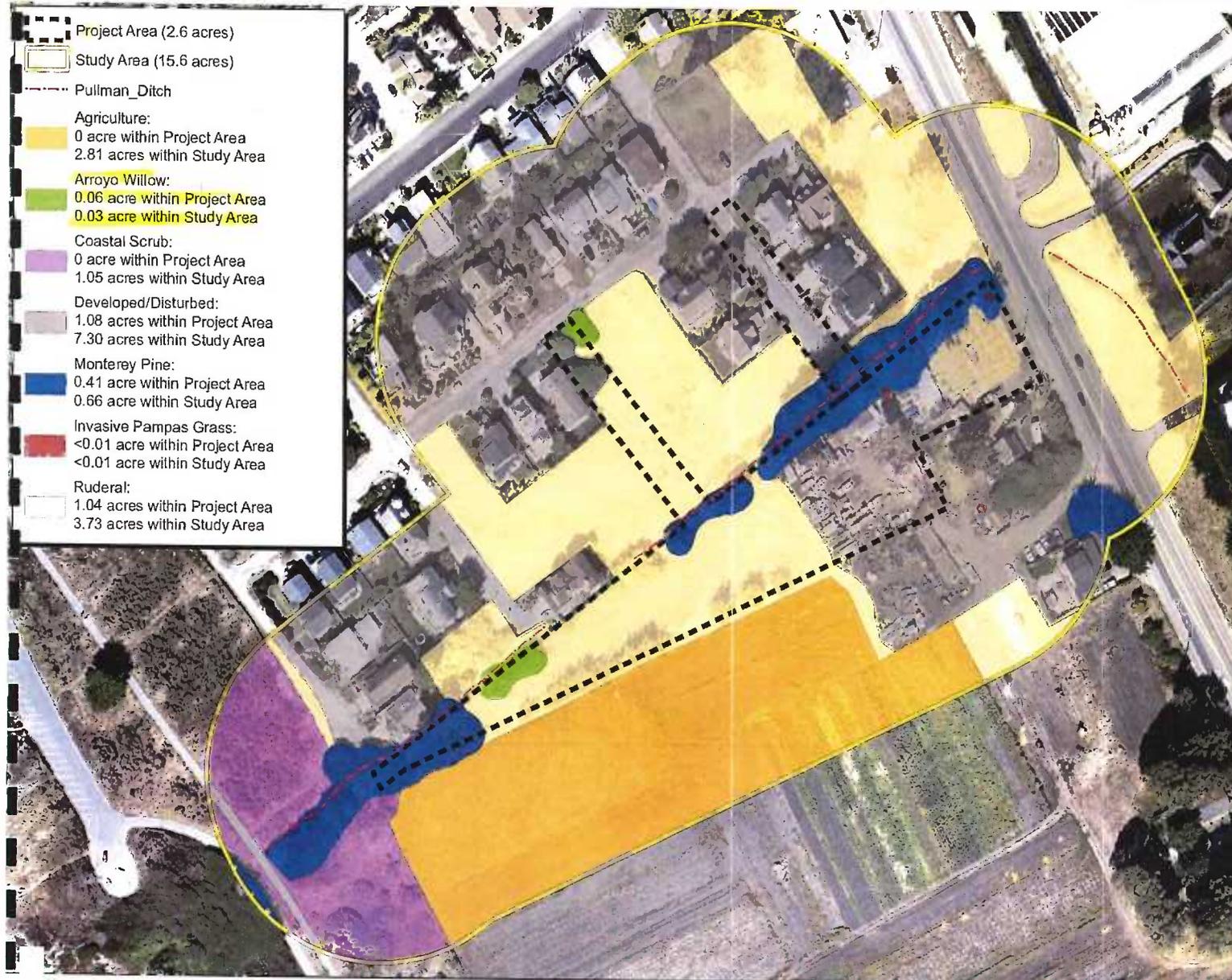


EXHIBIT 14

**PULLMAN DITCH  
BIOLOGICAL RESOURCES ASSESSMENT  
SAN MATEO COUNTY**

Prepared by:

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## INTRODUCTION

The City of Half Moon Bay has received Coastal Development Permit applications from several property owners to perform flood and fire control work on Pullman Ditch, located in the northern portion of the City of Half Moon Bay (City), in San Mateo County, California (Figure 1). In response to these permit applications, the City retained H. T. Harvey & Associates to prepare this Biological Resource Assessment in compliance with its Local Coastal Program. The permit applications included project descriptions for two phases of work; Phase I- ongoing maintenance and Phase II- outlet pipe re-orientation and ditch reconstruction.

In accordance with H. T. Harvey & Associates' scope-of-work, the biotic impact assessment herein addresses Phase I only. Phase II will be permitted separately. The proposed Phase I maintenance activities would occur within a 300-foot section of the ditch immediately west of Highway 1, on three lots (lots 15 and 16 of Block 20 and lot 14 of Block 19). These activities would include the clearing of natural material and inorganic debris from the ditch, mowing of grass and weeds, removal of trash and combustible materials which may create a fire hazard, and removal of any silt affecting water flow in the ditch. Also per our scope-of-work, the study area for habitat characterization was broader than the 300-foot long project reach and included approximately 1500 feet of Pullman Ditch extending from Highway 1 to the Pacific Ocean, as well as a 200-foot wide survey buffer for coastal resources.

Pullman Ditch is an incised, artificial, earthen-lined drainage extending from a nursery complex east of Highway 1 (Cabrillo Highway) to the Pacific Ocean. The ditch carries storm and irrigation flows from the nursery complex and is approximately 12-15 ft in width, with vertical banks of approximately 5 feet in height. Landscape and agricultural irrigation from properties adjacent to the ditch also contribute to flows. Pullman Ditch is a seasonal drainage with flows present during the rainy season. The majority of the ditch was dry during our September 2005 site reconnaissance.

The portion of the ditch proposed for maintenance activities is densely colonized by weedy non-native species and escaped cultivars, and is beneath a contiguous canopy of planted Monterey cypress trees (*Cupressus macrocarpa*). This portion of the ditch provides poor wildlife habitat. Adjacent lots within the project area are also colonized by non-native herbaceous vegetation. The project site is bounded by industrial and agricultural facilities to the south, residential development to the north, Highway 1 to the east, and Half Moon Bay State Beach land to the west. The entire project site is underlain by Farallone coarse sandy loam, a well-drained soil derived from granitic alluvium (Soil Conservation Service 1961).

The City is required by the California Coastal Commission (CCC) to perform a Biological Resources Assessment, including the following information:

1. Mapping coastal resources and sensitive habitat areas, including sand dunes, marine habitats, sea cliffs, riparian areas, wetlands, wildlife breeding locations, rocky intertidal zones, coastal bluff scrub, and any habitat containing or supporting rare, endangered, or unique species.
2. Description of habitat requirements for rare, endangered, and unique species.

This document provides this information, as well as an analysis of biotic impacts associated with the proposed project, as required for the CCC Coastal Development Permit. Mitigation measures are proposed for significant biotic impacts and summarized in a Mitigation Monitoring and Reporting Program. This document does not provide information regarding the jurisdiction and permit requirements of other state or federal agencies.

**Figure 1. Site/Vicinity Map**

## METHODS

### SITE VISITS

Reconnaissance-level field surveys of the project site were conducted by H. T. Harvey & Associates on September 30, 2005. The purpose of these surveys was to provide a project-specific biological impact assessment for the project site. All sensitive habitats, riparian areas and wetlands located on or within 200 feet of the project site were assessed. The project site was also assessed for its potential to support habitat for rare and endangered species and/or unique species per the City of Half Moon Bay's zoning code (Section 18.38.035). Survey personnel included a plant ecologist (Lisa Infante, M.S.) and wildlife ecologist (Laird Henkel, M.S.). The entire project area was surveyed on foot. A follow-up site visit was conducted by herpetologist Jeff Wilkinson, Ph.D., on October 21, 2005.

### DESCRIPTION AND MAPPING OF COASTAL RESOURCES

The base map used for mapping coastal resources was an orthorectified, color aerial photograph taken in December 2003. Using Geographic Information Systems software, the approximate project boundary and survey buffer area was digitized onto the aerial photograph, and biotic habitats were delineated.

The 1993 City of Half Moon Bay Local Coastal Program (LCP) Land Use Plan policies identify riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and bluffs, and habitats supporting rare, endangered, and unique species as sensitive habitats. Site surveys were focused on the identification and mapping of these habitats.

### SPECIAL-STATUS SPECIES ASSESSMENT / DESCRIPTION OF HABITAT REQUIREMENTS

#### Rare, Endangered, and Unique Species

Prior to site visits, information concerning threatened, endangered, or other special-status and unique species that may occur in the area was collected from several sources and reviewed by H. T. Harvey & Associates biologists. The sources consulted included the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (CNDDDB 2005), and miscellaneous information available through the U.S. Fish and Wildlife Service (USFWS), CDFG, and technical publications. The California Native Plant Society's (CNPS) *Inventory of Rare and Endangered Plants of California* (2001), the *Flora of the Santa Cruz Mountains* (Thomas 1961), and *The Jepson Manual* (Hickman 1993) supplied information regarding the distribution and habitats of vascular plants in the vicinity. Additional information on the regional distribution of breeding birds was supplied by the San Mateo County Breeding Bird Atlas (Sequoia Audubon Society 2001). Finally, the CNPS's *Inventory of Rare and Endangered Plants of California* (2001) was used to identify and assess additional species occurring in similar habitats throughout San Mateo County.

Chapter 3 of the LCP identifies nine "rare and endangered" wildlife species as being of particular concern in the San Mateo County Coastal Zone. These include: the San Francisco garter snake

(*Thamnophis sirtalis tetrataenia*), the California Least Tern (*Sterna antillarum browni*), the California Black Rail (*Laterallus jamaicensis coturniculus*), the California Brown Pelican (*Pelecanus occidentalis californicus*), the San Bruno elfin butterfly (*Incisalia mossii bayensis*), the San Francisco tree lupine moth (*Grapholitha edwardisana*), the Guadalupe fur seal (*Arctocephalus townsendi*), the sea otter (*Enhydra lutris*), and the California brackish water snail (*Tryonia imitator*). The LCP also cites a “rare bird alert” for the Rose-breasted Grosbeak (*Pheucticus ludovicianus*), but this refers to a rare transient bird reported as a species of interest to birders, and is not truly a “rare or endangered” species. In addition, the LCP identifies as “unique species” all raptors (birds of prey), the California red-legged frog (*Rana aurora draytonii*; now listed as federally-threatened), and all marine mammals.

The City’s LCP identifies eight proposed or listed rare plant species as currently or formerly occurring in the City’s coastal zone: coast rock cress (*Arabis blepharophylla*), Davy’s bush lupine (*Lupinus eximius*), Dolores campion (*Silene verecunda* ssp. *verecunda*), Gairdner’s yampah (*Perideridia gairdneri* ssp. *gairderi*), Hickman’s cinquefoil (*Potentilla hickmanii*), Montara manzanita (*Arctostaphylos montarensis*), San Francisco wallflower (*Erysimum franciscanum* var. *franciscanum*), and yellow meadow foam (*Limnanthes douglassi* var. *sulphurea*). In addition, the LCP identifies as “unique species” the Monterey pine (*Pinus radiata*) and the California wild strawberry.

H.T. Harvey & Associates’ reconnaissance-level field surveys were focused on evaluating the potential for these special-status species, and for sensitive habitats, to occur on site.

## RESULTS

The following section provides descriptions of the sensitive biotic habitats and potential special-status species which occur within the study area. This study area includes the entire project reach (approximately 1500 feet) of Pullman Ditch, as well as a 200-foot survey buffer for coastal resources. However, only the easternmost 300-foot section of the ditch is currently proposed for maintenance activities.

### DESCRIPTION AND MAPPING OF COASTAL RESOURCES

Coastal resources present on or within 200 feet of the project reach of Pullman Ditch include disturbed riparian habitat and riparian habitat (Figure 2). The remainder of the study area supports non-native herbaceous vegetation typical of infill parcels near the coast. Plant and wildlife species associated with these habitats are described below.

#### Non-native Herbaceous/Landscaped Habitat

Land adjacent to the Pullman Ditch is colonized by ruderal species typical of foggy areas near the coast. Bristly ox-tongue (*Picris echioides*) and Italian ryegrass (*Lolium multiflorum*) dominate this weedy community, with wild radish (*Raphanus sativus*), California aster (*Aster chilensis*), and fennel (*Foeniculum vulgare*) also common. Bristly ox-tongue and Italian ryegrass are weakly hydrophytic (water-loving) species which can indicate the presence of seasonally-inundated soils. However, the free-draining Farallone soils underlying this vegetation on the project site showed no indication of regular flooding (*i.e.*, high organic content in the surface layer, organic streaking, low-chroma matrix, or mottling). Furthermore, both bristly ox-tongue and Italian ryegrass are ubiquitous in disturbed upland sites that are subject to marine fog, and occur in high densities throughout the immediate coastal zone of Half Moon Bay.

Vegetation immediately adjacent to Pullman Ditch consists of non-riparian native species that were planted as landscaping. The majority of the eastern portion of the ditch (approximately 1000 feet extending from Highway 1 to the State Park walking path) is shaded by a contiguous canopy of Monterey cypress and Monterey pine trees. This area was not classified as riparian habitat because Monterey cypress and pine do not provide the wildlife functions and values associated with natural riparian species such as willow and alders. The limited areas of the ditch which provide habitat for riparian-associated wildlife were classified as riparian, described below.

The non-native herbaceous/landscaped habitat on the project site is of relatively little value to wildlife. Some bird species, such as Mourning Doves (*Zenaida macroura*), Western Meadowlarks (*Sturnella neglecta*), California Towhees (*Pipilo crissalis*), and White-crowned Sparrows (*Zonotrichia leucophrys*) may occasionally forage here, but it is unlikely that any birds nest in the herbaceous habitat on-site. A few common species, such as American Robins (*Turdus migratorius*) and Brewer's Blackbirds (*Euphagus cyanocephalus*) could potentially nest in the cypress trees on-site. Small mammals such as deer mice (*Peromyscus maniculatus*) and Botta's pocket gophers (*Thomomys bottae*) are likely to occur here. Western fence lizards

**Figure 2. Biotic Habitats and Coastal Resources Map**

(*Sceloporus occidentalis*), gopher snakes (*Pituophis melanoleucus*), and garter snakes (*Thamnophis* spp.) may also occur.

### **Riparian Habitat**

As described above, the majority of vegetation along the project reach of Pullman ditch is non-native or, if native, consists of non-riparian trees that were planted as landscaping. These trees are located beyond the top-of-bank of the ditch and do not provide habitat for riparian-dependent wildlife. The ditch itself is heavily invaded by garden nasturtium (*Tropaeolum majus*), pampas grass (*Cortaderia selloana*), and wild radish, in addition to the native aquatic species watercress (*Rorippa nasturium-aquaticum*). One small arroyo willow (*Salix lasiolepis*) occurs at the frontage road culvert outfall, and a disturbed, pruned patch of willow occurs near Naples Avenue. Native California blackberry (*Rubus ursinus*) colonizes a portion of the northern bank. Vegetation below the top-of-bank of the ditch, although highly disturbed, may provide habitat or cover for wildlife and is considered riparian habitat as defined in the Local Coastal Plan. It is therefore mapped as generic riparian habitat, since it does not conform with any accepted natural community classification system. This generic mapping also includes the seasonal aquatic habitat and scattered patches of hydrophytic vegetation within the ditch.

In contrast, well-developed, intact Central Coast riparian scrub occurs west of the pedestrian trail, near the mouth of Pullman Ditch. This area supports a dense, low scrub of arroyo willow, which thins out as soils transition to the coarse sands of Half Moon Bay State Beach. Stunted Monterey pine also occur among the willows. Little or no understory vegetation occurs beneath this closed canopy, but open areas near the ditch mouth support patches of wetland vegetation including three-square bulrush (*Scirpus americanus*), brass buttons (*Cotula coronopifolia*), bur-reed (*Sparganium eurycarpum*), and rabbitsfoot grass (*Polypogon monspeliensis*). These wetland areas are too small to map separately and do not form a contiguous habitat type, and were therefore included within central coast riparian scrub for the purposes of this report.

Riparian habitats are typically an important resource for resident and migratory wildlife. The presence of water and abundant invertebrate fauna provide foraging opportunities, and in native riparian habitats, the diverse habitat structure provides cover and nesting opportunities. However, the degraded riparian habitat along the eastern portion of Pullman Ditch does not provide diverse vegetative structure, and there are few foraging or nesting opportunities for wildlife. In addition, water is not present year-round. This habitat may provide occasional foraging habitat for relatively common birds, such as Bushtits (*Psaltiriparus minimus*), Ruby-crowned Kinglets (*Regulus calendula*), and Yellow-rumped Warblers (*Dendroica coronata*), but few birds are likely to nest here. Some common species, such as Bushtits, California Towhees, American Robins, Anna's Hummingbirds (*Calypte anna*), and Brewer's Blackbirds could foreseeably nest in the limited vegetation here. Seasonal water in Pullman Ditch could support Pacific treefrogs (*Hyla regilla*), and mammals such as raccoons (*Procyon lotor*) and Virginia opossums (*Didelphis virginiana*) may come here to drink.

The riparian habitat at Moss Landing State Beach, and in the small patch of willows a few hundred feet to the east, is of higher quality for wildlife than that found along the remainder of Pullman Ditch, but it is fairly limited in size. Many of the same wildlife species discussed above are likely to occur here. In addition, some bird species that nest in more developed riparian

habitat may nest here, including Wilson's Warblers (*Wilsonia pusilla*), Saltmarsh Common Yellowthroats (*Geothlypis trichas sinuosa*), and Song Sparrows (*Melospiza melodia*). Common mammals, such as raccoons, may come here for water, and Pacific treefrogs are likely present here as well.

### **Coastal Scrub**

Although no coastal scrub occurs within the project impact area, this sensitive coastal resource occurs within 200 feet of the ditch west of Naples Avenue and intergrades with riparian scrub along the eroded banks of the ditch near its outfall at Roosevelt Beach. Coyote brush (*Baccharis pilularis*), the dominant shrub species within this habitat, is sparsely distributed between Naples Avenue and the pedestrian path and becomes dense west of the path, particularly south of the ditch (Figure 2). Other common species here include lizard tail (*Eriophyllum staechadifolium*) and sticky monkeyflower (*Mimulus aurantiacus*). At the very edge of this habitat, shifting sands of the dunes are stabilized by European beach grass (*Ammophila arenaria*).

This sparsely vegetated habitat supports few nesting bird species, although White-crowned Sparrows may nest here. During winter, American Pipits (*Anthus rubescens*), House Finches (*Carpodacus mexicanus*), and Brewer's Blackbirds sometimes forage in this habitat. Small reptiles, such as western fence lizards occur here, as do small mammals such as deer mice.

### **Agricultural**

Land to the south of Pullman Ditch and a small field at the extreme western edge of the property are cultivated in pumpkins and winter vegetable crops. These areas may support robust exotic species such as wild radish and black mustard (*Brassica nigra*), as well as non-native pasture grasses, during fallow periods. Few or no native plants occur here.

Agricultural habitats typically provide few foraging or nesting opportunities for wildlife. No birds are expected to nest here, with the possible exception of Killdeer (*Charadrius vociferus*), which nest in bare, open habitats. A few bird species, such as Mourning Doves and Brewer's Blackbirds, may occasionally forage here. Botta's pocket gophers, deer mice, and other rodents are likely to occur here as well, but few other wildlife species are expected.



**Photograph 1. Pullman Ditch.**



**Photograph 2. Habitat adjacent to Pullman Ditch.**

## SPECIAL-STATUS SPECIES ASSESSMENT

Following is a summary of a special-status species assessment of the project site based upon field visits and a review of various background resources such as the CNDDDB.

### Special-status Wildlife Species

No wildlife species listed as threatened or endangered under the Federal Endangered Species Act are likely to occur on the project site (Table 1). Three federally-listed species, the California red-legged frog, San Francisco garter snake, and steelhead (*Oncorhynchus mykiss*), occur in terrestrial and aquatic habitats in the Coastal Zone of San Mateo County, but are unlikely to occur on the project site. Steelhead occur in Frenchman's Creek (NMFS 1996) and other coastal streams in the Half Moon Bay area, but no suitable habitat is present on the project site. More information on the California red-legged frog and San Francisco garter snake is provided below.

Of the nine "rare and endangered" species and the three "unique species" identified in the LCP, all marine mammals, California Least Tern, and California Brown Pelican could be eliminated from consideration based on the lack of marine habitat on the site. Similarly, habitat for the Western Snowy Plover (*Charadrius alexandrinus nivosus*), federally-listed as threatened, is not present on the project site, although this species could occur on the beach adjacent to the downstream end of Pullman Ditch. The project site is outside the range of the San Bruno elfin butterfly and the California black rail (the Black Rail does not breed on the west coast of San Mateo County). Additionally, as of 2005, the San Francisco tree lupine moth and the California brackish water snail are no longer proposed for listing under the Federal Endangered Species Act, and are no longer considered Species of Special Concern by the USFWS. Thus, of the special-status animal species listed in the LCP, only the California red-legged frog, San Francisco Garter snake and raptors have the potential to occur in the project vicinity.

In addition, some other special-status species, not listed in the LCP, could potentially occur on the project site, including the Saltmarsh Common Yellowthroat (*Geothlypis trichas sinuosa*), which is discussed below. Several other special-status species could occur on the project site as occasional foragers or migrants, but would not nest on the site, and would not be affected by project implementation (Table 1). These species include the American Peregrine Falcon (*Falco peregrinus anatum*), Sharp-shinned Hawk (*Accipiter striatus*), Cooper's Hawk (*Accipiter cooperi*), Merlin (*Falco columbarius*), California Yellow Warbler (*Dendroica petechia brewsteri*), and Tricolored Blackbird (*Agelaius tricolor*). Some common raptors, such as Red-tailed Hawks (*Buteo jamaicensis*), nest in trees in less developed areas of Half Moon Bay, but due to human disturbance in the area, and the small size of the trees, the cypress trees adjacent to Pullman Ditch are not likely to support any nesting raptors.

**California Red-legged Frog (*Rana aurora draytonii*).** **Federal Status: Threatened; State Status: Species of Special Concern.** California red-legged frogs occur primarily in and near aquatic habitats. They breed in ponds or still pools within streams, and disperse to forage in a variety of aquatic habitats. California red-legged frogs occur at several sites within five miles of the project (Figure 3, CNDDDB 2005). The closest records of red-legged frogs to the project area

**Figure 3. CNDDDB Map**

are from near the mouth of Pilarcitos Creek, about 1.5 miles to the south, and from Corinda Los Trancos Creek, about 2 miles east of the site.

Red-legged frogs are known to disperse at least 1.25 miles between breeding sites, over upland habitats. Bulger et al. (2003), working in a coastal watershed in Santa Cruz County, found that some red-legged frogs migrated fairly long distances to and from breeding ponds, and foraged at other aquatic sites during the summer. Distance traveled during these migrations ranged up to 1.7 miles, although no migrating individual was ever greater than 500 m (1640 ft) from aquatic habitat. During wet periods, especially in the winter and early spring months, red-legged frogs can move long distances, more than 1.25 miles, between aquatic habitats, often over areas that are considered to be unsuitable for frogs such as open fields, croplands, etc. (USFWS 2004).

However, habitat between Pilarcitos Creek and Pullman Ditch includes residential developments and roads that present significant barriers to movement by red-legged frogs. The considerable distance between known locations of red-legged frogs and the project site, the barriers to dispersal, and the lack of records in Frenchman's Creek indicate that red-legged frogs are likely absent from the vicinity of Pullman Ditch. In addition, habitat quality in Pullman Ditch is marginal for red-legged frogs, and no breeding habitat is present. During the September 30 and October 21, 2005 reconnaissance surveys, the majority of the ditch was dry and no red-legged frogs (or other frogs) were observed. Because high quality habitat for red-legged frogs is absent on the site, and there are no known breeding localities nearby, it is unlikely that this species would occur on the project site. However, we are not aware of any surveys conducted in Frenchman's Creek, near the project site, and if the species breeds there, it could occasionally disperse onto the project site. A small pool, present during September 2005, at the upstream end of Pullman Ditch could provide foraging habitat for this species. Therefore, there is a possibility that the California red-legged frog could occur on the site as a very uncommon dispersant.

**San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*). Federal Status: Endangered; State Status: Endangered.** This species occurs in and near freshwater aquatic habitats, almost exclusively in San Mateo County. San Francisco garter snakes prey almost exclusively on amphibians, including California newts (*Taricha torosa*), and ranid frogs, such as the California red-legged frog. They have never been found at or near sites that do not support ranid frogs. San Francisco garter snakes have been found at two locations near Pilarcitos Creek in Half Moon Bay, but have not been reported within a mile of the project site.

Because ranid frogs are expected to occur in Pullman Ditch only as extremely irregular dispersants, if at all, and none were observed during the two site visits, San Francisco Garter snakes are not expected to occur on the project site. We consider this species to be absent from Pullman Ditch.

**Saltmarsh Common Yellowthroat (*Geothlypis trichas sinuosa*). Federal Status: None; State Status: Species of Special Concern.** The Saltmarsh Common Yellowthroat is not listed in the LCP, but is listed by the CDFG as a Species of Special Concern. This small songbird nests in emergent wetland vegetation and in understory herbaceous vegetation in willow riparian habitats in the San Francisco Bay area. Although typical nesting habitat is adjacent to substantial year-round water, the small amount of water in Pullman Ditch in this habitat, and the dense willow riparian habitat along small portions of Pullman Ditch (primarily at Half Moon Bay State

Beach), may support this species. There is a remote possibility that this species could nest in the vicinity of the upstream end of the project reach. Saltmarsh Common Yellowthroats typically nest between March and September. Although this species is considered a Species of Special Concern, due primarily to its limited distribution, it is not uncommon throughout most of its range, and would not necessarily be considered a rare or unique species under the LCP.

### Special-status Plant Species

As discussed above, eight plant species are identified in the City of Half Moon Bay LCP Land Use Plan as potentially occurring in San Mateo County's Coastal Zone. In addition, a review of additional species that occur throughout San Mateo County (CNPS 2001, CNDDDB 2005) yielded 20 additional species that are associated with coastal and riparian habitats in the region. Based on reconnaissance-level surveys of the project area, all 28 species are considered to be absent from the portion of the ditch east of the state park pedestrian path. The majority of these species are associated with soil types or specific microhabitats, such as sparse sandy areas, seasonally mesic native grassland, or clay or serpentine substrates, that are absent from the portion of the project area. Although several species occur in coastal grassland and scrub habitats in the vicinity of the project area, including Blasdale's bentgrass (*Agrostis blasdalei*), San Francisco gumplant (*Grindelia hirsutula* var. *maritime*), San Francisco campion (*Silene verecunda* ssp. *verecunda*), and Santa Cruz microseris (*Stebbinsoseris decipiens*), these species are considered absent from the eastern portion of the site. This portion of the project area is characterized by a ruderal vegetation community typical of urban infill parcels. Non-native annual grasses and robust exotic forbs form a nearly continuous ground cover throughout this area, and the site is further degraded by trash and debris from the ditch. The highly disturbed and artificial nature of the ditch and surrounding habitat, as particularly indicated by the heavy invasion by ruderal species, precludes the occurrence of special-status plants.

However, suitable habitat for two special-status plant species, coastal marsh milk-vetch (*Astragalus pycnostachyus* var. *pycnostachyus*) and Choris's popcorn-flower (*Plagiobothrys chorisianus* var. *chorisianus*), occurs within coastal bluff scrub and within mesic areas at the ditch mouth. These areas are outside the project impact area. The habitat, life history, and potential for occurrence of these species is described in detail below.

**Coastal Marsh Milk-vetch (*Astragalus pycnostachyus* var. *pycnostachyus*).** **Federal Status: Species of Concern; State Status: None; CNPS Status: List 1B.** Coastal marsh milk-vetch is a stout, perennial herb in the pea family (Fabaceae) associated with maritime salt marshes, seeps, and mesic sites within dunes in Humboldt, Marin and San Mateo counties. Plants have an open, clumping habit and are densely soft-hairy, with long pinnate leaves and distinctive papery, inflated fruits. Many greenish-white or cream-colored flowers appear on in the axils of leaves from April through October.

Coastal marsh milk-vetch is known from three locations in coastal San Mateo County (Pescadero Marsh, Pomponio State Beach, San Gregorio State Beach), where plants are associated with sandy-clay or gravelly soils. Little published information is available on the ecological requirements of this plant, but suitable microhabitat apparently occurs within a range of plant communities. One population occurs on a steep slope within coastal scrub, associated with coyote brush (*Baccharis pilularis*), sea lettuce (*Dudleya farinosa*), and sticky monkeyflower

(*Mimulus aurantiacus*). The Pescadero Marsh population, on the other hand, persists in a diked area with peripheral halophytes, including alkali heath and marsh gumplant. Approximately 10 extant populations/occurrences are documented in Marin and Humboldt counties (CNDDDB 2005), predominantly associated with the upper marsh ecotone.

Marginally-suitable habitat for coastal marsh milk-vetch occurs within coastal bluff scrub and mesic, sandy areas near the mouth of Pullman Ditch. However, due to the extremely limited range of this species, the artificial character of habitats associated with the ditch, and the lack of nearby "source populations" its occurrence is very unlikely. Phase I of the proposed project will not affect suitable habitat for this species.

**Choris's Popcorn-flower (*Plagiobothrys chorisianus* var. *chorisianus*).** **Federal Status: None; State Status: None; CNPS Status: List 1B.** Choris's popcorn-flower is a low-growing, highly branched plant in the borage family (Boraginaceae). Stems can be decumbent or erect and grow to about 16 inches in length. Plants are covered with stiff, sharp hairs, have long, narrow leaves only along the stem, and produce coils of buds in late winter which uncoil into racemes of white flowers throughout the spring and early summer (March to June). Plants die after flowering and seed-set. Like all members of the borage family, popcorn-flowers produce small, dry, fruits called nutlets. Minute structures of these nutlets form a primary basis for distinguishing taxa. *Plagiobothrys* taxa are confusing and difficult to distinguish, and many species need further study; *Plagiobothrys chorisianus* may intergrade with *P. undulatus*, a relatively common species along the coast (Hickman 1993).

Choris's popcorn-flower is known from 12 populations in Santa Cruz, San Mateo, and San Francisco counties. Plants are associated with mesic areas within coastal prairie, grassland, and scrub. A significant population occurs approximately 3 miles south of the project area, where Choris's popcorn-flower grows in mesic depressions on coastal bluffs with sedge (*Carex* sp.), rush (*Juncus* sp.), brass-buttons, and other wetland species.

Suitable habitat for Choris's popcorn flower occurs near the eroded mouth of Pullman Ditch, where small patches of seasonal wetland have become established (see central coast riparian scrub habitat, above). Phase I of the proposed project will not affect suitable habitat for this species.

**Table 1. Special-status plant and animal species, their status, and potential for occurrence on the Pullman Ditch Project Site, Half Moon Bay, California.**

NAME	*STATUS	HABITAT	POTENTIAL FOR OCCURRENCE ON THE PROJECT SITE
<b>Federal or State Endangered or Threatened Species</b>			
Steelhead ( <i>Oncorhynchus mykiss</i> )	FT (Central Calif. Coast ESU)	An anadromous form of rainbow trout that migrates upstream from the Pacific or the S. F. Bay to spawn. Prefers streams with dense canopy.	No habitat present on the project parcel. Absent.
California Red-legged Frog ( <i>Rana aurora draytonii</i> )	FT, CSSC	Ponds and still pools in streams, and adjacent wetland habitat.	Pullman Ditch could provide marginal foraging or dispersal habitat, if this species occurs nearby. Could occur as an irregular dispersant.
San Francisco Garter Snake ( <i>Thamnophis sirtalis tetrataenia</i> )	FE, SE	Wetlands, especially those dominated by herbaceous wetland vegetation, on the San Francisco Peninsula.	Pullman Ditch does not provide foraging habitat, due to a lack of prey. Considered absent.
American Peregrine Falcon ( <i>Falco peregrinus anatum</i> )	SE	Nests on cliffs or very high bridges and buildings, forages in a variety of habitats.	Rare to occasional forager on site; no suitable breeding habitat on site.
Yellow meadow foam ( <i>Limnathes douglasii ssp. sulpherea</i> )	SE	Seasonal wetlands and vernal pools within grassland, coastal prairie, and coastal scrub.	No suitable habitat on project site; presumed absent.
<b>California Species of Special Concern and State Protected Species</b>			
Sharp-shinned Hawk ( <i>Accipiter striatus</i> )	CSSC	Nests in dense woodlands, forages in many habitats in winter and migration.	Could occur on-site as a migrant and winter visitor.
Cooper's Hawk ( <i>Accipiter cooperi</i> )	CSSC	Nests in woodlands, forages in many habitats in winter and migration.	Could occur on-site as a migrant and winter visitor.
Merlin ( <i>Falco columbarius</i> )	CSSC	Uses many habitats in winter and migration.	Occasional forager during migration and winter. Does not breed locally.
California Yellow Warbler ( <i>Dendroica petechia brewsteri</i> )	CSSC	Mature riparian habitats.	Could occur on-site as an occasional forager and migrant.
Saltmarsh Common Yellowthroat ( <i>Geothlypis trichas sinuosa</i> )	CSSC	Breeds primarily in fresh and brackish marshes in tall grass, tules, and willows; uses salt marshes more in winter.	Willow riparian habitat at Half Moon Bay State Beach, and elsewhere along Pullman Ditch could provide potential nesting habitat. Could occur as an uncommon breeder.
Tricolored Blackbird ( <i>Agelaius tricolor</i> )	CSSC	Nests in vegetation around wetlands. Forages over a variety of habitats.	No nesting habitat present. May occasionally forage on site.
<b>State Protected Species, CNPS Species, Rare Species, and Unique Species</b>			
Coastal marsh milk-vetch ( <i>Astragalus pycnostachyus</i> var. <i>pycnostachyus</i> )	CNPS 1B	Moist soils within coastal scrub, margins of coastal salt marshes.	Suitable habitat occurs within coastal bluff scrub west of the pedestrian path and at the mouth of Pullman Ditch. However, species unlikely to occur due to extremely limited known range.
Choris's popcorn-flower ( <i>Plagiobothrys chorisianus</i> )	CNPS 1B	Seasonally wet areas within chaparral, coastal prairie and scrub.	Suitable habitat occurs at the mouth of Pullman Ditch. Known population approximately 3 miles south of project site.

**\*SPECIAL-STATUS SPECIES CODE DESIGNATIONS**

FE = Federally listed Endangered  
FT = Federally listed Threatened  
SE = State listed Endangered  
CSSC = California Species of Special Concern  
SP = State Protected Species  
CNPS 1B = Plants considered by CNPS to be rare, threatened, or endangered in California, and elsewhere  
CNPS 3 = Plants about which CNPS needs more information; a watch list  
CNPS 4= Plants of limited distribution; a watch list

## IMPACTS AND MITIGATION MEASURES

Potential impacts to coastal and other biotic resources which may result from maintenance activities within and adjacent to Pullman Ditch are discussed in this section. The portion of the ditch currently proposed for maintenance (vegetation, silt, and debris clearing) extends from the culvert at the frontage road of Highway 1 west to approximately 300 feet downstream. Vegetation and debris may also be cleared from the three 50x100 ft parcels to the north of this portion of the ditch. Because no activities are currently proposed in the remainder of the project area, it is not included in this impact analysis.

### IMPACTS FOUND TO BE LESS THAN SIGNIFICANT

#### Impacts to Non-native Herbaceous Habitat

The non-native herbaceous vegetation adjacent to the project site is regionally and locally common and provides only marginal habitat for wildlife. Clearing of vegetation and debris from this area is not considered a significant impact.

#### Impacts to the Pullman Ditch Riparian Area

Pullman Ditch, despite its artificial character, is considered a "Riparian Area" as defined by the LCP. According to this definition, a riparian area is "any area of land bordering a stream or a lake, including its banks, at least up to the highest point of an obvious channel...Such areas extend to the outer edge of appropriate indicator plant species." With the exception of one arroyo willow at the extreme eastern end of the ditch, no such indicator species occur in the portion of the ditch proposed for maintenance activities. The edge of the Pullman Ditch riparian habitat is therefore considered to be the topographic top of bank of the ditch, with the exception of the willow area, where the boundary extends to the dripline of the tree (Figure 2). This riparian habitat is considered to be an Environmentally Sensitive Habitat Area (ESHA), as defined in Section 30107.5 of the LCP. Permitted uses within and adjacent to an ESHA include only resource-dependent or other uses which will not have a significant adverse impact on sensitive habitats. Land uses on adjacent land which would have significant adverse impacts on the ESHA are also prohibited.

However, the LCP permits flood control projects in riparian areas "where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development." The proposed vegetation removal will improve flow within Pullman Ditch, an artificial watercourse designed to drain surface runoff from natural and hardscape areas east of Highway 1, and could therefore be considered permissible under the LCP. Nevertheless, to comply with the CDFG Streambed Alteration Agreement (Notification Number 1600-2004-0227-3, issued October 1 2004) for the project, adverse affects to riparian habitat will be avoided through a series of impact minimization measures. The following mitigation measures are required per condition #12 of the CDFG permit and will therefore be incorporated into the project:

1. No trees over 4 inches diameter at breast height will be removed;

2. All disturbed slopes around and on the banks will be seeded and mulched as needed until local vegetation has recolonized the site;
3. If planting of native species is desired, then locally collected seeds and propagules will be used.

Because these measures preclude the removal of existing arroyo willow trees from the ditch (all of which are greater than 4" dbh), impacts to riparian habitat are considered less than significant.

### **Impacts to Saltmarsh Common Yellowthroats**

This species is relatively common where suitable habitat is present. Thus, minor impacts, such as loss of habitat for a single nesting pair, would not be considered significant. No impacts to nesting Saltmarsh Common Yellowthroats are expected, since active nests of all birds protected under the Migratory Bird Treaty Act will be avoided (see *Regulatory Overview for Nesting Birds*, below).

## **POTENTIALLY SIGNIFICANT IMPACTS**

### **Impacts to California Red-legged Frogs**

It is extremely unlikely that California red-legged frogs would occur in Pullman Ditch. However, due to the remote possibility of a wandering individual of this species occurring in the pool at the upstream end of the ditch, surveys are warranted prior to vegetation clearing. If this species occurred on the site, clearing of vegetation could potentially result in inadvertent harm (e.g., through crushing or harming with machinery). The following mitigation measures would reduce impacts to a less-than-significant level.

**Mitigation 1: Pre-vegetation Clearing Surveys.** Prior to initiation of vegetation clearing, a qualified biologist should conduct surveys for California red-legged frogs. One night-time survey and one day-time survey should be conducted. The night-time survey should be conducted the night before work begins, followed by the day-time survey the morning before work begins. Because it is unlikely that red-legged frogs occur in the project area, this pre-construction survey should be sufficient, despite the fact that the CDFG Streambed Alteration Agreement calls for protocol-level surveys (recently revised by the U.S. Fish and Wildlife Service to include 8 surveys over at least 6 weeks). If a red-legged frog is found, the U.S. Fish and Wildlife Service and the CDFG will be notified immediately. The U.S. Fish and Wildlife Service may then require consultation under Section 7 or Section 10 of the Federal Endangered Species Act, and require additional mitigation, including, at a minimum, the following. If no red-legged frogs are found, no further mitigation is required.

**Mitigation 2: On-site Monitoring.** If a red-legged frog is found on the project site, a qualified biologist will remain on-site during all vegetation-clearing work to help ensure that no red-legged frogs are harmed. This biologist will carefully monitor work in and around Pullman Ditch and watch for red-legged frogs. If a red-legged frog is found on the site within the work area, the biologist will relocate the frog to suitable habitat nearby, but outside the work area (this will require approval from the U.S. Fish and Wildlife Service).

**Mitigation 3: Worker Training.** All workers involved in the clearing of vegetation will participate in a training session led by a qualified biologist prior to initiation of work. This training session will include information on the ecology and identification of red-legged frogs, and the need to stop work and inform the on-site biologist in the event of a potential sighting.

The mitigation measures above would reduce impacts to California red-legged frogs to a less-than-significant level under the California Environmental Quality Act. However, the presence of this species on the project site may qualify the site (or that portion of the site) as an ESHA under the LCP. Under the LCP, the only activities allowed in habitat for rare or endangered wildlife are: education and research; hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat; and fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species. Thus, presence of the red-legged frog on the project site may prevent vegetation clearing from occurring. If this species is detected on-site, consultation with the relevant agencies would be necessary to determine what activities might be permissible.

#### MITIGATION MONITORING AND REPORTING PROGRAM

**Table 2. Summary of Environmental Impacts for the Mitigation Monitoring and Reporting Program.**

Environmental Impact	Mitigation Measure	Resulting Level of Significance	Monitoring Responsibility	Monitoring Timeframe
If California red-legged frogs occur on the project site, they could be harmed during project implementation.	1) Prior to vegetation removal, one night-time and one day-time survey will be conducted to determine if the species is present in the work area. 2) If a red-legged frog is found, the USFWS and CDFG will be notified, and work will stop until consultation has been completed. A qualified biologist will remain on-site during maintenance activities to ensure that no red-legged frogs are harmed. 3) If a red-legged frog is found, all workers will participate in a training session on the ecology and identification of red-legged frogs, and measures being used to avoid impacts.	Mitigated to Less-than-significant.	City of Half Moon Bay.	Immediately prior to and during work.

## COMPLIANCE WITH ADDITIONAL LAWS AND REGULATIONS APPLICABLE TO BIOTIC RESOURCES OF THE PROJECT SITE

### REGULATORY OVERVIEW FOR NESTING BIRDS

#### The Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA; 16 U.S.C., §703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA.

#### California State Fish & Game Code

Migratory birds are also protected in and by the State of California. The State Fish and Game Code §3503 (and other sections and subsections) emulates the MBTA and protects birds' nests and eggs from all forms of take. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by the CDFG and would constitute a significant impact.

Raptors (*i.e.*, eagles, hawks, and owls) and their nests are specifically protected in California under Fish and Game Code Section 3503.5. Section 3503.5 states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto."

#### Project Applicability

Some common birds, such as California Towhees or Bushtits, could potentially nest in vegetation that would be cleared during project implementation. These species are protected under the laws described above. Vegetation clearing has the potential to take nests, eggs, young or individuals of these protected species. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to the abandonment of nests. Although this impact would not be significant under CEQA due to the local and regional abundance of the species in question and the low magnitude of the potential impact, we recommend that the following measures be implemented to reduce the risk of a violation of the MBTA and the California Fish and Game Code.

#### Compliance Measures

**Measure 1. Avoidance.** Avoid nesting season construction. Vegetation clearing should be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds in the Half Moon Bay area extends from February through August.

**Measure 2. Pre-removal Surveys.** If it is not possible to schedule vegetation clearing between September and January, then pre-construction surveys for nesting birds should be conducted by a

qualified ornithologist to ensure that no nests will be disturbed. This survey should be conducted no more than 14 days prior to the initiation of vegetation clearing activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other potential nesting habitats in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a disturbance-free buffer zone to be established around the nest, typically 250 feet, to ensure that no nests of species protected by the MBTA or State Code will be disturbed during project implementation.

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**APPENDIX A.  
SPECIAL-STATUS SPECIES REGULATIONS OVERVIEW**

## SPECIAL-STATUS SPECIES REGULATIONS OVERVIEW

Federal and state endangered species legislation gives several plant and animal species known to occur in the vicinity of the project site special status. In addition, state resource agencies and professional organizations, whose lists are recognized by agencies when reviewing environmental documents, have identified as sensitive some species occurring in the vicinity of the project site. Such species are referred to collectively as “species of special status” and include: plants and animals listed, proposed for listing, or candidates for listing as threatened or endangered under the Federal Endangered Species Act (FESA) or the California Endangered Species Act (CESA), animals listed as “fully protected” under the California Fish and Game Code, animals designated as “Species of Special Concern” by the CDFG, and plants listed as rare or endangered by the CNPS in the *Inventory of Rare and Endangered Plants of California* (2001).

Federal Endangered Species Act provisions protect federally listed threatened and endangered species and their habitats from unlawful take. “Take” under FESA includes activities such as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of the specifically enumerated conduct.” The U.S. Fish & Wildlife Service’s (USFWS) regulations define harm to mean “an act which actually kills or injures wildlife.” Such an act “may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering” (50 CFR § 17.3). Activities that may result in “take” of individuals are regulated by the USFWS. The USFWS produced an updated list of candidate species September 19, 1997 (USFWS 1997; 50 CFR Part 17). Candidate species are not afforded any legal protection under FESA; however, candidate species typically receive special attention from federal and state agencies during the environmental review process.

Provisions of CESA protect state-listed threatened and endangered species. CDFG regulates activities that may result in “take” of individuals (*i.e.*, “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”). Habitat degradation or modification is not expressly included in the definition of “take” under the California Fish and Game Code. The CDFG, however, has interpreted “take” to include the “killing of a member of a species which is the proximate result of habitat modification . . . .” Additionally, the California Fish and Game Code contains lists of vertebrate species designated as “fully protected” (California Fish & Game Code §§ 3511 [birds], 4700 [mammals], 5050 [reptiles and amphibians], 5515 [fish]). Such species may not be taken or possessed without a permit.

The CDFG has also produced three lists (amphibians and reptiles, birds, and mammals) of “species of special concern” that serve as “watch lists.” Species on these lists either are of limited distribution or the extent of their habitats has been reduced substantially, such that threat to their populations may be imminent. Thus, their populations should be monitored. They may receive special attention during environmental review.

Plants listed as rare or endangered by the CNPS (2001), but which have no designated status under state endangered species legislation, are defined as follows:

- List 1A. Plants considered by the CNPS to be extinct in California.
- List 1B. Plants rare, threatened, or endangered in California and elsewhere.
- List 2. Plants rare, threatened, or endangered in California, but more numerous elsewhere.
- List 3. Plants about which we need more information - A review list.
- List 4. Plants of limited distribution - A watch list.

EXHIBIT 15

**PLANNING COMMISSION RESOLUTION P- 12-07  
RESOLUTION FOR APPROVAL  
PDP-004-06**

**Coastal Development Permit for a  
Single-Family Residence Located at 2788 Pullman Avenue (APN 048-121-090)**

**WHEREAS**, an application was submitted requesting approval a Coastal Development Permit for of the construction of a two-story, single-family residence on a vacant parcel located at 2788 Pullman Avenue (APN 048-121-090), on a parcel zoned R-1, Single-Family Residential; and

**WHEREAS**, the procedures for processing the application have been followed as required by law; and

**WHEREAS**, the Architectural Review Committee of the City of Half Moon Bay conducted a noticed public meeting for the project on February 15, 2006, at which time all those desiring to be heard on the matter were given the opportunity to be heard; and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing on December 14, 2006; and continued at the March 22, 2007, public hearing, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

**WHEREAS**, the Planning Commission considered all written and oral testimony presented for their consideration; and

**WHEREAS**, the Planning Commission has determined that the construction of the proposed single-family residence are categorically exempt from CEQA under Section 15303(a); and

**WHEREAS**, the Planning Commission has made the required findings for approval of the project, set forth in Exhibit A to this resolution;

**NOW, THEREFORE, BE IT RESOLVED** that, based upon the Findings in Exhibit A and subject to the Conditions of Approval contained in Exhibit B, the Planning Commission approves the application (PDP-004-06).

**PASSED AND ADOPTED** by the City of Half Moon Bay Planning Commission at a duly noticed public hearing held on March 22, 2007, by the following vote:

AYES, Commissioners Poncini, McCarthy, Vice Chair Roman and Chair Allis

NOES, Commissioner Lansing

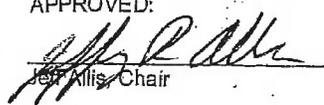
ABSENT,

RECUSED: Commissioners Snow and Jonsson

ATTEST:

  
Steve Flint, Planning Director

APPROVED:

  
Jeff Allis, Chair

A-2-HMB-07-015  
Oliva SFR  
Exhibit 4  
Notice of Final Local  
Action  
Page 2 of 14

**EXHIBIT A  
FINDINGS AND EVIDENCE  
PDP-004-06**

**Coastal Development Permit for a  
Single-Family Residence Located at 2788 Pullman Avenue (APN 048-121-090)**

*issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services and resources will be available to serve the development upon its completion and that such development is located within and consistent with the policies applicable to such an area designated for development. The applicant shall assume full responsibility for costs incurred in the service extensions or improvements that are required as a result of the proposed project, or such share as shall be provided in such project would participate in an improvement or assessment district. Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the Land Use Plan.*

**Compliance:** The project has a 5/8" water connection, which is sufficient to serve a residence of this size. The applicant will have to purchase a sewer connection from the Granada Sanitary District prior to the issuance of a building permit. The Granada Sanitary District has informed City staff that there is enough capacity to serve the proposed residence. The Planning Commission finds that there are adequate services and resources for the development of the single-family residences and associated infrastructure improvements.

- 2. Growth Management System** – The development is consistent with the annual population limitation system established in the Land Use Plan and Zoning Ordinance.

**Planning Commission Findings:** The project is consistent with the established growth control ordinance in Chapter 17.06 of the Municipal Code. The applicant has a valid Measure A certificate.

- 3. Zoning Provisions** – The development is consistent with the use limitations and property development standards of the base district as well as the other requirements of the Zoning Ordinance.

**Planning Commission Findings:** The project site is zoned R-1 (Single-Family Residential). The project complies with all development standards including lot size, structure height, setbacks, lot-coverage, floor to area ratio and building envelope. The project has been reviewed for compliance with the design review criteria in Chapter 18.21 of the Zoning Code.

- 4. Adequate Services** – Evidence has been submitted with the permit application that the proposed development will be provided with adequate services and infrastructure at the time of occupancy in a manner that is consistent with the Local Coastal Program.

**Planning Commission Findings:** The project is located within an existing subdivision with roads and other infrastructure serving the existing houses. One 5/8" non-priority water service connection is assigned to the property. The property is within the Granada Sanitary District and is not assessed for a sewer connection. The applicant will have to purchase a sewer connection prior to the issuance of a building permit. The project is located within an existing developed area in the predominantly built-out City of Naples Tract Subdivision, which contains roads and adequate sewer, water and other infrastructure that serve the existing needs of the immediate neighborhood. In accordance with the City Council's

action during the public hearing of May 2, 2006, the applicants shall execute a recorded street agreement for future construction of public improvements adjacent to the project site frontage(s) as approved by the Public Works Director/City Engineer.

5. **California Coastal Act** – Any development to be located between the sea and the first public road parallel to the sea conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

**Planning Commission Findings:** The proposed project will not restrict or otherwise adversely affect public coastal access or public coastal recreational opportunities because it involves residential construction on an existing residential lot, does not involve new roads, does not alter existing access ways and will utilize existing access ways on Pullman Avenue, and provide infrastructure improvements that will improve coastal access.

**Site and Design Review – Findings**

The required Coastal Development Permit for the construction of a residence may only approved only after the approving authority has made the following finding (Number 6 listed below) per Municipal Code Section 18.21.040:

6. **Architectural Review** - The project will not hinder the orderly and harmonious development of the City, nor will it impair the desirability or opportunity to attain the optimum use and value of the land and the improvements, nor will it impair the desirability of living and working conditions in the same or adjacent areas, nor will it otherwise adversely affect the general prosperity and welfare.

**Planning Commission Findings:** The project was reviewed and approved by the Architectural Review Committee (ARC) at the meeting of February 15, 2006 and the ARC made the necessary finding.

**Environmental Review – Findings**

7. **CEQA** – The project is consistent with CEQA guidelines and will not have a significant effect on the environment.

**Planning Commission Findings:** This project proposes the development of a new single-family residence which is categorically exempt under California Administrative Code Sections 15303(a) for new construction of single-family residences.

EXHIBIT 16

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94106-2219  
VOICE AND TDD (415) 904-5260  
FAX (415) 904-5400

**W 5.5a**

Filed: April 20, 2007  
49<sup>th</sup> Day: June 8, 2007  
Staff: YinLan Zhang—SF  
Staff Report: April 26, 2007  
Hearing Date: May 9, 2007  
Commission Action:

**APPEAL STAFF REPORT  
SUBSTANTIAL ISSUE DETERMINATION**

**APPEAL NO.:** A-2-HMB-07-015

**APPLICANT:** Francisco Oliva

**LOCAL GOVERNMENT:** City of Half Moon Bay

**LOCAL DECISION:** Approval with Conditions

**PROJECT LOCATION:** 2788 Pullman Avenue, Half Moon Bay

**PROJECT DESCRIPTION:** Construction of a 2,500 square-foot single family residence on a 5,000 square-foot lot.

**APPELLANTS:** Commissioners Reilly and Commissioner Blank

**STAFF  
RECOMMENDATION:** Substantial Issue Exists;

**SUBSTANTIVE FILE  
DOCUMENTS:**

1. City of Half Moon Bay Planning Commission December 14, 2006 Staff Report for PDP 004-006
2. City of Half Moon Bay Planning Commission March 22, 2007 Staff Report for PDP 004-006
3. Pullman Ditch Biological Resource Assessment, H.T. Harvey Associates, November 3, 2006
4. City of Half Moon Bay Local Coastal Program.

**EXECUTIVE SUMMARY**

The City of Half Moon Bay approved with conditions a 2,500 square-foot single family residence on a 5,000 square-foot lot at 2788 Pullman Avenue.

The appellants contend that the approved development is inconsistent with the sensitive habitat protection policies of the City's certified LCP because the approved development does not meet the required minimum setback for sensitive habitats that support the San Francisco garter snake and California red-legged frog or incorporate the necessary measures to ensure that the approved development would be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitat and would be compatible with the maintenance of biological productivity of the sensitive habitat.

Commission staff analysis indicates that the appeal raises significant questions regarding whether the development approved by the City is consistent with the sensitive habitat protection policies in the City's certified LCP. Commission staff recommends that the Commission find that the project, as approved by the City, raises a substantial issue of conformity with the City's LCP Policies

**The motion to adopt the staff recommendation of Substantial Issue is found on page no. 2.**

#### **STAFF NOTES**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending substantial issue, unless there is a motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the de novo portion of the appeal hearing on the merits of the project will be held in the future.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

#### **1.0 STAFF RECOMMENDATION**

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

#### **MOTION**

*I move that the Commission determine that Appeal No. A-2-HMB-07-015 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.*

A. Development and Land Use:

1. Shall be prohibited when significant adverse impacts on coastal resource areas would occur as a result.
2. Shall be sited and designed to prevent impacts that could significantly degrade adjacent sensitive habitat areas or significantly degrade areas adjacent to sensitive habitat areas.
3. Shall be compatible with the maintenance of biologic productivity of any adjacent sensitive habitat areas.
4. Shall be permitted within sensitive habitat areas only if they are resource-dependent uses or other uses which will not have any significant adverse environmental impacts, and if the uses comply with U.S. Fish and Wildlife Service and State Department of Fish and Game regulations.
5. Shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural land forms along bluffs and cliff, and shall minimize risks to life and property in hazard areas.
6. Shall comply with the restrictions listed in this Title for each coastal resource area, and with all other applicable sections of the City's Local Coastal Program Land Use Plan.

18.38.085 Habitats for Rare and Endangered Species.

- A. Rare and Endangered Species. The potential exists for any of the following Rare and Endangered Species to be found within the San Mateo County Coastal Area and therefore within the City of Half Moon Bay:
1. Animals: the San Francisco Garter Snake, California Least Tern, California Black Rail, California Brown Pelican, San Bruno Elfin Butterfly, San Francisco Tree Lupine Moth, Guadalupe Fur Seal, Sea Otter, California Brackish Water Snail, Globose Dune Beetle  
...
- D. **Buffer Zones. The minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet.** [Emphasis added.]

Discussion

The appellants contend that the approved development is inconsistent with the LCP's sensitive habitat protection policies because (1) the approved development does not meet the setback requirement for sensitive habitat, specifically, the 50-foot setback required for "habitats for rare and endangered species" as provided in Section 18.38.085 of the Zoning Code/IP, and (2) the approved development does not incorporate adequate mitigation measures to prevent impacts that could significantly degrade the environmentally sensitive habitats that support the federally

and state endangered San Francisco garter snake and the federally threatened, state species of concern, California red-legged frog and to ensure that the development would be compatible with the maintenance of biological productivity of the sensitive habitat.

### *Setbacks*

The approved single-family residence would be located 42-feet from the edge of the riparian vegetation at Pullman Ditch. Associated landscaping improvement for the residence would be less than 42 feet from the edge of the riparian vegetation. The minimum required buffer for habitats for rare and endangered species in Section 18.38.085 of the Zoning Code/IP is 50 feet. In addition, Policy 3-3 of the LUP requires development adjacent to sensitive habitats to be sited and designed to prevent impacts that would significantly degrade the habitat. The City allowed the house to be located less than 50 feet from the edge of the riparian vegetation because although the City recognized that Pullman Ditch is sensitive habitat because it is an intermittent stream and the surrounding area is riparian corridor, both of which independently qualifies the area as sensitive habitat under Policy 3-1 of the certified LUP, the City did not find that Pullman Ditch and adjacent riparian habitat support the San Francisco garter snake or the California red-legged frog. As such, the City determined that Pullman Ditch does not meet the specific definition of "habitats for rare and endangered species," another type of sensitive habitat specifically identified in Policy 3-1 of the certified LUP and afforded extra protection by Policies 3-21, 3-23, and 3-24 of the certified LUP as well as Section 18.38.085 of the Zoning Code/IP.

The City's March 22, 2007 staff report states

The bio report does specify that below the stream bank there may be vegetation that provides habitat or cover for wildlife, it does not specify that that is the habitat of a rare or endangered species. In fact, the bio report concludes that no wildlife species listed as threatened or endangered under the Federal Endangered Species Act are likely to occur on the project site. Therefore, the requirement in the LCP that a buffer zone of a minimum of 50 feet surrounding a habitat of a rare or endangered species would not apply to the proposed project site.

The "bio report" referenced in the above City finding is the November 3, 2005 Pullman Ditch Biological Resources Assessment (H.T. Harvey and Associates) conducted for the purposes of a City maintenance project. Biologists from the California Department of Fish and Game (CDFG), and the U.S. Fish and Wildlife Service (USFWS) have commented on the biological report and disputed the report's conclusion that neither California red-legged frogs nor San Francisco garter snakes are likely to be present in Pullman Ditch.

Dave Johnston from CDFG states in his March 9, 2006 email to City staff (Exhibit 6):

We can't completely concur with the assessment's conclusion that California red-legged frogs (CRLF) would be very uncommon on the site and San Francisco garter snakes will not be present at all. The ditch is within the known range of these species and unsurveyed aquatic habitat is within easy dispersal distance.

EXHIBIT 17

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
735 MONTE SERRANO, SUITE 100  
SANTA CRUZ, CA 95060  
(831) 427-4651



# WITHDRAWAL OF APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Date: February 13, 2008

## SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Commissioners Steve Blank and Mike Reilly

45 Fremont, Suite 2000

San Francisco, CA 94105

(415) 904-5200

## SECTION II. Decision Being Appealed

Name of local/port government:

City of Half Moon Bay

Description of decision being appealed:

Conditional approval of CDP

Name of Applicant(s)

Francisco Oliva

Brief description of development being appealed:

2500 square foot single family residence near a drainage.

Development's location (street address, assessor's parcel no., cross street, etc.):

2788 Pullman Ave, Half Moon Bay

APN 048-121-090

Appeal Number:

A-2-HMB-07-015

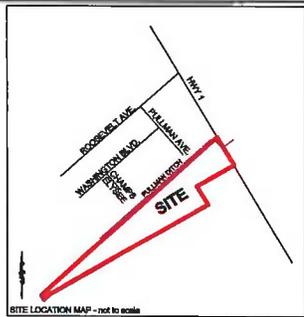
Date appeal filed:

April 20, 2007

District:

North Central District

EXHIBIT 18



**GENERAL NOTES**  
 1. PLANS PREPARED AT THE REQUEST OF:  
 MARK STOLOSKI, OWNER  
 2. BASE MAP BASED ON SURVEY BY COASTSIDE  
 LAND SURVEYING AND VERTICAL MAPPING  
 RESEARCHERS INC., 2004.  
 3. THIS IS NOT A BOUNDARY SURVEY.  
 4. PLAN WAS PREPARED IN RESPONSE TO CCC  
 STAFF REQUEST.



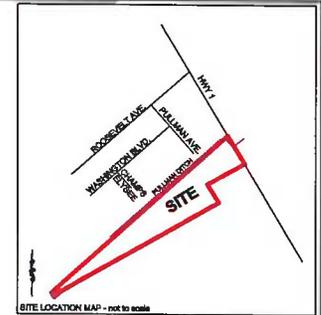
**LEGEND**

- POTENTIAL ESHA 50' SETBACK
- PULLMAN DITCH
- POTENTIAL BUILDING ENVELOPE
- WATER LINE
- SEWER LINE

 Prime Geosciences, Inc. SIGMA PRIME GEOSCIENCES, INC. 111 VASSAR STREET REDWOOD CITY, CA 94019 (650) 226-3388 FAX 728-5893	
DATE: 2-5-14	DRAWN BY: CMK
CHECKED BY: AZD	
REV. DATE:	REV. DATE:
PL. DATE:	PL. DATE:

**CCC STAFF ON-SITE  
 ALTERNATIVE:  
 STOLOSKI PROJECT**  
 CABRILLO HIGHWAY  
 HALF MOON BAY  
 APN 048-133-010

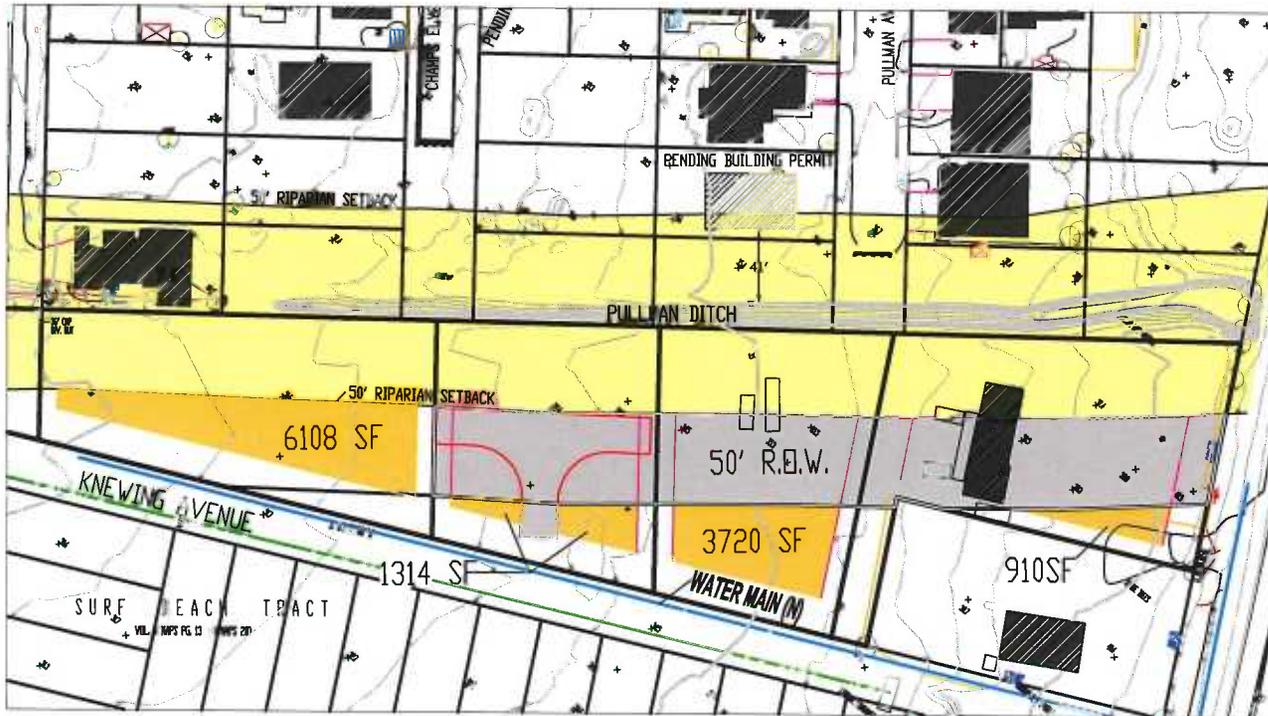
SHEET  
 C-5



**GENERAL NOTES**  
 1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER  
 2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2008.  
 3. THIS IS NOT A BOUNDARY SURVEY.  
 4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

**LEGEND**

- POTENTIAL ESHA 50' SETBACK
- PULLMAN DITCH
- POTENTIAL BUILDING ENVELOPE
- WATER LINE
- SEWER LINE

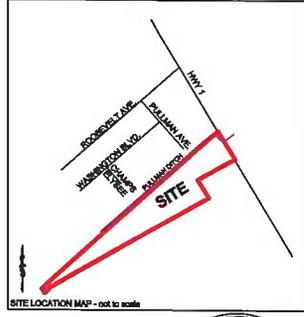


1"=100'

	Prime Geosciences, Inc. SIGMA PRIME GEOSCIENCES, INC. 14555 CASSAN STREET HALF MOON BAY, CA 94019 (650) 728-5890 FAX 728-5893
DATE: 2-9-14 DRAWN BY: CMK CHECKED BY: AGD REV. DATE: _____ REV. DATE: _____ REV. DATE: _____	CCC STAFF ON-SITE ALTERNATIVE DETAIL: <b>STOLOSKI PROJECT</b> CARRILLO HIGHWAY HALF MOON BAY APN 049-133-010

SHEET  
 C-6

EXHIBIT 19



**GENERAL NOTES**

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2008.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.



**LEGEND**

	POTENTIAL ESHA 50' SETBACK
	PULLMAN DITCH
	POTENTIAL BUILDING ENVELOPE
	WATER LINE
	SEWER LINE

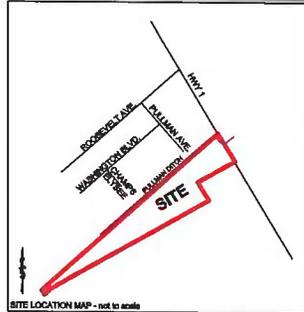
Prime Geotechnics, Inc. SIGMA ENGINE GEOSCIENCES, INC. 111 WASHINGTON ST. #100 HALF MOON BAY, CA 94019 (650) 726-3990 FAX 726-3993	
DATE: 2-5-14	DRAWN BY: CMK
CHECKED BY:	
REV. DATE:	REV. DATE:
REV. DATE:	REV. DATE:

**CCC STAFF KNEWING  
ALTERNATIVE:  
STOLSKI PROJECT**

CABRILLO - HIGHWAY  
HALF MOON BAY  
APN 048-133-010

SHEET  
C-3

EXHIBIT 20



**GENERAL NOTES**

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC. 2008.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

- LEGEND**
- POTENTIAL ESHA 50' SETBACK
  - PULLMAN DITCH
  - POTENTIAL BUILDING ENVELOPE
  - WATER LINE
  - SEWER LINE



Prime Geotechnics, Inc.  
 SIGMA ENGINE RESOURCES, INC.  
 4111 WASHINGTON STREET  
 HALF MOON BAY, CA 94019  
 (650) 726-3890  
 FAX 726-3869

DATE: 2-5-14	DRAWN BY: CMK
CHECKED BY: AZB	REV. DATE:
REV. DATE:	REV. DATE:
REV. DATE:	REV. DATE:

**CCC STAFF OSBORN ALTERNATIVE: STOLOSKI PROJECT**  
 CABRILLO HIGHWAY  
 HALF MOON BAY  
 APN 048-133-010

SHEET  
 C-4

EXHIBIT 21

# MAP OF SURF BEACH TRACT HALF MOON BAY

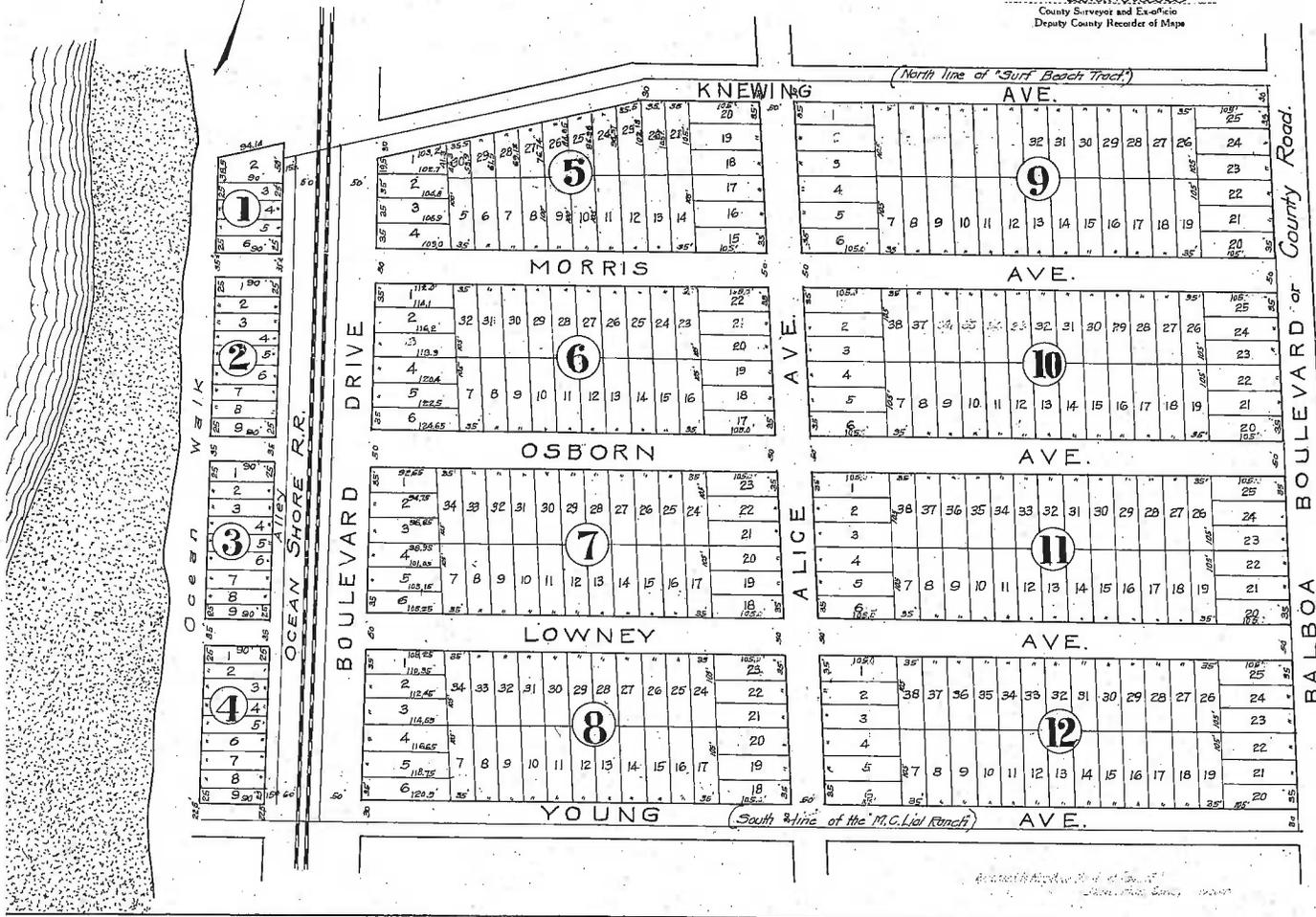
SAN MATEO COUNTY,  
CALIFORNIA.

I hereby certify this to be a true copy  
of an original map recorded in Map Book  
D at page 28.

Geo. A. Kneass  
County Surveyor and Ex-officio  
Deputy County Recorder of Maps

We, the Surf Beach Realty Company, the proprietors of the  
lands and premises, shown on the within and accompanying  
Map, have caused said accompanying Map of lands in San  
Mateo County, State of California to be made, mapped and  
plotted as shown herein, and we do hereby acknowledge  
and certify to the same.  
In Witness Whereof, we have caused our corporate  
name to be signed and our corporate seal to be affixed  
hereto, this 8<sup>th</sup> day of January, 1906.

(Signed) Surf Beach Realty Company,  
by Geo. O. Rich, President.



STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO, } On this 6<sup>th</sup> day  
of February, in the year One thousand Nine hundred and  
Six, before me, George Pattison, a Notary Public, in and  
for said City and County, residing in said City,  
Commissioned and sworn, personally appeared Geo. O.  
Rich known to me to be the President of the Surf  
Beach Realty Company, the Corporation that executed  
the within instrument and he duly acknowledged to me  
that such Corporation executed the same.  
In Witness Whereof, I have hereunto set my hand  
and affixed my official seal, the day and year in the  
certificates first above written.

(Signed) George Pattison,  
Notary Public.  
In and for the City and County of

"Boulevard Drive, Knewing Avenue, Morris Avenue,  
Osborne Avenue, Lowney Avenue, Young Avenue and  
Alice Avenue, as delineated and designated on this  
Map are hereby accepted by the Board of Supervisors  
of the County of San Mateo on behalf of the Public  
as dedicated to Public use, in accordance with and  
subject to the terms of a resolution of said Board  
adopted this 12<sup>th</sup> day of February, 1906."

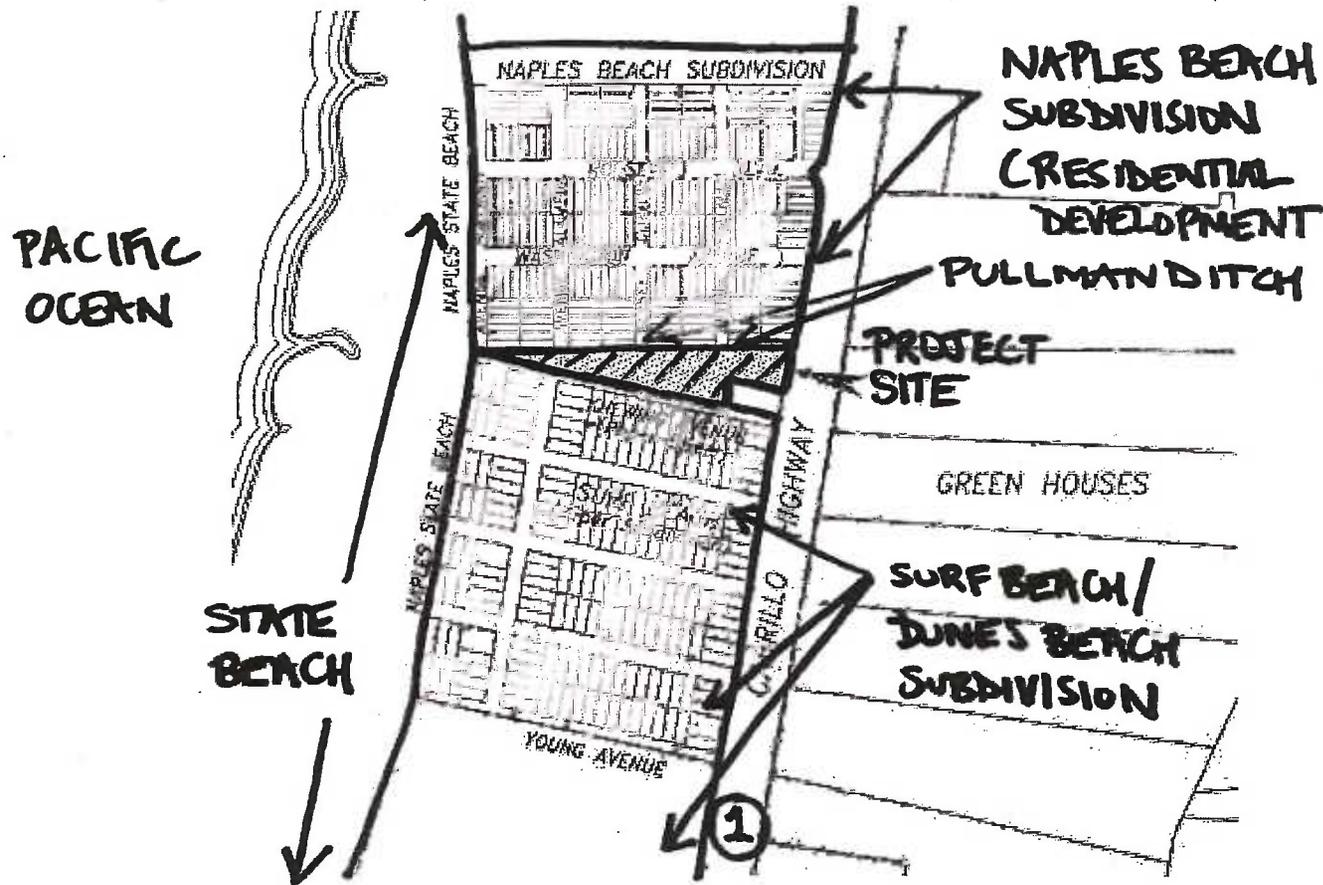
(Signed) H. W. Schoborg,  
SEAL Clerk of said Board  
of Supervisors.

I hereby certify that this map is correct as  
surveyed by me. (Signed) H. J. Dygert,  
January 8<sup>th</sup>, 1906. C.E. and Surveyor

(Note: This is a subdivision of the "M.C. Liel"  
Ranch in the Rancho Corral de Tierra Vasquez)

Filed for record of the request of Surf Beach  
Realty Co. February 26<sup>th</sup> A.D. 1906, of 35  
minutes past 4 o'clock P.M., San Mateo County Records.  
(Signed) J. F. Johnston, County Recorder,  
by Pauline E. Hansen,  
Deputy.

# A - 2 - HMB - 12 - 005 (STOLOSKI SUBDIVISION)



**PROJECT LOCATION**

EXHIBIT 22

Within these existing neighborhoods, existing zoning requirements represent a development potential for a maximum of 2,223 units, including 930 units in Ocean Colony and Canada Cove.<sup>2</sup> Except in these two latter areas where most of the land is as yet unsubdivided, full build-out cannot occur for a long period, given the need for consolidation of lots into buildable sites and for assessment districts to provide services.

## 2. Paper Subdivisions

Category 2 includes all of the "paper subdivisions" in Half Moon Bay where there has been little, if any, development. All of these subdivisions have existed for many years and represent a large proportion of the theoretical development capacity of the City, although their lack of streets, water, and sewer services and fragmented ownership have historically prevented development. There are eleven of these subdivisions with a theoretical development potential, as platted, of over 1,100 new housing units. However, development potential on lots meeting current zoning requirements is for less than 500 units and even this number could not feasibly be developed within the near future due to fragmentation of ownership and the need for assessment districts or other means to finance infrastructural improvements. More importantly, development of these areas in accordance with existing platting would conflict with a number of Coastal Act policies pertaining to scenic resources, coastal access, and recreational opportunities, habitat protection and hazard avoidance, and provision for local recreational opportunities.

However, these lands have previously been committed to urbanization by subdivision and cannot feasibly be placed in agricultural use or open space habitat. They are not required for coastal recreation, although some expansion of the regional recreation area may be appropriate in connection with new development. Four of the eleven subdivisions may contain Class I and II soils (Surf Beach, Venice Beach, Highland Park, and Miramontes Terrace). However, agricultural use is infeasible because of prior subdivision, the impossibility of assembling usable parcels for lease, severe conflicts with existing development and heavy recreational use, lack of groundwater, and, in the case of Highland Park, Surf Beach, and Venice Beach, poor drainage. The University of California Cooperative Extension indicates that all of these subdivisions are poorly situated and drained for cultivation. (For further discussion of the reasons why none of these subdivisions is

---

<sup>2</sup>Ocean Colony may not be built out to its zoned potential, but existing zoning provides for about 861 additional units.

<sup>3</sup>The 1.48-acre parcel at the entrance to the Frenchmans Creek No. 1 Subdivision on Ruisseau Francais Avenue was originally created to accommodate a small commercial center. It was subsequently rezoned residential. Present zoning would permit development of 5 residential units. All required utilities are presently installed in the Ruisseau Francais right-of-way.

suitable for agricultural use, see, e.g. Chapter II, Part 8 of this Plan and the sources cited therein).

The Surf Beach and Venice Beach tracts, in particular, suffer from conflicts with heavy coastal recreational use and conflicts with adjacent residential development and equestrian uses. In both cases, lack of good drainage has long made agricultural use difficult.

Development of the Miramontes Terrace tract, north of Kelly, as platted would produce direct conflicts with recreational use of the State Beach due to the lack of adequate buffers between homes and the area of intensive recreational use. Therefore, it is proposed that the area west of Balboa Avenue be added to the State Beach, thereby eliminating the possibility of 60+ homes immediately adjacent to the beach area.

The other old paper subdivisions are all located on non-prime soils. Trunk sewer services have been installed on a north-south axis through the area. The development of these areas represents no conflict with Coastal Act policies which could not be resolved in criteria guiding such development. However, substantial re-planning and controls are needed to ensure protection of coastal access and recreational opportunities, scenic resources and habitat area, and bluffs. Under existing zoning and platting, up to 800 units could be built in the subdivisions between Seymour and Redondo Beach Road, with an additional 900-1,000 on adjacent unsubdivided land.

In order to resolve conflicts between the future development potential of all these subdivisions and relevant Coastal Act policies, all but two of the undeveloped subdivisions are proposed to be designated Planned Development Districts for low density development. This designation will require re-planning and re-platting of the areas and substantial reductions in permitted densities to achieve reasonable patterns of development protective of coastal resources consistent with modern development standards.

The Miramontes Terrace tract north of Kelly is proposed for addition to the Half Moon Bay State Beach for expansion of recreational opportunities.

The Highland Park subdivision is proposed to be developed at medium density consistent with prevailing densities in the adjacent Newport Terrace subdivision, with such re-platting as is required to solve drainage problems and provide suitable homesites.

Under current zoning Category 2 lands not included within the Wavecrest Restoration Project Area have a development potential for 429 units. Under the Land Use Plan, the capacity would be reduced to about 325-340 units. (Table 9.1).

EXHIBIT 23

TABLE 9.1

## CATEGORIES OF UNDEVELOPED LANDS IN HALF MOON BAY

CATEGORY 1: Existing Neighborhoods

	Existing Units	Maximum Potential New Units Under Exist. Zoning	Maximum Potential New Units Under LUP
1. Miramar	117	75	75(5)
2. City of Naples	51	68	71(5)
3. Grandview Terrace	84	31	66
4. Newport Terrace	52	20	25
5. Casa del Mar	241	45	40
6. Ocean Shore Terrace	95	32	76
7. Pilarcitos Park	275	235	213
8. Community Core/Spanish- town (Arleta Park East)	318	300	272
9. Arleta Park(& Miramontes Terrace South of Kelly)	597	482	349-414
10. Ocean Colony	189	861	861
11. Canada Cove Mobile Home Park	288	69	71
12. Frenchman's Creek	177	5	5(5)
13. Sea Haven	166	0	0
Category 1 Subtotal:	2,650	2,223(1)	2,124-2,189

CATEGORY 2:

## Undeveloped "Paper" Subdivisions

1. Surf Beach	2	91	100(5)
2. Venice Beach	6	85	60
3. Miramontes Terrace (North of Kelly)	6	66	0-15
4. Highland Park	0	66	95
5. Wavecrest	0	*(2)	*(2)
6. Redondo View	0	*(2)	*(2)
7. Redondo	0	*(2)	*(2)
8. Bernardo Station	19	121	70(2)
9. Ola Vista	1	*(2)	*(2)
10. Manhattan	1	*(2)	*(2)
11. Lipton-by-the-Sea	0	*(2)	*(2)
Category 2 Subtotal:	35	429	325-340



# San Mateo County Association of REALTORS®

Th 14a

RECEIVED  
MAY 12 2014  
CALIFORNIA  
COASTAL COMMISSION

May 12, 2014

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco CA, 94105

Re: A-2-HMB-12-005 (Stoloski Subdivision)

Dear Commissioners:

As an advocate for housing and the protection of private property rights, the San Mateo County Association of REALTORS® (SAMCAR) is pleased to submit comments and recommended action regarding A-2-HMB-12-005 (Stoloski Subdivision).

SAMCAR neither supports nor opposes individual proposals but the specifics surrounding this project are too egregious to ignore. We understand the Commission and its staff are charged with the need for a cautious approach towards development. However, when a project has met all local government requirements and request-upon-request by the Coastal Commission staff (with what can only be assumed by the evidence to be a focus by Coastal Commission staff on stopping the proposal)... then action by the Commission itself is needed.

To wit: The project is a four lot subdivision. The project was submitted to the City of Half Moon Bay in 2010. The city hired WRA to do all required environmental studies on the site. NO riparian habitat or any sensitive species were found... no comments were received from any resource agency during the public review period... subsequently, since all land use, planning, environmental and other mandates were satisfied - the proposal was unanimously approved by the Half Moon Bay City Council in 2012.

Two neighbors who live together (Mark Gradstein and Jane Gorman) then appealed the proposal to the Coastal Commission. Gradstein and Gorman claim (with no studies performed on their part or published data submitted to the Coastal Commission, and therefore, no financial investment on their part):

- 1) That the project requires a specific plan. It does not. The project is consistent with the HMB LCP wherein the property is zoned Planned Unit Development and is a stand-alone parcel and therefore, is also not subject to the dictates of the Surf Beach tract - a claim made by the Coastal Commission staff.
- 2) That a ditch running on the property is habitat to a protected frog and snake. The proponent has had additional biological studies done that, again, confirmed the WRA findings that the parcel is not a ESHA.
- 3) That a proposed culvert for storm water would create flooding near the home of the appellants at 2805 Naples. The culvert was subsequently removed to appease the appellant. However, as the appellant's primary goal is to halt the proposal, said action became moot. (Note: the appellant provided no engineering data to support their claim while the proponent has supplied all required engineering data.)

With all three of their appellant's claims now proven specious, the overriding issues become even more evident - IF Coastal Commission staff (as they would or should have with any other proposal) employed

sound scientific analysis, utilized accepted planning and land use practices and followed local dictates - the proposal would've been resolved by now.

Interestingly, the proponent has continuously supplied the Coastal Commission staff with requested information. They made repeated requests to meet on site to review the issues, which staff did not bother with until December of last year. The proponent also had several project alternatives prepared per request of the Coastal Commission staff... to what end?

When a proponent complies with every mandate required of them... and then repeated and questionable dictates from the Coastal Commission staff... in this one instant - the only logical way to resolve this flagrant treatment is to approve the project.

We appreciate the opportunity to express our concerns, and thank you in advance for your consideration. Should you have questions, please do not hesitate to contact me directly at 650.696.8209 or via email at [paul@samcar.org](mailto:paul@samcar.org)

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Stewart", written over a horizontal line.

Paul Stewart  
Government Affairs Director  
SAMCAR

Th146



## United States Department of the Interior

NATIONAL PARK SERVICE  
Golden Gate National Recreation Area  
Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:  
A7627 (GOGA-PLAN)

MAY 13 2014

Charles Lester  
Senior Deputy Director  
California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Re: A-2-MAR-11-025 – Caltrans Proposed Storm Damage Repair at PM 10.95 – modified (agenda item Th14b) Support with Comments

Dear Mr Lester:

We are writing to support the approval of the Coastal Development Permit (CDP) for the revised project at this location and offer additional comments regarding cumulative impacts. National Park Service (NPS) staff from Golden Gate National Recreation Area has worked with staff from Caltrans, State Parks and Coastal Commission to minimize the impacts of this and other currently proposed repair projects on Highway 1 in Marin County. We have also worked together over many months to contribute to Caltrans' new guidelines for current and future repair projects on this exceptionally scenic highway segment.

We agree with the findings of the Staff Report, that this is a substantial issue and that the project has been substantially modified to address concerns specific to this project. We are also encouraged by significant progress made by Caltrans to modify the design of other currently proposed projects within state and park lands in Marin County, and Caltrans' development of Highway 1 Repair Design Guidelines for Marin County. The Guidelines will provide a comprehensive approach in guiding current and potential future repair projects to include flexibility in designing storm repairs on this sensitive stretch of Highway 1 through national and state park lands and other areas of exceptional scenic value. These lands include National Register of Historic Places sites (Olema Valley Ranches Historic District), habitat for federally-listed threatened and endangered species and a unique rural character. Many of our concerns have been addressed in the Guidelines draft and we expect this process to conclude with a positive outcome that will avoid or minimize impacts to these resources.

We remain concerned about cumulative impacts of this project with other past, present and future projects on Highway 1 in Marin County. The 2012 Cumulative Visual Impact Assessment prepared for Caltrans identified past projects with moderate and significant visual impacts that have not been mitigated, including the 1200 LF Lone Tree Slide area (PM 9.1-9.5), within Mount Tamalpais State Park. That area was impacted by major grading and slope stabilization needed to reopen a segment of highway that was damaged in the 1989 Loma Prieta earthquake. We encourage Caltrans to work with

adjacent land managers to develop mitigation measures that address impacts from these past projects, including removal of invasive weedy vegetation and replacement of deteriorated fencing. In addition to avoiding or minimizing the impacts of each new repair project, a corridor-wide approach to address these cumulative issues is key to maintaining the integrity of the resources and the unique character of the adjacent park and public lands.

Please direct questions or concerns to Steve Ortega, Planning Division, at (415) 561-4955 or [steve\\_ortega@nps.gov](mailto:steve_ortega@nps.gov).

Sincerely,



Frank Dean  
Superintendent

cc:

Danita Rodriguez, District Superintendent, California Department of Parks and Recreation  
Cicely Muldoon, Superintendent, Point Reyes National Seashore  
Lenka Culik-Caro, Deputy District Director, Caltrans District 4  
Steve Kinsey, Marin County Supervisor  
California Coastal Commission (Federal Consistency Coordinator)  
Superintendent, Mt Tamalpais State Park  
Marin County Community Development Agency



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February 17, 2014

Th14b

Mrs. Helena Culik-Caro  
Deputy District Director, Design  
Caltrans District 4  
helena\_lenka\_culik-caro@dot.ca.gov  
111 Grand Avenue  
P0 Box 23660, Executive Office  
Oakland, CA 94623-0660

Subject: Highway 1 Storm Repair Projects

Dear Mrs. Culik-Caro:

On behalf of the Marin County Bicycle Coalition, I wish to submit the following comments on the Marin County Highway 1 Storm Repair Projects.

The Marin County Bicycle Coalition (MCBC) has attended several meetings on issues pertaining to these sections of Highway 1 and made multiple visits to the sites between Muir Beach and Stinson Beach over the past year.

MCBC has reviewed both layouts and cross sections for each of the sections, 6.6, 7.7 and 10.95 and is satisfied with the cross sections and allocated space for cyclists for these sections as per the drawing shared at the meeting on November 18, 2013 with the caveats below.

As we have discussed, MCBC urges Caltrans to ensure adequate distance for transitions between new wider roadway areas and existing narrower roadway areas to ensure maximum safety for cyclists traveling into and from the sections indicated above. This could include the use of painted buffer areas to help ensure cars don't inadvertently enter shoulder areas where cyclists are riding.

MCBC continues to be concerned about potential increases of motorized vehicle speeds due to wider roadway widths and would like to ensure that Caltrans includes traffic calming elements in its design where possible. This issue continues to be of special concern as future new repairs in this area may have a cumulative effect that may result in net increases of automobile speeds throughout this corridor. Automobile speeds are one of the most important factors that determine cyclist safety on roadways.

MCBC would like to encourage Caltrans to evaluate the corridor surrounding the storm repair projects for safety issues and

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*Safe Routes Instructor*

opportunities. These could include opportunities for wider/safer bicycle climbing lanes, areas where sight-line safety improvements could be implemented and areas where there are unsafe pavement or pavement edge conditions, for example.

MCBC looks forward to continuing to work on this project and see it completion. We urge Caltrans to maintain contact with MCBC should any relevant aspect of the project change due to the myriad of constraints that may arise during final design and/or construction.

Thank you very much for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Peri". The signature is fluid and cursive, with a prominent initial "A" and a long, sweeping underline.

Andy Peri, Advocacy Director  
Marin County Bicycle Coalition

Th14b

# FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Caltrans State Route 1, Post Mile 10.95 Repair Project in Marin County

Date and time of receipt of communication: May 5, 2014

Location of communication: Marin County Civic Center

Type of communication (letter, facsimile, etc.): Meeting

Person(s) initiating communication: Stefan Galvez, Caltrans

Detailed substantive description of content of communication:  
(Attach a copy of the complete text of any written material received.)

Caltrans staff expressed support for the Coastal Commission staff report (Th14b) which addresses the proposed repair project at State Route 1, post mile 10.95 in Marin County.  
Caltrans described changes made to the project since its May 2011 appeal and communicated its efforts to develop context sensitive design guidance for the corridor.

Materials provided;

- PowerPoint presentation of the project
- Draft Marin County Highway 1 Conceptual Bicycle Improvement Plan

5 / 5 / 14  
Date

  
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.



DEPARTMENT OF PARKS AND RECREATION

Marin District  
845 Casa Grande Road  
Petaluma, CA 94954  
707-769-5665

Major General Anthony L. Jackson, USMC (Ret), Director

Th146

May 7, 2014

Dr. Charles Lester, Executive Director  
California Coastal Commission  
725 Front St. Ste. 300  
Santa Cruz, CA 95060

Subject: Support for staff recommendation of approval of A-2-MAR-11-025

Dear Dr. Lester,

West Marin County is an especially scenic area offering wonderful vistas of the Pacific from its bluffs and inspiring vistas of the landscape itself. Prized by locals and visitors alike, the natural setting and historic activities have been preserved through the care and efforts of concerned and foresighted citizens. These efforts have resulted in not only helping keep the area natural, scenic, and interesting, but also recognized to have the appropriate values to support the establishment of both State and National Park units. Within their respective jurisdictions, State and National Parks work to achieve their missions to preserve the area for future generations. And outside those jurisdictions, the area is also indeed worthy of on-going stewardship of those values.

The existence of Hwy 1 along the California Coast itself is historic and has provided a transportation corridor through some exceptionally scenic landscape. The road has carried untold numbers of people along this coastal route inspiring supporters for the preservation of the territory. The rural character of Hwy 1 is recognized as an important element of the area not only offering access to the State and National Parks but also providing the drive as a recreational activity in itself.

As Caltrans continues the difficult task of maintaining this route through some very unstable areas, the cumulative impact of repairs to Hwy 1 over time is resulting in changes to the natural and historic character of the roadway corridor. The repair of Hwy 1 at PM 10.95 is within the boundary of Mt. Tamalpais State Park. California State Parks had concerns that the original repair design would result in negative visual impacts to park visitors using the Steep Ravine Campground, the Steep Ravine Cabins, hikers on Rocky Point Trail as well as other vista locations in the area, and to all visitors driving through this area of Hwy 1 in Marin County. As a result of the coastal development permit appeal, State Parks has worked closely with Caltrans, National Parks, and Coastal Commission staff in addressing these concerns. As a result, Caltrans has crafted a redesign that dramatically alleviates many of the concerns including burying the new downslope retaining wall; retaining the existing curvature alignment; omitting proposed guard railing and fencing; pursuing native plant

Dr. Charles Lester  
May 7, 2014  
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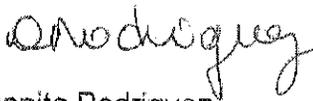
landscaping and invasive plant controls; and eliminating the proposed need for right-of-way expansion into State Park lands.

Also, in a continuing effort of cooperative manage designated Park lands, State Parks and National Parks together have worked closely with Caltrans and the Commission staff in attempting to address the potential individual and cumulative impacts of other current and future storm damage repair projects that are anticipated on Hwy 1 through Marin County. This multi-agency working team has reviewed numerous drafts of Caltrans' "State Route 1 Repair Guidelines in Marin County" document over the last couple of years with the intention of guiding project designs in Caltrans' various divisions that will be sensitive to the scenic and natural resources along the roadway corridor. As we are nearing consensus over the direction and content of those guidelines, we look forward to pursuing options for implementing them through planning and regulatory mechanisms such as the Marin County Local Coastal Program. We are particularly concerned with implementing the guidelines in a manner that will ensure protection against cumulative negative impacts on the scenic and historic character of Hwy 1, especially in rural areas. Applying the standards in current Caltrans' Highway Design Manual could continue to expand the footprint of the existing highway, which in each instance may seem minor, but collectively, in time, could contribute to a significant cumulative impact that damages the rural character of Hwy 1 in West Marin County

While we greatly appreciate the cooperative progress that has been made to date, and support the current redesign of the project at 10.95, we also urge the Commission to maintain a long term statewide perspective on roadway developments to ensure there are no negative impacts that will cumulatively impair the scenic rural character of the area. We also applaud the work of Caltrans, National Parks and Commission staff to dramatically improve the design of repairs at Marin Hwy 1 PM 10.95 and to craft innovative design approaches in the "State Route 1 Repair Guidelines in Marin County" document that are sensitive to the various landscape units of the County and to the resource protection mandates of State and National Parks.

If you have questions or comments, please contact Roy McNamee via email at [roy.mcnamee@parks.ca.gov](mailto:roy.mcnamee@parks.ca.gov).

Sincerely,



Danita Rodriguez  
District Superintendent, Marin District