

**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  
WWW.COASTAL.CA.GOV

**F6****NORTH CENTRAL COAST DISTRICT  
DEPUTY DIRECTOR'S REPORT**

*For the  
July 2016 Meeting of the California Coastal Commission*

July 12, 2016

**To:** Commissioners and Interested Parties

**From:** Dan Carl, North Central Coast District Deputy Director

A handwritten signature in dark ink, appearing to be "DC", is written over the name "Dan Carl" in the "From:" line.

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the North Central Coast District Office for the July 2016 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.

**DE MINIMIS WAIVERS**

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

Applicant	Project Description	Project Location
<b>2-16-0519-W</b> Attn: Julie Cox	A proposal to construct two shower stalls in the 1,000 square foot rear storage lot of an existing retail store within the Pedro Point Shopping Center	5450 Coast Hwy, Pacifica, Ca 94044 (APN(s): 023072060)

**EMERGENCY PERMITS**

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13142 of the California Code of Regulations because the development is necessary to protect life and public property, or to maintain public services.

Applicant	Project Description	Project Location
<b>G-2-16-0051</b> California Department of Transportation, District 4 (Caltrans), Attn: Christopher Blunk	to authorize the placement of rock slope protection (RSP) at the south end of Surfer's Beach along State Route 1 in San Mateo County	Coastal bluff along shoreline at Surfer's Beach, To The West Of Highway 1, between pm 32.0 and pm 32.2, Half Moon Bay, (San Mateo County ) (adjacent to apn: 047-263-020)

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**NOTICE OF PROPOSED PERMIT WAIVER**

**Date:** June 27, 2016

**To:** All Interested Parties

**From:** Nancy Cave, North Central Coast District Manager  
Patrick Foster, North Central Coast Coastal Planner

A handwritten signature in cursive script, appearing to read "Nancy Cave", is written over the printed name of the North Central Coast District Manager.

**Subject:** Coastal Development Permit (CDP) Waiver 2-16-0519-W  
Applicant: Julie Cox (P.O. Box 3246, Daly City, CA 94015)

**Proposed Development**

A proposal to construct two shower stalls in the 1,000 square foot rear storage lot of an existing retail store within the Pedro Point Shopping Center, at 5450 Coast Highway in Pacifica, San Mateo County (APN 023-072-060).

**Executive Director's Waiver Determination**

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the Applicant regarding the proposed development, the Acting Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The project proposes to place two outdoor shower stalls adjacent to the back wall of an existing retail building. The stalls will be constructed using wood and stainless steel, measuring approximately 4' wide x 2'6" deep x 5'6" tall. The proposed development is minimal in nature, will remain in the existing footprint of the rear lot, will utilize low-flow/energy efficient showers, and will route water drainage into the existing sewer system. For these reasons, the proposed project is consistent with Chapter 3 of the Coastal Act.

**Coastal Commission Review Procedure**

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on July 13, 2016 in San Diego. If four or more Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application and considered at a subsequent Commission hearing.

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

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**EMERGENCY PERMIT**

Issue Date: June 21, 2016  
Emergency Permit No. G-2-16-0051

**APPLICANT:**

California Department of Transportation, District 4 (Caltrans)  
111 Grand Avenue, Oakland CA 94044

**LOCATION OF EMERGENCY:**

COASTAL BLUFF ALONG SHORELINE AT SURFER'S BEACH, TO THE WEST OF HIGHWAY 1, BETWEEN PM 32.0 AND PM 32.2, HALF MOON BAY, (SAN MATEO COUNTY) (adjacent to APN: 047-263-020)

**EMERGENCY WORK:**

Placement of 33.1 linear-feet of rock revetment on 3,263 square feet area along the bluff face to protect existing Highway 1 roadway and coastal trail threatened by erosion. Work is as shown on project plans, sheets L-1, X-2, and X-3 received on June 20, 2016.

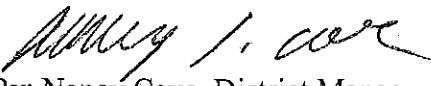
This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information that an unexpected occurrence in the form of rapid coastal bluff erosion poses a threat to Highway 1 and the Coastal Trail AT SURFER'S BEACH, TO THE WEST OF HIGHWAY 1, BETWEEN PM 32.0 AND PM 32.2, HALF MOON BAY, (SAN MATEO COUNTY), requiring immediate action to prevent or mitigate loss or damage to life, health, property or essential public services pursuant to 14 Cal. Admin. Code Section 13009. The Acting Executive Director of the California Coastal Commission hereby finds that:

- (a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 30 days unless otherwise specified by the terms of this Emergency Permit; and
- (b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

John Ainsworth  
Acting Executive Director

  
By: Nancy Cave, District Manager

Page 2

June 21, 2016

Emergency Permit No.: G-2-16-0051

cc: Steve Monowitz, San Mateo County Planning and Building Department  
John Doughty, City of Half Moon Bay

Enclosures: 1) Acceptance Form;  
2) Regular Permit Application Form

June 21, 2016

Emergency Permit No.: G-2-16-0051

**CONDITIONS OF APPROVAL:**

1. The enclosed Emergency Permit Acceptance form must be signed by the APPLICANT and returned to our office within 15 days of the date of this permit (by July 6, 2016).
2. Only that work specifically described in this permit and as more specifically described in the Commission's file for the Emergency Coastal Development Permit (ECDP) for the specific property listed above is authorized. Any additional work requires separate authorization from the Acting Executive Director. All signage, barriers, and fencing installed pursuant to this ECDP must be removed, along with any debris that has fallen to the beach as a result of the construction activities, and public beach access must be restored, immediately upon conclusion of the construction and related clean-up activities planned at the subject location.
3. All work shall take place in a limited time and manner in order to minimize any potential damage to resources, including wetland habitat and intertidal species, and to minimize impacts to public coastal access. Construction materials, equipment or debris shall not be stored where it will or could potentially be subject to wave erosion and dispersion. Construction shall be conducted pursuant to typical best management practices including the following:
  - a. All construction areas shall be minimized and allow public recreational access along the unaffected areas of the beach adjacent to the site and shall protect public safety to the maximum extent feasible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
  - b. Construction work and equipment operations shall not be conducted seaward of the mean high water line unless tidal waters have receded from the authorized work areas.
  - c. Any construction materials and equipment delivered to the beach area shall be delivered by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.
  - d. Any construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs.
  - e. The construction site shall maintain good construction site housekeeping controls and procedure (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that

June 21, 2016

Emergency Permit No.: G-2-16-0051

- purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
- f. All access ways affected/damaged by construction activities shall be restored to their preconstruction condition or better within three days of completion of construction. Impacts to any beach sand in the area resulting from construction shall be filtered as necessary to remove any construction debris.
  - g. Permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office immediately upon completion of construction and required restoration activities. If planning staff should identify additional reasonable restoration measures, such measures shall be implemented immediately.
4. The work authorized by this permit must be completed within 30 days of the date of this permit, which shall become null and void unless extended by the Acting Executive Director for good cause.
  5. The applicant recognizes that the emergency work is considered temporary and will be subject to regular coastal development permit requirements unless and until removal of the temporary development has been completed. A regular CDP would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include mitigation for impacts to sensitive habitat, sand supply, and public access and recreation.
  6. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
  7. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the California Department of Fish & Wildlife, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, and the California State Lands Commission.
  8. Within 90 days of issuance of this Emergency Permit, or as extended by the Acting Executive Director through correspondence, for good cause, the applicant shall either: (a) remove all of the materials placed or installed in connection with the emergency development authorized in this Permit and restore all affected areas to their prior condition after consultation with California Coastal Commission staff, and consistent with the Coastal Act. In some instances, a permit may be needed for removal; or (b) submit a complete follow-up Coastal Development Permit (CDP) that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations. If the Acting Executive Director determines that the follow-up CDP application is incomplete and requests additional information, the applicant shall submit this additional information by a certain date, as

June 21, 2016

Emergency Permit No.: G-2-16-0051

established by the Acting Executive Director. If such a follow-up CDP application is withdrawn by the applicant or is denied by the Commission, or if the follow-up CDP application remains incomplete for a period of 120 days after the Acting Executive Director informs the applicant that the application is incomplete, the emergency-permitted development shall be removed and all affected areas restored to their prior condition, after consultation with CCC staff and consistent with the Coastal Act, within 90 days, subject to any regulatory approvals necessary for such removal. In some instances, a permit may be needed for removal.

9. Failure to a) remove the emergency development and restore all affected areas to their prior condition after consultation with CCC staff, and consistent with the Coastal Act (if required by this Emergency Permit) by the date specified in this Emergency Permit<sup>1</sup>, b) submit any necessary, complete follow-up CDP Application that complies with Condition 8 above, c) comply with all terms and conditions of the required follow-up CDP, including any deadlines identified therein, or d) remove the emergency-permitted development and restore all affected areas to their prior condition after consultation with CCC staff and consistent with the Coastal Act immediately upon denial of the required follow-up CDP<sup>2</sup> will constitute a knowing and intentional violation of the Coastal Act<sup>3</sup> and may result in formal enforcement action by the Commission or the Acting Executive Director. This formal action could include a recordation of a Notice of Violation on the applicant's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties for violations involving public access; and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.

As noted in Condition 5 above, the emergency development carried out under this ECDP is at the Permittee's risk and is considered to be temporary work done in an emergency situation to abate an emergency. If the Permittee wishes to have the emergency development become permanent development, a regular CDP must be obtained. A regular CDP is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

Please contact the Commission's North Central Coast District Office at 45 Fremont Street, Suite 2000, San Francisco, CA 94105, (415) 904-5260 regarding the provisions of this ECDP.

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<sup>1</sup> In some instances, a permit may also be required for removal.

<sup>2</sup> As noted above, in some instances, a permit may also be required for removal.

<sup>3</sup> The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.



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PH (415) 904-3260 OR (415) 904-3200 FAX (415) 904-3400  
WWW.COASTAL.CA.GOV

**EMERGENCY PERMIT ACCEPTANCE FORM**

TO: CALIFORNIA COASTAL COMMISSION  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, California 94105-2219

RE: Emergency Permit No. G-2-16-0051

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the North Central Coast District Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular Coastal Development Permit is necessary for any permanent installation. I agree to complete the regular Coastal Development Permit application within 90 days of the date of the emergency permit or I will remove the emergency work in its entirety within 90 days of the date of the emergency permit (i.e., by September 19, 2016). Finally, I understand that my failure either to:

- a) submit a complete follow-up Coastal Development Permit (CDP) Application that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations by the date specified in this Emergency Permit, which date may be extended by the Executive Director for good cause, or
- b) Remove the emergency development and restore all affected areas to their prior condition after consultation with Coastal Commission staff as you identified consistent with the Coastal Act, will constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Commission or the Executive Director.

In some instances, a permit may be required for removal (if required by this Emergency Permit) by the date specified in this Emergency Permit. This formal action could include a recordation of a Notice of Violation on my property; the issuance of a Cease and Desist Order and/or Restoration Order; imposition of administrative penalties for violations involving public access, and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.

  
Signature of Property Owner or  
Authorized Representative

Christopher J. Brown  
Print Name

Address: 111 GUNN AVE.  
CRANFORD, CA 94623

7/5/2016  
Date of Signing

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105  
PHONE: (415) 904-5260  
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WEB: WWW.COASTAL.CA.GOV



# F8a

**Prepared July 14, 2016 for July 15, 2016 Hearing**

**To:** Commissioners and Interested Persons

**From:** Nancy Cave, North Central Coast District Manager  
Stephanie Rexing, North Central Coast District Supervisor

**Subject: STAFF REPORT ADDENDUM for F8a**  
**City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Habitat Map Revisions)**

The purpose of this staff report addendum is to make modifications to the initial staff recommendation (dated June 29, 2016) in response to ongoing discussions between City and Commission staffs attempting to find agreement on the proposed amendment language related to habitat mapping. After initial publication of the staff recommendation, the City provided Commission staff with a 37-page letter dated July 8, 2016. Staff does not agree with the characterizations in that letter, but in lieu of spending significant staff time to address each of the points raised, instead further engaged the City in problem solving. That effort resulted in the compromise agreement herein. Staff and the City are now in agreement on the revised LCP amendment if modified as discussed below. Any questions or concerns regarding the City's July 8, 2016 letter can be addressed at the public hearing.

Commission staff is slightly modifying the staff recommendation to accommodate the City's suggestion that the area in dispute be further studied as a means of providing additional data that can be used to help make appropriate determinations regarding the presence or absence of ESHA and sensitive species habitats. The changes make clear that staff's current assessment based on the data available today is that the area should be considered habitat for purposes of potential future planning and development, but that future and more in-depth habitat analysis could dictate otherwise. The City commits to performing a detailed study that will be available for public and peer review, and to use that study to form the basis of a future LCP map update. In the interim, the LCP habitat maps would continue to perform their function in a planning and development review sense, including as a means to provide one indicator as to when additional site specific habitat assessment may be necessary. For the area that the City would further study moving forward, the intent of the staff recommendation changes would be that this area would continue to be evaluated at the time of any future development proposal and, if determined to be sensitive species habitat and ESHA at that time, then the applicable ESHA and related habitat policies would apply to that development. If not, then the policies would not apply to the area deemed not to be ESHA and habitat.

Thus, the staff recommendation dated June 29, 2016 is modified as follows to replace the Suggested Modification 1 text on staff report page 6 with the following:

1. **Planning Note.** Amend the LUP's "Habitat Areas and Water Resources Overlay Map" and the IP's "Coastal Resource Areas Map" to include the following planning note:

For the 9.8 acre parcel the following shall apply. The City intends to perform a biological assessment of the parcel, providing for both peer and public review through a 45-day comment period, as a means of providing additional data regarding the presence or absence of ESHA and sensitive species habitats. The completed study shall form the basis for an update to these maps to reflect the results of that completed study. Unless and until the LCP is modified to direct otherwise, all applicable LCP ESHA and related habitat policies shall apply to any proposed development associated with the parcel.

2. Correct the following typo in the last paragraph on staff report page 16 as follows:  
"... the Landstra Property (along the ~~nor~~southern edge of the Kehoe watercourse)..."
3. The City acknowledges that they own the parcel in question, APN 048-270-080.

## **EXHIBITS**

Exhibit 1: Correspondence Received since Staff Recommendation Publication



## CITY OF HALF MOON BAY

Office of the City Attorney

PO BOX 481, Santa Cruz, CA 95061-0481

Telephone: (831) 423-8383

Fax: (831) 576-2269

July 14, 2016

*Via Email [to Nancy Cave]*

California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 91405-2219

**Re: Supplemental Letter**

City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Habitat Map Revisions): Local Coastal Program Land Use Plan and Implementation Plan Amendment to Revise the City's Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas Map to Reflect Areas in the City Found to Contain Sensitive Coastal Resources

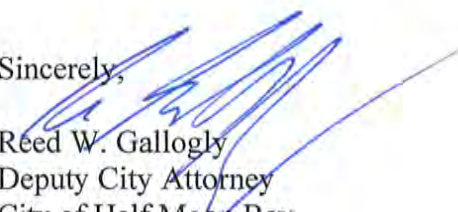
Dear Commissioners:

This letter is being written to supplement the City's prior letter to the Commission, dated July 8, 2016, regarding the above-captioned LCP-LUP amendment.

Subsequent to the City's submission of the July 8, 2016 letter, City staff and Coastal Commission staff worked together to explore additional options, and the City is very pleased to report that both sides agreed upon a compromised solution. With this proposed solution, the City's concerns with Commission staff's original recommendation (specifically, regarding mandatory notice and hearing procedures, a lack of due process, and potential takings) have been alleviated. The City believes the proposed solution protects both the City's interest in ensuring procedural compliance and affording due process, and the Commission staff's interest in protecting ESHA.

On behalf of the City of Half Moon Bay, I would like to thank the Commission and its staff for their time and attention to this matter.

Sincerely,

  
Reed W. Gallogly  
Deputy City Attorney  
City of Half Moon Bay

RWG

cc:



## CITY OF HALF MOON BAY

Office of the City Attorney  
PO BOX 481, Santa Cruz, CA 95061-0481  
Telephone: (831) 423-8383  
Fax: (831) 423-9401

July 8, 2016

California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 91405-2219

**Re:** City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Habitat Map Revisions): Local Coastal Program Land Use Plan and Implementation Plan Amendment to Revise the City's Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas Map to Reflect Areas in the City Found to Contain Sensitive Coastal Resources

Dear Commissioners:

This letter is written on behalf of the City of Half Moon Bay ("City") regarding its request for certification of an amendment to its Local Coastal Program's ("LCP's") Land Use Plan ("LUP") Habitat Areas and Water Resources Overlay Map and the Implementation Plan Coastal Resource Areas Map. Having reviewed the Coastal Commission's staff report dated June 29, 2016 ("Staff Report"), the City respectfully requests – as was requested at the Commission's July 2015 meeting where this item was heard and continued<sup>1</sup> – that the Commission reject staff's suggested modifications and certify the LCP amendment as submitted by the City.

### **Short Background and Recent Developments**

As set forth in the City's previous correspondence with the Commission and its staff,<sup>2</sup> the City proposes to amend its LCP maps to reflect the designation of Environmentally Sensitive Habitat Areas ("ESHA"). Coastal Commission staff agrees that the areas shown on the City's proposed map amendment should be so designated and that the amendment is consistent with the LCP and Coastal Act. However, Coastal Commission staff recommends the amendment be rejected unless it is modified as follows:

- 1) to designate an entire 9.8 acre parcel of land as ESHA (opposed to 2.5 of the total 9.8 acres, as proposed by the City and mandated by settlement).

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<sup>1</sup> See Attachment 1, the City's January 20, 2015 letter to Coastal Commission staff regarding the proposed LCP-LUP amendment; See Attachment 2, the City's July 6, 2015 letter to the Commission regarding the proposed LCP-LUP amendment.

<sup>2</sup> See Attachments 1, 2.

This item was last heard by the Commission at the July 2015 meeting, where the Commission voted to continue the item in order to allow the City and Coastal Commission staff to resolve the matter.

On December 10, 2015, the City sent Coastal Commission staff a proposed resolution to the disagreement.<sup>3</sup> The City's proposal committed the City to initiating a full-fledged biological assessment over the entire 9.8 acre property (i.e. the entire parcel, including the additional land that Coastal Commission staff recommends be mapped as part of this amendment) and to complete another LCP-LUP amendment as based upon the findings and recommendations of that study within 6 months of certification of the City's proposed amendment. In essence, the City was agreeing to initiate (and pay for) a full biological study of the entire parcel and to process another LCP-LUP amendment to map any ESHA identified in the study.

The proposal protects both the City's and Coastal Commission staff's respective interests: the City's interest in ensuring that *all* procedures and processes (including providing notice and hearings for the public *and* the affected private property owners) are followed before mapping additional land, and the Commission staff's interest in having environmentally sensitive land designated on the map. Despite subsequent meetings and telephone calls, the City never received a formal acknowledgement or response to the December 10, 2015 proposal from Coastal Commission staff. However, in the Staff Report, Coastal Commission staff states it finds the City's December 10, 2015 proposal inadequate because,

“[the proposal] deferred important habitat designation to some undetermined future date if and when the City initiated a biological study of the entirety of the Caltrans site.”

It is unclear how Coastal Commission staff arrived at this conclusion. The City's proposal was to pledge and obligate itself to initiate a fully protocolled biological study on the entire parcel by a qualified biological firm or biologist and to then process another LCP-LUP amendment based upon the results of that study *within 6 months of the Commission's certification of the City's proposed amendment*. There is no “if” – it must be done, and the “when” is only subject to action on the City's proposed amendment. It is worth noting that if Coastal Commission staff had accepted this proposal in December of 2015, the City would today be presenting the Commission with a LCP-LUP amendment to designate any identified ESHA on the 9.8 acre parcel.

### **The Need to Adhere to Proper Process and Procedure**

At the crux of the City's and Coastal Commission staff's disagreement is how much land the City was obligated to map as ESHA pursuant to a settlement agreement, and whether it is

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<sup>3</sup> See Attachment 3, the City's December 10, 2015 Proposed Modifications (also Exhibit 10 to Staff Report).

proper for Coastal Commission staff to modify the LCP-LUP amendment to include mapping of additional land without providing public hearings and notice to the public *and* to the affected private-property owners. Those arguments were succinctly presented in the City's previous correspondence with the Commission.<sup>4</sup> In addition, Coastal Commission staff is relying on unsubstantiated "evidence" as justification for mapping the additional land – "evidence" which also is contradicted by other biological assessments already in the record.

At the outset, the City must note for the record that Coastal Commission staff have significantly mischaracterized the City's position in the Staff Report. On page 2 of the Staff Report, Coastal Commission staff wrote the following:

"The City argues that [the additional land Coastal Commission staff wants mapped as ESHA] is not habitat supporting or containing sensitive species, but to date has provided no evidence to rebut the USFWS opinions."

This statement is misleading at best. The City's position has not been that the additional land in question either is or is not ESHA, because the City has no stake in whether or not it is or isn't ESHA. Instead, the City has consistently maintained that the settlement agreement obligates it to process the pending LCP-LUP amendment and map as submitted,<sup>5</sup> and that the Coastal Act, the Half Moon Bay Municipal Code, and LCP require a standards-based biological studies before designating additional land as ESHA. The City's interest is in complying with and adhering to the mandated procedures and processes, including that of providing notice to the public and private property owners whose land may be affected – which is why the City's December 10, 2015 proposal offered to study the disputed land and map it, after due process, as opposed to flatly refusing due to a biologically-based difference of opinion regarding the suitability of the land as ESHA.

As some Commissioners may know, in 2008, the City was hit with an adverse \$36 million dollar judgment as the result of a regulatory taking of private property. This judgment nearly bankrupted the City and devastated the City's ability to provide and maintain basic services. The City has only recently recovered from this near-fatal financial disaster, and *the City is extremely wary of any scenario where private land is taken, particularly without due process.*

#### **Lack of Valid Studies to Justify Additional Mapping**

Separate and aside from the City's concerns regarding its obligation under the settlement agreement *and* with complying with all procedures and processes before designating private land as ESHA, the City disagrees with Coastal Commission staff that there is *competent* evidence to support the Coastal Commission staff's recommendation to map an additional 7.3 acres (the

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<sup>4</sup> Attachment 1 and Attachment 2.

<sup>5</sup> Attachment 1.



entire 9.8 acre parcel). Again – the City has not argued that the land is or is not ESHA – rather, the City has argued that biological studies are required before such determinations are made and that the “evidence” offered by Coastal Commission staff as support neither meets scientifically accepted (nor common sense) criteria for valid biological studies nor can be deemed reliable given the age of the material *and* contradicting observations found in existing biological assessments.

Although Coastal Commission staff casually refers to the evidence as “USFWS determinations” or “USFWS opinions,” the reality is that Coastal Commission staff relies on the following:

1. A December 20, 2000 letter drafted by a USFWS division chief to a City Planner after reviewing an Initial Study and Proposed Mitigated Negative Declaration,
2. A February 2, 2015 email from USFWS Biologist Dan Corova who arrived at his conclusion after looking at a google-earth link provided by the appellant,
3. A June 24, 2015 email from a separate USFWS Biologist Sheila Larsen with no information regarding any actual site review or analysis conducted by the Biologist.

In addition, Coastal Commission staff has identified several letters written by Rana Resources (Mark Jennings), including a new June 10, 2016 submittal by Mr. Jennings, wherein Mr. Jennings walked around the private and public property at the request of the appellant, Mr. James Benjamin.

Coastal Commission staff have vociferously defended the validity of these various documents and bristled when the City remarked that the actual science behind the letters was lacking (i.e. that the “assessments” did not involve actual site visits supported by observations, recordings, and peer review). Ultimately, the fact is that Coastal Commission staff would never accept this kind of “evidence” if it were offered in support of a claim that ESHA did not exist. If an applicant were to submit such unsubstantiated “opinions” and “determinations” as valid scientific proof of the absence of ESHA, the Coastal Commission staff would demand (and would be justified in doing so) that a full study be conducted.

### **Existence of Rebuttal Evidence**

Finally, as noted in the City’s January 20, 2015 letter from the City to Coastal Commission staff<sup>6</sup> – and in direct contravention with the Staff Report claiming that that the City provided no evidence to rebut the USFWS opinion – Coastal Commission staff have previously been informed of and provided with a *biological assessment which rebuts the proffered “evidence” regarding the suitability of the entire 9.8 acre parcel as ESHA*. Particularly, a 2008 biological assessment conducted by Nomad Ecology which examined a portion of the 9.8 acre site the Coastal Commission staff is recommending be added to the maps as part of a Pipeline

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<sup>6</sup> Attachment 1.



Replacement Project.<sup>7</sup>

In reviewing a proposed staging area for the pipeline project which was located on the on the 9.8 acre parcel in question,<sup>8</sup> the assessment noted that the staging area did not provide suitable breeding, non-breeding aquatic, dispersal, and marginal upland habitat for the California red-legged frog or San Francisco garter snake.

"Staging Area 1 due to its disturbed nature, existing dirt access roads, and substantial areas devoid of vegetation do not provide suitable habitat for California red-legged frogs...

Staging Area 1 is highly disturbed and much of the site consists of bare ground, which is not suitable upland habitat for San Francisco garter snake..."<sup>9</sup>

As such, the Nomad Ecology biological assessment clearly and unambiguously contradicts Coastal Commission staff's assertion that the entire 9.8 acre parcel is habitat supporting or containing rare, endangered, threatened, or unique species, and the corresponding claim that there is no evidence to that effect. A supplemental February 28, 2008 letter from Nomad Ecology was included in the Staff Report, wherein the firm responds to comments from the appellant, Mr. Benjamin, and reaffirmed the conclusions regarding the unsuitability of the land as habitat. (See Exhibit 7 to Staff Report, Page 38-40.)

**Conclusion**

Based on the foregoing, the City respectfully requests the Commission **VOTE YES on the City's proposed LCP-LUP amendment** without modification by Coastal Commission staff.

Sincerely,



Reed Gallogly  
Deputy City Attorney

RWG:

cc: Magda Gonzalez, City Manger  
John Doughty, Community Development Director  
Tony Condotti, City Attorney

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<sup>7</sup> Attachment 4, February 12, 2008 Biological Assessment by Nomad Ecology.

<sup>8</sup> Attachment 4, Page 16 – a map of the assessed area.

<sup>9</sup> Attachment 4, Page 7-10.

# ATTACHMENT 1

LAW OFFICES  
**ATCHISON, BARISONE, CONDOTTI & KOVACEVICH**

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January 20, 2015

Stephanie Rexing, Coastal Planner  
California Coastal Commission  
North Central Coast District  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Re: Local Coastal Program Land Use Plan and Implementation Plan Amendment to Revise the City's Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas Map to Reflect Areas in the City Found to Contain Sensitive Coastal Resources

Dear Ms. Rexing:

As you will note in the record, there is a comment letter submitted to the City Council by community-member James Benjamin claiming that the above-noted amendment does not meet the City's obligations under its settlement agreement with him (the impetus for this LCP amendment, see Exhibit A) and requests that the City revise the map amendment to make it consistent with the boundaries shown in the site map of CDP-01-096.

The City disagrees with Mr. Benjamin's interpretation of the settlement agreement and maintains that the map amendment approved by the City Council and submitted to you for certification is consistent with the Coastal Act, the City's LCP, and the settlement agreement.

In dispute is the boundary of the area referred to in the settlement agreement as the "Caltrans mitigation project site," which the City committed to designating as habitat supporting or containing rare, endangered, threatened, or unique species, and as wetland. Mr. Benjamin claims that this area must be designated consistently with the boundaries shown in the site map of CDP-01-096. The City disagrees.

The site map of CDP-01-096 shows a 9.8-acre property owned by the Evangelical Lutheran Church in America ("ELCA"). In 1995, the City had plans to purchase and develop that property into a public park, subject to ELCA's remediation of hazardous waste materials contained on the property resulting from the presence of a landfill on the western edge, along Pilarcitos Creek. At the same time, Caltrans was undergoing safety improvements to Highway 92 between Pilarcitos Creek and Highway 35. The EIR for these improvements called for habitat replacement for wetland and riparian impacts resulting from highway improvements. In the search for a viable mitigation site, the City suggested that Caltrans consider the landfill site along Pilarcitos Creek.

The City subsequently entered into a memorandum of understanding ("MOU") with the San Mateo County Transportation Authority, ELCA, and Caltrans that called for implementation of a plan to remediate hazardous waste materials contained on the property. (See Exhibit B.) Caltrans' involvement was limited to enhancing wetland areas on the property. The MOU states:

"As part of the CALTRANS' Highway 92 Safety Improvement Project between Pilarcitos Creek and Highway 35 South CALTRANS is enhancing wetland areas on the property. CALTRANS will, after remediation of the Property and acquisition by HMB, undertake to restore the native riparian and wetland habitat where the Property abuts Pilarcitos Creek as more particularly described in Exhibit C hereto."

(MOU, at p.1.) Exhibit C to the MOU describes the wetland enhancement as follows:

"The area proposed for biological mitigation is adjacent to Pilarcitos Creek and extends the width of the parcel. The total landfill area is estimated at 1 hectare (2.5 acre) with approximately 70 percent of the fill lying within the Church's holdings. . . . The total mitigation area would be approximately 0.74 hectare (1.82 acres) that would include about 0.23 ha (0.56 acre) of wetland riparian, 0.44 ha (1.09 acres) riparian, and 0.07 ha (0.17 acres) of upland coastal scrub habitat restoration. Wetlands would be restored by increasing the area of the creek subject to periodic inundation (below the OHWM) and the planting of riparian vegetation."

(MOU, Exhibit C, at pp. 2 and 4.) This description is consistent with the staff report for CDP-01-096. The staff report explains that only the 2.5 acre landfill area on the ELCA property would be remediated because that portion was funded by the San Mateo County Transportation Authority and the cleanup and vegetation replacement was included as a mitigation measure in the EIR for the Caltrans Highway 92 widening project. Thus, while the City may have had plans to remediate the full 9.8 acre church property, neither Exhibit C to the MOU nor the staff report for CDP-01-096 describe the Caltrans mitigation site as comprising the entire 9.8-acre church property.

Mr. Benjamin points to a past project description that states that the "total site, parcels 1 and 2 shall be cleared of all existing vegetation . . . ." and claims that this shows that the Caltrans mitigation project site was not limited to the area shown on the amendment map or the 2.5 acres former landfill. Mr. Benjamin fails to provide context for the quoted language. The language comes from a scope of work for the church's remediation of the property. The introduction to that scope of work explains that it is "based upon the Caltrans draft scope of work dated November 1994." Included in Exhibit B is the Caltrans draft scope of work dated November 1994, which states that Caltrans' work was limited to "remediation of soil and debris material from a refuse area near Pilarcitos Creek . . . [which] has become a proposed wetland mitigation site in response to the destruction of wetlands in the widening of State Route 92."

It also would not make sense to designate the entire 9.8-acre church property as habitat supporting or containing rare, endangered, threatened or unique species, or as wetlands. First, had the parties contemplated designating the entire 9.8-acre property as such, the settlement agreement would have included a description of the entire property, including location and parcel number, as it did for the Landstra Parcel. Second, as noted in the City's staff report, the settlement agreement states that the Caltrans mitigation project site was identified as habitat supporting or containing rare, endangered, threatened or unique species, and wetlands in the March and August 2005 studies by Essex Environmental, the March 2007 study by Rana Creek Habitat Restoration, the February 12, 2008 report from Nomad Ecology, and the October 2005 report by H.T. Harvey & Associates.

Of these reports/studies, the only one that references biological resources on the church property (outside of the Caltrans mitigation site) is the Nomad Report from February 2008, which looked at biological constraints for two staging areas for the Phase 3 El Granada Pipeline Replacement Project. (See Exhibit D.) One of the staging areas was located on the church property, at the northwest corner. The report concluded that the staging area did not provide suitable breeding, non-breeding aquatic, dispersal, and marginal upland habitat for the California red-legged frog. While it recognized that there was occupied suitable habitat within Pilarcitos Creek and its riparian corridor, and within the "Caltrans mitigation freshwater wetlands to the southwest," the staging area "due to its disturbed nature, existing dirt access roads, and substantial areas devoid of vegetation, did not provide suitable habitat for California red-legged frogs." The report concluded that the staging area was not suitable upland habitat for the San Francisco garter snake for the same reasons.

Thus, the Nomad Report confirms that the church property is not habitat supporting or containing rare, endangered, threatened or unique species. It also indicates that the parties referred to the church property as the "El Granada Pipeline staging area," separate and distinct from the Caltrans mitigation project site. This is consistent with references to the Caltrans mitigation project site in the other reports identified above, as noted in the City's staff report. In light of the foregoing, we are confident that the LCP amendment, as submitted to you for certification, is consistent with the Coastal Act, LCP and settlement agreement.

Sincerely,



Lauren C. Valk  
Deputy City Attorney

LCV/ak

# ATTACHMENT 2

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July 6, 2015

*Sent Via E-mail*

California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Re: City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Map Revisions):  
Local Coastal Program Land Use Plan and Implementation Plan Amendment to Revise  
the City's Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas  
Map to Reflect Areas in the City Found to Contain Sensitive Coastal Resources

Dear Commissioners:

This letter is written on behalf of the City of Half Moon Bay ("City") regarding its request for certification of an amendment to its Local Coastal Program's ("LCP's") Land Use Plan ("LUP") Habitat Areas and Water Resources Overlay Map and the Implementation Plan Coastal Resource Areas Map. The City has reviewed the Commission's staff report dated June 26, 2015 ("Staff Report") and requests that the Commission reject staff's suggested modifications and certify the LCP amendment as submitted by the City.

As stated in the Staff Report, the City proposes to amend the LCP maps to reflect certain additional areas in the City that the City has found to contain and/or support sensitive habitat areas supporting or containing rare, endangered, threatened, and unique species. Coastal Commission staff concurs that these areas should be added to the maps and that the amendment is consistent with the LCP and Coastal Act, but recommends that the Commission deny the City's request for certification of the LCP amendment unless the City modifies it to include additional areas on the LCP maps and new language in its LCP policies. Because the LCP amendment as submitted is consistent with the LCP, the Coastal Act, and the California Environmental Quality Act ("CEQA"), the City finds that Commission staff's suggested modifications exceed the Commission's jurisdiction, and requests the Commission to approve the City's LCP amendment as submitted. If the Commission desires to make further amendments to the LCP, it may initiate an LCP amendment with the City consistent with the requirements of the City's municipal code, or recommend corrective action to the City during the Commission's periodic review of the LCP, as required under the Coastal Act. That way, both the City and the Commission can be satisfied that there is evidence to support the modifications

proposed by Commission staff and that the public has been afforded proper notice and hearing before any additional amendments to the LCP are adopted.

**The Commission May Not Deny the City's Request for Certification Because the Proposed LCP Amendment Is Consistent with the Coastal Act.**

The Coastal Act states that the Coastal Commission *shall* certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act (commencing with Section 30200). (Pub. Resource Code, §§ 30512(c), 30514 (b).) The City's LCP amendment is consistent with the policies of Chapter 3 of the Coastal Act, as stated in the Staff Report:

"Updating the existing certified LUP resource map as the City proposes in this action is consistent with Coastal Act Sections 30107.5 and 30240 because identifying habitats that are known to support or contain rare, endangered, threatened or unique species will provide additional notice to the public and ensure that these areas are treated as sensitive habitat areas, and more specifically rare, endangered and unique species habitat areas. Further LUP Policies 3-3 and 3-4, which apply to areas designated as sensitive habitats and areas mapped, prohibit land use or developments that would have significant adverse impacts on sensitive habitats and allow only resource dependent uses in designated areas. Limiting development uses in such designated areas ensures environmentally sensitive habitats are protected from significant disruption of habitat values. Further, updating the map in this manner will ensure that LUP Policies 3-22 through 3-31 and 3-33 through 3-36 apply to these areas that further limit activities within these areas to resource-dependent activities such as education, research, and management or restoration, and require preservation of these habitats, consistent with Section 30240 of the Coastal Act."

(Staff Report, p. 12.)

Notwithstanding the foregoing consistency conclusion, Staff recommends approval of the proposed LCP amendment only if it is modified as follows: (1) **map additional areas** in order to protect all currently known rare, endangered, and unique species habitat that exist in association with the area dictated by the lawsuit settlement agreement ("Suggested Modification 1"); (2) **add provisions to the relevant LUP sections** that make clear that rare, endangered and unique species habitats that exist within the City, whether they have been designated on LUP maps or not, are still considered sensitive habitats and protected as such, including with regard to restrictions on types of development appropriate within such habitats as required by LUP Policies 3-22 through 3-31 and 3-33 through 3-36 as applicable ("Suggested Modifications 2 and 3"); (3) **modify IP Policy 18.38.020** to make clear and explicit that sensitive habitats that are found to exist within the City's coastal zone, whether they have already been identified and designated on maps or not, are still considered sensitive habitats and shall be restricted from development as such ("Suggested Modification 4"); and (4) **require a clear label on revised, updated, or additional maps** that Coastal Area Resources Maps may be revised and do not provide a final determination



of the boundary lines of sensitive habitats ("Suggested Modification 5"). (Staff Report, pp. 3-6, 12-14.)

These modifications are changes that Coastal Commission staff feel are needed to assure proper implementation of the City's LCP; however, they are not necessary to making a finding that the City's proposed LCP amendment is consistent with the Coastal Act. Because the City's proposed LCP meets the requirements and is in conformity with the Coastal Act, the Commission must certify it as submitted.

**Staff's Suggested Modifications Exceed the Coastal Commission's Jurisdiction Because They Amount to Drafting the LCP.**

The Coastal Act expressly vests in local governments, rather than the Commission, the responsibility for determining the content of their LCPs. The Coastal Commission can approve or deny certification of an LCP, but it cannot itself draft any part of the coastal plan. (*Yost v. Thomas* (1984) 36 Cal.3d 561, 572-573; *Security National Guaranty, Inc. v. California Coastal Commission*, 159 Cal.App.4th at pp. 420-421; *City of Chula Vista v. Superior Court* (1982) 133 Cal.App.3d 472, 488.)

"The Commission's review of the LUP is limited by statute to the Commission's administrative determination that the land use plan . . . does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200.) 'In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.' (§ 30512.2, subd. (a), italics added.) Similarly, the Commission may only reject the local government's implementing actions 'on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan.' (§ 30513.)" (*Security National Guaranty, Inc. v. California Coastal Commission*, 133 Cal.App.3d at p. 420; see also Pub. Resources Code, § 30500, subd. (c) ["The precise content of each local coastal program shall be determined by the local government . . . ."])

The City has processed an LCP amendment that is consistent with its LCP and the Coastal Act. Staff's suggested modifications expand the scope of the proposed LCP amendment in a direct attempt to draft the City's LCP beyond the changes desired by the City at this time.

Suggested Modification 1 includes requiring the City to include additional land on its Habitat Areas and Water Resources Overlay Map beyond what is included in the proposed LCP Amendment that was initiated, noticed, and reviewed by the public, the City Planning Commission, and the City Council. The City has requested certification of the proposed LCP amendment updating the Habitat Areas and Water Resources Overlay Map because it has confirmed through biological reports and a San Mateo County Superior Court decision that the areas included in the City's updated map constitutes areas supporting or containing rare, endangered, threatened or unique species sensitive habitat, consistent with the City's LCP

policies and Coastal Act section 30240. Commission staff's suggested modification to include additional land on the LCP maps amounts to drafting the LCP itself and abridges the authority of the City to adopt and establish the precise content of the plan.

The following reasons support the City's position that the Commission must reject Staff's Suggested Modification 1:

- (1) As stated above, the LCP as submitted is consistent with the Coastal Act; it is not necessary to include the additional land on the Habitat Areas and Water Resources Overlay Map to make this finding.
- (2) The evidence that underlies the modification is unsubstantiated. Commission staff seeks to expand the proposed map amendment based on brief, conclusory correspondence from USFWS and a letter from a Rana Resources stating that they consider the additional land to be habitat for the California red legged frog. However, neither of these sources, nor the City or Commission staff have conducted any recent surveys or biological studies for the subject property (any previous studies that were conducted were for parcels adjacent to the subject area). The City cannot include the additional land on the Habitat Areas and Water Resources Overlay Map until it has proper evidence to support that action.
- (3) The City may not include the additional land in its LCP amendment because it has not provided the public proper notice and opportunity for hearing consistent with its municipal code. Given the severe land use restrictions for areas designated on the Habitat Areas and Water Resources Overlay Map and land adjacent to those designated areas, the public must be afforded this due process.
- (4) If the Commission, or any other resource agency and/or stakeholder wishes to include the additional land on the City's Habitat Areas and Water Resources Overlay Map, it may do so by initiating an LCP amendment with the City, at which time the City will review the application, gather evidence, and hold the appropriate noticed public hearings.
- (5) The appropriate time for the Coastal Commission to suggest these changes is during its periodic review of the City's LCP as required under Section 30519.5, subdivision (a) of the Coastal Act. The Coastal Act requires the Commission to review every certified LCP at least once every five years to determine whether the program is being implemented in conformity with Coastal Act policies. (Pub. Resources Code, § 30519.5, subd. (a).) If the Commission finds that a certified LCP is not being carried out in conformity with the Coastal Act, it must recommend corrective actions to the local government, which may include recommended amendments to the certified LCP. (*Ibid.*) Even so, the statute gives the Commission no power either to make the amendments itself or to compel the local government to make them. Instead, the law requires the affected local government to report to the Commission the reasons that it has not taken the recommended corrective action. (*Id.* at subd. (b).) The Commission may

then review the local government's report and where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of the Coastal Act. (*Ibid.*; *Security National Guaranty, Inc. v. California Coastal Commission*, 133 Cal.App.3d at p. 422.)

Suggested Modifications 2, 3 and 4 add language to the relevant LCP sections that make clear that rare, endangered, and unique species habitats that exist within the City, whether they have been designated on LUP maps or not, are still considered sensitive habitats and protected areas as such. Requiring the City to approve these modifications is impermissible for the reasons stated above: the Commission may not use the City's request for LCP amendment as an opportunity to make other changes to the LCP it feels are necessary to assure consistency with the Coastal Act. The proposed modifications are not necessary to make the LCP amendment as submitted consistent with the LCP and the Coastal Act, the Coastal Commission cannot itself draft any part of the LCP, substantive and procedural due process will not have been afforded to the public, and the City does not desire to make these changes at this time. In fact, the City will be reviewing its LCP in the next few years as part of its General Plan Update. At that time, the City will consider necessary changes to clarify its LCP and/or designate additional land on its Habitat Areas and Water Resources Overlay Map. If the Commission wishes to expedite these changes, the Commission may do so under the appropriate process outlined under section 30519.5 of the Coastal Act.

Suggested Modification 5 requires a clear label on revised, updated, or additional maps that Coastal Area Resource Maps may be revised and do not provide a final determination of the boundary lines of sensitive habitats. The City opposes this suggested modification for the same reasons stated above for Suggested Modifications 1, 2, 3, and 4.

#### **The Proposed LCP Meets the Requirements of CEQA.**

The Commission's LCP review and approval of the City's proposed LCP amendment must conform with Public Resources Code section 21080.5(d)(2)(A), which states that the proposed amendment will not be approved or adopted if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The Staff Report states that correspondence from USFWS and Rana Resources "contain written responses to significant environmental points raised during the Commission's evaluation of the land use plan and implementing action amendments" and "incorporates its findings on Coastal Act and Land use Plan conformity into [its] CEQA finding." (Staff Report, p. 15.) Neither of these reasons speak to the environmental impacts of the City's proposed LCP amendment and Commission staff has made no finding, nor can any finding be made, that the City's proposed LCP amendment will result in any significant adverse impacts on the environment. The evidence staff sets forth for CEQA compliance with respect to the amendment as modified holds true for the amendment submitted by the City: "As the amendments add further protections for environmentally sensitive habitat areas, and the amendments create no potential for significant adverse environmental impacts. . . . there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would

further reduce the potential for significant environmental impacts.” (Staff Report, p. 15.)  
Therefore, the proposed LCP amendment complies with CEQA.

Sincerely,

Lauren C. Valk  
Deputy City Attorney

Cc: Tony Condotti, City Attorney  
Magda Gonzalez, City Manager  
Half Moon Bay City Council  
Carol Groom, San Mateo County Board of Supervisors/Coastal Commission

# ATTACHMENT 3

## Reed Gallogly

---

**From:** John Doughty <JDoughty@hmbcity.com>  
**Sent:** Friday, July 01, 2016 3:05 PM  
**To:** Reed Gallogly  
**Subject:** FW: Draft Mods LCP-2-HMB-14-0612-1 (Map Revisions)--Final  
**Attachments:** Draft Mods LCP-2-HMB-14-0612-1 (Map Revisions)--Final.docx

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**From:** John Doughty  
**Sent:** Thursday, December 10, 2015 3:25 PM  
**To:** 'Rexing, Stephanie@Coastal'; 'Nancy.Cave@coastal.ca.gov'  
**Cc:** Bruce Ambo  
**Subject:** Draft Mods LCP-2-HMB-14-0612-1 (Map Revisions)--Final

Per our conversation. Sorry for delay. Let me know what you think.

Can we also look at January coordination meeting date?

John

---

John T. Doughty  
Interim Community Development Director  
Phone: 650-726-8252  
Email: [jdoughty@hmbcity.com](mailto:jdoughty@hmbcity.com)



City of Half Moon Bay  
501 Main Street  
Half Moon Bay, CA 94019  
[www.hmbcity.com](http://www.hmbcity.com)

## II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act and LUP consistency findings. If the City of Half Moon Bay accepts each of the suggested modifications within six months of Commission action (i.e., by January 8, 2016), by formal resolution of the City Council, and submits that acceptance to the Commission, the modified LCP amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text that the City proposes to delete and text in underline format denotes text that the City proposes to add. Text in ~~double cross-out~~ format denotes text to be deleted through the Commission's suggested modifications and text in double underline format denotes text to be added through the Commission's suggested modifications.

**1. Modify LUP and IP Maps.** Amend the LUP's "Habitat Areas and Water Resources Overlay Map" and the IP's "Coastal Resource Areas Map" to include the "Kehoe Watercourse," the vacant "Sewer Authority Midcoast-side" parcel located immediately south of the Kehoe Watercourse (APN 048-240-040, also known as the "Landstra Parcel"), and the pond portion (also known as the "Caltrans mitigation project site") of the 9.8 acre parcel located immediately south of the Landstra Parcel (APN 048-270-080), consistent with the Half Moon Bay City Council recommendation. The City agrees to initiate a biological study of the remainder of the 9.8 acre parcel and to complete a similar LCP Amendment (and LUP Amendment) if appropriate based upon the findings and recommendation of a qualified biologist, selected by the City in accordance with established City procedures, within six-months of the Commission's certification of LCP-2-HMB-14-0612-1. The two areas now proposed to be designated are shown in **Exhibit 5**.

**2. Modify LUP Policy 3-21 as follows:**

*In the event the habitat of a rare or endangered species is found to exist within the City by a qualified biologist pursuant to a biological study prepared in accordance with established City procedures, revise the Habitat Areas and Water Resources Overlay Map to show the location of such habitat. Any habitat ~~so designated~~, of a rare or endangered species as determined by a qualified biologist pursuant to a biological study prepared in accordance with established City procedures, regardless of whether it is mapped, including but not limited to the habitats shown on the Habitat Areas and Water Resources Overlay Map, shall be subject to Policies 3-22 through 3-31.*

**3. Modify LUP Policy 3-32 as follows:**

*In the event the habitat of a unique species is found to exist within the City by a qualified biologist pursuant to a biological study prepared in accordance with established City procedures, revise the Habitat Areas and Water Resources Overlay Map to show the location of such habitat. Any habitat ~~so designated~~, of a unique species by a qualified biologist*

*pursuant to a biological study prepared in accordance with established City procedures, regardless of whether it is mapped, including but not limited to the habitats shown on the Habitat Areas and Water Resources Overlay Map, shall be subject to Policies 3-33 through 3-36.*

**4. Modify IP Section 18.38.020 as follows:**

*Chapter 18.38.020 Coastal Resource Areas. The Planning Director shall prepare, update, and maintain maps of all Coastal Resource Areas within the City. Such maps shall help the City to identify Coastal Resource Areas within the City for purposes of applying the LCP. The maps, however, are not the only determinant of such areas, and it is acknowledged that Coastal Resource Areas may be determined as part of the LCP planning and permitting process by a qualified biologist pursuant to a biological study prepared in accordance with established City procedures even if not yet mapped, and all such areas, whether mapped or not yet mapped, shall be subject to Coastal Resource Area requirements. Coastal Resource Areas within the City are defined as follows:...*

**5. Modify IP Section 18.38.025 as follows:**

*Amendments to coastal resource area maps shall be made as prescribed for amendments to zoning district boundaries in this title. (1996 zoning code (part)). Coastal Resource Area maps, as added, revised, or amended, shall contain the following statement, depicted in legible font and appearing at the top of the first page, as follows: "The information on this map is subject to revision. Boundaries of sensitive habitat areas may change location over time. This map is not intended to depict fixed boundaries of sensitive habitat areas or coastal resources and may not include all areas that are sensitive habitat areas. This map does not establish any final boundary lines or constraints on the City of Half Moon Bay's ability to identify, map, or regulate sensitive habitat areas or coastal resources. The exact boundaries at any given time shall be established on a project-by-project basis following completion of a study by a qualified biologist in accordance with established City procedures."*



# ATTACHMENT 4



February 12, 2008

Steve Flint  
City of Half Moon Bay  
510 Main Street  
Half Moon Bay, CA 94019

Re: Biological Constraints of Two Staging Areas off of Bev Cunha Country Road for the Phase 3 El Granada Transmission Pipeline Replacement Project

Dear Steve:

The purpose of this letter is to present an evaluation of two potential staging sites for the El Granada Pipeline Project. Both staging areas are south of Bev Cunha Country Road and west of Cabrillo Highway. Staging Area 1 is in the northwest corner of parcel 048-270-080. Staging Area 2 is in the northwest portion of parcel 048-270-060 (Figure 1). Focused plant or wildlife surveys were not conducted as part of this evaluation; however, some species can be ruled out based on the lack of suitable habitat and timing of the site visit.

The goal of this assessment was to evaluate habitat suitability for state or federally endangered, threatened and fully protected species, determine the potential for such species to occur within the staging areas, and assess project related impacts to listed species. However, non-listed special-status species that are known to occur in the project area that could be impacted by the project were also evaluated.

#### **METHODOLOGY**

##### **Data Resources**

##### **U.S. Fish and Wildlife Service (USFWS):**

- Endangered and Threatened Wildlife and Plants (USFWS 1999, 2006)
- Federal Endangered and Threatened Species that Occur in or may be Affected by Projects in San Mateo County (USFWS 2008a)
- Federal Endangered and Threatened Species that Occur in or may be Affected by Projects in the Half Moon Bay, Montara Mountain, San Mateo, Woodside, La Honda and San Gregorio USGS 7 ½ Minute Quad (USFWS 2008b)

##### **National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries):**

- Endangered and Threatened Species; Establishment of Species of Concern List, Addition of Species to Species of Concern List, Description of Factors for Identifying Species of Concern, and Revision of Candidate Species List Under the Endangered Species Act (NOAA 2004)

#### California Department of Fish and Game (CDFG):

- List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database (CDFG 2003)
- State and Federally Listed Endangered, Threatened and Rare Plants of California (CDFG 2008a).
- State and Federally Listed Endangered and Threatened Animals of California (CDFG 2008b)
- Special Vascular Plants, Bryophytes, Lichens List (CDFG 2008c)
- Special Animals (CDFG 2007)
- California Natural Diversity Database (CNDDDB) Query for the Half Moon Bay, Montara Mountain, San Mateo, Woodside, La Honda and San Gregorio USGS 7 ½ Minute Quad (CDFG 2008d)

#### Other Sources:

- Local Coastal Program Land Use Plan (City of Half Moon Bay 1993)
- The Jepson Manual: Higher Plants of California (Hickman 1993)
- The California Native Plant Society's Inventory of Rare and Endangered Plants of California (CNPS 2001, 2008).
- Consortium of California Herbaria (CCH 2008).

Botanical taxonomy and nomenclature conforms to *The Jepson Manual* (Hickman 1993), except for changes within the subtribe Madiinae in the family Asteraceae (Baldwin 1999). Common names of plant species are derived from the *Integrated Taxonomic Information System* (ITIS 2008). Vegetation communities described herein conform to *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986), *California Vegetation* (Holland and Keil 1995) and *A Manual of California Vegetation* (Sawyer & Keeler-Wolf 1995); wetland and deepwater habitat classifications conform to *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin et al. 1979), where appropriate. Nomenclature for special-status plant species conform to the *Inventory of Rare and Endangered Plants of California* (CNPS 2001) and *Special Vascular Plants, Bryophytes and Lichens List* (CDFG 2008b). Nomenclature for common and special-status wildlife conforms to the *Complete List of Amphibian, Reptile, Bird and Mammal Species in California* (CDFG 2006) with taxonomic nomenclature updates conforming to the *Checklist of North American Birds* (AOU 1998) and supplements published in *The Auk* for birds, *An Annotated Check List of the Amphibians and Reptiles of California and Adjacent Waters* (Jennings 2004) for amphibians and reptiles, and *Mammals of California* (ASM 2006) for mammals. Nomenclature for freshwater and terrestrial invertebrates conforms to *Special Animals* (CDFG 2007) and *A List of Freshwater, Anadromous, and Euryhaline Fishes of California* (Moyle and Davis 2000) for freshwater, anadromous, and euryhaline fishes.

#### Definitions

Sensitive natural communities are characterized as plant assemblages that are unique in constituent components, restricted in distribution, supported by distinctive edaphic conditions, considered locally rare, potentially support special-status plant or wildlife species and/or receive regulatory protection from municipal, county, state and/or federal entities. The regulatory framework that protects sensitive natural communities is derived from local, state and federal laws and regulations including Section 10 of the federal Rivers and Harbors Act, sections 401 and 404 of the federal Clean Water Act, section 1600 *et seq.* of the California Fish and Game Code, section 15065 of the CEQA guidelines, and various other city or county codes. Implementation and enforcement of these regulations are conducted by their respective regulatory entities such as the U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California Department of Fish and Game, lead agency and/or various cities or counties. The

CNDDDB treats a number of natural communities as rare, which are given the highest inventory priority (Holland 1986; CDFG 2003).

Special-status plant and wildlife species are defined as those species listed as endangered, threatened, or proposed for listing, or are designated as fully protected species under one or more of the following regulatory statutes: Federal Endangered Species Act, as amended (Code of Federal Regulations, Title 50, Section 17), California Endangered Species Act (California Code of Regulations Title 14, Section 670.5), California Fish and Game Code (Sections 1901, 2062, 2067, 3511, 4700, 5050 and 5515) and Native Plant Protection Act of 1977. Special-status species also include locally rare species defined by CEQA guidelines 15125(c) and 15380, which may include species that are designated as sensitive, declining, rare, locally endemic or as having limited or restricted distribution by various federal, state and local agencies, organizations and watchlists. Their status is based on their rarity and endangerment throughout all or portions of their range.

### Field Investigation

Nomad wildlife biologist Jerry Roe and botanist Erin McDermott conducted a site reconnaissance of both proposed staging areas on February 8, 2008. Surveys were conducted within the proposed staging areas and adjacent habitats as identified in the field by JMB Construction Inc. representatives Jeff Molloy and JP McSherry. All plant species in bloom, or otherwise recognizable, were identified to a level necessary to determine their regulatory status. All proposed impact areas and vegetation communities within the study area were visited on foot and were evaluated for their potential to support sensitive biological resources. All wildlife species observed or recognized by diagnostic sign (*e.g.*, scat, tracks, prey remains, burrows, *etc.*) were recorded and identified. Focused species surveys were not conducted during these site visits.

### LIMITATIONS

Based on the timing of this assessment, not all potentially occurring special-status botanical or wildlife resources can be entirely ruled out. However, determinations of presence/absence within the staging areas were possible for specific special-status plant species with blooming periods corresponding to the February 2008 site visit or for special-status wildlife species by the presence of sign or direct observation. Negative findings during site assessments or focused surveys may not indicate absence unless field surveys conform to agency approved protocols.

The present botanical study is not floristic in nature. A complete determination of the presence or absence of potentially occurring botanical resources would require focused surveys to be conducted during all appropriate blooming periods (CNPS 2001, CDFG 2000). Additionally, certain plant species, especially annuals, may not be present in all years due to yearly variations in temperature and rainfall, which influence plant phenology. Colonization of new populations within an area may also occur from year to year. The phrase "in part" is used to that vegetation descriptions may include additional annual species present if surveys are conducted during other seasons.

The identification of certain plant species in this report are tentative due to the absence of morphological characteristics related to immature reproductive structures or seasonal desiccation, which are required to make species-level determinations.

The proposed activities and work areas evaluated in this report are based on the project description for the proposed staging areas provided by the City of Half Moon Bay and JMB Construction Inc. Expansion of the staging areas beyond those currently proposed would warrant further analysis.

## EXISTING CONDITIONS

### Setting

#### Staging Area 1

Staging Area 1 is located on a ruderal lot previously used as a staging area by an unrelated project. It is characterized by dirt access roads, ruderal vegetation, bare ground, and remnant gravel. Immediately west of the proposed staging area, is a small swale that begins immediately west of the westernmost dirt access road and continues south becoming more pronounced as it turns southeast away from the staging area. At the time of the site visit, a portion of the swale contained standing water measuring two inches in depth. A second swale is located along the northern boundary demarcated by a chain link fence and defunct silt fence. This swale was completely dry at the time of the site visit. Pilarcitos Creek is located approximately 500 feet to the southwest with a dense riparian corridor dominated by willows. Several willows and hummocky ground is present along the southeast border, which appears to have been created by fill. Surrounding land use consists of open ruderal fields and coastal scrub habitat to the north, west and south, fallow row crops to the east and south, and a sewage treatment, Pilarcitos Creek and the Pacific Ocean to the west.

Staging Area 1 is characterized by weedy, ruderal vegetation. Ruderal vegetation is an assemblage of plants, often a mixture of both native and non-native weed species that thrive in waste areas, heavily grazed pastures, cultivated and fallow fields, roadsides, parking lots, footpaths, residences and similar disturbed sites in towns and cities and along rural roadways. Some urban weeds are ornamentals, escaped from cultivation. Ruderal communities are difficult to characterize and are often temporary assemblages. In areas of frequent human disturbance the majority of wild plants are often introduced weeds rather than natives. Ruderal plant species observed in Staging Area 1 include bristly ox-tongue (*Picris echinoides*\*), cut-leaf plantain (*Plantago coronopus*\*), Italian thistle (*Carduus pycnocephalus*\*), wild radish (*Raphanus sativus*\*), field mustard (*Brassica rapa*\*), poison hemlock (*Conium maculatum*\*), Bermuda buttercup (*Oxalis pes-caprae*\*), sweet fennel (*Foeniculum vulgare*\*), Italian ryegrass (*Lolium multiflorum*\*), wild oats (*Avena fatua*\*), and pampas grass (*Cortaderia selloana*\*), in part. In scattered locations within the ruderal vegetation were stands of native plants including California aster (*Symphyotrichum chilense*) and coyote brush (*Baccharis pilularis*).

#### Staging Area 2

Staging Area 2 is located on the easternmost corner of a fallow agricultural field that was slightly higher in elevation from the recently tilled field and behind a church storage shed along the frontage to Cabrillo Highway. The area appeared to be routinely tilled based on the texture of the soil surface, although it had not been recently tilled at the time of the site visit. Vegetation on site was characterized by ruderal vegetation typical of fallow agricultural fields. A few piles of wood chip mulch were present in the southern part of the staging area. Ruderal vegetation present in Staging Area 2 includes cut leaved geranium (*Geranium dissectum*\*), bristly ox-tongue\*, wild radish\*, Bermuda buttercup\*, cheeseweed (*Malva parviflora*\*), field mustard\*, poison hemlock\*, sweet fennel\*, bur clover (*Medicago polymorpha*\*), white-stemmed filaree (*Erodium moschatum*\*), and vetch (*Vicia* sp.), in part. One native plant, California poppy (*Eschscholzia californica*) was observed in Staging Area 2.

## EVALUATION FINDINGS

### Sensitive Natural Communities

#### Staging Area 1

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\* Denotes California non-native species.

No sensitive natural communities, nor wetlands, were observed within Staging Area 1. Immediately west of the staging area is a small swale area that had standing water to a depth of two inches at the time of the site visit (Figure 1). To the east of the staging area is another swale that did not have standing water present (Figure 1). To the south of the staging area was a stand of willows. On the western edge of the parcel, well outside of the staging area, is Palarcitos Creek.

#### Staging Area 2

No sensitive natural communities, nor wetlands, were observed within or near Staging Area 1.

#### **Special Status Plant Species**

Based on a background review (CDFG 2008a, 2008c, and 2008d), familiarity with local fauna, and on-site habitat suitability, a total of 44 target species occur in the vicinity of the staging areas. Of these species, all 44 were ruled out due to the fact that they are likely to be out of range and/or suitable habitat is present. The native integrity of the potential staging area has been highly altered from

#### Staging Area 1

Within Staging Area 1, no federal or state listed plant species, California Native Plant Society listed, local coastal plant, or locally rare plant species were observed during the site visit. Of the 44 special-status plant species known from the area, all 44 were ruled out due to the fact that they are likely to be out of range and/or suitable habitat is present. The native integrity of the potential staging area has been highly altered from grading and road building, and the prevalence of weedy, non-native species.

#### Staging Area 2

Within Staging Area 2, no federal or state listed plant species, California Native Plant Society listed, local coastal plant, or locally rare plant species were observed during the site visit. Of the 44 special-status plant species known from the area, all 44 were ruled out due to the fact that they are likely to be out of range and/or suitable habitat is present. The native integrity of the potential staging area has been highly altered from routine tilling and the prevalence of weedy, non-native species

#### **Special Status Wildlife Species**

Based on the field investigation, review of available databases and literature, familiarity with local fauna, and on-site habitat suitability, a total of 57 special status fish and wildlife species were considered as part of this assessment (USFWS 1999, 2006, 2008a,b; CDFG 2007, 2008b,d; NOAA 2004). Of these species, 36 are listed as state or federally endangered, threatened, and/or fully protected. The remaining 21 potentially occurring species are listed as Special Animals by the California Department of Fish and Game (CDFG 2007) and are included in this analysis based on their potential to occur within the project impact area. Of the 36 state or federally Threatened or Endangered, or Fully Protected species only two, California red-legged frog (*Rana aurora draytonii*; federally listed as threatened and a California Species of Special Concern) and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*; federally and State listed as endangered), were determined to have the potential to occur within the staging area. One non-listed species, saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*, a California Species of Special Concern), was reported approximately 800 feet to the west at the mouth of Palarcitos Creek (CDFG 2008d), but was ruled out from occurring onsite based on the lack of suitable on-site and immediately adjacent habitat. All others were ruled out based on the lack of suitable habitat, local range restrictions, regional extirpations, lack of connectivity with areas of suitable or occupied habitat, incompatible land use, and habitat degradation/alteration of on-site or adjacent lands.



### Staging Area 1

Staging Area 1 provides marginal habitat for special status wildlife. However, based on its proximity to Pilarcitos Creek and the Caltrans mitigation wetlands to the southwest, it is possible that species inhabiting these areas could venture onto the staging area to forage or transit the site in search of other suitable habitats. The disturbed nature of the site and ruderal dominated weedy species provides limited wildlife habitat except for disturbance tolerant species such as Brewer's blackbirds (*Euphagus cyanocephalus*), common ravens (*Corvus corax*), gulls (Laridae family), house sparrows (*Passer domesticus*), house finches (*Carpodacus mexicanus*), European starlings (*Sturnus vulgaris*), house mice (*Mus musculus*), raccoons (*Procyon lotor*), western fence lizard (*Sceloporus occidentalis*), and gopher snakes (*Pituophis catenifer*), among others. Several small mammal burrows were observed in the less disturbed portions of the staging area measuring approximately 1 ½ inches in diameter

### Staging Area 2

Staging Area 2 is subject to regular discing presumable to control weedy invasive species. It is located behind a church utility building and appears to be used by the church to store yard waste. The entire site was devoid of shrubs or trees and only supported weedy native and non-native grasses and forbs. The wildlife value of the site is negligible except for forage for birds such as Brewer's blackbird, white-crowned sparrows (*Zonotrichia leucophrys*), Canada geese (*Branta canadensis*), and small rodents such as California meadow voles (*Microtus californicus*).

### California Red-Legged Frog

#### *Status, Distribution, and Habitat Requirements*

The California red-legged frog is federally-listed as threatened and is designated as a California species of special concern (CDFG 2006b, USFWS 1999a). It is one of two subspecies of red-legged frog (*Rana aurora*) endemic to the Pacific Coast<sup>1</sup>. The northern red-legged frog (*Rana aurora aurora*) ranges from southern British Columbia, Canada south to northern Marin County. The California red-legged frog is distributed throughout 26 counties in California, but is most abundant in the San Francisco Bay Area. Populations have become isolated in the Sierra Nevada, northern Coast, northern and southern Transverse and Peninsular Ranges (Jennings and Hayes 1994, Stebbins 2003). Red-legged frogs occurring from southern Del Norte County to northern Marin County are known to hybridize, often exhibiting characteristics of both subspecies (Hayes and Krempels 1986).

California red-legged frogs predominately inhabit permanent water sources such as streams, lakes, marshes, natural and manmade ponds, and ephemeral drainages in valley bottoms and foothills up to 1,500 meters in elevation (Jennings and Hayes 1994, Bulger et al. 2003, Stebbins 2003). California red-legged frogs breed between November and April in standing or slow moving water at least 0.7 meters (2½ feet) in depth with emergent vegetation, such as cattails (*Typha* spp.), tules (*Scirpus* spp.) or overhanging willows (*Salix* spp.) (Hayes and Jennings 1988). Egg masses containing 2,000 to 5,000 eggs are attached to vegetation below the surface and hatch after 6 to 14 days (Storer 1925, Jennings and Hayes 1994). Larvae undergo metamorphosis 3½ to 7 months following hatching and reach sexual maturity 2 to 3 years of age (Jennings and Hayes 1984, 1994).

In a study of California red-legged frog terrestrial activity in the Santa Cruz Mountains, Bulger (2003) categorized terrestrial use as migratory and non-migratory. The latter terrestrial activity occurred from one to several days and was associated with precipitation events. Migratory movements were characterized as the movement between aquatic sites and were most often associated with breeding activities. Bulger reported that non-migrating frogs typically stayed within 60 meters (200 feet) of aquatic habitat 90% of

<sup>1</sup> Recent taxonomic analysis conducted by Hayes and Miyamoto (1984 in Jennings 2004) suggested that *Rana aurora aurora* and *Rana aurora draytonii* could be recognized as distinct species, *Rana aurora* and *Rana draytonii*.

the time and were most often associated with dense vegetative cover, *i.e.* California blackberry, poison oak and coyote brush.

#### *Critical Habitat*

Critical habitat for the California red-legged frog was designated in April 2006 [70 Fed. Reg. 19244 (Apr. 13, 2006)] (USFWS 2006b). Staging Areas 1 and 2 are not located within critical habitat; however, they are located within the Half Moon Bay Hydrologic Sub-Area and the South San Francisco Bay Core Area as described in the Recovery Plan (USFWS 2002, 2006b). Use of the staging areas would not result in impacts to critical habitat.

#### *Habitat Assessment and Occurrence in the Project Area*

The project site does not provide suitable breeding, non-breeding aquatic, dispersal, and marginal upland habitat for the California red-legged frog. However, there is occupied suitable habitat within Pilarcitos Creek and its riparian corridor, and within the Caltrans mitigation freshwater wetlands to the southwest. The nearest reported California red-legged frog occurrence (EONDX 42675) was reported in 2000 approximately 450 feet to the southwest in a Caltrans wetland mitigation site consisting of created and enhanced freshwater wetlands near Pilarcitos Creek (CDFG 2008d). The sighting consisted of an egg mass, and multiple larvae, sub-adults and adult frogs during three surveys in 2000. Upland habitat that qualifies as primary constituent elements in the critical habitat designation comprises areas within 60 meters (200 feet) of the edge of riparian vegetation or dripline or the edge of the watershed boundary, whichever is closer (USFWS 2006b); although, frogs may forage farther into adjacent uplands during wet periods or transit the site when dispersing or migrating to or from breeding sites.

Staging Area 1, due to its disturbed nature, existing dirt access roads, and substantial areas devoid of vegetation do not provide suitable habitat for California red-legged frogs. However, construction debris (*e.g.*, pvc pipes) and larger shrubs such as coyotebrush and pampas grass may function as an attractive nuisance for frogs transiting the site during upland foraging bouts during wet periods. The swale that runs along the western and southern boundary provides marginal non-breeding aquatic habitat, but due to their lack of substantial vegetative cover, may also function as an attractive nuisance by increasing their risk to predation.

Staging Area 2 is located approximately 1,500 feet from the edge of the Pilarcitos Creek riparian corridor and does not provide suitable habitat for California red-legged frogs. It is subject to regular discing and does not contain any vegetation that may provide refuge for transiting frogs. No small mammal burrows or other debris that could attract frogs was present on site.

#### *Potential Project-Related Effects*

Although some features within Staging Area 1 may function as an attractive nuisance, neither site provides suitable habitat for California red-legged frogs. Given the proximity of the sites to occupied habitat to the southwest, their absence from the sites cannot be presumed as some individuals may transit the sites in search of foraging areas or dispersal of sub-adults. Potential impacts to California red-legged frogs can be avoided or minimized by implementing the mitigation measures outlined below.

#### *Recommended Avoidance and Minimization Efforts*

To the maximum extent practicable the applicant should:

1. Staging Area 1 and 2 should not extend beyond the boundaries discussed with JMB Construction, Inc. in the field and outlined in Figure 1. Work should be confined to the staging areas and access road, and the staging areas should be clearly defined.



2. Before staging of equipment or supplies begins, a Service-approved biologist should conduct a training session for all construction personnel. At a minimum, the training should include a description of the California red-legged frog and its habitat, the importance of this species and its habitat, the general measures that are being implemented to conserve the California red-legged frog as they relate to the project, and the boundaries within which the project may be accomplished.
3. Removal of habitat features that provide refugia such as pampas grass and coyotebrush, should be avoided to the maximum extent feasible. If pampas grass or coyotebrush is to be removed, a Service-approved biologist should be onsite to inspect the vegetation prior to removal and be onsite during its removal. All removed vegetation should be disposed of offsite the same day that it is removed to prevent brush piles from becoming an attractive nuisance.
4. The pvc pipes in Staging Area 1 should be removed prior to equipment or supply staging.
5. Exclusion fencing should be erected along work boundaries of the staging areas prior to use. Fencing should be a minimum of 3 feet in height, buried in the soil at least 4 inches, and the base backfilled to form a tight seal to discourage California red-legged frogs from crawling under and entering the project site. Integrity of the exclusion fence should be maintained throughout the duration of construction staging and should not be removed until all equipment and supplies are removed from the site and the site is returned to pre-project conditions.
6. In the event a California red-legged frog enters the staging areas or access road, a Service-approved biologist should onsite or available by phone to relocate any California red-legged frogs out of harms way. Under no circumstances should any California red-legged frog handled without express permission from the U.S. Fish and Wildlife Service. If a California red-legged frog is observed it should be left alone, work should cease immediately in the vicinity, and the construction supervisor should be contacted.
7. All practicable erosion control Best Management Practices should be implemented to minimize the potential of impacts to water quality and sensitive downstream biological resources.
8. Vehicles should be confined to established roadways and access roads. Vehicles should not park on vegetated shoulders or in nearby fields outside the designated staging areas.
9. Trash should be properly contained, removed from the work site and disposed of regularly so as not to attract predators or function as an attractive nuisance.
10. Trash dumping, firearms, open fires, hunting, and pets shall be prohibited in the project area.
11. Vehicles or other equipment must be refueled on paved surfaces or in areas denuded of vegetation within the staging areas with secondary containment in place.
12. Any spills of hazardous materials in endangered species habitat shall be immediately cleaned up and/or removed. Any such spills will be reported to the appropriate resource agency(s).
13. After completion of construction activities, remove any temporary fill and construction debris and, wherever feasible, restore disturbed areas to pre-project conditions.

### San Francisco Garter Snake

#### *Status, Distribution, and Habitat Requirements*

The San Francisco garter snake is federally and/or state-listed as endangered and is a fully protected species under §5050 of the California Fish and Game Code (CDFG 2006b, USFWS 1999a). A highly aquatic subspecies of the common garter snake endemic to the San Francisco Bay Area, San Francisco garter snakes are distributed along the western San Francisco Peninsula from the southern San Francisco

County border south to Waddell Lagoon south of Año Nuevo and as far west as Crystal Springs Reservoir. It occurs sympatrically with its primary prey species, the California red-legged frog; however, it will opportunistically prey on a variety of species including frogs, tadpoles, egg masses, newts, small fish, salamanders, reptiles, small mammals, birds and their eggs and several small invertebrates (Stebbins 2003).

San Francisco garter snakes prefer densely vegetated habitats close to water where they can retreat when disturbed (Stebbins 2003). The species often occurs near ponds, marshes, streams and other wetlands associated with cattails (*Typha* spp.), bulrushes (*Amphiscirpus*, *Bolboschoenus*, *Isolepis*, *Schoenoplectus* and *Trichophorum* spp.) and rushes (*Juncus* and *Eleocharis* spp.). Mating occurs shortly after they leave their winter retreats in May and females give birth to live young between June and September. Species may hibernate near the coastal areas in fossorial mammal burrows and other refuges, or remain active year-round weather permitting.

#### *Critical Habitat*

Critical habitat has not been designated for this species.

#### *Habitat Assessment and Occurrence in the Project Area*

The project site does not provide suitable breeding, dispersal, and marginal upland habitat for the San Francisco garter snake. However, there is occupied suitable habitat at the mouth of Pilarcitos Creek. The nearest reported occurrence (EONDX 27485) was reported at this location in winter when water ponds in 1999 approximately 800 feet to the west (CDFG 2008d). There were several small mammal burrows immediately outside of the proposed boundaries of Staging Area 1 that provide suitable refugia habitat for San Francisco garter snakes; however, they are not expected to occur this far from occupied habitat in Pilarcitos Creek and its riparian corridor where prey is abundant.

Staging Area 1 is highly disturbed and much of the site consists of bare ground, which is not suitable upland habitat for the San Francisco garter snake. However, marginally suitable upland habitat is present immediately adjacent to the site to the south and west.

Staging Area 2 is located approximately 1,500 feet from the edge of the Pilarcitos Creek riparian corridor and does not provide suitable habitat for San Francisco garter snakes. It is subject to regular discing and does not contain any vegetation that may provide refuge for snakes. No small mammal burrows or other debris that could attract frogs was present on site.

#### *Potential Project-Related Effects*

Although marginally suitable upland habitat is present near Staging Area 1; San Francisco garter snakes are not expected to occur on either site. However, their occasional presence cannot be entirely ruled out given the proximity of the sites to occupied habitat to the southwest. Potential impacts to San Francisco garter snakes can be avoided or minimized by implementing the mitigation measures outlined for the California red-legged frog.

#### *Recommended Avoidance and Minimization Efforts*

Potential impacts to San Francisco garter snakes can be avoided or minimized by implementing the mitigation measures outlined for the California red-legged frog with the following exception.

1. In the event a San Francisco garter snake enters the staging areas or access road, a Service-approved biologist should onsite or available by phone to relocate any San Francisco garter snake out of harms way. Under no circumstances should any San Francisco garter snake be handled without express permission from the U.S. Fish and Wildlife Service. If a San Francisco garter

snake is observed it should be left alone, work should cease immediately in the vicinity, and the construction supervisor should be contacted.

## CONCLUSION

We do not anticipate any biological issues to interfere with the use of these two staging areas, provided all work stays within the boundaries discussed in the field and outlined in Figure 1, and the mitigation measures outlined above are implemented without exception.

Please feel free to contact me at (925) 228-1027 if you have any questions.

Sincerely,



Erin L. McDermott  
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ISA Certified Arborist – WE7318A  
Botanist, Wetland & GIS Specialist  
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**Photo 1. Staging Area 1. Site is highly disturbed.**



**Photo 2. Staging Area 1. PVC pipes on site are a potential attractive nuisance and should be removed prior to equipment or supply staging.**



**Photo 3. Pampas grass individuals on site are may provide refugia to California red-legged frogs and should be avoided to the maximum extent feasible.**



**Photo 4. Staging Area 2. Site has been regularly tilled and is filled with weeds.**



**Photo 5. Staging Area 2. There are piles of mulch on site.**





**Legend**


 Staging Areas

 Swales

**Figure 1. El Granada Pipeline Staging Areas**  
City of Half Moon Bay and JMB Construction

1:3,600

0 50 100 200 300

 Feet



COMMITTEE FOR  
GREEN FOOTHILLS



## REVISED LETTER

July 9, 2016

**Item: F8.a**

Support Staff Recommendation

Chair Steve Kinsey and Commissioners  
California Coastal Commission  
45 Fremont Street, Suite 200  
San Francisco, CA 94105

### **Re: Item F8.a: City of Half Moon Bay LCP-2-HMB-14-0612-1 (Map Revisions)**

Dear Chair Kinsey and Commissioners,

On behalf of Committee for Green Foothills and Loma Prieta Chapter, Sierra Club, we write in strong support of the staff recommendation for approval of the above-referenced Land Use Plan Amendment with the suggested modification #1 per staff.

This item was continued from your July 8, 2015 meeting in order for Commission staff to work with the City to resolve issues related to whether the City's submitted LUP Amendment conforms with Chapter 3 requirements of the Coastal Act, particularly Sections 30107.5 and 30240.

As stated in our letter of July 2, 2015, the City's Habitat Areas and Water Resources Overlay (HAWRO) Map is over 20 years old, and as such, is extremely outdated, and has not been periodically updated, as required by LUP Policy 3-21.

The City's LUP Amendment, as submitted, is inadequate to fully protect the federally listed and state protected San Francisco garter snake (SFGS) and California red-legged frog (CRLF), specifically as pertains to the southern 9.8-acre parcel (APN 048-279-080) which was formerly owned by the Evangelical Lutheran Church of America, but is now owned by the City of Half Moon Bay. This parcel is also referred to as the "Caltrans mitigation project site" and is also protected as a wetland.

US Fish and Wildlife Service (USFWS), in 2000, and again in 2015 issued the following opinion: ***"The entirety of the (9.8 acre) Lutheran Church site constitutes habitat for the CRLF and SFGS"***. This opinion has been confirmed by several professional biologists, most recently by Dr. Mark Jennings of Rana Resources in his letter of June 10, 2016.

There is no evidence from any qualified biologist that refutes the USFWS and other professional biologists who have concurred that the entire 9.8-acre site is habitat that supports or contains the California red-legged frog and San Francisco garter snake.

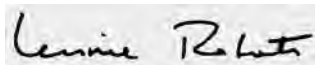
Suggested modification #1 is necessary in order to fully protect these habitats on the 9.8 acre site as required by Coastal Act Section 30240, which requires that environmentally sensitive habitat areas shall be protected. Additionally protection of the entire site is required by Half Moon Bay LUP Policy 3.35 which states: "Require preservation of all rare and endangered species habitats using the policies of this Plan and implementing ordinances of the City."

Our organizations are disappointed by the stance taken by the City of Half Moon Bay opposing Commission staff's entirely reasonable suggested modification #1, given the overwhelming evidence that the entire 9.8-acre site is habitat for the CRLF and SFGS. We are also disappointed and frankly puzzled by the City's letter dated June 9, 2016, which denied permission to Commission biologists Dr. Garske and Dr. Koteen to access the site. We do not believe your Commission should sanction the fallacious interpretation of the law that was used to discourage Commission staff biologists from pursuing their due diligence.

This lack of cooperation on the part of the City is troubling in light of the major concessions by Commission staff to delete important provisions that address protection of habitat that were previously included as suggested modifications #s 2,3, 4, and 5.

We therefore urge your Commission to approve the requested Map Revisions with the inclusion of the entire 9.8-acre parcel as outlined in suggested modification #1.

Sincerely,



Lennie Roberts  
Legislative Advocate  
Committee for Green Foothills



Mike Ferreira  
Chapter Chair, Loma Prieta Chapter  
Sierra Club





July 11, 2016

**Item F8.a**

**Support Staff Recommendation**

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

**Re: Item F8.a: City of Half Moon Bay LCP-2-HMB-14-0612-1 (Map Revisions)**

These comments are submitted on behalf of the Center for Biological Diversity ("Center") on the City of Half Moon Bay's Proposed Amendment on the Local Coastal Program's Land Use Plan ("LUP") Habitat Areas and Water Resources Overlay Map and the Implementation Plan ("IP") Coastal Resource Areas Map. The Center is a national, nonprofit conservation organization with more than 1 million members and online activists dedicated to the protection of endangered species and wild places. The Center and its members are concerned with the conservation of imperiled species, including the California red-legged frog and the San Francisco garter snake, and the effective implementation of environmental laws.

We urge that the Commission to accept all of its staff recommendations on this Item, for the approval of the Land Use Plan Amendment with suggested modification #1. We are in agreement with the Coastal Commission's Staff suggested modifications and are supportive of a vote to Certify the LUP Amendment, if and only if this approval requires adoption of all of the suggested modifications from the Staff Report. The submitted LUP amendment alone is insufficient to protect the federally-threatened California red-legged frog and the federally-endangered San Francisco garter snake.

Thank you for your consideration of the Center's comments on the City of Half Moon Bay's Proposed Map Amendment.

Sincerely,

Jennifer Loda  
Amphibian and Reptile Staff Attorney  
Center for Biological Diversity  
1212 Broadway, Suite 800  
Oakland, CA 94612

## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Carole Groom

1) Name or description of project: City of Half Moon Bay LCP Amendment

2) Date and time of receipt of communication: Phone call

3) Location of communication: June 30 at 2:30 p.m.

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Magda Gonzalez

5) Identity of person(s) on whose behalf communication was made: Magda Gonzalez  
and John Doughty, City of Half Moon Bay

6) Identity of persons(s) receiving communication: Carole Groom

7) Identity of all person(s) present during the communication: Carole Groom, Magda  
Gonzalez, John Doughty

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

The representatives from the City of Half Moon Bay objected to the ESHA report  
and its lack of biological review by a third party.

7-6-16

Date

CAROLE GROOM

Signature of Commissioner

**TIMING FOR FILING OF DISCLOSURE FORM:** File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.