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original staff report](#)

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

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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

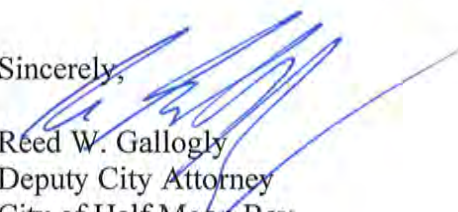
Dear Commissioners:

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

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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 continued¹ – 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,² 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).

¹ 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.

² 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.³ 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

³ 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.⁴ 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,⁵ 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

⁴ Attachment 1 and Attachment 2.

⁵ 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 staff⁶ – 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

⁶ Attachment 1.

Replacement Project.⁷

In reviewing a proposed staging area for the pipeline project which was located on the on the 9.8 acre parcel in question,⁸ 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..."⁹

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

⁷ Attachment 4, February 12, 2008 Biological Assessment by Nomad Ecology.

⁸ Attachment 4, Page 16 – a map of the assessed area.

⁹ Attachment 4, Page 7-10.

ATTACHMENT 1

LAW OFFICES
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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

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



City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019
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

* 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 Coast¹. 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

¹ 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
Principal
ISA Certified Arborist – WE7318A
Botanist, Wetland & GIS Specialist
Nomad Ecology

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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.



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



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.

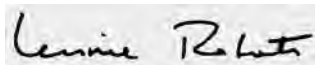
Suggested modification #1 is necessary in order to fully protect these habitats on the 9.8 acre site as required by Coastal Act Section 30240, which requires that environmentally sensitive habitat areas shall be protected. Additionally protection of the entire site is required by Half Moon Bay LUP Policy 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.

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105
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F8a

Prepared June 29, 2016 (for July 15, 2016 hearing)

To: Coastal Commissioners and Interested Persons
From: Nancy Cave, North Central Coast District Manager
Stephanie Rexing, North Central Coast District Supervisor
Subject: **City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Habitat Map Revisions)**

SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay proposes to revise its Local Coastal Program's (LCP's) Land Use Plan (LUP) Habitat Areas and Water Resources Overlay Map, and the Implementation Plan (IP) Coastal Resource Areas Map. Specifically, the City proposes to amend the LCP maps to reflect certain additional areas in the City that have been found to contain or likely to contain habitat for certain sensitive species, based on a decision by the San Mateo County Superior Court. Specifically, the Court found that the Kehoe Watercourse and its adjacent riparian areas support or contain the protected California red-legged frog (CRLF)¹ and San Francisco garter snake (SFGS).² In a subsequent settlement, the City agreed to submit an LCP amendment mapping those areas as environmentally sensitive habitat areas.

Staff agrees that these areas should be added to the LCP maps. The LCP identifies such map updates as an important step to be taken by the City as rare, endangered, or unique species habitats are identified. At the same time, staff believes that the area identified in the City's submittal shows only a portion of the actual area that needs to be identified on the maps. There are additional lands associated with the Kehoe Watercourse and the adjacent riparian area that contain or support rare and endangered or unique species habitat, specifically for CRLF and SFGS, as determined by USFWS.

The proposed map modifications submitted by the City are, in the City's opinion, specific to certain lands mitigated under an older permit action. Furthermore, it is clear that there are other

¹ California Species of Special Concern, and threatened under the federal Endangered Species Act. Considered a unique species under the LCP.

² Endangered under the California Endangered Species Act and the federal Endangered Species Act, and fully protected under Section 5050 of the Fish and Game Code. Considered a rare and endangered species under the LCP.

lands in the City where there are and may well be additional sensitive habitats, including rare, endangered or unique species habitats, as evidenced by recent appeals to the Commission. Thus, there are really two issues at play with this proposed amendment: remapping based on recent projects and new information, and the role of the LCP maps themselves.

When this LCP amendment was first heard by the Commission in July 2015, the City objected to Commission staff suggested modifications that would have required the City to map additional areas on the LCP maps. In addition, the City disagreed with suggested modifications that indicated that the maps are not controlling for identifying habitats, but rather that it is the conditions on the ground that control. In light of the disagreements, the Commission extended the time frame for Commission action on the LCP amendment, and continued the hearing. In the time since, staff has worked with the City to try to resolve issues. In particular, staff has agreed to defer addressing the issues related to whether additional areas in the City should be mapped, and whether the maps or resources on the ground control. It is staff's opinion that the LCP already provides for the latter, and staff's modifications to the current City LCP amendment request were intended to make it more explicit. The City is currently updating its LCP with a Coastal Commission LCP grant, and that update will provide an appropriate future avenue to address these issues comprehensively. The City is in agreement on this point.

The City is not in agreement with staff on the extent of remapping necessary in terms of the Kehoe Watercourse. Staff believes that the available evidence, including a determination by USFWS, demonstrates that the entire area of the Caltrans mitigation site parcel (a 9.8 acre parcel) is habitat supporting or containing sensitive species requiring protection under the Coastal Act. The City argues that it is not habitat supporting or containing such sensitive species, but to date has provided no evidence to rebut the USFWS opinion. Thus, staff continues to recommend that the entire area be mapped as habitat supporting or containing sensitive species requiring protection under the Coastal Act.

Therefore, staff recommends that the Commission deny the proposed LCP amendment, and approve it only if the maps are so modified. There are four motions and actions necessary to effect that recommendation, and they begin on page 4 of this report.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on April 30, 2015. The proposed amendment affects both the City's LUP and the IP, thus the Commission initially had a 90-day action deadline, or until July 29, 2015, to take a final action on this LCP amendment. On July 8, 2015, the Commission extended the action deadline to July 29, 2016. Thus, the Commission must take action on this LCP amendment at the July 2016 meeting in San Diego.

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EXHIBITS

Exhibit 1: Proposed Map Amendments in Composite
Exhibit 2: City Council Ordinance
Exhibit 3: Settlement Agreement, Statement of Decision, U.S. Fish and Wildlife Service Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog
Exhibit 4: January 20, 2015 Letter from City of Half Moon Bay
Exhibit 5: Map Exhibit to CDP-01-96
Exhibit 6: Letters from United States Fish and Wildlife Service
Exhibit 7: Correspondence
Exhibit 8: Relevant Policies of the Half Moon Bay Land Use Plan
Exhibit 9: June 9, 2016 Letter from City of Half Moon Bay
Exhibit 10: December 10, 2015 City Suggested Modifications
Exhibit 11: June 10, 2016 Mark Jennings Memo
Exhibit 12: Commission Staff Original Suggested Modifications

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment only as modified. The Commission needs to take four votes, two each on the LUP and IP components of the proposed amendment, in order to act on this recommendation.

A. Reject the LUP Amendment as Submitted

Staff recommends a **NO** vote on the motion below. Failure of the motion will result in denial of the LUP amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion (1 of 4): *I move that the Commission certify Land Use Plan Amendment LCP-2-HMB-14-0612-1 as submitted by the City of Half Moon Bay, and I recommend a no vote.*

Resolution (1 of 4): *The Commission hereby denies certification of Land Use Plan Amendment LCP-2-HMB-14-0612-1 as submitted by the City of Half Moon Bay and adopts the findings set forth below on the grounds that the Amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan Amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.*

B. Certify the LUP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in the certification of the LUP amendment with suggested modifications and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion (2 of 4): *I move that the Commission certify Land Use Plan Amendment LCP-2-HMB-14-0612-1 for the City of Half Moon Bay if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution (2 of 4): *The Commission hereby certifies Land Use Plan Amendment LCP-2-HMB-14-0612-1 for the City of Half Moon Bay Local Coastal Program, if modified as suggested, and adopts the findings set forth below on the grounds that the Land Use Plan Amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan Amendment, if modified as suggested, complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Land Use Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.*

C. Reject the IP Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in

rejection of the IP amendment and the adoption of the following resolution and findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (3 of 4): *I move that the Commission reject Implementation Plan Amendment LCP-2-HMB-14-0612-1 as submitted by the City of Half Moon Bay, and I recommend a yes vote.*

Resolution (3 of 4): *The Commission hereby denies certification of the Implementation Plan Amendment Number LCP-2-HMB-14-0612-1 as submitted by the City of Half Moon Bay and adopts the findings set forth below on the grounds that, as submitted, the Implementation Plan Amendment does not conform with and is inadequate to carry out the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives or mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.*

D. Certify the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the IP amendment with suggested modifications and adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Motion (4 of 4): *I move that the Commission certify Implementation Plan Amendment LCP-2-HMB-14-0612-1 if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution (4 of 4): *The Commission hereby certifies Implementation Plan Amendment LCP-2-HMB-14-0612-1 for the City of Half Moon Bay Local Coastal Program, if modified as suggested, and adopts the findings set forth below on the grounds that the Implementation Plan Amendment with suggested modifications conforms with and is adequate to carry out the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment, if modified as suggested, complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modification to the proposed LCP amendment, which is necessary to make the requisite Coastal Act and LUP consistency findings. If the City of Half Moon Bay accepts the suggested modifications within six months of Commission action (i.e., by January 15, 2017), 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.

- 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 9.8 acre “Caltrans mitigation project site” (APN 048-270-080), and the vacant “Sewer Authority Midcoast-side” parcel located immediately south of the Kehoe Watercourse (also known as the “Landstra Parcel”). All three areas are shown in **Exhibit 5, page 2**.

III. FINDINGS AND DECLARATIONS

A. PROPOSED LUP AND IP AMENDMENTS AND BACKGROUND

The City of Half Moon Bay is proposing to amend its certified Local Coastal Program (LCP) Land Use Plan (LUP) and Implementation Plan (IP) to revise (1) the LUP’s Habitat Areas and Water Resources Overlay Map, and (2) the IP’s Coastal Resource Areas Map to reflect certain areas in the City recently determined to support or contain, or likely to support or contain, sensitive coastal resources. At this time the City proposes to designate as habitat that supports or contains sensitive species the Kehoe Watercourse, the Landstra Parcel and a portion of a site that is referred to as the “Caltrans mitigation site” (about 2.5 acres of a 9.8 acres parcel).

The proposed amendment stems from a lawsuit, filed in 2010, brought against the City by local citizen James Benjamin, alleging unpermitted vegetation cutting in the Kehoe Watercourse in Half Moon Bay. Ultimately the San Mateo Superior Court found that Kehoe and adjacent riparian areas support or contain the federally-listed and state-protected California red-legged frog (CRLF)³ and San Francisco garter snake (SFGS).⁴

The settlement agreement (see **Exhibit 3**) establishes that the Kehoe Watercourse contains environmentally-sensitive habitat area (ESHA) as defined in the Coastal Act. Settlement Agreement Section C, “Recitals,” part 5 states:

(f) The Kehoe Watercourse and adjacent Riparian Area qualify as an Environmentally Sensitive Habitat Area for purposes of the Coastal Act, Local Coastal Program of the City of Half Moon Bay and the HMB Zoning Ordinance for the following reasons:

(1) The Kehoe Watercourse and adjacent riparian area contains or supports rare and endangered species as defined by the State Fish and Game Commission, including the California Red-Legged Frog and San Francisco Garter Snake ...

(2) The Kehoe Watercourse and adjacent riparian area qualify under the Zoning Ordinance and LCP as a Riparian Area and Corridor...

³ California Species of Special Concern, and threatened under the federal Endangered Species Act. Considered a unique species under the LCP.

⁴ Endangered under the California Endangered Species Act and the federal Endangered Species Act, and fully protected under Section 5050 of the Fish and Game Code. Considered a rare and endangered species under the LCP.

(h) That the Kehoe Ditch is a riparian area or corridor based on the fact that it is an area covered by vegetative coverage “at least fifty percent of which is comprised of a combination of ... arroyo willow ... (and other specified plant species).”

(i) The Kehoe Ditch and adjacent Riparian Area qualify as an Environmentally Sensitive Habitat Area for purposes of the Coastal Act, the Local Coastal Program of the City and the City of Half Moon Bay Zoning Ordinance.

The City agreed to comply with the Court’s decision as identified in a settlement agreement that required the City to:

- 1) Acknowledge that the following areas are habitat “supporting or containing rare, endangered, threatened or unique species”: (a) the Kehoe Watercourse (also as a riparian area and corridor); and (b) the “Caltrans mitigation project site” (also as a wetland);
- 2) Acknowledge that the vacant Sewer Authority Midcoast-side parcel located immediately south of the Kehoe Watercourse (aka the Landstra Parcel) is “likely habitat;” and
- 3) Amend the LCP’s Habitat Areas and Water Resources Overlay Map in order to show the habitats listed above on the map.

Please see **Exhibits 1, 2 and 3** for the map amendments in composite; the City Council Ordinance that proposes the map amendments; and the settlement agreement and exhibits which resulted from the lawsuit, respectively.

The Half Moon Bay City Council voted to amend the LUP’s Habitat Areas and Water Resources Overlay Map and to amend the IP’s Coastal Resource Areas Map pursuant to the court decision and the requirements of the settlement agreement referenced above, at a noticed council hearing on December 16, 2014. Throughout the local process, the City and Mr. Benjamin have disagreed regarding what constitutes the “Caltrans project mitigation site” that is to be designated habitat “supporting or containing rare, endangered, threatened or unique species” as required by the court decision and the settlement agreement. During City deliberations, Mr. Benjamin wrote numerous letters stating that the Caltrans mitigation project site, a 9.8 acre site, covered much more land area than the City was actually designating as habitat. In response, the City states that the area defined as the “Caltrans mitigation site” is only that amount of land the City actually restored as a result of funding provided by Caltrans (an area of approximately 2.5 acres) within the entirety of the 9.8 acre Caltrans mitigation site, rather than the whole parcel. Caltrans was required to pay funds due to adverse biological impacts from a Caltrans Highway 92 Safety Improvement Project (see CDP-01-096). Given the amount of funding provided by Caltrans from CDP-01-096 the City was only able to clean up a landfill in existence on the site and to restore habitat on that landfill, approximately 2.5 acres of the 9.8 acre site (see **Exhibit 5**). However, a project description for the CDP issued for the landfill clean-up (CDP-01-096) calls the entirety of the subject property (9.8 acres) the “project site.” According to the CDP findings, the City proposed to make the 9.8 acre parcel into a City park. The United States Fish and Wildlife Service (USFWS) has issued opinions regarding this parcel. The Service asserts that “the entirety of the “Landstra Parcel” west of Highway 1 and adjacent to the Kehoe Watercourse *and the*

entirety of APN 048-270-080 (all 9.8 acres) constitutes habitat for the California red-legged frog (*Rana draytonii*) and San Francisco garter snake (*Thamnophis sirtalis tetrataeni*)” (See **Exhibit 6**; emphasis added).

During the July 8, 2015 hearing of this proposed amendment the City expressed concern with initial Commission staff proposed modifications. The City’s disagreement with the original Commission staff recommendation took issue with both the extent of habitat to be mapped (then Suggested Modification #1) and the modifications which address as-yet to be mapped habitat areas (then Suggested Modifications #2-5). Please see **Exhibit 12** for original suggested modifications. At the time, the Commission granted a year extension of the original action deadline and directed Commission staff and the City to work together to try and resolve the disagreements.

Since that time, Commission staff and City of Half Moon Bay staff have met, participated in conference calls and exchanged varying proposals back and forth on multiple occasions trying to resolve the differences of opinion. A call between Commission staff North Central District Manager and the City’s Community Development Director occurred on August 7, 2015 and resulted in agreement that both Commission and City staff would have internal discussion and formulate a way forward. Throughout the fall of 2015, telephone conversations and emails were exchanged trying to formulate specifically what changes to the Commission staff’s suggested modifications would make the Commission staff recommendation acceptable to the City. On December 10, 2015, the City sent a draft of their suggested edits to Commission staff modifications (see **Exhibit 10**) as follows: 1) original Suggested Modification #1 would designate only the habitat areas actually restored by the City and not the entirety of the Caltrans mitigation site and proposed LCP language that required the areas in question (the 9.8 acres Commission staff suggested were habitat) be studied and potentially designated habitat pending the results of the future study; 2) original Suggested Modifications #2-4 were altered to require that any future designations of habitat on the maps be performed “by a qualified biologist...in accordance with established City procedures”; and 3) original Suggested Modification #5 would be revised to make clear that “exact boundaries (of habitat) 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.”

Regarding the suggested edits to the original Suggested Modification #1, Commission staff believed these alterations deferred important habitat designations to some undetermined future date if and when the City initiated a biological study of the entirety of the Caltrans site. Commission staff further believed that the City would only potentially designate the at-issue site as habitat pending the results of the new study, despite available and cited assessments of the property by the USFWS biologists and other local experts (herpetologist Dr. Mark Jennings) stating the entire parcel was habitat. Further discussions occurred at a Commission and City staff coordination meeting on February 4, 2016. After these discussions, it became clear to Commission staff that the City and Commission staff were still at an impasse as to how much habitat to designate and with regard to what modifications to the City’s mapping policies were appropriate. The City continued to express that Commission staff’s suggested modifications

would create a precedent whereby “drive-by” assessments of habitat would become enough to qualify for a sensitive habitat designation on the maps.⁵ Commission staff strongly disagrees with the City’s characterization of opinions offered by professional scientists employed by USFWS as “drive-by” assessments.⁶ Commission staff continued to assert that there is sufficient substantive evidence to designate the entire parcel in question as habitat on the maps, since it is known to resource agencies and experts that the lands at issue contain/support these highly protected, sensitive species. See USFWS and other habitat assessments of the site in **Exhibits 6, 7 and 11**.

With the July 29, 2016 LCP amendment action deadline approaching, on May 19, 2016, Commission staff raised again with the City the issue of this LCP amendment at the close of a call regarding the impending City LCP update. Commission staff expressed that it was still unclear how the City wanted to proceed in light of the impasse and, given the July 29, 2016 deadline, this item would have to be heard at the Commission’s July 2016 meeting. Commission staff asked the City to discuss internally how they would like to proceed and promised to do the same. On May 27, 2016, Commission staff sent an email to the City proposing that in order to reach agreement on this LCP amendment, Commission staff was willing to delay four of their original proposed five Suggested Modifications until the LCP update and would only propose retaining original Suggested Modification #1, which calls for the designation of habitat for the entirety of the Caltrans mitigation site, or all 9.8 acres. City staff asked for some time to consider that proposal, but seemed reticent to agree. Seeing it was unlikely that Commission staff and City staff would come to complete agreement, Commission staff moved forward with the recommendation to propose only original Suggested Modification #1.

On June 1, 2016, in a further effort to dispel the City’s contention regarding “drive-by”⁷ assessments, Commission staff asked the City to allow Commission staff biologists on the property to conduct a site visit at the Caltrans mitigation site parcel, in order to prepare for the July 2016 hearing regarding the extent of habitat on the parcel in question. Commission staff identified June 10, 2016 as the requested date. After a phone call and in-person discussion (at a local Half Moon Bay General Plan Advisory Committee meeting) between Commission and City staffs, the City sent a letter dated June 9, 2016 (see **Exhibit 9**) indicating that they would not grant Commission staff’s request to conduct a site visit, stating:

“At this point in time, the City does not believe that it is appropriate for the Coastal Commission to conduct such a visit based upon the following: 1) the proposed visit, as described, will not be consistent with the biological report preparation standards and criteria set forth in Chapter 18.38 of the City’s Local Coastal Implementation Plan (Coastal Resource Conservation Standards) which are applicable to similarly situated

⁵ In-person Communication, John Doughty (Community Development Director) and Reed Gallogly (Deputy City Attorney), February 4, 2016.

⁶ *Id.*

⁷ In-person Communication, John Doughty (Community Development Director) and Reed Gallogly (Deputy City Attorney), February 4, 2016.

properties in the City of Half Moon Bay; 2) the proposed visit and results therefrom will not be afforded the minimum 45-day review by resource agencies, the City, private land owners, and community members required pursuant to Municipal Code Section 18.38.035 C.1 and 2; and 3) a proposed visit on June 10 provides inadequate time for the City, private property owners, Half Moon Bay community members and resource agencies to meaningfully respond to any findings/conclusions derived by the biologists in light of the scheduled July Commission hearing.

The Commission staff disagrees with the City's basis for not allowing Commission staff access to the site. The City's reliance on the LCP and the Municipal Code is inapposite. None of these provisions regarding biological survey timing are applicable to the Coastal Commission or its staff. These requirements are applicable to coastal permit applicants proposing development within the City, but not to the Commission when reviewing a submitted LCPA from the City. With regards to conclusion #3, and the City's position that a June 10 site visit by Commission staff would not allow sufficient time for interested parties to comment on Commission staff findings, the Commission notes that its biologists' findings from their site visit would normally not be available for public review until the date of publication of this staff recommendation. This is common procedure when Commission staff experts conduct site visits to assist with Commission staff recommendations on specific coastal projects. The Bagley-Keene Open Meeting Act, applicable to state agencies, requires ten-day notice of agenda items. (Gov. Code, § 11125(a), (b).)

The Commission must act within the one-year extension. If the City insists on additional time for notice of a site visit, the City's only option at this point is to withdraw the LCPA from Commission consideration. The City has not proposed withdrawal. Therefore, Commission staff is proceeding with a recommendation to suggest only original Suggested Modification #1. Based upon prior professional opinions of these properties offered by USFWS and known resource experts, the Commission finds that the entire 9.8 acre site must be included as habitat and designated as such on the City's LCP maps.

It is important to note that on June 10, 2016, the Commission received a new expert opinion (**Exhibit 11**). This updated habitat assessment of this particular site, as well as surrounding areas, was prepared by Dr. Mark Jennings, a recognized expert that the City has relied on in the past to assess habitat areas within the City of Half Moon Bay. See a discussion of this assessment below.

B. STANDARDS OF REVIEW

The proposed amendment affects both the LUP and IP components of the City of Half Moon Bay's LCP. The standard of review for the LUP amendment is that it must conform with the requirements of Chapter 3 of the Coastal Act. The standard of review for the IP amendment is that it must conform with and be adequate to carry out the provisions of the certified LUP.

C. CONSISTENCY ANALYSIS

1. LCP SENSITIVE HABITAT POLICIES

General Policies

The City of Half Moon Bay LCP and its components, the LUP and IP, strongly support the protection of sensitive species and their habitats.

The general policies of the City's LCP adopt the policies of the Coastal Act, including Section 30240, which protects the biological productivity and quality of environmentally sensitive habitat areas (LUP Policy 3.1).

***Section 30240.** (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Where the policies within the LCP overlap or conflict internally, the general policies of the LCP require that the policy which is most protective of coastal resources shall take precedence. LCP Policy 1-2 states:

Where policies within the Land Use Plan overlap or conflict, on balance, the policy which is the most protective of coastal resources shall take precedence.

This is an overriding policy of the LCP regardless of the status of maps.

Mapping Habitat

While the publication of maps serves vital functions, chiefly to notify applicants and the public of habitat areas and to support City designations regarding those areas during permitting or LCP considerations, maps once published may be incomplete or fall out of date due to the movement of species or other changes that occur on the ground. LUP Chapter 3 contains language specifically recognizing that determining the precise locations of rare and endangered species is not always possible due to species movement and for the purpose of protecting the rare species:

***Precise locations are not always possible because of the dynamic fluctuations of populations.** No attempt is made to locate with absolute precision the exact extent of any rare species. This is done to protect the species as well as to indicate that any boundary placed on such a distribution may not be the case from year to year or season to season. Any boundary for an organism on a map would tend to place permanently that organism on that site without taking into account the possibility of its moving, increase or decrease on or from any given site. (emphasis added)*

LCP Policies further indicate that maps are a step toward, but not determinative, of the City's final designation regarding a particular site. LUP Section 3.4 states:

*Overlay designation **symbolically** represents the locations of habitat areas in HMB....*

*While the designations reflected on the Habitat Areas and Water Resource Overlay Map represent the best available information, these designations are **not definitive and may need modification in the future.*** (emphasis added)

In addition, the specific LCP policies that designate sensitive habitats areas found on the Overlay Map do not limit designation to only those mapped areas. LUP Policy 3-2 states:

*Designate sensitive habitats as those, **including but not limited to**, shown on the Habitat Areas and Water Resources Overlay.* (emphasis added)

The LCP also designates riparian corridors shown on the Overlay Map and any other riparian area as sensitive habitats requiring protection. LUP Policy 3-8 states:

*...Designate those corridors shown on the Habitat Areas and Water Resources Overlay **and any other riparian area** as sensitive habitats requiring protection... [with an exception for artificial irrigation ponds]* (emphasis added.)

Thus, sensitive habitats do not have to be depicted on the Overlay Map to be considered sensitive habitats requiring protection under the LCP. In support of this conclusion, LCP IP Section 18.38.020(A) states:

*Sensitive Habitat Areas. Areas in which plant or animal life or their habitats are either rare or especially valuable, **and/or** as designated on the habitat areas and water resources overlay map. Areas considered to be sensitive habitats are listed below.*

Sensitive Habitat

1. *Sand dunes.*
2. *Marine habitats.*
3. *Sea cliffs.*
4. ***Riparian areas.***
5. *Wetlands, coastal tidelands and marshes, lakes and ponds and adjacent shore habitats.*
6. *Coastal and off-shore areas containing breeding and/or nesting sites or used by migratory and resident water-associated birds for resting and feeding.*
7. *Areas used for scientific study and research concerning fish and wildlife, and existing game or wildlife refuges and reserves.*
8. ***Habitats containing or supporting unique species or any rare and endangered species defined by the State Fish and Game Commission.***
9. *Rocky intertidal zones.*

10. Coastal scrub community associated with coastal bluffs and gullies.

(Emphasis added)

Finally, the general policies of the LCP assert that the text of the LCP shall be considered a defining part of the LCP maps, as it serves as the findings justifying the policies and maps (LUP Policy 1-5):

The textual discussion is intended as elaboration of and justification for the Plan policies and map designations. Therefore, the text shall be considered a part of the Land Use Plan, serving as the findings justifying the specified policies and Land Use Maps...

Therefore, the LCP policies that are most protective of coastal resources, such as the policies which direct the designation of sensitive habitats and require application of protective policies and buffers to such areas, even if not mapped, would take precedence.⁸

Status of Species

Additionally, the status of particular species may change over time. For example, the LUP describes the California red-legged frog (CRLF) as a “unique” species, protected by state law,⁹ but that description predates the 1996 federal listing of the CRLF as a threatened species.

The LUP acknowledges that San Francisco garter snake (SFGS) is listed as endangered both by the state (1971) and by the U.S. Fish and Wildlife Agency (1967).¹⁰ However, the LUP is cautious about describing the location of the snake, stating “not all of the habitats have been mapped...” “little is known about the snake,” it “moves around reasonably easily in search of new prime habitats,” and “recently the snake has been caught in open grassy areas some distance from riparian or marshy habitats.”¹¹ The LUP cites a Department of Fish and Game map from 1978 that is “not very site specific” which was “an intentional action to prevent illegal taking” of the attractive, collector’s item snake. In other words, the map cited in the LUP was deliberately vague. The LUP also explains that the SFGS “migrates from one habitat to another” and cautioned that it is “important that migration corridors are maintained” and likely that if routes are cut off, “isolated populations could not continue to exist.”

As discussed above, the Half Moon Bay LUP has mapped some areas of sensitive habitat “symbolically” and left flexibility for future determinations of habitat.

Therefore, the Commission finds that the certified City of Half Moon Bay LCP Overlay Map is not intended to represent all sensitive habitats found within the City and does not limit the City’s

⁸ Except when prohibited by an LCP, the Commission may also designate a site as ESHA, as long as the determination is supported by substantial evidence (*See LT-WR, LLC v. California Coastal Com.* (2007) 152 Cal.App.4th 770, 793 [that subject property was not mapped as ESHA did not preclude it from being designated as ESHA]).

⁹ Chapter 3 “Unique Species”, Part 2.

¹⁰ Chapter 3, “Existing Conditions,” Part 1.

¹¹ *Id.*

application of rare and endangered species or unique species policy protections to only areas designated on the Overlay Map. Such an interpretation would fail to protect coastal resources consistent with the sensitive habitat policies of the LCP and the requirements of the Coastal Act that serve as the guiding policies of the LCP.

2. LUP AMENDMENT CONSISTENCY ANALYSIS

Applicable Policies

Coastal Act Section 30107.5 defines environmentally sensitive habitat areas and 30240 protects such environmentally sensitive habitat areas from significant disruption of habitat values, and allows only uses dependent on those resources in those areas. Additionally, Section 30240 requires that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts that would degrade those areas. Coastal Act Sections 30107.5 and 30240 state:

***Section 30107.5.** “Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

***Section 30240.** (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas*

Analysis of Proposed LUP changes

The proposed LUP map amendment would add new designated areas within the City coastal zone as areas considered to be, habitat that supports or contains rare, endangered, threatened or unique species on the City’s Habitat Areas and Water Resources Overlay Map. According to LUP Section 3.4, the Habitat Areas and Water Resources Overlay Map symbolically indicates the location of habitat areas in Half Moon Bay. Specifically, this map shows locations of habitats and water resources such as riparian habitats along perennial and intermittent streams, intermittent marshes, stabilized dunes, rocky intertidal zones and coastal scrub communities associated with coastal bluffs and gullies that have been identified and mapped.

According to the LCP, the following habitat criteria warrant designation on the map: unique, rare or fragile communities that should be preserved to ensure their survival in the future (such as dune and riparian vegetation) and areas that are structurally important in protecting natural land-forms and species (such as dunes to protect inland areas and riparian corridors to protect stream banks from erosion). The Habitat Areas and Water Resources Overlay Map’s value in guiding land use decisions is limited by the fact that it is updated infrequently, and thus it represents an acknowledgement of a subset of areas that have been determined to meet the specific criteria *and* that have been added to the map through an LCP amendment. Because of this, the existing Habitat Areas and Water Resources Overlay Map in the City’s LCP is not definitive. Further,

LUP Section 3.4 is careful to point out that maps of such designations will need modification in the future and, as the maps are limited in accuracy by their scale and precision, mapped habitat areas are not necessarily exact representations of the habitat area conditions on the ground. Therefore, Section 3.4 of the City's LUP recognizes that the maps would be periodically updated by the City in order to incorporate new information.

The City's LCP includes general sensitive habitat policies, in addition to more specific policies depending on the type of sensitive habitat. LUP Policy 3-2 requires the City to designate sensitive habitats as defined by the LUP policies, including but not limited to those already mapped on the Habitat Areas and Water Resources Overlay Map. LUP Policy 3-8 requires riparian corridors shown on the Map, or as defined by the LUP, to be designated as sensitive habitat. These policies make clear that habitats should be designated as sensitive habitats whether they are mapped or unmapped. LUP Policies 3-21 and 3-31 require habitats of rare and endangered species and habitats of unique species to be designated on the Map when found to exist in the City. Once designated on the Map, habitats that are known to support or contain rare and endangered or unique species makes the mapped areas subject to LUP policies that 1) limit permitted uses within such areas, 2) require certain prior to issuance permit conditions, 3) require preservation of the habitats, and 4) require certain development standards. See **Exhibit 8** for LUP policies that are applicable to the mapping and protection of such habitats.

Updating the existing certified LUP resource map 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 and mapped as sensitive habitats, 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.

However, in order to protect all currently known rare, endangered, and unique species habitat that exists in association with the area affected by the LCP Amendment, there is a need to designate more areas on the map than proposed by the City. As previously stated, the City disagrees with Commission staff on the extent of acreage contained in the "Caltrans mitigation project site" and what amount of land to add to the Habitat Areas and Water Resources Overlay Map. Commission staff contends that the entirety of the 9.8 acre APN 048-270-080 (see **Exhibit 5** as designated on Vicinity Map of CDP-01-96 covering a Caltrans remediation project) contains sensitive habitat whereas, the City asserts that the sensitive habitat encompasses the 2.5 acres that the City actually remediated (scrapped and revegetated), and not the whole 9.8 acre parcel (see **Exhibit 5** for differences in areas proposed to be mapped by the City and areas designated habitat by the USFWS). In the remediation action, the City cleaned up a portion of the subject

site that previously contained a landfill. The City then restored that cleaned up area, by scraping and revegetating it. There is no dispute that this area should be designated on the map as habitat.

However, the USFWS has also determined that the remainder of the 9.8 acre site also constitutes habitat that supports or contains sensitive species, the California red-legged frog and San Francisco garter snake. The City has submitted no evidence that would contradict this finding. The Commission therefore determines that the evidence before it demonstrates that the entire 9.8 acre site is habitat and should be designated as such on the City LCP maps. This LCP map amendment submitted by the City must map all known sensitive habitat in the area, in order to be consistent with Coastal Act Section 30240.

In response to the original Coastal Commission staff recommendation, and in all discussions since the hearing on the LCP amendment was postponed, the City has asserted that the existing LCP maps should not be altered from what areas the City approved to be designated (see **Exhibit 1**). Commission staff continues to believe that the City's existing certified LCP requires the City and the Commission to identify all known habitat in this area on the map. Contrary to the City's claim that only the area shown in red on its submitted map (see **Exhibit 1** pages 3-4) should be mapped, Commission staff has received independent confirmation from the USFWS and from Dr. Jennings that additional areas in the near vicinity are also confirmed habitat areas, and thus need to also be added to the map. This USFWS correspondence on this point can be found in **Exhibit 6**. In addition, staff received three letters of support for the original staff recommendation from the Center for Biological Diversity, the Committee for Green Foothills and the Sierra Club, and James Benjamin (See **Exhibit 7**, correspondence). These letters provide additional support for the mapping all of the 9.8 acres as suggested by Commission staff.

Specifically, the Center for Biological Diversity stated it supports the staff recommended modifications; the Committee for Green Foothills and the Sierra Club state they were in strong support of the original staff recommendation and asserted that with the suggested modifications in the staff recommendation, the amended habitat maps will ensure sensitive habitats are protected; finally, the letter from Mr. Benjamin expressed full support for the staff recommendation and points out that the City is aware that USFWS and other biological consultants consider the additional area to be habitat. Mr. Benjamin also points out that breeding colonies of California red-legged frog and foraging/refugia habitat for San Francisco garter snakes have been confirmed on the parcel south of the wastewater treatment plant (APN 048-270-080), which is the parcel Commission staff has recommended be designated as habitat, in addition to the areas to be designated in the City's original application.

Additional support for the designation of this additional habitat is provided by the aforementioned June 10, 2016 submission to the Commission of a memo written by Dr. Mark Jennings of Rana Resources (see **Exhibit 11**). This memo states Dr. Jennings, a neutral expert with particular knowledge of Half Moon Bay's sensitive species population, performed an assessment of the lands surrounding those that are the subject of this proposed LCP amendment. Specifically, on June 4, 2016 Dr. Jennings assessed the habitat present on: a pond created as part of a 1996 Caltrans mitigation project; the Landstra Property (along the northern edge of the Kehoe watercourse) that is owned by the Sewer Authority Mid-Coastside (APN 048-240-040); the City of Half Moon Bay lands just south of the Landstra Property (APN 048-270-070 and APN 048-270-080); the Coastside Lutheran Church Property (APN 048-270-060), which is

currently farmed and is located to the east of the previously mentioned City-owned lots; and the Magri Property located adjacent to the previously stated lot (APN 048-270-010).

At issue and in dispute in the current LCP amendment is only the 9.8 acre property that constitutes APN 048-270-080, and contains the “Caltrans mitigation site.” As a result of this habitat assessment, Dr. Jennings concluded both the pond on APN 048-270-080 and the lagoon and marshlands at the mouth of Pilarcitos Creek “provide breeding habitat for CRLF”; that “adjacent uplands in the vicinity of this pond are utilized by juvenile and adult CRLF for foraging and movement corridors between aquatic habitats in the vicinity, especially during rainfall periods and seasons when the area receives significant ground surface moisture from foggy weather;” that there were no observed “barriers to prevent CRLF from accessing and foraging in the Landstra parcel or either of the City of Half Moon Bay-owned properties to the east and southeast of the SAM Plant”; and that “based on a number [of] well-documented records submitted to the California Natural Diversity Data Base in recent years, CRLF have been found foraging in the residential areas to the north of Kehoe watercourse. Since CRLF have been found to move this far from the mouth of Pilarcitos Creek and the adjacent Caltrans CRLF mitigation pond, Dr. Jennings concluded then that they can easily be considered to move a similar distance within the City's parcels to the east and southeast”. Dr. Jennings also concluded that the same City-owned parcels are suitable hibernation habitat for SFGS because “upland areas (from Pilarcitos Creek) provide hibernation habitats safe from creek side flooding” and the probability that SFGS are utilizing the parcels in question (for hibernation) for at least part of the year is quite high.

As a result of the June 10, 2016 Jennings memo, and absent permission from the City for Commission staff biologists to enter the lands at issue to further assess them for habitat value, Commission staff defers to the ample evidence submitted both from USFWS and a recognized expert, Dr. Jennings, that the City-owned parcels to the east and southeast are considered foraging habitat for CRLF and hibernation habitat for SFGS. Therefore, the City’s map amendment should capture all known habitats, and not only those specified for protection by the City in the proposed LCP amendment. The Coastal Commission has received letters, emails and phone correspondence from USFWS and from other experts that the entirety of the 9.8 acre site (APN 048-270-080) is habitat that supports or contains unique, rare or endangered species (see **Exhibit 6** for USFWS letters and emails and **Exhibit 10** for the Jennings memo). The Commission therefore finds that the entire 9.8 acre APN 048-270-080 constitutes habitat to be mapped and, as a result, **Suggested Modification #1** is required to amend the Habitat Areas and Water Resources Overlay Map further to reflect all associated areas known to contain sensitive habitats and designated as such by USFWS.

As modified to designate the additional habitat as discussed above, the Commission finds the proposed LUP amendment would conform with Coastal Act Sections 30107.5 and 30240, as it would accurately designate the rare, endangered and unique species habitat areas actually found on the ground in accordance with resource experts at USFWS and experts in the field in the areas at issue.

Note: The Commission Has Jurisdiction to Modify Submissions

In response to the original Commission staff recommendation, the City of Half Moon Bay asserted that the Commission is precluded from taking an action beyond approving the LCP

amendment as submitted by the City (see **Exhibit 7** starting on page 46). Many of the City's concerns with the proposed Commission staff modifications are no longer relevant to the action currently before the Commission, as Commission staff has significantly revised its original recommendation. However, because Commission staff is still proposing a modification to the City's proposed LCP amendment submittal, it is important to establish why Commission staff has the authority to recommend suggested modifications to proposed LCP amendments submitted by local governments with certified LCPs.

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 (Pub. Resources Code, § 30512(c); see also Pub. Resources Code, § 30514(b) [referring amendments to the same standard]) (emphases added). The City ignores the "if" in its arguments, which, importantly, qualifies the "shall." Recognizing there may be give and take involved in order to create a valid LCP, the Legislature specifically provided a process by which the Commission could make suggestions to an LUP or IP submittal and the local entity could approve or reject them (See Pub. Resources Code, § 30512(b), 30513). The Commission's regulations implement this process (Cal. Code of Regs, tit. 14, § 13537, 13541, 13542, 13544, and 13544.5).

Further, while there is a limit to the scope of the suggestions made by the Commission, the limit is not as narrow as the City suggests. While the Commission may not "diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan" (Pub. Resources Code, § 30512.2(a)), the Commission "shall" require conformance to Chapter 3 policies "only to the extent necessary to achieve the basic state goals specified in Section 30001.5" (Pub. Resources Code, § 30512(b)).

In spite of the cautionary "only," that extent is generous. In particular, one of the enumerated state goals is to:

Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(See Pub. Resources Code, § 30001.5(a))

To "protect" is the Coastal Act's first basic goal, without regard to feasibility. Section 30240 and as incorporated in LUP Chapter 3, specifically requires protection of ESHA and buffers:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Thus, "development in ESHA areas themselves is limited to uses dependent on those resources,

and development in adjacent areas must carefully safeguard their preservation” (*Sierra Club v. California Coastal Commission* (1993) 12 Cal.App.4th 602, 611).

The City has cited (see **Exhibit 7** starting page 46) three cases for its proposition that the Commission’s suggested modifications amount to drafting the LCP. The City’s considerations of the three cited cases are incomplete. While *Yost v. Thomas* ((1984) 36 Cal.3d 561) does bar the Commission from outright drafting of a land use plan (at least without local approval), it does not discuss modifications and its holding is narrow. *Yost* “stands for nothing more than that a city’s actions in implementing the LCP retain their legislative nature for the purposes of referendum... The city’s actions in implementing the LCP... are still subject to Commission review” (*Charles A. Pratt Const. Co., Inc. v. California Coastal Commission* (2008) 162 Cal.App.4th 1068, 1076).

City of Chula Vista v. Superior Court ((1982) 133 Cal.App.3d 472), also cited by the City, actually supports, rather than erodes, the Commission’s authority in these matters:

Local government is to be included, but statewide standards are to be formulated; local government plans, but a statewide commission reviews. Surely the Legislature did not go to all this trouble to create a statewide rubber stamp agency which does no more than review local legislation for arbitrary and capricious enactments. Rather, it is assumed statewide interests are not always well represented at the local level, and therefore, an agency is needed which promulgates statewide rules and statewide policies. (Id. at p. 489 (emphasis added, footnote omitted)).

Finally, *Security National Guaranty, Inc. v. California Coastal Commission* ((2008) 159 Cal.App.4th 402) (“SNG”) addresses the Commission’s powers during an appeal, not during consideration of an LCP amendment; in particular, the power to find whether a site contained ESHA in contradiction to the LCP (see also *Charles A. Pratt Const. Co., Inc. v. California Coastal Commission, supra*, 162 Cal.App.4th at p. 1077 [finding plaintiff’s use of SNG inapposite]).

The SNG court succinctly concluded the Commission “has no statutory authority to amend an LCP during the CDP appeal process” (*Security National Guaranty, Inc., supra*, 159 Cal.App.4th at pp. 419-420.) By contrast, the Commission clearly has statutory authority to suggest modifications during the LCP process (PRC Sections 30512(b) and 30513). Further, the *Pratt* court underscored that the “Commission has the ultimate authority” to ensure that policies conform to the Coastal Act, and described a “fundamental purpose” of the Coastal Act is to “ensure that state policies prevail over the concerns of local government.” (*Charles A. Pratt Const. Co., Inc. v. California Coastal Commission, supra*, 162 Cal.App.4th at p. 1075-1076.) In this LCPA consideration, habitat for sensitive species is the statewide concern that should prevail over the local interest in constricting an ESHA designation to a part of the parcel, when experts have repeatedly determined the entire parcel contains habitat.

In conclusion, the City’s arguments overlook its own powers and responsibilities. As made clear in the Coastal Act, the local government always has final say regarding modifications. It may or may not adopt modifications; it may elect to skip that hearing and resubmit an LUP, IP, or amendment; it may request the Commission not recommend or suggest modifications at all with

a submittal (PRC Sections 30512(b) and 30513.) The cases cited by the City and further explored above affirm that power -- without reducing the ability of the Commission to review. The Commission therefore does not exceed its jurisdiction merely by suggesting modifications.

As explained above and in the letters of support from USFWS, Dr. Mark Jennings, and environmental groups, **Suggested Modification #1** would ensure that the entire Caltrans mitigation site is accurately mapped as containing or supporting sensitive species habitat, fulfilling the protection required by Coastal Act Section 30240(a) and as called for in the City's LCP.

While the Commission staff's originally Suggested Modifications #2 and #3 clarified the role of LCP maps (see original suggested modifications in **Exhibit 12**), Commission staff agreed to eliminate these and other suggested modifications since the City will be submitting an updated LCP for Commission review and action in the near future, and in order to come to agreement with the City over suggested action here. The Commission does consider the originally suggested modifications, and the clarification they provide of what is required for mapping of sensitive habitats in order to be consistent with the Coastal Act, to be very important to the City's LCP update process and agrees to work with the City to address these issues in the impending LCP update.

3. IP AMENDMENT CONSISTENCY ANALYSIS

Applicable Policies

LUP Policies 3-21 and 3-32 require that the Habitat Areas and Water Resources Overlay Map be updated to show the location of habitats of rare and endangered species and habitats of unique species as such habitats are found to exist. LUP Policy 3-35 further requires that rare and endangered species habitats within the City are preserved through the implementation of the applicable LUP policies. LUP Policies 3-21, 3-32, and 3-35 state:

***Policy 3-21:** In the event the habitat of a rare and endangered species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31.*

***Policy 3-32:** In the event the habitat of a unique species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-33 through 3-36.*

***Policy 3-35:** Require preservation of all rare and endangered species habitats using the policies of this Plan and implementing ordinances of the City.*

Analysis of Proposed IP changes

The City proposes to amend the IP's Coastal Resource Areas Map to reflect the habitats added to the LUP's Habitat Areas and Water Resources Overlay Map as a result of the LUP amendment. This IP map amendment would effectively implement the proposed LUP map amendment and would conform to and carry out LUP Policies 3-21, 3-32, and 3-35 which require that the Habitat Areas and Water Resources Overlay Map be updated to show the location of identified habitats

of rare and endangered species and habitats of unique species and require that such habitats within the City are preserved through the implementation of the applicable LUP policies.

As previously stated however, the City's proposed LUP map amendments do not reflect the entirety of the known habitats containing or supporting rare, endangered, or unique species found on the ground in the areas proposed for mapping, as demonstrated earlier in these findings based upon written opinions submitted to the Commission by USFWS and expert local biologists. Therefore, more area is designated on the LUP map through **Suggested Modification #1** to accurately reflect all the known conditions on the ground. In order to assure the IP's Coastal Resource Areas Map is consistent with the LUP version of the map, **Suggested Modification #1** also designates the same additional habitat areas on the IP map that the modification designates on the LUP map. With this change, the proposed map amendment can be added to the IP, assuring that it carries out the mandate of the LUP consistently and accurately reflects the LUP maps. As modified above, the Commission finds the proposed IP amendment would conform with and be adequate to carry out the sensitive habitat mapping policies of the LUP.

Similar to originally Suggested Modifications #2 and 3, the Commission continues to consider prior Suggested Modifications #4 and 5, and the clarification they provide of what is required by the City's IP for mapping of sensitive habitats in order to be consistent with the LUP, to be very important to the City LCP update process.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

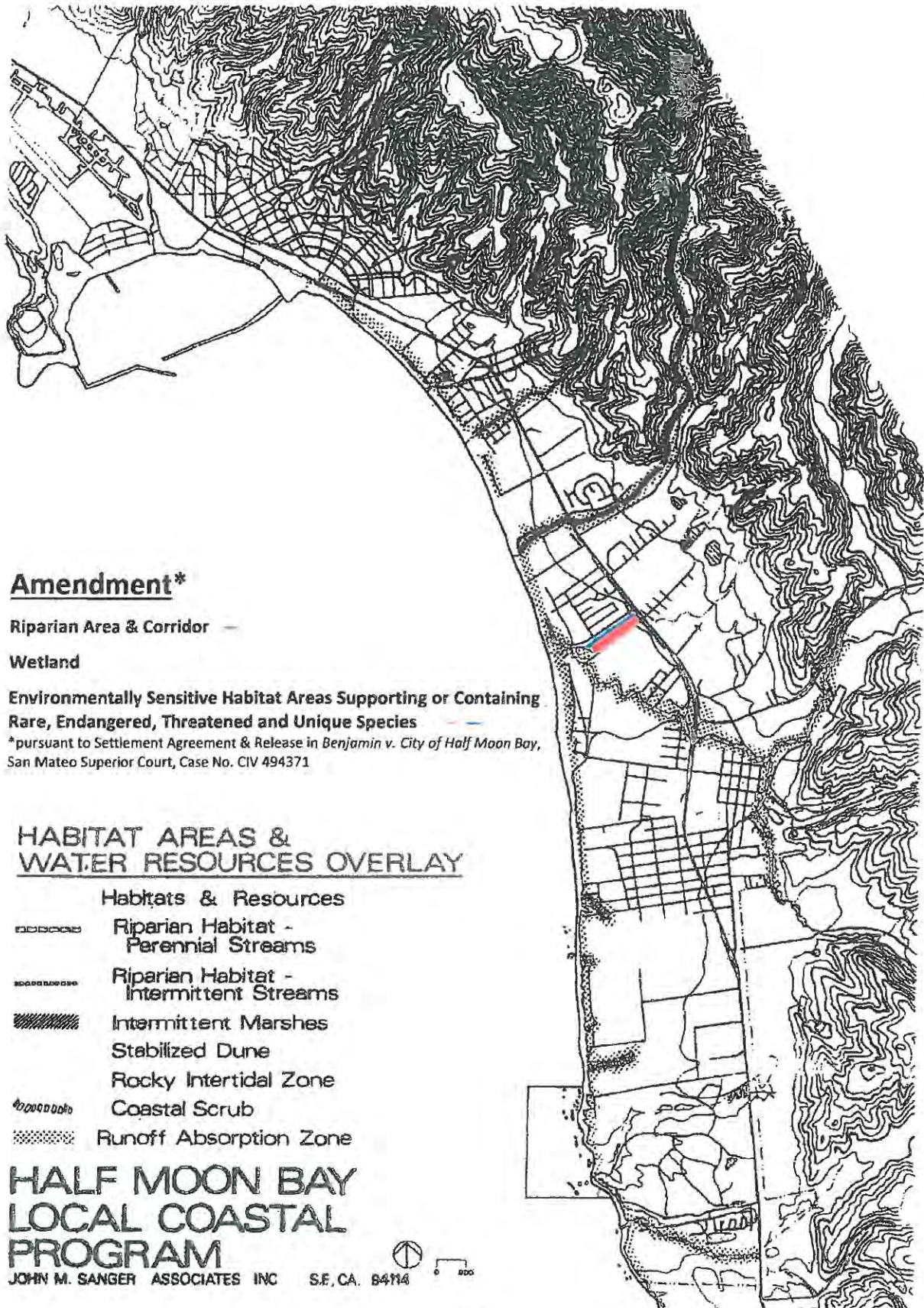
Section 21080.9 of the California Public Resources Code, within the California Environmental Quality Act (CEQA), exempts a local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a LCP. Therefore, local governments are not required to prepare an EIR in support of their proposed LCP amendments, although the Commission can and does use any environmental information that the local government submits in support of its proposed LCPA. Instead, these LCP CEQA responsibilities are assigned to the Coastal Commission. The Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore, Commission documents prepared during its review of an LCP submission, including this staff report, act in lieu of traditional CEQA documents such as an EIR.

Nevertheless, the Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, conforms with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. For this amendment request by the City, substantial evidence exists to support designation of the entire 9.8 acres of the Caltrans mitigation site as habitat for sensitive species (see **Exhibits 6, 7 and 11**). The City's submittal failed to so designate the site and would have the Commission ignore sensitive habitat in existence on a large part of the parcel. This report, including **Exhibits 6 and 7**, contain written responses to significant environmental points raised during the Commission's evaluation of the land use

plan and implementing action amendments (California Code of Regulations Title 14 Sections 13540(f) and 13542(d)).

The City's proposed LCP amendment consists of both LUP and IP amendments. The Commission incorporates its findings on Coastal Act and Land Use Plan conformity into this CEQA finding as it is set forth in full. As modified, the Commission finds that approval of the LCP amendments will not result in significant adverse environmental impacts under the meaning of the CEQA.

As the amendments add further protections for environmentally sensitive habitat areas, the amendments create no potential for significant adverse environmental impacts. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.



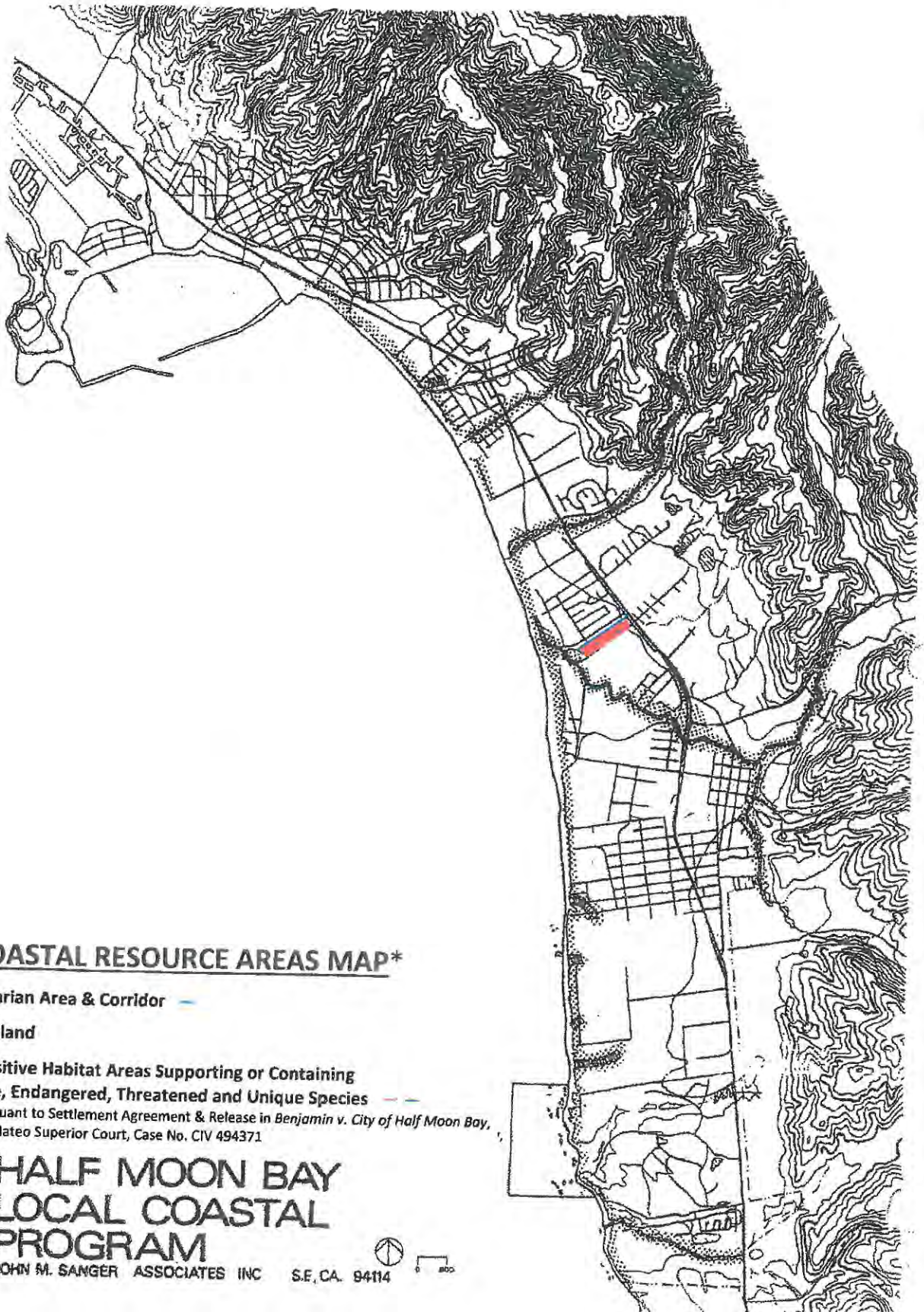


EXHIBIT A-1

AMENDMENT

HABITAT AREAS & WATER RESOURCES OVERLAY MAP

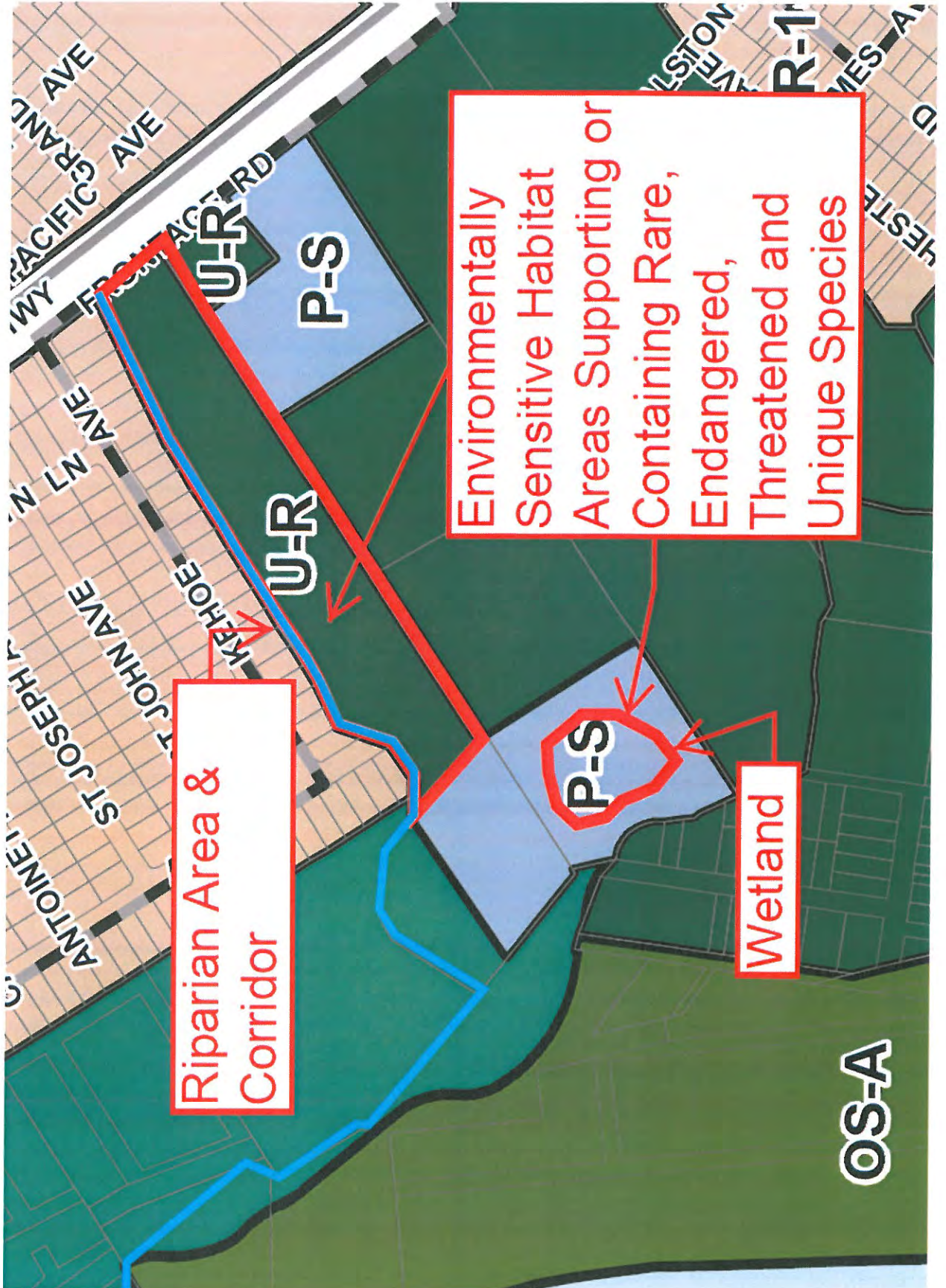
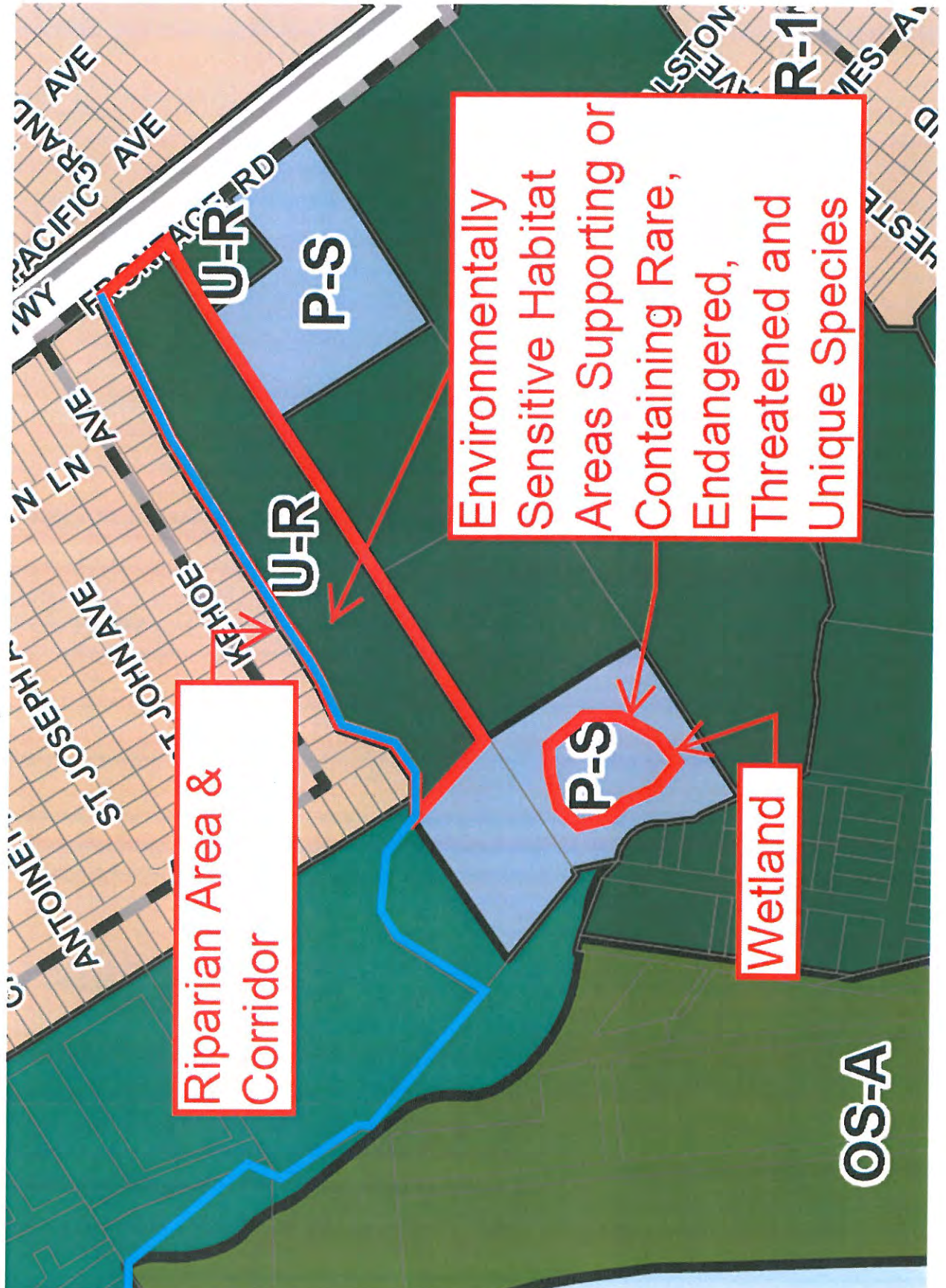


EXHIBIT B-1

AMENDMENT
COASTAL RESOURCES AREAS MAP



ORDINANCE NO. C-2014-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AMENDING THE CITY'S LOCAL COASTAL PROGRAM LAND USE PLAN AND IMPLEMENTATION PLAN BY REVISING THE HABITAT AREAS AND WATER RESOURCES OVERLAY MAP AND COASTAL RESOURCE AREAS MAP TO REFLECT AREAS IN THE CITY FOUND CONTAINING SENSITIVE COASTAL RESOURCES IN THE U-R, URBAN RESERVE AND P-S, PUBLIC SERVICE, ZONING DISTRICTS

WHEREAS, the City of Half Moon Bay is committed to the maximum public participation and involvement in matters pertaining to the General Plan and its Elements, the Local Coastal Program, and the Zoning Code; and

WHEREAS, the Planning Commission, as the Advisory Board to the City Council, conducted a duly noticed public hearing on December 10, 2013 where all those in attendance desiring to be heard were given an opportunity to speak on this application; and

WHEREAS, following the close of the public hearing, the Planning Commission voted unanimously to recommend that the City Council amend the Local Coastal Program's Land Use Plan and Implementation Plan to revise the Habitat Areas and Water Resources Overlay map and Coastal Resource Areas map to reflect areas in the City found likely to contain sensitive coastal resources; and

WHEREAS, the City Council conducted a duly noticed public hearing to re-introduce an ordinance to amend the LCP Land Use Plan and Implementation Plan on November 18, 2014, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

WHEREAS, the City Council considered all written and oral testimony presented for consideration; and

WHEREAS, section 15265 of the CEQA Guidelines provides that responsibility for environmental review of Local Coastal Programs lies with the California Coastal Commission;

NOW, THEREFORE, the City Council does ordain as follows:

Section 1. **Amendment of Local Coastal Program Land Use Plan.** The Habitat Areas and Water Resources Overlay map of the Half Moon Bay Local Coastal Program Land Use Plan is hereby amended as shown in the attached Exhibit A.

Section 2. **Amendment of Local Coastal Program Implementation Plan.** The Coastal Resource Areas Map of section 18.38.020 of the Half Moon Bay Municipal Code is hereby amended as described in the attached Exhibit B.

Section 3. **Submission to California Coastal Commission for Certification.** The City Clerk is hereby directed to transmit a copy of this ordinance to the California Coastal Commission for certification. The City Council of the City of Half Moon Bay hereby certifies that the Local Coastal program, as amended, is intended to be carried out in a manner fully in conformity with the California Coastal Act.

Section 4. Effective Date. This ordinance amending the LCP shall take effect immediately upon its certification by the California Coastal Commission or upon the concurrence of the Commission with a determination by the Executive Director that the ordinance adopted by the City is legally adequate.

INTRODUCED the 18th day of November, 2014

ADOPTED the 16th day of December 2014, by the following votes:

AYES: Kowalczyk, Muller, Mayor Fraser

NOES: Penrose, Ruddock

ABSENT: _____

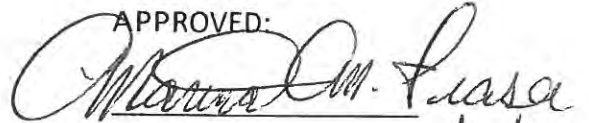
ABSTAIN: _____

ATTEST:



Siobhan Smith, City Clerk

APPROVED:



Marina Fraser, Mayor

1/6/15

SETTLEMENT AGREEMENT AND RELEASE

*James Lawrence Benjamin and Zoya Dorry Benjamin, Plaintiffs
v. City of Half Moon Bay, Defendant,
San Mateo County Superior Court Case No. CIV 494372*

A. INTRODUCTION

This Settlement Agreement and Release ("Agreement") is made by the parties specified below and pertains to the above-captioned litigation.

B. PARTIES

This Agreement and Release is made and entered into by and among the following parties (the "Parties"):

James Lawrence Benjamin and Zoya Dorry Benjamin (collectively and individually, "Plaintiffs"); and

City of Half Moon Bay, a general law city ("City" or "Defendant").

C. RECITALS

This Agreement is entered into with reference to the following:

1. The Parties are all of the parties to litigation entitled *James Lawrence Benjamin and Zoya Dorry Benjamin, Plaintiffs v. City of Half Moon Bay, Defendant*, San Mateo County Superior Court Case No. CIV 494372 (the "Lawsuit").
2. The key issues of the Lawsuit, in general terms, involve certain work performed in early 2009 (the "Work") by the California Conservation Corps under contract with the City in a certain stream commonly known as the "Kehoe Ditch," and also known as the "Kehoe Watercourse" which runs adjacent to Plaintiffs' residence and then feeds into the Pilarcitos Creek, and ultimately the Pacific Ocean. The Work, in general, involved the use of chain saws to cut down several arroyo willow trees and the use of hand tools and manual labor to remove the tree branches and other vegetation, and two truckloads of materials were removed.
3. Plaintiffs filed their VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DECLARATORY AND EQUITABLE RELIEF on or about June 4, 2010, alleging violations of the California Coastal Act and California Fish & Game Code, and seeking damages for trespass, nuisance, quiet title, slander of title inverse condemnation.
4. The matter came on regularly for trial before the Honorable Julie Conger in August, 2011 and was taken under submission on Monday, August 29, 2011.

5. A Statement of Decision prepared by Judge Conger, attached hereto as Exhibit A and hereby incorporated by reference, was filed on or about September 23, 2011 and was subsequently served with an affidavit of mailing on November 23, 2011. Among other things, in the Statement of Decision Judge Conger states:
- (a) The California Coastal Act (Public Resources Code Section 30600, et seq.) requires a Coastal Development Permit (CDP) for all development located within the coastal zone, with certain exceptions.
 - (b) Public Resources Code section 30240 requires that "Environmentally Sensitive Habitat Areas" (ESHAs) be protected against any significant disruption of habitat values.
 - (c) Half Moon Bay Municipal Code Section 18.38.020 contains the following definitions:
 - (1) Environmentally Sensitive Habitat Areas: Habitats containing or supporting unique species or rare and endangered species defined by the State Fish and Game Commission.
 - (2) Riparian Area and Corridor: Any area of land bordering a perennial or intermittent stream or their tributaries...Riparian corridors are the areas between the limits of riparian vegetation, where limits are determined by vegetative coverage, at least fifty percent of which is comprised of a combination of the following plant species: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder....."
 - (d) Title 14, California Code of Regulations section 13252, elaborating on Public Resources Code Section 30610, which exempts repair and maintenance from the requirement to obtain a Coastal Development Permit provides, in part, as follows:
 - (1) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:
 - a) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area....that include:
 - (i) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials.

- (ii) The presence, whether temporary or permanent, of mechanized equipment or construction materials.
 - (e) The Work was performed without a Coastal Development Permit.
 - (f) The Kehoe Watercourse and adjacent Riparian Area qualify as an Environmentally Sensitive Habitat Area for purposes of the Coastal Act, Local Coastal Program of the City of Half Moon Bay and the HMB Zoning Ordinance for the following reasons:
 - (1) The Kehoe Watercourse and adjacent riparian area contains or supports rare and endangered species as defined by the State Fish and Game Commission, including the California Red-Legged Frog and San Francisco Garter Snake...
 - (2) The Kehoe Watercourse and adjacent riparian area qualify under the Zoning Ordinance and LCP as a Riparian Area and Corridor...
 - (g) That the "repair and maintenance exception" to excuse the necessity of a Coastal Development Permit for the Work is inapplicable because of the "presence of mechanized equipment" to wit: use of a chainsaw in performing the work.
 - (h) That the Kehoe Ditch is a riparian area or corridor based on the fact that it is an area covered by vegetative coverage "at least fifty percent of which is comprised of a combination of ... arroyo willow...(and other specified plant species)."
 - (i) The Kehoe Ditch and adjacent Riparian Area qualify as an Environmentally Sensitive Habitat Area for purposes of the Coastal Act, the Local Coastal Program of the City and the City of Half Moon Bay Zoning Ordinance.
 - (j) Under the requirements of the Coastal Act and the City of Half Moon Bay Municipal Code a Coastal Development Permit was required for the Work.
6. The Parties now desire to settle the Lawsuit, under the terms and conditions set forth in this Settlement Agreement and Release.

D. TERMS OF AGREEMENT

1. For purposes of resolving this matter, City accepts the recitals in Paragraph C.5 as a correct recitation of the law applicable to future repair and maintenance activities in environmentally sensitive habitat areas, and of the evidence presented in this Lawsuit as pertains to future repair and maintenance activities performed by the City in the Kehoe Ditch.
2. Notwithstanding the exemptions contained in the Half Moon Bay Municipal Code and Title 14, California Code of Regulations section 13252, the City shall obtain a coastal

development permit before (or, in the event of an emergency only, after) undertaking any development, including repairs and maintenance, within the Kehoe Ditch. Prior to issuance of any such CDP, the City shall prepare and circulate a biological report in conformance with Local Coastal Program ("LCP") Policy 3-23 and Municipal Code Section 18.38.035 including, but not limited to, the requirement that the report "describe and map existing wild strawberry habitat on the site, existing sensitive habitats, riparian areas and wetlands located on or within two hundred feet of the project site." In the event of an emergency, as defined by Public Resources Code Section 30624, the City shall fully comply with the requirements of the Coastal Act and Coastal Commission Regulations pertaining to emergency permits.

3. Using best efforts and reasonable diligence, the City shall apply for and process to completion the issuance of a retroactive CDP for the Work. Plaintiffs will participate in good faith with such processing and issuance of a retroactive CDP. The processing of said CDP will include the following:
 - (a) The City shall commission a biological report in accordance with LCP Policy 3-23 and Municipal Code Section 18.38.035 to examine the scope of the Work and recommend reasonable mitigation measures for the Work. The biological report shall be prepared by a biological consultant or firm (said consultant or firm to be mutually agreed to by the Parties within fifteen (15) days of the Effective Date, or, if the Parties are unable to agree upon the selection of a consultant or firm within that time, in accordance with subparagraph 3(e), below).
 - (b) The CDP will incorporate conditions requiring implementation of mitigation measures recommended by the biological report, if any, provided that such mitigation measures shall be reasonable in terms of:
 - (1) Their practicability;
 - (2) The passage of time since the Work was performed; and
 - (3) The cost of implementing any recommended mitigation measures relative to the cost of the Work or any damage or hazard caused thereby.
 - (c) Using best efforts and reasonable diligence the City shall implement the mitigation measures incorporated in the CDP pursuant to Paragraph 3(b).
 - (d) Using its best efforts and reasonable diligence, the City shall implement the following El Granada Pipeline staging area mitigation measures described in the February 29, 2008 letter from Erin McDermott, Principal, ISA Certified Arborist, Botanist, Wetland & GIS Specialist of Nomad Ecology to Steve Flint, Planning Director, City of Half Moon Bay. Staging Area 1 should be re-vegetated with an appropriate assemblage of native vegetation characteristic of Coastal grasslands present within project vicinity. A restoration and monitoring plan should be prepared that includes, but is not limited to, the species to be used, restoration

techniques, planting specifications, appropriate timing of restoration planting, monitoring and success criteria, adaptive management strategies, and remedial actions if the success criteria are not achieved.

- (e) In the event that the Parties are unable to timely reach agreement on selection of a biological consultant under paragraph 3(a), above, then this subparagraph shall apply, and each Party shall, within thirty (30) days of the Effective Date, select a biological consultant of their choosing who, in turn, will be instructed to, within forty-five (45) days of their selection, mutually select a qualified biologist or firm to prepare the biological report. If no biologist has been selected after ninety (90) days of the Effective Date, either party may petition the court to select one.
4. City acknowledges that the following areas have been identified as habitat supporting or containing rare, endangered, threatened or unique species 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:
- (a) the Kehoe Watercourse (also as a riparian area and corridor); and
 - (b) Caltrans mitigation project site (also as a wetland).

In addition, the City acknowledges that the following has been identified as likely habitat supporting or containing rare, endangered, threatened or unique species the October 2005 report by H.T. Harvey & Associates:

- (c) the vacant Sewer Authority Mid-Coastside parcel located immediately south of the Kehoe watercourse (APN 048-240-040, commonly known as the "Landstra Parcel").

The areas identified in Subparagraphs (a) through (c) are hereinafter collectively referred to as the "Protected Area."

5. As material consideration to Plaintiffs under this Agreement, City agrees for each Protected Area:
- (a) To use its best efforts and reasonable diligence to process to successful adoption, including compliance with all notice and hearing requirements of the Half Moon Bay Municipal Code, an amendment to the LCP amending both (1) the Habitat Areas and Water Resources Overlay of the City's Local Coastal Program in accordance with LCP Policies 3-21 and 3-32 and (2) the Coastal Resource Area maps of Municipal Code section 18.38.020 in accordance with Half Moon Bay Municipal Code section 18.38.025 designating such Protected Area as Environmentally Sensitive Habitat Areas and Sensitive Habitat Areas, respectively, supporting or containing rare, endangered, threatened and unique species, and as riparian or wetland areas, Pending completion of the

aforementioned process, City shall not process or accept as complete for purposes of processing any coastal development permit for any Protected Area, except for: (1) the retroactive CDP required by Paragraph 3 and (2) development that is expressly permitted pursuant to Half Moon Bay Municipal Code section 18.38.085.

- (b) Alternatively, City may elect to conduct a protocol level survey of such Protected Area in full compliance with the accepted protocol for CRLF (attached hereto as Exhibit B) as to whether the Protected Area supports or contains CRLF. Since no written protocol for SFGS currently exists, a finding that a Protected Area contains or supports CRLF shall be presumed indicative of the fact that Protected Area also contains or supports SFGS. The survey shall be limited to such Protected Area, shall include a map clearly delineating all sensitive habitat areas (as defined in LCP Policy 3-1 and Half Moon Bay Municipal Code Section 18.38.020.A) within the confines of such Protected Area, and shall be performed by a biologist selected in the manner specified by Paragraph 3, above. Upon completion of the survey and mapping required by this Paragraph, the City shall use its best efforts and reasonable diligence to process to successful adoption, including compliance with all notice and hearing requirements of the Half Moon Bay Municipal Code, an amendment to the LCP amending both (1) the Habitat Areas and Water Resources Overlay of the City's Local Coastal Program and (2) the Coastal Resource Area maps of Municipal Code section 18.38.020 in accordance with Half Moon Bay Municipal Code section 18.38.025 to designate such Protected Area as Environmentally Sensitive Habitat Areas and Sensitive Habitat Areas, respectively, supporting or containing rare, endangered, threatened and unique species, and as riparian or wetland areas in such maps unless such surveys establish by clear and convincing evidence that such Protected Area does not contain or support any protected species or otherwise meet the LCP definition of ESHA. Pending completion of the aforementioned process, City shall not process or accept as complete for purposes of processing any coastal development permit for such Protected Area, except for: (1) the retroactive CDP required by Paragraph 3 and (2) development that is expressly permitted pursuant to Half Moon Bay Municipal Code Section 18.38.085.
 - (c) If the City makes the election specified under subparagraph 5(b) above, and the survey is not completed in full compliance with subparagraph 5(b) by December 31, 2013, City shall perform all actions specified in subparagraph 5(a), above.
6. Using its best efforts and reasonable diligence, the City will conduct and process to completion street vacation proceedings in accordance with the requirements of the California Streets and Highways Code for the unimproved portion of the Pilarcitos Avenue street right of way commencing on the southern terminus of Casa Del Mar Drive and extending southeast along the entire length of Pilarcitos Avenue (as highlighted in red on the attached St. John Subdivision Unit No. 3 Map attached hereto as Exhibit C and hereby incorporated by reference) and extending therefrom in a southeasterly direction to the southern edge of the Sewer Authority Mid-Coastside (formerly Landstra) parcel (the

"Landstra Right-of-Way"). If the City Council determines, after the public hearing, that the Landstra Right-of-Way and easement along the built portion of Pilarcitos Avenue north of the Kehoe Watercourse are no longer needed for future street or highway purposes, then City shall vacate said right-of-way and abandon the related easement. The City Council shall not unreasonably conclude that said right-of-way or easement is needed for future street or highway purposes.

7. Pursuant to California Code of Civil Procedure Section 664.6, the parties hereby stipulate that the court may, upon motion, enter judgment pursuant to the terms of this Agreement, and hereby request the court to retain jurisdiction over the parties to enforce the Agreement until full performance of all of the provisions of this Agreement. The parties shall give the court notice of this Agreement, and request a case management conference. At the case management conference the parties will request the court retain jurisdiction to enforce this Agreement (and, if filed pursuant to Paragraph 8, take final action on the Memorandum of Costs and Motion for Attorneys Fees), and discuss dismissal of the Complaint at the earliest possible date in a manner which will still allow the court to retain jurisdiction. If the court agrees to retain jurisdiction after dismissal of the Complaint, the Complaint will be dismissed with prejudice within 10 days of the court agreement and oral order on the record retaining jurisdiction as aforesaid.
8. City shall pay the sum of two hundred ninety five thousand dollars (\$295,000.00) (the "Settlement Payment") to the trust account of Willoughby, Stuart & Bening within ten (10) calendar days of dismissal. The Settlement Payment shall be the entire cash consideration for the settlement of the Lawsuit, and encompassing all matters, whether damages, civil penalties, attorneys fees, costs of suit or otherwise.
9. In the event that the City does not pursue with best efforts and due diligence the actions provided for in Paragraphs D. 1 through 8 of this Agreement, Plaintiffs may bring an action to enforce this Agreement pursuant to California Code of Civil Procedure Section 664.6, including a claim for injunctive relief for an order to comply with the provisions of this Agreement. As described in detail in Paragraph 7, the parties will request the court to retain jurisdiction over the parties to enforce the terms of this Agreement until performance in full of the terms of Paragraphs D. 1 through 8, and all of the terms of this Agreement. In the event that Plaintiffs seek to enforce this Agreement, and the court issues an order requiring the City to satisfy its obligations pursuant to Paragraphs D.1 through 8 of this Agreement, the Plaintiffs shall have the right to obtain reasonable attorneys fees incurred to enforce this Agreement and the public interest.
10. The signatories to this Agreement warrant and represent that they have all requisite authority to execute this agreement on behalf of Plaintiffs and City.
11. Except for any payment made pursuant to Paragraph 8 and/or fees awarded pursuant to Paragraphs 9 and 14(c), the parties shall bear their own respective attorneys fees and costs of suit.

12. The "Effective Date" of this Agreement shall be the last execution date of any of the parties to this Agreement.

- a. The court shall retain jurisdiction over this matter until all of its terms and conditions are fulfilled.

13. RELEASE

- a. Each Party to this Agreement hereby releases and forever discharges all other Parties, their controlled corporations or other business entities and affiliates and their respective officers, directors, members, attorneys, partners, employees, legal successors, assigns, grantees, agents, executors, heirs, devisees and representatives from any and all rights, claims, demands, obligations, administrative remedies and causes of action of any nature whatsoever which each of them ever had or may have now or in the future against the other, arising from or in any way related to the course of dealings between the parties described in the Recitals and in the Lawsuit, except as provided in subparagraph (b), below. With that same exception, the Parties each hereby waive the provisions of Section 1542 of the Civil Code of California, which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

This release made pursuant to this Paragraph is intended to and shall be binding upon and shall inure to the benefit of the above-described Parties and their legal successors, assigns, grantees, agents, employees, executors, administrators, heirs, devisees, members, partners, spouses (to the extent of community property), attorneys, officers, directors, subsidiaries, affiliates and representatives.

- b. Notwithstanding the release set forth in subparagraph (a), above, nothing contained herein shall prevent Plaintiffs from bringing any future claims related to any property rights (including but not limited to a claim related to the location of Plaintiff's property boundaries or the location of any City easement over Plaintiff's property) or claims for damages accruing after Effective Date of this Agreement, including, but not limited to, claims for trespass, nuisance, erosion and/or inverse condemnation, regardless of whether the Work may have in part caused or contributed to such claims. Plaintiffs also reserve all their rights as members of the public to participate in administrative or other proceedings related to the implementation of the requirements of this Agreement, their property, the Kehoe Watercourse and surroundings, or other matters.

14. General Terms

- a. Compromise. It is understood and agreed that this is a compromise and settlement of disputed claims and that nothing contained herein shall be construed as an admission by the Parties of any liability or responsibility of any kind.
- b. Warranty of Capacity. Each Party represents and warrants that no other person or entity has or has had any interest in the terms and conditions of this Agreement; that each of them has the sole right and exclusive authority to execute this Agreement and receive the consideration specified in this Agreement; and that none of them has sold, assigned, transferred, conveyed or otherwise disposed of any part of the rights referred to herein.
- c. Attorney's Fees. Should any Party hereafter reasonably retain counsel for the purpose of enforcing or preventing the breach of any provision of this Agreement, including, but not limited to, instituting any action or proceeding to enforce any provision of this Agreement, for a declaration of rights or obligations under the Agreement, or for any other judicial remedy, then, if the matter is settled by judicial determination, the prevailing Party shall be entitled to reimbursement from the losing Party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys' fees for the services rendered to the prevailing Party.
- d. Construction. All Parties have reviewed the Agreement, and the normal rule of construction, providing that any ambiguities are to be resolved against the drafting party, shall not be employed in the interpretation of the Agreement.
- e. Headings. Paragraph headings or captions contained in the Agreement are used for reference only and shall not be deemed to govern, limit, or extend the terms of the Agreement.
- f. Waiver and Amendment. No breach of any provision of this Agreement can be waived unless done so expressly and in writing. Express waiver of any one breach shall not be deemed a waiver of any other breach of the same or any other provision of this Agreement. The Agreement may be amended or modified only by a written agreement executed by the Parties at the time of the modification.
- g. Entire Agreement. All agreements, covenants, representations and warranties, express and implied, oral and written, between the Parties concerning the subject matter of the Agreement are contained or referred to in the Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any Party to any other Party concerning the subject matter of the Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter of the Agreement other than those referred to here are merged into the Agreement.

JB

- h. Independent Advice of Counsel. Both Parties have retained counsel in regard to this matter and represent and declare that in executing the Agreement they rely solely upon their own judgment, belief and knowledge concerning the nature, extent and duration of their rights and claims, have been advised by their own counsel, and that they have not been influenced to any extent whatsoever in executing the Agreement by any representations or statements not expressly contained or referred to in the Agreement.
- i. Counterparts. The Agreement may be executed in counterparts, each of which shall be deemed an original and shall be deemed duly executed and effective upon the signing of the last counterpart by the Parties.
- j. Time of Essence. **TIME IS HEREBY EXPRESSLY DECLARED TO BE OF THE ESSENCE IN THIS AGREEMENT AND OF EACH AND EVERY PROVISIONS THEREOF, AND EACH SUCH PROVISION IS HEREBY MADE AND DECLARED TO BE A MATERIAL, NECESSARY AND ESSENTIAL PART OF THIS AGREEMENT.**

IN WITNESS WHEREOF, each of the Parties has executed this Agreement on the date set forth below.

"PLAINTIFFS"

Dated: August 17, 2012

Dated: 8/17/2012

Approved as to form:

WILLOUGHBY, STUART & BENING

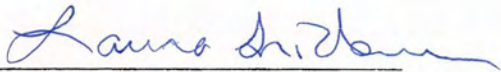
BRADLEY A. BENING
Attorneys for Plaintiffs

James Lawrence Benjamin
JAMES LAWRENCE BENJAMIN
Zoya Dorry Benjamin
ZOYA DORRY BENJAMIN

"CITY"

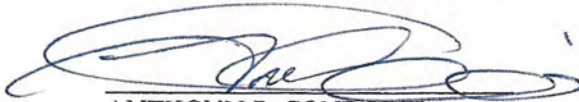
CITY OF HALF MOON BAY

Dated: 8-22-12

By: 
LAURA SNIDEMAN
City Manager

Approved as to form:

ATCHISON, BARISONE, CONDOTTI & KOVACEVICH



ANTHONY P. CONDOTTI
City Attorney

ALB

EXHIBIT A

FILED
SAN MATEO COUNTY

SEP 23 2011

Clerk of the Superior Court
[Signature]
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN MATEO

James Lawrence Benjamin and
Zoya Dorry Benjamin

Plaintiffs,

vs.

City of Half Moon Bay,

Defendants.

CASE NO. CIV 494372

STATEMENT OF DECISION

I. STATEMENT OF FACTS

The Kehoe Ditch, also known as the Kehoe Watercourse, lies adjacent to petitioner Benjamin's property in Half Moon Bay, California; it is a stream which feeds into the Pilarcitos Creek, and ultimately the Pacific Ocean. The Kehoc Watercourse is located within the Coastal Zone, within the meaning of Public Resources Code section 30103.

In January, 2009, the City of Half Moon Bay contracted with the California Conservation Corps to perform a drainage clearing project of about 2000 feet of the Kehoe Ditch. The contract specifies that the City would secure approvals and permits required by "any other state, federal, or local agency necessary to commence construction or operation of such projects."

1 The work described in the above contract was accomplished from February 9, 2009 to
2 February 11, 2009 and on a return visit in March, 2009. A chain saw and weed whacker were
3 employed in the work. Several arroyo willow trees were chopped down and two truckloads of
4 vegetation were removed. The work was performed without a Coastal Development Permit
5 issued by the City of Half Moon Bay or the Coastal Commission.

6 II. APPLICABLE STATUTES

7 A. California Coastal Act: Public Resources Code sections 30600 et. Seq: Coastal
8 Development Permit (CDP) required for all "development" located within the coastal
9 zone.

10 B. Public Resources Code section 30240: Environmentally sensitive habitat areas
11 protected against any significant disruption of habitat values.

12 C. Half Moon Bay Municipal Code section 18.38.020:

13 A. Environmentally Sensitive Habitat Areas: Habitats containing or supporting
14 unique species or rare and endangered species defined by the State Fish and
15 Game Commission

16 B. Riparian Area and Corridor: Any area of land bordering a perennial or
17 intermittent stream or their tributaries...Riparian corridors are the areas between
18 the limits of riparian vegetation, where limits are determined by vegetative
19 coverage, at least fifty percent of which is comprised of a combination of the
20 following plant species: red alder, jaumea, pickleweed, big leaf maple, narrow-
21 leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black
22 cottonwood, and box elder.....

23 E. Wetlands.
24
25

1 D. California Code of Regulations section 13252 (Title 14) elaborating on Public
2 Resources Code section 30610, which exempts repair and maintenance from the
3 requirement to obtain a Coastal Development Permit:

4 (a) For purposes of Public Resources Code section 30610(d), the following
5 extraordinary methods of repair and maintenance shall require a coastal
6 development permit because they involve a risk of substantial adverse
7 environmental impact:

8 (3) Any repair or maintenance to facilities or structures or work located in an
9 environmentally sensitive habitat area.....that include:

10 (A) The placement or removal, whether temporary or permanent, of rip-rap,
11 rocks, sand or other beach materials or any other forms of solid materials

12 (B) The presence, whether temporary or permanent, of mechanized equipment or
13 construction materials

14 III. FACTS NOT IN DISPUTE

15 The parties are in agreement that:

16 1) The Coastal Act provides a process by which a local government's Local Coastal
17 Program is adopted and certified and that Half Moon Bay accomplished this by
18 certification of its LCP and accompanying regulations.

19 2) The California Red-legged Frog and the San Francisco Garter Snake both qualify as a
20 rare and endangered species as defined by the California State Fish and Game
21 Commission.

22 FINDINGS:

23 IV. The Court finds that the Kehoe Watercourse is not a "Public Works" facility as defined by
24 the Coastal Act, Public Resources Code section 30114.

1 V. The Court finds by a preponderance of the evidence, based upon the testimony of Mr. Martin
2 Trso (Certified Geomorphologist) and Mr. Mark Jennings (Certified Herpetologist) that the
3 Kehoe Watercourse and adjacent Riparian Area qualify as an Environmentally Sensitive
4 Habitat Area for purposes of the Coastal Act, the Local Coastal Program of the City of Half
5 Moon Bay, and the HMB Zoning Ordinance for the following reasons:

6 A) The Kehoe Watercourse and adjacent riparian area contains or supports rare and
7 endangered species as defined by the State Fish and Game Commission, including the
8 California Red-Legged Frog and the San Francisco Garter Snake

9 B) The Kehoe Watercourse and adjacent riparian area qualify under the Zoning Ordinance
10 and LCP as a Riparian Area and Corridor.

11 The Court makes no finding as to whether the Kehoe Watercourse qualifies as a
12 "wetland."

13 The Court's determination that the Ditch is an Environmentally Sensitive Habitat Area is
14 supported by documents originating from the 1987 development of the St. John's
15 Subdivision:

16 1) City of Half Moon Bay Resolution No. 33-88 Approving Final Map of St. John
17 Subdivision (recorded July 12, 1988) designating the Ditch Area as a "riparian buffer
18 zone"

19 2) Application for Coastal Development Permit for St. John's Subdivision, December 3,
20 1987, acknowledging on page 5 that the development is "in or near a sensitive habitat
21 area."

22 VI. The Court finds that the "repair and maintenance exception" to excuse the necessity of a
23 Coast Development Permit is inapplicable because of the "presence...of mechanized
24 equipment", to wit the use of a chain saw in the project. (Statute cited supra.)
25

1 VII. The very wording of 14 CCR section 13252 specifies the "presence of mechanized
2 equipment, whether temporary or permanent" as triggering a determination that such
3 "extraordinary methods of repair and maintenance require a coastal development permit
4 because they involve a risk of substantial adverse environmental impact" (underscoring
5 added by the Court). Thus the Court is bound by the language of the statute and need not
6 make an independent finding as to whether this clearing project specifically involved a risk
7 of substantial adverse environmental impact.

8 VIII. Accordingly, the Court finds that the Kehoe Watercourse and the adjacent Riparian Area
9 clearing project required a Coastal Development Permit since it involved removal of
10 riparian vegetation and alteration of the Kehoe Ditch, an Environmentally Sensitive Habitat
11 Area, and thus constituted development within the Coastal Zone.

12 IX. The Court further finds that the City of Half Moon Bay was on notice that the proposed
13 Kehoe Ditch drain clearing project was located in and adjacent to a Environmentally
14 Sensitive Habitat Area. This ruling is based upon the City's acknowledged receipt and
15 review of numerous documents and studies related to the area:

- 16 1) Numerous email communications between City officers and plaintiff James Benjamin,
17 dated September 29-October 3, 2006.
- 18 2) Email string between HMB Planning Director Steve Flint and Kathy Marx , HMB
19 Project Planner, and Serge Glushkoff of California State Department of Fish and Game,
20 dated November 9, 2007 to November 13, 2007
- 21 3) March 9, 2007 Biological Assessment for Kehoe Ditch Bank Stabilization Project
22 prepared for City of Half Moon Bay by Rana Creek Habitat Restoration (Rana Creek)
- 23 4) August 2005 Habitat Assessment for the City of Half Moon Bay Kehoe Ditch Flood
24 Control Project prepared by Essex Environmental Inc. (Essex)

1 5) May 2006 Biotic Assessment, Phase 3, El Granada Transmission Pipeline Replacement
2 Project, Half Moon Bay, prepared by Coast Range Biological (Coast Range)

3 6) October 13, 2005 letter from H.T. Harvey and Associates to John Foley, Sewer Authority
4 Mid-Coastside, re. Biological Constraints Assessment for an area whose northern
5 boundary is the Kehoe Ditch

6 Though not all these studies or communications were specifically directed to the Kehoe
7 Watercourse project of 2009, the considerations underlying determination of ESHA were
8 extensively mentioned and discussed therein in the several years prior to undertaking the
9 February, 2009 endeavor.

10 X. The Court further finds that the reasoning of the Half Moon Bay Planning Director Steven
11 Flint that the Kehoe Ditch did not support or contain the Red-Legged Frog or the San
12 Francisco Garter Snake because "none had ever been seen there" is untenable for the
13 following reasons:

14 1) a) Rana Creek: pp. 4-5: Though no Red-legged frogs observed at the Kehoe Ditch, it
15 does provide suitable habitat for the frogs. Several have been recorded within .5 miles,
16 primarily at the Caltrans mitigation site, and the frogs disperse from breeding sites
17 "...moving through landscape without apparent regard for vegetation or topography."
18 The ditch may provide breeding habitat for the RLF, and the open space supplies
19 "potential upland habitat."

20 b) Rana Creek p. 6: "SFGS may be present along the banks of the ditch in the riparian
21 vegetation."

22 c) Rana Creek p. 8: "Impact: California red-legged frogs that are potentially present at
23 the project site may be harassed or harmed in violation of the Endangered Species
24 Act."
25

1 2) a) Essex p. 11: "California red-legged frog....likely to occur in the project area.

2 CNDDDB search listed numerous occurrences within 5 miles of the project, with the
3 closest occurrences within 0.5 mile. Project area provides suitable habitat."

4 b) Essex p. 11. "San Francisco Garter Snake....likely to occur in the project area."

5 c) Essex p. 13: "Based on the suitable habitat available along the ditch..., there is a
6 high potential for CRLF to occur."

7 d) Essex p. 13: "Due to known occurrences within a 2000-foot radius of the project
8 site and documentation of movement in excess of 2000 feet of this species....presence
9 of the San Francisco garter snake should be assumed."

10 3) a) Coast Range p. 8: "Due to the documented occurrences in the vicinity and the
11 presence of suitable habitat, red-legged frog is considered to have a high potential for
12 occurrence in the Study Area."

13 b) Coast Range p. 9: "San Francisco garter snake is considered to have a moderate
14 potential for occurrence on the Study Area."

15 c) Coast Range p. 16: "Foraging and sheltering habitat for California red-legged frog
16 occurs in.....Kehoe Ditch." "Prior to beginning vegetation removal, a qualified
17 biologist shall survey the work area for red-legged frogs."

18 d) Coast Range report recommends mitigation measures to be undertaken for potential
19 presence of both endangered species.

20 4) Harvey p. 5: "California red-legged frogs should be considered to be present within
21 Kehoe Ditch, and potentially present in upland habitats on the site."

22 XI. The Court further finds untenable and illogical the Mr. Flint's reasoning determining that the
23 Kehoc Ditch was not a riparian area or corridor for the following reasons:

24 1) There is undisputed evidence that 90% of the vegetation in the Kehoe Ditch is arroyo
25 willow. The definition of a riparian corridor is an area covered by vegetative coverage "at

1 least fifty percent of which is comprised ofarroyo willow,... (other
2 plant species)..." Mr. Flint contends that because no other of the designated plant species
3 were mentioned in the various studies cited above, the vegetation could not be deemed a
4 "combination" of the specified plants; this contention defies logic and a reasonable,
5 rational construction of the statute.

6 2) Rana Creek specifically states "The Kehoe Ditch site contains willow riparian" (p. 3)
7 and furthermore recommends as mitigation efforts for any project "All riparian trees
8 will be avoided when possible during construction activities. Thinning of trees is
9 acceptable, but no riparian trees over 4 inches diameter at breast height shall be
10 removed."

11 3) Essex p. 5: "For purposes of this habitat assessment, the composition of riparian
12 vegetation is consistent with The City of Half Moon Bay's Zoning Code, Title 18,
13 Chapter 18.38 definition of a Riparian Area and Corridor.

14 4) Harvey p. 3: "Kehoe Ditch, where mature arroyo willow forms a continuous riparian
15 canopy...." Uses the term "riparian zone."

16 5) Statement of City Engineer Mo Sharma to the City Council of Half Moon Bay, February
17 17, 2009: "We also have ivy, this is not native to the riparian area, this is actually harmful
18 because it kind of overwhelms the riparian zone...."

19 XII. The Court finds questionable the assertion that the Kehoe Ditch project fell under the "repair
20 and maintenance" exception to the need to obtain a CDP for the work. The Public Works
21 Director of the City of Half Moon Bay, Mr. Paul Nagengast, in 2006 submitted an
22 application to the Coastal Commission for a CDP for "repair/reconstruct drainage ditch"
23 which included the Kehoe Ditch in the scope of its proposed work. A subsequent
24 memorandum from Mr. Nagengast (August 16, 2006) specifically acknowledges the need for
25 a CDP for "drainage ditch maintenance". See also September 18, 2006 letter from California

1 Coastal Commission to Public Works Director Nagengast, entitled "Coastal Development
2 Permitting Requirements for Drainage Ditch Maintenance, which specifically states: "a CDP
3 is required for any maintenance of the City's drainage ditches located in an environmentally
4 sensitive habitat area that involves.....the presence, whether temporary or permanent, of
5 mechanized equipment or construction materials."

6 Half Moon Bay's Planning Director Flint testified that the exception for Repair and
7 Maintenance (CCR 13252 supra.) was not considered and did not factor into his decision not
8 to obtain a Coastal Development Permit for the Kehoe Ditch.

9 Nevertheless, in presenting the project to the Half Moon Bay City Council, City Engineer
10 Mo Sharma represented that all the work would be with hand tools only, in direct
11 contradiction of the contract under which the work was performed.

12 While Mr. Sharma's misrepresentations may have been inadvertent, these statements
13 constitute further circumstantial evidence that the Half Moon Bay city officials deliberately
14 circumvented the requirement of obtaining a Coastal Development Permit for the work on
15 the Kehoe Ditch.

16 XIII. Accordingly, the Court finds that the City of Half Moon Bay knowingly and intentionally
17 failed to obtain a CDP for the Kehoe Ditch Project of 2009, thereby depriving the public in
18 general, and plaintiffs/petitioners in particular, of the ability to be heard concerning the
19 impacts of this project upon the stream, the environment and the community as a whole.

20 DAMAGES AND PENALTIES

21 XIV. Having found that the City's failure to obtain a CDP was knowing and intentional, the
22 Court, in imposing appropriate penalties, will take into consideration the factors listed in
23 Coastal Act section 30820:

- 24 1) Nature, circumstance, extent and gravity of the violation: The work done on the
25 Kehoe Ditch was not particularly extensive; removal of two truckloads of trees and

1 branches from a 2000-foot ditch does not reflect significant deforestation. The
2 photographs submitted as exhibits display a substantial amount of vegetation still
3 remaining or regrown on the project site. The testimony of Mr. Jennings established a
4 "substantial change to the vegetation" which had the effect of opening the stream,
5 removing biomass for potential habitats, increasing the water temperature, deleting
6 food sources for smaller animals and rodents, and potentially opening the area for
7 predators; though this potential existed, no evidence was presented that these grave
8 impacts were realized.

9 Mr. Trso testified that the geomorphologic impact of the project was to create visible
10 erosion of the banks and a destabilization of the soil in the creek bed, with resultant
11 gullyng. While Mr. Jennings also expressed concern about the disturbance of the
12 sediment which would dislodge food sources for the frogs, Mr. Trso deemed the
13 sediment loss to be "relatively minor."

14 2) Sensitivity of the resource; restorability: Since neither the California Red-legged Frog
15 nor the San Francisco Garter Snake has been located at the Kehoe Ditch, either before
16 or after the February 2009 project, the Court has no evidence upon which to gauge
17 either the sensitivity of the resource or the actual impact of the work upon these two
18 endangered species. With regard to the willow riparian cover, the Court finds that the
19 City of Half Moon Bay undertook reparative efforts by the replanting of arroyo
20 willow tree stalks at some point after the work was done; unfortunately many of these
21 replacement willows have not survived due to the extensive growth of cape ivy.

22 3) Cost to the state of bringing the action: None.

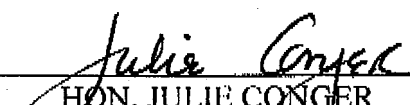
23 4) Voluntary cooperation, past history, and culpability: Evidence was presented that
24 before the work was done, an educational presentation concerning the habitat and the
25 protected species was given to the Corpsmen working on the Ditch.

1 XV. In summary, the Court finds that the Kehoe Ditch cleaning project of February, 2009, was a
2 knowing and intentional violation of the Coastal Act, but that the impact upon the
3 environment was not substantial. Accordingly, minimum civil penalties of \$1000 for each
4 day that the violation persists will be imposed per statute.

5
6 Judgment shall be entered in favor of Petitioners James Lawrence Benjamin and Zoya
7 Dorry Benjamin.

8
9 Petitioners/plaintiffs to prepare judgment in accordance with this Statement of Decision.
10
11
12
13
14
15

16 Dated: September 15, 2011


HON. JULIE CONGER
JUDGE OF THE SUPERIOR COURT



U.S. Fish and Wildlife Service

Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog



August 2005

I. Introduction

The U.S. Fish and Wildlife Service (Service) issued guidance on conducting site assessments and surveys for the California red-legged frog (*Rana aurora draytonii*) (CRF) on February 18, 1997 (1997 Guidance). Since then, the Service has reviewed numerous CRF site assessments and surveys results, accompanied wildlife biologists in the field during the preparation and performance of site assessments and CRF surveys, and consulted with species experts on the effectiveness of the 1997 Guidance. Based on our review of the information, the Service has determined that the survey portion of the 1997 Guidance is less likely to accurately detect CRF than previously thought, especially in certain portions of the species range and particularly where CRF exist in low numbers. In response to the need for new guidance, the Service has prepared this *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (Guidance).

Similar to the 1997 Guidance, two procedures are recommended in the new Guidance to accurately assess the likelihood of CRF presence in the vicinity of a project site: (1) an assessment of CRF locality records and potential CRF habitat in and around the project area and, (2) focused field surveys of breeding pools and other associated habitat to determine whether CRF are likely to be present.

Because CRF are known to use aquatic, riparian, and upland habitat, they may be present in any of these habitat types, depending on the time of year, on any given property. For sites with no suitable aquatic breeding habitat, but where suitable upland dispersal habitat exists, it is difficult to support a negative finding with the results of any survey guidance. Therefore, this Guidance focuses on site assessments and surveys conducted in and around aquatic and riparian habitat.

This Guidance was developed by the Service's Sacramento Fish and Wildlife Office in coordination with the Ventura Fish and Wildlife Office. Input by field biologists and scientists experienced in surveying for the CRF was also used in the development of this Guidance.

If the following Guidance is followed in its entirety, the results of the site assessments and surveys will be considered valid by the Service for two (2) years, unless determined otherwise on a case-by-case basis by the appropriate Service Fish and Wildlife Office. After two (2) years, new surveys conducted under the most current Service Guidance may be required, if deemed necessary by the appropriate Service Fish and Wildlife Office.

Modifications of this Guidance for specific projects or circumstances may be approved by the appropriate Fish and Wildlife Office; however, we strongly recommend that all modifications be reviewed and approved by the Service prior to implementation.

II. Permit Requirements

Unless otherwise authorized, individuals participating in site assessments and surveys for CRF may **NOT** take the California red-legged frog during the course of site assessments or survey activities. Take may only be authorized via section 7 or section 10 of the Endangered Species Act of 1973, as amended. Typically, take associated with survey activities is authorized via issuance of section 10(a)(1)(A) permits. For reference, an application for a section 10(a)(1)(A) permit is available through the appropriate Fish and Wildlife Office or online at: <http://forms.fws.gov/3-200-55.pdf>.

The site assessment and survey methods recommended in this Guidance do NOT require the surveyor to have a permit. As stated below, the surveyor must be otherwise qualified to conduct the surveys.

It is the responsibility of the surveyor to ensure all other applicable permits are obtained and valid (e.g., state scientific collection permits), and that permission from private landowners or land managers is obtained prior to accessing a site and beginning site assessments and surveys.

III. Site Assessments

To prevent any unnecessary loss of time or use of resources, it is essential that completed site assessments be submitted to the appropriate Service Fish and Wildlife Office for review in order to obtain further guidance from the Service before conducting surveys.

Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting a site assessment to prevent the spread of parasites and diseases to CRF and other amphibians.

Careful evaluation of the following information about CRF and their habitats in the vicinity of a project or other land use activities is important because this information indicates the likelihood of the presence of CRF. This information will help determine whether it is necessary to conduct field surveys.

To conduct a site assessment for CRF, complete the data sheet in Appendix D and return it with any necessary supporting documentation to the appropriate Service Fish and Wildlife Office for review prior to initiating surveys. The following information is critical to completing a proper site assessment:

1. Is the site within the current or historic range of the CRF?

Since knowledge of the distribution of the CRF is likely to change as new locality information becomes available, biologists are expected to contact the appropriate Fish and Wildlife Office (see section IV below) to determine if a project site is within the range of this species.

2. Are there known records of CRF at the site or within a 1.6-kilometer* (1-mile) radius of the site?

The biologist should consult the California Natural Diversity Data Base (CNDDDB) maintained by the California Department of Fish and Game's (CDFG) Natural Heritage Division as a starting point to determine if there are reported localities of CRF within a 1.6-kilometer (1-mile) radius of the site. Information on the CNDDDB is attached to the end of this document. Data entry into the CNDDDB is not always current nor do all surveyors submit reports to the CNDDDB, thus it is essential that other information sources on local occurrences of CRF be consulted. These sources may include, but are not limited to, biological consultants, local residents, amateur herpetologists, resource managers and biologists from municipal, State, and Federal agencies, environmental groups, and herpetologists at museums and universities. The biologist should report to the Service all known CRF records at the project site and within a 1.6-kilometer (1-mile) radius of the project boundaries. One-point-six (1.6) kilometers (1 mile) was selected as a proximity radius to a project site based on telemetry data collected by Bulger *et al.* (2003), rounded to the nearest whole mile. This distance may be subject to change when new data becomes available, or based on site-specific conditions, so it is advised that surveyors check with the appropriate Service Fish and Wildlife Office to ensure they are using the most up-to-date information.

<p>* IMPORTANT: One-point-six (1.6) kilometers (1 mile) radius is a general guideline. The appropriate Service Fish and Wildlife Office will advise surveyors of the most appropriate distance for each specific project location on a case-by-case basis.</p>

3. What are the habitats within the project site and within 1.6 kilometers* (1 mile) of the project boundary?

In order to properly characterize the habitat within 1.6 kilometers (1 mile) of the project site, individuals conducting site assessments must visit the project site and as much of the surrounding habitat within 1.6 kilometers (1 mile) of the project site as possible. Aerial photographs, maps, and other resources should be consulted as well to ensure all possible accessible habitats are considered. Based on this reconnaissance assessment, the surveyor shall describe the upland and aquatic habitats within the project site and within 1.6 kilometers (1 mile) of the project boundary. The aquatic habitats should be mapped and characterized (*e.g.*, ponds vs. creeks, pool vs. riffle, ephemeral vs. permanent (if ephemeral, give date it goes dry), vegetation (type, emergent, overhanging), water depth at the time of the site assessment, bank full depth, stream gradient (percent slope), substrate, and description of bank). The presence of

bullfrogs (*Rana catesbeiana*) and other aquatic predators such as centrarchid fishes (bass, perch, sunfish) should be documented even though their presence does not negate the presence of CRF.

Upland habitats should be characterized by including a description of upland vegetation communities, land uses, and any potential barriers to CRF movement. The information provided in Appendix A serves as a guide to the features that will indicate possible CRF habitat.

4. Report the results of the site assessment

A site assessment report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

- 1) Copies of the data sheet provided at Appendix D;
- 2) Copies of field notes and all other supporting documentation including:
 - A. A list of all known CRF localities within 1.6 kilometers* (1 mile) of the project site boundaries;
 - B. Photographs of the project site (photopoints shall be indicated on an accompanying map);
 - C. A map of the site showing all of the habitat types and other important features as well as the location of any species detected during the site assessment within 1.6 kilometers (1 mile) of the project site boundaries. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) or geographic information system (GIS) data;
 - D. A description of the project and/or land use that is being proposed at the site.

Based on the information provided in the site assessment report, the Service will provide guidance on how CRF issues should be addressed, including whether field surveys are appropriate, where the field surveys should be conducted, and whether incidental take authorization should be obtained through section 7 consultation or a section 10 permit pursuant to the Endangered Species Act.

IV. Field Surveys

Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting surveys to prevent the spread of parasites and diseases to CRF and other amphibians.

To avoid and minimize the potential of harassment or harm to CRF, no additional surveys will be conducted in an area once occupancy has been established, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.

The Service should be notified in writing (e.g., email) by the surveyor within three (3) working

days once a CRF is detected. The Service will provide guidance to the surveyor regarding the need to collect additional information such as population size, age class, habitat use, *etc.*

A. Qualifications of Surveyors

Surveyors must be familiar with the distinguishing physical characteristics of all life stages of the CRF, other anurans of California, and with introduced, exotic species such as the bullfrog and the African clawed frog (*Xenopus Laevis*) prior to conducting surveys according to this Guidance.

Surveyors must submit their qualifications to the Service along with their survey results.

A field guide should be consulted (*e.g.*, Wright and Wright 1949; Stebbins 2003) to confirm the identification of amphibians encountered during surveys. Surveyors also should be familiar with the vocalizations of the CRF and other amphibians found in California. Recordings of these vocalizations are available through various sources (*e.g.*, Davidson 1995). Surveyors that do not have experience with the species are required to obtain training on locating and identifying CRF adult, larval and egg stages before survey results are accepted. Training may include attendance at various workshops that have an emphasis on the biology of the California red-legged frog, accompanied by an appropriate level of field identification training; field work with individuals who possess valid 10(a)(1)(A) permits for the CRF; and experience working with ranids and similar taxa.

In some localities more intensive surveys (*e.g.*, dip-netting larvae and adults) may be desirable to document the presence of CRF. In order to conduct such focused surveys a valid section 10(a)(1)(A) permit is required (refer to introduction section for information on how to apply for a section 10(a)(1)(A) permit). Applicants will be considered qualified for a section 10(a)(1)(A) permit if they meet the Service's most current qualification requirements. At a minimum, prospective applicants must:

- 1) Possess a Baccalaureate degree in biology, ecology, a resource management-related field, or have equivalent relevant experience;
- 2) Have completed course work in herpetology and study-design/survey-methodology or have equivalent relevant experience;
- 3) Have verifiable experience in the design and implementation of amphibian surveys or research or have equivalent relevant experience;
- 4) Have verifiable experience handling and identifying a minimum of 10 CRF, or similar ranid species, comprised of a minimum of 5 adults and a combination of larva and juveniles;
- 5) Obtain a minimum of 40 hours of field experience through assisting in surveys for the CRF during which positive identification is made;
- 6) Have familiarity with suitable habitats for the species and be able to identify the major vegetative components of communities in which California red-legged frog surveys or

research may be conducted.

- 7) Have familiarity with and be able to identify native and non-native amphibians that may co-occur with the listed species.

B. Survey Periods

Surveys may begin anytime during January and should be completed by the end of September. Multiple survey visits conducted throughout the survey-year (January through September) increases the likelihood of detecting the various life stages of the CRF. For example, adult frogs are most likely to be detected at night between January 1 and June 30, somewhere in the vicinity of a breeding location, whereas, sub-adults are most easily detected during the day from July 1 through September 30.

Due to the geographic and yearly variation in egg laying dates, it is not possible to specify a range of dates that is appropriate for egg surveys throughout the range of the CRF. The following table summarizes the best approximated times to survey for CRF egg masses.

Geographic Area	Best Survey Period*
Northern California along the coast and interior to the Coast Range (north of Santa Cruz County)	January 1 and February 28
Southern California along the coast and interior through the Coast Range (south of, and including Santa Cruz County)	February 25 and April 30
Sierra Nevada Mountains and other high-elevation locations	Should not begin before April 15

Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval prior to conducting the surveys.

Survey Methodology

This Guidance recommends a total of **up to** eight (8) surveys to determine the presence of CRF at or near a project site. Two (2) day surveys and four (4) night surveys are recommended during the breeding season; one (1) day and one (1) night survey is recommended during the non-breeding season. Each survey must take place at least seven (7) days apart. At least one survey must be conducted prior to August 15th. The survey period must be over a minimum period of 6 weeks (*i.e.*, the time between the first and last survey must be at least 6 weeks). Throughout the species' range, the non-breeding season is defined as between July 1 and September 30.

If CRF are identified at any time during the course of surveys, no additional surveys will be conducted in the area, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.

The following methodology shall be followed unless otherwise specified, or approved by the

appropriate Service Fish and Wildlife Office:

- 1) Upon arrival at the survey site, surveyors should listen for a few minutes for frogs calling, prior to disturbing the survey site by walking or looking for eye shine using bright lights. If CRF calls are identified, the surveyor should note this information on the survey data sheet and note the approximate location of the call. Once the survey begins, the surveyor should pay special attention to the area where the call originated in an attempt to visually identify the frog.
- 2) The most common method of surveying for CRF is the visual-encounter survey. This survey is conducted either during daylight hours or at night by walking entirely around the pond or marsh or along the entire length of a creek or stream while repeatedly scanning for frogs. This procedure allows one to scan each section of shore from at least two different angles. Surveyors should begin by first working along the entire shoreline, then by entering the water (if necessary and no egg masses would be crushed or disturbed), and visually scanning all shoreline areas and all aquatic habitats identified in the site assessment. Generally, surveyors shall focus on all open water to at least 2 meters (6.5 feet) up the bank. When wading, surveyors must take maximum care to avoid disturbing sediments, vegetation, or larvae. When walking on the bank, surveyors shall take care to not crush rootballs, overhanging banks, and stream-side vegetation that might provide shelter for frogs. Surveys must cover the entire area, otherwise the remaining survey area must be surveyed the next day/night that weather conditions allow (both visits would constitute one day/night survey).
- 3) Day surveys may be conducted on the same day as a night survey.

The main purpose of day surveys during the breeding season is to look for larvae, metamorphs, and egg masses; the main purpose of day surveys during the non-breeding season is to look for metamorphosing sub-adults, and non-breeding adults. Daytime surveys shall be conducted between one hour after sunrise and one hour before sunset.

4) Night surveys

The main purpose of night surveys is to identify and locate adult and metamorphosed frogs. Conditions and requirements for conducting night surveys are as follows:

- A. Night surveys must commence no earlier than one (1) hour after sunset.
- B. Due to diminished visibility, surveys should not be conducted during heavy rains, fog, or other conditions that impair the surveyor's ability to accurately locate and identify frogs.
- C. Nighttime surveys shall be conducted with a Service-approved light such as a Wheat Lamp, Nite Light, or sealed-beam light that produces less than 100,000 candle watt. Lights that the Service does not accept for surveys are lights that are either too dim or too bright. For example, Mag-Light-type lights and other

types of flashlights that rely on 2 or 4 AA's/AAA's, 2 C's or 2 D batteries. Lights with 100,000 candle watt or greater are too bright and also would not meet Service requirements.

- D. The Service approved light must be held at the surveyor's eye level so that the frog's eye shine is visible to the surveyor.
- E. The use of binoculars is a must in order to effectively see the eye shine of the frogs. Surveys conducted without the use of binoculars may call in to question the validity of the survey.

5) Weather conditions.

Weather and visibility conditions must be consistent throughout the duration of the survey; if weather conditions become unsuitable, the survey must be completed at another time when conditions are better suited to positively locating and identifying frogs. Suitable conditions are as follows:

- A. Air temperature at the survey site must be at least 10 degrees Celsius (50 degrees Fahrenheit). Frogs are less likely to be active when temperatures are below 10 degrees Celsius (50 degrees Fahrenheit).
- B. Wind speed must not exceed 8 kilometers/hour (5 miles/hour) at the survey site. High wind speeds affect temperatures and the surveyor's ability to hear frogs calling.
- C. Surveys must be conducted under clear to partly cloudy skies (high clouds are okay) but not under dense fog or during heavy rain, as stated above. Surveys may be conducted during light rains.

Surveyors should carefully consider weather conditions prior to initiating a survey. Ask yourself, "Can I collect accurate, reliable data under the existing weather conditions" prior to proceeding with the survey. Weather conditions will be taken into account when the data is reviewed by the appropriate Service Fish and Wildlife Service Office.

6) Decontamination of equipment

In an effort to minimize the spread of terrestrial and aquatic pathogens, all aquatic survey equipment including chest waders, wet suits, float tubes, kayaks, shall be decontaminated before entering potential CRF habitat using the guidelines in Appendix B. Careful attention shall be taken to remove all dirt from boots, chest waders, wetsuits, float tubes, kayaks, and other equipment before placing equipment into the water.

7) Unidentified larvae, sub-adults, and adults

If the larval life stage is the only life stage detected and the larvae are not identified to species (or similarly, if sub-adult or adult frogs are observed but not identified to

species), the surveyor must either return to the habitat to identify the frog in another life stage or obtain the appropriate permit (*e.g.*, section 10(a)(1)(A) permit) authorization allowing the surveyor to handle CRF and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

8) Reporting results of the surveys

A species survey report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

1. Copies of the data sheets provided at Appendix E;
2. Copies of field notes and all other supporting documentation including:
 - A. Photographs of all CRF observed during the survey and of the habitat where each individual was located, if possible without harming or harassing the individual;
 - B. A map of the site showing the location of any species detected during the survey. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) *or* geographic information system (GIS) data;

Based on the information provided in the site assessment report and the survey results, the Service will provide guidance on how CRF issues should be addressed through the section 7 or section 10 processes.

All information on CRF distribution resulting from field surveys shall be sent to the California Natural Diversity Database (CNDDDB). CNDDDB forms shall be completed, as appropriate, for each listed species identified during the survey(s) and submitted to the California Department of Fish and Game, Wildlife Habitat Data Analysis Branch, 1807 13th Street, Suite 202, Sacramento, California 95814, with copies submitted to the appropriate Service Fish and Wildlife Office. Each form sent to the CDFG shall have an accompanying 1:24,000 scale USGS map (or an exact scale photocopy of the appropriate portion(s) of the map) -or- Global Information System (GIS) data coverage of the site. Copies of the form can be obtained from the CDFG at the above address (telephone: 916-324-3812) or online at: <http://www.dfg.ca.gov/whdab/html/animals.html>. Additional information about the CNDDDB is available in Appendix C.

The Service may not accept the results of field surveys conducted under this Guidance for any of the following reasons:

- A. if the appropriate Service Fish and Wildlife Office was not contacted to review the results of the site assessment prior to field surveys being conducted;
- B. if field surveys were conducted in a manner inconsistent with this Guidance or with

- survey methods not previously approved by the Service;
- C. if field surveys were incomplete;
- D. if surveyors were not adequately qualified to conduct the surveys;
- E. if the reporting requirements, including submission of CNDDDB forms, were not fulfilled.

IV. Service Contacts

There are three Service Fish and Wildlife Offices within the range of the CRF (see Map 1). The appropriate office to contact regarding site assessments or survey authorization depends on the location where the surveys are to be conducted.

For project sites and land use activities in Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, and Ventura Counties, portions of Los Angeles and San Bernardino Counties outside of the Los Angeles Basin, and portions of Kern, Inyo and Mono Counties east of the Sierra Crest and south of Conway Summit, contact:

Ventura Fish and Wildlife Office,
2493 Portola Road, Suite B
Ventura, California, 93003
(805/644-1766).

For project sites and land use activities in all other areas of the State south of the Transverse Ranges, contact:

Carlsbad Fish and Wildlife Office
Attn: Recovery Permit Coordinator
6010 Hidden Valley Road
Carlsbad, California, 92009
(760/431-9440).

For project sites and land use activities in all other areas of the State, contact:

Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825
(916/414-6600).
(916/414-6713, fax)

For information on section 10(a)(1)(A) recovery permits, contact:

Regional Office,
Eastside Federal Complex
911 N.E., 11th Avenue
Portland, Oregon 97232-4181
(503/231-6241)



* These are independent offices overlapping with the Sacramento Fish and Wildlife Office. Their work primarily focuses on salmonid restoration, fishery monitoring and Forest Plan Implementation.

Map 1. Map of California showing jurisdictional boundaries of Service Fish and Wildlife Offices.

References

- Davidson, C. 1995. Frog and toad calls of the Pacific Coast: Vanishing Voices. Library of Natural Sounds, Cornell Laboratory of Ornithology, Ithaca, New York. 27 pp. +1 cassette.
- Stebbins, R.C. 2003. A field guide to western reptiles and amphibians. Third edition. Houghton Mifflin Company, New York, New York. 533 pp.
- Wright, A.H. and A.A. Wright. 1949. Handbook of frogs and toads of the United States and Canada. Third Edition. Comstock Publishing Company, Ithaca, New York. xii+640 pp.

Appendix A.

California red-legged frog identification and ecology.

1. Identification

The following information may aid surveyors in the identification of California red-legged frogs and similar species. However, all surveyors are expected to consult field guides (Wright and Wright 1949; Davidson 1995; Stebbins 2003) for further information.

General Description

The California red-legged frog (*Rana aurora draytonii*), is a relatively large aquatic frog ranging from 4 to 13 centimeters (1.5 to 5 inches) from the tip of the snout to the vent. From above, the California red-legged frog can appear brown, gray, olive, red or orange, often with a pattern of dark flecks or spots. The skin usually does not look rough or warty. The back of the California red-legged frog is bordered on either side by an often prominent dorsolateral fold of skin running from the eye to the hip. The hindlegs are well-developed with large webbed feet. A cream, white, or orange stripe usually extends along the upper lip from beneath the eye to the rear of the jaw. The undersides of adult California red-legged frogs are white, usually with patches of bright red or orange on the abdomen and hindlegs. The groin area can show a bold black mottling with a white or yellow background.

Adults

Positive diagnostic marks should be used to accurately distinguish California red-legged frogs from other species of frogs that may be observed. A positive diagnostic mark is an attribute of the animal that will not be found on any other animal likely to be encountered at the same locality. The following features are positive diagnostic marks that, if observed, will distinguish California red-legged frogs from foothill yellow-legged frogs (*Rana boylei*) and bullfrogs (*Rana catesbeiana*):

- a. Prominent dorsolateral folds (thick upraised fold of skin running from eye to hip) on any frog greater than 5 centimeters (2 inches) long from snout to vent. Young yellow-legged frogs can show reddish folds; these usually fade as the frogs mature.
- b. Bright red dorsum.
- c. Well defined stripe as described above running along upper lip.

Since California red-legged frogs are often confused with bullfrogs, surveyors should note those features that might be found on bullfrogs that will rarely be observed on California red-legged frogs. These features are:

- a. Absence of the dorsolateral fold.
- b. Bright yellow on throat.
- c. Uniform bright green snout.
- d. Tympanum (ear disc) distinct and much larger than eye.

Please note that some frogs may lack all of the above characteristics given for both California red-legged frogs and bullfrogs. Surveyors should regard such frogs as unidentified, unless it is clearly identified as another species.

California red-legged frogs are cryptic because their coloration tends to help them blend in with their surroundings, and they can remain immobile for great lengths of time. When an individual California red-legged frog is disturbed, it may jump into the water with a distinct “plop.” The California red-legged frog may do this either when the surveyor is still distant or when a surveyor is very near. Bullfrogs exhibit similar behavior but will often emit a “squawk” as they dive into the water. Because a California red-legged frog is unlikely to make such a sound, a “squawk” from a fleeing frog will be considered sufficient to positively identify the frog as a bullfrog.

Larvae

Tadpoles may be trapped and handled only by those with a valid 10(a)1(A) permit. California red-legged frog larvae range from 14 to 80 millimeters (0.5 to 3.25 inches) in length. They are greenish to generally brownish color with darker marbling and lack distinct black or white spotting or speckling. Large California red-legged frog larvae often have a wash of red coloration on their undersides and a very small single row of evenly spaced whitish or gold flecks along the side where the dorsolateral fold will develop. Other features to look for to identify California red-legged frog larvae include: eyes set well in from the outline of the head (contrasts with treefrogs (*Hyla* spp.)), oral papillae on both the sides of the mouth and the bottom of the mouth (contrasts with *Bufo* spp.), well developed oral papillae on the sides of the mouth (contrasts with other subspecies of red-legged frogs (*Rana aurora* spp.) and spadefoot toads (*Scaphiopus* spp.)), generally mottled body and tail with few or no distinct black spots on tail fins (contrasts with bullfrogs), and two to three tooth rows on the top and bottom (contrasts with foothill yellow-legged frogs).

Eggs

California red-legged frogs breed during the winter and early spring from as early as late November through April and May. Adults engage in courtship behaviors that result in the female depositing from 2,000 to 6,000 eggs, each measuring between 2 and 3 millimeter (0.1 inches). California red-legged frog eggs are typically laid in a mass attached to emergent vegetation near the surface of the water, where they can be easily dislodged. However, egg masses have been detected lying on the bottom of ponds. The egg mass is well defined and

about the size of a softball. Eggs hatch within 6 to 14 days after deposition at which time the newly hatched larvae are delicate and easily injured or killed. California red-legged frog larvae transform into juvenile frogs in 3.5 to 7 months.

During the time that red-legged frog egg surveys are conducted, other amphibian eggs may be found including those of Pacific treefrogs, spadefoot toads, California tiger salamanders, and newts. Bullfrogs and foothill yellow-legged frogs lay their eggs later in the season. Field guides should be consulted for additional information on egg identification.

2. Habitat

California red-legged frogs occur in different habitats depending on their life stage, the season, and weather conditions. Rangewide, and even within local populations, there is much variation in how frogs use their environment; in some cases, they may complete their entire life cycle in a particular habitat (*i.e.*, a pond is suitable for all life stages), and in other cases, they may seek multiple habitat types (U.S. Fish and Wildlife Service 2002).

Breeding habitat

All life history stages are most likely to be encountered in and around breeding sites, which are known to include coastal lagoons, marshes, springs, permanent and semi-permanent natural ponds, ponded and backwater portions of streams, as well as artificial impoundments such as stock ponds, irrigation ponds, and siltation ponds. California red-legged frog eggs are usually found in ponds or in backwater pools in creeks attached to emergent vegetation such as *Typha* and *Scirpus*. However, they have been found in areas completely denuded of vegetation. Creeks and ponds where California red-legged frogs are found most often have dense growths of woody riparian vegetation, especially willows (*Salix* spp.) (Hayes and Jennings 1988). The absence of *Typha*, *Scirpus*, and *Salix* at an aquatic site does not rule out the possibility that the site provides habitat for California red-legged frogs, for example stock ponds often are lacking emergent vegetation yet they provide suitable breeding habitat. California red-legged frog larvae remain in these habitats until metamorphosis in the summer months (Storer 1925; Wright and Wright 1949). Young California red-legged frogs can occur in slow moving, shallow riffle zones in creeks or along the margins of ponds.

Summer habitat

California red-legged frogs often disperse from their breeding habitat to forage and seek summer habitat if water is not available. In the summer, California red-legged frogs are often found close to a pond or a deep pool in a creek where emergent vegetation, undercut banks, or semi-submerged rootballs afford shelter from predators. California red-legged frogs may also take shelter in small mammal burrows and other refugia on the banks up to 100 meters from the water any time of the year and can be encountered in smaller, even ephemeral bodies of water in a variety of upland settings (Jennings and Hayes 1994; U.S. Fish and Wildlife Service 2002).

Upland habitat

California red-legged frogs are frequently encountered in open grasslands occupying seeps and

springs. Such bodies may not be suitable for breeding but may function as foraging habitat or refugia for dispersing frogs. During periods of wet weather, starting with the first rains of fall, some individuals make overland excursions through upland habitats (U.S. Fish and Wildlife Service 2002).

3. Movement

California red-legged frogs may move up to 3 kilometers (1.88 miles) up or down drainages and are known to wander throughout riparian woodlands up to several dozen meters from the water (Rathbun *et al.* 1993). Dispersing frogs have been recorded to cover distances from 0.40 kilometer (0.25 mile) to more than 3.2 kilometers (2 miles) without apparent regard to topography, vegetation type, or riparian corridors (Bulger 1998). California red-legged frogs have been observed to make long-distance movements that are straight-line, point to point migrations rather than using corridors for moving in between habitats. Dispersal distances are considered to be dependent on habitat availability and environmental conditions. On rainy nights California red-legged frogs may roam away from aquatic sites as much as 1.6 kilometers (1 mile). California red-legged frogs will often move away from the water after the first winter rains, causing sites where California red-legged frogs were easily observed in the summer months to appear devoid of this species. Additionally, California red-legged frogs will sometimes disperse in response to receding water which often occurs during the driest time of the year.

References for Appendix A

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Appendix B.

Recommended Equipment Decontamination Procedures

In an effort to minimize the spread of pathogens that may be transferred as result of activities, surveyors should follow the guidance outlined below for disinfecting equipment and clothing after entering a pond and before entering a new pond, unless the wetlands are hydrologically connected to one another:

- i. All organic matter should be removed from nets, traps, boots, vehicle tires and all other surfaces that have come into contact with water or potentially contaminated sediments. Cleaned items should be rinsed with clean water before leaving each study site.
- ii. Boots, nets, traps, hands, *etc.* should be scrubbed with either a 75% ethanol solution, a bleach solution (0.5 to 1.0 cup per 1.0 gallon of water), Quat-128™ (1:60), or a 6% sodium hypochlorite 3 solution. Equipment should be rinsed clean with water between study sites. Cleaning equipment in the immediate vicinity of a pond or wetland should be avoided (*e.g.*, clean in an area at least 100 feet from aquatic features). Care should be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- iii. Used cleaning materials (liquids, *etc.*) should be disposed of safely, and if necessary, taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.
- iv. Additionally, the surveyors shall implement the following when working at sites with known or suspected disease problems: disposable gloves should be worn and changed between handling each animal. Gloves should be wetted with water from the site or distilled water prior to handling any amphibians. Gloves should be removed by turning inside out to minimize cross-contamination.

Appendix C.
General instructions for filling out CNDDDB field survey forms

The Natural Diversity Data Base (NDDDB) is the largest, most comprehensive database of its type in the world. It presently contains more than 33,000 site specific records on California's rarest plants, animals, and natural communities. The majority of the data collection effort for this has been provided by an exceptional assemblage of biologists throughout the state and the west. The backbone of this effort is the field survey form. We are enclosing copies of Natural Diversity Data Base (NDDDB) field survey forms for species and natural communities. We would greatly appreciate you recording your field observations of rare, threatened, endangered, or sensitive species and natural communities (elements) and sending them to us on these forms.

We are interested in receiving forms on elements of concern to us; refer to our free publications: *Special Plants List*, *Special Animals List*, and *Natural Communities List* for lists of which elements these include. Reports on multiple visits to sites that already exist in the NDDDB are as important as new site information as it helps us track trends in population/stand size and condition. Naturally, we also want information on new sites. We have enclosed an example of a field survey form that includes the information we like to see. It is especially important to include a xeroxed portion of a USGS topographic quad with the population/stand outlined or marked (see back of enclosed example).

Without the map, your information will be mapped less accurately, as written descriptions of locations are frequently hard to interpret. Do not worry about filling in every box on the form; only fill out what seems most relevant to your site visit. Remember that your name and telephone number are very important in case we have any questions about the form.

If you are concerned about the sensitivity of the site, remember that the NDDDB can label your element occurrence "Sensitive" in the computer, thus restricting access to that information. The NDDDB is only as good as the information in it, and we depend on people like you as the source of that information. Thank you for your help in improving the NDDDB.

Copies of the NDDDB form can be obtained from the CDFG at the above address (telephone: 916-324-3812) or online at: <http://www.dfg.ca.gov/whdab/html/animals.html>.

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

This data sheet is to assist in the data collection of California red-legged frog habitat in the vicinity of projects or other land use activities, following the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance), issued by the U.S. Fish and Wildlife Service. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance.

The "Site Assessments" section of the Guidance details the data needed to complete a site assessment. When submitting a complete site assessment to the Service (one that has been done following the Guidance), one data sheet should be included for each aquatic habitat identified. If multiple aquatic habitats are identified within the project site, then multiple data sheets should be completed. A narrative description of the aquatic, riparian, and upland habitats should be provided to characterize the breeding habitat within the project site and the breeding and dispersal habitat within 1.6 kilometers (1 mile) of the project site. In addition to completing this data sheet, field notes, photographs, and maps should be provided to the appropriate Fish and Wildlife Service Office, as requested in the "Site Assessments" section of the Guidance.

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

Site Assessment reviewed by _____
(FWS Field Office) (date) (biologist)

Date of Site Assessment: _____
(mm/dd/yyyy)

Site Assessment Biologists: _____
(Last name) (first name) (Last name) (first name)

(Last name) (first name) (Last name) (first name)

Site Location: _____
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

****ATTACH A MAP** (include habitat types, important features, and species locations)**

Proposed project name: _____
Brief description of proposed action:

- 1) Is this site within the current or historic range of the CRF (circle one)? YES NO
- 2) Are there known records of CRF within 1.6 km (1 mi) of the site (circle one)? YES NO
If yes, attach a list of all known CRF records with a map showing all locations.

GENERAL AQUATIC HABITAT CHARACTERIZATION

(if multiple ponds or streams are within the proposed action area, fill out one data sheet for each)

POND:

Size: _____ Maximum depth: _____

Vegetation: emergent, overhanging, dominant species: _____

Substrate: _____

Perennial or Ephemeral (*circle one*). If ephemeral, date it goes dry: _____

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

STREAM:

Bank full width: _____

Depth at bank full: _____

Stream gradient: _____

Are there pools (circle one)? YES NO

If yes,

Size of stream pools: _____

Maximum depth of stream pools: _____

Characterize non-pool habitat: run, riffle, glide, other: _____

Vegetation: emergent, overhanging, dominant species: _____

Substrate: _____

Bank description: _____

Perennial or Ephemeral (*circle one*). If ephemeral, date it goes dry: _____

Other aquatic habitat characteristics, species observations, drawings, or comments:

Necessary Attachments:

1. All field notes and other supporting documents
2. Site photographs
3. Maps with important habitat features and species location

Appendix E.

California Red-legged Frog Survey Data Sheet

This data sheet is to assist in the data collection during surveys for California red-legged frogs in areas with potential habitat. This data sheet is intended to assist in the preparation of a final report on the field surveys as detailed in the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance) issued by the U.S. Fish and Wildlife Service (Service). Before completing this data sheet, a site assessment should have been conducted using the Guidance and the Service should have been contacted to determine whether surveys are required. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance. To avoid and minimize the potential of harassment to California red-legged frogs, all survey activities shall cease once an individual California red-legged frog has been identified in the survey area, unless prior approval has been received from the appropriate Service Fish and Wildlife Office. The Service shall be notified within three (3) working days by the surveyor once a California red-legged frog is detected, at which point the Service will provide further guidance. Surveys should take place in consecutive breeding/non-breeding seasons (*i.e.*, the entire survey period, including breeding and non-breeding surveys should not exceed 9 months). It is important that both the breeding and non-breeding survey be conducted during the time period specified in the Guidance. Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval. The survey consists of two (2) day and four (4) night surveys during the breeding season and one (1) day and one (1) night surveys during the non-breeding season.

All California red-legged frog life stages should be surveyed for. Surveyors may detect larvae but not be able to identify this life stage to species as handling any life stage of the California red-legged frog necessitates a valid 10(a)(1)(A) permit. If the larval life stage is the only life stage detected and the larvae are not identified to species, the surveyor must either return to the habitat to identify the frog in another life stage or have a valid 10(a)(1)(A) permit allowing the surveyor to handle California red-legged frogs and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

Appendix E.
California Red-legged Frog Survey Data Sheet

Survey results reviewed by _____
(FWS Field Office) (date) (biologist)

Date of Survey: _____ Survey Biologist: _____
(mm/dd/yyyy) (Last name) (first name)

Survey Biologist: _____
(Last name) (first name)

Site Location: _____
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

****ATTACH A MAP** (include habitat types, important features, and species locations)**

Proposed project name: _____
Brief description of proposed action:

Type of Survey (circle one): **DAY** **NIGHT** **BREEDING** **NON-BREEDING**

Survey number (circle one): **1** **2** **3** **4** **5** **6** **7** **8**

Begin Time: _____ End Time: _____

Cloud cover: _____ Precipitation: _____

Air Temperature: _____ Water Temperature: _____

Wind Speed: _____ Visibility Conditions: _____

Moon phase: _____ Humidity: _____

Description of weather conditions: _____

Brand name and model of light used to conduct surveys: _____

Were binoculars used for the surveys (circle one)? **YES** **NO**

Brand, model, and power of binoculars: _____

Appendix E.
California Red-legged Frog Survey Data Sheet

AMPHIBIAN OBSERVATIONS

Species	# of indiv.	Observed (O) Heard (H)	Life Stages	Size Class	Certainty of Identification

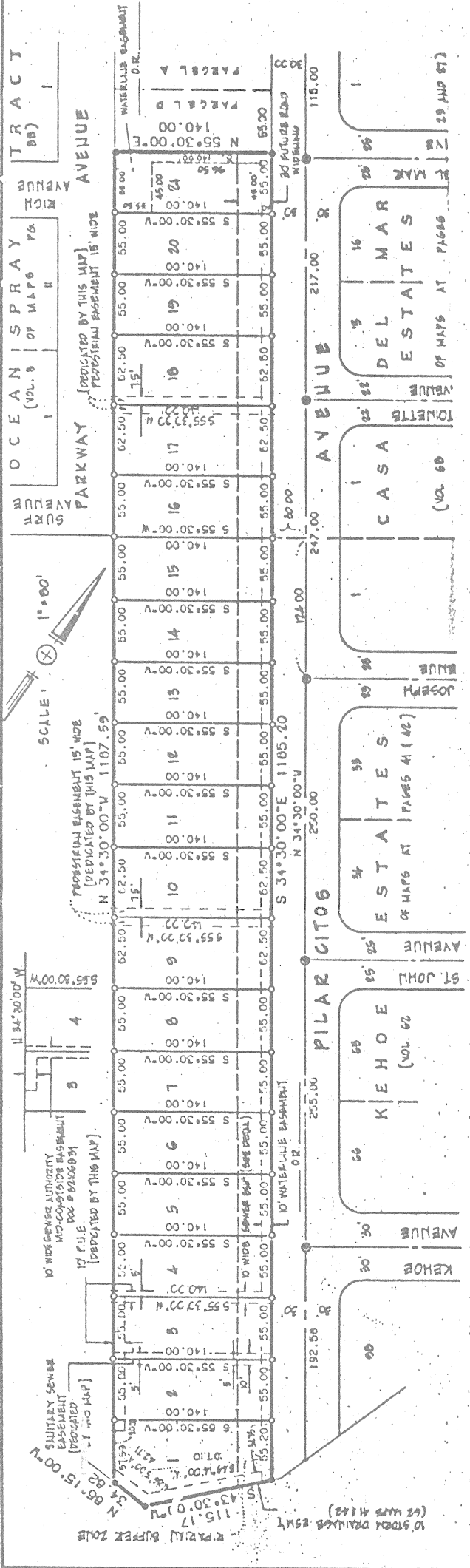
Describe potential threats to California red-legged frogs observed, including non-native and native predators such as fish, bullfrogs, and raccoons: _____

Other notes, observations, comments, *etc.*

Necessary Attachments:

4. All field notes and other supporting documents
5. Site photographs
6. Maps with important habitat features and species locations

118/44



BASIS OF BEARINGS
THE BEARING NORTH 34°30'00" WEST OF THE CENTERLINE OF PARKWAY AVENUE AS SHOWN ON MAP OF "KEHOE ESTATES MAP MOON BAY, SAN MATEO COUNTY, CALIFORNIA" FILED IN VOLUME 62 OF MAPS AT PAGE 41 AND 42 SAN MATEO COUNTY RECORDS WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

SOILS REPORT
THE SOILS REPORT HAS BEEN PREPARED BY THE FIRM OF TERRACERAMA, INC. DATED AUGUST 17, 1976 AND SIGNED BY WISSAM AMER REGISTERED CIVIL ENGINEER NO. 19,674, STATE OF CALIFORNIA.

NOTES AND LEGEND
ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
THE AREA WITHIN THE DISTRICTIVE BOUNDARY CONTAINS AN AREA OF 3.844 ACRES.
LOT 1: CONTAINS AN AREA OF 9,437 SQUARE FEET
LOTS 1-8, 11-16 AND 19-21 CONTAIN AN AREA OF 7,100 SQUARE FEET
LOTS 9, 10, 17 AND 18 CONTAIN AN AREA OF 6,150 SQUARE FEET
INDICATES ROUND SQUARE CITY MONUMENT
INDICATES ROUND 3/4" IRON PIPE, AS NOTED
INDICATES 3/4" IRON PIPE, TO BE SET WITHIN 24" ± 13.75
INDICATES DISTINGUISHING PERIMETER BOUNDARY LINE

LEER'S STATEMENT
BY A KANGAS, A REGISTERED CIVIL ENGINEER WITH LAND SURVEY PRIVILEGES IN THE STATE OF CALIFORNIA, I STATE THAT THIS FULL MAP AND SURVEY WERE MADE UNDER MY DIRECTION, I SURVEYED THE PROPERTY DURING THE MONTH OF OCTOBER 1976. THE MAP IS TRUE AND COMPLETE AS SHOWN. THE MONUMENTS ARE OF A CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR WILL BE LOCATED THEREIN AT OR BEFORE APRIL 1980 AND THAT SUCH MONUMENTS ARE SUFFICIENT TO IDENTIFY THE PROPERTY AND THAT THE SURVEY TO BE REPRODUCED.

5/19/80
S. KANGAS
REGISTERED CIVIL ENGINEER
NO. 13776
EXP. 3-31-85
DATE: 5-31-80

ENGINEER'S STATEMENT
I STATE THAT I HAVE EXAMINED THE FULL MAP OF THE ST. JOHN SUBDIVISION UNIT NO. 3, THAT THE MAP AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND ALL ORDINANCES APPLICABLE AT THE TIME OF THE TENTATIVE MAP, HAVE BEEN COMPLIED WITH, AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

5/17/80
WILLIAM H. CROWELL
REGISTERED CIVIL ENGINEER
NO. 10,109
EXP. DATE: 6-30-83
CITY OF HALF MOON BAY

CITY CLERK'S STATEMENT
I, EUPHEMIA GUEST, THE CITY CLERK OF THE CITY OF HALF MOON BAY, SAN MATEO COUNTY, CALIFORNIA, HEREBY STATE THAT THE CITY COUNCIL OF SAID CITY OF HALF MOON BAY, BY A RESOLUTION, ADOPTED AT A REGULAR MEETING OF SAID COUNCIL, HELD ON THE 17TH DAY OF JUNE, 1980, DID ONLY APPROVE THE ACCOMPANYING MAP DID NOT ACCEPT ALL EASEMENTS UNDER OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS PUBLIC EASEMENT (PUE), PREEXISTING EASEMENTS AND SAID CITY SEWER EASEMENT AS SHOWN ON SAID MAP WITHIN SAID SUBDIVISION, AS NOTED IN THE STATEMENT SHOWN HEREON.

5/17/80
EUPHEMIA GUEST, CITY CLERK
CITY OF HALF MOON BAY
SAN MATEO COUNTY, CALIFORNIA

ST. JOHN SUBDIVISION UNIT NO. 3
BEING A RESUBDIVISION OF LOTS 99, 100, 101, 102, 103, AND 104, KEHOE ESTATES RECORDED IN VOLUME 62 OF MAPS AT PAGES 41 AND 42 AND A PORTION OF PARCELS E AS SHOWN ON MAP ENTITLED "CASA DEL MAR ESTATES" RECORDED IN VOLUME 68 OF MAPS AT PAGES 25 AND 26, SAN MATEO COUNTY RECORDS
CITY OF HALF MOON BAY # # SAN MATEO COUNTY # # CALIFORNIA #
SCALE: 1"=80'
DATE: MAY 1980

BRIAN KANGAS • FOULK
CONSULTING ENGINEERS
540 Prisco Avenue, Redwood City, CA 94063
(415) 365-0412

SHEET 1 OF 1
C-76103-3

Rec'd and examined by: S. Maxwell
Indexed by: S. Maxwell

XXXXX SUBDIVISION MAP
LIC. LAND SURVEY MAP
ASSESSMENT MAP
PARCEL MAP

REQUEST OF North American Title Inc. to
DATE June 30, 1988 TIME 1:14 p.m. MAP/SERIAL NO. 85083774 FEE \$55.00
TITLE (Sub and/or Tract) St. John Subdivision Unit No. 3 being a resubdivision of Lots 99, 100, 101, 102 and 104, KeHOE Estates recorded in Volume 62 of Maps at Pages 41 and 42 and a portion of Parcel E as shown on Map entitled "Casa Del Mar Estates" recorded in Volume 68 of Maps at Pages 25 and 26, San Mateo County Records. City of Half Moon Bay.

VOL NO. 118 (MAPS) PAGE NO. 44
VOL NO. (LIC. LAND SURVEY MAP) PAGE NO.
VOL NO. (ASSESSMENT MAP) PAGE NO.
VOL NO. (PARCEL MAP) PAGE NO.

BENEFICIA
STATE OF CALIFORNIA
COUNTY OF San Mateo
ON May 31, 1988, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED William H. Crowell and Euphemie H. Crowell, PERSONALLY KNOWN TO ME (OR PROVED TO ME AS THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME, AS BELIEFING.

WITNESS MY HAND AND OFFICIAL SEAL:
MY COMMISSION EXPIRES: 9/7/88
SIGNATURE: William H. Crowell
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

COUNTY RECORDER'S STATEMENT
FILE NO. _____
FEE _____
FILED FOR RECORD THIS DAY OF _____, 1988, AT _____
OF _____ OF MAPS AT PAGE _____
OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AT THE REQUEST OF _____
WILLIAM H. CROWELL, COUNTY RECORDER BY: Debra A. Veltrop
DEPUTY

OWNER'S STATEMENT
WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID PROPERTY, AND WE HEREBY CONSENT TO THE MAKING AND RECORDING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTRICTIVE BOUNDARY LINE.

WE HEREBY PRETEND TO PUBLIC EASEMENT USE THOSE STRIPS OF LAND SHOWN HEREON AS PUBLIC UTILITY EASEMENT, SANITARY SEWER EASEMENT AND PUBLIC UTILITY EASEMENT (PUE). SAID SANITARY SEWER EASEMENT AND PUBLIC UTILITY EASEMENT BEING DEDICATED SUBJECT TO THE CONDITION THAT ALL FACILITIES BE INSTALLED UNDERGROUND OF FLUSH WITH THE GROUND.

WE ALSO HEREBY RELINQUISH THE RIGHT TO BUILD ANY STRUCTURES WITHIN THE RIPARIAN BUFFER ZONE AS SHOWN ON THIS MAP.

AS OWNER:
WILLOW CORP., A CALIFORNIA CORPORATION
BY: William H. Crowell
WILLIAM H. CROWELL
ELEANORE H. CROWELL

AS BELIEFIARY TO A DEED OF TRUST UNDER DOCUMENT NO. 88028612
BAY AREA BANK, A CALIFORNIA CORPORATION
BY: William H. Crowell
WILLIAM H. CROWELL
ELEANORE H. CROWELL

OWNER'S ACKNOWLEDGEMENT
STATE OF CALIF.)
COUNTY OF San Mateo)
ON May 31, 1988, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED William H. Crowell and Euphemie H. Crowell, KNOWN TO ME (OR PROVED TO ME AS THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT, AND KNOWN TO ME (OR PROVED TO ME AS THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION, AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BY-LAWS, OR BY A RESOLUTION OF ITS BOARD OF DIRECTORS, AS OWNER.

WITNESS MY HAND AND OFFICIAL SEAL:
MY COMMISSION EXPIRES: 9/7/88
SIGNATURE: William H. Crowell
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

NOTARY PUBLIC
MARTIN J. WILLOUGHBY
NOTARY PUBLIC, CALIF.
SAN MATEO COUNTY
My Commission Expires Sept. 7, 1988

LAW OFFICES
ATCHISON, BARISONE, CONDOTTI & KOVACEVICH

A PROFESSIONAL CORPORATION

JOHN G. BARISONE
ANTHONY P. CONDOTTI
GEORGE J. KOVACEVICH
BARBARA H. CHOI
LAUREN C. VALK
CASSIE BRONSON
REED W. GALLOGLY

PO BOX 481
SANTA CRUZ, CALIFORNIA 95061-0481
WEBSITE: WWW.ABC-LAW.COM

TELEPHONE: (831) 423-8383
FAX: (831) 576-2269
EMAIL: ADMIN@ABC-LAW.COM

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.

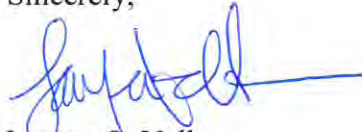
Mr. Benjamin points to a past project description that states that the “total site, parcels 1 and 2 shall be cleared of all existing vegetation” and claims that this shows that the Caltrans mitigation project site was not limited to the area shown on the amendment map or the 2.5 acres former landfill. 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,



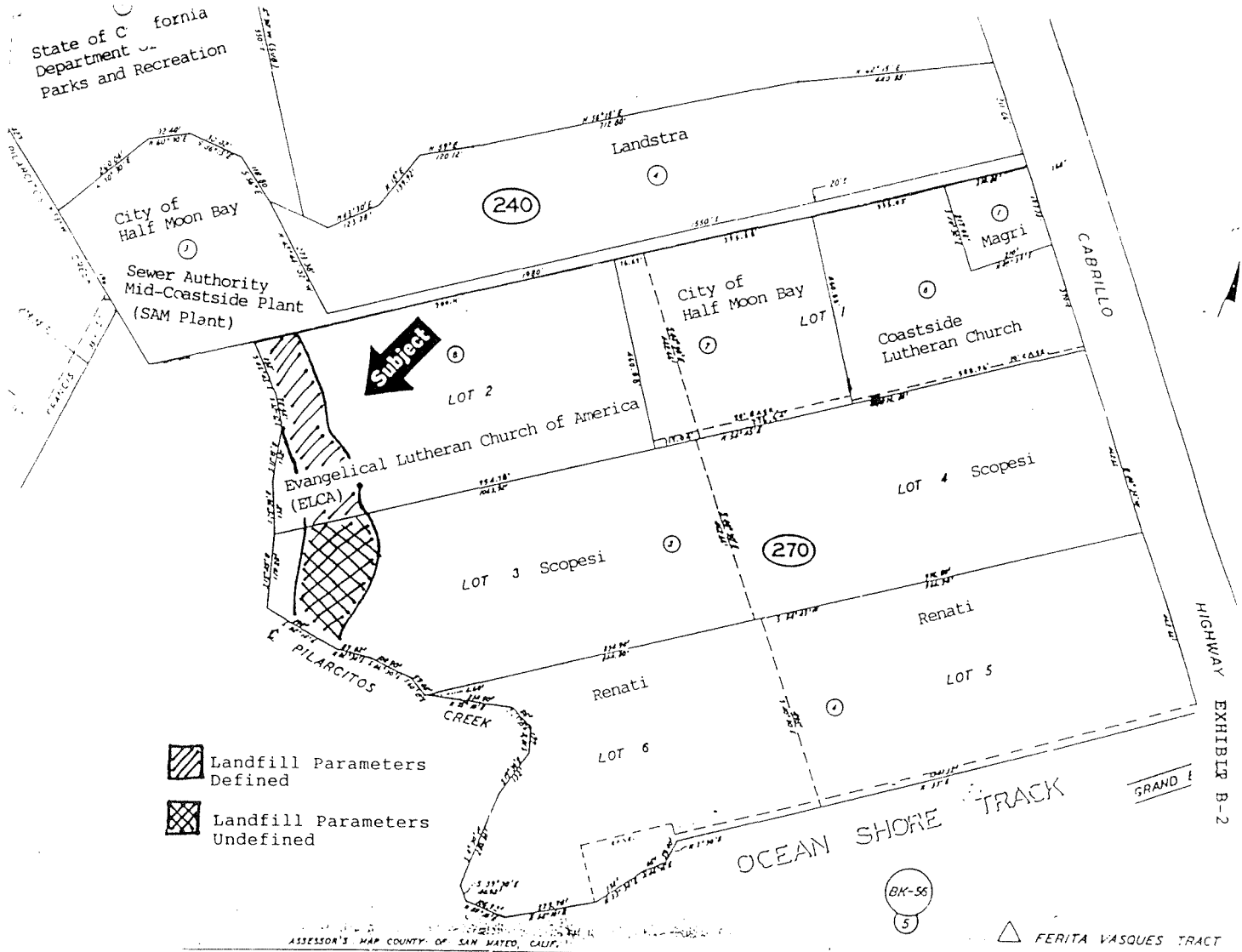
Lauren C. Valk
Deputy City Attorney

LCV/ak

City of Half Moon Bay

Exhibit "A"

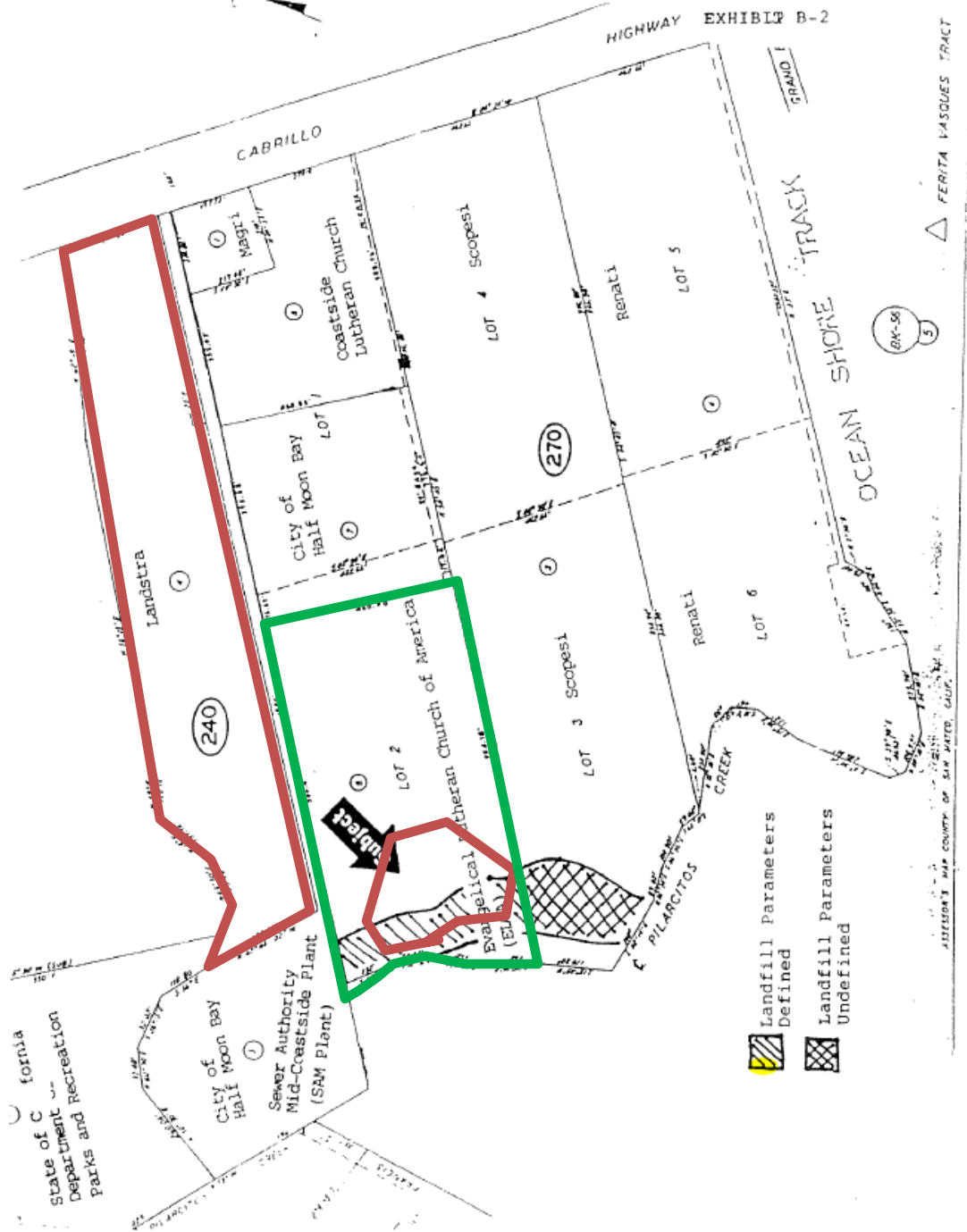
Vicinity Map
CDP-01-96



Vicinity Map
CDP-01-96

Habitat as Designated by City

Additional Habitat per USFWS





United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

IN REPLY REFER TO
1-1-01-TA-569

December 20, 2000

Mr. Michael Martin
Associate Planner
City of Half Moon Bay
City Hall, 501 Main Street
Half Moon Bay, California 94019

Subject: Half Moon Bay Public Works Department Maintenance Yard (PDP-74-99), Half Moon Bay, San Mateo County, California

Dear Mr. Martin:

The U.S. Fish and Wildlife Service (Service) received the May 4, 2000, Initial Study and Proposed Mitigated Negative Declaration (Initial Study) for the proposed Public Work Maintenance Yard, on December 8, 2000. We understand that you previously sent the document to our old offices on El Camino Avenue in Sacramento. The Service has reviewed the Initial Study and is concerned about the possible effects of the proposed project on the federally endangered San Francisco garter snakes (*Thamnophis sirtalis tetrataenia*) (garter snake) and the federally threatened California red-legged frog (*Rana aurora draytonii*) (red-legged frog).

Section 9 and the implementing regulations in section 4(d) of the Act prohibit the "take" of any federally listed endangered species by any person subject to the jurisdiction of the United States. As defined in the Act, take means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" has been further defined to include habitat destruction when it kills or injures a listed species by interfering with essential behavioral patterns such as breeding, foraging, or resting.

PROJECT IMPACTS AND MITIGATION

Section 9 and the implementing regulations in section 4(d) of the Act prohibit the "take" of any federally listed endangered species by any person subject to the jurisdiction of the United States. As defined in the Act, take means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" has been further defined

Mr. Michael Martin

to include habitat destruction when it kills or injures a listed species by interfering with essential behavioral patterns such as breeding, foraging, or resting.

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required, if it is determined that the proposed project may affect a federally listed species. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved with the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a) of the Act would need to be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be affected by the project.

PROJECT DESCRIPTION

The proposed project includes the construction of a maintenance yard for the City of Half Moon Bay (City) Public Works Department. The project site is approximately 900 feet long and 460 feet deep. The project would include two metal building each of which is approximately 1,200 square feet and a garage/maintenance shop. It also includes a parking lot for 22 City cars and employee parks, a car wash area, and a landscaped berm along the northern boundary of the property.

The project proposes a 50-foot buffer from the riparian corridor and a 100-foot buffer from any wetland.

California Red-legged Frog

As noted in the Initial Study, the proposed project is located west of Pilarcitos Creek and the Caltrans' wetland mitigation project. Red-legged frogs are known to occur and breed on the Caltrans' wetland mitigation site. We believe that the project site provides habitat for red-legged frogs. Red-legged frogs disperse over upland areas to reach other breeding sites or retreat to burrows found in upland sites when aquatic habitat dries to such an extent that it becomes temporarily unsuitable. Service staff viewed the project site on December 6, 2000, and observed suitable habitat features (*i.e.* rodent burrows) for red-legged frogs. The project site may also lie within the proposed critical habitat designation for red-legged frogs.

The project proponent proposes to maintain a 50-foot buffer from riparian habitat or sensitive species habitat and a 100-foot buffer from any wetland. As stated above, upland habitat provides important features for red-legged, therefore, the Service recommends a minimum 300-foot buffer from the edge of wetland habitat to provide retreat sites and dispersal capabilities. We believe that the proposed buffers are inadequate to meet the life history requirements of the red-legged frog and would result in adverse impacts to this habitat.

Mr. Michael Martin

3

San Francisco garter snake

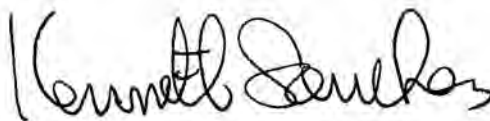
LSA Associates, Inc. (LSA), biological consultants for the project proponent, prepared a biological report for the proposed project. LSA states in their report that Caltrans' mitigation site provide habitat for the garter snake, but that the project site does not provide habitat for garter snakes. LSA appears to base that assumption, in part, on the fact that they did not observe garter snakes on the site during a March walk through survey. Garter snake surveys are generally conducted between the months of May and October. Although garter snakes may be occasionally above ground throughout the year in warmer inland climates, cool weather during the winter and early spring months would make it extremely unlikely that garter snakes would be observe above ground. Given that garter snakes are extremely rare, it is unlikely that a garter snake would be observed during one walk through survey. However, even if garter snakes were not found on the site at the time of the survey, the Service is extremely concerned about the continued loss of habitat for garter snakes, and, that if habitat loss continues without adequate compensation through habitat protection, the chances of recovering the garter snake becomes extremely unlikely.


Garter snakes, like red-legged frogs, typically spend a large portion of their life associated with wetlands and ponds. They are, however, also dependent on upland habitat during certain life stages. Garter snakes hibernate in burrows and other underground feature found in adjacent uplands during the winter, and use may use the same underground features during summer months while shedding their skins or during the last stages of pregnancy prior to giving live-birth.

Garter snakes feed almost exclusively on Pacific treefrogs and red-legged frogs. Therefore, the presence of Pacific tree frogs and red-legged frogs at the Caltrans' mitigation site, combined with the fact that a garter snake has been observed at the mouth of Pilarcitos Creek, makes it extremely likely that garter snakes utilize Pilarcitos Creek and the adjacent upland habitat.

Therefore, the Service believes the project site to constitute garter snake and red-legged frog habitat, and adverse impacts of such habitat requires the applicant to receive the appropriate authorization as described above. Please contact Sheila Larsen or Ken Sanchez at (916) 414-6625 to discuss the proposed project.

Sincerely,


for Karen J. Miller
Chief, Endangered Species Division



cc: C. Wilcox, CDFG, Yountville, CA
R. Vonarb, Caltrans, Oakland, CA
S. Foreman, LSA, Pt. Richmond, CA

Rexing, Stephanie@Coastal

From: Jimmy Benjamin <jimmyinhmb@gmail.com>
Sent: Tuesday, February 03, 2015 1:24 PM
To: Rexing, Stephanie@Coastal
Subject: FW: CCWD pipeline project

Hi Stephanie,

Here is the note from Dan Cordova concerning the USFWS view that the CCWD staging area is occupied by CRLF.

- Jimmy

From: Cordova, Dan [mailto:dan_cordova@fws.gov]
Sent: Tuesday, April 15, 2014 12:12 PM
To: Jimmy Benjamin
Cc: Rexing, Stephanie@Coastal
Subject: Re: CCWD pipeline project

Mr. Benjamin,

The Service does consider the area detailed in your email (and indicated on the GooleEarth link you provided) occupied by the CRLF and SFGS. Your email states there should be "several placemarkers" on the linked image. I can only see one when I open the link. Are there supposed to be more?

Sincerely,

Dan

Dan Cordova
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Coast Bay Forest Foothills Division
Sacramento Fish and Wildlife Office
2800 Cottage Way
Sacramento, CA 95825
916-414-6600

On Mon, Apr 14, 2014 at 4:29 PM, Jimmy Benjamin <jimmyinhmb@gmail.com> wrote:

Dear Mr. Cordova:

Attached to this email please find a GoogleEarth link to an area within the City of Half Moon Bay containing several placemarkers. You are familiar with the Kehoe Watercourse, the Landstra parcel and the Caltrans mitigation wetlands which I understand that the Service considers occupied by the California red-legged frog and San Francisco garter snake.

The purpose of this email is to call attention to an area east of the Sewer Authority Mid-Coastside wastewater treatment plant and south of the road providing access to it. It is marked "Staging Area for CCWD pipeline project" on the linked map. This portion of a City-owned parcel was used in 2008 by the Coastside County Water District to hold equipment and material used in one of their larger projects within Half Moon Bay. At the moment, the area has ruderal vegetation and some agglomerate in which perhaps a dozen plants were placed and allowed to desiccate.

I have sought comments from Coastal Commission staff concerning the City of Half Moon revegetation project for this area, and have sent you a copy of my letter and referenced exhibits. Pursuant to that project, it would be helpful to know the Service considers the CCWD pipeline project area to be occupied by CRLF and SFGS.

Sincerely,

- James Benjamin

Rexing, Stephanie@Coastal

From: Larsen, Sheila <sheila_larsen@fws.gov>
Sent: Wednesday, June 24, 2015 2:32 PM
To: Rexing, Stephanie@Coastal
Subject: Half Moon Bay Property LCP map

Stephanie,

This is to confirm that the Service stands by its determination made in a December 20, 2000 letter stating that the entire 9.8 (approximately) acre parcel west (aka "Landstra Parcel") of Highway 1 and adjacent to the Kehoe Watercourse constitutes habitat for the California red-legged frog (*Rana draytonii*) and San Francisco garter snake (*Thamnophis sirtalis tetrataeni*).

In addition, the entire parcel, APN 048-270-080, identified in the previous attachment as Lot 2 previously owned by Evangelical Lutheran Church of American is California red-legged frog and San Francisco garter snake habitat.



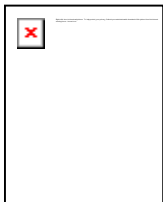
Thank you,
Sheila Larsen
Senior Staff Biologist
U.S. Fish and Wildlife Service
916.414.6685

Thanks,
Sheila
916.414.6685

No trees were killed in the sending of this message, but
a large number of electrons were greatly inconvenienced.

The wind flew. God told to wind to condense itself and out of the flurry came the horse. But with the spark of spirit the horse flew by the wind itself.

- Marguerite Henry King of the Wind



RANA RESOURCES
P.O. Box 2185
Davis, CA 95617-2185

(530) 753-2727
RanaResources@aol.com

#17,388
June 17, 2015

Stephanie R. Rexing
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Subject: City of Half Moon Bay owned land south of the SAM Plant.

Dear Stephanie:

This letter is in regards to my California red-legged frog (*Rana draytonii*; CRLF) habitat assessment of the City of Half Moon Bay owned land south of the SAM Plant. According to the City, these 9.8 acres of land [=A.P.N. 048-270-080] are not habitat used by CRLF. Based on my familiarity with the adjacent Caltrans CRLF mitigation pond site, Kehoe Ditch, and Pilarcitos Creek, it is my professional opinion that these 9.8 acres are currently being used by juvenile and adult CRLF as foraging habitat, especially during rainfall periods and seasons when the area receives significant ground surface moisture from foggy weather. This is because the parcel in question is immediately adjacent to known occupied CRLF breeding, foraging, and rearing habitat, and there are no barriers to prevent CRLF from moving to and from this parcel. Based on a number well-documented records submitted to the California Natural Diversity Data Base, CRLF have been found foraging in the residential areas to the north of Kehoe Ditch. Since frogs have been found to move this far from Pilarcitos Creek and the adjacent Caltrans CRLF mitigation pond, then they can easily be considered to move a similar distance within the City's parcel to the south and east.

Besides the above, the lands on the parcel that are adjacent to Pilarcitos Creek should also be considered suitable hibernation habitat for San Francisco gartersnakes (*Thamnophis sirtalis tetrataenia*; SFGS). This species is known to inhabit Pilarcitos Creek and probably forages for CRLF in the Caltrans CRLF mitigation pond area. Since upland areas provide hibernation habitats safe from creek side flooding, there is a very high probability that SFGS are utilizing the parcel in question at least for part of the year..

In closing, I would like to point out that my opinions regarding CRLF and SFGS habitat on the parcel in question are nothing new. Other professional biologists have stated over the past 15 years that the parcel is CRLF and SFGS habitat (e.g., see Miller 2000; and H.T. Harvey and Associates 2005). My professional opinion is merely another confirmation in more recent years that previous CRLF and SFGS habitat assessments remain valid for the positive presence of these species.

Stephanie R. Rexing
June 17, 2015
Page 2.

Thank you allowing me to provide my comments. Please let me know if you have any questions on the above.

Sincerely,

A handwritten signature in blue ink that reads "Mark R. Jennings". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Mark R. Jennings
President and
Herpetologist/Fisheries Biologist

Documents Cited

- Miller, K J. 2000. December 20, 2000 letter from Karen J. Miller (signed by Kenneth Sanchez) to Michael Martin, Associate Planner, City of Half Moon Bay, regarding Half Moon Bay Public Works Department Maintenance Yard (PDP-74-99). 4 p.
- H. T. Harvey and Associates. 2005. October 13, 2005 letter to John Foley, Sewer Authority Mid-Coastside, Half Moon Bay, from Max Busnardo, H. T. Harvey and Associates, San Jose, regarding the Sewer Authority Mid-Coastside Biotic Constraints Assessment for A.P.N. 048-240-040, J.P.N. 048-024-240-04. 15 p.

Rexing, Stephanie@Coastal

From: Jimmy Benjamin <jimmyinhmb@gmail.com>
Sent: Thursday, June 05, 2014 10:08 AM
To: Rexing, Stephanie@Coastal; Dan_Cordova@fws.gov; Deleon, Suzanne@Wildlife; Sheila Steen Larsen
Subject: Another CRLF observation
Attachments: Document.pdf

FYI, attached spring 2014 report of egg masses at Caltrans mitigation pond. I recently spoke with Richard, who mentioned that he saw another young CRLF there just the other day. Additional water from Kehoe Watercourse would certainly boost the biological productivity of this area.

- Jimmy

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
1807 13th Street, Suite 202
Sacramento, CA 95811
Fax: (916) 324-0475 email: CNDDDB@wildlife.ca.gov

For Office Use Only

Source Code _____ Quad Code _____
Elm Code _____ Occ. No. _____
EO Index No. _____ Map Index No. _____

Date of Field Work (mm/dd/yyyy): 03/15/2014

Reset

California Native Species Field Survey Form

Send Form

Scientific Name: *Rana draytonii*

Common Name: California Red-Legged Frog

Species Found? ☒ Yes ☐ No If not, why? _____
Total No. Individuals 4 Subsequent Visit? ☒ yes ☐ no
Is this an existing NDDDB occurrence? ☐ no ☐ unk.
Yes, Occ. # _____
Collection? If yes: _____
Number _____ Museum / Herbarium _____

Reporter: Richard Vonarb
Address: Caltrans, P.O. Box 23660, Oakland CA 94623
E-mail Address: richard_vonarb@dot.ca.gov
Phone: (510) 286-6221

Plant Information

Phenology: _____% vegetative _____% flowering _____% fruiting

Animal Information

adults _____ # juveniles _____ # larvae _____ # egg masses 4 # unknown _____
☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

County: San Mateo Landowner / Mgr.: City of HMB/Caltrans Mit Site For SM-92 Project
Quad Name: Half Moon Bay Elevation: _____
T_{SS} R_{SW} Sec _____ 1/4 of _____ 1/4, Meridian: ☐ H ☐ M ☐ S Source of Coordinates (GPS, topo. map & type): USGS Topo
T_{SS} R_{SW} Sec _____ 1/4 of _____ 1/4, Meridian: ☐ H ☐ M ☐ S GPS Make & Model _____
DATUM: NAD27 ☐ NAD83 ☐ WGS84 ☐ Horizontal Accuracy _____ meters/feet
Coordinate System: UTM Zone 10 ☐ UTM Zone 11 ☐ OR Geographic (Latitude & Longitude) ☐
Coordinates: _____

Habitat Description (plants & animals) plant communities, dominants, associates, substrates/soils, aspects/slope:

Animal Behavior (Describe observed behavior, such as territorially, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):

4 egg masses found in the pond area within the mitigation site

Please fill out separate form for other rare taxa seen at this site.

Site Information Overall site/occurrence quality/viability (site + population): ☐ Excellent ☒ Good ☐ Fair ☐ Poor

Immediate AND surrounding land use: Pilarcitos Creek (west), Wastewater Treatment Plant (north), Ag Row Crops (south)

Visible disturbances:

Threats:

Comments: This is an existing NDDDB occurrence. (for some reason the box above did not accept typing) I previously sent in a form dated February 11, 2000.

Determination: (check one or more, and fill in blanks)

- ☒ Keyed (cite reference): Amphibians & Reptiles Of California
☐ Compared with specimen housed at: _____
☒ Compared with photo / drawing in: Amphibians & Reptiles Of California
☐ By another person (name): _____
☒ Other: Also identified in subsequent visits by Dr. Samuel McCannis & Hillary Hedge

Photographs: (check one or more) Slide Print Digital
Plant / animal ☐ ☐ ☐
Habitat ☐ ☐ ☐
Diagnostic feature ☐ ☐ ☐

May we obtain duplicates at our expense? yes ☐ no ☐

CDFWBDB1747 Rev. 4/20/13

Rexing, Stephanie@Coastal

From: Jimmy Benjamin <jimmyinhmb@gmail.com>
Sent: Wednesday, December 17, 2014 12:42 PM
To: Rexing, Stephanie@Coastal
Subject: Half Moon Bay CC adopts resolution amending LCP HAWRO and 18.38.020 sensitive coastal resource maps, and direct staff to xmit to CCC for certification
Attachments: 2014 12 16 comment on staff report.pdf; 2014 12 16 staff report.pdf

Hi Stephanie,

Last night by City Council voted 3-2 to amend its maps to add the Kehoe watercourse and the Landstra parcel to the subject maps. However, only the westernmost part of the Caltrans Mitigation Project site was included in the amendment, notwithstanding the attached 3-page letter and attachments. There was no discussion about the request that public and inter-agency correspondence be included in the record to be transmitted to the Coastal Commission.

The agenda report, including the resolution adopted by the City Council, is also attached.

I ask that the attached and previously forwarded letters be part of the Commission record when the item is reviewed for certification, and would appreciate the chance to discuss at your convenience the process for considering certification of these map changes.

With thanks,

- Jimmy

James Benjamin
400 Pilarcitos Avenue
Half Moon Bay, CA 94019
16 December 2014

The Honorable Mayor Marina Fraser and City Council
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

Dear Mayor Fraser and members of the City Council:

Council is reconsidering its previously approved LCP amendment resolution to implement this part of the settlement agreement. The revision before the Council tonight addresses most of the original amendment's problems, but I write in support of two previously requested changes to the reintroduced ordinance.

- (1) Please revise amendment Exhibits A-1 and B-1 to show the Caltrans mitigation project site as defined by Caltrans mitigation site project document entitled "Exhibit 'B', Site Map, CDP-01-96.

The amended maps (Council packet pp220, 222) still understate by several acres the size of the 1996 Caltrans mitigation project site, which is clearly identified in that project's documents. The report from City staff instead asserts the 1996 project site is defined by a 2005 study of the Kehoe Watercourse. Tonight's staff report omits and misstates my November 17 and 18, 2014 public comment as calling for only 2.5 ac that was once a refuse site, when in fact comments call for the entire Caltrans mitigation project site to be protected.

- (2) Please ensure the record of evidence that was considered includes the City's written correspondence to and from the public and regulatory agencies, and that this record is transmitted with the resolution requesting certification.

Omission of correspondence from the public record reduces public awareness and discourages public involvement, and weakens the Coastal Commission's record of local consideration used during certification review. The transmission of the record to the Commission should include all written public and agency correspondence with the City during all phases of local consideration:

Aug. 2013: City Council directs the planning commission to consider an amendment.
Dec. 2013: Planning Commission recommends Council adopt staff's proposed amendment.
Feb. 2014: City Council adopts
Apr. 2014: City staff transmits amendment to CCC for certification
May 2014: CCC staff raises concerns about amendment clarity
Nov. 2014: City Council introduces revised amendment
Dec. 2014: City Council considers approval and transmission of amendment to CCC

For the following reasons, I respectfully disagree with staff's abuse of the August 2005 Essex Environmental report to protect an area much smaller than the actual Caltrans mitigation project site:

Caltrans mitigation project site boundary asserted in agenda report and shown on maps is unsupported.

The August 2005 Essex map and text cited in tonight's agenda report imply only that ponds are *part* of the Caltrans mitigation project, not that they are the *entire* Caltrans mitigation project site. Essex did not study and made no claims as to the extent of the Caltrans mitigation project. As noted in tonight's agenda report, Essex "located" the ponds c. 0.5 mi south of the Kehoe drainage they were studying, but the wetlands are only 400-500 ft. from the watercourse. The Essex study is not a definitive map source.

Only the approved 1996 Caltrans mitigation project documents provide an authoritative site description.

Copies of the May 23, 1996 agenda report for the project, CDP-01-96 were obtained from both the City of Half Moon Bay and from the California Coastal Commission. The project was approved as presented by the Planning Commission. Other than changing the schedule for truck departures, the City Council upheld the Planning Commission's decision (i.e., denied an appeal) on July 16, 1996. All documents confirm the Caltrans mitigation project site was larger than the wetland or the remediated refuse area. Written testimony provided at the November 18, 2014 public hearing (and accompanying this letter) include a map (page 8) that clearly shows the Caltrans mitigation project site includes not only the remediated area, but also the location of the old corporation yard and areas further east up to and beyond the location of the CCWD's 2008 pipeline project staging area, and extends the full width of the site.

The mitigation project description states "The total site, parcels 1 and 2 shall be cleared of all existing vegetation and the surface grubbed of all remaining root systems and plant debris.... After clearing and grubbing, the upper 24 inches of topsoil in the non-refuse area will be stripped from the site and stockpiled on the inland adjoining parcel owned by the City of Half Moon Bay." [emph. added]

It is clear that the Caltrans mitigation project site is not limited to the area shown on the amendment map, or to the 2.5 acres former landfill; development occurred over full project area shown on the 1996 CDP site map.

The entire Caltrans mitigation project site of CDP-01-96 is habitat containing or supporting SFGS.

The settlement agreement sentence quoted in the agenda report referring to Essex also cites the Rana 2007 study [Ex. 4], which mentions the San Francisco garter snake observation near the mouth of Pilarcitos Creek within ¼ mi of the ditched portion of the Kehoe Watercourse. As can be seen on the attached map, any location on Pilarcitos Creek within ¼ mi of the ditched portion of the Kehoe Watercourse is even closer to the Caltrans mitigation project site's wetlands, which host a breeding colony of California red-legged frog (CRLF), essential prey for SFGS. Page 6 of the H.T. Harvey study (cited in the same agenda report sentence which invokes the Essex study) states that this presence of CRLF makes it likely that SFGS are present. These studies reinforce that upland parts of the Caltrans mitigation project site of CDP-01-96 contain or support SFGS directly through its use of upland areas for foraging, mating, thermoregulation, and its population of CRLF.

The entire Caltrans mitigation project site of CDP-01-06 is habitat containing or supporting CRLF.

Even after overestimating the distance from Caltrans wetland ponds to the Kehoe Watercourse, the Essex text highlighted excerpted the agenda report continues, "These ponds support a healthy breeding population of CRLF (McGinnis, 2005). Based on suitable habitat available along the ditch and near the project site, there is a high potential for CRLF to occur within the [Kehoe Watercourse] project area.

The H.T. Harvey & Associates report also states that CRLF regularly forages 300 feet from aquatic habitat, and can disperse through upland habitats of up to 1.25 miles or more between aquatic habitats.

The Essex and H.T. Harvey reports clearly show the foraging, aestivation and dispersal habitat value of the Caltrans mitigation project site mapped in CDP-01-96 documents.

A portion of the Caltrans mitigation project site is to be natively re-vegetated under the agreement.

The coastal development permit to be obtained by the City under of the settlement agreement includes the restoration of an eastern portion of the Caltrans mitigations project site used in 2008 as a staging area for a CCWD pipeline project. The project restoration is intended to better address the needs of the CRLF. This will further enhance habitat value of the Caltrans project, and is consistent with the settlement agreement's clear intention to protect the area.

After the November meeting at which this amendment was reintroduced, 1996 CDP documents, City Attorney Condotti said he could not see how the CCWD staging area could have been part of the 1996 project, because of the decomposed granite he sees there. Accompanying this letter please find pictures of the project site when it was scraped to construct the staging area. The pictures show some of the many aggregate materials that were graded onto the site prior to the use of heavy construction machinery. I am not aware of any other approved activities taking place on that site since the 1996 project.

Conclusion

Although this amendment may be certified as proposed, it does not meet the City's obligations under settlement agreement paragraph D4. Prior to adoption and submittal to the Coastal Commission for certification, the maps should made consistent with the Caltrans mitigation project boundaries shown in the site map of CDP-01-96.

Following Council approval of the resolution, the request to the Coastal Commission for amendment certification should include the complete public record, including correspondence. This will clarify the concerns raised during local consideration, and incorporate into the public record all documents cited in that correspondence.

The City has already received the full benefits of the agreement settling our legal dispute, and I appreciate the City's accelerating effort to address the amendment section of the agreement. I hope that you will revise the Caltrans mitigation project sites shown in amendment exhibits A-1 and B-1 to match the Caltrans mitigation project site shown on the Caltrans mitigation project site map approved as part of CDP-01-96.

Respectfully,

James Benjamin

City of Half Moon Bay

STAFF REPORT

HEARING DATE: May 23, 1996
TO: Planning Commission
FROM: Amy French
SUBJECT: Coastal Development Permit CDP-01-96

A. PROJECT DATA

1.	Owner/Agent:	Evangelical Lutheran Church of America
2.	Type of Request:	Coastal Development Permit CDP-01-96, to allow remediation of old landfill and restoration of riparian vegetation.
3.	Location:	North Half Moon Bay landfill site near Pilarcitos Creek
4.	Application Date:	May 3, 1996
5.	Existing Zoning:	(PS) Public Service
6.	Surrounding Zoning:	(UR) Urban Reserve (OSA) Open Space Active
7.	LUP Designation:	Public Facilities and Institutions
8.	C.E.Q.A. Status:	Categorically Exempt, Section 15304, land alterations

B. BACKGROUND

The City of Half Moon Bay has entered into an agreement with the Evangelical Lutheran Church of America to purchase 9.8 acres of land for park purposes subject to the clean-up of an old landfill which covers two and one-half acres of the site. The City currently leases a small portion of the site for the corporation yard. The private landfill, called the North Half Moon Bay Landfill, extends to Pilarcitos Creek and also south of the parcel, onto the Scopesi parcel. The landfill is comprised of domestic garbage with small amounts of contaminants that will require varying amounts of Class I, II, and III disposal.

At this time, only the 2.5 acre landfill area on the ELCA parcel will be remediated, because this remediation project has been funded by the San Mateo County Transportation Authority and the clean-up of this site and vegetation replacement is included as a mitigation measure in the EIR for the CalTrans Highway 92 widening project. The City anticipates receiving final approval of matching grant funding from the State Integrated Waste Management Board on May 23, 1996.

City of Half Moon Bay

The Integrated Waste Management Board were approached by the Scopesi parcel representatives, who have protested the award of funding for the 2.5 acres because they were not included in the City's request for funding. The Scopesi parcel landfill remediation is not a part of this project because the property owners have yet not defined the parameters of the landfill on their property, which was a requirement for requesting such funding. At their meeting on May 10, the Integrated Waste Management Board Committee determined, after consideration was given to the Scopesi representative's letter of protest, that the funding should be awarded for the partial landfill clean-up and placed on the Consent Agenda for the Board's May 23rd meeting. Grant funding for the remediation of the Scopesi property may be made available in the future, and the City is still interested in assisting the Scope's in pursuing such funding.

At their meeting on May 7, 1996, the City Council awarded contract for the remediation project. No site-work can be performed until a Coastal Development Permit has been issued. The City of Half Moon Bay recently received Coastal Permitting authority, and this is the first such permit to be reviewed by the City.

The site was posted, notices were mailed to adjoining property owners, and a public notice was sent to the Half Moon Bay Review for publication on May 8, 1996. The State Department of Fish and Game, State Integrated Waste Management Board, Army Corps of Engineers and San Mateo County Environmental Health Division have provided concept approvals for the project.

C. SUBJECT PROPERTY/PROJECT DESCRIPTION

The 9.8 acre parcel is bounded by Pilarcitos Creek to the west, the Scopesi property to the south, the City's five acre parcel to the east, and the access road to the Sewer Authority Mid-Coastside treatment plant to the north. The site is mainly agricultural land overgrown with brush, with a portion of the site used for the City corporation yard, and a portion adjacent to the creek which contains riparian vegetation. The creek is currently eroding the bank of the old dump site and exposing waste material.

A 1994 site investigation showed that the refuse consisted of scrap metal, motor oil containers, household garbage, 55-gallon drum lids, white goods, glass, plastics, concrete, and construction debris. The objective of the remediation is to remove an estimated 14,000 cubic yards of waste in the 2.5 acre and replace the excavated area with clean fill so that CalTrans can restore the riparian and wetland habitat along the creek, and the City can then develop the site as a City park.

The City has awarded contract to HSR, Inc. to perform the remediation work. Before cleanup begins, the contractor will prepare a final work plan. The site work includes brush removal along the bank of Pilarcitos Creek, the temporary removal and stockpiling of 13,000 cubic yards of topsoil, excavation testing, stockpiling, recycling and

City of Half Moon Bay

disposal of 14,000 cubic yards of waste material; installation of a perimeter security fence; installation of a barrier wall or impermeable membrane along the two parcels; placement of rip-rap along the south end of the creek; replacement and compaction of clean fill. The contractor is currently preparing a health, safety and work plan for review and approval by the San Mateo County Environmental Health Division and by the Integrated Waste Management Board.

After the landfill remediation is completed, CalTrans will restore the site with 1.5 acres of wetlands and 1/5 acre of upland coastal scrub habitat. CalTrans is currently awaiting final approval of the EIR from the County Board of Supervisors, and expect to implement the project either this year prior to the winter rainy season (beginning October 15, 1996) or next summer. The City is currently working with CalTrans to ensure that the erosion control measures will be in place before the onset of the rainy season. The City will be expanding the contract with HSR to include these measures, in the event that CalTrans is unable to proceed this year.

CalTrans will be transporting approximately 30,000 cubic yards of clean fill to the 9.8 acre parcel in the summer of 1997. The parcel is very low and does not have good drainage, and the fill will help the City in raising the level of the parcel to allow for good drainage of ball fields and berming to screen parking areas, etc. The City will be working with CalTrans to coordinate the timing of trucks transporting this soil. Also, the Sewer Authority Mid-coastside has promised the City that approximately 10,000 cubic yards of clean fill from the treatment plant expansion project will be donated to the City and placed on the site. Grading permits will be processed for these related projects before they commence.

D. PROJECT ANALYSIS

The project will result in the reduction of potential threat to surface waters, Pilarcitos Creek and the Pacific Ocean, from erosion of the old landfill into the creek. A notice of exemption was filed with San Mateo County recorder's office in March 1996 for this project, because CEQA determination was required as a part of the City's grant application for Waste Board funding. City Staff determined that the project was categorically exempt because it was an excavation with replacement with material compatible with natural features of the site and grading on land with a slope less than ten percent.

Nevertheless, conditions can be placed upon the project as a part of the issuance of a Coastal Development Permit, for the mitigation of any potential adverse impacts due to the proposed project. The scope of work attached to this report is referenced in the conditions of approval for the Coastal Development Permit. The scope of work includes mitigation measures requiring the contractor to provide a health, safety and work plan, which will require approval from the City, San Mateo County Environmental

City of Half Moon Bay

Division, and the State Integrated Waste Management Board. This Work Plan will include all required environmental protection measures.

The key issues are (1) relocation of the City's corporation yard, (2) temporary removal of riparian vegetation, (3) circulation of debris and soil trucks on the access road from Highway One, (4) excavation and disposal of contaminated and hazardous materials, (5) safety of personnel and site security, (6) protection of the creek bank, (7) dust and potential odors which may be emitted during the landfill clean-up, and (8) noise from the project activities. The scope of work addresses these items and mitigation measures are included as conditions of the Coastal Development permit.

1. Relocation of the City's Corporation Yard

The Corporation Yard has been approved for relocation onto the City's five acre parcel just east of the 9.8 acre parcel. However, the project may proceed prior to the relocation of the yard. Staff is currently negotiating with an adjoining property owner for temporary relocation of the yard, so that the design of the five acre and 9.8 acre park sites can be finalized.

2. Removal of Riparian Vegetation

The vegetation removal will result in a temporary elimination of riparian habitat. CalTrans is working towards the replacement of that habitat before the onset of the rainy season this year. However, CalTrans' progress may be impeded by delays in CalTrans' and San Mateo County EIR permit processing, and it may be necessary for them to wait until 1997 to install the riparian vegetation.

3. Circulation of Soil and Debris Trucks

The transportation of 14,000 cubic yards of debris off the site and import of an equal amount of clean fill onto the site will require the movement of traffic to and from Highway One. This issue will be addressed in the Work Plan.

4. Contaminated and Hazardous Materials

All refuse material will be transported to a facility permitted to accept the materials, and the contractor will be responsible for profiling the materials and selecting the disposal facility. All precautions will be taken in the excavation and transport of hazardous materials to disposal sites, as required by the San Mateo County Environmental Division and State Integrated Waste Management Board. This issue will be addressed in the Work Plan.

City of Half Moon Bay

5. Safety and Security

The contractor will employ personnel trained in hazardous materials excavation work. The excavation area will be an exclusion zone, and permanent fencing will be installed around the entire 9.8 acre parcel during excavation, monitoring and site rehabilitation. The San Mateo County Environmental Division standards for safety and security shall be adhered to. This issue will be addressed in the Work Plan.

6. Creek Bank Protection

The exposed slope will be stabilized, protected and sealed with a slurry wall, impene-trable membrane, compacted soil and rock rip-rap cover. The contractor has a regis-tered Civil Engineer on staff. These measures will be adequate until such time as CalTrans is able to install the replacement riparian vegetation.

7. Dust and Odor

The contractor is required to implement dust control activities and provide on-site en-vironmental monitoring personnel to monitor the air quality for the duration of the remediation project. The Work Plan will include specific mitigation measures for dust control and air quality monitoring.

8. Noise from Project Activities

The activities associated with this project will be required to adhere to the City's per-mitted hours of construction. The Work Plan will address this issue.

E. **PLANNING COMMISSION DELIBERATIONS**

The Planning Commission has the authority to take one of three actions on the appli-cation:

- Order approval. If the application, as submitted, meets all State and City regu-lations the Planning Commission may approve it unconditionally.
- Order conditional approval. If the application can be reasonably amended to meet all State and City regulations the Planning Commission may approve it stipulating conditions of approval.
- Order denial. If the application fails to comply with any State or City regulation or fails to serve the public interest, the Planning Commission may deny ap-proval.

F. FINDING OF FACT

A Coastal Development Permit has been deemed an adjudicative act by the California Coastal Commission. A finding of fact is required before a decision can be made on the application.

G. STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve this Coastal Development Permit.

H. PLANNING COMMISSION ACTION

If approval is warranted, the Planning Commission may move and second the resolution recommending approval, along with the attachments as presented by staff, or as modified during the course of the public hearing.

If denial is warranted, the Planning Commission may move and second a resolution recommending denial, along with a finding of fact supporting denial.

I. ATTACHMENTS

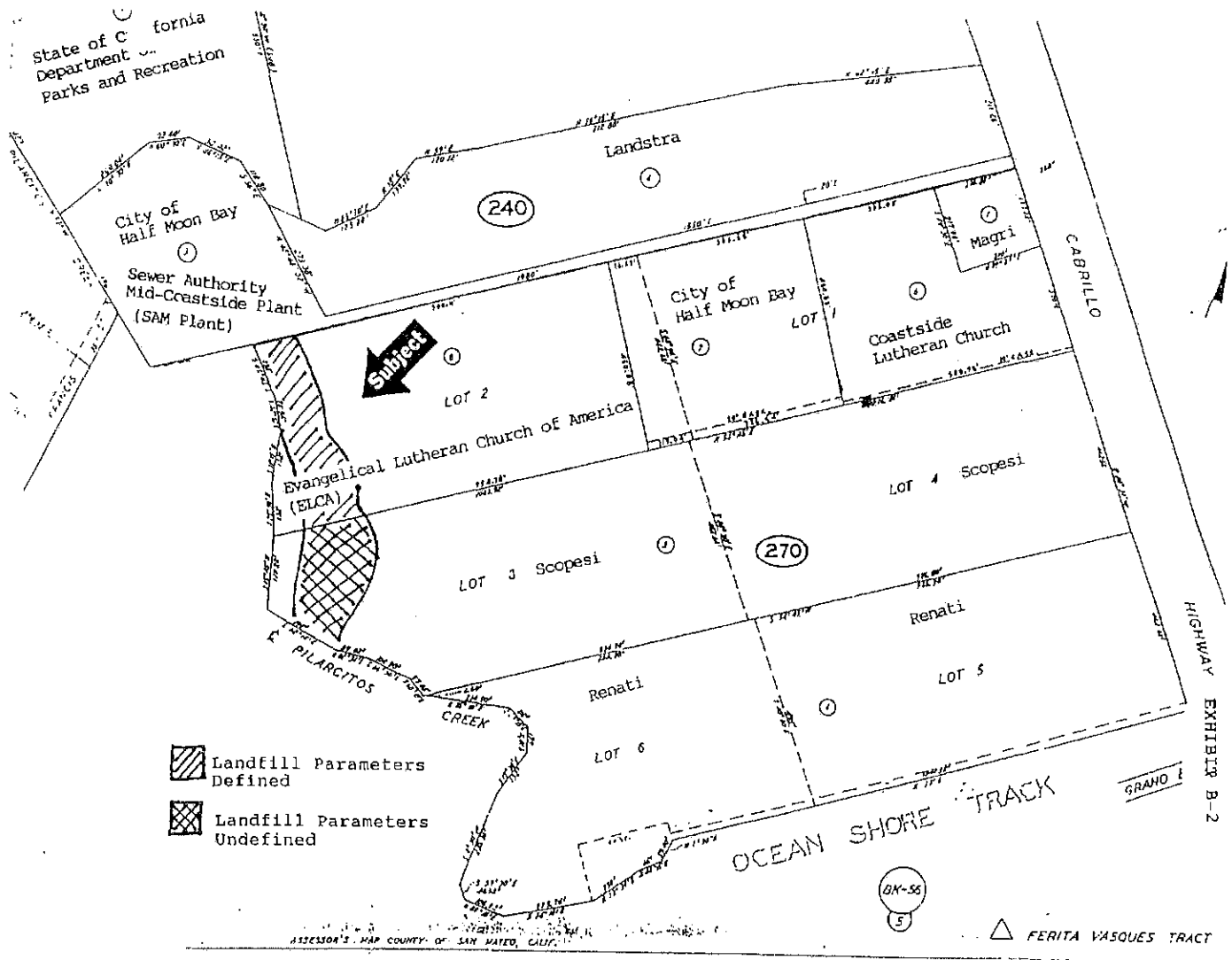
- Exhibit A Vicinity Map
- Exhibit B Site Map
- Exhibit C Draft Resolution, with Attachment 1 and Attachment 2
- Exhibit D Scope of Services and CalTrans Draft Conceptual Mitigation Report
- Exhibit E Notice of Exemption

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City of Half Moon Bay

Exhibit "A"

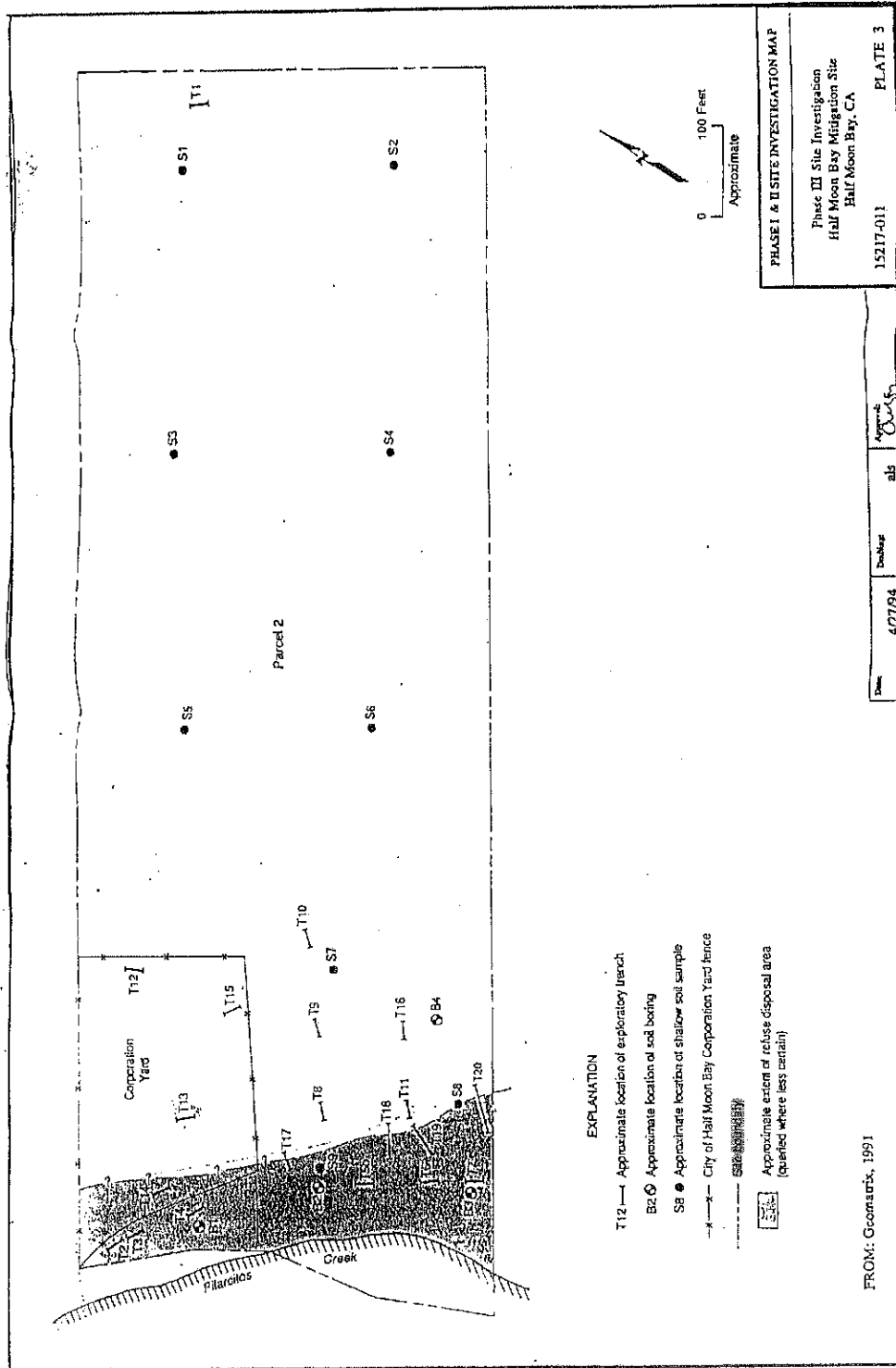
Vicinity Map CDP-01-96



City of Half Moon Bay

Exhibit "B"

Site Map CDP-01-96



CDP-01-96

Exhibit 7

LCP-2-HMB-14-0612-1 (Map Revisions)

Page 16 of 62

INTRODUCTION

This scope of work for remediation of soil and debris from an old landfill and refuse area near Pilarcitos Creek in Half Moon Bay, California was prepared by a registered civil engineer and two hazardous waste remediation contractors and has been reviewed and approved by environmental counsel. The scope of work is based upon the CalTrans draft scope of work dated November 1994 attached as EXHIBIT A prepared by a registered civil engineer and an assistant civil engineer.

The refuse area is presently owned by the Mission Investment Fund of the Evangelical Lutheran Church in America (ELCA) of Chicago, Illinois. The refuse area has become a proposed wetlands mitigation site in response to the destruction of wetlands in the widening of State Route 92, and is subject to the Memorandum of Understanding (MOU) attached as EXHIBIT B among the San Mateo County Transportation Authority, the City of Half Moon Bay, the California Department of Transportation, and ELCA.

Attached as EXHIBIT C is the TRC Environmental Corporation May 3, 1994 report titled "Phase III Site Investigation, Remedial Action Options Report, Proposed Half Moon Bay Mitigation Site". The purpose of the report was to determine the vertical and lateral extent of refuse at the site and assess if hazardous or contaminated constituents are present in the soil or refuse material. The proposed method of remediation is excavation, transportation and disposal of all material within the fill area. Also included is the devegetation of the whole parcel and removal and stockpiling of topsoil to facilitate remediation of the refuse area and testing of the devegetated area, and the protection of the exposed slope resulting from the excavation at the south edge of the ELCA property. Soil samples will be taken after removal of the refuse and vegetation to confirm that the native soil remaining does not pose a threat human or ecological health and safety.

The scope of work will be incorporated into control plan sheets and specifications and will be performed in accordance with the attached Schedule of Work.

SCOPE OF WORK

1. Health, Safety and Work Plan - the hazardous waste remediation contractor shall prepare a detailed health, safety and work plan for all site activities in accordance with the Department of Toxic Substances Control and Cal-OSHA regulations. The Health, Safety and Work Plan shall include the health and safety procedures which will be followed by all on site personnel, decontamination procedures for personnel and equipment, a complete description of all activities for the site remediation, an air monitoring plan. The Health, Safety and Work Plan will be submitted to the ELCA, the San Mateo County Environmental Health Division and Caltrans for review and approval. The Health, Safety and Work Plan shall be approved by the contractor's registered civil engineer, and by an industrial hygienist certified by the American Conference of Governmental Industrial Hygienists (ACGIH).

2. Safety - Prior to performing any work, all personnel shall complete a safety training program which meets 29 Code of Federal Regulations (CFR) Section 1910.120 and 8 CCR Section 5192 covering the potential hazards identified in the Phase III investigation. The excavation area is outlined in the site map (Plate 4) in the site investigation report. The excavation area shall become the exclusion zone. Areas adjacent to the exclusion zone will be available for decontamination. A suitable permanent fence is required around Parcels 1 and 2 to provide security during remediation and continuing monitoring and site rehabilitation.

3. Permits and Licenses - The contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of work, including registration for transporting vehicles carrying the contaminated material and the hazardous material. The contractor shall comply with the California Environmental Quality Act (CEQA) of 1970 (Chapter 1433, Stats. 1970), as amended by Chapter 1154 Stats. 1972, for all permits, licenses and authorizations from all agencies in connection with performing the work of the contract.

4. Contaminated and Hazardous Material Excavation - All refuse material located on the ELCA parcel, including contaminated and hazardous material, shall be transported to a disposal facility permitted to accept such material. Additional profiling of the refuse will be conducted to profile in detail the extent and types of refuse and to select the appropriate disposal sites. All refuse removed will be disposed of as Class I, Class II, or Class III. The selected bidder will be responsible for profiling and selecting the appropriate disposal facilities.

- Refuse containing contaminants that are considered to be a designated waste as defined by State of California regulations will most likely be disposed at a Class I disposal facility such as Kettelman Hills landfill owned by Chemical Waste Management. The TRC Phase III Site Investigation Report estimated 2500 cubic yards as Class I material.

- Refuse that is considered not contaminated or hazardous will most likely be disposed of at a Class III landfill such as Ox Mountain landfill in Half Moon Bay owned by Browning Ferris Industries (BFI). The TRC Phase III Site Investigation Report estimated 7130 cubic yards as Class III material.

- Refuse that is contaminated but not hazardous as defined by State of California regulations will most likely be disposed at a Class II facility such as Remco disposal facility in Richmond or Forward landfill in Stockton. The TRC Phase III Site Investigation Report estimated 4000 cubic yards as Class II material.

5. Refuse Excavation and Transportation - Refuse material may be separated into three separate stockpiles within the excavation area and the devegetation area after removal of the topsoil. This will allow for further characterization and profiling prior to transportation to a disposal facility. The contractor shall have a total of 15 working days to profile all stockpiles for disposal to a facility permitted to accept such material. It is anticipated that the refuse excavation, stockpiling and loading for disposal will be conducted with loaders and backhoes. The following safety precautions shall be adhered to:

- Dust Control Activities

- Air Monitoring - The air quality will be continuously monitored during excavation operations.

6. Decontamination Procedures -

- Personnel Decontamination - A personnel decontamination area will be constructed outside of the exclusion and devegetation zone. All personnel exiting the zones will be required to decontaminate any field equipment or personnel protective equipment.

- Vehicle/Equipment Decontamination - Decontamination of vehicles and excavation equipment will be performed during and at the completion of the soil excavation and loading activities.

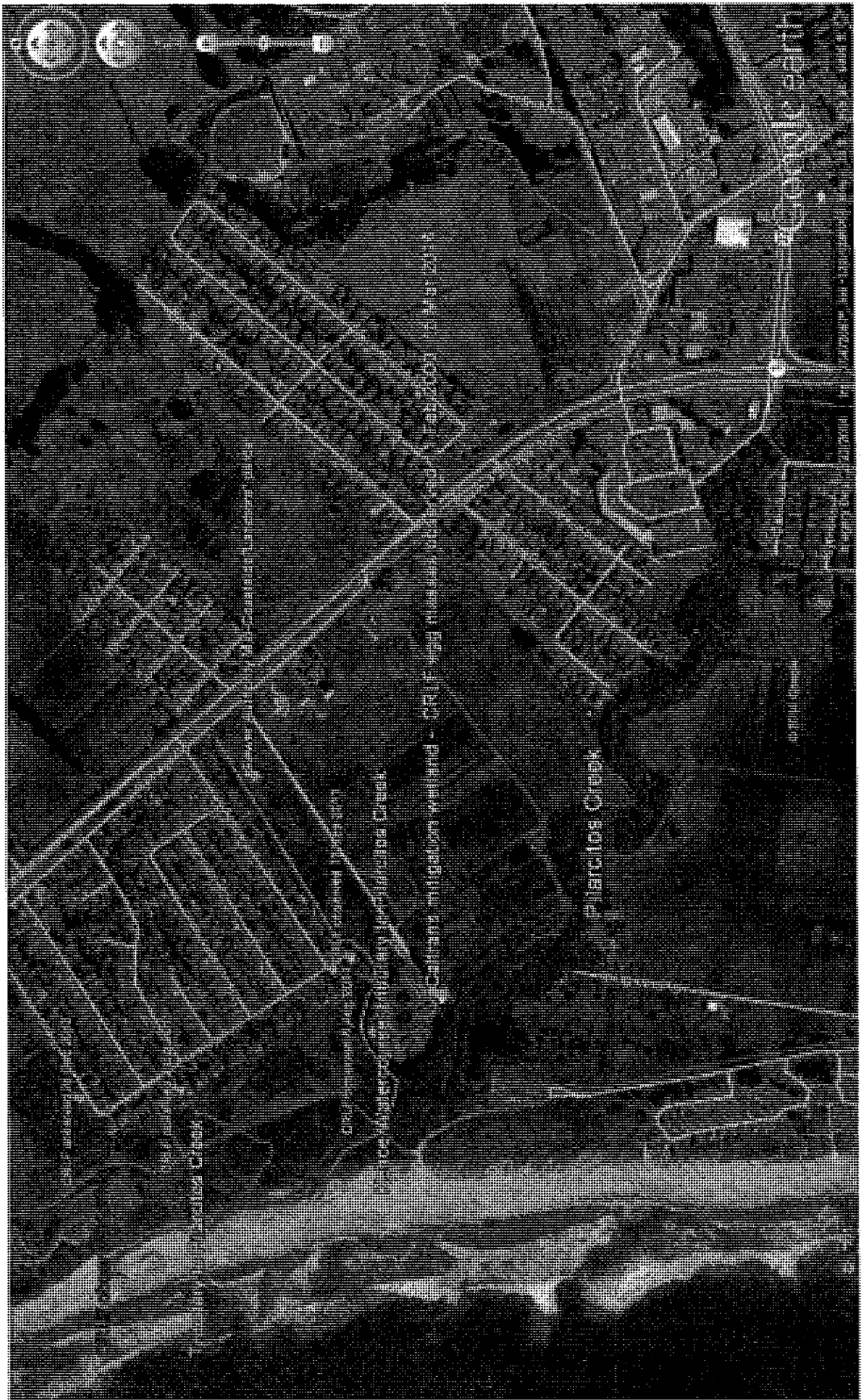
7. Sampling and Analysis - The refuse material to be excavated or located in a stockpile shall be tested for any additional acceptance requirements by the disposal facility. Sampling and analysis shall be performed using the sampling and analysis procedures required by the disposal facility. The laboratory shall be certified by the California Department of Health Services.

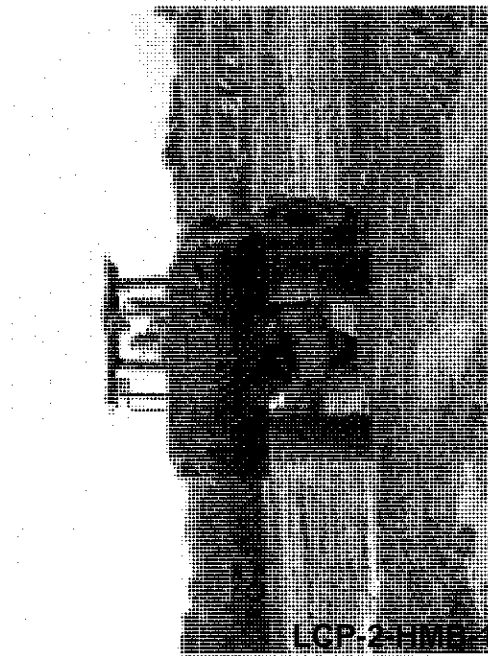
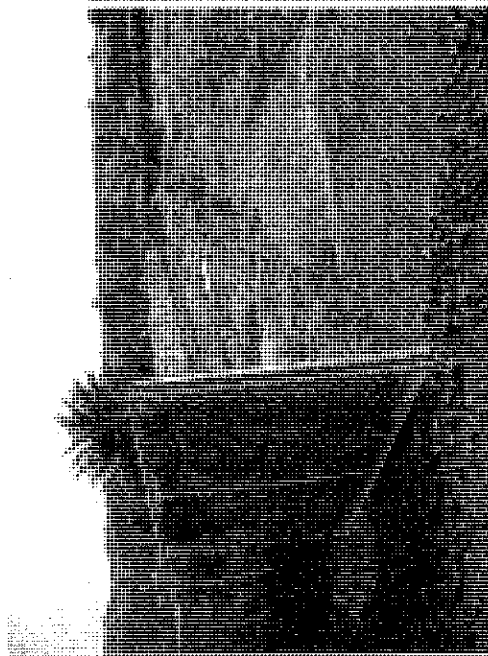
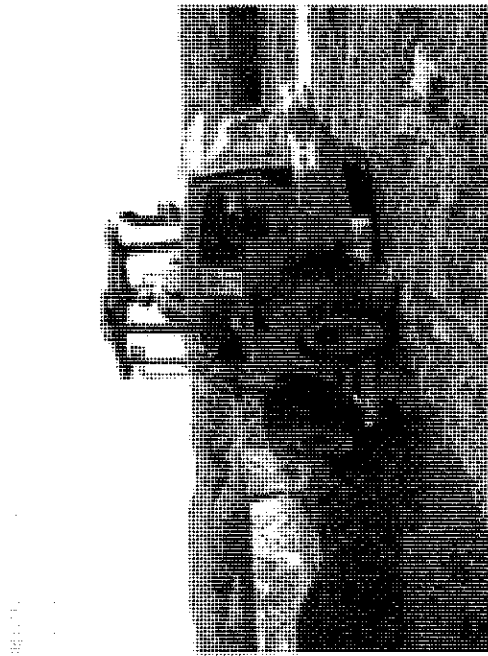
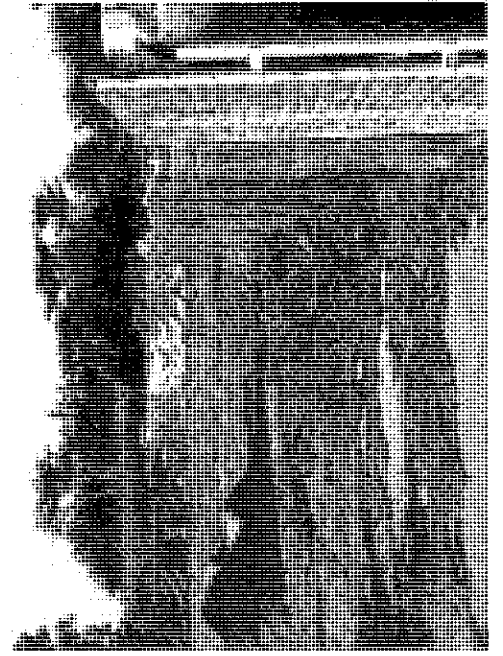
8. Confirmation Sampling - Confirmation samples shall be collected in the excavated areas. One confirmation sample shall be collected for every 1000 square feet of surface area. It is estimated that 50 confirmation samples will be collected. Samples shall be collected by hand-driving precleaned stainless steel or brass tubes into the selected sample locations. The tubes shall be labeled, sealed with plastic end caps and placed into an ice chest cooled to 4 degrees Celsius. All samples shall be transported and handled following proper chain-of-custody protocol. The samples collected for confirmation purposes shall be transported to a laboratory and analyzed using EPA methods 6010 for total metals and (418.1) for total recoverable petroleum hydrocarbons. Quality control/quality assurance (QA/QC) samples will be collected for every 10 samples obtained. The QA/QC samples shall consist of one blank sample and one split sample collected for every 10 samples.

55.20

9. Clearing and Grubbing - The total site, parcels 1 and 2 shall be cleared of all existing vegetation and the surface grubbed of all remaining root systems and plant debris. The material generated during clearing and grubbing may be disposed of at a Class III disposal site. After clearing and grubbing, the upper 14 inches of topsoil in the remaining area will be stripped from the site and stockpiled on the north adjacent parcel owned by the City of East Palo Alto. The removal of any material remaining in the topsoil area will be included in the final plan.

10. Slope Protection - Because the area of refuse is thought to continue to the south in an uphill direction, the slope created by the refuse removal on the ELCA site must be protected. The exposed slope which may contain refuse should be stabilized and protected by use of a slurry wall, an impermeable membrane cover, a blanket of impermeable soil placed over the membrane cover and compacted, and a suitable rock rip-rap cover. This measure must be carried out to seal the slope until the adjacent land is remediated.





BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: December 16, 2014

TO: Honorable Mayor and City Council

VIA: Magda Gonzalez, City Manager

FROM: Dante Hall, Community Development Director
Bruce Ambo, Planning Manager
Lauren Valk, Deputy City Attorney

TITLE: RE-ADOPTION OF 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 CONTAINING SENSITIVE COASTAL RESOURCES IN THE U-R, URBAN RESERVE, AND P-S, PUBLIC SERVICE, ZONING DISTRICTS

RECOMMENDATION

Re-adopt an ordinance amending the City's Local Coastal Program (LCP) Land Use Plan and Implementation Plan by revising the Habitat Areas and Water Resources Overlay map and Coastal Resource Areas map to reflect areas in the City containing sensitive coastal resources in the U-R, Urban Reserve, and P-S, Public Service, zoning districts.

FISCAL IMPACT

The proposed ordinance will amend the City's LCP by revising the Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas Map to reflect sensitive coastal resource areas within the City. The extent of that impact is undetermined at this time.

BACKGROUND:

On November 18, 2014, the City Council re-introduced Ordinance No. C-2014-01 amending the City's Local Coastal Program (LCP) Land Use Plan and Implementation Plan by Revising the Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas Map to Reflect Areas in the City Containing Sensitive Coastal Resources in the U-R, Urban Reserve, and P-S, Public Service, zoning districts. The ordinance was re-introduced to address comments received from Coastal Commission staff after the ordinance was adopted by the City Council the first time.

Ordinance No. C-2014-01 is before the City Council tonight for final adoption.

At last month's meeting, the City Council received comments from community member James Benjamin explaining that staff had misidentified the "Caltrans Mitigation Project Site"—an area

required to be included on the amended maps pursuant to a settlement agreement between the City and Mr. Benjamin. He claims that the site is actually the entire 2.5 acre parcel adjacent to where the City has identified the Caltrans mitigation project site. Staff has confirmed that the amended maps accurately reflect the Caltrans mitigation project site defined in the settlement agreement. As Mr. Benjamin's comment letter points out, the settlement agreement defines the "Protected Area" as follows (emphasis added):

4. City acknowledges that the following areas have been identified as habitat supporting or containing rare, endangered, threatened or unique species 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:
 - (a) The Kehoe Watercourse (also as a riparian area and corridor); and
 - (b) Caltrans mitigation project site (also as a wetland).

In addition, the City acknowledges that the following has been identified as likely habitat supporting or containing rare, endangered, threatened or unique species [in] the October 2005 report by H. T. Harvey & Associates:

- (c) the vacant Sewer Authority Mid-Coastside parcel located immediately south of the Kehoe watercourse (APN 048-240-040, commonly known as the "Landstra Parcel").

The City identified the Caltrans mitigation project site pursuant to Figure 1 in the August 2005 study by Essex Environmental, which shows the "CalTrans Mitigation Ponds" (see attached Figure 1), and page 13, which describes the area as follows:

Downstream of Highway 1, Kehoe Ditch has some meanders in the channel that provide slow backwater pools of suitable foraging depth along with emergent and streamside vegetation. A wetland mitigation area constructed for the California Department of Transportation is located approximately 0.5-mile south of the project area.

Being consistent with the description taken from the Essex studies, the proposed amendment to the Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas Map complies with the terms of the settlement agreement.

Staff recommends that the City Council re-adopt the ordinance and direct staff to transmit the ordinance to the California Coastal Commission for certification as an amendment to the City's LCP Land Use Plan and Implementation Plan.

ATTACHMENTS

1. Ordinance No. C-2014-01 amending the City's Local Coastal Program (LCP) Land Use Plan and Implementation Plan by Revising the Habitat Areas and Water Resources Overlay Map and Coastal Resource Areas Map to Reflect Areas in the City Containing Sensitive Coastal Resources in the UR, Urban Reserve, and P-S, Public Service, zoning districts.
2. Figure 1: Kehoe Ditch Flood Control Project Vicinity Map (Essex Environmental, August 2005).

ORDINANCE NO. C-2014-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AMENDING THE CITY'S LOCAL COASTAL PROGRAM LAND USE PLAN AND IMPLEMENTATION PLAN BY REVISING THE HABITAT AREAS AND WATER RESOURCES OVERLAY MAP AND COASTAL RESOURCE AREAS MAP TO REFLECT AREAS IN THE CITY FOUND CONTAINING SENSITIVE COASTAL RESOURCES IN THE U-R, URBAN RESERVE AND P-S, PUBLIC SERVICE, ZONING DISTRICTS

WHEREAS, the City of Half Moon Bay is committed to the maximum public participation and involvement in matters pertaining to the General Plan and its Elements, the Local Coastal Program, and the Zoning Code; and

WHEREAS, the Planning Commission, as the Advisory Board to the City Council, conducted a duly noticed public hearing on December 10, 2013 where all those in attendance desiring to be heard were given an opportunity to speak on this application; and

WHEREAS, following the close of the public hearing, the Planning Commission voted unanimously to recommend that the City Council amend the Local Coastal Program's Land Use Plan and Implementation Plan to revise the Habitat Areas and Water Resources Overlay map and Coastal Resource Areas map to reflect areas in the City found likely to contain sensitive coastal resources; and

WHEREAS, the City Council conducted a duly noticed public hearing to re-introduce an ordinance to amend the LCP Land Use Plan and Implementation Plan on November 18, 2014, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

WHEREAS, the City Council considered all written and oral testimony presented for consideration; and

WHEREAS, section 15265 of the CEQA Guidelines provides that responsibility for environmental review of Local Coastal Programs lies with the California Coastal Commission;

NOW, THEREFORE, the City Council does ordain as follows:

Section 1. **Amendment of Local Coastal Program Land Use Plan.** The Habitat Areas and Water Resources Overlay map of the Half Moon Bay Local Coastal Program Land Use Plan is hereby amended as shown in the attached Exhibit A.

Section 2. **Amendment of Local Coastal Program Implementation Plan.** The Coastal Resource Areas Map of section 18.38.020 of the Half Moon Bay Municipal Code is hereby amended as described in the attached Exhibit B.

Section 3. **Submission to California Coastal Commission for Certification.** The City Clerk is hereby directed to transmit a copy of this ordinance to the California Coastal Commission for certification. The City Council of the City of Half Moon Bay hereby certifies that the Local Coastal program, as amended, is intended to be carried out in a manner fully in conformity with the California Coastal Act.

Section 4. Effective Date. This ordinance amending the LCP shall take effect immediately upon its certification by the California Coastal Commission or upon the concurrence of the Commission with a determination by the Executive Director that the ordinance adopted by the City is legally adequate.

INTRODUCED the 18th day of November, 2014

ADOPTED the 16th day of December 2014, by the following votes:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

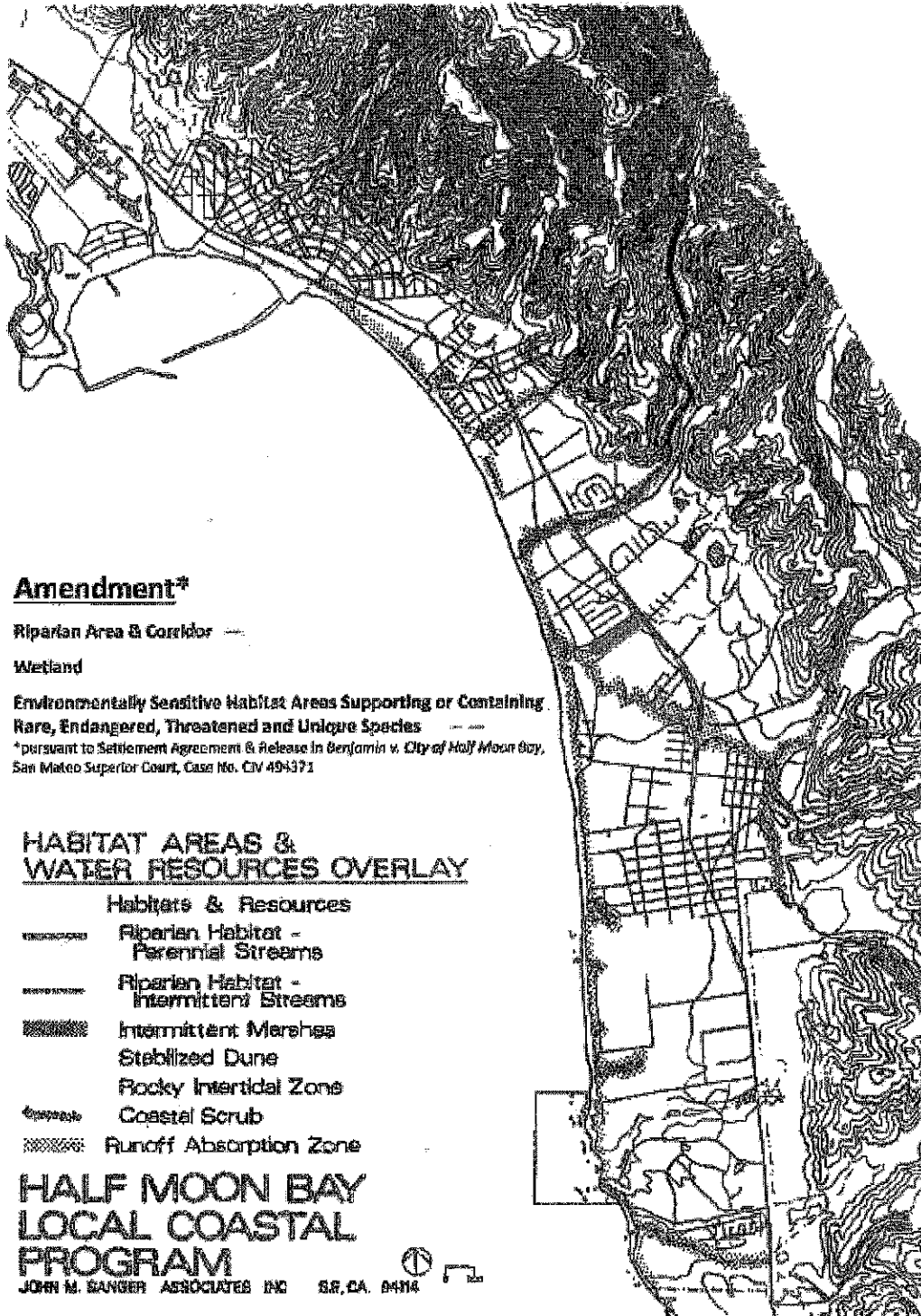
ATTEST:

APPROVED:

Siobhan Smith, City Clerk

John Muller, Mayor

EXHIBIT A



215

123

EXHIBIT A-1

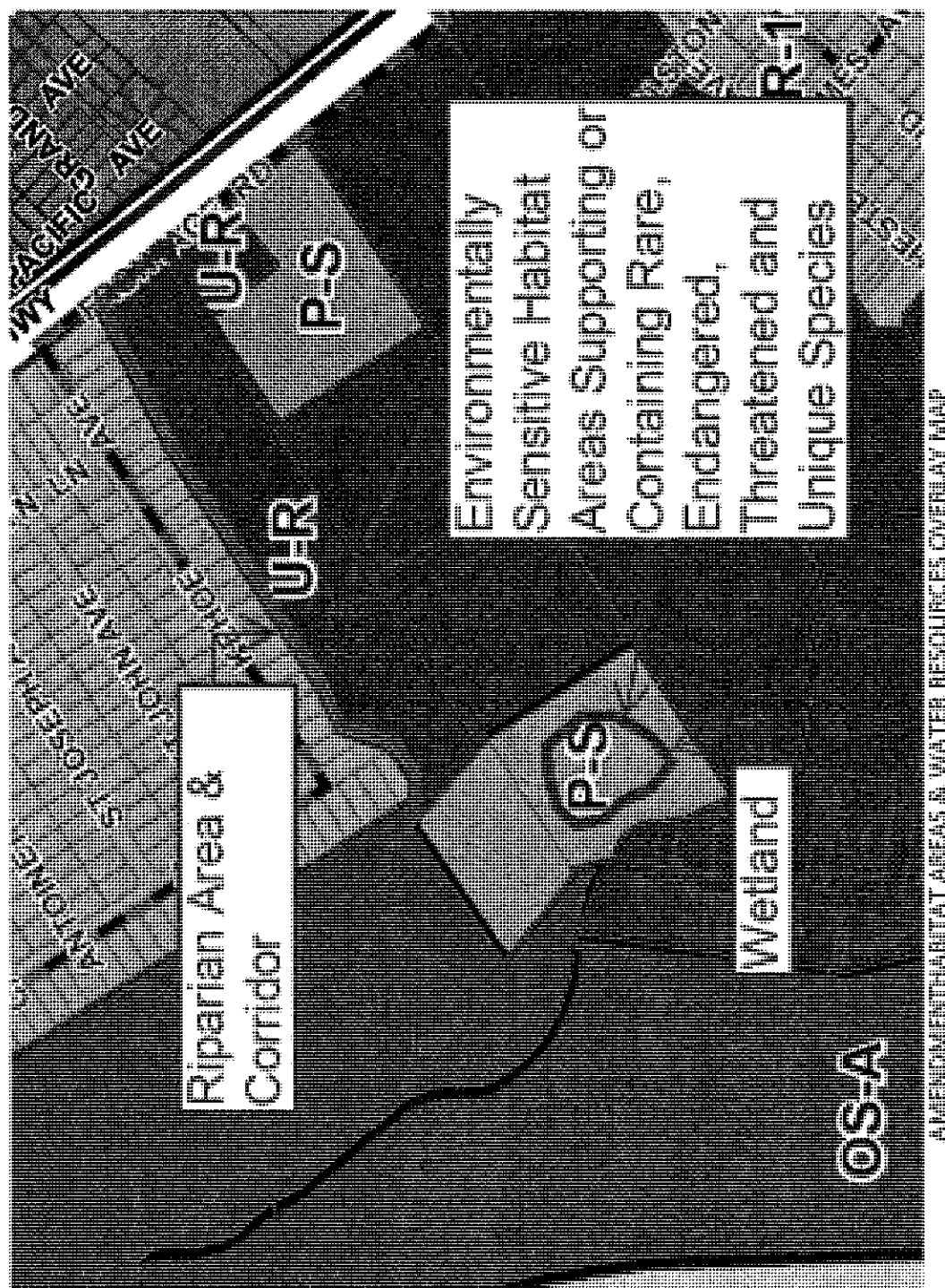


EXHIBIT B

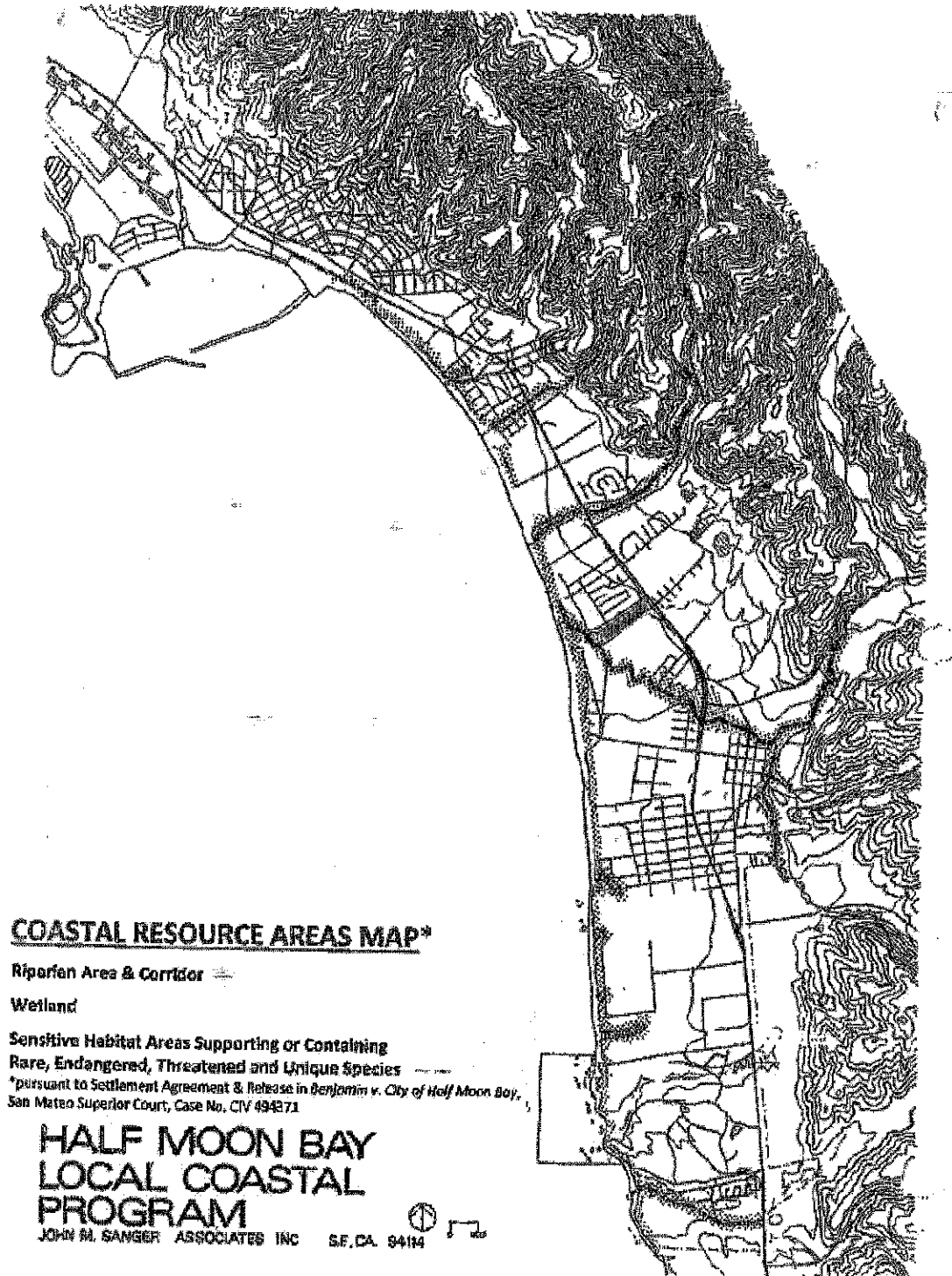
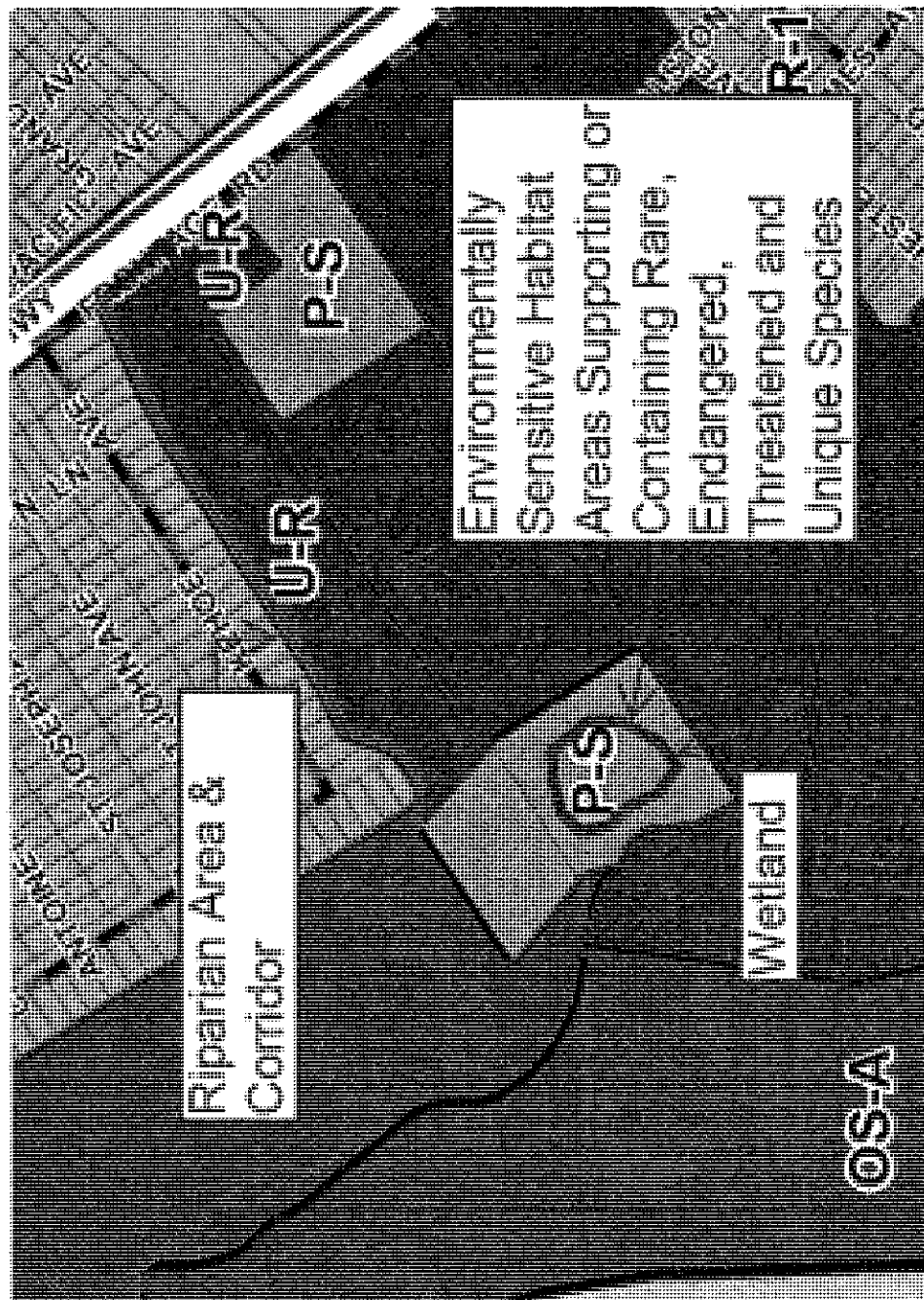


EXHIBIT B-1
AMENDMENT
COASTAL RESOURCES AREAS MAP



Habitat Assessment

Species	Listing Status	Habitat Association	Potential in Project Area
Sharp-shinned hawk (<i>Accipiter striatus</i>)	CSC	Inhabits and nests in trees in mixed woodlands.	Has potential to occur and nest in trees near the project area. A regularly occurring species in winter. The CNDDB search listed no occurrences within 5 miles of the project area. Breeding documented just north of Half Moon Bay in 1993.
Cooper's hawk (<i>Accipiter cooperii</i>)	CSC	Nests mainly in deciduous riparian forests; forages in open woodlands.	Has potential to occur in trees near the project area. Unlikely to nest near the project area due to the lack of riparian forest. Regularly occurring species in Half Moon Bay in the winter. The CNDDB search listed no occurrences within 5 miles of the project area.
Northern harrier (<i>Circus cyaneus</i>)	CSC	Nests on the ground and shrubs in ungrazed grassland, savanna, wet meadow, and marsh areas with good foraging.	Has potential to occur and nest in grasslands south of Kehoe Ditch. The CNDDB search listed no occurrences within 5 miles of the project area.
Short-eared owl (<i>Asto flammeus</i>)	CSC	Inhabits brush and trees associated with marshland. Nests on the ground in prairie, meadow, savanna, and marsh areas.	Has potential to occur but is unlikely to nest near the project area due to the lack of marshland habitat. The CNDDB search listed no occurrences within 5 miles of the project area.

Source: CNDDB, 2005

U.S. FISH AND WILDLIFE SERVICE

FT Federally listed, threatened
FE Federally listed, endangered
CH Critical habitat

CALIFORNIA DEPARTMENT OF FISH AND GAME

SE State listed, endangered
CSC California species of special concern
CFP California fully protected

California Red-legged Frog

The California red-legged frog (CRLF) is a federally threatened species and a California species of special concern. The project area is within the San Mateo-Northern Santa Cruz critical habitat unit for this species. The CNDDB documents several occurrences of CRLF within 2 miles of the project area. This frog prefers dense, shrubby, or emergent riparian vegetation that grows near deep, still, or slow-moving water. However, they may also be found in ephemeral creeks, drainages, culverts, and ponds without riparian vegetation. Existing animal burrows, rocks, and organic and industrial debris may be used as retreat sites. During the dry season, frogs may disperse up- and downstream of creeks and drainages and, during the wet season they may randomly disperse overland to get to new breeding sites. Downstream of Highway 1, Kehoe Ditch has some meadows in the channel that provide slow backwater pools of suitable foraging depth along with emergent and streamside vegetation. A wetland mitigation area constructed for the California Department of Transportation is located approximately 0.5 mile south of the

August 2005
12

Kehoe Ditch Flood Control Project
Habitat Assessment

project area. These ponds support a healthy breeding population of CRLF (McGinnis, 2005). Based on the suitable habitat available along the ditch and near the project site, there is a high potential for CRLF to occur within the project area.

San Francisco Garter Snake

The San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) is a federally and state endangered species. The project area is within the historical range of the snake and the CNDDDB documents two occurrences of San Francisco garter snake within 3 miles of the project area. Ideal habitat for this species is ponds with densely vegetated edge and near an open hillside where the snake can feed on frogs and retreat into existing rodent burrows. The dense vegetation in and around the project site and the year round flow within the ditch may provide suitable habitat for this snake. The snake feeds exclusively on Pacific tree frogs (*Hyla regilla*) and the CRLF. The ditch provides suitable habitat for tree frogs, which may also breed in the ditch. In 1988, the U.S. Fish and Wildlife Service (USFWS) directed Dr. Samuel M. McGinnis to conduct a three-month trapping protocol survey for the San Francisco garter snake along the upper bank at the mouth of Pilarcitos Creek. During this time period, two San Francisco garter snakes were trapped and released. Due to known occurrences within a 2000-foot-radius of the project site and documentation of movement in excess of 2000 feet of this species (McGinnis, 2005), presence of the San Francisco garter snake should be assumed.

Central California Coast Steelhead

The Central California Coast steelhead (*Oncorhynchus mykiss*) is a federally threatened and California species of special concern. The project area is within the San Mateo hydrologic unit of proposed critical habitat for this species. This fish requires cool, deep pools for holding through the summer prior to spawning in the winter. It is generally found in shallow areas, with cobble or boulder bottoms at the tails of pools. Kehoe Ditch provides marginal habitat for steelhead in that it provides year-round flow and is a tributary of Pilarcitos Creek, which terminates into the Pacific Ocean, thus providing the opportunity for steelhead migration. However, due to the low quality of steelhead habitat found within the ditch and the lack of known historical occurrences in Kehoe Ditch and Pilarcitos Creek, it is unlikely that steelhead will occur in the project area.

Saltmarsh Common Yellowthroat

The saltmarsh common yellowthroat (*Geothlypis trichas sinusa*) is a federal species of concern and California species of special concern. The CNDDDB documents one occurrence of saltmarsh common yellowthroat within 1 mile of the project site (CNDDDB, 2005). This songbird requires thick, continuous cover down to water surface for foraging; tall grasses, tule patches, and willows for nesting. Potential nesting habitat for the yellowthroat is available in the dense willows along Kehoe Ditch.

Yellow Warbler

The yellow warbler (*Dendroica petechia*) is a California species of special concern. A summer resident in the north and winter migrant to the south, its habitat includes riparian deciduous woodlands and montane shrubs in open conifer forests. Elevation ranges include coastal and

Rexing, Stephanie@Coastal

From: Jimmy Benjamin <jamben@pacbell.net>
Sent: Tuesday, April 28, 2015 2:18 PM
To: Rexing, Stephanie@Coastal
Subject: FW: 4/15/2015 correspondence re PDP-73-13
Attachments: CCC Response Letter 5 on PDP-073-13 SAM ESHA Parcel LCP Map Amendment.pdf;
2008-02-29 Nomad Ecology addl condition.pdf

Hi Stephanie,

I just this morning received a copy of the City's letter of April 15, 2015 concerning the Caltrans project area in the LCP map update. In addition to ignoring the City's commitment at the time of the Caltrans mitigation project to restore the upper area after it was scrapped and grubbed, the City's attempt to use the 2008 Nomad Ecology evaluation shades ignores the Feb 29, 2008 supplementary comments by Nomad Ecology calling for revegetation of the staging area east of the wetlands. The initial analysis by Nomad did not take into consideration the Kehoe Watercourse. Under the mistaken assumption that northward dispersal would need to reach Frenchmans Creek, the biologist reasoned that the upland parts of the city-owned parcel that was used as a staging area had no dispersal habitat value. After considering the presence of the Kehoe Watercourse, the biologist called for revegetation to improve habitat quality on the staging area site – effectively acknowledging its habitat value.

This area was also the subject of testimony during the 2009 trial because of the nexus to the Kehoe Watercourse. I would be glad to provide details.

- Jimmy Benjamin

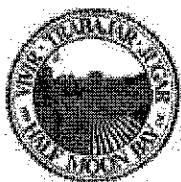
From: Bruce Ambo [<mailto:BAambo@hmbcity.com>]
Sent: Tuesday, April 28, 2015 8:26 AM
To: Jimmy Benjamin
Cc: Dante Hall; Tony Condotti; Lauren Valk; Siobhan Smith
Subject: RE: 4/15/2015 correspondence re PDP-73-13

Hi Jimmy,

Here is a copy of the response letter.

Thanks - Bruce

Bruce Ambo, AICP
Planning Manager
Phone: 650-726-8251
Email: BAambo@hmbcity.com



City of Half Moon Bay
501 Main Street

Half Moon Bay, CA 94019
www.hmbcity.com

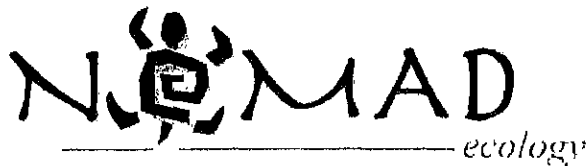
From: Jimmy Benjamin [<mailto:jamben@pacbell.net>]
Sent: Monday, April 27, 2015 7:06 PM
To: Bruce Ambo
Cc: Dante Hall
Subject: 4/15/2015 correspondence re PDP-73-13

Hi Bruce,

In the Project Tracking and Status Report, I see that the City sent the CCC a response dated April 15, 2015 to address staff concerns about PDP-73-13, the City-initiated LCP ESHA map amendment. Could you please email me an electronic copy of this response, including any attachments?

Thank you,

- Jimmy Benjamin



February 29, 2008

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

Re: Comment Letter Received from James Benjamin, 400 Pilarcitos Avenue, Half Moon Bay, CA 94019-1475 dated February 25, 2008.

Dear Steve:

The purpose of this letter is to address comments and questions posed by James Benjamin, resident at 400 Pilarcitos Avenue, Half Moon Bay, CA 94019-1475, in a letter dated February 25 2008 sent directly to our firm. A copy of the letter is attached.

Comment 1.

"First, did your survey of adjacent habitat included the unnamed stream north of the project (on the north side of Bev Cunha Country Road) that has been identified in recent surveys as potential habitat for the California red-legged frog (CRLF) and the San Francisco garter snake (SFGS)? Since this stream is easily within the dispersal range of the CRLF subpopulation south of the SAM plant, but is on the other side of Staging Area 1, I was unclear why the dispersal corridor value of this site was dismissed. As you know, the Draft Recovery Plan for the California Red-Legged Frog cites habitat fragmentation as one of the reasons for decline and threats to survival of the CRLF. As recently as yesterday we have received substantial rains have that could facilitate migration to this stream. Unfortunately, Staging Area 1 has just been constructed and appears to be fragmenting the CRLF habitat. Does your list of recommended [impact] avoidance and minimization efforts include post-project restoration of this area to a more suitable migratory corridor?"

Response 1.

We did consider the effects of adjacent aquatic habitats including Frenchmans Creek to the north (0.7-mile from the project site) and ponds to the northeast (0.65-mile from the project site), among others, on the behavior (e.g., dispersal and use of upland habitat) of California red-legged frogs and San Francisco garter snakes. We concluded that the two staging areas were unlikely to function as dispersal corridors based on the presence of the two residential housing developments to the north (along Kehoe Avenue) and northeast (along Grandview Blvd.). These developments constrain movement of frogs and snakes dispersing to the north and northeast. That is not to say that individuals could not attempt to disperse from Pilarcitos Creek to these aquatic habitats through the staging areas; however, they would ultimately have to circumvent these residential developments. It would be more likely that frogs and snakes would disperse to these areas by heading north through the open habitat along the coastline west of Pilarcitos Avenue and east across Highway 1 through the undeveloped land between Grandview Blvd. and Terrace Avenue.

Our concern focused more on the use of the staging areas by frogs and snakes during upland foraging bouts based on their proximity to occupied habitats in Pilarcitos Creek and the adjacent mitigation ponds. However, given the use of Staging Area 1 in the past for equipment and supply staging, the disturbed nature of both sites, and implementation of the avoidance and minimization measures recommended in our letter, we determined that the risk of "take" as defined by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act) was minimal. We could not entirely rule out the possibility of take of California red-legged frogs and San Francisco garter snakes, and to our knowledge, a Biological Opinion, which includes incidental take of federally listed species, has not issued for this project.

We did recommend the staging areas be restored to pre-project conditions, but did not make recommendations for post-project restoration of this area to improve habitat quality beyond the existing conditions. We will add an additional measure to guide the applicant toward restoration of the site to more favorably meet the habitat requirements of the California red-legged frog and San Francisco garter snake.

- Following project completion, Staging Areas 1 and 2 should be revegetated with an appropriate assemblage of native vegetation characteristic of Coastal grasslands present within project vicinity. A restoration and monitoring plan should be prepared that includes, but is not limited to, the species to be used, restoration techniques, planting specifications, appropriate timing of restoration planting, monitoring and success criteria, adaptive management strategies, and remedial actions if the success criteria are not achieved.

Comment 2.

"Second, did your survey include the aestivation habitat value of depressions south and west of the site?"

Response 2.

As identified in the *Existing Conditions* for Staging Area 1 (page 4, paragraph 1) and *Habitat Assessment and Occurrence in the Project Area* for California red-legged frogs (page 7) and San Francisco garter snake (page 9), the swales and depressions running along the western, southern and northeast boundaries of Staging Area 1 were evaluated for their value and potential use by such species as non-breeding aquatic and upland foraging habitat. We determined that they do provide suitable non-breeding aquatic and upland foraging habitat, but given the disturbed nature of these sites and the lack of vegetation, especially along the southern swale, that provides refugia during use of uplands, use of these areas by either species could increase their risk to predation by raccoons, skunks, herons, and raptors.

Comment 3.

"Third, the list of regulatory frameworks cited on page 2 of your letter includes portions of the Clean Water Act, the California Fish and Game Code, CEQA guidelines, and various other city and county codes, as enforced by 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 Coastal Act and the Half Moon Bay Local Coastal Program (LCP), as enforced by the City of Half Moon Bay or the California Coastal Commission, were not specifically cited. The "Field Investigation" section of your letter suggests that the survey was focused on vegetation communities that were in bloom or otherwise recognizable, and did not include the identification of wetlands pursuant to the Half Moon Bay LCP, and therefore would not have identified avoidance and minimization efforts for avoiding impacts to and maintaining buffers from such environmentally sensitive habitat areas. If this correct, is the City aware of this limitation in your report?"

Response 3.

As stated on page 3 under Field Investigation, the field evaluation included an examination of all vegetation communities within the study area, which "were evaluated for their potential to support

sensitive biological resources". Sensitive biological resources include habitat for special-status plant species, habitat for special-status wildlife, and sensitive natural communities. The Local Coastal Program identifies several sensitive communities including riparian area and corridor, wetlands (as defined by the California Coastal Commission), wild strawberry habitat, sand dunes, and sea cliffs. The survey work included surveys for all sensitive communities, including wetlands as defined by the LCP. The omission of the LCP from the regulatory frameworks section was an oversight.

As reported in the section on Evaluation Findings under Sensitive Natural Communities, we stated that "No sensitive natural communities, nor wetlands, were observed within Staging Area 1." This definition of sensitive natural communities includes those identified in the LCP. We did identify outside of the proposed staging area, to the west and east, two swales that are likely wetlands as defined by the LCP, and potentially wetlands as defined by the US Army Corps of Engineers. These two swales are shown on the map provided with the letter. The staging area will avoid these areas. In addition, the implementation of erosion control Best Management Practices (California Red-Legged Frog Mitigation Measure 7) will further ensure that impacts to the off-site swales will be avoided.

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

Sincerely,



Erin L. McDermott
Principal
ISA Certified Arborist – WE7318A
Botanist, Wetland & GIS Specialist
Nomad Ecology

Enclosure: Letter from Mr. James Benjamin

From: Jimmy Benjamin [<mailto:jimmyinhmb@gmail.com>]
Sent: Thursday, July 02, 2015 1:47 AM
To: Rexing, Stephanie@Coastal
Subject: Letter of support for staff recommendation

Hi Stephanie,

Attached please find a letter of support for the record.

It occurred to me that the pictures of the scraped area did not scan into B&W very well. I can send you electronic copies of the picture I took in 2008 if they would be helpful.

The City will be a better steward of the Coastal Act if the amendment as modified is supported by the Commission and accepted by the City.

Heartfelt thanks to you and the district for preparing such a careful report.

- Jimmy

2 July 2015

Item W17a
Support Staff Recommendation

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

Subj: City of Half Moon Bay Amendment LCP-2-HMB-14-0612-1 (Map Revisions)

Dear Chair Kinsey and Commissioners:

I write to express full support for the report recommendation to approve the amendments with suggested modifications per your staff. The map revisions would be the first habitat for listed species to be mapped on the Habitat and Water Resources Overlay (HAWRO) of the City's Local Coastal Program since it was certified in 1993.

The City has been notified multiple times by the U.S. Fish and Wildlife Service and other biological consultants that the subject parcels should be considered habitat occupied by the California red-legged frog (CRLF) and the San Francisco garter snake (SFGS). Under the U.S. Endangered Species Act, the CRLF is listed as threatened, and the SFGS is listed as endangered. SFGS is also considered endangered and is fully protected under the California Endangered Species Act.

The existence of a breeding colony of California red-legged frog has been confirmed on the parcel south of the wastewater treatment plant, and a cursory reading of their life history reveals that they use adjacent upland habitat to estivate, take refuge, forage and disperse. San Francisco garter snakes uses upland habitat to forage, hibernate, thermoregulate, reproduce and take refuge. The distinguished herpetologist Mark Jennings joins other biologists who confirm that the parcel's uplands as well as its wetlands are habitat which support these listed species.

Despite being advised of SFGS and CRLF habitat value in 2000, in 2008 a portion of this parcel was scraped clean of vegetation, covered with aggregate, and used as a staging area for a water district pipeline project, based on an incomplete biological report. After the damage was done, the biologist revised the report and added conditions to restore and enhance its habitat value to listed species. Updated versions of these maps and the text modifications recommended by your staff will help the City prevent similar occurrences in the future.

Members of the Commission may have been surprised to learn that the City was unable to locate the coastal resource maps of section 18.38.020 of the certified LCP's implementation plan. The initial version of that map should accurately reflect the habitat on the parcels that are the subject of this amendment.

The suggested modifications also protect taxpayers by creating important counter-arguments to potential takings lawsuits based on claims that investor-backed expectations were damaged by incomplete maps.

The goals of the Coastal Act are advanced by these LCP map updates and the text modifications suggested by your staff. I strongly encourage you to support them.

Respectfully,

James Benjamin
400 Pilarcitos Avenue
Half Moon Bay, CA 94019



COMMITTEE FOR
GREEN FOOTHILLS



W17a

July 2, 2015

Item W17a

Support Staff Recommendation

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

Re: Item W17a: City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Map Revisions)

Dear Chair Kinsey and Commissioners,

On behalf of Committee for Green Foothills (CGF), and the Loma Prieta Chapter, Sierra Club, we write in strong support of the staff recommendation for approval of the above referenced Amendment with the suggested modifications 1 through 5 per staff.

As described in the staff report, the LUP's Habitat Areas and Water Resources Overlay ("HAWRO") map and the coastal resource maps of the IP Section 18.38.020 do not include all sensitive habitats including habitats of rare, endangered, or unique species, as well as other environmentally sensitive habitat areas that are located within the City of Half Moon Bay. Indeed, the HAWRO map is woefully inadequate, as it is over 20 years old, and is very poor quality black and white with grossly generalized indications of various habitat type locations, making it almost unreadable. In addition, we are informed that the City cannot locate the coastal resource map for IP Section 18.38.020.

Despite the requirement per LUP Policy 3-21 for the City to revise and update its HAWRO map whenever a rare, endangered, or unique species is found within the City, these periodic updates have not been done. The City has had many opportunities to attend to these revisions and updates, as there have been numerous sensitive habitat delineations on specific properties as the basis of approval of Coastal Development Permits. Most of these identified sensitive habitat areas are also permanently protected by Conditions of Approval and/or Settlement Agreements, so it is unfortunate that this essential information has not been regularly incorporated into the HAWRO map. Key LCP Policies include:

Policy 3-21: "In the event the habitat of a rare and endangered species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31."

Policy 3-32: "In the event the habitat of a unique species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay Map to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-33 through 3-36."

COMMITTEE FOR
GREEN FOOTHILLS

3921 E. Bayshore Road
Palo Alto, CA 94303

650.968.7243 ext.600
650.968.8931 fax

info@GreenFoothills.org
www.GreenFoothills.org

The city's lack of adherence to LUP Policy 3-21 and 3-32 has resulted in confusion on the part of landowners and applicants, as well as members of the public. The suggested modifications will ensure that the habitats are indeed protected.

We recognize that sensitive habitats may change over time, so it may not be the best guidance to rely solely on the HAWRO map, even if it had previously been, or will be updated in the future.

We therefore strongly support the suggested modifications #s 2 and 3 that clarify that any habitat of a rare, endangered, or unique species, regardless of whether it is mapped, shall be subject to the relevant policies of the LCP.

We also strongly support the disclaimer in suggested modification #4 that the IP Coastal Resource Areas maps per IP Section 18.38.020 ***"are not the only determinant of such areas"***, and that they ***"may be determined as part of the LCP planning and permitting process even if not yet mapped"***.

Finally, and importantly, we support the further disclaimer in suggested modification #5 that informs interested persons that ***"the information on this map is subject to revision"***, that ***boundaries of sensitive habitat areas may change over time***, and that ***"this map does not establish any final boundary line or constraints on the City's ability to identify, map, or regulate sensitive habitat areas or coastal resources."***

We commend the staff for its thorough analysis and clarifying modifications to this important Map Revisions and LCP Policy Amendment. We urge your approval per the suggested modifications.

Sincerely,

signature on file

signature on file

Lennie Roberts, Legislative Advocate
Committee for Green Foothills

Michael J. Ferreira, Conservation Chair,
Loma Prieta Chapter, Sierra Club

July 2, 2015

Item W17a

Comments sent via electronic mail on 7/2/2015 to Stephanie.Rexing@coastal.ca.gov

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

Re: Comments on the City of Half Moon Bay Amendment LCP-2-HMB-14-0612-1 (Map Revisions) - Item W17a.

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 900,000 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 ask that the Commission accept all of its staff recommendations on this Item, as found in the June 26, 2015 Staff Report. We support a NO vote on both the LUP Amendment and the IP Amendment, as submitted. We are in agreement with the Coastal Commission's Staff suggested modifications and are supportive of a vote to Certify both amendments, if and only if this approval requires adoption of all of the suggested modifications from the Staff Report.

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

Sincerely,

signature on file

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

LAW OFFICES

ATCHISON, BARISONE, CONDOTTI & KOVACEVICH

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REED W. GALLOGLY

TELEPHONE: (831) 423-8383

FAX: (831) 576-2269

EMAIL: ADMIN@ABC-LAW.COM

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

From: Jimmy Benjamin [<mailto:jimmyinhmb@gmail.com>]
Sent: Thursday, July 02, 2015 1:47 AM
To: Rexing, Stephanie@Coastal
Subject: Letter of support for staff recommendation

Hi Stephanie,

Attached please find a letter of support for the record.

It occurred to me that the pictures of the scraped area did not scan into B&W very well. I can send you electronic copies of the picture I took in 2008 if they would be helpful.

The City will be a better steward of the Coastal Act if the amendment as modified is supported by the Commission and accepted by the City.

Heartfelt thanks to you and the district for preparing such a careful report.

- Jimmy

2 July 2015

Item W17a
Support Staff Recommendation

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

Subj: City of Half Moon Bay Amendment LCP-2-HMB-14-0612-1 (Map Revisions)

Dear Chair Kinsey and Commissioners:

I write to express full support for the report recommendation to approve the amendments with suggested modifications per your staff. The map revisions would be the first habitat for listed species to be mapped on the Habitat and Water Resources Overlay (HAWRO) of the City's Local Coastal Program since it was certified in 1993.

The City has been notified multiple times by the U.S. Fish and Wildlife Service and other biological consultants that the subject parcels should be considered habitat occupied by the California red-legged frog (CRLF) and the San Francisco garter snake (SFGS). Under the U.S. Endangered Species Act, the CRLF is listed as threatened, and the SFGS is listed as endangered. SFGS is also considered endangered and is fully protected under the California Endangered Species Act.

The existence of a breeding colony of California red-legged frog has been confirmed on the parcel south of the wastewater treatment plant, and a cursory reading of their life history reveals that they use adjacent upland habitat to estivate, take refuge, forage and disperse. San Francisco garter snakes uses upland habitat to forage, hibernate, thermoregulate, reproduce and take refuge. The distinguished herpetologist Mark Jennings joins other biologists who confirm that the parcel's uplands as well as its wetlands are habitat which support these listed species.

Despite being advised of SFGS and CRLF habitat value in 2000, in 2008 a portion of this parcel was scraped clean of vegetation, covered with aggregate, and used as a staging area for a water district pipeline project, based on an incomplete biological report. After the damage was done, the biologist revised the report and added conditions to restore and enhance its habitat value to listed species. Updated versions of these maps and the text modifications recommended by your staff will help the City prevent similar occurrences in the future.

Members of the Commission may have been surprised to learn that the City was unable to locate the coastal resource maps of section 18.38.020 of the certified LCP's implementation plan. The initial version of that map should accurately reflect the habitat on the parcels that are the subject of this amendment.

The suggested modifications also protect taxpayers by creating important counter-arguments to potential takings lawsuits based on claims that investor-backed expectations were damaged by incomplete maps.

The goals of the Coastal Act are advanced by these LCP map updates and the text modifications suggested by your staff. I strongly encourage you to support them.

Respectfully,

James Benjamin
400 Pilarcitos Avenue
Half Moon Bay, CA 94019



COMMITTEE FOR
GREEN FOOTHILLS



W17a

July 2, 2015

Item W17a

Support Staff Recommendation

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

Re: Item W17a: City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Map Revisions)

Dear Chair Kinsey and Commissioners,

On behalf of Committee for Green Foothills (CGF), and the Loma Prieta Chapter, Sierra Club, we write in strong support of the staff recommendation for approval of the above referenced Amendment with the suggested modifications 1 through 5 per staff.

As described in the staff report, the LUP's Habitat Areas and Water Resources Overlay ("HAWRO") map and the coastal resource maps of the IP Section 18.38.020 do not include all sensitive habitats including habitats of rare, endangered, or unique species, as well as other environmentally sensitive habitat areas that are located within the City of Half Moon Bay. Indeed, the HAWRO map is woefully inadequate, as it is over 20 years old, and is very poor quality black and white with grossly generalized indications of various habitat type locations, making it almost unreadable. In addition, we are informed that the City cannot locate the coastal resource map for IP Section 18.38.020.

Despite the requirement per LUP Policy 3-21 for the City to revise and update its HAWRO map whenever a rare, endangered, or unique species is found within the City, these periodic updates have not been done. The City has had many opportunities to attend to these revisions and updates, as there have been numerous sensitive habitat delineations on specific properties as the basis of approval of Coastal Development Permits. Most of these identified sensitive habitat areas are also permanently protected by Conditions of Approval and/or Settlement Agreements, so it is unfortunate that this essential information has not been regularly incorporated into the HAWRO map. Key LCP Policies include:

Policy 3-21: "In the event the habitat of a rare and endangered species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31."

Policy 3-32: "In the event the habitat of a unique species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay Map to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-33 through 3-36."

COMMITTEE FOR
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The city's lack of adherence to LUP Policy 3-21 and 3-32 has resulted in confusion on the part of landowners and applicants, as well as members of the public. The suggested modifications will ensure that the habitats are indeed protected.

We recognize that sensitive habitats may change over time, so it may not be the best guidance to rely solely on the HAWRO map, even if it had previously been, or will be updated in the future.

We therefore strongly support the suggested modifications #s 2 and 3 that clarify that any habitat of a rare, endangered, or unique species, regardless of whether it is mapped, shall be subject to the relevant policies of the LCP.

We also strongly support the disclaimer in suggested modification #4 that the IP Coastal Resource Areas maps per IP Section 18.38.020 ***"are not the only determinant of such areas"***, and that they ***"may be determined as part of the LCP planning and permitting process even if not yet mapped"***.

Finally, and importantly, we support the further disclaimer in suggested modification #5 that informs interested persons that ***"the information on this map is subject to revision"***, that ***boundaries of sensitive habitat areas may change over time***, and that ***"this map does not establish any final boundary line or constraints on the City's ability to identify, map, or regulate sensitive habitat areas or coastal resources."***

We commend the staff for its thorough analysis and clarifying modifications to this important Map Revisions and LCP Policy Amendment. We urge your approval per the suggested modifications.

Sincerely,

signature on file

signature on file

Lennie Roberts, Legislative Advocate
Committee for Green Foothills

Michael J. Ferreira, Conservation Chair,
Loma Prieta Chapter, Sierra Club

July 2, 2015

Item W17a

Comments sent via electronic mail on 7/2/2015 to Stephanie.Rexing@coastal.ca.gov

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

Re: Comments on the City of Half Moon Bay Amendment LCP-2-HMB-14-0612-1 (Map Revisions) - Item W17a.

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 900,000 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 ask that the Commission accept all of its staff recommendations on this Item, as found in the June 26, 2015 Staff Report. We support a NO vote on both the LUP Amendment and the IP Amendment, as submitted. We are in agreement with the Coastal Commission's Staff suggested modifications and are supportive of a vote to Certify both amendments, if and only if this approval requires adoption of all of the suggested modifications from the Staff Report.

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

Sincerely,

signature on file

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

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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

Land Use Plan Policies

LCP Policy 1-2

Where policies within the Land Use Plan overlap or conflict, on balance, the policy which is the most protective of coastal resources shall take precedence.

LCP Policy 1-5

The textual discussion is intended as elaboration of and justification for the Plan policies and map designations. Therefore, the text shall be considered a part of the Land Use Plan, serving as the findings justifying the specified policies and Land Use Maps. Appendices A and B are hereby incorporated into the Plan.

LCP Policy 3-1 Definition of Sensitive Habitats

(a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tidelands and marshes, (4) coastal and offshore areas containing breeding and/or nesting sites and coastal areas used by migratory and resident water-associated birds for resting and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Such areas include riparian areas, wetlands, sand dunes, marine habitats, sea cliffs, and habitats supporting rare, endangered, and unique species.

LCP Policy 3-2 Designation of Sensitive Habitats

(a) Designate sensitive habitats as those, including but not limited to, shown on the Habitat Areas and Water Resources Overlay.

LCP Policy 3-3 Protection of Sensitive Habitats

(a) Prohibit any land use and/or development which would have significant adverse impacts on sensitive habitat areas.
(b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.

LCP Policy 3-4 Permitted Uses

(a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.
(b) In all sensitive habitats, require that all permitted uses comply with U. S. Fish and Wildlife and State Department of Fish and Game regulations.

LCP Policy 3-5 Permit Conditions

(a) Require all applicants to prepare a biologic report by a qualified professional selected jointly by the applicant and the City to be submitted prior to development

review. The report will determine if significant impacts on the sensitive habitats may occur, and recommend the most feasible mitigation measures if impacts may occur. The report shall consider both any identified sensitive habitats and areas adjacent.

Recommended uses and intensities within the habitat area shall be dependent on such resources, and shall be sited and designed to prevent impacts which would significantly degrade areas adjacent to the habitats. The City and the applicant shall jointly develop an appropriate program to evaluate the adequacy of any mitigation measures imposed.

(b) When applicable, require as a condition of permit approval restoration of damaged habitat(s) when, in the judgment of the Planning Director, restoration is partially or wholly feasible.

LCP Policy 3-8 Designation of Riparian Corridors

(a) Establish riparian corridors for all perennial and intermittent streams and lakes and other bodies of fresh water in the Coastal Zone. Designate those corridors shown on the Habitat Areas and Water Resources Overlay and any other riparian area as sensitive habitats requiring protection, except for manmade irrigation ponds over 2, 500 square feet surface area.

LCP Policy 3-21 Designation of Rare and Endangered Species

In the event the habitat of a rare and endangered species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31.

LCP Policy 3-22 Permitted Uses

(a) Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

(b) If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U. S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

LCP Policy 3-23 Permit Conditions

(a) Require, prior to permit issuance, that a qualified biologist prepare a report which defines the requirements of rare and endangered organisms. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and migration requirements, (2) plants' life histories and soils, climate, and geographic requirements, (3) a map depicting the locations of plants or animals and/or their habitats, (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

LCP Policy 3-24 Preservation of Critical Habitats

a) Require preservation of all habitats of rare and endangered species using the policies of this Plan and other implementing ordinances of the City.

3-25 San Francisco Garter Snake

(a) Prevent any development where there is known to be a riparian location for the San Francisco garter snake with the following exception: (1) existing man-made impoundments smaller than 1/2-acre in surface, and (2) existing man-made impoundments greater than 1/2-acre in surface, providing mitigation measures are taken to prevent disruption of not more than one half of the snake's known habitat in that location in accordance with recommendations from the State Department of Fish and Game.

(b) Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.

LCP Policy 3-32 Designation of Habitats of Unique Species

a) In the event the habitat of a unique species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-33 through 3-36.

LCP Policy 3-33 Permitted Uses

(a) Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

LCP Policy 3-34 Permit Conditions

(a) Require, as a condition of permit approval, that a qualified biologist prepare a report which defines the requirements of a unique organism. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation, and migration requirements, and (2) plants' life histories and soils, climate, and geographic requirements.

LCP Policy 3-35 Preservation of Habitats

(a) Require preservation of all critical habitats using the policies of this Plan and Implementing Ordinances of the City.

Implementation Plan Sections

IP Section 18.38.020 Coastal resource areas.

The planning director shall prepare and maintain maps of all designated coastal resource areas within the city. Coastal resource areas within the city are defined as follows:

A. Sensitive Habitat Areas. Areas in which plant or animal life or their habitats are either rare or especially valuable, and/or as designated on the habitat areas and water resources overlay map. Areas considered to be sensitive habitats are listed below.

Sensitive Habitat

- 1. Sand dunes.*
- 2. Marine habitats.*
- 3. Sea cliffs.*
- 4. Riparian areas.*
- 5. Wetlands, coastal tidelands and marshes, lakes and ponds and adjacent shore habitats.*
- 6. Coastal and off-shore areas containing breeding and/or nesting sites or used by migratory and resident water-associated birds for resting and feeding.*
- 7. Areas used for scientific study and research concerning fish and wildlife, and existing game or wildlife refuges and reserves.*
- 8. Habitats containing or supporting unique species or any rare and endangered species defined by the State Fish and Game Commission.*
- 9. Rocky intertidal zones.*
- 10. Coastal scrub community associated with coastal bluffs and gullies...*

IP Section 18.38.025 Amendments to coastal resource area maps.

Amendments to coastal resource area maps shall be made as prescribed for amendments to zoning district boundaries in this title. (1996 zoning code (part)).

June 9, 2016

Ms. Stephanie R. Rexing - District Supervisor
North Coast District Offices
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: City of Half Moon Bay Amendment Number LCP-2-HMB-14-0612-1 (Map Revisions)

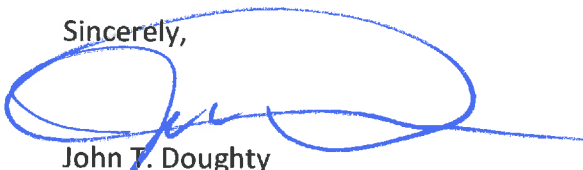
Dear Ms. Rexing,

I am writing to provide a formal response to your email dated June 1, 2016 in which you requested authorization to visit APN 048-270-080 with two Commission biologists (Dr. Garske and Dr. Koteen). During our subsequent phone conversation, in which I inquired as to the purpose of the proposed visit, you indicated that the purpose was to conduct some transect walks of the site in advance of the July Coastal Commission meeting.

At this point in time, the City does not believe that it is appropriate for the Coastal Commission to conduct such a visit based upon the following: 1) the proposed visit, as described, will not be consistent with the biological report preparation standards and criteria set forth in Chapter 18.38 of the City's Local Coastal Implementation Plan (Coastal Resource Conservation Standards) which are applicable to similarly situated properties in the City of Half Moon Bay; 2) the proposed visit and results therefrom will not be afforded the minimum 45-day review by resource agencies, the City, private land owners, and community members required pursuant to Municipal Code Section 18.38.035 C. 1. And 2.; and 3) a proposed visit on June 10th provides inadequate time for the City, private property owners, Half Moon Bay community members and resource agencies to meaningfully respond to any findings/conclusions derived by the biologists in light of the scheduled July Commission hearing.

As such, the City respectfully declines your request to visit and enter the subject property. However, if the Commission is interested in conducted a full-fledged biological assessment in compliance with the relevant protocols and the Half Moon Bay Municipal Code, please contact me at your convenience.

Sincerely,



John T. Doughty
Community Development Director

cc: Magda Gonzalez, City Manager
Reed Gallogly, Deputy City Attorney

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."

RANA RESOURCES
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#17,684
June 10, 2016

James Benjamin
400 Pilarcitos Avenue
Half Moon Bay, CA 94019-1475

Subject: Habitat assessment of lands to the south and north of the SAM Plant, Half Moon Bay.

Dear Jimmy:

This letter is in regards to my recent California red-legged frog (*Rana draytonii*; CRLF) and San Francisco gartersnake (*Thamnophis sirtalis tetrataenia*; SFGS) habitat assessment of lands in the vicinity of the SAM Plant and the neighborhood of Casa del Mar, Half Moon Bay. On June 04, 2016, I conducted a site visit of the area to assess the extent to which these lands contain or support rare, endangered, threatened or unique species under the City of Half Moon Bay's certified Local Coastal Program. The properties observed include:

A pond created as part of a 1996 Caltrans mitigation project.

The Landstra Property (along the northern edge of the Kehoe watercourse) that is owned by the Sewer Authority Mid-Coastside (APN 048-240-040).

The City of Half Moon Bay lands just south of the Landstra Property (APN 048-270-070 and APN 048-270-080). The aforementioned pond is contained within the latter parcel.

The Coastside Lutheran Church Property (APN 048-270-060), which is currently farmed and is located to the east of the previously mentioned City-owned lots.

The Magri Property located adjacent to the previously stated lot (APN 048-270-010).

I also examined the State Beach lands immediately west of the Casa del Mar neighborhood and the area between Venice Boulevard (to the north) and the Casa del Mar neighborhood (to the south). This will be referred to as the "Venice Beach Parcels." Additional observations were made along the horse trail that bisects the State Beach property located to the north of the mouth of Pilarcitos Creek.

Based on my site visit, both the pond on the parcel with APN 048-270-080 and the lagoon and marshlands at the mouth of Pilarcitos Creek provide breeding habitat for CRLF. The former is known to have had successful CRLF reproduction during the past several years (Richard Vonarb, Caltrans Biologist, pers. comm.). Thus, adjacent uplands in the vicinity of this pond are utilized by juvenile and adult CRLF for foraging and movement corridors between aquatic habitats in the vicinity, especially during rainfall periods and seasons when the area receives significant ground surface moisture from foggy weather. I observed no barriers to prevent CRLF from accessing and foraging in the Landstra parcel or either of the City of Half Moon Bay-owned properties to the east and southeast of the SAM Plant. Further, based on a number well-documented records submitted to the California Natural Diversity Data

Base in recent years, CRLF have been found foraging in the residential areas to the north of Kehoe watercourse. Since CRLF have been found to move this far from the mouth of Pilarcitos Creek and the adjacent Caltrans CRLF mitigation pond, then they can easily be considered to move a similar distance within the City's parcels to the east and southeast.

Besides the above, these same City-owned parcels should also be considered suitable hibernation habitat for SFGS. This species is known to inhabit Pilarcitos Creek and probably forages for CRLF in the Caltrans mitigation site's pond. Since upland areas provide hibernation habitats safe from creek side flooding, there is a very high probability that SFGS are utilizing the parcels in question at least for part of the year.

Examination of the vegetation structure of the riparian plants along the Kehoe watercourse and Pilarcitos Creek and the coastal upland vegetation along the City-owned properties, Venice Beach Parcels, and State Beach lands, shows that it's suitable for CRLF use, despite some degradation in places by introduced cape ivy (*Delairea odorata*), sea figs (*Carpobrotus edulis* and *C. chilensis*), and pampas grass (*Cortaderia selloana*). However, I have observed CRLF utilizing such habitats at other coastal locations such as San Simeon State Beach (Rathbun et al. 1993), Carmel State Beach (Jennings 2005), and SFGS utilizing such habitats at Pescadero Marsh and Rancho Del Oso (Jennings 1992). Based on radio tracking studies of CRLF, these amphibians are able to easily move through such areas of dense vegetation, often using small mammal burrows as travel routes (Rathbun et al. 1993).

Finally, it is my professional opinion that CRLF (and probably SFGS) are probably utilizing the Venice Beach Parcel as upland foraging habitat based on the number of recently observed CRLF sightings along the northwestern edge of the Casa del Mar neighborhood. All of these CRLF records have been documented by photographs and submitted to the California Natural Diversity Data Base.

In closing, I would like to point out that my opinions regarding CRLF and SFGS habitat on the parcels in question are nothing new. Both the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service, as well as other professional biological consultants have indicated that these areas are suitable habitat for these two species (e.g., see Coast Ridge Ecology 2013, Tattersal 2013, Norris 2015). Thus, my professional opinion is merely another confirmation that previous CRLF and SFGS habitat assessments remain valid for the positive presence of these species.

Thank you allowing me to provide my comments. Please let me know if you have any questions on the above.

Sincerely,

A handwritten signature in blue ink that reads "Mark R. Jennings". The signature is fluid and cursive, with a long horizontal line extending from the end.

Mark R. Jennings
President and
Herpetologist/Fisheries Biologist

cc: Roger Moore, Esq. Rossmann and Moore, LLP.

Documents Cited

- Coast Ridge Ecology. 2013. Biological Resource Assessment, Half Moon Bay, Property #511-1137, San Mateo county, California. Coast Ridge Ecology, San Francisco, California. 46 p.
- Jennings, M. R. 1992. Final report of preliminary studies on habitat requirements of the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) at Pescadero Marsh and Theodore J. Hoover Natural Preserves. Final report prepared for the California Department of Parks and Recreation, Central Coast Region, through Agreement (88-05-151). Department of Herpetology, California Academy of Sciences, Golden Gate Park, San Francisco, California. 40 p.
- Jennings, M. R. 2005. An assessment of the California red-legged frog (*Rana draytonii*) population at Carmel River State Beach, Carmel, California. Final Report prepared for EDAW, Sacramento, California. 8 p.
- Norris, J. M. 2015. July 23, 2015 letter from Jennifer M. Norris, U.S. Fish and Wildlife Service (Sacramento Office) to Jane M. Hicks, U.S. Army Corps of Engineers, regarding Formal Consultation on the Pilarcitos Creek Pedestrian Bridge Replacement Project in the City of Half Moon Bay, San Mateo County, California (O8ESMF00-2015-F-0674-2). 41 p.
- Rathbun, G. B., M. R. Jennings, T. G. Murphey, and N. R. Siepel. 1993. Status and ecology of sensitive aquatic vertebrates in lower San Simeon and Pico Creeks, San Luis Obispo County, California. Final report prepared for the California Department of Parks and Recreation, San Simeon Region, through Cooperative Agreement (14-16-0009-01-1909). U.S. Fish and Wildlife Service, National Ecology Research Center, Piedras Blancas Research Station, San Simeon, California. ix+103 p.
- Tattersall, E. 2013. October 24, 2013 letter from Eric Tattersall (signed by Ryan Olah, U.S. Fish and Wildlife Service (Sacramento Office) to Bruce Ambo, Planning Manager, Half Moon Bay, regarding Coastal Development (retroactive) for the Kehoe Drainage Flood Maintenance in Half Moon Bay, San Mateo County, California (O8ESMF00-2013-TA-0640). 3 p.

CURRICULUM VITAE

MARK RUSSELL JENNINGS

ADDRESS

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PERSONAL INFORMATION

Age: 58.
Marital Status: Single.

SUMMARY

Broadly trained in the fields of aquatic ecology, ichthyology, herpetology, mamma logy, parasitology, and toxicology, with extensive academic and field experience. Specialization in taxonomy, life history studies, contaminants, conservation, historical studies, and interactions between native and exotic species. A seasoned researcher and instructor, with numerous publications in many disciplines and experience with state and federal agencies, nonprofit organizations, and private industry. Experienced as an expert witness in Federal District Court. Able to work and communicate effectively with people from a wide variety of educational backgrounds.

EDUCATION

Institution	Location	Dates	Degrees	Major
Ventura College	Ventura, California	9/74-6/76	A.A.	Life Sciences
Golden West College	Huntington Beach, Calif.	6/76-8/76	-----	-----
Humboldt State University	Arcata, California	9/76-6/78 1/79-6/81	B.S. M.S.	Fisheries Natural Resources
The University of Arizona	Tucson, Arizona	1/82-5/86	Ph.D.	Wildlife and Fisheries Science

EXPERIENCE

July, 2000 - Present:	Associate Herpetologist and Fisheries Biologist, Zander Associates, San Rafael, California.
Dec., 1999 - Present:	Associate Herpetologist, Mosaic Associates LLC, Pinole, California.
Oct., 1999 - Present:	Associate Herpetologist and Fisheries Biologist, Live Oak Associates, Inc., Oakhurst/San Jose, California.
July, 1988 - Present:	President, Herpetologist and Fisheries Biologist, Rana Resources, Davis, California.
Jan., 1987 - Present:	Research Associate, Department of Herpetology, California Academy of Sciences, Golden Gate Park, San Francisco, California.
Nov., 1997 - June, 2006:	Associate Herpetologist, Sycamore Associates LLC, Walnut Creek, California.
Sept., 1995 - Aug. 1998:	Assistant with the Agricultural Experiment Station, Department of Wildlife, Fish, and Conservation Biology, University of California, Davis, California.
Nov., 1993 - Sept. 2002:	Assistant Adjunct Professor, Department of Ecology, Evolution and Marine Biology, University of California, Santa Barbara, California.
July, 1990 - Dec., 2000:	Associate Aquatic Biologist and Herpetologist, H. T. Harvey and Associates, San Jose, California.
Mar., 1999 - Sept., 1999: Sept., 2000 - Sept., 2001:	Biological Consultant, Anteon Corporation, Fairfax, Virginia.
Oct., 1994 - Sept., 1997:	Research Associate, Natural Resources Management Department, California Polytechnic State University, San Luis Obispo, California.
Oct., 1996 - Mar., 1999:	Fish and Wildlife Biologist (Research), U.S. Geological Survey, Biological Resources Division, Western Ecological Research Center, Piedras Blancas Field Station, San Simeon, California.
Nov., 1993 - Oct., 1996:	Fish and Wildlife Biologist (Research), National Biological Service, California Science Center, Piedras Blancas Field Station, San Simeon, California.
May, 1992 - Nov., 1993:	Fish and Wildlife Biologist (Research), U.S. Fish and Wildlife Service, National Ecology Research Center, Piedras Blancas Field Station, San Simeon, California.
June, 1986 - June, 1990:	Fishery Biologist (Research), U.S. Fish and Wildlife Service, National Fisheries Contaminant Research Center, Field Research Station, Dixon, California.
Apr., 1985 - May, 1986:	Biological Consultant, Harding Lawson Associates, Novato, California.

Jan., 1982 - May, 1986:	Research Associate, School of Renewable Natural Resources, The University of Arizona, Tucson, Arizona.
Mar., 1981 - Dec., 1981:	Graduate Student Assistant, California Department of Fish and Game, Red Bluff, California.
June, 1980 - Sept., 1980:	Biological Technician, Nezperce National Forest, Grangeville, Idaho.
Jan., 1979 - June, 1981:	Fisheries Staff, Department of Fisheries, Humboldt State University, Arcata, California.
June, 1979 - Sept., 1979:	Biological Technician, Nezperce National Forest, Grangeville, Idaho.
June, 1978 - Dec., 1978:	Biological Aid, Nezperce National Forest, Grangeville, Idaho.

SUBCONTRACTING EXPERIENCE (1988-to date)

AECOM.
 Analytical Ecological Services.
 Area West Environmental, Inc.
 Arnaiz Development Company, Inc.
 Blue Oak Ranch.
 Burgdorff Ranch.
 California Department of Fish and Wildlife..
 California Department of Parks and Recreation.
 Camp, Dresser, and McKee.
 Carle, Mackie, Power & Ross LLP.
 CH2M Hill, Inc.
 CH2M Hill, Constructors, Inc.
 City of Burlingame.
 CSW/Stuber-Stroeh Engineering Group, Inc.
 Dean Carrier and Associates.
 DSL Service Company.
 Ebbin, Moser + Skaggs LLC.
 EDAW, Inc.
 Elkhorn Slough National Estuarine Research Reserve.
 EIP Associates.
 EMC Planning Group, Inc.
 Environ® International Corporation.
 Environmental Law Foundation.
 ERM West.
 ETIC Engineering, Inc.
 Farella, Braun + Martel LLP.
 Framatome ANP, Inc.
 Freeman Associates LLC.
 Fulton Road Investors LLC.
 GWF Energy LLC.
 Hauge Brueck Associates, LLC.
 Hudson Vineyards.
 Insignia Environmental.
 Jumping Frog Research Institute.
 Law Offices of Kathleen P. Clack.
 LFR Levine-Fricke.
 Metropolitan Water District of Southern California.

Michael Wood Biological Consulting.
 Mission Peak Company.
 Morrison and Foerster LLP.
 NRM Environmental Consulting.
 Oakland Museum of California.
 Oakmont Senior Living LLC.
 Olberding Environmental, Inc.
 Pacific Gas and Electric Company.
 Pacific Rivers Council.
 PBS&J.
 RCL Ecology.
 RMC Water and Environment.
 Sacramento Municipal Utility District.
 San Francisco Public Golf Alliance.
 San Geronimo Valley Stewards.
 Santa Clara Valley Water District.
 Sequoia Ecological Consulting, Inc.
 Shute, Mihaly and Weinberger LLP.
 Solano Land Trust.
 Star Route Farms.
 Stevens Consulting.
 Stoel Rives LLP.
 Syar Industries, Inc.
 Tara Group, Inc.
 The Environmental Collaborative.
 The Huffman-Broadway Group, Inc.
 University of California at Davis.
 University of California at Santa Cruz.
 URS Corporation Americas.
 U.S. Forest Service.
 U.S. Geological Survey.
 Vinnedge Environmental Consulting.
 Vino Farms, LLC.
 Vollmar Consulting.
 Wagner and Bonsignore.
 W. Dean Carrier and Associates.
 Wetlands Research Associates, Inc.
 White Rock Club.
 Willoughby, Stuart, and Bening LLP.

PROFESSIONAL AFFILIATIONS

American Fisheries Society (Parent Society/Cal-Neva Chapter/Sacramento-Davis Chapter/Education
 Section/Fish Health Section/Introduced Fish Section/Fisheries History Section).
 Certified as a Fisheries Scientist.
 Currently the Historian for the Cal-Neva Chapter.
 Past member of the Publications Awards Committee.
 Past member of the J. Frances Allen Scholarship Committee.
 Past member of the Endangered Species Committee.
 Former Co-Editor of the **Fisheries History Section Newsletter**.
 American Society of Ichthyologists and Herpetologists.
 Former Society Historian.
 Society for the Study of Amphibians and Reptiles.
 Former Current Literature Scanner.

Herpetologists' League.
 International Herpetological Symposium, Inc.
 Association of Systematics Collections.
 American Institute of Fishery Research Biologists (Member).
 Desert Fishes Council.
 The Gilbert Ichthyological Society (Fellow).
 The Wildlife Society (Parent Society/Western Section/Sacramento-Davis Chapter).
 California Academy of Sciences (Research Associate, Department of Herpetology).
 Society for the History of Natural History.
 International Society for the History and Bibliography of Herpetology.

HONORS, AWARDS, AND GRANTS

Bank of America Award Winner, 1974.
 Bausch and Lomb Science Award, 1974.
 Lions Club Scholarship Award, 1974.
 Nobel Science Award, 1974.
 California Fisheries Restoration Grant (\$500), 1980.
 Best Student Paper, American Fisheries Society, Arizona-New Mexico Chapter Meeting, 1986.
 Kennedy Award (for the best student paper published in the **Journal of Herpetology**), Society for the Study of Amphibians and Reptiles, 1987.
 Special Achievement Award for Superior Service, U.S. Fish and Wildlife Service (\$500), 1987.
 Travel Assistance Award, American Institute of Fishery Research Biologists (\$250), 1987.
 Amphibian and Reptile Species of Special Concern in California; Grant Awarded by the State of California (\$15,000), 1988.
 Status of red-legged frogs in Pescadero Natural Area; grant awarded by the State of California (\$9,350), 1989.
 Study of the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) at Pescadero Marsh and Theodore J. Hoover Natural Preserves; grant awarded by the State of California (\$21,965), 1991.
 Conservation Award, Southwestern Herpetologists Society (\$250), 1991.
 Interagency Agreements between the U.S. Forest Service (Angeles National Forest) and the U.S. Fish and Wildlife Service [=National Biological Survey] for aquatic amphibian surveys (\$7,928), 1993; (\$7,928), 1994.
 Special Achievement Award for Superior Service, National Biological Survey (\$1,205), 1994.
 Independent Consultant Agreement awarded by the University of California at Davis for a report on the status and biology of the amphibians of the Sierra Nevada (\$10,000), 1994.
 Interagency Agreement between the U.S. Fish and Wildlife Service and the National Biological Survey for developing a revised recovery plan for the endangered Santa Cruz long-toed salamander (\$11,250), 1994.
 Interagency Agreement between the U.S. Forest Service (Angeles National Forest) and the National Biological Service for ranid frog surveys (\$4,112), 1995.
 Interagency Agreement between the U.S. Fish and Wildlife Service and the National Biological Service for developing a recovery plan for the endangered arroyo toad (\$20,000), 1996.
 Interagency Agreement between the U.S. Forest Service (Angeles and San Bernardino National Forests) and the U.S. Geological Survey for monitoring ranid frog populations (\$8,000), 1997.
 Interagency Agreement between the U.S. Forest Service (Angeles and San Bernardino National Forests) and the U.S. Geological Survey for monitoring ranid frog populations (\$10,465), 1998.
 Conservation of mountain yellow-legged frogs in Kings Canyon National Park; grant awarded by the U.S. Geological Survey [through NRPP funds] (\$51,607), 1999.
 Interagency Agreement between the U.S. Forest Service (Angeles and San Bernardino National Forests) and the U.S. Geological Survey for monitoring ranid frog populations (\$19,602), 1999.
 Interagency Agreement between the U.S. Forest Service and the U.S. Geological Survey for producing a conservation strategy for the mountain yellow-legged frog in the Sierra Nevada (\$32,000), 1999.
 Listed in Marquis Who's Who in the West: 1998-1999.

Listed in Marquis Who's Who in America: 2000, 2001.

MANUSCRIPTS REVIEWED FOR JOURNALS

Bulletin of the Southern California Academy of Sciences.

California Fish and Game.

Catalogue of American Amphibians and Reptiles.

Conservation Biology.

Copeia.

Herpetological Natural History.

Herpetological Review.

Journal of Herpetology.

Marine Fisheries Review.

Reviews in Fisheries Science.

The Southwestern Naturalist.

Transactions of the American Fisheries Society.

Transactions of the Western Section of The Wildlife Society.

And many other manuscripts for conference proceedings and special publications.

MAJOR PAPERS PRESENTED AT SCIENTIFIC MEETINGS

Jennings, M. R. 1985. The southern California horned toad trade: 1885-1930. Contributed paper presented August 7, 1985 at the combined annual meetings of the Society for the Study of Amphibians and Reptiles (28th) and the Herpetologists' League (33rd), held at the University of South Florida, Tampa, Florida.

Jennings, M. R., and W. J. Matter. 1986. Interactions of desert pupfish (*Cyprinodon macularius*) and mosquitofish (*Gambusia affinis*) in systems open to egress. Contributed paper presented January 31, 1986 at the combined annual meetings of the American Fisheries Society (Arizona-New Mexico Chapter) and the Wildlife Society (Arizona and New Mexico Chapters), held at Eastern Arizona College, Thatcher, Arizona.

Jennings, M. R. 1987a. Cloudsley Louis Rutter (1867-1903), pioneer research fishery biologist and fisheries administrator of the American West. Invited paper presented June 22, 1987 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (67th), and the American Elasmobranch Society (3rd), held at Albany, New York.

Jennings, M. R. 1987b. The pattern of bullfrog (*Rana catesbeiana*) introductions in the American West: historical significance and impact on native ranids. Invited paper presented June 24, 1987 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (67th), and the American Elasmobranch Society (3rd), held at Albany, New York.

Jennings, M. R. 1987c. Interactions of desert pupfish (*Cyprinodon macularius*) and mosquitofish (*Gambusia affinis*) in systems open to egress. Invited paper presented June 25, 1987 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (67th), and the American Elasmobranch Society (3rd), held at Albany, New York.

Jennings, M. R. 1987d. Natural history and decline of native ranids in California. Invited paper presented on October 11, 1987 at the California Herpetological Conference held at the Natural History Museum of Los Angeles County, Los Angeles, California. (Sponsored by the Southwestern Herpetologists Society and the San Diego Herpetological Society).

- Jennings, M. R. 1988. Decline of native frog populations in California: causes, consequences, and solutions. Invited paper presented February 5, 1988 at the 23rd annual conference of the California-Nevada Chapter of the American Fisheries Society, held at the Holiday Inn, Ventura, California.
- Jennings, M. R., and M. K. Saiki. 1988. Introduction and establishment of red shiners (*Notropis lutrensis*) in the San Joaquin Valley, California. Contributed paper presented June 28, 1988 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (68th), American Elasmobranch Society (4th), Early Life History Section of the American Fisheries Society, Herpetologists' League (36th), and the Society for the Study of Amphibians and Reptiles (31st), held at The University of Michigan, Ann Arbor, Michigan.
- Hayes, M. P., and M. R. Jennings. 1988. Habitat correlates of distribution of the California red-legged frog (*Rana aurora draytonii*) and the foothill yellow-legged frog (*Rana boylei*): implications for management. Invited paper presented July 19, 1988 at the Symposium on the Management of Amphibians, Reptiles, and Small Mammals in North America, held at Northern Arizona University, Flagstaff, Arizona. (Sponsored by the Arizona Chapter of the Wildlife Society, Arizona Game and Fish Department, Northern Arizona University, and the U.S. Forest Service).
- Saiki, M. K., and M. R. Jennings. 1989a. On-site toxicity of agricultural tile drainwater from the San Joaquin Valley to anadromous fishes. Invited paper presented February 10, 1989 at the 24th annual conference of the California-Nevada Chapter of the American Fisheries Society, held at the Clarion Hotel, Napa, California.
- Jennings, M. R., and M. K. Saiki. 1989. Relation of fish community composition to environmental variables in the irrigated San Joaquin Valley, California. Contributed paper presented June 19, 1989 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (69th), and the American Elasmobranch Society (5th), held at San Francisco State University, San Francisco, California.
- Jennings, M. R. 1989. Mark Twain and the story of the celebrated jumping frog of Calaveras County: origins, actors, and reflections from a 20th century perspective. Contributed paper presented June 20, 1989 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (69th), and the American Elasmobranch Society (5th), held at San Francisco State University, San Francisco, California.
- Saiki, M. K., and M. R. Jennings. 1989b. Toxicity of agricultural tile drainwater from the San Joaquin Valley, California, to anadromous fishes. Invited paper presented July 7, 1989 at the 1989 joint conference of the Western Association of Fish and Wildlife Agencies and the Western Division of American Fisheries Society, held at the Seattle Sheraton Hotel and Towers, Seattle, Washington.
- Hayes, M. P., and M. R. Jennings. 1989. Patterns in the commercial exploitation of frogs. Invited paper presented September 13, 1989 at the First World Congress of Herpetology, held at the University of Kent, United Kingdom.
- Jennings, M. R. 1990a. Man and the changing fish fauna of the San Joaquin Valley. Invited paper presented February 3, 1990 at the 25th annual conference of the California-Nevada Chapter of the American Fisheries Society, held at the Lakeside Inn, Stateline, Nevada.
- Jennings, M. R., and M. P. Hayes. 1990. Decline and replacement of native ranid frogs in the desert southwestern U.S. Invited paper presented February 18, 1990 at the Conference on the Herpetology of the North American Deserts, held at the Natural History Museum of Los Angeles County, Los Angeles, California. (Sponsored by the Southwestern Herpetologists Society).
- Hayes, M. P., and M. R. Jennings. 1990. Overview of frog populations in California, with comments on Arizona and Costa Rica. Invited paper presented February 19, 1990 at the special workshop on

"Declining Amphibian Populations -- A Global Phenomenon?" held at the Arnold and Mabel Beckman Center, University of California at Irvine, Irvine, California. (Sponsored by the Board on Biology of the National Research Council).

- Saiki, M. K., and M. R. Jennings. 1990. Effects of agricultural subsurface (tile) drainwater from the San Joaquin Valley to juvenile striped bass. Invited paper presented March 31, 1990 at the Selenium V Symposium, held at the University of California at Berkeley, Berkeley, California. (Sponsored by the Department of Conservation and Resource Studies, University of California at Berkeley, and The Bay Institute of San Francisco).
- Jennings, M. R. 1990b. Barton Warren Evermann (1853-1932) and his contributions to North American ichthyology. Invited paper presented June 18, 1990 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (70th), the American Elasmobranch Society (6th), Southeastern Fishes Council, and the North American meeting of the Society for the History of Natural History (5th), held at the College of Charleston, South Carolina.
- Jennings, M. R. 1990c. John Van Denburgh (1872-1924), pioneer herpetologist of the American West. Invited paper presented June 18, 1990 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (70th), the American Elasmobranch Society (6th), Southeastern Fishes Council, and the North American meetings of the Society for the History of Natural History (5th), held at the College of Charleston, South Carolina.
- Jennings, M. R. 1990d. Discussion and closing remarks. Invited paper presented June 18, 1990 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (70th), the American Elasmobranch Society (6th), Southeastern Fishes Council, and the North American meeting of the Society for the History of Natural History (5th), held at the College of Charleston, South Carolina.
- Jennings, M. R. 1990e. Decline of amphibian species in the Far West. Invited paper presented August 7, 1990 during the informational symposium on the "Global Crisis in Declining Amphibian Diversity" at the combined annual meetings of the Herpetologists' League (38th) and the Society for the Study of Amphibians and Reptiles (33rd), held at Tulane University, New Orleans, Louisiana.
- Jennings, M. R. 1991a. Water resource management in California and its effects on the native herpetofauna: a view into the 21st century. Invited paper presented April 20, 1991 at the 17th annual conference on wildlife and fisheries biology, held at Humboldt State University, Arcata, California. (Sponsored by the Humboldt Chapters of the Wildlife Society, American Fisheries Society, and Conservation Unlimited).
- Jennings, M. R. 1991b. Man and the changing herpetofauna of the southern California coastal plain: Los Angeles County to the Mexican border. Invited paper presented on May 11, 1991 at the annual meeting (100th anniversary) of the Southern California Academy of Sciences, held at the University of Southern California and the Natural History Museum of Los Angeles County, Los Angeles, California.
- Jennings, M. R. 1991c. Seth Eugene Meek, an early disciple of David Starr Jordan. Contributed paper presented on October 12, 1991 at the 3rd annual meeting of The Gilbert Ichthyological Society, held at the Friday Harbor Laboratories of the University of Washington, Seattle, Washington.
- Jennings, M. R. 1992a. Aquatic amphibians and reptiles of concern in California: what species are in trouble and what can we do to help them? Invited paper presented on February 7, 1992 at the 27th annual conference of the California-Nevada Chapter of the American Fisheries Society, held at the Red Lion Inn, Redding, California.
- Jennings, M. R. 1992b. Salinity tolerance of developing embryonic stages of the California red-legged frog (*Rana aurora draytonii*). Contributed paper presented June 8, 1992 at the combined annual

meetings of the American Society of Ichthyologists and Herpetologists (72nd), The Herpetologists' League (40th), and the American Elasmobranch Society (8th), held at the University of Illinois at Urbana-Champaign, Champaign, Illinois.

- Jennings, M. R. 1992c. Dolly Varden revisited: merely a tale of fads, fashions, and fishes. Contributed paper presented on September 29, 1992 at the 4th annual meeting of The Gilbert Ichthyological Society, held at the Saint Benedict Lodge, McKenzie Bridge, Oregon.
- Jennings, M. R. 1993a. Current status of the herpetofauna of California: which species are in trouble and what can we do to help them? Invited paper presented on February 26, 1993 at the 1993 annual conference of the Western Section of The Wildlife Society, held at the Monterey Hyatt, Monterey, California.
- Jennings, M. R. 1993b. The role of amphibians and reptiles in California ecosystems: a natural history museum researcher's perspective. Invited paper presented on July 27, 1993 at the 28th annual conference of the California-Nevada Chapter of the American Fisheries Society, held at the Red Lion Inn, Sacramento, California.
- Jennings, M. R. 1993c. Who the hell was Heermann? Contributed paper presented on September 18, 1993 at the 5th annual meeting of The Gilbert Ichthyological Society, held at the Cispus Learning Center, Randle, Washington.
- Jennings, M. R. 1993d. Pacific salmon biologists of the Sacramento River: a historical perspective of 19th century fisheries management. Banquet keynote address presented on September 18, 1993 at the 5th annual meeting of The Gilbert Ichthyological Society, held at the Cispus Learning Center, Randle, Washington.
- Black, M., M. Jennings, J. Kitchell, and W. Nelson. 1994. From know-how to nowhere? Fishery mitigation lessons from the Sacramento River, the Columbia River, and the Great Lakes. Invited papers and round table discussion presented January 10, 1994 at a special symposium on Pacific Salmon and Their Ecosystems, sponsored by the University of Washington and held at the Weston Hotel, Seattle, Washington.
- Jennings, M. R. 1994a. Use of unverified museum databases for land management decisions: the case of native California frogs. Contributed paper presented June 4, 1994 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (74th), the American Elasmobranch Society (10th), and the Neotropical Ichthyological Association (6th), held at the University of Southern California and the Natural History Museum of Los Angeles County, Los Angeles, California.
- Jennings, M. R. 1994b. Saving chinook salmon (*Oncorhynchus tshawytscha*) resources of the Sacramento-San Joaquin River system, California: a century of failed management strategies? Contributed paper presented June 5, 1994 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (74th), the American Elasmobranch Society (10th), and the Neotropical Ichthyological Association (6th), held at the University of Southern California and the Natural History Museum of Los Angeles County, Los Angeles, California.
- Jennings, M. R. 1994c. Barton Warren Evermann and his 1904 golden trout expedition to the top of California. Contributed paper presented on September 17, 1994 at the 6th annual meeting of The Gilbert Ichthyological Society, held at the Hatfield Marine Science Center, Newport, Oregon.
- Jennings, M. R. 1994d. Dealing with amphibians and reptiles on public land in California: how well are resource managers addressing this issue? Invited paper presented on November 16, 1994 at the 5th biennial conference of the Watershed Management Council, held at the Ashland Hills Inn in Ashland, Oregon.

- Jennings, M. R. 1995a. Demography of an isolated southern California population of the California red-legged frog (*Rana aurora draytonii*): the first six years of data. Invited paper presented on February 4, 1995 at the 1995 annual conference of the Western Section of The Wildlife Society, held at the Red Lion Hotel, Rohnert Park, California.
- Jennings, M. R. 1995b. Status of the biodiversity of in central coastal California: amphibians and reptiles. Invited paper presented on March 4, 1995 at the Symposium on Biodiversity of the Central California Coast, sponsored by the Association for the Central California Coast Biosphere Reserve, and the University of California at Berkeley, and held at the Golden Gate Club (in the Presidio), San Francisco, California.
- Jennings, M. R. 1995c. Decline and replacement of native ranid frogs in the desert Southwest: new mystery to a recurring pattern of extinction? Invited paper presented on March 10, 1995 at the 8th biennial conference of the American Society for Environmental History, held at the Alexis Park Resort, Las Vegas, Nevada.
- Jennings, M. R. 1995d. Reptiles and amphibians of the Sierra Nevada: a status report. Invited paper presented on April 30, 1995 at the Symposium on Sierra Nevada Biodiversity: Exploring the Richness and Functional Role of Wild Species, sponsored by California Academy of Sciences, the Sierra Biodiversity Institute, and the National Biological Service, and held at the California Academy of Sciences, Golden Gate Park, San Francisco, California.
- Jennings, M. R. 1995e. Demography of a society: the American Society of Ichthyologists and Herpetologists over the past 75 years. Contributed paper presented on June 16, 1995 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (75th), the American Elasmobranch Society (11th), and the Herpetologists' League (43rd), held at the University of Alberta, Edmonton, Canada.
- Jennings, M. R. 1995f. Status and conservation of native true frogs (Ranidae) in the Transverse and Peninsular Ranges of southern California. Contributed paper presented on June 19, 1995 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (75th), the American Elasmobranch Society (11th), and the Herpetologists' League (43rd), held at the University of Alberta, Edmonton, Canada.
- Jennings, M. R. 1995g. Amphibians and reptiles in riparian ecosystems of the Pacific Northwest: what do we really know about these creatures and how do they fit into current resource management programs? Invited paper presented on September 13, 1995 at the 2nd annual conference of The Wildlife Society, held at the Red Lion Hotel/Jantzen Beach, Portland, Oregon.
- Jennings, M. R. 1995h. The 1903 Alaska fisheries diary of Cloudsley Louis Rutter. Contributed paper presented on October 7, 1995 at the 7th annual meeting of The Gilbert Ichthyological Society, held at the Pack Forest Conference Center, College of Forest Resources, University of Washington, Eatonville, Washington.
- Jennings, M. R. 1996a. Management of endangered frogs and toads in southern California: myth or reality? Invited paper presented on February 1, 1996 at the 1996 annual conference of the Western Section of The Wildlife Society, held at John Ascuaga's Nugget, Sparks, Nevada.
- Jennings, M. R. 1996b. Eucalyptus oils do not affect developing embryos of the California red-legged frog (*Rana aurora draytonii*). Invited paper presented on February 2, 1996 at the 1996 annual conference of the Western Section of The Wildlife Society, held at John Ascuaga's Nugget, Sparks, Nevada.
- Jennings, M. R. 1996c. Ho for Alaska! Life and times of a fisheries biologist at the turn of the century. Banquet keynote address presented on March 19, 1996 at the 58th annual meeting of the Pacific Fishery Biologists, held at the Bay Hotel, Silverdale, Washington.

- Jennings, M. R. 1996d. Sensitive species population status, legal/policy status and management: giant garter snake. Invited paper presented on April 2, 1996 at the Symposium on Sensitive Biological Resources of the Sacramento Valley: the Science and the Politics, presented by the Swainson's Hawk Technical Advisory Committee and the Center for Natural Lands Management, and held at the Redwood Room, Sacramento State University, Sacramento, California.
- Jennings, M. R. 1996e. Biodiversity loss among native freshwater fishes of California. Invited paper presented on April 27, 1996 at the 1st annual Bay Area Science Symposium, held at Foothill College, Los Altos Hills, California.
- Jennings, M. R. 1996f. A brief history of the salmon canning industry in the Pacific Northwest. Contributed paper presented on September 28, 1996 at the 8th annual meeting of The Gilbert Ichthyological Society, held at the Hatfield Marine Science Center, Newport, Oregon.
- Jennings, M. R., and K. W. Dunbar. 1997a. Welcome. Invited paper presented on July 2, 1997 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (77th), Herpetologists' League (45th), Society for the Study of Amphibians and Reptiles (40th), American Fisheries Society--Early Life History Section (21st), American Elasmobranch Society (13th), and the Gilbert Ichthyological Society (9th), held at the University of Washington, Seattle, Washington.
- Jennings, M. R. 1997a. Ichthyologists, herpetologists, and resident naturalists: the professional scientific personnel of the *Albatross*. Invited paper presented on July 2, 1997 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (77th), Herpetologists' League (45th), Society for the Study of Amphibians and Reptiles (40th), American Fisheries Society--Early Life History Section (21st), American Elasmobranch Society (13th), and the Gilbert Ichthyological Society (9th), held at the University of Washington, Seattle, Washington.
- Jennings, M. R., and K. W. Dunbar. 1997b. Conclusion. Invited paper presented on July 2, 1997 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (77th), Herpetologists' League (45th), Society for the Study of Amphibians and Reptiles (40th), American Fisheries Society--Early Life History Section (21st), American Elasmobranch Society (13th), and the Gilbert Ichthyological Society (9th), held at the University of Washington, Seattle, Washington.
- Jennings, M. R. 1997b. Notes on the edible frogs of the United States and their artificial propagation: a 100-year update. Invited paper presented on August 26, 1997 at the 127th annual meeting of the American Fisheries Society, held at the Monterey Convention Center, Double Tree Motel, and Marriott Hotel, Monterey, California.
- Jennings, M. R. 1998a. Notes on the edible frogs of the United States and their artificial propagation: a 100-year update. Invited paper presented on February 17, 1998 at Aquaculture '98, the International Triennial Conference and Exposition of the World Aquaculture Society, the National Shellfisheries Association, and the American Fisheries Society Fish Culture Section, held at Bally's, Las Vegas, Nevada.
- Jennings, M. R. 1998b. Use of discarded aluminum beverage cans by selected North American amphibians and reptiles. Contributed paper presented July 20, 1998 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (78th), Herpetologists' League (46th), Society for the Study of Amphibians and Reptiles (41st), and the American Elasmobranch Society (14th), held at the University of Guelph, Guelph, Canada.
- Jennings, M. R. 1998c. Amphibian and reptile diversity in southern California prior to 1850. Invited paper presented on October 24, 1998 at the conference on California's Biodiversity Crisis: the Loss of Nature in an Urbanizing World, sponsored and presented by the University of California at Los Angeles Institute of the Environment, and held at the UCLA Faculty Center, Westwood, California.

- Jennings, M. R. 1998d. An overview of the status of amphibians in California. Contributed paper presented on December 29, 1998 at the 79th annual meeting of the Western Society of Naturalists, held at the Hanalei Hotel and Convention Center, San Diego, California.
- Jennings, M. R. 1999. Use of discarded aluminum and glass beverage containers by amphibians and reptiles. Contributed paper presented on January 22, 1999 at the 1999 annual conference of the Western Section of The Wildlife Society, held at the Hyatt Regency Hotel, Monterey, California.
- Jennings, M. R. 2000a. Management options for an isolated population of California red-legged frogs in southern California: what have we learned from a decade of experience? Contributed paper presented on January 27, 2000 at the 2000 annual conference of the Western Section of The Wildlife Society, held at the Riverside Convention Center, Riverside, California.
- Holland, D. C., M. R. Jennings, and N. R. Sisk. 2000. Control of exotic species in southern California: impacts to and management considerations for sensitive native amphibian and reptile species. Contributed paper presented on January 27, 2000 at the 2000 annual conference of the Western Section of The Wildlife Society, held at the Riverside Convention Center, Riverside, California.
- Stewart, G. R., M. R. Jennings, and R. H. Goodman. 2000. Sensitive species of snakes, frogs, and salamanders: status and management. Invited paper presented on February 29, 2000 at the symposium for the California Southcoast Ecoregion entitled "Planning for Biodiversity: Bringing Research and Management Together", sponsored by the USDA Forest Service and the U.S. Geological Survey, Western Ecological Research Center, and held at the Kellogg West Conference Center, California State Polytechnic University, Pomona, California.
- Jennings, M. R. 2000b. Amphibian declines and newspaper headlines: an historical review with a California perspective. Keynote address presented on April 26, 2000 at the Biology and Management of Amphibians of Northern California workshop of the California North Coast Chapter of The Wildlife Society, held at Korbel School House, Korbel, California.
- Davidson, C., H. B. Shaffer, and M. R. Jennings. 2000. California amphibian declines: test of the habitat, UV-B, climate and pesticides hypotheses. Contributed paper presented on June 17, 2000 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (80th), American Elasmobranch Society (16th), Neotropical Ichthyological Association, Herpetologists' League (48th), Canadian Association of Herpetologists, and the Society for the Study of Amphibians and Reptiles (43rd), held at the Universidad Autónoma de Baja California Sur, La Paz, México.
- Jennings, M. R. 2000c. Seth Eugene Meek and contributions to the ichthyology and herpetology of North and Middle America. Contributed paper presented on June 18, 2000 at the combined annual meetings of the American Society of Ichthyologists and Herpetologists (80th), American Elasmobranch Society (16th), Neotropical Ichthyological Association, Herpetologists' League (48th), Canadian Association of Herpetologists, and the Society for the Study of Amphibians and Reptiles (43rd), held at the Universidad Autónoma de Baja California Sur, La Paz, México.
- Davidson, C., H. B. Shaffer, and M. R. Jennings. 2001. California amphibian declines, prevailing winds, and agricultural land use. Invited paper presented on February 22, 2001 at the 2001 annual conference of the Western Section of The Wildlife Society, held at the Radisson Hotel, Sacramento, California.
- Padgett-Flohr, G. E., and M. R. Jennings. 2001. Introduction to the workshop entitled "Wildlife Biologists and Endangered Species Permits: Separating Fact from Fiction, Fantasy, and Reality". Invited paper presented on February 22, 2001 at the 2001 annual conference of the Western Section of The Wildlife Society, held at the Radisson Hotel, Sacramento, California.

- Jennings, M. R. 2001a. A museum researcher's perspective. Invited paper presented on February 22, 2001 at the 2001 annual conference of the Western Section of The Wildlife Society, held at the Radisson Hotel, Sacramento, California.
- Jennings, M. R. 2001b. Summary to the workshop entitled "Wildlife Biologists and Endangered Species Permits: Separating Fact from Fiction, Fantasy, and Reality". Invited paper presented on February 22, 2001 at the 2001 annual conference of the Western Section of The Wildlife Society, held at the Radisson Hotel, Sacramento, California.
- Jennings, M. R. 2001c. Reptiles and amphibians of California's grasslands. Invited paper presented on April 6, 2001 at the annual meeting of the California Native Grass Association, held at Humboldt State University, Arcata, California.
- Jennings, M. R. 2001d. Richard Stege and his "California Frog Ranch". Contributed paper presented on September 15, 2001 at the 13th annual meeting of The Gilbert Ichthyological Society, held at the Hatfield Marine Science Center, Newport, Oregon.
- Jennings, M. R., D. C. Holland, and R. H. Goodman, Jr. 2002. Exotic aquatic turtles on the West Coast: considerations and implications. Contributed paper presented on June 8, 2002 at the annual meeting of the Southern California Academy of Sciences, held at Claremont McKenna College, Claremont, California.
- Jennings, M. R. 2002. Of sardine tins, codfish boxes, and canned salmon: 140 years of culinary art in the United States. Contributed paper presented on October 5, 2002 at the 14th annual meeting of The Gilbert Ichthyological Society, held at the Pack Forest Conference Center, College of Forest Resources, University of Washington, Eatonville, Washington.
- Jennings, M. R. 2003a. The California red-legged frog population at the Santa Rosa Ecological Reserve (1989-2002): what happened to all the frogs there? Invited paper presented on April 16, 2003 at the 2003 annual meeting of the Western Division of the American Fisheries Society and the California/Nevada Chapter of the American Fisheries Society, held at the Hyatt Regency Islandia Hotel, San Diego, California.
- Brittan, M. R., and M. R. Jennings. 2003. The legacy of David Starr Jordan (1851-1931) in ichthyology, fisheries biology, and collection building. Invited paper presented on April 17, 2003 at the 2003 annual meeting of the Western Division of the American Fisheries Society and the California/Nevada Chapter of the American Fisheries Society, held at the Hyatt Regency Islandia Hotel, San Diego, California.
- Jennings, M. R. 2003b. Edwin Chapin Starks and the 1928 St. Francis Dam Disaster: a tale of the fish coroner. Contributed paper presented on September 20, 2003 at the 15th annual meeting of The Gilbert Ichthyological Society, held at the Hatfield Marine Science Center, Newport, Oregon.
- Jennings, M. R. 2004a. Use of herpetological museum specimens collected by Joseph Grinnell and his students--a 21st century perspective. Invited paper presented on February 27, 2004 at the 2004 annual conference of the Western Section of The Wildlife Society, held at the Double Tree Hotel, Rohnert Park, California.
- Jennings, M. R. 2004b. The fishy business of Herbert R. Axelrod. Contributed paper presented on October 9, 2004 at the 16th annual meeting of The Gilbert Ichthyological Society, held at the Pack Forest Conference Center, College of Forest Resources, University of Washington, Eatonville, Washington.
- Brittan, M. R., and M. R. Jennings. 2004. Stanford's J. O. Snyder: a student of Jordan and Gilbert. Contributed paper presented on October 9, 2004 at the 16th annual meeting of The Gilbert

Ichthyological Society, held at the Pack Forest Conference Center, College of Forest Resources, University of Washington, Eatonville, Washington.

Jennings, M. R. 2004c. Seth Eugene Meek: the scientist, the man, and his personality. Invited paper presented November 13, 2004 at the 36th annual meeting of The Desert Fishes Council, held at the DoubleTree Inn at Reid Park, Tucson, Arizona.

Stack, R. J., M. R. Jennings, and M. P. Hayes. 2005. Calaveras frogs are making a “celebrated” comeback. Invited paper presented January 13, 2005 at the annual meeting of the Declining Amphibian Populations Task Force (California/Nevada Working Group) at the University of California, Berkeley, California.

Jennings, M. R. 2005. The wartime research of John Otterbein Snyder. Contributed paper presented on October 1, 2005 at the 17th annual meeting of The Gilbert Ichthyological Society, held at the Pack Forest Conference Center, College of Forest Resources, University of Washington, Eatonville, Washington.

Jennings, M. R., and M. P. Hayes. 2006. The academic and historical pedigree of R. Bruce Bury. Invited paper presented on March 28, 2006 at the annual meeting of The Society for Northwestern Vertebrate Biology and the Washington Chapter of The Wildlife Society, held at The Evergreen State College, Olympia, Washington.

Jennings, M. R. 2006. Fisheries science during World War I. Contributed paper presented on September 23, 2006 at the 18th annual meeting of The Gilbert Ichthyological Society, held at the Hatfield Marine Science Center, Newport, Oregon.

Hothem, R. L., J. T. May, M. R. Jennings, and J. J. Crayon. 2006. Amphibians: Bioindicators of mercury accumulation in areas of Northern California affected by historical mercury and gold mining. Contributed poster presented 23-27 September 2006 at the 13th annual conference of The Wildlife Society, Anchorage, Alaska.

Jennings, M. R. 2007. Some early reminiscences of David Starr Jordan. Contributed paper presented on September 29, 2007 at the 19th annual meeting of The Gilbert Ichthyological Society, held at the Pack Forest Conference Center, College of Forest Resources, University of Washington, Eatonville, Washington.

PUBLICATIONS

Peer Reviewed:

001. Jennings, M. R. 1980. IDENTIFICATION: 80-1-4 [notes on the “Army of Occupation” Victory Medal clasp]. *The Medal Collector*, 31(7):24.
002. Jennings, M. R. 1981. Life history notes: *Gopherus agassizi* (desert tortoise). Longevity. *Herpetological Review*, 12(3):81-82.
003. Jennings, M. R. 1982a. Geographic distribution: *Rana boylii* (foothill yellow-legged frog). *Herpetological Review*, 13(2):51.
004. Jennings, M. R., and G. L. Hendrickson. 1982. Parasites of chinook salmon (*Oncorhynchus tshawytscha*) and coho salmon (*O. kisutch*) from the Mad River and vicinity, Humboldt County, California. *Proceedings of the Helminthological Society of Washington*, 49(2):279-284.

005. Jennings, M. R. 1982b. The nomenclatural enigma of single versus double *-i* endings for scientific patronyms emended to represent a man's name: a comment and some considerations. *Fisheries; A Bulletin of the American Fisheries Society*, 7(5):9-10.
006. Jennings, M. R. 1982c. Geographic distribution: *Batrachoseps attenuatus* (California slender salamander). *Herpetological Review*, 13(4):130.
007. Jennings, M. R. 1983a. An annotated check list of the amphibians and reptiles of California. *California Fish and Game*, 69(3):151-171.
008. Jennings, M. R. 1983b. *Masticophis lateralis*. CATALOGUE OF AMERICAN AMPHIBIANS AND REPTILES:343.1-343.2.
009. Jennings, M. R. 1984a. Longevity records for lizards of the family Helodermatidae. *Bulletin of the Maryland Herpetological Society*, 20(1):22-23.
010. Jennings, M. R. 1984b. Geographic distribution: *Rana muscosa* (mountain yellow-legged frog). *Herpetological Review*, 15(2):52.
011. Jennings, M. R., and M. P. Hayes. 1984. The frogs of Tulare. *Outdoor California*, 45(6):17-19.
012. Jennings, M. R. 1984c. Predation on Sonoran whiptails, *Cnemidophorus sonorae* (Teiidae), by the great-tailed grackle, *Quiscalus mexicanus* (Icteridae). *The Southwestern Naturalist*, 29(4): 514.
013. Jennings, M. R., and M. P. Hayes. 1985. Pre-1900 overharvest of California red-legged frogs (*Rana aurora draytonii*), the inducement for bullfrog (*Rana catesbeiana*) introduction. *Herpetologica*, 41(1):94-103.
014. Jennings, M. R. 1985. Correction of the type-locality of *Phrynosoma coronatum schmidtii*. *Herpetological Review*, 16(4):107.
015. Hayes, M. P., and M. R. Jennings. 1986. Decline of ranid frog species in western North America: are bullfrogs (*Rana catesbeiana*) responsible? *Journal of Herpetology*, 20(4):490-509.
016. Jennings, M. R. 1987a. Review of Robert C. Stebbins' "A Field Guide To Western Reptiles And Amphibians (Second Edition, Revised)". *California Fish and Game*, 73(1):62.
017. Jennings, M. R. 1987b. Life history notes: *Rana catesbeiana* (bullfrog). Feeding. *Herpetological Review*, 18(2):33.
018. Jennings, M. R. 1987c. Annotated check list of the amphibians and reptiles of California (second, revised edition). *Southwestern Herpetologists Society, Special Publication* (3):1-48.
019. Jennings, M. R. 1987d. Faces from the past: Frederic Morton Chamberlain (1867-1921), pioneer fishery biologist of the American West. *Fisheries; A Bulletin of the American Fisheries Society*, 12(6):22-29.
020. Jennings, M. R. 1987e. Impact of the curio trade for San Diego horned lizards (*Phrynosoma coronatum blainvillii*) in the Los Angeles Basin, California: 1885-1930. *Journal of Herpetology*, 21(4):354-356.
021. Jennings, M. R. 1987f. A biography of Dr. Charles Elisha Boyle, with notes on his 19th century natural history collection from California. *The Wasmann Journal of Biology*, 45(1-2):59-68.

022. Jennings, M. R. 1987g. Status of the western painted turtle (*Chrysemys picta bellii*) in Arizona. Journal of the Arizona-Nevada Academy of Science, 22(2):129-133.
023. Jennings, M. R. 1988a. *Rana onca*. CATALOGUE OF AMERICAN AMPHIBIANS AND REPTILES:417.1-417.2.
024. Jennings, M. R. 1988b. *Phrynosoma cerroense*. CATALOGUE OF AMERICAN AMPHIBIANS AND REPTILES:427.1-427.2.
025. Jennings, M. R. 1988c. *Phrynosoma coronatum*. CATALOGUE OF AMERICAN AMPHIBIANS AND REPTILES:428.1-428.5.
026. Jennings, M. R. 1988d. Jennings' reply [to Joseph T. Collins' "The SSAR Common Names List: A Response To Jennings."]. Herpetology, 18(3):11-13.
027. Jennings, M. R. 1988e. Natural history and decline of native ranids in California. Pages 61-72 In: H. F. De Lisle, P. R. Brown, B. Kaufman, and B. McGurty (editors). Proceedings of the Conference On California Herpetology. Southwestern Herpetologists Society, Special Publication (4):1-143.
028. Hayes, M. P., and M. R. Jennings. 1988. Habitat correlates of distribution of the California red-legged frog (*Rana aurora draytonii*) and the foothill yellow-legged frog (*Rana boylei*): implications for management. Pages 144-158 In: R. C. Szaro, K. E. Severson, and D. R. Patton (technical coordinators). Management of Amphibians, Reptiles, and Small Mammals in North America. Proceedings of the Symposium, July 19-21, 1988, Flagstaff, Arizona. U.S. Forest Service, Rocky Mountain Forest and Range Experiment Station, Fort Collins, Colorado. General Technical Report (RM-166):1-458.
029. Jennings, M. R. 1988f. Origin of the population of *Rana aurora draytonii* on Santa Cruz Island, California. Herpetological Review, 19(4):76.
030. Jennings, M. R. 1989. Use of spring scales for weighing live fish in the field. North American Journal of Fisheries Management, 9(4):509-511.
031. Jennings, M. R., and M. K. Saiki. 1990. Establishment of red shiner, *Notropis lutrensis*, in the San Joaquin Valley, California. California Fish and Game, 76(1):46-57.
032. Hayes, M. P., and M. R. Jennings. 1990. Vanishing amphibians: new mystery in an old pattern. Mainstream, 21(3):20-23.
033. Jennings, M. R. 1990a. *Petrosaurus*. CATALOGUE OF AMERICAN AMPHIBIANS AND REPTILES:494.1-494.2.
034. Jennings, M. R. 1990b. *Petrosaurus mearnsi*. CATALOGUE OF AMERICAN AMPHIBIANS AND REPTILES:495.1-495.3.
035. Jennings, M. R. 1990c. *Petrosaurus thalassinus*. CATALOGUE OF AMERICAN AMPHIBIANS AND REPTILES:496.1-496.3.
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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 9.8 acre "Caltrans mitigation project site" (APN 048-270-080), and the vacant "Sewer Authority Midcoast-side" parcel located immediately south of the Kehoe Watercourse (also known as the "Landstra Parcel"). All three areas 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, 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, 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, revise the Habitat Areas and Water Resources Overlay Map to show the location of such habitat. Any habitat so designated, of a unique species, 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 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.”